Minnesota Pollution Control Agency

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March 31, 2017

TO: INTERESTED PARTIES

RE: LabUSA's Ash Processing Project

The Minnesota Pollution Control Agency (MPCA) has approved the Findings of Fact, Conclusions of Law, and Order for a Negative Declaration on the need for an Environmental Impact Statement on the proposed LabUSA's Ash Processing Project, Goodhue County. The Findings of Fact, Conclusions of Law, and Order document concludes that this project does not have the potential for significant environmental effects. The decision for a Negative Declaration completes the state environmental review process under the revised Environmental Quality Board rules, Minn. R. ch. 4410. Final governmental decisions on the granting of permits or approvals for the project may now be made.

These documents can be reviewed at the following locations: the MPCA offices in St. Paul and Rochester; the Minneapolis Public Library at 300 Nicollet Mall, Minneapolis; and the Rochester Public Library at 101 Second Street SE. The document can be viewed on our MPCA website at www.pca.state.mn.us/eaw. Requests for copies of these documents may be made by contacting the St. Paul office at 651-757-2100.

We want to express our appreciation for comments submitted on the Environmental Assessment Worksheet. Comments and responses to them have been incorporated into the Findings of Fact, Conclusions of Law, and Order and have been considered by MPCA staff during the permit process for the proposed project.

Sincerely,

Dan R. Card, P.E.
Supervisor, Environmental Review Unit
St. Paul Office
Resource Management and Assistance Division

DRC:bt

STATE OF MINNESOTA
MINNESOTA POLLUTION CONTROL AGENCY

IN THE MATTER OF THE DECISION ON THE NEED FOR AN ENVIRONMENTAL IMPACT STATEMENT FOR THE PROPOSED LABUSA'S ASH PROCESSING PROJECT RED WING, MINNESOTA

FINDINGS OF FACT CONCLUSIONS OF LAW AND ORDER

Pursuant to Minn. ch. 4410, the Minnesota Pollution Control Agency (MPCA) staff prepared and distributed an Environmental Assessment Worksheet (EAW) for the proposed LabUSA's Ash Processing Project – Red Wing (Project). The scope of the EAW included identification and evaluation of potential environmental effects from the connected Red Wing Ash Landfill project. Based on the MPCA staff environmental review, the EAW, comments and information received during the comment period, and other information in the record of the MPCA, the MPCA hereby makes the following Findings of Fact, Conclusions of Law, and Order.

FINDINGS OF FACT

Project Description

1. LabUSA (Proposer) plans to construct a transfer and ash processing facility consisting of a 30,000 square foot building (Process Building) to process 100,000 to 150,000 of Mixed Municipal Solid Waste combustor ash (Ash Material) annually to recover ferrous and non-ferrous material (Project). The two sources of Ash Material are the Xcel Energy Generating Plant and Xcel Energy's Red Wing Ash Disposal Landfill (Xcel Ash Landfill).

2. The Proposer will locate the Process Building approximately 1.5 miles south of U.S. Highway 61 on Goodhue County State Aid Highway (CSAH) 1 (1540 Bench Street) (Project Site). The Project Site is adjacent to Xcel Ash Landfill and the Goodhue County/ Red Wing Land Disposal Landfill (County/City Landfill).

3. LabUSA proposes to process 150,000 tons per year (tpy), or up to 600 tons per day (tpd), of Ash Material. With an estimated 10% recovery rate, the Project will recover approximately 15,000 tons of Ferrous Material (FM) and Non Ferrous Material (NFM) each year or approximately 60 tons each day of operation.

4. All processing activity occurs within the Process Building. The following describes each processing step along with estimated quantity of material removed and the frequency of material removed from the Project Site. Containers for transportation hold approximately 20 tons of collected FM and NFM.

    a. **Crushing Operations:** All Ash Material passes through a mechanical crushing machine to break up clumps of material caused by the absorptive properties of the fine Ash Material components and the moisture content inherent to the Ash Material. The

Proposer will not grind the Ash Material. The Proposer does not recover FM or NFM material during the crushing process.

b. **Large-Fraction Ferrous Metal Magnetic Separator Operations:** The Ash Material from the crushing operations moves through a large fraction magnetic separator operation" which removes bulky waste material and has a magnetic separator to remove large size (large-fraction) to remove bulky waste material. As part of this process, all of the Ash Material passes under a large magnet that will remove any large FM. The large-fraction FM removed during this operation combines with other FM collected later in the process. FM collection accounts for approximately 8% of the total material recovered. The Proposer expects to recover approximately 5 tpd of the large faction FM. The Proposer expects to ship ferrous metal collection containers daily.

c. **Screening Operations:** Once through the large-fraction magnetic separator operations, the Ash Material moves to a shaker screen, which is essentially a series of differently sized mesh screens. The shaker screens sort the Ash Material into various fractions, which undergo their own separation. Each size has its own product line. The Project will have three product lines designated as follows: 1 to 9 mm, 9 to 16 mm, and 16+ mm. The smaller fractions (< 1 mm) are incidental and only accumulate in the collection process if they are moist enough to cling to the larger removed fraction. Approximately 595 tpd would enter the screening operations and 595 tpd would exit the screening operations.

d. **Mid- to Fine Fraction Magnetic Separator Operations**: Before entering the next step of the process called the eddy current operations, each of the three lines (1 to 9 mm, 9 to 16 mm, and 16+ mm, respectively) passes under another magnet to capture any remaining FM that are present. The FM removed during this operation combines with the large fraction FM previously collected. The output from the magnetic separator for the fine to mid-fraction will vary, but estimated at 37% of the total material recovered or up to 22 tpd.

e. **Eddy Current Operations:** The Ash Material next enters the eddy current operations to remove NFM. An eddy current system imparts a slight positive charge to nonferrous or nonmagnetic metals (e.g., aluminum, copper, brass, etc.) and then emits a frequency that repels the charged material just enough to throw the material over a break. The remaining Ash Material falls before the break as a residual. No single metal or element is segregated or concentrated. The various size fractions of NFM removed during this operation will remain separated for storage and off-site transport. The estimated total recovered material from the eddy current operations is approximately 55%. The output from the 1 to 9 mm fractions could be up to 15 tpd and shipped off site two to four times per week. The output from the 9 to 16 mm fraction could be up to 12 tpd and shipped off site two to four times per week. The output from the 16mm+ fraction could be up to 6 tpd and shipped off site one to two times per week. The variable quantities warrant adaptable temporary storage containers for the NFM and may include rolloffs, bins, totes, or even bags.

f. **Residual Combustor Ash Material Operations:** Approximately 90% of the Ash Material, or approximately 540 tpd, that passes through the magnetic separator and eddy current operations, falls out as residual Ash Material. Thus, a total of 10% of FM is recovered. Given the daily volume, the Proposer collects the residual Ash Material in its own containers and ships it back to the landfill on a daily basis.

5. The Proposer has changed the design of the Process Building to have no sanitary sewer connections or drinking water connection with the city of Red Wing. The Proposer will install an approved leachate holding tank and sump pump to collect all water generated from the Ash Material and any additional water that may come into contact with the Ash Material (leachate) within the Process Building. The Proposer will pump leachate from the holding tank to a tank truck on an as-needed basis and transport it to the Red Wing Sanitary Wastewater Treatment Plant for treatment.

6. The Project is connected to a modification of operations at the Xcel Ash Landfill. Xcel has applied for a modification to its solid waste permit to authorize it to excavate ash and reinter the ash after LabUSA processes it for metals recovery. The EAW identified the related Xcel Ash Landfill activities and evaluated their potential for significant environmental in the cumulative effects portion of the EAW.

Procedural History

7. Pursuant to Minn. R. 4410.1000, subp. 3.D., when the proposer wishes to initiate environmental review to determine if a project has the potential for significant environmental effects, the proposer can request a discretionary EAW. The Proposer did so, and as a result, the MPCA staff prepared an EAW for the proposed Project. Pursuant to Minn. R. 4410.1500, the MPCA distributed the EAW to the Environmental Quality Board (EQB) mailing list and other interested parties on December 2, 2016.

8. The MPCA notified the public of the availability of the EAW for public comment. The MPCA provided a news release to media in Goodhue and surrounding counties as well as other interested parties on December 5, 2016. The MPCA published the notice of the availability of the EAW in the *EQB Monitor* on December 5, 2016, and placed the EAW on the MPCA public website for review, at http://www.pca.state.mn.us/news/eaw/index.html.

9. The MPCA's EAW public comment period began on December 5, 2016, and ended on January 4, 2017. During the 30-day comment period, the MPCA received a comment from the Minnesota State Archaeologist, the Minnesota Indian Affairs Council, three individual comments from citizens, and one comment representing 70 individual citizens. A list of the comments received and copies of the comments are included as Appendix A to these Findings.

10. The MPCA prepared written responses to the comments letters received during the 30-day public comment period. The MPCA's responses to the comments are included as Appendix B to these findings and are incorporated into and made a part of these Findings.

Criteria for Determining the Potential for Significant Environmental Effects

11. Under Minn. R. 4410.1700, the MPCA must order an Environmental Impact Statement (EIS) for projects that have the potential for significant environmental effects. In deciding whether a project has the potential for significant environmental effects, the MPCA must compare the impacts that may be reasonably expected to occur from the project with the criteria set forth in Minn. R. 4410.1700, subp. 7. The following factors shall be considered:

    A. Type, extent, and reversibility of environmental effects.

    B. Cumulative potential effects. The responsible governmental unit (RGU) shall consider the following factors: whether the cumulative potential effect is significant; whether the contribution from the project is significant when viewed in connection with other contributions to the cumulative potential effect; the degree to which the project complies with approved mitigation measures specifically designed to address the cumulative potential effect; and the efforts of the proposer to minimize the contributions from the project.

    C. The extent to which the environmental effects are subject to mitigation by ongoing public regulatory authority. The RGU may rely only on mitigation measures that are specific and that can be reasonably expected to effectively mitigate the identified environmental impacts of the project.

    D. The extent to which environmental effects can be anticipated and controlled as a result of other available environmental studies undertaken by public agencies or the project proposer, including other EISs.

The MPCA Findings with Respect to Each of These Criteria Are Set Forth Below

Type, Extent, and Reversibility of Environmental Effects

12. The first criterion that the MPCA must consider when determining if a project has the potential for significant environmental effects is the "type, extent, and reversibility of environmental effects" Minn. R. 4410.1700, subp. 7. A. The MPCA findings with respect to this criterion are set forth below.

13. The types of impacts that may reasonably be expected to occur from the Project and connected activities include the following:
    - Noise
    - Dust
    - Stormwater
    - Leachate
    - Traffic

14. Written comments the MPCA received during the EAW public comment period raised additional issues, as follows:
    - Ash Material
    - Hazardous Air Pollutants

15. With respect to the extent and reversibility of impacts that are reasonably expected to occur from the Project, the MPCA makes the following findings.

Ash Material

16. Beginning in 1991, all Minnesota Ash Material land disposal facilities were required to conduct extensive Ash Material leaching potential testing for hazardous determination using the U.S. Environmental Protection Agency (EPA) Toxicity Characteristic Leaching Procedure (TCLP) method. Routine testing performed in accordance with Minn. R. 7035.1910 effectively characterized Ash Material.

17. If the results of analysis of the TCLP ash material extract show that a regulated compound is present above the hazardous regulatory level for that compound, the waste is considered hazardous. The MPCA Hazardous Waste Division in 1996 determined that the leaching potential from Ash Material did not meet hazardous criteria. Given the quantity of data demonstrating ash material does not meet hazardous criteria, all municipal solid waste (MSW) combustor facilities received ash-testing variances to eliminate the routine TCLP testing for hazardous determination.

18. The waste to energy process utilizes municipal solid waste MSW through mass burn or through the burning of refuse derived fuel (developed following a material recovery process for recyclables from the waste stream) to capture and produce energy. Following a burn process of temperatures above 1500°F, both fly ash and bottom ash combine to form Ash Material.

19. Currently, Ash Material is primarily disposed in Minnesota landfills meeting design and operational criteria established under Minn. R. 7035.2885. Waste to Energy incinerator ash is not considered a hazardous waste.

20. Ash Material is not considered a dust source; see the Dust section below.

21. The MPCA finds that information presented in the EAW and other information in the environmental review record is adequate to address the concerns related to characterization of the Ash Material. The impacts of Ash Material that are reasonably expected to occur from the proposed Project have been considered during the review process; appropriate mitigation measures are available and will be required to prevent significant adverse impacts.

22. The MPCA finds that the Project, as it is proposed, does not have the potential for significant environmental effects based on the type, extent, and reversibility of impacts related to Ash Material that are reasonably expected to occur from the Project.

Air quality

Dust

23. To determine Ash Material particle size, the EPA specifies the use of a high-volume sampler to collect particles with aerodynamic diameters of 100 µm or less. Airborne PM is defined at less than 100 microns, and respirable particulate (PM_{10}) is defined as less than 10 microns. The LabUSA physical process focuses on material generally larger than 1 mm or 1,000 microns; smaller fractions are incidental and only accumulate in the collection process if they are moist enough to cling to the larger removed fraction. Therefore, once processed, little to no Ash Material can become airborne because the size is too large or too wet.

24. The specific gravity for material handled during all steps in the process was assumed to be the same as aggregate material. This is a conservative assumption for the metals-laden Ash Material because metals generally have higher specific gravity (density) which would make it more difficult to have the particulate become airborne; thus, emissions of processed Ash Material will actually be less than estimated.

25. The Proposer will limit the moisture content of excavated Ash Material at the Xcel Ash Landfill by limiting the excavation to days coinciding with LabUSA processing; the Proposer will not stage removed Ash Material at the landfill where it would be exposed to sun and wind which could cause it to dry excessively.

26. The primary method for maintaining moisture content relies on the inherent physical properties of the Ash Material itself. The Ash Material leaving the Generating Plant has a moisture content exceeding 22%; the Ash Material in the Xcel Ash Landfill generally maintains a moisture content greater than 22%. The majority of that moisture attaches to the finer material since metals do not readily absorb moisture. On the other hand, the finer material does not easily shed the moisture either, which is why the moisture content of Ash Material within the landfill stays up even when exposed to the sun and wind.

27. Research by Xcel Energy has also confirmed that moisture conditions of 4% or greater are considered sufficient to eliminate or minimize potential dust emissions of MSW combustor ash. The inherent moisture content of the ash is primarily tied up in the finer fractions since the metallic fractions do not have notable water absorptive properties.

28. To maintain the moisture of the Ash Material stored within the Process Building, the Proposer will keep it away from the sun and wind. The Proposer does not expect the Ash Material to significantly change moisture content over a few days of storage, especially with the daily addition of fresh Ash Material coming from the Xcel Energy Generation Plant.

29. The primary source of potential air emissions from the Project is road dust from trucks accessing and leaving the Project Site. The Proposer will construct a private gravel road on Xcel Energy's property that will connect the Processing Building to the Xcel Ash Landfill.

30. Vehicles enter and leave the Xcel Ash Landfill, the new City laydown area, and the Project Site use the existing gravel road off Bench Street. Currently trucks deliver Ash Material to the Xcel Ash Landfill from the Xcel Energy's Generating Plant and return. The Project will increase traffic from two sources: off road trucks hauling Ash Material from the Xcel Ash Landfill and returning and roll-off containers from the Process Building taken to customers and returned.

31. Land disposal operations for Xcel Ash Landfill has occurred in the vicinity of the Project Site for nearly 30 years. Procedures for dust control at the land disposal facilities have followed permit conditions and Minn. R. 7035.2885 and routine landfill operations must continue to do so. There have been no reports of dust issues related to landfill operations. The dust control procedures required by the permit and Minnesota rules should effectively prevent any adverse impacts related to dust from the Project.

32. The Proposer submitted an air applicability determination to the MPCA to determine if the MPCA will require an air permit for the Project. The MPCA Air Program issued a determination letter on November 28, 2016 (Attachment 1), concurring that the potential to emit from the Project is below permitting thresholds and that the Project does not require an air permit.

33. The MPCA finds that information presented in the EAW, and other information in the environmental review record, is adequate to address the concerns related to dust impacts. The impacts on air quality that are reasonably expected to occur from the proposed Project have been considered during the review process and appropriate mitigation measures are available and will be required to prevent significant adverse impacts.

Mitigation

34. The Proposer manages the Ash Material throughout the process in accordance with the Operations and Maintenance Plan included in the permitting documents. Process Building personnel will have equipment available to apply moisture, as necessary, as part of daily operations to maintain proper moisture content of the Ash Material.

35. Trucks leaving the Xcel Ash Landfill will cross tracking control systems tracking pads to minimize any transport of waste material onto access roads; if necessary, the landfill tracking control systems may also include wheel washing equipment operated within the lined landfill to protect access roads.

36. The Proposer intends to control dust on the internal haul roads on an as-needed basis as specified in its MPCA Solid Waste Transfer Permit.

37. The MPCA finds that the Project, as it is proposed, does not have the potential for significant environmental effects based on the type, extent, and reversibility of impacts related to dust impacts on air quality that are reasonably expected to occur from the Project.

Hazardous Air Pollutants

38. The Proposer submitted an air applicability determination to the MPCA to determine if the MPCA will require an air permit for the Project. The MPCA Air Program issued a determination letter

determined that the potential to emit from the Project is below permitting thresholds and that the Project does not require an air permit.

39. There are no significant stationary source emissions associated with the Project.

40. The LabUSA process does not concentrate or chemically alter the metal containing compounds. Physical segregation of different size materials is the only processing that occurs. The EAW, Appendix D, page 3, air quality determination from the MPCA, states that any single HAPs emission is less than 0.006 tons/year or 12 pounds per year and the aggregate total HAP emissions are less than 0.009 tons/year or 18 pounds per year.

Pollutant	**Facility Total**	**State Permit Threshold**	**Federal (Part 70) Permit Threshold**	**Subject to Permit?**
Single Hazardous Air Pollutant (HAP)	0.006 tpy or 12 pounds per year	None	10 tpy or 20,000 pounds per year	No
Total HAPs	0.009 tpy or 18 pounds per year	None	25 tpy or 50,000 pounds per year	No

Total Facility Potential to Emit in tpy

Pollutant	Facility Total (tpy)	State Permit Threshold (tpy)	Federal (Part 70) Permit Threshold (tpy)	Subject to Permit?
Nitrogen Oxide (NOx)	0	-	100	No
Sulfur Oxide (Sox)	0	50	100	No
Volatile Organic Compound (VOC)	0	100	100	No
Particulate Matter (PM)	3.67	-	100	No
PM-10	1.44	25	100	No
PM-2.5	1.44	-	100	No
Carbon Monoxide (CO)	0	-	100	No
Lead	**0.006**	**0.5**	**10**	**No**
Single HAP	0.006	-	10	No
Total HAPs	0.009	-	25	No

For lead, the conversion to pounds per year (lb/yr) is:

Pollutant	Facility Total lb/yr	State Permit Threshold lb/yr	Federal (Part 70) Permit Threshold lb/yr	Subject to Permit?
Lead	12	1,000	20,000	No

41. The MPCA finds that information presented in the EAW and other information in the environmental review record is adequate to address the concerns related to Hazardous Air Pollutants (HAPs). The impacts on air quality that are reasonably expected to occur from the proposed Project have been considered during the review process and appropriate mitigation measures are available and will be required to prevent significant adverse impacts.

42. Because of the small levels of HAPs emissions – any single HPA emission is less than 12 pounds per year and the aggregate total HAP emissions are less than 18 pounds per year - the MPCA finds that the Project, as it is proposed, does not have the potential for significant environmental effects based on the type, extent, and reversibility of impacts related to Hazardous Air Pollutants and air quality that are reasonably expected to occur from the Project.

Noise

43. Noise sources associated with the Project include, construction equipment during construction of the Process Building, excavator used at the Xcel Ash Landfill to obtain placed ash for processing, trucks delivering and removing ash to the Project Site, trucks removing processed materials from the Project Site, and processing equipment consisting of conveyors, screens and a crusher inside the Process Building.

44. Noise associated with construction and excavation equipment for the construction of the Process Building will last three to four months.

45. New noise sources associated with the excavation of Ash Material from the Xcel Ash Landfill, transportation of the Ash Material to and from the Process Building and shipment of recovered Ash Material will be last 10 to 15 years.

46. The Proposer will load Ash Material excavated from the Xcel Ash Landfill within the lined area of the landfill. The Proposer will use off road trucks to transport the Ash Material along haul roads to the processing plant. The transport trucks will back up into the Process Building to offload the Ash Material under cover onto a tipping floor on the north side of the building. The empty trucks will then move to the loading area on the north side of the building where they are re-filled under cover with processed Ash Material after metals are further reclaimed. The trucks return to the Xcel Ash Landfill to dispose the processed ash.

47. After the Ash Material is deposited in the Process Building off-loading area, the material is loaded into the processing hopper. All processing occurs within the Processing Building location away from the incoming and outgoing loading and unloading areas.

48. All processing equipment is inside the Process Building. Sound levels for similar processing equipment at a similar facility in Linth, Switzerland (February 2016) measured at 85 decibels peak inside the building structure. The Proposer measured the same sound level inside the Red Wing Material Recovery Facility building with a substantial 15 decibel drop measured 10 feet outside an open overhead doorway (February 2016). This is similar to the design of the Process Building.

49. The MPCA finds that information presented in the EAW and other information in the environmental review record is adequate to address the concerns related to noise. The impacts on air quality that are reasonably expected to occur from the proposed Project have been considered during the review process and appropriate mitigation measures are available and will be required to prevent significant adverse impacts.

Mitigation of Noise Impacts

50. The Project must comply with state and local noise ordinances.

51. Indoor noise levels must meet worker safety requirements per OSHA requirements and Minnesota noise standards (as found in Minn. R. 70) and will consider noise levels of vehicles and equipment as provided in the Construction Noise Handbook prepared by the U.S. Department of Transportation.

52. Xcel Ash Landfill operations are currently in compliance with state and local noise regulations.

53. Noise associated with the Xcel Ash Landfill activities may increase Monday through Friday between 7 a.m. and 5 p.m., but is eliminated during weekends and holidays.

54. The Xcel Ash Landfill will not operate on weekends and holidays as Ash Material is directed to the Process Building.

55. During the years it will take to process Ash Material from Xcel's Ash Landfill, larger capacity off highway articulated dump trucks will replace the current quad axel dump trucks that haul Ash Material to Xcel Ash Landfill. The larger capacity off highway trucks will minimize the total number of trucks entering the Xcel Ash Landfill. In addition, use of the off highway trucks will eliminate the slamming of tail gates associated with the quad axel dump trucks that currently deliver Ash Material to the Xcel Ash Landfill.

56. The Process Building is designed so the entrance/exit doors face north, out and away from residential areas to the south. The design minimizes the noise from the Process Building and its associated operations.

57. The Proposer will maintain the forested areas south of the Project Site to buffer noise from the Process Building.

58. The nearest receptor to the Project Site is over 900 feet south of the Process Building and over 225 feet higher in elevation.

59. The MPCA finds that the Project, as it is proposed, does not have the potential for significant environmental effects based on the type, extent, mitigation, and reversibility of impacts related to noise that are reasonably expected to occur from the Project.

<u>Stormwater (and/or surface waters)</u>

60. The Proposer has designed the Process Building to house all processing activities including offloading, processing, and loading of materials. As a result, no stormwater will contact Ash materials or equipment within the Process Building. Because all processing activities occur indoors, the Proposer has applied for a certification of No Exposure under the National Pollutant Discharge

Elimination System/State Disposal System (NPDES/SDS) General Permit MNR050000 for Industrial Stormwater Permit.

61. Stormwater runoff that falls on the roof of the Process Building and outside gravel areas will flow to a drainage ditch on the north side of the Project Site. Stormwater flows downslope to a City-constructed sedimentation pond constructed on its adjacent property east of the Project Site. The City-owned sedimentation pond collects water from both the Project and the City's proposed laydown area to the east.

62. The City has already received the necessary permits to construct the laydown area and stormwater ponds. The City's pond design will incorporate expected runoff from the Project.

63. The MPCA finds that information presented in the EAW and other information in the environmental review record is adequate to address the concerns related to Stormwater. The impacts on surface water that are reasonably expected to occur from the proposed Project have been considered during the review process and appropriate mitigation measures are available and will be required to prevent significant adverse impacts.

Mitigation for Stormwater

64. The City has sized the stormwater runoff pond to maintain a post development runoff rate less than or equal to the pre-development runoff rate for the 2-year (2.89-inch), 10-year (4.33-inch), and 100-year (7.61-inch) storm events. The pond provides sediment storage to minimize any downstream migration of sediment from the Project Site. The pond outlet discharges down the hill to lower elevations and continues east towards Bench Street, entering the City's municipal stormwater system.

65. The discharge to the City's stormwater system will meet requirements imposed under the City's Zoning Ordinance 57 requirements and current State or Minnesota Stormwater Permits. The City will finalize the pond design once the Project receives the necessary permits.

66. During Project construction, the Proposer must obtain a NPDES/SDS Construction Stormwater Permit for the Project construction, since it involves excavation of more than one acre of soil. The permit requires the Proposer to implement best management practices (BMPs) through a Stormwater Pollution Prevention Plan (SWPPP). The SWPPP includes BMPs such as onsite infiltration, silt fences, bio-rolls, hay bales and fabric mats. Any disturbed soils and vegetation would be re-vegetated by seeding and mulching.

67. As noted in Finding paragraph 5 above, the Project's industrial wastewater generated at the Process Building is Ash Material leachate the Proposer will truck, on an as-needed basis, from the Process Building to the Red Wing WWTF.

68. In addition, the Proposer's Process Building design does not include water distribution to the Process building, or sanitary facilities or other building components that could generate wastewater or sanitary waste, so there will be no indirect or direct discharge of wastewater or sanitary waste. The Proposer will use on-site restroom facilities as allowed by City ordinances.

69. The MPCA finds that the Project, as it is proposed, does not have the potential for significant environmental effects based on the type, extent, and reversibility of impacts related to surface water and stormwater runoff that are reasonably expected to occur from the Project.

Groundwater impacts from leachate

70. Leachate from the Xcel Ash Landfill currently flows to the city of Red Wing's sewage collection system leading to the City's Bench Street Industrial Pretreatment Plant. The City's Bench Street Industrial Pretreatment Plant will treat wastewater from the proposed facility. The amount of leachate currently averages more than 13,000 gallons per day. Xcel Energy routinely samples the landfill leachate, and results show that it does not pose any problems with the treatment process. The Project will not alter the composition or characteristics of the leachate, and the MPCA expects the City's Plant will continue to be able to treat the leachate.

71. No environmental releases have been associated with the Xcel Ash Landfill liner. The MPCA Solid Waste Permit for the Xcel Ash Landfill has safeguards to protect the Xcel's Ash Landfill liner system during the excavation process, thus avoiding damage and releases to the groundwater.

72. The Proposer has designed the Process Building to have no sanitary sewer connections or drinking water connections with the city of Red Wing. The Proposer will install an approved leachate holding tank and sump pump to collect all water that comes into contact with the Ash Material (leachate) within the Process Building. The Proposer will pump leachate from the holding tank to a tanker truck on an as needed basis to Red Wing Sanitary Wastewater Treatment Facility (WWTF) for treatment.

73. The Proposer estimates the total daily amount of leachate from the Process Building will be very little, needing pumping from the holding tank and transportation to the Red Wing WWTF an estimated three time per year, since Ash Material tends to absorb water rather than leaching it.

74. The city of Red Wing has determined that the leachate conveyed from the Process Building to the WWTF is not considered a significant industrial wastewater in volume or type. As a result, the Process Building would not be a significant industrial discharger, and a pretreatment permit would not be required.

75. The MPCA finds that information presented in the EAW and other information in the environmental review record is adequate to address the concerns related to leachate. The impacts on groundwater that are reasonably expected to occur from the proposed Project have been considered during the review process, and appropriate mitigation measures are available and will be required to prevent significant adverse impacts.

76. The MPCA finds that the Project, as it is proposed, does not have the potential for significant environmental effects based on the type, extent, and reversibility of impacts related to ground water that are reasonably expected to occur from the Project.

Traffic

77. Currently 10 trucks per day deliver Ash Material to the Ash Landfill using Bench Street to the access road to the Ash Landfill. Once the Process Building begins operation those same 10 trucks will still use Bench Street to the access road to the Ash Landfill but will deliver the Ash Material to the Process Building instead of the Ash Landfill.

78. The Project Site is approximately 1-mile south of U.S. Highway 61 with a site access road off of CSAH 1 also known as Bench Street. According to the Minnesota Department of Transportation (MnDOT), the annual average daily traffic level on Bench Street is 8,200 vehicles per day (2007). The only new truck traffic added to Bench Street will be for roll-off container removal accounting for three trucks from the Project Site per day. The expected increase in traffic on Bench Street is three vehicles per day or 0.0004%.

79. The Proposer expects to add approximately 20 trucks per day to travel from the Xcel Ash Landfill to the Project Site using an internal private road. The Proposer will add approximately 3 trucks per day to remove roll-offs filled with recovered ferrous and nonferrous materials from the Project Site using Bench Street. During construction of the Project, the Proposer expects approximately 15 additional trucks per day at the Project Site; this increase is relatively small and for only three to four months.

80. The Proposer will replace the current quad axel dump trucks currently used to haul Ash Material from the Xcel Energy's Generating Plant to the Xcel Ash Landfill with off highway articulated dump trucks. The larger capacity off highway trucks will minimize the total number of trucks entering the landfill because of the larger capacity.

81. During the three to four months of Project construction, about 15 construction-related trucks per day will enter and leave the Project Site through the internal haul roads and Bench Street. The construction traffic will cease before traffic associated with Project operations commences to start receiving ash from the landfill.

82. Based on the years of processing Ash Material from the Xcel Ash Landfill, traffic activities for the Project will increase to include excavation and truck traffic between the Xcel Ash Landfill and the Process Building. However, during weekends and holidays Ash Material flows to the Process Building and not the Xcel Ash Landfill.

83. The Proposer will construct a private gravel road on Xcel Energy's property that will connect the Processing Building to the Xcel Ash Landfill.

84. The MPCA finds that information presented in the EAW, and other information in the environmental review record, is adequate to address the concerns related to traffic. The impacts on air quality that are reasonably expected to occur from the proposed Project have been considered during the review process and appropriate mitigation measures are available and will be required to prevent significant adverse impacts.

85. The MPCA finds that the Project, as it is proposed, does not have the potential for significant environmental effects based on the type, extent, and reversibility of impacts related to traffic that are reasonably expected to occur from the Project.

Cumulative Potential Effects

86. The second criterion that the MPCA must consider when determining if a project has the potential for significant environmental effects is the "cumulative potential effects." In making this determination, the MPCA must consider "whether the cumulative potential effect is significant; whether the contribution from the project is significant when viewed in connection with other contributions to the cumulative potential effect; the degree to which the project complies with approved mitigation measures specifically designed to address the cumulative potential effects; and the efforts of the proposer to minimize the contributions from the project." Minn. R. 4410.1700 subp.7.b. The MPCA findings with respect to this criterion are set forth below.

87. The EAW, public comments, and MPCA follow-up evaluation did not disclose any related or anticipated future projects that may interact with this Project in such a way as to result in significant cumulative potential environmental effects.

88. The EAW addressed the following areas for cumulative potential effects for the proposed project.

Traffic

89. The City's laydown area will add three new trucks per day during the seven months out of the year it operates. The Proposer expects the Project will add three new trucks per day to Bench Street. The removal of roll-offs from the Project Site that contain the recovered metals obtained during processing. Roll-off trucks will enter and leave the Project Site via the eastern internal access road and the main east-west access road and Bench Street.

90. The annual average daily traffic level on Bench Street is 8,200 vehicles per day in 2007 according to MnDOT. The 10 trucks hauling Ash Material from the Xcel Energy's Generating Plant will continue to use Bench Street to the access road to the Ash Landfill. However, once on the access road the trucks will deliver the Ash Material to the Process Building and not Ash Landfill. The expected increase in traffic on Bench Street is three vehicles per day from the Project Site or 0.0004% of existing vehicles per day.

91. Trucks idling at the Project Site when delivering loads of ash and reloaded with processed ash could cause temporary periods of idling emissions near the Project Site.

92. During construction there will be approximately 15 additional trucks per day at the Project Site. This increase is relatively small and temporary in nature (i.e., 3 to 4 months).

93. The Proposer will construct a private gravel road on Xcel Energy's property that will connect the Processing Building to the Xcel Ash Landfill.

94. Traffic that occurs on internal haul roads will not impact public use roads

Dust

95. Particle size –The LabUSA physical process focuses on material generally larger than 1 mm or 1,000 microns; smaller fractions are incidental and only accumulate in the collection process if they are moist enough to cling to the larger removed fraction. Therefore, once processed, little to no Ash Material can become airborne because the size is too large or too wet.

