

BOARD OF COUNTY COMMISSIONERS OF DOUGLAS COUNTY, KANSAS

WEDNESDAY, JUNE 19, 2013

6:35 p.m.

CONSENT AGENDA

- (1) (a) Consider approval of Commission Orders;
- (b) Consider resolution establishing 40-mph speed limit on portion of Route 1029, Route 1029 from Route 442 south to Clinton Park (Terese Gorman);
- (c) Consider resolution directing the removal of a gate on E900 Road (Michael Kelly); and
- (d) Consider approval of Supplemental Agreement No. 1 to Engineering Services Agreement for Project No. 2012-18, development of new Public Works facility (Keith Browning)

REGULAR AGENDA

- (2) Consider recommendation of the Community Health Plan Steering Committee to accept the *Roadmap to a Healthier Douglas County: 2013-2018 Douglas County Community Health Plan* as a guiding document for Douglas County.(Dan Partridge)
- (3) Consider approval of a Temporary Business Permit for the location of an Asphalt Batch Plant on/at the Hamm's Eudora Rock Quarry site (1213 E 2400 RD), for the purpose of producing hot mix asphalt for various road construction projects.(Linda Finger)
- (4) Annual review of the Conditional Use Permit, CUP-11-5-76, for the Hamm/Buchheim Quarry located west of E 550 Road between N 1450 and N 1500 Roads. (Mary Miller)
- (5) Consider road maintenance agreement with Hamm, Inc. associated with Hamm/Bucheim Quarry CUP-11-5-76 (Terese Gorman)
- (6) (a) Consider approval of Accounts Payable (if necessary)
- (b) Appointments
-Douglas County Senior Services - Vacancy
- (c) Public Comment
- (d) Miscellaneous
- (7) Adjourn

WEDNESDAY, JUNE 26, 2013

Regular Agenda:

-Consider authorization to proceed with Project No. 2012-14, Route 458 improvements from Banning's Corner to US-59 highway, and consider letter of support for Federal Lands Access Program project application (Keith Browning)

WEDNESDAY, JULY 3, 2013

1:00 p.m. Meeting

-Update on New Public Works Facility (Sarah Plinsky)

WEDNESDAY, JULY 10, 2013

FRIDAY, JULY 12, 2013

-12:00-1:30 p.m. Planning Commission Orientation lunch in the City Commission room

WEDNESDAY, JULY 17, 2013

WEDNESDAY, JULY 24, 2013

WEDNESDAY, JULY 31, 2013

Note: *The Douglas County Commission meets regularly on Wednesdays at 4:00 P.M. for administrative items and 6:35 P.M. for public items at the Douglas County Courthouse. Specific regular meeting dates that are not listed above have not been cancelled unless specifically noted on this schedule.*



DOUGLAS COUNTY PUBLIC WORKS

1242 Massachusetts Street
Lawrence, KS 66044-3350
(785) 832-5293 Fax (785) 841-0943
dgcopubw@douglas-county.com
www.douglas-county.com

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

Date : June 11, 2013

Re : Consider resolution establishing 40-mph speed limit on portion of Route 1029
Route 1029 from Route 442 south to Clinton Park

Route 1029 south of Route 442 has seen a large increase in truck traffic due to the reopening of the Hamm quarry (i.e. Bucheim Quarry) approximately 1-1/2 miles south of Route 442 on Route 1029. We have conducted a speed study (see attached memo from Terese Gorman), and recommend a 40-mph speed limit for Route 1029 from Route 442 south to the Clinton Park boundary.

Temporary 40-mph speed limit signs have been in place since June 5. We have heard no concerns from the public or Hamm on the speed limit.

The attached resolution establishes a 40-mph speed limit for the portion of Route 1029 described above.

Action Required: Approve the attached resolution establishing a 40-mph speed limit on Route 1029 from Route 442 south to Clinton Park.



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

MEMO TO: Keith Browning

FROM: Terese Gorman

DATE: May 28, 2013

SUBJECT: Route 1029 south of Route 442

Route 1029 is an unpaved, rock surfaced county route south of Route 442 on the north side of Clinton Lake. The public portion of this road measures about 1.75 miles. The last quarter mile is on Clinton Lake property and ends at the lake providing a boat ramp for public use. The road provides access for 10 existing homes with 6 of them located north of the Quarry entrance. There are 4 buildable lots remaining north of the quarry that could be developed.

