19

Kristina Handt

From: rsferrin@frontiernet.net
Sent: Wednesday, December 19, 2012 4:07 PM
To: k.handt@ci.scandia.mn.us
Subject: Tiller CUP
Attachments: 05-26-11_Special_Council_Minutes.pdf; ZavoralMine.docx

Kristina,

At the May 17, 2011 Scandia City Council meeting, the Council was requested to seek a second legal opinion on the matter of which comprehensive plan was to be used in proceeding with the CUP process for the Tiller application. The Council agreed to look into the matter and hold a special City Council meeting which it did on May 26, 2011. Attached is a request from myself requesting the second legal opinion and the minutes of that special Council meeting on May 26, 2011 during which the matter was discussed and additional public comments were received. Please enter these into the record for consideration. The Council choose not to seek a second opinion on the matter based on costs. The environment and citizens of Scandia will needlessly be impacted if this CUP is granted because the City Council has a record of agreeing to using the previous comprehensive plan rather than the current plan, under bad advice from its attorney and planner.

Sincerely,

Randy S. Ferrin
23290 Quentin Avenue North
Scandia

May 26, 2011

A special meeting of the City Council was held on the above date. The purpose of the special meeting was to consider hiring special counsel to advise on the Zavoral Mining and Reclamation Project EIS (Environmental Impact Statement). Mayor Simonson called the meeting to order at 6:30 p.m. The following were present: Council members Connie Amos, Chris Ness, Jim Schneider, Sally Swanson and Mayor Randall Simonson. Staff present: City Administrator Anne Hurlburt, City Attorney Dave Hebert and Deputy Clerk Brenda Eklund.

Following the Pledge of Allegiance, Mayor Simonson opened the meeting to public comments.

Bruce Malkerson, attorney representing Dr. James Zavoral: Mr. Malkerson stated that his experience with land use law determined that the standards regarding the application date and the procedural requirements governing the application has been correctly applied. His analysis is in agreement to the legal opinion of the City Attorney and that of Mr. Korstad's, the attorney representing Tiller Corporation. At previous meetings on this discussion, City Attorney Hebert had advised the council that the EIS study be allowed to continue according to the zoning and development code that was in place at the time of Tiller Corporation's CUP application in November 2008.

Greg Korstad, attorney representing Tiller Corporation: Mr. Korstad referenced a letter addressed to the council, dated May 25, 2011, which included a detailed analysis of information that is consistent with legal research and established case law for the purpose of supporting continuation of the EIS. Mr. Korstad stated that the City's decision to process the application and perform the environmental review under the requirements in place when the application was submitted and not to apply changed requirements is well supported in the City ordinance and state law. Tiller Corporation wants to keep this process moving forward without distractions and complications and to keep the focus on completing the EIS.

Council member Swanson stated that she had not yet read this recent letter which contains substantive information regarding the legality of the process. She would like additional time to review the letter.

Kirsten Tuenge, 20595 Quinnell Avenue: Ms. Tuenge, representing the TA-COS group, expressed her appreciation to the council for conducting a special meeting for the consideration of obtaining a second legal opinion. Case law and interpretation of the development code has been presented by the TA-COS attorney, Mr. Kieran Dwyer, which gives the city the basis to deny the application, and the city council must clearly understand the discretion they have regarding the mining application.

Mayor Simonson asked City Attorney Hebert to provide his comments. Mr. Hebert stated that although he has no objections to the city's right to a second opinion, the council must analyze whether they need one based on the evidence they have before them. A second opinion wouldn't necessarily be an independent one as the attorney hired would be an advocate for supporting that the city's procedures were followed correctly, and if not, the attorney would provide remedies and options for going forward. Mr. Hebert advised that legal research would need to analyze the

entire process from the beginning to the present, along with the planner's files, to include a broad scope of information. Mr. Hebert suggested that a substantial cost may be expected for a significant amount of time invested in research from an outside counsel.

Mayor Simonson asked the council members to comment on the issue.

