

AGGREGATE RESOURCES TASK FORCE

REFERENCE MATERIALS REQUESTED

November 1999



Minnesota Department of Natural Resources

500 Lafayette Road
St. Paul, Minnesota 55155-4045

November 16, 1999

Senator Jerry Janezich
Minnesota Senate, District 5
518 8th St NE
Chisholm, MN 55719

Dear Senator Janezich:

I have enclosed a number of pieces of information that you requested at the October 6, 1999 Aggregate Resources Task Force meeting at the Bauerly Conference Center. The enclosures include:

- Meeting summary from October 6, 1999
- Flip chart notes from October 6, 1999
- Recommendations excerpted from testimony and comments to the Task Force
- Information on the Aggregate Material Tax
 - Aggregate Material Tax statute (M.S. 298.75)
 - Aggregate Material Production Tax, Minnesota Mining Tax Guide, October 1999
 - Aggregate Material Tax History, Department of Revenue
 - Aggregate Material Tax Brochure, Department of Revenue
- Oral and written statements from the public comment period (including recent submissions)
- Aggregate Planning and Protection statute (M.S. 84.94)
- Summaries and conclusions from the Metropolitan Council aggregate reports, 1983 & 1985

We will be sending you additional information as it is being compiled.

Sincerely,

David J. Olson
Assistant Director, Division of Minerals
Department of Natural Resources

encl.



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**Aggregate Resources Task Force
Meeting Summary 10/6/99
Bauerly Companies Conference Center, Sauk Rapids
Prepared by Department of Natural Resources, Lands and Minerals Division**

Task Force Members Present:

Representative Rukavina, Chairman
Representative Osthoff
Representative Westfall
Representative Larsen
Senator Dille
Senator Foley

Mr. Brian Winter (The Nature Conservancy)
Mr. Mark Johnson (St. Louis County
Government)
Mr. Jerry Bauerly (Aggregate Industry

Topic:

Development of a process, schedule, & assignments to complete the task force work by Feb.1, 2000.

Call to Order

The meeting was called to order by Chairman Rukavina at 10:20 a. m. Handouts included the transcript of the oral testimony from the September 29, 1999 public hearing and written comments received.

Discussion

Chairman Rukavina reviewed the statute that created the Task Force and emphasized the duties cited in the statute. The minutes from the last meeting, September 29, 1999, were approved.

The task force discussed the process to develop their recommendations. This led to the following requests of the staff:

- 1) Compile all the recommendations received by the Task Force from all past meetings, and oral and written comments received during the public comment period. The recommendations are to be organized into the 13 categories of topics listed in the statute that created the task force. The task force requested to receive these as soon as possible.
- 2) Acquire reference materials, including the 1983-85 reports to the legislature from the Met Council regarding aggregate resource recommendations of that time period, certain Aggregate Materials Tax information handouts, the statutes on Aggregate Planning and Protection and the Aggregate Material Tax, and the Maple Grove Gravel Mining Area Plan. The task force requested to receive these as soon as possible.
- 3) To develop a complete or "total" picture of the aggregate resource information, such as

(OVER)

to estimate the available aggregate resources in the seven county metro area, the 12 county metro area, and the entire state. Further, the high quality sources were to be identified. The conclusion was that only a crude estimate is possible, and that the Ad Hoc committee will be asked to contribute to this estimate.

- 4) To acquire legislative policy information from a number of states and provinces.
- 5) To put the September 29, 1999, public hearing oral testimony and written testimony on the web site.
- 6) To invite groups and organizations that are connected to aggregate resources to the next meeting to:
 - a) clarify issues or provide information to the task force chair;
 - b) hear the development of recommendations by the task force.

These groups include planning and zoning staff, economic development staff, labor and industry associations, the Ad Hoc committee, environmental organizations, and state department of revenue staff.

Next meeting

The next meeting of the Aggregate Resources Task Force is tentatively set for November 29 & 30, 1999, in St. Paul. A meeting notice with details will be finalized and sent out later.

Meeting adjourned at 1:45 p.m.

FLIP CHART NOTES FROM AGGREGATE TASK FORCE MEETING
October 6, 1999 - Bauerly Conference Center

AGGREGATE RESOURCE ISSUES (from statute)

1. Resource Inventory
2. Resource Depletion
3. Mining Practices
4. Nuisance Problems
5. Safety
6. Competing Land Uses and Land Use Planning
7. Native Prairie Conservation
8. Environmental Review
9. Local Permit Requirements
10. Reclamation
11. Recycling
12. Transportation of aggregates
13. Aggregate Material Tax

TO BE PREPARED BY STAFF:

1. Recommendations Summary.

Compile recommendations received by Task Force from all past meetings and in oral and written comments received during the public comments period. Recommendations will be organized according to the 13 aggregate resource issues identified in the task force statute. The summary will include the source of the recommendation as well as any contrary point of view that was received.

2. Aggregate Policy from other States and Provinces.

Contact other states and provinces for information on their aggregate programs and policies.

Provinces: Ontario and Manitoba

States: Wisconsin, Michigan, South Dakota, Ohio, Colorado, California, Washington, Oregon

Others: Benton County

3. Reference materials

The following information will be sent to Task Force members

1. Excerpts from the Metropolitan Council aggregate reports, 1983-1985
2. New Aggregate Map for the metropolitan area
3. Aggregate Material Tax statute (M.S. 298.75)
4. Aggregate Planning and Protection statute (M.S. 84.94)
5. Aggregate Material Tax summary information from Department of Revenue
6. Department of Revenue survey (initiated by Senator Dille) on assessed value of lands with aggregate

(Over)

4. Aggregate Reserves Estimate/ Needs Assessment.

Consult with MnDOT, Met Council, MGS, Industry, and Ad Hoc Aggregate Committee to develop a rough estimate on the available aggregate reserves in the state. Attempt to develop two estimates - one for the metropolitan area and another for the remainder of the state.

5. Meeting Notices.

For upcoming Task Force meetings, the Chair will make a general invitation to all members of the house and senate. In addition, staff will send out meeting notices to the following groups two weeks in advance of the meeting:

- All planning and zoning administrators
- All county highway engineers
- Building and Trade Associations (8 regions)
- Dick Anfang
- Planning and Economic Development staff from cities and towns
- Ad Hoc Aggregate Committee
- Department of Revenue staff

The meeting notice will state that the Task Force is beginning to formulate policy and recommendations. The public is invited to observe the development of recommendations and to clarify issues or provide information as requested by the Task Force.

5. Meeting Schedule

Next meeting will be a two day meeting in November in St. Paul

Monday, November 29th from 10:00 AM to 8:00 PM

Tuesday, November 30th from 8:00 AM to 12:00 PM

Another two day meeting was proposed for December in St. Paul

Thursday, December 9th from 8:00 AM to 4:00 PM

Friday, December 10th from 8:00 AM to 12:00 PM

Recommendations Excerpted from Testimony Made to the Aggregate Resources Task Force

The Aggregate Resources Task Force received the following recommendations during public meetings, public hearings, or from written submittals during the timeframe November 17, 1998 to October 4, 1999.

The recommendations, *both explicit and implicit in nature*, are compiled as verbatim quotations. A citation is provided that contains the author, author's title, affiliation, date, and source pages to look up the quote or see it in context. Notes are provided in brackets [] by the compiler for clarity of context.

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Topic 1. Inventory

- 1.1 The first critical issue is what we call “map and protect.” The DNR has been charged with the responsibility to determine where is the aggregate located, and they’re currently working at that but at the rate of one county per year. We would like to see that sped up quite a bit faster.

Mr. Eugene Wright, Director, Aggregate and Readymix Association of Minnesota. Key Points of Presentations and Meeting Transcripts, 11/17/98 meeting, pages 23,24.

- 1.2 Across the issues of regulation and taxation, I think AMC [Association of MN Counties] will come across very strongly in the belief that local control does, in fact, need to be maintained when it comes to the regulation and taxation of gravel as it currently exists. However, with that said, I think were there greater effort on the part of the state to have a better inventory of the location of aggregate resources, to have some quality staff that were available to work with counties as the need arose, I think the counties will look forward to having some greater ability to be aware of gravel issues and to do whatever they could to accommodate them through their planning and zoning activities.

Mr. Dave Weirens, Policy Analyst, Association of Minnesota Counties. Key Points of Presentations and Meeting Transcripts, 11/17/98, page 33.

- 1.3 Not all gravel deposits are equal—just like all tall grass prairie is not equally viable in the long term.

- We’ve heard it today about the need to do a good inventory of where the gravel resources are. I support that and applaud it very much. Good science and good information and decent information from those who have it.
- I also would argue that some of those should be used for mining, or research, or answering some of the questions I have raised about good information so we know where the deposits are that are most likely to produce the most gravel most efficiently, meanwhile being the least intrusive on the prairie that remains.

Mr. Robert McKim, State Director, The Nature Conservancy. Key Points of Presentations and Meeting Transcripts, 11/17/98, page 36.

- 1.4 We need to map the future reserves so that someplace in the comprehensive planning process we take that into account. Right now if you look at a comprehensive plan, there are very few that include the mineral reserves in the ground as part of that comprehensive plan, and [we need to] recognize the need for that.

Mr. Don Vry, Senior Vice President, Meridian Aggregates. Key Points of Presentations and Meeting Transcripts, 1/27/99, page 55.

- 1.5 The Aggregate Mapping Project of the MN DNR should be accelerated (four counties since 1984 is moving rather slowly), and the information collected should include depth, quality, and distribution of the deposits on both public and private land.

Ms. Janet Boe, President, Minnesota Chapter of The Wildlife Society. Written comments, 9/29/99, page 3.

Topic 1. Inventory - Continued

- 1.6 The statute needs more teeth:
- a) Fund the DNR through the aggregate tax and finish mapping within 10 years.
 - b) Require that comprehensive planning recognize aggregate resources and plan for the utilization of the resource.

Mr. Don Vry, Sr. Vice President, Meridian Aggregates. Written comments, 9/29/99, page 5.

- 1.7 All counties should have inventory of aggregate resources funded by aggregate material tax.
- Mr. Larry V. Nurre, President, Southern Minnesota Construction Co., Inc. Written comments, 9/29/99, page 36.*

- 1.8 More effort is needed to identify aggregate resources before development occurs that precludes mining, to conserve known aggregate deposits, and to mine aggregate prior to development whenever possible.

Mr. Steve Morse, Deputy Commissioner, Minnesota Department of Natural Resources, Written comments, 9/29/99, page 62.

- 1.9 They [Local 49] believe that all responsible contractors should have access to the aggregate necessary to be able to bid on these highway construction projects and not give one or two contractors a great competitive advantage on the bid because they happen to have bought up mineral rights to 27 farms in the same township.

Mr. Paul Iversen, representing the International Union of Operating Engineers, Local 49. Transcript of Oral Testimony, 9/29/99, page 42.

Topic 2. Depletion

- 2.1 I think what people don't recognize is that the infrastructure wears out, and a lot of it is worn out right now. So, there will be a significant reconstruction effort over the next thirty or forty years of that road system and over the next ten to twenty years of our bridge system. And that will probably increase the amount of material that will be needed over the last two or three decades.

Mr. Fred Corrigan, Executive Vice President, Minnesota Transportation Alliance. Key Points of Presentations and Meeting Transcripts, 1/27/99, page 41.

- 2.2 But within fifteen years, in my opinion—I could provide you some data, I think, to back it up; many of my colleagues and competitors are in the audience here, and I think that they would confirm – that within fifteen years virtually every ton of aggregate reserves that is currently permitted will have been consumed in the metropolitan area. What that means is that beyond fifteen years, every ton of the 25 or 30 million tons of consumption will have to come from outside the metropolitan area because there won't be any left within the seven counties, certainly not within the urbanized seven counties.
- Last year we closed our Lakeville operation beside 35W because we ran out of reserves. This year we will close Shakopee, as I told you, and in two years we will close our Maple Grove operation because we will run out of reserves. That is two million tons per year that will be gone from the supply stream.

Mr. Jonathan Wilmschurst, Regional President, CAMAS Minnesota, Inc. Key Points of Presentations and Meeting Transcripts, 1/27/99, pages 43,47.

- 2.3 Future traffic forecasts are requiring thicker pavements and deeper bases below the pavement.
- We need high performance material to meet our new demanding specifications to produce long-lasting pavements and bridge structures.
 - In summary, MNDOT is very concerned about maintaining sufficient supplies of aggregate for our future projects.

Mr. Paul Rowekamp, Geotechnical Engineering, MNDOT. Key Points of Presentations and Meeting Transcripts, 1/27/99, page 63.

- 2.4 As sources are depleted, and as our usage goes up, we need in this 50-year period to find another 50 million tons of aggregate on an annual basis for source of supply, so it's a really critical issue.

Mr. Gene Wright, Director, Aggregate Readymix Association of Minnesota. Key Points of Presentations and Meeting Transcripts, 5/26/99, page 123.

Topic 2. Depletion - Continued

- 2.5 Our company's [Hedberg Aggregates] current reserves will only last approximately 14 more years.
- It won't be long until all the quality aggregate around the Twin Cities Metro area are depleted and aggregate will have to be hauled in to our market from such places as Iowa, South Dakota, and Wisconsin.

Mr. Stephen J. Hedberg, President, Hedberg Aggregates, Inc. Written comments, 9/29/99, pages 8,9.

- 2.6 Even though there are many years of aggregate reserves within a three-mile radius of Tower Asphalt, these reserves are unavailable for consumption because homes have been built over the sand and gravel deposits.
- There should also be an organized effort to educate the American people as to the value of these natural resources, and that these resources must be kept available for everyone to use.

Mr. Ronald L. Hockin, President, Tower Asphalt, Inc. Written comments, 9/29/99, pages 33,34,35

- 2.7 We think that that is bad public policy for the State of Minnesota to allow any contractor or small group of contractors to monopolize the aggregate resources in the state, that there should be some sort of restriction perhaps in the permitting that requires that a certain amount of the aggregate be available to the general public, that one contractor cannot tie up all of the aggregate in the area and thereby gain a competitive advantage over the other bidders on high construction projects in the area.

Mr. Paul Iversen, representing the International Union of Operating Engineers, Local 49. Transcript of Oral Testimony, 9/29/99, pages 40,41.

- 2.8 Isn't there a way to further limit the amount of aggregate that goes out of the state?
- Mr. Jon Schumacher, representing S.A.V.E. Transcript of Oral Testimony, 9/29/99, page 86.*

Topic 3. Mining Practices

- 3.1 A mining plan prior to opening a site should be required in every county. Mining plans should always include returning the site to a condition that is as close as possible to its condition prior to mining.

Ms. Janet Boe, President, Minnesota Chapter of the Wildlife Society. Written comments, 9/29/99, page 3.

- 3.2 The DNR is encouraging long range mine and reclamation planning such that complete utilization of all the aggregate resources at a particular site is attained.
- A gravel operation along the Minnesota River Valley Scenic Byway, unless handled in a sensitive manner that does not disrupt a traveler's view of the river valley, can detract from the traveling experience that is being advocated for tourism purposes. Visual screening of mines in scenic areas would assist in addressing this issue.

Mr. Steve Morse, Deputy Commissioner, Minnesota Department of Natural Resources. Written comments, 9/29/99, pages 63,67.

- 3.3 If new policy is developed, it should include "best management practices" for mining, processing, utilizing and reclaiming aggregate sources. This would promote more efficient utilization of the limited resources that are available.

Mr. James W. Sanders, Forest Supervisor, Superior National Forest. Written comments, 10/4/99, page 82.

Topic 4. Nuisance

- 4.1 The other thing that is a key to success is that it [Apple Valley mining area] is a large area. We are talking about approximately 1300 acres. There is no substitute for having enough land, so you can locate the operations far enough away from the perimeter and also have the opportunity to vertically separate the operations and the busy parts of it from the perimeter.

Mr. John Shardlow, President and Director of Planning, Dahlgren, Shardlow, and Uban, Inc. Key Points of Presentations and Meeting Transcripts, 3/3/99, page 73.

- 4.2 ...as far as specific regulations, there are a few of them you can't put a specific regulation on. Noise is one. Our permits, when we did go through the conditional use permit process, noise was one of them that was a little open ended. We try to deal with the noise on the front end, but we always have that clause in there that says "or additional measures as needed." As Jerry [Bauerly] knows, noise can bounce around, miss the first house and hit the second house. It is a hard one to figure, so I've always [undecipherable] mining companies that were always willing to adjust to that.

- We try not to use chemical retardant; we try to do it with water. Typical dust issues are not stockpiles. It is whenever you have equipment moving out. Neighbors are real good. We got a policy—we give out the miners' phone numbers, and they call them first, instead of me. They get an immediate response; and if they don't, then I get involved.

Mr. Stephen Rohlf, Building and Zoning Administrator, City of Elk River. Key Points of Presentations and Meeting Transcripts, 3/3/99, pages 77,78.

- 4.3 We support legislation that would prohibit any dumping into depleted borrow pits.

- We support a limit on the number of years a pit is allowed to be "operating."
- We support the enforcement of pit owners to properly and effectively secure/police their properties.

Mr. Clare Stromlund, Mr. Ron Gajewski, and Ms. Cindy Whiting, Solway Township Officers. Written comment, 9/29/99, pages 43,44.

Topic 5. Safety

- 5.1 ...The one issue that has been a real frustration to the city of Elk River, the only issue we haven't been able to really get a handle on, or set a proper condition on to alleviate a problem, is traffic. It is not from the mining companies, what it is—a lot of the miners sell to independent haulers. Those haulers are paid by the run.

Mr. Stephen Rohlf, Building and Zoning Administrator, City of Elk River. Key Points of Presentations and Meeting Transcripts, 3/3/99, page 78.

Topic 6. Competing Land Uses and Planning

- 6.1 I think as a general comment that the source of aggregate is not considered when looking at any land-use requirements today. We would like it to become a priority – to look at it, and – is there a way to protect it so it can be used?

Mr. Eugene Wright, Director, Aggregate and Readymix Association of Minnesota. Key Points of Presentations and Meeting Transcripts, 11/17/98, page 25.

- 6.2 I think we need to be aware as well that just because there is a recommendation that there are aggregate resources out there, that does not give local government the ability to say, “No, you can’t build on top of that.” But I think there is an opportunity for local governments to educate landowners and do everything they can through their zoning to try and limit the kind of development so that there is an opportunity to mine a quality site somewhere down the road.

Mr. Dave Weirens, Policy Analyst, Association of Minnesota Counties. Key Points of Presentations and Meeting Transcripts, 11/17/98, page 33.

- 6.3 We are interested in all of them [recommendations from the Agassiz Beach Ridges Forum], but subscribe to as being something for you to look at is to consider aggregate resources in future land use decisions.

Mr. Robert McKim, State Director, The Nature Conservancy. Key Points of Presentations and Meeting Transcripts, 11/17/98, page 36.

- 6.4 ...point number two would be to protect [future aggregate resources]—we need to somehow figure out a way to keep our business as local as possible to the end use if we want to minimize the impact as far as truck traffic is concerned. We need to identify future reserve base and inform local decision makers of the regional context of that resource base that they have in their community because a lot of times, Shakopee could care less in a regional perspective. And you argue, why should they? But there will be a regional impact.

Mr. Jonathan Wilmschurst, Regional President, CAMAS, Minnesota, Inc. Key Points of Presentations and Meeting Transcripts, 1/27/99, page 48.

- 6.5 Existing sites really need protection of some sort.

- We need to map the future reserves so that someplace in the comprehensive planning process we take that into account. Right now if you look at a comprehensive plan, there are very few that include the mineral reserves in the ground as part of that comprehensive plan, and [we need to] recognize the need for that.

Mr. Don Vry, Senior Vice President, Meridian Aggregates. Key Points of Presentations and Meeting Transcripts, 1/27/99, page 55.

- 6.6 To continue to serve our customers, we need to ensure a future supply of high-quality, low-cost materials.

Mr. Paul Rowekamp, Geotechnical Engineering, MNDOT. Key Points of Presentations and Meeting Transcripts, 1/27/99, page 63.

Topic 6. Competing Land Uses and Planning - Continued

6.7 ...there are now 41 communities that have waste water treatment plants that are drawing from the outside in.... What you find is, when you get outside the yellow area, and, in fact, outside the seven-county metropolitan area, in fact, there's in many cases more urban development and at greater densities than there are inside the area that is being proposed for urban development. So that, to me, is the challenge, and, I think, there is a certain amount of urgency in order to put policies in place that would protect those areas for sand and gravel operations.

- Mining operations are intensive, heavy industrial activities that are not generally compatible with surrounding residential developments. And if they do co-exist, for instance, near the end of the life of an operation, my experience is that it is far better socially, politically and even legally, if the operation was there before the residential was there. Clearly, it is a buyer-beware situation. If someone decides to build a house immediately adjacent, they have the opportunity to understand what is going on and make their own investment decision. Clearly from my perspective, the bigger the piece of land, the bigger the opportunity for success, bigger setbacks, more vertical separation of processing, options for access, and so forth.

Mr. John Shardlow, President and Director of Planning, Dahlgren, Shardlow, and Uban, Inc. Key Points of Presentations and Meeting Transcripts, 3/3/99, pages 72, 73, 74.

6.8 One is that it is primarily a land use and political issue. In general, it has a relatively low environmental impact. This is not the same as a hazardous waste site. It is not the same as a refinery. It's not the same as even a major highway, in my opinion.

Mr. Nels Nelson, Barr Engineering Company. Key Points of Presentations and Meeting Transcripts, 3/24/99, page 99.

6.9 Land use planning prior to siting a gravel mine and a mining plan prior to opening a site should be required in every county.

Ms. Janet Boe, President, Minnesota Chapter of The Wildlife Society. Written comments, 9/29/99, page 3.

6.10 Future aggregate reserves need to be protected.

Mr. Stephen J. Hedberg, President, Hedberg Aggregates, Inc. Written comments, 9/29/99, page 9.

6.11 Acknowledge that aggregate materials have become a significant resource requiring protection.

- Revise and modernize the siting process.

Mr. David Edmunds, Vice President, Edward Kraemer & Sons. Written comments, 9/29/99, page 17.

Topic 6. Competing Land Uses and Planning - Continued

- 6.12 Land areas that have quality materials for producing quality aggregates should be zoned for aggregate mining. Housing and commercial buildings should not be constructed over these areas until after the natural resource has been recovered. After the aggregates have been removed and the land restored, the housing and/or commercial development can take place, and/or open space and/or parks developed.
- There also has to be some limits placed on the maximum size of building lots outside of the Municipal Utility Service Areas. The minimum lot size of 2 1/2 - 10-acre lots which rural areas are zoning is unrealistic in these times.
 - In Tower Asphalt's situation, as with any aggregate processor along the bordering states, whatever is done in Minnesota and/or Washington County must also be accomplished along the bordering counties of Wisconsin. Any zoning in either state has an impact in the adjoining state.

Mr. Ronald L. Hockin, President, Tower Asphalt, Inc. Written comments, 9/29/99, page 34.

- 6.13 State would have final say as to use, would have right to use condemnation with payments to land owner if deemed appropriate to save aggregate for future use.

Mr. Larry V. Nurre, President, Southern Minnesota Construction Co., Inc. Written comments, 9/29/99, page 36.

- 6.14 Borrow pit activity creates dust, noise, and heavy truck traffic and negatively affects adjacent properties. We support that a limit be placed on the number and size of operating pits in a given area.

Mr. Clare Stromlund, Mr. Ron Gajewski, and Ms. Cindy Whiting, Solway Township Officers. Written comment, 9/29/99, page 43.

- 6.15 The DNR advocates that natural resource information be considered in local land use planning efforts alongside more traditional issues such as anticipated growth profile, appropriate zoning and unit densities, incompatible uses, and transportation requirements. Aggregate resources have historically been overlooked in the planning process. Aggregates are a non-renewable and valuable natural resource that should be considered concurrently with other natural resources. However, even with a knowledge of aggregate resources, siting of mining facilities remains difficult.

- Land use planning should include measures to "warehouse," or reserve, potential aggregate resources for future use when immediate needs are being satisfied.
- A potential exists for a partnership between land owners with aggregate resources and OHV users.

Mr. Steve Morse, Deputy Commissioner, Minnesota Department of Natural Resources. Written comments, 9/29/99, pages 64,65.

Topic 6. Competing Land Uses and Planning - Continued

- 6.16 We believe that some sort of statewide policy needs to be put in place to assure that aggregate will be available for projects.

Mr. Paul Iversen, representing the International Union of Operating Engineers, Local 49. Transcript of Oral Testimony, 9/29/99, page 40.

- 6.17 What we have been looking at as residents of the area is there are many, many hills throughout the State of Minnesota that are limestone, and if you take a hill down and you return top soil, after you've taken that hill down you at least have something that continues to be usable from the standpoint of agricultural land.

Jon Schumacher, representing S.A.V.E. Transcript of Oral Testimony, 9/29/99, page 88.

- 6.18 It is important that the state protect the limited resources available for future generations by restricting control of local governments in zoning away these resources forever.

Mr. Terry Johnson, Planning and Permitting Officer, Anderson Brothers Construction Company. Written comments, 9/23/99, page 72.

- 6.19 There also needs to be more coordination between governments to identify potential aggregate sources for major road construction projects before contracts are offered. We find it increasingly difficult to respond to instant demands for large quantities of aggregate materials after the contracts are let, and simply may not be able to do so in the future.

Mr. James W. Sanders, Forest Supervisor, Superior National Forest. Written comments, 10/4/99, page 82.

Topic 7. Native Prairie Conservation

- 7.1 We also believe it's very important to promote prairie conservation programs with willing, private land owners.
- I believe that it's very important that we look for ways to provide incentives, providing a whole host of options to private land owners so they have the options to proceed in ways that are intended for good conservation, as opposed to public policy that may often provide unintended consequences.
 - ...providing incentives through the permitting processes to avoid native prairie whenever it's possible;
 - minimize the development of new haul roads across prairie whenever that is possible;
 - reclamation of abandoned gravel mining sites on both private and public lands.
 - Lastly, we think in reclamation, it's important to use prairie grasses for native prairie grasses whenever it's possible in those reclamations.

Mr. Robert McKim, State Director, The Nature Conservancy. Key Points of Presentations and Meeting Transcripts, 11/17/98, page 36.

- 7.2 There is still much that is unknown about prairies, including the abundance and distribution of insects and other arthropods, the role of soil microbes, and the functions and services provided by native prairie that developed over centuries. We encourage continued inventories, surveys, and research, particularly of those little-known species and functions of the prairie.

Ms. Janet Boe, President, Minnesota Chapter of The Wildlife Society. Written comments, 9/29/99, page 3.

- 7.3 The DNR advocates a common sense approach to protecting native prairies predicated on the premise that every effort be made to preserve the best and most significant native prairie, along with other rare habitats or communities that remain, regardless of the aggregate potential. In all cases where aggregate mining occurs on public land that currently contains prairie vegetation, there should be a mining plan prepared that considers prairie preservation, prairie restoration, mining procedures, and reclamation utilizing native plant species and materials.
- For mining proposals on private land where native prairie and aggregates occur concurrently, an aggregate inventory is recommended to gain a better understanding of the aggregate deposit. An assessment of the native prairie may also be appropriate.
 - One alternative for protection of the native prairie located on privately owned sites containing rare and endangered species is through compensating the landowner and placing the property in public ownership or under protective easement, provided that the landowner is willing and funds are available.

Mr. Steve Morse, Deputy Commissioner, Minnesota Department of Natural Resources. Written comments, 9/29/99, pages 65,66.

Topic 8. Environmental Review

- 8.1 One [conclusion] is that it [permitting] is primarily a land use and political issue. In general, it [aggregate mining] has a relatively low environmental impact. This is not the same as a hazardous site. It is not the same as a refinery. It's not the same as even a major highway, in my opinion.

Mr. Nels Nelson, Barr Engineering. Key Points of Presentations and Meeting Transcripts, 3/24/99, page 99.

- 8.2 Please look at and recommend a structure similar to South Dakota; they have a state agency that rules on the technical and environmental merits of the application. When and if the project meets all noise, dust, and environmental standards it can be considered locally. The local regulating unit of government holds the public hearings, evaluates the local issues, and sets appropriate conditions and decides on the project.

Mr. Don Vry, Sr. Vice President, Meridian Aggregates. Written comments, 9/29/99, page 4.

- 8.3 Build consideration of regional implications into local decision making.

- Establish reasonable timelines for the entire process.

Mr. David Edmunds, Vice President, Edward Kraemer & Sons. Written comments, 9/29/99, page 17.

- 8.4 Environmental Review would be required on those deposits that are used on a monthly basis - not job specific.

Larry V. Nurre, President, Southern Minnesota Construction Co., Inc. Written comments, 9/29/99, page 36.

- 8.5 We support strict guidelines in monitoring exposed water, throughout the lifetime of a pit.

- We support the establishment of policies which would envision environmental safety for many years to come.

Mr. Clare Stromlund, Mr. Ron Gajewski, and Ms. Cindy Whiting, Solway Township Officers. Written comment, 9/29/99, page 43.

- 8.6 Disturbed areas such as inadequately reclaimed gravel pits, with little or no soil present, provide sites where noxious weeds and other exotic species sometimes flourish... Dispersal of exotic species from these sites occurs naturally, or seeds can be carried by gravel trucks.

Mr. Steve Morse, Deputy Commissioner, Minnesota Department of Natural Resources. Written comments, 9/29/99, page 67.

Topic 8. Environmental Review - Continued

- 8.7 The Province of Ontario I think is a very good example in that I think development wise it's probably a good model of something 10, 15 years down the road as far as what you're facing in terms of it's a geographic area that's faced a lot more land pressures in the sense that it has a much higher population base over a smaller area where you have aggregate resources available due to glaciations as opposed to California where it's due to rivers or so on. And one of the results of that has been that on the availability side what they have done is put in place a program wherein the aggregates are still managed at the local level as they are here but there is a -- in that case -- province wide policy for the protection of the resource to ensure that -- amongst other things that have been heard here today -- is that it is not lost or sterilized because of urban development or commercial development. And the policy is designed to do a couple of things. It requires that the local authorities take into account where those primary resources are that we've seen shown on some of those maps. The new ones that are coming out, that information is available. And the local authorities have to take that information into account as part of their zoning process if it's a key resource that needs to be mapped and people need to be made aware of it. It then becomes part of their process in deciding are there key resources that need to be protected for that reason.
- There was also a piece of legislation that also then provided some direction and guidance or templates, as you will, for what type of rehabilitation and management practices would be appropriate.
 - I think the last thing I wanted to touch on briefly is that, again, to keep in mind the need to distinguish between site-specific management issues and those issue which need to be addressed more at a county or certainly a watershed level.

Dr. Darryl Shoemaker, Aggregate Consultant. Transcript of Oral Testimony, 9/29/99, pages 51,53,54.

Topic 9. Local Permit Requirements

- 9.1 We talked a little bit about the permitting issues, and currently you can have township, city, county, and state government agencies, and when you start the permitting process, you may not know where to even start. There is an inconsistency on procedures, or on the guidelines, and so there could be some consistency that would be helpful. In many cases, the analysis of "Should a Permit be Granted" [it] exceeds the technical expertise of the planning committee, and if we could have a source of technical expertise that a planning commission would believe, that would be really helpful.

Mr. Eugene Wright, Director, Aggregate and Readymix Association of Minnesota. Key Points of Presentations and Meeting Transcripts, 11/17/98, page 25.

- 9.2 I think there are certainly some counties that would like to have some additional technical resource at the state level to step in when they are having some trouble, but I think the bottom line is that whatever this task force ends up recommending for action is going to have to be implemented through local action by counties, cities, and townships.
- Across the issues of regulation and taxation, I think AMC will come across very strongly in the belief that local control does, in fact, need to be maintained when it comes to the regulation and taxation of gravel as it currently exists. I think were there greater effort on the part of the state to have a better inventory of the location of aggregate resources, to have some quality staff that were available to work with counties as the need arose. I think the counties will look forward to having some greater ability to be aware of gravel issues and to do whatever they could to accommodate them through their planning and zoning activities.

Mr. Dave Weirens, Policy Analyst, Association of Minnesota Counties. Key Points of Presentations and Meeting Transcripts, 11/17/98, pages 32,33.

- 9.3 ...what I want to bring before you is to highlight the fact that we have a lot of local decisions being taken, which are going to have significant regional impact if they continue in ignorance or indifference to the regional issues, that will have some significant ramifications on society in the future if we don't address it in some form or fashion.
- Well, it [permitting] is always going to have to be a local decision ultimately. But the point is that local decision makers are having to make decisions which are very technical in nature, and the city staff does not have that technical knowledge. Certainly, some states already have that mechanism in place for essential technical review board, which in many cases is what the local politicians are saying. You know, they would appreciate that. They can hide behind it. We work hard with the communities and for as much as it might be a pain in the neck to have to go spend years getting a permit, the fact of the matter is, and MNDOT will refer to this later on, once you're in, you're in, and you are sitting pretty nicely. So, what is your worst enemy can be your best friend, from a competitive standpoint.

(Comments continued on next page)

Topic 9. Local Permit Requirements - Continued

- It is a reality. Local politics and local permitting is a reality. I am not saying that we will ever get away from that or that we should. But again, if it supersedes, if you have local issues superseding regional issues, then I would submit that becomes an issue.

Mr. Jonathan Wilmschurst, Regional President, CAMAS Minnesota, Inc. Key Points of Presentations and Meeting Transcripts, 1/27/99, pages 47,50.

- 9.4 Finally, strong local leadership with the wisdom and vision and the courage to commit to a long-range vision [is a key to success]. This isn't ribbon cutting, this is something that takes, in many cases, twenty to thirty years to realize, and in the case of Maple Grove, it is a good example of that. Finally, under the right set of circumstances, mining operations can serve the whole real estate while market opportunities grow. When the operations are finished, there is a large continuous environmentally clean site available to accommodate special developments.

Mr. John Shardlow, President and Director of Planning, Dahlgren, Shardlow and Uban, Inc. Key Points of Presentations and Meeting Transcripts, 3/3/99, page 74.

- 9.5 ...we would appreciate it if the state wouldn't butt into gravel mining in Elk River. They have screwed enough stuff up.
- The miners were operating under permits that were issued by the county a number of years prior. We actually talked them into submitting themselves to the city's conditional use permit process, allowing us to put stipulations on their operations. The carrot to get them to do that--the win-win so that it was a benefit to both the city and the miners--was we took the entire gravel mining area that was covered in the Environmental Impact Statement, and we put an overlay zone on that property, minimal excavation overlay zone. This did several things; it got the miners to submit themselves to our conditional use permit process, so we had something to say about how they operated, and it also put future purchasers of property surrounding these areas on notice of the intent for them to be mined.
 - If you have to voice their views at a public hearing, what we did was a series of neighborhood meetings that went over issues. We sat around a table with a cup of coffee, a lot more friendly atmosphere. We worked through these issues with CAMAS and the neighborhoods; and when we finally did get to the public hearing in front of the city council, one neighbor showed up versus the hundred that were at the initial meeting, and that person was in favor of the mine.
 - ...also starting requiring--we have a yearly license, and with that comes an inspection from the city at least once a year, and mostly it is multiple times, where we sit down with the miners and go through their pit and have them reclaim what is physically possible to reclaim that year--whatever is not in the way of their haul roads or stockpiles, not in the way of their operation. The net result of that, even if you do phases--five year phases or whatever--we are getting things done each and every year that it is possible to do it. The end result is that, I think, we have more production in Elk River of gravel now than we did five years ago, and we have less exposed area.

(Comments continued on next page)

Topic 9. Local Permit Requirements - Continued

- ...their permit is based on how many acres that you have open. So, the cost is proportional to the number of acres you have open. So, it behooves the operator to reclaim it.

Mr. Stephen Rohlf, Building and Zoning Administrator, City of Elk River. Key Points of Presentations and Meeting Transcripts, 3/3/99, pages 76,77,78.

- 9.6 *In response to the question, "What do you think of the role of the state, county or township has in the various jurisdictional review of gravel pits?" I think the county has a major role because it is a region-wide resource, but I think the county is a little more local than the state would be and could look at the needs and concerns a little more closely. We also have the staff to implement something like that. The impacts of mining go beyond a certain [site] or a certain township. You know, the truck driver goes a long ways, and groundwater contamination can go across property lines. A number of impacts cross property lines, but I think the county is a good level of government to try to control that anyway.*

Mr. Dennis O'Donnell, Senior Land Use Specialist/Zoning, Washington County. Key Points of Presentations and Meeting Transcripts, 3/3/99, page 82.

- 9.7 The other thing I wanted to comment on is about the regional resources, and I showed you this before [overhead], but in the center there's an aggregate operation and a city, and that city is responsible for the permitting, responsible for the hours of operation, and how that aggregate operation will work, but that aggregate operation is really a regional source of supply. It has a regional implication; yet the decision making process is in the hands of the city, and it's important, I think, that the city know that they have a regional resource, and hopefully in their decision-making process that they can put that into their logic when they make the decisions so they don't put so many restrictions that they'll be forced to close down. And that's one of the real issues we have here. How can we get the decision makers the information and let them know the importance of the regional resource that's there so they put that into their decision-making process?

Mr. Gene Wright, Director, Aggregate Readymix Association of Minnesota. Key Points of Presentations and Meeting Transcripts, 5/26/99, pages 125,126.

- 9.8 In a very generic nutshell, that is where we are at in Chisago County. I will state again that we want to make these valuable resources available to the market, but at the same time we want to protect our beautiful countryside, the stability of our road system, and to make sure that policy is implemented that provides for a thorough reclamation of the mined area. These are just a few of the issues that have come to the table to date, and I am sure many more will surface in the coming months.... So, we are trying to do it, unlike some of the suggestions heard here today, we're trying to do what is right. To allow for the mining of that valuable resource that we all need and yet still protect the environment.

Mr. Tom Delaney III, Chairman, Chisago County Board. Key Points of Presentations and Meeting Transcripts, 5/26/99, page 144.

Topic 9. Local Permit Requirements - Continued

9.9 Permitting should be required in all counties.

Ms. Janet Boe, President, Minnesota Chapter of The Wildlife Society. Written comments, 9/29/99, page 3.

9.10 MNLA urges caution in any effort to limit the permitting of aggregate resources.

- MNLA believes it's important to have the permitting process set up in such a way that small groups of vocal opponents don't have undue influence over the process. The permitting process should be objective and science-based, and be a process that benefits the greatest number of citizens in a growing economy.

Mr. Bob Fitch, Executive Director, Minnesota Nursery and Landscape Association. Written comments, 9/29/99, page 6.

9.11 Permitting needs to be made easier and not done at the local level where citizens can so easily sway local policies.

Mr. Stephen J. Hedberg, President, Hedberg Aggregates, Inc. Written comments, 9/29/99, page 9.

9.12 Local Permit Requirements - Local planning on zoning boards would only be part of process for ongoing operations, but for job basis use the letting authority would have certain standards to be met as part of contract award.

Mr. Larry V. Nurre, President, Southern Minnesota Construction Co., Inc. Written comments, 9/29/99, page 36.

9.13 If an operating pit is sold, it is difficult to monitor conditions that were conveyed to a previous owner. We support a requirement that new owners reapply for their own permit.

- We support strict compliance regarding the collection of bonds if a pit operator/owner fails to reclaim their pit within two years of ceasing operations.

Mr. Clare Stromlund, Mr. Ron Gajewski, and Ms. Cindy Whiting, Solway Township Officers. Written comment, 9/29/99, page 43.

9.14 One way in which we would see regulating rather than restricting is perhaps such a restriction could be on the number of currently operating pits and that if you want to open a new pit in the area, you would have to reclaim another pit, but if there were commercially usable aggregate in that area that would—we would not want it to be artificially restricted because there were too many pits in the area and allow for the depletion of one pit and its reclamation and then opening up of another pit rather than unnecessarily restricting access to that important resource.

Mr. Paul Iversen, representing the International Union of Operating Engineers, Local 49. Transcript of Oral Testimony, 9/29/99, page 40.

9.15 If the state is going to look at mining and look at preserving aggregate, they should also look very hard at regulating the mining industry tighter than they're regulating it today.

Mr. John Schumacher, representing S.A.V.E. Transcript of Oral Testimony, 9/29/99, page 89.

Topic 9. Local Permit Requirements - Continued

- 9.16 ...looking at the responses of the state agencies to the EAW process. At times their [state agencies] responses are extreme in nature and exceed their areas of authority. Unfortunately, the local government often looks to the agencies' responses as coming from a higher level of authority.

Mr. Terry Johnson, Planning and Permitting Officer, Anderson Brothers Construction Company. Written comments, 9/23/99, page 72.

- 9.17 Approval Jurisdiction. Recent ash utilization permits issued by the MPCA contain a provision that "local and county approvals must be obtained prior to use". Minnesota has 87 counties, 1,802 townships, and 855 cities. This creates a formidable process to gain widespread approval for commercial uses of ash. It places a burden on jurisdictions who are not staffed to evaluate complex and controversial environmental issues. **NSP recommends that the MPCA's authority to permit use of coal ash be extended statewide and that local and county officials must simply be notified of ash use within their jurisdiction [bold type was in the original document]**. The ash user would continue to have the obligation to comply with all local ordinances and codes, including any governing use of industrial byproducts.

Mr. Michael R. Thomes, Fuel Resources Department, Northern States Power Company. Written comments, 9/28/99, page 80.

Topic 10. Reclamation

10.1 ...we think in reclamation, it's important to use prairie grasses for native prairie grasses whenever it's possible in those reclamations.

- ...I would think that following along with the work that was done in Clay County, some guidelines for reclamation of areas used is something that would also be supported by the Nature Conservancy.

Mr. Robert McKim, State Director, The Nature Conservancy. Key Points of Presentations and Meeting Transcripts, 11/17/98, page 36.

10.2 Another key to success, I think, was the phased reclamation, and that is something that hasn't been done as much as it should be, where you actually mine an area and reclaim it as you go, so that the area that is being mined is kept manageable.

Mr. John Shardlow, President and Director of Planning, Dahlgren, Shardlow and Uban, Inc. Key Points of Presentations and Meeting Transcripts, 3/3/99, page 73.

10.3 Part of that, and this is sort of a tangent idea, but part of that permit required that Unimin Mining do some restoration on some degraded remnant [prairie] adjacent to their mine site so that their permit not only does it require restoration of the mine site itself, but it also requires some active restoration of adjoining fairly good quality in some areas and degraded quality in others but adjoining grassland and native remnant prairie so Unimin has taken that on and done a nice job with it, about 165 acres of intensive restoration work.

- But, in terms of regulations, and I think what the state or the county or the township ought to expect is at least a matrix of maybe four or five grasses, and it would be nice if they could include a matrix of ten or fifteen wildflowers or forbes, legumes, and so on, to give the diversity and stability to the soil that you really need. So, on the low end maybe, a 15 or 20 species mix, not so unlike what's now happening with the CRP plantings. Current rounds of CRP are being awarded to people who provide a broader mix of species rather than a mono crop. And we have learned over the years, that this is the better way to go. So, I think, that you know, again, if the state, township, county people would regulate the restoration process, it would be very beneficial.
- I think it would enhance the value of the land rather than take something that has been pretty much mixed up and degraded and bring it back for relatively minimal investment—bring it back to a level that more than recaptures that investment.
- So, that is part of the issue and the wetland mitigation thing, I really believe there is value and in some cases, gravel operators could sell wetland banking, if you will. They have created it and they have some value there. Now maybe they don't know about that, maybe that is an education issue that there is value in these wetlands and they might be able to put those out into the market and use them as a saleable product, if you will. This is an idea that people are doing anyway. They are actually going out and creating wetlands and selling it to developers who need mitigated wetlands.

Mr. Ron Bowen, President, Prairie Restorations, Inc. Key Points of Presentations and Meeting Transcripts, 3/24/99, pages 101,102,105.

Topic 10. Reclamation - Continued

- 10.4 Since communities such as Waite Park are subjected to years of noise and air pollution due to mining operations, State Law should require that when reclamation occurs these communities benefit from new public parks, trails, and water access.
- In my opinion, this public greenway (similar to the bikeway around Lake Calhoun in the Twin Cities) should be donated to a local unit of government as part of a mining company's reclamation plan.

Mr. Mark Sakry, District 2 Commissioner, Stearns County. Written comments, 9/29/99, page 7.

- 10.5 One of the things that we try to do when working with developers is encourage them to say, okay, in exchange for being able to move into an area with a land use - it isn't generally help wanted - there are a lot of opportunities – not simply just a regulator / restrictor - but actually try and provide a net gain [such as to reclaim an old, abandoned pit].

Dr. Darryl Shoemaker, Aggregate Consultant. Transcript of Oral Testimony, 9/29/99, pages 55,56.

- 10.6 In municipalities near aggregate industry pits, mandate, encourage, incentivize, whatever it takes, the recycling of food wastes into composting facilities located in abandoned pits. The result can be a gradual amendment and augmentation of topsoil, as long as is needed to achieve a pleasing, useful landscape. In municipalities where recycling of other portions of the waste stream is underway, this can be accomplished with relative ease, by adding bins for the collection of food wastes. Yes, there will be glitches to overcome, such as timely handling of the wastes to prevent problems with insects, and managing rodents and smells at the composting site. However, a St. Cloud-based company, NaturTech, has already addressed such problems in developing its composting technologies and methodologies. You may be well-advised to consult with them about how to actually get a plan on paper.

Ms. Marcia Shepard, Associate Editor, Focus 10,000. Written comments, 9/29/99, page 10.

- 10.7 We support the concept that depleted pits be made into areas for recreation, building homes, etc. However, all interested parties must have that vision as they proceed with their borrow pit operation.

Mr. Clare Stromlund, Mr. Ron Gajewski, and Ms. Cindy Whiting, Solway Township Officers. Written comment, 9/29/99, page 43.

Topic 10. Reclamation - Continued

- 10.8 The DNR supports beginning staged reclamation work as early as possible in the mine's life.
- Long-term reuse of aggregate mining sites should be planned prior to, and integrated with, the mining process.
 - Open space retention and natural community restoration should be given full consideration as a long-term use for relevant mining sites.
 - Inactive mining sites (pre- or post-mining) should be restored or revegetated using native vegetation.
 - The demand for technical information on reclamation and for funding sources for reclamation projects is growing, based upon the volume of calls for assistance that come to the attention of the Division of Lands and Minerals.

Mr. Steve Morse, Deputy Commissioner, Minnesota Department of Natural Resources. Written comments, 9/29/99, pages 63, 65.

Topic 11. Recycling

- 11.1 [The] MNDOT is a strong promoter of recycling roadway materials. Virtually no existing payment is wasted or land filled from [MNDOT] roadway reconstruction projects.

Mr. Paul Rowekamp, Geotechnical Engineering, MNDOT. Key Points of Presentations and Meeting Transcripts, 1/27/99, page 63.

- 11.2 The key to using waste and by-product materials in the transportation infrastructure is finding applications that:

1. Technically provide equal or better engineering properties than current materials.
2. Environmentally pose no potential hazard to the surrounding ecosystem.
3. Economically compete in the marketplace on an equal basis with current materials.

- MNDOT has maintained a proactive stance in supporting the use of waste and by-product materials.

Mr. Gerry Rohrbach, Director, Office of Materials and Road Research, MNDOT. Key Points of Presentations and Meeting Transcripts, 4/28/99, pages 109,110.

- 11.3 Not only have we been able to completely recycle products within our own industry but have made attempts to recycle products generated by other industries. Even though every viable resource is recycled, when you consider that there are in excess of 50 million tons of virgin aggregate produced annually, recycling will never be able to offset the need for producers to open and permit virgin aggregate sites.

Mr. Chad Sauer, Vice President of Field Operations, Tiller Corporation. Key Points of Presentations and Meeting Transcripts, 4/28/99, page 113.

- 11.4 Recycling used aggregate and seeking new materials to use in its place are both important steps which should be rewarded by society. We should also encourage aggregate users to come up with designs that reduce the need for aggregate.