Hamm Companies has recently reopened a quarry that has been closed for years. With the opening of the quarry, the traffic on this rock road has increased dramatically. The traffic count in 2012 was 55 vehicles per day with 11% trucks. At that time, the 85th percentile speed was 45 mph. Currently this road does not have a speed limit posted, so the speed limit is 55 mph, or as reasonable and prudent, per state law.

We recently collected traffic information on this road due to the opening of the quarry. The total traffic volume in a 24 hour period was 205 vehicles with 44% trucks. The 85th percentile speed for all vehicles was 52 mph. The 85th percentile speed of only the vehicles classified as trucks was 39 mph.

The 85th percentile speed is the speed at or below which 85% of the drivers using this road are traveling. The 85th percentile speed is accepted in engineering practice as the speed limit that is appropriate for a road because 85% of the drivers, which is a large majority of the drivers, respond in a safe and reasonable manner and adjust their driving speed to accommodate roadway conditions.

With the increased traffic on this road and the large percentage of truck traffic, it would be appropriate to post this road with a maximum speed limit of 40 mph.

RESOLUTION NO. _____

A RESOLUTION ESTABLISHING A 40 MILES PER HOUR
MAXIMUM SPEED LIMIT ON A PORTION OF COUNTY ROUTE 1029
(E 550 ROAD) IN KANWAKA TOWNSHIP

WHEREAS, pursuant to K.S.A. 8-1560, local authorities may determine and declare a reasonable and safe maximum speed limit for roads under their jurisdiction; and

WHEREAS, on the basis of an engineering and traffic investigation performed by the Douglas County Public Works Department the maximum speed limit for the following described county road or highway, to-wit:

a portion of E 550 Road, also known as County Route 1029, from the intersection with N 1600 Road, also known as County Route 442, south to the Clinton Park boundary, the centerline of which is more particularly described as follows:

beginning at the Northwest Corner of the Northeast Quarter of Section 34, Township 12 South, Range 18 East of the 6th P.M., thence south along E 550 Road centerline a distance of approximately one (1) mile to the Southwest Corner of the Southeast Quarter of said Section 34-12-18, thence continuing south and southwest along E 550 Road centerline approximately 3,120 feet to the intersection of E 550 Road with N 1450 Road, thence continuing south approximately 1,295 feet to the Clinton Park boundary, and terminating at said point.

as set by K.S.A. 8-1558, is greater than is reasonable or safe under the conditions found to exist on the above described road under the jurisdiction of this Board.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF DOUGLAS COUNTY, KANSAS that a speed limit of 40 miles per hour is hereby determined and declared to be a reasonable and safe speed limit for the above described road.

This speed limit shall become effective when appropriate signs giving notice thereof are erected upon the road above described.

ADOPTED this _____ day of _____, 2013.

BOARD OF COUNTY COMMISSIONERS
OF DOUGLAS COUNTY, KANSAS

Mike Gaughan, Chair

ATTEST:

Nancy Thellman, Member

County Clerk

Jim Flory, Member

MEMORANDUM

TO : Douglas County Commission

FROM : Keith A. Browning, P.E., Director of Public Works/County Engineer
Michael D. Kelly, P.S., County Surveyor

DATE : June 12, 2013

RE : Removal of gate on E900 Road

As you are aware Douglas County occasionally authorizes the installation of gates across roads in certain situations... typically when those roads have a "dead end" and unauthorized access to farmland or littering has become a problem.

One such location is located at the north end of E900 Road, immediately north of Clinton Lake, commonly known as the Clinton Dam Road. Please see the attached aerial photo. A landowner was experiencing problems with littering and wheel ruts in his field in 1999 and requested a gate be installed in an effort to eliminate those problems. To that end Resolution No. 99-28 was enacted and a gate was subsequently erected.

Some of the property beyond the gate has recently been sold and the new owner has requested the gate be removed to allow easier access. We have discussed the request with the other pertinent landowner and they have approved of the gate's removal.

