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**LANDFILL AGREEMENT BETWEEN  
WAUPACA FOUNDRY, INC. AND TOWN OF WAUPACA**

THIS AGREEMENT is entered into this 10<sup>th</sup> day of July, 1998, by and between Waupaca Foundry, Inc. ("WFI" or the "Foundry"), a Wisconsin corporation, having its principal place of business at Tower Road (P.O. Box 249), Waupaca, Wisconsin 54981, and the Town of Waupaca ("Town"), a municipal corporation located in Waupaca County, Wisconsin. This Agreement has been negotiated and is executed by the parties pursuant to the provisions of sec. 289.33, Wis. Stats..

**WITNESSETH:**

WHEREAS, WFI proposes to expand a solid waste landfill for the disposal of nonhazardous solid waste generated by Waupaca Foundry; and

WHEREAS, the proposed expansion is located in parts of the NW 1/4 and the NE 1/4 of Section 7, Township 22 North, Range 12 East, Town of Waupaca, Waupaca County, Wisconsin (the "Landfill"); and

WHEREAS, representatives of WFI, the Town and Waupaca County have engaged in negotiations as provided for in sec. 289.33, Wis. Stats., and now wish to delineate certain rights and obligations relating to operation of the Landfill;

NOW, THEREFORE, the parties, by their duly authorized representatives, agree as follows:

### **Commencement Date and Term**

1. This Agreement shall commence on the date first written above, which is the date the last of the undersigned parties has duly executed this Agreement. The term of this Agreement shall be equal to the active life of the Landfill and for a period of twenty (20) years thereafter.

### **Waste Received**

2. The Landfill shall be used exclusively for the disposal of nonhazardous solid waste generated by the Foundry as may be approved by the Wisconsin Department of Natural Resources ("DNR" or the "Department"). The initial list of waste to be placed in the Landfill is set forth in Section 9 of the 1998 Feasibility Report (and Appendix A to this Agreement) as ultimately approved by DNR. WFI shall provide a copy of the Feasibility Report to the Town. WFI shall notify the Monitoring Committee any time DNR approves the disposal of any other type of waste. In any event, no hazardous waste, as defined in Chapter 600, Wis. Adm. Code, at the time of generation, shall at any time be accepted, received, stored, disposed of or transported to the Landfill. WFI agrees that it shall not, at any time, apply to the DNR for a permit to store or dispose of hazardous waste at the Landfill.

### **Compliance With Local, State and Federal Laws**

3. The Landfill shall be constructed and operated at all times in compliance with applicable federal, state and local statutes, regulations and regulatory approvals such as, but not limited to, approvals granted by DNR with respect to the Feasibility Report, Plan of Operation, construction documentation, Operating License and any amendments thereto. The landfill shall also

be constructed and operated at all times in compliance with applicable local ordinances, regulations and approvals which do not conflict with this Agreement or which are not preempted by any federal and state laws and regulations governing the construction and operation of a landfill. On August 22, 1996, Waupaca County approved a zoning change for the Landfill property from A-G (General Agriculture) to M-G (General Manufacturing) for the purpose of future landfill expansion and approved a conditional use for the landfill project under the County Zoning Ordinance. The parties agree that no preexisting local approvals, as defined in sec. 289.33(3), Wis. Stats., are applicable to the Landfill which would require a further zoning change or other zoning approval for the project.

#### **Landfill Operations**

4. Hours of Operation. The Landfill shall operate between 6:00 a.m. and 6:00 p.m., Monday through Friday; 7:00 a.m. and 12:00 p.m. on Saturdays; and not at all on Sundays or Holidays. WFI shall make every effort to avoid operation outside the normal days and hours referenced above. Any operation outside the normal days and hours will require notification of the Monitoring Committee. Such operation would occur only in unusual circumstances, such as those resulting from equipment breakdowns, weekend production requirements or adverse weather conditions.

5. Cover During Transportation of Waste. Waste transported to the Landfill, whether by WFI or subcontractors, will be properly covered and sealed in vehicles to effectively control the release of waste materials in transit. "Effective control" shall mean those measures that are necessary to assure that there is no adverse effect on property located along the route of transportation. Trucks will be tarped or otherwise covered while in transit, both to and from the

Landfill. "No adverse effect" shall mean that the contents of the trucks will not be spilled or otherwise deposited on property. Any nuisance type spills of materials will be cleaned up as promptly as possible.

6. Hauling Routes. The transportation route to the Landfill shall traverse Town of Waupaca roadways from State Highway 49 north on Elm Valley Road to the entrance of the existing landfill access road. WFI and its haulers shall comply with all traffic controls and restrictions applicable to routes used for hauling material to the Landfill. WFI shall be responsible to reimburse the Town for any expenses incurred by the Town resulting from wear and tear on town roads attributable to the transportation of waste or other activities related to the Landfill. Reimbursement shall occur within thirty (30) days after receipt of invoice. Except in cases of emergency, WFI shall notify the Town and obtain prior approval of any temporary or anticipated changes in transportation routes.

