

DENMARK TOWN BOARD MEETING MINUTES  
January 9, 2012

**SUPERVISORS PRESENT:** Kathy Higgins, Steve Kramer, John Kummer, Joe Moore and Jim Keller

**ABSENT:** None

**STAFF PRESENT:** Attorney Troy Gilchrist, Planner Kelsey Johnson and Engineer Ryan Stempski

**CALL TO ORDER:** Meeting called to order @ 7:02 PM by Chair Higgins

**AGENDA APPROVAL: Motion Moore/2<sup>nd</sup> Kramer approval of agenda as submitted.**  
All In Favor. Motion Carried 5-0.

**CONSENT AGENDA APPROVAL: Motion Moore/2<sup>nd</sup> Kramer approval of consent agenda items which include 12/05/2011 Board Meeting Minutes, Claim #9770-9782, EFT payments- PERA 197977, MN Revenue Tax 0733009920, Federal Tax 55501182, payroll ending 01/01/2012 and financial reports.** All In Favor. Motion Carried 5-0.

**HEARING DECISIONS/ZONING ACTIONS:** Rumpca Excavating 5 year Mining Interim Use Permit 13985 80th Street S. Applicants present Joe Rumpca and Karen Sjolander, landowner Ron Magone and Applicant's Attorney Jack Clinton. Rumpca is requesting a 5 year Interim Use Permit to continue to remove and process mined materials and the recycling of concrete and asphalt for the sale of processed products.

In the best interest of the Town, due to Supervisor Kramer's neighboring interest, Attorney Gilchrist recommended Supervisor Kramer step down from the Board and not participate as a Board member during the Board review of the Rumpca IUP request, and suggested that he participate as a member of the public.

Kramer responded by stating that he believes he owes residents of the Town a certain amount of respect, therefore will be involved in the discussion but will not vote.

On 12/20/11, the Denmark Township Planning Commission held a public hearing on the requested IUP application and based on the Planner's 12/14/11 memo outlining findings of fact and proposed conditions (revising conditions 2 and 23), recommended the Town Board approve the request with certain conditions. Attorney Gilchrist submitted 01/09/11 draft permit resolution and 01/03/11 memo with possible alternative language for certain conditions within the draft Rumpca IUP resolution.

Planner's Comments- Before the Board is a request for an Interim Use Permit (IUP) by Rumpca to continue their mining activities on the Magone property. This is the same proposal of activities seen from the previous Conditional Use Permits (CUP) that have been before you and approved by the Town Board and the County. The Development Code for the Town has since been amended which requires this to go through the IUP process as opposed to the CUP process. That's why you'll see differences in terms of what types of conditions and format you're looking at. Washington County reviewed and approved the exact same application in October 2010. Due to a court approved settlement agreement, the Town is out of sync with the County. Traditionally the Town would take action first and the County would follow. Proposal is to continue mining on 80 acres that are owned by Magones, in 3 phases starting east to west, to remove limerock down to an elevation of 900 ft. That was the elevation that was approved as part of the original CUP and is what is continually being reviewed on an annual basis by the County.

One of the questions raised at the Public Hearing relates to the water table, and if there's adequate monitoring taking place to insure that the 900 ft elevation is ok. Planner reviewed the environmental documents that were prepared as part of the original application. Many of the County minutes and reports and all information on file support the 900 ft elevation as adequate. The Washington Conservation District is the entity that regulates that and if they felt that more monitoring needs to be done, that would occur through conversation on an annual basis when permit is reviewed. The removal would happen through blasting, 2 times a yr. also through crushing activities, anticipated approximately at least 60 days each year. That was part of the previous CUP and is continuing those same activities. The same travel route for commercial vehicles will be in place, which was approved with the original CUP. However, as part of the update process, we are recommending there be a separate route allowed as far as any trips used by residents within the Town would be allowed to deviate from that route for personal type trips. Trips per day 150, 75 round trips. New with this application...Initially intended to be included in the original use permit is there be an allowance to stockpile the material being mined and recycled on the property owned by the Magones immediately to the east of the 80 acres. This area has a much lower topography than the existing mine site. There currently is a pond water site that was constructed as part of the original application even further to the east. Property for the stockpile is between the 80 acre eastern line and the stormwater pond. Questions raised at the Planning Commission meeting were the size of the stockpiles and materials that would be stockpiled. Applicant indicates that the material would be class 5 or crushed rock and at the same height as in the CUP (25 ft). Same conditions such as dust control would be applied to this area to the east for the stockpiling. Applicants request for new stockpile location is that in the first phase, they are running out of room to continue the mining activities and the piles aren't going as fast as they are able to be mined. By moving the pile further to the east, it will allow them to get to the bottom of the pit at a faster rate to have more room to operate, and when phase 1 is done,

