

---PROPOSED DRAFT, 9-~~236~~-13---

**TOWN OF COOKS VALLEY
NONMETALLIC MINING PERMIT**

GRANTED TO:

CHIPPEWA SAND COMPANY, LLC

FINDINGS OF FACT

A. Chippewa Sand Company LLC (“**Permit Holder**”), is engaged in nonmetallic mining and related activities on land located in the Town of Cooks Valley (the “**Town**”), Chippewa County, Wisconsin, and described in the attached Exhibit A (the “**Property**”).

B. The Property is owned by the following person or entities (collectively, the “**Owners**”):

(1) Jeffery O. Buchner and/or J & L Mining, LLC Parcel Nos. 23010-0921-05010000, 23010-0922-05010000, 23010-0923-00000000, 23010-0924-00000000, 23010-0932-00000000 and 23010-0933-00020000.

(2) Robinson Panosian Mining, LLC Parcel Nos. 23010-0912-00000000, 23010-0913-00000000, 23010-0931-00000000, and 23010-0942-00000000.

C. Permit Holder has entered into separate agreements with the Owners to engage in the activities permitted under this Permit on the portion of the Property owned by the Owners.

D. On or before the Effective Date of this Permit, Permit Holder;

(1) obtained Nonmetallic Mining Reclamation Permit No. 2010-01 issued by Chippewa County, Wisconsin (as amended or renewed to date and from time to time hereafter, the “**Reclamation Permit**”);

(2) obtained Nonmetallic Mining Operations General Permit No. WI-0046515-5 issued by the Wisconsin Department of Natural Resources (“**WDNR**”) (as amended or renewed to date and from time to time hereafter, the “**WDNR Permit**”);

(3) obtained Industrial Well Approval No. Well Nos. 71554 and 71555 issued by the WDNR (as amended or renewed to date and from time to time hereafter, the “**Well Approval**”);

(4) entered into a County Road Upgrade and Maintenance Agreement dated February 16, 2012 (the “**County Agreement**”).

E. Permit Holder desires to obtain a nonmetallic mining permit from the Town in compliance with the requirements of the Town’s Nonmetallic Mining Ordinance, Chapter 19 of

the Town's code of ordinances ("**Mine Ordinance**"), and has applied for such a permit from the Town.

F. The Town Board has considered Permit Holder's permit application and supporting documentation, the facts and circumstances unique to Permit Holder's nonmetallic mine and mining operations, the recommendation of the Town Plan Commission, information presented to the Town Board at a public hearing, and additional information presented by Permit Holder and the Town's legal counsel.

G. The Town Board finds that without the conditions and restrictions set forth in this Permit, Permit Holder's nonmetallic mining operations would not be in the best interests of the citizens of the Town and would be inconsistent with protection of public health, safety and general welfare, as required under Mine Ordinance § 2.05(3).

H. The Town Board also finds that protection of general welfare within the vicinity of Permit Holder's nonmetallic mining operation may require the mitigation of nuisances, if any, to property owners located within one-half (1/2) mile of the boundaries authorized to be mined in the WDNR Permit.

I. The Town Board finds, however, that issuance of this Permit with the terms and conditions set forth herein is in the best interests of the citizens of the Town and will be consistent with protection of public health, safety and general welfare, as required under Mine Ordinance § 2.05(3).

WHEREFORE, the Town hereby grants this Nonmetallic Mining Permit (this "**Permit**") to Permit Holder upon the terms and conditions set forth herein.

PERMIT

1. Permit

- 1.1. The Town acknowledges receipt of the fee and materials sufficient to fulfill the application requirements of section 2.06(1) of the Mine Ordinance. See Exhibit B.
- 1.2. By signing this Permit, the Town grants a permit to Permit Holder to engage in nonmetallic mining operations and related activities regulated under the Mine Ordinance at the Property for the term of this Permit. This Permit is intended to set forth conditions to protect public health and safety and promote the general welfare of the Town pursuant to section 2.06(7) of the Mine Ordinance.
- 1.3. The Town affirms that Permit Holder's compliance with this Permit shall be deemed compliance with the Mine Ordinance. The Town shall not enforce the Mine Ordinance, or any amendment thereto or revision thereof, against Permit Holder, or otherwise subject the Permit Holder to regulation of its mining activities on the Property except as provided herein.

