AGENDA # 7.1
SCOTT COUNTY, MINNESOTA
REQUEST FOR BOARD ACTION
MEETING DATE: JULY 7, 2020

ORIGINATING DIVISION: **ORIGINATING DEPARTMENT:**	Planning & Res. Mgmt. Environmental Services	**CONSENT AGENDA:**	☐ Yes ☑ No
PRESENTER:	Jessi Krzenski -8361 Kate Sedlacek - 8351	**ATTACHMENTS:**	☑ Yes ☐ No
PROJECT:	Merriam Junction EIS	**TIME REQUESTED:**	10 Min
ACTION REQUESTED:	Adopt Resolution No. 2020-104; Determining the Merriam Junction Sands, LLC Final Environmental Impact Statement (FEIS) Adequate and Approving the Record of Decision		
CONTRACT/POLICY/GRANT:	☐ County Attorney Review ☐ Risk Management Review	**FISCAL:**	☐ Finance Review ☐ Budget Change

ORGANIZATIONAL VALUES:

☑ **Customer Service**: We will deliver government services in a respectful, responsive, and solution-oriented manner

☐ **Communication**: We will always be clear about what we're doing and why we're doing it

☐ **Collaboration**: We will work with partners – communities, schools, faith groups, private business, and non-profit agencies – to see that services are not duplicated but rather are complimentary, aligned and provided by the partners who can deliver the service most effectively

☐ **Stewardship**: We will work proactively to make investments, guided by resident input, which will transform lives, communities, and government

☐ **Empowerment**: We will work with individuals and families to affirm strengths, develop skills, restore hope, and promote self-reliance

☐ **Resiliency**: We will foster public preparedness and respond when families and communities face health and safety emergencies

☐ **Innovation**: We will take informed risks to deliver services more effectively and will learn from our successes and failures

DEPARTMENT/DIVISION HEAD SIGNATURE:		**COUNTY ADMINISTRATOR SIGNATURE:**
Kate Sedlacek		
Approved:	BWB/MB 5 ayes	**DISTRIBUTION/FILING INSTRUCTIONS:**
Denied:		
Tabled:		
Other:		
Deputy Clerk:		
Date:	7-7-2020	

Background/Justification:

The purpose of this agenda item is to adopt Resolution No. 2020-104; Determining the Merriam Junction Sands, LLC Final Environmental Impact Statement (FEIS) Adequate and Approving the Record of Decision.

Staff will provide a full summary of this proposed mining project and years-long environmental review process at the meeting.

The Merriam Junction Sands, LLC FEIS was published on June 1, 2020. The deadline for comments regarding the adequacy of the FEIS was June 15, 2020. Environmental Services staff did not receive any comment indicating the FEIS was inadequate. The Metropolitan Council and the Department of Natural Resources submitted letters stating that their comments were addressed and that the FEIS is adequate. Please see the attached Record of Decision for all the draft EIS comments received.

According to MN Rules 4410.2800 subpart. 1 and subpart 4, the Scott County Board of Commissioners shall determine the adequacy of the final EIS on the following conditions:

A. The final EIS addresses the potentially significant issues and alternatives raised in scoping so that all significant issues for which information can be reasonably obtained have been analyzed in conformance with part 4410.2300, items G and H; and
B. The final EIS provides responses to the substantive comments received during the draft EIS review concerning issues raised in scoping; and
C. The final EIS was prepared in compliance with the procedures of the act and parts 4410.0200 to 4410.6500.

Staff recommends that the Board determine that the Merriam Junction FEIS is adequate based on the findings that conditions A through C have been met and adopt Resolution No. 2020-104; Determining the Merriam Junction Sands, LLC (FEIS) Adequate and Approving the Document of Decision

Fiscal Impact:
None.

BOARD OF COUNTY COMMISSIONERS
SCOTT COUNTY, MINNESOTA

Date:	July 7, 2020
Resolution No.:	2020-104
Motion by Commissioner:	Weckman Brekke
Seconded by Commissioner:	Beard

RESOLUTION NO. 2020-104; DETERMINING THE MERRIAM JUNCTION SANDS, LLC FINAL ENVIRONMENTAL IMPACT STATEMENT (FEIS) ADEQUATE AND APPROVING THE RECORD OF DECISION

WHEREAS, Scott County is required to complete an Environmental Impact Statement (EIS) according to Minnesota Rule Section 4410.4400 Subp. 9 for the Merriam Junction Sands, LLC; and

WHEREAS, Scott County submitted a draft Environmental Impact Statement to the Environmental Quality Board (EQB) Monitor on February 3, 2020 and received comments until February 25, 2020; and

WHEREAS, Scott County received agency comments from the Minnesota Department of Transportation, Minnesota Pollution Control Agency, Minnesota Department of Natural Resources, State Historic Preservation Office, Metropolitan Council, Scott Watershed Management Organization, and Louisville Township; and

WHEREAS, Scott County received citizen comments from Thom Boncher, Ann Shelton, and Bruce Enger; and

WHEREAS, Scott County prepared responses to comments received and submitted a Final Environmental Impact Statement to the Environmental Quality Board (EQB) Monitor on June 1, 2020 and received comments until June 15, 2020; and

WHEREAS, Scott County received agency comments from the Minnesota Department of Natural Resources and the Metropolitan Council stating that their comments were addressed and the EIS is adequate; and

WHEREAS, County staff has completed a Record of Decision that states the Findings of Fact and Conclusions addresses all comments received.

NOW THEREFORE BE IT RESOLVED that the County Board has determined the Merriam Junction Sands, LLC Final Environmental Impact Statement adequate and approves the Record of Decision.

COMMISSIONERS	VOTE			
Weckman Brekke	☑ Yes	☐ No	☐ Absent	☐ Abstain
Wolf	☑ Yes	☐ No	☐ Absent	☐ Abstain
Beard	☑ Yes	☐ No	☐ Absent	☐ Abstain
Beer	☑ Yes	☐ No	☐ Absent	☐ Abstain
Ulrich	☑ Yes	☐ No	☐ Absent	☐ Abstain

State of Minnesota)
County of Scott)

I, Lezlie A. Vermillion, duly appointed qualified County Administrator for the County of Scott, State of Minnesota, do hereby certify that I have compared the foregoing copy of a resolution with the original minutes of the proceedings of the Board of County Commissioners, Scott County, Minnesota, at their session held on the 7th day of July, 2020 now on file in my office, and have found the same to be a true and correct copy thereof.
Witness my hand and official seal at Shakopee, Minnesota, this 7th day of July, 2020.

County Administrator

Tracy A. Cerwenka

Administrator's Designee

Scott County
Louisville Township, Minnesota

RECORD OF DECISION
FINDINGS OF FACT, CONCLUSIONS and RESOLUTION 2020-xxx

DATE:

RE: Determination of adequacy of Environmental Impact Statement (EIS)

PROJECT: Merriam Junction Sands EIS

Location: Scott County, Louisville Township, Sections 16, 21, & 28
Tax Parcel Numbers: 079280042, 079280100, 079280070, 079210120, 079210080, 079280090, 079210190, 079210011, 079210010, 079160042, 079160040

FINDINGS OF FACT

1. Pursuant to Minnesota Rules for Nonmetallic mineral mining, 4410.4400, Subpart 9B, Scott County, acting as the Responsible Governmental Unit (RGU) prepared the mandatory Environmental Impact Statement (EIS) for the proposed Merriam Junction Sands, LLC. Project.

2. The EIS is incorporated by reference in this Record of Decision.

3. As indicated in the EIS, Merriam Junction Sands, LLC (Proposer) is proposing to continue non-metallic mineral mining and processing operations on approximately 682 acres of land. The purpose of the Project is to continue the production of construction aggregates as well as to further develop the Site to produce silica sand. The Site will be mined in phases with remaining sand and gravel and limestone resources removed first, followed by mining of the underlying Jordan Sandstone. Construction aggregate mining and processing activities will remain consistent with current operations. Sand processing equipment, including wet processing and drying equipment, will be constructed on the Site during the initial phases of sand mine development. A railyard will be developed on the Site to accommodate the transport of the silica sand to market. Reclamation of the Site will be on-going as mining phases are completed. Reclamation of the Site will create a mix of upland and end use lakes with the potential for both future development and open space, consistent with the Scott County Comprehensive Guide Plan's future land use designations for the Site and surrounding area.

4. The Draft EIS (DEIS) was filed with the MN EQB and notice for its availability for public review and comment was published in the *EQB Monitor* on February 3rd, 2020. A copy of the DEIS was sent to all persons on the MN EQB Distribution List and to persons who requested a copy. The DEIS was also made available on the Scott County website.

5. A press release announcing the availability of the DEIS for public review and comment, including a brief description of the project and information on a public meeting, was sent to the Jordan Independent and Belle Plaine Herald on February 5th, 2020.