- With roads and homebuilding as major consumers of the aggregate supply, we should support and expand other methods of transportation that use less aggregate and reward would-be homeowners for renovating an older home in place of building new.

Ms. Janet Boe, President, Minnesota Chapter of the Wildlife Society. Written comments, 9/29/99, page 3.

- 11.5 The DNR is a strong proponent of recycling and reuse of mineral commodities, including alternative aggregate products such as blast furnace slag. The DNR encourages the use of taconite waste products for aggregate materials, such as the use of coarse taconite tailings for bituminous road wear surfaces.

Mr. Steve Morse, Deputy Commissioner, Minnesota Department of Natural Resources. Written comments, 9/29/99, page 68.

Topic 11. Recycling - Continued

- 11.6 Lack of Statutory Rule Structure. The MPCA does not have a Rule structure to guide its issuance of permits to utilize coal ash. Permits are obtained based on the outcome of negotiation and public review processes. While NSP has had modest success in obtaining permits, the process is ambiguous, lengthy, and uncertain. States with demonstrated success using coal ash tend to have Statutes or Rules to govern approvals. In 1994/95, the MPCA convened a diverse Task Force to assist in Rulemaking for coal ash utilization. In spite of achieving apparent consensus recommendations as to how to regulate use of coal ash, the MPCA never completed the process. **NSP recommends that the MPCA be directed to resurrect its Coal Ash Utilization Rulemaking process.**
- Environmental Assessment Worksheet (EAW) Requirements. The MPCA is the Responsible Governmental Unit (RGU) to determine if an EAW is required prior to authorizing use of coal ash. The MPCA must order preparation of an EAW if the use may have the potential for significant environmental effects. This low legal standard and the EAW format do not establish a workable context for assessing commercial utilization of industrial by-products. A possible dilemma is created when acts of construction or agriculture in and of themselves may have the potential for adverse environmental effects. For example, NSP's dry scrubber/baghouse house ash contains similar levels of trace elements as are found in alternative agricultural liming and nutrient sources, thus both present similar potentials for environmental effects. However, even if the ash is "cleaner" than the alternatives (which it frequently is), its commercial use can be restricted in order to satisfy the EAW process. **NSP recommends a generic EAW/EIS process be developed by the State to cover utilization of industrial by products and fertilizers.**

Mr. Michael R. Thomes, Fuel Resources Department, Northern States Power Company. Written comments, 9/28/99, page 81.

Topic 12. Transport of Aggregates

- 12.1 If you use fuel at 93 cents a gallon, the cost to move those products by water is \$650,000 as opposed to \$641 million by truck to move the same amount in number of tons of material. I think the impact of those types of activities are such that we believe that the state's ability to maintain the transportation system in the metropolitan area would be severely hampered and may actually become impossible.

Mr. Fred Corrigan, Executive Vice President, Minnesota Transportation Alliance. Key Points of Presentations and Meeting Transcripts, 1/27/99, pages 39,40.

- 12.2 That equates, as best as I can tell, to about one-and-a-half million truck loads every year that are coming into the metropolitan area, if it was all to be moved by truck. And that is about 10,000 truck loads a day during the construction season. So, I just want to help you capture what is happening on the freeways everyday if that is the mode of transportation.
- In face of that, I think it would—most people would agree that barge transportation is the cheapest, safest, and least polluting means of transportation, rail would be next, and truck is last. Most of us in the industry have experienced to a degree the cost of public resistance when you want to open a new facility these days. The focus is generally on truck traffic as being the single largest element of resistance amongst the local people, owing primarily to the safety and the noise.
 - The primary concern I want to leave you with is the preservation of a bulk transportation system beyond just simply relying on trucks.

Mr. Jonathan Wilmschurst, Regional President, CAMAS Minnesota, Inc. Key Points of Presentations and Meeting Transcripts, 1/27/99, pages 43,44,48.

- 12.3 I am asking that we consider that the transportation modes need to be maintained.

Mr. Don Vry, Senior Vice President, Meridian Aggregates. Key Points of Presentations and Meeting Transcripts, 1/27/99, page 55.

- 12.4 EVTAC needs access to viable rail transportation to move aggregate products to the markets at major cities.

Mr. Richard Maki, Vice President of Operations, EVTAC Mining. Key Points of Presentations and Meeting Transcripts, 4/28/99, page 108.

- 12.5 [Speaking in support of the state's current multi modal aggregate transportation system...] The aggregate issues being reviewed by this committee will impact the state and local governments in two ways - a declining source of aggregate materials will make it more difficult to build and maintain the highway system in Minnesota, and rising costs of aggregate materials due to increased shipping costs.
- The costs of the aggregate material and the transportation costs of that material will greatly impact the ability of state and local governments to deliver transportation projects in the metropolitan Twin Cities region. Barge transportation represents the least expensive form of transportation, with rail next and trucking representing the most expensive method to move bulk materials. (Comments continued on next page)

Topic 12. Transport of Aggregates - Continued

- While aggregate shortages will impact all areas of the state, the seven county metropolitan region will be doubly impacted. The increased shipping costs from aggregate operations located further outside the region and the impact of adding additional trucks to an increasingly congested highway system. The metropolitan region is expected to grow by more than 650,000 people by 2020 and the number of congested miles of freeway will more than double during the same period. At the same time less than 20 miles of new freeways will be built during those years, compared to more than 200 miles during the past two decades.

Mr. Fred Corrigan, Executive Vice President, Minnesota Transportation Alliance. Metropolitan Area Tour, 6/23/99, Luncheon comments and handouts.

- 12.6 Minnesota's future area of rapid development may not coincide with locations of high quality and abundant aggregate resources. The issue of transporting aggregate should be dealt with.

Ms. Janet Boe, President, Minnesota Chapter of the Wildlife Society. Written comments, 9/29/99, page 3.

- 12.7 Current rail and river terminals are being phased out. With a need in the metro area for 25 million tons of aggregate how will the rock get there?

- I would hope your recommendations would include language to recognize the importance of the different modes of transportation and the need to protect them.
- Simple property tax breaks for rail or barge yards would help industry protect these sites.

Mr. Don Vry, Sr. Vice President, Meridian Aggregates. Written comments, 9/29/99, page 5.

Topic 13. Aggregate Material Tax

- 13.1 I do think it's important to look at the gravel tax to see how it's being used, and perhaps we need to be sure that there is compliance, that the full amount is being used as is intended, for gravel pit restoration.

Mr. Robert McKim, State Director, The Nature Conservancy. Key Points of Presentations and Meeting Transcripts, 11/17/98, page 36.

- 13.2 The townships deserve the tax. As far as implementing it, that's a problem.

- If they can't reclaim it and do something with it, it ain't worth nothing. You know, I think the townships deserve something for what they're losing. I know in our township alone, we probably lost 600-800 acres of land that the gravel is all removed from, and there is nothing left there.
- If we got to do the calculation on everything we're going to hire somebody to do that kind of work. If that is the case, then it is going to have to come out of that tax for implementation.
- ...If the county comes in my township and hauls gravel to the next township and we don't get nothing. But when we come to buy Class 5, then we got to pay the county for the Class 5.

Mr. John Prouty, Township Officer, Grand Lake Township, St. Louis County. Key Points of Presentations and Meeting Transcripts, 3/24/99, pages 88,89.

- 13.3 *In response to the question, "Could the Department of Revenue help in those [collecting the tax]?"* If you talk about a statewide application, clearly those are the issues that can be included in the discussion, I would think. Now, if you have somebody administering a fund, then you got to make them help be responsible for helping collect it or seeing that it is done properly. Then we get that cost off the local property taxpayers and let [the state] pay for it. But to answer your question, I am sure the Department of Revenue could do it if the provisions and appropriations were done.

Mr. Donald Walsh, Minerals Tax Office, Minnesota Department of Revenue. Key Points of Presentations and Meeting Transcripts, 5/26/99, page 142.

- 13.4 Taxes commensurate with the value of the resource should be in place statewide.

Ms. Janet Boe, President, Minnesota Chapter of the Wildlife Society. Written comments, 9/29/99, page 3.

- 13.5 I would suggest this tax be levied state wide, on truck (road) sales only. Importers from out-of-state should also pay the tax. Then the funds should be dedicated to reclamation, roads, or reserve mapping. We should limit the ability to divert these funds.

Mr. Don Vry, Sr. Vice President, Meridian Aggregates. Written comments, 9/29/99, page 4.

Topic 13. Aggregate Material Tax - Continued

13.6 We supported (and received!) Legislation to offer compensation to those local governments directly and negatively effected by aggregate extraction.

Mr. Clare Stromlund, Mr. Ron Gajewski, and Ms. Cindy Whiting, Solway Township Officers. Written comment, 9/29/99, page 43.

13.7 The DNR endorses the use of the reserve fund from the Aggregate Materials Tax for reclamation of abandoned mining sites.

- Other uses of the Aggregate Materials Tax that could be considered by the task force include:
 - reclamation of sites on private lands
 - conducting inventories of aggregate resources in conjunction with efforts underway by the County Biological Survey (CBS) as it assays native plant communities
 - consideration of a programmatic approach to rare native plant communities acquisition and/or protection, on a priority basis, where future gravel resource extraction could threaten such features

Mr. Steve Morse, Deputy Commissioner, Minnesota Department of Natural Resources. Written comments, 9/29/99, pages 68,69.

13.8 We're willing to do our part for the region, but it has to be something that's beneficial to the City, too. We have to have some other type of incentive. *Ms. Cathy Busho, Mayor, City of Rosemount. Transcript of Oral Testimony, 9/29/99, page 46.*

- Is there a way in which we can negotiate some kind of a sand and gravel fee working with the operators that would offset some of the adverse effects?
- There are host community fees for landfills and other facilities like that and we think it would be reasonable to consider it.

Mr. John Shardlow, President, Dahlgren, Shardlow & Uban, inc., representing the City of Rosemount. Transcript of Oral Transcript, 9/29/99, pages 47,49.

13.9 We need some incentives in the city.

- There isn't any reimbursement for city streets.
- There is a full burden on the cities on behalf of repairing roads, repairing streets, cleaning up dust, cleaning up whatever.

Mr. Will Branning, Dakota County Commissioner. Transcript of Oral Testimony, 9/29/99, page 72.

13.10 I know that it's on a county basis and I would like you to entertain the fact of having it [aggregate or gravel tax] a blank tax for every county in the State of Minnesota.

Citizen from Meeker County. Transcript of Oral Testimony, 9/29/99, page 79.

Topic 13. Aggregate Material Tax - Continued

- 13.11 [Do you think that the recommendation of allowing local units of government to the township level to impose this tax would be—] Let the township do it, you mean and not have it through the county, collected through the county? I think that would be excellent.

Meeker County citizen. Transcript of Oral Testimony, 9/29/99, page 82

- 13.12 If you're going to ship gravel out of the state is there any reason why we can't tax it heavier?
Mr. Jack Murray, Becker County Commissioner. Transcript of Oral Testimony, 9/29/99, page 84.

Minnesota Statutes, 298.75

Aggregate Material Tax

Section 298.75 Aggregate material removal; production tax.

Subdivision 1. Definitions. Except as may otherwise be provided, the following words, when used in this section, shall have the meanings herein ascribed to them.

(1) "Aggregate material" shall mean nonmetallic natural mineral aggregate including, but not limited to sand, silica sand, gravel, building stone, crushed rock, limestone, and granite. Aggregate material shall not include dimension stone and dimension granite. Aggregate material must be measured or weighed after it has been extracted from the pit, quarry, or deposit.

(2) "Person" shall mean any individual, firm, partnership, corporation, organization, trustee, association, or other entity.

(3) "Operator" shall mean any person engaged in the business of removing aggregate material from the surface or subsurface of the soil, for the purpose of sale, either directly or indirectly, through the use of the aggregate material in a marketable product or service.

(4) "Extraction site" shall mean a pit, quarry, or deposit containing aggregate material and any contiguous property to the pit, quarry, or deposit which is used by the operator for stockpiling the aggregate material.

(5) "Importer" shall mean any person who buys aggregate material produced from a county not listed in paragraph (6) or another state and causes the aggregate material to be imported into a county in this state which imposes a tax on aggregate material.

(6) "County" shall mean the counties of Pope, Stearns, Benton, Sherburne, Carver, Scott, Dakota, Le Sueur, Kittson, Marshall, Pennington, Red Lake, Polk, Norman, Mahnomon, Clay, Becker, Carlton, St. Louis, Rock, Murray, Wilkin, Big Stone, Sibley, Hennepin, Washington, Chisago, and Ramsey.

Subd. 2. A county shall impose upon every importer and operator a production tax equal to ten cents per cubic yard or seven cents per ton of aggregate material removed except that the county board may decide not to impose this tax if it determines that in the previous year operators removed less than 20,000 tons or 14,000 cubic yards of aggregate material from that county. The tax shall be imposed on aggregate material produced in the county when the aggregate material is transported from the extraction site or sold. When aggregate material is stored in a stockpile within the state of Minnesota and a public highway, road or street is not used for transporting the aggregate material, the tax shall be imposed either when the aggregate material is sold, or when it is transported from the stockpile site, or when it is used from the

stockpile, whichever occurs first. The tax shall be imposed on an importer when the aggregate material is imported into the county that imposes the tax.

If the aggregate material is transported directly from the extraction site to a waterway, railway, or another mode of transportation other than a highway, road or street, the tax imposed by this section shall be apportioned equally between the county where the aggregate material is extracted and the county to which the aggregate material is originally transported. If that destination is not located in Minnesota, then the county where the aggregate material was extracted shall receive all of the proceeds of the tax.

Subd. 3. By the 14th day following the last day of each calendar quarter, every operator or importer shall make and file with the county auditor of the county in which the aggregate material is removed or imported, a correct report under oath, in such form and containing such information as the auditor shall require relative to the quantity of aggregate material removed or imported during the preceding calendar quarter. The report shall be accompanied by a remittance of the amount of tax due.

If any of the proceeds of the tax is to be apportioned as provided in subdivision 2, the operator or importer shall also include on the report any relevant information concerning the amount of aggregate material transported, the tax and the county of destination. The county auditor shall notify the county treasurer of the amount of such tax and the county to which it is due. The county treasurer shall remit the tax to the appropriate county within 30 days.

Subd. 4. If the county auditor has not received the report by the 15th day after the last day of each calendar quarter from the operator or importer as required by subdivision 3 or has received an erroneous report, the county auditor shall estimate the amount of tax due and notify the operator or importer by registered mail of the amount of tax so estimated within the next 14 days. An operator or importer may, within 30 days from the date of mailing the notice, and upon payment of the amount of tax determined to be due, file in the office of the county auditor a written statement of objections to the amount of taxes determined to be due. The statement of objections shall be deemed to be a petition within the meaning of chapter 278, and shall be governed by sections 278.02 to 278.13.

Subd. 5. Failure to file the report and submit payment shall result in a penalty of \$5 for each of the first 30 days, beginning on the 15th day after the last day of each calendar quarter, for which the report and payment is due and no statement of objection has been filed as provided in subdivision 4, and a penalty of \$10 for each subsequent day shall be assessed against the operator or importer who is required to file the report. The penalties imposed by this subdivision shall be collected as part of the tax and credited to the county revenue fund. If neither the report nor a statement of objection has been filed after more than 60 days have elapsed from the date when the notice was sent, the operator or importer who is required to file the report is guilty of a misdemeanor.

Subd. 6. It is a misdemeanor for any operator or importer to remove aggregate material from a pit, quarry, or deposit or for any importer to import aggregate material unless all taxes due under this section for the previous reporting period have been paid or objections thereto have been filed pursuant to subdivision 4.

It is a misdemeanor for the operator or importer who is required to file a report to file a false report with intent to evade the tax.

Subd. 7. All money collected as taxes under this section shall be deposited in the county treasury and credited as follows, for expenditure by the county board:

(a) Sixty percent to the county road and bridge fund for expenditure for the maintenance, construction and reconstruction of roads, highways and bridges;

(b) Thirty percent to the road and bridge fund of those towns as determined by the county board and to the general fund or other designated fund of those cities as determined by the county board, to be expended for maintenance, construction and reconstruction of roads, highways and bridges; and

(c) Ten percent to a special reserve fund which is hereby established, for expenditure for the restoration of abandoned pits, quarries, or deposits located upon public and tax forfeited lands within the county. If there are no abandoned pits, quarries or deposits located upon public or tax forfeited lands within the county, this portion of the tax shall be deposited in the county road and bridge fund for expenditure for the maintenance, construction and reconstruction of roads, highways and bridges.

Subd. 8. The county auditor or its duly authorized agent may examine records, including computer records, maintained by an importer or operator. The term "record" includes, but is not limited to, all accounts of an importer or operator. The county auditor must have access at all reasonable times to inspect and copy all business records related to an importer's or operator's collection, transportation, and disposal of aggregate to the extent necessary to ensure that all aggregate material production taxes required to be paid have been remitted to the county. The records must be maintained by the importer or operator for no less than six years.

HIST: 1980 c 607 art 19 s 5; 1Sp1981 c 1 art 10 s 17-19; 1982 c 523 art 13 s 1; 1983 c 342 art 14 s 1; 1984 c 652 s 1; 1986 c 403 s 1,2; 1993 c 375 art 9 s 41,42; 1995 c 264 art 16 s 15; 1996 c 471 art 13 s 15; 1997 c 231 art 8 s 12-14

MINNESOTA

MINING TAX GUIDE

October 1999



PUBLICATION PRODUCTION INFORMATION

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ABOUT THE COVER

The cover pictures are the scientific description of stromatolite, commonly known as Mary Ellen Jasper. They were provided by by Pete Pastika, Northshore Mining, Babbitt, Minnesota, and his brother, Tim Pastika, Minnesota Department of Natural Resources, Minerals Division, Hibbing, Minnesota.

Stromatolites are some of the oldest fossils on Earth. They are composed of layer upon layer of primitive, single-celled plants similar to blue-green algae. They thrived two billion years ago in the warm, shallow marine environment that existed along what is now the Mesabi Range. Sediments settling on these plants were trapped by gum-like mats of algae. As new generations grew, layered, dome-like structures formed.

These plants were the first on Earth to carry out photosynthesis on a grand scale. The process released vast quantities of oxygen into the sea and, ultimately, into the atmosphere. The oxygen was probably responsible for the first mass extinction on Earth, since most life forms at that time were anaerobic. In other words, they were unable to survive in an oxygenated environment. However, when iron in the water was depleted, the oxygen accumulated in

the atmosphere. This helped create an atmosphere suitable for life forms as we know them.

The plants that became stromatolites released oxygen into the sea and were responsible for precipitating iron from the water. This formed the Biwabik Iron Formation that is mined today on the Mesabi Range.



AGGREGATE MATERIAL PRODUCTION TAX

GRAVEL TAX

(MINNESOTA STATUTE 298.75)

INTRODUCTION

The aggregate material tax is a production tax on the removal of aggregate material. Aggregate material is gravel, sand, silica sand, crushed rock, limestone and granite (but not dimension stone and dimension granite). *The tax imposed on importers and operators is ten cents per cubic yard or seven cents per short ton. Aggregate material must be measured or weighed after it is extracted from the pit, quarry or deposit.* For the purposes of this statute, an *importer* is any person who brings aggregate from another state or county (township) not imposing this tax into a county (township) that imposes the aggregate material tax. The tax is imposed on an importer when the aggregate material is imported into a county (township) imposing the tax from a county (township) that does not impose the tax. An *operator* is a person engaged in removing aggregate material from the surface or subsurface of the soil for the purpose of sale, either directly or indirectly, through the use of aggregate material in a marketable product. The tax is imposed on an operator within the county (township) when the material *is transported from the extraction site or is sold, used or transported from stockpile, whichever occurs first.*

Since 1986, this tax has been in effect in 22 counties: Becker, Benton, Big Stone, Carver, Clay, Dakota, Hennepin, Kittson, LeSueur, Mahnomon, Marshall, Norman, Pennington, Polk, Ramsey, Red Lake, Scott, Sherburne, Sibley, Stearns, Washington and Wilkin.

Pope County imposed the tax effective April 1, 1998. Canosia, Solway and Midway Townships in St. Louis County imposed the tax April 1, 1999.

AGGREGATE TAX LEGISLATION

1997 legislation authorized Pope, St. Louis and Carlton Counties to begin collecting the tax. Pope County imposed the tax effective April 1, 1998. Carlton and St. Louis Counties decided not to impose it. The same legislation authorized some townships surrounding Duluth to impose the tax if St. Louis County chose not to impose the tax. They were: Alden, Brevator, Canosia, Duluth, Fredenberg, Gnesen, Grand Lake, Industrial Lakewood, Midway, Normanna, North Star, Rice Lake and Solway.

The townships had until Jan. 5, 1999, to file a certificate of approval to impose the tax with the Secretary of State. As mentioned, three did.

No legislation regarding this tax was passed in 1999 or 1998.

TAX ADMINISTRATION

The aggregate material tax is the responsibility of each county auditor (township clerk) where the tax is imposed on its aggregate operations. The county auditor (township clerk) is accountable to develop the tax reports, correspond with aggregate operators or importers and collect the tax. He/she also has the right to audit

and inspect all books and records of any aggregate material operator or importer.

The law requires the county to distribute the tax as follows: County Road and Bridge Fund, 60 percent; Township or City Road and Bridge Fund as determined by the County Board, 30 percent; and the Reserve Fund for Pit Restoration of abandoned pits or quarries on public and tax forfeit lands, 10 percent. *All proceeds from this tax shall be retained by each of the towns that impose the tax. Townships collecting this tax have no legally mandated distribution.*

The tax is first collected from the county (township) where the aggregate is produced. If two adjoining counties (townships) both impose the tax, the county (township) into which the aggregate is imported cannot collect or impose the tax. The only exception is: if the aggregate material is transported directly from the extraction site by a waterway, railway or other nonhighway method, the tax imposed will be apportioned equally between the county (township) of extraction and the county (township) of destination. *The county board can decide not to impose the tax on operators who produced less than 20,000 tons (14,000 cubic yards) during the previous year.*

REPORTING REQUIREMENTS

By April 14, July 14, October 14 and January 14, operators or importers must file a quarterly report and payment with the county auditor (township clerk) in the county or township in which the aggregate material is removed or imported. If no report is filed, the county auditor (township clerk) must estimate the amount of tax due. Any operator has 30 days after the tax has been paid to appeal any estimate.

RESERVE FUND FOR PIT RESTORATION

M.S. 298.75, Subd. 7(c) mandates ten percent of the tax be distributed to a special reserve fund for the restoration of abandoned pits, quarries or deposits located on public and tax forfeited lands within the county. However, if there are none, the portion of the tax is deposited in the County Road and Bridge Fund. Information the Minnesota Department of Revenue, Minerals Tax Office, prepared for the *Legislative Aggregate Resources Task Force* showed that as of Dec. 31, 1998, counties had a total reserve fund balance of more \$1.7 million. For more information contact the MNDOR Minerals Tax Office, Eveleth.

AGGREGATE TAX EXAMPLES

No Tax Imposed Examples

Example: If a government unit (township, city, county or state) owns or leases an aggregate pit, there is no aggregate material tax when the government unit removes aggregate for its own use. There is also no tax if the government unit hires a contractor to crush and remove the aggregate for use on its roads. The tax is imposed on every operator in the business of removing aggregate material for sale. Consequently, there is no operator within the statutory definition and no tax due. (*Attorney General's opinion to Kanabec County Attorney, May 13, 1983.*)

Example: If a farmer removes gravel for personal use from a pit located on the farmer's property, no tax is due.

Tax Imposed Example

Example: When a privately-owned gravel pit sells gravel to a township, other local unit of government, county or the State of Minnesota, the tax is imposed on the pit operator.

Example: When a government- or privately-owned pit sells aggregate to an individual or contractor who picks up the aggregate at the pit, the tax is imposed on the pit operator.

Example: Let's say the example is the same as above, but the operator delivers the aggregate, either dumping or leveling it. Again, the tax is imposed on the pit operator.

Example: Ready mix and bituminous producers who own their own aggregate pits must pay the tax to the county. If they purchase aggregate, the tax should be paid by the aggregate producer or importer.

OTHER QUESTIONS

Question: If aggregate is shipped by rail directly from the pit out of the state, does any of the distribution go to the township of origin?

Answer: Yes. The township of origin is entitled to 30 percent of the tax on the aggregate shipped, with 60 percent to the County Road and Bridge Fund and 10 percent to the County Reserve Fund for pit restoration.

Question: If a county hires a part-time person specifically to administer the aggregate tax, can the county subtract this cost from the tax collections prior to distributing the tax?

Answer: No.

Question: Is it correct for a producer to show the aggregate tax separately on the sales invoice?

Answer: No. The aggregate tax should not be shown separately on the sales invoice. This is a tax the producer or importer pays directly to the county. It is part of the producer's or importer's cost of doing business.

Question: Is it correct for a producer to show the sales tax separately on the sales invoice?

Answer: Yes. The sales tax must be shown separately on retail sales.

Figure 38

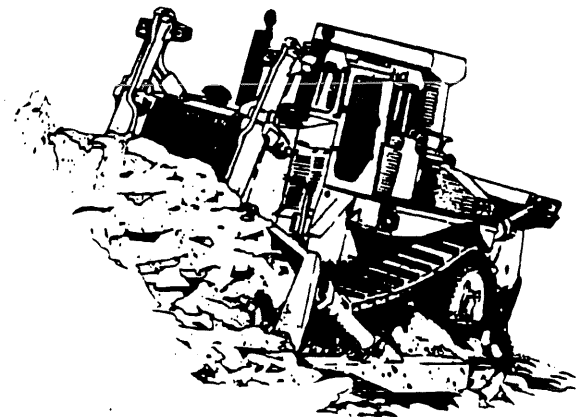
AGGREGATE TAX COLLECTED

1981	-	\$104,693	1990	-	\$1,939,276
1982	-	\$236,039	1991	-	\$1,783,301
1983	-	\$1,503,599	1992	-	\$1,895,260
1984	-	\$1,731,600	1993	-	\$2,045,794
1985	-	\$1,783,940	1994	-	\$2,272,272
1986	-	\$1,938,702	1995	-	\$2,114,823
1987	-	\$2,115,649	1996	-	\$2,330,664
1988	-	\$1,830,535	1997	-	\$2,658,567
1989	-	\$2,003,391	1998	-	\$2,881,418

AGGREGATE TAX COLLECTED BY COUNTY - 1998

Becker	\$121,485	Pennington	50,425
Benton	0	Polk	78,035
Big Stone	80,056	Pope (4/1/98)	21,617
Carver	58,238	Ramsey	50,872
Clay	179,328	Red Lake	31,881
Dakota	615,771	Scott	308,241
Hennepin	263,144	Sherburne	191,927
Kittson	29,503	Sibley	45,841
Le Sueur	180,184	Stearns	113,643
Mahnomen	11,036	Washington	378,018
Marshall	20,111	Wilkin	<u>10,377</u>
Norman	41,685	TOTAL	\$2,881,418

The aggregate tax is not a sales tax. It is a production tax on aggregate produced in a county (township) or imported into the county (township).



Aggregate Material Tax

History

This Aggregate Material Tax, more commonly referred to as the "gravel tax" originated in a series of special laws between 1961 and 1979 allowing seven counties along the North Dakota border to impose the tax. The purpose of the tax was to provide funds for local Minnesota counties and townships used heavily by North Dakota gravel haulers, who paid no Minnesota taxes.

In 1980 the legislature gave ALL counties in Minnesota the option of imposing the tax. The revenues were dedicated to the county/township road and bridge funds and the reclamation of abandoned pits. Most counties did not impose the tax.

This tax statute was changed in 1982, 1983, 1984 and 1986. In 1986, the legislature made the tax applicable to the 22 counties shown on the attached pages. Pope County was added in 1998.

Over the last few years the legislature has given other counties the right to impose the tax. These counties have decided not to impose the tax.

**Aggregate Tax Collected
1998 Production**

	<u>County</u>	<u>1998</u>
1.	Becker	\$ 121,485
2.	Benton	\$0
3.	Big Stone	\$80,056
4.	Carver	\$58,238
5.	Clay	\$179,328
6.	Dakota	\$615,771
7.	Hennepin	\$263,144
8.	Kittson	\$29,503
9.	Le Sueur	\$180,184
10.	Manhomen	\$11,036
11.	Marshall	\$20,111
12.	Norman	\$41,685
13.	Pennington	\$50,425
14.	Polk	\$78,035
15.	Pope (4/3/98)	\$21,617
16.	Ramsey	\$50,872
17.	Red Lake	\$31,881
18.	Scott	\$308,241
19.	Sherburne	\$191,927
20.	Sibley	\$45,841
21.	Stearns	\$113,643
22.	Washington	\$378,018
23.	Wilkin	<u>\$10,377</u>
	TOTAL:	\$2,881,418

Aggregate Tax Collected

1990 - 1998

	1990	1991	1992	1993	1994	1995	1996	1997	1998
Becker	\$15,812	\$39,117	\$24,737	\$25,573	\$74,348	\$54,643	\$64,703	\$93,673	\$121,485
Benton	7,242	7,068	1,287	429	1,102	56	0	0	0
Big Stone	29,301	21,477	43,306	27,281	38,858	40,052	55,576	81,228	80,056
Carver	40,573	46,529	48,493	46,088	45,646	53,981	48,469	63,203	58,238
Clay	102,214	115,849	118,689	127,270	143,152	131,490	153,560	183,414	179,328
Dakota	422,436	350,715	423,526	431,349	466,483	420,641	495,749	575,393	615,771
Hennepin	330,543	263,548	257,762	251,136	273,789	283,327	326,374	357,327	263,144
Kittson	18,028	15,621	16,341	35,545	38,948	7,910	28,289	34,332	29,503
Le Sueur	148,416	137,143	155,695	175,463	153,424	151,221	153,023	180,184	180,184
Mahomen	4,588	10,000	5,555	22,488	2,717	2,924	27,123	3,212	11,036
Marshall	27,074	22,895	12,492	10,531	12,270	25,688	17,087	1,914	20,111
Norman	9,282	9,187	3,302	1,023	1,330	1,001	2,745	13,037	41,685
Pennington	24,285	38,214	22,010	44,413	30,521	19,507	12,506	14,170	50,425
Polk	25,135	5,215	12,043	36,999	23,862	4,019	8,361	3,326	78,035
Pope (4/3/98)	-	-	-	-	-	-	-	-	21,617
Ramsey	38,529	29,269	36,932	31,307	27,825	40,502	37,516	42,045	50,872
Red Lake	24,155	17,584	27,485	14,960	28,248	27,509	26,839	34,853	31,881
Scott	197,225	171,935	154,095	229,739	276,502	269,930	301,482	285,275	308,241
Sherburne	109,435	110,139	131,214	142,792	152,991	145,286	164,618	185,913	191,927
Sibley	7,606	28,549	19,103	16,547	20,639	23,343	30,248	37,185	45,841
Stearns	70,461	57,591	65,443	59,822	53,562	77,649	64,135	59,566	113,643
Washington	279,560	276,451	307,616	309,161	397,299	327,077	301,536	389,986	378,018
Wilkin	7,376	9,205	8,134	5,878	8,756	7,067	10,725	19,331	10,377
TOTAL	\$1,939,276	\$1,783,301	\$1,895,260	\$2,045,794	\$2,272,272	\$2,114,823	\$2,330,664	\$2,658,567	<u>\$2,881,418</u>

Aggregate Tax
Reserve Fund for Pit Restoration
(Status as of December 31, 1998)

	Reserve Fund for Pit Restoration 1998 Aggregate Tax Dedicated	Reserve Fund for Pit Restoration Total Aggregate Tax Dedicated	Reserve Fund for Pit Restoration Total Spent for Pit Reclamation	Reserve Fund for Pit Restoration Remaining Balance
Becker	\$9,720	\$50,549	\$10,000	\$40,549
Benton	0	0	0	0
Big Stone	8,006	51,005	0	51,005
Carver *	0	0	0	0
Clay	17,933	143,282	50,520	92,762
Dakota *	0	0	0	0
Hennepin	26,314	474,872	30,545	444,327
Kittson	2,950	46,355	0	46,355
Le Sueur *	0	0	0	0
Mahomen	1,042	13,999	1,000	12,999
Marshall *	0	0	0	0
Norman	2,891	41,685	0	41,685
Pennington *	0	0	0	0
Polk	7,804	29,542	42,862	(13,320)
Pope (4/3/98)	2,162	2,162	0	2,162
Ramsey	5,087	74,038	0	74,038
Red Lake	3,188	36,728	0	36,728
Scott	30,921	373,165	0	373,165
Sherburne	19,193	202,402	0	202,402
Sibley	4,584	4,584	0	4,584
Stearns	11,364	124,171	36,718	87,453
Washington	37,802	208,849	0	208,849
Wilkin	1,041	21,924	5,325	16,599
TOTAL	\$192,002	\$1,899,312	\$176,970	\$1,722,342

* No active or abandoned pits on public or tax forfeit land. No restoration fund necessary.
The 10% for Reserve Fund for Pit Restoration distributed to Road and Bridge Funds.

Aggregate Resources Task Force

Representative Tom Rukavina, Chairman

**Public Hearing
September 29, 1999**

Transcript of Oral Testimony

Oral comments submitted to the Aggregate Resources Task Force during the public hearing on September 29, 1999 are contained in this document in full. The transcript was recorded as described on page 92, and was edited for two specific purposes by staff of the Department of Natural Resources, Division of Lands and Minerals, 500 Lafayette Road, St. Paul, MN. 55155. These purposes were 1) names/ information added; and 2) spelling or information corrected.

In the body of the transcript, such editing has been denoted by insertion of the following:

[editorial addition] names/ information added

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Aggregate Resources Task Force Public Hearing Transcript of Oral Testimony.

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[editorial addition] names/ information added

[editorial correction] spelling or information corrected

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1 AGGREGATE RESOURCES TASK FORCE
PUBLIC HEARING
2 STATE OFFICE BUILDING
100 CONSTITUTION AVENUE
3 ST. PAUL, MINNESOTA
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5 SEPTEMBER 29, 1999
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1 TASK FORCE MEMBERS PRESENT
2 Chairman Representative Tom Rukavina
Senator Steve Dille
3 Representative Bob Westfall
Representative Peg Larsen
4 Mark Johnson
Senator Leo Foley
5 Jerry Bauerly

1 ***

2 CHAIRMAN RUKAVINA: Call the meeting
3 to order. And the purpose of today is we're
4 taking public testimony on 2:00 to 5:00 this
5 afternoon and 7:00 to 9:00 this evening so
6 hopefully the Committee can wrap everything up
7 and present something to the 2000 Legislature of
8 the '99 and 2000 Legislature. It's my intention
9 that we do put our heads together and with the
10 House and Senate work together to come up with
11 something that can hopefully satisfy a lot of the
12 concerns we've heard from both the Aggregate
13 industry, the citizens' concerns we've heard,
14 environmental concerns. We're not going to
15 please everybody I don't think, and we shouldn't
16 because otherwise I don't think we'd be doing our
17 job, but we will try to be fair and hopefully by
18 years end we can present the 2000 Legislature
19 with some ideas on what should be done to this
20 industry. So with that, I'm just going to go in
21 order with people who signed in. Ron Gajewski
22 from Solway Township, if you'd like to come
23 forward and make your presentation. We
24 appreciate you being here and coming all the way
25 down. There's three names here, so I've got
1 Cindy and Clare. Welcome to the Committee and
2 just identify yourself so the tape knows what's
3 going on.

4 MR. GAJEWSKI: I'm Ron Gajewski and
5 I'm a supervisor in Solway Township.

6 MS. WHITING: I'm Cindy Whiting and
7 I understand we need to spell it. It's
8 W-H-I-T-I-N-G and Gajewski is G-A-J-E-W-S-K-I.
9 I'm going to open up this afternoon for Solway
10 Township. I'm clerk there by the way and first
11 off, I'd like you to look at the packet that we
12 provided for you. I will probably read through
13 some of this because not everyone in the room has
14 a copy but we have provided the Committee Members
15 with copies.

16 First off, we'd like to thank you
17 for this opportunity to convey our message to you
18 regarding the gravel industry in our community.

19 We hope that the information we provide you will
20 assist you in the challenge that you face in
21 making this recommendation to the 2000
22 Legislature. Certainly if you have any questions
23 regarding the information that we have given, we
24 ask that you contact us and we've included a
25 phone number for your convenience. A few facts
1 on Solway Township. We are located in St. Louis
2 County about 15 miles northwest of Duluth and we
3 border on the east side by the City of
4 Hermantown. We are, of course, 36 square miles.
5 Our population is about 1800 people. We have
6 about 640 or so households. For your
7 information, too, I have included some of our
8 levies of the last few years so you can see what
9 our operating budget is. In regards to borrow
10 pits we have 16 in our 36 square miles. Two of
11 them are publicly owned and 14 of them are
12 privately owned. Part of our history with borrow
13 pit operations is included in your packets also.
14 We've given you this illustration to help you
15 identify with us the problems that we face over
16 many years time. We have documented back -- and
17 I have at least in this case -- back to 1972.
18 And the first one of importance was a pit that we
19 know in Solway as the Howes Pit. It was granted
20 the permit for this pit -- and I'll just go
21 through these briefly just for the people who
22 don't have handouts and just to encourage
23 questions if you have any. This permit was
24 granted in 1972. They operated over about a 20
25 year period excavating approximately 3 million
1 cubic yards of materials. In 1996 onsite
2 inspections were conducted by St. Louis County
3 and they were found -- they determined that the
4 reclamation that had been done was not adequate.
5 It was unsafe for the public even though in an
6 engineering viewpoint it was feasible. It was
7 just this week I understand that this pit was
8 finally awarded reclamation standard, that they
9 finally were given the authority to -- they were
10 deemed okay as far as reclamation was just this
11 week. So that's a considerable amount of time.

12 The next one that we refer to is the
13 White Pine Pit was also operated by the same
14 company. This permit, the White Pine permit was
15 granted with a provision in it stating that the
16 Howes must be restored in an acceptable manner to
17 the County. Again, the point being that this pit
18 operated for close to -- well, four years before
19 and the provision being that the other pit be
20 reclaimed.

21 The next one dates back to May of
22 1991, the Heitalati Pit. This pit brought our
23 attention because -- was brought to our attention
24 because of the adjacent landowners and nearby
25 property owners. They were concerned about dust
1 control, truck traffic and in this case land
2 application of contaminated soil. The adjacent
3 landowners were very, very concerned that this
4 was not being monitored adequately, and as a
5 result after many years of trying to really find
6 out if the proper procedures were taking place
7 and whatnot, it was deemed reclaimed and in an
8 acceptable manner in 1995. This individual, the
9 owner of this pit also in the meantime applied
10 for another permit and that one was denied based
11 on his failure to properly reclaim the pit prior.
12 In September of 1993 the City of Duluth was
13 granted permission to realign and improve a
14 Waseca Industrial Road, Grassy Point Bay, and
15 their comment was specifically and I quote, to
16 remove heavy commercial traffic from a
17 residential neighborhood and funnel it directly
18 into a nearby industrial area and improve safety
19 in this area. It was somewhat ironic because the
20 people who lived in the neighborhood of the
21 Rogalla Pit actually felt that that was probably
22 what was happening to them, that this heavy
23 commercial traffic was moving into a residential
24 neighborhood and funneling -- and jeopardizing
25 their safety. The important point in this case
1 is that the material -- it was the residents that
2 reported to us a large number of trucks hauling
3 muck with petroleum type odors. We finally -- we
4 had to make many, many calls to find out where

5 this was originating from and what kind of
6 material it was. And, again, the interesting
7 note in this case is -- I've included a list of
8 the agencies -- actually a partial list of the
9 agencies that were notified in the application
10 process. I'll read through them. Attorney
11 General's Office, US Army Corps of Engineers, the
12 US EPA, Minnesota MPCA, Minnesota DNR, LHB
13 Engineers and Architects, Hallet Dock Company,
14 Maurices, A. Kemp Fishery, Duluth Auto Wrecking,
15 Howard Waste Paper. Those were some of the
16 agencies that were notified in this hauling
17 process -- in the whole application process. Not
18 once was Solway Township notified. And our point
19 in this case that it's -- there needs to be some
20 sort of better tracking on and system of
21 notifying the recipient of these types of
22 material if indeed they have to wind up in a
23 gravel pit.

24 In September of 1998 this was in
25 regards to the Ulland Pit. Consolidated Paper,
1 Lake Superior Paper Industry contacted us for a
2 proposal to study our landfill for their mill
3 residues in Solway Township in this Ulland Pit.
4 I included an attachment in your packets
5 regarding -- and it's the actual handout that
6 they gave at a public hearing, gave to our
7 residents. The material is to be stored in a
8 capsule like container underground with a clay
9 barrier. They have all the engineering type
10 information there. And this material would be
11 stored indefinitely. It would never break down.
12 It would never dissipate in any way. Our
13 feelings on this was that this was a new -- so
14 new type of storage that they really didn't have
15 a way to convince us and assure us that this was
16 not going to at some point in time cause some
17 kind of problems either to our residents or to
18 the water table, whatever. So we challenged them
19 for quite some time almost a year, and attended
20 many meetings and finally just in July of this
21 year they notified us by letter saying that they
22 would no longer be seeking approval for this site

23 in Solway. We were very relieved at that and, of
24 course, so were our residents.

25 One of the issues that we face also
1 is the safety hazard in this industry. In June
2 of '98, at the same site where LSTI was looking
3 at we had one of our residents killed because
4 they were riding a four-wheeler up one of the
5 steep embankments, up one of the stock piles and
6 his four-wheeler fell back on top of him and
7 killed him and that is also a concern.

8 One of the more recent issues that
9 we faced in 1998, the Duluth Superior Harbor was
10 in need of dredging and that material, the Army
11 Corp of Engineers had to do a management plan for
12 that dredged material. In their phase two report
13 two of the sites, two of the sites -- and I've
14 included that information in your packet -- two
15 of the sites that they were looking at to dispose
16 of this material was located in Solway Township
17 in two of our gravel pits which brings us to the
18 point that gravel pits are continued to be
19 considered adequate sites for disposal of
20 material, whether it's -- whatever type --
21 there's a huge variety of types of material that
22 were being considered for disposal in a
23 quote/unquote rural area.

24 The final instance that we sited in
25 our handout was that just this week we were
1 notified Solway Township is in the process of
2 building a new fire hall, and part of this
3 project included the demolition of our old fire
4 hall that existed in the same site where the new
5 one is going. Included in the bid was the
6 demolition of the old building and that material
7 to be hauled away. The person -- and we just
8 were notified this week like I said, that the
9 MPCA isn't going to be in contact with this
10 individual because the material that he's hauling
11 out of there is considered hazardous and he's
12 hauling it to his own pit in Solway Township. So
13 even though there may be safety features out
14 there, we are finding it very difficult even in
15 our own backyard, to monitor and know that all of

16 the operations that are happening are happening
17 in a way that they should be. That kind of
18 concludes that portion of your handout. Can I
19 entertain any questions from Task Force Members?
20 Shall I go on?

21 CHAIRMAN RUKAVINA: Question,
22 Senator.

23 SENATOR FOLEY: Mr. Chair and ma'am,
24 you weren't notified of these previous proposed
25 dumpings and so forth; is that right?

1 MS. WHITING: As I understand it the
2 track record is not entirely great. There have
3 been instances where we have been notified but it
4 isn't conclusive. It isn't across the board
5 where we have been notified each and every time.
6 Certainly since a lot of the problems have
7 arisen, and the fact we've been so vocal the last
8 few years certainly, it's becoming better.

9 SENATOR FOLEY: What about the
10 dredged material? Is that considered hazardous
11 or what was the problem with that?

12 MS. WHITING: Well, their booklet
13 that they sent out, their phase two report is
14 like hundreds and hundreds and hundreds of pages.
15 It's not -- according to their report, it's not
16 considered hazardous. And our point being that
17 not necessarily is it just the fact that the
18 material may be clean, it has to do with the
19 trucking and the other parts that come along with
20 that disposal the way it happens.

21 SENATOR FOLEY: But the question
22 that I have there is that it would seem to me
23 that if this material that was being dredged was
24 not hazardous or contaminated in some way that it
25 might be useful for relandscaping. Is that not a
1 consideration?

2 MS. WHITING: It is a consideration.
3 Certainly if, again, if the material is clean, I
4 don't think the actual material in this case was
5 as much as the point because we'd much rather our
6 pits be reclaimed properly, but we need to do it
7 in a way that is also safe in the sense that
8 depending on where this material is being

9 brought, these trucks are traveling through
10 residential areas, very residential areas, no
11 shoulder and in many cases, in fact, in most
12 cases. And the road beds aren't really
13 sufficient in most cases to allow for that heavy
14 trucking and that traffic back and forth. So
15 it's not just the clean material, it's also the
16 hauling procedures.

17 CHAIRMAN RUKAVINA: Mr. Johnson.

18 MR. JOHNSON: One of the issues and
19 relating to that notification, in fact, they're a
20 former member of their town board is the one that
21 actually called me. He happened to live down the
22 road opposite of the Rogalla Pit. He called me
23 at quarter to eight in the morning and said there
24 were trucks being hauled in, trucks going to
25 there. I think the key here is that you don't
1 know what is going on, and the MPCA is probably
2 the worst offender on notification. They view
3 that the project in question as a Duluth project
4 so therefore felt there was no need to notify St.
5 Louis County or the town of Solway.

6 SENATOR FOLEY: There's nothing in
7 the statute to require that?

8 MR. JOHNSON: Perhaps there isn't.

9 MS. WHITING: Not that we've found
10 anyway.

11 CHAIRMAN RUKAVINA: Do you have the
12 right as a Solway Town Board to do any type of
13 zoning on materials being brought in?

14 MS. WHITING: We have an ordinance
15 in place that prohibits any kind of dumping of
16 hazardous type material. But, again, like Mark
17 brought up, it's hard for you to know unless we
18 do all the leg work to find out whether indeed
19 it's hazardous or not.

20 CHAIRMAN RUKAVINA: Representative
21 Westfall.

22 MR. WESTFALL: Thank you, Mr.
23 Chairman. A couple questions on the dredging and
24 that you're talking about out of Duluth Harbor
25 and that assuming that it's probably safe and all
1 of that, but would it then be dumped on top of

2 gravel that is still mineable maybe at a higher
3 cost and would it be covering up a resource that
4 would cost a lot more to reclaim again? Do you
5 know what I'm trying to say?

6 MS. WHITING: The portion of -- the
7 way I understood it, the portion that was this
8 material was being hauled to in this pit was in
9 the process of being reclaimed. Not the whole
10 pit was, just that portion of that they had
11 depleted.

12 MR. WESTFALL: So it was depleted
13 and some of it couldn't be any more mined there.

14 MS. WHITING: Yes.

15 MR. WESTFALL: On the White Pine Pit
16 that you discussed earlier there, about the
17 reclamation that had to be done, was the
18 contractor aware that he had to reclaim that when
19 he went in there?

20 MS. WHITING: Yes, he was.

21 MR. WESTFALL: So he had to have
22 that figured into his --

23 MS. WHITING: Yes.

24 MR. WESTFALL: Thank you.

25 CHAIRMAN RUKAVINA: Any other
1 questions on the pits themselves?

2 MR. BAUERLY: Mr. Chair, those pits
3 that you have trouble getting restoration on, do
4 you have a restoration bond required for those?

5 MS. WHITING: Thank you for asking.
6 Yes. The County does require reclamation bond or
7 assurance on the projects before they begin. At
8 one of our recent meetings that we had at our
9 town hall, actually in regard to the LSPI
10 instance, the question was asked of the County
11 whether or not they have ever collected on a bond
12 and they never have. The reason being that it's
13 very costly and time consuming just to do that.
14 So the answer to your question is yes, there is
15 one, but in our case no one has claims on it or
16 whatever.

