

BOARD OF COUNTY COMMISSIONERS OF DOUGLAS COUNTY, KANSAS

ADDRESSING THE COMMISSION: Public comment will be taken for each regular agenda item as each item is discussed. Individuals will be limited to one comment per agenda item.

Individuals are asked to come to the microphone, sign in, and state their name. We ask that you sign in so that we can get the spelling of your name correct in the minutes of the meeting. Speakers should address all comments/questions to the Commission.

WEDNESDAY, MARCH 20, 2019

4:00 p.m. - WORK SESSION

-2020 Budget Preparations (Sarah Plinsky/Jill Jolicoeur)

5:30 p.m. BUSINESS MEETING

-Consider approval of the minutes for March 6 and March 13, 2019.

CONSENT AGENDA

- (1) (a) Consider approval of Commission Orders;
- (b) Consider approval of bids for noxious weed herbicides (Keith Browning);
- (c) Consider approval to waive the formal bidding process and authorize staff to utilize the Houston-Galveston Area Council contract for the purchase of two ambulances from American Emergency Vehicles for a total purchase price of \$579,854. (Shaun Coffey); and
- (d) Accounts payable.

REGULAR AGENDA

- (2) Authorize the Interim County Administrator to enter into lease negotiations for 1006 New Hampshire (Sarah Plinsky)
- (3) Consider approval of an Agritourism Tier 1 application for Winter Schoolhouse (Tonya Voigt)
- (4) Consider approval of a Temporary Business Permit for a temporary asphalt plant for Bettis Asphalt (Tonya Voigt)
- (5) Consider **CUP-18-00570**, an amended Conditional Use Permit to reduce the amount of the performance/reclamation bond required for Big Springs Quarry, located at 2 N 1700 Rd, Lecompton. Submitted by Mid-States Ventures LLC, for Mid-States Ventures LLC, Nancy J Hughes, James R Meek, Thomas R Meek, and Bonnie M Nichols, Trustee, property owners of record. (Mary Miller is the Planner)
- (6) Appointments:
 - Community Corrections Advisory Board (1) positions open (Social Services)
 - Criminal Justice Coordinating Council (1) positions open (Commissioner Appt)
 - JAAA Advisory Council (1) position
 - JAAA Board of Directors (2) positions
 - Heritage Conservation Council: (1) position (Architect)
 - Lawrence-Douglas County Advocacy Council on Aging (10) open positions
- (7) General Public Comment

General Public Comment will be at the end of each meeting with a limit of one comment per person and keep their comments brief. Individuals may not give unused time to other speakers. As a general practice, the Commission will not discuss/debate these items, nor will the Commission make decisions on items presented during this time, rather they will refer the items to staff for follow up, if necessary.
- (8) Committee Reports
- (9) Commissioner and/or Administrator Miscellaneous
- (10) Adjourn

WEDNESDAY, MARCH 27, 2019

4:00 p.m. - WORK SESSION

-Private Road/Cross Access Easement Discussion

5:30 p.m. – MEETING

-Proclamation for National Public Health Week- Dan Partridge

WEDNESDAY, APRIL 3, 2019

-Proclamation for “National Service Recognition Day” (Linda Brandenburger)

WEDNESDAY, OCTOBER 2, 2019- cancelled

***Note:** The Douglas County Commission meets regularly on Wednesdays at 5:30 p.m., and at 4:00 p.m. for Work Sessions as needed. Meetings are held at the Douglas County Courthouse (2nd Floor) at 1100 Massachusetts Street, Lawrence, KS 66044. Specific regular meeting dates that are not listed above have not been cancelled unless specifically noted on this schedule.*

2020 Douglas County Budget Work Session

3/20/2019

Budget Summary

- 2019 Budget, Revenues & Fund Balances
- 2019 Equipment Reserves
- Assessed Value History
- 2019 Assessed Valuation & 2020 Budget Lid Limitations
- Mill Levy History & Value of Mill
- Health Insurance
- 2020 Budget Process
- Budget details for June

2019 Budget

2019 Budget Mill Levy 46.015

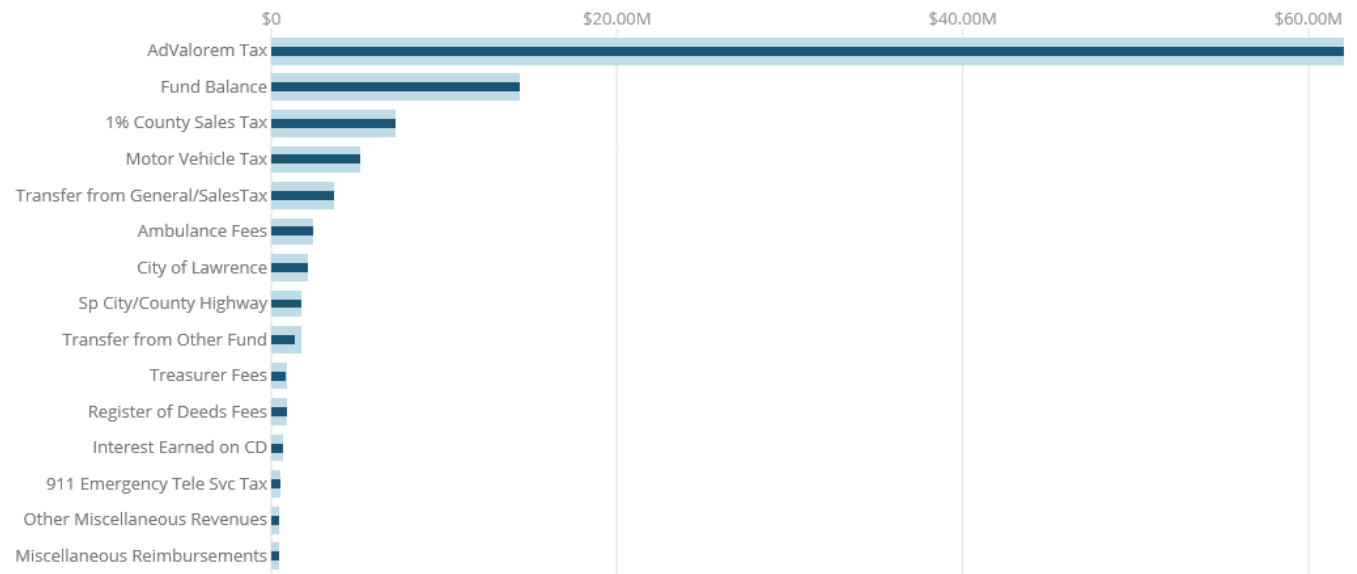
2018 Budget Mill Levy 46.018

Property Tax Revenue \$62.05 million

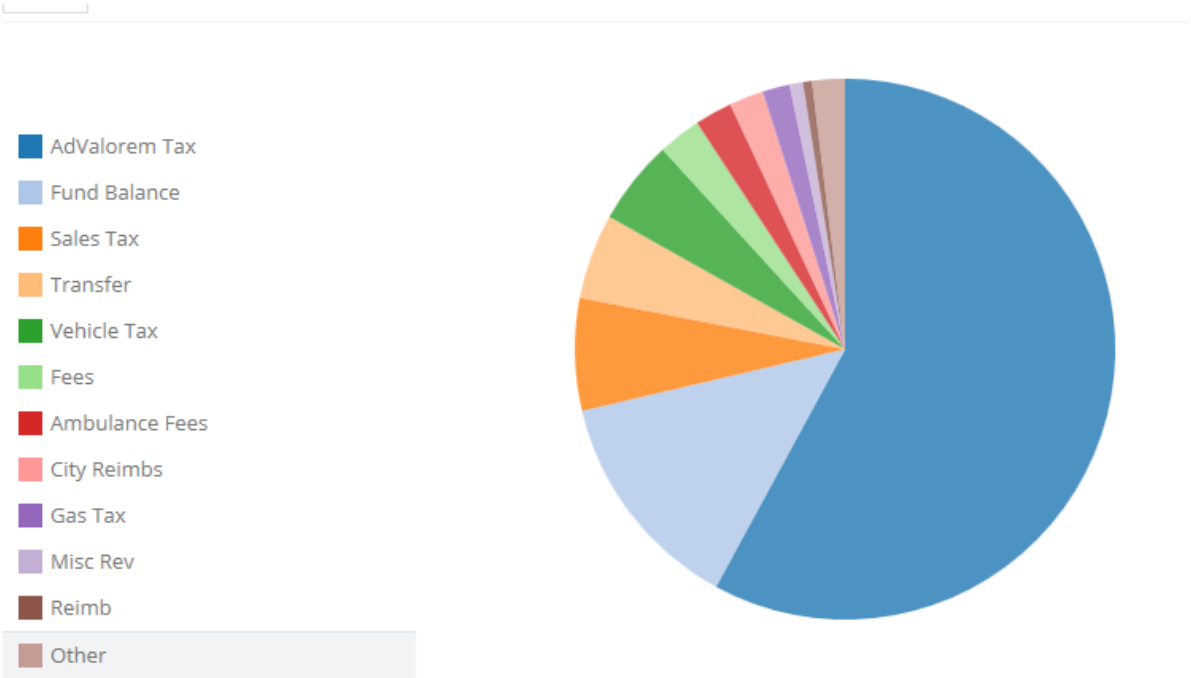
Expenditures (includes transfer of \$14.5 million) \$92.35 million

Projected Ending Fund Balances \$14.35 million

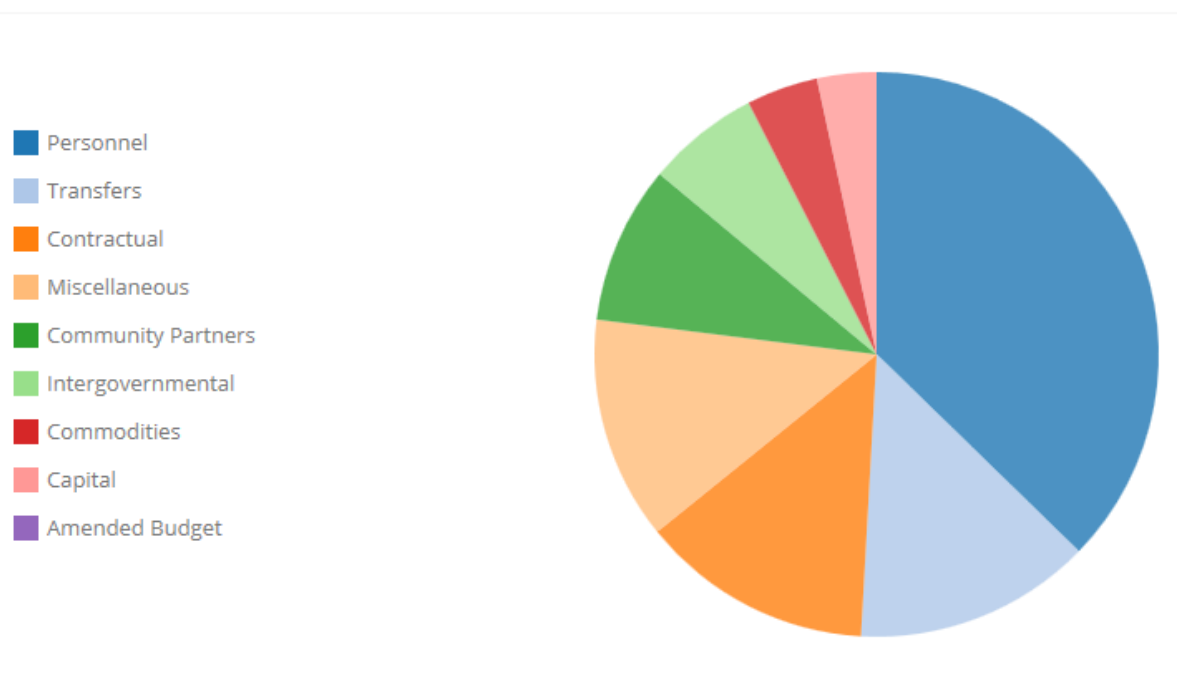
Total Published Budget \$106.72 million



2019 Budgeted Revenues



2019 Budgeted Expenditures



2019 Revenues

- Ad Valorem Tax, Fund Balance & Sales Tax collections make up 78% of Douglas County Revenues
- Sales Tax amount budgeted in 2019 \$7,200,000

Sales Tax History

Year	Sales Tax Actuals	Percentage of change
2015	\$6,519,547	4.75%
2016	\$6,924,980	6.22%
2017	\$7,170,798	3.55%
2018	\$7,292,917	1.00%

- Totals do not include new ¼ cent Sales Tax approved in 2018 for Behavioral Health Initiatives.

2019 Budget Beginning Fund Balance

Fund	Budgeted Fund Balance	Actual Fund Balance	Percentage of Total Fund
General	3,617,945	4,951,934	8.6%
Road & Bridge	1,256,565	1,606,304	22.8%
Employee Benefits	1,647,272	1,735,188	13.8%
Special Liability	70,974	85,747	10.8%
Special Building	930,131	1,400,858	83.9%
Criminal Justice Services	123,077	435,891	12.5%
Ambulance	215,229	378,159	4.6%
Workers Comp	565,966	730,350	62.8%
Bond & Interest	484,488	487,998	61.6%

2019 Equipment Reserves

- In 2018 we transferred \$5.3 million to Equipment Reserves
- 2019 Equipment Reserves Fund Balance is \$9.7 million
- 2019 Budget includes additional transfers of \$2.2 million to Equipment Reserves

2018 Transfers

FUND	DEPARTMENT	DESCRIPTION	Actuals	2018 Budget	2019 Budget
GENERAL FUND	COUNTY CLERK	TRANSFER TO EQUIPMENT RESERVE	200,000	0	0
GENERAL FUND	EMERGENCY MANAGEMENT	TRANSFER TO EQUIPMENT RESERVE	45,000	45,000	45,000
GENERAL FUND	FAIRGROUNDS	TRANSFER TO EQUIPMENT RESERVE	60,000	30,000	60,000
GENERAL FUND	FIRST RESPONDERS RIT	TRANSFER TO EQUIPMENT RESERVE	811	5,000	5,000
GENERAL FUND	FLEET OPERATIONS	TRANSFER TO EQUIPMENT RESERVE	25,000	25,000	25,000
GENERAL FUND	ECO DEV & SHARED COSTS	TRANSFER TO EQUIPMENT RESERVE	105,000	0	0
GENERAL FUND	HERITAGE 2018 BUDGET	TRANSFER TO EQUIPMENT RESERVE	103,437	0	0
GENERAL FUND	IT	TRANSFER TO EQUIPMENT RESERVE	40,000	40,000	50,000
GENERAL FUND	MAINTENANCE	TRANSFER TO EQUIPMENT RESERVE	25,000	25,000	30,000
GENERAL FUND	NOXIOUS WEEDS	TRANSFER TO EQUIPMENT RESERVE	20,000	20,000	45,000
GENERAL FUND	PARKS	TRANSFER TO EQUIPMENT RESERVE	25,000	25,000	0
GENERAL FUND	SHERIFF JAIL	TRANSFER TO EQUIPMENT RESERVE	505,000	505,000	172,000
GENERAL FUND	SHERIFF OPERATIONS	TRANSFER TO EQUIPMENT RESERVE	326,500	326,500	372,500
GENERAL FUND	SHERIFF OPERATIONS	TRANSFER TO EQUIPMENT RESERVE	375,000	0	0
GENERAL FUND	TRANSFERS OUT	TRANSFER TO EQUIPMENT RESERVE	180,000	180,000	0
GENERAL FUND	TRANSFERS OUT	TRANSFER TO EQUIPMENT RESERVE	150,000	0	0
GENERAL FUND	TRANSFERS OUT	TRANSFER TO EQUIPMENT RESERVE	7,154	0	0
GENERAL FUND	TRANSFERS OUT	TRANSFER TO EQUIPMENT RESERVE	56,525	0	0
GENERAL FUND	TRANSFERS OUT	TRANSFER TO BH PROJECTS RESERVE	494,431	0	
GENERAL FUND	TREASURER	TRANSFER TO EQUIPMENT RESERVE	1,000	1,000	1,000
GENERAL FUND	ZONING	TRANSFER TO EQUIPMENT RESERVE	8,000	8,000	6,000
ROAD & BRIDGE FUND	PUBLIC WORKS	TRANSFER TO EQUIPMENT RESERVE	625,000	625,000	625,000
CJS	CJS OPERATIONS	TRANSFER TO EQUIPMENT RESERVE	75,000	75,000	0
MOTOR VEHICLE OPS	TREASURER	TRANSFER TO EQUIPMENT RESERVE	1,000	1,000	1,000

Assessed Value History

- June 1 County Appraiser certifies assessed values to County Clerk
- October values adjustments are finalized and sent to County Clerk for tax roll and used to set mill levies
 - Historically 0.5-1.0% difference in June values

November Assessed Values (used to set mill levies)

Tax Roll Year	Real Estate without TIF districts	% to prior year	Personal Property without penalty value	% to prior year	State Assessed without penalty value	% to prior year	November Total	% to prior year
2014	1,040,410,792	2.41%	26,803,987	-17.67%	110,134,168	2.11%	1,177,348,947	1.81%
2015	1,065,883,031	2.45%	24,014,324	-10.41%	118,750,852	7.82%	1,208,648,207	2.66%
2016	1,108,843,234	4.03%	22,733,260	-5.33%	115,881,446	-2.42%	1,247,457,940	3.21%
2017	1,180,327,526	10.74%	20,564,698	-14.36%	111,491,835	-6.11%	1,312,384,059	8.58%
2018	1,243,561,805	12.15%	20,096,647	-11.60%	118,394,369	2.17%	1,382,052,821	10.79%

Assessed Valuation & Budget Lid Limitations

- 2019 Real Estate Assessed Values \$1.313 billion ¹
 - 2018 Real Estate Assessed Values \$1.243 billion
 - 2019 Increase of 5.7%, approx. \$70 million
 - 2018 had an increase of 5.36%, approx. \$63 million
 - Budget Lid limits Mill Levy increase to:
 - 2020 CPI Rate of Adjustment + New Construction
 - 1.5% of \$1.313 billion + Approx. \$25.287 million new const.
- 1.7916% of value increase equals \$2,093,519 in tax dollars
- Current estimates include \$3,226,540 assessed value with pending exemption applications for 2019

¹ Appraiser's 2/19 estimate, value excludes TIF

Computation to Determine Limit for 2020

Base Levy

1) Total Tax Levy Amount (Dollars) in 2019 (From 2019 Budget - Certificate Page)	63,601,033	
2) Less: Tax Levies on Behalf of Another Political or Governmental Subdivision		
3) Net Tax Levy (Base)		63,601,033

Percentage Adjustments

4) CPI Adjustment - 1.5%		954,015
5) Value of New Improvements (From June 15th County Clerk Valuation Document) (Includes both New Construction and Remodel/Renovations Gains)	25,287,204	
6) 2019 Personal Property Valuation (From June 15th County Clerk Valuation Document) est	19,493,747	
2018 Personal Property Valuation (From June 15th County Clerk Valuation Document)	20,096,647	
Increase in Total Personal Property Valuations (cannot be less than zero)	0	
8) Real Property which has Changed in Use (From June 15th County Clerk Valuation Document)	250,000	
10) Total Assessed Value of Adjustments	25,537,204	
11) Total Assessed Valuation - June 15, 2019 (From June 15th County Clerk Valuation Document) estimated	1,450,888,116	
12) Adjustment Percentage (Line 10 / (Line 11 - Line 10))	1.7916%	
13) Dollar Value of Adjustments (Line 3 Multiplied by Line 12 Percentage)		1,139,504
14) Total Percentage Adjustments		2,093,519

Mill Levy History & Value of Mill

TOTAL MILL LEVY FOR PROPERTY IN THE CITY OF LAWRENCE-TAX UNIT 041				
	2018	2017	2016	2015
STATE	1.500	1.500	1.500	1.500
COUNTY	46.015	46.018	44.092	41.098
CITY LAWRENCE	33.278	33.279	32.018	31.488
<u>USD 497</u>	<u>54.427</u>	<u>55.95</u>	<u>53.36</u>	<u>56.906</u>
TOTAL	135.220	136.747	130.970	130.992

- Value of 1 Mill with current assessed valuation estimates for 2020

\$1,450,888

Health Insurance 2020 Budget

- **Through December of 2018, Total Plan Cost on a PEPM basis was 13% above the Budgeted Accrual (\$1,356 PEPM vs. \$1,198 PEPM).**
- **Through December of 2017, Total Plan Cost on a PEPM basis was 1% above the Budgeted Accrual (\$1,131 PEPM vs. \$1,117 PEPM).**
- **Through December of 2018, there were 20 Claimants with claims over \$50k with a net total of \$2,348,376 in paid claims (after stop loss reimbursements of \$187,117).**
- **Through December of 2017, there were 17 Claimants with claims over \$50k with a net total of \$1,574,141 in pad claims (with no claimants over the stop loss deductible).**

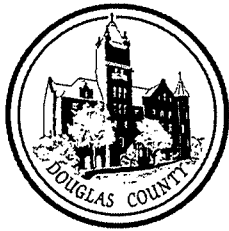
Proposed 2020 Budget Process

- March 21st – Budget Letter delivered to Community Partners & County Department Heads
- April 8th – May 13th Administration Budget meetings with Community Partners & County Department Heads
- June 10th-12th – Recommended Budget to BOCC (tentative date)
- June 24th – BOCC begins 2020 Budget Review
- July 1st –Deadline to determine election for Exceeding Budget Lid
- August 14th – BOCC Public Budget Hearing to Adopt 2020 Budget
- September 15th – Election Day (if exceeding Budget Lid)

Budget Overview for June

Budget Overview

- Revenue Estimates
- CIP details
- Debt
- Fund Balances
- Presentations on Countywide type funds
 - ie WorkComp/Emp Benefits/ Spec Liab/Other fund
- Budget Presentations by Area of Focus
 - 26 internal depts, 33 agencies
 - 7.5 mornings/8 30 minutesessions



DOUGLAS COUNTY PUBLIC WORKS

3755 E. 25th Street
Lawrence, KS 66046
(785) 832-5293 Fax (785) 842-1201
dgcopubw@douglascountyks.org
www.douglascountyks.org

Keith A. Browning, P.E.
Director of Public Works/County Engineer

MEMORANDUM

To : Board of County Commissioners

From : Keith A. Browning, P.E., Director of Public Works/County Engineer *KAB*
Laura Glass, Administrative Services Manager

Date : March 13, 2019

Re : Consent Agenda Approval of Bids for Noxious Weed Herbicides

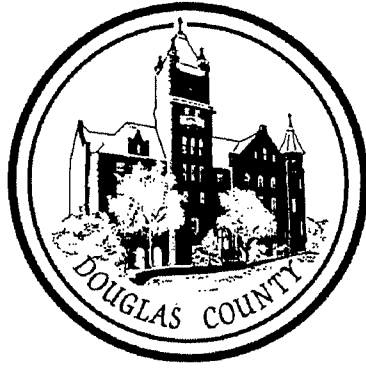
Bids were opened on March 5, 2019 for the supply of herbicides to treat noxious weeds. These herbicides are used to supply private landowners (at 75% of the county's cost plus shipping and handling) and for treating noxious weeds on county owned or maintained land. Bids were received from six suppliers, as shown on the attached bid tabulation.

The recommended bids are as follows:

<u>Herbicide</u>	<u>Quantity</u>	<u>Unit Cost</u>	<u>Total Cost</u>	<u>Vendor</u>
Tordon 22K	384 gal.	\$42.54	\$16,335.36	Van Diest Supply
2,4-D Amine	900 gal.	\$9.43	\$8,487.00	Van Diest Supply
Glyphosate	360 gal.	\$10.76	\$3,873.60	Van Diest Supply
PastureGard HL	576 gal.	\$86.49	\$49,818.24	Van Diest Supply
Escort XP	1408 oz.	\$2.04	\$2,872.32	Van Diest Supply

Parks and Vegetation fund has \$125,160 allocated in the Herbicide line item and an additional \$15,000 for Vegetation Commodities.

Action Required: Consent Agenda acceptance of the low bid from suppliers noted above.



DOUGLAS COUNTY, KANSAS

SPECIFICATIONS AND CONTRACT DOCUMENTS

FOR

HERBICIDES

BID NO. 19-F-0007

DOUGLAS COUNTY, KANSAS

SPECIFICATIONS AND CONTRACT DOCUMENTS

FOR

PUBLIC WORKS DEPARTMENT

HERBICIDES
BID NO. 19-F-0007

BY

THE DOUGLAS COUNTY COMMISSIONERS

Patrick Kelly
Member

Michelle Derusseau
Chairman

Nancy Thellman
Member

Jamie Shew
County Clerk

Keith A. Browning, P.E.
Director of Public Works

DOUGLAS COUNTY DEPARTMENT OF PUBLIC WORKS
NOTICE TO BIDDERS
BID NO. 19-F-0007

Notice is hereby given that sealed bids for the purchase of 384 gallons of Tordon 22K, 900 gallons of 2,4D 4 lb. Amine, 360 gallons of Glyphosate, 576 gallons of PastureGard HL, and 1408 ounces of Escort XP by the Douglas County Department of Public Works. Bids will be received in the office of the Douglas County Clerk, Courthouse, Lawrence, Kansas, 66044 until 3:00pm, Tuesday, March 5, 2019 and then publicly opened in the presence of the Douglas County Clerk.

Bids must be submitted on forms obtainable at either the Office of the Director of Public Works/County Engineer, 3755 E 25th Street, Lawrence, Kansas, 66046, or on the internet at www.drexeltech.com or www.demandstar.com . The bids shall be submitted in sealed envelopes, addressed to the Office of the County Clerk, Courthouse, 1100 Massachusetts Street, Lawrence, Kansas 66044, upon which is clearly written or printed "HERBICIDES", and the name and address of the bidder. Any bid received by the Office of the County Clerk after the closing date and time will be returned unopened. Faxed bids will not be accepted. Douglas County is not responsible for lost or misdirected bids, whether lost or misdirected by the postal or courier service of the bidder or the Douglas County mailroom.

The awarded bidder shall agree to offer the prices and the terms and conditions herein to other government agencies who wish to participate in a cooperative purchase program with Douglas County. Other agencies will be responsible for entering into separate agreements with the Dealer and for all payments thereunder.

The Douglas County Board of Commissioners reserves the right to reject any or all bids, waive technicalities, and to purchase the product, which in the opinion of the Board, is best suited for the use intended.

A 24-hour notice must be given before receipt of any chemicals. Delivered quantities shall be as directed by the Noxious Weed Director with a maximum of two deliveries per supplier.

Dated: February 13, 2019

DOUGLAS COUNTY PUBLIC WORKS
Keith A. Browning, P.E.
Director of Public Works

Published: Saturday, February 16, 2019
 Wednesday, February 20, 2019

cc: Lawrence Journal World
 Board of County Commissioners
 County Clerk
 County Administrator
 Public Works Operations
 Purchasing Department

DOUGLAS COUNTY DEPARTMENT OF PUBLIC WORKS
BID NO. 19-F-0007

INSTRUCTIONS TO BIDDERS

1. It is the intent of the Douglas County Public Works Department to purchase 384 gallons of Tordon 22K, 900 gallons of 2,4D 4 lb. Amine, 360 gallons Glyphosate, 576 gallons of PastureGard HL, and 1408 ounces of Escort XP.
2. Bids must be submitted on forms provided by the Douglas County Public Works Department, 3755 E 25th Street, Lawrence, Kansas, 66046 or by Drexel Technologies at www.drexeltech.com or Demand Star at www.demandstar.com . Specifications and bid requirements are included in these documents. This document must be left intact and will be the only form accepted as a bid by the Board of County Commissioners.
3. Bidders shall submit sample labels and material safety data sheets of all pesticides in electronic or paper formats.
4. Bidders shall show net price per gallon/per ounce, whichever applies, on each container size, and formulations. The total price for the county shall be F.O.B. our warehouse, Lawrence, Kansas. The county is not subject to Federal, State or City taxes.
5. The herbicide specified must be approved by the Kansas State Board of Agriculture, for cost share, for the current year.
6. Bids shall be submitted as follows:
 - a. One or more deliveries of 384 gallons – Tordon 22 K - (1 gallon containers)
 - b. One or more deliveries of 900 gallons – 2, 4-D 4 lb. Amine – (2 1/2 gallon containers)
 - c. One or more deliveries of 360 gallons – Glyphosate – (2 ½ gallon containers)
 - d. One or more deliveries of 576 gallons – PastureGard HL – (1 gallon containers)
 - e. One or more deliveries of 1408 ounces – Escort XP – (8 oz. containers)
7. Each herbicide shipment will be delivered no later than fourteen (14) working days after notification for delivery of requested quantities from the Noxious Weed Director. A maximum of two deliveries per supplier may be required.
8. Prices for purchase of additional amounts of herbicides will be guaranteed for the remainder of calendar year 2019.
9. Bids shall be sealed and shall show on the outside name of bidder and clearly marked "HERBICIDES". Bids shall be delivered to the Office of the Douglas County Clerk before the time and date specified in the Notice to Bidders. Any bids received after the time specified will be returned unopened.
10. We reserve the right to purchase the herbicides which in our opinion is best suited for use intended.
11. A sample of each lot and formulation may, at the discretion of the Director of Public Works, be checked by the Kansas Department of Agriculture, Control Division, before the herbicides are paid for.

DOUGLAS COUNTY DEPARTMENT OF PUBLIC WORKS
BID NO. 19-F-0007

I hereby certify that the VAN DIEST Supply Co. located in
(Name of Firm)
Abilene KS, will supply the herbicides meeting the
minimum specifications as set forth in this contract.

VAN DIEST Supply Co.
(Firm)
Bill Bean
(Print)
Area Manager
(Title)
Bill Bean
(Sign)

DOUGLAS COUNTY DEPARTMENT OF PUBLIC WORKS

BID NO. 19-F-0007

CONTRACT AGREEMENT

THIS AGREEMENT, made and entered into this 28 day of February, 2019 by and between the BOARD OF COUNTY COMMISSIONERS OF DOUGLAS COUNTY, Party of the First Part hereinafter referred to as the Owner and VAN DIEST Supply of Abilene, TX, Party of the Second Part and hereinafter referred to as the Dealer.

WITNESSETH:

THAT WHEREAS, the Owner has caused to be prepared, in accordance with the law, specifications, and other contract documents for the purchase herein described and has approved the adopted said documents in connection with the purchase of Herbicides

_____ in accordance with the terms of this contract; and

WHEREAS, the Dealer, has submitted to the Owner, in the manner and at the time specified, a sealed proposal; and

WHEREAS, the Owner in the manner prescribed by law, has publicly opened, examined, and canvassed the proposals submitted in response to the invitation therefore, and as a result of such canvass has determined and declared the aforesaid Dealer to be the best bidder for the purchase and has duly awarded to the said Dealer a contract therefore, for the sum or sums named in the Dealers' proposal a copy thereof being attached to and made a part of this Contract.

NOW, THEREFORE, in consideration of the Compensation to be paid to the Dealer and of the mutual agreements herein contained, the Parties to these presents have agreed and hereby agree, the Owner of itself and its successors, and the Dealer for itself, himself, or themselves, or its, or their successors and assigns, or its, his, or their executors and administrators, as follows:

ARTICLE 1. It is hereby mutually agreed, that for and in consideration of the sum or sums to be paid the Dealer by the Owner as set forth in the schedule of prices, the said Dealer shall furnish all herbicides as set forth in the specifications, ready for use, and in strict accordance with the contract specifications as approved and filed pursuant to law in the office of the legal representative of the Owner.

ARTICLE 2. It is hereby further agreed that, in consideration of the faithful performance of delivery of the herbicides by the Dealer, the Owner shall pay the Dealer the sum or sums due him by reason of said faithful performance of the contract certified by the Owner, and as set forth in the proposal as accepted by the Owner.

DOUGLAS COUNTY DEPARTMENT OF PUBLIC WORKS

BID NO. 19-F-0007

CONTRACT AGREEMENT (continued)

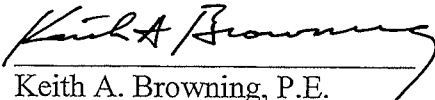
ARTICLE 3. It is hereby further agreed that the words "he" or "him" wherever used herein as referring to the Dealer shall be deemed to refer to said Dealer whether corporation, partnership or individual, and this contract and all covenants and agreements thereof shall be binding upon and for the benefit of the heirs, executors, administrators, successors and assigns of said Dealer.

ARTICLE 4. It is hereby further agreed that any reference herein to the "Contract" shall include all contract documents as specifically set out in the General Clauses and are hereby made a part of this agreement as fully as if set out at length herein.

OWNER, First Party

IN WITNESS WHEREOF, the First
Party and the Second Party,
respectively, have caused this
agreement to be duly executed
the day and year first herein
written, all copies of which to
all intents and purposes shall
be CONSIDERED AS THE
ORIGINAL.

Recommended for Approval:


Keith A. Browning, P.E.
Director of Public Works

DOUGLAS COUNTY, KANSAS
Board of County Commissioners

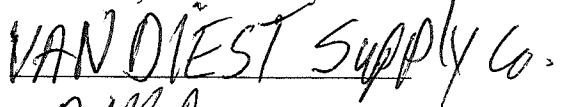
Chairman

Member

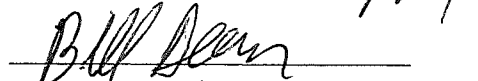
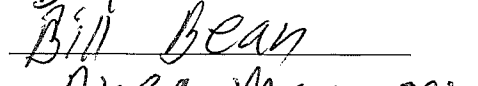
Member

Date

DEALER, Second Party


VAN DIEST Supply Co.

By:



Area Manager
(Position of Signer)

ATTEST:

County Clerk

DOUGLAS COUNTY DEPARTMENT OF PUBLIC WORKS

BID NO. 19-F-0007

PROPOSAL

1. Proposal of VAN D'EST Supply Co. for the purchase of herbicides by Douglas County Public Works Department as shown by the Specifications and set forth in the dealer's proposal.

TO THE DOUGLAS COUNTY COMMISSIONERS:

2. The undersigned agrees to execute a contract for the proposed herbicides within five (5) days after notice of the award of the bid.
3. The following ties and riders shall be considered a part of the proposal of undersigned bidder.
we will hold prices all season if
our chemical costs do NOT increase.
4. In submitting this bid, the undersigned declares that he/she is the only person interested in the said bid; that it is made without any connection with any person or persons making another bid for the same contract; that the bid is in all respects fair and without collusion, fraud or misrepresentation and that he/she is qualified to make such bid.
5. The undersigned further declares that he/she has carefully examined the specifications, form of contract, and has satisfied himself/herself as to all quantities and conditions, and understands that in signing this proposal he/she waives all right to plead any misunderstanding regarding the same.
6. The undersigned bidder shall furnish to the "OWNER" the awarded herbicides as stipulated in Item No. 6 of the INSTRUCTIONS TO BIDDERS.

BID OF VAN D'EST Supply Co.
(Firm)

By: Bill Bean
(Signature)

Date: 2-28-19

area manager
(Title)

DOUGLAS COUNTY DEPARTMENT OF PUBLIC WORKS
STANDARD TERMS AND CONDITIONS
DOUGLAS COUNTY, KANSAS
BID NO. 19-F-0007

1. SCOPE: The following terms and conditions shall prevail unless otherwise modified by Douglas County within this bid document. Douglas County reserves the right to accept or reject any or all bids received.
2. DEFINITIONS AS USED HEREIN:
 - a. The term "bid request" means a solicitation of a formal sealed bid.
 - b. The term "bid" means the price offered by the bidder.
 - c. The term "bidder" means the offer or vendor.
 - d. The term "County" means Douglas County, Kansas.
 - e. The term "Board of County Commissioners or "BOCC" means the governing body of Douglas County, Kansas.
3. COMPLETING BID: Bids must be submitted only on the forms (or reproductions thereof) provided in this document. All information must be legible. Any and all corrections and/or erasures must be initialed. Each bid sheet must be signed by the authorized bidder and required information must be provided.
4. CONFIDENTIALITY OF BID INFORMATION: Each bid must be sealed and submitted in an envelope clearly marked "HERBICIDES" to provide confidentiality of the bid information prior to the bid opening. Supporting documents and/or descriptive literature may be submitted with the bid. Do not indicate bid prices on literature.

All bids and supporting bid documents become public information after the bid opening and are available for public inspection by the general public in accordance with the Kansas Open Records Act.
5. ACCURACY OF BID: Each bid is publicly opened in the presence of the Douglas County Clerk. It is necessary that any and all information presented is accurate and/or will be that by which the bidder will complete the contract. If there is a discrepancy between the unit price and extended total, the unit price will prevail.
6. SUBMISSION OF BID: Bids are to be sealed and submitted to the Douglas County Clerk's Office, Douglas County Courthouse, 1100 Massachusetts, Lawrence, Kansas 66044, prior to 3:00pm, Tuesday, March 5, 2019.
7. ADDENDA: All changes in connection with this bid will be issued in the form of a written addendum. Signed acknowledgment of receipt of each addendum must be submitted with the bid.

DOUGLAS COUNTY DEPARTMENT OF PUBLIC WORKS
STANDARD TERMS AND CONDITIONS (continued)

8. **LATE BIDS, CHANGES OR WITHDRAWALS:** Bids received after the deadline designated in this bid document shall not be considered and shall be returned unopened.

Bids may be changed or withdrawn prior to the bid opening. All such transaction must be submitted in writing and received by the County Clerk's Office prior to the bid deadline. Changes or withdrawals may be made after the bid deadline only with the approval of the Board of County Commissioners. After bid opening, no changes in bid prices or other provisions of bids prejudicial to the interest of the County of fair competition shall be permitted.

9. **BIDS BINDING:** All bids submitted shall be binding upon the bidder if accepted by the County within twenty (20) calendar days after the bid opening.
10. **EQUIVALENT BIDS:** When brand or trade names are used in the bid invitation, it is for the purpose of item identification and to establish standards for quality, style and features. Bids on equivalent items of substantially the same quality, style and features are invited unless items are marked "No Substitute." Equivalent bids must be accompanied by descriptive literature and/or specifications to receive consideration. Demonstrations and/or samples may be required and shall be supplied at no charge to the County.
11. **NEW MATERIALS, SUPPLIES OR EQUIPMENT:** Unless otherwise specified, all materials, supplies or equipment offered by a bidder shall be new, unused, of recent manufacture, first class in every respect and suitable for their intended purpose. All equipment shall be assembled, and ready for operation when delivered.
12. **WARRANTY:** Supplies or services furnished as a result of this bid shall be covered by the most favorable commercial warranties, expressed or implied, that the bidder and/or manufacturer gives to any customer. The rights and remedies provided herein are in addition to and do not limit any rights afforded to the County by any other clause of this bid. The County reserves the right to request from bidders a separate manufacturer certification of all statement made in the proposal.
13. **METHOD OF AWARD AND NOTIFICATION:** Bids will be evaluated and the award made to the lowest and best, responsive and responsible bidder(s) whose bid conforms to the specifications and whose bid is considered to be the best value in the opinion of the County.

The County reserves the right to accept or reject any or all bids and any part of a bid; to waive informalities, technical defects, and minor irregularities in bids received; and, to award the bid on a item by item basis, by specified groups of items or to consider bids submitted on an "all or nothing" basis if the bid is clearly designated as such or when it is determined to be in the best interest of the County.

The signed bid shall be considered an offer on the part of the bidder; such offer shall be deemed accepted upon issuance by the County of a Purchase Order or other contractual document.

