

2013 DRAFTING REQUEST

Bill

Received: **5/7/2013** Received By: **btradewe**
 Wanted: **As time permits** Same as LRB:
 For: **Amy Loudenbeck (608) 266-9967** By/Representing: **Larry Konopacki, Leg. Council**
 May Contact: Drafter: **btradewe**
 Subject: **Environment - solid haz. waste** Addl. Drafters:
 Extra Copies:

Submit via email: **YES**
 Requester's email: **Rep.Loudenbeck@legis.wisconsin.gov**
 Carbon copy (CC) to: **larry.konopacki@legis.wisconsin.gov**

Pre Topic:

No specific pre topic given

Topic:

Authorize DNR to waive solid waste tipping fees for voluntary cleanups

Instructions:

See attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/P1	btradewe 8/21/2013	wjackson 8/9/2013	phenry 8/12/2013	_____	sbasford 8/12/2013		State
/P2	btradewe 10/30/2013	wjackson 8/21/2013	jmurphy 8/22/2013	_____	sbasford 8/22/2013		State
/1		wjackson 10/31/2013	rschluet 10/31/2013	_____	lparisi 10/31/2013	lparisi 10/31/2013	State

FE Sent For:

*at intro
11/6*

<END>

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*Please jacket
for Assembly*

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Instructions:

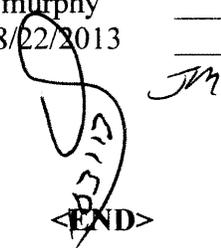
See attached

Drafting History:

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/P1	btradewe 8/21/2013	wjackson 8/9/2013	phenry 8/12/2013	_____	sbasford 8/12/2013		State
/P2		wjackson 8/21/2013	jmurphy 8/22/2013	_____	sbasford 8/22/2013		State

FE Sent For:

1 Wly 10/31

JM

 <END>

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/P1	btradewe 8/6/2013	wjackson 8/9/2013	phenry 8/12/2013	_____	sbasford 8/12/2013		State

FE Sent For: *1p2 Wlj 8/21* *Jan 8/21* *self*

<END>

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Submit via email: YES
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 Carbon copy (CC) to:

Pre Topic:

No specific pre topic given

Topic:

Make tipping fees inapplicable to waste on which they have already been paid

Instructions:

See attached

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/P1	btradewe	/pl wlj 8/9	g h ph	_____	_____		

FE Sent For:

<END>

5/2/13 Larry Konopacki - A request for Rep. Loudenbeck:

A landfill/recycler went out of business and there is a lot of solid waste (construction waste) on the site. DNR is requiring the haulers who brought waste to the site to haul it to other landfills. The ~~state~~ tipping fees have already been paid when the waste was first taken to this site.

She wants a draft to make the state tipping fees (\$13) inapplicable to waste on which they have already been paid.

Establish a mechanism for a hauler to get a letter (or something) from DNR identifying this as waste that qualifies for exemption and then when the hauler shows the letter to the landfill operator, the landfill operator knows not to collect the fees.

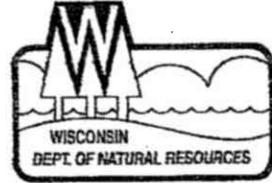
RET

This has been changed. See later note.

RET

State of Wisconsin
DEPARTMENT OF NATURAL RESOURCES
101 S. Webster Street
Box 7921
Madison WI 53707-7921

Scott Walker, Governor
Cathy Stepp, Secretary
Telephone 608-266-2621
Toll Free 1-888-936-7463
TTY Access via relay - 711



April 30, 2013

Steven Garner
Garner Excavating
22051 Bergen Rd.
Poplar Grove IL 61065-8875

Dear Mr. Garner:

Below are our answers to the questions raised at the April 11th Bedrock Grinding Haulers' Meeting. Please respond in writing (letter or email) no later than May 13th indicating whether your company intends to participate in voluntary removal of the construction and demolition waste at Bedrock Grinding. The Department will then schedule a meeting of those companies responding affirmatively.

Questions and Answers from April 11th Bedrock Grinding Haulers' Meeting

- 1. Can DNR provide a release of liability to those who remove and properly dispose of at least the number of tons of C&D waste that BG records indicate they brought to the site?**

For haulers who document the lawful disposal of an agreed upon tonnage of construction and demolition waste from the Bedrock Grinding site, DNR will agree not to initiate legal action to recover any further costs, penalties, or additional requirements for clean up or remediation of the Bedrock Grinding site. Bedrock Grinding has signed an access agreement that would allow this to occur.

- 2. Can DNR waive part or all of the \$13/ton state tipping fee?**

Because these fees are contained in Wisconsin statutes, we cannot. State agencies do not have discretion in applying statutes.

- 3. No groundwater assessment was done prior to approving C&D processing at Bedrock Grinding. If C&D waste isn't cleaned up and contamination is found in the future, how will DNR know it's from C&D waste versus some activity that predated it?**

State and federal solid waste management regulations require only landfills to determine existing groundwater quality prior to operation. This is the case because of the permanence of landfills, and the larger scale of impacts that might be caused by a malfunctioning landfill. Requiring this step for all solid waste facilities would in most cases result in unnecessary expense to the owner and consequently to the individuals that utilize the site.

In nearly all groundwater investigations, background water quality is unknown. However, the sources of contamination can often be determined by looking at both the contaminants present in the groundwater and their concentrations and comparing this information to that from the waste believed to be the source of the contamination.

4. **If DNR wants haulers to remove and properly dispose of the C&D waste at Bedrock Grinding, will they first do a survey in order to provide an accurate estimate of the amount of C&D waste on site?**

We do not believe that a survey would provide a significantly better volume estimate than the tape measuring that we previously performed. A survey also would not determine the loose volume of waste to be hauled or the weight of waste to be disposed.

5. **How does DNR know that Bedrock Grinding themselves didn't haul C&D waste to the site?**

We don't know this with certainty. However, Bedrock Grinding staff indicated that they hauled only wood to the site, and we've received no information from other parties contradicting this.

6. **Why isn't the bank that holds the mortgage for the Bedrock Grinding property in the mix? They have a lot to be gained financially if the site is suddenly cleaned up.**

We agree that cleanup of the site would likely increase the value of the property from its current level. However, our efforts here are focused on eliminating environmental degradation from the construction and demolition waste at the site, enlisting the help of those entities that brought this waste to the site.

