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CITY OF SCANDIA

Take Action- Conserve Our Scandia

A citizen group that promotes sustainable development in Scandia while endorsing conservation of its waters, wildlife, natural and historic resources and beauty, while referring to the 2030 Scandia Comprehensive Plan as our visionary guide.

September 6, 2012

Ms Anne Hurlburt
Scandia City Administrator
Scandia City Office 14727 209th Street North
Scandia, MN. 55073

RE: Take Action – Concern Our Scandia Comments on the Zavoral Mine Final Environmental Impact Statement

Dear Ms. Hurlburt:

Take Action -Conserve Our Scandia has determined that the Final Environmental Impact Statement with the responses to our comments made previously, is still insufficient and inadequate.

After review of the FEIS and responses to our comments dated May 17th, 2012 it seems clear to us that:

1. Conclusions are made without the factual evidence to support them.
2. In many instances, the responses to the comments assume the conclusion in making their argument.
3. The FEIS states, in numerous instances, that it does not need to analyze the potential impact of the mine because the city does not have the authority to regulate it or AECOM/Tiller, by rule or law, are not required to analyze it.

An Environmental Impact Statement done in “good faith” needs to give the City Council sufficient, complete and adequate information to make important decisions; and needs to address the important issues and concerns raised by TA-COS and the community.

The following comments were made by Kieran Dwyer and were supported by information from experts hired by Take Action-Conserve Our Scandia. I have quoted or paraphrased a brief list of responses that were made by AECOM, Tiller and the city.

“As demonstrated in these expert reports, the DEIS does not meet the Minnesota Environmental Policy Act’s, Minn. Stat. § 116D.01 et seq. (“MEPA”) basic requirements for an Environmental Impact Statement (“EIS”) on multiple grounds, which renders the DEIS inadequate as a matter of law. Specifically,

1. The DEIS fails to account for current market information and industry research which “indicates that as a result of the mine, there will be a home value reduction of 25% within ¼ mile of the mine and a 5% reduction as far as three miles from the mine.”

2. The DEIS is “devoid of the technical analysis needed to evaluate the traffic operation and safety of the project,” which “could result in significant safety issues to Scandia and the surrounding communities, including the increased risk for severe or fatal collisions.”

3. The DEIS does not address significant environmental impacts of the Tiller mine, including how Species of Concern in the adjacent Regionally Significant Ecological Area will be adversely affected or how runoff from the mine may affect brook trout in the Zavoral Creek and endangered mussels in the St. Croix River.”

The Final Environmental Impact Statement still fails to completely, adequately and sufficiently address the above issues.

1. The city’s response to Lisa Philippi’s Property Value Impact Report was made in an argumentative manner, dismissive of her well-documented analysis. Furthermore, the city’s review and analysis failed to support their conclusions about the minimal impact to property values.

Property Values City response–

“The property value study meets industry standards and is adequate.”

Additional responses by the city include:

- Mr. Bettendorf’s credentials
- *A study of home sales in areas impacted and not impacted by a mine are superior.*
- The BRKW study concluded no impact beyond ¼ to ½ mile.
- No sales of lower priced homes,
- Being close to a golf course overshadowed being close to a gravel mine
- The study from 2006-2007 was the most recent time before the market collapse,
- Limited information from local sales
- The impacts are temporary (How do we know this when loss of trees will increase noise during and after the project; we don’t have a good picture of the active mine and we don’t know what the visual results will be?)

Much of the information given in response to the 17 comments about the property value impact is confusing, inconsistent and irrelevant given the location and potential impact of the Zavoral Mine.

Traffic Operation and Safety Impact- Responses from the city include:

- According to MNDOT guidelines, for developments that do not generate significant traffic volumes, a traffic impact study is not necessary or warranted.
- However a traffic analysis study was completed for the DEIS.
- MNDOT data collected since 2006 shows a reduction in traffic counts on TH 97 and TH 95. ??
- Listing of Level of Services, hourly data for TH 97, highway capacity of unsignaled intersections, etc.

- MNDOT acknowledged that increasing the intersection from 3 to 4 points of conflict would occur and in response offered to add a right turn lane coming northbound going into the site. ?? **How about trucks crossing TH95?**

After review of the Final EIS, Vern Schwing, senior traffic engineer for RLK and Associates recently wrote a letter to the city that he was disappointed with the response to his previous comments and states: "RLK finds the report devoid of the technical analysis needed to evaluate the traffic operations and safety of the project."

"It is RLK's opinion, the traffic information provided in response to Question 21 of the FEIS does not address the traffic impacts as required by the EIS process. In order to fully understand the traffic impacts associated with the Zavoral mining operation, the above-mentioned issues (at a minimum) (**Refer to Vern's most recent letter to the city, dated 9/6/12**) need to be addressed in a technical manner. Without the actual traffic counts and capacity analysis, the City is unable to assess the impacts to traffic operations and congestion, nor the impacts to the seasonal tourist traffic. Without a gap analysis the City is unable to assess whether the proposed access intersections provide the appropriate safety improvements to allow for seamless integration of site-generated traffic."

Significant Environmental Impacts

Kieran Dwyer's letter to the city on May 18th 2012 states:

"The Minnesota Legislature decreed that the purpose of preparing an EIS is to "to enrich the understanding of the ecological systems and natural resources important to the state and to the nation." Minn. Stat. § 116D.01(c). The DEIS, however, fails to fulfill this statutory mandate since it does not adequately analyze the impacts to the environmental ecology of the region and the impact to water resources". The FEIS still fails to fulfill this mandate.

