



520 Lafayette Road
St. Paul, MN 55155-4194
Phone: 651-757-2873
Fax: 651-297-2343
www.eqb.state.mn.us

MINNESOTA ENVIRONMENTAL QUALITY BOARD

Wednesday, June 18, 2014

Meeting Location: MPCA Board Room

St. Paul, Minnesota

1:00 p.m. – 3:30 p.m.

CLIMATE CHANGE SUBCOMMITTEE AGENDA

The purpose of this meeting will be to discuss the Environmental Protection Agency's release of a draft Clean Air Act rule under Section 111(d) to reduce carbon emissions from existing power plants. While the federal government sets the rule, Minnesota will design its own implementation plan to meet the rule. This meeting includes a listening session for the public to provide input and comments on the proposed rule.

I. Briefing on the Environmental Protection Agency proposed rule to reduce carbon emissions at existing power plants

Presenters: David Thornton, Pollution Control Agency
(651-757-2018)
Frank Kohlasch, Pollution Control Agency
(651-757-2500)

II. What climate change means for Minnesota

Presenter: Mark Seeley, State Climatologist

III. Minnesota's leadership and ongoing activities to prepare for addressing the rule

Presenters: Brad Crabtree, Great Plains Institute
Scott Wilensky, Xcel Energy

IV. Listening session for the public to make comments

V. Ongoing activities the state is engaged in to meet statutory greenhouse gas reduction goals

Presenter: Anna Henderson, Environmental Quality Board
(651-757-2456)
Bill Grant, Department of Commerce
(651-296-9325)
Brandon Toner, Department of Employment and Economic Development
(651-259-7218)
Kristin Raab, Department of Health
(651-201-4893)

VI. Adjourn



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Wednesday, June 18, 2014

Meeting Location: MPCA Board Room

St. Paul, Minnesota

3:30 p.m. – 4:00 p.m

AGENDA

- I. *Adoption of Consent Agenda
Proposed Agenda for June 18, 2014 Board Meeting
May Meeting Minutes
- II. Introductions
- III. Chair's Report
- IV. Executive Director's Report
- V. **Minnesota Sands multi-site EIS
- VI. Adjourn

Note: Items on the agenda are preliminary until the agenda is approved by the board.

This agenda and schedule may be made available in other formats, such as Braille, large type or audiotape, upon request. People with disabilities should contact Elizabeth Tegdesch, Board Administrator, as soon as possible to request an accommodation (e.g., sign language interpreter) to participate in these meetings.



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MINNESOTA ENVIRONMENTAL QUALITY BOARD

Wednesday, June 18, 2014

Meeting Location: MPCA Board Room

St. Paul, Minnesota

3:30 p.m. – 4:00 p.m.

ANNOTATED AGENDA

I. *Adoption of Consent Agenda

Proposed Agenda for, June 18, 2014 Board Meeting

May Meeting Minutes

II. Introductions

III. Chair's Report

IV. Executive Director's Report

V. **Whether the Michelle and Tracie Erickson 19.11 acre mine site is a phased action to the Minnesota Sands multi-site EIS project.

Presenter: Kate Frantz, EQB Staff
651-757-2370

Materials enclosed:

- Attachment 1: June 18, 2014 EQB Resolution, Findings of Fact, Conclusion and Order for Erickson
- Attachment 2: Minnesota Sands, LLC Project list letter to EQB, provided by Minnesota Sands
- Attachment 3: Minnesota Sands, LLC Lease agreements between Minnesota Sands, LLC and Tracie and Michelle Erickson, Leonard and Kathleen Tostenson, Porteous E. Olson, Thomas and Virginia Johnson, and dissolutions and Minnesota Sands letter to Houston County, provided by Minnesota Sands
- Attachment 4: Response to questions from May 21 EQB meeting, provided by Houston County
- Attachment 5: Houston County Conditional Use Order, provided by Houston County
- Attachment 6: Houston County Board Directive April 8, 2014, provided by Houston County
- Attachment 7: Conditional Use Permit Renewals for Quarries, provided by Houston County
- Attachment 8: City Ordinance and Minnesota Statute, provided by Houston County
- Attachment 9: Lease agreements between Minnesota Sands, LLC and Tracie and Michelle Erickson, Leonard and Kathleen Tostenson, Porteous E. Olson, Thomas and Virginia Johnson, and dissolutions and Minnesota Sands letter to Houston County, provided by Houston County
- Attachment 10: DNR letter to Houston County, provided by Houston County
- Attachment 11: Houston County letter in response to DNR letter, provided by Houston County
- Attachment 12: Writ of Mandamus, provided by Johanna Rupprecht, Land Stewardship Project

* Items requiring discussion may be removed from the Consent Agenda

**Denotes a Decision Item

Issue before the Board:

Determination of whether the Michelle and Tracie Erickson 19.11 acre mine site is a phased action of the Minnesota Sands multi-site EIS project. This decision was heard and tabled at the May 21, 2014 EQB meeting.

Background:

- On March 5, 2013, the Houston County Board of Commissioners submitted a letter to the EQB, requesting the EQB reconsider the RGU for the multiple Minnesota Sands projects both in Houston County and in neighboring counties.
- On March 20, 2013, the EQB reconsidered the RGU for the multiple Minnesota Sands, LLC projects. 11 sites were identified as phased actions of the Minnesota Sands, LLC multi-site project that exceeded the threshold for a mandatory EIS. One of the phased actions included in the Minnesota Sands, LLC multi-site project was a 19.11 acre site owned by Tracie and Michelle Erickson.
- The Erickson site is seeking a conditional use permit renewal from Houston County.

Discussion: At this time, the EQB has received a statement of intent from Minnesota Sands, LLC (Attachment 2), but has not yet received payment for scoping or a signed cost agreement.

EQB staff has fielded numerous inquiries from the project proposer, the Erickson property, Houston County, and the general public, about the status of the Erickson site; specifically, whether or not it can be removed as a phased action from the multi-site EIS based on the attached agreement that purportedly terminates the contract between the parties. The question before the EQB is whether or not, given the information provided, the Erickson site is a phased action of the multi-site Minnesota Sands, LLC EIS as defined in March 2013. All parties have been put on notice to provide background information and have been invited to this meeting to field questions so the Board may consider this resolution.

Staff Recommendation:

Based on the evidence provided to date, staff recommends the approval of the resolution.

VI. Adjourn

MINNESOTA ENVIRONMENTAL QUALITY BOARD MEETING MINUTES

Wednesday, May 21, 2014
MPCA Room Board Room, 520 Lafayette Road N, St. Paul

EQB Members Present: Dave Frederickson, Kate Knuth, Mike Rothman, John Saxhaug, Erik Tomlinson, Charlie Zelle, Spencer Cronk, Kristen Eide-Tollefson, Tom Landwehr, Dr. Ed Ehlinger, Katie Clark-Sieben, Julie Goehring, Brian Napstad, John Linc Stine, Sandy Rummel (Met Council), Leah Hedman, Attorney General's Office

EQB Members Absent: None

Staff Present: Will Seuffert (EQB), Kate Frantz (EQB), Megan Eischen (EQB), Caroline Magnuson (EQB), Erik Dahl (EQB), Anna Henderson (EQB), Beth Tegdesch (MPCA for EQB)

Chair Dave Frederickson called the meeting to order at 1:04 p.m.

I. Adoption of Consent Agenda and Minutes

A motion to adopt the Consent Agenda and approve the March 19, 2014, meeting minutes was made and seconded.

II. Introductions

III. Chair's Report

No report

IV. Executive Director's Report

Belated thanks to those who were able to make the trip to Rochester for the March EQB Board meeting. The Silica Sand Rulemaking Advisory Panel continues to meet monthly, most recently on Friday, May 16th in Oranoco, to discuss reclamation requirements. As a reminder, the EQB rulemaking will address environmental review thresholds for silica sand mining, storage, and processing. A draft rule and a statement of need and reasonableness will come before the Board later this year pending the progress made with the Panel.

The Climate Change subcommittee met on March 28 to discuss various policy options for consideration and the climate strategies and economic opportunities analysis, also known as CSEO. As a reminder CSEO will analyze the greenhouse gas reduction potential cost and job impacts for a wide variety of policy options that have been suggested by stakeholders and interagency experts. Intensive interagency work is ensued and progress is being made on this project, as well as editing and the framework report which is on schedule for your review by the next meeting in June. The National Governor's Association's Clean Energy and Economic Development project is moving forward, most recently with a stakeholder meeting this morning and a multi-state policy academy held in Phoenix last week. The Governor is tentatively hosting a summit on July 17th with broad industry and stakeholder participation. I strongly encourage you to attend, if you are able. Details will follow. Our next meeting will include detailed presentation and status updates on various climate and clean energy initiatives.

Our next meeting will include both a continuation of our water management presentations and EIS presentations and also have a climate change subcommittee meeting.

There has been broad interest in the status of our website and we are working with the IT team at the MPCA to move onto a new content management system to make web development and management easier and more self-sustaining. Since this is a new system our timeline is uncertain, but we hope to move into that system in August. Once this migration is complete we can begin to retool our website.

Welcome to Amy Whooley, the EQB intern for the summer. She will help revise citizen documents; she attends the U of M Twin Cities and plans to graduate in December with a degree in environmental science policy and management.

V. Minnesota Sands Multi-site EIS

The issue before the Board is whether the Michelle and Tracie Erickson 19.11 acre mine is a phased action to the Minnesota Sands multi-site EIS project. Kate Frantz, EQB staff, shared the basic concepts about environmental review that are applicable in this case. She briefly explained mandatory categories, what phased and connected actions are, as well as how they are the same or different from cumulative potential effects, and also covered more obscure inclusions from the rules including the related actions EIS process as well as the variance process. Kate also shared some history of this project.

Approving this Resolution would affirm the Erickson 19.11 acre site is not a phased action and would effectively release them from the multi-site EIS that would be completed by the EQB for the Minnesota sands project. Your decision on this matter does not relieve this project from other environmental review requirements it may be required to complete nor other potential permitting requirements Those decisions are not the jurisdiction of the board at this time. The option today is whether to adopt the resolution before you, amend the resolution, reject the resolution, or not take any action at this time.

Discussion followed.

The following people gave testimony:

- David Williams, Lanesboro
- Theresa Walter, Commissioner Chair Houston County
- Marilyn Frauenkron Bayer, Land Stewardship Project
- Johanna Rupprecht, Land Stewardship Project
- Kelley Stanage, Houston, Minnesota
- Bob Scanlon, Houston County Planning and Zoning
- Tracie Erickson, Houston County
- Richard Frick, Minnesota Sands
- John Dustman, consultant from Summit Envirosolutions in St. Paul to Minnesota Sands

Commissioner John Stine made a motion to table the decision item until next month until more materials are submitted. Commissioner Rothman seconded. A roll call vote was taken to table the decision and passed seven to five.

VI. Minnesota River Basin Integrated Study Update

Kate Frantz, EQB, and Jason Smith, Army Corps of Engineers, provided an update on the Minnesota River Integrated Watershed Study.

VII. Adjourn



May 28, 2014

Dear Stakeholders:

As Co-chairs of the Environmental Quality Board (EQB) Subcommittee for Climate Change Planning, we invite you to a Subcommittee Meeting on June 18 at 1pm, in the MPCA Board Room. The purpose of this meeting will be to discuss the Environmental Protection Agency's expected release of a draft Clean Air Act rule under Section 111(d) in June. We expect the new proposed rule to include federal and state collaboration on standards, including requirements for a state plan for regulating carbon pollution emissions from existing power plants. We also expect that while the federal government will provide guidelines, Minnesota will design its own implementation plan, subject to federal review, to meet those guidelines. Minnesota is already a leader in developing strategies that reduce carbon emissions in a way that grows our economy, increases health standards for Minnesota citizens, and protects our natural environment.

The June 18th meeting will give the public an opportunity to provide us with input and comment on the proposed rule. We will have presentations on efforts already in place to lay the groundwork for meeting federal carbon emissions standards. Further, this will also be an opportunity to continue our discussion on strategies to mitigate and adapt to climate change.

We believe Minnesota is in a strong position to develop a state implementation plan to reduce carbon emissions. We hope to work with all Minnesotans on this important effort. Please feel free to contact us with any questions or comments that you may have. You can contact David Thornton, Assistant Commissioner at the MPCA (david.thornton@state.mn.us, phone: 651-757-2018), or Bill Grant, Deputy Commissioner of Energy and Telecommunications at the Department of Commerce (bill.grant@state.mn.us, phone: 651-539-1801), or Anna Henderson, Energy and Climate Specialist at the EQB (anna.henderson@state.mn.us, phone: 651-757-2456).

Thank you.

Sincerely,

A handwritten signature in black ink that reads "John Linc Stine".

John Linc Stine
Commissioner
Minnesota Pollution Control Agency

A handwritten signature in black ink that reads "Mike Rothman".

Mike Rothman
Commissioner
Department of Commerce

**RESOLUTION OF THE
MINNESOTA ENVIRONMENTAL QUALITY BOARD**

Removal of a site from the proposed Minnesota Sands, LLC, multi-site Environmental Impact Statement (EIS) ordered on March 20, 2013.

BE IT RESOLVED, that the Minnesota Environmental Quality Board approves and adopts the Findings of Fact, Conclusions and Order identifying the 19.11 acre Erickson proposed project as an action which is not phased and effectively removing it from the mines included in the Minnesota Sands, LLC, Environmental Impact Statement (EIS); and

BE IT FURTHER RESOLVED, that David J. Frederickson, Chair of the Board, is authorized to sign the adopted Findings of Fact, Conclusions and Order.

**STATE OF MINNESOTA
ENVIRONMENTAL QUALITY BOARD**

In the Matter of requests to determine
whether the Erickson 19.11 acre mine site
in Houston County is a phased action
of the Minnesota Sands, LLC
Multi-site Environmental Impact Statement.

FINDINGS OF FACT
CONCLUSIONS OF LAW
AND ORDER

The above-captioned matter came before the Minnesota Environmental Quality Board (EQB) at a regular meeting on June 18, 2014, pursuant to a request for clarification by Houston County.

Based upon all of the proceedings herein, the Minnesota Environmental Quality Board makes the following:

FINDINGS OF FACT

1. The September 3, 2012, *EQB Monitor* published a notice that Houston County, acting as Responsible Governmental Unit (RGU), granted an Environmental Assessment Worksheet (EAW) for the Erickson Quarry Project in response to a citizen petition.
2. On March 5, 2013, the Houston County Board of Commissioners submitted a letter to the EQB, requesting the EQB reconsider the RGU for the multiple Minnesota Sands projects both in Houston County and in neighboring counties.
3. On March 20, 2013, the EQB reconsidered and renamed itself the RGU for the multi-site Minnesota Sands, LLC project.
4. In the EQB's Findings, Conclusions, and Order, the EQB found that the mining sites listed, including the Erickson 19.11 acre mine site, were phased actions of the Minnesota Sands, LLC multi-site project as defined by Minnesota Rules 4410.0200 Subp. 60.
5. Per Minnesota Rules 4410.2000 Subp. 4, phased actions must be considered in total for environmental review.
6. On March 25, 2014, EQB staff sent a letter to Minnesota Sands, LLC, requesting an update on the status of the Minnesota Sands, LLC projects, as well as clarification of the relationship between the Erickson site and Minnesota Sands, LLC. Specifically, the letter requested, "any past, current, or anticipated future association and include, but not be limited to, a partnership, ownership, shareholder, buyer, seller, processor, transporter, or relationship of any kind."
7. The EQB received a response on April 5, 2014, from Minnesota Sands, LLC that included a *Dissolution of Contract*, incorporated to these findings by reference.

8. According to the terms of the *Dissolution of Contract*, Mr. Richard Frick of Minnesota Sands, LLC and Tracie and Michelle Erickson are no longer under contract for Minnesota Sands, LLC to mine at the Erickson 19.11 acre mine site.

9. Minnesota Rule 4410.0200, Subp. 60 reads:

“Phased action” means two or more projects to be undertaken by the same proposer that a RGU determines:

A. will have environmental effects on the same geographic area; and

B. are substantially certain to be undertaken sequentially over a limited period of time.

Minn. R. 4410.0200, Subp. 60 (2011).

10. The Minnesota Sands, LLC multi-site project and the Erickson mine site are not proposed by the same project proposer.

11. Pursuant to MN Rules 4410.4300 Subp 9, a mandatory Environmental Impact Statement is required for non-metallic mineral mining projects, “For development of a facility of the extraction of mining of sand, gravel, stone or other nonmetallic minerals, other than peat, which will excavate 160 acres of land or more to a mean depth of ten feet or more during its existence.”

12. The remaining sites identified should move forward to scoping.

Based on the foregoing Findings of Fact, the Minnesota Environmental Quality Board makes the following:

CONCLUSIONS

1. Any of the foregoing Findings more properly designated as Conclusions are hereby adopted as such.
2. The Environmental Quality Board has jurisdiction over the subject matter of this proceeding pursuant to Minnesota Statutes chapter 116D and Minnesota Rules, 4410.
3. The Erickson 19.11 acre mine is not a phased action to the Minnesota Sands, LLC multi-site project pursuant to Minn Rule 4410.0200 Subp. 60.

Based on the Findings of Fact, Conclusions and the entire record of this proceeding, the Minnesota Environmental Quality Board hereby makes the following:

ORDER

The EQB orders a EIS for the Minnesota Sands, LLC multi-site project, without inclusion of the Erickson 19.11 acre mine site, as it is not a phased action.

Approved and adopted this 18th day of June, 2014.

David J. Frederickson, Chair
Minnesota Environmental Quality Board

Minnesota Sands, LLC

14158 Addleman Drive

Houston, MN 55943

RECEIVED
MAY 30 2014
BY:

May 29
June 1, 2014

Minnesota Environmental Quality Board

c/o Will Seuffert, Executive Director

520 Lafayette Road North

Saint Paul, MN 55155

Dear Mr. Seuffert,

This letter is in response to your request regarding who the leases are established between Minnesota Sands, LLC and various Lessors in Fillmore and Winona counties.

1. Minnesota Sands, LLC has leases with the following people in Fillmore County.
 - a. Randy and Catherine Boyum
 - b. Roger Dabelstein
 - c. Ralph Swiggum
 - d. David Wadewitz
 - e. Harry Kessler
2. Minnesota Sands, LLC has leases with the following people in Winona County.
 - a. Roger Dobbblestein
 - b. Toby Detwieler
 - c. Dan Yoder
 - d. Tom Campbell
 - e. Ida Yoder
 - f. Harry Kessler

Regarding your question about our intention to complete an EIS, we plan to move forward with that as soon as project financing is complete.

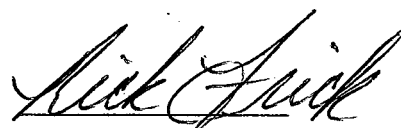
Regards,



Rick Frick, individually



Minnesota Sands, LLC



Minnesota Proppant, LLC

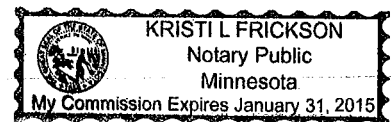
State of Minnesota

ss.

County of Houston

Subscribed and sworn to before me this 29th day of May 2014 by Richard Frick.

Kristi L Frickson
Notary Public



RECEIVED
MAY 30 2014

BY:.....

LEASE AGREEMENT

THIS LEASE AGREEMENT, ("the Agreement") is entered into this 27th day of March, 2012 by, **Tracie L. Erickson and Michelle L. Erickson**, husband and wife ("Landlord") whose address for the purpose of this lease is 23148 State 16, Rushford, MN 55971, and **Richard Frick**, ("Tenant"), whose address for the purposes of this lease is 3108 Co. Rd., 9, Houston, MN 55943

1. **PREMISES AND TERM.** The Landlord, in consideration of the rent, agreements, and conditions contained herein, leases to the Tenant and Tenant leases from Landlord, for the sole purpose of removing sand only the following described real estate in Houston County, Minnesota:

See attached Exhibit A

Parcel Id: 17.0039.000

This lease description is limited to the area as depicted on the Exhibit B well as all access roads to and from the sand pit, general depicted on the attached Exhibit B.

for a term commencing March 26, 2012 and ending October 31, 2014.

2. **RENTAL.** Tenant agrees to pay to Landlord as rental for said Premises the sum of \$10,000.00 to be paid in full on the execution of this lease.
3. **ROYALTIES.** In addition to the rental due under paragraph 2 above, Tenant agrees to pay Landlord royalties in the amount of \$2.00 per ton ("Royalty Rate") for each ton of Frac Sand removed from the premises. Said material shall be weighed across a scale provided and installed on the Premises by Tenant or bucket scale capable of producing printed weight tickets. Royalty payments will be made on a monthly basis with the first Royalty payment due one month after the removal of the first material.

Tenant shall pay Landlord a late fee of Five percent (5%) of any monthly payment amount not received by Landlord with fifteen (15) days after the payment is due.

4. **POSSESSION.** Tenant shall be entitled to possession on the commencement date, and shall yield possession to the Landlord upon expiration of this Agreement. Landlord shall have the absolute right throughout the term of this Agreement to continue to complete cropping and farming activities on the portion of the premises not affected by the mining operation and Landlord shall have the right to complete cropping and farming activities on the portion of the premises reclaimed from mining operations and not affected by mining operations. If Tenant disturbs any planted crops, Tenant shall compensate Landlord for said destroyed crops at fair value. Tenant may only complete mining activities from the hours of 6:30 a.m. until 9:00 p.m. from Monday through Saturday. Tenant may complete mining activities from noon until 6:00 p.m. on Sunday.

5. **USE AND CONDITION OF PREMISES.**

- (a) Tenant may use the Premises solely to mine Frac Sand to be used by Tenant for commercial purposes.
- (b) Tenant will use Tenant's best efforts to maintain a "good neighbor policy" with adjacent property owners and the public .
- (c) Tenant may sub-contract, assign or sublease all or any part of this Lease of the Premises. All provisions of this lease, including provisions relating to Royalties and the business manner of Tenant shall apply to any assignee or sub-lessee so no harm or distress is caused to Landlord.
- (d) Pursuant to this Lease the Tenant shall have the right to utilize the Premises and any easements thereon to do each of the following:
 - i. Excavate and clear sand and earth;
 - ii. Transport mined materials
 - iii. Weigh mined materials.
 - iv. Process mined materials including but not limited to installing a washing plant and the drilling of necessary wells and utilization

of any water in the Leased Area. Tenant shall not use any chemicals in the washing process.

- v. Building of roads in the permitted area to facilitate the transport of mined materials.
- vi. To take all steps necessary to comply with any reclamation plans.
- vii. To install all utilities of any nature necessary to mine material or to operate a processing plant for material for scale purposes and to conduct processing.

6. **TERMINATION AND OPTION TO RENEW.** This lease shall terminate upon expiration of the original term.

7. **QUIET ENJOYMENT.** Landlord covenants that its estate in said premises is in fee simple and that the Tenant, if not in default, shall peaceably have, hold and enjoy the premises for the term of this lease. Landlord represents that it has not previously leased or assigned the mineral rights to the premises to any other party and covenants not to lease, grant or assign the mineral rights to the premises described above, during the term of this lease.

8. **REAL ESTATE TAXES.** All real estate taxes and special assessments shall be paid by the Landlord. In the event the real estate taxes and special assessments due and payable with regard to the premise increase due to a reclassification or increase in valuation caused by Tenant's activities on the premises, Tenant shall pay 100% of such increase. Upon Landlord's failure to pay any real estate taxes or special assessments, Tenant shall have the right to make such payments and obtain reimbursement or contribution from Landlord for making such payments.

9. **INDEMNITY.** Except for the negligence of Landlord, Tenant will protect, defend and indemnify Landlord from and against all loss, costs, damage and expenses, including costs and attorney's fees, occasioned by, or arising out of, any accident or other occurrence, including but not limited to dust, pollutants and contaminants, causing or inflicting injury or damage to any person or property, happening or done in, upon or about the premises, or due directly or indirectly to the tenancy, use or occupancy thereof, or any part thereof by Tenant or any person claiming through or under Tenant. If Tenant and or its agents causes any structural damage to Landlord's house or other buildings, Tenant shall be responsible to repair said damage.

- 10. ZONING.** Tenant's obligations under this Agreement are conditioned upon Tenant obtaining any zoning or other governmental approvals required to permit the use set forth in paragraph 5 above on or before the commencement date of this Agreement. Any conditional use permit for mining purposes shall be assigned to Tenant as part of this agreement. Said approvals include, but are not limited to, any permits or approvals required by the Minnesota Department of Natural Resources, the United States Mine Safety and Health Administration, any county permits, and any mining plans and reclamation plans as may be required. Landlord agrees to assist and cooperate in obtaining any such approvals or permits. Landlord shall have the right to object to any approvals or permits at or before any type of zoning, planning, county or township or commissioning authority.
- 11. NOTICES AND DEMANDS.** Notices as provided for in this lease shall be given to the respective parties hereto at the respective addresses designated on page one of this lease unless either party notifies the other, in writing, of a different address. Without prejudice to any other method of notifying a party in writing or making a demand or other communication, such message shall be considered given under the terms of this lease when sent, addressed as above designated, postage prepaid, by certified mail deposited in a United States mail box.
- 12. CHANGES TO BE IN WRITING.** None of the covenants, provisions, terms or conditions of this lease shall be modified, waived or abandoned, except by a written instrument duly signed by the parties. This lease contains the whole agreement of the parties.
- 13. CONSTRUCTION.** Words or phrases herein, including acknowledgement hereof, shall be construed as in the singular or plural number, and as masculine, feminine or neuter gender according to the context.
- 14. CERTIFICATION.** Tenant certifies that it is not acting, directly or indirectly, for or on behalf of any person, group, entity or nation named by an Executive Order of the United States Treasury Department as a terrorist, "Specially Designated National and Blocked Person" or any other banned or blocked person, entity, nation or transaction pursuant to any law, order, rule or regulation that is enforced or administered by the Office of Foreign Assets Control; and it is not engaged in this transaction, directly or indirectly on behalf of, or instigating or facilitating this transaction, directly or indirectly on behalf of, any such person, group, entity or nation. Tenant hereby agrees

to defend, indemnify and hold harmless Landlord from and against any and all claims, damages, losses, risks, liabilities and expenses (including attorney's fees and costs) arising from or related to any breach of the foregoing certification.

15.SURFACE RIGHTS OF TENANT. Tenant may clear brush and undergrowth from such portions of the premises as may be reasonably necessary to explore for materials or to locate pits, quarries, roads and stockpile areas. Tenant shall have the right to build roads in the permitted area as may be reasonably necessary for the production and removal of materials in building such roads, Tenant may use materials from the Property, and Tenant shall not be required to pay royalties to Landlord for materials so used. Tenant shall remove all roads constructed by Tenant and restore the property to a reasonably level condition when such roads are no longer in use, unless Landlord desires to have said road remain.

16.PROTECTION AND RESTORATION OF SURFACE. At the termination of this Lease or any extension or renewal thereof the Tenant shall be obligated to remove all structures and equipment located on the Property, provided, however, that Tenant shall be allowed one (1) year from the date of termination of this Lease or any extension or renewal thereof to remove any or all structures or equipment. At the termination of this Lease or any extension or renewal thereof the Tenant shall remove all trash, junk and/or salvage located on the Property and shall leave the land surface of the Property in a reasonably level condition. Tenant shall complete all actions necessary to reclaim the property as provided in Tenant's conditional use permit. If Tenant fails to remove any structure, equipment, trash, junk and / or other salvage as herein provided, then Landlord shall recover from Tenant reasonable attorneys' fees and court costs incurred by Landlord to enforce the provisions of this paragraph and / or to remove such items from the Premises. The provisions of this paragraph shall survive any termination of this Lease. Tenant shall also construct a pond as indicated on **Exhibit B** that will hold water.

17.RIGHT OF FIRST REFUSAL. Landlord agrees and hereby grants to Tenant the right of first refusal to purchase the Property hereinafter "Right of First Refusal" as long as Tenant is not in default under this lease. Under this

Right of First Refusal, any offer to purchase the premises made by a third party during the term of this Lease or any extensions thereto, shall be first communicated to Tenant in writing. Tenant shall have the option to purchase at the same price and upon the same terms of said offer. Said refusal or exercise of option by Tenant shall be made within thirty (30) days from when written notice received from Landlord. Landlord shall not have the right of first refusal if Landlord shall sell or otherwise transfer the premises to any family member as defined under Minnesota's intestacy laws, and specifically include the children, siblings, nieces and nephews of Landlord.

18.**SEVERABILITY.** If any portion of this Lease shall be held to be invalid or unenforceable for any reason, the remaining provisions shall continue to be valid and enforceable. If a court finds that any provision of this Lease is invalid or unenforceable, but that by limiting such provision, it would become valid and enforceable, then such provision shall be deemed to be written, construed, and enforced as so limited.

19.**INSURANCE.** Tenant shall maintain appropriate liability insurance covering the premises and the operations occurring on the premises, with minimum limits of \$5,000,000 per occurrence. Said insurance policy shall name Landlord as an additional insured.


20.**GOVERNING LAW.** This agreement shall be governed by and construed in accordance with the laws of the State of Minnesota.

21.**PROVISIONS BINDING.** Each and every covenant and agreement herein contained shall extend to and be binding upon the respective successors, heirs, administrators, executors and assigns of the parties hereto.

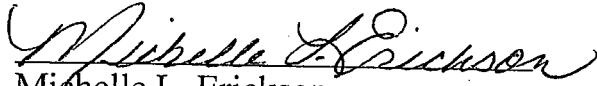
22. In any action or legal proceeding to enforce any part of this Lease Agreement, the prevailing party shall recover its reasonable attorneys' fees and court costs from the other party.