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all the stockpile material will be moved back onto the 80 acres and the eastern portion will no longer be realized. This is a temporary plan and will not go through the lifetime of the permit. Just until they can get to the bottom of the pit. The crushing location will not be located to the east, it will be located on the 80 acres as far to the bottom of the pit as they can get until they move along. No storage of equipment on the eastern parcel, just the stockpile.

Attorney comments-

Other possible modifications of draft to consider that have arisen since the draft was written. The \$220,000 bond-does it apply to the entire project as stated in the county permit, or does the bond just apply per phase.

Question raised regarding the screening-applicant indicates the screening is finished. Question raised regarding the reclamation. Is it reclaimed per phase or is reclamation to occur when the project is done and then reclaim the whole site.

Question stems from, and perhaps the Applicant will speak to it, in a stage reclamation where things are moving along, or in stage progress of mining, whether it is feasible to reclaim behind where you're mining, as you're mining into a property.

Clinton-preference of options.

**Access routes**-Preference Option 1. For local projects, using the commercial route would cause additional costs. Preference would be opt 1. Adds flexibility to address those situations for residents. Commercial Hauling route would not change.

**Hours of operation**- Preference Option 2.

**Crusher location**- Preference Option 2. For simplicity sake and in keeping with county language. Plan is to keep crusher down as low as possible.

Bond-Not questioning the bond or the necessity posting it. Just that the draft permit is per phase and the \$220,000 is for the entire site, 80 acres. Confirmed that with Dennis O'Donnell and he indicated that usually as a rule of thumb, they use \$3000 an acre of area opened up to mining. The \$ 220, 000 Bond is for the entire parcel, not just phase 1.

Regarding condition 6- Permit indicates the work needs to be done, and is already done. Attorney Gilchrist recommended deleting the last line "Applicant shall implement the plans for the property related to fencing, screening, and/or landscaping."

**Stockpile**- after topsoil is stripped off, there remains overburden (broken up limerock). About 3 ft of overburden is placed on top of the topsoil to keep it from being disturbed. Proposed stockpile on the east will be about 25 ft high and 150-200 ft in diameter. No trees will be removed as the pile will be placed at the lowest part at the edge of the field. Elevation of the property to the east is lower than the pit elevation at this time. Stockpile area will be fenced. Stockpile would be temporary and would be moved back to the 80 acre pit site at the end of phase 1.

**Recycle Products**- product in for recycle is crushed every 2-3 years or sooner.

**Access Route**- Applicant shall notify commercial truck drivers of the need to use the Oakgreen access route for hauling. Both loaded and empty commercial trucks required to use Oakgreen route. The hauling of gravel for use on the Town's roads would not be considered commercial hauling. Product purchased by residents for personal use and commercial hauling within the Town would not require use of the access route.

**Hours of Operation**- Commercial operations are restricted to Monday through Friday. Saturday retail sales are allowed. Town Board or its designee may allow temporary deviations from the established hours/days of operations. Town Board would determine internal process for such requests.

**Groundwater**- In this interim use permit time period, phase 1 will not go to 85 ft or within 15 ft of the water table. The Environmental Impact Statement was issued for the original 80 acre site, not for the proposed stockpile site to the east. The EIS is only required for areas that would be graded, excavated or where material is being moved. Would not be required to be on the property to the east.

**Annual Report**- Requirements of reporting include blasting records, amount of materials removed during the year, and plans for the next year. County performs an annual inspection.

