

Councilmember Dehen introduced the following resolution and moved for its adoption:

**RESOLUTION #10-06-120**

**RESOLUTION APPROVING THE ISSUANCE OF AN INTERIM USE PERMIT FOR GRADING AND MINING PURPOSES BASED ON FINDINGS OF FACT #0870 AND DECLARING TERMS OF SAME.**

**WHEREAS**, the Ramsey City Council adopted Resolution No. 10-06-119 adopting Findings of Fact #0870 for this use and herein approves the Interim Use Permit subject to the following conditions.

**NOW THEREFORE BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF RAMSEY, ANOKA COUNTY, STATE OF MINNESOTA, as follows:**

On June 8, 2010, an Interim Use Permit ("Permit") was issued by the City of Ramsey ("City") to BNSF Railway Company ("Permittee") for grading and mining operations on the property generally known as 7205 Highway 10 NW and a portion of the adjacent railroad right-of-way and legally described as follows:

That part of Lot 7 Auditors Subdivision No. 34 described as follows: Commencing at southeast corner of said lot, thence north 0 degrees, 3 minutes 28 seconds east along east line of said lot 367.87 feet to point of beginning of a line aka Line "A", thence southwesterly to a point on southwesterly line of said lot 111.9 feet northwesterly, as measured along southwesterly line of said lot, from point of curvature and said Line "A" there terminating, thence northwesterly along said southwesterly line 658.1 feet, thence north parallel with east line of said lot to intersect with northeasterly line of said lot, thence southeasterly along said northeasterly line 350 feet, thence south parallel with east line of said lot to intersect with said southwesterly line, thence southeasterly along said southwesterly line 180 feet to point of beginning, thence north parallel with said east line to intersect with said northeasterly line, thence southeasterly along said northeasterly line 107.14 feet, thence south parallel with said east line 177.43 feet, thence east parallel with south line of Section 28, Township 32, Range 25 to intersect with said line "A", thence southwesterly along said line "A" to said southwesterly line, thence northwesterly along said southwesterly line to point of beginning, except road subject to easement of record, Anoka County, Minnesota.

and

That part of Lot 7, Auditor's Subdivision No. 34 described as follows: Beginning at intersection of northerly right of way line of Trunk Highway No. 10 and east line of Section 28, Township 32, Range 25 also being southeast corner of said Lot 7, thence northerly along said east line 367.87 feet thence southwesterly to a point on said northerly right of way line 111.9 feet northwesterly, as measured along said right of way line, from point of beginning, thence southeasterly along said right of way line to

point of beginning, together with that part of said Lot 7 described as follows: beginning at intersection of said northerly right of way line with said east line thence northwesterly along said right of way line 36.30 feet, thence north parallel with said east line 203.46 feet to point of beginning, thence west parallel with south line of said section 85 feet, thence north parallel with said east line to northerly line of said lot, said northerly line also being southerly right of way line of Burlington Northern Rail Road, thence east along said southerly right of way line to a point on a line drawn parallel west and 33 feet west of said east line, thence south along said parallel line to point of beginning, except road subject to easement of record, Anoka County, Minnesota

and

Portions of the operating property of the Burlington Northern Rail Road St. Paul to Staples line located in Ramsey SD 11.

(the "Subject Property")

This Permit is issued pursuant to Section 117-52 (Interim Use Permits) and 117-359 (Grading, Mining and Filling Permits) of the Ramsey City Code. The conditions of this Permit are as follows:

1. This Permit shall allow the Permittee to excavate and export approximately 5,700 cubic yards of arsenic-impacted earth material from the Subject Property.
2. This Permit shall commence on the date of City Council approval and shall expire on August 1, 2011.
3. That in addition to this Permit, the Permittee shall be responsible for obtaining and complying with any other permits required from Anoka County, Minnesota Pollution Control Agency, Metropolitan Council Environmental Services and/or any other applicable agency.
4. The Permittee shall be responsible for removing any spilled material from the public roads immediately; roads shall be swept daily or as directed by the City Engineer. Must have a sweeper on site or have one available within three (3) hours. Failure to do so shall be cause for the City Engineer to order the necessary work to be done and billed to the Permittee. The City may require an escrow to ensure the work is completed.
5. All excavation and mitigation operations shall be conducted in accordance with Figure U2, dated March 23, 2010 and submitted by AECOM on behalf of the Permittee, incorporated herein as Exhibit 1.
6. All equipment used for grading and hauling operations shall be maintained and operated in such a manner to minimize noise, dust, and vibrations adversely affecting surrounding

properties. All equipment shall be kept in good repair. No maintenance or repair is allowed on City owned property.

