

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

**REGULAR MEETING MINUTES
October 10th, 2012 9:00 AM
COUNTY BOARD ROOM**

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

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

Committee members present: George Brandt, Tom Bice, Hensel Vold, Michael Nelson, Roland Thompson, Dave Quarne and Rick Geske. Jay Low was absent.

Staff/Advisors present: Kevin Lien, Virginette Gamroth, Jake Budish and Keith VerKuilen. Vickie Stalheim was present for part of the meeting as well as DeWayne Snobl- USDA APHIS Wildlife Services.

Others present – Mary Lee Hegnauer, Gerald Hawkenson, Jackie Hawkenson, Dawn Slaby, Darcy Myers, Charles Roskos, Irene Roskos, Jeanne Nutter, Harold Lindebo, Gail Lindebo, Tim Zeglin, Kathy Zeglin, Mary Hermanson, Dustin Von Ruden, Emery Palmer, Mark Palmer, Don Williams, Ron Kugel, Tom Wik, Milton Davis, Bradley Hegge Margaret Olson, and Julie Hallam.

Adoption of Agenda – Vold made a motion to adopt the agenda, Brandt seconded, motion carried unopposed.

Adoption of September 12th and September 20th (Special Session) Meeting Minutes – Nelson made a motion to approve both sets of September meeting minutes, Vold seconded, motion carried unopposed.

Wildlife Damage Abatement and Claims Program – DeWayne Snobl

Snobl handed out the 2011 USDA-WS WDACP Annual Report to all the Committee members and noted that it covers 49 (have service contracts) out of the 70 counties that participate in the program. This program is run by hunter funded dollars and wildlife services funds. Snobl received about 800 calls related to wildlife damage in the 49 counties, and of those 768 farmers enrolled in the program. Total enrolled acres are around 148,000 acres statewide and involved damages in 60 different agricultural crops mainly involving deer, bear, geese and turkeys. Snobl noted in 2012, cougars have now been added to the program. Snobl gave highlights on different areas of the program including deer donation which are included in his report. Snobl stated the County is responsible for setting crop prices for the claims that are appraisals that are being done. Snobl explained how his office monitors the crops prices. Bice commented if these prices continue to be raised, since hunting licenses fund this program, the cost of those licenses will need to be raised and that will stifle people from going hunting. If we lose the hunters there will be more deer problems and more expense, so Bice is very comfortable with the proposed prices. Geske commented the cost of putting the crop in has also doubled. After more discussion among Committee members, they decided the following 2012 wildlife damage claim crop prices were adequate at this time.

Corn, field - \$6.00/bushel
Alfalfa - \$195.43/ton

Soybeans - \$14.00/bushel
Mixed hay - \$136.70/ton

Quarne made a motion to approve the corn price at \$6.00 and the soybeans at \$14.00, Nelson seconded, motion carried with Bice voting in opposition. Brandt then made a motion to approve the recommended alfalfa price at \$195.43/ton and mixed hay at \$137.70/ton, Vold seconded, motion carried unopposed. In discussing the 2012 WDACP 90% Harvest Cut-Off Date, Snobl explained once 90% of the corn crop is off, there has to be a date set so that no further appraisals will be conducted for that specific year after that date (The state doesn't

pay for “over winter” corn, etc.). At this time, Snobl has appraised everything that is claim eligible. Snobl stated Wildlife Services will publish that 90% Harvest cut-off date in the local papers and Lien will send a copy of that publication. After some discussion, the Committee decided to leave the date the same as the previous year which was December 1st. Geske made a motion to set December 1st as the 2012 WDACP 90% Harvest Cut-off date, Quarne seconded, motion carried unopposed. Snobl explained a couple of changes that have been made to the billing and noted that some of the costs have increased about 25% over last year (Abatement materials are up about \$700 from last year and administration is up about \$800). Snobl stated the state portion is \$23,848.39 and that is what the Committee will need to vote on. The additional federal or cooperative funded dollars is the stuff that wildlife services provides and is funded “out of pocket” and is not billed to the County, so the total funding available for Trempealeau County will be \$32, 115.28 for 2013. Snobl reiterated that 73% of the budget is state funded dollars and 27% is Wildlife Services funding – no county funded dollars. Upon Brandt’s inquiry, for clarification, that the Committee needed to approve the \$23,848.39, Snobl responded that was correct. Brandt made a motion to approve the budget of \$23,848.39, Thompson seconded, motion carried unopposed. Snobl noted the wolf season starts on Monday, October 15, 2012 thru February 28th providing the quota is filled and the season shuts down. Bice suggested to Snobl that he talk to any contacts he has and see if they can figure out a better way to pick up dead deer off the road as a policy is needed that works. Upon Quarne’s inquiry about bobcat hunting, Snobl responded it is allowed in the northern part of the state and they are looking at the southern part but they are being conservative. Snobl added he does see a lot of bobcat sign with the wolf work that he does. Snobl stated there is a huntable/trappable population in southern Wisconsin, but it is difficult to get a handle on cats because they are so secretive. In regard to crop prices, Geske suggested that Snobl take the new crop price. Snobl explained from May through September he does use the new crop price.

