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Public Works Department
213 1st Avenue SE
Little Falls, MN 56345-3196
320-632-0121
Toll Free: 1-866-401-1111
Fax: 320-632-9510

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Minnesota Pollution Control Agency
520 Lafayette Road N
St. Paul, MN 55155

RE: PFAS Guidance for Superfund and Brownfield Sites - Policy Plan

To whom it may concern,

I am writing in response to the draft of the *MPCA Remediation Division PFAS Guidance* on behalf of Morrison County. The Morrison County Landfill has the potential to be impacted by the guidance as a potential receiver of PFAS contaminated materials and subsequently as a possible source of PFAS release due to past waste practices. Our primary concern is that this guidance does not do enough to remove liability from waste management facilities like landfills. Landfills and other waste management facilities have the potential to be an important part of PFAS cleanup but without adequate liability protection, these facilities will be unable or unwilling to serve that role.

Within "Desktop Review Milestone 1, Action 1 Assess criteria to determine potential need for PFAS sampling at sites in the Remediation Program" the document makes a distinction between users of PFAS in commercial and industrial operations and receivers of PFAS like waste disposal facilities. We feel this is an important distinction to make, but feel the draft guidance does not adequately shield passive receivers of PFAS from liability. Landfills and other disposal facilities should be shielded from liability for liquid or gas discharges that may contain PFAS.

Later in the document under "Cross-cutting area: Disposal of PFAS contaminated materials & Investigation derived waste", action 4 simply states "Ensure that liability for the appropriate management of the IDW remains with the party that generated the waste." This guidance fails to specify how that is achieved leaving landfills open to liability. Existing landfills will have no record of existing PFAS containing wastes disposed of before this new guidance is enacted making it impossible to narrow down liability from a release. With the abundance of PFAS chemicals in everyday items, it would be impossible to know if the release resulted from PFAS contaminated material as opposed to any other waste disposed of at the site. This uncertainty could be exploited by generators to avoid responsibility. Further guidance is needed on how the MPCA intends for facilities to track liability either in this document or in future guidance. Regardless of approach, this should be specified in this document to ensure entities looking at PFAS contaminated waste disposal have an accurate picture of their potential liability and not place the generator's liability on the facility.

Assigning liability is likely beyond the scope of this document, however, Morrison County feels that the guidance is insufficient to assign liability or adequately inform those dealing with PFAS contamination of their liability. As written, the guidance fails to adequately shield potential PFAS disposal facilities from

liability. As a result, PFAS cleanup will ultimately function as a way of passing liability for PFAS contamination to disposal facilities as generator liability would likely be unenforceable. In addition, given the potential liability concerns, it is entirely likely that many disposal facilities will be unwilling to receive PFAS contaminated waste or charge high fees for disposal, making PFAS contamination remediation cost prohibitive or impossible.

Unfortunately, without a means of PFAS destruction, this guidance serves only to move the problems associated with PFAS contamination around and concentrate the problem and associated liability at facilities that had no role in the creation or use of PFAS chemicals. Waste disposal facilities do not produce or use PFAS in their operations but without proper procedures and guidance, these facilities could bear the burden of liability. Landfills and other disposal sites may ultimately prove the best solution for PFAS contamination remediation, but without further research and a proper structure to shield these facilities from liability, this role could prove to be too costly for most facilities.

Thank you for the opportunity to comment on this important guidance.

Sincerely,

Drew Hatzenbihler
Environmental/Recreation Manager
Morrison County Public Works