

# PLANNING COMMISSION

**AGENDA ITEM: 2. Sand Moratorium Study: Habitat, Wetlands, and Quality of Life**

**PREPARED BY: Carlos Espinosa**

**DATE: May 14, 2012**

## Moratorium Timeline

At the last Planning Commission meeting, Commissioners asked for a preliminary timeline of topics to be studied:

Topic	May-12	Jun-12	Jul-12	Aug-12	Sep-12	Oct-12	Nov-12	Dec-12	Jan-13	Feb-13
Habitat and Wetland Issues										
Quality of Life Issues										
State Air Permitting										
State Water Permitting										
Environmental Review										
Traffic Impacts										
Road Wear										
Site by Site Analysis										
Report - With Draft Recommendation Options										
Commission Final Recommendations										
Final Report with Recommendations to Council										
Report to Council										

In accordance with the timeline, staff proposes addressing habitat, wetland, and quality of life issues first, followed by examination of the general issues. This allows the Commission to begin the study prior to a public informational meeting with state permitting agency representatives. Site by site analysis is proposed to begin in June, with a draft report assembled by November. Final recommendations would then be made by the Planning Commission in December/January with Council review in January/February 2013.

### **Habitat, Wetlands, and Quality of Life**

Habitat, wetlands, and quality of life issues related to frac sand mining and processing are large topics that can be narrowed by examining two groups of activities:

- 1) Existing and future sand processing and transportation sites
- 2) Existing and conceptual mining sites

#### **Existing and Potential Sand Processing and Transportation Sites**

Existing sand processing and transportation sites are shown on Attachment A. In accordance with the recently adopted CUP (see Attachment B), existing facilities cannot expand (without applying for a CUP), and new facilities require a CUP to begin operations. The CUP requires all new processing or transportation facilities to be in an M-2 General Manufacturing District. From an industrial perspective, this is Winona's most liberal zoning district which is meant to accommodate the most heavy/intense industrial uses in the City. In addition to sand processing and transportation facilities, the M-2 zoning district requires a CUP for uses such as acid manufacturing, foundries, liquor distillation, and brick manufacturing.

M-2 parcels of land have already been platted and zoned (signaling their intent for industrial use), and in most cases have historically been used for heavy manufacturing. If there are habitat or wetland issues that arise, they would be addressed in the project review process. In the instance of wetlands, if there is a potential for hydric soils (signaling a potential wetland), a wetland delineation study is required. The applicant would then modify the project before construction depending on the results of the delineation. If there are habitat issues, they would also be addressed prior to construction. Staff is not aware of wetland or habitat issues present in any of the M-2 zoned properties used for sand processing or transportation.

There are two sand operations in the A-G zoning district at 2100 and 2121 Goodview Road, and at the Biesanz Quarry. These uses existed before being annexed into the City and thus are grandfathered-in. Given that these uses are in the same location as previous activities, it is unlikely that there are *new* habitat or wetland issues associated with these operations.

In terms of quality of life, where M-2 zoned land has previously been used for industry (whether recently or a number of years ago), many of the existing sand operations

represent a significant increase in the activity on-site. In addition to the increased activity at the sites, truck traffic between sites and traffic from sand trucks entering Winona have highlighted concerns about the impact on quality of life. To address these concerns, the CUP for sand processing and transportation facilities was introduced. The CUP (see Attachment B), requires conformance with performance standards and specific conditions for sand processing and transportation facilities. If specific quality of life issues are identified in the Planning Commission's discussion of the subject, staff recommends examining the existing performance standards for potential changes.

#### Existing and Conceptual Mining Sites

The single existing mining site in Winona is the Biesanz Quarry. As stated above, the quarry was grandfathered-in from Winona Township, and given that sand excavation is occurring in an area already excavated for other purposes, it is unlikely that there are new habitat or wetland issues associated with this operation. Quality of life issues related to blasting at the quarry are currently being addressed by the Blasting Committee formed by the Mayor. A more in-depth examination of this site will occur later in the moratorium study.

Conceptual future mining sites are shown on Attachment C. These locations are in the A-G zoning district and lie outside a 1,000 foot buffer from residential districts and the Bluffland Overlay district. Mining in these areas would be subject to a CUP per Section 43.48 of the zoning code (see Attachment D). It should be emphasized that these locations are only conceptual and only based on three factors:

- 1) Inclusion in the A-G zoning district
- 2) Location outside of a 1,000 foot residential buffer
- 3) Location outside the Bluff Impact Overlay

In reality, actual mining of these areas would depend on a number of factors besides zoning. In its discussion of potential habitat, wetland, and quality of life issues related to mining, the Commission should narrow its focus to these specific areas and potential modifications to Section 43.48 of the zoning code.

