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January 14, 2004

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Jennifer S. Pelczar
Remediation and Redevelopment Program
Wisconsin Department of Natural Resources
Northeast Region Office
625 East County Road Y, Suite 700
Oshkosh, WI 54901-9731

Dear Ms. Pelczar:

Re: Former FF/NN Landfill
WDNR License # 467
BRRTS # 02-20-00915

I am writing to update you with respect to or respond to the three items in your December 22, 2003 correspondence to me as well as address another item you raised in recent correspondence. The first three updates and/or responses are provided in the order the matters were presented in your letter.

Conversion to Monitoring Wells of Wiese and Hadel Wells.

Alliant Energy has scheduled for this week (January 12-16, 2004) installation of the curb stop lateral that will serve the Wiese residence. Within thirty days following Alliant's work, the curb stop will be connected to the Wieses' plumbing system and connection of that system to their water supply well will be shut off. In the next thirty to sixty days, the water supply well will be converted to a monitoring well.

On Friday, January 9, 2004, the Hadels agreed to a similar conversion. Their application for connection to the Alliant public water supply system was mailed to Alliant on January 12, 2004. We expect that Alliant will install the curb stop lateral in the next three weeks and that the schedule for the other work will parallel that set forth above with respect to conversion of the Wieses' well.

Installation and Location of Gas Monitoring Probes.

Your letter of December 22 essentially says that the Department will use its authority under § NR 507.12 Wis. Admin. Code to require that the gas probes "be placed close to the edge of waste", i.e., closer to the edge of the waste than proposed by GeoTrans or required by § NR 507.11(3)(b), Wis. Admin. Code. (Underscoring in the original.) As I will explain, the Department does not have authority under § NR 507.12 to dictate the location of gas probes. I will also explain (as was done previously in the letter from GeoTrans to you dated November 26, 2003) that gas probes may be placed, at the regulated entity's discretion, as far from the waste's edge as 150 feet, pursuant to § NR 507.11(3)(b).

Section NR 507.11 pertains to "Gas monitoring well design and installation." With respect to location, it provides: "Well shall be located within 150 feet of the edge of waste unless otherwise approved by the Department." (see § NR 507.11(3)(b)) This provision does not say within 150 feet of the edge of waste unless otherwise "required" by the Department nor does it make exceptions for sandy or other gas permeable soils. By its plain meaning, § NR 507.11(3)(b) allows the regulated entity to locate a gas monitoring well anywhere within 150 feet of the edge of the waste.

An examination of § NR 507.12, which is entitled "Other monitoring device design and installation," in the context of ch. NR 507 leads to the logical conclusion that it does not pertain to any of the following: groundwater monitoring wells, monitoring well development, boring and well abandonment, leachate head wells, collection basin lysimeters and gas monitoring wells. To reach an opposite conclusion would require not only allowing a general catchall regulation (NR 507.12) to trump a regulation specific to the device in question (NR 507.11) but also would require adding words to § NR 507.12. (The added words might be "notwithstanding the specific requirements set forth in section NR 507.06-11....) Both forms of statutory construction contravene long established maxims of construction, not to mention the norms of plain speech and common sense. Moreover, the fact that on infrequent occasions the concentration of landfill gas in a monitoring well at the waste's edge has reached or exceeded the lower explosive limit is hardly, under the circumstances, the equivalent of a threat to the public health or the environment, a finding required under § NR 507.12.

In sum, any claim that § NR 507.12 provides the Department with the authority to override the regulated entity's option under § NR 507.11(3)(b) to place a gas probe anywhere within 150 feet of the edge of the waste is a bad interpretation/application of plain language. Your interpretation of § NR 507.12's applicability to the location of gas probes for the FF/NN Landfill is providing a legal opinion, and that legal opinion is incorrect.

You state that by placing the gas probes in any location other than one close to the edge of the waste we "[might] miss what [we] are trying to accomplish." The statement misconstrues what we are trying to accomplish as well as what we are required to accomplish. We are trying to show that beyond the 150 foot buffer allowed by § NR 507.11(3)(b), the FF/NN Landfill is not a threat to human health or the environment. We are not required to show that some of the gas generated within the Landfill is not escaping at the edge of the waste or even that the concentration of gas escaping to the atmosphere near the edge of the waste does not some times exceed the lower explosive limit. And, we certainly are not obliged to show that an active gas venting system is not needed. In short, we are not required to monitor for "the worst case" scenario.

