

PIERCE COUNTY WISCONSIN
DEPARTMENT OF LAND MANAGEMENT & RECORDS
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MINUTES - Pierce County Land Management Committee Meeting, October 5, 2022, in-person meeting for everyone along with the option of remote attendance.

Present: Jon Aubart, Neil Gulbranson, Dan Puhmann, and Eric Sanden

Others: Andy Pichotta, Adam Adank, Emily Lund, and Shari Koehler

Absent: Joe Fetzer

Acting Chairperson Jon Aubart called the Pierce County Land Management Committee meeting to order at 6:00 pm in the County Boardroom.

Next meeting dates: October 19th, November 2nd & 16th, all in 2022.

Approve Minutes from the September 7, 2022 Land Management Committee meeting: **Sanden moved to approve the Land Management Committee minutes from September 7, 2022/Gulbranson seconded. All in favor. Passed with Dan Puhmann abstaining because of absence at the last meeting.**

Public hearing to consider and take action on a request for a conditional use permit for Sludge Disposal in the General Rural Flexible District by David Sauer, Cedar Corporation, agent for Ralston Purina, Nestle Purina Petcare Co, agent on property owned by William E. Schroeder, located in parts of the N ½ of the SW ¼, SE ¼ of the SW ¼, the SE ¼ of Section 29, also parts of the N ½ of the NE ¼ of Section 32, all in T25N, R17W, Town of Hartland, Pierce County, WI.

Staff Report – Emily Lund: Ralston Purina/Nestle Purina Petcare Company is a cat and dog food flavoring processing facility located in Hager City, WI. They operate a wastewater treatment facility with two settling basins to store bio-solids, or sludge material. When the food processing equipment is cleaned, wastewater is generated. These ponds need occasional sludge removal. The LMC approved previous CUPs for sludge disposal in 1997, 1999, 2001, 2006, 2011, 2015, 2016, and 2020. The applicants request this new CUP to be extended through December 15, 2023. They plan to land apply sludge material after the crops are harvested this Fall 2022 and Fall 2023. The sludge contains nitrogen, phosphorous, potassium, and other nutrients that support corn and soy bean plant growth. The WI DNR approved the same fields as 2020 with application requirements. The parcels are located in Sections 29 and 32 all in Hartland. The parcels total 329.6 acres and are zoned General Rural Flexible. Soybean and corn crops are grown on the upland areas. Surrounding land uses include agriculture, woodland, and residential. Pierce County Zoning Code Ch. 240 Attachment 1:1 Table of Uses defines sludge disposal as a conditionally permitted use in the General Rural Flexible Zoning District. The WI DNR reissued the applicant’s Wisconsin Pollutant Discharge Elimination System (WPDES) Permit No. WI-0054224-10-0 and it is effective for 7/1/2022 to 6/30/2027.

- Of the 329.6 acres, only 197.3 acres will have sludge material applied.
- The WI DNR reduced the area due to WI DNR regulated separation distances to wells, residences, steep slopes, surface water, drainage areas, and more.
- The land application requirements for industrial sludge are regulated by the WI DNR through Ch. NR 214, WI Admin. Code.
- The land application locations and rates are regulated by the WI DNR through Ch. NR 160 and 283, WI Stats.

The Nutrient Management Plan for the 2022-2023 year was updated by Pro-Ag Consulting LLC in accordance with the USDA NRCS 590 Technical Standards. The updated Nutrient Management Plan was reviewed by the Land Conservation Department on 9/12/2022 stating, “The Nutrient Management Plan appears to meet the USDA-NRCS 590 standards. The per acre application rate is maximum of 15,000 gallons and must be injected

into the soil.” The Hartland Town Board recommended approval of this request on 9-12-2022 with the following statement (attached), “Contingencies & Requirements”:

1. Road to be inspected before and after to ensure no damage.
2. Applicant responsible for road signage determined necessary by Town.
3. Contingent on letter of credit from a bank or security deposit to cover potential road damage - \$60,000.”

The Town did not reference its Comprehensive Plan.

PCC §240-76G discusses expiration of Conditional Use Permits and states, “All conditional use permits shall expire 12 months from the date of issuance where no action has commenced to establish the authorized use. If a time limit has been imposed as a condition for the permit, the permit shall expire at the end of the time limit.”