96. Ash Material is not considered a dust source. Based on the moisture content data of the Ash Material from the Xcel Energy's Generating Plant and the Xcel Ash Landfill, the Ash Material will enter the Process Building at greater than 22% moisture. The optimal processing moisture content of the Ash Material for processing is 15 to 22%; anything drier or moister will cause problems with the mechanical separation process.

97. The Proposer has designed the Process Building to house all industrial activities, including offloading, processing, and loading of materials.

98. The primary source of potential air emissions from the project is road dust from trucks accessing and leaving the Project Site. The Proposer will construct a private gravel road on Xcel Energy's property that will connect the Processing Building to the Xcel Ash Landfill.

99. Excavating, offloading, processing, storage, and loading activities will not contribute any significant dust because combustor ash is not considered a dust source because of moisture content.

100. The Proposer will load waste combustor ash excavated from the Xcel Energy Ash Landfill within the lined area of the landfill. The Proposer will use off road trucks to transport the waste combustor ash along haul roads to the processing plant.

101. Trucks leaving the landfill will cross a vehicle tracking control system. The goal of the vehicle tracking control system is to prevent the ash from falling off on the road where it is uncontrolled in terms of entering waterways. The silt-sized particles may become air born by subsequent traffic that uses the same roadway.

102. The Proposer plans to use a rock pad that allows ash and mud to fall off the tires as the trucks roll over the coarse rock. The deeper strata of the crushed rock traps the ash until flushed out to a sedimentation basin where the fines are reclaimed, or the rock is replaced. The goal is to prevent the ash from falling off on the road where it is uncontrolled in terms of entering waterways and becoming air born by subsequent traffic.

103. If necessary, the landfill tracking control systems may also include wheel washing equipment operated within the lined landfill to protect access roads.

104. The Proposer intends to control dust on the internal haul roads on an as-needed basis. The Proposer will control dust as specified in its MPCA Solid Waste Transfer Permit.

105. Land disposal operations for Xcel Ash Landfill have occurred in the vicinity of the Project Site for nearly 30 years. Procedures for dust control at the land disposal facilities have followed permits conditions and Minn. R. 7035.2885 and routine landfill operations must continue to do so. There have been no reports of dust issues related to landfill operations.

106. The City is planning to access the planned laydown area for 7 months per year.

Noise

107. The nearby ongoing activities at the Xcel Energy Ash Landfill and the County/City Landfill will continue to generate noise in the vicinity of the Project. Landfill activities include usage of dump trucks and heavy equipment such as dozers, compactors, and graders. The two landfills are in compliance with local and state of Minnesota noise standards.

108. The Project will see an increase in noise in some area of operation and a decrease in other areas.

109. During years of processing Xcel's ash, activities that will increase noise levels include excavation and truck traffic between the Xcel Energy Ash Landfill and the proposed Project. However, the landfill will not operate on weekends and holidays. The Proposer will accept combustor ash at the Process Building during weekends and holidays and process it the following week.

110. Noise associated with landfill activities may increase Monday through Friday between 7 a.m. and 5 p.m., but will not occur during weekends and holidays.

111. Xcel Energy plans to use larger capacity off highway articulated dump trucks to haul Ash Material to and from the Process Building while the Project operates. The larger capacity off highway trucks will minimize the total number of trucks entering the landfill because of the larger capacity. In addition, the use of off highway trucks will eliminate the slamming of tail gates associated with the quad axel dump trucks.

112. The City is planning to use a crusher at its laydown area for six weeks per year. The Proposer did a sound study on the aggregate crushing activities at the City's laydown area. The study shows the noise generated by the crusher is below City and State noise ordinance requirements.

113. The City's crushing operation is the loudest and most continuous noise source in the Project area, which includes the two landfills. The combination of the noise from the Project, the on-going operation of the landfills, and the City's crushing operation must be in compliance with local and state noise standards.

114. Based on information on the proposed project obtained from the Air Permit Applicability Determination Request, and permit application presented in the EAW, and in consideration of potential effects due to related or anticipated future projects, the MPCA does not expect significant cumulative effects related to traffic, dust, or noise from this Project.

115. The MPCA finds that the Project is not reasonably likely to contribute to significant cumulative potential effects in the environmentally relevant area.

The Extent to Which the Environmental Effects Are Subject to Mitigation by Ongoing Public Regulatory Authority

116. The third criterion that the MPCA must consider when determining if a project has the potential for significant environmental effects is "the extent to which the environmental effects are subject to mitigation by ongoing public regulatory authority. The RGU may rely only on mitigation measures that are specific and that can be reasonably expected to effectively mitigate the identified environmental impacts of the project." Minn. R. 4410.1700, subp. 7.C. The MPCA findings with respect to this criterion are set forth below.

117. The following permits or approvals will be required for the Project:

Unit of Government	Type of Application
MPCA	Solid Waste Permit No. SW-307 - Xcel Energy's Red Wing Ash Disposal Project (major modification)(Xcel Ash Landfill)
MPCA	Solid Waste Permit to Construct and Operate a Solid Waste Transfer Station (including processing and storage)(Proposer)
MPCA	National Pollutant Discharge Elimination System/State Disposal System (NPDES/SDS) - General Construction Permit
MPCA	NPDES/SDS Multi-Sector General Permit - Industrial Stormwater Permit – No Exposure (MNRNE3D5B)
City	Conditional Use Permit
City	Building, Plumbing and Mechanical Permits
City	Utility Permit on City Right of Way

118. MPCA - Municipal Solid Waste Combustor Ash Land Disposal Facility Permit
The Project Proposer is responsible for submitting engineering plans and for submitting ash-testing results with the permit application to determine liner requirements. The Project Proposer is also responsible for managing the facility in accordance to the final permit requirements which would regulate, among other things, construction, operations, leachate management, liner maintenance, monitoring, closure, post-closure, and emergency/contingency action plans.

119. MPCA - Transfer Facility Permit
The Project Proposer is responsible for submitting engineering plans and for managing the facility in accordance with the final permit requirements which would regulate, among other things, waste storage and containment, operations, monitoring and reporting.

120. MPCA - NPDES Construction Stormwater Permit
A General NPDES Construction Stormwater Permit is required when a project disturbs one or more acres. It requires the use of BMPs such as silt fences, inlet protection rock checks, and prompt soil stabilization and revegetation to prevent erosion and to keep eroded sediment from leaving the construction site. The Proposer must have a SWPPP that will provide more detail as to the specific measures to be implemented and will also address: phased construction; vehicle tracking of sediment; inspection of erosion control measures implemented; and timeframes in which erosion control measures will be implemented. The general permit also requires projects that create one or more acres of new impervious surface to provide permanent treatment of stormwater runoff. The Project must treat one inch of runoff from each new acre of impervious surface created by the

Project. Permanent treatment designs must first attempt volume reduction practices such as infiltration or harvest and reuse. If infiltration is not possible at the site due to poor soils, contamination, or other reasons outlined in the permit, other permanent stormwater treatment practices such as wet sedimentation basins or filtration systems must be constructed.

121. MPCA - NPDES/SDS Industrial Stormwater Permit and Spill Response Plan (Project Site) The NPDES/SDS Industrial Stormwater Permit requires that specific conditions be followed for construction and operation of the facility, and for overall compliance with water quality requirements. The Proposer will need to prepare a Spill Response Plan and/or revise its SWPPP.

122. NPDES/SDS Individual Permit Modification/Reissuance. (Xcel Ash Landfill) The MPCA will need to reissue NPDES/SDS permit (MNRNE3D5B), modifying this permit to reflect the Project. This NPDES/SDS Individual Permit will require that specific conditions be followed for design and operation of the Facility, and for overall water quality compliance, including regular monitoring and limits for discharge.

123. City Conditional Use Permit. A conditional use permit is required when a use is not usually allowed within a zoning district, but may be allowed with certain conditions. A conditional use permit may be approved upon a showing by an applicant that standards and criteria stated in the Counties' ordinance would be satisfied.

124. City Grading and Building Permits. Building permits and inspections assure that the project will be constructed or installed in accordance with city ordinances and codes.

125. City Utilities Permit. The permit assures that the utilities will be constructed or installed in accordance with ordinances and codes and provides for inspections.

126. The above-listed permits include general and specific requirements for mitigation of environmental effects of the Project. The MPCA finds that the environmental effects of the Project are subject to mitigation by ongoing public regulatory authority.

The Extent to Which Environmental Effects can be Anticipated and Controlled as a Result of Other Available Environmental Studies Undertaken by Public Agencies or the Project Proposer, Including Other EISs

127. The fourth criterion that the MPCA must consider is "the extent to which environmental effects can be anticipated and controlled as a result of other available environmental studies undertaken by public agencies or the project proposer, including other EISs," Minn. R. 4410.1700, subp. 7. D. The MPCA findings with respect to this criterion are set forth below.

128. The following documents were reviewed by MPCA staff as part of the environmental impact analysis for the proposed Project.

- Data presented in the EAW
- Permit application(s)
- Air Permit Applicability Determination Report

- Municipal Solid Waste Combustor Ash Land Disposal Facility Permit Requirements and application
- Transfer Facility Permit Requirements and Application
- NPDES/SDS Individual Permit Modification/Reissuance
- Other reports and analysis as appropriate

129. This list is not intended to be exhaustive. The MPCA also relies on information provided by the project proposer, persons commenting on the EAW, staff experience, and other available information obtained by staff.

130. The environmental effects of the Project have been addressed by the design and permit development processes, and by ensuring conformance with regional and local plans. There are no elements of the Project that pose the potential for significant environmental effects.

131. Based on the environmental review, previous environmental studies by public agencies or the Project Proposer, and staff expertise and experience on similar projects, the MPCA finds that the environmental effects of the Project that are reasonably expected to occur can be anticipated and controlled.

132. The MPCA adopts the rationale stated in the attached Response to Comments (Appendix B) as the basis for response to any issues not specifically addressed in these Findings.

CONCLUSIONS OF LAW

133. The MPCA has jurisdiction in determining the need for an EIS for this Project. The EAW, the process of developing permits for the Project and related or connected projects, and the evidence in the record are adequate to support a reasoned decision regarding the potential significant environmental effects that are reasonably expected to occur from this Project and the related Red Wing Ash Landfill project.

134. Areas where the potential for significant environmental effects may have existed have been identified and appropriate mitigation measures have been incorporated into the Project design and permits. The Project is expected to comply with all MPCA standards.

135. Based on a comparison of the impacts that are reasonably expected to occur from the Project and the related Red Wing Ash Landfill project with the criteria established in Minn. R. 4410.1700, subp. 7, the Project does not have the potential for significant environmental effects.

136. An EIS is not required for the proposed LabUSA Ash Processing Project – Red Wing and its related Red Wing Ash Landfill project.

137. Any findings that might properly be termed conclusions and any conclusions that might properly be termed findings are hereby adopted as such.

ORDER

The Minnesota Pollution Control Agency determines that there are no potential significant environmental effects reasonably expected to occur from the LabUSA's Ash Processing Project – Red Wing and Red Wing Ash Landfill projects and that there is no need for an Environmental Impact Statement.

IT IS SO ORDERED

John Linc Stine, Commissioner
Minnesota Pollution Control Agency

4/3/17
Date

Minnesota Pollution Control Agency

520 Lafayette Road North | St. Paul, Minnesota 55155-4194 | 651-296-6300

800-657-3864 | Use your preferred relay service | info.pca@state.mn.us | Equal Opportunity Employer

APPENDIX D

November 28, 2016

Mr. Brent DuBois
President and Chief Executive Officer
Lab USA
130 East Walnut Street, Suite 903
Green Bay, WI 54301

Dear Mr. DuBois:

The Minnesota Pollution Control Agency (MPCA) received an Applicability Determination Request from Lab USA Ash Processing Facility – Red Wing (Lab USA) on August 15, 2016. Lab USA is seeking agreement with their assessment that the proposed ash processing facility is not required to obtain a stationary source air permit. The MPCA conducted a review of the August 15, 2016, request and additional supporting information received by email on September 30, 2016 and October 18, 2016.

Lab USA proposes to construct and operate a facility to recover ferrous and non-ferrous metals from municipal solid waste (MSW) incinerator bottom ash. The proposed facility will be located at 1540 Bench Street, Red Wing, Minnesota. This property will be leased from the city of Red Wing, and is adjacent to the Xcel Red Wing Refuse Derived Fuel (RDF) Ash Disposal Facility and the Red Wing Land Disposal Facility. These landfills are independently owned and operated by Xcel Energy and the City of Red Wing, respectively. In the proposed operation, Lab USA will process ash from the two adjacent ash landfills. Additionally, ash will be received directly from the Xcel Energy Red Wing Plant, an RDF combustor, located at 801 E. 5th Street, Red Wing, Minnesota.

Incinerator ash will be brought to the facility by truck and unloaded into piles indoors. All ash processing operations for the proposed facility will occur indoors. Ash will be loaded from the piles into the process equipment with a diesel front end loader. The ash will pass through four conveyers, a crusher, three screens, a magnetic separator, and an eddy current separator. By the end of the process, the ash is separated into two piles: refined ash (ash containing ferrous and non-ferrous metals) and processed ash (which will go to a landfill as waste). The refined ash is estimated to make up about 10% of the inlet ash, while the processed ash (waste) makes up the remaining 90%. The temporary piles of refined and processed ash will also be located indoors. Both the refined ash and the processed ash will be loaded into trucks with a diesel front end loader and shipped off site.

In order to determine if an individual operating permit is required for this proposed facility, the MPCA evaluated the status of the proposed facility as a single stationary source; compared the project potential emissions to state and Part 70 permit thresholds; and reviewed the proposed activities at Lab USA for New Source Performance Standards (NSPS) and National Emission Standards for Hazardous Air Pollutants (NESHAP) applicability.

Source Determination. The MPCA reviewed whether or not the proposed facility should be considered a single source due to its proximity to the Xcel Red Wing Plant (air emission permit no. 04900005-002), and because the facility plans to process materials from Xcel Energy. Three criteria must be met in order for two or more facilities to be considered a single source under Prevention of Significant Deterioration (PSD) and Minnesota air permitting rules. The facilities must: have the same SIC code or be a support facility; be under common control; and be located on contiguous properties. The proposed ash processing facility has an SIC code of 5093 (Scrap and Waste Materials), and the Xcel Red Wing Plant has an SIC code of 4911 (Electric Services). Furthermore, the MPCA determined that the proposed ash processing facility is not a support facility because the facility may receive incinerator bottom ash from multiple sources and because Xcel Red Wing Plant's bottom ash may continue to be sent to the landfill without first being processed for metals recovery. Xcel has entered into a legal agreement with Lab USA for the processing of their landfill ash. Due to this agreement, the Xcel Red Wing Plant may be considered under common control with the proposed ash processing facility. However, the proposed ash processing facility will not be located on contiguous properties with the Xcel Red Wing Plant. Because the two facilities do not share SIC codes or have a support relationship and are not located on contiguous properties, the two facilities are not a single source.

Two criteria must be met in order for two or more facilities to be considered a major source of hazardous air pollutants (HAPs) under 40 CFR pt. 63. The facilities must: be located within a contiguous area; and emit or have the potential to emit 10 tons per year or more of any HAP or 25 tons per year or more of any combination of HAPs. The total potential HAP emissions from the proposed facility and the adjacent landfills do not exceed the major source thresholds for single or total HAPs (as shown in Table 1), and the proposed facility will not be located on contiguous properties with the Xcel Red Wing Plant. Based on this information, the MPCA has determined that the proposed facility is not a major source of HAPs.

Comparison of Emissions to State and Federal Permit Thresholds. The MPCA reviewed potential emission calculations submitted by Lab USA for the proposed facility. The proposed facility does not belong to one of the 27 source categories listed in 40 CFR § 52.21(b)(1)(iii), therefore fugitive and secondary emissions were not counted as described in the definition of potential emissions under Minn. R. 7005.0100, subp. 35a. Vehicle exhaust emissions from the two diesel front end loaders are considered mobile sources and are not regulated under Minnesota air permitting rules. Table 1 is a summary of the emissions rates reviewed by the MPCA.

The potential-to-emit (PTE) was calculated using emission factors from EPA AP-42 sections 11.19.2 (Crushed Stone Processing and Pulverized Mineral Processing), 13.2.2 (Unpaved Roads), and 13.2.4 (Aggregate Handling and Storage Piles). The following assumptions were made for the PTE calculations:

1. The ash moisture content is assumed to be 15%. Lab USA provided annual moisture content data for the bottom ash from the Xcel MSW incinerator, the average moisture content between 1997 and 2013 was 34.2%, with a minimum value of 17.0%. Therefore, the 15% moisture content is considered a conservative assumption resulting in worst-case emission rates.
2. The maximum capacity for each piece of equipment is 66 tons of ash per hour.
3. The process will not use any pollution control equipment.
4. The combined area of temporary storage piles will be 0.1 acres (4,350 square feet) and includes no wind shields/barriers. This is considered a conservative assumption, because actual temporary storage piles will be located indoors and shielded from the wind.
5. $PM_{2.5}$ emissions were conservatively assumed to be equal to PM_{10} emissions.

Table 1: Total Facility Potential to Emit in tons per year (tpy)

Pollutant	Facility Total (tpy)	State Permit Threshold (tpy)	Federal (Part 70) Permit Threshold (tpy)	Subject to Permit?
NOx	0	-	100	No
SOx	0	50	100	No
VOC	0	100	100	No
PM	3.67	-	100	No
PM-10	1.44	25	100	No
PM-2.5	1.44	-	100	No
CO	0	-	100	No
Lead	0.006	0.5	10	No
Single HAP	0.006	-	10	No
Total HAPs	0.009	-	25	No

Applicability of NSPS. Lab USA stated that the proposed facility would not be subject to any New Source Performance Standards (NSPS) under 40 CFR pt. 60 which would require the facility to obtain an air permit. Additionally, the MPCA reviewed the promulgated NSPS and did not identify any standards that would likely apply to this facility.

Applicability of NESHAP. Lab USA stated that the proposed facility would not be subject to any National Emission Standards for Hazardous Air Pollutants under 40 CFR pt. 63 which would require the facility to obtain an air permit. Based on the potential to emit calculations that were provided, the highest single Hazardous Air Pollutant (HAP) emission rate is 0.006 tpy and the emission rate of total HAPs is 0.009 tpy. As discussed in the source determination section, the total combined potential HAP emissions from the proposed facility and the adjacent landfills do not exceed the major source thresholds for single or total HAPs. The proposed facility would thus be considered an area source of HAPs. The MPCA reviewed the list of promulgated NESHAPs and did not identify any area source standards that would likely apply to this facility.

Air Permit Applicability Decision. Based on the information submitted by Lab USA and the requirements listed in Minn. R. 7007.0100-1850, the MPCA agrees that the proposed facility does not require an air emissions permit at this time.

This determination is specific to Lab USA and the proposed facility as described in the August 15, 2016, submittal, with supplemental information received on September 30, 2016 and October 18, 2016; any changes to information (such as increases in rated equipment capacity or additional equipment or processes) provided for MPCA review or discrepancies between the information provided and actual facility operation may impact this determination.

If you have any questions regarding this determination, please contact Joseph Carlson at 651-757-2539 or by email at Joseph.Carlson@state.mn.us.

Sincerely,

Toni Volkmeier

This document has been electronically signed.

Toni Volkmeier, P.E.
Supervisor, Air Quality Permits Unit 3
Air Quality Permits Section
Industrial Division

TV/JC:lao

APPENDIX A

Minnesota Pollution Control Agency

Lab USA Ash Processing Project – Red Wing

LIST OF COMMENT LETTERS RECEIVED

1. Bryan Whitaker. Letter received December 29, 2016.
2. Mark Walsworth representing 70 signatories. Letter received December 30, 2016.
3. Amanda Gronhovd, State Archaeologist, Minnesota Department of Administration. Letter received January 3, 2017.
4. Carol Overland, Legalectric, Inc. Letter received January 4, 2017.
5. Melissa Cerda, Indian Affairs Council. Letter received January 4, 2017.
6. Daniel Bender representing 5 signatories. Letter received January 24, 2017.
7. Noah White, Prairie Island Indian Community. Letter received after the comment period ended January 30, 2017.

Mr. Kevin Kain

Resource Management and Assistance Division

Minnesota Pollution Control Agency

520 Lafayette Road North

St. Paul, MN 55155

Dear Mr. Kain,

I would like to take this opportunity to thank the Minnesota Pollution Control Agency and your outside experts for taking the time to review Lab USA's proposed ash processing facility in Red Wing. The EAW helped me better understand the project.

The efficient and transparent work by the MPCA has provided the Red Wing community with more information to help answer questions and concerns that some in community have had about the project.

I, along with others in Red Wing, now have even more confidence in this project knowing that industry experts have reviewed the project plan and showed us how the project exceeds all local and state standards. It means a lot to me and others in Red Wing that the MPCA has been involved with the project. I think Lab USA proposed ash processing project will be good for Red Wing and the MPCA review strengthens my support.

Respectfully,

Bryan Whitaker
31485 Lakeview Avenue
Red Wing, MN 55066

E: whitakeb@gmail.com
T: @whitakerb2

Mark Walsworth
2860 Jewel Ln
Plymouth, MN 55447

December 30, 2016

Mr. Kevin Kain
Resource Management and Assistance Division
Minnesota Pollution Control Agency
520 Lafayette Road North
St. Paul, MN 55155

Mr. Kain

Following is our written response to the EAW for the proposed Lab USA facility to be located in Red Wing. We have found the EAW woefully inadequate in addressing the potential to emit, general environmental hazards and worker safety issues. We respectfully submit that Lab USA be required to complete a full Environmental Impact Study.

While there are 70 signatories to our response, for convenience, please feel free to direct questions or other communications to me. Also, as noted in the document specific citations and calculations are available on request.

Thank you for your courtesy and help in developing this document.

Regards

Mark Walsworth

763.473.4565
wallkeeper@aol.com

Submitted via e-mail
Hard copy via US Mail

Need for an Environmental Impact Study for the Proposed Lab USA Facility

December 30, 2016

Executive Summary

It is the conclusion of the 70 undersigned citizens that the EAW completed and submitted by Lab USA is lacking information essential to determining the Potential to Emit for the proposed Lab USA facility in Red Wing, Minnesota.

We further contend that due to the novel nature of the process a number of erroneous assumptions were made that further mask the proposed facilities full Potential to Emit

Additionally, we cannot help but note the close similarity between the Lab USA EAW and the Northern Metals EAW that became an expensive multi year legal battle resulting from a lack of full disclosure by Northern Metals

Background

Per the EAW, Lab USA plans to build and operate a facility in Red Wing Minnesota that will be located on the XCEL land buffer located between the Xcel Ash Fill and the Tyler Hills Residential Development. It shares a recently platted lot with the new City Storage yard.

The process LAB USA is proposing is new to North America. Lab USA currently operates 1 facility in North America. It is located in Rural Washington State and has been operating for less than 1 year. The process is new enough that no standardized emission profile has been developed for it. Lab USA has never operated an ash recovery facility neighboring a Residential Area in North America

The proposed facility will process new and mine previously interred ash generated by XCEL Energy waste to energy trash burning plants in Red Wing and La Crosse, WI. The Proposers intention is to strip the ash of all ferrous and non ferrous metals for eventual recycling. The assay of metal content for the unprocessed ash can be found on page 77 of the EAW

The facility will process up to 150,000 tons annually (300,000,000 lbs) of the combined new and mined ash (**unprocessed ash**). There will be 3 different material streams in the facility, **unprocessed ash**, **stripped ash** and **concentrated ash (Concentrate)**. The unprocessed ash will arrive via truck, dewatered if necessary, ground to less than 1 mm particle size and stripped of all HAPS and non HAPS metals. The **concentrate** will be moved via skip loader and accumulated for shipment and the **stripped ash** will be loaded via skip loader and be trucked for reinterment. Based on the Proposer's total projected tonnage and the supplied assay, the following amounts of unreported hazardous air pollutants (HAPS) will be extracted each year

Material	CAS#		Lbs./year
Arsenic	7440-38-2		6,000
Cadmium	7440-43-9		8,400
Chrome	7440-47-3		51,900
Lead	7439-92-9		518,100
Manganese	7439-96-5		155,700
Mercury	7439-97-6		600
Nickel	7440-02-0		24,600
Selenium	7782-39-2		1,500
		HAPS Total	766,800 lbs/yr

It is important to note that the **unprocessed ash** is expected to be processed wet. The Proposer thus argues that no additional containment or process controls will be required to avoid emitting

The bulk of the HAPS will be separated using an eddy current separator. Per a note dated August 5, 2016 to Joseph Carlson, MPCA from Todd Potas of SEH on behalf of Lab USA, the Proposer will be concentrating the unprocessed ash 10X into the **Concentrate.** The **unprocessed ash** at ~**9%** metals will be converted to **Concentrate** at approximately **90%** metals and **stripped ash** at effectively 0% metals. While it is not yet a commercially salable material, the **Concentrate** will be accumulated for an unknown period then shipped to an "overseas" destination for further processing into salable commercial products. At 90% metal content it is unknown if the **Concentrate** can retain enough moisture to control dust.

Missing Information-Critical

Potential to Emit- in all calculations it is assumed the materials being handled have the same characteristics as the **unprocessed ash**. Even though it will have 10X the concentration of metal, at no time in the EAW is the **Concentrate** evaluated or discussed as being distinctly different from the unprocessed ash. At 30,000,000 lbs annually, the **Concentrate** represents a significant amount of material and will contain almost all of the HAPS cycled through the facility. This raises the following issues

1. Hazardous Waste Status- at a 10X concentration, the **Concentrate** will contain ~2.6% toxic metal HAPS with the majority of the HAPS being Lead. Since it is not mentioned, it is assumed the Proposer has not been diligent and tested the **Concentrate** for Waste Status. The lack of any specific information about the **Concentrate** means it is impossible to know if the **Concentrate** will meet the requirements of CFR 40 261.24 to be classified as Hazardous Waste or Non Hazardous. This impacts the appropriateness of the entire proposal.

2. Fugitive Dust-Since no information for the **Concentrate** is available, in the EAW it is assumed and not proven that at 90% metal, the **Concentrate** will hold the same moisture content and therefore dust binding properties as the **unprocessed ash**.
   a. This brings into question all calculations used by the Proposer to justify their air permit status under Rule 7007.0250 subp. 4.
   b. The proposed facility will process approximately 2,000 lbs/day of Lead and 800 lbs of other HAPS. All of the HAPS will be separated to the **Concentrate**. This makes Fugitive Dust a significant work place safety/health issues per CFR 29 1910.1025

It should be noted that it is unclear whether Lab USA will be keeping the ferrous and non –ferrous concentrates separate or not. If Lab USA chooses to keep the streams separate then the Hazardous Waste determination and all other calculations for the non-ferrous concentrate become more critical

Erroneous Assumptions

1. Assumed Emission Factors- As previously mentioned this is a new process to North America. Currently there is no standard emissions model to apply to this application. The nearest standardized models were aggregate and mineral processing (AP42 11.19.2) While it may be the best standard model available, it is not a good model for the following reasons

a. Particle size-even tertiary ground aggregate has particle size 5-100 times larger than Lab USA's proposed particle size. Lab USA provided no particle size information in the EAW for the analysis. The information was gleaned from various Red Wing Commission and Council Minutes. Lab USA does not plan to supply protective equipment or monitor the work areas for Toxic Metals including LEAD
b. Specific Gravity- The emissions factors assume all three waste streams will have the same specific gravity as aggregate. There is no information to support this assumption
c. Minimum Moisture- The model assumes all 3 streams will maintain the same moisture content even through extended shut downs for weekends and holidays. No information was provided to support this assumption. Nor is any active process in place to monitor or control the moisture content
d. LEAD Content-the information provided for air permit status makes no mention of LEAD content. Therefore, EPA-454/R-98-006 considerations are not applied to the determination.

The combined effect of these assumptions and oversights allow the Proposer to claim an unrealistic 99.99996% LEAD containment with no active controls.

2. Eddy Current Assumptions- the Potential Emissions calculations treat the Eddy Current separator as a "drop point" at the end of a conveyor. Eddy Current separators work by accelerating a metallic particle away from the non metallic particles. Eddy Current separators function more efficiently on smaller particles (cube/square relationship). The smaller the particle the greater the acceleration and the greater the potential to become airborne. The HAPS particles will all be separated in the Eddy Current separator. Lab USA has no plans for active particle control.

3. Similar application assumptions- Erroneous Parallels may have been drawn between the proposed facility and other facilities processing Refuse to Fuel ash. Significant differences between those facilities and Lab USA include
   a. Location-most of the facilities we have identified are more than 1 mile from the nearest residential neighborhood with Rosemount having 2 farm residences within 1 mile. Red Wing has more than 500 homes within the same radius
   b. Process-the Lab USA material will be ground at least 10X finer than non Lab USA facilities.
   c. Facility size-All other ash facilities we have identified are on plots of at least 200 acres allowing significant buffer space to contain fugitive dust. Lab USA will be located on less than 5 acres with no significant space buffer to contain fugitive dust.

Conclusions

As can be seen in the previous discussions there are significant oversights and assumptions in the LAB USA Environmental Assessment Work Sheet. The problems with the EAW include

1. No discussion of the individual waste streams-specifically the properties of the **Concentrate(s)**
2. No clear statement regarding the actual volume of HAPS being processed.
3. No Hazardous Waste determination for the **Concentrate**
4. No discussion of LEAD or HAPS management in general including worker safety
5. Inadequate modeling for air permit determination
6. Erroneous Potential to Emit assumptions with the Eddy Current separator
7. Despite processing more than 2,000 lbs per day of LEAD, the EAW claims an amazing and unrealistic 99.99996% LEAD containment with no active controls and no monitoring

It is worthwhile to note the similarities between this EAW and the EAW supplied by Northern Metals. Both lack significant information. In the Northern Metals case, if a full Environmental Impact Study had been made as the MPCA wanted, many of the subsequent problems at the Northern Metals facility would have been avoided.

Because of the problems with the Lab USA EAW and their general lack of experience in North America (less than 1 year) and particularly in residential areas (none) a full Environmental Impact Statement should be required to accurately assess the Potential to Emit

specific citations, references and calculations are available upon request

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DEPARTMENT OF ADMINISTRATION
STATE ARCHAEOLOGIST

January 3, 2017

Kevin Kain
Resource Management and Assistance Division
Minnesota Pollution Control Agency
520 Lafayette Road North
St. Paul, MN 55155

RE: Lab USA's Ash Processing Project – Red Wing, Goodhue County

Dear Mr. Kain:

I appreciate being given the opportunity to comment on the above listed project. I have reviewed it pursuant to the Minnesota Field Archaeology Act (MS 138.31 - .41), the Private Cemeteries Act (MS 307.08), and the Minnesota Environmental Policy Act (MS 116D). Although there is no recorded archaeological site within the footprint of the proposed Ash Processing Facility, cemetery and archaeological site 21GD0042 is located adjacent to this parcel, and within the proposed laydown area and stormwater ponds. These burial grounds are protected under Minnesota Statutes 307.08, thus no earthmoving or construction activity (including driving heavy machinery) is permitted within site 21GD0042 without direct consultation with the Office of the State Archaeologist and the Minnesota Indian Affairs Council (MS 307.08, Subd. 10).

Sincerely,

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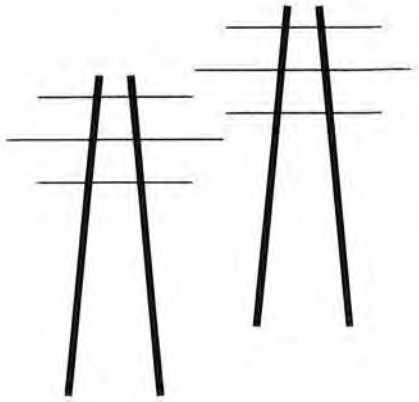

January 4, 2017

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RE: Comment of Tyler Hills Neighbors
Lab USA's Ash Processing Project – Red Wing

Dear Commissioner Stine, Mr. Kain, Ms. Nachtigal, and Mr. Aamodt:

Thank you for the opportunity to provide comments on the Environmental Assessment Worksheet for Lab USA's Ash Processing Project proposed for Red Wing. These are the comments and exhibits of the "Tyler Hills Neighbors" regarding the EAW, and include comments regarding the accuracy and completeness of information, potential impacts that warrant further investigation, and the need for an EIS. Comments and Petitions regarding the two Solid Waste Draft Permits, Xcel Energy SW-307 and Lab USA SW-670-001 are filed

separately and attached for your review. The EAW and Solid Waste Permits, together with the City of Red Wing Conditional Use Permit, and ash waste from Xcel Energy's French Island incinerator in La Crosse are inextricably linked.

The Tyler Hills Neighbors own property and live on Red Fox Drive and Cougar Court, directly south and west of the site of the proposed project:

As the above screenshot of the City of Red Wing Parcel Viewer demonstrates, there are five parcels contiguous to the site of the project. Tyler Hills Neighbors have legitimate concerns about the impacts of the project, particularly the potential for air emissions, release of toxic and hazardous materials into surface and ground water, noise of processing and operations, and reduction in property values due to the potential impacts of this project.