7. Access Road. The access road on WFI property connecting the public highway to the active portion of the Landfill shall be maintained in such a manner as to prevent the deposit of mud or other debris upon the public thoroughfare by trucks leaving the site. The access road shall be paved up to the limit of the designated fill area.

8. Site Security, Fencing and Signs. WFI shall maintain the Landfill in a secure fashion so as to prevent unauthorized access to the site. Specifically, all access roads shall be controlled by gates that shall be securely locked when the Landfill is not in operation. Fencing shall be installed consistent with requirements imposed by DNR. In addition, signs designating the nature of activities at the Landfill and prohibiting access shall be posted consistent with requirements imposed by DNR.



9. Erosion Control. Erosion control measures shall be implemented to prevent release of material on adjoining parcels consistent with requirements imposed by DNR. Within sixty (60) days after submittal of the Plan of Operation to DNR, WFI shall prepare, and thereafter shall maintain, an erosion control plan on file with Waupaca County (Land and Water Conservation Department).

10. Dust Control. The Landfill shall be designed and operated so as to control windblown materials. WFI shall maintain an effective dust-control plan, which is attached as Appendix B.

11. A. Fire Prevention. WFI shall take reasonable measures to prevent fires at the Landfill and shall be responsible for the expense of any emergency response to such fires. WFI shall be responsible to completely reimburse any and all surrounding landowners who suffer losses from fire damage originating from landfill operations.

B. Financial Responsibility for Environmental Protection. At all times during the operation and for a period of forty (40) years after closing of the landfill site, WFI, its successors and assigns shall comply with the proof of financial responsibility requirements established under sec. 289.41, Wis. Stats. Such requirements include, but are not limited to, a bond, deposit, established escrow account, irrevocable letter of credit or other such proof of financial responsibility in an amount to be determined by the DNR.

12. Landfill Oversight. WFI shall designate a WFI employee with primary responsibility for oversight of disposal operations and management of the Landfill (the "Landfill Manager").

13. Landfill Operator. WFI shall arrange to place the equivalent of a full-time employee at the Landfill to operate the Landfill on a day-to-day basis. The position may be filled, at WFI's

discretion, by an employee of WFI or by a contractor retained by WFI. The person so retained shall be referred to as the "Landfill Operator" and shall report to the Landfill Manager. The responsibilities of the Landfill Operator shall include oversight and management of (a) waste placement, (b) grading and equipment operation, (c) roadway and site maintenance, (d) dust and erosion control, and (e) Landfill security. The Landfill Operator shall be responsible for closing the Landfill at the end of each operating day.

### **Environmental Protection**

14. WFI shall maintain a groundwater monitoring program as required by DNR in its approval of the Feasibility Report, Plan of Operation and/or Operating License. At a minimum, water levels to determine the direction of groundwater flow shall be ascertained from on-site monitoring wells on a semi-annual basis during the operating life of the Landfill. Water quality monitoring shall be accomplished consistent with the approved Plan of Operation.

15. Private wells at the locations identified in Appendix C shall be tested for water quality. Testing will be conducted by an independent licensed laboratory acceptable to WFI. An initial comprehensive analysis for foundry indicator parameters, public health and welfare parameters and volatile organic compounds as defined in Chapter NR 508, Wis. Adm. Code, shall be done prior to waste placement in the Landfill for all properties designated as "new wells" in Appendix C. Private well testing will be conducted in accordance with requirements imposed by DNR but in no event any less often than on a semi-annual basis for the wells located on the Ed Smith, Doug Fletcher, Clarence Lipke and Reuben Jensen properties and an annual basis for the remaining wells listed in Appendix C. Such testing shall encompass indicator parameters

(conductivity, chloride, sulfate and sodium) and metals (iron, lead, cadmium and chromium). Private well test results shall be reported in writing and copies furnished to the Monitoring Committee and mailed to corresponding private well owners within seven (7) days after receipt by WFI. Testing requirements will apply only if reasonable access during normal business hours can be arranged with the property owners. The Monitoring Committee will assist in obtaining such reasonable access. Appendix C shall be automatically amended, after notice from the Monitoring Committee to WFI, to add any resident constructing a new home and well within one-half (1/2) mile of the Landfill.

16. If a private well subsequently indicates contamination which may be attributed, either in whole or in part, to operation of the Landfill and which may make water from such well unsuitable or unsafe for human or other use or consumption, WFI shall, at its cost, provide an alternate water supply for the affected activity of comparable quantity and quality as established by the initial testing performed in paragraph 15 above until the source of contamination has been identified or, if attributable to the Landfill, remediated. The outline of a plan of action WFI will follow should it need to respond to a contaminated well under this paragraph 16 is provided in Appendix D to this Agreement.

17. Air monitoring shall be conducted in accordance with requirements imposed by DNR. Air monitors shall be maintained at two locations. Samples will be collected upon a reasonable request by the Monitoring Committee. A testing protocol shall be established for each sampling event. Air monitoring will be conducted at WFI's expense. Copies of any monitoring reports submitted to the DNR shall be forwarded to the Monitoring Committee.



