

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

In re:

EMERGE ENERGY SERVICES LP, et al.,
Debtors¹

Chapter 11

Case No. 19-11563 (KBO)
(Jointly Administered)

RE: Docket Nos. 362, 414, 467

**CHIPPEWA COUNTY’S OBJECTION TO THE FIRST
AMENDED JOINT PLAN OF REORGANIZATION AND JOINDER TO ATLANTIC
SPECIALTY INSURANCE COMPANY’S LIMITED OBJECTION**

Chippewa County Department of Land Conservation & Forest Management (“Chippewa” or the “County”), by and through its attorneys, hereby files its (i) objection (the “Objection”)² to the First Amended Joint Plan of Reorganization for Emerge Energy Services LP and Its Affiliate Debtors Under Chapter 11 of the Bankruptcy Code (the “Plan”) [Docket No. 362] and (ii) joinder (the “Joinder”) to the Limited Objection and Reservation of Rights of Atlantic Specialty Insurance Company to Notice of Cure Amount in Connection with Contracts and Leases [Docket No. 467], and respectfully submits the following:

BACKGROUND

1. On May 2, 2011, Chippewa County issued to one of the Debtors, Superior Silica Sands LLC (“SSS”), a Non-Metallic Mine Reclamation Permit, #2011-02, for the operation of an industrial sand mining site in the Town of Auburn, Chippewa County (the “Chippewa

¹ The Debtors in these cases, along with the last four digits of each Debtor’s federal tax identification number, are: Emerge Energy Services LP (2937), Emerge Energy Services GP LLC (4683), Emerge Energy Services Operating LLC (2511), Superior Silica Sands LLC (9889), and Emerge Energy Services Finance Corporation (9875). The Debtors’ address is 5600 Clearfork Main Street, Suite 400, Fort Worth, Texas 76109.

² Defined terms not otherwise defined herein shall have the meanings ascribed to them in the Plan.



Mine”). From the Chippewa Mine, Superior Silica Sands has produced what is colloquially known as “frac sand” or “Wisconsin white sand”, which it then markets and sells for use in the oil and gas fracking industry outside of Wisconsin. The total area currently permitted for mining is up to 475 acres, or approximately three quarters of a square mile. The actual area being mined at any given time is less than the permitted area. The original mining permit for the Chippewa Mine has been subject to a number of amendments, with the last amendment effective October 5, 2017. The current permit as amended is referred to herein as “Mine Permit.” A copy of the current Mine Permit, dated October 5, 2017, is attached as Exhibit A hereto and incorporated herein.

2. Pursuant to authority granted by Wisconsin Statutes ch. 295.14 subchapter 1, Wisconsin Administrative Code NR ch. 135 and Chippewa Code of Ordinance chapter 30, Chippewa administers the Mine Permit and establishes related requirements for groundwater discharges and reclamation.

3. SSS is subject to the requirements of laws, regulations and the Mine Permit to comply with the terms of its approved Non Metallic Mining Reclamation Plan, initially submitted on May 2, 2011, and subsequently amended multiple times, and incorporated into the Mine Permit (together the Plan as amended is referred to herein as “Reclamation Plan”).

4. Pursuant to state statutes, administrative regulations and local ordinances referenced in paragraph 1 above, and the Mine Permit, SSS is mandated to maintain a Financial Assurance Bond (“Bond”) to fund the requirements of the Reclamation Plan in financial amounts determined by Chippewa.

5. From the commencement of mining to date, Atlantic Specialty Insurance Company (“ASIC”) has provided Bond No. 800008775 (“Bond”) in the amount of Two Million

Nine Hundred Sixty Seven Thousand Eight Hundred Twenty Three Dollars and 89/100 (\$2,967,823.89). A copy of the Bond dated January 20, 2014 is attached as Exhibit B and incorporated herein.

6. Due to operations expansion and environmental requirements, on March 12, 2019, Chippewa notified SSS that the amount of the Bond would increase to a total of Four Million Six Hundred Fifty Thousand Dollars (\$4,650,000). This Bond amount increase was discussed with SSS and calculated to fund the Reclamation Plan and is set forth in correspondence from Chippewa, attached as Exhibit C and incorporated herein.

7. SSS failed to comply with legal requirements mandated by the statute and Mine Permit by failing to provide a Bond adequate to pay for the Reclamation Plan and failed to augment the mine groundwater monitoring.

8. On July 5, 2019, in a Memorandum to SSS, Dan Masterpole, Department Director of Chippewa, notified SSS that the Mine Permit was suspended due to failure to:

- a. Maintain Financial Assurance in an amount that reflected the cost to Chippewa of hiring a contractor to perform the Reclamation Plan according to the Mine Permit; and
- b. Comply with requirements of law and the Mine Permit requiring the augmentation of the existing monitoring well network.

A copy of the Memorandum is attached hereto as Exhibit D and incorporated herein. The suspension was continued to October 6, 2019 as reflected in the memorandum attached as Exhibit E.

9. In summary, the mining operations of SSS are not in legal compliance with the following:
- a. Mine Permit requirements at Section 7 requiring adequate groundwater monitoring wells and at Section 2, 14 and 15 requiring the maintenance of financial assurance and the performance and certification of reclamation;
 - b. Wisconsin Administrative Code NR Ch. 135 and Wisconsin Statutes Ch. 295, Subch. 1, requiring, among other things, that Nonmetallic Mining is performed in compliance with environmental regulations and that there is successful reclamation of mining sites; and
 - c. Chippewa Code of Ordinances §§ 30-76, 30-103 and 30-137 relating to environmental regulations and required reclamation by SSS.

10. On July 15, 2019 (the “Petition Date”) the Debtors commenced these cases. Since that time the Chippewa Mine has remained inactive. Since the filing of the petition, Superior Silica Sands has been working with Chippewa County to address some immediate environmental and regulatory concerns at the site. However, despite best efforts by Chippewa to obtain from the Debtors their intentions regarding future operations of the mine and addressing the above described violations of state and local law, little to no information has been forthcoming. Disappointingly, in response to the County’s continuing efforts to engage the Debtors to attempt to resolve open issues, the most recent communication from the Debtors was essentially a suggestion that the County file a proof of claim.

OBJECTION

11. Confirmation must be denied. The Plan violates provisions of the Bankruptcy Code (the “Code”) and applicable non-bankruptcy law. In addition, the Plan is not proposed in good faith and has not been shown to be feasible, and an adequate means for implementation of compliance measures with respect to the Debtors’ environmental obligations has not been provided.

A. The Plan does not comply with applicable provisions of Title 11.

12. The Debtors have the burden of establishing each of the Code’s confirmation requirements by a preponderance of the evidence. In re Maremont Corporation, 601 B.R. 1, 13 (Bankr. D. Del. 2019). Among the requirements, 11 U.S.C. §1129(a)(1) mandates that the “plan complies with the applicable provisions of this title.” The Plan does not.

13. Article X of the Plan includes releases, waivers, discharges, exculpation, injunctions and related provisions which are violative of the Code to the extent they purport to apply to environmental liabilities claims, rights, controversies, obligations, cases, actions, disputes and the like³.

14. The United States Supreme Court has made it crystal clear that the Code does not empower a debtor to contravene state or local laws designed to protect public health or safety. Midlantic Nat’l Bank v. New Jersey Dep’t of Env’tl. Prot., 474 U.S. 494, 502 (1986) (citing Ohio v. Kovacs, 469 U.S. 274, 285 (1985)). Without an express carveout of the County from Article

³ As a precaution, the County submitted a Class 6 ballot solely for the purpose of taking the opportunity to opt out of the third party releases. Because the County does not know the Debtors’ position on the validity of such opt-out, this Objection includes the County’s opposition to such Article X provisions. Shortly before filing this Objection, the County was advised by the Debtors’ counsel that the Debtors and the U.S. Environmental Protection Agency had negotiated certain revised plan language, including with respect to third party releases. The County is reviewing that language to determine whether that addresses at least some of its concerns.

X of the Plan, the Debtors will be asking this Court to disregard the U.S. Supreme Court precedent.

15. Congress made expressly clear that the Code was not intended to preempt state environmental law. 28 U.S.C. § 959(b) specifically provides:

Except as provided in section 1166 of title 11, a trustee, receiver or manager appointed in any case pending in any court of the United States, including a debtor in possession, shall manage and operate the property in his possession as such trustee, receiver or manager according to the requirements of the valid laws of the State in which such property is situated, in the same manner that the owner or possessor thereof would be bound to do if in possession thereof.

16. Various courts have held environmental laws and regulations requiring a debtor to take certain compliance actions do not give rise to a dischargeable claim. For example, the Third Circuit in Torwico agreed with the New Jersey Department of Environmental Protection that a statutory obligation to clean up an environmental hazard was non-dischargeable and not a claim, even if the debtor must spend money to comply. In re Torwico Electronics, Inc., 8 F.3d 146, 150 (3d Cir. 1993). The Circuit disregarded the debtor's attempted distinction that it no longer possessed the site in question. Id. Under applicable state law the debtor had an obligation which it could not discharge under a chapter 11 plan. The Third Circuit cited decisions by the Second and Seventh Circuits in its holding. In re Chateauguay, 944 F.2d 997 (2d Cir. 1991); In re CMC Heartland Partners, 966 F.2d 1143 (7th Cir. 1992).

17. In fact, courts recognize that a debtor's obligation to maintain its property and operate its business in compliance with environmental law continues post-chapter 11 emergence. See generally, Midlantic, 474 U.S. 494; Chateauguay, 944 F.2d 977. As such, at the time of confirmation courts view ongoing obligations involving post-confirmation, equitable remedies by governmental entities, without a right of payment, as not falling under the definition of a

“claim” under Section 101(5) of the Code. Accordingly, the obligations are not dischargeable “claims” under Section 1141(d). See, e.g., Torwico, 8 F.3d at 150-151.

18. Here, the County has advised the Debtors of their default under the Mine Permit and directed them to take corrective and investigative actions. There is a potential future scenario where the County must exercise equitable remedies, specifically it must make conditions at the Chippewa Mine safe, provide groundwater wells and it possibly may be required to perform Debtors’ obligation to reclaim the Chippewa Mine. These rights and remedies by the County do not constitute dischargeable claims, per the above-cited precedent. Id. Therefore, the Plan’s discharge provisions as they pertain to the County must be stricken or confirmation must be denied.

19. The Debtors cannot escape these bedrock public health and safety principles regarding environmental liabilities through other provisions in Article X of their Plan, specifically by releases and injunctions. Since they do have environmental obligations owing to the County, releasing or enjoining their enforcement would circumvent the U.S. Supreme Court’s mandate in Midlantic (following its decision in Kovacs) that debtors cannot use the Bankruptcy Code to avoid compliance with state or local environmental law. Midlantic, 474 U.S. at 502. Releasing the Debtors and other parties and subjecting the County to a broad injunction are an attempt to do exactly that.

20. Specifically as to third party releases,⁴ among other things, what such releases would do is preempt applicable state and local law, including the liabilities of responsible parties in addition to the Debtors. For example, guarantors like the bond issuer and those guaranteeing

⁴ Again, Chippewa submitted a ballot (without voting) for the sole purpose of opting out of third party releases.

the bond are required to respond with remediation and funding. Like the discharge, injunctive and other release provisions, these must be stricken from the Plan as they pertain to the County. See In re Continental Airlines, 203 F.3d 203, 213 n.9 (3d Cir. 2000) (third party releases are a “rare thing” that should not be considered absent a showing of “exceptional circumstances”).

21. Even if any of the Debtors’ obligations owing to the County constitute a right of payment, the case law is clear that the County would be entitled to an allowed administrative expense claim.⁵ The Third Circuit in Conroy affirmed the lower court’s allowance of Pennsylvania’s administrative expense claim for response costs incurred. Commonwealth of Pa., Dep’t of Env’tl. vs. Conroy, 24 F.3d 568, 570 (1994). The Circuit found such costs were “actual, necessary costs and expenses of preserving the estate” under 11 U.S.C. Section 503(b)(1)(A) of the Code, citing Second and Sixth Circuit precedent. Id. (citing Chateauguay, 944 F.2d at 1009–10; In re Well Tube & Metal Product, Co., 831 F.2d 118, 123–24 (6th Cir. (1987))).

22. As set forth below, the County joins in ASIC’s objection to the Debtors’ proposed cure amount of zero in connection with their bonding requirements. Such bonding, required by statute, is intended to underwrite the Debtors’ reclamation obligations. The Debtors are in default under the Bonds for failure to increase the bonded amount of the projected reclamation costs and its failure to pay renewal premiums and additional premium shortfalls. Their position that the cure amount is zero is disingenuous. Nevertheless, were there to be a shortfall for whatever reason, any reclamation and related cost incurred by the County not “back stopped” by bond would constitute an administrative expense claim. Indeed, courts have recognized environmental liabilities as administrative claims even if unliquidated at the time of

⁵ The County reserve the right to file a protective request for allowance of an administrative expense claim at any time, including prior to confirmation.

confirmation. See In re United Trucking Serv., Inc., 851 F.2d 159 (6th Cir. 1988) (approving the lower court's *estimation* of damages). Such decisions are consistent with the U.S. Supreme Court's seminal holding in Reading that administrative costs "preserving the estate" include costs incidental to the operation of the bankrupt's business (including in that case tort claims). Reading Co. vs. Brown, 391 U.S. 471, 476–77 (1968) (decided under the Bankruptcy Act).

23. There are two additional features of the Plan which contravene the Code, meaning the Debtors cannot meet the Section 1129(a)(1) confirmation requirement: the enjoinder of set off rights and the overly broad retention of jurisdiction. First, Subsection C of Article XI enjoins "asserting a set off or right of subrogation of any kind". That provision impermissibly abrogates Section 553 of the Code's preservation of set off rights. See Citizens Bank of Md. v. Strumpf, 516 U.S. 16, 18 (1995). The injunction must be narrowed to exclude the County. Second, the aforementioned injunctive provisions as well as Article XI's extremely broad retention of jurisdiction may be read as restricting the County from taking enforcement action outside of this Court or divesting other tribunals of jurisdiction. These provisions are violative of the Code and should be stricken accordingly.

B. The Plan is not feasible and lacks adequate means for implementation as to environmental obligations and liabilities.

24. The Plan contains a vacuum regarding how Debtors will fund their additional bonding requirement, address on-going environmental concerns, including the installation of a groundwater monitoring network, and how it will accomplish reclamation. Moreover, the Plan is silent about the Debtors' intention regarding the Chippewa Mine. For these reasons, the Plan is not feasible and fails to provide an adequate means for implementation.

25. The confirmation requirement of “feasibility” is found in Section 1129(a)(11) of the Code, which requires:

Confirmation of the plan is not likely to be followed by the liquidation, or the need to further financial reorganization, of the debtor or any successor to the debtor under the plan, unless such liquidation or reorganization is proposed in the plan.

W.R. Grace & Co., 475 B.R. 34, 114 (D. Del. 2012) (the debtor bears the burden of proof on feasibility); See In re Paragon Offshore PLC, No. 16-10386 (CSS), 2016 WL 6699318, at *16 (Bankr. D. Del. Nov. 15, 2016) (denying confirmation due to lack of feasibility).

26. How is Chippewa supposed to evaluate the Plan’s feasibility, specifically the reorganized company’s ability to honor its reclamation and monitoring obligations? The Disclosure Statement describes Debtors’ expectation of \$100 million in exit financing, half of which is projected to be applied to the Plan distributions. The County is also aware that the Debtors and the Unsecured Creditors Committee (“Committee”) are engaged in a valuation fight. So the Committee on behalf of Class 6 seeks to extract significantly more value from the estate by enhancing Plan distributions to unsecured creditors. The County has no idea what other internal funding requirements the reorganized company will have and its available resources. But it is not the County’s job to speculate on the Debtors’ financial viability and its Plan’s feasibility – it is the Debtor’s burden to make the requisite showing.

27. Similarly, the Plan falls short of meeting another confirmation requirement: Section 1123(a)(5). That Code provision requires that a plan “provide adequate means for the plan’s implementation”. Again, the Debtors have not been forthcoming in their intentions regarding the Chippewa Mine. And there is nothing in the Plan or Disclosure Statement offering any clues. Therefore, the Debtors do not meet their burden under Section 1123(a)(5) with

respect to one of their mining properties, a property to which they are in default under their statutory obligations.

28. Notwithstanding that the United States Supreme Court in Midlantic spoke very clearly on the subject, the County has concerns that the Debtors either intend, or are preserving the option, to pursue a de facto abandonment of the Chippewa Mine after emergence from Chapter 11. If that is not the intention, the Debtors can alleviate the concern by complying with the confirmation requirements set forth in Sections 1129(a)(11) and 1123(a)(5).

C. The Plan has not been proposed in good faith.

29. Finally, the Debtors cannot confirm their Plan because it has not been proposed in good faith. Section 1129(a)(3) requires “the plan has been proposed in good faith and not by means forbidden by law.” See In re Lernout & Hauspie Speech Prod. N.V., 301 B.R. 651, 657 (Bankr. D. Del. 2003), *aff’d* 308 B.R. 672 (D. Del 2004) (good faith has been defined alternatively as requiring: (1) the plan will foster a result consistent with Code’s objections; (2) the plan has been proposed with honesty and good intentions; or (3) there was fundamental fairness in dealing with the creditors.) (internal citations omitted)).

30. The County submits the Plan does not meet the “good faith” standards under the Code. The Plan is silent on a business plan for the Chippewa Mine and any intention to correct violations under applicable state and local law. These omissions - coupled with the Debtors’ position there is no cure amount owing in connection with the Bonds they want to assume - fundamentally reflects a lack of good faith. This chapter 11 plan would not advance the Code’s objectives, does not reflect honesty and good intentions, and is not fair. See id.

31. In addition, the Plan as designed will be implemented with respect to the Chippewa Mine by means forbidden by law. As explained above, the Debtors are violating applicable non-bankruptcy law, i.e., the County's Mine Permit. The Debtor has not addressed how it will address on-going environmental concerns including but not limited to the installation of a groundwater monitoring network, how it will accomplish Reclamation post-bankruptcy and how it will cure the default in Bonding required by state and local law. Congress' passage of 28 U.S.C. § 959(b) removes any doubt of the Debtors' ongoing obligations. Indeed, the United States Supreme Court cited this statute to underscore this point in Midlantic. See Midlantic, 494 at 505–07 (finding no preemption of state and local laws).

32. In summary, the Plan fails to meet several confirmation requirements and therefore cannot be confirmed.

JOINDER

33. The County joins ASIC's Limited Objection and Reservation of Rights. ASIC provides a good description of the Bonds to be assumed and the background and relationship between itself, the Debtors and the County as obligee. Clearly, the County is a third party beneficiary with respect to the Bonds. See generally In re Orexigen Therapeutics, Inc., 596 B.R. 9, 22 (Bankr. D. Del. 2018) (“[A] third-party beneficiary to a contract is a party who directly or incidently benefits from a contract between two other parties.”). The Debtors' position that the cure amount is zero for the Bonds it seeks to assume is baseless.

34. ASIC's correctly points to the Debtors' admissions in their “first day motion” seeking approval of the continuation of the bonding program: “the Debtors must be able to provide financial assurances to federal and state governments, regulatory agencies, and other parties”; cancellation could “render the Debtors in violation of ...federal laws and regulations

applicable to the Debtors' businesses...." The Debtors should be bound by these admissions when taking the position that the cure is zero, or more generally to the extent they disagree with the County's positions in this Objection.

35. As ASIC's explains, the Debtors are in default in two respects under the Bonds. First, they are in default of a renewal premium. Second, the County as obligee has demanded additional financial assurances and penal sum increases under the Bonds. However, the Debtors have failed to post the Collateral Shortfall. Disregarding these contractual obligations, which are necessary for the Debtors to comply with their statutory environmental obligations, the Debtors inexplicably state that their cure amount is zero.

