

**ENVIRONMENT AND LAND USE COMMITTEE**  
**Department of Land Management**

**REGULAR MEETING MINUTES**  
**January 12<sup>th</sup>, 2011 9:00 AM**  
**COUNTY BOARD ROOM**

Chairman Brandt called the meeting to order at 9:02 AM.

Committee members present: George Brandt, Hensel Vold, Tom Bice, Michael E. Nelson, Mark A. Smick, Dave Quarne and Jeff Dregney. Roland Thompson was absent.

Staff/Advisors present: Kevin Lien and Virginette Gamroth, Kimarie Estenson, Vickie Stalheim, Mark Carlson and Carla Doelle were present for part of the meeting.

Others present – Michael A. and Carrie Conrad, Eugene, Jr.(Larry) Soppa, David Hesch, Doug Sokup, Mark Kunz-NRCS, Robert Tenneson-Town of Preston Chairman.

Chairman Brandt stated that the Open Meeting Law had been complied with through notifications and posting.

**Approval of Agenda** – Smick requested that the Committee once again discuss refunding of permit fees. Brandt acknowledged that request and Committee consensus was that it could be discussed during the Director’s Report agenda item. Vold made a motion to approve the agenda as presented, Nelson seconded, motion carried unopposed.

**Approval of Minutes** – Vold made a motion to approve the December 8th, 2010 meeting minutes as presented, Nelson seconded, motion carried unopposed.

Lien introduced Jeff Dregney, the new Farm Service Agency Chairman. Dregney is now a member of the E & LU Committee as required by Land Conservation Committee State Statutes. Committee and staff introductions took place.

**Public Hearing–Land Use Change/Rezone–Transitional Agriculture (TA) to Commercial (C)- Michael A. Conrad - Town of Hale.** At 9:07 AM, Chairman Brandt called the public hearing to order. Brandt explained the public hearing process for the benefit of the public present. Nelson read the public hearing notice aloud. An ArcView aerial photo was provided for all to view. Lien stated Conrad’s’ property is located south of Elk Creek and there is a pre-existing building and business, Velocity Vinyl (vinyl graphics), that Conrad has been running on the property. Lien added Conrad was unaware of the needed rezone change and most of the business is done internally in the pole shed located on the property. Lien stated the rezone would be on the .81 acres that encompasses the building and a small parking area outside. Lien added that Conrad was unable to get a letter from the Town of Hale prior to the meeting, so if the Committee should approve the rezone it should be done contingent upon receipt of a letter from the Town of Hale. Lien added the rezone would need to go to County Board for final approval. Lien noted that letters were sent to all adjoining property owners and the hearing was published in the newspaper and Lien received no responses for or against the rezone. Lien stated, initially, the DLM office had received a call from the public inquiring about the zoning of this property and when Lien contacted Conrad he came in and filled out the necessary paperwork. Upon Brandt’s request, Lien explained the difference between an accessory home occupation and the rezone that Conrad is requesting. Conrad verified that all of the work is done inside the building and since Conrad works another job in the summer, most of the business in this building is done throughout the winter months. Conrad stated he was aware that the zoning was “Transitional” so he felt that meant the land

could be used for anything. Brandt called for any testimony from the public. There being none, Brandt closed the public hearing at 9:12 AM. Nelson made a motion to approve the rezone from Transitional Agriculture (TA) to Commercial (C), contingent upon receipt of a letter of approval from the Town of Hale, Bice seconded the motion. Bice inquired if Conrad felt there would be any reason that the Town of Hale might oppose the rezone. Conrad responded that he didn't feel there would be any reason for them to oppose it. Motion carried with no opposition.

