

TO: LWSRB members
FROM: Mark E. Cupp, Executive Director
RE: Nonmetallic mining permit applications
DATE: August 22, 2013

APPLICANTS: Pattison Sand Company/Kyle Pattison
Landowners: Lee and Joan Pulda
Earl and Amber Pulda
Rodney and Sandra Marfilius
Alan and Kathy Flansburgh

SITE LOCATION: Town of Bridgeport, Crawford County;
between STH 60 and the Wisconsin River

ACTIVITY: nonmetallic mining

FIELD INSPECTION RESULTS/FINDINGS: Fields inspections have been conducted by Mark E. Cupp, Executive Director, both onsite and on-river several times since the summer of 2012. The Operations Committee and LWSRB members have conducted onsite and on-river field inspections. Landowners and representatives of Pattison Sand Company (PSC) also have participated in onsite and on-river field inspections.

The field inspections revealed that portions of the affected properties are visible from the Wisconsin River. Portions of the properties slated for mining activities are located within the Riverway boundary.

The LWSRB's authority for issuance of a permit is found in s. 30.43(1), Stats., which states:

The board shall review applications for permits...and issue permits for activities that comply with their applicable performance standards.

In addition, under board powers in s. 30.435(1), Stats.,

The board may impose conditions (on permits).

The board's authority to impose conditions on permits is further detailed in s. 30.44(7), Stats.,

The board may impose on a permit a condition that is necessary to assure compliance with the performance standards (for the activity) or to assure that the activity is completed within a reasonable time.

Section 30.44(3e), Stats, details the regulations on non-metallic mining, which states:

A person shall apply for receive a permit before beginning or expanding nonmetallic mining on land in the Riverway that is not visible from the river when the leaves are on the deciduous trees.

A person may not be issued a permit for nonmetallic mining unless the following performance standards are met:

- 1) Any structure and any stockpiled materials or soil associated with the nonmetallic mining activity may not be visible from the river when the leaves are on the deciduous trees**
- 2) The excavation for the nonmetallic mining activity may not be visible from the river when the leaves are on the deciduous trees.**

EXECUTIVE DIRECTOR RECOMMENDATION: Executive Director recommendation is to approve issuance of a permit for the activity with the following conditions:

- The excavation and any structure, equipment or stockpiled material shall not be visible from the Wisconsin River during leaf-on conditions;
- The mining activity shall not occur on lands identified as aesthetically sensitive (visible from the river during leaf-on conditions) in Appendix A (memorandum) and Appendix B (map);
- Commercial timber harvesting in the Resource Management Zone shall not be initiated until the appropriate permit has been obtained from the LWSRB;
- The initial permit shall be for a period of 2 years with a minimum quarterly review of the activity by the LWSRB;
- The LWSRB shall have access to the site for the purpose of monitoring viewshed protection upon giving the landowner or his/her agent 24 hour notice;
- The landowner or his/her agent shall provide the LWSRB with a written report and map or aerial photograph showing active mining areas and reclaimed areas within 5 working days of the first of each month;
- The LWSRB shall review any modifications to the plans, as submitted, for compliance with the applicable performance standards;
- The landowner shall notify the LWSRB upon initiation and cessation of nonmetallic mining activities in the Riverway, including reclamation related activities;
- The permit is not transferable to another landowner or corporation; and,
- The activity shall comply with all other federal, state and local regulations.

In the event a violation of the permit (and conditions) is discovered, the LWSRB shall notify the landowner and his/her agent as soon as possible after discovery. The LWSRB shall order a remedy to be implemented within a reasonable length of time. If the remedy is not implemented to the satisfaction of the LWSRB, a cease and desist order may be issued. All nonmetallic mining activities within the Riverway boundary shall cease until the violation is corrected.

The LWSRB should request the following voluntary actions be taken by the applicants.

- 1) There shall be no nonmetallic mining activity (excavation, stockpiled materials, equipment or structures) on lands visible from the river during leaf-on conditions, including those lands that are visible from the river but are outside the formal Riverway boundary.
- 2) The applicants shall minimize noise disturbances to the greatest extent possible, including use of the new style low tone alarm in accordance with MSHA requirements.
- 3) Lighting should be "Dark Sky Complaint" with elimination or minimization of any lighting effects from the nonmetallic mining activity to be seen from the river during leaf-on conditions.
- 4) Fugitive dust control plans shall be implemented to prevent dust clouds from being visible from the river during leaf-on conditions.
- 5) All mining trucks leaving the properties shall be tarped or otherwise covered.
- 6) Hours of operation shall be limited to Monday through Friday, 6:00 a.m. to 6:00 p.m.
- 7) Mining truck traffic should avoid entering or exiting the site during school bus hours.
- 8) Air quality and monitoring shall comply with the most recent DNR standards and data collected should include a minimum of one site by the river.
- 9) For the reclamation process, the "A" horizon and "B" horizon shall be kept separate.
- 10) Blasting shall not occur on Saturday or Sunday or before 6:00 a.m. or after 6:00 p.m. on weekdays.
- 11) Archeological and historic sites shall be protected.
- 12) There shall be no adverse impacts on endangered, threated or special concern species.