The novel nature of this "ash mining" process has led to omissions, lack of disclosure, and erroneous unfounded assumptions that mask the proposed facility's impact and Potential to Emit.

The Tyler Hills Neighbors have reviewed the EAW and the proposed project and have found that there is potential, and likelihood, of significant environmental impact. The level of review and analysis in the EAW is inadequate for this project, and there are many material issues that require further investigation. The Tyler Hills Neighbors request an Environmental Impact Statement be prepared for this project.

Categorization of EAW as "Discretionary" Proposer Initiated EAW

The Tyler Hills Neighbors have reviewed the EAW and the proposed project and have found that there is potential, and likelihood, of significant environmental impact. The level of review and analysis in the EAW is inadequate for this project, and the Tyler Hills Neighbors request an Environmental Impact Statement be prepared for this project.

Further, the EAW states that this EAW is a "Discretionary" proposer initiated EAW:

> The proposed combustor ash process facility does not trigger a mandatory requirement for the preparation and completion of an Environmental Assessment Worksheet (EAW), or an Environmental Impact Statement (EIS), as outlined in Minn.

> R. 4410.4300, subp. 17, however, Lab USA has elected to complete a discretionary EAW in conjunction with the application to obtain a solid waste permit.

EAW, p. 4. First, Minn. R. 4410.4300, subp. 17 addresses only mandatory EAWs and does not address need for an EIS. However, Minn. R. 4410, subp. 17 does address a facility receiving incinerator ash:

> G. For construction or expansion of a mixed municipal solid waste energy recovery facility ash landfill receiving ash from an incinerator that burns refuse-derived fuel or mixed municipal solid waste, the PCA is the RGU.

The EAW does not adequately explain why Minn. R. 4410, subp. 17(G) would not apply to the Lab USA facility, and why this project does not fall into the "Mandatory EAW" at the very least.

The Comment Periods for this EAW and Lab USA and NSP/Xcel – Red Wing Draft Solid Waste Permits must be extended – Information was first disclosed 12/30/2016!

Lab USA's Solid Waste Application and supporting documentation was not available through most of the noticed comment period – the Application was not made available until 12/13/2016, and it is not known if this was available to the general public. Because it was not available, a Data Practices Act Request was made on December 22, 2016 to obtain these documents from the MPCA. It is difficult to comment on the EAW and/or the Solid Waste permits without that background information. Failure to make these documents public at the outset is not in keeping with the Minnesota Environmental Policy Act and the state's commitment to promotion of public participation in permitting issues. Without the primary documents available for review, the Notice is ineffective. The MPCA's extension of the comment period to January 19, 2017, is greatly appreciated, but equity demands that it be extended until January 30, 2017.

In addition, the City of Red Wing's interests in this project clearly identified and disclosed. A copy of the leases, agreements, and economic costs and benefits should be incorporated into the EAW. The economics and financial aspects must be made public and available for comment.

At this time, the Tyler Hills Neighbors request that the comment period for both the Lab USA EAW and the Draft Permits of Lab USA (SW-670-001) and NSP/Xcel – Red Wing (SW-307) be extended until at least January 30, 2017, which is 30 days after the Lab USA Application and supporting documents were provided to this writer directly (12/30/2016), and request that the EAW and both the Lab USA and NSP/Xcel Draft Permits be renoticed for comment reflecting this comment period extension to January 30, 2017.

I. INFORMATION IN THE EAW IS INACCURATE AND/OR INCOMPLETE.

The EAW is missing a descriptor in paragraph 6.a., line 2, after "150,000" which is likely "tons" as reported further into the document. See also EAW p. 2, 6.b., l. 1.

The EAW reports that waste combustor ash sources "are the Xcel Energy Generating Plant and Xcel Energy Ash Landfill." See, e.g., EAW, p. 2, p. 5. This is not correct. An important newer

source of waste combustor ash is the Xcel Energy French Island incinerator, in La Crosse, Wisconsin. See Public Notice of Intent to Reissue, Solid Waste SW-307, p. 1, December 5, 2016. This is a material fact because the incinerator "fuel" at that location is roughly 50% used railroad ties, coated and soaked with creosote. Burning these ties releases emissions of dioxin and other toxic and hazardous materials, and creates waste combustor ash of a decidedly different character and higher concentration of toxic and hazardous materials than an incinerator burning municipal solid waste. The EAW must disclose that French Island is a source of waste combustor ash; the percentage of waste combustor ash past and present from City of Red Wing, Xcel Red Wing and Xcel French Island incinerators; the commencement date of acceptance of French Island combustor ash; the locations of that waste in the landfill; whether French Island ash waste is confined or isolated in a particular location in the landfill; and testing of French Island waste to determine composition.

In each instance where only Xcel's Red Wing incinerator is listed as a generating plant ash source, the EAW must also disclose and list Xcel's French Island incinerator as a contributor, a source of combustor ash.

The EAW states that the landfill contains "air quality control system residuals," fly ash, which by definition would be concentrated toxic and hazardous materials. EAW, p. 3. The composition and magnitude of these "residuals" must be disclosed, and potential impacts analyzed.

The EAW does not provide specifics on ash residual and/or leachate collector and removal system, and should.

The EAW states that "Stormwater will not contact combustor ash during off loading, loading or processing" which logically occurs inside the building. EAW, p. 3. However, logically, when excavating, loading, and transporting to the building, stormwater will contact combustor ash, and the EAW must address how contaminated stormwater will be treated.

The Permit Application includes this Lab USA (SEH) produced this map:

SEH Correspondence, 8/3/2016, Stormwater Pond Discharge Location, Figure 1. This map shows no connection between the proposed facility location and the "Discharge Location" and

does not address the flow via a culvert from the "Discharge Location" under CSAH 1 to a wetland east of CSAH 1. The EAW is inadequate because stormwater is not sufficiently addressed.

That same 8/3/2016 SEH narrative response to MPCA staff questions, regarding stormwater, also fails to disclose stormwater plans, and puts the onus on Red Wing for stormwater:

> ***Comment No. 6:*** *Design Report -Appendix E, and Sheet C300: When will the city finalize the design of the stormwater pond? Please submit this additional information when it is complete. Please update C300 to illustrate the path that the pond outfall will take until it reaches Bench Street (with topo lines). The report indicates that the pond will have a minimum volume that is greater than 1,800 cubic feet per acre drained, but it doesn't indicate what the design number is for the pond. Please provide the volume of the pond (i.e. cubic feet per acre drained).*
>
> > **Response:** The City of Red Wing has not finalized the design of their laydown area or the associated stormwater pond. A schedule for construction of the City's Laydown area hasn't been established. We will provide the stormwater basin design after the City completes their site and stormwater design and prior to construction of the transfer station. The discharge location for the pond is shown on the attached Figure 1.
> >
> > The final pond design will meet the City of Red Wing's MS4 Stormwater Permit requirements and provide rate control to ensure post-development runoff rates less than or equal to existing flows. The combined catchment area for both the Lab USA site that is defined in this permit and the adjacent City laydown area is approximately 7.8 acres; resulting in a pond sized at approximately 14,000 cubic feet.

This Comment and Response raise questions:

- Will the project's stormwater have an impact on rate control via the stormwater ponds?
- Will the rate control provide adequate mitigation?
- Is stormwater plan (as yet unknown!) and removal of water from site sufficient to preserve groundwater recharge?
- How will increased sedimentation due to runoff increase filling of stormwater ponds?

The EAW should address whether rate control is sufficient, and should discuss use of a higher standard of rate control.

The EAW states that "The Process Building is designed so that any excess water in the combustor ash will be collected and treated as wastewater through the City wastewater treatment facility (WWTF). EAW, p. 3, pps. 11-12. There is no information provided on the impact, specifically on the quantity, of wastewater from this project on the WWTF.

The EAW states that process water and water used to wash off equipment will be within the building, to be collected and removed, but the amounts of water expected is not specific, and the itemized water quantities from each source are not stated, nor is there basis for any determination of quantity provided in the EAW. See, e.g., EAW p. 3,

Again, process wastewater treatment is not adequately addressed in the EAW, which raises questions:

- Is there a design basis for treatment of this waste at the City WWTF?
- Typically industrial wastewater requires pretreatment before release into the City system

– is this anticipated?
- Often industrial wastewater is treated separately – is this anticipated?
- What is the factual basis to believe that this combustor ash wastewater can be released directly into the City system and that treatment at the City WWTF would be sufficient?
- Will the volume of project discharges increase the volume of discharges from the WWTF, and/or affect its removal efficiency?

As above, the EAW is inadequate because the project's storm water, and waste water collection or removal is not specifically addressed.

The EAW addresses the ash transport process including excavation, loading, and offloading in the processing plant, loading of processed ash, and returning it to the landfill. EAW, p. 3. With each disturbance of the waste combustor ash, there is the opportunity for dispersion of dust, liquid, and gas. The EAW does not address these many opportunities for release.

The EAW specifies use of "off road trucks." This implies use of trucks that are not compliant with USDOT standards. The specifics should be addressed, including whether they will use low sulfur fuel, whether there are policy and/or regulatory idling limits, size of engines and muffler/convertor specifications, noise levels and air emissions from the "off road" trucks. See p. 5, p. 19.

The EAW notes that Xcel generated ash will be brought directly to the Process building, and then returned to the Xcel ash pit. EAW, p. 4. However, it does not specify if this relates to the Red Wing Xcel incinerator, the French Island incinerator, or both. It appears that this is to be a "real time" delivery, but if so, it should be specified.

The EAW states that "The tipping floor and loading area has sufficient storage capacity for delivered ash to manage weekend and holiday schedules." EAW, p. 4. It is not clear what this means, i.e., whether this means there is sufficient room when processor is not operating to store the real time deliveries, The EAW should clarify.

The EAW notes that trucks will unload under cover, inside the building. While this is nominally better for dust containment and noise, this can create a safety hazard and logistics nightmare, as both "off road" and trucks hauling from the incinerators will be unloading. EAW, p. 4. Experience at SKB in Rosemount has proven that outside unloading is recommended because trucks can tip over if the load is frozen, which is possible in trips from the Xcel Red Wing or French Island in cold weather:

> SKB and Gem-Ash have stated that the dumping of the waste outdoor is safer than dumping indoor because trucks have tipped over when dumping of the waste is partially frozen. If part of the waste is frozen to the side of the trailer the truck can become unbalanced and potentially tip on its side. A truck tipping inside could be less safe and it is easier to return a truck to its wheels with a crane or tow truck when it is outdoors.

Exhibit A, Rosemount City Council packet 6/17/2014, p. 3.

The EAW should address this "truck tipping" issue and impact on choice of unloading area inside the building, and plan for truck tipping event, because, as noted in the SKB Gem-Ash documents, it will be difficult to right the truck inside a building!

The EAW notes that "Detailed operation procedures of the processing equipment will be established during the final design, installation, and initial operations of the Processing Building..." and then lists "general processing operations." EAW, p. 4. This is insufficient, not credible, and indicative of a lack of planning. The EAW must be more specific.

The section labeled "Project magnitude" considers only the physical size of the project, with not a word about excavating, loading and unloading, moving to the Process Building and back of the 150,000 tons of ash planned to be processed, or the toxic and hazardous chemicals contained in that ash and its dust, leachate, and residue. EAW, p. 4. This is misleading and must be corrected.

At the bottom of page 4, paragraph 6(d) the EAW Questionnaire states "Explain the project purpose; if the project will be carried out by a governmental unit, explain the need for the project and identify its beneficiaries." It is unclear in the EAW whether the City of Red Wing is participating in this project, and if so, how it is participating. The EAW must address Red Wing's role and identify the City of Red Wing's interests in this project.

It is clear is that this would not be "a project" but for the City's participation. The Lab USA project has been couched as "a joint partnership between the City, Xcel Energy, and Lab USA."[1] The city has many potential roles:

- The City of Red Wing changed "conditional uses" of the land in question to allow for the Lab USA project at the proposed site.
- The City of Red Wing has authorized a City Laydown Yard and crushing operation to be constructed and operated on Lot 1.
- The City of Red Wing staff characterized the Lab USA project as being similar to a Public Works Storage yard in effort to fit project in zone where the use would not otherwise be allowed.
- The City's Planning Commission has yet to make a recommendation
- The City of Red Wing could gain or lose money, depending on participation:
    - Red Wing has authorized and executed a lease with Xcel Energy for Lots 1 and 2, ostensibly to turn around and lease to Lab USA for the combustor ash project that is the subject of this Draft Solid Waste Permit.
    - Red Wing would/will pay Xcel under the terms of the executed lease.
    - Red Wing would/will receive lease revenue from Lab USA.
    - If participating, Red Wing would receive revenues from Lab USA for tipping fees and metal recovery if the City Dump is mined.
- Upon information and belief, the lease between the City of Red Wing and Lab USA has yet to be executed.
- It has been stated that Red Wing "would be an add-on" to the Lab USA project, and that the city would have one year's worth of its city incinerator waste processed by Lab USA,

[1] Minutes, p. 1, Red Wing City Council Workshop, November 9, 2015.

and conversely, at a recent public meeting, it was stated that the City of Red Wing would not participate directly in the project, that it's incinerator ash would not be processed, due to time constraints.

As above, the details of the City's role and interests must be fully and clearly disclosed, together with the City's costs and revenue, and the City's financial and other interests in this project clearly identified and disclosed. A copy of the leases, agreements, and economic costs and benefits should be incorporated into the EAW.

The EAW requests information on stages of development, relationship(s) between this Lab USA project and others, development of other property, etc., and the response is inadequate. EAW, p. 5. This Lab USA project that's the subject of this EAW, is a phased and connected action, with past, present, and future relationships to other projects, specifically including but not limited to the Red Wing Laydown Yard in Lot 1; the Red Wing Crusher (which is also the subject of the sound study, EAW Appendix C); the closure of the Goodhue County/Red Wing landfill, the Red Wing stormwater pond to be designed and built in conjunction with this Lab USA project; the lease of Xcel Energy land by the City of Red Wing for this project; the continued burning of garbage at Xcel Energy's Red Wing incinerator; the continued burning of garbage at Xcel Energy's French Island incinerator in La Crosse; the securing of Xcel Energy Renewable Development Fund money for a garbage grinder (PUC Docket 12-1278) by the City of Red Wing; the shutdown and planned decommissioning of the City of Red Wing incinerator, etc. The response of the EAW is inadequate and misleading in its omissions. EAW, p. 5.

In the description of "Cover Types," the chart in the EAW should note that the addition of 0.3 acres of drainage ditch is a detrimental impact, and more clearly indicate that "stormwater ponds" are not included in consideration of cover types. Table, EAW, p. 5. It should also be clearer that adding 1.9 acres of impervious surface is taking up more than half of the 3.4 acres of the project site. Id.

The EAW notes that stormwater detention ponds "will be developed" but these plans are not but should be part of the EAW both because of the need for them to provide stormwater management. EAW, p. 5.

The EAW notes that 1.9 acres of crop land will be lost. The EAW should identify the monetary value of this economic activity, the lease value, the crop value, and include that loss of economic activity in the balance of impacts. Table, EAW, p. 5.

On the following page, under "Land Use," the EAW notes that Xcel will not continue to lease the farmland. That means that the table of "Cover Types" should reflect an "After" for "Cropland" of "0." Again, in the narrative, the EAW should note that this is designated as "prime farmland," and identify the monetary value of this loss of cropland, loss of economic activity, the lease value, the crop value, and include that loss of economic activity in the balance of impacts. Table, EAW, p. 5.

In the description of "Cover Types," the EAW should list the scenic easement specifically and the trees expected to provide a buffer between the project and the residents of Tyler Hills

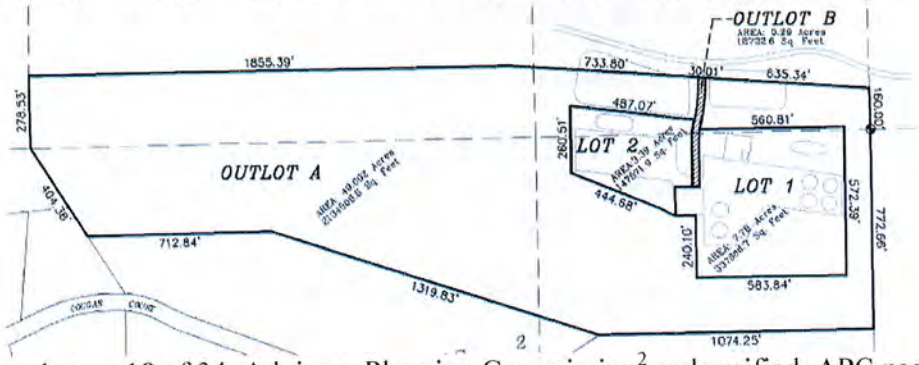
subdivision, whether they will be cut or remain, whether additional trees will be planted, whether coniferous trees would be planted. EAW, p. 5; see also attached Exhibit B, Scenic Easement.

Noteworthy, in light of this scenic easement and undeveloped land below Tyler Hills, is a statement by city officials that the original platting of Tyler Hills was dependent on the buffer of the outlots, now "Lots 1 and 2," between the landfill and residential development:

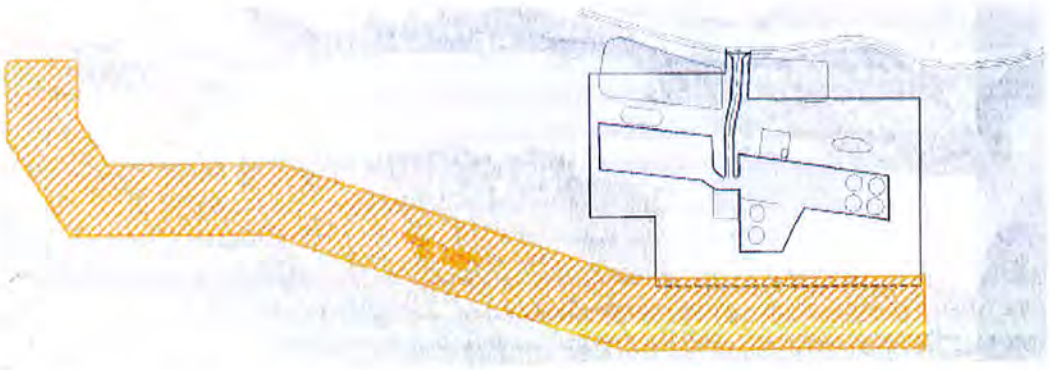
> The Tyler Hills development was platted by the City with the understanding by the City that landfill developments were located below the development and that there was adequate undevelopable land to buffer from the land uses that are accessed off of Bench Street.

Exhibit C, Memo of Tina Folch, p. 2-3, Sustainability Commission to Red Wing City Council, for April 25, 2016 meeting. This project is contrary to the "understanding" of an intentional buffer for the Tyler Hills development, and would remove that protective buffer from land uses off of Bench Street (landfill and solid waste operations). The EAW should recognize this protective intent and address this sleight of hand in the attempts to develop this buffer with industrial land uses.

From the City's documents, it appears that the City's Lot 1 development encroaches on the scenic easement (772.66 feet minus 572.30 feet is less than 250 feet for the scenic easement):



3/15/2016 packet, p. 18 of 34, Advisory Planning Commission[2] and verified, APC packet, p. 21:



Id., p. 21 of 3/15/2016 APC packet. The EAW notes in the chart of permits required that a utility

[2] Red Wing APC 3/15/2016 packet online: http://lf.ci.red-wing.mn.us/WebLink8/DocView.aspx?id=108731&dbid=0

permit is required on the City Right of Way. The table of "Cover Types" should include "utility easement" if it is above ground easements or ground disturbance at issue, and the narrative should include the location, cost and impacts of additional utility infrastructure. Or ground

In the narrative regarding land use, the questionnaire requests a description of land use of the site "as well as areas adjacent to and near the site." In this section of three paragraphs, there is no mention of the adjacent, contiguous and nearby residential development and use. EAW, p. 6. The EAW must be corrected.

The EAW does not address the impact this impairment and/or compromise of the scenic easement and whether it will have an impact on landowners' use and enjoyment of their land in Tyler Hills subdivision. The EAW must be supplemented to address the scenic easement and buffer of undevelopable land that is planned to be used for this project.

In the EAW section regarding land use plans, the narrative mentions "higher density residential" but makes no mention of the low density, large lot, higher income development begun and continuing adjacent and contiguous to the south and southwest, and newer moderate income townhome development to the north adjacent and contiguous to the Xcel landfill. EAW, p. 7. The EAW must be corrected to show the new developments surrounding this project area.

The EAW states that at the end of the lease, "the City will use the Project Site for public work activities." EAW, p. 7. The EAW should disclose the value to the City of the project building and any outbuildings and equipment and any demolition and/or clean-up costs. The EAW should also make note of any required decommissioning fund or lack thereof.

The City of Red Wing has claimed a benefit in taking possession of the Lab USA process building at the expiration of the term of the lease. However, Red Wing is leasing the land, and is not an owner. Further, SEH states that Xcel Energy will become the owner:

- The property leasing agreement indicates that ownership of the building will convert to Xcel Energy upon closure.

See SEH Correspondence to MPCA, p. 4, August 3, 2016. Considering the conflict of opinions of building ownership post-lease, the EAW must clarify the fate of the Lab USA process building upon the end of the term of the lease.

The EAW has a discussion of "nearby land uses, zoning, and plans," and claims that this property is zoned "Agriculture Residential," and that the project use is a "Conditional Use." EAW, p. 7. The EAW should note that the City Council never changed the zoning to allow the "Conditional Use," for a Waste Transfer Facility. This is inaccurately addressed in the EAW

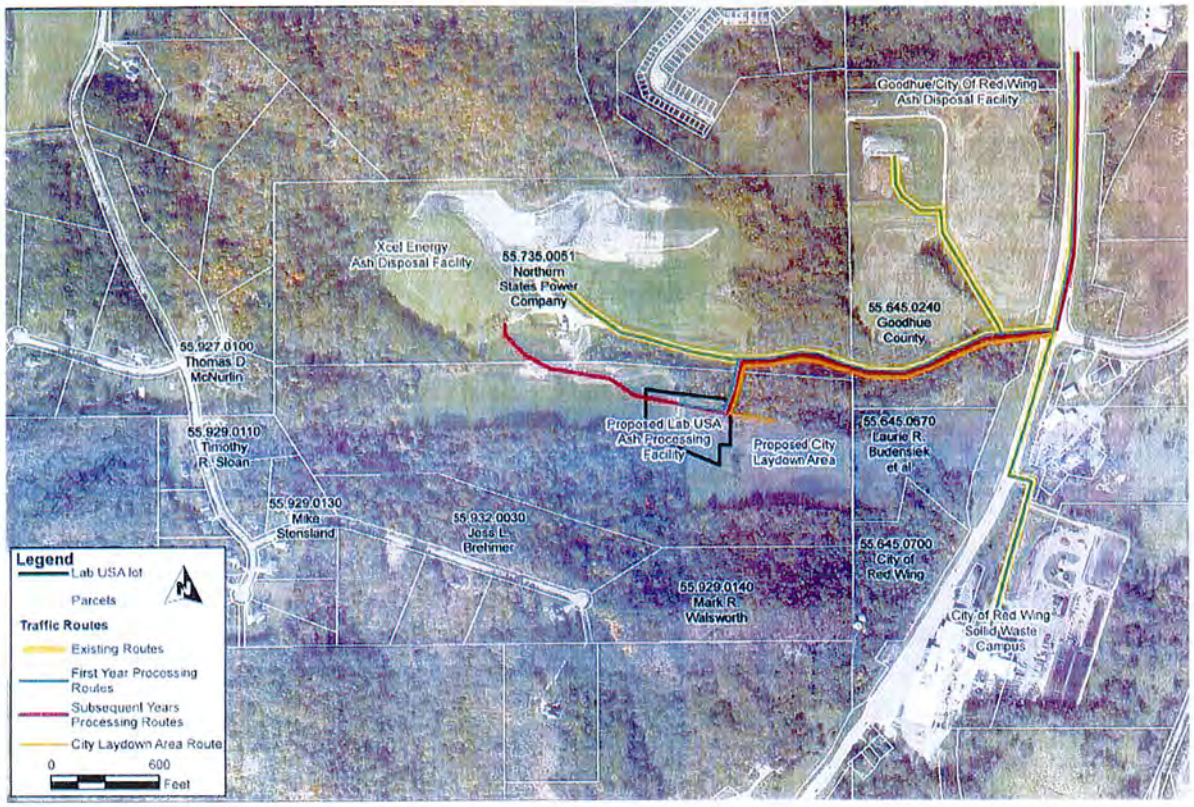
The original platting of Tyler Hills, which was dependent on both the scenic easement and "undevelopable" buffer of the outlots, now "Lots 1 and 2," between the landfill and residential development:

> The Tyler Hills development was platted by the City with the understanding by the City that landfill developments were located below the development and that

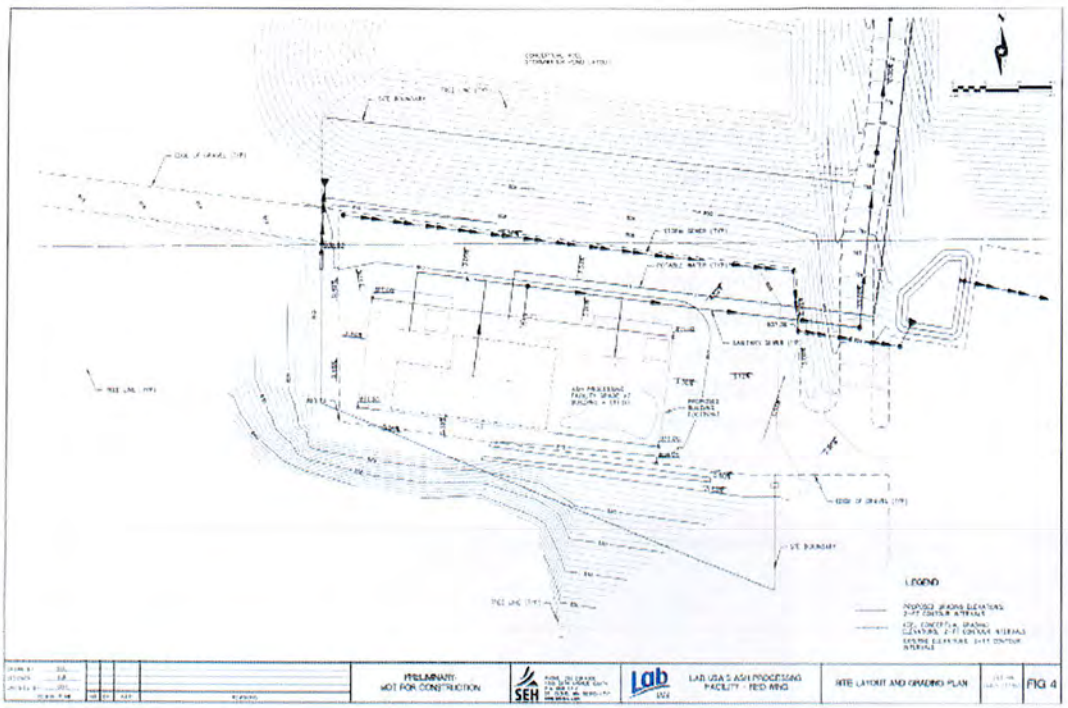
there was adequate undevelopable land to buffer from the land uses that are accessed off of Bench Street.

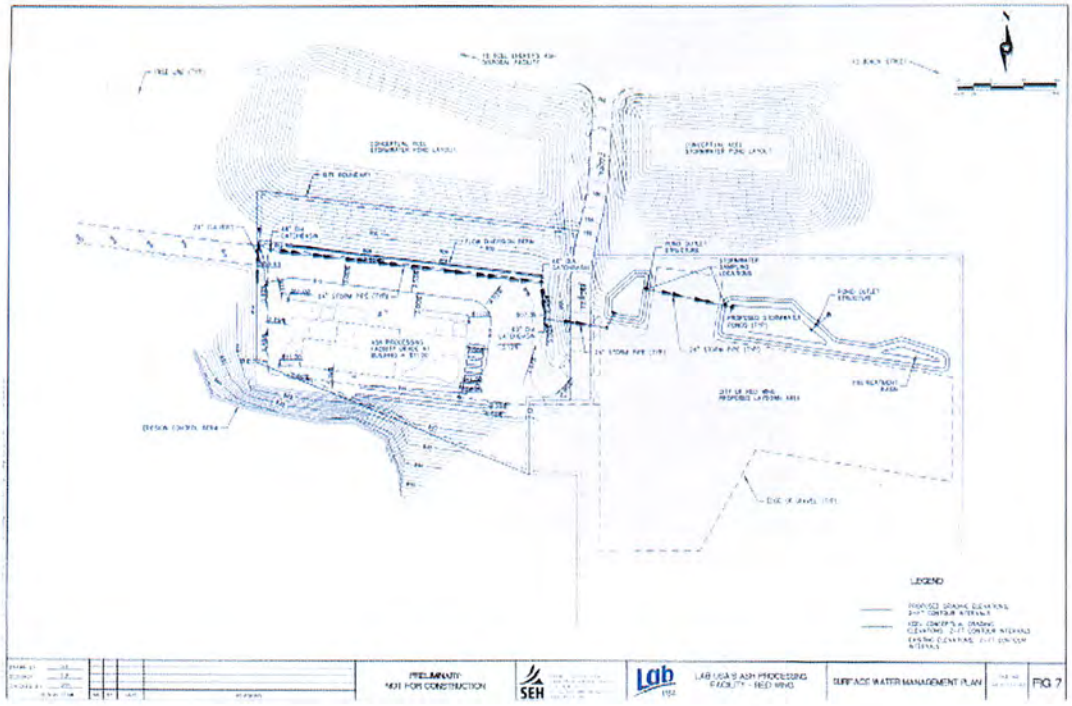
Exhibit C, Memo of Tina Folch, p. 2-3, Sustainability Commission to Red Wing City Council, for April 25, 2016 meeting. This declaration of "Conditional Use" removes the buffer, and the EAW should clearly disclose this change and its impact.

In discussing "nearby land uses, zoning, and plans," the EAW minimizes the relationship of the project site to the Tyler Hills development, stating that "the nearest home… is approximately 1400 feet from the proposed development." The Tyler Hills development is contiguous to the Outlot A, and the property lines go right to the edge of the bluff. It also states that the nearest residential site in Rivers Ridge development to the north is 1700 feet distant. Id. The EAW should include a map showing the surrounding residential areas, e.g., EAW Traffic, Figure 18:



On the other hand, the EAW also contains information regarding stormwater collection and handling that is very different than these depictions. For example, in the EAW, Figure 4 and Figure 7 show piping to various locations, and proposed locations for stormwater ponds that are not near the "Discharge Location" shown on the map above:





See EAW, Figures 4 and 7. These differences should be clarified.

The Figures above label the stormwater ponds as "Xcel" stormwater ponds, yet the EAW states that Red Wing is to supply the plan and construct the stormwater ponds. This difference must be reconciled in the EAW.

The EAW claims that project incompatibility with land uses would be mitigated by positioning of the doorways of the building to fact north, and that forested areas to the south would be maintained. EAW, p. 8. The EAW should address how this claimed "mitigation" is sufficient.

The EAW notes that there is a 250 foot scenic easement, but as above, the City's Lot 1 encroaches on the scenic easement. EAW, p. 8. Will the scenic easement be preserved if the project is constructed and operated as planned, or will the project encroach on this easement?

The Lab USA processing building is planned to be 40 feet tall. The EAW must disclose:

- How tall are the trees within the scenic easement that are to provide a buffer between the Tyler Hills subdivision and the landfill?
- Will the scenic easement provide a visual buffer for a 40 foot tall building?
- Will additional coniferous trees be planted to provide year-round buffer?

It is not plausible that the scenic easement will provide sufficient visual buffer. The EAW must address the relative heights and visual characteristics of the project in relation to the Tyler Hills elevation.

