

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

**REGULAR MEETING MINUTES
December 12th, 2012 9:00 AM
COUNTY BOARD ROOM**

Chairman Bice called the meeting to order at 9:04 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, Michael Nelson, Roland Thompson, Dave Quarne, Rick Geske. Jay Low and Hensel Vold were absent.

Staff/Advisors present: Kevin Lien, Virginette Gamroth, Jake Budish and Keith VerKuilen. Carla Doelle and Joe Nelsen were present for part of the meeting.

Others present: Randy Sonsalla, Darrell Sonsalla, Ivan Pronschinske, Ron Rubenzer, Tim Marko, Neal and Nancee Wozney, Paul Winey, Dan Hays, Brian Murray, David Anderson, Cristeen Custer, Fred Frie, Ronald F. Tuschner, Joe Slaby, Kyle Slaby, Beth Killian, Mike Blaha, Dave Suchla, Eric Haas, Beth Killian, Robert Tenneson, Nancy Horton and Tim Zeglin.

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

Adoption of November 14th, 2012 Meeting Minutes – Nelson made a motion to approve the November meeting minutes, Brandt seconded, motion carried unopposed.

Public Hearing – Conditional Use Permit – Livestock Facility Siting Permit – Beef River Acres, LLC Landowner – Hamlin Valley Farms, Inc., Operator –Town of Albion Chairman Bice opened the public hearing at 9:06AM. Nelson read the public hearing notice aloud. Carla Doelle explained the public hearing today is for a Livestock Facility Siting Permit for Hamlin Valley Farms/Beef River Acres. The applicant has filed an application form and worksheets as prescribed by state law. The application form and worksheets describe the proposed facility in detail. They are also designed to document compliance with uniform state Livestock Facilities Siting Standards including standards related to odor management, property line and road setbacks, manure management, manure storage facilities and runoff management. Hamlin Valley Farms is currently a WPDES (Wisconsin Pollution Discharge Elimination System) permitted, concentrated animal feeding operation with the Wisconsin DNR. They were also permitted through the County's Feedlot Ordinance and that permit has since expired and is being renewed with the County Livestock Facility Siting permit today. The farm is seeking a permit for 4,110 animal units. The WPDES permit and the Livestock Facility Siting permit are very parallel. All requirements of the Livestock Facilities Siting permit have been met and that is what brings us to the public hearing today. Upon Bice's inquiry, Doelle acknowledged that the applicant was present. The applicant stated they were applying for this permit because they want to put up an "in house" heifer facility. Bice called for any public testimony. Doelle read a letter from the Town of Albion which stated Erik Gullicksrud appeared before the town board during their regular monthly meeting on December 11th, 2012 to request approval of a Conditional Use Permit for a Livestock Facility Siting permit for Beef River Acres, LLC, owner, Hamlin Valley Farms, operator. After careful consideration of the facts and circumstances as presented by Gullicksrud, the Board passed a resolution in favor of granting them a CUP for a livestock facility. Lien stated the County is required to have this CUP hearing through the AG Livestock Siting, however this Committee cannot place any conditions on it. Lien added that Doelle basically determines whether or not it meets the criteria and after that there is an Ag Siting review board that can take up petitions if someone is

aggrieved by the decision of the Committee. Bice called for any other public testimony. Bice closed the public hearing at 9:12 AM. Quarne made a motion to approve the CUP for the Livestock Facility Siting permit, Nelson seconded. Upon Brandt's inquiry, Doelle stated they did meet the property line setbacks. State law requires a 200 foot setback from the property line and they are at approximately 270 feet. Doelle added they have adequate land base to handle all the manure, their nutrient management plan is compliant and all the components of the plan meet state standards. Brandt inquired if the runoff from the roof of the new barn is managed appropriately. Doelle responded that it was. Motion to approve carried with no opposition.

At this time, Lien handed out the Non-Metallic Mining Conditional Use Permit Criteria form which had been prepared by Corporation Counsel, and is directly out of the County Ordinance. This form contains items that the Committee should be considering every time a Non-metallic Mining permit is reviewed. Lien noted it would be discussed later as it is Agenda item #11 but Committee members should be looking at these items as the next permit is considered.

Public Hearing – Conditional Use Permit and Reclamation Permit – Nonmetallic Mine –Ivan Pronschinske and Gerard Sonsalla, Landowner/Applicant, Arcadia, WI and KAW Valley Companies, Inc., Kansas City, KS, Operator - Town of Arcadia Chairman Bice opened the public hearing at 9:14 AM. Nelson read the public hearing notice aloud. Budish stated the 100 acre property is located approximately 5 miles east of Arcadia. The operator wishes to extract sandstone from the Cambrian/Wonnewoc formation at the proposed KAW Valley mine site. The extent will be practical earth moving equipment such as backhoe, dozer, loader, conveyors, and trucks, with excavated and loaded material to be transported off site. Budish provided an overhead aerial view of the site for the public present. Ivan Pronschinske was present and stated he didn't have anything more to add. Tim Marko of Short, Elliot, Henderson (SEH) was present to represent KAW Valley Companies. Marko pointed out, on the overhead map, the Sonsalla parcel which is about 133 acres and the Pronschinske Trust which is about 25 acres for a total of approximately 158 acres. They have put together a CUP application to the County and followed the Non-metallic Mining standards and also the State of Wisconsin standards. Marko explained that around the perimeter of the property, per Trempealeau County code there will be a 50 foot setback. The areas along the perimeter that are in green are areas where there are existing tree buffers at this time and are planned to stay. Marko explained that the other berms one sees make up the A horizon soil which is the topsoil on the property which is approximately 10 inches in depth. Next to that is the B horizon soil which is a transition between the topsoil and the tunnel city overburden that lies on top of the Wonnewoc formation that is there. As was mentioned, Marko stated the access for the mine site is right at County Trunk Highway N and State Trunk Highway 95. Marko explained the storm ponds have been designed to coincide with all the different phases of construction. Each of the fifteen phases account for approximately one year of construction. All the storm ponds are designed to DNR standards with a 10 year and 100 year, 24 hour storm event. In addition to that, they haven't taken into account any infiltration into the soil for those storm ponds, so giving them an additional factor of safety with regard to the size of the ponds as construction would move forward. Wetland delineations have been done for the site. Marko stated neither one of the wetland sites will be impacted. When mining the Wonnewoc formation the ore body itself, the bottom of the mine floor will stay above and will never get within 10 feet the groundwater table. Marko displayed a letter from the WISDOT which showed that they have looked at the site and the geometrics of the County Trunk Highway N intersection and they have approved that intersection at it exists for the truck traffic that is being proposed by KAW Valley mines. Marko displayed the route that was shared with WISDOT – they will be leaving the mine site, turning right (as they are facing State Highway 95), going over to Arcadia, taking State Highway 93 down to State Highway 54 and then into Winona. When they come back they will be traveling along State Highway 54 to State Highway 53 north, taking 53 north up to State Highway 95 and back over to County Highway N where there is an existing right turn lane and back into the mine site. Marko displayed letters showing the cultural information has been looked into; the site has been released as there are no impacts with regard to these two pieces of property. Mark displayed a final proposed drawing of the contour map of the proposed site once all the mining is done. It shows that again, according to the County standards, the 3 to 1 maximum side slopes (the 50 foot boundary that is around the perimeter) which will taper back down into the area where the overburden will be placed back in after the Wonnewoc formation has been mined. One can see

that nothing will exceed a 3 to 1 slope and for the most part it is all at a 10% grade once the site is reclaimed. Marko explained the cross sections, etc. Bice called for public testimony.