Public Hearing – Amend Conditional Use Permit and Reclamation Permit – Nonmetallic Mine – James Guza, Landowner/Applicant, Arcadia, WI and Brannt Valley Excavating, Operator, Winona, MN - Town of Arcadia Chairman Bice called the public hearing to order at 9:29 AM. Nelson read the public hearing notice aloud. Lien stated the Guza site is a previously permitted site, they also came back a second time to add a wash plant to the facility. As a requirement to the CUP, a Traffic Impact Analysis (TIA) is required which defines the types of trucks, actual number of loads and the haul route. They are asking to vary the haul route from the existing route because the DLM has had some complaints about truck traffic which was travelling farther north on North River Road than what was permitted. Lien noted the haul route will vary from River Valley Road to Cross Road to State Highway 93, then north or south (based on location of a transload facility) on State Highway 93. It will be limited to the existing haul route, but once it would get to the state road it would be flexible. Lien read the following response from DOT which stated, “based on the volume of trucks, no additional improvements are required at the Cross Roads/State Highway 93 location”. Lien noted that was based on 50 loads per day. Lien thought it was fine that the Committee continues to look at things on an individual basis but when one starts looking at compounded issues, such as multiple mines coming through the intersection of 95 and 93 in Arcadia, which is what the current haul route is, that needs to be considered. This particular change doesn’t add any additional trucks to that route, but it does give them the option of going north so if there are other mines in the future that end up driving north, the Committee may have to re-evaluate things. To date, Lien hasn’t had any complaints about truck traffic off the State highways going north, but Lien still continues to receive complaints when they violate routes on town and county roads. Lien stated it has been this Committees wish to adhere tightly to the haul routes because of the road use agreements. Lien reiterated the applicant just wants flexibility when they reach the State highway. Mark and Emery Palmer were present representing this mine site. E. Palmer stated they are concerned about any of the complaints of varying off of the haul route. As far as they know, their drivers are staying on the haul route. Lien had forwarded to Palmer’s a photo of a truck, which back in September, had gone farther north on River Valley Road. At this point, E. Palmer stated they can’t verify that it was their (Brannt Valley Excavating) truck as that company does also haul for other contractors in the area. The reason that Brannt Valley is requesting this change in haul routes is, as the market continues to fluctuate with this frac sand, contracts change and at certain times there are different transload facilities that are looking for product and the operator wants the ability to service contracts that change throughout time. The main haul route that is going to be used is to continue to haul out on River Valley

Road to Cross Road to State Highway 93 and south on to Winona. That is where the majority of all the truck traffic is going to go, but there will potentially be short term contracts that will take product on other State roads and out of the County. E. Palmer mentioned the other thing that they have going along with this facility is that there is bedding sand being produced there and that is something they want to address with the Committee in relation to haul routes. E. Palmer stated they could get a call from anywhere in the County for bedding sand and if they are limited to these haul routes that could be a problem. Upon Lien's inquiry on number of trucks, etc., E. Palmer responded it would be sporadic and as needed and as of now they aren't sure what the market demand is, but estimated the potential of possibly four quad axles per day, which would require sand to be stockpiled. E. Palmer stated any trucks that would be hauling bedding sand would be trucks that are being pulled out of production from the total volume of trucks going to Winona. Mark Palmer assumed that when there is any order for bedding sand, there might be a situation where the farmer is going to want to get quite a bit of material hauled to his site at one time rather than calling for a load now and then. M. Palmer stated there hasn't been any bedding sand hauled out yet; however, they are trying to meet the farmer's needs here. M. Palmer commented when there was a deviation from the haul route there were trucks that were coming into their site from Taylor and consequently they were not aware of the haul route. As soon as Palmer's were made aware of the situation by the County, they got in touch with those truckers immediately and they were more than willing to comply with haul routes. Palmer's appreciated getting those calls so that they can address the situation. E. Palmer stated they have implemented policies that if drivers are found violating the haul routes they will be let go and there is no warning. E. Palmer added the company really has a firm stance on this as it is important to them not to lose their CUP for something as simple as a haul route. Bice called for any public testimony.

Brad Hegge – Registered in opposition but not testify. Hegge stated he lives along State Highway 121 just east of Pigeon Falls and there has been a real large increase in truck traffic since mining has started in this area. Hegge questioned who is paying for the road and are we getting enough money out of these mining companies to pay for the damage that is being done to the road out there, and is that being addressed here? Bice responded it is and he has been working on it for two years. We are currently making progress on some additional revenue to cover any kind of damage to the roads. Bice's opinion is that it is not sufficient yet but we clearly are looking at it and we are working on that. Hegge also mentioned a noise ordinance and the fact that there is a tremendous amount of truck traffic that runs past his house and a lot of these trucks don't have mufflers on their trucks, they run open exhaust systems. Hegge questioned who is going to enforce that? Nelson commented there are no mines up in that area. Hegge responded if one is using State Highways to haul, State Highway 121 is a direct shot from State Highway 53 over to State Highway 94. Hegge again stated the traffic has just quadrupled within the last five years. Vold and Nelson agreed that this Committee didn't have any control of traffic on State Highways. Hegge asked if the State was getting money from these mines to take care of this. Bice stated they do contribute a great deal to fuel tax. Thompson commented the state is getting approximately \$2,400 per truck for licensing. Bice called for any other testimony.

