

From: [Kolar, Mary](#)
To: [Ronald Anderson](#)
Cc: [Lane, Roger](#)
Subject: Re: Property damage site visit to Deerfield township
Date: Thursday, June 09, 2016 10:07:03 AM

Thank you, Mr. Anderson.

I've copied Roger Lane on this email so that your email may become a part of the public record.

Mary

Mary M. Kolar

Supervisor

District 1

kolar.mary@countyofdane.com

From: Ronald Anderson <randerson2525@yahoo.com>
Sent: Wednesday, June 8, 2016 6:08 PM
To: Kolar, Mary
Subject: Property damage site visit to Deerfield township

I appreciate your feedback regarding potential blasting impacts on local private properties. You mentioned that the previous blasting (I assume you meant by the Halverson operation) was in compliance with Wisconsin Blasting Regulations. That has not been the case and there have been numerous violations over the past several years by the current owner that I have been made aware of. I am a retired Group Commander who was in charge of Aircraft Maintenance and I always reviewed the metrics and facts on key issues that involved the safety and well-being of personnel that I was responsible for. I respectfully urge you to do the same.

Please look again at the numerous violations that have occurred with this mine operation over the entire course of its operation and not accept explanations that are undocumented including the DiMiceli letter which I understand looked at a relatively short period of time, and may contain other erroneous information

Lane, Roger

From: Kolar, Mary
Sent: Monday, June 06, 2016 9:40 AM
To: Bill Doubler
Cc: Lane, Roger
Subject: Re: Oak Park Quarry

Hello Bill and Ann,

I've copied Roger Lane on this email so that the information you've included in your email can become a part of the Oak Park Quarry public record.

Mary

Mary M. Kolar

Supervisor

District 1

kolar.mary@countyofdane.com

From: Bill Doubler <doublerzoo@frontier.com>
Sent: Sunday, June 5, 2016 5:44 PM
To: Kolar, Mary
Subject: RE: Oak Park Quarry

Mary-

Thank you for your response. I notice in your reply that you use similar terminology to what Mr. Halvorson and his attorney have been saying. No one wants to say that damage to properties in the vicinity of the quarry has already occurred. Is that intentional as damage would be directly tied to the welfare provision of a CUP?

The new township regulations are great if they are enforceable and don't parallel Wisconsin drunk driving laws.

I was amazed by the quarries preparations for you committee visit this week, It's the first time trash has been picked up along quarry lines since Halvorson took over. Maybe your committee could visit the neighborhood more often!

Nervously,

Bill and Ann Doubler

From: Kolar, Mary [<mailto:Kolar.Mary@countyofdane.com>]
Sent: Friday, June 03, 2016 9:43 AM
To: Bill Doubler <doublerzoo@frontier.com>
Cc: Lane, Roger <lane.roger@countyofdane.com>
Subject: Re: Oak Park Quarry

Hello Bill and Ann,

Thank you for your suggestions for the ZLR Committee. I appreciate hearing from you and your neighbors.

I understand your concern regarding potential blasting impacts on your property. As you may know, the previous blasting conducted at the Oak Park Quarry was within the limitations of the State of Wisconsin Blasting Regulations found under Wisconsin Administrative Code, Chapter SPS 307. Compliance has been verified by the State of Wisconsin Blasting Inspection Agency (Safety and Professional Services). With that said, the Town of Deerfield has recently adopted more stringent blasting regulation that will greatly reduce the allowed blasting levels in the Town of Deerfield. This reduction may address concerns regarding the potential impacts of the quarry operation on neighboring properties. Mr. Halverson, owner of Oak Park Quarry, will need to comply with these new regulations for any future blasting or face revocation of the Town's Blasting License and the current conditional use permit.

Mary
Mary M. Kolar
Supervisor
District 1
kolar.mary@countyofdane.com

On May 31, 2016, at 6:27 AM, Bill Doubler <doublerzoo@frontier.com> wrote:

Good morning Committee Members and Staff-

Tomorrow morning you will be visiting our neighborhood to visually appraise some of the impacts on buildings affected by blasting at the nearby Oak Park Quarry. I am concerned that no residences are being included in your face to face survey and hope that you have a "Chapter 2" visit planned that will included the places in which we live daily.

Why is the Oak Park Quarry area so different than those area around other quarries in the county? As you drive to Deerfield Township be aware of how the topography changes and how different every mound is from the one next to it. The most significant factor you won't be able to see because it's underneath the surface far enough that it takes much more analysis to realize its significance.

At the May 9, 2016 meeting of the Town of Deerfield Oak Park Quarry owner Halvorson volunteered information that would indicate that the impact area of quarry mining now includes the Village of Deerfield's aquifer and rural well significance way past the current half mile boundary set up by the town board. He stated that the lower limit of the quarry is now into the sandstone layer. Sandstone has no filtration ability and thus any and all contaminates of any water in the quarry are seeping directly into the area's water supply. The two west wells of the village [all the schools water] pull from the aquifer under the quarry.

At many of the hearings regarding the quarry statements have been made regarding the need for less costly construction materials. Weigh that against the cost of replacing a village's water supply. Once an aquifer is contaminated it's forever and not fixable. If you read the most recent studies of Dane County water problems you'll see that contamination of water sources doesn't stay in one place because of

the varying well depths of private and public wells. Please halt this source of contamination of our water now!

Mr. Halvorson's statements can be found at www.wdee.org, and are at the 1:29 time line of the video.

Thank you for your time.

Bill and Ann Doubler
3759 Oak Park Road
[An 1880 home]



Saint Paul's Liberty Lutheran Church
3494 Oak Park Road **Deerfield, WI 53531**
Phone: (608) 764-5885 E Mail: stpllpastor@gmail.com

March 22, 2016

Dear Zoning and Land Regulation Committee Members:

On behalf of St. Paul's Liberty Lutheran Church and as the governing board of our congregation, we would like to update you on our concerns in regards to the quarry and operator in preparation of the public hearing this evening. We continue to be concerned about the Deerfield Township Board and Forever Sandfill and Limestone quarry operator, Jon Halverson, having the church's best interest in mind.

As we expressed at a previous ZLR meeting, our desire has been to work with Mr. Halverson to build a working relationship that acknowledges the structural needs of the church as it relates to his quarry mining business. Over the past several months, we have met multiple times, spoken on the phone multiple times, and attended multiple township board meetings to share information. Unfortunately, it does not appear that such a relationship is likely to happen based on the resolutions he has proposed and the statements he and his lawyer have made related to their lack of need to follow the local ordinances. For these reasons, we encourage you to revoke his Conditional Use Permit. We do not feel that Jon Halverson and Forever Sandfill and Limestone is in compliance with the following Conditional Use Permit requirements:

1. That the establishment, maintenance and operation of the proposed conditional use will not be detrimental to or endanger the public health, safety, morals comfort or general welfare.
2. That the uses, values, and enjoyment of other property in the neighborhood for purposes already permitted will not be substantially impaired or diminished by the establishment, maintenance, and operation of the proposed conditional use.

We had stated in our November letter to you that our seismograph data at the church specifically revealed that out of the 23 blasts recorded, 6 (26%, all non-electronic) exceeded local ordinances. The largest blast recorded at the church had a PPV of 0.41 in/sec.

As a result of our concerns you encouraged Jon Halverson to have conversations with the church to reassure us that the blasting effects going forward will not harm the structure. We met with Mr. Halverson and he had two recommendations:

1. Look into taking out an additional insurance policy which he would pay for, and
2. He offered to pay for an assessment of the church buildings to ascertain the blasting level the buildings could withstand with the condition that all parties, the Township Board, the church and Jon Halverson, would agree to the findings of the study.

We do not find these to be acceptable resolutions, and we have shared this with Mr. Halverson. First, we do not feel it is in the best interests of the church to enter into financial arrangements with a third party. More importantly, offering to cover insurance premiums for structural damages that occur as a result of the blasting neglects to address the greater issue which is the levels at which he is blasting and the continued remarks that indicate he does not believe he needs to blast within the current levels approved within the Deerfield Township ordinances which indicate that the damages will continue. This is a band-aid approach to a slowly gaping problem. Second, we do not feel that an assessment is necessary because we have seen documented damage to our structures since September, 2015. Mr. Halverson had a company, Vibratex, do a preblast survey in September 2014 and September 2015 which included taking pictures and

documenting damage. Since that time, we have seen more damage occur. Additionally, we suggested to Mr. Halverson, that if the study were to come back suggesting lower blasting levels, it would be logical for him to take steps now to try different blasting techniques to see if that mitigates the structural damages that are occurring prior to spending a large sum of money for a study. Although suggested numerous times, he has given no indication that he is willing to try other blasting techniques that could lessen the damage to the church buildings.

To date, we have submitted claims to our insurance company for the following damages:

- Mortar and stone falling from the bell tower
- Cracks in our stained glass windows
- Numerous vertical and horizontal cracks in the mortar in our education center (built in 1975)
- Separation of the drywall ceiling from the stone and concrete block walls in our church and education center, respectively
- Significant shift in several tombstones in the adjacent cemetery

The adjustor from the insurance company was very concerned about some of the damage seen. We have attached photos of the bell tower and the ceiling of our education center as examples.

In our meeting on September 9, 2015 Mr. Halverson expressed a desire to try keep blasting within the ordinances in good faith, however, the blasting reports reveal that he did not abide by the ordinances. His lawyer publicly shared at the Town Public Hearing on Tuesday, March 1, 2016 that Mr. Halverson does not feel his need to comply with the ordinances even after submitting the license. That statement accompanied by his blasting techniques gravely concerns us.

If we have seen the amount of damage in the church buildings with Mr. Halverson's current blasting philosophy, we are concerned about the additional damage that might incur. We are especially concerned given that most of the land under his permit only-allows for him to blast closer to our buildings and cemetery. Our buildings cannot withstand repeated blasting levels near or above PPV of 0.3 in/sec for an extended period of time. In addition, it appears that our stained glass windows (which are 100 years old) cannot withstand acoustic overpressures greater than 123 decibels.

We do not believe Mr. Halverson has our best interest in mind based on his lack of preventative resolutions. As much as we would like to have a good relationship with Jon Halverson, after meeting with him several times, we do not believe such a relationship is possible.

We understand that the parts of the Conditional Use Permit we highlighted that Mr. Halverson is not complying with are more subjective than obtaining a license. We continue to remain firm in our request for Forever Sandfill and Limestone owner Jon Halverson and the Town Board to consider the best interests of our historical building, which at this point means revoking his Conditional Use Permit. Long term, the best resolution we see is reducing the PPV to our best researched limit of 0.12 in/sec by implementing "blast design" methods, such as reducing the pounds of explosives, using electronic caps, and employing decking and / or benching.

For well over 150 years our congregation has taken great pride in our statuesque church with its magnificent bell tower and beautiful stained glass windows. We hope that you take our concerns under advisement when deciding how you will handle Mr. Halverson's Conditional Use Permit.

Sincerely,

Pastor Holly Slater

Randy Behlke (council president)

Michelle Jensen (council member)

Larry Lunda (council member)

Denel Ireland (council member)

Rachel Holmquist (council member)

Ann Holmes (council member)

Steve Holmes (council member)

Jessie Behlke (council member)

Dennis Rahn (council member)

Roxann Engelstad (council consultant)





January 2016



September 2015

From: [mihai oana](#)
To: [Lane, Roger](#); [bob@salov.net](#); [Salov, Robert](#); [bolig.jerry@countyofdane.com](#); [Kolar, Mary](#); [Miles, Patrick](#); [Matano, Alfred](#)
Subject: CUP 2103
Date: Tuesday, March 22, 2016 2:20:28 PM

Dear members of the ZLR,

I am a member of St. Paul's Liberty Lutheran Church. I am deeply concerned about the adverse effects of the blasting activities at the Oak Park Quarry. To protect the historic Church, cemetery, and the surrounding established neighborhood I support the revocation of the Conditional Use Permit (#2103).

Thank you,
Mihai Oana

From: [Krista Oana](#)
To: [Lane, Roger](#); bob@salov.net; [Salov, Robert](#); bolig.jerry@countyofdane.com; [Kolar, Mary](#); [Miles, Patrick](#); [Matano, Alfred](#)
Subject: CUP #2103
Date: Tuesday, March 22, 2016 2:06:14 PM

Members of the ZLR,

I have been a member of St. Paul's Liberty Lutheran Church my entire life. Including my children, my Kittleson family now has 6 consecutive generations of lifetime members at St. Paul's Liberty Lutheran Church. That goes all the way back to my great great grandparents who immigrated here from Norway in the 1870's. I have 13 relatives buried in the cemetery that surrounds our picturesque rural church. Words cannot express how important that beautiful building and community have been to my family. The Kittlesons have loved St. Paul's Liberty Lutheran church for about 145 years. Lately, we also worry about it a lot too...

I am writing because I am deeply concerned about the effects of the blasting activities that have been taking place at the Oak Park Quarry. Based on the damage and adverse effects to the Church property and entire surrounding neighborhood, **I support the revocation of the Conditional Use Permit, #2103.**

Our church and cemetery are well over 160 years old. And they stand less than 750ft away from the quarry border where the blasting is taking place. We have to be proactive. We cannot sit back watch the inevitable damage continue- whether it is slow and steady cracking and shifting, or something much more dramatic.

And insurance policies and promises of future repairs are not the answer. So many aspects of the Church are priceless and irreplaceable. No amount of money could bring back our historic monuments or make it feel whole again.

St. Paul's Liberty Lutheran Church needs to be protected, but not just because it has a rich history. Our church has a vibrant community and congregation right now, in the present. And there is no reason why we shouldn't be entitled to a bright future as well.

Mr. Halverson deserves to have a successful business, but not at the expense of the established neighborhood. I respectfully urge you to revoke CUP #2103.

Sincerely,

Krista Oana

****Please note I am also attaching a copy of the letter my son has written for you.**

Dear ZLR

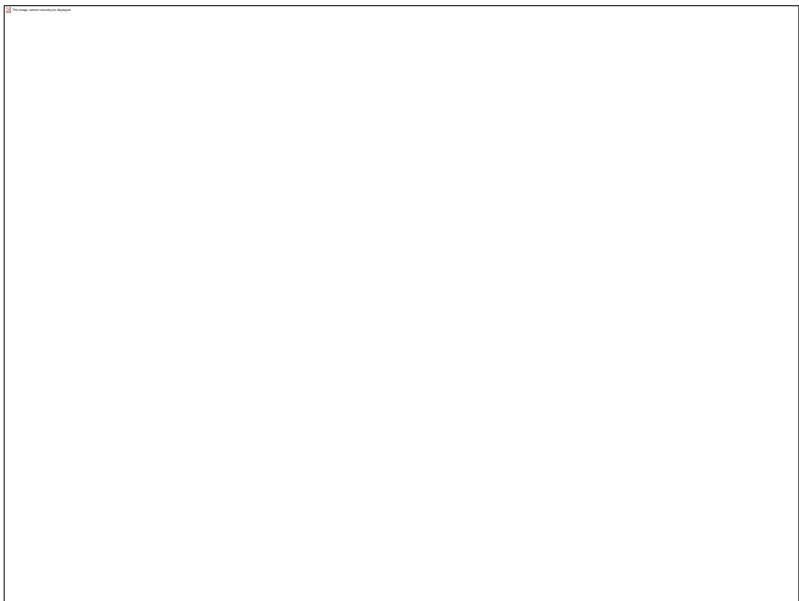
I am 8 years old. I am a member of St. Paul's Lutheran Church. My family went to this church for almost 100 years, and we love it. My mom teaches me about family history and I know these people love it.

me, my cousins, my aunt and my parents, my grandparents, my great-grandparents, my great-great-grandparents, my great-great-grandparents and other very old family

I don't want any thing bad to happen to the church or cemetery it is very important and a nice place. Please make them stop Busting it

Sincerely

Ben Dana







From: [Bill Doubler](#)
To: [Matano, Alfred](#); [Salov, Robert](#); [Jerry Bolig](#); [Kolar, Mary](#); [Miles, Patrick](#); [Lane, Roger](#)
Subject: CUP #2103
Date: Tuesday, March 22, 2016 1:43:09 PM
Attachments: [Barn stone pictures march 2016.docx](#)

Members of the Zoning and Regulation Board:

My wife and I moved to 3759 Oak Park Road, Deerfield in early December 2012. The 11 acre property lies on the north face of a glacial drumlin a half mile north of the Oak Park Quarry. The 9 house development on Nelson Lane is our south border. The property dates back to Lars Nelson, an 1847 original Dane County land grant receiver.

The present house was built in the 1880's by members of the above mentioned Nelson Family. It was gutted and stripped to the studs in 1990 by the previous owners. In 2003 an addition consisting of a living room, basement family room, laundry/office, and two car garage was constructed. The foundation of the house is concrete under the newer addition and native stone and limestone utilized under the older portion.

In 1921 the 90 foot timber framed hillside barn was completed and housed livestock and feedstuffs most of the time into the 1990's. Currently it contains hay for our livestock in the hay mow area and the basement/milking area serves as seasonal storage. At some time a metal roof was added along with eve spouts on the south side. An attached milk house is on the north east corner. The barn foundation is constructed of limestone rock and has been tuck pointed as needed. The milhouse is cinder block.

In the summer of 2014 while working in the basement area of the barn I personally witnessed what a quarry blast does to the barn walls. While experiencing the shaking of the barn I watched portions of the inside wall fall to the floor. I inquired at a township zoning meeting about blast notification and found that because we were not inside the quarter mile zone we weren't supposed to be affected by the quarry blasts.

Last spring [2015] before the frost had gone out of the ground quarry blasting started. Both my wife and I had experienced a number of earthquakes when I was stationed in Japan in 1969 and 1970. I was outside working and my wife was inside the house when the spring blast went off and we both thought we should be seeking shelter for safety. I then attended my first township board meeting to determine why we were not being notified of blasts. Then for the next couple of blasts [done on the southeast side of the quarry] the blasting company put monitors near

the barn. On one of the visits the head blaster came along and I had a chance to explain to him what was happening inside our barn and home. He stated that the amount of explosive could be lessened but the quarry operator calls the shots on how big a blast was going to happen. When the blasting shifted back to the north side of the quarry the monitors were no longer placed on our property. I was told by the blaster when I called him that they had been instructed not to further place the devices at my location. As the summer and fall went on the blasts got bigger and the resulting damage expanded.

This winter I've attended many meetings on and about the quarry. I've read through the statute that set up CUP's and I can't find any mention that the permit allows damage to be done to neighboring properties. St. Paul's Lutheran Church graciously allows the 4-H club that I work with to use their educational facility and one can't believe the visible damage to that building observed at each meeting. There are few neighbors that can't go to an area in their home to show damage from the quarry blasting.

Why is the blasting rocking my home and barn that is a half mile away from the quarry? Somebody didn't do their due diligence before investing in the property and accelerating the business beyond the geological limits of the affected area. Go to <https://wgnhs.uwex.edu/pubs/000913/> . Download plate 1 for the county wide map and plate 2 for the cross section map. I'll bring the hard copy with me Tuesday night for display. You'll see that the quarry, church and Schuster's round barn all sit on the Platteville Formation, Sinnepee Group of limestone. My property lying north and west of the quarry is in the Ancell Group. The Ancell Group is underneath the Sinnepee Group limestone.

What further complicates the geology is the drumlin layout in the affected area? The Green Bay lobe of the Wisconsin Glacier was nearly at the end of its travel in Deerfield Township. The drumlin formations are irregular, less defined and in the case of the one that is on the quarry, it is side by side the one that underlies my property. I don't think even the best Google drive up Oak Park Road can give you all the dimensions of the blasting affected area.

I've included some pictures of the barn stone to show how the blasting is splitting the stone both vertically and horizontally. Six of the pictures are exterior and the white ones are inside. I apologize for submitting this so late but my camera and computer have not been getting along with each other for several days.

Thank you for your time and efforts-

**Bill and Ann Doubler
3759 Oak Park Road
Deerfield, WI 53531**

From: [Cindy Regan](#)
To: [Lane, Roger](#); [Salov, Robert](#); bolig.jerry@countyofdane.com; [Kolar, Mary](#); [Miles, Patrick](#); [Matano, Alfred](#)
Subject: Oak Park Quarry, Deerfield concerns
Date: Tuesday, March 22, 2016 11:21:33 AM

To: Dane County Zoning & Planning Board Members
From: Cindy Regan, 3902 Oak Park Road, Deerfield
Concerning: Oak Park Road Quarry Conditional Use Permit (CUP) #2013

Members,

I am writing to urgently request that you revoke CUP #2013 which Jon Halverson owner of Forever Sandfill & Gravel is operating under.

Mr. Halverson has exhibited a total disregard for town ordinances, property damage, decreased property values, and safety while blasting at the Oak Park Quarry. While the quarry has been functional for decades, damage to surrounding structures only began to appear after Mr. Halverson purchased the quarry and began blasting.

Data from a seismograph located at St. Paul's Liberty Lutheran Church revealed that 6 of 23 blasts between July 21 and October 13 of 2015 exceeded local ordinances. Of the six blasts that exceeded local ordinances, four of them occurred between September 8 and October 1, a period of three weeks.

Another incident in late September 2015 involved blast material leaving the quarry site injuring a motorist and damaging his vehicle. The intensity of the shockwave was sufficient to force the driver of a pickup truck and trailer off the road. The motorist received numerous rock chips imbedded in the side of his face as well as significant amounts of limestone dust in his eyes. Damage to his vehicle included a broken windshield as well as other body damage. Various size rocks were expelled from the blast site onto the roadway. One of these rocks was the size of a volley ball. If that rock had hit the windshield, the driver could have easily been killed. Notification to State and Federal Mining authorities was made by Mr. Halverson or the blasting contractor as required by law. However neither the town of Deerfield nor the county zoning administration knew of this until they inquired. Again this is further evidence of Mr. Halverson's disregard for the town citizens.

