

**Environment and Natural Resources Trust Fund
2014 Request for Proposals (RFP)**

Project Title:

ENRTF ID: 175-F

Minnesota Farmers' and Landowners' Guide to Frac Sand Mining

Category: F. Methods to Protect, Restore, and Enhance Land, Water, and Habitat

Total Project Budget: \$ 142,230

Proposed Project Time Period for the Funding Requested: 2 Years, July 2014 - June 2016

Summary:

Farmers' Legal Action Group (FLAG) requests \$142,230 from LCCMR to protect Minnesota's land, water, and habitat through production of "Minnesota Farmers' and Landowners' Guide to Frac Sand Mining".

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Sponsoring Organization: Farmers' Legal Action Group

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Location

Region: Central, Metro, Southeast

County Name: Anoka, Blue Earth, Brown, Carver, Chisago, Dakota, Dodge, Faribault, Fillmore, Freeborn, Goodhue, Hennepin, Houston, Isanti, Kanabec, Le Sueur, Martin, McLeod, Mower, Nicollet, Olmsted, Pine, Ramsey, Rice, Scott, Sherburne, Sibley, Steele, Wabasha, Waseca, Washington, Watonwan, Winona, Wright

City / Township:

_____ Funding Priorities	_____ Multiple Benefits	_____ Outcomes	_____ Knowledge Base
_____ Extent of Impact	_____ Innovation	_____ Scientific/Tech Basis	_____ Urgency
_____ Capacity Readiness	_____ Leverage	_____ Employment	_____ TOTAL _____%



Environment and Natural Resources Trust Fund (ENRTF)

2014 Main Proposal

Project Title: "Minnesota Farmers' and Landowners' Guide to Frac Sand Mining"

PROJECT TITLE: Minnesota Farmers' and Landowners' Guide to Frac Sand Mining

I. PROJECT STATEMENT

Minnesota Gov. Mark Dayton predicted this year that the management of frac sand mining will be a "huge" public issue for his state; and he made that prediction before the U.S. Geological Survey more than doubled its estimates of the reserves of North Dakota oil that are accessible only using high grade sands available mostly in Minnesota and Wisconsin. The new American oil boom cannot happen without mining in the Upper Midwest. One of Minnesota's most pressing public issues is how we will manage the demand for this resource.

The impact on land, water, and habitat in Minnesota is potentially considerable. As the Minneapolis Federal Reserve Bank reported last year, "Although silica sand mining is not considered as environmentally harmful as metallic mining, it's an extractive industry that strips away vegetation and topsoil. Storm water runoff from mines can muddy wetland and streams (as occurred in May [2012] when sand-laden water from a frac sand mine near Grantsburg, Wis., leaked into the St. Croix River)." The Minnesota Legislature this year considered – and rejected – an outright moratorium on frac sand mining but enacted requirements for various state agencies to create special rules to address the changing landscape of frac sand mining and provide local governments with model standards and criteria, and allowed local governments to continue moratoriums until March 2015.

The Legislature's deep interest and uncertainty of approach reflects the wider discussion in the state, as communities in Southeastern Minnesota wrestle with the environmental, cultural, and economic implications of frac sand mining with no clear answers. The long-term effects of frac sand mining on farm land are also unknown. The consequences are indeed huge, and the decisions are complex, with regulatory jurisdictions that stretch from townships to counties to the MPCA, DNR, and MDOT. The good news is that Minnesota appears to be fortunate, at this important moment, to have an opportunity for dispassionate, considered reflection on the future of frac sand mining in our state. The most intense pressure to mine is currently in Wisconsin, where the sand is somewhat more accessible, and most of the reserves there are closer to rail transportation. But interest in Minnesota's silica sand reserves is growing, and much of the decision-making will play out at the local level, among township and county boards, rural landowners, and developers. The developers and local governments have access to information, resources, and advice as they move forward; landowners and farmers need information, resources, and advice as well. Farmers' Legal Action Group (FLAG) proposes to seize this opportunity with a request of \$142,230 from the Legislative-Citizens Commission on Minnesota Resources (LCCMR) to support the production of "Minnesota Farmers' and Landowners' Guide to Frac Sand Mining."