36. For these reasons and as set forth in their pleading, ASIC's objections should be sustained.

RESERVATION OF RIGHTS

37. Nothing herein shall be considered a waiver of any rights that the County may have against the Debtors or any other parties. The County reserves all rights including, without limitation, the right to amend or supplement this Objection or Joinder.

WHEREFORE, for the foregoing reasons, the County respectfully requests that confirmation of the Plan be denied and that ASIC's objection be sustained.

Dated: October 18, 2019

FOX ROTHSCHILD LLP

/s/ Jeffrey M. Schlerf

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*Attorneys for Chippewa County Department
of Land Conservation & Forest Management*

Exhibit A

Chippewa County - NMM Permit

NONMETALLIC MINING RECLAMATION PERMIT

This permit is issued under the Chippewa County Nonmetallic Mining Reclamation Ordinance and Wisconsin Administrative Code NR135.

Operator: Superior Silica Sands

Owner: Anthony Glaser, et al; Chris Culver & Dennis Culver; Kevin Pietz; Lary & Anna Boese; Robert Hass; David & Bonnie Dobbs

Permit Number: 2011-02

Date: October 5, 2017

Permit Conditions

1. Standards & Implementation

- a. All mining and reclamation shall be conducted in compliance with the Reclamation Plan that is comprised of the following documents:
 - i. “Non Metallic Mining Reclamation Plan Narrative; Superior Silica Sands; Town of Auburn, Chippewa County, Wisconsin”; dated May 2, 2011
 - ii. Four (4) 24” x 36” maps titled “Initial Site Map”, “Operations Site Map”, “Final Site Map”, and “Final Site Profiles”; all dated May 2, 2011.
 - iii. Plan Amendment I dated May 6, 2011; titled “Reclamation Plan Date Change”
 - iv. Plan Amendment II dated February 10, 2012; titled “Revised Storm Water Management Plan Recommendations for Site Improvements”
 - v. Plan Amendment III dated April 24, 2013; titled “Operations - Addendum”
 - vi. “Non-Metallic Mining Reclamation Plan; Superior Silica Sands – Mine Expansion”, dated and received December 21, 2012.
 - vii. Six (6) 24” x 36” maps titled “Existing Site Plan”, “Existing Site Contours”, “Operations Site Plan”, “Final Site Plan”, ‘Cross Sections”, and “Cover Type”; all dated December 21, 2012.
 - viii. Plan Amendment IV dated July 19, 2017 (untitled).
 - ix. “Storm Water Pollution Prevention Plan”, dated August 10, 2017.
 - x. Two (2) maps, as referenced the Storm Water Pollution Prevention Plan, titled “Drainage Base Map” and “Site Infrastructure and Land Cover”, dated August 2, 2017.
 - xi. “SSS Auburn Mine Standard Operating Procedure for Water Discharges Off-Site”, received August 22, 2017.
- b. This permit applies to the Combined Mine Site area as documented in the “Operations Site Plan” dated December 21, 2012. This permit incorporates and superceeds the previous permit issued May 6, 2011 and the permit amendments issued January 13, 2012, April 24, 2013, November 8, 2016, and April 26, 2017.
- c. All mining and reclamation shall be conducted in compliance with all provisions and standards of the Chippewa County Nonmetallic Mining Reclamation Ordinance and Wisconsin Administrative Code NR135.

- d. All mining and reclamation shall be conducted to meet or exceed provisions of Reclamation Standards for Non-Metallic Mines in Chippewa County (July 2007) and Plan Content Specifications and Engineering Requirements for Non-Metallic Mine Construction in Bedrock (9/17/2009).
- e. To monitor the extent of contemporaneous reclamation, a Reclamation Report & Activities Plan shall be filed with the Department of Land Conservation & Forest Management for each calendar year. The report shall be submitted no later than 30 days from the end of the permit year. The plan shall contain the items listed in Appendix G of the reclamation plan including: a) the extent of current mine development, b) the groundwater elevations as recorded in the groundwater monitoring wells, c) the dates and results of reclamation and stormwater facility inspections, d) activities implemented to provide groundwater protection, e) dates and results of stormwater discharge monitoring, f) reclamation and stormwater management activities planned, g) a daily record of the type, volume, and use of material brought to the mine; and h) any other items as required by this permit.

2. Financial Assurance

- a. Financial Assurance in the form of Surety Bond or Irrevocable Letter of Credit meeting the requirements of the Chippewa County Nonmetallic Mining Reclamation Ordinance and NR135.40 shall be submitted by the operator for approval prior to any mining activity at the site. Financial Assurance is required throughout the life for the mine.
- b. The amount of financial assurance shall equal as closely as possible the cost to Chippewa County of hiring a contractor to perform reclamation activities according to the approved reclamation plan. The amount of financial assurance shall be reviewed periodically by the Department of Land Conservation & Forest Management to assure it equals the current estimated reclamation costs.

3. Size & Scope

- a. The total permitted area of the mine site is 475 acres as shown in the reclamation plan on the "Operations Site Plan" map dated December 21, 2012. The mine site includes all areas of nonmetallic mineral extraction, haul roads, stormwater ponds, soil berms, and other areas meeting the definition of "nonmetallic mining site" or "site" in the Chippewa County Nonmetallic Mining Reclamation Ordinance.
- b. The floor elevation and excavation limit of the mine shall be no lower than 1100 MSL as shown in the reclamation plan on the "Cross Sections" map dated December 21, 2012.
- c. Changes to the areal extent or depth of the mine, or changes to the operation that may affect the capacity to meet reclamation standards of NR 135 and Chippewa County Nonmetallic Mining Reclamation Ordinance as documented in the Reclamation Plan shall require a revised Reclamation Plan and permit modification under NR 135.24.

4. Stream & Wetland Protection

- a. The location of areas of concentrated flow, waterways, and areas that convey direct runoff to Trout Creek, and the corresponding jurisdictional authority to regulate those areas under state and federal law, shall be determined by Chippewa County and the Wisconsin Department of Natural Resources (WI DNR) through the Wisconsin Pollution Discharge Elimination System (WPDES) permit process following the criteria established in the Chippewa County Shoreland Zoning Ordinance and WI Stats. Chapters 23, 30, 31, and 281.

- b. The location and boundary of all wetlands as defined by Wisconsin State Statute Chapter 23, including mapped wetlands shown on the "Operations Site Map" dated December 21, 2012 of the Reclamation Plan shall be delineated by a recognized wetland delineator following procedures in the 1987 edition of the Army Corps of Engineers Wetlands Delineation Manual.
 - c. Wetland delineations shall be completed and submitted to the Department of Land Conservation & Forest Management for review and approval before 10-1-2013. Upon approval, the operator shall file a plan amendment map that shows the delineated boundary of the wetlands.
 - d. A Continuous vegetative buffer shall be established along all streams and wetlands to prevent environmental pollution and meet standards for surface water and wetland protection, as established in NR 135.07.
 - i. The buffer shall be established to be 300 feet from the ordinary high watermark of streams or 100 feet from the boundary of wetlands whichever is greater. No mining or mine-related site disturbing activities are permitted within this buffer.
 - ii. The stream and wetland buffers shall be monumented with permanent markers for the life of the mine. Pre-existing agricultural uses including cultivated cropland fields and agricultural pastures shall be allowed within the buffer.
 - e. The approximate location and boundaries of the stream and wetland vegetative buffer areas are shown in the reclamation plan on the "Operations Site Plan" map dated December 21, 2012. This map shall be updated by the operator to reflect actual conditions based upon field determinations of the watercourse and wetlands and the jurisdictional determinations of the responsible regulatory authority. The updated map shall be submitted to the Department of Land Conservation & Forest Management before 12-31-2013, or before an alternative date as mutually agreed upon.
 - f. In the event that unique conditions exist where mining activities cannot be conducted to avoid or minimize the impacts to streams or wetlands, the operator will seek the appropriate permits for any impacts that could occur as a result of mining and processing activities. Such permits could include wetland mitigation measures as dictated by the applicable state or federal laws.
 - g. In circumstances where wetland mitigation is required Chippewa County will encourage and support the concept of on-site, in-kind wetland mitigation pursued through the nonmetallic mine site reclamation process.
 - h. Final reclamation of each of the mine phases as identified in the reclamation plan shall establish grades that restore the watershed boundaries, to the extent practicable, that existed prior to mining.
5. Stormwater Management
- a. The operator shall fully comply with the terms of the WI DNR WPDES General Permit to Discharge, WI-B046515-6 (Nonmetallic Mining Operations for Industrial Sand Mining and Processing) and any subsequent permit revisions.
 - b. A stormwater management system shall be designed, installed, and maintained to meet the nonmetallic mine standards established for surface water and groundwater protection in NR135.07 & 135.08, and shall provide sufficient capacity to store and infiltrate runoff for all rainfall events smaller than the 100 year, 24 hour event (6.38 inches).
 - c. Stormwater ponds shall be constructed with a stable rock lined outlet that will safely accommodate runoff events up to the 100 year, 24 hour event (6.38 inches).

- d. Site specific design documentation for stormwater ponds and conveyances including construction drawings and hydraulic computations shall be submitted to the Department of Land Conservation & Forest Management for review and approval prior to development of each mine phase.
- e. Whenever changes to the stormwater management system are proposed or required the operator shall retain a Professional Engineer to re-design the storm water management system. The re-design documentation shall include computations to show that the changes to the stormwater management system will meet the design requirements. This information shall be submitted to the Department of Land Conservation & Forest Management for review and approval prior to construction of the changes.
- f. The stormwater management system shall be routinely inspected and maintained by the operator to assure the system continues to function as designed.
 - i. Sediment that accumulates in stormwater ponds shall be fully removed from the stormwater pond bottom after major storm events or as needed to maintain the design storage capacity.
 - ii. Sediment removed from stormwater ponds shall be stockpiled, seeded, stabilized, and used in mine site reclamation.
- g. In the event that stormwater runoff exceeds the capacity of the stormwater management system and stormwater runoff leaves the mine site, the operator shall immediately contact the Department of Land Conservation & Forest Management.
- h. Upon approval in 2016, stormwater contained in the mine bottom and stormwater ponds may be discharged from the mine site for the purpose of reestablishing the design capacity of the existing stormwater system. This discharge shall be managed for the purpose of field application and irrigation of adjacent agricultural fields.

To be allowed, this stormwater discharge must meet all of the following requirements:

- i. The mine operator shall provide to the County a map showing the location of the agricultural fields to receive the discharge, and signed authorization from each land owner receiving the discharge prior to commencing the discharge.
- ii. As a function of its source and location, water contained in the mine site shall be managed under one of three categories: 1) stormwater contained within stormwater ponds, 2) stormwater contained in the mine bottom, and 3) stormwater mixed with process water contained in the mine bottom or in existing process water ponds.

Prior to the initial discharge, a sample from each category shall be taken and analyzed at an approved laboratory. As agreed to by Superior Silica Sands and the County, samples shall be analyzed for the following parameters:

bacteria count, n+n nitrates, pH, alkalinity, hardness, chloride, conductivity, corrosivity index, and metals (As, Ca, Cu, Fe, Pb, Mg, Mn, K, Na, SO₄, Zn)

The results of the chemical analysis with source location shall be submitted to the County within 30 days of commencing the discharge and shall be submitted to the County as part of the Reclamation Report and Activities Plan defined in Section 1.e..

- iii. The mine operator shall notify the County 48 hours prior to commencing the discharge.

- iv. The mine operator shall maintain a record that documents the rate of discharge and the total volume of discharge for each managed water source.

These stormwater discharge records shall be compiled and submitted to the County as part of the Reclamation Report and Activities Plan defined in Section 1.e..

- v. The mine operator shall manage and continuously monitor the stormwater discharge to assure that there is no surface ponding or runoff leaving the agricultural field. If runoff is observed, either in the form of sheet flow or channelized flow, the irrigation rate shall be immediately reduced to eliminate runoff.
- vi. The mine operator shall obtain all state and federal authorization to perform the stormwater discharge.
- i. Beginning in 2017, the County may allow an extension of the stormwater management practice established in Section 5.h. as part of ongoing stormwater management measures. To obtain this authorization, the mine operator shall:
 - i. Submit a written proposal requesting the authorization to regularly restore the capacity of stormwater ponds by discharging stormwater to agricultural fields.
 - ii. Meet condition requirements 5.h. (i.–vi.).
 - iii. Submit an approved nutrient management plan for each crop and field receiving the stormwater discharge. Plan shall be prepared by a certified crop adviser applying the most current version of the nutrient management module (Snap Plus).
 - iv. Other conditions as agreed to by the County and Superior Silica Sands.
- j. Storm water contained in the mine bottom and in storm water ponds may be discharged from the active mine site to groundwater within the mine total permit boundary for the purpose of reestablishing the design capacity of the existing storm water system.

To be allowed, this stormwater discharge must meet the requirements of permit conditions 5.h.iii., 5.h.iv., 5.h.v., and 5.h.vi., as established in Permit Amendment 1 (dated November 8, 2016), except the phrase “agricultural field”, as referenced in condition h.v., shall be replaced with “mine total permit boundary” for the purpose of this condition.

6. Site Clearing

- a. The Department of Land Conservation & Forest Management shall be contacted at least 72 hours prior to commencement of any new land clearing or stripping activities in undisturbed areas of the mine site.
- b. All topsoil, subsoil and overburden in areas of mining shall be systematically and individually stripped and stockpiled for future use in reclamation. The location of these stockpiles shall be identified with permanent signage or shall be identified on a map that shows the location of all stockpiles of topsoil, subsoil, and overburden. This map shall be submitted to the Department of Land Conservation & Forest Management after initial site stripping and after any changes in stockpile management.
- c. No topsoil, subsoil, or overburden material shall leave the site during the entirety of the site operations.

- d. Burning of stumps, or any other material, in the mine is prohibited. All residual woody biomass that is the byproduct of timber harvesting, excluding stumps, shall be retained and when practical, composted on site, and used as a soil amendment during final reclamation.

7. Groundwater & Surface Water

- a. The operator shall install a groundwater monitoring wells to augment the existing monitoring well network for the purpose of establishing the actual groundwater elevation at the mine site, monitoring changes to the groundwater elevation over time, and if required for monitoring water quality.
- b. The new network shall be planned and designed by a Professional Hydrologist or Professional Engineer, in cooperation with the LCFM, to triangulate the elevation of the water table surface and to establish the direction of groundwater flow at the site.
- c. The new network shall consist of a minimum of 13 monitoring wells as shown in the "Operations Site Plan" dated 12-21-2012 and may be installed in its entirety at the onset of operations in the expanded mine area, or may be installed in stages over time to coincide with the planned phases of mine development and reclamation.
- d. The operator shall provide the Department of Land Conservation and Forest Management with boring logs or well constructors reports from the construction of each monitoring well that document the subsurface geology, the construction methods, and well depth. This information shall be provided within one month of the wells construction.
- e. The elevations of the water table surface in each of the monitoring wells shall be recorded no less than monthly the first year of operations and quarterly thereafter for the life of the mine. This information shall be submitted to the County as part of the Reclamation Report and Activities Plan defined in Section 1.e..
- f. Using the information gathered from the monitoring well network the operator shall prepare a site specific groundwater elevation map. The operator shall provide this map to the Department of Land Conservation & Forest Management as part of the Reclamation Report and Activities Plan defined in Section 1.e..
- g. The groundwater elevation map shall be refined as mine development progresses, and additional information becomes available from additional monitoring wells, or from other sources.
- h. The operator shall provide a copy of any application and permit for a high capacity well that is subject to state permit requirements. The application and permit shall be provided to the Department of Land Conservation & Forest Management within 30 days of permit issuance.
- i. Production wells installed at the mine site shall be constructed to limit the potential for groundwater movement between aquifers and to limit impacts on surface waters near the mine. Wells shall be cased from the surface through the lowest extent of the Eau Claire sandstone formation to an elevation no higher than 960 feet above (Mean Sea Level).
- j. The operator shall keep records of pumping rates and volumes for all high capacity wells at the mine site on a monthly basis following procedures established in NR 820.13. The operator shall provide a copy of those records to the Department of Land Conservation & Forest Management as part of the Reclamation Report and Activities Plan defined in Section 1.e..

- k. The operator shall prepare a Water Conservation Plan to limit consumptive use of groundwater. The plan shall include a water budget for the operation that shows the typical annual volume of gains and losses to mining and reclamation activities. The plan shall also describe the processes and best management practices that the operator will follow during mining and reclamation to reduce the consumptive use of groundwater at the mine site.
- l. In the event that offsite monitoring shows that mining or reclamation activities at this site have caused a lowering of the water table that results in adverse effects on surface waters or a significant reduction in the quantity of groundwater reasonably available for future users of groundwater, the operator will mitigate these effects by revising the Water Conservation Plan to limit the pumping frequency, rate or volume of groundwater or to implement water conservation practices to restore groundwater elevations. Any changes to the Water Conservation Plan are subject to review and approval by the Department of Land Conservation & Forest Management.

8. Water Quality

- a. In the event that offsite monitoring shows that mining or reclamation activities at this site have caused groundwater quality standards of Wisconsin Administrative Code NR140 to be exceeded at a point of standards application the operator will seek to mitigate these effects by altering site operations.
- b. This permit does not relieve the owner or operator of the responsibility for compliance with all provisions of Wisconsin State Statute 281, Wisconsin Administrative Code NR 820, or Wisconsin Administrative Code NR 812, as they may pertain to waters of the state and the operation of any private wells on neighboring properties, and any associated liability under state law.

9. Settling & Process Water Ponds

- a. In the event that the operator uses flocculants, coagulants, or other chemicals as part of mining or wash plant operations the operator shall perform all of the requirements contained under permit condition 9.a.
 - i. Select chemical products that limit the potential for groundwater pollution, as may be identified on recognized product lists available from Wisconsin DNR, EPA, or other agencies.
 - ii. The type, and volume of flocculent, coagulant, or other chemicals used shall be included as part of the Reclamation Report and Activities Plan defined in Section 1.e..
 - iii. Use chemical products in accordance with the product label requirements to limit the potential for water pollution.
 - iv. Line settling and process water ponds and associated conveyances to limit the infiltration and leaching of chemical constituents that may be used in mining processes. Liners shall be designed by a Professional Engineer and constructed under their supervision to meet standards and specifications of Wisconsin Administrative Code NR 213.
 - v. Test the process water and associated sediment accumulated in the mine site settling and process water ponds for pH, nitrate-nitrogen, phosphorus, potassium, chloride, fluoride, sulfate, total coliform, aluminum, arsenic, barium, boron, calcium, copper, iron, lead, manganese, magnesium, sodium, strontium, and zinc, and concentrations of residual materials associated with the type of chemicals used. Testing will be performed annually or at any time when there are changes to the type of chemicals used. These test results will be included as part of the Reclamation Report and Activities Plan defined in Section 1.e..

- vi. Implement best management practices that limit the potential for damaging settling and process water pond liners during dredging or excavation of accumulated sediment. The settling and process water pond liners shall be maintained defect free and repairs shall be made as necessary to maintain the integrity of the liner.
 - vii. Apply appropriate best management practices when managing liquids and sediment removed from the settling and process water ponds. In selecting the best management practices for materials management, storage, and disposal, the operator shall consider the results of material testing and material characterization, and shall apply these practices to minimize the potential for groundwater leaching of soluble materials during or after mine reclamation.
 - viii. Settling and process water ponds liners shall be removed at the time final reclamation. Liners shall be disposed of in accordance with all federal, state, and local laws. Earthen liner material shall be land applied or used as a soil amendment.
- b. The operator shall establish a Maximum Operating Level for each process water pond that includes 1 foot of freeboard and the additional depth required, at a minimum, to hold the rainfall and runoff volume from a 10 year 24 hour storm event.
 - i. The operator shall install Maximum Operating Level Markers on each of the process water ponds in a minimum of two separate locations. One marker shall be located at the inlet to the pond and one shall be located at the outlet.
 - ii. For each process water pond the operator shall provide a written description of the Maximum Operating Level Markers, their elevations, and the top of embankment elevations to the Department of Land Conservation & Forest Management prior to using the pond.
 - c. Settling and process water ponds that are also designed to manage stormwater shall be operated so that they are routinely maintained at or below the Maximum Operating Level as described in the Plan Amendment III, dated April 24, 2013, of the Reclamation Plan.