DOUGLAS COUNTY DEPARTMENT OF PUBLIC WORKS
STANDARD TERMS AND CONDITIONS (continued)

14. DELIVERY TERMS: All deliveries shall be F.O.B. Destination and all freight charges shall be included in the bid price. Delivery date shall be considered as a cost factor in the determination of award. Douglas County may request a portion of the awarded bid to be delivered at a specified date, not to exceed two shipments from any supplier for the total bid amount.
15. DAMAGED AND/OR LATE SHIPMENTS: The County has no obligation to accept damaged shipments and reserves the right to return at the vendor's expense damaged merchandise even though the damage was not apparent or discovered until after receipt of the items. The Vendor is responsible to notify the Douglas County Department of Public Works of any late or delayed shipments. The County reserves the right to cancel all or any part of an order if the shipment is not made as promised.
16. CREDIT TERMS: Bidder shall indicate all discounts for full and/or prompt payment. Discounts offered shall be computed from date of receipt of correct invoice or receipt and acceptance of products, whichever is later.
17. SELLERS INVOICE: Invoices shall be prepared and submitted in at least two copies to the address shown on the Purchase Order or bid document. Separate invoices are required for each Purchase Order or bid document. Invoices shall contain the following information: Purchase Order Number, contract number, item number, description of supplies or services, sizes, unit of measure, quantity, unit price, extended totals and date of purchase/order.
18. TAX EXEMPT: The County and its agencies are exempt from State and local sales taxes by K.S.A. 1985 Supp. 79-3606 as amended. Situs of all transactions under the order(s) that shall be derived from this request shall be deemed to have been accomplished within the State of Kansas.
19. SAFETY: All practices, materials, supplies and equipment shall comply with the Federal Occupational Safety and Health Act, as well as any pertinent Federal, state and/or local safety or environmental codes.
20. DISCLAIMER OF LIABILITY: The County, or any of its agencies, will not hold harmless or indemnify any bidder for any liability whatsoever.
21. HOLD HARMLESS: The contractor agrees to protect, defend, indemnify and hold the Board of County Commissioners, its officers, employees and agents free and harmless from and against any and all losses, penalties, damages, settlements, costs, charges, professional fees or other expenses or liabilities of every kind and character arising out of or relating to any and all claims, liens, demands, obligations, actions, proceedings or causes of action of every kind and character in connection with or arising directly or indirectly out of this agreement and/or the performance hereof. Without limiting the generality of the foregoing, and all such claims, etc., relating to personal injury, infringement of any patent, trademark, copyright (or application for any thereof) or of any other tangible or intangible personal or property right, or actual or alleged violation of any applicable statute, ordinance, administrative order, rule or regulation, or decree of any court, shall be included in the indemnity hereunder. The contractor further agrees to investigate, handle, respond to, provide defense for and defend any such claims, etc., at his/her sole expense and agrees to bear all other costs and expenses related thereto, even if such claim is groundless, false or fraudulent.

DOUGLAS COUNTY DEPARTMENT OF PUBLIC WORKS
STANDARD TERMS AND CONDITIONS (continued)

22. LAW GOVERNING: All contractual agreements shall be subject to, governed by, and construed according to the laws of the State of Kansas.
23. ANTI-DISCRIMINATION CLAUSE: No bidder on this request shall in any way, directly or indirectly, discriminate against any person because of age, race, color, handicap, sex, national origin, or religious creed.

DOUGLAS COUNTY DEPARTMENT OF PUBLIC WORKS
BID NO. 19-F-0007

SPECIFICATIONS
FOR
TORDON 22K
(NO SUBSTITUTE)

The following specifications shall apply to the purchase of 384 gallons of Tordon 22K by the Douglas County Public Works Department. The County reserves the right to waive minor technicalities under these specifications.

SPECIFICATIONS:

Tordon 22K 384 gal 4-amino-3,5,6-trichloropicolinic acid, potassium salt

COMPATIBILITY:

Compatible with all agricultural and City of Lawrence water.

CONTAINER:

Durable plastic containers in 1 gallon sizes packaged 4 containers per box.

ALL CONTAINERS MUST HAVE APPROPRIATE LABELING AND/OR PESTICIDES
INFORMATION BOOKLET ON CONTAINER

RATE:

LABEL APPLICATION RATE MUST MEET THE STATE DEPARTMENT OF AGRICULTURE,
OFFICIAL METHODS AND REGULATIONS FOR MUSK THISTLE AND BINDWEED.

DOUGLAS COUNTY DEPARTMENT OF PUBLIC WORKS
BID NO. 19-F-0007

SPECIFICATIONS
FOR
2, 4-D 4 lb. AMINE

The following specifications shall apply to the purchase of 900 gallons of 2,4-D 4 lb. AMINE by the Douglas County Public Works Department. The County reserves the right to waive minor technicalities under these specifications.

SPECIFICATIONS:

2,4-D 4 lb. AMINE 900 gallons

ACTIVE INGREDIENT

24-Dichlorophenoxyacetic Acid 46.3%
Other Ingredients 53.7%
Total 100%

COMPATIBILITY:

Compatible with all agricultural and City of Lawrence water.

CONTAINER:

Durable plastic containers in 2 1/2 gallon sizes packaged 2 containers per box.
ALL CONTAINERS MUST HAVE APPROPRIATE LABELING AND/OR PESTICIDE
INFORMATION BOOKLET ON CONTAINER

RATE:

LABEL APPLICATION RATE MUST MEET THE STATE DEPARTMENT OF AGRICULTURE,
OFFICIAL METHODS AND REGULATIONS FOR MUSK THISTLE AND BINDWEED

DOUGLAS COUNTY DEPARTMENT OF PUBLIC WORKS
BID NO. 19-F-0007

SPECIFICATIONS
FOR
GLYPHOSATE

The following specifications shall apply to the purchase of 360 gallons of Glyphosate by the Douglas County Public Works Department. The County reserves the right to waive minor technicalities under these specifications.

SPECIFICATIONS:

Glyphosate: 360 gallons 4 lb. active ingredient

Phosphonmethy glycine isopropylamine

COMPATIBILITY:

Compatible with all agricultural and City of Lawrence water.

CONTAINER:

Durable plastic containers in 2 1/2 gallon sizes packaged 2 containers per box.

ALL CONTAINERS MUST HAVE APPROPRIATE LABELING AND/OR PESTICIDES
INFORMATION BOOKLET ON CONTAINER

RATE:

LABEL APPLICATION RATE MUST MEET THE STATE DEPARTMENT OF AGRICULTURE,
OFFICIAL METHODS AND REGULATIONS FOR MUSK THISTLE, BINDWEED AND
JOHNSON GRASS.

DOUGLAS COUNTY DEPARTMENT OF PUBLIC WORKS
BID NO 19-F-0007

SPECIFICATIONS
FOR
PASTUREGARD HL
(NO SUBSTITUTE)

The following specifications shall apply to the purchase of 576 gallons of PastureGard HL by the Douglas County Public Works Department. The County reserves the right to waive minor technicalities under these specifications.

SPECIFICATIONS:

PastureGard HL: 576 gallons

Triclopyr + Fluroxypyr

COMPATIBILITY:

Compatible with all agricultural and City of Lawrence water.

CONTAINER:

Durable plastic containers in 1 gallon sizes packaged 4 containers per box.

ALL CONTAINERS MUST HAVE APPROPRIATE LABELING AND/OR PESTICIDES
INFORMATION BOOKLET ON CONTAINER

RATE:

LABEL APPLICATION RATE MUST MEET THE STATE DEPARTMENT OF AGRICULTURE,
OFFICIAL METHODS AND REGULATIONS FOR SERICEA LESPEDEZA

DOUGLAS COUNTY DEPARTMENT OF PUBLIC WORKS
BID NO. 19-F-0007

SPECIFICATIONS
FOR
ESCORT XP
NO SUBSTITUTE

The following specifications shall apply to the purchase of 1408 ounces of Escort XP by the Douglas County Public Works Department. The County reserves the right to waive minor technicalities under these specifications.

SPECIFICATIONS:

Escort XP: 1408 ounces (8 oz containers)

COMPATIBILITY:

Compatible with all agricultural and City of Lawrence water.

CONTAINER:

Durable plastic containers in 8 ounce sizes packaged 8 containers per box.

ALL CONTAINERS MUST HAVE APPROPRIATE LABELING AND/OR PESTICIDES
INFORMATION BOOKLET ON CONTAINER

RATE:

LABEL APPLICATION RATE MUST MEET THE STATE DEPARTMENT OF AGRICULTURE,
OFFICIAL METHODS AND REGULATIONS FOR BLOOMING MUSK THISTLE, FIELD
BINDWEED AND SERICEA LESPEDEZA.

DOUGLAS COUNTY DEPARTMENT OF PUBLIC WORKS
BID NO. 19-F-0007

SCHEDULE OF PRICES
FOR
TORDON 22K
(NO SUBSTITUTE)

THE BIDDER SHALL EXTEND ALL ITEMS AND TOTAL BID.

BREAKDOWN FOR GALLONS REQUIRED BY THE DEPARTMENT OF PUBLIC WORKS

TORDON 22K: Trade Name: Corteva / Dow

	Price Per Gallon	Total Price
384 gal. (furnished in 1 gal. containers packaged 4 containers per carton)	\$ <u>42.54</u>	\$ <u>16,335.36</u>

All herbicides are to be delivered to the Douglas County Public Works Shop, 3755 E 25th Street, Lawrence, Kansas in one or more deliveries. Douglas County may require a portion of the bid quantity to be shipped at one time, not to exceed two shipments per Supplier.

BIDS MUST BE SUBMITTED TO THE OFFICE OF THE DOUGLAS COUNTY CLERK BY
3:00pm, Tuesday, March 5, 2019.

BID OF: VAN DIEST Supply Co.
(Firm)

BY: Bill Bean
(Signature)

area manager
(Title)

#10 37

DOUGLAS COUNTY DEPARTMENT OF PUBLIC WORKS
BID NO. 19-F-0007

SCHEDULE OF PRICES
FOR
2,4-D 4 LB. AMINE

THE BIDDER SHALL EXTEND ALL ITEMS AND TOTAL BID.

BREAKDOWN FOR GALLONS REQUIRED BY THE DEPARTMENT OF PUBLIC WORKS

2,4-D 4 lb Amine: Trade Name Cornbelt
Price Per Gallon Total Price
900 gal. \$ 9.43 \$ 8,487.00
(furnished in 2 1/2 gal. containers packaged 2 containers per carton)

All herbicides are to be delivered to the Douglas County Public Works Shop, 3755 E 25th Street, Lawrence, Kansas in one or more deliveries. Douglas County may require a portion of the bid quantity to be shipped at one time, not to exceed two shipments per Supplier.

BIDS MUST BE SUBMITTED TO THE OFFICE OF THE DOUGLAS COUNTY CLERK BY
3:00pm, Tuesday, March 5, 2019.

BID OF: VAN DIEST Supply Co.
(Firm)

BY: Bell Dean
(Signature)

area manager
(Title)

57
RD

DOUGLAS COUNTY DEPARTMENT OF PUBLIC WORKS
BID NO. 19-F-0007

SCHEDULE OF PRICES
FOR
GLYPHOSATE

THE BIDDER SHALL EXTEND ALL ITEMS AND TOTAL BID.

BREAKDOWN FOR GALLONS REQUIRED BY THE DEPARTMENT OF PUBLIC WORKS

GLYPHOSATE: Trade Name: Buccaneer Plus

	Price Per Gallon	Total Price
360 gal. (furnished in 2 1/2 gal. containers packaged 2 containers per carton)	\$ <u>10.76</u>	\$ <u>3,873.60</u>

All herbicides are to be delivered to the Douglas County Public Works Shop, 3755 E 25th Street, Lawrence, Kansas in one or more deliveries. Douglas County may require a portion of the bid quantity to be shipped at one time, not to exceed two shipments per Supplier.

BIDS MUST BE SUBMITTED TO THE OFFICE OF THE DOUGLAS COUNTY CLERK BY
3:00pm, Tuesday, March 5, 2019.

BID OF: IAN DIEST Supply Co.
(Firm)

BY: [Signature]
(Signature)

area manager
(Title)

37

AD

DOUGLAS COUNTY DEPARTMENT OF PUBLIC WORKS
BID NO. 19-F-0007

SCHEDULE OF PRICES
FOR
PASTUREGARD HL
(NO SUBSTITUTE)

THE BIDDER SHALL EXTEND ALL ITEMS AND TOTAL BID.

BREAKDOWN FOR GALLONS REQUIRED BY THE DEPARTMENT OF PUBLIC WORKS

PASTUREGARD HL: Trade Name Corteva / Dow

	Price per Gallon	Total Price
576 gallons (furnished in 1 gal. containers packaged 4 containers per box.)	\$ <u>86.49</u>	\$ <u>49,818.24</u>

All herbicides are to be delivered to the Douglas County Public Works Shop, 3755 E. 25th Street, Lawrence, Kansas in one or more deliveries. Douglas County may require a portion of the bid quantity to be shipped at one time, not to exceed two shipments per Supplier.

BIDS MUST BE SUBMITTED TO THE OFFICE OF THE DOUGLAS COUNTY CLERK BY 3:00pm, Tuesday, March 5, 2019.

BID OF:

(Firm)

UADY DIEST Supply Co.

BY:

(Signature)

Bill Dean

(Title)

area manager

37
RD

DOUGLAS COUNTY DEPARTMENT OF PUBLIC WORKS
BID NO. 19-F-0007

SPECIFICATIONS
FOR
ESCORT XP
(NO SUBSTITUTE)

THE BIDDER SHALL EXTEND ALL ITEMS AND TOTAL BID.

BREAKDOWN FOR OUNCES REQUIRED BY THE DEPARTMENT OF PUBLIC WORKS

ESCORT XP:

	Price Per Ounce	Total Price
1408 oz. (furnished in 8 oz. containers packaged 8 containers per carton)	\$ <u>2.04</u>	\$ <u>2,872.32</u>

All herbicides are to be delivered to the Douglas County Public Works Shop, 3755 E 25th Street, Lawrence, Kansas in one or more deliveries.

BIDS MUST BE SUBMITTED TO THE OFFICE OF THE DOUGLAS COUNTY CLERK BY
3:00pm, Tuesday, March 5, 2019.

BID OF:

VAN DIEST Supply Co.
(Firm)

BY:

Bill Bean
(Signature)

Area Manager
(Title)

9
#D

Memorandum

Lawrence-Douglas County
Fire Medical

To: The Board of County Commissioners
Sarah Plinsky, Interim County Administrator

From: Shaun Coffey, Interim Fire Chief

Date: March 5, 2019

Re: Purchase of Two Ambulances
· FY 2019 Vehicle Replacement Request

FY 2019 Ambulance Request:

Two ambulances are requested as part of our ambulance replacement program based on an operating life of approximately 8-10 years. The replacement process includes an evaluation criterion that takes into account mileage, engine hours, age, maintenance costs and other operating factors. This approach is more objective than simply looking at years of service and is intended to retire vehicles prior to extensive maintenance cost and potential breakdowns during emergency incidents.

Houston Galveston Area Council (H-GAC):

The H-GAC Cooperative Purchasing Program assists local governments in reducing costs through a government-to-government procurement service. The cost of this service is \$1,000 and is administered through the Mid-America Regional Council (MARC) in Kansas City, MO. We have used the H-GAC program for the past 12 years in procurement of ambulances. The use of the nationwide H-GAC bidding process dramatically reduces the administrative time and cost associated with duplicating a formal public bidding process.

American Emergency Vehicles:

The department currently uses ambulances constructed by American Emergency Vehicles (AEV). The body is fabricated by AEV and assembled on a Ford 5500 Series chassis. Our last 12 -15 ambulances have been purchased from AEV using the H-GAC pricing. We have had outstanding service with this manufacture.

Trade In Value:

The Vendor has offered trade-in values as listed below:

- a. Unit 680 – 2010 Chevrolet C4500, VIN 1GBE4V1999F402599 in the amount of \$10,000.
- b. Unit 690 – 2010 Chevrolet C4500, VIN 1GBE4V1999F403039 in the amount of \$10,000.

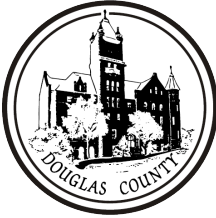
Funding:

Funding for these purchases is from the 501 Ambulance Equipment Reserve. FY2019 transfers are included and are sufficient for these requests.

Action Request:

Fire Medical Department staff requests approval from the County Commission to:

2. Waive formal bidding process and authorize staff to utilize the Houston-Galveston Area Council (H-GAC) for purchase;
3. Approve the trade-in of:
 - a. Unit 680 – 2010 Chevrolet C4500, VIN 1GBE4V1999F402599 in the amount of \$10,000.
 - b. Unit 690 – 2010 Chevrolet C4500, VIN 1GBE4V1999F403039 in the amount of \$10,000.
4. Purchase two (2) ambulances from American Emergency Vehicles (AEV) for a purchase price of \$299,427.00 ea., plus \$1,000 H-GAC, total \$579,854.00. (INCLUDES TRADE-IN)



DOUGLAS COUNTY ADMINISTRATOR

1100 Massachusetts Street
Lawrence, KS 66044-3064
(785) 832-5328 Fax (785) 832-5148
splinsky@douglascountyks.org

Sarah Plinsky
Interim County Administrator

MEMO TO: Board of County Commissioners

FROM: Sarah Plinsky, Interim County Administrator

SUBJECT: Lease agreement for 1006 New Hampshire

DATE: March 14, 2019

For several years the City of Lawrence has leased 6,800 square feet of office space at 1006 New Hampshire for all Municipal Court operations and administrative staff, including the City Prosecutor, and Office of Human Relations. This lease ended earlier this year when the City moved all of the aforementioned offices and functions to a new permanent space in the Riverfront Plaza. Given the proximity of this location to the Douglas County Courthouse and Judicial and Law Enforcement Center (JLE), and the immediate space needs identified in both buildings following the 2017 Space Needs Study performed by Gould Evans, County staff contacted Allison Vance Moore, Senior Vice President for Colliers International commercial real estate to view the space and learn more. A copy of the sales flyer detailing the space is attached for reference.

Among the key findings from the 2017 Space Needs Study was a host of immediate needs identified within the JLE, including:

- New division and courtroom for a new judge, which can accommodate up to 80 individuals;
- Separation of the public, secure staff and offenders; and,
- Additional space for the rapid growth of District Attorney's Office.

Additional needs included planning for the growth of the Criminal Justice Services and Sheriff's Department, meeting rooms, and adequate parking for citizens and staff.

Following several visits by myself, District Court Chief Judge, Peggy Kittel, Criminal Justice Services Director, Pam Weigand, Criminal Justice Coordinator, Robert Bieniecki, and Maintenance Director, David Sparkes, the determination was been made that it would be in the best interests of Douglas County's current and future space needs to submit a Letter of Intent to lease the advertised space at 1006 New Hampshire.

A Letter of Intent was submitted on Douglas County's behalf this past week by Ms. Moore. The letter proposed a rental rate of \$10,766.66 per month, gross square feet, with a 3-year term that would commence June 1, 2019. Further, significant improvements would be made to the space prior to Douglas County taking occupancy, which are detailed in the attached Letter of Intent.

For reference, the City of Lawrence paid a monthly lease rate of \$11,571.16, and I have attached a copy of comparable lease rates in the downtown area which was provided by Colliers International.

In response to Douglas County's Letter of Intent the owner agreed to proceed according to the terms and conditions outlined in the in this document. These terms and conditions have been reviewed and deemed satisfactory. I am seeking your authorization to proceed in lease negotiations accordingly, which will be conducted in close consultation with the County Counselor.

Recommended Motion: Authorize the Interim County Administrator to enter into lease negotiations for 1006 New Hampshire.



Tuesday, March 12, 2019

Allison Vance Moore
% Colliers International
805 New Hampshire, Suite C
Lawrence, Kansas 66044

RE: 1006 New Hampshire, Lawrence, Kansas

Dear Jeff,

The following Tenant has reviewed the information on the above commercial space and is prepared to proceed under the following terms and conditions:

1. **Landlord:** Berkeley Plaza, Inc.
2. **Tenant Trade Name:** Douglas County Government
3. **Premises:** 1006 New Hampshire Street, containing approximately 6,800 square feet
- 4a. **Term:** 3 years
- 4b. **Option Term:** With 120 days advanced written notice to Landlord, Tenant shall have the option to extend the terms of this lease for a period of three (3) additional years. During the option term, the option rate shall be \$11,412.66 per month, **gross**
5. **Rental Rate:** \$10,766.66 per month, gross
6. **Delivery:** Immediately following lease execution **and completion of landlord's work**, but in no event delivery shall be no later than **June 1, 2019**
7. **Lease/Rent Commencement:** On or before **June 1, 2019**
8. **Security Deposit** \$10,766.66
9. **Use:** Tenant shall use the Premises for Professional Offices



10. Utilities:

Upon Delivery, Tenant shall separately meter Utilities, excluding water/sewer/waste which shall be in the Landlord's name, in its name and shall be responsible directly to the respective utility companies for the payment of said utilities to the premises.

12. Landlord's Work:

Landlord shall ensure the following upon Possession:

- a. Landlord shall ensure HVAC is in good working order;
- b. Landlord shall ensure light fixtures are clean and in good working order;
- c. Landlord shall ensure plumbing is in good working order;
- d. Landlord shall replace any missing or damaged ceiling tiles;
- e. Landlord shall investigate and mitigate water leak near electrical panel in NEC of suite;
- f. Landlord shall clean supply/return air vents throughout suite;
- g. Landlord shall update kitchenette area with upper/lower cabinets, new sink and counter top (with area for fridge and upper installed microwaves to be installed and paper towel dispenser being removed);
- h. Landlord shall replace carpeting with carpet tiles to be mutually agreed upon between the parties;
- i. Landlord shall repair walls and paint suite throughout with a single color to be mutually agreed upon between the parties;
- j. Landlord shall reinstall closet doors in open area;
- k. Landlord shall clean suite;
- l. Landlord shall remove countertops, and repair wall area

13. Tenant's Work:

Tenant, at its cost and expense, shall perform the following work:

- a. Tenant shall install a fridge at its expense (which shall remain the personal property of the Tenant);
- b. Tenant shall install a microwave at its expense (which shall remain the personal property of the Tenant);



- c. Tenant shall be responsible for its own phone and data wiring;

14. Signage:

Tenant, at its cost, shall install or place signs in or about the Premises in compliance with City of Lawrence ordinances and subject to Landlord's approval, which shall not be unreasonably withheld.

15. Contingency:

This offer shall be contingent upon County Commission approval on or before March 27, 2019

16. Agency:

Winbury Realty of K.C., LLC dba Colliers International through agents Allison Vance Moore represents the interests of the Landlord. Landlord shall be responsible for any commission due.

IT IS UNDERSTOOD that the above provisions are part of an earnest attempt by said parties to enter into a lease, which, when complete, will elaborate on the provisions referred to in the paragraphs above, and contain additional provisions customarily contained in leases of property similar to that which is the subject matter of the lease. Neither party shall have any obligation to the other party unless a lease agreement is executed in writing by both parties. The final consummation of the Lease will depend on mutual acceptance of a lease agreement by both parties.

Sincerely,

Allison Vance Moore SIOR
Senior Vice President | Lawrence

AGREED & ACCEPTED for TENANT:

AGREED & ACCEPTED for LANDLORD:

By: _____

By: _____

Its: _____

Its: _____

Date: _____

Date: _____

Confidential Downtown Office Lease Comp



Address	Business	Comparables Lease Date	SF Price	Lease Type	Total SF	Lease Term
1031 Vermont Street	Tarik Khatib	3/1/2019	\$15.12	Full Service	1,349	36 months
623 Massachusetts, Suite 200	PEC	5/1/2017	\$15.45	NNN	6,116	60 months
646 Vermont Street	Sunoco	12/1/2016	\$14.82	Full Service	4,900	60 months
916 1/2 Massachusetts	Second Wind Creative	3/1/2019	\$10.24	Full Service	1,875	12 months
901 Kentucky, Suites 301, 302, and 303	Koprince Law, LLC	2/5/2018	\$14.50	Gross	4,112	60 months
901 Kentucky, Suite 203	The World Company	6/6/2018	\$15.15	Gross	1,616	36 months
901 New Hampshire, Suite 103	Farmers Insurance	3/1/2017	\$20.92	Full Service	459	38 months
730 New Hampshire, Suite 203	Matterport	4/4/2018	\$17.00	Gross	2,884	35 months

	PSF	Lease Type
High	\$20.92	Full Service
Low	\$10.24	Full Service
Median	\$15.58	n/a

FOR LEASE > OFFICE SPACE



1006 New Hampshire Street

LAWRENCE, KANSAS



Property Description

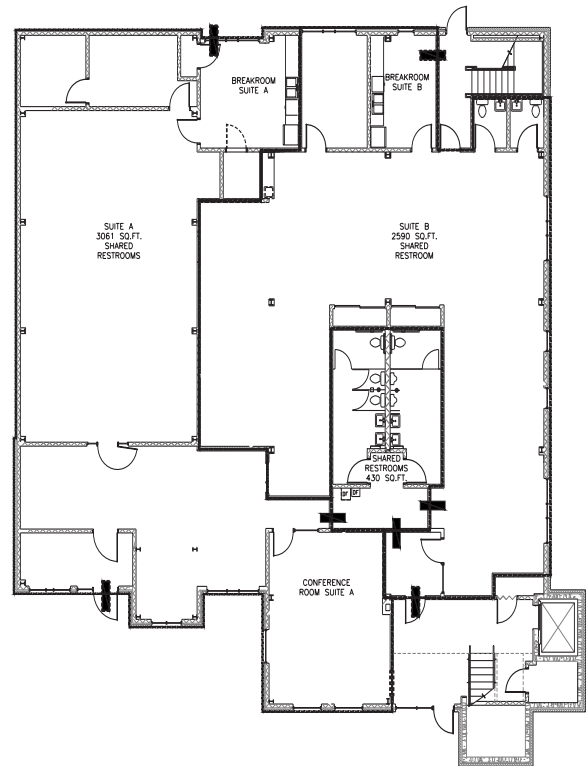
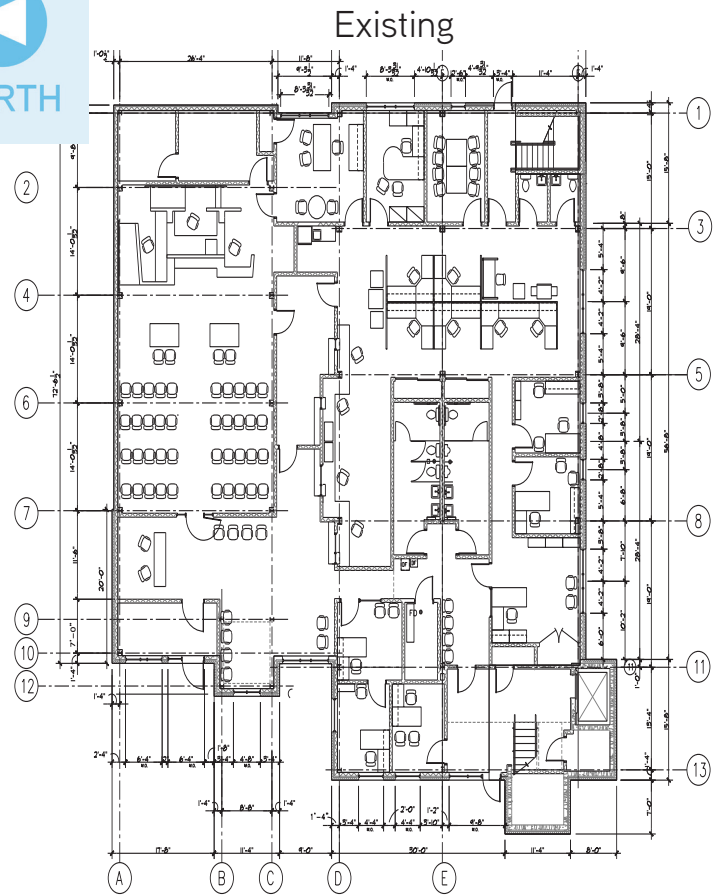
This nicely finished office space is centrally located in the heart of Downtown Lawrence, a short walk away from Massachusetts Street retail, entertainment, and dining. The ground level office option has a combination of private offices and open areas. Owner may demise for a qualified tenant. This property is located a block away from the Douglas County Court building, and a half block from a 500+ car parking garage. Easy access to Interstate 70 and Highway 24/40.

Property Highlights

- > Building size: 14,610 SF
- > Available space: up to 6,800 SF
- > Built in 1998
- > Zoning: CD - Downtown Commercial
- > Lease rate: \$19/SF, gross

AGENT: ALLISON VANCE MOORE SIOR
+1 785 865 3924
LAWRENCE, KS
allison.moore@colliers.com

COLLIERS INTERNATIONAL
805 New Hampshire, Suite C
Lawrence, KS 66044
www.colliers.com



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DOUGLAS COUNTY ZONING & CODES DEPARTMENT

3755 E 25th Street
Lawrence, Ks 66046
Phone: 785.331.1343

MEMORANDUM

TO: Board of County Commissioners
SUBJECT: Tier 2 Agritourism – Museum in Rural Schoolhouse and Event Venue
744 N 1800 Rd, Winter School
DATE: March 20, 2019
FROM: Tonya Voigt, Zoning & Codes Coordinator

REGULATORY AUTHORITY FOR AGRITOURISM APPROVAL PROCESS:

12-319-7.02 b.1 Tier 1 (low intensity) Agritourism uses may be registered administratively by the Zoning and Codes Director. b.2) Registration of Tier 2 (medium intensity) Agritourism uses require approval by the Board of County Commissioners. c.2) If the Directors are unable to make a determination, the registration will be referred to the Board of County Commissioners.

GENERAL INFORMATION

Current Zoning and Land Use	A (Agricultural) Zoning, agricultural and residential use.
Area	Approximately 1.5 acres
Surrounding Zoning and Land Use	A (Agricultural) Zoning to the north, east, west and south. Land use is agricultural and residential.
Floodplain	This property has no special hazard flood areas on the property.

An agritourism use requires registration for the Agritourism business with the Kansas Department of Wildlife, Park and Tourism (KDWPT). The County Agritourism use coincides with the State Registration. Re-registration with the County is required when the State registration is reviewed, every 5 years.

Kansas Statute defines Agritourism as any activity which allows members of the general public, for recreational, entertainment or educational purposes, to view or enjoy rural activities, including, but not limited to, farming activities, ranching activities or historic, cultural or natural attractions.

SUMMARY OF PROPOSED EVENT

Winter School, owned by Winter School Preservation, Inc. is requesting approval for a proposed museum and event venue in a historical one-room schoolhouse. In partnership with Lecompton Historical Society, through a variety of rotating exhibits, visitors can spend time on the grounds to get an idea of what a school day was like for pioneer children or enjoy a picnic or schoolyard games in the courtyard. Programs will include family

friendly activities based on the exhibitions, as well as guided tours for groups. The building will be available for lease to small community groups of less than 50 to not exceed the museum occupancy maximum.

The proposed application is for a year-round event center. Hours of operation are unknown at this time. They anticipate initially by appointment only, approximately one day per month. With the goal to be open once a week. Hours of operation will be coordinated in partnership with volunteers from Lecompton Historical Society. The occupancy of the structure is determined by available seating for up to fifty (50) people. Twenty-five (25) off street parking spaces, including one (1) ADA space is proposed. Detached ADA restroom facilities will be available. The wastewater system and potable water will be approved by the Douglas County health department. Proposed agritourism activities include (12-319-7.01):

- Historical, cultural, or agriculturally related educational and learning experiences, including volunteer workers.
- Assembly type uses which are historical, cultural, or agriculturally related.

Proposed Route: 1.5 miles west from K-10 and Rte. 438 (Farmers Turnpike) on the north side of the Rte. 438.

SITE PLAN & SUPPLEMENTAL DOCUMENTS

The agritourism site plan does not need to meet all the requirements in Section 12-319A, but must be adequate to illustrate the use and its conformance with the Zoning Regulations as well as the relationship of the use to the surrounding properties or right-of-way. At a minimum, the following items must be included:

- a. All structures to be utilized for the agritourism use identified on the plan with dimensions, including the distance to the nearest property line.
- b. Areas where the agritourism use will occur and any areas where visitors would be allowed marked on the plan.
- c. Access and parking areas shown and dimensioned, noting the number of spaces provided. For determination of parking requirements, parking is calculated at a rate of 1 parking space per 2 attendees.
- d. The water and sanitation facilities provided per the County Health Department approval.
- e. Hours of operation noted.

Anticipated attendance noted. Attendance is limited to that which can be served by available parking, as participants may arrive by bus or alternative forms of transportation.

NOTIFICATION AND MAILING

Public notice of the temporary business use was mailed to property owners within 1000' on February 21st, 2019. The Zoning & Codes Department has received no inquiries or calls in response to the notice sent.

DEPT REVIEW/AGENCY COMMENTS

Dept/ Agency Comments Received
Douglas County Public Works – • No additional entrance from Rte. 438 (N 1800 Rd) will be allowed • Existing entrance serves both the Winter School property and the McClure property at 746 N 1800 Rd • Existing entrance may need to be widened or otherwise modified for public use after detailed review.
Lecompton Township - No Comments
Lecompton Fire Dept. & EMS- No Comments
Lawrence-Douglas County Health Dept – They have been issued a repair septic permit already so I have approved their waste water issues.

REQUIRED STANDARDS FOR TIER 2 AGRITOURISM USE; 12-319-7.04

The operators of the Agritourism use shall be limited to the property owner or operator, his/her family members and employees (paid or unpaid).

Adequate parking shall be provided on-site for the use, including ADA parking. Parking for Tier 2 is limited to 100 parking spaces. No parking can occur on adjacent roads. For the purpose of calculating parking requirements, parking is calculated at a rate of 1 parking space per 2 attendees.

In order to minimize noise from the agritourism use the following are prohibited:

- 1) Motors or motorized vehicles, with the exception of agricultural machinery and vehicles or electric motors;
- 2) Outdoor amplification of sound: such as auctioneering speakers or amplified music (with the exception of a stereo or radio).
- 3) If Agritourism activity is to occur outside of daylight hours, a plan shall be provided which shows the location of lighting for the activity and the type of lighting fixtures being used as well as means taken to shield the lighting in insure no trespass or glare to adjacent properties.

Landscaping shall be provided along the perimeter of parking area that are within views of residences.

Sanitary facilities shall be provided in accordance with Lawrence Douglas County Health Department requirements for the use and expected attendance.

With the exception of agricultural activities, no activities associated with the Agritourism use may occur within 50 ft. of a property line of the subject parcel.

The Zoning & Codes shall review the registration application with the criteria noted in this section and provide a report with recommendation to the Commission.

- 1) The proposed arrangement of buildings, off-street parking, access, lighting is compatible with adjacent land uses;
- 2) Adequate screening is provided between the use and adjacent residences or road ROW;
- 3) Vehicular ingress and egress to and from the site provides for safe, efficient movement of traffic including emergency vehicles;
- 4) The nature of the use is compatible with adjacent land uses and enhances or maintains the rural character of the unincorporated portion of the county;
- 5) Suitability of the existing road network system for the traffic expected to be generated by the use; road improvements may be required in some cases.

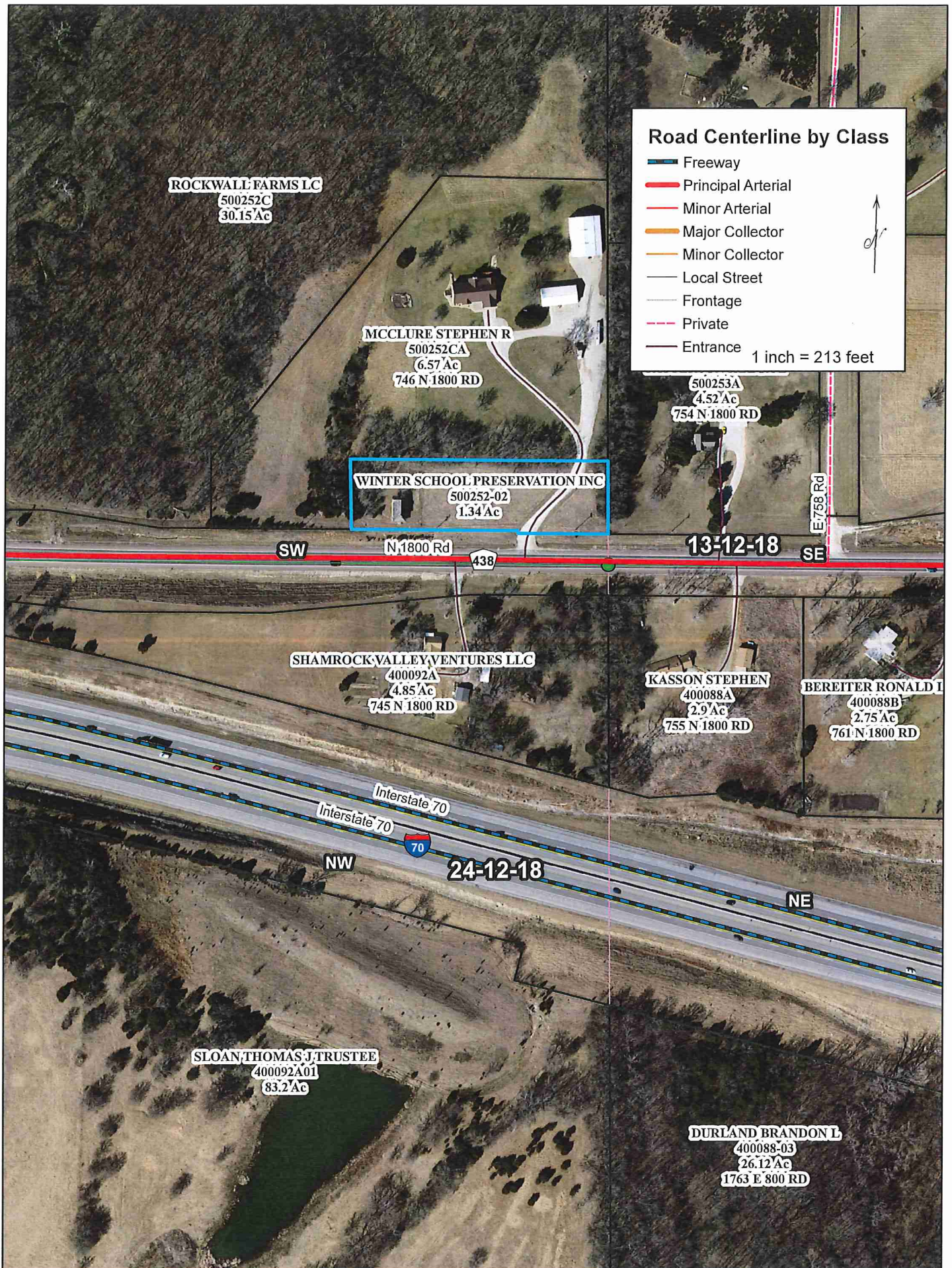
STAFF REVIEW OF CODE STANDARDS

The BOCC may take one of the following actions on the registration:

1. Approve the registration, including waiving any standard deemed reasonable to waive;
2. Approve the registration with conditions/restrictions such as limitation on the size of the buildings and parking areas, establishment of hours; establishment of buffering, limitation on activities; road improvements; etc.;
3. Return the registration to staff with request for more information; or
4. Deny the registration (Res 14-2).