Council member Schneider would like to see the completed EIS, but agreed that getting a second opinion would be a costly and time-consuming step. Mr. Schneider would like to hear how the other council members stand on this issue.

Council member Swanson stated that this is a complicated issue. Mr. Korstad's letter referencing case law will need to be more thoroughly reviewed. Swanson understood that obtaining a second opinion would be an expensive process. She questioned if the League could provide outside counsel that may be covered under the City's insurance policy.

Council member Amos stated that she is not in favor of getting a second opinion due to the significant cost involved. Amos felt that City Attorney Hebert was doing a great job in advising the council.

Council member Ness thought a second opinion should be considered, but needs more information concerning the cost before making a decision.

Administrator Hurlburt provided information on using the League of Minnesota Cities Insurance Trust as the source of a second opinion on land use law disputes. They do not provide specific legal advice, but do have a group of lawyers to represent a city once a claim is made against a city. If there is an imminent threat of a lawsuit or if the city is served with a claim, they will provide representation to the city. Upon review of the information presented so far, the League would not provide representation to the city at this point.

Mayor Simonson stated that he sees this meeting as an opportunity for the public to address the council with their concerns on this issue. Simonson agreed that it is a difficult decision to make and careful consideration of the issue should continue.

Mayor Simonson invited those in attendance to approach the council with their comments.

Jean Holding, 21922 Pomroy Avenue: Ms. Holding recognized the high cost of lawyers representing Tiller's defense, and wanted to make sure that the City has adequate and balanced representation.

Pam Arnold, 16560 220th Street: Ms. Arnold stated that the potential environmental concerns and costs to Scandia residents need to be considered and equal representation to offer balance needs to be sought. Ms. Arnold acknowledged that the community cares deeply about the environment and the St. Croix River is an identity of Scandia.

Jill Medland, St. Croix National Scenic Riverway Environmental Coordinator: Ms. Medland relayed the agency's concerns on the noise and indirect impacts mining would have on adjacent lands along the scenic riverway corridor, and the importance of including these in the EIS study.

Gregory Page, 14727 Quarry Road: Mr. Page's concerns were that the EIS was set up on too narrow of a basis and a second opinion would be helpful and money well spent to understand the legal issues and true sense of the EIS process. Legal challenges at a later date may be a possibility.

Council member Swanson stated that the council is meeting so that all members can discuss this issue. Swanson then made several points. Procedural review is what is being focused on at this point. An opinion may be defined without going too broad. Parameters could be set on how far reaching the request is to control the costs. In addition, attorneys should be consulted with experience in representing both the corporate and environmental side of mining issues. The best way to understand this is to get the facts. An attorney hired by the city should not be biased towards the City's interests. It would be advisable to consult with the League a second time. The council can continue to talk this out at a future workshop meeting.

James Wilcox Dimmers, 125 Depot Road, Osceola, WI: Mr. Dimmers stressed that what is done on this property will negatively affect adjacent lands. Mining would be an assault on the aesthetics of the St. Croix River valley and totally unnecessary. Mr. Dimmers encouraged getting a second legal opinion.

Bill Clapp, 19955 Quinnell Avenue: Mr. Clapp stated that it would be well worth the city's investment to obtain a second legal opinion which would examine the arguments given on both sides and determine if they are correct or not. This would validate the legality of the proceedings so far. The council could put a cap on the cost of researching a second opinion.

Dan Willius, 23577 Quentin Avenue: Mr. Willius noted two points in this discussion. Wear and damage to roads, broken windshields, and noise from the mining site which destroy the environmental experience of the river are some of the costs not measured. He felt an unbiased point of view is not being provided by Attorney Hebert.

Lisa Schlingerman, 20661 Quint Avenue: Ms. Schlingerman reminded the council that Wind in the Pines Park used to be the town dump. She felt that the City has evolved since then and this project to destroy the mining site before restoring it is futile. The City needs to recognize the gifts it has. Ms. Schlingerman stated that she is totally opposed to the project and encouraged a second legal opinion.