The applicant is strongly encouraged to comply with relevant local and state ordinances and regulations and secure all necessary permits and licenses (e.g. Town of Hartland, WI DNR, USDA, NRCS, etc). The previous CUP (2020) has the conditions #1 - #6 listed in the staff report.

Staff Recommendation: Staff recommends the Land Management Committee determine whether the proposed land spreading of sludge at the proposed locations would be contrary to the public interest and whether it would be detrimental or injurious to public health, public safety, or the character of the surrounding area. If found to be not contrary to the above, staff recommends the Land Management Committee approve this conditional use permit (CUP) for Sludge Disposal with the following conditions:

1. Activities shall be conducted as presented in the application unless modified by a condition of this CUP.
2. Applicant shall contact the Land Management Department when sludge spreading begins.
3. Sludge application shall cease if the ground becomes frozen or too wet for land injections.
4. Field access points shall be protected to control soils and sludge from being tracked onto public roads.
5. Applicant shall enter into a road maintenance agreement with the Town of Hartland, if necessary.
6. The per acre application rate is maximum of 15,000 gallons and must be injected into the soil.
7. An “As-Spread” map shall be submitted after land applications are completed each fall.
8. The Nutrient Management Plan must be updated to meet the USDA-NRCS 590 standards prior to Fall 2023 land applications.
9. This conditional use permit will be active through December 15, 2023.

Chairperson Aubart asked James Sullivan, Maintenance Manager and Environmental Coordinator at Nestle, if he had anything else to add. Mr. Sullivan stated no, nothing more to add, he is just here to answer any questions. Gulbranson stated staff has added three more conditions and it’s a little more defined, is that for the County’s benefit? Pichotta stated yes.

Chairperson Aubart opened the hearing to public comment. Cory Roed asked what chemicals are being used to clean whatever it is you are disposing of, with the water? Mr. Sullivan stated chemicals that are used at the factory are Caustic 80% and Phos acid 85%. **Chairperson Aubart asked for any other public comment Hearing none he declared the public hearing closed.**

Gulbranson moved to approve the Conditional Use Permit for Sludge Disposal in the General Rural Flexible District by David Sauer, Cedar Corporation, agent for Ralston Purina, Nestle Purina Petcare Co, agent on property owned by William E. Schroeder, Town of Hartland, finding this is not contrary to the public interest and not detrimental or injurious to public health, public safety or the character of the surrounding area, with conditions #1 - #9 as written/Sanden seconded. All in favor. Passed.

Discuss take action on a request for renewal of a conditional use permit for Nonmetallic Mining in the General Rural Flexible 8 District for Rumpca Excavating, owner on property located in the NE ¼ of the SE ¼ and the SE ¼ of the SE ¼ all in Section 29, T27N, R19W, Town of Clifton, Pierce County, WI.

Staff Report – Emily Lund: Rumpca Excavating owns and operates a nonmetallic mine on 80 acres that was expanded in 2002 requiring the issuance of a CUP. The materials mined are gravel and limestone. The operation plan states that 60 of the 80 acres will be mined. A policy exception to the 100-foot setback was granted in April 2018 that allowed the Rumpca mine to join the neighboring Rohl mine. The Rumpca mine did not have much material extracted between 2020-2022. They also operate in the adjoining Rohl mine. While doing so, they stock pile material in the Rumpca Mine and also use the scale in the Rumpca mine. Most of the recent activity has been reclaiming the adjoining Rohl mine, which is planned to be completed soon. In the spring of 2023, they plan to crush Class 5 rock in the Rumpca mine. Legal description is Section 29, Town of Clifton. The property is zoned General Rural Flexible 8. The mining site has approximately 10 unreclaimed acres.

