

Buffalo County Board of Adjustment
3rd Floor County Board Room, Buffalo County Courthouse
February 2, 2012

Board Members present: George Salwey, Joe Wantoch, and Dale Klopp.

Others present: Chad DeWyre, Paul van Eijl, Del Twidt, Tom Taylor, Steve Weiss, Dave Pfund, Jill Poeschel, Kelsey Pfund, Ricky Plank, Terry Plank, John Schowalter, Tina Schowalter, Mikey O'Connor, Marcie O'Connor, Bob Bauer, Jeff Falk, Gene Schultz Sr., Lorena Ford, Tom Hubbard, Jesse Bloom, Susie D'Lamatter, Lisa Bloom, Kendall Klevgard, Kevin Rud, Lennis Loesel, Allyn Wick, Bill Stanton, Wendy Buchholz, Gary LeMasters, Chuck Kebeski, Brian Iverson, Ronnie Bloom, Dale Bloom, Colleen Bloom, Robert Myren, Thomas Hiebert, Larry Balk, Suzanne Schultz, Roger Larson, Gary Weltzien, Larry Dunham, Dave Nelson, Ron Schultz, Darrell Rognholt, Arthur Brantner, Diane Petz, Stephen Doerr, David Berg, Al Kube, Carol Kube, Dennis Weiss, Kayla Klevgard, Gene Laehn, Amy Sandberg, Diane Ross, John Frie, Craig Brooks, David Arndt, Le Anne Loesel, Gary Pusateri, Tom Indrebo, Ron Wuorenma, Dennis Perkins, Julia Crozier, Terry Zilge, Rick W., Dan Olson, Kevin Cassidy, Jeff Eitram, Shirley Evans, Susan Sora.

- Meeting called to order at 9:00 a.m. by Mr. Salwey.

Kendall Klevgard (continuation hearing), S788 St. Rd. 88, Mondovi, WI, application for conditional use for the extraction of a natural resource (frac sand) in the Agricultural District according to Article IV, Section 41.1 of the Buffalo County Zoning Ordinance. Property located in the SE ¼ of the SW ¼, NE ¼ of the SW ¼, NW ¼ of the SE ¼, SW ¼ of the SE ¼, Section 11, and NE ¼ of the NW ¼, and SE ¼ of the NW ¼, Section 14, Township 23 N., Range 11 W., Town of Gilmanton, Buffalo County, Wisconsin.

- Mr. DeWyre reads notice.
- Mr. Klevgard present.
 - Loesel Rd. intersection update- landowner on corner intersection, Dennis Lisowski, has no problems with intersection improvements.
 - Ms. Sandberg has been offered an agreement in regards to property value.
- Mr. Arndt presents.
 - General plan/overview of the mining process at the Klevgard property.
 - Would like the mining process to be 3 years or less.
 - Small footprint mining operation, current exposure will remain much the same throughout the mining process.
- Mr. ? questions the amount of trucking required to move product- Answer over 100 trucks per day -125 trucks proposed.
- Hours of operations discussed.
- Mr. Wantoch questions jake brake usage- Answer could ask that usage be limited, local truckers will be hired.
- Haul route discussed.
- Mr. Frie questions location of site- haul route- number of trucks- questions why trucks could not use CTY RD B- Answer- state roads are designed for traffic loads and safety versus county roads.
- Discussion in regards to haul route HWY 88 north to HWY 37 south to HWY 35 south to Winona.
- Mr. Schultz questions hours of operation - would like to see 8:00 a.m. – 5:00 p.m., Monday through Friday.
- Discussion of truck drivers and state regulations in regards to truck driving logbooks.

