

DRAFT**MODIFICATION #2****Hazardous Waste Disposal Facility Permit
EPA ID No. MND985668342**

Facility name: City of Sartell and Ballantyne Legacy Holdings, LLC
Hazardous Waste Disposal Facility
12th Street North at 7th Avenue West
Sartell, Minnesota 56377
Stearns County

Issuance date: April 8, 2022

Modification date(s): July 13, 2023; **date**

Expiration date: April 8, 2027

In accordance with the provisions of Minn. Stat. chs. 115 and 116, Minn. R. 7001.0010 to 7001.0730, and Minn. R. 7045.0020 to 7045.1400, a Hazardous Waste Disposal Facility Permit (Permit) is hereby reissued to the City of Sartell and Ballantyne Legacy Holdings, LLC (Co-Permittees) listed on the following page for the Lagoon No. 3 facility located at 12th N Street at 7th Avenue West in Sartell, Stearns County, Minnesota.

This Permit comprises the Resource Conservation and Recovery Act (RCRA) Permit which has been prepared based upon the information provided by the Co-Permittees' most recent Permit Application (Part A and Part B) including revisions, and numerous comments from the Co-Permittees, modification applications in 2022, and 2026. The Permit Application and the contents are referenced throughout this Permit and as such, are integral and enforceable parts of this Permit. The Co-Permittees are required to submit the following additional information to the Minnesota Pollution Control Agency (MPCA): a Groundwater Protection Plan (with the Corrective Action work plan), a revised Quality Assurance Project Plan, a Post closure Care Plan (Minn. R. 7045.0490, Subparts 2 and 3), and Financial Assurance Plan for Post closure Care (Minn. R. 7045.0506) (Plans). These Plans must be submitted to MPCA for review and approval within 90 days of issuance of the Permit. If MPCA finds the Plans not to be satisfactory, MPCA will provide the Permittee comments and the Permittee is required to submit amended Plans to MPCA addressing MPCA's comments and concerns within 30 days. Once MPCA finds the Plans satisfactory, MPCA will approve the Plans and they will become an integral and enforceable part of the Permit.

The MPCA Commissioner has determined that extending the post closure care period beyond the initial 30-year period is necessary to protect human health and the environment. This Permit shall become effective on the date of issuance by the MPCA Commissioner or MPCA personnel who have been delegated explicit authority by the Commissioner. The original Permit was issued in 1989, reissued in 1994, 2002 and in 2010. The Co-Permittees must at all times conduct their hazardous waste management activities in accordance with the terms and conditions of this Permit and any other requirements imposed by law or Minnesota Rules.

This permit is effective on the issuance date identified above and supersedes the previous permit that was issued for this facility. This Permit is effective until five (5) years from date of issuance or until terminated, revoked or modified by the MPCA, whichever comes first, and it expires at midnight on the expiration date identified above.

Signature:

This document has been electronically signed.

Jon Buck, Supervisor

Land Permits Unit

Solid Waste Section

Resource Management and Assistance Division

for the Minnesota Pollution Control Agency

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1. List of Permittees

Permittee - owner:

City of Sartell
125 Pinecone Road North
Sartell, Minnesota 56377

Permittee operator:

Ballantyne Legacy Holdings, LLC
6325 Ardrey Kell Road
Suite 400
Charlotte, NC 28277

The City of Sartell is the owner and Ballantyne Legacy Holdings, LLC is the operator of the hazardous waste disposal facility covered by this permit; together they are referred to as the Co-Permittees. The Co-Permittees shall be jointly and severally liable for compliance with the terms and conditions of this Permit. Compliance by one of the Co-Permittees will be considered compliance by the other Co-Permittee to whom the term or condition applies. Other terms and conditions apply to those persons who are included in the term or condition. Should the operator fail to comply with a term or condition of this Permit, the owner shall ensure that compliance is achieved.

2. Facility description

The City of Sartell and Ballantyne Legacy Holdings, LLC Hazardous Waste Disposal Facility Lagoon No. 3 (Lagoon No. 3) is located at 12th Street at 7th Avenue West in Sartell, Stearns County, Minnesota. Lagoon No. 3 is at latitude 45.6354, longitude 94.2166, Township 125, Range 28, and Section 16.

The regulated unit is the closed hazardous waste landfill Lagoon No. 3. Lagoon No. 3 is approximately 0.2 acres in size and is located adjacent to the Sartell Solid Waste Landfill and within its permitted boundary, which is south of 12th Street North and west of 4th Avenue West in Sartell, Minnesota. The Facility is located in the north half of the southwest quarter of Section 16, Township 125 North, and Range 28 West in Stearns County.

Lagoon No. 3 was constructed within the permitted boundaries of the City of Sartell Solid Waste Landfill in 1978 and contains Cupola Ventura and Cupola Wet Cap hazardous waste sludges generated by DeZurik Corporation, which was later acquired by SPX Corporation, and which, in 2022, transferred responsibility for Lagoon No. 3 to Ballantyne Legacy Holdings, LLC. Lagoon No. 3 was used by DeZurik Corporation for dewatering of sludges between 1978 and 1983.

The Lagoon No. 3 was closed in 1987 with no liner underneath, and with a multi-layer cover system designed to minimize the potential for leaching of hazardous constituents. Closure of Lagoon No. 3 was completed and monitoring, maintenance, and reporting began for that unit as well as the rest of the Sartell Solid Waste Landfill in December 1989.

2.1 Modification#1 description

On August 15, 2022, the responsibility for Lagoon No. 3 was transferred from SPX Corporation to Ballantyne Legacy Holdings, LLC as part of a corporate reorganization.

2.2 Modification#2 description

Request: The City of Sartell, and Ballantyne Legacy Holdings, LLC, sent a permit modification request on January 19, 2026, for the Site to be transitioned back to a detection monitoring program reducing the frequency of groundwater monitoring from quarterly to semi-annual. If approved by MPCA, semi-annual groundwater monitoring events will occur in April and October 2026.

Note: The Site cannot be moved to detection monitoring as concentrations in downgradient monitoring wells compared to the upgradient well indicate a statistically significant increase in metals in groundwater, which requires the Site be in compliance monitoring.

As a result of this Permit Modification#2, the permit is revised with the following:

1. The Site will be in Compliance Monitoring.
2. The frequency of ground water monitoring is reduced from quarterly to twice a year, with the monitoring events in the spring, and fall.
3. The Draft Environmental Covenant is enclosed.

Regulatory basis for extending the Lagoon No. 3 postclosure care

The initial 30-year postclosure care period ended in December 2019. The Commissioner has determined to extend the postclosure care period and found that the extended period is necessary to protect human health and the environment. The reasons for the Commissioner's determination to extend postclosure care include the following:

1. The MPCA is one of the trustees for the groundwater resource, and the effect on the aquifer as a potential and actual drinking water resource under Minn. R. 7060.0600.
2. Lagoon No. 3 is not lined and there is no leachate collection system. The leachate generated impacts native soils and groundwater.
3. The approximately 1000 cubic yards of wastes contained in Lagoon No. 3 were not pretreated. The waste in Lagoon No. 3 was classified as hazardous waste based on the EP Toxicity test results indicating lead exceeded the concentration standard of 5 mg/l.
4. The soils under Lagoon No. 3 contain sand, sand and gravel, which are reasonably permeable.
5. Potential receptors downgradient of Lagoon No. 3 include the unsaturated soils underlying Lagoon No. 3, the underlying aquifer, two irrigation wells, and the Mississippi River, which is about one-half mile from Lagoon No. 3. It is unknown whether private wells in the area have been sealed, which if not sealed, would potentially increase the number of receptors.
6. The groundwater monitoring system consists of upgradient background wells P-13, and any approved new background wells to be installed or approved existing wells to be sampled, and five downgradient compliance wells P-5R, P-9R, P-12R, P-14A, and P-14B.
7. Over time, the groundwater monitoring system for Lagoon No. 3 has had numerous detections of the hazardous constituents including arsenic, barium, cadmium, lead, nickel and selenium. There have been exceedances of the Minnesota Department of Health (MDH) health risk limits and the United States Environmental Protection Agency maximum contaminants levels. In 2002, there were detections above the Environmental Protection Agency (EPA) maximum contaminant level for dissolved arsenic at two downgradient compliance wells, P-9R and P-12R, and the designated upgradient well in the permit P-13. In 2008, there were exceedances of the current MDH health risk limit for dissolved cadmium at all three downgradient compliance wells. In 2010, there were exceedances of the EPA regulatory threshold for dissolved lead in downgradient compliance well P-12R and upgradient well P-13. In 2012, there were exceedances of the EPA regulatory threshold for dissolved lead in downgradient compliance wells P-5R and P-9R. A statistical review of this data from 1989 to 2017 using the binomial test of proportions showed that wells P-9R (dissolved cadmium) and P-12R (dissolved selenium) had higher concentrations that observed in the well P-13.
8. Given exceedances at Lagoon No. 3, MPCA determined that the Co-Permittees would need to increase monitoring and as described in the MPCA's August 30, 2018, letter, required the Co-Permittees to initiate compliance monitoring as required under Minn. R. 7045.0484, subp. 12.G as described in the MPCA's August 30, 2018, letter to the Co-Permittees.
9. Prior to November 2018, concentrations of dissolved cadmium remained below the MDH health risk limit and maximum contaminant limit. From November 2018 to April 2019, there have been four reported consecutive samples collected at the downgradient compliance well P-9R by the Co-Permittees, on November 15, 2018, January 11, 2019, February 27, 2019, and April 19, 2019, all of which exceeded the MDH health risk limit for dissolved cadmium. Consequently, as required under Minn. R. 7045.0484, subp. 13.G and H, the Co-Permittees were moved to the corrective action program under Minn. R. 7045.0484, subp. 14. Since April 2019, cadmium has not been detected at well P-9R at concentrations at or above the MDH health risk limit.
10. The Co-Permittees must initiate corrective action measures to ensure that the groundwater protection standard is not exceeded at any monitoring well as required by Minn. R. 7045.0484, subp. 14.F. The Co-Permittees may not terminate corrective action measures unless they can demonstrate that the groundwater protection standard has not been exceeded for a period of five (5) consecutive years at any monitoring well from the date of the last exceedance.*

11. The Commissioner, therefore has determined that extending the postclosure care period beyond the initial 30-year period is necessary to protect human health and the environment and pursuant to Minn. R. 7045.0492, subp. 1.C.

* **Resolution:** The Co-Permittees demonstrated that the groundwater protection standard has not been exceeded for a period of five (5) consecutive years at any monitoring well from the date of the last exceedance.

Hazardous waste is generated Off-site from restricted generator group; hence, Lagoon No. 3 is considered an Off-site from restricted generator group. This Permit authorizes and requires the Co-Permittees to conduct the following hazardous waste management activities:

Operating status

Conduct Compliance Monitoring and Postclosure Care at Lagoon No. 3, Closed Land Disp

3. Facility layout

Specific operating, emergency, record keeping, reporting and general conditions apply to the permitted regulated units. However, for the purposes of Compliance Monitoring, the Facility includes all property owned or used by the Co-Permittees. Lagoon No. 3 is within Outlot A area pointed to with an arrow below on Figure 1

A groundwater contour map based on the July 2021 data with the location of monitoring wells is shown on Figure 2.

SARTELL'S NORTH SIDE PARK

CITY OF SARTELL, STEARNS COUNTY, MINNESOTA

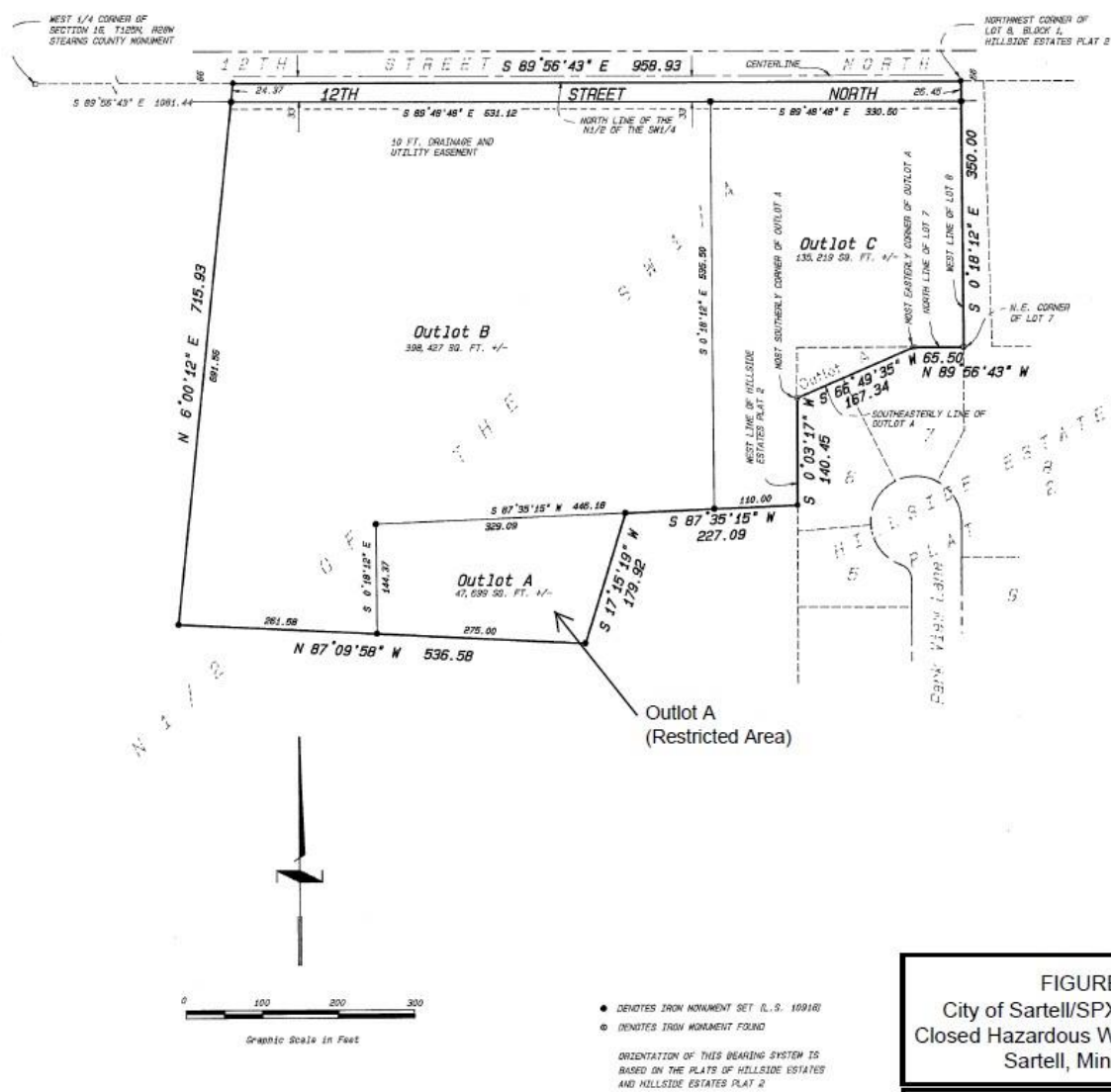


FIGURE 1
 City of Sartell/SPX Corporation
 Closed Hazardous Waste Lagoon #3
 Sartell, Minnesota
PLAT MAP