2. Terms and Conditions

- 2.1. This Permit shall be effective upon approval by the Town and ~~acknowledgement~~ by Permit Holder (the “**Effective Date**”), subject to Permit Holder’s right to challenge set forth in Section 11.6. This Permit shall expire on the 30th anniversary of the Effective Date. Deleted: receipt
- 2.2. This Permit shall be reviewed annually by the Town during the first five years of operation of a nonmetallic mine on the Property. Annual review of the Permit by the Town during the first five (5) years shall take place at least 15 and no more than 30 days prior to the anniversary of the date of issuance of the Permit. The annual Permit review fee during the first five (5) years shall be \$200.00 annually. This fee shall be paid to the Town of Cooks Valley Clerk within 30 days following receipt of invoice.
- 2.3. If at any time during the term of this Permit the activities or operations permitted under this Permit are alleged to have caused unforeseen public health or safety problems, the Town shall hold a public hearing on the matter. If upon a factual finding that unforeseen substantial public health or safety problems have been caused by the activities or operations permitted under this Permit, the Town may reasonably modify the Permit to address such problems with reasonable notice to, and opportunity for input from, Permit Holder.
- 2.4. If any term or condition of this Permit is violated by Permit Holder, the Town shall notify Permit Holder and Permit Holder shall work to cure such violation in a timely manner. If Permit Holder fails to work diligently to cure the violation in a timely manner or a pattern of violations occurs, the Town may hold a public hearing on the matter.
- 2.5. Subject to the Town’s compliance with the notice and hearing conditions contained in this Permit, legal action may be initiated by the Town to enforce the terms and conditions of this Permit to the extent necessary to protect the public health, safety and general welfare of the Town.
- 2.6. In the event of lawful revocation of this Permit, this Permit shall be void and the Property shall be reclaimed by Permit Holder in accordance with its Reclamation Permits.
- 2.7. This Permit shall be subject to revocation prior to its expiration date if active mining operations on the Property have been ceased for three (3) consecutive calendar years by Permit Holder. Upon notification from the Town confirming that this Permit has been so revoked, Permit Holder shall perform reclamation of the Property as required under its Reclamation Permits.

3. Mining and Hauling Operations

- 3.1. Permit Holder may conduct nonmetallic mining operations under this Permit up to twenty-four (24) hours per day, seven (7) days per week; 365 days per year. However, Permit Holder shall limit sand trucking to no more than 430 truckloads

per day from the Property. The hours of trucking operations shall not exceed sixteen (16) hours per day. Trucking of sand and material shall be limited to the hours of 6:00 a.m. to 10:00 p.m. on Monday through Friday, and one shift from 6:00 a.m. to 2:00 p.m., on Saturday, except that Permit Holder shall not conduct sand trucking on any Town roads on federal holidays and during the time periods set by the Town under to Subsection 3.4.6, when school buses are regularly scheduled to use Town roads to pick up and drop off students.

3.2. Upon request from the Town, which may be made no more frequently than once quarterly, Permit Holder shall make available for review by the Town monthly written accounts of the amount of material transported from the Property. Permit Holder shall also make available for inspection scale records if requested by the Town.

3.3. This Section 3.3 sets forth the Permit Holder's "**Light and Noise Mitigation Plan.**"

3.3.1 Noise emitted from Permit Holder's nonmetallic mining operations shall not exceed L10 of seventy-five (75) dbA and L50 of seventy (70) dbA, as measured at the property lines of the mine operation in line with and adjacent to existing residential structures. In addition, noise received from Permit Holder's nonmetallic mine and onsite mining operations shall not exceed L10 of fifty (50) dbA between the hours of 7:00 a.m. and 6:00 p.m., or L10 of forty-five (45) dbA between the hours of 6:01 p.m. and 6:59 a.m., as measured at existing residential structures within one-half (1/2) mile of the exterior property lines of the mine operation. Exceptions to this condition are noise from haul trucks and vehicles entering and leaving the Property, blasting activities, and work projects done on drainage ditches or Town and County road ditches.