- Mr. Schowalter questions whether trucks are traveling through Cream, WI.
- Mr. Schowalter questions deer crashes on HWY 37.
- Mr. DeWyre reviews estimated number of trucks using a portion of HWY 37.
- Discussion in regards to DOT traffic volumes and other testing.
- Discussion on Best Management Practices (BMP) and Environmental Impact Statements (EIS).
- Mr. O' Connor presents documents to the Board of Adjustments.
 - List of legal issues, if the projects are not accomplished systematically
 - General Concerns of sand mining in the Gilmanton Basin.
- Mr. van Eijl discusses liability issues.
- Mr. Arndt discusses history of non-metallic mines.
- Mr. Dustman responds to EIS.
- Mr. Falk questions air quality monitoring. Answer- MSHA (Mine Safety and Health Administration) regulates.
- Mr. Doerr gives personal experience on sand mining.
- Ms. Sandberg questions drying process – Answer no drying onsite.
- Mr. Dowling questions impact trucks will have on his home, located on HWY 88 – reiteration of haul route.
- Mr. Nelson has concerns with his driveway located on HWY 88.
- Mr. DeWyre reiterates conditions within the conditional uses, specifically #25.
- Ms. Loesel reiterates Loesel Rd. and HWY 88 intersection, proposal on the table to fix the situation.
- Mr. Salwey speaks on intersection.
- Mr. Salwey questions the difference between “frac” sand and “silica” sand.
 - Mr. Arndt responds that 70% of sand is above 70 mesh.
 - Frac Sand is specific to its size and strength.
 - All sand is silica sand.
 - Mr. LeMasters responds.
 - Mr. Arndt responds with crush test results and application of said sand.
- Mr. Weiss questions property value compensation.
- Mr. Olson gives personal experience with silica sand. How much sand will pass through 200 sieve? Answer- 90% above 70 mesh, further answers given by Mr. Doerr.
- Mr. Berg borders the applicant's property, asks general questions.
- Mr. DeWyre reads through proposed condition #35.
- Ms. Sandberg discusses agreement with Klevgard.
- Discussion on traffic with regards to tourism.
- Discussion on hours of operation.
- Mr. Salwey discusses hours of operation with respect to product removal.
- Discussion on HWY 88 capacity.
- Ms. Bakken questions property value agreement.
- Discussion on area encompassed within 1000' of proposed mine with regards to property values.
- Mr. Dunham generalizes his thoughts on said application.
- Ms. Evans has general concerns with sand mines.
- Discussion/review of proposed sand mine.
- Mr. Perkins questions are the trucks for hire or bid out. Answer- local trucks for hire. Trucks will follow suggestions by the operator or they will not be employed.
- Mr. van Eijl discusses why mine sites will not be rezoned to industrial districts from agricultural.
- Ms. Schowalter expresses concerns with truck traffic by her residence located on HWY 37.
- Discussion on haul route revisited.

- Discussion on whether or not trucks are covered/tarped – Answer, yes.
- Mr. DeWyre asks if blasting will be used at the site – Answer, it is not the intention of the operator to use blasting. Operator would like to keep the option open.
- Mr. DeWyre asks if 125 loads would be used to transport material.
- Mr. DeWyre reiterated haul route HWY 88 north to HWY 37 south to HWY 35 south to Winona.
- Hours of operation discussed.
- Mr. O’Connor supports denying the application.
- Mr. Cassidy asks that the application be denied.
- Mr. Falk questions conditional use process on application.
- Mr. Hiebert has concerns with busses entering HWY 35 with regards to truck traffic.
- Mr. DeWyre reads through list of proposed conditions.
- Mr. DeWyre reads correspondence received regarding activities at the Klevgard site.
- Ms. Bakken wishes to be included under condition #35.
 - Mr. van Eijl reluctant to set precedence in future applications by expanding 1000’ zone.
 - Mr. Klevgard says Ms. Bakken can come talk to him in regards to property value agreements.
- Discussion on haul route.
- Mr. O’Connor questions the legal council the Board of Adjustments is receiving and requests the application to be denied.
- Mr. Eitram questions Ms. Bakken’s request to be included in the property value agreement. Discussion between Ms. Bakken and Mr. Arndt.
- Ms. Sandberg questions that all the information was presented in the past.
- Mr. Salwey concludes comments.
- Board of Adjustment will visit the Klevgard site.

David Fredrickson, S1194 Cooke Valley Rd, Independence, WI, application for conditional use for 1 lot less than 10 acres and 1,000’ of width (1 acre) in the Steep Soils Overlay District, according to Article X, Section 101, 2 of the Buffalo County Zoning Ordinance. Property located in the SW ¼ of the SW ¼, Section 35, Township 23 N., Range 10 W., Town of Dover, Buffalo County, Wisconsin.