Approval of the Tier II Agritourism Registration for Winter School located at 744 N 1800 Rd, with the following conditions:

- 1) Entrance permit must be obtained by Douglas County Public Works. No additional entrances will be permitted.
- 2) The County Commission may waive the separation requirement (50') depending on the nature of the Agritourism activity. A waiver of activities within 50' of the North property line will be granted.
- 3) The existing entrance must serve both the Winter School property and the McClure property at 746 N 1800 Rd.
- 4) If events exceed the number of parking spaces and occupancy rate allowed by Tier 2 standards, a Conditional Use Permit is required.
- 5) Smoking is prohibited.
- 6) ADA spaces shall be clearly delineated in the parking areas and designed in accordance with the ADA Guidelines and Zoning Regulations.
- 7) Sign permit will be required by Zoning & Codes.
- 8) No fireworks will be permitted. No fires will be allowed if a burn ban is in effect.
- 9) No lighting shall project onto adjoining residential lots. Use of spot lighting or other glaring lighting should be prohibited.
- 10) Motors or motorized vehicles are prohibited, with the exception of agricultural machinery and vehicles or electric motors.
- 11) Outdoor amplification of sound; such as auctioneering speakers or disturbing amplified music is prohibited.
- 12) The wastewater system be approved by the Douglas County Health Department.
- 13) Registration for the Agritourism business with the Kansas Department of Wildlife, Park and Tourism (KDWPT) provided to Zoning & Codes prior to operation.





DOUGLAS COUNTY ZONING & CODES DEPARTMENT

3755 E 25th Street
Lawrence, KS 66046

Phone: 785.331.1343 Fax: 785.842.1201

NOTICE OF PUBLIC HEARING

TO: Owners of Property within 1,000 feet of 746 N 1800 Rd, Lecompton KS 66050

FROM: Tonya Voigt

BOCC DATE : March 20, 2019

RE: Winter Preservation, Inc. – Tier II Agritourism application request for Winter Schoolhouse

Dear Property Owner:

Winter Preservation, Inc. is scheduled on the March 20, 2019 County Commission agenda to request application approval of a Tier II Agritourism Application for a small museum in a historical one room schoolhouse, allowing assembly of self-directed and family-friendly activities based on rotating interactive exhibits. The building and courtyard will be leased to small community groups of less than 50.

The Douglas County Board of County Commissioner's Agenda on March 20, 2019 at 5:30 P.M., on the 2nd floor of the Douglas County Courthouse, 1100 Massachusetts Street, Lawrence, Kansas 66044.

Should you have any questions or comments regarding this request, please feel free to contact our office. You may also attend the meeting on March 20th and speak to the County Commissioners directly. You may contact me at the Douglas County Zoning and Codes Department at (785) 331-1343 or by email at tvoigt@DouglasCountyKs.org.

Sincerely,

A handwritten signature in blue ink, appearing to read "Tonya Voigt", written over the word "Sincerely,".

Tonya Voigt, CEM
Planning & Zoning Coordinator

WINTER SCHOOL NO. 70

DOUGLAS COUNTY AGRITOURISM REGISTRATION

List services, facilities and amenities provided (seating area, tables, toilets, etc).

Winter School No. 70 is a one-room schoolhouse in Douglas County, Kansas. It is a genuine example of a typical rural school during its time. The Winter School was organized by pioneers in 1869 and operated until its closure in 1949 when districts were consolidated. After stabilizing the existing structure, modern upgrades, such as HVAC and toilets, will be incorporated so it can welcome visitors year round. We will have an outdoor area where people can have picnics or play old schoolyard games. The Winter School is handicap accessible and conveniently located just off I-70 and the Lecompton exit. We will welcome visitors (individuals and groups) by appointment and on various community days throughout the month. Admission is free.

Provide a detailed description of all Agritourism activities available to your guests.

The Winter School, an historic one-room rural schoolhouse, will reopen its doors to the community after 60 years. In partnership with the Lecompton Historic Society, we are proud to preserve and extend the legacy of the building as a museum dedicated to the foundations of teaching and learning. At the Winter School we want to use our heritage to better understand the origins and evolutions of the national school system.

Through a variety of rotating exhibits, visitors can spend time on the grounds to get an idea of what a school day was like for pioneer children or enjoy a picnic or schoolyard games in the courtyard. Programs include self-directed and family-friendly activities based on the exhibitions; as well as guided tours for groups. Through interactive activities The Winter School aims to introduce concepts to children and adults in order to build a community that has the capital to know about learning issues, discuss those issues, and contribute to intelligent decision-making. The Winter School building will serve as a memorial to early pioneers while continuing that tradition of community and generational growth.

History can be found in buildings and objects but it can also be found in an ethos. We want to rebuild the educational commitment through being a creative and inclusive center where communities can assemble. To continue the charitable and social legacy, we will lease the building and courtyard to small community groups of less than 50 to not exceed our museum assembly occupancy maximum. We see the culture of learning that was fostered through the school's history as a way for visitors to appreciate the value of the holistic union of school and community. With its long track record of prioritizing education, Kansas is the perfect place to promote educational history and awareness.

THE WINTER SCHOOL

The Winter School No. 70 is a one-room schoolhouse in Douglas County, Kansas. It is a genuine example of a typical rural school used during its time. The Winter School was organized in 1869 after a local farmer, Ship Winter, donated one acre of land to the school district. The first term of the school was held in the summer of 1871, with 27 students registered (including Ship's son Milton Richard Winter, age 11 – who eventually became the school board director in 1898). The district covered an area roughly two miles from the school in each direction, and almost 20 taxpayers.

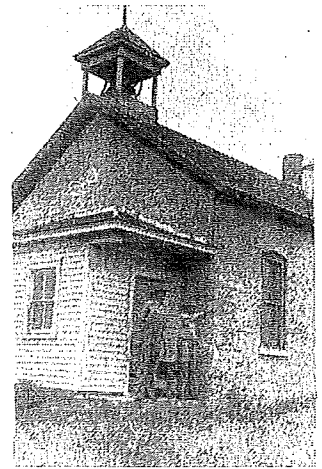
Records indicate that the school functioned normally for 75 years. Classes were typically held for three months in the summer and four months in the winter. Females taught in the summer when girls and young boys attended, and a male teacher was usually selected in the winter to contend with the elements as well the discipline of older boys. At this time schools were not graded but grouped into primary, intermediate and grammar grades.

The Winter School also served as a focal point for the people of the area. "The social side of life here was not neglected" (Daniels). The Winter School was used for social functions, meetings, plays and especially, spelling bees. Enrollment slowly declined through the 1930s and 40s. With reduced enrollment and a statewide effort to unify the many small school districts throughout the state, the school could not financially function. The spring of 1946 was the last term, and in 1949 district was officially disorganized and students attended the Lecompton school building.

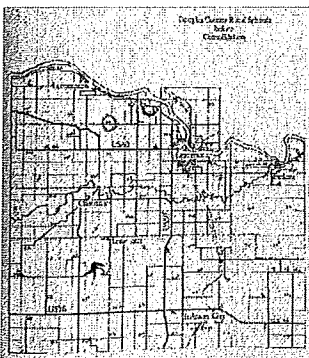
In 1949 the school and grounds were turned over to the Winter Community Club, an organization who sponsored events in the old school house. The club exsited into the 50s with members sharing poetry and music. Eventually the school was sold to the owner of the surrounding farm, Mr. Max McClure, who was a member of the school board. In 1968 he sold it to Mr. Jerry Smith, a car dealer and collector from Kansas City. In 1984, Winter School Preservation Inc purchased the property.



The Building. The Winter School is a model of a common method of 19th century house and barn construction. Like most of its early counterparts, it was originally a simple rectangular building with one large room and a gabled roof. The material and manner of construction is unique even among the numerous rural schools in this area. The walls are built entirely of local native limestone; and are nearly two feet thick all around. The original mortar is made of lime, sand and horsehair. The stonework was done by Chris Christensen, a stonemason from Sweden and was said to be one of the best in the county.



Notable improvements occurred in 1885 to point up the stone walls and in 1906 when the district dug a well. Between the prosperous times of 1910-1920 the exterior limestone walls were covered with a relatively coarse gravel and stucco, which remains today. The most significant change in the building was when a small entry way was built on the front, which was built from wood. The interior walls were replastered, new weighted windows were installed, a new hitchrack was set up, a concrete wall and platform was built in front, a wood shed was erected, slate chalkboards were installed. Once the district was disbanded, the building was used for hay storage and then abandoned despite good intentions. In the mid 1980s Winter School Preservation, Inc. commissioned repairs for a complete sub-roof with shake cedar shingles and other various improvements.



The Location. The school sits on 1.75 acres donated by Mathias "Ship" and Mary Winter. The address is approximately 745 N 1800 Rd. Lecompton, KS 66044. It is on the Farmers Turnpike (County Road 438) which parallels I-70. "Its location between the well populated towns of Topeka and Lawrence and its visibility from the Kansas Turnpike make it geographically well situated", says Wint Jr.

The school is a 5 minute drive from Lecompton Constitution Hall, a 5 minute drive from Rock Chalk Park, 10 minutes from Clinton Lake State Park, 15 minutes from the Eldridge Hotel in Downtown Lawrence, 20 minutes from Brown v Board of Education Site in Topeka and 1 hour from the National Teachers Hall of Fame in Emporia, Kansas.

Restoration & Preservation Talk

In about 1968 Max McClure sold it to Mr. Jerry Smith, a car dealer and collector from Kansas City, who had seen it from the Turnpike. It reminded him of his childhood. In the 1970s he "tried to preserve it as a museum and offered its use to Boy Scouts and other like groups. Eventually it fell victim of vandals and decay and now stands on the prairie a forlorn reminder of better days." *Daniels, 1976.*

"It should remain intact so that members of future generations can maintain a sense of history and can appreciate the importance that early Kansas settlers placed on the education of their children"... "It occupies a position of some importance in our society and is significant in historical, architectural, and cultural perspectives" Wint Winter, Jr., *A Case for Preservation*, Law School Paper 1978.

September 1984: Winter School Preservation, Inc, a non-profit, bought the building in order to restore it. It is headed by Wint Winter, Jr and his late father Wint Winter, Sr. They raised money from extended family to help restore it.

"I would encourage your freewill, tax deductible, love gift to *Winter School Preservation, Inc.* Such a gift would be put to good use toward the further renovation of the school building. We have completed work on the exterior of the school, which includes a complete sub-roof with new shake cedar shingles. We haven't done anything to the interior. Dan Rockhill, AIA, has time to available this winter to do interior work, ie redo the walls, ceiling and floor, as well as installing genuine slate blackboards we located." *Wint Sr to Family, 1988.*

"This reminds me that we have not finished our work regarding the restoration and use of the Winter School. We need to get charged back up and get that finished". *Wint Jr to family members in 2006.*

In 2013 a community member, Shirey M Funk, proposed to move the schoolhouse and did extensive research on it, which includes: "1949-2013. Left alone to age for 64 years...many have driven past the old building and wanted, wished or hoped something could be done to restore it to a great future, not looking neglected and vacated forever. Like many I am guilty of the same feelings, but upon seeing a sign and the sun shining brilliantly on the school an idea came to mind and thus brings us up-to-date...to relocate, refurbish and repurpose a grand old building and let it live long into the future."

References:

**Rural Schools and Schoolhouses of Douglas County, Kansas* by Goldie Piper Daniels. 1976.

Goldie Piper Daniels attended a one-room Douglas County Rural school and began work on her book when she was 78 years old. "Having been asked by a number of persons what sparked this effort, the paragraphs immediately following are offered...It all began when one day with sketch pad and pencil, I went to what was once **Winter School No 70**, to make a drawing of that century-old building from which to develop a painting. Slightly later I learned that a retired teacher...was in possession of this school's original records. These she graciously loaned me and as I read the interesting background of this school, temptation stared me directly the face"

"Education in this country began in the rural schools and continued here for more than 100 years...Prominent and successful men and women began their formal education in our rural schools...Much has been gained by consolidation but at the same time, something very precious has been lost; something not to be understood by those who never had the privilege of attending a truly rural school.

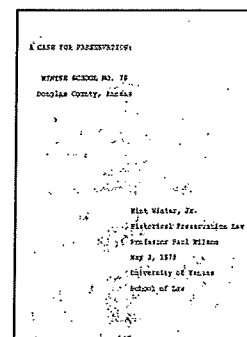
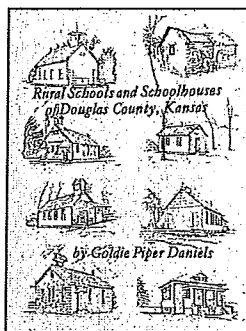
What concerned them was how to feed, clothe and educate their families and protect them from the dangers inherent in life on the frontier...Most of the early settlers were young people...Many had proper New England backgrounds, some already well educated for their time. They came here...to better their lot, to further a just cause and to build a nation. Kansas, and Douglas County in particular, were born in strife and bloodshed, so it is hoped that the reader will have both charity and understanding for the efforts of the pioneers in their struggles to establish rural education in what was then a troubled and sparsely settled area." *Goldie Piper Daniels, 1976.*

**A Case for Preservation*, Kansas Law School Paper by Wint Winter Jr, 1978

*Winter-Heise Geneology from John Mark Lambertson in 1989

*Transcript from Jeanne & Lee Winter to Dan Winter in Medicine Lodge, KS

*Winter School Dist No 70 Teachers and Student Index



*These notes were compiled by Katherine K. Winter in 2018



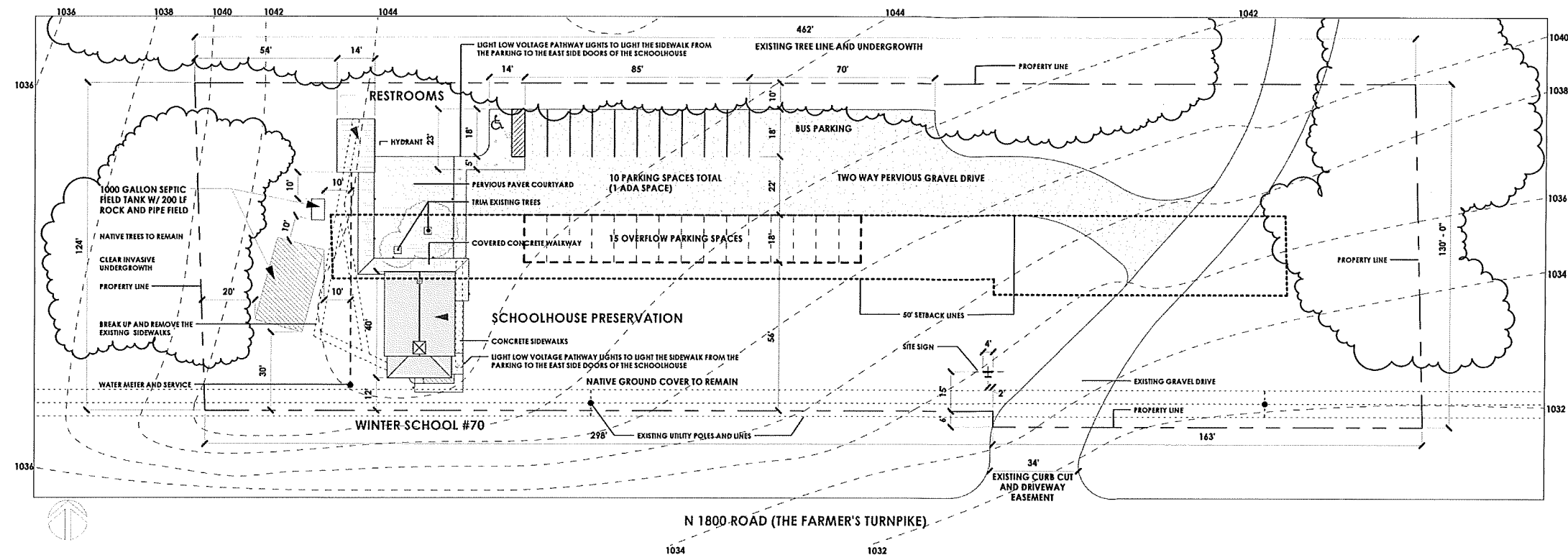
THE WINTER SCHOOL NO. 70

The Winter School #70 Douglas County, Kansas

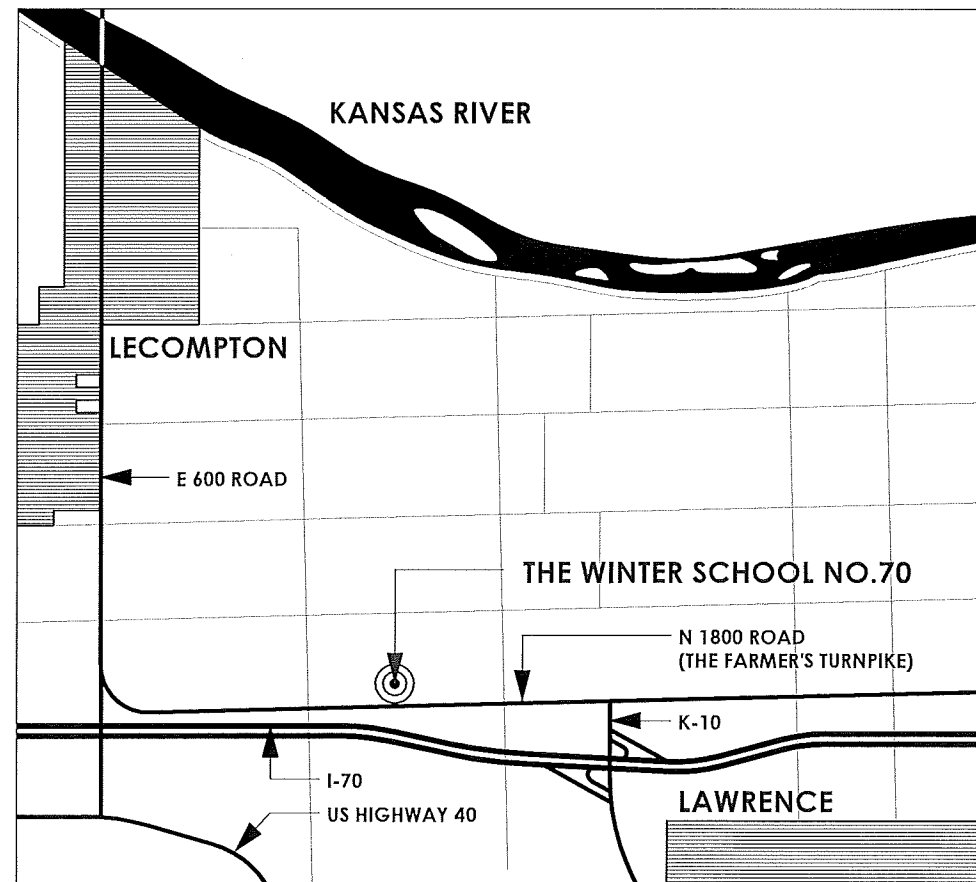
Winter School Preservation, Inc.

R+A

Rockhill + Associates
1546 East 350 Road
Leocompton, KS 66050
Dan Rockhill
785.393.0747
dan@rockhillandassociates.com
David Sain
785.393.0746
david@sain@sunflower.com



SITE PLAN



GENERAL NOTES AND SPECIFICATIONS

LEGAL DESCRIPTION

- 1.75A 13-12-18 BEG AT PT 20 FTN OF SE COR SW 1/4 TH W 28 RDSN 10 RDS E 28 RDS S 10 RDS TO BEG MGC

ZONING

- AG-TOURISM TIER 2 (PENDING)

USE GROUP

- MUSEUM ASSEMBLY

OCCUPANCY:

- SCHOOL 18 (30 SF PER PERSON)
- COURTYARD 31 (30 SF PER PERSON)
- TOTAL 50

HOURS OF OPERATION:

- DUSK TO DAWN BY APPOINTMENT

PARKING AND DRIVES:

- THE ADA PARKING SLAB AND UNLOADING AREA WILL BE A 5" REINFORCED SLAB WITH NO CURBS
- THE GRAVEL DRIVEWAY WILL BE DONE WITH CA-5 DRIVEWAY GRAVEL
- PARKING CALCULATIONS - SCHOOL OCCUPANCY OF 19/2 = 10 PERMANENT SPACES (1 ADA SPACE), THE COURTYARD OCCUPANCY OF 31 BRINGS THE TOTAL OCCUPANCY TO 50. TOTAL REQUIRED SPACES 50/2 = 25 SPACES WITH 15 OF THOSE BEING OVERFLOW PARKING ON THE LAWN.

SIDEWALKS:

- THE EXISTING SIDEWALKS WILL BE REMOVED
- THE NEW SIDEWALKS WILL BE REINFORCED 4" CONCRETE
- THE SIDEWALK ADJACENT TO THE SCHOOL WALLS WILL SLOPE AWAY FROM THE WALLS AT A 1/4" PER FOOT MINIMUM.

LANDSCAPE:

- THE NATIVE GROUND COVER AND TREES WILL BE RETAINED

SITE

The Winter School #70 Douglas County, Kansas

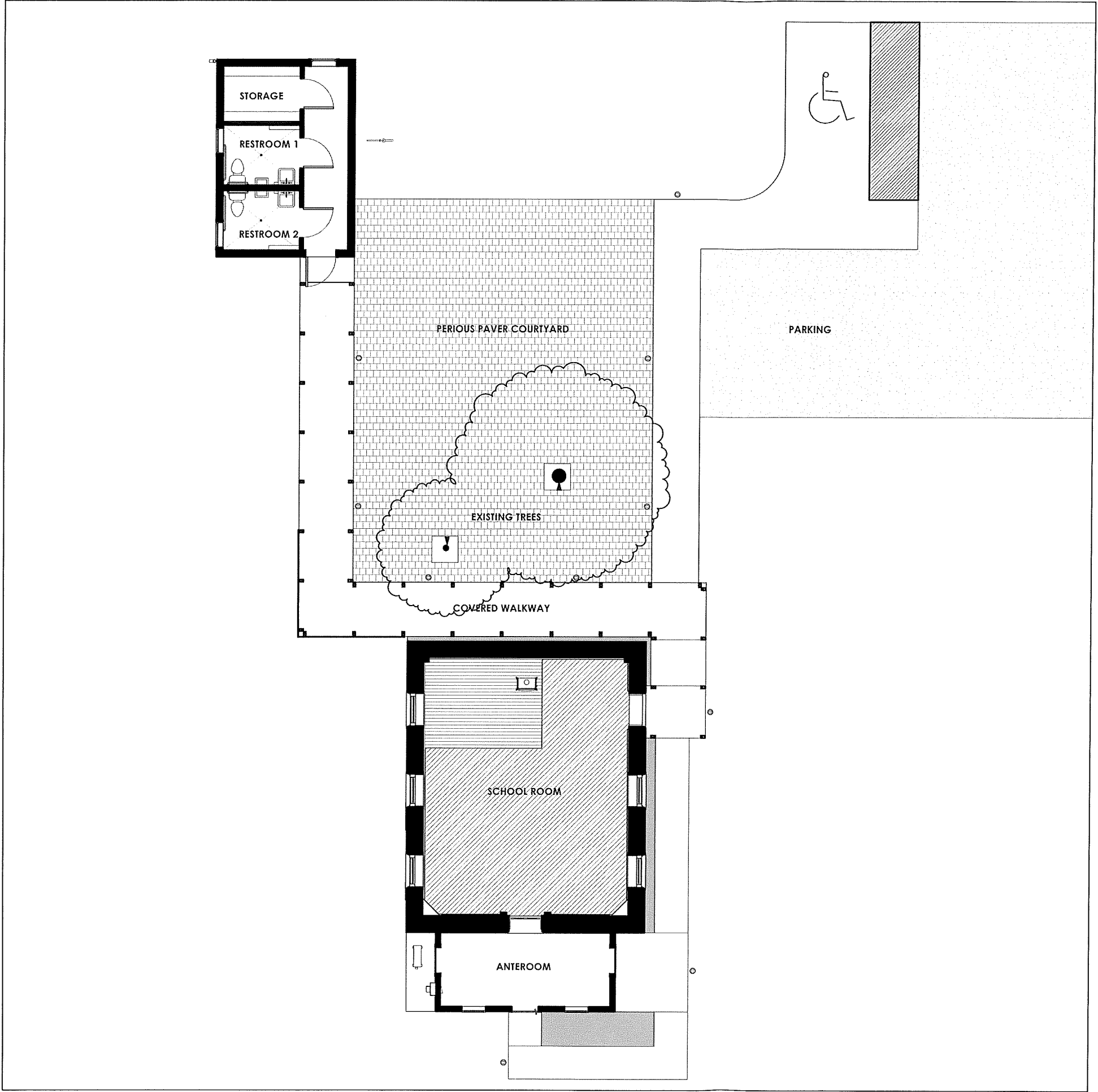
Winter School Preservation, Inc.

2

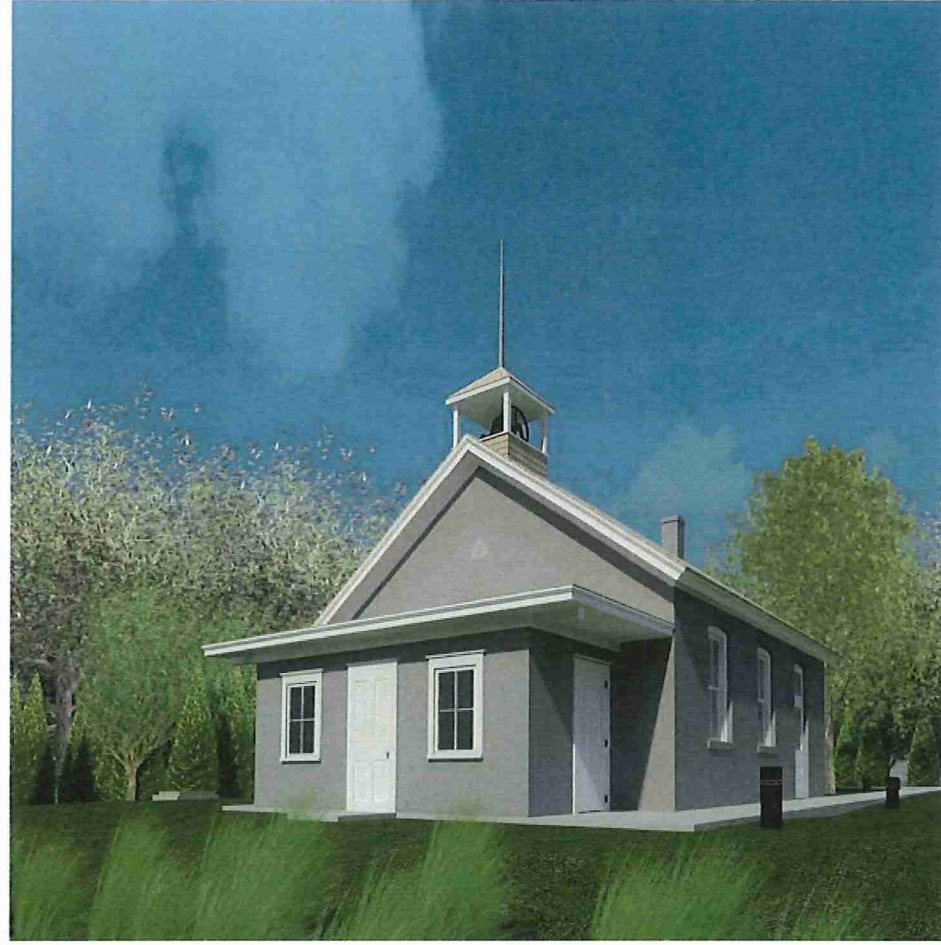
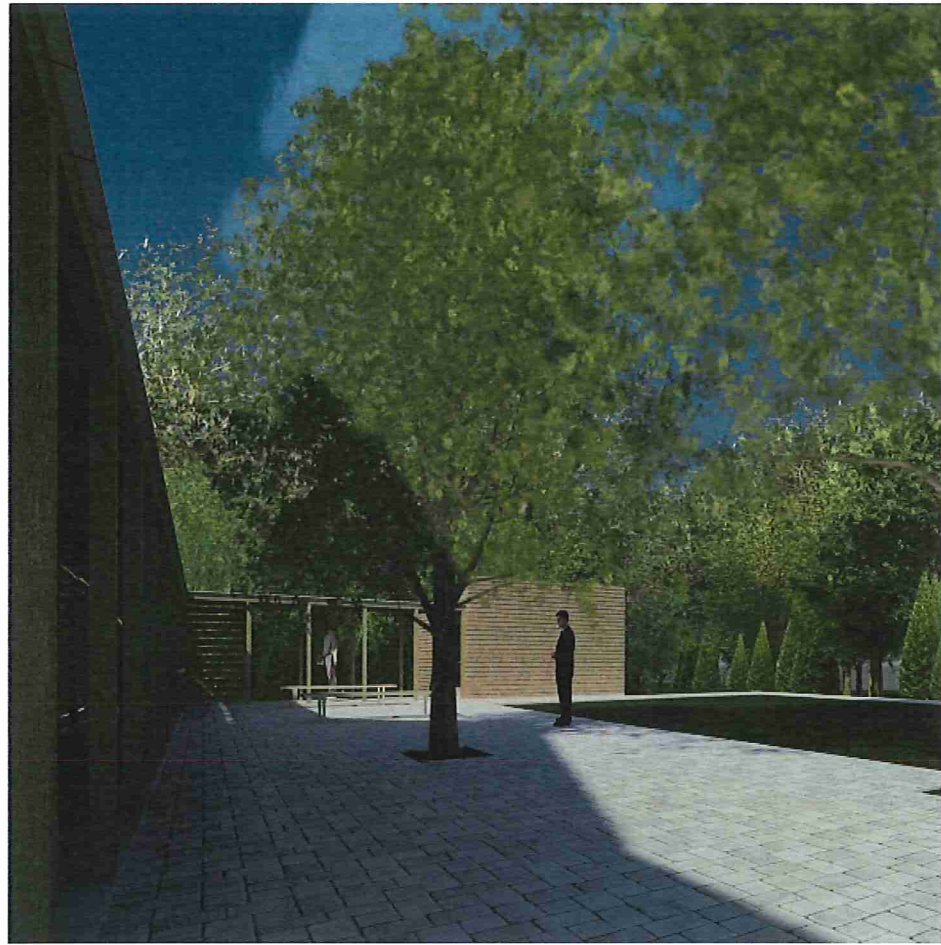
February 2019

Rockhill + Associates
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Dan Rockhill
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dan@rockhillandassociates.com
David Sain
785.393.0746
david@sainflower.com

R+A



FLOOR PLAN



EXTERIOR IMAGES



SCHOOLROOM

5

The Winter School #70 Douglas County, Kansas

Winter School Preservation, Inc.

Rockhill + Associates
1546 East 350 Road
LeCompton, KS 66050
Dan Rockhill
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dan@rockhillandassociates.com
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R+A

DOUGLAS COUNTY ZONING & CODES



ZAGT-2019-0001

Tier 2 Agritourism Application

**Rural Museum & Event Venue in Historic
Schoolhouse**

744 N 1800 Rd, Lecompton, KS

BACKGROUND



Agritourism is recognized as a vital tool for sustaining the family farm and represents significant economic potential for the community in general. Douglas County agritourism regulations are intended to foster and promote agritourism in keeping with the State of Kansas policy of encouraging agritourism, while ensuring that the public health, safety and welfare are protected.

REGULATORY PROCESS FOR AGRITOURISM USES

ARTICLE 12-319-7

12-319-7.02 b.1 Tier 1 (low intensity) Agritourism uses may be registered administratively by the Zoning and Codes Director. b.2) Registration of Tier 2 (medium intensity) Agritourism uses require approval by the Board of County Commissioners. c.2) If the Directors are unable to make a determination, the registration will be referred to the Board of County Commissioners.

Several white lines of varying lengths and angles are positioned in the bottom right corner of the slide, creating a modern, abstract graphic element.

ALLOWED AGRI USES

Farm markets/stands

U- Pick Operations

Farm Wineries

Corn Mazes

Farm-related facilities, exhibits, tours

Historical, cultural, or agriculturally related educational and learning experiences

Farm stays

Recreation-related operations such as bird watching, hiking, fishing, hunting, etc.

Horseback riding

Pumpkin patch visits and activities

Assembly type uses such as fairs, festivals, weddings, receptions which are historical, cultural or agriculturally related

Ancillary Retail Sales

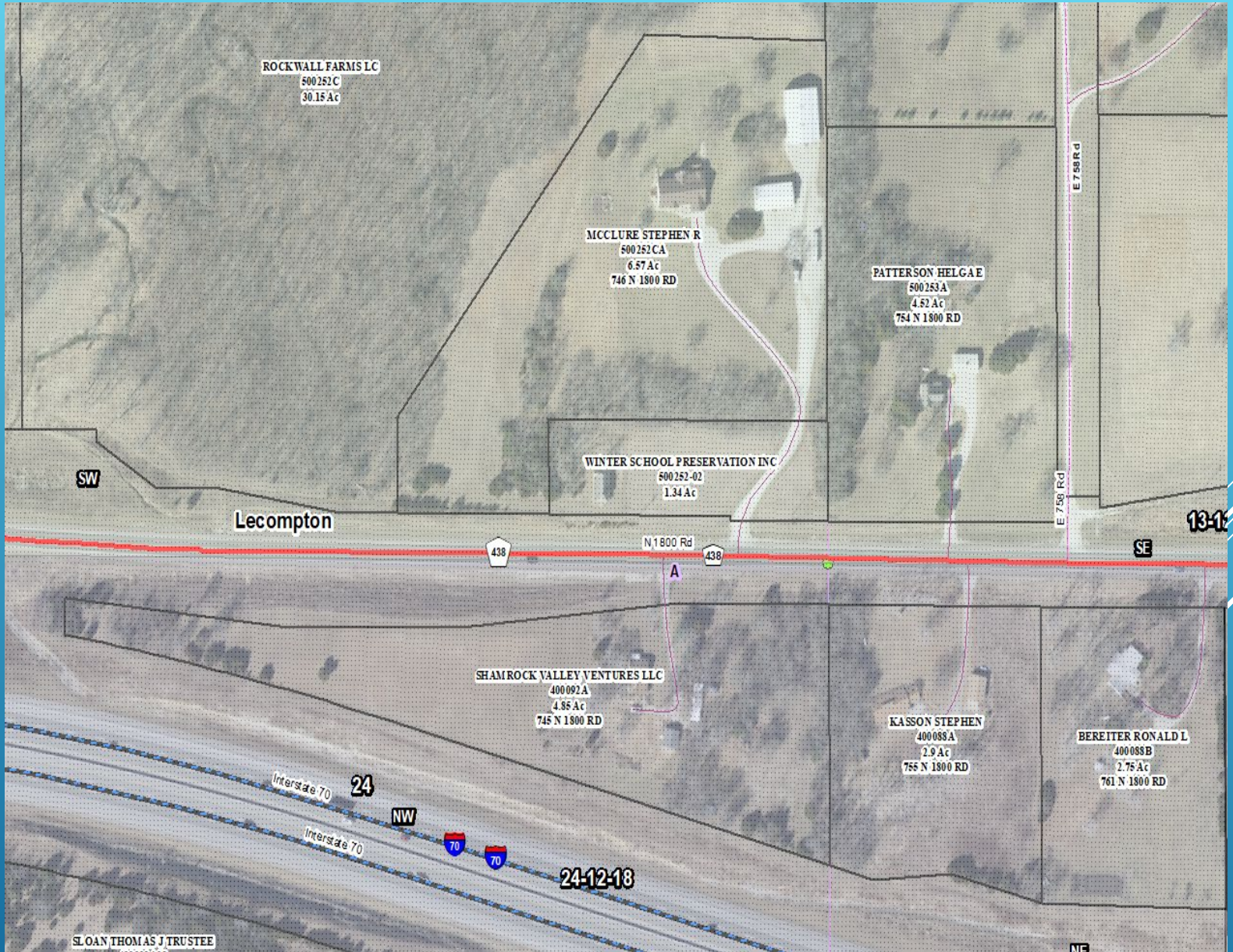
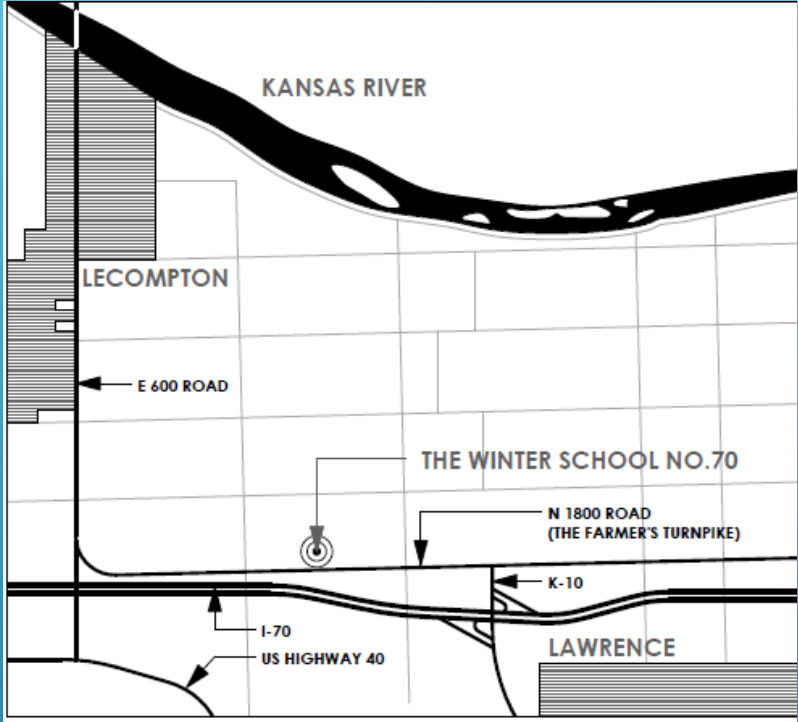
PROPOSAL- WINTER SCHOOL

This application meets the intensity standards of a Tier 1 administrative approval application, despite the fact that the parcel is zoned agriculture, the property doesn't have a residence with a working farm or an agricultural land use, placing it in a Tier 2 category.

