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# **Le Sueur County, MN**

**Thursday, February 11, 2016**

**Regular session**

## **Item 1**

**Traxler's Construction**

Staff Contact: Kathy Brockway or Michelle Mettler

## **LE SUEUR COUNTY**

### **IN THE MATTER OF THE DECISION ON THE NEED FOR AN ENVIRONMENTAL IMPACT STATEMENT FOR THE PROPOSED TRAXLER CONSTRUCTION, INC. GRAVEL MINE EXPANSION LE SUEUR COUNTY, MINNESOTA**

### **FINDINGS OF FACT AND CONCLUSIONS OF LAW AND ORDER**

Traxler Construction, Inc., (Proposer) proposes to expand an existing aggregate mining and processing facility in Le Sueur County, Minnesota. Consistent with Minnesota Rules Chapter 4410, Le Sueur County, the responsible governmental unit (RGU), has prepared the Traxler Construction, Inc. Environmental Assessment Worksheet (EAW).

### **FINDINGS OF FACT**

#### **Project Description**

1. The project is an expansion of an existing sand and gravel mine in Le Sueur County.
2. The expansion parcel is located across Minnesota Trunk Highway (MTH) 112 from the existing mine and processing plant. The total acreage of parcels with existing and proposed mining and processing activities is 152.92 acres. The expansion site will encompass 78 acres, of which no more than 49.3 acres will be mined.
3. Mining involves the removal of overburden to expose the sand and gravel, excavation, crushing, screening and conveying the material under the highway for additional processing, stockpiling and sales at the existing mine.
4. Reclamation will be concurrent with mining.

#### **Project History**

1. The proposed project (Project) is the expansion of existing sand and gravel mining and processing facility that has been operated by the Proposer since 1989 and others before that.
2. The existing mine is "grandfathered in" and does not operate under a Conditional Use Permit.
3. The Project involves expanding the existing sand and gravel mine located on the east side of Minnesota Trunk Highway (MTH) 112 to the west side of the highway.
4. The existing mining/processing property encompasses approximately 75 acres and mining operations are proposed to expand onto property encompassing 78 acres.

### **Procedural History**

1. On November 24, 2015, Le Sueur County released the Draft EAW for the Traxler Construction Inc. Gravel Mine Expansion; and
2. On December 2, 2015, public notice on the availability of the Draft EAW appeared in the Le Center Leader newspaper.
3. On December 7, 2015, public notice on the availability of the Draft EAW appeared in the State of Minnesota Environmental Quality Board's publication: the EQB Monitor.
4. The Draft EAW was sent to the following agencies for review and comment:
  - a. U.S. Army Corps of Engineers
  - b. U.S. Fish & Wildlife Services
  - c. Board of Water and Soil Resources
  - d. Minnesota Department of Agriculture
  - e. Minnesota Department of Health
  - f. Minnesota Department of Natural Resources
  - g. Minnesota Department of Transportation
  - h. Minnesota Environmental Quality Board
  - i. Minnesota Historical Society
  - j. Minnesota Pollution Control Agency
  - k. Minnesota Department of Commerce
  - l. Minnesota State Archaeologist
  - m. Region Nine Development Commission
  - n. Indian Affairs Council
  - o. Le Sueur County Planning and Zoning
  - p. Le Sueur County Soil and Water Conservation District
  - q. Le Sueur County Transportation Department and,
5. Copies of the document were placed in the Le Sueur County Environmental Services office, Technology and Science Library, the Region Nine Development Library (Blue Earth County Library), Le Sueur Public Library, and Le Center Library, and,
6. The deadline for comment on the EAW was January 6, 2016.
7. The County received comments from two governmental agencies: Minnesota Pollution Control Agency and Minnesota State Historic Preservation Office.
8. The County received no comments from the public.

### **Comments and Response to Comments**

Copies of the comment letters are included as Attachment A. Individual comments and responses are provided:

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Commenter: Karen Kromar, Planner Principal, Environmental Review Unit,

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Resource Management and Assistance Division, MPCA

Comment Date: January 5, 2016

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Thank you for your response regarding the Traxler Construction, Inc. Gravel Mine Expansion Environmental Assessment Worksheet.

1. Question/Comment: Permits and Approvals (Item 8). This facility is currently regulated under general industrial stormwater No Exposure permit coverage. This is typically unachievable for the type of activities conducted at a sand and gravel mining operation. Please clarify if all of the proper permits have been obtained, or applied for, for the existing and future industrial activities at this location. For questions regarding industrial stormwater, please contact Melissa Wenzel at 651-757-2816.