- Mr. DeWyre reads notice.
- Mr. Fredrickson present.
 - Due to law, he cannot get a 30-year fixed note.
 - Interest rates are substandard, which is the reason for the creation of a lot.
 - No reason to be more than 2 acres on the creation of the lot.
- Mr. DeWyre reads proposed conditions.
- Board of Adjustment will visit the site.

R & J Rolling Acres, LLP S983 St. Rd. 88, Mondovi, WI, application for conditional use for the extraction of a natural resource (frac sand) in the Agricultural District according to Article IV, Section 41.1 of the Buffalo County Zoning Ordinance. Property located in the S ½ of the SW ¼ Section 23, a portion of the NE ¼ of the NE ¼ Section 27, a portion of the N ½ of the NW ¼ Section 26, and a portion of the SE ¼ of the SE ¼ Section 22, Township 23 N., Range 11 W., Town of Gilmanton, Buffalo County, Wisconsin.

- Mr. DeWyre reads notice.
- Mr. Hubbard present.
 - Has built several frac sand plants across the state.

- Explains layout of said property and layout of proposed mining operations.
- Has talked with DOT; improvements needed on access point.
- Would like to have 24/7 for plant, 24/7 for hauling, and would shut down for bus traffic.
- Proposes two phases on the reclamation process.
- Haul route, south on HWY 88, south on HWY 35, to Winona.
- 150 truck loads per day.
- Mr. DeWyre questions life expectancy of this mine application. Answer- 5 years. Mr. Hubbard would like to convey other landowners sand into the wash plant in the future.
- Mr. Wantoch questions the urgency of hauling? Answer- it is the size of the wash plant.
- Mr. Hubbard states that HWY 88 is up for improvements in 2014, 2015, and 2017.
- Mr. LeMasters reviews application, 80 trucks on original application, now applicant is asking for 150 trucks per day.
 - Discussion on 7 standards the Board of Adjustment adheres to.
 - Discussion with regards to the steep soils overlay district.
 - Discussion on scenic value of said property.
- Mr. Dowling comments on his new home in relation to the number of trucks proposed by the applicant.
- Mr. O' Connor requests to table the application.
 - States that HWY 88 is substandard.
 - Detours on HWY 88 will be difficult to establish.
 - Threatened and endangered species are present.
 - Requests HWY 88 not be used as a haul route.
 - Establish formal contracts with mining companies.
- Mr. Heibert questions safety in regards to the truck traffic.
- Mr. Heibert has concerns with taxes in regards to these dollars coming back to help out the school district.
- Mr. Frie questions how many gallons of water will the plant use every day. Answer- 8,000 - 10,000 gallons.
 - Has an EIS been conducted? Answer- that is covered in another permit.
 - Requests HWY 88 not be used as a haul route.
 - Discussion on declassifying HWY 88.
 - Concerns with the number of trucks and usage of jake brakes.
 - Would like applicant to go north on HWY 88, west on CTY RD B, south on HWY 37.
- Mr. Falk comments that minimal information is present on application.
 - Would like application to be denied or tabled.
- Mr. Doerr discusses local job economy.
- Mr. Schultz discusses: number of trucks hauling on HWY 88, jobs, property values and haul hours.
- Mr. Nelson wishes for the committee to look at the driveways located off HWY 88.
- Ms. Sora questions traffic impacts of the proposed number of trucks, and polymer additions. Answer- food grade flocculent additive to the wash pond.
 - Discussion on additives.
- Discussion on overflow and evaporation from stormwater pond.
- Mr. Bauer questions the quality of life for residents living on the haul route.
- Discussion on jake brakes.
- Mr. Schultz questions why 24/7 hauling is necessary.
- Ms. Evans reiterates past sand applicants.
- Discussion regarding Rose Rd. and easement.
- Discussion on potential jobs.

- Ms. Schultz comments on the number of trucks.

Motion to recess to visit the site by Mr. Wantoch, at 1:00 pm; second by Mr. Klopp, all in favor. Motion carried.

The Board of Adjustment went to visit the site.