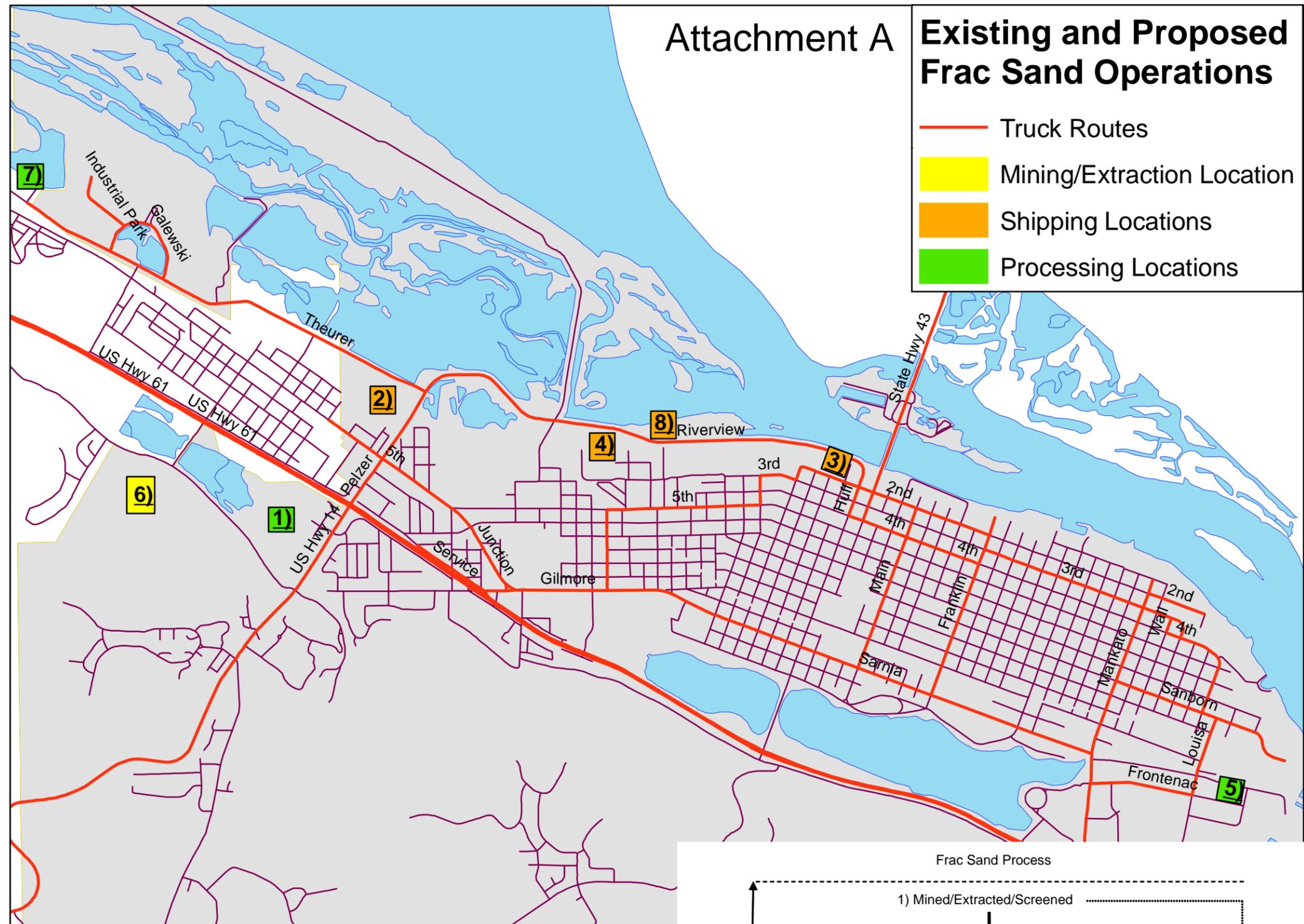
#### Attachments:

- A) Existing Sand Frac Sand Operations in Winona
- B) Sand Processing and Transportation CUP
- C) Conceptual Future Mining Sites
- D) City Code Section 43.48

