

Potential SAND MINE CONDITIONS

**General:**

- 1) The operator must notify the Monroe County Zoning office in advance of any changes in ownership, operator, lease terms, or haul route.
- 2) The operator is responsible to obtain a cultural resource site review performed by the DNR and the report must be forwarded on to the Monroe County Zoning office. Results of such site review may require review of this conditional use permit.
- 3) A County Sanitary Permit is required when applicable.
- 4) A Zoning Permit must be issued for any applicable building development in regards to the issuance of this Conditional Use Permit.
- 5) A Shoreland Zoning Permit and/or Floodplain Land Use Permit must be issued when applicable in regards to the issuance of this Conditional Use Permit.
- 6) The operator shall provide notice to the County of any notices of violation, citations, or other enforcement actions taken by any other governmental body against the mining operation within the County.
- 7) The Operator shall establish and advertise a telephone number that will address local resident's complaints regarding mine operations.
- 8) A representative from the Operator's company shall regularly attend Town Board meetings, as determined appropriate by the Town Board Chairman.
- 9) This conditional use permit is transferable and shall run with the land. The new Operator shall assume all responsibility for compliance with the requirements and standards of this Conditional Use Permit.
- 10) If any condition found to be unlawful the remainder of the conditions will remain in effect.

**Mine Operations:**

- 11) Method of extraction is limited to surface mining only.
- 12) Wet processing facility only throughout the life of the mine.
- 13) The operator shall remove all non-metallic minerals from the site through the use of rail transport, if available within *2 miles* of the site.
- 14) A 24-hour notice will be given to landowners located within 2500' of the blasting area. Operator will comply with all applicable Federal and State regulations in regards to the proper permitting procedure and ensuring blasting protocol is followed. *Does this duplicate regulations?*
- 15) Setbacks from the mine boundary to adjoining property lines may be considered as follows:
  - For sandy soils a horizontal: vertical slope ratio of 6:1 shall be maintained.
  - For other soil types a horizontal: vertical slope ratio of 3:1 shall be maintained as required per NR 135.
  - Steeper slopes may be considered if it can be proven by a registered engineer that the site will remain stable.
- 16) No excavation shall take place within *100* feet from the right-of-way line of a public road.
- 17) No excavation shall take place, nor shall the slope of the natural land surface be altered as such excavation, nor shall the storage of materials take place nearer than *50 or 100* feet to any property boundary. This setback shall not apply where the adjoining property is used for mineral extraction.
- 18) The operator shall stake or otherwise mark the borders of the entire site and shall secure the site by fencing or other appropriate measures to assure safety of the local community.
- 19) *No topsoil or subsoil will be allowed to leave the site during the entirety of the site operations.*
- 20) No solid waste materials shall be used in site reclamation or shall be deposited/stored/ or disposed of at the site before receiving all necessary solid waste permits or approvals as required by town, county, state, or federal laws or ordinances.
- 21) In the event that on-site fuel storage is planned, a fuel storage area that complies with WI Administrative Code SPS 310 shall be established at a fueling station located outside the mine excavation area. A fueling pad constructed of concrete or compacted base material shall be implemented as part of the fueling

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station. Fueling of highly mobile vehicles such as rubber tire loaders shall occur on the constructed fueling pad.

- 22) Operator will be responsible for compliance with any federal, state, or local HAZMAT requirements and any other rules, regulations, laws, and/or guidelines; approval of conditional use permit does not constitute approval of reclamation plan or any other federal, state, or local requirements. *Does this duplicate regulations?*
- 23) Safety measures should be installed and maintained as needed following the regulations of the MSHA (Mine Safety and Health Administration). For example; signage for roadways, approved blasting methods, berms, etc.

**Hours of Operation:**

- 24) Hours of operation are 7:00 a.m. – 6:00 p.m. Monday through Friday.
- 25) No hauling of product on weekends.
- 26) Saturday hours of operation are 7:00 a.m. – 5:00 p.m. for the mine only.
- 27) The mine operator shall limit normal hours of operations to 10 hours a day Monday through Friday during daylight hours and not later than 6:00pm to minimize off-site impacts to residents. The operator may submit a plan for additional extended hours as a special exception, if it can demonstrate that additional hours are necessary for the mining operation and it would be consistent with public, health safety and welfare.
- 28) Mining will occur during daylight hours only.
- 29) The operator shall ensure that trucks from the mining site shall not interfere with the safety of children being taken or returned from school, or the safety of residents and commuters at times when traffic volume from commuters going to and from work is highest.

