



May 18, 2012

Ms. Anne Hurlburt
City Administrator
City of Scandia
14717 209th Street North
Scandia, MN 55073

Re: Zavoral Mining and Reclamation Project
Comments on Draft Environmental Impact Statement

Dear Ms. Hurlburt:

We write to provide you with comments on the Draft Environmental Impact Statement (DEIS) for the proposed operation of a gravel mine on portions of a 114-acre site along St. Croix Trail North (TH 95) near the intersection with TH 97 in Scandia. This site is adjacent to portions of the Lower St. Croix National Scenic Riverway, which is a unit of the national park system and thus managed by the National Park Service (NPS). NPS holds a scenic easement on portions of this site.

Based on the information contained in the DEIS, it is clear that the operation of this mine will harm the scenic and recreational values for which this river was included for protection under the Wild and Scenic Rivers Act, 16 USC §§1271-1287 and the Lower St. Croix Wild and Scenic River Act, Minn. Stat. §107F.351. However, the DEIS fails to take into consideration the special nature and designation of this river in its analysis. The operation of a gravel mine in this location so close to the St. Croix River will result in negative impacts on the river and the surrounding area, displacement of existing wildlife, and harm to other sensitive resources, and there exists a strong potential for other negative environmental impacts that cannot be foreseen. We discuss each of these concerns more fully below.

Purpose of Designation/Applicable Laws

Congress passed the Wild and Scenic Rivers Act to protect our nation's rivers that "...possess outstandingly remarkable scenic, recreational, geologic, fish and wildlife, historic, cultural, or other similar values..." and determined that such rivers "shall be

preserved in free-flowing condition, and that they and *their immediate environments* shall be protected for the benefit and enjoyment of present and future generations.” 16 U.S.C. § 1271 (Emphasis added).

In 1972, the lower St. Croix River, between the dam near Taylors Falls and its confluence with the Mississippi River, was designated as a wild and scenic river pursuant to the Lower Saint Croix River Act, Pub. L. 92-560, 86 Stat. 1174. Subsequently, Minnesota enacted the Lower St. Croix Wild and Scenic River Act to protect the river and its values, finding that:

The Lower St. Croix River...constitutes a relatively undeveloped scenic and recreational asset lying close to the largest densely populated area of the state. The preservation of this unique scenic and recreational asset is in the public interest and will benefit the health and welfare of the citizens of the state.

Minn. Stat. §107F.351 Subd. 1.

In order to protect this asset, Minnesota developed minimum standards and criteria for the management and development of the Lower Saint Croix National Scenic Riverway. Minn. Rules Chapter 6105.0351-.0440. Minn. R. 6105.0370 sets forth use standards and criteria designed to “to protect and preserve existing natural, scenic, and recreational values, to maintain proper relationships between various land use types, and to prohibit new residential, commercial, or industrial uses that are inconsistent with the National Wild and Scenic Rivers Act, and the federal and state Lower Saint Croix River Acts.”

Minn. R. 6105.0370 Subp. 9(A) specifically prohibits sand and gravel operations in all districts in recognition that these uses are not consistent with the special nature of the River. However, prohibited uses in existence prior are considered “nonconforming uses... [that]...shall not be enlarged or expanded.” *Id.* at Subp. 10. The City of Scandia has adopted by reference the Washington County Lower St. Croix River Bluffland and Shoreland Management Ordinance, which contains the same prohibitions and language regarding nonconforming uses. Section 5 at 505-506.

According to the proposal by Tiller Corporation, it intends to operate the gravel mine on 64-acres, 55 acres of which were previously mined starting in the mid-1960s, so it intends to expand its operations by nine (9) acres. However, those 9 acres are not within the St. Croix River District Zone. Four (4) acres of the previously mined area are within the St. Croix River District Zone, but those mining activities do pre-date the land use zoning district designation and ordinance (1976). According to the DEIS, only reclamation activities are planned on these four acres. The property has sat as vacant open space since sometime in the 1980s when operations ceased. The proposed mine is contrary to the current City comprehensive plan.

