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AFFIDAVIT REGARDING FARM DISPOSAL OF SOLID WASTE
Minn. Stat. § 17.135

Minnesota Uniform Conveyancing Blanks
Form 50.3.2 (2011)

State of Minnesota, County of _____

(insert name of Affiant) ("Affiant"),

Being first duly sworn on oath, say that:

1. I am:

an owner of the Property described below.
(choose one)

the _____
of _____
a _____ under the laws of _____
which is an owner of the Property described below.

2. The land situated in _____, County, Minnesota and legally described as follows (the "Property"),
has been used for farming:

Check here if all or part of the describe real property is Registered (Torrens)

3. Concrete and/or reinforcing bar has/have been buried on the Property on _____ (date/month/yr)
The boundaries of the Property and the specific location of concrete or reinforcing bar buried on the Property are
depicted on the attached Exhibit. This affidavit is intended to satisfy Minn. Stat. § 17.135.

Optional

4. The buried concrete and/or reinforcing bar is/are located completely within a limited portion of the Property. This Affidavit is specifically limited to such portion, which is legally described as follows:

Affiant

(signature)

Signed and sworn to before me on _____, by _____
(month/day/year)

(insert name of person making statement)

(Stamp)

(signature of notarial officer)

Title (and Rank): _____

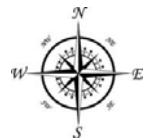
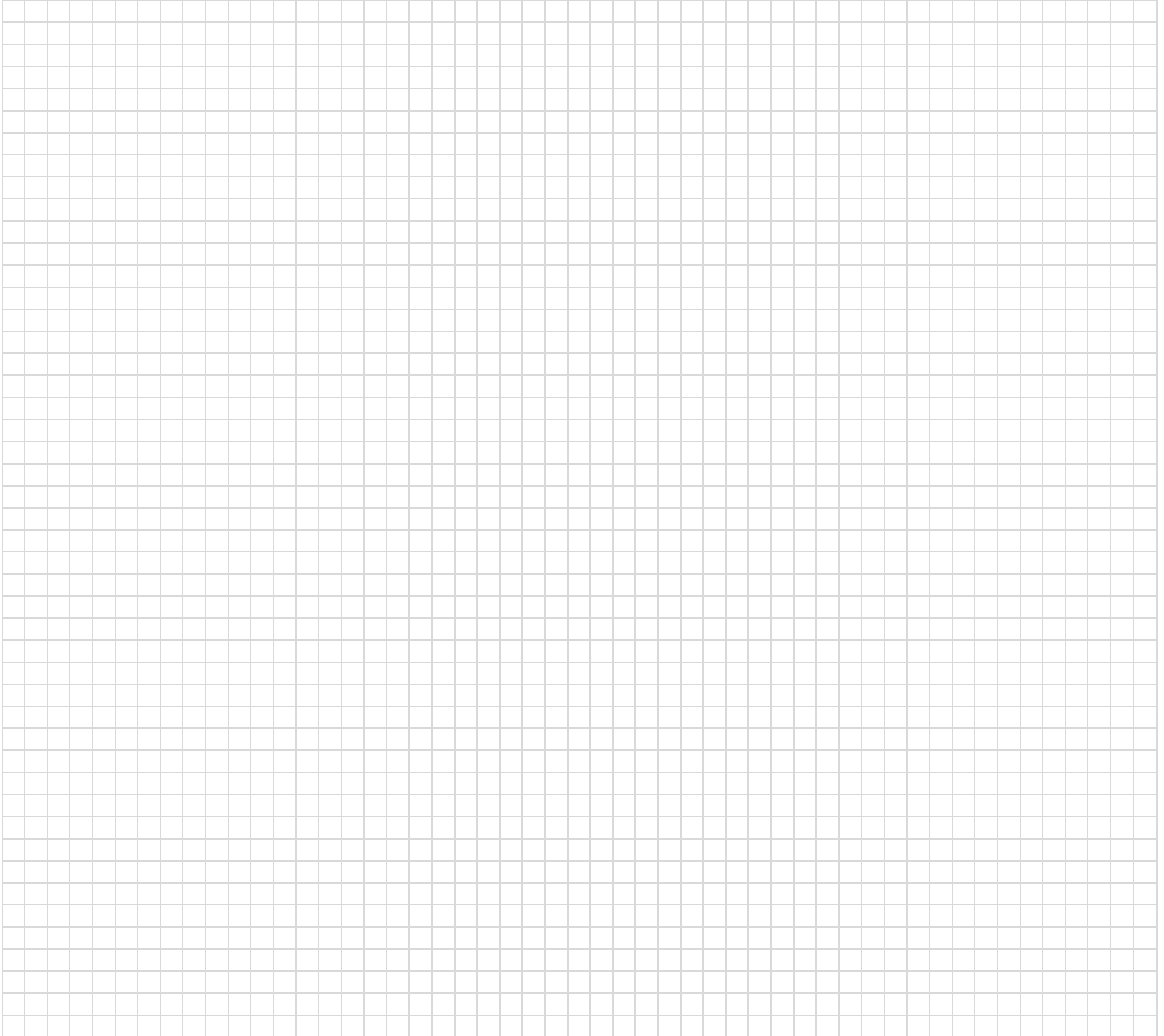
My commission expires: _____
(month/day/year)