17 CHAIRMAN RUKAVINA: Any other
18 questions on the pits? If not you may proceed on
19 your --

20 MS. WHITING: I will. This will be
21 brief. I just wanted to include a brief summary
22 of our supportive aggregate material tax. A
23 little bit of a history there included is it was
24 as a result of our township resident survey in
25 1992 where our residents overwhelmingly supported
1 stronger control of gravel operations and also
2 compensation to local governments. Again, the
3 results of that survey are located in the back of
4 your packets. It was because of that
5 overwhelming support in favor of it that we as a
6 town board decided and began support of the
7 aggregate tax. And I won't get into the history
8 of how that all happened. Certainly if you have
9 questions, I'll answer, but I think we've kind of
10 gone through that already in some of our earlier
11 meetings, but I did include a copy of the
12 informational flyer that we distributed to our
13 operators, to our pit owners, to our residents
14 regarding questions that were being asked and how
15 we answered them. Also the brochure that we
16 assisted in with the Minnesota Department of
17 Minerals Tax Office and we are also distributing
18 that, and a copy of the form that we require in
19 collection of the aggregate tax. You may hear at
20 some point in time or maybe you have already that
21 this is a cumbersome type of procedure, paper
22 work kind of nightmare that they've had to deal
23 with and I think when you look at the form,
24 you'll see that it's really quite simple. So
25 those are things that I've included for your
1 viewing. And with that I'm through with my
2 portion. I can show you our pictures. We will
3 pass this around. This is some pictures we put
4 together of some of the pits that we have in our
5 area. The pictures are dated 1998. We took them
6 last fall, but they're substantially unchanged to
7 this day really. So you can just take a look at
8 that. If any of you have questions regarding the
9 aggregate tax I certainly would be happy to
10 answer them.

11 CHAIRMAN RUKAVINA: Cindy, do you
12 know off hand how much you have collected and has

13 it been used to -- local levy, has it been used
14 to do some reclamation or recreation things
15 around the sites?

16 MS. WHITING: So far we've collected
17 \$600 which doesn't seem a lot but it's 600 more
18 than we had before. Actually I will answer that
19 it in the sense that two of our biggest
20 operations have failed to pay the tax. And we
21 are in the process of sending -- we have sent
22 registered letters to them indicating that
23 they're needing to do this and are taking
24 procedures with our attorney to enforce this
25 issue. Midway Township also -- and for those of
1 you who are not sure where that is, it's not too
2 far from Solway out between us and the city of
3 Duluth -- they also imposed a tax and they
4 received a check for \$2000 for one operation for
5 one quarter. So we are convinced that it's a
6 good thing. We are convinced that it works. But
7 the problem now for us at least -- for the most
8 part the operations are in compliance. And,
9 again, that was for the first quarter which is
10 still an early part of the season so they maybe
11 haven't hauled a whole lot in that time frame.
12 But like I said we are convinced that it will
13 definitely help. And, yes, that is our intent to
14 once we get our coffers up that we could either
15 do some of the reclamation on the pits that were
16 noncompliant now based on today's standards
17 and/or possibly use some of those funds to buy a
18 property that this unreclaimed property that we
19 can hopefully make into a recreational area or
20 something much more appealing to our residents
21 than just an empty, gaping hole kind of thing.

22 MR. JOHNSON: Cindy, did you get the
23 impression that a couple of your producers were
24 actually refusing to cooperate?

25 MS. WHITING: In my opinion, yes.

1 MR. JOHNSON: I was at the meeting
2 and one basically said that you wouldn't be
3 allowed in your office if you wanted to look at
4 the books and that raises the issue of the whole
5 enforcement. It would be hard enough for the

6 town of Solway to go down to Eau Claire to look
7 at the books but I suspect if they did they
8 wouldn't be welcome.

9 MS. WHITING: Exactly. That was the
10 impression that we got, too, and the fact that it
11 was verbally stated to us that we should go ahead
12 and sue them for the money and they would just
13 sue us back because they feel that it's an unfair
14 tax.

15 CHAIRMAN RUKAVINA: Mr. Olson, maybe
16 you can help us if anybody at the table knows is
17 it like most other township taxes that are found
18 through the Council, the County collects them and
19 gives them to you, is the County responsible for
20 collecting?

21 MS. WHITING: We're responsible for
22 our own collection which is --

23 CHAIRMAN RUKAVINA: The statute
24 clearly states that that's the only tax you're
25 probably responsible for.

1 MS. WHITING: Exactly.

2 CHAIRMAN RUKAVINA: Okay. Any other
3 questions then? I notice that you've got some
4 recommendations and some of them I think are good
5 and some of them I think aren't good but we can
6 talk about that. Any other questions then?
7 Thank you, very much then --

8 MR. GAJEWSKI: I'd like to talk
9 about what our recommendations are to the
10 Committee and perhaps respond upon them a little
11 bit.

12 CHAIRMAN RUKAVINA: Go ahead.

13 MR. GAJEWSKI: We basically
14 concluded in our information ten different
15 points. There could be more, but I think these
16 sort of summarize our major concerns. The first
17 one -- and I'll read them for the sake of those
18 who don't have copies -- the first one regards
19 dumping. That large parcels of vacant and
20 depleted land continue to be considered suitable
21 and available sites for dumping material. And
22 what I'm referring to, of course, are the gravel
23 pits, the borrow pits which perhaps are no longer

24 in operation or may be in operation, that have
25 some vacant areas that they've already mined.

1 And for us this is a real issue because as Cindy
2 had mentioned earlier, we're only 15 miles from
3 downtown Duluth readily available at a relatively
4 cheap cost to bringing these materials in. So we
5 support legislation that would prohibit any
6 dumping into the depleted borrow pits.

7 The second point is --

8 CHAIRMAN RUKAVINA: By that are you
9 talking use for a landfill or for --

10 MR. GAJEWSKI: Yes.

11 CHAIRMAN RUKAVINA: -- or for this
12 material that was dredged out in --

13 MR. GAJEWSKI: Yes. For any kind of
14 a waste material from -- it was just brought in
15 as a way of getting rid of it. I think that
16 there has to be more planning going into more
17 appropriate sites especially if there is some
18 type of hazard containment. It may not be
19 defined hazardous waste, but most of these
20 materials have some type of materials in them and
21 may not be of the percent to classify them as
22 hazardous waste. When you get enough of it in
23 there you still have a substantial amount of
24 whatever chemical it is or whatever that can get
25 into. Unfortunately borrow pits are holes in the
1 ground and the deeper the hole, the closer you
2 are to the ground water table. And it's using
3 these kinds of sites you're putting that
4 hazardous or that questionable waste product very
5 close to your ground water.

6 CHAIRMAN RUKAVINA: Go ahead. I
7 don't know if I agree with you but we're just
8 taking testimony here today.

9 MR. GAJEWSKI: The second point is
10 regarding operating pits. St. Louis County
11 requires 100 cubic yards of aggregate to be
12 removed from a pit each year to be considered
13 operating. Operating status delay the final
14 reclamation of a pit indefinitely. In the
15 meantime, adjacent property owners and public in
16 general must look at an open pit and we support a

17 limit on the number of years a pit is allowed to
18 be operating. In other words, we're talking
19 about their using this loophole in the law that
20 all they have to do is take out 100 cubic yards
21 of material and it's considered an operating pit
22 and therefore you don't have to start a
23 reclamation process. So we would either
24 recommend as stated that there is a limit on how
25 long this kind of a process or using this
1 loophole can take place, or that legislation
2 would indicate that recreation has to be ongoing.
3 As a pit is depleted in one area that it is
4 reclaimed while we're still operating in other
5 areas.

6 CHAIRMAN RUKAVINA: If the Committee
7 has any questions as we go through these
8 recommendations one by one, if they want to jump
9 in go ahead.

10 MR. GAJEWSKI: The third one regards
11 future use. We support the concept that depleted
12 pits be made into areas for recreation, building
13 homes, etc. However, all interested parties must
14 have that vision as they proceed with the borrow
15 pit operation involving the neighbors. If we're
16 talking about corporations or corporate
17 industries and that, we expect them to be good
18 corporate neighbors and to work with the
19 opportunities that they find themselves in. Many
20 times as we already had mentioned, it's the local
21 unit of government that's left out.

22 Next one is contamination. Rural
23 areas rely on wells for their water supply. Even
24 the slightest amount of contamination of exposed
25 ground water or soil in a pit can affect many
1 residents. We support strict guidelines in the
2 monitoring exposed water throughout the lifetime
3 of a pit. I guess I'd encourage that if they're
4 looking for a place to dump their materials that
5 they look in areas where there's public water
6 supplies available. All we have is our ground
7 water for our wells. If you look at these
8 pictures down here, many of these have water in
9 them and none of these areas had water prior to

10 the time of their operations which because of
11 their closeness to the ground water table you
12 have now ponds of small lakes as a result of
13 their operation. So you're that close and it may
14 be good if this is not contaminated water to
15 develop maybe as a central area for a residential
16 development or what have you or a recreation
17 area. But if it's used as a dumping area this
18 could be not only from bringing in waste from
19 outside but just junk that's left behind in the
20 operation of the pit, it can contaminate this.
21 And many of these pictures indicate just this
22 kind of stuff. You have little storage barrels,
23 different types of things that are just left
24 there. I can pass this around so people can take
25 a closer look at it. So we are concerned about
1 that. And I think a lot of people think about
2 ground water contamination like taking your hand
3 taking an eyedropper and dropping a drop into it.
4 It hits that one area, small area really hard,
5 but then it sort of dissipates out and it doesn't
6 really affect the others that much. But ground
7 water also has a flow to it. In Solway it flows
8 from the north to the south. So if you have a
9 contamination at the northern end of your
10 township, that eventually is going to work its
11 way all the way through the township, beyond our
12 township, our geographical lines as well. So
13 when we talk about contamination of ground water,
14 that's one of our major issues. We want to
15 protect our ground water. Without it we have no
16 public water supply and we don't have residents
17 unless they bring in bottled water or some other
18 type of artificial means of getting their water.

19 Number 5, property valuations.
20 Borrow pits actively creates dust, noise, and
21 heavy truck traffic and negatively affect
22 adjacent properties. We support that a limit be
23 placed on the number and size of operating pits
24 in a given area. You can add to it the exhaust
25 emissions of the truck traffic. Many times these
1 people who operate the trucks, the drivers
2 themselves speed or they go down the center of

3 the road because they don't want to hit the bumps
4 along the shoulder of the road and it creates
5 some real hazards that way. I believe Washington
6 County, the whole county of 400 and some square
7 miles have like 15, 16 operating pits within its
8 confines. Solway Township which is 36 square
9 miles, we have 16 operating pits. That's why
10 we're talking in terms of the need to limit the
11 number in a given area.

12 Number 6 is transfer of ownership.
13 If an operating pit is sold it is difficult to
14 monitor the conditions that were conveyed to a
15 previous owner. We support a requirement that
16 new owners reapply for their own permit. That
17 isn't something that goes with the sale of the
18 pit.

19 CHAIRMAN RUKAVINA: Senator.

20 SENATOR FOLEY: Can't you do
21 something on the title with the registrar?

22 MR. GAJEWSKI: I don't believe we
23 can under the current legislation.

24 MR. JOHNSON: This was basically a
25 conditional use permit, and conditional use
1 permits run with the land. And it is a problem
2 because you get -- it's one thing when you have
3 an operator who hears a debate, has 100 people
4 yelling and screaming and might do a better job,
5 it would give more sense if he had a different
6 operator and so I would consider some sort of
7 mechanism. I don't know necessarily a new
8 conditional use, but some sort of a review is
9 necessary I suspect when you get a new operator
10 in.

11 SENATOR FOLEY: Mr. Chairman, I
12 agree with you, Mr. Johnson, on that, but I do
13 think maybe what we ought to do is either have a
14 review process on the sale of that or
15 alternatively to insert those conditions in
16 the --

17 MR. JOHNSON: Well, they are
18 recorded in the land, so --

19 SENATOR FOLEY: So then why can't
20 they enforce them?

21 MR. JOHNSON: They can be enforced
22 and we've closed pits down because of failure to
23 comply, but what they say and what they say to
24 the judge is we didn't realize that. That was
25 done by -- their attorney looked over the title,
1 didn't properly inform them that you have this
2 permit with these 20 conditions attached.
3 They're still responsible.

4 CHAIRMAN RUKAVINA: I would think
5 there's some good suggestions in here and some
6 that I don't think are so good, but this No. 6
7 seems to be a very reasonable request and it
8 would seem to me that local planning and zoning
9 which in the case of Solway would probably be St.
10 Louis County, you've got time to have an
11 environmental sheriff in the county all of a
12 sudden and it would seem to me to forego that and
13 --

14 MR. JOHNSON: The environmental
15 sheriff has been to Solway.

16 CHAIRMAN RUKAVINA: It would seem
17 that these could be enforced and it's not a big
18 request at all and I would think that something
19 like this Task Force could look at because it
20 seems only fair that the new owner is going to be
21 under the same guidelines and requirements as the
22 old.

23 MR. JOHNSON: And he is, is the
24 question is making sure he understands it.

25 CHAIRMAN RUKAVINA: Well, that would
1 mean to me to go to the local unit, the smallest
2 unit of government locally and give Solway and
3 others the right to know when that transfer is
4 happening that they conveyed at a meeting that
5 these are requirements and we hope you understand
6 them.

7 MR. JOHNSON: I think that approach
8 probably should be worked on.

9 CHAIRMAN RUKAVINA: I guess the 180
10 to that is that when people buy residential
11 property and move in -- let's say your operating
12 pits that you wanted a limit on, well, if someone
13 buys a land and speculates over the years that

14 they're going to mine gravel out of it, maybe the
15 adjoining property owners should, whether they're
16 developers or big land developers or individuals,
17 should convey that also that message to residents
18 buying that potentially you could have a big
19 gravel operation here and if you put a house
20 here, it's going to be a hundred feet away from
21 it. Bob, you had a question.

22 MR. WESTFALL: Thank you, Mr.
23 Chairman. Along that line I wanted to go back to
24 5, but transfer ownership issue isn't the county
25 recorder involved here when you have stipulations
1 or isn't that carried that far?

2 MR. JOHNSON: It is recorded so when
3 they get their title it's recorded there, but
4 what they say is we didn't realize it. It's
5 their fault that they didn't realize it.

6 MR. WESTFALL: Back to the property
7 valuations. I have a concern. I've served on
8 town board and we have gravel in our township and
9 that, and I guess I see that gravel leaving the
10 township, leaving that quarter section or half
11 section of land. And the land value is quite a
12 lot depleted and I guess I wonder what you see.
13 It sounds like your township -- and I've been
14 there a little bit -- and you have a tremendous
15 amount of gravel but you're taking out a
16 tremendous amount. What do you see for the
17 future for your township and that's where I have
18 a strong concern about this tax that is levied,
19 what's done with it? Somehow I think we need
20 to -- it becomes a statement here rather than a
21 question probably -- but somehow we need to
22 provide for the future of a township. A local
23 unit of government has to provide roads and if
24 you have land that has literally almost no
25 valuation because it's been completely mined,
1 what do you see for the future that you're going
2 to use if you don't collect this tax and store it
3 away or whatever? I guess that's kind of my
4 question.

5 MR. GAJEWSKI: Well, I guess part of
6 what we really want to see enforced regarding

7 borrow pits is the whole idea of the reclamation
8 so that the land may be usable for some other
9 purpose, whether it's for a recreation site -- if
10 a lake is a result of a mining operation and it's
11 nice and it's clear and unpolluted, maybe that
12 track of land can be developed into some home
13 sites. We had a meeting in Solway Township for a
14 senior citizens housing because a lot of our
15 people are getting up in age, they have small
16 farms and they have to move off the farm as they
17 get older since they cannot continue to operate
18 it. It would be nice if they could stay in their
19 community. That's one of the things that they
20 have addressed to us and that we would like to
21 see help with them. The money that we're going
22 to be taking in is so minimal. You can't do a
23 lot with any of this here other than perhaps to
24 use it to help with reclamation for pits that
25 have just been totally abandoned, and then the
1 question is are they abandoned and therefore
2 surplus property, tax-forfeited land, or are we
3 using public funds to go in or somebody else's
4 property and legally you can do that to try some
5 reclamation. So these are issues we're going to
6 still have to face. When you have a limited
7 amount of land which we do within 36 square
8 miles, we want it to be usable if at all
9 possible. And there's a lot of questions and a
10 lot of things we have to explore there, and we're
11 just starting off as far as having the resources
12 to maybe address some of this.

13 MS. WHITING: Mr. Chair, if I could
14 address that question some more, just to clarify.
15 Representative, were you -- maybe I misunderstood
16 your question, but did you ask it in regards to
17 how fiscally sound our township is regarding the
18 industry? Was that at all directed -- because
19 right now we don't rely on that gravel to be
20 fiscally sound. It really doesn't bring
21 anything, other than this gravel tax, it really
22 brings nothing to us right now. Is that -- were
23 you headed in that direction?

24 MR. WESTFALL: There is a property

25 tax -- you get real estate tax on that. Once
1 that's taken out that depletes the value of that
2 and probably it could be taxed so there is to tax
3 being paid on it and then, of course, it goes on
4 and it's not reclaimed so that it's usable, you
5 don't have anything and that's my concern. I see
6 that in my own township with a 99 year lease and
7 they lay there open and absolutely -- if we could
8 grow pheasants that would be okay, but then
9 there's cottonwood trees growing there so the
10 owls get them and so it's worthless.

11 CHAIRMAN RUKAVINA: I would be
12 remiss if I didn't just thank all of you for
13 showing up for testimony and I'd also be --
14 wouldn't be doing my duty if I didn't recognize
15 the director of the Mineral Division of the DNR,
16 Mr. Brice, who I believe just walked in here, and
17 then our new assistant commissioner of the DNR,
18 former senator, Steve Morse. Welcome to the
19 hearing. Ms. Whiting, go ahead.

20 MS. WHITING: One of the other
21 issues that we really didn't address in our
22 packet but we're looking at brand new right now
23 is at our next board of review meeting we're
24 reviewing the type of taxes on how our pits are
25 being classified. That's another issue that
1 local governments are having to face. If they're
2 certainly going to be on top of things, it's to
3 make sure that the parcels of land that are being
4 used for gravel and aggregate extraction are
5 being classified such so that they're paying the
6 correct tax rate, that they're not market value
7 where it needs to be, which in just the beginning
8 stages of this process, we found that they are
9 not. And so that is something else that we've
10 needed to address and look at for our area.

11 CHAIRMAN RUKAVINA: Go ahead, Ron.

12 MR. GAJEWSKI: Number 7 is
13 bonding/financial assurances. St. Louis County
14 has never collected on bond for reclamation.
15 Their reason is that it is too costly and time
16 consuming. We support strict compliance
17 regarding the collection of bonds if a pit

18 operator/owner fails to reclaim their pit within
19 two years of ceasing operation. And so we have
20 performance bonds, but they're not necessarily
21 collected upon. Maybe if somebody would
22 recommend that some legislation assure that that
23 would be done.

24 MR. BAUERLY: Mr. Chair.

25 CHAIRMAN RUKAVINA: Former
1 Representative Bauerly, but I was just going to
2 ask you because I'm sure that there are other
3 people in this room that could tell us that bonds
4 have been called in and you might want to be
5 commenting on that. Perhaps it's the fault of
6 St. Louis County and your commissioner or
7 commissioners that need to be discussed on that.
8 We may be just duplicating present law on this
9 one. Go ahead.

10 MR. BAUERLY: Let me tell you from a
11 contractor's viewpoint you don't really even need
12 to collect on the bond perhaps. If you even
13 threaten to collect on the bond, send a notice to
14 the bonding company whoever is doing that,
15 whoever is operating that pit, the bonding
16 company will inform them very quickly that they
17 either need to comply or put the money up
18 themselves for the compliance or you're out of
19 business. I think if there are other people in
20 the room that deal with bonding companies there's
21 zero latitude. I think if you sent a letter to
22 collect on a bond I don't think it would take
23 very long to get some response. It's been my
24 experience.

25 MS. WHITING: I'd like to direct
1 that to Mark just because he's our planner at St.
2 Louis County and I'm not sure really what the
3 process is if indeed it was just St. Louis County
4 that that's happened to and we in Solway Township
5 or whatever. I would maybe like a response from
6 Mark if I could please?

7 CHAIRMAN RUKAVINA: Mr. Johnson.

8 MR. JOHNSON: Mr. Chairman. We have
9 reviewed that the threat of going after a bond is
10 actually more effective. It is time consuming to

11 actually to go after it. So in the case of the
12 Howes Pit there were comments there as well as
13 where we did tie that into the other pits saying
14 you aren't going to get this permit until you
15 take care of that other place. There may need to
16 be some additional areas that would allow
17 counties and the state that if you have an
18 operator who consistently fails to comply with
19 the standards that maybe just a threat that they
20 won't be allowed to bid on any projects I suspect
21 would be a very strong incentive to get
22 compliance more than a few thousand dollar bond.

23 MR. BAUERLY: I think that's right
24 but -- and I wasn't trying to put Mark on the
25 spot. That isn't his job to collect on a bond.
1 But simply whoever -- if it is Mark's office, I
2 would simply turn it over to the county attorney
3 and wouldn't have to do any more than that and if
4 an operator got a letter from the county attorney
5 saying your bond was going to be collected upon,
6 I can't imagine someone not responding really
7 quick.

8 MS. WHITING: Nor was I trying to
9 put Mark on the spot. It was more of trying to
10 illustrate that the idea that its been difficult
11 for us. That Howes Pit alone was years and years
12 of trying to get them in compliance and to a
13 point and reclamation where the County would sign
14 off on it, and I apologize, Mark, if I did put
15 you -- I truly did not mean to but I did want to
16 emphasize that fact. Thank you.

17 MR. GAJEWSKI: The other comment I
18 would just make in term of reclamation in
19 general, the reason why communities I think
20 become alarmed when they hear that a new borrow
21 pit operation is going to be granted a permit or
22 they're seeking a permit in a given area is
23 because of bad experiences with other ones. If
24 they would reclaim -- if they were good corporate
25 citizens and develop that reputation, it would
1 really help the industry as far as getting the
2 cooperation of the public to move in next door
3 for "x" number years or whatever.

4 But to move on to No. 8,
5 compensation. The aggregate extraction is no
6 different than that of iron ore. Aggregate is a
7 non-renewal resource. Everyone needs gravel and
8 it is only found in certain places. We supported
9 and received legislation to offer compensation to
10 those local governments directly and negatively
11 effected by aggregate extraction. And I'd like
12 to say, generally we've had fairly good
13 compliance with our aggregate tax so far,
14 although a couple of the larger producers are
15 becoming more apparent that they're going to take
16 some kind of a stand against it to test it.

17 Number 9, public nuisance.
18 Traditionally, youth view borrow pits as an
19 unsecured site and easily accessible for a
20 gathering place. Parties of various types
21 continue to jeopardize the welfare of our young
22 people. We support the enforcement of pit owners
23 to properly and effectively secure/police their
24 properties. Property owners need to take more
25 responsibility for these kinds of things. We're
1 not only talking about our youth; we're talking
2 about other people who may trespass for some
3 other reason. The law enforcement is not that
4 readily available. St. Louis County, as you
5 know, is bigger than the state of Rhode Island
6 and we have sheriffs that probably on a very fast
7 response probably would be a half hour to get to
8 some site within Solway Township. It's difficult
9 to police. But maybe if pit owners and that took
10 more precautions, maybe have them lighted so they
11 wouldn't be gathering places or take some type of
12 responsibility for this.

13 And the last point is No. 10, waste
14 storage sites. Borrow pits are currently being
15 considered as sites for waste by-products stored
16 in secure means. These types of storage can
17 potentially deteriorate, thereby polluting the
18 environment in future generations. We support
19 the establishment of policies which would
20 envision environmental safety for many years to
21 come. And I guess our concern and I'll go back

22 to LSPI because they really did a good
23 presentation in terms of the capsule that they
24 wanted to develop within the Ullant Pit and how
25 this would contain their material, the waste
1 product material for 100 years before it even
2 would start deteriorating. That's good for now,
3 but my question is what if LSPI is not in
4 existence in 100 years from now? What if that
5 property changes ownership? They will take the
6 waste water, the seepage that comes into their
7 dry wells and transport it to WLSSD for proper
8 disposal. And who's going to do that 100 years
9 from now? So when we talk about storing some
10 kinds of by-products that potentially 100 years
11 from now can be a danger, we really have to be
12 looking towards that future as far as what kind
13 of controls we put into operation today. I don't
14 know if there's any other questions.

15 CHAIRMAN RUKAVINA: Any other
16 questions at all? I really thank you. I realize
17 this is an extremely important issue to Solway
18 and we've had our contacts on it over the years
19 and you just keep in touch with your legislators
20 and with me and members of the DNR and that and
21 we'll see what happens as we move forward.

22 MS. WHITING: Thank you, members,
23 and thank you, too, for coming to visit us back
24 in August. We appreciated it.

25 CHAIRMAN RUKAVINA: I am next going
1 to call on Mr. Rick Maki and Mr. Ed Dorman
2 representing mining company from northern
3 Minnesota. I'm going to try to take people that
4 are from quite a distance.

5 MR. MAKI: I've been here before and
6 I think I had a chance to put on the testimony
7 again. I wanted to thank you and the Committee
8 for coming and I think when we looked at this
9 issue since I've been involved, looking at the
10 iron mining waste products as an alternative.
11 Certainly listening to some of the comments in
12 Solway, the issues with permitting, public
13 nuisance and fencing, and I think that's an issue
14 we have in the mines and fencing it. When I was

15 listening to that the fencing becomes an issue.
16 We have some people on our property and the guard
17 helped them put up the fence. When they got
18 through, they just drive it right through. So it
19 takes more than a fence to stop the people from
20 going through it. It just gives them more of an
21 opportunity but it is definitely a problem and
22 attracts a nuisance in all of those areas that
23 are abandoned and it's something I don't know an
24 answer for, but fencing is -- I think it takes
25 more than a fence to stop people with all the
1 vehicles they have.

2 We feel in the taconite business,
3 and I'm curious back there taking a look at what
4 our waste products are. I think there's an
5 opportunity to supply some needs in the
6 Metropolitan area for materials that already
7 exist. It's a case of economics. It's a case of
8 transportation. Those are the areas that I think
9 we need to seriously look at and to make those
10 things happen. I think in many cases, I think
11 the cost implications is what has to be
12 considered in here because the economics that I
13 see today looking at, I think the people in this
14 area would be paying dearly for materials outside
15 of the region. I think people have to look at
16 good use of regional materials used in
17 environmentally sound practices and used them in
18 their own areas, otherwise I think we would be
19 remiss to all the people in future generations
20 would cost them a lot of money. So those are my
21 comments.

22 CHAIRMAN RUKAVINA: Well, I think
23 myself and, of course, growing up next to a pit
24 and cutting the fence to get into it, and I know
25 what you're saying. I think we were very
1 impressed with what we saw up there and I commend
2 the mines for the work they've been doing on
3 aggregate materials. I think Gary and others
4 involved in the industry were impressed with what
5 you were doing there and with the ballasts and
6 everyone else and you're right. It's a question
7 of time and I think that as things get more

8 expensive down here and material moves farther
9 away from the Metropolitan area that perhaps we
10 can utilize a waste product that we've never been
11 able to utilize before. I want to be able to try
12 to help in any way I can.

13 MR. MAKI: Well, we'll work on the
14 transportation issue and see what can be done.

15 CHAIRMAN RUKAVINA: Any questions of
16 Mr. Maki?

17 MR. BAUERLY: Mr. Chair, I would
18 just like to comment also how very impressed I
19 was with your operation and the mountains of
20 material we'd love to have south here somewhere
21 and the by-product that you're putting in your
22 big lagoons there. I told my wife they can build
23 an airport on top of that thing very easily and
24 not have any problem with locating an airport
25 because it would be good material and it would be
1 all there. It certainly does have potential and
2 I was very, very impressed with what you're doing
3 here. Thank you for the tour.

4 CHAIRMAN RUKAVINA: U.S. Steel
5 incidentally moves about what -- three times the
6 amount of material that you folks saw at the
7 mine? Is that about right?

8 *[editorial addition]* Mr. Dorman, MinnTac UNIDENTIFIED SPEAKER:
We move about
9 70 million tons a year, yes.

10 CHAIRMAN RUKAVINA: Dave Edmunds
11 from Burnsville. Welcome to the Committee.

12 MR. EDMUNDS: Good afternoon. My
13 name is David Edmunds and I'm vice-president of
14 Edward Kraemer and Sons and a general manager of
15 the materials division that oversees our
16 Burnsville quarry. Our company appreciates the
17 opportunity to briefly be heard today and provide
18 additional written testimony for the record. Our
19 address is 1020 West Cliff Road, Burnsville,
20 Minnesota. Edward Kraemer and Sons Incorporated
21 is one of Minnesota's larger aggregate producers
22 with several operations in Minnesota. Our
23 largest is the Burnsville quarry located at the
24 Minnesota River and Interstate 35W in Burnsville.

25 This facility produces two and a half million
1 tons per year of various high-grade limestone
2 products. For example, sub-base materials for
3 roads and runways, aggregate for use in concrete
4 and asphalt. In our judgment and based on large
5 part on the information we provide in this
6 testimony, there's an urgent and special need for
7 comprehensive statewide policy on aggregate
8 resource management.

9 Aggregate issues are a real-time
10 concern for us and especially for the greater
11 Metropolitan area. Supplies of high-grade
12 aggregate are dwindling as production facilities
13 opened 25 to 40 years ago begin to close. The
14 Metropolitan area consumes over an estimated
15 25 million tons a year of aggregate. At the end
16 of the 1999 season a facility in Shakopee will go
17 off line. This will subtract an estimated
18 500,000 tons annually from the Metropolitan area
19 aggregate supply. The present process for siting
20 new reserves is complex, time consuming, and
21 doesn't take into account the growing need for
22 new sources of supply. Access to available
23 aggregate is declining because development is
24 occurring rapidly on top of the existing
25 resources. The Metropolitan area today has an
1 estimated average reserve representing about a 15
2 years supply. In real terms, this means that the
3 greater Metropolitan area is operating with
4 virtually no long-term reserves, that's because
5 it takes three to eight years to complete a
6 siting process assuming no litigation that slows
7 or stops the process and it could take up to 20
8 years to develop the full production potential of
9 a quarry.

10 CHAIRMAN RUKAVINA: Is that in
11 different areas of the Metropolitan area or
12 different counties that it might take shorter or
13 longer? You said three to eight.

14 MR. EDMUNDS: That's our best
15 estimate of the time frame that we see from the
16 current environment as far as the social
17 environment and the regulatory environment and it

18 could be shorter or longer. Again, it's a
19 process --

20 CHAIRMAN RUKAVINA: Is it easier in
21 different places down here or harder or more
22 difficult?

23 MR. EDMUNDS: We're currently
24 working on two new sites in southern Dakota
25 County and we see both of those being probably
1 three years a minimum. I can't speak for other
2 areas of the Metropolitan area or out state. As
3 Rick pointed out earlier, I think there's
4 probably some implications up North where there
5 are other reserves available that wouldn't take
6 quite that long.

7 These are some of the facts that
8 support our opinion that aggregates become a
9 crucial, regional commodity that requires
10 protection from development and preservation of
11 access for use by future generations.

12 The process for siting needs review
13 and modernization to reflect regional needs.
14 Something needs to be done about the length of
15 time it takes to obtain or be refused a siting
16 request.

17 The aggregate issue is not a key
18 concern to the general public. When it does
19 surface usually in a local community, facts,
20 myths and emotions all come together. There's
21 little understanding of the importance of
22 aggregate materials in everyday life. The public
23 simply assumes as it should that these materials
24 will always be available whenever and wherever
25 necessary. Fundamental questions go unanswered.

1 How accessible is the resource? What is an
2 adequate supply of readily available aggregate?
3 Are there alternative materials or not? Are
4 there compatibilities among aggregate mining,
5 open space uses, rural living, and agriculture?
6 What is the level of protection of aggregate
7 resources as current reserves are depleted?

8 Local governments are caught in the
9 middle. Local governments have the power to make
10 decisions with regional and statewide impact.

11 Regional constituencies -- that don't directly
12 elect local officials -- have no real access to
13 the process. Current policy and law may actually
14 make local officials victims of a process that
15 makes their decisions locally explosive with
16 impact well beyond their borders simply because
17 the resource, uncovered by glaciers thousands of
18 years ago lies within their city or township.

19 Believe it's time to remove the
20 conflict between public policy and public need.
21 The compatibility of farmland preservation with
22 new aggregate resource identification and
23 recovery needs to be clarified. The Metropolitan
24 Council has elaborately described its intent to
25 limit development by preserving farmland uses.

1 The unintended consequence of encouraging local
2 comprehensive plans to preserve farmlands to the
3 exclusion of other significant needs makes
4 discovery and utilization of new aggregate
5 reserves needlessly complicated.

6 In short, while there may seem to be
7 a clear policy on agricultural land preservation,
8 there's virtually no clear policy with regard to
9 how to deal with aggregate resources in the
10 ex-urban area. Development is occurring in any
11 event. Aggregate resources that 15 years ago
12 were thought to be able to last a century or more
13 have now largely been covered by growth of one
14 kind or another. This passion of analysis of
15 existing policy and modern quarry operational
16 practices will demonstrate that aggregate
17 extraction is actually quite compatible with
18 other agricultural land uses. Our written
19 testimony with amplify these topics in more
20 detail.

21 Let me share with you the six
22 conclusions we ask for the Task Force to consider
23 as it makes recommendations for the Legislature.
24 Number 1. Public policy need to be modified to
25 protect the accessibility and availability of
1 aggregate resources. Today's quarries are
2 different from those of old in two significant
3 ways. First, consumption and production have far

4 outstripped all forecasts. Second, today's
5 quarries operate in a comprehensive, regulatory
6 environment. As consumption continues to
7 increase and reserves decrease, public policy
8 needs modification to reflect the demand for
9 siting new aggregate facility.

10 Number 2. Long-term regional or
11 statewide process-driven policy is needed.
12 Today, permitting can take 3 to 8 years. It can
13 take up to 20 years to develop a high-grade
14 limestone aggregate operation able to deliver 2
15 million tons per year. It now looks as though in
16 the next decade far more aggregate production
17 facilities will come off-line than can be
18 replaced at the current rate of discovery,
19 permitting, and development. Faced with
20 decisions of this magnitude at the township
21 level, in some cases, local residents may oppose
22 permitting because they are not routinely
23 involved in the larger issues impacting the state
24 and region and have no particular incentive to
25 support a larger statewide or regional policy. A
1 new statewide or regional policy is needed that
2 provides incentive for local acceptance of
3 significant regional facilities.

4 MR. JOHNSON: Mr. Chairman, can we
5 ask questions now?

6 CHAIRMAN RUKAVINA: Mr. Edmunds, you
7 don't mind, do you?

8 MR. EDMUNDS: No.

9 MR. JOHNSON: Mr. Edmunds, I don't
10 understand this. It's nice statements about we
11 need to have regional consideration. No one is
12 going to argue against that, but under item 2
13 here, what would be the role of local officials
14 in this? Are you saying they have no role if
15 there's a hired good or you're going to have some
16 state agency that would actually get to make the
17 decision but the local residents would be just
18 allowed to comment? What exactly are you trying
19 to do here?

20 MR. EDMUNDS: What I'm suggesting is
21 there's a need for the process to take precedent

22 when a proposal of this nature is submitted we
23 found that there's another process that starts
24 with whether it be zoning or just the public
25 concern that comes up when a facility of this
1 nature is proposed in a small community. And
2 that's understandable and accept that as a
3 responsibility to answer the questions that are
4 raised. I think my suggestion here points toward
5 a policy that would assure that some form of
6 review starts in the beginning so that the facts
7 that seem to be at the base of the questions that
8 are asked can be developed by the environmental
9 review process, that currently was the other
10 reviews that needed to take place based on what
11 the communities concerns are. I think that some
12 type of a frame work, not necessarily something
13 taking away, but something more of a guideline
14 and a support that gives these small, rural
15 townships some assistance in this process. Like
16 I said, for example, we have two proposals we're
17 working on in two small, rural townships in
18 southern Dakota County and both of them are
19 small, three-member boards that haven't prepared
20 or aren't really in a position to respond to this
21 type of an application. And both --

22 MR. JOHNSON: What do you want to
23 give to them so they can be better able to
24 respond to that?

25 MR. EDMUNDS: Well, I hope that the
1 outcome of all the meetings that we've have
2 whether it be Ad Hoc or Task Force, and all the
3 testimony and all of the information comes up
4 with a conclusion. I've suggested some ideas and
5 concepts and I hope that the conclusion is
6 something that aids the townships in going
7 through this process in a manner that helps them
8 reach a conclusion.

9 CHAIRMAN RUKAVINA: I'm sure that
10 Mr. Johnson doesn't mean to put you on the spot,
11 but, Mark, the fact of the matter is that this
12 Task Force is going to be discussing a lot of a
13 things that a lot of people aren't going to be
14 happy about. And just as Mr. Edmunds is

15 supporting and recommending some type of
16 statewide maybe and I don't know -- usually
17 business doesn't like that kind of thing but I
18 suspect that the aggregate business is looking at
19 something like this. You're a little defensive
20 in it seems or questioning it as a planner from
21 St. Louis County, you wouldn't want Hennepin or
22 Ramsey telling you what to do and I agree with
23 you there. But on the other hand, as a county
24 planner and zoning you often tell Solway planning
25 and zoning what to do and we've got to look at
1 everything and it's going to be a tough decision.
2 I don't know what this Task Force is going to
3 come up with. We may not come up with any
4 recommendation because it's so touchy and I would
5 hope that that isn't the case. But as a person
6 who comes from Northern Minnesota and sees -- I
7 kind of am on the same line of thinking of you
8 and I'm not criticizing you. I can see where
9 these folks are coming from. But we've always
10 been told -- we come down here, we see trees
11 being leveled and when trees are cut in the
12 Metropolitan area -- Senator Morse, you know this
13 story -- you know what grows back? A parking lot
14 or an apartment building. In Northern Minnesota
15 when we cut a tree down a tree grows back and yet
16 we are told constantly by the Metro area and
17 perhaps some people in this room that we can't
18 cut down trees anymore and it affects our
19 livelihood. So we're going to try to go through
20 this process, take these recommendations from
21 experts on all sides and try to come up with some
22 kind of -- I can see there's absolutely no reason
23 in God's earth why a permitting process or siting
24 process should take three to eight years and I
25 agree with you 100 percent on that. After a
1 couple of years you should be told no or yes and
2 then you can move on to the next thing or start
3 that thing and I agree with you there. Maybe
4 other members of the Board don't agree with me on
5 that.

6 MR. JOHNSON: I was just trying to
7 get a little bit more specific. I may buy the

8 argument that a decision can't be just made --
9 for instance, St. Louis County was burned by
10 another township who denied us winter sand that
11 was used on a road that you probably drive on.

12 MR. BAUERLY: Mr. Chair, one of the
13 things I think I'm hearing Mr. Edmunds say is
14 there ought to be some uniformity and a process
15 so you know what the process is. And there ought
16 to be some uniformity as we go across this state
17 as to what that process is. I can tell you the
18 frustration that I see, 22 different counties
19 that I see applying for permits, they're all
20 different. Every one has a totally different
21 process and then another 80 or 90 townships that
22 have a unique process of their own that's even
23 less uniform perhaps than the county. So what I
24 hear him saying is there ought to be a process
25 that maybe takes some of the toughness, some of
1 the hard decisions out of townships. Maybe it's
2 the EIS, the EAW. Maybe it's the air, water,
3 noise issues that are really state and federal
4 issues, but they become issues in all of these
5 other areas so that there are a set of guidelines
6 that folks can use at the local level whether
7 that be township or county as a process so
8 there's some uniform process. Is that the sum of
9 what you're saying, there's something similar in
10 the process?

11 MR. EDMUNDS: I think to add a
12 vision or an idea that might be acceptable would
13 be to have a process that was available to the
14 township where they -- there would be something
15 mandatory and also something optional, some other
16 level of support. The two concepts we're dealing
17 with are what they call urban townships so
18 they're a local governmental unit. There's no
19 mechanism in place to allow them to ask for help
20 say from the county. Something that may be
21 facilitated that may be an option in these
22 particular types of counties in the Metropolitan
23 area. There's a whole different set of rules for
24 the Metropolitan area with the Metropolitan
25 Council's jurisdiction versus the out states

1 counties. So again, there's some issues I think
2 that --

3 CHAIRMAN RUKAVINA: Good
4 suggestions. And you're right. What's good for
5 the Metro area may not necessarily be good for
6 southern or western or eastern or northern
7 Minnesota. Continue, please.

8 MR. EDMUNDS: Number 3, current
9 policy may unintentionally encourage the
10 proliferation of small quarry operations. Absent
11 a more effective way of siting decision making, a
12 proliferation of small quarry operations in
13 counties and towns near key limestone deposits is
14 likely. This means that some people will be
15 affected by the same activities conducted by a
16 greater number of smaller operators versus one or
17 two large regional operations. Cities and
18 township would have a much greater oversight and
19 regulatory burden. It would take many of these
20 small facilities to begin to replace current
21 aggregate production. Currently policy inhibits
22 the orderly development of appropriately sized
23 production facilities.

24 Number 4. Aggregate resources may
25 need to be designated as an essential economic
1 activity in the next few years. In land use
2 planning we protect certain vital, significant
3 resources such as prime farmland, water --
4 aggregate resources should be similarly protected
5 in order to preserve the ability of and access to
6 these materials near the Metropolitan area.

7 Number 5. Prompt policy
8 modification will prevent significant future cost
9 impact. The transportation costs of the typical
10 load of aggregate increases by 100 percent every
11 25 miles. By definition, if we are to have
12 affordable, manageable growth, the resources to
13 support that growth must be nearby. If the
14 current situation remains unchanged, fundamental
15 infrastructure construction activities such as
16 roads, bridges, airport runways, and
17 reconstruction will needlessly grow in cost.

18 Number 6. Our need is really quite

19 urgent. We are typical of our industry. The
20 Burnsville quarry has an estimated remained
21 useful life of 20 to 25 years. Should the
22 economy remain strong, requiring faster
23 consumption of this resource, the quarry's useful
24 life could be as low as 15 years.

25 In summary, our testimony focuses on
1 four key ideas. Number 1. Acknowledge that
2 aggregate materials have become a significant
3 resources requiring protection. Number 2.
4 Revise and modernize the siting process. Number
5 3. Build consideration of regional implications
6 into local decision making. Number 4. Establish
7 reasonable timelines in some certainty for the
8 entire process. Mr. Chairman, thank you very
9 much for this opportunity to provide testimony.
10 I have given the clerk written submission for the
11 presentation I just made as well as some other.

12 CHAIRMAN RUKAVINA: Mr. Edmunds,
13 thank you for what seems to be some well thought
14 out suggestions. I do have to ask the question
15 of you or maybe Mr. Bauerly. Sometimes we get
16 these road jobs and we've got some big road jobs
17 going on up on Highway 53 near Duluth and the
18 Iron Range and it seems that there isn't that
19 much of a problem probably because it's not that
20 densely populated. But it seems that the bids
21 are lit, we don't even know as legislators that
22 we are going to have a 7 or \$8 million overlay
23 let's say for whatever it is and so I'm sure that
24 Bauerly Brothers or your construction company or
25 whoever doesn't know, yet, as soon as the bids
1 are lit it seems like there's a pit right there.
2 Is there a reason why up there?

3 MR. EDMUNDS: Lower density
4 possibly. We operate business in Evelyn Mine
5 called Auburn Minerals so I'm familiar with some
6 of the businesses up there and I can say that I'm
7 familiar -- I'm there fairly regularly and I can
8 only presume that it's by being more rural
9 there's more resources that are available and
10 there's maybe less opposition to the idea of
11 having, small local pits to supply these jobs as

12 they're developed.

13 CHAIRMAN RUKAVINA: These are big
14 pits. They had to be 80-acre tracks and the bids
15 were -- bang, there's a pit being stripped and
16 the top soil being stripped and they're in there.

17 MR. EDMUNDS: I think Jerry probably
18 would have more exposure than me but we operate
19 one large facility here in Burnsville. In the
20 past we operated smaller facilities that
21 addressed jobs similar to that in Wisconsin. But
22 I think that here in the urban area -- I didn't
23 mean to focus so much on the urban area -- I
24 think here in the urban area there's been such
25 dynamic growth over the last 15 years and there's
1 been growth beyond the areas growth was predicted
2 by the Met Council that people are just averted
3 to having facilities of this nature in their
4 backyard. Again, it's more of a regional
5 commodity and it's hard to go into a town board
6 and provide them the right answer for why you
7 belong in their township when you're providing a
8 resource to other parts of the region. So I
9 think that's one of the challenges that we have
10 that may come out of this process is to define
11 ways to acknowledge that hosting of these types
12 of facilities in these rural townships.

13 CHAIRMAN RUKAVINA: Any other
14 questions? Thank you, sir. Paul Iversen.

15 MR. IVERSEN: Chairman, members of
16 the Task Force. My name is Paul Iversen. I'm a
17 Lawyer with the law firm of Williams and Iversen
18 in St. Paul. Today I'm here representing
19 International Union of Operating Engineers, Local
20 49. Thank you for the opportunity to address
21 you. Local 49 represents approximately 10,000
22 workers in the State of Minnesota. Almost all of
23 those are involved in the construction industry.
24 About 7500 of those are involved in the highway
25 and heavy construction industry, either in the
1 production of aggregate materials or in the
2 construction of actual roadways and bridges that
3 depend on those aggregate materials. So they're
4 very interested in aggregate resource use issues

5 in the State of Minnesota and I appreciate the
6 opportunity to present some of their concerns to
7 you. In the different constituent groups that
8 are on this Committee I guess you have to list
9 Local 49 as being a representative of the
10 aggregate industry. This is I think one of the
11 few issues in which labor and management can
12 agree that the steady supply of available
13 commercially usable aggregate is important to
14 both labor and management.

15 What we would like is for this Task
16 Force to keep in mind in this debate that this is
17 not just an issue between owners of land that
18 want to mine aggregate from that land and
19 environmental concerns that may wish to restrict
20 that, this is also a bread and butter economic
21 issue for a lot of people. The Ad Hoc
22 Subcommittee that presented the report to this
23 Task Force stated that there were approximately
24 10,000 employees directly involved in the
25 aggregate production industry. You can multiply
1 that many times over by the persons that rely on
2 aggregate materials for ready mix concrete, for
3 hot mix asphalt, for other construction
4 materials. There are a lot of workers whose
5 lives depend on working within the aggregate
6 production industry and we just urge you to keep
7 in mind in your deliberations that peoples' lives
8 and economic well being are being affected by the
9 decisions that you're making and what results
10 come out of this. Local 49 believes that ready
11 supply of commercially usable aggregate needs to
12 be assured over the long term to ensure that
13 there will be jobs available for their members
14 and for other workers within the aggregate
15 construction industry. What we hope to see come
16 out of this is regulation, not restriction I
17 guess is the best way to put it, that if there
18 are environmental concerns, certainly those
19 environmental concerns have to be addressed. But
20 we must keep in mind that aggregate is necessary
21 to continued road construction and to many types
22 of construction is in some ways necessary to

23 modern life, and that what this Task Force has to
24 deal with is the issue of how to assure those
25 resources long term and to assure the jobs to the
1 people that work in that industry.

2 We believe that some sort of
3 statewide policy needs to be put in place to
4 assure that aggregate will be available for
5 projects. We did not state an opinion as to
6 whether that requires statewide control or
7 whether that just mean that there ought to be
8 some sort of standards so that there's assurance
9 of readily available commercially usable
10 aggregate for projects that are coming up.