7. **Does Bedrock Grinding have insurance? If so, their insurance company should pay for the cleanup.**

Bedrock Grinding has indicated to us that they do not. Given their financial difficulties, even if they did have insurance, we believe it's unlikely that premiums continued to be paid.

8. **Which landfills would be available, and are there any volume discounts available from normal tipping fees?**

The closest landfills would be the City of Janesville Landfill, Advanced Disposal's Mallard Ridge Landfill near Delavan, and the Waste Management Deer Track Park Landfill in Johnson Creek. In Illinois, there are also two active landfills just south of Rockford off of Highway 251.

Janesville has informed us that they do not provide volume discounts. Representatives from the Advanced Disposal Mallard Ridge Landfill have indicated that they would provide volume discounts. An advantage with Illinois landfills is that their state tipping fees (and therefore their total tipping fees) are lower than in Wisconsin. This lower tipping fee may offset longer hauling distances.

Sincerely,



Dennis Mack, P.E.
Waste Management Supervisor
South Central Region

C&D Waste Accepted at Bedrock Grinding					
			Total	% of	Cum.
	2011	2012	Tons	Tot. Tons	%
Town & Country	5,310	6,805	12,114	61	61
Waste Management	4	1,834	1,838	9	70
Lakeland Trash Service	49	1,220	1,269	6	77
Earth Construction		836	836	4	81
McKnight Excavation		713	713	4	84
Gensler Excavating		565	565	3	87
Wood Environments		444	444	2	90
Dave's Hauling	290	89	379	2	91
Ayre Excavating	64	310	374	2	93
W.N. Yoss Excavating	167	150	317	2	95
Fanning Excavating		250	250	1	96
Garner Excavating	116		116	1	97
Kienbaum Excavating		107	107	1	97
Gilbank Construction	76	9	86	0	98
CCI		83	83	0	98
Reesman's Excavating	76		76	0	99
Mainline Environmental		57	57	0	99
Timberland		48	48	0	99
Buse Excavating		47	47	0	99
Schrock's Services		31	31	0	99
Stewart Excavating	30		30	0	100
Robert's Home Improv.		27	27	0	100
City Waste		18	18	0	100
Hirth Construction		16	16	0	100
Butler Excavation		10	10	0	100
Connell Construction		6	6	0	100
Roscoe Disposal		6	6	0	100
Triem Roofing		4	4	0	100
C&M Landscaping	1	2	3	0	100
Joe's Service		2	2	0	100
Total	6,183	13,688	19,870	100	

Please Sign In

Address

Phone Number

Company Name

Name

	Name	Company Name	Phone Number	Address
1	Don Douglas	General Excavating	1-608-728-4811	3348 N. Charles
2	David Fink	Town & Country	1-608-375-5854	101 Park St. Baseball
3	David Mason	Dave, Heidi	1-815-255-2654	P.O. Box 160, P.O. 2-513
4	Bill Miller	CCF	1-608-207-0139	3 RD ST. BELLEVILLE
5	Paul Fanning	Fanning Exc	1-608-754-6100	2930 N. Hannay
6	John Reed	Bus Stands	1-815-378-2056	Bahrle
7	John Ayre	Excavating	1-608-742-7671	2046 W ALAN
8	Paul Friesema	Excavating	608-208-0012	1101 S STATE RD. 140
9	Carla McLaughlin	McLaughlin Excavating	608-868-4804	1527 MOUND RD DELAWARE
10	John Onsgard	Earth Construction	608-299-189	664 N. Kennedy Rd MILTON
11	Holly Onsgard	Earth Construction	608-299-189	P.O. Box 402 Oxford
12	Tom Gillman	Gillman Const.	608-676-2261	P.O. Box 402 Oxford
13	Bill Yost	Yost Inc	608-752-6372	Box 718 Clinton, WI
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State of Wisconsin
DEPARTMENT OF NATURAL RESOURCES
3911 Fish Hatchery Road
Fitchburg WI 53711-5397

Scott Walker, Governor
Cathy Stepp, Secretary
Telephone 608-266-2621
Toll Free 1-888-936-7463
TTY Access via relay - 711



2nd Notification

April 4, 2013

Brian Ayre
Ayres Excavating
PO Box 191
Clinton, WI 53525

Dear Mr. Ayre:

As you may know, the Department of Natural Resources (DNR) has referred Bedrock Grinding, LLC, (1105 East LaPrairie, Turtle Townline Road, Town of LaPrairie, Rock County) to the Wisconsin Department of Justice for alleged violations of the State's solid waste laws, including violations of Bedrock Grinding's approved construction and demolition processing facility plan of operation. In February, the Town of LaPrairie revoked Bedrock Grinding's conditional use permit.

Bedrock Grinding's records indicate that your company hauled waste to this facility. DNR estimates that approximately 30,000 tons of construction and demolition waste currently remain on site. DNR is concerned that the waste could cause groundwater contamination and other environmental problems at the site. If environmental problems are documented in the future, entities that brought waste to the facility may have responsibility under state cleanup laws or US EPA regulations.

Enclosed is a list of the companies that are receiving this same letter. DNR has scheduled a meeting for 1:00 PM on Thursday April 11th at its Janesville Service Center located at 2514 Morse Street in Janesville. At the meeting, we will provide an overview of the situation at Bedrock Grinding and hope to explore with you and the other companies ways to mitigate potential environmental problems and subsequent liability. Please contact me at 608-275-3466 or dennis.mack@wisconsin.gov by March 27th regarding whether your company will participate in this meeting. Thank you.

A handwritten signature in black ink that reads "Dennis Mack".

Dennis Mack, P.E.,
Waste Management Supervisor
South Central Region

Cc: Allan Arndt - Town of LaPrairie
Bradley Motl - DOJ
Ann Coakley - WMM Director
Mark Aquino - SCR Director

Steve Meade - Bedrock Grinding
Butch Luetz - Bedrock Grinding
Cheryl Heilman - Legal Services

UNITED STATES BANKRUPTCY COURT
 Western District of Wisconsin, <http://www.wiwb.uscourts.gov>

Notice of Chapter 7 Bankruptcy Case, Meeting of Creditors, & Deadlines
 A chapter 7 bankruptcy case concerning the debtor(s) listed below was filed on 4/17/13.