Besides the reasons rooted in sound interpretation of the applicable regulation (NR 507.11), there are practical reasons why we will not place the gas probes at the edge of the waste. In the case of GP-1 (see attached plan view), the gas probe cannot be placed closer than 100 feet from the edge of the waste because locations south of that distance, i.e., closer to the edge of the waste, are overgrown with vegetation and would require tree removal for access. The location of GP-2, which you are apparently satisfied with, is dictated by ownership considerations as well as traffic safety concerns. GeoTrans proposes locating GP-3 approximately 75 feet from the waste to avoid interfering with other uses of the former Bosveld property. GP-4 will be located adjacent to the MW102 well nest, again to avoid a scattering of monitoring devices. This location is approximately 125 feet from the waste's edge.

If, after considering the above, and I hope conferring with an attorney who is familiar with statutory construction, you still believe the Department has the authority to require (and will require) GP-1, GP-3 and GP-4 to be as close to the edge of the waste as possible, then please notify me immediately. In that event, I will direct GeoTrans to cease all efforts to install the gas probes until the issue of the Department's authority is resolved.

As a practical matter, there are probably a few weeks to resolve the matter with respect to probes GP-1 and GP-4 because I have not been able to identify definitively the owners of the affected properties and, thus, have not been able to negotiate an access agreement. (Mrs. Arline Sauer, the former owner, is deceased as is, apparently, her son, Arden.) Once I do locate the owner(s), negotiating an access agreement, if the owner(s) is (are) cooperative, should not take more than two weeks.

Sampling of the Wetland.

I am not sure what you mean by "several samples" to "be collected for comparison." Do you mean samples from several locations, presumably locations previously used, all taken during one sampling event, or several samples in one location taken during successive sampling events? (As I understand, the past sampling occurred in one location in the R and R Wash Materials wetlands.) Because we think the sampling of the wetland is a waste of money, we will sample in one location (at the previous test location) and do so at the next sampling event where conditions permit sampling provided access is granted by R and R Wash Materials.

Connecting Additional Residences to Alliant System.

In correspondence other than the December 22nd letter, you have suggested that the Group connect the Baneck, Gaastra and Rohde residences to the public water supply system as we have or will connect the Altnau, Ehster, Hadel, Miller and Wiese residences. At this time, the Group has no reason to provide such connections. Of course, these individuals have the option to connect, each at the resident's own expense.

If you require further detail regarding the proposed gas probe locations, please contact GeoTrans personnel directly. However, regarding any further argument that the Department can mandate gas probe locations other than those proposed to be beyond 150 feet from the waste's edge, please make that contact with me. Of course, if you want to present a legal argument, I urge that the argument come through a Department attorney.

Thank you for your consideration of the above.

