City of Columbus
Public Hearing – Forest Lake Contracting, Inc. Revocation of CUP and IUP Application (PC-13-103)
May 15, 2013

The May 15, 2013 Public Hearing to receive testimony regarding the request of Forest Lake Contracting, Inc. to revoke the Conditional Use Permit originally issued to Leroy Haluptzok d.b.a. John's Black Dirt, in exchange for an Interim Use Permit issued to Forest Lake Contracting, Inc. was called to order at 7:04 p.m. by Chair Barbara Hvass at the City Hall. Present were Commission members Myron Organ, Pam Wolowski, Jesse Preiner, Jody Krebs, and Garth Sternberg; City Administrator Elizabeth Mursko, Planner Dean Johnson, and Recording Secretary Karen Boland.

Also in attendance were City Council member Denny Peterson, Bob Moorhouse, Doug Schliesing, Kathy Haluptzok, Ken Hansen, Chuck Weymann, Steve and Rosie Ulrich, Ceil Neihart, David Guzzo, Steven Jensen, and Mayor Dave Povolny (7:50 p.m.).

Hvass: Next we will have a Public Hearing and discussion, and actually there's going to be two meetings or two public hearings held at once, because they are related to each other. So, first of all, we'll have our recording secretary read both notices as they appeared in the paper.

Notices were read at this time.

Hvass: Thank you. Who is here to discuss this matter? Who are the applicants? Do you want to come forward and state your name, or names?

Moorhouse: I'm Bob Moorhouse

Haluptzok: I'm Kathy Haluptzok.

Hvass: And you're…

Moorhouse: I'm employed by Forest Lake Contracting. I live at 17115 Kettle River Boulevard.

Hvass: Okay.

Haluptzok: Um, 5580 314th Street, Stacy. Otherwise, the business is P.O. Box 171 Forest Lake, MN.

Hvass: Okay. And who wants to tell us what this is about?

Haluptzok: I'll let Bob do it.

Moorhouse: Well, I think it's pretty much covered under your - what we have. We're looking to renew this permit and bring out a brand new one. At the same time, we'll eliminate the one that is under…

Hvass: Under the Conditional Use Permit?

Moorhouse: Under the Conditional Use Permit right now. Um, I guess I have no, uh, I'm coming into this on the back side. Bob Vollhaber is out of town right now, so I'm here to represent, answer any questions, and present whatever we need to present. You do have, we've gone through the District Watershed, we've gone through with the DNR, with all those permits. Uh, Elizabeth has all the permits that were required. The first part we submitted, there was some questions on it. We re-directed those and then we've been working with Dean to satisfy the other questions.

Johnson: Want me to do a quick summary?

Mursko: Yes. Please

Hvass: Yes. Please.

Johnson: Uh, for the benefit of the residents that have shown up, the drawing that's on the screen (see attached) illustrates the two parcels that are still owned by the Haluptzoks. And, the easterly parcel and a portion of the westerly parcel, and actually more land to the north, was originally included in a series of permits that we have record of, going back to 1973, and did a rather extensive search of the files. What's left, um, Parcel 1 is the easterly parcel, and that's approximately 36 acres. Parcel 2 on the left is approximately 22 acres. And both parcels have previously been mined. Dating back in the 1970s, uh, the township, at that time, had issued annual permits for mining on the property. Over a period of time—and it's a little bit fuzzy, but it appears that in the late '80s there was reference in the minutes to a Conditional Use Permit. We officially think it may have occurred in 1993, when there was actually a public meeting and so forth. And from that point forward, it ceased being an annual permit and became an indefinite permit. There were plans originally found in the files that showed areas to the north, and the existing mine area that you see, would be a potential future residential subdivision. And those 40-acre parcels to the north of the two that you still see remaining are, uh, sold. They're owned by other parties. The access to this property, over time, went to the north on a private drive between the two parcels. It extends up to 189th, and that is the official haul route since I think the early '80s, maybe even the late '70s. So there's no traffic that is routed to the south of the proposed mining. In my findings, based upon the application, there is an interest to remove about 340,000 cubic yards of material in the area that's identified on parcel 1. The hash-marked area--this required a wetland mitigation plan, which Forest Lake Contracting initiated, I think back in 2010, first with a delineation of the wetlands and then identified potential impacts, and, uh, received an approval this past fall from the Watershed to complete the mining, which is essentially removing all the roads or the upper, upland areas in the middle of the wetland itself. So the ultimate end-use on the property that you see hash-marked in red, would be water. There would remain to be property, um, in the –yup –Elizabeth is circling that (referring to projected image) --in the southwest portion, that potentially would meet the City requirements for a future residential building site. And, there's one on the north side, and that would be subject to, again, going through a subsequent subdivision review and approval. It might require putting a cul-de-sac on that corner, that's just subject to future subdivision review. There is no intent at this time, no discussion, of converting the haul road that's between the two water bodies and making a

public road connection. Uh, that could be initiated by any number of parties, I suppose, but that's, that's not a proposal and, nor is the actual subdivision. It's just that in all mining applications that we process, we ask the end-use, and so there is a drawing—and you just passed over that Elizabeth—that had… nope...right there. So there could be as many as four lots on the westerly 22 acres, and two lots on the easterly property, as part of the end-use plan itself. So, again, there's, in the application it is a request to remove approximately 340,000 cubic yards of material on Parcel 1, the easterly parcel, and about 150,000 cubic yards on the westerly parcel, number 2. The application requested a permit for a maximum of ten years. In the zoning ordinance, within the Rural Residential district, our, uh, Interim Use Permit terms are five years. There are provisions for renewal. Part of your discussion and debate would be how you would intend to handle, uh, the request itself and the length of the permit, but part of the purpose in approaching this at this time is to eliminate what I'll say are some pretty fuzzy records about perhaps what the complete entitlement under the original Conditional Use Permit is, because in one year the permit was issued and we really didn't have any kind of specific drawings. The only thing we found was from 12-15 years earlier. The Conditional Use Permit that was issued at that time did not make reference to plans, drawings or anything. And, in that regard, one could conclude that, well, there's 36 acres of mining and 22 acres of mining, and, if you go back to that earlier drawing, the actual mine plan itself, uh, the intent is to go in and remove the remaining upland areas, retain some building sites, and create some finality or a definite end date on the permit. Under the Conditional Use Permit, as you know, there is no end date. Uh, it runs with the land. The property can be sold, transferred, as well as the mine rights, to anyone. Under the Interim Use Permit you can create an end date, and the permit that's issued is not transferrable without permission of the township. So our position has been, for the past 6-8 months, in working with the applicant, to try and create some definition, an end date, return this area to its intended residential use, and that would be the end of the mine. So that is the proposal that you have in front of you. It's a little difficult on the drawing that's up there right now –maybe you can go back Elizabeth to the one that had the hash marks. First one. There we are. You can see faintly on the upper-right side of the drawing, there's a yellow hashed area, and that is one proposed stockpile area, and I believe that's been used in that fashion, and then, on the westerly side in parcel 2, a similar one that's also shown. Those would be the two stockpile areas. They have suggested that they would maintain a maximum of 20,000 cubic yards at any time for staging and hauling. And the height of those piles, if I can find my notes, um…

Moorhouse: Fifteen feet.

Johnson: Fifteen feet. Um, I can't relate to previous issues. Perhaps some of the neighbors would like to comment about the amount of truck traffic and so forth. If you, if you look at the amount of remaining material and spread this over a period of time, uh, you might be averaging 40 trucks a day on a 6-7 month period of time. Over a full year period of time it may be half of that amount. In the application itself, it was suggested that they be looking at 20 peak-hour maximum trips per day. So, at a peak use, you might hit that number at 20 trucks a day. I'm just trying to think, um, the applicant has requested operation from 7 a.m. to 7 p.m. Monday through Friday, and 7 to 5 on Saturdays. The current permit, the Conditional Use Permit, has operating hours from 8 to 5:30, and that would allow the mining activity as well as trucking Monday through Friday and 8 to 3 for hauling only on Saturdays. So the current permit distinguished between actual mining activity and hauling, and Saturday activity under the current permit was