Mr. Halverson's attorney, Buck Sweeney, commented at a recent meeting that the CUP #2013 grants Mr. Halverson permission to conduct operations without regard to recently passed town ordinances limiting blasting intensity. The implication was that not only could he ignore town ordinances, but that he fully intended to.

With this in mind, I emphatically request that you revoke CUP #2013 to prevent Mr. Halverson from doing further damage to surrounding property and preventing injury or death to passing

motorists or quarry personnel.

Thank you for the opportunity to express my concerns.

From: [John Regan](#)
To: [Lane, Roger](#); [Salov, Robert](#); bolig.jerry@countyofdane.com; [Kolar, Mary](#); [Miles, Patrick](#); [Matano, Alfred](#)
Subject: Oak Park Quarry CUP #2013
Date: Tuesday, March 22, 2016 10:42:01 AM

To: Dane County Zoning & Planning Board Members
From: John Regan, 3902 Oak Park Road, Deerfield
Concerning: Oak Park Road Quarry Conditional Use Permit (CUP) #2013

Members,

I am writing to urgently request that you revoke CUP #2013 which Jon Halverson owner of Forever Sandfill & Gravel is operating under.

Mr. Halverson has exhibited a total disregard for town ordinances, property damage, decreased property values, and safety while blasting at the Oak Park Quarry. While the quarry has been functional for decades, damage to surrounding structures only began to appear after Mr. Halverson purchased the quarry and began blasting.

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Notification to State and Federal Mining authorities was made by Mr. Halverson or the blasting contractor as required by law. However neither the town of Deerfield nor the county zoning administration knew of this until they inquired. Again this is further evidence of Mr. Halverson's disregard for the town citizens.

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With this in mind, I emphatically request that you revoke CUP #2013 to prevent Mr. Halverson from doing further damage to surrounding property and preventing injury or death to passing motorists or quarry personnel.

Thank you for the opportunity to express my concerns.

From: konks@frontier.com
To: [Lane, Roger](#)
Subject: Concerns of Blasting in Deerfield WI
Date: Sunday, March 20, 2016 9:09:56 PM

Mr. Lane,

I am writing to you to express my concerns over the blasting at the Oak Park Quarry in Deerfield, WI. Our home is located 3/4 of mile from the quarry.

This home was built 15 years ago, and we have owned it since it was built.

Prior to two years ago, we have not had any issues with damage to our home.

In the past two years we have had numerous tiles cracked in our kitchen floor and plaster in the dry wall cracked.

My husband is home during the day and has felt the very excessive trembling of our home on days when blasting has taken place. I am not usually home during the day, but one day last year on a day that blasting occurred I was home to experience the trembling of the house. The house shook with such force, I went outside to see if a car had crashed into the house.

My concerns are, if the blasting continues at the levels that were occurring last year, do I go through the hassle of correcting the current damage to our home just to have to replace tiles that crack again? Is there going to be further damage to our home or the foundation of the homes around the quarry?

At a recent community meeting regarding the blasting, a representative for Mr Halverson stated that blasting levels exceed regulation levels.

We are asking that you take into consideration the damage that is happening to properties around the quarry when making a decision on the quarry permits.

Please feel free to contact me with any additional questions you may have for me, I would be happy to discuss this issue with you.

Pictures of the damage to our home are available upon request.

Thank you for your consideration.

Nancy Konkel
1441 Olstad Rd.
Deerfield, WI
53531
(608)- 764-2749

Deerfield Township Non-metallic Mining Ordinance violations as of 11/30/15

Given to Town Board at 12/14/15 meeting. A continuation of new violations. See previous (11/6, 10/1, 9/8, and 8/10) lists below. The information below is from the blasting reports for three blasts.

Information for three additional blasts that occurred in early December is not yet available.

- 1) Blasting with a frequency lower than 14 (Hz) for more than 1 in 10 blasts: on 11/9, 12 Vert. at 1285 Olstad; 13 Tran., 13 Vert., 12 Long. at 1191 Liberty; 10 Tran., 10 Long. at 1225 Liberty; 8 Tran., 6 Vert. at 3513 Oak Park; on 11/11, 7 Vert. at 3513 Oak Park; 11 Tran. at 3680 Oak Park; 13 Long. at 1191 Liberty; on 11/19, 10 Tran. at 1285 Olstad; 11 Tran. at 1191 Liberty; 12 Long. at 1225 Liberty.
- 2) Missing information required by Town ordinance and state law on the Blasting Reports/Logs: the specific blast location, and a diagram of the blast layout and the delay pattern. Missing from the individual seismograph reports for the above blasts are: the distance of the seismograph from the blast, and the name of the person taking the reading.
- 3) Not placing a seismograph for a blast at the three closest properties not owned by the quarry operator: on 11/9 and 11/11 a seismograph was not on the property located at 3680 Oak Park Rd. The seismograph was placed just over the property line on property owned by the operator. The frequency readings were likely higher and the airblast readings were likely lower than they would have been if the seismograph had been located in accordance with Town law. All summer and fall the seismograph microphone was placed immediately behind rows of seven foot tall stalks of corn. On two occasions in August the airblast readings were absolutely lower than they would have been because the microphone had been placed inside the seismograph carrying bag and on another occasion, laid on the ground. Photos of the microphone not being set up properly were given to the Town Board at the 9/14/15 monthly meeting.
- 4) Operating a non-metallic mine in the Township without a license from the Town. Blasting without a license from the Town. Not fulfilling the required dollar amount of insurance per ordinance to mine and blast (leaving people and our community under-protected from a mishap as well as from ongoing property damage caused by strong and/or low frequency blasting). We are also now unprotected from the mounting number of blasts, 35 this year, which in itself poses a new problem for people living nearby and the property they own from incremental blast damage that occurs as the number of blasts mounts. The total blasts in five years is now 78.

Deerfield Township Non-metallic Mining Ordinance violations as of 11/6/15

Given to Town Board at 11/9/15 meeting. A continuation of new violations. See previous (10/1, 9/8 and 8/10) lists below.

#1 Not furnishing the Town with blasting reports within 3 working days of a blast.

#2 Blasting above .30 PPV for more than 2 in 10 blasts: on 10/13, .40 PPV at 1285 Olstad.

#3 Blasting with a frequency lower than 14 Hz for more than 1 in 10 blasts: on 10/1, 13 Hz Long. at 1285 Olstad; on 10/2, 11 Hz Tran., 9.7 Hz Vert., 10 Hz Long at 1285 Olstad; 11 Hz Tran., 13 Hz Vert., 10 Hz Long. at 1225 Liberty; 10 Hz Tran., 11 Hz Vert., 12 Hz Long. at 3680 Oak Park; 12 Hz. Vert. at 1191 Liberty; on 10/12, 8 Hz Tran., 12 Hz Vert. at 1225 Liberty; 13 Hz Tran. at 1285 Olstad; 12 Hz Tran., 12 Hz Long. at 1191 Liberty; on 10/13, 12 Hz Tran., 9 Hz Vert., 12 Hz Long. at 1191 Liberty; 7 Hz Vert. at 3513 Oak Park; 10 Hz Tran. at 3680 Oak Park; 7 Hz Tran., 8 Hz Vert., 7 Hz Long. at 1225 Liberty.

#4 Missing information required by Town ordinance and stat law on the Blasting Report/Log: 10/13 report is missing the distances to the blast for a couple properties as well as for the closest inhabited building to the blast not owned by the operator. Missing on the Blasting Report/Log for all four blasts in October (10/1, 10/2, 10/12 & 10/13) is: the specific blast location, and a diagram of the blast layout and the delay pattern. Missing from all the individual seismograph reports for October is: the distance of the seismograph from the blast, and the name of the person taking the reading.

#5 Not placing a seismograph at the three closest properties plus the church. Since late July of 2015, a seismograph has not been placed at 3680 Oak Park Rd. Placing it over the property line, on property owned by the quarry is in violation of Town ordinance, and also state law which requires affected properties to be monitored by seismographs.

#6 Operating a non-metallic mine in our Township without a license from the Town. Blasting in our Township without a license from the Town. Not fulfilling the required dollar amount of insurance required by ordinance to mine and blast in our Town (leaving people and our community under-protected from a mishap as well as from ongoing property damage caused by strong and/or low frequency blasting).

Deerfield Township Non-metallic Mining Ordinance violations as of 10/1/15:

Given to Town Board at 10/12/15 meeting. A continuation of new violations. See previous (9/8 and 8/10) lists below.

#1 Not furnishing the Town with blasting reports within 3 working days of a blast. Refer to Town Blasting Ordinance, Ch. 2, 2.12, "Blasting Log." As of 10/12/15, reports for 10/1 and 10/2 are late.

#2 Jake Braking by Halverson trucks from 7 a.m. to 9:30 a.m. at intersection of Liberty and Oak Park Roads, Saturday Oct. 3rd. Refer to Ch. 1, pg. 9, (f).

#3 Blasting stronger than the .30 PPV/14 Hz limits on: 9/15 (.35 PPV at 1191 Liberty), 10/1 (.41 PPV at 3513 Oak Park). By ordinance, 2 out of 10 blasts can exceed .30 PPV. This law was broken on both 9/15

and 10/1, in addition to all the times it had already been broken from August through early September (see previous listing as of 9/8 below).

#4 The air blast reading has been stronger than 123 dBL (air blast) limit: on 9/25 (130.6 dBL at 1191 Liberty). By ordinance, 1 out of 10 blasts can exceed 123 dBL. This ordinance was broken on 9/25, in addition to the four other times it had already been broken from early August through early September (see previous listing as of 9/8 below).

#5 No blast can be stronger than .40 PPV. This ordinance was broken on 9/8 (.63 PPV at 1191 Liberty) and 10/1 (.41 PPV at 3513 Liberty), in addition to the two other times this law had been broken in mid and late August (see previous listing as of 9/8 below).

Deerfield Township Non-metallic Mining Ordinance violations as of 9/8/15:

Given to Town Board at 9/14/15 meeting. A continuation of new violations. See previous 8/10 list below.

#1 Not furnishing the Town with blasting reports within 3 working days of the blast. For the 15 blasts (from July 21st to August 24th), no report has been received by the Town within the 3 working days. Most were turned in after about 7 working days, making it harder to keep track of blasts which are more numerous than the four previous years, but still as strong and still causing property damage. Refer to Town Blasting Ordinance, Ch. 2, 2.12, "Blasting Log".

#2 Not completing information required by State Law and Town ordinance on the blasting report/log. Refer to Town Blasting Ordinance, Ch.2, 2.12, (15) & (17b). Most of the required information on distances has been missing, though more recent blasting reports/logs have increasingly included some of the distance information. Of the 15 blasts from July 21st to August 24th, only the report for Aug. 24th had the line for distance to the nearest structure completed, but it was completed with the wrong information. State Law and Town ordinance are both clear, that the blasting report/log must contain "the distance to the nearest inhabited property not owned by the quarry". The gas pipeline is not a structure, nor is it an inhabited property not owned by the quarry.

#3 By ordinance, 2 out of 10 blasts can exceed the .30 PPV vibration limit. Blasting resumed 7/21/15, with blasts on 7/21, 7/24, 7/29, 8/3 (2), 8/4, 8/6, 8/7 (2), 8/11, 8/12, 8/14 (2), 8/18, 8/24, and 9/8. The 10th blast was on 8/11. The .30 PPV limit was exceeded on 7/21, 7/29, 8/7, 8/12, 8/14, 8/24 and 9/8. On 8/7, this Town blasting law was violated. It was violated again on 8/12, 8/14, 8/24 and 9/8.

The blasts that have been stronger than the .30 PPV/14 Hz limits occurred on: 8/4 (13 Hz at 1191 Liberty), on 8/6 (12 Hz Vert., 13 Hz Long. at 3680 Oak Park and 12 Hz Tran., 12 Hz Long. at 1225 Liberty), on 8/7--blast #1 (13 Hz at 3680 Oak Park), on 8/7--blast #2 (.36 PPV at 1285 Olstad, 10 Hz at 1285 Olstad, 12 Hz at 1225 Liberty, 13 Hz Tran., 12 Hz Long. at 1191 Liberty), on 8/12 (.32 PPV at 1285 Olstad,

and 11 Hz Tran., 12 Hz Vert., 13 Hz Long. at 1191 Liberty), on 8/14—blast #1 (.46 PPV at 1285 Olstad, 11 Hz at 1225 Liberty, 13 Hz Tran., 12 Hz Long. at 1191 Liberty), on 8/24 (.44 PPV at 1285 Olstad, 12 Hz at 1191 Liberty, 10 Hz at 3680 Oak Park, and 12 Hz Tran., 13 Hz Long. at 1225 Liberty), and on 9/8 (.32 PPV at 3513 Oak Park).

#4 By ordinance, 1 out of 10 blasts can have a frequency lower than 14 Hz. Frequency dropped below 14 Hz on 7/24, 8/6, 8/7 blast 1 & 2, 8/12, 8/14, and 8/24, (no reading yet for 9/8). This Town law was broken on 8/6, 8/7, 8/12, 8/14 and 8/24.

#5 By ordinance, 1 out of 10 blasts can have an air blast reading stronger than 123 dBL. This Town law was broken on 8/3, 8/12, 8/24 and 9/8.

The air blast reading has been stronger than 123dBL (air blast) limit: on 8/3 (126 dBL at 3513 Oak Park Rd.), on 8/12 (128.9 dBL at 1285 Olstad and 135.3 dBL at 1191 Liberty), on 8/24 (125.1 dBL at 1225 Liberty), and on 9/8 ((124 dBL at 3680 Oak Park). Note: the air blast limit was also exceeded on 7/24 with 124.6 dBL at 1191 Liberty though this was not on the list given to the Town Board at the 8/10/15 meeting.

#6 Blasting stronger, on any blast, than .40 PPV. This Town law was broken on 8/14 with a .46 PPV and on 8/24 with a .44 PPV.

#7 Blasting stronger, on any blast, than 128 dBL (air blast). This Town law was broken on 8/12 with readings of 128.9 dBL and 135.3 dBL.

#8 Violation of 24 hr. notice of blasts: notice is frequently given about two hours short of the 24 hour minimum advanced notice required by State Law and Town ordinance. On 8/12 notice was 7 hrs. short and the blast was moved to 8/14.

#9 The quarry has been in violation of Town law since May 2015 for not taking out an application to mine, for operating without a permit from the Town and not paying the fee, and the blasting company has not taken out an application to conduct blasting in the Township nor have they provided proof of insurance (\$2.5 million per occurrence, \$5 million aggregate) required by Town law.

The depth of the quarry cannot be lower than 30 ft. above the groundwater table. Refer to Ch. 1 of Town Non-metallic mining ordinances, Section 1.07, (3) - Standards Regarding Groundwater and Surface Water, (a), #2. Monitoring is needed and is provided for in Ch. 1, Section 1.09 - Inspection, Enforcement, Procedures and Penalties, paragraph (1).

On occasion, seismographs are not being set up properly (photos provided), including at 3680 Oak Park Rd. on 8/11 when the microphone was in the seismograph carrying bag and on 8/12 when it was laying on the ground. Air blast readings taken by a microphone a couple feet off the ground located immediately behind many rows of 7 ft. high stalks of corn cannot give a reading representative of the air blast strength of a blasting event.

Deerfield Township Non-metallic mining ordinance violations (as of 8/10/15):

Given to Town Board at 8/10/15 Board meeting.

Jake braking a couple weeks in April after passage of Town ordinances. Refer to Ch.1, pg. 9, (f).

Not furnishing the Town with blasting reports within 3 working days. Most recently, reports for 7/31, 8/3 and 8/4 are late. Part of an on-going problem in getting timely information about blasts. Refer to Ch. 2, 2.12, "Blasting Log".

Not completing important information required by State Law and Town ordinance on the blast log report, including the distance to the nearest property (7/21, 7/24 & 7/29 reports) and the distance to the three properties listed as having seismographs (7/24 and 7/29 reports). Refer to Ch.2, 2.12, (15) & (17 b).

Blasting stronger than the .30 PPV limit/14 Hz limit, on 7/21 (.32 PPV at 1191 Liberty Rd.), 7/24 (10 Hz at 1191 Liberty Rd. and 12 Hz at 3680 Oak Park Rd.), 7/29 (.33 PPV at 3515 Oak Park Rd.), 8/6 (12 Hz at 3680 Oak Park Rd.), 8/7 (.36 PPV at 1285 Olstad Rd.).

Violation of 24 hr. notice of blasts: 7/23/15 to 3680 Oak Park Rd. at 2:10 pm for blast to occur 7/24 between 10 and Noon; 7/28/15 to 3680 Oak Park Rd. at 1:30 pm for a blast to occur 7/29 between 11 am and 1 pm; 8/10/15 to 3680 Oak Park Rd. at 11:00 am for a blast to occur 8/11 between 9 am and 1 pm.

Not placing seismographs at the 3 closest properties to each blast. This occurred on 7/31 (south wall blast with no reading at 1285 Olstad Rd.), on 8/3 (north wall blast with no reading at 3680 Oak Park Rd. nor 1225 Liberty Rd.—the two closest residences to the north wall), on 8/4 (north wall blast with no reading at 3680 Oak Park Rd. nor 1225 Liberty Rd.), on 8/6 (north wall blast with no reading at 3680 Oak Park Rd.)

Note: because blast summaries/logs have not been received for blasts that have occurred after 7/29, the above list of violations is incomplete.

From: [brian berninger](#)
To: [Lane, Roger](#)
Subject: Fw: Bacterial well contamination
Date: Friday, March 18, 2016 12:40:58 PM

Roger, please post to meeting details for Tuesday's hearing. Thanks, Brian Berninger

On Monday, February 8, 2016 1:54 AM, brian berninger <morelove@sbcglobal.net> wrote:

Dear Zoning and Land Regulation Committee Members,

We just noticed on your website that there is correspondence between Mr. Lane and Ms. Ochs of Endpoint Solutions regarding our well and our septic system.

You need to know that our septic system was inspected and the tank was pumped in June of 2015. The report was filed immediately after inspection and has been in the records of the County since June of 2015 stating that our septic system passed inspection. It is only the two of us living in our home, and our tank was well below being full at the time of inspection/pumping. The fact that we were a couple months past the due date (our system was due for inspection by early March 2015) was because of how extremely busy we have been, particularly these past two plus years, preparing for and attending all Town Board meetings, the pertinent meetings of your Committee, and the meetings of the Board of Adjustment in order to keep abreast of and interfere with the misinformation presented by the quarry operator, his attorneys, the various "experts" and consultants he hires, and others he brings to meetings.

Ms. Ochs is correct, certainly, that "agricultural practices are a common cause of bacterial contamination in private wells." But she has left out the fact that heavy blasting, 78 times since 2011, the majority at low, particularly damaging frequencies, can crack a well liner and allow increased amounts of nitrates, animal feces and bacteria to leak into a well.

She also states: "Given the nature of mining activities, it is not common for these activities to cause bacterial contamination of wells." But Mr. Halverson's blasting is not common, because it is at low frequencies and/or at significant levels of PPV on many occasions. He saves money by blasting this way, and the neighbors and larger community increasingly also, are picking up the tab.

Respectfully,
Brian and Martha Berninger

Deerfield Township Non-metallic Mining Ordinance violations as of 11/30/15

Given to Town Board at 12/14/15 meeting. A continuation of new violations. See previous (11/6, 10/1, 9/8, and 8/10) lists below. The information below is from the blasting reports for three blasts.

Information for three additional blasts that occurred in early December is not yet available.

- 1) Blasting with a frequency lower than 14 (Hz) for more than 1 in 10 blasts: on 11/9, 12 Vert. at 1285 Olstad; 13 Tran., 13 Vert., 12 Long. at 1191 Liberty; 10 Tran., 10 Long. at 1225 Liberty; 8 Tran., 6 Vert. at 3513 Oak Park; on 11/11, 7 Vert. at 3513 Oak Park; 11 Tran. at 3680 Oak Park; 13 Long. at 1191 Liberty; on 11/19, 10 Tran. at 1285 Olstad; 11 Tran. at 1191 Liberty; 12 Long. at 1225 Liberty.
- 2) Missing information required by Town ordinance and state law on the Blasting Reports/Logs: the specific blast location, and a diagram of the blast layout and the delay pattern. Missing from the individual seismograph reports for the above blasts are: the distance of the seismograph from the blast, and the name of the person taking the reading.
- 3) Not placing a seismograph for a blast at the three closest properties not owned by the quarry operator: on 11/9 and 11/11 a seismograph was not on the property located at 3680 Oak Park Rd. The seismograph was placed just over the property line on property owned by the operator. The frequency readings were likely higher and the airblast readings were likely lower than they would have been if the seismograph had been located in accordance with Town law. All summer and fall the seismograph microphone was placed immediately behind rows of seven foot tall stalks of corn. On two occasions in August the airblast readings were absolutely lower than they would have been because the microphone had been placed inside the seismograph carrying bag and on another occasion, laid on the ground. Photos of the microphone not being set up properly were given to the Town Board at the 9/14/15 monthly meeting.
- 4) Operating a non-metallic mine in the Township without a license from the Town. Blasting without a license from the Town. Not fulfilling the required dollar amount of insurance per ordinance to mine and blast (leaving people and our community under-protected from a mishap as well as from ongoing property damage caused by strong and/or low frequency blasting). We are also now unprotected from the mounting number of blasts, 35 this year, which in itself poses a new problem for people living nearby and the property they own from incremental blast damage that occurs as the number of blasts mounts. The total blasts in five years is now 78.

