



Attorneys At Law

Joel L. Aberg *
John Robert Behling
Anthony J. Bourget * ! +
Mindy K. Dale
Richard D. Duplessie
Christine A. Gimber
Thomas J. Graham, Jr.
Daniel P. Gustafson
Cindy L. Hangertner ~
Michael J. Happe *
Anders B. Helquist
Benjamin R. Jones
Melissa A. Kirschner *
Emily M. Long
Paul B. Millis
William S. Milne
Thomas J. Misfeldt
Fred L. Morris ^
Garrett W. Nix
Thomas B. Rusboldt
Steven V. Schlitz
Victoria L. Seltun *
Ryan J. Steffes
Daneille M. Strong
William H. Thedinga
William G. Thiel
Dustin F. Von Ruden *
William E. Wallo
James M. Ward
Paul H. Weinke
Stephen L. Weld
William J. Westerlund
G. Richard White
MaiVue K. Xiong

Of Counsel:
Frederick W. (Ted) Fischer
G. Scott Nicasio
Michael F. O'Brien
Kathryn J. Prenn
Thomas J. Szama

Geo. Michael Carroll, 1918-2013
Richard J. Ricci, 1942-2011
Stevens L. Riley, 1932-2000

Weld, Riley,
Prenn & Ricci, S.C.
A Wisconsin Limited
Liability Entity
3624 Oakwood Hills Pkwy.
P.O. Box 1030
Eau Claire, WI 54702-1030
715-839-7796
FAX 715-839-8609
www.wrpr.com

Offices in:
Black River Falls: 715-284-9421
Menomonie: 715-235-4216

*Also licensed to practice
in Minnesota
~Also licensed to practice
in Iowa
! Also licensed to practice
in Illinois
+ Also licensed to practice
in New York
+ Before U.S. Patent and
Trademark Office

ATTACHMENT B

June 10, 2014

VIA EMAIL
jfg@dewittross.com

John F. Gaebler
DeWitt Ross & Stevens SC
13935 Bishops Drive, Suite 300
Brookfield WI 53005-6605

Re: **Sioux Creek Silica, LLC/Town of Dovre**

Dear John:

I have read your materials that I finally received by e-mail within the hour of this letter. I am perplexed as to what happened that I did not receive this before; however, I rechecked my mail list and nothing from you arrived previously.

In any event, the following are my comments in reply to your memo and enclosure.

First, with respect to § 7.7 of the proposed agreement, I believe that this provision, as revised by the Town Assessor on June 5, 2014, answers your concerns. It states, in part:

Any use of Town-owned and/or maintained highways for the purpose of hauling sand to the Load-out Facility beyond 730 days (two years) after the effective date of this Agreement shall be subject to the terms and conditions of the "Conveyor Belt Guaranty" attached as Attachment B to this Agreement. **The royalties to be paid for the use of any County or Town-owned and/or maintained highways, after 730 days, for the purpose of hauling sand to the Load-out Facility shall be renegotiated by the Parties.** (My emphasis.)

In other words, your client can continue to use the highways, at the existing royalty rates, subject to the Guaranty you provide and the royalties will be renegotiated, for the period of time after 730 days (2 years) next following the effective date. As I read this language, in no manner is it to be interpreted as meaning that as of day 730, use of highways terminates.

This brings me to the letter that is to constitute the proffer of a "Guaranty" to be inserted in the Agreement as Attachment B.

John F. Gaebler
June 10, 2014
Page 2

While I understand, as you voiced to me, that Sioux Creek Silica does not want to place itself in the box that should matters outside of its control, impede it from operating a conveyor system, whether at day 10, day 365, day 730 or (hopefully not) day 1000, the letter that you have provided is not quite sufficient, from my perspective. I am prepared, however, to recommend that if the following language is added, that the Town Board agree and having discussed this in general with the Town Assessor, who is the primary assistant to the Board in finalizing this Agreement, I am confident that he will recommend it, as well.

My recommendation is as follows:

Sioux Creek agrees for purposes of this letter that it will use all reasonable effort to obtain both the required permits and financing for the construction of its conveyor system and that it shall commence efforts to this effect immediately upon execution of the Operations Agreement with the Town of Dovre. In addition, barring the intervention of forces beyond its control, it will at the minimum have the necessary financial commitments in place and applications in process toward the construction of the conveyor system no later than 730 days after the effective date of the Operations Agreement.

This gives the Town Board some level of comfort that Sioux Creek will work assiduously toward construction of the conveyor system and that its self-serving (not to be taken the wrong way but in the sense of your having provided us with your own business plan or mission statement that it does not want to spend 25 to 50 years using highways for sand hauling) statement that it fully intends to construct and operate a conveyor system is not simply a statement.