You may be a creditor of the debtor. **This notice lists important deadlines.** You may want to consult an attorney to protect your rights. All documents filed in the case may be inspected at the bankruptcy clerk's office at the address listed below. **NOTE:** The staff of the bankruptcy clerk's office cannot give legal advice.

See Reverse Side For Important Explanations

Debtor(s) (name(s) used by the debtor(s) in the last 8 years, including married, maiden, trade, and address):

Steven C. Meade
 dba Bedrock Grinding, LLC, dba SCM Properties
 2241 Huebbe Parkway
 Beloit, WI 53511

Case Number: 3-13-11871-rdm	Social Security/Taxpayer ID/Employer ID/Other Nos.: 389-54-2298
--------------------------------	--

Attorney for Debtor(s) (name and address):
 Erin A. West
 Murphy-Desmond S.C.
 33 East Main Street Suite 500
 Madison, WI 53703
 Telephone number: 608/257-7181

Bankruptcy Trustee (name and address):
 Brenda L. Zeddun
 Law Advisors, S.C.
 2801 International Lane, Suite 205
 Madison, WI 53704
 Telephone number: 608 242-9700

Meeting of Creditors

Date: **June 18, 2013** Time: **09:00 AM**
 Location: **Rock County Job Center, Conference Room I, 1900 Center Avenue, Janesville, WI 53546**

Presumption of Abuse under 11 U.S.C. § 707(b)
See "Presumption of Abuse" on reverse side.

The presumption of abuse does not arise.

Deadlines:

Papers must be received by the bankruptcy clerk's office by the following deadlines:

Deadline to Object to Debtor's Discharge or to Challenge Dischargeability of Certain Debts: 8/19/13

Deadline to Object to Exemptions:

Thirty (30) days after the conclusion of the meeting of creditors.

Creditors May Not Take Certain Actions:

In most instances, the filing of the bankruptcy case automatically stays certain collection and other actions against the debtor and the debtor's property. Under certain circumstances, the stay may be limited to 30 days or not exist at all, although the debtor can request the court to extend or impose a stay. If you attempt to collect a debt or take other action in violation of the Bankruptcy Code, you may be penalized. Consult a lawyer to determine your rights in this case.

Please Do Not File a Proof of Claim Unless You Receive a Notice To Do So.

Creditor with a Foreign Address:

A creditor to whom this notice is sent at a foreign address should read the information under "Do Not File a Proof of Claim at This Time" on the reverse side.

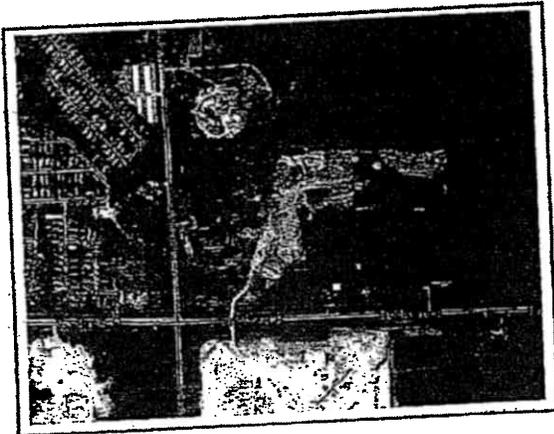
Address of the Bankruptcy Clerk's Office:
 U.S. Federal Courthouse
 120 N. Henry Street
 P.O. Box 548
 Madison, WI 53701
 Telephone number: 608-264-5178
 Hours Open: Monday - Friday 8:00 AM - 4:30 PM

For the Court:
 Clerk of the Bankruptcy Court:
 Marcia M Anderson
 Date: 4/18/13

EXPLANATIONS

B9A (Official Form 9A) (12/10)

<p>Filing of Chapter 7 Bankruptcy Case</p>	<p>A bankruptcy case under Chapter 7 of the Bankruptcy Code (title 11, United States Code) has been filed in this court by or against the debtor(s) listed on the front side, and an order for relief has been entered.</p>
<p>Legal Advice</p>	<p>The staff of the bankruptcy clerk's office cannot give legal advice. Consult a lawyer to determine your rights in this case.</p>
<p>Creditors Generally May Not Take Certain Actions</p>	<p>Prohibited collection actions are listed in Bankruptcy Code §362. Common examples of prohibited actions include contacting the debtor by telephone, mail or otherwise to demand repayment; taking actions to collect money or obtain property from the debtor; repossessing the debtor's property; starting or continuing lawsuits or foreclosures; and garnishing or deducting from the debtor's wages. Under certain circumstances, the stay may be limited to 30 days or not exist at all, although the debtor can request the court to extend or impose a stay.</p>
<p>Presumption of Abuse</p>	<p>If the presumption of abuse arises, creditors may have the right to file a motion to dismiss the case under § 707(b) of the Bankruptcy Code. The debtor may rebut the presumption by showing special circumstances.</p>
<p>Meeting of Creditors</p>	<p>A meeting of creditors is scheduled for the date, time and location listed on the front side. <i>The debtor (both spouses in a joint case) must be present at the meeting to be questioned under oath by the trustee and by creditors.</i> Creditors are welcome to attend, but are not required to do so. The meeting may be continued and concluded at a later date specified in a statement filed with the court.</p>
<p>Do Not File a Proof of Claim at This Time</p>	<p>There does not appear to be any property available to the trustee to pay creditors. <i>You therefore should not file a proof of claim at this time.</i> If it later appears that assets are available to pay creditors, you will be sent another notice telling you that you may file a proof of claim, and telling you the deadline for filing your proof of claim. If this notice is mailed to a creditor at a foreign address, the creditor may file a motion requesting the court to extend the deadline.</p>
<p>Discharge of Debts</p>	<p>The debtor is seeking a discharge of most debts, which may include your debt. A discharge means that you may never try to collect the debt from the debtor. If you believe that the debtor is not entitled to receive a discharge under Bankruptcy Code §727(a) or that a debt owed to you is not dischargeable under Bankruptcy Code § 523(a)(2), (4), (5), (6), (7), (8), or (9), you must file a complaint — or a motion if you assert the discharge should be denied under § 727(a)(8) or (a)(9) — in the bankruptcy clerk's office by the "Deadline to Object to Debtor's Discharge or to Challenge the Dischargeability of Certain Debts" listed on the front of this form. The bankruptcy clerk's office must receive the complaint or motion and any required filing fee by that Deadline.</p>
<p>Exempt Property</p>	<p>The debtor is permitted by law to keep certain property as exempt. Exempt property will not be sold and distributed to creditors. The debtor must file a list of all property claimed as exempt. You may inspect that list at the bankruptcy clerk's office. If you believe that an exemption claimed by the debtor is not authorized by law, you may file an objection to that exemption. The bankruptcy clerk's office must receive the objections by the "Deadline to Object to Exemptions" listed on the front side.</p>
<p>Bankruptcy Clerk's Office</p>	<p>Any paper that you file in this bankruptcy case should be filed at the bankruptcy clerk's office at the address listed on the front side. You may inspect all papers filed, including the list of the debtor's property and debts and the list of the property claimed as exempt, at the bankruptcy clerk's office.</p>
<p>Creditor with a Foreign Address</p>	<p>Consult a lawyer familiar with United States bankruptcy law if you have any questions regarding your rights in this case.</p>
<p>— Refer to Other Side for Important Deadlines and Notices —</p>	