Judy Herbert, 15125 220th Street: Ms. Herbert recognized the mayor's comments that there are also those in favor of allowing mining at this site, but she has not heard from any of them. She would be interested in what benefits they think having a gravel mine at this site would have. Would jobs be created for Scandia residents? There are many residents who would be negatively impacted by a gravel operation. She is disappointed that federal government is not interested in

the representation of the people but rather in the interests of big corporations. She urged the council not to take this approach.

Jan Brown, 23110 Manning Trail: Ms. Brown stated that she has opposed gravel operations in Scandia for many years. She feels that the operations have done nothing for the community or citizens. She is concerned that the natural streams could be destroyed and that a second opinion is necessary to fight a big corporation.

Curtis Hadland, 15280 Pilar Road: Mr. Hadland urged the council to make a decision which follows the language of the development code, which states that the EIS must be completed before applying for a CUP, which would negate the whole process at this point.

Laurie Allman, 16220 Norell Avenue, May Township: Ms. Allmann asked the council to uphold the Comprehensive Plan and supported getting a second opinion. There are citizen concerns that this is not being handled in a fair and balanced way. She felt that there are legal arguments that could be made to end the EIS process, and another attorney could broaden the view of the city's authority to do this.

Richard Leider, 23229 St. Croix Trail: Mr. Leider asked the council to look towards a vision for this site and what the possibilities five to ten years out could be, and to consider the moral and value issues involved with this, beyond the legal and economic ones.

Pierce Lewis, 20453 Quinnell Avenue: Mr. Lewis stated that he has not heard from anyone supporting the mine and what they think the benefits would be.

Kristin Tuenge, 20595 Quinnell: Ms. Tuenge stressed the importance of researching a second opinion on the legality of Tiller's application. If the council does not seek out their discretion on this application, the citizens will feel like they are not given equal consideration, nor is the legality of the city's discretion being verified.

Mayor Simonson closed the public comment forum.

Mayor Simonson stated that the meeting was a good opportunity for citizens to have their voices heard and was proud of the community for demonstrating the rights to freedom of speech. He felt that there may be a perception of continuing the EIS is a position of approval of the CUP, but that is not the case. Mayor Simonson explained that allowing the EIS to go forward is a tool the council will use to make a well informed decision. This forum allows the council to formulate ideas and look at the issue of considering the hiring of a special counsel. Mayor Simonson asked City Attorney Hebert for final comments.

City Attorney Hebert asked the council to consider if hiring a special counsel, with the information before them and the costs involved, would be needed. The scope of the project and costs would need to be determined, but the council should not limit the scope to the point that the attorney cannot give a valid legal opinion.

Council member Swanson stated that she will prepare the scope and cost estimates to obtain a second legal opinion to present at the June 14 work session. Swanson felt it would be worth looking at without spending a significant amount of money. Swanson said she would have dollar figures at the work session meeting.

Council member Schneider stated that researching the cost of obtaining a special counsel should be looked at. He stated that it was a good meeting and helpful to hear the environmental concerns, but this decision tonight is strictly a legal issue. The EIS will cover the environmental issues.

Council member Ness was in agreement about looking into a second legal opinion, but questioned if a large amount of money should be spent. Ness would certainly like to see an estimate.

Ness, seconded by Swanson, moved to consider hiring a special counsel to advise on the Zavoral Mining and Reclamation Project EIS and that Swanson prepare the scope and costs to present at the June 14 work session. The motion carried 5-0.

ADJOURNMENT

Ness, seconded by Schneider, moved to adjourn the meeting. The motion carried 5-0.

The meeting adjourned at 7:44 p.m.