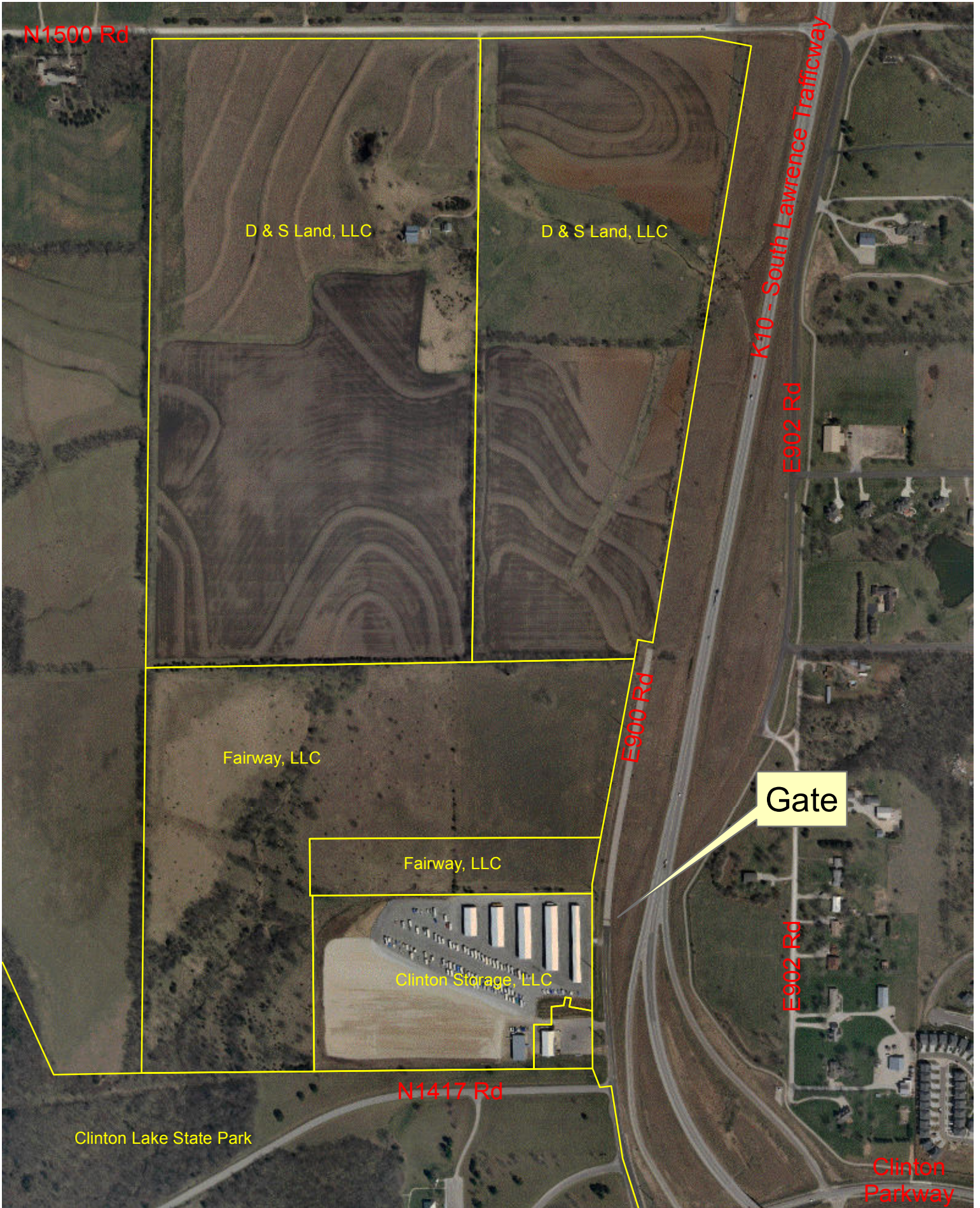
To that end a resolution has been prepared authorizing removal of the existing gate.

ACTION REQUIRED: A motion is required to enact the attached resolution directing the removal of the gate on E900 Road.

Attachments:
Location Map
Resolution

Gate on E900 Road

1 inch = 500 feet
250 125 0 250 Feet



RESOLUTION NO. _____

A RESOLUTION REPEALING RESOLUTION NO. 99-28
AND DIRECTING REMOVAL OF GATE.

