

Alan Muller  
113 W. 8<sup>th</sup> Street  
Red Wing, Minnesota  
55066  
302.299.6783

November 15, 2010

Ms. Tina Patton  
Minnesota Pollution Control Agency

Dear Ms. Patton:

RE: Comments on "*DRAFT Metropolitan Solid Waste Policy Plan2010-2030.*" (The "Plan.<sup>1</sup>")

These comments are submitted on behalf of Neighbors Against the Burner, 2098 Carroll Ave., St. Paul, MN 55104 St. Paul, Alan Muller (personally), Earth Protector, Inc., P.O. Box 11688, Mpls., MN 55411, Leslie Davis (personally), Minneapolis Neighbors for Clean Air, and others.

### **Summary**

The Plan is fatally flawed in:

- Its emphasis on incineration rather than source reduction, diversion, and recycling;
- Its preparation and presentation without meaningful public input;
- Its failure to present fundamentally different alternatives;
- Its failure to provide adequate explanation or justification for the data presented; and
- Its disregard for MPCA policies on public involvement and environmental justice.

Thus, the Plan should be withdrawn and a new plan should be prepared using different approaches.

Details follow.

### **Non-compliance with MPCA Environmental Justice policy**

**The Plan's call to "... fully utilize existing permitted and installed TCMA resource recovery capacity."** (page 13) implies an additional pollution burden for neighborhoods and communities near incinerators. For example, the HERC garbage incinerator in Minneapolis reported emitting about 1.23 million pounds of health-damaging "criteria" air pollutants in 2008.<sup>2</sup> The proposed 21 percent increase in garbage burning implies a proportional increase in annual emissions of about 260 thousand pounds per year.

The Minneapolis Planning Commission rejected this proposed increase, finding that it did not meet the legal criteria of "*1. Will not be detrimental to or endanger the public health, safety, comfort or general*

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1 <http://cf.pca.state.mn.us/news/data/bdc.cfm?noticeID=285566&blobID=28427&docTypeID=4>

2 MPCA point source emissions data online (<http://www.pca.state.mn.us/index.php/topics/environmental-data/eda-environmental-data-access/eda-air-quality-searches/eda-air-quality-search-point-source-data.html>)

welfare."

Testimony before the Planning Commission indicated that neighborhoods around the burner already are disproportionately impacted by pollution.<sup>3</sup>

The MPCA has an environmental justice policy, adopted April 30, 2008<sup>4</sup>, stating:

*"The Minnesota Pollution Control Agency (MPCA) will, within its authority, ensure fair and equitable treatment and meaningful involvement of all Minnesota citizens in the implementation of environmental laws, rules, programs, and policies to insure that minority and economically-disadvantaged communities in Minnesota:*

- o Do not bear a disproportionate share of the involuntary risks and consequences of environmental pollution*
- o Are not denied equal access to environmental benefits, and*
- o Have opportunities for meaningful participation in the development and implementation of Minnesota's environmental programs."*

*[...]*

*"Development and implementation of additional public participation strategies to work directly with communities to enhance public trust and Agency credibility, and to maintain compliance with Title VI of the Civil Rights Act of 1964 in Minnesota's environmental programs."*

Yet, it appears that the MPCA has completely disregarded the concerns and interests of the "host communities" of incinerators and other waste management facilities. The views of residents of these communities have not been sought.

This disregard for the MPCA's "Environmental Justice Principles and Practices" is sufficient, alone, to require a complete rework of the Plan.

### **Lack of Public Involvement**

*"Revisions to the policy plan are exempt from the rulemaking provisions of chapter 14."<sup>5</sup>*

[ADMINISTRATIVE PROCEDURE]. Chapter 14 is what gives the public all the rights it has in rulemakings.<sup>6</sup>

This situation represents an unfortunate error on the part of the Legislature. However, this exemption only allows the MPCA to disregard public involvement, it does not require it to do so.

This Plan proposes to set waste policy for more than half the population of Minnesota, for the next twenty years. It would have a major influence on the fate of numerous existing and proposed facilities and programs. A more significant document is not easy to envision.

Yet, the public involvement has consisted of one "public information meeting," held on October 14 from 5:00 to 7:00, (why at mealtime??) and a public comment period ending on November 15th at

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3 Rep. Karen Clark, Womens Environmental Institute.

4 <http://www.pca.state.mn.us/index.php/view-document.html?gid=13474>

5 <https://www.revisor.mn.gov/statutes/?id=473.149>

6 <https://www.revisor.mn.gov/statutes/?id=14>

4:30. It was stated at this meeting that comments would not be considered unless followed up in writing.

It seems pretty clear that the PCA seeks to minimize, rather than maximize, public participation in the development of the Plan. This is unacceptable.