11 If I could give just as an example
12 based upon some of the testimony that we've heard
13 earlier, the representatives from Solway Township
14 suggested that there be limits to how many pits
15 there might be in a particular area. One way in
16 which we would see regulating rather than
17 restricting is perhaps such a restriction could
18 be on the number of currently operating pits and
19 that if you want to open a new pit in the area,
20 you would have to reclaim another pit, but if
21 there were commercially usable aggregate in that
22 area that would -- we would not want it to be
23 artificially restricted because there were too
24 many pits in the area and allow for the depletion
25 of one pit and its reclamation and then opening
1 up of another pit rather than unnecessarily
2 restricting access to that important resource.

3 The second issue that Local 49 has
4 is this aggregate is an important statewide
5 resource. And Local 49 has concern that some
6 contractors appear to be buying up mineral rights
7 to all or a very large percentage of the
8 commercially usable aggregate in particular
9 areas. And we think that that is bad public
10 policy for the State of Minnesota to allow any
11 contractor or small group of contractors to
12 monopolize the aggregate resources in the state,
13 that there should be some sort of restriction
14 perhaps in the permitting that requires that a
15 certain amount of the aggregate be available to

16 the general public, that one contractor cannot
17 tie up all of the aggregate in the area and
18 thereby gain a competitive advantage over the
19 other bidders on high construction projects in
20 the area. Local 49 believes that all
21 contractors, all responsible contractors bidding
22 on highway construction projects should have
23 access to aggregate in the area and that it
24 should be a requirement of the permitting process
25 that a certain amount of the aggregate in a pit
1 be made available to the general public and not
2 only for the sole use of the contractor owning
3 that property. Thank you.

4 MR. JOHNSON: Mr. Chairman.

5 CHAIRMAN RUKAVINA: Mr. Johnson.

6 MR. JOHNSON: One of the concerns
7 that we frequently run across on borrow pits is
8 truck traffic going out a long way and I assume
9 those people in some cases would be members of
10 your Local.

11 MR. IVERSEN: The truck traffic
12 would not be --

13 MR. JOHNSON: Do you have any idea
14 on why in certain cases trucks speed, are
15 overloaded so -- that actually happened to me on
16 one of the Highway 53 projects. I was sprayed as
17 I was going down the road. In some cases and in
18 some operations that doesn't happen. What can be
19 done in that area?

20 CHAIRMAN RUKAVINA: If that's beyond
21 the level of expertise of an attorney, you don't
22 have to answer the question.

23 MR. IVERSEN: I'll have to admit
24 that it is somewhat beyond my expertise, except
25 to say as a representative of workers it is
1 usually a management decision as to time tables
2 for delivery and amounts that have to be hauled.
3 So I don't know of a driver who voluntarily
4 overloads his truck because it becomes dangerous
5 for the truck driver in that situation. So if
6 that is an issue to be dealt with, we believe
7 with management rather than with the employees,
8 but certainly safety concerns such as that are a

9 big issue for the workers involved in those
10 projects. And I also represent the Minnesota
11 Construction Conference of Teamsters, although
12 I'm not here on their behalf today, so I'm
13 familiar with those types of issues and certainly
14 they support strong safety regulations so that
15 the trucks that they're driving are safe, that
16 they're safely load and that they can be operated
17 on the roadways at safe speeds.

18 SENATOR FOLEY: Mr. Chairman.

19 CHAIRMAN RUKAVINA: Senator Foley.

20 SENATOR FOLEY: One of the thoughts
21 I have when you're talking about monopolizing the
22 aggregate is that perhaps the State would be
23 well-advised to shift to a situation where they
24 provide the aggregate and the actual contractors
25 that do the building of the roads or the
1 buildings not be concerned about but the
2 competitive aspect of owning all that aggregate
3 but to just deal with it so that it would be a
4 even playing field with any contractor starting
5 rather than to have somebody get out there and
6 they've got all the aggregate along the right of
7 way between here and Duluth and no competitor can
8 safely bid on the road jobs for instance.

9 MR. IVERSEN: Certainly if there was
10 a feasible way to accomplish that, Local 49 would
11 support that. They believe that all responsible
12 contractors should have access to the aggregate
13 necessary to be able to bid on these highway
14 construction projects and not give one or two
15 contractors a great competitive advantage on the
16 bid because they happen to have bought up mineral
17 rights to 27 farms in the same township.

18 CHAIRMAN RUKAVINA: There's a
19 difference between mineral rights and surface
20 rights on the aggregate.

21 MR. BAUERLY: Mr. Chair, one of the
22 things that MnDot -- and I don't know if anyone
23 from MnDot would like to comment on that -- have
24 done in that regard is most state projects have a
25 list of possible pits sources that the state has
1 a lease on for projects. And I know that is

2 there.

3 [editorial correction] MR.BEAUDRY: I'm Terry Beaudry from
4 MnDot. Probably the main function of my unit is
5 to try to get for large jobs, long overlays,
6 total reconstructions, usually on the outside,
7 out of Metro area, we try to get a lease on
8 existing or a new gravel pit for a project like
9 Mr. Bauerly says or we list -- we have
10 approximately 300 MnDot pits which we list as
11 sources for projects right now. So our function
12 is to try to get competitive bids on projects.

13 CHAIRMAN RUKAVINA: Any other
14 questions? Mr. Iversen, thank you very much for
15 your testimony. Cathy Busho. If you would come
16 on up.

17 MR. SHARDLOW: Mr. Chairman,
18 Committee Members, I have some exhibits that I'd
19 like to --

20 CHAIRMAN RUKAVINA: Would you please
21 identify yourself?

22 MR. SHARDLOW: John Shardlow. I'm
23 here as a land planning consultant representing
24 the City of Rosemount. I don't know what the
25 best way is to show these. Maybe I'll just
1 introduce them and show what they show and then
2 set them up in a row and go back and sit down and
3 continue with some remarks. I've been
4 retained -- I've testified before this group
5 previously at a hearing here and was also there
6 at Maple Grove when you came and visited those
7 facilities. I've been involved in the Apple
8 Valley consolidated land use planning work and
9 I've also done work in Maple Grove and several
10 other communities and I've represented both
11 operators and local units of government in the
12 sand and gravel resources group for over 20
13 years. I've recently been trained by the City of
14 Rosemount to assist them in several issues
15 related to their comprehensive plan. One of
16 which is the future of -- the potential future of
17 mining activities in the City of Rosemount. I
18 wanted to show you just for point of reference,
19 this is a graphic that you probably know better

20 than I do, but it's a potential sand and gravel
21 resource. It was the map that was produced back
22 by the Metropolitan Council back in 1982 and it
23 shows the seven county Metropolitan area and
24 identifies in gray where aggregate resources are
25 located in the region. And not surprisingly the
1 glaciers didn't necessarily distribute the
2 material uniformly throughout the seven county
3 area, substantial deposits in Washington County,
4 folks from Washington County are here, and also
5 very substantial deposits in Dakota County. And
6 what I've done just for a point of reference is
7 put a boundary around the City of Rosemount in
8 red to show you that the City of Rosemount really
9 does sit on very substantial aggregate reserves
10 in Dakota County. This is a -- is looking at
11 that in a little bit more detail and it shows
12 Dakota County. So this is a blow up, if you
13 will, of just Dakota County and identifies
14 primary sand and gravel, the area where there's
15 sand and gravel with 20 foot depth up to ground
16 water and then primary sand and gravel where the
17 water is less than 20 feet in orange, and going
18 down from there there's secondary and lesser
19 capacity areas. But, again, if you look at the
20 City of Rosemount, you'll see that it really does
21 sit sort of four square on top of primary sand
22 and gravel resources at this point. Again, this
23 is an illustration that shows the location of
24 those primary sand and gravel resources. This is
25 a blow up again, if you will, of just the City of
1 Rosemount. And this is probably as good a
2 graphic as any to sort of explain the issues the
3 City of Rosemount is wrestling with and the mayor
4 can certainly talk about these issues as well.

5 The Metropolitan area as you know is
6 growing outward. Inver Grove Heights, Eagan, and
7 Apple Valley approaching build out and that
8 growth from the Twin Cities Metro area pushing
9 out coming into Rosemount. The developed portion
10 of the City of Rosemount is located over on the
11 west side and the City has worked with the
12 Metropolitan Council and is in the process of

13 going through the Comprehensive Plan review. The
14 area that is sitting over on the vast majority of
15 the aggregate resources is for the most part an
16 area that isn't planned for development for 20
17 years or greater. Located right here is the *[editorial correction] Koch* (global)
18 Refinery. The *Koch* Refinery owns substantial
19 acreage not only for the refinery itself but it
20 also had bought up and continues to buy up land
21 around it largely for the sake of making sure
22 that they maintain compatible land uses around
23 the refinery, over heavy industrial uses along
24 the river. So the issue that's among -- several
25 issues facing the future of the City of Rosemount
1 is what should the future land uses be in this
2 area. There are some gravel mining operations
3 that are located in that area, but to this point
4 in the City's development they are relative small
5 facilities. Small pits that have been opened up
6 and there isn't really a lot of sand and gravel
7 activity in the community at this time.

8 What I've done with this graphic is
9 identify essentially the areas within the City
10 which are not available for sand and gravel due
11 to ownership or other factors. This is the land
12 that essentially sits right on top of the *Koch*
13 Refinery. *Koch* Refinery folks have talked to the
14 community and indicated they might be willing to
15 allow some sand and gravel resources to be mined
16 within the area that they owned immediately
17 adjacent to the refinery. This is the area where
18 the University of Minnesota has its agricultural
19 experiment station, so a great deal of sand and
20 gravel resources covered up by that ownership are
21 not available for use. But needless to say,
22 still looking at this graphic, there is a very
23 substantial area of primary aggregate resources
24 available to be mined in the community. And
25 essentially the City is looking at its land use
1 policies and asking the questions should we --
2 what should our stance be with respect to sand
3 and gravel resources in the community.

4 One of the things that you'd notice
5 if you look at the Metropolitan Council's

6 regional growth management strategy for this area
7 is it identifies the area as primary agriculture.
8 In other words, it's an area that based upon the
9 Metropolitan Council's Regional Growth Management
10 Plan should be preserved and protected for prime
11 agricultural uses. And most of this land if it
12 were to be mined would be taken out of
13 agricultural use and so there's a policy conflict
14 that's there. But I think -- not to speak for
15 the City -- the bottom line is the City is
16 essentially asking the question what's in it for
17 us. If we were to go through the inconveniences,
18 if you will, and put up with some of the adverse
19 effects of sand and gravel to make that
20 Metropolitan resource available to the region,
21 why would we do that, and one of the things that
22 I would like to speak to today is the possibility
23 of looking for some kind of a host community
24 agreement or some kind of opportunity for
25 communities that would host regional facilities
1 to provide that resource to the Metropolitan
2 market. Some ability for them to negotiate a
3 reasonable fee, if you will, with the operators
4 so that they could have some compensation to off
5 set the adverse effects of having sand and gravel
6 resources within the community. Mayor, anything
7 to add to that?

8 CHAIRMAN RUKAVINA: Would you
9 identify yourself?

10 MAYOR BUSHO: Cathy Busho. It's
11 B-U-S-H-O and I happen to be the mayor for the
12 community of Rosemount. We're currently right
13 now going through a proactive visionary stage in
14 our growth. We want to be ahead of the game.
15 That's why what Mr. Shardlow said is so very
16 accurate. We're looking at the mining issue. We
17 want to be on top of it. We're willing to do our
18 part for the region, but it has to be something
19 that's beneficial to the City, too. We have to
20 have some other type of incentive. Just having
21 the operators to tone and mine is not sufficient
22 enough because there are some adverse effects
23 that do happen. So that's what we're looking for

24 is what is the incentive for us to go ahead with
25 this amount of large gravel that we have.

1 SENATOR FOLEY: Mr. Chairman.

2 CHAIRMAN RUKAVINA: Senator.

3 SENATOR FOLEY: When we were out at
4 Maple Grove they layed out a thing that they did
5 in their city that allowed for staging and then
6 returning the land into a more functional use.
7 Is that something that you're thinking about or
8 what's your thoughts as to what direction the
9 City is interested in going?

10 MR. SHARDLOW: That's one of the
11 options that I have presented to the City as a
12 possibility as something that is worth exploring.
13 From my perspective after what I've testified
14 before this group before showing you the examples
15 at Apple Valley of the work that we did in Maple
16 Grove, it's not necessarily the case that less is
17 better. If you can consolidate the operations,
18 what's most important is the total area that's
19 open to mining at any one time, and how you
20 manage the traffic and how you manage the other
21 adverse effects. And so if it were done with the
22 right ownership structure and managed in such a
23 way that it could be mined and reclaimed as it
24 was mined, potentially from a west to an east
25 fashion, and it was done with an end use plan to
1 prepare the land for a productive end use, in the
2 long term it should still maintain a usable land
3 base out there for the community in the future.
4 What they're really looking at is why should we
5 do that? What are the benefits of that to the
6 community? Is there a way in which we can
7 negotiate some kind of a sand and gravel fee
8 working with the operators that would offset some
9 of the adverse effects?

10 SENATOR FOLEY: Mr. Chairman.

11 CHAIRMAN RUKAVINA: Senator.

12 SENATOR FOLEY: Just a follow up on
13 that large segment that land is part of the
14 University's holdings. What is the long-term
15 prospect or what would happen with that? It
16 strikes me that that's not a continued use that I

17 would foresee the University to continue. It
18 always struck me as I never quite understood how
19 they managed to get control of that.

20 MR. SHARDLOW: They went through a
21 process a couple of years ago of proposing to
22 make some of that land available for development
23 and that process kind of fell apart. So they're
24 in the process right now redoing their master
25 plan for that area. And I've seen that master
1 plan and I think the Mayor has as well and we're
2 having a dialogue with the University about that.
3 But everything that we've seen shows that they're
4 trying to intensify the use of that as, in fact,
5 an agricultural experimental station long into
6 the future and they want to use it for the
7 ability to test out innovative, agricultural
8 approaches and those sorts of things. So there's
9 nothing about it that would indicate that they
10 were looking at it with a short-term time
11 parameter. Certainly the attitude or the posture
12 the University has taken with the City is that
13 land is not available for development. It will
14 be used by the University for the foreseeable
15 future.

16 SENATOR FOLEY: Just a follow up on
17 that. Is there any possibility that you could
18 mine that and still use that in an agricultural
19 setting if the mining was done properly?

20 MR. SHARDLOW: I think technically
21 if the mining was done properly there's always an
22 issue of timing when you reclaim land in a mining
23 operation if you strip off the top soil and stock
24 pile it for too long it loses its yield
25 potential. So there would have to be some work
1 done to make sure that it was reclaimed in a
2 timely fashion, and other work done to make sure
3 that the soil remain productive and I don't think
4 exceptionally there's any reason why that
5 couldn't happen.

6 CHAIRMAN RUKAVINA: Any other
7 questions then? Mayor, if we had been told -- I
8 can't remember. Was it -- someone help me out
9 from the Task Force. Was it Ramsey County that

10 would not let their local townships impose their
11 mineral tax a year -- in Dakota County. Have we
12 talked to the commissioners about the aggregate
13 tax?

14 MR. SHARDLOW: Commissioner Will
15 Branning is expected here today to talk to the
16 Task Force. He was coincidentally the mayor of
17 Apple Valley when that consolidated land use plan
18 went through. It's frankly my experience that
19 the aggregate tax goes to the county and it's
20 used for road purposes and it certainly goes for
21 upgrading roads that are within the county and
22 certainly some of those serve the City. What
23 we're talking about is some kind of reasonable
24 user fee that would offset some of the other
25 adverse effects of being a host community. There
1 are host community fees for landfills and other
2 facilities like that and we think it would be
3 reasonable to consider it. If I may be very
4 candid with you, I'm around this state everyday.
5 I will be testifying tomorrow night in May
6 Township in Washington County. A piece of ground
7 that is immediately to the Washington County Pit,
8 the Schroeder Pit, if you will, May Township is
9 in the process of updating their comprehensive
10 plan and has just recently written language
11 indicating that they don't want any more gravel
12 aggregate mining in their township. So this is
13 something that's happening throughout the area.
14 I would suggest here that if there's a trend,
15 it's a trend against mining and not for mining
16 and I would suggest to you that there needs to be
17 some kind of incentive built into this process
18 and it doesn't have to be an exorbitant fee, but
19 I think something reasonable for host communities
20 is reasonable for communities that would do the
21 necessary planning to allow this to occur over a
22 long period of time. I think if you look at
23 those maps and the amount of yellow that's there,
24 that's 20 feet of gravel above water and it's
25 thousands and thousands of acres. If we're
1 talking about a depleting resource in this region
2 that's strategically located to provide that

3 resource to the construction of our region, I
4 think it's only reasonable that there be some
5 offsetting fee for this community. Thank you.

6 CHAIRMAN RUKAVINA: Thank you very
7 much. Mr. Southwick, would you like to say
8 anything? Welcome again.

9 MR. SOUTHWICK: My name is David
10 Southwick. I'm the director of the Minnesota
11 Geological Survey. The geological survey is just
12 in the very final stages of preparing a new
13 aggregate availability map for the Metropolitan
14 area. I thought I was going to be able to bring
15 it with me today but it isn't quite ready. So
16 the maps that my predecessor showed you will be
17 modified somewhat. The new mapping will simply
18 gave a better look at what we think the nature of
19 the total resource in the seven county Metro area
20 actually is. That information will be
21 forthcoming very soon. That's all I wish to say.

22 CHAIRMAN RUKAVINA: Thank you very
23 much. Any questions? Darryl Shoemaker. Welcome
24 to the Committee.

25 MR. SHOEMAKER: My name is Darryl
1 Shoemaker. I'm *[editorial correction]* a resident in Rosemount,
2 Minnesota and also a consultant on aggregate
3 issues for approximately ten years. Mr.
4 Chairman, Committee members, I wanted to provide
5 a couple of brief comments. I've been following
6 this with some interest and I've been involved in
7 the industry for quite some time. I have done
8 quite a bit of work in the area including
9 completing a doctorate on the topic and in
10 particular on cumulative effects and it's amazing
11 how strikingly similar the issues are regardless
12 of location within the country. The two things
13 that -- I won't delve into a lot of the issues
14 that come up often, whether it's traffic, air,
15 noise, ground water issues and so on as they are
16 fairly consistent in that matter, but rather
17 touch on a couple item that have been raised here
18 today already. That is the two contrasting
19 issues of the availability of the resource and

20 preserving that, having that available in an
21 effective and economic manner, and secondly,
22 developing these resource in an environmentally
23 sound manner. And the difficulty it seems in
24 being able to do that consistently especially in
25 Minnesota where you have that authority or
1 oversight divided up quite extensively. The
2 first item, resource availability, a lot of my
3 comments stem from observations I've made in
4 other states and particularly with the Province
5 of Ontario. And I'm not sure if you've had
6 testimony referencing some of that. But I think
7 you'll find there's a lot of good examples of
8 both studies and legislation that's in place that
9 have walked through the very issues that you've
10 heard presented here today I'm sure at other
11 hearings. The Province of Ontario I think is a
12 very good example in that I think development
13 wise it's probably a good model of something 10,
14 15 years down the road as far as what you're
15 facing in terms of its a geographic area that's
16 faced a lot more land pressures in the sense that
17 it has a much higher population base over a
18 smaller area where you have aggregate resources
19 available due to glaciations as opposed to
20 California where it's due to rivers or so on.
21 And one of the results of that has been that on
22 the availability side what they have done is put
23 in place a program wherein the aggregates are
24 still managed at the local level as they are here
25 but there is a -- in that case -- province wide
1 policy for the protection of the resource to
2 ensure that -- amongst other things that have
3 been heard here today -- is that it is not lost
4 or sterilized because of urban development or
5 commercial development. And the policy is
6 designed to do a couple of things. It requires
7 that the local authorities take into account
8 where those primary resources are that we've seen
9 shown on some of those maps. The new ones that
10 are coming out, that information is available.
11 And the local authorities have to take that
12 information into account as part of their zoning

13 process if it's a key resource that needs to be
14 mapped and people need to be made aware of it.
15 It then becomes part of their process in deciding
16 are there key resources that need to be protected
17 for that reason. And I think the advantage of
18 having that as part of that process is it also
19 allows you to try to decide where the best
20 location is for that, especially if you want to
21 consolidate the resource to avoid a lot of the
22 issues that come from the large operations in the
23 combined effects from those operations. I think
24 from all of the studies that I've seen and been
25 involved with, that's probably the biggest issue.

1 I haven't often seen individual pits be a great
2 concern if they're managed properly. Often the
3 issues that seem to arise where you get most
4 public opposition and concern from citizens are
5 from the combined effects of these operations.
6 And they're often combined in a lot of areas
7 because of that the nature of the way that the
8 resource is deposited. You end up with four,
9 five, eight pits within a fairly small area.

10 It's the combined effects or whether it's truck
11 traffic, noise, dust, of impacts on the ground
12 water. And what is observed is often -- and this
13 is definitely the case with Minnesota -- is that
14 your process that you presently have in place is
15 designed to manage individual operations. It's
16 not designed to manage the combined effects of
17 these operations. And from an operator's
18 standpoint the difficulty of this is that
19 generally the last one in is the one who ends up
20 dealing with the greatest amount of that concern
21 in studies. A great example of that is in Neason
22 (phonetic) Township right now would be the assets
23 they require for a proposed developer. This
24 happens to be the last one in and to be quite
25 candid, I don't think the existing operations are

1 held to quite the same level of sound practices
2 that the more recent operators are. And I would
3 suggest that I think there are certainly issues
4 in permitting that can be handled by the local
5 authorities given the proper context and

6 resource, but I would also suggest that there are
7 levels of concern here due to the combined
8 effects of these pits that need to be handled at
9 a different level whether it's a watershed or a
10 county levy or so on.

11 On the management practice's side,
12 the other piece of legislation that in this
13 particular context came into play was the piece
14 of legislation to protect the resource. It was
15 also a piece of legislation then -- and I'll pass
16 around an example of this. It's just a portion
17 of the document if I may. In exchange we talked
18 about the incentives. The mayor of Rosemount
19 talked about that. In exchange for being
20 required to protect these resources, we try and
21 zone it in a way that makes sense for each
22 particular governing authority. There was also a
23 piece of legislation that also then provided some
24 direction and guidance or templates, as you will,
25 for what type of rehabilitation and management
1 practices would be appropriate. Again, a lot of
2 the governmental authorities don't have that
3 information. A lot of it is available. Again,
4 aggregate mining isn't a terribly complex
5 science, but there certainly are issues. A lot
6 of those issues have been researched extensively
7 and have been dealt with in a lot of manners. An
8 example of what I'm sending around is some
9 template examples of what I think are fairly good
10 rehabilitation drawings for an operation. And
11 the guidance that goes with these that townships
12 can use or counties can use in requiring this as
13 part of the permitting -- for example, provide
14 for phase rehabilitation so that you only have a
15 certain percentage or acreage of property in
16 active production at any given time. It provides
17 for different practices that address some of
18 those key issues. This is a requirement that is
19 part of the permit approval that you have this in
20 place as well as a number of other requirements.
21 Again, there's nothing terribly fancy or complex
22 about this but I think it represents a good
23 capture of a lot of the best management practices

24 that are out there. It can definitely help to
25 address these operations.

1 I think the last thing I wanted to
2 touch on briefly is that, again, to keep in mind
3 the need to distinguish between site-specific
4 management issues of which this is an example of
5 that I think local government unions are capable
6 of -- are very capable of managing given the
7 proper resources and those issue which need to be
8 addressed more at a county or certainly a
9 watershed level. I think ground water impact is
10 a good example of that. To reasonably require an
11 operator to come in and do a reasonable study on
12 the potential issues I think it's really beyond
13 what the resources of that operator are. I think
14 having some policy in place that dictates where
15 appropriate places, locations are going to be can
16 afford us the opportunity to be planning down the
17 road for anticipating some of these issues helps
18 the city or township to be better prepared and
19 also I think helps the developers be better
20 prepared in that they have a better understanding
21 as far as what issues they can anticipate they're
22 going to have to deal with and also have a little
23 bit more of a level playing field on which to
24 work from. So just to conclude, Mr. Chairman, I
25 would just direct the Committee to some of the
1 other examples of studies and so on I think that
2 are out there. I think Ms. Buttleman who is an
3 advisor to your group is very familiar with some
4 of that material as well.

5 CHAIRMAN RUKAVINA: Thank you very
6 much, Mr. Shoemaker. Are there any questions?

7 MR. JOHNSON: Mr. Chairman.

8 CHAIRMAN RUKAVINA: Mr. Johnson.

9 MR. JOHNSON: The cumulative impact
10 and in particular like in Neason is a major issue
11 there, and I'd like you to maybe elaborate on
12 your thoughts on that issue a little bit more.
13 Is 8, 10-acre gravel pits worse than an 80-acre
14 gravel pit and that was our discussion they had.
15 And even when they got into the discussion of
16 exactly what area were they talking about in

17 cumulative impact where do you draw the line?
18 Could you respond on your findings on cumulative
19 impact?

20 MR. SHOEMAKER: I think a couple of
21 things -- and I can just comment on some of the
22 work that I did and I think it was very similar
23 to this. I had a situation where in one
24 watershed we had eight operations, and the
25 concern was where do you draw that line and what
1 can you really ask the operators to be
2 responsible for and really what is the
3 responsibility of those governing agencies
4 responsible for protecting the various resources.
5 What I looked at was the case you referenced up
6 in St. Louis County and the one that I worked on.
7 I think the biggest issue was two things. One is
8 that in almost every case there wasn't a lot of
9 good planning or foresight going in, so you're
10 always kind of working behind the curve to try
11 and catch up and address this stuff and there are
12 examples of rehabilitation that weren't done or
13 weren't done very well and so on. And that
14 colors a lot of the perspective of the people's
15 concerns. I think -- there was two things that
16 came out of the things that I looked at. One is
17 making sure that you've got a good way of
18 measuring the performance and what your
19 expectations are. I didn't often see that out
20 there and I haven't seen it in a lot of the cases
21 here. The second was -- and I heard somebody
22 comment on this before -- what can a community
23 get out of it and how do you measure the
24 expectations there. I think one of the things
25 that I don't often see is there's a lot of
1 examples or opportunities for reclaiming areas
2 that -- you've got an old pit. The operator is
3 long gone. It's been sitting on the *[editorial correction]* (tax) rolls as dead
4 property. One of the things that we try to do
5 when working with developers is encourage them to
6 say, okay, in exchange for being able to move
7 into an area with a land use, it isn't generally
8 help wanted, there are a lot of opportunities --
9 not simply just a regulator restrictor, but

10 actually try and provide a net gain. If you're
11 concerned about cumulative effects, the combined
12 effects are negative then you should also be
13 looking at -- I know they use this term
14 fisheries -- how can you get a net gain of the
15 situation. Just an example, where we had those
16 eight operators in one area and they wanted to
17 develop into a new pit area, they asked the
18 township and said what is your biggest concern or
19 what resource do you most prize in this
20 particular township that's of concern to you.
21 This happen to have a cold water fishery running
22 through that had been largely degraded over the
23 years, not largely by the pit owners themselves,
24 but because it had been dammed up in one time and
25 all the vegetation stripped away and so on. One
1 of the things that was negotiated with the
2 operator was that in exchange for being able to
3 access that resource and doing it in a manner
4 that was appropriate to these specifications,
5 they also agreed to work with the township in
6 operating its cold water fishery. So they were
7 looking for opportunities to actually help
8 improve the conditions as opposed to just simply
9 restrict and police an operation and I think
10 there's a lot of opportunities to be gained out
11 of something like that. If you try and step back
12 and look at what are the key impact issues and
13 what are ways we can actually get something out
14 of development. Because as you all know in the
15 year of decreasing budgets the governmental units
16 aren't going to have the money there to improve
17 those conditions. The developers certainly do.
18 CHAIRMAN RUKAVINA: Well, thank you
19 very much. Any other questions? Thank you.
20 MR. BAUERLY: Where can we get a
21 copy of that Province of Ontario comprehensive
22 policy for protection of the resource? Is that
23 available?
24 CHAIRMAN RUKAVINA: I was going to
25 have Mr. Olson get it as we sit down later on,
1 copies of legislation from other states and also
2 we'll look at that study. If you have an address

3 or contact from there, Mr. Shoemaker, maybe you
4 can give that to some of the DNR staff. We
5 appreciate your testimony very much. You spent a
6 lot of time on this. Commissioner Morse,
7 welcome. Come on up, and Assistant Commissioner
8 Brice, welcome to the Committee. And then I'd
9 like anybody else in the audience that has
10 anything to say that you would be welcome to say
11 that.

12 MR. MORSE: Good afternoon,
13 Representative Mr. Chairman Rukavina, and I have
14 some written comments that we have copies that we
15 are distributing and I gave you the original. My
16 name is Steve Morse, Deputy Commissioner DNR. We
17 have Bill Brice who is director of the Division
18 of Lands and Minerals, the new division in our
19 effort to consolidate and streamline. What I'd
20 like to do today is not read from the comments,
21 but rather submit those for the record and then
22 highlight and summarize from these comments some
23 of the issues we feel are important to the
24 department and to the State as a whole and our
25 role as caretaker of the natural resources in the
1 State of Minnesota. And then, of course, we
2 would be willing to stand for any questions. You
3 had a number of good comments that I've heard
4 this afternoon and many of them are in line with
5 some of the thinking you hear from us. The
6 Department of Natural Resources would like to
7 thank you for giving us this opportunity to
8 provide comments. We believe that this Task
9 Force is timely and highlights the increasingly
10 important and valuable role that aggregate
11 resource management should play in sustaining
12 Minnesota's dynamic economy and good
13 environmental quality. Aggregate resources are
14 considered non-renewable and finite. However,
15 they are generally 90 percent recoverable through
16 recycling. Therefore, it is in the interest of
17 the State to optimize aggregate resources used in
18 long-term sustainable fashion that balances
19 consumption of newly extracted minerals with the
20 reuse of previously mined minerals. This is best

21 achieved by ensuring that incentives are
22 available to both producers and consumers of
23 sand, gravel, and other mineral resources that
24 are consistent with this end. The Task Force can
25 provide considerable leadership in this regard
1 especially in terms of recommending policies that
2 support and guide local governments in the
3 decisions they make in the planning and
4 regulation of aggregate reserves under their
5 jurisdiction.

6 Some of the reasons why we are here
7 providing testimony today primarily would fall
8 under two areas. Number 1 is our responsibility
9 for state land that include aggregate resources
10 in addition to many other natural resources in
11 the State of Minnesota. The second would be our
12 desire and role in providing technical assistance
13 to local governments, industry and citizens in
14 dealing with the aggregate issue. First of all,
15 as a land manager of State lands our challenge
16 here is to balance demand, to provide protections
17 to make sure that the resources are available,
18 the aggregate resources are available and to
19 provide protection for other natural resources.
20 We also have a fiduciary responsibility to school
21 and university trusts and I know that the
22 Chairman is very familiar with that and which we
23 have discussed many times to produce revenues and
24 to generate revenues and aggregates play a role
25 in that. The department uses aggregate resources
1 and sell these resources to local communities.
2 However, the department does not have a complete
3 inventory of these resources. So we have a role
4 here but we really don't have a complete handle
5 on what the resources are on a statewide basis.
6 We anticipate increasing requests for State
7 leases for this aggregate material.

8 In our role of providing technical
9 information some of the highlights I would like
10 to make is that the department provides -- is a
11 source of multiple information for all resources,
12 not just the aggregate resources in the State.
13 Upon request we provide information to local

14 governments for their role as a primary
15 regulatory authority for aggregate mining, and
16 you've had a lot of discussion about that today
17 and in your previous meetings. We also supply
18 information to the public on questions related to
19 mining operations. The department recognizes the
20 local government decisions about natural
21 resources also include complex social and
22 economic issues. When technical expertise on
23 complex natural resource issues such as ground
24 water modeling, blasting is not available --
25 blasting meaning blasting rock -- is not
1 available in local governments, the department
2 wants to be able to provide that assistance and
3 we get those demands periodically and regularly
4 from citizens as well as from local governments
5 for more information. We advocate responsible
6 mining including mine planning and reclamation.
7 By a statute, the department is responsible for
8 providing aggregate resource information to local
9 governments through the aggregate mapping
10 program; however, limited number of counties have
11 been completed because of constraints on funding
12 and staff. We were unable to fill the requests
13 that we get for aggregate mapping.

14 The department formally provides
15 comments through the environmental process for
16 new proposals and expansions that exceed 40 acres
17 for EAWs for environmental assessment worksheet
18 or 160 acres for a full environmental impact
19 statement.

20 We are also an advocate for
21 protecting unique plants and animals including
22 old growth, plant communities and ecologically
23 significant landscaping including native prairie.
24 When the presence of these resources occur with
25 aggregate resources, internal differences often
1 occur that are difficult to solve and create
2 conflicts, not just within the department, but
3 obviously with local governments. Our role in
4 this capacity of providing technical assistance
5 is to help the decision makers at the local level
6 to determine how best to proceed, how best to

7 plan. As we heard in some of the other
8 testimony, land use and planning ahead of time
9 will reduce the problems on the back side.

10 I particularly want to touch on a
11 couple of areas that I summarized but go into a
12 little bit more detail. One is the issue of
13 competing land use and land use planning. What
14 I've heard from the testimony today and in
15 previous discussions is a theme that I guess I've
16 heard over and over again as it relates not just
17 to aggregates but other natural resource issues.
18 The department advocates that natural resource
19 information be considered in local land use
20 planning alongside more traditional needs such as
21 growth profiles, appropriate zoning in unit
22 densities, incompatible uses and transportation
23 requirements. So when we're doing local planning
24 we need to look at the natural resource issues.
25 Aggregates is one of those and the key issue in
1 that regard. There's been a lot of talk about ag
2 preservation and historically that's one of the
3 things that's looked at and aggregate sometimes
4 gets bypassed. What we need to do is make sure
5 that in that local land use planning process,
6 that encouraged that aggregates are taken into
7 account and the good planning for the use and
8 utilization that a resource occurs. Aggregate
9 resources are necessary for the construction,
10 infrastructure, housing and social needs and the
11 costs are driven by their nearness to their
12 market and we've heard a fair amount of
13 discussion about that. In the Metropolitan area
14 I think one of the earlier witness talked about
15 25 million tons. We use a figure of 30 million
16 tons as the need for aggregate in the
17 Metropolitan area. At 24 tons per large tractor
18 trailer type truck, that's a million and a
19 quarter loads of aggregate that's all put on a
20 truck, and the further you go, the bigger impact
21 it has. So the -- not only the direct cost, but
22 the impacts of the community such as we heard
23 from Rosemount and others will be quite high the
24 further you go away from the use in looking for

25 the sources of aggregate. Every effort should be
1 made to utilize the highest quality aggregate
2 resources for as long as practical and if no
3 serious environmental impacts are anticipated,
4 premature conversion of those sites to other uses
5 whether it be housing or even exclusive ag as
6 well as overly burdensome restrictions on their
7 operations during encroaching development in
8 areas are a threat to our aggregate resources.
9 Bottom line is that as we look at planning that
10 is occurring and consistent with some of the
11 other testimony that you've heard, aggregate
12 resources need to be taken into account. Efforts
13 underway that might incorporate aggregate
14 resource elements include local community-based
15 planning and smart growth initiatives that are
16 occurring in the Metropolitan area. Which is
17 saying, let's look down the road, figure out what
18 we're going to need for the future and put it
19 into our plan so that it will be available.

20 Another issue I'd like to touch on
21 is native prairie conservation and protection of
22 rare and endangered species. Aggregate sites
23 often support prairie or other natural
24 communities or rare habitats that have declined
25 statewide as a result of many incompatible land
1 uses. This is a particular concern to the Beach
2 Ridge area of Northwestern Minnesota. The DNR
3 advocates a common-sense approach to protect the
4 native prairies, predicated on the premise that
5 every effort should be made to preserve the best
6 and most significant native prairie while other
7 rare habitats or communities that -- and along
8 with other rare habitats and communities that
9 remain, regardless of the aggregate potential.
10 In all cases where aggregate mining occurs on
11 public land that currently contains prairie
12 vegetation, there should be a mining plan
13 prepared that considers prairie preservation,
14 prairie restoration, mining procedures and
15 reclamation of plans and material. For mining
16 proposals on private lands where native prairie
17 and aggregate resources occur concurrently, an

18 aggregate inventory is recommended as well as
19 possibly a prairie assessment. Again, the
20 important thing to note here is defined where the
21 best resources are for other purposes and then
22 try to do the aggregate mining in other areas,
23 but, again, you're getting an advantage by doing
24 the planning up front and making sure people
25 understand all the resources and then targeting
1 where the aggregates need to be removed.

2 An additional alternative for the
3 protection of the native prairie is located on
4 privately-owned sites is through compensating the
5 landowner and placing the property in public
6 ownership or under protective easement provided
7 that the landowner is willing to sell and funds
8 are available. That, of course, eliminates the
9 environmental review but involves some
10 significant money.

11 Lastly, I'd like to touch on just a
12 few comments about the aggregate material tax.
13 Ten percent of the revenue generated by the tax
14 is allocated to a special reserve fund for
15 restoration of abandoned pits located on public
16 lands within the county that has collected the
17 tax. The DNR endorses the use of the 10 percent
18 reserve funds for reclamation. The reserve fund
19 has particular application in reclaiming
20 abandoned pits. The Division of Lands and
21 Minerals has initiated several cooperative
22 environmental research projects to reclaim
23 abandoned pits on public lands using partnerships
24 with local governments which collect the
25 aggregate material tax industry and conservation
1 groups. A list of sites of public land that
2 should be reclaimed as needed in each county that
3 collects the tax to guide the use of these
4 reserve funds. As I understand it in some
5 counties that have the tax dollars available,
6 there's not a clear list of what public sites can
7 be restored. In addition, other uses of the
8 aggregate materials tax that could be considered
9 by the Task Force include reclamation of sites on
10 private lands and there was a little bit of

11 discussion of that. Secondly, conducting
12 inventory of aggregate resources in conjunction
13 with efforts underway by the county biological
14 survey as a way to assess natural planned
15 communities. So that when communities are doing
16 their local planning, we're doing the work on the
17 biological surveys, we need to have at least as
18 good of information on aggregate resources so you
19 can say, well, these are the areas such as what
20 Rosemount is demonstrating where we should be
21 doing the aggregate mining. And thirdly,
22 consideration of a programmatic approach to rare
23 native plant communities, communities acquisition
24 and/or protection on a priority basis where
25 future gravel resource extraction could threaten
1 these features. In other words, where we could
2 identify some priority areas we should be able to
3 have some tool to say, especially from the
4 private land, some tools to protect those
5 outstanding resources while making the others
6 that are less valuable available for the
7 aggregate purposes. That's as far as I'll go
8 with my prepared comments. Both I and Mr. Brice
9 are here to answer any questions.

10 CHAIRMAN RUKAVINA: Questions of
11 Mr. Morse or Commissioner Brice? Mr. Johnson.

12 MR. JOHNSON: How would a local unit
13 government, county or township access information
14 assistance from the DNR? Water appropriation is a
15 big issue. What would be the best way to get
16 that assistance from the DNR?

17 MR. MORSE: That's an issue that's
18 goes on all around the State as local governments
19 try to determine how to report on a number of
20 issues. What we're trying to do in a number of
21 areas is set up individual contacts that can
22 be -- instead of having to deal with maybe five,
23 six or seven divisions, operating divisions of
24 the DNR, if a local community expresses an
25 interest if they're a planning process or
1 something we will try to set up a liaison of
2 someone who can work locally, a local staff
3 person who can go to the agency and get those

4 resources. It's kind of two-fold. If it's a
5 full-blown planning process we can probably
6 establish someone to work with the group and say
7 you be the contact for the resource. Kind of a
8 one stop shop. If it's a specific issue that you
9 have relative to water, that would go direct to
10 our water folks and they handle the interference
11 and the appropriation permits. I don't know if
12 you want to add to that, though.

13 MR. BRICE: Only to say that if you
14 don't know who to call and you reach the point
15 where you're just kind of out of choices, then
16 you call the Division of Lands and Minerals and
17 we will put you in contact with the right person.
18 There are minerals people assigned to each region
19 of our regions and those people are available to
20 help get contacts. And we often -- if it's an
21 issue where it's a water issue, we'll just get
22 you the right waters person to work with you.

23 MR. JOHNSON: Because of the funding
24 cutbacks like in Northeastern Minnesota we're
25 down one hydrologist. Our major hydrologist Amy
1 Lezel (phonetic) goes from Fish Lake to the
2 Canadian line. There's a limit to how much --
3 are we talking about a need for more resources --

4 MR. MORSE: Being the deputy
5 commissioner of the DNR I'd never say that we
6 have adequate resources and never turn down the
7 chance -- the opportunity to say that we can do
8 more with more resources and I think I point to
9 it in my comment that to do the aggregate mapping
10 we have many more requests than we have staff and
11 resources available to do it. And it's true in
12 many if not all of the divisions where they're
13 being stretched. And quite frankly, we just
14 prioritize. And the challenge that we have is to
15 try and do what we do do well instead of trying
16 to do everything. And we are cutting off some
17 things that we can't do justice to. It's hurting
18 all the way around. There's no doubt about it.

19 SENATOR FOLEY: Mr. Chairman and
20 Senator Morse, on your identifying resources are
21 you prioritizing those that are in developing

22 areas so that by the time we get through with

23 your survey and mapping will we be able to use
24 that information?

25 MR. BRICE: Mr. Chairman, Senator
1 Foley, the legislation that was passed actually
2 tells us to prioritize. There's a group of
3 people that they get together and try to figure
4 out what are the next most important counties.
5 Some of those counties want your help and some of
6 those counties don't necessarily want your help.
7 So on the flip side, we also have a list of
8 counties that are asking for help and we try to
9 match those two groups up and we try to do the
10 next county we can do. Now, there's a lot of
11 counties in Minnesota. We've done four or five
12 counties since the law was passed in the '80s.
13 We're doing about one to one and a half counties
14 a biennium and you can figure out about how many
15 years it will be before we finish the state. It
16 will be 50 or so. So that's kind of the -- it's
17 not a problem of finding a good county to do next
18 that needs the information. It's the fact that
19 we can't possibly do anywhere as much as we ought
20 be doing here.

21 SENATOR FOLEY: Mr. Chairman, what
22 I'm looking at there though is that it seems to
23 me that you -- some of the areas in the
24 Metropolitan area are a high priority because
25 they're just in the path of development. And I
1 guess that I would say that I would somewhat be
2 more willing to ignore those other counties in
3 the Metropolitan area even though there's a need
4 to do it merely because there isn't any way that
5 you are economically are going to mine anything
6 on there.

7 MR. BRICE: Mr. Chairman, Senator
8 Foley, the seven county Metropolitan area is a
9 responsibility of the Metropolitan Council. So
10 those seven counties are not ones that we're
11 looking at. The first two counties we did were
12 Wright and Sherburne County on the north side
13 because of the development corridor going up

14 towards St. Cloud. And then I may have it out of
15 order. I believe the next county we did was Clay
16 County and that was because of the prairie gravel
17 conflict that was going up in that county and so
18 we did that county next. And then more recently
19 we've just completed Blue Earth County because of
20 development -- the pressure down in Mankato area,
21 and we're doing Nickel County just north of that.
22 So we're trying to get counties that both want us
23 and are subject to high development pressures.
24 We have a long list actually of counties who
25 would like us to do their area next but we'll
1 keep trying to prioritize.

2 CHAIRMAN RUKAVINA: Mr. Johnson and
3 Senator Foley both bring up good points and,
4 Commissioner, how far realistically can the DNR
5 stretch itself in all areas? I mean, Mr. Brice
6 came to me a couple of years ago with this
7 legislation. I created this Task Force and
8 rightly so. We've got a problem and a lot of
9 people in this room know that we have a problem.
10 It's like Mr. Johnson said, you've got a lot of
11 different natural resources by your own testimony
12 to protect. Wildlife, native prairie, old
13 growth, and aggregate resources and just by the
14 nature of your testimony right now, Mr. Brice,
15 and the Metropolitan Council is going to be
16 looking at it down here. And when you were a
17 senator, Commissioner, we always had this
18 discussion about what's happening in the
19 Metropolitan area is mind boggling. There's a
20 lot of us in rural Minnesota. Is it the DNR's
21 charge maybe to concentrate on stopping the urban
22 sprawl, just stopping it right now? Tell us like
23 you do in Northern Minnesota on your public land
24 that you're going to take over and tell people
25 what to do as we are often told even on our
1 private land in Northern Minnesota what to do
2 that you're stopping it. You can't do this
3 anymore. You can't develop until we get a plan
4 because things are seriously -- and I'm not going
5 to be facetious here -- things are out of control
6 in the Metro area. The DNR can't be doing its

7 job when I see shopping mall after shopping
8 mall -- I mean, I haven't been out east since --
9 for a long time and when I went out there last
10 year for a Ranger Party at the Prom Center -- a
11 very important part of the legislative session --
12 I was stunned. What used to be ag land when I
13 came here and even seven, eight years ago is
14 nothing by housing and nothing but shopping malls
15 and parking lots, and wouldn't it be better for
16 the DNR to concentrate on that than to develop a
17 new area of protecting our ag resource or to
18 worry if we're cutting white pines down in
19 Northern Minnesota and how old they are?

20 MR. MORSE: It's a good question
21 because what happens to those resources in the
22 Metro area it's not just the seven counties, it's
23 the whole next tier. It's Sherburne, Meeker,
24 Chisago. It's the whole next tier and we need
25 to -- Mr. Bauerly's area. That's certainly an
1 issue for us. That doesn't mean unfortunately
2 that we can drop wholesale other areas such as
3 fish and wildlife and ground water and other
4 areas that we work in but we are cutting back on
5 some areas. I'm sure you saw what happened in
6 some of our park camping this fall. We don't
7 expect more money but we are realistically saying
8 we have this much money and we're going to do
9 what we can to try to do a reasonably good job --
10 actually we want to do better than that -- but we
11 want to do at least a reasonably good job with
12 what we have, but sprawl is an issue and you're
13 certainly not the first person who's said that
14 we're not doing enough particularly in the
15 Metropolitan area, but it's an issue statewide,
16 too, different in every area but it has different
17 impacts.

18 CHAIRMAN RUKAVINA: Shrink is an
19 issue.

20 MR. BRICE: Mr. Chairman, just to
21 add to that, Dr. Southwick's report is going to
22 show you that way more than half the aggregate
23 resources are built on are just not available for
24 the Metro area and the 200 year supply that

25 people predicted back in the early '80s, it's
1 like -- it's a two digit number and it's a small
2 two digit number.

3 CHAIRMAN RUKAVINA: How much of that
4 aggregate has been built on in the last five
5 years?

6 MR. BRICE: Oh, huge amounts. And
7 the data that he has only takes you to 1990. It
8 doesn't take you to 1997 or 8. We're trying to
9 add that to it but it's a really serious problem
10 here in the Metro area.

11 CHAIRMAN RUKAVINA: Any other
12 questions?

13 MR. MORSE: Just one more comment on
14 the issue of what's going on in the Metropolitan
15 area. I really think that people haven't
16 adequately looked at how we couple the land use
17 preservation areas with the aggregate extraction
18 areas. As Senator Foley suggested, they're not
19 totally incompatible. I think there are ways of
20 doing that. As people are planning they look at
21 residential, commercial or developed areas and
22 non-developed areas and they call it
23 non-developed ag line preservation but mineral
24 extraction is not development as far as needing
25 new roads and sewers and the type of
1 infrastructure we think of as housing and
2 commercial development it's more -- it's really
3 more compatible with more of the natural resource
4 based industry like forestry or ag. It belongs
5 out there. And so I think we just look at those
6 non-commercially developed areas as ag land but
7 they're really more than ag land. They're
8 natural resource areas which include aggregates
9 which include forestry which includes ag land and
10 agriculture as well.