LANDLORD:

TENANT:


Tracie Erickson

Richard Frick


Michelle L. Erickson

State of Minnesota

County of Houston

This instrument was acknowledged before me by Tracie Erickson and Michelle Erickson on this ____ day of _____, 2012.

Notary Public

State of Minnesota

County of Houston

This instrument was acknowledged before me by Richard Frick this ____ day of _____, 2012.

Notary Public

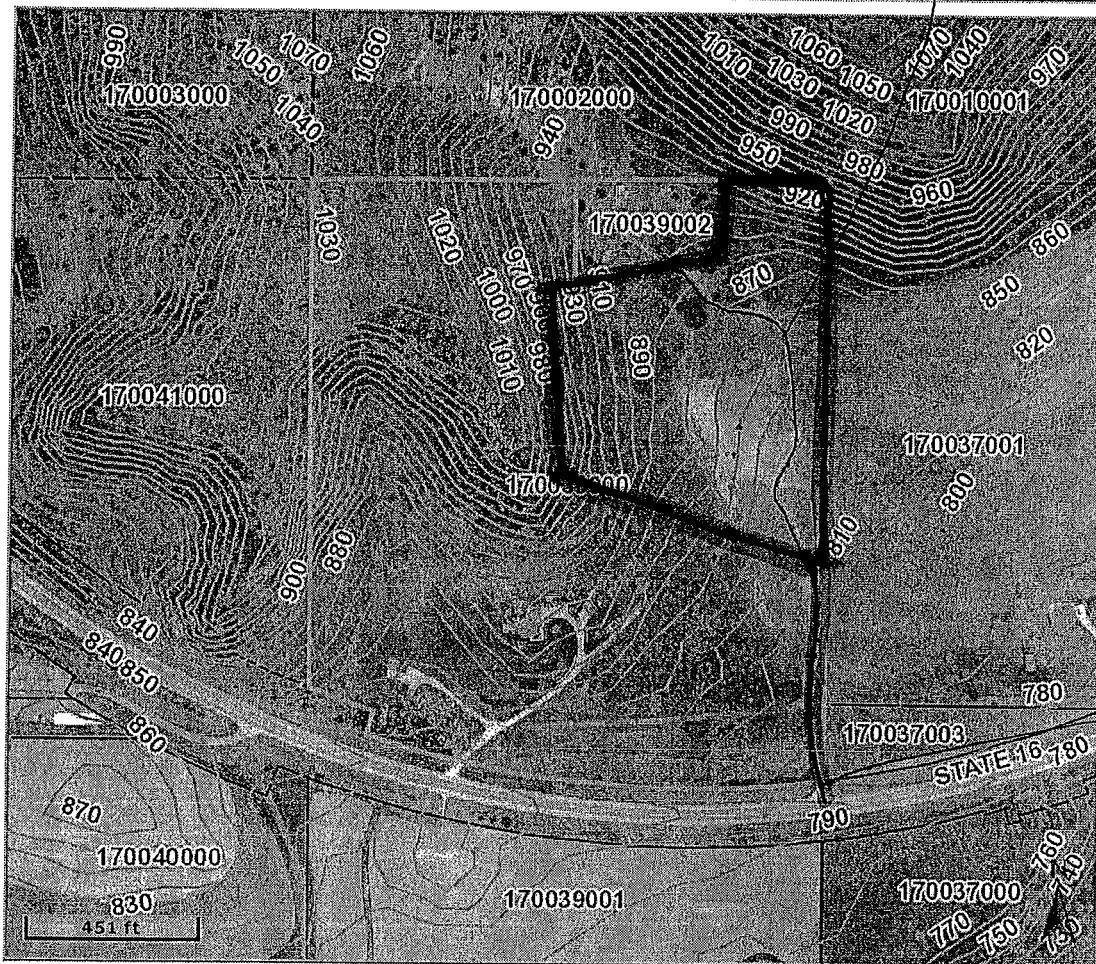
EXHIBIT A

17.0039.000
That part of the East 1/2 of the NE 1/4 of Section 30, Township 104 North, Range 7 West, Yucatan Township, Houston County, Minnesota, which lies North of the right of way of State Highway #16 as the same is located in the year 1991. EXCEPTING THEREFROM that part of the East 1/2 of the NE 1/4 of Section 30, Township 104 North, Range 7 West described as follows: Commencing at the Southeast corner of said East 1/2 of the NE 1/4 of Section 30; thence North 00 degrees 03 minutes 33 seconds West along the East line of said East 1/2 of the NE 1/4 2642.20 feet to the Northeast corner of said East 1/2 of the NE 1/4; thence South 89 degrees 40 minutes 32 seconds West along the North line of said East 1/2 of the NE 1/4 265.74 feet to the point of beginning of this EXCEPTION: Thence continue South 89 degrees 40 minutes 32 seconds West along said North line 381.63 feet; thence South 254.96 feet; thence North 79 degrees 25 minutes 11 seconds East 389.70 feet; thence North 00 degrees 26 minutes 44 seconds West 185.57 feet to the point of beginning of this EXCEPTION.

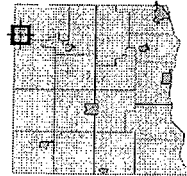
Houston County, MN

Tenant shall leave
access road for
beacon™
Northern Properties
owner

Date Created: 3/27/2012



Overview



Legend

- Contours
- Corporate Limits
- Political Townships
- Parcels
- Roads

Parcel ID	170039000	Alternate ID	n/a	Owner Address	TRACIE & MICHELLE L ERICKSON
Sec/Twp/Rng	30-104-7	Class	201 - RESIDENTIAL		23148 STATE 16
Property Address	23148 STATE 16 RUSHFORD	Acreage	42.90		RUSHFORD, MN 55971
District	n/a				
Brief Tax Description	Sect-30 Twp-104 Range-007 42.90 AC NE1/2 NE1/4 & PT SE1/4 NE1/4 LY N OF TH#16 EX 1.91 AC EASEMENT B 381 P 158 & P 401 P 748; DOC 194763; DOC 250023 DOC 259888 (Note: Not to be used on legal documents)				

Last Data Upload: 3/27/2012 12:01:13 AM



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The Schneider Corporation
www.schneidercorp.com

Exhibit B

Copy

RECEIVED
MAY 30 2014

BY:

AGREEMENT

THIS AGREEMENT, Made and entered into this 12 day of September 2013, by and between Tracie Erickson and Michelle Erickson and Richard Frick, individually and on behalf of Minnesota Sands, LLC and Minnesota Proppent, LLC.

WHEREAS, the parties have had various business dealings within the last couple of years and Tracie and Michelle Erickson leased certain real estate to Richard Frick and/or his representative businesses for the excavation of Frac Sand, and

WHEREAS, the parties desire to come to an understanding for the termination of said lease and to terminate any and all business relationship; and

NOW THEREFORE: For valuable consideration, the parties agree as follows:

1. The lease agreement and amendments thereto between Tracie and Michelle Erickson and Minnesota Sands, LLC and Richard Frick are hereby terminated.
2. Richard Frick and/or his respective businesses, jointly and individually, shall pay to Tracie and Michelle Erickson the sum of \$25,000.00 within thirty (30) days of the execution of this agreement.
3. If the \$25,000.00 is not paid within thirty (30) days, Richard Frick, Minnesota Sands, and Minnesota Proppent, individually and jointly, shall pay to Tracie and Michelle Erickson \$90,000.00.
4. For further security for the payment of the \$25,000.00, Richard Frick, Minnesota Sands and Minnesota Proppent, grant to Tracie and Michelle Erickson a security agreement into any and all assets that all parties may own.

5. Tracie Erickson shall complete all matters necessary to obtain his existing permit from Houston County. Richard Frick, Minnesota Sands, and Minnesota Proppent agree to pay any and all attorney's fees and complete all actions necessary to obtain his prior permit back from Houston County.
6. Richard Frick, Minnesota Sands and Minnesota Proppent agree to pay any and all costs, attorney's fees and other expenses related to returning Tracie Erickson's permit to Tracie Erickson. This permit shall consist of a permit to mine sand and not frac sand. The specifics of the Erickson's permit shall be consistent with what Mr. Erickson had prior to the parties entering into the underlying lease agreement.
7. Richard Frick, Minnesota Sands, and Minnesota Proppent, LLC agree to enter into the dismissal of the current lawsuit of Minnesota Sands, LLC v. Houston County and Minnesota District Court File No. 28-CV-12-729.
8. Tracie and Michelle Erickson shall transfer over to Richard Frick two shares that Richard Frick transferred to Tracie Erickson.
9. In exchange for the aforementioned consideration and other good and valuable consideration, the receipt and adequacy of which are acknowledged, the parties hereby release and forever discharge each other from any and all claims under, pursuant to, arising from, or in any way related to their relationship and lease including damages.
10. This is a complete and final settlement as to the terms of the agreement.

Tracie Erickson
Tracie Erickson

Michelle Erickson
Michelle Erickson

MINNESOTA SANDS, LLC:

By: Richard Frick
Richard Frick

MINNESOTA PROPPENT, LLC:

By: Richard Frick
Richard Frick

Richard Frick
Richard Frick, individually

State of Minnesota
ss.
County of Houston

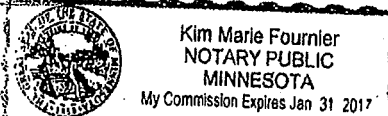
Subscribed and sworn to before me this 12th day of
September 2013 by Tracie Erickson and Michelle Erickson.

Kim Marie Fournier
Notary Public



Subscribed & Sworn to before me this 13th day of
September by Michelle Erickson

Kim Marie Fournier
Notary Public



State of Minnesota

ss.

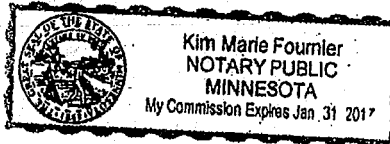
County of Houston

Subscribed and sworn to before me this 13th day of September 2013 by Richard Frick individually and on behalf of Minnesota Sands, LLC and Minnesota Proppent, LLC.

Kim Marie Fournier
Notary Public

Prepared by:

Jed J. Hammell
Rippe, Hammell & Murphy
110 East Main Street
Caledonia MN 55921



6-008

RECEIVED
MAY 30 2014

BY:.....

LEASE AGREEMENT

THIS LEASE AGREEMENT, ("the Agreement") is entered into this ____ day _____, 2012 by Leonard J. Tostenson and Kathleen Tostenson, ("Landlord") whose address for the purpose of this lease is 15108 Traff Dr., Houston, MN 55943, and Minnesota Sands, LLC, ("Tenant"), whose address for the purposes of this lease is 3108 County Road 9, Houston, MN 55943.

1. **PREMISES AND TERM.** The landlord, in consideration of the rent, agreements, and conditions contained herein, leases to the Tenant and Tenant leases from Landlord, for the sole purpose of removing sand on only the following described real estate in Houston County, Minnesota:

The North Half of the Southwest Quarter of Section 9, Township 104 North of Range 6 West of the fifth Principal Meridian.

As well as an easement 2 rods in length for ingress and egress over and across the North Half of the Southeast Quarter of Section 9, Township 104 North of Range 6 West of the fifth Principal Meridian to enter and exit the above described property.

Parcel Id: 060037000

The description of the leased area shall be modified to exclude any part of the above-described real estate which is not encompassed by the actual permitted area or access roads.

for a term commencing June 15, 2012 and ending ten years after obtaining all applicable permits from Houston County.

2. **RENTAL.** Tenant agrees to pay to Landlord as rental for said Premises the sum of [REDACTED] to be paid in full on the execution of this lease. Tenant

also agrees to pay Landlord an additional [REDACTED] upon Tenant obtaining all applicable permits from Houston County. Said amounts are nonrefundable.

3. **ROYALTIES.** In addition to the rental due under paragraph 2 above, Tenant agrees to pay Landlord royalties in the amount of \$[REDACTED] per ton ("Royalty Rate") for each ton of Frac Sand removed from the premises. Said material shall be weighed across a scale provided and installed on the Premises by Tenant or through other accurate weighing methods. The parties agree that the Royalty Rate shall be adjusted, but not lower than \$[REDACTED] per ton, on May 1st of each even year of this Lease or any renewal thereof (April 1, 2014; April 1st, 2016; April 1st, 2018; etc.) to adjust the Royalty Rate by utilizing the Producer Price Index for Core Products published by the United States Department of Labor, Bureau of Labor Statistics ("Index"). The Royalty Rate shall adjust by multiplying the Royalty Rate times the difference between the Index on the adjustment date and the Index on November of the previous adjustment date. For example, if the difference in the Index between April 1, 2016 and April 1, 2014 is ten percent (10%) then the Royalty Rate shall be \$[REDACTED] per ton [REDACTED]. Royalty payments will be made on a monthly basis with the first Royalty payment due one month after the removal of the first material and on the 1st of the month thereafter. Tenant shall pay Landlord a late fee of [REDACTED] of any monthly payment amount not received by Landlord with fifteen (15) days after the payment is due.

Tenant shall not be permitted to bring material from other mines or quarries to be washed or processed at the leased premises.

Landlord shall have the ability to review and audit Tenant's records relating to material removed and weighed from the leased premises.

4. **MINIMUM ROYALTIES.** Tenant agrees that minimum Royalty payments will be made as follows:

- Minimum of [REDACTED] to be paid to the Landlord within twenty-four (24) months of execution of this Lease Agreement.
- Minimum total of [REDACTED] within the first sixty (60) months after execution of this Lease Agreement.
- Minimum of [REDACTED] per year for each year thereafter until the termination of this Lease Agreement.

In the event the Tenant fails to make the minimum Royalty payments described herein, Landlord shall have the option to immediately terminate said Lease Agreement. In the event of termination, neither party shall have any further obligations to each other, other than Tenant's reclamation obligations contained herein.

5. **POSSESSION.** Tenant shall be entitled to possession on the commencement date, and shall yield possession to the Landlord upon expiration of this Agreement. Landlord shall have the absolute right throughout the term of this Agreement to continue to complete cropping and farming activities on the portion of the premises not affected by the mining operation and Landlord shall have the right to complete cropping and farming activities on the portion of the premises reclaimed from mining operations and not affected by mining operations. If Tenant disturbs or damages any planted crops, Tenant shall compensate Landlord for said destroyed crops at fair market value. If Tenant utilizing any crop land including the access road or mine site itself, Tenant shall compensate Landlord based on fair agricultural rental value for said area of land disturbed.

6. **USE AND CONDITION OF PREMISES.**

- (a) Tenant may use the Premises solely to mine Frac Sand to be used by Tenant for commercial purposes.
- (b) Tenant will use Tenant's best efforts to maintain a "good neighbor policy" with adjacent property owners and the public. A copy of said policy is attached.
- (c) Tenant may sub-contract, assign or sublease all or any part of this Lease of the Premises. Prior to sub-contract, assignment or sublease, of any amount of [REDACTED] or more, Tenant shall provide Landlord fifteen (15) days written notice containing the name and description of the assignee. Within three (3) days of receipt of the notice, Landlord has the right to object to any sub-contractor or assignment. Landlord shall not unreasonably object, condition or delay said sub-contract or assignment. All provisions of this lease, including provisions relating to Royalties and the business manner of

Tenant shall apply to any assignee or sub-lessee so no harm or distress is caused to Landlord.

Employees, subcontractors or assigns of this Agreement shall in no way be considered employees of the Landlord. The Landlord will not be held responsible for Tenant or their agents. Tenant shall be solely responsible for any insurance as may be required under Minn. Stat. §176.182.

(d) Pursuant to this Lease the Tenant shall have the right to utilize the Premises and any easements thereon to do each of the following:

- i. Excavate and mine sand.
- ii. Transport mined materials in the permitted area as well on an access road.
- iii. Weigh mined materials.
- iv. Process mined materials as herein described, so long as Tenant obtains all required permits to complete any processing. Tenant may install a wash plant and drill a high capacity water well to be used in said washing plant. Tenant shall have the right to utilize all water extracted from said well.
- v. Building of roads in the permitted area in order to facilitate the transport of mined materials.
- vi. To take all steps necessary to comply with any reclamation plans.
- vii. To install all utilities of any nature necessary to mine material or to operate a scale and processing facility.

All of the above activities are to be done in compliance with all Federal, State and local laws, ordinances and regulations.

7. **TERMINATION.** This lease shall terminate upon expiration of the original term.

8. **QUIET ENJOYMENT.** Landlord covenants that its estate in said premises is in fee simple and that the Tenant, if not in default, shall peaceably have, hold and enjoy the premises for the term of this lease. Landlord represents that it has not previously leased or assigned the mineral rights to the premises to any other party and covenants not to lease, grant or assign the mineral rights to the premises described above, during the term of this lease.

9. **REAL ESTATE TAXES.** All real estate taxes and special assessments shall be paid by the Landlord. In the event the real estate taxes and special assessments due and payable with regard to the premise increase due to a reclassification or increase in valuation caused by Tenant's activities on the premises, [REDACTED] Upon Landlord's failure to pay any real estate taxes or special assessments, Tenant shall have the right to make such payments and obtain reimbursement or contribution from Landlord for making such payments.
10. **INDEMNITY.** Except for the negligence of Landlord, Tenant will protect, defend and indemnify Landlord from and against all loss, costs, damage and expenses, including costs and attorney's fees, occasioned by, or arising out of, any accident, use, or other occurrence, including but not limited to dust, pollutants and contaminants, causing or inflicting injury or damage to any person or property, happening or done in, upon or about the premises, or due directly or indirectly to the tenancy, use or occupancy thereof, or any part thereof by Tenant or any person claiming through or under Tenant.
11. **ZONING.** Tenant's obligations under this Agreement are conditioned upon Tenant obtaining all zoning or other governmental approvals required to permit the use set forth in paragraph 5 above on or before the commencement date of this Agreement. Said approvals include, but are not limited to, any permits or approvals required by the Minnesota Department of Natural Resources, the United States Mine Safety and Health Administration, any county permits, and any mining plans and reclamation plans as may be required. Landlord agrees to assist and cooperate in obtaining any such approvals or permits.
12. **NOTICES AND DEMANDS.** Notices as provided for in this lease shall be given to the respective parties hereto at the respective addresses designated on page one of this lease unless either party notifies the other, in writing, of a different address. Without prejudice to any other method of notifying a party in writing or making a demand or other communication, such message shall be considered given under the terms of this lease when sent, addressed as above designated, postage prepaid, by certified mail deposited in a United States mail box.
13. **CHANGES TO BE IN WRITING.** None of the covenants, provisions, terms or conditions of this lease shall be modified, waived or abandoned,

except by a written instrument duly signed by the parties. This lease contains the whole agreement of the parties.

14.CONSTRUCTION. Words or phrases herein, including acknowledgement hereof, shall be construed as in the singular or plural number, and as masculine, feminine or neuter gender according to the context.

15.CERTIFICATION. Tenant certifies that it is not acting, directly or indirectly, for or on behalf of any person, group, entity or nation named by an Executive Order of the United States Treasury Department as a terrorist, "Specially Designated National and Blocked Person" or any other banned or blocked person, entity, nation or transaction pursuant to any law, order, rule or regulation that is enforced or administered by the Office of Foreign Assets Control; and it is not engaged in this transaction, directly or indirectly on behalf of, or instigating or facilitating this transaction, directly or indirectly on behalf of, any such person, group, entity or nation. Tenant hereby agrees to defend, indemnify and hold harmless Landlord from and against any and all claims, damages, losses, risks, liabilities and expenses (including attorney's fees and costs) arising from or related to any breach of the foregoing certification.

16.SAND FOR LANDLORD. Tenant agrees to maintain a sand stockpile for miscellaneous use. Landlord shall be entitled to utilize sand from the stockpile for his own purposes or processing or for sale to third parties for agricultural purposes in the maximum amount of 100 tons per year. Tenant shall not sell any sand from the stockpile or otherwise process sand on the premises.

17.SURFACE RIGHTS OF TENANT. Tenant may clear brush and undergrowth from such portions of the premises as may be reasonably necessary to explore for materials or to locate pits, quarries, roads and stockpile areas. Tenant shall have the right to build roads in the permitted area as well as road to access the area as may be reasonably necessary for the production and removal of materials. In building such roads, Tenant may use materials from the Property, and Tenant shall not be required to pay royalties to Landlord for materials so used. Tenant shall remove all roads constructed by Tenant and restore the property to a reasonably level condition when such roads are no longer in use.

18.PROTECTION AND RESTORATION OF SURFACE. At the termination of this Lease or any extension or renewal thereof the Tenant shall be obligated to remove all structures and equipment located on the Property, provided, however, that Tenant shall be allowed one (1) year from the date of termination of this Lease or any extension or renewal thereof to remove any or all structures or equipment. At the termination of this Lease or any extension or renewal thereof the Tenant shall remove all trash, junk and/or salvage located on the Property and shall leave the land surface of the Property in a reasonably level condition. Tenant shall complete all actions necessary to reclaim the property as provided in Tenant's reclamation plan. Tenant shall obtain an irrevocable bond in the amount of [REDACTED] of the estimated cost of any reclamation plan. Said bond will name Landlord as the obligee. Said irrevocable bond will be obtained prior to Tenant's removal of any material. If Tenant fails to remove any structure, equipment, trash, junk and / or other salvage as herein provided, then Landlord shall recover from Tenant reasonable attorneys' fees and court costs incurred by Landlord to enforce the provisions of this paragraph and / or to remove such items from the Premises. The provisions of this paragraph shall survive any termination of this Lease.

19.RIGHT OF FIRST REFUSAL. Landlord agrees and hereby grants to Tenant the right of first refusal to purchase the Property described in Exhibit A and more further depicted on the surveyed legal description of the property along with access to said property. (hereinafter "Right of First Refusal" as long as Tenant is not in default under this lease. Under this Right of First Refusal, any offer to purchase the premises made by a third party during the term of this Lease or any extensions thereto, shall be first communicated to Tenant in writing. Tenant shall have the option to purchase at the same price and upon the same terms of said offer. Said refusal or exercise of option by Tenant shall be made within thirty (30) days from when written notice received from Landlord. Landlord shall not have the right of first refusal if Landlord shall sell or otherwise transfer the premises to any family member as defined under Minnesota's intestacy laws, and specifically include the children, siblings, nieces and nephews of Landlord.

20.SEVERABILITY. If any portion of this Lease shall be held to be invalid or unenforceable for any reason, the remaining provisions shall continue to be valid and enforceable. If a court finds that any provision of this Lease is invalid or unenforceable, but that by limiting such provision, it would

become valid and enforceable, then such provision shall be deemed to be written, construed, and enforced as so limited.

21.INSURANCE and BOND. Tenant shall maintain appropriate liability insurance covering the premises and the operations occurring on the premises, with minimum limits of [REDACTED] per occurrence. Said insurance policy shall name Landlord as an additional insured. Tenant shall provide proof of said insurance policy prior to Tenant removing any material. Landlord shall procure an adequate irrevocable bond for reclamations assurances. Said bond shall be irrevocable and meet all requirements of any conditional use permit as well as be sufficient to assure full reclamation of the premises. Landlord will be named as obligee on this irrevocable bond.

22.GOVERNING LAW. This agreement shall be governed by and construed in accordance with the laws of the State of Minnesota.

23.PROVISIONS BINDING. Each and every covenant and agreement herein contained shall extend to and be binding upon the respective successors, heirs, administrators, executors and assigns of the parties hereto. Attached hereto and incorporated herein is a Confidentiality Agreement.

24. In any action or legal proceeding to enforce any part of this Lease Agreement, the prevailing party shall recover its reasonable attorneys' fees and court costs from the other party.

LANDLORDS:

Leonard J. Tostenson
Leonard J. Tostenson

Kathleen Tostenson
Kathleen Tostenson

STATE OF MINNESOTA)

SS.

COUNTY OF HOUSTON)

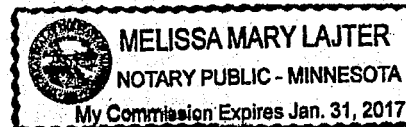
This instrument was acknowledged before me by Leonard J. Tostenson and Kathleen Tostenson this 13th day of June, 2012.

Melissa M. LaJter
Notary Public

STATE OF MINNESOTA)

SS.

COUNTY OF Houston)

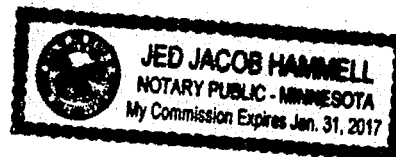


This instrument was acknowledged before me by Richard Frick, member of Minnesota Sands, LLC this 14th day of June, 2012.

Jed Jacob Hammell
Notary Public

This instrument drafted by:

Jed J. Hammell
Rippe, Hammell & Murphy, P.L.L.P.
110 East Main St.
Caledonia, MN 55921
(507) 725-3361



RECEIVED
MAY 30 2014

BY:----- DISSOLUTION AGREEMENT

THIS AGREEMENT, Made and entered into this 28 day of May, 2014, by and between Leonard J. Tostenson and Kathleen Tostenson and Richard Frick, individually and on behalf of Minnesota Sands, LLC and Minnesota Proppent, LLC.

WHEREAS, the parties have had various business dealings within the last couple of years and Leonard and Kathleen Tostenson leased certain real estate to Richard Frick and/or his representative businesses for the excavation of Frac Sand, and

WHEREAS, the parties desire to come to an understanding for the termination of said lease and to terminate any and all business relationship; and

NOW THEREFORE: The parties agree as follows:

1. The lease agreement and amendments thereto between Leonard and Kathleen Tostenson and Minnesota Sands, LLC and Richard Frick are hereby terminated.
2. The parties hereby release and forever discharge each other from any and all claims under, pursuant to, arising from, or in any way related to their relationship and lease including damages. This is a complete and final settlement as to the terms of the agreement.
3. It is agreed between the parties that Leonard and Kathleen Tostenson will retain all previous payments which Minnesota Sands, LLC has paid in the past and that any other payments referred to in the lease are now null and void.
4. By signing this dissolution agreement it is agreed that neither party owes the other party anything.

Leonard Tostenson
Leonard J. Tostenson

Kathleen Tostenson
Kathleen Tostenson

MINNESOTA SANDS, LLC:

By: Richard Frick
Richard Frick

MINNESOTA PROPPENT, LLC:

By: Richard Frick
Richard Frick

Richard Frick
Richard Frick, individually

State of Minnesota
SS.
County of Houston

Subscribed and sworn to before me this 29th day of May 2014 by
Leonard J. Tostenson.

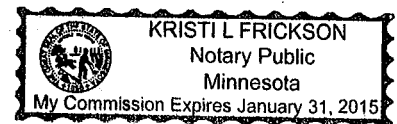
Kristi L Frickson
Notary Public



State of Minnesota
SS.
County of Houston

Subscribed and sworn to before me this 29th day of May 2014 by
Kathleen Tostenson.

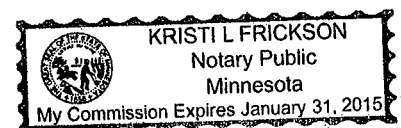
Kristi L Frickson
Notary Public



State of Minnesota
SS.
County of Houston

Subscribed and sworn to before me this 29th day of May 2014 by
Richard Frick.

Kristi L Frickson
Notary Public



RECEIVED
MAY 30 2014

BY:.....

LEASE AGREEMENT

THIS LEASE AGREEMENT, ("the Agreement") is entered into this ____ day _____, 2012 by Porteous E. Olson, ("Landlord") whose address for the purpose of this lease is 14061 Benson Drive Houston, MN 55943, and Minnesota Sands, LLC, ("Tenant"), whose address for the purposes of this lease is 3108 County Road 9, Houston, MN 55943.

1. **PREMISES AND TERM.** The landlord, in consideration of the rent, agreements, and conditions contained herein, leases to the Tenant and Tenant leases from Landlord, for the sole purpose of removing sand on only the following described real estate in Houston County, Minnesota:

That part of the SW ¼ of the SE ¼ of Section 3, Township 103 Range 6 West lying east of a line traversing said SE1/4 in a Northeast/Southeast direction as depicted on the attached Exhibit A.

Parcel Id: 060309000

The description of the leased area shall be modified to exclude any part of the above-described real estate which is not encompassed by the actual permitted area or access roads.

for a term commencing June 15, 2012 and ending ten years after obtaining all applicable permits from Houston County.

2. **RENTAL.** Tenant agrees to pay to Landlord as rental for said Premises the sum of \$15,000.00 to be paid in full on the execution of this lease. Tenant also agrees to pay Landlord an additional [REDACTED] upon Tenant obtaining all applicable permits from Houston County. Said amounts are nonrefundable.

3. **ROYALTIES.** In addition to the rental due under paragraph 2 above, Tenant agrees to pay Landlord royalties in the amount of [REDACTED] per ton ("Royalty Rate") for each ton of Frac Sand removed from the premises. Said material shall be weighed across a scale provided and installed on the Premises by Tenant or through other accurate weighing methods. The parties agree that the Royalty Rate shall be adjusted, but not lower than [REDACTED] per ton, on May 1st of each even year of this Lease or any renewal thereof (April 1, 2014; April 1st, 2016; April 1st, 2018; etc.) to adjust the Royalty Rate by utilizing the Producer Price Index for Core Products published by the United States Department of Labor, Bureau of Labor Statistics ("Index"). The Royalty Rate shall adjust by multiplying the Royalty Rate times the difference between the Index on the adjustment date and the Index on November of the previous adjustment date. For example, if the difference in the Index between April 1, 2016 and April 1, 2014 is ten percent (10%) then the Royalty Rate shall be [REDACTED] per ton [REDACTED]. Royalty payments will be made on a monthly basis with the first Royalty payment due one month after the removal of the first material and on the 1st of the month thereafter. Tenant shall pay Landlord a late fee of [REDACTED] of any monthly payment amount not received by Landlord with fifteen (15) days after the payment is due.