### Monitoring Committee

18. A Monitoring Committee shall be formed to monitor operation and development of the Landfill. This Committee shall be advisory and will have authority only to make recommendations and observations to WFI and the affected municipalities.

A. Membership. Membership on the Committee shall consist of one (1) member appointed by and from the Waupaca County Solid Waste Management Board, two (2) members appointed by the Town of Waupaca, at least one (1) of which must also serve on the Town Board, and one shall be citizen neighbor residing within 1 1/2 miles of the site, and one (1) member appointed by WFI. Each member of the Committee may serve for a three (3) year term and can be re-appointed. The Committee shall elect, from among its members, an individual to function in capacity of chairperson. For any action taken by the Committee, unless otherwise expressly provided, a majority vote of the Quorum is required. The Town and the County shall be entitled to appoint one designated alternate for each Committee member who may be sent to any meeting of the Committee to exercise its full rights of membership. WFI shall be entitled to send an alternate to any meeting of the Committee to exercise its full rights of membership.

B. Replacement and Removal. A committee member may voluntarily resign at any time and a replacement shall promptly be appointed consistent with Paragraph A. A member shall automatically be removed from the Committee effective upon the date that such member no longer resides in the area corresponding to his/her appointment.

C. Quorum. Three (3) members shall constitute a quorum. For a quorum to be present, however, the representative of WFI must also be present.



D. Meetings and Expenses. The Committee shall be subject to the open meeting law. The Committee shall meet as may be necessary but not less than semiannually. The Committee may establish a schedule for meetings. Special meetings of the Committee may be called by any member upon five (5) days written notice for the purpose of addressing any issue of concern involving operation of the Landfill. The public may attend any Committee meeting. Any written notice called for in the Agreement shall be deemed effectively provided when either personally delivered or sent by mail to all members at the addresses listed by them with the Committee. WFI shall cover administrative expenses of the Committee, such as postage and copy costs and testing, up to a maximum of \$1,250 per year. Any unused portion of the above administrative expense money may be accumulated for future use, but such accumulation will not exceed \$5,000.

E. Site Inspections and Records. The Committee shall, upon notice of at least three (3) business days to the Environmental Manager of Waupaca Foundry, Inc., or the manager's designee, have the right to conduct periodic on-site inspections of the disposal site. The monitoring committee may conduct independent tests of samples obtained upon notice to the Foundry of monitoring wells, private wells, waste samples and leachate samples. Such tests of samples shall be obtained only with the cooperation and observation of the Foundry. WFI shall provide members of the Monitoring Committee with copies of such records and documents pertaining to Landfill operations as are submitted to DNR.

F. Committee Activities. The activities of the Committee shall include the following:

1. The Committee shall review questions, comments and complaints relating to Landfill operations.

2. The Committee may review whether the Landfill is being operated according to this Agreement and applicable laws including current DNR operational requirements.
3. The Committee may arrange for the random testing of waste material brought to the Landfill as long as the sampling procedure, parameters and laboratory are all approved by WFI, which approval shall not be unreasonably withheld.
4. The Committee may submit comments or recommendations to WFI, DNR, the Town or the County regarding any aspect of Landfill construction or operations. In particular, if in the judgment of the Committee, the Landfill is not being constructed or operated in compliance with the plan of operation, applicable laws or this Agreement, the Committee may give notice to WFI of the alleged noncompliance. If such noncompliance continues, the Committee may recommend that the Town seek enforcement under the enforcement provisions of this Agreement.

The Committee can conduct other activities relating to the Landfill, with the unanimous consent of the Town and WFI. Nothing herein shall be construed to limit any legal or equitable right of any neighboring property owner with respect to individual legal rights pursuant to law.

#### **Economic Protection for Property Owners**

19. A. Diminished Value of Real Estate. In consideration of the potential adverse impact that the Landfill may have on neighboring properties, WFI agrees to protect such properties in the event of sale. The properties that qualify for this program are identified on Appendix E. Such program shall be administered as follows:

- a. To be eligible for fair market value price protection under this section, owners of real estate listed above must place their property on the market with a real estate broker licensed under the laws of the State of Wisconsin (except as provided for in subparagraph (d)(5)). At such time as the applicable property is offered for sale, the owner must provide WFI with both the name of the broker with which such real estate is listed and proposed terms of sale. WFI shall then cause

the property to be appraised at its fair market value both (1) as of that day and (2) as of that day but making the sole additional assumption that both the proposed and existing landfills were not present. The difference between the two values, which solely represents the adverse impact on property values, if any, caused by the presence of the Landfill, shall equal the "diminished fair market" value of the property. The real estate appraiser hired by WFI shall be certified to practice in the State of Wisconsin and shall work independently of WFI.