11 MR. BRICE: Just to add to that,
12 many people or the cities don't realize just what
13 areas have been mined and the fact that they are
14 now protected uses. Ball parks at Como Park,
15 Bandana Square, the development just east of the
16 University up there where Dayton's outlet store
17 used to be, those are all gravel mines and those

18 are areas that were mined and reclaimed and are
19 useful, very useful as far as the Metropolitan
20 areas is concerned. And there are hundreds of
21 other examples, but those are three that are real
22 close.

23 MS. LARSEN: Mr. Chair, I think this
24 is a very interesting discussion because I just
25 came back from Mankato when you talk about growth
1 and managed growth and resources. It's not just
2 the Metropolitan area and, Representative
3 Rukavina, you wouldn't have had such a wonderful
4 party in my district if we wouldn't have had the
5 Prom Center there for you to come to. But I do
6 think that a lot of this problem is communication
7 between different branches. There is none.
8 There's no communication between the DNR and the
9 local units of government and the developers and
10 all of the different sections that come into play
11 here so I think that might be a future Task
12 Force, Mr. Chair.

13 CHAIRMAN RUKAVINA: Representative
14 Larsen, you know being a strong supporter of
15 private property rights, all that issues get in
16 here. Unfortunately up North we have 65 percent
17 public ownership in St. Louis County, the third
18 largest county in the United States of America
19 and we have no say like you do down here. It's
20 nice in a way; it's great because we have a
21 beautiful area -- and Bob, you were there last
22 week and you saw what we have, but and the other
23 flip side of that is that often times people that
24 don't live there also think what's best for us
25 and sometimes it doesn't work out that way.

1 MS. LARSEN: You know, Mr. Chair, I
2 have to agree with the Commission and I wonder
3 how that feels to sit on that side. It looks
4 pretty good. I think that they are spread fairly
5 thin and so are a lot of other organizations, but
6 there is a miscommunication and the more I go
7 around and the more I see your parts of the State
8 and how beautiful they are, there is a lot to be
9 said for communication. I think we're doing a
10 good job.

11 CHAIRMAN RUKAVINA: Commissioner,
12 thank you.

13 MR. MORSE: Can I just make a note
14 of this that the issue came up of a best
15 management practices for mining and it's a great
16 resource book. It's very popular around the
17 State as well as nationally. It basically
18 provides some guidelines on mining practices and
19 reclamation and Mr. Bauerly may be familiar with
20 it, and it's also being updated to include some
21 of the prairie parts. It's been very, very
22 popular and a good handbook because good
23 practices can eliminate a lot of the problem.
24 Thank you for the opportunity.

25 CHAIRMAN RUKAVINA: Will Branning.

1 MR. BRANNING: Thank you,
2 Mr. Chairman. My name is Will Branning,
3 B-R-A-N-N-I-N-G. I won't spell Will. It's the
4 verb. I'm from Apple Valley and I'm the County
5 Commissioner representing Apple Valley and
6 Rosemount, and earlier you heard some of the
7 issues associated with aggregate in Rosemount.
8 Let me tell you that in 1969 I was elected to the
9 first City Council down in Apple Valley when it
10 was incorporated. Two items were on the Council
11 agenda in the first meeting. One was sand and
12 aggregate and the other was garbage. Those two
13 issues still exist in Apple Valley and other
14 communities as well. They're always at the
15 forefront. What I wanted to do is kind of tell
16 you some of the issues associated with seven
17 gravel operations, operators in Apple Valley
18 starting to my knowledge in '69 and continue to
19 where there is now two aggregate operators in the
20 City of Apple Valley. There is a number of small
21 aggregate operators in Rosemount with a sizeable
22 extension of those in Rosemount to several
23 thousand acres possible aggregate land. Apple
24 Valley has somewhere around six sections, roughly
25 3,000 acres of sand and aggregate. The seven
1 operators operated on areas of 180 acres to
2 1 square mile and then it was consolidated into a
3 single operation where several operators operated

4 on one central mining or processing plant and
5 then occupied about three sections. That tells
6 you some of the scope. The current Apple Valley
7 ordinance that was put together in a partnership
8 with the operators -- it was not done singularly.
9 It was done with DNR. It was done with the
10 Environment Protection Agency. It was done in
11 total partnership to where we had environmental
12 impact statement, the full statement done
13 representing about 3,000 acres, central operating
14 where we're talking about processing somewhere
15 between 3 and 5 million tons of gravel out of
16 that or crushed aggregate out of there annually.
17 The problems exist with that, of course, is
18 development pressures. Development pressures
19 have always existed in the seven county area and
20 Apple Valley is no stranger to that. I was no
21 stranger listening to the aggregate processors
22 and the companies saying protect us. We tried
23 everything in the sense of working with them as
24 well as the neighbored to eliminate the dust.
25 When we'd have a southwest or a northwest wind of
1 40 miles an hour gusts of 40, we could sandblast
2 homes within a half a mile and that happened.
3 But when you consolidated and put it in a central
4 place and you protected your berms equal to the
5 height of the reserves, those problems go away.
6 When you do berming you do all of the scenic
7 kinds of things, those problems go away. Why --
8 what incentive would a city have to do what Apple
9 Valley did? What incentive? There is no
10 incentive. There's no tax incentive at all. If
11 you were offered a gold mine or a gravel mine
12 which would you take? A gold mine undoubtedly is
13 going to take thousands if not million of dollars
14 to drill down and take it and get it, and gravel
15 it's there for the taking. But there is no
16 incentive in the local units of government to
17 allow it to happen. So development pressures
18 force gravel operators out very quickly, just as
19 well as the gravel operators see the economics of
20 it. If you're mining a 360 or a 640-acre gravel
21 pit and the development pressures when you
22 acquired that land might have been somewhere

23 around 50-cents a square foot, now you find then
24 somewhere around \$6 a square foot, doesn't take
25 much economic sense to say we're going to give it
1 up and go away. Now, if you've taken six
2 operatives as it is in Apple Valley, I think it's
3 four operatives operating out of one, they have a
4 lease arrangement by which they all share this
5 one operation. If three of them decide to quit
6 they can force the fourth to dissolve and it goes
7 away. Economically it's not at loss to them
8 because they aren't going to recover some kind of
9 land use whether it's commercial, housing, high
10 density, whatever kind of use. And the City
11 Councils are not opposed to that because of the
12 continued nuisance of gravel trucks. I think it
13 was about a week to ten days ago one of the
14 gravel trucks along Cedar Avenue and 77 left the
15 bottom -- belly dumper open and gravel and Cedar
16 Avenue for at least four miles. So we do get a
17 taste of it. We get lots of it. But we need
18 some incentives in the city. We need some
19 incentives in the county. There is a county
20 authorized tax. That authorized tax is
21 designated for road and bridge and county roads.
22 Now, that was fine for townships because they're
23 a part of it. The counties generally pay full
24 reimbursement for township roads and most
25 counties that I know. But in cities there is
1 none. There isn't any reimbursement for city
2 streets. There is no reimbursement for county
3 turn backs when the county turns back roads to
4 the cities. So there's a full burden on the
5 cities on behalf of repairing roads, repairing
6 streets, cleaning up dust, cleaning up whatever.
7 So I guess -- and there's no burden on the gravel
8 operators miners in the sense of tax. That's a
9 pass off. As long as it's fair and level playing
10 field. So somehow we need to have the aggregate
11 be a part of the incentive for municipalities,
12 cities, townships to -- and the residents are
13 there because they're the ones who are going to
14 bear the burden to say that there is some sharing
15 in it. And that's the incentive that we need to
16 do. We should have done it when we had it in '84

17 the county. But we kind of did it in light of
18 trying to look at the outstate gravel opportunity
19 as opposed to the seven county. Maple Grove
20 wouldn't be Maple Grove today as you see it today
21 had it not been for reclamation. Apple Valley's
22 Market Square would not be Apple Valley's Market
23 Square if it hadn't been for reclamation. And if
24 all of those were part of the programs and
25 they're very well done because they're done by
1 partnerships. So we see an awful lot of good
2 working relationships between the miners, the
3 operators, and the cities when they put together
4 the end use plan. And it's good because Apple
5 Valley has now what we call a 25-acre reclamation
6 program. You can only open up 25 acres if you
7 close 25 acres. If you can build new homes in
8 your communities and keep it going for the next
9 75 years that's a pretty good deal.

10 SENATOR FOLEY: Mr. Chairman.

11 CHAIRMAN RUKAVINA: Senator.

12 SENATOR FOLEY: Just a question on
13 that. It strikes me that that really isn't a
14 good deal. That developer comes in there and
15 he's not paying any of the impact costs of that
16 development. And Apple Valley -- you're talking
17 about Apple Valley being developed, fully
18 developed now and much of the residential
19 property isn't paying for the costs that they
20 incur let alone the other part of it. And they
21 certainly aren't paying the cost that the rest of
22 us have paid for in sewage and highway systems
23 and transit and all of that other, so I don't see
24 where you're coming from in that situation. I
25 think that you should be thinking about putting
1 the true cost of developing those lands out there
2 in Rosemount and what remains of Apple Valley and
3 so forth so it would reduce the amount of sprawl
4 that we're faced with. To my look here, is I
5 looked and I see development with some gaps like
6 you've got there in Rosemount all the way to
7 Rochester and all the way to Mankato and all the
8 way to St. Cloud on the north and down to Mankato
9 on the westerly side or southwesterly side. So
10 really we're not penalizing the developer, but

11 we're penalizing the people, the aggregate group
12 that might be willing to stay there and mine
13 that. So I'd like your thoughts on how you see
14 that moving forward.

15 MR. BRANNING: Senator Foley,
16 there's a lot of thoughts about how you pass on
17 the cost and who bears the burden. Most
18 municipalities do what we call a population cost
19 per citizen. So costs are passed on in light of
20 that. Dakota County was very proud to have its
21 tax based policy which passes on cost at the rate
22 of cost per citizen. So when you start something
23 every citizen is going to pay a certain part of
24 that particular cost. The cities municipalities
25 have no way -- there isn't a way for the City to
1 pass on any costs of a gravel operation who
2 puts -- as I just mentioned -- a few ton of
3 gravel on the road. The City pays that and the
4 homeowners that get taxed pay that part. There's
5 no, other than the truck license tax and now the
6 county tax for roads which is a real question
7 about how much of that pays its way. I don't
8 know that. I do know that we try in
9 municipalities and I sure did when I was spending
10 14 years as mayor and 11 years as council member
11 and now 3 years as county commissioner a way of
12 doing it fairly, working together with all
13 agencies so we don't charge somebody up front for
14 the cost. We never did in the City. All the
15 trunk sewer charges, all the lateral sewer
16 charges were all a life time program and we put
17 that into the population base so when new people
18 came on board they paid the same burden that the
19 people that originally came. So there's a
20 programmed way of doing those. Every street in
21 Apple Valley has a 13 year life time so there's
22 an overlay every 13 years so you see new streets
23 all the time. There's no surprise in doing that
24 kind of thing. I don't know if that answers your
25 question. The problem we have in aggregate is it
1 is a valuable resource. And only those parties
2 that sit on that resource or owners of it seem to
3 be recovering the total benefit of it. If you
4 take that gravel out it disappears and that is

5 sold. It's sold in concrete. It's sold in
6 whatever and it's gone. So the owner of that
7 resource, the owner of the land of that resource
8 is the total benefactor of that resource. No one
9 else gets any benefit. You say well, it's passed
10 on to the homeowner or it's passed on to the
11 large office building -- the concrete in it.
12 Maybe it is. I don't know that. I'm not sure
13 that there is an economic base five miles or
14 fifty miles away when I drive from here to
15 Moorhead or here to Fargo, whichever. I see an
16 awful lot of aggregate trucks on the road going
17 back and forth. I'm not sure that distance saves
18 dollars. I think it's somewhere around \$60 a
19 yard now or something like that. We used to buy
20 it for 11 or 10 as I recall. So if I answered
21 your question and since there is no real benefit
22 to the communities and maybe we should not allow
23 the community to have any incentive to keep
24 aggregate. Then it's just going to go away. The
25 aggregate resource will go away very fast. Apple
1 Valley has about two and a half square miles of
2 aggregate and if those three operators don't come
3 to terms or four and three go out, the fourth one
4 goes out, that aggregate will go away in six
5 months and there's two and a half sections of it
6 left.

7 SENATOR FOLEY: I would agree with
8 you that there is a need to provide some
9 incentive to mine that to make all of the better
10 use of the land. I certainly am not against
11 that. I just think that part of that issue is
12 that if you aren't careful you allow the
13 development before the mining had occurred and
14 that's a major part of it and it's too easy for
15 that property owner to -- if you can't mine it
16 you just develop it in housing or commercial or
17 whatever it is and that's what I think is wrong.

18 MR. BRANNING: Senator, I agree
19 whole-heartedly. I think when a decision is made
20 that a community whether it be Rosemount or their
21 predecessor in Apple Valley as I was there, when
22 the decision was made to continue and expand and
23 allow for aggregate mining, then there ought to

24 be incentives to retain that. So if you take
25 that away, the City is going to have to
1 compensate for that -- if we use tax as a base --
2 and I'll just use it as an incentive. Let's say
3 there's several million dollars worth of tax
4 coming to the City gravel operators per year. If
5 the City were to get rid of that, they would have
6 to come up with several million dollars of taxes
7 if they'd have to go back to the citizens and tax
8 them and that isn't going to happen too quick.
9 That will not happen when the elected officials
10 have to be back and tax local communities to make
11 up for removing something that's already paying
12 tax.

13 CHAIRMAN RUKAVINA: I have to say
14 though that I'm kind of puzzled, too, by some of
15 your comments because if you have a large gravel
16 operation it certainly can be zoned commercial CI
17 property. And CI property pays -- and then it's
18 under our laws we passed here recently on best
19 and whatever use it is and so you can say the
20 going price of residential property is worth so
21 much a square foot and then tax it at what is the
22 commercial rate now, two and a quarter, the
23 effective rate? It depends on the size. But
24 it's paying three times the taxes as your local
25 residence homestead plus the jobs that are
1 provided. Where I come from we still think -- we
2 might be dinosaurs. We think this information
3 age is a bunch of BS. We still think that all
4 wealth comes from the land. And when you take
5 gravel out of the ground or mine minerals, iron
6 ore or trees or you farm and create food from
7 soil, that's where all the base is, for all taxes
8 and all jobs. And you people in the cities --
9 some people seem to be forgetting this. When we
10 were in Minneapolis I was astounded that people
11 representing the City Council want to get rid of
12 the industrial nature of the Mississippi River,
13 what built that city. It astounds me because
14 tourism isn't just going to do it. And
15 information, if nobody can afford it, isn't worth
16 anything. If nobody can afford to buy a
17 computer, information isn't worth anything. So I

18 think that these gravel pits -- that's what we
19 call them up north -- if they're not there
20 providing that -- those home can't be built
21 unless there's a gravel pit. Where are we going
22 to get gravel from? I hope -- if I had my way I
23 would write the state law this way. No more
24 gravel pits in the seven county Metro area, got
25 to buy it from the mines up north so then we can
1 tax it more. We get the money up north. That's
2 the way I'd do it. But I can't win that one.
3 Where did you propose then? I understand that
4 you're saying you want a little piece of the
5 action. But you're a county commissioner and you
6 have that right now. Do you want that aggregate
7 tax increased to above 10 cents or do you want
8 to -- it's up to you.

9 MR. BRANNING: Mr. Chair, that's a
10 pass on cost.

11 CHAIRMAN RUKAVINA: All consumer
12 taxes are passed on.

13 MR. BRANNING: My knowledge of
14 gravel operations and gravel operators and owners
15 of operators know as the pits is that if it's
16 done on a level playing field that's not a
17 problem. It's when it's done by one city or
18 another city different than it's -- and right now
19 the county is limited to what it can do with it
20 and we've got a whole county full of county roads
21 and township roads and we've got to pay for it.
22 So when you look at two cities out of it,
23 Rosemount and Apple Valley are the principal.
24 Burnsville has the part of the county that has
25 the Minnesota River basin aggregate now. It's
1 pretty much where the aggregate is contained. It
2 was at one time a sizeable entity west of 35W on
3 County Road 42. There was a large gravel
4 operation there. But those are pretty much where
5 we're at right now in the county. But we want to
6 encourage Rosemount -- and I say encourage, we
7 want to. We as a whole state want to encourage
8 Rosemount to retain aggregate mining in the City
9 of Rosemount in the land preservation we have to
10 provide them with some kind of incentive to do
11 it.

12 CHAIRMAN RUKAVINA: Above an
13 beyond --
14 MR. BRANNING: Above and beyond what
15 we have.
16 CHAIRMAN RUKAVINA: And you also
17 feel that the use of that tax for the county
18 purpose or the township or city should be opened
19 up to more than what is allowable under statute?
20 MR. BRANNING: I believe so and I
21 have not done the scrutiny of what is the actual
22 cost of doing the roads and when you tear up
23 roads with heavy trucks and if you got to provide
24 year round service to concrete and aggregate and
25 sand because they have to be on the road 12
1 months out of the year, you're tearing them up
2 when you really should put weight limits or load
3 limits on them, and you really need that kind of
4 funds to fund the reclamation of some of the
5 rural community roads. And so without looking at
6 the dollars and the sense I can't speak to that,
7 but I can tell you that we need some incentives
8 for the City. Apple Valley has received zero
9 dollars tax wise and Rosemount as well on
10 aggregate mining.
11 SENATOR FOLEY: One of the issues
12 that you look at -- and when it comes to mining
13 you raised that earlier, it's kind of like the
14 people that come to the airport and built
15 adjacent to the airport and then they complain
16 about the fact that there's noise there when the
17 noise was there when they built or when they
18 purchased that house and the same in your
19 development areas. I noticed that even in Maple
20 Grove that there was a big concern or they
21 reclaimed the land and they turned and started
22 developing it, and as they developed the people
23 complained that it was too noisy or too dusty or
24 something else. And I don't believe that that
25 individual has that right to complain if you come
1 to the action after it occurs.
2 MR. BRANNING: You always have the
3 right to complain.
4 CHAIRMAN RUKAVINA: Thank you very
5 much for your testimony. Finally we have *[editorial addition] a citizen from Meeker*

6 County. Welcome to the Committee.
7 [editorial addition] CITIZEN: Ellsworth Township is
8 where I reside. I'm not an officer of the Board
9 or anything. I have a farm out in Ellsworth
10 Township and the farm is in an A1 farming
11 community and Meeker County is where Ellsworth
12 Township resides. And Meeker County is now
13 looking at renovation of their land use plan. So
14 my assumption is this may be a part of it because
15 I continue to send information and attend the
16 meetings. But my request is fairly simple in
17 that it's very difficult to get my county to
18 accept the fact that a gravel or an aggregate tax
19 is a very important issue for us. And so I know
20 that it's on a county basis and I would like you
21 to entertain the fact of having it a blank tax
22 for every county in the State of Minnesota. I
23 know it sounds pretty crazy but for two or three
24 years, I've been trying to work with individuals
25 and we're at counterpurposes in that the Meeker
1 County employees and engineers and those kinds of
2 individuals it's very advantageous for them not
3 to have to have gravel tax, because, of course,
4 Meeker County, the gravel comes from those pits
5 and the town -- the county benefits from that.
6 So to have a tax added on there's a concern it
7 would elevate the cost of the aggregate which it
8 probably wouldn't but they aren't interested in
9 doing any comparison studies. So the first time
10 I went to a township board meeting I thought that
11 what they had on the blackboard in our school
12 that had been converted to our town hall was that
13 it was somebody's income for the year or less
14 because our road maintenance and road
15 construction was at about a \$60,000 amount which
16 had to cover the whole township. So, of course,
17 everyone was very interested in the township in
18 references to gravel packs and that it would
19 allow us to work on roads. It would allow us
20 some bridge money and demand some reclamation of
21 pits that are opened by farmers and not continued
22 as maybe a small amount is taken out every once
23 in a while just to maintain the classification of
24 the pit. So it's very difficult and I have

25 worked with many of the neighbors, the farmers
1 that neighbor my farm and we're all concerned.
2 We really are, but it seems as though it's
3 difficult for a group of individuals to go
4 forward to get an aggregate tax put on and so it
5 just is -- when the township individuals meet and
6 are informed then the township Board has some
7 problems so then we have to go up against the
8 Meeker county commissioners and they're usually
9 at odds with any kind of added tax. And we're
10 talking about in an area of 160 acres now going
11 into aggregate production along with reclamation
12 of asphalt at the same place. So now we're
13 looking at a plant when most of the individuals
14 that live in that community -- about 90 some
15 percent of the individuals are farmers. And so
16 now we have an industry coming into an aggregate
17 area and we really don't know how to challenge
18 them, and that we just signed a seven year permit
19 for aggregate production to be done at a 180-acre
20 aggregate plant. So it's an issue I think that's
21 little bit too difficult for individuals who live
22 one person for every couple hundred acres and
23 there isn't a plan to help us see through this
24 and so we have pits that are never closed and
25 remain open and become garbage dumps and places
1 where kids four-wheel drive, and so it's negative
2 recreational activities.

3 CHAIRMAN RUKAVINA: How many pits
4 are there in Ellsworth Township; do you know?

5 *[editorial addition]* CITIZEN: No, I don't have that
6 number but there are a number of them because
7 it's the pot hole region of Minnesota so it has a
8 large percentage of potential aggregate
9 opportunities and they're growing everyday.

10 Three or four new ones opened this year. I know
11 that an 80-acre farm opened next door to me -- I
12 mean it was converted -- took away being a farm
13 and the top soil, that my assumption was that
14 would be reserve for reclamation as been sold.

15 CHAIRMAN RUKAVINA: And does your
16 township board support the tax?

17 *[editorial addition]* CITIZEN: They didn't
18 understand. They get this seven year permit and

19 then they say, yeah, well, we'll make sure we
20 don't drive on too many of your gravel roads
21 and --

22 CHAIRMAN RUKAVINA: But do they
23 support a tax as a Township Board?

24 *[editorial addition]* CITIZEN: Yes, as a Township
25 Board but it's difficult to get it through the
1 County Commission because of all the aggregate.

2 CHAIRMAN RUKAVINA: And that has
3 been an issue.

4 *[editorial addition]* CITIZEN: I think it's an issue
5 and I think it's a broad-based issue. I don't
6 think it's just Meeker County. I think there are
7 a number of small townships and counties that
8 really -- it's difficult. This tends to be big
9 business coming in. It's no longer my
10 neighborhood, the small pit that they take it out
11 of. Now we have another company that opened an
12 aggregate -- opened a pit right next to another
13 one that was in existence. And so none of the
14 laws seem to -- we don't have any concerns with
15 air pollution even though we'll have a plant to
16 convert asphalt back to a usable form. We don't
17 understand how you challenge big business when
18 we're all just farmers. We're not thinking about
19 who controls the air pollution, who worries about
20 the water contamination.

21 SENATOR DILLE: I think what you're
22 saying is this. I think what you're saying is it
23 may be tough for county commissioners to raise a
24 tax because they're very close to the people.
25 It's a lot easier if Representative Rukavina and
1 myself raise it down here in St. Paul for them.

2 *[editorial addition]* CITIZEN: Right, so it's sort of
3 better for us. It slips through too easily and
4 then the damage is done. Then later to come back
5 and rectify that never seems to happen. So you
6 have these pits with trash and really some
7 negative behaviors happening in them, plus it's
8 very ugly. It's a big eye sore.

9 CHAIRMAN RUKAVINA: One of the
10 issues we have discussed on the Committee has
11 been whether local control or state control or
12 regional control. We discussed it today and that

13 is one of the things we'll be discussing.
14 Senator.
15 SENATOR DILLE: Mr. Chair and
16 members, just one other point. *[editorial addition]* The citizen lives in
17 Ellsworth Township and that is an amazing
18 township in terms of lakes and beauty and so
19 forth. There's a tremendous number of gravel
20 pits, especially old ones that haven't been
21 properly closed and they are kind of eye sores as
22 you drive around. I think that's part of your
23 concern, too?
24 *[editorial addition]* CITIZEN: Uh-huh.
25 CHAIRMAN RUKAVINA: And the tax if
1 imposed by the county right now they can use it.
2 *[editorial addition]* CITIZEN: Right. And they can
3 also start using some of that money to really
4 address the road issues because it's the pot hole
5 region which means that it's at the end of the
6 till plain so it has lakes every other mile and
7 it's in a real aggregate base so it is something
8 that looks -- if you have an 80-acre farm and you
9 can sell it for \$2000 an acre or more, farmland
10 goes quickly. Even if it's A1 farm it still can
11 be used for aggregate which is really a catch 22
12 for any farmland there.
13 CHAIRMAN RUKAVINA: Do you think
14 that the recommendation of allowing local units
15 of government to the township level to impose
16 this tax would be --
17 *[editorial addition]* CITIZEN: Let the township do
18 it, you mean and not have it through the county,

19 collected through the county? I think that would
20 be excellent because that's a much more -- I just
21 really wanted to say it because it's been
22 difficult and my neighbors have really struggled
23 with it and our county commissioners are very
24 interested and my home is 3.1 tenth of a mile.
25 They have some standard about how far they inform
1 people that they're going to put a new gravel
2 pit. And even though I can see it from my
3 kitchen window, I'm like a tenth of something of
4 it, and I'm the only person that lives there
5 because it's not a very densely populated area

6 and I was not given notice to come to a meeting
7 to talk about the pit. So we are really at odds
8 and we're not building good partnerships and I
9 believe what you say, aggregate -- it's a
10 commodity and it can be, but we have to build
11 good partnerships and good relationships and
12 there's no reason that any of these individuals
13 opening these pits have to and all they have to
14 do is just go to a town meeting with four people
15 and they sign a seven years permit to do anything
16 they want and the land is changed forever.

17 CHAIRMAN RUKAVINA: Any questions?
18 I really appreciate you coming up here to talk to
19 us. You did a great job.

20 *[editorial addition]* CITIZEN: I really am new to
21 this whole thing.

22 CHAIRMAN RUKAVINA: We thank you for
23 coming. We're going to take your terms under
24 consideration. We're going to recess until 7:00.
25 (Whereupon the hearing was recessed
1 until 7:00 p.m.)
2 ***
3 (Whereupon the hearing was
4 reconvened at 7:10 p.m.)

5 CHAIRMAN RUKAVINA: I'll call the
6 meeting back to order.

7 MR. MURRAY: My name is Jack Murray
8 and I'm a commissioner in Becker County,
9 Minnesota, Detroit Lakes. We're the first county
10 east of Lake County, Fargo, Moorhead. We started
11 travel seriously about five years ago and we have
12 a full county zoning plan so we set a travel
13 restoration plan in place for the places that we
14 opened but that didn't cover the old pits. So
15 far that's working good. The majority of our
16 aggregate is leaving our county and a large
17 number a train a night leaves the state. And
18 this presents us with some pretty good size
19 problems and, of course, it won't be long at the
20 rate they're going. We have two major producers
21 of gravel and they're shipping it out at a rapid
22 rate, we'll be in the same position as Clay
23 County is and they'll be moving through us down
24 the road and farther into the state. We have

25 problems with restoration because we have a lot
1 of old pits and tax forfeit pits. And while
2 we're bringing in that at 10 percent of the
3 gravel tax it isn't enough for the pit
4 restoration at the rate that we need it. But I
5 have an idea and I haven't heard it tossed out
6 before. In two weeks I'm going bird hunting in
7 North Dakota and I will pay a very hearty fee
8 because I'm a Minnesota resident to buy a bird
9 license in North Dakota. I personally -- and our
10 Board doesn't have a problem raising taxes -- but
11 I'd like to have you people think about an out of
12 state tax. If you're going to ship gravel out of
13 the state is there any reason why we can't tax it
14 heavier? It's just a thought. But if the
15 boarder counties like we are, are producing a lot
16 of gravel for other parts of our country and once
17 it leaves the state it's gone and we get one
18 little shot at it so I would submit that you
19 entertain the thought of a nonresident gravel tax
20 so to speak. And I'm not being facetious. It
21 just seems to me like something that might be
22 worth thinking about and I know that
23 representative Westfall knows what happened to
24 Clay County and they're short and they're out of
25 gravel. So it's a thought. We don't have the
1 same problems you're having down here. We do
2 have our own things. Thank you.

3 CHAIRMAN RUKAVINA: Welcome
4 Commissioner. Thank you. Now, how long have you
5 imposed the tax?

6 MR. MURRAY: We've had the tax since
7 it was -- we were one of the original counties.
8 I think there's 13 or 15 or something originally
9 and it was back during the time of Representative
10 Jim Evans probably 20 years ago, but we have had
11 the tax right along. And we give our townships
12 the 30 percent and we take the 60 and the 10 goes
13 in restoration.

14 CHAIRMAN RUKAVINA: And that
15 10 percent is not enough. But there's nothing
16 that prohibits you from using your other 60 that
17 you get for restoration.

18 MR. MURRAY: No. Except that

19 unfortunately our roads are taking a beating
20 because while we send a truck a night out, or a
21 train, we have truck trains leaving all the time
22 and the township and the county both are building
23 roads to handle it. But the county -- counties
24 don't build tents on roads in rural Minnesota
25 very often. We have to to get out of the gravel
1 pits.

2 CHAIRMAN RUKAVINA: Do you impose
3 any kind of zoning restoration requirements or
4 are these older pits that were --

5 MR. MURRAY: Zoning restoration
6 requirements are on anything that starts new but
7 we don't have -- we didn't figure out how to
8 grandfather and collect from the ones that are
9 old. And the three major pits that they're
10 taking out of now and will until they're empty
11 are all pits that are rural pits, disbanded.

12 CHAIRMAN RUKAVINA: It's a unique
13 suggestion, one that I don't have a problem with
14 personally. We used to do that with iron ore,
15 too, but now when it come in from Europe and Asia
16 at less than what it costs to make it, it's
17 pretty hard to impose a tax on that.
18 Representative Westfall.

19 MR. WESTFALL: Well, I think that
20 it's not only Becker County, you go anywhere
21 around the St. Cloud area and they're shipping a
22 train that they believe it's going out in the
23 railroad -- for railroad bed and that and other
24 uses, too. Maybe it's more than a train a day
25 that goes out there, and like the commissioner
1 says, you can stand in Rula, (phonetic) which
2 most of you probably haven't heard of, but it's a
3 little town and it's the home of the Labor Day
4 Steam Trashing Reunion. And I don't know how
5 many thousands of people, 70,000 or so come in
6 there on a weekend for Labor Day, but you stand
7 in Rula and it's just like a train of trucks
8 going both ways hauling out of -- that's coming
9 out of -- that might be Clay County, I think, but
10 some of it is on the border, but nevertheless
11 it's -- and they're looking at opening up new
12 pits and a lot of that is going -- like you

13 say -- it's going into North Dakota and that's
14 where it went from Clay County and you go to
15 Halma which is another town that probably doesn't
16 ring a bell but I've lived in that area and all
17 of the gravel that was built, the Grand Forks Air
18 Force Base came out of the Halma pit was very --
19 and that's many years ago now but it's all gone
20 out of state and we've lost a lot and I guess I
21 personally don't have a problem with that out of
22 state tax. I think that's kind of unique and
23 something that should be looked at.

24 CHAIRMAN RUKAVINA: All right.
25 Thank you very much. I think we'll have then Jon
1 Schumacher first. Welcome to the Committee.

2 MR. SCHUMACHER: Thank you. My name
3 is Jon Schumacher. Actually I have a couple of
4 questions and a couple of comments. I'd like to
5 make a comment on the previous statement which is
6 if the aggregate operators are shipping a lot of
7 the aggregate out of the state and the state is
8 worried about the amount of aggregate that they
9 have, isn't there a way to further limit the
10 amount of aggregate that goes out of the state
11 and come up with a way to say, look, we're
12 projecting uses of "x" and that is what this
13 Commission is finding and therefore, we have to
14 somehow make sure that our state uses its own
15 natural resources within its boundaries and isn't
16 just shipping all of the aggregate out to a
17 neighboring state that doesn't happen to have the
18 type of limestone or other aggregates that the
19 State of Minnesota has. Just a little thought
20 for thought. I know that on an international
21 basis you can do a lot of different things to
22 control imports and exports. I don't see why the
23 state couldn't do that with something that
24 they're concerned about. I'm here as a
25 representative of SAVE and we're a group that was
1 formed to oppose a proposed 960-acre facility
2 near Cannon Falls. And it has been proposed by
3 Kraemer and Sons and it would be a 600-acre
4 operational pit with going to a depth of 250 feet
5 near some of the most pristine water ways in the
6 state. And within 50 feet of the Jordon aquifer

7 which the City of Cannon Falls and others are
8 getting their water. They're definitely going to
9 create problems in the area with spring fed trout
10 streams, etc. But the one big issue that I found
11 in following this whole thing is the fact that
12 the Metropolitan Council has gone and looked very
13 hard at preserving the agricultural lands
14 throughout the State of Minnesota and especially
15 in the seven county Metropolitan area. But the
16 one thing that continues to come up is even
17 though the Met Council is looking to preserve
18 agricultural lands and this company has found
19 this mother load so to say, the land that they're
20 proposing to take over for this facility is rated
21 9 on a scale of minus 5 to plus 9 for
22 agricultural property. And I think that as this
23 Task Force reviews what's going on in this state
24 with its needs for aggregate and materials
25 continue building at the pace that it's building
1 at, there's a lot of other things that come into
2 place, especially in the seven county
3 Metropolitan area and I just wanted to bring a
4 few of these things up and I wanted to ask the
5 question if -- and forgive me. I did not get the
6 chance to print off the member list from the web
7 site before I came up. And I think that there
8 has to be considerations for some of the other
9 things related to the size of some of these
10 facilities and the operators that want to come in
11 and build these facilities. Now I know that a
12 lot of the townships and Kraemer and Sons has
13 proposed two other sites, one 600 acres in
14 Waterford Township and another of over 600 acres
15 in Welch Township. So here's one company that's
16 come in and proposing to build these massive
17 sites and if you ask them the question where can
18 I see a facility of that size, they will tell you
19 to go to the Iron Range. But they want to put
20 this within the seven county Metropolitan area.
21 And I'd like to ask the Commission if they're
22 aware of this proposed facility or all three of
23 these proposed facilities what their thoughts are
24 on the size of magnitude of these types of
25 facilities within the seven county Metropolitan

1 area?

2 CHAIRMAN RUKAVINA: Members, anyone
3 aware of it?

4 MS. LARSEN: I wasn't aware of it,
5 no.

6 CHAIRMAN RUKAVINA: We've seen some
7 big operations, sir, in the Metropolitan area and
8 even as small as what I would call mines, the
9 limestone mines out there. Nothing certainly on
10 the magnitude that I see going on everyday up in
11 my district, but I don't think we're aware of
12 specific and that's not -- the charge of this
13 Committee is to take ideas and try to look at
14 some suggestions as to what we can do because we
15 know that there is going to be a short fall of
16 material.

17 MR. SCHUMACHER: I understand in
18 making you aware of this proposed facility, the
19 one thing that I'd like to say is the lawyer for
20 Kraemer and Sons at a township meeting made the
21 statement that this proposed site should be
22 compared to the site in Apple Valley which was
23 owned by Fisher originally which was a gravel
24 pit. It is now a site where there's the largest
25 Menards store in the state. And to me if you can
1 mine aggregate and you can utilize it then for
2 development later on, that's great. What we have
3 been looking at as residents of the area is there
4 are many, many hills throughout the State of
5 Minnesota that are limestone, and if you take a
6 hill down and you return top soil, after you've
7 taken that hill down you at least have something
8 that continues to be usable from the standpoint
9 of agricultural land. If you dig a 250-foot deep
10 hole in the ground that's 600 acres in size, all
11 you've done is created a giant pool of stagnant
12 water that it's been proven that you can't even
13 raise fish in commercially. So I think that some
14 of the things that need to be considered by a
15 Committee such as yours is the fact that when we
16 mine aggregates in this state we have to look at
17 those issues. I bring this up from a unique
18 perspective. I just moved back here after 16
19 years in Colorado. And you'd be amazed at the

20 problems created by simply opening up the commona
21 and letting people go and mine what they wanted
22 to mine and the damages that have been done in
23 that state whether for aggregate or ore. And
24 they have some of the worst superfund clean up
25 sites in the nation because of the approach that
1 was taken. So I think that you have to look at
2 some of these issues and you have to think about
3 the preservation of our natural resources when
4 you look at, okay, we need to preserve aggregate.
5 We need to make sure that we can get to it so
6 that we have supplies for the State, but let's
7 not do it in such a way as to potentially ruin
8 the lands for future generations or the resources
9 of water for those generations. I just pray that
10 you keep that in mind as you're studying through
11 this process, and if you're not aware of some of
12 these proposals and the magnitude that you look
13 at not only the proposals, but you look at the
14 background of some of these companies that are
15 proposing to mine at such a great magnitude and
16 the fact that they have been fined for illegal
17 transportation and storage of hazardous wastes
18 and there's just a myriad of issues and I think
19 that if the state is going to look at mining and
20 look at preserving aggregate, they should also
21 look very hard at regulating the mining industry
22 tighter than they're regulating it today.

23 CHAIRMAN RUKAVINA: Representative
24 Larsen and then Mr. Johnson.

25 MS. LARSEN: I was just curious,
1 what does SAVE stand for?

2 MR. SCHUMACHER: SAVE stands for
3 save agriculture property values and our
4 environment in the Cannon Valley.

5 MS. LARSEN: And what county is the
6 Cannon Valley in?

7 MR. SCHUMACHER: Dakota County. The
8 other thing that's unique is this proposed
9 facility happens to lie right on the border of
10 Goodhue County and Dakota County.

11 MS. LARSEN: Would it cross between
12 the two counties?

13 MR. SCHUMACHER: It would not.

14 MS. LARSEN: Would you be objecting
15 so much if this mining was done in smaller
16 segments? I know there's a mine in my district
17 that the county approves one small section at a
18 time. It does a section and then it moves to
19 another section and that way they ensure that all
20 the regulations are being met and that they're
21 doing good mining before they move forward,
22 before they give them new land to take.

23 MR. SCHUMACHER: My response to that
24 would be probably in two parts. I don't feel
25 that -- and this is through -- this is partially
1 a personal opinion and it's partially through
2 research in dealing with water rights issues in
3 the State of Colorado where nobody owns the water
4 but the cities, etc. The problem is when you go
5 into limestone such as the limestone in this
6 area, it's some of the fastest flowing strata in
7 the State of Minnesota. We have had the
8 University of Minnesota provide us information on
9 the type of strata in this area. And the mining
10 company has admitted that what it creates is a
11 centralized source of pollution. In other words,
12 if something is polluted, it's that much close to
13 the aquifer and if it's in a fast flowing strata
14 it's that much easier for it to reach the
15 aquifer. The aquifer I'm speaking of is the
16 Jordon aquifer. They plan on going through the
17 Prairie Duchene. (phonetic) They're going to go
18 all the way through the Prairie Duchene and
19 dewater the Prairie Duchene which will effect for
20 miles around agricultural wells, springs, etc.

21 So I don't understand how you can
22 control it and allow it to go to that kind of a
23 depth without very adverse risk. Now, if it were
24 a situation again where there's limestone bluffs
25 all over the state, especially when you get to
1 some of these kinds of areas, and if there were a
2 way to take the limestone bluff down and make the
3 land usable at a later date, that would be
4 different than a hole in the ground. If you're
5 going to allow a hole to go into the ground,
6 doing it in smaller segments I think is very
7 necessary and being able to control it year to

8 year. I think that's what a lot of the townships
9 have been doing, Empire Township and others have
10 already started to do those kinds of things, but
11 the problem that I see with it is you have to
12 somehow regulate the depth at which they can even
13 take the facility in order to continue to have a
14 solid buffer between the mine and the aquifer
15 itself.

16 MS. LARSEN: And what kind of
17 feedback have they gotten from your County Board?

18 MR. SCHUMACHER: It is actually the
19 Township Board that is responsible. This is in
20 Douglas Township. At this time the township has
21 passed a moratorium against any future mining and
22 they are in the process of studying their land
23 use ordinances. At this point it is a land use
24 issue that the township is struggling with, and
25 they are working very hard and very diligently.

1 They are using Dean Johnson of Resource
2 Strategies as a consultant as they go through
3 this process. In the area -- I will tell you
4 that 98 percent of the property owners within the
5 area are against this facility. And I think that
6 one of the biggest reasons is the magnitude, the
7 size. It's phenomenal that someone would come in
8 and propose this kind of a facility. I'm floored
9 by it.

10 CHAIRMAN RUKAVINA: Mr. Johnson.

11 MR. JOHNSON: Where in the state
12 environmental review process is this project and
13 what are your views of the environmental review
14 process?

15 MR. SCHUMACHER: Due to the
16 moratorium it is not in the environmental review
17 process. And because it is a land use issue and
18 they placed the moratorium, the way the ordinance
19 reads at this point is that it would be a
20 conditional use under agricultural for a mine to
21 be placed. But that at this point in time the
22 moratorium has been placed because the
23 comprehensive use plan of the township states
24 very firmly that their goal and their strategy
25 for the township is agricultural preservation and

1 they feel that the removal of this amount of land
2 from agricultural use does not fit within the
3 township's strategy.

4 CHAIRMAN RUKAVINA: Any other
5 questions? Thank you. Do we have anyone else
6 that wishes to testify in front of the Committee?
7 If not then, members, we will be -- I'd like to
8 thank everybody that came today. We heard some
9 good testimony. We do have a meeting next -- the
10 6th up at Mr. Bauerly's conference center. That
11 will be our final testimony then next week and
12 after that we will set a date. Any comments from
13 the rest of the Committee? If not thank you
14 staff for all of your hard work over the spring
15 and summer and for everyone involved and we will
16 let the court reporter go home.

17 (Whereupon, the public hearing was
18 concluded at 7:30 p.m.)
19
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25

1 STATE OF MINNESOTA)

) ss. CERTIFICATE

2 COUNTY OF HENNEPIN)

3 Be it known that I, MICHELE SUSSMAN, took the
4 foregoing public hearing.

5 That I was then and there a notary public in and
6 for the County of Hennepin and State of
7 Minnesota;

8 That the testimony was recorded in stenotype by
9 me and was reduced to typewriting by me;

10 That I am not related to any of the parties
11 hereto, nor an employee of any of them, nor
12 interested in the outcome of the action.

13 WITNESS MY HAND AND SEAL this 30th day of
14 September, 1999.

11

12 MICHELE SUSSMAN

Notary Public

13 My commission expires 01/31/00

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Aggregate Resources Task Force

Representative Tom Rukavina, Chairman

Public Hearing September 29, 1999

Written Comments

Second edition, November 12, 1999

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Please note: *The Aggregate Resources Task Force accepted both written and oral comments from the public. This document contains only **WRITTEN** comments submitted to the Task Force. In some cases these written comments were submitted in addition to or in support of ORAL comments. Please refer to the ORAL comments document for additional material. To obtain a copy of the ORAL comments document, visit the Task Force's website at <http://www.commissions.leg.state.mn.us/aggregate.resources/>, or write to Aggregate Resources Task Forces, Room 375, State Office Building, 100 Constitution Avenue, St. Paul, MN 55155-1298, or email the Task Force at aggregate.resources@commissions.leg.state.mn.us, or call the Task Force at 1-877-348-0503.*

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Dear Members of the Aggregate Task Force,

The Minnesota Chapter of The Wildlife Society is concerned about issues affecting wildlife species and habitats throughout the state. Aggregate mining is such an issue. Although it occurs state-wide, aggregate mining perhaps most threatens species that occur in prairies in the western part of the state.

Prairies are already rare plant communities in Minnesota, due to groundbreaking and the planting of agricultural crops starting in the late 1800's. The relatively few, relatively small prairie remnants that remain atop gravel resources continue to exist principally because the soil beneath them was unsuitable for crops. The current and future threat of aggregate mining may mean the end of these native dry prairies if Minnesotans aren't very careful in planning how to use their non-renewable resources, which include both the aggregate and the prairie growing over it.

Many of our state listed endangered, threatened, and special concern species are associated with native prairie. If we are ever to move species off the state list, recovery should be our goal, and recovery requires conserving critical habitats such as dry prairie.

Our Chapter applauds this initial work of the Aggregate Task Force and feels it met its goals of identifying and highlighting common areas of concern and urgency relative to aggregate resources in the state. However, we are disappointed in the cursory treatment given to the destruction of native plant communities by the mining process and in the weight given to reclamation. Once prairie has been mined it is gone, for our lifetimes and for many generations to come. Dry prairies, which are the type most common to aggregate resource zones, are also the most difficult to reclaim. Such reclamation efforts have resulted in vegetative cover that is much less diverse than an unmined dry prairie.

Now that you have done the hard work of identifying areas of concern, it seems the next step should be formulating an action plan to conserve (that is, to use carefully or sparingly, avoiding waste) this non-renewable resource. We have several suggestions: 1) The need for better information about the distribution and depth of aggregate resources in the state was very evident in comments from many who gave testimony before your committee, including aggregate businesses, local and state government agencies, and conservation organizations. The Aggregate Mapping Project of the NIN DNR should be accelerated (4 counties since 1984 is moving rather slowly), and the information collected should include depth, quality, and distribution of the deposits on both public and private land. Armed with good, solid information on the state's aggregate resources, citizens, governments, and organizations can come together and decide how best to use the resources. 2) Recycling used aggregate and seeking new materials to use in its place are both important steps which should be rewarded by society. We should also encourage aggregate users to come up with designs that reduce the need for aggregate. 3) With roads and homebuilding as major consumers of the aggregate supply, we should support and expand other methods of transportation that use less aggregate and reward would-be homeowners for renovating an older home in place of building new. 4) Land use planning prior to siting a gravel mine and a mining plan prior to opening a site should be required in every county. Mining plans should always include returning the site to a condition that is as close as possible to its condition prior to mining. 5) Permitting should be required in all counties, and taxes commensurate with the value of the resource should be in place statewide. 6) Minnesota's future areas of rapid development may not coincide with locations of high quality and abundant aggregate resources. The issue of transporting aggregate should be dealt with. 7) Finally, there is still much that is unknown about prairies, including the abundance and distribution of insects and other arthropods, the role of soil microbes, and the functions and services provided by native prairie that developed over centuries. We encourage continued inventories, surveys, and research, particularly of those little-known species and functions of the prairie. We look forward to hearing more from the Task Force in the future, and we hope that you will soon propose a statewide process for dealing with this statewide issue. Thank you for taking the time to read our input and concerns.

Sincerely,

(SIGNATURE ON FILE)

Janet Boe
President on behalf of the Minnesota Chapter of The Wildlife Society

24201 County Road 10
Bovey, MN 55709

MERIDIAN

Aggregates

St. Cloud Quarry

August 1, 1999

AGGREGATE RESOURCES TASK FORCE
Attn: Representative Tom Rukavina, Chairman
Room 375, State Office Building
100 Constitution Avenue
St. Paul, MN 55155-1298

Dear Task Force Members;

The following are issues that need to be acted on by your task force:

1) Aggregate Tax

If a tax is levied that tax should pass a test of fairness, Aggregate Tax does not! It was originally designed as a production tax to be applied to importers and operators on a county by county basis. The purpose of the tax was to fund local road and bridge funds to repair damage from gravel trucks. An additional 10% was held back for pit restoration on public lands.

The problem is the tax does not apply to everyone, this creates unfair competitive situations across county lines. Aggregate Tax also unfairly targets rail delivery when products don't use the public roads. This creates a disincentive to ship by rail. The 10% reclamation funds are seldom used and tie up resources that could have reclaimed private lands. The out-of-state importers don't pay the tax.

I would suggest this tax be levied state wide, on truck (road) sales only. Importers from out-of-state should also pay the tax. Then the funds should be dedicated to reclamation, roads, or reserve mapping. We should limit the ability to divert these funds.

2) Permitting

The time and expense to open new operations is prohibitive. The technical issues leave the local regulating unit of government unprepared and unable to evaluate the project. The simple answer is to stop the project. The end result is multi-year battles, ultimately decided by the court system. This removes the local decision making and adds huge costs to the project.