# Active and Proposed Frac Sand Operations in Winona May 2012

## Numbers Match Locations on Map:

- 1) Active: 2100, 2121 Goodview Road**  
Company/Individual: *Bob Hemker*  
Activities Occurring: *Sand washing, then sent to number 4) for shipping*  
Zoning: *A-G (Agricultural)*
- 2) Proposed: 25 McConnon Drive**  
Company/Individual: *Rich Mikrut*  
Activities to Occur: *Drying, screening, sorting, storage, and shipping via rail*  
Zoning: *M-2 (General Manufacturing)*
- 3) Active: 370 West Second Street and Parcel 32-104-0050**  
Company/Individual: *Steve Kohner*  
Activities Occurring: *Washed and unwashed sand shipped via rail*  
Zoning: *M-2 (General Manufacturing)*
- 4) Active: Property East of 70 Gould Street**  
Company/Individual: *Rick Mikrut*  
Activities Occurring: *Washed sand shipped via rail*  
Zoning: *M-2 (General Manufacturing)*
- 5) Proposed: 1280-1330 Frontenac Drive**  
Company/Individual: *Bob Hemker*  
Activities to Occur: *Sand washing, drying, then sent to number 2) for shipping*  
Zoning: *M-2 (General Manufacturing)*
- 6) Active: 4600 Goodview Road/Biesanz Stone Company**  
Company/Individual: *Biesanz Stone Company*  
Activities Occurring: *Mining/extraction and screening, then sent to number 7) for washing*  
Zoning: *A-G (Agricultural)*
- 7) Active: 6930 West 5<sup>th</sup> St., MN City**  
Company/Individual: *Steve Kohner*  
Activities Occurring: *Sand washing, then sent to number 3) for shipping*  
Zoning: *N/A*
- 8) Active: Port Authority Dock**  
Company/Individual: *Winona Port Authority*  
Activities Occurring: *Washed or unwashed sand shipped via barge*  
Zoning: *M-2 (General Manufacturing)*



### Frac Sand Routes into Winona:

- 1) Highway 43/Interstate Bridge
- 2) Highway 61
- 3) Highway 14

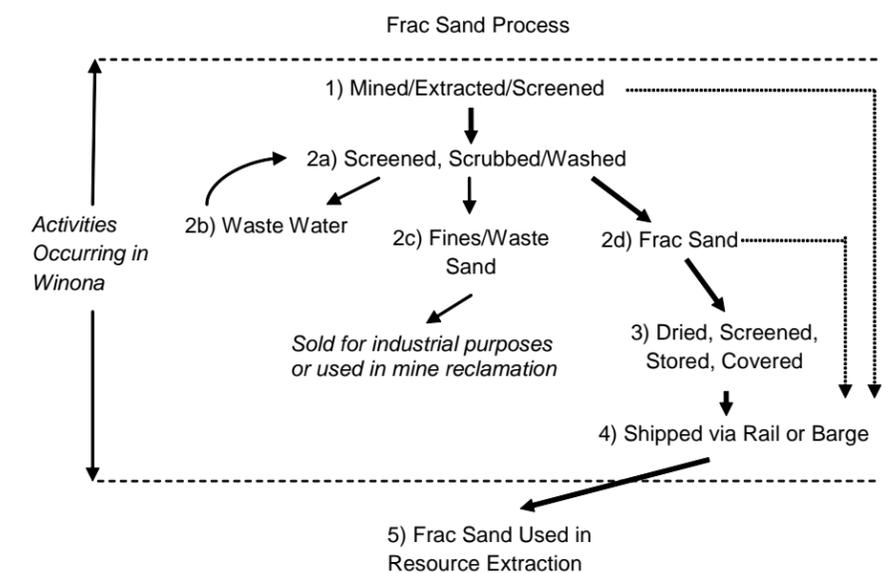
### Zoning Regulations for Frac Sand Operations:

- 1) Mining and Extracting - A-G (Agricultural) District with Conditional Use Permit (CUP).
- 2) Processing (Washing, Drying, Screening, Storing):  
- M-2 (General Manufacturing) District with Conditional Use Permit.

## Attachment A

## Existing and Proposed Frac Sand Operations

-  Truck Routes
-  Mining/Extraction Location
-  Shipping Locations
-  Processing Locations



# Attachment B

Gray boxes to be filled in by staff only.

## **CITY OF WINONA** **APPEAL TO BOARD OF ADJUSTMENT** **FOR MODIFICATION OF CITY CODE**

Date \_\_\_\_\_ Owner \_\_\_\_\_  
Owner Address \_\_\_\_\_

Petitioner \_\_\_\_\_  
Petitioner Address \_\_\_\_\_

As property owner or petitioner, I hereby make application to modify the City Code at the following address:

\_\_\_\_\_

Also described as:

PIN #: _____
Legal Description: _____
_____
_____

It is understood that only those points specifically mentioned are affected by action taken on this appeal.

Purpose in seeking Board of Adjustment hearing: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

See handout for required submittal information and general appeal information.

The specific ordinance modification desired is _____
_____
_____

I hereby certify that I am the owner of the above described property or am otherwise legally empowered to make this appeal.

\_\_\_\_\_  
(Applicant's Signature)

Received by: _____
-----------------------

The Board meets on the first and third Wednesday of every month. Petition must be filed by noon on the Monday 16 days prior to the Wednesday meeting date. The petitioner is required to attend the meeting.

Petition # _____	Receipt # _____	Filing Fee _____
Date Received _____	Hearing Date _____	Zoning _____

# **Board of Adjustment CUP Application Addendum: Sand Processing and Transportation Operations**

Please provide the following information. Provide attachments as needed. A letter will be provided to you within 15 business days if more information is required to declare the application complete.