Response: The project proposer has a General Permit for Nonmetallic Mineral Mining and Associated Activities MNG490268 as well a General Permit for Industrial Stormwater Multi-Sector Permit MNRNE38BJ from the MPCA. The Industrial Stormwater Multi-Sector Permit has a no Exposure Exclusion. The proposer will terminate the Industrial Stormwater Multi-Sector permit (and no exposure exclusion) and operate exclusively under the Nonmetallic Mineral Mining Permit. As required under the Nonmetallic Mineral Mining and Associated Activities permit, a site-specific stormwater pollution prevention plan will be developed and implemented for the existing mining operation as well as the expansion area.. The General Permit for Nonmetallic Mineral Mining and Associated Activities includes stormwater discharges associated with construction activity and small construction activity and will therefore be the only NPDES permit required for site operation,

2. Question/Comment: Water Resources (Item 11). As noted in the EAW, the Minnesota River is within one mile and is impaired. Please note that the impairment will dictate additional increased stormwater treatment during construction and require additional increased treatment post construction. These requirements will be included in the National Pollutant Discharge Elimination System/State Disposal System (NPDES/SDS) Construction Stormwater Permit. The Project proposer should determine that compliance with these increased stormwater water quality treatments can be achieved on the Project site or elsewhere. Information regarding the MPCA's Construction Stormwater Program can be found on the MPCA's website at <http://www.pca.state.mn.us/water/stormwater/stormwater-c.html>. Questions regarding Construction Stormwater Permit requirements should be directed to Roberta Getman at 507-206-2629.

Response: The General Permit for Nonmetallic Mineral Mining and Associated Activities includes stormwater discharges associated with construction activity and small construction activity. The

additional best management practices that are required for construction activities located within 1 mile of impaired waters will be incorporated into the stormwater pollution prevention plan prepared for the project. Applicable additional stormwater quality treatments include stabilizing exposed soils area no later than 7 days after activity has ceased in that area, and providing temporary sedimentation basins for common drainage locations that serve an area with 5 or more acres disturbed at one time.

3. Question/Comment: Noise (Item 17) As noted in the EAW, the facility will have to comply with NAC-I on the residential property in the area of normal residential use. The EAW does not specify the hours of operation. Please note that the Minnesota noise standards are more stringent during nighttime hours of 10:00 pm – 7:00 am and any operations during those hours will need to comply with the more stringent standard. For questions regarding the noise standard, please contact Amanda Smith at 651-757-2486.

Response: Le Sueur County ordinance states that general mining and processing activities may take place from 6:00 am to 7:00 pm, Monday through Saturday, unless otherwise specified in the Conditional Use Permit. Therefore the project may be subject to both the daytime noise standards and the more restrictive nighttime standards. The project proposer will comply with all applicable state noise standards. The Conditional Use Permit will address hours of operation as well as noise mitigation measures.

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Commenter:	Sarah J. Beimers, Manager, Government Programs, and Compliance State Historic Preservation Office
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Comment Date:	December 23, 2015
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Thank you for your response regarding the Traxler Construction, Inc. Gravel Mine Expansion Environmental Assessment Worksheet.

4. Question/Comment: Due to the nature and location of the proposed project, we recommend that a Phase I archaeological survey be completed. The survey must meet the requirements of the Secretary of the Interior's Standards for Identification and Evaluation, and should include an evaluation of National Register eligibility for any properties that are identified.

Response: A Phase I Archaeological Survey will take place this spring, once the snow has melted. The Phase I Archaeological Survey will meet the requirements of the Secretary of the Interior's Standards for Identification and Evaluation including a walkover of the agricultural land at regular intervals and digging several holes (usually spaced every 50 feet) anywhere that the ground surface visibility is less than 25%. Since corn stubble is left from last year's crop, the survey will take place

after the field has been tilled. A report will be prepared which will, include additional documents and research if any sites are identified. Upon completion, the Phase I report will be sent to SHPO for review and comment. If any site is identified that is possibly significant, then a Phase II could be needed

If any significant site is identified, the limits of mining may need to be amended, based on the results of the archaeological survey. This will be addressed by the Conditional Use Permit.

### **Criteria for Determining the Potential for Significant Environmental Effects**

The purpose of the EAW is to identify potential environmental effects and determine whether or not an Environmental Impact Statement (EIS) is required. An EIS is undertaken when the project has the potential for significant environmental effects. The RGU determines if a project has the potential for significant environmental effects based on four criteria as outlined in Minnesota Rule 4410.1700:

1. The type, extent, and reversibility of environmental effects;
2. Cumulative potential effects;
3. Extent to which the environmental effects are subject to mitigation by ongoing public regulatory authority; and
4. Extent to which environmental effects can be anticipated and controlled as a result of other available environmental studies undertaken by public agencies or the project proposer.