6. An informational open house style public meeting was held on February 25th, 2020 at the Scott County Boardroom from 4-6 PM. Public attendees could submit comments regarding the DEIS.

7. The public review and comment period for the DEIS began on February 3rd, 2020 and ended on March

10th, 2020.

8. During the public review and comment period for the DEIS, seven agencies and three community members submitted written comments on the DEIS, including Minnesota Department of Transportation, Minnesota Pollution Control Agency, Minnesota Department of Natural Resources, State Historic Preservation Office, Metropolitan Council, Scott WMO, and Louisville Township.

9. The written comments received from regulatory state agencies during the DEIS comment period are presented below with a response following each comment. Regulatory agency comments and responses are formatted with reference to item 9 of this Record of Decision as follows:

	Entity	Name	Comment	Response
1	Minnesota Pollution Control Agency	Karen Kromar	**Section 3.4 Physical Impacts on Water Resources** The Final EIS needs to include the MPCA 401 as a regulating entity that may require protection (and mitigation) to surface waters through best management practices (BMPs) during expansion of mining operations. The MPCA uses the definition of "Waters of the State" as defined in Minn. Stat. ch. 115.01 subd 22. To determine what waters are regulated by the MPCA. This definition is broader than the definition of "Waters of the U.S." used by the US Army Corp of Engineers (USACE). Some waters that are not regulated by the USACE or under the Wetland Conservation Act (WCA), are regulated by the MPCA. When making an application for wetland impacts for a proposed project, the applicant needs to include all impacts to all surface waters, even if those waters have been determined to be non-jurisdictional by the USACE or are WCA exempt. Indirect impacts to nearby wetlands, (including wetlands B5, B6, and B9 outside of the Project area), caused by the drawdown of groundwater would appear to significantly impact many of these wetlands. Although the USACE has made a non-jurisdictional determination of some of these waters, they are by definition waters of the state and therefore regulated by the MPCA. Impacts to these wetlands may require mitigation. For further information about the 401 Water Quality Certification process, please contact Jim Brist at 651-757-3325 or jim.brist@state.mn.us.	Thank you for your comments. The FEIS incorporates these comments and response to comments. The potential need for an MPCA 410 water quality certification is noted and will be obtained at the time of permitting. The MPCA 401 Certification protects water quality by applying state water quality standards to projects. All permit requirements for surface water, including those regulated by the MPCA, will be addressed as part of future permitting.
2	Minnesota Pollution Control Agency	Karen Kromar	**Section 3.15 Noise** The MPCA appreciates the Project proposer's thorough analysis of existing and expected noise in the vicinity of the proposed expansion areas. Based on the information provided in the Draft EIS, including Figure 3.15.1 and the noise analysis from Appendix 11, and assuming that mining activities follow mitigation options outlined in Section 3.15.4 (pages 191 and 192), there are no concerns regarding noise at this time. Any unanticipated changes to the mine plan alternatives that would impact the efficacy of the proposed mitigation – particularly for the residential receptors in the Jackson Heights mobile homes, the single family homes, and the historical areas surrounding the Project area – should be given additional scrutiny prior to being	Thank you for your comment. Any updates to the mining plan that may affect noise mitigation strategies will be coordinated with proper agencies.

			implemented. Ambient local noise is already high (near residential standards) in the area, and any changes to planned mitigation could lead to an exceedance of the noise standards due to the additional proposed activities. For noise related questions, please contact Fawkes Steinwand at 651-757-2317 or fawkes.steinwand@state.mn.us	
3	Minnesota Pollution Control Agency	Karen Kromar	**Section 3.4.2 Environmental Consequences – Water Resources** The MPCA is just beginning the investigation into the extent and magnitude of the Manganese (Mn), 1,4-Dioxane and Polyfluoroalkyl Substances (PFAS) contamination at the Louisville Closed Landfill (SW-32) and have not yet determined the source(s). The MPCA is currently expanding its monitoring well network around the landfill to investigate the extent and magnitude of groundwater contamination in excess of regulatory standards for these contaminants. To date, the MPCA has detected Mn, 1,4-Dioxande and PFAS contamination in the MPCA monitoring well DC117, which is located near the Merriam Junction Sands production well located directly south of the landfill. Please note that Figure 3.5.2 does not show all the MPCA landfill monitoring wells. The MPCA is concerned about the following issues that are not addressed in the Draft EIS: • Specific locations of proposed dewatering areas • The method(s) used for dewatering • Proposed locations of dewatering wells (if used) • The discharge of contaminated groundwater from dewatering activities • Sampling of dewatering water discharge for contaminants of concern from the landfill • Cross contamination of wells and aquifers as a result of dewatering activities Due to the extensive groundwater contamination in the area, significant care and investigation is required with regard to the dewatering activities to prevent spreading groundwater contamination outside its current plume or contaminating other aquifers. This action could associate the mining activities with the groundwater contamination, making the Project proposer a potentially responsible party and liable for investigation and cleanup costs related to groundwater contamination for the landfill. This issue should be more fully addressed in the Final EIS. The MPCA recommends the Project proposer work with Mark Umholtz with the MPCA Closed Landfill Program to address these concerns. Mark can be reached at 651-757-2308 or mark.umholtz@state.mn.us.	Thank you for your comments. Section 3.1.2.1, discussing existing groundwater quality impacts from the Louisville Landfill has been updated in the FEIS to include information on MPCA's current groundwater investigation. The Proposer met with the MPCA staff and the hydrogeologist for the Louisville Landfill at the onset of the project. The source of groundwater contamination has been recognized for decades by the MPCA as the Louisville Landfill. The hydrologist indicated that the proposed dewatering would result in a form of treatment to the impacted groundwater quality. Until there are proposed downgradient water users in the impacted area, it was understood that MPCA would not have to pursue pump and treat options to remediate the off-site migration of groundwater impacts. Therefore, it is the expectation that the MPCA will take appropriate actions with respect to emerging contaminants of concern and share them with impacted landowners as soon as they are available. Figures 2-14 of the Groundwater Modelling of Mine Plan Alternatives Predictive Simulations Report (PSR) included as Attachment 1 of the EIS include the location of the proposed dewatering areas for each phase of each alternative. These represent worst case scenarios that allow for reasonable assessment of potential effects on the contamination from Louisville Landfill. The method used for dewatering is anticipated to be a dewatering sump and pump and will be detailed as part of any water appropriation permitting process, if dewatering and mining of sandstone is pursued. Use of dewatering wells is not anticipated. If the site begins to dewater, the dewatering discharge will be monitored prior to discharging from the site. Impacted groundwater from the landfill is currently discharging to the MN River untreated. Based on currently available information and the modeling of Louisville Landfill (provided in Appendix C of the PSR included as Attachment 1 of the EIS), the potential for migration appears unlikely to be exacerbated by the proposed dewatering. The net effect is that groundwater would be pulled away from wells, receptors, and other aquifers into the mine pit areas.

				Furthermore, the modeling indicates that the mine pit lakes would provide dilution of any contaminants which may be present in the groundwater that has been impacted by the Louisville Landfill. Figure 3.5.2 depicts monitoring wells located on the Project Site or proposed to be within the Project's network. It does not attempt to illustrate the MPCA's Louisville Landfill monitoring network. The MPCA's landfill monitoring wells located on this figure are limited to those that are located on the Project Site itself. Figure 23 of the PSR indicates locations of the Louisville Landfill and Dem-Con Landfill monitoring well networks in place at the time the report was prepared. It is expected that the MPCA may modify their monitoring well network overtime. The Proposer will work directly with the MPCA's closed landfill program to address any concerns prior to initiating dewatering activity on the site. Parameters to be monitored for in the dewatering discharge will be determined as part of the permitting process, either through an individual NPDES permit or through the approved water quality monitoring plan associated with the Site. Section 3.9.3.3, discussing dewatering discharge, has been updated in the FEIS to include a statement that the Proposer will coordinate with the MPCA's closed landfill program to develop a monitoring plan for dewatering discharge potentially impacted by groundwater contamination associated with the Louisville Landfill. It is expected that the MPCA will provide information on the results of their remedial investigation and proposed remedial action for the Louisville Landfill that will inform permitting the surface water discharge and monitoring requirements.
4	Minnesota Pollution Control Agency	Karen Kromar	**Section 3.14 Stationary Source Air Emissions** • The proposed Project is expected to emit particulate matter (PM), PM_{10} and $PM_{2.5}$. The Project proposer modeled PM_{10} and $PM_{2.5}$ but did not model Total Suspended Particulate (TSP). Minnesota has an ambient air standard for TSP at Minn. R. 7009.0080. The Project proposer should either model TSP or add TSP to its proposed monitoring plan. • Table 3.14.4 lists operating limits that were relied upon for air dispersion modeling. The Project proposer should expect all limits assumed in the modeling, including the limits in Table 3.14.4, to be	Thank you for your comments. Section 3.14.4.4, discussing the draft ambient air monitoring plan, has been updated in the FEIS to indicate that the ambient air monitoring plan will be finalized as part of the air permitting process for the sand mining and processing and may include additional parameters such as TSS. The EIS air modeling analysis was completed following current MPCA modeling guidance for evaluating PM_10 and PM2.5 NAAQS ambient air concentrations. Methods and modelling protocol were discussed with MPCA staff during meetings held at the MPCA as part of the development of the air modelling used in the