## Project Narrative

Describe the proposed construction or development, including a description of the proposed machinery, processes, products of the operation, and a conceptual site plan for reference. Also provide a dust control plan per number (7) below. In addition, please provide the following specific information:

- A) Proposed hours of operation:
- B) Days of the week:
- C) Months of the year:
- D) Anticipated number of trucks per day:
- E) Source of trucks/product:
- F) Destination of outbound trucks:

## Dangerous and Objectionable Elements

Describe the mechanisms and techniques to be used in restricting the emission of dangerous and objectionable elements as set forth below. Indicate if an element does not apply to the project:

- (1) Fire and explosion hazard. All activities involving and all storage of inflammable and explosive materials shall be provided at any point with adequate safety devices against the hazard of fire and explosion and adequate firefighting and fire suppression equipment and devices standards in the industry. Burning of waste materials in open fire shall be prohibited at any point. The relevant provisions of state and local laws and regulations shall also apply.
- (2) Radioactivity or electric disturbance. No activities shall be permitted which emit dangerous radioactivity at any point or electrical disturbance adversely affecting the operation at any point.

- (3) Noise. Maximum decibel levels in accordance with City Code Chapter 39 and as measured the MPCA document “A Guide to Noise Control in Minnesota”:

<u>Zoning District</u>	<u>Day (7 a.m. - 10 p.m.)</u>		<u>Night (10 p.m. - 7 a.m.)</u>	
	<u>L<sub>50</sub></u>	<u>L<sub>10</sub></u>	<u>L<sub>50</sub></u>	<u>L<sub>10</sub></u>
RMHP, R-S, R-R, R-1.5	60	65	50	55
R-1, R-2, R-3, C-1	60	65	50	55
B-1, B-2, B-3	65	70	65	70
B-2.5, M-1, M-2, A-G	75	80	75	80

- (4) Vibration. No vibration shall be permitted which is discernible without instruments at the boundary of the M-2 district or in the nearest R district.
- (5) Smoke. No emission shall be permitted at any point, from any chimney or otherwise, of visible gray smoke of a shade equal to or darker than No. 2 of the Power's Micro-Ringlemann Chart, published by McGraw-Hill Publishing Company, Inc., and copyright 1954 (being a direct facsimile reduction of the standard Ringlemann Chart as issued by the United States Bureau of Mines), except that visible gray smoke of a shade equal to No. 2 on said Chart may be emitted for 4 minutes in any 30 minutes. These provisions applicable to visible gray smoke shall also apply to visible smoke of different color but with an apparently equivalent capacity.
- (6) Odors. No emission shall be permitted of odorous gases or other odorous matter in such quantities as to be offensive at the boundary of the M-2 district or in the nearest R district. Any process which may involve the creation or emission of any odors shall be provided with a secondary safeguard system, so that control will be maintained if the primary safeguard system should fail. There is hereby established as a guide in determining such quantities of offensive odors Table III, "Odor Thresholds," in Chapter 5 "Air Pollution Abatement Manual," copyright 1951 by Manufacturing Chemists' Assn., Inc., Washington, D.C.

- (7) Fly ash, dust, fumes, vapors, gases, and other forms of air pollution. No emission shall be permitted which can cause any damage to health, to animals, vegetation or other forms of property, or which can cause any excessive soiling, at any point; and in no event any emission, from any chimney or otherwise, of any solid or liquid particles in concentrations exceeding 3/10 grains per cubic foot of the conveying gas at any point. For measurement of the amount of particles in gases resulting from combustion, standard corrections shall be applied to a stack temperature of 500 degrees Fahrenheit and 50 percent excess air. All activities shall comply with applicable state law, rules and local ordinances for dust and Particulate Matter generation, and any stockpiles (including sand and dirt) which produce windblown dust shall be covered. A fugitive dust control plan is required detailing dust control measures both on-site and off-site. See attached for plan requirements.
- (8) Glare. No direct or sky-reflected glare, whether from floodlights or from high-temperature processes, such as combustion, welding or otherwise, so as to be visible at the boundary of the M-2 district or in the nearest R district. This restriction shall not apply to signs otherwise permitted by the provisions of this chapter.
- (9) Liquid or solid wastes. No discharge at any point into any public sewer, private sewage disposal system or stream or into the ground, except in accord with standards approved by the department of health of the state or standards equivalent to those approved by such department for similar uses of any materials of such nature or temperature as can contaminate any water supply or otherwise cause the emission of dangerous or offensive elements.

#### Specific Conditions

Respond to the following specific CUP conditions for sand processing and transportation operations. Indicate if a condition does not apply to the project:

- (1) Hard Surfacing – Asphalt or concrete surfacing shall be required in any truck or equipment maneuvering area.

- (2) Truck Washing Equipment and/or Tracking Pads – Truck washing equipment or tracking pads, or a combination of both, shall be required at each facility.
  
- (3) Truck Route Designation – All trucks entering and leaving such facilities shall enter and exit Winona on designated truck routes. Such routes shall avoid residentially zoned property to the greatest extent possible.
  