10. Alternative Settling & Process Water Pond Liner

- a. In the event that the operator uses flocculants, coagulants, or other chemicals as part of mining or wash plant operations the operator may, as an alternative to meet condition 9.a.iv., choose to line the settling and process water ponds and associated conveyances with earthen materials of high silt and clay content. The earthen liners shall meet the design and construction specifications contained in Attachment I, titled: Alternative Settling Pond Liner Specification, (LCFM 9/29/09).
- b. In circumstances where the alternative liner is selected the operator shall design, implement, and maintain a groundwater monitoring system and sampling program with the explicit purpose of detecting and measuring the concentration of acrylamide that may enter the groundwater from the existing settling ponds. The sampling frequency shall be once every three months. The sampling frequency may be reduced upon mutual agreement by the operator and the Department of Land Conservation & Forest Management.
 - i. Samples shall be collected and handled following the methods prescribed in the Wisconsin Department of Natural Resources "Groundwater Sampling Field Manual".

- ii. The test method used for detection of acrylamide in groundwater samples shall be EPA Method 8032A. Alternative methods may be used with prior approval from the Department of Land Conservation & Forest Management. A certified copy of all laboratory results will be submitted to the Department of Land Conservation & Forest Management within two weeks of receipt.
- c. In circumstances where the alternative liner is selected and the operator proposes to use chemicals other than polyacrylamide the operator shall provide an engineering analysis to document the potential for groundwater pollution. The engineering analysis shall be conducted to assess the risk of groundwater pollution based on the physical properties of the liner and the chemicals that are proposed for use. The engineering analysis shall be submitted to the Department of Land Conservation & Forest Management for review and approval prior to their use.
 - i. The engineering analysis shall document the potential risk of surface water and groundwater pollution associated with using the chemicals as they may apply to water quality standards as established in NSF Standard 60 and NR 140.
 - ii. The engineering analysis shall identify the best management practices that can be used to limit the risk of surface water and groundwater pollution.
- d. In the event that the results of the engineering analysis show a significant risk of surface water or groundwater pollution, the operator shall prescribe a sampling and testing protocol to document and verify the effectiveness of the best management practices as proposed.

11. Offsite Water Discharge

- a. All wastewater discharges must meet the requirements of the General Discharge Permit WPDES Permit No. WI-B046515-6 Section 5, and all other applicable DNR requirements and state standards.
- b. The operator shall install and maintain a recording rain gage at the site for the purpose of recording rainfall and managing stormwater and contaminated stormwater. The continuous record of daily rainfall for the previous year shall be submitted to the County as part of the Reclamation Report and Activities Plan defined in Section 1.e..
- c. Stormwater, contaminated stormwater, and wastewater may be discharged from the permitted mine to either groundwater or surface water. To be permitted, discharges must meet the requirements of the most current Storm Water Pollution Prevention Plan (SWPPP) and Standard Operating Procedure (SOP) filed with Chippewa County, as referenced in Section 1.a..
- d. Modifications to the Storm Water Pollution Prevention Plan or Standard Operating Procedure shall be approved by the LCFM prior to implementation.
- e. The operator shall notify Chippewa County 24 hours prior to commencing an offsite discharge.
- f. On an annual bases, and prior to commencing any discharge from the mine, one representative sample of contaminated stormwater and one representative sample of wastewater shall be taken following established state sampling protocol, and tested for the following parameters:

bacteria count, n+n nitrates, pH, alkalinity, hardness, chloride, conductivity, corrosivity index, and metals (As, Ca, Cu, Fe, Pb, Mg, Mn, K, Na, SO₄, Zn)

The results of the chemical analysis with source location shall be recorded and submitted to the County as part of the Reclamation Report and Activities Plan defined in Section 1.e..

- g. In circumstances when stormwater or contaminated stormwater in a stormwater pond exceeds the established maximum operating level (MOL) of the pond, the contaminated stormwater in the stormwater pond shall be monitored and tested for total suspended solids (TSS) within 3 days of the end of the rain event.
 - i. If, within 3 days of the end of the rain event, the contaminated stormwater is at or below 40 mg/L TSS, the water shall be discharged from the mine site or pumped to another location within the mine to restore water level to the MOL. The rate and duration of discharge shall be monitored and recorded to ensure no channelized erosion occurs in areas of concentrated flow. The controlled discharge shall be completed before the next anticipated or forecasted rain event.
 - ii. If, within 3 days of the end of the rain event, the contaminated stormwater stored above the MOL remains above 40 mg/L TSS, the water above the MOL shall be pumped to a wastewater pond and be treated as wastewater, or used as makeup water in wash plant process.
- h. A record of all discharges, including the pond name, start and stop time of discharge, estimated discharge rate, and all other sampling requirements in the SWPPP and SOP shall be recorded and submitted to the County as part of the Reclamation Report and Activities Plan defined in Section 1.e..

12. Solid Waste & Spills

- a. The import, storage or disposal of any solid waste, recyclable materials or nonmetallic mine refuse generated outside the mine site is subject to the registration provisions of Chapter 30-77 of the Chippewa County Nonmetallic Mining Reclamation Ordinance.
- b. A waste utilization plan shall be developed to optimize the use of any reject materials generated from offsite processing facilities that are proposed to be used in reclamation prior to that material being hauled to the mine. The plan will characterize the physical properties and chemistry of waste products from off-site processing facilities following the intent and procedures established in Wisconsin Administrative Code Chapter NR 518.06(1), and will include a general assessment of benefits or possible adverse effects of the material's use following the intent and procedures established in NR 518.06(2). If polyelectrolytes are used in association with the production of these materials, annual testing will be required for the appropriate polyelectrolyte contaminants identified in NSF/ANSI Standard 60.
- c. Material characterization and test results will be evaluated by the operator, working through a professional licensed geologist, hydrologist, or engineer with the objective of meeting standards for groundwater quality management and protection, as established in Wisconsin Administrative Code Chapter NR 140 and NSF/ANSI Standard 60.
- d. In the event that leachate concentration from reject material test results exceeds the preventive action limits referenced in NR 140 or the allowable concentration in drinking water referenced in NSF/ANSI Standard 60, the mine operator shall:
 - i. Design and implement a groundwater monitoring system and sampling program with the explicit purpose of detecting and measuring the concentration of constituents that have the potential to leach and cause groundwater pollution.

- ii. In the event that groundwater monitoring shows that the preventive action limits referenced in NR 140 or the allowable concentration in drinking water referenced in NFS/ANSI Standard 60 have been exceeded the operator shall dispose of the the reject material at a different location in accordance with federal, state, and local laws and seek to remediate the associated groundwater pollution.
- e. Material tests will be conducted: 1) prior to disposition of any off-site material; 2) on an on-going basis at least once per year; 3) at the time of any changes to the properties or chemistry of the waste products associated with new sources of waste materials or new processing additives, including flocculants.
- f. Fueling of equipment inside of the mine shall be discouraged and limited to vehicles such as tracked equipment that cannot readily access an off-site fueling station. Fueling of highly mobile equipment such as rubber tired loaders, scrapers and trucks shall occur in areas that pose a reduced risk of groundwater pollution. In all cases spill containment practices such as drip pans, absorbent pads, or other recognized practices shall be used to contain drips and spills during fueling.
- g. In the event of fuel spills or other hazardous waste spills the operator shall immediately contact the Department of Land Conservation & Forest Management.

13. Agricultural Operations

- a. Existing agricultural fields and pastures located within the mine boundary may, at the discretion of the operator, remain in agricultural production or may be taken out of production. No agricultural operations shall be conducted within the boundary of an active mine phase. For agricultural fields and pastures that remain in production, the operator shall assure that agricultural operations are conducted in accordance with all applicable local, state and federal laws, and administrative rules.
- b. For those agricultural fields and pastures that remain in production, the agricultural producer and mine operator shall, before March 15, 2014 develop and submit to the Dept. of Land Conservation & Forest Management a nutrient management plan that meets the specifications of WI NRCS Technical Guide Standard 590.
- c. The nutrient management plan shall be implemented by the responsible agricultural producer(s) to assure that agricultural operations meet or exceed state agricultural nonpoint pollution control standards, as specified in WI Admin. Rule NR 151. The agricultural producer(s) and mine operator shall report and certify on an annual basis that the nutrient management plan is being followed and that the agricultural pollution control standards are being met.

14. Site Reclamation & Post-Mining Land Use

- a. The post mining land use for the original mine site area, as documented in the "Operations Site Map" dated May 2, 2011, shall be established as agricultural row crop, other agricultural, or wildlife habitat.
- b. The post mining land use for the Mine Site Expanded Area, as documented in the "Operations Site Map" dated December 21, 2012, shall be established as passive recreation and wildlife habitat.
 - i. In pursuing the post mining land use as wildlife habitat the mine site shall be restored, to the extent practicable, to a condition at least as suitable as that which existed before the lands were affected by nonmetallic mining operations.

- ii. All disturbed areas (with the exception of possible wetland mitigation sites), including abandoned agricultural fields, shall be restored to establish a forested or native prairie land cover as planned.
- c. On or before January 31, 2014 the mine operator shall develop and submit, to the Department of Land Conservation & Forest Management for review and approval, a freestanding site restoration and property management plan. The plan shall be prepared and implemented by the operator to guide ongoing efforts to systematically manage, restore, and monitor the mine property as a management unit. At a minimum, the plan shall include:
 - i. A description of the methods that will be used to restore and manage areas disturbed by mining, including: 1) the methods that will be used to limit soil compaction and facilitate soil profile development through the addition of soil amendments and biological conditioning, 2) the methods, plant species, and densities that will be used to establish and maintain the planned forested and native prairie cover types, 3) the methods and materials that will be used to control noxious weeds and invasive species.
 - ii. A project design and implementation schedule that explains how onsite test plots and undisturbed control plots will be used to demonstrate the feasibility of achieving the proposed site reclamation and post mining land uses as planned.
 - iii. A vegetative cover map of the permitted area showing the approximate boundaries of disturbed and undisturbed areas, the anticipated post-mining surface contours, the vegetative cover types that will be maintained or established on the undisturbed and disturbed areas of the mine, and the proposed locations of onsite test plots and undisturbed control plots to be used in site reclamation.
- d. The operator shall develop and implement a system of field test plots using the project design established in the site restoration and property management plan. These test plots will be established, planted, and maintained to demonstrate methods to be used in site reclamation, and to evaluate the success of site restoration. The operator shall maintain records that document:
 - i. The methods and materials used to establish the test plots, and undisturbed control plots.
 - ii. The physical and biological characteristics of the test plots and control plots, as initially established and monitored over time.
- e. The successful reclamation of restored areas shall be determined by the Department of Land Conservation & Forest Management using the following criteria: site stability, plant density and species diversity, plant rooting depth and density, soil chemistry and fertility, the type and amount of soil organic matter, soil depth, and the extent of soil profile development.
- f. The completion of successful reclamation shall be determined through physical site inspections. In making the determination of successful reclamation, Department of Land Conservation & Forest Management may take into account other supporting information including information generated from onsite test plots or from other areas of the mine site that have been previously reclaimed.
- g. When applying the criteria and evaluating the quality of the site reclamation, the Department of Land Conservation & Forest Management shall recognize and consider the physical site conditions and limitations that existed at the restored site before mining.

15. Certification of Reclamation

- a. Parcels subject to permit requirements may be released from the reclamation permit upon satisfaction of mine lease obligations as determined by the operator, and upon certification that reclamation requirements and standards have been met, as determined by the County.
- b. Upon certification of site reclamation and release from the reclamation permit, all future land use decisions shall be at the discretion of the landowner and shall comply with all applicable laws, ordinances, and administrative rules that may apply to the use of the land at the time of release.
- c. If a lease is cancelled on a parcel that has not been certified as reclaimed, and the lease cancellation occurs for any reason other than the purchase of the parcel by the operator, the operator shall immediately reclaim the parcel in accordance with the reclamation plan. If the operator fails to reclaim the parcel in accordance with the nonmetallic mining reclamation plan, the operator's financial assurance will be forfeited for that parcel and will be used by the County to reclaim the site.

16. Permit Evaluation and Amendments

- a. The Department of Land Conservation & Forest Management shall periodically evaluate the extent of contemporaneous reclamation achieved through mining operations, and the extent of compliance with reclamation standards.
- b. The Department of Land Conservation & Forest Management may allow for design variations and may amend or alter operational conditions that do not significantly alter the scope of the reclamation plan or the reclamation permit issued under the authority of Sec. 30-105 of the Chippewa County Non-Metallic Mining Reclamation Ordinance.
- c. All permit alterations or amendments shall be mutually acceptable and agreed to by the Department of Land Conservation & Forest Management and by the operator. Reclamation of areas designated with an agricultural post mining land use shall comply with all Wisconsin Administrative Code NR 151 standards (and any subsequent revisions) standards as they apply to non-point source pollution control.

As the operator, or authorized representative of the operator, I hereby acknowledge and agree to the above permit conditions.


Signature

Oct 5 2017
Date

Josh Clements
Printed Name - Operator

Director of operations
Title

Permit approval by Department of Land Conservation & Forest Management


Signature

10/5/2017
Date

CHRISTIE HUPPERT
Printed Name - Authorized Staff

PROJECT ENGINEER II
Title

Chippewa County - NMM Permit

NONMETALLIC MINING RECLAMATION PERMIT

This permit is issued under the Chippewa County Nonmetallic Mining Reclamation Ordinance and Wisconsin Administrative Code NR135.

Operator: Superior Silica Sands
Owner: Anthony Glaser, et al; Chris Culver; Dennis Culver; Kevin Pietz
Permit Number: 2011-02
Date: May 2, 2011

Permit Conditions

1. Standards & Implementation

- a. All mining and reclamation shall be conducted in compliance with the reclamation plan titled: Non-Metallic Mining Reclamation Plan Narrative, Superior Silica Sands, dated 3-17-2011 and four (4) 24" x 36" copies of the maps titled "Initial Site Map", "Operations Site Map", "Final Site Map", and "Final Site Profiles"; all dated 3-18-2011.

All mining and reclamation shall be conducted in compliance with all provisions and standards of the Chippewa County Nonmetallic Mining Reclamation Ordinance and Wisconsin Administrative Code NR135.

All mining and reclamation shall be conducted so that they meet or exceed provisions of Reclamation Standards for Non-Metallic Mines in Chippewa County (July 2007) and Plan Content Specifications and Engineering Requirements for Non-Metallic Mine Construction in Bedrock (9/17/2009).

- b. To monitor the extent of contemporaneous reclamation, a Reclamation Report & Activities Plan shall be filed with the Department of Land Conservation & Forest Management for each calendar year. The report shall be submitted no later than 30 days from the end of the year. The plan shall contain the items listed in Appendix G of the reclamation plan including: a) the extent of current mine development, b) the dates and results of reclamation and stormwater facility inspections, c) activities implemented to provide groundwater protection, d) dates and results of stormwater discharge monitoring, e) reclamation and stormwater management activities planned, f) a daily record of the type, volume, and use of material brought to the mine; and g) any other items as required by this permit.

2. Financial Assurance

Financial Assurance in the form of Surety Bond or Irrevocable Letter of Credit meeting the requirements of the Chippewa County Nonmetallic Mining Reclamation Ordinance and NR135.40 is required throughout the life for the mine.

The amount of financial assurance shall equal as closely as possible the cost to Chippewa County of hiring a contractor to complete reclamation according to the approved reclamation plan. The amount of financial assurance shall be reviewed periodically by the Department of Land Conservation & Forest Management to assure it equals the current estimated reclamation costs.

3. Size & Scope

- a. The total permitted area of the mine site is 135 acres. The mine site includes all areas of nonmetallic mineral extraction, haul roads, stormwater ponds, soil berms, and other areas meeting the definition of “nonmetallic mining site” or “site” in the Chippewa County Nonmetallic Mining Reclamation Ordinance.
- b. The final floor elevations of the mine shall be no lower than the elevations shown on the Final Site Map as identified in Profile 1 and Profile 2 of the Reclamation Plan.
- c. Changes to the areal extent or depth of the mine, or changes to the operation that may affect the capacity to meet reclamation standards of NR 135 and Chippewa County Nonmetallic Mining Reclamation Ordinance as documented in the Reclamation Plan shall require a revised Reclamation Plan and permit modification under NR 135.24.

4. Wetland Protection

- a. The boundaries of all wetlands as defined by Wisconsin State Statute Chapter 23, including mapped wetlands shown on the Operations Site Map of the Reclamation Plan shall be delineated by a recognized wetland delineator following procedures in the 1987 edition of the Army Corps of Engineers Wetlands Delineation Manual.

Wetland delineations shall be completed and submitted to the Department of Land Conservation & Forest Management for review and approval before 8-1-2011. Upon approval, the operator shall file a plan amendment map that shows the delineated boundary of the wetlands.

- b. A 100 foot wetland boundary separation shall be established around each delineated wetland. The boundary of the wetland separation shall be monumented with permanent markers. No mining or site disturbing activities are permitted within this separation boundary.
- c. In the event that unique conditions exist where mining activities cannot be conducted to avoid or minimize the impacts to wetlands, the Department of Land Conservation & Forest Management may authorize these activities contingent upon approval of a compensatory Wetland Mitigation Plan. Authorized wetland mitigation shall be "in kind mitigation" conducted on or near the mine site, to replace wetland functions and values. Authorized wetland mitigation will occur at a replacement rate of 1.5 (replaced) to 1 (original).
- d. With respect to the wetland with approximate center point coordinates of Latitude 45.136440, Longitude -91.617858 final reclamation of mine phases I, II, and III (as identified in the reclamation plan) shall establish grades that restore the surface hydrology that existed prior to mining.

5. Stormwater Management

- a. The operator shall fully comply with the terms of the Wisconsin Department of Natural Resources (DNR) WPDES Runoff Discharge permit WI-0046515-05 and any subsequent permit revisions.

- b. A stormwater management system shall be designed, installed and maintained to meet the nonmetallic mine standards established for surface water and groundwater protection in NR135.07 & 135.08, and shall provide sufficient capacity to store and infiltrate runoff for all rainfall events smaller than the 10 year, 24 hour event (4.1 inches).

Stormwater ponds shall be constructed with a stable outlet that will safely accommodate runoff events up to the 100 year, 24 hour event (5.8 inches).

In the event that stormwater runoff exceeds the capacity of the stormwater management system and stormwater runoff leaves the mine site, the operator shall immediately contact the Department of Land Conservation & Forest Management.

- c. The stormwater management system shall be routinely inspected and maintained by the operator to assure the system continues to function as designed.

Sediment that accumulates in stormwater ponds shall be fully removed from the stormwater pond bottom when ponded water persists more than a week, or as needed after major storm events. If routine cleaning of sediment fails to eliminate ongoing ponding, a re-design of the storm water management system shall be undertaken.

Sediment removed from stormwater ponds shall be stockpiled, seeded, stabilized, and used in mine site reclamation.

- d. Whenever changes to the stormwater management system are proposed or required the operator shall retain a Professional Engineer to re-design the storm water management system. The re-design documentation shall include computations to show that the changes to the stormwater management system will meet the design requirements. This information shall be submitted to the Department of Land Conservation & Forest Management for review and approval prior to construction of the changes.

6. Site Clearing

- a. The Department of Land Conservation & Forest Management shall be contacted at least 72 hours prior to commencement of any new land clearing or stripping activities in undisturbed areas of the mine site.
- b. All topsoil, subsoil and overburden in areas of mining shall be systematically and individually stripped and stockpiled for future use in reclamation. The location of these stockpiles shall be identified with permanent signage or shall be identified on a map that shows the location of all stockpiles of topsoil, subsoil, and overburden. This map shall be submitted to the Department of Land Conservation & Forest Management after initial site stripping and after any changes in stockpile management.