			included in the air permit associated with this project. • The Project proposer performed air dispersion modelling for PM_{10} and $PM_{2.5}$, but the MPCA does not have access to the underlying files that support this work. The MPCA cannot verify the accuracy of the modeled information without these files. To support the permitting work for this project, the Project proposer should submit an air dispersion modeling protocol for MPCA review and approval before submitting a permit application with modeling results. • The PM_4-silica monitoring frequency is listed as once every 12 days. The "Tools to Assist Local Governments..." document recommends a frequency of at least once every 6 days. The proposed monitoring frequency should be adjusted to at least once every 6 days. The proposed mitigation measures include water application, bin vents, and baghouses. The Draft EIS does not discuss the use of high efficiency particulate air (HEPA) filters as a possibility. Other members of this industry do use this type of control technology: see air permit 07900009-002 for UNIMIN – Kasota (now Covia – Kasota) at https://www.pca.state.mn.us/air/air-permits-issued-minnesota. The Final EIS should discuss alternative mitigation methods such as HEPA filters. For air permitting or modeling related questions, please contact Jeff Hedman at 651-757-2416 or jeffre.hedman@state.mn.us.	EIS., it is expected that all of these comments will be addressed as part of the air permitting process. It is expected that MPCA will require an air monitoring associated with the frac sand mining and that revisions to the draft air monitoring plan provided in the EIS, including parameters and frequency, may be required as part of the air permitting process. The proposer will continue to coordinate with Jeff Hedman with respect to any air permitting related questions and modelling files will be supplied to the MPCA in conjunction with any air permit application submitted to the MPCA. The air permitting process will address specific air quality control measures, including HEPA filters as may be appropriate. As indicated in Attachment 10, Air Modeling of Project Alternatives Evaluation Report, the existing sand and gravel and limestone mining and processing operations will continue to operate under the Minnesota State General Permit Nonmetallic Mineral Processing General Permit until such time as construction of an industrial sand plant (sand plant) and sandstone mining is initiated.
5	Scott WMO	Vanessa Strong	As noted in the EIS the submitted NOD for Boundary/Type and No-Loss was issues in 2012 and is expired. A new wetland delineation will need to be performed and Decision obtained. Previous boundary/type cannot be assumed due to the age of the previous approval and rainfall events since 2011. Staff strongly recommends the WCA process be completed prior to moving forward with permitting and applications as this may have notable impacts on timing and land use. This is important to efficiently assist the Applicant through the process	Thank you for your comments. The Project proposes to avoid any direct impacts to wetlands. Dewatering may not be initiated for over five years. Wetland delineations will be updated as part of permitting for dewatering activity to reestablish wetland types and boundaries prior to the start of any dewatering activity, so that the permitting activity is based on delineation information that is current at the time of permitting.
6	Scott WMO	Vanessa Strong	6.0 Government Approvals. Recommend adding SWMO under Scott County. While the SWMO is not a permitting agency staff will be reviewing applications in conjunction with Scott County's review. The SWMO may provide additional coordination and support during the permitting process	Thank you for your comment. The FEIS incorporates these comments and response to comments. The SWMO will be added to the list of government approvals in the FEIS by reference to these comments. It is expected that the SWMO will provide additional review of the project throughout the IUP permitting process.
7	Scott WMO	Vanessa Strong	3.3.2.3 Native Cover. All disturbed areas need to be revegetated with native cover. The timeline for potential future development is unknown. Non-native cover impacts the success of adjacent native	Thank you for your comment. Establishing native cover over reclaimed areas of a mining operations is not a requirement under the Scott County Mining Ordinance. Some areas may be

			cover.	returned to agricultural production, but this issue can be addressed during IUP permitting. Native cover is proposed in areas adjacent to wetlands as well as end use lakes. Some areas may return to agricultural uses, such as hay production, prior to final development.
8	Scott WMO	Vanessa Strong	Vegetative Buffers. 3.3.2.2 proposed native buffers are acceptable. Please reference 3.3.2.2 when discussing vegetative buffers elsewhere to ensure consistency (e.g. 3.3.2.4 pg 46 vegetated buffers). Additionally, the Reclamation Plans proposes End Use Lakes with "excellent water quality" and "increased habitat diversity along shorelines..." These end use lakes will require vegetative buffers consistent with water resources of exceptional value. Roads and slopes exceeding 3:1 would not be permitted in the buffer.	Thank you for your comment. Buffer requirements around future end use lakes will be addressed as part of IUP permitting and approved reclamation plan. Near vertical bedrock faces were analyzed for long term stability as a part of the DEIS and because this is a quarry, special circumstances exist which require slopes steeper than 3:1 adjacent to any future end use lake.
9	Scott WMO	Vanessa Strong	Please be certain to be consistent with identifying all existing and historic water resources and surface water conveyance systems on site. Alternative 2 would not be recommended as it would significantly impact the surface water conveyance system connecting the east and west sections near the center of the site.	Thank you for your comment. Known existing and historical water resources and conveyances are included in the DEIS. If Alternative 2 is developed, the conveyance system can be rerouted/piped through the plant area to maintain drainage capacity. This is an issue that can be addressed during the IUP permitting process as appropriate.
10	Scott WMO	Vanessa Strong	Cumulative water and natural resource impacts will need to be continuously assessed and updated throughout the project rather than only assessing the individual impacts of each phase	Thank you for your comment. The water level monitoring plan will be finalized and approved as part of the DNR Water Appropriations permitting process for any future dewatering activity. The goal of the plan will be to provide a robust monitoring network to identify any potential impacts through active monitoring and provide ample time to employ mitigation efforts to avoid any impacts to natural resources.
11	Scott WMO	Vanessa Strong	Dewatering 3.9.2.3 pg 112 the SWMO concurs that additional dewatering discharge and groundwater monitoring will be required should a General Permit be issued. Dewatering discharge must meet water quality standards, rates/volumes, and permits must be obtained prior to discharging offsite or into jurisdictional waters	Thank you for your comment. Dewatering discharge will need to meet water quality standards prior to discharge into any water of the state and all required permits will be obtained prior to discharging off-site or into jurisdictional or regulated waters. Dewatering discharge will be subject to on-going regulatory authority by the MPCA.
12	Scott WMO	Vanessa Strong	Wetland hydrology. There are several proposed factors impacting surface and groundwater hydrology. While considerable efforts have been made to investigate impacts, it is still unclear at this time that there is a solid, coordinated, plan in place to ensure wetland hydrology and plant communities are maintained (especially for the seepage wetland). Staff recommends working with the SWMO, preferably prior to the permitting process, to develop a plan to maintain long-term stability of wetland hydrology and plant communities during and after mining.	Thank you for your comment. Environmental review is not intended to be exhaustive in defining the design details. The modeling and assessments conducted have provided information that suggests that mitigation may be necessary when dewatering is proposed. Design details will be further developed through the DNR water appropriations process. Dewatering activity will be subject to on-going regulatory authority by the DNR. Monitoring of both vegetation and groundwater are anticipated to be an outcome of the water appropriations permitting process. Dewatering discharge will be subject to on-going regulatory authority by the MPCA.