Upon Bice's inquiry, Lien stated he didn't have any additional comments from the town. Palmer's stated they did not meet with the town because they were not changing the town haul routes. M. Palmer added he did speak with Town of Arcadia Chairman Tuschner yesterday just to explain what Palmer's were coming to the Committee for. M. Palmer stated Tuschner felt that, as far as the township was concerned, as long as they weren't deviating from the town road that was fine. He thought once these trucks get onto State Highways they should be able to go where necessary. Tuschner expressed concern regarding the need to get bedding sand to the farmers that use it for that purpose and not create a problem. On that note, Lien made a staff recommendation that the owner/operator contact the County and the appropriate town when those cases exist, otherwise DLM is going to get tons of complaints regarding the operator varying from the haul route. If DLM staff is aware of it then they can tell callers what is happening. M. Palmer didn't have a problem with the operator contacting DLM, but what if it isn't bedding sand but just a load of some other type of fill, would they be able to approach those loads in the same fashion. Lien verified that M. Palmer was talking about the waste product as the course grained usable sand is removed. Lien stated that in their presentation and in meeting NR-135 reclamation, that sand was all intended to go back into reclamation. Lien felt it was somewhat of a gray area. Lien knew there was a need out there for bedding sand but there is also a reclamation plan and what the

end site is supposed to look like. If all the waste product is being removed, what is going back into reclamation? M. Palmer responded that is something they would have a much better handle on at their annual review where the operation will be looked at and everything will have to be approved if it, in fact, becomes a significant amount of material that is going to adversely affect the reclamation on this site. Bice called for any other testimony on this application. There being none, Bice closed the public hearing at 9:48 AM. Thompson made a motion to approve the CUP, Nelson seconded. Lien asked if there was going to be a condition that they contact the County when one or more loads of bedding sand was being taken out. Discussion followed. Brandt clarified that this hearing was to approve the change in the haul route to include going north on State Highway 93 as well as the request to contact staff whenever some other product is being taken out of the site. Lien stated the request to contact staff whenever another product is hauled was not part of the original motion. M. Palmer didn't believe that at this point any bedding sand has left the site and it probably would be feasible to say that only once a week bedding sand will be leaving the site. Upon Nelson's inquiry, M. Palmer stated he felt this same "bedding" sand could be used for "fill" sand. Geske commented that currently their reclamation plan is for this sand to stay on site and so if they start pulling it out, they would have to change their reclamation program. Geske questioned if taking the sand out of the site was worth addressing, if it is a low dollar amount and part of the reclamation plan, why mess with it. It will be more of a headache for the applicants and for the County. E. Palmer responded they have found that they have a higher percentage of waste product there than what was originally anticipated. No matter what, they are required during the reclamation phase, to meet those same slopes. If they didn't have enough material on site to do that, then they would have to haul sand in to get back to those slopes, but with the additional waste material there, not being the quality that was originally anticipated, there is no reason they would expect to be short on material for reclamation. It was Bice's opinion that this gets a little bit complicated and possibly overregulated. Discussion followed on the necessity for the service and the purpose of the discussion. Brandt stated the CUP has been opened at your request at this public hearing and it seems what is being talked about is not so much a handful of loads of sand, but rather changing the reclamation side of the permit. That is to say the reclamation plan is going to be changed based on the assumption that the applicants had related to the amount of volume. Brandt added this was one of the first mines to be permitted and it didn't have the most detailed analysis of the reclamation plan as some of the other ones that we had before and since then. Brandt suggested the applicants come back with new estimates in terms of volume, a new reclamation plan and the haul routes as these are the things that seem to be at issue and also what it is that we are permitting – a frac sand mine or a sand/gravel pit. Brandt made a motion, to table the motion, until the Committee can view a more detailed reclamation plan which takes into consideration what has changed at the site since the applicants were last here, Vold seconded. Vold expressed concern that this started out as just the haul route and then it turned to something different. Vold would consider approving the haul route but he wasn't sure about the rest of it. Bice commented we have a company here that is going to increase their sand sales by perhaps 2-3%. If they sell some sand, this may prevent another mine from completely opening up. It is not the place of government to stop somebody and regulate their business to this extent. Geske responded no one is stopping it, we just want a plan as to how they are going to do it, otherwise it will cause the DLM office a ton of work. Geske added all we are asking for is clarification. Bice is willing to have them call in when they are shipping to other sites, but he doesn't believe that we need to bring them back in here and go through another meeting simply so that they can sell a little sand. Bice added, in any mine, when they have excess sand that they can't use in reclamation right away, it creates a problem. To Bice's knowledge there are no frac sand mines in Trempealeau County that are going to leave a pit so there will not be a big hole in the earth. There will be a bluff that isn't quite as elevated as it was in the past. Bice really didn't think it was the Committee's place to get in the middle of this as we need to leave business people and landowners alone. Brandt reiterated his motion was to table until the next meeting so that they can come back with a revised reclamation plan based on new estimates having to do with volume of sand that they are taking out. Brandt suspected there was also going to be some changes in terms of the staging based on what needs are. M. Palmer assumed this was something that would be addressed every year when they have their annual review. E. Palmer stated there was no condition based on this mine initially, that only frac sand could be sold. E. Palmer added they are still asking to operate within what was already approved and the existing reclamation plan. They have no problem calling and notifying the county if a haul route would change at the point where they are going to be hauling bedding sand. E. Palmer stated in regard to saying that they are changing their reclamation plan, that is