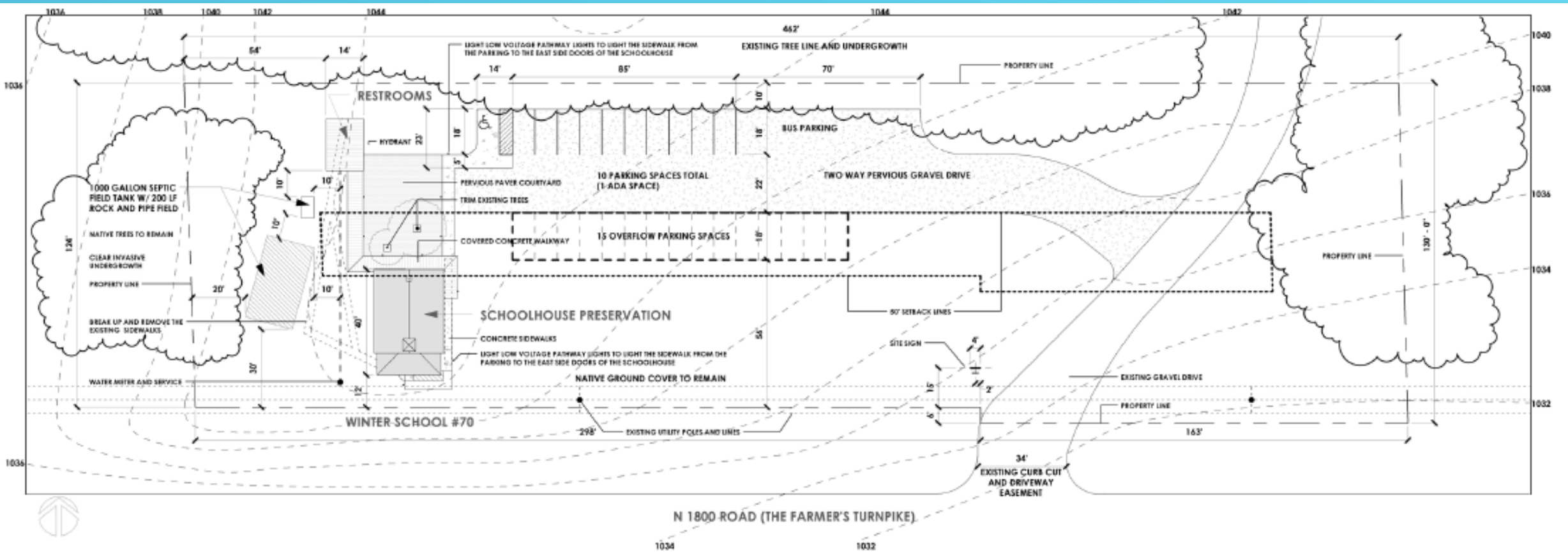
Tier 2 application request is for approval of a historical one room school house to be used as a museum for historical and cultural learning experiences. In addition to the museum, they're requesting approval to utilize the building for small group assembly uses such as school tours, receptions and similar uses.







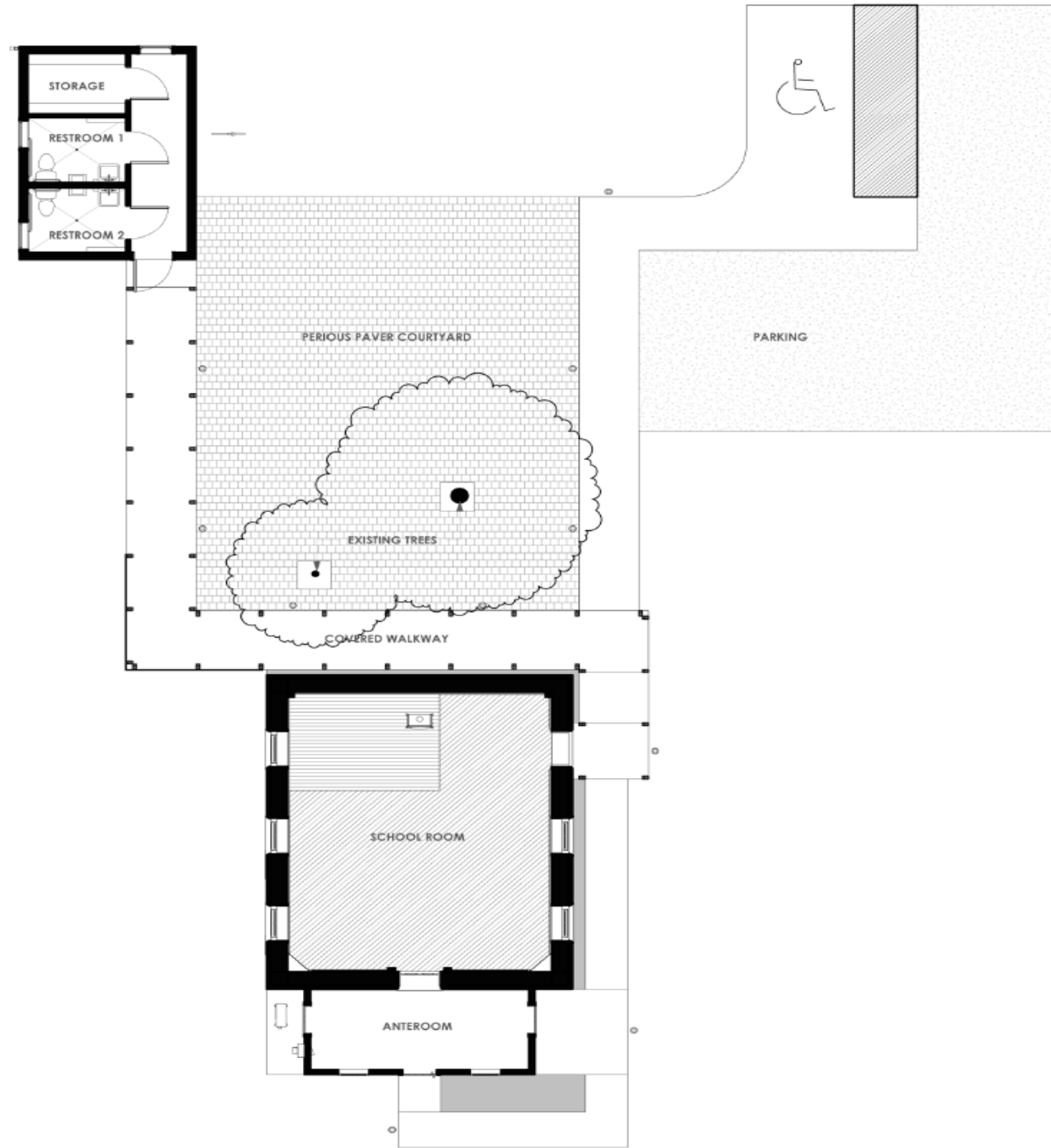
ZONING



SITE PLAN

SITE PLAN

FLOOR PLAN



REQUIRED STANDARDS

- The operators of the Agritourism use shall be limited to the property owner or operator, his/her family members and employees (paid or unpaid).
- Adequate parking shall be provided on-site for the use, including ADA parking. Parking for Tier 2 is limited to 100 parking spaces. No parking can occur on adjacent roads. For the purpose of calculating parking requirements, parking is calculated at a rate of 1 parking space per 2 attendees.
- In order to minimize noise from the agritourism use the following are prohibited:
 - 1) Motors or motorized vehicles, with the exception of agricultural machinery and vehicles or electric motors;
 - 2) Outdoor amplification of sound: such as auctioneering speakers or amplified music (with the exception of a stereo or radio).
- If Agritourism activity is to occur outside of daylight hours, a plan shall be provided which shows the location of lighting for the activity and the type of lighting fixtures being used as well as means taken to shield the lighting in insure no trespass or glare to adjacent properties.
- Sanitary facilities shall be provided in accordance with Lawrence Douglas County Health Department requirements for the use and expected attendance.
- With the exception of agricultural activities, no activities associated with the Agritourism use may occur within 50 ft. of a property line of the subject parcel.

“

DOUGLAS COUNTY PUBLIC WORKS – NO ADDITIONAL ENTRANCE FROM N 1800 ROUND WILL BE ALLOWED. EXISTING ENTRANCE SERVES BOTH THE WINTER SCHOOL PROPERTY AND THE MCCLURE PROPERTY AT 746 N 1800 RD. EXISTING ENTRANCE MAY NEED TO BE WIDENED OR OTHERWISE MODIFIED FOR PUBLIC USE AFTER DETAILED REVIEW.

”

LAWRENCE-DOUGLAS COUNTY HEALTH DEPT. –
THEY HAVE BEEN ISSUED A REPAIR SEPTIC PERMIT, SO I HAVE APPROVED THEIR WASTEWATER ISSUES. PROPERTY IS LOCATED IN RURAL WATER #6.

DEPT/AGENCY COMMENTS

NOTIFICATION

Written notices were mailed to property owners within 1000' on Feb. 21, 2019.

Concerns from neighbors:

- No inquiries or calls in response to the notice sent

CERTIFIED POL WITHIN 1000 FT OF
746 N 1800 RD (500252-02)



STAFF RECOMMENDATION

Approval of the Tier II Agritourism Registration for Winter School located at 744 N 1800 Rd, with the following conditions:

- 1) Entrance permit must be obtained by Douglas County Public Works. No additional entrances will be permitted.
- 2) The County Commission may waive the separation requirement (50') depending on the nature of the Agritourism activity. A waiver of activities within 50' of the North property line will be granted.
- 3) The existing entrance must serve both the Winter School property and the McClure property at 746 N 1800 Rd.
- 4) If events exceed the number of parking spaces and occupancy rate allowed by Tier 2 standards, a Conditional Use Permit is required.
- 5) Smoking is prohibited.
- 6) ADA spaces shall be clearly delineated in the parking areas and designed in accordance with the ADA Guidelines and Zoning Regulations.
- 7) Sign permit will be required by Zoning & Codes.
- 8) No fireworks will be permitted. No fires will be allowed if a burn ban is in effect.
- 9) No lighting shall project onto adjoining residential lots. Use of spot lighting or other glaring lighting should be prohibited.
- 10) Motors or motorized vehicles are prohibited, with the exception of agricultural machinery and vehicles or electric motors.
- 11) Outdoor amplification of sound; such as auctioneering speakers or disturbing amplified music is prohibited.
- 12) The wastewater system be approved by the Douglas County Health Department.
- 13) Registration for the Agritourism business with the Kansas Department of Wildlife, Park and Tourism (KDWPT) provided to Zoning & Codes prior to operation.



DOUGLAS COUNTY ZONING & CODES DEPARTMENT MEMORANDUM

TO: Board of County Commissioners
SUBJECT: ZTBU-2019-001, Temporary Business Permit for an Asphalt Batch Plant, to be located at 1454 E 2300 Rd, Eudora, KS
DATE: March 20, 2019
FROM: Tonya Voigt, Zoning & Codes Coordinator

BACKGROUND:

Bettis Asphalt & Construction, Inc.(Rick Eckert) is requesting a Temporary Business Permit for a portable Asphalt Batch Plant at 1454 E 2300 RD. Owners of record are Dennis and Jane Eisele. The purpose of the project is to support a 13 mile KDOT resurfacing project (mill and overlay) on K-10 beginning at the Douglas/Johnson County line, then extending east to the junction of K-10 and K-7. Stockpiles will consist of rock, sand, asphalt millings and recycled asphalt shingles. Approval is requested for a six (6) month period, from April 1, 2019- October 1, 2019.

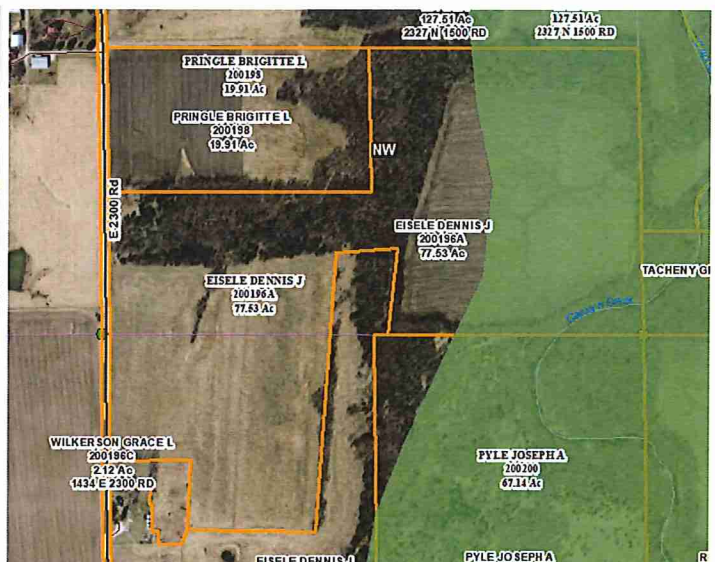
GENERAL INFORMATION:

Current Zoning and Land Use	A (Agricultural) Zoning, agricultural and residential use.
Area	Approximately 80 acres
Surrounding Zoning and Land Use	A (Agricultural) Zoning to the north, east, west and south. Land use is agricultural and residential. The City limits of Eudora are located southwest.
Floodplain	This property has special hazard flood areas on the NW corner of the property. Proposed site plan improvements are outside this area.
Natural Resources	1856 Forest in NW corner of property. Proposed site plan improvements are outside this area.

Floodplain



Old Forest Growth



APPLICABLE REGULATIONS:

Temporary business uses may be permitted in any zoning district upon review and finding of the Board of County Commissioners that the proposed use is in the public interest [re: section 12-319-5]. In making this determination, the Board is required to consider:

- Intensity and duration of the use,
- Traffic that can be expected to be generated by the use,
- Applicant's plans for dealing with sanitation and other public health and safety issues, and
- Other factors which the Board in its discretion determines will affect the public's health, safety and welfare.

Temporary business uses are enumerated in section 12-319-5.01.b. This specific uses falls in the "...other similar business use of a temporary and specific duration..." use category.

Typical application procedure requires an application be submitted a minimum of 28 days prior to the commencement date. A complete application was received on January 28, 2019.

The application is required to be accompanied by a plan showing the location of the temporary business use (asphalt batch plant) and provide an explanation of the following activities. A summary of the activities submitted with the application follows:

1. Controlling traffic, parking and road conditions. Applicant's response: *There are no traffic control adjustments being proposed at this time. The drive access will need to be improved and an entrance permit from Eudora Township will be obtained. Kevin Miller at Eudora Twp. has been contacted regarding a road maintenance agreement. We plan to video the road condition, township and City, before we begin the project. Brandon Boyd, PW Engineer with the city of Eudora has been notified of our plans. We do our dust control in-house.*
2. Health Code. All sanitation and health concerns will be addressed on the quarry site to adequately provide for both portable toilets and potable water. Applicant's response: *Portable restrooms will be on-site and managed by a third party. The third party will seek approval from the Douglas County Health Department to verify the number of toilets and potable water sources provided meet County Code.*
3. Lighting. Adequate night lighting will be provided on the quarry site. Applicant's response: *We will use common LED's and they will be purposefully pointed downward and into the plant. We will build a berm to the south to screen the three houses. There are no houses to the north and there is natural tree line.*
4. Security. Applicant's Response: *There will be a security gate controlling access. We use Titan Protection and Consulting for security. We will have someone on site pretty much 24/7 as well.*
5. Eudora Twp. Fire Dept. Eudora Twp. Fire and Emergency Services have been notified by staff prior to the County Commission meeting. Applicant's Response: *The fire department will be notified of construction activities. Douglas County Emergency Preparedness Coordinator will be informed of the asphalt plant's location and startup date.*
6. Liability Insurance. Applicant's Response: *General liability & property insurance will be provided to Douglas County Zoning & Codes Department before operation begins.*

Additional questions staff believed to be relevant:

7. The use/storage of hazardous materials. Applicant's Response: *Asphalt Cement (AC) Oil will be stored on-site in closed storage tanks. AC Oil is not considered a hazardous material. But is regulated by DOT because it is an elevated temperature (above 300 degrees). AC Oil is thick sludge material and will not discharge off-site if spilled on the ground.*
8. Hours of Operation. Applicant's Response: *Plant hours will be determined by KDOT. The K-10 project is a night job. The portable plant will not operate on holidays observed by the State of KS.*
9. Anticipated noise, dust, odor, smoke or other environmental impacts. Applicant's Response: *Odors and airborne dust produced by the operations will comply with all Air Quality Standards of the EPA (Environmental Protection Agency) and approved by KDHE (Kansas Department of Health and Environment). All dust and odor control measures are in place, as specified. Dust and odor control measures have been utilized in the development of the portable asphalt operations. A bag house is installed on the asphalt plant that has 99.97% efficiency rating. Noise from on-site operations shall be in compliance with Occupational Safety and Health Administration (OSHA) regulations. Noise exposure to employees will be regulations under OSHA. We plan to mute the loader's audible warning alarm that feeds the asphalt plant. Any municipal solid waste generated from the site will be disposed of in an accredited Subtitle D Landfill.*
10. Plan to keep roads clean of debris or spillage. Applicant's Response: *All trucks will tarp loads and have locking tailgates. Any material spilled on the roadway will be cleaned up immediately. The Project and Plant Foreman will monitor the roads on a daily basis.*
11. Plan for clean-up, restoration, reclamation of the property upon construction completion. Applicant's Response: *Top soil will be stripped and used to screen the southern perimeter. At the end of the project the site will be graded and top soil will be used to re-vegetate the site. A construction storm water permit will be received the site. Before we can cancel the permit, the site must be cleaned up and re-vegetated.*
12. Provision of a Stormwater Pollution Prevention Plan (SWPP). Applicant's Response: *All stormwater will be regulated by the EPA and KDHE. The proposed operation will have an engineered-certified Stormwater Pollution Prevention Plan.*

Public notice of the temporary business use was mailed to property owners within 1000' on February 21st, 2019. The Zoning & Codes Department has received a letter from Eudora Planning Commission (attached).

A public hearing is required to be held by the Board of County Commissioners on the temporary business permit application in accordance with section 12-319-5.01.f. The Commission may approve or deny the permit. If the permit is approved, the action the Commission take needs to include the effective time period for the permit and all conditions under which the permit is granted.

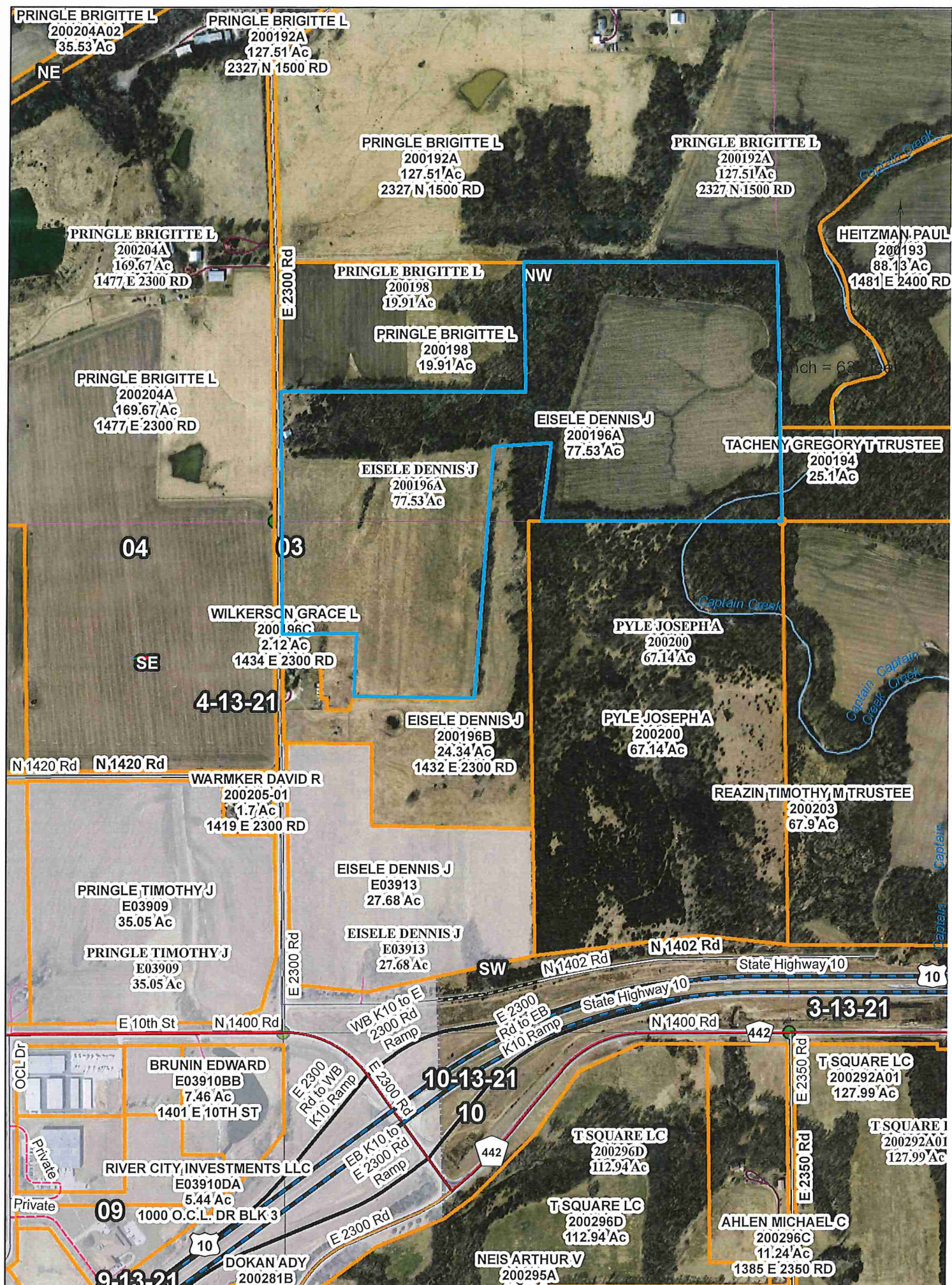
A Temporary Business Permit is issued to the applicant making the request. It is not assignable to another part without the Commission's consent [re:-12-391-5.01.g]

STAFF RECOMMENDATION:

Approval of the Temporary Business Permit for the location of a temporary asphalt batch plant for Bettis Asphalt, located at 1454 E 2300 Rd, Eudora, for 6 months, from April 1, 2019 through October 1, 2019 with the following conditions:

1. Applicant will work with Eudora Township to keep E 2300 in a safe and serviceable condition for the traveling public as well as trucks hauling to and from the plant. As a minimum, the applicant will pay for road rock up to 1,500 tons toward this effort.

2. Dust control should be required continuously during hauling operations. Dust palliative should be applied the entire length of E 2300 Rd from the plant entrance to the asphalt apron on the north side of Route 442. The dust palliative treatment will need to be maintained and possibly re-applied during the 6-month life of the permit. This is for safety of the traveling public in addition to the livability of houses adjacent to the road.
3. Commercial truck traffic to and from the TBU site is limited to E 2300 south of the project to and from K-10 at all times.
4. An entrance permit from Eudora Township will be required.
5. The asphalt surfaced portion of E 2300 Road from Route 442 to ~200' north is currently badly cracked. Heavy truck traffic will likely destroy this pavement. Applicant should be required to maintain and restore this short section of asphalt pavement. This is in the City of Eudora.
6. Honor all aspects of the provided development plan which includes: reclamation, SWPP controls KDOT plant requirements. A final site inspection of the reclamation must be approved by October 1, 2019.
7. Copies of the Stormwater Pollution Prevention permit and KDHE air permit be provided to Zoning and Codes prior to operation.
8. A copy of the General Liability & Property Insurance covering this site showing the County and Eudora Twp. as a party held harmless from claims.
9. Hours of operation will be dusk to dawn.
10. Security lighting shall be turned off when the plant is not in operation.
11. Enter into a road maintenance agreement executed between the applicant and Eudora Twp. to address road condition, continual maintenance and post project road improvements. Provide a copy of the agreement to Zoning and Codes.
12. Electrical permit required for temporary power.
13. Responsible for any traffic control signs deemed necessary by Eudora Twp. or DG Co. (e.g. trucks entering highway signs).

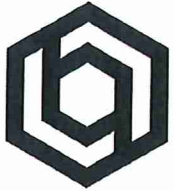


PROJECT MAP

10 46 KA5000-01







**BETTIS
ASPHALT**

March 8, 2019

Tonya Voight, CFM
Douglas County Zoning & Codes
3755 East 25th St.
Lawrence, KS 66046

Re: ZTBU-2019-001, Temporary Business Permit for an Asphalt Batch Plant, to be located at
1454 E 2300 Rd, Eudora, KS

Ms. Voight,

We have reviewed the staff memorandum prepared for the Douglas County Board of County Commissioners on the above named Temporary Business Permit application. We are in agreement with all of the requirements as set forth in the memorandum. Thank you for assisting us with this matter.

Sincerely,



Rich Eckert
General Counsel

ROAD MAINTENANCE AGREEMENT

THIS AGREEMENT (hereinafter "Agreement") entered into this _____ day of March, 2019 between Eudora Township (hereinafter "Township") and Bettis Asphalt & Construction, Inc. (hereinafter "Bettis").

WHEREAS, Township controls E 2300 Rd, a road located in Douglas County, Kansas; and

WHEREAS, Bettis has a contract to work with the Kansas Department of Transportation (hereinafter "KDOT") and a lease with a private land owner to operate a portable asphalt plant that will utilize E 2300 Rd; and

NOW THEREFORE, in consideration of the mutual covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Bettis shall maintain E 2300 Rd during its construction season while operating a portable asphalt plant on the Property.

The parties understand and agree to the following terms and conditions:

1. **PROPERTY LOCATION.** Township agrees to grant access to Bettis to use E 2300 Road to facilitate Bettis' work during the time limitations of the temporary permit granted to it by the Board of County Commissioners of Douglas County.
2. **REMEDICATION AND REPAIR.** Bettis shall videotape the condition of the road before beginning its work. During the period of the temporary permit and immediately after performance of the work, Bettis shall remediate and repair the road so that at the end of Bettis' work, the road shall be in the same or better condition than it was before Bettis began its work. Bettis shall apply dust control continuously during the work.
3. **NOTICE.** All notices shall be sent by certified mail to the following addresses:

Bettis Asphalt & Construction, Inc.

Attn: Mark Bettis,
P.O. Box 1694
Topeka, Ks 66601

If to Township:

Attn: Branden Boyd
Bob Rice
Eudora Township
310 E 20th St.
Eudora, KS 66025

Notice shall be deemed valid and received if sent to the respective addresses as indicated above.

4. **INSURANCE.** The insurance that Bettis is contractually required to purchase as a condition of this project by KDOT shall be deemed sufficient to cover this agreement as well. Proof of such insurance shall be provided to Township upon written request.
5. **GOVERNING LAW.** The laws of the State of Kansas shall govern the interpretation and performance of this Agreement, without recourse to any principles of law governing the conflicts of law that might otherwise be applicable.
6. **ENTIRE LEASE.** This Agreement and the exhibits attached hereto set forth all of the covenants, promises, conditions, and understandings between Bettis and Township affecting the road, and there are no covenants, promises, conditions, or understandings, either oral or written, between the parties except as herein set forth or referenced.
7. **INDEMNIFICATION.** To the fullest extent permitted by law, Bettis shall indemnify, defend and hold harmless Township from and against any and all claims, losses, actions, lawsuits and expenses (including reasonable attorneys' fees) arising directly or indirectly, in whole or in part, out of the act or omission to act of Bettis, any subcontractor, or anyone directly or indirectly employed by Bettis in connection with this lease. Such obligations shall not be construed to negate, abridge or otherwise reduce any other right or obligation that would otherwise exist as to any party or person described in this paragraph. The provisions of this section shall survive termination of this lease. This lease shall be interpreted as if both parties drafted the agreement. Township has had the option of seeking independent counsel before signing.

EUDORA TOWNSHIP

By: _____
Branden Boyd
or
Bob Rice

BETTIS ASPHALT & CONSTRUCTION

Bettis Asphalt & Construction, Inc.

By: _____
Mark Bettis, Vice President



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

3/8/2019

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER TRUSS 9200 Ward Parkway Suite 500 Kansas City MO 64114		CONTACT NAME: Certificate Department PHONE (A/C, No, Ext): 816-708-4600 FAX (A/C, No): 816-708-4600 E-MAIL ADDRESS: Certificates@TrussAdvantage.com	
		INSURER(S) AFFORDING COVERAGE	NAIC #
		INSURER A : Midwest Builders' Cas Mutual	13126
		INSURER B : Travelers Indemnity Co of Amer	25666
		INSURER C :	
		INSURER D :	
		INSURER E :	
		INSURER F :	

COVERAGES

CERTIFICATE NUMBER: 845025409

REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
B	☒ COMMERCIAL GENERAL LIABILITY ☐ CLAIMS-MADE ☒ OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: ☐ POLICY ☒ PROJECT ☒ LOC OTHER:			DTC04K310487TIA19	1/1/2019	1/1/2020	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 300,000 MED EXP (Any one person) \$ 5,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMP/OP AGG \$ 2,000,000 \$
B	☒ AUTOMOBILE LIABILITY ☒ ANY AUTO ☐ ALL OWNED AUTOS ☒ HIRED AUTOS ☐ SCHEDULED AUTOS ☒ NON-OWNED AUTOS			DT8104K181790TIA19	1/1/2019	1/1/2020	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
	☐ UMBRELLA LIAB ☐ EXCESS LIAB ☐ DED ☐ RETENTION \$						EACH OCCURRENCE \$ AGGREGATE \$ \$
A	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N N	N/A	WC10000009312019A	1/1/2019	1/1/2020	☒ PER STATUTE E.L. EACH ACCIDENT \$ 1,000,000 E.L. DISEASE - EA EMPLOYEE \$ 1,000,000 E.L. DISEASE - POLICY LIMIT \$ 1,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

Re: ZTBU-2019-001 Temporary Business Permit for Asphalt Plant at 1454 E 2300 Rd, Eudora KS

CERTIFICATE HOLDER**CANCELLATION**Douglas County
1100 Massachusetts
Lawrence, KS 66044

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

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April 17, 2017

Source ID No. 7770945

Cole Andersen
Bettis Asphalt and Construction, Inc.
P.O. Box 1694
Topeka, Kansas 66601

SUBJECT: Installation and Operation of a Portable Hot-Mix Asphalt Plant

Dear Mr. Andersen:

Enclosed is the Air Emission Source Combination Construction Permit and Authorization to Operate pursuant to K.A.R. 28-19-563, Class II Operating Permit; Permit-By-Rule; Hot Mix Asphalt Facilities for the portable hot mix asphalt plant as outlined in your *Notification of Construction or Modification* and Class II Operating Permit-By-Rule application forms.

Please review the enclosed permit carefully because it obligates the owner or operator to certain requirements.

Notify the air program field staff in the appropriate Kansas Department of Health and Environment (KDHE) district office within 30 days after construction is complete so that an evaluation can be conducted. The air program field staff for the Northeast District Office can be contacted at 800 West 24th Street, Lawrence, Kansas 66046, (785) 842-4600. In addition, if the plant is relocated, notify the appropriate district office air program field staff. To assist in the notifications, enclosed is a map of Kansas identifying the counties and district office contacts.

As listed in the permit, the hot mix asphalt plant is subject to a New Source Performance Standard (NSPS), 40 CFR 60, Subpart I, "Standards of Performance for Hot Mix Asphalt Facilities." This regulation requires notification and performance testing. Performance testing is required within 60 days after achieving the maximum production rate, but no later than 180 days after initial startup, and needs to be coordinated with KDHE's Air Compliance and Enforcement Section. NSPS notification forms are included for this reporting. Within 30 days following the performance test, a report should be sent to the Bureau of Air (BOA).

Coordinate performance testing with KDHE's Air Compliance and Enforcement Section at least 30 days prior to testing; they can be contacted at (785) 296-0243. Send the performance test report to the Bureau of Air within 30 days following the performance test. Please use the enclosed NSPS notification form when submitting the notifications required by NSPS Subpart I.

As provided for in K.S.A. 65-3008b(e), an owner or operator may request a hearing within 15 days after affirmation, modification or reversal of a permit decision pursuant to subsection (b) of K.S.A. 65-3008a. In the Request for Hearing, the owner or operator shall specify the provision of this act or rule and regulation allegedly violated, the facts constituting the alleged violation and secretary's intended action. Such request must be submitted to: Director, Office of Administrative Hearings, 1020 S. Kansas Avenue, Topeka, KS 66612-1327. Failure to submit a timely request shall result in a waiver of the right to hearing.

Page 2
Mr. Cole Andersen
April 17, 2017

The source ID number listed above should be included in all communications with KDHE in reference to this permit.

If you have any questions regarding this permit, please contact me at (785) 296-1947.

Sincerely,

A handwritten signature in black ink that reads "Cathy Richardson". The signature is written in a cursive style with a large, prominent "C" and "R".

Cathy Richardson
Environmental Specialist
Air Permitting Section

CLR:saw
Enclosures
c: NEDO
C-13855 & O-13858



**AIR EMISSION SOURCE COMBINED
CONSTRUCTION PERMIT
AND
AUTHORIZATION TO OPERATE PURSUANT TO
K.A.R. 28-19-563, CLASS II OPERATING PERMIT;
PERMIT-BY-RULE; HOT MIX ASPHALT FACILITIES**

Source ID No.: 7770945

Effective Date: April 17, 2017

Source Name: Bettis Asphalt and Construction, Inc.

SIC Code: 2951; Asphalt Paving Mixtures and Blocks

NAICS Code: 324121; Asphalt Paving Mixture and Block Manufacturing

Source Location: Portable

Initial Location: 18215 Metro Avenue
S30, T11S, R22E
Tonganoxie, Leavenworth County, Kansas 66806

Mailing Address: P.O. Box 1694
Topeka, Kansas 66601

Contact Person(s): Cole Andersen
EHS Manager
Phone: (785) 220-4336
Email: candersen@bettisasphalt.com

This permit is issued pursuant to K.S.A. 65-3008 as amended.

I. Description of Activity Subject to Air Pollution Control Regulations

Bettis Asphalt and Construction, Inc. is proposing to construct and operate a portable "drum-type" hot-mix asphalt¹ plant with a maximum rated capacity of 350 tons per hour. The asphalt plant will initially be located in Tonganoxie, Leavenworth County, Kansas. The plant will handle 20% to 30% recycled material and 70% to 80% virgin aggregate. The asphalt plant is equipped with a baghouse with 99.99% control efficiency to control particulate emissions.

¹ Hot-mix asphalt means a material made from a mixture of aggregate and liquid asphalt cement.

A hot-mix asphalt facility is a facility which is used to manufacture hot-mix asphalt by heating and drying aggregate and mixing it with asphalt cement. According to the information provided by the facility, the facility does not contain other emission units that, alone or in combination with the asphalt facility, would require the owner or operator of the source to obtain a Class I operating permit solely because of the facility's potential-to-emit (PTE).

At the time of permit issuance, the compression ignition (CI) reciprocating internal combustion (IC) engine powering the portable plant was determined to be *nonroad engines* as defined in 40 CFR 1068.3(1)(iii). A nonroad engine does not meet the definition of a *stationary reciprocating engine IC engine* and therefore is not subject to the requirements under 40 CFR Part 63 Subpart ZZZZ or 40 CFR Part 60 Subpart IIII. If subject to either regulation, the source will be required to submit a complete application for amendment to this Combined Construction Permit and Class II Operating Permit.

II. Source Covered by this Document

This Combined Construction Permit and Authorization to Operate pursuant to K.A.R. 28-19-563, Class II Operating Permit; Permit-By-Rule; Hot Mix Asphalt Facilities is applicable to a portable hot-mix asphalt plant. For the purposes of this permit, a portable hot-mix asphalt plant means any portable facility for the production of hot-mix asphalt comprised only of a combination of the following systems used to manufacture hot-mix asphalt by heating and drying aggregate and mixing with asphalt cements: dryers and systems for screening, handling, storing, and weighing hot aggregate, systems for loading, transferring and storing mineral filler, systems for mixing hot asphalt, systems for the loading, transfer and storage of materials used or produced by emission control systems, power sources used solely to operate the systems noted above (such as portable diesel generators and hot oil heaters) and the associated petroleum storage tanks, and incidental heating and fuel storage associated with the operation of the systems noted above.

III. Need for Construction Permit

The Kansas Department of Health and Environment (KDHE) reviewed the air quality requirements for portable hot-mix asphalt plants. Emissions of oxides of nitrogen (NO_x), carbon monoxide (CO), volatile organic compounds (VOCs), particulate matter (PM), particulate matter with an aerodynamic diameter less than or equal to 10 micrometers (PM₁₀), and Sulfur Dioxide (SO₂) were evaluated as part of the review of this application.

The project is subject to the provisions of K.A.R. 28-19-300(a)(1) (Construction permits and approvals; applicability) and a construction permit is required because the potential-to-emit of NO_x, SO₂, CO, VOC, PM and PM₁₀ exceed the respective thresholds.

K.A.R. 28-19-350, "Prevention of significant deterioration (PSD) of air quality" which adopts by reference 40 CFR 52.21, applies to the construction of major stationary sources in which at least one regulated pollutant is emitted in excess of the PSD significant emission levels.

Due to potential emissions for PM and PM₁₀ above 250 tons per year, the facility has opted to take Federally Enforceable limits which will restrict production of asphalt to 250,000 tons per year, and will require use of the air pollution control equipment whenever the plant is operating. The Federally Enforceable Limits will limit PM emissions to below the PSD significance thresholds, and will also limit PM₁₀ and CO emissions to less than the Class I major source thresholds.

The source is subject to a New Source Performance Standard (NSPS), 40 CFR Part 60, Subpart I, "Standards of Performance for Hot Mix Asphalt Facilities."

IV. Purpose of the Class II Operating Permit-By-Rule

The purpose of this permit is to limit facility actual emissions for all regulated pollutants to less than major source thresholds and to authorize the owner or operator to operate the hot-mix asphalt facility pursuant to K.A.R. 28-19-563, "Class II operating permits; permit-by-rule; hot mix asphalt facilities."

V. Significant Applicable Air Pollution Control Regulations

The project, as proposed, is subject to Kansas Administrative Regulations (K.A.R.) relating to air pollution control. The following air quality regulations were determined to be applicable to this source:

- A. K.A.R. 28-19-9(c), Time schedule for compliance;
- B. K.A.R. 28-19-20, Particulate matter emission limitation;
- C. K.A.R. 28-19-300, Construction permits and approvals; applicability;
- D. K.A.R. 28-19-301(e), Construction permits and approvals; application and issuance;
- E. K.A.R. 28-19-302, Construction permits and approvals; additional provisions; construction permits;
- F. K.A.R. 28-19-501, Operating permits; emissions limitations and pollution control equipment for class I and class II operating permits; conditions;
- G. K.A.R. 28-19-563, Class II operating permits; permit-by-rule; hot mix asphalt facilities;
- H. K.A.R. 28-19-650, Emissions opacity limits;
- I. K.A.R. 28-19-720, New Source Performance Standards, which adopts by reference 40 CFR Part 60, Subpart I – Standards of Performance for Hot Mix Asphalt Facilities; and 40 CFR Part 60, Subpart A – General Provisions.

VI. Air Emission Unit Technical Specifications

The following equipment or an equivalent is approved:

- A. A portable CMI drum hot mix asphalt plant, with a manufacturer's maximum rated capacity of 350 tons per hour, manufactured in 2000. It will be fueled with waste oil as a primary fuel with natural gas and propane as a secondary fuel.
- B. The hot mix asphalt drum will be equipped with a Cedar Rapids baghouse (Model Number: 16096P14) manufactured in 1993, with a design gas flow rate of 72,000 cubic feet per minute at 300 °F and a minimum rated control efficiency of 99.99% to control particulate emissions from the asphalt drum mixer. The baghouse has 976 bags, each consists of 14 ounce (oz.) Nomex fiber. The stack is located at 24 feet above-grade with a 58" x 42" stack.

VII. Air Emission Estimates from the Proposed Activity

POLLUTANTS REVIEWED	POTENTIAL-TO-EMIT ² Tons per year (tpy)	
	Pre-Permit	Post-Permit
Nitrogen Oxides (NO _x)	<100	6.875
Carbon Monoxide (CO)	>100	16.25
Particulate Matter (PM) ³ , filterable ⁴	>250	1.75
Particulate Matter with aerodynamic diameter ≤ 10 µm (PM ₁₀) ⁵ , filterable ⁴	>250	0.488
Sulfur Dioxide (SO ₂)	<100	7.25
Volatile Organic Compounds (VOCs)	<100	4.00

VIII. Air Emission Limitations

Each air emission limitation in this permit applies at all times to the respective emission source subject to that limitation, including startup, shutdown, and malfunction. The exceedance of any emission limitation in this permit may constitute a violation of the permit and may be subject to enforcement action.