WHEREAS, pursuant to K.S.A. 68-126, the Board of County Commissioners of any county is empowered to authorize and permit the construction and maintenance of fences and gates across public highways under their jurisdiction where lands are used largely as pasture lands and wherever in their judgment the convenience of the traveling public will not be materially affected thereby; and

WHEREAS, on July 14, 1999, through Resolution No. 99-28, the Board of County Commissioners of Douglas County, Kansas (the "Board") received and approved a recommendation from the Douglas County Public Works Department to allow a gate to be placed across E. 900 Road, approximately one-quarter mile north of Clinton Parkway, as follows:

On E. 900 Road, also known as the Clinton Dam Road, a distance of approximately 1340 feet northerly of the intersection of E. 900 Road with N. 1400 Road, also known as Clinton Parkway;

and

WHEREAS, the gate was for the purpose of restricting travel thereon to local property owners and to reduce unlawful littering within the right-a-way, and upon the finding that the surrounding lands were used largely as pasture lands and that the convenience of the traveling public would not be materially affected by the placement of a gate across said road at the location described: and,

WHEREAS, at the request of a local property owner, the Board has revisited the location and re-examined the use of the lands and convenience of the traveling public and determined that gate erected and maintained pursuant Resolution No. 99-28 is no longer necessary.

NOW, THEREFORE, BE IT RESOLVED by the Board as follows:

1. Resolution No. 99-28 is repealed.
2. The Douglas County Public Works Department is directed to remove the gate, signage, and all components constructed and maintained pursuant to Resolution No. 99-28.
3. This Resolution shall be in full force and effect from and after its adoption.

ADOPTED this _____ day of _____, 2013.

BOARD OF COUNTY COMMISSIONERS
OF DOUGLAS COUNTY, KANSAS

Mike Gaughan, Chairman

ATTEST:

Nancy Thellman, Member

Jameson D. Shew, County Clerk

Jim Flory, Member



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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

Date : June 14, 2013

Re : Consent Agenda approval of supplemental engineering agreement
Supplemental Agreement No. 1 to Engineering Services Agreement
Development of new Public Works facility; Project No. 2012-18

Bartlett & West, Inc. is a member of the consulting team chosen for the development of a new public works facility on county-owned property on 25th Street east of the county jail. During the development of the site plan, the Douglas County Steering Committee overseeing design of the new facility determined it would be advantageous in the long term to situate waterlines in public utility easements, as opposed to making waterlines private. Maintenance of public waterlines is the responsibility of the City of Lawrence Utilities department.

Public Improvement Plans for the waterlines must be prepared and submitted to the Utilities Department for approval. Preparation of these plans is outside the scope of services included in our agreement with Bartlett & West for engineering services.

The attached Supplemental Agreement No. 1 adds development of waterline plans to the Scope of Services of the original engineering services agreement. It also increases the not-to-exceed cost of engineering services by \$9,700.00. With approval of this supplemental agreement, the total not-to-exceed cost for engineering services will be \$40,650.00.

Action Required: Consent Agenda approval of Supplemental Agreement No. 1 to the Engineering Services Agreement with Bartlett & West, Inc. for Project No. 2012-18, development of a new Public Works facility.

Supplemental Agreement No. 1
To
ENGINEERING SERVICES AGREEMENT
Project No. 2012-18
Development of New Public Works Facility

Supplemental Agreement No. 1 is entered into by and between Douglas County, Kansas (“County”) and Bartlett & West, Inc. (“Engineer”) as of the _____ day of _____, 2013 (“the Effective Date”).

This Agreement is a Supplement to the Engineering Services Agreement, Project No. 2012-18 between Douglas County, Kansas and Bartlett & West, Inc. dated February 6, 2013, and defines additional engineering services requested by County.

SECTION I – SCOPE OF SERVICES

The County and Engineer agree to modify the scope of services to include additional engineering services described below:

- Design and prepare Public Improvement Plans for public waterlines installation
- Submit Public Improvement Plans to County and City of Lawrence Utilities Department (“City Utilities Dept.”) for review and approval
- Address plan comments from County and City Utilities Dept.
- Obtain official approval of Public Improvement Plans from City Utilities Dept.