Nancee and Neal Wozney – Registered to testify in opposition. Neal Wozney pointed out there “paradise” or home on the overhead map. Wozney stated the back corner of their house is 108 feet from the property line. When Wozney’s found out they were mining, they had gone to the Town of Arcadia meetings and KAW Valley was asked to make an agreement with Wozney’s. Neal Wozney stated KAW Valley had made an agreement with the Wozney’s which they did not keep. Wozney’s have no agreement. Where the Wozney home is located, it was Neal’s opinion that they would essentially be living in a mine. The Wozney’s can see Soppa Valley Road mine which is a mile across the road (across State Highway 95) and hear the trucks and the scrapers. Wozney can hear Alpine ripping rock. Wozney felt, they would essentially be living in a mine being 108 feet from the property line and they will be living it every day. Wozney didn’t understand how KAW Valley couldn’t make an agreement with them. The Committee members examined the overhead map of the Wozney home. Wozney added the mining company states the 9th phase is nine years out but the day that the CUP is granted for mining, the Wozney’s property will be worthless. No one is going to buy a home 108 feet from an active mine when there will be permission to blast, dig and do whatever they want. Wozney stated it will affect them and KAW Valley was in agreement that the Wozney’s will be affected. Wozney added that KAW Valley was in agreement to purchase the Wozney property so that they could move. Neal Wozney doesn’t want to fight and he didn’t want to be here today. Neal Wozney had talked to them the last time on October 24th, 2012. KAW Valley had told Neal Wozney that they were writing up an agreement to come up and meet with the Wozney’s. No one ever called or showed up. The Wozney’s are here today in opposition and hoping that the Committee does not grant this permit today. Nancee Wozney stated they live in Midwestern Wisconsin because they were born and raised here. They want to live in this area because they don’t see their neighbors but they see the deer and the animals. They have five children together and there is a reason they live on the top of this hill. The Wozney’s understand improving oneself and wanting to mine, but not at the expense of the neighbor, so they were willing, at the town meeting, to sit and talk with these people. Wozney’s invited these perfect strangers into their home, welcomed them into their home to sit at their table and were willing to come to an agreement to leave that home with their five children. When KAW Valley left Wozney’s thought they had an agreement. They never heard from KAW Valley again. Nancee Wozney felt that was wrong in her opinion.

Paul Winey – Registered to testify in opposition. Winey stated his lives at N28690 Paul Sonsalla Road. They sit half way between the KAW Valley mine and the Alpine mine. Part of Winey’s property abuts the driveway of the Wozney property. This is the first that Winey has heard from the Wozney’s as far as the agreements. Winey cautioned the Committee, as if that is the bearing of a company in not following through on an agreement, what is to say if they are in violation of any of the County chapters, what kind of results will the County get back from them. If that is the character of the company, Winey would really question it. Winey’s other comments center on the health, safety and welfare of the public. Winey still has those same concerns for any mining company that comes in, not just speaking against this property. The particulate matter, the 2.5 crystalline silica still remains a concern which has not yet been answered. Winey knows that mines can be monitored. Individual mines can have limits but Winey doesn’t believe this Committee is addressing the concerns when there is a cumulative affect. Now between the city limits of Arcadia and what will be 4 ½ to 5 miles east there are nine permitted mines within a mile of State Highway 95. This is setting up a very dangerous corridor, not just for the air pollution but for the safety on the roads. When one is looking at twelve truck loads per hour, their proposed route at this point is west. The proposed route of the Alpine Materials mine is west, but they had chosen not to follow that and were hauling to the east. These are things that the Committee needs to be aware of and look at. Winey knows that the DNR, right now, does not have the ability to monitor the particulate 2.5 and that is the crystalline silica which is a known cancer causing agent . DNR does not have the ability to monitor that. They are monitoring a much larger particle. People are being put at potential risk right now. We don’t have to wait for that to be an actual risk. There was a potential risk decades ago, asbestos, which is a very real risk today. We learned that lesson in a very hard way through the loss of many, many lives. The concern is about the air quality and setting up multiple mines within a very confined

area, some of which is designated rural residential. In regard to the traffic safety piece, it has been approved by DOT, but should they elect to travel another route there is no way to improve that intersection because of the wetlands across the way. Winey noted that the Slaby's found that out over a year ago. Winey questioned what loading facility in Winona they were going to be hauling their material and where is that going and when. That was a problem in Buffalo County for Seven Farms Sand. Winona is quickly becoming saturated and so if travel routes change, how will it change. Once the permit is issued, basically "the horse is out of the barn" is an old euphemism. Health, safety and welfare are Winey's key issues. Winey is speaking in opposition to this and would echo what the Wozney's stated as far as the agreement being breached and asking the Committee not to approve this mine. Lastly, if it is approved and there is an agreement with the Wozney's, Winey requested that, their driveway access, remain residential access and not be turned into an industrial access.

Kyle Slaby – Registered in opposition but not testify.

Nancy Horton – Registered to testify in opposition. Horton is from the Ettrick township. Horton wanted to reiterate what Winey had said as he spoke very eloquently about health, safety and welfare of the people of this County. There is getting to be a lot of these mines and they are all over and there are people living near every one of them. There are safety factors which are not conclusive but Horton felt we are "pushing the envelope" here. Horton didn't hear the number of trucks being talked about on this route. Horton has a business on this route, on the return trip. This is a lot of trucks and its fifteen years of trucks going by these intersections and in front of peoples' homes. Horton thinks it is dangerous as there are school buses. There are a lot of issues to be considered here besides the groundwater and the dust and noise. People are being uprooted from farms and homes that they have lived in and raised their family in for these mines. Horton felt we needed to err on the side of caution on this mine and all the mines that the Committee will be considering in the future. With the ones that are open, we need to see how they affect this County before we continue to permit more mines.

Bice called for any other public testimony.

Donna Brogan – Registered to testify in opposition. Brogan's objection to this mine is not necessarily on the merits of the mine, but on the process by which it was approved by the town. Ivan Pronschinske is one of three board members on our town board. Brogan thought the Arcadia board has approved more mines than almost any other town in Trempealeau County. We have three board members, one of who now is pursuing a mine. Brogan has been told there is a second board member pursuing a mine, but she didn't know if that was true. Brogan thought Pronschinske has passed approval on every mine that has come up. Brogan thought there was a conflict of interest and she felt it was plain. He never recused himself or abstained from any votes other than on his own mine. Brogan felt it looked very bad and felt it was not a precedent that this Committee should encourage.