A. The following requirements apply to the asphalt plant to limit emissions of PM, PM₁₀, and CO emissions to below major source thresholds. [K.A.R. 28-19-302(b)]

1. The owner or operator shall limit production at the facility to not more than 250,000 tons of asphalt in any consecutive twelve (12) month period. [K.A.R. 28-19-563(c)(1)]
2. The air pollution control equipment (baghouse) shall be in place, functional, and continuously operating whenever the hot-mix asphalt plant is in operation. [K.A.R. 28-19-302(b), K.A.R. 28-19-501(b), K.A.R. 28-19-563(b)]
3. The air pollution control equipment shall be maintained according to manufacturer's recommendations. [K.A.R. 28-19-302(b), K.A.R. 28-19-501(b), K.A.R. 28-19-563(b)]

² Potential-to-emit (PTE) means the maximum capacity of a stationary source to emit a pollutant under its physical and operational design. Any physical or operational limitation on a capacity of the source to emit a pollutant, including air pollution control equipment and restrictions on hours of operation or on the type or amount of material combusted, stored, processed, shall be treated as part of its design if the limitation or the effect it would have on emissions is federally enforceable.

³ A non-regulated pollutant under the Title V program, but a regulated pollutant under the PSD/NSR program.

⁴ Filterable PM is the PM collected on or before the filter of an EPA Method 5 (or equivalent) sampling train.

⁵ A regulated pollutant under the Title V program.

- B. The following requirements apply to the asphalt plant subject to NSPS Subpart I.
1. Particulate matter emissions are limited to 90 mg/dscm (0.04 grains/dscf) of exhaust gas. [40 CFR 60.92(a)(1), K.A.R. 28-19-563(b)]
 2. Opacity of visible emissions is limited to less than twenty percent (20%). [40 CFR 60.92(a)(2), K.A.R. 28-19-650(a)]
- C. The quantity of particulate emissions from processing equipment shall be limited in proportion to the rate at which materials are processed according to Table P-1 of K.A.R. 28-19-20. [K.A.R. 28-19-20]
- D. This Combined Construction Permit and Authorization to Operate pursuant to K.A.R. 28-19-563, Class II Operating Permit; Permit-By-Rule; Hot Mix Asphalt Facilities is not transferable to another portable hot-mix asphalt plant.

IX. Monitoring Requirements

- A. The following requirements apply to the asphalt plant to limit emissions of PM, PM₁₀, and CO.
1. The owner or operator shall develop and implement onsite a written or electronic means to document and record the production of asphalt to demonstrate that it is limited to 250,000 tons in any consecutive twelve (12) month period. [K.A.R. 28-19-563(c)(2)]
 2. The owner or operator shall develop and implement onsite a maintenance plan, in written or electronic form, to assure proper operation of the air pollution control equipment consistent with the assumed efficiency. [K.A.R. 28-19-563(c)(2)]

X. Recordkeeping Requirements

- A. The following requirements apply to the asphalt plant to limit emissions of PM, PM₁₀, and CO.
1. The owner or operator shall maintain a record of the hot-mix asphalt production of the facility. [K.A.R. 28-19-563(c)(2)]
 2. Records of the following shall be maintained onsite, in a log of written or electronic form, for the air pollution control equipment. [K.A.R. 28-19-563(c)(2), K.A.R. 28-19-501]
 - a. The date of all routine or other maintenance, malfunction or repair;
 - b. The nature of the action taken on such date; and
 - c. Any corrective actions or preventative measures taken.
- B. The following requirements apply to the asphalt plant subject to NSPS Subpart I.
1. Records of the following shall be maintained onsite, in a log of written or electronic form. [40 CFR 60.7(b)]
 - a. The occurrence and duration of any start-up, shutdown, or malfunction in the operation of the hot-mix asphalt plant;

- b. Any malfunction of the air pollution control equipment; or
 - c. Any periods during which a continuous monitoring system or monitoring device is inoperative.
- C. Each record shall be updated monthly, no later than the last day of the month following the month to which the record relates. [K.A.R. 28-19-563(c)(3), K.A.R. 28-19-501]
- D. Records shall be kept on-site for a minimum of two (2) years from the date of the record. [K.A.R. 28-19-563(c)(4), K.A.R. 28-19-501]

XI. Reporting Requirements

- A. The following requirements apply to the asphalt plant to limit emissions of PM, PM₁₀, and CO.
 - 1. If, at the end of any calendar quarter, the facility's actual operations exceed eighty-five percent (85%) of the operational restriction (i.e., if the facility produced more than 212,500 tons of asphalt during the past four calendar quarters), the owner or operator shall complete the following.
 - a. Submit a written report to the KDHE of the actual production during that time. [K.A.R. 28-19-563(d)(1)]
 - b. Report the actual production in units specified in K.A.R. 28-19-563(c)(1). [K.A.R. 28-19-563(d)(2)]
 - c. Submit the report to the KDHE within forty-five (45) days of the last day of the month following the conclusion of the calendar quarter. [K.A.R. 28-19-563(d)(3)]
 - 2. If, at any time, the facility's actual operations exceed the operational restrictions of this permit, the owner or operator shall complete the following.
 - a. Notify the KDHE in writing of any operational exceedance. This notification shall be mailed or delivered on or before the first working day following discovery of the exceedance. [K.A.R. 28-19-563(e)(1)]
 - b. Submit to the KDHE a written compliance plan, signed by a responsible official, stating those actions being taken by the owner or operator to assure future compliance. The plan shall be submitted within sixty (60) days of discovery of the exceedance, and will clearly state if an application for a Class II permit modification or if an application for a Class I operating permit will be submitted. Any such application shall be filed within one hundred eighty (180) days of discovery of the exceedance. [K.A.R. 28-19-563(e)(2)-(3)]
 - 3. Submitting any or all of these reports does not shield the owner or operator from enforcement action for exceeding any applicable requirement or for other violations of the Kansas Air Quality Act or Regulations. [K.A.R. 28-19-563(e)(4)]

- B. The owner or operator shall submit all operating or relevant information necessary to estimate actual plant emissions for the preceding calendar year. This information shall be submitted each year on forms provided or approved by the KDHE by the due date specified in K.A.R. 28-19-546.⁶ If forms and instructions have not been received thirty (30) days prior to the due date, the owner or operator shall contact the KDHE.

XII. Performance Testing

- A. The following requirements apply for the hot-mix asphalt equipment subject to NSPS Subpart I.
1. Performance testing required by 40 CFR 60.8 is to be completed within sixty (60) days after achieving the maximum production rate, but no later than one hundred eighty (180) days after the initial startup, unless proof of previous successful performance testing has been provided prior to that date. [40 CFR 60.93(a)]
 2. Performance testing to determine particulate matter concentration is to be conducted using Method 5, described in Appendix A of 40 CFR 60. The sampling time and sample volume for each run shall be at least sixty (60) minutes and 0.90 dscm (31.8 dscf). [40 CFR 60.93(b)(1)]
 3. Performance testing to determine opacity is to be conducted using Method 9, described in Appendix A of 40 CFR 60, and the procedure in 40 CFR 60.11. Performance testing and reporting of results shall follow the procedures outlined in the KDHE Method 9 policy statement (copy enclosed).⁷ [40 CFR 60.93(b)(2)]
- B. Compliance with the emission limitation is based on operation of the asphalt plant during a successful performance test, not the rated capacity. Raw material usage, operating rates and other parameters shall be monitored during the performance test. If the unit is operated in a manner which differs significantly from its operation during the performance test, such as an increase in material throughput, another performance test may be required to show that the unit can meet the emission limitations under those operating conditions.

XIII. Notification

- A. The following notifications are to be submitted for the hot-mix asphalt plant in accordance with 40 CFR 60.7 and 60.8.
1. The date installation begins, postmarked within thirty (30) days after that date;
 2. The actual date of initial start-up, postmarked within fifteen (15) days after that date;
 3. The date maximum production rate was achieved; and
 4. The anticipated date for conducting opacity observations required by 60.11(e)(1), postmarked at least thirty (30) days prior to that date.

⁶ The due date specified in K.A.R. 28-19-546 is April 1. If the due date falls on a Saturday, Sunday or holiday, the submission shall be due on or before the next business day following the due date.

⁷ Method 9 Compliance Testing Requirements Technical Guidance Document – BAR 2001-02, revised June 7, 2005.

- B. The enclosed NSPS Notification form may be used to submit the notifications above to the KDHE.
- C. 40 CFR 60.7(a)(4) requires that written notification be submitted for any physical or operational change which may increase the emission rate of any air pollutant to which a standard applies, unless that change is specifically exempted under an applicable subpart or in 60.14(e). This notice shall be postmarked sixty (60) days, or as soon as practicable, before the change is implemented and shall include information describing:
 - 1. The precise nature of the change;
 - 2. The present and proposed emission control systems;
 - 3. The production capacity of the facility before and after the change; and
 - 4. The expected completion date of the change.
- D. Notify the air program field staff at the Northeast District Office in Lawrence, Kansas or the appropriate KDHE district office within thirty (30) days after installation is complete and operations commence so that an evaluation may be conducted to verify compliance with applicable regulations. To assist in providing notifications, a map of Kansas is enclosed that identifies the district boundaries, contact names, addresses, and telephone numbers.
- E. If the portable plant is moved, written notification is required by K.A.R. 28-19-9(c). Send the notification to the appropriate KDHE district office or local agency air program office at least ten (10) days before the equipment commences operation at the new location. In the notification identify the scheduled date that operation is to begin and indicate the expected operating period at the new location. To assist in providing notifications, a Relocation Notification form is enclosed.

XIV. Modification

- A. The owner or operator must submit a complete application for an appropriate operating permit, if there is any addition or modification of equipment, that alone or in combination with the facility, would increase the PTE for any regulated pollutant above the major source threshold. The application must be submitted within one hundred eighty (180) days of the initial startup of the modification. [K.A.R. 28-19-544(b)]
- B. A construction permit or approval must be issued by the KDHE prior to commencing any construction or modification of equipment or processes which meet the criteria specified at K.A.R. 28-19-300.
- C. The owner or operator may install, reconstruct or alter this hot-mix asphalt plant to the extent that the hot-mix asphalt plant continues to operate within the operating requirements and limits of this document.

XV. General Provisions

- A. This document will become void if construction or modification has not commenced within 18 months of the effective date, or if the construction or modification is interrupted for a period of 18 months or longer.
- B. A construction permit or approval must be issued by the KDHE prior to commencing any construction or modification of equipment or processes which result in an increase of potential-to-emit equal to or greater than the thresholds specified at K.A.R. 28-19-300.

- C. Upon presentation of credentials and other documents that may be required by law, the permittee will allow a representative of the KDHE (including authorized contractors of the KDHE) to:
1. enter upon the permittee's premises where a regulated facility or activity is located or conducted or where records must be kept under conditions of this document;
 2. have access to and copy, at reasonable times, any records that must be kept under conditions of this document;
 3. inspect at reasonable times, any facilities, equipment (including monitoring and control equipment) practices or operations regulated or required under this document; and
 4. sample or monitor, at reasonable times, for the purposes of assuring compliance with this document or as otherwise authorized by the Secretary of the KDHE, any substances or parameters at any location.
- D. The emission unit or stationary source which is the subject of this document will be operated in compliance with all applicable requirements of the Kansas Air Quality Act and the Federal Clean Air Act.
- E. This document is subject to periodic review and amendment as deemed necessary to fulfill the intent and purpose of the Kansas Air Quality Statutes and Regulations.
- F. This document does not relieve the permittee of the obligation to obtain any approvals, permits, licenses, or documents of sanction which may be required by other federal, state, or local government agencies.
- G. All correspondence concerning permits shall be submitted to:

Air Permitting Section
Bureau of Air
Kansas Department of Health and Environment
1000 SW Jackson, Suite 310
Topeka, KS 66612-1366

Permit Writer

Cathy Richardson

Cathy Richardson
Environmental Specialist
Air Permitting Section

4-17-17
Date Signed

CLR:saw
c: NEDO
C-13855 & O-13858

Grant Martin, Chair
Eudora Planning Commission
4 East Seventh Street
Eudora, Kansas 66025

March 7, 2019

Tonya Voigt, Planning and Zoning Coordinator
Douglas County Zoning and Codes
3755 East 25th Street, Lawrence
Lawrence, Kansas 66046

RE: ZTBU-2019-0001 – Temporary Use Permit Application (Douglas County) for a temporary asphalt batching plant on property within 3-miles of the City of Eudora

Dear Ms. Voigt:

I am writing this letter to you regarding the aforementioned application as the Chair of the Eudora Planning Commission. The Planning Commission appreciates the efforts expended by you and Douglas County to include the Eudora community in land use decisions. We would ask you to accept and utilize the following information and convey it to the Board of County Commissioners for consideration at the March 20, 2019 meeting.

On March 6, 2019, the Eudora Planning Commission met, considered the application and decided to forward the following comments to the Douglas County Board of County Commissioners for their consideration. The following outlines the issues and concerns of the City of Eudora Planning Commission:

1. Should the temporary use permit be granted, it be limited to 180 days (with limited extension due to weather conditions) and that the temporary use can only serve the identified KDOT project.
2. That the applicant provides greater detail or conditions be added by the County to ensure that *"adequate measures will be taken to prevent odor, dust, noise, lights, drainage, and traffic from becoming objectionable to uses on other properties."* Per applicable Federal, State, and local regulations whichever may be most restrictive.
3. That the applicant provides traffic routing and control plan information or conditions be added by the County to ensure that *"ingress to and egress from such facilities shall be only from major thoroughfares"* between the materials supplier, the batching plant location and the project being served.
4. That the applicant documents the road conditions along the proposed routing of truck traffic prior to the installation of the proposed batching plant and at the termination of the temporary use permit and agree to make appropriate road repairs to restore conditions along the route to an equivalent or better condition than existed prior to the temporary use.

5. That the applicant provide details regarding restoration of the property or conditions be added by the County to ensure that such restoration be completed within 30 days of the termination of the permit to the satisfaction of applicable Federal, State and local requirements.
6. In addition to the five items above the Planning Commission also expressed a concern in regard to the placement of the temporary asphalt plant in Douglas County instead of Johnson County. The Planning Commission understands that residents of Eudora and Douglas County utilize K-10 and will benefit from an improved road surface on their travel route, but the Planning Commission also believes that the project and Douglas County would be better served by having the plant located closer to the project in Johnson County.

Thank you again for providing us this opportunity to provide meaningful input on this application and considering our requests.

Sincerely,



Grant Martin, Chair
City of Eudora Planning Commission



BETTIS ASPHALT

March 8, 2019

Kevin Miller
Eudora Township
310 E 20th St.
Eudora, KS 66025

Re: ZTBU-2019-001, Temporary Business Permit for an Asphalt Batch Plant, to be located at 1454 E 2300 Rd, Eudora, KS

Mr. Miller,

We have reviewed the staff report for Douglas County on the above named permit application. Several of the requirements concern Eudora Township's E 2300 Road. We are in agreement with the requirements of Staff's recommendation. We shall repair all damage we cause to the road during our construction activities. We will video the road before we begin our activities to ensure compliance. We will also use dust control continuously during hauling operations on the part of the road that is not paved. If you have any questions, please feel free to contact me at the above number.

Sincerely,



Rich Eckert
General Counsel

DOUGLAS COUNTY ZONING & CODES



ZTBU-2019-001

Temporary Business Use

Asphalt Batch Plant

1454 E 2300 Rd, Eudora, KS

BACKGROUND



Temporary business uses may be permitted in any district upon the review and finding of the Board of County Commissioners that the proposed use is in the public interest. In making such determination, the Board shall consider the intensity and duration of the use, the traffic that can be expected to be generated by the use, the applicants plans for dealing with sanitation and other public health and safety issues, and other factors which the Board in its discretion determines will affect the public health, safety and welfare.

REGULATORY PROCESS FOR TEMPORARY BUSINESS USES

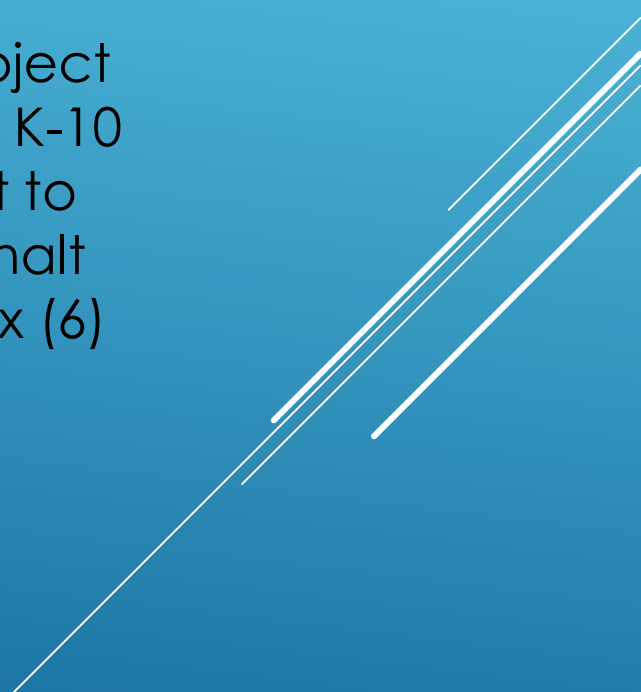
ARTICLE 12-319-6

12-319-6 Temporary business uses shall include the following activities conducted only for a temporary and specified duration:

- Batching or rock-crushing plant, including concrete or asphalt

PROPOSAL

Bettis Asphalt & Construction, Inc.(Rick Eckert) is requesting a Temporary Business Permit for a portable Asphalt Batch Plant at 1454 E 2300 RD. Owners of record are Dennis and Jane Eisele. The purpose of the project is to support a 13 mile KDOT resurfacing project (mill and overlay) on K-10 beginning at the Douglas/ Johnson County line, then extending east to the junction of K-10 and K-7. Stockpiles will consist of rock, sand, asphalt millings and recycled asphalt shingles. Approval is requested for a six (6) month period, from April 1, 2019- October 1, 2019.

Several white lines of varying lengths and orientations are positioned in the bottom right corner of the slide, creating a modern, abstract graphic element.

GENERAL INFORMATION:

Current Zoning and Land Use A (Agricultural) Zoning, agricultural and residential use.

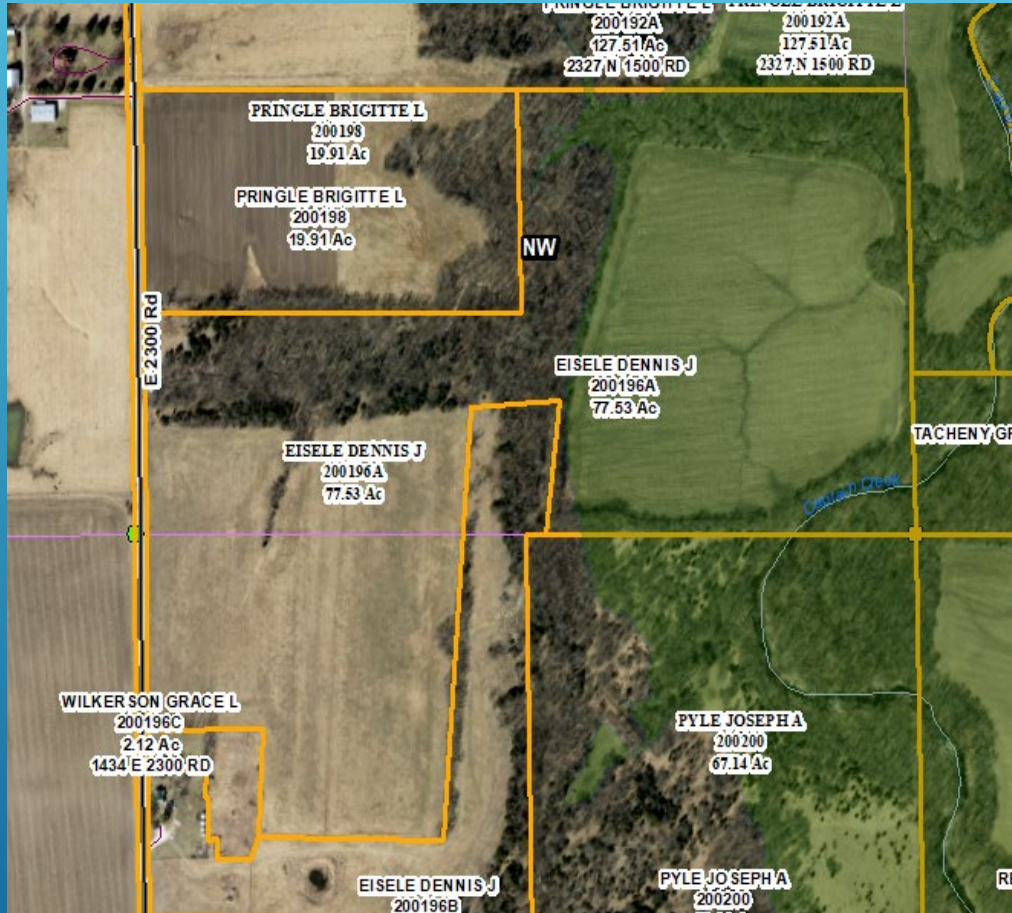
Area Approximately 80 acres

Surrounding Zoning and Land Use A (Agricultural) Zoning to the north, east, west and south. Land use is agricultural and residential. The City limits of Eudora are located southwest.

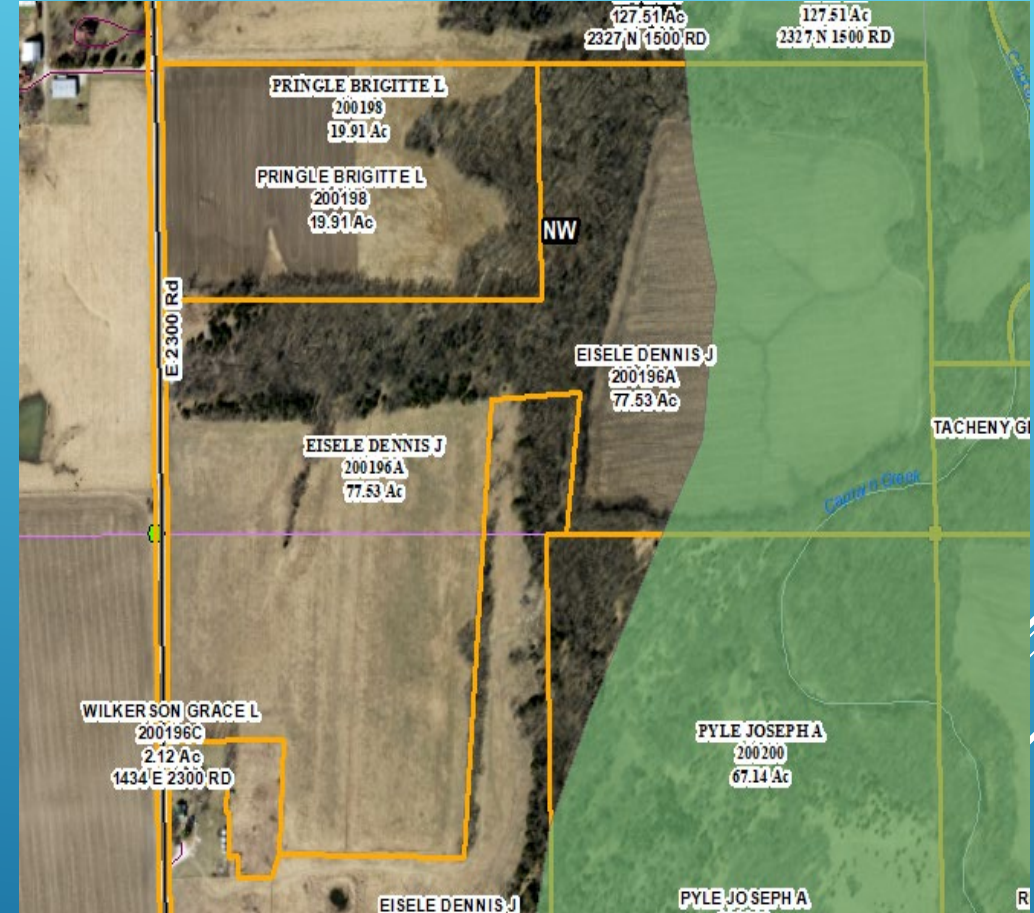
Floodplain This property has special hazard flood areas on the NW corner of the property. Proposed site plan improvements are outside this area.

Natural Resources 1856 Forest in NW corner of property. Proposed site plan improvements are outside this area.

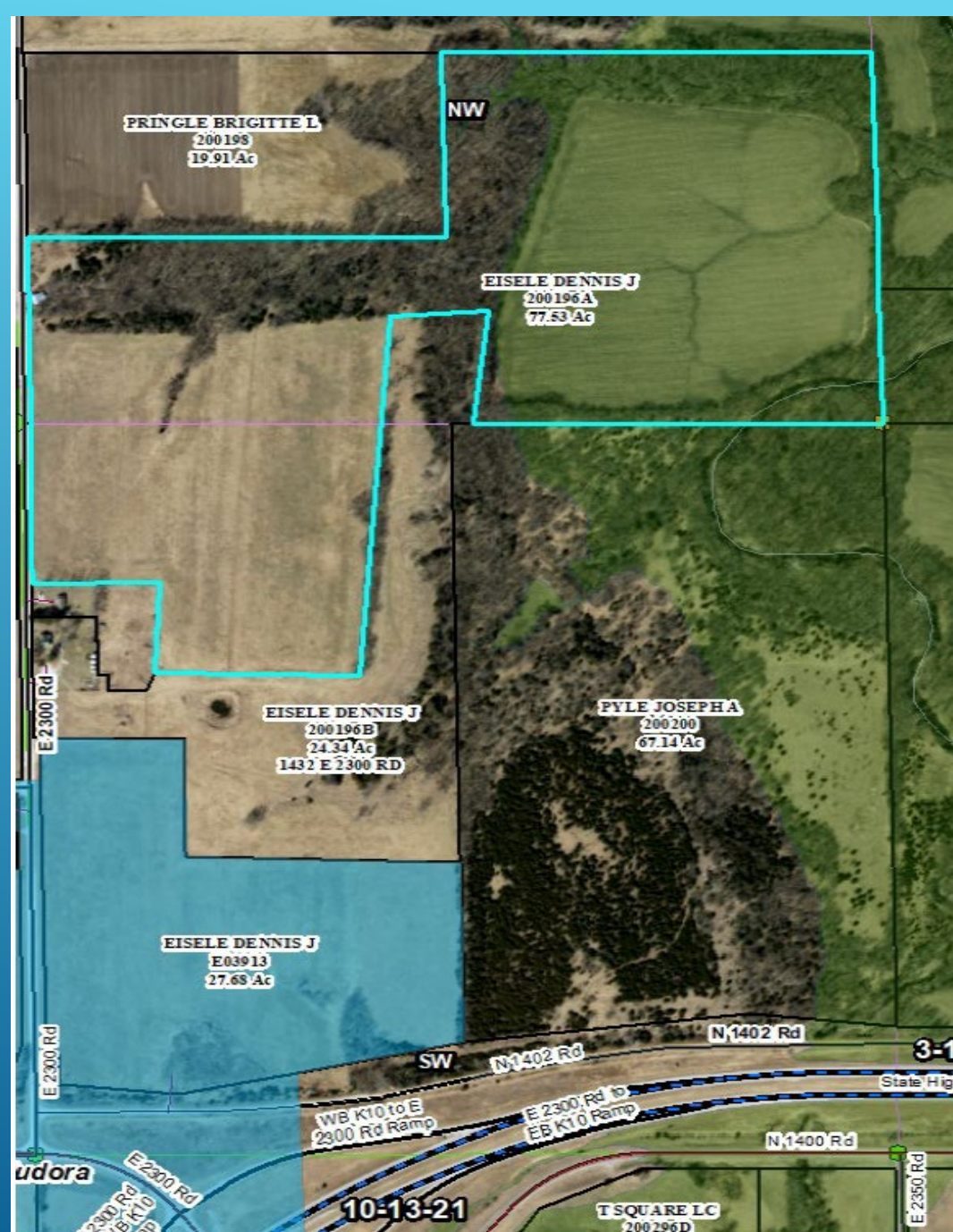
Floodplain



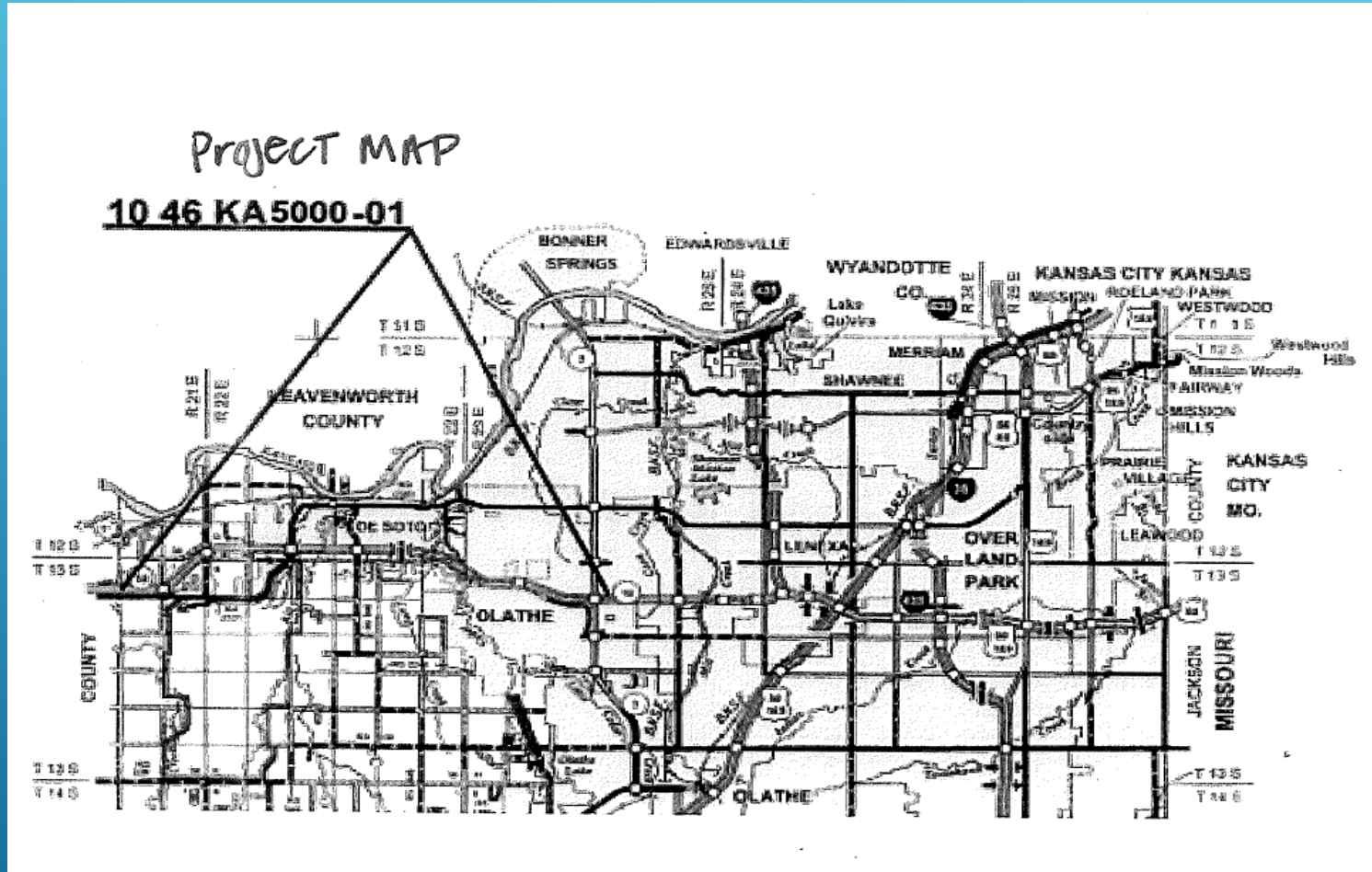
Old Growth Forest



ZONING

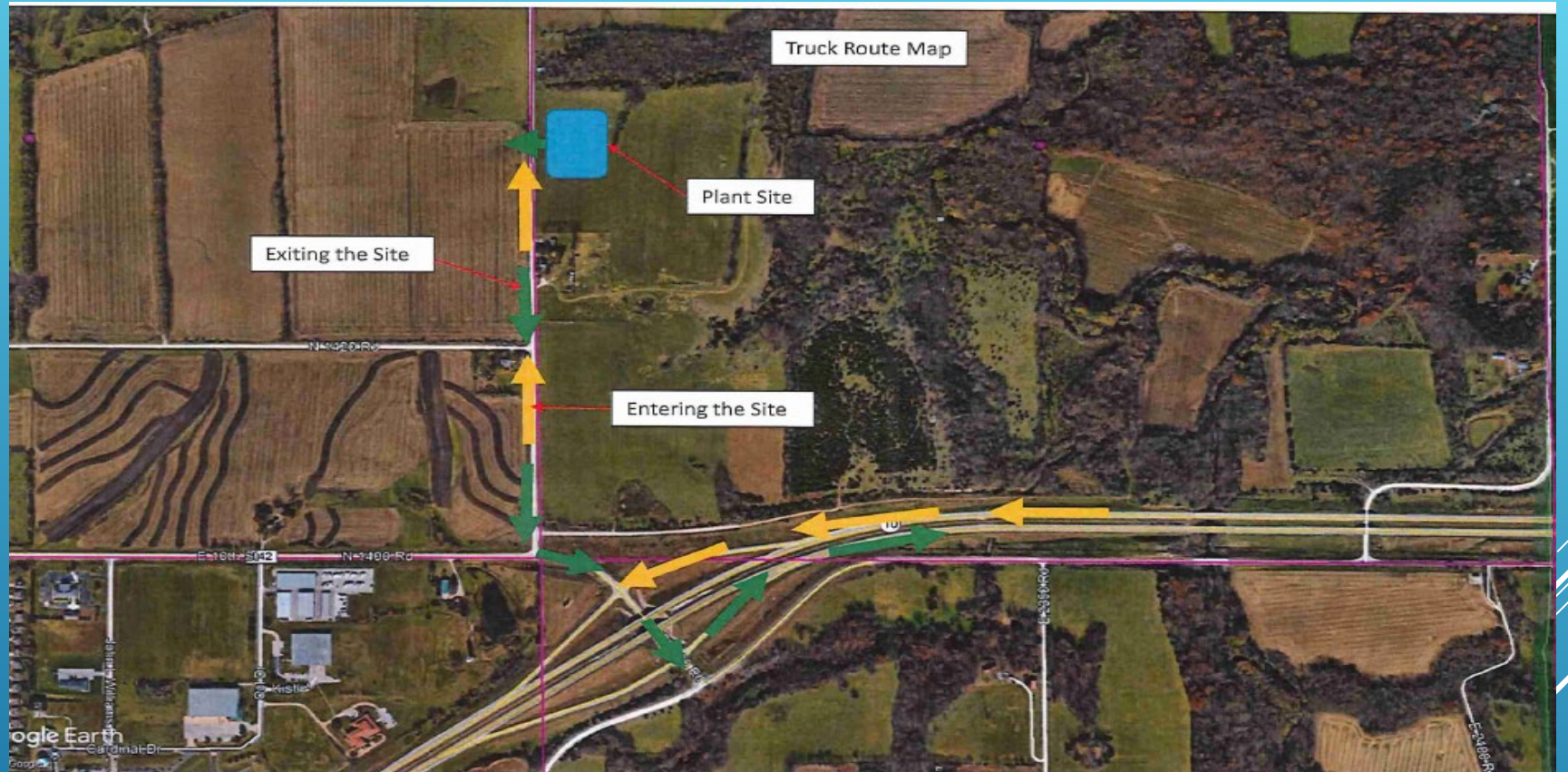


DG CO/JO CO K-10 PROJECT



SITE PLAN





TRUCK ROUTE

TBU PLAN

Controlling traffic, parking and road conditions during the temporary business use, including provisions for off-road parking;

Addressing health and sanitation concerns at the site, including toilet and drinking water facilities and supplies adequate to meet the anticipated crowd plus a reasonable allowance for additional persons, including certification by Lawrence-Douglas County Health Department that all sanitation and health concerns have been adequately addressed in the applicant's plans;

Providing adequate illumination at the site if the temporary business use is to be held at night;

Providing security at the site, including the hiring of private security guards;

Providing adequate fire safety precautions at the site, including consultation with the township fire department and approval prior to the activity;

Evidence that the applicant has secured or can secure adequate general liability and property insurance coverage for the temporary business use; and,

“

DOUGLAS COUNTY PUBLIC WORKS –APPLICANT WILL WORK WITH EUDORA TOWNSHIP TO KEEP E 2300 IN A SAFE AND SERVICEABLE CONDITION FOR THE TRAVELING PUBLIC AS WELL AS TRUCKS HAULING TO AND FROM THE PLANT. AS A MINIMUM, THE APPLICANT WILL PAY FOR ROAD ROCK UP TO 1,500 TONS TOWARD THIS EFFORT.

DUST CONTROL SHOULD BE REQUIRED CONTINUOUSLY DURING HAULING OPERATIONS. DUST PALLIATIVE SHOULD BE APPLIED THE ENTIRE LENGTH OF E 2300 RD FROM THE PLANT ENTRANCE TO THE ASPHALT APRON ON THE NORTH SIDE OF ROUTE 442. THE DUST PALLIATIVE TREATMENT WILL NEED TO BE MAINTAINED AND POSSIBLY RE-APPLIED DURING THE 6-MONTH LIFE OF THE PERMIT. THIS IS FOR SAFETY OF THE TRAVELING PUBLIC IN ADDITION TO THE LIVABILITY OF HOUSES ADJACENT TO THE ROAD.

”

COMMERCIAL TRUCK TRAFFIC TO AND FROM THE TBU SITE IS LIMITED TO E 2300 SOUTH OF THE PROJECT TO AND FROM K-10 AT ALL TIMES.

AN ENTRANCE PERMIT FROM EUDORA TOWNSHIP WILL BE REQUIRED.

THE ASPHALT SURFACED PORTION OF E 2300 ROAD FROM ROUTE 442 TO ~200' NORTH IS CURRENTLY BADLY CRACKED. HEAVY TRUCK TRAFFIC WILL LIKELY DESTROY THIS PAVEMENT. APPLICANT SHOULD BE REQUIRED TO MAINTAIN AND RESTORE THIS SHORT SECTION OF ASPHALT PAVEMENT. THIS IS IN THE CITY OF EUDORA.

“ DOUGLAS COUNTY PUBLIC WORKS- RESPONSIBLE FOR ANY TRAFFIC CONTROL SIGNS DEEMED NECESSARY BY EUDORA TWP. OR DG CO. (E.G. TRUCKS ENTERING HIGHWAY SIGNS).

DOUGLAS COUNTY HEALTH DEPARTMENT—PORTABLE RESTROOMS WILL BE ON-SITE AND MANAGED BY A THIRD PARTY. THE THIRD PARTY WILL SEEK APPROVAL FROM THE DOUGLAS COUNTY HEALTH DEPARTMENT TO VERIFY THE NUMBER OF TOILETS AND POTABLE WATER SOURCES PROVIDED MEET COUNTY CODE.

”

KANSAS DEPARTMENT OF TRANSPORTATION- KDOT DOES NOT HAVE ANY CONCERNS OR COMMENTS REGARDING THIS PERMIT.