3.3.2. With respect to noise measurement, L10 is the sound level, expressed in dbA, which is exceeded ten percent (10%) of the time for a one (1) hour noise or sound survey. L50 is the sound level, expressed in dbA, which is exceeded 50% of the time for a one (1) hour survey. dbA is the unit of sound level expressed in decibels (db) and A-weighted, as described in ANSI s 1.4, 1983, section 1.5.

3.3.3. With respect to noise measurement methodology, all sound or noise measuring devices must meet Type O, I, II or S specifications under ANSI s 1.4 1983. Devices must be externally field calibrated before and after monitoring using a calibration device of known frequency and sound pressure levels. Measurements must be made using the A weighting and Fast Response characteristics of the sound measuring device as specified in ANSI 2, 1.4 1983.

3.3.4. In order to demonstrate the mine operation's ability to meet the noise limitations set forth in Subsection 3.3.1 above, Permit Holder shall conduct a noise or sound study within sixty (60) days of the Effective Date

of this Permit, to collect noise data emanating from the mine operation, if the mine is in full operation during this sixty (60) day time period. If the mine is not in active operation during this sixty (60) day time period, Permit Holder shall conduct the noise or sound study within sixty (60) days after the mine resumes full operation following the Effective Date of this Permit. A copy of the results of the noise or sound study shall be provided to the Town.

- 3.3.5. In the event that noise from the operation exceeds the limitations set forth in Subsection 3.3.1 above, Permit Holder shall implement mitigation measures to remedy the exceedance.
 - 3.3.6. Permit Holder shall also implement, within thirty (30) days of the Effective Date of this permit, the nighttime use of mobile equipment strobes in compliance with federal Mining Safety and Health Administration (“MSHA”) regulations to replace the nighttime use of audible back up alarms.
 - 3.3.7. Permit Holder shall use back-up signals creating the least offensive noise audible to persons residing near the Property consistent with legal requirements.
 - 3.3.8. Permit Holder shall complete an inventory of all light sources associated with the mine operation within thirty (30) days of the Effective Date of this Permit, if the mine is in full operation during this thirty (30) day time period. If the mine is not in full operation during this thirty (30) day time period, Permit Holder shall conduct the light sources inventory within thirty (30) days after the mine resumes full operation following the Effective Date of this Permit. Based on this inventory, Permit Holder shall mitigate to the extent reasonably possible, without compromising safety, any light nuisances existing throughout the operation. Mitigation measures may include installation of downward and inward facing light shrouds to direct light where necessary while limiting unnecessary light emanating from the source. Portable lighting without such shrouds shall be used only as necessary to illuminate work areas or for legitimate safety reasons.
- 3.4. Permit Holder shall take measures to ensure, to the extent reasonably possible, that within the Town, trucks traveling to or from the Property:
- 3.4.1. Shall use only roads and highways approved from time to time for such use by Chippewa County or the State of Wisconsin;
 - 3.4.2. Shall not use compression release engine brakes, commonly known as Jake brakes;
 - 3.4.3. Shall adhere to all posted speed limits;
 - 3.4.4. Shall be properly maintained and operated in a safe and lawful manner;

- 3.4.5 Shall be covered to prevent sand and other materials from falling on the roadways and other vehicles; and
- 3.4.6 Shall not use any Town roads during the regular morning and afternoon time periods when school buses are regularly scheduled to use Town roads to pick up and drop off students (such times to be established from time to time by the Town in consultation with local schools and Permit Holder).
- 3.5. Permit Holder shall comply with its fugitive dust control plan previously submitted to the WDNR (as same may be amended from time to time, the “**Dust Control Plan**”). Upon request by the Town, Permit Holder shall provide to the Town a copy of Permit Holder’s current Dust Control Plan and any and all subsequent modifications thereof. In addition, if Permit Holder’s operations require that an air permit be obtained from the State of Wisconsin, Permit Holder shall obtain such air permit and provide a copy to the Town upon request by the Town. To the extent that Wisconsin law requires Permit Holder to perform air quality monitoring and to maintain air quality monitoring data, Permit Holder shall make such data available for inspection by the Town as may be requested by the Town, but no more frequently than once quarterly.
- 3.6. Permit Holder’s mining activities, as they relate to surface and ground water, shall be conducted in accordance with the Reclamation Permits, the WDNR Permit and all other applicable laws and regulations.
- 3.7. Sand taken from the mine Property may be returned to the mine Property. In addition, Permit Holder and the Town understand and agree that fines or waste sand from other Wisconsin sand mines may be deposited on the Property, provided that the total amount of such sand (including fines and waste sand) that is deposited on the Property shall not exceed the total amount of sand mined from the Property.
- 3.8. Permit Holder shall at all times have an agent, whose name, fax number, email address and telephone numbers are made known to the Town Clerk, available to respond to issues related to Permit Holder’s compliance with this Permit.