Deerfield Township Non-metallic Mining Ordinance violations as of 11/6/15

Given to Town Board at 11/9/15 meeting. A continuation of new violations. See previous (10/1, 9/8 and 8/10) lists below.

#1 Not furnishing the Town with blasting reports within 3 working days of a blast.

#2 Blasting above .30 PPV for more than 2 in 10 blasts: on 10/13, .40 PPV at 1285 Olstad.

#3 Blasting with a frequency lower than 14 Hz for more than 1 in 10 blasts: on 10/1, 13 Hz Long. at 1285 Olstad; on 10/2, 11 Hz Tran., 9.7 Hz Vert., 10 Hz Long at 1285 Olstad; 11 Hz Tran., 13 Hz Vert., 10 Hz Long. at 1225 Liberty; 10 Hz Tran., 11 Hz Vert., 12 Hz Long. at 3680 Oak Park; 12 Hz. Vert. at 1191 Liberty; on 10/12, 8 Hz Tran., 12 Hz Vert. at 1225 Liberty; 13 Hz Tran. at 1285 Olstad; 12 Hz Tran., 12 Hz Long. at 1191 Liberty; on 10/13, 12 Hz Tran., 9 Hz Vert., 12 Hz Long. at 1191 Liberty; 7 Hz Vert. at 3513 Oak Park; 10 Hz Tran. at 3680 Oak Park; 7 Hz Tran., 8 Hz Vert., 7 Hz Long. at 1225 Liberty.

#4 Missing information required by Town ordinance and stat law on the Blasting Report/Log: 10/13 report is missing the distances to the blast for a couple properties as well as for the closest inhabited building to the blast not owned by the operator. Missing on the Blasting Report/Log for all four blasts in October (10/1, 10/2, 10/12 & 10/13) is: the specific blast location, and a diagram of the blast layout and the delay pattern. Missing from all the individual seismograph reports for October is: the distance of the seismograph from the blast, and the name of the person taking the reading.

#5 Not placing a seismograph at the three closest properties plus the church. Since late July of 2015, a seismograph has not been placed at 3680 Oak Park Rd. Placing it over the property line, on property owned by the quarry is in violation of Town ordinance, and also state law which requires affected properties to be monitored by seismographs.

#6 Operating a non-metallic mine in our Township without a license from the Town. Blasting in our Township without a license from the Town. Not fulfilling the required dollar amount of insurance required by ordinance to mine and blast in our Town (leaving people and our community under-protected from a mishap as well as from ongoing property damage caused by strong and/or low frequency blasting).

Deerfield Township Non-metallic Mining Ordinance violations as of 10/1/15:

Given to Town Board at 10/12/15 meeting. A continuation of new violations. See previous (9/8 and 8/10) lists below.

#1 Not furnishing the Town with blasting reports within 3 working days of a blast. Refer to Town Blasting Ordinance, Ch. 2, 2.12, "Blasting Log." As of 10/12/15, reports for 10/1 and 10/2 are late.

#2 Jake Braking by Halverson trucks from 7 a.m. to 9:30 a.m. at intersection of Liberty and Oak Park Roads, Saturday Oct. 3rd. Refer to Ch. 1, pg. 9, (f).

#3 Blasting stronger than the .30 PPV/14 Hz limits on: 9/15 (.35 PPV at 1191 Liberty), 10/1 (.41 PPV at 3513 Oak Park). By ordinance, 2 out of 10 blasts can exceed .30 PPV. This law was broken on both 9/15

and 10/1, in addition to all the times it had already been broken from August through early September (see previous listing as of 9/8 below).

#4 The air blast reading has been stronger than 123 dBL (air blast) limit: on 9/25 (130.6 dBL at 1191 Liberty). By ordinance, 1 out of 10 blasts can exceed 123 dBL. This ordinance was broken on 9/25, in addition to the four other times it had already been broken from early August through early September (see previous listing as of 9/8 below).

#5 No blast can be stronger than .40 PPV. This ordinance was broken on 9/8 (.63 PPV at 1191 Liberty) and 10/1 (.41 PPV at 3513 Liberty), in addition to the two other times this law had been broken in mid and late August (see previous listing as of 9/8 below).

Deerfield Township Non-metallic Mining Ordinance violations as of 9/8/15:

Given to Town Board at 9/14/15 meeting. A continuation of new violations. See previous 8/10 list below.

#1 Not furnishing the Town with blasting reports within 3 working days of the blast. For the 15 blasts (from July 21st to August 24th), no report has been received by the Town within the 3 working days. Most were turned in after about 7 working days, making it harder to keep track of blasts which are more numerous than the four previous years, but still as strong and still causing property damage. Refer to Town Blasting Ordinance, Ch. 2, 2.12, "Blasting Log".

#2 Not completing information required by State Law and Town ordinance on the blasting report/log. Refer to Town Blasting Ordinance, Ch.2, 2.12, (15) & (17b). Most of the required information on distances has been missing, though more recent blasting reports/logs have increasingly included some of the distance information. Of the 15 blasts from July 21st to August 24th, only the report for Aug. 24th had the line for distance to the nearest structure completed, but it was completed with the wrong information. State Law and Town ordinance are both clear, that the blasting report/log must contain "the distance to the nearest inhabited property not owned by the quarry". The gas pipeline is not a structure, nor is it an inhabited property not owned by the quarry.

#3 By ordinance, 2 out of 10 blasts can exceed the .30 PPV vibration limit. Blasting resumed 7/21/15, with blasts on 7/21, 7/24, 7/29, 8/3 (2), 8/4, 8/6, 8/7 (2), 8/11, 8/12, 8/14 (2), 8/18, 8/24, and 9/8. The 10th blast was on 8/11. The .30 PPV limit was exceeded on 7/21, 7/29, 8/7, 8/12, 8/14, 8/24 and 9/8. On 8/7, this Town blasting law was violated. It was violated again on 8/12, 8/14, 8/24 and 9/8.

The blasts that have been stronger than the .30 PPV/14 Hz limits occurred on: 8/4 (13 Hz at 1191 Liberty), on 8/6 (12 Hz Vert., 13 Hz Long. at 3680 Oak Park and 12 Hz Tran., 12 Hz Long. at 1225 Liberty), on 8/7--blast #1 (13 Hz at 3680 Oak Park), on 8/7--blast #2 (.36 PPV at 1285 Olstad, 10 Hz at 1285 Olstad, 12 Hz at 1225 Liberty, 13 Hz Tran., 12 Hz Long. at 1191 Liberty), on 8/12 (.32 PPV at 1285 Olstad,

and 11 Hz Tran., 12 Hz Vert., 13 Hz Long. at 1191 Liberty), on 8/14—blast #1 (.46 PPV at 1285 Olstad, 11 Hz at 1225 Liberty, 13 Hz Tran., 12 Hz Long. at 1191 Liberty), on 8/24 (.44 PPV at 1285 Olstad, 12 Hz at 1191 Liberty, 10 Hz at 3680 Oak Park, and 12 Hz Tran., 13 Hz Long. at 1225 Liberty), and on 9/8 (.32 PPV at 3513 Oak Park).

#4 By ordinance, 1 out of 10 blasts can have a frequency lower than 14 Hz. Frequency dropped below 14 Hz on 7/24, 8/6, 8/7 blast 1 & 2, 8/12, 8/14, and 8/24, (no reading yet for 9/8). This Town law was broken on 8/6, 8/7, 8/12, 8/14 and 8/24.

#5 By ordinance, 1 out of 10 blasts can have an air blast reading stronger than 123 dBL. This Town law was broken on 8/3, 8/12, 8/24 and 9/8.

The air blast reading has been stronger than 123dBL (air blast) limit: on 8/3 (126 dBL at 3513 Oak Park Rd.), on 8/12 (128.9 dBL at 1285 Olstad and 135.3 dBL at 1191 Liberty), on 8/24 (125.1 dBL at 1225 Liberty), and on 9/8 ((124 dBL at 3680 Oak Park). Note: the air blast limit was also exceeded on 7/24 with 124.6 dBL at 1191 Liberty though this was not on the list given to the Town Board at the 8/10/15 meeting.

#6 Blasting stronger, on any blast, than .40 PPV. This Town law was broken on 8/14 with a .46 PPV and on 8/24 with a .44 PPV.

#7 Blasting stronger, on any blast, than 128 dBL (air blast). This Town law was broken on 8/12 with readings of 128.9 dBL and 135.3 dBL.

#8 Violation of 24 hr. notice of blasts: notice is frequently given about two hours short of the 24 hour minimum advanced notice required by State Law and Town ordinance. On 8/12 notice was 7 hrs. short and the blast was moved to 8/14.

#9 The quarry has been in violation of Town law since May 2015 for not taking out an application to mine, for operating without a permit from the Town and not paying the fee, and the blasting company has not taken out an application to conduct blasting in the Township nor have they provided proof of insurance (\$2.5 million per occurrence, \$5 million aggregate) required by Town law.

The depth of the quarry cannot be lower than 30 ft. above the groundwater table. Refer to Ch. 1 of Town Non-metallic mining ordinances, Section 1.07, (3) - Standards Regarding Groundwater and Surface Water, (a), #2. Monitoring is needed and is provided for in Ch. 1, Section 1.09 - Inspection, Enforcement, Procedures and Penalties, paragraph (1).

On occasion, seismographs are not being set up properly (photos provided), including at 3680 Oak Park Rd. on 8/11 when the microphone was in the seismograph carrying bag and on 8/12 when it was laying on the ground. Air blast readings taken by a microphone a couple feet off the ground located immediately behind many rows of 7 ft. high stalks of corn cannot give a reading representative of the air blast strength of a blasting event.

Deerfield Township Non-metallic mining ordinance violations (as of 8/10/15):

Given to Town Board at 8/10/15 Board meeting.

Jake braking a couple weeks in April after passage of Town ordinances. Refer to Ch.1, pg. 9, (f).

Not furnishing the Town with blasting reports within 3 working days. Most recently, reports for 7/31, 8/3 and 8/4 are late. Part of an on-going problem in getting timely information about blasts. Refer to Ch. 2, 2.12, "Blasting Log".

Not completing important information required by State Law and Town ordinance on the blast log report, including the distance to the nearest property (7/21, 7/24 & 7/29 reports) and the distance to the three properties listed as having seismographs (7/24 and 7/29 reports). Refer to Ch.2, 2.12, (15) & (17 b).

Blasting stronger than the .30 PPV limit/14 Hz limit, on 7/21 (.32 PPV at 1191 Liberty Rd.), 7/24 (10 Hz at 1191 Liberty Rd. and 12 Hz at 3680 Oak Park Rd.), 7/29 (.33 PPV at 3515 Oak Park Rd.), 8/6 (12 Hz at 3680 Oak Park Rd.), 8/7 (.36 PPV at 1285 Olstad Rd.).

Violation of 24 hr. notice of blasts: 7/23/15 to 3680 Oak Park Rd. at 2:10 pm for blast to occur 7/24 between 10 and Noon; 7/28/15 to 3680 Oak Park Rd. at 1:30 pm for a blast to occur 7/29 between 11 am and 1 pm; 8/10/15 to 3680 Oak Park Rd. at 11:00 am for a blast to occur 8/11 between 9 am and 1 pm.

Not placing seismographs at the 3 closest properties to each blast. This occurred on 7/31 (south wall blast with no reading at 1285 Olstad Rd.), on 8/3 (north wall blast with no reading at 3680 Oak Park Rd. nor 1225 Liberty Rd.—the two closest residences to the north wall), on 8/4 (north wall blast with no reading at 3680 Oak Park Rd. nor 1225 Liberty Rd.), on 8/6 (north wall blast with no reading at 3680 Oak Park Rd.)

Note: because blast summaries/logs have not been received for blasts that have occurred after 7/29, the above list of violations is incomplete.

From: [brian berninger](#)
To: [Lane, Roger](#)
Subject: Fw: Oak Park Quarry road use
Date: Friday, March 18, 2016 12:23:21 PM

Roger, the road has been used another couple times since this message by large trucks. Please post to meeting details. Brian Berninger

On Tuesday, February 16, 2016 4:59 PM, brian berninger <morelove@sbcglobal.net> wrote:

Chairman Miles,

The new road installed by quarry operator Halverson that you instructed him not to use (because it is not a part of the CUP) has been used on at least three days since you instructed him not to use it. It was obvious again today because of the new fallen snow. We have photos of the days it's been used, including today and another time you do not know about. It is hard to know for sure when it is used when there isn't newly fallen snow. We see tracks in the dirt/gravel, but are not sure how old they are. Let us know if you would like the additional photos.

Respectfully,

Brian and Martha Berninger

February 3, 2016

Deerfield Town Board

Deerfield, WI 53531

Emailed to Kim Grob, Town Clerk; copies to Supervisors

Dear Supervisors,

We are writing to strongly encourage you to hold firm on the frequency limit in the Town non-metallic mining ordinance, set at 14 Hz.

Industry literature and experts who have spoken at Town Board meetings recommend avoiding the natural resonance frequencies of homes, known to be between 4 and 14 Hz. Blast frequencies in this range more than double the impact of a blast. In the August 1998 issue of *Pit & Quarry*, the importance of keeping frequencies high is stressed and the method for keeping them above the natural frequency of residences is explained. They list the natural frequency of a residential structure at between 4 and 12 Hz. John Ahlgrimm explained at the February 12th, 2014 Town Board meeting that their company “can design a blast so that they will know what a house will feel.” Pat Murphy of the State of Wisconsin mining division said at the June 17, 2014 Town Board meeting that “The lower the frequency the more it matches up with the natural motion of the home—naturally the frequency of a home is between 8 and 14 (Hz) and you get it matching up and you’ll get almost the same effect at a .25 (PPV blast) as if you had a 1.0 (PPV blast) and frequencies above 40 (Hz).”

On Olstad Rd. ¾ of a mile from the quarry, a property is being damaged by the low frequency blasting. Keeping the frequency as it is in our ordinance, and enforcing that limit, will decrease the likelihood of properties at this distance sustaining additional damage.

The fanning out effect described by the quarry operator at a County Zoning committee meeting is addressed by the requirement in our ordinance that monitoring of blasts occur at the three closest properties plus the church. This means that monitoring of blasts will for the foreseeable future, always be taking place at properties located within one quarter mile of the quarry. At this distance, the fanning out effect is negligible and Peak Particle Velocity and frequencies in the 4 to 14 Hz range combine to make blasts even stronger and create more blasting damage to structures.

By law, the County cannot force our Township to change its ordinances. The Chairman of the Zoning and Land Regulation Committee stated at their last meeting 1/12/16, that they were not trying to compel the Town to change its ordinances.

There are seven properties with damage from the blasting. Damage will continue to mount if the frequency limit is weakened in any way.

163 signatures, 51 from the western edge of the Village and 112 from the Township, were gathered over less than a ten day period in October requesting our non-metallic mining ordinances be enforced.

Finally, we want to call your attention to the Stoddard letter from last March addressed to our Town Board, when Glenn Stoddard, the attorney who defended the rights of towns to institute effective mining ordinances with the Wisconsin Supreme Court, recommended changes to our ordinances that made them stronger. He did so stating that it would make the ordinances more consistent with the legal right and duty of the Town to protect the general welfare. He also stated that with his recommended additions, which the Board did not pass, the ordinances would be defensible in a court of law if ever challenged.

Respectfully,

Brian and Martha Berninger

Jim Maple

Ken and Mallory Frjulich

Ed and Mary Armbricht

Jerry Scheffler

Ed and Judy Borke

Rick and Nancy Konkel

Dave and Cheri Lemke (Village)

Sherlyn Stiewe

Ron Anderson

Pete and Kathy Daubner

Karen Harbort

January 7, 2016

Dear Zoning & Land Regulation Committee Members,

I just received a copy of Jon Halverson's letter to you dated December 5, 2015. I will be addressing some key claims he made.

From what Mr. Halverson wrote in paragraph two you might think there is a legitimate legal question about whether our local municipality could institute effective ordinances while there was a CUP. You already have letters from attorneys Jeff Scott Olson and Glenn Stoddard on this matter. It is also very important to note that Mr. Halverson had been violating terms of the CUP for years. County enforcement was ineffective and at times, non-existent. Mr. Halverson violated terms of the CUP and state laws for four years before we began to look at the option of having our own ordinances. Were we to wait five more years, until a 10-year CUP ended? It would have been irresponsible to have waited any longer. Some operators cite the state blasting limit to excuse the damage they cause to property. But the blasting limit in state law is so liberal that damage does occur, despite the fact that state law also does not allow damage to private property. It is that provision, as well as the one stating that local municipalities can be stricter than the state blasting code, that has resulted in towns and villages setting up ordinances for the past couple decades.

From what Mr. Halverson wrote in paragraph three you might think that he is not in violation of the state "blasting code". But he is in violation, and has been in multiple ways. These are outlined in documents you already received, including the six pages comprised by the "Violations of the CUP and law by the operator...from Aug. 2011 to late July 2014", the November 2011 Virginia Mandt letter, and "Violations of the CUP and law by the operator....from August 2014 to late October 2015", as well as in the two page document "12.15-ZLR-letter-signed " emailed to you on 12/5/15. The last letter contradicts claims made by state administrator DiMiceli that there had been no violations. From what Mr. Halverson wrote you may think that the blasting code is only about blasting limits, but there is much more to it because the monitoring and record keeping part of operating a quarry is hugely important. If an operator does not follow these parts of the code there will be less of a track record to show what has happened. For the first four years seismographs were often not placed at effected properties nearest the blast. There likely would have been more documented violations of the state airblast limit if seismographs had always been placed at affected properties.

The ordinances of several communities that regulate quarrying in Dane County were closely reviewed, as well as those of other counties, and we talked with officials of those communities. A local industry expert as well as another person working in the industry locally both indicated our blasting ordinance was not too strong. I handled the blasting section, and my background does include engineering study and in the sciences. I handled science issues as a policy analyst with the Wisconsin Legislature. I had also lived through 44 blasts to that point in time, and had spent a couple thousand hours learning about quarrying over those four years, with a focus on blasting. Also, in attendance at our Ordinance Committee meetings was a Champaign-Urbana educated electrical engineer, listening closely and making suggestions. We based what we did heavily on what was said by experts from the industry that Mr. Halverson asked to attend our Town Board meetings. Because we were already knowledgeable, we knew the questions to ask the experts, and their responses showed that damage can occur between .2 and .3 PPV, that blasting when the ground is frozen is an additional concern, and that frequencies matter greatly, including that a low frequency blast can more than double the impact of a blast. This

quarry operation has a unique problem with having so many low frequency blasts. It was also confirmed by the experts at a Board meeting that over time, properties can see damage at low blast levels. This quarry has conducted 78 blasts in the past five years.

Communities regulate non-metallic mining with restrictions that comprise a package of ordinances. Each package is ultimately unique to the setting, including the topography of the area. The elements of the package work together to protect the public health, safety and welfare in that particular setting. The blasting limits in our ordinances work together. To change or weaken one part would result in the need to strengthen another part to attempt to compensate for the weak link that had been created. State law is weak on regulation of PPV, which is why communities regulate it themselves. State law is also equally weak on regulation of frequency. This quarry operation has a severe low frequency problem, and we need to make up for the weakness in state law.

John Ahlgrimm of Ahlgrimm Explosives, the company that has carried out most of the blasting at the quarry, explained at our taped February 12th, 2014 Town Board meeting that their company “can design a blast so that they will know what a house will feel”. The August 1998 issue of *Pit & Quarry*, read by industry professionals, stresses the importance of keeping frequencies high. It tells readers how frequencies can be kept above the natural frequency of a home.

It is absolutely possible to meet the frequency limit, partly because it is set low at 14 Hz, but also because the ordinance requires the three closest properties to a blast, plus the historic church, be monitored. Other properties further away, are not monitored. The three closest properties are always within a quarter mile of the quarry. The distance limit is set by the fact that the three closest properties are what is monitored, and that is where the seismograph reports and frequency reading is generated. Mr. Halverson does not point out these very important facts to you. At up to one quarter of a mile, frequency remains a legitimate issue, because even at a low PPV blast, low frequency can more than double the impact. Pat Murphy, the state of Wisconsin blasting expert, said at our June 17, 2014 videotaped Town Board meeting, that “The lower the frequency the more it matches up with the natural motion of the home – naturally the frequency of a home is between 8 and 14 and you get it matching up and you’ll get almost the same effect at a .25 (PPV blast) as if you had a 1.0 (PPV blast) and frequencies above 40 (Hz)”. The five ordinance committee meetings were publicly posted as required by law, and held at the Town Garage. Mr. Halverson has used the local newspaper to express his views including giving advice on who area residents should vote for in last year’s Town Board election, though he is not a township resident. There were four public hearings on the draft ordinances after they were passed out of the ordinance committee to the full Board.