No topsoil, subsoil, or overburden material shall leave the site during the entirety of the site operations.

- c. Burning of stumps, or any other material, in the mine is prohibited.

7. Groundwater & Surface Water

- a. The operator shall install a groundwater monitoring well network for the purpose of establishing the actual groundwater elevation at the mine site and for monitoring changes to the groundwater

elevation over time. The network shall consist of a minimum of four (4) monitoring wells. The network shall be designed to triangulate the elevation of the water table surface and to establish the direction of groundwater flow at the site. The monitoring well network design shall be designed by a Professional Hydrologist or Professional Engineer and reviewed and approved by the Department of Land Conservation & Forest Management in advance of well installation.

Using the information gathered in the monitoring well network the operator shall prepare a site specific groundwater elevation map. The operator shall provide this map to the Department of Land Conservation & Forest Management by 9-1-2011.

The elevations of the water table surface in each of the wells shall be recorded monthly the first year of operations and quarterly thereafter for the life of the mine and be included as part of the Annual Reclamation Report & Activities Plan.

- b. The operator shall provide a copy of any application and permit for a high capacity well subject to state permit requirements. The application and permit shall be provided to the Department of Land Conservation & Forest Management within 30 days of permit issuance.

Production wells installed at the mine site shall be constructed to limit the potential for groundwater movement between aquifers and to limit impacts on surface waters near the mine. Wells shall be cased from the surface through the lowest extent of the Eau Claire sandstone formation to an elevation no higher than 960 feet above (Mean Sea Level).

The operator shall keep records of pumping rates and volumes for all high capacity wells at the mine site on a monthly basis following procedures established in NR 820.13. The operator shall provide a copy of those records to the Department of Land Conservation & Forest Management as part of the Annual Reclamation Report & Activities Plan.

- c. The operator shall prepare a Water Conservation Plan to limit consumptive use of groundwater. The plan shall include a water budget for the operation that shows the typical annual volume of gains and losses to mining operations and reclamation activities. The plan shall also describe the processes and best management practices used in mine operation to reduce the consumptive use of groundwater at the mine site.
- d. In the event that offsite monitoring shows that mining or reclamation activities at this site have caused a lowering of the water table that results in adverse effects on surface waters or a significant reduction in the quantity of groundwater reasonably available for future users of groundwater, the operator will mitigate these effects by revising the Water Conservation Plan to limit the pumping frequency, rate or volume of groundwater or to implement water conservation practices to restore groundwater elevations. Any changes to the Water Conservation Plan are subject to review and approval by the Department of Land Conservation & Forest Management.

In the event that offsite monitoring shows that mining or reclamation activities at this site have caused groundwater quality standards of Wisconsin Administrative Code NR140 to be exceeded at a point of standards application the operator will seek to mitigate these effects by altering site operations.

- e. This permit does not relieve the owner or operator of the responsibility for compliance with all provisions of Wisconsin State Statute 281, Wisconsin Administrative Code NR 820, or Wisconsin Administrative Code NR 812, as they may pertain to waters of the state and the operation of any private wells on neighboring properties, and any associated liability under state law.

8. Settling Ponds

- a. Settling Ponds and associated earthen conveyances shall be lined to limit the infiltration and leaching of chemical constituents that may be used in mining processes. Liners shall be designed by a Professional Engineer and constructed under their supervision to meet standards and specifications of Wisconsin Administrative Code NR 213.
- b. In circumstances where flocculants, dispersants, or other chemicals are used in the mining or reclamation process the operator shall select products that limit the potential for groundwater pollution, as may be identified on recognized product lists available from Wisconsin DNR, EPA, or other agencies. The type, volume and frequency of flocculent, dispersants, or other chemicals used shall be provided as part of the Annual Reclamation Report & Activities Plan.
- c. The operator will test the sediment accumulated in the mine site settling ponds for concentrations of residual materials associated with the type of chemicals used. Testing will be performed annually or at any time when there are changes to the type of chemicals used. These test results will be included as part of the Annual Reclamation Report & Activities Plan.
- d. The operator shall apply appropriate best management practices when removing and managing liquids, sediment, and liner material from the settling ponds. In selecting the best management practices, the operator shall consider the results of material testing and material characterization.
- e. In circumstances where the settling pond will be abandoned in-place, the operator shall apply an earthen cap. The cap shall be designed to reduce the potential for long-term leaching of any deleterious materials into the groundwater.

9. Solid Waste & Spills

- a. The import, storage or disposal of any solid waste, recyclable materials or nonmetallic mine refuse generated outside the mine site is subject to the registration provisions of Chapter 30-77 of the Chippewa County Nonmetallic Mining Reclamation Ordinance.
- b. In the event of fuel spills or other hazardous waste spills the operator shall immediately contact the Department of Land Conservation & Forest Management.

Fueling inside of the mine shall be discouraged and limited to vehicles such as tracked equipment that cannot readily access an off-site fueling station. Fueling of highly mobile equipment such as rubber tired loaders, scrapers and trucks shall occur in areas that pose a reduced risk of groundwater pollution. In all cases, spill containment practices; such as drip pans, absorbent pads or other recognized practices; shall be used to contain drips and spills during fueling.

10. End Land Use

Reclamation of areas designated with an agricultural end land use shall comply with all Wisconsin Administrative Code NR 151 standards (and any subsequent revisions) standards as they apply to non-point pollution control.

As the operator, or authorized representative of the operator, I hereby acknowledge and agree to the above permit conditions.

James D. Walker
Signature

MAY 2, 2011
Date

JAMES D. WALKER
Printed Name - Operator

Director of Operations
Title

Permit approval by Department of Land Conservation & Forest Management

Dan Mastropolo
Signature

MAY 6, 2011
Date

DAN MASTROPOLO
Printed Name - Authorized Staff

DIRECTOR,
Title
Chippewas Co.
Dept. of Land Conservation
and Forest Mgmt

Exhibit B

FINANCIAL ASSURANCE BOND/NONMETALLIC MINING

Bond No. 800008775

KNOW ALL MEN BY THESE PRESENTS: that Superior Silica Sands as Principal, hereinafter called Principal, and, Atlantic Specialty Insurance Company as Surety, hereinafter called Surety, are held firmly bound unto the Chippewa County Department of Land Conservation and Forest Management, 711 N. Bridge Street, Chippewa Falls, WI 54729 as the Regulatory Authority, hereinafter called Authority, for the use and benefit of claimants as hereinafter provided in the amount of Two Million Nine Hundred Sixty Seven Thousand Eight Hundred Twenty Three Dollars and 89/100 (\$ 2,967,823.89) for the payment whereof Principal and Surety bind themselves, their heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

The amount of the financial assurance shall be reviewed periodically by the Authority to assure that it is adequate. The Authority may require additional financial assurance in the event the same is not adequate.

WHEREAS,

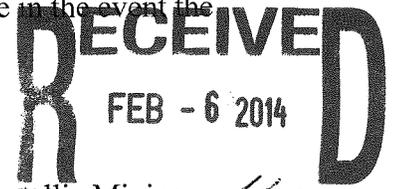
Principal has entered into a written agreement with Authority entitled Nonmetallic Mining Reclamation Plan comprised of the following documents:

- a. "Non Metallic Mining Reclamation Plan Narrative; Superior Silica Sands; Town of Auburn, Chippewa County, Wisconsin"; dated May 2, 2011
- b. Four (4) 24" x 36" maps titled "Initial Site Map", "Operations Site Map", "Final Site Map", and "Final Site Profiles"; all dated May 2, 2011.
- c. Plan Amendment I dated May 6, 2011; titled "Reclamation Plan Date Change"
- d. Plan Amendment II dated February 10, 2012; titled "Revised Storm Water Management Plan Recommendations for Site Improvements"
- e. Plan Amendment III dated April 24, 2013; titled "Operations - Addendum"
- f. "Non-Metallic Mining Reclamation Plan; Superior Silica Sands – Mine Expansion", dated and received December 21, 2012.
- g. Six (6) 24" x 36" maps titled "Existing Site Plan", "Existing Site Contours", "Operations Site Plan", "Final Site Plan", "Cross Sections", and "Cover Type"; all dated December 21, 2012.

These documents are hereinafter referred to as Plan and by reference made a part hereof.

NOW, THEREFORE, THE CONDITION OF THIS OBLIGATION, per Wisconsin Administrative Code NR135.40, and Chippewa County Code of Ordinances Nonmetallic Mining Section 30.103, is that, if the Principal shall faithfully perform all its duties and obligations under the above stated Wisconsin Administrative Code and Chippewa County Code and under said Plan, in the manner and time called for in said Plan, then this obligation shall be null and void, otherwise it shall remain in full force and effect, subject to the following conditions:

1. No assignment, modification, or change of the Plan, or change in the work covered



thereby, or any extension of time for the completion of the Plan shall release the sureties on this bond.

2. The Principal shall notify the Authority, by filing a notice of completion, at the time the Principal determines that reclamation is complete. The Authority shall inspect the site. If the Authority, in its sole discretion, determines that reclamation is complete, it shall issue a certificate of completion and shall release the financial assurance.
3. In the event that the Principal has its permit removed, ceases mining operations, and fails to reclaim the site or fails to perform any or all of its duties and obligations under the Plan, in the manner and time called for in the Plan, then the amount of this bond shall be paid over to the Regulatory Authority to cover the Authority's cost of reclamation.

This Financial Assurance Bond may not be canceled by the Surety or other holder or issuer except after no less than 90 day notice to the Authority in writing by registered or certified mail. Not less than 30 days prior to the expiration of the above 90 day notice of cancellation, the Principal shall deliver to the Authority a replacement Financial Assurance Bond. In the absence of this replacement Financial Assurance Bond, all mining shall cease until the time it is delivered and in effect.

Signed and sealed this 20 day of January, 2014.

In the Presence of:

Keith E Hance
Witness

Keith E Hance
Printed name

By: Richard J. Shearer
Principal

RICHARD J. SHEARER
Printed name

Marie Perryman
Witness

Marie Perryman
Printed name

By: Steven R. Foster
Surety

Steven R. Foster, Attorney-in-Fact
Printed name



Power of Attorney

No. 2009661

KNOW ALL MEN BY THESE PRESENTS, that ATLANTIC SPECIALTY INSURANCE COMPANY, a New York corporation with its principal office in Minnetonka, Minnesota, does hereby constitute and appoint: Steven R. Foster, Jack M. Crowley, Marie Perryman, each individually if there be more than one named, its true and lawful Attorney-in-Fact, to make, execute, seal and deliver, for and on its behalf as surety, any and all bonds, recognizances, contracts of indemnity, and all other writings obligatory in the nature thereof; provided that no bond or undertaking executed under this authority shall exceed in amount the sum of: twenty-five million dollars(\$25,000,000) and the execution of such bonds, recognizances, contracts of indemnity, and all other writings obligatory in the nature thereof in pursuance of these presents, shall be as binding upon said Company as if they had been fully signed by an authorized officer of the Company and sealed with the Company seal. This Power of Attorney is made and executed by authority of the following resolutions adopted by the Board of Directors of ATLANTIC SPECIALTY INSURANCE COMPANY on the twenty-fifth day of September, 2012:

Resolved: That the President, any Senior Vice President or Vice-President (each an "Authorized Officer"), may execute for and in behalf of the Company any and all bonds, recognizances, contracts of indemnity, and all other writings obligatory in the nature thereof, and affix the seal of the Company thereto; and that the Authorized Officer may appoint and authorize an Attorney-in-Fact to execute on behalf of the Company any and all such instruments and to affix the Company seal thereto; and that the Authorized Officer may at any time remove any such Attorney-in-Fact and revoke all power and authority given to any such Attorney-in-Fact.

Resolved: That the Attorney-in-Fact may be given full power and authority to execute for and in the name and on behalf of the Company any and all bonds, recognizances, contracts of indemnity, and all other writings obligatory in the nature thereof, and any such instrument executed by any such Attorney-in-Fact shall be as binding upon the Company as if signed and sealed by an Authorized Officer and, further, the Attorney-in-Fact is hereby authorized to verify any affidavit required to be attached to bonds, recognizances, contracts of indemnity, and all other writings obligatory in the nature thereof.

This power of attorney is signed and sealed by facsimile under the authority of the following Resolution adopted by the Board of Directors of ATLANTIC SPECIALTY INSURANCE COMPANY on the twenty-fifth day of September, 2012:

Resolved: That the signature of an Authorized Officer and the Company seal may be affixed by facsimile to any power of attorney or to any certificate relating thereto appointing an Attorney-in-Fact for purposes only of executing and sealing any bond, undertaking, recognizance or other written obligation in the nature thereof, and any such signature and seal where so used, being hereby adopted by the Company as the original signature of such officer and the original seal of the Company, to be valid and binding upon the Company with the same force and effect as though manually affixed.

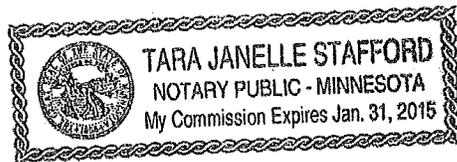
IN WITNESS WHEREOF, ATLANTIC SPECIALTY INSURANCE COMPANY has caused these presents to be signed by an Authorized Officer and the seal of the Company to be affixed this ninth day of October, 2012.



STATE OF MINNESOTA
HENNIPEN COUNTY

By Paul H. McDonough
Paul H. McDonough, Senior Vice President

On this ninth day of October, 2012, before me personally came Paul H. McDonough, Senior Vice President of ATLANTIC SPECIALTY INSURANCE COMPANY, to me personally known to be the individual and officer described in and who executed the preceding instrument, and he acknowledged the execution of the same, and being by me duly sworn, that he is the said officer of the Company aforesaid, and that the seal affixed to the preceding instrument is the seal of said Company and that the said seal and the signature as such officer was duly affixed and subscribed to the said instrument by the authority and at the direction of the Company.



Tara Janelle Stafford
Notary Public

I, the undersigned, Secretary of ATLANTIC SPECIALTY INSURANCE COMPANY, a New York Corporation, do hereby certify that the foregoing power of attorney is in full force and has not been revoked, and the resolutions set forth above are now in force.

Signed and sealed. Dated _____ day of _____.

This Power of Attorney expires
October 1, 2014



Virginia McCarthy
Virginia McCarthy, Secretary

Power of Attorney not valid without blue border

Exhibit C



(715) 726-7920
www.co.chippewa.wi.us

711 North Bridge Street
Chippewa Falls, WI 54729-1876

March 12, 2019

Ms. Sharon Masek
Superior Silica Sands
1058 US Highway 8
Barron, WI 54812

Dear Ms. Masek:

The Chippewa County Department of Land Conservation & Forest Management (LCFM) periodically reviews the amount of financial assurance to assure it equals outstanding reclamation costs, as required under NR 135.40(3). The amount of financial assurance must equal, as closely as possible, the cost to the LCFM of hiring a contractor to complete reclamation according to the approved reclamation plan.

This letter is in follow up to our February 22nd letter and our February 25th meeting. At that meeting, Superior Silica Sands and Fred Weber discussed the possibility of blasting a portion of the existing highwall to reduce the reclamation cost, in the event mining ceased permanently.

On March 11th, Fred Weber provided the LCFM with updated contours and quantities that incorporated blasting as part of reclamation. By assuming that blasting and grading will be applied in reclamation, the amount of overburden earthwork was reduced from 1,400,000 CY to 1,018,537 CY.

Based on the data provided by Fred Weber, the LCFM has updated the required amount of financial assurance.

Please note that the calculation assumptions presented in the February 22nd LCFM letter have also been used for this calculation. A figure showing the assumed location of terraces and rock lined channels is included as Attachment 1.

Pursuant to Chippewa County Code of Ordinances Section 30-103 and NR135.40, the LCFM has established the required amount of financial assurance at \$4.65 million. This amount shall be subject to annual review by the LCFM. The breakdown of quantities and unit costs is shown in Attachment 2.

We appreciate the technical input that has been provided by Superior Silica Sands & Fred Weber. The LCFM is confident that the adjusted level of financial assurance in the amount of \$4.65 million represents an objective and defensible estimate of reclamation costs for the Superior Silica Sands - Auburn Mine.

Please submit the updated financial assurance in the amount of \$4.65 million for the Auburn Mine by April 1, 2019.

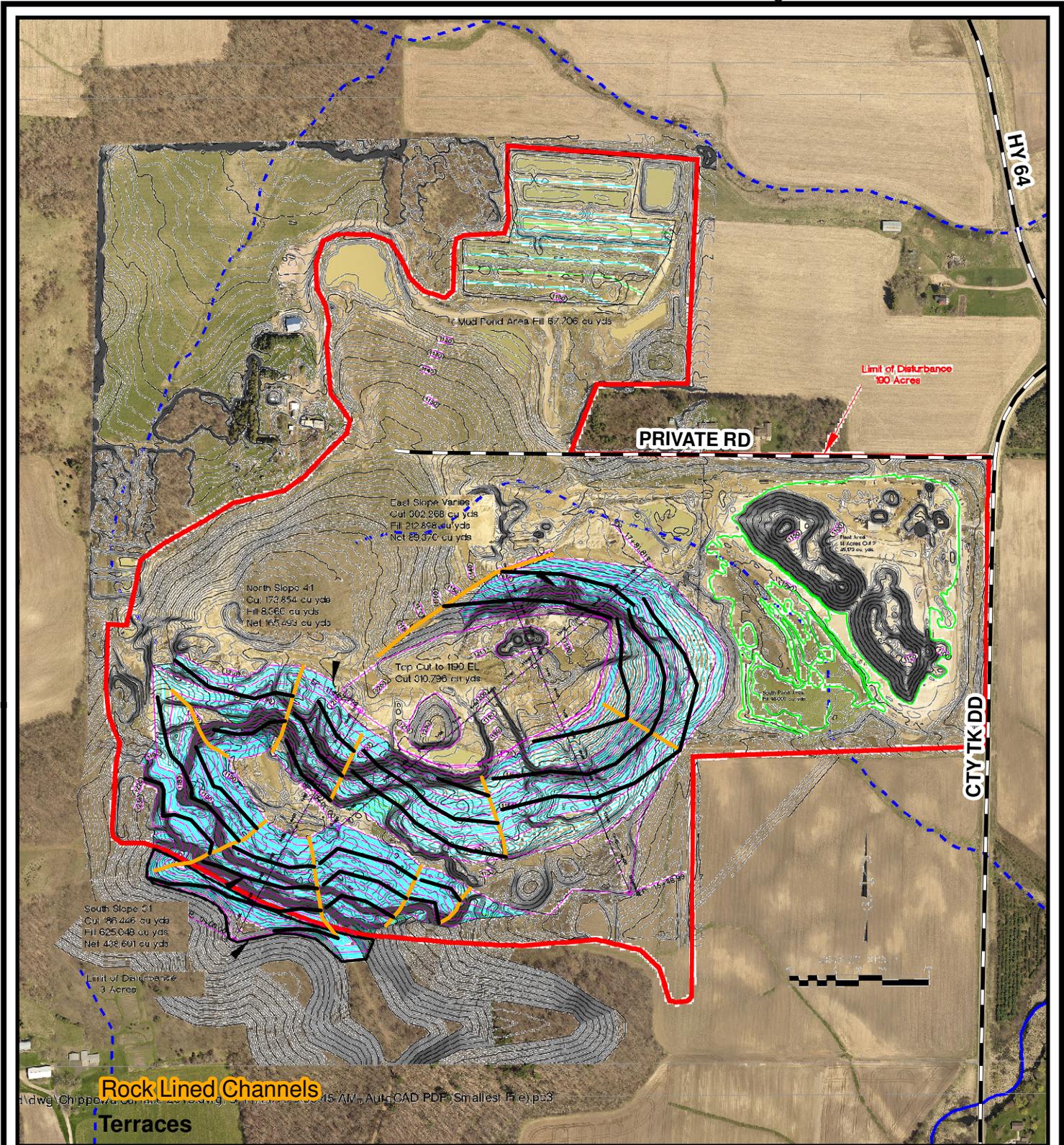
If financial assurance is not provided by April 8, 2019, Chippewa County may suspend or revoke Permit # 2011-02 pursuant to Chippewa County Code of Ordinances Section 30-132, WI Admin Code Section NR 135.25, and Chippewa County Code of Ordinances Section 30-57, and take action to secure the existing financial assurance.