not looking at the operation in it's' entirety. E. Palmer explained that when things were getting hauled out unprocessed, what was happening is for every ton of sand mined, that entire ton left the site and therefore wasn't there for reclamation. The overburden was there for reclamation. Now that processing is being done, on site, they were hauling as much as 70% waste out of that site. To ask to use some of that waste material for another product, at the point that it has already gone through processing (separated, sized and ready to go), it is still leaving the same amount of material on site for reclamation that was being left initially for that purpose. E. Palmer didn't feel there was any change in the reclamation plan. Geske responded it has to have changed as there is so much more material that is being kept on the site. Geske added each time the Committee hears things are different at the mine, if we don't ask, then we don't know. E. Palmer stated the reclamation plan stays the same, they are still aiming for the same final elevation and actual same slopes. It is just during the process, the amount of material that is leaving the site is leaving at a different rate than before. Geske stated the Committee was just asking for a revised reclamation plan. E. Palmer understood the Committee wanted a good, complete picture of what is going on, his concern was that for what the actual reclamation plan is, he won't be able to show changes when the end product is the same as what it currently is. M. Palmer commented the annual review is where these issues should be coming up and didn't know that it made sense, just for asking for the option of driving on the state highways, that everything else should be brought up at this point. M. Palmer added it is up to the Committee though and they are here to answer questions and meet any concerns. Lien commented this request is really pretty simple, but what we are "tiptoeing" around is that this is a boom/bust industry. How many times have we had a company come here and say they weren't going to blast, just excavate, and then they find out the material is a little too hard and they need to blast. This industry has jumped full speed ahead with very little planning or foresight and made a lot of mistakes. Lien added even though this is a really simple request today, Lien thought we are all realizing, based on past situations and looking ahead, that there needs to be better planning and better investigation and perhaps going full speed ahead isn't always the best thing. Discussion followed on when the annual review would take place. A vote on the motion to table the CUP was passed with all members voting in favor and Quarne abstaining from the vote. The CUP was tabled until next months meeting.

Revisit – Conditional Use Permit and Reclamation Permit – Nonmetallic Mine –Judith M. Barth, Applicant/Property Owner, Arcadia, WI and Sand Tech. LLC (Tim Barth), Watertown, MN, Operator - Town of Chimney Rock. Bice stated this is not a public hearing; the Committee is revisiting this issue. Bice explained the Committee was approached approximately two months ago, from the Town. Bice's recollection is that the Town really didn't have any issues here but they did want 60 days to add conditions. Bice was approached by the town chairman. The town secretary also called Bice that morning with that information. Lien read two letters into the record for clarification. On February 15th, 2012, the DLM received a letter from the Town of Chimney Rock which stated, "The Town of Chimney Rock Board of Supervisors has been informed of the proposed nonmetallic sand mine in the Judy Back/Barth property. The presentation on the proposed mine was given by Tim Barth at the February 14th, 2012 board meeting. The parcels are located in Section 21 and 22, adjacent to County Road VV in the Town of Chimney Rock. Lien stated at this point they weren't saying they didn't have issues, but just that they were aware of it and had viewed a presentation of it. At an E & LU Committee meeting, two months ago, Lien explained they were given 60 days to come up with some possible conditions. The Town of Chimney Rock did hold a meeting on September 25th of which each Committee member had a copy of the letter which was the result of that meeting. Lien read the first paragraph of that letter which read, "The Town of Chimney Rock board voted on September 18th, 2012 to recommend the denial of the permit submitted by Sand Technologies, LLC, Tim Barth on the Judy Barth property located in Section 21 & 22N, R9W and Section 23N, R9W of the Township of Chimney Rock, the reasons for the recommendation of denial are as follows". Lien noted it was a pretty lengthy document and that is what came out of their meeting with their official opinion. Lien stated it was tabled for this Committee to pick up, review the towns' response and take action. Lien added the applicant is here today. Attorney Terry Madden from Kostner, Koslo and Brovold representing the Town of Chimney Rock requested to speak. Madden stated it was his understanding that at the August meeting, the Town asked for additional time for input because, at that time, they really hadn't been presented with the plan, with regard to this CUP application. Madden explained that was received shortly before the September 25th, which Lien alluded to. Madden knows that the town has now