THIS INSTRUMENT WAS DRAFTED BY:
(insert name and address)

Note: A map showing the boundaries of the Property and the location of the buried concrete and/or reinforcing bar must be attached to this Affidavit to comply with Minn. Stat. § 17.135.

EXHIBIT

Map depicting the boundary of the Property and the location of buried concrete and/or reinforcing bar
Draw nearest street and approximate measurement from building site. All existing buildings need to be indicated.





Solid Waste Disposal

The purpose of this fact sheet is to clarify the requirements for disposal of solid waste.

Burning and Burn Permits

Burn permits are issued by the Minnesota Department of Natural Resources (DNR) or someone designated by the DNR such as a fire warden. In southern Minnesota counties lacking DNR forestry offices, county sheriffs often serve as fire wardens.

Regardless of whether you have a burn permit, Minnesota law prohibits you from burning certain "prohibited materials." Prohibited materials include: rubber, plastics, chemically treated materials, or other materials which produce excessive or noxious smoke including, but not limited to, tires, railroad ties, chemically treated lumber, composite shingles, tar paper, insulation, composition board, sheetrock, wiring, paint, or paint filters. Other items explicitly prohibited from burning by Minn. Stat. § 88.171 include: Hazardous Waste, Demolition Debris (from commercial or institutional structures), motor vehicles, and garbage. In general, only the following materials can be burned with a DNR burn permit: vegetative debris (brush, logs, stumps, grass, leaves) and clean wood (never treated, painted, or stained) that is from a non-commercial, non-institutional

structure.¹ For additional information about burning permits, please contact your local DNR forester or Fire Warden.

Demolition Debris Disposal

Demolition debris is the kind of waste generated when a building is demolished. As defined in state law, it includes: concrete, brick, bituminous concrete, untreated wood, masonry, glass, trees, rock and plastic building parts. It does not include garbage (called "household waste" or "municipal solid waste") that you generate at home or asbestos wastes.

Demolition debris must be managed by one of the following methods:

1. Disposal of demolition debris at a permitted solid waste management facility. Permitted facilities are engineered and professionally operated to ensure that the waste does not pollute groundwater or cause other issues such as odor or litter.
2. Disposal of demolition debris at a "Permit by Rule" or PBR disposal facility. PBRs allow for up to one year to dispose of a limited volume

¹ Burnable building material (i.e., clean wood) from a farm building or residence can be burned under an open burning permit unless prohibited by local ordinance.