Sincerely,



Christien Huppert, P.E.
Project Engineer III

c: J. Higginbotham, FWI GM via email
T. Pauls, Asst. Corporation Counsel via email
D. Masterpole, County Conservationist via email
R. Scholz, County Administrator via email
P. Sheidecker, Chair, Town of Auburn via email



H:\dwg\Chippewa\compliance\2019\2019-03-11\SSS_Terrace & Rock Lining.mxd 15 AM AutoCAD PDF - Smallest File.ppt3

Legend

- Roads
- Perennial Stream
- Intermittent Stream
- Lakes

N

Approximately 4300 LF of rock lined channel

0 300 600 1,200 Feet

1 inch = 600 feet

Terraces & Rock Lined Channels
Date: 3/11/2019

Chippewa County
"Stewardship for Sustainability"
Land Conservation and Forest Management

ATTACHMENT 2

| Superior Silica Sands | | | | | |
|-----------------------|-----------------------------|------------|--------------|----------|------------------------|
| # | Item | Unit | Unit Cost | Quantity | Item Total |
| 1 | Earthwork | | | | |
| | Topsoil | CY | \$ 2.50 | 111566 | \$ 278,915.00 |
| | Subsoil | CY | \$ 2.50 | 223132 | \$ 557,830.00 |
| | OB - blasting | CY | \$ 1.00 | 186446 | \$ 186,446.00 |
| | OB - dozer/haul | CY | \$ 2.00 | 832091 | \$ 1,664,182.00 |
| | OB - increase for terracing | Percentage | \$ 2.00 | 10% | \$ 203,707.40 |
| | Subtotal | | | | \$ 2,891,080.40 |
| 2 | Planting | | | | |
| | Ag | AC | \$ 1,125.00 | 90 | \$ 101,250.00 |
| | Native Prairie | AC | \$ 1,950.00 | 35 | \$ 68,250.00 |
| | Forested | AC | \$ 2,175.00 | 38 | \$ 82,650.00 |
| 3 | Mulch | AC | \$ 1,500.00 | 105 | \$ 157,500.00 |
| 4 | Repair Work | AC | \$ 2,000.00 | 105 | \$ 210,000.00 |
| 5 | Erosion Control Mat | AC | \$ 5,250.00 | 58 | \$ 304,500.00 |
| 6 | Abandon High Cap Well | EA | \$ 5,000.00 | 1 | \$ 5,000.00 |
| 7 | Remove Processing Plant | EA | \$ 85,000.00 | 1 | \$ 85,000.00 |
| 8 | Access Road Demolition | SF | \$ 0.30 | 120000 | \$ 36,000.00 |
| 9 | Storm/Process Water Ponds | EA | \$ 5,250.00 | 10 | \$ 52,500.00 |
| 10 | Rock Lining | CY | \$ 50.00 | 4250 | \$ 212,500.00 |
| 11 | Geotextile | SY | \$ 2.20 | 9560 | \$ 21,032.00 |
| 12 | County Cost to Administer | LS | 10% | 1 | \$ 422,726.24 |
| | Subtotal | | | | \$ 1,758,908.24 |
| | | | | | |
| | Total | | | | \$ 4,649,988.64 |

Exhibit D



(715) 726-7920
www.co.chippewa.wi.us

711 North Bridge Street
Chippewa Falls, WI 54729-1876

MEMORANDUM

TO: Rick Shearer, CEO
Superior Silica Sands, LLC 

FROM: Dan Masterpole, Dept. Director/County Conservationist

DATE: July 5, 2019

SUBJECT: Notice of Permit Suspension; Auburn Mine

This correspondence is to provide formal notice that Chippewa County has taken administrative action today to suspend Non-Metallic Mine Permit # 2011-02, as issued to Superior Silica Sands, LLC (SSS) for the Auburn mine.

The non-metallic mine reclamation permit is suspended for 30 days.

This action has been taken under the authority of NR 135.25(2), applying the grounds for suspension established in NR 135.25(1)(b) and (c).

A review of the permit record has established that Superior Silica Sands is currently out of compliance with NR 135, the Chippewa County Non-Metallic Mining Reclamation Ordinance, and several important permit conditions.

Permit #2011-02, as issued on 10/5/17, is provided for your reference as Attachment 1.

The documented items of noncompliance that warranted this action are as follows:

1. Superior Silica Sands has failed to submit or maintain adequate financial assurance, as referenced under NR 135.40, and Permit #2011-02, Condition 2.

Permit Condition #2 states:

“2. Financial Assurance

- a. Financial Assurance in the form of Surety Bond or Irrevocable Letter of Credit meeting the requirements of the Chippewa County Nonmetallic Mining Reclamation Ordinance and NR135.40 shall be submitted by the operator for approval prior to any mining activity at the site. Financial Assurance is required throughout the life for the mine.
- b. The amount of financial assurance shall equal as closely as possible the cost to Chippewa County of hiring a contractor to perform reclamation activities according to the approved reclamation plan. The amount of financial assurance shall be reviewed periodically by the Department of Land Conservation & Forest Management to assure it equals the current estimated reclamation costs.”

Page 2
July 5, 2019

Correspondence from Chippewa County to Superior Silica Sands providing notice of noncompliance and requesting corrective action is provided as Attachment 2.

2. Superior Silica Sands has failed to follow an approved reclamation plan, as referenced under NR 135.19, and meet the conditions of Permit #2001-02, Condition 7c.

Permit Condition #7 states:

“7. Groundwater & Surface Water

- a. The operator shall install a groundwater monitoring wells to augment the existing monitoring well network for the purpose of establishing the actual groundwater elevation at the mine site, monitoring changes to the groundwater elevation over time, and if required for monitoring water quality.
- b. The new network shall be planned and designed by a Professional Hydrologist or Professional Engineer, in cooperation with the LCFM, to triangulate the elevation of the water table surface and to establish the direction of groundwater flow at the site.
- c. The new network shall consist of a minimum of 13 monitoring wells as shown in the “Operations Site Plan” dated 12-21-2012 and may be installed in its entirety at the onset of operations in the expanded mine area, or may be installed in stages over time to coincide with the planned phases of mine development and reclamation.”

Correspondence from Chippewa County to Superior Silica Sands providing notice of noncompliance and requesting corrective action is provided as Attachment 3.

In the event that these items of noncompliance are not addressed to the satisfaction of the County before 4:30 p.m. on August 5, 2019, Chippewa County will be obligated to consider further administrative and/or legal actions to ensure compliance, including permit revocation under NR 135.25(3).

Please know that Chippewa County fully acknowledges the challenges of the market, and remains committed to working closely with Superior Silica Sands as the company seeks to regain full compliance and maintain its mine operations.

I can be reached directly at #715-726-4590 to address any questions that you or your staff may have, and to discuss any actions that can be taken to meet our mutual objectives for mine reclamation.

DM/jls

Attachments

- c: R. Scholz, Co. Administrator
T. Pauls, Asst. Corporation Counsel
S. Masik, Superior Silica Sands, LLC

Attachment 1

1. **Nonmetallic Mining Reclamation Permit #2011-02**
10/5/17

Chippewa County - NMM Permit

NONMETALLIC MINING RECLAMATION PERMIT

This permit is issued under the Chippewa County Nonmetallic Mining Reclamation Ordinance and Wisconsin Administrative Code NR135.

Operator: Superior Silica Sands

Owner: Anthony Glaser, et al; Chris Culver & Dennis Culver; Kevin Pietz; Lary & Anna Boese; Robert Hass; David & Bonnie Dobbs

Permit Number: 2011-02

Date: October 5, 2017

Permit Conditions

1. Standards & Implementation

- a. All mining and reclamation shall be conducted in compliance with the Reclamation Plan that is comprised of the following documents:
 - i. "Non Metallic Mining Reclamation Plan Narrative; Superior Silica Sands; Town of Auburn, Chippewa County, Wisconsin"; dated May 2, 2011
 - ii. Four (4) 24" x 36" maps titled "Initial Site Map", "Operations Site Map", "Final Site Map", and "Final Site Profiles"; all dated May 2, 2011.
 - iii. Plan Amendment I dated May 6, 2011; titled "Reclamation Plan Date Change"
 - iv. Plan Amendment II dated February 10, 2012; titled "Revised Storm Water Management Plan Recommendations for Site Improvements"
 - v. Plan Amendment III dated April 24, 2013; titled "Operations - Addendum"
 - vi. "Non-Metallic Mining Reclamation Plan; Superior Silica Sands – Mine Expansion", dated and received December 21, 2012.
 - vii. Six (6) 24" x 36" maps titled "Existing Site Plan", "Existing Site Contours", "Operations Site Plan", "Final Site Plan", "Cross Sections", and "Cover Type"; all dated December 21, 2012.
 - viii. Plan Amendment IV dated July 19, 2017 (untitled).
 - ix. "Storm Water Pollution Prevention Plan", dated August 10, 2017.
 - x. Two (2) maps, as referenced the Storm Water Pollution Prevention Plan, titled "Drainage Base Map" and "Site Infrastructure and Land Cover", dated August 2, 2017.
 - xi. "SSS Auburn Mine Standard Operating Procedure for Water Discharges Off-Site", received August 22, 2017.
- b. This permit applies to the Combined Mine Site area as documented in the "Operations Site Plan" dated December 21, 2012. This permit incorporates and supercedes the previous permit issued May 6, 2011 and the permit amendments issued January 13, 2012, April 24, 2013, November 8, 2016, and April 26, 2017.
- c. All mining and reclamation shall be conducted in compliance with all provisions and standards of the Chippewa County Nonmetallic Mining Reclamation Ordinance and Wisconsin Administrative Code NR135.

- d. All mining and reclamation shall be conducted to meet or exceed provisions of Reclamation Standards for Non-Metallic Mines in Chippewa County (July 2007) and Plan Content Specifications and Engineering Requirements for Non-Metallic Mine Construction in Bedrock (9/17/2009).
- e. To monitor the extent of contemporaneous reclamation, a Reclamation Report & Activities Plan shall be filed with the Department of Land Conservation & Forest Management for each calendar year. The report shall be submitted no later than 30 days from the end of the permit year. The plan shall contain the items listed in Appendix G of the reclamation plan including: a) the extent of current mine development, b) the groundwater elevations as recorded in the groundwater monitoring wells, c) the dates and results of reclamation and stormwater facility inspections, d) activities implemented to provide groundwater protection, e) dates and results of stormwater discharge monitoring, f) reclamation and stormwater management activities planned, g) a daily record of the type, volume, and use of material brought to the mine; and h) any other items as required by this permit.

2. Financial Assurance

- a. Financial Assurance in the form of Surety Bond or Irrevocable Letter of Credit meeting the requirements of the Chippewa County Nonmetallic Mining Reclamation Ordinance and NR135.40 shall be submitted by the operator for approval prior to any mining activity at the site. Financial Assurance is required throughout the life for the mine.
- b. The amount of financial assurance shall equal as closely as possible the cost to Chippewa County of hiring a contractor to perform reclamation activities according to the approved reclamation plan. The amount of financial assurance shall be reviewed periodically by the Department of Land Conservation & Forest Management to assure it equals the current estimated reclamation costs.

3. Size & Scope

- a. The total permitted area of the mine site is 475 acres as shown in the reclamation plan on the "Operations Site Plan" map dated December 21, 2012. The mine site includes all areas of nonmetallic mineral extraction, haul roads, stormwater ponds, soil berms, and other areas meeting the definition of "nonmetallic mining site" or "site" in the Chippewa County Nonmetallic Mining Reclamation Ordinance.
- b. The floor elevation and excavation limit of the mine shall be no lower than 1100 MSL as shown in the reclamation plan on the "Cross Sections" map dated December 21, 2012.
- c. Changes to the areal extent or depth of the mine, or changes to the operation that may affect the capacity to meet reclamation standards of NR 135 and Chippewa County Nonmetallic Mining Reclamation Ordinance as documented in the Reclamation Plan shall require a revised Reclamation Plan and permit modification under NR 135.24.

4. Stream & Wetland Protection

- a. The location of areas of concentrated flow, waterways, and areas that convey direct runoff to Trout Creek, and the corresponding jurisdictional authority to regulate those areas under state and federal law, shall be determined by Chippewa County and the Wisconsin Department of Natural Resources (WI DNR) through the Wisconsin Pollution Discharge Elimination System (WPDES) permit process following the criteria established in the Chippewa County Shoreland Zoning Ordinance and WI Stats. Chapters 23, 30, 31, and 281.

- b. The location and boundary of all wetlands as defined by Wisconsin State Statute Chapter 23, including mapped wetlands shown on the "Operations Site Map" dated December 21, 2012 of the Reclamation Plan shall be delineated by a recognized wetland delineator following procedures in the 1987 edition of the Army Corps of Engineers Wetlands Delineation Manual.
 - c. Wetland delineations shall be completed and submitted to the Department of Land Conservation & Forest Management for review and approval before 10-1-2013. Upon approval, the operator shall file a plan amendment map that shows the delineated boundary of the wetlands.
 - d. A Continuous vegetative buffer shall be established along all streams and wetlands to prevent environmental pollution and meet standards for surface water and wetland protection, as established in NR 135.07.
 - i. The buffer shall be established to be 300 feet from the ordinary high watermark of streams or 100 feet from the boundary of wetlands whichever is greater. No mining or mine-related site disturbing activities are permitted within this buffer.
 - ii. The stream and wetland buffers shall be monumented with permanent markers for the life of the mine. Pre-existing agricultural uses including cultivated cropland fields and agricultural pastures shall be allowed within the buffer.
 - e. The approximate location and boundaries of the stream and wetland vegetative buffer areas are shown in the reclamation plan on the "Operations Site Plan" map dated December 21, 2012. This map shall be updated by the operator to reflect actual conditions based upon field determinations of the watercourse and wetlands and the jurisdictional determinations of the responsible regulatory authority. The updated map shall be submitted to the Department of Land Conservation & Forest Management before 12-31-2013, or before an alternative date as mutually agreed upon.
 - f. In the event that unique conditions exist where mining activities cannot be conducted to avoid or minimize the impacts to streams or wetlands, the operator will seek the appropriate permits for any impacts that could occur as a result of mining and processing activities. Such permits could include wetland mitigation measures as dictated by the applicable state or federal laws.
 - g. In circumstances where wetland mitigation is required Chippewa County will encourage and support the concept of on-site, in-kind wetland mitigation pursued through the nonmetallic mine site reclamation process.
 - h. Final reclamation of each of the mine phases as identified in the reclamation plan shall establish grades that restore the watershed boundaries, to the extent practicable, that existed prior to mining.
5. Stormwater Management
- a. The operator shall fully comply with the terms of the WI DNR WPDES General Permit to Discharge, WI-B046515-6 (Nonmetallic Mining Operations for Industrial Sand Mining and Processing) and any subsequent permit revisions.
 - b. A stormwater management system shall be designed, installed, and maintained to meet the nonmetallic mine standards established for surface water and groundwater protection in NR135.07 & 135.08, and shall provide sufficient capacity to store and infiltrate runoff for all rainfall events smaller than the 100 year, 24 hour event (6.38 inches).
 - c. Stormwater ponds shall be constructed with a stable rock lined outlet that will safely accommodate runoff events up to the 100 year, 24 hour event (6.38 inches).

- d. Site specific design documentation for stormwater ponds and conveyances including construction drawings and hydraulic computations shall be submitted to the Department of Land Conservation & Forest Management for review and approval prior to development of each mine phase.
- e. Whenever changes to the stormwater management system are proposed or required the operator shall retain a Professional Engineer to re-design the storm water management system. The re-design documentation shall include computations to show that the changes to the stormwater management system will meet the design requirements. This information shall be submitted to the Department of Land Conservation & Forest Management for review and approval prior to construction of the changes.
- f. The stormwater management system shall be routinely inspected and maintained by the operator to assure the system continues to function as designed.
 - i. Sediment that accumulates in stormwater ponds shall be fully removed from the stormwater pond bottom after major storm events or as needed to maintain the design storage capacity.
 - ii. Sediment removed from stormwater ponds shall be stockpiled, seeded, stabilized, and used in mine site reclamation.
- g. In the event that stormwater runoff exceeds the capacity of the stormwater management system and stormwater runoff leaves the mine site, the operator shall immediately contact the Department of Land Conservation & Forest Management.
- h. Upon approval in 2016, stormwater contained in the mine bottom and stormwater ponds may be discharged from the mine site for the purpose of reestablishing the design capacity of the existing stormwater system. This discharge shall be managed for the purpose of field application and irrigation of adjacent agricultural fields.

To be allowed, this stormwater discharge must meet all of the following requirements:

- i. The mine operator shall provide to the County a map showing the location of the agricultural fields to receive the discharge, and signed authorization from each land owner receiving the discharge prior to commencing the discharge.
- ii. As a function of its source and location, water contained in the mine site shall be managed under one of three categories: 1) stormwater contained within stormwater ponds, 2) stormwater contained in the mine bottom, and 3) stormwater mixed with process water contained in the mine bottom or in existing process water ponds.

Prior to the initial discharge, a sample from each category shall be taken and analyzed at an approved laboratory. As agreed to by Superior Silica Sands and the County, samples shall be analyzed for the following parameters:

bacteria count, n+n nitrates, pH, alkalinity, hardness, chloride, conductivity, corrosivity index, and metals (As, Ca, Cu, Fe, Pb, Mg, Mn, K, Na, SO₄, Zn)

The results of the chemical analysis with source location shall be submitted to the County within 30 days of commencing the discharge and shall be submitted to the County as part of the Reclamation Report and Activities Plan defined in Section 1.e..

- iii. The mine operator shall notify the County 48 hours prior to commencing the discharge.

- iv. The mine operator shall maintain a record that documents the rate of discharge and the total volume of discharge for each managed water source.

These stormwater discharge records shall be compiled and submitted to the County as part of the Reclamation Report and Activities Plan defined in Section 1.e..

- v. The mine operator shall manage and continuously monitor the stormwater discharge to assure that there is no surface ponding or runoff leaving the agricultural field. If runoff is observed, either in the form of sheet flow or channelized flow, the irrigation rate shall be immediately reduced to eliminate runoff.
- vi. The mine operator shall obtain all state and federal authorization to perform the stormwater discharge.
- i. Beginning in 2017, the County may allow an extension of the stormwater management practice established in Section 5.h. as part of ongoing stormwater management measures. To obtain this authorization, the mine operator shall:
 - i. Submit a written proposal requesting the authorization to regularly restore the capacity of stormwater ponds by discharging stormwater to agricultural fields.
 - ii. Meet condition requirements 5.h. (i.–vi.).
 - iii. Submit an approved nutrient management plan for each crop and field receiving the stormwater discharge. Plan shall be prepared by a certified crop adviser applying the most current version of the nutrient management module (Snap Plus).
 - iv. Other conditions as agreed to by the County and Superior Silica Sands.
- j. Storm water contained in the mine bottom and in storm water ponds may be discharged from the active mine site to groundwater within the mine total permit boundary for the purpose of reestablishing the design capacity of the existing storm water system.

To be allowed, this stormwater discharge must meet the requirements of permit conditions 5.h.iii., 5.h.iv., 5.h.v., and 5.h.vi., as established in Permit Amendment 1 (dated November 8, 2016), except the phrase “agricultural field”, as referenced in condition h.v., shall be replaced with “mine total permit boundary” for the purpose of this condition.

