

**SPECIAL PLANNING COMMISSION MEETING  
PUBLIC HEARING**

**Kelly Aggregate Application for a Level 3 IUP**

**February 10, 2009**

**Eureka Town Hall**

Planning Commission Chair Sharon Buckley called the Meeting to order at 7:08 p.m. Planning Commission members present included Sharon Buckley, Nancy Sauber, Ken Olstad and Kenny Miller. Planning Commission Member Vincent Mako arrived at 7:17 p.m. Clerk/ Treasurer, Nanett Sandstrom, was present to record the minutes.

Audience member included Town Board Members Jeff Otto and Carrie Jennings, Kelly Brosseth, Paige Quintus, Kate Kleiter, Steve Hosch, Terry Swor, Richard Pennings, Jason Curry, Randy Allen, John Storlie, Pat Mason, Shawn Dahl, Kurt Quaintance, Robert Ripley and Dennis Ripley.

Agenda: To conduct a Public Hearing regarding the proposed Level 3 Extraction Permit on Property ID 13-0080-011-25. The Legal Description of the property is in the Application.

Planning Commission member Kenny Miller excused himself from the proceedings due to a possible conflict of interest.

The Public Hearing is to consider an application from Kelly Brosseth, owner, and Ames Construction, operator, for a Level 3 Permit under Ordinance 6, Section 3- Levels of Permits (page 133) Level 3 Permit. This permit applies to operations that will exceed ten (10) acres of excavated area to a maximum depth to be determined by the approved site plan, but not to exceed 1 foot above the water table, unless the end use is to be a lake or a wetland. In addition, the proposed mining plan must undergo a technical review by the Department of Natural Resources, Division of Lands and Minerals. Compliance with reclamation standards is required. An EAW is required for this level of permit.

Chair Sharon Buckley covered the protocol of the meeting.

On June 24, 2008, the Planning Commission held a Public Hearing for a Level 1 Permit Application for the same property. A Level 1 Permit is for 5 acres or less and for one operating season only.

The Level 1 Permit was approved by the Town Board on June 26, 2008.

On July 14, 2008, the Applicant presented to the Town Board his intent to apply for a Level 3 Interim Use Permit. By Ordinance, a Level 3 Permit incorporates the Level 1 Permit.

On September 2, 2008, at the Regular Planning Commission Meeting, a formal application was received, reviewed, and forwarded to TKDA, Township Engineering/ Consultant Firm for review and to prepare the EAW (Environmental Assessment Worksheet)

The EAW was completed, sent out and published, fulfilling all requirements on November 17, 2008, with a 30-day comment period ending December 17, 2008.

At the January 5, 2009, Planning Commission Meeting the Planning Commission reviewed the recommendations from TKDA regarding the EAW and recommended to the Town Board not to require an EIS (Environmental Impact Statement)

At the January 12, 2009, Town Board Meeting the Town Board adopted a Negative Resolution, thus not requiring the EIS.

On January 15, 2009, the LAP (Land Alteration Plan) Meeting was held at Dakota County Offices for VRWJPO (Vermillion River Watershed Joint Powers Organization) Review. Supervisor Carrie Jennings, TKDA Engineer Ron Quanbeck, and Commissioners Sharon Buckley and Nancy Sauber attended the meeting. Their report was received by Township today, February 10, 2009.

The long list of Exhibits was not read as it is included in the rather large application.

The applicant Kelly Brosseth was asked to make a brief statement on the application.

Kelly Brosseth introduced the design team: Shawn Dahl and Pat Mason, Operators, from Ames Construction; Kurt Quaintance from Hill Engineering; Terry Swor, Rick Pennings and Kate Kleiter from American Engineering and Testing; and Steve Hosch from Hosch Appraisals and Consulting.