4. Storm Water Management

- 4.1. Permit Holder shall comply with all provisions of the Reclamation Permits and the WDNR Permit, and all applicable state and Federal laws and regulations pertaining to storm water management, retention and detention.
- 4.2. Permit Holder shall repair any damage to, and remove sediment from, Town road ditches to the extent such damage and/or sediment build up is directly caused by Permit Holder’s operations.

5. Groundwater Testing and Well Protection

- 5.1. This Section 5.1 sets forth Permit Holder's "**Groundwater Testing and Well Protection Plan**":
- 5.1.1 The Permit Holder will comply with WDNR regulations under Wis. Admin. Code Ch. NR 820 ("**NR 820**") relating to protection of groundwater quantity and it shall obtain a high capacity well permit for all qualifying wells that may be installed for mining and production purposes as may be required by WDNR.
 - 5.1.2 The Permit Holder may, at its discretion or for the purpose of complying with WDNR regulations and high capacity well permit requirements, install a groundwater level monitoring well network for the purpose of monitoring changes to the groundwater elevation that may occur over time as a result of groundwater appropriation for production water.
 - 5.1.3 The groundwater level monitoring network shall be designed to triangulate the elevation of the water table surface and to establish the direction of groundwater flow near the high capacity well(s). The groundwater level monitoring well network shall be designed by a professional hydrologist or professional engineer.
 - 5.1.4 Using the information gathered in the monitoring well network, if applicable, the Permit Holder shall prepare a groundwater elevation map. The Permit Holder shall provide this map to the Town prior to regular production use of the high capacity well.
 - 5.1.5 The Permit Holder shall provide a copy of any permit for a high capacity well that is subject to state permit requirements to the Town.
 - 5.1.6 The Permit Holder shall comply with the requirements of the high capacity well permit as determined by the WDNR, which may include maintaining records of pumping rates and volumes for all high capacity wells at the mine site on a monthly basis following procedures established in NR 820.13. To the extent that such records are required pursuant to the high capacity well permits, the Permit Holder shall make copies of such records available for inspection by the Town upon the Town's request, which may be made no more frequently than quarterly during any 12-month period.
 - 5.1.7 The Permit Holder shall comply with the requirements of the high capacity well permit as determined by the WDNR and NR 820, which may include preparing a Water Conservation Plan to limit consumptive use of groundwater. The plan may include a water budget for the operation that shows the typical annual volume of gains and losses to mining and reclamation activities. The plan may also describe the processes and best management practices used in mining and reclamation to reduce the consumptive use of groundwater at the mine site. To the

extent that a Water Conservation Plan is required by the WDNR in order to comply with permits and regulations governing the use and management of groundwater quantity, the Permit Holder shall make a copy of the Plan available for inspection by the Town upon the Town's request.

5.1.8 The Permit Holder has previously sampled the onsite monitoring wells installed by it in order to characterize the baseline water quality condition. Permit Holder shall make sampling results available for inspection by the Town upon the Town's request. The Town may require Permit Holder to monitor onsite water quality should the Town have probable cause to believe that contamination has occurred as a direct result of Permit Holder's operations.

5.1.9 In the event that activities at this site are proved to have caused a degradation of groundwater quality below standards listed in Wis. Admin. Ch. NR 140, the Permit Holder shall work to mitigate these effects by altering site operations.

5.2 This Permit does not relieve the owner or Permit Holder of the responsibility for compliance with all provisions of Wis. Stat. ch. 281, Wis. Admin. Code NR 820, or Wis. Admin. Code NR 812, as they may pertain to waters of the state and the operation of any private wells on neighboring properties, nor does this Permit restrict any property owner from pursuing rights or remedies available under applicable laws, including but not limited to common law and Wis. Stat. § 281.77, for damages sustained as a result of Permit Holder's failure to comply with the referenced statutes and regulations.