Respectfully submitted,

Brenda Eklund
Deputy Clerk

Dear Mayor Simonson and Scandia City Council Members Ness, Amos, Swanson, and Schneider,

My name is Randy Ferrin and I live at 23290 Quentin Avenue in Scandia. I am writing to urge you to consider and approve a motion to secure the services of an independent attorney to give you a second opinion on the matters of the proposed Zavoral gravel mine. This proposed project is too complicated and too important to the citizens of Scandia and the surrounding area to not have a close inspection of the legal matters related to it. While there will be a cost associated with this, consider the cost to the city in possible lost tax revenues due to property value devaluation if the proposed mine were to be approved.

When confronted with the findings that a CUP application could not be accepted by the city until all environmental reviews are completed and accepted, City Attorney Hebert chose to ignore these findings and urged the City Council to proceed with approval of an EIS schedule amendment. A wiser approach would have been a suggestion from Mr. Hebert to delay the approval until he could do further research on the issues. This is exactly what Mr. Hebert suggested at your May 10 work session when discussing the fate of the building inspector position. I quote from the May 19, 2011 Forest Lake Times (also covered in the Country Messenger): "The city attorney recommended getting more information, analyzing it, and then making an informed decision." Doesn't something as complicated as the mine proposal deserve similar treatment?

I urge you to approve a motion to secure an independent attorney to assist you in reviewing this complex matter. Thank you for your consideration.

Randy S. Ferrin

May 23, 2011

20

Kristina Handt

From: Susan Rudi Rodsjo [susan@globalaircharters.com]
Sent: Wednesday, December 19, 2012 11:07 PM
To: k.handt@ci.scandia.mn.us
Cc: Paul Gmail; piekelsam@yahoo.com; Martin Hallkvist; Pamela Arnold; jagersma@gmail.com; flyingears@gmail.com; Christine@poplarhillfarm.com; Jan Hogle; Steve Philippi; tkrinke@metrosales.com; petschwa@msn.com; Tom Triplett
Subject: Comment Regarding Zavoral Mine

Dear Scandia Planning Commission and City Council,

The writers of this letter (listed at the end) urge the Scandia Planning Commission and City Council to deny Tiller Corporation's request for a CUP based on the multitude of reasons provided in public comment.

However, knowing that there is risk that you may decide otherwise, we urge the Commission and Council to include the following conditions *if* the CUP for Tiller Corp is approved.

SCOPE and MISC.

- Require that the mining project operate only as it is defined in the final scope. No extensions or additions going forward.
- Require that if a condition is broken, the city has the authority to immediately revoke the CUP
- Require that no mine equipment, stockpiles, or mine operations be visible to cars driving on Hwy 97, Hwy 95, or from the river. Establish a $10,000 fine to Tiller if these items become visible.

FINANCIAL REQUIREMENTS

- Pay for the city of Scandia to hire a full-time employee to monitor the mine, ensure compliance with the CUP, and manage the programs that are included in the CUP such as development of trails. The employee's salary and benefits shall be paid for the entire time the mine is open.
- Provide funds for the Scandia Parks program to offset greenhouse gas emissions from the trucks.
- Secure a large bond to pay restitution to any resident who wins a lawsuit against Tiller or the city of Scandia for anything related to the mine — e.g., loss of property value, loss of enjoyment of property, truck accidents and related deaths, children who develop asthma, wells that become contaminated or whose head levels diminish to the point of impacting water use.
- Secure a large bond or establish an escrow to cover the cost of cleaning out the St. Croix River or streams in case of a blowout or another environmental disaster
- Pay for weekly cleaning of homes within a certain distance of the mine for as long as the mine is in operation. Require Tiller to escrow the funds for cleaning and the city distribute them to local homeowners.
- Restitution for inconveniences due to dust and dirt for people whose work is out of doors.

NOISE LEVELS

- Require that noise levels remain below below 42dBa from any distance outside the mine itself.
- Require Tiller to pay for noise monitoring equipment on Hwy 97 and 95. Set a mandatory $10,000 fine that Tiller pays to the city every time trucks or operations go over the noise level permitted in the CUP.