- (4) Enclosure and Covering of Processing Equipment and Stockpiles - Processing equipment (including dryers, washers, and screeners) and stockpiles within 500 feet of any R or B district shall be enclosed by a structure. Stockpiles greater than 500 feet from an R or B district and undisturbed for more than one week shall be covered.
  
- (5) Stockpile Watering – Uncovered stockpiles shall be watered regularly to prevent surface areas from drying out and becoming susceptible to wind erosion.
  
- (6) Hours of Operation – Hours of operation for truck traffic and equipment/ machinery with back-up alarms shall be limited to 7 a.m. – 7 p.m.
  
- (7) Landscaping and Screening – Sufficient landscaping and screening, including but not limited to fences, walls and/or vegetative screens, as approved by the City of Winona, shall be provided to mitigate visual impacts of operations on adjacent properties.

- (8) Contact Information – Facility operators shall provide current contact information to the City of Winona to facilitate prompt response to concerns.
- (9) Permits and Reports Obtained and Placed on File – Any applicable state or federal permits shall be obtained and placed on file at the City of Winona. Any reports generated to fulfill permit requirements shall be submitted to the City of Winona. An informational sheet on state permits which may apply to the project is attached to this application. Applicant must document discussion with the all applicable agencies by providing staff names and initial date contacted.



# Environmental Management at Aggregate Operations

Waste water permits #3.01, 9/04

- Aggregate production is an important Minnesota industry, producing sand, gravel and crushed stone for construction projects and other uses throughout the state.
- The Minnesota aggregate industry recognizes the economic and public relations benefits of progressive environmental management.

This fact sheet summarizes pollution prevention opportunities and Minnesota Pollution Control Agency (MPCA) permitting requirements for aggregate operations. Some general information about permit programs administered by other agencies is also provided.

## Environmental Review

If a new pit or quarry is started, or an existing one is expanded by 40 acres or more, and the pit will have a mean depth of at least 10 feet during its existence, the project needs to have an Environmental Assessment Worksheet prepared. If the new pit or expansion will cover at least 160 acres, mined to a mean depth of 10 feet or more, an Environmental Impact Statement is needed. For more information on this process, contact the Environmental Quality Board at (651) 296-8253, or visit their Web site at:

<http://www.eqb.state.mn.us/review.html>

## Construction Storm Water

Construction storm water runoff at a new pit or quarry may require a construction storm water permit for the initial construction phases of operation. Construction activities, such as building roads, berms, containment devices, and grading at a new pit or quarry that involves one or more acres, may trigger the requirement to obtain a construction storm water permit, and to stabilize these initial disruptions before terminating the permit.

For more information on Construction Storm Water requirements and the publications available to help you comply, contact the MPCA Customer Assistance Center (CAC) or Small Business Assistance

Program (SBAP), or visit our Web site at: <http://www.pca.state.mn.us/water/stormwater/stormwater-c.html>

## Industrial Storm Water and other Water Discharges

The aggregate industry deals with water throughout the construction season. To excavate gravel or rock, the water table may need to be lowered. Washing of sand, gravel or crushed stone may be needed to ensure it meets product specifications.

The following activities at aggregate operations require a water quality permit from the MPCA:

- Sand and gravel washing discharges that leave the mine or quarry pit, whether by gravity flow or pumping.

Often, operators can recycle their wash water and/or allow it to infiltrate the pit floor, and avoid the need for wash water overflows and other discharges. This may change their requirement to have a permit.

- Pumping or siphoning out a mine or quarry pit to create a dewatering discharge.

Good sump management to prevent accumulation of dirty water is important, particularly in quarry pits. Sometimes pit water can be reused in the plant, or for road dust control.

- The generation of wastewater by air emission control systems, particularly from the wet scrubbers used at some hot mix asphalt plants.

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- The discharge of any other water from the site.
- Storm water runoff from mine and quarry stockpiles and pit walls, as well as from equipment like rock crushers, hot mix asphalt, and concrete production plants.

A site with runoff needs to have a Pollution Prevention Plan implemented for the operations at that particular site. Good management practices such as vegetative buffers, detention ponds, covered bulk containers and hazardous material storage areas, as well as the skillful placement of stockpiles and equipment, can greatly improve storm water management and erosion control at aggregate sites.

To apply for Water Quality permit coverage for aggregate operations, use the “Water Quality Transmittal Form” and “Attachment for Construction Sand & Gravel, Rock Quarrying and Hot Mix Asphalt Production Facilities” attachment form. For more information on Water Quality permits and requirements, contact the CAC or SBAP, or visit our Web site at:

<http://www.pca.state.mn.us/water/permits/sandgravel.html>.