limited to hauling only, and no operation. This area has been subject to a de-watering permit, or has been issued a de-watering permit, on-going from the DNR. We have a copy of a current de-watering permit. The, one of the conditions in the existing conditional use permit, talked about hours of operation for the pump itself, unless it wasn't audible beyond the property. And if it was audible, if you had engine noise –things of that nature- from any activity, that would be limited from 7 a.m. to 5:30. But, again, there was a distinction that the electric pumps could operate any time if they're not heard beyond the property. Um, that's pretty much the highlight –you have a letter of recommendation from the Township Engineer, or, excuse me, the City –I'm back in the days when this began—from the City Engineer, a $250,000 bond regarding the potential for road damages. I simply reference that in the findings. There are a number of mandatory conditions that need to be referenced in the permit, and I identified those in this draft permit document to you. I won't read all of those. They're what I would say is fairly standard, but that's where it indicates what hours of operation may be, and things of that nature. Uh, it does talk about a surety that would be required. Under the previous permits the amount of surety was relatively minor or miniscule. I think based upon review by the City Engineer he's recommended increasing that amount. There are other requirements in here about the potential requirement, and that becomes a requirement by the City actually. If you determine it's necessary to do things like post signs – Trucks Hauling – things of that magnitude. As you probably know from other projects, we don't have the liberty to set speed limits, but you can put advisory signs like "Trucks Hauling" and things of that magnitude. But, we can't, we don't have the ability to set speed in the community, except in urban residential areas. Otherwise, they're going to operate under State statute. I listed a number of additional requirements that I would ask that you consider, and that includes what any of the typical mandatory permitting or other licensing requirements would be from wetland permitting. If there were any required floodplain delineations permitting required, uh, I don't think Anoka County has any jurisdiction, but any other future water appropriations, the pollution control agencies, storm water permits, things of that magnitude, they would all be required to be on-going and up-to-date. We've referenced the application document itself, in that all of the activities would be consistent with what's proposed. In other words, we don't have a standard that says your stockpile can only be 20,000 cubic yards at one time or the stockpile height can be 15 feet, but those are in the application. So, I make that reference so that if you accept the standards that are proposed, they become the standards within the permit itself. So again, these were proposed items that come from the application rather than a standard within the township. We don't specify those. Um, a couple of other things, I like to have in all mining operations in other communities that I work with, have a complaint protocol and a minimum response time, and I've made reference to that. I also like operators to furnish that record to the township on a monthly basis. Our preference would be that when there are complaints that the residents make them directly to the operators rather than the City, but, in the event they come here, we certainly pass them on. But at the end of a month we'd like to have a detail of what the complaints were and what the resolution was. We, again, don't in our ordinance have anything that specifies what has to be done, but we've suggested here that they've got to make responses within at least 48 hours. If a resident had an issue that involved water or something that's unattended that's making a lot of noise, of course they're going to call here and the City can take remedies under different provisions of the City code on an emergency basis. But if it is a 'it's too dusty' or 'you need to wet the roads' – things of that magnitude- we want to be aware of that. I mean, I think the City should clearly have that in place for the residents' benefit. We make a reference here about site restoration within 12 months after the

mining is completed. There are two phases that are proposed: Phase 1 to the east, and Phase 2 to the west. We reference in here specifically what they said again about stockpile sizes and so forth. I've added a provision about weed control, litter and debris, portable toilets and regular servicing for employees on the site. Uh, in their application, they specified a number of pieces of equipment that would be routinely kept on the property, we identify that. There aren't going to be trucks for hauling that are stored here, so, we're not going to see at the end of the mining season, 200 dump trucks stored out here in the winter time, things of that magnitude, so that becomes a condition of the permit that I would recommend anyway. We talk about the potential end-use of the property as residential, but that requires subsequent subdivision review, so that is not an item that is necessary for you to examine, other than to know that the plan does leave property that may be suitable for that type of subdivision, but that's a separate process in the future. In addition to the City Engineer's requirement for any kind of surety on potential damage to 189th Street, I always require and I would recommend that you consider some sort of performance bond that guarantees the site restoration. I have been involved in communities –and I'm not making a parallel or suggesting that Forest Lake Contracting would do this—but I have seen where pits have been left, not only with a gaping hole in the ground and simply walked away and let the bank take over, but, also had back-hauled bricks and rubbish from demolition projects, and then you've got a clean-up problem. So, I would heartily recommend that you include some sort of site restoration guarantee, because the restoration itself doesn't occur until they've gotten their money out of the project and removed the material. And then there's the standard provisions about indemnifying the City with regard to issuing permits, how we may rescind the permit if they're in violation of it, and then reimbursing the community out of, for any of our out-of-pocket expenses. So, that was a quick highlight of what's being proposed. I'm happy to answer any other questions; otherwise you may wish to open it up for public comment or question.

Hvass: Or maybe Planning Commission members have questions.

Preiner: Madam Chair.

Hvass: Go ahead.

Preiner: Dean did you say that we do not have ten-year permit lengths? We would do a five-year and then a renewal, or…?

Johnson: They, they would be eligible for a renewal. Uh, without causing a change in that ordinance provision... That's why it says that you have a five-year Interim Use Permit. We made an ordinance amendment with specific regard to the kennels that had a ten-year permit, but it had a five-year window. Short of doing something like that I'd say you're limited to issuing a five-year permit. Our ordinance says there is no guarantee that a renewal's in place. So, just because you got it the first time, doesn't mean it's done. But, if they're proceeding on the basis of a ten-year plan, which has been presented in the proposal, and they've made progress, that's going to dictate your decision in five years on a renewal. But, they have no vested rights when you issue the first permit that you're going to do it again. I, I think from their perspective, and perhaps the neighbors, although they're welcome to speak to that, if the conclusion is within sight and one more permit renewal accomplishes what's being proposed, and that's creating some water bodies

and having building sites, that'll influence your decision. You'll have to hold another public hearing in five years to consider that. So the same people that are here today would be invited, or the same neighbors would be invited when that renewal is up.

Moorhouse: I think that we could live with the five years, and a renewal at that time. We're not trying to take advantage of something here. I do have one thing I'd like to bring up. We hauled 107,000 yards over that route last year –or in 2010- and the City Engineer along with the City was out there and checked that, as Larry Bohrer has stated in here, and there was no damage at all to that road with that kind of a quantity traveling over it. Plus the fact that if you put 100, or an inch and a half of bituminous, including the shoulders on there, you can do that for less than $100,000.

Johnson: Yeah, I won't comment on that.

Moorhouse: 250, a hundred thousand, $250,000 is pretty excessive.

Johnson: And, again, I can't speak for the City Engineer, but that's something you can debate or he can present to the City Council when this ultimately goes to the Council.

Mursko: Bob, I do think that there were some, there were some road problems, but that was in Wyoming, you know, when you turn into 189th, and I do believe you did some corrections there. So, I think there was some road damage done on that project, but then you, in turn, fixed that road damage.

Moorhouse: Right. And it was a minor thing, but we did fix it up for them. Yes.

Mursko: To their standards.

Moorhouse: To their standards.

Hvass: If there are no…okay, go ahead Jess.

Preiner: Could you please explain to me what you just explained. You're saying the Engineer is asking for a quarter of a million bucks letter of credit. And you're saying the repairs to that road cost…

Moorhouse: If we were to put a whole new inch and a half on everything, you can do it for less than $80,000.

Preiner: And so the 250 would be a hardship –unnecessary hardship.

Moorhouse: Yes, it would be a hardship on us to put that kind of a surety out there. We, of course, would like to see more of a 50,000, because we're not going to damage the whole road and all at one time, you know. There's enough there to repair anything that you're going to have to repair.

Preiner: And your company does the repairs itself? You did.

Moorhouse: Right. We can do it ourself, or with the blacktop, we don't do our own blacktop. We would have somebody come in and do it.

Preiner: But the 50,000 bucks would cover that.

Moorhouse: Yes.

Unidentified: Would it cover 1.3 miles just up 489th?

Moorhouse: 189th.

Unidentified: That's what I meant.

Unidentified: It's already like this from the yahoos doing it last year.

Hvass: Listen.

Unidentified: Sorry.

Hvass: Okay. We'll get to you.

Moorhouse: I don't know that as a fact.

Unidentified: I do, I drive it every day.

Moorhouse: The Engineer went over it with Jim Fraley. I don't know. But you also have garbage trucks running up and down that…you know, everybody runs on it. It's not a thing that I could say we did or they did.

(Unintelligible comments from unidentified male)

Hvass: Are there other questions from Planning Commission members. Okay. I'll open it up to the public. Would you, you have to state your name and your address.

Neihart: My name is Ceil Neihart, and I live on Vassar Street at 18516. We have the ten acres and, actually was a homestead property that we bought, um, indirectly. It's in the circle there (referring to projected image) near the top. Anyway, right there, that ten acres to the left of that main road of Vassar. Okay. So we went, we moved up her from St. Paul in 1976 and obviously, for the quiet and all that. Well, shortly after, our road was barely a dirt road, um, and it almost ended except for the trucks that all of a sudden started appearing. And so, we talked to John Haluptzok, who, you know, passed away a long time ago, and he came over and he said, 'Oh, we're just going to dig a little dirt here for a few years, and we're going to be out of here.' And so the trucks kept coming, the trucks kept coming, and, I had my son, who's now 33, I think, and he was in the yard and I complained about the trucks, 'cause they flew down that lousy road.