- **While at the Klevgard site,**
 - Mr. Arndt talks about current mine location and elevations.
 - Mr. Salwey asks if any ponds will be utilized. Answer- yes per DNR recommendations.
 - Mr. Arndt explains the process of removing sand.
 - Mr. Salwey asks if ponds will be implemented in reclamation. Answer- no.
 - Mr. Weiss asks if any trees have been taken out. Answer- yes.
 - Mr. Salwey asks if any screening will be used. Answer- if any it will be a dry/gravel screen.
 - Mr. DeWyre reviews proposed condition #11.
 - Mr. Salwey questions local employment. Answer- 20 local drivers will haul.
 - Discussion on trucking and trucking companies.
 - Mr. Wantoch has concerns with the number of trucks on the road.
 - Discussion with regards to DOT and traffic counts.
 - Discussion with regards to onsite 24/7 operation. No additional lighting will be implemented.
 - Mr. Arndt adds this is the only mine, mining with a small footprint.
 - Mr. Dustman explains that this is the only mine he is working on (1 out of 8) that will have this small footprint.
 - Mr. Klopp questions the number of truckloads per day. Answer- applicant proposes to release a truck every 6 minutes.
 - Mr. Schultz questions the durability of HWY 88.
 - Discussion on DOT traffic counts.
 - Mr. O'Connor questions the shoulder width in regards to potential road construction.
 - Discussion on the number of trucks in general that travel through the City of Alma.
 - Discussion on 200' pavement and an equivalent method to clean truck tires.
 - Discussion on Loesel Rd. and HWY 88 intersection.
 - Discussion on local economy.
- Motion by Mr. Wantoch to approve the application with the following conditions.
- List of conditions for the Klevgard site:
 - 1) Permit and site activities shall be conducted in compliance with all provisions of the Buffalo County Non-Metallic Mining Ordinance and WI Administrative Code NR135.
 - 2) Tracking pad must be paved at a minimum of 200' from ST. HWY 88. Also, install a tire bath or an equivalent method to clean the tires of trucks before entering ST. HWY 88. Paving/tire bath must be complete prior to any product leaving the site.
 - A.) Maintenance of tire bath and tracking pad will occur as deemed necessary by mining personnel or Buffalo County Zoning Department.
 - 3) Access road into quarry must be secured, prior to any product leaving the site.
 - 4) Method of extraction is limited to surface mining only.
 - 5) A 24-hour notice will be given to landowners located within 2500' of the blasting area. Operator will comply with the WI DSPS (Department of Safety and Professional Services) in regards to the proper permitting procedure and ensuring blasting/drilling protocol is followed.

- 6) No blasting will occur within 1320' from any habitable structure. If blasting occurs between 1320' and 2500' foundation inspections will need to be completed prior to any excavation by a qualified third party acceptable by the Buffalo County Zoning Department.
- 7) No excavation shall take place within 100 feet from the right-of-way line of ST. HWY 88.
- 8) 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 feet to any property boundary. This setback shall not apply where the adjoining property is used for mineral extraction.
- 9) Non-metallic mining operations must at all times remain at least (5) feet above the water table level, unless an alternative level proposed by the applicant and established by water table elevation monitoring is approved by the RA (Regulatory Authority). Upon completion of reclamation of the site it must be established to the satisfaction of the RA that the finished grade is at least five (5) feet above groundwater.
- 10) No topsoil or subsoil will be allowed to leave the site during the entirety of the site operations.
- 11) 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.
- 12) In the event that on-site fuel storage is planned, a fuel storage area that complies with WI DSPS (Department of Safety and Professional Services) 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 station. Fueling of highly mobile vehicles such as rubber tire loaders shall occur on the constructed fueling pad.
- 13) 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.
- 14) A plan review will be conducted every (3) years to evaluate the effectiveness of reclamation related activities, and to identify plan modifications that may be warranted to meet reclamation standards as established in WI Administrative Code NR135.
- 15) Non-metallic mining activities must always comply with the most recent Wisconsin Department of Natural Resources standards. These include but are not limited to air emission permitting and storm water permits.
- 16) Obtain any and all required WI DOT permits and adhere to WI DOT regulations.
- 17) 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.
- 18) Financial assurance amount will be established and secured after final reclamation plan approval and prior to any excavation activity.
- 19) The operator must notify the non-metallic mining department in advance of any changes in ownership, operator, lease terms, or haul route.
- 20) The operator is responsible to obtain a cultural resource site review performed by the DNR and the report must be forwarded on to the Buffalo County Zoning office. Results of such site review may require review of this conditional use permit.
- 21) Annual permit applications must be filed and annual fees must be submitted by the given deadline.
- 22) A sanitary permit is required when applicable.
- 23) A zoning permit must be issued for any applicable building development in regards to the issuance of this Conditional Use Permit.
- 24) Address number will be applied for and issued for the site.

