

**CITY OF SCANDIA
RESOLUTION NO. 03-03-09-02**

**DECLARING A POSITIVE NEED FOR AN ENVIRONMENTAL IMPACT
STATEMENT FOR THE ZAVORAL MINING AND RECLAMATION PROJECT,
LOCATED IN SECTIONS 18 AND 19, TOWNSHIP 32 NORTH, RANGE 19 WEST IN
THE CITY OF SCANDIA, MINNESOTA**

WHEREAS, the City of Scandia is the Responsible Governmental Unit in the preparation of the Environmental Assessment Worksheet (EAW) for the proposed Zavoral Mining and Reclamation Project, located in Sections 18 and 19, Township 32 North, Range 19 West in the City of Scandia; and

WHEREAS, the EAW is based on operation of a gravel mine and processing operation on a dormant, un-reclaimed gravel mine site of 114 acres located along St. Croix Trail North (State TH 95) near its intersection with State TH 97, and a portion of the site is located in the St. Croix River District Zone; and

WHEREAS, the city of Scandia has submitted a copy of the EAW to all public agencies on the EAW distribution list, publishing EAW availability in the EQB Monitor on January 12, 2009, all of which were done in accordance with applicable State laws, rules and regulations; and

WHEREAS, the City of Scandia acknowledges the comments received from forty-six (46) agencies or individuals during the official comment period, and seven (7) of the comment letters were received from regulatory agencies, including the Minnesota Department of Transportation, the National Park Service—St. Croix National Scenic Riverway, the Metropolitan Council, the Minnesota Department of Natural Resources, the Minnesota Pollution Control Agency, the Carnelian Marine St. Croix Watershed District and the Washington Conservation District; and

WHEREAS, the comments received indicated that the proposed Zavoral Mining and Reclamation Project is lacking sufficient information to determine the potential for, or significance of, the possible environmental effects of the proposed project, and that additional appropriate studies could be reasonably obtained; and

WHEREAS, the City concurs with the comments received that the EAW does not contain the information necessary to make a reasoned decision about the potential for, or significance of, possible environmental impacts, and that such information is necessary to allow the City to decide whether the project has the potential for significant environmental effects as described in Minnesota Rules 4410.1700, Subpart 7;

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Scandia does make a positive declaration on the need for an Environmental Impact Statement for the Zavoral Mining and Reclamation Project located in Sections 18 and 19, Township 32 North,

Range 19 West in the City of Scandia, and adopts the Record of Decision, Findings of Fact and Conclusions included as "Attachment A" to this resolution.

PASSED by the City Council of the City of Scandia this 3rd day of March, 2009.

Dennis D. Seefeldt, Mayor

ATTEST:

City Clerk/ Administrator

**Attachment A, Resolution 03-03-09-02
CITY OF SCANDIA
Washington County, Minnesota**

**RECORD OF DECISION
FINDINGS OF FACT AND CONCLUSIONS**

DATE: March 3, 2009

RE: Determination of Need for an Environmental Impact Statement (EIS)

PROJECT: Zavoral Mine and Reclamation Project EAW

LOCATION: Sections 18 and 19, Township 32 North, Range 19 West

FINDINGS OF FACT

1. Pursuant to Minnesota Rules 4410.1000-4410.1700, the City of Scandia, Washington County, Minnesota, acting as the Responsible Governmental Unit (RGU) approved the EAW prepare by Tiller Corporation for the Zavoral Mine and Reclamation Project EAW for distribution to reviewers and the public.
2. The EAW is incorporated by reference in this Record of Decision.
3. As indicated in the EAW, the proposed Zavoral Mine and Reclamation Project includes operation of a gravel mine and processing operation on a dormant, un-reclaimed gravel mine site. The site was mined by multiple operators before it was taken out of production in the 1980's. The previous mining activity was not subject to environmental review. The 114-acre site is located along St. Croix Trail North (State TH 95) near its intersection with State TH 97. A portion of the site is located in the St. Croix River District Zone. The application proposes reclamation activities within the Riverway Zone, and mining and processing activities near the Riverway Zone.
4. The City Council authorized EAW submittal to the Minnesota Environmental Quality Board (MEQB) on December 16, 2008.
5. A press release announcing the availability of the EAW for public review and comment, including a brief description of the project, was sent to the *Country Messenger*, *Forest Lake Times*, *St. Paul Pioneer Press* and *Star Tribune* on December 30, 2008.
6. The EAW was filed with the MEQB and notice of its availability for public review and comment was published in the *EQB Monitor* on January 12, 2009. A copy of the EAW was sent to all persons on the MEQB Distribution List and to persons who requested a copy. The EAW was also made available at the City of Scandia offices.

