

Town of Dover  
S735 Sampson Valley Road  
Mondovi, WI 54755

TO: Board of Adjustment - Buffalo County  
407 South 2nd Street  
Alma, WI 54610

Letter of Denial - Application for a Conditional Use Permit for Nonmetallic Mining for  
River Valley Sands, LLC

This letter came before the Town Board of the Town of Dover, Buffalo County, Wisconsin as a Special Meeting and Public Comments Meeting on June 18th, 2013 upon application of River Valley Sands Mine Site Town of Dover, Buffalo County, Wisconsin.

This matter came before the Town on June 18th, 2013 at a Special Meeting to discuss and take further action on the Applicant's request. With proper notice of the meeting being met and with proper quorum being present the Town decided to deny the Conditional Use Application submitted by River Valley Sands LLC for the site located Town of Dover, Buffalo County, Wisconsin. Even if all of the following conditions are met and concerns are addressed, it is the opinion of the Town Board that the health and safety concerns raised in this Letter of Denial cannot, at this time, be sufficiently addressed by conditions imposed in a Conditional Use Permit ("CUP"). As such, the Town Board hereby recommends denial of the CUP application. The foregoing statements are areas of concerns that form the basis for denial of the CUP, and in the event the Board of Adjustment decides to grant the CUP, should act as a guideline for issues that the Town Board desires to be addressed to better ensure that the CUP is in the public interest and conforms to the criteria of the Buffalo County Zoning Code:

Basis for Denial/Recommendations to the Board of Adjustment

### **1. Lack of Financial Disclosure**

- a) List of Investors: The reason we are asking for this is to make sure that River Valley Sands LLC will be able to mine the land for the long haul and not leave the mine abandoned for the county and town to rehabilitate. In no circumstances should the Town be responsible for any costs related to reclamation or rehabilitation of the mine site. As such, a guarantor with appropriate finances and means should be a party to a guaranty agreement whereby said guarantor will pay for any and all costs and damages related to or arising out of the reclamation and rehabilitation of the mine site in the event River Valley Sands is unable or unwilling to do so.

### **2. Lack of business and technical experience in mine operations**

- a) River Valley Sands was only recently registered as a Limited Liability Company with the State of Minnesota. At this time, it is not registered with the State of Wisconsin. The above suggests that River Valley Sands may lack the experience and knowledge necessary to operate a mine site of this magnitude. As such, the Town Board suggests that River Valley Sands should provide a list of experts, employees, agents and contractors that will be working in any significant capacity on mine operations. This list should include each and every expert, employee, agent or contractors field of expertise and the number of years spent in that field. The Town Board feels the foregoing is necessary to assure the residents of the Town of Dover that the mine will be operated by experienced professionals.

### **3. Independence and Winona Bridge Construction**

- a) River Valley Sands should disclose the alternate route when construction begins on the Independence and Winona Bridges. The Independence Bridge is scheduled to begin work in July 2014 and the Winona Bridge is also scheduled to begin work in 2014. With these two (2) bridges being worked on at the same time, the primary route stated in the "Hauling Information" section on page 3 of application will need to be changed. The changing of the primary

route will affect more Town of Dover Residents and the exact route should be disclosed.

#### **4. Traffic on L. Winsand Road & Julson Ridge Road**

- a) Speed Limit on L. Winsand Road. If the application is approved by Buffalo County, the Town Board proposes a speed limit of twenty-five (25) miles per hour on said road from the intersection of Hwy 121 and L. Winsand Road to location of mining site for all vehicles used in the operation of the mine.  
(Examples: Pickup trucks, any heavy machinery, ATVs, UTVs, etc.)
- b) Speed Limit on Julson Ridge Road. If the application is approved by Buffalo County, we are proposing a speed limit of twenty-five (25) miles per hour on this road from the intersection of mine site on Julson Ridge Road and County Highway BB.
- c) The reason for the speed limits on the aforesaid town roads is that L Winsand Road has a day care provider and auto repair business located on this road and as a safety issue with other vehicles pulling in and out. The reason for speed limit on Julson Ridge Road is because it is primarily crushed rock and has a tendency of washing out from heavy rain. Heavy traffic on this narrow, curvy road at normal speeds will result in increased costs to the Town for repairs and additional safety concerns for the residents of the Town of Dover. The proposed speed limit change will further assist the extraction of sandstones from the Cambrian Wonewoc Formation that would not be able to travel on the conveyor system and would need to be transported to the processing site by trucks.(Stated in section 1.3.2 of application)

#### **5. Speed Limit Cooke Valley and L. Winsand Road**

- a) Maintain Town Roads by Town Board Approval: If the amount of maintaining L. Winsand Road and Julson Ridge Road become excessive due to the amount of traffic created by the mines vehicles, the Town of Dover has the right to charge River Valley Sands LLC for all repair and maintenance costs attributable to the mine operations.