Applicant and Board reviewed and revised conditions within the draft to contain the language as follows:

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Condition 4- Access, Truck Routes and Trips per day

Board consensus to select Option 2. Delete from second sentence "make a reasonable effort to".

Condition 5- Hours of Operation

Board consensus to select Option 2. Remove the last sentence "A request from a public road authority requiring immediate response shall include those requests requiring delivery of materials within two weeks from the request even if the project is not considered an emergency." Rework language to indicate there is an emergency or a public request.

Condition 6- Fencing, Screening and Landscape Plan

Add language to indicate fence will be moved from east side of the pit to encase the stockpile area to the east by 07/15/12. Delete last sentence- " Applicant shall implement the plans for the property related to fencing, screening, and/or landscaping."

Condition 12- Blasting

"does interfere" should read "does not interfere".

The testing devices may be placed in town road right-of-ways, provided such placement does **not** interfere with the safe use or maintenance of the road.

Condition 14- Bond

Remove references indicating bond of \$220,000 covers only phase 1. Bond is for entire project.

Condition 17- Location of Equipment

Board consensus to change title to Location of Crusher Equipment. The crushing equipment must be located in the bottom the pit and meet all required setbacks.

Condition 18- Other Equipment

Add ABC criteria from Condition 17 and delete reference to "for a period of at least 60 days".

Location of Other Equipment-Vehicles (dump trucks, loaders, etc.) used for the mining operation shall be stored so that A)the location must be screened from the neighboring homes to the extent reasonably possible, B) The location must be in or near the bottom of the mining area to reduce noise and visible impacts to neighboring properties, and C) the location must otherwise minimize the impact of the use of the equipment upon surrounding neighbors.

**Motion Moore/2<sup>nd</sup> Kummer to adopt Resolution 2012-01 Approving An Interim Use Permit To Continue To Operate A Gravel Mine On Property Located At 13985 80<sup>th</sup> Street South as discussed, authorizing Attorney Gilchrist to work with staff to make the changes as directed by the Board.**

Discussion: Keller-will this be contingent upon Board members seeing the next draft to assure all changes have been made? This not the final vote or is it? Attorney Gilchrist-this would be the final vote, to continue further would require action for the 60 day rule. Planner-also we are running into the expiration of the current permit. Attorney will send out permit with Board revisions for Board review.

**Voting Yes-Moore, Kummer, Higgins, Keller. Voting NO-None. Abstaining-Kramer. Motion Carried.**

**PUBLIC COMMENT:** None

**BUSINESS ITEMS:**

**2012 Sealcoating:** 2012 sealcoating project will include 110<sup>th</sup> St., 122<sup>nd</sup> St. and 131<sup>st</sup> St. Circle. Engineer's cost estimate is \$43,000.00 for the 30,000 sq yds. Estimate does not include the 6% service charge to Cottage Grove, the Engineering inspection services or the crack seal cost. Denmark budget for 2012 sealcoat is \$60,000.00 Roads Supervisor Kummer spoke with past roads supervisor who recommended proposed sealcoat project. Board consensus to proceed with sealcoat project as submitted. Road tour will be commenced in the spring. Denmark has an agreement with Cottage Grove to combine road services to capture better pricing.

**Fire/Emergency Services:** Lower St. Croix Valley Fire Department attended the December Town Board meeting to introduce Fire/Emergency services that may be available to Denmark. Attorney was requested to review and report on ambulance districts and possible prohibition on changing from ALS service to BLS service. Attorney spoke with the licensing division. An application process, public notice, comment period would be required to change ambulance districts. Matter is determined by the discretionary board. Upon receiving 5 negative public comments the matter would go to a contested case hearing, indicating a rather involved process. Changing service from ALS to BLS would also be reviewed by the discretionary board.

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Fire services are a local contract decision. Fire and ambulance services do not have to be made available from the same source.

A substation in Denmark, which would be 5-10 years out, would bring quicker response time and possibly lower insurance rates for residents at the north end of Denmark. HRFA is in the process of renegotiating the contract which would be for a 5 year term. Board consensus to not pursue at this time. Higgins will contact LSCVFD.