Access to the mine is off of County Road MM. Portable crushing equipment is brought in to make Class 5 gravel, recycled Class 5, and screened hard rock. Trucks are used to haul the product. The operator has removed approximately 50-60 feet of material to a depth of approximately 990 feet. Ground water elevation is approximately 850 feet. Hours of operation are 7am to 6pm, Monday through Friday and 7am to 4:30pm on Saturday. Blasting is between the hours of 8am to 4pm Monday through Friday. Crushing is between the hours of 7am to 4:30pm Monday through Friday. A 100-foot setback has been maintained for all extraction in all areas of the property except for the portion that borders the Rohl mine. The 100-foot setback is still in effect for all of the property that does not border the Rohl mine. A scale and scale house are located on the site. Staff has not received any complaints about this operation. Staff has contacted the Town of Clifton Chair regarding this renewal and no complaints or concerns were reported. Rumpca has never blasted at this mine, so no well tests have been submitted. In 2006, the permit condition related to well tests was worded as, "Well tests for nitrates suspended solids, and dissolved solids shall be conducted for all existing wells within 1000 feet of the proposed mining operation. This should be completed prior to blasting. This condition shall apply to any future mining operations." Past department practices have excused the well testing requirements for operations where blasting has not taken place and having sufficient separation from ground water. In 2020, a new condition was added to the CUP renewal related to well testing to standardize the process for mining operations. Based on advice from Corporation Counsel, staff is generally not recommending any conditions that require the permitting or compliance with other agencies, organizations, or departments regulations or rules. The current conditions are listed in the staff report #1 - #14.

Staff Recommendation: Staff recommends the Land Management Committee consider the above and determine whether existing conditions remain adequate to protect public health, safety and the character of the area. If determined to be adequate, staff recommends the LMC renew this conditional use permit with the following conditions:

1. A 100-ft setback shall be maintained from all property lines for all mining activities. Unless granted an exception from the Land Management Committee.
2. Applicant shall comply with Pierce County Code (PCC) Chapter 242 Annual Reclamation Permits.
3. Property owners located within 1000 feet shall be given adequate notice, at least 48 hours, of any blasting, and all blasting shall be done by a certified state licensed blaster.
4. Well tests for nitrates, suspended solids, and dissolved solids shall be conducted for all wells within 1000 feet of the proposed mining operation, prior to blasting. Tests shall be conducted annually, thereafter, as long as blasting continues. If blasting ceases, tests shall be conducted at a minimum every four years after the most recent blast. Well tests shall be conducted prior to the initial blast, and annually thereafter, when blasting is resumed after a break of more than one year.
5. The applicant shall notify the Land Management Office if groundwater is encountered.
6. Dust control measures shall be implemented along haul roads.
7. Hours of operation are 7am to 6pm, Monday through Friday and 7am to 4:30pm on Saturday.
8. Recycling of concrete, asphalt and bricks into Class 5 materials is allowed.
9. Reclamation shall be according to submitted plans.
10. Applicant agrees that any unforeseen erosion issues shall be addressed to the satisfaction of the county.
11. This CUP renewal shall expire in two years.
12. A new reclamation plan shall be completed if extraction differs from the approved plan on file.
13. Any expansion or intensification shall require a new conditional use permit and potentially a rezone depending on the intensity of the use.
14. The applicant shall enter into a road agreement with the Pierce County Highway Department if deemed necessary by the Highway Commissioner.

Chairperson Aubart asked Bradley Rumpca if he had anything to add. Mr. Rumpca stated no he did not, they just want to keep doing what they have been doing. **Sanden moved to approve the renewal of the conditional use permit for Rumpca Excavating with conditions #1 - #14 as written/Puhrmann seconded. All in favor. Passed.**

Discuss take action on a request for renewal of a conditional use permit for Nonmetallic Mining in the General Rural District for Ben Burshem, owner on property located in the SW ¼ of the SE ¼ of Section 5, T24N, R17W, Town of Isabelle, Pierce County, WI.