In additional to the rent due under Paragraph 2 above and royalties paid herein, Tenant shall pay an additional Land Royalty Rate in the amount of [REDACTED] [REDACTED] per ton for all material brought to the leased premises from other mines or quarries to be washed or processed at the leased premises.

Landlord shall have the ability to review and audit Tenant's records relating to material removed and weighed from the leased premises.

4. **MINIMUM ROYALTIES.** Tenant agrees that minimum Royalty payments will be made as follows:

- Minimum of [REDACTED] to be paid to the Landlord within twenty-four (24) months of execution of this Lease Agreement.
- Minimum total of [REDACTED] within the first sixty (60) months after execution of this Lease Agreement.
- Minimum of [REDACTED] per year for each year thereafter until the termination of this Lease Agreement.

In the event the Tenant fails to make the minimum Royalty payments described herein, Landlord shall have the option to immediately terminate said Lease Agreement. In the event of termination, neither party shall have any further obligations to each other, other than Tenant's reclamation obligations contained herein.

5. **POSSESSION.** Tenant shall be entitled to possession on the commencement date, and shall yield possession to the Landlord upon expiration of this Agreement. Landlord shall have the absolute right throughout the term of this Agreement to continue to complete cropping and farming activities on the portion of the premises not affected by the mining operation and Landlord shall have the right to complete cropping and farming activities on the portion of the premises reclaimed from mining operations and not affected by mining operations. If Tenant disturbs or damages any planted crops, Tenant shall compensate Landlord for said destroyed crops at fair market value. If Tenant utilizing any crop land including the access road or mine site itself, Tenant shall compensate Landlord based on fair agricultural rental value for said area of land disturbed.

6. **USE AND CONDITION OF PREMISES.**

(a) Tenant may use the Premises solely to mine Frac Sand to be used by Tenant for commercial purposes.

(b) Tenant will use Tenant's best efforts to maintain a "good neighbor policy" with adjacent property owners and the public. A copy of said policy is attached.

(c) Tenant may sub-contract, assign or sublease all or any part of this Lease of the Premises. Prior to sub-contract, assignment or sublease, of any amount of [REDACTED] or more, Tenant shall provide Landlord fifteen (15) days written notice containing the name and description of the assignee. Within three (3) days of receipt of the notice, Landlord has the right to object to any sub-contractor or assignment. Landlord shall not unreasonably object, condition or delay said sub-contract or assignment. All provisions of this lease, including provisions relating to Royalties and the business manner of Tenant shall apply to any assignee or sub-lessee so no harm or distress is caused to Landlord.

Employees, subcontractors or assigns of this Agreement shall in no way be considered employees of the Landlord. The Landlord will not be held responsible for Tenant or their agents. Tenant shall be solely responsible for any insurance as may be required under Minn. Stat. §176.182.

(d) Pursuant to this Lease the Tenant shall have the right to utilize the Premises and any easements thereon to do each of the following:

- i. Excavate and mine sand.
- ii. Transport mined materials in the permitted area as well on an access road.
- iii. Weigh mined materials.
- iv. Process mined materials as herein described, so long as Tenant obtains all required permits to complete any processing. Tenant may install a wash plant and drill a high capacity water well to be used in said washing plant. Tenant shall have the right to utilize all water extracted from said well.
- v. Building of roads in the permitted area in order to facilitate the transport of mined materials.
- vi. To take all steps necessary to comply with any reclamation plans.
- vii. To install all utilities of any nature necessary to mine material or to operate a scale and processing facility.

All of the above activities are to be done in compliance with all Federal, State and local laws, ordinances and regulations.

7. **TERMINATION.** This lease shall terminate upon expiration of the original term.

8. **QUIET ENJOYMENT.** Landlord covenants that its estate in said premises is in fee simple and that the Tenant, if not in default, shall peaceably have, hold and enjoy the premises for the term of this lease. Landlord represents that it has not previously leased or assigned the mineral rights to the premises to any other party and covenants not to lease, grant or assign the mineral rights to the premises described above, during the term of this lease.

9. **REAL ESTATE TAXES.** All real estate taxes and special assessments shall be paid by the Landlord. In the event the real estate taxes and special assessments due and payable with regard to the premise increase due to a reclassification or increase in valuation caused by Tenant's activities on the premises, Tenant shall pay 50% of such increase. Upon Landlord's failure to pay any real estate taxes or special assessments, Tenant shall have the right to make such payments and obtain reimbursement or contribution from Landlord for making such payments.
10. **INDEMNITY.** Except for the negligence of Landlord, Tenant will protect, defend and indemnify Landlord from and against all loss, costs, damage and expenses, including costs and attorney's fees, occasioned by, or arising out of, any accident, use, or other occurrence, including but not limited to dust, pollutants and contaminants, causing or inflicting injury or damage to any person or property, happening or done in, upon or about the premises, or due directly or indirectly to the tenancy, use or occupancy thereof, or any part thereof by Tenant or any person claiming through or under Tenant.
11. **ZONING.** Tenant's obligations under this Agreement are conditioned upon Tenant obtaining any all zoning or other governmental approvals required to permit the use set forth in paragraph 5 above on or before the commencement date of this Agreement. Said approvals include, but are not limited to, any permits or approvals required by the Minnesota Department of Natural Resources, the United States Mine Safety and Health Administration, any county permits, and any mining plans and reclamation plans as may be required. Landlord agrees to assist and cooperate in obtaining any such approvals or permits.
12. **NOTICES AND DEMANDS.** Notices as provided for in this lease shall be given to the respective parties hereto at the respective addresses designated on page one of this lease unless either party notifies the other, in writing, of a different address. Without prejudice to any other method of notifying a party in writing or making a demand or other communication, such message shall be considered given under the terms of this lease when sent, addressed as above designated, postage prepaid, by certified mail deposited in a United States mail box.
13. **CHANGES TO BE IN WRITING.** None of the covenants, provisions, terms or conditions of this lease shall be modified, waived or abandoned,

except by a written instrument duly signed by the parties. This lease contains the whole agreement of the parties.

- 14.CONSTRUCTION.** Words or phrases herein, including acknowledgement hereof, shall be construed as in the singular or plural number, and as masculine, feminine or neuter gender according to the context.
- 15.CERTIFICATION.** Tenant certifies that it is not acting, directly or indirectly, for or on behalf of any person, group, entity or nation named by an Executive Order of the United States Treasury Department as a terrorist, "Specially Designated National and Blocked Person" or any other banned or blocked person, entity, nation or transaction pursuant to any law, order, rule or regulation that is enforced or administered by the Office of Foreign Assets Control; and it is not engaged in this transaction, directly or indirectly on behalf of, or instigating or facilitating this transaction, directly or indirectly on behalf of, any such person, group, entity or nation. Tenant hereby agrees to defend, indemnify and hold harmless Landlord from and against any and all claims, damages, losses, risks, liabilities and expenses (including attorney's fees and costs) arising from or related to any breach of the foregoing certification.
- 16.SAND FOR LANDLORD.** Tenant agrees to maintain a sand stockpile for miscellaneous use. Landlord shall be entitled to utilize sand from the stockpile for his own purposes or processing or for sale to third parties for agricultural purposes in the maximum amount of 100 tons per year. Tenant shall not sell any sand from the stockpile or otherwise process sand on the premises.
- 17.SURFACE RIGHTS OF TENANT.** Tenant may clear brush and undergrowth from such portions of the premises as may be reasonably necessary to explore for materials or to locate pits, quarries, roads and stockpile areas. Tenant shall have the right to build roads in the permitted area as well as road to access the area as may be reasonably necessary for the production and removal of materials. In building such roads, Tenant may use materials from the Property, and Tenant shall not be required to pay royalties to Landlord for materials so used. Tenant shall remove all roads constructed by Tenant and restore the property to a reasonably level condition when such roads are no longer in use.

18.PROTECTION AND RESTORATION OF SURFACE. At the termination of this Lease or any extension or renewal thereof the Tenant shall be obligated to remove all structures and equipment located on the Property, provided, however, that Tenant shall be allowed one (1) year from the date of termination of this Lease or any extension or renewal thereof to remove any or all structures or equipment. At the termination of this Lease or any extension or renewal thereof the Tenant shall remove all trash, junk and/or salvage located on the Property and shall leave the land surface of the Property in a reasonably level condition. Tenant shall complete all actions necessary to reclaim the property as provided in Tenant's reclamation plan. Tenant shall obtain an irrevocable bond in the amount of 110% of the estimated cost of any reclamation plan. Said bond will name Landlord as the obligee. Said irrevocable bond will be obtained prior to Tenant's removal of any material. If Tenant fails to remove any structure, equipment, trash, junk and / or other salvage as herein provided, then Landlord shall recover from Tenant reasonable attorneys' fees and court costs incurred by Landlord to enforce the provisions of this paragraph and / or to remove such items from the Premises. The provisions of this paragraph shall survive any termination of this Lease.

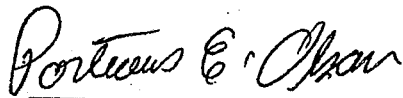
19.RIGHT OF FIRST REFUSAL. Landlord agrees and hereby grants to Tenant the right of first refusal to purchase the Property described in Exhibit A and more further depicted on the surveyed legal description of the property along with access to said property. (hereinafter "Right of First Refusal" as long as Tenant is not in default under this lease. Under this Right of First Refusal, any offer to purchase the premises made by a third party during the term of this Lease or any extensions thereto, shall be first communicated to Tenant in writing. Tenant shall have the option to purchase at the same price and upon the same terms of said offer. Said refusal or exercise of option by Tenant shall be made within thirty (30) days from when written notice received from Landlord. Landlord shall not have the right of first refusal if Landlord shall sell or otherwise transfer the premises to any family member as defined under Minnesota's intestacy laws, and specifically include the children, siblings, nieces and nephews of Landlord.

20.SEVERABILITY. If any portion of this Lease shall be held to be invalid or unenforceable for any reason, the remaining provisions shall continue to be valid and enforceable. If a court finds that any provision of this Lease is invalid or unenforceable, but that by limiting such provision, it would

become valid and enforceable, then such provision shall be deemed to be written, construed, and enforced as so limited.

- 21. INSURANCE and BOND.** Tenant shall maintain appropriate liability insurance covering the premises and the operations occurring on the premises, with minimum limits of [REDACTED] per occurrence. Said insurance policy shall name Landlord as an additional insured. Tenant shall provide proof of said insurance policy prior to Tenant removing any material. Landlord shall procure an adequate irrevocable bond for reclamations assurances. Said bond shall be irrevocable and meet all requirements of any conditional use permit as well as be sufficient to assure full reclamation of the premises. Landlord will be named as obligee on this irrevocable bond.
- 22. GOVERNING LAW.** This agreement shall be governed by and construed in accordance with the laws of the State of Minnesota.
- 23. PROVISIONS BINDING.** Each and every covenant and agreement herein contained shall extend to and be binding upon the respective successors, heirs, administrators, executors and assigns of the parties hereto. Attached hereto and incorporated herein is a Confidentiality Agreement.
- 24.** In any action or legal proceeding to enforce any part of this Lease Agreement, the prevailing party shall recover its reasonable attorneys' fees and court costs from the other party.

LANDLORDS:



Porteous E. Olson

TENANT:

MINNESOTA SANDS, LLC

By: _____

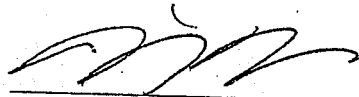
Richard Frick, Member

STATE OF MINNESOTA)

COUNTY OF HOUSTON)

ss.

This instrument was acknowledged before me by Porteous E. Olson this 2nd day of August, 2012.



Notary Public

STATE OF MINNESOTA)

COUNTY OF _____)

ss.

This instrument was acknowledged before me by Richard Frick, member of Minnesota Sands, LLC this _____ day of _____, 2012.

Notary Public

This instrument drafted by: _____

Jed J. Hammell
Rippe, Hammell & Murphy, P.L.L.P.
110 East Main St.
Caledonia, MN 55921
(507) 725-3361

Farm Number:

4520

Tract Number:

13723

T103 R6 S3

Houston

Feb 22, 2012

2012 FSA Acreage Map

Scale: 1:6,763



Legend

CLU Field Boundary

Tract Boundary

Section Lines

CRP Contracts

Restricted Use

Limited Restrictions

Exempt from Conservation

Compliance Provisions

Without identifiers do not represent the size, shape or specific determination of the area. Refer to your original determination (CPA-029 and attached maps) for exact wetland boundaries and determinations, or contact NRCS.

Acre Summary

Total Acres 339.46

Total CRP 0

Cropland 112.22

Acre Summaries reflect Common Land Unit data and are not reflective of parcel information. All information contained in this summary is for FSA business purposes only.



USDA FSA maps are for FSA Program administration only. This map does not represent a legal survey or reflect actual ownership; rather, it depicts the information provided directly from the producer and/or the 2010 NAIP imagery for Minnesota. The producer accepts the data as is and assumes all risks associated with its use. The USDA Farm Service Agency assumes no responsibility for actual or consequential damage incurred as a result of any user's reliance on this data outside of FSA Programs.

Exhibit A

RECEIVED
MAY 30 2014

BY:.....

DISSOLUTION AGREEMENT

THIS AGREEMENT, Made and entered into this 29 day of May, 2014, by and between Porteous Olson and Richard Frick, individually and on behalf of Minnesota Sands, LLC and Minnesota Proppent, LLC.

WHEREAS, the parties have had various business dealings within the last couple of years and Porteous Olson leased certain real estate to Richard Frick and/or his representative businesses for the excavation of Frac Sand, and

WHEREAS, the parties desire to come to an understanding for the termination of said lease and to terminate any and all business relationship; and

NOW THEREFORE: The parties agree as follows:

1. The lease agreement and amendments thereto between Porteous Olson and Minnesota Sands, LLC and Richard Frick are hereby terminated.
2. The parties hereby release and forever discharge each other from any and all claims under, pursuant to, arising from, or in any way related to their relationship and lease including damages. This is a complete and final settlement as to the terms of the agreement.
3. It is agreed between the parties that Porteous Olson will retain all previous payments which Minnesota Sands, LLC has paid in the past and that any other payments referred to in the lease are now null and void.
4. By signing this dissolution agreement it is agreed that neither party owes the other party anything.

Porteous Olson
Porteous Olson

MINNESOTA SANDS, LLC:

By: Richard Frick
Richard Frick

MINNESOTA PROPPENT, LLC:

By: Richard Frick
Richard Frick
Richard Frick
Richard Frick, individually

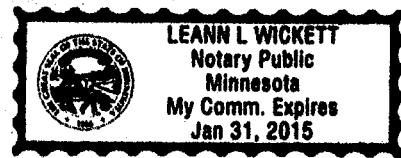
State of Minnesota

ss.

County of Houston

Subscribed and sworn to before me this 29th day of May 2014 by
Porteous Olson.

Leann L Wickett
Notary Public



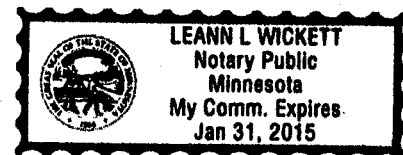
State of Minnesota

ss.

County of Houston

Subscribed and sworn to before me this 29th day of May 2014 by
Richard Frick.

Leann L Wickett
Notary Public



62044

RECEIVED
MAY 30 2014

BY:.....

LEASE AGREEMENT

THIS LEASE AGREEMENT, ("the Agreement") is entered into this 27th day April, 2012 by Thomas Johnson and Virginia Johnson, ("Landlord") whose address for the purpose of this lease is 4448 County Road 9, Houston, MN 55943, and Minnesota Sands, LLC, ("Tenant"), whose address for the purposes of this lease is 3108 County Road 9, Houston, MN 55943.

1. **PREMISES AND TERM.** The landlord, in consideration of the rent, agreements, and conditions contained herein, leases to the Tenant and Tenant leases from Landlord, for the sole purpose of removing sand only from the following described real estate in Houston County, Minnesota:

ALL THAT PART OF THE EAST HALF OF THE SOUTHEAST QUARTER OF SECTION 21 LYING NORTHERLY OF HOUSTON COUNTY HIGHWAY NO. 21, ALL BEING A PART OF TOWNSHIP 104 NORTH, RANGE 6 WEST.

This lease description is limited to the actual permitted area for a sand pit as depicted on the attached Exhibit A as well as an access road to the permitted area.

Parcel Id: 06-0107-000

The description of the leased area shall be modified to exclude any part of the above-described real estate which is not encompassed by the actual permitted area or access roads.

for a term commencing April 27, 2012 and ending ten years after obtaining all applicable permits from Houston County and State of Minnesota.

2. **RENTAL.** Tenant agrees to pay to Landlord as rental for said Premises the sum of [REDACTED] to be paid in full on the execution of this lease. Tenant also agrees to pay Landlord an additional [REDACTED] upon Tenant obtaining

all applicable permits from Houston County and State of Minnesota. Said amounts are nonrefundable.

3. **ROYALTIES.** In addition to the rental due under paragraph 2 above, Tenant agrees to pay Landlord royalties in the amount of [REDACTED] per ton ("Royalty Rate") for each ton of Frac Sand removed from the premises. Said material shall be weighed across a scale provided and installed on the Premises by Tenant or through other accurate weighing methods. The parties agree that the Royalty Rate shall be adjusted, but not lower than [REDACTED] per ton, on May 1st of each even year of this Lease or any renewal thereof (April 1, 2014; April 1st, 2016; April 1st, 2018; etc.) to adjust the Royalty Rate by utilizing the Producer Price Index for Core Products published by the United States Department of Labor, Bureau of Labor Statistics ("Index"). The Royalty Rate shall adjust by multiplying the Royalty Rate times the difference between the Index on the adjustment date and the Index on November of the previous adjustment date. For example, if the difference in the Index between April 1, 2016 and April 1, 2014 is ten percent (10%) then the Royalty Rate shall be [REDACTED]. Royalty payments will be made on a monthly basis with the first Royalty payment due one month after the removal of the first material and on the 1st of the month thereafter. Tenant shall pay Landlord a late fee of [REDACTED] of any monthly payment amount not received by Landlord with fifteen (15) days after the payment is due.

In additional to the rent due under Paragraph 2 above and royalties paid herein, Tenant shall pay an additional Land Royalty Rate in the amount of [REDACTED] per ton for all material brought to the leased premises from other mines or quarries to be washed or processed at the leased premises.

Landlord shall have the ability to review and audit Tenant's records relating to material removed and weighed from the leased premises.

4. **MINIMUM ROYALTIES.** Tenant agrees that minimum Royalty payments will be made as follows:

- Minimum of [REDACTED] to be paid to the Landlord within twenty-four (24) months of execution of this Lease Agreement.
- Minimum total of [REDACTED] within the first sixty (60) months after execution of this Lease Agreement.

- Minimum of [REDACTED] per year for each year thereafter until the termination of this Lease Agreement.

In the event the Tenant fails to make the minimum Royalty payments described herein, Landlord's sole remedy shall be the option to immediately terminate said Lease Agreement. In the event of termination, neither party shall have any further obligations to each other, other than Tenant's reclamation obligations contained herein.

5. **POSSESSION.** Tenant shall be entitled to possession on the commencement date, and shall yield possession to the Landlord upon expiration of this Agreement. Landlord shall have the absolute right throughout the term of this Agreement to continue to complete cropping and farming activities on the portion of the premises not affected by the mining operation and Landlord shall have the right to complete cropping and farming activities on the portion of the premises reclaimed from mining operations and not affected by mining operations. If Tenant disturbs or damages any planted crops, Tenant shall compensate Landlord for said destroyed crops at fair market value. If Tenant utilizing any crop land including the access road or mine site itself, Tenant shall compensate Landlord based on fair agricultural rental value for said area of land disturbed.

6. **USE AND CONDITION OF PREMISES.**

- (a) Tenant may use the Premises solely to mine Frac Sand to be used by Tenant for commercial purposes. Tenant shall acquire no additional mineral rights.
- (b) Tenant will use Tenant's best efforts to maintain a "good neighbor policy" with adjacent property owners and the public. A copy of said policy is attached.
- (c) Tenant may sub-contract, assign or sublease all or any part of this Lease of the Premises. Prior to sub-contract, assignment or sublease, of any amount of [REDACTED] or more, Tenant shall provide Landlord fifteen (15) days written notice containing the name and description of the assignee. Within three (3) days of receipt of the notice, Landlord has the right to object to any sub-contractor or assignment. Landlord shall not unreasonably object, condition or

delay said sub-contract, or assignment. All provisions of this lease, including provisions relating to Royalties and the business manner of Tenant shall apply to any assignee or sub-lessee so no harm or distress is caused to Landlord.

Employees, subcontractors or assigns of this Agreement shall in no way be considered employees or agents of the Landlord. The Landlord will not be held responsible for Tenant or their agents. Tenant shall be solely responsible for any insurance as may be required under Minn. Stat. §176.182.

(d) Pursuant to this Lease the Tenant shall have the right to utilize the Premises and any easements thereon to do each of the following:

- i. Excavate and mine sand.
- ii. Transport mined materials in the permitted area as well on an access road.
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All of the above activities are to be done in compliance with all Federal, State and local laws, ordinances and regulations.

7. **TERMINATION.** This lease shall terminate upon expiration of the original term.

8. **QUIET ENJOYMENT.** Landlord covenants that its estate in said premises is in fee simple and that the Tenant, if not in default, shall peaceably have, hold and enjoy the premises for the term of this lease. Landlord represents

that it has not previously leased or assigned the mineral rights to the premises to any other party and covenants not to lease, grant or assign the mineral rights to the premises described above, during the term of this lease.

9. **REAL ESTATE TAXES.** All real estate taxes and special assessments shall be paid by the Landlord. In the event the real estate taxes and special assessments due and payable with regard to the premise increase due to a reclassification or increase in valuation caused by Tenant's activities on the premises, [REDACTED] Upon Landlord's failure to pay any real estate taxes or special assessments, Tenant shall have the right to make such payments and obtain reimbursement or contribution from Landlord for making such payments.
10. **INDEMNITY.** Except for the negligence of Landlord, Tenant will protect, defend and indemnify Landlord from and against all loss, costs, damage and expenses, including costs and attorney's fees, occasioned by, or arising out of, any accident, use, or other occurrence, including but not limited to dust, pollutants and contaminants, causing or inflicting injury or damage to any person or property, happening or done in, upon or about the premises, or due directly or indirectly to the tenancy, use or occupancy thereof, or any part thereof by Tenant or any person claiming through or under Tenant.
11. **ZONING.** Tenant's obligations under this Agreement are conditioned upon Tenant obtaining any zoning or other governmental approvals required to permit the use set forth in paragraph 6 above on or before the commencement date of this Agreement. Said approvals include, but are not limited to, any permits or approvals required by the Minnesota Department of Natural Resources, the United States Mine Safety and Health Administration, any county permits, and any mining plans and reclamation plans as may be required. Landlord agrees to assist and cooperate in obtaining any such approvals or permits.
12. **NOTICES AND DEMANDS.** Notices as provided for in this lease shall be given to the respective parties hereto at the respective addresses designated on page one of this lease unless either party notifies the other, in writing, of a different address. Without prejudice to any other method of notifying a party in writing or making a demand or other communication, such message shall be considered given under the terms of this lease when sent, addressed as above designated, postage prepaid, by certified mail deposited in a United States mail box.

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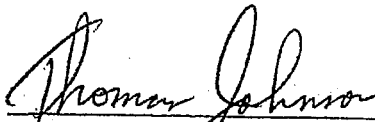
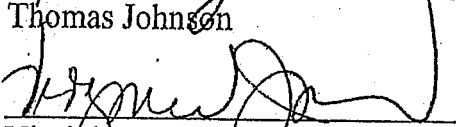
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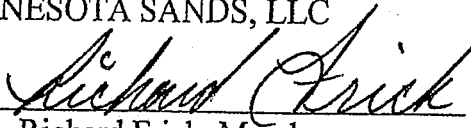
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LANDLORDS:


Thomas Johnson

Virginia Johnson

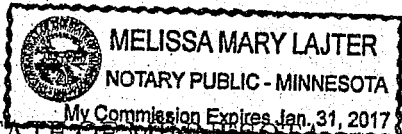
TENANT:

MINNESOTA SANDS, LLC
By: 
Richard Frick, Member

STATE OF MINNESOTA)
)
COUNTY OF HOUSTON)

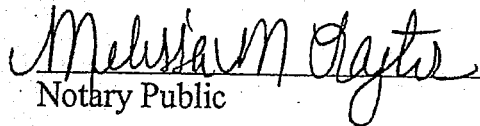
ss.

This instrument was acknowledged before me by Thomas Johnson and Virginia Johnson this 27th day of April, 2012.

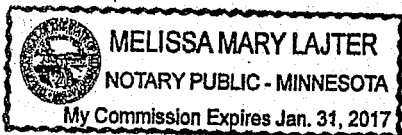


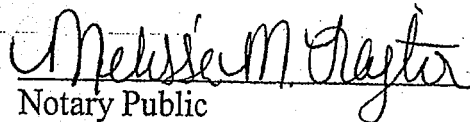
STATE OF MINNESOTA)
)
COUNTY OF HOUSTON)

ss.


Notary Public

This instrument was acknowledged before me by Richard Frick, member of Minnesota Sands, LLC this 27th day of April, 2012.

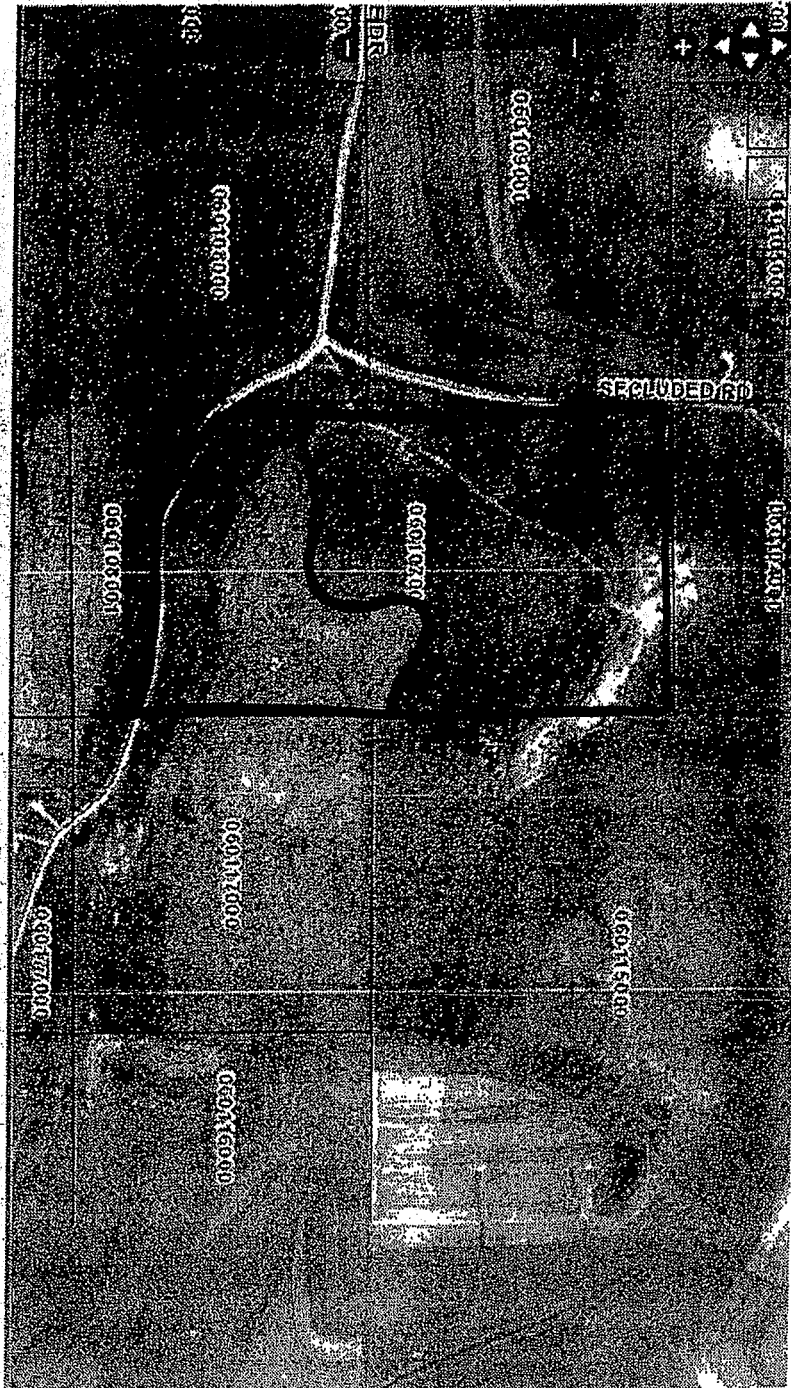



Notary Public

This instrument drafted by:

Jed J. Hammell
Rippe, Hammell & Murphy, P.L.L.P.
110 East Main St.
Caledonia, MN 55921
(507) 725-3361

Exhibit A



SECTION 26 ~ MINERAL EXTRACTION

0110.2601 PURPOSE

The purpose of this Section is to minimize land use conflicts and potential nuisance caused by mining operations, and to provide for the reclamation of land disturbed by mining in order to encourage productive use thereof, including, but not limited to the following:

Subdivision 1. Agricultural Purposes. The seeding of grasses and legumes for grazing purposes, and the planting of crops for harvest.

Subd. 2. Commercial and Industrial Purposes. The establishment of commercial and industrial development sites in commercial and industrial zoning districts.

Subd. 3. Natural Resources Purposes. The planting of forests, the enhancement of wildlife and aquatic resources, and the conservation of natural resources.

Subd. 4. Health, Safety and General Welfare. The preservation of the natural beauty and aesthetic values of the County; the establishment of recreational sites, and to provide for the health, safety and general welfare of the Citizens of the County.