**Electrical Permits:** Denmark has decided to have Cottage Grove Building Department issue electrical permits for Denmark, rather than the State. This would allow residents to have easier access for their permits. Revenues generated from the permits would be allocated between Cottage Grove and the electrical inspector. Ordinance will need to be amended. Attorney is working on a draft for amending the ordinance to allow Cottage Grove to issue the electrical permits. Board consensus to authorize attorney to proceed with ordinance amendment and if necessary, amend the Cottage Grove-Denmark Building Inspection Services contract to include issuance of electrical permits and agricultural certificates of compliance.

**Special Events:** Moved to February agenda.

**Pt. Douglas Property:** Numerous calls have been received regarding a for sale sign on a parcel (Leavitt cemetery) on Pt. Douglas Drive. Apparently the sign was posted on the wrong parcel. The Real Estate Company has been contacted and indicated that they will move the sign to the correct parcel that is listed for sale.

**Krueger Ordinance amendment Request/Wind Turbine:** Krueger's request for an ordinance amendment was denied at the County. Krueger's are not requesting Township review of their application and have requested the return of their escrow and application fees. Clerk will send back checks.

**Washington County Meeting:** Keller attended the County meeting which addressed possible amendments to the County wind energy system ordinance. Keller also attended the Washington Conservation District's open house. Historical society is attempting to purchase the old school house on St. Croix Trail.

**LEGAL UPDATES:**

**Planning & Engineering Contracts:** WSB Planning contract has been executed. Focus Engineering contract is still being reviewed.

**Pribnow Lot Line Adjustment:** Legals may need to be revised.

10:04 PM **Motion Moore/2nd Kramer to adjourn.** All In Favor. Motion Carried 5-0.

Becky Herman  
Denmark Township Clerk/Treasurer

Addendum Resolution 2012-01

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**DENMARK TOWNSHIP  
WASHINGTON COUNTY, MINNESOTA  
RESOLUTION NO. 2012-01  
RESOLUTION APPROVING AN INTERIM USE PERMIT  
TO CONTINUE TO OPERATE A GRAVEL MINE ON  
PROPERTY LOCATED AT 13985 80<sup>TH</sup> STREET SOUTH**

**WHEREAS**, Rumpca Excavating, Incorporated ("Applicant") has been operating a gravel mine pursuant to a conditional use permit issued by Denmark Township ("Town CUP") and a conditional use permit issued by Washington County ("County CUP") on property owned by Ronald Magone, Helen Magone, GeorgAnn Biscoe as guardian for David Magone, and GeorgAnn Biscoe (collectively the "Owners") located at 13985 80<sup>th</sup> Street South (PID 1702720110001 and PID 1702720130001) in Denmark Township, Washington County, Minnesota ("Town") and legally described in Exhibit A, which is attached hereto and made part of this Resolution ("Property");

**WHEREAS**, the Applicant submitted an application to the Town seeking an interim use permit ("IUP"), pursuant to the amended Denmark Development Code ("Ordinance") which now classifies mining as requiring an IUP, for its mining operation to replace the Town CUP which expires on January 31, 2012;

**WHEREAS**, the Applicant leases the Property from the Owners and the access drive to the Property is located on an adjacent parcel (PID 1602720220001) that provides access to 80<sup>th</sup> Street South;

**WHEREAS**, the Applicant is requesting that it be allowed to temporarily stockpile material immediately to the east of the Property on an adjacent parcel (PID 1602720230001), the same parcel on which the erosion control pond is located ("Eastern Parcel");

**WHEREAS**, the Denmark Township Planning Commission held a public hearing on the requested IUP application on December 20, 2011, heard from the Applicant and the public, and took action to recommend that the Town Board approve the requested application for the IUP with certain conditions; and

**WHEREAS**, the Town Board reviewed the Planning Commission's recommendation at its meeting on January 9, 2012, took additional comments from the public, and hereby finds and determines as follows:

- a. The report submitted to the Town from the Town's Planner and Engineer dated December 14, 2011 is incorporated herein by reference including, but not limited to, the findings contained therein. The proposed permit conditions contained in the report were modified by the Town and are replaced with the conditions contained in this Resolution; and
- b. The Town Board determines the application materials are sufficient, the proposed continuation of the mining operation, with the limited use of the Eastern Parcel as described herein, satisfies the criteria in the Ordinance for granting an IUP.