And, um, so, pretty soon – and I complained about the noise, because we're up a little bit higher, and I can hear everything down there. So then, by then, John had passed away and his son Leroy had…So he put up a fence. He never asked, you understand, he just put up a fence, figuring, 'Well, that'll shut her up.' So, what happened is, they ended up building the road out back, because we had such a sub-standard road on Vassar. It was almost impassable in the rain. And I don't know how many of you go back to 181st, where you couldn't almost drive on it? Your car sunk right down to the wheels when it rained. And that's long before it got paved. So we had a lot of issues around that. Well, they went out the back way, after so many years, and they built the road, you know, they paved the road out back. But what happened is, the noise never went away. And the junk getting hauled down there never went away. We'd see truckloads, big, big flatbeds going down with junk. And I mean it was junk. And it would just get dropped. And we'd think, *How much stuff...*

Haluptzok: What stuff?

Neihart: I don't know what stuff. A lot of tractors and big, rusted metal equipment. We'd go down there and we'd just think, *I don't even want to know what's back there anymore.* And, so, anyway, the noise has continued. Like I said, it's been since 1976. It has ebbed and flowed. And then a few years back, and I can't remember dates anymore, but it was in probably the late '90s, early 2000, we started with the pumping, with the noise. Some of the neighbors couldn't even hear it, 'cause they're down lower, but it was so loud for us all the time we had to put in air just…because we couldn't leave the windows open anymore at night. And then we've, we've contacted the DNR about the fear of…we've had problems where our well when it was low, it was just sucking air, because... and he said, 'It can happen.' So, I have concerns about the pumping. And they were running pumps at night, all night long at times, and it was very, very disturbing. Like I said, we ended up putting central air in our house 'cause we had to shut the windows. So, we live out in the country, you know. I don't know where you all live, but I don't know if you'd want to hear these trucks, and after 30-some 5-6 years of it, I don't even want to talk about doing anymore digging. And here we are talking about he's going to bid this and that. I want to know…and that whole issue about the permitting. I don't know how many times I came up here, back years ago, and tried to say, 'Can we turn this down? How long is this going to go on?' The Council at the time did nothing. They never pursued anything. It just continued, and you couldn't find out why. Nobody could ever speak to why are we continuing the permit, even when we brought the water concerns up. I mean, obviously, if anything knows anything about hydrology, it can happen in your own neighborhood. In this drought we had last year, I was very fearful of that, because we had such low water. And, I know a lot of people have deeper wells, but we don't have a real deep well, and it was just…we were having trouble. My husband's a plumber and we were having problems. And it was the well. So, there's other issues around this, besides the noise, the ruined roads. We live out in the country. We chose to come out here 'cause it was a five-acre limit then. Neighbors ahead of us had fought for the five-acre limit to keep it somewhat rural, you know. And everybody else in Columbus seems to have a nice quiet spot, but that little pit at the end of Vassar Street has been a real pain at times-- not all the time. There's been ebbs and flows. But what I'm hearing now is—are these belly dumpers that are coming in, first of all? Second of all, are they going to continue just using that back road? And, are they going to make a pile right over that fence, and we're going to have to listen to that? They (pointing to others) live on top of that fence. They live on top of that fence. Are we going to have

to listen to that? I just...I, I question why are we doing this? Why…does this have to be done? There's money to be made, I'm sure. And I understand business…money to be made. I don't know, if you can move all the dirt you moved to put in that highway overpass on 11th Avenue so quickly, why are we talking ten years? Why are we even talking five years? I'd like to say never. I'd like to say, leave it alone. Have you been back there? Have all of you ever been back there, looked at it? This is what we've been looking at for years, and listening to. And I betcha you don't live next door to that, unless you choose to. I don't. I didn't choose to when I moved out here and I didn't know what was going on, but it has continued, and I just…thank God we don't have the trucks driving past anymore. I'll tell you, I was out in the middle of the road stopping trucks every other day, saying 'Please slow down.' And I know the people in the back…I don't know anybody over there, but I've heard tell that they're not very happy with all that either. So, that's the end of my speech, I'm just very upset that we're even talking, 'Well I can put up with five years.' Huh! I don't think I can. I'm sure he can manage five years, but why would it take five years to go in and clean that up and do that, when it took that short a time to do that highway bridge and move all that dirt? I don't understand it. I question why they have a Conditional Use Permit. I'm questioning this.

(Multiple unintelligible comments)

Hvass: (called for order) We'll have the applicant address some of your questions.

Neihart: 35 years. It brings a lot of emotion.

Hvass: Can the applicant address some of those questions?

Moorhouse: I think that's really what we're after here is to put an end date in it and to be done with it. To get that thing done and put it back into something that's feasible and it's (unintelligible).

Hvass: And what route are the trucks going to be driving?

Moorhouse: The trucks are going to be going north up to 189th, like it shows there. Around to Kettle River, and go down Kettle River.

Neihart: Can I ask another question I have? Why would you pick a site right across from houses, right over the fence from the houses as a pile, to be digging and making noise? A matter of yards from the house.

Haluptzok: I just have to say, I think his father bought it in like the 1969s. When she bought her home, she bought it from John Haluptzok, which…

Neihart: No, we didn't. We bought it indirectly. He had sold it…

Haluptzok: Well, the majority of those houses that are on the west side of the…and that road was built, I believe, by John. Tulane? And all those houses weren't part of the pit at one time? All those houses knew there was a pit there to begin with, so I don't understand why she didn't

know. She evidently talked to John and she knew about the pit before, so, yes. We've been going out of that…on 189th since I was involved around, probably 20 years ago, and we, we tried to stop going out the Tulane or the Vassar just to keep those neighbors a little bit happy as far as that. I think Leroy, if he was here, has done nothing but try to help, and make the neighbors and everybody happy – the township. I mean, I can only speak for what I know, and…I don't know. We've always had problems with the road, when it was wet, when it was raining, when it was dirt, as far as, 'we did the damage.' Well, you can go on any dirt road and it's still gets washboard and everything else, so, I don't see the problems of not knowing the pit was there. The pit was there for a lot longer than a lot of the neighbors were.

Neihart: Can I…can I…?

Hvass: Yes, you can.

Neihart: When we moved in, there was an occasional truck going down there. I didn't know if it was the guy around the curve on Tulane or who it was. I didn't know that was a business at that time. I did not buy into a neighborhood knowing that that was a business. Believe me, I would have had a lot better thoughts of moving in there if I knew that. And it wasn't until it started picking up, a couple years later, that it really started…then we started hearing so much commotion down there. I did not know it was a business, and then all the pieces came together about, you know, who it belonged to and where it was coming from. And that's when we talked to John. We said the road, the trucks are picking up. It ebbed and flowed. He didn't always work as hard down there some summers as other summers. It was kind of like a big sandlot, you know, and it wasn't a big business. It turned into a much bigger business over the years. So, it's not like I walked into this blindly, I just, honestly, I didn't know it was even down there. And these other houses around weren't even there at that time, so, it was really the only ones on the end.

Hvass: Is there anyone else from the public that wishes to speak?

Hansen: Yeah.

Hvass: Okay. State your name.

Hansen: Ken Hansen.

Hvass: And your address?

Hansen: I live on 189th Avenue, My house is right there on the corner above the, uh, yellow grid.

Mursko: Is it up here or is it…

Hansen: That's my house over there. And he lives right behind my house (referring to another person).

Mursko: So, these two houses?

Hansen: That's my pole barn there, my house is right there.

Mursko: Okay. And then you live next door?

Unidentified: I live right in front of him.

Hansen: Just, right in front. Um, I didn't have as much of an issue when John was actually mining in there. It wasn't like, when they started moving all the dumpsters for the bridge, that wasn't…I mean, when John was in there, it was, you know, they started in the morning, they were done at 5:30, at 5:30 it was done. Quiet. Now you're talking 'til 7:00? I mean, that's just unacceptable. I'm supposed to come home from work and listen to equipment back there until 7:00 at night? That's just insane. You know? And then, you know, at least when John was back there, you'd have some equipment running around, what have you. You'd get some dust stirred up and what have you. It wasn't really, really bad. When they started hauling all that dirt out for that bridge, it was like a sandblasting throughout my whole property. It was…the sand would run off my roof and everything. It was just nuts. My pond, which I watered my lawn out of, went dry. My well turned to shit. I called up here. They said, 'Well, you need to talk to them.' Well, I went and talked to them, so they came in and scooped out a couple scoops of dirt out of my pond, so I could at least pump water out, and then, all of a sudden, they're gone.

Moorhouse: Didn't we re-dig that pond to what you wanted?

Hansen: You dug it out a little bit. Yes.

Moorhouse: I mean to what you wanted?

Hansen: Yeah. And I don't want to go through this again. I'm not going to have my well turning to …

Moorhouse: We shouldn't be…Your pond, that water, will stay there on the north end.

Hansen: That's baloney. It'll…the fricking pond went dry.

Moorhouse: No. No. I say that pond, that's on the north end, where we took the water out of before, that water now will stay in there.

Hansen: So, you pump over here, the natural grade of water isn't going to just go down to a certain area…

Moorhouse: Yeah, it shouldn't.