EUDORA PLANNING COMMISSION CONCERNS:

- LIMIT PERMIT 180 DAYS AND VERIFY THE USE IS ONLY TO SERVE THIS KDOT PROJECT
- MEASURES ARE TAKEN TO PREVENT ODOR, DUST, NOISE, LIGHTS, DRAINAGE, AND TRAFFIC FROM BECOMING OBJECTIONABLE
- TRAFFIC ROUTING PLAN
- ROAD CONDITIONS ARE DOCUMENTED PRIOR TO OPERATION/TERMINATION
- RESTORATION PLAN
- PLANT LOCATION

DEPT/AGENCY COMMENTS

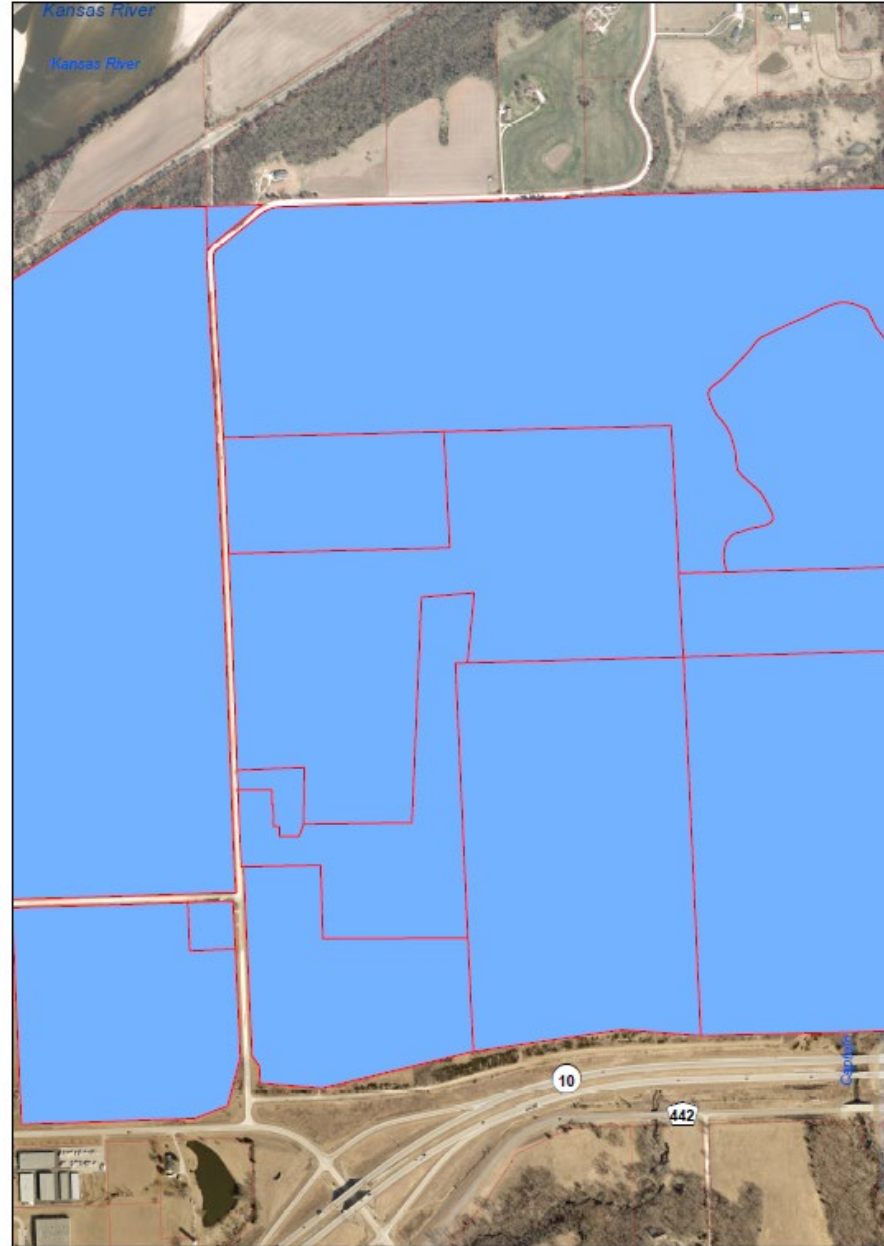
NOTIFICATION

Written notices were mailed to property owners within 1000' on Feb. 21, 2019.

Concerns from neighbors:

- No inquiries or calls in response to the notice sent

CERTIFIED POL WITHIN 1000 FT OF
1454 E 2300 RD (200196A)



STAFF RECOMMENDATION

Approval of the Temporary Business Permit for the location of a temporary asphalt batch plant for Bettis Asphalt, located at 1454 E 2300 Rd, Eudora, for 6 months, from April 1, 2019 through October 1, 2019 with the following conditions:

1. Applicant will work with Eudora Township to keep E 2300 in a safe and serviceable condition for the traveling public as well as trucks hauling to and from the plant. As a minimum, the applicant will pay for road rock up to 1,500 tons toward this effort.
2. Dust control should be required continuously during hauling operations. Dust palliative should be applied the entire length of E 2300 Rd from the plant entrance to the asphalt apron on the north side of Route 442. The dust palliative treatment will need to be maintained and possibly re-applied during the 6-month life of the permit. This is for safety of the traveling public in addition to the livability of houses adjacent to the road.
3. Commercial truck traffic to and from the TBU site is limited to E 2300 south of the project to and from K-10 at all times.
4. An entrance permit from Eudora Township will be required.
5. The asphalt surfaced portion of E 2300 Road from Route 442 to ~200' north is currently badly cracked. Heavy truck traffic will likely destroy this pavement. Applicant should be required to maintain and restore this short section of asphalt pavement. This is in the City of Eudora.
6. Honor all aspects of the provided development plan which includes: reclamation, SWPP controls KDOT plant requirements. A final site inspection of the reclamation must be approved by October 1, 2019.
7. Copies of the Stormwater Pollution Prevention permit and KDHE air permit be provided to Zoning and Codes prior to operation.
8. A copy of the General Liability & Property Insurance covering this site showing the County and Eudora Twp. as a party held harmless from claims.
9. Hours of operation will be dusk to dawn.
10. Security lighting shall be turned off when the plant is not in operation.
11. Enter into a road maintenance agreement executed between the applicant and Eudora Twp. to address road condition, continual maintenance and post project road improvements. Provide a copy of the agreement to Zoning and Codes.
12. Electrical permit required for temporary power.
13. Responsible for any traffic control signs deemed necessary by Eudora Twp. or DG Co. (e.g. trucks entering highway signs).

Memorandum

City of Lawrence

Planning & Development Services

TO: Planning Commission

FROM: Mary Miller, Planning Staff

Date: February 27, 2019

RE: CUP-18-00570, Amended CUP for Big Springs Quarry requested reduced performance bond for reclamation.

Attachment: A—Current bids

Attachment: B—Revised Restrictions and Conditions of Use

The Planning Commission considered the application referenced above at their January 23, 2019 meeting and voted to defer the item with direction to the applicant to obtain current bids for the reclamation work. The applicant submitted the bids provided in Attachment A. Staff had requested that they obtain bids from the same firms that provided bids in 2008, but they noted that one company was out of business and there was a competitive relationship bidding work against Schmidlein and Lexeco; therefore, they were unable to obtain bids from those companies.

The applicant provided bids from Carlson Utility, LLC, Hamm Inc., and Kings Construction Co., Inc. The following information was obtained online for each company:

- Carlson Utility, LLC is an excavation/utility contractor specializing in water distribution, storm and sanitary sewer systems.
- Hamm Inc. provides a range of services, including aggregate production, waste services, ready-mix, ready-mix, and excavation.
- Kings Construction Co., Inc. is an excavating contractor.

The companies are all experienced in excavation and earthmoving, which is a principal component of the reclamation work.

BIDS: 40 acre reclamation

Description	Carlson Utility, LLC	Hamm, Inc.	Kings Construction Co., Inc.
Mobilization	\$10,000	\$7,500	\$12,000
Grading and Top Soil	\$80,500	\$88,000	\$75,000
Seeding and Mulch (Brome or Fescue)	\$10,200 \$15,000	\$24,000	\$9,000 \$10,000
Total	\$115,700	\$119,500	\$106,000
Total per acre (rounded)	\$2,893	\$2,987	\$2,650

The County Engineer reviewed these bids and noted the following:

- 1) The bids were for reclamation to the minimum state standards. The approved reclamation plans for the Big Springs Quarry require seeding with a native grass/wildflower mix. He noted this mix costs approximately three times the cost of fescue seed, which is the seeding proposed in the reclamation bids. He estimated this could double the line item cost for seeding.
- 2) The bids do not account for inflation. He noted that if the current amount for reclamation is \$3,000 an acre and we assume 3% annual inflation, the needed amount in 20 years would be \$5,260 acre.

The County Engineer indicated that, given that the provided bids are approximately \$3,000 per acre and the issues noted above, along with Mid-States Materials' good track record he would be comfortable setting the bond amount at \$5,000 per acre.

In staff's opinion, while the conditional use permit will expire in 30 years, using the 20 year inflation rate seems reasonable as there may be many unknowns increasing or decreasing costs in the future.

STAFF'S RECOMMENDATION

Forward CUP-18-00570 to the Board of County Commissioners with a recommendation for approval of a reduction of the performance bond amount noted in Condition 10(b) and (c) in the Restrictions and Conditions of use from \$40,000 per acre to \$5,000 per acre based on the findings of fact in the staff report and memo, subject to the revised restrictions/conditions of use provided in Attachment B.

Carlson Utility, L.L.C.

300 SE 21st Street
Topeka, KS 66607

Phone 785.232.1116
Fax 785.232.9005

Proposal Date: January 31st, 2019
Estimated by: Greg Carlson

For: Mid-States Materials, LLC
Job Name: Big Springs Quarry Reclamation
Attention: Cole Andersen

WE PROPOSE TO FURNISH THE FOLLOWING ITEMS OF WORK ON THE ABOVE NAMED JOB:

MID-STATES QUARRY RECLAMATION

ITEM	DESCRIPTION	QTY	UNITS	UNIT PRICE	TOTAL
1	Mobilization	1	LS	\$10,000.00	\$ 10,000.00
2	Grade Topsoil Berms from Disturbed Land	1	LS	\$80,500.00	\$ 80,500.00
3	Seeding (40 acres)	1	LS	\$10,200.00	\$ 10,200.00
4	Erosion Control	1	LS	\$15,000.00	\$ 15,000.00
Total					\$115,700.00
Total per Acre					\$ 2,892.50

Note: This quote includes all labor, equipment, and materials needed to reclaim 40 acres at the Big Springs Quarry in any phase to the State minimum requirement.

THE FOLLOWING ITEMS ARE NOT PART OF THIS PROPOSAL UNLESS OTHERWISE LISTED ABOVE: BONDS (IF NEEDED ADD 2%), REMOVAL OF HAZZARDOUS MATERIALS, ENGINEERING, STAKING, GEOLOGY SERVICES, SEEDING, SODDING, EROSION CONTROL, DEMOLITION, SURFACE RESTORATION, INSPECTION FEES, PERMITS, FLARES AND BARRICADES, PUMPING OR DEWATERING.

THE ABOVE WORK SHALL BE COMPLETED FOR:

ONE HUNDRED FIFTEEN THOUSAND SEVEN HUNDRED DOLLARS



Greg Carlson
Carlson Utility

Proposal accepted by: _____

Title: _____ **Date:** _____

ALL MATERIAL IS GUARANTEED TO BE AS SPECIFIED. ALL WORK TO BE COMPLETED IN AN APPROPRIATE MANNER ACCORDING TO STANDARD PRACTICES. ANY ALTERATION OR DEVIATION FROM ABOVE SPECIFICATIONS INVOLVING EXTRA COSTS, WILL BE EXECUTED ONLY ON WRITTEN ORDERS, AND WILL BECOME AN EXTRA CHARGE OVER AND ABOVE THE ESTIMATE. ALL AGREEMENTS CONTINGENT UPON STRIKES, ACCIDENTS, OR DELAYS BEYOND OUR CONTROL. OWNER TO CARRY FIRE, TORNADO, AND OTHER NECESSARY INSURANCE. OUR WORKERS ARE FULLY COVERED BY WORKMANS COMPENSATION INSURANCE.



QUARRIES
CONSTRUCTION
ASPHALT
WASTE MANAGEMENT

609 Perry Place
PO Box 17
Perry, KS 66073-0017
Telephone 785-597-5111
FAX 785-597-5117

01/29/2019

Chad Gerhardt

Mid-States Materials, LLC

2 N 1700 Road, Lecompton, KS 66050

Hamm is pleased to quote the Big Springs Quarry Project. Scope includes all Equipment, Labor, and Materials to reclaim 40 acres at the Big Springs Quarry

Description	Quantity	Unit	Unit Price	Ext Price
Mobilization	1	LS	\$7,500	\$ 7,500.00
Grading and Topsoil	40	AC	\$2,200	\$ 88,000.00
Seeding and Mulch Brome or Fescue	40	AC	\$600	\$ 24,000.00
Total Price				\$ 119,500.00
Total \$ per Acre				\$ 2,987.50

Notes:

Grading and Topsoil includes sloping to a 3:1 or less, spreading of stockpiled topsoil over the area, erosion control, and removal of large rocks in topsoil.

Personnel and Equipment will meet MSHA requirements.

Exclusions:

Hamm will not be required to apply for any permitting.

Payment Terms: Net 30 Days.

Acceptance of Proposal will expire in 30 days.

By: _____ Date _____

Printed Name: _____

Thank you for letting us bid your project,

Ryan Blosser

President, Hamm Inc.



02/08/2019

ESTAMATE TO: Mid-States Materials, LLC JOB NAME: Reclamation
ADDRESS: 2 N 1700 Road, Lecompton, LOCATION: Big Springs Quarry
KS 66050

Description	Quantity	Unit	Unit Price
Mobilization.	1	LS	\$12,000.00
Grade topsoil berms from disturbed land. 40x acres.	1	LS	\$75,000.00
Seeding for 40x acres.	1	LS	\$9,000.00
Erosion control.	1	LS	\$10,000.00
GRAND TOTAL PER ACRE (40)			\$2,650.50

SCOPE: PROVIDE ALL LABOR, EQUIPMENT, AND MATERIAL NEEDED TO RECLAIM 40 ACRES AT THE BIG SPRINGS QUARRY IN ANY PHASE TO THE STATE MINIMUM REQUIREMENT.

By: B. H.

RESTRICTIONS AND CONDITIONS OF USE:

1) Setbacks

Purple Phase (former phase 6)

- 400 foot setback along the south perimeter
- 260 foot setback along County Route 442
- Triangular area in the southeast corner a corner of which is 1,800 feet north of the south property line along the setback line of County Road 442 / E. 50 Road and another corner of which is 1,100 feet west of the right-of-the way of County Road 442/E. 50 road along the south setback line.

Green Phase (*former Phase 4*):

- 100 foot setback to the north and 700 foot setback to the south sides
- 100 foot setback on the east side

Pink Phase

- 100 foot along north property line

Blue Phase

- 100 foot along east property line

Orange Phase

- 100 foot along east property line

All Phases—

- 100 foot setback from the property line along the east side of the private haul road.
- 100 foot setback from the property line along E. 50 Road and E. 100 Road
- 500 foot residential setback (residences existing at the time of CUP approval)

2) Operation Restrictions

- a. Methods shall be adopted to minimize dust in stage area as well as along the haul roads.
- b. Quarry hours of operation shall be restricted to:
 - i. sale and removal of rock: 6 a.m. – 6 p.m., Monday- Friday; 7 a.m. – 12:00 p.m. Saturday
 - ii. Production and extraction: 6 a.m. – 10 p.m., Monday – Thursday; 6 a.m. – 6:00 p.m., Friday
 - iii. Blasting: 1 p.m. – 5 p.m., Monday – Friday
 - iv. No quarry operations shall take place on holidays observed by the State of Kansas: (New Year's Day; Memorial Day; Independence Day; Labor Day; Thanksgiving Day: the day immediately following Thanksgiving Day, and Christmas Day.

Activities occurring after these hours: In the event of an emergency or other situation that requires quarrying, or sell of product after these hours, the request must be provided to the Board of County Commissioners prior to the after hours activity commencing.

- c. No more than 40 acres may be open, mined and extracted from at any one time on the quarry site, exclusive of the plant site. No more than 10 acres shall be open, mined and extracted from in a subsequent phase until reclamation is complete on the previous phase.
- 3) Fencing
The entire site shall be fenced with a five-strand barbed wire fence. Fencing shall be maintained by the operator. A security gate and fence shall be placed/maintained at the entrance to the quarrying site across the main haul road. The fence shall be signed periodically (minimum of 500 feet intervals) stating: "Mid-States Materials No Trespassing"
 - 4) Berms
 - a. All setbacks along roadways shall contain berms to screen operations. Berms are to be 6 to 8 feet high (8 feet maximum), built at a 3 to 1 slope and vegetated.
 - b. Topsoil removed from each phase will be used to construct the berms. Berms shall be constructed as quarrying progresses in each phase.
 - 5) Blasting
 - a. Blasting shall be set only in sequential delays; no single delay to be over 150 lbs. of explosives.
 - b. No fly-rock shall leave the property.
 - c. Prior to each blast, the operator shall contact adjoining neighbors who request individual notice of each blast. A signaling system, siren, horn, or other signaling system, shall be used to alert people in the neighboring vicinity before each blast takes place.
 - d. No explosives will be set in the ground overnight unguarded.
 - 6) Monitoring Blasting
 - a. Operator shall contact with independent seismology firm to monitor blasts at the commencement of quarrying operations, at each residence within ½ mile of the blast site to assure that the blast design will not be harmful to any structures or wells and that all associated vibrations are below currently recognized safety levels. A report on the monitoring of initial blasting shall be made available to owners of the residences and such report shall include a full frequency analysis of vibrations.
 - b. After the initial blasting, operator shall contract for a continuous monitoring program commencing with the start of continuous regular blasting by an independent seismology firm at stations chosen by the seismology firm. A monthly report, which analyzes the impacts of daily blasting, will be available at operator's offices for inspection. Residents may request positioning of the seismograph to measure the

impact at their property; provided, however, the applicant shall not be required to conduct tests in excess of those it determines, based on professional advice of its independent seismology firm, will provide adequate seismic readings at resident's properties. Any resident desiring to appeal the decision of the applicant concerning this condition may appeal it to the Douglas County Public Works Director who may order seismic tests at such locations as it deems appropriate under the circumstances at the expense of the operator.

c. The operator shall comply with the NFPA 495 Kansas Explosive Materials Code regulations regulated by the Office of the State Fire Marshall.

7) Air and Water Quality

The quarry operator shall adhere to air quality standards of KDHE, not to exceed 20% of opacity more than 1 time in a one year period as observed by KDHE observers over a 5 minute period.

8) Other Regulatory Restrictions

All applicable regulations of EPA, KDHE, and Kansas Department of Agriculture, and other applicable agencies shall be adhered to and subsequent revisions to these regulations shall apply.

9) Noise and Light Pollution

Vehicles used in plant operation (extraction & production) after 6:00 PM shall be equipped with manufactured lighting in addition to a back-up audible signal alarm.

Permanent outdoor lighting in the quarry, including the plant area, mining area, and haul roads, shall be shielded and directed down with a solid screen to prevent light pollution beyond the site boundaries.

10) Reclamation Bond

Mid-States shall be responsible for reclamation of all quarried land.

(a) A performance bond in the amount of \$100,000.00 with sufficient sureties shall be secured to cover reclamation activities for the plant site as designated on Phase I and shall be filed with the Douglas County Clerk's Office prior to the commencing of any site preparation activities or any other work being done pursuant to the CUP. This performance bond shall remain in place for the entire life of the permit and shall not be subject to release until the plant site has been fully reclaimed and certification thereof shall have been made by the Douglas County Commission.

(b) In addition to the bond required under paragraph (a) above, a performance bond in the amount of **\$50,000.00** ~~\$400,000.00~~ with sufficient sureties shall be secured for the first site excavated for extraction purposes in Phase I other than at the plant site and shall be filed with the Douglas County Clerk's office prior to the commencing of any excavation (including the stripping of top soil) other than at the designated plant site. This bond shall be for an excavation area no larger than 10 acres open at one time and shall remain in place until certified by the Douglas County Commission that reclamation has been completed at the site for which it was obtained.

- (c) For each additional 10 acre site excavated for extraction purposes in any phase of the quarry operations during the term of the CUP, a performance bond in the amount of **\$50,000.00** ~~\$400,000.00~~ with sufficient sureties for additional excavation for extraction purposes shall be secured and shall be filed with the Douglas County Clerk's office prior to the commencing of any such additional excavation (including the stripping of top soil). These bonds shall each be for areas no larger than 10 acres open at one time per excavation and shall remain in place until certified by the Douglas County Commission that reclamation has been completed at each site.
 - (d) Each of the bonds described above also shall carry provisions which provide additional coverage for any other quarry operations that are carried on at the quarry site during the pendency of the bond until release of the bonds.
- 11) Insurance
The operator shall carry liability insurance in the amount of \$1,000,000.00. Certificates of insurance shall be submitted to the Zoning and Codes Department on an annual basis.
- 12) Operation Report and Plan
 - a. Prior to the issuance of the CUP permit and every 5 years thereafter, the operator shall submit a detailed report and plan of quarrying operations to the Planning Office.
 - b. The plan shall show the phases of quarrying; location of stockpile area; estimated volume of material being extracted; and a detailed monitoring and management plan for the areas undergoing reclamation.
- 13) Reclamation and Review
 - a. The quarry shall utilize sequential reclamation. With the exception of the first cut in a phase, overburden within a cut shall be placed in the previous cut thereby removing the need to stockpile large amounts of overburden.
 - b. Detailed reclamation plans shall be submitted for each phase of the reclamation process for review and recommendation by the Planning staff and approval by the County Commission. The Detailed Reclamation Plan shall be submitted and approved prior to opening of a quarry phase.
 - c. The detailed reclamation plans would include a site plan showing elevations, cross-sections, and the proposed plan for revegetation of the area.
 - d. The property shall be reclaimed to a state that is compatible with the surrounding area with regard to slopes, and plant and animal life supported by the established ecosystem.
 - e. Terraced areas shall be shaped to blend with the existing, adjoining contours. The land must be graded to final contours as shown on the approved reclamation plan, top-soil, which had been used to construct the berms of each quarry phase shall be removed as areas are reclaimed and the topsoil shall be spread over the land area and seeding of appropriate native plants must occur. It is not necessary for vegetation to be established before moving fully to the next phase.

14) Studies/Surveys Required Prior to Opening New Phase

- a. Pre-Blast Survey. A pre-blast survey (by an independent seismology firm or structural engineer approved by the applicant and the owners of existing structures within one-half mile of the quarry site) shall be offered to the property owners and conducted, if the property owners request, prior to operating in each phase.

(Notice shall be mailed, by certified mail, to all property owners within one-half mile of the phase to be quarried, at least 1 month prior to the beginning of that phase, indicating that a new phase is about to be quarried and letting the property owner know about the pre-blast survey.)

- b. Hydrologic Study

The quantity/quality of water in the wells within one-half mile of each quarry phase shall be documented prior to the commencement of quarrying operations in that phase. A study shall be done, at the operator's expense, for all wells within ½ mile of each phase (with property owner consent). Notice shall be provided to all property owners within one-half mile of the phase boundary as noted in Condition 13a.

This study is intended to provide an inventory of area residential and stock wells and determine their capacities and current volumes/levels of operation; and to determine the impact of quarrying, per phase, based on the depth of mining proposed. If mining is proposed at a depth lower than 1042 or the local water table, the County Engineer may require a hydrologic study to analyze the impact on area wells.

- c. Drainage Study

Prior to work progressing in each phase of the quarrying operation, a detailed grading plan showing site runoff and its relationship to the adjoining properties shall be submitted to the Planning Office for review and approval prior to work progressing in each phase.

15) Site Access and Road Restrictions

- a. Except for vehicles traveling to and from the site on 45th Street in Shawnee County, the principal access to the site for transport truck traffic and hauling of rock shall be restricted to the use of U.S. Highway 40 from the direct haul route north of the proposed quarry. (The haul road is currently in place and the intersection with Highway 40 was designed in accordance with KDOT requirements.)

Any other haul route options must first be approved by the Douglas County Commission.

- b. Except for local deliveries of rock from the quarry site, Route 442 shall not be used by transport trucks to travel to and from the east. The operator shall post signs and adopt appropriate restrictions on the quarry site, including restrictions on sale of rock where necessary, to ensure strict compliance with this restriction by all transport trucks.

In the event the Board of County Commissioners determines, after due notice and hearing, that such restrictions have proven ineffective in prohibiting transport trucks which originate from or travel to the quarry site from using Route 442 east of the quarry entrance in violation of this restriction, the Board may order such improvements to Route 442 as it deems necessary, including, but not limited to, appropriate shouldering, surfacing, and signing, and assess such costs to the applicant which shall be paid in a timely manner. In the alternative, the Board may order the operator to cease operation or order such steps as the Board deems necessary under this CUP.

- c. No township roads shall be used as access to the quarry.
 - d. Restrictions which shall be posted at the entrance to the plant, regarding vehicles hauling from the site are to include:
 - no flatbed trucks without sides or tailgates;
 - tailgates shall be in place and in an upright position; and
 - all trucks leaving the site must be covered by a tied-down tarp.
 - e. Operator is responsible for spillage and cleanup of aggregate within one mile of the plant site, which includes the intersection of the access road to the north and U.S. Highway 40. The failure by the applicant to clean up spilled aggregate of such roads within a reasonable period of time shall be grounds for action under Section XVII, Inspection/Violation/Revocation.
 - f. The operator will not allow trucks to exceed State of Kansas legal weight limits or legally posted weight limits since different truck configurations have different legal weight limits.
 - g. Weight limitations shall be posted on appropriate roads adjacent to the quarry.
 - h. Access points across township roads between phases of operation require prior review and authorization from the Douglas County Public Works Director. Access is restricted to one point of crossing per phase as shown on the operation plan. Road crossings between the phases of the site shall be maintained by operator at all times.
 - i. During the term of this Conditional Use Permit, the applicant shall not request the vacation of any township roads in the vicinity of the site.
- 16) Transfer of Operator
Because the operator's track record is an important consideration, a change in the quarry operator shall require the conditional use permit to come back to the Planning Commission for review and to the County Commission for reapproval.
- 17) Sanitary Landfill
The property shall not be used or requested for use as a sanitary landfill within the life of this conditional use permit.
- 18) Shop Facility

Repair and maintenance activities shall be limited to service of vehicles and equipment in use at this specific quarry location.

19) Inspection/Violation/Revocation

The Douglas County Commission, or the appointed representative(s) thereof, shall have the right, without advance notice, to enter the premises and inspect any aspect of the quarry operation for compliance with the conditions of this permit. Upon entering the premises, the County shall first request an escort by the applicant's representatives.

Further, the Douglas County Commission, or the appointed representative(s) thereof, shall be authorized to:

- a. Order the stoppage of any operation occurring without a permit or in violation of the terms of this permit.
- b. Order the operator or its agents and employees to adopt such remedial measures as are necessary to comply with the terms of this CUP. In such cases, the operator shall be given no more than ninety (90) days to rectify any condition of noncompliance.
- c. Order the immediate suspension of operations if, after due notice and an opportunity to be heard before the County Commission, it is determined by the Board of County Commissioners that the permitted operation is causing, or can reasonably be expected to cause, a significant, imminent danger or threat to the health, safety or welfare of the public or to the environmental quality of the surrounding area.
- d. In cases such as those described in Paragraph (C) that do not pose an imminent threat to the public health, safety and welfare, the operator shall be given no more than 90 days to rectify the condition. If the condition has not been rectified, the County Commission, after due notice and hearing, may order the suspension of operations and suspend or revoke part or all of the CUP.
- e. If the operator or the agents or employees thereof, fail to comply with a lawful order under this section, or violate any of the restrictions of use enumerated for this permit, the County Commission, after due notice and an opportunity for a hearing, may suspend or revoke part or all of the CUP.

20) The timeframe for completion of any phase is dependent on the market demand; however, the operator agrees to continuously quarry Phase 6 (within the limits of the CUP restrictions) so that Phase 6 will be completed as soon as possible

PLANNING COMMISSION REPORT
Regular Agenda – Public Hearing Item

PC Staff Report
01/23/19

**ITEM NO. 7 : CONDITIONAL USE PERMIT FOR BIG SPRINGS QUARRY; 2 N.
1700 ROAD (MKM)**

CUP-18-00570: Consider an amended Conditional Use Permit to reduce the amount of the performance/reclamation bond required for Big Springs Quarry, located at 2 N. 1700 Road, Lecompton. Submitted by Submitted by Mid-States Ventures LLC, for Mid-States Ventures LLC, Nancy J Hughes, James R Meek, Thomas R Meek, and Bonnie M Nichols, Trustee, property owners of record.

STAFF RECOMMENDATION: Staff recommends approval of the Conditional Use Permit to reduce the performance bond amount required in Condition 10(b) and (c) from \$40,000 per acre to \$10,000 per acre based on the findings of fact listed in this report, subject to the revised restrictions/conditions of use provided in Attachment A.

Attachments:

- Attachment A – Restrictions of Use and Conditions of Approval, with recommended revision
- Attachment B – Original Reclamation Amount Estimate, 1992
- Attachment C – Reclamation Amount Estimate provided in 2008 with amended CUP application, CUP-7-05-08.
- Attachment D – Reclamation cost spreadsheet for Phases II and III

Reason for Request:

Applicant's response: *"This request is to reduce the reclamation bond required by Douglas County CUP-18-00299 Restrictions 10) b. and c. The current reclamation bond amount is not based on the market conditions of our prior reclamation completed at the Big Springs Quarry."*

KEY POINTS

- § The performance bond for reclamation was established as Restriction of Use/Condition No. VII with the original conditional use permit for the quarry, CUP-7-2-90, which is listed below:

VII. PERFORMANCE BOND FOR RECLAMATION

- (a) A performance bond in the amount of \$100,000.00 with sufficient sureties shall be secured to cover reclamation activities for the plant site as designated on Phase I and shall be filed with the Douglas County Clerk's Office prior to the commencing of any site preparation activities or any other work being done pursuant to the CUP. This performance bond shall remain in place for the entire life of the permit and shall not be subject to release until the plant site has been fully reclaimed and certification thereof shall have been made by the Douglas County Commission.
- (b) In addition to the bond required under paragraph (a) above, a performance bond in the amount of \$400,000.00 with sufficient sureties shall be secured for the first site excavated for extraction purposes in Phase I other than at the plant site and shall be

- filed with the Douglas County Clerk's office prior to the commencing of any excavation (including the stripping of top soil) other than at the designated plant site. This bond shall be for an excavation area no larger than 10 acres open at one time and shall remain in place until certified by the Douglas County Commission that reclamation has been completed at the site for which it was obtained.
- (c) For each additional 10 acre site excavated for extraction purposes in any phase of the quarry operations during the term of the CUP, a performance bond in the amount of \$400,000.00 with sufficient sureties for additional excavation for extraction purposes shall be secured and shall be filed with the Douglas County Clerk's office prior to the commencing of any such additional excavation (including the stripping of top soil). These bonds shall each be for areas no larger than 10 acres open at one time per excavation and shall remain in place until certified by the Douglas County Commission that reclamation has been completed at each site.
- This performance bond was based on reclamation cost estimates provided with the original Conditional use Permit application in 1992.
 - The condition is listed as Item No. 10 in the Restrictions of Use and Conditions of Approval which the Board of County Commissioners approved on October 10, 2018 with Conditional Use Permit, CUP-18-00299. That conditional use permit revised the previously approved permit to remove completed areas from the quarry, add new areas, and revised several of the conditions. The applicant indicated at that time that they were interested in requesting a reduction in the amount of reclamation bond, but decided to request it separately from the other changes.
 - The applicant is requesting a reduction in the performance bond for reclamation amount per acre from \$40,000 approved with the original conditional use permit application to \$3,000.
 - The County Engineer reviewed the application materials and recommended a reduced performance bond in the amount of \$10,000 per acre.

Public Communications

Staff met with Michelle and Robert Best on January 4, 2019 to discuss the proposed change.

Project Summary

The recently approved conditional use permit for Big Springs Quarry, CUP-18-00299, removed the phases which had been quarried and reclaimed: Phases 1 (with the exception of the plant area), 1A, 2, and 3; and added approximately 569 acres to the remaining phases: Phase 6 which is currently being quarried, and Phase 4. A new 30 year timeframe was approved to allow time for quarrying of the additional area. Other changes approved included an increase in the area that can be open at a time from 30 acres to 40 acres due to the larger equipment that is used today than when the CUP was originally approved in 1992; and changes to the restrictions/conditions of use.

A conditional use permit application that proposed similar changes, CUP-07-05-08, was submitted in 2008, a few years after Mid-States Materials became the operator of the quarry. At that time, compliance issues that had occurred under the previous operator were identified. Mid-States agreed to withdraw the conditional use permit application at that time and entered into a consent decree to resolve the compliance issues. Compliance with the consent decree

was evaluated and a memo was provided to the County Commission on March 9, 2011 indicating that the quarry was in compliance with these requirements.

One item that was requested with the 2008 amended conditional use permit application which was not included with CUP-18-00299 was a reduction of the performance bond for reclamation.

The performance bond for reclamation must be adequate to provide reclamation in the event that the quarry operator fails to fulfill that obligation. Currently the bond is set at \$400,000 for every 10 acres that is open and mined. This is higher than the bonds required by other counties in the state, but was determined with the original application from an engineer's assessment of the actual cost of reclamation. A copy of this assessment is included in Attachment C.

The applicant provided spreadsheets of their actual costs of their reclamation per the finished phases, Phases II and III, provided in Attachment C, and is requesting that the bond amount be reduced from \$40,000 per acre to \$3,000.

ASSOCIATED CASES

- Conditional Use Permit (CUP-7-2-90) approved by Board of County Commissioners on Dec. 19, 1990 for Martin Marietta Aggregates to operate a 720 acre limestone quarry.
- Conditional Use Permit (CUP-6-6-92) approved by the Board of County Commissioners on Sept. 16, 1992 to include an additional 80 acre tract (Phase I-A) in the overall quarry operation. A condition of approval was that no future requests to expand the size of the quarry site would be allowed.
- Revision to the original CUP (CUP-7-2-90) was approved by the Board of County Commissioners on March 17, 1993 to allow the addition of a shop maintenance facility on the site.
- Conditional Use Permit (CUP-12-09-06) approved by the Board of County Commissioners on July 16, 2007 to allow the transfer of operator to Mid-States Materials and a revision to the landscaping plan.
- Conditional Use Permit (CUP-07-05-08) for expansion of quarry and other changes. This application was withdrawn and the applicant entered into a consent decree with the County Commission to resolve previous compliance issues. (Staff memo confirming compliance with the consent decree was provided to County Commission on March 9, 2011.)
- Conditional Use Permit (CUP-13-00126) to allow phasing to occur in any sequence. Approved by the Board of County Commissioners on June 5, 2013. As a result quarrying moved from Phase 3 to Phase 6 and left Phases 4 and 5 to be completed later. The current conditional use permit uses colors to designate the phases so that sequencing can be determined as quarrying progresses.
- Conditional Use Permit (CUP-18-00299) approved by the Board of County Commissioners on October 10, 2018 to allow a change in the area within the conditional use permit and revise the conditions of use.

OTHER ACTION REQUIRED

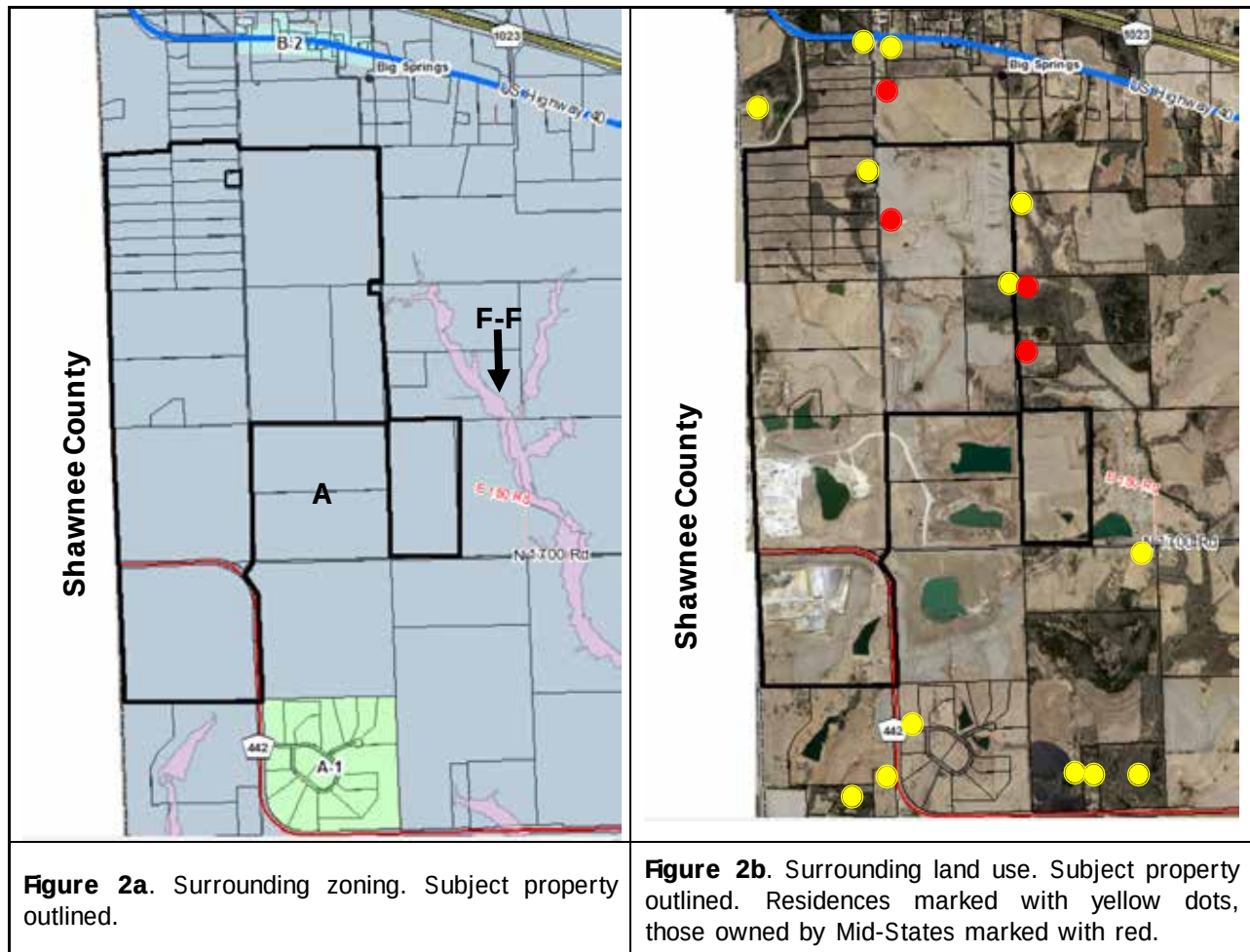
- Consideration of the conditional use permit by the Board of County Commissioners.
- If the conditional use permit is approved, issuance of a permit for the CUP by the Zoning and Codes Office when any conditions of approval have been met.

GENERAL INFORMATION

Current Zoning and Land Use: A (Agricultural) District and F-F (Floodway Fringe) Overlay district; Limestone Quarry, *Mining and Excavation*, permitted with a conditional use permit and agricultural uses on portions not being quarried.