had at least four meetings to discuss this permit application; three of which, at least, the applicant and the property owners were present. Madden stated, to say that they had no issue with it in August wasn't correct, it was really a matter of that they hadn't had an opportunity for input or review of it at that time and that is why they asked for the additional time to comment on it. Madden added and they did recommend that this application be denied. Attorney Dustin Von Ruden stated he was with the law firm of Weld, Riley, Prenn and Ritchie, Eau Claire and here today on behalf of the applicants, Tim Barth, Sand Technologies along with his aunt, Judy Barth, owner of the property, Howard Barth, her husband and John Dustman, an environmental specialist from Summit Envirosolutions. Von Ruden stated they were here today to discuss the application for a Conditional Use Permit for a mine operation in the Town of Chimney Rock. Von Ruden stated Dustman will be able to present more information regarding the plan for the mining operations as well as reclamation issues and anything that the Committee may have questions about related to the mining facility. Von Ruden thanked the Committee for the opportunity to respond to the letter that the Committee recently received from the Town in relation to this application. Von Ruden stated it is important to note here, as Madden had mentioned, that Mr. Barth has been to a number of these meetings, he has been working with the town all along in order to come up with plans for how this mine can be operated in the Town of Chimney Rock and he is willing to work with the Town and the County moving forward in order to make this operation work for everyone. Von Ruden continued that in the letter the Committee received, it is a four or five page letter and as one probably noted the majority of that letter addresses issues related to Section 13.03, Sub 3 of the Trempealeau County Zoning Ordinance. That particular section that they highlight throughout the letter is the section that deals with factors to be considered when adopting conditions for this Conditional Use Permit. Von Ruden's client has no issue with adopting conditions along with this permit as long as those conditions are conditions that are reasonable for his business operations, so they look forward to working with the town, the county and any conditions they might want to see. Von Ruden stated they did have a chance to sit down and review the conditions that were proposed in the letter that the Committee received and for the most part they felt that most of those conditions are acceptable for the mining operation that he has proposed, so what they had a chance to do, last night, was to go through those conditions. Von Ruden submitted to Lien (wasn't sure if Lien has had a chance to review them or submit them to the Committee), late last night, any conditions that may need to be revised slightly in order to operate, in order to help out. They were definitely willing to go over those issues today if there are questions regarding that. Von Ruden reiterated they are willing to work with those conditions related to this permit and make sure that they have the county and the towns' approval relative to those conditions. Upon the Chairman's approval, Brandt interjected to state that Von Ruden's characterization is that the township has pulled out the part of the Comprehensive Zoning Ordinance that relates to applying conditions. Brandt stated the Committee's decision or responsibility here is to determine whether or not a permit should be given and what conditions could be applied to that permit. In the language that they are quoting (from the Ordinance), "when considering an application for nonmetallic mine permit, not specifically conditions (that is on page 2, Subparagraph A) and then on Page 4, " in order to grant a conditional use permit for non-metallic mining, the Committee shall find the proposed, etc, etc.", so in Brandt's reading, he thought what the town is trying to do is to influence the Committee to deny the permit based on, not only the Committee's responsibility to either grant or deny, but to remind us of the conditions that the Committee is supposed to be looking at in terms of granting or denying, so Brandt stated Von Ruden's characterization about it being specifically related to conditions, assuming the permit is already given, is just a little "off to the right or left" of what the Committee's responsibility is. Brandt just wanted to point that out as we have to get to that condition point first and the Committee's responsibility is to determine whether or not to grant a permit. Von Ruden acknowledged that he understood and thanked Brandt for pointing that out. Von Ruden continued that if the permit is issued today, then they would like to work with the County as well as the township relative to those conditions that they feel are reasonable conditions in the business operations here. In going back to what Von Ruden was discussing earlier, he explained that in the initial portion of the letter that the town had submitted, it was five main concerns that had been raised by the town along with the towns' citizens regarding the site. As Dustman will show in more detail, with his presentation this morning, Von Ruden stated this site is a very low impact site; it is a very small site relative to many of the mines, not only in Trempealeau County, but throughout western Wisconsin. The business plan of Von Ruden's client is to have small sites, such as this, which have low impact to the environment as well as neighboring property owners. The site is only going to be 25 acres of mineable

area as submitted in the reclamation plan. Being such a small site, they anticipate that the mining activities on the property will only take about 3 -5 years with the maximum life time of 7 years, but the estimations at this point are that the mining activities will in that 4-5 year scope and then the mining will be done with at that point and reclamation activities will be followed up with. Von Ruden mentioned another thing to keep in mind, with this mining facility, is that the operation doesn't request or call for any sort of processing to take place on the site, so there isn't going to be a wet plant or dry processing facility on the site. They are looking at just excavation operations. Von Ruden added the proposal they are presented today is estimated to create somewhere between 15 and 20 jobs within the township. These jobs will range from probably four to five miners on site as well as trucking operations that could hire anywhere from 10-15 people which will be determined as they move forward. When looking at a 25 acre site, Von Ruden noted that was a significant amount of jobs as an influx to a small township like this. T. Barth stated when he sat down with his uncle and asked him about how things were going to be done, his uncle asked him to sit down and write up a business plan. T. Barth had never done that before and so he researched it and looked at the factors as if he were walking in other peoples' shoes as to how this would impact the people and how they could do this. T. Barth found that people can live with a small impact – 3,5,7 years at the most in their area, but the industrial side of sand, etc. is where Barth has some reservations. Barth has been trying to get involved with the Committee on how to go forward. Barth believes that people can accept or it is easier to live with a three to five year project rather than asking for a 20 – 30 year project with millions of dollars of investment and that industrial part being that area. T. Barth is proposing a small extraction site, bringing the product to an industrial area and the industrial part of the sand being done in an industrial area in Trempealeau County where it will go directly to a rail. The point Barth was trying to get across is that he has taken the time to do this, with low impact, in a small area. Barth had looked at different properties that they own, spent a lot of money and time testing the sand to try to make sure that the mining will be precision so as not to open up a big area. They know where the sand is, they want to go after that pocket and lower it down and put it back. There are not a lot of neighbors and it is a very pliable site for low impact mining. Von Ruden stated they would now turn the meeting over to Dustman who will show the topography of the area and how Barth anticipates this being the low impact site that he just discussed. At this point, Thompson (mentioning that the town sent a recommendation of denial) asked if some kind of motion was needed at this point either to go ahead or deny. Von Ruden asked for permission to proceed from the Chairman. Thompson interjected saying the conditions won't mean anything if the permit happens to be denied. Bice commented no conditions were actually being worked on as of yet. Bice stated his opinion of the situation, that this Committee is in charge of the zoning and while the town has given us that information and in Bice's opinion (moving back two months) he believes that the Committee got some mixed information from the town. Bice understood at that time that there were some reservations but my impression is that they told us very clearly that they needed two months to add conditions. Bice's interpretation, at that time, was they were going to put enough conditions on this to make it feasible, possibly, but Bice isn't sure. Now they are officially telling us that they don't want it. The Committee's responsibility, Bice stated, is to make this decision and not the town. Bice has always stood behind the town in the past. Bice believes that the Committee should do that. Bice has talked to Corporation Counsel who has said it is ok to take into account their opinions of what they want. Bice feels that is a very important thing to do. Moving forward for the last sixty days, Bice believes that we arrived today with the indication that these people who want to do this mining operation, on their property, should have been given the right to do that and in having this meeting should also consider that. Bice continued that the County Ordinance says that we should get the town input on this, but that is not how we are supposed to make our decision. The idea there is that local towns, when they went to countywide zoning, gave us that ability and we are the ones that are to make that decision, so we at least need to move forward today based on the idea that this is our decision, not the towns' decision. To answer Thompson's question, Bice stated in his opinion we are not at the point where a motion is needed on this. Thompson made a motion to deny the Conditional Use Permit; Vold seconded the motion (for discussion). Upon Bice's permission to let Dustman speak, Geske interjected stated the Committee holds a discussion, not the public. In relation to the motion, Brandt complimented the Town of Chimney Rock on its' presentation. It has been rare that a town has been so clear in communicating, not only their reasons for requesting the denial but also for reminding the Committee of the things that they are supposed to be taking into consideration related to the site that is in question. Brandt added their reasoning comes through our own Ordinance and reminds us of the things