The guide will be a practical, timely, and reader-friendly tool in FLAG's long tradition of producing independent, unbiased, and accessible legal educational and training resources. This guide will increase the knowledge and skills of Minnesotans as they consider how to protect, restore, and enhance land, water, and habitat through informed management of the future of frac sand mining in the state. One example of FLAG's guides is our popular 293-page *Farmers' Guide to Wind Energy*, which both farmers and developers rely on. In addition, FLAG last year completed, with funding from the U.S. Department of Agriculture, the *Farmers' Guide to Organic Contracts*, which was focused by this fundamental idea: Good contracts serve all parties.

As Minnesota's Environmental Quality Board reported in March, "The potential economic impacts (of frac sand mining) on the local and state economies have generated great interest. Potential impacts to the landscape, natural resources, and health of residents in the areas of these proposed facilities have generated great concern." Minnesota's landowners and farmers will help shape the future of this mining, and they will need information to make informed decisions about our state's valuable yet finite resource: its rural and farm lands.



II. DESCRIPTION OF PROJECT ACTIVITIES

Activity 1: Minnesota Farmers’ and Landowners’ Guide to Frac Sand Mining **Budget: \$142,230**

Outcome	Completion Date
1. Research and catalog relevant local and state laws and regulations that govern the siting, permitting, operation, and management of frac sand mining in Minnesota, and the experiences of the state’s farmers and other landowners with frac sand mining.	July 1, 2014 – Jan. 31, 2015
2. Create a catalog of the experiences and best practices from local and state regulators, developers, and farmers and other landowners, in Wisconsin, Iowa, and Illinois.	July 1, 2014 – Jan. 31, 2015
3. Consult local and state regulators, and a peer review panel of farmers and other landowners, for their guidance to assure that the publication will be as helpful as possible for the largest numbers of people with a stake in, or who will be affected by, the development of frac sand mining in Minnesota.	Feb. 1, 2015 – Aug. 31, 2015
4. Write and publish (in both paper and electronic form) a legally precise, accessible, and practical resource guide describing Minnesota statutes and regulations and local government ordinances and practices addressing land use, environmental, health, and other regulations and permitting relating to siting, building, operating and managing a frac sand mine in Minnesota.	Sept. 1, 2015 – March. 31, 2016
5. Work through the networks of FLAG, farm organizations, state agencies, and associations of local governments to broadly share information regarding the existence of the new resource guide.	April 1, 2016 – June 30, 2016

III. PROJECT STRATEGY

A. Project Team/Partners

The Project Team will be led by Program Director and Attorney Lynn A. Hayes, the Project Leader (0.40 FTE). The research and drafting team will include attorney Susan Stokes, who is FLAG’s Executive Director but whose duties as Executive Director are not part of the project budget (0.10 FTE); and Senior Staff Attorney Karen Krub (0.15 FTE). The team’s work together will concentrate on research and production of the project’s deliverables, project management, coordination, and evaluation.

B. Timeline Requirements

The project timeline for production of the “Minnesota Farmers’ and Landowners’ Guide to Frac Sand Mining” will be 24 months.

C. Long-Term Strategy and Future Funding Needs

Given the accelerating demand for high quality sand for oil and gas recovery, and the limited number of places in the United States with significant deposits of such sand, it would appear that most of Minnesota’s – and Minnesotans’ – decisions on frac sand mining are ahead of us. Frac sand mining, like other mining in our state, can have a significant potential impact on our state’s natural resources. In the end, the decision on whether to mine, or how to mine frac sand, is an environmental and natural resource management decision. Minnesota’s farmers, other landowners, and local governments would benefit greatly by having access to independent legal and regulatory information that draws from the experiences of farmers and other landowners who already have been involved with frac sand mining. A guide of this sort generally lives on long past its production date. For example, FLAG’s *Farmers’ Guide to Disaster Assistance* (6th edition) and *Farmers’ Guide to Wind Energy*, published in 2008 and 2007 respectively, are downloaded in whole or in part, at no charge, hundreds of times each year.