6. Blasting

6.1. Permit Holder may conduct blasting at the mine Property only between the hours of 10:00 a.m. and 3:00 p.m. on Monday through Saturday, except that no blasting may be conducted on federal holidays. However, additional blasting may be conducted during other hours if required for safety reasons which are beyond the reasonable control of Permit Holder and its contractors.

6.2. Blasting velocities shall not exceed those specified in ~~NFPA 495~~ and Wis. Admin. Code Ch. ~~SPS 307~~ ~~COMM 7~~.

Formatted: Strikethrough
Formatted: Strikethrough

7. Nuisance Complaints & Mitigation.

7.1 Permit Holder shall designate one or more staff persons and a telephone number and address for Town residents and property owners to use to contact Permit Holder to report complaints of nuisances caused by Permit Holder's nonmetallic mining operation. This information shall be posted at the Town Hall and updated as any changes take place. Such complaints may concern excessive dust, noise, property damages, etc. Whenever a nuisance complaint is reported to Permit Holder, Permit Holder shall investigate the complaint and make a good faith

effort to fully mitigate the nuisance to the satisfaction of the complainant within thirty (30) days of the complaint.

- 7.2 The Town may require Permit Holder to mitigate nuisances caused by Permit Holder's nonmetallic mining operation, provided such mitigation measures have an essential nexus and rough proportionality to nuisances caused by Permit Holder's nonmetallic mining operation. The Town shall provide due process to Permit Holder prior to imposing any mitigation measures under this section, including sixty (60) days advance notice of any proposed mitigation measure and the basis therefore, and a public hearing before the Town Board prior to any vote on the proposed mitigation measure by the Town Board.

8. Reclamation

- 8.1. Permit Holder shall complete sequential reclamation of the Property as set forth in the Reclamation Permits.

9. Laws to be Observed

- 9.1. Permit Holder shall at all times comply with all federal, state, county and, subject to the provisions of Section 1.3 of this Permit, local laws, regulations and ordinances applicable to Permit Holder's operations on the Property which are in effect or which may become effective in the future.
- 9.2 A failure by Permit Holder to comply with the provisions of any permit issued by any governmental authority related to Permit Holder's mining operations at the Property shall not constitute a violation of this Permit unless the subject permit is permanently revoked by the applicable governmental authority.
- 9.3 A violation by Permit Holder of any law, regulation or ordinance applicable to Permit Holder's operations on the Property shall not constitute a violation of this Permit so long as Permit Holder is working diligently with the governmental authority(ies) charged with administering such law, regulation or ordinance to cure such violation.

10. Permit Application Review and Development Fee, Environmental Monitoring, and Enforcement

- 10.1. Permit Application Review and Development Fee. Permit Holder shall pay the Town the sum of \$10,000.00 for legal fees and expenses incurred by the Town in the review of Permit Holder's Permit application materials and the development, drafting, review, and approval of this Permit. Permit Holder shall pay the Town this fee within thirty (30) days after approval of this Permit by the Town.
 - 10.1.1. Any amounts owed to the Town by Permit Holder under this Permit which are not paid within thirty (30) days of Permit approval by the Town shall accrue interest at the rate of one percent per month.