Tim Zeglin – Registered to testify in opposition. Zeglin stated he would oppose this mine or any other frac sand mine in Trempealeau County. Zeglin continued that the previous two speakers have mentioned a number of mines that Trempealeau County has permitted which is more than any other county in this region. Zeglin felt that should serve as a caution to the Committee members. Zeglin reminded them that the welfare of this County, ever since the white settlement, has been based on its' own resources, its soils and its water and so far there is no conclusive proof that any kind of reclamation is ever going to be successful or has been successful, but nevertheless the County Committee is putting mines everywhere, willy-nilly, without waiting to see if any of these claimed reclamation projects are going to work. You are endangering the health, safety and welfare of any future of this County by turning it into a mining district, without any thought, for the benefit of a few wealthy people. Also, a few weeks ago, Zeglin drove across western North Dakota and he had a chance to see where all this frac sand is going. Zeglin reminded the Committee (as he was driving he was listening to the radio) according to the speaker (official for the North Dakota Dept. of Energy or whatever he is) 30% of the natural gas in that area is being flared off. One can see it as they go by. When frac sand first came in it was supposed to be something to help the U.S. become more energy independent, but on the other hand if you drive through that area you will see torches across the landscape of gas being flared off. This is because the

mines/wells are being permitted faster than anyone can cap them and capture that gas. Within the past week, three studies for fracking have been discounted/discredited, the most recent one by some professor from Texas. When the study appeared, it was totally “patting frac sand on the back” and now it has been totally discredited and the professor who put out the study retired in haste. Zeglin stated this was just a few things for the Committee to keep in mind as the County hastily and thoughtlessly shoves frac sand mines all over the County.

Budish read a couple of letters that were submitted into the record.

Jeff Bawek letter – We would like to express our concern with the stated increased truck traffic East of Arcadia at the intersection of the State Hwy #95 and County Road N with the proposed opening of the Ivan & Beverly Pronschinske sand mine in conjunction with the Gerard & Winifred Sonsalla sand mine by KAW Valley. Stated truck traffic, and the assumption is semi-truck traffic, is a loaded truck entering or exiting at State Hwy #95 and County Road N, approximately at 5 minute intervals. Trucks will exit the mine onto County Road N then enter State Hwy #95 and travel West fully loaded. Return traffic will come from the East off State Highway #95 with the use of a by-pass lane and then enter County Road N to the mine. These trucks also “at times” will be loaded. Return trucks will carry material back to the mine site for reclamation purposes. To repeat – trucks will be both entering and exiting this intersection from both East and West directions. Trucks will at times be fully loaded on return. For 15 plus years this is the stated trucking route. This intersection is located somewhat central in a large rounding curve. State Hwy #95 travels west to east; double yellow lines before and during and after this large rounding curve impede traffic flow if slowing or stopped to turn North on to County Road N. Add to this an early to mid morning low angle sun glare. Now couple this with a dark, shaded background on State Hwy #95 just beyond the rounding curved intersection and you have a blind line of site to on-coming traffic. Now add, 5 minute interval, loaded semi truck traffic and beware to all who now must use this intersection and section of State Hwy #95. If someone is handed a problem and a viable remedy is sought and still a negative result occurs we can call that an accident. Anything less is negligence and no longer can be called an accident. With this intersection designed to handle a more rural type traffic flow and in my opinion not designed for the use of repetitive semi-truck traffic, I believe this intersection will now become a public safety issue. This intersection at a very minimum should have a bypass for traffic on State Highway #95 traveling from West to East. Second, the intersection should be studied for repetitive semi-truck ingress and egress from State Hwy #95 onto County Road N, from both East and Westerly directions. I believe a Traffic Impact Analysis would also be necessary before this intersection can be used safely with the opening of this proposed mine. A wise man once said, “That if grandpa sells the farm, the grandson suffers.”. I hope we don’t let the blind eye of politics and large profits kill the grandson first. Please include as a condition, that a solution be sought for this intersection at the LCD County permitting process with action to take place before this mine is allowed to create a public safety issue.

Kyle Slaby letter - Dear Trempealeau County Environment and Land Use Committee

I request that you Table and/or Deny the Conditional Use Permit and Reclamation Plan – Ivan Pronschinske and Gerard Sonsalla, Landowner/Applicant, Arcadia WI and KAW Valley Companies, Inc., Kansas City, KS Operator – Town of Arcadia

Based on the following information:

I first made contact with KAW Valley Companies, Inc. (KAW) in the early spring of 2012 while marketing my parent’s property (Joseph Slaby & Slaby Arcadia property LLC) as a non-metallic mine. The owner Ben Kates, his son Tim Kates and their salesman Dan Hays corresponded back and forth with me in interest to purchase sand from our property. They requested that I send them raw sand samples to which I did. They Stim-Lab tested the material and said it was the best sand they had ever seen. Prior to them coming to Wisconsin I explained the Town Road, Paul Sonsalla Lane (PSL) would need to be upgraded before hauling off-site i.e. engineering, reconstruction, widening, paving, and upgrading the intersection at PSL & STH 95. I told them I had loose ends to tie up with the permit to go forward, and they said it would not be a problem. I felt very relieved. They came up to meet with my family and I, and we all conversed and got to know each other. They seemed like good people. They told us they were in the works to secure contracts with Green Field Energy Services (GFES) (oilfield service company), and they had given our sand to that company. They said GFES was very impressed