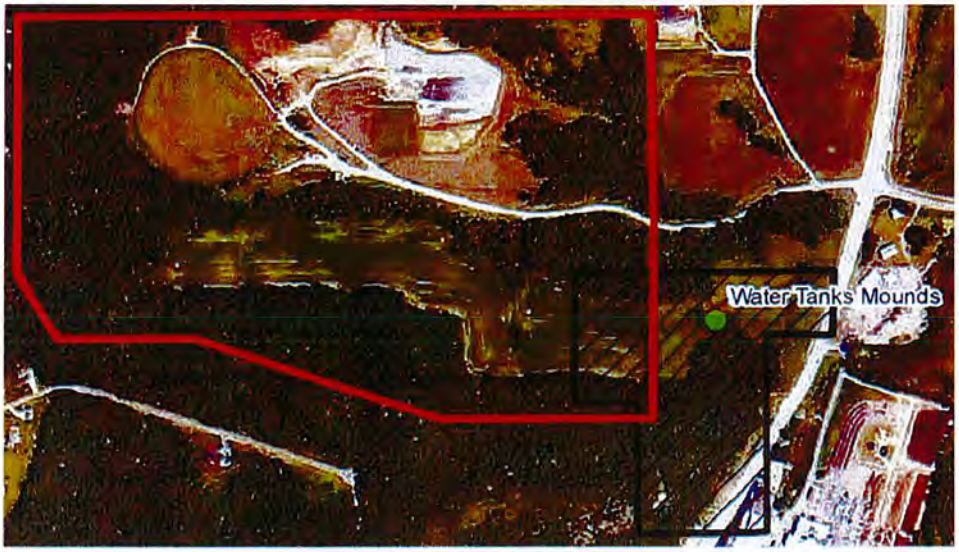
The EAW and Permit Application state that the plan is for 100,000-150,000 tons of combustor waste ash to be processed. EAW, pps. 2, 3, 15. Based on the tonnage of ash to be processed, containing the available amounts itemized below, the projected emissions are not reasonable. On review by one of the Tyler Hills Neighbors, based on the proposer's total projected tonnage to be processed and the assay provided in the EAW, the following amounts of hazardous air pollutants (HAPS) will be available for extraction, return to the landfill, and/or emissions – this amount of potential HAPS emissions requires analysis available only through a full Environmental Impact Statement:

Material	CAS#	lbs./year
Arsenic	7440-38-2	6,000
Cadmium	7440-43-9	8,400
Chrome	7440-47-3	51,900
Lead	7439-92-9	518,100
Manganese	7439-96-5	155,700
Mercury	7439-97-6	600
Nickel	7440-02-0	24,600
Selenium	7782-39-2	1,500
		766,800 lbs/year Potential HAPS

The EAW provides no information regarding the composition of concentrated and stripped ash in the various stages of processing.

Appendix B of the EAW lists information regarding Cultural Resources. This information is outdated, from 1991 and 2011, and most recently, from September, 2015, which states:

The City had previously considered development that would take place within the boundary of the mound group as it was mapped by T.H. Lewis in 1887[1]. Following coordination between the City and the Office of the State Archaeologist (OSA), a setback that is between 75' and 50' of the estimated location of Mound 23 (see **Figures 2** & **3**) was accepted as a provisional cemetery boundary. The provisional cemetery boundary has been staked by City surveyors and it will be avoided by the proposed development.



Appendix B of the EAW, above, includes Figure 14 reflects an area known as the "Water Tank Mounds" which is within the red outlined "Subject Property." The EAW should address this encroachment and whether the "Subject Property" outlined is suitable for development. Appendix B must be updated for the EAW.

The EAW discusses Bedrock Geology, p. 8-9, and soil borings of March 2016, and reports that 9 of 11 soil boring. The results of the remaining two soil borings are not reported. The EAW must report the results of all of the soil borings.

The EAW reports that currently stormwater is drained off site into a culvert, across CSAH 1 to a wetland area to the east. EAW, p. 10. The site is currently entirely pervious surface, and with construction of the project, will be primarily impervious. The EIS must more thoroughly address the impacts of increased stormwater runoff, and impact of tracking ash and other landfill detritus by trucks and other vehicles, of deposition of process ash on the site's impervious surface, and any change in composition of surface runoff and impacts on the adjacent wetland. The EAW should also address whether surface water run-off from the project site requires treatment prior to release to the wetland.

The EAW notes that groundwater is found at depths of 12-24.5 feet at the project site prior to construction, and 10-30 feet below the surface following construction.. EAW, p. 10. These levels are very close to the surface. The EAW must address groundwater monitoring and why the project's reliance on Xcel Energy landfill monitoring is sufficient.

The EAW notes that "the City of Red Wing has determined that the liquid ash wastewater " ..."is

not considered a significant industrial wastewater in volume or type." EAW, p. 12. The EAW also notes that in addition to restroom facilities, water will be used for dust control and processing (EAW, p. 13), that ash will have a 22-29% moisture content, that ash will have added liquid/moisture at the Generating Plant(s) or precipitation, and that water will be used for cleaning of equipment and the building's concrete floor (Id.) Given the amount of water inherent in operations, the volume and type of wastewater should be identified, and the basis for this statement must be disclosed and addressed in the EAW.

As above, the Proposer's claim of "No Exposure" under NPDES/SDS permitting should be vetted and explained in the EAW. See EAW, p. 12.

Based on the above statement, "the Process Building would not be a significant industrial discharger and a pretreatment permit would not be required." EAW, p. 12. The EAW also states that "The Process Building is designed so that any excess water in the combustor ash will be collected and treated as wastewater through the City WWTF. EAW, p. 15. The EAW must describe in detail the City's WWTF's design and ability to treat combustor waste runoff.

The EAW states that "The Proposer does not need a water appropriation permit for the project." EAW, p. 13. Given the process requirements for water, for processing, cleaning of equipment, and dust, in addition to restroom facilities, it is not clear that a water appropriation permit is not necessary for this project. The source and volume of water to be used should be itemized in the EAW to support this determination.

The EAW states that "the Project does not require groundwater monitoring." EAW, p. 14. There is no inclusion of a liner to protect groundwater in the project design and the EAW does not mention a liner under the project nor does it explain why one is not needed to protect groundwater.

The EAW notes that, "The MPCA's database did not identify any other environmental sites in the vicinity of the Project Site." EAW, p. 14. The EAW should define what an "environmental" site is, nor does it define "vicinity."

In discussing surface waters, the EAW map and narrative notes only the drainage ditch north of the project site, into a culvert, to a wetland on the east of CSAH 1. EAW, p. 14. This section of the EAW should address whether use of an open drainage ditch into a wetland is appropriate for untreated stormwater runoff from this site where combustor ash is loaded and unloaded, tracked by trucks and equipment, blown by wind, and processed.

The EAW states that "In addition, the Proposer has designed the Project to completely enclose the processing equipment for metals recovery within the Process Building." EAW, p. 14. This is misleading, because dispersion of dust and particulate matter occurs not only in processing, but in excavating, loading, transporting, off-loading, and loading for processing, then during processing, and then loading into ash pile/containers, and loading for removal from facility, in transport to destination, offloading, and depositing into landfill or into pile for shipment to recycler. The EAW must be revised to reflect the open nature of the building and many steps where contamination through dispersion may occur.

The EAW reports that "Xcel Energy has reported their landfill has had some influence to groundwater chemistry..." EAW, p. 14-15. It further reports that "Portions of the County/City Landfill have required remedial action." Id. This means that contamination has already occurred. This project is adding to the contamination, and cumulative impacts must be addressed in the EAW and details of the past contamination and remediation must be provided. Where prior reported contamination is an issue (EAW, p. 14-15), the EAW must address mitigation of this already existing problem, how this project will not add to the already existing contamination and pollution, permit conditions to assure contamination will not be increased or dispersed, and how this project can remediate the pre-existing contamination. If this additional project and all the connected projects will do nothing to remediate the problems already existing, the project should not be permitted.

The EAW provides information about the DNR's comments regarding Xcel's landfill expansion, and the potential for rare features on the site, including documented Bladder Pod at the landfill site. EAW, p. 17. This information should be updated for the project in and near the proposed site, not in relation to the landfill or based on landfill information and/or inventory. It is easy enough to survey the site in question.

The EAW addresses the Xcel landfill, but it does not state whether or not Bladder pod or any other rare feature is found in the area to be excavated for the proposed project. The EAW must address whether this and/or any other rare feature are in the area to be excavated, with the DNR review and comments incorporated into the EAW.

The EAW addresses scenic views and vistas. EAW p. 18. The EAW must be more specific in its information on impacts of vistas and views.

The EAW specifically states "The proposer's construction and operation of the Project would not significantly modify existing land use." EAW, p. 18. This is a false statement. The EAW must not include this sentence.

The EAW section on "Visual" is misleading because the land in question was to be "undeveloped" and provide a buffer between the Tyler Hills subdivision and the landfill. EAW, p. 18. Building and operating this project, developing this land, would represent a significant change.

The EAW also confirms the 250 foot conservation easement but conflicts with the Red Wing CUP Permit application that states that trees will be cut. EAW, p. 18.

The EAW is also misleading because it states that "All processing activities including offloading and loading of trucks occurs inside the Process Building." EAW, p. 18. This sentence is misleading by omission as it does not address "operational" activities, such as excavating, loading, truck trips to and from landfill, and truck trips to and from Red Wing and French Island incinerators – not all project activities occur within the building.

The Daryl Heaps noise study for the Red Wing crusher, included in the Lab USA EAW as Appendix C, is inapplicable to the Lab USA project, because it is one noise source, but not the

noise source in question, and this information should only be utilized as a consideration as a connected action with cumulative impact to the instant project.

The EAW, and the MPCA's "determination letter" of November 28, 2016, does not address the potential for releases to the air. EAW, p. 19-20. Releases to the air can, and would likely occur, through processing or project operations, due to open air excavation, loading, transport, and back to the landfill loading, transport and unloading, and processing (loading into process equipment, processing, and dumping post processing) in an open building, with openings without doors and with "ventilation openings at the top of the east and west walls." See EAW, p. 3. "Ventilation" is release of whatever is inside to the air outside, and a design with ventilation openings means that something inside is hazardous in some way if confined inside the building.

The EAW is silent regarding any pollution control equipment, filters, air quality systems, and there is nothing shown in the building drawings. EAW, p. 3, 18-19, and Figures. This project requires pollution control equipment to address the process operational releases inside the building.

The EAW uses a "trucks per day" which is not the same as the typical consideration of "trips per day." EAW, p. 19. This must be corrected. One "off road" truck can make many trips back and forth within the landfill to the process building, and other trucks can make many trips back and forth to the Red Wing incinerator and a couple trips back and forth to the La Crosse incinerator. The EAW must express truck use with a "trips per day" allocation.

- 20 trucks per day to the landfill implies 40 trips (or more). Id.
- The 20 trucks at 40 trips per day are presumably off road, but this needs verification.
- 3 trucks to remove roll-offs implies 6 trips (or more). Id.
- 15 additional trucks per day during construction implies 30 trips (or more) and likely the 20 and the 3 trucks above will not be running during construction. Id.
- It appears that there will be at least 40 trips for offroad trucks when operational.
- It appears that there will be at least 6 trips per day to Red Wing incinerator and it should be clarified if these trucks are operating now to and from landfill.
- It is unknown how many trips to and from La Crosse are occurring now, how many when project is operational.
- It appears there will be at least 30 trips per day during construction, but many of these trucks could be making more than two trips daily.

The EAW notes that trucks idling would cause temporary periods of idling emissions. EAW, p. 19. There is no excuse for idling trucks at any time. Trucks should always be turned off when not rolling or when engine is not needed to power offloading.

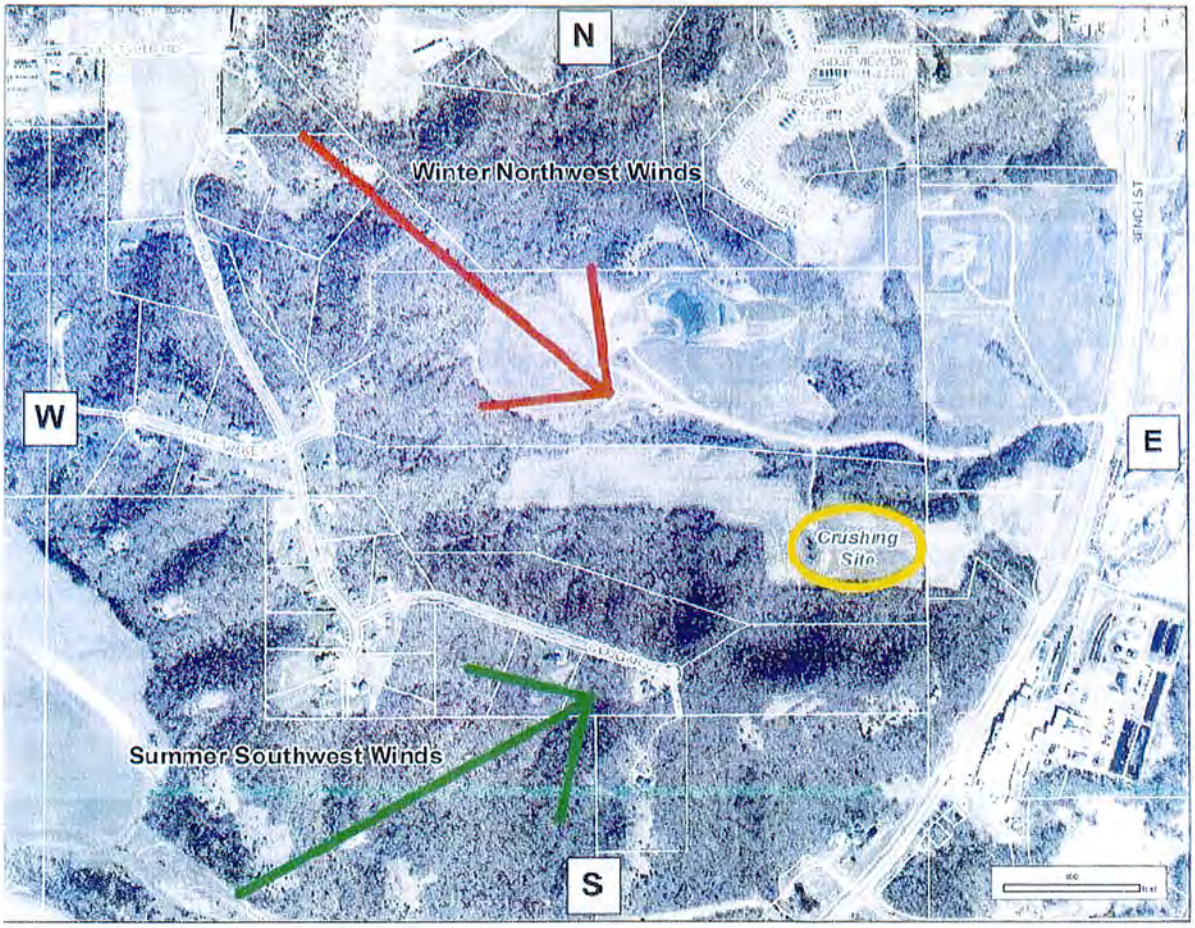
The EAW notes potential for "road dust." EAW, p. 19. This "road dust" is not everyday "dirt" but is landfill excavation detritus, which is being released into the atmosphere as dust, and/or tracked around the landfill, into the impervious surface area surrounding the process building, onto the floors of the unloading area. Much combustor ash will be distributed this way. The EAW must address this dust.

The EAW states that "combustor ash is not considered a dust source. EAW, p. 19. Provide citation. If combustor ash is not considered a dust source, what is it considered as? Hazardous material? Hazardous particulate matter emissions? The EAW should explain how these dust emissions are considered.

The EAW improperly minimizes potential for release into the air, stating that "... activities will occur inside the Process Building." EAW, p. 19. Again, this is not a contained building and there is no pollution control equipment planned. The building is OPEN, with large 25' x 25' open holes in the building and ventilation openings on the east and west sides.

The EAW states that "[t]here is no definitive research that specifies a threshold moisture content as which exposed dried ash becomes susceptible to wind erosion..." EAW, p. 19. First, this ash is not necessarily dried ash in large "self-cementing" clumps. See EAW, p. 20. This ash is to be excavated, loaded, transported, off loaded, processed, piled, loaded again, transported again, and dumped again into the landfill. There are many opportunities for dispersion into the atmosphere. The EAW must address this.

The EAW does not address the prevailing winds. Red Wing documents show that wind from the NW in the winter and SW in the summer, and potential impacts downwind:

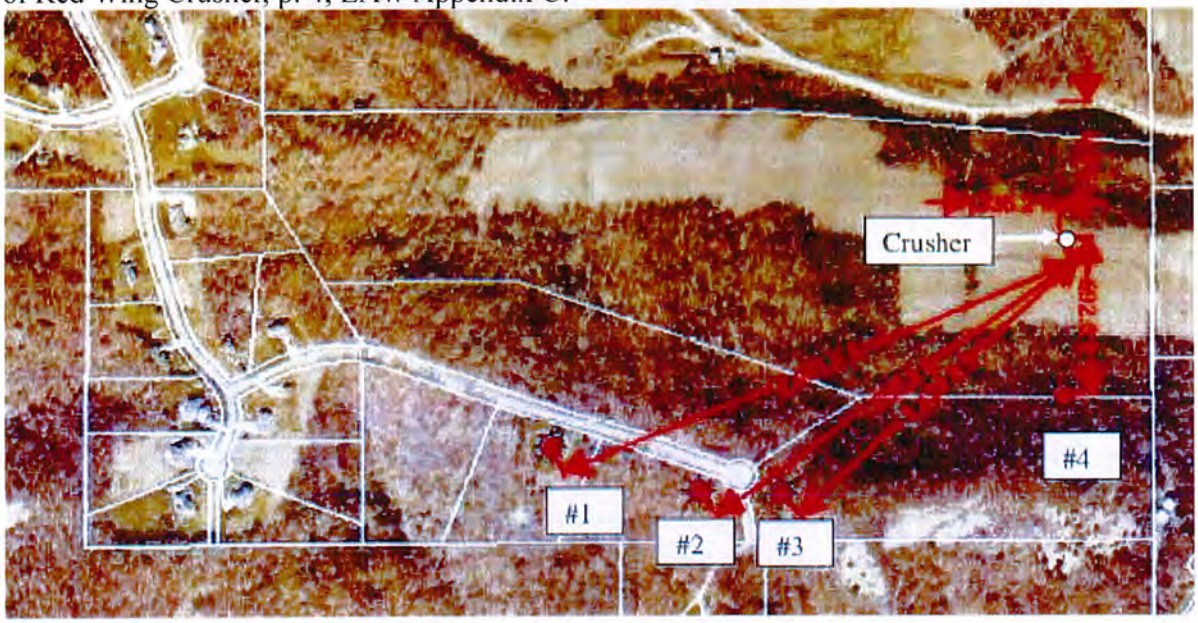


The EAW does not adequately address wind. A wind rose should be incorporated into the EAW.

The EAW notes various wind speeds at which dispersion is likely at various moisture contents. There is nothing in the EAW regarding covering of trucks. The trucks will be moving at what speed in what wind speeds? The EAW must take these factors into consideration. The EAW must address this.

When loading and unloading, the ash is literally falling through the air, and it is highly likely there will be dispersion of particulate matter into the air. The EAW must address this.

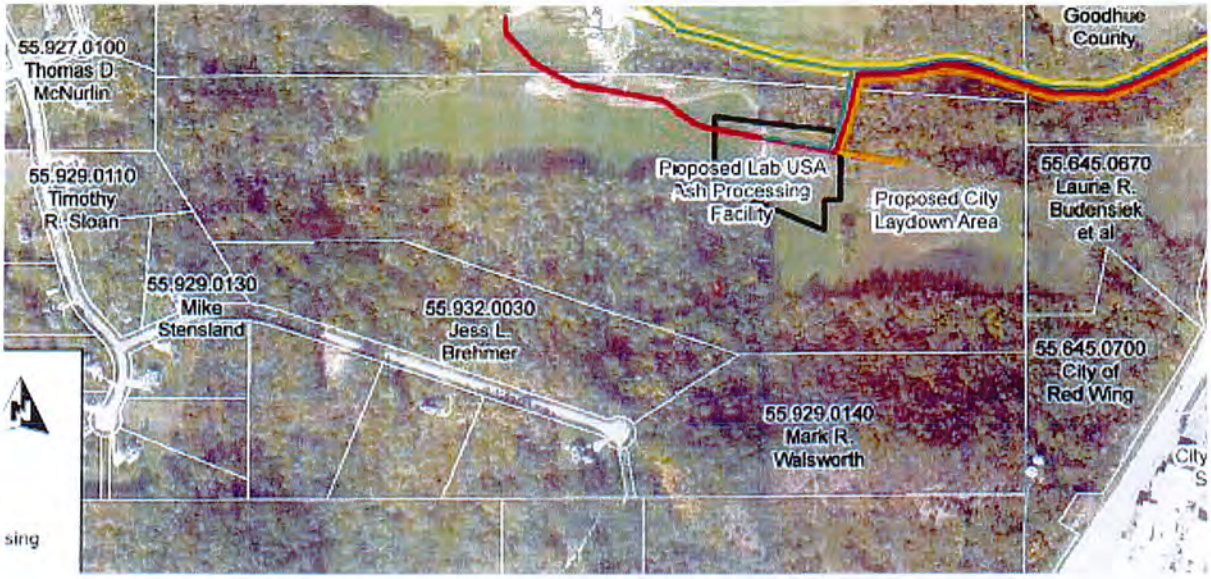
The Red Wing crusher noise study is also inapplicable because the sound measurements are not compliant with the MPCA's noise methodology. Measurements and modeling must be taken or modeled at the source, and at the "point of human activity which is nearest to the noise source." See Minn. R. 7030.0060 MEASUREMENT METHODOLOGY. See map, Daryl Heaps on City of Red Wing Crusher, p. 4, EAW Appendix C:



The Red Wing crusher is located to the east of the proposed Lab USA facility, the point used for modeling was the furthest east of that lot. Aerial map, EAW Appendix C. Using a central Lab USA location would significantly lessen the distance to the homes labeled #1, #2 and #3, and logically, the modeling results would also be significantly different. Using the "where human activity occurs" standard of the rule, the parcel to the north of Cougar Court and at the end, #4, are significantly closer than the Heaps map indicates.

The maps of the site, when compared with the crusher noise modeling map, EAW Appendix C, graphically demonstrates that the crusher modeling is inapplicable to this project except as consideration of the addition of the crusher to expected noise levels, a cumulative impact of these connected projects, and demonstrate that modeling of this specific Lab USA project, including the crusher project, is necessary. The siting of the two projects, as shown below, reflects the Lab

USA project's position closer than the City Laydown yard, in relation to the surrounding neighbors:



Another reason the EAW Appendix C noise modeling for the crusher is inadequate and inapplicable to the Lab USA project is that much of the noise expected with this project is impulsive noise, that of trucks unloading, banging and clanging, loaders banging into trucks and the floor, etc.. The noise standard found in Minn. R. 7030 is for continuous noise, not impulsive noise, and there is no impulsive noise standard protecting nearby residents.

Yet another reason the EAW Appendix C crusher noise modeling is inadequate is that much of the noise expected with this Lab USA project is low frequency noise, and very low frequency noise (infrasound). Low frequency sound travels further because of the large wavelength that is the nature of low frequency sound waves. Of particular interest are the lower frequencies in Heaps' report (p. 2), where it starts with high sound levels at low (frequencies below 31Hz should be modeled) and the sound level increases to125 Hz, and then decreases:

Freq (Hz)	100 ft	200 ft
31	78	72
63	81	75
125	87	81
250	83	77
500	81	75
1000	83	77
2000	73	67
4000	75	69
8000	66	60
16000	60	54
dBA	85	79
Red Wing	81	75

The EAW is inadequate, and the Appendix C crusher sound modeling is inadequate because it does not model very low frequencies. Infrasound, levels at very low (frequencies below 31Hz should be modeled), specifically, C weighted modeling should be used.

The noise standard found in Minn. R. 7030 does not include standards for infrasound, noise of such low frequency it is often felt, not heard. There is no infrasound noise standard, no regulation protecting nearby residents. This omission in the MPCA rules is a common issue regarding wind turbine noise,[3] and of which the MPCA staff and Commissioner are well aware. The EAW should address the lack of noise standards applicable to this project.

The EAW is also inadequate for the following reasons:

- There is no discussion of characteristics of individual waste streams in the process, particularly the concentrated final waste stream going back to the landfill;
- There is no clear statement regarding volume of HAPS processed and resulting potential to emit, and assumptions are erroneous for the eddy current separator;
- There is no hazardous waste determination regarding the concentrated final waste stream;
- There is no discussion of lead or HAPS management generally or specifically regarding public and worker safety;
- There is inadequate modeling for an air permit determination;
- There is inadequate factual basis for a determination regarding necessity of pre-treatment of water waste prior to use of City of Red Wing's waste water treatment facility;
- The EAW claim of 99.99996% lead containment with no active controls and no monitoring is not credible.

Upon information and belief, Red Wing has taken on that liability in the lease with Xcel Energy for the property on which this project is proposed. The ongoing liability for the Lab USA environmental impacts must be clarified in the EAW.

II. POTENTIAL IMPACTS WARRANT FURTHER INVESTIGATION.

There are many potential impacts that warrant further investigation, including, but not limited to those in the following narrative.

The process proposed by Lab USA is new to North America. Lab USA has only one such project, located in rural Washington, far from residential areas, and it has been operating for less than one year. A similar project in Minnesota, SKB's Gem-Ash in Rosemount is a "demonstration project." The record and experience of Lab USA's Washington project, and SKB's Gem-Ash should be incorporated into this environmental review and project permitting proceedings underway at MPCA and City of Red Wing. It is likely that there are "lessons learned" that should be incorporated into this project and considered.

French Island waste combustor ash warrants further investigation and analysis, specifically:

- consideration of the percentage of waste combustor ash past and present from City of Red Wing, Xcel Red Wing and Xcel French Island incinerators;

[3] See Minnesota Department of Health Report "Public Health Impact of Wind Turbines" and PUC Docket 09-845.

- the commencement date of acceptance of French Island combustor ash;
- whether French Island combustor ash is segregated in the landfill or mixed with other ash;
- the locations of French Island waste in the landfill; and
- testing of French Island waste to determine composition.

The character and impacts of Xcel's French Island combustor waste and its impact on the nature and potential impacts of this project warrants further investigation.

The EAW discussion of storage inside the "Process Building" relates that it is an open building, with two large openings, 25 x 25 feet, on each end of the north side, and with "ventilation openings along the top of the east and west walls." EAW, p. 3. There is no pollution control equipment planned for the building. The EAW states that "The building structure allows for sufficient storage under cover and is contained by berms in accordance with Minn. R. 7035.2855," but that rule requires that "the storage area is designed and operated to control dispersion of the waste by wind by means other than wetting..." Open doors and "ventilation openings" would disperse waste by wind, contrary to Minn. R. 7035.2855, Subp. 1(c)(2). This warrants further investigation.

The EAW states that "The building structure allows for sufficient storage under cover and is contained by berms in accordance with Minn. R. 7035.2855" but this statement implies that storage within the building is contained by berms! EAW p. 3. And secondly, berms would not "control dispersion of the waste by wind." In this respect, again, the design is not compliant with Minn. R. 7035.2855, Supb. 1(c)(2). Subp. 3(f). This warrants further investigation.

The open nature of the building, dependent on the open doors and "ventilation openings along the top of the east and west walls" would allow gas releases, and is not compliant with Minn. R. 7035.2855, Supb. 1(c)(3). EAW, p. 3. This warrants further investigation.

The storage area within the building is described, but does not address a liner for this storage area, and in this respect is also not compliant with the rule. EAW, p. 3. The rule requires a liner, specifically "a liner that is designed, constructed, and operated to prevent any migration of waste or leachate into the adjacent subsurface soil, ground water, or surface water at any time during the active life, or the closure period, of the facility." Minn. R. 7035.2855, Subp. 3. This warrants further investigation.

The purpose of a liner is to collect and direct runoff and other liquids to a collection and removal system, and the EAW does not provide specifics on this collection and removal system for the project. Minn. R. 7035.2855, Subp. 3. This warrants further investigation.

As above, the EAW states that "Stormwater will not contact combustor ash during off loading, loading or processing" which would occur inside the building. EAW, p. 3. However, logically, when excavating, loading, and transporting to the building, stormwater will contact combustor ash left/dispersed by the excavation, loading, transporting, and unloading processes, and the EAW must address how that contaminated stormwater will be collected and treated. This warrants further investigation.

As above, the EAW states that "The Process Building is designed so that any excess water in the combustor ash will be collected and treated as wastewater through the City wastewater treatment facility (WWTF). EAW, p. 3. There is leachate from the existing landfill – how is that leachate handled? Where there is 22-29% moisture in the landfill ash, how much is liquid subject to runoff, dripping, pooling? Is there a design basis for treatment of this process wastewater at the City WWTF? Typically industrial wastewater requires pretreatment before release into the City system – is this anticipated? Often industrial wastewater is treated separately – is this anticipated? What is the basis to believe that this combustor ash wastewater can be released directly into the City system and that treatment at the City WWTF would be sufficient? This warrants further investigation.

As above, the transport process provides opportunity for dispersion of dust, contaminated water and leachate, and gas, including excavation, loading, and offloading in the processing plant, loading of processed ash, and returning it to the landfill. EAW, p. 3. This warrants further investigation.

The specifics should be addressed, including whether they will use low sulfur fuel, whether there are idling limits, size of engines and muffler specifications, DOT and OSHA compliance, and noise levels and air emissions from the "off road" trucks warrants further investigation.

The claim that"[d]etailed operation procedures of the processing equipment will be established during the final design, installation, and initial operations of the Processing Building..." and then lists vague "general processing operations." EAW p. 4. This is insufficient, and warrants further investigation. EAW, p. 4.

Rate control as means of stormwater handling and the impacts of stormwater sediment on the proposed ponds should be demonstrated, the EAW should show this work, The City's plan should be incorporated into the EAW for this project, which is dependent on it. Further investigation is warranted.

The EAW must identify with specificity the project's purpose and the City's changing role in this project must be clarified. This warrants further investigation.

All cumulative and connected projects and actions must be identified, disclosed, and impacts addressed in the EAW. This warrants further investigation.

The discontinuation of farming on part of Outlot A must be addressed in the EAW, including aspects such as economic impacts and revenue losses, change of land cover, and change of land use. This is not accurately depicted in the EAW and warrants further investigation.

The EAW does not adequately address the existence, location, and purpose of the scenic easement and the related city commitment to holding Outlot A as an undevelopable barrier between the landfill and Tyler Hills. See Exhibit B and C, attached. This warrants further investigation.

The possession and ownership of the Lab USA process building is not clear and must be identified in the EAW. This warrants further investigation.

The EAW identifies numbers of trucks at the site, and different types of trucks, but a traffic study is needed to identify the number of trips, routes, purpose, and characteristics of the different types of trucks to be used. This warrants further investigation.

The EAW shows the modeled composition of the incinerator ash, but it is not evident that the French Island ash has been tested and/or included in the assay. The French Island incinerator ash must be tested and results made public due to the high percentage of chemically treated railroad ties burned as "fuel" at the plant. This warrants further investigation.

The composition of the incinerator ash, when considered in terms of the total tons of ash to be processed, could result in very high amounts of toxic and hazardous materials released into the air and water. The modeling of potential HAPS and water pollutants must be reworked for accuracy. This warrants further investigation.

The EAW provides no information regarding chemical composition of concentrated and stripped as in the various stages of processing. This warrants further investigation.

The proximity of the "Water Tank Mounds" is only presented in terms of the Xcel parcel, and must be clarified and a specific determination made whether the Lab USA project may be built where proposed. This warrants further investigation.

The EAW must report findings of ALL soil borings, not just 9 of 11. This warrants further investigation..

The water table, at 12-24.5 feet, requires protection, and it appears that no liner is proposed under the Lab USA concrete floor. This is not acceptable and warrants further investigation.

The EAW notes that "the City of Red Wing has determined that the liquid ash wastewater" ... "is not considered a significant industrial wastewater in volume or type." EAW, p. 12. The EAW must provide the basis for this decision and the authority under which this "determination" was made. This warrants further investigation.

Similarly, the claim of "No Exposure" under NPDES/SDS permitting, the claim that "the Process Building would not be a significant industrial discharger and a pretreatment permit would not be required," the statement that "The Proposer does not need a water appropriation permit for the project," and "the Project does not require groundwater monitoring," should be independently vetted and explained. This warrants further investigation.

The Proposer states that the Process Building is closed, but on the north end there are to be two 25' x 25' doors, and ventilation openings on both the east and west sides of the building. The potential for release of particulate matter of all types, and of wind and water getting in through the openings, and draining out through the open doors and any other openings, must be addressed with specificity. This warrants further investigation.

The existing contamination at the Xcel and County/City landfills must be addressed in detail, and this project as a connected action and with potential for cumulative impacts. This warrants further investigation.

The sound study, EAW Appendix C, is for the Red Wing Crusher, and is in applicable to the Lab USA project. Sound modeling must be performed that addresses the cumulative impacts of these projects, and accurately plots the location of the Lab USA Process Building and operations, and which utilizes the MPCA's measurement methodology, focused on the "point of human activity which is nearest to the noise source," which should be the property line. This warrants further investigation.

The project proposers fail to incorporate any pollution control equipment, filters, air quality systems, and there is nothing shown in building drawings and plans, other than very large open doors an open ventilation on two sides of the building, and excavating and loading/unloading in the open, all of which are locations where wind and water can get in and where combustor ash can be released. The project must incorporate pollution control systems and/or demonstrate why this is not needed. This warrants further investigation.

