

# CITY OF SCANDIA

## SCANDIA CITY COUNCIL

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In Re: The Application of Tiller Corporation,  
for a Conditional Use Permit to Conduct a  
Gravel Mining and Processing Operation  
in the City of Scandia, Minnesota.

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### NOTICE OF INTERVENTION

TO: City of Scandia City Council, c/o Anne Hurlburt, City Administrator, 14727 - 209th  
Street North, Scandia, MN 55073.

PLEASE TAKE NOTICE that, pursuant to the Minnesota Environmental Rights Act (Minnesota Statute 116B.09, Subdivision 1), the undersigned intervenes in the above-entitled proceedings before the City of Scandia City Council and other applicable commissions and committees.

### BACKGROUND

1. Tiller Corporation (hereinafter the “Developer”) has filed an application with the City of Scandia for a conditional use permit to conduct a gravel mining and processing operation on property located in the City of Scandia, Washington County, Minnesota.

2. On March 3, 2009, the City of Scandia City Council made a positive declaration on the need for an Environmental Impact Statement (EIS) to examine the environmental and other impacts of the proposed mine.

3. Therefore, a “proceeding” has been commenced pursuant to Minnesota Statute 116B.09, Subdivision 1.

4. Intervenor is Take Action – Conserve Our Scandia (hereinafter “Intervenor”), a Minnesota not-for-profit corporation, which was incorporated, in part, to promote the sustainable development of the Scandia, Minnesota area, while conserving its water, native animal and plant communities, and other natural, archaeological, and historical resources.

5. Intervenor’s registered office is located in the City of Scandia, Minnesota. Most of Intervenor’s members reside within the State of Minnesota. Kristin E. Tuenge, President, lives in the City of Scandia.

6. Intervenor asserts its legal right to be a party to this proceeding pursuant to the Minnesota Environmental Rights Act (Minn. Stat. 116B.09, Subd. 1), which states in part,

“Except as otherwise provided in section 116B.10, **in any administrative, licensing, or other similar proceeding** . . . , **any** natural person residing within the state . . . or any . . . corporation, association, organization, or **other legal entity**

**having ... members ... residing in this state shall be permitted to intervene as a party** upon the filing of a verified pleading asserting that the proceeding ... involves conduct that has caused or is likely to cause pollution, impairment, or destruction of the air, water, land or other natural resources located within the state.” (Emphasis added.)

6. The Minnesota Environmental Rights Act (Minn. Stat. 116B.02, Subd. 4) states, “Natural resources shall include, but not be limited to, all mineral, animal, botanical, air, water, land, timber, soil, quietude, recreational and historical resources. Scenic and esthetic resources shall also be considered natural resources when owned by any governmental unit or agency.”

Consequently, the scenic and esthetic resources of the St. Croix National Scenic Riverway are included as natural resources under this statute.

**ALLEGATIONS OF FACT**

This Notice of Intervention is based on the following:

1. Upon information and belief, as explained below, the Developer’s conditional use permit application, if granted, “... is likely to cause pollution, impairment, or destruction of the ... air, water, land and other natural resources located within the state.”

2. The City of Scandia City Council’s Final EIS Scoping Decision, adopted on April 21, 2009 as Resolution No. 04-21-09-02, is incorporated by reference as though fully set forth. This document alone provides an ample basis for the allegation that the proposed project is likely to cause pollution, impairment, or destruction of natural resources.

3. Intervenor will submit additional facts in support of the Notice of Intervention during the various hearings in this proceeding.

STATE OF MINNESOTA        )  
  )ss.  
COUNTY OF WASHINGTON)

Kristin E. Tuenge, being first duly sworn on oath, states that she is the President of Take Action – Conserve Our Scandia, Inc., the Intervenor above-named, that she has read the foregoing Notice of Intervention, and that the same is true of her own knowledge, except as to those things stated on information and belief and as to such she verily believes it to be true.

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Kristin E. Tuenge, President  
Take Action – Conserve Our Scandia, Inc  
20595 Quinnell Avenue North  
Scandia, MN 55073

Subscribed and sworn to before me  
this \_\_\_\_ day of July, 2009.

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Notary Public

MINNESOTA GOVERNMENT DATA PRACTICES ACT REQUEST

This Notice is also deemed a request by the Intervenor, pursuant to the Minnesota Government Data Practices Act (Minn. Stat. 13.01 et seq.), that Intervenor be provided a copy of all data and information pertaining to the Developer's pending conditional use permit application, environmental review, and any previous permit applications on the subject property. This request includes, but is not limited to application(s), staff reports, correspondence, studies, memoranda, recommendations, minutes of meetings, resolutions, previous variances, approvals, or denials on the subject property, except what is already posted on the City of Scandia's website

This request applies to all public data, whether in written or electronic form. [Please be advised that Minn. Stat. 13.02, Subd. 7 defines "government data" as "... all data collected, created, received, maintained or disseminated ... regardless of its physical form, storage media or conditions of use."]

This request is deemed continuing. I would appreciate your courtesy in sending me a copy of all subsequent data at the time the data is generated or received. [Please be advised that standing requests for government data must be honored. See Minnesota Department of Administration Advisory Opinion: 04-007 (February 27, 2004).]

Please advise me in advance if the estimated bill is over \$50.00. [Please note that Minn. Stat. 13.03, Subdivision 3(c) states in part, "... if 100 or fewer pages of black and white, letter or legal size paper copies are requested, actual costs shall not be used, and instead, the responsible authority may charge no more than 25 cents for each page copied."]

Please be advised that, pursuant to Minn. Stat. 13.05, Subd. 12, you cannot require a person to "... state a reason for, or justify a request to obtain this data."

Please note that Minn. Stat. 13.01, Subd. 3, states in part, "This chapter ... establishes a **presumption** that government data **are public** and are accessible by the public ...". In the unlikely event that you deny this request, please be advised that, pursuant to Minn. Stat. 13.03, Subd. 3(f), you must "... certify in writing that the request had been denied and cite the specific statutory section, temporary classification, or specific provision of federal law upon which the denial is based."

Please call me when these documents are available for pick up and I will have a representative pay your office at that time.

July \_\_\_\_, 2009

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Kristin E. Tuenge, President  
Take Action – Conserve Our Scandia, Inc.  
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Scandia, Minnesota 55073  
(651) 433-3763