Bedrock Grinding History

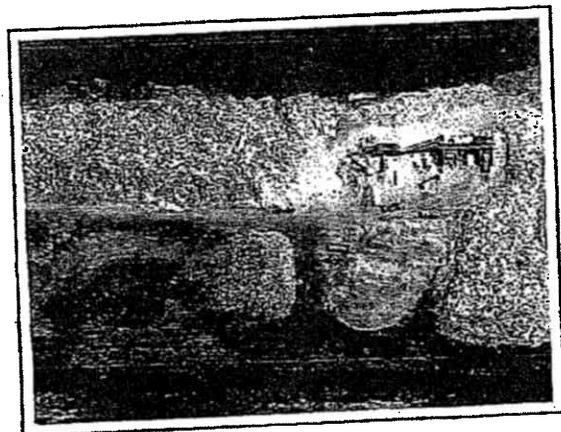
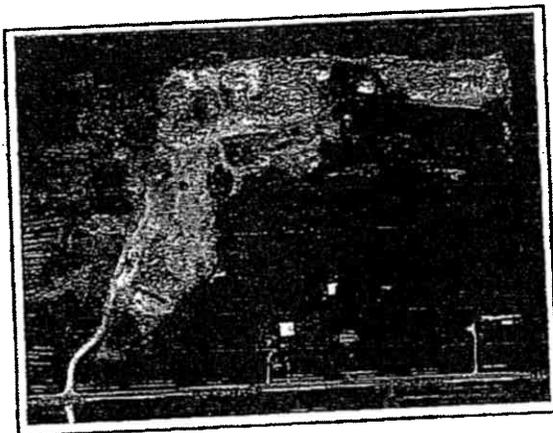
- BG initially produced mulch and added yard waste composting in approx. 2008.
- DNR issued C&D Waste Processing Plan of Op. Approval and License in spring of 2011.
- Inspection a year later.
- DNR issued Notice of Violation and held Enforcement Conference in fall 2012.
- BG agreed to remove all stockpiled C&D waste and come back into compliance by end of 2012.

Bedrock Grinding History (cont'd)

- BG removed no waste.
- In January 2013, DNR referred BG to Dept. of Justice.
- In February 2013, Town of La Prairie rescinds Conditional Use Permit.
- On March 20th DNR sent letter to you advising of this meeting today.

Current Status at Bedrock Grinding

- Very large stockpiles of pallets and other wood present significant fire hazard.
- Approximately 20,000-30,000 tons of C&D waste piled in NE corner of site on floor of former gravel pit.
- Poorly run yard waste composting facility that exceeds allowable capacity.
- BG has indicated that they have no money to do cleanup. All their equipment taken by creditors.
- State cleanup funds not available.



DNR Goals for 2013

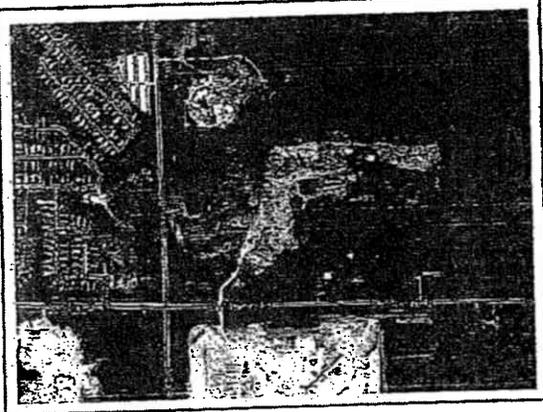
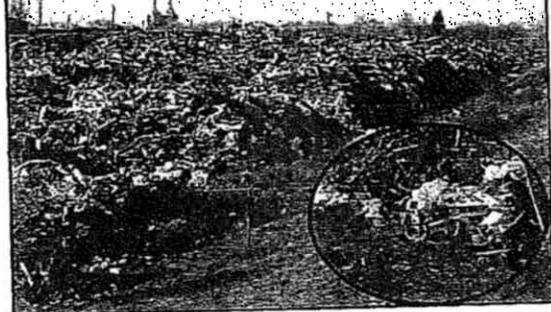
- Significant progress reducing wood waste and compost on the site.
 - Strategies being pursued to accomplish this.
- Complete removal of C&D Waste.
 - This is the focus of today's meeting and where we hope you'll come in.

Why Participate in C&D Cleanup?