Solid Waste Disposal

of demolition debris (15,000 cubic yards). To develop a PBR, the following criteria must be met at the site:

- The disposal area cannot be on a site with karst features
- the disposal area cannot be located within a wetland or floodplain
- the disposal area cannot be within 300 feet of a stream or river or within 1,000 feet of a lake or pond
- the disposal area must be at least 50 feet from the property boundary line
- the bottom of the disposal cell/area must be at least 5 feet above the seasonal high ground water table
- the facility cannot be adjacent to another demolition debris disposal PBR

To operate a PBR, the following requirements must be met:

- the facility must be operated by a class II or class III certified landfill operator
- only demolition debris may be accepted for disposal- asbestos or

household waste may not be accepted in any form

- solid waste taxes must be paid
- after one year or 15,000 cubic yards has been placed at the site, the facility must be closed by covering the waste with a minimum of two feet of cover, the cover must be sloped between 2% and 20%, and the cover must be vegetated to prevent erosion
- a description of the types and quantities of wastes buried must be recorded on or as an attachment to the property deed
- Finally, the land owner must inspect the site annually for 20 years and provide landfill maintenance as required.

If you would like to develop a PBR facility, or for additional information in regards to PBRs, please contact your regional MPCA Solid Waste staff.

The MPCA often receives inquiries about burning buildings or waste from demolished buildings as a method of disposal. Burning of a structure is only allowed in a legitimate fire training burn. In order to qualify for this type of burn, you must follow the requirements described in the fact sheet located at:



Solid Waste Disposal

http://files.dnr.state.mn.us/assistance/grants/ruralfire/fd_training_burn_app.pdf.

Burning waste to avoid disposal costs can be a costly choice. If you are caught, you will be required to dispose of the unburned waste and ash at a facility that is lined, and which likely will charge more. You may also be required to pay a fine.

Farm Exemption

The MPCA is often questioned about what is allowed or is not allowed under Minnesota Statute § 17.135 (commonly referred to as the “farm exemption”).

The farm exemption states that “A permit is not required ...for a person who owns or operates land used for farming that buries, or burns and buries: (1) solid waste generated from the person's household or as part of the person's farming operation; or (2) concrete or reinforcing bar from a building or structure located on the land used for farming. Items in clauses (1) and (2) must be buried in a nuisance-free, pollution-free, and aesthetic manner **on the land used for farming.**” The exemption goes on to say that it does not apply if the county board passes a resolution that “regularly scheduled pickup of solid waste is reasonably available at the person's farm.” The farm exemption excludes certain wastes from unpermitted disposal on farmland: “This exemption does not apply

to burning tires or plastics, except plastic baling twine, or to burning or burial of the following materials: (1) household hazardous waste as defined in section 115A.96, subdivision 1; (2) appliances, including but not limited to, major appliances as defined in section 115A.03, subdivision 17a; (3) household batteries; (4) used motor oil; and (5) lead acid batteries from motor vehicles.”

For concrete or reinforcing bar buried under this exemption, the owner must record within 90 days after completion of the burial, an affidavit containing a legal description of the property and a map showing the boundary of the property and the location of concrete or reinforcing bar buried on the property on the property deed/title.

The farm exemption is a limited exemption to the requirement that a permit or PBR be obtained for disposal of waste. It does not allow burning of prohibited materials, and it does not allow uncontrolled disposal of large quantities of waste from a commercial farming business that could not be considered a “person” and which does not operate as a “household.” The farm exemption also does not allow the unpermitted disposal of demolition debris because demolition debris is not normally generated by the household or farming



Solid Waste Disposal

operation. As noted above, clean wood can be burned under an open burning permit.

Pre-Demo Rule

Whether disposed of in a PBR or permitted demolition facility, Minnesota Rule 7035.0805 (known as the “pre-demo rule”) requires removal a variety of materials including household waste, hazardous waste, furniture, waste tires, appliances, fluorescent lighting, mercury containing devices, and PCB containing devices. These materials must be removed prior to the commencement of demolition of a structure.

Asbestos

The Federal National Emission Standard for Hazardous Air Pollutants (NESHAP) may apply if the facility you are demolishing is considered a “facility.” Although a residence is generally not a facility, a farm building would be considered a “facility.” If the NESHAP applies, it requires an asbestos inspection by a licensed asbestos inspector, an asbestos abatement by a licensed abatement contractor, and submittal of a “Notification of Intent to Perform a Demolition” form located on the MPCA’s website.