The project is a proposal for a Level 3 Mining Extraction Permit and is an extension from the current Level 1 mining area. The project is projected to take up to 22 years to complete. The project consists of approximately 79.85 acres, which includes the existing 5-acre site from last year. The project phasing plan is to expand east from the existing extraction site, 2 feet above the water table all the way to the east line, then move back west below the water table. The access to the project is through the adjoining Storlie Pit on a parcel of property purchased for this project. The access is onto Dodd Blvd. All ingress and egress vehicles will come from Dodd Blvd. There will be modifications made to Dodd Blvd. for this project. The end result of the project is an approximately 60-acre lake with a depth of about 30 feet. Monitoring wells have been installed as indicated by American Engineering to monitor the ground water throughout the project. As an additional requirement, another berm for screening will be constructed along 235th St. W. For the duration of the project and after the project is completed, all unmined area will remain agricultural. The reclaimed property consists of slopes that are 4:1 seeded with native grass mix.

Ron Quanbeck, Township Engineer from TKDA, was asked to make opening remarks. Ron highlighted items from the 13-page Memorandum sent from TKDA to the Planning

Commission on January 21, 2009. See attached Memorandum. The following information is additional information to what is outlined in the memorandum:

LAP Review- When the LAP meeting was initially held, it was thought that the VRWJPO required its own permit. In the LAP Review letter received February 10, 2009, it states that the VRWJPO is not requiring a separate permit. It is recommending incorporation of its recommendations into the Interim Use Permit. See attached VRWJPO letter dated February 10, 2009.

TKDA's memo included suggested conditions that will need to be updated with VRWJPO recommendations and input from tonight's public hearing.

Access- The access to the mine is from Dodd Blvd. A bypass lane will be installed on Dodd Blvd. The average number of trips per day is estimated to be 156 trips at peak operating times. (Trips are one way) The proposed condition is that the numbers do not vary significantly from the proposed numbers.

Reclamation Plan- The common boundary between the existing mine and the proposed mine needs to have a coordinated reclamation plan. The two property owners need to do more work on coordinating these two plans.

Procedures for holding a Public Hearing were covered.

At 7:30 p.m. Chair Sharon Buckley opened the floor to public comment.

Robert Ripley, 9480 235th St W., Lakeville

Robert Ripley lives in the end house on 235th St. He is across from the current mining activity. His sight line is across the field to the access point to the mine. He has a view of the trucks entering and leaving the pit area.

1. In regard to the berming: The current Ordinance adopted last night requires that the berming screens adjacent residents within 1,000 feet. Robert asked how they plan to screen his residence and those near him. The current 8-foot berm does not provide any screening to his residence.
2. In regard to the waterline and groundwater: He expressed concerns over the spray painting in the neighboring pit this summer. He asked what measures are going to be taken to prevent this from happening in this pit.
3. Does Mr. Brosseth need to apply for some kind of variance to go closer than 1,000 feet of his residence? The ordinance states setback of 1,000 feet from all residences. It makes no exclusions for the residence of the operator.[sic]
4. In regard to the lifespan of the pit: Mr. Brosseth stated it will be 22 years. Does the Township have a plan in place to hold them to a certain time restriction?

5. If the berm is not adequate and does not provide screening to adjacent residences, the Township should look at possible processing hour restrictions. Operating hours of the pit may be 7 a.m. to 5 p.m., Monday through Friday, but when processing (Crushing & Screening) that a time restriction is in place, if wind is coming out of the north, to avoid possible dust pollution for neighboring residences.
6. In terms of the waterline and potential hazardous materials: Testing of the ground water is going to take place onsite. How often and to whom is it reported? What exactly are they testing for? Robert expressed concerns of dredging below the waterline and groundwater contamination. Does the Township have anything in place to ensure the groundwater does stay safe other than the monitoring? If the Township has a hard time monitoring, how detrimental to Mr. Brosseth and Ames Construction would it be not to mine below the waterline for the entire pit?