- 10.2. Environmental Monitoring. After the Effective Date, the Town may contract with an independent, third-party consultant to develop and implement an environmental monitoring program to monitor and test air and well water quality, on a periodic basis, at various locations within one-half (1/2) mile of the exterior boundaries of Permit Holder's nonmetallic mine. The environmental monitoring and testing program may include testing air quality for dust, silica, and other particulates, and well water quality for chemicals used by Permit Holder at its mining operations. Environmental monitoring results shall be provided by the Town to Permit Holder and shall be considered public records when received by the Town. Permit Holder shall cooperate with the Town, and any independent contractor retained by the Town to conduct such monitoring, by providing information on chemicals used by Permit Holder at its mine site and by providing controlled access to the mine site for purposes of conducting environmental monitoring. Permit Holder shall pay the Town an annual environmental monitoring fee of \$8,000.00 toward the cost of the environmental monitoring program beginning in 2013, if the Town contracts for such monitoring. Thereafter, the annual environmental monitoring fee may be adjusted by the Town but shall not exceed \$10,000.00. Each annual payment provided for in this section shall be evidenced by an invoice from the Town that includes documentation confirming that the environmental monitoring program has been initiated and is continuing, identifies the vendors who have been retained to conduct the environmental monitoring program, and provides a reasonably detailed estimate of the costs associated with the environmental monitoring program during the relevant calendar year. Payment shall be due upon the later of 30 days following Permit Holder's receipt of the invoice or January 15 of the relevant calendar year. If at any time the Town, after consultation with Permit Holder, determines that the environmental monitoring provided for under this section is unnecessary, because of substantially similar environmental monitoring by Permit Holder or another entity, the Town may suspend or discontinue further environmental monitoring under this section. If the Town suspends or discontinues further environmental monitoring, Permit Holder shall not be responsible for making payments to the Town to cover the costs of monitoring during any periods when monitoring has been suspended or discontinued, and Permit Holder shall be entitled to a refund or amounts pre-paid for periods when monitoring has been suspended or discontinued.
- 10.3. Inspection and Right of Entry. Permit Holder shall, upon request by the Town, provide the Town's officers, agents, employees and contractors with reasonable access to the Property upon twenty-four (24) hours notice for purposes of determining or enforcing compliance with this Permit or as otherwise provided by law or this Permit. In the event of Permit Holder's failure or refusal to permit access to the Property, the Town may obtain an inspection warrant, injunction or other relief from a court to enforce its right of access.
- 10.4. Notice of Violation. In the event that Permit Holder violates the terms or conditions of this Permit, the Town shall provide a notice of violation and the parties shall hold an initial meeting within ten (10) days following receipt of

notice of such violation for purposes of attempting to resolve the violation unless the Town determines that threats to health or safety require a shorter notice period. If the parties cannot so resolve the matter the Town may elect to enforce the remedies provided for herein.

- 10.5. Disputes Concerning Permit. Any dispute concerning the terms or conditions of this Permit, other than a violation under Section 10.3, shall be resolved as follows: The party which asserts a dispute shall first give notice thereof to the other party and specify the nature of the dispute and shall meet with such other party, within thirty (30) days of the event giving rise to the dispute. Such notice shall set forth all reasons supporting the basis of the dispute. Within thirty (30) days following the date of the notice, a meeting between the Parties shall be held to attempt in good faith to negotiate a resolution of the dispute or controversy.
- 10.6. Remedies
 - 10.6.1 Corrective Orders. The Town may issue a notice of violation and order that specifies the action to be taken to remedy a violation and the time period for curing the violation.
 - 10.6.2 Remediation and Reimbursement. In the event Permit Holder fails to comply with the terms and conditions of this Permit, the Town may, but shall not be required to, take such corrective actions as it deems necessary to comply with such terms and conditions at Permit Holder's expense. Before taking any corrective actions, the Town shall give Permit Holder at least thirty (30) days written notice unless the Town determines that threats to health or safety require a shorter notice period. Permit Holder shall reimburse the Town for all reasonable, documented expenses paid by the Town for materials, contractors, engineers, attorneys and other consultants in connection with taking corrective actions within thirty (30) days of billing therefor. This Permit does not afford to the Town the right to perform corrective actions with respect to compliance matters that are under the jurisdiction of any other governmental authority.
 - 10.6.3 Legal Action. The Town retains the right to commence legal action to enforce the terms and conditions of this Permit and seek remedies which may include: termination or revocation of the Permit for a violation, penalties and/or damages in an amount determined by the court, and/or injunctive relief.
- 10.7. Preservation of Remedies. The remedies provided herein shall not be exclusive of other remedies. A failure by the Town to take action on any past violation(s) shall not constitute a waiver of the Town's right to take action on any subsequent violation(s).
- 10.8. Nothing in this Permit shall restrict any private right of action otherwise available to any person under applicable law to redress any injury, loss or damage sustained by such person as a result of Permit Holder's operations on the Property.