with our sand, and they wanted KAW Valley (KV) to process it for them. They left us and returned to KC, KS. We corresponded once again via email and telephone calls, and KV said they were ready to go ahead with the project; they wanted my father to sign a contract. They said the contract was needed to show GFES they had secured our sand deposit. KV drove back up to Arcadia, WI to sign the contract with my dad. KV said the agreement was only intended to prove to GFES they had secured our sand. Tim Kates and Dan Hays said, "By signing the agreement KV will be operating on your property within two weeks." My dad asked, "What if another group comes along and wants to buy me out?" Tim Kates said, "We are a family company. It will never be our intention to hold you back if a better deal comes along, and will release you upon request." Tim Kates and Dan Hays modified the original contract to include purchasing up to 3,000,000 tons per year. They said GFES was going to utilize both of their sand dryers (400K TPA/each) in KC, KS, and build them several more sand dryers in or near the oil fields to which KV would be paid to operate. They said, "We need to cover the requirements of GFES pressure pumping spreads." We communicated via emails and telephone calls once again, and KV stated they wanted to break ground on our project. I informed them they needed to tie up some loose ends on the permit and instructed they hire an engineering firm. I gave several recommendations with quotes and they continually said, "The quotes are too high and we will speak with an engineer in KC, KS." Nothing came of this, so they told me to go ahead and finish the remaining items on the permit. I hired a team to finish the permit, and KV said they would cover the bill. I took on the responsibility of finishing the permit and they have yet to compensate me thus far. Several weeks passed, and KV had yet to break ground or do anything for that matter while I worked diligently with my team to finish the permit. I then arranged a Town meeting to finalize conditions in effort to make them more favorable towards the mine. KV and my father and I attended the Town of Arcadia meeting May 8th 2012 to set final conditions. I told KV in advance what the current conditions were and how I wanted them to be modified. My goal was to use a dust suppressant until the road was firmly set up before I did any paving. I wanted to negotiate more favorable road conditions to reduce quarry development cost. The Town of Arcadia read through the conditions and was firm when it came to Paul Sonsalla Lane (PSL). They would not budge on the pavement, or allow the mine to use dust suppressant in place of paving. KV agreed to the Town's conditions, and said they were going to hire an engineer to address the road issues. During negotiations with the Town, a board member (Ivan Pronschinske) stated that it would be a good idea to find another route and suggested that KV exit out through his property. He then said KV should mine his property because he is right along the road. He asked the Town Clerk Elva Helwig to get the plat book, so he could show KV where his property was located. I could not believe this ****. The Town board member was soliciting my buyer right before my eyes and Tim Kates was acknowledging him. I was very upset. After the meeting I asked Tim Kates who introduced him to the area, and he said first priority was Slaby Family. From that meeting going forward I was told by Dan Hays that Ivan Pronschinske called KV frequently in effort to get them to mine his property. KV made no attempt to hire an engineer and/or reconstruct PSL, and they were the ones who agreed to the conditions. These conditions are now bound to the project. My parents called KV several times to find out what was going on and very seldom got a response. When KV followed up with my parents they said, "We are working on an alternative route out of your property and PSL is not an option we will consider." Tim Kates told my dad, "No news is good news". They went to Gerard Sonsalla (neighbor who stated PSL was a private road) and asked him if they could get an easement through his property. Gerard said he would not allow an easement for my dad because he did not want to see my dad have any success. A family friend came to visit us, and said that Ivan Pronschinske and Gerard Sonsalla basically stole your buyer. The friend said Gerard Sonsalla made a statement to him that Slaby family would not be allowed to come through his property and he was working with Ivan Pronschinske. I called KV to find out what was happening and I finally got through to Dan Hays. He told me KV had drilled Ivan Pronschinske and Gerard Sonsalla properties and were in the process of leasing the neighbors land with the intention to mine them. I told Dan Hays my Dad wanted to talk with KV as soon as possible, and he said they would call back Monday morning. The weekend went by and KV called on Monday. Ben and Tim Kates and Dan Hays had a conference call with us and it was totally awkward. They were super quiet and barely said a thing. My parents asked, "How come you did not you fix PSL as you agreed to at the Town of Arcadia meeting May 8th 2012?" Tim Kates responded, "PSL is a floating peat bog and will cost millions of dollars. It is not an option we will consider." We asked, "Did you hire an engineering firm to back up this statement?" Tim Kates did not respond. I inquired, "Who told you it was a floating peat bog?" I received no response. My parents wanted to know if and when they would mine our

property. Dan Hays said, "We do not anticipate being on your property until quarter three of next year." My dad said, "I am not going wait around until next year and request release from the contract today." Ben and Tim Kates said, "We will release you from the contract." We emailed and called them several times to follow up with the status of the mutual release and they kept stalling us. My dad got very emotional because he found out they were now permitting the neighbors property, and they did not bother to include us. He called Tim Kates and left a message saying he requested release immediately. KV sent us an email saying all communication hence forth shall go through their attorney. I called their attorney and explained what had happened and stated, "We want mutual release." The attorney stalled me for several weeks saying he had been unable to contact his client. He then called back and said he would like to speak with our counsel. They did not spend any money in effort to permit our property. I referenced them to SEH Engineering in the beginning and they said they were overpriced. I told them numerous times that they need to hire an engineer to finish the permit and address the road access. KV agreed to this at the town meeting and never followed up with it. They told me to finish the permit to which I did. I took on all the financial responsibility because they said they would reimburse me. When it came time to submit the fees to Trempealeau County Zoning for the CUP they never paid them. So essentially I finished the permit and got it approved by the Town of Arcadia, and have yet to submit it to Trempealeau County Zoning because I do not have the money for the permit fees or the engineering.

KV did the following:

- Told us a bunch of crap to get my dad to sign;
- Lied about having a contract with GFES,
- Put no effort into the project beyond monthly payments,
- Backed out of the original royalty agreement,
- Never delivered a lease agreement,
- Never hired an engineer for permitting: mine, road and/or intersection improvements,
- Stuck me with the permitting bills (mine engineering),
- Never submitted application fees to Trempealeau County Zoning,
- Agreed to Town conditions that I argued against,
- Modified the contract to purchase up to 3,000,000 tons per year,
- Caused my parents and me tremendous stress by leading us on.

KV has a contract with us where they guarantee to purchase a minimum 300,000 – 3,000,000 tons of sand by April of 2013. They recorded this contract at the Trempealeau County Register of Deeds. My parents want their money, and they are tired of being kept in the dark. We feel they have breached the contract and are seeking legal action via the US Federal Court System. I strongly recommend you Table and/or Deny this CUP and Reclamation Plan until KV has shown good faith effort to make good on their contract with Slaby family.

Kyle Slaby letter – road recommendations

I strongly recommend the following improvements be made prior to hauling any material off-site.

Dear Jim Johnson- County Highway Commissioner

I hope you are doing well. I wanted to let you know my opinion regarding County Roads and Non-metallic mines who want/need to utilize them for hauling. I am of the opinion that most County Roads in Trempealeau County were not built to support heavy truck traffic originating from mine sites. I have a new wealth of knowledge when dealing with road issues because I know there are a lot of hurdles to jump over when it comes to using public roads for ingress/egress. Since I started my project I have spoken with several paving and heavy earth contractors in regards to upgrading Paul Sonsalla Lane. It has been a long dragged out affair, but I have learned a lot about roads. The paving contractor (Monarch) told me they were doing most roads in E-10 asphalt 6" (3 lifts). They also said that subsurface composition dictates what happens to surface, and roads intended for heavy repetitive traffic should have more 1 1/4" base course applied and compressed. I believe them because they are professionals and have years/decades of experience. When it comes to road surface width I think wider is better. My condition for PSL was to pave a 24' surface with 2' shoulders. I did not like that condition in the beginning and I do not like it now, but it all boils down to safety and longevity of the road. I am of the opinion that if a road is currently rock surface it should stay as rock surface, but be reconstructed wider to support heavy truck traffic.

This is my personal opinion when it comes to Town and County Roads. All roads should have a minimum of 66' right-of-way, so if a project comes up like mining there is sufficient room to get the upgrade/reconstruction done.

CTH N ingress/egress - KAW Valley Companies, Inc.

Current conditions:

- CTH N: Approx: 18' surface with 1' shoulders
- Subsurface composition: unknown
- Asphalt depth: unknown
- Approx: 400' to STH 95
- Intersection improvement at ingress/egress point: none
- Vision triangle: very limited looking north
- Soil condition: in an area that has potential wetlands

What should be done prior to hauling any material off-site:

- Reconstruct Approx: 400' of CTH N to a 24' surface with 2' shoulders
- Subsurface: apply and compress 1 1/4" base course to support heavy repetitive truck traffic
- Asphalt: pave and compress 24' surface with E-10 mix 6" (three lifts)
- Intersection improvement (CTH N) ingress/egress point - install and pave turn lanes to same spec as surface and subsurface
- Vision triangle: remove vision impediment looking north (take out the sandstone wall)
- Soil condition: if necessary install geo-textile mat to support load bearing pressure
- Intersection at STH 95: if traffic enters CTH N east bound on STH 95 intersection improvements should be installed i.e. culvert extension and turn lanes

These recommendations should apply to all sites on CTH roads if they were not built/designed for this purpose. If you allow these mines to pay a fee/ton to maintain the roads what happens if they damage a road and there is not enough money to fix the problem. Who is responsible? What happens if a mine operator goes bankrupt and there is major damage to our roads? The mining industry wants to utilize bonds for all the roads, but I do not think Jim Johnson's job qualifications say Insurance Adjuster. Well Jim those are my thoughts and remember I am pro industry, but only if it is done responsibly.