SECTION II – COMPENSATION

As compensation for the additional services required as described in Section I, County agrees to pay Engineer an amount not to exceed \$9,700.00.

Billing procedures and all other items pertaining to compensation are as described in the Engineering Services Agreement, Project No. 2012-18, between Douglas County, Kansas and Bartlett & West, Inc. dated February 6, 2013.

SECTION III – OTHER MATTERS

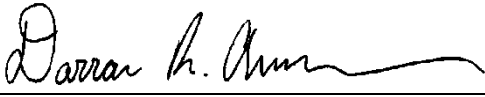
It is mutually agreed and understood that all terms of the original Agreement, not specifically revised by this Supplemental Agreement No. 1, shall remain unchanged and in full force.

IN WITNESS WHEREOF, the parties have executed this Agreement, effective as of the Effective Date.

DOUGLAS COUNTY, KANSAS:

BARTLETT & WEST, INC.

By: _____

By:  _____

Printed Name: Mike Gaughan
Title: Chair, Board of County Commissioners

Printed Name: Darron R. Ammann, RLA
Title: Vice President

Exhibit Attachment

Compensation (Hourly Upper Limit)

Time estimate for Water Main Public Improvement Plans

LA VIII – 6 hours x \$160 per hour = \$960

E V – 12 x \$122 = \$1,464

ET VIII – 20 x \$95 = \$1,900

ET II – 80 x \$56 = \$4,480

AT II – 4 x \$45 = \$180

CAD Charges, Mileage, Printing, etc. misc expenses = \$716

SUB-TOTAL = \$9,700

HUL GRAND TOTAL = \$9,700

Roadmap to a *Healthier Douglas County*

Recognizing that the social and economic vitality of a community depends on the well-being of the community's residents, a group of community organizations joined together in 2011 to:

- Conduct a community health assessment to create a shared understanding of the community's most significant health issues.

- Use information from the health assessment to identify and prioritize policy, system and environmental changes to improve health in the community.

The result is a community health plan, "Roadmap to a Healthier Douglas County," addressing the community's top five health priorities described below.



Health Priorities in Douglas County



Access to Healthy Foods

■ **Problem** — Contemporary diets are filled with high levels of fat, sodium, sugar and other elements that contribute to poor health and not enough healthy foods like fruits, vegetables, lean protein and whole grains. In Douglas County, only 1 in 5 residents eat the recommended five daily servings of fruits and vegetables.

✓ **Solutions** — Make healthy foods more available in public venues, workplaces, preschools, schools and before- and after-school settings, and in places such as food pantries that serve low-income families.



Mental Health

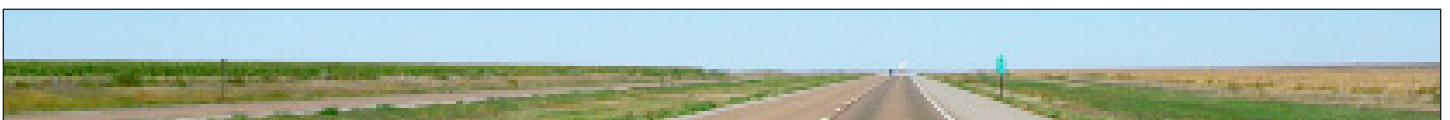
■ **Problem** — People do not get mental health exams, like physical health, because of cost and the stigma attached. Yet, 1 in 5 Americans has a diagnosable mental condition and these conditions are often treatable with proper identification.

✓ **Solutions** — Improve awareness of services, enhance integration of primary care and mental health services, and reduce stigma associated with having and seeking care for mental illness.

Access to Health Services

■ **Problem** — Many people face barriers when trying to access health care services. The cost of care and availability of health insurance is one of the most significant factors. In 2011, nearly 1 in 5 Douglas County residents did not have insurance.

✓ **Solutions** — Improve awareness of available services, promote use of basic preventive services, expand services that help people navigate the health system, and promote expanded service hours and other patient-centered approaches in primary care practices.