**Public Hearing – Conditional Use Permit – Non-metallic Mine - Eugene Soppa, Jr. - Town of Arcadia.**

Brandt opened the public hearing at 9:15 AM. Nelson read the public hearing notice aloud. An Arc View aerial photo was provided for all to view. Estenson stated Soppa currently operates a mine outside of east Arcadia on Highway 95 and Soppa is interested in expanding that mine as the original Conditional Use Permit only contained 5 acres. Soppa is requesting a change in the permit, therefore a public hearing is required. Estenson reported Soppa was unable to get Town approval prior to the meeting as Town of Arcadia is meeting the next evening, so DLM should receive an approval letter after that meeting. Soppa's current sandpit is 1-2 acres in size and the option has always been there to go up to five acres. Soppa wants to open up 15 acres in Section 33 where the current zoning is Transitional Agriculture and mining is a conditional use. Estenson explained Soppa would be mining 7-8 acres and anticipates reclaiming 1-3 acres annually so the entire 15 acres will not be open at one time. Commencement will begin as soon as Soppa gets the conditional use permit and approval from the town. The mine is expected to be in operation for five years as Soppa has a contract with a facility that is taking the sand out of state. The mine is expected to produce about 250,000 tons annually. The material will be removed at around 30% moisture. A screen process will be done onsite which will remove everything over one quarter inch and everything under one quarter inch will be used, the maximum stockpile time will be a day or two. Trucks will be hauling the material off-site to Winona, MN, right after it has been excavated and cleaned. Existing elevations for site work are 840 to 960. The depth of extraction is about 60-80 feet. The surface water elevation on the southern side of Highway 95 is at an elevation of approximately 770, typically the groundwater elevation is 730, so this leaves a 90 foot separation distance between the bottom extraction level and ground water. Safety measures for emergencies include a field cleanup kit onsite with final disposal at the LaCrosse landfill. A full reclamation plan is on file in which Estenson worked with Soppa on all erosion control measures which includes dust control. Estenson pointed out the main entrance and exit to the site. Estenson stated Soppa will maintain a 100 foot track of clean breaker rock so there will be no tracking onto State Highway 95 along with watering to keep the dust down in that area. Estenson added no blasting is expected as the material is going to be ripped with a tooth on the back of a D8 bulldozer. Types of equipment that will be used onsite are excavators, dozers, dump trucks, a screener and possible limited crushing if needed. No other structures will be onsite except for a privy. The haul route will be going from State Highway 95, south onto State Highway 93 down to Centerville, westward on Highway 54/35 and over to Winona. In the summer months, the material will be going to Winona Aggregate. At Estenson's request, Dave Hesch explained the process that will take place in Winona stating that the material is run through a band screw to take the "fines" out, wash it and stockpile it and ship it by rail. Estenson inquired what the process would be in the winter months. Hesch responded Winona Aggregate is going to stockpile the material so that there will be enough shipped during the summer so that there will be no operation during the winter. Hesch added if there needs to be winter operation then the sand will be hauled to the opposite side of Winona where it will be loaded on train cars and shipped directly to Texas where the washing process will be done. Lien verified that Winona currently has a facility where the material is run through a screen press, washed, separated and dried. Hesch responded no drying is taking place. Lien asked if they were stockpiling the material as a wet pile. Hesch responded that was correct as the main process for this material is done down in Kayden, Texas in an enclosed facility. Hesch stated he is not privileged to exactly what the firm in Texas does with the material, but basically all that will be done in Arcadia is screening to take out all material over one half inch and that raw product is shipped to Winona. Lien inquired if the size was one-half or one quarter? Hesch responded it depends on what they can get through in the winter time. Currently, the size is half inch