Permit Issued: April 8, 2022
Modifications Issued: July 13, 2023, **date**
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4. Summary of subject items

Component ID	Description	Process	Status
Lagoon No. 3	Compliance Monitoring and Post closure careof Lagoon No. 3	Closed Landfill (Land Disposal Unit)	Compliance Monitoring andpost closure Care

5. Limits and other requirements

Specific hazardous wastes authorized to be managed

The Co-Permittees are hereby authorized to manage the following hazardous wastes under the conditions of this Permit:

Hazardous waste code	Hazardous waste description
D008	Cupola Ventura Sludge and Cupola Wet Cap Sludge contained in Lagoon Number 3
Total Facility	
HDR	OPERATING CONDITIONS
5.1.1	The Co-Permittees shall have a contingency plan for the facility. The contingency plan must be designed to minimize hazards to human health or the environment from fires, explosions, or any unplanned sudden or nonsudden release of hazardous waste or hazardous waste constituents to air, land, or water. [Minn. R. 7045.0466, subp. 2]
5.1.2	The contingency plan must contain all applicable items listed in Minn. R. 7045.0466, subp. 4. [Minn. R. 7045.0466, subp. 4]
5.1.3	The Co-Permittees must ensure that the provisions of the contingency plan, set forth in the Permit Application, are carried out IMMEDIATELY whenever there is a release, fire, or explosion of hazardous waste or hazardous constituents which could threaten human health or the environment. [Minn. R. 7045.0466, subp. 3]
5.1.4	The Co-Permittees shall amend the contingency plan whenever this Permit is revised. [Minn. R. 7045.0466, subp. 6(A)]
5.1.5	The Co-Permittees shall amend the contingency plan whenever said plan fails in an emergency. [Minn. R. 7045.0466, subp. 6(B)]
5.1.7	The Co-Permittees shall amend the contingency plan whenever the designated emergency coordinator changes. [Minn. R. 7045.0466, subp. 6(D)]
5.1.8	The Co-Permittees shall amend the contingency plan whenever the list of emergency equipment changes. [Minn. R. 7045.0466, subp. 6(E)]
5.1.9	The Co-Permittees shall maintain a copy of its contingency plan at the City of Sartell City Hall and SPX Headquarters at all times. [Minn. R. 7045.0466, subp. 5(A)]
5.1.10	The Co-Permittees shall submit a copy of its Contingency Plan to all local police departments, fire departments, hospitals, and all local and state emergency response teams that may be called upon to respond in an emergency situation at the Facility. [Minn. R. 7045.0466, subp. 5(B)]
5.1.11	At a minimum, the Co-Permittees shall maintain emergency equipment required by the contingency plan. [Minn. R. 7045.0462]
5.1.12	The Co-Permittees shall test and maintain all Facility communications or alarm systems, fire protection equipment, and spill control equipment to ensure proper operation in time of emergency. The maintenance and inspection of emergency equipment shall be conducted in accordance with the Inspection Plan set forth in the Permit Application. [Minn. R. 7045.0462, subp. 4]
5.1.13	The Co-Permittees shall at all times have at least one (1) employee either on the Facility premises or on call with the responsibility for coordinating all emergency response measures. The following person[s] qualifies as the emergency coordinator and each assumes all emergency procedure responsibilities described in Minn. R. 7045.0468 and this Permit. John Kothenbeutel, 320 253-2171. [Minn. R. 7045.0468, subp. 1]
5.1.14	The Co-Permittees may change the names of employees who qualify as emergency coordinator by contacting the MPCA and identifying the new emergency coordinator[s]. [Minn. R. 7045.0468, subp. 1]
5.1.16	Minn. Stat. 115.061 and 116.061 require notification to the MPCA regarding discharges to water and air, respectively, for any materials, including hazardous waste. Minn. R. 7045.0468, subp. 5, item B, and subp. 6 also provide requirements for reporting to the Agency discharges of hazardous waste. Compliance under the notification requirements below satisfies the Agency notification requirements regarding releases of hazardous waste at permitted hazardous waste facilities for both the rules and statutes cited above. Notification to the Minnesota Duty Officer satisfies the requirement for notifying the agency. TWIN CITIES METRO AREA (AND OUTSIDE MINNESOTA): 651- 649-5451 GREATER MINNESOTA: 1-800-422-0798. [Minn. R. 7045.0468, subp. 5&6]

	5.1.17	<p>1) Except as provided in paragraph 2) below, it is the duty of every person to notify the Agency of the discharge, accidental or otherwise, of any substance or material under its control which, if not recovered, may cause pollution of waters of the State, and the responsible person shall recover as rapidly and thoroughly as possible such substance or material and take immediately such other action as may be reasonably possible to minimize or abate pollution of waters of the State caused thereby.</p> <p>2) Notification is not required under paragraph 1) above for a discharge of five gallons or less of petroleum, as defined in section 115C.02, subd. 10. This paragraph does not affect the other requirements of paragraph 1 above. [Minn. R. 7045]</p>
	5.1.25	<p>Whenever the contingency plan is implemented; the emergency coordinator shall IMMEDIATELY identify the character, exact source, amount and areal extent of any released material. [Minn. R. 7045.0468, subp. 3]</p>
	5.1.26	<p>Whenever the contingency plan is implemented; the emergency coordinator shall IMMEDIATELY assess possible hazards to human health or the environment, considering both direct and indirect effects of the release, fire, explosion; effects from any toxic, irritating, or asphyxiating gases that are generated; and effects of any hazardous surface water run-off from water or chemical agents used to control fire and explosions. [Minn. R. 7045.0468, subp. 4]</p>
	5.1.27	<p>Whenever the contingency plan is implemented; the emergency coordinator shall IMMEDIATELY carry out the appropriate provisions of the contingency plan set forth in the Permit Application. [Minn. R. 7045.0468, subp. 1]</p>
	5.1.28	<p>If the emergency coordinator determines that the hazardous waste or hazardous constituent release, fire, or explosion could threaten human health or the environment, outside the Facility; or evacuation of local areas may be advisable; or a released hazardous waste or hazardous constituent may cause pollution of the air, land resources, or waters of the State, then the emergency coordinator shall IMMEDIATELY notify:</p> <ol style="list-style-type: none"> 1) Appropriate State and local authorities, 2) The governmental official designated as the on-scene coordinator for that geographical area, or the National Response Center at (800) 424-8802. The information below shall be given to each of the above authorities at the time of the notification: 1) Name and telephone number of reporter, 2) Name and address of Facility, 3) Date, time, and type of incident, 4) Name and quantity of material involved, 5) Extent of damages or injuries, if any, and 6) The possible hazards to human health and/or the environment. <p>[Minn. R. 7045.0468, subp. 5]</p>
	5.1.33	<p>WITHIN 15 DAYS after an event that requires implementation of the contingency plan as required by Minn. R. 7045.0466, subp. 3, the Co-Permittees shall submit a written report to the Agency describing the incident, containing information as required by Minn. R. 7045.0470, subp. 3. [Minn. R. 7045.0470, subp. 3]</p>
	5.1.34	<p>The Co-Permittees shall note in the operating record the time, date, and details of any incident that requires implementation of the contingency plan. [Minn. R. 7045.0470, subp. 3]</p>
	5.1.35	<p>The review of each submittal, document, report, or schedule (collectively referred to hereafter as "submittal") which is required to be submitted to the Commissioner for review and approval shall be as follows:</p> <ol style="list-style-type: none"> 1) The Commissioner shall review each submittal made by the Co-Permittees as required by this Permit. In the event the submittal is approved, it shall become an integral and enforceable part of this Permit. If the submittal is disapproved in whole or part, the Commissioner shall notify the Co-Permittees in writing and shall explain the amendments or revisions that are necessary to bring the submittal into compliance with this Permit. 2) Within 30 calendar days of receipt of any notice of disapproval or modification, or on the first working day thereafter (if said 30th day fell on a Sunday or Holiday) the Co-Permittees shall: a. Submit revisions to correct inadequacies that led to disapproval, or, b. State in writing the reasons why the submittal, as originally submitted should be approved. The Co-Permittees may have longer than 30 days to respond if the longer time period is specified in the Commissioner's review letter referenced in paragraph 1 above. 3) If, within 30 calendar days from the date of the Co-Permittees submission under paragraph 2, above, the parties have not reconciled all issues with respect to the submittal, the Commissioner shall inform the Co-Permittees of the second disapproval of the submittal and whether in the Commissioner's view, the Co-Permittees may be in violation of the Permit. In such event, the matter may be referred for enforcement action. 4) The Commissioner and the Co-Permittees shall provide the opportunity to consult with each other during the review of submittals or modifications. [Minn. R. 7001.0090]

	5.1.36	All time extensions must be requested by the Co-Permittees in writing. The requests shall specify the reasons why the extension is needed. Extensions shall only be granted for such a period of time as the Commissioner determines is reasonable under the circumstances. A requested extension shall not be effective until approved by the Commissioner. The burden shall be on the Co-Permittees to demonstrate to the satisfaction of the Commissioner that the request for the extension has been submitted in a timely fashion and that good cause exists for granting the extension and that the extension shall have no adverse effect upon human health or the environment. Extension of compliance schedule dates provided in this Permit may be granted if requests are submitted in a timely fashion and good cause exists for granting the extension, and if the extension would have no adverse effect upon human health or the environment. [Minn. R. 7001.0090]
	5.1.37	Issuance of this Permit by the MPCA does not release the Co-Permittees from any liability, penalty, or duty imposed by Minnesota or federal statutes, rules or local ordinances, except the obligation to obtain this Permit. [Minn. R. 7001.0150, subp. 3(A)]
	5.1.38	Issuance of this Permit by the MPCA does not release the Co-Permittees from or affect any liability which the Co-Permittees may incur as a result of the operation of the Permitted Facility. [Minn. R. 7001.0150, subp. 3]
	5.1.39	This Permit does not prevent the future adoption by the MPCA of pollution control rules, standards, or orders more stringent than those now in existence and does not prevent or affect the enforcement of these rules, standards, or any orders against the Co-Permittees. [Minn. R. 7001.0150, subp. 3(B)]
	5.1.40	This Permit does not convey a property right or an exclusive privilege. [Minn. R. 7001.0150, subp. 3(C)]
	5.1.41	This Permit does not obligate the MPCA or the Commissioner to enforce laws, rules, or plans [Minn. R. 7001.0150, subp. 3(D)]
	5.1.42	This Permit authorizes the Co-Permittees to perform the activities described in this Permit under the conditions of this Permit. In issuing this Permit, the State and Commissioner assume no responsibility for injury to persons or damage to property or the environment caused by the activities of the Co-Permittees including those activities authorized, directed, or undertaken under this Permit. To the extent the State and Commissioner may be liable for the activities of State employees, that liability is explicitly limited to that provided in the Tort Claims Act, Minn. Stat. § 3.736. [Minn. R. 7001.0150, subp. 3(O)]
	5.1.43	Compliance with the terms of this Permit does not constitute a defense to any action brought under Section 7003 of the Resource Conservation and Recovery Act, Section 106(a) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq., commonly known as CERCLA), the Minnesota Environmental Response and Liability Act of 1983 (Minn. Stat. ch. 115B), Minn. Stat. chs. 116, 400, 473, or any other Minnesota or Federal statutes, rules or regulations, or local ordinances. [Minn. R. 7001.0150]
	5.1.44	This Permit establishes minimum standards for the operation of the permitted Facility. Nothing in this Permit precludes the Co-Permittees from taking additional steps to protect the public health or welfare or the environment so long as these additional steps are not inconsistent with the terms and conditions of this Permit. The Co-Permittees are solely responsible for ensuring that the Permitted Facility adequately safeguards public health and welfare and the environment. [Minn. R. 7001.0150]
	5.1.45	The Co-Permittees shall perform the actions and conduct the activity authorized by this Permit in accordance with the plans and specifications approved by the MPCA and in compliance with the conditions of this Permit and applicable local, state, and federal hazardous waste laws, rules, ordinances, and regulations. [Minn. R. 7001.0150, subp. 3(E)]
	5.1.47	The Co-Permittees shall not knowingly make a false or misleading statement, representation, or certification in a record, report, plan or other document submitted to the MPCA or to the Commissioner. The Co-Permittees shall IMMEDIATELY upon discovery report to the Commissioner an error or omission in any such record, report, plan, or other document. [Minn. R. 7001.0150, subp. 3(G)]
	5.1.48	The Co-Permittees shall, when requested by the Commissioner, submit within a reasonable time the information and reports that are relevant to the control of pollution, regarding the construction or operation of the Facility covered by this Permit, or regarding the conduct and the activity covered by this Permit, in accordance with Minn. Stat. §§ 115.04 and 116.07, subd. 9. [Minn. R. 7001.0150, subp. 3(H)]
	5.1.49	When authorized by Minnesota Statutes, sections 115.04; 115B.17, subdivision 4; and 116.091, and upon presentation of proper credentials, the agency, or an authorized employee or agent of the agency, shall be allowed by the Co-Permittees to enter at reasonable times upon the property of the Co-Permittees to examine and copy books, papers, records, or memoranda pertaining to the construction, modification, or operation of the facility covered by the permit or pertaining to the activity covered by the permit; and to conduct surveys and investigations, including sampling or monitoring, pertaining to the construction, modification, or operation of the facility covered by the permit or pertaining to the activity covered by the permit. [Minn. R. 7001.0150, subp. 3(I)]