Please look at and recommend a structure similar to South Dakota; they have a state agency that rules on the technical and environmental merits of the application. When and if the project meets all noise, dust, and environmental standards it can be considered locally. The local regulating unit of government holds the public hearings, evaluates the local issues, and sets appropriate conditions and decides on the project.

P.O. Box 69

St. Cloud, MN 56302

Phone: 320-251-7141

FAX: 320-251-2336

3) **Transportation Modes**

Current rail and river terminals are being phased out. With a need in the metro area for 25 million tons of aggregate how will the rock get there?

I would hope your recommendations would include language to recognize the importance of the different modes of transportation and the need to protect them. It will become a major constituent issue as more and more trucks drive the highway system to deliver aggregate. Simple property tax breaks for rail or barge yards would help industry protect these sites.

4) **Reserve Identification and Protection**

Minnesota currently has an aggregate identification and protection statute; that has not been effective.

The statute needs more teeth:

- a) Fund the DNR through the aggregate tax and finish mapping within 10 years.
- b) Require that comprehensive planning recognize aggregate resources and plan for the utilization of the resource.

Thank you for the time your task forces has invested researching aggregate related issues, your work can help save and protect a valuable resource that will be needed by future generations. If I can be of any help or answer any questions please contact me.

Sincerely;

(SIGNATURE ON FILE)

Don Vry
Sr. V.P.

Minnesota Nursery & Landscape Association

Creating & Caring for your Environment

(651) 633-4987 Fax (651) 633-4986
P.O. Box 130307 St. Paul, MN 55113

[www/mnlandscape.org](http://www.mnlandscape.org)

September 3, 1999

Aggregate Resources Task Force
Attn: Rep. Tom Rukavina, Chairman
Room 375 State Office Building
100 Constitution Avenue
St. Paul MN 55 155-1298

Dear Rep. Rukavina:

The Minnesota Nursery and Landscape Association represents a broad array of green industry businesses, including nurseries, garden centers, landscape contractors and designers, irrigation contractors, and lawn care companies. We also represent the companies who supply "hard goods" to these members. More than 1,000 companies are members of our 75-year-old association. On behalf of our members, MNLA submits these comments to the AggregateResources Task Force.

MNLA supports the comments submitted by Hedberg Aggregates Inc. on August 6th . urges caution in any effort to limit the permitting of aggregate resources. There are few areas of reserves available for the future without even considering whether or not permitting is possible. All citizens want affordable construction materials, but, seemingly, nobody wants operations in "their own backyard." MNLA believes it's important to have the permitting process set up in such a way that small groups of vocal opponents don't have undue influence over the process. The permitting process should be objective and science-based, and be a process that benefits the greatest number of citizens in a growing economy.

Thank you for work on this issue.

Sincerely,

(SIGNATURE ON FILE)

Bob Fitch, Executive Director
Minnesota Nursery and Landscape Association

COUNTY, OF STEARNS
Mark Sakry
County Commissioner - Second District

413 S. 10th Ave. - Waite Park. MN 56387 (320) 252-5022

July 13, 1999

Representative Tom Rukavina,
375 State Office Building
St. Paul, MN 55155

Dear Representative Rukavina:

Thank you for serving on the Aggregate Resources Task Force and for inviting County Commissioners to join you on the July 20' mining operations tour in the St. Cloud Area. I'm sorry I will be out of town and won't be able to attend, but I would like to make a recommendation for Task Force consideration.

Since communities such as Waite Park are subjected to years of noise and air pollution due to mining operations, State Law should require that when reclamation occurs these communities benefit from new public parks, trails, and water access

In Waite Park, for example, a huge lake, several hundred feet deep, will be created when Meridian discontinues its operation in 50-80 years. A public greenway around the new lake should be required as part of the reclamation as opposed to simply selling expensive housing and private lots running right up to the newly created shoreline.

In my opinion, this public greenway (similar to the bikeway around Lake Calhoun in the Twin Cities) should be donated to a local unit of government as part of a mining company's reclamation plan.

Please let me know if the Task Force will be proposing legislation that would ensure that the general public benefits in mining reclamation projects. Thank you.

Sincerely,

(SIGNATURE ON FILE)

Mark Sakry
District 2 Commissioner

MS/jt

1875-8898

"Affirmative Action Equal Opportunity Employer"

HEDBERG AGGREGATES

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Phone: (612) 545-4400
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Rosemount Showroom/Yard

4375 170th St. W.
Farmington, MN 55024
Phone: (651) 423-5320
Fax: (651) 423-5346

August 6, 1999

Aggregate Resources Task Force
Attn: Rep. Tom Rukavina, Chairman
Room 375 State Office Building
100 Constitution Avenue
St. Paul, MN 55155-1298

Dear Mr. Rukavina,

I understand your task force is accepting public comment regarding aggregate resources in Minnesota.

My company is a small family owned sand and gravel producer with two sand and gravel sites in Dakota County, Minnesota, serving the southern Twin Cities metropolitan area as well as the northern part of Rice and Goodhue Counties.

The aggregate products we produce are used in redi-mix concrete, for the roofing industry, the golf course industry, the landscape industry, new family home construction, for new roads, utility projects, and for ice control in the winter.

Our business was founded with the principle that we should be a good neighbor and good corporate citizen in the communities in which we work.

As you are aware, good aggregate resources are only located in specific geographical areas of Minnesota and we are quickly depleting our permitted aggregate reserves. For example, our company's current reserves will only last approximately 14 more years.

There are very few choices of reserves for the future in our market area without even considering whether or not permitting is possible.

The attitude for any new permitting is "not in my backyard". This public sentiment often persuades an otherwise willing city council to run for cover when aggregate permitting is proposed.

Stone, Landscape, Masonry & Stucco Supplies
Concrete Pavers & Retaining Wall Systems - Washed Sand & Gravel
Decorative Rock & Boulders * Natural Stone for Landscape & Masonry Veneers
E-Mail: hedberg.aggregate@pclink.com

It won't be long until all the quality aggregate around the Twin Cities Metro area are depleted and aggregate will have to be railed in to our market from such places as Iowa, South Dakota, and Wisconsin.

It is our fear that should we get to that point, construction costs in the Twin Cities will sky rocket and it will have a negative impact upon the future growth of our community.

It is our opinion that future aggregate reserves need to be protected and that permitting needs to be made easier and not done at the local level where citizens can so easily sway local politics.

If you have any questions or require further comment, I can be reached at (612) 3925901.

I appreciate this opportunity for comment and hope my small voice will make a difference.

Sincerely,

Hedberg Aggregates, Inc.

(SIGNATURE ON FILE)

Stephen J. Hedberg
President

Focus 10,000

DEVOTED TO THE ENHANCEMENT AND PRESERVATION OF MINNESOTA'S WATER RESOURCES

September 10, 1999

Dennis Martin
Aggregate Resources Task Force
Minnesota Dept. of Natural Resources
500 Lafayette Road
St. Paul, MN 55155-4046

Dear Dennis:

Here's my input to the discussion over managing Minnesota's aggregate resources. Extracting gravel and other aggregate from pits leaves reclamation challenges. Even if topsoil is carefully removed and stockpiled for later replacement, landscape elevations and contours have changed, and aesthetically pleasing landscaping can be difficult and expensive. Loss of topsoil is a major environmental problem facing the planet, and we are not exempt from it here in fertile, sandy-loamy, gravelly Minnesota. Nor are we exempt from the challenge of handling massive amounts of solid waste from our ever increasing population.

My suggestion: in municipalities near aggregate industry pits, mandate, encourage, incentivize, whatever it takes, the recycling of food wastes into composting facilities located in abandoned pits. The result can be a gradual amendment and augmentation of topsoil, as long as is needed to achieve a pleasing, useful landscape. In municipalities where recycling of other portions of the waste stream is underway, this can be accomplished with relative ease, by adding bins for the collection of food wastes. Yes, there will be glitches to overcome, such as timely handling of the wastes to prevent problems with insects, and managing rodents and smells at the composting site. However, a St. Cloud-based company, NaturTech, has already addressed such problems in developing its composting technologies and methodologies. You may be well-advised to consult with them about how to actually get a plan on paper.

Please give this suggestion serious consideration as it addresses several environmental concerns: the depletion of topsoil, foodstuffs in the waste stream, and the reclamation of aggregate mine pits.

Cordially,

(SIGNATURE ON FILE)

Marcia Shepard
Associate Editor

cc: Carl Swanson, Greater Lake Sylvia Association

Wright County Association of Lake Associations

P.O. BOX 289 HC 7, BOX 17 AITKIN, MINNESOTA 56431 (218) 927-4100 MN TOLL-FREE 1-800-450-5253 FAX (218) 927-6741

Focus 10,000

DEVOTED TO THE ENHANCEMENT AND PRESERVATION OF MINNESOTA'S WATER RESOURCES

September 14, 1999

Rep. Tom Rukavina, Chair
Aggregate Resources Task Force
Room 375, State Office Building
100 Constitution Avenue
St. Paul, MN 55155-1258

Dear Rep. Rukavina:

Allow me to offer this suggestion as you and the Task Force consider the issues around aggregate mining in the near future. Gravel pits are something of a necessary evil, being part and parcel of development as they are, and reclamation of them can pose great challenges. Post-mining landscape elevations can be very different from what they were, and different from those of surrounding areas. I'd like to suggest that long-term reclamation efforts could utilize soil built from household and commercial food wastes from nearby communities. Food waste recycling has not yet been addressed very much, even in communities which have curbside or collection site recycling facilities. It poses particular challenges such as odor, insect and rodent problems. However, I feel that the feasibility of such a scheme warrants investigation.

NaturTech is a St. Cloud area company which has developed the technology and methodology to overcome the unique challenges of capturing and utilizing food wastes. I urge you to contact NaturTech (320/253-6255) to invite their participation in the Task Force, at least in an advisory capacity on this issue, which I trust you will give reasonable consideration.

Thank you very much,

(SIGNATURE ON FILE)

Marcia Shepard
Associate Editor

**AGGREGATE RESOURCES TASK FORCE
PUBLIC COMMENT SUBMISSION**

PART 1: PRESENTATION

Pursuant to Laws, 1998, Chapter 401 Section 50

**Prepared by David G. Edmunds Edmunds
Vice President and General Manager
Materials Division
Edward Kraemer & Sons, Inc.
1020 West Cliff Road
Burnsville, MN 55337**

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September 1999

**1020 WEST CLIFF ROAD MATERIALS DIVISION
BURNSVILLE, MINNESOTA 55337 612-890-3611 FAX: 612-894-0808**

Aggregate Resources Task Force Public Comment Submission, Part I, Presentation

September 29, 1999

Good afternoon.

My name is David Edmunds. I'm a Vice President at Edward Kraemer & Sons, and General Manager of the Materials Division that oversees our Burnsville quarry.

Our company appreciates the opportunity to be briefly heard today and to provide additional written testimony for the record.

Edward Kraemer & Sons, Inc. is one of Minnesota's larger aggregate producers. With several operations in Minnesota, our largest is the Burnsville quarry located in the southwest corner of the intersection of the Minnesota River and Interstate 35W in Burnsville. This facility produces two-and-one-half million tons per year of various high-grade limestone products.

For example,

- Sub-base materials for roads and runways.
- Aggregate for use in concrete and asphalt.

In our judgment and based in large part on the information we provide in this testimony, there is an urgent and special need for a comprehensive statewide policy on aggregate resource management.

Aggregate issues are real-time concerns for us, and especially for the greater metropolitan area.

Supplies of high-grade aggregate are dwindling as production facilities opened 25 -40 years ago begin to close.

The metropolitan area consumes an estimated 25 million tons of aggregate a year.

At the end of 1999, a facility in Shakopee will go off-line. This will subtract an estimated 500,000 tons annually from metropolitan area aggregate supplies.

- The present process for siting new reserves is complex, time-consuming, and ignores the growing need for new sources of supply.
- Access to available aggregate is declining as development rapidly occurs on top of these resources.
- The metropolitan area today has an estimated aggregate reserve representing approximately a 15-year supply.
- This means that the greater metropolitan area is operating with virtually no reserves.
- That's because it takes three to eight years to complete a siting process, assuming no litigation that slows or stops the process.
- And, it takes up to 20 years to develop the full production potential of a quarry.
- These are some of the facts that support our opinion that aggregate has become a crucial regional commodity that requires protection from development and preservation of access for use by future generations.
- The process for siting needs review and modernization to reflect regional needs.
- Something needs to be done about the length of time it takes to obtain or be refused a siting request.

The aggregate issue is not a key concern to the general public.

When it does surface, usually in a local community, facts, myths, and emotions all come together. There is little understanding of the importance of aggregate materials in everyday life. The public simply assumes, as it should, that these materials will always be available whenever and wherever needed.

Fundamental questions go unanswered.

- "How accessible is the resource?"
- "What is an adequate supply of readily available aggregate?"

- "Are there alternative materials, or not?"
- "Are there compatibilities among aggregate mining, open space uses, rural living, and agriculture?"
- "What is the level of protection aggregate resources require as current reserves are depleted?"

Local governments are caught in the middle.

Local governments have the power to make decisions with regional and statewide impact. Regional constituencies - who don't directly elect local officials - have no real access to the process. Current policy and law may actually make local officials victims of a process that makes their decisions locally explosive with impact well beyond their borders simply because the resource, uncovered by glaciers thousands of years ago, lies within their city or township.

We believe it's time to remove the conflict between public policy and public need.

The compatibility of farmland preservation with new aggregate resource identification and recovery needs to be clarified. The Metropolitan Council has elaborately described its intent to limit development by preserving farmland uses. The unintended consequence of encouraging local comprehensive plans to preserve farmland to the exclusion of other significant needs makes discovery and utilization of new aggregate reserves needlessly complicated.

In short, while there may seem to be a clear policy on agricultural land preservation, there is virtually no clear policy with regard to how to deal with aggregate resources in the ex-urban areas. Development is occurring in any event. Aggregate resources that 15 years ago were thought to be able to last a century or more have now largely been covered by growth of one kind or another. Dispassionate analysis of existing policy and modern quarry operational practices will demonstrate that aggregate extraction is actually quite compatible with other agricultural land uses.

Our written testimony will amplify, these topics in more detail. Let me share with you the six conclusions we ask the task force to consider as it makes recommendations to the Legislature.

1. Public policy needs to be modified to protect the accessibility and availability of aggregate resources: Today's quarries are different from those of old in two significant ways. First, consumption and production have far outstripped all forecasts. Second, today's quarries operate in a comprehensive regulatory environment. As consumption continues to increase and reserves decrease, public policy needs modification to reflect the demand for siting new aggregate facilities.
2. Long-term regional or statewide process-driven policy is needed: Today, permitting can take three to eight years. It can take up to 20 years to develop a high-grade limestone aggregate operation able to deliver two million tons per year. It now looks as though, in the next decade, far more aggregate production facilities will come off-line than can be replaced at the current rate of discovery, permitting, and development.

Faced with decisions of this magnitude at the township level, local residents may oppose permitting because they are not routinely involved in the larger issues impacting the state and region and have no particular incentive to support a larger statewide or regional policy. A new statewide or regional policy is needed that provides the incentive for local acceptance of significant regional facilities.

3. Current policy may unintentionally encourage the proliferation of small quarry operations: Absent a more effective way of executing siting decision making, a proliferation of small quarry operations in counties and towns near key limestone deposits is likely. This means that the same people will be affected by the same activities conducted by a greater number of smaller operators versus one or two large regional operations. Cities and townships would have a much greater oversight and regulation burden.

It would take many of these small facilities to begin to replace current aggregate production. Current policy inhibits the orderly development of appropriately sized production facilities.

4. Aggregate resources may need to be designated as an essential economic activity in the next few years: In land use planning we protect certain vital, significant resources such as prime farmland, water, old growth forests, and wetlands. Aggregate resources should be similarly protected in order to preserve the availability of and access to these materials near the metropolitan area.

in order to preserve the availability of and access to these materials near the metropolitan area.

5. Prompt policy modification will prevent significant future cost impacts: The transportation cost of a typical load of aggregate increases by 100 percent every 25 miles. By definition, if we are to have affordable, manageable growth, the resources to support that growth must be nearby. If the current situation remains unchanged, fundamental infrastructure construction activities such as roads, bridges, airport runways, and reconstruction will needlessly grow in cost.
6. Our need is really quite urgent. We are typical of our industry. The Burnsville quarry has an estimated remaining useful life of 20 - 25 years. Should the economy remain strong, requiring faster consumption of this resource, the quarry's useful life could be as low as 15 years.

In summary our testimony focuses on four key ideas:

1. Acknowledge that aggregate materials have become a significant resource requiring protection.
2. Revise and modernize the siting process.
3. Build consideration of regional implications into local decision making.
4. Establish reasonable timelines for the entire process.

Mr. Chairman, thank you very much for this opportunity to provide testimony. The clerk has a copy of our written submission.

**AGGREGATE RESOURCES TASK FORCE
PUBLIC COMMENT SUBMISSION**

PART 11 - WRITTEN SUBMISSION

Pursuant to Laws, 1998, Chapter 401 Section 50

**Prepared by David G. Edmunds
Vice President and General Manager
Materials Division**

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September 1999

***MATERIALS DIVISION
1020 WEST CLIFF ROAD BURNSVILLE, MINNESOTA 55337 612-890-3611 FAX: 612-894-0608***

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1. Public policy needs to be modified to protect the accessibility and availability of aggregate resources.	
2. A long-term regional or statewide process-driven policy is needed.	
3. Current policy may unintentionally encourage the proliferation of small quarry operations.	
4. Aggregate resources may need to be designated as an essential economic activity in the next few years.	
5. Prompt policy modification will prevent significant future cost impacts.	
6. Our need is really quite urgent.	

In Summary

Overview

Edward Kraemer & Sons, Inc. is one of Minnesota's larger aggregate producers. With several operations in Minnesota, its largest is the Burnsville quarry located at the Minnesota River and Interstate 35W in Burnsville. This facility produces two and one-half million tons per year of various high-grade limestone products.

For example,

- Sub-base materials for roads and runways.
- Aggregate for use in concrete and asphalt.

In our judgment and based in large part on the information we provide in this testimony, there is an urgent and special need for a comprehensive statewide policy on aggregate resource management.

Aggregate Issues Are Real-Time Concerns

Supplies are dwindling as producing facilities started 25 - 40 years ago begin to close. The metropolitan area consumes an estimated 25 million tons of aggregate a year. At the end of 1999, a facility in Shakopee will go off-line. This will subtract an estimated 500,000 tons annually from metropolitan area aggregate supplies. The present process is complex, time consuming, and ignores the growing need for new sources of supply.

- The present process for siting new reserves is complex, time-consuming, and ignores the growing need for new sources of supply.
- Access to available aggregate is declining as development rapidly occurs on top of these resources.
- The metropolitan area today has an estimated aggregate reserve representing approximately a 15-year supply.
- This means that the greater metropolitan area is operating with virtually no reserves.
- That's because it takes three to eight years to complete a siting process, assuming no litigation that slows or stops the process.
- And, it takes up to 20 years to develop the full production potential of a quarry.
- These are some of the facts that support our opinion that aggregate has become a crucial regional commodity that requires protection from development and preservation of access for use by future generations.
- The process for siting needs review and modernization to reflect regional needs.

- Something needs to be done about the length of time it takes to obtain or be refused a siting request.

Myths Often Overshadow Key Questions

The aggregate issue is not a key concern to the general public. When it does surface, usually in a local community, facts, myths, and emotions all come together. There is little understanding of the importance of the basic materials for everyday life. The public simply assumes, as it should, that these materials will always be available whenever and wherever needed.

Fundamental questions go unanswered.

- How accessible is the resource?"
- "What is an adequate supply of readily available aggregate?" "Are there alternative materials, or not?"
- "Are there compatibilities among aggregate mining, open space uses, rural living, and agriculture?"
- "What is the level of protection aggregate resources require as current reserves are depleted?"

Local Governments Are Caught in a Conundrum

Local governments have the power to make decisions with regional and statewide impact. Regional constituencies - that don't directly elect local officials - have no real access to the process. Current policy and law make local officials victims of a process that makes their decisions locally explosive with impact well beyond their borders simply because the resource, uncovered by glaciers thousands of years ago, lies within their city or township.

It's Time to Remove the Conflict Between Public Policy and Public Need

The compatibility of farmland preservation with new aggregate resource identification and recovery needs to be clarified. The Metropolitan Council has elaborately described its intent to limit development by preserving farmland uses. The unintended consequence of encouraging local comprehensive plans to preserve farmland to the exclusion of other significant needs makes discovery and utilization of new aggregate reserves unnecessarily complicated.

In short, while there may seem to be a clear policy on agricultural land preservation, there is virtually no clear policy with regard to how to deal with aggregate resources in the ex-urban areas. Development is occurring in any event. Aggregate resources that 15 years ago were thought to be able to last a century or more have now largely been covered by growth of one kind or another. Policy resolution through clarification, quantification, and a collaborative

development process will demonstrate that aggregate extraction is actually quite compatible with other agricultural land uses.

In the pages that follow we will amplify these topics.

Aggregate Issues Are Real-Time Concerns

As a major producer of aggregate materials, predominately in the Twin City Metropolitan Area but with other facilities in the northern part of the state, Edward Kraemer & Sons, Inc. is literally on the leading edge of this issue. We have begun navigating the existing process to site limestone quarries in Douglas and Waterford Townships in Dakota County. The process has the potential to become politically overwhelming to local government officials. At least initially, residents are frightened and emotionally surprised. It will take some time for them to be able to step back and analyze what we are proposing.

Under current township procedures there is literally no way to know that we will be successful or unsuccessful at any stage of the process.

Meanwhile, our Burnsville quarry has entered the last 25 years of its productive life. This facility was begun 41 years ago as a regional source of aggregate for the Twin Cities and surrounding region. The Burnsville quarry was sited in what was then a remote, sparsely populated township where it was generally compatible with the development of properties in the vicinity. Over the years, increased density development has surrounded the quarry creating land use conflicts and pressures to cease operations. These pressures, combined with the recent increased demand for product, limit the life of the quarry. At the same time, we know that several other major aggregate sources will be going off-line over the next several years. This will further shorten the life of the Burnsville quarry as it replaces the capacity of closing facilities.

This places the company in the position of having to begin plans for developing a replacement source of material. Combining the time it takes to develop a quarry to full production (20 years) with the time it takes to obtain a permit (three to eight years) is what's driving the company to begin the replacement of the Burnsville quarry now.

In Douglas Township where our application was submitted in June of 1999, opposition immediately pressed the Township to cease consideration of the application on its merits. We have conducted a very aggressive communications program to listen to the community, talk about ourselves as a company, talk about ourselves as an organization, share our business goals; explain the benefits for the township, describe the extensive nature of the environmental assessment process, and emphasize how much opportunity for public input there is.

The result of these efforts is that the Township has passed a zoning moratorium. This action suspends consideration of our application under the existing mining ordinance. We are now in the midst of a six-month study process to determine just how Douglas Township might manage a resource like ours in their community.

While this study is going on, the public's focus of attention is almost exclusively on environmental questions and issues. These questions can really only be answered by the Environmental Impact Statement (EIS) process. The moratorium, as currently imposed, freezes everything and delays the start of the EIS. This tends to increase public frustration and suspicion while making it difficult to answer with credibility and definitiveness the questions that are truly uppermost in the public's mind.

Under present law, local governmental units (cities and townships) have extraordinary zoning power. This concept may be generally appropriate in the case of a "portable" land use but does not work well for development of geologic resources. As the depletion of a current major source of aggregate materials becomes a reality, new sources need to be developed. The need is becoming increasingly urgent.

Local governments lack the means to consider infrastructure maintenance and rehabilitation activities for 2.4 million people in the Twin Cities metropolitan area as part of their land use management activities. County and regional governments have varied approaches to this issue. Dakota County, for instance, has decided not to become involved in regulating the aggregate industry. The County has left it to the townships to decide 'whether and how to balance the public's interest with the neighborhood's desire to protect local interests - and any other issues the local culture is willing to consider. This is in contrast to the situation in Washington County where the County takes the lead role in this issue.

If new sources of aggregate are not developed, the regional impact on the aggregate supply will be substantial. There are only a handful of areas of similar rock deposits that can be economically developed. The current trend in permitting is to make the decisions tougher and more complex. Thus, action is needed now, in real time, to avoid a disruptive shortage of a very essential commodity.

Myths Often Overshadow Key Questions

The public's and public officials' perception of the industry and its issues is very limited. This includes current technologies and marketplace changes. As a consequence, a number of myths have developed and persist almost with the power of fact. A myth is really unintentional misinformation. Left unchallenged, these myths can become barriers to development of available aggregate resources. They need to be cleared away to allow consideration of the truly crucial questions that will lead to better public policy. Questions such as:

- "How accessible is the resource?"
- "What is an adequate supply of readily available aggregate?"
- "Are there alternative materials, or not?"
- "Are there compatibilities among aggregate mining, open space uses, rural living, and agriculture?"
- "What is the level of protection aggregate resources require as current reserves are depleted?"

Myths

- *Myth #1:* "There is a hundred years' supply, not to worry."

Reality: Available aggregate resources are dwindling. Increased demand, existing production ending, and increased siting difficulties contribute to this situation.

- *Myth #2:* "Prime farmland should be preserved no matter what happens to be beneath it, and no matter what the need happens to be."

Reality: Like agriculture, aggregate resources are a necessary part of the organized society in which we live. An aggregate quarry can only be sited where appropriate rock reserves are located. Sometimes these reserves lie beneath prime farmland. A choice has to be made. Quarry uses are generally compatible with agriculture, incompatible with uses that are incompatible with agriculture, and, like preserved farmland, can act to buffer nearby properties from development.

- *Myth #3:* "There are lots of alternatives to siting new quarry operations; they simply aren't being explored thoroughly."

Reality: Quarry operations are sited where they are for three reasons:

1. Reserves are located in large enough deposits to make mining economically viable.
2. The reserves are accessible from the ground surface.
3. The resultant aggregate can be delivered to the marketplace at prices customers are willing to pay.

Unintended Reality: Absent a more effective way of siting large-scale quarries, there will be a proliferation of small quarry operations in counties and towns near the deposits. Either way, the same people will be affected by the same activities conducted by a greater number of smaller operators. It would take many of these small facilities to begin to replace current aggregate production.

Myth #4: "The host community doesn't receive any benefit from having the quarry operation in its jurisdiction."

Reality: First, aggregate operations of scale pay extraction taxes designed to cover the cost of maintaining county and local infrastructure impacted by mining operations. Second, virtually every community that hosts an operation of this nature should benefit directly and easily. Under current law, such benefits are neither authorized nor required. In seeking approvals, Edward Kraemer & Sons, Inc., has offered set-asides to cover the cost of reclamation or to fund publicly useful activities.

Myth #5: "Aggregate operations are dusty, noisy industrial operations and therefore are incompatible with traditional rural open space land uses."

Reality: Imposition of modern environmental and operating standards on quarries results in mitigation of dust and noise pollution and the variety of issues opponents typically cite. The result is that the quarries are often more thoroughly regulated than the surrounding existing land uses.

Myth #6: "Farmland preservation is incompatible with quarry development."

Realities: Quarry activity is especially compatible with agricultural uses:

- The land use of quarrying is very similar to that of agriculture, with the exception of the excavation area (and any resulting lake).
- Establishing a quarry within a township will change only the primary land use in the quarry pit.
- Mining is incompatible with residential uses.
- Extraction activity can aid in protecting agricultural land from premature conversion to urban land uses.
- Agricultural activities can continue on all portions of land that are not actively being

excavated.

Aggregate Resources Task Force Public Comment Submission, Part H, Written Submission September 219, 1999

- The establishment of a quarry does not create demand for additional development or, public services such as sewer and water.
- Quarrying activities reduce the potential for non point-source pollutants.

- *Myth #7: "The viewshed cannot be protected by mitigation."*

Reality: Protection of aesthetic values is easily accomplished through a variety of techniques. Some of these techniques include vegetative plantings, the creation of berms, and other screening techniques that both help the viewshed and control noise. Often these steps are carried out in conjunction with advisory committees consisting of local residents whose views are taken into consideration as mitigation strategies are developed.

- *Myth #8: "Land values surrounding quarry sites will be depressed."*

Reality: If our Burnsville quarry is any indicator, property values can increase even within sight of a large quarry operation. Some of the most expensive homes in the Minnesota River Valley overlook directly the Burnsville quarry from the river bluffs above.

We also believe that residents' concerns about property values need to be addressed. To do this, we have developed a Property Value Guarantee Program to offer to owners of residential or agricultural parcels within approximately a mile of the proposed quarry site boundaries.

Local Governments Are Caught in a Conundrum

The existing regulatory framework for siting regional aggregate extraction facilities places local governments in a Catch 22. On the one hand, local elected leaders recognize the importance of aggregate because they are involved in local road construction and/or maintenance on a daily basis. This need is for readily available road and building materials at a reasonable cost. There is a need for a mechanism to enable them to develop, preserve, and protect valuable aggregate resources.

On the other hand, the constituents who elect town leaders will be neighbors to the regional facility. It is much easier for neighbors simply to oppose a proposed quarry project rather than analyze and evaluate a proposed project's effects. It is also easier to oppose a project that does not appear to directly benefit neighbors or their town.

Local government officials are subjected to pressures to oppose quarry projects from their electorate and might only receive support for the project from outsiders. As a consequence of this conundrum, local governments are faced with the following issues and questions:

- How can regional public policy decisions be effectively or appropriately made by governmental units that don't represent regional interests?
- Managing the politics of these issues at the local level is very difficult. How can advocacy for regional needs be better integrated into locally based decision making?
- Communities have difficulty making decisions of this magnitude in the time frames modern industry requires.

Local governments can be put in the position of arbitrarily denying one of the property owner's beneficial use of land when the balance of the competing interests supports an equitable solution.

It's Time to Remove the Conflict Between Public Policy and Public Need

A conflict in policy exists because the focus on preserving farmland is having the unintended consequence of complicating the siting of new aggregate sources, particularly in the Twin Cities metropolitan area.

A well-managed aggregate quarry is a compatible use in a rural, open space location. By developing the appropriate screening as an initial phase of quarry development, a quarry can be virtually transparent on a rural landscape. The proper use of noise mitigation berms and landscaping can construct horizons that will screen the activity so as to mitigate any potential incompatibility. Noise, dust, and other concerns can be mitigated by proper regulation. Water quality protection regulations and air quality requirements apply equally to a quarry as to an industrial use. Land use controls applicable to quarries are an effective means of local government regulation in addition to state pollution control agency and federal environmental protection agency requirements. In this way conflict is minimized.

In our view, aggregate quarries are very compatible with agriculture. For example:

- A modern quarry development requires a substantial proportion of buffer land in order to be compatible with the existing land use. This buffer land remains available for farming throughout the life of the quarry.
- After completion of a quarry, additional portions of the excavated area can be reclaimed for agriculture.
- A quarry will help resist development pressure because during its useful life it is incompatible with high-density development. One of the principal problems that agriculture faces as development approaches is the inflation of property values, making farming uneconomical.
- Quarries present impediments to public improvement projects, such as sewer utilities, because of the significant land area.
- Any perceived conflict between agriculture preservation and aggregate development can be resolved in planning the staging and redevelopment of the quarry.

Currently, comprehensive planning practices include planning for protection of natural resources such as rivers, streams, high quality fertile land, old woods, and other unique land features. As with those features, aggregate resources near the surface that can be economically developed should also be preserved. Public policies requiring that comprehensive planning consider aggregate reserves outside the metropolitan region are certainly a good start.

Minnesota Statute 84.94 requires local governments to consider aggregate resources in their comprehensive plans. This statute does not apply in the metropolitan region. This statute should, however, be expanded in two ways:

1. To require the active preservation of available resources so that those-resources can be developed for use by society.
2. This requirement should be imposed within the metropolitan region.

Applying this requirement to the metropolitan region is important for three reasons:

1. Most aggregate consumption occurs within the metropolitan region.
2. The highest concentration of population is also found in this region.
3. Accessible metropolitan area aggregate reserves are dwindling due to growth and development.

It is necessary to have increased aggregate reserves within the metropolitan area. Aggregate reserves could be developed in the metropolitan area outside both the Metropolitan Urban Services Area (MUSA) and the Planned Future Growth Area in order to ensure that development of these reserves occur where the market is without adding incompatible land uses.

Other policy initiatives can also be explored:

- The certificate of need process could be implemented in appropriate circumstances.
- Protection of major aggregate reserves can be done in a manner that differentiates them from smaller, less unique deposits.

A statewide or regional permitting authority could be imposed in order to ensure that the public's interests in developing the resource are properly protected.

Conclusions

1. Public policy needs to be modified to protect the accessibility and availability of aggregate resources: Today's quarries are different from those of old in two significant ways. First, consumption and production have far outstripped all forecasts. Second, today's quarries operate in a comprehensive regulatory environment. As consumption continues to increase and reserves decrease, public policy needs modification to reflect the demand for siting new aggregate facilities.
2. A long-term regional or statewide process-driven policy is needed: Today, permitting can take three to eight years. It can take up to 20 years to develop a high-grade limestone aggregate operation able to deliver two million tons per year. It now looks as though, in the next decade, far more aggregate production facilities will come offline than can be replaced at the current rate of discovery, permitting, and development. Faced with decisions of this magnitude at the township level, local residents may oppose permitting because they are not routinely involved in the larger issues impacting the state and region and have no particular incentive to support a larger statewide or regional policy. A new statewide or regional policy is needed that provides the incentive for local acceptance of significant regional facilities.
3. Current policy may unintentionally encourage the proliferation on of small quarry operations: Absent a more effective way of siting decision making, a proliferation of small quarry operations in counties and towns near key limestone deposits is likely. Either way, the same people will be affected by the same activities conducted by a greater number of smaller operators. Cities and townships would have a much greater oversight and regulatory burden.

It would take many of these small facilities to begin to replace current aggregate production. Current policy inhibits the orderly development of appropriately sized production facilities.
4. Aggregate resources may need to be designated as an essential economic activity in the next few years: In land use planning we protect certain vital, significant resources such as prime farmland, water, old growth forests, and wetlands. Aggregate resources should be similarly protected in order to preserve the availability of and access to these materials near the metropolitan area.
5. Prompt policy modification will prevent significant future cost impacts: The transportation cost of a typical load of aggregate increases by 100 percent every 25 miles. By definition, if

we are to have affordable, manageable growth, the resources to support that growth must be nearby. If the current situation remains unchanged, fundamental infrastructure construction activities such as roads, bridges, airport runways, and reconstruction will needlessly grow in cost.

6. Our need is really quite urgent: We are typical of our industry. The Burnsville quarry has an estimated remaining useful life of 20 - 25 years. Should the economy remain strong, requiring faster consumption of this resource, the quarry's useful life could be as low as 15 years.

In summary, our testimony focuses on four key ideas:

1. Acknowledge that aggregate materials have become a significant resource requiring protection.
2. Revise and modernize the siting process.
3. Build consideration of regional implications into local decision making.
4. Establish reasonable timelines for the entire process.

TOWER ASPHALT, INC.

15001 HUDSON ROAD
P.O. BOX 15001
LAKELAND, MN 55043

OFFICE: (651) 436-8444
FAX: (651) 436-6515

September 9, 1999

Representative Tom Rukavina, Chairman
State Office Building
Room 3 7 5
100 Constitution Avenue
St. Paul, MN 55155-1298

RE: AGGREGATE RESOURCES TASK FORCE

Dear Mr. Chairman,

Tower Asphalt is an asphalt-paving contractor with a Hot Mix Asphalt Batch plant located on Fifty acres 1 1/2 miles west of the St. Croix River on the south side of Inter State 94 in Washington County.

The aggregate at Tower Asphalt was depleted in the 1970's except for 80,000-ton, which we removed in 1993. We currently produce around 300,000 tons of Hot Mix Asphalt per year. Of that approximately 40,000 ton is recycled Hot Mix Asphalt material. Therefore we have to import 260,000 Tons of virgin aggregate for our Hot Mix Facility each year. This material is used on State, County, City and Township Roadways, also on Airports, Commercial and Government parking lots and residential driveways. These projects are located in Washington, Ramsey, Dakota and Hennipen Counties in Minnesota and St. Croix and Pierce counties in Wisconsin.

Tower Asphalt also incorporates another 500,000 plus tons of aggregate into the bases of projects prior to the lay down of the Hot Mix Asphalt each year. Which brings the total usage of aggregate to over 800,000 Tons per year.

EQUAL OPPORTUNITY EMPLOYER

Aggregate Resources Task Force

September 9, 1999

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Even though there are many years of aggregate reserves within a three-mile radius of Tower Asphalt, these reserves are unavailable for consumption because homes have been built over the sand and gravel deposits. Because of the homes, and the large lots on which they are built, these aggregate resources have been removed from the marketplace forever.

We currently transport about 60% of the aggregate needed for our Hot Mix Asphalt production from a mining operation a little over one mile away from our plant site. The other aggregates are coming from Grey Cloud Township 20 miles away, Bay Town Township - 3 miles away, Dresser Wisconsin - 45 miles away, and Hudson Wisconsin - 6 miles away. As time goes on we will be transporting more materials further distances to our production facilities. We can transport the aggregates at a lower cost than we can transport the Hot Mix Asphalt, and the Hot Mix Asphalt does have a shelf life once it is deposited into the hauling vehicle. As you transport these materials farther from their source to their final usage, the trucking costs grow very quickly, which adds cost to the finish product that has to be passed on to the end user.

My recommendation would be as follows: Land areas that have quality materials for producing quality aggregates should be zoned for aggregate mining. Housing and commercial buildings should not be constructed over these areas until after the natural resource has been recovered. After the aggregates have been removed and the land restored, the housing and/or commercial development can take place, and/or open space and/or parks developed.

There also has to be some limits placed on the maximum size of building lots outside of the Municipal Utility Service Areas. The minimum lot size of 2 1/2 - 10-acre lots which rural areas are zoning is unrealistic in these times. With these large lots a single family home is consuming such large amounts of land area and pushing more people into areas that should be set aside for aggregate extraction. In Tower Asphalt's situation, as with any aggregate processor along the bordering states, whatever is done in Minnesota and/or Washington County must also be accomplished along the bordering counties of Wisconsin. Any zoning in either state has an impact in the adjoining state.

Aggregate Resources Task Force
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There should also be an organized effort to educate the American people as to the value of these natural resources, and that these resources must be kept available for everyone to use.

The Europeans have older societies and realize the value of aggregates. European Corporations own or control over 75% of the aggregate reserves in the United States. But there has not been any effort to keep this valuable resource available for our children and future generations.

Sincerely,

(SIGNATURE ON FILE)

Ronald L. Hockin
President

cc: Rep. Larsen

S M C

Southern Minnesota Construction Co., Inc.

Phone (507) 625-4848 1905 Third Avenue, P.O. Box 3069, Mankato, MN 56002-3069 Fax 507-625-4907

September 7, 1999

AGGREGATE RESOURCES TASK FORCE
ATTN Representative Tom Rukavina Chairman
Room 375 State Office Building
100 Constitution Avenue
St Paul MN 55155 1298

RE: PUBLIC COMMENT ON AGGREGATE RESOURCES ISSUES

As owner of Southern Minnesota Construction Co., Inc. located at Mankato, MN we have the following recommendation as to whether there is a need for a statewide policy on the aggregate resources issue.

Background as to our company's use of aggregates

We have quarry and/or sand and gravel operations in the following counties: Blue Earth, LeSueur, Nicollet, Renville, Waseca and Steele. Our consumption of aggregates for our construction operations amounts to approximately three million tons on an annual basis.

<i>1st issue:</i>	Resource Inventory
<i>Comment</i>	All counties should have inventory of aggregate resources funded by aggregate material tax
<i>2nd issue:</i>	Land Use Planning
<i>Comment</i>	State would have final say as to use, would have right to use condemnation with payments to land owner if deemed appropriate to save aggregate for future use.
<i>3rd Issue:</i>	Environmental Review
<i>Comment.</i>	Would be required on those deposits that are used on a monthly basis - not job specific
<i>4th Issue:</i>	Local Permit Requirements
<i>Comment</i>	Local planning on zoning boards would only be part of process for ongoing operations, but for job basis use the letting authority would have certain standards to be met as part of contract award.

(SIGNATURE ON FILE)

Larry V. Nurre
President

Asphalt Crane Service Excavation Grading Fill Land Clearing Water & Sewer

Crushed Stone - Industrial Development - Compost Wood Grinding
Aggregate Resources Task Force

Public Hearing

September 29, 1999
State Office Building

Submitted by Solway Township

September 29, 1999

TO: Aggregate Resources Task Force Members
Representative Toni m Rukavina, Chairman

FROM: Solway Town Board Members
Clare Stromlund, Chairman
Ron Gajewski, Supervisor
Cindy Whiting, Clerk

Thank you very much for this opportunity to convey our message to you regarding the gravel industry in our community. We hope that the information we provide will assist you in the challenge you face in making a state-wide recommendation to the Legislature in February. If you have further questions regarding any of the information provided, please contact our office at (218) 729-5134. Thank you again for your time.

Facts on Solway Township

County:	St. Louis
Location:	15 miles northwest of Duluth
	Bordered on east by City of Hermantown
Size:	36 square miles
Population:	1847
Households:	638
Past levies:	1997- \$1661500
	1998- \$1667500
	1999- \$175,00
# Borrow pits:	16
Type:	Public owned - 2
	Privately owned - 14

Historical issues of importance

1972-1999

Howes pit

Permit to operate this pit was given to Twin Ports Aggregate (predecessor to Wissota Sand and Gravel) in 1972 and over a period of 20 years, an estimated three million cubic yards of material were excavated. A lake was created, which is about 40 acres in size, with slopes, that in 1996, were left in a "cliff-like" condition. On-site inspections in 1996 by St. Louis County personnel and the Assistant Highway Engineer found that reclamation was not adequate and that the condition of the existing depleted pit was unsafe for the public, even though from an Engineering viewpoint, it was feasible possible. It was just this week, that a letter was sent approving the reclamation that was finally done on this property.

August, 1995

White Pine pit

Permit to operate this pit was granted in September, 1995 to Wissota Sand & Gravel. In it was a provision stating that the depleted Howes pit must be restored in a manner acceptable to the County. Again, it was just this week that a letter was sent approving the reclamation that was finally done on the Howes pit.

May, 1991 - July, 1995

Heitalati pit

Complaints on this pit began in May, 1991 regarding dust control, truck traffic, and land application of contaminated soil. Adjacent land owners and near-by residents were concerned that regular inspections were not taking place and that the MFCA was not monitoring this site properly. Years went by, of residents stating concern about how this operation was being handled, and of St. Louis County instructing him as to their requirements of on-going reclamation, berms, dust control, and run-off control measures. In March, 1993, the MPCA reviewed the final soil samples and determined the soil adequately treated. In November, 1993 the property owner applied for another conditional use permit for a borrow pit operation with another contractor. The St. Louis County Planning Commission denied the application based on his failure to properly reclaim the prior operation. Finally in July, 1995, St. Louis County was able to release his financial assurance and deem the pit "reclaimed in an acceptable manner."

September-November, 1993

Rogalla pit

The City of Duluth was granted permission to realign and improve the Waseca Industrial Road (Grassy Point Bay), to remove heavy commercial traffic from a residential neighborhood and funnel it directly into the nearby industrial area and improve safety in the area. Material was hauled by semi-trucks to the Rogalla pit in Solway Township. Residents reported to the Town Board, a large number of trucks hauling "muck" with "petroleum-type" odors. After many phone calls, the board was able to confirm who was hauling and where the material originated.

Agencies notified in the application process (partial list):

Attorney General's Office
US Army Corps; of Engineers
US Environmental Protection Agency
MN Pollution Control Agency
MN - DNR
LH13 Engineers & Architects
Hallett Dock Company
Maurices, Inc.
A. Kemp Fisheries Company
Duluth Auto Wrecking
Howard Waste Paper, Inc.

(Note: Not once was Solway Township notified of this proposal during the approval process!)

September, 1998 - July, 1999

Ulland pit

Consolidated Paper, Inc. and Lake Superior Paper Industries requested a siting for a landfill for mill residue from Lake Superior Paper Industries and Superior Recycled Fiber Industries at the Ulland pit (Attachment A). The residue -was to be stored in a "capsule" which would keep it in that state indefinitely. CPI and LSPI stated that this site was necessary to assure a place for this residue "well into the 20th Century". At the time, the material was being hauled to the Voyager Landfill near Cotton, and the Rice Lake Landfill near Duluth. Neither place had requested that dumping be discontinued, however, CPIASPI stated they were told that the sites were running low on space. it is the opinion of Solway Board members that these corporations were looking for a site that would reduce their tipping fees and be closer to their plant and both would be more fiscally sound for their companies. After many meetings and strong opposition by our residents, Consolidated Paper, Inc. notified the Town Board that they would no longer be seeking approval for this use.

June, 1998

Ulland pit

Substantial amounts of gravel have not been removed from this pit in the past five years, however, to this day, large piles of material remain on the site. In June, 1998 a Solway resident was killed on a four-wheeler while attempting to climb one of these piles.

November, 1998

Munger pit (Ulland Brothers)

-Phase II Report released on the Dredged Material Management Plan for the Duluth-Superior Harbor. Plan includes the Munger pit as a placement site for dredge material. (Attachment B: Alternative #6) Report states that parcel is 327 acres and is "in a rural area".

November, 1998

Rogalla pit

Phase II Report released on the Dredged Material Management Plan for the Duluth-Superior Harbor. Plan includes the Rogalla pit as a placement site for dredge material. (Attachment B: Alternative #7) Report states that parcel is 110 acres and is "in a rural area".

September, 1999

Waldholm pit

Solway Township is currently in the process of building a new fire hall. Included in the bid, was the demolition and removal of the existing fire hall. We were informed on Tuesday, September 28th by the MPCA that this demolition has been determined to be hazardous, and has been dumped illegally into the Waldholm. pit, which is located two miles from the site. The MPCA will be contacting the subcontractor responsible for the dumping as to the appropriate actions which will be taken.

A brief summary of our

Support of the Aggregate Material Tax

When asked questions in a 1992 Township survey regarding the gravel industry in Solway Township (Attachment C), residents overwhelmingly supported stronger control of operations and also compensation to local governments. With that in mind, and the fact that counties in other parts of the state were collecting an Aggregate Tax, Solway Township felt this would be a viable way of assisting our residents in reducing our levy. In 1998) M.S. 298.75 was passed which allowed 15 townships in St. Louis County to impose a tax, if St. Louis County itself relinquished its right. The County did so and Solway Township passed Resolution # 17, imposing a 10 cent per cubic yard tax on aggregate material. Questions regarding the tax were answered by distributing a flyer (Attachment D), and information was included in a brochure generated by the MN Department of Revenue Minerals Tax Office (Attachment E). A reporting form (Attachment F) was developed for ease in reporting. Compliance with this tax has been generally well-received, with only a few exceptions. We continue to believe that the Aggregate Tax is a skillful means of compensating our community.

Key issues to address in the recommendation process

1. **Dumping.** Large parcels of vacant and depleted land continue to be considered suitable and available sites for dumping material. We support legislation that would prohibit AU dumping into depleted borrow pits.
2. **"Operating" pits.** St. Louis County requires 100 cubic yards of aggregate be removed from a pit each year to be considered "operating". "Operating" status can delay the final reclamation of a pit, indefinitely. In the mean time, adjacent property owners and the public in general must look at an open pit. We support a limit on the number of years a pit is allowed to be "operating".
3. **Future use.** We support the concept that depleted pits be made into areas for recreation, building homes, etc. However, all interested parties must have that vision as they proceed with their borrow pit operation.
4. **Contamination.** Rural areas rely on wells for their water supply. Even the slightest amount of contamination of exposed ground water or soil in a pit can effect many, many residents. We support strict guidelines in monitoring exposed water, throughout the lifetime of a pit.
5. **Property valuations.** Borrow pit activity creates dust, noise, and heavy truck traffic and negatively effects adjacent properties. We support that a limit be placed on the number and size of operating pits in a given area.
6. **Transfer of ownership.** If an operating pit is sold, it is difficult to monitor conditions that were conveyed to a previous owner. We support a requirement that new owners re-apply for their own permit.
7. **Bonding/Financial assurances.** St. Louis County has never collected on a bond for reclamation. Their reason is that it is too costly and time consuming. We support strict compliance regarding the collection of bonds if a pit operator/owner fails to reclaim their pit within Z years of ceasing operations.
8. **Compensation.** Aggregate extraction is no different than that of iron ore. Aggregate is a non-renewal resource. Everyone needs gravel and it is only mined in certain places. We supported (and received) legislation to offer compensation to those local governments directly and negatively effected by aggregate extraction.