**Access:**

- 30) Access road into quarry must be secured prior to any product leaving the site.
- 31) Address number will be applied for and issued for the site.

**Roads:**

- 32) Operator must enter into maintenance and upgrade agreement for affected County highways, bridges and culverts with Monroe County Highway Department for the life of the mine prior to excavation. The County may require quarterly bridge and culvert inspections at the expense of the Operator.
- 33) Operator must enter into maintenance and upgrade agreement for affected town roads, bridges and culverts with the Town(s) of \*\*\*\*\* for the life of the mine prior to excavation. The Town(s) may require quarterly bridge and culvert inspections at the expense of the Operator.
- 34) Public roadway will be kept free of mud/gravel deposited by truck traffic.

**Dust control:**

- 35) Tracking pad must be paved at a minimum of 200' from a public road. Also, install a tire bath or an equivalent method to clean the tires of trucks before entering a public road. Paving/tire bath must be complete prior to any product leaving the site.
- 36) Trucks transporting material outside the property boundaries shall be covered.
- 37) The operator shall utilize all relevant dust control measures specified in Wis. Admin. Code § NR 415.075. In addition, dust monitors shall be placed within 500 feet of the property boundary of an adjoining land owner. *Questions: Who would receive the readings from these monitors? What are they looking for? Size of particles and quantity of particles? What would the consequences be for high levels or undesirable results? Who would enforce the correction of this? Is something like this already required by the DNR?*

**Aesthetics:**

- 38) Existing perimeter tree canopy (at highest points of elevation) must remain to keep the visual appearance, aesthetics and reduce dust/noise from leaving the proposed mining area
- 39) The operator shall screen the mining operation from the public view to the maximum extent practicable through the use of berms, additional setbacks or other measures.

**Noise:**

- 40) The operator shall control off-site noise levels to the maximum extent practicable. The operator shall use best management practices to keep noise from nonmetallic mining activity at or below *sixty(60)* decibels (dba) at the property boundary. These practices include the use of mining, safety and health administration (MSHA) approved “white noise” back up alarms, and properly maintained mufflers on mining equipment. Strobe type back up alarms will be used to the maximum extent possible. Earthen berms will be built in accordance with the approved reclamation plan which will provide a substantial reduction of sound at the property boundary. Should the aforementioned measures fail to keep noise levels at or below 60 decibels, the operator will plant small trees or shrubs along the top of the berm to further reduce noise levels. The operator will also meet with County officials and work towards reducing any other noise levels which are determined to be above the 60 dba level. The berms constructed by the operator on and adjacent to the Property shall be maintained in their present configuration in a good and erosion free condition. During the first year of full operation, analysis will be conducted to determine if other vegetation including small trees should be planted on the berms to improve dust migration. Berms only serve purpose during life of the mine so trees will not be permanent fixtures. *Questions: Who will measure the dba levels? Who will do the analysis during the first year? (Sec. 47-678(d) requires that noise from wind energy facilities shall not exceed 55 dba at an inhabited structure.)*

**Lighting:**

- 41) The operator shall limit night lighting on site, to that which is minimally necessary for security and whenever possible shall be shielded from illumination off-site areas. Every effort consistent with legal requirements for aerial safety shall be made to minimize illumination of the night sky. All lights must have full cut-off shrouds so that no light is directed upward or at structures not on the property. Portable lighting shall be used only as necessary to illuminate work areas.

**Erosion control:**

- 42) In the event that the overall mine property boundary contains areas adjacent to the active nonmetallic mining site/operations that are being used for agricultural, commercial or residential purposes, the operator shall undertake all measures necessary to control surface water runoff from those areas from entering mining site/operations or otherwise causing contamination of surface water and groundwater.