6. Site Clearing

- a. The Department of Land Conservation & Forest Management shall be contacted at least 72 hours prior to commencement of any new land clearing or stripping activities in undisturbed areas of the mine site.
- b. All topsoil, subsoil and overburden in areas of mining shall be systematically and individually stripped and stockpiled for future use in reclamation. The location of these stockpiles shall be identified with permanent signage or shall be identified on a map that shows the location of all stockpiles of topsoil, subsoil, and overburden. This map shall be submitted to the Department of Land Conservation & Forest Management after initial site stripping and after any changes in stockpile management.
- c. No topsoil, subsoil, or overburden material shall leave the site during the entirety of the site operations.

- d. Burning of stumps, or any other material, in the mine is prohibited. All residual woody biomass that is the byproduct of timber harvesting, excluding stumps, shall be retained and when practical, composted on site, and used as a soil amendment during final reclamation.

7. Groundwater & Surface Water

- a. The operator shall install a groundwater monitoring wells to augment the existing monitoring well network for the purpose of establishing the actual groundwater elevation at the mine site, monitoring changes to the groundwater elevation over time, and if required for monitoring water quality.
- b. The new network shall be planned and designed by a Professional Hydrologist or Professional Engineer, in cooperation with the LCFM, to triangulate the elevation of the water table surface and to establish the direction of groundwater flow at the site.
- c. The new network shall consist of a minimum of 13 monitoring wells as shown in the "Operations Site Plan" dated 12-21-2012 and may be installed in its entirety at the onset of operations in the expanded mine area, or may be installed in stages over time to coincide with the planned phases of mine development and reclamation.
- d. The operator shall provide the Department of Land Conservation and Forest Management with boring logs or well constructors reports from the construction of each monitoring well that document the subsurface geology, the construction methods, and well depth. This information shall be provided within one month of the wells construction.
- e. The elevations of the water table surface in each of the monitoring wells shall be recorded no less than monthly the first year of operations and quarterly thereafter for the life of the mine. This information shall be submitted to the County as part of the Reclamation Report and Activities Plan defined in Section 1.e..
- f. Using the information gathered from the monitoring well network the operator shall prepare a site specific groundwater elevation map. The operator shall provide this map to the Department of Land Conservation & Forest Management as part of the Reclamation Report and Activities Plan defined in Section 1.e..
- g. The groundwater elevation map shall be refined as mine development progresses, and additional information becomes available from additional monitoring wells, or from other sources.
- h. The operator shall provide a copy of any application and permit for a high capacity well that is subject to state permit requirements. The application and permit shall be provided to the Department of Land Conservation & Forest Management within 30 days of permit issuance.
- i. Production wells installed at the mine site shall be constructed to limit the potential for groundwater movement between aquifers and to limit impacts on surface waters near the mine. Wells shall be cased from the surface through the lowest extent of the Eau Claire sandstone formation to an elevation no higher than 960 feet above (Mean Sea Level).
- j. The operator shall keep records of pumping rates and volumes for all high capacity wells at the mine site on a monthly basis following procedures established in NR 820.13. The operator shall provide a copy of those records to the Department of Land Conservation & Forest Management as part of the Reclamation Report and Activities Plan defined in Section 1.e..

- k. The operator shall prepare a Water Conservation Plan to limit consumptive use of groundwater. The plan shall include a water budget for the operation that shows the typical annual volume of gains and losses to mining and reclamation activities. The plan shall also describe the processes and best management practices that the operator will follow during mining and reclamation to reduce the consumptive use of groundwater at the mine site.
- l. In the event that offsite monitoring shows that mining or reclamation activities at this site have caused a lowering of the water table that results in adverse effects on surface waters or a significant reduction in the quantity of groundwater reasonably available for future users of groundwater, the operator will mitigate these effects by revising the Water Conservation Plan to limit the pumping frequency, rate or volume of groundwater or to implement water conservation practices to restore groundwater elevations. Any changes to the Water Conservation Plan are subject to review and approval by the Department of Land Conservation & Forest Management.

8. Water Quality

- a. In the event that offsite monitoring shows that mining or reclamation activities at this site have caused groundwater quality standards of Wisconsin Administrative Code NR140 to be exceeded at a point of standards application the operator will seek to mitigate these effects by altering site operations.
- b. This permit does not relieve the owner or operator of the responsibility for compliance with all provisions of Wisconsin State Statute 281, Wisconsin Administrative Code NR 820, or Wisconsin Administrative Code NR 812, as they may pertain to waters of the state and the operation of any private wells on neighboring properties, and any associated liability under state law.

9. Settling & Process Water Ponds

- a. In the event that the operator uses flocculants, coagulants, or other chemicals as part of mining or wash plant operations the operator shall perform all of the requirements contained under permit condition 9.a.
 - i. Select chemical products that limit the potential for groundwater pollution, as may be identified on recognized product lists available from Wisconsin DNR, EPA, or other agencies.
 - ii. The type, and volume of flocculent, coagulant, or other chemicals used shall be included as part of the Reclamation Report and Activities Plan defined in Section 1.e..
 - iii. Use chemical products in accordance with the product label requirements to limit the potential for water pollution.
 - iv. Line settling and process water ponds and associated conveyances to limit the infiltration and leaching of chemical constituents that may be used in mining processes. Liners shall be designed by a Professional Engineer and constructed under their supervision to meet standards and specifications of Wisconsin Administrative Code NR 213.
 - v. Test the process water and associated sediment accumulated in the mine site settling and process water ponds for pH, nitrate-nitrogen, phosphorus, potassium, chloride, fluoride, sulfate, total coliform, aluminum, arsenic, barium, boron, calcium, copper, iron, lead, manganese, magnesium, sodium, strontium, and zinc, and concentrations of residual materials associated with the type of chemicals used. Testing will be performed annually or at any time when there are changes to the type of chemicals used. These test results will be included as part of the Reclamation Report and Activities Plan defined in Section 1.e..

- vi. Implement best management practices that limit the potential for damaging settling and process water pond liners during dredging or excavation of accumulated sediment. The settling and process water pond liners shall be maintained defect free and repairs shall be made as necessary to maintain the integrity of the liner.
 - vii. Apply appropriate best management practices when managing liquids and sediment removed from the settling and process water ponds. In selecting the best management practices for materials management, storage, and disposal, the operator shall consider the results of material testing and material characterization, and shall apply these practices to minimize the potential for groundwater leaching of soluble materials during or after mine reclamation.
 - viii. Settling and process water ponds liners shall be removed at the time final reclamation. Liners shall be disposed of in accordance with all federal, state, and local laws. Earthen liner material shall be land applied or used as a soil amendment.
- b. The operator shall establish a Maximum Operating Level for each process water pond that includes 1 foot of freeboard and the additional depth required, at a minimum, to hold the rainfall and runoff volume from a 10 year 24 hour storm event.
 - i. The operator shall install Maximum Operating Level Markers on each of the process water ponds in a minimum of two separate locations. One marker shall be located at the inlet to the pond and one shall be located at the outlet.
 - ii. For each process water pond the operator shall provide a written description of the Maximum Operating Level Markers, their elevations, and the top of embankment elevations to the Department of Land Conservation & Forest Management prior to using the pond.
 - c. Settling and process water ponds that are also designed to manage stormwater shall be operated so that they are routinely maintained at or below the Maximum Operating Level as described in the Plan Amendment III, dated April 24, 2013, of the Reclamation Plan.

10. Alternative Settling & Process Water Pond Liner

- a. In the event that the operator uses flocculants, coagulants, or other chemicals as part of mining or wash plant operations the operator may, as an alternative to meet condition 9.a.iv., choose to line the settling and process water ponds and associated conveyances with earthen materials of high silt and clay content. The earthen liners shall meet the design and construction specifications contained in Attachment I, titled: Alternative Settling Pond Liner Specification, (LCFM 9/29/09).
- b. In circumstances where the alternative liner is selected the operator shall design, implement, and maintain a groundwater monitoring system and sampling program with the explicit purpose of detecting and measuring the concentration of acrylamide that may enter the groundwater from the existing settling ponds. The sampling frequency shall be once every three months. The sampling frequency may be reduced upon mutual agreement by the operator and the Department of Land Conservation & Forest Management.
 - i. Samples shall be collected and handled following the methods prescribed in the Wisconsin Department of Natural Resources "Groundwater Sampling Field Manual".

- ii. The test method used for detection of acrylamide in groundwater samples shall be EPA Method 8032A. Alternative methods may be used with prior approval from the Department of Land Conservation & Forest Management. A certified copy of all laboratory results will be submitted to the Department of Land Conservation & Forest Management within two weeks of receipt.
- c. In circumstances where the alternative liner is selected and the operator proposes to use chemicals other than polyacrylamide the operator shall provide an engineering analysis to document the potential for groundwater pollution. The engineering analysis shall be conducted to assess the risk of groundwater pollution based on the physical properties of the liner and the chemicals that are proposed for use. The engineering analysis shall be submitted to the Department of Land Conservation & Forest Management for review and approval prior to their use.
 - i. The engineering analysis shall document the potential risk of surface water and groundwater pollution associated with using the chemicals as they may apply to water quality standards as established in NSF Standard 60 and NR 140.
 - ii. The engineering analysis shall identify the best management practices that can be used to limit the risk of surface water and groundwater pollution.
- d. In the event that the results of the engineering analysis show a significant risk of surface water or groundwater pollution, the operator shall prescribe a sampling and testing protocol to document and verify the effectiveness of the best management practices as proposed.

11. Offsite Water Discharge

- a. All wastewater discharges must meet the requirements of the General Discharge Permit WPDES Permit No. WI-B046515-6 Section 5, and all other applicable DNR requirements and state standards.
- b. The operator shall install and maintain a recording rain gage at the site for the purpose of recording rainfall and managing stormwater and contaminated stormwater. The continuous record of daily rainfall for the previous year shall be submitted to the County as part of the Reclamation Report and Activities Plan defined in Section 1.e..
- c. Stormwater, contaminated stormwater, and wastewater may be discharged from the permitted mine to either groundwater or surface water. To be permitted, discharges must meet the requirements of the most current Storm Water Pollution Prevention Plan (SWPPP) and Standard Operating Procedure (SOP) filed with Chippewa County, as referenced in Section 1.a..
- d. Modifications to the Storm Water Pollution Prevention Plan or Standard Operating Procedure shall be approved by the LCFM prior to implementation.
- e. The operator shall notify Chippewa County 24 hours prior to commencing an offsite discharge.
- f. On an annual bases, and prior to commencing any discharge from the mine, one representative sample of contaminated stormwater and one representative sample of wastewater shall be taken following established state sampling protocol, and tested for the following parameters:

bacteria count, n+n nitrates, pH, alkalinity, hardness, chloride, conductivity, corrosivity index, and metals (As, Ca, Cu, Fe, Pb, Mg, Mn, K, Na, SO₄, Zn)

The results of the chemical analysis with source location shall be recorded and submitted to the County as part of the Reclamation Report and Activities Plan defined in Section 1.e..

- g. In circumstances when stormwater or contaminated stormwater in a stormwater pond exceeds the established maximum operating level (MOL) of the pond, the contaminated stormwater in the stormwater pond shall be monitored and tested for total suspended solids (TSS) within 3 days of the end of the rain event.
 - i. If, within 3 days of the end of the rain event, the contaminated stormwater is at or below 40 mg/L TSS, the water shall be discharged from the mine site or pumped to another location within the mine to restore water level to the MOL. The rate and duration of discharge shall be monitored and recorded to ensure no channelized erosion occurs in areas of concentrated flow. The controlled discharge shall be completed before the next anticipated or forecasted rain event.
 - ii. If, within 3 days of the end of the rain event, the contaminated stormwater stored above the MOL remains above 40 mg/L TSS, the water above the MOL shall be pumped to a wastewater pond and be treated as wastewater, or used as makeup water in wash plant process.
- h. A record of all discharges, including the pond name, start and stop time of discharge, estimated discharge rate, and all other sampling requirements in the SWPPP and SOP shall be recorded and submitted to the County as part of the Reclamation Report and Activities Plan defined in Section 1.e..

12. Solid Waste & Spills

- a. The import, storage or disposal of any solid waste, recyclable materials or nonmetallic mine refuse generated outside the mine site is subject to the registration provisions of Chapter 30-77 of the Chippewa County Nonmetallic Mining Reclamation Ordinance.
- b. A waste utilization plan shall be developed to optimize the use of any reject materials generated from offsite processing facilities that are proposed to be used in reclamation prior to that material being hauled to the mine. The plan will characterize the physical properties and chemistry of waste products from off-site processing facilities following the intent and procedures established in Wisconsin Administrative Code Chapter NR 518.06(1), and will include a general assessment of benefits or possible adverse effects of the material's use following the intent and procedures established in NR 518.06(2). If polyelectrolytes are used in association with the production of these materials, annual testing will be required for the appropriate polyelectrolyte contaminants identified in NSF/ANSI Standard 60.
- c. Material characterization and test results will be evaluated by the operator, working through a professional licensed geologist, hydrologist, or engineer with the objective of meeting standards for groundwater quality management and protection, as established in Wisconsin Administrative Code Chapter NR 140 and NSF/ANSI Standard 60.
- d. In the event that leachate concentration from reject material test results exceeds the preventive action limits referenced in NR 140 or the allowable concentration in drinking water referenced in NSF/ANSI Standard 60, the mine operator shall:
 - i. Design and implement a groundwater monitoring system and sampling program with the explicit purpose of detecting and measuring the concentration of constituents that have the potential to leach and cause groundwater pollution.

- ii. In the event that groundwater monitoring shows that the preventive action limits referenced in NR 140 or the allowable concentration in drinking water referenced in NFS/ANSI Standard 60 have been exceeded the operator shall dispose of the the reject material at a different location in accordance with federal, state, and local laws and seek to remediate the associated groundwater pollution.
- e. Material tests will be conducted: 1) prior to disposition of any off-site material; 2) on an on-going basis at least once per year; 3) at the time of any changes to the properties or chemistry of the waste products associated with new sources of waste materials or new processing additives, including flocculants.
- f. Fueling of equipment inside of the mine shall be discouraged and limited to vehicles such as tracked equipment that cannot readily access an off-site fueling station. Fueling of highly mobile equipment such as rubber tired loaders, scrapers and trucks shall occur in areas that pose a reduced risk of groundwater pollution. In all cases spill containment practices such as drip pans, absorbent pads, or other recognized practices shall be used to contain drips and spills during fueling.
- g. In the event of fuel spills or other hazardous waste spills the operator shall immediately contact the Department of Land Conservation & Forest Management.

13. Agricultural Operations

- a. Existing agricultural fields and pastures located within the mine boundary may, at the discretion of the operator, remain in agricultural production or may be taken out of production. No agricultural operations shall be conducted within the boundary of an active mine phase. For agricultural fields and pastures that remain in production, the operator shall assure that agricultural operations are conducted in accordance with all applicable local, state and federal laws, and administrative rules.
- b. For those agricultural fields and pastures that remain in production, the agricultural producer and mine operator shall, before March 15, 2014 develop and submit to the Dept. of Land Conservation & Forest Management a nutrient management plan that meets the specifications of WI NRCS Technical Guide Standard 590.
- c. The nutrient management plan shall be implemented by the responsible agricultural producer(s) to assure that agricultural operations meet or exceed state agricultural nonpoint pollution control standards, as specified in WI Admin. Rule NR 151. The agricultural producer(s) and mine operator shall report and certify on an annual basis that the nutrient management plan is being followed and that the agricultural pollution control standards are being met.

14. Site Reclamation & Post-Mining Land Use

- a. The post mining land use for the original mine site area, as documented in the "Operations Site Map" dated May 2, 2011, shall be established as agricultural row crop, other agricultural, or wildlife habitat.
- b. The post mining land use for the Mine Site Expanded Area, as documented in the "Operations Site Map" dated December 21, 2012, shall be established as passive recreation and wildlife habitat.
 - i. In pursuing the post mining land use as wildlife habitat the mine site shall be restored, to the extent practicable, to a condition at least as suitable as that which existed before the lands were affected by nonmetallic mining operations.

- ii. All disturbed areas (with the exception of possible wetland mitigation sites), including abandoned agricultural fields, shall be restored to establish a forested or native prairie land cover as planned.
- c. On or before January 31, 2014 the mine operator shall develop and submit, to the Department of Land Conservation & Forest Management for review and approval, a freestanding site restoration and property management plan. The plan shall be prepared and implemented by the operator to guide ongoing efforts to systematically manage, restore, and monitor the mine property as a management unit. At a minimum, the plan shall include:
 - i. A description of the methods that will be used to restore and manage areas disturbed by mining, including: 1) the methods that will be used to limit soil compaction and facilitate soil profile development through the addition of soil amendments and biological conditioning, 2) the methods, plant species, and densities that will be used to establish and maintain the planned forested and native prairie cover types, 3) the methods and materials that will be used to control noxious weeds and invasive species.
 - ii. A project design and implementation schedule that explains how onsite test plots and undisturbed control plots will be used to demonstrate the feasibility of achieving the proposed site reclamation and post mining land uses as planned.
 - iii. A vegetative cover map of the permitted area showing the approximate boundaries of disturbed and undisturbed areas, the anticipated post-mining surface contours, the vegetative cover types that will be maintained or established on the undisturbed and disturbed areas of the mine, and the proposed locations of onsite test plots and undisturbed control plots to be used in site reclamation.
- d. The operator shall develop and implement a system of field test plots using the project design established in the site restoration and property management plan. These test plots will be established, planted, and maintained to demonstrate methods to be used in site reclamation, and to evaluate the success of site restoration. The operator shall maintain records that document:
 - i. The methods and materials used to establish the test plots, and undisturbed control plots.
 - ii. The physical and biological characteristics of the test plots and control plots, as initially established and monitored over time.
- e. The successful reclamation of restored areas shall be determined by the Department of Land Conservation & Forest Management using the following criteria: site stability, plant density and species diversity, plant rooting depth and density, soil chemistry and fertility, the type and amount of soil organic matter, soil depth, and the extent of soil profile development.
- f. The completion of successful reclamation shall be determined through physical site inspections. In making the determination of successful reclamation, Department of Land Conservation & Forest Management may take into account other supporting information including information generated from onsite test plots or from other areas of the mine site that have been previously reclaimed.
- g. When applying the criteria and evaluating the quality of the site reclamation, the Department of Land Conservation & Forest Management shall recognize and consider the physical site conditions and limitations that existed at the restored site before mining.

15. Certification of Reclamation

- a. Parcels subject to permit requirements may be released from the reclamation permit upon satisfaction of mine lease obligations as determined by the operator, and upon certification that reclamation requirements and standards have been met, as determined by the County.
- b. Upon certification of site reclamation and release from the reclamation permit, all future land use decisions shall be at the discretion of the landowner and shall comply with all applicable laws, ordinances, and administrative rules that may apply to the use of the land at the time of release.
- c. If a lease is cancelled on a parcel that has not been certified as reclaimed, and the lease cancellation occurs for any reason other than the purchase of the parcel by the operator, the operator shall immediately reclaim the parcel in accordance with the reclamation plan. If the operator fails to reclaim the parcel in accordance with the nonmetallic mining reclamation plan, the operator's financial assurance will be forfeited for that parcel and will be used by the County to reclaim the site.

16. Permit Evaluation and Amendments

- a. The Department of Land Conservation & Forest Management shall periodically evaluate the extent of contemporaneous reclamation achieved through mining operations, and the extent of compliance with reclamation standards.
- b. The Department of Land Conservation & Forest Management may allow for design variations and may amend or alter operational conditions that do not significantly alter the scope of the reclamation plan or the reclamation permit issued under the authority of Sec. 30-105 of the Chippewa County Non-Metallic Mining Reclamation Ordinance.
- c. All permit alterations or amendments shall be mutually acceptable and agreed to by the Department of Land Conservation & Forest Management and by the operator. Reclamation of areas designated with an agricultural post mining land use shall comply with all Wisconsin Administrative Code NR 151 standards (and any subsequent revisions) standards as they apply to non-point source pollution control.