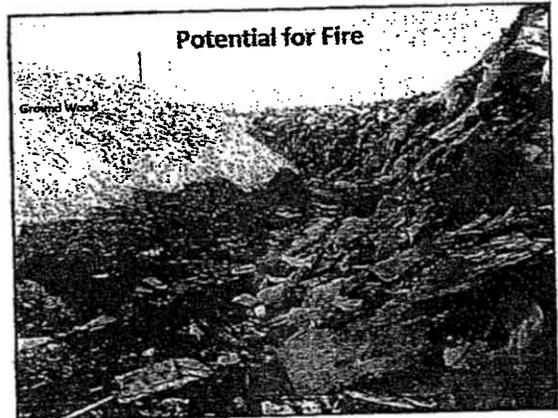
- Goodwill to be gained by your company
- Greatly Reduce Potential for Future Liability
 - Applicability of State Spill Law
 - Removal Action under Federal Superfund Law
 - Joint and Severable Liability
 - Triple cost recovery

What Are Some Features of the Site That Could Trigger Liability?

C&D Waste at Bedrock Grinding far from just clean wood and concrete



Potential for Fire



How C&D Cleanup Might Occur

- One of the larger companies could take the lead and coordinate waste removal for all the other companies that used the site.
- Several companies could take leadership roles and coordinate smaller groups.
- Other Options like smaller companies writing check to larger one?

13

What if No Voluntary Efforts?

- State would likely do some periodic monitoring.
- If or when contamination documented or fire occurs, State Spill Law applied and/or EPA Superfund called in.
- More intense air/groundwater/soil/surface water monitoring would be undertaken.
- Potential Responsible Parties contacted, interviewed, and urged to perform remediation.
- Cost recovery.

14

Request

- By May 9th, we'd like a written response from each company (letter or email) indicating your intent to participate in voluntary removal of the C&D waste remaining at the site.

Dept. may schedule follow-up meeting of those interested in participating.

15

Thank you.

Questions?

16

C&D Waste Accepted at Bedrock Grinding

Company Name	Y2011	Y2012	Total	% of Total	Code
Waste Management	1200	1200	2400	67	W
Bedrock Grinding	100	100	200	6	B
...
Total	1300	1300	2600	100	

17

Tradewell, Becky

From: Konopacki, Larry
Sent: Monday, May 13, 2013 8:17 AM
To: Tradewell, Becky
Subject: tipping fee request

Hi Becky, I got an email from the representative asking that we hold off on any more work on the tipping fee request. I am supposed to meet with her later this week and will share details when I have them.

Thanks,
Larry

Larry A. Konopacki
Wisconsin Legislative Council
(608) 267-0683
larry.konopacki@legis.wisconsin.gov

- 2333

5/21/13 Per Harry Konopacki -

Rep. Laudenbeck wants to allow DNR to waive tipping fees in its discretion to provide incentives for cooperative cleanup projects, projects where participants come in before DNR begins enforcement action. DNR would issue a letter (or form) that says tipping fees do not have to be paid and the letter would be shown to the landfill operator.

Rit

Tradewell, Becky

From: Tradewell, Becky
Sent: Thursday, August 01, 2013 9:23 AM
To: Konopacki, Larry
Subject: Tipping fee waiver language

Larry,

Good morning.

Here is a modified version of possible language for Rep. Loudenbeck's tipping fee draft, in anticipation of our meeting this afternoon:

289.675 Waiver of fees. (1) If the department determines that granting a waiver from the fees under ss. 289.63, 289.64, 289.645, and 289.67 will provide an incentive for a voluntary environmental cleanup, the department may grant a waiver from those fees to a person for solid waste or hazardous waste that is disposed of as a result of the voluntary cleanup.

(2) The department shall issue a document to a person to whom the department grants a waiver under sub. (1) stating that solid or hazardous waste generated as a result of the cleanup for which the waiver is granted is exempt from the fees under ss. 289.63, 289.64, 289.645, and 289.67. The person shall provide a copy of the document to the operator of the licensed solid or hazardous waste disposal facility at which the solid or hazardous waste is disposed of or to any intermediate hauler used to transport the solid or hazardous waste to a licensed facility.

Questions for them include:

1. Whether the draft should specify anyone who may not be given a waiver (for example an entity that controlled or operated the site or caused the environmental condition that needs to be cleaned up) or any other limitation on eligibility.
2. Whether they want this limited to situations in which the tipping fees were already paid or to any other situations (for example, where the entity that controlled or operated the site has no funds or has gone out of business).

It might be helpful to find out from DNR whether they consider waste to be "generated" in the situation that motivated her request. It might also be worth thinking about whether to modify the standard for granting the waiver, which is pretty broad.

See you later,
Becky

*The meeting was rescheduled to 8/6.
RET*

8/6/2013 Meeting with Rep. Loudensbeck & Larry
Konopacki

She is satisfied with the language I proposed and
does not want to limit eligibility or limit to situations
in which tipping fees were already paid. She is
comfortable with giving DNR broad authority to grant waivers.

PLT



State of Wisconsin
2013 - 2014 LEGISLATURE

So on (in 8/6)



LRB-2333/P1

RCT:l:...

WLj

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

Gen Cat

1 **AN ACT** ...; **relating to:** the waiver of fees imposed on waste disposed of at a solid
2 or hazardous waste disposal facility.

Analysis by the Legislative Reference Bureau

Current law imposes several fees, often called tipping fees, that are based on the weight of solid or hazardous waste disposed of at a landfill or other waste disposal facility. This bill authorizes the Department of Natural resources to waive these tipping fees to provide an incentive for a voluntary environmental cleanup. *

For further information see the **state** fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

3 **SECTION 1.** 289.63 (1) of the statutes is amended to read:
4 289.63 (1) IMPOSITION OF GROUNDWATER AND WELL COMPENSATION FEES ON
5 GENERATORS. Except as provided under sub. (6) and s. 289.675 (1), a generator of solid
6 or hazardous waste shall pay separate groundwater and well compensation fees for
7 each ton or equivalent volume of solid or hazardous waste which is disposed of at a

1 licensed solid or hazardous waste disposal facility. If a person arranges for collection
2 or disposal services on behalf of one or more generators, that person shall pay the
3 groundwater and well compensation fees to the licensed solid or hazardous waste
4 disposal facility or to any intermediate hauler used to transfer wastes from collection
5 points to a licensed facility. An intermediate hauler who receives groundwater and
6 well compensation fees under this subsection shall pay the fees to the licensed solid
7 or hazardous waste disposal facility. Tonnage or equivalent volume shall be
8 calculated in the same manner as the calculation made for tonnage fees under s.
9 289.62 (1).

History: 1995 a. 227 s. 592; 1997 a. 27; 2011 a. 32.