SAFETY

- Fix existing bike trails on Hwy 95 and add bike trails the entire length of Hwy 97 in Scandia to provide safe pedestrian and bike travel that avoids truck traffic.
- Require that Tiller add a pedestrian/bike bridge over Hwy 97 at Scandia Elementary to allow for a safe school crossing

TAXES

- Require a sales tax on every truckload that leaves Scandia — or a sales tax by truck weight -- to make up for upkeep on city roads with additional traffic (Manning and Lofton). Heavier trucks add to potholes, and we need budget to fix them. A typical weight for gravel trucks is 25 tons (see http://www.silentpartnerstrategies.com/2012/10/new-maps-of-gravel-mines-to-have-large-impact/). This is a common tax in Europe, and we can provide additional information if needed.

TRUCKS

- Add signage indicating where trucks are entering traffic, no passing on right, and 'no jake brake' (to help reduce noise)
- Require Tiller to have a signed contract with all truck drivers and truck companies requiring them to subscribe to local and state laws regarding maintenance and sound levels, e.g., no jake breaking.
- Require that Tiller sever contracts with any truck drivers or truck companies found by a law enforcement officer or noise-monitoring equipment to have violated state and local laws and regulations.

FINES

- Establish a $10,000 fine for any trucks found to violate state and local laws and regulations.
- $10,000 fine to Tiller if they do not enforce required contracts with truck drivers and trucking companies
- $10,000 fine to Tiller any time they violate a condition of the CUP, including operating after hours
- Include a condition that Tiller may not dispute the fines.

This letter is jointly signed by the following Scandia residents and business owners:

Susan Rodsjo
21450 Pomroy Avenue North
Chief Executive Officer
Global Air Charters, Inc.

Paul Rodsjo
21450 Pomroy Avenue North
Director of Operations
Global Air Charters, Inc.

Kelli Carlson-Jagersma
19706 Oxboro Avenue
Vice President
Internal Collaboration Leader for a large financial services company

Pieter Jagersma
19706 Oxboro Avenue
Application Engineer, Largest MN-based retailer

Pamela Arnold
16560 220th Street North
Partner, Salt-n-Pepper Farm LLC

Sonia Borg
19609 Oxboro Circle North

Martin Hallkvist
Owner, Designs of Sweden, LLC
21090 Olinda Trail North (business location)

19 December, 2012

To: City of Scandia Planning Commission and City Council
Re: Tiller Zavoral Mining and Reclamation CUP

As a Scandia resident and as a property owner on the St Croix River, my loyalty is to the wellbeing of our community and to the experience of our natural environment. My personal commitment is to both, each not to the exclusion of the other.

Imagine our clarity, in the not-too-distant future, about the last 3+ years, and the council's decisions made soon *on behalf of all of us*. We do have the luxury of hind sight, to view decisions made by the previous New Scandia Township concerning the expired mining permit on Zavoral's property—the very location of the currently proposed mine. Previous elected officials of Scandia were to have overseen completion of a reclamation plan, ensured that an out-of-compliance well be sealed, and that environmental impacts of the previous mine be mitigated. From our vantage today, our leaders were irresponsible, negligent, or influenced by other factors invisible to us now. The requirements of stewardship and responsible property ownership were somehow neglected without consequence to Dr. Zavoral. Hindsight is difficult to harness because actions that might seem obvious to us in the present evaded us in the past.

Hindsight is perfect they say, and it has amnesia. We have forgotten already what it was like when Goose Lake was a spring fed, clean and healthy body of water. Previous leaders approved a housing development and system of paved roads, and today we have a dying Goose Lake. We live on 220th Street North... not a picturesque name. It was once called Goose Lake Road...a lovely reference that we have forgotten. Once, within many of our memories, Crystal Spring bordered a lovely farm located on St Croix Trail at the end of a cart way now called Trunk Highway 97. Today that Spring is called Zavoral Creek, and the farm and its stand of White Pines is long gone. Perhaps we'd like to have a farm there, and a Crystal Spring. Instead, we are called to revisit with some regret a previous decision made by elected officials. *We are finishing unfinished business as we forecast the community's wellbeing while deliberating the merits of a mining permit whose impacts reach well beyond a mine site, and well into the future.*