**NOW, THEREFORE, BE IT RESOLVED**, that, based on the record of this matter, and the findings and determines contained herein, the Town Board of Denmark Township hereby approves and issues an IUP for the continued operation of mine (gravel and limestone quarry and surfacing material recycling facility) as described herein on the Property provided the Applicant complies with, and remains in compliance with, all of the following conditions and limitations:

1. Scope of Permit. This permit allows for the extraction and processing of sand, gravel, limestone and recycling of used concrete, aggregate and asphalt on the Property (collectively referred to herein as "mining"). Applicants shall excavate the mining area in three phases as shown on the application map as Phase 1, Phase 2 and Phase 3. The recycling of product (crushed blacktop and concrete) is allowed provided that the material is stored on the pit floor, or temporarily on the portion of the Magone property identified as a temporary stockpile area located immediately to the east of the Phase 1, as identified by the Applicant and approved by the Town. Any stockpile located on the Eastern Parcel shall be removed and the Eastern Parcel restored before any mining of Phase 2 may begin. Thereafter, all stockpiling shall occur only within the mining area on the Property (not on the Eastern Parcel). Said materials are to be screened, to the greatest extent reasonably possible, from the road and all property lines. Soil is allowed to be brought onto the site for restoration purposes and the Applicant shall notify the Town when the material is brought in and identify the source of the soils (community of origin). No contaminated soil is allowed on the site. A maximum of two (2) years supply of recycled material is allowed on site at any one time. Applicant shall submit a detailed estimate of the quantity and types of materials brought onto the site to the Town in the annual report. All recycled materials must be removed once every three (3) years. All scrap from the process shall be hauled to an appropriate licensed scrap yard facility. No other imported materials, other than specified above, are allowed without first securing an amended interim use permit from the Town.

As overburden is removed all topsoil must be stockpiled. All topsoil must remain at the site and be seeded with temporary cover until the time it is reused on the site. Applicant shall berm the topsoil within the fifty foot setback along the property lines and perimeter of the Property to screen the mining area. Applicant shall maintain a 40 foot gate at the entrance of the Property and the haul road.

The depth of the excavation is hereby limited to an elevation of 900 feet. No excavation shall occur within the fifty (50) foot setback area. The Applicant is not allowed to excavate to the water table, which is currently estimated to be at 885 feet. The site is currently at approximately 960 feet. A registered surveyor must certify the mining depth annually and this information shall be included in the annual report to the Town as required by this permit.

2. Term of Permit. The term of the permit shall be for a period of five (5) years from February 1, 2012 to January 31, 2017. This permit shall terminate on January 31, 2017. The Applicant shall notify the Town in writing within ten (10) days of the transfer of the Property as required by the Ordinance. An amendment to the Denmark Development Code shall not be a terminating

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event. All uses of the Property allowed under this permit must cease upon the termination or revocation of this permit. The Applicant may apply for a new permit before the expiration of this permit.

3. Erosion Control and Drainage. Applicant's grading and drainage plans must be approved by the Town Engineer and the Town Engineer will make any necessary recommendations to ensure that the site is in compliance with drainage standards. Erosion control barriers such as silt fences shall be placed down gradient of exposed soils or other materials. Drainage during the mining process must be contained on-site. All recommendations of the Washington Conservation District shall be followed. The Applicant shall be responsible for maintaining all erosion control measures and stormwater ponds on the site at its sole cost and expense. As the gravel vein is mined, modifications to the grading and drainage plans for the Property may be necessary in order to properly deal with erosion and drainage controls for the site.
4. Access, Truck Routes and Trips per day. The "access route" for the gravel mine for commercial trucking purposes will be from the access driveway, onto 80<sup>th</sup> Street, as described below, west to Oakgreen Avenue South, and continuing north on Oakgreen Avenue South, to 70<sup>th</sup> Street South. The Applicant shall notify commercial truck drivers of the need to use the access route for hauling, regardless of whether the trucks are loaded or unloaded. The hauling of gravel by the Town or its contractors for use on the Town's roads shall not be considered commercial trucking purposes or commercial hauling for the purposes of this permit. Local drop-off or pick-up of materials by non-commercial truck traffic, and commercial hauling for delivery only within the Town, are not required to utilize the access route as listed above, but shall be required to use the established driveway entrance to the Property.