Staff Report – Adam Adank: The site was mined in the past, but the dates are unknown. Earlier mining activities ceased prior to August of 2001 when NR 135 took effect requiring nonmetallic mining reclamation, and the site was left unreclaimed. A conditional use permit for nonmetallic mining was issued in 2006 to authorize new mining on the site. The current applicant became the operator of the mine in 2018. Sand is mined from the site and portable processing equipment is utilized when necessary. All new mining activity has been consistent with current rules and regulations. The property is located in the Town of Isabelle and zoned General Rural. The mining site has approximately four unreclaimed acres. The total extent of the mine will be approximately 6.5 acres. Access to the mine is off of 150th Ave. Sand screening and sizing equipment is placed on the site when necessary. There is no blasting on this site. Sand is extracted with excavating equipment and trucks. A 100-foot setback must be maintained from property lines. Financial assurance for reclamation is being reviewed and may need to be updated. Based on advice from Corporation Counsel, staff is generally not recommending any conditions which require the permitting or compliance with other agencies, organizations, or departments regulations or rules. Staff has contacted the Town of Isabelle Chairperson regarding this renewal. The Town has concerns about the road flooding over onto 150th Avenue directly across from the mine each spring. The applicant suggests that the flooding is due to the design of the road and that the spring water runoff is not leaving his mining site. Staff is looking into this issue. The reclamation plan states that the mine is internally drained. No DNR stormwater permits have been obtained to the knowledge of the applicant or this Department. The existing conditions for the permit are listed #1 - #6 in the staff report.

Staff Recommendation: Staff recommends the Land Management Committee consider whether established conditions remain adequate to protect the public interest, public health and safety, and the character of the area. If no additions or modifications are deemed necessary, staff recommends this CUP be renewed with the following conditions (proposed changes are noted):

1. Hours of operation remain consistent with daylight hours Monday through Friday and Saturday hours will be 8:00am – 4:00pm.
2. Applicant shall comply with Pierce County Code (PCC) Chapter 242 Annual reclamation permits.
3. A 100-foot setback shall be maintained from all property lines for all mining activities, which includes stockpiling and equipment.
4. ***Applicant agrees that any unforeseen erosion control or stormwater issues shall be addressed to county satisfaction.***
5. Reclamation shall be according to submitted plans shall be completed within one year of ceasing mining operations.
6. ***Financial surety shall be updated, if determined to be necessary.***
7. This CUP shall expire in 2 years.

There was no one representing Ben Burshem. Sanden asked about the stormwater issue given that it is currently under investigation or whatever by the Town, is this premature, should we wait? Or do you think condition #4 is adequate. Pichotta stated he thinks it is appropriate to renew it. What we did in modifying that condition is created a pathway to address the issue. He doesn't think we can get to the bottom of the issue until the spring when the issue is occurring. What we would likely do is go down there with the owner of the mine, the town chair, and someone from staff and figure out what is going on and identify a plan to address it. He doesn't think it makes sense to hold up the renewal of the permit. Sanden stated in worst case scenario and something is not able to be fixed, it could be pulled at that point. Pichotta stated it could. With any conditional use permit, we have the ability to call them in front of this committee basically at any point. We meet often enough that if there is an issue we could usually get them in front of you guys within a couple of weeks. Gulbranson questioned what if it still floods in the spring, but it isn't from the mine? They can't really be blamed for it then. Pichotta stated that is correct. What we didn't want to do was discount the Town's concern. We want to make sure we create a pathway to address the issue. We will deal with it come spring. Gulbranson stated it always throws him when we put in what Corporation Counsel doesn't want us to make agreements with all these other agencies but yet we try to massage it. Pichotta stated we have to try to do that with the Town's concerns in the sense that we do zoning for the towns. If they don't have an ordinance or licensing ordinance in place then they actually have no mechanism to enforce things. While there are things from the Town level that we don't want to reference, specifically their ordinances - but when they've got a concern, we do need to address it in the conditions. Adank stated it's about a two-week period in the spring when stuff is freezing and thawing and the road is freezing at points with all that excess water. So it's kind of a narrow window to go down and look at it. **Gulbranson**

moved to approve the request for renewal of the conditional use permit for Nonmetallic Mining for Ben Burshem with conditions #1 - #7/Puhrmann seconded. All in favor. Passed.

Discuss take action on Travel/Training Requests. Pichotta stated he has no travel/training request for your consideration tonight.

Future agenda items: Pichotta stated he said he knows we try to only meet once a month but we will be meeting a second time this month. We have a rezone request out of the Town of Gilman for Dennis Sorenson on property that borders the Village of Spring Valley.

Motion to adjourn at 6:26pm by Sanden/Puhrmann seconded. Motion passed.

Respectfully submitted by S. Koehler