13	Scott WMO	Vanessa Strong	Contamination of groundwater supply 3.9.2.2 and 3.10.1.2 the SWMO concurs that additional monitoring for groundwater parameters will be required should a General Permit be issued. The SWMO remains concerned regarding groundwater contamination susceptibly due to the highly permeable soils and proximity to water table. Rigorous monitoring, response procedures, financial assurances, and mitigation measures should be approved and in place prior to permits being issues.	Thank you for your comment. Aggregate mines are almost always located in areas that are highly susceptible to groundwater contamination due to the permeable nature of the resource that is being mined. The industry has developed best management practices to protect groundwater under these circumstances. Sections 3.10 and 3.11 describe measures to protect groundwater including a spill prevention control and countermeasure plan, groundwater quality monitoring as may be appropriate, proper storage and handling of fuel, use of only permitted chemicals in the processing of the mined materials.
14	Scott WMO	Vanessa Strong	Applicant should have financial and capacity resources to ensure monitoring, maintenance, and mitigation for 30 years consistent with County/SWMO requirements. The Applicant should be the responsible party for the lifetime of the requirement. Assurances and contracts should be in place prior to permits being issued.	Thank you for your comment. Section 1.0 Project Description has been updated in the FEIS to indicate that financial assurance will be provided in accordance with the Scott County Zoning Ordinance and will be coordinated between the County and Proposer as part of the IUP permitting process.
15	Scott WMO	Vanessa Strong	The EIS repeatedly identifies issues with availability and quantity of topsoil (Table 3.10-1 is one example) therefore a Topsoil Management Plan will be required at time of permitting, and may be phased. The Topsoil Management Plan shall include the following information: (1) Topsoil Standard. This section will identify the topsoil standard being utilized for the project. (2) Topsoil Stripping and Stockpiling Methods. This section shall include the following: (a) Estimated quantity of topsoil available on the site. (b) Quantity of topsoil needed to restore green space areas. (c) Estimated depth of topsoil available on the site. Also note that the site will need to meet regulatory standards at time of permitting, and water resource related standards	Thank your comment. Topsoil management will be addressed as part of IUP permitting process.
16	Louisville Township	Cindy Nash	1. Please note that we are not asking for a delay in the completion of the EIS for Merriam Junction Sands with the understanding that there is a commitment on the part of the organic recycling facility (ORF) project proposer to address items 2 and 3 below, with a full traffic study utilizing current conditions and data as well as all potential projects in this subject property to be completed prior to any land use decisions (subdivisions, site plans, etc.) being issued by Scott County for the ORF project.	Thank you for your comment. Comment noted.
17	Louisville Township	Cindy Nash	2. The traffic impact study does not reflect current conditions (road projects under construction) near the site and should be fully updated. In addition, it does not appear to include the traffic generated by the proposed industrial subdivision on the northern portion of the Malkerson site (Parcels 1 through 8 shown on Figure 3.18.1 of the DEIS) that is owned by Malkerson, within the boundary of this DEIS, and currently under discussion for development and	Thank you for your comment. The traffic section of the DEIS was updated after the Townships last comment letter during the preparation of the final DEIS to include information on the road projects under construction. In addition, the EAW prepared for the TH 169/TH 41/CSAH 78/CSAH 14 Intersection Improvements (Road Project EAW) which reflects the current road projects under construction is incorporated by

			likely to be developed prior to the proposed expanded mining operation.	reference in the DEIS. All of the traffic information prepared for the MJS project was provided to the County when they prepared their Traffic Impact Study (TIS) for the Road Project EAW. The intersection at Malkerson Sales and TH 41 (Sales/TH41 intersection) was included in the TIS which evaluated current condition, future forecasts with and without the road improvement project, que lengths and crash data for the Sales/TH 41 intersection as well as all of the surrounding intersections and access points to US 169 within the project area. (Including Bryan Rock /Anchor Block shared access). The Road Project EAW considered mining traffic from not just Malkerson Sales and Bryan Rock but all of the other adjacent mining operations and industrial uses located in the area and it considered growth of not only the local truck traffic generated in the areas but on US 169 and TH41 as major freight routes which will experience growth on a regional basis.
18	Louisville Township	Cindy Nash	3. The Traffic Impact Study should address all projects in the area for which a reasonable expectation has been laid with current (under construction) traffic volume information and road geometry so that one TIS can be available that provides information related to 1) a potential road intersecting with TH 41 in the vicinity of the existing driveway on the Malkerson portion of the site that is a possible location for hauling out material and 2) should also evaluate whether and where internal through road connections may be required for development of the area.	Thank you for your comment. The DEIS is complete with respect to traffic associated with the MJS Proposed Project. The MJS Proposed Project is sand and gravel mining, limestone mining and Sandstone mining on the subject properties. Other proposed projects within the environmentally relevant area that were identified in the Scoping EAW to be analyzed as part of the Potential Cumulative Effects with respect to traffic were the Fairmount Frac Sand Mine proposed by Minnesota Valley Sands on the Mid America Festival Property (Old Green Quarry), Shakopee Sands, and Jordan Aggregates. The Organics Recycling Facility (ORF) and associated Malkerson Sales Plat (Plat) were not proposed at the time the Scoping EAW was prepared, but more importantly they do not meet the criteria to be included in the DEIS when it was published, or currently. The Proposer is in complete agreement with the Township that future development of the northern portion of the Malkerson Sales will represent a project within the same environmentally relevant area. The Proposer also believes that the basis of expectation for the MJS project has occurred, so that when a development project on the Malkerson Sales property, or any other future project within the same environmentally relevant area (i.e. not just limited to Malkerson Sales property) does come forward, that future project will be required to include the MJS project in their potential cumulative effects analysis.

19	Minnesota Department of Natural Resources	Melissa Collins	1. Page 2, Project Description. Bryan Rock Products has a DNR Water Appropriation Permit 1994-6195 for washing sand and gravel on the property. Please note that a separate DNR Water Appropriation Permit will be required for the dewatering of the property. If the wet plant for processing the sand is located in a different location than the point of taking for DNR Water Appropriation Permit 1994-6195, then and additional DNR Water Appropriation Permit will be required for the wet plant.	Thank you for your comment. The proposer will continue to operate under their existing water appropriations permit for aggregate washing and will apply for a separate DNR Water Appropriation Permit prior to any dewatering activity at the site.
20	Minnesota Department of Natural Resources	Melissa Collins	2. Page 6, Alternative Technologies. Mining activities using wet mining technologies using a dragline or excavator are not required to be approved under a DNR Water Appropriation Permit. If hydraulic dredging is employed, then the water that is removed from the mine must return to the mine, or a DNR Water Appropriation Permit will be required for the hydraulic dredging.	Thank you for your comment. Comment noted.
21	Minnesota Department of Natural Resources	Melissa Collins	3. Page 8, Affected Environment: Figure 3.1.2, Scott County Zoning Map Excerpt. Gifford Lake has a Natural Environment Shoreland Classification. Thus, all area within 1000 feet of the lake ordinary High Water Level (OHWL) is within the Shoreland overlay. Industrial uses are not allowed in the Shoreland of natural environment lakes according to state statutes. The project should use this setback as a guideline while Scott County updates their ordinances. For more information please visit: https://www.dnr.state.mn.us/waters/watermgmt_section/shorland/mod-ord.html	Thank you for your comment: Extractive uses are allowed through a conditional use permit in the shoreland district of a natural environmental lake (Gifford Lake) in both the MNDNR Model Shoreland Ordinance and the Scott County Zoning District. Extractive uses are defined separately from industrial uses in the MNDNR Model Ordinance. In addition, extractive uses are a currently established grandfathered use in the Shoreland District. The project will meet the extractive use standards in the MNDNR's model shoreland ordinance as follows: 5.4 Extractive Use Standards. Extractive uses are conditional uses and must meet the following standards: 5.41. Site Development and Restoration Plan. A site development and restoration plan must be developed, approved, and followed over the course of operation. The plan must: A. Address dust, noise, possible pollutant discharges, hours and duration of operation, and anticipated vegetation and topographic alterations. B. Identify actions to be taken during operation to mitigate adverse environmental impacts, particularly erosion; and C. Clearly explain how the site will be rehabilitated after extractive activities end. 5.42 Setbacks for Processing Machinery. Processing machinery must meet structure setback standards from ordinary high water levels and from bluffs Scott County is the delegated regulator of

				development within the shoreland District. The project will meet the County's standards for mining within the shoreland district established per ordinance as follows: 70-8-12 Mining Standards 1. Site Development and Reclamation Plan. A mining and reclamation plan must be developed, approved, and followed over the course of operation of the site. The plan must address dust, noise, possible pollutant discharges, hours and duration of operation, and anticipated vegetation and topographic alterations. It must also identify actions to be taken during operation to mitigate adverse environmental impacts, particularly erosion, and must clearly explain how the site will be rehabilitated after mining activities end. 2. Setbacks for Processing Machinery. Processing machinery must be located consistent with setback standards for structures from ordinary high water levels of public waters and from bluffs.
22	Minnesota Department of Natural Resources	Melissa Collins	4. Page 9, Adjacent Residential Land Uses. Should the water use of the mining facility deprive a residence, or the mobile home park, of their domestic water supply (well interference), in conjunction with a valid well interference substantiated by the DNR, then the mining company is required to cease operation until the mining company has furnished the residence with a new water supply. State Rules detail the procedures that are to be followed for potential well interference, as a result of mining.	Thank you for your comment. The well interference rules (Minnesota Rules 6115.0730 *Well Interference Problems Involving Appropriation)* are referenced in Section 3.5.4 of the EIS. Well interference agreements will be offered to all potentially impacted well owners prior to the beginning any dewatering activity on site. This includes wells serving mobile home parks. The well interference agreement will spell out steps that the operator will be financially responsible for with respect to investigating water supply issues and restoring or providing a new water supply. Groundwater monitoring as dewatering activities progress through the site will provide data to identify wells that are likely to experience problems with water supply before they occur so that a new supply can be established before issues occur.
23	Minnesota Department of Natural Resources	Melissa Collins	5. Page 19, Residential Uses. This section does not appear to discuss possible impacts to the mobile home park, or its residents.	Thank you for your comment. The last paragraph of page 18 discusses possible impacts to the mobile home park residents. In addition, all of the studies with respect to noise, air, and groundwater included the mobile home park as a potential receptor. Specific noise mitigation measures are proposed for sand and gravel mining activity occurring in closest proximity to the mobile home park. This mitigation will become a condition of any sand and gravel IUP issued by the County.
24	Minnesota Department of Natural	Melissa Collins	6. Page 34, 3.3.1.2 Threatened or Endangered Species; Page 41, 3.3.2.1 Rare Features. A Natural Heritage Review (NHIS) must be requested in order	Thank you for your comment. The NHIS was requested to complete the scoping EAW as required. The NHIS review was used to help