Applicant agrees to maintain the access route, at its own expense, as a paved blacktopped road, 24 feet wide, with 2-foot gravel shoulders, sufficient to accommodate the anticipated traffic generated by the use. Applicant agrees to perform routine maintenance on the access route, including but not limited to, grading, crack sealing, pot hole filling, patching overlaying and other routine maintenance, as needed. The Town shall continue to provide snowplowing, sanding and salting, ditch mowing and seal coating, if any, as reasonably determined by the Town Board.

Applicant, at its own expense, will maintain a driveway entrance from the Property onto 80<sup>th</sup> Street; the driveway entrance is approximately 60 feet to the east of the current driveway location that is east of the intersection of 80<sup>th</sup> Street and Oakgreen Avenue South. If, after mining ceases, the Property is developed, the Town, pursuant to the Denmark Development Code, may designate a different access point onto 80<sup>th</sup> Street from the Property than is referred to above.

Any stop signs or other road signage to be installed, near or at the intersection, of 80<sup>th</sup> Street and Oakgreen Avenue South will be the responsibility of the Town.

The driveway entrance from the gravel pit to 80<sup>th</sup> Street shall be crushed black top or paved with asphalt in order to reduce the dust and provide an adequate hauling surface. Approximately 6 employees would be on site during peak use of the Property.

Applicant shall provide the Town with telephone numbers of local contact personnel who can handle complaint calls regarding the traffic, dust, and noise.

Applicant shall not haul more than 150 trips per day (75 round-trips).

5. Hours of Operation. Applicant shall be allowed to conduct business year round. Operation of equipment for excavating, stockpiling, processing and hauling shall be conducted between the hours of 7:00 a.m. and 6:00 p.m., Monday through Friday. Retail sale of product is also allowed on Saturdays between the hours of 8:00 a.m. and 5:00 p.m. For purposes of this permit, "retail sales" shall mean sale of product to individuals for personal use and shall exclude commercial hauling. Except as provided herein, no operations shall be allowed on weekends or on holidays.

The Town, by a vote of the Town Board, may allow temporary deviations from the established hours or days of operation upon written request of the Applicant without having to amend this permit. In the event of an emergency (such as floods) requiring immediate response or extended work schedules, or upon a request of a public road authority requiring the delivery of materials after hours or on weekends, the Town Board, or its designee, may allow a modification of the hours or days of operation to enable the Applicant to adequately address the need for materials to respond to the emergency, the preparation for a reasonably anticipated emergency, or to satisfy the request of the public road authority.

6. Fencing, Screening and Landscape Plan. The overall mining area must remain fenced with a minimum of three strands of high tensile fencing. The fencing shall be moved or expanded as needed to also fence the temporary stockpile to be located on the Eastern Parcel. The fencing around the temporary stockpile shall be installed by July 15, 2012, unless otherwise approved by the Town Board, and shall remain during the entire time materials are stockpiled on the Eastern Parcel. Warning signs must be placed at reasonable intervals along the fence to warn the public of the mining area. The fencing and warning signs must be maintained in good working order at all times, including the prompt repair of any damage. Applicant shall construct and maintain such additional berms along the setback of the Property as needed to screen the operations as mining progresses on the Property.
7. Dust and Dirt. The operation shall construct, maintain, and operate all equipment in such a manner as to minimize dust conditions. All operations shall meet the applicable requirements of the Minnesota Pollution Control Agency. Dust control

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material must be applied by the operator to travel routes and other areas subject to disturbance within the Property. The tracking of materials onto public roads shall be minimized. Applicant shall be responsible for removing any materials that accumulate on the public road at or near the driveway entrance to the Property.

Equipment shall be maintained in safe condition in accordance with accepted industrial practices.