7. That the project area shall be properly safeguarded to prevent the general public from depositing garbage or other refuse on the work site.
8. That safety fencing at least four (4) feet high shall be erected and maintained around the project area to prevent the general public from entering the excavation area(s).
9. The Permittee shall work with the City to develop a notification and information strategy including appropriate on-site signage and providing the City with background information about arsenic and the potential health hazards to assist with addressing possible concerns of the general public.
10. That all water management activities associated with the grading and mining activities shall be in accordance with the modified water management plan to support response actions at the BNSF Ramsey Boulevard site (rev. March 18, 2010), MPCA VIC ID: VP8480.
11. The Permittee shall coordinate all dewatering activities with the City to ensure the dewatering does not interfere with City projects.
12. The Permittee shall be financially responsible for all charges incurred as a result of discharges to the City's sanitary sewer system.
13. The Permittee shall monitor the flow entering the sanitary sewer system to prevent overflow of the system.
14. That the Permittee shall be required to test any water prior to discharging to the Permittee's right of way to ensure that the water is clean and does not exceed the United States Environmental Protection Agency's Maximum Contaminant Level for arsenic and copies of said testing reports shall be submitted to the City.
15. The Permittee shall haul the arsenic-impacted earth material from the Subject Property to the Veolia Non-Hazardous Subtitle D Landfill near Buffalo, Minnesota and follow the haul route established in Exhibit 2, herein incorporated. Anoka County and MnDOT approval is also required for the designated haul route.
16. The Permittee shall monitor the dust/particulates regularly and provide monitoring data to the City Engineer as requested.
17. The Permittee shall water all stockpiled materials as needed to control dust and at the end of each day.

18. The Permittee shall securely cover all exposed arsenic impacted soils with plastic sheeting with a thickness of at least six (6) millimeters.
19. The Permittee shall submit a traffic control plan for review by the City, Anoka County and MnDOT.
20. The maximum noise level at the perimeter of the work site shall be within the limits set by the Minnesota Pollution Control Agency and the Environmental Protection Agency of the United States.
21. All operations shall comply with all applicable Minnesota Pollution Control Agency regulations and Federal and Environmental Protection Agency regulations for the protection of water quality.
22. That the Permittee shall be responsible for restoring all impacted areas in accordance with the April 15, 2010 notice from AECOM to the City herein incorporated as Exhibit 3.
23. That this Permit shall not be considered modified, altered, changed or amended in any respect, unless in writing and signed by the City and the Permittee.
24. That the City shall have the right to inspect the premises for compliance and safety purposes at any time, upon reasonable request.
25. That the terms of this Permit shall be binding upon its successors and assigns.
26. In the event the Permittee, or its successors, or assigns, violates the terms of this Permit, said violation shall be grounds for suspension or revocation pursuant to Section 117-52(d) of the Ramsey City Code.
27. In the event any part of this Permit is declared void or unenforceable by a court or competent jurisdiction, the other provisions shall not be affected but shall remain in full force and effect.
28. That all costs incurred by the City in administering and enforcing this Permit shall be the responsibility of the Permittee.
29. That the Permittee shall clear trees within the BNSF ROW to enhance visibility and improve the vision triangles as delineated by the City Engineer.
30. That the Permittee shall supply the City with a copy of the final report from the Minnesota Pollution Control Agency identifying when all required remediation work was completed and accepted by the Minnesota Pollution Control Agency.

The motion for the adoption of the foregoing resolution was duly seconded by Councilmember Jeffrey, and upon vote being taken thereon, the following voted in favor thereof:

- Mayor Ramsey
- Councilmember Dehen
- Councilmember Jeffrey
- Councilmember Look
- Councilmember McGlone
- Councilmember Wise

and the following voted against the same:

None

and the following abstained:

None

and the following were absent:

Councilmember Elvig

whereupon said resolution was declared duly passed and adopted by the Ramsey City Council this the 8<sup>th</sup> day of June, 2010.

BNSF Railway Company hereby acknowledges receipt of this Permit and that they have reviewed the conditions of this Permit and have agreed that they will comply with the terms of this permit.

By: Michael W Wood

Its: Asst. Mgr. Environmental

STATE OF MINNESOTA )  
                                  Hennepin )ss.  
COUNTY OF ~~Wabasha~~ )

On this 16 day of May, 2011, before me, a Notary Public, personally appeared Michael W Wood, the Asst. Mgr. Environmental of BNSF Railway Company, a Delaware Corporation under the laws of Minnesota, on behalf of the Corporation, to me known to be the person described in and who executed the foregoing instrument and acknowledged that they executed the same as their free act and deed.

Michael A. Horton  
Notary Public