0110.2602 JURISDICTION

Any excavation, quarrying or removal of surface material for the purpose of extracting minerals, stone, gravel, sand, soil, clay or other material as the function of such excavation shall be conducted subject to the requirements of this Section.

Subdivision 1. Exceptions. Excavations for purposes of residential, commercial, or industrial development or land alterations for agricultural purposes shall be exempt from the provisions of this Section.

0110.2603 DEFINITIONS

For the purpose of this Section certain terms and words are defined as follows:

Subdivision 1. Excavation. Any artificial alteration of the earth, excavated or made by the removal from the natural surface of the earth of soil, sand, gravel, stone or other matter.

Subd. 2. Operator. Any owner or lessee of mineral rights engaged in or preparing to engage in mining operations.

Subd. 3. Reclamation Plan. A document that details the activity which is to be taken during and following a mining operation to return the area to a natural state as much as possible or take actions that would substantially reduce adverse environmental effects from occurring.

3. Location of existing wooded areas and cultivated fields.
Parts 0110.2605-0110.2606

4. Location of existing structures and water wells.

5. Location and names of existing roads, trails, railroads, utility rights-of-way, and any other cultural features.

0110.2606 OPERATIONAL PERFORMANCE STANDARDS

Each person, firm, or corporation to whom a mining operation permit is issued may engage in mining upon lands described in the license, subject to the following operational performance standards:

Subdivision 1. General Requirements.

1. Compliance. The mining operations shall be conducted in compliance with the laws of the State of Minnesota and the Federal Government, especially as related to safety standards, and ordinances and resolutions of Houston County, as amended from time to time, and in compliance with and furtherance of the approved reclamation plan for the affected land.

2. Operation of Equipment. All equipment used for mining operations shall be constructed, maintained and operated in such a manner as to minimize, as far as is practicable, noises and vibrations which are injurious or substantially annoying to persons living in the vicinity.

3. Explosives. When explosives are used, the operator shall take all necessary precautions not to endanger life and damage or destroy property. The method of storing and handling explosives shall conform with all laws and regulations relating thereto.

Subd. 2. Vegetation.

1. Removal of Trees and Shrubs. Clearing of the mining site shall conform to the development and reclamation plan whenever possible. Existing trees and shrubs shall remain in their natural state and not prematurely stripped.

2. Weeds and Noxious Vegetation. Weeds and other unsightly or noxious vegetation shall be cut or trimmed as may be necessary to preserve a reasonably neat appearance and to prevent seeding on adjoining property.

3. Preservation of Existing Trees and Ground Cover. Existing trees and ground cover along public road frontage shall be preserved, maintained and supplemented for the depth of the roadside setback except where traffic safety requires cutting and trimming.

Subd. 3. Access.

1. Jurisdiction. All access points must be approved by the local government agency having

road jurisdiction, and shall preferably be located along a secondary road.

Parts 0110.2606-0110.2606

2. Avoid Residential Streets. All access points shall be located so as to avoid the routing of vehicles to and from the mining operation over streets that primarily serve abutting residential development.

3. Access Signage. Ingress and egress access points from or onto any road or highway shall be clearly signed, and only those signed access points shall be utilized.

4. Spillage on Roadways. Trucks used in hauling materials from the site of excavation shall be loaded in such manner as to minimize spillage onto public highways. Any spillage resulting from overloading or from truck tires shall be removed at regular intervals.

5. Dust. All access roads from mining operations to public highways, road, or streets or to adjoining property shall be paved or surfaced with gravel to minimize dust conditions.

Subd. 4. Water Resources.

1. Drainage Interference Prohibited. The mining operation shall not be allowed to interfere with surface water drainage beyond the boundaries of the mining operation.

2. Surface and Subsurface Water Quality. The mining operation shall not adversely affect the quality of surface or subsurface water resources.

3. Non-degradation of Surface Water. Surface water originating outside and passing through the mining district shall, at its point of departure from the mining site, be of equal quality to the water at the point where it enters the mining site. The mining operator shall perform any water treatment necessary to comply with this provision.

Subd. 4. Safety Fencing. Any mining operation adjacent to a residential zone or within three hundred (300) feet of two (2) or more residential structures shall comply with the following standards:

1. Pondered Water. Where collections of water occur that are one and one-half (1 ½) feet or more in depth existing for any period of at least one (1) month, and occupy an area of seven hundred (700) square feet or more, all access to such collections of water shall be barred by a fence or some similarly effective barrier such as a snow fence of at least four (4) feet in height.

2. Steep Slopes. In locations where slopes occur that are steeper than one (1) foot vertical to three (3) feet horizontal existing for a period of one (1) month or more, access to such slopes shall be barred by a fence or some similarly effective barrier such as a snow fence at least four (4) feet in height.

Subd. 5. Screening. To minimize problems of dust and noise and to shield mining operations from public view, a screening barrier shall be planted with species of fast-growing trees or shrubs. The screening shall be maintained between the following:

Parts 0110.2606-0110.2606

1. Residential and Commercial Properties. The mining site and adjacent residential and commercial properties.

2. Public Roads. A screening barrier shall also be maintained between the mining site and any public road within five hundred (500) feet of mining or processing operations.

Subd. 6. Setback Requirements. When more than one (1) setback standard applies, the most restrictive standard shall apply. Mining operations shall not be conducted closer than:

1. Prohibited in District. One hundred (100) feet to the boundary of any district where mining operations are not permitted.

2. Residentially Zoned. Not closer than one thousand (1000) feet to the boundary of an adjoining property residentially zoned.

3. Adjoining Property Line. Not closer than fifty (50) feet to the boundary of an adjoining property line, unless the written consent of the owner of such adjoining property is first secured.

4. Excavating or Stockpiling. Excavating or stockpiling shall not be conducted closer than one hundred (100) feet to the right-of-way line of any existing or platted street, road, or highway, where such excavation may create a traffic or line of sight problem.

5. Public Waters. Not closer than one-hundred (100) feet from the ordinary high water level of any public water.

6. Dust and Noise. Dust and noise producing processing or loading shall not be conducted closer than one thousand (1000) feet to the boundary of any residential structures existing prior to the implementation of the reclamation plan.

Subd. 8. Appearance. All buildings, structures and plants used for the production or processing of sand and gravel shall be maintained in such a manner as is practicable and according to acceptable industrial practice as to assure that such buildings, structures and plants will not become dangerously dilapidated.

Subd. 9. Days of Operation. Mining operations may be conducted Monday through Saturday, except for legal holidays. The Zoning Administrator may temporarily approve operations beyond these days to respond to public or private emergencies or whenever any reasonable or necessary repairs to equipment need to be made.

Subd. 10. Dust and Dirt. All equipment used for mining operations shall be constructed,

maintained and operated in such a manner as to minimize, as far as practicable, dust conditions which are injurious or substantially annoying to persons living within thirteen hundred and twenty (1320) feet of the mining operation.

Parts 0110.2606-0110.2607

1. **Exception.** These limitations above shall not apply to any mining operation in any industrial zone, unless such operations are closer than one hundred fifty (150) yard to a zone other than an industrial zone.

0110.2607 OPERATION PLAN

Subdivision 1. Operation Plan Requirements. The Operation Plan shall include a narrative discussing the following topics, and providing such other information as may be required by the Zoning Administrator, the Planning Commission, or the County Board of Commissioners.

1. A statement containing an estimate of the life expectancy of the proposed operation. The estimate shall include a starting date, and if within five (5) years, the completion date.
2. Material to be mined.
3. On site processing including crushing and washing operations.
4. Days and hours of operations.
5. Haul routes.
6. Soil erosion and sediment control plan.
7. A dust and noise control plan.

Subd. 2. Operations Map. The operations map shall be drawn at a scale of one (1) inch to one hundred (100) feet and shall show the tract to be mined and the adjacent area within five hundred, (500), feet to the proposed excavation. The map shall include the following:

1. Outline of the maximum area to be excavated.
2. Vertical profile of area to be excavated indicating over-burden and other geological layers to the extent known.
3. Location of any structures to be erected.
4. Location of tailings deposits showing maximum height of deposits.
5. Location of machinery to be used in the mining operation.

6. Location of storage of mined materials, showing height of storage deposits.

7. Location of vehicle parking.

8. Location of explosive storage.

Parts 0110.2607-0110.2608

9. Erosion and sediment control structures.

10. Egress and ingress points and proposed turning lanes.

11. Machinery, excavation and stock pile setbacks.

0110.2608 RECLAMATION PLAN

Subdivision 1. Reclamation Plan Required. Any mining operation legally commenced prior to the enactment of this Ordinance that does not have an approved reclamation plan, shall submit a reclamation plan to the Planning Agency for review and approval within five (5) years of the date of the enactment of this Ordinance.

Subd. 2. Reclamation Plan Commencement Requirement. All mining sites shall be reclaimed after mining operations cease. Reclamation shall be complete within one calendar year after operation ceases. Reclamation must commence when any of the following conditions occur:

1. Within a period of three (3) months after the termination of a mining operation.
2. Within three (3) months after abandonment of such operation for a period of six (6) months.
3. Within three (3) months after expiration of a mining permit.

Subd. 3. Reclamation Plan Standards. The following standards apply:

1. Removal of Buildings and Structures. All buildings, structures and plants incidental to such operation shall be dismantled and removed by, and at the expense of the mining operator last operating such buildings, structures and plants.

- a. A temporary variance may be granted for those buildings, structures, machinery and plants required to process previously mined materials stored on the site. Such variance may apply for only one (1) year, after which said buildings, structures machinery and plants shall be removed.

2. Grading and Filling. The peaks and depressions of the area shall be graded and back filled to a surface which will result in a gently rolling topography in substantial conformity to the surrounding landscape, and which will minimize erosion due to rainfall. No finished slope shall exceed eighteen (18) percent in grade.

3. **Soil Quality.** Reclaimed areas shall be laid with sod or surfaced with soil of a quality at least equal to the topsoil of land areas immediately surrounding and to a depth of at least three (3) inches.

Parts 0110.2608-0110.2609

4. **Ground Cover.** The required topsoil shall be planted with legumes and grasses. Trees and shrubs may also be planted but not as a substitute for legumes and grasses. The planting shall adequately retard soil erosion.

5. **Ponds.** Excavations completed to a water-producing depth need not be back filled if the water depth is at least ten (10) feet and if banks shall be sloped to the water-line at a slope no greater than three (3) feet horizontal to one (1) foot vertical.

6. **Finished Grades.** The finished grade shall be such that it will not adversely affect the surrounding land or future development of the site upon which mining operations have been conducted. The finished plan shall restore the mining site to a condition whereby it can be utilized for the type of land use proposed to occupy the site after mining operations cease.

Subd. 4. Reclamation Plan. The Reclamation Plan shall include a narrative discussing how the above standards will be met and shall also include any additional information required by the Zoning Administrator, the Planning Commission, or the County Board of Commissioners.

Subd. 5. Reclamation Plan Map. The reclamation plan map shall be drawn at a scale of one (1) inch to one hundred (100) feet and shall show the adjacent area within five hundred, (500), feet to the proposed excavation. The map shall include the following:

1. Final grade of proposed site showing elevations and contour lines at five (5) foot intervals.
2. Location and species of vegetation to be replanted.
3. Location and nature of any structures to be erected as part of the Reclamation Plan.

Subd. 6. Changes in the Reclamation Plan. In the event the operator finds the characteristics of the mining area to be different than what was previously determined, changes may be made in the original reclamation plan by mutual consent of the operator and the County Planning Agency. Such change shall preserve, as substantially as possible, the original reclamation plan, and shall also provide for the previously unknown variables.

0110.2609 PERFORMANCE BOND REQUIRED

A performance for mining operations shall be filed with the Zoning Administrator in such a form as the County Board shall prescribe, and payable to the County. The amount of the bond amount shall be set by the County Board by resolution. The bond shall guarantee that either upon termination of

the permit or of the operations, the ground surface of the land used shall be restored in conformity with the reclamation plan filed with the mining permit application. When and if the portions of the bonded property are completely rehabilitated in accord with the reclamation plan, and such restoration is certified by the Zoning Administrator, the performance bond protecting the restored acreage shall be returned.

Parts 0110.2610-0110.2612

0110.2610 TERM OF PERMIT

Each Conditional Use Permit approved for mineral extraction shall be valid for a period of five (5) years from and after the date of approval, provided the requirements of operation and reclamation, comply with the conditions of the permit.

1. An examination of the premises can be made by the Zoning Administrator at any time during the term of the operation.

0110.2611 RENEWAL AND REVIEW

Each Conditional Permit shall be renewable for a period of five (5) years upon written application to the Zoning Administrator and with the concurrence of the Planning Agency. However, upon determination by the Zoning Administrator, or the County Board, that the operation is in violation of the provisions of the Conditional Use Permit or other County Ordinances, a hearing may be held to review the existence of any alleged violations.

0110.2612 REVOCATION OF PERMIT

Upon failure by the holder of a mining permit to fully comply with the provisions contained herein, the Zoning Administrator shall certify the non-compliance to the County Board of Commissioners.

Subdivision 1. Notice of Violation. The Board of Commissioners shall give notice to said permit holder and owner of the land setting forth the provisions of this Section being violated.

Subd. 2. Hearing. The Board shall set a time and place of a hearing to be held by the Board to consider such violation of provisions of this Section.

Subd. 3. Suspension or Termination of Permit. If said Board of Commissioners shall find that provisions of this Section have not be complied with by the permit holder then the mining operations permit may be suspended or terminated by said Board of Commissioners.

RECEIVED
MAY 30 2014

DISSOLUTION AGREEMENT

BY:.....

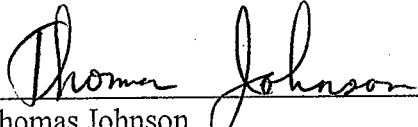
THIS AGREEMENT, Made and entered into this 29 day of May, 2014, by and between Thomas Johnson and Virginia Johnson and Richard Frick, individually and on behalf of Minnesota Sands, LLC and Minnesota Proppent, LLC.

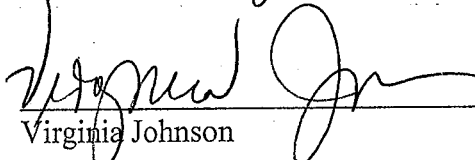
WHEREAS, the parties have had various business dealings within the last couple of years and Thomas and Virginia Johnson leased certain real estate to Richard Frick and/or his representative businesses for the excavation of Frac Sand, and

WHEREAS, the parties desire to come to an understanding for the termination of said lease and to terminate any and all business relationship; and

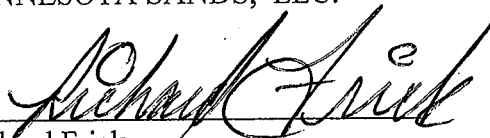
NOW THEREFORE: The parties agree as follows:

1. The lease agreement and amendments thereto between Thomas and Virginia Johnson and Minnesota Sands, LLC and Richard Frick are hereby terminated.
2. The parties hereby release and forever discharge each other from any and all claims under, pursuant to, arising from, or in any way related to their relationship and lease including damages. This is a complete and final settlement as to the terms of the agreement.
3. It is agreed between the parties that Thomas and Virginia Johnson will retain all previous payments which Minnesota Sands, LLC has paid in the past and that any other payments referred to in the lease are now null and void.
4. By signing this dissolution agreement it is agreed that neither party owes the other party anything.


Thomas Johnson


Virginia Johnson

MINNESOTA SANDS, LLC:

By: 
Richard Frick

MINNESOTA PROPPENT, LLC:

By: Richard Frick
Richard Frick

Richard Frick
Richard Frick, individually

State of Minnesota
SS.
County of Houston

Subscribed and sworn to before me this 29th day of May 2014 by
Thomas Johnson.

Kristi L Frickson
Notary Public



State of Minnesota
SS.
County of Houston

Subscribed and sworn to before me this 29th day of May 2014 by
Virginia Johnson.

Kristi L Frickson
Notary Public



State of Minnesota
SS.
County of Houston

Subscribed and sworn to before me this 29th day of May 2014 by
Richard Frick.

Kristi L Frickson
Notary Public



RECEIVED
MAY 30 2014
BY:.....

Minnesota Sands, LLC

14158 Addleman Drive

Houston, MN 55943

may-29
June __, 2014

Houston County Board of County Commissioners

c/o Terasa Walter, Commissioner

304 South Marshall Street

Caledonia, MN 55921

Dear Chairwoman Walter,

Per Bob Scanlon's, Director of Houston County Planning and Zoning, request, I am answering his questions in this letter to you.

Minnesota Sands, LLC, Minnesota Proppant, LLC, and Rick Frick, will not mine sand in Houston County.

All leases between Minnesota Sands, LLC and Lessors in Houston County have been terminated. Copies of those dissolution agreements are attached.

Minnesota Sands, LLC, Minnesota Proppant, LLC, and Rick Frick will not include any property in Houston County for any Environmental Impact Study (EIS).

Regards,



Rick Frick, individually



Minnesota Sands, LLC



Minnesota Proppant, LLC

State of Minnesota

ss.

County of _____

Subscribed and sworn to before me this ____ day of _____ 2014 by Richard Frick.

Notary Public

5-23-2014

Questions from May 21 EQB mtg.

What is the length of the Thorson/Erickson C.U.P.? Has it expired?

Under the Ordinance, all mining and extraction c.u.p.'s are under a renewal and review period of 5 years. See the applicable ordinance sections below:

0110.2710 TERM OF PERMIT

Each Conditional Use Permit approved for mineral extraction shall be valid for a period of five (5) years from and after the date of approval, provided the requirements of operation and reclamation, comply with the conditions of the permit.

1. *An examination of the premises can be made by the Zoning Administrator at any time during the term of the operation.*

0110.2711 RENEWAL AND REVIEW

Each Conditional Permit shall be renewable for a period of five (5) years upon written application to the Zoning Administrator and with the concurrence of the Planning Agency. However, upon determination by the Zoning Administrator, or the County Board, that the operation is in violation of the provisions of the Conditional Use Permit or other County Ordinances, a hearing may be held to review the existence of any alleged violations.

In addition, a c.u.p. for mining and extraction can only b suspended, or terminated if he County Board finds that the permit holder has not complied with the mining ordinance. The Ordinance reads as follows:

0110.2712 REVOCATION OF PERMIT

Upon failure by the holder of a mining permit to fully comply with the provisions contained herein, the Zoning Administrator shall certify the non-compliance to the County Board of Commissioners.

Subdivision 1. Notice of Violation. *The Board of Commissioners shall give notice to said permit holder and owner of the land setting forth the provisions of this Section being violated.*

Subd. 2. Hearing. *The Board shall set a time and place of a hearing to be held by the Board to consider such violation of provisions of this Section.*

Subd. 3. Suspension or Termination of Permit. *If said Board of Commissioners shall find that provisions of this Section have not be complied with by the permit holder then the mining operations permit may be suspended or terminated by said Board of Commissioners.*

There have been several instances, in Houston County, whereby c.u.p's for mining operations under a 5 year review have not been reviewed and renewed within a timely manner. For example, a mine owner may have submitted the required written application in a timely manner but did not meet the exact five year deadline because circumstances didn't allow for it. For example, the Planning Commission meeting did not fall within the 5 year time period but the permit was reviewed and renewed at the following month's meeting. On these occasions the mine operation did not cease operation because of the lack of a review nor did the mine operation receive a suspension because the County was unable to act on said application.

The idea of the review is more of an administrative function as it gives Zoning staff an opportunity to "check-in" with mining operations to make sure conditions of the permit are being followed and to check for any potential violations to the Zoning Ordinance. It also gives Staff an opportunity to inquire about a mine operator's intentions for a possible expansion of the permitted mining area and/or review any operation/reclamation plans every 5 years or so.

It is the opinion of Houston County Zoning Staff that the Thorson/Erickson c.u.p. has not expired simply because it did not meet the exact 5 year renewal deadline. This is something that happens quite often and not of the fault of the mine owner.

Statutes regarding conditional use permits are also important to landowners and how counties are required to look at existing c.u.p's. Transfers of property in Minnesota include a title search. A title search will, for instance, include recorded documents that guarantee that the new owner acquires everything that is documented within a purchase agreement. Such documents may include leases, easements, judgments, variances, conditional use permits, etc. These documents are very much part of ownership of a parcel of property that they are attached to. In the case of conditional use permits, state statute says the following:

*MN Statute 394.301, subd. 3. **Duration.** A conditional use permit shall remain in effect for so long as the conditions agreed upon are observed, provided that nothing in this section shall prevent the board from enacting or amending official controls to change the status of conditional uses.*

The last part of the subdivision above allows county boards to amend Zoning Ordinances to change the status of all existing conditional uses. For example, a board may want to make an amendment to the ordinance that requires all campgrounds with an existing conditional use permit to submit a plan for the expected days of occupancy or to have all septic systems over 20 years old to be inspected.

The point is that conditional uses shall remain in effect as long as certain conditions are met and an individual conditional use permit cannot be terminated unless said conditions are not met or the County addresses a change to all existing similar c.u.p.'s in the form of an amendment to the Zoning Ordinance.

Other "Conditional Uses" within the Houston County Zoning Ordinance that require a review and renewal include the following:

- (1) **Temporary Ag Employee Housing.** The C.U.P. shall be reviewed annually by the Zoning Administrator. The Houston County Planning Commission shall review any changes to existing permitted plan.

Interim Use Permits – “Conditional Use Permits” shouldn’t be confused with “Interim Use Permits” when considering types of zoning permits. By statute, interim use permits are considered a “temporary” use of property. This differs from conditional use permits that considered “permanent” as they “stay with the parcel indefinitely”.

The Houston County Zoning Ordinance employs the use of interim use permits (I.U.P.’s) to certain land uses. In Houston County, I.U.P.’s are subject to expire with a change of ownership, or unless otherwise required by the I.U.P.’s conditions as determined by the County Board.

MN Statute 394.303 Interim Uses.

Subd. 1. Definition. An “interim use” is a temporary use of property until a particular date, until the occurrence of a particular event, or until zoning regulations no longer permit it.

Subd. 2. Authority. Zoning regulations may permit the governing body to allow interim uses. The regulations may set conditions on interim uses. The governing body may grant permission for an interim use of property if:

- (1) The use conforms to the zoning regulations;*
- (2) The date or event that will terminate the use can be identified with certainty;*
- (3) Permission of the use will not impose additional costs on the public if it is necessary for the public to take the property in the future; and*
- (4) The user agrees to any conditions that the governing body deems appropriate for permission of the use. Any interim use may be terminated by a change in zoning regulations.*

The only interim use in Houston County is for “Non-commercial family cabins”.

The Houston County Planning Commission recommended approval of the Erickson permit on May 22, 2014. It will go to the County Board on June 24th for final approval.

I hope this helps clarify any process for renewal and review of mining operations in Houston County. Please call me at (507) 725-5800 with any questions.

Sincerely,

Bob Scanlan – Zoning Adm.

166747

HOUSTON COUNTY BOARD OF COMMISSIONERS

APPROVED

CONDITIONAL USE ORDER

On this 14 day of January, 1992,
 following a public hearing conducted by the Houston County
 Planning Commission in the Houston County Courthouse on
Thursday, January 2, 1992 the Houston County Board
 of Commissioners hereby approves a Conditional Use Permit in
 behalf of:

Alan Thorson for Minnowa Construction, Inc

in accordance with the provisions of Section 505 of the Houston
 County Zoning Ordinance and pursuant to the requirements of
 Chapter 394.301, Minnesota Statutes.

The approved Conditional Use Permit authorizes the above named
 to: do Mining and Extraction... (729.2)

on the following described parcel (abstract) of land:

The Southeast Quarter of the Southeast Quarter of
 Section 19, Township 104 North, Range 7 West and that portion
 of the east Half of the Northeast Quarter of Section 30,
 Township 104 North, Range 7 West which lies North of the
 right of way of State Highway No. 16 as the same is located
 in the year 1991.

CONTINUED

BOOK 388

Page Two

CONDITIONAL USE ORDER

and subject to the following conditions, if any:

1. Mining and Extraction Operation, will be permitted for 5 years subject to review for possible extension beyond the 5 years.
2. Existing natural screening must remain in place.

The Houston County Zoning Administrator is herewith directed to issue the appropriate permits pursuant to this Conditional Use Order.

A. Peter Johnson
Houston County Auditor

By [Signature]
Chairman, Houston County Board of Commissioners

January 14, 1992
Date

January 14, 1992
Date

STATE OF MINNESOTA)
COUNTY OF HOUSTON)

OFFICE OF
COUNTY ZONING ADMINISTRATOR

I, the undersigned County Zoning Administrator in and for said County and State, do hereby certify that I have compared the foregoing copy with the original, and find the same to be a true and correct copy of said original and of the whole thereof, as based on approved minutes of the Houston County Planning Commission meeting held on Thursday, January 9, 1992 at 8 p.m., and on record in the Houston County Zoning Office.

WITNESS my hand this 14 day of January, 19 92.

Rick Frank
Houston County
Zoning Administrator

(Cont'd.)

RECORD'D _____
COMP'D _____
INDEX'D _____
TRACT'D _____ DOC. No. 166747

To _____

Office of County Recorder

STATE OF MINNESOTA

County of Houston

I hereby certify that the within instru-
ment was filed in this office for record on
the 14th day of January
1912, at 10:30 o'clock A.M., and
was duly recorded in Book 383
of Misses Page 145

D. L. Palmer
County Recorder

Barry J. Palmer Deputy

Boeing Office

Bob Scanlan

From: T E <trace9092002@yahoo.com>
Sent: Thursday, April 24, 2014 1:54 AM
To: Bob Scanlan
Subject: Fw: Erickson Mine Permit Renewal

Bob Scanlan
Zoning Admin.
Houston County

Dear Bob,

I am writing in response to Houston county's request to add a 'new condition' to my existing conditional use permit that is up for renewal. It is my understanding that the new condition proposed to us is a maximum removal of 10,000 yards per year, unless permission for a larger construction project is proposed, at which time we would seek approval for an extension of yardage to meet the needs of the project.

I am willing to agree to this new condition **only if** my permit is renewed without issue. I reserve the right to rescind my agreement of the new condition should my permit renewal not be granted.

Sincerely,
Tracie Erickson

County Board Directive given on April 8, 2014

operation. One of the men stated that he doesn't want to be on a job sight with an individual who has never operated joy sticks or foot controls but is subject to doing so due to machine limitations. Commissioner Zmyewski stated that operators can learn to safely operate using either type of controls in between 4 and 6 hours. Having only one type of controls would save money. Chairperson Walter indicated that it was time to wrap up the conversation. She stated that the motion passed last week to accept the quote for the John Deere 333E, the money had been budgeted and the cost was less than what had been budgeted. Commissioner Zmyewski stated that Bobcat offers a program which would allow the Highway Department to trade in their machine on an annual basis and the cost would only be a few thousand dollars. The SEMA Representative indicated that they offer a similar program also. With the SEMA program the machine has dealer specifications. Commissioner Zmyewski reiterated that quotes for 2 other brands are less than that of the John Deere. Chairperson Walter reiterated that the department has performed due diligence through their research and the purchase was approved last week. Commissioner Zmyewski repeated that the machines are comparable and there is no need to buy top notch when something more cost effective would be adequate.

At this time Environmental Services Director Frank contacted Jay Squires via telephone. Mr. Squires was informed of individuals present. Mr. Squires stated that there are two separate issues to be discussed during the phone conference. The first being the Erickson Mine and the second being the future frac sand ordinance. He indicated that there have been a number of threats of litigation with regard to the Erickson Mine, he desires to speak candidly with the Board regarding the strengths and weaknesses and it is proper that this discussion be closed and subject to attorney client privilege. Discussion regarding the future frac sand ordinance is general in nature and should be open to the public.

On the recommendation of Jay Squires, motion was made by Commissioner Schuldt, seconded by Commissioner Storlie and unanimously carried to go into closed session pursuant to M.S. 13D.05 subd. 3(b) to discuss matters protected by attorney-client privilege.

Motion was made by Commissioner Schuldt seconded by Commissioner Kjome and unanimously carried to convene in open session.

Motion was made by Commissioner Schuldt, seconded by Commissioner Storlie and unanimously carried to direct the staff to work with Mr. Erickson in processing his renewal request and extend any applicable 60 day rule period an additional 60 days. In addition, the board concludes that processing of this renewal request is not prohibited by the express language of the moratorium thereby any pending EAW or EIS process; the Board further directs staff to provide notice of the Board's determination to affected property owners and the EQB.

File No. 5 – Motion was made by Commissioner Zmyewski seconded by Commissioner Kjome and unanimously carried to make public the privileged correspondence from Jay Squires.



HOUSTON COUNTY

Zoning Administration • Solid Waste • Recycling
304 South Marshall Street – Room 202, Caledonia, MN 55921
Phone: (507) 725-5800 • Fax: (507) 725-5590



April 21, 2014

To: Affected Landowners

Re: Tracie and Michelle Erickson 1992 mine renewal

To whom it may concern:

At the April 8, 2014 County Board meeting, a motion was made by Commissioner Schuldt, seconded by Commissioner Storlie and unanimously carried to direct the staff to work with Mr. Erickson in processing his renewal request and extend any applicable 60 day rule period an additional 60 days. In addition, the Board further directs staff to provide notice of the Board's determination to affected property owners and the EQB.

The Planning Commission will review the renewal application of Mr. Erickson on the evening of April 30, 2014.

Any questions about the matter can be directed to Bob Scanlan, Zoning Adm.

This letter serves as your notice of above stated action by the County Board.

Sincerely,

Bob Scanlan
Zoning Adm.
Houston County

Houston County is an Equal Opportunity Employer

ATTACHMENT 7

[illegible]

years from and after the date of approval, provided the requirements of operation and reclamation, comply with the conditions of the permit.

