



Ohio Department of Natural Resources

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April 19, 2017

Mad River Township
260 East Main Street
P.O. Box 34
Enon, Ohio 45323

Dear Mad River Township Trustees,

Please accept this letter as a formal response to your letter received by the Division of Mineral Resources Management (Division) via email on April 4, 2017. Your letter references concerns the trustees have regarding an Amendment Application request (A-340-1) for permit IM-340 to amend the existing permit and consolidate already permitted ground on Permit IM-375 onto existing Permit IM-340 and creating one permit (IM-340), and the Modification Application request (IMM-340-4) for permit IM-340 to increase the mining depth and modify the existing water drawdown plan. With exception to the two recent application requests just mentioned, Enon Sand and Gravel (Operator) currently holds approved and issued permits IM-340 and IM-375 to mine sand/gravel and limestone. However, it is the responsibility of the Operator to obtain approvals from all other federal, state, and/or local regulatory authorities having jurisdiction over activity that does not fall within the scope of Ohio Revised Code (ORC) Chapter 1514, which defines the role of the Division in regulating Surface Industrial Mineral Mining in Ohio. The following is a list of Division responses to trustee's concerns regarding the amendment request and modification request as described above:

1. ORC 1514.023 states that...Nothing in this chapter or rules adopted under it shall be construed to prevent any county, township, or municipal corporation from enacting, adopting, or enforcing zoning resolutions or ordinances. However, the chief of the division of mineral resources management shall not enforce such zoning resolutions or ordinances.
2. The Division will be accepting written comments including but not limited to specific details to the existing water drawdown plan to be taken into consideration during the review process until 4/21/2017. The Division would encourage you or Mr. Huntsman to submit comments to the Division which will be shared with our hydrologists.
3. ORC 1514.024 states that...A local authority may enter into an agreement with the operator of a surface or in-stream mining operation or of a proposed surface or in-stream mining operation for the improvement of roads under the jurisdiction of that local authority that may be affected by the operation or for other improvements within the jurisdiction of that local authority.

However, nothing in this section requires the surface or in-stream mining operator to enter into such agreement.

4. The Ohio Environmental Protection Agency (OEPA) has authority over air pollution control and you are encouraged to advance your issues with them.

5. The OEPA has authority over all point source discharges from mining operations. You are encouraged to discuss your concerns of potential flooding with them and the local floodplain administrator.

6. As stated above, the OEPA has authority over all point source discharges from mining operations.

7. ORC 1514 does not require the Operator to perform pre-blast surveys at nearby homes and/or other structures that may be at risk for potential damages related to blasting conducted on the permit(s). However, the Operator has stated that pre-blast surveys will be offered to nearby residents on behalf of the mining company. Residents may contact the Operator for details. The Division will monitor blasting conducted on the permit(s) for compliance with ORC 1514. Any person who feels damage has occurred to their property as a result of blasting conducted on the permit(s) should first contact the Operator for an investigation. The Division may also conduct its own investigation afterwards to determine if damage has occurred as a result of blasting conducted on the permit(s). The Operator is responsible for the repair all property damages related to blasting conducted on the permit(s).

8. The Division is currently reviewing the proposed modifications to the existing water drawdown plan for compliance with ORC 1514. Letters received by the Division from the OEPA on 12/1/2016 in regard to A-340-1 and on 3/20/2017 in regard to IMM-340-4 are being taken into consideration during the review period relative to what concerns may fall within the scope of ORC 1514. During the mining process, any person who feels a water supply for domestic, agricultural, industrial, or other legitimate use from groundwater has been impacted as a result of pumping groundwater to facilitate mining operations on the permit(s), should first contact the Operator for an investigation. The Operator is required to provide a temporary water source within 72 hours of receiving a complaint. The Division may also conduct its own investigation afterwards to determine if impacts have occurred as a result of pumping groundwater to facilitate mining operation on the permit(s). If it has been determined that impacts to a water supply have occurred, the Operator is required to provide a permanent water supply replacement within 28 days after receipt of the complaint. Both the temporary and permanent water sources provided by the mining company must be comparable in quality and quantity.

9. ORC 1514 does not give the Division authority to assume jurisdiction over matters of property values, property taxes, and/or insurance premiums under any circumstance.

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10. ORC 1514 does not give the Division authority to prevent the adoption of or enforce any adopted "Land Use Plan" proposed or set in place by the Mad River Township.

All surface mine applications, amendments and modifications are reviewed and issued with the condition that the applicant meets the requirements of Ohio's surface mining laws found in Chapter 1514 of the Ohio Revised Code and complies with the approved mining and reclamation plan. The law mandates that the Division issue a permit when the application meets the requirements of Ohio's surface mining laws. Issuance of a permit by the Division does not, however, relieve the operator of any obligation to meet other federal, state, and local requirements.

So that you may stay informed, any decisions made in regard to the above mentioned permit modification request will be immediately communicated to the Mad River Township Trustees and Clark County Commissioners by our Division.

If you have any further questions, please feel free to contact me in our New Philadelphia field office at 330-339-2207.

Sincerely,



Tyson Lamielle
Field Supervisor

cc: Lanny Erdos, Chief-ODNR, Division of Mineral Resources Management
Dave Crow, Deputy Chief-ODNR, Division of Mineral Resources Management
Mike Mitchell, Inspector-ODNR, Division of Mineral Resources Management
Karl Hildebrand, ES 1- ODNR, Division of Mineral Resources Management