because of the frost the material freezes up in the screen, so in summer, once the material can be reduced to quarter inch it will be a finer material. Hesch stated what they were finding is that when the material is run over by the dozer it crushes right into sand. Estenson added Soppa would need a permit from DNR for Stormwater Management and Soppa anticipates creating a berm around the whole area and the whole site will be internally drained. Estenson stated there will be silt fence on the south/lower side of the berm until vegetation is established. Estenson added because this facility is not a stationary or permanent operation no operational or construction air permit is needed. Brandt called for any public testimony. There being no public testimony, Brandt closed the public hearing at 9:24 AM. Brandt mentioned that he drove past the site this morning and this specific site has been operational for some time and just yesterday Estenson had issued a Stop Work order. Estenson stated she had viewed the site approximately a week and a half previous and viewed that the trees had been removed, so at that time there was no need for any other permits. Brandt added some of the concern is whether an air quality permit is needed because the end result is silica sand and how much does the Committee oversee as to what is going on here and how similar is this to the Winn Bay issue. Hesch responded this is not a silica sand product, it ends up to be frac sand. Hesch stated sand was not being processed here, it is not being dried, washed, etc. Hesch stated they are taking the raw product, similar to what Trempealeau County does at Mathy sandpit, where they run the sand through and take the stone out. Hesch added this mine is the beginning of the process and this mine is no different than any other sand pit around, one little machine is run to take the stone out of the sand and no crushing is being done as there is no reason to do it and whatever is screened out is used for gravel, etc. Sokup commented it is the same sand this is used for backfilling houses. Quarne commented that the decision made here today, to allow sand to be trucked through the County, is a decision the Committee will have to live with from now on. Discussion took place on other speculative mining sites in the area. Robert Tenneson, Chairman-Town of Preston commented that he is of the understanding that Badger Mine has purchased property in the Town of Preston but that there would not be any mining done. Tenneson inquired what the County had in the Ordinance for sand finds in another County being delivered to Trempealeau County and put on rail. Brandt acknowledged Tenneson's remarks and reiterated the Committee would be allowing a significant amount of truck traffic. Brandt inquired how much truck traffic would be coming out of the mine being permitted. Hesch responded some days there might not be any trucks, on other days there could be up to seventy trucks a day. Smick inquired what the impact would be on jobs? Hesch responded they would be putting thirty people to work. Hesch added that the reason for utilizing this site was because of the proximity to Highway 95, the county roads won't be impacted and neither will a lot of neighbors. Lien commented that he felt the following items needed better defining; what is processing – it is being run through a screener, but not washed and dried, so what is the final moisture content of that end product because any kind of handling, whether it is blasted or screened, changes the moisture content of a product so air emissions becomes a question. Lien pointed out that Estenson stated it was not a stationary facility. Lien stated this facility has the potential of running six days a week for five continual years. Liens' opinion was that this operation is pretty stationary, so for all Trempealeau County operations, the Committee needs to define what a stationary operation is. Smick commented that the Committee needs to be mindful of and safeguard public interest but the Committee should also be an "enabler" for economic development. Vold inquired what kind of trucks Soppa's operation would be using and are they covered. Hesch responded that quad axle trucks were being used right now and all the trucks are equipped with tarps, but the sand is so wet, 30% moisture, that tests that were run in Minnesota, show about 1% moisture loss this time of year from the time it is taken out of the ground until it gets to Winona. Hesch continued, in regard to Liens' comments about the drying process, that everything currently is being hauled away and they don't anticipate any stockpiling, so right now 15 or 16 trucks will haul away anything that is screened thus eliminating any type of dust or wind erosion from the stockpile. Sokup added that Minnesota Department of Transportation laws are a lot more strict than Wisconsin. Hesch commented that the sand Trempealeau County themselves hauled from Trempealeau is far drier than what this mine anticipates hauling, so if tarping is a requirement, then everyone should have to use tarps. Brandt reminded Soppa of the standard mining conditions and inquired if there would be any kind of night lighting. Soppa responded there would not be. Lien expressed his confusion on what the end

product of this mine was, if Winn Bay Sand Mine was producing frac sand and this too is frac sand what is the particulate matter PM comparison. Lien understood there is some type of processing going on but not in the same way as Winn Bay. Brandt inquired about the house near the entrance road. Soppa stated he has talked to the owner and the owner had no problem with the operation. Lien reiterated that letters were sent to adjoining landowners and the hearing was published in the paper and no office staff received any call either for or against. Estenson asked Soppa to address the emissions on the screener when it is running. Hesch responded it has a 5 foot by ten foot hopper and it is not a crusher or big operation. Sokup commented as far as environmental impact, this pit is basically like any other sand pit around. Bice inquired if Soppa could continue operation without approval today, since the town approval is lacking. Smick made a motion to approve the conditional use permit contingent upon town board approval, and compliance with all standard conditions, Nelson seconded, motion carried with no opposition. Lien asked for clarification, stating Estenson had issued a “cease and desist” Stop Work order the previous day, so does that hold until DLM receives approval from the town or can they work without town approval. Board consensus was once DLM receives the approval letter from the Town of Arcadia and meets all standard conditions, Soppa can continue operations. Bice asked what is to be done if Town of Arcadia does not give their approval. Lien responded that would stop the issuance of a conditional use permit. Motion carried with no opposition. Lien instructed Soppa to bring the letter of approval from the Town of Arcadia in as soon as he receives it and Estenson would then remove the Stop Work order.

