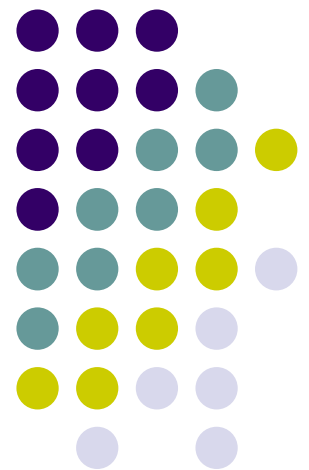


New Minnesota Landfill Siting Rules

The Political Dimension

Marc Hugunin

Friends of Washington County





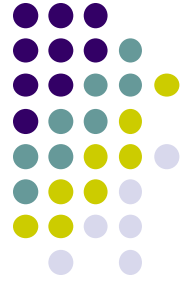
Abstract

- The landfill siting rule is technical in nature
- The rule-making process is, however, not wholly or even fundamentally technical
- Social, cultural and political factors have a strong influence on the decision to pursue a rule-making, and on the rule-making ongoing
- Review social, cultural, political history of the rule-making
- Observations about rule-making



Legislation

- Originally passed in 2008. Amended in 2010.
- “The rules shall provide criteria for locating landfills based on a site’s sensitivity to groundwater contamination. Sensitivity to contamination is based on the predicted minimum time of travel of groundwater contaminants from the solid waste to the compliance boundary.”



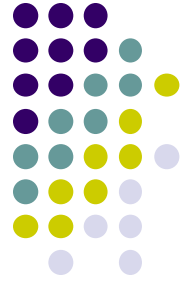
Pre-History

- Discovery of groundwater contamination under large portions of Washington County
- PFCs in Lake Elmo and Oakdale from the former Washington County Landfill at Lake Jane
- Sensitivity to contamination from landfills was at a peak in the mid-2000s



Pre-History

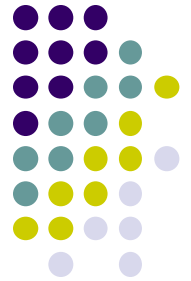
- Xcel Energy proposed to site a landfill in West Lakeland Township, Washington County, for the disposal of fly ash from the King Plant in Oak Park Heights
- Xcel initially identified six candidate locations in Washington County
 - All six in gravel mines
- Convened citizen panel to decide which site to propose
 - Citizen panel refused to play along, it refused to select any of the proposed sites



History

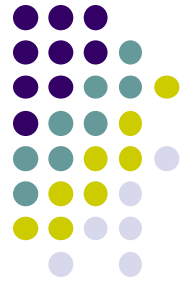
- Proposed West Lakeland site
 - Nearest to the King Plant
 - Least transportation time and cost
 - Appears that the geology of the six sites was assumed to be more or less identical
- Environmental Impact Statement for public comment late 2007-early 2008

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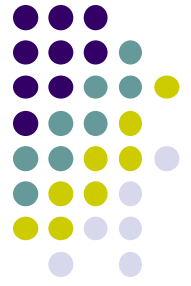


- Founded in 2007-2008
- Mission is to advocate for “sustainable development practices” and high quality of life for Washington County residents, businesses and visitors
- Members are mostly people who have served or are in public service
- Approached by residents in the area of West Lakeland
- Researched the issue
 - Consulted with Dr. Alexander
 - Read the EIS

Friends of Washington County



- Did not oppose West Lakeland site
- Support new rules providing additional protection to karst/carbonate bedrock environments
- Testified before MPCA Citizen's Board that the EIS was not adequate



Adequacy of EIS

- Alternatives Analysis
 - All EIS alternatives were gravel pits in Washington County
 - Geology was assumed to be the same
 - No consideration of bedrock, depth to bedrock
 - Distance from King Plant was the only salient differential
- These were not the real alternatives
 - Xcel testified at legislature that, if unable to build on West Lakeland site, it would truck the waste to Sherco
 - Ultimately disposed of waste at SKB, Rosemount



Adequacy of EIS

- Objected to statement in EIS that flow modeling was “moot” because “engineering would assure that there would be no release”
- As current and former public officials, we did not believe that the EIS would enable us to make a sound permitting decision
- MPCA Citizen’s Board found EIS to be adequate



Legislative Intervention

- The West Lakeland area was at the time represented by Democratic legislators for the first and only time in modern history, who carried the legislation mandating the rules-making process
 - Rep. Julie Bunn
 - Sen. Kathy Saltzman
- And these legislators were part of the legislative majority in 2008

The Rules-Making Landscape



- Landfill Coalition
 - Xcel Energy
 - Waste Management and other private landfill operators
 - MN Chamber of Commerce
 - 30-40 Greater MN counties/AMC
- Friends of Washington County
 - Dr. Alexander
 - West Lakeland Township, other local units
- Third Parties
 - Geological Survey
 - MN Dept. of Health
 - DNR
 - EQB
 - Metro Counties

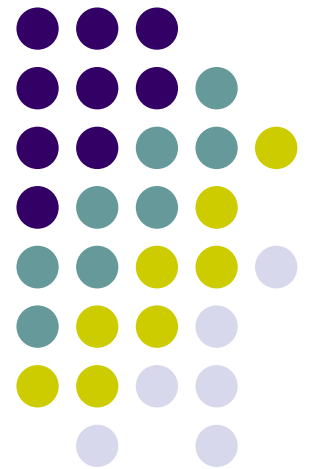
The Rules-Making Landscape



- Leading environmental organizations declined to engage with this issue
 - No landfill programming
- Many, many environmental consulting and engineering firms declined to consult with us for the same reason
- Several environmental attorneys declined to work with us, citing conflict of interest

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Observations

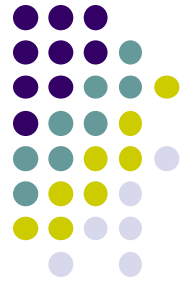




A Perfect Storm

- This scenario is unlikely to happen again
 - High degree of sensitivity in Washington County to the potential for groundwater contamination from landfill operations
 - Xcel selected a community with the means to fight back
 - Democratic legislators in position for a Legislative intervention
- Friends of Washington County

Deck Is Stacked vs. Protection



Rule-Making

- No routine, regular review of scientific literature at the MPCA
 - Dr. Alexander's research was incorporated into the MPCA's thinking only because of extrinsic (social, cultural, political) factors mandating it

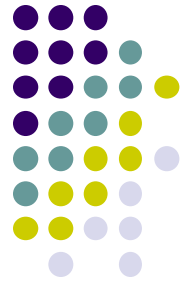
Permitting

- "The public" does not have access to proposed sites
 - Would Dr. Alexander's research have been regarded as relevant (not site-specific) in a permitting process?

Deck Is Stacked vs. Protection



- It is very difficult for “the public” to obtain competent technical advice concerning any of these issues.
 - Consulting firms cannot or will not do so due to conflicts of interest.
 - Scientists in the public and quasi-public sector may not be available nor inclined to get involved.
- This feeds public distrust of regulatory processes
 - Engineering firms should have pro bono outreach programs like law firms do



Accomplishments

- Protection of karst + “where karst is likely to develop”
- Preference for slow groundwater speeds
- Establish the principle that engineering is not foolproof
 - Rather than ease of detection...
 - Landfills should be sited where the impacts of a release that is **not** detected are least severe.

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Thank You

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