specifically related to that site that are to be taken into consideration. They list each one, give their explanation, and give supporting facts related to that. Brandt appreciates what the Chimney Rock has done in order for the Committee to understand where they are coming from as it is one thing to say “go ahead” or “no we don’t want it” but it is a whole different thing to be able to “get inside their heads” in terms of the process that they went through. Brandt suggested to other townships that this would be a great format to follow. Von Ruden added they appreciate their input as well and that is why they are willing to work with these conditions that have been proposed before the Committee today if the permit is allowed. Von Ruden stated it felt like some minds have been made up but requested the opportunity to show the site in question and the small impact it would have. Bice believed the applicants should be left to speak and asked for input from the Committee. Geske reiterated there is a motion and a second and now there is discussion which is between the board members and not the applicants. With all due respect, Dustman stated there is a lot of inconsistencies and wrong information in the information that the Committee received from the town and without being able to address that and educate the Committee as to what those issues are, Dustman didn’t see how the Committee could make an informed decision. Thompson commented there are all the signatures which indicate they don’t want it. Dustman responded the signatures have an interesting story amongst themselves which they are prepared to discuss. As Chair of this Committee, Bice intended to let them present their case. Bice stated it is the Committee’s responsibility to listen to the entire story and get the whole picture. Geske interjected stating the motion should be dealt with. Brandt suggested a slight alternative, that perhaps within the course of the discussion of the Committee, questions will come up that the Barth family and the representatives of Chimney Rock could answer and the Committee could ask them to clarify them, as opposed to a debate here. Upon Bice’s inquiry as to what Brandt wanted clarified, Brandt responded the issues related to County VV and the public safety and the ability of that road to maintain this kind of traffic and the tourism in this area. Brandt’s point being, that if the discussion were opened up among the Committee, he felt the applicants would be able to address any issues/questions the Committee would have. Bice responded he would be more than happy to have the town comment on anything that they want to. Madden addressed the Committee stating he didn’t believe the agenda item for this particular item was a public hearing and if the applicant is going to be able to present something to the Committee in the form of a public hearing therefore he asked that the town be given the same opportunity because the town really wasn’t consulted on this project until after the August meeting. Madden felt there was a comment about what the towns’ position was, at that time, and Madden thought the town chairman was at that meeting, but the town, of course, has to act by the town board and the town board didn’t act on this application and make its’ recommendation that it be denied until well after the August meeting. Madden asked that the town be given the same consideration that the applicant is given, if that is the Chairs’ inclination. Dustman interjected stating they will not present any more information than what was presented in the reclamation plan or is in response to the letter that they just received today. Madden responded then it is redundant. Bice stated he has reservations moving forward on this simply because it was mentioned that the Committee is doing something that isn’t on the agenda. Bice wasn’t sure he agreed with that but it makes him concerned. Geske addressed the Chairman calling for a vote. Bice stated he was going to allow any comments for discussion from the township and Bice stated he was going to allow the applicants to continue with their comments. Dustman stated in regard to the petition and the meeting that was held, it was unfortunate that the Barth family and Dustman, himself, didn’t rally the many people in the township, including neighbors, etc., that are in support of this low impact facility. Dustman understood that when the petition was signed, the township assessor was the one that was kind of spearheading this petition, showing up at people’s door and stating their property values were going down. Upon Dustman’s inquiry to Lien as to how many reclamation plans were requested by the County, Lien responded he thought there were eleven. Dustman asked Lien how many people called and asked for a reclamation plan regarding this project. Lien responded no one came in but it was brought to Lien’s attention that the town did not have one. Dustman replied that was an oversight on the part of the applicant, but Dustman stated they did comment on the reclamation plan in their letter, specifically, Section 1.2 regarding the drainage that was used. Dustman thought it was very clear that the people who signed that petition did not read the plan. The petition goes on to say, “this project and all frac sand mining in Chimney Rock township”. Dustman commented this reeks of “fractivism” to him and is not specific to the proposed project at hand. Dustman added the breakdown of the votes is as follows (Dustman counted 104 signatures on the petition as he went through it once very quickly); 61 of those votes were residents and