Mr. Halverson has in fact blasted similarly this year to how he did the four previous years before passage of the ordinances. His attorney Mr. Sweeney, with Mr. Halverson sitting next to him, said at a videotaped Board meeting last year that “We’re not going to follow your ordinances,” which is exactly what Mr. Halverson has done. He has not tried to follow them. There has been nothing to indicate he has tried. There is much to indicate he has not tried. When Mr. Halverson brings up the frequency violations, he does not mention that he also violated the blasting ordinance by going beyond the .30 PPV limit of our ordinance eight times (after the ordinances became law and blasting occurred from late July through mid-November 2015) even though we allow 2 out of every 10 blasts to exceed the .3 limit. This is less strict than other Dane County communities. Most communities that regulate allow 10% or 15% of the blasts to exceed the .30 limit. We allow 20% on a rolling 10 (two out of every 10 blasts). This part of

our draft ordinance was changed at Board level at the request of Mr. Halverson's attorney Mitch Olson, from allowing 10% to be beyond .30 PPV to allowing 20%. Mr. Halverson violated the airblast limit five times over that same period (28 blasts), even though our ordinance allows one out of every 10 blasts to exceed the 123 decibel airblast limit. He violated the 14 Hz frequency limit 13 times, even though one out of every 10 blasts can exceed that limit. Finally with regard to blasting, he violated the .40 PPV limit four times, including with a blast reading of .60 PPV. He also does not mention the other ways he violated the ordinances, including not giving 24 hr. notice, not placing a seismograph at the three closest properties, and not filling out the blasting logs with all required information (we require no more than state law).

Mr. Halverson cites the cost savings for using his quarry. But he damaged five more properties this summer and fall and further damaged two others that he had previously damaged. The cost of damage to those properties is probably very similar to what he claims to have saved taxpayers. But there is also an emotional cost to the taxpayers whose properties were damaged that must be recognized.

Mr. Halverson bought the quarry in late 2010 after it had been defunct for two years. His business here is five years old. The two newest homes near the quarry are seven years old. The next newest home near the quarry is about thirty years old. The rest of the homes near the quarry predate the first quarrying at the site, which started in 1978. The age of the quarry was very thoroughly reviewed at the Board of Adjustment hearing last April. The first CUP for an actual quarry business was in 1981. Mr. Halverson has inadvertently illustrated in his letter to you a very important point—that homes have existed here, without problems, for decades. It is only since Mr. Halverson took over in late 2010 that there have been problems between the community and the quarry. Mr. Halverson's operation is the problem. It is very, very likely there will be no homes built within three-quarters of a mile of this quarry if Mr. Halverson is allowed to continue to operate as he has. He knew the homes were here before he bought the quarry.

Mr. Halverson states in his letter that he was forced into pursuing n/c status after having his CUP expansion proposal denied. But the fact is he began pursuing n/c status shortly after buying the quarry in late 2010, as evidenced by the April 2011 letter from Corporation Counsel responding to his n/c request. His expanded CUP proposal was denied, unanimously, in June of 2014. This is another example of Mr. Halverson blaming his actions on people who do not agree with him.

Pardon me for straying from the issues your committee is considering for a moment, to provide an explanation of what has been going on for some time now regarding Mr. Halverson's attempts to smear me. He is doing this because he has had no real defense against the facts I have presented for the past few years about his quarry operation and his way of doing business in communities (before being a very bad neighbor in Deerfield, he was a bad neighbor in Utica and Albion). He cannot discredit the message (the facts I have presented) so he has attempted to discredit the messenger (me). As the owner of the house and garage most effected by the blasting for the first three plus years, I took the time necessary to keep track of what the quarry did and the laws that applied. I had little choice. I also have some background in law from the years working for the WI Legislature and also from my work at the UW Law School as an Associate Editor for legal research. I have kept track of the things that were said in meetings in Deerfield and at the County level and the people who said them. I also studied the technical issues tirelessly to defend my property and the lives of my wife and me from financial ruin. I informed the community about what has been happening with this quarry. My wife and I are nearing retirement

age (most of the other residents living very near the quarry are already retired) and we have little time left to recover from a very large loss on our residence from an ongoing huge reduction in its value due to the existence of an irresponsibly operated quarry, and from the physical damage the heavy blasting has caused to our home and garage. As of last spring Mr. Halverson's attempts to negatively impact my reputation did not prevent 149 area people from voting for me in the general election for Town Board Supervisor, with the end result that I lost by only one vote to incumbent Dennis Mandt.

Thank you for your time and attention to these matters. I will be available to try to address any questions you may have at your upcoming meeting on January 12th.

Sincerely

Brian Berninger

Attachment: Corp. Counsel Attorney letter

December 4, 2015

Dane County Zoning and Land Regulation Committee

Supervisor Patrick Miles, Chairman

Dear Committee Members:

I am writing regarding the letter from State of Wisconsin Mine Safety Supervisor Greg DiMiceli in your packet for the 12/8/15 hearing on the possible revocation of CUP #2103. The letter is addressed to Roger Lane and is dated Dec. 2, 2015.

Mr. DiMiceli states he visited the site on two occasions and "In no case were any violations of state code noted during these visits". Mr. DiMiceli visited once before the 9/8/15 flyrock incident in which a motorist was injured, and once after. I know that Mr. DiMiceli visited the site before the incident from phone conversations I had with him between 8/17 and 10/5/15. The purpose of these conversations and their outcome is explained in a document you received for your 11/10 work meeting entitled "Information to Augment 'The Report on the Oak Park Quarry' Done by Dane County Staff for the 11/10/15 ZLR Committee Meeting". The document is also in your packet for the 12/8 hearing.

Mr. DiMiceli missed or could not see that blast debris would fly outside of the northwest CUP boundary and onto Oak Park Rd., since the injury to the motorist occurred after his first site visit. Mr. DiMiceli also does not mention in his letter that the reason he came for the second site visit was in part to institute nine safety measures.

There are several other matters needing clarification from Mr. DiMiceli's letter, including his statement that after reviewing all local blasting reports from March 16, 2015 through October 13, 2015, "The blasting activity at this site demonstrates a clear and sustained pattern of compliance with Wisconsin Administrative Code SPS 307." But this statement is incorrect. The documents you received for your 11/10 work meeting illustrate the ways and instances by which the Dept. of Safety and Professional Services (SPS) 307 has been violated. Further, in his letter Mr. DiMiceli makes no mention of blasting reports for the four previous years nor related mining activities by the operator at the site during those years.

Given that Mr. DiMiceli has written a letter clearing the quarry of some wrong-doing with the State for the purposes of your revocation hearing, a full account of violations of SPS 307 is necessary and follows below. It is important to note Zoning Administrator Lane has been pretty quick to accept Mr. DiMiceli's letter as fact and the final word on blasting code violations for the quarry even though there are already documents in your packet showing this cannot be the case. The violations of the blasting code as outlined by SPS 307 remain an issue. They are part of a pattern since the beginning five years ago of the quarry violating numerous laws and requirements at multiple levels of government, with the bottom line being this operator thinks the quarry can be run essentially how he chooses. He has argued legally since 2011 that the site should be regarded as non-conforming. Even though he has been told by

the County several times that this is not the case, including by Zoning Administrator Lane, Dane County Corporation Counsel, and the Board of Adjustment, it has not stopped the operator from trying to run the quarry to a great degree as if laws and rules he agreed to do not really apply. The strongly worded refusals to regard the site as non-conforming have also not changed the operator's attitude that he is being denied something and his recourse is to pay only casual attention to laws and requirements.

The violations of SPS 307 include:

- 1) Flyrock has gone outside the controlled blast site area. SPS 307.44(2) states "Flyrock traveling in the air or along the ground shall meet all of the following conditions: (a) Remain within the controlled blasting area site." In the summer of 2015, from blasting done during the period late July to early September, flyrock traveled outside the quarry fence at times, including onto Oak Park Rd., which parallels the quarry's western boundary. On 9/8/15 a passing vehicle was damaged by flyrock and the driver was injured.
- 2) There has been ongoing missing information on the blasting log. The information is used to keep track of the blasting. SPS 307.31(4)(a) states: "*Required log.* A blasting log shall be required for each blast fired." And SPS 307.31(4)(c) states: "*Information.* Each blasting log shall contain at least all of the following information:" Listed are 18 pieces of information and five additional ones under no. 18, letters (a) through (e). Quoting from my document for your 11/10 work meeting, a document included in your packet for the 12/8 hearing as well, entitled "Violations of the CUP and law by the Operator At the quarry on Oak Park Rd., Deerfield, WI From August 2014 to late October 2015": The blasting logs from the quarry were missing several pieces of information up to September 2015, including #16, the distance from the blast to the nearest inhabited building not owned by the operator; # 2, the specific blast location, and #6, a diagram of the blast layout and the delay pattern. As of September 2015 there were also no blasting reports in the file State administrator DiMiceli had for the quarry. Information that continues to be missing from the blasting log given to the Town of Deerfield by the blasting company, is #2, the specific blast location and #6, a diagram of the blast layout and delay pattern. As of October 2015, #16, the distance from the blast to the nearest inhabited building not owned by the operator, is once again also missing from blasting logs. Also missing again are the distances to the blast for a couple of the properties listed on the log. Still missing from the seismograph printout is #18 (b), the distance of the instrument/seismograph from the blast, and #18 (c), the name of the person taking the reading.
- 3) Blasting resultants have caused injury, damage and unreasonable annoyance to persons or property outside the controlled blasting site area. SPS 307.40 states: "Regulation of blasting resultants." "...the purpose of this subchapter is to provide for the establishment of...to reasonably assure that blasting resultants do not cause injury, damage or unreasonable annoyance to persons or property outside any controlled blasting site area." #1. Someone has been injured by the quarry--the motorist passing by the quarry on 9/8/15. #2. Damage has occurred to six area properties. The property at 3680 Oak Park Rd. has significant damage. The regularly cited Bureau of Mines study from 35 years ago referenced in State law via SPS 307 does not take into account the damage that occurs at levels below .5 Peak Particle Velocity (PPV), which is where the study suggests plaster cracks, and below .7 PPV, where the study suggests drywall tears. There is a whole spectrum of damage that occurs at PPV levels lower than .5, particularly when the blast vibration is in a low frequency range (Hz), as they have rather uniquely been with this quarry operation. Well water quality is

compromised, mopboards separate from the wall, flooring becomes uneven, wallpaper tears, cupboards start to sag, chimney bricks loosen, window frames separate at the corners, windows leak when it rains, staircases creek and pop, flooring creaks and snaps, garage slab and driveway cracks quickly widen and new ones form faster, and knick knacks fall off shelving and break. The blaster for this quarry acknowledged that blasting damage can occur over time when the PPV is as low as .2 to .3, and was willing to go on record at a Town Board meeting on this. Many blasts at this quarry have been in this range and higher, and the number of blasts has grown to three per week at times. Information sometimes cited by members of the aggregate industry via the Bureau of Mines study is very misleading when it comes to damage not being a problem at .2 or .3 PPV, particularly as the number of blasts start to mount—78 blasts at this site since 2011, 34 to this point in 2015. #3. Blasting shaking your home two to three times per week and 25 times in 12 weeks is an unreasonable annoyance. Living near an active quarry is like living near a construction site that never ends. It is also an unreasonable annoyance to have a blast scheduled in three or four hour time slots, blasting multiple times per week, and frequently canceling and rescheduling blasts. Some property owners plan, if possible, to be home during a blast as an additional monitor. Seismographs have not always been placed properly, if they are placed at all. Further, we are not told where a blast will be in this very large and deep quarry even though we ask for this information. Then there is the continued dread of knowing that your property is regularly being damaged by the blasting, that your pet is terrified for hours two or three times per week, and that if you say something the quarry operator doesn't like, you will be subjected to his bullying and intimidation. This is a regular fear of some residents living near this quarry.

- 4) Neighbors were not being notified of blasts. SPS 307.41(1) requires "at least 24 hours" notice of blasting. For 2011-2013 and part of 2014 most residences affected by the blasting were not receiving notice of blasts. When they started receiving notice in 2014 it often was about six hours short of 24 hours. Only recently has it been pushed to almost the full 24 hrs. through considerable effort by affected residences.
- 5) Neighbors are not offered pre-blast surveys. SPS 307.41(1) requires "the blaster in charge to offer to perform a preblasting survey for the residences or owners". It also requires the blaster to provide a copy of the survey within 48 hours of it being requested by the property owner for not more than the actual cost of the copy. Up to the fall of 2014 only one pre-blast survey had been done by the blasting company. But the survey was never provided to the owner, the Berninger's, after repeated requests for a copy, and it was eventually "lost" by the blasting company. Mr. DiMiceli said in a 9/16/15 phone conversation with Mr. Brian Berninger that he would get the survey for the Berninger household, but in a follow-up phone conversation on 10/5/16 he said he would not try to get the copy of the survey. Since the fall of 2014, there have been only two additional surveys done for properties near the quarry.
- 6) Seismographic monitoring of blasts was very limited from the beginning of this quarry operation in Nov. 2010 up to July of 2015. SPS 307.44(3)(b) requires the blaster to "conduct monitoring of every blast to determine compliance with the airblast (dB) limit." SPS 307.44(4)(c) requires the blaster to "make and keep a seismograph record including both particle velocity (PPV) and vibration frequency levels (Hz) for each blast." As a rule of thumb,

though it is not always the case, buildings nearest a blast sustain the strongest blast effects. But until July 2015 this quarry often did not conduct monitoring of buildings nearest a blast. Only one affected property was consistently monitored from 2011 through 2014. Other than the seismograph printouts from this one property, through the end of 2014 with 44 blasts, there is only a smattering of other reports to show additional monitoring had occurred. This is likely part of why Mr. DiMiceli references in his 12/2/15 letter to Mr. Lane only blasting logs for March through mid-October 2015. Requests for monitoring made by neighbors very near the quarry were not satisfied as late as early August of 2015 (see attached letter). Since late July of 2015 a seismograph is being placed over the property line on land owned by the quarry instead of closer to the residence of an affected property known to have significant blasting damage. The blasting damage was already significant enough by March of 2014 for the Chairman of the Deerfield Town Board, at that time Mr. Bob Riege, to state at two Town Board meetings after looking at the home and garage, that he saw blasting damage. He also said what he saw was not normal.

- 7) Seismographs are not set up properly on occasion. Blasters are licensed professionals who follow standards, including for how they maintain and set up seismographs to monitor blasts. On occasion people have had reason to believe that seismographs were not properly set-up for blasts. On two occasions in August of 2015 seismographs were not properly set up and photographs were taken showing the microphone used to record the airblast having been placed on the ground for a blast and in the seismograph carrying bag for another. (See attached photos on paper.)
- 8) Blast levels exceeded the State limit. SPS 307.44 states: "Control of adverse effects." "(3) Airblast. (a) An airblast may not exceed 133 peak dB (decibels) at the location of any dwelling, public building, or place of employment outside the controlled blasting site area." On August 12th, 2015 an airblast reading of 135.3 dB was recorded by the blaster's seismograph at the residence located at 1191 Liberty Rd. in the township.

Thank you for your attention to these matters.

Sincerely,



Brian Berninger

Deerfield Township

Attachments

August 4, 2015

Chairman Schlobohm, Supervisor Brattlie and the Deerfield Town Board

Deerfield, WI 53531

8/5 8/4 8/4
By email to Town Clerk, hand delivered to Chairman Schlobohm, mailed to Town Attorney Andy Rumpf

Dear Supervisors,

The Deerfield town ordinance regulating blasting requires that a quarry operator "monitor with suitable seismographic measurement and recording equipment all blasts at the 3 closest locations to the blast area of any affected building or structure beyond the controlled blasting area, and any building of historical interest within ¼ mile of the controlled blasting area."

On Monday, August 3rd, following requests by phone with Town Board members and the blasting company, a seismograph still was not placed at the Berninger property for the blast on the north wall. Seismographs have also not been placed for blasts at the Frjelic and D. Mandt properties, though they were among the three closest properties to recent blasts as well.

The ordinance also allows the Town Clerk or Town Board, not just one Supervisor as has occurred recently in violation of the ordinance, to require relocation of a seismograph. But, this is to take place only when "a more suitable site is deemed necessary to obtain appropriate information to evaluate the impacts from the blasting operation." For blasting on the north wall there clearly are no "more suitable" sites for seismographic monitoring than the Berninger and Harbort properties because they are closest to the north wall. Yet neither of these properties had a seismograph for Monday's north wall blast. This violated the ordinance and also state law.

Having seismographs at locations that do not include the three closest properties to a blast will prevent the strongest blast readings from being documented and allow for possible immediate as well as long-term misrepresentation of the strength of the blasting. There have been four days with blasting in recent months and for the last two of those days, two of the three closest properties to the blast did not have seismographs placed on their property, violating town ordinance and state law.

During drafting and before passage and becoming law, the draft non-metallic mining ordinances were very well vetted. Now that they are law, we believe for the good of the township, they need to be completely adhered to, including the very important aspect of seismographic monitoring.

Sincerely,

Brian and Martha Berninger

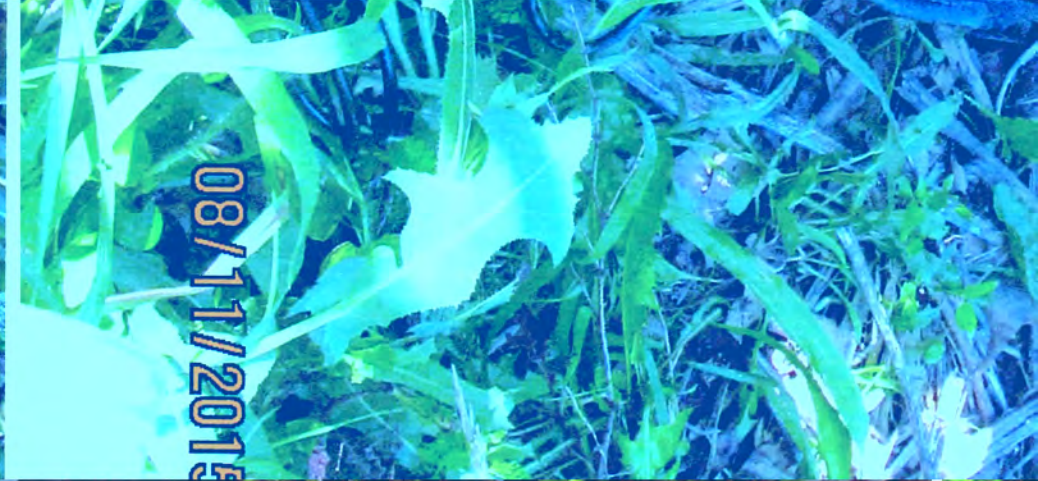
Ken Frjelic

Karen Harbort





08/12/2015 14:04



December 4, 2015

Dane County Zoning and Land Regulation Committee

Supervisor Patrick Miles, Chairman

Dear Committee Members:

I am writing regarding the letter from State of Wisconsin Mine Safety Supervisor Greg DiMiceli in your packet for the 12/8/15 hearing on the possible revocation of CUP #2103. The letter is addressed to Roger Lane and is dated Dec. 2, 2015.

Mr. DiMiceli states he visited the site on two occasions and "In no case were any violations of state code noted during these visits". Mr. DiMiceli visited once before the 9/8/15 flyrock incident in which a motorist was injured, and once after. I know that Mr. DiMiceli visited the site before the incident from phone conversations I had with him between 8/17 and 10/5/15. The purpose of these conversations and their outcome is explained in a document you received for your 11/10 work meeting entitled "Information to Augment 'The Report on the Oak Park Quarry' Done by Dane County Staff for the 11/10/15 ZLR Committee Meeting". The document is also in your packet for the 12/8 hearing.

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the County several times that this is not the case, including by Zoning Administrator Lane, Dane County Corporation Counsel, and the Board of Adjustment, it has not stopped the operator from trying to run the quarry to a great degree as if laws and rules he agreed to do not really apply. The strongly worded refusals to regard the site as non-conforming have also not changed the operator's attitude that he is being denied something and his recourse is to pay only casual attention to laws and requirements.