### **Alternatives not presented**

The Plan presents only one proposal, focused on incineration. This gives the impression that the PCA seeks to impose its own views.

Without the presentation of alternatives it is difficult to form an opinion regarding the desirability of the Plan.

The PCA should carry out a scoping process to determine the alternatives to be considered in detail.

The PCA should then develop, in a collaborative manner, as drafts, a “Zero Waste” plan, a “business as usual” plan, and a “dumping” plan, as well as an “incineration” plan and perhaps others. These alternative plans should quantify climate impacts, energy impacts, air, land, and water pollution impacts, health impacts, and costs. This would provide all interested parties with an opportunity to consider the relative merits of policy alternatives.

### **Details not available**

The Plan lacks documentation of many statements made, and repeated requests for this background information have not been responded to.

For example, under a section entitled “Additional Benefits” (page 15), the Plan states

- “In 2030 alone, reaching the system objectives would*
- o reduce air pollution by 2 million tons, and*
- o Reduce water pollution by almost 6000 tons.”*

But it is not stated what these pollutants are, specifically, or what the claimed reductions are being compared to, or how these reductions would come about. Again, quantified comparisons of alternatives are required.

Also on page 15 we find this:

*“Energy savings of an estimated 78 million BTUs will occur, providing enough energy to power over 860,000 households, or over 70 percent of the households in the TCMA.”*

This claim does not make sense. Dividing 78 million by 860,000 gives us 91 BTU per household. This is approximately the amount of thermal energy required to raise the temperature of one gallon of water ten degrees.

### **Bias towards incineration**

The “Review Criteria” for facilities (page D-2) state:

*“Proposals for landfills and transfer stations shall not adversely impact the effective utilization and processing at existing processing facilities and the development of additional resource recovery facility [incinerator] capacity.”*

This seems to indicate that the PCA proposes to refuse to permit facilities that could be considered competitive with an incinerator. Is this the intent?

Likewise, again at page D-2:

*“Proposed waste facility capacities should not exceed the projected need for secondary materials [recyclables] and/or energy.”*

Table 1. MSW Management System Objectives (page 12) lists a recycling goal of 53-60 percent by 2030.

This could be interpreted to mean that the PCA might refuse to permit facilities needed to exceed 60 percent recycling. Is this the intent?

### **Inappropriate projections**

Figure 3 (page 10) indicates *“Projected MSW Tonnage Growth in the TCMA 2010-2030.”*

Nearby text states:

*Metro MSW generation is projected to grow to 4.5 million tons by 2030 (see Figure 3). During the 20-year period, a total of 79 million tons of MSW will be generated, based on the region's population growing from between 0.79 to 1.04 percent per year and per capita MSW growing at almost 1.5 percent per year. [Note –in order to be conservative, this forecast is based on a high growth scenario] ....”*

No source is given for these projections, but:

It seems irrational to give a range of population growth but a single value for waste generation growth.

It also seems irrational to project that waste generation will one-and-one-half to two times greater than population growth. This amounts to projecting that source reduction efforts will yield little if anything, and that the painfully obvious limits to future economic growth don't really exist.

### **Inappropriate “system objectives.”**

The core of the report appears to be Table 1. *MSW Management System Objectives* (page 12).

This table lists only percentages and not absolute tonnages, making it hard for the reader to interpret.

It seems, for example, in the recycling objective of “53-60%,” that the lower number is the real objective, and the higher number perhaps a *de facto* ceiling.

So, the Plan calls for only a 53% recycling rate and 7% organics recovery rate by 2030. This is far less than the legislative goal of 60% recycling/15% composting by 2020 and the similar recommendations of the Minnesota Climate Change Action Group. It is far, far less than that achievable through a serious "zero waste" plan.

### **Absence of optimization**

This of course is related to the absence of alternatives, but the point here is that the public—not acknowledged as “stakeholders” in the Plan—has a stake in waste management systems from many points of view, including cost, health, and quality of life.

There is simply nothing in the Plan that suggests it is the best we can do in any of these regards.

### **Minnesota Nurses Association comment letter**

We agree with the comments in this letter<sup>7</sup> and incorporate it by reference in these comments.

### **Conclusions**

This letter is primarily a (partial) critique of the draft Plan, not a discussion of what Minnesota should do in regards to discards management. We note, however, that there is a vibrant “Zero Waste” movement<sup>8</sup> active in many places around the world. Within this movement, and elsewhere, communities are laying out healthier, more cost-effective, and more sustainable ways to manage their discards.

Minnesota should free itself from the toxic influence of special interests and join this movement.

If these comments raise any questions please feel free to contact me.

Respectfully submitted,

Alan Muller

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7 <http://greendel.org/wordpress/http://greendel.org/wordpress/wp-content/uploads/2010/11/mna-mpca-letter-11810.pdf>

8 <http://www.zwia.org/joomla/>