**Groundwater & Surface Water:**

- 43) Mining operations shall have at least one monitoring well for every 5-acre sector of the mine site, and the operator shall take quarterly samples for lead, arsenic and any other toxic metal that may be reasonable be believed to be present in the area or in the type of deposit from which the extraction will be made. *Questions: Is there a reporting requirement and to whom? What are the consequences if contamination found?*
- 44) Mining operations shall not cause a significant reduction in the quality of groundwater available for reasonable use by current users within 1 mile of the mine site. A significant reduction is a drop in the water table that results in a substantial adverse impact on a private well including but not limited to the inability of the well to provide water on a continuous basis. *Questions: Who will do the baseline testing?*
- 45) Mining operations shall not cause a lowering of the groundwater table that results in adverse effects on surface waters within 1 mile of the mine site, including but not limited to, a reduction of water in streams and tributaries to or below base flows established prior to the beginning of the mining operations. *Questions: Who will establish base flows and who will monitor the flows during the life of the mine?*
- 46) Mining operations shall not cause a lowering of the groundwater table that results in adverse effects on surface waters which serve as a critical source of water for agricultural or municipal functions such as fire protection within 1 mile of the mine site. Adverse effects include but are not limited to, a reduction of water in streams and tributaries to or below base flows established prior to the beginning of the mining operations. *Questions: Who will establish base flows and who will monitor the flows during the life of the mine?*
- 47) Sediment ponds must be lined to prevent leaching into the groundwater.

**Financial Assurance.**

- 48) Financial assurance shall be provided to the County and Town(s) in the amount necessary for the following:
  - A) Road/Bridge/Culvert repair. An amount necessary for the repair and maintenance of all roads, bridges and culverts used for truck traffic transporting materials to and from the site.
  - B) Water Supply. An amount necessary to provide an alternative water supply to potentially affected residences or agricultural operations within 1 mile of the site or such other area shown to be impacted by the operator's operations.
- 49) The form of financial assurance made to the County of Monroe or Town(s) shall be that form agreed to by the County and Town(s) respectively. Financial assurance may include performance bonds, irrevocable letters of credit or other measures agreed upon by the County or Town(s) respectively. *Questions: Who exactly agrees to this? County Board, as specific Committee, the Administrator?*
- 50) In the event the County or Town(s) determines that the amount of financial assurance must be increased to meet specific road repair or water supply needs, or the amount available has been utilized, the County or Town(s) shall notify the operator of the additional amount needed and the basis for the request. The operator shall have 30 days to provide the increased amount. *Questions: Who exactly makes that determination and who contacts the operator?*

### **Damages to Private Water Supply.**

- 51) Prior to commencing operations, the operator is responsible for conducting water quality tests for all private and public wells within 1 mile of any mining operations to provide an initial water quality baseline. The test will determine pH and concentrations of XXXX, as a minimum. Test results will be provided to applicable property owners.
- 52) A property owner within 1 mile of the mine site may seek remedies for any of the following damages to private water supply:
  - A) A preventative action limit or enforcement standard is exceeded in a private water supply well on the owner's property.
  - B) A substantial adverse impact on the quantity of water from a private well on the owner's property occurs, including but not limited to the inability of any such well to provide water on a continuous basis.
  - C) A lowering of surface waters which serve as source of water for personal, agricultural or municipal functions on the owner's property to levels below base flow levels for more than 5 days.
- 53) Any property owner seeking such remedy shall simultaneously file a notice with the County and the mine operator of the occurrence of the event explaining the nature and extent of the problem. *Questions: Who exactly at the county would a property owner file a complaint with?*
- 54) Within 24 hours of receipt of such notice the County may use funds provided by the financial assurance required to provide an adequate interim water supply. *Questions: Who exactly would have access to the financial assurance for use in these situations?*
- 55) Within 20 days of receipt of notice the mine operator shall provide to the property owner and to the County a report that demonstrates that the impact to the property owner was not attributable to the mining operation or to present a plan for a permanent alternative water supply to be paid by the operator. An intern water supply shall continue until the County has approved the report or plan submitted by the operator. *Questions: Who at the county will review these reports? Hire a consultant? Use the DNR?*
- 56) The County shall in consultation with the property owner review the report or plan and approve or deny such plan if the County determines that the mine operator was not the cause of damage to the prove water supply, the operator may elect to be reimbursed by the property owner for the costs of supplying water during a period not exceeding one year. *Questions: Who at the County would be able to determine this? Hire an outside consultant? Use the DNR?*
- 57) A property owner beyond 1 mile of the mine site may apply to the County for use of funds to remedy damages to a private water supply provided that the property owner can demonstrate to the County that the damage to the private water supply was caused by the mine. If the County determines that the damage was caused by the mine, the property owner can utilized the remedies above. *Questions: Who at the County will make this determination? Hire an outside consultant? Use the DNR?*

**Property Value Guaranty:**

58) Upon the execution of the attached agreement (“effective date”) and until one year prior to the proposed site termination (“termination date”), the Operator will provide property value Guaranty (“Guaranty”) to property owners within *1 mile* of the mine site, subject to the following terms and conditions. *Will need to be reworded. Monroe County will not have an agreement and no termination date.*

A) Determination of Comparative Market Analysis (CMA).