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- 1) Flyrock has gone outside the controlled blast site area. SPS 307.44(2) states "Flyrock traveling in the air or along the ground shall meet all of the following conditions: (a) Remain within the controlled blasting area site." In the summer of 2015, from blasting done during the period late July to early September, flyrock traveled outside the quarry fence at times, including onto Oak Park Rd., which parallels the quarry's western boundary. On 9/8/15 a passing vehicle was damaged by flyrock and the driver was injured.
- 2) There has been ongoing missing information on the blasting log. The information is used to keep track of the blasting. SPS 307.31(4)(a) states: "*Required log.* A blasting log shall be required for each blast fired." And SPS 307.31(4)(c) states: "*Information.* Each blasting log shall contain at least all of the following information:" Listed are 18 pieces of information and five additional ones under no. 18, letters (a) through (e). Quoting from my document for your 11/10 work meeting, a document included in your packet for the 12/8 hearing as well, entitled "Violations of the CUP and law by the Operator At the quarry on Oak Park Rd., Deerfield, WI From August 2014 to late October 2015": The blasting logs from the quarry were missing several pieces of information up to September 2015, including #16, the distance from the blast to the nearest inhabited building not owned by the operator; # 2, the specific blast location, and #6, a diagram of the blast layout and the delay pattern. As of September 2015 there were also no blasting reports in the file State administrator DiMiceli had for the quarry. Information that continues to be missing from the blasting log given to the Town of Deerfield by the blasting company, is #2, the specific blast location and #6, a diagram of the blast layout and delay pattern. As of October 2015, #16, the distance from the blast to the nearest inhabited building not owned by the operator, is once again also missing from blasting logs. Also missing again are the distances to the blast for a couple of the properties listed on the log. Still missing from the seismograph printout is #18 (b), the distance of the instrument/seismograph from the blast, and #18 (c), the name of the person taking the reading.
- 3) Blasting resultants have caused injury, damage and unreasonable annoyance to persons or property outside the controlled blasting site area. SPS 307.40 states: "Regulation of blasting resultants." "...the purpose of this subchapter is to provide for the establishment of....to reasonably assure that blasting resultants do not cause injury, damage or unreasonable annoyance to persons or property outside any controlled blasting site area." #1. Someone has been injured by the quarry--the motorist passing by the quarry on 9/8/15. #2. Damage has occurred to six area properties. The property at 3680 Oak Park Rd. has significant damage. The regularly cited Bureau of Mines study from 35 years ago referenced in State law via SPS 307 does not take into account the damage that occurs at levels below .5 Peak Particle Velocity (PPV), which is where the study suggests plaster cracks, and below .7 PPV, where the study suggests drywall tears. There is a whole spectrum of damage that occurs at PPV levels lower than .5, particularly when the blast vibration is in a low frequency range (Hz), as they have rather uniquely been with this quarry operation. Well water quality is

compromised, mopboards separate from the wall, flooring becomes uneven, wallpaper tears, cupboards start to sag, chimney bricks loosen, window frames separate at the corners, windows leak when it rains, staircases creek and pop, flooring creaks and snaps, garage slab and driveway cracks quickly widen and new ones form faster, and knick knacks fall off shelving and break. The blaster for this quarry acknowledged that blasting damage can occur over time when the PPV is as low as .2 to .3, and was willing to go on record at a Town Board meeting on this. Many blasts at this quarry have been in this range and higher, and the number of blasts has grown to three per week at times. Information sometimes cited by members of the aggregate industry via the Bureau of Mines study is very misleading when it comes to damage not being a problem at .2 or .3 PPV, particularly as the number of blasts start to mount—78 blasts at this site since 2011, 34 to this point in 2015. #3. Blasting shaking your home two to three times per week and 25 times in 12 weeks is an unreasonable annoyance. Living near an active quarry is like living near a construction site that never ends. It is also an unreasonable annoyance to have a blast scheduled in three or four hour time slots, blasting multiple times per week, and frequently canceling and rescheduling blasts. Some property owners plan, if possible, to be home during a blast as an additional monitor. Seismographs have not always been placed properly, if they are placed at all. Further, we are not told where a blast will be in this very large and deep quarry even though we ask for this information. Then there is the continued dread of knowing that your property is regularly being damaged by the blasting, that your pet is terrified for hours two or three times per week, and that if you say something the quarry operator doesn't like, you will be subjected to his bullying and intimidation. This is a regular fear of some residents living near this quarry.

- 4) Neighbors were not being notified of blasts. SPS 307.41(1) requires "at least 24 hours" notice of blasting. For 2011-2013 and part of 2014 most residences affected by the blasting were not receiving notice of blasts. When they started receiving notice in 2014 it often was about six hours short of 24 hours. Only recently has it been pushed to almost the full 24 hrs. through considerable effort by affected residences.
- 5) Neighbors are not offered pre-blast surveys. SPS 307.41(1) requires "the blaster in charge to offer to perform a preblasting survey for the residences or owners". It also requires the blaster to provide a copy of the survey within 48 hours of it being requested by the property owner for not more than the actual cost of the copy. Up to the fall of 2014 only one pre-blast survey had been done by the blasting company. But the survey was never provided to the owner, the Berninger's, after repeated requests for a copy, and it was eventually "lost" by the blasting company. Mr. DiMiceli said in a 9/16/15 phone conversation with Mr. Brian Berninger that he would get the survey for the Berninger household, but in a follow-up phone conversation on 10/5/16 he said he would not try to get the copy of the survey. Since the fall of 2014, there have been only two additional surveys done for properties near the quarry.
- 6) Seismographic monitoring of blasts was very limited from the beginning of this quarry operation in Nov. 2010 up to July of 2015. SPS 307.44(3)(b) requires the blaster to "conduct monitoring of every blast to determine compliance with the airblast (dB) limit." SPS 307.44(4)(c) requires the blaster to "make and keep a seismograph record including both particle velocity (PPV) and vibration frequency levels (Hz) for each blast." As a rule of thumb,

though it is not always the case, buildings nearest a blast sustain the strongest blast effects. But until July 2015 this quarry often did not conduct monitoring of buildings nearest a blast. Only one affected property was consistently monitored from 2011 through 2014. Other than the seismograph printouts from this one property, through the end of 2014 with 44 blasts, there is only a smattering of other reports to show additional monitoring had occurred. This is likely part of why Mr. DiMiceli references in his 12/2/15 letter to Mr. Lane only blasting logs for March through mid-October 2015. Requests for monitoring made by neighbors very near the quarry were not satisfied as late as early August of 2015 (see attached letter). Since late July of 2015 a seismograph is being placed over the property line on land owned by the quarry instead of closer to the residence of an affected property known to have significant blasting damage. The blasting damage was already significant enough by March of 2014 for the Chairman of the Deerfield Town Board, at that time Mr. Bob Riege, to state at two Town Board meetings after looking at the home and garage, that he saw blasting damage. He also said what he saw was not normal.

- 7) Seismographs are not set up properly on occasion. Blasters are licensed professionals who follow standards, including for how they maintain and set up seismographs to monitor blasts. On occasion people have had reason to believe that seismographs were not properly set-up for blasts. On two occasions in August of 2015 seismographs were not properly set up and photographs were taken showing the microphone used to record the airblast having been placed on the ground for a blast and in the seismograph carrying bag for another. (See attached photos on paper.)
- 8) Blast levels exceeded the State limit. SPS 307.44 states: "Control of adverse effects." "(3) Airblast. (a) An airblast may not exceed 133 peak dB (decibels) at the location of any dwelling, public building, or place of employment outside the controlled blasting site area." On August 12th, 2015 an airblast reading of 135.3 dB was recorded by the blaster's seismograph at the residence located at 1191 Liberty Rd. in the township.

Thank you for your attention to these matters.

Sincerely,



Brian Berninger

Deerfield Township

Attachments

August 4, 2015

Chairman Schlobohm, Supervisor Brattlie and the Deerfield Town Board

Deerfield, WI 53531

8/5 8/4 8/4
By email to Town Clerk, hand delivered to Chairman Schlobohm, mailed to Town Attorney Andy Rumpf

Dear Supervisors,

The Deerfield town ordinance regulating blasting requires that a quarry operator "monitor with suitable seismographic measurement and recording equipment all blasts at the 3 closest locations to the blast area of any affected building or structure beyond the controlled blasting area, and any building of historical interest within ¼ mile of the controlled blasting area."

On Monday, August 3rd, following requests by phone with Town Board members and the blasting company, a seismograph still was not placed at the Berninger property for the blast on the north wall. Seismographs have also not been placed for blasts at the Frjelic and D. Mandt properties, though they were among the three closest properties to recent blasts as well.

The ordinance also allows the Town Clerk or Town Board, not just one Supervisor as has occurred recently in violation of the ordinance, to require relocation of a seismograph. But, this is to take place only when "a more suitable site is deemed necessary to obtain appropriate information to evaluate the impacts from the blasting operation." For blasting on the north wall there clearly are no "more suitable" sites for seismographic monitoring than the Berninger and Harbort properties because they are closest to the north wall. Yet neither of these properties had a seismograph for Monday's north wall blast. This violated the ordinance and also state law.

Having seismographs at locations that do not include the three closest properties to a blast will prevent the strongest blast readings from being documented and allow for possible immediate as well as long-term misrepresentation of the strength of the blasting. There have been four days with blasting in recent months and for the last two of those days, two of the three closest properties to the blast did not have seismographs placed on their property, violating town ordinance and state law.

During drafting and before passage and becoming law, the draft non-metallic mining ordinances were very well vetted. Now that they are law, we believe for the good of the township, they need to be completely adhered to, including the very important aspect of seismographic monitoring.

Sincerely,

Brian and Martha Berninger

Ken Frjelic

Karen Harbort





08/12/2015 14:04



08/11/2015 10:55

INFORMATION TO AUGMENT "THE REPORT ON THE OAK PARK QUARRY" DONE BY DANE COUNTY STAFF FOR THE 11/10/15 ZLR COMMITTEE MEETING

Regarding the "Driveway permit" on pg. 1, the Zoning Department was contacted by concerned Deerfield area residents. They were told the quarry operator had the right to make a new driveway and use it to haul aggregate even though it was outside the CUP because it is his land and he can decide what to do with it. In two taped Town Board meetings when the proposed driveway was discussed, gathered residents strongly opposed it largely because it was too close to the busy Highway 12/18- Oak Park Rd. intersection.

Regarding "Blasting" on pg. 3, Town resident Brian Berninger was in contact with Safety and Professional Services administrator Greg DiMiceli over a several week period starting in mid-August 2015. Mr. DiMiceli said he would obtain the blasting reports for the quarry and review them. But several weeks passed without this being the case. DiMiceli and Berninger talked by phone 8/17, 8/21 (30 min.), 8/31 (30 min.), 9/16 and 10/5. As of 10/5 Mr. DiMiceli still did not have the blasting reports, stating again "they are not in the file" even though he had said since 8/17 that he would get them in a week, look at them and give Berninger a call. Berninger had contacted DiMiceli to express concern over some ongoing violations of state law by the quarry and the blasting company. The concerns he expressed, documented by the seismograph reports and blasting logs, were that reports were missing significant information, seismographs were not always being placed at the closest property to a blast, a seismograph was not being placed at "affected" properties, and a completed pre-blast survey was never given to a property owner. As of 11/6/15 the reports are still missing information required by state law (as outlined in documents given to ZLR Committee members entitled "Violations of the CUP and Law by the Operator At the quarry on Oak Park Rd., Deerfield, WI From August 2014 to late October 2105", and in the document entitled "Deerfield Township Non-metallic Mining Ordinance violations as of 11/6/15"). Additionally, one "affected property" is still not being monitored by a seismograph and a copy of a completed pre-blast survey still has not been provided to the property owner--violations of state law.

Also regarding "Blasting" on pg. 3, the quarry site was not "closed down" for 6 days. Regular mining related activity could still be heard in the quarry during the time Mr. DiMiceli said he had closed down the quarry. In a phone conversation with Berninger 9/16/15, DiMiceli said he had not closed down the site, but that he had closed down the road for blasting from now on as part of "nine safety measures" he had instituted following the 9/8/15 flyrock incident.

Also regarding "Blasting" on pg. 3, a leak was found in the gas pipeline two or three days following a strong blast felt throughout the area in early September 2014. Residents have been told there is no proof the blasting caused it. The distance between the pipeline and a blast as required by the utility company had been explained to residents previously as being a minimum of 200 feet, not 50 feet. Further, blasts 300 feet away can potentially cause damage to the pipeline if they are strong enough. State law requires that the blasting company meet with the utility to determine the "maximum

allowable limit for ground vibration". No document has ever been produced showing that a limit has been set. It is important to have this in writing and available to the public.

Regarding "causing harm to structures", there are more than just "concerns" from the neighborhood regarding damage, there is significant evidence, from among six properties over five years of increasing amounts of blasting, showing that damage has most definitely occurred to private property from the blasting. Residents are also increasingly concerned about their wells and the aquifer(s) serving out area because the quarry blasts very close to the water table, and because through his attorney, the operator recently expressed that they find it burdensome to stay above the water table with the blasting because it is hard for them to know where the water table is since it varies from spot to spot within the quarry.

Finally, regarding the "County" section of the document, the statement "for the most part, the (CUP) conditions are being followed", is not accurate. This is shown by the numerous violations cited in the documents given to ZLR Committee members for their 11/10/15 meeting. A listing of the numbered tenets of the CUP that have been violated or are currently being violated includes: #3, #5, #6, #8, #9, #11, #12, and possibly #13, as well as not continuing to satisfy the "findings of fact" for the ZLR Committee approval of the CUP proposal: #1, #2 and #3.

##

From: [Don Schuster](#)
To: bob@salov.net; [Salov, Robert](#); bolig.jerry@countyofdane.com; [Kolar, Mary](#); [Miles, Patrick](#); [Matano, Alfred](#)
Cc: [Lane, Roger](#)
Subject: Re: CUP #2103-Oak Park Quarry, LLC
Date: Monday, March 21, 2016 10:46:34 AM

Dear ZLR committee,

I apologize, I forgot to add an immediate safety concern. At the January ZLR public hearing in regards CUP #2103, Some individuals that spoke before the committee were verbally and physically harassed after speaking (called liars, legs put out to block their path and potentially trip). We just wish to make you aware that this occurred and may occur again at Tuesday's meeting.

Thank you,

Don and Theresa Schuster

On Mon, Mar 21, 2016 at 9:33 AM, Don Schuster <schustersfam@gmail.com> wrote:

Dear Zoning and Land Regulation Committee members,

We are writing in regards to CUP #2103 and its impact on the Town of Deerfield residents and land owners. Our farm (Schuster's Playtime Farm) is located at 1326 US Highway 12 and 18, Deerfield, WI. Our property ranges from approximately 2300-3000 feet from the gravel pit, with our buildings being about 3000 feet from the current operational area.

In an email on 1/11/16 we shared pictures and narrative of the damage our century old and Dane County's last round barn has sustained. The committee has also received other letters and photos from surrounding residences, organizations and businesses in regards to property damage and and vibrations felt. These documents speak to the concerns we have in regards to the conditions of CUP #2103.

Specifically:

Condition 1: That the establishment, maintenance, and operation of the proposed conditional use will not be detrimental to or endanger the public health, safety morals, comfort or general welfare. **Given already proven damage to our round barn and additional damage we are seeing to two other buildings (cattle shed & farrowing house), if he continues to operate the gravel pit in the manner he has, and has stated publicly that he will continue to, our historic buildings that are used for personal and public access may be damaged such that they endanger public health and safety.**

Condition 2: That the uses, values, and enjoyment of other property in the neighborhood for purposes already permitted will not be substantially impaired or diminished by the establishment, maintenance, and operation of the proposed conditional use. **Schuster's Playtime Farm, Inc. has an approved CUP with Dane County allowing our farm to be used for public access as an agritainment farm. Damage to our farm affects our ability to continue our approved use.**

Condition 3: That the establishment of the proposed conditional use will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district. **If damage to our property continues, it will affect our ability to continue to operate and receive income from our already established and approved business.**

Lane, Roger

From: Bob Salov <bob@salov.net>
Sent: Sunday, February 28, 2016 6:36 PM
To: Lane, Roger
Cc: schustersfam@gmail.com
Subject: CUP 2103 Barn pic
Attachments: IMG_1102.JPG; IMG_1103.JPG; IMG_1104.JPG; IMG_1105.JPG

Roger,
Please make this e-mail and pics part of the CUP 2103 record
Bob

From: Don Schuster <schustersfam@gmail.com>
Sent: Monday, January 11, 2016 10:21 AM
To: Matano, Alfred; Salov, Robert; bolig.jerry@countyofdane.com; Kolar, Mary; Miles, Patrick
Cc: Lane, Roger
Subject: Fwd: Barn pic

Dear County Board Committee,

I have attached four pictures of walls and window sills in my 1903 round barn. It would not be surprising to see cracks in a 113 year old building but we have been tuck pointing the barn since 2009. We finished the walls in 2010 and above the windows and window sills in the spring of 2015.

As I said at the County Board meeting, we never had a problem with that pit when it was owned by Mandt's but since it was sold to Halverson we have felt our place shake 5 times. I am sure that it has been shook more times than that because we are not home all the time or I could have been running equipment and not felt it. Also, we lived here 17 years ago when they redid Highway 12 and 18. They did lots of blasting that was closer to my house than the pit and we never felt a thing. We were told my the DOT back then, that they would take all precautions to make sure no harm was done to the last standing round barn in the area.

If the pit is doing this kind of damage to my building, what kind of damage is being done to the St. Paul's Church, other houses in the area and to highway 12 and 18?

I was also just told that two people where hurt by flying rock from one of his blasts. If that is true, why are you allowing him to continue?

I don't want to put anyone out of business but this pit owner does not care what effect they are having on our business. Not once has anyone from the pit stopped here to see if we have any concerns about there blasting fulling knowing that they upset people all around them.

Thank you for your time,

Don and Theresa Schuster
Schuster's Playtime Farm, Inc.
1326 US Highway 12 and 18









Memorandum

To: Dane County Zoning & Land Regulation (ZLR) Committee

From: Lyndon R. Meyer, Roxann L. Engelstad and Mark L. Hepfinger
Board of Directors of the Cemetery Association
St. Paul's Liberty Lutheran Church Cemetery

Date: January 12, 2016

The Cemetery Association for St. Paul's Liberty Lutheran Church would like to express its concern about how to best preserve and protect the monuments and headstones at our historic site (monuments date back to at least 1873 and possibly earlier). It should be noted that the Cemetery Association is a separate entity of the church and is responsible for the maintenance and upkeep of the cemetery grounds.

On January 11, 2016, the Cemetery Association filed a Property Loss Report with our insurance company. The description of the property loss (as well as the circumstances of the loss) was reported on the claim as follows:

"Approximately 45 headstones and monuments have shifted off-center on either their stone base or concrete foundation. The shifting appears to be a relatively recent event, since in each case there exists a specific delineation that indicates where the headstone was originally positioned. Delineation indicators on the base or foundation include: (1) a difference in the surface texture, (2) a change in the surface coloration, and/or (3) an obvious change in the pattern of the lichen or moss on the surface. The damage has not been caused by lawn mowing, excavating equipment, vandalism, or cycles of freezing and thawing. The principal concern is that the headstones are shifting due to ground vibrations from nearby quarry blasting. Photographs and measurements were taken of the headstones on December 12, 2015 (before they were covered by snow) and are available upon request."

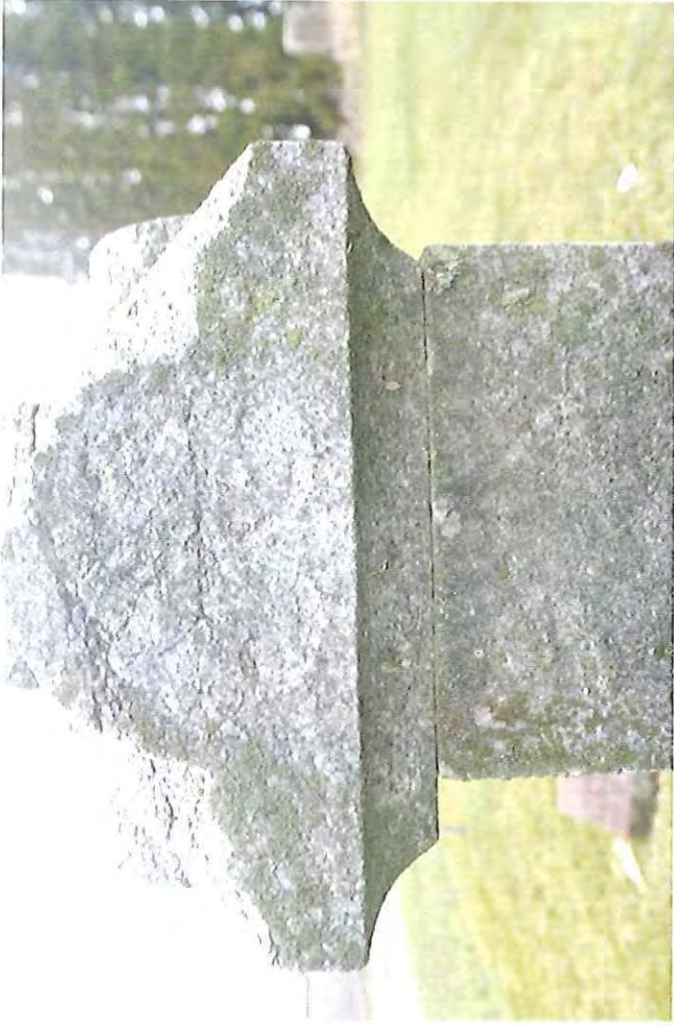
Sample photographs of the damaged headstones and monuments are attached, however, a full set has been forwarded to Roger Lane for your examination.

The Cemetery Association is concerned that the current blasting levels are too high because of the damage observed, i.e., the headstones are being dislodged from their bases. The monuments cannot sustain the ground vibrations occurring during the blasting. We have requested that the Deerfield Town Board lower the maximum allowable PPV to 0.12 (in/sec) for historic sites, such as the cemetery and church, for frequencies above 14 Hz. The basis for this criterion is from established guidelines for fragile historic monuments and buildings.

The ZLR Committee should also note that portions of the cemetery are considerably closer to the quarry than the church itself, i.e., by hundreds of feet. Thus the blasting levels in these sections of the cemetery will experience a much higher value of PPV than the church (and the intensity does not scale linearly).

We request that the ZLR Committee support changes to the regulations to lower the blasting levels at these sites to facilitate preservation of these historic structures.











Subject: FW: Oak Park Quarry - CUP 2103
From: Christopher Hughes (CHUGHES@staffordlaw.com)
To: morelove@sbcglobal.net;
Date: Tuesday, November 10, 2015 5:15 PM

FYI

~~Confidential~~

STAFFORD
ROSENBAUM
LLP

Christopher B. Hughes
chughes@staffordlaw.com | 608.259.2616 | Fax. 608.259.2600 |
222 West Washington Avenue, Suite 900
P.O. Box 1784 | Madison, Wisconsin 53701-1784
www.staffordlaw.com | [profile](#) | [vCard](#)

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From: Gault, David [<mailto:Gault@countyofdane.com>]
Sent: Tuesday, November 10, 2015 3:40 PM
To: 'Charles V. Sweeney'; 'Allen D. Reuter'
Cc: Lane, Roger; Andrew Rumpf; Town of Deerfield Deerfield; Christopher Hughes; Jon Halverson (jhalver@frontier.com); Mitchell R. Olson
Subject: RE: Oak Park Quarry - CUP 2103

I have talked to the Zoning Administrator and CUP 2103 is not an action item on ZLRs agenda tonight. As I understand it, the matter is on the agenda only for informational purposes.