**Appearance- Elk Rod & Gun Club President – Bob Pietrek** – Pietrek was not in attendance so this agenda item was not addressed.

**Update Committee on landowner practices** - Department of Land Management staff members, Mark Carlson and Carla Doelle were present for this discussion as well as Mark Kunz, NRCS. Carlson provided construction type photos of a barnyard located in southern Trempealeau County for all to view. Doelle stated that this landowner had approached the DLM to apply for a TRM (Target Runoff Management) grant and as part of the onsite visit the landowner needs to comply with the Ag Performance Standards which this particular landowner did. There was no direct runoff from the feedlot into the stream, no failing or overtopping of manure storage structures and there were no cattle being pastured along the stream. The landowner did have a conservation plan and a nutrient management plan. This landowner was meeting all the requirements for his existing site, for approximately 250 – 600 lb cattle. After going through the onsite it was determined that this landowner could benefit from a collection site for leachate in his bunker silo. Lien added that during the September 2011 flood event, this landowner called the DLM asking for permission to pump a small manure storage area over the bank and into the creek. Neither Lien nor NRCS would give permission to do so therefore the landowner called several state legislators and there was a meeting at that property where some allegations were made so it was suggested that a discussion be held to get all the same information to the Committee. A TRM grant was applied for in Spring 2008 to install the silage runoff collection (leachate) tank. At the time the landowner had wanted the DLM to apply for a TRM grant, for a manure storage which was a project that he had already started to build, with money from federal programs, however DLM cannot apply for a grant for which a landowner does not have the cattle for, plus it is an expansion and it has already been started. DLM applied for whatever projects could be done. Carlson showed construction photos of what had been completed on this project. The landowner does his own work so no outside contracting is holding up any construction. No construction was completed in 2009. Carlson showed photos and explained construction done in 2010. Carlson stated the landowner signed an “O & M – Operations and Maintenance” agreement. Bice inquired if the landowner had approval to make modifications to the system. Carlson responded the change amendment to the plan was approved by the engineer but it was “after the fact”. Bice commented that this landowner is probably within 150 yards of the Tamarack creek and there are some issues there that are not good. Brandt inquired of Kunz how NRCS has worked with the landowner. Kunz stated he has worked with the landowner for about three years and when Kunz came to Trempealeau County he inherited some projects that were already underway. Kunz stated he

needed to be very careful in discussing items specific to a contract without the landowners written permission due to the Freedom of Information Act. The landowner had given written permission for the Department of Land Management to look at the files. Kunz stated he felt the combining of state and federal monies has helped in the completion of the landowner projects plus the two entities worked well together with Carlson providing the engineering and the site work and Doelle and Kunz working on the nutrient management plans. Discussion followed regarding the September flooding issue in which Kunz stated he has no authority to tell anyone to do what the landowner was requesting which was in turn the same answer that Lien had given the landowner. Kunz had given the landowner names at DNR whom he could have contacted. Lien commented that most of the problems that occurred during the September flooding could have been eliminated if the landowner had completed the manure storage project on this property. Kunz verified the manure storage project needs to be completed by September 2011. Bice inquired if the County and State are done with this landowner or is there more going on. Lien responded the County has completed all practices on this site, however there still may be some type of erosion control issue. Doelle stated DLM could apply for a TRM grant up to \$150,000 for the landowner however TRM money is allocated for environmental and resource concerns and not for economic stimulus. Doelle stated the DLM has a good reputation and working rapport with DATCP and she would hate to jeopardize that, but if the Committee directs her to apply for a TRM grant, she will do so. Discussion followed on the stream protection from runoff. Brandt inquired if the DLM had any leverage against someone who is not maintaining their structure to contract specifications. Doelle responded if it was a project that was done through the DLM, and the landowner was not meeting contract requirements, the Committee could demand the cost-share dollars be returned. Doelle requested some direction from the Committee regarding a TRM grant for a particular landowner. Kunz commented that if and when the manure storage for this landowner is completed, there will be no more resource concerns and there should be no option for him to request a TRM grant.