5.1.50	If the Co-Permittees discovers, through any means, including notification by the MPCA, that noncompliance with a condition of the Permit has occurred, the Co-Permittees shall promptly take all reasonable steps to minimize the adverse impacts on human health, public drinking water supplies, or the environment resulting from the noncompliance. [Minn. R. 7001.0150, subp. 3(J)]
5.1.51	This Permit may be modified, revoked and reissued, or revoked without reissuance for cause, as specified in Minn. R. 7001.0170 to 7001.0190 and Minn. R. 7001.0730. The filing of a request for a Permit Modification, Revocation and Reissuance, or Revocation without Reissuance, or the notification of planned changes or anticipated noncompliance on the part of the Co-Permittees does not stay or affect the applicability or enforceability of a Permit condition. Requests for modification of plans or specifications integral to this Permit must be approved by the Commissioner prior to implementing the requested change. [Minn. R. 7001.0170]
5.1.52	This Permit will remain in effect beyond the Permit's expiration date if the Co-Permittees have submitted a timely and complete Application for reissuance of the Permit provided that the Commissioner determines, based on available information, that all of the following are true: 1) The Co-Permittees are in compliance with the terms and conditions of the expired Permit; 2) The Co-Permittees continues at all times to work diligently and in good faith to meet the requirements and satisfy the concerns of the Commissioner with respect to the Permit Application; 3) The Commissioner, through no fault of the Co-Permittees, has not taken final action on the Application before the expiration date of this Permit. [Minn. R. 7001.0160]
5.1.53	This Permit is not transferable to any person without the express written approval of the MPCA, and then only after compliance with the requirements of Minn. R. 7001.0190 and 7045.0452, subp. 3. item D. A party to whom this Permit has been transferred shall comply with the terms and conditions of this Permit. [Minn. R. 7001.0190]
5.1.54	The provisions of this Permit are severable, and if any provision of this Permit, or the application of any provision of this Permit to any circumstance is held invalid, the application of such provision to other circumstances and the remainder of this Permit shall not be affected thereby. [Minn. R. 7001.0190]
5.1.55	The Co-Permittees need not comply with the conditions of this Permit to the extent and for the duration that the noncompliance is authorized in an emergency Permit in accordance with Minn. R. 7001.0690. [Minn. R. 7001.0690]
5.1.56	The Co-Permittees may allow an authorized representative to sign reports submitted in accordance with the requirements of this Permit in accordance with the conditions of Minn. R. 7001.0720, subp. 2, item F. [Minn. R. 7001.0720, subp. 2(F)]
5.1.57	The Co-Permittees shall provide a Surety Bond, in the amount of the cost estimated for post closure care of the Facility for a minimum of ten years from permit issuance in accordance with the financial assurance requirements of Minn. R. 7045.0508. The owner or operator who uses a surety bond to satisfy the requirements of this part shall also establish a standby trust fund. The Co-Permittees shall continue to maintain such a Surety Bond unless the MPCA approves of the use of another mechanism as specified in Minn. R. 7045.0508. [Minn. R. 7045.0508]
5.1.58	The Co-Permittees chose Surety Bond for financial assurance for post closure care. If at any time during the term of the Permit, any financial institution or insurer providing such financial assurance or liability coverage is involved in bankruptcy proceedings, the Co-Permittees shall be deemed to be without such required financial assurance or liability coverage. In such event, the Co-Permittees shall have 60 days, upon notifying the MPCA of the bankruptcy proceeding, to obtain other means of financial assurance and liability coverage. Failure to do so shall constitute a violation of this Permit. [Minn. R. 7045.0522, subp. 2]
5.1.60	The Co-Permittees shall prevent the discharge of hazardous waste from the Facility to the surface waters or groundwaters of the State. [Minn. R. 7045.0468]
5.1.61	The Co-Permittees shall design, construct, maintain and operate the Facility to minimize the possibility of fire, explosion, or other event that might allow the release to the air, land, or water of hazardous waste or hazardous waste constituents which could threaten human health or the environment. [Minn. R. 7045.0462, subp. 2]
5.1.62	The Co-Permittees shall provide adequate lighting for the Facility to ensure safety and proper operation. [Minn. R. 7045.0452]
5.1.63	The Co-Permittees shall conduct inspections at the Facility and for all hazardous waste management units as required under the inspection plan set forth in the Permit Application, Minn. R. 7045.0452, subp. 5, and 7045.0538, subp. 5 shall be followed. [Minn. R. 7045.0452]
5.1.65	The Co-Permittees shall record all inspections in an inspection log. These records must include the date and time of the inspection, the name of the inspector, a notation of the observations made, and the date and nature of any repairs or other remedial actions. [Minn. R. 7045.0478, subp. 3(G)]

5.1.66	The Co-Permittees shall retain records of all monitoring information, including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, copies of all reports and records required by this Permit, and records of all data used to complete the Application for this Permit. [Minn. R. 7001.0150, subp. 2]
5.1.67	Records of monitoring information shall specify: 1) The date(s), exact place, and time(s) of sampling or measurements; 2) The individual(s) who performed the sampling or measurements; 3) The date(s) analyses were performed; 4) The individual(s) who performed the analyses; 5) The analytical techniques for methods used; and 6) The results of such analyses. [Minn. R. 7001.0150, subp. 2(B and C)]
5.1.68	The Co-Permittees shall maintain all records for at least three (3) years after generation of the record unless the record is required by Minn. R. 7045.0478, subp. 3 or Minn. R. 7001.0720, subp. 2, item B to be kept for a longer period of time. Records required to be kept until closure of the Facility are listed in Minn. R. 7045.0478, subp. 3 and Minn. R. 7001.0720, subp. 2. These retention periods are automatically extended during the course of and at least for the duration of an unresolved enforcement action regarding the Permittee and shall also be extended upon request of the Agency. These records shall be made available to the Agency upon Request. [Minn. R. 7045.0478, subp. 3]
5.1.69	The Co-Permittees shall maintain at the City of Sartell City Hall and SPX Headquarters at all times a copy of the most recent MPCA-approved version of the Groundwater Protection Plan (7045.0484). [Minn. R. 7045.0484]
5.1.70	The Co-Permittees shall maintain records from all groundwater monitoring wells and associated groundwater surface elevations for the active life of the Facility (and, for disposal facilities, the post closure care period) as specified in Minn. R. 7001.0720, subp. 2. item B. [Minn. R. 7001.0720, subp. 2(B)]
5.1.71	The Co-Permittees shall maintain at the City of Sartell City Hall and SPX Headquarters at all times a copy of the most recent MPCA-approved version of the post closure care Plan (7045.0490-7045.0492). [Minn. R. 7045.0492]
5.1.72	The Co-Permittees shall maintain at the City of Sartell City Hall and SPX Headquarters at all times a copy of the most recent MPCA-approved version of a contingency plan as set forth in the Permit Application, and that meets the requirements of Minn. R. 7045.0466. [Minn. R. 7045.0466]
5.1.73	The Co-Permittees shall maintain at the City of Sartell City Hall and SPX Headquarters at all times a copy of the most recent MPCA-approved version of an inspection plan as set forth in the Permit Application, and that meets the requirements of Minn. R. 7045.0452, subp. 5. [Minn. R. 7045.0452, subp. 5]
5.1.74	1) If the Co-Permittees discovers that noncompliance with a condition of the Permit has occurred, which could endanger human health, public drinking water supplies, or the environment, the Co-Permittees shall, WITHIN 24 HOURS after the discovery of the noncompliance, orally notify the Commissioner. WITHIN FIVE (5) DAYS of the discovery of the noncompliance, the Co-Permittees shall submit to the Commissioner a written description of the noncompliance; the cause of the noncompliance; the exact dates of the period of noncompliance; and, if the noncompliance has not been corrected, the anticipated time it is expected to continue and steps taken or planned to reduce, eliminate, and prevent recurrence of the noncompliance. 2) For noncompliance occurrences not required to be reported above, the Co-Permittees shall submit a written report to the Commissioner WITHIN 30 DAYS after the noncompliance is discovered. As used herein, the term "noncompliance" refers to any failure, intentional or unintentional, avoidable or unavoidable, to satisfy any requirement of this Permit. [Minn. R. 7001.0150, 3(K)]
5.1.75	Before transferring ownership or operation of a disposal facility during the post closure care period, the Co-Permittees shall notify the new Permittee in writing of the requirements of parts 7045.0450 to 7045.0551 and all permit requirements. [Minn. R. 7045.0452, subp. 3(D)]
5.1.76	The Co-Permittees shall give advance written notice to the Commissioner as soon as possible of any planned physical alteration of or addition to the Permitted Facility and of any activity that may result in noncompliance with its Permit or with any requirement of state or federal law. This notice does not relieve the Co-Permittees of: 1) The requirement to obtain a modification of this Permit, or 2) Any liability for noncompliance with this Permit or the law. [Minn. R. 7001.150, 3(M)]
5.1.77	The Co-Permittees are required to pay an annual facility fee. Fees will be examined annually and adjusted as needed as provided in Minn. R. 7046.0060, subpart 1. The Co-Permittees may apply for an exemption under Minn. R. 7046.0020, subp. 8 at any time for MPCA consideration. In addition, the Co-Permittees are required to pay the applicable permit reissuance fee as provided in Minn. R. 7046.0020 when the Co-Permittees submit their application for reissuance. [Minn. R. 7046.0020]

	5.1.78	All reports or other information required to be submitted to the Agency in accordance with the terms and conditions of this Permit shall carry the certification required by Minn. R. 7001.0070 and 7001.0540. [Minn. R. 7001.0540]
	5.1.79	All written reports required to be submitted by the Co-Permittees shall be sent to: Minnesota Pollution Control Agency Supervisor, Land Permits Unit Resource Management and Assistance Division 520 Lafayette Road North St. Paul, Minnesota 55155-4194. [Minn. R. 7045.0482]
HDR	5.1.80	GROUNDWATER PROTECTION AND POST CLOSURE CARE
	5.1.81	The Co-Permittees shall conduct a groundwater protection program for Lagoon No. 3 in accordance with the following provisions: a. Submit a GWPP for MPCA approval. The requirements for the Groundwater Protection Plan (GWPP) are described in Parts 5.1.81 through 5.1.136 of this Permit. b. Submit a revised Quality Assurance Project Plan (QAPP) for approval that includes any changes to be made as part of the permit reissuance. Requirements for the revised QAPP are described in Part 5.1.100 of this Permit. c. EPA Requirements for QA Project Plans (QA/R-5) (March, 2001), (Reissued May, 2006), EPA 240/B-01/003, [http://www.epa.gov/quality/qs-docs/r5-final.pdf]. d. Guidance for Quality Assurance Project Plans (QA/G-5) (December, 2002), EPA 240/R-02/009, [http://www.epa.gov/quality/qs-docs/g5-final.pdf]. e. Technical Enforcement Document (November 1992), EPA/530-R-93-001. f. Test Methods for Evaluating Solid Wastes, Physical/Chemical Methods and Updates (EPA/SW-846), [http://www.epa.gov/epaoswer/hazwaste/test/main.htm], and the Minnesota Hazardous Waste Rules including Minn. R. 7045.0484 through Minn. R. 7045.0590. [Minn. R. 7045.0484, Minn. R. 7045.0590]
	5.1.82	The Co-Permittees shall comply with the conditions specified in the Permit that are designed to ensure that the levels of the groundwater monitoring parameters, including the hazardous constituents listed in Part 5.1.93, entering the groundwater from Lagoon No. 3 do not exceed the groundwater protection standards and criteria in the groundwater at and beyond the points of compliance. The groundwater protection standard is also the performance goal for any corrective action conducted on the groundwater at Lagoon No. 3. To evaluate whether hazardous constituents at Lagoon No. 3 are entering the groundwater at levels above the groundwater protection standards, the Co-Permittees shall develop a work plan for characterizing the integrity of the cap, characterizing the waste at the Facility, and investigating the hydrogeologic properties of the saturated and unsaturated zones. Additionally, the work plan will include a proposed updated survey of potential downgradient receptors. The Co-Permittees shall submit such work plan to MPCA for review and approval within 90 days of issuance of the Permit. [Minn. R. 7045.0484]
	5.1.83	The Co-Permittees shall comply with the requirements of Minn. R. 7045.0484, subs. 2 to 14 for detecting, characterizing and responding to releases from Lagoon No. 3. [Minn. R. 7045.0484]
	5.1.84	Notwithstanding other requirements of this Permit, (a) the requirements of Part 5.1.87 and Parts 5.1.107 through 5.1.114 of this Permit also apply when the Co-Permittees are conducting a detection monitoring program for Lagoon No. 3; (b) the requirements of Part 5.1.87 and Parts 5.1.115 through 5.1.125 of this Permit also apply during the post closure care period when the Co-Permittees are conducting a compliance monitoring program; and (c) the requirements of Part 5.1.87 and Parts 5.1.126 through 5.1.136 also apply when conducting a corrective action program for Lagoon No. 3. [Minn. R. 7045.0484]
	5.1.86	The Co-Permittees shall provide post closure care of the Lagoon No. 3 in accordance with this permit, the Post closure Care Plan, Minn. R. 7045.0490 through 7045.0494 and 7045.0538, subp. 7, [Minn. R. 7045.0490, Minn. R. 7045.0494, Minn. R. 7045.0538]
		(a) The Commissioner has determined that extending the post closure care period beyond the initial 30-year period is necessary to protect human health and the environment. Pursuant to Minn. R. 7045.0492, subp. 1.C., the post closure care period will continue and must consist of at least monitoring and reporting according to Minn. R. 7045.0484 and Minn. R. 7045.0532 to Minn. R. 7045.0539, and the maintenance of monitoring and waste containment systems, according to Minn. R. 7045.0484 and Minn. R. 7045.0532 to Minn. R. 7045.0539. (b) In accordance with Minn. R. 7045.0492, subp. 1.B., at any time during the post closure period, the commissioner may reduce the post closure care period, on the commissioner's own initiative or at the request of the Co-Permittees, in accordance with the agency's permit modification procedures in Minn. R. Ch. 7001 for the hazardous waste management unit or facility, if all disposal units have been closed if it is found that the reduced period is sufficient to protect human health and the

	5.1.87	environment. This determination must be based on leachate or groundwater monitoring results, waste characteristics, application of advanced technology, or alternative disposal, treatment, or reuse techniques indicating the hazardous waste management unit or facility is secure.
	5.1.88	The Co-Permittees may submit a written request for a Permit modification to amend the Post closure Plan in accordance with procedures in Minn. R. ch. 7001. The Co-Permittees shall request a Permit modification to amend the plan whenever changes in monitoring and maintenance plans, facility design, or other events affect the Post closure Plan. The Commissioner may also require modification to the Post closure Plan under these conditions. The Co-Permittees must submit a written request for a Permit modification at least 60 days before implementing any proposed change in monitoring and maintenance plans or facility design, or no later than 60 days after any unexpected event which affects the Post closure Plan occurs. If the Commissioner requires modification of the Post closure Plan, the Co-Permittees must submit the modified plan no later than 60 days after the Commissioner's request. [Minn. R. 7001]
	5.1.90	Requirements for an Environmental Covenant and Easement are set forth in Parts 5.1.137 to 5.1.142 of this Permit. [Minn. R. 7045.0494]
	5.1.91	The Co-Permittees shall conduct a monitoring and response program at the Lagoon No. 3 as follows: 1. The Co-Permittees shall conduct a corrective action monitoring program as described in this Permit when a groundwater protection standard or criterion is exceeded in groundwater at or beyond a point of compliance. 2. The Co-Permittees shall initiate the corrective action program as described in Parts 5.1.126 to 5.1.136 of this Permit and the GWPP. [Minn. R. 7045.0484]
	5.1.92	The hazardous constituents to which the groundwater protection standard applies are arsenic, barium, cadmium, lead, nickel and selenium. Analyses for these metals shall be for dissolved constituents. [Minn. R. 7045.0484]
	5.1.93	The concentration limits in the groundwater for hazardous constituents which are reasonably expected to be in or derived from wastes in the Lagoon No. 3 or which have been detected as a result of groundwater monitoring at the Lagoon No. 3 are listed below: TABLE 1 - HAZARDOUS CONSTITUENTS AND THEIR GROUNDWATER PROTECTION STANDARDS Hazardous Constituents : Groundwater Protection Standard Arsenic (dissolved): 10 micrograms per liter Barium (dissolved): 2000 micrograms per liter Cadmium (dissolved): 0.5 micrograms per liter Lead (dissolved): 15 micrograms per liter Selenium (dissolved): 30 micrograms per liter Nickel (dissolved): 100 micrograms per liter. [Minn. R. 7045.0484] Any changes made by the Minnesota Department of Health (MDH) to the Health Risk Limits, Health Based Values or Risk Assessment Advice or changes made by the United States Environmental Protection Agency (US EPA) to the Maximum Contaminant Levels for these six (6) contaminants shall be incorporated into the modified GWPP and resubmitted for approval to the MPCA within 30 days of the change being made by MDH or USEPA.
	5.1.94	The list of groundwater monitoring parameters, including hazardous constituents and landfill contamination indicator parameters, and their corresponding test methods, reporting limits, and groundwater protection standards are provided in Table 2, Appendix. The list of indicators may be precursors to hazardous constituent contamination from the list in the above requirement. [Minn. R. 7045.0484]