* Dane County does not intend to get in the middle of a dispute between Mr. Halverson/ Oak Park Quarry and the Town of Deerfield regarding the validity of its ordinances. As far as I'm concerned the referenced ordinances were duly enacted and valid until a court says otherwise. On the other hand, it is my advice to the ZLR not to take action on this CUP for failure to comply with the Town's

ordinances until the Town formerly notifies the County that it is actively administering its ordinances and that Oak Park Quarry is in violation. It is one thing to enact an ordinance and another to be prepared to actually administer and enforce it.

From: Charles V. Sweeney [<mailto:CSweeney@axley.com>]
Sent: Tuesday, November 10, 2015 3:28 PM
To: 'Allen D. Reuter'; Gault, David
Cc: Lane, Roger; Andrew Rumpf; Town of Deerfield Deerfield; Christopher Hughes; Jon Halverson (jhalver@frontier.com); Mitchell R. Olson
Subject: RE: Oak Park Quarry - CUP 2103

We still have not got a response from our request on conflict of interest of Dennis Mandt from May to the Town of Deerfield and now get this letter hours before the meeting tonight. Something smells here.

Attorney Charles V. Sweeney
Axley Brynson, LLP
d: 608.283.6743 | c: 608.695.8215
csweeney@axley.com

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From: Allen D. Reuter [<mailto:areuter@rwelaw.net>]
Sent: Tuesday, November 10, 2015 3:20 PM
To: Gault, David
Cc: lane.roger@countyofdane.com; Charles V. Sweeney; Andrew Rumpf; Town of Deerfield Deerfield; Christopher Hughes
Subject: Oak Park Quarry - CUP 2103

Kindly review the attached letter.

Allen D. Reuter

Reuter, Whitish & Evans, S.C.

44 E. Mifflin Street

Suite 306

Madison, WI 53703

(T) (608) 250-9053

(F) (608) 250-9054

Lane, Roger

From: Salov, Robert
Sent: Tuesday, January 12, 2016 6:01 PM
To: Lane, Roger
Subject: FW: Property damage

more

From: brian berninger [morelove@sbcglobal.net]
Sent: Sunday, January 10, 2016 11:08 PM
To: Salov, Robert
Subject: Property damage

Supervisor Salov,

As you know we are concerned with blasting damage to our home and garage. Roger Lane/ZLR has requested Mr. Halverson's quarry operation provide St. Paul Liberty Lutheran Church reassurances the church will not be damaged. Photographic evidence may help an affected property. In early spring 2014 we provided you with photographic evidence of the blasting damage to our home and garage.

Mounting damage to area property and the possibility of more in the near future has violated and would continue to violate one of the standards for a conditional use/CUP. Standard #2 states, "That the uses, values and enjoyment of other property in the neighborhood for purposes already permitted shall be in no foreseeable manner substantially impaired or diminished by the establishment, maintenance or operation of the conditional use."

Sincerely,

Brian and Martha Berninger

Lane, Roger

From: supervisor34@gmail.com on behalf of Patrick Miles <Miles@CountyOfDane.com>
Sent: Tuesday, January 12, 2016 6:16 PM
To: Lane, Roger
Subject: Fwd: Operator letter CUP 2103
Attachments: Reviewof12.15Halversonltr.docx; Dane Corp Counsel opinion on conforming status of Oak Park quarry.pdf

----- Forwarded message -----

From: **brian berninger** <morelove@sbcglobal.net>
Date: Fri, Jan 8, 2016 at 3:35 AM
Subject: Operator letter CUP 2103
To: "matano@countyofdane.com" <matano@countyofdane.com>, "miles@countyofdane.com" <miles@countyofdane.com>, Mary Kolar <kolar.mary@countyofdane.com>, "bollig.jerry@countyofdane.com" <bollig.jerry@countyofdane.com>, Robert Salov <salov@countyofdane.com>

Dear Zoning Committee members,

I am writing to send you a letter I prepared reviewing the letter you received from Jon Halverson dated 12/5/15.

Please see attachments below.

Thank you,

Brian Berninger

Lane, Roger

From: supervisor34@gmail.com on behalf of Patrick Miles <Miles@CountyOfDane.com>
Sent: Tuesday, January 12, 2016 6:10 PM
To: Lane, Roger
Subject: Fwd: Blasting ordinance comparison
Attachments: Updated Town of Dunn Blasting Summary.xlsx; Updated Deerfield Blasting Summary.xlsx

----- Forwarded message -----

From: brian berninger <morelove@sbcglobal.net>
Date: Sun, Jan 10, 2016 at 7:12 PM
Subject: Blasting ordinance comparison
To: "miles@countyofdane.com" <miles@countyofdane.com>, Mary Kolar <kolar.mary@countyofdane.com>, "matano@countyofdane.com" <matano@countyofdane.com>, "bollig.jerry@countyofdane.com" <bollig.jerry@countyofdane.com>, Robert Salov <salov@countyofdane.com>

Dear Zoning Committee members,

I have attached a summary of the blasting in the Town of Dunn, which limits blasting to .30 PPV (as we/Deerfield township does) but they allow 15% of the blasts to exceed that limit. We allow 20% of the blasts to exceed that limit. They do not regulate frequency because their quarry operation does not have a low frequency problem as you can see by looking at the summary. They limit airblasts to 123 dB/decibels (as we do), and allow 15% to exceed that limit up to 128 dB/decibels. We allow 10% to exceed that limit up to 128 dB/decibels. .40 PPV is the limit for the 15% that can exceed .30 PPV in the Town of Dunn. This is our limit as well, for 20% that can exceed .30 PPV.

I had prepared these charts in early 2015 during our public hearing process on our draft ordinances. There were only a smattering of seismograph readings taken at other properties, besides 3680 Oak Park Rd., up to 2015.

Sincerely,

Brian Berninger
Member of Deerfield Ordinance Committee (I was assigned development of the blasting section of the draft ordinances.)

Lane, Roger

From: supervisor34@gmail.com on behalf of Patrick Miles <Miles@CountyOfDane.com>
Sent: Tuesday, January 12, 2016 6:09 PM
To: Matano, Alfred; Gustav Heiden; Bollig, Jerome; Kolar, Mary; Salov, Robert; Will Haroldson
Cc: Lane, Roger
Subject: Fwd: Oak Park Quarry, LLC

----- Forwarded message -----

From: **Jill and/or Kevin Farnsworth** <jillnkevin@gmail.com>
Date: Mon, Jan 11, 2016 at 8:50 AM
Subject: Oak Park Quarry, LLC
To: miles@countyofdane.com

If I can register my position regarding the quarry up the road from me, via email, please take this as both of us registering in favor of pulling their conditional use permit. He has been violating the township's regulations since he started, and hasn't come into compliance yet. We still hear blasting at all hours.

Jill and Kevin Farnsworth
32828 Oak Park Road
Deerfield

--

Kevin and/or Jill
(you never really know which one you're "talking" to)

Lane, Roger

From: supervisor34@gmail.com on behalf of Patrick Miles <Miles@CountyOfDane.com>
Sent: Tuesday, January 12, 2016 6:03 PM
To: Lane, Roger
Subject: Fwd: CUP 2103

----- Forwarded message -----

From: <AUSTORK@aol.com>
Date: Mon, Jan 11, 2016 at 11:07 AM
Subject: CUP 2103
To: matano@countyofdane.com
Cc: salov@countyofdane.com, bollig.jerry@countyofdane.com, kolar.mary@countyofdane.com,
miles@countyofdane.com

Zoning and Land Regulation committee members,

I would like to respond to the comment that Mr. Halverson made at the CUP 2103 hearing on 12/8/15. He stated that no one opposed the application for CUP 2103 in 2009. No one opposed it because no prior owner/ operator caused any issues or had any effect on the enjoyment of properties or property values. Present day knowledge about this owner/operator would have resulted in tremendous opposition in 2009. This conclusion is substantiated by the outpouring of resident opposition when Mr. Halverson attempted to expand his CUP in 2014. Denial was the result.

As I stated during public comment on 12/8/15, dropping property values in the area of the Oak Park quarry are significant and continue to drop at a time when values in Dane County are rising. This violates #1 and #2 under ZLR Findings of Fact of CUP 2103.

Neither Mr. Halverson or his attorney have ever addressed this issue. Whenever I have brought it up at township or ZLR meetings, it seems to be an issue upon which they choose to make no comment. I believe this silence is because they have no answers. Annual real estate tax bills prove the declines and result in proving the violations of CUP 2103, These violations are difficult if not impossible for Mr. Halverson to resolve.

I thank you for taking the time to read this letter.

Ken Frjelic 1285 Olstad Road Deerfield, Wisconsin

Lane, Roger

From: Don Schuster <schustersfam@gmail.com>
Sent: Monday, January 11, 2016 10:21 AM
To: Matano, Alfred; Salov, Robert; bolig.jerry@countyofdane.com; Kolar, Mary; Miles, Patrick
Cc: Lane, Roger
Subject: Fwd: Barn pic
Attachments: IMG_1102.JPG; IMG_1103.JPG; IMG_1104.JPG; IMG_1105.JPG

Dear County Board Committee,

I have attached four pictures of walls and window sills in my 1903 round barn. It would not be surprising to see cracks in a 113 year old building but we have been tuck pointing the barn since 2009. We finished the walls in 2010 and above the windows and window sills in the spring of 2015.

As I said at the County Board meeting, we never had a problem with that pit when it was owned by Mandt's but since it was sold to Halverson we have felt our place shake 5 times. I am sure that it has been shook more times than that because we are not home all the time or I could have been running equipment and not felt it. Also, we lived here 17 years ago when they redid Highway 12 and 18. They did lots of blasting that was closer to my house than the pit and we never felt a thing. We were told my the DOT back then, that they would take all precautions to make sure no harm was done to the last standing round barn in the area.

If the pit is doing this kind of damage to my building, what kind of damage is being done to the St. Paul's Church, other houses in the area and to highway 12 and 18?

I was also just told that two people where hurt by flying rock from one of his blasts. If that is true, why are you allowing him to continue?

I don't want to put anyone out of business but this pit owner does not care what effect they are having on our business. Not once has anyone from the pit stopped here to see if we have any concerns about there blasting fulling knowing that they upset people all around them.

Thank you for your time,

Don and Theresa Schuster
Schuster's Playtime Farm, Inc.
1326 US Highway 12 and 18
Deerfield, WI 53531
608-764-8488

Sent from my iPhone



This email has been sent from a virus-free computer protected by Avast.
www.avast.com

Memorandum

To: Dane County Zoning & Land Regulation (ZLR) Committee

From: Lyndon R. Meyer, Roxann L. Engelstad and Mark L. Hepfinger
Board of Directors of the Cemetery Association
St. Paul's Liberty Lutheran Church Cemetery

Date: January 12, 2016

The Cemetery Association for St. Paul's Liberty Lutheran Church would like to express its concern about how to best preserve and protect the monuments and headstones at our historic site (monuments date back to at least 1873 and possibly earlier). It should be noted that the Cemetery Association is a separate entity of the church and is responsible for the maintenance and upkeep of the cemetery grounds.

On January 11, 2016, the Cemetery Association filed a Property Loss Report with our insurance company. The description of the property loss (as well as the circumstances of the loss) was reported on the claim as follows:

"Approximately 45 headstones and monuments have shifted off-center on either their stone base or concrete foundation. The shifting appears to be a relatively recent event, since in each case there exists a specific delineation that indicates where the headstone was originally positioned. Delineation indicators on the base or foundation include: (1) a difference in the surface texture, (2) a change in the surface coloration, and/or (3) an obvious change in the pattern of the lichen or moss on the surface. The damage has not been caused by lawn mowing, excavating equipment, vandalism, or cycles of freezing and thawing. The principal concern is that the headstones are shifting due to ground vibrations from nearby quarry blasting. Photographs and measurements were taken of the headstones on December 12, 2015 (before they were covered by snow) and are available upon request."

Sample photographs of the damaged headstones and monuments are attached, however, a full set has been forwarded to Roger Lane for your examination.

The Cemetery Association is concerned that the current blasting levels are too high because of the damage observed, i.e., the headstones are being dislodged from their bases. The monuments cannot sustain the ground vibrations occurring during the blasting. We have requested that the Deerfield Town Board lower the maximum allowable PPV to 0.12 (in/sec) for historic sites, such as the cemetery and church, for frequencies above 14 Hz. The basis for this criterion is from established guidelines for fragile historic monuments and buildings.

The ZLR Committee should also note that portions of the cemetery are considerably closer to the quarry than the church itself, i.e., by hundreds of feet. Thus the blasting levels in these sections of the cemetery will experience a much higher value of PPV than the church (and the intensity does not scale linearly).

We request that the ZLR Committee support changes to the regulations to lower the blasting levels at these sites to facilitate preservation of these historic structures.

Lane, Roger

From: Bob Salov <bob@salov.net>
Sent: Tuesday, January 12, 2016 4:48 PM
To: Lane, Roger
Subject: Fwd: FW: Deerfield Quarry

for the ZLR Committee

From: Gina Groezinger reese [ginagreese@yahoo.com]
Sent: Tuesday, January 12, 2016 8:29 AM
To: Salov, Robert
Subject: Deerfield Quarry

Dear Mr. Salov,

I am writing as a Deerfield Township citizen who is concerned about the activity at the quarry located on Oak Park Road. Mr. Halverson has not been operating the quarry in the spirit of a good neighbor. He demonstrates little regard for the impact his quarry has on the neighborhood and the township as a whole. He openly states that he will not abide by the ordinances set by the Township (which were developed with community input and are consistent with other quarry ordinances in Dane County), nor does the Township board seem willing or capable of enforcing the ordinances. The way the quarry is currently being run is negatively impacting the surrounding property values and quality of life.

I firmly believe the quarry should be operating according to the local ordinances or the conditional use permit should be revoked. If Mr. Halverson chooses to operate his business outside the law, then he shouldn't be allowed to run the business at all.

Sincerely,

Gina Reese
1291 Olstad Road
Deerfield, WI

Lane, Roger

From: supervisor34@gmail.com on behalf of Patrick Miles <Miles@CountyOfDane.com>
Sent: Tuesday, January 12, 2016 5:48 PM
To: Lane, Roger
Subject: Fwd: CUP 2103

Hi Roger,

This is an email committee members received and apparently you did not. Forwarding to for the public record. There may be more as I catch up on emails.

Patrick

----- Forwarded message -----

From: <AUSTORK@aol.com>
Date: Tue, Jan 12, 2016 at 12:25 PM
Subject: CUP 2103
To: matano@countyofdane.com
Cc: salov@countyofdane.com, bollig.jerry@countyofdane.com, kolar.mary@countyofdane.com,
miles@countyofdane.com

Zoning and Land Regulation Committee Members,

At the Deerfield Township meeting last night, 1/11/16, Mr Halverson gave out a bar graph titled Assessed Values 2010-2015. I assume the committee has also received this. Nine properties in the area of the Oak Park quarry are addressed. Seven show no change in Assessed Valuation (AV). Two show a decline. This information was used to try to prove that property values are not changing near the quarry. This is very misleading.

First of all, AV are used to determine real estate taxes. They do not take into account changing sales prices of homes or some local activity that may effect the market value of a property. The Total Estimated Fair Market Value (TEFMV), does account for these changes every year. It is arrived at by dividing the AV by the Average Assessed Ratio (AAR) which changes yearly based on changing events. If the TEFMV is looked at it shows a steady decline in property values. Secondly, the seven properties that showed no change in AV, never requested a change with the local assessor. The two properties that did decline, requested and easily obtained a change in their assessed valuations.

Diane Hite, an economics professor from Auburn University did a study reported in 2006: "Summary Analysis: Impact of Operational Gravel Pit on House Values, Delaware County, Ohio". This is the most recent, most complete large study of the effects that a gravel quarry has on home sales prices. It predicted what has happened to home values since the Oak Park quarry was reactivated in 2010.

I thank you for taking the time to read this letter.

Ken Frjelic 1285 Olstad Road Deerfield, Wisconsin



Mechanical Engineering Department
University of Wisconsin-Madison
2019 Mechanical Engineering Bldg
1513 University Ave
Madison, WI 53706 U.S.A.

Dr. Roxann L. Engelstad

Stephen P. Timoshenko Professor
Bernard A. and Frances M. Weideman Professor
email: engelstad@engr.wisc.edu
Cell Phone: 608-345-1455

September 21, 2015

RE: Request for Review of CUP #2103

Dear County Supervisor Salov:

As a lifelong member of St. Paul's Liberty Lutheran Church, as well as being the co-director of the adjacent cemetery, I am concerned about possible damage to the church and the surrounding monuments due to the blasting that is ongoing at the Oak Park Quarry.

The fact that Liberty Church was constructed in 1851 (using limestone and mortar) and noting that the structure is higher than a typical two-story building and has a number of wide-span, stained-glass windows, suggests that this historic site is extremely vulnerable to the effects of blasting, i.e., both ground vibrations and airblasts.

Having read the current CUP for the Oak Park Quarry (i.e., CUP #2103), I have noted that Item #3 on the Conditions of the permit states:

"The applicant shall apply for and receive all other local, state and federal permits."

I am concerned that the operator of Oak Park Quarry is not complying with local permit requirements. Earlier in 2015, the Town of Deerfield approved and published Ordinances #2015-01 and #2015-02, which require blasting companies and mineral operators to obtain licenses in order to conduct mineral extraction activities. In addition, Ordinance #2015-02 requires mineral extraction operators to conduct blasting at a lower Peak Particle Velocity (PPV), i.e., lower than the State adopted standards. The ordinance also limits the frequency of the ground vibrations due to blasting and restricts the maximum allowable overpressure from an airblast, both requirements being more stringent than the State regulations.

I would like to request copies of all local, state and federal permits that been applied for and granted to allow drilling and blasting at the Oak Park Quarry under CUP #2103, since it appears that neither the blasting company nor the mineral extraction operator have obtained licensing from the Town of Deerfield.

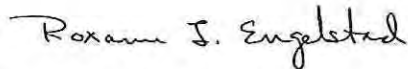
Moreover, blasting reports from July of 2015 to date show numerous violations of Ordinance #2015-02, particularly in terms of the PPV, the frequency of the ground vibrations, and the maximum allowable overpressure. It appears as if no citations have been issued for these violations. Complete blasting reports can be obtained from Ahlgrimm Explosives in Appleton, WI, the blasting company being used by the operator of the Oak Park Quarry.

Recently the Oak Park Quarry added an alternative driveway for quarry operations. I would like to request copies of the driveway application and permit from the township, including how this permit was approved. The Town of Deerfield does have an ordinance in place (i.e., Ordinance #2003-1) to regulate the construction of driveways. This ordinance requires that any proposed driveway construction (along with an erosion control plan) be presented to the Town Board prior to the issuance of a driveway permit. I would like to request a copy of the proposal (with erosion plan) for the Oak Park Quarry driveway that was presented to the Town Board.

I am truly concerned about the adverse effects that the blasting will have on the historic buildings and structures located in close proximity to the quarry. In fact, for building and structures with a greater potential damage from vibration, blasters will often follow the guidelines of the Federal Transit Administration (FTA), which specifies a maximum PPV of 0.12, which is much lower than the local ordinance of 0.30.

I would like the County Staff to review this operation to see if the operator is in compliance with the Conditions of CUP #2103. Thank you for your consideration.

Sincerely,



Dr. Roxann L. Engelstad
Consultant for St. Paul's Liberty Lutheran Church
Professor of Mechanical Engineering
UW-Madison

xc: Mr. Roger Lane, Dane County Zoning Administrator
Mr. Todd Violante, Director, Dane County Planning & Development Department

October 30, 2105

Supervisor Bob Salov
Dane County Board
Madison, WI

Dear Supervisor Salov,

Chapter 10 of the Dane County ordinances governs Conditional Use Permits. Section 10.255(2)(h)(1,2,3,4,5 &6) provide the standards under which a CUP can be granted. 10.255(2)(h)1 has been broken by the Oak Park quarry because it has been detrimental to the public comfort, and also because it has been detrimental to the public safety. In September of 2014 a leak was discovered in the gas pipeline running along the northern wall of the quarry about six hundred feet from the western boundary. The leak was found three days after a strong blast had been felt by residents throughout the area. As of the summer of 2014, water quality has been effected in at least one property located within a quarter mile of the quarry from the repeated heavy blasting (75 blasts in the past five years). Then in early September of 2015, a vehicle traveling north on Oak Park Rd. was damaged and the driver was injured by flying blast debris.

#3 of 10.255(2)(h) has been broken because the existence of a quarry serving industrial sized projects, with 300 trucks per day, impedes the orderly development and improvement of the surrounding property.

But the point of this letter is to highlight the breaking of #2 of 10.255(2)(h), which states: "That the uses, values and enjoyment of other property in the neighborhood for purposes already permitted shall be in no foreseeable manner substantially impaired or diminished by establishment, maintenance or operation of the conditional use." Some property values have dropped significantly already because of Mr. Halverson's quarry operation on Oak Park Rd. The enjoyment of other property in the neighborhood, all of which preceded Mr. Halverson's operation, has also been substantially diminished. See attached documentation of the large reductions in values of two properties located within one-quarter mile of the quarry. These reductions do not take into account the missed increases in value which would have occurred. Also attached is a widely referenced study regarding property values next to high-use quarries as well as a document outlining the property value situation for Deerfield Township.