Health Priorities in Douglas County



Physical activity

■ **Problem** — We have become a sedentary society. One in 4 Kansans do not participate in any form of physical exercise although it improves mood and energy levels, helps control weight, and reduces risk of heart disease, Type 2 diabetes, depression, some cancers, and many other diseases.

✓ **Solutions** — Ensure opportunities for kids to be physically active in schools, child care facilities and before- and after-school settings, encourage opportunities for physical activity in the workplace, and make it easier for residents to travel to everyday destinations by foot, bicycle and wheelchair.



Poverty and jobs

■ **Problem** — Social and economic conditions have profound impacts on people's health. In Douglas County, median household incomes are, on average, lower than those in Kansas and the United States. During the past 12 months, 17 percent of Douglas County residents had incomes below the federal poverty level. Five percent of residents, ages 25 and older, have not earned a high school diploma.

✓ **Solutions** — Enhance partnerships among schools and community colleges to prepare residents for good paying jobs, enhance employer and community supports for services residents need in order to obtain and retain jobs, and develop sustainable employment opportunities.



Let's join together on a journey to better health

To be successful we must work together as a community. As an organization in Douglas County, here are some ways you can help advance health in our community:

■ During meetings and events, model healthy living by offering healthy foods and beverages, incorporating physical activity and movement into the agenda and providing opportunities for members to learn about how policy, systems and environmental change can enhance the health of the whole community.

■ Adopt the community health plan as a guiding document for your organization (contact the health department to learn how). Evaluate your strategic plan and determine if it aligns with the

plan. During your next phase of planning, consider how you can align your plan in a way to support a healthy workplace and community.

■ Participate in community-wide campaigns to improve health through changes to the places people live, work, learn, play and worship.

■ Plan and conduct events promoting healthy living through eating well, being active, staying mentally fit and developing literacy in health, finances and life skills.

For more information: visit ldchealth.org or contact the Community Health program at 843-0721 or communityhealth@ldchealth.org





DOUGLAS COUNTY ZONING & CODES DEPARTMENT MEMORANDUM

TO: Board of County Commissioners
SUBJECT: TBU-2013-02, Temporary Business Permit for an Asphalt Batch Plant, to be located at 1213 E 2400 Rd, Eudora, KS
DATE: June 19, 2013
FROM: Linda M. Finger, Interim Director Zoning & Codes

BACKGROUND:

N.R. Hamm has requested a Temporary Business Permit for the location of an Asphalt Batch Plant on/at the Hamm's Eudora Rock Quarry site (1213 E 2400 RD), for the purpose of producing hot mix asphalt for various road construction projects. Approval is requested for approximately a 15 month period, from June 20th, 2013 through September 30th, 2014.

A similar permit was requested and approved in August 2011 for a temporary asphalt batch plant on the same site. That permit was issued for a 90 day period. There were no complaints or issues with that operation recorded in our files.

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:

- the intensity and duration of the use,
- the traffic that can be expected to be generated by the use,
- the 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 May 1, 2013.

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:

- Dust Control: Dust control on the haul road from the quarry will be provided to DG County Rte 1061.
- Road Maintenance: Maintenance of the haul road will be provided from the rock quarry to K10 Highway. [All activities on County roads shall be coordinated with the County Public Works director the Township Trustee, whoever is the appropriate party.]
- Health Code: All sanitation and health concerns will be addressed on the quarry site to adequately provide for both portable toilets and potable water. [The number or toilets

and potable water source shall be provided in written form to the County Health Department.]

- Lighting: Adequate night lighting will be provided on the quarry site. [Lighting is required to be directed down and away from adjacent properties to prevent light trespass onto adjacent properties.]
- Security: The rock quarry is has a security fence along the perimeter and gates that will be locked during hours when the quarry or batch plant is not in operation. There are also security cameras on-site.
- Township Fire Dept.: 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. [Need to provide started up and completion dates for batch plant to Zoning & Codes office also.]
- Liability Insurance: A copy of Hamm's liability insurance for this site was provided with the application.

* [Notations in purple above are staff's comments.]

Public notice of the temporary business use was mailed to property owners within 1000' on May 21st, 2013. The Zoning & Codes Department has received no inquiries or calls in response to the notice sent.