	<p>Point of Compliance.</p> <p>a. The point of compliance is that point or points at which the groundwater protection standard applies and at which monitoring must be conducted.</p> <p>b. The point of compliance is a vertical surface located at the hydraulically downgradient limit of Lagoon No. 3 that extends to the bottom of potentially affected groundwater underlying Lagoon No. 3.</p> <p>c. The waste management area is the limit projected in the horizontal plane of the area on which waste has been or will be placed during the active life of the regulated unit. The waste management area includes horizontal space taken up by any liner, dike, or other barrier designed to contain waste in the regulated unit.</p> <p>d. For Lagoon No. 3, the points of compliance consist of the wells designated as P-5R, P-9R and P-12R. [Minn. R. 7045.0484]</p>
5.1.95	<p>Groundwater Monitoring System (GWMS). The Co-Permittees shall maintain the groundwater monitoring system to measure water levels and collect water samples of groundwater throughout the post closure period. The groundwater monitoring system consists of the following wells:</p> <p>WELL: PURPOSE</p> <p>P-13, any approved existing wells to be sampled, and any approved newly installed wells to provide upgradient monitoring</p> <p>P-5R: Downgradient Monitoring - Point of Compliance</p> <p>P-9R: Downgradient Monitoring - Point of Compliance</p> <p>P-12R: Downgradient Monitoring -Point of Compliance</p> <p>MW-5: Monitoring - Irrigation Well 900 feet from the Compliance Boundary to the south. MW-5 is used to help define the groundwater flow direction in the spring, and fall over a larger area and the groundwater chemistry in the spring of each year when this well is being pumped for irrigation purposes.</p> <p>PW-0: Irrigation well approximately 745 feet from the Compliance Boundary to the east. Pumping information from PW-0 is used to determine the potential to affect the groundwater flow direction.</p> <p>P-7: P-7 is used to help define the groundwater flow direction in the spring, and fall over a larger area</p> <p>P-8A: P-8A is used to help define the groundwater flow direction in the spring, and fall over a larger area and the groundwater chemistry in the spring of each year when MW-5 is being pumped for irrigation purposes</p> <p>P-8B: P-8B is used to help define the groundwater flow direction in the spring, and fall over a larger area and the groundwater chemistry in the spring of each year when MW-5 is being pumped for irrigation purposes</p> <p>P-5A: P-5A is used to help define the groundwater flow direction over a larger area. P-6: P-6 is used to help define the groundwater flow direction over a larger area.</p> <p>P-11A: P-11A is used to help define the groundwater flow direction over a larger area.</p> <p>P-14A: P-14A is used to help define the groundwater flow direction in the spring, and fall over a larger area and the groundwater chemistry in the spring of each year when MW-5 is being pumped for irrigation purposes.</p> <p>P-14B: P-14B is used to help define the groundwater flow direction in the spring, and fall over a larger area and the groundwater chemistry in the spring of each year when MW-5 is being pumped for irrigation purposes</p> <p>[Minn. R. 7045.0484]</p>
5.1.96	

5.1.97	<p>Sampling Schedule:</p> <p>1) The Co-Permittees shall sample wells P-13, P-5R, P-9R, P-12R, P14A, and P14B in the spring, and fall as described below and shall analyze the groundwater samples for the ground monitoring parameters described in Part 5.1.93 and Table 2 Appendix. Sampling shall occur in the spring, and fall.</p> <p>2) The Co-Permittees shall collect static water levels from all wells P-13, P-5R, P-9R, P-12R, P-14A, P-14B, P-7, MW-5, P-8A, P-8B, and P-5A just prior to sample collection event. Static water levels shall be collected in accordance with the schedule in this part and as described in Parts 5.1.96 to 5.1.103 and Table 2 of Appendix for purposes of presenting a larger picture of the groundwater flow direction.</p> <p>3) Wells MW-5, P-8A, and P-8B shall be sampled in the spring when MW-5 is being used for irrigation. The sampling parameters shall be the same as those for the compliance wells.</p> <p>4) Turbidity shall be sampled and analyzed for each well once every odd numbered year in October to determine the need for monitoring well redevelopment. If the turbidity exceeds five (5) Nephelometric Turbidity Units, the Co-Permittees shall either attempt to redevelop the well or submit to the MPCA for review and approval a justification explaining why redevelopment of the well is not feasible and what, if any alternative actions are being proposed. The groundwater monitoring plan must include a determination of the potentiometric surfaces to the nearest 1/100th foot and the groundwater flow directions each time groundwater is sampled and as measured prior to well evacuation.</p> <p>[Minn. R. 7045.0484]</p>
5.1.98	<p>The Co-Permittees shall submit a work plan for installation of additional groundwater monitoring wells to the Commissioner at least 30 days in advance of the anticipated date of installation. The groundwater monitoring system must consist of a sufficient number of wells, installed at the appropriate locations and depths to yield groundwater samples that: 1) Represent the quality of background groundwater that has not been affected by potential leakage from Lagoon No. 3; 2) Represent the quality of groundwater passing the point of compliance; and 3) Allow for the detection of potential contamination from Lagoon No. 3. Monitoring wells must be constructed in accordance with the Minnesota Water Well Construction Code, Chapter 4725, and be cased in a manner that maintains the integrity of the monitoring well borehole. The annular space between the well screen and the borehole must be packed with silica gravel or sand to one or two feet above the well screen to enable the collection of representative groundwater samples. Wells must be properly developed to enable collection of representative groundwater samples. The annular space, that is, the space between the borehole and the well casing, above the well screen must be sealed to prevent contamination of samples and the groundwater. Materials used in well construction must be compatible with the intended use of the well. [Minn. R. 7045.0484]</p>
5.1.99	<p>Each well shall be equipped with a locking cap and protective posts. Each well shall be provided with a cement collar at the surface to divert drainage away from the well casing. At the top of the well casing, the well number shall be permanently marked on each well at the Facility.</p> <p>[Minn. R. 7045.0484]</p>
5.1.100	<p>Groundwater monitoring parameters listed in Table 2 Appendix but not listed in Table 1 of Part 5.1.93 include waste reaction products, nonhazardous waste constituents and indicator parameters that provide a reliable indication of the presence of hazardous constituents in the groundwater. The monitoring parameters, test methods, reporting limits and protection standards are identified in Table 2, Appendix of this Permit. The program must include procedures and techniques for: preparation; well evacuation; sample collection; sample preservation; shipment; analytical procedures and reporting limits; chain-of-custody procedures; transportation; quality assurance; data handling; and data verification. All sampling and analyses shall be conducted in accordance with a site-specific QAPP approved by the MPCA. Quality assurance samples shall be collected at a frequency listed in the approved QAPP. Any laboratory that is performing the analyses must be certified by the State of Minnesota or have reciprocity with the State of Minnesota for performing analyses for the contaminants of concern that are required for monitoring Lagoon No. 3. Data verification reports shall be submitted with each data set and shall be consistent with the QAPP. The QAPP must be kept up-to-date with current practices, with MPCA approval of all revisions prior to implementation. [Minn. R. 7045.0484]</p>
5.1.101	<p>The groundwater monitoring program must include sampling and analytical methods that are appropriate for groundwater sampling and that accurately measure concentrations of monitoring parameters in groundwater samples. [Minn. R. 7045.0484]</p>

	5.1.102	<p>The Co-Permittees shall use the binomial test of proportions method, or use an appropriate statistical method, approved by the Commissioner for evaluating groundwater monitoring data for each hazardous constituent listed in Table 1 of Part 5.1.93 of this permit. The statistical test shall be conducted separately for each hazardous constituent listed in Table 1 of Part 5.1.93 for each well. The statistical method to be used must be protective of human health and the environment and must comply with the performance standards outlined in Minn. R. 7045.0484, subp. 11.</p> <p>The Co-Permittees shall provide the Commissioner in writing with any field data, analytical data and statistical calculations from the sampling of groundwater monitoring wells as part of establishing or complying with the general groundwater monitoring requirements, groundwater protection standard, detection monitoring program, compliance monitoring program, or corrective action program. The data and calculations shall be submitted within 45 days of sample collection for each sampling event and with the Annual Report, due March 1 of each year. [Minn. R. 7045.0484]</p>
	5.1.103	<p>The groundwater monitoring program must include a determination of the potentiometric surface and the groundwater flow direction in the spring, and fall and the groundwater flow rates annually. The depth to groundwater from a fixed point of the casing must be measured immediately prior to each time groundwater is sampled. The data and calculations shall be submitted to the Commissioner as listed above. A significant change in the groundwater flow direction or a statistically significant change in the flow rate may be grounds for modification of the Permit. [Minn. R. 7045.0484]</p>
	5.1.104	<p>The groundwater monitoring program must establish background groundwater quality for each hazardous constituent, which may reasonably be expected to be in or derived from the wastes managed at the facility. [Minn. R. 7045.0484]</p>
	5.1.105	<p>Groundwater monitoring reports shall be submitted by the Co-Permittees within 60 days of sample collection for the spring, and fall sampling events. These reports must contain at a minimum:</p> <ul style="list-style-type: none"> a) The date, location, and time the sample was collected and each analysis that was completed; b) The static water level from each well to the nearest 0.01 foot from the surveyed reference point, and a potentiometric map of water elevations taken during the sampling event; c) The volume of water removed in gallons and well volumes before sampling for each well; d) Sampler's signature and field comments on unusual or noteworthy occurrences during the sampling event; e) Stabilization test results; f) A statement explaining the reasons for and ramifications of any deviations in sampling or analytical techniques or equipment used from that stated in the QAPP; g) The laboratory results of each sample analysis along with the results of the quality control sample analyses; h) Any problems with the conditions of the wells and their protection; i) Copies of the chain of custody forms; j) The laboratory's quality assurance narrative and a separate evaluation of the field and laboratory data by the Co-Permittees or their consultant as discussed in the revised QAPP; k) Pumping rates, volumes, and dates for wells MW-5 and PW-0 within the past sampling event; l) A map showing the property boundaries, the extent of the fill, Lagoon No. 3, and the well locations as well as any exceedances of the groundwater protection standards; m) A summary of all past groundwater elevation data; n) A summary of all past analytical data, including all data qualifiers; o) Any exceedances of the groundwater standards also be determined; and p) Submittal of any boring logs, driller's logs, and construction diagrams for any newly installed wells. Location data as UTM NAD83 also shall be submitted for any newly installed wells.

	5.1.106	<p>An annual groundwater monitoring report shall be submitted by the Co-Permittees on or before March 1 of each year summarizing the groundwater monitoring activities and results from the previous calendar year. The annual groundwater monitoring report shall contain the data from the previous year and shall summarize the past year's groundwater monitoring events. The Report will include the following at a minimum:</p> <ol style="list-style-type: none"> 1) A narrative describing the effects which the facility and irrigation wells PW-5 and PW-0, when operating, are exerting on the surrounding groundwater flow direction and quality and any changes made or maintenance needed in the monitoring network; 2) A summary data table(s) of all past analytical data including all data qualifiers; 3) A summary table of all groundwater elevations for each sampling location over time; 4) A potentiometric surface map for each groundwater sampling event for the year; 5) Calculations of groundwater flow rates and horizontal and vertical gradients; 6) Calculations to determine based on the binomial test of proportions, or an appropriate statistical method, approved by the Commissioner, if statistically significant evidence of contamination is present above background. Any exceedances of the groundwater standards also shall be determined. A summary of statistical data and calculations for the previous calendar year including recommendations for future actions if any statistically significant exceedance of monitoring parameters or hazardous constituents has occurred; 7) A map showing the site, the property boundaries, the extent of the fill, Lagoon No. 3, and the well locations; 8) Graphics showing concentration versus time (month, day, and year) for all hazardous constituents for each well as long as the record exists; 9) A minimum of two cross-sections perpendicular and parallel to groundwater flow showing the geology, the wells and their screened intervals, and the water table; 10) A summary of quality control measures and results used to evaluate groundwater quality data; 11) UTM coordinates (using NAD83), the method used and accuracy achieved; 12) Any maintenance activities associated with the monitoring wells and their protection or the cover; 13) Well information and history including any changes in use, a summary table of pumping times and rates, etc. for wells used for purposes other than monitoring within 1,000 feet downgradient and side gradient of the facility; 14) A well construction summary table; 15) A summary of significant findings and recommendations for future actions; <p>The results of the annual Lagoon No. 3 elevation survey to determine any effects from settling, subsidence, erosion, or other events;</p> <p>The data results and associated information in Part 5.1.105 that includes the following: The date, location and time the sample was collected and each analysis that was completed; The static water level from each well to the nearest 0.01 foot from the surveyed reference point, and a potentiometric map of water elevations taken during the sampling event; The volume of water removed in gallons and well volumes before sampling for each well; Sampler's signature and field comments on unusual or noteworthy occurrences during the sampling event; Stabilization test results;</p> <p>A statement explaining the reasons for and ramifications of any deviations in sampling or analysis, techniques or equipment used from that stated in the QAPP;</p> <p>The laboratory results of each sample analysis along with the results of the quality control sample analyses;</p> <p>Copies of the chain of custody forms; and the laboratory's quality assurance narrative and a separate data evaluation of the field and laboratory data by the Co-Permittees or their consultant as discussed in the QAPP. [Minn. R. 7045.0484]</p>
	5.1.107	<p>The Co-Permittees may return to the detection monitoring program if they meet the conditions stated in Part 5.1.124. If the Co-Permittees meet the requirements of Part 5.1.124 and they return to detection monitoring after a minimum of two (2) years in compliance monitoring, the Co-Permittees shall monitor for monitoring parameters and hazardous constituents in the groundwater. The hazardous constituents and monitoring parameters to be monitored for in detection monitoring for the Lagoon No. 3 are listed in Parts 5.1.93 and Table 2, Appendix in this Permit. [Minn. R. 7045.0484]</p>
	5.1.108	<p>If the Co-Permittees meet the requirements of Part 5.1.124 and are transferred back to the detection monitoring program for the Lagoon No. 3, the Co-Permittees shall use a groundwater monitoring system at the point of compliance for the Lagoon No. 3 in accordance with the approved GWPP and this permit. [Minn. R. 7045.0484]</p>