**TRM/LWRM Cost Share Payments/Requests** – Lien presented the following cost share payment for approval.

<b>TRM</b>	<b>Type</b>	<b>Amount</b>	<b>New CSA Total</b>	<b>Reason for change</b>
Dan Gullicksrud	Contract	\$150,000	\$150,000	Manure storage systems, waste transfer system, critical area
Dan Gullicksrud	Pay Request	\$150,000		Certify manure storage & Waste transfer system and critical area.

Quarne made a motion to approve payment of the above listed project, Vold seconded, motion carried with no opposition.

**Surveying Update** – Lien presented a survey report for the remonumentation of T20N, R8W which includes Ettrick and Arcadia and a bill for approval. Vold made a motion to approve the report and payment as presented, Bice seconded, motion carried with no opposition.

**Director’s Report** –Smick had requested that the refunding of permit fees be addressed again as Smick had been asked by a fellow County Board member to reconsider a refund to landowner Randy Slaby. Lien commented that this issue has been addressed twice at prior meetings and Lien has talked with Slaby and told him that DLM policy is that when staff has exerted effort into a permit then there is no refund. Slaby had asked if he could get his permits issued and Lien had told him they could be issued if he had met all the requirements of DATCP, with Doelle, to get the permit. Slaby responded that he would call County Board members again, as Slaby had been assured by a Board member that he was going to get his money back. Lien had told Slaby that Lien wasn’t sure which board members he had talked to, whether it was County Board members or E & LU Committee members, but the E & LU Committee had discussed it and Lien

reiterated the DLM policy to Slaby. Lien invited Slaby to come to the E & LU Committee meetings. Slaby responded that he would call the Board members again. Bice verified if Lien had suggested that DLM might give Slaby a portion of the permit fee back. Lien responded he did not because when Lien had consulted DLM staff they had stated they had far exceeded the permit costs as far as site visits, deed research, etc.

Lien stated DLM would have approximately 56,000 in excess budget revenue this year to return to the General Fund. In talking with other department heads, Lien felt there was going to be a significant amount of money returned to the General Fund this year. Lien proposed to the Committee that a sum of money be set aside to get LIDAR (Light Detection and Ranging) for the County. LIDAR would change 20 foot contour maps down to 2 foot contours which would most significantly affect the FEMA floodplain maps which are going to be adopted between April and July, 2011. Lien just received approval from DNR on the revised Floodplain Ordinance, so the public hearing will be on the E & LU Committee February meeting and in March the Ordinance will be on the County Board meeting agenda. For the future of the landowners in Trempealeau County, Lien felt the LIDAR would be an unbelievable asset probably as valuable as the Remonumentation project. Lien explained currently the maps are based on a 20 foot contour and someone in Pennsylvania sat down and did the floodplain delineation on those maps. Lien urged anyone near a floodplain to look at the new maps because Lien is receiving calls weekly from a lot of angry people who had previously never been in the floodplain and now, with the map changes, they are in the flood plain. The ramifications of being in the floodplain are huge when mortgaging or selling property since flood insurance may be required which can be costly. Lien stated the cost for LIDAR has come down considerably and is now approximately \$300,000. Lien felt if the E & LU Committee would put some money away each year, the process could probably be done in a few years. Brandt asked Lien to explain how the County obtains LIDAR. Lien responded LIDAR is another plane flight but the topography and resolution that is used is so much better so it would change contour maps from a 20 foot interval to a 2 foot interval. Martin Goettl from Land Records has offered to have someone come, free of charge, to give a demonstration to the full County Board of what the LIDAR would look like in comparison to the regular contour maps. Lien suggested having the towns, cities and villages contribute funds also as the LIDAR would benefit everyone in the County and perhaps there are grants available. Bice commented Google Earth will give the elevations everywhere and Bice is under the impression that it is accurate and if that is the case, then Bice suggested that 5 years from now the County will be able to do what some contractor is going to do, so the E & LU Committee should hold off on any decision. Lien commented that Google Earth is using the County's 20 foot contour maps and when discussing flood plain every foot can count. Bice inquired as to how many people in Trempealeau County have to hire someone to supply the necessary documentation to get them out of the flood plain. Lien responded the DLM gets an average of 1-2 calls per week regarding those procedures. Lien explained that a surveyor needs to be hired to go out and establish that flood plain elevation then transfer it to the first floor entry of the structure,(every LOMA- Letter of Map Amendment) DLM has received only takes out structures) once that information is obtained it is submitted to FEMA, they will recognize it and the DLM receives a LOMA back. After some discussion, about the budget timeframes, Bice made a motion to give all the money to the General Fund, Smick seconded the motion for the sake of discussion. Brandt felt LIDAR would be more beneficial to the County than the money that will be turned back. Smick suggested if the County Board is in approval of LIDAR, they can always return the money back to the DLM budget. Discussion followed on whether to turn the money back to the General Fund. A roll call vote was taken with a "yes" vote returning the money to the General Fund and a "no" vote returning the item to the February agenda for discussion. A voice vote was 2 "yes" votes (Smick and Bice) and 5 "no" votes, so the item will be put on the February E & LU Committee agenda for discussion. Brandt suggested Martin Goettl or Joe Nelsen be present to discuss LIDAR.