7. The 30-day public review and comment period for the EAW began on January 12, 2009 and ended on February 11, 2009.
8. During the 30-day public review and comment period, the City of Scandia received forty-six (46) written comments on the EAW from agencies or individuals. Three additional comments were received after the close of the comment period. Seven (7) of the comment letters were received from regulatory agencies. The other comments were from organizations and individuals. Comments were received from the following agencies:
 - a) Minnesota Department of Transportation
 - b) National Park Service—St. Croix National Scenic Riverway
 - c) Metropolitan Council
 - d) Department of Natural Resources
 - e) Minnesota Pollution Control Agency
 - f) Carnelian Marine St. Croix Watershed District
 - g) Washington Conservation District

The written comments received addressed a wide range of issues, and identified potential environmental impacts to the following:

- Potential impacts to surface waters, including the St. Croix River (an Outstanding Resource Value Water), Zavoral Creek (a trout stream), and wetlands, including unique and sensitive wetland types
- Potential impacts to the quality and quantity of groundwater resources, including seeps and active wells
- Potential impacts of erosion, sediment and surface water from mining operations on surface and ground waters
- Potential impacts to rare species and wildlife populations that have been identified in the project area and areas of potential impact
- Noise impacts from traffic and mining operations on recreational activities within the National Scenic Riverway and on nearby residences
- Dust impacts from traffic and mining operations on the quality of the St. Croix River and nearby residences and resources
- Traffic volume and safety issues, including sight lines at the intersection of State Highways 95 and 97
- Potential impacts of light pollution
- Visual impacts to recreation users on the St. Croix and to views from roadways and “gateway” to the City of Scandia
- Impacts of proposed processing activities on ground and surface waters and other resources
- Adequacy and potential impacts of the reclamation plan
- Potential impacts of asphalt and concrete recycling operations
- Economic impacts
- Cumulative impacts
- And additional impacts identified in the comments.

9. The City has carefully reviewed the comment letters and the information provided in the EAW, and determined that information necessary to a reasoned decision about the potential for, or significance of possible environmental impacts is lacking, for example, the agency comment letters note the following issues, along with others listed above:
 - The Carnelian Marine St. Croix Watershed District (CMSCWD) comment letter notes the following:
 - “The parcel boundaries contain very sensitive resources including the ephemeral and perennial reaches of Zavoral’s stream which is a highly sensitive trout stream flowing through the property and then entering the St. Croix River just downstream from the property. No mention of this stream is made in the EAW:
 - “Many high quality natural communities were identified as existing along Zavoral’s stream, some within the parcel boundaries, and more just adjacent to the property. There are very sensitive seepage wetlands along Zavoral’s stream that begin within the property and extend beyond the property downstream. The EAW does not address the specifics of the very high quality and highly sensitive natural resources associated with Zavoral’s stream.
 - “The EAW includes a printout from the Request for Natural Heritage information from the MN DNR. Over 65 occurrences of rare features have been documented within a 1 mile radius of the proposed project. There is little or no evidence to suggest that focused surveys were ever conducted by the MN DNR or other qualified scientists for rare elements within the property boundaries... This high concentration of rare elements within one mile of the project site suggests that the presence likelihood of rare features within the subject property is high. Furthermore, the presence/absence of potential rare elements within the subject property is unknown...The data included in the printout from the Natural heritage Information System contains records that are mostly over 10 years old. Furthermore, this list is not an all-inclusive list of rare elements that could potentially occur within and/or adjacent to the proposed project.
 - “The EAW contains information that states that NO WETLANDS are located on the property. Furthermore the wetland investigation took place on November 11, 2003, which is outside of the growing season. Data from the MN DNR Minnesota Land Cover Classification System (MLCCS) along with data from the 2003 Lower St. Croix River Spring Creek Stewardship Plan have documented more than one wetland located on the property...The area(s) identified as wetland in the MLCCS data and the Spring Creek Stewardship Plan should be investigated, and delineated (if necessary) during the growing season.”
 - The Washington Conservation District comment letter notes many of the same issues as those identified by the CMSCWD, and also notes the following:
 - “The submittal identified no wetlands on the site, based on the delineation report submitted as an attachment. This delineation report was prepared in 2003, and has not been reviewed and/or approved by the WCD (as is the usual practice for wetland delineations in Scandia)...In particular attention should