Upon its completion, WFI shall make known the result of the appraisal to the affected property owner. In the event the affected property owner disagrees with the valuation arrived at, he or she shall have a right to obtain an appraisal valuing the subject property in the same manner as it was valued by the appraiser for WFI. Any appraiser retained by the affected property owner shall be certified to practice in the State of Wisconsin and shall work independently of the property owner. The costs for all appraisers under this section shall be paid by WFI. If the property owner so desires, for purposes of offering the property for sale, he or she may request of WFI that the first appraisal be performed by an appraiser of the owner's choice. If so, the order of appraisals described above shall be reversed.

- b. Computation of Fair Market Value. For purposes of subsection c(1)-(5), "fair market value" means the value of the property as if the site described herein had not been acquired for use as an industrial landfill. Fair market value shall be established as follows: (1) by a single appraiser under subsection (a) if the results were acceptable to both parties or (2) by agreement between the two appraisers retained under subsection (a). If the two appraisers retained under subsection (a) do not agree, they shall meet forthwith and have seven (7) days to agree upon a fair market value. If they are unable to agree, they shall have fourteen (14) days to pick a third appraiser who shall act as a review appraiser and shall arrive at a fair market value within fifteen (15) days of his or her selection. Diminished fair market value, which is defined in subsection (a), shall be established in the same manner as described in this subsection.
- c. Any property affected by this section shall continue to be exposed for sale until:



- (1) The property owner sells it at the fair market value price, in which case no payment shall be made by WFI.
- (2) The property owner receives an arm's length written offer which is less than the fair market value. The property owner shall notify WFI of the offer and WFI shall elect to purchase the property at the fair market value or permit the property owner to accept the offer and then pay the property owner the difference between the sale price and the fair market value as determined under subsection (b). In any event, this subsection shall not apply unless the property has been on the market for at least one hundred eighty (180) days, except for subsection (d)(5) below. The 180-day requirement can be waived by WFI if the offer price is at or above the fair market value of the property (determined with the assumption that the proposed and existing landfills are not present.).
- (3) At least two hundred seventy (270) days expire from the time the property has been continuously exposed to the market for sale and no offers of purchases have been received. At that time, WFI shall offer either (1) to make a one-time payment equal to the diminished fair market value of the property, or (2) to purchase the property at its fair market value (without the landfills present). WFI shall not be obligated to purchase the property. The property owner shall not be obligated to accept an offer by WFI to make a one-time payment equal to the diminished fair market value of the property. Instead, the property owner may continue to offer the property for sale. If and when the property owner receives an arms length written offer, then subsection (c)(2) shall apply. If the property owner receives no written offer, the owner may notify WFI that the owner chooses to accept a one-time payment by WFI equal to the diminished fair market value of the property. WFI shall then pay that amount to the property owner. After receiving such a payment, the property owner shall retain the right to continue to offer the property for sale, but WFI would have no obligation to make any further payments to the property owner under this agreement.
- (4) The property owner chooses to sell the property to one other than an arm's length purchaser at a price which is less than the fair market value of the property (determined with the proposed and existing landfills present). Such property owner



shall notify WFI at least thirty (30) days prior to the proposed conveyance. If the property owner seeks compensation under this section, appraisals shall be made as provided for in subsection (a). Fair market value shall be determined under subsection (b) but the property owner shall only be entitled to payment from WFI equivalent to the diminished fair market value of the property rather than the difference between the purchase price and the fair market value price. An "arms length" offer or transaction means one in which the parties involved are (i) willing buyers/sellers respectively, (ii) acting independently of one another and (iii) acting consistent with the existing real estate marketplace. Regardless of the above definition of "arms length" offer or transaction, an offer at or above the fair market value of the property (determined with the proposed and existing landfills present) shall be presumed to constitute an arms length offer or transaction.

d. Applicability of Section.

- (1) Compensation under subparagraph (c) shall apply only once for any one parcel of property owned by individuals named on Appendix C. Said individuals may sell their property once without invoking this Section and may thereby pass on the right to seek compensation under these provisions to the buyer who shall thereafter be subject to the remaining provisions of this section. This section shall not apply, however, to transfers by gift, bequest inheritance or other transfer not for compensation (i.e., termination of joint tenancy, transfer pursuant to divorce decree, etc.). In the event of a parcel which is subdivided, only that portion which is transferred shall no longer be eligible for further compensation.
- (2) Property owners conveying under this section shall do so by deed or land contract.
- (3) Any person who seeks to obtain fair market value protection under this section shall notify WFI of his or her intention to sell such property at least ten (10) working days before offering such property for sale.
- (4) With the consent of WFI, which consent shall not be unreasonably withheld, the property owner may initiate the

appraisal process set forth in subparagraph (a) before listing the property for sale. Also, the property owner may choose not to list the property after obtaining an appraisal, or to withdraw the property from the marketplace at any time, without prejudicing his ability to obtain property value protection under subparagraph (c). In any event, the property owner shall not be entitled to invoke the appraisal process described in subparagraph (a) any more than two (2) times every five (5) years.