At Brandt's request, Lien provided each Committee member with a copy of the Trempealeau County Metallic Mineral Mining and Prospecting Ordinance for their review. Lien stated the County is not dealing with this issue today, but it was dealt with several years back and could be again in the near future. Brandt

added there have been large mineral deposits of copper found in the west central and northeast part of the County. Brandt added Trempealeau County is one of the few counties in the State to have a Metallic Mineral Mining and Prospecting Ordinance. Brandt urged Committee members to read this Ordinance as the Committee will probably be hearing from these people this year. Discussion took place on the different mining and chemicals used.

Lien administratively addressed the issue of the public hearing held earlier in the day, that there were multiple unanswered questions regarding Soppa's operation. There was no information on the size of the material, the moisture content and basically nothing in writing plus the materials are being traveled through Trempealeau County "open topped". Smick responded that Lien should have voiced his concerns at the hearing. Lien responded that he had questioned, during the hearing, percent moisture in the final product and an answer was received but there is nothing in writing. Lien also brought up the definition of "stationary". Lien stated his opinion that a piece of machinery that sits for six days a week, for five years, is stationary. Brandt commented that the only contractors that has been asked to provide that information is Winn Bay Sand, LP because theirs was a significantly different operation. Lien asked Brandt to define significantly different. Brandt responded the wash plant, length of operation, conveyors, railroad cars, and quantity of materials made it significantly different. After some discussion, Smick suggested that since DLM has a good working relationship with the Town of Arcadia, perhaps they could impose some conditions on behalf of the E & LU Committee. At the Committee's request, Lien agreed to call Ron Tuschner, Town of Arcadia Chairman and discuss the additional conditions with him. Vold expressed concern about an additional 140 trucks going through Arcadia and no matter how wet the sand is, that is still small rocks coming off a truck when a truck is going 50-60 miles per hour. Bice commented that presently the ground is dry beyond 3 feet. Lien stated he was unaware, until the public hearing that the material was being run through two screens, and that appears to be processing and raises questions as to what type of processing is taking place. Brandt reiterated that Lien call Tuschner and mention that the E & LU Committee would like some evidence of moisture content. Smick inquired if the Committee could change their decision. Lien was directed to consult Corporation Counsel to clarify any recourse the Committee may have.

**Next Regular Meeting Date** was confirmed for Wednesday, February 9th, 2011 at 9:00 AM in the County Board Room.

At 11:09 AM, a motion was made by Quarne to adjourn the meeting, Nelson seconded, motion carried with no opposition.

Respectfully submitted,  
Virginette Gamroth, Recording Secretary

Michael E. Nelson, Secretary