2014 Detailed Project Budget

Project Title: Minnesota Farmers' and Landowners' Guide to Frac Sand Mining

IV. TOTAL ENRTF REQUEST BUDGET: Two years

BUDGET ITEM	AMOUNT	
Personnel:		
Lynn Hayes, Program Director and Project Manager (0.4 FTE/year) responsible for research and production of the project's deliverables, project management, coordination, and evaluation (\$57,510 salary; \$23,490 benefits).	\$ 81,000	
Susan Stokes, Executive Director and Attorney* (0.1 FTE/year) contributing to research and production of the project's deliverables, and evaluation (\$19,170 salary; \$7,830 benefits).	27,000	
Karen Krub, Senior Staff Attorney (0.15 FTE/year) contributing to research and production of the project's deliverables, and evaluation (\$19,170 salary; \$7,830 benefits).	27,000	
Total Personnel	\$ 135,000	\$ 135,000
Contracts: Compensation and incidental expenses for a panel of farmers and other landowners whose perspectives will help guide the production and evaluation of the project.	\$ 3,000	\$ 3,000
Equipment/Tools/Supplies (projections based on previous experience with similar work):	-	
Project long distance telephone	250	
Computer Research (LexisNexis)	2,500	
Design and publication	1,200	
Total Equipment/Tools/Supplies	\$ 3,950	\$ 3,950
Acquisition: N/A	-	-
Travel: In-state project related travel by car. (500 miles at the federal rate of 56.5 cents/mile)	\$ 280	\$ 280
TOTAL ENVIRONMENT AND NATURAL RESOURCES TRUST FUND \$ REQUEST =	\$ 142,230	\$ 142,230

*Ms. Stokes's contributions to the project will be restricted to substantial legal work, tracked in a detailed timekeeping system, and will not include organizational administration.