The chemical composition of "road dust" must be identified, and impacts such as release into the atmosphere, tracking into the building and around the landfill on impervious surfaces, must be addressed. This warrants further investigation.

As above, based on the assay information provided in the EAW and tonnage per year estimates having the potential of 766,800 pounds per year of HAPS emissions in one form or another, further investigation is warranted.

The City's level of participation must be disclosed, including communications between Red Wing and MPCA regarding Red Wing participation, details of costs and revenue, and the City's interests in this project clearly identified and disclosed. A copy of the leases, agreements, and economic costs and benefits should be incorporated into the EAW. The economics and financial aspects must be made public and available for comment. This warrants further investigation.

The EAW is inadequate because the project stormwater collection and removal is not specifically addressed. This warrants further investigation.

Noise modeling must be performed as directed by MPCA rules, using a central location as the source and "where human activity occurs" as the locations of nearby "receptors." This warrants further investigation.

There is a conflict of opinions regarding the Lab USA building possession and ownership after the term of the project's lease. The EAW must clarify the fate of the Lab USA process building.

The Figures in the EAW label the stormwater ponds as "Xcel" stormwater ponds, yet the EAW states that Red Wing is to supply the plan and construct the stormwater ponds. This difference warrants further investigation.

Because of the several steps in processing, concentrating the ash, and the more toxic nature of the French Island incinerator ash, the assumptions and resulting percentages of resulting HAPS and potential to emit estimates are questioned. The assumptions of the assay, beginning on p. 77 of the EAW, must be recalculated, specifically, the inputs and the modeling assumptions reviewed and revised as necessary. This warrants further investigation.

The EAW improperly utilized aggregate and mineral processing models, which is not close enough to capture the character and potential to emit as is necessary for this project. Specifically:

- particulate matter is significantly smaller;
- specific gravity will be different in the streams as they are processed;
- moisture will be different in the processing streams;
- lead content must be considered, and is not;
- there is no plan for particle control, and dispersion is more likely with Eddy Current acceleration and separation.

There is no basis for the modeling assumptions, and as above, the modeling must be reviewed and revised. This warrants further investigation.

The EAW, and the MPCA's "determination letter" of November 28, 2016, does not address the potential for releases to the air. EAW, p. 19-20. The open building, with 25 x 25 doors (plural) and ventilation openings on east and west side of buildings, means that something inside is ushered out through those openings, and that something inside the building is hazardous in some way if confined inside the building. This warrants further investigation.

This project requires pollution control equipment to address the process operational releases inside the building. This warrants further investigation.

The ongoing liability for the Lab USA environmental impacts must be clarified and warrants further investigation. Upon information and belief, Red Wing has taken on that liability in the lease with Xcel Energy for the property on which this project is proposed.

The EAW is also inadequate for the following reasons and the following matters require further investigation:

- There is no discussion of characteristics of individual waste streams in the process, particularly the concentrated final waste stream going back to the landfill;
- There is no clear statement regarding volume of HAPS processed and resulting potential to emit, and assumptions are erroneous for the eddy current separator;
- There is no hazardous waste determination regarding the concentrated final waste stream;
- There is no discussion of lead or HAPS management generally or specifically regarding public and worker safety;
- There is inadequate modeling for an air permit determination;
- There is inadequate factual basis for a determination regarding necessity of pre-treatment of water waste prior to use of City of Red Wing's waste water treatment facility;
- The EAW claim of 99.99996% lead containment with no active controls and no monitoring is not credible.

III. AN EIS IS WARRANTED TO ADDRESS INACCURATE AND INCOMPLETE ASPECTS OF THE EAW AND TO ADDRESS THE POTENTIAL IMPACTS THAT WARRANT FURTHER INVESTIGATION.

As specified above, there are many substantive areas and material issues that are not adequately explained, correctly described, or sufficiently disclosed. There are also many material substantive issues that require further investigation. This EAW is inadequate. An EIS and its iterative process is necessary to fully and openly consider and analyze the impacts of this project.

IV. THE COMMENT PERIOD FOR THE EAW AND SOLID WASTE PERMITS SHOULD BE EXTENDED TO JANUARY 30, 2017.

The MPCA's extension of the comment period to January 19, 2017, is greatly appreciated, but because the primary documentation necessary to meaningfully consider and analyze this project was not provided until December 30, 2017, the Tyler Hills Neighbors request that it be extended until January 30, 2017.

Again, thank you for the opportunity to provide these comments. If you have any questions, or require anything further, please let us know.

Very truly yours,

Carol A. Overland
Attorney at Law

Attachments:

Exhibit A: Rosemount City Council packet, June 17, 2014 (selected).
Exhibit B: Scenic Easement
Exhibit C: Memo of Tina Folch, p. 2-3, Sustainability Commission to Red Wing City Council, for April 25, 2016 meeting.

Exhibit A

Rosemount City Council Packet – 6/17/2014 Meeting

SKB-Gem Ash IUP (selected)

p. 3 of 5 – Tipping Trucks:

The recycling facility is designed to process the MSW ash waste (both existing ash waste within the landfill cell and future ash waste being brought to the site) through a series of machines that will remove non-ferrous (e.g. non-magnetic) metals from ash. Magnetic metals are removed from the ash before it is trucked to the SKB facility. The recycling process will begin by trucks bringing ash waste to the outdoor concrete pad and dumping ash waste on the pad. SKB and Gem-Ash have stated that the dumping of the waste outdoor is safer than dumping indoor because trucks have tipped over when dumping of the waste is partially frozen. If part of the waste is frozen to the side of the trailer the truck can become unbalanced and potentially tip on its side. A truck tipping inside could be less safe and it is easier to return a truck to its wheels with a crane or tow truck when it is outdoors.

p. 4 of 5 – Outdoor Waste and Leachate Contamination:

Outdoor Waste and Leachate Containment

City staff is concerned with waste being handled outdoors because of the chance for the waste to be carried off site by wind or by contact with rainwater. As discussed earlier, the twelve (12) concrete walls will lessen the wind affecting the waste and the operation plan calls for tarps being available to temporarily cover the waste on the concrete pad if significant wind or rain were to happen. Staff is particularly concerned about rain contact with the waste because that would turn the run-off water into waste leachate that must be collected and treated separately from stormwater.

Any leachate from the concrete pad will be collected and added to the leachate from landfill. Leachate from the SKB waste facility is analyzed and transported to the Metropolitan Council's wastewater treatment plant for treatment. The leachate from the concrete pad will be collected by a trench drain on the southwest and southeast side of the concrete pad. To assist the trench drain, a surmountable curb is installed at the southwest and southeast edges of the site. The trench drain will collect the leachate generated by a 100-year storm even with the trench drain half cogged with sediment. For secondary containment if the trench drain were completely clogged or the storm is greater than a 100-year event, a depressed basin will be installed to the southwest of the concrete pad. At the bottom of the basin will be two outlets, one leading to the leachate collection system for the landfill and one leading to the stormwater basins. Normally, both outlets will be closed. When rain would fall at a rate to collect in the basin, SKB staff can test and evaluate the water within the basin and open the appropriate outlet to treat it either as leachate or as stormwater. The issue of waste leachate was a topic discussed with Dakota County and the city engineering staff. The County has indicated the modifications to the proposal since the application addresses their concerns. With the infrastructure shown in the May 9 Conestoga-Rovers memorandum and drawings; staff finds that the outdoor concrete pad appropriately addresses the possibility of wind and rain contact with the ash waste.

ROSEMOUNT
CITY COUNCIL

EXECUTIVE SUMMARY

City Council Meeting Date: June 17, 2014

AGENDA ITEM:	**Case 14-24-IUP** Request by SKB Environmental to Amend their Interim Use Permit to Allow the Construction and Operation of Recycling Facility	**AGENDA SECTION:** Consent
PREPARED BY:	Eric Zweber, Senior Planner	**AGENDA NO.** 6.h.
ATTACHMENTS:	Resolution Location Map; Operations and Closure Plan dated March 2014; Appendix A Section 14 Operations Plan Dated March 2014; Conestoga-Rovers Memorandum dated May 9, 2014; Recycling Facility Site Plan revised May 2014; SKB IUP Resolution 2013-93; Interim Use Permit Agreement; 2013 SKB IUP Recycling Facility; 2013 Landfill Stormwater Plan (Drawing CL-07); 2013 Recycling/Transfer Facility Plan (Drawing CI-23); City Engineers Memorandum dated May 21, 2014; Excerpt of the Draft May 27 Planning Commission Meeting Minutes.	**APPROVED BY:** DDJ
RECOMMENDED ACTION: Motion to adopt a resolution approving the amendment to the SKB Environmental, Inc. Interim Use Permit to allow the operation of a MSW ash recycling facility.		

ISSUE

SKB Environmental, Inc. (SKB) has proposed an 11,520 square foot building for Gem-Ash Processing, LLC to operate a non-ferrous metal recycling facility. The recycling facility will include a 4,200 square foot outdoor concrete pad for trucks to deposit the waste to be recycled. This outdoor pad is inconsistent with the 2013 Waste Facility Interim Use Permit (IUP) that included an indoor recycling/transfer facility. SKB is requesting an amendment to their 2013 IUP to allow for a recycling facility up to 14,976 square feet and a 4,200 outdoor waste depositing pad.

MAY 27 PLANNING COMMISSION MEETING

The Planning Commission reviewed and conducted a public hearing for the SKB recycling facility request on May 27. No residents spoke during the public hearing. Chairperson Miller questioned SKB about a number of regulatory provisions required by the Minnesota Pollution Control Agency regarding waste management operations. Chairperson Miller and Commissioner Husain questioned the description of tire recycling. John Domke, representing SKB, responded that tire recycling is a possible use of the building if the non-ferrous metal recycling operation were to stop, but that tire recycling and non-ferrous metal recycling would not both occur at the same time. The Planning Commission recommended approval of SKB IUP Amendment on a 4-0 vote. Commissioner Kurle was absent from the meeting.

SUMMARY

SKB Environmental, Inc. (SKB) owns and operates an industrial, construction and demolition waste landfill at 13425 Courthouse Blvd. On November 19, 2013, the City approved a new five (5) year interim use permit (IUP) for the landfill that included plans for an enclosed recycling/transfer facility. Since that approval, SKB has proposed a recycling facility that will remove non-ferrous (non-magnetic) metals from municipal solid waste (MSW) ash at the landfill. SKB currently accepts MSW ash and this process removes additional solids that have an economic market. The proposal includes an outdoor drop off area where trucks would drop MSW ash and then the ash would be brought into the facility with a front end loader. SKB has indicated the outdoor concrete pad is necessary because semi-trailers can tip over when dumping their loads if waste is partially frozen. This outdoor drop off was not considered in their 2013 IUP and therefore SKB is requesting an amendment to their IUP to allow this outdoor activity.

Applicant:	SKB Environmental, Inc.
Operator:	Gem-Ash Processing, LLC
Location:	13245 Courthouse Blvd (MN Highway 55); about 1 ½ miles southeast of US Highway 52 and about 1 mile northwest of County Road 42.
Site Area:	236 Acres
Existing Zoning District:	WM: Waste Management
Comprehensive Plan:	WM: Waste Management
Surrounding Land Uses:	North: General Industrial (Spectro Alloys and Endres) East: Agriculture South: Agriculture West: Public/Institutional (Rosemount Wastewater Treatment Plant) and Agriculture
Planned Land Uses:	North: General Industrial East: Light Industrial South: Light Industrial West: Public/Institutional and General Industrial

Legal Authority

The interim use permit approval is a quasi-judicial action, meaning that if the application meets the City Code and interim use permit regulations, then the interim use permit must be approved. Staff supports approval of this interim use permit and finds that it is substantially in conformance with the approved interim use permit regulations with recommended conditions. The detailed analysis of this finding is provided below.

Site Layout

The proposed recycling facility is located on the northwest side of the SKB landfill about 800 feet southwest of MN Highway 55 and about 125 feet southeast of the Union Pacific railroad spur. The recycling facility will be about 200 feet southwest of the existing office building, lab building and scales. Due to the distance from MN Highway 55, the existing berm and trees, and the siting of the lab and office building, it is unlikely that the recycling facility, other than its roof, would be visible from MN Highway 55.

The proposed recycling facility is an 11,520 square foot (144 feet long by 80 feet wide) building with a 4,200 square foot (70 feet by 60 feet) waste depositing pad located to the southwest of the building. The building is designed for expansion to the southeast by 24 feet in the future; for a total size of 14,976 square feet. To the southeast of the recycling facility is the access road between the MSW ash cells and the main access to MN Highway 55. The location of this facility is consistent with the location of the recycling facility within the 2013 IUP. It is the proposed outdoor concrete waste depositing pad which is inconsistent with 2013

IUP and prompts the current amendment. The management of the waste depositing pad is discussed in detail below.

The rest of the site as designed and approved within the 2013 IUP is used for the existing lab and office buildings, truck access road, lined landfill cells, and stormwater management. With this building all space on the site is used for current operations and to address ordinance standards and regulations. For this reason, staff has included a recommended condition that no other recycling/transfer facilities are allowed at the SKB waste facility site.

The recycling facility is designed to process the MSW ash waste (both existing ash waste within the landfill cell and future ash waste being brought to the site) through a series of machines that will remove non-ferrous (e.g. non-magnetic) metals from ash. Magnetic metals are removed from the ash before it is trucked to the SKB facility. The recycling process will begin by trucks bringing ash waste to the outdoor concrete pad and dumping ash waste on the pad. SKB and Gem-Ash have stated that the dumping of the waste outdoor is safer than dumping indoor because trucks have tipped over when dumping of the waste is partially frozen. If part of the waste is frozen to the side of the trailer the truck can become unbalanced and potentially tip on its side. A truck tipping inside could be less safe and it is easier to return a truck to its wheels with a crane or tow truck when it is outdoors.

Once the ash waste is deposited on the concrete pad, a front end loader will bring the waste into the southwest corner of the recycling building and drop it onto a conveyer that will run the ash through a series of machines. Towards the end of the process are two machines that recycle the non-ferrous metals from the ash waste using eddy currents. The two machines remove metals of different sizes. The building has the ability to be expanded by 24 feet to the southeast in the future. If the expansion were to occur, a third machine would be installed to remove even smaller sizes of metal than the first two machines. The recycled metals and the remaining ash waste are conveyed out the southeast side of the building into roll off boxes. Trucks will pick of these boxes when they are full. The recycled metals will be trucked off site and sold while the remaining waste will be trucked into the landfill and deposited or re-deposited.

Building Design

The recycling building is a 35 foot tall building with a metal roof. On the northeast, northwest and southwest sides of the building, the lower 17 feet of the building will be precast concrete panels. On the northeast and southwest sides of the building, the upper 18 feet will be metal siding. On the northwest side of the building, the upper eight (8) feet will be translucent panels to allow some sunlight into the building and the middle ten (10) feet will be the same metal siding as the rest of the building. The southeast side of the building is proposed to be 100% metal because of the future building expansion possibility. The City has approved lesser building materials on walls that will be removed for future expansion, such as the Fairview clinic that has EIFS on the northwest side of the clinic to allow for a future addition. The southeast side of the recycling building faces the landfill.

To the southwest of the recycling building is a 70 foot by 60 foot concrete pad where the ash waste will be deposited. A twelve (12) foot tall concrete wall (bunker) will be constructed around the northwest 30 feet of the concrete pad. At least 22 feet above the bunker will be a metal shed roof of the same material as the roof on the building. The roof will be supported by metal support columns and the roof is sloped to drain to the northwest and away from the concrete pad. The twelve (12) feet tall concrete walls will be used by the front end loader and the roof will reduce the amount of rain that falls on the pad and the waste. At the end of the work day, the ash waste will be pushed under the roof and within the concrete walls. This will reduce the chance that rain or wind would affect the stored waste.

Outdoor Waste and Leachate Containment

City staff is concerned with waste being handled outdoors because of the chance for the waste to be carried off site by wind or by contact with rainwater. As discussed earlier, the twelve (12) concrete walls will lessen the wind affecting the waste and the operation plan calls for tarps being available to temporarily cover the waste on the concrete pad if significant wind or rain were to happen. Staff is particularly concerned about rain contact with the waste because that would turn the run-off water into waste leachate that must be collected and treated separately from stormwater.

Any leachate from the concrete pad will be collected and added to the leachate from landfill. Leachate from the SKB waste facility is analyzed and transported to the Metropolitan Council's wastewater treatment plant for treatment. The leachate from the concrete pad will be collected by a trench drain on the southwest and southeast side of the concrete pad. To assist the trench drain, a surmountable curb is installed at the southwest and southeast edges of the site. The trench drain will collect the leachate generated by a 100-year storm even with the trench drain half cogged with sediment. For secondary containment if the trench drain were completely clogged or the storm is greater than a 100-year event, a depressed basin will be installed to the southwest of the concrete pad. At the bottom of the basin will be two outlets, one leading to the leachate collection system for the landfill and one leading to the stormwater basins. Normally, both outlets will be closed. When rain would fall at a rate to collect in the basin, SKB staff can test and evaluate the water within the basin and open the appropriate outlet to treat it either as leachate or as stormwater. The issue of waste leachate was a topic discussed with Dakota County and the city engineering staff. The County has indicated the modifications to the proposal since the application addresses their concerns. With the infrastructure shown in the May 9 Conestoga-Rovers memorandum and drawings; staff finds that the outdoor concrete pad appropriately addresses the possibility of wind and rain contact with the ash waste.

2013 IUP

The 2013 IUP for SKB to operate a waste facility included the plans and regulations for the operation and development of the site including vehicular access, hours of operation, screening and stormwater management. The 2013 IUP included plans for the eventual construction of a recycling/transfer facility. Staff does not believe that any elements of the 2013 IUP needs to be revised beyond those provided in the 2014 Recycling/Transfer Facility request with the modification included in the May 9, 2014 Conestoga-Rovers Memorandum.

Interim Use Permit Regulations

11-10-8 E. 1. The extent, location and intensity of the use will be substantially in compliance with the Comprehensive Plan: A recycling facility is allowed within the WM: Waste Management land use designation and is an interim use within the WM: Waste Management zoning district.

11-10-8 E. 2. The use will provide adequate ingress and egress to minimize traffic congestion in the public streets: MN Highway 55 within Rosemount provides access to numerous industrial businesses, including Hawkins Chemical, Spectro Alloy and Endres. With the accesses to MN Highway 55 and the emergency option of access from 140th Street east, staff finds that the facility has adequate ingress and egress.

11-10-8 E. 3. The use will not be detrimental to the existing character of the development in the immediate neighborhood or endanger the public health, safety, and general welfare: Staff is concerned that the outdoor depositing of waste could endanger public health and general welfare is not managed properly. With the proposed leachate management infrastructure and the May 9, 2014 modifications to the operations plan, staff finds that the recycling facility will not be detrimental.

11-10-8 E. 4. The use will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district: In 2013, the City adopted the IUP for SKB to operate a Waste Facility with the finding that will not impede development.

11-10-8 E. 5. The use shall, in all other respects, conform to the applicable regulations of the district in which it is located: With the recommended conditions, staff finds that the request will conform to the applicable regulations.

CONCLUSION & RECOMMENDATION

Staff recommends that the City Council approve the Amendment of the SKB IUP to allow the operation of a recycling facility that includes the outdoor dumping of MSW ash waste. This recommendation is based on the information submitted by the applicant, findings made in this report, and the conditions detailed in the attached memorandums.

Exhibit B

Scenic Easement on Outlot A

DOC#: A- 606658

Certified, Filed, and or Recorded on:
July 01 2013 1:31 PM
Signed: _____ Deputy
LISA M HANNI
GOODHUE COUNTY RECORDER
Fee Amount: $46.00

CONSERVATION EASEMENT

THIS EASEMENT ("Easement") dated effective the 24th day of June, 2013 is by and between **Northern States Power Company**, a Minnesota corporation, d/b/a Xcel Energy (hereinafter referred to as "NSP") with an address of 414 Nicollet Mall, Minneapolis, Minnesota 55401 and the **City of Red Wing**, a statutory city under the laws of the State of Minnesota (hereinafter referred to as "City"), County of Goodhue, State of Minnesota, with an address of 315 West 4th Street, Red Wing, Minnesota 55066.

WITNESSETH:

WHEREAS, NSP is the owner of that certain tract or parcel of land situated in the County of Goodhue, State of Minnesota legally described as follows and hereinafter referred to as "Property":

Outlot A of Tyler Hills 2nd according to the plat thereof on file and of record in the office of the County Recorder for the County of Goodhue and State of Minnesota.

WHEREAS, City has requested from NSP a Conservation Easement, hereinafter referred to as "Easement" in order to preserve and control the use of that portion of the "Property" described as follows and hereinafter referred to as "Easement Property":

The Southerly, Southwesterly and Westerly 250 feet of Outlot A of Tyler Hills 2nd.

NOW, THEREFORE, in consideration of the sum of One Dollar and no/100 ($1.00) in hand paid, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, NSP does hereby grant and convey, in perpetuity, subject to the conditions and restrictions hereinafter set forth, and City hereby accepts from NSP, the Easement Property for the purpose of preserving, for the benefit of the City and others, said Easement Property.

The restrictions hereby imposed upon the use of said Easement Property and the acts which NSP does covenant to do or to refrain from doing upon said Easement Property are as follows:

1. No residential development.
2. No trailer shall be used as a substitute for residential building or other structure.
3. No group facilities, recreation, leisure or commercial support facilities.

4. No major public utility installations such as electric generating plants, electric power substations, gas generating plants, gas storage tanks, microwave relay stations or telephone exchanges.
5. No advertising signs shall be displayed or placed upon the Easement Property with the exception of signs connected with the management of the land.
6. No trees shall be cut except where the removal of over mature, dead, diseased or injured trees is necessary for the protection of persons or property or for sound forest management.
7. It is understood and agreed that imposition of the covenant and restrictions set forth herein in no way grants the public the right to enter the Easement Property for any purpose.
8. Nothing herein contained shall be deemed to affect any mortgage, lien or other interest in the Property which are of record as of the date of this instrument.

IN WITNESS WHEREOF, the forgoing **NORTHERN STATES POWER COMPANY** has caused these presents to be executed in its corporate name by its property office thereunto duly authorized and its corporate seal to be hereunto affixed this 24th day of June, 2013.

NORTHERN STATES POWER COMPANY

By _____
Greg P. Chamberlain, Director
Portfolio Delivery & Integration
Xcel Energy Services Inc.
Authorized Agent for Northern States Power Company, a Minnesota corporation, d/b/a Xcel Energy

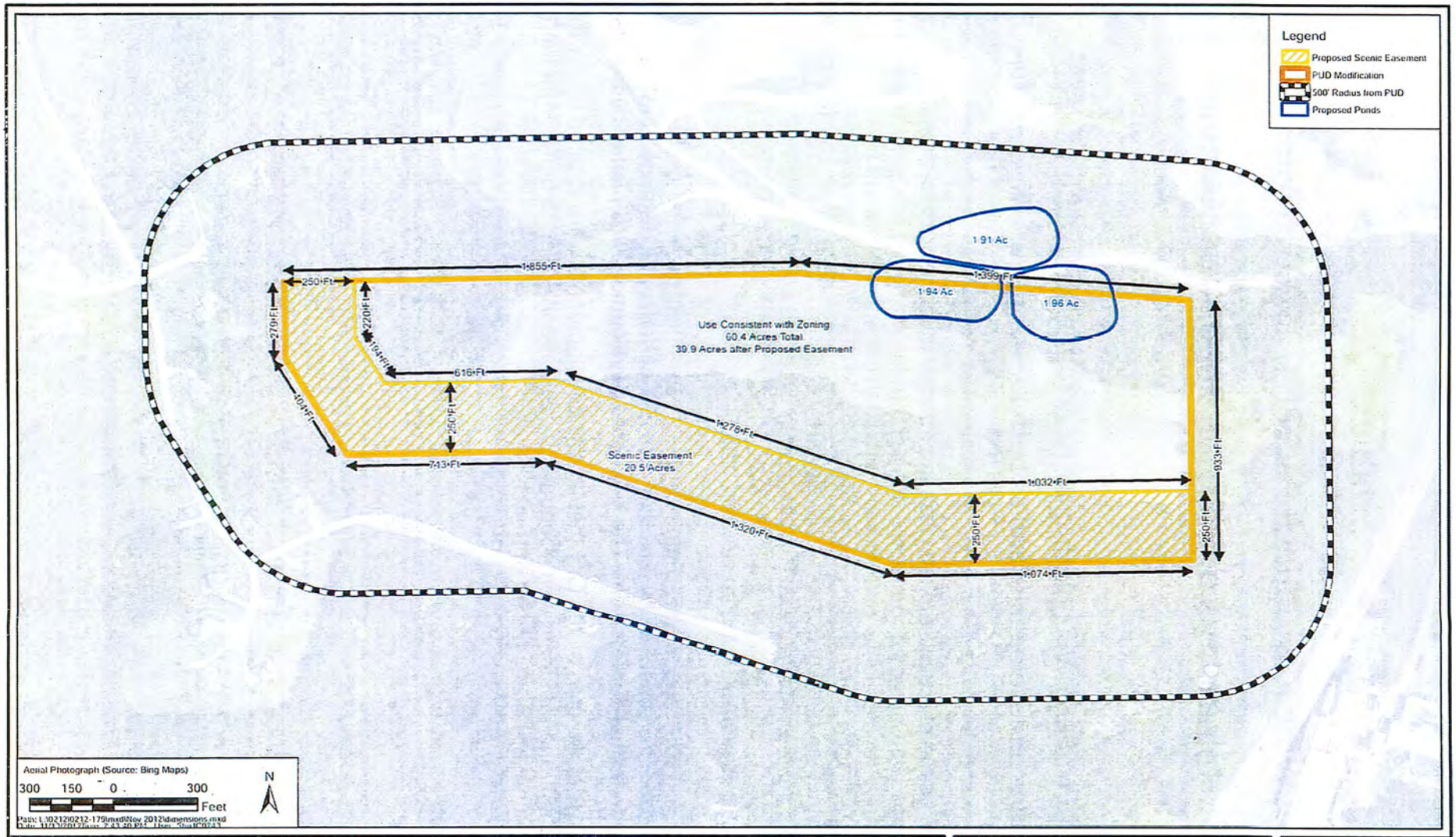
STATE OF MINNESOTA)
) **ss.**
COUNTY OF HENNEPIN)

The foregoing instrument was acknowledged before me this 24th day of June, 2013, by Greg P. Chamberlain Director, Portfolio Delivery & Integration, Xcel Energy Services Inc., as Authorized Agent for Northern States Power Company, a Minnesota corporation, d/b/a Xcel Energy on behalf of the corporation.

_____
Notary Public

CHAD T. PETERSON
NOTARY PUBLIC
MINNESOTA
My Commission Expires Jan. 31, 2014

This instrument was drafted by: DJF
Northern States Power Company
414 Nicollet Mall MP 7
Siting and Land Rights
Mpls., MN 55401



XCEL ENERGY - RED WING RDF ASH DISPOSAL FACILITY

PUD and Scenic Easement Dimensions Map

Wenck
Engineers - Scientists
Business Professionals
www.wenck.com
1800 Pioneer Creek Center
Maple Plain, MN 55359-0429
1-800-472-2232

NOV 2012

Figure 7

Exhibit C

Red Wing City Council Packet 4/25/2016 Meeting

Sustainability Commission Report for Meeting

p. 2-3 – City of Red Wing platting of Tyler Hills with specific intent of maintaining undevelopable land as buffer:

4. Is the proposed site too close in proximity to the residential areas?

Response: The City has documented the fact that the proposed site is a substantial distance from residential properties and there is also a major elevation difference. The detailed noise assessment completed by David Braslau Associates, Inc. indicated that the nearest homes to the site are 1428 feet, 1659 feet, and 2061 feet from the concrete crushing site. This resulted in expected sound levels well below State regulatory standards. In addition, Xcel Energy granted the City a 250 foot conservation easement over the wooded bluff side of Outlot A of Tyler Hills Second Addition in order to provide buffer between residential properties and future land uses on Outlot A. To provide context, homes in the western section of the old Fairgrounds neighborhood are separated by less than 200 feet of horizontal distance from the Clay City Industrial development. The Tyler Hills development was platted by the City with the understanding by the City that landfill developments were located below the development and that there was adequate undevelopeable land to buffer from the land uses that are accessed off of Bench Street.

TO: Honorable Mayor and City Council Members

FROM: Tina Folch, Sustainability Commission Staff Liaison; 4/20/16

Meeting Date: April 25, 2016

Agenda Item: Conditional Use Permit (CUP) to operate a Public Works (P.W.) Maintenance Shop and Yard on the Tyler Hills 4th Addition Lot 1 and Lot 2 – Material Storage and Concrete/Asphalt Crushing Operation.

Action Requested

Accept Sustainability Commission Recommendation to Support Approval of the City of Red Wing CUP to Operate a P.W. Maintenance Shop and Yard – Material Storage and Concrete/Asphalt Crushing Operation on property known as Outlot A of Tyler Hills Second Addition

Attachments

- Rick Moskwa Report that addresses concerns raised by Alyssa Walsworth concerning sound study

Background

On March 28, 2016, the City Council tabled action on a CUP application and referred it to the Sustainability Commission for review and a recommendation. The application had already been taken into consideration at two Advisory Planning Commission meetings prior to the City Council hearing the matter. For further background information on the topic, please reference the Planning Commission support materials.

At the April 12th Sustainability Commission Special Meeting, the group held a public meeting to review this project. After receiving an overview presentation by Rick Moskwa, P.W. Director, the Commission took public comments and questions. Eleven Red Wing residents spoke at the public meeting and listed a number of concerns. Once all of the resident comments and concerns were listed, the Sustainability Commission asked staff and the consultant team to address the concerns. Below is a summary of the concerns that were listed and responses to each concern.

1. Has the process been transparent enough for residents?

Response: The initial public hearing notice that went to property owners announcing the February 15, 2016 Advisory Planning Commission public hearing could have provided additional detail about the proposed conditional use permit. With that in mind, the City Council referred the matter back to the Advisory Planning Commission and a second public hearing was conducted on the matter at their March 15, 2016 meeting. In addition, citizens were notified and encouraged to attend a site visit on Cougar Court and at the Luhman Gravel operation in order to view and listen first-hand to simulated operations. In addition, the Council forwarded the matter to the Sustainability Commission to also review and consider the matter. The City staff, commissions, and city council have demonstrated a strong interest in conducting an open process and providing information that addresses citizen concerns.

2. Were other sites taken into consideration for hosting this operation other than the Xcel Landfill?

Response: Several sites were listed and citizens questioned whether the City had fully evaluated other potential sites for the facility. Public Works and Planning Department staff are very familiar with potential sites. The sites shown to the Sustainability Commission had a variety of restrictions that made them infeasible, including: Pepin Avenue Sites – severe archaeological constraints; Moundview industrial sites – severe archaeological restrictions on some sites, other sites are too small and located too far out of the center of the city; Clay City sites – city owned property has flood plain and wetland restrictions, developable site is owned privately and actually located closer to residential development than the proposed site; several citizens suggested that the City should locate the use on 40 acres outside of the City – these sites would be privately owned with other neighboring property owners and would not be located centrally in the City to meet the Public Works needs. In addition, there are benefits to the Public Works operation from having this use located near the solid waste campus.

3. Will the City economically benefit from the project?

Response: The public works staff responded that the City does benefit economically by using crushed concrete and asphalt as base material for road construction projects.

4. Is the proposed site too close in proximity to the residential areas?

Response: The City has documented the fact that the proposed site is a substantial distance from residential properties and there is also a major elevation difference. The detailed noise assessment completed by David Braslau Associates, Inc. indicated that the nearest homes to the site are 1428 feet, 1659 feet, and 2061 feet from the concrete crushing site. This resulted in expected sound levels well below State regulatory standards. In addition, Xcel Energy granted the City a 250 foot conservation easement over the wooded bluff side of Outlot A of Tyler Hills Second Addition in order to provide buffer between residential properties and future land uses on Outlot A. To provide context, homes in the western section of the old Fairgrounds neighborhood are separated by less than 200 feet of horizontal distance from the Clay City Industrial development. The Tyler Hills development was platted by the City

with the understanding by the City that landfill developments were located below the development and that there was adequate undevelopeable land to buffer from the land uses that are accessed off of Bench Street.

5. Is "Fugitive Dust" that is created from the concreate crushing process going to be mitigated?

Response: A detailed air emissions evaluation was prepared by S.E,H., dated March 23, 2016 and provided for the Sustainability Commission meeting. On page two of the report, all projected air emissions are shown in Table 1 and clearly indicate how the project meets Minnesota State Air Permit Thresholds. After hearing residents' comments, the Sustainability Commission members posed their own supplemental questions.. Furthermore, when Commissioner Richard Huelskamp asked, "If the City could do at least 10 percent better" than the State regulation requirements for controlling such a site the S.E.H engineer responded that the anticipated air particles that would be created by the operations "were already one-one thousandth below the standard right at the crushing operation."