Hindsight about the Tiller Mining Proposal will be the privilege of a future City Council, and Planning Commission. They will review our work, our decisions, from their perspective and from the effects of the permit—some unintended and unforeseen. The decision to approve or not this CUP could (should) be made from an imagined future for Scandia, and from a vision for all of us who live here. Ultimately, we could forget what it was like to live near this site when it was a previously mined grassy expanse, but quiet enough to allow a passerby to hear birds in the trees, and water rushing from the uniquely beautiful Crystal Spring. We might forget, or never know again, a peaceful summer day in the neighborhood of the Zavoral Tiller mine. We may shrug off the growing traffic on the St Croix Trail Scenic Byway, explaining it as inevitable–the price of modern life. We may also simply accept that Scandia kids cannot safely walk or ride their bikes to school, even though they live in a

community that describes itself as rural, and "small town". We cannot base our vision on anything in the EIS except it's proposal to mine this site from 3 similar alternatives. It does not give us a picture of our well being here, without a mine. And so, we must envision *our own futures* without a mine there, at the place our Comp Plan calls the Gateway to Scandia.

The 2030 Comp Plan offers direction for resolution of any dispute that faces us. In other words, the 2030 Comp Plan is our community's vision for ourselves and for future residents. It is our "value" statement for the future. The decision to grant a CUP to mine the Zavoral site on the St Croix River will affect many of our futures as we should expect our futures to be. If one looks to the Vision for Scandia, how all of us should expect to live and thrive into our futures, the proposal to mine at this site for any length of time challenges that vision.

Noise Standards: Tiller's consultants projected that dry land received noise from the mine, measured as dBa...an "objective" standard for noise, would not exceed 42dBa. Our city planner proposes that the State's noise standards be the guide for acceptable noise standards. There is a conflict between these 2 positions. Scandia's noise ordinance (derived from the State Standards), if this site is allowed a Commercial Classification, allows mining activities for 5 hours of a 10 hour day (L50) to be at 65dBa. And for a shorter 1 hour of a 10 hour day (L10) to produce noise at 70dBa. Because I find the noise measures and projections in Tiller's report to be confusing (see Table 36: Common Noise Levels in dBa) I bought an app for my smart phone that records and measures sound in dBa. What I discovered, as I measured sounds on the Zavoral mine site, near my home ½ mile to the north, and within the National Scenic River Easement... many sounds are equal to noise. In other words, the sound of stream flowing is equal to freeway traffic (70-76 dBa). But a truck jake breaking on Hwy 95 masks the sound of that stream when heard at close proximity, the difference between noise and sound is glaring. They may project a similar dBa, but one disallows hearing the other. Noise is not objective.

I requested that Tiller allow me to record and measure the noise of an active mine. They refused the request. So, I recorded noises made at an active mine off of St Croix Trail near the boom site in Stillwater. What I discovered, with the conditions there as they are, is that the cumulative noise of digging, loading gravel/sand into load trucks, those same trucks rolling, braking and accelerating... the range of noise from a distance of approx .25 miles east of the mine site spanned 42 dBa, to 86+Dba on 3 different days. This is not scientific as much as it is experiential. One fact that I can attest to is that no CUP can oversee what a gravel truck does when it leaves a mine site. So the sound of mining continues well beyond the mine itself. I asked our Deputy Chris Majewsky about enforcement. His response was that he could not keep up with violations made by gravel trucks in Scandia. Approving a CUP—whose effects the CUP itself cannot completely contain or inforce—would not benefit us, living and working at our farm, ½ mile away. The State of Minnesota says, about noise, that I should be able to have a reasonably peaceful day, and be able to sleep through the night. Currently, with the trucks on Hwy 95, this is not possible many days of the week, and nights...during the summer.