- (5) A property owner shall be entitled to sell his property without the use of a real estate broker for a period of up to one hundred twenty (120) days, but the property owner must undertake a reasonable and good faith effort to market the parcel. If the property owner receives an arms length written offer which is less than the fair market value (as computed under subsection (b) above), then subsection (c)(2) above shall apply. Otherwise, the property must be listed with a real estate broker, and the time periods set forth in subsection (c) will commence when the property is listed with a broker.

19. B. Crop Damage or Other Loss. In the event that material from the Landfill enters a farmer's field and causes crop damage or causes other loss of damage to the property of landfill neighbors, WFI will pay for such damage or loss. The amount of damage or loss shall be set by the County Agricultural Agent or by a recognized loss control expert, and the amount must be agreed upon by WFI and the property owner making the claim. Neither WFI nor the property owner shall unreasonably withhold their agreement on such a claim.

#### **Landfill Life and Closure**

20. WFI shall not operate the Landfill after final grades approved by DNR have been reached. WFI shall comply with all regulations and approvals relating to closure of the Landfill. The Landfill shall not be used in any fashion after closure that might compromise the cap designed

to cover the site. Any use of the property not related to the Landfill must be mutually agreed upon by WFI and the Town and must be consistent with applicable zoning regulations and local approvals. Costs and responsibility for maintaining post-closure uses mutually agreed upon by WFI and the Town shall be determined by WFI and the Town when such uses are first approved. The Landfill site is not to be used for an archery range, pistol or rifle range, law enforcement training range or dirt bike course.

### **Enforcement**

21. Notwithstanding any other provision of this Agreement, the Town may at any time petition DNR under sec. 289.92, Wis. Stats., or sec. 291.89, Wis. Stats., or their successor provisions to review any alleged violation by WFI of any rule, special order, plan approval, license or any term or condition of the license established or issued by DNR.

22. This Agreement may be enforced in Waupaca County Circuit Court. Prior to commencing an action against WFI, however, the Town agrees to give a 21-day notice of noncompliance to WFI with a reasonable opportunity of not less than the 21-day notice period for WFI to cure the alleged noncompliance. The Town is entitled to seek any type of equitable or other relief it feels appropriate, including, but not limited to, injunctive relief.

### **Waste Minimization**

23. WFI will in good faith investigate and explore the possibility of reuse, reclamation or other procedures designed to minimize the generation of waste discarded in the Landfill if economically and technically feasible for WFI.



### Economic Protection for the Town of Waupaca

24. A. Indemnification. WFI hereby indemnifies and holds harmless the Town of Waupaca, without limitation, from and against any possible claim or legal action brought by a third party alleging that the Town is liable or otherwise legally responsible for any damage to said third party alleged to be caused by the construction or operation of the WFI landfill.

24. B. Exempt Property Taxes. WFI shall reimburse the Town for any property taxes not paid due to the exemption of any portion of the Landfill from such taxes under state law.

24. C. Negotiating Expenses. WFI shall pay all reasonable and necessary expenses incurred by the local committee relating to the development of this Agreement, but not exceeding \$20,000. Payment shall be made within 30 days after WFI receives an itemized statement which details any such expenses.

25. A. Municipal Fund. WFI shall, by December 1 of each year, pay to the Town of Waupaca an amount equal to \$25,000. The payments, noted as to the Town of Waupaca Municipal Fund, shall begin upon approval of construction documentation and licensure by DNR and shall continue during the active site life of the Landfill. They shall be increased as provided for in paragraph 25.C. below. This annual fee will be placed in the Town's general fund to be used for general expenditures and projects. The funds will thus be used to benefit the entire populace for allowing WFI to operate a landfill in the Town of Waupaca.

25. B. Reconciliation of Agreements. The last annual payment under paragraph 25 of the March 16, 1993, Landfill Agreement between the parties shall be prorated based upon the number of months out of the calendar year that active disposal takes place in the landfill governed by that agreement. The first annual payment under paragraph 25.A. of this Agreement shall be



prorated to reflect the number of months out of the calendar year in which the new Landfill receives waste. In any event, all activities relating to the Landfill (as defined in this Agreement), including payments under this paragraph 25, are governed by this Agreement and not by the March 16, 1993, Landfill Agreement.

25. C. Initial Payments. WFI shall, by December 1 of each year, pay to the Town of Waupaca an amount equal to \$2,500. This annual fee will be placed in the Town's general fund to be used for general expenditures and projects. The funds will thus be used to benefit the entire populace for allowing WFI to operate a landfill in the Town of Waupaca. Once annual payments under paragraph 25.A. begin, however, the initial payment of \$2,500 per year under this paragraph shall be added to such other annual payments (for a total of \$27,500 per year), and this paragraph 25.C. shall no longer apply.

25. D. Final Payment. By January 30 of the year following the last annual payment under paragraph 25.A. of this Agreement, WFI shall make a final, lump sum payment of \$25,000 to the Town of Waupaca Municipal Fund. This payment will be placed in the Town's general fund to be used for general expenditures and projects. The funds will thus be used to benefit the entire populace for allowing WFI to have operated a landfill in the Town of Waupaca.