8. Signage. Before putting up any additional signage, the Applicant must obtain a permit from the Town and the sign must conform to the requirements of the Denmark Development Code.
9. Restoration. Restoration of the Property must be undertaken and completed in accordance with the reclamation plan submitted as part of the application materials. The reclamation shall occur within one year of the completion of each phase of a vein. Restoration of the entire mining site shall be required within one year of the Applicant permanently ceasing its mining activities on the Property or within one year of the expiration or termination of this permit if a new permit is not obtained within 90 days of such expiration or termination. The slopes after restoration shall not have greater than a 4 to 1 slope and the Applicant shall place at least 4 inches of topsoil over the area along with seeded mulch. Permanent vegetation must be established for the site as recommended by the Washington County Conservation District. Applicant shall report on its restoration work as part of its annual report to the Town.
10. Weeds. The Applicant shall take appropriate and necessary action to control and remove weeds and noxious weeds from the Property.
11. Noise. The Applicant shall comply with all applicable federal, state, and local laws, rules, regulations, and ordinances regarding noise in the operation of the business on the Property.
12. Blasting. Blasting may occur only between the hours of 8:00 a.m. and 4:00 p.m., Monday through Friday. At least 10 days prior to the date of planned blasting activities Applicant shall provide the Town a written notice of intent to blast. The Town understands that an exact date of blasting may not be known or may need to be changed because of weather conditions, provided the change does not lessen any required period of notice. The Applicant shall also provide a notice of intent to blast to residents within one-half (1/2) mile of the Property at least twenty-four (24) hours in advance of any blasting. The notice to residents may be by phone, including a recorded message, and/or by mail provided the notice is received at least 24 hours before blasting occurs. Mailing the notice at least five days before the day on which blasting is planned to occur shall be deemed sufficient notice. Furthermore, the Town understands that blasting may occur over a period of days and that it is not practical to provide separate notices for each blast occurring over the period of days. As such, one notice shall be sufficient for a period of up to five (5) consecutive business days (excluding weekends and holidays) of blasting. The notice shall describe the proposed number of blasts over the entire period. The Applicant shall also telephone the Town at least 24 hours before any blasting. No blasting is allowed on holidays or weekends. Each blast must be conducted in accordance with the Bureau of Mines recommended standards for vibration and air blast. For each blast, seismic and decibel information must be recorded by an independent contractor and that information provided the Town as part of the Applicant's annual report. The testing devices may be placed in town road right-of-ways, provided such placement does not interfere with the safe use or maintenance of the road. No testing equipment may be placed on the private property of others without the owner's consent. The storage of explosives on the site is prohibited.
13. Insurance. The Applicant shall carry bodily injury and property damage public liability insurance in the amount of at least One and One Half Million Dollars and NO/100 (\$ 1,500,000) naming Denmark Township as an additional insured. The Applicant shall annually provide, as part of its report, a certificate of insurance showing at least the required amount of insurance coverage and that the Town is named as an additional insured.
14. Bond. Applicant shall provide a surety bond in the amount of \$220,000 until all mining operations and final restorations are completed. The bond shall ensure the Property is fully restored as required herein upon the completion of mining activities on all of the phases, upon the termination of this permit without obtaining a new permit, or upon the permanent cessation of mining activities as provided herein. The bond shall continue for an additional eighteen months after the work is completed to assure compliance with all of the terms and conditions of this permit and full restoration of the Property. Such bond shall be made by an insurance company or other financial institution acceptable to the Town and shall be in a form to be approved by the Town attorney. Said bond shall be in such terms as may be required to assure full, prompt, and faithful performance of all its closure obligations for the Property under this permit and the payment of losses, damage and expense incurred or suffered, including attorney's fees, as a result of any failure, refusal or inability of Applicant to perform its closure obligations or to recover under said bond. The bond shall provide that no waiver or delay or neglect of enforcement of any obligation of Applicant shall affect the right of the Town to recover under said bond, and that no claim or demand for payment on the bond shall be made unless written notice of default and reasonable opportunity (not less than 30 days) to cure said alleged default shall have first been given to Applicant. This permit shall not be effective until the bond is in full force and effect. This permit shall terminate upon any lapse in the bond.
15. Annual Report Required. An annual report shall be submitted to the Town on or before the 1<sup>st</sup> day of February of each year. Said plan shall outline the activities and amounts of materials removed during the year and plans for the next year. The report shall include all of the information required by this permit including, but not limited to, evidence that the insurance and

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restoration bond are effective and in place. In addition, Applicant shall keep a record of all complaints made about the operation of the mine and the measures taken to deal with the complaint.