(Key issues cont.)

9. Public nuisance. Traditionally, youth view borrow pits as an unsecured site and easily accessible for a gathering place. Parties of various types continue to jeopardize the welfare of our young people. We support the enforcement of pit owners to properly and effectively secure/police their properties.

10. Waste storage sites. Borrow pits are currently being considered as sites for waste bi-products stored in "secure" means. These types of storage can potentially deteriorate, thereby polluting the environment in future generations. We support the establishment of policies which would envision environmental safety for many years to come.

Attachments

- A: Consolidated Papers, Inc. landfill project in Solway Township Informational hand-out
- B: Army Corp of Engineers Phase 11 Report Dredged Material Management Plan for the Duluth-Superior Harbor
- C: Excerpts from the 1992 Solway Township Resident Survey
- D: Question/ statement hand-out regarding Aggregate Material Tax.
- E: MN Dept. of Revenue Minerals Tax Office Informational Brochure
- F: Aggregate Material Tax Reporting Form

**CONSOLIDATED PAPERS, INC.
LAKE SUPERIOR PAPER INDUSTRIES
Landfill Project
Solway Township**

Consolidated Papers, Inc. is committed to sound environmental management practices and has a long-standing reputation as a leader in environmental stewardship. Lake Superior Paper Industries and Superior Recycled Fiber Industries, in Duluth, Minnesota, are owned by Consolidated Papers. Headquarters for Consolidated Papers is located in Wisconsin Rapids, Wisconsin.

2. Consolidated Papers is in the process of siting a landfill for mill residue from Lake Superior Paper Industries and Superior Recycled Fiber Industries. The proposed site is located in a gravel pit currently owned by Ulland Brothers, in Sections 11 and 14 of the Town of Solway, at the north end of Jeffery Road.
3. The landfill will be a state-of-the-art facility that will meet or exceed all of the regulatory requirements of the Minnesota Pollution Control Agency (MPCA). The facility will also comply with all local government zoning regulations and ordinances. It will be owned and operated by Consolidated Papers.
4. Lake Superior Paper Industries and Superior Recycled Fiber Industries generate approximately 200 tons of residue per day. The residue is inert and consists primarily of wood fibers and clay.
5. Consolidated Papers is committed to finding beneficial alternative uses for the residue that do not require disposal. The landfill will serve as a back-up for times when alternative uses are limited.
6. It is expected that from 0 to 26 truckloads of residue could be hauled to the landfill in a given day depending on the status of beneficial use projects.
7. To assure all environmental concerns will be addressed, Consolidated will prepare a voluntary Environmental Assessment Worksheet that will be submitted to the MPCA.
8. A geological / hydrogeological study of the soils, bedrock conditions and groundwater elevations, flow patterns and quality has been initiated with results expected to be available by May 1999. This study will determine the feasibility for constructing a landfill at this location.
9. The landfill permitting process is targeted for completion in September 1999 with construction to be completed by the Year 2000,

For more information, contact Andy Gilbert, Consolidated Papers, at 715-422-3408, or Debra McGovern, Lake Superior Paper Industries, at 218-628-5281.

Lake Superior Paper Industries is the largest manufacturer of supercalendered (SCA) paper in the United States. Paper produced by Lake Superior Paper Industries is used for newspaper advertising inserts, catalogs, magazines and other commercial printing.

Superior Recycled Fiber Industries produces high-quality recycled pulp made from office scrap paper. Superior **Recycled Fiber Industries' pulp is used for high-quality** printing and writing grade paper used in annual reports, magazines, newspaper advertising inserts and other paper applications.

9/98

Consolidated

Attachment B

**PHASE II, REPORT
DREDGED MATERIAL MANAGEMENT PLAN
DULUTH-SUPERIOR HARBOR,
MINNESOTA AND WISCONSIN**

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7.5 Alternative 5 - Develop the Pike Lake Gravel Pit Site into a Dredged Material Placement Site

This alternative consists of constructing an upland unconfined dredged material placement site northwest of Duluth Harbor. A general location map is provided on Figure 3 and a quadrant map on Figure 8. The parcel is 105 acres in size, located within Grand Lake Township, TH53 and West Pike Lake Road, Duluth, Minnesota. The property is privately owned by Northland Constructors. This site is located in a rural area. Pike Lake Gravel Pit site is accessible by truck, within fifteen miles driving distance of Erie Pier (if used as a transfer site). This site was used as a gravel pit. There are no known contaminants on this site. If this site is determined to be part of the base plan, an environmental audit would be conducted to determine the potential for contaminants. Currently the owner is looking for potential creation of a wetland mitigation bank.

All the design considerations discussed in paragraphs 2 & 3, Section 7.1 above, also apply in this alternative.

7.6 Alternative 6 - Develop the Munger Pit Site into a Dredged Material Placement Site

This alternative consists of constructing an upland unconfined dredged material placement site northwest of Duluth Harbor. A general location map is provided on Figure 3 and a quadrant map on Figure 9. The parcel is 327 acres in size, located within Solway Township, Maple Grove Road, Duluth, Minnesota. This property is privately owned by Ulland Brothers Inc. The site is located in a rural area. Munger Pit is accessible by truck, within nine miles driving distance of Erie Pier (if used as a transfer site). The site also has a railroad line along the southwest edge of the property. This site was also used as a gravel pit. There is a small lake located within the west side of the property. There are no known contaminants on this site.

All the design considerations discussed in paragraphs 2 & 3, Section 7.1 above, also apply in this alternative.

7.7 Alternative 7 - Develop the Rogalla Pit Site into a Dredged Material Placement Site

This alternative consists of constructing an upland unconfined dredged material placement site west of Duluth Harbor. A general location map is provided on Figure 3 and a quadrant map on Figure 10. The parcel is 110 ~ acres in size, located within Solway Township, Morris Thomas Road, Duluth, Minnesota. The property is privately owned by John Rogalla. This site is located in a rural area. Rogalla Pit is accessible by truck, within seven miles driving distance of the Erie Pier (if used as a transfer site). This site was also used as a gravel pit. There is a small pond located within the northeast corner of the property. Rogalla Pit was

used recently (date unknown) as a deposit for material from the Waseca Industrial Road project. There are no known contaminants on this site. If this site is determined to be part of the base plan, an environmental audit would be conducted to determine the potential for contaminants.

All the design considerations discussed in paragraphs 2 & 3, Section 7.1 above, also apply in this alternative.

7.8 Alternative 8 - Reclamation of Strip Mining areas using Dredged Material

This alternative consists of using dredged material as a beneficial use to reclaim land used in strip mining operations. A reclamation demonstration project was initiated in the summer of 1997 between the Minnesota DNR, National Steel Pellet Co. (Keewatin, MN) and the Corps. Keewatin, MN is approximately 70 miles from Duluth-Superior Harbor. The purpose of the demonstration project will determine if mine tailing basins can be reclaimed using dredged material as a soil source for establishing vegetation. A progress report is to be completed by December 31, 1997 and a final report by January 31, 1999. See location map and plan view on Figures 11 & 12 respectively.

According to the Minnesota Department of Natural Resources (DNR), there are over 25,000 acres of tailings covering land in northern Minnesota (See mining sites on Figure 13). Mining companies are required to reclaim tailing basins areas. Studies conducted by the Minnesota DNR have shown that taconite tailing wastes are infertile and can be difficult to vegetate to meet reclamation standards. Tailing areas that are satisfactorily vegetated provide wildlife habitat or other uses such as pasture or timberland. Incorporating dredged material into the tailings may improve soil and vegetation characteristics necessary for reclaiming coarse tailings creating valuable wetlands on fine tailings without adversely affecting the environment.

Erie Pier site (See aerial view on Figure 14) has access to railroad transportation which could be used to transfer dried dredged material to strip mining areas for reclamation.

7.9 Alternative 9 - Develop the Erie Pier Site. as an indefinite Transfer site for Dredged Material

This alternative proposes to use the Erie Pier site as a permanent transfer site for dredged material placement in conjunction with using the upland unconfined disposal sites and strip mining reclamation operation as discussed above. A general location map is provided on Figure 3 and an aerial view on Figure 14. It is important to note that the dredged material classified as upland unconfined is not required to be washed (See Alternative 14 below) as a requirement if it is to be placed in an upland unconfined disposal site; thereby eliminating the need to provide &-confined disposal facility.

Attachment C

Taken from the 1992 Solway Township Resident Survey

QUESTIONS: IX. Gravel

1. Are you satisfied with the condition of the abandoned gravel pits in Solway Township?

Yes: 27 %

No: 60 %

NA: 13 %

2. Do you think there should be a limit placed on the number of operating gravel pits in Solway Township?

Yes: 77 %

No: 30 %

NA: 3 %

3. Do you believe St. Louis County is adequately monitoring and enforcing their regulation of gravel pits?

Yes: 30 %

No: 56 %

NA: 14 %

4. Are you in favor of strict enforcement regarding reclamation standards of gravel pits?

Yes: 85 %

No: 13 %

NA: 3 %

5. Do you believe Solway Township should receive compensation for the gravel being extracted from the land in our township?

Yes: 76 %

No: 21 %

NA: 3 %

Attachment D

(Distributed in August, 1998)

Questions/ statements sheet about the

Aggregate Material Tax

Current status

We have passed and forwarded to the State, Resolution #17 stating our intent to implement the Aggregate Material Tax as stated in MN Statute 298.75.

- * Current pit owners/haulers should not be held responsible for the unclaimed pits of the past.

Nor should the township or residents living near them. These unclaimed pits are a health hazard and dangerous. The County recognized this, and responded by requiring new reclamation standards in 1995. That certainly is a positive step. However they have difficulty with follow-up and enforcement.

- * Haulers already pay a variety of taxes on their trucks which is used to repair roads, etc.

None of this revenue is returned to Solway Township directly.

- * Who decides how the tax revenue will be spent?

The Town Board has the authority to allocate the revenue as they see fit. Many ideas have been discussed, however the two that seem most likely are the establishment of a reserve fund for pit restoration and/or park/ recreational improvements. (Note: it is difficult to know exactly how much revenue we are speaking of.... so it is hard to say how it will be spent)

- * How will the tax be collected and who will do the paperwork?

The clerk will be doing the paperwork.. Tax would be due quarterly. Example: 10,000 cubic yards sold, 10 cents per cubic yard would equal \$ 1,000 check payable to Solway Township.

* Why is the Township so willing to impose this tax, if the County has turned down the option?

The County turned down the option because they do not have the means available to them to monitor and administer it throughout all of St. Louis County. Townships are much smaller ... it is much more feasible for us to take the option.

* What about the average township homeowner who will see this increase the next time they need gravel for a basement, septic system or driveway?

It is true that consumers will see a slight increasehowever, in most cases they will use larger amounts of gravel only once or twice in their lifetime for basements, septic, etc. Driveways could be more often, but also use much less. It is our expectation that the amount of additional money that they will spend will be far outweighed by the fact that much more gravel leaves Solway Township than is used here. Others will be spending more for the gravel they need, which will possibly help to reduce the levy needed to run the township. A reduced levy means lower property taxes.

* What townships have passed this resolution?

As of this date, Midway and Solway.

* Why gravel?

Two points must be made. First, gravel is a non-renewable resource. Once it is depleted from a site, it can never be replaced. Therefore, we feel that our township should see some benefit from that loss, similar to that of iron ore mining. Secondly, gravel is what we have. We don't have iron ore, we don't have oil, we have gravel. Right now it is the largest commercial/industrial resource we have.

* Why not encourage more commercial business to come to Solway and tax them?

It's true that an increase in commercial property could allow the option of a sales tax. However, when responding to that question in our 1993 Township survey, residents overwhelmingly stated their desire to maintain our rural setting and did not want to see an increase in commercial/ industrial use.

* What is the effective date?

We are currently working with the MN Dept., of Revenue and the Mineral Tax Office to determine how the tax will be collected, in regard to forms, time frames, etc. Once that is established, we can begin. However, we have no intention of setting a date that does not allow the gravel owners/haulers time to make necessary adjustments in their bidding process.

For further information, please contact the Town Office at 729-5134.

**READY MIX CONCRETE PRODUCER/
BITUMINOUS PRODUCER**

Non-Taxable: The purchase of aggregate by a ready mix concrete or bituminous producer to be used in making their product is exempt from sales tax if the ready mix concrete or bituminous producer provides a completed exemption certificate (ST-3) for industrial production to the aggregate seller (pit owner).

If either of these producers make retail sales of aggregate, the aggregate may be purchased exempt from sales tax only if the purchaser provides a completed resale exemption certificate (ST-5).

For additional information on the Sales and Use Tax contact the Minnesota Department of Revenue at — 1-800-657-3777 or at the Internet address below.

**Minnesota Department of Revenue
Minerals Tax Office
P.O. Box 481
Eveleth, MN 55734-0481
Telephone: (218) 744-7420
Fax: (218) 744-7421
Internet: www.taxes.state.mn.us**

Attachment E

**MINNESOTA Department of Revenue
Minerals Tax Office**



**Aggregate Material Tax
(Gravel Tax - M.S. §298.75)
Informational Brochure**

June, 1998

INTRODUCTION

The aggregate material tax (MS 298.75) is a production tax on the removal of aggregate material. Aggregate material is gravel, sand, silica sand, crushed rock, limestone and granite (but not dimension stone and dimension granite). The tax imposed on importers and operators is ten cents per cubic yard or seven cents per short ton. For the purposes of this statute, an importer is any person who brings aggregate from another state or county (township) not imposing this tax into a county (township) that imposes the Aggregate Material Tax. The tax is imposed on an importer when the aggregate material is imported into a county (township) imposing the tax from a county (township) that does not impose the tax. An operator is a person engaged in removing aggregate material from the surface or subsurface of the soil, for the purpose of sale, either directly or indirectly, through the use of aggregate material in a marketable product. The tax is imposed on an operator within the county (township) when the material is sold or transported from stockpile, whichever occurs first.

Since 1986, this tax has been in effect in 22 counties: Becker, Benton, Big Stone, Carver, Clay, Dakota, Hennepin, Kittson, LeSueur, Mahnommen, Marshall, Norman, Pennington, Polk, Ramsey, Red Lake, Scott, Sherburne, Sibley, Stearns, Washington and Wilkin.

1998 LEGISLATION

No legislation was passed.

1997 LEGISLATION

The 1997 legislature authorized Pope, St. Louis and Carlton Counties to begin collecting the tax. Pope County imposed the tax effective April 1, 1998. Carlton and St. Louis Counties chose not to impose the tax.

The same legislation authorized some townships surrounding Duluth to impose the tax if St. Louis County chose not to impose the tax. Those townships are: Alden, Brevator, Canosia, Duluth, Fredenberg, Gnesen, Grand Lake, Industrial, Lakewood, Midway, Normanna, North Star, Rice Lake and Solway. Solway Township voted in 1998 to impose the tax, but the effective date will be determined by the Town Board.

Although this is a county (township) tax, the Minerals Tax Office does provide compliance information and assistance to both counties and townships, aggregate importers, producers, users and any interested citizens or public officials.

TAX ADMINISTRATION

The aggregate material tax is the responsibility of the county auditor (township clerk) in each county (township) that imposes the tax on its aggregate operations. The county auditor (township clerk) is accountable to develop the tax reports, correspond with aggregate operators or importers and collect the tax. The county auditor (township clerk) has the right to audit and inspect all books and records of any aggregate material operator or importer.

"Aggregate material must be measured and weighed after it has been extracted from the pit, quarry or deposit."

Any operator has 30 days *after* the tax has been paid to appeal any estimate.

The law requires the county to distribute the tax as follows: 60% — County Road and Bridge Fund, 30% — Township or City Road and Bridge Fund as determined by the County Board and 10% — Reserve Fund for Pit Restoration of abandoned pits or quarries on public and tax forfeit lands. Townships collecting this tax have no legally mandated distribution.

The tax is first collected from the county (township) where the aggregate is produced. If two adjoining counties (townships) both impose the tax, the county (township) into which the aggregate is imported cannot collect or impose the tax. The only exception to this is: If the aggregate material is transported directly from the extraction site by a waterway, railway or other non-highway method, the tax imposed shall be apportioned equally between the county (township) of extraction and the county (township) of destination.

Generally, the legislature authorizes the county (township) to impose this tax. Approval by the county (township) board must comply with MS 645.021, Subd. 3: *"The chief clerical officer of a local government unit shall, as soon as the unit has approved a special law, file with the Secretary of State a certificate stating the essential facts necessary to valid approval, including a copy of the resolution of approval or, if submitted to the voters, the number of votes cast for and against approval at the election. The form of the certificate shall be prescribed by the Attorney General and copies furnished by the Secretary of State. If a local government unit fails to file a certificate of approval before the first day of the next regular session of the legislature, the law is deemed to be disapproved by such unit unless otherwise provided by special law." For 1997 and 1998 session laws, this certificate must be filed before January 5, 1999.*

AGGREGATE TAX EXAMPLES

No Tax Imposed Examples

Example: If a governmental unit (township, city, county or state) owns or leases an aggregate pit, there is no aggregate material tax when the governmental unit removes aggregate for its own use. There is also no tax if the governmental unit hires a contractor to crush and remove the aggregate for use on governmental unit roads. The tax is imposed on every operator in the business of removing aggregate material for sale. Consequently, there is no operator within the statutory definition, and no tax due. (Attorney General's opinion to Kanabec County Attorney, May 13, 1983.)

Example: If a farmer removes aggregate for personal use from a pit located on the farmer's property, then no tax would be due.

Tax Imposed Examples

Example: A privately-owned aggregate pit sells aggregate to a township, other local units of government, county or the State of Minnesota. The tax is imposed on the pit operator.

Example: A governmental unit-owned or privately-owned aggregate pit sells gravel to an individual or contractor who picks up the aggregate at the pit. The tax is imposed on the pit operator.

Example: Same as above, but operator delivers the aggregate; either dumping or leveling the aggregate. The tax is imposed on the pit operator.

Example: Ready mix and bituminous producers who own their own aggregate pits must pay the tax to the county. If they purchase aggregate, the tax was paid by the aggregate producer or importer.

The tax is not a sales tax, but a production tax on aggregate produced in a county (township) or imported into the county (township).

REPORTING REQUIREMENTS

By April 14, July 14, October 14, and January 14, operators or importers must file a quarterly report with and make payment to the county auditor (township clerk) in the county (township) in which the aggregate material is produced or imported.

AGGREGATE TAX COLLECTED

1981	\$ 104,693	1990	\$1,939,276
1982	236,039	1991	1,783,301
1983	1,503,599	1992	1,895,260
1984	1,731,600	1993	2,045,794
1985	1,783,940	1994	2,272,272
1986	1,938,702	1995	2,114,823
1987	2,115,649	1996	2,330,664
1988	1,830,535	1997	\$2,658,567
1989	2,003,391		

AGGREGATE TAX COLLECTED BY COUNTY - 1997

Becker	\$ 93,673	Pennington	\$ 14,170
Benton	0	Polk	3,326
Big Stone	81,228	Pope	0
Carver	63,203	Ramsey	42,045
Clay	183,414	Red Lake	34,853
Dakota	575,393	Scott	285,275
Hennepin	357,327	Sherburne	185,913
Kittson	34,332	Sibley	37,185
LeSueur	180,184	Stearns	59,566
Mahomen	3,212	Washington	389,986
Marshall	1,914	Wilkin	19,331
Norman	13,037	Total	\$2,658,567

In addition to the aggregate materials tax, sales of aggregate are subject to state sales and use tax of 6.5 percent and possibly additional city or county sales tax. While sales tax exemptions may apply to the sales tax imposed, they do not apply to aggregate materials tax.

Sales tax information is provided on the other side of this brochure.



SALES TAX ON AGGREGATE MATERIALS

Aggregate material is gravel, sand, silica sand, crushed rock, limestone and granite.

SALES TO CONTRACTORS

Taxable: Generally, purchases of aggregate by a contractor are taxable since it will be used as an improvement to real property. An improvement to real property requires that the contractor deliver and spread the aggregate in such a way that no further leveling is required by the purchaser. This includes situations where it is leveled while being unloaded from the back of a moving truck without the use of any other equipment.

Non-Taxable: The purchase of aggregate by a contractor from a pit owner for resale is exempt from sales tax if the contractor provides the pit owner with a completed resale exemption certificate (ST-5). A retail sale by a contractor involves only the dumping of aggregate; no leveling, spreading, or further action by the contractor is provided. The contractor must charge the end user of the aggregate the sales tax. If the aggregate and delivery charge are stated separately, the delivery charge is not subject to tax. If not stated separately, the total amount is taxable.

SALES TO TOWNSHIPS

Taxable: The purchase of aggregate by a township for any use other than road and bridge maintenance is taxable, i.e. aggregate is purchased for the township's parking lot, playground, snowmobile trails, etc.

Non-Taxable: Effective after June 30, 1998, purchases of aggregate by townships are exempt from sales tax if they are used exclusively for road and bridge maintenance. This exemption does not apply to cities, counties or special taxing districts.

SALES TO CITIES, COUNTIES OR SPECIAL TAXING DISTRICTS

Taxable: All sales of aggregate to cities, counties or special taxing districts are subject to sales tax when it is used by these entities. No exemption is provided for purchases used for road and bridge maintenance.

Non-Taxable: Sales of aggregate to cities, counties or special taxing districts where the aggregate will be resold by these entities are exempt from sales tax if the entity provides the pit owner with a completed resale exemption certificate (ST-5).

AGGREGATE PIT OWNED BY A GOVERNMENTAL UNIT

Taxable: If a pit is owned or leased by a governmental unit, sales are subject to sales tax if sold to anyone else for their own use unless it is purchased for resale. See previous section on contractors.

Non-Taxable: If a pit is owned or leased by a government unit, there is no sales tax when the entity removes aggregate for its own use.

PIT OWNER NOT IN THE BUSINESS OF SELLING AGGREGATE

Non-Taxable: If an owner of a pit removes aggregate for personal use, it is not subject to sales tax.

AGGREGATE CRUSHING

Taxable: Aggregate crushing is considered fabrication labor and is taxable. Fabrication labor is defined as the making or creating of a product or the altering of an existing product into a new or changed product. Fabrication labor is taxable even when the customer provides the materials for the products that will be created or altered.

AGGREGATE SCREENING

Taxable: Aggregate screening is fabrication labor and subject to sales tax.

Example: Aggregate is purchased from a pit owner and another party is hired to crush, size (screen) or otherwise process the material. The pit owner must charge the purchaser sales tax on the material; the party that crushes, sizes or otherwise processes the material must charge sales tax on the fabrication labor.

**Town of Solway
Office of the Town Clerk**

AGGREGATE MATERIAL TAX REPORTING FORM

(Please type or print)

1. Name of Operator:
2. Address:
3. Reporting period covered by this report, (check one)

January 1 - March 31, 19_
July 1 - September 30, 19_

April 1 - June 30, 19_
October 1 - December 31, 19_

Schedule A

(Please complete the following schedule. Use additional sheets if necessary and attach to this form.)

Name or location of pit, quarry, or deposit from which aggregate was removed or imported (include property ID or parcel code)	Owner of pit, quarry or deposit	Total cubic yards/tons removed or imported
---	------------------------------------	---

(over)

Complete line 4 and/or line 5:

4. Total number of cubic yards of aggregate removed/imported during this reporting period: cubic yards X \$. 10 = Amount of Tax

5. Total number of tons of aggregate removed/imported during this reporting period: tons X \$.07 = Amount of Tax

6. PLEASE REMIT TAX ALONG WITH THIS FORM.

Under penalties of perjury, I declare that I have prepared or have examined this reporting form, including accompanying schedules and statements, and to the best of my knowledge and belief this report is true and complete.

Date

signature

Title

Mail this form and remittance to:

**Solway Town Clerk
4029 Munger Shaw Road
Cloquet, MN 55720**

DEPARTMENT OF NATURAL RESOURCES
500 Lafayette Road, Box 10
St. Paul, MN 55155

September 29, 1999

Representative Tom Rukavina, Chairman
Room 375, State Office Building
100 Constitution Avenue
St. Paul, MN 55155-1298

RE: Aggregate Resources Task Force Written Comment Submittal

Dear Representative Rukavina:

The Department of Natural Resources (DNR) takes this opportunity to provide written comments for consideration by the Aggregate Resources Task Force. The Task Force's creation [M.L. 1998, chapter 401, section 50] is timely and highlights the increasingly important and valuable role that aggregate resource management should play in sustaining Minnesota's dynamic economy and good environmental quality. Aggregate resources are considered non-renewable and finite, however they are generally 90% recoverable through recycling. Therefore, it is of interest to the State to optimize aggregate resource use in a long-term, sustainable fashion that balances consumption of newly extracted mineral with the reuse of previously mined material. This is best achieved by ensuring that incentives are available to both producers and consumers of sand, gravel, and other mineral resources that are consistent with this end. The Task Force can provide considerable leadership in this regard, especially in terms of recommending policies that support and guide local governments in the decisions they make in the planning and regulation of aggregate reserves under their jurisdiction.

The Task Force's report and accompanying recommendations should also reflect the various roles played by DNR in the management and use of the state's aggregate resources. Specifically:

DNR as a manager of state lands. The DNR uses and sells construction aggregate materials, where in most cases the responsible DNR division (notably the Division of Fish and Wildlife and Division of Forestry) manages sand and gravel pits and crushed rock quarries. The Division of Lands and Minerals manages state mineral rights, which usually pertain to ferrous resources, non-ferrous metallic resources, and higher value industrial minerals, (e.g., granite for dimensional stone), other than construction aggregates. The DNR also has fiduciary responsibility related to management of school trust lands and university trust lands and is required to act in the best interests of the trust beneficiaries.

DNR as a source of technical expertise. The Division of Lands and Minerals often provides technical and legal assistance to the DNR surface manager when aggregate resources are leased on state lands. In addition, the DNR receives weekly requests for

Representative Tom Rukavina, Chairman
September 29, 1999

technical assistance and information. The requests cover a wide range of issues including regional and site-specific resource assessment, valuation, permitting, reclamation and restoration, blasting, hours of operation, and leasing. The DNR has attempted to maintain a good working relationship with both the construction aggregates industry and local government units that interact with the industry through permitting and zoning, by providing technical information to both parties in a fair and impartial manner. The Reclamation Handbook for aggregate resources is an example of this impartial commitment. DNR has also conducted environmental cooperative research projects at aggregate mines to improve the technical base of information.

DNR as a source of natural resource information. From a natural resources perspective, it is DNR's view that the value of aggregate resources should be considered alongside the value of other natural resources in making decisions. This can result in situations where decision making must reconcile differing views on the value of the potentially affected resources. The Task Force's inclusion of native prairie conservation within the issue scope is a good example of where competing natural resource objectives are present and decision makers turn to DNR for perspective. Another example is based on DNR's ongoing efforts to supply information on regional resource inventories. Circumstances arise where local and regional resource use objectives do not coincide. The typical scenario has a new, large aggregate mine being administered by a local unit of government. If the deposit is of regional significance, then conflict can ensue when this local decision adversely affects the ability of significant outside populations or governments to efficiently use this resource.

DNR as a natural resource manager. We are seeing additional pressure on all natural resources that is related to population increases in many areas of the state. Approximately 50% of the amount of aggregate consumed is for public works projects while the remaining 50% is used in the private sector. The state's growth corridors, such as the suburbs surrounding the Twin Cities metropolitan area and Rochester and St. Cloud, coupled with other greater Minnesota growth centers such as Duluth, Mankato, and Moorhead, will require large volumes of aggregate materials to build the new public infrastructure needed to service the ongoing growth.

These roles demonstrate DNR's broad interest in this topic. Whether occurring through the identification of significant reserves, researching site reclamation techniques, or identifying where biodiversity retention conflicts with legitimate resource utilization objectives, DNR is actively involved in the use and management of the State's aggregate resources.

We therefore look forward to continuing involvement with the Aggregate Resources Task Force as your work proceeds. M.L. 1998, chapter 401, section 50 [subd. 2: Duties] identifies the scope of aggregate resource issues that are to be addressed by the Task Force, including: local permit requirements; resource depletion; mining practices; nuisance problems; safety; resource inventory; competing land uses and land use planning; native prairie conservation; environmental review;

Representative Tom Rukavina, Chairman
September 29, 1999

reclamation; recycling; transportation of aggregates; and aggregate material tax. We offer the following set of comments for your consideration consistent with the scope of prescribed issues.

Local Permit Requirements

The most extensive review of aggregate mining operations currently takes place at the local unit of government, either county, township, or municipality. In Minnesota, there are 87 counties, 1,802 townships, and 855 cities. Each of these entities has the authority to regulate aggregate mining through zoning ordinances and land use planning. Operating concerns such as view, noise, dust, hours of operation, traffic, and final reclamation are often addressed in local permits. In general, the DNR has no role in administering or reviewing local permits.

Although these operations receive the most scrutiny at the local level, some state and federal permits may apply depending on the size and scope of the proposed mining operation. State permits from the DNR may be required if there is a need to appropriate water or if protected waters would be altered by the project. Permits from the MPCA may be required for aspects of the operation relating to storm water discharge, water quality, air emissions, and above ground storage tanks. Potential impacts to certain non-protected wetlands, as defined by the Wetlands Conservation Act (WCA), are under the jurisdiction of the local units of government.

Whether in populated areas or in rural settings across the state, aggregate mining is often considered an unwelcome neighbor. Conflicts between aggregate mining and other land uses are escalating. For example, in northwestern Minnesota aggregate mining proposals on private land with significant native prairie resources are increasing and local officials have difficulty knowing what to do when faced with permit decisions in these cases.

When conflicts arise over a local permit or a technical issue related to mining, the DNR is often contacted, especially the Division of Lands and Minerals. However, we believe there is a need for better cooperation and communication among the local government units (that regulate aggregate mining), state and federal resource management and regulatory agencies, and local communities.

Resource Depletion

Aggregate resources are unavailable in the practical sense when: 1) the resource is completely mined; 2) competing land uses preclude mining; 3) closure occurs before all economically viable reserves are extracted because it is not permitted; or 4) a mining permit is not granted. These circumstances gain importance when considering that aggregate inventories are lacking in critical areas of the state. More effort is needed to identify aggregate resources before development occurs that precludes mining, to conserve known aggregate deposits, and to mine aggregate prior to development whenever possible.

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In the Twin Cities metropolitan area, consumption is projected to surpass local production during the next 15 years. This estimate was provided in testimony provided to the Task Force by industry representatives summarizing permitted reserves. At the same time, there are moratoriums for new mine permits appearing, such as in Chisago County, in Rochester, and in Douglas Township of Dakota County. Currently, there are tight supplies for crushed stone in the Twin Cities metropolitan market area and for high quality sand in southwestern Minnesota. There are also genuine aggregate resource scarcities appearing in some areas of the state, such as the Northshore. The DNR has contracted with the Minnesota Geological Survey and the Metropolitan Council to produce a current regional scale inventory of the aggregate resources in the 7-county metro area. The work is scheduled to be completed October 15, 1999.

Mining Practices

The DNR is encouraging long range mine and reclamation planning such that complete utilization of all the aggregate resources at a particular site is attained. The DNR supports beginning staged reclamation work as early as possible in the mine's life. Such planning often involves neighbors to prevent nuisance problems that can result from dust, noise, or traffic. Wherever possible, DNR encourages the siting of mines on deposits that have greater depth or thickness of resource because that means fewer surface acres will be disturbed over time.

Nuisance Problems

Sometimes issues associated with active operations such as view, noise, traffic, steep slopes, deep water, fugitive dust, hours of operation, and blasting are considered "nuisance problems" as referenced in statute. These concerns are frequently voiced by the public regarding active operations around the state whether they are sited in either populated or remote locations. Most often, local permits effectively address these issues, and in some instances state standards may apply in terms of dust and noise. However, some of these issues can become serious environmental and safety concerns that require technical solutions.

For inactive or abandoned sites, the "nuisance problems" can be quite different. Some sites can be a concern because of unsafe pit walls or deep water. Others are a concern because of erosion, illegal dumping, trespass, and unauthorized activities like parties and off-road vehicle use.

DNR receives a wide range of calls from the public regarding nuisance problems on both active and abandoned sites. In most cases, these matters are best solved at the local level. DNR considers each call on its merits and strives to provide the best assistance possible. In some cases, DNR has provided extensive technical expertise based on our experience working with the taconite mining industry. Blasting is an example where DNR input has proven valuable.

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Safety

Public safety issues are addressed by the responsible governmental unit during the permitting process. Industrial safety issues are governed by federal regulations by the Mining Safety and Health Agency (MSHA) and the Occupational Safety and Health Agency (OSHA), or state and federal transportation regulations.

Resource Inventory

Public knowledge of the location of non-renewable aggregate resources, along with other natural resources potentially affected by this type of mining, is vital to informed decision making decisions by local governments regarding the mine siting. Aggregate mine location is important since a major component of aggregate price is the haulage cost. In addition, one large deposit, if strategically located, can supply an entire region; an example of this is a mine located in Maple Grove. Aggregate deposits naturally vary in quality as a function of related end use specifications. High quality, large volume deposits are becoming scarcer in some areas, thereby increasing the distance to the end user who must then accordingly pay an increased haulage cost.

The DNR is directed by statute (M.S.84.94, Aggregate Planning and Protection) to conduct aggregate resource mapping for counties. Under this program, Nicollet County is currently being mapped by DNR. Maps are completed for Blue Earth, Clay, Isanti, Wright and Sherburne Counties. We have requests for mapping from Benton, Chisago, Itasca and Dodge Counties. Due to staffing and budget limitations, it is not possible to fulfill, in a timely manner, all the requests that we receive for aggregate mapping.

Competing Land Uses and Land Use Planning

DNR advocates that natural resource information be considered in local land use planning efforts alongside more traditional issues such as anticipated growth profile, appropriate zoning and unit densities, incompatible uses, and transportation requirements. Aggregate resources have historically been overlooked in the planning process. Aggregates are a non-renewable and valuable natural resource that should be considered concurrently with other natural resources. However, even with a knowledge of aggregate resources, siting of mining facilities remains difficult.

Aggregate resources are necessary for the construction of infrastructure, housing, and other societal needs. The market cost of aggregate is largely related to transportation, therefore it is important to have good long-term supplies proximate to urban areas. Every effort should be made to utilize highest quality aggregate resources for as long as practical if no serious environmental impacts are anticipated. Premature conversion of these sites to other uses should be avoided, as well as overly-burdensome restrictions on their operations due to encroaching development in the surrounding area.

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Land use planning should include measures to “warehouse,” or reserve, potential aggregate resources for future use when immediate needs are being satisfied. Appropriate shorter-term land uses could be considered, for example, allowing a “temporary” use such as an off highway vehicle (OHV) park until the aggregates are needed. A potential exists for a partnership between land owners with aggregate resources and OHV users. Since mining would eventually disrupt the landscape, OHV use and land alteration would be consistent with the long term land use. Buffers and noise controls could be established as part of the OHV park development, and could continue to be useful during the subsequent mining activities. After mining occurs, reestablishment of the OHV park could be part of the reclamation plan.

Long-term reuse of aggregate mining sites should be planned prior to, and integrated with, the mining process. There is an opportunity to work collaboratively in providing new recreational opportunities or access to existing land and water recreation resources. The elevations, land forms, water features, and other site characteristics that are desired once the mining is completed should be created as part of the mining process. Open space retention and natural community restoration should be given full consideration as a long-term use for relevant mining sites. When open space/natural area use fits in with overall state, regional, and community plans, it should be given priority and be an essential part of site reuse. In addition, inactive mining sites (pre- or post-mining) should be restored or revegetated using native vegetation.

The Division of Lands and Minerals will continue to provide aggregate resource information to interested planning groups. Efforts underway that might incorporate aggregate resource elements include local community-based comprehensive planning and the smart growth planning initiative in the Twin Cities metropolitan area.

Native Prairie Conservation and Protection of Rare and Endangered Species

Aggregate sites often support prairie, or other natural communities and rare habitats, that have declined in extent statewide as a result of many incompatible land uses. This is a particular concern in the beach ridge areas of northwestern Minnesota. The DNR advocates a common sense approach to protecting native prairies predicated on the premise that every effort be made to preserve the best and most significant native prairie, along with other rare habitats or communities that remain, regardless of the aggregate potential. In all cases where aggregate mining occurs on public land that currently contains prairie vegetation, there should be a mining plan prepared that considers prairie preservation, prairie restoration, mining procedures, and reclamation utilizing native plant species and materials.

For mining proposals on private land where native prairie and aggregates occur concurrently, an aggregate inventory is recommended to gain a better understanding of the aggregate deposit. An assessment of the native prairie may also be appropriate. An option for consideration includes establishment of a process for potentially compensating a landowner if mining is not permitted.

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It should be understood that native prairie lost to gravel mining or other development is a loss that cannot be replaced. There is also an important distinction between native prairie or native grassland versus an area that has been replanted with native species of grass or prairie plants. The DNR does not regard native prairie as being reclaimable with existing knowledge of restoration techniques because native prairie is much more highly diverse in species abundance (e.g., plants, animals, insects) compared to sites where reclamation has occurred, even when native species are used. In this context a mining project that includes the destruction of native prairie, or listed rare or endangered species or communities, could be found significant enough to require environmental review under state or federal environmental policy laws or rules. (However, this raises the dilemma that if environmental review is initiated, the proposer may drop the project, in which case the landowner could plow up the site or otherwise destroy the natural features by acts which would not require environmental review.)

One alternative for protection of the native prairie located on privately owned sites containing rare and endangered species is through compensating the landowner and placing the property in public ownership or under protective easement, provided that the landowner is willing and funds are available. No environmental review would then be necessary. The problem is that there are a number of significant prairies on private land containing gravel deposits, and not enough funds are available from existing sources, such as the Reinvest in Minnesota and Scientific and Natural Areas programs, to purchase them. Another problem is lack of detailed information on the value of underlying gravel deposits on some sites, or conversely whether a site has gravel at all.

Environmental Review

The RGU for environmental review of aggregate mining operations is the applicable local government. The State Environmental Review Program rules establish a threshold for a mandatory environmental assessment worksheet (EAW) preparation for projects of 40 acres or more, and for a mandatory environmental impact statement (EIS) preparation it is 160 acres or more. In recent years, the DNR has reviewed approximately 10 to 20 environmental documents related to aggregate mining each year, and the number seems to be increasing. At the same time, the aggregate mining projects being proposed are larger and more complex than in the past. The technical issues surrounding new proposals or expansions of old mines can be complex, especially those dealing with groundwater modeling. We also observe that social or emotional issues are common concerns associated with aggregate projects, more so than technical issues.

Typically, DNR provides comments on these proposals in terms of technical support, local permitting, and opportunities for reclamation. We relate information on potential impacts such as loss of wetlands and wildlife habitat, effects on native prairie and other vegetation, water quality and quantity issues associated with surface and groundwater infiltration into the pit, topsoil loss, the need for a mining and reclamation plan, and the need for aggregate inventory. This input is an example of the type of support DNR offers. We strongly advocate responsible mining practices and the use of progressive reclamation for all aggregate mining operations. Some potential impacts that can occur as a function of aggregate mining are discussed below.

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Effects caused by interference with groundwater. Gravel pits may interfere with groundwater by lowering the water table around the site as the pit is deepened and groundwater infiltrates into the pit; this may require dewatering to enable the continuation of mining. Dewatering-induced interference can occur with wells in the area around the mine, and with nearby surface waters such as wetlands, lakes and streams. Dewatering can even affect surface vegetation adjacent to or down-gradient from the pits. If the impact proves substantial, wells located on surrounding lands must sometimes be drilled lower or even new sources of water must be found. Lowering of the water table can sometimes result in impacts to plant communities that occur in conjunction with springs or wet areas; examples in this respect include certain endangered species, such as the western prairie fringed orchid, or rare plant communities such as calcareous fens. These issues have arisen during environmental reviews of new mine proposals, as well as during renewal of DNR water appropriations permits for the dewatering of existing pits. The evaluation of impacts and development of mitigation requires analysis that can be both costly and time consuming.

Effects of mining in or near streams and rivers. Aggregate mining in or near streams and rivers can result in undesirable consequences. Potential impacts include: sediment contamination; sediment-bound pollutants entering flowing waters; physical and chemical changes to aquatic systems; changes in channel stability; habitat loss; and the decline of aquatic biota (in numbers and diversity). Permits for mining in streams should not be issued without careful evaluation of the potential effects to the health of the target stream systems. When mining occurs adjacent to streams, the streams often are converted to lakes when the stream meanders naturally into one of the mine pits.

Visual impacts of aggregate mining. Aggregate mining activities disturb the pre-mining character of the landscape. This is especially significant in areas where resource management and enhancement can be used as an economic tool through the development of tourism. For example, a gravel operation along the Minnesota River Valley Scenic Byway, unless handled in a sensitive manner that does not disrupt a traveler's view of the river valley, can detract from the traveling experience that is being advocated for tourism purposes. Visual screening of mines in scenic areas would assist in addressing this issue.

Impacts due to loss or reduction of topsoil. Gravel deposits are often covered with thin soils, making it difficult to save the topsoil for use in site reclamation. Abandoned pits often have no topsoil left, and it must be imported at high cost to restore it to the site. If careful reclamation using proper soil is not carried out, the overall vegetative productivity of the site can be degraded for subsequent uses, including agriculture and wildlife.

Exotic species issues. Disturbed areas such as inadequately reclaimed gravel pits, with little or no soil present, provide sites where noxious weeds and other exotic species sometimes flourish. Exotics thrive under these conditions because these species are often adapted to arid and thin-soils. Dispersal of exotic species from these sites occurs naturally, or seeds can be carried by gravel trucks.

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Use of gravel pits as wetland mitigation. Gravel pits are sometimes considered as mitigation sites for wetland losses in other areas. However, some gravel pits are usually sterile sites that are not conducive to restoration as fully functioning wetlands, which is the regulatory requirement for mitigation purposes. To meet the mitigation requirements, importation of organic soils may be needed to establish a wetland. Procedures need to be developed to guide the development of wetlands in gravel pits, including the amount of organic soil to be used and methods of establishing plants.

Reclamation

The public of today often expects that aggregate mining areas will be reclaimed to an appropriate end use that has some future land value. Reclamation at active aggregate mining sites is often required by a local permit. Because each jurisdiction administers its own permitting program, the standards for reclamation vary by county. Statewide guidelines for reclamation would provide greater uniformity across the state.

In contrast, reclamation of abandoned sites is often more difficult. One statistic in this area offers an important policy backdrop: there are about 1,500 active and intermittently active gravel pits in the state and about 2,500 abandoned gravel pits. Many abandoned gravel pits now observable among Minnesota's landscape were mined over a long period of time, by multiple operators, for a variety of aggregate products without the benefit of a mining plan. Reclaiming these sites is usually a costly endeavor. The situation is further complicated by the fact that often there is no identified party responsible for reclamation. The DNR endorses the use of the reserve fund from the Aggregate Materials Tax for reclamation of abandoned mining sites. Not only are the costs higher to reclaim these sites, but the results are often disappointing compared to what might have been accomplished if reclamation had been part of the original mine plan.

The demand for technical information on reclamation and for funding sources for reclamation projects is growing, based on the volume of calls for assistance that come to the attention of the Division of Lands and Minerals.

Recycling

The DNR is a strong proponent of recycling and reuse of mineral commodities, including alternative aggregate products such as blast furnace slag. The DNR encourages the use of taconite waste products for aggregate materials, such as the use of coarse taconite tailings for bituminous road wear surfaces. An inventory of the taconite waste material stockpiles that could be used as aggregate should be developed.

Transportation of Aggregates

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Haulage costs of transporting aggregate to a jobsite factor in direct and indirect fees. In very general terms, every 20 to 25 miles of rural truck haulage doubles the cost of material at the jobsite. Indirect costs of longer truck haulage include shorter lifetime for roadway pavements, traffic congestion, noise, air pollution, and safety issues. Trucks can only haul 24 tons per load, and the Twin Cities metropolitan market alone consumes 30 million tons per year now.

Aggregate Material Tax

Ten percent (10%) of the revenue generated by the Aggregate Material Tax is allocated to a special reserve fund for restoration of abandoned pits and quarries located on public lands within the county that collected the tax. The DNR endorses the use of the 10% reserve fund for reclamation. The reserve fund has particular application in reclaiming abandoned pits. The Division of Lands and Minerals has initiated several cooperative environmental research projects to reclaim abandoned pits on public land using partnerships with local governments, which collect the aggregate material tax, industry, and conservation groups. A list of sites on public land that could be reclaimed is needed for each county that collects the tax to guide use of the reserve funds.

In addition, other uses of the Aggregate Materials Tax that could be considered by the task force include:

- reclamation of sites on private lands.

- conducting inventories of aggregate resources in conjunction with efforts underway by the County Biological Survey (CBS) as it assays native plant communities.

- consideration of a programmatic approach to rare native plant communities acquisition and/or protection, on a priority basis, where future gravel resource extraction could threaten such features.

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Concluding Remarks

Thank you for the opportunity to provide input into your process. We look forward to a continued working relationship with the Aggregate Resources Task Force as your deliberations proceed. Please feel free to contact Tom Balcom, DNR's Environmental Review Program's Supervisor, at (651) 296-4796 if you have any questions.

Sincerely,

(SIGNATURE ON FILE)

Steve Morse, Deputy Commissioner
Minnesota Department of Natural Resources

c:Allen Garber
Brad Moore
Division Directors
Regional Directors
Tom Balcom

aggregatefinal.wpd

September 23, 1999

Aggregate Resources Force Task
Attn: Representative Tom Rukavina, Chairman
Room 375, State Office Building
100 Constitution Avenue
St. Paul, MN 55155-1298

ANDERSON BROTHERS CONSTRUCTION CO.
P.O. BOX 668
BRAINERD, MN 56401
TELEPHONE: 218-829-1768
TELEFAX: 218-829-7607
AN EQUAL OPPORTUNITY EMPLOYER

Dear Representative Tom Rukavina,

Aggregate materials are a finite resource, which needs to be protected with reasonable conditions. We would like to present a situation, which has happened to us in a rural area of Minnesota. A valuable aggregate resource has effectively been made unavailable for future generations due to local government action.

Let me first say that if you had to locate an aggregate resource with the least effect on both the environment and the local community, this would be the ideal location. The proposed area is 160 acres of high ground surrounded on two sides by an extensive area of Tax Forfeited county land. (See Attached) The nearest residence would be approximately ½ mile. Access to the property would be a rural road to State Highway 6 with only one resident between the pit and the State Highway.

After an EAW and two years of meetings, the word came clearly, mostly from seasonal residents, to the City Council: "They came to this area to escape development and the proposed gravel pit would ruin the environment, their rural getaways and remind them of their busy hometowns." The reality is that this area is growing at a phenomenal rate and with it the increased demand for the products that would be produced in the gravel pit. Property owners must be able to sell the aggregate resources existing on their property as long as there is not a direct negative impact on their neighbors' property. This can be accomplished with proper conditions.

I don't need to go into the cost advantages of gravel resources located near the ultimate users. This resource would supply an area consisting of approximately a 6 to 8 mile radius of the pit. The products produced would be gravel for sewers, gravel for roads, and hot mix for paving local roads and private/commercial projects, most within the city. If the need was not there, the venture would not survive.