Hansen: It shouldn't.

Moorhouse: No.

Hansen: I don't take, I don't take that for a (unintelligible). And, that noise thing until 7:00, like I said, that's just…You know, if you want to development, houses back there, you know, fine. That does not even bother me. I don't even care if you put residential houses back there. Like she said, I came in there, I moved out of the city to have a country life –we all did. Like I said, John's wasn't really that major of an issue. They started in the morning. They shut off. Weekends went until 5:00 or something like that, so it wasn't real bad. You know I didn't have any problems then, but this many loads coming out, and the road? That road will be shot. It's already…you go down it, you can see where there is indentations in the road from going down there. And we've got all kinds of people with kids. He's got kids that are out on their bikes now (gesturing to another person) all the time. And when they were hauling that dirt out, it was, it was just insane. Is it going to take some kid getting mowed down or something to…? I mean, I'm not against people making money and having to deal with stuff, you know, but this is, like she's saying, where's the end-game here? And, you know, he's talking about $50,000 for fixing that road, that's…I don't think 250 is enough. 'Cause when they get done, that road won't be there. It'll be shot. It's a swamp. The road was a swamp underneath it, and everybody knows that.

Haluptzok: And that's the reason why the road is going like this. It's not because of the trucks, it's because of the (interrupted by unintelligible comments from Hansen)

Hansen: Then they should tear the whole road out and put concrete, 5-foot concrete or whatever, to make it usable for (unintelligible)

Haluptzok: But I'm not a…I don't go in roads so…

Hansen: It was a swamp road before, so be it. I have no problem with that. Plus they tarred it, we've all paid money for it. Love it. I'm still paying for it, and it's nice to have. But the road ain't gonna last. There's just no way you're going to have that much traffic on there. You'll destroy the road.

Moorhouse: Well that's why we have the surety for the bond. As far as the dust part of it too, is that we have put in tailings on it, millings. So, it isn't the dust going…(interrupted by unintelligible comments from public)

Hansen: It's going to be a dust storm all the time. When it comes out of the south, and… it's just insane. Like I said, when John and Leroy was operating it, I really didn't have any problem with that. I got some black soot here and there-- it washed down. You know, it wasn't that large of a commercial thing going back there.

Unidentified: Small business.

Hansen: It was a small business. They were very respectful. I had…I really didn't have any problems with them, at all. But this…this is just a whole different…this is way above and beyond. This is crazy. Until 7:00 at night? I'll be calling here every day. I will be going bananas. And, you know, have you guys even talked to all the other people that have paid for that road?

Have you put out an announcement, letting them know that they're going to have…what, 20, what did you say, 20 loads a day? Have all these other people been told, aware of this?

Neihart: They're in Wyoming.

Hvass: Who is notified Elizabeth? The people…

Mursko: For this permit it was within…everyone within 350 feet of this operation was notified.

Unidentified: I don't think I got a letter. I didn't see a letter. And I'm right in front of him (gesturing to Hansen). I'm right in front of him, which is the nine acres right in front of him, and John's Black Dirt…we share a driveway. It's right there. So, I didn't get a letter.

Mursko: Okay.

Unidentified: And I have a question. Why are we trying to get rid of the five-acre lot? That piece up there, there's no way you can get five-acre…one house up there, on that yellow staging area.

Hvass: We're not handling that right now.

(Unintelligible comments from multiple people)

Unidentified: Yeah, but, (unintelligible)…that's all water. Where are you going to build a house?

Unidentified: Well, they got it on the next one.

Neihart: So, is that assuming that you're going to approve a subdivision?

Moorhouse: We're…we're not asking (interrupted by multiple unintelligible comments)

Haluptzok: We're not asking at this time, so…

(Multiple unintelligible comments)

Unidentified: So that red's all water right?

Moorhouse: Right.

Hansen: So that block 2, how many houses are you going to put up …

Hvass: We're not doing a subdivision right now.

Hansen: And that really doesn't bother me.

Hvass: We are not dealing with a subdivision right now.

Hansen: That's fine.

Mursko: I just want to clarify: This is an end-plan, and in this particular case, they're proposing two lots, and so, roughly, 20 acres, or, you know, 18 acres apiece. But what it's showing you is that the end-plan is for residential housing. And that really is, I think from the City perspective, we wanted to know what the end-plan was going to be.

Hansen: What is the end date? You know, you keep talking about the five-year…

Hvass: We haven't, we haven't discussed that yet.

Hansen: Okay.

Hvass: You had your hand up.

Guzzo: Yeah. My name is Dave Guzzo. I live on Tulane Street, on the corner there. I think like he said, Leroy's been great to me, and I had no problems with that. My concern is, I think what she was talking about is, what's left there to mine? It's all water now. What are you? How…how much are we gonna take out of there, and how are you going to fill it back in? There's not much left, and I'm not sure what you're gonna take. Where are you gonna mine? Are you gonna mine where the lots are, where the land is now, are you gonna dig down there?

Moorhouse: No. Only in the red area.

Guzzo: It's all water.

Moorhouse: Yeah we'll take…

Guzzo: How deep are you gonna go, and that, I think that concerns these folks with their…

Moorhouse: It'll be six…about six feet deep after we're done.

Guzzo: Boy, I tell you what, I've been back there a lot and, uh, there's not much left. You're digging deep and (unintelligible)…

Moorhouse: You dig deep and then it, it settles in once you let the water come back in, she'll seep …

Guzzo: I can't believe the watershed's going to let us do this. You're destroying that property.

Hvass: Is there anyone else from the public that wishes to be heard? Anyone else? You people. State your name and your address.

Ulrich: Rosie Ulrich. 8914 186th Avenue. Um, we live on route lot J. Um, I guess my question is about, um, to the staging area that you have. They are directly across from our house. And when you're talking 15-feet high, it may not sound like much, but if you have a good north wind, um, that dust and other things are going to get in our house. I guess (unintelligible)…pumping at night has been a real big issue for us. The noise alone, not to mention having to worry about your own well. Um, I guess I agree, I would like to see the end-game and figure out what it is. And I'd also like to be sure that that gateway is closed on 186, so that we don't have all this traffic and issue on our road in the future (unintelligible). And then hours of operation until 7:00 is…This is, it is a business, but it's a business that operates in a residential area, and you should be held to a different standard.

Unidentified: I believe in Minneapolis we can't start work until 9:00 in the morning.

Moorhouse: In the City of Minneapolis, the City of St. Paul, all cities start at 7:00. On Saturdays they are allowed to start at 8:00.

Unidentified: Or at 9.

Moorhouse: Yeah. But, every place where I've worked, and I've worked at a lot of 'em, 7:00 start…

Hvass: Would you address this way?

Moorhouse: Okay. 7:00 start is a normal in cities during the week. And an 8:00 is normal for a Saturday start.

Mursko: and, in the past, the City has not allowed any, any operation on Sunday, and we have generally worked with the Saturday hours, um to try to take in the neighborhood's request. So, as far as that goes, we've worked with the property owners on that.

Moorhouse: And we will not be doing any pumping at all with the noise pump at night time. We will be converting to electric pumping.

Hvass: So there won't be pumping at night, you're saying?

Moorhouse: No. None whatsoever.

Mursko: So the noise came from the pumping because it was a generator-driven pump?

Moorhouse: Yup. It will not be. We'll be going with an overhead power line. Electric.

Neihart: I have another question about the water though. When they do pump the water, where's the water going and what's the, when does it come back? How does all that work? 'Cause I've never really figured out what happened there. All I know is that you see a lot of white sand go down, down, down. And I'm very concerned about the water. In all of Anoka County, in that northwest side, is very dry –very, very worried about the water over there. And I see it happening

compound here. So, when they're moving water around, I'd really like to know where it's going and what the impact is. And I don't know if anybody here is a hydrologist, so, I'd say somebody should come in and really look at that. If any kind of project goes on near any kind of wetland, there should be more information (unintelligible)...and I believe there is, because I know on my lake place, they sure do everything under the sun up there.

Johnson: The, the watershed has issued a wetland replacement plan for this project as of last fall.

Neihart: What does that mean?

Johnson: Well, because of the highpoints in the middle of the wetland –the haul roads if you will—as those are being removed, they are part of the wetland, so the impact for mining those roads out, has to be replaced. So, they're, they're going to be digging out the highpoints, and they're going to have to be replacing that as a part of impacting the wetlands. I'm not a wetland expert, but I've seen the report, and there will be mitigation done as a result of that. But, where you see the red lines (map attached), all of that would be removed. So the uplands are there will be one large wetland. Um, the depths are generally 10 feet, 9 feet? So it's not excessively deep. And, in the report, there have to be side slopes of a certain lighter slope, so you don't fall off of a cliff, and then it drops down in the…actually it was one of the requirements of the township back in the '70s…a recommendation by the township engineer at that time to have it at least 7 feet deep, so the water wouldn't be dead -- it could support life if you will.