- 25) Summer (May 1st - October 31st) haul hours are 6:00 a.m. – 8:00 p.m., Monday through Friday; Winter (November 1st - April 30th), haul hours are 7:00 a.m. – 5:00 p.m. Monday through Friday, Saturday 7:00 a.m. – 3:00 p.m. However, there will be no hauling of product on the weekends April 1st – October 31st. Change in specified haul route (Appendix A) may constitute a change in hours of operation. At such time, applicant must pay application fee and issue will be brought up at regularly scheduled Board of Adjustment hearing.
 - 26) Number of trucks is limited to 125 loads out per day (80000 lb. gross vehicle weight).
 - 27) Total mine site is confined to the described area in Appendix B.
 - 28) No processing of sand material will occur on listed CUP.
 - 29) Stormwater ponds will adhere to NR 213.
 - 30) Noise level as measured at the perimeter property lines will be kept at or below 60 decibels. Monitoring requests may be made by any adjacent landowner or the Buffalo County Zoning Department at any time during active mining. If levels exceed 60 db, implementation of berms or trees or other suitable mining measures may be required by the Buffalo County Zoning Department to minimize impacts. Exceptions to this condition are blasting activities.
 - 31) Excavation must commence within 24 months of permit issuance.
 - 32) Permit is valid for 5 years from date of permit issuance.
 - 33) Non-compliance with any condition(s) stated will be grounds for revocation of this conditional use permit.
 - 34) The knoll located on Dennis and Diane Lisowski's property (SE corner of the intersection of Loesel Rd and HWY 88) will be removed to establish site clearance on Loesel Rd prior to removal of product. Site clearance shall be established on Loesel Rd per WI DOT and/or Town of Gilmanton recommendations.
 - 35) Property value agreements must be in place prior to removal of product, for homeowners within 1000' of the mined area (Exception is the removal of material with respect to the intersection of Loesel Rd and HWY 88 and those parties not interested in a property value agreement.)
 - 36) No hauling of product on county roads or town roads located within Buffalo County.
 - 37) Hours of operation for the CUP site are listed as 24 hours a day and 7 days a week.
- Second by Mr. Klopp, all in favor. Motion Carried.
 - **While at the R & J Rolling Acres site,**
 - Mr. Hubbard explains site layout.
 - Discussion of Rose RD with regards to Town of Gilmanton.
 - Discussion of items to be accomplished by landowner/operator.
 - Discussion of compromise.
 - Discussion on building locations, and load out facility.
 - Discussion of wash plant/dry plant and water usage.
 - Mr. O'Connor requests the operator to figure out exact water usage.
 - Discussion on water usage.
 - Discussion on haul route.
 - Discussion on trucks/loads per day.
 - Discussion on hours of operations.
 - Mr. Bloom wants plant here in hopes of creating jobs.
 - Further discussion on hours of operation, both for the wash plant and the trucks.
 - Motion by Mr. Wantoch table the application until the next Board of Adjustments meeting (March 8th, 2012).
 - Second by Mr. Klopp, all in favor. Motion Carried.

- **While at the Fredrickson site,**
- Motion by Mr. Wantoch to approve the application with conditions.
- List of conditions for the Fredrickson site:
 - 1) Address numbers and address signs must be posted at site. Dual signs must then be posted on representative buildings.
 - 2) Prior to sale of either affected property, an easement must be recorded at the Buffalo County Register of Deeds office.

- Second by Mr. Klopp, all in favor. Motion Carried.

Motion to adjourn by Mr. Wantoch at 3:45 p.m., seconded by Mr. Klopp, all in favor. Motion carried.

Respectfully submitted by,

Chad DeWyre
Zoning Technician / Inspector