

October 28, 2021

The Honorable Mayor Tim Busse
Mayor, City of Bloomington
Bloomington Council Members
1800 West Old Shakopee Road
Bloomington, MN 55431

Mayor Busse and Fellow Council Members for Bloomington:

Thank you for providing comments with regard to the preliminary determination of Certificate of Need (CON) in the Twin Cities Metro Area (TCMA). Minnesota Pollution Control Agency (MPCA) understands the City of Bloomington's Concerns and offers these responses to your comments shown below in italics.

Bloomington requests that the MPCA modify its final allocation methodology. Allocation based on market share needs to be replaced with allocation based on:

- 1. Environmental Sensitivity*
- 2. Environmental Justice*
- 3. Local Input*
- 4. Limit Waste Generation*
- 5. Allocate waste to additional landfills*

With regard to the choice to use market share, a few items need to be understood. The first is that the waste in the TCMA is largely controlled by private companies who typically take their waste to the lowest cost option, and in situations where the company is vertically integrated, the lowest cost is to their own facility. CON is not waste designation. It simply identifies how much waste needs to be disposed in a landfill and what facilities are most likely to receive that waste. If MPCA were to issue CON in a different manner, the waste flows would be unlikely to change.

1. With that said, the MPCA permit process and environmental review process takes into account the location of the landfill and its proximity to sensitive receiving waters or other environmentally sensitive areas.
2. MPCA is currently taking steps to evaluate the best way to minimize impact on disadvantaged communities including our current practice of reviewing and discussing permit impacts with permittees in Environmental Justice (EJ) areas of concern. The ways in which EJ affects a particular permit is specific to the conditions of the facility and the area in which the facility resides.
3. The MPCA had the option of putting the CON determinations on public notice and did so specifically because the input of the public is valued.

4. Using CON to put additional requirements for recycling and waste diversion on a specific disposal facility is not currently in our authority. However, the MPCA does issue the Metro Solid Waste Policy Plan every six years and that plan drives how waste will be managed in the TCMA. That plan is where the 75% goal for recycling and composting was initially conceived and was eventually placed into State Statute. The Policy Plan is one tool for implementing more aggressive landfill abatement strategies. The proposed revisions to the Policy Plan will go out for public comment in 2022, which is an opportunity for the city to help shape it. The legislative process is another avenue for the changes you noted.
5. MPCA decided to allow municipal solid waste to be accepted at two landfills (Dem-Con and Rich Valley) that currently only dispose of construction and demolition debris. That decision resulted in less waste being allocated to the Pine Bend and Burnsville landfills than they otherwise would have received. This decision was made in part because the Great River Energy waste to energy facility closed in 2019 and the waste that was managed at that facility is now going to landfills it was also determined that the other two landfills are not in an environmental area of concern, so allowing them to compete in the system may reduce the amount of waste delivered to an EJ area.

In addition to allowing Dem-Con and Rich Valley to accept waste, MPCA, in partnership with Metro Counties considered waste flowing to non-metro landfills such as Elk River and Spruce Ridge, and did not grant that waste to the four applicant landfills. The CON process of landfills in Greater Minnesota is different and those facilities could not apply under this request.

MPCA understands the City of Bloomington's concerns with this landfill and appreciates the comments you have submitted. Hopefully these responses help you to understand why the MPCA has made the determinations as they stand.

Sincerely,

David J. Benke

This document has been electronically signed.

David J. Benke
Division Director

DJB:PS:cbg