10 **SECTION 2.** 289.64 (1) of the statutes is amended to read:

11 289.64 (1) IMPOSITION OF SOLID WASTE FACILITY SITING BOARD FEE ON GENERATORS.
12 Except as provided under sub. (4) and s. 289.675 (1), a generator of solid waste or
13 hazardous waste shall pay a solid waste facility siting board fee for each ton or
14 equivalent volume of solid waste or hazardous waste that is disposed of at a licensed
15 solid waste or hazardous waste disposal facility. If a person arranges for collection
16 or disposal services on behalf of one or more generators, that person shall pay the
17 solid waste facility siting board fee to the licensed solid waste or hazardous waste
18 disposal facility or to any intermediate hauler used to transfer wastes from collection
19 points to a licensed facility. An intermediate hauler who receives the solid waste
20 facility siting board fee under this subsection shall pay the fee to the licensed solid
21 waste or hazardous waste disposal facility. Tonnage or equivalent volume shall be
22 calculated in the same manner as the calculation made for tonnage fees under s.
23 289.62 (1).

History: 1995 a. 227 s. 593; 2005 a. 25; 2011 a. 32.

24 **SECTION 3.** 289.645 (1) of the statutes is amended to read:

1 289.645 (1) IMPOSITION OF RECYCLING FEE ON GENERATORS. Except as provided
2 under sub. (4) and 289.675 (1), a generator of solid waste or hazardous waste shall
3 pay a recycling fee for each ton or equivalent volume of solid waste or hazardous
4 waste that is disposed of at a licensed solid waste or hazardous waste disposal
5 facility. If a person arranges for collection or disposal services on behalf of one or
6 more generators, that person shall pay the recycling fee to the licensed solid waste
7 or hazardous waste disposal facility or to any intermediate hauler used to transfer
8 wastes from collection points to a licensed facility. An intermediate hauler who
9 receives the recycling fee under this subsection shall pay the fee to the licensed solid
10 waste or hazardous waste disposal facility. Tonnage or equivalent volume shall be
11 calculated in the same manner as the calculation made for tonnage fees under s.
12 289.62 (1).

13 History: 1999 a. 9, 185; 2001 a. 16; 2003 a. 33; 2005 a. 25; 2007 a. 20; 2009 a. 28; 2011 a. 32.

13 **SECTION 4.** 289.67 (1) (a) of the statutes is amended to read:

14 289.67 (1) (a) *Imposition of fee.* Except as provided under pars. (f) and (fm) and
15 s. 289.675 (1), a generator of solid or hazardous waste shall pay an environmental
16 repair fee for each ton or equivalent volume of solid or hazardous waste which is
17 disposed of at a licensed solid or hazardous waste disposal facility. If a person
18 arranges for collection or disposal services on behalf of one or more generators, that
19 person shall pay the environmental repair fee to the licensed solid or hazardous
20 waste disposal facility or to any intermediate hauler used to transfer wastes from
21 collection points to a licensed facility. An intermediate hauler who receives
22 environmental repair fees under this paragraph shall pay the fees to the licensed
23 solid or hazardous waste disposal facility. Tonnage or equivalent volume shall be

1 calculated in the same manner as the calculation made for tonnage fees under s.
2 289.62 (1).

3 History: 1995 a. 227 s. 601 to 604, 991; 1997 a. 27; 1999 a. 9; 2007 a. 20; 2009 a. 28; 2011 a. 32.

3 SECTION 5. 289.675 of the statutes is created to read:

4 289.675 Waiver of fees. (1) If the department determines that granting a
5 waiver from the fees under ss. 289.63, 289.64, 289.645, and 289.67 will provide an
6 incentive for a voluntary environmental cleanup, the department may grant a
7 waiver from those fees to a person for solid waste or hazardous waste that is disposed
8 of as a result of the voluntary cleanup.

9 (2) The department shall issue a document to a person to whom the department
10 grants a waiver under sub. (1) stating that solid or hazardous waste generated as a
11 result of the cleanup for which the waiver is granted is exempt from the fees under
12 ss. 289.63, 289.64, 289.645, and 289.67. The person shall provide a copy of the
13 document to the operator of the licensed solid or hazardous waste disposal facility
14 at which the solid or hazardous waste is disposed of or to any intermediate hauler
15 used to transport the solid or hazardous waste to a licensed facility.

16 (END)

Tradewell, Becky

From: Loudenbeck, Amy
Sent: Monday, August 19, 2013 1:49 PM
To: Tradewell, Becky
Cc: Konopacki, Larry
Subject: FW: Draft review: LRB -2333/P1 Topic: Authorize DNR to waive solid waste tipping fees for voluntary cleanups
Attachments: 13-2333/P1.pdf

Hi Becky and Larry – I talked to Senator Kedzie and he would like to see language limiting the DNR's authority to grant the waiver to exclude persons that benefitted from or willingly allowed the initial violation – or something to that effect. I realize you asked me about this at our meeting, so hopefully this is something that you had contemplated and can insert some language to narrow the scope of eligibility.

Thanks!

Amy Loudenbeck
Representing Wisconsin's 31st Assembly District
(608) 266-9967
rep.loudenbeck@legis.wi.gov

From: LRB.Legal
Sent: Monday, August 12, 2013 8:19 AM
To: Rep.Loudenbeck
Subject: Draft review: LRB -2333/P1 Topic: Authorize DNR to waive solid waste tipping fees for voluntary cleanups

Following is the PDF version of draft LRB -2333/P1.



State of Wisconsin
2013 - 2014 LEGISLATURE



LRB-2333/P2

RCT:wlf:ph

Fri (8/23) if possible

stops
rnr
Wato

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

Regen

1 **AN ACT to amend** 289.63 (1), 289.64 (1), 289.645 (1) and 289.67 (1) (a); and **to**
2 **create** 289.675 of the statutes; **relating to:** the waiver of fees imposed on waste
3 disposed of at a solid or hazardous waste disposal facility.