Sharon Buckley entered into the record two written pieces of information which were the residents' survey to change the berm design proposed along 235th St. W. for the Kelly Aggregate, Inc. Gravel Mine. This survey was sent out by the Town Board, along with the notification letters for the Public Hearing, to property owners adjacent to the berm area. The returned surveys were from Randy DeGroot, 9390 235th St. W., and from Randy & Sue Allen, 9320 235th St. W. Comments included in the Allen's survey were that they prefer the shorter design, and they are not in favor of concrete and blacktop crushing. Mr. DeGroot did not include any comments in his survey.

John Storlie, 23449 Dodd Blvd., Lakeville

This is a very good vein of gravel. If we don't mine this we are wasting gravel. Everything we do in life uses gravel. Ames Construction is a well-known contractor and a very good representative of a contractor. Kelly Brosseth as a person is a very good person; he is going to keep the place nice. It is his way. Ames Construction is the same way. This is good for the Township. They are good representatives of the Township. Lac Lavon is a good representative of how things can turn out when mining in the water. When Lac Lavon was created there were not near the stipulations that are being enforced today. This is very feasible and can be done. Anything can happen anytime, but it is not likely to happen. A semi can go down the road on 35W hauling gas and go into Lake Marion. That's a possibility. Anything is a possibility. Is it likely to happen. No.

Chair Sharon Buckley left the public comment portion of the meeting open. Questions asked in the public portion of the meeting were addressed.

In regard to the berm plan: As it is designed, it is not screening Rob's house. What is the new berm design? Last night the Town Board passed an ordinance with more flexibility on berm designs. It allows for lower berm designs. If there is objection, it defaults to the minimum 8-foot berm height.

Pat Mason, Ames Construction, commented that the current berm is 8 feet high. They will be excavating 15 feet below grade. They are agreeable to changing the berm to 4 feet high and to adding trees. He asked Mr. Ripley what he would like to see.

Robert Ripley commented that he does not have a preference on what it is. It could be a function of what is cost-efficient for them. He would like to have some screening from his second-story windows. The berm as it sits now would have to be 38 feet high at ground level. Now he has zero screening. He is looking for some type of berming that actually provides screening.

Dennis Ripley, 9460 235th St. W. Lakeville, lives next door. He commented that the current berm is not adequate where it is.

Pat Mason put some suggestions on the table. The berm could be made taller (probably not 38 feet) and trees could be placed on the berm.

Robert Ripley suggested placing 4-foot trees along the edge of the mining area to provide screening and dust control from the pit, rather than placing 32-foot trees on the berm near the road.

Pat Mason commented that this would cut into the agricultural use of the land. They do not want to place trees near the mine site. They want to use as much land as possible for agricultural use. Overburden material (top soil and clay soil that is stripped when mining) will be placed along the southern edge of the mining area. (Inside the construction-fenced area.) A berm could be created with this material. The berm would probably average 8-10 feet tall.

Robert Ripley commented that he does not want to look at the pit every day. He would rather have some trees at the road line as long as it provides screening.

Shawn Dahl, Ames Construction, commented that there are some considerable costs involved in modifying the existing berm. If it is acceptable, they could leave the existing berm as constructed and provide additional screening to offset the sight line. They can better mitigate this by stockpiling the overburden material and clay material along the south line, thus creating a secondary berm at the south pit line. It would be an average of 24 feet from the floor of the pit to the top of the secondary berm on the south line.

Robert Ripley asked where we handle it from here. Do we let them do what they think is appropriate and he gives feedback over the next couple of years?

Sharon Buckley commented that it is the Planning Commission's job to listen to all the suggestions and to put something in writing that gives the very best enforcement to meet every need they possibly can.

Robert Ripley suggested placing trees on the existing berm and raising the height of the berm at the south edge of the pit. If this does not provide the screening per the Ordinance he would need to approach the Town Board at that time.

Carrie Jennings, 8919 280th St W., Northfield, asked about the secondary berm. It was described as a stockpile. This makes it sound like temporary unvegetated material.

Pat Mason commented that through the MPCA permit any open excavation must be revegetated.

Shawn Dahl commented that the material is reused as they mine through the different phases. The convenient place to have the material is near the pit's edge. It will be vegetated.