Given all of the existing laws and designations that govern this area, we feel the DEIS analysis is inadequate. Consideration should be given to the special nature of the St. Croix River as a unit of our national park system, the fact the River is directly adjacent to the

proposed mining site, the fact the Park Service holds a scenic easement on portions of the site, and the recognition that gravel mining activities are inconsistent with this special nature and were thus strictly prohibited.

Noise

The Draft EIS acknowledges that mining noise would be audible on the St. Croix Riverway, although not above current ambient levels. Section 4.15.4.2.1 (4-97). However, such noise is not characteristic of this river regardless of the ambient level.

The St. Croix River is enjoyed because of the tranquility it brings and was protected because it was close to the most densely populated area of the state yet it retained its “undeveloped” nature. Thus, preservation of this unique scenic asset was considered in the public interest. Minn. Stat. §107F.351 Subd. 1

Since the operation of this mine will be audible on the river, there will be a disruption of the use and enjoyment of the river, and consequently, the operation of this mine runs contrary to the very purpose for which the river was protected. None of the alternatives will mitigate this issue outside of the No Build Alternative.

There should be an analysis about the impact this noise will have on the St. Croix given its special status under federal and state law and specific purpose as a recreational and scenic asset.

Additionally, the EIS asserts that the noise generated from trucks hauling will essentially be a wash given trucks already haul gravel along this route. However, that analysis fails to take into consideration the true impact that operation of this mine will have on noise. In fact, if you allow operation of the Zavoral Mine for any period proposed, and cease hauling from the other mines during that period, what you have done is extended the number of years that the surrounding area will be subjected to the noise generated from trucks hauling on the roadway. The extended duration of truck-hauling noise that will result should be included in the noise analysis in the DEIS.

Air

The DEIS indicates that uncontrolled emissions from operations would exceed National Ambient Air Quality Standards (NAAQS) and would also exceed nuisance dust levels. Such emissions will negatively impact vegetation or fauna around the site. DEIS (4-76 to 80). However, it does not appear an analysis was done regarding the impact of such emissions on wildlife. Tiller does propose several ways to mitigate the emissions to avoid such negative impacts. DEIS (4-85).

The DEIS indicates that it is unlikely that fugitive dust would adversely affect the water quality in the St. Croix River under either uncontrolled or mitigated conditions. DEIS (4-82). However, most of the mitigation measures include application of water, including calcium chloride in some instances, and there are concerns that these and other chemical

used in the mine will then be able to seep into water sources leading to the river. The DEIS should address the potential for this to occur.

Methodology and Edge Effects

We have concerns regarding the methodology used, some of which was already raised during the public hearing on April 3, 2012, regarding the inadequate analysis of the mine's impact on traffic and property values.

We have similar concerns that the DEIS does not analyze the impact the mine will have on surrounding areas, especially in regard to the fish, wildlife and other sensitive resources. Any time there are activities undertaken by humans in a natural environment, there are consequences. Since sometime in the mid-1980s, this site has been essentially vacant of activity and has remained an open space. In the intervening 25 or so years, many species of wildlife and plant life have made their home in and around the area.

The DEIS indicates that no threatened or endangered species were found on site, therefore no impacts would occur. DEIS 4.5.1.3 (4-28). Also, no surveys were conducted for threatened and endangered mussel species within the St. Croix River because activities are not expected to directly or indirectly affect these species. DEIS 4.5.1.1 (4-23).

However, we disagree with this analysis. The law requires a more thorough look at direct, indirect and cumulative effects and goes beyond boundaries of site:

Environmental, economic, employment, and sociological impacts: for the proposed project and each major alternative there shall be a thorough but succinct discussion of potentially significant adverse or beneficial effects generated, *be they direct, indirect, or cumulative.*

Minn. R. 4410.2300 (H) (Emphasis added). Merely stating the mine is “not expected to...affect these species” is insufficient. We believe a more thorough analysis is warranted, especially given the mine's close proximity to the river, the history of a blow-out and subsequent damage to the river, and the concerns regarding the stability of the area and the steep slopes from the mine that go down to the river. Analysis should be done of species in the river and potential impacts from the mine.