The city of Emily consists of 36 square miles with a total population of 719. This is the size of an ordinary township, but was incorporated as a city. The current zoning ordinance, as interpreted by the courts, allows for extractive use only, but does not allow processing (i.e., crushing, washing, or sizing) or manufacturing (asphalt or concrete plant) within the city limits. Commercial/Industrial areas allow for processing, but there are no areas currently

zoned to allow any of these processes. To use the resource we must truck the material out of the city to a processing site in another community and then truck it back to the consumer.

Due to actions of the glaciers, we did not receive large deposits of aggregates in this area of the state. We do not have the benefit of large quarry locations but must rely on multiple small resources to serve community needs. It is important that the state protect the limited resources available for future generations by restricting control of local governments in zoning away these resources forever.

Another problem area of aggregate resource protection involves the EAW process. I have included a copy of the response from the Minnesota Department of Health to a recent EAW application we submitted. You might want to spend some time looking at the responses of the state agencies to the EAW process. At times their responses are extreme in nature and exceed their areas of authority. Unfortunately the local government often looks to the agencies responses as coming from a high level of authority.

This particular EAW application was for a gravel pit with Asphalt Plant only. The MDH insists (paragraph 2) that it includes a wash plant. Item I states that from their experience, we are really going to operate a wash plant not just a crushing and asphalt plant as in our application. It also recommends consideration be given to the additional water needed for the *nonexisting* wash plant. The *nonexisting* new wells for the *nonexisting* wash plant must comply with certain setback rules including a 50 ft. setback for the *nonexisting* new wells from the *nonexisting* lake, stream, river.

Next, we must do extensive monitoring, disclosure notification, groundwater studies and well inventory work (beyond current records since the mid 70s) because we are not going to dewater during our operations.

MPCA controls Petroleum tank issues and ground water runoff permits, I am not sure where the MDH enters the picture other than personal opinions.

The process you are going through is extremely important to our industry and the customers we serve. Future generations will be effected by the actions you take today. If you would like further information about our experiences and frustrations, feel free to give me a call.

Sincerely,

(Signature on File)

Terry Johnson
Planning and Permitting Officer

MDH

Department of Health

Protecting, Maintaining and Improving the Health of All Minnesotans

September 22, 1999

Mr. Tom Blackmarr
Zoning Administrator/Enforcer
Cass County Environmental Services
P.O. Box 3000
Walker, MN 56484

Dear Mr. Blackmarr:

[Note: underline in place of highlighting on Anderson Brothers submittal letter]

Minnesota Department of Health (MDH) staff have reviewed the Environmental Assessment Worksheet (EAW) for the Anderson Brothers Hot Mix and Gravel Plant-Sylvan Township, Cass County, Minnesota. We understand that the project consists of gravel mining operations including crushing; processing to include a portable bituminous batch plant; material stockpiling including recycled concrete, recycled asphalt, and the excavated material; material trucking from the site; and eventual restoration of the site. Concomitant development will include stormwater runoff and treatment; portable sanitary facilities; haul road(s); and possibly a 8,000-gallon diesel tank with containment(s).

We find this EAW acceptable and do not recommend that an Environmental Impact Statement be performed. However, the proposed mining operation and washing plant will be located in a highly susceptible area for groundwater contamination due to the highly permeable sediments at the surface. This aquifer setting is particularly vulnerable to surface runoff and land-use activities, and nearby domestic wells could be affected by surface land uses. Therefore, we have concerns that certain activities associated with the proposed gravel mining operation and hot mix asphalt plant may either interfere with wells or cause pollutants to move to the water table. Some pollutants could pose a health threat for the residents and workers who drink from wells in the area. Accordingly, we have some comments and recommendations for your consideration to be protective of public health.

1. Runoff Water. Item 13a. state there will be no wells installed. However, it has been our experience that most gravel pits, especially those with crushing operations, use a washing process in their operations. If water washing becomes necessary, it is unclear whether the proposer will recycle the runoff water or would use another water source, such as mobile water tanks, wells(s), etc.

In Item 18a., the EAW states that runoff water will be contained in an on-site stormwater retention area, which will filter the majority of sediment from the runoff. The soils within the proposed mining area and on the west side drainage are listed as 'Hubbard loamy sand' which is excessively well drained and has a rapid permeability. We recommend that consideration be given to whether additional water may be needed for washing, because it is probable that runoff water may infiltrate too rapidly into the soil after each rainfall event to be a reliable water source year-around.

2. New well(s). Any new well must be installed by a licensed well contractor and meet all other requirements of Minnesota Rules, Chapter 4725.

3. Well Setback Distances. Minnesota Rules, Chapter 4725 requires that a minimum setback distance of 150 feet must be maintained between a water supply well and an above ground petroleum storage tank of more than 1,100 gallons if not protected by safeguards, as required by the Minnesota Pollution Control Agency (MPCA). Alternatively, a minimum isolation distance of 100 feet allowed if the above ground storage tank is protected with those safeguards as defined in Minnesota Rules, Chapter 7100.0010. Subpart 2. The rules require that a minimum setback distance of 20 feet must be maintained between a water supply well and an above ground petroleum storage tank of greater than 25 gallons but less than 1,100 gallons. There is no required isolation distance for tanks of 25 gallons or less, but a 50-foot setback is recommended for all tanks of less than 1,100 gallons.

The rules also require a minimum isolation distance of 50 feet from the ordinary high water level of a stream, river, pond, or lake. This requirement would also pertain to any constructed pond, such as the proposed runoff retention area.

4. Well Inventory. We recommend that a field well inventory be performed to determine if there are any existing water supply wells (active or unused, unsealed) across the entire land parcel, and especially across the proposed mining area. Particular attention should be made in the areas shown on air photos, old maps, etc. where any farmsteads or old irrigation wells may have been located on this property.

5. Unused Wells. We acknowledge Item 13a. of the EAW which states that no wells will be abandoned. Minnesota Statutes, section 103I requires that any unused, unsealed wells be repaired and put back into service or be sealed by a licensed well contractor in accordance with Minnesota Rules, Chapter 4725. An unused, unsealed well may also be addressed by obtaining an annual maintenance permit (\$100 fee) from the MDH. Maintenance permits are granted only if the well meets certain conditions.

If any existing wells are found from the field well inventory, we recommend that sealing of wells be completed first, because the isolation distances apply in all cases. Once a well is sealed by a licensed well contractor in accordance with requirements of the rules, the isolation distance is no longer an issue.

6. Well in Area to be Mined. Please be aware that, if any well would be located in part of the area to be mined in the future, at the point in time when any well is no longer used as a water supply well it must be sealed by a licensed well contractor in accordance with requirements of the Minnesota Rules, Chapter 4725, even if it will later be excavated by the mining process. This will also have the advantage that the well will not become a source of contamination to the aquifer, in the interim before it is excavated. Please contact Ronald Thompson in the Well Management Unit at (651) 215-0831, if you have any questions on these requirements.

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7. Backflow Prevention. If a non-potable water supply well (such as an irrigation well or a well for gravel washing) currently exists or will be installed, please be aware that the Minnesota Rules, Chapter 4725 require that all wells be protected from possible backflow or back-siphoning of a contaminant into the well. To prevent this, a well must have an approved backflow prevention device if the well will be used for application of any type of chemicals, such as weed control chemicals, flocculents for settling out particles, etc.

No cross-connection is allowed between a non-potable well and a water supply well unless an approved backflow prevention device is maintained on the system. Also, if any well, including any non-potable well, will be used to fill a tank for mixing of any chemical (e.g., a pesticide, a slurry conditioning agent, flocculent, etc.), the well must either be protected with a backflow prevention device or maintain an air gap or separation of at least twice the pipe diameter. For further information, please contact Ronald Thompson at (651) 215-0831.

8. Dewatering. We acknowledge that Item 13b. (P. 3) states the project will not require an appropriation of surface water. We note that the water table elevation is noted in the Site Plan to be at about 1185 feet above mean sea level (MSL). This is confirmed on the map because of several lakes in the immediate vicinity to the north and northeast area at about 1190 feet MSL, and the Crow Wing River is shown at just below 1186 feet MSL.

We are particularly concerned that, if the need develops to do any dewatering, nearby drinking water supply wells may be impacted by dropping water levels. We note that because of several very shallow wells in the area, any water level drop could be a serious problem for some wells in the area.

We found 94 well records in the Country Well Index within approximately one mile of the proposed plant. Most of the wells for which we located records are used for drinking water supplies. Total depths of the wells range between 13 feet deep to over 120 feet deep, with an estimated water column of from 5 feet to 120 feet. The standing water elevations of some of those wells may be higher than the proposed depth of excavation of 1167 feet MSL.

These databases must always be considered incomplete: usually, they only have records for the wells drilled since the mid-1970s. Therefore, there may be additional wells which exist, for which we have no records. Unrecorded wells may include shallow sand-point wells that were installed by the landowner, or older wells that were installed before current well regulations were adopted. Thus, unrecorded wells are even more likely to be vulnerable to contamination or to well interference problems.

9. Groundwater Study. We recommend that a groundwater study in the area be made, as a permit requirement to determine what the potential may be for well interference from any dewatering which may be needed during the pit excavation. Such a study should involve a field well inventory of

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private wells within a 1- to 2-mile radius at a minimum. However, where groundwater levels may drop significantly, such as by more than 3 feet (as predicted by groundwater modeling), all areas encompassed by that drawdown should be inventoried for wells. This will provide the County with the necessary understanding as to whether to expect any impacts to neighboring wells by this project.

10. Disclosure to Nearby Homeowners. We feel a disclosure concerning the potential of groundwater quality degradation and possible water table lowering should be delivered to all well owners within the area identified in the groundwater study which may show an impact from the mining operation. In conjunction, we suggest they should be provided the opportunity to have their well(s) sampled at least once before the project begins and then at regular intervals if they so choose.

11. Mining Depth. We acknowledge the anticipated elevation to end at approximately 1167 feet above mean sea level (MSL) (requiring roughly 38 feet of material depth to be removed) according to the Site Plan. We also acknowledge Item 20c (p.4) which states that there are no known environmental hazards.

We usually recommend that excavation stop three feet above the water table in all areas to be mined, in areas such as this which are highly susceptible to contaminants from the surface to move to the groundwater. We believe it is important to retain a significantly thick layer of geologic material in place above the water table, as a protection to the groundwater quality from potential surficial contamination because of nearby drinking water wells.

In this case, however, we recognize that the project is proposing to excavate a total of 38 feet deep of which 18 feet are below the water table. Thus, we suggest that Cass County consider the results of the groundwater study, to determine what impacts to wells this project may have to the identified wells in the area, and then to determine to what depth the permit should allow excavation.

12. Petroleum Tank(s). We are concerned that a spill of any of the fuel or oil which will be stored on-site would quickly move to the groundwater, creating a health risk to drinking water wells in the area. We acknowledge that Item 20c states that the petroleum will be underlain by a plastic liner, and will be surrounded by an earthen berm. However, it is not clear that the containment will be capable of containing the entire volume in the storage tank. We recommend a structure which will be completely impervious to any liquids, including through the base and sidewalks, which is high enough to contain any catastrophic spill from the tanks.

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13. Parking of Petroleum Tank(s). We recommend that an impervious area, such as a paved or concrete parking lot, be installed for parking (all) mobile fuel tank(s). We also suggest that fuel tank parking be limited to the suggested impervious areas where spillage can be detected and correctly addressed.

We also recommend that an impervious area be installed on which all hot asphalt plant operations will be conducted. Such an area should be designed with impermeable containment berms at the sites and drainage to an oil-water separator system.

14. Fueling Procedures. We recommend that all fueling procedures and oil changing for the equipment and vehicles be performed on the suggested impervious area or on another impervious area, where spillage can be detected and correctly addressed.

15. Operation Plan. We recommend that an operation plan be prepared and implemented to ensure the safe parking of the fuel tank(s) and the maneuvering of other equipment around the tank(s). This procedure should include security measures to prevent accidental leakage or vandalism, as well as appropriate waste oil recycling and regular maintenance and recycling from the oil-water separator system.

16. Future Changes. We also recommend that if any future proposal is made for a significant increase in the size of the fuel storage tanks, that such proposal be reviewed by MDH and the Minnesota Pollution Control Agency (MPCA).

Thank you for the opportunity to review this EAW. If you have questions or need further information, please contact Betty Wheeler at (651) 215-0807.

Sincerely,

[Signed *Betty Wheeler* for]

Jeanne Eggleston, Acting Supervisor
Policy, Planning, and Analysis Unit
Environmental Health Division

JAE/bjw

Northern States Power Company

414 Nicollet Mall
Minneapolis, Minnesota 55401-1927
Telephone (612) 330-5500

September 28, 1999

AGGREGATE RESOURCES TASK FORCE

Attn: Representative Tom Rukavina, Chairman
Room 375, State Office Building
100 Constitution Avenue
St. Paul, MN 55155-1298

**AGGREGATE RESOURCES ISSUES:
COMMENTS OF NORTHERN STATES POWER COMPANY**

On April 28, 1999, NSP presented information to the Task Force related to aggregate uses of coal ash. The following briefly summarizes NSP's comments and suggests three policy recommendations for the Task Force to consider in its upcoming report to the Legislature.

Summary of Comments

Coal ash is a significant resource. It is ranked nationally as the fourth largest, non-fuel commodity in commerce behind three commodities familiar to Minnesota: sand and gravel, crushed rock, and raw steel. Approximately 1,500,000 tons of "coal combustion by-products" are produced annually in Minnesota; two-thirds of which are produced by NSP. The table below breaks down NSP's production into the type of commodity and identifies potential aggregate-related uses for the by-product:

Ash "Commodity"	Annual Tonnage	Aggregate Uses
"Conventional" Fly Ash	150,000	Cement Replacement, Soil Stabilization
Dry Scrubber/Baghouse Fly Ash (Sherburne County #3)	320,000	Cement Replacement, Soil Stabilization, Ag-Lime, Light-Weight Aggregate
Wet Electrostatic Precipitator/Scrubber Fly Ash (Sherburne County #1 and #2)	270,000	(Processing will be required - not currently economic)
Bottom Ash	150,000	Road and Structural Base
Boiler Slag	80,000	Sand-Blast and Roofing Granules
Total:	970,000 Tons/Year	

COMMENTS OF NORTHERN STATES POWER COMPANY

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The significant aggregate replacement potential of coal ash can be illustrated by two uses identified in the Table above:

1. Soil Stabilization. In Minnesota, construction practice has historically been to replace unstable or weak soils found below pavements and foundations with stable, granular fill. In areas of the U.S. where high quality "borrow soils" are not reasonably available, but where cementitious fly ashes are, a common alternative is to blend fly ash with the on-site soil to increase its stability and support capability. Increasing structural support of a pavement's subgrade with the use of ash can further translate to reducing the depth of the aggregate base section. About 150,000 tons of NSP's annual ash production is suitable for stabilization use. Full utilization of this ash resource presents the potential to reduce Minnesota's annual aggregate needs on the order of 500,000 tons per year.
2. Agricultural Liming and Fertilization. The Spray Dryer Scrubber/Bag house ash produced by NSP's Sherburne County Unit 3 can satisfy much of the liming and sulfur/boron nutrient needs of typical agricultural soils in central and southeastern Minnesota. The most common alternative liming material is quarried limestone. As much as 200,000 tons per year of Spray Dryer ash could be used for this purpose.

Appropriate criteria for assessing potential aggregate uses of coal ash have been identified by Mn/DOT (G. Rohrbach, Handout to Task Force, 4/28/99):

1. Technically it must provide equal or better engineering properties than current materials,
2. Environmentally it must pose no potential hazard to the surrounding ecosystem, and
3. Economically it must compete in the marketplace on an equal basis with current materials.

Decision basis for satisfying the first and third of the above criteria (technical and economic properties) are reasonably well established and non-controversial. However, there is controversy related to satisfying the second of the above criteria. Coal ash is a by-product of the combustion of coal for electric generation and is thus regarded as an Industrial Solid Waste. Authorization for any uses must be obtained from the MN Pollution Control Agency. Mn/DOT has further proposed an independent process to satisfy its environmental requirements.

Coal ash does contain certain trace elements known as "heavy metals" (arsenic, cadmium, lead, mercury, etc.). The trace metal content of NSP's coal ashes is comparable to common soil ranges. This is logical, since these soils, along with biologically held "nutrient" elements, are the origin of the ash. However, coal fly ash is a fine particulate, thus may be subject to inhalation or ingestion hazards if improperly handled. Coal combustion and

COMMENTS OF NORTHERN STATES POWER COMPANY

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scrubbing processes may change the environmental mobility of trace metals. Solubility of metals such as boron, barium, and selenium may increase. As a result, some restrictions on use of coal ash is warranted.

These potential environmental and human health liabilities are well understood and are comparable to several construction and agricultural materials in common use. For example, coal fly ash and portland cement have similar characteristics - in fact, fly ash has been used for decades as a partial replacement for cement. The dry scrubber/baghouse ash referenced above is similar to many conventional agricultural neutralization and nutrient combinations that provide comparable liming and fertilization benefits. **In general, use of coal ash does not increase the potential for environmental problems if it is used responsibly and according to common-sense construction and agricultural practices.**

Policy Recommendations

NSP's policy recommendations respond to the frequent controversy surrounding the environmental approval process. These recommendations apply not only streamlining authorizations for use of coal ash, but also to other recyclable commodities that are considered "wastes" but for the opportunity to beneficially utilize the materials.

1. **Lack of Statutory Rule Structure.** The MPCA does not have a Rule structure to guide its issuance of permits to utilize coal ash. Permits are obtained based on the outcome of negotiation and public review processes. While NSP has had modest success in obtaining permits, the process is ambiguous, lengthy, and uncertain. States with demonstrated success using coal ash tend to have Statutes or Rules to govern approvals. In 1994/95, the MPCA convened a diverse Task Force to assist in Rulemaking for coal ash utilization. In spite of achieving apparent consensus recommendations as to how to regulate use of coal ash, the MPCA never completed the process. **NSP recommends that the MPCA be directed to resurrect its Coal Ash Utilization Rulemaking process.**
2. **Approval Jurisdiction.** Recent ash utilization permits issued by the MPCA contain a provision that "local and county approvals must be obtained prior to use". Minnesota has 87 counties, 1,802 townships, and 855 cities. This creates a formidable process to gain widespread approval for commercial uses of ash. It places a burden on jurisdictions who are not staffed to evaluate complex and controversial environmental issues. **NSP recommends that the MPCA's authority to permit use of coal ash be extended statewide and that local and county officials must simply be notified of ash use within their jurisdiction.** The ash user would continue to have the obligation to comply with all local ordinances and codes, including any governing use of industrial byproducts.

COMMENTS OF NORTHERN STATES POWER COMPANY

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3. Environmental Assessment Worksheet (EAW) Requirements. The MPCA is the Responsible Governmental Unit (RGU) to determine if an EAW is required prior to authorizing use of coal ash. The MPCA must order preparation of an EAW if the use may have the potential for significant environmental effects. This low legal standard and the EAW format do not establish a workable context for assessing commercial utilization of industrial by-products. A possible dilemma is created when acts of construction or agriculture in and of themselves may have the potential for adverse environmental effects. For example, NSP's dry scrubber/baghouse house ash contains similar levels of trace elements as are found in alternative agricultural liming and nutrient sources, thus both present similar potentials for environmental effects. However, even if the ash is "cleaner" than the alternatives (which it frequently is), its commercial use can be restricted in order to satisfy the EAW process. **NSP recommends a generic EAW/EIS process be developed by the State to cover utilization of industrial by products and fertilizers.**

NSP appreciates the opportunity to provide comments and recommendations. Please contact me if you have any questions.

Sincerely,

(SIGNATURE ON FILE)

Michael R. Thomes
Fuel Resources Department
612-330-7657

United States
Department of
Agriculture

Forest
Service

Superior
National
Forest

8901 Grand Ave. Pl.
Duluth, MN 55808
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File code: 1510/2850
Date: October 4, 1999

Honorable Tom Rukavina, Chairman
MN House of Representatives
TTN: Aggregate Resource Task Force
375 State Office Building
100 Constitutional Ave.
St. Paul, MN 55155-1298

Dear Mr. Rukavina:

The Chippewa and Superior National Forests produce over half a million cubic yards of sand and gravel annually from more than 250 pits. Most of this production goes for federal, State and local governmental road construction projects; the remainder goes to private individuals and contractors. Even though our own road construction has decreased in recent years, the demand for our aggregate continues to increase. Non-federal sources are being depleted; and new ones are not being developed; therefore, we have a keen interest in any State-wide policy that might affect the demand from our aggregate sources.

If new policy is developed, it should include "best management practices" for mining, processing, utilizing and reclaiming aggregate sources. This would promote more efficient utilization of the limited resources that are available.

There also needs to be more coordination between governments to identify potential aggregate sources for major road construction projects before contracts are offered. We find it increasingly difficult to responding to instant demands for large quantities of aggregate materials after the contracts are let, and simply may not be able to do so in the future.

Please keep us informed of any new proposals.

Sincerely,

(SIGNATURE ON FILE)

JAMES W. SANDERS
Forest Supervisor

Caring for the Land and Serving People

**BENTON COUNTY
RESOLUTION 1999 - # 36**

WHEREAS, the State of Minnesota, Department of Natural Resources, has by State Statute been put in charge of mapping the limited aggregate resources in the State of Minnesota, and

WHEREAS, the Benton County Board of Commissioners feel that this is a non renewable resource that is vital to the continued growth in the state, and

WHEREAS, the Department of Natural Resources is in the process of mapping the state one county at a time to show where the aggregate deposits may be located in the county, and

WHEREAS, the Benton County Board of Commissioners can see that this would be a valuable resource in the future planning of land use in Benton County, and

WHEREAS, the County has met with a representative of the Department of Natural Resources, Division of Minerals, and has been informed that the mapping of the counties is being done at no cost to the county, and

WHEREAS, the mapping of Benton County would start in the summer of 2000,

NOW, THEREFORE, BE IT RESOLVED that Benton County does hereby request that the Minnesota Department of Natural Resources map the aggregate deposits located within the boundaries of Benton County.

(SIGNATURE ON FILE)

Ken Neeser, Chair
Benton County Board of Commissioners

ATTEST:

Rick Speak, County Coordinator

Minnesota Statutes, Section 84.94

Aggregate Planning and Protection.

Subdivision 1. Purpose.

It is the purpose of this section to protect aggregate resources; to promote orderly and environmentally sound development; to spread the burden of development; and to introduce aggregate resource protection into local comprehensive planning and land use controls.

Subdivision. 2. Definition.

For the purpose of this section, "municipality" means a home rule charter or statutory city, or a town.

Subdivision. 3. Identification and classification.

The department of natural resources, with the cooperation of the state geological survey, departments of transportation, and energy, planning and development, outside of the metropolitan area as defined in section 473.121, shall conduct a program of identification and classification of potentially valuable publicly or privately owned aggregate lands located outside of urban or developed areas where aggregate mining is restricted, without consideration of their present land use. The program shall give priority to identification and classification in areas of the state where urbanization or other factors are or may be resulting in a loss of aggregate resources to development. Lands shall be classified as:

- (1) identified resources, being those containing significant aggregate deposits;
- (2) potential resources, being those containing potentially significant deposits and meriting further evaluation; or
- (3) subeconomic resources, being those containing no significant deposits.

As lands are classified, the information on the classification shall be transmitted to each of the departments and agencies named in this subdivision, to the planning authority of the appropriate county and municipality, and to the appropriate county engineer. The county planning authority shall notify owners of land classified under this subdivision by publication in a newspaper of general circulation in the county or by mail.

Subdivision. 4. Local action.

Each planning authority of a county or municipality receiving information pursuant to subdivision 3 shall consider the protection of identified and important aggregate resources in their land use decisions.

History: 1984 c 605 s 1

AGGREGATE RESOURCES in the Twin Cities Metropolitan Area

May 1983



AGGREGATE RESOURCES IN THE
TWIN CITIES METROPOLITAN AREA

by

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Marcel Jouseau

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May 1983

Publication No. 10-83-019

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SUMMARY

There is more than a 100-year supply of potential aggregate resources in the Twin Cities Metropolitan Area, according to an inventory undertaken by the Minnesota Geological Survey for this study. The supply includes an estimated 2.3 billion tons of sand and gravel, and 1.5 billion tons of crushed rock not covered by urban development and parks or restricted by special regulations. This compares with an estimated need for 373 million tons over the next 25 years, based on past use averaging 15 million tons a year. Eighty-five percent of this material will be needed in suburban areas compared with 15 percent in the central cities.

Most of the Region's aggregate reserves are not permitted by local governments. There may be a 10-year supply of aggregate available under current permits.

The Region's potential aggregate resources are unevenly distributed. Dakota and Washington Counties contain 92 and 87 percent, respectively, of the potential crushed rock and sand and gravel resources. In contrast, Anoka, Hennepin and Ramsey Counties don't have enough potential aggregate resources within their boundaries to meet the estimated 25-year demand. Their potential resources are limited, exhausted or covered by urban development and parks. Resources in Carver and Scott Counties appear adequate to meet future needs.

As houses, streets and shopping centers have covered aggregate in urban parts of the Region, mines have opened farther out. This has resulted in longer hauling distances to markets. Because aggregate is an inexpensive commodity (slightly more than \$2 per ton at the mine), trucking costs can have a substantial impact on the cost of aggregate at the construction site. The price of one aggregate commonly used as a roadway base doubles at 19 miles from the mine.

Barges are used to transport a significant amount of aggregate across the Region (15 percent of the volume in 1979), from mines to waterfront terminals, because they're less expensive. Estimated barge costs are less than two cents a ton per mile, compared with trucking costs ranging from 4 to 15 cents.

Despite the impact of transportation costs, aggregate costs are not a significant part of the cost of typical housing and commercial buildings. The cost of aggregate, including transportation up to 30 miles, represents less than three percent of total construction costs.

Aggregate transportation costs do affect highway construction costs significantly, however. The cost of aggregate, a major component of highway construction, hauled 30 miles from the mine represents 13.3 percent of the cost of one mile of an urban, four-lane highway compared with 7.3 percent for aggregate hauled five miles.

Substitute materials have real potential for conserving aggregate resources. Use of fly ash, bottom ash and slag produced by coal-burning power plants, river-dredged materials, and recycled concrete and asphalt concrete could save about two million tons of aggregate per year. Actual use will depend on the competitive cost savings.

Federal, state, regional and local governmental regulations and land use decisions affect the availability of aggregate resources in the Region. The major responsibility for such decisions lies with cities, counties and townships, since they are responsible for land use planning and controls. Current local controls emphasize the regulation of individual mining operations and reclamation of land rather than aggregate resource protection.

There is no regional policy for managing or protecting aggregate resources and no regional mechanism to coordinate local planning toward that objective. Under current authority the Metropolitan Council can advise, but not require, local governments to protect aggregate resources in local plans and land use controls.

The study presents several major conclusions:

- The Region has an adequate supply of potential aggregate resources to meet future needs and sufficient lead time to develop a mechanism for protecting its aggregate resources. Aggregate is needed for regional economic development.
- Government should take an active role in protecting aggregate resources as well as regulating mining operations and reclamation.
- A regional mechanism is needed to coordinate implementation of local plans to protect aggregate.
- Potential conflicts between aggregate protection and other metropolitan and local development goals and objectives should be examined, and a better balance should be achieved.
- A more precise inventory of reserve deposits is needed to assist local governments in planning for resource protection.
- Broader public understanding of the importance of aggregate resources is needed to support plans to protect the resource.

7. FINDINGS AND CONCLUSIONS

FINDINGS

1. The Region has more than a 100-year potential supply of aggregate resources. The estimates for potential resources available include 2.3 billion tons of sand and gravel and 1.5 billion tons of crushed rocks (Prairie du Chien dolomite). Based on past use averaging 15 million tons a year, the next 25-year demand is estimated at 375 million tons. Other 25-year demand estimates range from 208 to 650 million tons.
2. A partial estimate of existing, private, permitted reserves in aggregates indicates that there may be a 10-year supply available to the Region.
3. The potential aggregate resources are unevenly distributed in the Region. Dakota and Washington Counties contain more than 92 percent of the crushed rocks and 87 percent of the sand and gravel resources of the Metropolitan Area. Estimates of potential resources and actual reserves in Anoka, Hennepin and Ramsey Counties are close to, or are exceeded by, the projected 25-year demand for these counties. Resources in Carver and Scott Counties appear to be more than adequate to meet the long-term demand in these areas.
4. The inventory of potential aggregate resources lacks sufficient data to specifically delineate actual reserves. The limited number of data points for some of the areas and, generally, the lack of test data to determine the quality of the aggregates prevent further definition of the individual deposits in terms of: geographic extent, volume, quality and commercial viability of the deposits.
5. Extensive areas of potential aggregate resources in close-in and outlying suburbs could be encumbered as a result of regional and local land use policies that encourage urban uses and urban densities in the MUSA, potentially conflicting low-density development in the rural areas and agricultural land preservation in the commercial agriculture areas.
6. In the Metropolitan Area, local units of government have the primary responsibility for land use decisions. Local land use controls generally do not recognize aggregate protection or mining as a primary use of the land. As a result, little of the potential aggregate resources is currently protected by local land use controls or zoning.
7. Presently, there is no overall coordinating framework for planning and implementation to insure the Region of the availability of aggregate resources in the future.
8. The lack of information on regional aggregate resources and on problems with supplies in the future may have hindered the implementation of the Council's policies for the protection of the resources and is often cited as the reason for the lack of local planning for the protection of the resources.
9. Local governments and citizen groups are most concerned with the side effects of mining operations and reclamation. Consistency and comprehensiveness are currently lacking in local mining controls. This results in varying degrees of protection for local communities and the Region.

10. Increases in the cost of the aggregates resulting from the cost of longer hauls do not have a significant impact on the total cost of residential or commercial development. However, highway and other construction costs are far more sensitive to cost increases in aggregate hauling because of the large quantities of aggregates required in highway projects.
11. The substitution of other materials such as fly ash and dredged materials and the recycling of aggregates already in place will assist in conserving the supply of natural aggregates, but their use in a particular project is dependent on their cost versus that of natural aggregates.

CONCLUSIONS

1. Aggregate resources are an important natural resource contributing to the economic development of the Metropolitan Area.
2. While the Metropolitan Area is richly endowed with potential aggregate resources, there is a need to ascertain the actual reserves on the basis of the volume, quality and commercial viability of the aggregate deposits.
3. The Region needs to develop and implement a mechanism for protecting its future supply of aggregate. Large areas of potential resources will be lost because of urban and rural development unless this mechanism is established. There is, however, no need to protect all potential resource areas. A combination of tools are available including: planning, regulatory controls, acquisition of rights and formation of aggregate preserves. Presently, permitted reserves for the Area provide at least 10 years supply-sufficient lead time to develop a regional mechanism for planning and implementing aggregate protection.
4. The Metropolitan Council needs to examine potential conflicts between regional policies for the MUSA, rural and commercial agriculture areas and the protection and development of aggregate resources. Regional policies should provide for a balance between development and the need to manage aggregate resources. Further, the uneven geographic distribution of the resources accentuates the need to balance the local interest for development or environmental protection and the regional interest in orderly and economic development and aggregate preservation.
5. The opportunities for planning for the aggregate resources and for preserving the resources for orderly development would be greatly enhanced if the public, local officials and other governmental officials had an understanding of the aggregate resources of the Region. Education would also help increase support for mining as a legitimate land use and thus minimize land use conflicts.
6. To increase the acceptability of aggregate protection and extraction, local government officials and local residents need to be assured that the industry, mining operations and reclamation controls will minimize side effects on: the local administrative structure, land use, local roads, the environment and other community development objectives.
7. Substituting and recycling can have a positive impact on aggregate resources conservation and on the cost of the end-product. The public and private sectors play important roles in encouraging an expansion of these activities.

PROTECTING AGGREGATE RESOURCES IN THE TWIN CITIES METROPOLITAN AREA



**Report of the
Aggregate Resources Advisory Committee
to the Minnesota Legislature**

November 1985

SUMMARY

BACKGROUND, CHARGE AND MEMBERSHIP OF THE COMMITTEE

Aggregate--sand, gravel and crushed rock--is an essential material used in most types of construction, but it is not found everywhere in the Twin Cities Metropolitan Area. Because aggregate is limited to certain locations, its availability is affected by surface land use, particularly in an urbanizing area. In recent years, the aggregate industry and interested public agencies have indicated a concern as to the future availability of aggregates in the Metropolitan Area due to expanding urbanization.

In 1984 the legislature passed a law (Minn. Laws 1984, Ch. 605, Sec. 2) establishing an Advisory Committee on Aggregate Resources for the seven-county Metropolitan Area. The 15-member committee consists of representatives of the aggregate industry, local governments, citizens, the Metropolitan Council and the commissioners of the Departments of Natural Resources and Transportation. The legislature gave the committee three charges:

1. Identify whether currently available information on aggregate resources is adequate to determine whether local comprehensive plans and land use controls should protect aggregate resources.
2. Recommend a procedure for identifying the degree of protection desirable for the long-term availability of aggregate resources.
3. Recommend a method to protect aggregate resources for the long term.

MAJOR COMMITTEE CONCLUSIONS

CHARGE NO. 1: SUFFICIENCY OF CURRENT INFORMATION

1. Existing information on the location and volume of potential aggregate resources is sufficient to determine whether aggregates in the Metropolitan Area should be protected. The data indicates there is a supply of 4.6 billion tons of potential sand and gravel and crushed rock resources with a demand for 15 million tons per year. Other undelineated potential resources are located in Sherburne and Wright counties adjoining the region.
2. Existing site-specific data is generally inadequate for identifying and protecting specific aggregate deposits, but more detailed surveys are not necessary at the present time, given the large potential resources. These surveys are costly and should be undertaken by the aggregate industry in selecting commercially viable deposits for mining.

CHARGE NO. 2: NEED TO PROTECT AGGREGATE RESOURCES

3. There is no need for legislation mandating regulations for broad-scale protection of aggregate resources or requiring local communities to plan for mining at the present time. There is potentially a 200-year supply of unencumbered aggregate resources in the region, based on known consumption and supply estimates.
4. The aggregate mining industry has been successful historically in identifying and developing commercially viable resources adequate to meet the region's needs and has the capacity to do so in the foreseeable future. The industry has been able to obtain sufficient permit approvals in recent years for new or expanded mines to maintain a 10-year supply of reserves.
5. The diversity and lack of specific standards in many local mining and reclamation controls is a problem for the industry and the communities. There is little certainty or consistency for the industry on how mining permits will be evaluated and regulated and how this will affect the feasibility of an operation. At the same time, many local governments lack adequate standards for minimizing the impact of mining activity. Uniform, state-mandated standards administered by local governments would provide more certainty and consistency for the industry and strengthen the ability of local governments to control mining and reclamation.

CHARGE NO. 3: METHODS OF PROTECTION

6. Long-term protection of aggregate resources not owned by the industry would be costly or uncertain. Public acquisition or leasing of deposits would insure protection, but the costs could be high. The protection of deposits through land use controls such as zoning is uncertain because of the potential conflict with the rights of private landowners.

RECOMMENDATIONS

1. The legislature should establish a committee of technical experts and representatives of local communities and the industry to recommend standards for mining and reclamation to be administered by local governments in evaluating operations and reviewing and setting conditions for permits. The committee should recommend maximum standards for both rural and urban environments for such concerns as noise, dust, hours of operation, haul routes, vibrations and safety. If the legislature were to adopt these standards, they would be mandated. Communities could choose to adopt less restrictive standards or exclude standards altogether, but they could not adopt additional or more restrictive standards.

2. The Metropolitan Council should provide various types of technical information to local governments to assist them in planning for mining, including information as to the location and importance of aggregates, the potential impacts of mining and measures to minimize these; alternative approaches to planning for aggregate resources; and models or examples of ordinances and standards to manage mining (in the event there is no state legislation).
3. A high priority should be given to the completion of the current pilot project of the Minnesota Department of Natural Resources to identify potentially valuable aggregate lands in Sherburne County and performing a similar study for Wright County. Additional support should be provided, if necessary, to estimate the volume of potential resources in both counties.
4. Although it is the conclusion of the committee that aggregate preservation is not needed today, the legislature should review the possible need for preservation periodically; for example, every ten years.

ABOUT THIS REPORT

This report examines the need to protect aggregate resources in the Twin Cities Metropolitan Area and makes recommendations to improve local permitting and planning for mining operations.

Aggregate--sand and gravel and crushed rock--is an important resource for the continued development of the Twin Cities Metropolitan Area. Aggregate is an essential material used in most types of construction concrete and asphalt, as well as in fill or surfacing material. Aggregate is a major component in the construction of public roads, streets and highways. The specific use of aggregate is determined by its quality--its physical and chemical characteristics.

Aggregates do not occur everywhere. Their location and availability are determined by the geologic forces that produced the material. For example, sand and gravel occur where glacial forces produce it or flowing water deposits it. Because the resource is limited to certain locations, its availability is affected by surface land use. In urbanizing areas, access to the resource can be significantly reduced by residential, commercial and other intensive land uses.

In recent years, the aggregate industry and interested public agencies have indicated increasing concern as to the effect of continued development in the Twin Cities Metropolitan Area on the availability of aggregate resources.

LEGISLATIVE CHARGE

In 1984, the legislature passed a law (1984 Minn. Laws, Ch. 605, Sec. 2) establishing an Advisory Committee on Aggregate Resources for the seven-county Metropolitan Area, for the purpose of determining the need to protect these resources as part of local comprehensive planning and land use controls (Appendix A). The committee was given three charges:

1. Identify whether currently available information on the quality, quantity and distribution of the aggregate resource is adequate to allow reasoned decisions on the need to introduce aggregate resource protection into local comprehensive planning and land use controls.
2. Recommend a procedure for identifying the degree of protection desirable for the long-term availability of aggregate resources.
3. Recommend a method to protect aggregate resources for the long term.

This report summarizes the work, conclusions and recommendations developed by the committee between November 1984 and August 1985.

ADVISORY COMMITTEE SELECTION

The legislature established a 15-member advisory committee appointed by the Metropolitan Council consisting of the designee of the chair of the Council, three members of metropolitan county government, three members from the aggregate resource industry, two members from municipalities that use aggregate resources, two members from municipalities that produce aggregate resources, and the commissioners of the Department of Natural Resources (DNR) and the Department of Transportation (Mn/DOT) or their representatives.

The Council appointed the 15-person advisory committee, including two citizen members, on Oct. 25, 1984, after consulting with appropriate metropolitan interest groups, including the Metropolitan Inter-County Association, Aggregate Ready-Mix of Minnesota, Association of Metropolitan Municipalities and the Minnesota Asphalt Pavement Association.

ADVISORY COMMITTEE MEMBERSHIP

Chair	Dottie Rietow, Metropolitan Council member
Municipal Aggregate User	Bill Barnhardt, Intergovernmental Relations Representative, City of Minneapolis
Municipal Aggregate User	Jan Haugen, City Council, City of Shorewood
Municipal Aggregate Producer	John Gretz, Community Development Director, City of Apple Valley
Municipal Aggregate Producer	Rick Lewis, Assistant Administrator, City of Cottage Grove
Industry	Harvey Becken, Secretary-Treasurer, Cemstone Products Co.
Industry	Gary Sauer, President, Barton Sand and Gravel
Industry	Peter Dunning, Vice-President and General Manager, J. L. Shiely Co.
Dakota County	Steve Loeding, County Commissioner
Scott County	William Koniarski, County Commissioner
Washington County	Sally Evert, County Commissioner
Minnesota Department of Transportation (Mn/DOT)	Richard H. Sullivan, Assistant Division Director, Technical Services Division

Department of Natural
Resources (DNR)

Kathleen Wallace, DNR Metro Regional
Administrator

Citizen

Charles Brady, Bloomington

Citizen

Raymond Heinonen, Brooklyn Park

Staff

Carl Schenk, Environmental Planner,
Metropolitan Council

COMMITTEE STUDY PROCESS

The Aggregate Resources Advisory Committee began meeting in November 1984 and met bimonthly through August 1985. The committee invited testimony from representatives of local governments, state agencies and aggregate industry concerning the problems of protecting and mining aggregates in the Metropolitan Area, the impacts on local communities and suggestions for solving the problems.

The committee heard testimony from Warren Pladsen and Rudy Ford, Office of Materials Engineering (Mn/DOT); Mark Jirsa, Minnesota Geological Survey (MGS); Tom Campbell, City of Maple Grove; Virginia Harris, Carver County; Rick Kelly, City of Apple Valley, Gordon Hughes, City of Edina; Dwight Picha, Woodbury; Anne Hurlburt, City of Cottage Grove; Richard Schiefer, George Hoff, municipal attorneys; Dean Johnson, City of Rosemount; Terry Swor, Twin City Testing; Glenn Bolles, Shakopee Sand and Gravel; Joseph Beaton, attorney; and Rudy Hoagberg, consulting geologist.

The committee also received a report from Morris Eng, Department of Natural Resources, as to the progress of the statewide program to identify and classify aggregate resources outside of the Twin Cities Metropolitan Area (see 1984 Minn. Laws, Ch. 605, Sec. 1, Appendix A).

The committee toured the J. L. Shiely Co. quarry and gravel mining operations in Grey Cloud Twp. and Cottage Grove, and viewed two smaller gravel operations in Cottage Grove on May 9, 1985.

Metropolitan Council staff provided a number of background papers to the committee for review and discussion covering related subjects including a summary of previous reports on the region's aggregate resources and current information on aggregate resources in the Metropolitan Area, the supply and demand for aggregates; the economic impacts of aggregate costs, the effect of governmental programs on the supply of aggregates, the impact of protection on local and regional development, the legal framework for resource protection and the alternative methods of resource protection.

A subcommittee looked more specifically at the need for site-specific data to delineate potential deposits and the estimated costs of accomplishing the work including necessary field and laboratory work (Appendix B).

A public meeting was held Oct. 15, 1985, to receive public comments and suggestions regarding the draft report. Following this meeting the advisory committee met to review and discuss a summary of the public comments and proposed changes to the report. The advisory committee approved a final report and recommendations for presentation to the legislature on November 12, 1985.

ORGANIZATION OF THE REPORT

The report is presented in several sections. Each summarizes the work of the committee in addressing the legislative charges and the findings from that work and the final conclusions and recommendations.

- The first section summarizes the work and findings of the committee as to the sufficiency of existing data about aggregate resources. The discussion summarizes the existing information reviewed by the committee, the need for additional data and the methods and estimated costs of obtaining it.

The second section summarizes the work of the committee and the findings related to the second charge--the need to protect aggregate resources and the level of protection. The section summarizes information about the supply and demand for aggregates in the region and subregions and the factors that affect the available supply. Problems which affect local government permit approvals for aggregate mining are presented.

The third section summarizes the findings relative to the third charge--determining the method of protection. It discusses the legal issues that must be considered if local governments are required to protect aggregate resources, as well as the alternative methods of protection and their limitations are discussed.

The fourth section presents the conclusions of the committee based on the findings in the preceding sections. The final section presents the recommendations of the committee.

CONCLUSIONS

SUFFICIENCY OF CURRENT INFORMATION

1. Existing information on the location and estimated volume of potential aggregate resources is sufficient to determine whether there is a need to protect the resource in the Metropolitan Area. The data indicates there is a supply of 4.6 billion tons of potential sand and gravel and crushed rock resource in the seven-county region whereas the demand is 15 million tons per year. Additionally, undelineated, potential resources are located in the surrounding counties outstate and in Wisconsin and could provide a portion of the region's future needs.
2. Existing site-specific information for the Metropolitan Area is inadequate for the purpose of protecting specific areas. More detailed surveys of the potential resources in the region to delineate commercially viable deposits are not necessary at the present time, given the large volume of potential resources. These surveys are costly and are typically undertaken by the industry in selecting specific deposits for mining.
3. Existing information on the approximate location, general suitability and extent of aggregate resources is sufficient to assist local governments in planning for the mining of the resource to minimize future conflicts and the impact on community development.

NEED TO PROTECT THE RESOURCE

4. There is no need for legislation mandating regulations for broad-scale protection of aggregate resources at the present time. There is potentially a 200-year supply of unencumbered aggregate resources in the Metropolitan Area, based on known consumption and supply estimates. This supply could be extended by the importation of aggregates from outside the region and the use of substitute materials or recycled aggregates such as highway pavement.
5. The private market and aggregate mining industry have been successful historically in identifying and developing commercially viable resources adequate to meet the region's needs and have the capacity to do so in the foreseeable future. Recent information indicates the industry has been able to obtain permit approvals for sufficient new or expanded mines to maintain a 10-year supply of reserves.
6. The process of obtaining local permits is at times difficult and uncertain for the industry. However, the industry has been successful generally in obtaining the necessary approvals.

7. The long-term protection of aggregate resources not owned by the industry would be costly or uncertain. Public acquisition or leasing would insure protection of the resource, but the costs could be high due to the extensive area and land values involved. The effectiveness of local land use controls such as zoning is uncertain because of the potential conflicts with the rights of private landowners to a reasonable use and return on their investment.

PLANNING FOR MINING

8. Aggregate is an essential resource for the continued economic development of the region.
9. Local governments with potential aggregate resources should share the task of providing the region with access to an adequate supply of aggregate for future needs. Potential aggregate resources are concentrated in some subregions while the resources in other areas may not be adequate to supply the local demands in the future.
10. Although the industry has been generally successful in obtaining local government permits to mine, this has not been without difficulty and uncertainty particularly for major, long-term operations. Mining is perceived as a nuisance--a locally unwanted land use.
11. Local land use decisions in the form of comprehensive plans and land use controls will affect the industry's ability to supply the region with aggregate in the future. Most local comprehensive plans do not recognize the location and regional importance of aggregates or provide for the mining of the resource. Most local land use controls view mining as a nuisance rather than the protection of a resource.
12. Despite the lack of consideration for aggregate resources and mining in most local comprehensive plans, the industry has been generally successful in obtaining permits for new and expanded operations. There is no need to require local communities to plan for aggregate resources and mining at the present time.

STANDARDS FOR MINING AND RECLAMATION PERMITS

13. The diversity and lack of specific standards in many local mining/reclamation controls are a problem for the industry and local communities. There is little certainty or consistency for the industry as to how permits will be reviewed and evaluated, what conditions will be placed on them and how this will affect the feasibility of a proposed or existing operation. At the same time many local governments lack adequate standards for evaluating and minimizing the impact of proposed mining activity. Uniform, state-mandated standards-administered by local governments would provide increased certainty and consistency for the industry and strengthen the ability of local governments to evaluate and control mining/reclamation activity.

RECOMMENDATIONS

1. The legislature should establish a committee of appropriate technical experts and representatives of local communities and the industry to review and recommend appropriate standards for mining and reclamation to be used by local governments in evaluating operations, reviewing permit applications and setting conditions for permits. The committee should recommend standards appropriate to mining operations in both rural and urban environments, determining maximum standards for such concerns as noise, dust, hours of operation, haul routes, vibrations and safety. If the legislature were then to adopt these standards, they would be mandated. Communities should be allowed to adopt less restrictive standards or exclude standards, but communities may not exceed the standards or add to them.
2. The Metropolitan Council should provide the following materials to assist local governments in planning for mining:
 - a. Information regarding the location, importance and regional need for aggregates.
 - b. Information on the potential impact of mining/reclamation and on measures to mitigate these.
 - c. Examples of or model ordinances and standards for the management of mining and reclamation of aggregate resources in the event there is no state legislation.
 - d. Information indicating alternative approaches to preparing local aggregate resource plans.
3. A high priority should be given to the completion of the current pilot project of the Minnesota Department of Natural Resources to identify potentially valuable aggregate lands in Sherburne County and performing a similar study for Wright County. Additional support should be provided, if necessary, to estimate the volume of potential resources in both counties.
4. Although it is the conclusion of the committee that aggregate preservation is not needed today, the legislature should review the possible need for preservation periodically, for example every ten years.