	Resources		to determine if any rare species occur within the vicinity of the project. For environmental review purposes, a NHIS review is good for 12 months. The most recent NHIS review on file for this project, dated June 6, 2015, stated that the northern long-eared bat is a species covered under the Endangered Species Act (ESA). The site is within a township containing documented northern long-eared bat maternity roost tree(s). If any part of the project is within 150 feet of the known roost tree in this township, the U.S. Fish and Wildlife Service (USFWS) may regulate tree removal or other activities. Note that currently this species is the subject of a 4(d) rule that is currently under reconsideration. Please contact Rich Baker (DNR) and stay in close contact with the USFWS field office as it relates to regulations of this species. The 2015 NHIS letter also stated that new surveys may be required to determine the presence of rare species. Please submit a new query for Natural Heritage Review in order to discuss the potential impact to rare species and Native Plant Communities using the most up to date information.	scope the DEIS, which did not include providing a current NHIS review. A natural resource survey work plan was prepared and approved by the MNDNR. A Vegetation, Wildlife and Protected Species Survey Report was prepared and submitted to the MNDNR for review prior to publication of the DEIS. The MNDNR submitted a reply to the proposer indicating that the Vegetation, Wildlife, and Protected Species Report for the Merriam Junction Sands Mine (ERDB #20110462) satisfied the Division of Ecological and Water Resources request for rare species surveys. This report was referenced in the DEIS and pertinent information from the report included in the DEIS text, but the report itself was not included as an attachment. The Vegetation, Wildlife and protected Species Report, as well as a Bald Eagle Stick Nest Survey Report are included as Attachments 15 and 16 of the FEIS. USFWS guidelines and regulations will be followed with respect to tree removal and other activities that may impact bat roost trees.
25	Minnesota Department of Natural Resources	Melissa Collins	7. Page 45, 3.3.2.4 Habitat Changes Associated with End Use Lakes; Page 72, 3.5.1.1 Proposed Water Use. Would flocculants and coagulants (ie. acrylamide, DADMAC) or similar products used to separate fine particles be completely recycled within the wet plant? Could some materials stored in sedimentation basins be released to end use lakes? Surface water sampling and monitoring wells should be used to monitor for these contaminates as well as water pH in end use lakes.	Thank you for your comment. Any use of flocculants and coagulants will be regulated by the MPCA's NPDES permit. Sediment (or water need to verify the recycle loop) from the wet plant will not be released to the end use lakes. The water quality monitoring plan will include monitoring for flocculants or coagulants used in sand processing.
26	Minnesota Department of Natural Resources	Melissa Collins	8. Page 56, Water Resources. Please note that it is possible that the dewatering of the mine could also dewater Gifford Lake, DNR Public Water 70-0118-00P. It is likely that the DNR Water Appropriation Permit for the dewatering of the quarry will require the monitoring of water levels in both the bedrock aquifer (using wells) and in Gifford Lake itself. It is also possible that the DNR may require that the dewatering discharge occur into Gifford Lake.	Thank you for your comment. The modeling indicates that Gifford Lake is unlikely to be significantly affected by dewatering. Water level monitoring of groundwater and Gifford Lake are included in the proposed monitoring plan provided with the DEIS. Details of monitoring locations will be subject to the MNDNRs water appropriation permit and approved water level monitoring plan. Discharge locations to surface waters will be determined at the time of permitting and Gifford Lake has been identified as a potential discharge location. The project site has direct access to the lake.
27	Minnesota Department of Natural Resources	Melissa Collins	9. Page 73, Water Use. Please note that Minnesota Statutes requires the volume of water that is appropriated under a DNR Water Appropriation to be measured within a 10% accuracy of the actual volume of water appropriated. This volume is required to be reported to the DNR on an annual basis. The volume of water that is reported must be	Thank you for your comment. Comment noted.

			the total volume of water pumped or diverted, and not the volume of water consumed.	
28	Minnesota Department of Natural Resources	Melissa Collins	10. Page 75, Nearby Water Supply Wells. The analysis of the appropriation on nearby wells will need to be submitted to the DNR as part of the application for the DNR Water Appropriation Permit for dewatering.	Thank you for your comment. Comment noted.
29	Minnesota Department of Natural Resources	Melissa Collins	11. Natural Resources Plan, 3.2.1 Wetlands and Public Waters; 14.0 Wetland Conservation. The plan states that permanent significant adverse impacts to regulated wetlands are not anticipated. What the proposer has identified as "seepage" wetlands (fens) are fed through groundwater, and could be significantly impacted by dewatering activities. Attachment 1, PSR, 2.5.3, Thresholds for Impacts to Water Resources discusses how significant impacts to seepage wetlands can occur if dry conditions persist for more than one growing season. Water balance is not the only potential impact to consider in regards to fen plant communities. Many fen plant species are specifically adapted to the nutrient composition of local groundwater sources, and altering this composition by changing site hydrology to a surface water-driven source could potentially impact this type of plant community. Please note that we do not anticipate that Seminary Fen, located on the other side of the Minnesota River, would be impacted by this project.	Thank you for your comments. The plant community, according to DNR classification, is a "seepage meadow/carr". DNR staff conducted a site visit and met with the proposer's wetland specialist as part of the wetland delineation and protected species survey. The DNR concluded that the wetland is a wet meadow/seepage meadow, significant for its high quality and that it qualifies as a rare natural community under WCA (Minnesota Rule 8420.0515, Subpart 3). Because the wetland community is considered a rare natural community, it has protection under WCA above and beyond the protection of other wetlands. Comments regarding potential impacts of using surface water sources to mitigated watering impacts are noted. The source and quality of water used as mitigation is an important element of the design of the mitigation system. Methods of delivery that do not run the supplemental water over the ground, where it could potentially pick up nutrients, sediment, phosphorus, etc. are key elements of mitigation strategies. Details of the mitigation will be addressed in the Water Appropriation permitting process.
30	Minnesota Department of Natural Resources	Melissa Collins	12. Natural Resource Plan, 3.2.2 100-Year Floodplains. Due to increased annual precipitation and frequency in large-scale flood events, it is likely that flood elevations in Minnesota will be re-evaluated and set at higher elevations. End use lakes should be designed with the potential to meet future flood elevations.	Thank you for your comment. Potential future regulatory action is not subject to analysis in the DEIS but may become relevant as part of future County and DNR permitting. Of note is the revised preliminary floodplain elevation which actually contemplates lowering the elevation of the 100 year floodplain of the Minnesota River adjacent to the Project as opposed to setting them at higher elevations. The revised preliminary floodplain elevations are expected to become effective in the fall of 2020.
31	Minnesota Department of Natural Resources	Melissa Collins	13. Natural Resources Plan, Public Waters and 14.0 Wetland Conservation. Construction of an ISTS system is mentioned as a reason to potentially impact wetland buffers. Groundwater-driven seepage wetlands (fens) could be impacted by the installation of an ISTS so close to wetland boundaries.	Thank you for your comment. Section 3.9.2 and Attachment 5, the Site Suitability for Septic System report of the DEIS indicates that there are no appropriate SSTS sites adjacent to any of the on-site wetlands or the seepage wetland. No SSTS sites will be constructed within a wetland buffer.
32	Minnesota Department of Natural Resources	Melissa Collins	14. Attachment 1, PSR, 3.4.4. The statement that the Kraemer Quarry has operated for decades with no significant impact to the Black Dog Fen is inaccurate and should not be used as a justification for dewatering activities near seepage wetlands.	Thank you for your comment. The PSR has been updated to remove reference to the Black Dog Fen. The FEIS includes the updated PSR as Attachment 1.