"There is the potential for significant adverse effects to water resources and ecosystems. As identified by the Applied Ecological Services (AES) report submitted on May 12th 2012" the DEIS (FEIS) still "fails to address the prescribed "issues of: a) identifying and mapping the location of springs in the project area and areas of potential impact; b) providing water quality data for Middle Creek and South Creek; and c) quantifying impacts of specific pollutants (e.g., phosphorus, TSS, heavy metals, PAH5, VOCs, temperature) on receiving waters."

As recommended by AES, "[t]he DEIS (FEIS) should describe how sediment and other pollution from inadequately managed [d] mine runoff may affect Brook Trout and aquatic macro invertebrates in Zavoral Creek. It should also discuss how the vegetation at spring discharge points, such as the Black Ash Seepage Swamp, could be affected by changes in groundwater discharge." AES Report at 9. "Trout streams are especially sensitive and valuable ecological resources, and any impact of the Tiller mine may have on the Zavoral Creek is a significant environmental impact meriting analysis in the EIS."

-City responses include:

- Glossing over significance of impacts to groundwater and streams with assumptions and speculation made by Tiller's and others. We do not know the

impacts but there will be impacts according to Scott Alexander, Geo-Hydrologist and expert on Karst spring areas with the University of Minnesota.

- The majority of the mining site (> 90%) has had significant disturbance in the past, has been re-vegetating, but for the most part is re-vegetating with adaptive disturbance, edge species and composes an existing edge.
- Adding a 100-foot setback instead of the proposed 50-foot setback would decrease the size of the project by 30% and limit the success of the project. What Tiller is saying is that to increase setbacks to 100 feet would limit the profit by 30%. The RGU's decision about granting a conditional Use Permit is not to be based in any way on financial gain or loss.
- The new edge would only increase by 264 feet

This response demonstrates a clear lack of understanding of the "edge effect" which is not just a boundary line "where the mined area meets the woodland areas" but a less definable changing area that encompasses a swath of land that will experience ecological changes and damage due to new mining and disturbance. There is no evidence or ecological expertise to support the claim made by the FEIS.

- Impact to wildlife will only occur during active mining
- Loss of the woodland area would not impact rare, threatened or endangered species and the plant community is not endangered or currently protected by federal, state, or local laws
- No impacts that reached the level of significance were identified

There is no evidence to support these responses, especially when the existing woodland and re-vegetated land will be changed drastically and permanently due to mining. This area is an important part of a larger wooded corridor on the north and south of the mine site. There were lots of wild animals there before the manicuring of part of the site when the borings were done. There are many birds that use this area.

- The 9 acres is critical to Tiller and would result in a \$ loss of 50%
- The DEIS determines the loss of the 9 acre area is not significant (due to their interpretation of the written definition)
- "No surveys of mussels were completed because there will be no impact to the St. Croix River." This claim can not be substantiated by facts and there isn't a guarantee there won't be negative impacts, even with monitoring
- Acknowledges that evaluations and predictions of no impacts are based on Tiller's compliance with the mining plan and mitigations. However, there is no guarantee that such a sensitive, high quality and rare natural area bordering the St. Croix National Scenic Riverway will not be harmed.
- "No need to discuss the reversibility of impacts"- What?????????

Failure to provide details as well as benefits of the "No Build" Alternative

"No change from existing conditions" is the response the report frequently states when talking about this important alternative. The FEIS report does not give an "objective,

“No change from existing conditions” is the response the report frequently states when talking about this important alternative. The FEIS report does not give an “objective, thorough discussion of the beneficial effects generated by them direct, indirect or cumulative.”

An Environmental Impact Statement completed in “good faith” needs to give the City Council sufficient, complete and adequate information to analyze the potential negative impact for all of the alternatives.

The FEIS still focuses only on the site and direct impacts from changes in land cover and habitat conversion.

It appears clear that “sufficient” only means they think the FEIS meets the requirements from Tiller’s standpoint, not from a “good faith” “hard look” at the potential negative environmental impacts or cumulative impacts of the mine.

As stated at the beginning:

1. Conclusions are made without the factual evidence to support them.
2. In many instances, the responses to the comments assume the conclusion in making their argument.
3. The FEIS states, in numerous instances, that it does not need to analyze the potential impact of the mine because the city does not have the authority to regulate it or AECOM/Tiller, by rule or law, are not required to analyze it.

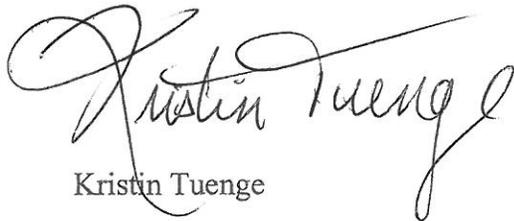
TA-COS does not think the FEIS accomplishes this requirement.

The obvious bias of this report does not reflect the well-founded concerns and impact to Scandia residents, the surrounding community and St. Croix National Scenic Riverway, as well as all the people that have a right to enjoy it!

Granting a Conditional Use permit to mine this fragile and unique area is a very serious decision for the Scandia City Council and it will create a lasting legacy for Scandia.

Thank you for the opportunity to comment on the FEIS.

Sincerely



Kristin Tuenge

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Scandia, Mn. 55073

Board member of Take Action- Conserve Our Scandia