landowners, 10 of them were residents, but not landowners, and 33 of them were not residents and landowners, so when 180 voting residents are quoted, we don't know the ages of the people on this petition and there were a lot of family members. We don't know if they were voting age. Dustman commented this is not a referendum, in fact, 70% of the voting people who saw it, didn't sign it. Brandt felt he knew where Dustman was going with this. Brandt stated one of the towns rationale had to do with the nonsupport/support of the mine. Dustman stated there were three town supervisors that voted and the vote was 2-1, so we are sitting here, ready to have this denied based on one vote from one town supervisor based on information coming to them about a petition that was circulated by the township assessor, that was saying peoples' property values are going to go down. Dustman was here to show that probably is very unlikely to happen. Geske stated as long as we can all talk, lets talk and tell the two parties to talk and when they get it "hashed out" come back to the Committee. Geske doesn't want to step on the township. Geske and Vold felt this was wasting the Committee's time. Geske reiterated he had called the question once. Bice responded if Geske could convince the motion and the second to be withdrawn, then the Committee could move forward with tabling or postponing this. (Comments of no from the audience were heard throughout the room). Geske reiterated that he called the question. Geske stated he understood where the town is coming from and where the applicant was coming from. In Geske's opinion, he felt if they can sit down and work together (its combative now and once someone gets to that point, it is going to be tough) let them do that as they can always come back. In Geske's opinion, his mind was made up and he felt the Committee members minds were made up and each one knew how they were going to vote. Bice stated, in his opinion, moving forward on this without having resolved all these issues is something that we should have not done. Bice added he has a motion and a second and he has no way to change that. Bice is not sure that this is the way we should have done this. If there were reservations on moving forward without town approval, which is apparently what we are dealing with here, we should have taken some additional time. Geske commented we did that with the Town of Trempealeau, we approved it before they did and Geske has regretted it since then, so he doesn't want to do it here again. Bice commented that was actually considerably different. Bice reiterated we have a motion and a second to deny this, so a "yes" vote will be to deny it and a "no" vote will be to not deny it. After some crowd outbursts against letting the applicants speak again, Bice stated the crowd is out of line and no one from the public is allowed to speak unless he allows them to speak. Bice asked the crowd to be quiet and respectful as the applicants have asked a question and he is going to allow them to speak. Bice added this is a hearing and they are trying to run a business and they are well within their rights and the Committee is trying to make sure that everyone is treated fairly here. Von Ruden stated/requested that if the Committee would take the action to table any action, they would be more than willing to continue to work with the township as he understood it appears to be legal issues. Bice stated he would do that if the motion and second would be withdrawn. Thompson stated they can go back to the town after this if they want to, but the motion is on the table. Bice called for an individual vote on the motion, Quarne - abstained, Thompson - yes, Geske - yes, Vold - yes, Nelson - yes, Bice - no, Brandt - yes, the motion to deny the CUP passed 5-1 with Bice voting in opposition and Quarne abstaining from the vote. Bice commented he didn't feel that the Committee has taken enough time to listen to all the details here, but the application is denied. Lien clarified that the application can be modified and be brought back to the town board and the Committee at any given time or if the application is not modified, the applicant can re-apply in six months (through the Ordinance). Lien stated the Ordinance is somewhat vague as it states, "if there is significant modification", it can be heard sooner than six months, but it would still require a letter from the town and could come back to this Committee. Dustman thanked Lien for clarifying that and stated it is clear to them that the decision is based on the letter the Committee received from the Chimney Rock township. Dustman asked if that was a correct assumption and the basis for the denial. Nelson responded "yes". Von Ruden thanked the Committee for taking the time to hear this. Madden added that the town would echo Von Ruden's comments as they appreciate the Committee's time and consideration. At this time the Committee took a short recess.

Judith M. Barth Farmland Preservation Special Use Application - Due to the course of action taken on the previous agenda item this issue was not addressed at this meeting.

Discussion Regarding Applicant Coming Before this Committee to Change Mine Owner/Operator - Lien stated Vold had requested that this item be on the agenda. Lien explained currently when there is an