### **Fuel and Hazardous Materials Management**

When equipment is refueled, maintained or repaired outside the shops, special care must be taken to prevent spills, and to quickly contain and collect accidental spills. The employees at each site should be trained under a spill control plan. Used oil, lubricants, antifreeze, paint, solvents, vehicle cleaning wastes, recovered freon, asbestos, PCBs and shop wastes should be properly contained, stored, and recycled or disposed of in compliance with MPCA requirements.

For more information on Hazardous Waste requirements and the publications available to help you comply, contact the CAC or SBAP, or visit our Web site at:

<http://www.pca.state.mn.us/waste/pubs/business.html>

Liquid (including fuel) storage tanks, whether aboveground or underground, need to have effective containment and may need to be approved by the MPCA.

For more information on tanks requirements and the publications available to help you comply, contact the

CAC or SBAP, or visit our Web site at:

<http://www.pca.state.mn.us/cleanup/tanks.html>

### **Air Quality Management**

All facilities must meet minimum standards for dust and noise control. Facilities with crushing operations may have to meet additional federal standards for emissions of particulates from processing equipment. It is important to control dust throughout the facility, including at crushers, screens, conveyors and hoppers. Due to potential air quality problems, materials containing asbestos (which is generally found in old buildings, and has been used in older roads and concrete materials) must not be crushed.

The use of fuels, other volatile chemicals, and/or generators may also dictate additional air quality requirements. Depending on production capacity and processing equipment, an Air Emission Permit may be required.

For more information on Air Quality requirements and the publications available to help you comply, contact the CAC or SBAP, or visit our Web site at:

<http://www.pca.state.mn.us/air/pubs/index.html>

### **Solid Waste Management**

Some aggregate operations store used asphalt and/or concrete, captured particulate emissions, or other demolition debris. The MPCA encourages recycling of these materials, and of scrap and trash materials, when possible. If this is not practical, used pavement must be disposed of in an approved sanitary or demolition debris landfill.

For more information on Solid Waste requirements and the publications available to help you comply, visit our Web site at:

<http://www.pca.state.mn.us/waste/pubs/solidwaste.html>, or call the MPCA at (651) 297-6300 or (800) 657-3864 to be connected to solid waste staff for your regional area.

### **Water Withdrawals**

Surface or ground water withdrawals (such as for dewatering, washing, makeup water for scrubbers, roadbed preparation, dust control, irrigation) of more than ten thousand gallons/day or one million gallons/year require a DNR water appropriation permit. Re-use of dewatering and wash water is encouraged and may help eliminate the



need for a permit or reduce DNR water use fees. A DNR water appropriation permit is not required if the water is taken from a municipal or other source of water for which there is a valid appropriation permit.

For more information on water use permits, contact the Department of Natural Resources at (651) 297-2835, or visit their web site at: [http://www.dnr.state.mn.us/waters/watermgmt\\_section/appropriations/index.html](http://www.dnr.state.mn.us/waters/watermgmt_section/appropriations/index.html)

### Riprap and Discharge Outlets

Riprap installation for outflows to public waters does not require a DNR permit if installed according to the following requirements:

- a. The riprap consists of natural rock only.
- b. The riprap is sized according to the guidelines in practice 6.18 of the MPCA publication "Protecting water quality in urban areas". This publication is available on-line at: <http://www.pca.state.mn.us/water/pubs/sw-bmpmanual.html>
- c. The riprap conforms to the natural alignment of the shore or stream bank.
- d. No excavation occurs below the top of the stream bank or the ordinary high water level of a basin or wetland.
- e. The materials are placed less than 5 feet water ward of the ordinary high water mark.
- f. The minimum finished slope is no steeper than 3 feet horizontal to 1 foot vertical (3:1).
- g. No bank shaping or back sloping is required to achieve the 3:1 slope.
- h. The materials do not obstruct receiving water flow.
- i. The discharge is not directly to Lake Superior, DNR-designated trout waters, or a posted fish spawning area.

Trout waters are designated in Minn. R. 6264.0050, subp. 2 and 4; this list may be obtained from the DNR by calling (651) 296-3325. DNR Trout waters are also available on-line in the 'Special Waters Search' at <http://www.pca.state.mn.us/water/stormwater/stormwater-c.html> Information on DNR protected waters permits is available from the DNR at (651) 296-4800.

### US Army Corps of Engineers

Activities that involve the discharge of dredged or fill material or excavation within waters and wetlands may require approval of the Corps of Engineers. Such activities

could include the construction of access roads or the creation of storage areas and building sites.

Also, activities related to the construction of pit dewatering outfall structures and the excavation of water detention/retention ponds within waters and wetlands may require Corps approval.