16. Fuel Storage. There shall be no on-site storage of fuel, except that the fuel for the generators shall be stored in the crushing trailers. Applicant shall ensure that the fuel is properly stored according to state and federal guidelines. Applicant shall ensure that an on-site emergency spill recovery system is present at all times the mine is in operation. All spills that are required to be reported shall be reported to the 24-hour Minnesota Statewide Emergency within 12 hours, and to the Washington County Department of Public Works and Denmark Town within 24 hours.
17. Location of Crushing Equipment. The crushing equipment must be located in the bottom of the pit and meet all required setbacks.
18. Location of Other Equipment. Vehicles (dump trucks, loaders, etc.) used for the mining operation shall be stored so that they are:
  - A. Screened from the neighboring homes to the extent reasonably possible;
  - B. In or near the bottom of the mining area to reduce noise and visible impacts to neighboring properties; and
  - C. Otherwise minimize the impact of the use of the equipment upon the surrounding neighbors.
 In order to store the equipment in a way that best satisfies the above criteria, which is in or near the bottom of the pit, the stockpiles in Phase 1 shall be moved or depleted as needed to allow the equipment to be moved by no later than July 15, 2012, unless otherwise approved by the Town Board.
19. Chemicals. No hazardous chemicals are allowed to be stored on the property other than fuel storage as outlined in this permit. Applicant shall notify the Hastings Fire Department about the existence and location of the storage of any chemicals on the site. Applicant shall comply with any and all recommendations of the fire chief regarding storage of said chemicals on the site.
20. Inspections. The Town, its officers, and consultants may enter the Property, after providing reasonable notice to the Applicant, at all reasonable times to conduct inspections for the purpose of ensuring compliance with this permit. Prior notice to inspect the Property is not required in the event of an emergency.
21. Amended Permit. Any alteration of the use of the Property, or of any plans submitted related to those uses, including, but not limited to, expansion of the use beyond what is allowed by this permit, shall not be permitted unless an amended interim use permit is obtained from the Town.
22. Revocation. The violation of any term or conditions of this permit including, but not limited to, any applicable federal, state, or local laws, rules, regulations, and ordinances, may result in revocation of the permit. The operator shall be given written notice of any violation and reasonable time (not less than 30 days) to cure the violation before a revocation of the permit may occur.
23. Binding Effect. The permit and its conditions are binding on the parties, their successors and assigns, and shall run with the Property until the permit is terminated or revoked as provided herein.
24. Host Fees. In the event that the Minnesota Legislature approves host fees, Applicant shall pay to the Town the fees which are allowed by the legislation.
25. Legal Compliance. This permit is subject to the requirements of the Town's ordinances and the Applicant is required to comply with all applicable federal, state and local laws, rules and ordinances, and to obtain such other permits or permissions as may be required.
26. Only Permit. This permit supersedes and replaces any other permits previously issued by the Town for the mining operation on this Property and all such previous permits are hereby repealed.
27. Acceptance of Conditions. Utilization of the Property for any of the uses allowed by this permit shall automatically be deemed acceptance of, and agreement to, the terms and conditions of the permit without qualification, reservation, or exception.
28. No Waiver. A failure by the Town to take action with respect to any violation of any condition, covenant or term of this permit shall not be deemed to be a waiver of such condition, covenant, or term or any subsequent violation of the same or any other condition, covenant or term.
29. Town Costs. The Applicant shall pay all application fees and pay, from the escrow or in addition to the escrow if it is not sufficient, the costs the Town incurred related to processing this application. The Applicant shall ensure that its escrow account is current before this permit becomes operational.

Adopted this 9<sup>th</sup> day of January, 2012

**BY THE TOWN BOARD**

**EXHIBIT A**

Legal Description of the Property

East ½ of the Northeast Quarter, together with the South ½ of the West ½ of the Northeast Quarter, of Section 17, Township 27 North, Range 20 West, Washington County, Minnesota.