Sincerely,

Raymond M. Roder

MADISON\120770RMR:KMC

cc Mr. Gerald DeMers
Mr. Steve Barg
Mr. Nelson Olavarria
Ms. Heidi Yantz

Table 6C Landfill Gas Screening Results - Oxygen
FF/NN Landfill
Ripon, Wisconsin

Well/Vent #	% Oxygen (O_2)																		
Date:	6/23/93*	5/19/94*	11/15/94	11/16/94	11/17/94	05/14/96	05/15/97	10/28/97	04/23/98	10/13/98	10/28/99	05/03/00	10/30/00	05/09/01	10/23/01	05/21/02 #	12/03/02	04/21/03 #	07/30/03	10/21/03
Vent #1	20.8	15	20.1	18	20.7	20.5														
Vent #2	20.8	20	19.8	18	6.2	20.5														
Vent #3	20.8	13	20.7	20.5	9.8	20.6														
Vent #4	18.5	17	19.8	17.4	19.9	20.6														
Vent #5	20.8	20.8	20.8	20.3	14.5	20.6														
LC-1	20.8	2	7.9	8.6	13.2	19.1	21.2	16	15.1	15.7	11.8	19.8	17.4	19.7	5	16.9	18.2	NT	19.4	20.3
LC-2	20.8	20.8	20.4	20.4	20.3	13.8	25.2	8.8	16.9	14.5	3.2	15	12.6	12.0	7.1	17	14.4	NT	18.2	19.6
LC-3	15	15	0.4	0	0	0	22.1	10.9	15.1	18.7	3.8	19.4	6.5	0.3	1.4	16.9	7.6	NT	14.9	20.3
MW-101	20	20.8	20.9	0	0	19.4	23.9	20.9	18.3	18.9	19.6	20.1	17.8	20.3	20.8	16.8	2	NT	20.3	19.6
MW-102	20.8	3	20.9	0	1.2	0	27.1	0	0.9	19.2	18.2	12.5	4.4	20.5	19.9	16.6	17.8	20.6	0.6	20.3
MW-103	18	9	9.8	0	19.8	0	27.4	19.4	3.8	1.2	14.2	20.2	4.0	20.5	21.3	16.3	14.3	20.9	3	20.3
MW-104	20.8	12	20.7	0	0	0	21.5	0	0.1	0	17.6	20.1	0.2	0.6	21.1	NT	13.5	NT	3.7	20.3
MW-106	20.8	NT	NT	NT	NT	NT	NT	NT	NT	NT	NT	NT	NT	NT	NT	16.9	13.1	NT [1]	NT [1]	NT [1]
MW-107	20.8	NT	NT	NT	7.5	NT	NT	NT	NT	NT	NT	NT	NT	NT	NT	16.4	18.1	NT [1]	NT [1]	NT [1]
MW-112	NT	NT	NT	NT	NT	NT	NT	NT	NT	NT	NT	NT	NT	NT	NT	16.5	17.8	20.2	3.9	20.2
GV-1							20.5	0	11.8	13.9	19.5	20.1	18.3	19.0	5	17.4	17.9	NT	20.6	20.2
GV-2							19.9	0	21.3	5.8	19.1	19.7	6.7	16.3	9.7	17.8	13.9	NT	18.8	20.3
GV-3							26.4	0	21.6	1.9	19.2	19.9	3.5	11.3	20.9	16.8	18.7	NT	20.4	8.2
GV-4							21.5	8	21.6	7.6	18.5	20.2	18.1	20.6	21.1	16.8	16.8	NT	20.4	20.3
GV-5							21.5	20.9	15.3	9.6	11.6	20.4	18.3	20.6	21.1	16.9	19.1	NT	20.3	20.2
GV-6							21.6	1.1	21.3	9.5	19.3	18.3	17.2	18.8	21	18.8	20.3	NT	20.4	15.2
GV-7							21.5	3.4	21.2	18.2	19.6	19.5	17.02	6.3	9.1	16.8	17.4	NT	19.8	20.2
GV-8							25.9	0	16.3	19.4	19.6	18.2	14.0	3.2	10.8	16.8	20.4	NT	19.7	19.7
GV-9							21.7	2	3.7	19.3	19.6	9.1	14.6	4.2	21	17.3	14.2	NT	12.6	20.2
GV-10							25.3	20.6	21.6	19.4	19.6	16.2	18.1	16.9	20.1	16.8	20.4	NT	20.4	20.1
GV-11							20.9	17.8	20.5	19.2	19.5	115.8	18.2	20.6	21.1	16.9	20.2	NT	19.7	20.2
GV-12							25.4	20.9	8.1	19.2	17.2	20.3	18.3	20.7	21	16.9	20.3	NT	20.3	15.3
Background	20.8	NT	20.9	20.8	21	20.6	NT	NT	NT	NT	NT	NT	NT	NT	NT	NT	~20.2	NT	~20.4	~20.3

Notes:
Vents #1 through #5 were removed during cap construction in 1996.
GV vents installed during cap construction in 1996
>2.5% = Exceeded Measurable Range of Instrument
MW-103 was also screened on 10/21/93; results indicated 0% CH_4, 20.8% O_2, and 0.1% CO_2
All concentrations measured beginning 11/15/94 were measured using a Landtec GA-90 methane - O_2-CO_2 analyzer
Meter experiencing mechanical difficulties

[1] Water table well is not within 200 feet of landfill and is no longer being monitored for gas

NT = Not Tested
* = Measured with MSA Combustible Gas Indicator
** = Measured with Dräger Tubes
*** = Measured with HNu PID

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Table 6B Landfill Gas Screening Results - Carbon Dioxide
FF/NN Landfill
Ripon, Wisconsin