1. An examination of the premises can be made by the Zoning Administrator at any time during the term of the operation.

0110.2711 RENEWAL AND REVIEW

Each Conditional Permit shall be renewable for a period of five (5) years upon written application to the Zoning Administrator and with the concurrence of the Planning Agency. However, upon determination by the Zoning Administrator, or the County Board, that the operation is in violation of the provisions of the Conditional Use Permit or other County Ordinances, a hearing may be held to review the existence of any alleged violations.

0110.2712 REVOCATION OF PERMIT

Upon failure by the holder of a mining permit to fully comply with the provisions contained herein, the Zoning Administrator shall certify the non-compliance to the County Board of Commissioners.

Subdivision 1. Notice of Violation. The Board of Commissioners shall give notice to said permit holder and owner of the land setting forth the provisions of this Section being violated.

Subd. 2. Hearing. The Board shall set a time and place of a hearing to be held by the Board to consider such violation of provisions of this Section.

Subd. 3. Suspension or Termination of Permit. If said Board of Commissioners shall find that provisions of this Section have not be complied with by the permit holder then the mining operations permit may be suspended or terminated by said Board of Commissioners.

2013 Minnesota Statutes

394.301 CONDITIONAL USE PERMITS.

Subdivision 1. **By ordinance.** The board may by ordinance designate certain types of developments, including planned unit developments and certain land development activities as conditional uses under zoning regulations. Conditional uses may be approved upon a showing by an applicant that standards and criteria stated in the ordinance will be satisfied. Such standards and criteria shall include both general requirements for all conditional uses and, insofar as practicable, requirements specific to each designated conditional use.

Subd. 2. **Issuance, review.** Conditional use permits shall be issued by the officer administering the official controls only upon the order of the board or the planning commission as designated by ordinance as the approval authority for one or more categories of conditional uses. The planning commission shall in all instances have an opportunity to review conditional uses prior to any final decision by the designated approval authority. Public hearings shall be held in accordance with section 394.26. In connection with ordering the issuance of a conditional use permit the designated approval authority may impose such additional restrictions or conditions as it deems necessary to protect the public interest, including but not limited to matters relating to appearance, lighting, hours of operation and performance characteristics. When appropriate, restrictive covenants may be entered into regarding such matters.

Subd. 3. **Duration.** A conditional use permit shall remain in effect for so long as the conditions agreed upon are observed, provided that nothing in this section shall prevent the board from enacting or amending official controls to change the status of conditional uses.

Subd. 4. **Copy filed.** A certified copy of any conditional use permit shall be recorded with the county recorder or registrar of titles. The conditional use permit shall include the legal description of the property involved. The board by ordinance shall designate the county official or employee responsible for meeting the requirements of the subdivision.

History: 1974 c 571 s 35; 1976 c 181 s 2; 2005 c 4 s 98

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RECEIVED
MAY 30 2014

BY:

LEASE AGREEMENT

THIS LEASE AGREEMENT, ("the Agreement") is entered into this 27th day of March, 2012 by, **Tracie L. Erickson and Michelle L. Erickson**, husband and wife ("Landlord") whose address for the purpose of this lease is 23148 State 16, Rushford, MN 55971, and **Richard Frick**, ("Tenant"), whose address for the purposes of this lease is 3108 Co. Rd., 9, Houston, MN 55943

1. **PREMISES AND TERM.** The Landlord, in consideration of the rent, agreements, and conditions contained herein, leases to the Tenant and Tenant leases from Landlord, for the sole purpose of removing sand only the following described real estate in Houston County, Minnesota:

See attached Exhibit A

Parcel Id: 17.0039.000

This lease description is limited to the area as depicted on the Exhibit B well as all access roads to and from the sand pit, general depicted on the attached Exhibit B.

for a term commencing March 26, 2012 and ending October 31, 2014.

2. **RENTAL.** Tenant agrees to pay to Landlord as rental for said Premises the sum of \$10,000.00 to be paid in full on the execution of this lease.
3. **ROYALTIES.** In addition to the rental due under paragraph 2 above, Tenant agrees to pay Landlord royalties in the amount of \$2.00 per ton ("Royalty Rate") for each ton of Frac Sand removed from the premises. Said material shall be weighed across a scale provided and installed on the Premises by Tenant or bucket scale capable of producing printed weight tickets. Royalty payments will be made on a monthly basis with the first Royalty payment due one month after the removal of the first material.

Tenant shall pay Landlord a late fee of Five percent (5%) of any monthly payment amount not received by Landlord with fifteen (15) days after the payment is due.

4. **POSSESSION.** Tenant shall be entitled to possession on the commencement date, and shall yield possession to the Landlord upon expiration of this Agreement. Landlord shall have the absolute right throughout the term of this Agreement to continue to complete cropping and farming activities on the portion of the premises not affected by the mining operation and Landlord shall have the right to complete cropping and farming activities on the portion of the premises reclaimed from mining operations and not affected by mining operations. If Tenant disturbs any planted crops, Tenant shall compensate Landlord for said destroyed crops at fair value. Tenant may only complete mining activities from the hours of 6:30 a.m. until 9:00 p.m. from Monday through Saturday. Tenant may complete mining activities from noon until 6:00 p.m. on Sunday.

5. **USE AND CONDITION OF PREMISES.**

- (a) Tenant may use the Premises solely to mine Frac Sand to be used by Tenant for commercial purposes.
- (b) Tenant will use Tenant's best efforts to maintain a "good neighbor policy" with adjacent property owners and the public .
- (c) Tenant may sub-contract, assign or sublease all or any part of this Lease of the Premises. All provisions of this lease, including provisions relating to Royalties and the business manner of Tenant shall apply to any assignee or sub-lessee so no harm or distress is caused to Landlord.
- (d) Pursuant to this Lease the Tenant shall have the right to utilize the Premises and any easements thereon to do each of the following:
 - i. Excavate and clear sand and earth;
 - ii. Transport mined materials
 - iii. Weigh mined materials.
 - iv. Process mined materials including but not limited to installing a washing plant and the drilling of necessary wells and utilization

of any water in the Leased Area. Tenant shall not use any chemicals in the washing process.

- v. Building of roads in the permitted area to facilitate the transport of mined materials.
- vi. To take all steps necessary to comply with any reclamation plans.
- vii. To install all utilities of any nature necessary to mine material or to operate a processing plant for material for scale purposes and to conduct processing.

6. **TERMINATION AND OPTION TO RENEW.** This lease shall terminate upon expiration of the original term.
7. **QUIET ENJOYMENT.** Landlord covenants that its estate in said premises is in fee simple and that the Tenant, if not in default, shall peaceably have, hold and enjoy the premises for the term of this lease. Landlord represents that it has not previously leased or assigned the mineral rights to the premises to any other party and covenants not to lease, grant or assign the mineral rights to the premises described above, during the term of this lease.
8. **REAL ESTATE TAXES.** All real estate taxes and special assessments shall be paid by the Landlord. In the event the real estate taxes and special assessments due and payable with regard to the premise increase due to a reclassification or increase in valuation caused by Tenant's activities on the premises, Tenant shall pay 100% of such increase. Upon Landlord's failure to pay any real estate taxes or special assessments, Tenant shall have the right to make such payments and obtain reimbursement or contribution from Landlord for making such payments.
9. **INDEMNITY.** Except for the negligence of Landlord, Tenant will protect, defend and indemnify Landlord from and against all loss, costs, damage and expenses, including costs and attorney's fees, occasioned by, or arising out of, any accident or other occurrence, including but not limited to dust, pollutants and contaminants, causing or inflicting injury or damage to any person or property, happening or done in, upon or about the premises, or due directly or indirectly to the tenancy, use or occupancy thereof, or any part thereof by Tenant or any person claiming through or under Tenant. If Tenant and or its agents causes any structural damage to Landlord's house or other buildings, Tenant shall be responsible to repair said damage.

- 10. ZONING.** Tenant's obligations under this Agreement are conditioned upon Tenant obtaining any zoning or other governmental approvals required to permit the use set forth in paragraph 5 above on or before the commencement date of this Agreement. Any conditional use permit for mining purposes shall be assigned to Tenant as part of this agreement. Said approvals include, but are not limited to, any permits or approvals required by the Minnesota Department of Natural Resources, the United States Mine Safety and Health Administration, any county permits, and any mining plans and reclamation plans as may be required. Landlord agrees to assist and cooperate in obtaining any such approvals or permits. Landlord shall have the right to object to any approvals or permits at or before any type of zoning, planning, county or township or commissioning authority.
- 11. NOTICES AND DEMANDS.** Notices as provided for in this lease shall be given to the respective parties hereto at the respective addresses designated on page one of this lease unless either party notifies the other, in writing, of a different address. Without prejudice to any other method of notifying a party in writing or making a demand or other communication, such message shall be considered given under the terms of this lease when sent, addressed as above designated, postage prepaid, by certified mail deposited in a United States mail box.
- 12. CHANGES TO BE IN WRITING.** None of the covenants, provisions, terms or conditions of this lease shall be modified, waived or abandoned, except by a written instrument duly signed by the parties. This lease contains the whole agreement of the parties.
- 13. CONSTRUCTION.** Words or phrases herein, including acknowledgement hereof, shall be construed as in the singular or plural number, and as masculine, feminine or neuter gender according to the context.
- 14. CERTIFICATION.** Tenant certifies that it is not acting, directly or indirectly, for or on behalf of any person, group, entity or nation named by an Executive Order of the United States Treasury Department as a terrorist, "Specially Designated National and Blocked Person" or any other banned or blocked person, entity, nation or transaction pursuant to any law, order, rule or regulation that is enforced or administered by the Office of Foreign Assets Control; and it is not engaged in this transaction, directly or indirectly on behalf of, or instigating or facilitating this transaction, directly or indirectly on behalf of, any such person, group, entity or nation. Tenant hereby agrees

to defend, indemnify and hold harmless Landlord from and against any and all claims, damages, losses, risks, liabilities and expenses (including attorney's fees and costs) arising from or related to any breach of the foregoing certification.

15.SURFACE RIGHTS OF TENANT. Tenant may clear brush and undergrowth from such portions of the premises as may be reasonably necessary to explore for materials or to locate pits, quarries, roads and stockpile areas. Tenant shall have the right to build roads in the permitted area as may be reasonably necessary for the production and removal of materials in building such roads, Tenant may use materials from the Property, and Tenant shall not be required to pay royalties to Landlord for materials so used. Tenant shall remove all roads constructed by Tenant and restore the property to a reasonably level condition when such roads are no longer in use, unless Landlord desires to have said road remain.

16.PROTECTION AND RESTORATION OF SURFACE. At the termination of this Lease or any extension or renewal thereof the Tenant shall be obligated to remove all structures and equipment located on the Property, provided, however, that Tenant shall be allowed one (1) year from the date of termination of this Lease or any extension or renewal thereof to remove any or all structures or equipment. At the termination of this Lease or any extension or renewal thereof the Tenant shall remove all trash, junk and/or salvage located on the Property and shall leave the land surface of the Property in a reasonably level condition. Tenant shall complete all actions necessary to reclaim the property as provided in Tenant's conditional use permit. If Tenant fails to remove any structure, equipment, trash, junk and / or other salvage as herein provided, then Landlord shall recover from Tenant reasonable attorneys' fees and court costs incurred by Landlord to enforce the provisions of this paragraph and / or to remove such items from the Premises. The provisions of this paragraph shall survive any termination of this Lease. Tenant shall also construct a pond as indicated on **Exhibit B** that will hold water.

17.RIGHT OF FIRST REFUSAL. Landlord agrees and hereby grants to Tenant the right of first refusal to purchase the Property hereinafter "Right of First Refusal" as long as Tenant is not in default under this lease. Under this

Right of First Refusal, any offer to purchase the premises made by a third party during the term of this Lease or any extensions thereto, shall be first communicated to Tenant in writing. Tenant shall have the option to purchase at the same price and upon the same terms of said offer. Said refusal or exercise of option by Tenant shall be made within thirty (30) days from when written notice received from Landlord. Landlord shall not have the right of first refusal if Landlord shall sell or otherwise transfer the premises to any family member as defined under Minnesota's intestacy laws, and specifically include the children, siblings, nieces and nephews of Landlord.

18.**SEVERABILITY.** If any portion of this Lease shall be held to be invalid or unenforceable for any reason, the remaining provisions shall continue to be valid and enforceable. If a court finds that any provision of this Lease is invalid or unenforceable, but that by limiting such provision, it would become valid and enforceable, then such provision shall be deemed to be written, construed, and enforced as so limited.

19.**INSURANCE.** Tenant shall maintain appropriate liability insurance covering the premises and the operations occurring on the premises, with minimum limits of \$5,000,000 per occurrence. Said insurance policy shall name Landlord as an additional insured.


20.**GOVERNING LAW.** This agreement shall be governed by and construed in accordance with the laws of the State of Minnesota.

21.**PROVISIONS BINDING.** Each and every covenant and agreement herein contained shall extend to and be binding upon the respective successors, heirs, administrators, executors and assigns of the parties hereto.

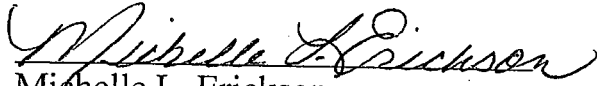
22. In any action or legal proceeding to enforce any part of this Lease Agreement, the prevailing party shall recover its reasonable attorneys' fees and court costs from the other party.

LANDLORD:

TENANT:


Tracie Erickson

Richard Frick


Michelle L. Erickson

State of Minnesota

County of Houston

This instrument was acknowledged before me by Tracie Erickson and Michelle Erickson on this ____ day of _____, 2012.

Notary Public

State of Minnesota

County of Houston

This instrument was acknowledged before me by Richard Frick this ____ day of _____, 2012.

Notary Public

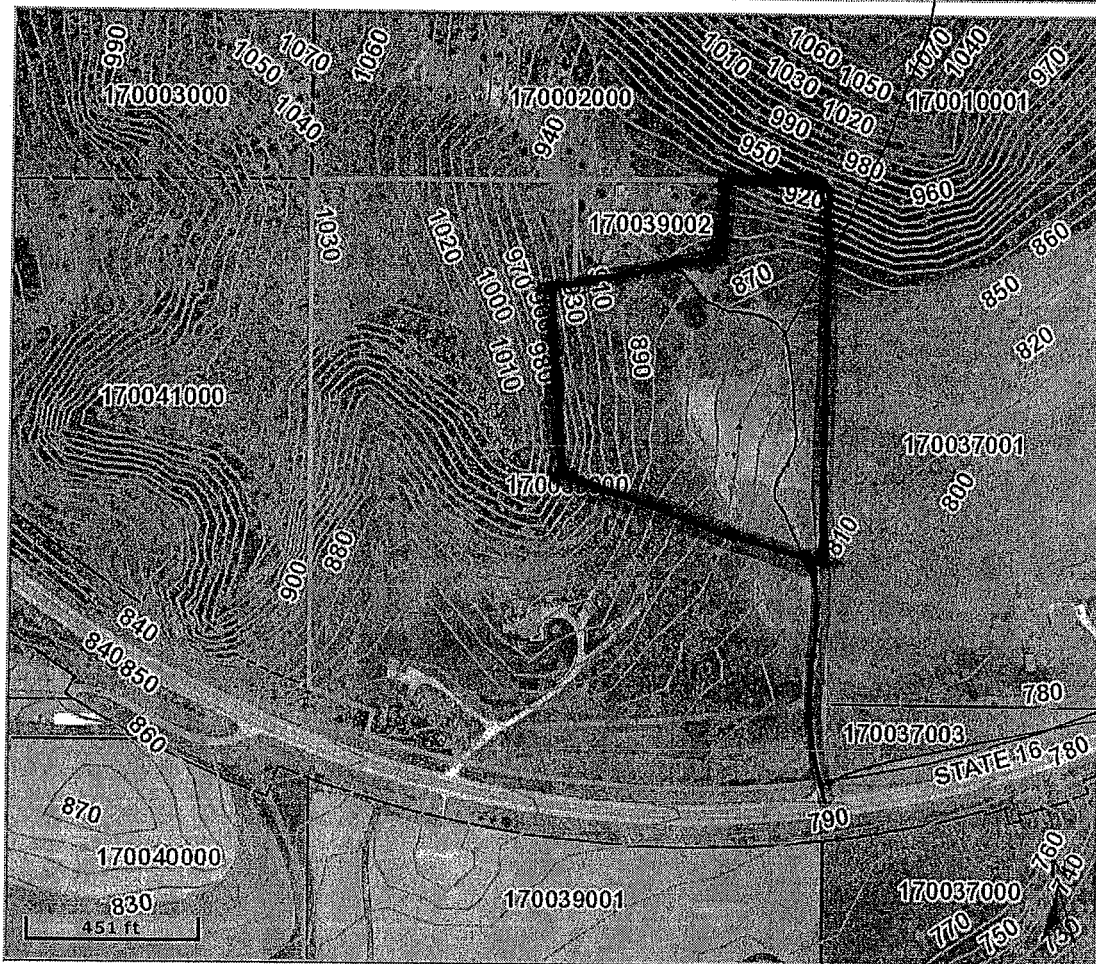
EXHIBIT A

17.0039.000
That part of the East 1/2 of the NE 1/4 of Section 30, Township 104 North, Range 7 West, Yucatan Township, Houston County, Minnesota, which lies North of the right of way of State Highway #16 as the same is located in the year 1991. EXCEPTING THEREFROM that part of the East 1/2 of the NE 1/4 of Section 30, Township 104 North, Range 7 West described as follows: Commencing at the Southeast corner of said East 1/2 of the NE 1/4 of Section 30; thence North 00 degrees 03 minutes 33 seconds West along the East line of said East 1/2 of the NE 1/4 2642.20 feet to the Northeast corner of said East 1/2 of the NE 1/4; thence South 89 degrees 40 minutes 32 seconds West along the North line of said East 1/2 of the NE 1/4 265.74 feet to the point of beginning of this EXCEPTION: Thence continue South 89 degrees 40 minutes 32 seconds West along said North line 381.63 feet; thence South 254.96 feet; thence North 79 degrees 25 minutes 11 seconds East 389.70 feet; thence North 00 degrees 26 minutes 44 seconds West 185.57 feet to the point of beginning of this EXCEPTION.

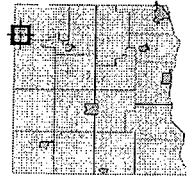
Houston County, MN

Tenant shall leave
access road for
beacon™
Northern Properties
owner

Date Created: 3/27/2012



Overview



Legend

- Contours
- Corporate Limits
- Political Townships
- Parcels
- Roads

Parcel ID	170039000	Alternate ID	n/a	Owner Address	TRACIE & MICHELLE L ERICKSON
Sec/Twp/Rng	30-104-7	Class	201 - RESIDENTIAL		23148 STATE 16
Property Address	23148 STATE 16 RUSHFORD	Acreage	42.90		RUSHFORD, MN 55971
District	n/a				
Brief Tax Description	Sect-30 Twp-104 Range-007 42.90 AC NE1/2 NE1/4 & PT SE1/4 NE1/4 LY N OF TH#16 EX 1.91 AC EASEMENT B 381 P 158 & P 401 P 748; DOC 194763; DOC 250023 DOC 259888 (Note: Not to be used on legal documents)				

Last Data Upload: 3/27/2012 12:01:13 AM



developed by
The Schneider Corporation
www.schneidercorp.com

Exhibit B

Copy

RECEIVED
MAY 30 2014

BY:

AGREEMENT

THIS AGREEMENT, Made and entered into this 12 day of September 2013, by and between Tracie Erickson and Michelle Erickson and Richard Frick, individually and on behalf of Minnesota Sands, LLC and Minnesota Proppent, LLC.

WHEREAS, the parties have had various business dealings within the last couple of years and Tracie and Michelle Erickson leased certain real estate to Richard Frick and/or his representative businesses for the excavation of Frac Sand, and

WHEREAS, the parties desire to come to an understanding for the termination of said lease and to terminate any and all business relationship; and

NOW THEREFORE: For valuable consideration, the parties agree as follows:

1. The lease agreement and amendments thereto between Tracie and Michelle Erickson and Minnesota Sands, LLC and Richard Frick are hereby terminated.
2. Richard Frick and/or his respective businesses, jointly and individually, shall pay to Tracie and Michelle Erickson the sum of \$25,000.00 within thirty (30) days of the execution of this agreement.
3. If the \$25,000.00 is not paid within thirty (30) days, Richard Frick, Minnesota Sands, and Minnesota Proppent, individually and jointly, shall pay to Tracie and Michelle Erickson \$90,000.00.
4. For further security for the payment of the \$25,000.00, Richard Frick, Minnesota Sands and Minnesota Proppent, grant to Tracie and Michelle Erickson a security agreement into any and all assets that all parties may own.

5. Tracie Erickson shall complete all matters necessary to obtain his existing permit from Houston County. Richard Frick, Minnesota Sands, and Minnesota Proppent agree to pay any and all attorney's fees and complete all actions necessary to obtain his prior permit back from Houston County.
6. Richard Frick, Minnesota Sands and Minnesota Proppent agree to pay any and all costs, attorney's fees and other expenses related to returning Tracie Erickson's permit to Tracie Erickson. This permit shall consist of a permit to mine sand and not frac sand. The specifics of the Erickson's permit shall be consistent with what Mr. Erickson had prior to the parties entering into the underlying lease agreement.
7. Richard Frick, Minnesota Sands, and Minnesota Proppent, LLC agree to enter into the dismissal of the current lawsuit of Minnesota Sands, LLC v. Houston County and Minnesota District Court File No. 28-CV-12-729.
8. Tracie and Michelle Erickson shall transfer over to Richard Frick two shares that Richard Frick transferred to Tracie Erickson.
9. In exchange for the aforementioned consideration and other good and valuable consideration, the receipt and adequacy of which are acknowledged, the parties hereby release and forever discharge each other from any and all claims under, pursuant to, arising from, or in any way related to their relationship and lease including damages.
10. This is a complete and final settlement as to the terms of the agreement.

Tracie Erickson
Tracie Erickson

Michelle Erickson
Michelle Erickson

MINNESOTA SANDS, LLC:

By: Richard Frick
Richard Frick

MINNESOTA PROPPENT, LLC:

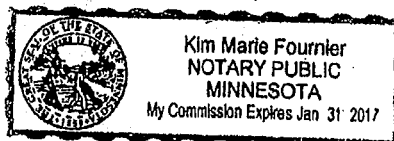
By: Richard Frick
Richard Frick

Richard Frick
Richard Frick, individually

State of Minnesota
ss.
County of Houston

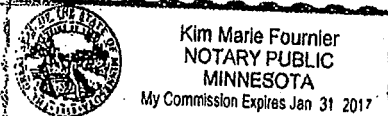
Subscribed and sworn to before me this 12th day of
September 2013 by Tracie Erickson and Michelle Erickson.

Kim Marie Fournier
Notary Public



Subscribed & Sworn to before me this 13th day of
September by Michelle Erickson

Kim Marie Fournier
Notary Public



State of Minnesota

ss.

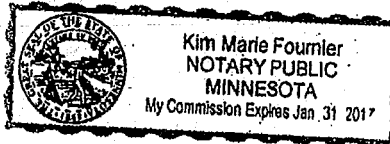
County of Houston

Subscribed and sworn to before me this 13th day of September 2013 by Richard Frick individually and on behalf of Minnesota Sands, LLC and Minnesota Proppent, LLC.

Kim Marie Fournier
Notary Public

Prepared by:

Jed J. Hammell
Rippe, Hammell & Murphy
110 East Main Street
Caledonia MN 55921



6-008

RECEIVED
MAY 30 2014

BY:.....

LEASE AGREEMENT

THIS LEASE AGREEMENT, ("the Agreement") is entered into this ____ day _____, 2012 by Leonard J. Tostenson and Kathleen Tostenson, ("Landlord") whose address for the purpose of this lease is 15108 Traff Dr., Houston, MN 55943, and Minnesota Sands, LLC, ("Tenant"), whose address for the purposes of this lease is 3108 County Road 9, Houston, MN 55943.

1. **PREMISES AND TERM.** The landlord, in consideration of the rent, agreements, and conditions contained herein, leases to the Tenant and Tenant leases from Landlord, for the sole purpose of removing sand on only the following described real estate in Houston County, Minnesota:

The North Half of the Southwest Quarter of Section 9, Township 104 North of Range 6 West of the fifth Principal Meridian.

As well as an easement 2 rods in length for ingress and egress over and across the North Half of the Southeast Quarter of Section 9, Township 104 North of Range 6 West of the fifth Principal Meridian to enter and exit the above described property.

Parcel Id: 060037000

The description of the leased area shall be modified to exclude any part of the above-described real estate which is not encompassed by the actual permitted area or access roads.

for a term commencing June 15, 2012 and ending ten years after obtaining all applicable permits from Houston County.

2. **RENTAL.** Tenant agrees to pay to Landlord as rental for said Premises the sum of [REDACTED] to be paid in full on the execution of this lease. Tenant

also agrees to pay Landlord an additional [REDACTED] upon Tenant obtaining all applicable permits from Houston County. Said amounts are nonrefundable.

3. **ROYALTIES.** In addition to the rental due under paragraph 2 above, Tenant agrees to pay Landlord royalties in the amount of \$[REDACTED] per ton ("Royalty Rate") for each ton of Frac Sand removed from the premises. Said material shall be weighed across a scale provided and installed on the Premises by Tenant or through other accurate weighing methods. The parties agree that the Royalty Rate shall be adjusted, but not lower than \$[REDACTED] per ton, on May 1st of each even year of this Lease or any renewal thereof (April 1, 2014; April 1st, 2016; April 1st, 2018; etc.) to adjust the Royalty Rate by utilizing the Producer Price Index for Core Products published by the United States Department of Labor, Bureau of Labor Statistics ("Index"). The Royalty Rate shall adjust by multiplying the Royalty Rate times the difference between the Index on the adjustment date and the Index on November of the previous adjustment date. For example, if the difference in the Index between April 1, 2016 and April 1, 2014 is ten percent (10%) then the Royalty Rate shall be \$[REDACTED] per ton [REDACTED]. Royalty payments will be made on a monthly basis with the first Royalty payment due one month after the removal of the first material and on the 1st of the month thereafter. Tenant shall pay Landlord a late fee of [REDACTED] of any monthly payment amount not received by Landlord with fifteen (15) days after the payment is due.

Tenant shall not be permitted to bring material from other mines or quarries to be washed or processed at the leased premises.

Landlord shall have the ability to review and audit Tenant's records relating to material removed and weighed from the leased premises.

4. **MINIMUM ROYALTIES.** Tenant agrees that minimum Royalty payments will be made as follows:

- Minimum of [REDACTED] to be paid to the Landlord within twenty-four (24) months of execution of this Lease Agreement.
- Minimum total of [REDACTED] within the first sixty (60) months after execution of this Lease Agreement.
- Minimum of [REDACTED] per year for each year thereafter until the termination of this Lease Agreement.

In the event the Tenant fails to make the minimum Royalty payments described herein, Landlord shall have the option to immediately terminate said Lease Agreement. In the event of termination, neither party shall have any further obligations to each other, other than Tenant's reclamation obligations contained herein.

5. **POSSESSION.** Tenant shall be entitled to possession on the commencement date, and shall yield possession to the Landlord upon expiration of this Agreement. Landlord shall have the absolute right throughout the term of this Agreement to continue to complete cropping and farming activities on the portion of the premises not affected by the mining operation and Landlord shall have the right to complete cropping and farming activities on the portion of the premises reclaimed from mining operations and not affected by mining operations. If Tenant disturbs or damages any planted crops, Tenant shall compensate Landlord for said destroyed crops at fair market value. If Tenant utilizing any crop land including the access road or mine site itself, Tenant shall compensate Landlord based on fair agricultural rental value for said area of land disturbed.

6. **USE AND CONDITION OF PREMISES.**

- (a) Tenant may use the Premises solely to mine Frac Sand to be used by Tenant for commercial purposes.
- (b) Tenant will use Tenant's best efforts to maintain a "good neighbor policy" with adjacent property owners and the public. A copy of said policy is attached.
- (c) Tenant may sub-contract, assign or sublease all or any part of this Lease of the Premises. Prior to sub-contract, assignment or sublease, of any amount of [REDACTED] or more, Tenant shall provide Landlord fifteen (15) days written notice containing the name and description of the assignee. Within three (3) days of receipt of the notice, Landlord has the right to object to any sub-contractor or assignment. Landlord shall not unreasonably object, condition or delay said sub-contract or assignment. All provisions of this lease, including provisions relating to Royalties and the business manner of

Tenant shall apply to any assignee or sub-lessee so no harm or distress is caused to Landlord.

Employees, subcontractors or assigns of this Agreement shall in no way be considered employees of the Landlord. The Landlord will not be held responsible for Tenant or their agents. Tenant shall be solely responsible for any insurance as may be required under Minn. Stat. §176.182.

(d) Pursuant to this Lease the Tenant shall have the right to utilize the Premises and any easements thereon to do each of the following:

- i. Excavate and mine sand.
- ii. Transport mined materials in the permitted area as well on an access road.
- iii. Weigh mined materials.
- iv. Process mined materials as herein described, so long as Tenant obtains all required permits to complete any processing. Tenant may install a wash plant and drill a high capacity water well to be used in said washing plant. Tenant shall have the right to utilize all water extracted from said well.
- v. Building of roads in the permitted area in order to facilitate the transport of mined materials.
- vi. To take all steps necessary to comply with any reclamation plans.
- vii. To install all utilities of any nature necessary to mine material or to operate a scale and processing facility.

All of the above activities are to be done in compliance with all Federal, State and local laws, ordinances and regulations.

7. **TERMINATION.** This lease shall terminate upon expiration of the original term.

8. **QUIET ENJOYMENT.** Landlord covenants that its estate in said premises is in fee simple and that the Tenant, if not in default, shall peaceably have, hold and enjoy the premises for the term of this lease. Landlord represents that it has not previously leased or assigned the mineral rights to the premises to any other party and covenants not to lease, grant or assign the mineral rights to the premises described above, during the term of this lease.