Neihart: Now back to the pumping though, as far as…the pumps that they had, my husband calculated the gallons of water per whatever, and it was a lot at the time. This was quite a long time ago that he did that, and he couldn't come tonight so, we can't ask him, but, it was quite a lot of water that you displaced out of one area, and…well, that's what I want to hear about. I want to hear the expertise of…

Johnson: Bob, why don't you explain what you do with your pump water.

Moorhouse: It goes down the creek. The DNR monitors this. They're watching it all the time to see where that waters going, and how much is going, and what's being replaced with it. We had to go through extensive permitting with the DNR to allow us to pump that water. And that does go down the creek, the existing creek.

Organ: Is there a…there's a flow-meter correct? Is there a flow-meter?

Moorhouse: No. They're just monitoring to see how it's going down the creek, and that type of thing. There's no flow-meters.

Mursko: They're looking…they're monitoring the water quality, because they don't want to move the sediment from one area to another.

Moorhouse: Right.

Neihart: But the DNR and hydrology are two different areas, totally. They really are. And that's my question: With all the problem they're having in northwest Anoka County, I'm concerned we're going to have it here with a kind of operation like this. Not the DNR's not going to be the ones to tell you (unintelligible)…they're just checking quality.

Mursko: The DNR has the issuing authority on the de-watering permits however, so they issue all the permits. Those are not issued locally, meaning at the City level.

Neihart: (unintelligible)…'cause I don't want my well to go dry.

Guzzo: So I understand this can only be 10-feet deep, huh?

Johnson: I…there isn't a restriction per se. We don't have that in the records that we found that, from the township, back in the late '70s or early '80s required that the minimum depth be 7 feet. I'm just looking at the elevations that are here and it goes, uh, it looks to me, from 890 is pretty much an elevation that might be the permit or around the lake, and the bottom depths are at 871. Now that's 19 feet, excuse me. So you go from 8-9, yeah, that'd be 19 feet would be the deepest point in the middle of the lake. And as I say, these are all benched out and then there's a flat bottom.

Guzzo: So, 19 feet now is the deepest they go? Is that what you're saying? That's probably from the contract or whatever they've got?

Johnson: This is based upon the application materials that are submitted. This is not a requirement of the Watershed as a part of the wetland permit. They look at… they look at all aspects of that, but we don't have a particular standard.

Guzzo: So they could go as deep as they want?

Johnson: Uh, again, I don't know that the township has any standards that would interfere with the actual depth.

Guzzo: Wouldn't that be probably something you should think about?

Johnson: Uh, that'd be a question for the City Engineer. With regard to the…I'll just say a couple of things. In the issuance of any appropriations permit…I heard the gentleman earlier say he had some well problems, and I think you (gesturing to Neihart) had indicated one time that you may have had well problems. It is the responsibility of a permit holder to respond to any well issues. I would call the DNR. You can certainly call the City, but…

Neihart: We did that.

(Multiple unintelligible comments)

Haluptzok: The DNR did come out one time when she called and they came and all our ponds were full of water, and they…(interrupted by Neihart). Pardon me?

Neihart: At that time they were.

Haluptzok: Yeah. When you were saying that your well went dry, our ponds were full of water. And we hadn't been pumping, because they would have been lower. And, as far as I know, just from the knowledge that I've had, when we pump we can't even keep the water all gone. We've always, where the water doesn't stop coming. So, I don't, I don't know. I'm not like a well person either, but we've never had our ponds be pumped and never had water come back.

Neihart: I have better things to do than just call them for no reason. I had…

Haluptzok: No, I realize that, but they came out and the DNR came to us and they did look at it, and they came back and told me that they had a shallow well and basically that they could go dry and it had nothing to do with at the, what was at the pit. It had nothing to do with pumping the water 'cause our ponds were totally full, and they didn't understand why her well was dry or going low or whatever. So, and I don't have the answers either, so…I don't know.

Guzzo: I think it's just kind of common sense if we keep digging deep, deep, deep, pumping water down the creek, the houses around it are going to suffer. So that's, we've gotta think about it. It's common sense.

Haluptzok: We've never had a water problem. I mean, you can go there any time of the year and the water is there.

Hansen: You guys weren't pumping that kind of water though.

Neihart: Not recently.

(Multiple unintelligible comments)

Hansen: Like I said, I hadn't had any problems with you guys. They weren't pumping that amount of water. Leroy was not pumping that type of water. These guys were pumping serious amounts of water. Huge amounts of water.

Guzzo: And you won't… Once you dig deep enough you're gonna drain from our areas or from the houses around the higher end. It's gonna go towards the low end right?

Johnson: If you consider…

Guzzo: So, your pond's not going to have a problem, but the houses…

Johnson: If you consider the area where you're pumping like a sponge, and you stick a straw down in the very bottom of it, you start sucking, it's going to pull away from that point. If you remove all of the water, it gets out further. With regard to my earlier comment, it is a State rule that if, because of the appropriations, there is a draw-down on any neighboring wells, they're liable. If the DNR came out, looked at the ponds and said, 'Well all the water's here on the

surface. How could that impact your well?' I can't relate to that, but I, I'm just, I'm telling you from other experiences, there is a responsibility for anyone obtaining an appropriation permit to be responsible. That's a fact-finding mission, but they're going to be liable. That's always the case. Contractors that come out and de-water because they're installing a sewer pipe, they have the same obligation. This, with an on-going appropriation-- and the appropriation issued by the DNR allows 500 gallons a minute. You can do the math and figure it out. That's a lot of water. That's the maximum. It doesn't mean that's what they're doing every day or on average, but that is the maximum. Given the proximity of the wells, again, depending on what that saturation of water is in all of your properties, it may or may not have an impact. None of us sitting at this table can determine that. But I want to assure you, it is a fundamental responsibility for anyone that holds a permit to be obligated to either provide potable water until it's fixed, sink a deeper well, replace the well, those are the rules. So, if the DNR came to your property and did a visual and said, 'I'm sorry, but whatever well problem you've got isn't from the appropriation.' That's their professional opinion. I'd get another one, if you're not satisfied. That is a requirement for appropriation permits.

Neihart: However, you know, you don't want to mess with the aquifers that we have. They're low.

Moorhouse: We don't go that deep.

Neihart: Pardon?

Moorhouse: I don't think we pull the water from that deep. It isn't where we put wells *in* the ground. We just take the surface water as it's coming in, so we can dig it. It isn't that we put in monitor wells, de-watering wells. It's a surface pump that's in there. Um, we have done where there is a well, where you have to put a pipe in. Then you have to put in the wells, well points.

Johnson: So all I hear pumping is surface.

Moorhouse: That's correct.

Johnson: It's not going to have any impact on your well source. Can I ask, how deep are your wells?

Neihart: I'm not sure. Mine's not a deep one. It's been there since…

Johnson: Anybody know?

Hansen: Maybe 100 feet or so.

Johnson: 100 feet. It's very unlikely that surface pumping is going to cause that individual problem. But injection wells that are part of appropriation, they, they have the capability of drawing down the water table. It's a relatively compact area –and again, I'm speaking out of league. I learned these things throughout my career, but I'm not a hydrologist.

Hvass: Myron?

Organ: I just wanted a point cleared up. There is no monitoring well on the premises? Or there is a monitoring…?

Moorhouse: No.

Organ: Okay.

Sternberg: I've got a…Madam Chair?

Hvass: Go ahead Garth.

Sternberg: On this permit here, it says, number 12 on your water permit, de-watering permit, it says a 30-foot deep observation well shall be installed between the mining area and the nearest residences and monitored for any influence on private wells, with pumping readjusted accordingly.

Organ: That's what I was…

Sternberg: So I take that as you have to put in a monitoring well. And keep an eye on it.

Moorhouse: Mm-hmm.

Steve Ulrich: Is that just for monitoring, is that what you said?

Sternberg: Yeah. Yeah, it sounds to me like as a condition of the permit, they've got to drill a monitoring well.

Hvass: Mm-hmm. From DNR. Yup.

Sternberg: To keep an eye on…(unintelligible) private wells.

Organ: My question, Dean, would be, who monitors that? Is that the DNR that comes out?

Johnson: Uh, it would be part of whatever records they require as a … You know, this, this is basically the final form, the appropriation permit would have a file. Uh, you could obtain that information.

Neihart: Can I ask for a clarification? Is the land going to be sold to Forest Lake Contracting? Is this, is this…

Haluptzok: I, I'm working with them. I don't know. Leroy passed away two years ago and I can't do it by myself, so I had an auction, so all of our equipment…and I've been working with Forest Lake, and, yes, they have the option to buy the whole pit, so that's why they're working with me.

Hvass: You had a question? Go ahead.