	5.1.109	<p>If the Co-Permittees meet the requirements of Part 5.1.124 and are transferred back to the detection monitoring program at the hazardous waste Lagoon No. 3, the Co-Permittees shall use the binomial test of proportions, or use an appropriate statistical method, approved by the Commissioner to determine if a statistically significant increase of a hazardous constituent in a downgradient compliance well occurs as compared to the upgradient compliance wells P-13, any approved upgradient compliance wells, and any approved newly installed upgradient compliance wells in accordance with Minn. R. 7045.0484, subp. 11 and the approved GWPP. [Minn. R. 7045.0484]</p>
	5.1.110	<p>If the Co-Permittees meet the requirements of Part 5.1.124 and are transferred back to the detection monitoring program at the hazardous waste Lagoon No. 3, the Co-Permittees shall determine groundwater quality at each monitoring well at the point of compliance for each monitoring parameter or hazardous constituent. Groundwater samples from each background and compliance well must be collected at least semiannually during detection monitoring. The Co-Permittees shall express the groundwater quality at a monitoring well in a form necessary for the determination of any statistically significant increases from background of hazardous constituents in accordance with the GWPP to be submitted for approval to the MPCA. [Minn. R. 7045.0484]</p>
	5.1.111	<p>If the Co-Permittees meet the requirements of Part 5.1.124 and are transferred back to the detection monitoring program at the hazardous waste Lagoon No. 3, the Co-Permittees shall determine whether there is statistically significant evidence of contamination for each hazardous constituent specified in Part 5.1.93 and Table 2 of the Appendix in this Permit annually, based upon the concentration of such hazardous constituents in groundwater at the point of compliance. In determining whether statistically significant evidence of contamination exists, the Co-Permittees shall use the binomial test of proportions, or use an appropriate statistical method, approved by the Commissioner to determine if there are a statistically significant increase in the proportion of detections at the compliance monitoring wells for each hazardous constituent as compared to all upgradient compliance wells. The statistical procedure shall be included in the approved GWPP. [Minn. R. 7045.0484]</p>
	5.1.112	<p>If the Co-Permittees meet the requirements of Part 5.1.124 and are transferred back to the detection monitoring program, the Co-Permittees shall determine if there is statistically significant evidence of contamination for the hazardous constituents listed in Part 5.1.93 of this Permit. If statistically significant evidence of contamination is found at any monitoring well at the point of compliance, the Co-Permittees shall:</p> <ul style="list-style-type: none"> a. Notify the Commissioner of this finding in writing within seven (7) days. The notification must indicate what monitoring parameters or hazardous constituents have shown statistically significant evidence of contamination and identify the wells in which the increases have occurred. b. Immediately sample the groundwater in all monitoring wells for monitoring parameters, hazardous constituents, and constituents listed in Table 2 of the Appendix of this permit. c. For hazardous constituents listed in Table 2 of the Appendix of this permit, the Co-Permittees may resample within one month and repeat the analysis for those compounds detected. If the results of the second analysis confirm the initial results, then these constituents shall form the basis for returning to compliance monitoring. d. Immediately initiate the compliance monitoring program as specified in the Permit and, within 60 days, submit to the Commissioner an application for Permit modification if it is necessary to revise the compliance monitoring program to meet the requirements of Minn. R. 7045.0484, subp. 13. <p>The application must include the following information:</p> <ul style="list-style-type: none"> 1) An identification of the concentration of any hazardous constituents found in the groundwater at each monitoring well at the point of compliance. 2) Proposed changes to the groundwater monitoring system at the Facility necessary to meet the requirements of Minn. R. 7045.0484, subp.13. 3) Proposed additions or changes to the monitoring program including frequency of sampling, analysis, additional locations, procedures, or methods proposed to be used at the Facility as necessary to meet the requirements of Minn. R. 7045.0484, subp. 13. [Minn. R. 7045.0484]

	5.1.113	<p>If the Co-Permittees meet the requirements of Part 5.1.124 and are transferred back to the detection monitoring program and the Co-Permittees determine that there is a statistically significant increase above background levels for any hazardous constituent at a compliance monitoring well, the Co-Permittees may demonstrate that a source other than the Lagoon No. 3 caused the contamination or that the detection is an artifact caused by an error in sampling, analysis, statistical evaluation, or natural variation in groundwater. While the Co-Permittees may make a demonstration under this paragraph, the Co-Permittees are not relieved of the requirement to submit a Permit modification application within the time specified in the Permit. The Commissioner will perform a technical review of the demonstration and provide written notice of approval or disapproval. If the Commissioner disapproves the demonstration, the Co-Permittees are required to begin compliance monitoring immediately. If the Commissioner approves the Co-Permittees' demonstration, then the Co-Permittees are not required to do compliance monitoring based on the data in question. In making a demonstration, the Co-Permittees shall:</p> <ul style="list-style-type: none"> a. Notify the Commissioner in writing within seven (7) days of determining statistically significant evidence of contamination at the point of compliance that the Co-Permittees intend to make a demonstration; b. Within 90 days of determining statistically significant evidence of contamination, submit a report to the Commissioner which demonstrates that a source other than the Lagoon No. 3 caused the contamination, or that the increase resulted from error in sampling, analysis, evaluation, or natural variation in groundwater; c. Within 90 days, submit to the Commissioner an application for a Permit modification to make any appropriate changes to the detection monitoring program at the Facility; and d. Continue to monitor in accordance with the detection monitoring program established in the Permit. [Minn. R. 7045.0484]
	5.1.114	<p>If the Co-Permittees or the Commissioner determines that the detection monitoring program no longer satisfies the requirements of Minn. R. 7045.0484, subs. 12, items A to H, the Co-Permittees shall, within 90 days after such determination, submit an application for a Permit modification to make any appropriate changes to the Permit. [Minn. R. 7045.0484]</p>
	5.1.115	<p>If the Co-Permittees meet the requirements of Part 5.1.134, the Co-Permittees shall return to the compliance monitoring program and shall monitor the groundwater to determine whether the Lagoon No. 3 hazardous waste landfill is in compliance with the groundwater protection standards and criteria. The groundwater protection standards and criteria are set forth in Part 5.1.93 of this Permit. [Minn. R. 7045.0484]</p>
	5.1.116	<p>To satisfy the requirements of the compliance monitoring program, the Co-Permittees shall install and operate a groundwater monitoring system at the point of compliance in accordance with the GWPP. The GWPP is required to be submitted for approval to the MPCA. [Minn. R. 7045.0484]</p>
	5.1.117	<p>To satisfy the requirements of the compliance monitoring program, the Co-Permittees shall conduct a sampling program for each monitoring parameter and hazardous constituent identified, in accordance with Part 5.1.93 of this Permit. The Co-Permittees shall express the concentrations at the monitoring wells in a form necessary for the determination of statistically significant increases in accordance with the approved GWPP. [Minn. R. 7045.0484]</p>
	5.1.120	<p>To satisfy the requirements of the compliance monitoring program at hazardous waste Lagoon No. 3, the Co-Permittees shall analyze samples from all monitoring wells at the point of compliance for the constituents listed in Minn. R. 7045.0143, at least twice to determine whether such hazardous constituents, other than those specified in this Permit, are present in the monitoring wells and to provide confirmation of the results. If the Co-Permittees find any such additional hazardous constituents from this analysis in the groundwater, the Co-Permittees may resample within one month and repeat the analysis for those compounds detected. If the second analysis confirms the presence of new constituents, the Co-Permittees shall report the concentration of these constituents to the Commissioner within seven (7) days after completion of the second analysis and add them to the monitoring list. [Minn. R. 7045.0484]</p>
	5.1.121	<p>As part of the compliance monitoring program, the Co-Permittees shall determine whether there is statistically significant evidence of increased contamination for any hazardous constituent or monitoring parameter specified in Parts 5.1.93 and Table 2 of the Appendix in this Permit annually based the concentrations of hazardous constituents in groundwater at the point of compliance. In determining whether statistically significant evidence of increased contamination exists, the Co-Permittees shall use the binomial test of proportions, or use an appropriate statistical method, approved by the Commissioner to determine if there are a statistically significant increase in the proportion of detections at the compliance monitoring wells for each hazardous constituent as compared to all upgradient compliance wells. This statistical procedure shall be included in the approved GWPP. [Minn. R. 7045.0484]</p>

	5.1.122	<p>As part of the compliance monitoring program, the Co-Permittees shall determine if the groundwater protection standards and criteria are being exceeded at any monitoring well at the point of compliance. If one of the compliance monitoring wells exceeds a groundwater standard or criterion, the Co-Permittees shall comply with the requirements of (a) and (b) directly below:</p> <p>a. The Co-Permittees shall notify the Commissioner of this finding in writing within seven (7) days. The notification must indicate the groundwater standards or criteria that have been exceeded.</p> <p>b. The Co-Permittees shall institute the corrective action program in Part 5.126 to 5.1.136 of this Permit and submit to the Commissioner, within 90 days, an application for Permit modification, if necessary, to supplement the corrective action program to meet the requirements of Minn. R. 7045.0484, subp. 14. The application must include a detailed description of corrective actions that will achieve compliance with the groundwater protection standard specified in the Permit and a plan for a groundwater monitoring program that will demonstrate the effectiveness of the corrective action program. The corrective action program must also be capable of demonstrating compliance with the concentration limits in the groundwater at the downgradient portion of the property line of the Facility. [Minn. R. 7045.0484]</p>
	5.1.123	<p>If, during compliance monitoring, the Co-Permittees determine that the groundwater protection standard or criterion is being exceeded at any monitoring well at the point of compliance, the Co-Permittees may demonstrate that a source other than the Lagoon No. 3 caused the contamination or that the detection is an artifact caused by an error in sampling, analysis, statistical evaluation, or natural variation in groundwater.</p> <p>Until the Co-Permittees successfully makes a demonstration, the Co-Permittees is not relieved of the requirement to submit a Permit modification application, if necessary, within the 90-day time limit or of the requirement to institute corrective actions as established in Parts 5.1.126 to 5.1.136 of this Permit. The Commissioner will perform a technical review of the demonstration and provide written notice of approval or disapproval. In making a demonstration, the Co-Permittees shall:</p> <p>a. Notify the Commissioner in writing within seven (7) days of the intent to make a demonstration.</p> <p>b. Within 90 days, submit a report to the Commissioner which demonstrates that a source other than the Lagoon No. 3 caused the standard to be exceeded or that the apparent noncompliance with the standards resulted from error in sampling, analysis or evaluation.</p> <p>c. Within 90 days, submit to the Commissioner an application for a Permit modification to make any appropriate changes to the compliance monitoring program at the Facility.</p> <p>d. Continue to monitor in accordance with the compliance monitoring program.</p> <p>[Minn. R. 7045.0484]</p>
	5.1.124	<p>If, during compliance monitoring, the Co-Permittees demonstrate to the satisfaction of the Commissioner that there has been no statistically significant increase over background levels for the hazardous constituents for at least two years, the Co-Permittees may return to the detection monitoring program. [Minn. R. 7045.0484]</p>
	5.1.125	<p>If the Co-Permittees or Commissioner determine that the compliance monitoring program no longer satisfies the requirements of the Permit, the Co-Permittees shall, within 90 days, submit an application for a Permit modification to make any appropriate changes to the program.</p> <p>[Minn. R. 7045.0484]</p>
	5.1.126	<p>The Co-Permittees are required to initiate and conduct the corrective action program for the hazardous waste Lagoon No. 3 in accordance with the approved GWPP and Corrective Action Workplan. As part of the corrective action program, the Co-Permittees shall ensure that monitoring and corrective action measures necessary to achieve compliance with the groundwater protection standard are taken during the term of the Permit and that such standards are being met.</p> <p>[Minn. R. 7045.0484]</p>
	5.1.127	<p>The Co-Permittees are required to initiate and conduct the corrective action program for the hazardous waste Lagoon No. 3 in accordance with the approved GWPP and Corrective Action Workplan. The Co-Permittees shall do so in accordance with the approved GWPP and shall take corrective action to ensure that the Lagoon No. 3 is in compliance with the current groundwater protection standard or criterion. The current groundwater protection standard or criterion is set forth in Part 5.1.93 of this Permit. [Minn. R. 7045.0484]</p>
	5.1.128	<p>As part of the corrective action program, the Co-Permittees are required to initiate a corrective action program for the hazardous waste Lagoon No. 3, the Co-Permittees shall do so in accordance with the approved GWPP and shall implement a corrective action program to reduce hazardous constituents to concentrations at or below the groundwater protection standard or criterion at the point of compliance by removing the hazardous waste constituents or treating them in place in accordance with the approved GWPP and Corrective Action Workplan. The specific measures to be taken shall be described in the approved GWPP and Corrective Action Workplan.</p> <p>[Minn. R. 7045.0484]</p>

	5.1.129	<p>As part of the corrective action program, the Co-Permittees shall initiate corrective action in accordance with the approved GWPP and the approved corrective action work plan, which is part of the GWPP. The purpose of the corrective action work plan is to provide additional information regarding the hydrogeology, extent and magnitude of contamination. The Co-Permittees shall begin corrective action within one (1) week after the groundwater protection standard is exceeded and after approval of the corrective action work plan, the GWPP, and the updated approved QAPP. The corrective action work plan shall include the following work at a minimum, the appropriate methods, procedures, well construction materials, and work products for the work listed below.</p> <ol style="list-style-type: none"> 1. A summary of the concentrations of hazardous constituent and indicator groundwater monitoring parameters at each monitoring well over time compared to the Groundwater Protection Standards listed in Table 2. 2. A map of the existing groundwater monitoring system and the proposed changes to the groundwater monitoring system at Lagoon No. 3 necessary to meet the requirements of Minn. R. 7045.0484, subp. 14. 3. Proposed changes to the monitoring frequency, sampling, and analysis procedures or methods, or statistical procedure used at Lagoon No. 3 necessary to meet the requirements of Minn. R. 7045.0484, subp. 14. These changes shall include the changes currently listed in these Parts 5.1.80 through 5.1.136 and Table 2 and any additional changes. 4. Collection of irrigation well MW-5 and PW-0 pumping information including the rates, volumes, dates of pumping, and the effects on the groundwater flow direction for the area at and downgradient of Lagoon No. 3. 5. The most recent map groundwater contour map, measured horizontal and vertical gradients, and groundwater velocities and the proposed methods to better define the hydrology at and downgradient of Lagoon No. 3, including flow direction(s), horizontal and vertical gradients, and groundwater velocities. Piezometer testing in the form of slug tests (insertion of a solid cylinder) or appropriate alternative test shall be performed for wells P-13, P-5R, P-9R, P-12R, P-8A, P-8B, P14-A, and P-14B at a minimum. Use of pressure transducers installed in select wells to obtain this information during the time period that MW-5 and PW-0 are or could be pumping is recommended. 6. Definition in least two cross-sections constructed perpendicular and parallel to groundwater flow, the geology at and downgradient of Lagoon No. 3 including definition of the geology, the water-table, the groundwater potentiometric contours, and flow direction. 7. Location data for the two new wells in the form of UTM, NAD83. Top of casings for the two new wells shall be surveyed to the 0.01 feet. 8. Submittal of a report that includes the work identified in the Corrective Action Work Plan. This information shall be used to determine if any additional corrective actions are needed, what those corrective actions would entail, and how they would ensure compliance with the Minnesota rules, guidance and the permit. [Minn. R. 7045.0484]
	5.1.130	<p>The Co-Permittees shall perform the corrective action program in accordance with the approved GWPP and shall, in conjunction with the corrective action program, establish and implement a groundwater monitoring program to demonstrate the effectiveness of the corrective action program. This monitoring program must also be capable of demonstrating compliance with the current groundwater protection standards and criteria in Part 5.1.93 of the Permit in the groundwater at the downgradient portion of the Facility property line. [Minn. R. 7045.0484]</p>
	5.1.131	<p>As part of the corrective action program, the Co-Permittees shall, in addition to the other requirements, conduct a corrective action program to remove or treat in place hazardous constituents that exceed the groundwater standards and criteria as set out in Part 5.1.93 in groundwater that has passed the point of compliance. The specific measures to be taken are to be described in the approved GWPP. [Minn. R. 7045.0484]</p>
	5.1.132	<p>The Co-Permittees shall initiate and complete corrective action measures within a reasonable period of time considering the extent and magnitude of contamination. Corrective action measures shall be taken in accordance with the schedules provided in the approved GWPP. Any subsequent revisions to the GWPP must be submitted and approved prior to implementing the revisions. [Minn. R. 7045.0484]</p>
	5.1.133	<p>As part of the corrective action program, the Co-Permittees may terminate corrective action measures subject to approval by the Commissioner once the concentration of any hazardous constituent is reduced to levels below their respective groundwater standards and criteria listed in Part 5.1.93 of this Permit at the point of compliance and areas downgradient of the point of compliance including areas beyond the Facility property line, to be set forth in the approved GWPP and Part 5.1.134. [Minn. R. 7045.0484]</p>