- 1) An owner desiring to sell property shall notify the operator of that fact not later than the *Termination Date*.
- 2) The owner and the operator shall then agree on a realtor who is licensed in Wisconsin.
- 3) The realtor selected shall provide the operator and the owner with a calculation of the marketable value of the property, assuming the operator’s site did not exist (“Comparative Market Analysis or CMA”).
- 4) The operator shall pay for the CMA.

B) Sale of Property.

- 1) The owner shall then enter into a listing contract with a Wisconsin licensed real estate broker. The listing contract shall exclude the operator as a potential buyer so that if the operator purchases the property, no commission shall be due.
- 2) Before accepting any offer of less than the CMA, the owner shall give notice by fax, email or personal delivery with a copy of the offer to the operator. If notice is by fax or email, it shall also require confirmed receipt by the operator that the notice has been received within two (2) business days. If the operator objects in writing within two (2) business days, the owner shall not accept such offer.
- 3) If the owner sells the property for less than the CMA, the operator shall pay the owner the difference between the selling price and the CMA less the realtor’s commission that would have been payable on that difference. The operator shall make the payment within 30 days of the recording of the conveyance of the property.
- 4) If the property is not sold within 180 days of the date of the listing contract, the operator shall immediately purchase the property of the CMA less the realtor’s commission that would have been paid if sold under the listing contract.

C) Applicability.

- 1) The Guaranty shall apply only once for any property and shall only be available to the adjoining land owners as of the *Effective Date*.
- 2) Properties do not qualify for the Guaranty in the event the property owner wishes to sell or otherwise convey the property to a third-party by a transaction which is not considered an arm’s-length transaction (such as a sale or gift to a relative).

**Definitions:** For the purpose of this Conditional Use Permit.

- 1) **“Nonmetallic minerals”** means a product, commodity or material consisting principally of naturally occurring, organic, inorganic, nonmetallic, non-renewable material. Nonmetallic minerals include but are not limited to stone, rock, sand, gravel, asbestos, beryl, diamond, clay, coal, feldspar, peat and talc.
- 2) **“Nonmetallic mining”** means any or all of the following:
  - a. Extraction from the earth of mineral aggregates or nonmetallic minerals for off-site use or sale, including drilling and blasting as well as associated activities such as excavation, grading and dredging of such materials.
  - b. Manufacturing or processing operations that may involve the use of equipment of the crushing, screening, washing, drying, separation or blending of the mineral aggregates or nonmetallic minerals obtained by extraction from the mining site or with materials transferred from off-site.
  - c. Manufacturing processes aimed at producing nonmetallic products for sale or use by the operator.
  - d. Stockpiling of nonmetallic products for sale or use off-site and stockpiling of waste materials.

- e. Transport of the extracted nonmetallic material, finished products or waste materials to or from the site.
  - f. Disposal of waste materials.
  - g. Reclamation of the site.
  - h. Development or construction of sub (a-g) above.
- 3) **“Waste materials”** means the non-marketable by-product that results directly from or is displaced by extraction or that is a by-product of a manufacturing process that is scheduled for disposal at the extraction site or some other site as part of the reclamation plan.
- 4) A **“mine site”** or **“site”** means land from which mineral aggregates or nonmetallic minerals will be extracted for sale or use by the operator, including all land on which is or will be located any structures, equipment, storage facilities, stockpiles, washing, drying or screening facilities, private roads or haulage ways associated with nonmetallic mining operation; and all contiguous land to the nonmetallic mining operation under common ownership or control of the owner or operator.
- 5) **“Land owner”** means the person who has title to land in fee simple or who holds a land contract for the land.
- 6) **“Adjoining landowner”** means any property within 1 mile of the proposed mine site regardless of whether there is a residence or structure on the property.
- 7) **“County”** means the County of Monroe, County Board, or its appointed committee, department or designee.
- 8) **“Operator”** means any person who is engaged in, or who has applied for a Conditional Use Permit to engage in nonmetallic mining, whether individually, jointly or through subsidiaries, agents, employees, contractors or subcontractors.

***Questions:***

*Who at the County will the general public call with immediate concerns or complaints about the mine site and activities?*

*Who is the local contact for the operator?*

*Should the operator have a 24 hour number to call for reporting complaints about noise or light or dust so immediate action can be taken to remedy the problem?*