Thomas Wik – Registered to testify in opposition. Wik stated he is a landowner in Trempealeau County and he spends a lot of time here. Wik is in opposition to this mine. They have had things in his township of Chimney Rock that have come up. Wik was out in east Bennett Valley cemetery this past summer and he met his cousin there and pointed out where the sand mine that was proposed earlier this spring was supposed to be. His cousin's spouse stated his father had died of silica and it is a horrible disease of which the doctor had said there was nothing he could do for it and the man later died from the silica dust. As far as being trust worthy with the sand mines, based on the stories he has heard here this morning, Wik doesn't believe there is a whole lot of trust worthiness because once they can get this permit they do whatever they want. Wik would like the County Committee to really consider all of these things, the public health, safety and welfare of the people. Wik urged the Committee to not approve this.

Budish read a letter dated October 16th, 2012 from the Town of Arcadia which stated this letter replaces the letter dated October 15th, 2012. The Town of Arcadia Board of Supervisors passed a motion at their October 9th, 2012 board meeting to support the KAW Valley non-metallic sand mine and the enclosed conditions for the non-metallic mine operation to the Trempealeau County E & LU Committee for the properties listed. Bice called for any other public testimony.

Bice allowed Tim Marko to address some points per his request to do so. Marko stated it was suggested at one point that WISDOT look into having a TIA (traffic impact analysis) at the intersection of County Road N and State Highway 95. Marko explained they looked at that and that is the letter that Marko shared with the Committee in that a TIA wasn't necessary and the proposed truck routes and turning movements would fit the

geometrics of that intersection. The other point that Marko's client has asked him to address, with regard to the Wozney's, they are interested in purchasing that property, their intent is to get the permit in place before negotiating on the purchase of that property, but evidently there was a communication breakdown and that certainly could have been from Marko's client, but there is the interest to work with the Wozney's pending favorable outcome of the application. Thirdly, Marko reiterated that with regard to the CUP application that has been submitted, the program has been put together based on Wisconsin State Chapter 295, Wisconsin Administrative Code NR-135 and also the Trempealeau County Non-metallic Mining standards, so they have followed all of those standards in putting together this proposed mine application and reclamation plan CUP application. Bice asked Marko and the Wozney's to step out into the hall and discuss the issue a little bit and negotiate an agreement so that they can get an updated opinion on where that stands. Geske stated he couldn't support the CUP until KAW Valley has an agreement with the Wozney's. Geske encouraged Marko to deal with them right now and then come back. Nancee Wozney inquired if the Committee was requiring a decision right now? Committee response was, "no". At this point Geske made a motion to table the CUP, Nelson seconded the motion.

Ron Tuschner stated that he is a farmer by occupation, his father was was was his grandfather and great-grandfather. Yes, there are problems with silica and Tuschner agrees with what Winey said, but Tuschner reiterated to everyone here that a lot of us have been farming for generations and we intend to stay farming for generations to come. Before cabs were put on tractors a lot of us apparently were/are prone to silica from the sand particles so please put that in context. Tuschner has driven a tractor and is now 66 years old and he is still fairly healthy except for some lung problems that were caused by his idiotic smoking when he was a child (meaning a child prior to 25 years of age) so he can't put that on silica and will not attempt to. Secondly, the agreement the Town of Arcadia wanted the Wozney's to do, and had agreed with, was put forth by the Town of Arcadia Board of Supervisors. This is Tuschner's first knowledge that an agreement has not been reached. Tuschner had heard rumors that they wanted to wait until after the CUP was issued but Tuschner did not know because the town board will not be put in a private property issue between landowner and whomever. Tuschner thought everything was going the way it should go. Tuschner agreed with the tabling of this issue until further understanding can be made between Wozney's and the sand company. Tuschner didn't see that as a problem but he doesn't think we should be bashing SEH or coming up with people who are saying innuendos about another town board member or whatever, as they don't know what is going on. Please take in statistical data and truth when someone comes up and testifies by themselves. Bice closed the public hearing at 10:18 AM. Bice acknowledged that he already has a motion to table and a second. Motion to table the CUP carried with Quarne abstaining from the vote. Bice attempted to clear up, that if the people involved could come to some kind of agreement; we are asking that they both sincerely attempt to come to some type of agreement. Bice stated it was not necessary to definitely come in with an agreement but this Committee does look at the agreement or the attempt to an agreement and the options and they are hoping that everyone works hard to resolve this before it comes back. Geske pointed out that the Committee hopes it is realistic. Lien mentioned he thought it was the first time ever that there were two applicants that signed (those being Pronschinske and Sonsalla) and the applicant is not present. Lien felt with as much controversy that goes with mining, it would behoove both applicants to be here to listen to public testimony and be able to present themselves or be present to field questions. Lien would personally like to see Sonsalla present at the next meeting. Pronschinske thought Sonsalla was not present because there was a family health issue that occurred this morning. Lien hoped that Sonsalla could attend the next meeting tentatively scheduled for January 9th. Bice added hopefully the parties can discuss this and get back to the Committee so there will be some kind of idea as to when this can be put back on the E & LU Committee meeting agenda.

Presentation of proposed changes to Chapter 13 Non-metallic Mining –Trempealeau County Comprehensive Zoning Ordinance – Dave Anderson, Chair –Nonmetallic Mining Advisory Committee

Lien provided the Committee members with the final draft which reflected all the changes which came out of the last meeting of the Advisory Committee. David Anderson, Chairman and Cristeen Custer, member of the Nonmetallic Mining Advisory Committee presented the proposed changes to the Ordinance. Lien stated this was a long process as they started their first meeting in April and it was a very long, detailed process. Lien