	5.1.134	<p>The Co-Permittees shall conduct the corrective action program in accordance with the approved GWPP and shall continue corrective action measures during the post closure care period to the extent necessary to ensure that the groundwater protection standard or criterion is not exceeded at any monitoring well.</p> <p>If the Co-Permittees are conducting corrective action at the end of the post closure period, the Co-Permittees shall continue that corrective action for as long as necessary after the post closure period to achieve compliance with the groundwater protection standard or criterion at each monitoring well.</p> <p>The Co-Permittees may terminate corrective action measures taken beyond the post closure period of the Lagoon No. 3 if the Co-Permittees can demonstrate, based on data from the groundwater monitoring program under Part 5.1.101 of this Permit that the groundwater protection standard or criterion has not been exceeded at any monitoring well for a period of five (5) consecutive years at any point of compliance well from the date of the last exceedance. [Minn. R. 7045.0484]</p>
	5.1.135	<p>The Co-Permittees shall conduct the corrective action program in accordance with the approved GWPP and shall report in writing to the Commissioner on the effectiveness of the corrective action program. [Minn. R. 7045.0484]</p>
	5.1.136	<p>If the Co-Permittees or Commissioner determine that the corrective action program no longer satisfies the requirements of the Permit, the Co-Permittees shall within 90 days after such determination, submit an application for a Permit modification to make appropriate changes to the program. [Minn. R. 7045.0484]</p>
	HDR	<p>ENVIRONMENTAL COVENANT GENERAL CONDITIONS</p>
	5.1.137	<p>The MPCA is currently reviewing this document resubmitted by the Co-Permittees on January 21, 2026. The Covenant has to be finalized so it is protective of human health and the environment, and also meets the requirements of Minn. R. 7045.0496 and the Uniform Environmental Covenants Act, Minn. Stat. ch. 114E. The environmental covenant, once signed by all parties, must be filed on the Facility property records and must, in perpetuity, notify any person with an interest in the property that the land has been used to manage hazardous waste and that the land use is restricted. The environmental covenant also will be reviewed to determine that it uses the MPCA's Environmental Covenant and Easement template, which can be found at the MPCA Web site: http://www.pca.state.nm.us/publications/environmentalcovenanteasement.doc. The environmental covenant shall contain a description of the type, location, and quantity of hazardous waste disposed of in Lagoon No. 3. A survey plat showing the location of Lagoon No. 3 on the property shall be prepared and certified by a professional land surveyor and shall be attached to the environmental covenant. [Minn. R. 7045.0494, Minn. R. 7045.0496]</p>
	5.1.138	<p>The environmental covenant must contain the following use and activity limitations and affirmative obligations: Use Limitations: 1. The Restricted Lagoon No. 3 shall be used only for restricted recreational use that does not involve activities that would erode or affect the cover in any way, including the vegetative cover and that does not result in any contact with the wastes. 2. Access to the Restricted Area shall be restricted by use of fences, gates, and locks.</p> <p>Activity Limitations:</p> <ol style="list-style-type: none"> 1. There shall be no disturbance of Lagoon No. 3, including the final cover, any other components of any containment system, and Lagoon No. 3's groundwater monitoring system. 2. Groundwater Extraction and Installation of Wells, Borings, Trenches, or Drains. Except as part of an MPCA approved environmental response project, there shall be no extraction of groundwater and no installation of any wells, borings, trenches, or drains which could be used to extract groundwater from beneath Lagoon No. 3 or in any area that could affect the groundwater flow under Lagoon No. 3 or that could affect any groundwater contamination that may be present under Lagoon No. 3 unless a work plan covering such proposed activities is approved in advance by the MPCA Commissioner. <p>Affirmative Obligations: Owner shall conduct post closure care of the Landfill, continue to maintain, operate, and monitor the groundwater monitoring system, and conduct all other post closure care and corrective action requirements, all in accordance with the current Post closure Care Plan and GWPP (with the Corrective Action Work Plan) approved by the MPCA Commissioner and with the Hazardous Waste Facility Permit. Owner also shall maintain the integrity of the vegetative cover at the Property to prevent infiltration of precipitation and/or prevent human exposure to residual contamination in the Restricted Area. [Minn. R. 7045.0494, Minn. R. 7045.0496]</p>

	5.1.139	MPCA Approvals. Any activity subject to a limitation described above, shall not occur without the prior written approval of a work plan by the Commissioner. The work plan shall include a description of the nature, purpose, scope, procedures, locations, and depths of the proposed activities, and a time schedule for implementation of the activities. The MPCA may require the submittal of additional information to ensure that the proposed activity will not affect the protectiveness of the remedy. [Minn. R. 7045.0494, Minn. R. 7045.0496]
	5.1.140	FILING Within 30 days after MPCA approval of the draft environmental covenant, the Co-Permittees shall file the environmental covenant with the Stearns County Recorder's Office on the Facility property records. [Minn. R. 7045.0494, Minn. R. 7045.0496]
	5.1.141	SUBMITTAL Within 30 days after filing the environmental covenant, the Co-Permittees shall submit to the MPCA a copy of the environmental covenant along with proof of filing of the environmental covenant. [Minn. R. 7045.0494, Minn. R. 7045.0496]
	5.1.142	NOTIFICATION OF LOCAL ZONING AUTHORITY A copy of the environmental covenant shall be submitted to the local zoning authority within 30 days after filing of the environmental covenant. [Minn. R. 7045.0494, Minn. R. 7045.0496]

6. Submittal/action requirements

Total Facility		
	6.1.1	The Co-Permittees shall notify the agency of bankruptcy: Due 10 calendar days after Commencement of Bankruptcy Proceedings Date by certified mail of the commencement of a voluntary or involuntary proceeding under United States Code, Title 11, Bankruptcy, naming the Permittee as debtor. [Minn. R. 7045.0522, subp. 1]
	6.1.2	The Co-Permittees shall submit an application for permit reissuance: Due 180 calendar days before Permit Expiration Date. [Minn. R. 7001.0040, subp. 3]
	6.1.3	The Co-Permittees shall submit an annual report: Due annually, by the 1st of March of each year, for the previous calendar year. The annual report must include the information required by Minn. R. 7045.0482, subp. 2. [Minn. R. 7045.0482]
	6.1.4	The Co-Permittees shall submit annually, updated post closure financial assurance: Due annually, by the 1st of March of each year. [Minn. R. 7045.0482]
	6.1.5	The Groundwater Protection Plan (GWPP) must be submitted by the Co-Permittees for MPCA approval within 90 days of permit issuance [Minn. R. 7045.0484].
	6.1.6	Sampling reports must be submitted by the Co-Permittees for MPCA approval within 60 days of sample collection [Minn. R. 7045.0484].
	6.1.7	The Post closure Care Plan and Financial Assurance must be submitted by the Co-Permittees for MPCA approval within 90 days of permit issuance [Minn. R. 7045.0490 -7045.0492].
	6.1.8	The Co-Permittees shall pay an annual facility fee. The Co-Permittees may apply for an exemption under Minn. R. 7046.0020, subp. 8 at any time for MPCA consideration. [Minn. R. 7046.0020].

7. Appendix

TABLE 2 – GROUNDWATER MONITORING PARAMETERS

Parameter	Test Method	Maximum Reporting Limit	Groundwater Protection Standards
Arsenic ⁽⁴⁾	SW 6020B ⁽¹⁾	1 µg/L	10 µg/L
Barium ⁽⁴⁾	SW 6020B or SW 6010B ⁽¹⁾	10 µg/L	2,000 µg/L
Boron ⁽⁴⁾	SW 6020B ⁽¹⁾	10 µg/L	500 µg/L
Cadmium ⁽⁴⁾	SW 6020B ⁽¹⁾	0.2 µg/L	0.5 µg/L
Calcium ⁽⁴⁾	SW 6010B ⁽¹⁾	1,000 µg/L	(2)
Chloride	SM 4500	5.0 mg/L	250 mg/L ⁽³⁾
Chromium ⁽⁴⁾	SW 6020B-Cl	1 µg/L	100 µg/L
COD	SM 5220D	5.0 mg/L	(2)
Cyanide	SM 4500-CN E	5 µg/L	100 µg/L
Fluoride	SM 4500-F B&C	1,000 µg/L	2,000 µg/L ⁽³⁾
Iron ⁽⁴⁾	SW 6010B ⁽¹⁾	50 µg/L	300 µg/L ⁽³⁾
Lead ⁽⁴⁾	SW 6020B ⁽¹⁾	0.5 µg/L	15 µg/L
Magnesium ⁽⁴⁾	SW 6010B ⁽¹⁾	1,000 µg/L	(2)
Manganese ⁽⁴⁾	SW 6010B ⁽¹⁾	15 µg/L	50 µg/L ⁽³⁾
Nickel ⁽⁴⁾	SW 6020B ⁽¹⁾	1 µg/L	100 µg/L
Nitrate	SM 4500-NO ₃ E	0.100 mg/L	10 mg/L
Phenol	420.4	20 µg/L	4000 µg/L
Selenium ⁽⁴⁾	SW 6020B ⁽¹⁾	1 µg/L	30 µg/L
Sodium ⁽⁴⁾	SW 6010B ⁽¹⁾	1,000 µg/L	(2)
Sulfate	ASTM 516-90	1.8 mg/L	250 mg/L ⁽³⁾
TOC	SM 5310C	0.13 mg/L	(2)
TDS	SM 2540C	20 mg/L	500 µg/L ⁽³⁾
Zinc ⁽⁴⁾	SW 6010B or SW 6020B ⁽¹⁾	10 µg/L	2,000 µg/L ⁽³⁾
pH ⁽⁵⁾	Use field meter	+/- 0.1 S.U.	6.5 to 8.5 S.U.
Specific Conductance ⁽⁵⁾	Use field meter	+/- 5 Percent	(2)
Temperature ⁽⁵⁾	Use field meter	+/- 0.1 °C	(2)
Dissolved Oxygen ⁽⁵⁾	Use field meter	+/- 0.5 mg/L	(2)
Eh ⁽⁵⁾	Use field meter	+/-20 mv	(2)
Turbidity ⁽⁶⁾	SW-846, 180.1	0.1 NTU	<5 NTUs

(1) The methods designated as SW 6010B and SW 6020A are from EPA Standard Methods SW-846 Method 6010B and SW-846 Method 6020B.

(2) These parameters are to be used only as indicators of possible plume migration and do not have health-based concentration limits associated with them.

(3) Secondary drinking water standard.

(4) All samples intended for metals analysis and collected from groundwater monitoring wells shall be field-filtered with a 0.45-micron filter.

(5) Parameters to be analyzed in the field at each well to determine well stabilization prior to sampling and to determine the aquifer condition.

(6) Turbidity shall be analyzed once every two (2) years in the fall during odd years for each well that is sampled.

The concentration limits denoted in the chart above will be used in conjunction with the provisions of the “detection monitoring program” Parts 5.1.107-114, the “compliance monitoring program” Parts 5.1.115-125, and the “corrective action program” Parts 5.1.126 through 5.1.136 in this Permit to determine whether actions shall be taken with respect to groundwater.

Remediation Program template: Environmental Covenant and Easement (ECE)

DO NOT REMOVE THIS COVER PAGE UNTIL RECORDING THE ECE. It must remain with the ECE throughout the review and signature process. If this cover sheet is not included when the MPCA receives the ECE for signature, the ECE will be set aside until the cover sheet is submitted.

If questions arise about the template language or subordination agreements, refer to the [Remediation Division Institutional Control Guidance](#) – specifically, Appendix C (for ECE template) and Appendix D (for Subordination Agreements). If questions remain after review of these resources, contact the MPCA project manager for your site.

This template is a locked Microsoft (MS) Word document with certain editable sections and drop-down boxes. If MPCA staff determine that the locked text has been edited, the document will be rejected, and you will need to submit an unedited version.

When preparing the draft ECE, always start by downloading the [ECE template](#) from the MPCA's [Cleanup guidance](#) webpage. This will ensure use of the most up-to-date version and minimize errors.

1. Send the completed draft ECE as a *locked MS Word document* via email to the MPCA project manager(s) for review. Include all exhibits in portable document format (PDF). If the draft ECE is received in another format (e.g., unlocked MS Word document or PDF), it will not be reviewed.
2. MPCA staff will communicate via email any necessary edits to the draft ECE.
3. Finalize the ECE, **print one-sided**, and obtain the notarized signature of the grantor.
 - a. Scan the signed ECE including all exhibits (**skip blank pages**) and email the PDF to the following two contacts. If this process is not followed, the ECE will not get in the hopper for MPCA signature.
 - The MPCA project manager for the site: john.chikkala@state.mn.us
 - Institutional Control Coordinator: instcontrols.pca@state.mn.us
 - b. Mail the hard copy with original signature(s) and all exhibits (also with original signatures as applicable) to the following address:

Minnesota Pollution Control Agency
Attn: Institutional Controls Coordinator – 5th Floor
520 Lafayette Rd N
St. Paul MN 55155

4. **After MPCA signs the ECE, who should we send the hard copy to for recording?**

Name: Anna Gruber, City of Sartell

Mailing address: 125 Pine Cone Road N, Sartell, MN, 56377

If you want the fully executed ECE to be sent to you via a private delivery service (e.g., Fed-Ex, DHL, etc.), you must provide the carrier's envelope and pre-paid label.

5. **If you want to receive a scan of the fully executed PDF after MPCA signs, provide email(s) below:**

Email(s): anna.gruber@sartellmn.com; lindsey.nichols@spx.com;
bkuester@braunintertec.com

6. Record the ECE at the appropriate county office (either hard copy or e-recording).
7. Email the MPCA project manager a PDF scan of the recorded ECE, including all exhibits. The document number and recording date should be clearly visible on the front page of the PDF.

If the ECE was recorded twice (i.e., for both Abstract and Torrens property), include the cover sheet that has the recording information from second ECE with the PDF submittal.

Formatting tips for the user:

- *To make a paragraph break within a text field, use the Shift + Enter keys.*
- *To indent a line of text, use the Control +Tab keys.*
- *To retain/edit example text in a text box, select and copy the text, then paste as unformatted text back in the text box.*

Proof-reading tips for the user, to avoid common errors:

- *Doublecheck choices made for the drop-down boxes.*
- *Make sure the exhibits referenced in the ECE match the labeled exhibits*
- *All pages in the ECE must be printed on 8.5 x 11-inch paper.*

ENVIRONMENTAL COVENANT AND EASEMENT

Preferred ID MND985668342

This Environmental Covenant and Easement (“Environmental Covenant”) is executed pursuant to the Uniform Environmental Covenants Act, Minn. Stat. ch. 114E (“UECA”) in connection with an environmental response project approved by the Minnesota Pollution Control Agency (“MPCA”).