#### Successors

26. This Agreement shall be binding upon and inure to the benefit of lawful successors and assigns of the parties pursuant to sec. 289.33(11), Wis. Stats.

27. WFI, during the term of this Agreement and for twenty (20) years after final closure of the Landfill, may transfer, sell, lease or assign ownership in the Landfill to a related corporation or another foundry. A related corporation means a corporation owned by the Budd Company, WFI,

or their successors or assigns. In addition, WFI may transfer, sell, lease or assign ownership in the Landfill to any other person or entity with the approval of the Town. Such approval shall not be unreasonably withheld.

### Miscellaneous

28. Headings. Titles to paragraphs are for informational purposes only except where necessary to obtain an understanding of the contents of each paragraph.

29. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Wisconsin.

30. Notices. Any notice required to be given pursuant to the terms and provisions of this Agreement shall be in writing and shall be sent to the persons named below or to their designated successors by certified mail.

If to the WFI:

James R. Larson  
Vice President and Manager, Industrial Relations  
P.O. Box 249, 311 Tower Road  
Waupaca, Wisconsin 54981

and to the Town:

Waupaca Town Clerk  
Town of Waupaca  
E4196 Hwy. 22 and 54  
Waupaca, Wisconsin 54981

31. Modification. This Agreement constitutes the entire understanding of the parties hereto. Amendments to this agreement may be made if agreed upon in writing and signed by the parties. Decisions on any amendments shall be made by the governing body of the Town of Waupaca.

32. Waiver. A waiver by one party of a breach or failure to perform by another shall not constitute a waiver of any subsequent breach or failure.

33. Provisions Severable. If any provision of this Agreement shall be finally held or declared by a Court of competent jurisdiction, including any Appellate decision thereon, to be invalid, illegal or unenforceable under any law applicable thereto, such provisions shall be deemed deleted from this Agreement without impairing or prejudicing the validity, legality or enforceability of the remaining provisions hereof.

34. Force Majeure. No party to this agreement shall be liable for failure to perform any duty or obligation that said party may have under the Agreement where such failure has been occasioned by the act of God, fire, strike, inevitable accident, war, court order or binding determination of a governmental agency, or any cause outside the reasonable control of the party which has the duty to perform.

35. Contested Case Procedure/Judicial Review. The Town of Waupaca and the Local Committee agree not to commence contested case procedures against WFI concerning the feasibility report, the plan of operation or the licensure of the Landfill or to petition for judicial review regarding decisions by DNR to approve the feasibility report, plan of operation or operating license for the Landfill.

Effective as of the date first above written.

WAUPACA FOUNDRY, INC.

Gary L. Thoe  
Gary L. Thoe Pres. and Chief Operating Officer

7/6/98  
Date

James R. Larson  
James R. Larson Vice Pres. and Mgr.,  
Industrial Relations

7/6/98  
Date

TOWN OF WAUPACA

Dale Borikowski  
Signature

Chairman of the Town Board  
Title

Mae Losinick  
Signature

Town Clerk  
Title

July 10, 1998  
Date



Table 9-1  
 Summary of Foundry By-Product Types and Quantities Generated by WFI  
 Feasibility Report  
 Proposed Waupaca Foundry, Inc., Landfill Expansion  
 Town of Waupaca  
 Waupaca County, Wisconsin

FOUNDRY BY-PRODUCT	PERCENT OF TOTAL BY-PRODUCTS GENERATED (by weight)
System sand	35%
Dust	31%
Slag	19%
Wastewater treatment sludge	7%
Mill room sand	5%
Core room scrap	2%
Refractory/Miscellaneous	1%
	100%

Prepared By: SLS  
 Checked By: CEM

## WAUPACA FOUNDRY LANDFILL DUST PREVENTION AND CONTROL PLAN

## APPENDIX B

Scope: This plan outlines procedures and landfill activities designed to control the release of fugitive dust from the Waupaca Foundry Landfill.

### Material Handling and Transport

1. Dust collector material shall be prewetted or bagged prior to transport to the landfill.
2. Slag and sand shall not be co-mingled during transportation, minimizing the potential for fugitive dust formation when slag is unloaded.
3. The landfill shall be filled in a fashion so that loads containing materials that are more likely to become airborne will be deposited in low areas of the site.
4. Site shall be filled from west to east, bringing the western slope to grade as soon as practical. The western slope will act as wind barrier.
5. When the western slope of any of the landfill Phases is brought to grade, an interim cover consisting of a 4"-6" lift of natural soils shall be established on the western slope. The slope will be seeded to establish a vegetative cover.
6. Landfill grading shall not be done during dry periods with wind velocities greater than 10 MPH. Dumping of materials that have the potential to produce dust shall not be done when predominant wind velocities are greater than 20 MPH. Materials that are wetted down, bagged, encapsulated in slag, or otherwise rendered non-dust producing would not be subject to this paragraph.
7. An earthen berm approximately 20' in height will be constructed along the western and southwestern sides of the landfill. The berm, made of soil suitable for growing trees, will be planted with two alternating rows of evergreen trees a minimum of 4'-6' in height along its entire length. These plantings shall be maintained and replaced as required.
8. A high pressure watering truck will be kept on-site during months when freezing is not likely. The watering truck will be used to apply water in areas where active filling is occurring or after grading activities. The watering truck will be available on an as-needed basis through the winter months. Watering will be done as needed to prevent fugitive dust.
9. All roll-off boxes shall be tarped in transit both to and from the landfill.
10. All roll-off box tailgates shall be fitted with a gasket material to control leakage from the tailgate.