For more information on Corps of Engineers requirements, contact the St. Paul District Office at (651) 290-5375, or visit their web site at: <http://www.mvp.usace.army.mil/environment/>

### Additional Information

If you have questions or would like more information, contact:

#### Environmental Quality Board

Environmental Review Process ..... (651) 296-8253

#### Minnesota Pollution Control Agency

Customer Assistance Center (CAC) ..... (651) 297-2274 or  
..... (800) 646-6247

Small Business Assistance Program (SBAP)\* (651) 282-6143 or  
(800) 657-3938

- Construction Storm Water
- Industrial Storm Water
- Waste Water Permitting
- Storage Tanks
- Hazardous Waste Management
- Air Quality

Solid Waste Questions or Issues ..... (651) 296-6300 or  
..... (800) 657-3864

\*Note that businesses with fewer than 100 employees company-wide can call our Small Business Assistance Program for free, nonregulatory, confidential environmental assistance.

#### Minnesota Department of Natural Resources

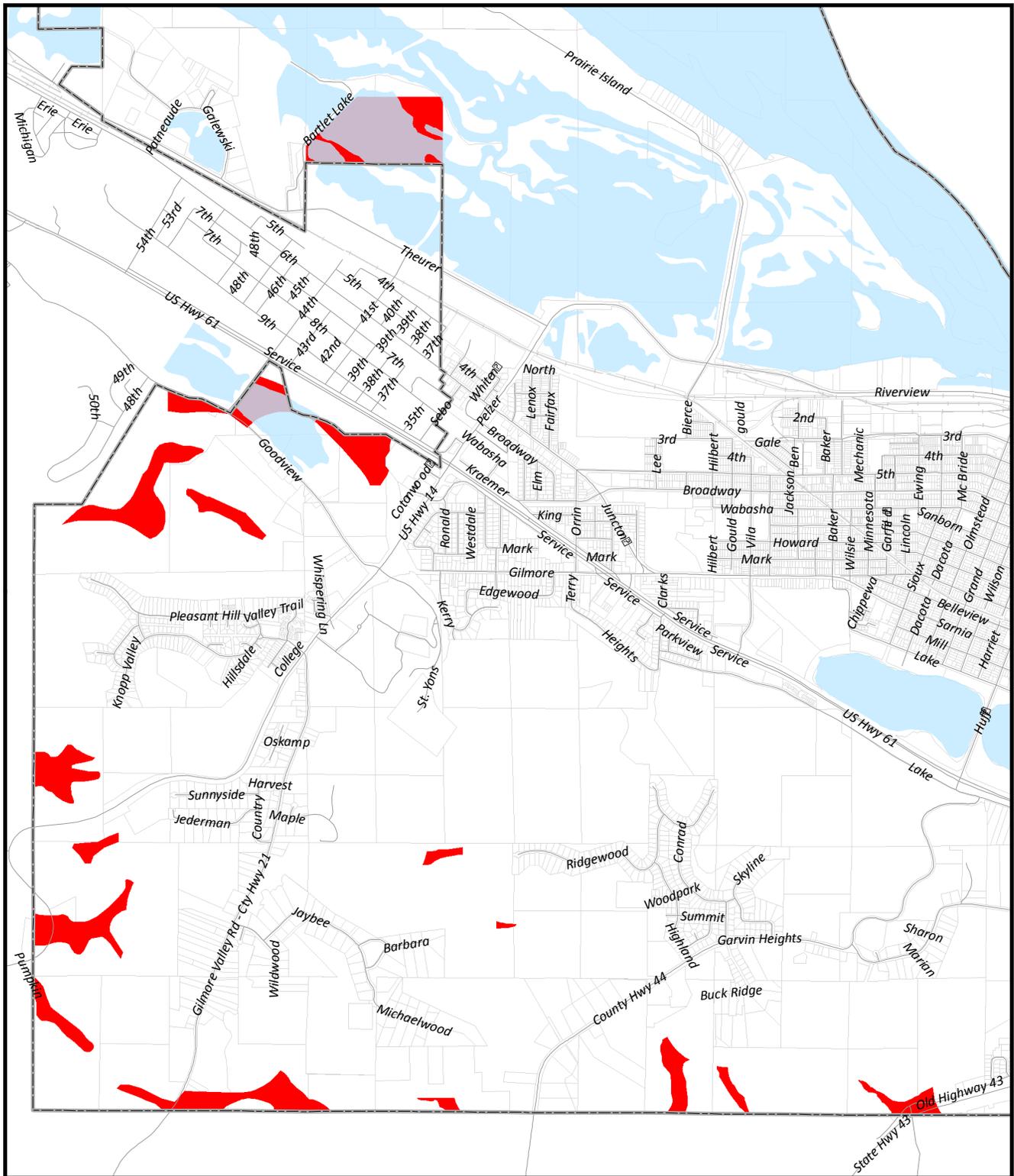
Water Use Permits ..... (651) 297-2835  
Protected Waters Permits ..... (651) 296-4800  
Trout Waters Information ..... (651) 296-3325

#### US Army Corps of Engineers

Dredge, fill or excavation to waters/wetlands . (651) 290-5375

# Mining within the City of Winona

Agricultural land area after bluff overlay district and 1000' residential zoning buffer has been taken out.