Hansen: Um, I did have a question. Actually two questions. Um, obviously I do have a little pond, as you can see up in the corner there. Um, and that's kind of my (unintelligible)…pump water out of there. And they did dig it out a little bit to, um, get water in, but, when they were pumping water out of it, it was basically a big hole with water in the very bottom. You know, 'cause I understand that you're talking about sticking to surface water. That's fine. But, anyway, I had basically an empty hole there with, you know 5 or 8 feet of a hole and water at the very bottom. You know, that's an impact. We're talking about the wells and what have you, okay, fine, say it doesn't affect the wells, but obviously, I'm right next to it, and it did affect me (unintelligible)…so my pond is basically empty. It was empty until they came out and dug some of it out. They way I could at least get water out of it to pump (unintelligible). I just want to make that statement. And the other statement I have, you know, you're talking about the storage area there –on the yellow there. You know, 15 feet high? Any south wind, a heavy wind, I'm going to have nothing but a big sandstorm coming through my property, and his property, and the other neighbor's property.

Neihart: You should see how close they are. (referring to Ulrichs)

Steve Ulrich: And black dirt was more stable.

Hansen: Yeah. That really didn't bother me that much. Like I said, I didn't have any problems with those guys before. But this is a whole different thing. You get that blow sand…when it, when they go back there and start disturbing it, I mean, when they—'cause it's all weeds. You know, the weeds kind of grew in and it kind of contains everything. Everything's been pretty good. But when you go back there and you start to drive around, and disturbing all the weeds and what have you, it just turns into, um, a dust bowl.

Hvass: Myron?

Organ: I have a question. What year was it that the pond dried up?

Hansen: The year that they, um, the only year I had a problem is when they, um did the bridge. I've never had a problem ever with…

Organ: Last year?

Hansen: …with water going down. When Leroy was doing it, he wasn't pumping that much water. I had no problems with water ever. I didn't have any problems with it.

Organ: My pond dried up…

Hansen: I thought this was a one-year thing with this bridge, so I just kind of went, 'Okay, you know what, we need the bridge, I'll deal with it.'

Organ: My pond dried up last year and I live on the Freeway District. There's City water there.

Hansen: And I've never had (unintelligible) water. Ever. Except that year.

Moorhouse: I'm not saying that it was because of us, but we also had a very, very dry year last year. You know, that contributed to some of that.

Guzzo: Can I ask if –we've got a lot of concerns about water, obviously. Can we put something in their contract and figure out how deep they can go? And put a clause in there to satisfy some of that issue? I mean, if we don't have something in writing that it can go so far-- when is the end? Where is the end? How deep can they go?-- I think we're all making a mistake. So, if we could throw, ask the Board for that, that that'd be a start to…

Neihart: I think we have a list of concerns.

Guzzo: …making us feel a little better about our water issue. I would hate to wait until we all have problems with wells, and ultimately now, they've got to pay for it. Why wait for that? Let's, you know, I know you're saying they're responsible, but are we gonna wait 'til we all have problems?

Johnson: The, the depth of the water itself is not gonna have an impact on what the normal or natural water level is itself. The estimate of quantities that are listed in the permit –the 240,000 cubic yards, and the 150,000, whatever I put in the findings—is an estimate based upon these final elevations. So, if there is a limit on what can be removed, that is the limit. It's, it's like the way the Pollution Control Agency puts a limit on a landfill. It's a volume, and when you reach that volume, that's the end of the permit. We have two options; we can specify a specific time, and if it isn't mined out, then we're all going to be talking, 'What's the reclamation plan if it's not done?' -which doesn't mean that's the wrong way to go. But you can have a time or you can have a limit or you can have both. And what this would do is to say there is a time frame, and there is a volume that's identified for removal, and that matches this reclamation plan. That's the depth. We can certainly consider setting the maximum depth of water as well. I don't see that as an issue.

Neihart: Can I ask how much they took out of there for the highway project? How many cubic yards?

Moorhouse: 107,000.

Neihart: So we're talking almost four times more.

Johnson: Yeah, if you had three big projects like that, it'd be done.

Moorhouse: Right. There's only so much dirt there, that's available.

Neihart: And how much did, how much time did it take you from start to finish to get that out?

Moorhouse: Oh, I don't have the dates with me—a year and a half I suppose. I don't have the times that we did haul.

Hansen: But at least that we knew would come to an end. You know, that bridge thing, like I said, it was very disturbing, but I just let it go, because it was an end-game thing. We knew that when the bridge was done, that dirt, it wouldn't, we wouldn't have all these trucks running around, all this sand blowing all the time, all the noise and everything. That's a major operation behind your house –more than you know. I mean, a lot more than you know. It's nothing compared to what Leroy was doing. Absolutely nothing.

Wolowski: Madam Chair? Um, I have a question.

Hansen: And now to have this storage area right behind my house there. It's insane. I won't be able to walk outside. (Unintelligible)…safety shields on to keep the dust out of my face.

Hvass: Pam?

Wolowski: Um, I just have a question on the water. When it's pumped away, you're saying it's removed and it goes into the creek. Now, how is the water replaced?

Moorhouse: The water table is so high, especially up in that area, but in Columbus, that it just comes right back in. As soon as you shut a pump off it's gonna fill right back in.

Wolowski: So you're pumping and then removing.

Moorhouse: We're removing, and then, once we get removed, we shut the pump off and the water's right back into it.

Wolowski: Okay, thank you.

Mursko: My understanding is that it would not, once it's pumped out it went in a big circle, but it took a while to go the full circle.

Wolowski: Okay.

Organ: From pond to pond, and then back.

Wolowski: So it's just moving back, yeah.

Preiner: Madam Chair?

Guzzo: I think that's a concern. Yes. Shut the pump off the water fills back up, from where though? From the surrounding areas. Because that's the low spot. And that's why I'm concerned about how deep they're going to go, because all the houses around, all the areas around, they're gonna pull towards that. Fill it up, pump it up. And that's gonna be an issue – or could be.

Hvass: Jesse?

Preiner: Dean. I would like to go back to the question of –and have you re-explain to me please—limiting the depth of the dig, of the excavation. And what you told me, I think, is that it's already limited because they're only allowed to take 'x' number of cubic yards out of 'x' number of acres equals 'x' feet deep. Correct?

Johnson: Yes. So the drawing that you see that has these contour lines, is the estimate of remaining material that would be removed, and the resulting depth within the property itself, in the excavation areas. And the estimate was the 200 –excuse me—340,000 cubic yards on the one, and 150 on the other. Now, do I confirm that? I'm not your engineer, so Larry has reviewed the plans. We did not, I did not specifically ask him, do the mine depths, the final pond depths match the volume of material that's estimated to be removed. We did not discuss that. Uh, as an engineering thing, I'm guessing that that's what he looks at, but to the gentleman's question earlier, can you put a value or this, what helps you reach an end factor in any kind of permit. Is it the amount of material that's removed or is it the bottom elevation of the pond? It could be both. It is both, because they're both part of the document itself. And, you know, the question about what's reasonable, why do you have to go that far? Because there's material there. Is there a smaller amount of material that's more reasonable, which means a shorter permit period? That's a question for you to answer.

Moorhouse: I think the type of material to that would you run into. You know, if it's a sandy or if it's a silty type of sand that is not…

Johnson: There not going to excavate muck.

Moorhouse: That's right.

Johnson: So, their best estimate are these quantities of material. Um, you know if you do an environmental review on projects like this, some of the questions are: Define the need. Are there alternatives? You know better than I whether a material like this is important to this area that you want to capture it as a natural resource. Again, that's a policy issue. That's for you to decide. Obviously they chose this place to do the bridge, 'cause it was a suitable, cost-effective way to do it. If removing the rest of the material puts the neighbors in misery, because they don't have two or three more bridge jobs like this in mind, that's another factor in your decision making. It'd be nice if they can get it all out in two years. I mean, that'd be wonderful. I, I think everybody here'd be happy.

Moorhouse: And you do have an existing permit that's running right now.

Neihart: Which nobody ever understood how it kept running without getting renewed.

Hvass: In the back of the room.

Mursko: A Conditional Use Permit runs with the land. It does not have an end date.

Hvass: But now, that's what we're going to be doing is revoking the CUP, right?

Mursko: They have agreed, they have agreed to a revocation with the understanding that we will issue an Interim Use Permit. I don't think they're going to agree to a revocation of the CUP only.

Haluptzok: No.

Hvass: If they don't get their IUP, you mean?

Mursko: That would be my assumption, yes.

Johnson: They have rights to the use of the property and its, its…I would say we have some controlling factors, but otherwise, there's really nothing in the 1993 permit that related to volumes of material, quantities, time, anything of that magnitude. And so the benefit to exchange the Interim Use Permit is that, yes, they have estimated there is a natural limit on the amount of material that is usable, valuable. If they don't have several big projects, they estimate ten years to get it out. If they had several big projects maybe it could be done in five years. Uh, and again the neighbors are all sitting here saying, 'Well why does it have to go on at all?' If we don't issue the Interim Use Permit, they have some continuing mine rights that don't have any guidelines or limits, and that's what we're trying to balance.