	% Carbon Dioxide (CO_2)																			
Well/Vent #	6/23/93**	5/19/94**	11/15/94	11/16/94	11/17/94	05/14/96	05/15/97	10/28/97	04/23/98	10/13/98	10/28/99	05/03/00	10/30/00	05/09/01	10/23/01	05/21/02 *	12/03/02	04/21/03 #	07/30/03	10/21/03
Vent #1	0.06	>6.0	NT	2.8	0	0														
Vent #2	0.15	0.1	0.8	2.9	13	0														
Vent #3	0.04	0.1	0.1	0.3	9.4	0														
Vent #4	>6.0	0.2	1	3.8	0.6	0														
Vent #5	0.02	NT	0	0.3	5.2	0														
LC-1	NT	>6.0	21.8	23.1	13.8	2.3	0.6	10.8	11.1	7.3	14.9	1.2	1.7	1.8	6.8	0	5.2	NT	1.5	0
LC-2	0.04	0.15	1	0.7	1.4	12	1.1	23.3	8	9.7	27.9	11.4	13.2	17.8	24	0	13.2	NT	4	1.5
LC-3	NT	>6.0	36.6	40.7	39.5	43.4	0	20.1	14.4	18.7	26.9	1.8	31	36.6	39.8	0	8.6	NT	10	0
MW-101	NT	NT	0	16.8	18.1	0.6	5.9	1	4.1	0.5	0	0	0	0.1	0.3	0	16.2	NT	0	0.3
MW-102	NT	NT	0	14.6	12.2	5.9	0	12.3	5.2	0.2	1.1	2	12.2	0.2	0.4	0.1	3	0.1	14.3	0
MW-103	>6.0	3	11.3	18.9	0.8	30.6	0	5.3	15.8	18.5	3.2	0	15.9	0.1	0.2 *	0	4.3	0	14.1	0
MW-104	NT	NT	0	34.9	33.6	28.7	0	29.3	21.8	30.3	1.3	0	22.2	19.2	0.2	0	4.8	NT	12.6	0
MW-106	NT	NT	NT	NT	NT	NT	NT	NT	NT	NT	NT	NT	NT	NT	NT	0	2.5	NT [1]	NT [1]	NT [1]
MW-107	NT	NT	NT	NT	8.3	NT	NT	NT	NT	NT	NT	NT	NT	NT	NT	0	2	NT [1]	NT [1]	NT [1]
MW-112	NT	NT	NT	NT	NT	NT	NT	NT	NT	NT	NT	NT	NT	NT	NT	0.1	2.4	0	10.7	0
GV-1							0	34.2	16	8.5	0	0	0	5.3	22.7	0.1	4.8	NT	0	0
GV-2							0.8	35.5	0.2	21.5	0.1	0.9	21.1	6.9	19.7	0	10.6	NT	0.7	0
GV-3							0	34	0	27.5	0.2	0.6	26.5	15.5	0	0	5.6	NT	0	14.9
GV-4							0	18.6	0	18.7	1.1	0	0	0.1	0	0	7.1	NT	0	0
GV-5							0.3	0	7.7	16.1	10	0	0	0.1	0	0	3.5	NT	0	0
GV-6							0	35	0	15	0.2	3	4.8	3.3	0	0	0	NT	0	4.5
GV-7							0	37.1	0	1.7	0	2.3	5.4	19.6	17.2	0	5	NT	1	0
GV-8							0	37.9	10.7	0	0.1	4.8	15.4	29.6	9.5	0	0	NT	0.7	0.3
GV-9							0	31.3	26.9	0	0	15	16	23.6	0	0	15.4	NT	10.2	0
GV-10							0	0	0.1	0	0	7.7	0	5.4	0	0	0	NT	0	0
GV-11							2	6.3	1.9	0	0	6.8	0	0.1	0	0	0	NT	0.7	0
GV-12							0	0	19.3	0	2.8	0	0	0.1	0	0	0	NT	0	4.9
Background	NT	NT	0	0	0	0	NT	NT	NT	NT	NT	NT	NT	NT	NT	0	0	0	0	0

Notes:
Vents #1 through #5 were removed during cap construction in 1996.
GV vents installed during cap construction in 1996
>2.5% = Exceeded Measurable Range of Instrument
MW-103 was also screened on 10/21/93; results indicated 0% CH4, 20.8% O2, and 0.1% CO2
All concentrations measured beginning 11/15/94 were measured using a Landtec GA-90 methane - O2-CO2 analyzer
* Meter experiencing mechanical difficulties