This map was compiled from a variety of sources. This information is provided with the understanding that conclusions drawn from such information are solely the responsibility of the user. The GIS data is not a legal representation of any of the features depicted, and any assumptions of the legal status of this map is hereby disclaimed.

# Attachment D

43.65.1 AGRICULTURAL (AG) DISTRICT. A. Purpose. The Agricultural District is established for purposes of protecting and maintaining the use of land for agricultural purposes, preserving and promoting natural resource environments, discouraging untimely and unplanned urban sprawl, and the inefficient provision of municipal services, which are associated with this type of development.

- C. Conditional Uses. The following conditional uses shall be permitted only if specifically authorized by the Board of Adjustment in accordance with this chapter and of Section 22.21 of this code:
2. Extraction pits: provided that any power driven or power producing machinery or equipment shall not be operated within 1,000 feet of any R District and subject to the provisions of Section 43.48;

## ARTICLE XII. EXTRACTION PITS

### 43.48 EXTRACTION PITS.

- (a) General Requirements. Unless otherwise provided, the Board of Adjustment shall grant a conditional use permit for all such uses in accordance with Section 22.21, the underlying zoning district, and the following conditions:
- (1) No extraction operation shall be carried on or any stock pile placed closer than 50 feet to any property line, unless a greater distance is specified by the Board where such is deemed necessary for the protection of adjacent property; provided that this distance requirement may be reduced to 25 feet by written consent of the owner of the abutting property.
  - (2) In the event that the site of the extraction operation is adjacent to the right-of-way of any public street or road, no part of such operation shall take place closer than 30 feet to the nearest line of such right-of-way.
  - (3) Fencing shall be erected and maintained around the entire site or portions thereof where, in the opinion of the Board, such fencing is necessary for the protection of the public safety, and shall be of a type and height specified by the Board.
  - (4) All equipment and machinery shall be operated and maintained in such manner as to minimize dust, noise, and vibration. Access roads shall be maintained in dust-free condition by surfacing or other treatment, as may be specified by the Board, following consultation with the City Engineer.
  - (5) The crushing, washing, and refining or other similar processing may be authorized by the Board as an accessory use; provided that such accessory processing shall not be in conflict with the land use regulations of the district in which the operation is located.
  - (6) Unless otherwise permitted by the Board, all operations which are located within 500 feet of any residential district shall be conducted between the hours of 6:00 a.m. and 9:00 p.m.
  - (7) All local, state or federal laws applicable to the specific extraction activity and subsequent rehabilitation must be met.

- (b) Financial Ability of Applicant. In accepting such plan for review, the Board must be satisfied that the proponents are financially able to carry out the proposed extraction and rehabilitation operation in accordance with the plans and specifications submitted.
- (c) Application. An application for such operation shall set forth the following information:
- (1) The name of the owner of the land from which removal is to be made.
  - (2) The name of the applicant making request for such a permit.
  - (3) The name of the person or corporation conducting the actual removal operation.
  - (4) A map showing contours at two foot intervals, the location, and the size of the area from which the removal is to be made. Existing land use/zoning within 300 feet of the removal site and the location of any buildings and processing equipment to be used in the activity.
  - (5) The type of resources or materials to be removed.
  - (6) The proposed method of removal and whether or not the use of explosives will be required.
  - (7) A description of all equipment to be used.
  - (8) A plan showing the method and timing of rehabilitation and reclamation of the extraction site.
  - (9) Hours of operation.
- (d) Rehabilitation. To guarantee the restoration, rehabilitation, and reclamation of extraction sites, every applicant granted a permit shall furnish a performance bond running to the City in an amount of \$25,000, as a guarantee that such applicant, in restoring, reclaiming, and rehabilitating such land, shall, within a reasonable time and to the satisfaction of the Board, meet the following minimum requirements:
- (1) All excavation shall be made either to a water producing depth, such depth to be not less than 5 feet below the bow watermark, or shall be graded or backfilled with non-noxious, noninflammable and noncombustible solids, to secure (a) that the excavated area shall not collect and permit to remain therein stagnant water or (b) that the surface of such area which is not permanently submerged is graded or backfilled as necessary so as to reduce the peaks and depressions thereof, so as to produce a gently running surface that will minimize erosion due to rainfall and which will be in substantial conformity to the adjoining land area.
  - (2) Vegetation shall be restored by appropriate seeding of grasses or planting of shrubs or trees in all parts of such extraction area where such area is not to be submerged under water.
  - (3) The banks of all excavations not backfilled shall be sloped to the water line at a slope which shall not be less than three feet horizontal to one foot vertical and such bank shall be seeded.
  - (4) In addition to the foregoing, the Board may impose such other conditions, requirements, or limitations concerning the nature, extent of the use, and operation of the extraction pit as the Board may deem necessary for the

protection of adjacent properties and the public interest. The conditions shall be determined by the Board prior to issuance of the conditional use permit.