

Frac-sand debate tears SE Minnesota county apart

• Article by: [MATT MCKINNEY](#) , Star Tribune Updated: March 29, 2015 - 11:20 PM
Ethics investigation finds Houston County official threatened opponents.



CALEDONIA, MINN. – A zoning official here wielded his power to retaliate against people who opposed frac sand mining, an independent investigation found, slapping frac opponents with bogus zoning violations, threatening to tear down their house or cabin and, in one case, warning a frac opponent that she should “watch what she says” or risk getting cited. His targets were people who had spoken out at public meetings or sent letters to the Houston County Board to complain about the encroachment of frac-sand mines, an issue that’s torn the county’s social fabric as the local government wrestles with how to manage the emerging and potentially lucrative industry.

The official, Bob Scanlan, was suspended for three days and given mandatory ethics training as a result of the investigation ordered last summer by the County Board of commissioners and conducted by [Minneapolis](#) law firm Lockridge Grindal Nauen.

The findings were made public recently, when the county released a redacted version to the Star Tribune. Today, Scanlan presides as the county zoning and planning director and acts as a key official in the county’s ongoing deliberations over sand mining.

Scanlan has declined to comment to the Star Tribune.

The sand mining debate rose to a fever pitch again this month when the five-member County Board, widely expected to pass the first frac sand ban in the state, split its vote in a surprising deadlock.

The board then did not pass even an ordinance regulating sand mining that three of them supported.

The episode left the county, where a three-year moratorium on silica-sand mining expired this month, with just a 1973 ordinance with few restrictions.

A cafe owner in the county seat here says that she doesn’t dare raise frac-sand issues with her customers for fear of offending someone.

Public meetings regularly boil over into shouting matches. Sheriff’s deputies have twice in recent weeks hauled people out of County Board meetings for heckling. Next week, the board is expected to dole out new rules for public comment meant to tamp down on disruptions.

“It’s really split us down the board pretty bad,” said Commissioner Dana Kjome.

Following the deadlocked vote, three local residents filed complaints against Scanlan alleging ethics and conflict-of-interest violations, and in interviews suggested he was the person influencing the commissioners to vote down a ban.

Commissioner Justin Zmyewski, who opposes frac-sand mining, said Scanlan has influence with several members of the board and friends who are miners.

“There are commissioners who only listen to Bob,” he said. “He’s very much pro mining and biased. And he should recuse himself more than he has been.”

Two of the county’s five sitting commissioners said they still support Scanlan and believe that frac sand opponents are using the investigation to hurt him. Board chairman Steve Schuldt said he believes Scanlan was acting in good faith while dealing with frac sand opponents’ properties.

Commissioner Judy Storlie said she believes Scanlan is a good employee who’s being harassed at his job by people opposed to sand mining.

Investigation ordered

The incident that sparked the Lockridge investigation began when Yucatan Township resident Jackie Baker wrote to the Houston County Board of Commissioners about a sand mine near her property. Rather than responding to her, Scanlan wrote a scathing e-mail to

her boss at St. Mary's University, saying he found it unprofessional for the woman to have sent her complaint using her work e-mail.

Investigators interviewed 26 people and reviewed documents, e-mails, video of board meetings and other files before concluding that Scanlan violated ethics and conflict-of-interest rules, advocated on behalf of a mine and used his position to retaliate against certain residents.

Among the findings:

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- As the mining debate escalated, Scanlan issued violations to opponents that “appear manufactured and lack a sound basis,” the investigators wrote.
- Scanlan intended to cause trouble for Baker at her work. He told Baker's boss that his “view of the integrity of your entire staff is questionable” because Baker had sent her complaint via her work e-mail.
- In one case, Scanlan told a homeowner who had complained of a neighboring mine that Houston County zoning codes required houses to be 1,000 feet from a mine, and that they were 20 feet shy of compliance. The letter said the homeowner had 10 days to bring the house into compliance or they would face “removal of the house to meet setbacks.” The zoning code, however, prohibits mine owners from opening a mine within 1,000 feet of a house, not the other way around. Scanlan's zoning violation was later dropped with no action taken.
- Scanlan came across as an advocate for mining, particularly in an angry letter to the state Environmental Quality Board, and in handling a state Department of Natural Resources matter related to a trout stream near a mine.

“The evidence suggests that Scanlan arguably has allowed himself to be used by [name redacted] to retaliate against residents who oppose his mine,” the investigators wrote.

- Scanlan threatened to tear down structures on Rosemary Iversen's 40-acre parcel in Houston County five days after she complained about a frac-sand mine adjacent to her property. He had cited her for violation of a Houston County zoning ordinance that prohibits modern utilities in a cabin, including electricity. Iversen's cabin was electrified before the ordinance went into effect, however.

In January, more than a year after Scanlan first told her she had permit violations, Iversen got a letter from the county acknowledging that the violations had been dropped.

“Who knows what's going to happen here,” Iversen said. “It just keeps going on and on.”

‘Blown up the neighborhood’

Scanlan continues to play an important role in the county's frac sand debate. Schuldt said he initially thought he might support a ban, but then “talked it over with planning and zoning” staff, including Scanlan, and changed his mind, saying a ban would be difficult to enforce.

Board member Judy Storlie said the investigation “sounds bad,” but believes Scanlan is a good employee who has been harassed at his job by anti-fracking activists. “I don't believe he was using his job as a means of retaliation,” she said. Scanlan is respected by zoning people around the state, she added.

The frac-sand debate has damaged the area's image, said Storlie.

“I'm tired of what it's doing to our county,” she said.

Others agree. Until he got a judge to help him, Bryan VanGorp couldn't walk on some of his property because it would violate a restraining order filed by a neighbor.

The order was ostensibly about VanGorp driving across his neighbor's rural property to check on someone else's cabin, but it came amid frac sand mining argument that found VanGorp, a retired veterinarian, and his neighbor, a Houston County sheriff's deputy, on opposing sides.

Speaking from his back deck one recent afternoon, VanGorp said he worries about what could happen to him if he bumps into his neighbor at the grocery store and unintentionally violates the restraining order.

The frac-sand debate, he said, has "just blown up the neighborhood."

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