9. **REAL ESTATE TAXES.** All real estate taxes and special assessments shall be paid by the Landlord. In the event the real estate taxes and special assessments due and payable with regard to the premise increase due to a reclassification or increase in valuation caused by Tenant's activities on the premises, [REDACTED] Upon Landlord's failure to pay any real estate taxes or special assessments, Tenant shall have the right to make such payments and obtain reimbursement or contribution from Landlord for making such payments.
10. **INDEMNITY.** Except for the negligence of Landlord, Tenant will protect, defend and indemnify Landlord from and against all loss, costs, damage and expenses, including costs and attorney's fees, occasioned by, or arising out of, any accident, use, or other occurrence, including but not limited to dust, pollutants and contaminants, causing or inflicting injury or damage to any person or property, happening or done in, upon or about the premises, or due directly or indirectly to the tenancy, use or occupancy thereof, or any part thereof by Tenant or any person claiming through or under Tenant.
11. **ZONING.** Tenant's obligations under this Agreement are conditioned upon Tenant obtaining all zoning or other governmental approvals required to permit the use set forth in paragraph 5 above on or before the commencement date of this Agreement. Said approvals include, but are not limited to, any permits or approvals required by the Minnesota Department of Natural Resources, the United States Mine Safety and Health Administration, any county permits, and any mining plans and reclamation plans as may be required. Landlord agrees to assist and cooperate in obtaining any such approvals or permits.
12. **NOTICES AND DEMANDS.** Notices as provided for in this lease shall be given to the respective parties hereto at the respective addresses designated on page one of this lease unless either party notifies the other, in writing, of a different address. Without prejudice to any other method of notifying a party in writing or making a demand or other communication, such message shall be considered given under the terms of this lease when sent, addressed as above designated, postage prepaid, by certified mail deposited in a United States mail box.
13. **CHANGES TO BE IN WRITING.** None of the covenants, provisions, terms or conditions of this lease shall be modified, waived or abandoned,

except by a written instrument duly signed by the parties. This lease contains the whole agreement of the parties.

14.CONSTRUCTION. Words or phrases herein, including acknowledgement hereof, shall be construed as in the singular or plural number, and as masculine, feminine or neuter gender according to the context.

15.CERTIFICATION. Tenant certifies that it is not acting, directly or indirectly, for or on behalf of any person, group, entity or nation named by an Executive Order of the United States Treasury Department as a terrorist, "Specially Designated National and Blocked Person" or any other banned or blocked person, entity, nation or transaction pursuant to any law, order, rule or regulation that is enforced or administered by the Office of Foreign Assets Control; and it is not engaged in this transaction, directly or indirectly on behalf of, or instigating or facilitating this transaction, directly or indirectly on behalf of, any such person, group, entity or nation. Tenant hereby agrees to defend, indemnify and hold harmless Landlord from and against any and all claims, damages, losses, risks, liabilities and expenses (including attorney's fees and costs) arising from or related to any breach of the foregoing certification.

16.SAND FOR LANDLORD. Tenant agrees to maintain a sand stockpile for miscellaneous use. Landlord shall be entitled to utilize sand from the stockpile for his own purposes or processing or for sale to third parties for agricultural purposes in the maximum amount of 100 tons per year. Tenant shall not sell any sand from the stockpile or otherwise process sand on the premises.

17.SURFACE RIGHTS OF TENANT. Tenant may clear brush and undergrowth from such portions of the premises as may be reasonably necessary to explore for materials or to locate pits, quarries, roads and stockpile areas. Tenant shall have the right to build roads in the permitted area as well as road to access the area as may be reasonably necessary for the production and removal of materials. In building such roads, Tenant may use materials from the Property, and Tenant shall not be required to pay royalties to Landlord for materials so used. Tenant shall remove all roads constructed by Tenant and restore the property to a reasonably level condition when such roads are no longer in use.

18.PROTECTION AND RESTORATION OF SURFACE. At the termination of this Lease or any extension or renewal thereof the Tenant shall be obligated to remove all structures and equipment located on the Property, provided, however, that Tenant shall be allowed one (1) year from the date of termination of this Lease or any extension or renewal thereof to remove any or all structures or equipment. At the termination of this Lease or any extension or renewal thereof the Tenant shall remove all trash, junk and/or salvage located on the Property and shall leave the land surface of the Property in a reasonably level condition. Tenant shall complete all actions necessary to reclaim the property as provided in Tenant's reclamation plan. Tenant shall obtain an irrevocable bond in the amount of [REDACTED] of the estimated cost of any reclamation plan. Said bond will name Landlord as the obligee. Said irrevocable bond will be obtained prior to Tenant's removal of any material. If Tenant fails to remove any structure, equipment, trash, junk and / or other salvage as herein provided, then Landlord shall recover from Tenant reasonable attorneys' fees and court costs incurred by Landlord to enforce the provisions of this paragraph and / or to remove such items from the Premises. The provisions of this paragraph shall survive any termination of this Lease.

19.RIGHT OF FIRST REFUSAL. Landlord agrees and hereby grants to Tenant the right of first refusal to purchase the Property described in Exhibit A and more further depicted on the surveyed legal description of the property along with access to said property. (hereinafter "Right of First Refusal" as long as Tenant is not in default under this lease. Under this Right of First Refusal, any offer to purchase the premises made by a third party during the term of this Lease or any extensions thereto, shall be first communicated to Tenant in writing. Tenant shall have the option to purchase at the same price and upon the same terms of said offer. Said refusal or exercise of option by Tenant shall be made within thirty (30) days from when written notice received from Landlord. Landlord shall not have the right of first refusal if Landlord shall sell or otherwise transfer the premises to any family member as defined under Minnesota's intestacy laws, and specifically include the children, siblings, nieces and nephews of Landlord.

20.SEVERABILITY. If any portion of this Lease shall be held to be invalid or unenforceable for any reason, the remaining provisions shall continue to be valid and enforceable. If a court finds that any provision of this Lease is invalid or unenforceable, but that by limiting such provision, it would

become valid and enforceable, then such provision shall be deemed to be written, construed, and enforced as so limited.

21.INSURANCE and BOND. Tenant shall maintain appropriate liability insurance covering the premises and the operations occurring on the premises, with minimum limits of [REDACTED] per occurrence. Said insurance policy shall name Landlord as an additional insured. Tenant shall provide proof of said insurance policy prior to Tenant removing any material. Landlord shall procure an adequate irrevocable bond for reclamations assurances. Said bond shall be irrevocable and meet all requirements of any conditional use permit as well as be sufficient to assure full reclamation of the premises. Landlord will be named as obligee on this irrevocable bond.

22.GOVERNING LAW. This agreement shall be governed by and construed in accordance with the laws of the State of Minnesota.

23.PROVISIONS BINDING. Each and every covenant and agreement herein contained shall extend to and be binding upon the respective successors, heirs, administrators, executors and assigns of the parties hereto. Attached hereto and incorporated herein is a Confidentiality Agreement.

24. In any action or legal proceeding to enforce any part of this Lease Agreement, the prevailing party shall recover its reasonable attorneys' fees and court costs from the other party.

LANDLORDS:

Leonard J. Tostenson
Leonard J. Tostenson

Kathleen Tostenson
Kathleen Tostenson

STATE OF MINNESOTA)

SS.

COUNTY OF HOUSTON)

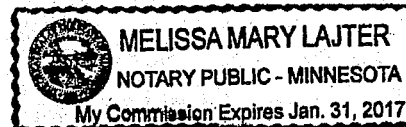
This instrument was acknowledged before me by Leonard J. Tostenson and Kathleen Tostenson this 13th day of June, 2012.

Melissa M. LaJter
Notary Public

STATE OF MINNESOTA)

SS.

COUNTY OF Houston)

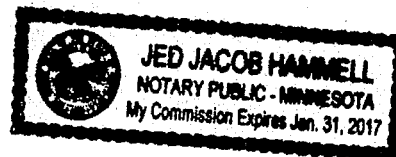


This instrument was acknowledged before me by Richard Frick, member of Minnesota Sands, LLC this 14th day of June 2012.

Jed Jacob Hammell
Notary Public

This instrument drafted by:

Jed J. Hammell
Rippe, Hammell & Murphy, P.L.L.P.
110 East Main St.
Caledonia, MN 55921
(507) 725-3361



RECEIVED
MAY 30 2014

BY:----- DISSOLUTION AGREEMENT

THIS AGREEMENT, Made and entered into this 28 day of May, 2014, by and between Leonard J. Tostenson and Kathleen Tostenson and Richard Frick, individually and on behalf of Minnesota Sands, LLC and Minnesota Proppent, LLC.

WHEREAS, the parties have had various business dealings within the last couple of years and Leonard and Kathleen Tostenson leased certain real estate to Richard Frick and/or his representative businesses for the excavation of Frac Sand, and

WHEREAS, the parties desire to come to an understanding for the termination of said lease and to terminate any and all business relationship; and

NOW THEREFORE: The parties agree as follows:

1. The lease agreement and amendments thereto between Leonard and Kathleen Tostenson and Minnesota Sands, LLC and Richard Frick are hereby terminated.
2. The parties hereby release and forever discharge each other from any and all claims under, pursuant to, arising from, or in any way related to their relationship and lease including damages. This is a complete and final settlement as to the terms of the agreement.
3. It is agreed between the parties that Leonard and Kathleen Tostenson will retain all previous payments which Minnesota Sands, LLC has paid in the past and that any other payments referred to in the lease are now null and void.
4. By signing this dissolution agreement it is agreed that neither party owes the other party anything.

Leonard Tostenson
Leonard J. Tostenson

Kathleen Tostenson
Kathleen Tostenson

MINNESOTA SANDS, LLC:

By: Richard Frick
Richard Frick

MINNESOTA PROPPENT, LLC:

By: Richard Frick
Richard Frick

Richard Frick
Richard Frick, individually

State of Minnesota
SS.
County of Houston

Subscribed and sworn to before me this 29th day of May 2014 by
Leonard J. Tostenson.

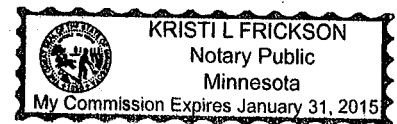
Kristi L Frickson
Notary Public



State of Minnesota
SS.
County of Houston

Subscribed and sworn to before me this 29th day of May 2014 by
Kathleen Tostenson.

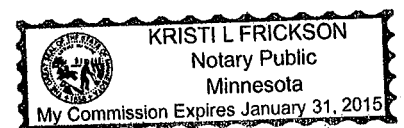
Kristi L Frickson
Notary Public



State of Minnesota
SS.
County of Houston

Subscribed and sworn to before me this 29th day of May 2014 by
Richard Frick.

Kristi L Frickson
Notary Public



RECEIVED
MAY 30 2014

BY:.....

LEASE AGREEMENT

THIS LEASE AGREEMENT, ("the Agreement") is entered into this ____ day _____, 2012 by Porteous E. Olson, ("Landlord") whose address for the purpose of this lease is 14061 Benson Drive Houston, MN 55943, and Minnesota Sands, LLC, ("Tenant"), whose address for the purposes of this lease is 3108 County Road 9, Houston, MN 55943.

1. **PREMISES AND TERM.** The landlord, in consideration of the rent, agreements, and conditions contained herein, leases to the Tenant and Tenant leases from Landlord, for the sole purpose of removing sand on only the following described real estate in Houston County, Minnesota:

That part of the SW 1/4 of the SE 1/4 of Section 3, Township 103 Range 6 West lying east of a line traversing said SE1/4 in a Northeast/Southeast direction as depicted on the attached Exhibit A.

Parcel Id: 060309000

The description of the leased area shall be modified to exclude any part of the above-described real estate which is not encompassed by the actual permitted area or access roads.

for a term commencing June 15, 2012 and ending ten years after obtaining all applicable permits from Houston County.

2. **RENTAL.** Tenant agrees to pay to Landlord as rental for said Premises the sum of \$15,000.00 to be paid in full on the execution of this lease. Tenant also agrees to pay Landlord an additional [REDACTED] upon Tenant obtaining all applicable permits from Houston County. Said amounts are nonrefundable.

3. **ROYALTIES.** In addition to the rental due under paragraph 2 above, Tenant agrees to pay Landlord royalties in the amount of [REDACTED] per ton ("Royalty Rate") for each ton of Frac Sand removed from the premises. Said material shall be weighed across a scale provided and installed on the Premises by Tenant or through other accurate weighing methods. The parties agree that the Royalty Rate shall be adjusted, but not lower than [REDACTED] per ton, on May 1st of each even year of this Lease or any renewal thereof (April 1, 2014; April 1st, 2016; April 1st, 2018; etc.) to adjust the Royalty Rate by utilizing the Producer Price Index for Core Products published by the United States Department of Labor, Bureau of Labor Statistics ("Index"). The Royalty Rate shall adjust by multiplying the Royalty Rate times the difference between the Index on the adjustment date and the Index on November of the previous adjustment date. For example, if the difference in the Index between April 1, 2016 and April 1, 2014 is ten percent (10%) then the Royalty Rate shall be [REDACTED] per ton [REDACTED]. Royalty payments will be made on a monthly basis with the first Royalty payment due one month after the removal of the first material and on the 1st of the month thereafter. Tenant shall pay Landlord a late fee of [REDACTED] of any monthly payment amount not received by Landlord with fifteen (15) days after the payment is due.

In additional to the rent due under Paragraph 2 above and royalties paid herein, Tenant shall pay an additional Land Royalty Rate in the amount of [REDACTED] [REDACTED] per ton for all material brought to the leased premises from other mines or quarries to be washed or processed at the leased premises.

Landlord shall have the ability to review and audit Tenant's records relating to material removed and weighed from the leased premises.

4. **MINIMUM ROYALTIES.** Tenant agrees that minimum Royalty payments will be made as follows:

- Minimum of [REDACTED] to be paid to the Landlord within twenty-four (24) months of execution of this Lease Agreement.
- Minimum total of [REDACTED] within the first sixty (60) months after execution of this Lease Agreement.
- Minimum of [REDACTED] per year for each year thereafter until the termination of this Lease Agreement.

In the event the Tenant fails to make the minimum Royalty payments described herein, Landlord shall have the option to immediately terminate said Lease Agreement. In the event of termination, neither party shall have any further obligations to each other, other than Tenant's reclamation obligations contained herein.

5. **POSSESSION.** Tenant shall be entitled to possession on the commencement date, and shall yield possession to the Landlord upon expiration of this Agreement. Landlord shall have the absolute right throughout the term of this Agreement to continue to complete cropping and farming activities on the portion of the premises not affected by the mining operation and Landlord shall have the right to complete cropping and farming activities on the portion of the premises reclaimed from mining operations and not affected by mining operations. If Tenant disturbs or damages any planted crops, Tenant shall compensate Landlord for said destroyed crops at fair market value. If Tenant utilizing any crop land including the access road or mine site itself, Tenant shall compensate Landlord based on fair agricultural rental value for said area of land disturbed.

6. **USE AND CONDITION OF PREMISES.**

(a) Tenant may use the Premises solely to mine Frac Sand to be used by Tenant for commercial purposes.

(b) Tenant will use Tenant's best efforts to maintain a "good neighbor policy" with adjacent property owners and the public. A copy of said policy is attached.

(c) Tenant may sub-contract, assign or sublease all or any part of this Lease of the Premises. Prior to sub-contract, assignment or sublease, of any amount of [REDACTED] or more, Tenant shall provide Landlord fifteen (15) days written notice containing the name and description of the assignee. Within three (3) days of receipt of the notice, Landlord has the right to object to any sub-contractor or assignment. Landlord shall not unreasonably object, condition or delay said sub-contract or assignment. All provisions of this lease, including provisions relating to Royalties and the business manner of Tenant shall apply to any assignee or sub-lessee so no harm or distress is caused to Landlord.

Employees, subcontractors or assigns of this Agreement shall in no way be considered employees of the Landlord. The Landlord will not be held responsible for Tenant or their agents. Tenant shall be solely responsible for any insurance as may be required under Minn. Stat. §176.182.

(d) Pursuant to this Lease the Tenant shall have the right to utilize the Premises and any easements thereon to do each of the following:

- i. Excavate and mine sand.
- ii. Transport mined materials in the permitted area as well on an access road.
- iii. Weigh mined materials.
- iv. Process mined materials as herein described, so long as Tenant obtains all required permits to complete any processing. Tenant may install a wash plant and drill a high capacity water well to be used in said washing plant. Tenant shall have the right to utilize all water extracted from said well.
- v. Building of roads in the permitted area in order to facilitate the transport of mined materials.
- vi. To take all steps necessary to comply with any reclamation plans.
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All of the above activities are to be done in compliance with all Federal, State and local laws, ordinances and regulations.

7. **TERMINATION.** This lease shall terminate upon expiration of the original term.

8. **QUIET ENJOYMENT.** Landlord covenants that its estate in said premises is in fee simple and that the Tenant, if not in default, shall peaceably have, hold and enjoy the premises for the term of this lease. Landlord represents that it has not previously leased or assigned the mineral rights to the premises to any other party and covenants not to lease, grant or assign the mineral rights to the premises described above, during the term of this lease.

9. **REAL ESTATE TAXES.** All real estate taxes and special assessments shall be paid by the Landlord. In the event the real estate taxes and special assessments due and payable with regard to the premise increase due to a reclassification or increase in valuation caused by Tenant's activities on the premises, Tenant shall pay 50% of such increase. Upon Landlord's failure to pay any real estate taxes or special assessments, Tenant shall have the right to make such payments and obtain reimbursement or contribution from Landlord for making such payments.
10. **INDEMNITY.** Except for the negligence of Landlord, Tenant will protect, defend and indemnify Landlord from and against all loss, costs, damage and expenses, including costs and attorney's fees, occasioned by, or arising out of, any accident, use, or other occurrence, including but not limited to dust, pollutants and contaminants, causing or inflicting injury or damage to any person or property, happening or done in, upon or about the premises, or due directly or indirectly to the tenancy, use or occupancy thereof, or any part thereof by Tenant or any person claiming through or under Tenant.
11. **ZONING.** Tenant's obligations under this Agreement are conditioned upon Tenant obtaining any all zoning or other governmental approvals required to permit the use set forth in paragraph 5 above on or before the commencement date of this Agreement. Said approvals include, but are not limited to, any permits or approvals required by the Minnesota Department of Natural Resources, the United States Mine Safety and Health Administration, any county permits, and any mining plans and reclamation plans as may be required. Landlord agrees to assist and cooperate in obtaining any such approvals or permits.
12. **NOTICES AND DEMANDS.** Notices as provided for in this lease shall be given to the respective parties hereto at the respective addresses designated on page one of this lease unless either party notifies the other, in writing, of a different address. Without prejudice to any other method of notifying a party in writing or making a demand or other communication, such message shall be considered given under the terms of this lease when sent, addressed as above designated, postage prepaid, by certified mail deposited in a United States mail box.
13. **CHANGES TO BE IN WRITING.** None of the covenants, provisions, terms or conditions of this lease shall be modified, waived or abandoned,

except by a written instrument duly signed by the parties. This lease contains the whole agreement of the parties.

- 14.CONSTRUCTION.** Words or phrases herein, including acknowledgement hereof, shall be construed as in the singular or plural number, and as masculine, feminine or neuter gender according the context.
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- 16.SAND FOR LANDLORD.** Tenant agrees to maintain a sand stockpile for miscellaneous use. Landlord shall be entitled to utilize sand from the stockpile for his own purposes or processing or for sale to third parties for agricultural purposes in the maximum amount of 100 tons per year. Tenant shall not sell any sand from the stockpile or otherwise process sand on the premises.
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18.PROTECTION AND RESTORATION OF SURFACE. At the termination of this Lease or any extension or renewal thereof the Tenant shall be obligated to remove all structures and equipment located on the Property, provided, however, that Tenant shall be allowed one (1) year from the date of termination of this Lease or any extension or renewal thereof to remove any or all structures or equipment. At the termination of this Lease or any extension or renewal thereof the Tenant shall remove all trash, junk and/or salvage located on the Property and shall leave the land surface of the Property in a reasonably level condition. Tenant shall complete all actions necessary to reclaim the property as provided in Tenant's reclamation plan. Tenant shall obtain an irrevocable bond in the amount of 110% of the estimated cost of any reclamation plan. Said bond will name Landlord as the obligee. Said irrevocable bond will be obtained prior to Tenant's removal of any material. If Tenant fails to remove any structure, equipment, trash, junk and / or other salvage as herein provided, then Landlord shall recover from Tenant reasonable attorneys' fees and court costs incurred by Landlord to enforce the provisions of this paragraph and / or to remove such items from the Premises. The provisions of this paragraph shall survive any termination of this Lease.

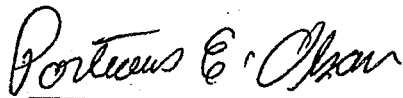
19.RIGHT OF FIRST REFUSAL. Landlord agrees and hereby grants to Tenant the right of first refusal to purchase the Property described in Exhibit A and more further depicted on the surveyed legal description of the property along with access to said property. (hereinafter "Right of First Refusal" as long as Tenant is not in default under this lease. Under this Right of First Refusal, any offer to purchase the premises made by a third party during the term of this Lease or any extensions thereto, shall be first communicated to Tenant in writing. Tenant shall have the option to purchase at the same price and upon the same terms of said offer. Said refusal or exercise of option by Tenant shall be made within thirty (30) days from when written notice received from Landlord. Landlord shall not have the right of first refusal if Landlord shall sell or otherwise transfer the premises to any family member as defined under Minnesota's intestacy laws, and specifically include the children, siblings, nieces and nephews of Landlord.

20.SEVERABILITY. If any portion of this Lease shall be held to be invalid or unenforceable for any reason, the remaining provisions shall continue to be valid and enforceable. If a court finds that any provision of this Lease is invalid or unenforceable, but that by limiting such provision, it would

become valid and enforceable, then such provision shall be deemed to be written, construed, and enforced as so limited.

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- 22.GOVERNING LAW.** This agreement shall be governed by and construed in accordance with the laws of the State of Minnesota.
- 23.PROVISIONS BINDING.** Each and every covenant and agreement herein contained shall extend to and be binding upon the respective successors, heirs, administrators, executors and assigns of the parties hereto. Attached hereto and incorporated herein is a Confidentiality Agreement.
- 24.** In any action or legal proceeding to enforce any part of this Lease Agreement, the prevailing party shall recover its reasonable attorneys' fees and court costs from the other party.

LANDLORDS:



Porteous E. Olson

TENANT:

MINNESOTA SANDS, LLC

By: _____

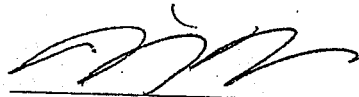
Richard Frick, Member

STATE OF MINNESOTA)

COUNTY OF HOUSTON)

ss.

This instrument was acknowledged before me by Porteous E. Olson this 2nd day of August, 2012.



Notary Public

STATE OF MINNESOTA)

COUNTY OF _____)

ss.

This instrument was acknowledged before me by Richard Frick, member of Minnesota Sands, LLC this _____ day of _____, 2012.

Notary Public

This instrument drafted by: _____

Jed J. Hammell
Rippe, Hammell & Murphy, P.L.L.P.
110 East Main St.
Caledonia, MN 55921
(507) 725-3361

USDA Farm Service Agency

Houston County, Minnesota

Farm Number:
4520

Tract Number:
13723

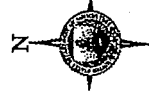
T103 R6 S3
Houston

Feb 22, 2012

2012 FSA Acreage Map

Scale: 1:6,763

519-12



Legend

CLU Field Boundary

Tract Boundary

Section Lines

CRP Contracts

Restricted Use

Limited Restrictions

Exempt from Conservation

Compliance Provisions

Wetland identifiers do not represent the size, shape or specific determination of the wetland. Refer to your original determination (CPA-029 and attached maps) for exact wetland boundaries and determinations, or contact NRCS.

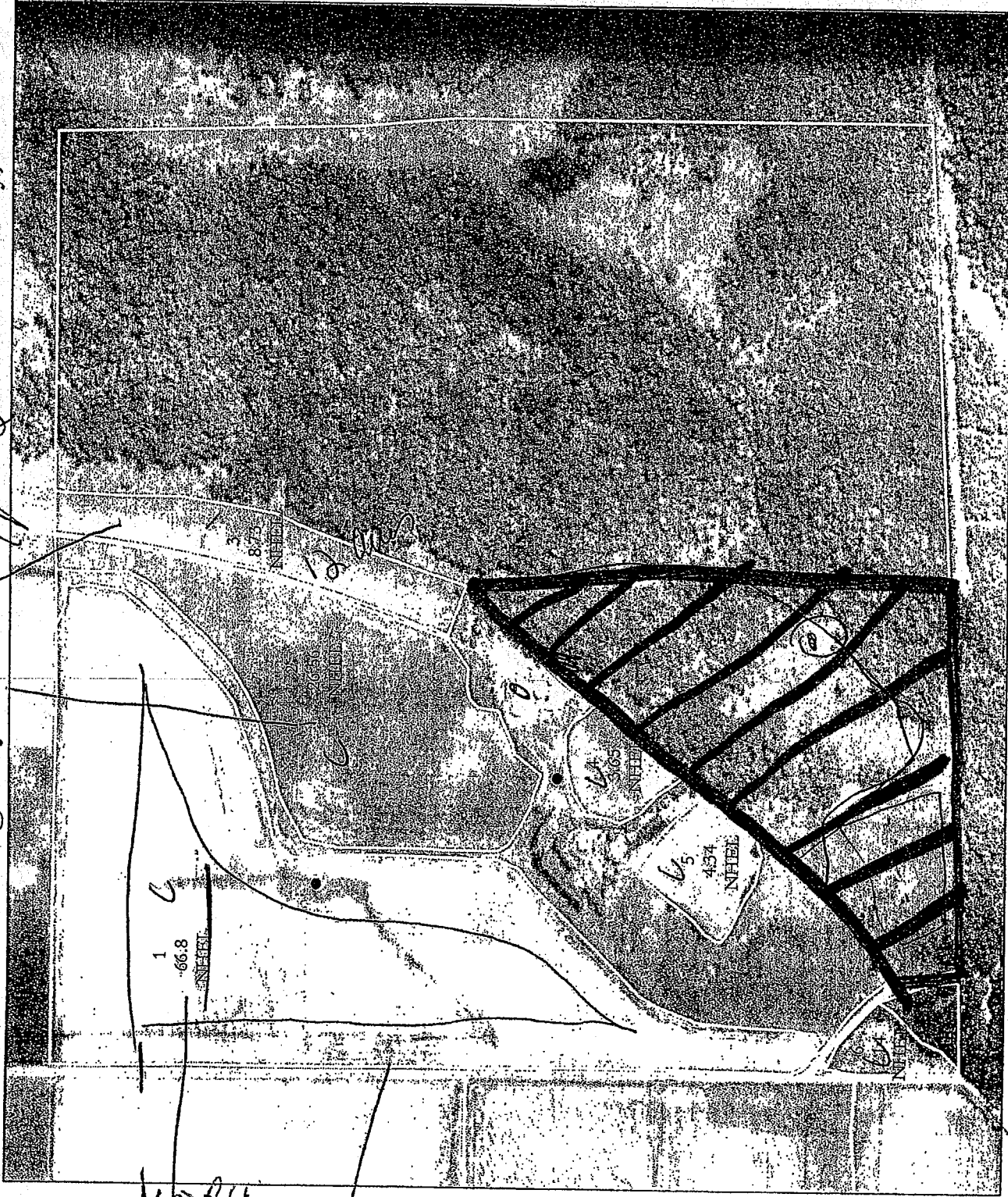
Acre Summary

Total Acres	339.46
Total CRP	0
Cropland	112.22

Acre Summaries reflect Common Land Unit data and are not reflective of parcel information. All information contained in this summary is for FSA business purposes only.



Exhibit A



USDA FSA maps are for FSA Program administration only. This map does not represent a legal survey or reflect actual ownership; rather, it depicts the information provided directly from the producer and/or the 2010 NAIP imagery for Minnesota. The producer accepts the data as is and assumes all risks associated with its use. The USDA Farm Service Agency assumes no responsibility for actual or consequential damage incurred as a result of any user's reliance on this data outside of FSA Programs.

RECEIVED
MAY 30 2014

BY:.....

DISSOLUTION AGREEMENT

THIS AGREEMENT, Made and entered into this 29 day of May, 2014, by and between Porteous Olson and Richard Frick, individually and on behalf of Minnesota Sands, LLC and Minnesota Proppent, LLC.

WHEREAS, the parties have had various business dealings within the last couple of years and Porteous Olson leased certain real estate to Richard Frick and/or his representative businesses for the excavation of Frac Sand, and

WHEREAS, the parties desire to come to an understanding for the termination of said lease and to terminate any and all business relationship; and

NOW THEREFORE: The parties agree as follows:

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4. By signing this dissolution agreement it is agreed that neither party owes the other party anything.

Porteous Olson
Porteous Olson

MINNESOTA SANDS, LLC:

By: Richard Frick
Richard Frick

MINNESOTA PROPPENT, LLC:

By: Richard Frick
Richard Frick
Richard Frick
Richard Frick, individually

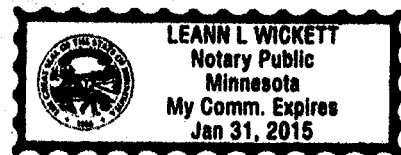
State of Minnesota

ss.

County of Houston

Subscribed and sworn to before me this 29th day of May 2014 by
Porteous Olson.

