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June 9, 2014

VIA EMAIL AND U.S. MAIL

Ms. Susan McNellis
Scott County Attorney's Office
200 Fourth Avenue West
Shakopee, MN 55379

Re: Jordan Aggregates, LLC - Comments to Scott County's Mitigation/Groundwater
Monitoring Plan
Our File No.: 14378.002

Dear Ms. McNellis:

As requested, enclosed please find Jordan Aggregates, LLC comments on Scott County's Mitigation/Groundwater Monitoring Plan. As you will note, Jordan Aggregates' proposed mitigation/groundwater plan adequately addresses the matters raised by the county and the commenting state agencies. Further, because Jordan Aggregates' plan addresses the matters raised by the Final Environmental Impact Statement, there is no need to consider the municipal water as part of the mitigation plan.

Very truly yours,

MONROE MOXNESS BERG PA

A handwritten signature in black ink, appearing to read "Matthew S. Duffy".

Matthew S. Duffy
Attorney at Law

MSD/jw

Enclosure

cc: Client (via email w/ enclosure);
John McCain (via email w/ enclosure);
Nick Bonow (via email w/ enclosure; and
Gerald Duffy, Esq. (via email w/ enclosure).

Project Proper – Jordan Aggregates, LLC
Comments to Scott County Mitigation/Groundwater Monitoring Plan
June 9, 2014

Scott County, the responsible governmental unit (the “County”), and Jordan Aggregates, LLC (the “Proposer”) recognize that the proposed project (the “Project”) has the potential to impact water quality in the three wells finished in the surficial and upper bedrock aquifers and serving three adjacent properties. As a result of this potential impact, the County and the Proposer have each proposed ways to mitigate the effect on the adjacent wells.

The Proposer’s mitigation plan includes replacing the potentially impacted wells with wells finished in the deeper aquifer (Wonowoc/Ironton/Galesville) (“Wonowoc”) and point of use treatment for water aesthetics. As indicated in the Final Environmental Impact Statement (“FEIS”), even though there is a very small chance that flood waters entering the mining excavation could impact the wells on the adjacent properties, the Proposer is offering to replace those wells with wells finished in the deeper aquifers. The well replacement mitigation measure was evaluated in the FEIS, which concluded that “...a FIG well installed at this location and completed in the Ironton-Galesville (Wonowoc) Sandstone should be able to provide water that is not adversely impacted by flooding or mining activities.”

The FEIS goes on to state that “Periodic monitoring of on-site monitoring wells in the FIG to detect possible impacts from the mine in the FIG and nearby off-site private wells should be a part of a monitoring plan submitted as part of the IUP.” The Proposer’s Water Monitoring and Response Action Plan includes installation of monitoring wells in the deep surficial aquifer and the Wonowoc aquifer to provide early detection of potential contamination, and presents response actions to mitigate impacts to the replacement wells in the event of contamination. These mitigation measures consist of point-of-use water filters to provide drinking water that meets or exceeds the Minnesota Department of Health’s drinking standards for the users of these wells. Therefore, it is not necessary to include the provision of municipal water installation to these properties. The Proposer’s plan also presents response actions to be implemented in the unlikely event that the surficial aquifer is impacted due to spills and/or leaks in the mine.

The County agrees with the Proposer that the adjacent properties’ wells should be finished in the deeper aquifer to provide potable drinking water to those properties. However, the County and the Proposer differ as to what mitigation will be required on the small chance that those wells are impacted by flood entering the mining excavation. The County prefers that the Proposer provide additional security for providing municipal water for those well users. Providing municipal water to these properties is cost prohibitive and not practicable in accordance with Minnesota Statute. *See* Minn. Stat. § 103H.001. As noted above, if any impact is noted that is impacting the wells, the Proposer has a feasible mitigation measure in place and will provide the appropriate amount of security to the County to address well impacts as identified in the FEIS. Replacing the impacted wells with municipal water is not feasible and should not be considered by the Scott County Board as a “practicable” mitigation alternative.

On a related note, the County’s Monitoring and Mitigation Plan (the “County Plan”) was prepared independently by the County and its consultant, Barr Engineering and was not a collaborative effort with the Proposer. In fact, the County Plan contains mitigation measures, specifically with regard to the mitigation proposal for the Quaternary sand aquifer, with which the Proposer will not agree. This has been communicated to the County on numerous occasions.

Project Proper – Jordan Aggregates, LLC
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The Proposer will not agree with the County’s proposed mitigation measures for many reasons, but most importantly because the FEIS concludes, “[i]t is recognized that funding long-term mitigation of anticipated impacts from periodic flooding of the mine pit deep into the surficial [Quaternary] sand-and-gravel aquifer **are not economically feasible.**” (emphasis added). Because the County’s FEIS concludes that the County’s proposed mitigation plan is not economically feasible and because Minnesota Statute requires mitigation measures to be practicable, the Proposer will not agree with the County’s Plan that includes a pump-out system intended to prevent/treat floodwater in the surficial aquifer or replacing the impacted wells with municipal water.

In contrast, the Proposer has proposed a Water Monitoring and Response Action Plan (the “Proposer’s Plan”) (which can be found on the Scott County website: <http://www.co.scott.mn.us/ParksLibraryEnv/Environment/EnvReview/JordanAgEIS/Pages/Home.aspx>) that addresses the groundwater impacts identified in the FEIS **and** is economically feasible and practicable (the Minnesota Statutory requirement).

Specifically, as noted above, the Proposer’s Plan focuses on protecting down-gradient receptors from potential floodwater impacts through replacement well installation. The Proposer’s Plan does not mitigate the floodwater in the surficial aquifer because groundwater in the surficial aquifer is already heavily influenced by the flood water containing constituents of concern (“COCs”) (the Proposer’s Project will ***not be a source of COCs***). Both the County and the Proposer agree that the COCs contained in the flood water are attributable to activities and from sources upstream of the Project Site.