Carrie Jennings commented that the secondary use of the property- Ag use should be held above the screening benefit of the neighbors. This is a priority that needs to be discussed whether the owner of the land should have the right to mine and get full Ag use at the expense of the neighbors' view.

Sharon Buckley commented that berms are for vision, to block unpleasant views. How do they impact sound and or dust?

Shawn Dahl commented that dust will be controlled by a water truck kept onsite as needed. Berms do not really control dust. As far as noise, berms do not help with noise. The setback of 1,000 ft controls the noise.

Ron Quanbeck commented that noise in the shadow of the berm might be dampened somewhat. The noise tends to travel over the berm, but it does bend down also.

Shawn Dahl commented berms are standard when they construct freeways to help block noise.

Jason Curry, 8735 235th St. W., Lakeville, stated that his family owns the property to the east of Kelly Brosseth's property, on the north side of 235th St. He will not be as affected by noise or dust. Until fall the winds are out of the south. All his dust comes from the road, because he is on the north side of 235th St. Mr. Ripley will be affected by dust out of the fields until probably October. Jason would much rather see a gravel pit and a lake than see storage units, low income housing or a hog operation. He wishes that there were no berm at all.

Nancy Sauber commented that in the Ordinance under reclamation plan it states "Berms will be removed to the original elevation of the land, unless the Board has approved a different elevation as part of the End Use Plan."

Ron Quanbeck commented that the restoration plan does not show the berm. He takes that as the berm will not be removed as part of the restoration. If it is to be removed the reclamation plan should show the berm being removed. This could be a modification to the restoration plan if the Township desires it to be removed.

Kelly Brosseth said he intends to leave the berm there. According to the Level 1 Permit (reclamation plan) a 4' berm is allowed. The existing berm will never be less than 4 feet high.

**Groundwater safety concerns:** How will it be tested, what for and the frequency of testing, the assurance of hazardous materials not getting in the groundwater. Safety of groundwater and ground water monitoring.

Kate Kleiter, American Engineering and Testing. She is a Principal Water Hydrologist. She has over 20 years of experience in groundwater, hydrology and pollutions in particular. She specializes in cleaning up really contaminated sites.

There are three monitoring wells onsite. They have collected data on the direction of the flow. This is important because water flow directions change. They have a written plan. They will analyze the water for DRO (Diesel Range Organics). DRO testing picks up Diesel fuel, gasoline, anything that puts out some type of organics. It is a pretty sensitive test. The plan calls for quarterly testing. There is a plan to put in a fourth well. The background literature shows that the water is flowing northeast away from the neighboring residences and away from the Vermillion River. Sometimes it may flow towards the Vermillion River. A fourth well would be placed at a farther distance to check for change in flow of water direction.

Ken Olstad: What is the frequency of the DRO tests and if something is detected, what is the process for addressing the problem?

Kate Kleiter: If there is a detection, first they would need to detect the source. It would be reported to the MPCA. There are specific guidance documents as how to address it.

Nancy Sauber commented that if you look at page 6 of TKDA memo one of the suggested conditions talks about this.

Terry Swor, President of American Engineering and Testing, commented. Terry is a geologist. He helped find the initial aggregate deposits. The mining and monitoring has been staged. As they get into the process they will learn as they go along. They know about contamination, how to report it to the MPCA, how to mitigate it, collect it. They will learn as they go along, characterize the property with time and find out how it is going to act. The wells will be monitored on a quarterly basis. This is standard procedure. The first samples do not show any DRO or GRO (Gasoline Range Oils). They hope to maintain that. When dredging, there is potential for leaking oil, but it is very small and can be controlled. The concerns are valid and real. They respect these concerns. The operators of the pit are experienced, skilled and conscientious. They have the monitoring of the pit, the duty to notify and the duty to respond.