Sincerely,



Brian and Martha Berninger

CC: Patrick Miles, Chairman, Zoning & Land Regulation Committee

Property Value Decline for 3680 Oak Park Rd. Parcel # 071229280807

Home purchased in June of 2010, \$334,000.00. Appraisal for the purchase was at \$335,000.

Jon Halverson purchased the quarry in late October 2010 and began a new quarry operation the following week on Oak Park Rd. Prior to his purchase, the quarry had been mined out and not operational for over two years.

In the fall of 2011, after the Halverson quarry operation began, an appraisal for a home equity loan was at \$300,000.

As a result of the decrease in home value due to the new quarry operation, we tried unsuccessfully to have our tax assessment reduced with the Deerfield Town Board for 2012.

But for 2013, our assessment was reduced to \$299, 100.

It was further reduced for 2014, due in part to significant blasting damage in our garage, to \$281,400.

We did not ask for a reduction for 2015, but could have likely gotten one.

In addition to the reduction in the value of our property due to the quarry, it has also lost the increase it would have experienced over the past six years, with home prices rising about 8% in Dane County.

Real Estate Parcel # 0712-292-9090-0

10/30/15

1285 Olstad Road, Deerfield, Wisconsin

Total Estimated Fair Market Value	Tax Year
545,300	2010 (first full year of taxes)
461,400	2011
454,300	2012
470,000	2013
414,900	2014

The Oak Park quarry was purchased in 2010. Between April, 2007 and March, 2009, there was no active permit to mine this quarry. The above parcel was purchased June, 2008. The home was built and occupied in 2009. Very notable is the 23.9% drop in Fair Market value since the quarry became active under new ownership in 2010.

The above information was compiled by Ken Frjelic, 1285 Olstad Road, Deerfield, Wisconsin.

Property Value Losses from Quarrying Operations

The Centre for Spatial Economics produced an extensive analysis of many studies done on the impacts of quarrying and other undesirable industries on property values. It can be found here:

[http://www.town.caledon.on.ca/contentc/townhall/departments/planningdevelopment/Schedule B to CAO Report 2009-001.pdf](http://www.town.caledon.on.ca/contentc/townhall/departments/planningdevelopment/Schedule_B_to_CAO_Report_2009-001.pdf)

The Centre's analysis is titled, "*The Potential Financial Impacts of the Proposed Rockfort Quarry.*" The work of the following researchers is included:

- ▲ Professor Diane Hite of Auburn University in Alabama is an economist who has published widely in the area of property value impact analysis. Using a hedonic pricing model¹ procedure which separately accounts for the relative impacts on house values of a variety of attributes, Professor Hite examined the effects of distance from a gravel mine in Delaware County, Ohio on the sale price of more than 2,500 residential properties in the late 1990s.²
- ▲ George E. Erickcek of the W.E. Upjohn Institute for Employment Research recently used Professor Hite's model to assess the potential impacts of the proposed Stoneco Gravel Mine in Richland Township, Michigan on property values in the area.³

CONCLUSION: Properties closest to the gravel mine faced the largest value declines, and property value declines diminished with distance from the mine.

- ▲ Properties within 0.31 miles of the mine dropped in value by 25 percent or more.
- ▲ The decline 0.625 miles away was between 15 and 20 percent.
- ▲ The decline 1 mile away was just under 15 percent.
- ▲ The decline 1.25 miles away was just over 10 percent.
- ▲ The decline 2 miles away was just under 10 percent.
- ▲ The decline 2.5 - 3.1 miles away was between 5 and 7 percent.

It is important to note that these impacts are permanent. While it is true that properties within these ranges will increase in value in the future in line with increases in average property values in general in the broader area, it is equally true that the gap in values resulting from the negative impact of the quarry persists over time. Dr. Hite's further studies have shown that these drops in

¹ A model identifying price factors according to the premise that price is determined both by internal characteristics of the good and external factors affecting it.

² Diane Hite, 2006. "*Summary Analysis: Impact of Operational Gravel Pit on House Values, Delaware County, Ohio,*" Auburn University.

³ George A. Erickcek, 2006. "*An Assessment of the Economic Impact of the Proposed Stoneco Gravel Mine Operation on Richland Township,*" W.E. Upjohn Institute for Employment Research.

value are true regardless of the type of quarry.

A few quotes found in this extensive analysis:

- ▲ "the chance of a gravel mine not having an adverse effect on housing values is one in one thousand."
- ▲ "There is an extensive literature applying hedonic models to study the effects of environmental disamenities on residential property values. These studies generally show that proximity to landfills, hazardous waste sites, and the like has a significant negative effect on the price of a residential property."
- ▲ "People worldwide oppose proposals for the development of new quarries or the expansion of existing facilities in their neighbourhoods. The opposition is understandable. As the Pembina Institute⁴ recently pointed out:

Operators of pits and quarries remove virtually all vegetation, topsoil and subsoil to access the resource. In so doing, they remove any natural habitat that may have been on site, and disrupt pre-existing stream flows . . .

The extraction of aggregate resources changes the slope of the land and alters water drainage patterns . . . Once the aggregate is extracted . . . water storage capacity is lost.

Aggregate operations . . . are characterized by the release of significant amounts of particular matter (i.e. dust) and noise pollution from extraction and processing activities as well as smog precursors and greenhouse gases from the operation of heavy equipment and machinery. The heavy truck traffic to and from aggregate sites is often a serious hazard and nuisance affecting people over wider areas, and is a significant source of air pollution itself.

The quality of life sought by rural residents reflects the sum total of the many desirable attributes of rural settings including peace, solitude, proximity to nature, etc."

While the original study by Hite is not available online, much of her background information and work can be found here: <http://ideas.repec.org/e/phi45.html#articles>

Of special interest is this study by Sa Chau Ho and Diane Hite: "*Economic Impact of Environmental Health Risks on House Values in Southeast Region: a County-Level Analysis*." Silica Sand Mining presents health risks related to exposure to Respirable Crystalline Silica. Few states have any regulations controlling emissions of silica to the ambient air. There are occupational standards and regulations, but none for protecting public health. With widespread sand mining occurring, should cancer rates or other health problems be documented at higher levels near sand mining, this may further reduce property values. This study may be found here: <http://ageconsearch.umn.edu/bitstream/19921/1/sp04ho05.pdf>

Another site offers good commentary about property value declines R/T nearby oil and gas facilities. While not specifically about sand mining, good points are made that may also apply to values near

quarries. From the website of a group fighting a proposed Liquid Natural Gas (LNG) facility in Vallejo, CA and the expected effect on property values: <http://www.vallejoopr.org/lng/proposal-faq.html>

Benicia is a "twin city" to Vallejo. Property values in Benicia are higher than Vallejo, even though Benicia has a refinery. The explanation from realtors there is this:

Benicia's higher property values are in spite of the refinery and because of several unique characteristics of the town. The Vallejo refinery is over the hill and to the East of Benicia, and not within view of the large majority of Benicia's residents. Indeed, passing through Benicia you would not even know there is a refinery.

Another major impact on home values is the fact that most Benicia homes come with a water view. Water views always increase the price of homes, and Benicia is no exception. While homes with a view of the water and the refinery will sell, homes with no water view and only a refinery view take the longest to sell and have the lowest property value. The few Vallejo homes with water views also enjoy higher values.

Reporting on other communities with LNG facilities:

Everett, Mass. has been home to the Distrigas LNG facility for almost 30 years -- so long that most residents can't remember what it was like without the facility. Their property values have slowly increased over the decades, as inflation and suburbanization have reached the town. But this increase has been markedly slower than other towns in the area.

Blight begets blight, and Everett proves it. Everett is dominated by heavy industry, including the Distrigas LNG plant and new nearby power plant. Despite being so near to Boston, an area rich with colleges, universities, computer, bio-tech and pharmaceutical industries, Everett has not been able to attract any of these types of businesses.

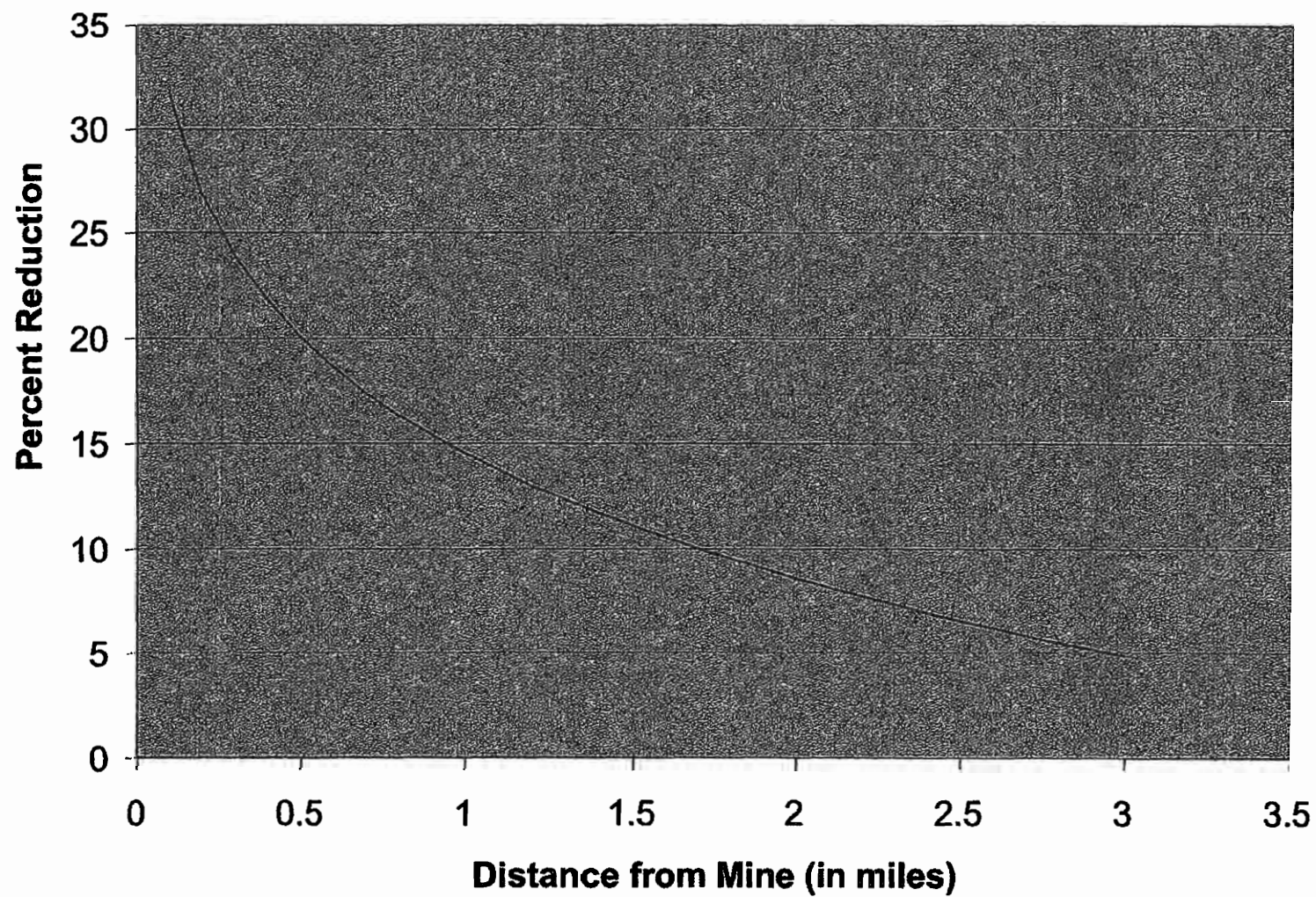
The problems caused by tanker trucks are well-known in communities with LNG plants and other plants where products must be shipped in or out. Trucks get a lot of complaints -- they're noisy, dirty, polluting, unsafe, they tear up the road, and they make it hard to cross the street.

Everett, Massachusetts struggles with nearly constant truck traffic from its LNG and other industrial facilities.

This is a rather old study from Wisconsin, about the added value of shoreline/waterfront property. Would sand mining operations near such properties reduce this added value?
http://dnr.wi.gov/org/water/wm/dsfm/shore/documents/G3698_1.pdf

Another study from Wisconsin - Osceola Plan Commission contacted Town Assessor. Responses were non-committal, but it looks like the best ways for nearby values to increase would be if the mining company would buy out buffer properties:
http://www.communityhotline.com/upload/PropertyValue_GeneJohnsonResponseSummary_12-14-08.pdf

**Figure 1: Impact of Gravel Pit on Residential
Property Values:
(Percent Reduction by Distance from Mine)**



Cost to our township if we don't enact strong ordinances

A fairly conservative estimate of tax base reductions to Deerfield Township annually = \$37,507

Reduction to tax base example

A 15% reduction for homes in Section 29 = \$9,457

A 23% reduction for those homes = \$ 14,501

A 30% reduction for those homes = \$18,914

(The ten Section 29 homes are $\frac{1}{4}$ to $\frac{1}{2}$ mile from the quarry)

Similar reduction can be expected for Section 20, with 15 homes $\frac{1}{2}$ mile from the quarry. Section 32 has several homes about $\frac{1}{2}$ mile from the quarry.

Studies of property values near quarries consistently show a 33% reduction for homes $\frac{1}{4}$ mile away, 20 % for those $\frac{1}{2}$ mile away, and 15% for those 1 mile away.

(half of Sec. 29 at 33%, and half at 20% = \$16,707)

(all of Sec. 20 at 20% = about \$16,700)

(four homes in Sec. 32 at 20% = about \$4,100)

The total annual reduction to our township does not take into account homes located beyond $\frac{1}{2}$ mile up to 1 mile from the quarry. This would, of course, add to the cost.

Resurfacing roads used by several ton trucks:

1/3 mile = \$17,000; \$68,000 to resurface Oak Park Road north of the quarry

Quality of life reduction: \$?

October 30, 2015

Supervisor Bob Salov

Dane County Board


Madison, WI

Dear Supervisor Salov,

Attached please find a copy of the list of state and county law violations by the Oak Park quarry given to the zoning department and also County Executive Parisi's office in the fall of 2014. In a follow-up phone conversation with Zoning and with the County Executive's office, it was confirmed the document had been received and referred to the appropriate staff member for review. This document had also been given to the Deerfield Town Board in early August of 2014.

Also attached, you will find a more up to date version of the document.

Sincerely yours,

A handwritten signature in cursive script, appearing to read "B. B. Berninger" or "Brian and Martha Berninger".

Brian and Martha Berninger

Deerfield Township

CC: Patrick Miles, Chairman, Zoning & Land Regulation Committee

Violations of the CUP and law by the operator
at the quarry on Oak Park Rd., Deerfield, WI
from Aug. 2011 to late July 2014

Summary as of July 27, 2014

As recently as the July Deerfield Township Board Meeting, when several area residents were in attendance to request establishment of ordinances to regulate quarrying, owner/operator Jon Halverson complained of trying to be a good neighbor but getting trouble from residents in return. In light of yet another statement of this sort, it is time to list the violations of the CUP, county ordinances and state law by Mr. Halverson. The violations show a pattern of not being a good neighbor. Violations have included: repeatedly not giving any notice of blasts to some neighbors, not giving 24 hour notice of blasts to neighbors, not having seismographs at all affected properties, not offering pre-blast surveys (see Comm. 7.44 of Wis. Admin. Code), declining to do a pre-blast survey when requested by an affected property, not providing copies of pre-blast surveys, seriously damaging private property, substantially diminishing the use, comfort and enjoyment of area properties, reducing the value of neighboring properties, impeding the normal and orderly development of the surrounding property, working in the quarry before and after hours, leaving the gate open after hours, hauling northerly on Oak Park Rd., allowing trucks to enter the quarry before hours, not repairing the fence and attempting to not comply with a road bond agreement. In addition to the violations themselves, there is a pattern of questioning the honesty of people pointing out the violations.

1. 9/13/11, 9:30 a.m. Ahlgrim Explosives did a pre-blast survey of 3680 Oak Park Rd. A copy of this report was not provided to the property owners within 48 hrs. as required by state law. The property owners pursued the matter repeatedly and after a year and a half were told the report had been lost.
2. Oct. 2011, the owners of 3680 Oak Park Rd. took their house off the market after 11 months following an almost complete lack of interest by buyers because of the new quarry operation.
3. 11/14/11, 7:10 p.m. At the Deerfield Town Board meeting, with Mr. Halverson in attendance, an adjoining property owner reported seeing and hearing work in the quarry on weekends after hours. Mr. Halverson denied it, even though this 1191 Liberty Rd. residence has a good view of the quarry. (Quarry hours are 6 a.m.-6 p.m. M-F, 7 a.m.-1 p.m. Sat.)
4. 9/3/12, Labor Day, the quarry was closed but the gate was open.
5. 10/16/12, 11:15 a.m. Northland Explosives came to 3680 Oak Park Rd. to set up a seismograph and told the owners there would be a blast at 11:30 a.m., giving just 15 minutes advance notice. They were also told they would not be given advance notice in the future and to call Mr. Halverson's office if notice was desired. Afterward, advance notice was used as leverage by the quarry regarding property owner complaints.
6. 11/1/12, phone tag during the day between 3680 Oak Park Rd and Jon Halverson, who ended up leaving the voice mail message in the afternoon that "state law does not require and they will not do a pre-blast survey", and they will "try" to give 24 hr. notice of a blast as a "courtesy". This residence has been damaged by the blasting done by Mr. Halverson.
7. 4/23/13, Joe (Lawrence) Dolphin, formerly of Northland Explosives, did a pre-blast survey paid by the owners of 3680 Oak Park Rd. Although a small claims judgment was ordered against Mr. Dolphin in July 2013 for taking payment but failing to provide the results of the survey, quarry owner Halverson brought him to the March 10, 2014 Board meeting at which the CUP vote was

- taken. Mr. Dolphin was not truthful or accurate when speaking about the effects of blasting on that property and blasting in general in his statements supporting the quarry at the meeting.
8. 4/24/13, 10:30 a.m. & 12:55 p.m.; there were two blasts this day. The first was small and the second was big. During the second, knick knacks were rattled off a shelf at 3680 Oak Park Rd.; one item broke and glassware slid together in cupboards.
 9. 5/13/13, 10:55 a.m. & 2:15 p.m., trucks hauled northerly on Oak Park Rd. to County Hwy BB.
 10. 5/14/13, 10:00-10:15 a.m., trucks hauled northerly on Oak Park Rd. to County Hwy. BB.
 11. 5/27/13, Memorial Day, the quarry was closed but the gate was open in the morning and afternoon.
 12. Spring and summer 2013, worked after hours in the quarry on and off.
 13. Spring and summer 2013, the gate was open occasionally on weekend evenings.
 14. 9/2/13, Labor Day, the quarry was closed but the gate was open in the morning and afternoon.
 15. 11/15/13, 1:45-4:50 p.m., numerous trucks hauled northerly on Oak Park Rd.
 16. 12/4/13, early afternoon to mid-afternoon, trucks hauled northerly on Oak Park Rd.
 17. 12/9/13, At the Deerfield Town Board Meeting, Mr. Halverson denied trucks leaving his quarry had been hauling northerly on Oak Park Rd.
 18. 4/16/14, 1:05 p.m. & 1:25 p.m. Truck hauled northerly on Oak Park Rd. to Liberty Rd. and then back to quarry from Liberty Rd.
 19. 5/24/14, 4:45 p.m., Truck hauled southerly to quarry from north on Oak Park Rd.
 20. 7/14/14, 5:30 a.m., gate open and crushing rock at 5:50 a.m.
 21. 7/15-7/18/14, workers entering quarry as early as 4:15 a.m., with audible work beginning before hours.
 22. 7/21/14, working in quarry at 5:45 a.m.
 23. 7/22-7/24/14, dump trucks entering quarry at 5:30 a.m.
 24. Noise from trucks, including loud bed vibrations, tailgate bangs and thuds, frequent truck and heavy equipment back-up alarms (up to 150 trucks per day are using this quarry), rock crushing all day for two weeks, and the blasting itself, are not at acceptable levels for this residential and farming community. The rock crushing in July resulted in clouds of dust blowing into neighboring properties to the south and east most of the day over a two week period.
 25. Area properties have received tax assessment reductions because of the quarry, representing the significantly decreased value of these properties. Some have received reductions multiple times over the past three years due to the increasingly aggressive quarry operation.

This is not an all-inclusive list. These are violations that have been observed and documented. Most have been discussed at Town Board meetings. When Mr. Halverson does concede a violation, it is generally after first repeatedly denying it. Even when he says he will address a violation, he often does not do so as he indicated if he does it at all. The above violations have been reported at various levels of government with little positive effect, particularly at the County level where area residents are told that Mr. Halverson has a "good record of complying with what they ask him to do." It is vital for residents of this area to see this in practice not just in the words of zoning staff.

If Dane County truly believes this quarry is operating in an acceptable manner, we encourage the County to consider compensating residents affected by the quarry similar to the way residents of Cottage Grove, who are affected by the landfill, are compensated. An additional reason for Dane County to compensate homeowners is the fact that this quarry has provided material for several Dane County projects in a manner very detrimental to neighboring property owners over the past couple years.

Please also see attached Nov. 14, 2011 document detailing some early violations by this operator.

November 14, 2011

To: Roger Lane, Dane County Zoning

Dear Mr. Lane,

As requested by yourself in your phone conversation last week with Dennis Mandt, we are putting into writing our complaints about the Oak Park Quarry LLC located on Oak Park Road in the township of Deerfield, County of Dane, owned by Jon Halverson, Conditional Use Permit #2103.