Surrounding Zoning and Land Use: To the west: The property abuts the Douglas/Shawnee County Line to the west and the quarry extends westward into Shawnee County. Agriculture, rural residences and woodland are located west of the proposed expansion.

To the north, east, and south: A (Agricultural District) with F-F (Floodway Fringe Overlay District) to the south and east; agricultural uses and scattered rural residences. An undeveloped platted rural subdivision is located south of the completed Phase 3 of quarry property.
(Figure 2)



I. ZONING AND USES OF PROPERTY NEARBY

The quarry extends across the county line and is also located within Shawnee County. The surrounding area consists primarily of agricultural land uses; however, there are rural residences scattered throughout the area. Figure 2b shows the location of these residences,

and identifies those that are owned by Mid-States. There are nearby residences in Shawnee County as well. Notice of the public hearing for this CUP at the Planning Commission was mailed to property owners within Shawnee County and the CUP was provided to the Shawnee County Planning Office for comments. At the time this report was written, no comments had been provided from Shawnee County residents or the Shawnee County Planning Office.

Staff Finding – Most of the land in the area is zoned and used for agriculture. However, there are residential land uses nearby which should be considered when establishing setbacks and restrictions of use. No changes in land use or activity are being proposed with this amended conditional use permit application. The proposed reduction in the performance bond for reclamation should have no impact on surrounding properties, provided reclamation occurs as shown on the approved plans.

II. CHARACTER OF THE AREA

Big Springs Quarry is located on the west boundary of Douglas County and extends into Shawnee County. (Figure 3) This area is primarily agricultural in nature with scattered rural residences.

Access to the plant site is taken from County Route 442 for local deliveries; all other access is taken from the main access point on Highway 40 to the north. This access point is west of the community of Big Springs.

A portion of Big Springs is zoned B2 (General Business) and is developed with uses permitted in that district. Other uses in the community include a church and residences.

The quarry has been operating in the area since the 1990s and is a feature of the area. As phases are completed and reclaimed they are returned to a state suitable for agriculture. These parcels could be used for any use permitted in the A Zoning District.



Figure 3. Map from Google Earth showing properties in both Shawnee and Douglas Counties. Boundaries of the quarry conditional use permit outlined in white dashed lines. Community of Big Springs highlighted red.

Staff Finding – The quarry is located in a rural area with predominately agricultural land uses and scattered farm/rural residences. The principal land use is agricultural grassland and row crops. The character of the area has not changed much in the past 30 years. The proposed reduction in the performance bond for reclamation should have no impact on the character of the area provided reclamation is carried out as shown on the approved plans.

III. SUITABILITY OF SUBJECT PROPERTY FOR THE USES TO WHICH IT HAS BEEN RESTRICTED

Applicant's response:

"The current land is zoned agricultural and it is suitable for that purpose. The new CUP was granted on 10-10-18 for a period of 30 years. However, Mid-States Materials, LLC ("Mid-States") believes the reclamation bond required by the county has no relation to the actual costs of reclaiming the land. Reclamation will be completed in phases. Mid-States can open 40 acres per phase plus an additional 10 acres in the next phase. Under the current restrictions, this would require a \$2.0 M bond. This amount would equal \$40,000 per acre for reclamation. Mid-States tracked the cost of final reclamation for both Phases II and III that were mined from 2007 – 2016 (since operating the Big Springs Quarry). Phase II reclamation cost \$1,877 per acre. Because of our experiences with Phase II, we were able to reclaim Phase III at a cost of \$1,068 per acre while performing at the same level. This is almost forty (40) times cheaper than the amount of the required bond! With a 40 acre limitation on an open pit, Mid-States is always reclaiming as it mines. The State of Kansas requires \$600 per acre (documentation attached). Previous phases have already been reclaimed and Mid-States won the 2012, 2014, and the 1028 Governor's Mined Land Reclamation Award for these phases. Mid-States also was the winner of the 2018 national Association of State Land Reclamationists (NASLR) Outstanding Reclamation Award. These awards were presented for returning the land back to its natural state with the added value of significant water features."

The property is well suited for agricultural uses and the phases that are not currently being quarried will continue to be used for agriculture. The quarried and reclaimed phases have been returned to a state suitable for agricultural land uses and are currently being used for agriculture. The property, due to the reserves of limestone and the infrastructure put in place for previous quarrying activity approved with earlier conditional use permits, is also well suited for the proposed quarry use.

Staff Finding – A conditional use permit does not change the base, underlying zoning. The suitability of the property for agriculture or other uses permitted in the agricultural district will not be altered with the proposal to reduce the performance bond for reclamation, provided that reclamation occurs as shown on the approved plans.

IV. LENGTH OF TIME SUBJECT PROPERTY HAS REMAINED VACANT AS ZONED

Staff Finding – County Zoning Regulations were adopted in 1966 and this property has been zoned "A (Agricultural)" since that adoption. The property was used for agricultural purposes until the approval of a Conditional Use Permit, CUP-7-2-90, in 1992 for a quarry. The property has been used for agricultural and mining uses since that time.

V. EXTENT TO WHICH REMOVAL OF RESTRICTIONS WILL DETRIMENTALLY AFFECT NEARBY PROPERTY

Applicant's Response:

"It will not detrimentally affect nearby property at all. This site has been a quarry site since at least 1992. The expansion has been approved. Mid-States has reclaimed all previous phases in a professional manner. Mid-States takes pride in reclamation and has proven that since taking over the operation in 2007. Due to the stringent precautions MSM takes with regards to developing the quarry, the nearby property owners will notice zero difference."

Section 19-01 of the County Zoning Regulations recognize that *"certain uses may be desirable when located in the community, but that these uses may be incompatible with other uses permitted in a district...when found to be in the interest of the public health, safety, morals and general welfare of the community may be permitted, except as otherwise specified in any district from which they are prohibited."* The proposed use falls under Use No. 5, *Mining and Excavation*, listed in Section 19-4 Conditional Uses Enumerated, of the *Douglas County Zoning Regulations*.

Mining is an activity which can have a significant impact off-site; however, the quarry was originally approved in 1993 and is in operation. This application would not revise the mining area or activity, but proposes only to reduce the amount of the performance bond for reclamation. If the quarry operator were to cease operations without completing reclamation, these funds would be used by the County to insure reclamation was completed as shown on the approved plans. Insuring that reclamation will occur is important to nearby properties. When reclamation is completed the land is returned to a state suitable for agricultural uses or other uses permitted in the A District. The reclamation efforts for former phases illustrate how good reclamation can benefit nearby properties. Conversely, poor reclamation, or the lack of reclamation, can create unsightly areas that could negatively impact nearby properties.



Figure 4. Phase 3 reclamation complete.

Staff Finding – The application requests the reduction of the performance bond for reclamation from \$400,000 for every 10 acres (\$40,000 per acre) to \$3,000 per acre. A reduction in the performance bond would not detrimentally affect nearby properties provided the amount of the bond remains adequate to reclaim the quarried area as shown on the approved reclamation plans.

VI. RELATIVE GAIN TO THE PUBLIC HEALTH, SAFETY AND WELFARE BY THE DESTRUCTION OF THE VALUE OF THE PETITIONER'S PROPERTY AS COMPARED TO THE HARDSHIP IMPOSED UPON THE INDIVIDUAL LANDOWNERS

Applicant's Response:

"The public gain is an inexpensive reliable supply of construction grade limestone aggregate that serves two of the five most populous counties in the state of Kansas. The Quarry has been in existence for over thirty-six years, thus any hardship imposed upon the individual landowners has already been factored and accounted for in the intervening years. The reduction in bond fees will allow Mid-States to sell cheaper aggregate and be more competitive in the market."

Evaluation of the relative gain weighs the benefits to the community-at-large vs. the benefit of the owners of the subject property.

Reducing the performance bond may result in a lower cost product; however, the cost of aggregate is dependent on many other items such as fuel and labor costs so it isn't possible to quantify what reduction in cost might occur. The applicant did not provide a cost reduction estimate.

A performance bond for reclamation that provides adequate financial assurance that reclamation shall occur as shown on the approved plan, even if the operator ceases business, is an important component of a quarry conditional use permit. Reducing the bond should neither harm nor benefit the public good, provided the bond remains at an adequate level.

Staff Finding – No significant public benefit is expected from a reduction in the performance bond for reclamation. No public harm is expected provided the amount of performance bond remains adequate to insure reclamation will occur as shown on the approved plans.

VII. CONFORMANCE WITH THE COMPREHENSIVE PLAN

Applicant's Response—

"The principal strategies for the identification, development, and maintenance of industrial and employment-related areas are:

- o Increase the number and diversity of jobs available to the citizens of Douglas County to stabilize the future employment base and generate additional wealth in the community.*
- o Identify an adequate amount of available land in a number of locations in Douglas County to meet diverse industrial and business related development needs.*
- o Increase community involvement in economic development activities, by partnering with the local business community and area educational institutions to bring new technology and investment to the region for the purpose of meeting the economic development job growth goal of securing twenty thousand new jobs in Douglas County by 2020.*
- o Protect, enhance, and retain existing industrial-related land use areas serving the community.*
- o Continue to address the needs of existing businesses and industries to ensure their retention in the community and to help facilitate expansion plans of those businesses and industries for the future.*

The Big Springs quarry is the hub for all of MSM's quarries located in a three state region. All ticketing for every individual truck that rolls out of over twenty different quarries goes through the Big Springs Control Center. There are thirty (30) employees on-site and up to sixty (60) positions created in the trucking industry. This quarry is located on agriculturally zoned land located far from any population centers. These two considerations are among the best possible factors in locating a quarry. It is clear that this quarry is consistent with the Horizon 2020 Comprehensive Plan."

An evaluation of the conformance of a conditional use permit request with the comprehensive plan is based on the strategies, goals, policies and recommendations contained within *Horizon 2020*. One of the strategies listed in the comprehensive plan is to protect, enhance, and retain existing industrial-related land uses serving the community (Page 7-2, *Horizon 2020*) Reducing the performance bond, while maintaining adequate levels of financial assurance for reclamation, may help enhance and retain the quarry industry.

The Resource Management section of Chapter 16 of the comprehensive plan, the Environment Chapter, notes: *This section encourages the responsible use of marketable natural resources within Douglas County through proper extraction and reclamation methods. They are essential to sustainable development activity, primarily in the form of low cost raw materials, such as sand, gravel, timber, oil, gas, and stone, etc."* (Page 16-21 *Horizon 2020*) Setting an appropriate performance bond for reclamation ensures that proper reclamation will occur and is compliant with this recommendation.

Staff Finding – The quarry use has been found to be in conformance with the comprehensive plan with previous conditional use permits. The reduction in the performance bond for reclamation would be compliant with the recommendations provided the performance bond amount remains adequate to insure proper reclamation.

STAFF REVIEW

The performance bond for reclamation must be adequate to provide reclamation in the event that the quarry operator fails to fulfill that obligation. This application is a request to revise Item 10 of the Conditional Use Permit, CUP-18-00290, to reduce the amount of the performance bond for reclamation from \$40,000 per acre to \$3,000. While researching performance bonds, staff looked at the bonds for other quarries in Douglas County, other counties in Kansas, and researched online for information regarding the performance bonds or financial assurances that other communities require. This information is summarized in Table 1. Big Springs Quarry has the highest performance bond of any quarry in the county. The only other quarry which was approved after the Big Springs Quarry was the Eudora Quarry, approved by the Board of County Commissioners in 2003. The minutes reflect that the Board of County Commissioners revised the condition related to the performance bond to require an amount 'required by applicable Kansas statutes'.

Kansas Statutes require a reclamation bond of \$600 per acre for limestone quarries to ensure reclamation will occur if the quarry is abandoned. Scott Carlson, Manager of the Kansas Mined Land Reclamation Program, noted that this amount is inadequate to cover the cost of reclamation. He wasn't able to provide a set amount as the cost varies widely based on the depth of the cut, water impoundment, amount of overburden repurposing, and surrounding terrain, but he indicated he would like to see the state amount raised to \$2,000 per acre along with a supplemental fund for those quarries that require more earthwork to reclaim. He noted that abandonment of sites is rare in Kansas but is typically due to bankruptcy. In his opinion,

the \$10,000 per acre bond that the County Engineer recommended should be more than sufficient for any limestone quarry in Douglas County.

Table 1. Performance Bond Information

County/State	Quarry Info	Reclamation Bond
Pottawatomie, KS	160 acres	None
Marion, KS	13 acres	\$400 per acre for sand and gravel. Paid to KS Department of Ag/Division of Conservation
Johnson County – Edgerton Quarry	7.5 acres	<i>\$600 per acre</i>
Franklin County- Princeton Quarry	10 acres	\$1,500 per acre
Elk County- Grand Summit Quarry	40 acres	<i>\$600 per acre</i>
Linn County— Greely Quarry	10 acres	<i>\$600 per acre</i>
Linn County— LaCygne Quarry	10 acres	<i>\$600 per acre</i>
Coffey County— Wolf Creek Quarry	20 acres	\$3,000 per acre
Miami County— Drexel Quarry	10 acres	<i>\$600 per acre</i>
Miami County— New Lancaster Quarry	10 acres	<i>\$600 per acre</i>
Anderson County— Lone Elm Quarry	10 acres	<i>\$600 per acre</i>
Anderson County— Colony Quarry	10 acres	<i>\$600 per acre</i>
Osage County— Plummer Creek Quarry	40 acres	\$3,000 per acre
Morris County— Wilsey Quarry	20 acres	<i>\$600 per acre</i>
Anderson County— Garnett Quarry	10 acres	<i>\$600 per acre</i>
Shawnee County— Big Springs Quarry	10 acres	\$125,000 + \$1,500 per acre
DG County— Big Springs Quarry CUP-7-2-90, replaced by 18-00299	Bond amount approved in 1992 1,049 acres	\$100,000 for plant site on Phase 1, for life of quarry. \$400,000 for first site excavated—up to 10 acres—(\$40,000 per acre)
DG County— Eudora Quarry CUP-12-16-02	Approved 2003, 129 acres	<i>As required by KS statutes. \$600 per acre</i>
DG County— Harrell Quarry CUP-1-3-75	Approved 1975, 160 acres	None
DG County— Hamm-Buchheim Quarry CUP-11-5-76	Approved 1976, 73 acres	“an amount set by the BoCC” \$1,500/acre for any land disturbed and not reclaimed
DG County— Globe Quarry	Pre-dated zoning, no CUP 50 acres	<i>\$600 per acre</i>
Buffalo County, MN		The amount of financial assurance shall equal as closely as possible the cost to the Buffalo County Land Resources Department

		of hiring a contractor to complete either final reclamation or progressive reclamation. Any financial assurance filed with the department shall be in an amount equal to the estimated cost for reclaiming all sites the operator has under project permits; with annual review.
Santa Cruz County, CA		The Planning Director shall base the amount of financial assurances necessary to secure adequate reclamation on estimates prepared by a registered civil engineer and a botanist, horticulturist or plant ecologist retained by the operator and approved by the Planning Director; with annual review.
County Engineer Recommendation		Reduce bond from \$40,000 to \$10,000 per acre to include contracting costs

The applicant noted the disparity between the performance bond required for Big Springs and that required for other quarries in Douglas County and various other counties in the state. Staff agrees that a disparity exists, but each conditional use permit is evaluated on its own basis and conditions are crafted for each particular site and use. After evaluating the amounts required for other quarries and discussing the bond amount with the Manager of the Kansas Mined Land Reclamation Program, it is staff's opinion, that the original performance bond for Big Springs Quarry may be higher than necessary but that the bond amount for other quarries may have been set too low and shouldn't be used for comparison.

The original estimate the performance bond was based on was provided by Landplan Engineering with the original 1992 application, Attachment B. The estimate was for a cut of approximately 1,000 feet by 300 feet by 28 feet in depth, which was noted as the average depth of overburden on the site. The estimate determined this cut would yield approximately 300,000 cubic yards of overburden. The firm estimated the cost for reclamation would be \$0.80 per cubic yard or \$240,000. This amount was for a cut of 1,000 feet by 300 feet or 300,000 feet or 6.8 acres. The amount per acre would have been \$35,294. The amount recommended and approved with the conditional use permit was \$40,000 per acre.

In 2008 the applicant requested a reduction in the bond amount with an application to amend the conditional use permit, CUP-07-05-08. The application was withdrawn in association with a consent decree to address compliance issues resulting from the former operator. Attachment C contains the materials that were provided with the 2008 request to amend the conditional use permit, including the request to reduce the performance bond. The applicant contracted with PEC, their consultant for the 2008 amendment, for an estimate of the reclamation costs. PEC estimated the cost at \$9,481 per acre and sent the item out to three firms for bids. The bids ranged from \$7,981 per acre to \$13,093 per acre.

Spreadsheets showing the actual cost of reclamation of the various phases that Mid-States Materials has reclaimed at the Big Springs Quarry were provided with the current application. 50 acres were reclaimed in Phase 2 at a cost of \$93,859 (\$1,877 per acre) and 80 acres were reclaimed in Phase 3 at a cost of \$85,445 (\$1,068 per acre). The County Engineer reviewed the materials provided with this application and noted that the performance bond for reclamation may be higher than necessary, particularly with Mid-States Materials track record for reclamation. He suggested the performance bond be reduced to \$10,000 per acre. This is higher than the actual cost the quarry operator incurred, but they used their own equipment

and reclaimed in conjunction with their quarrying operations. If the quarry is abandoned and reclamation has to be completed by a third party, the County Engineer noted that the costs to award a contract for the reclamation work would exceed Mid-State Material's in-house costs. His recommended performance bond amount of \$10,000 per acre aligns with PEC's estimate of the costs and is comparable with the bids that were provided with the request in 2008.

Looking beyond the state of Kansas, Wisconsin and California both require an estimate from an engineer for the reclamation costs before establishing the amount of financial assurances which are required. Each quarry would have a different reclamation bond depending on the end reclamation desired and the specific nature of the property.

Many of the counties in Kansas require only the \$600 bond that the Kansas Division of Conservation (DOC), which administers the Mined Land Reclamation Program, requires. As noted earlier A few counties: Coffey, Franklin, and Osage Counties, require a higher reclamation bond than the state does. Staff contacted these county zoning officials for information on these bond amounts, but they noted that the quarries were approved quite some time in the past and they don't have information on the basis for the bond amounts.

In staff's opinion, the County Engineer's recommendation of \$10,000 per 10 acres is reasonable given that it aligns with the estimates provided by the applicant's consultant in 2008. Staff recommends that Condition of Approval/Restriction of Use No. 10 be revised as shown below (deleted text shown as ~~struckthrough~~ and new text in **bold**.)

10. [PERFORMANCE BOND FOR RECLAMATION]

- (a) A performance bond in the amount of \$100,000.00 with sufficient sureties shall be secured to cover reclamation activities for the plant site as designated on Phase I and shall be filed with the Douglas County Clerk's Office prior to the commencing of any site preparation activities or any other work being done pursuant to the CUP. This performance bond shall remain in place for the entire life of the permit and shall not be subject to release until the plant site has been fully reclaimed and certification thereof shall have been made by the Douglas County Commission.
- (b) In addition to the bond required under paragraph (a) above, a performance bond in the amount of **\$100,000.00** ~~\$400,000.00~~ with sufficient sureties shall be secured for the first site excavated for extraction purposes in Phase I other than at the plant site and shall be filed with the Douglas County Clerk's office prior to the commencing of any excavation (including the stripping of top soil) other than at the designated plant site. This bond shall be for an excavation area no larger than 10 acres open at one time and shall remain in place until certified by the Douglas County Commission that reclamation has been completed at the site for which it was obtained.
- (c) For each additional 10 acre site excavated for extraction purposes in any phase of the quarry operations during the term of the CUP, a performance bond in the amount of **\$100,000.00** ~~\$400,000.00~~ with sufficient sureties for additional excavation for extraction purposes shall be secured and shall be filed with the Douglas County Clerk's office prior to the commencing of any such additional excavation (including the stripping of top soil). These bonds shall each be for areas no larger than 10 acres open at one time per excavation and shall remain in place until certified by the Douglas County Commission that reclamation has been completed at each site.

- (d) Each of the bonds described above also shall carry provisions which provide additional coverage for any other quarry operations that are carried on at the quarry site during the pendency of the bond until release of the bonds.

RESTRICTIONS AND CONDITIONS OF USE:

- 1) Setbacks
 - Purple Phase (former phase 6)
 - 400 foot setback along the south perimeter
 - 260 foot setback along County Route 442
 - Triangular area in the southeast corner a corner of which is 1,800 feet north of the south property line along the setback line of County Road 442 / E. 50 Road and another corner of which is 1,100 feet west of the right-of-the way of County Road 442/E. 50 road along the south setback line.
 - Green Phase (*former Phase 4*):
 - 100 foot setback to the north and 700 foot setback to the south sides
 - 100 foot setback on the east side
 - Pink Phase
 - 100 foot along north property line
 - Blue Phase
 - 100 foot along east property line
 - Orange Phase
 - 100 foot along east property line
 - All Phases—
 - 100 foot setback from the property line along the east side of the private haul road.
 - 100 foot setback from the property line along E. 50 Road and E. 100 Road
 - 500 foot residential setback (residences existing at the time of CUP approval)
- 2) Operation Restrictions
 - a. Methods shall be adopted to minimize dust in stage area as well as along the haul roads.
 - b. Quarry hours of operation shall be restricted to:
 - i. sale and removal of rock: 6 a.m. – 6 p.m., Monday-Friday; 7 a.m. – 12:00 p.m. Saturday
 - ii. Production and extraction: 6 a.m. – 10 p.m., Monday – Thursday; 6 a.m. – 6:00 p.m., Friday
 - iii. Blasting: 1 p.m. – 5 p.m., Monday – Friday
 - iv. No quarry operations shall take place on holidays observed by the State of Kansas: (New Year's Day; Memorial Day; Independence Day; Labor Day; Thanksgiving Day: the day immediately following Thanksgiving Day, and Christmas Day.

Activities occurring after these hours: In the event of an emergency or other situation that requires quarrying, or sell of product after these hours, the request must be

provided to the Board of County Commissioners prior to the after hours activity commencing.

- c. No more than 40 acres may be open, mined and extracted from at any one time on the quarry site, exclusive of the plant site. No more than 10 acres shall be open, mined and extracted from in a subsequent phase until reclamation is complete on the previous phase.

3) Fencing

The entire site shall be fenced with a five-strand barbed wire fence. Fencing shall be maintained by the operator. A security gate and fence shall be placed/maintained at the entrance to the quarrying site across the main haul road. The fence shall be signed periodically (minimum of 500 feet intervals) stating: "Mid-States Materials No Trespassing"

4) Berms

- a. All setbacks along roadways shall contain berms to screen operations. Berms are to be 6 to 8 feet high (8 feet maximum), built at a 3 to 1 slope and vegetated.
- b. Topsoil removed from each phase will be used to construct the berms. Berms shall be constructed as quarrying progresses in each phase.

5) Blasting

- a. Blasting shall be set only in sequential delays; no single delay to be over 150 lbs. of explosives.
- b. No fly-rock shall leave the property.
- c. Prior to each blast, the operator shall contact adjoining neighbors who request individual notice of each blast. A signaling system, siren, horn, or other signaling system, shall be used to alert people in the neighboring vicinity before each blast takes place.
- d. No explosives will be set in the ground overnight unguarded.

6) Monitoring Blasting

- a. Operator shall contact with independent seismology firm to monitor blasts at the commencement of quarrying operations, at each residence within ½ mile of the blast site to assure that the blast design will not be harmful to any structures or wells and that all associated vibrations are below currently recognized safety levels. A report on the monitoring of initial blasting shall be made available to owners of the residences and such report shall include a full frequency analysis of vibrations.
- b. After the initial blasting, operator shall contract for a continuous monitoring program commencing with the start of continuous regular blasting by an independent seismology firm at stations chosen by the seismology firm. A monthly report, which analyzes the impacts of daily blasting, will be available at operator's offices for inspection. Residents may request positioning of the seismograph to measure the impact at their property; provided, however, the applicant shall not be required to conduct tests in excess of those it determines, based on professional advice of its independent seismology firm, will provide adequate seismic readings at resident's

properties. Any resident desiring to appeal the decision of the applicant concerning this condition may appeal it to the Douglas County Public Works Director who may order seismic tests at such locations as it deems appropriate under the circumstances at the expense of the operator.

c. The operator shall comply with the NFPA 495 Kansas Explosive Materials Code regulations regulated by the Office of the State Fire Marshall.

7) Air and Water Quality

The quarry operator shall adhere to air quality standards of KDHE, not to exceed 20% of opacity more than 1 time in a one year period as observed by KDHE observers over a 5 minute period.

8) Other Regulatory Restrictions

All applicable regulations of EPA, KDHE, and Kansas Department of Agriculture, and other applicable agencies shall be adhered to and subsequent revisions to these regulations shall apply.

9) Noise and Light Pollution

Vehicles used in plant operation (extraction & production) after 6:00 PM shall be equipped with manufactured lighting in addition to a back-up audible signal alarm.

Permanent outdoor lighting in the quarry, including the plant area, mining area, and haul roads, shall be shielded and directed down with a solid screen to prevent light pollution beyond the site boundaries.

10) Reclamation Bond

Mid-States shall be responsible for reclamation of all quarried land.

- (a) A performance bond in the amount of \$100,000.00 with sufficient sureties shall be secured to cover reclamation activities for the plant site as designated on Phase I and shall be filed with the Douglas County Clerk's Office prior to the commencing of any site preparation activities or any other work being done pursuant to the CUP. This performance bond shall remain in place for the entire life of the permit and shall not be subject to release until the plant site has been fully reclaimed and certification thereof shall have been made by the Douglas County Commission.
- (b) In addition to the bond required under paragraph (a) above, a performance bond in the amount of **\$100,000.00** ~~\$400,000.00~~ with sufficient sureties shall be secured for the first site excavated for extraction purposes in Phase I other than at the plant site and shall be filed with the Douglas County Clerk's office prior to the commencing of any excavation (including the stripping of top soil) other than at the designated plant site. This bond shall be for an excavation area no larger than 10 acres open at one time and shall remain in place until certified by the Douglas County Commission that reclamation has been completed at the site for which it was obtained.
- (c) For each additional 10 acre site excavated for extraction purposes in any phase of the quarry operations during the term of the CUP, a performance bond in the amount of **\$100,000.00** ~~\$400,000.00~~ with sufficient sureties for additional excavation for extraction purposes shall be secured and shall be filed with the Douglas County Clerk's office prior to the commencing of any such additional excavation (including the stripping of top soil). These bonds shall each be for areas

- no larger than 10 acres open at one time per excavation and shall remain in place until certified by the Douglas County Commission that reclamation has been completed at each site.
- (d) Each of the bonds described above also shall carry provisions which provide additional coverage for any other quarry operations that are carried on at the quarry site during the pendency of the bond until release of the bonds.
- 11) Insurance
The operator shall carry liability insurance in the amount of \$1,000,000.00. Certificates of insurance shall be submitted to the Zoning and Codes Department on an annual basis.
- 12) Operation Report and Plan
a. Prior to the issuance of the CUP permit and every 5 years thereafter, the operator shall submit a detailed report and plan of quarrying operations to the Planning Office.
b. The plan shall show the phases of quarrying; location of stockpile area; estimated volume of material being extracted; and a detailed monitoring and management plan for the areas undergoing reclamation.
- 13) Reclamation and Review
a. The quarry shall utilize sequential reclamation. With the exception of the first cut in a phase, overburden within a cut shall be placed in the previous cut thereby removing the need to stockpile large amounts of overburden.
b. Detailed reclamation plans shall be submitted for each phase of the reclamation process for review and recommendation by the Planning staff and approval by the County Commission. The Detailed Reclamation Plan shall be submitted and approved prior to opening of a quarry phase.
c. The detailed reclamation plans would include a site plan showing elevations, cross-sections, and the proposed plan for revegetation of the area.
d. The property shall be reclaimed to a state that is compatible with the surrounding area with regard to slopes, and plant and animal life supported by the established ecosystem.
e. Terraced areas shall be shaped to blend with the existing, adjoining contours. The land must be graded to final contours as shown on the approved reclamation plan, top-soil, which had been used to construct the berms of each quarry phase shall be removed as areas are reclaimed and the topsoil shall be spread over the land area and seeding of appropriate native plants must occur. It is not necessary for vegetation to be established before moving fully to the next phase.
- 14) Studies/Surveys Required Prior to Opening New Phase
a. Pre-Blast Survey. A pre-blast survey (by an independent seismology firm or structural engineer approved by the applicant and the owners of existing structures within one-half mile of the quarry site) shall be offered to the property owners and conducted, if the property owners request, prior to operating in each phase.

(Notice shall be mailed, by certified mail, to all property owners within one-half mile of the phase to be quarried, at least 1 month prior to the beginning of that phase, indicating that a new phase is about to be quarried and letting the property owner know about the pre-blast survey.)

b. Hydrologic Study

The quantity/quality of water in the wells within one-half mile of each quarry phase shall be documented prior to the commencement of quarrying operations in that phase. A study shall be done, at the operator's expense, for all wells within ½ mile of each phase (with property owner consent). Notice shall be provided to all property owners within one-half mile of the phase boundary as noted in Condition 13a.

This study is intended to provide an inventory of area residential and stock wells and determine their capacities and current volumes/levels of operation; and to determine the impact of quarrying, per phase, based on the depth of mining proposed. If mining is proposed at a depth lower than 1042 or the local water table, the County Engineer may require a hydrologic study to analyze the impact on area wells.

c. Drainage Study

Prior to work progressing in each phase of the quarrying operation, a detailed grading plan showing site runoff and its relationship to the adjoining properties shall be submitted to the Planning Office for review and approval prior to work progressing in each phase.

15) Site Access and Road Restrictions

- a. Except for vehicles traveling to and from the site on 45th Street in Shawnee County, the principal access to the site for transport truck traffic and hauling of rock shall be restricted to the use of U.S. Highway 40 from the direct haul route north of the proposed quarry. (The haul road is currently in place and the intersection with Highway 40 was designed in accordance with KDOT requirements.)

Any other haul route options must first be approved by the Douglas County Commission.

- b. Except for local deliveries of rock from the quarry site, Route 442 shall not be used by transport trucks to travel to and from the east. The operator shall post signs and adopt appropriate restrictions on the quarry site, including restrictions on sale of rock where necessary, to ensure strict compliance with this restriction by all transport trucks.

In the event the Board of County Commissioners determines, after due notice and hearing, that such restrictions have proven ineffective in prohibiting transport trucks which originate from or travel to the quarry site from using Route 442 east of the quarry entrance in violation of this restriction, the Board may order such improvements to Route 442 as it deems necessary, including, but not limited to, appropriate shouldering, surfacing, and signing, and assess such costs to the applicant which shall be paid in a timely manner. In the alternative, the Board may order the operator to cease operation or order such steps as the Board deems necessary under this CUP.

- c. No township roads shall be used as access to the quarry.
 - d. Restrictions which shall be posted at the entrance to the plant, regarding vehicles hauling from the site are to include:
 - no flatbed trucks without sides or tailgates;
 - tailgates shall be in place and in an upright position; and
 - all trucks leaving the site must be covered by a tied-down tarp.
 - e. Operator is responsible for spillage and cleanup of aggregate within one mile of the plant site, which includes the intersection of the access road to the north and U.S. Highway 40. The failure by the applicant to clean up spilled aggregate of such roads within a reasonable period of time shall be grounds for action under Section XVII, Inspection/Violation/Revocation.
 - f. The operator will not allow trucks to exceed State of Kansas legal weight limits or legally posted weight limits since different truck configurations have different legal weight limits.
 - g. Weight limitations shall be posted on appropriate roads adjacent to the quarry.
 - h. Access points across township roads between phases of operation require prior review and authorization from the Douglas County Public Works Director. Access is restricted to one point of crossing per phase as shown on the operation plan. Road crossings between the phases of the site shall be maintained by operator at all times.
 - i. During the term of this Conditional Use Permit, the applicant shall not request the vacation of any township roads in the vicinity of the site.
- 16) Transfer of Operator
Because the operator's track record is an important consideration, a change in the quarry operator shall require the conditional use permit to come back to the Planning Commission for review and to the County Commission for reapproval.
- 17) Sanitary Landfill
The property shall not be used or requested for use as a sanitary landfill within the life of this conditional use permit.
- 18) Shop Facility
Repair and maintenance activities shall be limited to service of vehicles and equipment in use at this specific quarry location.
- 19) Inspection/Violation/Revocation
The Douglas County Commission, or the appointed representative(s) thereof, shall have the right, without advance notice, to enter the premises and inspect any aspect of the quarry operation for compliance with the conditions of this permit. Upon entering the premises, the County shall first request an escort by the applicant's representatives.

Further, the Douglas County Commission, or the appointed representative(s) thereof, shall be authorized to:

- a. Order the stoppage of any operation occurring without a permit or in violation of the terms of this permit.
 - b. Order the operator or its agents and employees to adopt such remedial measures as are necessary to comply with the terms of this CUP. In such cases, the operator shall be given no more than ninety (90) days to rectify any condition of noncompliance.
 - c. Order the immediate suspension of operations if, after due notice and an opportunity to be heard before the County Commission, it is determined by the Board of County Commissioners that the permitted operation is causing, or can reasonably be expected to cause, a significant, imminent danger or threat to the health, safety or welfare of the public or to the environmental quality of the surrounding area.
 - d. In cases such as those described in Paragraph (C) that do not pose an imminent threat to the public health, safety and welfare, the operator shall be given no more than 90 days to rectify the condition. If the condition has not been rectified, the County Commission, after due notice and hearing, may order the suspension of operations and suspend or revoke part or all of the CUP.
 - e. If the operator or the agents or employees thereof, fail to comply with a lawful order under this section, or violate any of the restrictions of use enumerated for this permit, the County Commission, after due notice and an opportunity for a hearing, may suspend or revoke part or all of the CUP.
- 20) The timeframe for completion of any phase is dependent on the market demand; however, the operator agrees to continuously quarry Phase 6 (within the limits of the CUP restrictions) so that Phase 6 will be completed as soon as possible

Rec'd 9/18/90



■ CIVIL ENGINEERING AND SURVEYING ■ LANDSCAPE ARCHITECTURE ■ COMMUNITY PLANNING AND DEVELOPMENT

September 13, 1990

Linda Finger
City of Lawrence
6 East Sixth Street
Lawrence, Kansas 66044

RE: Martin Marietta - County Line Quarry Project

Dear Linda,

To establish a bond guaranteeing the reclamation of a rock quarry in the event the quarry operator defaults and fails to reclaim the project, we need to first determine the maximum size area disturbed by the operation. Conceptually, the largest area requiring reclamation at any one time is the open excavation. Once the quarry operator begins placing the excavated material into the void generated by the previous quarrying operation, the volume of material required to reclaim the site will remain constant.

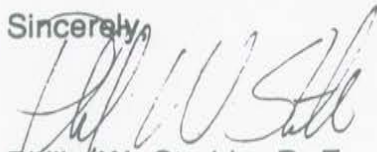
When a quarry operation is initiated, the operator begins with an initial cut to remove the overburden and expose the rock. This overburden is placed either at a location that will not be quarried or adjacent to the cut with the intention that the material will eventually be placed back in the open excavation. In any event, the material excavated in the initial excavation will be handled a minimum of two times. At a certain point the operator can no longer afford to haul the material out of the initial cut because 1) the haul distance is too great or 2) the removed overburden begins to cover the remainder of the site to be quarried. Once this point is reached, the quarry operator begins to place the excavated overburden and shale back in the initial cut. This operation allows the operator to backfill the quarried site as new rock reserves are removed. This operation is the most efficient since it causes the operator to handle the overburden only once.

To reclaim the site at this point, only the material removed from the initial excavation would require handling to be placed back in the open cut. The reclamation process would occur exactly as originally planned with the final terrain lower than the original terrain because of the depletion of rock reserves. The final excavation would most likely be a pond.

As an example, a cut of approximately 1000 feet by 300 feet by 28 feet in depth (average overburden on this site) yields approximately 300,000 cubic yards. This size excavation is typical for this project for two reasons. First of all, other Martin Marietta quarry operations in this area have a open excavations of approximately this dimension. Secondly, 1000 feet is estimated to be the largest excavation on the County Line Quarry Project given the configuration of the phases as presented. Any larger excavation would cause the overburden to cover the area being quarried.

I estimate the cost to replace the excavated overburden, grade the site to acceptable slopes and seed the disturbed area at \$0.80 per cubic yards. This number is determined through discussions with area contractors and through past experience by Martin Marietta. At \$0.80 per cubic yard, the estimated cost to fill the open excavation is approximately \$240,000.

Sincerely,



Philip W. Struble, P. E.