Nancy Sauber commented that these issues are addressed on page 5 and 6 of TKDA's memo. Nancy had a question on page 5 about the condition that talks about Hazardous Materials. Fuel shall be allowed. It states quantity and storage of this fuel. The condition states "No

other hazardous materials are permitted at the site". Are these hazardous materials as defined by the MPCA? Does this include use at the site? The concern that Rob raised about painting- would this be the area that addresses that?

Ron Quanbeck commented that he has not looked at the MPCA list of items. He would expect that lead-based paint is on the list.

Shawn Dahl assured that they will not be painting any equipment on the property. When asked by Nancy, Shawn said that there is no objection to making a condition that no painting will take place on the property.

Carrie Jennings commented that the baseline chemical analysis looked at diesel and gasoline organics. Is there a reason to continue with just the diesel organics? If another chemical is used onsite that is not a DRO, would it be tested for?

Kate Kleiter- They have analyzed only for Diesel Range Organics. The DRO scan does include some gasoline compounds. It is a pretty broad scan. Other compounds would not be analyzed for unless something had happened that might have caused a problem. The only chemical stored onsite is diesel fuel. The DRO testing would pick up hydraulic oil, heavy oils, gasoline and antifreeze.

Is a variance needed to mine closer than 1,000 feet of the applicant's residence? The Planning Commission felt that through this process they are applying for this. There was discussion whether a variance was needed. Sharon Buckley read text from Ordinance 6, Chapter 7, Section 1, M. Setbacks (Page 143). The request is coming from the mine owner. The 1,000-foot setback is for the benefit of the adjacent property owners. The IUP is a matter of record on the property. In the event the house is ever sold, it is disclosed in the title. The setback can be less than 1,000 feet with appropriate notice and agreement. Chair Sharon Buckley will review the Ordinance to see if there are other procedures to follow to do this correctly.

The Lifespan of about 22 years. How can it be limited to that and not going onto 75 years? Page 9 of the TKDA memo addresses this issue. TKDA's suggested condition is for 20 years unless extended by the Township Board. The application is asking for 22 years. An IUP does expire after a certain time, date or event occurs, such as running out of gravel or a predetermined amount of gravel has been mined. The 22 years was based on usage over the past ten years, and when the applicant feels the gravel in the mine will be used up. It could be 16, 17 or 18 years or it could take 24 years.

Sharon Buckley asked how much gravel tax is paid to the County and how much comes back to the Township. Shawn answered that as of 1/1/2009 the gravel tax is 21¢ / yard or \$15¢ / ton. The host community (Eureka Township) will receive 42% of the revenue from the tax. Every truck that leaves the site, the Township receives about \$1.00.

If no additional screening is provided- then limit hours of processing, if a wind blows from the north, to minimize dust. The wind predominantly blows from the south to the north in

the summer, away from Mr. Ripley's property. There will be screening, so this is a moot point.

Robert Ripley commented if the screening provided is not any better than it is now, then he would want limited hours. If better screening is improved so that it is effective, this is a moot point.

The question regarding going below the waterline has been answered with the monitoring.

Vince Mako had a question about the lake level. It will settle at the current water level. What is the current water level? The answer was that the water level averages 15 feet below the current grade.

Robert Ripley commented that he feels better about everything. He feels the Ames team obviously knows their stuff. Taking care of the berming is a big deal. People are talking about long term, lakes and excavation. He feels a 20-year term is a great recommendation. It is what he would suggest. They don't want it to sit idle for a long period of time. A lot of studies he has read show that property values around a gravel mine decrease, and they increase again when the gravel mine is reclaimed. We definitely need a time limit.

Mr. Ripley commented that there was a lot of good information on how this is going to be monitored. Is it any responsibility of the Planning Commission and/or the Town Board to do any of the monitoring of the water or testing of the wells? Is it completely regulated by the State or self-regulated by the Ames crew/ Brosseth Pit? Is the Township involved somewhere in this process to keep control over it?

Kate Kleiter- The MPCA regulates the monitoring.. Whoever causes a spill, the responsible person/owner of the property has to report it within 24 hours. At that time the responsible party/ owner, under law, is required to address the problem.