[1] Water table well is not within 200 feet of landfill and is no longer being monitored for gas

NT = Not Tested
* = Measured with MSA Combustible Gas Indicator
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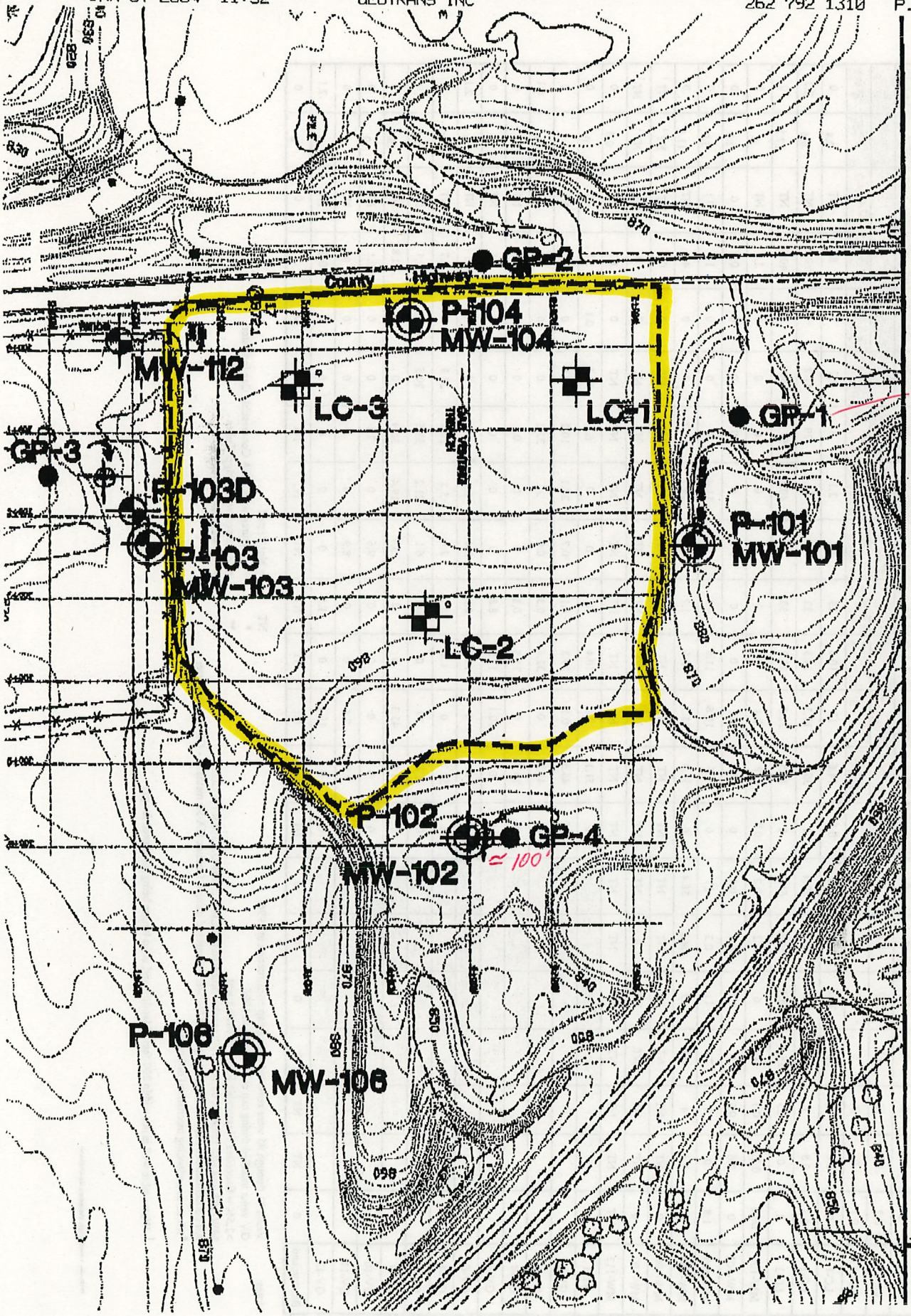
GP-2
County Highway
P-104
MW-104
MW-112
LC-3
LC-1
GP-1
100'
GP-3
P-103D
120-140
P-103
MW-103
P-101
MW-101
LC-2
P-102
GP-4
≈ 100'
MW-102
P-106
MW-106