Condition #8:

Hours of operation shall be from 6:00 a.m. to 6:00 p.m., Monday through Friday, and from 7:00 a.m. to 1:00 p.m. on Saturdays. No operations of any kind shall take place on Sundays or legal holidays.

On Sunday, November 6, 2011 we awoke at 7:00 a.m. to the vibration of machinery, and the sound of a backup alarm. We called Roger about 7:20 a.m. and left a message that someone was working in the quarry on a Sunday.

On Sunday, November 13, 2011 the vibration and sound of machinery in the quarry began about 8:00 a.m. and ended shortly before 1:00 pm. This time there was no backup alarm so it must have been disabled.....most likely an OSHA violation. We received a phone call from a Deerfield resident stating that if we heard shooting from the pit that it was just them sighting in the guns. We told the man that there was someone working in the pit and the man said he had permission from Halverson to shoot in the pit, and that they would just shoot in the opposite direction of the worker. Shortly thereafter 2 vehicles showed up in the quarry and gunshots were heard....so there was what we considered a very dangerous situation....a vehicle with no backup alarm working in the quarry at the same time there were people shooting guns in the quarry. Eventually the man that had been working in the quarry left in his white truck, hauling his bobcat on a black trailer. He left the gate open for the people shooting guns to close behind them when they left.

The day of the UW Madison homecoming football game I was surprised that the pit closed down early, but then thought it was probably so they could go watch the game. They showed up the next day bright and early...yes, a Sunday. Please note that when we say they closed early on Saturday it is because we did not know at that time that the quarry could only be open until 1:00 p.m. on Saturdays.

In hind sight, had we known who to complain to, and were we aware of what was contained in the conditional use permit, we should have kept a record of all the times these hours of operation were violated, so we would have actual dates. I assure you it would be a bookfull

Most of the summer we were virtual prisoners in our own home. Being woken on weekends as soon as it was light by vibrating machinery shaking our house, and listening to the non-stop backup alarms (with windows and doors closed). We could not sit on our patio or deck to even enjoy a cup of coffee. During the week the noise and vibrations always started before 6:00 a.m.

We were shocked when this Fall the fence was removed along the north side of the pit, as we had been told that the pit was only zoned as far as the fence. But they knocked down the corn

and began removing dirt. That turned out to be the company removing and selling the clay. This went on 7 days a week for WEEKS, from sun up until sun down most days.

Other issues we have with what we perceive as non-compliance or conditional use violations:

Condition # 5: Why did it take over a year of ownership before this company was forced to finally pave the driveway and clean up all of the dust, dirt and mud tracked out onto Oak Park Road?

Condition #7: The gates should be securely locked when the extraction site is not in operation. Clearly not this last Sunday when the quarry worker left with his equipment for the day, yet left the gates open for non-pit workers to stay and shoot guns.

Condition #9: There shall be a safety fence around the entire extraction area at all times. That safety fence shall be a minimum of 5 feet in height, with a single strand of barbed wire on the top.

The fence is about 4 feet tall pig wire. Curious young boys can climb that, and deer can certainly jump that and fall into the pit without effort. We were told by the township board and by Roger Lane that the fence was to be 6 feet tall with razor wire on top. Big difference between that and 4 foot woven fence. There is no fence along the north side of the pit.....although the posts were put in just yesterday (Sunday). There is no fence along the west side....way more dangerous side than the north as curious kids could easily climb up the large embankment on the west side along oak park road and fall down the steep side directly into the hole. There is no fence by the gate....one could just step over the gate, or walk around the side of it to gain entrance.

Condition #11: There shall be no bulk fuel stored on the site. A large tank of diesel fuel....clearly marked....can't miss it.....clearly visible from the road. That needs to be removed.

Although not mentioned as a "condition" we do have concerns about dirt that has been brought into the pit.....hopefully the owner has verified that the soil is not toxic and will not harm our water.

Also, it mentions in Condition #1 that the applicant should submit an erosion control plan covering the entire CUP area for the duration of operations. We would like to see a copy of that plan.

Please contact us if you have questions.

Dennis & Virginia Mandt
1191 Liberty Rd
Deerfield WI 53531
608-764-5713

Virginia L Mandt

Violations of the CUP and law by the operator

At the quarry on Oak Park Rd., Deerfield, WI

From August 2014 to late October 2015

This document is a continuation of the previous one listing violations from Aug. 2011 to late July 2014. Some of the state law violations from the previous document will be explained as well.

- Property damage has expanded since Aug. of 2014 and now includes six properties, four of which have been reported at meetings of the Deerfield Town Board by their owners. In one case, the damage was seen and then confirmed by the Board Chairman in March of 2014 at a Board meeting. A photographic record is being used to document damage from the blasting. Photos were given to elected officials at the Town and County level. State law prohibits blasting damage to private property.
- For the first few years of the Jon Halverson quarry operation on Oak Park Rd., from 2011 through 2013, most residents were not receiving notice of blasts, including “affected” properties. This is a violation of state law. Further, state law requires a minimum of 24 hr. notice. Through mid-August of 2015, the operator was still trying to provide less than 24 hr. notice, including as little as 17 hrs.
- For the first few years of the Halverson operation, most residents were not getting seismographs placed on their properties even though they were being subjected to blasting levels that can cause damage. This violates state law because “affected” properties are to be monitored with seismographs.
- State law requires pre-blast surveying of neighboring properties. Only one property was surveyed by the quarry up to August of 2014, even though there were more regularly “affected” properties to that point in time. Since the summer of 2014, blasting has moved to other parts of the quarry increasing the number of affected properties. Only two additional pre-blast surveys have been conducted to date. Of the three pre-blast surveys done over the course of 75 blasts in five years, the first one performed has yet to be provided to the property owner.
- From July of 2015 to the present a seismograph has not been placed at 3680 Oak Park Rd., but instead has been placed just over the property line on land owned by the operator. This violates state law because 3680 Oak Park Rd. is an affected property to be monitored during blasting.
- Seismographs are not being set up properly on occasion. Two have been recently documented with photographs showing the seismograph microphone placed in a bag or lying on the ground in August of 2015. The microphone picks up the air blast portion of the reading. By state law seismographs are to be properly set.
- By state law “flyrock must remain within the controlled blasting site area”, a 50 ft. radius from the holes drilled for a blast. But flyrock has been allowed to go outside of the

controlled blasting site area, including as late as September 2015, and it has been allowed to go outside of the CUP boundary. County zoning had been contacted earlier this year regarding this situation, two months before the flyrock incident occurred in Sept. on Oak Park Rd.

- By state law, seismograph reports and blasting logs must contain many pieces of information. The blasting logs from the quarry were missing several pieces of information up to September 2015, including #16, the distance from the blast to the nearest inhabited building not owned by the operator; # 2, the specific blast location, and #6, a diagram of the blast layout and the delay pattern. As of September 2015 there were also no blasting reports in the file state administrator DiMiceli had for the quarry. Information that continues to be missing from the blasting log given to the Town of Deerfield by the blasting company, is #2, the specific blast location and #6, a diagram of the blast layout and delay pattern. As of October 2015, #16, the distance from the blast to the nearest inhabited building not owned by the operator, is once again also missing from blasting logs. Also missing again are the distances to the blast for a couple of the properties listed on the log. Still missing from the seismograph printout is #18 (b), the distance of the instrument/seismograph from the blast, and #18 (c), the name of the person taking the reading.
- By state law, an elected official cannot be threatened in an attempt to get the official to take a particular action or stance on an issue. But this occurred in Deerfield Township in the spring of 2015 when the financial interest of an elected official made him vulnerable to pressure that was applied to reduce his income by threatening to prevent him from hauling aggregate.

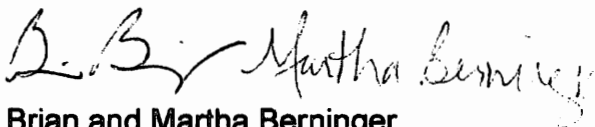
October 30, 2015

Supervisor Bob Salov
Dane County Board
Madison, WI

Dear Supervisor Salov:

Along with the copies of the petition, as well as the list of Town ordinance violations (forwarded to you under separate cover), the attached document could provide some additional background for ZLR Committee members regarding the history of trying to address problems with the quarry operator on Oak Park road over the past few years.

Sincerely,

A handwritten signature in cursive script, appearing to read "B. Berninger Martha Berninger".

Brian and Martha Berninger

Deerfield Township

CC: Patrick Miles, Chairman, Zoning & Land Regulation Committee

Deerfield Township Non-metallic Mining Ordinance violations as of 10/1/15:

Given to Town Board at 10/12/15 meeting. A continuation of new violations. See previous (9/8 and 8/10) lists below.

#1 Not furnishing the Town with blasting reports within 3 working days of a blast. Refer to Town Blasting Ordinance, Ch. 2, 2.12, "Blasting Log." As of 10/12/15, reports for 10/1 and 10/2 are late.

#2 Jake Braking by Halverson trucks from 7 a.m. to 9:30 a.m. at intersection of Liberty and Oak Park Roads, Saturday Oct. 3rd. Refer to Ch. 1, pg. 9, (f).

#3 Blasting stronger than the .30 PPV/14 Hz limits on: 9/15 (.35 PPV at 1191 Liberty), 10/1 (.41 PPV at 3513 Oak Park). By ordinance, 2 out of 10 blasts can exceed .30 PPV. This law was broken on both 9/15 and 10/1, in addition to all the times it had already been broken from August through early September (see previous listing as of 9/8 below).

#4 The air blast reading has been stronger than 123 dBL (air blast) limit: on 9/25 (130.6 dBL at 1191 Liberty). By ordinance, 1 out of 10 blasts can exceed 123 dBL. This ordinance was broken on 9/25, in addition to the four other times it had already been broken from early August through early September (see previous listing as of 9/8 below).

#5 No blast can be stronger than .40 PPV. This ordinance was broken on 9/8 (.63 PPV at 1191 Liberty) and 10/1 (.41 PPV at 3513 Liberty), in addition to the two other times this law had been broken in mid and late August (see previous listing as of 9/8 below).

Deerfield Township Non-metallic Mining Ordinance violations as of 9/8/15:

Given to Town Board at 9/14/15 meeting. A continuation of new violations. See previous 8/10 list below.

#1 Not furnishing the Town with blasting reports within 3 working days of the blast. For the 15 blasts (from July 21st to August 24th), no report has been received by the Town within the 3 working days. Most were turned in after about 7 working days, making it harder to keep track of blasts which are more numerous than the four previous years, but still as strong and still causing property damage. Refer to Town Blasting Ordinance, Ch. 2, 2.12, "Blasting Log".

#2 Not completing information required by State Law and Town ordinance on the blasting report/log. Refer to Town Blasting Ordinance, Ch.2, 2.12, (15) & (17b). Most of the required information on distances has been missing, though more recent blasting reports/logs have increasingly included some of the distance information. Of the 15 blasts from July 21st to August 24th, only the report for Aug. 24th

had the line for distance to the nearest structure completed, but it was completed with the wrong information. State Law and Town ordinance are both clear, that the blasting report/log must contain "the distance to the nearest inhabited property not owned by the quarry". The gas pipeline is not a structure, nor is it an inhabited property not owned by the quarry.

#3 By ordinance, 2 out of 10 blasts can exceed the .30 PPV vibration limit. Blasting resumed 7/21/15, with blasts on 7/21, 7/24, 7/29, 8/3 (2), 8/4, 8/6, 8/7 (2), 8/11, 8/12, 8/14 (2), 8/18, 8/24, and 9/8. The 10th blast was on 8/11. The .30 PPV limit was exceeded on 7/21, 7/29, 8/7, 8/12, 8/14, 8/24 and 9/8. On 8/7, this Town blasting law was violated. It was violated again on 8/12, 8/14, 8/24 and 9/8.

The blasts that have been stronger than the .30 PPV/14 Hz limits occurred on: 8/4 (13 Hz at 1191 Liberty), on 8/6 (12 Hz Vert., 13 Hz Long. at 3680 Oak Park and 12 Hz Tran., 12 Hz Long. at 1225 Liberty), on 8/7--blast #1 (13 Hz at 3680 Oak Park), on 8/7--blast #2 (.36 PPV at 1285 Olstad, 10 Hz at 1285 Olstad, 12 Hz at 1225 Liberty, 13 Hz Tran., 12 Hz Long. at 1191 Liberty), on 8/12 (.32 PPV at 1285 Olstad, and 11 Hz Tran., 12 Hz Vert., 13 Hz Long. at 1191 Liberty), on 8/14—blast #1 (.46 PPV at 1285 Olstad, 11 Hz at 1225 Liberty, 13 Hz Tran., 12 Hz Long. at 1191 Liberty), on 8/24 (.44 PPV at 1285 Olstad, 12 Hz at 1191 Liberty, 10 Hz at 3680 Oak Park, and 12 Hz Tran., 13 Hz Long. at 1225 Liberty), and on 9/8 (.32 PPV at 3513 Oak Park).

#4 By ordinance, 1 out of 10 blasts can have a frequency lower than 14 Hz. Frequency dropped below 14 Hz on 7/24, 8/6, 8/7 blast 1 & 2, 8/12, 8/14, and 8/24, (no reading yet for 9/8). This Town law was broken on 8/6, 8/7, 8/12, 8/14 and 8/24.

#5 By ordinance, 1 out of 10 blasts can have an air blast reading stronger than 123 dBL. This Town law was broken on 8/3, 8/12, 8/24 and 9/8.

The air blast reading has been stronger than 123dBL (air blast) limit: on 8/3 (126 dBL at 3513 Oak Park Rd.), on 8/12 (128.9 dBL at 1285 Olstad and 135.3 dBL at 1191 Liberty), on 8/24 (125.1 dBL at 1225 Liberty), and on 9/8 ((124 dBL at 3680 Oak Park). Note: the air blast limit was also exceeded on 7/24 with 124.6 dBL at 1191 Liberty though this was not on the list given to the Town Board at the 8/10/15 meeting.

#6 Blasting stronger, on any blast, than .40 PPV. This Town law was broken on 8/14 with a .46 PPV and on 8/24 with a .44 PPV.

#7 Blasting stronger, on any blast, than 128 dBL (air blast). This Town law was broken on 8/12 with readings of 128.9 dBL and 135.3 dBL.

#8 Violation of 24 hr. notice of blasts: notice is frequently given about two hours short of the 24 hour minimum advanced notice required by State Law and Town ordinance. On 8/12 notice was 7 hrs. short and the blast was moved to 8/14.

#9 The quarry has been in violation of Town law since May 2015 for not taking out an application to mine, for operating without a permit from the Town and not paying the fee, and the blasting company has not taken out an application to conduct blasting in the Township nor have they provided proof of insurance (\$2.5 million per occurrence, \$5 million aggregate) required by Town law.

The depth of the quarry cannot be lower than 30 ft. above the groundwater table. Refer to Ch. 1 of Town Non-metallic mining ordinances, Section 1.07, (3) - Standards Regarding Groundwater and Surface

Water, (a), #2. Monitoring is needed and is provided for in Ch. 1, Section 1.09 - Inspection, Enforcement, Procedures and Penalties, paragraph (1).

On occasion, seismographs are not being set up properly (photos provided), including at 3680 Oak Park Rd. on 8/11 when the microphone was in the seismograph carrying bag and on 8/12 when it was laying on the ground. Air blast readings taken by a microphone a couple feet off the ground located immediately behind many rows of 7 ft. high stalks of corn cannot give a reading representative of the air blast strength of a blasting event.

Deerfield Township Non-metallic mining ordinance violations (as of 8/10/15):

Given to Town Board at 8/10/15 Board meeting.

Jake braking a couple weeks in April after passage of Town ordinances. Refer to Ch.1, pg. 9, (f).

Not furnishing the Town with blasting reports within 3 working days. Most recently, reports for 7/31, 8/3 and 8/4 are late. Part of an on-going problem in getting timely information about blasts. Refer to Ch. 2, 2.12, "Blasting Log".

Not completing important information required by State Law and Town ordinance on the blast log report, including the distance to the nearest property (7/21, 7/24 & 7/29 reports) and the distance to the three properties listed as having seismographs (7/24 and 7/29 reports). Refer to Ch.2, 2.12, (15) & (17 b).

Blasting stronger than the .30 PPV limit/14 Hz limit, on 7/21 (.32 PPV at 1191 Liberty Rd.), 7/24 (10 Hz at 1191 Liberty Rd. and 12 Hz at 3680 Oak Park Rd.), 7/29 (.33 PPV at 3515 Oak Park Rd.), 8/6 (12 Hz at 3680 Oak Park Rd.), 8/7 (.36 PPV at 1285 Olstad Rd.).

Violation of 24 hr. notice of blasts: 7/23/15 to 3680 Oak Park Rd. at 2:10 pm for blast to occur 7/24 between 10 and Noon; 7/28/15 to 3680 Oak Park Rd. at 1:30 pm for a blast to occur 7/29 between 11 am and 1 pm; 8/10/15 to 3680 Oak Park Rd. at 11:00 am for a blast to occur 8/11 between 9 am and 1 pm.

Not placing seismographs at the 3 closest properties to each blast. This occurred on 7/31 (south wall blast with no reading at 1285 Olstad Rd.), on 8/3 (north wall blast with no reading at 3680 Oak Park Rd. nor 1225 Liberty Rd.—the two closest residences to the north wall), on 8/4 (north wall blast with no reading at 3680 Oak Park Rd. nor 1225 Liberty Rd.), on 8/6 (north wall blast with no reading at 3680 Oak Park Rd.)

Note: because blast summaries/logs have not been received for blasts that have occurred after 7/29, the above list of violations is incomplete.

Town of Deerfield

Dane County, Wisconsin

July 26, 2014

Roger Lane, Zoning Administrator
Dane County Planning & Development
City-County Building, Room 116
210 Martin Luther King, Jr. Blvd.
Madison, WI 53703-3342

Dear Roger;

The Town of Deerfield has received complaints on the level of blasting being felt from Oak Park Quarry. These complaints come from residents that are approximately a half mile away from the quarry. It has been only recently that these residents have been able to feel the blasts from the quarry; they stated they have not felt them in the past. The Town of Deerfield board is concerned about the level of feeling the blasts at such a far distance from the quarry.

The Town of Deerfield board is also concerned with the fact that notices have not been sent out in a timely fashion according to state statutes. Notices are not being sent out to residents that have requested to be notified as a result of being affected by the blasting of the quarry. Seismographs are not being provided to the township after each blast. The entrance gate to the quarry is not dependably being securely locked during closed hours of operation and holidays. The hours of operations are not being followed with the starting of pit operations before 6:00 a.m.

The Town of Deerfield board feels with many of these complaints it violates the current C.U.P. conditions one and two that the Zoning and Land Regulation Committee implemented for this C.U.P. The condition states "That the establishment, maintenance and operation of the proposed conditional use will not be detrimental to or endanger the public health, safety, morals comfort or general welfare." And "That the uses, values, and enjoyment of other property in the neighborhood for purposes already permitted will not be substantially impaired or diminished by the establishment, maintenance, and operation of the proposed conditional use."

The township board would appreciate if the County could take a look into these complaints and also advise the township on a direction that the township may have to legally enforce, under the current C.U.P. and State and County Statutes, the violations that are being presented. Please call Bob Riege at 692-5193 to discuss this matter further.

Respectfully,

Town of Deerfield Board



DANE COUNTY PLANNING & DEVELOPMENT

Room 116, City-County Building, Madison, Wisconsin 53703
Fax (608) 267-1540

October 3, 2014

Town of Deerfield
838 London Rd.
Deerfield, WI 53531

RE: Oak Park Quarry, LLC (Mandt Site)

*Housing &
Economic Development*
(608)266-4270, Rm. 362

Planning
(608)266-4251, Rm. 116

Records & Support
(608)266-4251, Rm. 116

Zoning
(608)266-4266, Rm. 116

Dear Ms. Grob,

This memo is to address the concerns that the Town of Deerfield and residents have at the quarry located at 3528 Oak Park Road. The issues outlined in a letter dated July 26, 2014 pertain to the levels of blasting, timing of blasting notices, seismographs not being provided to the town after each blast, the entrance gate not securely locked during closed hours of operation and the hours of operations starting prior to 6:00 a.m.

The Conditional Use Permit #2103 does not state anything with regards to blasting levels, notification of blasting and various reports to be submitted to the town or the county. However, Wisconsin State Statutes do have minimum requirements or base line standards that are to be followed by a licensed blaster prior to and during a blast.

SPS Administrative Code, Section 307.30 thru 307.44, subchapter III outlines the requirements for the use of blasting materials. Historically, Dane County Zoning has not been involved with blasting complaints as the aggregate industry is regulated at the state level. In addition, Zoning staff have never been trained or educated with regards to the various levels set forth with blasting or the use of explosives at mineral extraction sites and have relied upon the State to look into these matters. Attached with this memo are the sections from the State of Wisconsin, legislative code as mentioned above. The code does go over the requirements that the neighbors and the town have concerns with.

Here are some of the minimum requirements:

- The shots shall be designed and initiated by a properly licensed Class 5, 6 or 7 blaster.
- A blasting log shall be required for each blast fired and all blasting logs shall be kept on file by the blaster for a minimum period of 3 years, and shall be made available to the department upon request.
- At least 24 hours prior to initial blasting at a blast site, the blaster in charge shall make a reasonable effort to notify in writing or verbally all residents or owners of affected dwellings or other structures.
- All surface blasting shall be conducted between sunrise and sunset unless otherwise noted.
- An airblast may not exceed 133 peak dB at the location of any dwelling, public building or place of employment outside the controlled blasting site area.