- b) **Speed limit Cooke Valley Road and L. Winsand Road:** If the application is approved by Buffalo County, we are proposing that any vehicles leaving and entering the mine site located at W210 State Road 121, Independence, WI 54747 and proceeding in the direction of Cooke Valley Road to the east and L. Winsand Road to the West not exceed 40 miles an hour. The speed limit is needed because there are a number of Amish that travel this road and it curves sharply.

#### **6. No reclamation plan.**

- a) **Submit reclamation plan:** If the application is approved by Buffalo County, we asking that the reclamation plan be submitted BEFORE the final approval by the Buffalo County Highway Department. The Town of Dover Board would like to make sure that the land is returned to a function that is coexistent with the land surrounding the mine site to preserve the beauty of the township that it is known for. We are asking that the reclamation plan be in accordance to the Wisconsin State Statute 295.11 thru 295.12 for reclamation. Also Section 1.3.4 of the application does not explain how the land that is not being used to construct the berms will be reclaimed and what seed will be planted and used during the reclamation process. As this proposed mine site is in a predominately agricultural area, the Wisconsin Department of Agriculture should be consulted to make sure the seed mixture used will be compatible with the surrounding land.

#### **7. Height of Conveyors over Roads**

- a) If the application is approved by Buffalo County, the conveyors must meet State requirements or 20 feet, whichever is higher. The Town Board believes this is necessary because a majority of the land surrounding the mine site at Hwy 121, County HWY BB, Julson Ridge Road, and L. Winsand Road is used for agricultural purposes. As such, large machinery and agricultural equipment travel these roads often. The Town Board considers this a significant safety issue.

#### **8/9. Wells**

- a) River Valley Sands should provide a map of location of high capacity and monitoring wells. The local residents within a ½ mile of the mine sites are concerned that their water levels will be adversely affected.
- b) A baseline study of neighboring wells within 1 mile of site done by an independent third party. This study should be conducted shortly before any wells are installed. The study will establish a starting point on which to base any changes in the water table level when the high capacity and monitoring wells are installed.
- c) Change of operation plan if water base drops so much % per original base line – the Town Board suggests 20% drop. Local residents surrounding the mine site are concerned that the water level may drop and they will not have enough water for their residences or agricultural operations.
- d) Monitoring of the wells by an independent third party solely at River Valley Sands expense. The Town Board is concerned and has been notified that the State of Wisconsin DNR does not have the staff in place to monitor these wells on a regular basis. Independent third party monitoring should be required to ensure that the wells are not adversely impacting the water table and the residential, agricultural and other existing and foreseeable uses of the Town's residents.
- e) Monitor wells every 3 months for the first 5 years of mining and every 6 months thereafter. The reason behind this is because there is no prior data in the township on how these wells will affect the water table. The Town Board is asking for these tests done at the aforesaid interval to establish data for future mining operations. All tests mentioned herein shall be conducted solely at the expense of River Valley Sands.
- f) Per section of 1.3.12 of application: we are requiring more details of the "Water quality program" and what this entails.

#### **10. Hours of operation**

- a) No hauling on Saturdays, Sundays, Holidays or during the Gilmanton Fair:

The reason behind this recommendation is that many groups (bikers, tractor rides, bicyclists, etc.) travel St Hwy 121 very often because of its scenery. Also if the primary route is changed and the next proposed route would proceed west on St Hwy 121, this would lead directly through the Town of Gilmanton. The Gilmanton Fair is a very large attraction and income generating activity for Gilmanton, with the large number of people that attend this fair every year; we are requesting that the mine does not haul sand during this time frame as a safety issue. (This is a change from section 1.3.6 of application)

- b) What are River Valley Sands' plans for when temperature drops below freezing? The Town Board is concerned because the water table is not being replenished once the ground is frozen. The Town Board is concerned that the surrounding residents have adequate water for their various operations and uses.
- c) The time for hauling frac/silica sand and other materials should be from 6 am to 6 pm. As the Board of Adjustment is likely aware, the School District of Gilmanton coops with Independence School District on many sports and academic extracurricular activities. The Town Board suggests this limitation because of the many school and after school activities that use St Hwy 121 as a transportation artery. If this limitation is not imposed there is an increased risk of harm to students, teachers, staff, parents and volunteers.

