CITY OF SCANDIA
RESOLUTION NO. 02-19-13-05

RESOLUTION APPROVING ANNUAL OPERATING PERMIT APPLICATION OF TILLER CORPORATION FOR THE ZAVORAL SAND AND GRAVEL MINE AND RECLAMATION PROJECT

WHEREAS, Tiller Corporation ("Applicant") has applied for an Annual Operating Permit (AOP) to operate the Zavoral Mine and Reclamation Project ("Project") on a property owned by James and Kathleen Zavoral, husband and wife, located east of the intersection of State Trunk Highway 97 and State Trunk Highway 95 ("Site"); and

WHEREAS, the Property is located in Washington County, Minnesota and legally described in Attachment A; and

WHEREAS, the Applicant submitted an application for a CUP for the Project to the City on November 25, 2008, including the required Environmental Assessment Worksheet (EAW); and submitted an updated application on October 9, 2012; and

WHEREAS, the Site proposed for the Project is located within the Agriculture (AG) Zoning District in the City's 2020 Comprehensive Plan and related Development Code, and those were the adopted Comprehensive Plan and regulations at the time of the application; and

WHEREAS, the City and its consultant completed the Zavoral Mine and Reclamation Project EIS to meet the requirements of Minnesota Rules 4410, and the EIS concluded that if the mitigation recommendations included in the EIS were implemented that the Project will not have significant environmental impacts; and

WHEREAS, the City Council approved the Findings of Fact and Record of Decision that found that the Zavoral Mine and Reclamation Project EIS was adequate to serve as the environmental review for the Project because it met the criteria set forth in Minnesota Rules 4410.2800 and the requirements of Minnesota Statutes Chapter 116D on September 25, 2012; and

WHEREAS the City approved a Conditional Use Permit for the Zavoral Mine and Reclamation project on February 19, 2013; and

WHEREAS, the Scandia City Council reviewed the AOP application at its regular meetings on February 12 and 19, 2013; and

NOW, THEREFORE, BE IT HEREBY RESOLVED BY THE CITY COUNCIL OF THE CITY OF SCANDIA, WASHINGTON COUNTY, MINNESOTA, that it should and hereby does find that the Annual Operating Permit for 2013 for the Zavoral Mine and Reclamation Project shall be and hereby is issued, with the following conditions made a part thereof:

1. All site operation and reclamation activities shall, in addition to the requirements of the Conditional Use Permit and this Annual Operating Permit, comply with and be governed by the Conditional Use Permit Compliance and Reclamation Agreement between the City, the Applicant and the Owner approved by the City on February 19, 2013.
2. Site operations in 2013 shall be consistent with the application and plans submitted to the City in November 2008, and as required by the Conditional Use Permit and these conditions.
3. The applicant's requests for operating hours or haul routes outside those specified in the Conditional Use Permit shall be accompanied by a proposed truck haul route for approval by staff.
4. The applicant shall inform all of its contractors about the following requirements related to trucking operations, and monitor compliance with the requirements by all of its contractors:
    a. Engine braking is prohibited in Scandia per City Ordinance.
    b. Lofton Avenue is restricted to daylight hours only as defined in the CUP for the Zavoral Mine and Reclamation Project.
    c. Haul loads are required to be covered.
5. The City or its consultants shall monitor the potential impacts of mining activities on the ground and surface water resources at the site while mining activities are occurring at the site. The applicant shall cooperate with the City as requested to complete the monitoring activities. The City shall submit all status reports and ground and surface water monitoring reports to the applicant, CMSCWD, the WCD and the Minnesota DNR.
6. The City's consulting hydrogeologist shall make monthly site visits to download groundwater monitoring data and collect manual measurements. Monitoring shall occur during all months when the mine is in operation. The hydrogeologist shall evaluate the data and report the results to the City at least quarterly or more frequently if the consultant identifies issues or problems during the monitoring activity.
7. The City or its consultant shall install a monitoring station upstream of or near the existing monitoring station near Crystal Springs in order to isolate potential effects due to mining from other effects to due unrelated activities within the watershed. The applicant shall permit installation of the monitoring station on the Project Site if requested. The City or its consultant will analyze the data to determine the effect, if any, to the springs due to the Zavoral Mine operation, and identify any negative impacts. Monitoring shall occur during all months when the mine is in operation.
8. The City or its consultant shall visit the monitoring sites on Zavoral Creek and near Crystal Springs at least twice per month to download the automated data loggers at the monitoring stations and gather data for analysis and analyze the water quality and quantity data gathered at the site. Monitoring shall occur during all months when the mine is in operation. The consultant may also visit the site after large storm events to gather and analyze monitoring data. If the consultant detects any negative impact to Zavoral Creek or Crystal Springs, due to the Zavoral Mine operation, they will notify the City immediately. The consultant shall provide a summary of the monitoring data and analysis by early January for use in the AOP evaluation.