As the operator, or authorized representative of the operator, I hereby acknowledge and agree to the above permit conditions.


Signature

Oct 5 2017
Date

Josh Clements
Printed Name - Operator

Director of operations
Title

Permit approval by Department of Land Conservation & Forest Management


Signature

10/5/2017
Date

CHRISTIEN HUPPERT
Printed Name - Authorized Staff

PROJECT ENGINEER II
Title

Attachment 2

1. **Correspondence and map (terraces & rock lined channels) to S. Masek (SSS) from C. Huppert (LCFM), (3/12/19) that the adjusted financial assurance of \$4.65 million is due 4/1/19.**

2. **Correspondence to S. Masek (SSS) from C. Huppert (LCFM), (3/20/19) that the financial assurance deadline has been extended from 4/8/19 to 4/30/19. Email correspondent from S. Masek to LCFM staff requesting the extension is attached.**

3. **Correspondence to R. Shearer (SSS) from C. Huppert (LCFM), (4/30/19) that the financial assurance deadline has been extended from 4/30/19 to 7/1/19. Email correspondence between R. Shearer and D. Masterpole regarding this matter is attached.**



(715) 726-7920
www.co.chippewa.wi.us

711 North Bridge Street
Chippewa Falls, WI 54729-1876

March 12, 2019

Ms. Sharon Masek
Superior Silica Sands
1058 US Highway 8
Barron, WI 54812

Dear Ms. Masek:

The Chippewa County Department of Land Conservation & Forest Management (LCFM) periodically reviews the amount of financial assurance to assure it equals outstanding reclamation costs, as required under NR 135.40(3). The amount of financial assurance must equal, as closely as possible, the cost to the LCFM of hiring a contractor to complete reclamation according to the approved reclamation plan.

This letter is in follow up to our February 22nd letter and our February 25th meeting. At that meeting, Superior Silica Sands and Fred Weber discussed the possibility of blasting a portion of the existing highwall to reduce the reclamation cost, in the event mining ceased permanently.

On March 11th, Fred Weber provided the LCFM with updated contours and quantities that incorporated blasting as part of reclamation. By assuming that blasting and grading will be applied in reclamation, the amount of overburden earthwork was reduced from 1,400,000 CY to 1,018,537 CY.

Based on the data provided by Fred Weber, the LCFM has updated the required amount of financial assurance.

Please note that the calculation assumptions presented in the February 22nd LCFM letter have also been used for this calculation. A figure showing the assumed location of terraces and rock lined channels is included as Attachment 1.

Pursuant to Chippewa County Code of Ordinances Section 30-103 and NR135.40, the LCFM has established the required amount of financial assurance at \$4.65 million. This amount shall be subject to annual review by the LCFM. The breakdown of quantities and unit costs is shown in Attachment 2.

We appreciate the technical input that has been provided by Superior Silica Sands & Fred Weber. The LCFM is confident that the adjusted level of financial assurance in the amount of \$4.65 million represents an objective and defensible estimate of reclamation costs for the Superior Silica Sands - Auburn Mine.

Please submit the updated financial assurance in the amount of \$4.65 million for the Auburn Mine by April 1, 2019.

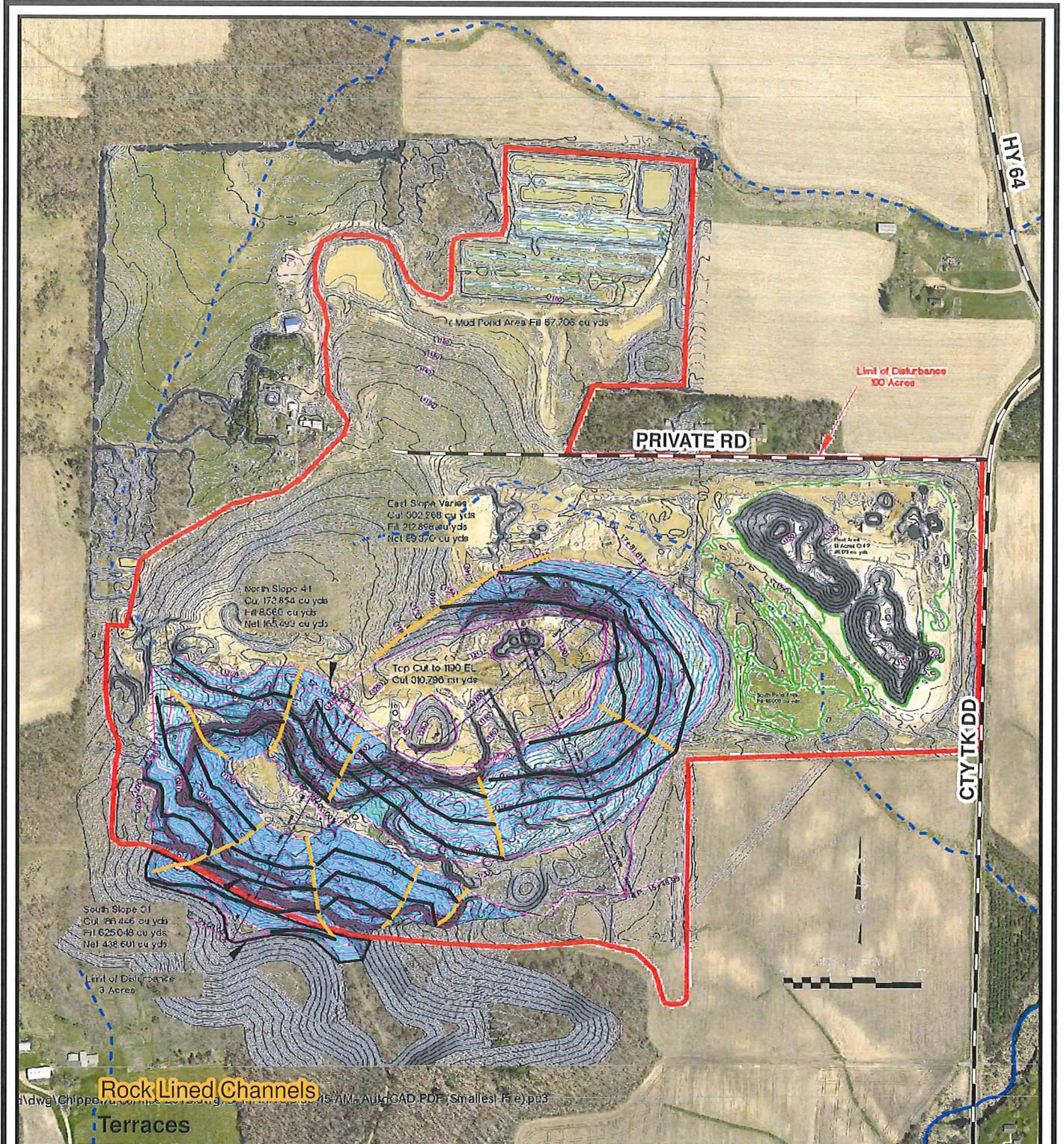
If financial assurance is not provided by April 8, 2019, Chippewa County may suspend or revoke Permit # 2011-02 pursuant to Chippewa County Code of Ordinances Section 30-132, WI Admin Code Section NR 135.25, and Chippewa County Code of Ordinances Section 30-57, and take action to secure the existing financial assurance.

Sincerely,



Christien Huppert, P.E.
Project Engineer III

c: J. Higginbotham, FWI GM via email
T. Pauls, Asst. Corporation Counsel via email
D. Masterpole, County Conservationist via email
R. Scholz, County Administrator via email
P. Sheidecker, Chair, Town of Auburn via email



Legend

- Roads
- Perennial Stream
- Intermittent Stream
- Lakes

N

Approximately 4300 LF of rock lined channel

0 300 600 1,200 Feet

1 inch = 600 feet

Terraces & Rock Lined Channels
 Date: 3/11/2019

Chippewa County
 Land Conservation and Forest Management
 Stewardship for Sustainability

ATTACHMENT 2

| Superior Silica Sands | | | | | |
|-----------------------|-----------------------------|------------|--------------|----------|------------------------|
| # | Item | Unit | Unit Cost | Quantity | Item Total |
| 1 | Earthwork | | | | |
| | Topsoil | CY | \$ 2.50 | 111566 | \$ 278,915.00 |
| | Subsoil | CY | \$ 2.50 | 223132 | \$ 557,830.00 |
| | OB - blasting | CY | \$ 1.00 | 186446 | \$ 186,446.00 |
| | OB - dozer/haul | CY | \$ 2.00 | 832091 | \$ 1,664,182.00 |
| | OB - increase for terracing | Percentage | \$ 2.00 | 10% | \$ 203,707.40 |
| | Subtotal | | | | \$ 2,891,080.40 |
| 2 | Planting | | | | |
| | Ag | AC | \$ 1,125.00 | 90 | \$ 101,250.00 |
| | Native Prairie | AC | \$ 1,950.00 | 35 | \$ 68,250.00 |
| | Forested | AC | \$ 2,175.00 | 38 | \$ 82,650.00 |
| 3 | Mulch | AC | \$ 1,500.00 | 105 | \$ 157,500.00 |
| 4 | Repair Work | AC | \$ 2,000.00 | 105 | \$ 210,000.00 |
| 5 | Erosion Control Mat | AC | \$ 5,250.00 | 58 | \$ 304,500.00 |
| 6 | Abandon High Cap Well | EA | \$ 5,000.00 | 1 | \$ 5,000.00 |
| 7 | Remove Processing Plant | EA | \$ 85,000.00 | 1 | \$ 85,000.00 |
| 8 | Access Road Demolition | SF | \$ 0.30 | 120000 | \$ 36,000.00 |
| 9 | Storm/Process Water Ponds | EA | \$ 5,250.00 | 10 | \$ 52,500.00 |
| 10 | Rock Lining | CY | \$ 50.00 | 4250 | \$ 212,500.00 |
| 11 | Geotextile | SY | \$ 2.20 | 9560 | \$ 21,032.00 |
| 12 | County Cost to Administer | LS | 10% | 1 | \$ 422,726.24 |
| | Subtotal | | | | \$ 1,758,908.24 |
| | Total | | | | \$ 4,649,988.64 |



(715) 726-7920
www.co.chippewa.wi.us

711 North Bridge Street
Chippewa Falls, WI 54729-1876

March 20, 2019

Ms. Sharon Masek
Superior Silica Sands
1058 US Highway 8
Barron, WI 54812

Dear Ms. Masek:

The Chippewa County Department of Land Conservation & Forest Management (LCFM) has received your request for an extension to the financial assurance submittal deadline. This request is included as Attachment 1.

In response to this request, the LCFM has changed the financial assurance deadline from April 8, 2019 to April 30, 2019.

Note that Superior Silica Sands, as the operator, must be the provider of financial assurance.

Please submit the updated financial assurance in the amount of \$4.65 million for the Auburn Mine by April 30, 2019.

If financial assurance is not provided by April 30, 2019, Chippewa County may suspend or revoke Permit # 2011-02 pursuant to Chippewa County Code of Ordinances Section 30-132, WI Admin Code Section NR 135.25, and Chippewa County Code of Ordinances Section 30-57, and take action to secure the existing financial assurance.

Sincerely,

A handwritten signature in black ink that reads "Christien W Huppert".

Christien Huppert, P.E.
Project Engineer III

c: T. Pauls, Asst. Corporation Counsel via email
D. Masterpole, County Conservationist via email
R. Scholz, County Administrator via email
P. Sheidecker, Chair, Town of Auburn via email

ATTACHMENT 1

From: [Sharon Masek](#)
To: [Christien Huppert](#); [Dan Masterpole](#)
Cc: [Rick Shearer](#); [Brian Mittlestadt](#)
Subject: Financial Assurance
Date: Tuesday, March 19, 2019 2:28:05 PM

Per your March 12th letter, the financial assurance amount required for the Auburn mine is \$4.65 million. SSS currently has approximately \$2.9 in financial assurance for the site. We are negotiating an agreement with Fred Weber Inc that includes several items, one of which is the responsibility for this additional financial assurance. We believe that the amount required today would be significantly less if FWI had been reclaiming as they mined. We do not anticipate completion of our negotiations with FWI by the current financial assurance payment deadline of April 8th. We are therefore requesting an extension of the due date to April 30th 2019. Please let us know if this is acceptable to the County. Thank you.

Sharon J. Masek PG, PH | Manager of Mine Planning & Industrial Relations | Superior Silica Sands | 1512 East Division Avenue | Barron, WI 54812 | o. 715.575.3302 | c. 715.651.5972 | f. 715.357.4401 | smasek@sssand.com | www.sssand.com





(715) 726-7920
www.co.chippewa.wi.us

711 North Bridge Street
Chippewa Falls, WI 54729-1876

April 30, 2019

Mr. Rick Shearer
President & CEO
Superior Silica Sands
5600 Clearfork Main Street
Suite 400
Ft. Worth, TX 76109

Dear Mr. Shearer:

The Chippewa County Department of Land Conservation & Forest Management (LCFM) has received your request for an extension to the financial assurance submittal deadline. This request is included as Attachment 1.

It is our understanding that this extension is necessary due to a reorganization of Superior Silica Sands that occurred last week.

In response to this request, the LCFM has changed the financial assurance deadline from April 30, 2019 to July 1, 2019.

Note that this extension is only valid if the existing Bond No. 800008775 in the amount of \$2.97 million remains in good standing.

Please submit the updated financial assurance in the amount of \$4.65 million for the Auburn Mine by July 1, 2019.

If financial assurance is not provided by July 1, 2019, Chippewa County may suspend or revoke Permit # 2011-02 pursuant to Chippewa County Code of Ordinances Section 30-132, WI Admin Code Section NR 135.25, and Chippewa County Code of Ordinances Section 30-57, and take action to secure the existing financial assurance.

Sincerely,

A handwritten signature in black ink that reads "Christien W Huppert".

Christien Huppert, P.E.
Project Engineer III

c: T. Pauls, Asst. Corporation Counsel via email
D. Masterpole, County Conservationist via email
R. Scholz, County Administrator via email
P. Sheidecker, Chair, Town of Auburn via email

ATTACHMENT 1

Christien Huppert

From: Dan Masterpole
Sent: Tuesday, April 30, 2019 8:05 AM
To: Christien Huppert
Cc: Randy Scholz; Todd A. Pauls
Subject: FW: Chippewa County - FA extension , STRICTLY CONFIDENTIAL ; Co. Responce to SSS
Attachments: 20190429145456872.pdf; 20190429145446749.pdf; 140120 Chippewa County Bond.pdf

CH

Good morning Christien

FYI

Find attached the request and supporting materials provided by the CEO of Emerge Energy.

Please add this correspondence and attachments to the e file.

I met with the CA yesterday.

He has accepted the Dept's recommendation to allow for the 60 day extension.

Please take the necessary steps to draft the response via a letter to SSS.

I will be available this morning to discuss the content to assure that the County remains in a position to facilitate full and successful reclamation..

Thank you for your efforts on this project.



Dan Masterpole
Dept. Director/County Conservationist
Chippewa County Land Conservation & Forest Management
711 N. Bridge Street
Chippewa Falls, WI 54729
#715-726-7920 (phone)
#715-726-4589 (fax)
www.co.chippewa.wi.us

From: Rick Shearer [mailto:Rick@sssand.com]
Sent: Monday, April 29, 2019 2:57 PM
To: Dan Masterpole
Cc: Sharon Masek
Subject: FW: Chippewa County - STRICTLY CONFIDENTIAL

Hi Dan:
Good to talk with you, Christian and Todd this am.

Per your request, you'll from Sharon's email and the attachments, that we can confirm the current \$3MM bond for our Chippewa County mine is valid and remains in effect. Further, Sharon has included an attachment confirming the commitment from Weber to reclaim the mine work that they have done thus far.

With this provided, Dan, we would request a 60 day extension to provide the increased \$1.79MM bonding until our lending group, who just took control last week of SSS, can get their "bearings" to understand our business and the obligations due. As they reset our budgets and manage our cash position, they will then have time to properly allocate funding as necessary.

We are fully committed to "do the right thing" at the Auburn mine and continue our partnership with Chippewa County. Thank you, Dan, for your support in allowing us this 60 day extension. This would be a big help as we adapt with our new owners. Please let me know if this request is accepted.

Sincerely,

Rick Shearer | President & CEO | Superior Silica Sands | 5600 Clearfork Main Street, Suite 400 | Ft. Worth, TX 76109 | O. 817.841.8072 | c. 304.671.7700 | f. 888.446.5677
| rick@sssand.com | www.sssand.com



DISCLAIMER:

This e-mail, including attachments, may include confidential and/or proprietary information, and may be used only by the person or entity to which it is addressed. If the reader of this e-mail is not the intended recipient or his or her authorized agent, the reader is hereby notified that any dissemination, distribution or copying of this e-mail is prohibited. If you have received this e-mail in error, please notify the sender by replying to this message and delete this e-mail immediately. Thank you for your cooperation.

From: Sharon Masek
Sent: Monday, April 29, 2019 2:45 PM
To: Rick Shearer <Rick@sssand.com>
Subject: Chippewa County

Hi Rick,

According to Bryan Miles, the original bond remains in effect (copy attached). I've also attached a copy of the Draft agreement saying that Weber will complete the reclamation as well as a copy of the agreed-upon reclamation contours and prices developed by Weber and agreed to by SSS and the County. As I understand, the County has asked Weber for some additional information including revised contours on the settling ponds and the large central hill, updated hydrology calculations, and proposed best management practices. We are still waiting for those items.

Sharon J. Masek PG, PH | Manager of Mine Planning & Industrial Relations | Superior Silica Sands | 1512 East Division Avenue | Barron, WI 54812 | o. 715.575.3302 | c. 715.651.5972 | f. 715.357.4401 | smasek@sssand.com | www.sssand.com



Attachment 3

- 1. Correspondence to S. Masek (SSS) from C. Huppert (LCFM) regarding the need to install the next set of monitoring wells in 2018 at the Auburn Mine, as noted in Condition 7 of the reclamation permit.**

- 2. Email correspondence between S. Masek (SSS) to C. Huppert (LCFM), (9/10/18) regarding installation of the two monitoring wells.**

- 3. Email correspondence to S. Masek (SSS) from C. Huppert (LCFM), (5/24/19) regarding SSS intermittent mining and the status of the groundwater elevation monitoring wells, as required by the permit.**



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711 North Bridge Street
Chippewa Falls, WI 54729-1876

ENGINEERING: Christien W. Huppert
voice: (715) 720-3644; fax: (715) 726-4589
e-mail: chuppert@co.chippewa.wi.us

Ms. Masek,

At our Annual Report and Activities Plan meeting in January, we discussed the need to install the next set of monitoring wells in 2018 at the Auburn Mine. The addition of new monitoring wells is required under the Reclamation Permit #2011-02, Condition 7.

At the annual meeting, wells #MW-11 and #MW-12, as depicted on the 2012 Operations Site Plan, were selected as the next wells to be installed in 2018. These two wells coincide with the advancement of mining activities to the south.

On a related matter, you have indicated that Superior Silica Sands proposes to reclaim the settling ponds, located on the northern edge of the mine, in situ, without removing the accumulated wash plant fines and pond liners.

In order for the County to certify that the reclaimed mine meets requirements of NR 135.08, as it applies to groundwater protection, and NR 135.07, as it applies to surface water protection, Superior Silica Sands will need to provide evidence that the reclaimed ponds will not cause groundwater pollution down gradient of the mine.

To provide this evidence, Superior Silica Sands should, at a minimum, install at least one additional monitoring well on the east side of the settling ponds, at approximately the 1060 groundwater elevation as shown on the 1988 regional groundwater map. The approximate location of this well is shown on the attached map (circled in green).