#### **11. Dust Control/Silica Sand/Health Concerns**

- a) Plan for Dust Control (who would monitor, how often and who pays): The Town Board is requesting this on behalf of many residents who are concerned with the health effects of silica sand – especially as it becomes airborne. We are requesting further explanation of the term “regular basis” as stated in section 1.3.10 of application.
- b) Conveyor has to be 125 ft. from a dwelling (Examples: house, barn, shed, etc.): The reason for this is there is no way of predicting the patterns and speeds of the wind to safeguard residents from potential blowing of fine sand and the effects of it.

- c) Appendix A: With approximately 45 properties (residential, agricultural, Amish (grow vegetables for livelihood), a daycare, 2 churches, and an auto body shop) and also 4 creeks located within 1 mile of the proposed mine sites, the owners of the mine failed to reassure those residents that sand will not be airborne, resulting in possible contamination of the air and water.
- d) Appendix B: OSHA has classified “Crystalline Silica” as a human lung carcinogen and also lists many effects of breathing this type of sand. The mine company failed to let the public know what type/grade of sand they will be loading onto trucks and shipping out of site, although it is presumed that the sand to be mined is “crystalline silica.”
- e) Appendix C: The CDC (Centers for Disease Control and Prevention) has identified “Silicosis” as a disease resulting from the exposure from crystalline silica exposure. Since there have not been many studies done in recent years since this is a new industry to Buffalo County, the residents of the Town of Dover expressed concern about being lab rats and deleterious affects on health. The residents expressed concern that there is no known method to prevent silica sand from becoming airborne and inhaled.
- f) Appendix D: The EPA (Environmental Protection Agency) defines “particle pollution” as a complex mixture of extremely small particles and liquid droplets made up of a number of components, including acids, organic chemicals, metals, and soil or DUST particles. Section 1.3.2 states some activities at the site will include blasting, excavation, and crushing. These activities result in particulates such as frac or silica sand. River Valley Sands has failed to tell the residents what measures they will do to prevent particulates from becoming airborne and thus causing a health and safety hazard.
- g) Appendix F: Section 1.3.10 & 1.3.12 states that the company will only water down the sand during dry weather. The “Fugitive Dust Control Plan” states the standard for fugitive dust emission quantification is by visual observation. If visible dust emissions are observed they need to be suppressed. Frac or Crystalline silica are light colored and would require a

large build up to become visible. The Town Board and its residents are concerned that there could be significant adverse health consequences well before the silica sand is visible and that “water down” the silica sand is not an adequate or proven solution to this problem.

- h) The Town Board and the residents of the Town of Dover are concerned that the operation of a frac/silica sand mine will result in airborne frac/silica sand and thus lead to serious adverse impacts on the residents health, safety and welfare.

## **12. Traffic**

- a) Because there is another mine approved within 1 mile of mine site on St Hwy 121, there should be a limit of 100 loads per day. The Town Board is asking for this because there is another mine that was approved by Buffalo County for 200 loads within 1 mile of River Valley Sands LLC and if we allowed the 200 loads that River Valley Sands LLC proposed in their application, that would be 400 loads a day traveling on St Hwy 121 creating a major safety issue for the Town residents.
- b) Appendix E: River Valley Sands must enter into a written agreement with the Town of Dover for repairs, maintenance and improvements of Town roads necessary and incidental to the operation of the mine. This is in case that the conveyors system is down for repairs and the company decides to haul sand from the mine site to the processing plant. This is in accordance with the weight limitations referenced in Chapters 348 & 349 of the Wisconsin Statutes.

## **13. Property Value/Buyout plan**

- a) Any buyout plans need to be approved by the adjoining property owners within a ½ mile of the mine site: The Town Board suggests that River Valley Sands enter into an agreement with all property owners within ½ mile of the proposed mine site that would ensure that their proper values will not decline, and that if they do, that River Valley Sands will purchase their property for the price that it would have been had the mine not be in existence. This could be accomplished by River Valley Sands causing appraisals to be done of said

properties and indexing the values of said properties to the fluctuations of the regional real estate market.