Neihart: But could you put some kind of timelines on the conditions.

Johnson: Well, we're saying automatically that our ordinance right now, within the rural residential area defines the term of the Interim Use Permit to be five years, or less. Um, and yet at the same time, if you review the mine plan that they have, what is intended? So, take the high points out of the east parcel and remove the back half of the sandy material on the west parcel. That's your combined 340,000 plus 150,000 cubic yards. Is it reasonable to force them, or expect that they can remove it in five years? That's a market-driven issue. And, if so, if you had, you know, if you had five more bridge jobs you'd say, 'Hey, it's done.'

Neihart: I have a question. Can they take it out in a less amount of time and store it on their own property or someplace else?

Johnson: Well, hauling material won't pay for the material.

Neihart: Well, I was just asking.

Johnson: It's really a job-oriented, market-driven situation. I mean, to dig it, to excavate it and haul it someplace in the anticipation that you'll haul it again, isn't how it works. I'm just explaining it.

Neihart: They have to haul it and dump it in the storage plots and then pick it back up and take it out.

Johnson: The transportation costs are the biggest factor in this. If you've got so-called free material other than the cost to physically take it out of the ground, it's transportation costs that affects…That's why everybody wants local material.

Organ: I have one other question for the applicant.

Hvass: Okay.

Organ: And this may be somewhat simplistic, but basically, there's a lot of concern about all the water being pumped out of here and going down the creek and everything. The creek is being monitored by the DNR, correct?

Moorhouse: Mm-hmm.

Organ: But, you're not, what you're doing is pumping like all the water from this pond, the overflow goes to that pond, the overflow to the next pond, and then the overflow that goes down the creek, which isn't all the water. Then when you're done with that pond, then you pump back into that pond, and that pond, and…

Moorhouse: That's correct. It gets pumped. It doesn't get pumped completely and gone. It gets pumped gradually and it has to get pumped into another pond to get a settlement area, for the sediment to settle out of it before we can discharge it down the creek. So, it isn't…it's like you say, it's going to go from a pond to a pond. It isn't the whole area…

Organ: Six cups here, partially full of water…

Moorhouse: Right. That's correct.

Mursko: And that's how it makes a big circle. That's how the creek is.

Hvass: In the back of the room.

Steve Ulrich: What did you figure out with the operation hours? Did you decide anything of that? Also, the water is obviously important, but hours of operation, what everybody's been saying, you know, you go to work all day and get home at 5:30, and that was fine when John and Leroy (unintelligible). If he goes 'til 7, I mean, that's a lot of racket with a lot of dust going around. You get to come home and have some peace and quiet and, I think, there should be…7:00 is too late in my opinion. I think they should...we've already had it at 5:30 which some people think is too late, but that probably is a doable time. That's something that you should think about also.

(Multiple unintelligible comments)

Hansen: You can't even sit outside and have dinner outside.

(Multiple unintelligible comments)

S. Ulrich: And we all knew that, that's true, when we moved there, but 5:30 was when they quit, and that was not too bad. That was pretty reasonable.

Moorhouse: If it would help, we could cease our operation at 5:30.

Hvass: 5:30?

Moorhouse: Yes. We could go along with that. We're not trying to be bad neighbors or anything else. And I like to sit outside just like you guys. And if that's what would help you, you bet. We could settle back to the 5:30.

Neihart: I have one more comment. We're all, we're talking as if we're going to pass something, right? And I still say, is it possible to go back to thinking about, just the Conditional Use Permit? I don't even know if there's black dirt back there anymore. You know, I don't know. But, the other thing is I definitely think that you should all come out to the two areas, on our end on the south, and the other folks on the north, and come out and look at what we're talking about. I don't know if anybody's done a site visit. I don't know, the Engineer should be with you so he can answer questions and look at it. I think it should be taken real seriously, 'cause it's going to impact us greatly. And it has impacted us over the years. There's been problems, hot spots over the years, all the time. And I know it wasn't as much as what it has been (unintelligible), but I think we really have to look at these storage issues. And, I'll tell you what, I don't even know if I can stand two more years. And I seriously mean that. I mean, why should I have to feel compelled to move, because you just want to issue a permit to somebody to make money. I think it's great, that's great people make money.

Hansen: You think you're going to be able to sell your house? You aren't going to be able to sell your house.

Neihart: I've been there 37 years. I don't want to sell my house.

Hansen: And you won't be able to sell your house. You won't get anything for it, with that going on.

Neihart: But I would like you to see how close-- these guys live behind me-- how close to that fence that storage would be. And it's all wide open back there and when the wind blows –he's there too—when the wind blows, we've got a few trees to protect us, they don't. And it, it comes right over the top to them. And I've never even talked to them about this, but I know, I've seen it in their yard, in their driveway. I know what they've gone through.

Rosie Ulrich: Or at least you have some sort of barrier. There's not much of a setback in that staging area, um, and I don't know if you're aware where the route is and where our property is, to even have some sort of setback there, so that...

Neihart: I think it's just too close to residential to dump that kind of dirt.

R. Ulrich: And I do think that you all should really visit the area, if you haven't already.

(Multiple unintelligible comments)

Hvass: Can you cover your piles? Can there be temporary covers on the piles?

Moorhouse: Yeah, it…

Haluptzok: It's pretty hard.

Moorhouse: It's pretty tough. You'd have to put some seed on it or some mulch on it. Um, there is a regulation that if you don't touch a pile for over ten days it has to be blown with some mulch on it, and that's a part of our permit.

Johnson: You've got plenty of water to keep it wet.

Moorhouse: Right.

Neihart: Are there any other locations that they could go, that are not by houses?

Preiner: It doesn't look like it from here.

Neihart: The two you chose are by houses, and there's a lot of land back there.

Hansen: The two spots are right by the houses. And there's like, um, west side there is nothing. And on the east side there's nothing.

(Multiple unintelligible comments)

Hansen: Okay, well, somewhere…you get what I'm saying though? You got the residential there and you've got all of us on that side. That's where both your storage piles are going to be. That doesn't make sense.

Moorhouse: (Unintelligible)…is going to be a topsoil so we can put it back over the ponds, for the slopes and stuff, for seeds and later. That's the only stockpiling. It's not going to be a garbage type of a stockpile. It's a stockpile of black dirt to be put back on.

Mursko: That's to stay the five years? Those are stable stockpiles?

Moorhouse: They won't be there the whole time, no, but as we fix an area where we have to put a topsoil back on…

Mursko: I think your audience thinks they're sand piles, so, maybe you can explain.

Moorhouse: Part of it, part of it is going to be a sand pile for the water to leach out of it, but it's just going to be a temporary thing there. But there will be some piles of topsoil that we bring in, to be put over the slopes when we're done.

Unidentified: Then there's no black dirt left.

Moorhouse: It's not going to be a black dirt, but it's going to be a topsoil type pile, yes.

Neihart: I say look for relocating those piles, and get away from the houses.

S. Ulrich: So the piles are going to be standing wet sand that, is that what you're saying?

Moorhouse: It'll be a sand that we… that water will drain out, and probably over night type of thing and then we can get into it, and haul it.

S. Ulrich: And you'll be loading it into the trucks from there.

Moorhouse: Right.

Neihart: That brings the trucks right by the houses too, which contributes to the noise, and my property touches theirs so, we're right, I'm right alongside of them. So, I'm not thinking that's acceptable. Why put the noise right in our lap? You have to see what it looks like.

Moorhouse: Where is your house again?

Neihart: I'm right on the left-hand side, right there. Well…(unintelligible). But those two properties his, or theirs and another person that's not here are right on the side.

Mursko: You're, you're on the corner right? You're here?

Neihart: No. It's down. My property goes back. My property goes back to...to…over theirs. So I'm like in their back yard…these people.

Moorhouse: You go out to that 186th?

Neihart: I'm on 180…I'm on Vassar Street, my driveway is.

Moorhouse: Okay. Right there. Okay.

Neihart: But see that road? That's…right straight across is where you're talking dumping all that sand. **(unintelligible comment from unidentified person)** And that's all wide-open water back there with those trails of sand in between the paths. And it blows right through there like, straight through.

Guzzo: Do we know what this is going to look like when we're all done? Is it going to be all water then where the red is?

Moorhouse: Right. It won't be…there'll be little roads in between 'em. It'll be a lake.

Guzzo: It'll be all water.

Mursko: This outline is all one big pond.

Moorhouse: Yup.

Guzzo: One big pond. (unintelligible) …same thing.

Mursko: Yup. This whole thing will be pond. Then, there's four lots here. One lot here. One lot…

Hvass: How, how deep will that lake be then? Or pond?

Guzzo: There's no regulation.

Moorhouse: It is going to silt in. What the DNR is hoping that it's at least six feet deep or seven feet deep is what they're hoping for, after it's set for awhile, to maintain, uh, the wildlife area.

Hvass: Well, are there any more questions?