11. Tarp and tailgate seal inspection shall be conducted on a routine basis. The inspections may be conducted by the driver, Waupaca Foundry guards or the Waupaca Foundry Landfill manager. Should the tarp or tailgate seal inspection reveal a defect, the truck or box shall be pulled from service until appropriate repairs are complete. All inspections shall be documented.
12. The main access road shall be cleaned as required to minimize dust originating from traffic. The perimeter roads will be watered as necessary to minimize dust originating from traffic.
13. The Landfill Operator and Waupaca Foundry environmental personnel will hold bi-weekly meetings to discuss dust control effectiveness.



## APPENDIX C WELL SAMPLING

Johnson, Jerry A  
N4470 E. Ware Road  
Waupaca, WI 54981

Fletcher, Doug  
N4253 E. Ware Rd.  
Waupaca, WI 54981

Meier, Robert  
E2995 Ebbe Lake Rd.  
Waupaca, WI 54981

Bleisner, William  
W4940 Sunset Lake Ct.  
Menasha, WI 54952

James, Arlin  
E2972 Granite Quarry Rd.  
Waupaca, WI 54981

Trice, Leighton  
E2985 Granite Quarry Rd.  
Waupaca, WI 54981

Lipke, Clarence  
N4447 E. Ware Road  
Waupaca, WI 54981

Krusa, Paul M.  
N4492 E. Ware Road  
Waupaca, WI 54981

Smith, David\*  
N4324 Ware Road  
Waupaca, WI 54981

Lipke, Burnell & Julie\*  
N4351 Hwy. 49  
Waupaca, WI 54981

Harriman, Linda  
N4553 Elm Valley Road  
Waupaca, WI 54981

Otterson, John  
N4675 Elm Valley Road  
Waupaca, WI 54981

Smith, Edward J.  
E2837 Granite Quarry Road  
Waupaca, WI 54981

Christensen, Brian L.  
N4513 E. Ware Road  
Waupaca, WI 54981

Beyersdorf, Wesley  
N4485 E. Ware Road  
Waupaca, WI 54981

Conley, Sandy  
N4461 E. Ware Road  
Waupaca, WI 54981

Mielke, William  
N4236 E. Ware Rd.  
Waupaca, WI 54981

Suel, Margaret  
N4648 E. Ware Road  
Waupaca, WI 54981

Seitz, Arnold  
E3034 Granite Quarry Road  
Waupaca, WI 54981