turned the meeting over to Anderson and Custer. Brandt wanted to clarify that what they were presenting was the work of the Advisory Committee and this isn't the time for the E & LU Committee to discuss or make decisions on whether or not to support it. Anderson responded that what they were presenting is a recommendation of the changes to the Non-metallic Mining Ordinance which they were asked to come in with. Upon Brandt's inquiry, Lien stated today the Committee will take input from the Advisory Committee. This Committee can then choose to take those changes and amend them or whatever perhaps on another meeting date. At some point in time, if changes are going to be adopted into the Ordinance, a public hearing will need to be held. The public hearing shouldn't be held until there is a final draft. Lien reiterated that these recommended changes can be amended. After a public hearing is held, there can be changes again. Once this Committee has adopted all changes, the revisions then go onto the full County Board where they have another hearing and changes could be made again. Anderson stated he had the honor of chairing this Advisory Committee. The Advisory Committees' task was to look at possible changes to this Ordinance because the Ordinance was written in 1996 and revised in 2006 and dealt primarily with ag limestone and/or aggregate for construction (road, etc.) and really did not address what has been defined as industrial sand/frac sand. Throughout the process, Anderson kept talking about the fact that everyone has property rights – the people who own the land that the sand is on and the property rights of those who are neighbors to such mines. We need to respect all peoples' property rights in order to make this work. A person cannot be completely one sided or it is not going to work. To give a brief overview, Anderson referred to Page 90, #1 was taken out and the new #1 talks about hours of operation based on defined activities in the extraction process and transportation. Extraction basically meaning digging sand out of the ground and getting it to some kind of intermediate processing area. Extraction hours would be limited to 6:00 AM to 8:00 PM during daylight savings time hours which is about eight months of the year and 6:00 AM to 6:00 PM during standard time and would be Monday thru Friday. Saturday hours would be 7:00 AM to 3:00 PM with no extraction on Sundays or holidays. In the original as in this it goes on to talk about the notification when the need arises to work outside those hours to mitigate some natural disaster such as a road being washed out and gravel is needed. "B" talks about the noise emitted which would be limited to the standards that the Advisory Committee set forth. Anderson explained there really is no noise limitation during extraction hours, but during non-extraction hours they have put a noise limit of 45 decibels measured at the property line of the property, which is not necessarily just the mine itself, but whatever property the mine sits on, that property line would be where the 45 decibels is measured. One can process but they have to stay within the sound limitations here. Prior to the mine being permitted, the mine owner/operator would need to present a sound study by a firm that is qualified to do that. In addressing III of the Ordinance, any post construction sound measurement considered within 12 months of the date that the mine is fully operational – in order to make sure that they are staying there. In addressing IV – if the noise level result of the nonmetallic mine exceeds the criteria listed above, a waiver can be granted (if there is a neighbor by which the sound limit is being exceeded and the neighbor signs a waiver, then that will be alright). A permanent waiver would be recorded at the Register of Deeds and would exist as an "easement" on that property. In addressing V, if there are two or more complaints that are received and validated on a particular sight, the studies shall be conducted for any one site with complaints documented. Anderson explained, for example, if someone is a habitual complainer, there is no validity to the noise, then the expense of the study falls back on the person making the complaint. Anderson stated if it is a valid complaint that is one issue, but if someone is just making an invalid complaint then we want to eliminate that. In discussing #7 on Page 92 - 50 foot setback where there are two adjoining property owners permitted for nonmetallic mining, staff will review the mining and reclamation plans for a possible alternative, i.e. rather than having two fifty foot setback areas perhaps that could be combined with neighboring sites and some adjustment can be done. On Page 97, regarding minimum reclamation standards for sites under one acre, the Advisory Committee took out the once acre issue there as they want it to apply to all sites. On Page 98, under 13.05 "Definitions" there were a number of changes. Anderson detailed those changes/definitions. On Page 99 is where the Advisory Committee made the distinction between "industrial sand" and "construction aggregate". Anderson concluded by saying these are the changes that the Advisory Committee is proposing to Trempealeau County's Nonmetallic Mining Ordinance. Custer emphasized the significant change here is in the processing hours. Prior to this, processing took place during the same period of time as the extraction. With these proposed changes, processing will be allowed from 6AM on Monday until 3:00 PM on Saturday continuously. For a

large portion of the week, processing (cleaning, washing, the definitions in the Ordinance) will be allowed as long as they can maintain that activity below a 45 decibel range. Anderson added it applies during the night time hours. Custer added that was correct, it is around the clock from 6:00AM Monday until 3:00 PM on Saturday's. Lien stated he felt the most controversial issue in the whole group was the processing and the noise level and the amount of hours for it. Anderson agreed and added it was probably reaching an agreement on the noise level and the hours. Lien stated this isn't going to work for all sites. This is going to require an applicant to really look closely at where they put/plan facilities. Lien mentioned that the Alpine Materials site was used as an example. Had that site been tucked around a corner it probably could have met this criteria very easily to run 24/7. Lien thought it could still be modified perhaps with insulation or enclosure of the building. Lien stated this gave the industry tools they can use to benefit themselves. If there is a sight where it isn't going to work, it doesn't mean one can't mine, but they would have to mine to the hours that have always been set. Lien felt there was a real good trade-off between what the public would like to see and what the industry wanted. It gives each party some tools to mitigate. Lien added this took a lot of work and perhaps when everyone left a little disgruntled, a good job was done. Both sides didn't necessarily agree wholeheartedly that this was what they wanted, but it was a good trade-off and it took a long time to get there. Lien noted there is a lot of work, study and education behind these recommended changes. Discussion followed. Bice requested everyone to be perfectly quiet in order to measure the noise level in the room. Bice inquired if anyone found the noise in the room objectionable. Several people in the room did find it objectionable. Custer noted she would be unable to sleep with the noise level in this room and that is the issue that the Ordinance came down to – that people deserve quiet in their homes, in the summer with their windows open so that they can have peace and quiet. This is a rural county it is not an industrial or urbanized county. The expectation of living in a rural area is that one will have quiet at night. Geske asked if he worked all night behind Custer's house with a tractor, would Custer would call him and give him a hard time. Custer responded she would not if it was one or two nights at a time. When it is 365 days a year it would become extremely hard to bear. Lien noted the decibel reading was 43.5. Several people raised their hands when Bice inquired who realizes there are noises in the ambient air and would not find it objectionable. Bice found it unobjectionable and voiced that we all have to live here and have to work together. Bice's point being that was very little noise. Bice's pointed out that, at a huge disappointment to him, that the Advisory Committee took a tour of two operating mining, processing and extraction facilities and Bice was the only person that went along from the E & LU Committee. Bice continued that basically this Committee was not invited to go along to observe. Since the E & LU Committee is given the responsibility of making a reasonable decision on this Ordinance, Bice wished this Committee would have gone along. Bice and Lien did many noise studies on these tours. Bice stated, that moving forward, this Committee will be going along with the back-up alarms on the operating equipment that does not have that high pitched beeping sound which will be a huge improvement in the operation of the mines. Bice added he and Lien had a sound meter on that tour and took many different sound readings in many different places, sometimes they were within 200-300 feet of the facility. They were at enclosed and non-enclosed facilities. Bice described the sounds at some of the mines. One of the most annoying thing that showed up during Bice's observation were jet planes. Bice wishes that the E & LU Committee members would have gone on the tour as it is going to be a huge factor whether or not this industry can survive and still meet the acceptable standards. Bice elaborated on different decibel levels throughout the courthouse. Bice's end point was that if we get too restrictive here, we will stifle the ability of industry to survive in our County. This is somewhat of an agriculture area. They run the grain dyers over in the City of Blair, 24/7, when they want to. Bice hopes the people that live in the country don't have to deal with too much inconsiderate noise, but we have to be reasonable as we move forward here. Bice felt the consensus on the tour bus was that most people felt comfortable that this mining was a bit generic and didn't seem to have any major negative impacts. Bice added everything we do has impact and it is important to remember that the noise level in this building is very close to what is accepted at the property line. Bice hopes to demonstrate what a 55 decibel level is so that we can realistically look at this and try to come up with a reasonable decision. At this time, Lien explained that staff went out and took decibel readings at different levels on the Paul Winey property. Budish displayed and explained informative data they had collected at different locations in the vicinity of Alpine Mine. Discussion followed. Custer made the point that the sound 45 is just exclusive of any mining activity, so whatever ambient sound is there, the mine is not responsible for that. It was conceivable that if there was ambient sound, i.e. road