No Build Alternative: Those of us who say that this mine would prevent us from the benefits projected by the 2030 Comp Plan have little more than our opinions to defend our position. And this is not our fault. The No Build Alternative did not receive fair treatment in the EIS, and it was discounted by our City Planner as "not applicable to the purpose of this proposal." This despite the clear EQB requirement for fair treatment
of the No Build Alternative. Jim Larsen from the Metropolitan Council, who sat on the PAC, made a comment at the final PAC meeting about the future use of the mine site. He said at the last hearing that this site would not be appropriate for agriculture nor for residential development. This question/challenge was not adequately addressed in the final EIS, so I called Jim Larsen. Subsequently I spoke with several people at MDNR about issues related to necessary soil compositions, and proximity to the water table, as well as future use of this site.

Mr. Larsen clarified his point to me. He said that he was concerned about effects of surface disturbance to the water table due to the nature of the gravel and sand, and thus to seeps and streams. He referred me to Jed Chestnut and Dennis Rodacker of the Soil and Water Conservation District. Dennis told me that if mining occurs on this site, future development would not be permitted without sewer and city water due to the composition of sand and gravel and the water table proximity. The site would not be suitable for development, in other words. Nor for traditional agriculture. The chemical fertilizers would wash through the shallow top soil, and literally run through the sand and gravel directly into the water table. Due to the geology structure of the site, seeps and streams would be directly effected, and potentially contaminated.

My question is this: the reclamation plan projects the planting of Prairie as a reclamation solution, without projecting a future use for this site. Dr. Zavoral projects developing the site, with no projections for this scenario in the EIS, nor mitigations for the effects of develoment proposed in the reclamation plan. Without a clear future for this site after mining, nor a clear No Build Alternative from which to compare the benefits to Scandia if no mining occurs, on what basis will the City Council make it's decisions?

Looking to Tiller's history, here in Scandia and elsewhere, their practice is to purchase mine sites from owners, as well as neighboring properties. Tiller owns many yet-to-be mined sites in Scandia. I'm sure that the Planning Commission is aware of this. They may have many Lease Agreements as well. Historically, Tiller has violated CUP terms, dug into water tables, allowed unreported containment spills, built without permits in other counties, taken advantage of neighbors whose properties are devalued and then purchased at low market prices with, one would suppose, plans to mine those areas. If the future of the Zavoral site is sketchy, and we have no basis to decide for a No Build Alternative, perhaps the site's future is to be mined in continuum? We know that by law, once a CUP is issued, it must be renewed. Because future Councils will be left to make their decisions on outcomes of our decisions, history seems to have foreshadowed the decision you are left to determine today. Tiller waited until Scandia became a city to propose their

application to reopen the Zavoral mine. Washington County would not have approved the application. So Tiller waited. Council minutes from February of 1999 state that Tiller "intend(s) to time its submission of the EAW so that the New City of Scandia will be the RGU for the EAW."

Mayor Simonson said in an earlier hearing that we "are not stupid". And yet, looking at the facts, it seems that Tiller is counting on us to be less than brilliant. We have legal advice from several credible sources that challenges our City Attorney. Previously, and unfortunately, Mr. Ebert poorly advised our last City Council on their right to deny the CUP application even before approval of the current comp plan. This is public record. I hope, really pray, that you will consider the merits of both flushing out the future use of this beautiful and fragile site, or simply deciding for a fresh start, not just for the Zavoral site, but for all of us who have worked very hard to defend the rights of quiet, of a more peaceful and beautiful use of this site and our own properties, of protected waters for trout, and many other plants and animals, as well as the sacred experience of a National Park that was designed to bring solace to all people who seek escape from the challenges of a noisy, crowded and overbuilt world.

I dream of a resolution to this challenging proposal facing us in Scandia. You are the Responsible Government Unit, as you so well know. You are faced with a decision that may not benefit anyone in Scandia but a very few. The situation at hand is the consequence of previous inaction to enforce what was decided and required.

Thank you, finally, for you time, and for you consideration of our position.

Sincerely,

Pam Arnold
16560 220th Street North
Scandia, MN 55073

C 612 202-2847