6. Where does the data behind the reports provided about the site come from and what assumptions were made?

Response: The city explained that a more detailed response to this question would be developed. Attached is a report from Public Works Director Rick Moskwa that summarizes this response.

7. What are the health risk for the apartments and townhomes north of the site?

Response: Based on the analysis provided, there are no known health risks for the apartment and townhomes north of the site; or any other neighboring property; or to employees and works on the site.

8. How much noise will the operation cause for residents in close proximity?

Response: Expected sound levels from the concrete/asphalt crushing operation are analyzed in the report from David Braslau, dated March 31, 2016 and indicate sound levels with and without tree leaves that are well below the Minnesota State standard of 60 dBA.

9. What risk of silica exposure will be produced?

Response: Questions about silica exposure are essentially a question about small particle material emissions into the air. The S.E.H. report of March 23, 2016 addresses small particles emissions of less than 10 microns in diameter expected from the operations related to roadway use, the crushing operation, and handling the material to be far below Minnesota State Air Permit Thresholds (See Table 1).

10. Are the ground-water wells for the residents nearby at risk for concrete/Asphalt related materials seeping into the drinking water?

Response: Bob Stark P.E., Deputy Public Works Director – Utilities, addressed concerns about potential water contamination. Mr. Stark provided detailed information about the geologic formations and ground water movement and information that has

been developed form drilling logs for water supply wells for residents, drilling logs for the existing Xcel monitoring wells and descriptions from the recently completed City Well Head Protection Plan. Mr. Stark concluded that he has no concerns that the proposed development will in any way pollute private or public drinking water sources.

Sustainability Commission Recommendation

Commissioner Randy McLaughlin made a motion for the Sustainability Commission to recommend that the City Council support the City of Red Wing's CUP application for a Public Works Maintenance Shop and Yard. After discussion, Commissioner Richard Huelskamp seconded the motion. The group unanimously (5:0) approved the motion of support.

STATE OF MINNESOTA

INDIAN AFFAIRS COUNCIL

website: http://mn.gov/indianaffairs/

January 4, 2017

Kevin Kain
Resource Management and Assistance Division
Minnesota Pollution Control Agency
520 Lafayette Road North
St. Paul, MN 55155

RE: Lab USA's Ash Processing Project – Red Wing, Goodhue County

Dear Mr. Kain,

Thank you for the opportunity to comment on the above listed project. We have reviewed the EAW pursuant to the responsibilities given to the Minnesota Indian Affairs Council by the Private Cemeteries Act (MS 307.08), and the Minnesota Field Archaeology Act (MS 138.31-.41). Although there is no recorded archaeological site with in the area of the proposed Processing Facility we are concerned with the project because of its proximity to the Water Tank Mound site (21GD0042). Adding to our concern is the fact that the storm water ponds for the project are in the planned laydown area within the boundaries of the mound/cemetery site. Given that 21GD0042 is protected under the Private Cemeteries Act (MS 307.08) any development or construction activities are not permitted within the site boundaries without direct consultation with the Office of the State Archeologist and our office. Please feel free to contact me if you have any questions on our review.

Sincerely,

Melissa Cerda

Melissa Cerda
Cultural Resource Specialist
Minnesota Indian Affairs Council
161 St. Anthony Ave. Suite 919
St. Paul, MN 55103
Melissa.Cerda@state.mn.us
651-276-2797

Cc: Amanda Gronhovd, Office of the State Archaeologist

Daniel Bender
1729 Red Fox Drive
Red Wing, MN 55066

January 24, 2017

Mr. Kevin Kain
Resource Management and Assistance Division
Minnesota Pollution Control Agency
520 Lafayette Road North
St. Paul, MN 55155

Mr. Kain

Thank you for taking the time to review our concerns with the proposed Lab USA Ash Mining facility to be located in our neighborhood and with the associated EAW.

We share the concerns raised in other comments on this EAW and the need for a full Environmental Impact Statement. We must also add some points that were missed.

Our concerns originate from the very close proximity of this facility to our neighborhood and the terrible impact a problem in this facility can create for the residents of the neighborhood. Similar ash processing facilities are located on large tracts of land in rural, low density areas. The closest example of this type of Ash Extraction is located in Rosemount. The Rosemount facility is located on several hundred acres of land in a heavy industrial area with the nearest residential property located more than one mile away. The proposed Lab USA facility will be located on less than 4 acres of land with the nearest residential property line less than 500 feet away.

Lab USA proposes to allow ash trucks to dump their loads indoors during non-operating hours. The Rosemount facility has had regular problems with trucks tipping due to loads freezing during transit. This is especially likely with loads originating from Xcel's French Island site which also dumps in Red Wing. The French Island material is not mentioned in the EAW.

The risks from trucks tipping indoors are significant and create a disastrous potential to emit. A truck tipping offers the likelihood of injuring or killing the driver and creating a fire from spilled fuel igniting. An incapacitated driver in an

unmanned facility without any safety or containment protocols generates the potential for a deadly release of toxics metal HAPS. The proposed Lab USA facility will be processing and concentrating more than 2000 lbs. per day of lead powder and in total, 3000 lbs. per day of toxic metals powder. The daily production alone exceeds the **facility annual emission limits**. A fuel driven fire is likely to cause the emission of some if not most of the toxic metals.

This is a project that was created and considered in haste. Genuine issues related to the facilities Potential to Emit have not been addressed. A full Environmental Impact Study is needed to fully understand not only the operational issues raised elsewhere but its potential to emit under emergency conditions.

On behalf of all the undersigned,

Thank you

Daniel D Bender, Deanna K Bender
1729 Red Fox Drive, Red Wing, MN 55066
651-385-7521

Mark Walsworth, Theresa Walsworth
2860 Jewel Lane
Plymouth, MN 55447

Bernard Walch, Jean Walch
1904 Red Fox Drive
Red Wing, MN 55066

Kain, Kevin (MPCA)

From: Noah White <Noah.White@piic.org>
Sent: Tuesday, January 31, 2017 8:56 AM
To: Kain, Kevin (MPCA)
Subject: Ash Processing Facility

As the THPO for the Prairie Island Indian community I concur with the recommendations of the state archaeologist and Mr. Jim Jones from the Indian Affairs Council that this project as currently designed has the potential to negatively impact the identified mounds in the area.
We further support recommendations of a redesign to avoid any mounds located in the project area.

Respectfully

Noah White
Tribal Historic Preservation Officer
Prairie Island Indian Community
1636 Sturgeon Lake Road
Welch, Mn 55089
Office # 651-385-4175
Cpone# 651-764-2567
Fax # 651-385-4180

Minnesota Pollution Control Agency

LabUSA Ash Processing Project – Red Wing
Environmental Assessment Worksheet (EAW)

RESPONSES TO COMMENTS ON THE EAW

1. **Comments by Bryan Whitaker, Letter received December 29, 2016.**

Comment 1-1: The commenter stated support for the proposed project.

Response: No response necessary.

2. **Comments by Mark Walsworth with 70 signatures, Letter received December 30, 2016.**

Comment 2-1: The commenters stated concerns that the process LABUSA is proposing is new to North America. LabUSA currently operates one facility in North America. It is located in rural Washington State and has been operating for less than 1 year. The process is new enough that no standardized emission profile has been developed for it. LabUSA has never operated an ash recovery facility neighboring a residential area in North America.

Response: The MPCA appreciates the concerns expressed by the commenters. These concerns are part of the reason LabUSA (Proposer) elected to go through the state of Minnesota's environmental review process. The Environmental Assessment Worksheet (EAW) looked at potential environmental impacts from the proposed project at this specific site. The EAW, Responses to Comments, and Findings of Fact evaluate the potential for significant effects, and provide information to both state and local units of governments when making permit decisions for the proposed project.

Comment 2-2: The commenters stated concern that the material taken out of the refuse-derived fuel (RDF) incinerator ash (Product) will not maintain enough moisture to keep it from becoming airborne and become a hazard to both workers at the facility and those living in the area. This makes fugitive dust a significant work place safety/health issues per CFR 29 1910.1025

Response: LabUSA's proposed 30,000 square foot resource recovery facility (Process Building) is proposing to process up to 150,000 tons per year, or up to 600 tons per day, of Municipal Solid Waste (MSW) combustor ash and incidental permitted materials such as gloves and filter bags, air quality control system residuals, and cover material (Ash Material). Trucks haul the Ash Material to the Process Building and offload into a designated pre-processing area. Before processing, the Proposer brings the Ash Material up to the optimal moisture content through physical mixing, blending, and rotation. The optimal processing moisture content of the Ash Material is 15 to 22%; anything drier or moister will cause problems with the mechanical separation process.

Regarding the issue of fugitive dust and emissions, the LabUSA process focuses on material generally larger than 1 mm or 1000 microns; smaller fractions are incidental and only accumulate in the collection process if moist enough to cling to the larger removed fractions. The U.S. Environmental Protection Agency (EPA) defines airborne particulate matter (PM) as less than 100 microns and breathable (respirable) particulate (PM_{10}) as less than 10 microns. Therefore, once processed, little to no combustor

Ash Material can become airborne because the size is too large or the material is too wet. In addition, fugitive dust generation for working conditions is minimal since the Proposer maintains the optimal moisture content of the material. Furthermore, research by Xcel Energy has also confirmed that moisture conditions of 4% or greater eliminates or minimizes potential dust emissions of Ash Material. The inherent moisture content of the Ash Material primarily ties itself to the finer fractions since the metallic fractions do not have notable water absorptive properties.

Comment 2-3: The commenters stated concern that the lack of any specific information about the materials removed from the ash (Product) means it is impossible to know if the Product will meet the requirements of CFR 40 261.24 to be classified as Hazardous Waste or Non Hazardous. This information will affect the appropriateness of the entire proposal.

Response: The Proposer routinely tests the Product in accordance with Minn. R. 7035.1910 to thoroughly characterize the MSW combustor ash. Beginning in 1991, all Minnesota MSW combustor ash land disposal facilities were required to conduct extensive combustor ash leaching potential testing for hazardous determination using the EPA Toxicity Characteristic Leaching Procedure (TCLP) method. If analysis of the TCLP extract shows that a regulated compound is present above the hazardous regulatory level for that compound, the waste is considered characteristically hazardous for toxicity. The MPCA Hazardous Waste Division in 1996 determined that the leaching potential from MSW combustor ash did not meet the TCLP hazardous criteria. Given the quantity of data, all MSW combustor facilities received ash-testing variances to eliminate the routine TCLP testing for hazardous determination.

The MPCA permits the ferrous material (FM) and non-ferrous material (NFM) removed from the Ash Material as a solid waste. The Process does not alter the FM and NFM in any way.

Comment 2-4: The commenters stated concerns that the information used to justify the need for a MPCA Air Emissions Permit under Rule 7007.0250 subp. 4. is faulty because no information is available to prove that at 90% metal, the product will hold the same moisture content and have the same dust binding properties as the unprocessed ash.

Response: See response to Comment 2-2.

Comment 2-5: The commenters stated concerns that it is unclear whether LabUSA will be keeping the ferrous and non –ferrous concentrates separate or not. If LabUSA chooses to keep the streams separate, then the Hazardous Waste determination and all other calculations for the non-ferrous concentrate become more critical.

Response: LabUSA does separate the FM from NFM as described in the process steps below while processing 150,000 tons per year, or up to 600 tons per day, of Ash Material. The Project will recover approximately 15,000 tons of FM and NFM each year or approximately 60 tons each day of operation with an estimated 10% recovery rate. Further, the LabUSA process does not concentrate or chemically alter the FM or NFM. Because the leaching potential of the FM and NFM does not change with the physical segregation process, the FM and NFM do not become characteristically TCLP hazardous (see also response to Comment 2-3).

The following describes each processing step along with estimates of the quantity and the frequency of material removed from the site. Containers for transportation hold approximately 20 ton of collected FM and NFM.

a. **Crushing Operations:** All Ash Material passes through the crushing operation to break up clumps of material caused by the absorptive properties of the fine Ash Material components and the moisture content inherent to the Ash Material. The Proposer will not grind the Ash Material. The Proposer does not recover FM or NFM material during the crushing process.

b. **Large-Fraction Ferrous Metal Magnetic Separator Operations:** The Ash Material from the crushing operations moves to a process to remove bulky waste material. As part of this process, all of the Ash Material passes under a large magnet that will remove any large FM. The large-fraction FM removed during this operation combines with other FM collected later in the process. FM collection accounts for approximately 8% of the total material recovered. The Proposer expects to recover approximately 5 tons per day of the large fraction FM. The Proposer expects to ship ferrous metal collection containers daily.

c. **Screening Operations:** Once through the large-fraction magnetic separator operations, the Ash Material moves to a shaker screen, which is essentially a series of differently sized mesh screens. The shaker screens sort the Ash Material into various fractions, which undergo their own separation. Each size has its own product line. The Red Wing location will have three product lines designated as follows: 1 to 9 mm, 9 to 16 mm, and 16+ mm. The smaller fractions (< 1 mm) are incidental and only accumulate in the collection process if they are moist enough to cling to the larger removed fraction. Approximately 595 tons per day would enter the screening operations and 595 tons per day would exit the screening operations.

d. **Mid- to Fine Fraction Magnetic Separator Operations:** Before entering the eddy current operations, each of the three lines (1 to 9 mm, 9 to 16 mm, and 16+ mm, respectively) passes under another magnet to capture any remaining FM that are present. The FM removed during this operation combines with the large fraction FM previously collected. The output from the, fine to mid-fraction magnetic separator operations, will vary, but is estimated at 37% of the total material recovered or up to 22 tons per day.

e. **Eddy Current Operations:** The Ash Material next enters the eddy current operations to remove NFM. An eddy current system imparts a slight positive charge to nonferrous or nonmagnetic metals (e.g., aluminum, copper, brass, etc.) and then emits a frequency that repels the charged material just enough to throw the material over a break. The remaining Ash Material falls before the break as a residual. No single metal or element is segregated or concentrated. The various size fractions of NFM removed during this operation will remain separated for storage and off-site transport. The estimated total recovered material from the eddy current operations is approximately 55%. The output from the 1 to 9 mm Fractions could be up to 15 tons per day and shipped off site two to four times per week. The output from the 9 to 16 mm Fraction could be up to 12 tons per day and shipped off site two to four times per week. The output from the 16+ Fraction could be up to 6 tons per day and shipped off site one to two times per week. The variable quantities warrant adaptable temporary storage containers for the NFM and may include rolloffs, bins, totes, or even bags.

f. **Residual Combustor Ash Material Operations:** Approximately 90% of the Ash Material, or approximately 540 tons per day, that passes through the magnetic separator and eddy current operations falls out as residual material. Given the daily volume, the Proposer collects the residual Ash Material in its own storage area for loading onto trucks for transport back to the landfill on a daily basis.

Comment 2-6: The commenters stated concerns that since no standard emissions model are available to apply to this application, a standard model for aggregate and mineral processing (AP42 11.19.2) were used. While it may be the best standard model available, it is not a good model for the following reasons.

a. Particle size – Even tertiary ground aggregate has particle size 5-100 times larger than LabUSA's proposed particle size. LabUSA provided no particle size information in the EAW for the analysis. The information was gleaned from various Red Wing Commission and Council Minutes. LabUSA does not plan to supply protective equipment or monitor the work areas for Toxic Metals including LEAD.
b. Specific gravity – The emissions factors assume all three waste streams will have the same specific gravity as aggregate. There is no information to support this assumption.
c. Minimum moisture – The model assumes all three streams will maintain the same moisture content even through extended shut downs for weekends and holidays. No information was provided to support this assumption. Nor is any active process in place to monitor or control the moisture content.
d. Lead content – The information provided for air permit status makes no mention of lead content. Therefore, EPA-454/R-98-006 considerations are not applied to the determination. The combined effect of these assumptions and oversights allow the Proposer to claim an unrealistic 99.99996% lead containment with no active controls.

Response:

a. Particle size – The EPA specifies the use of a high-volume sampler to collect particles with aerodynamic diameters of 100 µm or less. Airborne PM defined at less than 100 microns and respirable particulate (PM10) defined as less than 10 microns. The LabUSA physical process focuses on material generally larger than 1 mm or 1,000 microns; smaller fractions are incidental and only accumulate in the collection process if they are moist enough to cling to the larger removed fraction. Therefore, once processed, little to no Ash Material can become airborne because the size is too large or too wet.
b. Specific gravity – As stated in the comment, the specific gravity for material handled during all steps in the process was assumed to be the same as aggregate. This is a conservative assumption for the metals-laden Ash Material because metals generally have higher specific gravity (density), which would make it more difficult to have the particulate become airborne; thus, emissions of processed Ash Material will actually be even less than estimated.
c. Minimum moisture – The moisture content of excavated Ash Material at the Xcel Ash Landfill is maintained by limiting the excavation to days coinciding with LabUSA processing; the Ash Material will not be staged at the landfill where it would be exposed to sun and wind, which could cause it to dry excessively.

The primary method for maintaining moisture content is the inherent physical properties of the Ash Material itself. The Ash Material leaving the Generating Plant has a moisture content exceeding 22%; the Ash Material in the landfill generally maintains a moisture content greater

than 22%. The majority of that moisture attaches to the finer material since metals do not readily absorb moisture. On the other hand, the finer material does not easily shed the moisture either, which is why the moisture content of Ash Material within the landfill stays up even when exposed to the sun and wind.

Storage of the Ash Material inside a building away from the sun and wind will not significantly change the moisture content over a few days especially with the daily addition of fresh Ash Material coming from the Red Wing Generation Plant.

The Ash Material throughout the process is managed in accordance with the Operations and Maintenance Plan included in the Permitting Documents (SEH, June 15, 2016). Process Building personnel will have the equipment to apply moisture, as necessary, as part of daily operations including prior to leaving the site before a weekend or holiday. See response to Comment 2-2.

d. Lead content – Appendix D of the EAW Table 1: Total Facility Potential to Emit in Tons per year (tpy).

Table 1: Total Facility Potential to Emit in tons per year (tpy)

Pollutant	Facility Total (tpy)	State Permit Threshold (tpy)	Federal (Part 70) Permit Threshold (tpy)	Subject to Permit?
NOx	0	-	100	No
SOx	0	50	100	No
VOC	0	100	100	No
PM	3.67	-	100	No
PM-10	1.44	25	100	No
PM-2.5	1.44	-	100	No
CO	0	-	100	No
Lead	**0.006**	**0.5**	**10**	**No**
Single HAP	0.006	-	10	No
Total HAPs	0.009	-	25	No

Lead is specifically identified. The conversion to pounds per year (lb/yr) for lead is:

Pollutant	Facility Total lb/yr	State Permit Threshold lb/yr	Federal (Part 70) Permit Threshold Lb/yr	Subject to Permit?
Lead	12	1,000	20,000	No

Comment 2-7: The commenters stated concerns that the Hazardous Air Pollutants (HAPs) particles separated in the eddy current separator are not controlled by LabUSA. Potential Emissions calculations treat the eddy current separator as a "drop point" at the end of a conveyor. Eddy current separators work by accelerating a metallic particle away from the non-metallic particles. Eddy current separators function more efficiently on smaller particles (cube/square relationship). The smaller the particle the greater the acceleration and the greater the potential to become airborne.

Response: As indicated in the response to Comment 2-2, the moisture content of the material being processed must be maintained above 15%, and the targeted particle size for separation is 1 mm or

greater; two physical characteristics that control dust emissions and minimize the chance of HAPs becoming airborne.

Further, the LabUSA process does not concentrate or chemically alter the metal containing compounds. Physical segregation of different size materials is the only processing that occurs.

Last, the EAW, Appendix D, page 3, air quality determination from the MPCA, states that any single HAPs emission is less than 0.006 tons/year or 12 pounds per year and the aggregate total HAP emissions are less than 0.009 tons/year or 18 pounds per year.

Pollutant	Facility Total	State Permit Threshold	Federal (Part 70) Permit Threshold	Subject to Permit?
Single HAP	0.006 tons per year Or 12 pounds per year	None	10 tons per year Or 20,000 pounds per year	No
Total HAPs	0.009 tons per year Or 18 pounds per year	None	25 tons per year Or 50,000 pounds per year	No

Comment 2-8: The commenters stated concerns that the EAW made erroneous assumptions that this project is similar to other facilities processing waste-to-energy incinerator ash. Significant differences between those facilities and LabUSA include:

a. Location – most of the facilities we have identified are located more than one mile away from the nearest residential neighborhood with Rosemount having two farm residences within 1 mile. Red Wing has more than 500 homes within the same radius.
b. Process – the LabUSA Product will be ground at least 10X finer than non-LabUSA facilities.
c. Facility size – All other ash facilities we have identified are on plots of at least 200 acres allowing significant buffer space to contain fugitive dust. LabUSA will be located on less than five acres with no significant space buffer to contain fugitive dust.

Response:

a. Location – For more than 40 years, solid waste activities have occurred near the Project site. The County/City landfill has been operating for more than 40 years and the Xcel's Red Wing ash landfill (Xcel's ash landfill) has been operating for about 30 years. The MPCA is not aware of any noise, odor, or dust complaints regarding the operations of the Xcel Ash Landfill. See response to Comment 2-1.
b. Process – The Proposer has no plans to "grind" the Ash Material but it will be crushed. See response to Comment 2-2 and 2-6.
c. Facility size –The Project Site meets all state and local setback requirements. To minimize environmental impacts to the area, all processing activities occur inside the Process Building. The location of the Process Building is within Xcel Energy's property boundary of approximately 153 acres. See response to Comments 2-2 and 4-37 regarding fugitive dust.

Comment 2-9: The commenters stated that it is worthwhile to note the similarities between this EAW and the EAW supplied by Northern Metals. Both lack significant information. In the Northern Metals case, if a full Environmental Impact Study had been made as the MPCA wanted, many of the subsequent problems at the Northern Metals facility would have been avoided.

Response: The MPCA finds no comparison between Northern Metals and the proposed LabUSA project. Northern Metals is a large scrap iron metal recycler with a complicated Minnesota State Air Emissions permit. LabUSA is a small operation extracting metals from Ash Material, which does not require a Minnesota State Air Emissions Permit.

Comment 2-10: The commenters stated concerns that because of the problems with the LabUSA EAW, and general lack of experience in North America (less than 1 year) - particularly in residential areas (none), a full Environmental Impact Statement (EIS) should be required to accurately assess the Potential to Emit.

Response: Comment noted. The MPCA Commissioner, following the criteria in Minn. R. 4410.1700, subp.7, will determine the need for an EIS after carefully reviewing all information in the EAW and in the public comments. The MPCA Commissioner will develop Findings of Fact and Conclusions of Law to support either a positive declaration on the need for an EIS, or a negative declaration on the need for an EIS.

3. Comments by State Archaeologist, Letter received January 3, 2017.

Comment 3-1: The commenters stated, the project was reviewed pursuant to the Minnesota Field Archaeology Act (MS 138.31 - 41), the Private Cemeteries Act (MS 307.01), and the Minnesota Environmental Policy Act (MS 116D). Although there are no recorded archaeological sites within the footprint of the proposed Ash Processing facility, cemetery and archaeological site, 21GD0042 is located adjacent to this parcel, and within the proposed laydown area and stormwater ponds. These burial grounds are protected under Minn. Stat. 307.08, thus no earthmoving or construction activity (including driving heavy machinery) is permitted within site 21GD0042 without direct consultation with the Office of the State Archaeologist and the Minnesota Indian Affairs Council (MS 307,08, subp 10).

Response: Comment noted and passed on to the Proposer.

4. Comments by Carol Overland, Legalectric, Inc., Letter received January 4, 2017.

Comment 4-1: Commenter stated concerns that the EAW did not adequately explain why Minn. R. 4410.4300, subp. 17G would not apply to the LabUSA facility.

Response: The mandatory category pursuant to Minn. R. 4410.4300 subp. 17G: *For construction or expansion of a mixed municipal solid waste energy recovery facility ash landfill receiving ash from an incinerator that burns refuse-derived fuel or mixed municipal solid waste.* The proposed LabUSA facility project is not a mixed municipal solid waste (MMSW) energy recovery facility ash landfill. Therefore, this mandatory category is not applicable to this project.

Further, LabUSA applied for a solid waste permit for the construction of a MMSW transfer and processing facility. The project did not trip the mandatory review requirements for a MMSW transfer facility according the Minn. R. 4410.4300, subp. 17*C. For construction or expansion of a mixed municipal solid waste transfer station for 300,000 or more cubic yards of per year.* Therefore, this mandatory category is also not applicable to this project.

However, the MPCA completed the environmental review pursuant to Minn. R. 4410.1000 subp 3D, Discretionary EAWs: *When the proposer wishes to initiate environmental review to determine if a project has the potential for significant environmental effects.*

Comment 4-2: The commenter stated concerns that the EAW did not discuss the city of Red Wing's interest in the project by including copies of leases, agreements and economic costs as well as financial benefits expected. The economic and financial aspects must be made public and available for comment.

Response: The issue and concern regarding the city of Red Wing's interest in the project are important to those living in the area, but it is not an environmental issue. As such, it is beyond the scope of the EAW. Item 9 b. of the EAW states Xcel Energy has previously agreed to lease the Project Site to the city of Red Wing to support public works operations. The City will lease the Project Site to the Proposer for 10-years with a 5-year extension option if needed. At the end of the lease or when it becomes available, the City will use the Project Site for pubic work activities.

Comment 4-3: The commenter asked for an extension of the comment period until January 30, 2017.

Response: The MPCA granted the request to extend the comment period to January 30, 2017.

Comment 4-4: The commenter points out that the EAW is missing a descriptor in paragraph 6a., line 2 after "150,000" which is likely "tons" as reported further into the document.

Response: Thank you for the clarification. The word "tons" will be added to the EAW though an EAW errata sheet.

Comment 4-5: The commenter stated concerns that the EAW did not discuss waste combustor ash coming from the Xcel Energy French Island Incinerator in La Crosse.

Response: Xcel's ash landfill has never accepted Ash Material from the French Island facility. In the future, should Xcel Energy elect to receive Ash Material from French Island, the Ash Material will go directly into the landfill. LabUSA will not process Ash Material from French Island.

Comment 4-6: The commenter stated concern that the EAW stated that the Xcel ash landfill contains air quality system residuals, "fly ash" which by definition would be considered toxic and a hazardous waste (page 3). The composition and magnitude of these residuals must be disclosed and potential impacts analyzed.

Response: Waste to energy utilizes municipal solid waste (MSW) through mass burn or through the burning of refuse derived fuel or RDF (developed following a material recovery process for recyclables from the waste stream) to capture and produce energy. Following a burn process of temperatures above 1500°F, fly ash and bottom ash combined to form the Project Ash Material. Currently, Ash Material is primarily disposed into Minnesota landfills meeting design and operational criteria established under Minn. R. 7035.2885. Waste to Energy incinerator ash is not a hazardous waste. Please see response to Comment 2-3.

Comment 4-7: The commenter stated concern that the EAW did not provide specifics on the ash residual, and/or leachate collection and removal system *(LCRS)* and it should have.

Response: Approximately 90% of the Ash Material that passes through magnetic separator and eddy current operations falls out as residual material or approximately 540 tons per day. The Proposer collects the residual Ash Material in its own containers and ships it back to the landfill on a daily basis.

Ash Material excavation and the truck loading process will occur inside the lined disposal facility. While on landfill property, the leachate collection system collects all stormwater that contacts Ash Material and treats it as leachate. Trucks leaving the landfill will cross tracking control systems to minimize any transport of waste material onto access roads; if necessary, the landfill tracking control systems may also include, wheel washing equipment operated within the lined landfill to protect access roads.

The unloading of the unprocessed Ash Material and reloading of residual processed Ash Material will occur inside the Process Building to eliminate any potential contact with stormwater. The truck entrances to the building will have track out control systems to minimize any transport of waste material onto access roads.

Regarding the LCRS, LABUSA estimates the total daily amount of leachate from the Process Building will be very little since Ash Material tends to absorb water rather than leaching it. However, to deal with what leachate is generated, the Proposer will install an approved leachate holding tank and sump pump to collects all water that comes into contact with the leachate within the Process Building. The Proposer will pump leachate from the holding tank to a tanker truck on an as needed basis to Red Wing Sanitary Wastewater Treatment Plant for treatment.

The city of Red Wing has determined that the leachate conveyed from the Process Building to the Red Wing Wastewater Treatment Facility (WWTF) is not considered a significant industrial wastewater in volume or type. As a result, the Project would not be a significant industrial discharger and a pretreatment permit would not be required.

Leachate from Xcel's ash landfill currently flows to the City of Red Wing's sewage collection system leading to the City's Bench Street Industrial Pretreatment Plant. The amount of leachate currently averages more than 13,000 gallons per day. The Proposer estimates the maximum flow from the proposed facility at 500 gallons per day including sanitary wastewater. Xcel Energy routinely samples the landfill leachate and results show that it does not pose any problems with the treatment process. The history in treating landfill leachate at the wastewater treatment facility indicates that there is no reason to suspect any difficulties in treatment of leachate from the Process Building.

The Bench Street Industrial Pretreatment Plant design removes suspended solids and the heavy metals associated with the solids. The treatment process adds an organic polymer and/or ferric chloride to coagulate the solids; sodium hydroxide to raise the pH; and an organic polymer flocculent to enhance settling. The waste then goes through primary and final polymers. The clarified liquid flows to the City's municipal wastewater plant for final treatment prior to discharge. Treatment at the municipal wastewater plant includes screening and grit removal, primary settling, Biochemical Oxygen Demand (BOD) removal with trickling filters and addition of ferric chloride for phosphorus removal. Chlorine provides seasonal disinfection.

Comment 4-8: The commenter stated concern that the EAW states that "Stormwater will not contact combustor ash during off loading, loading or processing" which would occur inside the building. EAW, p. 3.

However, logically, when excavating, loading, and transporting to the building, stormwater will contact combustor ash left/dispersed by the excavation, loading, transporting, and unloading processes, and the EAW must address how that contaminated stormwater will be collected and treated. This warrants further investigation.

Response: A leachate collection system collects all stormwater that contacts Ash Material and treats it as leachate. Please see response to Comment 4-7.

Comment 4-9: The commenter stated concerns that waste combustor ash from Xcel's French Island Waste combustor will be processed at the proposed facility.

Response: Please see response to Comment 4-5.

Comment 4-10: The commenter stated concerns that the EAW discussion of storage inside the "Process Building" relates that it is an open building, with two large openings, 25 x 25 feet, on each end of the north side, and with "ventilation openings along the top of the east and west walls." EAW, page 3. There is no pollution control equipment planned for the building. The EAW states that "The building structure allows for sufficient storage under cover and is contained by berms in accordance with Minn. R. 7035.2855," but that rule requires that "the storage area is designed and operated to control dispersion of the waste by wind by means other than wetting..." Open doors and "ventilation openings" would disperse waste by wind, contrary to Minn. R. 7035.2855, subp. 1(c)(2) subp. 3(f). This warrants further investigation.

Response: The Proposer has no plans, nor is it required, to install air pollution control equipment within the Process Building as there is no dust generated due to wetting procedures as described. Please see response to Comment 2-2 regarding fugitive dust and Comment 2-7 for air emissions.

Comment 4-11: The commenter stated concerns that the open nature of the building, dependent on the open doors and "ventilation openings along the top of the east and west walls" would allow gas releases, and not compliant with Minn. R. 7035.2855, supb. 1(c)(3). EAW, page 3. This warrants further investigation.

Response: The generation of "gases through decomposition" as stated in the referenced rule does not occur with Ash Material because the incineration process destroys the organic material prone to a gas-generating decomposition.

Comment 4-12: The commenter stated concerns that the storage area within the building is described, but does not address a liner for this storage area, and in this respect is also not compliant with the rule. EAW, page 3. The rule requires a liner, specifically "a liner that is designed, constructed, and operated to prevent any migration of waste or leachate into the adjacent subsurface soil, ground water, or surface water at any time during the active life, or the closure period, of the facility." Minn. R. 7035.2855, subp. 3. This warrants further investigation.

Response: As described in the Design Report in the Permitting Documents (SEH, June 2016) and in the EAW, Item 12.a, page 14, the floors will consist of 5,000-psi concrete in accordance with Minn. R. 7035.2870, which meets or exceeds the "liner" requirements of Minn. R. 7035.2855. The floor design

accounts for heavy equipment traffic and processing equipment, and is bermed to contain any liquids. A bermed floor indicates that the outer edge slopes inward toward the storage areas.

Comment 4-13: The commenter stated that "Stormwater will not contact combustor ash during off loading, loading or processing" which would occur inside the building. EAW, p. 3. However, logically, when excavating, loading, and transporting to the building, stormwater will contact combustor ash left/dispersed by the excavation, loading, transporting, and unloading processes, and the EAW must address how that contaminated stormwater will be collected and treated. This warrants further investigation.

Response: Stormwater is adequately managed and will not be contaminated. Please see response to Comments 4-8 and 4-7.