Again, my understanding is that with this addition to the letter, a strong recommendation for acceptance will be made.

Very truly yours,

WELD, RILEY, PRENN & RICCI, S.C.

William G. Thiel

WGT/db

cc: Greg LaFond

F:\docs\CITY\Dovre\0000GenMun\2014\gaebler letter.wpd

AMENDMENT A TO SIOUX CREEK SAND, LLC OPERATIONS AGREEMENT

Sharon Coenen
Office Manager
Bowmar Appraisal Inc.
304 Division St
Po Box 117
Altoona, WI 54720
bowmar-alt@sbcglobal.net

On Tuesday, June 10, 2014 12:02 PM, Bill Thiel <wthiel@wrpr.com> wrote:

Dear John:

I have no problems with the added language for section 7.7. I believe that this was implied, but this only expresses that implication. As opposed to saying "rates", change it to "royalties".

With respect to the added language for the guarantee, ...

I understand your point about not "immediately" being required to commence finding funding or the permitting process (although my impression when meeting with your representative last week was that at least the financing was in motion). In any event, eliminating that language is OK. As for the remainder, as modified, I like cutting back the time frame for commencing financing applications and applications for permits to 365 days after the effective date of the agreement. I don't know what it means when you say commence negotiations toward financing with "reputable funding sources". I don't want to imply that the Town has some kind of say in who you deal with for financing--that is up to you. However, we just want assurances that despite verbal acknowledgement that your client doesn't want to do 50 years of trucking, indeed, the conveyor belt system will be built so as to avoid that possibility if your initial attempt(s) at financing go south.

Any additional assurance that you could provide is appreciated.

I am forwarding this to my client via its Assessor with my recommendations to go ahead with my language and your added language and from there it will be a policy decision on the part of the Board.

SIoux CREEK SILICA, LLC

June 5, 2014

Dovre Township
Barron County, Wisconsin

Ladies and Gentlemen:

We are very excited about our frac sand project which includes a mine and wet plant in the Town of Sioux Creek and a dry plant and rail load-out in the Town of Dovre, as well as a conveyor by which we will transport sand from the wet plant to the dry plant.

We are close to obtaining the financing and permits we need to build and operate the mine/wet plant and the dry plant/load-out, but we anticipate possible delay as we pursue financing and permits for the conveyor. Unfortunately, there are many factors beyond our immediate control. That said, even without the conveyor, our project can be extremely successful and will bring many jobs to your area. As a result, we are proposing to build and operate the mine/wet plant and the dry plant/load-out before we have constructed the conveyor, using trucks to haul the sand from the wet plant to the dry plant.

Obviously, one of the permits we need before we begin building and operating the dry plant/load-out is an operations agreement under the Dovre Non-Metallic Mining Ordinance adopted December 12, 2012. In that connection, our representative, Bob Archibald, has been meeting with you to discuss the terms of such an operations agreement. To serve our purposes, and satisfy our lenders, such an agreement needs to address the possibility that there will be delays as we pursue financing and permits for the conveyor. We need an agreement that will enable us to continue truck hauling should we be subject to delays beyond our control. In that connection, we understand that you are eager for some assurance that we will in fact pursue the financing and permits for a conveyor with all due speed and effort.

The purpose of this letter is to confirm that we will use our best commercial efforts to obtain the required permits, and the required financing, and to overcome all other potential hurdles in order to complete the conveyor as soon as practical, once we have begun operation of the mine/wet plant and the dry plant/load-out. Among other things, it is in our own best financial interest to build and begin operating a conveyor as soon as possible, because it will reduce our costs of producing dry sand. A conveyor will transform a great project into an exceptional project.

Sioux Creek agrees for purposes of this letter that it will use all reasonable effort to obtain all required permits for the construction of its a conveyor system and that it shall commence efforts to this effect immediately upon completing permitting and financing for its mine, wet plant, dry plant, and load out. In addition, barring the intervention of forces beyond its control, it will at the minimum have the necessary permit applications in process for the construction of the conveyor system no later than 365 days after the effective date of the operations agreement. Barring the

intervention of forces beyond its control, within one year of obtaining all required permits, it will complete construction of the conveyor system.

We understand that you will be relying on the assurances provided in this letter as you consider the proposed operations agreements under the terms of your Ordinance.

We hope this letter provides you with the assurances you are looking for, but do not hesitate to contact us if you feel something further is needed.

Thank you for your cooperation on this matter. We look forward to a long, constructive relationship with your community.

Sincerely,

SIOUX CREEK SILICA, LLC

By: 
George D. Bates, Manager