11. Miscellaneous Provisions

- 11.1. No waiver of any provision of this Permit shall be deemed or constitute a waiver of any other provision, nor will it be deemed or constitute a continuing waiver unless expressly provided for by a written amendment to this Permit signed by both the Town and Permit Holder, nor shall the waiver of any violation under this Permit be deemed a waiver of any subsequent violation or violations of the same type. The Town's failure to exercise any right or otherwise enforce any terms of this Permit shall not constitute approval of any violation or wrongful act by Permit Holder.
- 11.2. Any notice required or permitted by this Permit shall be deemed effective when personally delivered in writing, or three (3) days after notice is deposited with the U.S. Postal Service, postage prepaid, and addressed as follows:

If to Permit Holder: Chippewa Sand Company, LLC
Eric Strang
105 N Hwy Q
New Auburn, WI 54757

If to Town: Town Clerk, Town of Cooks Valley
Victoria Trinko
15784 40th Street
Bloomer, WI 54724

Any party may change the address to which notices must be sent by giving notices as provided herein.

- 11.3. Permit Holder may assign or transfer its rights and obligations under this Permit to any entity with the prior written consent of the Town which shall not unreasonably be withheld, provided that the Property shall continue to be used for nonmetallic mining activities, the assignee assumes in writing the obligations of Permit Holder pursuant to this Permit, and provides a copy of such assumption to the Town prior to the transfer, and the assignee demonstrates that it has the financial wherewithal to comply with the terms and conditions of this Permit.
- 11.4. This Permit shall be governed by, construed, and enforced in accordance with the laws of the State of Wisconsin. All legal disputes arising under this Permit shall be venued in the Circuit Court for Chippewa County, Wisconsin.
- 11.5. Severability. If any of the terms and conditions of this Permit are declared void or unenforceable, such terms and conditions shall be deemed severed from this Permit and this Permit shall otherwise remain in full force and effect; provided that this Permit shall retroactively be deemed reformed to the extent reasonably possible in such a manner so that the reformed Permit provides essentially the same rights and benefits as if such severance and reformation were not required.

11.6 Right to Challenge Permit. By signing this Permit, which the Town has demanded, Permit Holder is not waiving any argument, claim, or cause of action that the Permit or any particular provision of the Permit is invalid, unenforceable or outside the authority of the Town to impose. The Town expressly acknowledges and agrees that the Permit holder has the right to challenge all or any portion of this Permit. In the event Permit holder challenges one or more sections of the Permit, all non-challenged sections shall remain in full force and effect.

11.7 Right to Require New or Modified Permit for Expansion of Mining Operations. The Town reserves the right to require Permit Holder to apply for a new or modified Permit if it proposes to expand its mining operations to encompass land that is not currently subject to Permit Holder's Reclamation Permit. In consideration of such a request by Permit Holder, the Town reserves the right to deny a new or modified Permit for the expansion of Permit Holder's mining operations if it finds that such expansion is inconsistent with the protection of the public health, safety and general welfare of Town residents and property owners. In addition, the Town expressly reserves the right to impose additional restrictions on any proposed expansion of Permit Holder's mining operations, including but not limited to restrictions to ensure protection of any adversely affected property or property values within one-half (1/2) mile of Permit Holder's expanded mining operations.

SIGNATURE PAGE

PERMIT ISSUED TO AND RECEIPT ACKNOWLEDGED BY:

CHIPPEWA SAND COMPANY, LLC

By: _____
Eric Strang
105 N Hwy Q
New Auburn, WI 54757

Date: _____

TOWN OF COOKS VALLEY:

Approved this ___ day of _____, 2013.

TOWN OF COOKS VALLEY
Chippewa County, Wisconsin

SIGNATURES OF TOWN BOARD MEMBERS:

CHAIRMAN: _____

SUPERVISOR: _____

SUPERVISOR: _____

ATTEST:

TOWN CLERK: _____

EXHIBIT A

PROPERTY DESCRIPTION

(1) Jeffery O. Buchner and J & L Mining, LLC Parcel Nos. 23010-0921-05010000, 23010-0922-05010000, 23010-0923-00000000, 23010-0924-00000000, 23010-0932-00000000 and 23010-0933-00020000.

(2) Robinson Panosian Mining, LLC Parcel Nos. 23010-0912-00000000, 23010-0913-00000000, 23010-0931-00000000, and 23010-0942-00000000.

EXHIBIT B
NONMETALLIC MINING ORDINANCE