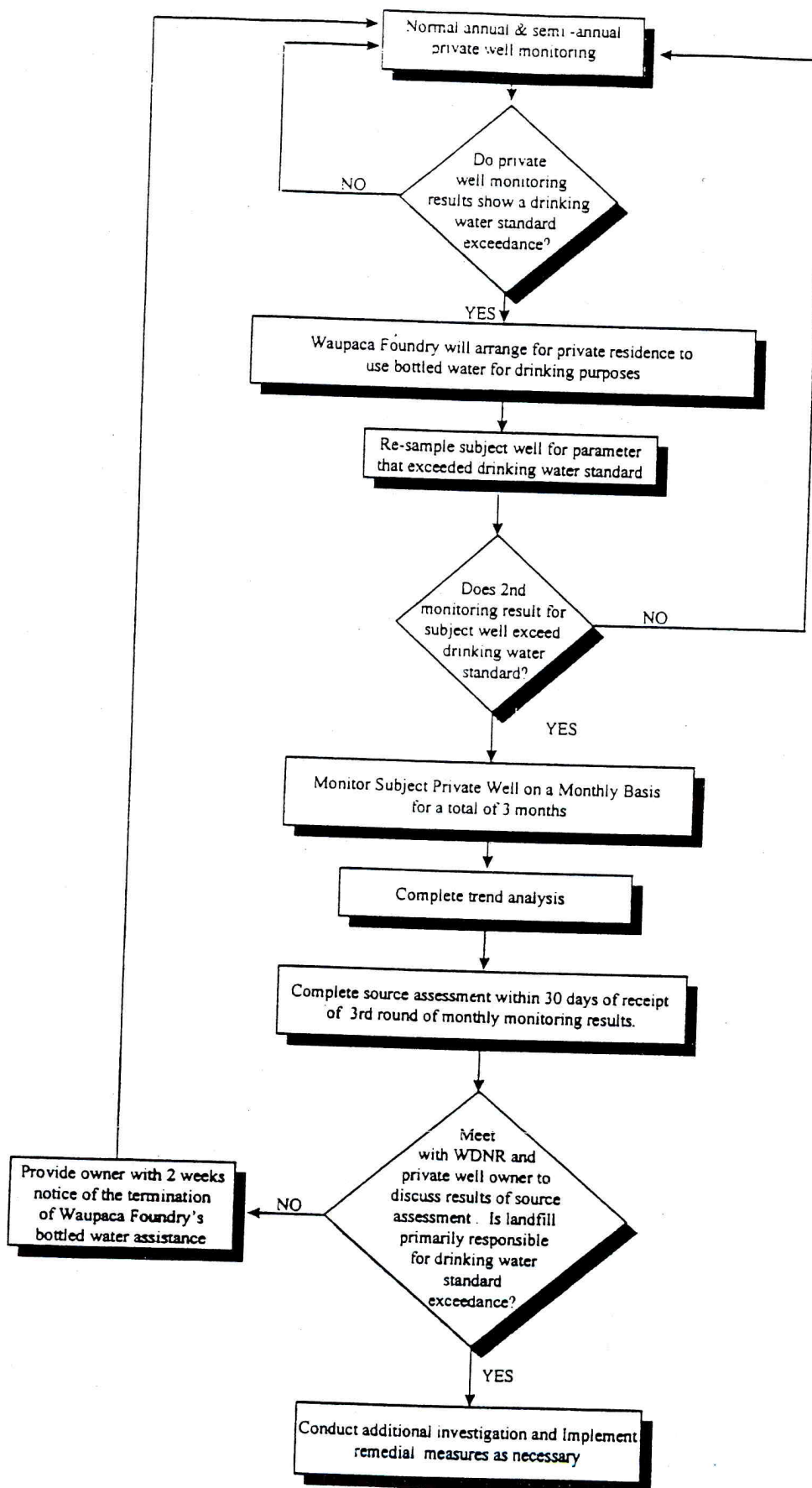
Pohl, Doug\*  
N4468 Hwy. 49  
Waupaca, WI 54981

Orr, Dean & Michelle\*  
N4340 Hwy. 49  
Waupaca, WI 54981

Jenson, Reuben\*  
N4455 Hwy. 49  
Waupaca, WI 54981

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\* New wells





**APPENDIX E**  
**REAL ESTATE PROTECTION**

James, Arlin  
E2972 Granite Quarry Rd.  
Waupaca, WI 54981

Trice, Leighton  
E2985 Granite Quarry Rd.  
Waupaca, WI 54981

Smith, David  
N4324 Ware Rd.  
Waupaca, WI 54981

Mielke, William  
N4236 E. Ware Road  
Waupaca, WI 54981

Gutknecht, Cindy  
N4779 Elm Valley Rd.  
Waupaca, WI 54981

Eskritt, Doug  
N5350 Ware Rd.  
Waupaca, WI 54981

Hayes, Hugh  
E3141 Granite Quarry Rd.  
Ogdensburg, WI 54962

Pohl, Doug  
N4468 Hwy. 49  
Waupaca, WI 54981

Suel, Margaret  
N4648 E. Ware Road  
Waupaca, WI 54981

Seitz, Arnold  
E3034 Granite Quarry Road  
Waupaca, WI 54981

Otterson, John  
N4675 Elm Valley Road  
Waupaca, WI 54981

Smith, Edward J.  
E2837 Granite Quarry Road  
Waupaca, WI 54981

Fletcher, Douglas  
N4253 E. Ware Road  
Waupaca, WI 54981

Harriman, Linda  
N4558 Elm Valley Road  
Waupaca, WI 54981

Christensen, Brian L.  
N4513 E. Ware Road  
Waupaca, WI 54981

Beyersdorf, Wesley  
N4485 E. Ware Road  
Waupaca, WI 54981

Conley, Sandy  
N4461 E. Ware Road  
Waupaca, WI 54981

Lipke, Clarence  
N4447 E. Ware Road  
Waupaca, WI 54981

Krusa, Paul M.  
N4492 E. Ware Road  
Waupaca, WI 54981

Johnson, Jerry A.  
N4470 E. Ware Road  
Waupaca, WI 54981

Abrahamson & Abrahamson  
N3795 Hwy. 49  
Waupaca, WI 54981

Bleisner, William  
W4940 Sunset Lake Ct.  
Menasha, WI 54952

Lipke, Burnell & Julie  
N4351 Hwy. 49  
Waupaca, WI 54981

Meier, Robert  
E2995 Ebbe Lake Rd.  
Waupaca, WI 54981

Jenson, Reuben  
N4455 Hwy. 49  
Waupaca, WI 54981

Orr, Dean & Michelle  
N4340 Hwy. 49  
Waupaca, WI 54981