Leann L Wickett
Notary Public



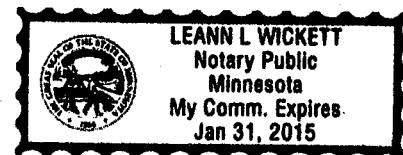
State of Minnesota

ss.

County of Houston

Subscribed and sworn to before me this 29th day of May 2014 by
Richard Frick.

Leann L Wickett
Notary Public



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BY:.....

LEASE AGREEMENT

THIS LEASE AGREEMENT, ("the Agreement") is entered into this 27th day April, 2012 by Thomas Johnson and Virginia Johnson, ("Landlord") whose address for the purpose of this lease is 4448 County Road 9, Houston, MN 55943, and Minnesota Sands, LLC, ("Tenant"), whose address for the purposes of this lease is 3108 County Road 9, Houston, MN 55943.

1. **PREMISES AND TERM.** The landlord, in consideration of the rent, agreements, and conditions contained herein, leases to the Tenant and Tenant leases from Landlord, for the sole purpose of removing sand only from the following described real estate in Houston County, Minnesota:

ALL THAT PART OF THE EAST HALF OF THE SOUTHEAST QUARTER OF SECTION 21 LYING NORTHERLY OF HOUSTON COUNTY HIGHWAY NO. 21, ALL BEING A PART OF TOWNSHIP 104 NORTH, RANGE 6 WEST.

This lease description is limited to the actual permitted area for a sand pit as depicted on the attached Exhibit A as well as an access road to the permitted area.

Parcel Id: 06-0107-000

The description of the leased area shall be modified to exclude any part of the above-described real estate which is not encompassed by the actual permitted area or access roads.

for a term commencing April 27, 2012 and ending ten years after obtaining all applicable permits from Houston County and State of Minnesota.

2. **RENTAL.** Tenant agrees to pay to Landlord as rental for said Premises the sum of [REDACTED] to be paid in full on the execution of this lease. Tenant also agrees to pay Landlord an additional [REDACTED] upon Tenant obtaining

all applicable permits from Houston County and State of Minnesota. Said amounts are nonrefundable.

3. **ROYALTIES.** In addition to the rental due under paragraph 2 above, Tenant agrees to pay Landlord royalties in the amount of [REDACTED] per ton ("Royalty Rate") for each ton of Frac Sand removed from the premises. Said material shall be weighed across a scale provided and installed on the Premises by Tenant or through other accurate weighing methods. The parties agree that the Royalty Rate shall be adjusted, but not lower than [REDACTED] per ton, on May 1st of each even year of this Lease or any renewal thereof (April 1, 2014; April 1st, 2016; April 1st, 2018; etc.) to adjust the Royalty Rate by utilizing the Producer Price Index for Core Products published by the United States Department of Labor, Bureau of Labor Statistics ("Index"). The Royalty Rate shall adjust by multiplying the Royalty Rate times the difference between the Index on the adjustment date and the Index on November of the previous adjustment date. For example, if the difference in the Index between April 1, 2016 and April 1, 2014 is ten percent (10%) then the Royalty Rate shall be [REDACTED]. Royalty payments will be made on a monthly basis with the first Royalty payment due one month after the removal of the first material and on the 1st of the month thereafter. Tenant shall pay Landlord a late fee of [REDACTED] of any monthly payment amount not received by Landlord with fifteen (15) days after the payment is due.

In additional to the rent due under Paragraph 2 above and royalties paid herein, Tenant shall pay an additional Land Royalty Rate in the amount of [REDACTED] per ton for all material brought to the leased premises from other mines or quarries to be washed or processed at the leased premises.

Landlord shall have the ability to review and audit Tenant's records relating to material removed and weighed from the leased premises.

4. **MINIMUM ROYALTIES.** Tenant agrees that minimum Royalty payments will be made as follows:

- Minimum of [REDACTED] to be paid to the Landlord within twenty-four (24) months of execution of this Lease Agreement.
- Minimum total of [REDACTED] within the first sixty (60) months after execution of this Lease Agreement.

- Minimum of [REDACTED] per year for each year thereafter until the termination of this Lease Agreement.

In the event the Tenant fails to make the minimum Royalty payments described herein, Landlord's sole remedy shall be the option to immediately terminate said Lease Agreement. In the event of termination, neither party shall have any further obligations to each other, other than Tenant's reclamation obligations contained herein.

5. **POSSESSION.** Tenant shall be entitled to possession on the commencement date, and shall yield possession to the Landlord upon expiration of this Agreement. Landlord shall have the absolute right throughout the term of this Agreement to continue to complete cropping and farming activities on the portion of the premises not affected by the mining operation and Landlord shall have the right to complete cropping and farming activities on the portion of the premises reclaimed from mining operations and not affected by mining operations. If Tenant disturbs or damages any planted crops, Tenant shall compensate Landlord for said destroyed crops at fair market value. If Tenant utilizing any crop land including the access road or mine site itself, Tenant shall compensate Landlord based on fair agricultural rental value for said area of land disturbed.

6. **USE AND CONDITION OF PREMISES.**

- (a) Tenant may use the Premises solely to mine Frac Sand to be used by Tenant for commercial purposes. Tenant shall acquire no additional mineral rights.
- (b) Tenant will use Tenant's best efforts to maintain a "good neighbor policy" with adjacent property owners and the public. A copy of said policy is attached.
- (c) Tenant may sub-contract, assign or sublease all or any part of this Lease of the Premises. Prior to sub-contract, assignment or sublease, of any amount of [REDACTED] or more, Tenant shall provide Landlord fifteen (15) days written notice containing the name and description of the assignee. Within three (3) days of receipt of the notice, Landlord has the right to object to any sub-contractor or assignment. Landlord shall not unreasonably object, condition or

delay said sub-contract, or assignment. All provisions of this lease, including provisions relating to Royalties and the business manner of Tenant shall apply to any assignee or sub-lessee so no harm or distress is caused to Landlord.

Employees, subcontractors or assigns of this Agreement shall in no way be considered employees or agents of the Landlord. The Landlord will not be held responsible for Tenant or their agents. Tenant shall be solely responsible for any insurance as may be required under Minn. Stat. §176.182.

(d) Pursuant to this Lease the Tenant shall have the right to utilize the Premises and any easements thereon to do each of the following:

- i. Excavate and mine sand.
- ii. Transport mined materials in the permitted area as well on an access road.
- iii. Weigh mined materials.
- iv. Process mined materials as herein described, so long as Tenant obtains all required permits to complete any processing. Tenant may install a wash plant and drill a high capacity water well to be used in said washing plant. Tenant shall have the right to utilize all water extracted from said well.
- v. Building of roads in the permitted area in order to facilitate the transport of mined materials.
- vi. To take all steps necessary to comply with any reclamation plans.
- vii. To install all utilities of any nature necessary to mine material or to operate a scale and processing facility.

All of the above activities are to be done in compliance with all Federal, State and local laws, ordinances and regulations.

7. **TERMINATION.** This lease shall terminate upon expiration of the original term.

8. **QUIET ENJOYMENT.** Landlord covenants that its estate in said premises is in fee simple and that the Tenant, if not in default, shall peaceably have, hold and enjoy the premises for the term of this lease. Landlord represents

that it has not previously leased or assigned the mineral rights to the premises to any other party and covenants not to lease, grant or assign the mineral rights to the premises described above, during the term of this lease.

9. **REAL ESTATE TAXES.** All real estate taxes and special assessments shall be paid by the Landlord. In the event the real estate taxes and special assessments due and payable with regard to the premise increase due to a reclassification or increase in valuation caused by Tenant's activities on the premises, [REDACTED] Upon Landlord's failure to pay any real estate taxes or special assessments, Tenant shall have the right to make such payments and obtain reimbursement or contribution from Landlord for making such payments.
10. **INDEMNITY.** Except for the negligence of Landlord, Tenant will protect, defend and indemnify Landlord from and against all loss, costs, damage and expenses, including costs and attorney's fees, occasioned by, or arising out of, any accident, use, or other occurrence, including but not limited to dust, pollutants and contaminants, causing or inflicting injury or damage to any person or property, happening or done in, upon or about the premises, or due directly or indirectly to the tenancy, use or occupancy thereof, or any part thereof by Tenant or any person claiming through or under Tenant.
11. **ZONING.** Tenant's obligations under this Agreement are conditioned upon Tenant obtaining any zoning or other governmental approvals required to permit the use set forth in paragraph 6 above on or before the commencement date of this Agreement. Said approvals include, but are not limited to, any permits or approvals required by the Minnesota Department of Natural Resources, the United States Mine Safety and Health Administration, any county permits, and any mining plans and reclamation plans as may be required. Landlord agrees to assist and cooperate in obtaining any such approvals or permits.
12. **NOTICES AND DEMANDS.** Notices as provided for in this lease shall be given to the respective parties hereto at the respective addresses designated on page one of this lease unless either party notifies the other, in writing, of a different address. Without prejudice to any other method of notifying a party in writing or making a demand or other communication, such message shall be considered given under the terms of this lease when sent, addressed as above designated, postage prepaid, by certified mail deposited in a United States mail box.

- 13.**CHANGES TO BE IN WRITING.** None of the covenants, provisions, terms or conditions of this lease shall be modified, waived or abandoned, except by a written instrument duly signed by the parties. This lease contains the whole agreement of the parties.
- 14.**CONSTRUCTION.** Words or phrases herein, including acknowledgement hereof, shall be construed as in the singular or plural number, and as masculine, feminine or neuter gender according to the context.
- 15.**CERTIFICATION.** Tenant certifies that it is not acting, directly or indirectly, for or on behalf of any person, group, entity or nation named by an Executive Order of the United States Treasury Department as a terrorist, "Specially Designated National and Blocked Person" or any other banned or blocked person, entity, nation or transaction pursuant to any law, order, rule or regulation that is enforced or administered by the Office of Foreign Assets Control; and it is not engaged in this transaction, directly or indirectly on behalf of, or instigating or facilitating this transaction, directly or indirectly on behalf of, any such person, group, entity or nation. Tenant hereby agrees to defend, indemnify and hold harmless Landlord from and against any and all claims, damages, losses, risks, liabilities and expenses (including attorney's fees and costs) arising from or related to any breach of the foregoing certification.
- 16.**SAND FOR LANDLORD.** Tenant agrees to maintain a sand stockpile for miscellaneous use. Landlord shall be entitled to utilize sand from the stockpile for his own purposes or processing or for sale to third parties for agricultural purposes in the maximum amount of 100 tons per year. Tenant shall not sell any sand from the stockpile or otherwise process sand on the premises.
- 17.**SURFACE RIGHTS OF TENANT.** Tenant may clear brush and undergrowth from such portions of the premises as may be reasonably necessary to explore for materials or to locate pits, quarries, roads and stockpile areas. Tenant shall have the right to build roads in the permitted area as well as road to access the area as may be reasonably necessary for the production and removal of materials. In building such roads, Tenant may use materials from the Property, and Tenant shall not be required to pay royalties to Landlord for materials so used. Tenant shall remove all roads constructed

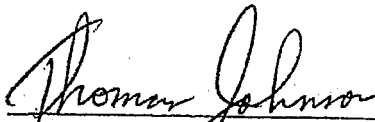
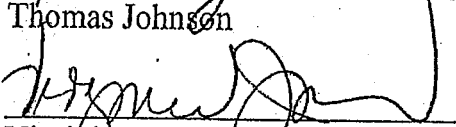
by Tenant and restore the property to a reasonably level condition when such roads are no longer in use.

18. PROTECTION AND RESTORATION OF SURFACE. At the termination of this Lease or any extension or renewal thereof the Tenant shall be obligated to remove all structures and equipment located on the Property, provided, however, that Tenant shall be allowed one (1) year from the date of termination of this Lease or any extension or renewal thereof to remove any or all structures or equipment. At the termination of this Lease or any extension or renewal thereof the Tenant shall remove all trash, junk and/or salvage located on the Property and shall leave the land surface of the Property in a reasonably level condition. Tenant shall complete all actions necessary to reclaim the property as provided in Tenant's reclamation plan. Tenant shall obtain an irrevocable bond in the amount of [REDACTED] of the estimated cost of any reclamation plan. Said bond will name Landlord as the obligee. Said irrevocable bond will be obtained prior to Tenant's removal of any material. Said irrevocable bond shall be issued by a surety licensed to do business in the State of Minnesota. If Tenant fails to remove any structure, equipment, trash, junk and / or other salvage as herein provided, then Landlord shall recover from Tenant reasonable attorneys' fees and court costs incurred by Landlord to enforce the provisions of this paragraph and / or to remove such items from the Premises. The provisions of this paragraph shall survive any termination of this Lease.

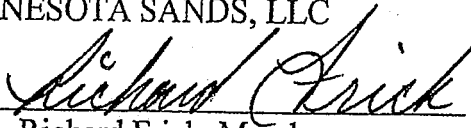
19. RIGHT OF FIRST REFUSAL. Landlord agrees and hereby grants to Tenant the right of first refusal to purchase the Property described in Exhibit A and more further depicted on the surveyed legal description of the property along with access to said property. (hereinafter "Right of First Refusal" as long as Tenant is not in default under this lease. Under this Right of First Refusal, any offer to purchase the premises made by a third party during the term of this Lease or any extensions thereto, shall be first communicated to Tenant in writing. Tenant shall have the option to purchase at the same price and upon the same terms of said offer. Said refusal or exercise of option by Tenant shall be made within thirty (30) days from when written notice received from Landlord. Landlord shall not have the right of first refusal if Landlord shall sell or otherwise transfer the premises to any family member as defined under Minnesota's intestacy laws, and specifically include the children, siblings, nieces and nephews of Landlord.

20. **SEVERABILITY.** If any portion of this Lease shall be held to be invalid or unenforceable for any reason, the remaining provisions shall continue to be valid and enforceable. If a court finds that any provision of this Lease is invalid or unenforceable, but that by limiting such provision, it would become valid and enforceable, then such provision shall be deemed to be written, construed, and enforced as so limited.
21. **INSURANCE and BOND.** Tenant shall maintain appropriate liability insurance covering the premises and the operations occurring on the premises, with minimum limits of [REDACTED] per occurrence. Said insurance policy shall name Landlord as an additional insured. Tenant shall provide proof of said insurance policy prior to Tenant removing any material. Landlord shall procure an adequate irrevocable bond for reclamations assurances. Said bond shall be irrevocable and meet all requirements of any conditional use permit as well as be sufficient to assure full reclamation of the premises. Landlord will be named as obligee on this irrevocable bond.
22. **GOVERNING LAW.** This agreement shall be governed by and construed in accordance with the laws of the State of Minnesota.
23. **PROVISIONS BINDING.** Each and every covenant and agreement herein contained shall extend to and be binding upon the respective successors, heirs, administrators, executors and assigns of the parties hereto. Attached hereto and incorporated herein is a Confidentiality Agreement.
24. In any action or legal proceeding to enforce any part of this Lease Agreement, the prevailing party shall recover its reasonable attorneys' fees and court costs from the other party.

LANDLORDS:


Thomas Johnson

Virginia Johnson

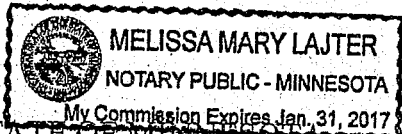
TENANT:

MINNESOTA SANDS, LLC
By: 
Richard Frick, Member

STATE OF MINNESOTA)
)
COUNTY OF HOUSTON)

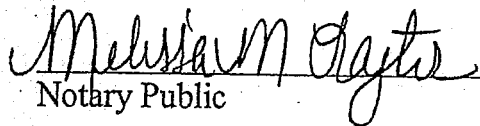
ss.

This instrument was acknowledged before me by Thomas Johnson and Virginia Johnson this 27th day of April, 2012.

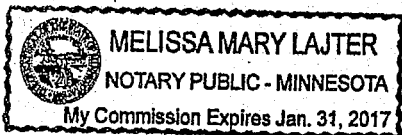


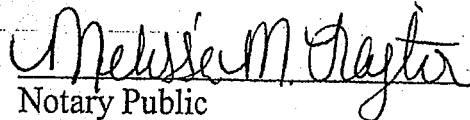
STATE OF MINNESOTA)
)
COUNTY OF HOUSTON)

ss.


Notary Public

This instrument was acknowledged before me by Richard Frick, member of Minnesota Sands, LLC this 27th day of April, 2012.

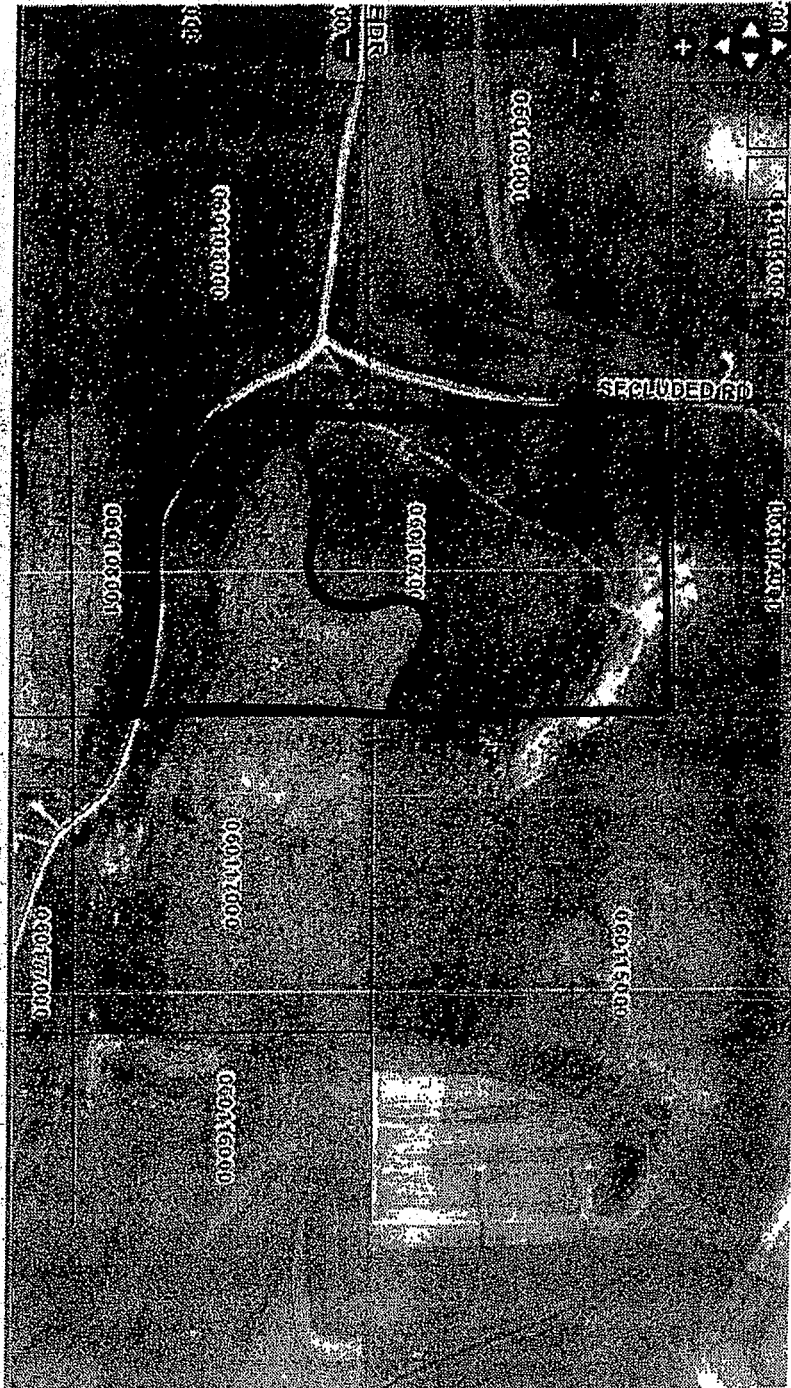



Notary Public

This instrument drafted by:

Jed J. Hammell
Rippe, Hammell & Murphy, P.L.L.P.
110 East Main St.
Caledonia, MN 55921
(507) 725-3361

Exhibit A



SECTION 26 ~ MINERAL EXTRACTION

0110.2601 PURPOSE

The purpose of this Section is to minimize land use conflicts and potential nuisance caused by mining operations, and to provide for the reclamation of land disturbed by mining in order to encourage productive use thereof, including, but not limited to the following:

Subdivision 1. Agricultural Purposes. The seeding of grasses and legumes for grazing purposes, and the planting of crops for harvest.

Subd. 2. Commercial and Industrial Purposes. The establishment of commercial and industrial development sites in commercial and industrial zoning districts.

Subd. 3. Natural Resources Purposes. The planting of forests, the enhancement of wildlife and aquatic resources, and the conservation of natural resources.

Subd. 4. Health, Safety and General Welfare. The preservation of the natural beauty and aesthetic values of the County; the establishment of recreational sites, and to provide for the health, safety and general welfare of the Citizens of the County.

0110.2602 JURISDICTION

Any excavation, quarrying or removal of surface material for the purpose of extracting minerals, stone, gravel, sand, soil, clay or other material as the function of such excavation shall be conducted subject to the requirements of this Section.

Subdivision 1. Exceptions. Excavations for purposes of residential, commercial, or industrial development or land alterations for agricultural purposes shall be exempt from the provisions of this Section.

0110.2603 DEFINITIONS

For the purpose of this Section certain terms and words are defined as follows:

Subdivision 1. Excavation. Any artificial alteration of the earth, excavated or made by the removal from the natural surface of the earth of soil, sand, gravel, stone or other matter.

Subd. 2. Operator. Any owner or lessee of mineral rights engaged in or preparing to engage in mining operations.

Subd. 3. Reclamation Plan. A document that details the activity which is to be taken during and following a mining operation to return the area to a natural state as much as possible or take actions that would substantially reduce adverse environmental effects from occurring.

3. Location of existing wooded areas and cultivated fields.
Parts 0110.2605-0110.2606

4. Location of existing structures and water wells.

5. Location and names of existing roads, trails, railroads, utility rights-of-way, and any other cultural features.

0110.2606 OPERATIONAL PERFORMANCE STANDARDS

Each person, firm, or corporation to whom a mining operation permit is issued may engage in mining upon lands described in the license, subject to the following operational performance standards:

Subdivision 1. General Requirements.

1. **Compliance.** The mining operations shall be conducted in compliance with the laws of the State of Minnesota and the Federal Government, especially as related to safety standards, and ordinances and resolutions of Houston County, as amended from time to time, and in compliance with and furtherance of the approved reclamation plan for the affected land.

2. **Operation of Equipment.** All equipment used for mining operations shall be constructed, maintained and operated in such a manner as to minimize, as far as is practicable, noises and vibrations which are injurious or substantially annoying to persons living in the vicinity.

3. **Explosives.** When explosives are used, the operator shall take all necessary precautions not to endanger life and damage or destroy property. The method of storing and handling explosives shall conform with all laws and regulations relating thereto.

Subd. 2. Vegetation.

1. **Removal of Trees and Shrubs.** Clearing of the mining site shall conform to the development and reclamation plan whenever possible. Existing trees and shrubs shall remain in their natural state and not prematurely stripped.

2. **Weeds and Noxious Vegetation.** Weeds and other unsightly or noxious vegetation shall be cut or trimmed as may be necessary to preserve a reasonably neat appearance and to prevent seeding on adjoining property.

3. **Preservation of Existing Trees and Ground Cover.** Existing trees and ground cover along public road frontage shall be preserved, maintained and supplemented for the depth of the roadside setback except where traffic safety requires cutting and trimming.

Subd. 3. Access.

1. **Jurisdiction.** All access points must be approved by the local government agency having

road jurisdiction, and shall preferably be located along a secondary road.

Parts 0110.2606-0110.2606

2. Avoid Residential Streets. All access points shall be located so as to avoid the routing of vehicles to and from the mining operation over streets that primarily serve abutting residential development.

3. Access Signage. Ingress and egress access points from or onto any road or highway shall be clearly signed, and only those signed access points shall be utilized.

4. Spillage on Roadways. Trucks used in hauling materials from the site of excavation shall be loaded in such manner as to minimize spillage onto public highways. Any spillage resulting from overloading or from truck tires shall be removed at regular intervals.

5. Dust. All access roads from mining operations to public highways, road, or streets or to adjoining property shall be paved or surfaced with gravel to minimize dust conditions.

Subd. 4. Water Resources.

1. Drainage Interference Prohibited. The mining operation shall not be allowed to interfere with surface water drainage beyond the boundaries of the mining operation.

2. Surface and Subsurface Water Quality. The mining operation shall not adversely affect the quality of surface or subsurface water resources.

3. Non-degradation of Surface Water. Surface water originating outside and passing through the mining district shall, at its point of departure from the mining site, be of equal quality to the water at the point where it enters the mining site. The mining operator shall perform any water treatment necessary to comply with this provision.

Subd. 4. Safety Fencing. Any mining operation adjacent to a residential zone or within three hundred (300) feet of two (2) or more residential structures shall comply with the following standards:

1. Ponded Water. Where collections of water occur that are one and one-half (1 ½) feet or more in depth existing for any period of at least one (1) month, and occupy an area of seven hundred (700) square feet or more, all access to such collections of water shall be barred by a fence or some similarly effective barrier such as a snow fence of at least four (4) feet in height.

2. Steep Slopes. In locations where slopes occur that are steeper than one (1) foot vertical to three (3) feet horizontal existing for a period of one (1) month or more, access to such slopes shall be barred by a fence or some similarly effective barrier such as a snow fence at least four (4) feet in height.

Subd. 5. Screening. To minimize problems of dust and noise and to shield mining operations from public view, a screening barrier shall be planted with species of fast-growing trees or shrubs. The screening shall be maintained between the following:

Parts 0110.2606-0110.2606

1. Residential and Commercial Properties. The mining site and adjacent residential and commercial properties.

2. Public Roads. A screening barrier shall also be maintained between the mining site and any public road within five hundred (500) feet of mining or processing operations.

Subd. 6. Setback Requirements. When more than one (1) setback standard applies, the most restrictive standard shall apply. Mining operations shall not be conducted closer than:

1. Prohibited in District. One hundred (100) feet to the boundary of any district where mining operations are not permitted.

2. Residentially Zoned. Not closer than one thousand (1000) feet to the boundary of an adjoining property residentially zoned.

3. Adjoining Property Line. Not closer than fifty (50) feet to the boundary of an adjoining property line, unless the written consent of the owner of such adjoining property is first secured.

4. Excavating or Stockpiling. Excavating or stockpiling shall not be conducted closer than one hundred (100) feet to the right-of-way line of any existing or platted street, road, or highway, where such excavation may create a traffic or line of sight problem.

5. Public Waters. Not closer than one-hundred (100) feet from the ordinary high water level of any public water.

6. Dust and Noise. Dust and noise producing processing or loading shall not be conducted closer than one thousand (1000) feet to the boundary of any residential structures existing prior to the implementation of the reclamation plan.

Subd. 8. Appearance. All buildings, structures and plants used for the production or processing of sand and gravel shall be maintained in such a manner as is practicable and according to acceptable industrial practice as to assure that such buildings, structures and plants will not become dangerously dilapidated.

Subd. 9. Days of Operation. Mining operations may be conducted Monday through Saturday, except for legal holidays. The Zoning Administrator may temporarily approve operations beyond these days to respond to public or private emergencies or whenever any reasonable or necessary repairs to equipment need to be made.

Subd. 10. Dust and Dirt. All equipment used for mining operations shall be constructed,

maintained and operated in such a manner as to minimize, as far as practicable, dust conditions which are injurious or substantially annoying to persons living within thirteen hundred and twenty (1320) feet of the mining operation.

Parts 0110.2606-0110.2607

1. **Exception.** These limitations above shall not apply to any mining operation in any industrial zone, unless such operations are closer than one hundred fifty (150) yard to a zone other than an industrial zone.

0110.2607 OPERATION PLAN

Subdivision 1. Operation Plan Requirements. The Operation Plan shall include a narrative discussing the following topics, and providing such other information as may be required by the Zoning Administrator, the Planning Commission, or the County Board of Commissioners.

1. A statement containing an estimate of the life expectancy of the proposed operation. The estimate shall include a starting date, and if within five (5) years, the completion date.
2. Material to be mined.
3. On site processing including crushing and washing operations.
4. Days and hours of operations.
5. Haul routes.
6. Soil erosion and sediment control plan.
7. A dust and noise control plan.

Subd. 2. Operations Map. The operations map shall be drawn at a scale of one (1) inch to one hundred (100) feet and shall show the tract to be mined and the adjacent area within five hundred, (500), feet to the proposed excavation. The map shall include the following:

1. Outline of the maximum area to be excavated.
2. Vertical profile of area to be excavated indicating over-burden and other geological layers to the extent known.
3. Location of any structures to be erected.
4. Location of tailings deposits showing maximum height of deposits.
5. Location of machinery to be used in the mining operation.

6. Location of storage of mined materials, showing height of storage deposits.

7. Location of vehicle parking.

8. Location of explosive storage.

Parts 0110.2607-0110.2608

9. Erosion and sediment control structures.

10. Egress and ingress points and proposed turning lanes.

11. Machinery, excavation and stock pile setbacks.

0110.2608 RECLAMATION PLAN

Subdivision 1. Reclamation Plan Required. Any mining operation legally commenced prior to the enactment of this Ordinance that does not have an approved reclamation plan, shall submit a reclamation plan to the Planning Agency for review and approval within five (5) years of the date of the enactment of this Ordinance.

Subd. 2. Reclamation Plan Commencement Requirement. All mining sites shall be reclaimed after mining operations cease. Reclamation shall be complete within one calendar year after operation ceases. Reclamation must commence when any of the following conditions occur:

1. Within a period of three (3) months after the termination of a mining operation.
2. Within three (3) months after abandonment of such operation for a period of six (6) months.
3. Within three (3) months after expiration of a mining permit.