Analysis by the Legislative Reference Bureau

Current law imposes several fees, often called tipping fees, that are based on the weight of solid or hazardous waste disposed of at a landfill or other waste disposal facility. This bill authorizes the Department of Natural Resources to waive these tipping fees to provide an incentive for a voluntary environmental cleanup.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

4 **SECTION 1.** 289.63 (1) of the statutes is amended to read:
5 289.63 (1) IMPOSITION OF GROUNDWATER AND WELL COMPENSATION FEES ON
6 GENERATORS. Except as provided under sub. (6) and s. 289.675 (1), a generator of solid
7 or hazardous waste shall pay separate groundwater and well compensation fees for

1 each ton or equivalent volume of solid or hazardous waste which is disposed of at a
2 licensed solid or hazardous waste disposal facility. If a person arranges for collection
3 or disposal services on behalf of one or more generators, that person shall pay the
4 groundwater and well compensation fees to the licensed solid or hazardous waste
5 disposal facility or to any intermediate hauler used to transfer wastes from collection
6 points to a licensed facility. An intermediate hauler who receives groundwater and
7 well compensation fees under this subsection shall pay the fees to the licensed solid
8 or hazardous waste disposal facility. Tonnage or equivalent volume shall be
9 calculated in the same manner as the calculation made for tonnage fees under s.
10 289.62 (1).

11 **SECTION 2.** 289.64 (1) of the statutes is amended to read:

12 289.64 (1) IMPOSITION OF SOLID WASTE FACILITY SITING BOARD FEE ON GENERATORS.
13 Except as provided under sub. (4) and s. 289.675 (1), a generator of solid waste or
14 hazardous waste shall pay a solid waste facility siting board fee for each ton or
15 equivalent volume of solid waste or hazardous waste that is disposed of at a licensed
16 solid waste or hazardous waste disposal facility. If a person arranges for collection
17 or disposal services on behalf of one or more generators, that person shall pay the
18 solid waste facility siting board fee to the licensed solid waste or hazardous waste
19 disposal facility or to any intermediate hauler used to transfer wastes from collection
20 points to a licensed facility. An intermediate hauler who receives the solid waste
21 facility siting board fee under this subsection shall pay the fee to the licensed solid
22 waste or hazardous waste disposal facility. Tonnage or equivalent volume shall be
23 calculated in the same manner as the calculation made for tonnage fees under s.
24 289.62 (1).

25 **SECTION 3.** 289.645 (1) of the statutes is amended to read:

1 289.645 (1) IMPOSITION OF RECYCLING FEE ON GENERATORS. Except as provided
2 under sub. (4) and 289.675 (1), a generator of solid waste or hazardous waste shall
3 pay a recycling fee for each ton or equivalent volume of solid waste or hazardous
4 waste that is disposed of at a licensed solid waste or hazardous waste disposal
5 facility. If a person arranges for collection or disposal services on behalf of one or
6 more generators, that person shall pay the recycling fee to the licensed solid waste
7 or hazardous waste disposal facility or to any intermediate hauler used to transfer
8 wastes from collection points to a licensed facility. An intermediate hauler who
9 receives the recycling fee under this subsection shall pay the fee to the licensed solid
10 waste or hazardous waste disposal facility. Tonnage or equivalent volume shall be
11 calculated in the same manner as the calculation made for tonnage fees under s.
12 289.62 (1).

13 **SECTION 4.** 289.67 (1) (a) of the statutes is amended to read:

14 289.67 (1) (a) *Imposition of fee.* Except as provided under pars. (f) and (fm) and
15 s. 289.675 (1), a generator of solid or hazardous waste shall pay an environmental
16 repair fee for each ton or equivalent volume of solid or hazardous waste which is
17 disposed of at a licensed solid or hazardous waste disposal facility. If a person
18 arranges for collection or disposal services on behalf of one or more generators, that
19 person shall pay the environmental repair fee to the licensed solid or hazardous
20 waste disposal facility or to any intermediate hauler used to transfer wastes from
21 collection points to a licensed facility. An intermediate hauler who receives
22 environmental repair fees under this paragraph shall pay the fees to the licensed
23 solid or hazardous waste disposal facility. Tonnage or equivalent volume shall be
24 calculated in the same manner as the calculation made for tonnage fees under s.
25 289.62 (1).

1 SECTION 5. 289.675 of the statutes is created to read:
 2 289.675 Waiver of fees. (1) ^{Except as provided in sub. (2),} If the department determines that granting a
 3 waiver from the fees under ss. 289.63, 289.64, 289.645, and 289.67 will provide an
 4 incentive for a voluntary environmental cleanup, the department may grant a
 5 waiver from those fees to a person for solid waste or hazardous waste that is disposed
 6 of as a result of the voluntary cleanup.

✓ 6
 Inset
 4-67 →

7 (b) ³ The department shall issue a document to a person to whom the department
 8 grants a waiver under sub. (1) stating that solid or hazardous waste generated as a
 9 result of the cleanup for which the waiver is granted is exempt from the fees under
 10 ss. 289.63, 289.64, 289.645, and 289.67. The person shall provide a copy of the
 11 document to the operator of the licensed solid or hazardous waste disposal facility
 12 at which the solid or hazardous waste is disposed of or to any intermediate hauler
 13 used to transport the solid or hazardous waste to a licensed facility.

(END)

DNate

**2013-2014 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-2333/P2ins
RCT:.....

1 **Insert 4-6**

2 **(2)** The department may not grant a waiver under sub. (1) to any of the
3 following:

4 (a) A person who knowingly committed a violation of law that caused or
5 contributed to the need for an environmental cleanup.

6 (b) A person who committed an act that the person knew or should have known
7 would cause or contribute to the need for an environmental cleanup.

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-2333/P2dn

RCT./:....

WJ

Date

Representative Loudenbeck:

This redraft adds language that narrows eligibility for the fee waiver. Please let me know if you would like to discuss different approaches to narrowing eligibility.

Rebecca C. Tradewell
Managing Attorney
Phone: (608) 266-7290
E-mail: becky.tradewell@legis.wisconsin.gov

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-2333/P2dn
RCT:wlj:jm

August 22, 2013

Representative Loudenbeck:

This redraft adds language that narrows eligibility for the fee waiver. Please let me know if you would like to discuss different approaches to narrowing eligibility.