Preiner: I have a question Madam Chair. Bob, on your, uh, pumping –back to the pumping. So, you're bringing in electric, so you're using all electric motors?

Moorhouse: We will be. Yeah. Until we get set there we'll use some, some day-time pumping that will be with a generator.

Preiner: Okay.

Neihart: Oh, so there will be noise during the day?

Moorhouse: During the day.

Neihart: And I'm home during the day. All day.

Hansen: We just got told…(unintelligible-simultaneous with **Neihart**)

Moorhouse: It's eventually gonna be electric. We're, until they get the pole line built in there, we're gonna start pumping, because this dirt –you know we have to get that water down. That takes awhile before we can get at the dirt. So…

Neihart: The generators make as much noise during the day as they do at night. It's just worse at night, because people are trying to sleep.

Moorhouse: Well, because people are trying to sleep at night, we won't be using them at night.

Neihart: Well why don't you use electric during the day? Before you start digging?

Moorhouse: Because the pole line has to get built from the power company and, until we get the permit, we're not gonna build a pole line. Because it's very, very costly to put a pole line in there for those pumps.

Mursko: So did they take the temporary pole down?

Moorhouse: Right, but it won't, that temporary pole wouldn't withstand…

Mursko: Okay.

Neihart: What kind of decibel does the electric put out?

Preiner: There is no decibels on electric motors.

Neihart: No sound?

Preiner: No.

Moorhouse: No.

Neihart: No sound at all?

(Unidentified unintelligible comment)

Neihart: Yeah, I know what the generator sounds like.

Preiner: So anyway my point is, the concern of the pumping at night isn't an issue?

Moorhouse: Will not be an issue. No.

Preiner: And, while you get started, you will be using electric motor, but only during the day? Er, gasoline motor, but only during the day?

Moorhouse: That's correct.

Preiner: Thank you.

Neihart: That's still not acceptable.

Guzzo: How do you guys decide? I mean, is there another meeting or how do we know what you guys decide?

Hansen: (unintelligible) …everybody ought to…(unintelligible)…with all these trucks…because if they find out, this place'll be full.

Guzzo: Well, that's why I'm asking. When does…how does it work?

Mursko: Right now, right now we're in a public hearing mode, and this is the Planning Commission. The Planning Commission are appointed officials and their job is to take testimony during public hearings and to have discussion, and they make recommendations to City Council members. Tonight we're taking testimony, and whether the Planning Commission feels they have enough, um, facts and are comfortable enough to make a decision for a recommendation, they will do that this evening. If not, they will ask for more information and continue the discussion 'til their next meeting. Whenever they make their recommendation and finish their recommendation, it will go to the City Council. The City Council is the, is the body that you elect, and they make the final decision as to whether or not this operation is going to continue, how long, whether they take the recommendation of the Planning Commission, whether they tweak it a little bit or not, and then that decision is the one that is binding. So there is going to be at least one other meeting at the City Council level, and we'll find out tonight—if you stay—where they're at and whether there'll be at least one more Planning Commission meeting. Questions on the process?

Hansen: In the process call your elected officials; put 'em on speed-dial. Work the system.

S. Ulrich: So…well, worst case though, would be…well a bad case also if you do nothing they keep the same permit they've been going by, which you guys have no control over.

Hvass: That's right.

Moorhouse: That's correct.

S. Ulrich: So, that is not accept…that's actually worse probably.

R. Ulrich: Can somebody explain why they don't have any control over that Conditional Use Permit?

Hvass: I can't hear you.

R. Ulrich: Well, it's, it's (unintelligible)…

Mursko: I can, I can answer that.

R. Ulrich: Can't anybody explain why you don't have any, any authority over that Conditional Use Permit? You've never tweaked it. You've never changed it. It goes (unintelligible). Why can nobody touch it?

Hvass: That's how things were done then. That was the way the ordinances were written.

R. Ulrich: And nothing can be changed for that?

Mursko: Well, I won't say nothing can be changed. I think that, at the time, a Conditional Use Permit was granted and there were—I can't remember whether it was 10 or 13 conditions. And the way a Conditional Use Permit works, it runs with the land, it doesn't run with people. And so

you can -- as the land changes ownership, the permit stays with the land. And in this particular case, as long as you meet all of those conditions, and you don't change what you're doing, the Conditional Use Permit lasts in perpetuity, so, forever. And, in this particular case, they've been abiding by all the conditions that were set. And those conditions, you know what I mean, if you had a chance to read them, they're very broad. And so, I've talked with some of you on particular complaints and such…we go back to the conditions and they may or may not be in there. And so, the frustration I think on both ends were, there weren't really detailed conditions at the time. Maybe they felt they weren't appropriate, maybe there weren't as many people voicing concerns and things have changed over time. And so, at this point, we have to decide what's the better route to take. And, obviously, we'll have seven people make that decision along with five Council members.

Unidentified: Well I hope one route is to get more people here to discuss their complaints, because you've got a whole road you missed.

(Multiple unintelligible comments)

Hvass: I had a phone call from Tom Mike and he had a concern too that he did not want to see the pit expanded…didn't want to see it be made any bigger.

Moorhouse: I don't think we'll make it any bigger.

Mursko: Okay. This is not…this is actually smaller than the original…

(Multiple unintelligible comments)

Hvass: Quiet please. What were you saying Elizabeth?

Mursko: This is not expanding the permit. There is some question about certain things, but, after the attorney reviewed it, um, in this particular case, it wasn't specific about one type of material and so, we're trying to work within the guidelines.

Unidentified: Super-vague guidelines.

Hansen: So, basically, if you were dumping PCP on the ground, it's not subject to change, because it was done a long time ago. That's not true. So…you know what I'm getting at? Just because it was very vague at one time, doesn't mean it's not affecting people now and shouldn't be changed no matter what. This…you could be…I'm just using as a pollutant or whatever the case may be, noise pollution, whatever --if it's causing an effect now, doesn't mean that…Things change.

Mursko: And we realize that , and that's one of the reasons why we're here today, working with them and trying to say, 'Listen, we realize that things have changed and in return for revoking your CUP, will you agree to a different set of terms?'…

Neihart: Which is more business, and more noise, and more…back to worse than what we had.

Hansen: Which is like a five-year thing. Could be even ten years, depending on if it's this long project, little projects, it could keep going and going and going, which is no different than what we've got now. I mean, is that not right, what I heard?

Hvass: Well, there would be more conditions on it now.

Hansen: But still, an open-ended thing.

Mursko: No. An Interim Use Permit ends in five years.

Hansen: But, I mean, he could re-do it again and again, if the dirt wasn't processed out right?

Mursko: Well, an Interim Use Permit has an expiration date, and as our Planner explained, in a residential area it's a five-year term. And, I think Forest Lake Contracting, in their big plan, they felt five years was, you know,… but it also depends on the environment market. Obviously they want to sell the material. So, I think it's…that's going to be dictating the amount of years, because there's a finite amount of material. But, as we explained before, in five years, um, if the conditions have changed, the permit may or may not be given out, because an Interim Use Permit has an expiration date, and you do have to reapply. Whereas a Conditional Use Permit was in perpetuity forever as long as you met all the conditions. Um, so I realize, I realize there's a downside for both of the permits, and obviously things change over time, so I agree with you.

Unidentified: The condition is five years. He said it took them a year and a half to do 100 and how many thousand? I don't think you can get it done if you have three big jobs in five years.

Moorhouse: It was in our one season probably.

Mursko: I was just going to say, the Howard Lake Bridge was in one season that you took that out.

Moorhouse: One season that we did take that out. Yeah.

Unidentified: I'm just going by what you said.

Moorhouse: One season, but you're talking about, with the whole operation, with putting the topsoil back on and this type of thing, we probably, we were there for more than that. But we hauled the dirt out in a one season's time.

Unidentified: (unintelligible)…longer than five years.

Unidentified: (unintelligible)...renew it.

Unidentified: Right, then you're gonna be renewing it…

Hvass: Are there any other questions, because I think we've…

Organ: I have one.

Hvass: Myron.

Organ: You've probably been here the longest (referring to Hvass). And I would like to… have you ever seen a business come in and give up a Conditional Use Permit to get an Interim Use Permit?

Hvass: No.

Haluptzok: No.

Neihart: It's a unique situation.

Organ: No, it's not, we've (unintelligible)

Hvass: I've seen several of them, we've seen several of them revoked.

Haluptzok: We'd just like to get an end-date for you, and I'd like to have it all done. So…I mean, it'd be nice, but…

Hvass: Okay, if there are no more questions at this time I am going to close the public hearing, with the right to reopen it if it becomes necessary.

Hansen: Are you going to at least let, er, send out mailings to the rest of the people on 189th to make them aware of what's happening?

Hvass: We're going to have a discussion now.

Hansen: Okay. Thanks.

Hearing closed at 8:47 p.m.

Respectfully Submitted:

Karen Boland, Recording Secretary