Subd. 3. Reclamation Plan Standards. The following standards apply:

1. Removal of Buildings and Structures. All buildings, structures and plants incidental to such operation shall be dismantled and removed by, and at the expense of the mining operator last operating such buildings, structures and plants.

- a. A temporary variance may be granted for those buildings, structures, machinery and plants required to process previously mined materials stored on the site. Such variance may apply for only one (1) year, after which said buildings, structures machinery and plants shall be removed.

2. Grading and Filling. The peaks and depressions of the area shall be graded and back filled to a surface which will result in a gently rolling topography in substantial conformity to the surrounding landscape, and which will minimize erosion due to rainfall. No finished slope shall exceed eighteen (18) percent in grade.

3. **Soil Quality.** Reclaimed areas shall be laid with sod or surfaced with soil of a quality at least equal to the topsoil of land areas immediately surrounding and to a depth of at least three (3) inches.

Parts 0110.2608-0110.2609

4. **Ground Cover.** The required topsoil shall be planted with legumes and grasses. Trees and shrubs may also be planted but not as a substitute for legumes and grasses. The planting shall adequately retard soil erosion.

5. **Ponds.** Excavations completed to a water-producing depth need not be back filled if the water depth is at least ten (10) feet and if banks shall be sloped to the water-line at a slope no greater than three (3) feet horizontal to one (1) foot vertical.

6. **Finished Grades.** The finished grade shall be such that it will not adversely affect the surrounding land or future development of the site upon which mining operations have been conducted. The finished plan shall restore the mining site to a condition whereby it can be utilized for the type of land use proposed to occupy the site after mining operations cease.

Subd. 4. Reclamation Plan. The Reclamation Plan shall include a narrative discussing how the above standards will be met and shall also include any additional information required by the Zoning Administrator, the Planning Commission, or the County Board of Commissioners.

Subd. 5. Reclamation Plan Map. The reclamation plan map shall be drawn at a scale of one (1) inch to one hundred (100) feet and shall show the adjacent area within five hundred, (500), feet to the proposed excavation. The map shall include the following:

1. Final grade of proposed site showing elevations and contour lines at five (5) foot intervals.
2. Location and species of vegetation to be replanted.
3. Location and nature of any structures to be erected as part of the Reclamation Plan.

Subd. 6. Changes in the Reclamation Plan. In the event the operator finds the characteristics of the mining area to be different than what was previously determined, changes may be made in the original reclamation plan by mutual consent of the operator and the County Planning Agency. Such change shall preserve, as substantially as possible, the original reclamation plan, and shall also provide for the previously unknown variables.

0110.2609 PERFORMANCE BOND REQUIRED

A performance for mining operations shall be filed with the Zoning Administrator in such a form as the County Board shall prescribe, and payable to the County. The amount of the bond amount shall be set by the County Board by resolution. The bond shall guarantee that either upon termination of

the permit or of the operations, the ground surface of the land used shall be restored in conformity with the reclamation plan filed with the mining permit application. When and if the portions of the bonded property are completely rehabilitated in accord with the reclamation plan, and such restoration is certified by the Zoning Administrator, the performance bond protecting the restored acreage shall be returned.

Parts 0110.2610-0110.2612

0110.2610 TERM OF PERMIT

Each Conditional Use Permit approved for mineral extraction shall be valid for a period of five (5) years from and after the date of approval, provided the requirements of operation and reclamation, comply with the conditions of the permit.

1. An examination of the premises can be made by the Zoning Administrator at any time during the term of the operation.

0110.2611 RENEWAL AND REVIEW

Each Conditional Permit shall be renewable for a period of five (5) years upon written application to the Zoning Administrator and with the concurrence of the Planning Agency. However, upon determination by the Zoning Administrator, or the County Board, that the operation is in violation of the provisions of the Conditional Use Permit or other County Ordinances, a hearing may be held to review the existence of any alleged violations.

0110.2612 REVOCATION OF PERMIT

Upon failure by the holder of a mining permit to fully comply with the provisions contained herein, the Zoning Administrator shall certify the non-compliance to the County Board of Commissioners.

Subdivision 1. Notice of Violation. The Board of Commissioners shall give notice to said permit holder and owner of the land setting forth the provisions of this Section being violated.

Subd. 2. Hearing. The Board shall set a time and place of a hearing to be held by the Board to consider such violation of provisions of this Section.

Subd. 3. Suspension or Termination of Permit. If said Board of Commissioners shall find that provisions of this Section have not be complied with by the permit holder then the mining operations permit may be suspended or terminated by said Board of Commissioners.

RECEIVED
MAY 30 2014

DISSOLUTION AGREEMENT

BY:.....

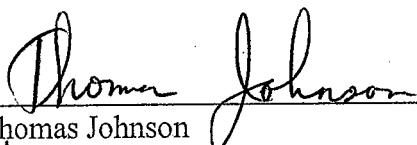
THIS AGREEMENT, Made and entered into this 29 day of May, 2014, by and between Thomas Johnson and Virginia Johnson and Richard Frick, individually and on behalf of Minnesota Sands, LLC and Minnesota Proppent, LLC.

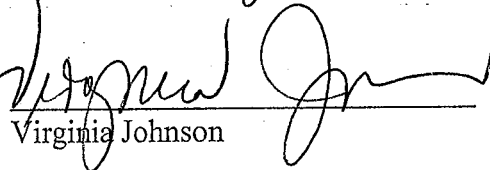
WHEREAS, the parties have had various business dealings within the last couple of years and Thomas and Virginia Johnson leased certain real estate to Richard Frick and/or his representative businesses for the excavation of Frac Sand, and

WHEREAS, the parties desire to come to an understanding for the termination of said lease and to terminate any and all business relationship; and

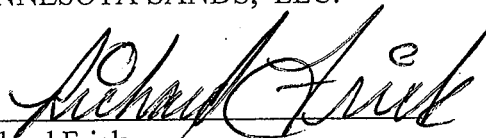
NOW THEREFORE: The parties agree as follows:

1. The lease agreement and amendments thereto between Thomas and Virginia Johnson and Minnesota Sands, LLC and Richard Frick are hereby terminated.
2. The parties hereby release and forever discharge each other from any and all claims under, pursuant to, arising from, or in any way related to their relationship and lease including damages. This is a complete and final settlement as to the terms of the agreement.
3. It is agreed between the parties that Thomas and Virginia Johnson will retain all previous payments which Minnesota Sands, LLC has paid in the past and that any other payments referred to in the lease are now null and void.
4. By signing this dissolution agreement it is agreed that neither party owes the other party anything.


Thomas Johnson


Virginia Johnson

MINNESOTA SANDS, LLC:

By: 
Richard Frick

MINNESOTA PROPPENT, LLC:

By: Richard Frick
Richard Frick

Richard Frick
Richard Frick, individually

State of Minnesota
SS.
County of Houston

Subscribed and sworn to before me this 29th day of May 2014 by
Thomas Johnson.

Kristi L Frickson
Notary Public



State of Minnesota
SS.
County of Houston

Subscribed and sworn to before me this 29th day of May 2014 by
Virginia Johnson.

Kristi L Frickson
Notary Public



State of Minnesota
SS.
County of Houston

Subscribed and sworn to before me this 29th day of May 2014 by
Richard Frick.

Kristi L Frickson
Notary Public



RECEIVED
MAY 30 2014
BY:.....

Minnesota Sands, LLC

14158 Addleman Drive

Houston, MN 55943

may-29
June __, 2014

Houston County Board of County Commissioners

c/o Terasa Walter, Commissioner

304 South Marshall Street

Caledonia, MN 55921

Dear Chairwoman Walter,

Per Bob Scanlon's, Director of Houston County Planning and Zoning, request, I am answering his questions in this letter to you.

Minnesota Sands, LLC, Minnesota Proppant, LLC, and Rick Frick, will not mine sand in Houston County.

All leases between Minnesota Sands, LLC and Lessors in Houston County have been terminated. Copies of those dissolution agreements are attached.

Minnesota Sands, LLC, Minnesota Proppant, LLC, and Rick Frick will not include any property in Houston County for any Environmental Impact Study (EIS).

Regards,



Rick Frick, individually



Minnesota Sands, LLC



Minnesota Proppant, LLC

State of Minnesota

ss.

County of _____

Subscribed and sworn to before me this ____ day of _____ 2014 by Richard Frick.

Notary Public

Minnesota Department of Natural Resources

Division of Ecological and Water Resources
500 Lafayette Road, St. Paul, MN 55155



June 2, 2014

Mr. Bob Scanlan
Houston County Planning and Zoning Director
304 S. Marshall Street
Caledonia, MN 55921

RE: DNR Silica Sand Mining Trout Stream Setback Permit, Erickson Mine, Houston County

Dear Mr. Scanlan:

Thank you for your testimony at the recent EQB meeting regarding the Erickson mine. The history of the Erickson mine has been difficult to sort through given its connection with the Minnesota Sands project. We appreciate your attempts to clarify the matter at the EQB meeting. We understand that Erickson mine has decided to sever its relationship with Minnesota Sands, although the EQB has yet to act on the matter as it relates to the environmental impact statement (EIS) for the Minnesota Sands – Erickson mine proposal. If the Erickson mine is to be a stand-alone project, the Minnesota Department of Natural Resources (DNR) must determine the applicability of the silica sand mining trout stream setback permit requirements to the Erickson mine. To make this determination, it is important that we clarify several issues:

1) The information available to DNR indicates that Mr. Erickson made a timely request for a renewal of the Conditional Use Permit (CUP) to mine on November 1, 2012, but the County took no action on the permit prior to its expiration. Thus, the permit appears to have expired on January 8, 2013. We understand that the County directed staff to work on a sixty-day extension of the expired permit over a year later, on April 21, 2014. But we are less clear whether the County took any action on the CUP between January 8, 2013 and April 21, 2014. If the County did act during this period, we would appreciate copies of relevant documentation.

2) Has the County taken any other action on the CUP since April 2014? If so, we would appreciate copies of documentation of those actions.

3) What is the current status of the CUP? If it is the County's view that the permit has not lapsed, please help us understand the legal basis for this position. We would appreciate copies of any documentation in the County's files relating to this determination.

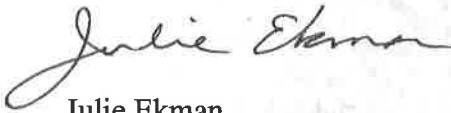
4) When was the mine last operated? The official record for the original CUP appears to have approved a one-time excavation of up to 10,000 yards, but more recent renewals have suggested an annual excavation of up to 10,000 yards. Is there a record of when the county board modified the CUP to allow the greater excavation? We would appreciate copies of relevant documents.

5) If the EQB releases the Erickson mine from the Minnesota Sands EIS, what would be the status of the Environmental Assessment Worksheet (EAW) noticed in September 2012? Why did the County decide to notice an EAW for the Erickson mine project? If the County has now decided not to require an EAW for the Erikson mine project, please explain what change in conditions has caused the County not to require the EAW, and the board action to dismiss the request. We would appreciate copies of any documentation of changes in the County's position on the EAW.

Any information the County can supply to clarify its record will help us in our efforts to assure that our permitting decision on the Erickson Mine is fair, transparent and in accordance with Minnesota law. I can be reached at (651) 259-5674, julie.ekman@state.mn.us, or the above address should you wish further clarification on DNR's questions regarding this matter.

Thank you in advance for your assistance.

Sincerely,



Julie Ekman
Conservation Assistance and Regulation Section Manager

cc: Tracie Erickson, 23148 State Highway 16, Rushford, Minnesota 55971
Rick Frank, Houston County Environmental Services Director
Teresa Walter, Chair – Houston County Board of Commissioners
Will Seuffert, Executive Director – Environmental Quality Board
Tom Landwehr, Commissioner – Department of Natural Resources
Scot Johnson, SE Groundwater Specialist – Department of Natural Resources
Tom Hovey, Water Regulation Unit Supervisor – Department of Natural Resources
Sherry Enzler, General Counsel – Department of Natural Resources



HOUSTON COUNTY

Zoning Administration | Solid Waste | Recycling
 304 South Marshall Street – Room 202, Caledonia, MN 55921
 Phone: (507) 725-5800 | Fax: (507) 725-5590



June 3, 2014

To: Julie Ekman – Conservation Assistance and Regulation Section Manager
 From: Bob Scanlan – Zoning Adm., Houston County
 Re: Tracie Erickson mine renewal

Thanks for the opportunity to respond to questions that have been brought up recently in regard to the Erickson/Thorson mineral extraction permit issued in 1992. I'll refer to your letter dated June 2, 2014 in my response.

- 1) You are correct in your statement, "Mr. Erickson made a timely request for a renewal of the Conditional Use Permit (CUP) to mine on November 1, 2012." But the statement that the "permit appears to have expired on January 8, 2013" is considered inaccurate. As you know, CUP's are a recorded document signed by the County Board Chair, County Auditor, Zoning Adm., and recorded with the property described in the recorded document (see enclosed document #166747 Conditional Use Order dated 1-14-92). These documents do not expire unless requirements are not met within the CUP (see MN Statute 394.301 subd. 3. And subd. 4. (copy attached). Notice that the only two conditions attached to the original conditional use order are (1.) Mining and extraction operation will be permitted for 5 years subject to review for possible extension beyond the 5 years. And (2.) Existing natural screening must remain in place. As both Thorson (former owner) and Erickson (current owner) have met both conditions attached to the CUP, the 5 year reviews have been favorable and the renewals have been granted. You mention, "We understand that the County directed staff to work on a sixty-day extension of the expired permit over a year later, on April 21, 2014. But we are less clear whether the County took any action on the CUP between January 8, 2013 and April 21, 2014". Just to be clear, the CUP has not expired as you note. But, the dates you mention are somewhat relevant in that I did send a letter to "affected landowners" on April 21, 2014 as directed by the County Board on April 8, 2014. (See enclosed letter dated April 21, 2014 and County Board minutes dated April 8, 2014). The sixty-day extension letter was sent because February 27, 2014 was the date that Houston County received a copy of an "Agreement" dated 9-12-13 that dissolved the relationship between MN Sands and Tracie Erickson. From the standpoint of Houston County, this triggered the review of the existing CUP from 1992 because it took several things "off the table" namely the EAW and the EIS for the site that was formerly under MN Sands. This dissolution agreement put

the RGU back onto Houston County as the County was the RGU for the original CUP and all reviews and renewals since 1992. (See enclosed "Agreement" received Feb. 27, 2014).

- 2) You ask the **question**: "Has the County taken any other action on the CUP since April 2014?" **Answer**: On April 8th, after discussion with its land use attorney, Jay Squires, the County Board ordered zoning staff to work with Erickson to review and renew the existing CUP from 1992. The Board's minutes state the following: "Motion was made by Commissioner Schuldt, seconded by Commissioner Storlie and unanimously carried to direct the staff to work with Mr. Erickson in processing his renewal request and extend any applicable 60 day rule period an additional 60 days. In addition, the board concludes that processing of this renewal request is not prohibited by the express language of the moratorium thereby any pending EAW or EIS process; the Board further directs staff to provide notice of the Board's determination to affected property owners and the EQB." In addition, the Planning Commission acted on the renewal request at their May 22nd meeting. The recommended approval of the renewal with an additional condition amended to the original CUP that would limit the amount of material taken from the mine to 10,000 cu. yds. annually. This additional condition was approved by the Erickson's as required. (Note: If the Erickson's had not approved the additional 10,000 yd. condition it would have been illegal for the Planning Commission to add the condition to the original permit.) This recommendation is tentatively scheduled to go to the County Board for final approval on June 24, 2014.
- 3) **Question**: "What is the current status of the CUP"? **Answer**: The status of the CUP is that it is under **review for renewal**. The Houston County Ordinance **Section 0110.2711 Renewal And Review**, states the following: "Each Conditional Permit shall be renewable for a period of five (5) years upon written application to the Zoning Administrator and with the concurrence of the Planning Agency. However, upon determination by the Zoning Administrator, or the County Board, that the operation is in violation of the provisions of the Conditional Use Permit or other County Ordinances, a hearing may be held to review the existence of any alleged violations." (see enclosed Ordinance section) As there have been no alleged violations as determined by the Zoning Administrator or the County Board, there have been no hearings held to review the existence of said alleged violations. The review is currently being done because of the new information brought to the County on February 27th (see #1 above). In addition, the Ordinance does not state a deadline for the review or renewal of each mining CUP. It only states that the CUP "**shall be renewable for a period of 5 years upon written application...**" In fact, these applications are seldom renewed within 5 years of the original date on the "Conditional Use Order" document. (see enclosed spreadsheet titled, "Conditional Use Permit Renewals for Quarries") As noted on the spreadsheet, more times than not, the 5 year review and renewals fall beyond five years from the original CUP and/or Conditional Use Order date. The dates highlighted on the spreadsheet in **red** are CUP's that were not reviewed and renewed within 5 years of the original CUP. All mine operators/owners that submitted timely applications for renewal were, in fact reviewed and renewed. All of these mines with the exception of Erickson's

mine were allowed to continue to operate during the review and renewal phase of their given permits. Erickson's mine ceased operation in 2012 because this mine was the subject of a "stop work order" issued by the County Board in response to a proposal to mine 2.7 million yards of material over 2 years under the name MN Sands. This stop work order is not relevant today as MN Sands is no longer associated with the Erickson mine (see "agreement").

4) Question: "When was mine last operated?" **Answer:** The mine was last operated in 2012 prior to the Stop work order issued as stated in #3 above. In fact, sand has been mined **yearly** from the Thorson/Erickson site for many local projects since 1992. You mention, "The official record for the original CUP appears to have approved a one-time excavation of up to 10,000 yards." You are correct; the Planning Commission minutes from 1992 suggest that the former owner had an original project that would be able to utilize 8,000-10,000 yds. of material. This was not, however, added as a condition to the CUP. For this reason, the mine has been active every year from 1992-2012. The mine owners/operators have submitted their applications for renewal and review in a timely manner and continuance of the original CUP has remained since 1992. You suggest in #4 that, "more recent renewals have suggested an annual excavation of up to 10,000 yards." This is inaccurate in that only during the May 22nd Planning Commission meeting did Mr. Erickson agree to have that amended to the original CUP permit. The Planning Commission recommended approval of the CUP with this added condition to the County Board but the Board has not acted on the application as of today. It is tentatively scheduled for June 24, 2014 with the Board of Commissioners. (see enclosed email dated 4-24-2014 from Tracie Erickson to add "new condition")

5)

The status of the EAW is that it was never finished. The County Board ordered the EAW on August 7, 2012 after a petition was filed with the EQB on July 18, 2012. In a letter dated August 3, 2012 the EQB assigned Houston County as the Responsible Governmental Unit (RGU) to respond to the petition. The basis of the EAW, at the time, was based on a proposal to "mine and process approximately two million cubic yards of silica sand at the site". The mine was also proposing to obtain a DNR water appropriation permit for a proposed well. The basis of the EAW, at the time, was for governmental approval of the DNR water appropriation permit and the proposed two million yards of excavated material mined over two years. This was considered a "substantial change in the scope" (thus, the reason for the stop work order) and was not consistent with the original 1992 CUP. Preparation of the EAW was started and two drafts of the EAW were put together by a company called GGG on behalf of Mr. Erickson. Preparation of the EAW was halted when the EQB decided to require an EIS from any mines that were under contract with MN Sands and located in Houston, Winona, and Fillmore Counties. The EQB decided to become the RGU of the project, including the Erickson mine that was under contract with MN Sands at the time. As EQB was now the RGU, Houston County had no say in environmental review as long as the Erickson quarry was under contract with MN Sands. Thus the EAW was not finished. It was the thinking of county staff and the Board that an EIS was going to be a more intense review of the cumulative effects of the Erickson mine and others associated with MN Sands that an EAW was a moot point. The EAW petition and eventual order to complete the EAW had nothing to do with the existing

1992 CUP for mining and extraction of sand. It, instead, pertained to the more intense mining of silica sand at the Erickson site that was not consistent with the 1992 CUP. It was because of the more intense mining (2 million yds. of material over 2 years) and the need for a high capacity well to accommodate processing (DNR water appropriation permit application) that both the stop work order was issued and the EAW petition was filed and developed. But, since the county's receipt of a dissolution agreement between MN Sands and Tracie Erickson, it is believed that the EAW is no longer required. Tracie Erickson is no longer associated with MN Sands, is no longer proposing 2 million yards of excavation over 2 years, and is no longer proposing a high capacity well to process silica sand. The scope of the project has reverted back to the intent of the original 1992 CUP and Houston County is currently finishing up the review and renewal process as required by the County Zoning Ordinance.

If you have any questions regarding the materials I am sending please call me at (507) 725-5800 or email me at bob.scanlan@co.houston.mn.us.

Once again, thanks for the opportunity to respond.

Sincerely,

Bob Scanlan
Zoning Adm.
Houston County

Houston County is an Equal Opportunity Employer

STATE OF MINNESOTA
COUNTY OF HOUSTON

DISTRICT COURT
THIRD JUDICIAL DISTRICT

Court File No. 28-CV-14-425
Assigned Judge: _____

Donna Buckbee, Susan van Gorp, Chad
Oness, Steve Hartwick, Bruce
Kuehmichel, Lorraine Culver, and Jackie
Baker,

Petitioners,

v.

Houston County, its Board of
Commissioners, Board Chair Theresa
Walters, Commissioner Judy Storlie,
Commissioner Justin Zmyewski,
Commissioner Steve Schuldt, and
Commissioner Dana Kjome,

Respondents.

WRIT OF MANDAMUS

The State of Minnesota to the County Board of Houston County, its Chair
Theresa Walters, and its Commissioners Judy Storlie, Justin Zmyewski, Steve Schuldt,
and Dana Kjome, Greeting:

Whereas it manifestly appears to the Court by the petition of Donna Buckbee,
Susan van Gorp, Chad Oness, Steve Hartwick, Bruce Kuehmichel, Lorraine Culver, and
Jackie Baker, that:

1. At the times herein mentioned Houston County (hereinafter "County")
was and still is a duly organized county of this state and the defendant Theresa Walters is
the chair of the county board of said county, and Judy Storlie, Justin Zmyewski, Steve
Schuldt and Dana Kjome are commissioners of said county.

2. Peititioners are each taxpayers of Houston County, and are otherwise
adversely affected by the matters addressed here as set forth below.

FILED

JUN - 2 2014

COURT ADMINISTRATOR
HOUSTON COUNTY, MN

3. Your petitioners have no plain, speedy or adequate remedy in law with respect to the matters set forth in this petition.

4. Petitioner Donna Buckbee resides at 5853 Ferndale Road, Rushford, Minnesota, within two miles of the Erickson mine, and is concerned about the human health and social impact to the area, decreased property values and affect on surface and ground water from the Erickson mine.

5. Susan van Gorp resides at 4382 Ferndale Road, Rushford, Minnesota, which is one-quarter mile from the Erickson mine. Ferndale Creek flows through her property.

6. Steve Hartwick, resides at 23584 County Road 26, Houston, Minnesota, and Chad Oness, resides at 15707 Paradise Drive, Houston, Minnesota. Both are concerned about the effect of the Erickson mine on nearby trout streams.

7. Jackie Baker resides at 22848 State 16, Rushford, Minnesota, which is approximately 700 feet from the Erickson mine. She is concerned about noise and dust and truck operations from the Erickson mine, mine hours of operation, whether the mine will follow set back requirements, and reduced property values caused by operation of the Erickson mine.

8. Bruce Kuehmicel resides at 1105 East Caledonia Street, Caledonia, Minnesota. He is concerned about the mine causing adverse affects on the scenic beauty of the area and polluting the ground water.

9. Lorraine Culver resides at 101 West Spruce Street, Houston, Minnesota. She is concerned about the mine causing adverse affects on the scenic beauty of the area and dangerous traffic situations.

10. Houston County has adopted an ordinance to regulate the use of land within the County, which ordinance is known as the Houston County Zoning Ordinance (hereinafter "Zoning Ordinance" or "Ordinance").

11. The Ordinance provides in Section 27 for the regulation of mining operations within the County; and there requires that there be a conditional use permit for mining and processing of minerals, including sand within the County. Ordinance, section 0110.2704.

12. An application for a conditional use permit for mineral extraction must contain identifying information for the applicant, applicant's interest in the land, legal description, number acres to be mined, maps, an operational plan, a reclamation plan, and an estimate of duration of mining. Ordinance, section 0110.2704, subd. 1.

13. A conditional use permit approved for mineral extraction is valid for a period of five years. Ordinance, section 0110.2710.

14. A conditional use permit may be renewed for a subsequent five-year period upon written application to the Zoning Administrator, provided that the operator is not in violation of either the provisions of the conditional use permit or of other County ordinances. Ordinance, section 0110.2711.

15. One Alan Thorson received a conditional use permit to operate a mine at a site in Yucatan Township in 1992. The mine site is now known as the "Erickson" mine. The permit was renewed on the five-year anniversary in 1997, 2002, and 2008.

16. The 2008 permit expired on January 8, 2013. After this date, Erickson had no right or claim to operate under any conditional use permit regarding the mine property.

17. The mine property was transferred from Thorson to Erickson in December 2009. No formal action was taken to transfer the conditional use permit.

18. In or about 2012, Erickson leased the mine property to an entity known as Minnesota Sands. No application to assign or transfer a conditional use permit was filed with the County in regards to this lease.

19. In May 2012, Minnesota Sands filed several documents associated with an application for a conditional use permit, which documents are described as an Operation & Reclamation Plan. At this time Minnesota Sands filed other applications with other regulatory bodies. The applications were apparently filed by and in the name of Minnesota Sands, as lessee in possession of the mine property.

20. On July 10 2012, Houston County, by its Zoning Administrator, issued a stop work order against the Erickson mine stating that the mine had commenced operations in violation of the then existing conditional use permit. The Stop Work Order was amended on July 17, 2012. The purpose of a stop work order is to identify violations of a conditional use permit and direct that such violations cease.

21. In July 2012, Houston County denied modification, amendment, and renewal of the Erickson mine conditional use permit.

22. Minnesota Sands and Erickson appealed the stop work order and denial to the District Court for Houston County in Civil Action no. 28-CV-12-729. In its appeal, plaintiffs sought a preliminary injunction against the County

23. The District Court, by Judge Walters, denied the motion for a preliminary injunction by order issued November 27, 2012.

24. In January 2014, the District Court dismissed the case with prejudice when Minnesota Sands and Erickson declined to proceed with the action.

25. Minnesota Sands filed no further application to renew the existing conditional use permit after its initial filing to expand operations was rejected.

26. At several times, Minnesota Sand and/or Erickson expressed an intention to seek renewal of the 2008 conditional use permit, but neither had filed a complete, written application containing information required by the Ordinance to renew the permit before the permit expired.

27. In its Answer to First Amended Complaint, Houston County stated that as of December 19, 2012, no separate formal written application for a conditional use permit beyond January 8, 2013, for the Erickson mine had been received by the County.

28. As of one year later, no formal written application for renewal of the existing conditional use permit had been filed with Houston County.

29. On May 14, 2013, the attorney for Houston County wrote to the Zoning Administrator, stating that: "[T]he most recent CUP expired at the being of this year;" and "[T]here is no existing CUP that would allow mining."

30. On May 17, 2013, the Houston County Zoning Administrator wrote to Erickson stating that: "[T]he most recent CUP expired at the beginning of this year."

31. In or about February 2014, Erickson claimed the lease with Minnesota Sands was terminated and filed a document attempting to renew the expired conditional use permit.

32. There is no existing conditional use permit for the Erickson mine to renew.

33. On May 28, 2014, the Houston County Planning Commission recommended to the County Board that a conditional use permit be issued to Tracie Erickson for the Erickson mine. The County Board intends to take up the recommendation at a meeting to be held on Tuesday, June 3, 2014.

34. The recommendation of the Planning Commission does not address violations of the 2008 permit that exist and are documented in the records of the Houston County Planning and Zoning Department, and no hearing has been held to review such violations.

35. On March 20, 2012, the Houston County Board amended its Zoning Ordinance to adopt a temporary moratorium "on the issuance of any conditional use permit for new silica sand mining or accessory uses."

36. The County Board amended and extended the temporary moratorium on July 24, 2012, March 5, 2013, and January 28, 2014. The July 24, 2012 amendment broadened the scope of the moratorium to include "all silica sand process operations that are not expressly authorized by the terms of an existing conditional use permit." The January 28 resolution extends the moratorium through January 8, 2015.

37. A new application for a conditional use permit for the Erickson mine is subject to the moratorium ordinance and new state laws regulating and restricting silica sand mining; and cannot be heard before the County Board at this time.

38. The Ordinance provides in section 0110.1001, subd. 8, that any taxpayer of the County may institute mandamus proceedings to compel specific performance of any duty required by the Ordinance.

Therefore you are commanded immediately after the receipt of this writ to:

1. Inform Erickson that the conditional use permit issued January 8, 2008, has expired.
2. Declare that there is no existing conditional use permit for the Erickson mine that may be renewed.
3. Reject and return any alleged application for renewal of the conditional use permit issued January 8, 2008.
4. If it elects to accept any filing for a conditional use permit for the Erickson mine, treat any such application for a conditional use permit filed for the Erickson mine, as a filing for a new conditional use permit which is subject to and requires compliance with current state law.

5. If it elects to accept any filing for a conditional use permit for the Erickson mine, treat any such application for a conditional use permit filed for the Erickson mine, as a filing for a new conditional use permit which is subject to the moratorium suspending new applications for sand mining until 2015;

or to show cause before this Court, at a special term thereof to be held at the court house, in the City of Caledonia, on Friday June 6th, 2014, at 9:00 o'clock A.m., why you have not done so, and that you then and there make return to this writ with your certificate on such return of having done as you are commanded.

Witness the Honorable Robert B. Brianson, judge of District Court, and the seal thereof, this 2nd day of June, 2014.

Darlene L. Larson
Clerk
Court Administrator