PWS/smr

Professional Engineering Consultants, P.A. 1263 S.W. Topeka Blvd. Topeka, Kansas 66612-1852 Phone (785) 233-8300		BIG SPRINGS QUARRY LECOMPTON, KANSAS PEC PROJECT No. 08A39				BID TABULATION					
						CONTRACTOR NAME					
ITEM NO.	DESCRIPTION	QUANTITY	UNIT	ENGINEER'S ESTIMATE		SCHMIDTLEIN EXCAVATING		KING'S / LUXURY LAWN		LEXECO	
				UNIT PRICE	COST	UNIT PRICE	COST	UNIT PRICE	COST	UNIT PRICE	COST
1	PHASE II - 43.22 ACRES										
2	Mobilization	1	LS	\$10,000.00	\$10,000.00	\$17,000.00	\$17,000.00	\$5,000.00	\$5,000.00	\$9,500.00	\$9,500.00
3	Contractor Furnished Borrow	91379	CU.YDS.	\$1.80	\$164,482.20	\$3.12	\$285,102.48	\$2.75	\$251,292.25	\$1.55	\$141,637.45
4	Compaction of Placed Borrow	91379	CU.YDS.	\$1.26	\$115,137.54	\$0.66	\$60,310.14	\$1.00	\$91,379.00	\$0.80	\$73,103.20
5	Finish Grading/Native Grass Seeding	47	ACRE	\$1,500.00	\$70,500.00	\$2,900.00	\$136,300.00	\$1,100.00	\$51,700.00	\$1,725.00	\$81,075.00
6	NPDES Permitting and Maintain Erosion Control	1	LS	\$12,500.00	\$12,500.00	\$27,000.00	\$27,000.00	\$9,200.00	\$9,200.00	\$8,500.00	\$8,500.00
7	SUBTOTAL				\$372,109.20		\$525,712.62		\$408,571.25		\$313,815.65
8					\$8,609.65/ACRE		\$12,163.64/ACRE		\$9,453.29/ACRE		\$7,260.89/ACRE
9											
10	PHASE II-A - 89.49 ACRES										
11	Mobilization	1	LS	\$10,000.00	\$10,000.00	\$24,300.00	\$24,300.00	\$5,000.00	\$5,000.00	\$13,250.00	\$13,250.00
12	Contractor Furnished Borrow	204280	CU.YDS.	\$1.80	\$367,704.00	\$3.08	\$629,182.40	\$2.75	\$561,770.00	\$1.55	\$316,634.00
13	Compaction of Placed Borrow	204280	CU.YDS.	\$1.26	\$257,392.80	\$0.66	\$134,824.80	\$1.00	\$204,280.00	\$0.80	\$163,424.00
14	Finish Grading/Native Grass Seeding	90	ACRE	\$1,500.00	\$135,000.00	\$2,900.00	\$261,000.00	\$1,100.00	\$99,000.00	\$1,725.00	\$155,250.00
15	NPDES Permitting and Maintain Erosion Control	1	LS	\$20,000.00	\$20,000.00	\$37,400.00	\$37,400.00	\$11,700.00	\$11,700.00	\$12,750.00	\$12,750.00
16	SUBTOTAL				\$790,711.00		\$1,086,707.20		\$881,750.00		\$661,308.00
17					\$8,835.75/ACRE		\$12,143.33/ACRE		\$9,853.06/ACRE		\$7,389.75/ACRE
18											
19	PHASE V - 46.90 ACRES										
20	Mobilization	1	LS	\$10,000.00	\$10,000.00	\$24,500.00	\$24,500.00	\$5,000.00	\$5,000.00	\$9,500.00	\$9,500.00
21	Contractor Furnished Borrow	145041	CU.YDS.	\$1.80	\$261,073.80	\$3.02	\$438,023.82	\$2.75	\$398,862.75	\$1.65	\$239,317.65
22	Compaction of Placed Borrow	145041	CU.YDS.	\$1.26	\$182,751.66	\$0.66	\$95,727.06	\$1.00	\$145,041.00	\$0.80	\$116,032.80
23	Finish Grading/Native Grass Seeding	49	ACRE	\$1,500.00	\$73,500.00	\$2,900.00	\$142,100.00	\$1,100.00	\$53,900.00	\$1,725.00	\$84,525.00
24	NPDES Permitting and Maintain Erosion Control	1	LS	\$12,500.00	\$12,500.00	\$38,900.00	\$38,900.00	\$9,800.00	\$9,800.00	\$9,000.00	\$9,000.00
25	SUBTOTAL				\$540,215.46		\$739,250.88		\$612,603.75		\$458,375.45
26					\$11,518.45/ACRE		\$15,762.26/ACRE		\$13,061.91/ACRE		\$9,773.46/ACRE
27											
28											
29											
30											
TOTAL BID				\$1,703,035.66 \$9,481.85/ACRE		\$2,351,670.70 \$13,093.20/ACRE		\$1,902,925.00 \$10,594.76/ACRE		\$1,433,499.10 \$7,981.18/ACRE	

PHASE II RECLAMATION COST

Job Cost Category Totals Report
 Mid-States Materials, LLC
 7/22/2013

Job: BIG2012

Big Springs 2012

Contract: 0.00
 Change Orders: 0.00
 Revised: 0.00
 Prev. Billed: 0.00
 Open: 0.00

Cat. 14	Description RECLAMATION	Contract Amount	Billed To Date	Cost		Hours		
				Actual	Budget	Pct	Overrun	Act
			0	70,770	0	0%	70,770	1,045
			0	70,770	0	0%	70,770	1,045
	Job BIG2012 Totals			11,415			11,415	623
	Labor			2,238			2,238	79
	Overtime Labor			2,414			2,414	0
	Burden			895			895	0
	Fringes			8,908			8,908	0
	Material			28,274			28,274	343
	Internal Equip			1,969			1,969	0
	Outside Equip Rental			11,079			11,079	0
	Outside Cont. Servic			30			30	0
	Quality Control			242			242	0
	Safety Expense			3,307			3,307	0
	Consults/Geol Exp							

Cost Code: BIG2013.14 To: BIG2013.14

Items with Activity
Labor Detail

PHASE II RECLAMATION COST CONT.

Job Cost Category Totals Report

Mid-States Materials, LLC

7/22/2013

Job: BIG2013

Big Springs 2013

Contract: 0.00
Change Orders: 0.00
Revised: 0.00
Prev. Billed: 0.00
Open: 0.00

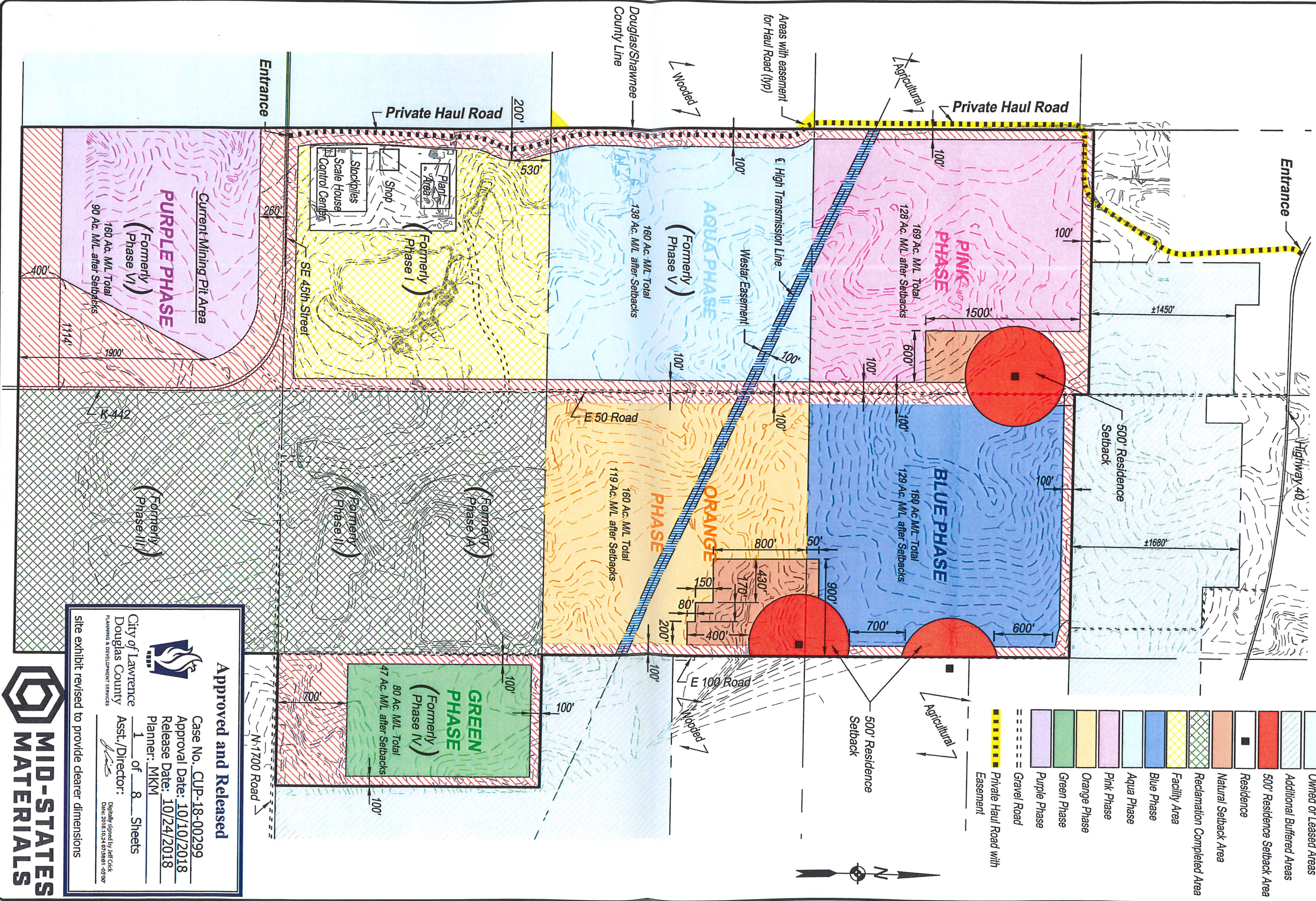
Cat. 14	Description RECLAMATION	Contract Amount	Billed To Date	Cost		Hours		
				Actual	Budget	Act	Bud	Pct
			0	23,089	0	229	0	0%
					=		=	
		0	0	23,089	0	229	0	0%
	Job BIG2013 Totals							
	Labor			2,636		166		166
	Overtime Labor			884		37		37
	Burden			658		0		0
	Fringes			360		0		0
	Material			13		0		0
	Internal Equip			1,358		26		26
	Outside Equip Rental			6,123		0		0
	Outside Cont. Servic			4,900		0		0
	Consults/Geol Exp			4,197		0		0
	Un-specified Charges			1,960		0		0

PHASE III RECLAMATION COST

Job: BIG2017 Big Springs 2017 Contract: 0.00
Change Orders: 0.00
Revised: 0.00
Prev. Billed: 0.00
Open: 0.00

Cat. 14	Description RECLAMATION	Contract Amount	Billed To Date	Cost		Hours	
				Actual	Budget	Act	Bud
			0	85,445	0	2,028	0
	Labor			17,018	17,018	822	822
	Overtime Labor			4,645	4,645	151	151
	Burden			4,058	4,058	0	0
	Fringes			1,809	1,809	0	0
	Material			4,523	4,523	0	0
	Internal Equip			52,514	52,514	1,055	1,055
	Consults/Geol Exp			878	878	0	0
	Job BIG2017 Totals	0	0	85,445	85,445	2,028	2,028
	Labor			17,018	17,018	822	822
	Overtime Labor			4,645	4,645	151	151
	Burden			4,058	4,058	0	0
	Fringes			1,809	1,809	0	0
	Material			4,523	4,523	0	0
	Internal Equip			52,514	52,514	1,055	1,055
	Consults/Geol Exp			878	878	0	0

BIG SPRINGS QUARRY SITE PLAN

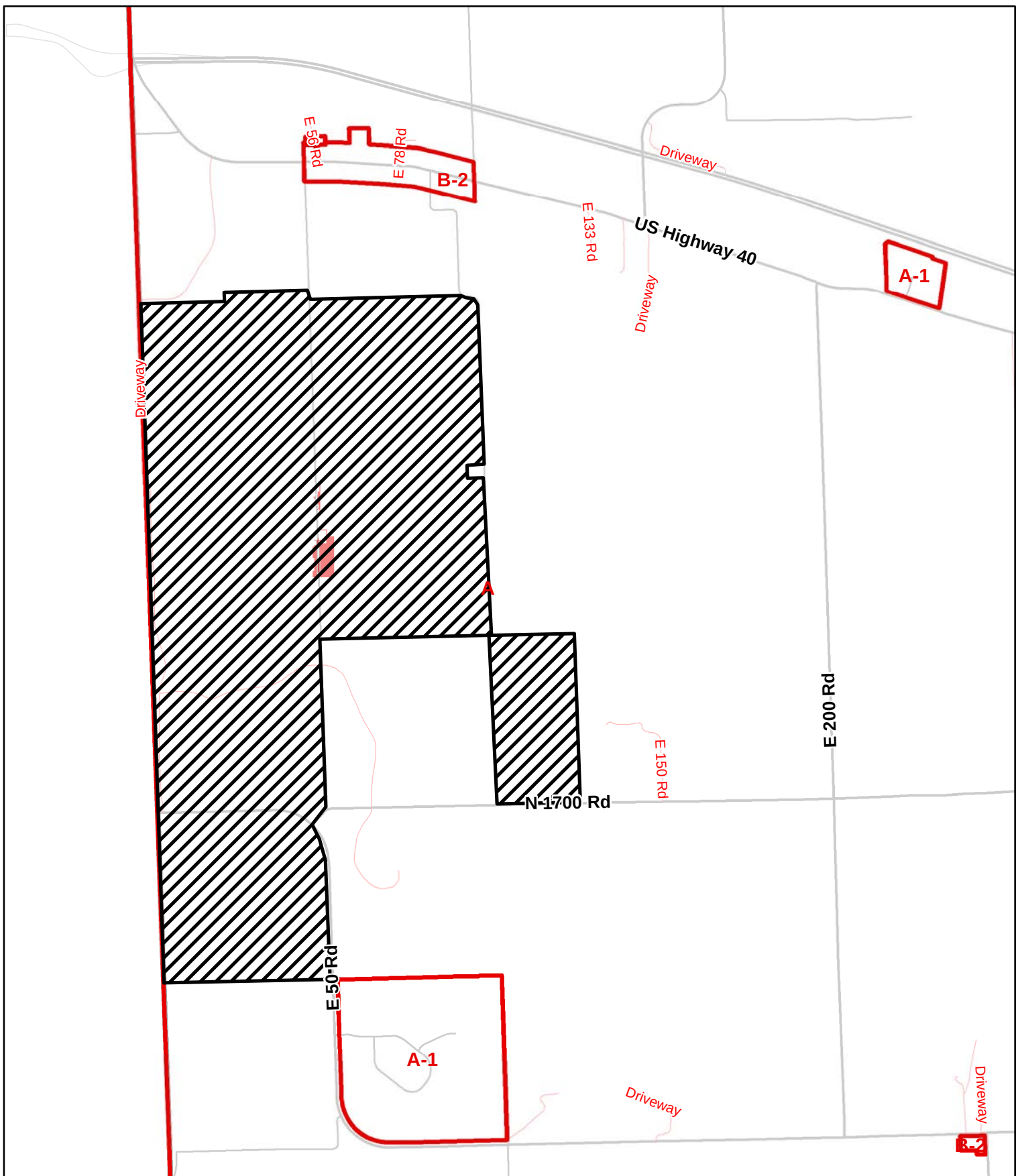


Schmidt, Beck & Boyd
Engineering, LLC
Drawn By: JEM

Big Springs Quarry
Date: 6/18/18 Rev: 7/17/18 Rev: 10/22/18

2 N 1700 ROAD
LECOMPTON, KANSAS 66050
Not to Scale Project No.: 18044

FIGURE
1



CUP-18-00570: Consider an amended Conditional Use Permit for Big Springs Quarry, located at 2 N. 1700 RD, Lecompton.



ITEM NO. 7 CONDITIONAL USE PERMIT FOR BIG SPRINGS QUARRY; 2 N 1700 RD (MKM)

CUP-18-00570: Consider an amended Conditional Use Permit to reduce the amount of the performance/reclamation bond required for Big Springs Quarry, located at 2 N 1700 Rd, Lecompton. Submitted by Submitted by Mid-States Ventures LLC, for Mid-States Ventures LLC, Nancy J Hughes, James R Meek, Thomas R Meek, and Bonnie M Nichols, Trustee, property owners of record. *Deferred by Planning Commission on 1/23/19.*

STAFF PRESENTATION

Mary Miller presented the item.

APPLICANT PRESENTATION

Rich Eckert, Mid-States Ventures, was present for questioning. He requested to reduce the performance bond amount to \$3,000. He said reclamation costs continue to decrease because of efficiency in the process. He said the machinery was better now than it used to be.

PUBLIC HEARING

No public comment.

COMMISSION DISCUSSION

Commissioner Willey said she appreciated receiving the bid information. She said she was comfortable with the \$5,000 per acre performance bond amount.

Eckhert said he would like to see the amount applied to all businesses going forward.

Commissioner Carpenter said he was inclined to give great deference to the county estimates. He said the amount was taking into consideration the worst case scenario. He was comfortable with the \$5,000 per acre amount.

Commissioner Weaver said he was happy to see it would be going back to native grasses. He expressed concern about getting the native grasses established. He asked the applicant if he would use nurse crops.

Eckhert said yes.

ACTION TAKEN

Motioned by Commissioner Carttar, seconded by Commissioner Paden, to approve the Conditional Use Permit, CUP-18-00570, to reduce the amount of the performance/reclamation bond required for Big Springs Quarry, located at 2 N 1700 Rd, Lecompton, and forwarding to the Board of County Commissioners with a recommendation for approval of a reduction of the performance bond amount noted in Condition 10(b) and (c) in the Restrictions and Conditions of use from \$40,000 per acre to \$5,000 per acre based on the findings of fact in the staff report and memo, subject to the following revised restrictions/conditions of use:

- 1) Setbacks
Purple Phase (former phase 6)
 - 400 foot setback along the south perimeter
 - 260 foot setback along County Route 442
 - Triangular area in the southeast corner a corner of which is 1,800 feet north of the south property line along the setback line of County Road 442 / E. 50 Road and another corner of which is 1,100 feet west of the right-of-the way of County Road 442/E. 50 road along the south setback line.

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Green Phase (*former Phase 4*):

- 100 foot setback to the north and 700 foot setback to the south sides
- 100 foot setback on the east side

Pink Phase

- 100 foot along north property line

Blue Phase

- 100 foot along east property line

Orange Phase

- 100 foot along east property line

All Phases—

- 100 foot setback from the property line along the east side of the private haul road.
- 100 foot setback from the property line along E. 50 Road and E. 100 Road
- 500 foot residential setback (residences existing at the time of CUP approval)

2) Operation Restrictions

a. Methods shall be adopted to minimize dust in stage area as well as along the haul roads.

b. Quarry hours of operation shall be restricted to:

- i. sale and removal of rock: 6 a.m. – 6 p.m., Monday- Friday; 7 a.m. – 12:00 p.m. Saturday
- ii. Production and extraction: 6 a.m. – 10 p.m., Monday – Thursday; 6 a.m. – 6:00 p.m., Friday
- iii. Blasting: 1 p.m. – 5 p.m., Monday – Friday
- iv. No quarry operations shall take place on holidays observed by the State of Kansas: (New Year's Day; Memorial Day; Independence Day; Labor Day; Thanksgiving Day: the day immediately following Thanksgiving Day, and Christmas Day.

Activities occurring after these hours: In the event of an emergency or other situation that requires quarrying, or sell of product after these hours, the request must be provided to the Board of County Commissioners prior to the after hours activity commencing.

c. No more than 40 acres may be open, mined and extracted from at any one time on the quarry site, exclusive of the plant site. No more than 10 acres shall be open, mined and extracted from in a subsequent phase until reclamation is complete on the previous phase.

3) Fencing

The entire site shall be fenced with a five-strand barbed wire fence. Fencing shall be maintained by the operator. A security gate and fence shall be placed/maintained at the entrance to the quarrying site across the main haul road. The fence shall be signed periodically (minimum of 500 feet intervals) stating: "Mid-States Materials No Trespassing"

4) Berms

a. All setbacks along roadways shall contain berms to screen operations. Berms are to be 6 to 8 feet high (8 feet maximum), built at a 3 to 1 slope and vegetated.

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- b. Topsoil removed from each phase will be used to construct the berms. Berms shall be constructed as quarrying progresses in each phase.

5) Blasting

- a. Blasting shall be set only in sequential delays; no single delay to be over 150 lbs. of explosives.
- b. No fly-rock shall leave the property.
- c. Prior to each blast, the operator shall contact adjoining neighbors who request individual notice of each blast. A signaling system, siren, horn, or other signaling system, shall be used to alert people in the neighboring vicinity before each blast takes place.
- d. No explosives will be set in the ground overnight unguarded.

6) Monitoring Blasting

- a. Operator shall contact with independent seismology firm to monitor blasts at the commencement of quarrying operations, at each residence within ½ mile of the blast site to assure that the blast design will not be harmful to any structures or wells and that all associated vibrations are below currently recognized safety levels. A report on the monitoring of initial blasting shall be made available to owners of the residences and such report shall include a full frequency analysis of vibrations.
- b. After the initial blasting, operator shall contract for a continuous monitoring program commencing with the start of continuous regular blasting by an independent seismology firm at stations chosen by the seismology firm. A monthly report, which analyzes the impacts of daily blasting, will be available at operator's offices for inspection. Residents may request positioning of the seismograph to measure the impact at their property; provided, however, the applicant shall not be required to conduct tests in excess of those it determines, based on professional advice of its independent seismology firm, will provide adequate seismic readings at resident's properties. Any resident desiring to appeal the decision of the applicant concerning this condition may appeal it to the Douglas County Public Works Director who may order seismic tests at such locations as it deems appropriate under the circumstances at the expense of the operator.
- c. The operator shall comply with the NFPA 495 Kansas Explosive Materials Code regulations regulated by the Office of the State Fire Marshall.

7) Air and Water Quality

The quarry operator shall adhere to air quality standards of KDHE, not to exceed 20% of opacity more than 1 time in a one year period as observed by KDHE observers over a 5 minute period.

8) Other Regulatory Restrictions

All applicable regulations of EPA, KDHE, and Kansas Department of Agriculture, and other applicable agencies shall be adhered to and subsequent revisions to these regulations shall apply.

9) Noise and Light Pollution

Vehicles used in plant operation (extraction & production) after 6:00 PM shall be equipped with manufactured lighting in addition to a back-up audible signal alarm.

Permanent outdoor lighting in the quarry, including the plant area, mining area, and haul roads, shall be shielded and directed down with a solid screen to prevent light pollution beyond the site boundaries.

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- 10) Reclamation Bond
Mid-States shall be responsible for reclamation of all quarried land.
- (a) A performance bond in the amount of \$100,000.00 with sufficient sureties shall be secured to cover reclamation activities for the plant site as designated on Phase I and shall be filed with the Douglas County Clerk's Office prior to the commencing of any site preparation activities or any other work being done pursuant to the CUP. This performance bond shall remain in place for the entire life of the permit and shall not be subject to release until the plant site has been fully reclaimed and certification thereof shall have been made by the Douglas County Commission.
 - (b) In addition to the bond required under paragraph (a) above, a performance bond in the amount of **\$50,000.00** ~~\$400,000.00~~ with sufficient sureties shall be secured for the first site excavated for extraction purposes in Phase I other than at the plant site and shall be filed with the Douglas County Clerk's office prior to the commencing of any excavation (including the stripping of top soil) other than at the designated plant site. This bond shall be for an excavation area no larger than 10 acres open at one time and shall remain in place until certified by the Douglas County Commission that reclamation has been completed at the site for which it was obtained.
 - (c) For each additional 10 acre site excavated for extraction purposes in any phase of the quarry operations during the term of the CUP, a performance bond in the amount of **\$50,000.00** ~~\$400,000.00~~ with sufficient sureties for additional excavation for extraction purposes shall be secured and shall be filed with the Douglas County Clerk's office prior to the commencing of any such additional excavation (including the stripping of top soil). These bonds shall each be for areas no larger than 10 acres open at one time per excavation and shall remain in place until certified by the Douglas County Commission that reclamation has been completed at each site.
 - (d) Each of the bonds described above also shall carry provisions which provide additional coverage for any other quarry operations that are carried on at the quarry site during the pendency of the bond until release of the bonds.
- 11) Insurance
The operator shall carry liability insurance in the amount of \$1,000,000.00. Certificates of insurance shall be submitted to the Zoning and Codes Department on an annual basis.
- 12) Operation Report and Plan
- a. Prior to the issuance of the CUP permit and every 5 years thereafter, the operator shall submit a detailed report and plan of quarrying operations to the Planning Office.
 - b. The plan shall show the phases of quarrying; location of stockpile area; estimated volume of material being extracted; and a detailed monitoring and management plan for the areas undergoing reclamation.
- 13) Reclamation and Review
- a. The quarry shall utilize sequential reclamation. With the exception of the first cut in a phase, overburden within a cut shall be placed in the previous cut thereby removing the need to stockpile large amounts of overburden.
 - b. Detailed reclamation plans shall be submitted for each phase of the reclamation process for review and recommendation by the Planning staff and approval by the County Commission. The Detailed Reclamation Plan shall be submitted and approved prior to opening of a quarry phase.

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- c. The detailed reclamation plans would include a site plan showing elevations, cross-sections, and the proposed plan for revegetation of the area.
- d. The property shall be reclaimed to a state that is compatible with the surrounding area with regard to slopes, and plant and animal life supported by the established ecosystem.
- e. Terraced areas shall be shaped to blend with the existing, adjoining contours. The land must be graded to final contours as shown on the approved reclamation plan, top-soil, which had been used to construct the berms of each quarry phase shall be removed as areas are reclaimed and the topsoil shall be spread over the land area and seeding of appropriate native plants must occur. It is not necessary for vegetation to be established before moving fully to the next phase.

14) Studies/Surveys Required Prior to Opening New Phase

- a. Pre-Blast Survey. A pre-blast survey (by an independent seismology firm or structural engineer approved by the applicant and the owners of existing structures within one-half mile of the quarry site) shall be offered to the property owners and conducted, if the property owners request, prior to operating in each phase.

(Notice shall be mailed, by certified mail, to all property owners within one-half mile of the phase to be quarried, at least 1 month prior to the beginning of that phase, indicating that a new phase is about to be quarried and letting the property owner know about the pre-blast survey.)

- b. Hydrologic Study

The quantity/quality of water in the wells within one-half mile of each quarry phase shall be documented prior to the commencement of quarrying operations in that phase. A study shall be done, at the operator's expense, for all wells within ½ mile of each phase (with property owner consent). Notice shall be provided to all property owners within one-half mile of the phase boundary as noted in Condition 13a.

This study is intended to provide an inventory of area residential and stock wells and determine their capacities and current volumes/levels of operation; and to determine the impact of quarrying, per phase, based on the depth of mining proposed. If mining is proposed at a depth lower than 1042 or the local water table, the County Engineer may require a hydrologic study to analyze the impact on area wells.

- c. Drainage Study

Prior to work progressing in each phase of the quarrying operation, a detailed grading plan showing site runoff and its relationship to the adjoining properties shall be submitted to the Planning Office for review and approval prior to work progressing in each phase.

15) Site Access and Road Restrictions

- a. Except for vehicles traveling to and from the site on 45th Street in Shawnee County, the principal access to the site for transport truck traffic and hauling of rock shall be restricted to the use of U.S. Highway 40 from the direct haul route north of the proposed quarry. (The haul road is currently in place and the intersection with Highway 40 was designed in accordance with KDOT requirements.)

Any other haul route options must first be approved by the Douglas County Commission.

- b. Except for local deliveries of rock from the quarry site, Route 442 shall not be used by transport trucks to travel to and from the east. The operator shall post signs and adopt appropriate restrictions

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on the quarry site, including restrictions on sale of rock where necessary, to ensure strict compliance with this restriction by all transport trucks.

In the event the Board of County Commissioners determines, after due notice and hearing, that such restrictions have proven ineffective in prohibiting transport trucks which originate from or travel to the quarry site from using Route 442 east of the quarry entrance in violation of this restriction, the Board may order such improvements to Route 442 as it deems necessary, including, but not limited to, appropriate shouldering, surfacing, and signing, and assess such costs to the applicant which shall be paid in a timely manner. In the alternative, the Board may order the operator to cease operation or order such steps as the Board deems necessary under this CUP.

- c. No township roads shall be used as access to the quarry.
 - d. Restrictions which shall be posted at the entrance to the plant, regarding vehicles hauling from the site are to include:
 - no flatbed trucks without sides or tailgates;
 - tailgates shall be in place and in an upright position; and
 - all trucks leaving the site must be covered by a tied-down tarp.
 - e. Operator is responsible for spillage and cleanup of aggregate within one mile of the plant site, which includes the intersection of the access road to the north and U.S. Highway 40. The failure by the applicant to clean up spilled aggregate of such roads within a reasonable period of time shall be grounds for action under Section XVII, Inspection/Violation/Revocation.
 - f. The operator will not allow trucks to exceed State of Kansas legal weight limits or legally posted weight limits since different truck configurations have different legal weight limits.
 - g. Weight limitations shall be posted on appropriate roads adjacent to the quarry.
 - h. Access points across township roads between phases of operation require prior review and authorization from the Douglas County Public Works Director. Access is restricted to one point of crossing per phase as shown on the operation plan. Road crossings between the phases of the site shall be maintained by operator at all times.
 - i. During the term of this Conditional Use Permit, the applicant shall not request the vacation of any township roads in the vicinity of the site.
- 16) Transfer of Operator
Because the operator's track record is an important consideration, a change in the quarry operator shall require the conditional use permit to come back to the Planning Commission for review and to the County Commission for reapproval.
- 17) Sanitary Landfill
The property shall not be used or requested for use as a sanitary landfill within the life of this conditional use permit.
- 18) Shop Facility
Repair and maintenance activities shall be limited to service of vehicles and equipment in use at this specific quarry location.

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19) Inspection/Violation/Revocation

The Douglas County Commission, or the appointed representative(s) thereof, shall have the right, without advance notice, to enter the premises and inspect any aspect of the quarry operation for compliance with the conditions of this permit. Upon entering the premises, the County shall first request an escort by the applicant's representatives.

Further, the Douglas County Commission, or the appointed representative(s) thereof, shall be authorized to:

- a. Order the stoppage of any operation occurring without a permit or in violation of the terms of this permit.
- b. Order the operator or its agents and employees to adopt such remedial measures as are necessary to comply with the terms of this CUP. In such cases, the operator shall be given no more than ninety (90) days to rectify any condition of noncompliance.
- c. Order the immediate suspension of operations if, after due notice and an opportunity to be heard before the County Commission, it is determined by the Board of County Commissioners that the permitted operation is causing, or can reasonably be expected to cause, a significant, imminent danger or threat to the health, safety or welfare of the public or to the environmental quality of the surrounding area.
- d. In cases such as those described in Paragraph (C) that do not pose an imminent threat to the public health, safety and welfare, the operator shall be given no more than 90 days to rectify the condition. If the condition has not been rectified, the County Commission, after due notice and hearing, may order the suspension of operations and suspend or revoke part or all of the CUP.
- e. If the operator or the agents or employees thereof, fail to comply with a lawful order under this section, or violate any of the restrictions of use enumerated for this permit, the County Commission, after due notice and an opportunity for a hearing, may suspend or revoke part or all of the CUP.

- 20) The timeframe for completion of any phase is dependent on the market demand; however, the operator agrees to continuously quarry Phase 6 (within the limits of the CUP restrictions) so that Phase 6 will be completed as soon as possible.

Unanimously approved 9-0. Commissioners Ashworth, Carpenter, Carttar, Paden, Sands, Sinclair, Struckhoff, Weaver, and Willey voted in favor.

ITEM NO. 7 CONDITIONAL USE PERMIT FOR BIG SPRINGS QUARRY; 2 N 1700 RD (MKM)

CUP-18-00570: Consider an amended Conditional Use Permit to reduce the amount of the performance/reclamation bond required for Big Springs Quarry, located at 2 N 1700 Rd, Lecompton. Submitted by Submitted by Mid-States Ventures LLC, for Mid-States Ventures LLC, Nancy J Hughes, James R Meek, Thomas R Meek, and Bonnie M Nichols, Trustee, property owners of record.

STAFF PRESENTATION

Mary Miller presented the item.

APPLICANT PRESENTATION

Rich Eckert, Mid-States Ventures, talked about actual reclamation costs.

Cole Anderson was present for questions.

PUBLIC COMMENT

No public comment.

COMMISSION DISCUSSION

Commissioner Willey asked the applicant what year Mid-States took over the Big Springs Quarry from Martin Marietta.

Eckhart said 2007.

Commissioner Willey asked if the original high insurance bond was due to the mess that Martin Marietta left behind when they finished quarrying at the site.

Miller said the bond was set in 1990 with the original application. She said the consultant submitted a letter with simple math stating how many acres and how much it would cost.

Commissioner Sinclair asked the applicant to monetize the difference in cost to Big Springs between \$10,000 an acre and \$3,000 an acre.

Eckert said a ballpark figure would be \$10,000 for the \$10,000.

Commissioner Sinclair said the bond comes into play if Big Springs goes under and another company needs to take over to clean up the site.

Eckert said for \$3,000 Hamm could do it.

Commissioner Sands asked if Shawnee County was consulted.

Miller said she did not hear back from Shawnee County. She said other counties she talked to were not able to find why the performance bonds were set where they were because they were created in the past.

Commissioner Sands inquired about the difference for operation in Shawnee County versus Douglas County.

Eckert said it was a different operation. He said the amount was set before his time by Shawnee County. He said Big Springs was not quarrying on the Shawnee County side and currently paying zero.

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Commissioner Willey said she was bothered by the deep discrepancy between other quarry operations. She wondered where the \$10,000 number came from.

Miller said in 2008 an application was submitted to revise the Conditional Use Permit and the performance bond was requested to be reduced. She said staff asked for the cost of reclamation and the applicant provided three bids which came out to a little over \$10,000 per acre.

Commissioner Willey said the issue of the bonding wasn't so much what it would cost the current business to reclaim but if they were not available how to charge someone to do it afterward. She said she was tempted to go with the \$3,000 because of the discrepancy in the county but it was possible the others could be wrong.

Commissioner Sands said the county engineer based the estimate on a 10 year old set of three bids.

Commissioner Carpenter said prices only go up, not down. He said the list looked like a lot of old sweetheart deals before reclamation was required. He was unsure when everything changed to require reclamation. He said if anything, the rest of the county was too low. He said \$40,000 was probably too high but he was hesitant to deviate from that. He felt the bonding took into account some of the unpredictable and unknowns.

Commissioner Sands asked what a new quarry operation would be bonded at per acre.

Miller said the site consultant would estimate it based on the site specifics.

McCullough said Planning Commission should think about the intent of the bond, to provide enough funding for the worst-case scenario. He said the taxpayer would be the next source of funding if not through the bond.

Commissioner Butler said it was disproportionate to have such a high bond. She said she did not like focusing on numbers used in 2008 for present day. She would like to see bids with today's numbers.

Commissioner Sands asked if this item would go to County Commission.

McCullough said yes.

Commissioner Willey asked if the applicant was comfortable providing updated bids.

Eckert said he would rather the item be deferred than take the staff recommendation of \$10,000.

Commissioner Weaver asked about continued maintenance.

Eckert said it would depend on the property. He said if the property belongs to a land owner it would be their responsibility to maintain.

Commissioner Struckhoff said he did not have an issue with the county engineer recommendation of \$10,000. He expressed concern about the competitiveness and discrepancy in the bond requirements. He said he wants to be sure the county is financially covered for worst-case scenarios.

ACTION TAKEN

Motioned by Commissioner Butler, seconded by Commissioner Carpenter, to move to defer the Conditional Use Permit to allow the applicant time to seek current bids on reclaiming the quarry.

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Commissioner Paden said she was comfortable with \$10,000 and felt it was better to be safe. She said state wide it seemed low. She asked about a timeframe for fees to increase.

Miller said the State was potentially looking to increase fees to \$2,500 per acre but that she did not know a timeframe of when that might happen.

Eckert said no bill had been filed in the House or the Senate.

Commissioner Sinclair said the State Statute would be a minimum. He said he was open to deferring the item even though he would rather make a decision.

Motion carried 8-1, with Commissioner Paden voting against the motion. Commissioners Butler, Carpenter, Carttar, Sands, Sinclair, Struckhoff, Weaver, and Willey voting in favor of deferral.



City of Lawrence
Douglas County

PLANNING & DEVELOPMENT SERVICES

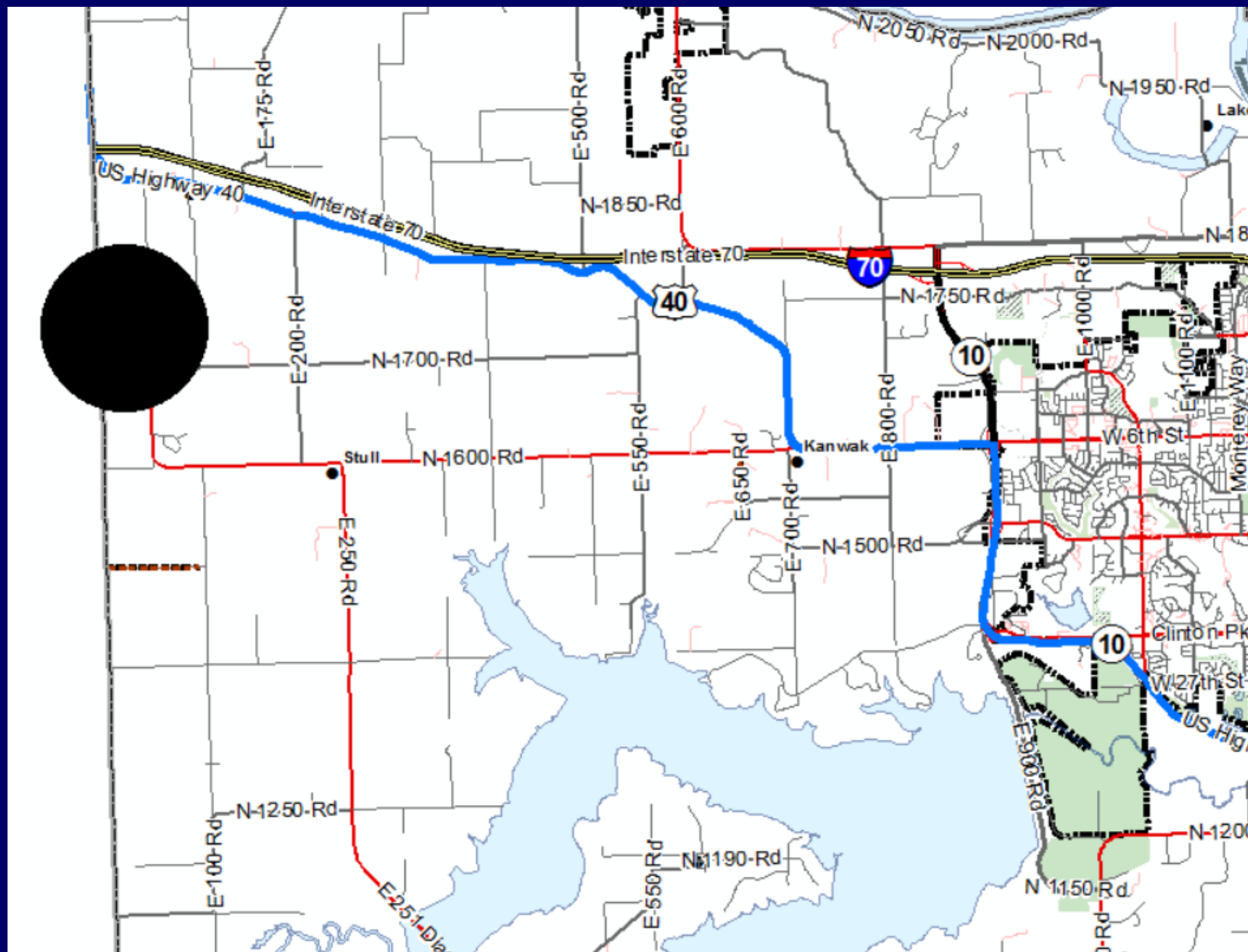


CUP: 18-00570

**Big Springs Quarry
Reduced Bond Request
2 N 1700 Road**

Board of County Commissioners

March 20, 2019



Performance Bond for Reclamation

1990 estimate: \$40,000

2008 estimate: \$9,481

Bids: \$13,093

\$10,595

\$7,981

Staff's

recommendation: \$10,000

Performance Bond for Reclamation CURRENT BIDS

Carlson Utility, LLC:\$2,898

Hamm, Inc.:\$2,987

King's Construction Co: ..\$2,650

Seeding Mix

Inflation

General Sequencing Plan Note No. 6

All disturbed non-water body areas shall be seeded and mulched. Seeding shall be prairie grass/wildflower mix for the District 1 area in accordance with the standards of the Kansas Department of Transportation, or wildlife habitat mix in accordance with the standards of Quail Unlimited. Prairie hay or wheat straw mulch shall be applied at a rate of two tons per acre and tacked down. In areas seeded for erosion control, mowed lawns, and berms, seeding shall be K-31 fescue at 300 pounds per acre and annual rye at 50 pounds per acre.

Performance Bond for Reclamation CURRENT BIDS

Carlson Utility, LLC:\$2,898

Hamm, Inc.:\$2,987

King's Construction Co: ..\$2,650

Seeding Mix

Inflation



Planning Commission Recommendation:



Voted unanimously on February 27, 2019 to forward a recommendation to the BoCC to approve a reduction in the performance bond for reclamation from \$40,000 per acre to \$5,000 per acre based on the findings of fact in the staff report for approval.

Revised Condition No. 10

10(b) In addition to the bond required under paragraph (a) above a performance bond in the amount of \$50,000 ~~\$400,000.....~~

10(c) For each additional 10 acre site excavated for extraction purposes in any phase of the quarry operations during the term of the CUP, a performance bond in the amount of \$50,000 ~~\$400,000.....~~