9. The applicant shall provide the wetland delineation boundary data to the City or its consultant in a Geographic Information System format (such as an ArcGIS shapefile) that was obtained as part of the wetland delineation conducted by Critical Connections Ecological Services (CCES) in October, 2010.

10. If a change to the boundaries of the wetlands within the project area is observed that cannot be attributed to climatic influences or other local disturbances not related to mining, the City shall require that quantitative monitoring (including but not limited to, the installation of shallow monitoring wells and piezometers) be initiated for all wetlands within the project area. This monitoring could include the installation of wetland hydrology monitoring equipment along multiple transects across each wetland boundary. The City may conduct this comprehensive monitoring to verify whether the Zavoral Mine is causing the changes to the wetlands. If the City determines that the Zavoral Mine is impacting the wetlands, the quantitative data will be used by the City in consultation with the Technical Evaluation Panel to prepare a Restoration Order and calculate the required replacement for unpermitted wetland impacts.

11. The City or its consultant shall complete twice annual macro-invertebrate monitoring on Zavoral Creek and provide this information to the CMSCWD.

12. The City or its consultant shall perform periodic on-site review and monitoring of dust control activities to assure compliance with this permit. Monitoring shall occur during all months that the mine is in operation. The applicant shall cooperate with the City as requested to complete the monitoring activities.

13. The City or its consultant shall establish air monitoring stations at a minimum of five locations: upwind of mining and loading operations, downwind of mining and loading operations, at the site entrance, downwind of the site entrance, and downwind of one location on the haul route. The City may establish additional monitoring locations based on City or public concerns.

14. The air quality monitoring plan shall include the collection of the following samples at each sampling location: Airborne particulate matter PM10 (monitor using a fibrous aerosol monitor fitted with a PM10 impactor); Respirable dust (using cyclones/37mm PVC cassettes and lab analysis [NIOSH method 0600/7500; mod OSHA ID-142]); Respirable silica, quantitative (using cyclones/37mm PVC cassettes and lab analysis); Diesel particulates (37 Quartz Fiber NIOSH 5040) and Nitrogen dioxide (TEA Tude, OSHA ID-1820; or equipment and methods that meet current OSHA or State standards. A monitoring station for respirable dust and respirable silica shall be established as close as possible to and downwind of the on-site operations.

15. The City or its consultant shall analyze and compare the air monitoring results to current State and Federal Ambient Air Quality Standards, ACGIH TLV or OSHA PELS or current applicable standards.

16. If sample results indicate levels above generally accepted or mandated action levels, the applicant shall stop all work on the site, review operating procedures and modify Project operations as necessary to reduce emissions. The City shall complete additional monitoring

immediately after new procedures are in place to confirm that an acceptable reduction in emissions has occurred.

17. The applicant shall water and wash haul roads on the site during active mining operations, in accord with the applicant's updated Dust Control Plan, unless recent precipitation is keeping haul roads washed and wet.
18. The applicant shall wash hauling and loading equipment on a regular basis during active mining operations.
19. The applicant shall complete sweeping activities using vacuum-assisted sweeping equipment or similar equipment that ensures that sweeping operations do not generate visible airborne emissions.
20. The City or its consultant shall complete noise monitoring at the Project site. The applicant shall cooperate with the City as requested to complete the monitoring activities.
21. Noise monitoring shall include identification of one or two worst-case representative residential locations for each phase of mining and conduct at least one hour of monitoring at each location on a quarterly basis during operations in the morning and one hour of monitoring during operations in the afternoon.
22. Noise monitoring shall include at least one hour of monitoring at a representative location along the St. Croix Scenic Riverway quarterly during mining operations.
23. A noise monitoring event will be conducted within three weeks of the beginning of each mining phase, weather permitting, during a typical haul event. The City may conduct additional monitoring if needed based on site conditions. Monitoring shall be conducted in accord with Minnesota Rules.
24. The City shall notify residents of monitoring periods and request access to properties as necessary to conduct monitoring activities.
25. If monitoring results indicate levels above state standards, the applicant shall stop all work on the site, review operating procedures and modify Project operations as necessary to reduce noise to permitted levels. The City shall complete additional monitoring immediately after new procedures are in place to confirm that an acceptable reduction in noise has occurred.
26. The City or its consultant shall complete traffic monitoring of the Project. The applicant shall cooperate with the City as requested to complete the monitoring activities.
27. The City or its consultant shall complete a 14-hour video log of the TH 97 and 95 intersection that shall include the new access to the Zavoral site and count the numbers of trucks entering and exiting the site. The City's consultant shall review the log, and shall provide a summary of the observations related to traffic operations to the City, and identify any issues or problems related to the conditions required for operations. If issues are identified, the City may order additional video traffic counts.