Comment 4-14: The commenter stated concerns that the EAW states that "The Process Building is designed so that any excess water in the combustor ash will be collected and treated as wastewater through the City WWTF. EAW, page 3. There is leachate from the existing landfill – how is that leachate handled? Where there is 22-29% moisture in the landfill ash, how much is liquid subject to runoff, dripping, pooling? Is there a design basis for treatment of this process wastewater at the City WWTF? Typically, industrial wastewater requires pretreatment before release into the City system – is this anticipated? Often industrial wastewater is treated separately – is this anticipated? What is the basis to believe that this combustor ash wastewater can be released directly into the City system and that treatment at the City WWTF would be sufficient? This warrants further investigation.

Response: The City does not expect to "require" the leachate to be treated through Industrial Pretreatment Plant. The City of Red Wing would not consider the Project to be a "Significant Industrial User" based on the anticipated flowrate and the leachate from the Process Building would have similar characteristics to leachate currently treated from Xcel Ash Landfill. Also, please see response to Comment 4-7

Comment 4-15: The commenter stated concerns that the transport process provides opportunity for dispersion of dust, contaminated water and leachate, and gas, including excavation, loading, and offloading in the processing plant, loading of processed ash, and returning it to the landfill. EAW, page 3. This warrants further investigation.

Response: The EAW has evaluated the potential environmental impacts of these activities, and MPCA has determined that they do not have the potential to cause a significant environmental effect. See response to Comments 2-2, 2-3, 2-5, 2-6, 2-7, and 4-7.

Comment 4-16: The commenter stated that specifics should be addressed, including whether they will use low sulfur fuel, whether there are idling limits, size of engines and muffler specifications, DOT and OSHA compliance, and noise levels and air emissions from the "off road" trucks warrants further investigation.

Response: The use of ultra-low sulfur diesel or ULSD (diesel with 15 parts per million (ppm) sulfur) for all on-road and non-road engines is required as part of the Clean Air Act and stipulated under EPA rulemaking. There are no idling limits for diesel engines or motor vehicles in this area other than City noise requirements. Indoor noise must meet worker safety requirements per OSHA requirements and

Minnesota noise standards and will consider noise levels of vehicles and equipment as provided in the Construction Noise Handbook prepared by the U.S. Department of Transportation.

Comment 4-17: The commenter states the claim that detailed operation procedures of the processing equipment will be established during the final design, installation, and initial operations of the Processing Building..." and then lists vague "general processing operations." EAW p. 4. This is insufficient, and warrants further investigation. EAW, p. 4.

Response: The general processing operations presented in the EAW, and in response to Comment 2-5, accurately describe the purpose of the equipment. The equipment and layout will vary from facility to facility based on the volume of material processed and the actual physical characteristics of the material processed. The unique characteristics of the Xcel's Ash Material and the dimensions and features of the Process Building will determine the position and details of the final internal operational layout to provide optimum conditions for the segregation process.

Comment 4-18: The commenter stated that r*ate* control as means of stormwater handling and the impacts of stormwater sediment on the proposed ponds should be demonstrated, the EAW should show this work, The City's plan should be incorporated into the EAW for this project, which is dependent on it. Further investigation is warranted.

Response: The City has sized the pond to maintain a post development runoff rate less than or equal to the pre-development runoff rate for the 2-year (2.89-inch), 10-year (4.33-inch), and 100-year (7.61-inch) storm events. The pond provides sediment storage to minimize any downstream migration of sediment from the Project Site. The pond outlet discharges down the hill to lower elevations and continues east towards Bench Street entering the City's municipal stormwater system. The discharge to the City's stormwater system will meet requirements imposed under the City's Zoning Ordinance 57 requirements and current state or Minnesota stormwater permits.

During Project construction, the Proposer will obtain a National Pollutant Discharge Elimination System/State Disposal System (NPDES/SDS) Construction Stormwater Permit for the Project construction, since it involves excavation of more than 1 acre of soil. The permit requires the Proposer to implement best management practices (BMPs) through a Stormwater Pollution Prevention Plan (SWPPP). The SWPPP includes BMPs such as onsite infiltration, silt fences, bio-rolls, hay bales and fabric mats. Any disturbed soils and vegetation would be re-vegetated by seeding and mulching.

Comment 4-19: The commenter stated that the EAW must identify with specificity the project's purpose and the City's changing role in this project must be clarified. This warrants further investigation.

Response: Item 6. d. of the EAW states - **Explain the project purpose; if the project will be carried out by a governmental unit, explain the need for the project and identify its beneficiaries.**

The EAW provided the following response: The Proposer will recover the ferrous and non-ferrous metals from Ash Material currently generated and previously landfilled in the Red Wing area.

Under Xcel Energy's current Conditional Use Permit (CUP) with the City, Xcel Energy is required to evaluate alternative management methods for the disposal of Ash Material. In addition, Minn. Stat. 115A.02 emphasizes the goal of reducing toxicity and volume of wastes. Minn. R. 7035.0350 also states "...the goal of solid waste management should be to use wastes of the highest and best value and to dispose of them only after other feasible options have been evaluated..." The Project will help achieve this goal, by reducing the volume of waste landfilled, through the recovery of ferrous and nonferrous materials from the Ash Material prior to final disposal.

The city of Red Wing provided the following additional comment: The City of Red Wing will be a partner in the Project. The City has entered into a lease agreement with Xcel Energy to allow the City to construct a Public Works Maintenance Shop and Yard on Lot 1, Block 1, and Lot 2, Block 1, and Outlot B, of Tyler Hills Fourth Addition. This 20-year lease provides an opportunity for the City to use the property for the purpose of equipment and material storage and public works service or other activities related thereto, including, but not limited to, the crushing and processing of concrete, bituminous soil, ash and aggregate such as sand, rock and recycled materials. The City intends to sublease the Lot 2, Block 1, to LabUSA for the Project.

Comment 4-20: The commenter stated cumulative and connected projects and actions must be identified, disclosed, and impacts addressed in the EAW. This warrants further investigation.

Response: The MPCA did not formally label the modification to the Xcel Ash Disposal Permit as a connected action to the LabUSA Ash Processing Project; however, the EAW treated them as connected actions. The EAW, Findings of Fact Documents and Response to Comments considered the potential for significant environmental effects resulting from the excavation, transportation, and replacement Ash Material from the Xcel Ash Landfill.

Item 19 of the EAW did review potential cumulative impacts from traffic, dust, and noise from nearby sources to the proposed project. Based on information on the proposed project obtained from the Air Permit Applicability Determination Request, and permit application presented in the EAW, and in consideration of potential effects due to related or anticipated future projects, the MPCA did not find any cumulative effects from this Project. Further, there are no known connected or phased projects.

Comment 4-21: The commenter stated that the discontinuation of farming on part of Outlot A, must be addressed in the EAW, including aspects such as economic impacts and revenue losses, change of land cover, and change of land use. This is not accurately depicted in the EAW and warrants further investigation.

Response: As indicated in the EAW, Item 7, page 5, the proposed project will decrease the cropland from 3.1 acres to 1.2 acres. Also presented in the EAW, Item 9.a.i, the landowner, Xcel Energy, has indicated that future use of that part of the site does not include continued agricultural use, as covered under previous environmental review. Currently, the cropland in question is not farmed for economic purposes by the Xcel Energy; therefore, the landowner will not experience any notable economic impacts or revenue losses.

The Project Site is within the City's boundaries in Goodhue County, Minnesota. The City has planning and zoning jurisdiction over the Project Site. The Proposer has designed the Project to allow a continuation of solid waste operations in an area permitted for solid waste management activities for

Xcel's ash landfill. The City adopted its current Land Use Comprehensive Plan in 2007. The Project Site is an activity center, surrounded by a Green Network. Activity centers focus on commercial retail and service uses, institutions and higher density residential, and provide places to do business along transportation corridors.

Also, please see response to Comment 4-22 below.

Comment 4-22: The commenter stated concerns that the EAW does not adequately address the existence, location, and purpose of the scenic easement and the related city commitment to holding Outlot A as an undevelopable barrier between the landfill and Tyler Hills. See Exhibit B and C, attached. This warrants further investigation.

Response: The city of Red Wing, in a memo from Tina Folch, Sustainability Commission, to the Red Wing City Council, for the April 25, 2016 meeting, states:

> The Tyler Hills development was platted by the City with the understanding by the City that landfill developments were located below the development and that there was adequate undevelopable land to buffer from the land uses that are accessed off of Bench Street.
>
> This statement refers to the undevelopable land buffering the housing development in the Tyler Hills subdivision and not the undeveloped land that was initially platted as Outlot A of Tyler Hills 2nd Addition where Lots 1 and 2 of Tyler Hills Fourth Addition are located and proposed for this development. Outlot A of the original Tyler Hills 2nd Addition was platted in 1999 as an Outlot to be platted and developed in the future. The specific language used in approving the final plat for Tyler Hills 2nd Addition reads: Outlot A shall be considered an unbuildable lot until it is subdivided in the future. This condition of approval clearly indicates that there was an understanding that Outlot A would be developed in the future, but not until a development proposal was brought forward and future subdivision.

Tina Folch' s memo is referring to the undevelopable wooded and steep sloped land buffering Outlot A and located within Tyler Hills 2nd Addition, and partially located on Outlot A. There is approximately a 200-foot elevation change from the housing development in the Tyler Hills subdivision and the developable land located in Outlot A of Tyler Hills 2nd Addition. This elevation change occurs in a distance of over 700 horizontal feet. This steep and wooded sloped area cannot be developed because it does not meet the City's zoning requirements that limit development on a slope of more than 18 percent. Substantial portions of this land adjacent to Outlot A also have conservation easements granted by the original developers to the City to further conserve the property in its natural condition.

Comment 4-23: The commenter stated concerns that the possession and ownership of the LabUSA process building is not clear and must be identified in the EAW. This warrants further investigation.

Response: LabUSA will own the Process building and equipment constructed on Xcel Energy property. However, at the end of the agreement, LabUSA must remove all equipment and close the facility in accordance with Minn. R. 7035.2625 and 7035.2635. As the owner of the Project Site, Xcel Energy may elect to leave the building standing or remove it based on needs at the time of closure.

Comment 4-24: Commenter requested that an updated survey from the Minnesota Natural Heritage Information System be provided for the Project Site.

Response: The Minnesota Department of Natural Resources provided an updated Natural Heritage Information System search for the Project Site (Attachment 1 Response to Comments). The following findings were the same for the January 24, 2012 survey (Appendix A, EAW) and the December 16, 2016 survey (Attachment 1 Response to Comments): "Based on the query, rare features have been documented within the search area, but these records did not include any federally listed species and were either historical or not of concern given the project details that were provided with the date request form. As such, I do not believe that proposed project will adversely affect any known occurrences of rare features."

Comment 4-25: The commenter stated concerns that the EAW identifies numbers of trucks at the site, and different types of trucks, but a traffic study is needed to identify the number of trips, routes, purpose, and characteristics of the different types of trucks to be used. This warrants further investigation.

Response: The Proposer will eliminate dumping in the Xcel Ash Landfill with the current quad axel dump trucks currently used to haul Ash Material from the Xcel Generating Plan to the Xcel Ash Landfill with off-highway articulated dump trucks. The larger capacity off-highway trucks will minimize the total number of trucks entering the landfill because of the larger capacity.

Currently 10 trucks per day deliver Ash Material to the Ash Landfill using Bench Street to the access road to the Ash Landfill. Once the Process Building begins operation those same 10 trucks will still use Bench Street to the access road to the Ash Landfill but deliver the Ash Material to the Process Building instead of the Ash Landfill.

The Project Site is approximately 1-mile south of U.S. Highway 61 with a site access road off of CSAH 1 also known as Bench Street. According to the Minnesota Department of Transportation (MnDOT), the annual average daily traffic level on Bench Street is 8,200 vehicles per day (2007). The only new truck traffic added to Bench Street will be for roll-off container removal, accounting for three trucks from the Project Site per day. The expected increase in traffic on Bench Street is three vehicles per day or 0.0004%.

The Proposer expects to add approximately 20 trucks per day to travel from the Xcel Ash Landfill to the Project Site using an internal private road. The Proposer will add approximately 3 trucks per day to remove roll-offs filled with recovered ferrous and nonferrous materials from the Project Site using Bench Street. During construction of the Project, the Proposer expects approximately 15 additional trucks per day at the Project Site; this increase is relatively small and for only three to four months.

Expected truck traffic associated with the Project.

Year of Operation/ Source of Traffic	Traffic Route	Days of Operation	Typical Hours of Operation	Average Daily Distance Traveled (feet)	Average Daily Traffic Count	Maximum Daily Traffic Count
Xcel Energy Landfill and Generating Plant						
Trucks from Xcel Energy Red Wing Generating Plant to Process Building	Internal Haul Roads and Bench Street	Sunday - Saturday	7 a.m. to 5 p.m.	48,000	10	12
Trucks from Xcel Energy Ash Landfill to Process Building	Internal Haul Roads	Monday – Friday	7 a.m. to 5 p.m.	64,000	20	23
Trucks from Process Building hauling Roll-Off containers	Internal Haul Roads and Bench Street	Monday – Friday	7 a.m. to 5 p.m.	14,000	3	5

During the three to four months of Project construction, about 15 construction-related trucks per day will enter and leave the Project Site through the internal haul roads and Bench Street. The construction traffic will not coincide with the Project operations included above.

Comment 4-26: The commenter stated that the EAW shows the modeled composition of the incinerator ash, but it is not evident that the French Island ash has been tested and/or included in the assay. The French Island incinerator ash must be tested and results made public due to the high percentage of chemically treated railroad ties burned as "fuel" at the plant. This warrants further investigation.

Response: LabUSA will not process Ash Material from French Island. Please see response to Comment 4-5.

Comment 4-27: The commenter stated concerns that the composition of the incinerator ash, when considered in terms of the total tons of ash to be processed, could result in very high amounts of toxic and hazardous materials released into the air and water. The modeling of potential HAPS and water pollutants must be reworked for accuracy. This warrants further investigation.

Response: The analysis in the EAW does not indicate a concern about the potential for release of toxic or hazardous materials. Please see response to Comments 2-3 and 2-7.

Comment 4-28: The commenter stated concerns that the EAW provides no information regarding chemical composition of concentrated and stripped as in the various stages of processing. This warrants further investigation.

Response: The EAW does present information concerning the chemical composition of the materials in the relevant stages of processing. Please see response to Comments 2-3, 2-5 and 2-7.

Comment 4-29: The commenter stated concerns that the proximity of the "Water Tank Mounds" is only presented in terms of the Xcel parcel, and must be clarified and a specific determination made whether the LabUSA project may be built where proposed. This warrants further investigation.

Response: Based on concerns that the map showing the project area and the mapped area of the Water Tank Mounds was not detailed enough to determine the potential for impacts, the Proposer provided a more detailed map showing the relationship of the LabUSA project and the Water Tank Mounds area. To better visualize the extent of the survey, the study area was overlaid with the Proposed Site and included as Exhibit 1. Construction activities will occur approximately 450-feet from the approximate area of the mapped mounds and operational activity approximately 600-feet. As stated in the EAW, the survey identified no archeological sites and no anticipated impacts and recommended no additional investigation.

Comment 4-30: The commenter stated that the EAW must report findings of ALL soil borings, not just 9 of 11. This warrants further investigation.

Response: As stated in the EAW - The Proposer drilled soil borings in March 2016, as part of a geotechnical evaluation for the Project Site. The bedrock encountered in 9 of the 11 soil borings was generally described as light brown to brown, soft, highly weathered sandstone with occasional glauconitic seams (appearing green). Depth to bedrock ranged from 7 to 29.5 feet, corresponding to elevations ranging from less than 762 feet (downslope) to as high as 813.4 feet (upslope).

The statement made was that bedrock was encountered in 9 of 11 borings, no bedrock was found in borings 10 and 11.

Soil Boring	Ground Elevation (feet)	Depth (feet)	Bottom Elevation (feet)	Depth to Bedrock (feet)	Bedrock Elevation (feet)
SB-1	829.4	29.8	799.6	17.0	812.4
SB-2	825.2	22.6	802.6	12.0	813.2
SB-3	824.4	19.9	804.5	7.0	817.4
SB-4	818.9	22.8	796.1	12.0	806.9
SB-5	818.5	28.0	790.5	12.0	806.5
SB-6	817.1	40.1	777.0	24.5	792.6
SB-7	814.8	42.0	772.8	22.0	792.8
SB-8	810.2	41.0	769.2	29.5	780.7
SB-9	806.9	41.0	765.9	29.5	777.4
SB-10	801.7	31.0	770.7	NE	NE
SB-11	782.8	18.5	764.3	NE	NE
Note:	NE - Bedrock not encountered.				

Comment 4-31: The commenter stated concerns that the "water table, at 12-24.5 feet, requires protection, and it appears that no liner is proposed under the LabUSA concrete floor. This is not acceptable and warrants further investigation."

Response: The EAW indicates the floor design meets or exceeds the liner requirements in Minn. R. 7035.2855. Please see response to Comment 4-12.

Comment 4-32: The commenter stated concerns that the EAW notes "the city of Red Wing has determined that the liquid ash wastewater" ... "is not considered a significant industrial wastewater in volume or type." EAW, p. 12. The EAW must provide the basis for this decision and the authority under which this "determination" was made. This warrants further investigation.

Response: The city of Red Wing operates the Red Wing WWTF. Its determination is based on the actual experience with treating the leachate from the ash landfill, as well as the anticipated flow rate and leachate composition from the Process Building, which is expected to have similar characteristics to the leachate currently treated from the landfill. See response to Comments 4-7 and 4-14.

Comment 4-33: The commenter stated concerns that the claim of "No Exposure" under NPDES/SDS permitting, the claim that "the Process Building would not be a significant industrial discharger and a pretreatment permit would not be required," the statement that "The Proposer does not need a water appropriation permit for the project," and "the Project does not require groundwater monitoring," should be independently vetted and explained. This warrants further investigation.

Response: The Proposer has designed the Process Building to house all industrial activities including offloading, processing, and loading of materials. No stormwater will have contact with industrial materials or equipment within the Process Building. Because all industrial activities occur indoors, the Proposer has applied for certification of No Exposure under the NPDES/SDS General Permit MNR050000 for Industrial Stormwater Permit. Minn. R. 7035 does not require groundwater monitoring for solid waste transfer stations.

Comment 4-34: The commenter stated concerns that the Proposer states that the Process Building is closed, but on the north end there are to be two 25' x 25' doors, and ventilation openings on both the east and west sides of the building. The potential for release of particulate matter of all types, and of wind and water getting in through the openings, and draining out through the open doors and any other openings, must be addressed with specificity. This warrants further investigation.

Response: The EAW has determined there is no potential for significant environmental effects due to the release of dust or other particulate matter or leachate. For dust issues, please see response to Comments 2-2 and 2-7. For leachate issues, please see response to Comments 4-7 and 4-14.

Comment 4-35: The commenter stated concerns that existing contamination at the Xcel and County/City landfills must be addressed in detail, and this project as a connected action and with potential for cumulative impacts. This warrants further investigation.

Response: The project, as proposed, will have no surface water or groundwater discharge. Therefore, there will be no hydraulic connection to existing elevated chloride levels in groundwater or cumulative impact issues with the Xcel or County/City landfills.

The MPCA found no cumulative impacts between the LabUSA project and the Xcel's ash landfill. The County/City landfill is not a part of the Project.

The Project Site will share stormwater ponds with the new City Laydown Area. The City will size the ponds to accommodate expected stormwater runoff from both sites. See response to Comment 4-41.

No environmental releases have been associated with the landfill liner. Proposed site development will maintain a buffer of four feet (4ft) from the base of Ash Material excavated, to the liner, ensuring no damage.

Xcel Energy has defined impacts to groundwater, at the Xcel Ash Landfill, based upon chloride concentrations. Although chloride does not have a health based standard, it is a good indicator of Xcel Ash landfill leachate. Spikes in ground water chloride levels previously recorded were associated with failures in the leachate piping associated with the leachate tank. Corrective actions consisted of pipe changes, and replacement of automatic shutoff valves. The chloride level has subsequently dropped. Ground water quality, along as Energy's down gradient property line, are currently less than Intervention Levels, for parameters associated with Xcel Ash Landfill. The landfills new design eliminates the leachate tank and thus eliminates the root cause for historic spills.

The MPCA Solid Waste Permit has safeguards to protect the Xcel's Ash Landfill liner system during the excavation process, thus avoiding damage and additional releases to the groundwater.

Comment 4-36: The commenter stated concerns that the sound study, EAW Appendix C, is for the Red Wing Crusher, and is inapplicable to the LabUSA project. Sound modeling must be performed that addresses the cumulative impacts of these projects, and accurately plots the location of the LabUSA Process Building and operations, and which utilizes the MPCA's measurement methodology, focused on the "point of human activity which is nearest to the noise source," which should be the property line. This warrants further investigation.

Response: Landfill operations are currently in compliance with state and local noise regulations. The EAW provided the following write up:

Noise generation sources associated with the Project

- Construction equipment during construction of the Process Building
- Excavator used at the Xcel's ash landfill to obtain placed Ash Material for processing
- Trucks delivering and removing Ash Material to the Project Site
- Trucks removing processed materials from the Project Site
- Processing equipment consisting of conveyors, screens and a crusher inside Process Building.

Construction and excavation equipment

- Noise impacts from construction equipment will last 3 to 4 months
- Excavator used at the Xcel's ash landfill Monday through Friday

Process traffic

- Trucks delivering and removing Ash Material - 35 trucks per day
- Trucks removing processed FM Ash Material and NFM Ash Material - 5 loads per day

Process equipment

All processing equipment is inside the Process Building. Sound levels for similar processing equipment at a similar facility in Linth, Switzerland (February 2016) measured at 85 decibels peak inside the building structure. The Proposer measured the same sound level inside the Red Wing

Material Recovery Facility building with a substantial 15 decibel drop measured 10 feet outside an open overhead doorway (February 2016). This is similar to the design of the Process Building.

Mitigation
Construction equipment - Construction equipment must be in proper operating condition including mufflers. Construction equipment will operate between the hours of 7 a.m. and 6 p.m.

Ash delivery from the Xcel Generating Plant – Trucks must be in proper operating condition including mufflers. Trucks will continue to operate 7 a.m. to 5 p.m., Sunday through Saturday.

Ash delivery from the Xcel ash landfill and Processing Building – Trucks and front-end loaders must be in proper operating condition including mufflers. Trucks and other equipment will operate 7 a.m. to 5 p.m., Monday through Friday, and Saturdays, if required, to handle additional volumes.

Trucks hauling roll-off containers - Trucks must be in proper operating condition including mufflers. The trucks will operate Monday to Friday from 7 a.m. to 5 p.m.

The Process Building doors face north, out and away from residential areas to the south, which minimizes the noise from the Process Building and its associated operations. The Proposer will maintain the forested areas south of the Project Site to buffer noise from the Process Building. The nearest receptor to the Project Site is over 900 feet south of the Process Building and over 225 feet higher in elevation.

The Project must meet state and local noise ordinance.

The EAW also discussed noise cumulatively with other nearby sources as provided below:

Noise
The nearby ongoing activities at the Xcel's ash landfill and the County/City Landfill will continue to generate noise in the vicinity of the Project. Landfill activities include usage of dump trucks and heavy equipment such as dozers, compactors, and graders. The landfills are in compliance with local and state of Minnesota noise standards.

The Project will see an increase in noise in some area of operation and decrease in other as follows.

- During years of processing Xcel's Ash Material, activities will increase to include excavation and truck traffic between the Xcel's ash landfill and the Project Building. However, Xcel's ash landfill will not operate on weekends and holidays, when Ash Material is directed to the Process Building for storage and processed the following week. Therefore, noise associated with landfill activities may increase Monday through Friday between 7 a.m. and 5 p.m., but is completely eliminated during weekends and holidays.
- During years of processing Xcel's Ash Material, larger capacity off highway articulated dump trucks will replace the current quad axel dump trucks that haul to Xcel's ash landfill. The larger capacity off highway trucks will minimize the total number of trucks entering the landfill because of the larger capacity. In addition, use of the off highway trucks will eliminate the slamming of tailgates associated with the quad axel dump trucks.

The City is planning to use a crusher at its laydown area for 6 weeks per year. The Proposer did a sound study on the crusher activities at the City's laydown area (Figure 7). The study shows the noise generated by the crusher is below City and State noise ordinance requirements.

The City's crushing operation is the loudest and most continuous noise source in the Project area, which includes the two landfills. The combination of the noise from the Project, the on-going operation of the landfills, and the City's crushing operation must be compliance with local noise standards and state noise standards.

Comment 4-37: The commenter stated concerns that the project proposers fail to incorporate any pollution control equipment, filters, air quality systems, and there is nothing shown in building drawings and plans, other than very large open doors an open ventilation on two sides of the building, and excavating and loading/unloading in the open, all of which are locations where wind and water can get in and where combustor ash can be released. The project must incorporate pollution control systems and/or demonstrate why this is not needed. This warrants further investigation.

Response: The EAW describes the type and extent of pollution control systems, including why dust does not have the potential to create a significant environmental effect at the Project. Please see response to Comments 2-2 and 2-7.

Comment 4-38: The commenter stated concerns that the chemical composition of "road dust" must be identified, and impacts such as release into the atmosphere, tracking into the building and around the landfill on impervious surfaces, must be addressed. This warrants further investigation.

Response: No change in chemical composition of dust from unpaved roads will occur from pre-project to post-project conditions. Provided in the EAW as Appendix D, Air Permit Applicability Memo from the MPCA dated November 28, 2016 (page 2, fourth paragraph) contains the potential to emit calculations. Table B of the memo states the assumptions and detailed calculations of the dust generated from unpaved roads.

Also, please see response to Comment 4-7.

Comment 4-39: The commenter stated concerns that the based on the assay information provided in the EAW and tonnage per year estimates having the potential of 766,800 pounds per year of HAPS emissions in one form or another; further investigation is warranted.

Response: As stated in section Exhibit D of the EAW, the calculations for total HAPs for the air applicability determination found it to be 0.006 tons per year or 2,000 pounds x 0.006 = 12 pounds per year. Please see response to Comment 2-7.

Comment 4-40: The commenter stated concerns that the City's level of participation must be disclosed, including communications between Red Wing and MPCA regarding Red Wing participation, details of costs and revenue, and the City's interests in this project clearly identified and disclosed. A copy of the leases, agreements, and economic costs and benefits should be incorporated into the EAW. The economics and financial aspects must be made public and available for comment. This warrants further investigation.

Response: The concern regarding the city of Red Wing's interest in the project are important to those living in the area, but it is not an environmental issue. As such, it is beyond the scope of the EAW. See response to Comment 4-19.

Comment 4-41: The commenter stated concerns that the EAW is inadequate because the project stormwater collection and removal is not specifically addressed. This warrants further investigation.

Response: The City has an existing Conditional Use Permit to build its facility and pond(s). Because the City's pond design will need to incorporate the LABUSA facility runoff requirements, the City is waiting for LABUSA to receive the permits that Lab requires to construct that facility. The City will then design and construct its pond to coincide with the LAB Facility construction. The pond construction will meet all city and state permit requirements.

The Proposer has designed the Process Building to house all industrial activities including offloading, processing, and loading of materials. No stormwater will have contact with industrial materials or equipment within the Process Building. Because all industrial activities occur indoors, the Proposer has applied for certification of No Exposure under the NPDES/SDS General Permit MNR050000 for Industrial Stormwater Permit.

Stormwater runoff that drains from the Process Building, including the receiving pad, flows to a drainage ditch on the north side of the Project Site. Stormwater flows downslope to a sedimentation pond constructed by the City on its adjacent property to the east. This pond collects water from both the Project and the City's proposed laydown area to the east.

The City has sized the pond to maintain a post development runoff rate less than or equal to the pre-development runoff rate for the 2-year (2.89-inch), 10-year (4.33-inch), and 100-year (7.61-inch) storm events. The pond provides sediment storage to minimize any downstream migration of sediment from the site. The pond outlet discharges down the hill to lower elevations and continues east towards Bench Street entering the City's municipal stormwater system.

During Project construction, the Proposer will obtain a NPDES/SDS Construction Stormwater Permit for the Project construction, since it involves excavation of more than 1 acre of soil. The permit requires the Proposer to implement BMPs through a SWPPP. The SWPPP includes BMPs such as onsite infiltration, silt fences, bio-rolls, hay bales and fabric mats. Any disturbed soils and vegetation would be re-vegetated by seeding and mulching.

Comment 4-42: The commenter stated concerns that the Noise modeling must be performed as directed by MPCA rules, using a central location as the source and "where human activity occurs" as the locations of nearby "receptors." This warrants further investigation.

Response: The EAW analysis of the potential noise impacts of the Project indicates the Project will comply with noise standards. Please see response to Comments 4-18 and 4-35.

Comment 4-43: The commenter stated concerns that there is a conflict of opinions regarding the LabUSA building possession and ownership after the term of the project's lease. The EAW must clarify the fate of the LabUSA process building.

Response: The future ownership of the building is not an environmental issue and beyond the scope of the EAW. For information on its future ownership and use, please see response to Comments 4-2 and 4-19.

Comment 4-44: The commenter stated concerns that the Figures in the EAW label the stormwater ponds as "Xcel" stormwater ponds, yet the EAW states that Red Wing is to supply the plan and construct the stormwater ponds. This difference warrants further investigation.

Response: The LabUSA stormwater ponds associated with the City property lease are shown on Figure 7 of the EAW and Exhibit 1 of the Responses to Comments. Also, please see response to Comments 4-18 and 4-41

Comment 4-45: The commenter stated concerns that because of the several steps in processing, concentrating the ash, and the more toxic nature of the French Island incinerator ash, the assumptions and resulting percentages of resulting HAPS and potential to emit estimates are questioned. The assumptions of the assay, beginning on p. 77 of the EAW, must be recalculated, specifically, the inputs and the modeling assumptions reviewed and revised as necessary. This warrants further investigation.

Response: The EAW has assessed the potential for HAPS emissions throughout the different ash processing steps of the project and determined there is no potential for significant environmental effects. See response to Comments 2-2, 2-3, and 2-7.

Comment 4-46: The commenter stated concerns that the EAW improperly utilized aggregate and mineral processing models, which is not close enough to capture the character and potential to emit as is necessary for this project. Specifically:

- particulate matter is significantly smaller;
- specific gravity will be different in the streams as they are processed;
- moisture will be different in the processing streams;
- lead content must be considered, and is not;
- there is no plan for particle control; and
- dispersion is more likely with eddy current acceleration and separation

There is no basis for the modeling assumptions, and as above, the modeling must be reviewed and revised. This warrants further investigation.

Response: The EAW properly considers the characteristics listed in the comment and potential to emit in its modeling for the Project, as explained in Response to Comment 2-6.

Comment 4-47: The commenter stated concerns that the EAW, and the MPCA's "determination letter" of November 28, 2016, does not address the potential for releases to the air. EAW, p. 19-20. The open building, with 25 x 25 doors (plural) and ventilation openings on east and west side of buildings, means that something inside is ushered out through those openings, and that something inside the building is hazardous in some way if confined inside the building. This warrants further investigation.

Response: The EAW properly considered the potential for releases to the air from the project, as explained in Response to Comments 2-2, 2-3, and 2-7.

Comment 4-48: The commenter stated concerns that the project requires pollution control equipment to address the process operational releases inside the building. This warrants further investigation

Response: The EAW evaluation of the potential releases to the air for the project did not indicate that pollution control equipment was needed for potential releases inside the building. See Response to Comments 2-2, 2-3, and 2-7.

Comment 4-49: The commenter stated concerns that the ongoing liability for the LabUSA environmental impacts must be clarified and warrants further investigation. Upon information and belief, Red Wing has taken on that liability in the lease with Xcel Energy for the property on which this project is proposed.

Response: The issue and concern regarding the city of Red Wing's interest in the project are important to those living in the area, but it is not an environmental issue. As such, it is beyond the scope of the EAW.

Comment 4-50: The commenter stated concerns that the EAW is also inadequate for the following reasons and the following matters require further investigation:

- There is no discussion of characteristics of individual waste streams in the process, particularly the concentrated final waste stream going back to the landfill;
- There is no clear statement regarding volume of HAPS processed and resulting potential to emit, and assumptions are erroneous for the eddy current separator;
- There is no hazardous waste determination regarding the concentrated final waste stream;
- There is no discussion of lead or HAPS management generally or specifically regarding public and worker safety;
- There is inadequate modeling for an air permit determination;
- There is inadequate factual basis for a determination regarding necessity of pre-treatment of water waste prior to use of City of Red Wing's waste water treatment facility;
- The EAW claim of 99.99996% lead containment with no active controls and no monitoring is not credible.