Rebecca C. Tradewell
Managing Attorney
Phone: (608) 266-7290
E-mail: becky.tradewell@legis.wisconsin.gov

Tradewell, Becky

From: Loudenbeck, Amy
Sent: Tuesday, October 29, 2013 5:12 PM
To: Tradewell, Becky
Cc: Johnson, Dan
Subject: LRB-2333/P2

Hi Becky – I have discussed the following changes with the DNR. Please make these changes and have the bill jacketed for introduction. Unless, of course, there are questions on your end.

Thank you very much!

Page 4, line 4

STRIKE: voluntary environmental cleanup

INSERT: person to participate in a department-initiated request for waste removal activities to mitigate potential environmental impacts and subsequent liability

Page 4, line 6

STRIKE: voluntary cleanup

INSERT: waste removal

Page 4, line 10

STRIKE: an environmental cleanup

INSERT: a waste removal

Page 4, line 12

STRIKE: an environmental cleanup

INSERT: a waste removal

Page 4, line 15

STRIKE: cleanup

INSERT: waste removal

Amy Loudenbeck
Representing Wisconsin's 31st Assembly District
(608) 266-9967
rep.loudenbeck@legis.wi.gov



State of Wisconsin
2013 - 2014 LEGISLATURE

Thurs, 10/31



LRB-2333/P2 1

RCT/wlj/jm

rhr

stays

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

Regen

1 AN ACT *to amend* 289.63 (1), 289.64 (1), 289.645 (1) and 289.67 (1) (a); and *to*
2 *create* 289.675 of the statutes; **relating to:** the waiver of fees imposed on waste
3 disposed of at a solid or hazardous waste disposal facility.

Analysis by the Legislative Reference Bureau

(CWR)

Current law imposes several fees, often called tipping fees, that are based on the weight of solid or hazardous waste disposed of at a landfill or other waste disposal facility. This bill authorizes the Department of Natural Resources to waive these tipping fees to provide an incentive for a voluntary environmental cleanup *to analyze in bill*

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3 or disposal services on behalf of one or more generators, that person shall pay the
4 groundwater and well compensation fees to the licensed solid or hazardous waste
5 disposal facility or to any intermediate hauler used to transfer wastes from collection
6 points to a licensed facility. An intermediate hauler who receives groundwater and
7 well compensation fees under this subsection shall pay the fees to the licensed solid
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20 points to a licensed facility. An intermediate hauler who receives the solid waste
21 facility siting board fee under this subsection shall pay the fee to the licensed solid
22 waste or hazardous waste disposal facility. Tonnage or equivalent volume shall be
23 calculated in the same manner as the calculation made for tonnage fees under s.
24 289.62 (1).

25 **SECTION 3.** 289.645 (1) of the statutes is amended to read:

1 289.645 (1) IMPOSITION OF RECYCLING FEE ON GENERATORS. Except as provided
2 under sub. (4) and 289.675 (1), a generator of solid waste or hazardous waste shall
3 pay a recycling fee for each ton or equivalent volume of solid waste or hazardous
4 waste that is disposed of at a licensed solid waste or hazardous waste disposal
5 facility. If a person arranges for collection or disposal services on behalf of one or
6 more generators, that person shall pay the recycling fee to the licensed solid waste
7 or hazardous waste disposal facility or to any intermediate hauler used to transfer
8 wastes from collection points to a licensed facility. An intermediate hauler who
9 receives the recycling fee under this subsection shall pay the fee to the licensed solid
10 waste or hazardous waste disposal facility. Tonnage or equivalent volume shall be
11 calculated in the same manner as the calculation made for tonnage fees under s.
12 289.62 (1).

13 **SECTION 4.** 289.67 (1) (a) of the statutes is amended to read:

14 289.67 (1) (a) *Imposition of fee.* Except as provided under pars. (f) and (fm) and
15 s. 289.675 (1), a generator of solid or hazardous waste shall pay an environmental
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17 disposed of at a licensed solid or hazardous waste disposal facility. If a person
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21 collection points to a licensed facility. An intermediate hauler who receives
22 environmental repair fees under this paragraph shall pay the fees to the licensed
23 solid or hazardous waste disposal facility. Tonnage or equivalent volume shall be
24 calculated in the same manner as the calculation made for tonnage fees under s.
25 289.62 (1).

1 SECTION 5. 289.675 of the statutes is created to read:

2 289.675 Waiver of fees. (1) Except as provided in sub. (2), if the department

3 ^{Insert 4-3} determines that granting a waiver from the fees under ss. 289.63, 289.64, 289.645, ^{Insert}
4 and 289.67 will provide an incentive for ~~a~~ voluntary environmental cleanup ^{the} ~~the~~ ⁴⁻⁴
5 department may grant ^{the person} a waiver from those fees ~~to a person~~ ^{or} for solid waste or
6 hazardous waste that is disposed of as a result of the voluntary cleanup ^{or activities}

7 (2) The department may not grant a waiver under sub. (1) to any of the
8 following:

9 (a) A person who knowingly committed a violation of law that caused or
10 contributed to the need for an environmental cleanup ^{Insert 4-10}

11 (b) A person who committed an act that the person knew or should have known
12 would cause or contribute to the need for an environmental cleanup ^{Insert 4-12}

13 (3) The department shall issue a document to a person to whom the department
14 grants a waiver under sub. (1) stating that solid or hazardous waste generated as a
15 result of the ^{Insert 4-15} cleanup for which the waiver is granted is exempt from the fees under
16 ss. 289.63, 289.64, 289.645, and 289.67. The person shall provide a copy of the
17 document to the operator of the licensed solid or hazardous waste disposal facility
18 at which the solid or hazardous waste is disposed of or to any intermediate hauler
19 used to transport the solid or hazardous waste to a licensed facility.

20

(END)

2013-2014 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-2333/lins
RCT:.....

- 1 **Analysis insert**
- 2 (No) participation in waste removal activities at DNR's request
- 3 **Insert 4-3**
- 4 (Not) requests a person to participate in waste removal activities to mitigate
- 5 potential environmental impacts and related liability and the department
- 6 **Insert 4-4**
- 7 (Not) the person to participate in those activities
- 8 **Insert 4-10**
- 9 (Not) the waste removal activities
- 10 **Insert 4-12**
- 11 (Not) the waste removal activities
- 12 **Insert 4-15**
- 13 (Not) waste removal activities