1. Grantor and Property description.

A. Owner and legal description of Property.

City of Sartell is the fee owner of certain real property located at Outlot A of North Side Park, Sartell, in Stearns County, State of Minnesota, with parcel identification number(s) 92.57105.0500, shown on **Exhibit 1** and legally described in **Exhibit 2** (hereinafter the “Property”).

For “name of current owner”: If the owner is an organization, include the legal form of that organization and indicate the state where it is organized, e.g., “ABC Company, a corporation organized under the laws of Delaware.” Other forms of legal organizations include a limited liability company, partnership, trust, etc.

B. Grantor.

The City of Sartell is the Grantor of this Environmental Covenant.

2. Grant of Covenant; Covenant runs with the land.

Grantor does hereby Covenant and Declare that the Property shall be subject to the Activity and Use Limitations and associated terms and conditions set forth in this Environmental Covenant including the Easement in Paragraph 9, and that these Activity and Use Limitations and associated terms and conditions constitute covenants which run with the Property and which shall be binding on Grantor, its heirs, successors and assigns, and on all present and future Owners of the Property and all persons who now or hereafter hold any right, title or interest in the Property. An Owner is bound by this Environmental Covenant during the time when the Owner holds fee title to the Property. Any other person that holds any right, title or interest in or to the Property is bound by this Environmental Covenant during the time the person holds the right, title or interest. An Owner ceases to

be bound by this Environmental Covenant when the Owner conveys fee title to another person, and any other person that holds any right, title or interest in or to the Property ceases to be bound when the person conveys the right, title or interest to another person.

3. Environmental Agency; Grantee and Holder of Environmental Covenant; acceptance of interest in real Property.

A. Environmental agency.

The MPCA is the environmental agency with authority to approve this Environmental Covenant under UECA.

B. Grantee and Holder; acceptance of interest in Property.

The MPCA is the Grantee and Holder of the interest in real property conveyed by this Environmental Covenant. MPCA has authority to acquire an interest in real property, including an Environmental Covenant, under Minn. Stat. § 115B.17, subd. 15, as the MPCA determines necessary for a response action related to hazardous substances, pollutants or contaminants. MPCA's signature on this Environmental Covenant constitutes approval of this Environmental Covenant under UECA and acceptance of the interest in real property granted herein for purposes of Minn. Stat. § 115B.17, subd. 15.

References to "petroleum" or "hazardous substances" should only be included in this ECE if that type of contamination is a driver for this ECE. The presence of petroleum or hazardous substances at the Property does not warrant their inclusion in this ECE, either in the dropdown boxes or written summary, if their concentrations did not trigger the need for this ECE.

4. Environmental response project.

The Property is the location of releases or threatened releases of hazardous substances, pollutants, or contaminants that are addressed by an environmental response project under the MPCA Resource Conservation and Recovery Act ("RCRA") Corrective Action Program pursuant to Minn. R. 7045.0485. MPCA has determined that an Environmental Covenant is needed for the Property because of on-going, post-closure groundwater monitoring and Hazardous Waste Landfill maintenance at the Property.

5. Statement of facts.

A. Facts about the release and response actions.

The purpose of this section is to present a brief site history and a description of the current environmental condition of the Property as it relates to the need for the environmental covenant, not to present an exhaustive chronological history of the investigation and cleanup. That level of historical detail is not needed here and only obscures the main point of the ECE. The last sentence of this section refers the reader to the site documents in the MPCA's file for additional detail. [To make a new paragraph use the Shift + Enter keys.]

The Property contains a closed hazardous waste landfill referred to as Lagoon No. 3 and is currently covered by MPCA Hazardous Waste Disposal Facility Permit MND985668342. Lagoon No. 3 is approximately 0.2 acres in size and was constructed in the south-southeast quadrant of

the City of Sartell Solid Waste Landfill in 1978. Lagoon No. 3 was used from 1978 to 1983 to dispose of sludge from dewatering operations by the former DeZurik Corporation and contains approximately 1,000 cubic yards of waste. Samples of the sludge from October 1983 detected lead concentrations ranging from 5.6 to 6.8 milligrams per liter (mg/L), which were above the EPA hazardous waste criterion of 5 mg/L. In coordination with the MPCA, Lagoon No. 3 was closed and capped in 1987 with a multi-layer cover system designed to minimize the potential for leaching of the hazardous materials. The cover system consists of four soil layers, several geotextile layers, and a 60 mil HPDE synthetic cover liner. The total thickness of the cover exceeds six (6) feet and is graded for surface water to run off the cap. Lagoon No. 3 does not contain a liner below the hazardous material. In December 1989, groundwater monitoring was initiated. Details regarding the investigation and response actions can be found in the MPCA's file for the **Lagoon No. 3** site, MPCA Preferred ID **MND985668342**.

To satisfy the Minnesota Environmental Response and Liability Act ("MERLA") Hazardous Substance Affidavit requirement, the above description must describe the identity, quantity, location, condition, and circumstances of the contamination to the full extent known or reasonably ascertainable. Available information should be summarized; do not present a sample-by-sample recitation of detected contaminants.

The following subparagraph (5.B) is required if this covenant addresses MERLA contaminants. If this is a petroleum-only covenant, delete subparagraph 5.B in its entirety and also delete the "A" that precedes "Facts about the Release and Response Actions" above.

B. Facts constitute affidavit under Minn. Stat. § 115B.16, subd. 2

The facts stated in Paragraph 5.A. are stated under oath by the person signing this Environmental Covenant on behalf of the Grantor and are intended to satisfy the requirement of an affidavit under Minn. Stat. § 115B.16, subd. 2. In the event of a material change in any facts stated in Paragraph 5.A. requiring the recording of an additional affidavit under Minn. Stat. § 115B.16, subd. 2, the additional affidavit may be made and recorded without amending this Environmental Covenant.

6. Definitions.

The terms used in this Environmental Covenant shall have the meanings given in UECA, and in the Minnesota Environmental Response and Liability Act ("MERLA"), Minn. Stat. § 115B.02. In addition, the definitions in this Paragraph 6 apply to the terms used in this Environmental Covenant.

A. "Commissioner" means the Commissioner of the MPCA, the Commissioner's successor, or other person delegated by the Commissioner to act on behalf of the Commissioner.

B. "MPCA" means the Minnesota Pollution Control Agency, an agency of the State of Minnesota, or its successor or assign under any governmental reorganization.

C. "Owner" means a person that holds fee title to the Property and is bound by this Environmental Covenant as provided in Paragraph 2. When the Property is subject to a contract for deed, both the contract for deed vendor and vendee are collectively considered the Owner.

D. "Political Subdivision" means the county, and the statutory or home rule charter city or township, in which the Property is located.

E. "Property" means the real property described in Paragraph 1 of this Environmental Covenant.

Delete Item F if there is no need to define a restricted area. Do not call out a Restricted Area for a vapor mitigation system. A restricted area is a subset of the Property where soil disturbance is prohibited. A survey/legal description of the Restricted Area is not typically needed but may be required in some circumstances.

7. Activity and use limitations.

The following Activity and Use Limitations shall apply to the Property:

A. Use limitations.

Use limitations are general limitations on the types of land uses that are allowed on the Property, such as residential, commercial, industrial or open space. Common examples of Use Limitations are below. Delete/edit as needed.

The Property shall be used only for restricted recreational use that does not involve activities that would erode or affect the cover in any way, including the vegetative cover, and that does not result in any contact with the buried waste in Lagoon No. 3. Access to the Property shall be restricted by use of fences, gates, and locks.

The following text applies when, for example, a partial building SSDS was installed in a commercial building, leaving the unmitigated portion of the building with sub-slab soil vapor concentrations greater than residential action levels.

The following text applies when, for example, soil meets unrestricted use criteria and sub-slab soil vapor concentrations beneath the entire building are being mitigated or, if a partial building mitigation system was installed, shown to be less than residential action levels in the unmitigated portion of the building.

B. Activity limitations.

Activity limitations are restrictions on specific types of physical activities that may be conducted on the property. When the contamination that is driving the need for this EC is confined to a portion of the Property, the activity limitations may be limited to that portion of the Property, e.g., the "Restricted Area", as defined in item 6.F. Common examples of Activity Limitations are below. Delete/edit as needed.

The following activities are prohibited on the Property except as provided in Paragraph 8:

1) There shall be no disturbance, removal, or interference with Lagoon No. 3 including the final cover, any other components of any containment system, and Lagoon No. 3's groundwater monitoring network, that provide a barrier to infiltration and/or human exposure to residual contamination.

2) Except as required MPCA Hazardous Waste Facility Permit MND985668342 or as part of an MPCA-approved environmental response project, there shall be no extraction of groundwater and no installation of any wells, borings, trenches, or drains which could be used to extract groundwater from beneath Lagoon No. 3 or in any area that could affect the groundwater flow under

Lagoon No. 3 or that could affect any groundwater contamination that may be present under Lagoon No. 3 unless a work plan covering such proposed activities is approved in advance by the Commissioner.

C. Affirmative obligations of Owner.

Affirmative obligations are actions that the Owner must comply with to maintain the protectiveness of the environmental response project. Common examples of Affirmative Obligations are below. Delete/edit as needed.

The Activity and Use Limitations imposed under this Environmental Covenant include the following affirmative covenants and obligations:

1) Owner shall conduct post-closure care of the Landfill, continue to maintain, operate, and monitor the groundwater monitoring system, and conduct all other post-closure care and corrective action requirements, all in accordance with the current Post Closure Care Plan and the Groundwater Protection Plan (with the Corrective Action Work Plan) approved by the MPCA Commissioner and with the MPCA Hazardous Waste Facility Permit. Owner also shall maintain the integrity of the vegetative cover at the Property to minimize and/or prevent infiltration of precipitation, erosion, burrowing into the cover, and/or human exposure to residual contamination on the Property.

2) Currently, there is a fence surrounding both the Property and the adjoining North Side Park greenspace. The fence restricts vehicle access to the Property and the adjoining North Side Park greenspace by locks but allows pedestrian access through fence gaps as the Property and the North Side Park greenspace contain a soccer field. Access shall continue to be restricted by the use of fences, gates and locks that allow pedestrian access but restrict vehicular access with locks.

3) Owner shall maintain and monitor the monitoring wells at the Property and any newly required monitoring wells in accordance with the current MPCA Hazardous Waste Facility Permit MND985668342.

8. Prior MPCA approval required for activities limited under Environmental Covenant.

A. Approval procedure.

Any activity subject to limitation under Paragraph 7.B. shall not occur without the prior written approval of the Commissioner. The Commissioner's approval may include conditions which the Commissioner deems reasonable and necessary to protect public health or welfare or the environment, including submission to and approval of a contingency plan for the activity. Within 60 days after receipt of a written request for approval to engage in any activities subject to a limitation under Paragraph 7.B., the MPCA shall respond, in writing, by approving such request, disapproving such request, or requiring that additional information be provided. A lack of response from the Commissioner shall not constitute approval by default or authorization to proceed with the proposed activity.

Include the following subparagraph (8.B) only if the activity limitations in 7.B include a restriction on soil excavation. If there is not a restriction on soil excavation, delete subparagraph 8.B in its entirety and also delete the "A" that precedes "Approval Procedure", above.

B. Emergency procedures.

Owner shall follow the procedures set forth in this Paragraph 8.B. when an emergency requires immediate excavation affecting contaminated soil or other media at the Property or in the Restricted Area(s) to repair utility lines or other infrastructure on the Property, or to respond to other types of emergencies (e.g., fires, floods):

i. Notify the Minnesota Duty Officer, or successor officer, immediately of obtaining knowledge of such emergency conditions; the current phone numbers for the Duty Officer are 1-800-422-0798 (Greater Minnesota only); 651-649-5451 (Twin Cities Metro Area and outside Minnesota); fax (any location) 651-296-2300 and TDD 651-297-5353 or 800-627-3529.

ii. Assure that the persons carrying out the excavation limit the disturbance of contaminated media to the minimum reasonably necessary to adequately respond to the emergency;

iii. Assure that the persons carrying out the excavation prepare and implement a site-specific health and safety plan for excavation and undertake precautions to minimize exposure to workers, occupants and neighbors of the Property to contaminated media (e.g., provide appropriate types of protective clothing for workers conducting the excavation, and establish procedures for minimizing the dispersal of contaminated dust); and

iv. Assure preparation and implementation of a plan to restore the Property to a level that protects public health and welfare and the environment. The plan must be submitted to and approved by the MPCA prior to implementation of the plan, and a follow-up report must be submitted to the MPCA after implementation so that the MPCA can determine whether protection of the public health and welfare and the environment has been restored.

9. Easement; right of access to the Property.

Owner grants to the MPCA, the City of Sartell, and Stearns County an easement to enter the Property from time to time, to inspect the Property and to evaluate compliance with the Activity and Use Limitations set forth in Paragraph 7. In addition, for the purpose of evaluating compliance, Owner grants to the MPCA the right to take samples of environmental media such as soil, groundwater, surface water, soil vapor, and air, and to install, maintain and close borings, probes, wells or other structures necessary to carry out the sampling.

MPCA, the City of Sartell, and Stearns County, and their employees, agents, contractors and subcontractors, may exercise the rights granted under this Paragraph 9 at reasonable times and with reasonable notice to the then-current owner, in a manner that, to the extent possible, minimizes interruption with the activities of the authorized occupants, conditioned only upon showing identification or credentials by the persons seeking to exercise those rights. MPCA will be liable for injury to or loss of property or personal injury or death caused by any act or omission of any employee of the State of Minnesota in the performance of the work described above, under circumstances where the State of Minnesota, if a private person, would be liable to the claimant, in accordance with Minn. Stat. § 3.736.

10. Duration; amendment or termination of Environmental Covenant.

A. Duration of Environmental Covenant.

This environmental covenant is perpetual as provided in Minn. Stat. § 114E.40(a).

B. Amendment or termination by consent.

i. This Environmental Covenant may be amended or terminated in writing by the Owner and the MPCA. An amendment is binding on the Owner but does not affect any other interest in the real Property unless the current owner of that interest has consented to the amendment or agreed to waive its right to consent.

ii. The Grantor of this Environmental Covenant agrees that, upon conveying fee title to the Property to any other person, the Grantor waives the right to consent to amendment or termination of this Environmental Covenant.

C. Termination, reduction of burden, or modification by MPCA.

The MPCA may terminate, reduce the burden of, or modify this Environmental Covenant as provided in Minn. Stat. § 114E.40.

11. Disclosure in Property conveyance instruments.

The language below is not negotiable and applies to all instruments conveying an interest in and/or a right to use the Property.

Notice of this Environmental Covenant, and the Activity and Use Limitations and Affirmative Obligations set forth in Paragraph 7 and Compliance Reporting Requirements set forth in Paragraphs 8, 18 and 19 of this Environmental Covenant, shall be incorporated in full or by reference into all instruments conveying an interest in and/or a right to use the Property (e.g., easements, mortgages, leases). The notice shall be substantially in the following form:

THE INTEREST CONVEYED HEREBY IS SUBJECT TO AN ENVIRONMENTAL COVENANT UNDER MINN. STAT. CH. 114E, DATED _____, RECORDED IN THE OFFICIAL PROPERTY RECORDS OF _____ COUNTY, MINNESOTA AS DOCUMENT NO. _____. THE ENVIRONMENTAL COVENANT INCLUDES THE FOLLOWING ACTIVITY AND USE LIMITATIONS AND AFFIRMATIVE OBLIGATIONS:

Use Limitations:

The Property shall be used only for restricted recreational use that does not involve activities that would erode or affect the cover in any way, including the vegetative cover, and that does not result in any contact with the waste in Lagoon No. 3. Access to the Property shall be restricted by use of fences, gates, and locks.