33	Minnesota Department of Natural Resources	Melissa Collins	15. Wetland delineations are considered current for five years. The most recent wetland delineation is from 2011. A new survey would be required before development proceeds to determine exact wetland boundaries and setbacks. A wetland delineator who is specifically skilled in the identification of fen indicator species should be used to ensure the proper characterization of fen plant communities in the project area.	Thank you for your comment. The Project proposes to avoid any direct impacts to wetlands. Because dewatering may not start for over five years, wetland delineations will be updated as part of permitting for dewatering activity. The delineations will reestablish wetland types and boundaries prior to the start of any dewatering activity. A wetland delineator who is specifically skilled in the identification of fen indicator species will be used to ensure the proper characterization of plant communities in the project area.
34	Minnesota Department of Natural Resources	Melissa Collins	16. The project area is directly adjacent to a National Wildlife Refuge. Due to entanglement issues with small animals, use of erosion control blanket should be limited to 'bio-netting' or 'natural netting' types, and specifically not products containing plastic mesh netting or other plastic components. These are Category 3N or 4N in the 2016 & 2018 MnDOT Standards Specifications for Construction. Also be aware that hydro-mulch products may contain small synthetic (plastic) fibers to aid in its matrix strength. These loose fibers could potentially re-suspend and make their way into Public Waters. As such, please review mulch products and do not allow any materials with synthetic (plastic) fiber additives in areas that drain to Public Waters.	Thank you for your comment. These recommendations will be incorporated into the IUP permit conditions for the project.
35	Minnesota Department of Natural Resources	Melissa Collins	17. Preliminary SWPPP, 4.1.3. Stabilization of soil after regrading should happen as soon as possible and only appropriate, BWSR-approved native seed mixes that are "noxious weed-free" should be used in order to prevent the spread of invasive species.	Thank you for your comment. The proposed Reclamation Plan specifies native seed mixes around areas of the site adjacent to wetland and end use lakes. Other portions of the site may be utilized for agricultural production, hay, pasture, etc. until final development occurs.
36	Minnesota Department of Natural Resources	Melissa Collins	18. Preliminary SWPPP, 4.1.5. Overland sheet runoff should be rerouted away from wetlands through stormwater management practices. Upland buffers should not be the only method of filtering pollution and sediment from overland sheet runoff before it reaches a wetland.	Thank you for your comment. Additional BMPs beyond upland buffers will be used around the perimeter of areas which currently sheet flow off site towards wetlands before the area is initially disturbed (topsoil and overburden removal prior to mining). These measures which may involve diversion berms or swales, silt fence, biologs, etc. will be maintained until the mining activity reroutes the overland flow to internal drainage.
37	Minnesota Department of Transportation	David Kratz	Traffic Analysis MnDOT is concerned with the safety implications of trucks turning left onto MN 41 towards Chaska from the Malkerson Sales Access. Trucks should avoid this turning movement during the AM and PM peak hours, and use the new 147th St overpass to reach CSAH 14's access with US 169. Due to the concept level nature of the DEIS, the information determined in the traffic impact study can only be considered as a general indication of environmental impact. The development scenarios many times change after the EIS is completed,	Thank you for your comments. All trucks hauling sand will be taking right hand turns. Trucks hauling limestone will be encouraged to avoid a left turn movement onto TH 41 towards Chaska from the Malkerson Sales Access during the AM and PM peak hours and utilize the southern access to 147th St overpass. As noted, development scenarios change over time. Updates to traffic studies will be performed to reflect the detailed hauling scenarios or other potential development within the Site. For example, proposed development

			therefore rendering the traffic analysis incomplete. Review of the DEIS does not constitute approval of a regional analysis and is not a specific approval for access or new roadway improvements. When detailed plans and associated hauling scenarios are developed the traffic analysis should reflect the proposed development. Our agency would request the opportunity to review any updated information, as well as meet with the County and developer to discuss potential traffic issues. Please contact Almin Ramic, South Area Traffic Safety, at 651-234-7824 or almin.ramic@state.mn.us with any questions.	associated with the northern portion of the Malkerson Sales property would require a traffic impact study that evaluates the mine site traffic as well as any proposed development traffic at the site access to TH 41. At the time of permitting the proposers along with Scott County will include MnDOT in any traffic management planning.
38	State Historic Preservation Office	Sarah Beimers	We have reviewed the information included in the Draft EIS for this project, as well as the cultural resources report titled *Phase I Cultural Resources Investigation for the Merriam Junction Sands Project, Louisville Township, Scott County, Minnesota, Final Report* (March 2015, Summit Envirosolutions). Based on the results of the investigations, we concluded that there are no properties listed in the National or State Registers of Historic Places, and no known or suspected archaeological properties in the area that will be affected by this project. However we recommend that the County consult with the Minnesota Office of the State Archaeologist (OSA) regarding the two mound sites, 21SC0021 and 21CS0029, that are located adjacent to the proposed mining area to ensure that there is a sufficient buffer established around these sites to ensure that they are not impacted by any mining activities.	Thank you for your comments. The project proposer met with the OSA to establish appropriate setbacks from the mound sites as part of initial work on the DEIS. Early mining planning included property immediately adjacent to the mound sites. Subsequent removal of certain parcels from the Project Area, resulted in a reduction of mining limits. Mining limits associated with the project are setback over 1,000 feet between mining and the mound sites. The project will not impact the mound sites.
39	State Historic Preservation Office	Sarah Beimers	Please note that this comment letter does not address the requirements of Section 106 of the National Historic Preservation Act of 1966 and 36 CFR § 800. IF this project is considered for federal financial assistance, or requires a federal permit or license, the review and consultation with our office will need to be initiated by the lead federal agency. Be advised that comments and recommendations provided by our office for this state-level review may differ from findings and determinations made by the federal agency as part of review and consultation under Section 106. Please contact Kelly Gragg-Johnson, Environmental Review Specialist, at (651)201-3285 or Kelly.graggjohnson@state.mn.us if you have any questions regarding our review of this project.	Thank you for your comment. Comment noted.
40	Metropolitan Council	Angela Torres	Land Use Item 3.1.3.1 (Colin Kelly, 651-602-1361) An extension of the Minnesota River Bluffs Regional Trail is planned on the west side of the project area. There is a 2011 Metropolitan Council approved Minnesota River Bluffs Extension and Scott County	Thank you for your comment. Sections 3.16.1.2 and 3.16.2.2 of the EIS discusses the Regional Trail Master Plan, future trail corridor, and potential impacts to the trail in detail. There will be no direct impacts to the trail corridor and

			Connection Regional Trail Master Plan. It is available here: https://www.co.carver.mn.us/home/showdocument?id=5472. See Map 5C on pdf pg. 39. Council Staff recommend the proposer and RGU (Scott County Environmental Services) coordinate with Scott County Parks, the Regional Parks Implementing Agency for this segment of the Minnesota River Bluffs Extension and Scott County Connection Regional Trail, prior to the expansion of construction aggregate mining and ancillary activities and the addition of industrial silica sand mining and processing operations in the project area, to assess potential impacts to the planned regional trail corridor.	mining activities will be required to maintain certain setbacks from the property line/trail corridor. Evaluation of potential impacts included noise modelling along the future trail corridor and visual assessment of screening of the project from the trail. The EIS concludes that the Project will not impact the rail corridor, or any future uses within the corridor.

10. Scott County is required to respond to comments that are both substantive to possible significant environmental effect and are timely. We have provided all written comments received from Scott County residents below with a response; however not all comments are regarding a possible significant environmental effect, and therefore we have noted this in the response.

	Entity	Name	Comment	Response
1	Resident	Thom Boncher	Will mining take place below the water table?	Thank you for your comment. As discussed in the Section 1.0 Project Description of the EIS, mining will occur both above and below the water table.
2	Resident	Thom Boncher	Will the mining take place in a flood plain?	Thank you for your comment. No mining is proposed in the current floodplain of the Minnesota River. The current quarry floor has been mined below the elevation of the 100-year floodplain as part of on-going mining operations but is separated from the Minnesota River floodplain by topography. Currently as parts of the existing quarry floor are reclaimed, fill is placed, bringing the area back to elevations above the 100-year flood elevation. Sediment laden floodwaters have a high potential to deposit fine sediment, (mud, silts and clays) that negatively impact the quality of both construction aggregates and silica sand. Preventing floodwaters from entering the quarry is important to keep the materials produced within the required specifications. Any end use lake created as a result of the Project will be separated from the floodplain by topography so that floodwaters cannot enter the mining areas or the end use lakes. All mining will be performed to separate the mining operations from the regional floodplain and to maintain the regional surface water drainage system to the Minnesota River.
3	Resident	Thom Boncher	What will be done to protect groundwater?	Thank you for your comment. Section 3.10 and 3.11 of the EIS detail measures to protect groundwater quality. These measures include operating the site under a spill prevention and response plan, conducting routine groundwater quality monitoring as appropriate. In addition, the site will operate under the appropriate MPCA and MDNR permits related to the protection of groundwater and will be subject to on-going regulatory permitting as a requirement of approval.
4	Resident	Ann Shelton	Water level Well problems	Thank you for your comments. Section 3.5 of the EIS discusses water levels and potential well interference issues in detail.