Response: These issues have been addressed in earlier responses. See responses as follows:

- Concentrated waste stream (see response to Comments 2-3 and 2-5)
- Potential to emit (see response to Comments 2-2 and 2-7)
- Hazardous waste (see response to Comment 2-3)
- Lead pertaining public/worker safety (see response to Comments 2-6 and 2-7)
- Air permit determination (see response to Comment 2-7)
- Pre-treatment of wastewater (see response to Comments 4-7 and 4-14)
- Lead (see response to Comment 2-6)

5. Comment by Indian Affairs Council, Letter received January 4, 2017.

Comment 5-1: The commenter stated that the Indian Affairs Council reviewed the EAW pursuant to the responsibilities given to the Minnesota Indian Affairs Council by the Private Cemeteries Act (MS 307.08), and the Minnesota Field Archaeology Act (MS 138.31-.41). Although there is no recorded archaeological site with in the area of the proposed Processing Facility, we are concerned with the project because of its proximity to the Water Tank Mound site (21GD0042). Adding to our concern is the fact that the storm water ponds for the project are in the planned laydown area within the boundaries of the mound/cemetery site. Given that 21GD0042 is protected under the Private Cemeteries Act (MS 307.08)

any development or construction activities are not permitted within the site boundaries without direct consultation with the Office of the State Archeologist and our office.

Response: Based on concerns that the map showing the project area and the mapped area of the Water Tank Mounds were not detailed enough to determine the potential for impacts, the Proposer provided a more detailed map showing the relationship of the LabUSA project and the Water Tank Mounds area. To better visualize the extent of the survey the study area, Bolton & Menk overlaid the study area with the Proposed Site and included as Exhibit 1. As stated in the EAW, the survey identified no archeological sites and no impacts anticipated. Therefore, no additional investigation was recommended. Also, see response to comment 4-28.

6. Comment by: Daniel Bender, et al., letter received January 24, 2017.

Comment 6-1: The commenters stated concerns that the proposed LABUSA project is located too close to nearby neighborhoods. Similar facilities in other parts of the county are located on large tracts of land far away from populated areas. Other ash facilities we have identified are on plots of at least 200 acres allowing significant buffer space to contain fugitive dust. LabUSA will be located on less than 4 acres of land with the nearest residential property line less than 500 feet away.

Response: The MPCA appreciates the concerns expressed by the commenters. These concerns are part of the reason LabUSA elected to go through the state of Minnesota's environmental review process. The EAW looked at potential environmental impacts from the proposed project at this specific site. The EAW, Responses to Comments, and the Findings of Facts provides information to both state and local units of governments when making decisions regarding required permits for the proposed project. See response to Comment 2-1 and 2-8.

Comment 6-2: The commenters stated concerns that LabUSA proposes to allow ash trucks to dump loads indoors during non-operating hours. The Rosemount facility has had regular problems with trucks tipping due to loads freezing during transit. Trucks tipping offers the likelihood of injuries or killing the driver and creating a fire from spilled fuel igniting. It would also create the possibility of hazardous air pollutants being released.

Response: The MPCA does not consider loads of Ash Material dumped indoors at the LabUSA Process Building during non-operational hours a significant risk for the following reasons. No truck has tipped over at the Xcel's ash landfill during the 29 years of Energy's operation. Three operational decisions support continuation of this record:

1) Quad axel trucks will be used which are inherently less likely to tip than the 20cy tractor-trailer end dumps.
2) The platform trucks will dump from is flat and composed of concrete, thus providing a solid base.
3) The haul time from the Red Wing Generating Plant to the processing building is generally less than 10 minutes, insufficient time for loads to freeze.

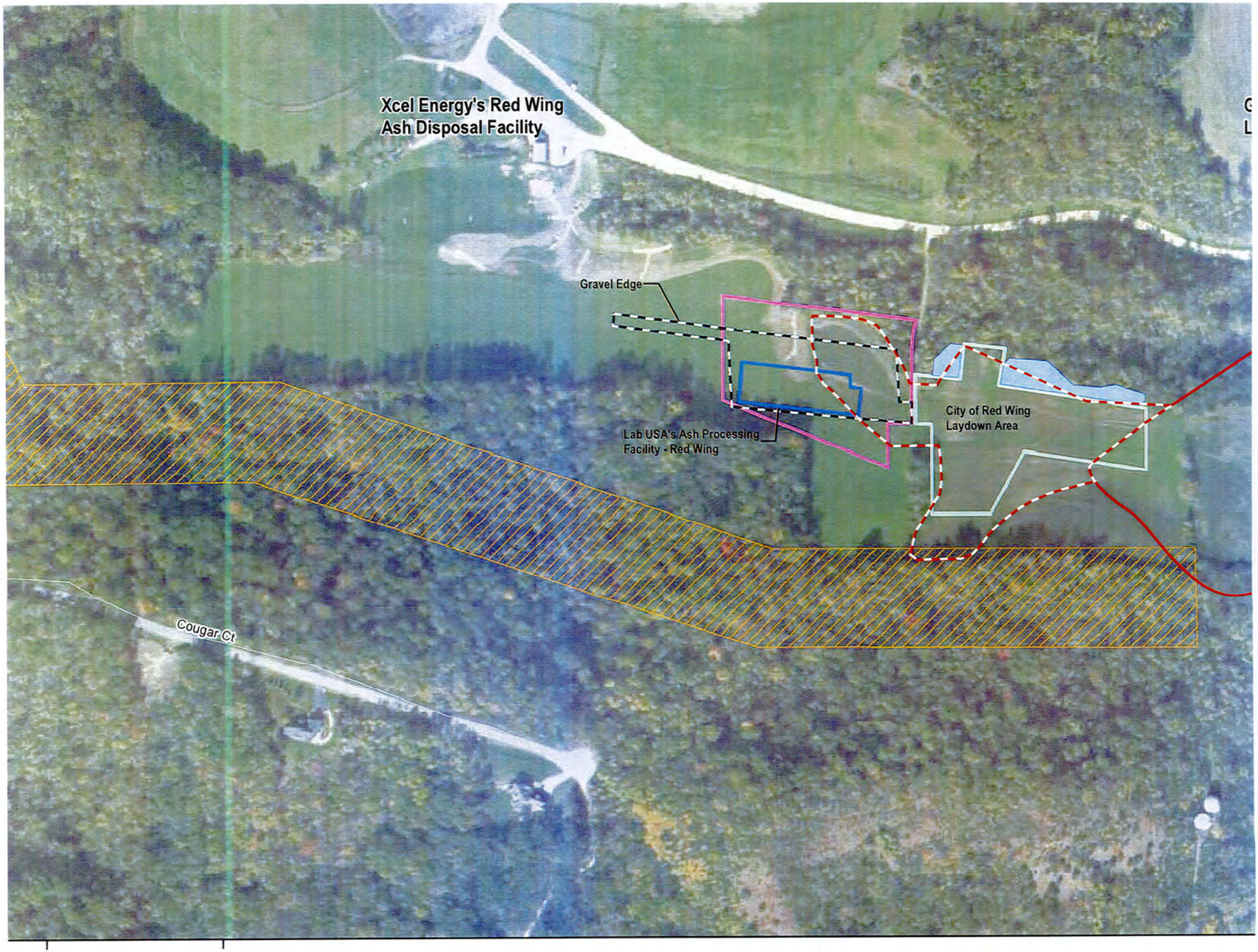
Comment 6-3: The commenters stated concerns that the composition of the incinerator ash, when considered in terms of the total tons of ash to be processed, could result in very high amounts of toxic

and hazardous materials released into the air and water. The modeling of potential HAPS and water pollutants must be reworked for accuracy. This warrants further investigation.

Response: The EAW has determined that there is not a potential for significant environmental effects from HAPS or water pollutants. Please see Response to Comments 2-3 and 2-7.

Comment 6-4: The commenters asked that a full environmental impact statement be completed for the proposed LabUSA ash processing project because of the potential to emit under emergency conditions.

Response: Comment noted. The MPCA Commissioner, following the criteria in Minn. R. 4410.1700, subp.7, will determine the need for an EIS after carefully reviewing all information in the EAW and in the public comments. The MPCA Commissioner will develop Findings of Fact and Conclusions of Law to support either a positive declaration on the need for an EIS, or a negative declaration on the need for an EIS.


Xcel Energy's Red Wing
Ash Disposal Facility
Gravel Edge
Lab USA's Ash Processing
Facility - Red Wing
City of Red Wing
Laydown Area
Cougar Ct

STATE OF MINNESOTA
MINNESOTA POLLUTION CONTROL AGENCY

IN THE MATTER OF THE DENIAL OF A CONTESTED CASE HEARING REQUEST AND MODIFICATION AND REISSUANCE OF SOLID WASTE PERMIT NO. SW-307 FOR THE XCEL ENERGY RED WING RDF (REFUSE DERIVED FUEL) ASH DISPOSAL FACILITY, SECTION 35, CITY OF RED WING GOODHUE COUNTY, MINNESOTA

FINDINGS OF FACT CONCLUSIONS OF LAW AND ORDER

FINDINGS OF FACT

Based on Minnesota Pollution Control Agency (MPCA) staff review, comments and information received during the comment period, and other information in the record of the Agency, the MPCA hereby makes the following Findings of Fact, Conclusions of Law, and Order:

Facility Descriptions and Descriptions of Proposed Expansions

Xcel Energy d/b/a Northern States Power Company – Red Wing RDF Ash Disposal Facility

1. Xcel Energy d/b/a Northern States Power Company (Permittee) operates a refuse derived fuel (RDF) ash disposal facility (Facility) in Section 35, Township 113 North, Range 15 West, Red Wing, Goodhue County.

2. The Minnesota Pollution Control Agency issued Solid Waste Permit SW-307 to the Permittee to operate the existing Facility on February 1, 2011.

3. The Facility currently consist of two active disposal cells (East Cell and Central Cell) and one closed disposal cell (West Cell) that encompass an area of 26 acres within a 139 acre piece of property owned by the Permittee. The three combined cells provide for a total permitted disposal capacity of 2,434,800 cubic yards of RDF ash. At the time of proposal, the Facility has 1,097,400 cubic yards of disposal capacity remaining.

4. On June 6, 2016, the MPCA received an application from the Permittee for modification and reissuance of Facility's Solid Waste Permit SW-307.

5. At the Facility, the Permittee proposes to excavate RDF ash already in place within the active East and Center disposal cells. The Permittee will transport the excavated ash to an ash processing facility owned by LabUSA where it will be processed to recover ferrous and non-ferrous metals. After the ash has been through the metals recovery process, the Permittee will return it to the Facility and place it in the active cells for final disposal.

6. Reissuance of the Solid Waste Permit will authorize the Permittee to continue its RDF ash disposal operation at the Facility for a permit term of 10 years.

Procedural History
Public Meeting, Public Notice, and Comment Period for Solid Waste Permit SW-307

7. On December 5, 2016, pursuant to Minn. R. 7001.0100, the MPCA issued a public notice of intent to modify and reissue coverage under Solid Waste Permit SW-307 for operation at the Permittee's Red Wing RDF Ash Disposal Facility. The public comment period was open for comment from December 5, 2016 through January 5, 2017.

8. On December 7, 2016, LabUSA held a public meeting concerning the proposed RDF ash recovery project and the modification to the existing Solid Waste Permit. The meeting was held at the Red Wing Public Library, 225 East Avenue, Red Wing, MN 55066. The Permittee, LabUSA Staff, MPCA staff, and City of Red Wing Staff participated in the meeting to provide information to the public regarding the project and the permitting process.

9. At the request of a public commenter, the MPCA extended the public comment period to January 30, 2017 to allow members of the public additional time to review the public notice documents and draft Solid Waste Permit.

10. Public notice documents were mailed to property owners adjacent to the Facility, Goodhue county and the surrounding counties (Dakota, Rice, Steele, Dodge, Olmstead, and Wabasha), and townships within Goodhue County (Wacouta, Hay Creek, Featherstone, Vasa, and Welch). The public notice documents and the draft Solid Waste Permit were available for review throughout the public comment period on the MPCA website at http://www.pca.state.mn.us/index.php/public-notices/list.html.

11. The MPCA met all applicable public notice requirements for the issuance of a Solid Waste permit.

Public Comments and Contested Case Hearing Request Received by MPCA

12. During the 55-day public comment period for Solid Waste Permit SW-307, the MPCA received one comment letter cosigned by 77 members of the public. This comment letter included a request for a contested case hearing. The letter indicated concern that the modification to the Proposer's Solid Waste Permit to allow for RDF ash excavation could lead to increased dust generation at the facility and that the operation could potentially impact groundwater through damage to the Facility's liner during the excavation process.

13. The MPCA prepared written responses to the comment letter received during the public comment period. The comment letter and petition for a contested case hearing, as well as MPCA's Response to Comments (RTC), are in Appendices A and B and are incorporated into and made a part of these findings.

EVALUATION OF THE REQUEST FOR A CONTESTED CASE HEARING

14. During the December 5, 2016 through January 30, 2017, public notice period for the MPCA's intent to modify and reissue coverage under Solid Waste Permit SW-307, the MPCA received one request for a contested case hearing. The primary contact for the contested case hearing request is Mark Walsworth, resident of Plymouth Minnesota. The request contained an additional 76 signatories.

15. Minn. R. 7000.1800, subp. 2(A) sets out the requirements of a petition for a contested case hearing. A petition must include:

    (1) A statement of reasons or proposed findings supporting a Board or commissioner decision to hold a contested case hearing pursuant to the criteria in part 7000.1900, subpart 1.

    (2) A statement of the issues proposed to be addressed by a contested case hearing and the specific relief requested or resolution of the matter

16. The MPCA notes that the Minnesota Legislature abolished the MPCA Citizen's Board (Board) in 2015, but the MPCA has not yet modified its rules to eliminate references to the Board. As a result, the commissioner of the MPCA will make the final decisions in this matter on whether to grant or deny the contested case hearing request and whether to issue Solid Waste Permit SW-307.

17. Minn. R. 7000.1800, subp. 2(B) states:

    To the extent known by the petitioner, a petition for a contested case hearing may also include the following information:

    (1) A proposed list of prospective witnesses to be called at the hearing, including experts, with a brief description of the testimony they will provide.

    (2) A proposed list of publications, references, or studies that the petitioner would introduce at the hearing.

    (3) An estimate of the time required for the petitioner to present the case at a hearing.

18. The MPCA notes that while the information specified in Minn. R. 7000.1800, subp. 2(B) is not required in a contested case hearing petition; it is information that is helpful to the MPCA as it considers whether a hearing will aid the commissioner in making a final decision.

19. The MPCA decision on whether to grant the petition is governed by Minn. R. 7000.1900 subp. 1, which states:

    The Board or commissioner must grant the petition to hold a contested case hearing or order upon its own motion that a contested case hearing be held if it finds that:

A. there is a material issue of fact in dispute concerning the matter pending before the Board or commissioner;

B. the Board or commissioner has the jurisdiction to make a determination on the disputed material issue of fact; and

C. there is a reasonable basis underlying the disputed material issue of fact or facts such that the holding of a contested case hearing would allow the introduction of information that would aid the Board or commissioner in resolving the disputed facts in making a final decision on the matter.

20. In order to satisfy the first criterion, Minn. R. 7000.1900, subp. 1(A), the hearing requester must show there is a material issue of fact in dispute as opposed to a disputed issue of law or policy. A fact is material if its resolution will affect the outcome of the case. *O'Malley v. Ulland Brothers*, 540 N.W.2d 889, 892 (Minn. 1996).

21. In order to satisfy the second criterion, Minn. R. 7000.1900, subp. 1(B), the requester must show that the MPCA has jurisdiction or authority to make a determination on the disputed issues of material fact. "Agencies are not permitted to act outside the jurisdictional boundaries of their enabling act." *Cable Communications Board v. Nor-West Cable*, 356 N.W.2d 658, 668 (Minn. 1984). Therefore, each issue in the contested case request has to be such that it is within the MPCA's authority to resolve.

22. Finally, under Minn. R. 7000.1900, subp. 1(C), "[t]he petitioners for a contested case hearing have the burden of demonstrating the existence of material facts that would aid the [Agency] in making a decision before they are entitled to a contested case hearing." *Matter of Solid Waste Permit for the NSP Red Wing Ash Disposal Facility*, 421 N.W.2d 398, 404 (Minn. Ct. App. 1988). The Minnesota Supreme Court has recognized that to meet this standard, "[i]t is simply not enough to raise questions or pose alternatives without some showing that evidence can be produced which is contrary to the action proposed by the (Agency)." *In the Matter of Amendment No. 4 to Air Emission Facility Permit*, 454 N.W.2d 427, 430 (Minn. 1990).

23. The MPCA evaluated the outstanding request for a contested case hearing by examining each of the issues raised in the petition received, to determine if the petition met each of the three required criteria in Minn. R. 7000.1900, subp. 1.

THE MPCA FINDINGS WITH RESPECT TO EACH OF THESE CRITERIA

24. The MPCA finds that the contested case hearing request (hereinafter "CCHR") submitted by Mr. Mark Walsworth was timely submitted prior to the close of the public comment period.

25. The CCHR letter identifies the following issues:

    a. dust generation caused by increased truck traffic at the Facility;

b. RDF ash excavation was not included in previous Environmental Assessment Worksheets (EAWs) completed by the Permittee; and

c. the potential to damage the Facility's liner during excavation that could lead to impacts to groundwater.

26. With regard to the first issue, the EAW for the Lab USA project discusses truck traffic and dust generation at paragraph 19.c. The ash excavation project is expected to add 20 new truck trips per day along the internal haul road from the excavation area to the ash processing facility. The Permittee will maintain a water truck at the Facility to add moisture to the internal haul road as necessary to prevent fugitive dust generation. The MPCA found that the information produced in the EAW was adequate to address the concerns related to traffic and that the project as proposed does not have the potential for significant environmental effects. *In the matter of the Decision on the Need for an Environmental Impact Statement for the Proposed Lab USA's Ash Processing Project, Findings of Fact, Conclusions of Law and Order* at paragraphs 84 and 85.

26. The commenters allege that there will be a "3 fold" increase in truck traffic over current levels and state that there are no statements related to the impact of a change in truck traffic. As explained in paragraph 26 above, the MPCA in fact examined the potential impacts from the increase in truck traffic in the Lab USA EAW. The current level of traffic on Bench St. is measured as total vehicle traffic. According to the Minnesota Department of Transportation in 2007, the traffic on the affected road is 8,200 vehicles per day. The ash excavation project will generate an additional three truck trips per day that will make use of Bench St. The addition of the three new truck trips per day represents a 0.0004% increase in traffic.

28. The MPCA finds that the commenters did not satisfy criteria A. and C. of Minn. R. 7000. 1900, subp. 1 with regard to their first issue. The commenters have not raised a dispute about the facts regarding truck traffic and have not shown that there is a reasonable basis underlying their concerns such that holding a contested case hearing on the subject would aid the commissioner in making a final decision.

29. With regard to the second issue, permit requirement 3.1.26 is an existing permit provision that requires Xcel Energy to construct its ash disposal facility to prevent pollution of groundwater and surface water, minimize the contamination of soils from solid waste, and maintain the facility in conformance with MPCA air pollution control rules. The facility has and will continue to have and maintain a leachate collection system and slopes and contours designed to prevent pollution of groundwater and surface water. The same provision requires the Permittee to comply with air pollution control rules. The permit requirements constitute mitigation of any potential environmental effects by the MPCA's ongoing regulatory authority over the Facility.

30. Commenters have not identified any facts to suggest that the Permittee cannot continue to comply with these permit requirements, that the Permittee has failed to comply with them to date, or to suggest that the permit requirements are inadequate.

31. The MPCA finds the commenters did not satisfy criteria A and C of Minn. R. 7000.1900, subp. 1 with regard to their second issue. The commenters have not raised a factual dispute regarding the adequacy of the permit requirement to protect ground water, surface water, soils and the air. The commenters have not raised a factual dispute about permit compliance and have not shown that there is a reasonable basis underlying their concerns such that holding a contested case hearing on the subject would aid the commissioner in making a final decision.

32. With regard to the third issue, the commenters say that the MPCA did not provide any clear statement or provisions to protect the integrity of the facility liner during excavation. To the contrary, the proposed permit for the facility requires the Permittee to maintain a four-foot separation distance between the surface of the liner and the base of the excavation at all times, Solid Waste Permit SW-307 at paragraph 3.1.11. In addition, the Permittee is required to follow phasing and plans for the excavation as specified in its Operations Manual, which was incorporated into the permit by reference.

33. Although the commenters dispute the existence of these permit provisions, the proposed permit speaks for itself on the subject. Commenters have not identified any facts to suggest that the Permittee cannot or will not comply with these permit requirements or that the requirements are inadequate.

34. The MPCA finds the commenters did not satisfy criteria A and C of Minn. R. 7000.1900, subp. 1 with regard to their third issue. The commenters have not raised a factual dispute regarding the adequacy of the permit requirement to protect the facility liner. The commenters have not raised a factual dispute about the permit compliance and have not shown that there is a reasonable basis underlying their concerns such that holding a contested case hearing on the subject would aid the commissioner in making a final decision.

35. The MPCA reviewed the Proposer's applications for coverage under Solid Waste Permit SW-307 and supporting documentation. The MPCA's review supports the conclusion that the Facility presents no concerns of detrimental impacts to human health and the environment. The MPCA has determined that the Facility and the ash excavation project will comply with all applicable state and federal pollution control statutes and rules administered by the MPCA, and conditions of Solid Waste Permit SW-307.

36. The MPCA finds that Mark Walsworth's request for a contested case hearing does not satisfy the criteria established in Minn. R. 7000.1900.

REQUEST FOR COMPLETION OF AN ENVIRONMENTAL ASSESSMENT WORKSHEET

37. The Mark Walsworth comment letter included a request that the MPCA require the Permittee to complete an EAW for the ash disposal facility project to excavate and reinter ash.
38. Under the rules governing the preparation of discretionary EAWs, the MPCA may order the Permittee to complete an EAW if the MPCA determines that because of the nature or location of the proposed ash excavation project, the project may have the potential for significant environmental effects.

39. As explained in the Response to Comments document prepared for this permit action at Response 1-2, the MPCA treated the Lab USA project and this permit modification as connected actions during the environmental review process for Lab USA. The EAW identified possible environmental effects from the Facility and evaluated whether they have the potential for significant environmental effects.

40. The EAW identified and evaluated dust effects, traffic effects and excavation effects. The MPCA found that none of the Facility's RDF ash disposal activities had the potential for significant environmental effects and consequently issued a negative declaration on the need for an EIS.

41. The MPCA finds that it has already identified and evaluated the potential for significant environmental effects from the modification to the Facility's Solid Waste Permit in the LabUSA EAW. Another EAW on the modification and reissuance of Solid Waste Permit SW-307 alone would be duplicative and unnecessary.

FINAL DETERMINATION ON ISSUANCE OF PERMIT COVERAGE OF RED WING ASH DISPOSAL FACILITY UNDER SOLID WASTE PERMIT SW-307

42. The MPCA's decision to issue coverage under Solid Waste Permit SW-307 for Xcel Energy d/b/a Northern States Power Company's Red Wing RDF Ash Disposal Facility is governed by its permit rule, Minn. R. 7001.0140,
subp. 1., which states:

> Except as provided in subpart 2, the agency shall issue, reissue, revoke and reissue, or modify a permit if the agency determines that the proposed permittee or permittees will, with respect to the facility or activity to be permitted, comply or will undertake a schedule of compliance to achieve compliance with all applicable state and federal pollution control statutes and rules administered by the agency, and conditions of the permit and that all applicable requirements of Minnesota Statutes, chapter 116D, and the rules adopted under Minnesota Statutes, chapter 116D, have been fulfilled.

43. Minn. R. 7001.0140, subp 2., states:

    The following findings by the agency constitute justification for the agency to refuse to issue a new or modified permit, to refuse permit reissuance, or to revoke a permit without reissuance:

    A. that with respect to the facility or activity to be permitted, the proposed permittee or permittees will not comply with all applicable state and federal pollution control statutes and rules administered by the agency, or conditions of the permit

    B. that there exists at the facility to be permitted unresolved noncompliance with applicable state and federal pollution control statutes and rules administered by the agency, or conditions of the permit and that the permittee will not undertake a schedule of compliance to resolve the noncompliance

    C. that the permittee has failed to disclose fully all facts relevant to the facility or activity to be permitted, or that the permittee has submitted false or misleading information to the agency or to the commissioner;

    D. that the permitted facility or activity endangers human health or the environment and that the danger cannot be removed by a modification of the conditions of the permit;

    E. that all applicable requirements of Minn. Stat. ch. 116D and the rules adopted under Minn. Stat. ch. 116D has not been fulfilled;

    F. that with respect to the facility or activity to be permitted, the proposed permittee has not complied with any requirement under parts 7002.0210 to 7002.0310 or chapter 7046 to pay fees;

    G. that with respect to the facility or activity to be permitted, the proposed permittee has failed to pay a penalty owed under Minn. Stat. § 116.072

44. The Proposer has submitted complete applications. These applications have been reviewed and preliminarily approved by MPCA staff and demonstrate that all environmental protection standards will be satisfied.

45. The MPCA finds that the proposed issuance of permit coverage under Solid Waste Permit SW-307 for the Facility, as public noticed on December 5, 2016 through January 30, 2017 meets the requirements of Minn. R. 7001.0140, subp. 1 and none of the justifications for refusal of permit issuance described in Minn. R. 7001.0140, subp. 2 exist.

46. The MPCA has reasonable assurance based on the information submitted that proper operation of the Facility, in compliance with the requirements of the permit and completion of all required monitoring in accordance with the conditions of the permit issued by this order will achieve compliance with all applicable state and federal pollution control statutes and rules, and the conditions of the permit, and will not pose a danger to human health or the environment.

CONCLUSIONS OF LAW

47. The MPCA has jurisdiction over the decision whether to issue permit coverage under the Solid Waste Permit SW-307 for the Xcel Energy d/b/a Northern States Power Company Red Wing RDF Ash Disposal Facility.

48. The MPCA has jurisdiction over the decision whether to grant or deny the request for a contested case hearing for the proposed modification and reissuance of permit coverage under Solid Waste Permit SW-307 for the Xcel Energy d/b/a Northern States Power Company Red Wing RDF Ash Disposal Facility.

49. The MPCA has jurisdiction over the decision whether to require preparation of a discretionary EAW for the proposed modification and reissuance of permit coverage under Solid Waste Permit SW-307 for the Xcel Energy d/b/a Northern States Power Company Red Wing RDF Ash Disposal Facility.

50. For the reasons set forth in this document, the requirements Minn. R. 7001.1900, subp. 1 have not been met with respect to the issues raised by Mark Walsworth's request for a contested case hearing on the permit coverage under Solid Waste Permit SW-307 for the Xcel Energy d/b/a Northern States Power Company Red Wing RDF Ash Disposal Facility. Therefore, the request for a contested case hearing is denied.

51. For the reasons set forth in this document, the MPCA concludes that the proposed ash excavation and reinternment project at the Facility does not have the potential for significant environmental effects.

52. Due, adequate, and timely public notice of the proposed modification and reissuance of permit coverage under Solid Waste Permit SW-307 for the Xcel Energy d/b/a Northern States Power Company Red Wing RDF Ash Disposal Facility was given in accordance with Minn. R. 7001.0100.

53. The requirements set forth in Minn. R. 7001.0140 for modification and reissuance of coverage under Solid Waste Permit SW-307 are satisfied. Therefore, the modified permit coverage under Solid Waste Permit SW-307 for the Xcel Energy d/b/a Northern States Power Company Red Wing RDF Ash Disposal Facility should be issued.

54. Any findings that might properly be termed conclusions and any conclusions that might properly be termed findings are hereby adopted as such.

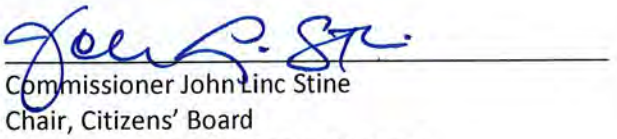
ORDER

The Minnesota Pollution Control Agency determines that the issues raised by the contested case hearing request do not meet the requirements of Minn. R. 7000.1900, subp. 1 (A) for granting a contested case hearing. The Minnesota Pollution Control Agency denies the requests for a contested case hearing.

The Minnesota Pollution Control Agency determines that the Red Wing RDF Ash Disposal excavation and reinternment project does not have the potential for significant environmental effects, therefore, the request for preparation of a discretionary EAW is denied.

The Minnesota Pollution Control Agency approves and authorizes modification and reissuance of permit coverage under Solid Waste Permit SW-307 for the Xcel Energy d/b/a Northern States Power Company Red Wing RDF Ash Disposal Facility.

IT IS SO ORDERED



Commissioner John Linc Stine
Chair, Citizens' Board
Minnesota Pollution Control Agency

4/3/17

Date

APPENDIX A

Minnesota Pollution Control Agency

Xcel Energy d/b/a Northern States Power Company Red Wing RDF Ash Disposal facility
Solid Waste Permit SW-307

LIST OF COMMENT LETTERS RECEIVED

1. Mark Walsworth representing 76 signatories. Letter received January 4, 2017

APPENDIX B

Minnesota Pollution Control Agency

Xcel Energy d/b/a Northern States Power Company Red Wing RDF Ash Disposal facility
Solid Waste Permit SW-307

RESPONSES TO COMMENTS ON DRAFT PERMIT FOR MIDIFCATION AND REISSUANCE

1. **Comments by Mark Walsworth with 77 signatures, Letter received January 4, 2017.**

Comment 1-1: The commenters stated concerns that impacts related to increased truck traffic at the facility have not been addressed in the draft permit. Commenters are concerned the increased truck traffic will prevent the facility from maintaining compliance with the draft permit condition and rule that require the Permittee to prevent particulate matter from becoming airborne.

Response: The Permittee will maintain a water truck at the facility to water dirt access roads as necessary to prevent avoidable amounts of particulate matter from becoming airborne as required by Minn. R. 7011.0150. Access road watering procedures are established in the facility's operation manual that is incorporated by reference into section 3.1.21 of the draft permit.

Comment 1-2: The commenters stated concerns that no provisions were made for ash excavation and its potential environmental impacts during the facility's original and subsequent Environmental Assessment Worksheets. The commenter expresses concern that, as a result, the landfill operators may not have the ability to meet the requirements of permit that pertain to prevention of groundwater and surface water pollution and soil contamination.

Response: Although the Environmental Assessment Worksheet (EAW) for the related Lab USA project to separate out the metal content of the ash in the Red Wing RDF Ash Disposal did not formally label the modification to activities at the Red Wing Ash Disposal Facility as a connected action, the EAW treated the two matters as connected. The EAW identified possible environmental effects from the Red Wing Ash Disposal Facility and evaluated whether they have the potential for significant environmental effects. The possible environmental effects included issues related to ash excavation. Solid waste permit SW-307 includes a provision to require a four-foot separation distance between the surface of the liner and the base of excavation at all times. With this provision and the fact that ash excavation will not change the leachate from the facility, nor the way in which leachate is currently managed and regulated, the EAW did not find a potential for significant environmental effects from ash excavation.

Comment 1-3: The commenters stated concerns that no provisions were provided in the draft permit that addressed how the facility would maintain the integrity of the liner system during the ash excavation process. Additionally the commenters stated concern of the cumulative effects of the ash excavation project with current leaching at the facility.

Response: The integrity of the liner will be ensured by maintaining a four-foot separation from the base of ash excavation to the surface of the facility's liner. This will be accomplished by using surveying techniques as necessary and records of the liner's elevation. This requirement is stated in section 3.1.11 of the draft permit. The ash excavation plan is also included in the facility's operation manual that is incorporated by reference into section 3.1.21 of the draft permit. The excavation activities will not change the way in which the liner at the ash disposal facility is and must be maintained under the permit.

Leachate at the facility is collected by the liner system and conveyed to the Red Wing Water Treatment Plant through a direct connection to the city's sewer system. The ash excavation project will not change the fundamental characteristics of the leachate generated by the facility, nor the way in which the leachate is managed.

Comment 1-4: The commenters state that components of the license related to the excavation, reclamation, and reinternment of the ash are moot until such time as Lab USA has received all of their approvals to operate an extraction facility.

Response: Issuance of the permit for operation of Xcel Energy's Red Wing Ash Disposal Facility is independent of approvals needed for Lab USA to operate their extraction facility. The ash excavation project will not proceeded until Lab USA has obtained all relevant local and state approvals.

Comment 1-5: The commenters ask that Xcel be required to complete an Environmental Assessment Worksheet for the ash disposal facility project to authorize ash excavation and reinternment.

Response: Because the EAW for the Lab USA project treated the ash disposal facility project as a connected project and identified and described the potential effects, there is nothing more than a separate EAW could address. The LAB USA EAW was on public notice from December 5, 2016 to January 4, 2017, roughly the same time period as the public notice period for the ash disposal facility permit reissuance and modification. Information concerning the possible environmental effects of ash excavation was, therefore, available to the public and to the MPCA as it prepared the ash disposal facility permit.