V. OTHER FUNDS N/A

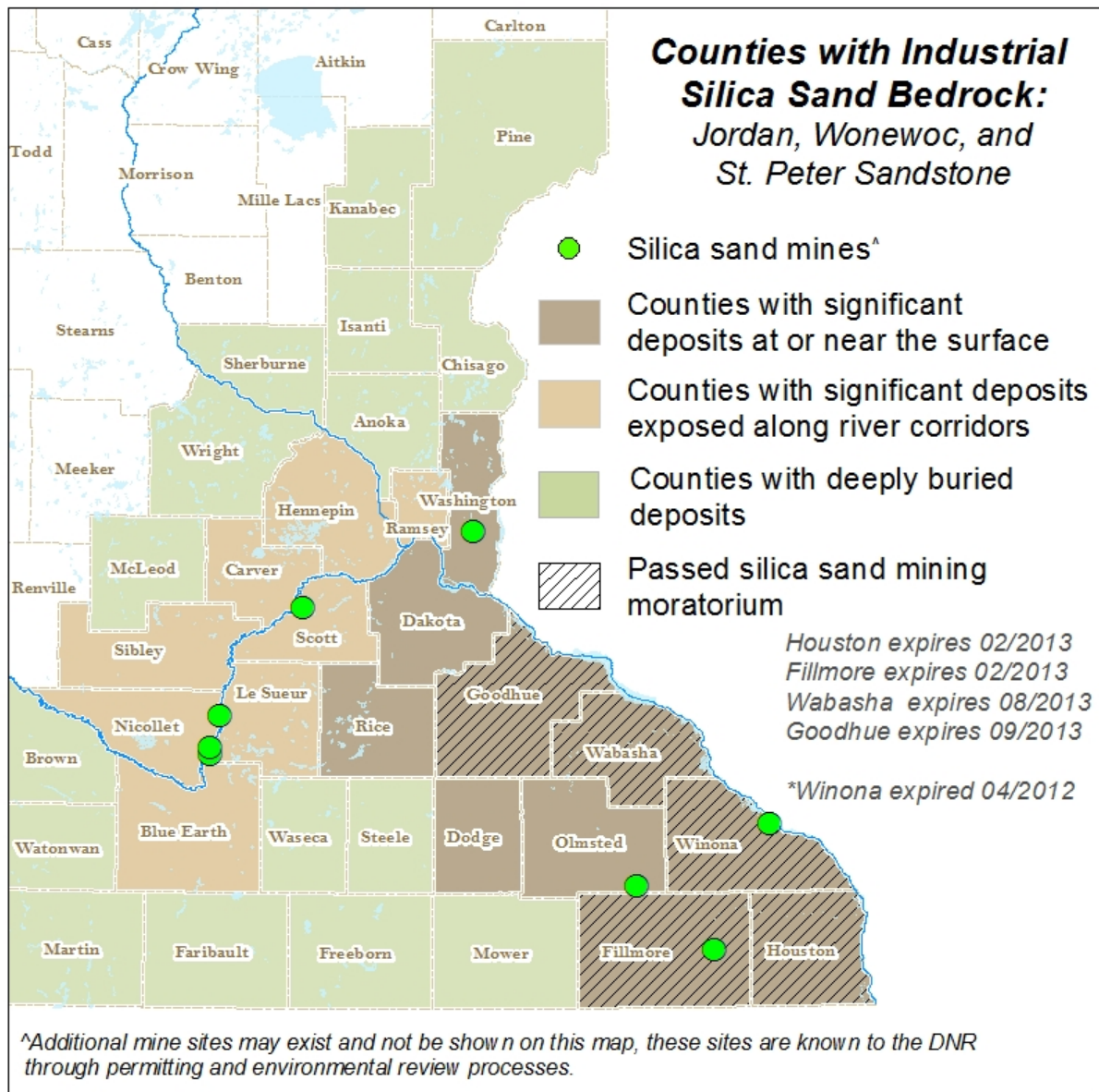


Farmers' Legal Action Group (FLAG)

Project: *Minnesota Farmers' and Landowners' Guide to Frac Sand Mining*

IMPACT MAP

Source: Minnesota Department of Natural Resources (MN DNR)
http://images.dnr.state.mn.us/lands_minerals/mineral_faq/statusmap_iss_b.png





Farmers' Legal Action Group (FLAG)

Project: *Minnesota Farmers' and Landowners' Guide to Frac Sand Mining*

Project Manager Qualifications & Organizational Description

Project Manager: Lynn A. Hayes received a J.D. from the Catholic University of America Columbus School of Law in 1982 and a B.A. in English from Coe College in 1978. Currently, she is Program Director and Senior Staff Attorney at FLAG. She was an attorney at FLAG when it was founded in July 1986 and litigated several class action and major impact lawsuits on behalf of farmers and ranchers. She served as co-counsel in the *Coleman v. Block* litigation against the Secretary of Agriculture on behalf of a nation-wide class of Farm Loan Program borrowers in which the Farmers Home Administration (FmHA) loan servicing programs were at issue. She also served as co-counsel in a Minnesota state-wide class action lawsuit on behalf of Minnesota Farm Loan Program borrowers against the Secretary of Agriculture addressing essentially the same issue as in the *Coleman* lawsuit.

From late 2002 through 2006, she worked as a staff attorney with the Office of the Monitor for the *Pigford v. Johanns* and *Brewington v. Johanns* class action litigation involving African American farmers' claims of discrimination by USDA in the Farm Loan Programs. Since the mid-1980s, Ms. Hayes has led more than 100 educational programs on USDA Farm Loan Programs for farmers and ranchers, farm advocates, and attorneys in 25 states; frequently advised farm organizations on federal legislation and administrative regulations and policy matters pertaining to the USDA Farm Loan Programs; and at the request of congressional office staff, provided technical assistance on USDA Farm Loan Programs issues and testified before congressional committees on agricultural credit matters.

Ms. Hayes has written scores of articles and co-written books addressing the laws controlling agricultural issues, including: *Farmers' Guide to FmHA* (Fourth Edition, March 1990); and *Farmers' Guide to GMOs* (Second Edition, February 2009).

Organization: Farmers' Legal Action Group, Inc. (FLAG), is a 27-year-old Minnesota nonprofit law center dedicated to providing legal services—education, backup support, impact litigation, and administrative and legislative technical assistance—to family farmers and their communities to help keep family farmers on the land. FLAG's work has directly helped tens of thousands of rural and also urban family farmers survive and thrive. FLAG has written, published, and distributed more than 100,000 copies of numerous books, including *Farmers' Guide to Minnesota Lending Law*, *Farmers' Guide to Disaster Assistance*, *Farmers' Guide to GMOs*, *Farmers' Guide to Wind Energy*, *Planting the Seeds for Public Health*, *Farmers' Guide to Organic Contracts*, *Farmers' Guide to Farm Employees*, and *Preserving Minnesota's Agricultural Land: Proposed Policy Solutions*. FLAG is the only family farmer organization of its kind, with approximately one-third of its work based in Minnesota. Our services are provided without charge.