			Water problems (testing)	Section 3.5.4 provides specific information regarding monitoring and mitigation.
5	Resident	Bruce Enger	-Well Water quality -River impact from mining sand -Aquifer impact used during sand mining process -Wildlife impact	Thank you for your comments. Well Water Quality: Section 3.5 of the EIS includes an evaluation of Well Water Quality is addressed in Section of the EIS. Groundwater flows from the mine area to the Minnesota River. There are no private water supply wells located between the mine site and the Minnesota River. Mn River impact from sand mining: Section 3.4 of the EIS includes an evaluation of potential impacts to adjacent surface water resources, including the Minnesota River. The Site will operate under a NPDES permit and a stormwater pollution prevention plan designed to control untreated stormwater discharges from the site. If dewatering discharge occurs to the MN River, the dewatering discharge will be monitored and discharged in accordance with permit conditions developed to protect water quality. The project will not increase stormwater runoff to the Minnesota River, or result in changes to the current floodplain. Aquifer impact used during sand mining: Sections 3.1, 3.4 and 3.5 address groundwater in detail, including the results of modelling that was performed as part of the EIS and analyzes existing groundwater quality, potential impacts to groundwater quality and quantity from dewatering. Wildlife Impact: Section of the 3.3 of the EIS addresses potential wildlife impacts and discusses the results of the vegetation, wildlife, and protected species field study, as well as a stick nest survey conducted across the site. No protected species were found on the site and the plan includes mitigation to protect bat populations which may be present along Gifford Lake.

11. After responding to all comments submitted during the DEIS comment period, the Final EIS was drafted by incorporating changes brought on by the agency's comments. The Final EIS was filed with the MN EQB and notice for its availability for public review and comment was published in the EQB Monitor on June 1st, 2020. A copy of the Final EIS was sent to all persons on the MN EQB Distribution List and to persons who requested a copy. The Final EIS was also made available on the Scott County website.

12. A press release announcing the availability of the Final EIS for public review and comment, including a brief description of the project and responses to comments received during the DEIS comment period, was sent to the Jordan Independent and Belle Plaine Herald on June 3rd and June 4th, 2020.

13. The public review and comment period for the Final EIS began on June 1st, 2020 and ended on June 15th, 2020.

14. During the public review and comment period for the FEIS no comments were received.

15. In consideration of the comments received and reviewed, and subsequent information provided by the developer, staff recommends the following Findings of Fact and Conclusion:

A. The type, extent, and reversibility of effects:

The extraction of limestone, sandstone, and sand and gravel will result in an irreversible change in character of the site. The mining of these resources will create open water features approximately covering 270 acres and 80 – 110 feet deep. The mining of these geologic layers will expose groundwater aquifers to possible contamination and the dewatering associated with the mining processes will affect the groundwater quantity in the surrounding area. Groundwater quality and quantity will both be monitored and require permits through the MNDNR. A monitoring plan was developed after modeling groundwater levels to determine worst case scenarios which resulted in the development of mitigation measures requited to ensure drinking water is not impacted for nearby residents. The developer has provided a proposed reclamation plan to direct and monitor site reclamation to assure developable areas consistent with applicable County Ordinances and the Comprehensive Land Use Plan. Due to the history of past mining at the site, buildable areas were limited in terms of SSTS locations to service the wastewater needs of future developments. Suitable SSTS locations were located by the proposer and will be protected to ensure viability post reclamation.

B. The cumulative potential effects of related or anticipated future projects:

Preliminary designs have been shared regarding a organics recycling facility (ORF) and an industrial plat located in northern Malkerson Sales property. The Township has issued concerns regarding the cumulative traffic from the mining operation and other possible industrial uses. If the ORF proceeds it has been noted that that project will be completing a separate EAW which would address any cumulative traffic concerns through a traffic impact study.

C. The extent to which effects can be mitigated by ongoing public regulatory authorities:

The Minnesota Department of Transportation requested to be included in the development of a traffic management plan as a part of the IUP process.
The table below lists all government approvals required as a part of the proposed project.

Unit of Government	Type of Application
U.S. Army Corps of Engineers	Section 404 Permit, Clean Water Act
Minnesota Pollution Control Agency	Discharge Permit (Water Quality Permit)
	Air Emissions Permit
	NPDES/SDS MN G490000 General permit for non-metallic
	Section 401 Water Quality Certification
Minnesota Department of Natural Resources	Amendment to existing Water Appropriations Permit or new Water Appropriations Permit
Minnesota Department of Health	Drilling/Sealing of Wells

Unit of Government	Type of Application
Scott County	Interim Use Permit (IUP)
	Variance for height of buildings
	Conditional Use Permit for rail yard(s)
	Septic system, building permits, etc.
Scott Water Management Organization	Interim Use Permit Review Authority
Union Pacific Railroad	Approval of rail yard(s) design
Louisville Township	Wetland Conservation Act
Lower Minnesota River Watershed District	Grading permit, if applicable
State Historic Preservation Office	Section 106 Review

Through the modeling and studies performed in the EIS it was determined mitigation measures that are required to ensure a significant environmental impact is not created and ensuring permitting requirements can be met. Listed below is all the measures. It is anticipated that these mitigation measures will be incorporated in the necessary permits as conditions through the regulating agencies.

Land Use	Existing groundwater quality impacts associated with adjacent land uses	The Project will dilute and therefore reduce the concentration of contaminants in the groundwater downgradient of the Louisville Landfill. There are currently no potable water supply sources located downgradient of impacted groundwater. If future water supply sources are established downgradient of the impacted groundwater water quality testing is recommended. The MPCA is the responsible party for the closure and post closure care of the Louisville Landfill. This includes groundwater monitoring associated with the landfill.
	Land use in the areas adjacent to the Project (Renaissance Festival)	Continue to limit aggregate hauling by truck from the Site during peak traffic periods on Renaissance Festival days while the festival is operating at its current location. Planned end use of the Project Comply with performance standards established in Chapter 10 of the Scott County Zoning Ordinance. Approve a Reclamation Plan that incorporates progressive reclamation of the site to open space and natural areas as well as potential future development as the Site transitions from mining uses to final uses.

Cover Types	Require a Reclamation Bond to provide certainty of Site stabilization and development of the proposed land covers associated with the approved Reclamation Plan.

Fish, Wildlife, and Ecologically Sensitive Resources	Maintain 75 feet of existing second growth forest along the eastern edge of Gifford Lake to maintain bat colony roosting and foraging

The Project avoids the majority of the contiguous natural habitat which is located along the western edges of the Site. The following measures have been incorporated into the Project to reduce environmental effects related to wildlife and ecologically sensitive resources.	habitat adjacent to the open water. No lighting of the tree line along Gifford Lake If in the future, if a northern long eared bat hibernaculum or maternity roost trees are identified within the area, follow USFWS regulations regarding tree removal during pup rearing season. Keep mining and processing activity at least 660 feet from known eagle nests during the nesting season (late January through late July). Maintain vegetative buffer along wetland complex. Reclaim the Site in accordance with the Reclamation Plan incorporating provisions to separate regional stormwater flows from the end use lakes and revegetation of upland areas including native grasses along the western and southern perimeter of the Site.

Physical Impacts on Water Resources To reduce the potential for impacts to surface water and groundwater levels the following mitigation measures are proposed.	Develop mitigation options to replenish water supply to seepage wetland. Mining is progressive, starting with a very small dewatering area and very low dewatering rate so that changes to water levels will occur gradually. Mitigation options are expected to vary as to phase and extent of dewatering progress across the mine site and may include: Direct discharge, Drip Irrigation, Exfiltration Trench, or Infiltration Cell or Basin Implement a Water Level Monitoring Plan

Water Use To reduce the potential for impacts to water use the following mitigation measures are proposed.	Implement a Water Level Monitoring Plan Offer well agreements to well owners within the five-foot drawdown contour

Water Related Land Use Management District To reduce the potential for impacts to the water related land use management district, the following mitigation measures are proposed.	Design buildings within the plant site to minimize height to the extent practical. Do not disturb existing vegetation between the limits of grading of the plant site and the shoreline of Gifford Lake.

Erosion and Sedimentation The following measures will reduce potential impacts from erosion and sedimentation.	Operate the Site in compliance with the NRP approved by the County in conjunction with land use permits for the Project Develop the Site utilizing BMPs designed to minimize the potential for erosion and sedimentation, thereby protecting adjacent surface waters. Operate the Site under an MPCA NPDES stormwater permit and a

	site specific SWPPP. Review and update the SWPPP at least annually to reflect changes in Site conditions as a result of the progression of mining and reclamation activities Sample and monitor stormwater and dewatering discharges in accordance with the NPDES permit to verify compliance with intervention limits.