traffic, causing 40-50 decibels, the mine is not responsible for mitigating and addressing the sound created by the mining operation. The Advisory Committee had stripped out the ambient sound from the regulation. Budish continued explaining the sound data collected. Lien commented that the overall noise level average was at or right around that 45 decibel level and that was at a site that is fully operational and not an enclosed site. Upon Bice's request, Custer reiterated that the Ordinance revision does not require the mine to account for the ambient sound. Custer read from the Ordinance revision, "Audible noise due to mining operations shall not exceed 45 decibels". Custer added it doesn't address the ambient sound. Upon Bice stating the ambient sound is always there, Custer responded it is not and that is why the Committee pulled it out as it fluctuates in the season of the year, with the direction of the wind, the location of the operation, proximity to a road, location under a jet pathway, so it varies significantly. To pull out those variables, the Advisory Committee stated the mining operation is only responsible for noise that is generated by their operation, period. Bice inquired how that is sorted out? Custer explained the mine will have to do the testing, and the pretesting and testing are laid out in the revision. If it reaches a situation of complaint, a mine will be asked to shut down and start up so that the sound can be measured at a given time. To clarify, Custer stated they are allowed 45 decibels for their operation – they could have 90 around them and that is the point, but they are only responsible for the noise that is generated by their processing activity. Winey expressed his appreciation for the Committee going out and visiting some of these sites. This is a generic version, but what he has across the road from his home is not generic. Winey's experience is personal, this is what he sees out his front door and his concerns are for the replication of these effects in the county. It is for other individuals that will face this same situation. The decibel level is a number that the Advisory Group wrangled with. Winey would love to see it set at 40 decibels because when Winey wakes up to this noise at 6:00 AM he can hear it through the bedroom wall. Winey's wife and children listen to this all day long. As the mine is set up it is a perfect megaphone which wasn't realized when it was started. So each mine site is going to be different. Winey presented an audible demonstration of different sound clips of his property at various areas. Winey stated his situation will be reproduced at other mines. These larger mines that can buy out boundaries and have flat areas are not going to have the sound amplification/magnification. Winey felt the thing to keep in mind with decibel readings is a 10 decibel increase is a doubling in the perception of the sound; it is logarithmic and not additive. The critical point is that one can look and think about numbers but everyone (Advisory Committee) went away from this table from something they gained or lost. With these revisions, Winey would now have a situation to allow the mine to work and function but it would also allow him to get a nights' rest and it would behoove the mines, if they want to have that processing, gain that money and add to the tax base that they will do it with less impact to the community thus everyone wins. Discussion followed on the different mine sites and whether they were enclosed, the effectiveness of sound barriers, etc. Custer wanted to speak to the issue of compromise and why it took the Committee so long to come back with recommendations. Custer stated there was a really balanced representation on this Committee as there were multiple members of the mining business represented, there were multiple, ordinary citizens some of whom are living next to mines, there were multiple representatives from the township. The reason it took so long is because there were no easy answers for any person. What we see here is what could be agreed on by looking at all aspects of the discussion and one can tweak or change a little bit one way or another but look at this as a balanced representative response from your county business, local leaders and citizens. For the record, Lien stated not one person on that Advisory Committee took mileage or per diem, they did this because they care. This was a group of people that were definitely devoted to the cause. Bice commented that since he was on the tour and spent a lot of time with Lien on this there were many comments of amazement at how little actual noise was being picked up. It was very consistent that the readings were well over the 45 and sometimes higher. The consensus of the people that seemed to take an interest in it was that this was certainly far less objectionable than what everyone had anticipated. In Bice's conversations during the tour, this really is not an issue that is a great deal of concern. Brandt noted that he has probably been on the E & LU Committee longer than anybody who is on the Committee now. One of the most impressive parts of what Trempealeau County does, in terms of governing, is ordinance writing and citizen participation, is the advisory committee concept. It is a way of admitting not everybody knows everything and it is also a way of getting "buy in" from all of the communities that are going to be affected especially by ordinance writing. The predecessor of this Committee (Zoning and Land Conservation) have used advisory committees in its ordinance writing (since 1996 when the original mining ordinance was written). What that

does, in a sense is take us off the hook, even though we are responsible for making the decisions, we get the accumulated wisdom of a dozen or two of other people, some of them specialists, in what it is that we need to be enforcing. In the past it has been the role of this Committee, to express our gratitude, express the thankfulness for all of the time that they have put into it, and accept (as Custer mentioned and Anderson confirmed) that which comes from a lot of hard work from people who are committed to making sure that the process is fair for everybody and then to carry that forward. Brandt added we have been enforcing the Nonmetallic Mining Ordinance since 1996 and it has been successful and stood the test of time and judicial review. Being flexible and committed to change when it is needed and as circumstances change is what the Committee does. What the citizens, professionals and community leaders do to advise us is also something that we appreciate greatly. Brandt applauded Anderson and Custer's work and supports everything that they have brought to the Committee. Bice thought this issue needed discussion. Bice agreed with everything Brandt said, with one exception. Bice stated the Committee did a great job, but to just sit back and let the Advisory Committee "pass the buck" to this Committee, Bice felt the E & LU Committee is responsible to people and it is their job to make sure, moving forward, that we end up with a good policy. Lien stated he did give these revisions to Corporation Counsel for review and received no comment back on it as of yet. Bice asked Winey he if would feel comfortable if the noise level limit were set at the yard line rather than at the property line (in Winey's case they are very close) as Winey had indicated that the yard line is worse than maybe at the property line. Winey responded the loudest noise is actually on his front steps and not at the property line and that is why the Advisory Committee had said, with good sound engineering, you can determine whether the noise is coming from the mine versus something else, that can be separated out. With that, Winey feels things could be mitigated. Winey noted, and this resonated throughout the Committee, that if we don't hear them they are not making noise, so what do we have to object to. It also became very difficult for the DLM to try and monitor. Lien stated the meetings of the Advisory Committee started out with a discussion on a decibel level over ambient noise. Lien has taken the decibel reader home on different occasions and came to the conclusion that ambient noise is a lot different in the middle of the summer than it is today. Just the corn rustling or the leaves on the trees would make the decibel reader jump by 10 – 15 decibels. To take an ambient noise level and then bump it up is really arbitrary as far as enforcement countywide. The industry realized that too therefore it gives them some tools so that they know going in to site things, perhaps, differently. This gives the industry the ability to mine for the given hours of operation as they are right now without any issues. If they want to process 24/7 they might have to take some extra steps such as properly siting the mine, mitigating with a neighbor or putting up some barriers. It gave both sides some tools to work with. Custer reinforced that the Advisory Committee talked a lot about not putting a burden on the County for having unattainable objections for staff to enforce. There were a variety of solutions at times, however it was just too complicated and couldn't afford to be done. The Advisory Committee wanted something industry wanted and that the DLM wanted that could be enforced without undue man hours to manage it. Bice realized this was a difficult situation because we have the ability to create a huge problem for property owners and business owners and people who live near the areas and it comes down to what is acceptable to most. Having said that, this will be put on the agenda for next month and hopefully the Committee can think about it and have a chance to discuss it. Bice being in a similar situation to Winey, in living near a County road, inquired if Winey could trade, would he rather have highway noise or mine noise. Winey responded the mining noise is far worse because of the location where he is at, most of the highway noise goes below Winey's view (it is a very steep cut bank and a very level grade) and they are not accelerating. In regard to mining noise, the trucks accelerating as they are pulling out of Soppa Road onto the State Highway is another noise Winey will have to deal with. Winey added the volume of traffic on Highway 95 is not high even though it is a connecting highway between two major arterials. The mining noise was waking Winey, not the highway noise which Winey is accustomed to. Bice indicated that this item should be placed on next months agenda. Geske stated that since he will no longer be on the Committee, as there is a new FSA chair, he felt the Committee should adopt what the Advisory Committee presented because they put a lot of work into it.