Robert Ripley asked if there is an issue and the MPCA gets involved, the responsible party tries to get it cleaned up. Does the Town Board take this into consideration as a violation of their IUP? Does the Township still have control or jurisdiction over the permit after a violation takes place?

Kate Kleiter- If they didn't have a double-lined tank, the operator or owner would be fined or taken to court for not following regulations for protection of the tank. If a spill accidentally occurs, because of an act of nature, there are laws that would follow afterwards. The monitoring is a requirement of the Township. It is more than what the MPCA requires.

Nancy Sauber suggested that Mr. Ripley take a look at the suggested conditions offered by TKDA in their memo. On the bottom of page 5 and top of page 6 the suggested conditions address continued monitoring. Section 8 in the big binder addresses the issue of the valuation of real estate. Nancy suggested that Mr. Hosch could address this.

Steve Hosch, owner of Hosch Appraisals and Consulting, spoke on real estate issues. Hosch Appraisal has conducted an analysis in the immediate market area in Dakota County. They have studied neighborhoods that surround active gravel pits. Given the design that is requested in this permit, in their review of the market, they have not found any dramatic change in the market value resulting from a pit of this design. Tab 8 in the application binder shows the results of a recent study in Dakota County.

Carrie Jennings asked for clarification of the land use. When the lot split was made to acquire the driveway for the Brosseth Pit, the CUP, mining permit, did not go with the property that was sold. The remaining parcel owned by Mr. Storlie retained the mining permit. She does not understand what remains with the lot. She thought that it said no gravel pit or auxiliary use on the property. She asked that the wording be clarified and discussed at some point.

The Planning Commission clarified that when Mr. Storlie asked for his property to be split into two parcels that the mining CUP stayed with the larger piece of property, which he is currently mining. The smaller piece of property being split off would have no mining rights. Mr. Storlie sold the smaller piece of property to Kelly Brosseth. It is now part of this mining application. Its legal description is included in the legal description of the application. Any mining-related activity on this piece of property would be governed under the new Ordinance as part of this permit. This piece of property is not part of the defined mining area, but will be used to gain access to the mining site. This is an auxiliary use. The portion of the property that was acquired from the Storlie Mine has no gravel; it has been fully reclaimed.

Dennis Ripley commented on the phasing plan. The permit is to carry a 20-22 year span. They intend to remove the topsoil and mine the first 15-18 feet deep to the east boundary of the mining area and then to come back the other way. Why are we even considering allowing them to go down ten years from now? Why wouldn't this be discussed at the time? See how they do on the top 80 acres, and then discuss whether they should be allowed to go down farther. Why would you make a decision for 12 years down the line?

Planning Commissioners commented that it is part of the overall plan. It is all in phased plans. They have to reclaim as they go along. The Level 3 Permit allows for an end use plan that includes a lake. This is what they applied for. It is part of a big plan. All of the environmental factors are considered. This is a huge process. The Ordinance provides so much process, procedure and protection for us as residents. There are so many experts involved in this process. There is a list on page 13 of TKDA's document with the permits and approvals required. These permits are required at State and County levels. It is not a one-time permit; reports are required regularly. Permitting agencies include, but are not limited to, the Township, Vermillion River WJPO, MPCA, DNR and Dakota County Highway Department

Jeff Otto- 25580 Dodd Blvd. Lakeville

Jeff pointed out that the Ordinance revision adopted by the Town Board last night allows for flexibility in the design of the berm, which means it does not need to be the same type of berm everywhere a berm is deemed necessary.

Chair Sharon Buckley called three times for additional public comments; hearing none, the public comment portion of the meeting was closed at 8:53 p.m.

The Planning Commission took a short recess.

The meeting reconvened at 9:05 p.m.

The Planning Commission set a Special Meeting for Tuesday, February 17, 2009, at 7:00 pm.