owner/operator change only a form is completed noting that change. Vold had suggested the new owner/operator come before the Committee. Vold stated (this happened locally with a larger mine) the people that come as the applicant could be very honest and do what the Committee and the public is asking, then they turn around and sell to anyone who could care less about what is going on and they don't seem to worry about following regulations/ordinances and conditions, etc. Vold added that is why he felt the owner/operator should be brought in. Brandt stated they understand when they buy the property/business that they are required to abide by the conditions. Vold said they probably understand it but they don't necessarily abide by them. Brandt inquired if perhaps the party selling it to them, is misrepresenting what their responsibilities are. Vold wasn't sure about that but some of them may be getting into somewhat of a financial bind so if someone will buy them out then they take it. Lien explained he had mentioned several times at meetings that we shouldn't be looking at the applicant we should be looking at the site and conditions for the site because the reality is that ownership could change within six months. Lien provided the Committee with sheets, containing information right out of the Ordinance, which the Committee can use as a guide in each public hearing to make notes on. Rian Radtke, Corporation Counsel had printed this up for the Committee to use. It will also be distributed to all the town boards so that when an applicant comes to them, they can go through the entire handout which should aid in making their decision. Lien stated this comes right out of Chapter 10 (Conditional Use) and Chapter 13 (Nonmetallic Mining) of the County Comprehensive Zoning Ordinance. Lien stated the letter which comes from the town is one small fraction which is used to make a decision. The decision should be based on what is presented in front of the Committee. The 3 page handout is basically what every Committee decision should be based upon and the towns' should be doing the same thing. Bice added that he spent a quite a bit of time with Radtke to help in developing this checklist. What Bice stated was important is, that as one reads through this, Radtke underlined in the first bunch "may take into consideration" and in the second bunch, "the County must specifically analyze in the nonmetallic mineral mining proposals and why the county is interested in providing". We definitely need to pause and be able to answer those questions. Bice felt this handout was important and was going to add some time to meetings in the future. Bice noted there isn't a lot of input on our Ordinance which considers the applicants personal interest. Bice tends to believe that when a person owns the land and wants to do something that is legal and allowed, our CUP and all of our restrictions, have to be weighed pretty heavily. Discussion followed on property rights, CUP rights and ag siting legislation. Discussion took place on what requirements should be implemented when a change in owner/operator takes place. In regard to conditions, Bice commented we are dealing with some very influential and powerful people here and basically they just kind of tell us that information/conditions weren't relayed to them. Brandt stated, even though we may not have the resources that developers or investors have, the Committee has power to determine things that have nothing to do with how much money we have and being able to take public input in the course of it, so we stand equally with applicants. In fact, they are appealing to the Committee for our permission. Brandt added the lawyers will do a very good job and a good lawyer will try to make us think that they're doing us a favor by showing up and describing things. We just have to keep in mind that we stand equally with the applicant. Geske commented equal with the applicant but not with the site. Brandt commented we should not stand in awe of the big companies, etc. when their "suits" show up. Bice added one of the property rights items says one shouldn't have to come to the government to get a permit to utilize one's property as long as it is not affecting the people around them and it also addresses how much authority the people around have. More discussion took place on what the requirements should be for new owner/operators. Brandt made a motion to require, as a standard condition from this date forward, that any new owner/operator of a previously conditioned mine site come before the Committee to review conditions, Geske seconded the motion. Brandt noted it would not be a discussion or an opening of the CUP, it would just be a review of what the current conditions are. Discussion took place as to whether it should be a standard condition or just an internal policy. Gamroth inquired at what point permit holders will be notified of this condition. Lien felt owner/operators could be notified at their annual review. Brandt added from now on it will be a standard condition on every permit issued from this point forward. Upon Bice's suggestion to make the current owner/operator responsible until it is transferred to the new person, Lien responded they already are. Lien stated the number one issue with transferring owner/operator has been the issue with bonding as the previous owner/operator's bond cannot lapse before the new one takes effect. Motion carried with Quarne abstaining from the vote.

Copy Machine Purchase Approval - Lien read from the Purchase Policy, “purchases and maintenance of copy machines shall be administered by a master contract managed by the County’s Information and Technology Department and approved as necessary by a County Board resolution” and under Unbudgeted Items Lien read, “may be purchased only with prior purchase approval from the Departments’ standing Committee. Lien stated the current copy machine is “limping” along. Purchasing the copy machine meets that entire standard requirement and the money is in the DLM budget. The Committee would need to approve this. Lien had an estimate of \$4,800 for the new machine. Minimal income is received from the copy machine as surveyors do use the machine and pay for copies. Nelson made a motion to approve the purchase of the copy machine, Brandt seconded the motion. Gamroth commented the repair man has said that the only parts left for this machine are what may be on the shelf, and after that there aren’t any more parts available. Upon Bice’s suggestion to check with the Clerk of Courts office on the machines they are purchasing, Gamroth responded Stalheim is dealing with the same company. Motion carried with no opposition.

Surveyor’s Report – Lien presented a survey report and a bill for T20N, R9W in the Town of Arcadia. Lien mentioned, because of the economy, Nelsen has some extra time to do extra survey work, however there is a budgeted dollar amount for each year and Nelsen has reach that amount and therefore will be done in Trempealeau County for this year. Nelsen suggested, if it is the Committee’s wish, he could fit in approximately another \$20,000 worth of work in the Etrick and Arcadia townships to push the remonumentation further ahead. Lien added the money is in the DLM budget from the lapse in employees this year, so it could be funded. It does need Committee approval. Discussion followed on the Surveyor’s budget. Upon Bice’s inquiry about finishing the remonumentation, Lien replied it was scheduled to be completed by the end of 2013, however when Nelsen got into the area by Arcadia and Etrick, it was the area that received a lot of wind damage in 1998 and therefore slowed down progress a little as they are having to cut their way into a lot of the forested sites. Upon Bice’s inquiry, Lien clarified that money will be shifted “from the future” but it shouldn’t add anything to the original cost. Brandt made a motion to approve the transfer of \$20,000 from DLM salary savings to the Surveyor’s account to pay for the extra survey work, Thompson seconded the motion, motion carried unopposed. Brandt made a motion to approve the current survey report and bill, Quarne seconded the motion, motion carried unopposed.

Quarne asked about the Nonmetallic Advisory Committee progress. Lien replied the last meeting was very interesting because it dealt with noise levels. The Advisory Committee is struggling with what would be an acceptable decibel level or what would be an acceptable increase over ambient noise if they were ever to allow 24/7 mining. Lien elaborated on decibel readings that Paul Winey had taken. A short discussion followed.

Set Next Regular Meeting Date – The next regular meeting of the E & LU Committee was scheduled for Wednesday, November 14th, 2012 at 9:00 AM.

Bice requested the Committee go through the conditions from Radtke that were handed out today, at next months meeting.

At 11:32 AM, Nelson made a motion to adjourn the meeting, Bice seconded, meeting adjourned.

Respectfully submitted,
Virginette Gamroth, Recording Secretary

Michael Nelson, Secretary