TRM/LWRM Cost Share Payments/Requests – Lien presented the following (LWRM) Land & Water Resource Management and TRM (Targeted Runoff Management) payments for approval.

Land & Water Resource Management (LWRM)

<u>Name</u>	<u>Type</u>	<u>Amount</u>	<u>New CSA Total</u>	<u>Reason for Change</u>
Dan Helgeson	Contract	\$ 798.00	\$ 798.00	Heavy Use Area Protection
Dan Helgeson	Pay Request	\$ 798.00		Certify Heavy Use Area Protection
Dave Tjerstad	Contract	\$ 4,340.00	\$4,340.00	Streambank Protection
Dave Tjerstad	Pay Request	\$ 4,340.00		Certify Streambank Protection
John Vehrenkamp	Contract	\$11,130.00	\$11,130.00	Streambank Protection
John Vehrenkamp	Pay Request	\$11,130.00		Certify Streambank Protection
Oak Ridge Dairies	Contract	\$ 5,943.00	\$5,943.00	Streambank Protection
Oak Ridge Dairies	Pay Request	\$ 5,943.00		Certify Streambank Protection
Larry Cooper	Contract	\$ 8,529.50	\$8,529.50	Heavy Use Area Protection
Larry Cooper	Pay Request	\$ 8,529.50		Certify Heavy Use Area Protection
Michael Boberg	Contract	\$ 968.13	\$ 968.13	Heavy Use Area Protection
Michael Boberg	Pay Request	\$ 968.13		Certify Heavy Use Area Protection

Targeted Runoff Management (TRM)

Jacqueline Nordie	Pay Request	\$17,850.00		Certify Barnyard & Sediment Basin
Michael J. Boberg	Pay Request	\$20,000.00		Certify animal trails, critical area, roofs & waterway systems

Lien noted these are non tax levy dollars as it is grant money received for the specific projects from the State. Brandt made a motion to approve the payments as presented, Thompson seconded, motion carried unopposed.

Certified Survey Map Review Fee Increase – Joe Nelsen, County Surveyor was present. Nelsen stated a \$5.00 increase on the current \$50.00 review is being requested. The goal of that \$5.00 fee is to cover the reproduction/copy costs coming out of the Register of Deeds office. Nelsen stated he keeps a duplicate set of Certified Survey Maps in the County Surveyor’s office for zoning and county surveyor use and to compliment our survey records that are required by state law. Because it is a recorded copy that goes to the Register of Deeds (ROD) office, the ROD is required by State Statute to charge a copy fee every time that copy is made – that being \$2.00 for the first page and \$1.00 for each additional page after that. In the past, the ROD office was not aware that we had duplicate copies and other surveyors in the zoning office and Nelsen would use them. These other surveyors were actually purchasing a copy from DLM at the nominal copy fee which is 20 cents. The ROD office saw that as a violation of State Statutes and Nelsen agreed. There is also a State Statute which requires the surveyor to file a copy of that map in the DLM office. So actually it is two sets of State Statutes that are conflicting. The resolution to the issue, in Nelsen’s opinion, was to add an additional \$5.00 onto the present review fee which would basically cover the DLM’s cost for that copy fee out of the ROD office. At the end of the year we will get an accounting of how many maps came into the County through the course of the year, then a line item transfer for the value of the \$2.00 plus \$1.00 additional for the fee will be made to the ROD office and it will come from basically the same people that purchased it in the first place. Nelsen reiterated it is a way of resolving the two State Statutes that kind of “butt heads”, a way of getting the maps back to where everyone can use them in a common sense, reasonable way and a way of complying with State Statutes for the ROD office. Upon Brandt’s inquiry, Nelsen responded the review fee is presently \$50.00. It will increase \$5.00. There are some maps such as cities and villages that the County doesn’t review but copies are needed of them, so Nelsen felt the \$5.00 increase would cover that additional expense for copies also. If the Committee were to approve this fee, the end result would be a charge of \$55.00 for a CSM review and the DLM would get a copy to put in the survey records for all to use and at the end of the year the ROD office will get that statutorily required fee, based on the \$5.00 additional cost. Brandt made a motion to increase the Certified Survey Map review fee to \$55.00, Quarne seconded, motion carried unopposed.

Surveyor's Report – Lien presented a survey update and bill on T20N, R8W in the Towns of Arcadia, Ettrick and Gale. Lien also presented a survey update and bill on T20N, R9W in the Town of Arcadia. Nelson made a motion to approve the survey bill as presented, Brandt seconded, motion carried unopposed.

Non-Metallic Mining Conditional Use Permit Criteria (Review form from Corporation Counsel) Lien explained that the handout came from Corporation Counsel and is verbatim out of the Comprehensive Zoning Ordinance. Radtke and Lien had discussed the fact that it would be a great advantage to hand this out to the Committee members prior to every public hearing for mining so while listening to the presentation and staff, members can make notes, etc. and apply these items when reviewing an application for nonmetallic mining. In order to save time, Bice encouraged Committee members to study this form. Bice stated some of us have a little different philosophy as he can look at it and say he supports his position because of this, so rather than go through this and take a couple hours to discuss it. Bice stated this item would be on the agenda for next month. If someone says to the Committee that they disagree, that we haven't been following this, or the reason one has voted against something is because of this point, then that is important because we are supposed to follow the Statutes. Bice personally thinks that he has a legitimate reason for the decisions that he makes and he is hoping that, rather than have this fight on the floor here in the middle of a hearing, we should discuss it now so that we can learn each others' perspectives and we can understand where everyone is coming from. Lien felt, regardless of what ones' opinion is, the items on this handout should all be taken into account. Each member should be able to defend or argue any one of these points as to why a decision was made regardless of the decision made. After some discussion, the Committee consensus was that it did not need to be put on next months' agenda.

Set Next Regular Meeting Date – The next regular meeting of the E & LU Committee was scheduled for Wednesday, January 9th, 2013 at 9:00 AM.

Lien thanked Geske for his year of service on the Committee. It was a challenging position and Geske added much to each meeting.

At 11:40 AM, Geske made a motion to adjourn the meeting, Nelson seconded, meeting adjourned.

Respectfully submitted,
Virginette Gamroth, Recording Secretary

Michael Nelson, Secretary