Water Quality: Surface Water Runoff The following measures will reduce potential impacts to surface water runoff, thereby protecting surface water quality.	Operate the Site in compliance with the NRP approved by the County in conjunction with land use permits for the Project. Construct and operate the Site utilizing BMPs designed to minimize the potential for erosion and sedimentation, thereby improving the water quality of surface runoff discharging from the Site. Promote infiltration of stormwater where feasible. Operate the Site in compliance with the MPCA NPDES stormwater permit and a site specific SWPPP. Review and update the SWPPP at least annually to reflect changes in Site conditions as a result of the progression of mining activity. Sample and monitor stormwater and dewatering discharges in accordance with the NPDES permit to verify compliance with intervention limits. Construct a stormwater conveyance channel designed to accommodate runoff accounting for future development of the upstream watershed through the Site.

Water Quality: Wastewater The following measures will reduce potential impacts related to wastewater.	On-site SSTS systems will be designed in accordance with State and County requirements. Portable sanitary waste containment systems will be used throughout the mine. Water treatment chemicals will be consistent with those commonly used in the treatment of drinking water. They will be used to maximize reuse of process water. End of season discharge of the process water will occur a minimum of 7 days after the last application allowing time for the reduction of any residual acrylamide monomer concentration. The end of season water treatment system will be discharged to an upland area of the Site. The discharge is contained and allowed to infiltrate and will be managed so that it is not directly to the mine lakes or surface water. Off-site discharges will be subject to best management practices including pretreatment, controlled outlet structure, and outlet energy dissipation. Dewatering discharge will be subject to MPCA NPDES permit and

	associated monitoring and reporting requirements and will include at a minimum, monitoring for acrylamide in the groundwater during at least the initial years of mining to illustrate no impact to groundwater. Monitoring conditions will be established as part of permitting.

Geologic Hazards and Soil Conditions The following measures will reduce potential impacts related to geologic hazards and soil conditions.	Maintain excavation and reclamation slopes presented in the slope stability analysis. Implement a groundwater quality monitoring plan. Develop and implement an SPCC Plan for the Site.

Solid Wastes, Hazardous Wastes, Storage Tanks The following measures will reduce potential impacts related to solid waste, hazardous wastes and storage tanks.	New tanks used to store petroleum products at the dry plant site will be double walled construction. All above ground storage tanks will comply with MPCA regulations. The Site will operate under a SPCC Plan developed to prevent spills, effectively control a release should a spill occur, and identify proper clean up and reporting protocols in the event of a spill. Flocculants will be used and managed in accordance with the NPDES permit. Implement a groundwater quality monitoring plan.

Traffic The following measures will reduce potential impacts related to traffic.	To alleviate long delays and queuing of left-turning heavy commercial trucks on the side-street approaches to TH 41 during a.m. peak hour conditions at the Malkerson Sales access, encourage drivers leaving the Malkerson Sales northern access to consider alternate routes that minimize or eliminate the need to make left-turns from the Site during peak periods. This may include routing silica sand truck traffic through the Site to the southern access onto 145th Street onto the west frontage road and CSAH 14 overpass. Limit hauling limestone, sand and gravel, and silica sand from the Site during high Renaissance Festival attendance on the Site, typically afternoons during the 5, 6 and 7th weekends in September and October each year.

Vehicle Related Air Emissions The following measures will reduce potential impacts from vehicle related air emissions.	Turn off engines when vehicles are stopped for more than a few minutes, especially around people. Do not idle near the air intake of a building. Retrofit engines with pollution control devices and or use cleaner burning fuel. When purchasing new vehicles, buy the lowest emitting vehicles available. Keep engines well-tuned and maintained.

Stationary Source Air Emissions	Air Pollution Prevention: utilize industry standard pollution control

	technology. Minimize the use of diesel generators by using line power where practical. Bryan Rock has already converted much of the limestone processing plant operations to line power. Utilize processing controls as required to meet ambient air quality standards. More controls are required when the Festival Lease is in effect because the receptors are located within the Site in closer proximity to the sources of air emissions from the mining and processing operations. PM4 Silica controls Comply with MSHA regulations regarding worker exposure to PM4 Silica. In addition, adopt the following measures to reduce silica dust exposure on-site: Implement and maintain a fugitive dust control plan; Medical surveillance program/disease reporting; Training and information to workers on crystalline silica; Availability of air and medical surveillance data to workers; Equipment maintenance program; Respiratory protection program; Isolated personal hygiene facilities, eating facilities, and a clothing change area; Record keeping; Housekeeping program; Construction safety and health program; Regulated areas/warning signs; and Provide workers with training that includes information about health effects, work practices, and protective equipment for respirable crystalline silica. Adopt a Fugitive Dust Control Plan Adopt an Ambient Air Monitoring Plan

Noise	The noise modelling assumed the following mitigation measures would be implemented into mine operations. Mitigation for Single Family Residential Receptors: 12-foot high perimeter berm along the northern portion of Bryan Rock along US 169. 20-foot high perimeter berm along southern portion of Bryan Rock along US 169. Shielding crusher on barge for nighttime operations under some Alternative/Phases. Mitigation for Mobile Home Park: 12-foot high berm along eastern perimeter of g2 sand and gravel mine. Restricting sand and gravel mining and processing in g2 to daytime hours. Mitigation for Festival Campground: Restrict limestone mining and processing and sandstone mining and processing on BRP-N to daytime hours during periods of campground use. Conduct additional noise modelling for cumulative effect of all proposed activities for the plant site on Bryan Rock property if campground is still active. Eliminate overnight camping on the property. Conducting mining and processing operations in accordance with

	the setbacks established in the Scott County Zoning Ordinance; Broadband back up alarms on all company owned equipment; Circular routes for truck loading to minimize backing movements; Establish internal speed limits; Converting limestone processing plants to electricity; Operate noise producing equipment in recessed portions of Site as practical; Utilize mufflers and other standard noise reduction equipment; Any new equipment to be acoustically rated for noise generation and the ratings be considered in the final purchase decision; Longer strings of cars to reduce coupling and uncoupling noise; Uphill railcar loading; No locomotive horns in railyard; and Blast monitoring for ground vibration and airblast

Nearby Resources The following measures will reduce potential impacts to nearby cultural resources	Maintain mining setbacks established per the Scott County Zoning Ordinance; Post warning and no trespassing signs along perimeter highwalls; Construct perimeter berms around active mine areas; and Reclaim mine site adjacent to public access areas according to the Reclamation Plan.

Visual Impacts Mitigation of potential impacts from lighting include:	Lighting used to illuminate non-daylight mining and processing activity should occur at recessed elevations of the mine, set below the surrounding grade. This will reduce the potential for light spill onto adjacent properties or viewsheds. Lighting will be equipped with shields to deflect light from areas where light is not needed or desired. Lighting units will be portable and adjustable and so can be adjusted should a nuisance condition is reported. Mining and processing setbacks established in the County Mining Ordinance will be observed allowing the dissipation of nighttime lighting to non-nuisance levels beyond the Site property line.

Compatibility with Land Use Plans The following measures will reduce potential incompatibility with land use plans.	Protect areas identified as suitable SSTS areas that have been identified to serve future development of the Project Area.

D. The extent to which effects can be anticipated and controlled as a result of other studies undertaken by public agencies or the project Proposer, or of previous EISs.

Scott County's past experiences with other mining operations will be referenced when preparing the IUP and determining necessary conditions that may not be stated in the EIS.
It is recommended that Scott County be included in any quarterly, or annual reporting as required by other agencies permitting processes in order to ensure compliance with the County IUP.

E. It is, therefore, concluded that the Environmental Impact Statement is adequate.

Staff is recommending that the EIS is adequate. Outstanding issues can be addressed through the IUP.

CONCLUSIONS

I. Scott County has fulfilled all applicable procedural requirements of law and rule regarding the determination of the adequacy of the Environmental Impact Statement (EIS) for the proposed Merriam Junction Sands LLC Project.

II. Pursuant to Minnesota Rules Part 4410.1700, Subparts 6 and 7, the proposed project has been evaluated by the public and Scott County to determine potential environmental effects. Based on the findings and record in this matter, Scott County has determined that the proposed Merriam Junction Sands project does not have the potential for significant environmental effects. Scott County concurrence by Resolution No. 2020-, declaring the Environmental Impact Statement to be adequate is ATTACHED to this Record of Decision.

III. Pursuant to Minnesota Rules Part 4410.1700, Subpart 5, a copy of this RGU Record of Decision is being provided, within 5 days, to all persons on the MEQB Distribution List, to persons commenting and to persons who requested a copy. This Record of Decision will also be made available on the Scott County website.