- be given to the areas identified by the MLCCS inventory as being riparian corridors or black ash swamp. If seepage wetland are identified on or near the site, that finding could significantly alter the allowed activities.
- “The MnDNR Natural Heritage database report indicates the presence of species and plant communities of concern near the site. Many of the same communities are present on this site (maple-basswood forest; oak forest; black ash seepage swamp), but not identified during the DNR’s earlier inventories. We recommend that the intact natural areas be surveyed for the presence of significant species by a qualified ecologist, to ensure compliance with regulations pertaining to species of concern.”
 - The United States Department of the Interior—National Park Service notes the following in its comment letter:
 - “The active portion of the gravel mine would be located approximately 1250 feet (or ¼ mile) west of the St. Croix River. Noise from gravel mine operation could easily be heard from the river. A 2002 river management plan, developed with extensive public involvement, provides guidance that this section of the river is to be managed to provide a “quiet waters” experience and “consistently low” noise levels. The NPS established primitive campsites along this stretch last year so that visitors could enjoy it in the intended manner. The EAW provides no information on projected noise levels or its impact to visitor enjoyment of the Riverway.
 - “The EAW states that gravel processing equipment will reach 25 feet in height, with stockpiles up to 50 feet in height, and both will be placed in lower areas of the mining operation. The document goes on to state that they are not expected to be visible from the St. Croix River, but little information is given as to how this was determined. We recommend that a viewshed analysis be performed using GIS technology to determine the extent of visibility.
 - “The discussion of cumulative impacts in the EAW is cursory.
 - “In summary the NPS does not believe that the EAW provides sufficient information for the City of Scandia, as the Responsible Government Unit, to reach an environmentally-informed decision.”
 - The Minnesota Pollution Control Agency comment letter notes that:
 - “A cumulative potential effects analysis must consider other projects in the vicinity of the proposed Project that might reasonably be expected to affect the same natural resource(s) as the proposed Project, including future projects already planned or for which a basis of expectation has been laid. This does not appear to have been done in this EAW, which focuses solely on the proposed mining and reclamation activities at the site.”
 - Other comment letters also identify the potential impacts identified by these agencies and in the list above, and note that the EAW does not provide the information needed to determine the potential for, or significance of the environmental impacts of the proposed project.
 - The commenters and City have identified several additional studies that are needed to gather and analyze the information needed to identify the potential effects of the proposed Zavoral project, and determine “whether the project

has the potential for significant environmental effects”, based on the criteria specified in Mn Rules Part 4410.1700, Subpart 7:

- The type, extent and reversibility of environmental effects;
- The cumulative potential effects of related or anticipated future projects;
- The extent to which the environmental effects are subject to mitigation by ongoing public regulatory authority;
- The extent to which environmental effects can be anticipated and controlled as a result of other available environmental studies undertaken by public agencies or the project proposer, including other EISs.

CONCLUSIONS

- The City of Scandia has fulfilled all applicable procedural requirements of law and rule regarding the determination of need for an Environmental Impact Statement (EIS) for the proposed Zavoral Mining and Reclamation Project.
- Pursuant to Minnesota Rules Part 4410.1700, Subparts 2a, 6 and 7, the proposed project has been evaluated by the public and the City of Scandia (RGU) to determine potential environmental effects. Based on the findings and record in this matter, the City of Scandia has determined that the proposed Zavoral Mining and Reclamation Project is lacking sufficient information to make a reasoned determination about the potential for, or significance of, one or more possible environmental impacts, and that this determination could be made within the scope of an EIS including appropriate studies to obtain the lacking information.
- Pursuant to Minnesota Rules Part 4410.1700, Subpart 5, a copy of this RGU Record of Decision is being provided, within 5 days, to all persons on the MEQB Distribution List, to persons commenting and to persons who requested a copy. This Record of Decision will also be made available on the City of Scandia’s website.

Name and Title of Signer: *Anne Hurlburt*
Anne Hurlburt
City Administrator
City of Scandia, Minnesota
March 3, 2009