28. The City shall review the crash records for the roadways in the area that will be used for truck-hauling every six months, to identify safety issues. The City shall contact Mn/DOT to discuss safety issues if identified.

29. The City or its consultants shall complete monitoring of reclamation activities on the site on behalf of the City. The applicant shall cooperate with the City as requested to complete the monitoring activities. The City shall inspect the reclamation activities on an as-needed basis.

30. The applicant shall submit to the City quarterly reclamation activity progress reports during the growing season post-seed installation of each monitoring area, and shall submit an annual reclamation report with the AOP application for 2014.

31. The City or its consultant shall monitor the transplanted trees to ensure the survival rate required by the CUP.

Adopted by the Scandia City Council this 19th day of February, 2013.

Randall Simonson, Mayor

ATTEST:

Kristina Handt, Administrator/Clerk

EXHIBIT A

Legal Description of Owner's Property

DESCRIPTION OF PROPERTY
(Per Warranty Deed Doc. No. 850286)
All that part of the Southwest Quarter of the Southwest Quarter (SW 1/4 of SW 1/4) of Section 18, Township 32 North, Range 19 West, described as follows, to-wit: From a point on the South line of Section 18, Township 32 North, Range 19 West, distant 171 feet East of the Southwest corner thereof, run Northeasterly at an angle of 107 degrees 03 minutes with said South section line (measured from West to North), for a distance of 263.5 feet, thence deflect to the right at an angle of 72 degrees 57 minutes for a distance of 113 feet, more or less to the point of beginning (which point being on the Easterly right of way line of Trunk Highway 95 as now established and being a distance of 100 feet from the centerline of Trunk Highway 95 measured at right angle to said centerline), thence continuing Easterly for a distance of 375.4 feet, thence deflect to the left at an angle of 89 degrees 00 minutes for a distance of 1048.3 feet, thence deflect to the left at angle of 90 degrees 32 minutes for a distance of 75.5 feet to a point on the Easterly right of way line of Trunk Highway 95 as now established and being a distance of 100 feet from the centerline of Trunk Highway 95 centerline measured at right angle to said Trunk Highway 95 centerline, thence running Southwesterly along Easterly right of way line of Trunk Highway 95 to the point of beginning.
(Per Warranty Deed Doc. No. 544408)

PARCEL A.
That part of the Northwest 1/4 of the Southwest 1/4 of Section 18, Township 32 North, Range 19 West, Washington County, Minnesota, described as follows: Commencing at the West quarter corner of Section 18; thence South 0 degrees 00 minutes assumed bearing, along the West line of Section 18, a distance of 441.6 feet; thence North 89 degrees, 58 minutes East, a distance of 860.6 feet to the point of beginning, on the center line of State Highway No. 95: thence continuing North 89 degrees, 58 minutes East, a distance of 573 feet, more or less, to the East line of the Northwest 1/4 of Southwest 1/4, Section 18; thence Southerly along said East line, a distance of 863 feet, more or less, to the Southeast corner of the Northwest 1/4 of Southwest 1/4, Section 18; thence Westerly, along the South line of the Northwest 1/4 of the Southwest 1/4, Section 18, a distance of 874 feet, more or less, to the center line of State Highway No. 95; thence Northeasterly along said highway center line, a distance of 913 feet, more or less, to the point of beginning.