Table 6A Landfill Gas Screening Results - Methane
FF/NN Landfill
Ripon, Wisconsin

	% Methane (CH_4)																				
Well/Vent #	6/23/93*	5/19/94*	9/2/94*	11/15/94	11/16/94	11/17/94	05/14/96	05/15/97	10/28/97	04/28/98	10/13/98	10/28/99	05/03/00	10/30/00	05/09/01	10/23/01	05/21/02 #	12/03/02	04/21/03 #	07/30/03	10/21/03
Vent #1	0	>2.5	6	1.6	2.5	0	0														
Vent #2	0	0.15	15	0.4	0.8	0	0														
Vent #3	0	>2.5	2	0	0.5	2	0														
Vent #4	0.2	1.3	10	0.1	3.9	0.4	0														
Vent #5	0.1	0	0	0	0.6	2	0														
LC-1	0	0.6	2	30.4	34.8	18.3	4.5	0.5	14.6	17	10.6	23	1.8	2.1	3	9.7	0	8	NT	2.4	0
LC-2	0.2	0.5	1	1.4	2.1	1.7	20.4	1	35.2	13.3	14.3	32	17.9	21	29	42.2	0	29.2	NT	6.6	2.3
LC-3	0	0	25	56.4	62.7	59.6	61.9	0	28.5	22.9	25.2	30	2.4	40.1	59.5	59	0	40.8	NT	17.2	0
MW-101	0.05	0.25	0.1	0	6	5.2	0.2	0.8	0.9	0.4	0	0	0	0	0	0	0	1.9	NT	0	0
MW-102	0	0.6	0.2	0	2.1	0.2	0.8	0	0	2.2	0	0	0.1	0	0	0	0	0.1	0	2.8	0
MW-103	1.8	0	9	7.2	11	0.3	17	0	4.6	10.6	11.6	4.3	0	11.4	0	0	0	1.5	0.1	3.9	0
MW-104	0	2.4	4	0.1	63	64.2	38.4	0	51.4	23.1	49.5	1.7	0	29.7	16.7	0	0	4.2	NT	11.1	0
MW-106	0	NT	NT	NT	NT	NT	NT	NT	NT	NT	NT	NT	NT	NT	NT	NT	0	0.1	NT[1]	NT[1]	NT[1]
MW-107	0	NT	NT	NT	NT	0	NT	NT	NT	NT	NT	NT	NT	NT	NT	NT	0	0	NT[1]	NT[1]	NT[1]
MW-112	NT	NT	NT	NT	NT	NT	NT	NT	NT	NT	NT	NT	NT	NT	NT	NT	0	1.2	0	0.8	0
GV-1								0	51.1	24	10.4	0	0	0	6.8	28.6	0.1	5.5	NT	0	0
GV-2								0.5	46.5	0.1	29.3	0.1	0.7	27.1	10.2	22.6	0	13	NT	1	0
GV-3								0	41.3	0	32.6	0.3	0.6	32	22.2	0	0	7.1	NT	0	6.1
GV-4								0	20.4	0	21.8	0.8	0	0	0.1	0	0	9.4	NT	0	0
GV-5								0.5	0	10.1	17.5	8.8	0	0	0	0	0	3.8	NT	0	0
GV-6								0	46	0	19.4	0.2	2.4	5.5	4.3	0	0	0	NT	0	2.1
GV-7								0	53.7	0	1.8	0.1	2.8	5.3	28.2	23.8	0	4.7	NT	1.6	0
GV-8								0	57	17	0	0.1	6.1	21.2	38.5	20.5	0	0.1	NT	0.6	0
GV-9								0	51.8	43.3	0	0	23.7	19.4	38.9	0	0	22.8	NT	19.9	0
GV-10								0	0	0	0	0	9.6	0	7.1	0	0	0.1	NT	0	0
GV-11								2.8	7.7	2.6	0	0	8.9	0	0	0	0	0	NT	1	0
GV-12								0	0	19.7	0	1.5	0	0	0	0	0	0.2	NT	0	2.1
Background	0	NT	NT	0	0	0	0	NT	NT	NT	NT	NT	NT	NT	NT	NT	0	0	0	0	0

Notes:

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GeoTrans, Inc.

[illegible]-Methane