#### **14. Other Issues**

- a) The Town Board recommends that a 6 ft. chain link fence around the reclamation pond to keep wildlife out: The reason for this is because the Town of Dover is home to many outfitters and is also located in Buffalo County, which has a reputation for its quality of whitetail deer. This is protecting the wildlife from any substances that are used in the processing of the sand before shipment.
- b) Security Plan. The Town Board suggests that River valley Sands provide information on how it will secure the mine site from visitors, curious neighbors, etc. This is a major safety issue.
- c) Privacy Fence to separate residences and mine area. The Town Board suggests this because there are many residences surrounding the various mine sites with active children. The Town Board was told at the informational meetings that the only items being installed were berms.
- d) Appendix G: Town of Dover is home to 4 creeks that are classified by the Wisconsin DNR as Trout Streams. These include Elk Creek, South Fork Elk Creek, Kilness Creek, and Cooke Valley Creek. With both conveyors going over 2 of them, many residents are concerned that particle pollution and the proximity to the wells will have an adverse effect on the creeks and fish in them by lowering the water table and dust pollution from mine activities and sand traveling in the conveyors. The company did not state how they were going to control particle pollution and changes in the water table.

#### **CONCLUSION**

For the reasons herein stated, the Town Board of the Town of Dover hereby recommends that the CUP application be denied. Even if all of the recommendations of the Town Board are followed and implemented, the Town Board still has significant concerns as to

whether the mine can be operated in a way that will not adversely impact public health. A proposed conditional use that will or may adversely impact public health should not be permitted as it is not in the public interest to do so.

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Buffalo County  
407 South Second Street  
P.O. Box 492  
Alma, WI 54610-0492

### ***Town Board Review Form***

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Pursuant to the Industrial Sand Mining Policy and Procedure, an applicant seeking a permit for an industrial sand mining operation has the responsibility to contact the Town Board where the subject property is located to seek a place on their agenda as a means to advise the Board of the proposal. After considering the proposal, the Town Board will record any concerns, observations, and/or recommendation for the Board of Adjustment to consider during their review of the request.

**Date Application was received:** \_\_\_\_\_ **Date of Review:** \_\_\_\_\_

**Applicant Name:** \_\_\_\_\_

**Location of Proposed Site:** \_\_\_\_\_

After reviewing the "Application for a Conditional Use Permit for Nonmetallic Mining", the Town Board has the ability to execute one of the three options listed below.

Sign below this entry acknowledging that after reviewing the application, the Town Board recommends **approval** of the requested permit, and will compose a written statement explaining its support to the Board of Adjustment.

**Town Board Chair Name:** \_\_\_\_\_

**Signature:** \_\_\_\_\_ **Date:** \_\_\_\_\_

**Town Board Supervisor:** \_\_\_\_\_

**Signature:** \_\_\_\_\_ **Date:** \_\_\_\_\_

**Town Board Supervisor:** \_\_\_\_\_

**Signature:** \_\_\_\_\_ **Date:** \_\_\_\_\_

Sign below this entry acknowledging that after reviewing the application, the Town Board recommends denial of the requested permit, and will compose a written statement explaining its lack of support to the Board of Adjustment.

Town Board Chair Name: Jerome Klevgard CHAIRMAN  
Signature: Jerome Klevgard Date: 18 June 2013  
Town Board Supervisor: Dean Hestekin Supervisor  
Signature: Dean Hestekin Date: 6-18-13  
Town Board Supervisor: Frank Marasolek  
Signature: Frank Marasolek Date: 6-18-13

Sign below this entry acknowledging that after reviewing the application, the Town Board recommends approval with modification of the requested permit, and will compose a written statement explaining the suggested modifications to the application upon which its support is contingent to the Board of Adjustment.

Town Board Chair Name: \_\_\_\_\_  
Signature: \_\_\_\_\_ Date: \_\_\_\_\_  
Town Board Supervisor: \_\_\_\_\_  
Signature: \_\_\_\_\_ Date: \_\_\_\_\_  
Town Board Supervisor: \_\_\_\_\_  
Signature: \_\_\_\_\_ Date: \_\_\_\_\_

— water with sand road, help maintain gravel