PARCEL B
The Southwest 1/4 of the Southwest 1/4 of Section 18, and the Northwest 1/4 of the Northwest 1/4 of Section 19, both in Township 32 North, Range 19 West, excepting therefrom the following:
(a) All those parts thereof that lie West of the Centerline of County State Aid Highway No. 53 and State Highway No. 95.
(b) That part of the Southwest 1/4 of the Southwest 1/4 of Section 18, Township 32 North, Range 19 West and that part of the Northwest 1/4 of the Northwest 1/4 of Section 19, Township 32 North, Range 19 West, all in Washington County, Minnesota, described jointly as follows:
Commencing at the Southwest corner of said Section 18; thence East along the South line of said Southwest 1/4 of the Southwest 1/4 of Section 18, a distance of 171 feet; thence Northeasterly, deflecting to the left 72 degrees, 57 minutes, a distance of 263.5 feet to a point hereinafter referred to as "Point A"; thence East parallel with the South line of said Southwest 1/4 of the Southwest 1/4 to the point of beginning on the center line of State Highway No. 95 as the same is now

laid out and traveled; thence continue East along same parallel line to a point distant 870.51 feet East of aforementioned "Point A", thence South at a right angle, a distance of 1460 feet, more or less, to the North line of the South 100 feet of the Northwest 1/4 of the Northwest 1/4 of Section 19; thence West along said North line to the center line of County Road No. 53 as the same is now laid out and traveled; thence Northwesterly along said center line to the intersection with a line drawn perpendicular to the North line of said Section 19 from a point of said North line distant 689.6 feet Easterly of the Northwest corner of Section 19; thence Northerly along said perpendicular line 675 feet, more or less, to the South line of the North 150 feet of said Section 19; thence West along the South line of said North 150 feet, a distance of 443 feet, more or less, to the center line of State Highway No. 95; thence Northerly along said center line 403 feet, more or less, to the point of beginning.

(c) Beginning at a point on the South line of said Section 18, distant 171 feet East of the Southwest corner thereof, run Northeasterly at an angle 107 degrees, 03 minutes with said South Section line measured from West to North for a distance of 263.5 feet; thence deflect to the right at an angle of 72 degrees, 57 minutes for a distance of 113 feet more or less to the point of beginning, which point being on the Easterly right-of-way line of Highway 95 as now established and being a distance of 100 feet from center line of Highway 95 measured at right angles to said center line; thence continuing Easterly for a distance of 375.4 feet; thence deflect to the left at an angle of 89 degrees, 00 minutes for a distance of 1,048.3 feet; thence deflect to the left at an angle of 90 degrees, 32 minutes for a distance of 75.5 feet to a point on the Easterly right-of-way line of Highway 95 as now established, and being a distance of 100 feet from the center line of Highway 95 measured at right angles to said center line of Highway 95; thence run Southwesterly along the Easterly right-of-way line of Trunk Highway 95 to the point of beginning.

(d) That part of the Northwest 1/4 of the Northwest 1/4 of Section 19 described as follows: Commencing at the Northwest corner of the Northwest 1/4 of the Northwest 1/4 of Section 19; thence East assumed bearing along the North line of the Northwest 1/4 of the Northwest 1/4 a distance of 689.6 feet; thence South, at right angles, a distance of 150 feet to the point of beginning; thence continuing South a distance of 675 feet, more or less, to the center line of County State Aid Highway No. 53; thence Northwesterly along said road center line, a distance of 440 feet, more or less, to the Easterly right-of-way line of State Highway No. 95; thence Northerly, along the Easterly right-of-way line a distance of 340 feet, more or less, to the point of intersection with a line drawn parallel with and distant 150 feet South of the North line of the Northwest 1/4 of the Northwest 1/4 of Section 19; thence East along said line a distance of 342.2 feet to the point of beginning.

PARCEL C

That part of the Southeast 1/4 of the Southwest 1/4, Section 18, Township 32 North, Range 19 West, Washington County, Minnesota, which lies Westerly of the Minneapolis, St. Croix Railway Company right-of-way and also all that part of the Northeast 1/4 of the Southwest 1/4; Section 18, Township 32 North, Range 19 West, Washington County, Minnesota, described as follows: Commencing at a stone monument at the Southwest corner of the said Northeast 1/4 - Southwest 1/4; thence North along the West line of the said Northeast 1/4-Southwest 1/4 a distance of 17 rods to an iron pipe monument; thence North 75 degrees East a distance of 35 rods to an iron pipe monument; thence South 30 degrees East, a distance of 25 rods to an iron pipe monument in the South line of the said Northeast 1/4-Southwest 1/4; thence West along the South line of the said Northeast 1/4-Southwest 1/4 a distance of 44 rods to the point of beginning.

PARCEL D
That part of the Northeast 1/4 of the Northwest 1/4 of Section 19, Township 32, Range 19 lying West of the right-of-way of the Minneapolis, St. Paul and Sault Ste. Marie Railway Company, as the same runs over and across said tract, except that portion thereof platted as Otisville.
All according to the United States Government Survey thereof, according to the recorded plat thereof, and situate in Washington County, Minnesota.