Determining whether a project needs or does not need an EIS is an evaluation of the potential for significant environmental effects based on the above criteria. An analysis of the four criteria is provided in this Record of Decision.

1. Type, extent, and reversibility of environmental effects:

#### **Historic Resources**

- 1.1 The State Historic Preservation Office (SHPO) has no record of any historical properties on the site, but recommends that a Phase I Archaeological Survey be conducted to determine if there are any sites of cultural resources significance.
- 1.2 The Phase 1 Archaeological Survey will be completed prior to grading or striping activities stripping operations and mining limits may be adjusted based on the findings of the survey to minimize or eliminate the potential for significant irreversible impacts.

#### **Erosion and Sedimentation**

- 2.1 The mine operates under a Minnesota Pollution Control Agency (MPCA) General Permit for non-metallic mineral mining, which will be amended to include the expansion area.

- 2.2 Erosion and sedimentation will be controlled using MPCA Best Management Practices (BMP) and treating and stormwater that contacts disturbed soil or other significant material prior to discharge off-site in accordance with a site specific stormwater pollution prevention plan to be prepared for the existing mine and the expansion property. BMPs to be implemented may include silt fences, berms, rock construction entrances, and seeding disturbed areas.

2. Cumulative potential effects of related or anticipated future projects:

The EAW addressed potential cumulative effects of this mine operating alongside several other mines operating in the area. Specifically cumulative impacts to wildlife habitat and natural plant communities, ground water quantity and quality, stormwater and wastewater. Because mining is conducted in phases and reclamation is conducted as phases of mining are completed, cumulative effects are minimized. In addition, this is the continuation of an on-going mining operation and increases in production which may be associated with an increase in the potential for cumulative environmental effects are not anticipated.

3. The extent to which environmental effects are subject to mitigation by ongoing public regulatory authority:

- 3.1 All appropriate permits are in place (as a result of the existing operation) and will be modified or obtained before work starts in the expansion area.
- 3.2 The following environmental effects are subject to MPCA regulatory authority:  
Stormwater; Water Quality; Noise; Fuel Storage and Air Emissions.
- 3.3 The following environmental effects are subject to DNR regulatory authority:  
Water Quantity; Surface Waters; Wetlands/public waters; and Wildlife and Habitat.
- 3.4 A Phase I Archaeological Survey will be conducted this spring to determine if there are any sites of cultural resource significance involved with the project before work starts on the project. If any significant sites are found, mitigation will be addressed in the Conditional Use Permit.

4. The extent to which environmental effects can be anticipated and controlled as a result of other available environmental studies undertaken by public agencies or the project proposer:

- 4.1 No other EISs or studies undertaken by public agencies or the proposer were reviewed.

## **CONCLUSIONS**

- A. The EAW, comments received on the EAW, and the responses prepared, have generated sufficient information to determine whether the Proposed Project has the potential for significant environmental effects.

- B. Areas where the potential for significant environmental effects from the Project may have existed have either been identified and incorporated into the EAW or will be mitigated through State and local mandatory permitting and regulatory procedures.
- C. The Project will be required to meet all regulatory standards through permitting, monitoring, and mitigative measures.
- D. Based upon the criteria established in Minnesota Rule 4410.1700, subpart 7, the Project does not have the potential for significant environmental effects. An Environmental Impact Statement is not required.
- E. Any findings that might properly be termed conclusions and any conclusions that might properly be termed findings are hereby adopted as such.

#### **ORDER**

**NOW THEREFORE, BE IT RESOLVED BY THE BOARD OF LE SEUER COUNTY, STATE OF MINNESOTA, as follows:**

That the Le Sueur County Board, after review of the findings of facts and conclusions determines that there are no potential significant environmental effects reasonably expected to occur from the Traxler Construction Inc. Gravel Mine Expansion and three there is no need for an Environmental Impact Statement,

The motion for the adoption of the foregoing resolution was duly seconded by Board member \_\_\_\_\_ and upon vote being taken thereon, the following voted in favor thereof:

and the following voted against the same:

and the following abstained:

and the following were absent:

whereupon said resolution was declared duly passed and adopted by the Le Sueur County Board this the 16th day of February 2016.



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Chairperson, Board of County Commissioners

**ATTEST:**

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County Administrator