Both the Planning Commission and Township Engineer, Ron Quanbeck, agreed that the VRWJPO suggestions would not be able to be incorporated into the current suggested conditions tonight. The document was received only that day. They have not had sufficient time to review the documents.

The Planning Commission reviewed the conditions of the Level 1 permit. They felt that some of these conditions needed to be incorporated into the Level 3 Permit.

Condition No. 1 in the Level 1 Permit is incorporated into current suggested conditions.

Hours of Operations (Condition No. 5 in Level 1 Permit, Condition No.2 TKDA suggested conditions). The Planning Commission discussed Saturday operating hours. Ames Construction indicated that hauling gravel out of the pit on Saturday mornings only is agreeable. No extraction or processing (screening or crushing) of materials would be allowed during Saturday hours.

Backup alarms were discussed. The volume on backup alarms can be turned down. The loader needs to backup. The noise is minimal. The trucks move in a circular pattern; they typically do not back up.

The recommended language on Hours of Operation will be consistent with the Windmill Mining Permit.

Conditions Nos. 2 and 3 of the Level 1 Permit are not needed. What is addressed in Condition No. 4 no longer exists. Condition No. 5 has been addressed.

Condition No. 6 of the Level 1 Permit is addressed in TKDA's suggested Condition No. 5. This language is from the Ordinance.

Condition No. 7 of the Level 1 Permit is addressed in TKDA's suggested Condition No. 23. The following language will be added to TKDA suggested Condition No. 23: "The applicant shall be responsible for ongoing maintenance of the plantings for the duration of the permit."

Condition No. 8 of the Level 1 Permit talks about its Reclamation; this is not applicable anymore. Condition No. 9 is about expiring in a year. This is not an issue with the Level 3 Permit.

Condition No. 10 of the Level 1 Permit is addressed in TKDA's suggested Condition No. 30.

Condition No. 11 of the Level 1 Permit is about requiring an EAW. This has been done.

Condition No. 12 of the Level 1 Permit is no longer a restriction.

Condition No. 13 of the Level 1 Permit will be incorporated into the suggested conditions: "To minimize noise of back-up alarms, haul trucks will use a circular traffic pattern within the extraction site."

Condition No. 14 of the Level 1 Permit states: "Operator will take all reasonable measures to assure sound suppression devices are fully operational on equipment within the extraction site."

The Windmill mining permit includes language for less intrusive alarm systems. This language will be included in the condition: "If Mine Safety Health Administration (MSHA) regulations for backup alarms change to allow use of less intrusive alarms, the operator shall retrofit equipment owned and operated by Ames Construction with such alarms." (This applies to those trucks owned and operated by Ames.)

Condition No. 15 of the Level 1 Permit addresses berms. This needs to be dealt with.

Chair Sharon Buckley will work on incorporating these changes into TKDA's suggested conditions.

Vince Mako asked for clarification on the concrete and asphalt crushing.

The Ordinance language and suggested condition is as follows: "Recyclable concrete and recyclable asphalt may be crushed and mixed on site if the crushing and mixing do not exceed fifteen (15) working days per calendar year and if the recyclable concrete and recyclable asphalt originated from a road demolition or road repair project in the Township of Eureka." This limits materials to projects that are within the Township's borders.

Ames Construction commented that environmental concerns lead to reuse of materials. (Green Practices) Shawn Dahl of Ames Construction talked about the importance of concrete recycling. If it is not recycled it goes to a landfill. He asked why the Township has a 15-day limit. In making this decision, the Township wanted to restrict recycling to projects within the Township to limit the hauling of outside materials into the Township for processing, thus creating additional traffic on Township roads. Ames suggested that in the future the Township reconsider recycling of materials within the Township. Recycled materials are brought into the pit with trucks that will be hauling out materials, so additional trips into and out of the pit are not occurring as a result of bringing in recycled materials. (Defined as two-way haul) It saves fuel and costs.

The Township had additional concerns over the processing of the recycled materials. Additional noise is generated in the crushing of materials and dust is created. Shawn Dahl of Ames Construction commented that the crushing does not create any more noise or dust than crushing the rock that comes out of the bank. The amount processed in a year is not huge. Maybe 10% of the annual volume processed in the pit.