The purpose of this additional monitoring well will be to further define the local groundwater flow patterns, and to establish an additional groundwater sampling point that will serve to detect and monitor any potential groundwater pollutants resulting from the proposed reclamation.

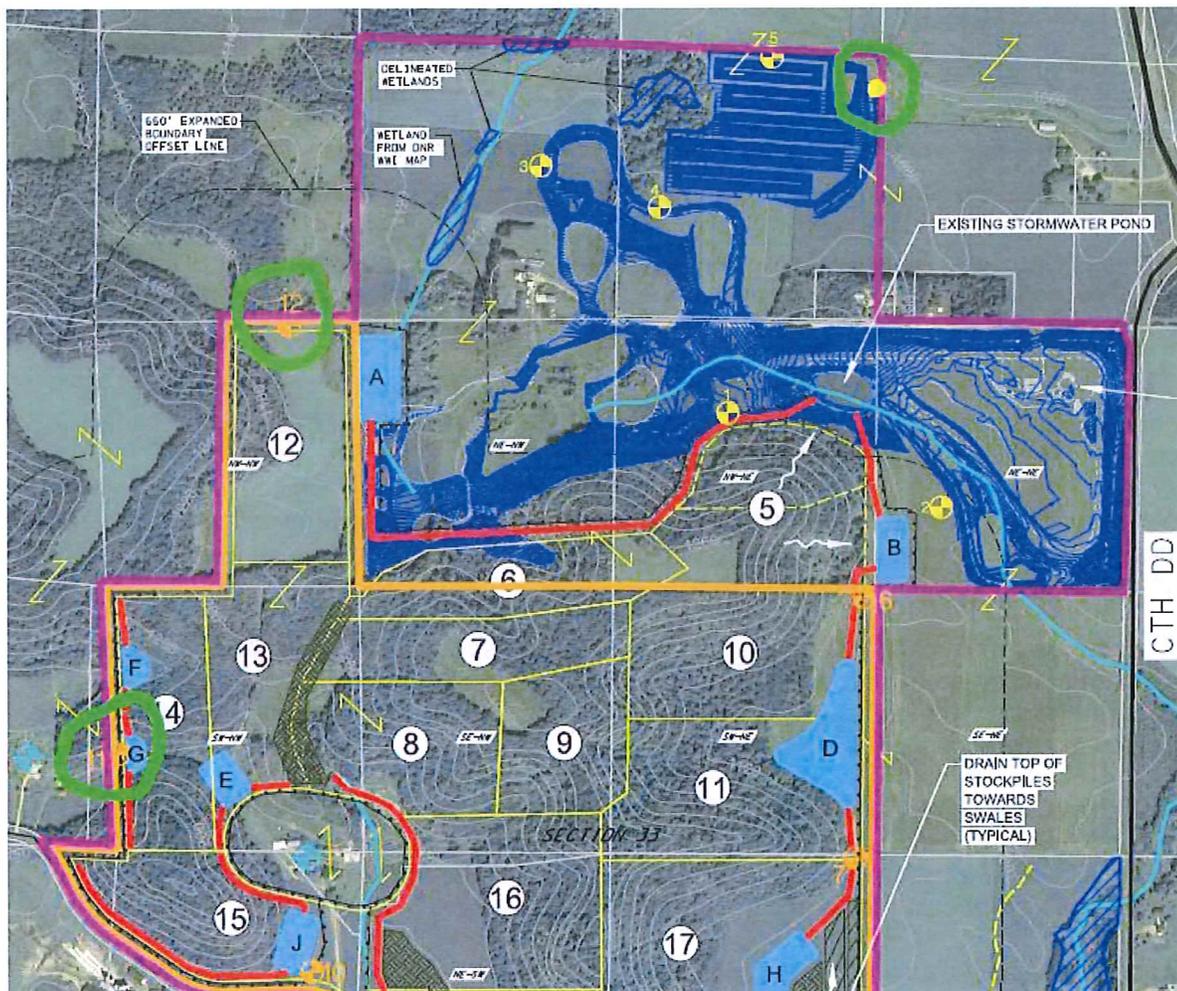
For the purpose of monitoring groundwater chemistry to meet NR 135.07 and MR 135.08, #MW-4, #MW-5, and the new well shall be monitored following the requirements and procedures in Attachment 2.

Please let me know if you have any questions or concerns regarding these requirements or your schedule for implementation.

Thank you,

Christien Huppert

ATTACHMENT 1



ATTACHMENT 2

Each well in the groundwater monitoring well network shall be tested for the following parameters:

pH, total dissolved solids, total suspended solids, nitrate-nitrogen, acrylamide, phosphorus, sulfate, residual materials associated with the type of chemicals used, and the following metals: Al, Sb, As, Ba, Be, B, Cd, Ca, Cr, Co, Cu, Fe, Pb, Mg, Mn, Hg, Mo, Ni, K, Se, Ag, Na, Sr, Tl, Ti, V, & Zn.

Testing should be performed annually or at any time when there are changes to the type of chemicals used.

The sampling methods shall comply with the DNR Groundwater Sampling Field Manual.

The analytical test methods and procedures shall comply with Wisconsin Administrative Code NR 219 or alternative test methods proposed by the Operator and agreed to by the LCFM. Groundwater samples should be filtered prior to testing, unless otherwise agreed to by the LCFM in consultation with DNR.

The Operator shall conduct groundwater sampling and testing of this permit annually for the life of the mine until final reclamation for the entire mine is certified by the Department.

Ethan Hau

From: Sharon Masek <smasek@sssand.com>
Sent: Monday, September 10, 2018 12:20 PM
To: Christien Huppert
Subject: RE: 2/13/18 meeting action items

I hope to. I've been waiting for time on a driller's schedule for a couple months on another site. I will take a look at the locations again and see if we need to wait for crops to come off. And, of course, it couldn't hurt to let the ground dry up a bit more!

Sharon J. Masek PG, PH | Manager of Mine Planning & Industrial Relations | Superior Silica Sands | 1512 East Division Avenue | Barron, WI 54812 | o. 715.575.3302 | c. 715.651.5972 | f. 715.357.4401 | smasek@sssand.com | www.sssand.com



From: Christien Huppert <chuppert@co.chippewa.wi.us>
Sent: Monday, September 10, 2018 12:03 PM
To: Sharon Masek <smasek@sssand.com>
Subject: RE: 2/13/18 meeting action items

Good morning Sharon,

I hope summer is treating you well.

Dan and I want to connect on the installation of MW-11 and MW-12. At our annual meeting in January, we had agreed to install these wells in 2018, as shown in the Reclamation Plan. Can you confirm that you still intend to install these wells this year?

We are also working on drafting the ongoing agreement between SSS, UWRF, and the LCFM. We will have a draft ready to go for review in the near future.

Thank you,

Christien Huppert, PE
Project Engineer 2
Chippewa County Land Conservation & Forest Management
711 N. Bridge Street
Chippewa Falls, WI 54729
(715) 720-3644 Office

From: Christien Huppert
Sent: Monday, February 19, 2018 11:00 AM

To: 'Sharon Masek' <smasek@sssand.com>; Josh Clements <Josh@sssand.com>; Higginbotham, Justin S. <jshigginbotham@fredweberinc.com>; 'Johnson, Bradie J.' <bijohnson@fredweberinc.com>; Lina Klein - Fred Weber, Inc. (ljklein@fredweberinc.com) <ljklein@fredweberinc.com>; Dan Masterpole <DMasterpole@co.chippewa.wi.us>
Subject: 2/13/18 meeting action items

Good morning all,

Thank you for taking the time to meet last week to review the Annual Report and Activities Plan. Dan and I found it to be a very productive meeting. Below are the action items that were outlined at the meeting. If anyone has anything to add, please reply all to the email.

FW: Bradie to send MSDS for flocculants used in 2017 (Completed)

FW: Justin to provide cut/fill computations and contours for the proposed reclamation surface, assuming mining were to cease today, for the purpose of establishing financial assurance (attempt to provide by summer 2018)

SSS: Sharon to look into difference between ug/L (2015 tests) and mg/kg (2017 tests)

SSS: Sharon to send network link for rainfall data to LCFM

SSS: Sharon to explore the installation of a personal weather station for providing real time rainfall data

SSS: Sharon to coordinate installation of MW-11 and MW-12 in 2018

LCFM: Christien to discuss with Mike Parsen the value of installing a replacement well between MW-1 and MW-6, versus installing monitoring wells in more useful locations

LCFM : Dan to meet with Todd Prill to review soil chemistry of the 2017 reclamation area

LCFM: Dan and Christien to set up the winter 2018 meeting with landowners, SSS, and FW to clarify the post-mining land use for the 2018 reclamation areas

Thank you,

Christien Huppert, PE

Project Engineer 2

Chippewa County Land Conservation & Forest Management

711 N. Bridge Street

Chippewa Falls, WI 54729

(715) 720-3644 Office

Ethan Hau

From: Christien Huppert
Sent: Friday, May 24, 2019 4:17 PM
To: Sharon Masek
Cc: Dan Masterpole; Ethan Hau; Higginbotham, Justin S.
Subject: SSS Intermittent Mining

Follow Up Flag: Follow up
Flag Status: Flagged

Good afternoon Sharon,

As the Superior Silica Sands – Auburn Mine moves into an intermittent mining phase, it is critical that proper management is implemented to maintain compliance with the existing reclamation plan and permit.

In light of prospective management changes that may occur at the mine, we are obligated to convey the following immediate concerns as SSS enters intermittent mining:

1. Water management within the mine. Ponds on the perimeter will need to be continuously monitored and pumped in order to maintain storage capacity for the 100-year, 24-hour storm event and to avoid discharge of contaminated stormwater. As we have agreed, pumped water can be pumped back into the mine for storage, used for irrigating farm fields within the mine boundary, or used for dust control on washed sand stockpiles and other disturbed areas of the mine.
2. Groundwater elevation monitoring. Two monitoring wells that are required by the permit and were planned for installation in 2018 have not yet been installed. To maintain compliance, these wells must be installed by July 1, 2019 or by an alternative date agreed to by the County. If a location is unreachable due to physical site conditions, the operator may propose a nearby alternative location, to be reviewed by the County.
3. Erosion on reclaimed surfaces. Rill erosion is occurring on the reclamation areas that were planted in 2017 and 2018, both north and south of the Glaser driveway. These rills should be repaired in 2019 to prevent the mass wasting of topsoil and subsoil on site.
4. On April 8th and April 30th, 2019, the County requested the following information:
 - a. Proposed contours for areas undergoing reclamation this year, including the settling ponds on the north east corner of the mine and the large hill in the center of the mine.
 - b. Updated hydrology for areas undergoing reclamation this year showing the watershed size (boundaries and SF) for each area.
 - c. Proposed BMP's for reclamation that will limit the potential for offsite discharge of sediment laden water.
 - d. An intermittent mine reclamation plan with a schedule for the planned reclamation activity in 2019
 - e. A proposed schedule for weekly meetings or phone calls to discuss planned upcoming work

The County has still not received items 4.d. and 4.e.

Upon receipt of this information, the County will be in a position to approve the following proposed reclamation activities:

1. The northwest stormwater pond (closest to Gerry Glaser home) can be reclaimed. Prior to filling the pond, adequate construction site erosion control practices, including a double row of silt fence should be installed along the downstream perimeter.
2. The rectangular settling ponds can be reclaimed in-place. The two northern-most ponds containing the rock lined overflow weir should be left in place until vegetation is established on the reclaimed settling ponds and authorization is given by the County. When authorized to remove the final ponds, adequate construction site erosion control practices, including a double row of silt fence shall be installed along the downstream perimeter.

Exhibit E



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www.co.chippewa.wi.us

711 North Bridge Street
Chippewa Falls, WI 54729-1876

MEMORANDUM

TO: Rick Shearer, CEO
Superior Silica Sands, LLC

FROM: Dan Masterpole, Dept. Director/County Conservationist 

SUBJECT: Notice of Action to Extend Permit Suspension; Auburn Mine

This correspondence is to provide formal notice that Chippewa County has taken administrative action to extend the suspension of Non-Metallic Mine Permit #2011-02, as issued to Superior Silica Sands, LLC (SSS) for the Auburn mine.

Under this administrative action, the non-metallic mine reclamation permit shall be suspended an additional 30 days, as calculated from October 6, 2019, through and including November 5, 2019.

A copy of the permit suspension, as issued by the County on 7/5/19, including the rationale for that action, is provided as Attachment 1.

This action has been taken under the authority of NR 135.25(2), applying the grounds for suspension established in NR 135.25(1)(b) and (c).

A review of the permit record has established that Superior Silica Sands is currently out of compliance with NR 135, the Chippewa County Non-Metallic Mining Reclamation Ordinance, and several important permit conditions.

Please know that Chippewa County remains committed to working closely with Superior Silica Sands as the company seeks to regain full compliance and maintain its mine operations.

I can be reached directly at #715-726-4590 to address any questions that you or your staff may have, and am very willing to discuss any actions that can be taken to meet our mutual objectives for mine reclamation.

DM/jls

Attachment

c: R. Scholz, Co. Administrator, w/out attachment
T. Pauls, Asst. Corp. Counsel, w/out attachment
S. Masik, Superior Silica Sands, LLC, w/out attachment

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

In re:

EMERGE ENERGY SERVICES LP, et al.,
Debtors.¹

Chapter 11

Case No. 19-11563 (KBO)
(Jointly Administered)

CERTIFICATE OF SERVICE

I, Jeffrey M. Schlerf, hereby certify that on October 18, 2019, I caused a true and correct copy of the *Chippewa County's Objection to the First Amended Joint Plan of Reorganization and Joinder to Atlantic Specialty Insurance Company's Limited Objection* to be served in the manner indicated to the parties on the attached **Service List**.

Dated: October 18, 2019

/s/ Jeffrey M. Schlerf
Jeffrey M. Schlerf (DE Bar No. 3047)

¹ The Debtors in these cases, along with the last four digits of each Debtor's federal tax identification number, are: Emerge Energy Services LP (2937), Emerge Energy Services GP LLC (4683), Emerge Energy Services Operating LLC (2511), Superior Silica Sands LLC (9889), and Emerge Energy Services Finance Corporation (9875). The Debtors' address is 5600 Clearfork Main Street, Suite 400, Fort Worth, Texas 76109.

Service List

| | |
|--|--|
| <p>VIA EMAIL AND FIRST CLASS MAIL Latham & Watkins LLP Attn: Keith A. Simon, Esq., Hugh K. Murtagh, Esq., Liza L. Burton, Esq., Blake T. Denton, Esq., Keith A. Simon, Esq., and Sid Nadkarni, Esq. 885 Third Avenue New York, NY 10022-4834 Email: keith.simon@lw.com Email: hugh.murtagh@lw.com Email: liza.burton@lw.com Email: blake.denton@lw.com Email: keith.simon@lw.com Email: sid.nadkarni@lw.com</p> | <p>VIA EMAIL AND HAND DELIVERY Richards, Layton & Finger, P.A. Attn: John H. Knight, Esq. and Paul N. Heath, Esq., Liza L. Burton, Esq., Zachary I. Shapiro, Esq., Travis J. Cuomo, Esq., Brett M. Haywood, Esq., Russell C. Silberglied, Esq., David T. Queroli, Esq., and John Henry Knight, Esq. One Rodney Square 920 North King Street Wilmington, DE 19801 Email: knight@rlf.com Email: heath@rlf.com Email: shapiro@rlf.com Email: cuomo@rlf.com Email: haywood@rlf.com Email: silberglied@rlf.com Email: queroli@rlf.com Email: knight@rlf.com</p> |
| <p>VIA EMAIL AND FIRST CLASS MAIL Weil, Gotshal & Manges LLP Attn: Matt S. Barr, Esq., David Griffiths, Esq., Candace M. Arthur, Esq., Alexander Condon, Esq., and Miranda S. Schiller, Esq. 767 Fifth Avenue New York, NY 10153-0119 Email: matt.barr@weil.com Email: david.griffiths@weil.com Email: candace.arthur@weil.com Email: alexander.condon@weil.com Email: miranda.schiller@weil.com</p> | <p>VIA EMAIL AND HAND DELIVERY Pachulski Stang Ziehl & Jones LLP Attn: Laura Davis Jones, Esq., Timothy P. Cairns, Esq. 919 North Market Street Wilmington, DE 19801 Email: ljones@pszjlaw.com Email: tcairns@pszjlaw.com</p> |
| <p>VIA EMAIL AND FIRST CLASS MAIL Kilpatrick Townsend & Stockton LLP Attn: Todd C. Meyers, Esq., David M. Posner, Esq., and Kelly Moynihan, Esq. 1114 Avenue of the Americas New York, NY 10036 Email: tmeyers@kilpatricktownsend.com Email: dposner@kilparticktownsend.com Email: kmoynihan@kilpatricktownsend.com</p> | <p>VIA EMAIL AND FIRST CLASS MAIL Kilpatrick Townsend & Stockton LLP Attn: Lenard M. Parkins, Esq. 700 Louisiana Street Suite 4300 Houston, TX 77002 Email: lparkins@kilpatricktownsend.com</p> |

| | |
|---|---|
| <p>VIA EMAIL AND HAND DELIVERY Potter Anderson & Corroon LLP Attn: Jeremy W. Ryan, Esq., Christopher M. Samis, Esq., D. Ryan Slauch, Esq., Cynthia S. Giobbe, Esq., Aaron H. Stulman, Esq., L. Katherine Good, Esq., and Christopher M. Samis, Esq. 1313 North Market Street, Sixth Floor P.O. Box 951 Wilmington, DE 19899 Email: jryan@potteranderson.com Email: csamis@potteranderson.com Email: rslauch@potteranderson.com Email: cgiobbe@potteranderson.com Email: astulman@potteranderson.com Email: kgood@potteranderson.com Email: csamis@potteranderson.com</p> | <p>VIA EMAIL AND HAND DELIVERY The Office of the United States Trustee for the District of Delaware Attn: Juliet M. Sarkessian, Esq. 844 King Street Suite 2207 Wilmington, DE 19801 Email: Juliet.M.Sakessian@usdoj.gov</p> |
| <p>VIA EMAIL AND FIRST CLASS MAIL Kilpatrick Townsend & Stockton LLP Attn: Patrick J. CarewL, Esq. 2001 Ross Avenue Suite 4400 Dallas, TX 75201 Email: pcarew@kilpatricktownsend.com</p> | <p>VIA EMAIL AND FIRST CLASS MAIL Weld Riley Attn: William E. Wallo, Esq. Eau Claire Office 3624 Oakwood Hills Pkwy Eau Claire, WI 54701 Email: wwallo@weldriley.com</p> |
| <p>VIA EMAIL AND HAND DELIVERY Saul Ewing Arnstein & Lehr LLP Attn: Lucian Murley, Esq. 1201 North Market Street Suite 2300 Wilmington, DE 19801 Email: luke.murley@saul.com</p> | <p>VIA EMAIL AND HAND DELIVERY Sullivan Hazeltine & Allinson LLC Attn: Zeke Allinson, Esq. 901 North Market Street, Suite 1300 Wilmington, DE 19801 Email: zallinson@sha-llc.com</p> |
| <p>VIA EMAIL AND FIRST CLASS MAIL Davis Santos P.C. Attn: Santos Vargas, Esq. and Caroline Newman Small, Esq. 719 S. Flores Street San Antonio, TX 78204 Email: svargas@dslawpc.com Email: csmall@dslawpc.com</p> | <p>VIA EMAIL AND HAND DELIVERY Connolly Gallagher LLP Attn: Jeffrey C. Wisler, Esq. 1201 North Market Street, 20th Floor Wilmington, DE 19801 Email: jwisler@connollygallagher.com</p> |

VIA EMAIL AND HAND DELIVERY

Chipman Brown Cicero & Cole, LLP

Attn: William E. Chipman, Jr., Esq.

Hercules Plaza

1313 N. Market Street

Suite 5400

Wilmington, DE 19801

Email: Chipman@chipmanbrown.com