Activity Limitations:

1) There shall be no disturbance, removal, or interference with Lagoon No. 3 including the final cover, any other components of any containment system, and Lagoon No. 3's groundwater monitoring network that provide a barrier to infiltration and/or human exposure to residual contamination.

2) Except as required except as required under MPCA Hazardous Waste Facility Permit MND985668342 or as part of an MPCA-approved environmental response project, there shall be no extraction of groundwater and no installation of any wells, borings, trenches, or drains which could be used to extract groundwater from beneath Lagoon No. 3 or in any area that could affect the

groundwater flow under Lagoon No. 3 or that could affect any groundwater contamination that may be present under Lagoon No. 3 unless a work plan covering such proposed activities is approved in advance by the Commissioner.

The Activity and Use Limitations imposed under this Environmental Covenant include the following affirmative covenants and obligations:

1) Owner shall conduct post-closure care of the Landfill, continue to maintain, operate, and monitor the groundwater monitoring system, and conduct all other post-closure care and corrective action requirements, all in accordance with the current Post Closure Care Plan and the Groundwater Protection Plan (with the Corrective Action Work Plan) approved by the MPCA Commissioner and with the MPCA Hazardous Waste Facility Permit. Owner also shall maintain the integrity of the vegetative cover at the Property to minimize and/or prevent infiltration of precipitation, erosion, burrowing into the cover, and/or human exposure to residual contamination on the Property.

2) Currently, there is a fence surrounding both the Property and the adjoining North Side Park greenspace. The fence restricts vehicle access to the Property and the adjoining North Side Park greenspace by locks but allows pedestrian access through fence gaps as the Property and the North Side Park greenspace contain a soccer field. Access shall continue to be restricted by the use of fences, gates and locks that allow pedestrian access but restrict vehicular access with locks.

3) Owner shall maintain and monitor the monitoring wells at the Property and any newly required monitoring wells in accordance with the current MPCA Hazardous Waste Facility Permit MND985668342.

12. Recording and notice of Environmental Covenant, amendments and termination.

A. The original Environmental Covenant.

Within 30 days after the MPCA executes and delivers to Grantor this Environmental Covenant, the Grantor shall record this Environmental Covenant in the office of the County Recorder or Registrar of Titles of Stearns County.

B. Termination, amendment, or modification.

Within 30 days after MPCA executes and delivers to Owner any termination, amendment or modification of this Environmental Covenant, the Owner shall record the amendment, modification, or notice of termination of this Environmental Covenant in the office of the County Recorder or Registrar of Titles of Stearns County.

C. Providing notice of covenant, termination, amendment, or modification.

Providing notice to the parties listed below is required by MN Statute 114E.30 and is not negotiable. Electronic transmittal is acceptable.

Within 30 days after recording this Environmental Covenant, the Grantor shall transmit a copy of the Environmental Covenant in recorded form to:

- i. each person that signed the covenant or their successor or assign;

- ii. each person holding a recorded interest in the Property;
- iii. each person in possession of the Property;
- iv. the environmental officer of each political subdivision in which the Property is located; and
- v. any other person the environmental agency requires.

Within 30 days after recording a termination, amendment, or modification of this Environmental Covenant, the Owner shall transmit a copy of the document in recorded form to the persons listed in items i to v above.

13. Notices to Grantor and environmental agency.

A. Manner of giving notice.

Any notice required or permitted to be given under this Environmental Covenant is given in accordance with this Environmental Covenant if it is placed in United States first class mail postage prepaid; or deposited cost paid for delivery by a nationally recognized overnight delivery service; or transmitted by electronic mail to instcontrols.pca@state.mn.us.

B. Notices to the Grantor.

Notices to the Grantor shall be directed to:

If there are two Grantors, provide contact information for each. If there is only one Grantor, delete the second text block. If there are more than two Grantors, contact the MPCA project manager for assistance.

City of Sartell
Attn: Anna Gruber, City Administrator
125 Pine Cone Road North
Sartell, MN 56377
Phone: (320) 258-7306
Email: Anna.gruber@sartellmn.com

C. Notices to MPCA.

All notices, including reports or other documents, required to be submitted to the MPCA shall reference the MPCA Preferred ID. ***Email submittal is preferred.***

Minnesota Pollution Control Agency
Remediation Division – Institutional Controls Coordinator
MPCA Preferred ID: **MND985668342**
520 Lafayette Rd N
St. Paul, MN 55155
Email: instcontrols.pca@state.mn.us

14. Enforcement and compliance.

A. Civil action for injunction or equitable relief.

This Environmental Covenant may be enforced through a civil action for injunctive or other equitable relief for any violation of any term or condition of this Environmental Covenant, including violation of the Activity and Use Limitations under Paragraph 7 and denial of Right of Access under Paragraph 9. Such an action may be brought by:

- i. The MPCA
- ii. A political subdivision in which the Property is located
- iii. A person whose interest in the Property or whose collateral or liability may be affected by the alleged violation of the covenant
- iv. A party to the covenant, including all holders
- v. Any person to whom the covenant expressly grants power to enforce

B. Additional rights of enforcement by MPCA.

In addition to its authority under subparagraph A of this Paragraph 14, the MPCA may enforce this Environmental Covenant using any remedy or enforcement measure authorized under UECA or other applicable law, including remedies pursuant to Minn. Stat. §§ 115.071, subds. 3 to 5, or 116.072.

C. No waiver of enforcement.

Failure or delay in the enforcement of this Environmental Covenant shall not be considered a waiver of the right to enforce, nor shall it bar any subsequent action to enforce, this Environmental Covenant.

D. Former Owners and interest holders subject to enforcement.

Subject to any applicable statute of limitations, an Owner or other person holding any right, title or interest in or to the Property, that violates this Environmental Covenant during the time when the Owner or other person is bound by this Environmental Covenant remains subject to enforcement with respect to that violation regardless of whether the Owner or other person has subsequently conveyed the fee title, or other right, title or interest, to another person.

E. Other authorities of MPCA not affected.

Nothing in this Environmental Covenant affects MPCA's authority to take or require performance of response actions to address releases or threatened releases of hazardous substances or pollutants or contaminants at or from the Property, or to enforce a consent order, consent decree or other settlement agreement entered into by MPCA, or to rescind or modify a liability assurance issued by MPCA, that addresses such response actions.

15. Administrative record.

Subject to the document retention policy of the MPCA, reports, correspondence and other documents which support and explain the environmental response project for the Property are maintained by the MPCA Resource Conservation and Recovery Act ("RCRA") Corrective Action Program at the MPCA's office at 520 Lafayette Rd N, St. Paul, Minnesota in the file maintained for **Lagoon No. 3**, MPCA Preferred ID **MND985668342**.

16. Representations and warranties.

Grantor hereby represents and warrants to the MPCA and any other signatories to this Environmental Covenant that, at the time of execution of this Environmental Covenant:

- A. Every fee owner of the Property has been identified.
- B. Grantor holds fee simple title to the Property, which is free and clear of any encumbrances.

This exhibit is a bulleted or numbered list of all interests and encumbrances on the Property. Note that a mortgage, lease, or easement is an encumbrance, so do not choose "free and clear" if there is a mortgage, lease, or easement on the Property.

C. Grantor has authority to grant the rights and interests and carry out the obligations provided in this Environmental Covenant.

D. Nothing in this Environmental Covenant materially violates, contravenes, or constitutes a default under any agreement, document or instrument that is binding upon the Grantor.

*Delete the following subparagraph 16.E **ONLY** if there are no interests or encumbrances. **This would be atypical.** See the [Remediation Division Institutional Control Guidance – Appendix D](#) for information about subordination agreements and how to determine if one is needed.*

17. Governing law.

This Environmental Covenant shall be governed by and interpreted in accordance with the laws of the State of Minnesota.

18. Compliance reporting.

The Owner shall submit to MPCA on an annual basis a written report confirming compliance with the Activity and Use Limitations and Affirmative Obligations provided in Paragraph 7 and summarizing any actions taken pursuant to Paragraph 8 of this Environmental Covenant. Reports shall be submitted on the first July 1 that occurs at least six months after the effective date of this Environmental Covenant, and on each succeeding July 1 thereafter.

Owner shall notify the MPCA as soon as possible of any actions or conditions that would constitute a breach of the Activity and Use Limitations in Paragraph 7.

19. Notice of conveyance of interest in Property.

Owner shall provide written notice to MPCA within 30 days after any conveyance of fee title to the Property or any portion of the Property. The notice shall identify the name and contact information of the new Owner, and the portion of the Property conveyed to that Owner.

20. Severability.

In the event that any provision of this Environmental Covenant is held by a court to be unenforceable, the other provisions of this Environmental Covenant shall remain valid and enforceable.

21. Effective date.

This Environmental Covenant is effective on the date of acknowledgement of the signature of the MPCA.

PLACEHOLDER FOR MPCA SIGNATURE PAGE

The MPCA signature page will be inserted when the hard copy of the ECE is received at the MPCA office for signature.

Fill out the information on the next page. The county needs to know where to send the recorded ECE.

**THIS INSTRUMENT WAS DRAFTED BY
AND WHEN RECORDED RETURN TO:**

Brayden Kuester
Braun Intertec Corporation
11001 Hampshire Avenue South
Bloomington, MN 55438
Email: bkuester@braunintertec.com

Exhibit 1: Location of Property

NOTE: Most county offices scan the submitted ECE in black and white, and even when recorded electronically, certain counties convert the file to black and white for storage. Do not use an aerial photograph as a basemap for Exhibit 1, as features will not be distinguishable in the recorded document. Do not use a survey map for Exhibit 1, as it contains unnecessary detail, and much of the text will not be legible at the required 8.5 x 11-inch page size.

The figure must be of a scale that clearly shows the site boundary and building footprint(s). Adjacent streets must be labeled.

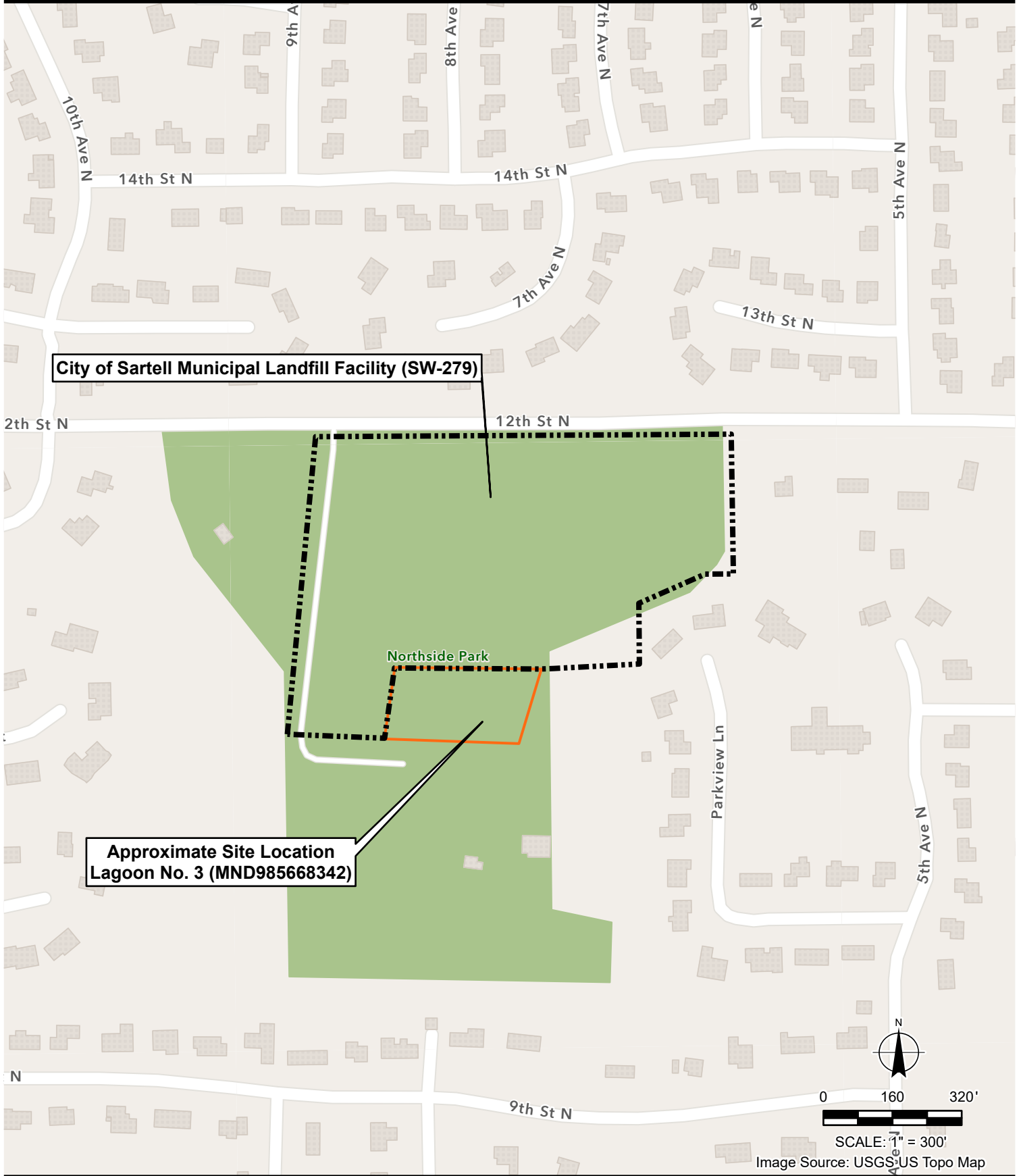
For an example figure and recommended basemaps, see the [Remediation Division Institutional Control Guidance – Appendix E](#).

Exhibit 2: Legal Description

NOTE: Avoid using the property tax record description found on the county property information website as it is often abbreviated and inadequate.

The Electronic Certificate of Real Estate Value (eCRV), if available for a property, contains the complete and accurate legal description. Check the Department of Revenue [eCRV Search](#) to see if an eCRV is available for the property.

If there is no eCRV on record, the legal description can be found on the property Deed, the Certificate of Title, a Registered Land Survey, and other legal documents.



**BRAUN
INTERTEC**

the science you build on

11001 Hampshire Avenue S
Minneapolis, MN 55438
952.995.2000
braunintertec.com

Project No:
B2500911

Drawing No:
Fig1_SiteLoc

Drawn By: MMH
Date Drawn: 2/20/2025
Checked By: BK
Last Modified: 9/30/2025

Hazardous Waste Disposal Facility No. MN985668342 (Lagoon No. 3)

12th Street North at 7th Avenue North

Sartell, Minnesota

Site Location Map

Figure 1

EXHIBIT 2
LEGAL DESCRIPTION

Outlot A of Sartell's North Side Park, Stearns County, Minnesota 56377.