



Dane County Planning & Development

Mining Regulatory

Date: August 27, 2024

To: Zoning & Land Regulation Committee

From: Daniel Everson, Land Division Review

Re: CUP 2582 – Mineral Extraction
Town of Rutland, Section 28
Property owner/Operator: K & D Stone (Kevin Hahn)

DCCO 10.101(7)(g) Revocation of Conditional Use Permit.

1. Application for a conditional use permit constitutes consent to inspection of the permitted premises by the zoning administrator or designee to assure permit compliance.
2. If a landowner or holder of the conditional use permit is found to be in violation of the permit conditions, the landowner or holder of the permit shall be notified in writing of the said violation(s) and given 10 days to correct the violation.
3. If the violation is not corrected within the assigned correction period, a report shall be filed with the zoning committee documenting the violation.
4. If the zoning committee finds that the conditions stipulated in the conditional use permit are not being complied with, the zoning committee, after a public hearing, may revoke the conditional use permit. Appeals from the action of the zoning committee may be as provided in s. 10.101(7)(d).

10.101(7)(h)(2)(a) xii.

2. Conditions.

a. Standard conditions.

Failure to comply with any imposed conditions, or to pay reasonable county costs of investigation or enforcement of sustained violations, may be grounds for revocation of the conditional use permit.

The Zoning and Land Regulation Committee conditionally approved CUP 2582 on March 14, 2023.

On June 22, 2023, the Board of Adjustment heard appeal #3724 which was an appeal by Rutland Citizens United, U.A., Pamela J. Marr-Laundrie, and Henry Spelter appealing the decision of the Dane County Zoning and Land Regulation Committee regarding approval of conditional use permit 2582. The BOA approved conditional use permit 2582 with conditions as modified.

- *Amend condition 21 to be subject to State Statute 66.0441(3)(c).*
- *Append condition 38 to read, "Upon 24 hour notice to conditional use permit operator, operations must cease during interment at the Graves Cemetery."*

Several inspections have occurred at the subject property since the approval of the CUP either to go over various concerns from citizens of Rutland or to follow up with the conditions of the CUP with the operator. Inspections pertain to the dimensions of berms, fencing, landscaping, material tracked out onto Center Road, stormwater issues, erosion control measures and fill material being brought into the site.

On July 16, 2024 I was on-site to review flooding concerns of the town road ditch, the Graves Cemetery to the south and reports of pumping stormwater off-site. First off, the operator is allowed to pump clean stormwater off-site as per an approved DNR permit.

CUP 2582 Condition 23 states: *Any water pumped off-site shall be in accordance with Wisconsin DNR Stormwater Discharge Permit WI-A046515-06. There shall be no dewatering of groundwater from the site for operations below the watertable.*

Secondly, this area received an enormous amount of precipitation in a short time frame. However, the site in general has revealed that it has not been designed as per the operations plan in order to retain stormwater and to be considered self contained. The area of concern is in the southeast corner near the new entrance. See inspection report summary dated July 17, 2024 for more detail.

On July 23, 2024, Jeremy Balousek from Land & Water Resources and myself were on-site and met with Kevin Hahn to review the operations plan that relates to stormwater and erosion control for the site. A solution was to construct a berm, temporary in nature on the east end of a soybean field and dig a retention pond along the south berm to hold internal stormwater. In addition, the stone perimeter near the southerly entrance is to be rebuilt. Jeremy and I reiterated to Kevin Hahn that the site is to drain internally and occasional pumping of clean water is allowed pursuant to DNR stormwater discharge permit.

While on-site I noticed several loaded trucks coming into the site to dump fill material in the northwest portion of the quarry. Kevin Hahn and I followed one of the trucks to witness exactly what was being dumped and unfortunately not all the material was considered to be clean fill. I witnessed various building materials and construction debris garbage mixed within the aggregate piles. The solid waste material was coming from a demolition project within the City of Madison and the construction company overseeing the project was clearly not separating clean fill from solid waste debris.

A notice of violation was sent to Mr. Hahn also referred to as operator of K & D Stone on July 24, 2024. Reasons for the notice is in regards to stormwater concerns, berms, grading and dumping of illegal materials also referred to as solid waste. See violation notice dated July 24, 2024 for more detail.

On August 1, 2024 I conducted an inspection to verify the grading concerns, stabilization of berms, construction of stormwater measures and what role and responsibility Northwestern Stone has within the subject property. The regrading of fill material in the northwest corner met my satisfaction. Illegal solid waste items appeared to have been segregated and removed. The slope is less steep, more manageable, seeded and mulched. Asphalt and concrete refuse are in separate stockpiles and appear to be recycled. The reclamation plan may need to be amended in the future if the final contours deviate from the original design of a man made lake.

A portion of a berm along the northerly property line was out of compliance. This area needs additional topsoil, seeding and to be mulched as soon as possible. Stormwater facilities at this point are still under construction near the southerly entrance.

Northwestern Stone is an aggregate operator and is an owner of various sites in Dane County as well as other counties. NW Stone is temporarily crushing and screening stone product on behalf of K & D Stone. It is common practice to have other operators to be responsible for the crushing, screening, separating of material. Therefore, NW Stone is not considered the operator of CUP 2582.

On August 5, 2024 I conducted an inspection and reviewed the matters with the operator. A few of the issues have been resolved and some of the other issues are still pending. I sent an email to the operator on August 6, 2024 and listed the issues that need to be resolved.

- A portion of the “old” fence along Center Road for a distance of about 158 feet needs to be addressed.
- Interior berms for controlling stormwater on-site need to be stabilized.
- The ditch south of the new entrance needs to be cleaned out.
- A portion of the east-west berm along the Spelter property needs to be added to in order to conceal the mining operations and to reduce the decibel levels along the property line.

On August 13, 2024 I conducted an inspection and noticed the rock/gravel material that washed into the ditch near the culvert has been removed. The short section of fence along Center Road has been corrected. There are still a few small areas where the berms still need to be stabilized and a portion of a berm along the Spelter property needs to be amended to bring the overall height to meet the required 8 feet, as needed.

On August 20, 2024, I visited the site and the east-west berm along the Spelter property line still needs to be amended to meet the minimum height of 8 feet. The interior stormwater berm and a short extension near the southerly entrance was seeded and mulched. The operator was working on them this day.

In summary, the operator has corrected the major issues and concerns from a month ago except for the berm along the Spelter property line. The site meets the basic requirements and conditions of CUP 2582 for mineral extraction. I have reiterated to the operator that the condition of the berms, landscaping, the condition of the entrance, dust control, the condition of the adjacent town roads and the other conditions of the CUP are to be monitored throughout the duration of the CUP.



Spring 2022



Summer 2023