It is also not clear what the long-term effects will result from the displacement of wildlife. The DEIS indicates that species displaced during mining activities would be expected to return to the area once mining and reclamation activities are complete. DEIS 4.5.1.3.1 (4-28). However, it is not clear what serves as the basis for this assertion. Additionally, there does not appear to be any analysis regarding the impact the mine will have on nesting birds and other wildlife in the surrounding areas due to the resulting noise and air pollution that will most certainly occur.

Finally, this area cannot be looked at in isolation. Adjacent to and in the immediate vicinity of the proposed mine are several areas of note aside from the national park, including a

trout stream under consideration for state designation, two federally endangered mussel species, the St. Croix Bluffs Important Bird Area (Audubon designation), a DNR-designated Regionally Significant Ecological Area, and the Rustrum Wildlife Management Area. As a whole, you have a very valuable and sensitive landscape that will be disrupted by the operation of this mine; therefore, a thorough analysis of the potential impacts should be undertaken of the entire area.

Unexpected Environmental Impacts

On May 9, 2012, The Leader reported that Tiller Corporation had a significant sediment discharge from their washing ponds at the frac sand mine they operate near Grantsburg, WI. This sediment did reach the St. Croix River and the matter is now under investigation. While the proposed mine in Scandia is different in nature, it is such unexpected impacts that should weigh heavily on this decision-making process. The ongoing investigations of this operator should be a red flag when determining whether to allow this same operator to conduct gravel mining within Scandia's jurisdiction.

Furthermore, there is precedent for such unintended environmental impacts at the proposed site. When this mine was operated previously, there was apparently an incident in 1971 in which there was a blow-out and sediment reached the St. Croix River, resulting in damage to the river that still exists today. As the National Park Service pointed out in its previous comments on the DEIS, there is concern about the stability of the area given its location between the mine and a steep slope that goes down to the river. NPCA is concerned that the operation of this mine will have unintended consequences outside of those already raised in our comments, and that such damage will not be able to be mitigated or repaired.

Future Uses

The City of Scandia adopted a new comprehensive plan on March 17, 2009, resulting in new zoning for the proposed mining area. The area is now designated as an Agricultural Core Area where agriculture is the prominent use and residential, park and recreational uses are secondary. Therefore, under the current plan, the proposed mine would not be allowed. However, the Conditional Use Permit (CUP) application was submitted on November 18, 2008, prior to the formal adoption of this new comp plan, thus the applicants argue that the new plan is not applicable.

While NPCA does not support operation of this mine as it will negatively impact the St. Croix River and the surrounding area, we recommend that should the conditional use permit be granted, that some type of assurance, such as a perpetual easement, be placed upon the property that would preclude any future mining of any type. This is appropriate given the clear intent by the City to disallow this proposed use in this location, and the fact this gravel mine sits atop sandstone, which has been mined for use in hydraulic fracturing and may be sought out for mining purposes following the gravel mining operations.

Conclusion

The DEIS is incomplete and lacks the comprehensive analysis required by law. The proposed mine is adjacent to the St. Croix National Scenic Riverway, an area specially designated as a part of our national park system that should be protected for its scenic and recreational values. However, this special nature seems to be ignored in the DEIS. Yet, even as written, it is clear that the mining operations will negatively harm this national park, and such operations are inconsistent with the purpose for which it was protected by federal and state law.

We thank you for the opportunity to submit comments on the DEIS for the proposed mine.

Kindest regards,

A handwritten signature in blue ink that reads "C. Goepfert". The signature is written in a cursive style.

Christine R. Goepfert
Upper Midwest Program Manager