Current Township Ordinances restrict the recycling of materials at this time. Ordinance language could be changed in the future to allow recycling of materials.

Sharon Buckley suggested adding a condition that addressed the truck hauling route. The current application indicates that truck traffic will primarily leave the pit and travel to the North and the need for the by-pass lane going to the north. What if over the next 20 years more of the truck traffic is going south out of the pit? She suggested adding a condition that in the event that the percentage of the truck traffic is going south increases, the road would be revisited.

Shawn Dahl commented that a permit for road improvement has been received from Dakota County. (Adding a right turn lane) Studies on Dodd Blvd were considered in determining the need for turn lanes. The conclusion of the need to add such a condition was to leave the determination of adding a turn lane to the County.

Shawn Dahl commented on a couple of concerns with the VRWJPO comments. The major issue is Runoff Temperature Control: "If mining areas expand beyond the proposed extraction site, or mining activity is proposed in other areas in the Vermillion River Watershed portion of Eureka Township, the VRWJPO may request a study to analyze cumulative effects of all or some existing and proposed mining activities. If negative impacts are evident, mitigation measures will be sought. The costs of the study and mitigation measures, if required, will be the responsibility of the owners and/ or operators of the mining operations. The requirement should be included in the 'Contingency Plan' in the Groundwater Monitoring Plan."

The applicant has done what he has been asked to do at this point in time. The applicant fully intends to respond to the VRWJPO. It is like asking for the applicant to do another EAW or EIS. The VRWJPO is really looking for someone to help pay for the study. No one is helping Ames Construction to pay for the current studies. Ames Construction thinks it is an overreaching request. It would be like asking John Storlie pay for Brosseth's EAW. Why would he? If it gets to the point that the VRWJPO wants another study, then funding of the study should come from another source such as future applicants.

Ames Construction's other concern with the VRWJPO comments had to do with monitoring of the well's water level and temperature monthly throughout the whole life of the mining operation, or 20-22 years. A plan has been worked out with Leggette, Brashears & Graham, Inc. (LBG) on the Groundwater monitoring plan that it would be on a quarterly basis for 3-5 years depending on what was found in the initial results and historical data. The agency's main concern is the temperature in relation to the trout stream portion of the Vermillion River. They propose to monitor the water level and the temperature in the southeast corner

that is closest to the Vermillion River for the duration of the mining. It would be done on a quarterly basis. This is the well that is the closest to the Vermillion River where temperature would most likely affect the trout stream. The trout stream is over 3,000 feet away. Ames Construction feels that they are asking for more than the standard testing.

Sharon asked if the monitoring is only for 3-5 years. Ames' response was the DRO is for the duration of the permit. The groundwater level and temperature is for 3-5-years.

Ames Construction commented that they will be talking to VRWJPO and Ron Quanbeck on these issues.

Shawn Dahl asked what decision has been made on the berm. The Planning Commission had not come to a conclusion on the berming issue.

Shawn Dahl indicated that the placement of a secondary berm along the south mining boundary is feasible. The initial berm constructed along 235th from the Storlie Pit to Kelly's home is currently 8 feet. There are 3 options. Cut it to 3-4 feet and place trees on it. Leave it as it is or raise it. Shawn asked how important are the trees? The berm is in place; it is vegetated. Is it necessary to spend the money when a secondary berm is being placed?

Kelly Brosseth commented that when he interviewed adjacent property when applying for the Level 1 Permit property owners commented that they would prefer a shorter berm with trees on the berm. After construction of the current berm, he has received a lot of compliments on the current berm. It has 3 foot swells and knolls.

Discussion on berms will continue at the Special Meeting on February 17, 2009.

A motion by Ken Olstad: To adjourn. Motion seconded by Nancy Sauber. All were in favor. Motion carried.

Meeting adjourned at 10:20 p.m.