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 takes need 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 on/in the Hamm Eudora Rock Quarry, located at 1213 E 2400 Rd, Eudora, for approximately 15 months, from June 20th, 2013 through September 30th, 2014.

NOTE: Please provide staff with direction on the process for Temporary Business Use permits, if the Commission would like to see some Temporary Business Uses to be eligible for administrative review and approval.



Douglas County, Kansas

APPLICATION FOR A TEMPORARY BUSINESS USE

(To be filled in by applicant)

Applicant: Hamm, Inc Address: 609 Perry Place, P.O. Box 17
Telephone: 785/597-5111 Perry, KS 66073

Sponsor or other persons with financial interest in the proposed activity:
Kansas Turnpike Authority, Kansas Dept of Transportation

Legal Description of Site: Douglas County Section 15 Township 13S Range 21E (May attach legal description)
S.E. 1/4

Owner of Property: Hamm, Inc Address: Perry, KS 66073

Telephone No.: 785/597-5111

Existing Zoning: Agricultural Proposed Temporary Business Use: Asphalt Batch Plant

Explain: To set a portable asphalt plant in Hamm's Eudora Quarry
for the purpose of producing hot mix asphalt for
various construction projects

Site Plan of tract must be submitted with application (see attached sheet)

(To Be Completed by Douglas County Zoning)

Application received in Zoning Office: MAY 1, 2013
Month Day Year

Fee Paid \$100.00 Cash Check [checked] Application No. TBU 2013-02
(\$100.00)

Date of Notice mailed to Owners/Occupants of properties: MAY 21, 2013

Date of Hearing Douglas County Commissioners: June 19, 2013 6:35
Month - Day - Year Time

Douglas County Commissioners Action: Approved Disapproved

Conditions:

Chairman, Douglas County Commission

Date



DOUGLAS COUNTY ZONING & CODES DEPARTMENT
2108 W 27TH STREET, SUITE I, LAWRENCE, KS 66047

TEMPORARY BUSINESS USE PERMIT REQUEST NOTICE OF PUBLIC HEARING

TO WHOM IT MAY CONCERN: Owners of property within 1000' of the rock quarry at 1213 E 2400 Rd

SUBJECT: TBU 2013-02: Temporary Business Permit for a Temporary Asphalt Batch Plant, to be located at 1213 E 2400 Rd, Eudora, KS

DATE: May 21, 2013

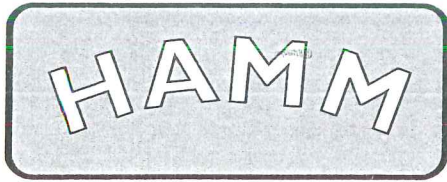
N R Hamm, Inc. has submitted an application for a Temporary Asphalt Batch Plant to be located on/at the Hamm/Eudora Rock Quarry, 1213 E 2400 Rd, for a period of 12-15 months. The purpose of the temporary business use permit is to operate a mobile hot mix plant within easy access of several jobs N R Hamm has with KDOT, KTA and Douglas County, Kansas for road and bridge projects.

A Temporary Business Use Permit (TBU) requires a public hearing before the Board of County Commissioners, after which the County Commission can approve, approve with conditions or deny the TBU permit.

The public hearing for this Temporary Business Use Permit will be on Wednesday, June 19th, 2013, at or after 6:35 pm. The Douglas County Commission holds their meetings in the County Courthouse at 1100 Massachusetts Street, Lawrence, Ks, in the Commission Room on the second floor of the Courthouse.

You are welcome to attend this meeting and share your comments or questions with the Commission regarding the location of a Temporary Asphalt Batch Plant at 1213 E 2400 Rd. If you would rather ask questions before the meeting or submit comments in writing, you may contact Judy Stone (785.331.1344, jstone@douglas-county.com) or Linda Finger (785.331.1343, lfinger@douglas-county.com) at the Zoning & Codes Office.

bcc. Tony Marienau, N R Hamm, Inc, P.O. Box 17, Perry, KS 66072
Ken McGovern, Douglas County Sheriff
Richard Ziesenis, Douglas County Health Department
Jim Gabriel, Eudora Township Trustee



QUARRIES
CONSTRUCTION
ASPHALT
WASTE MANAGEMENT

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

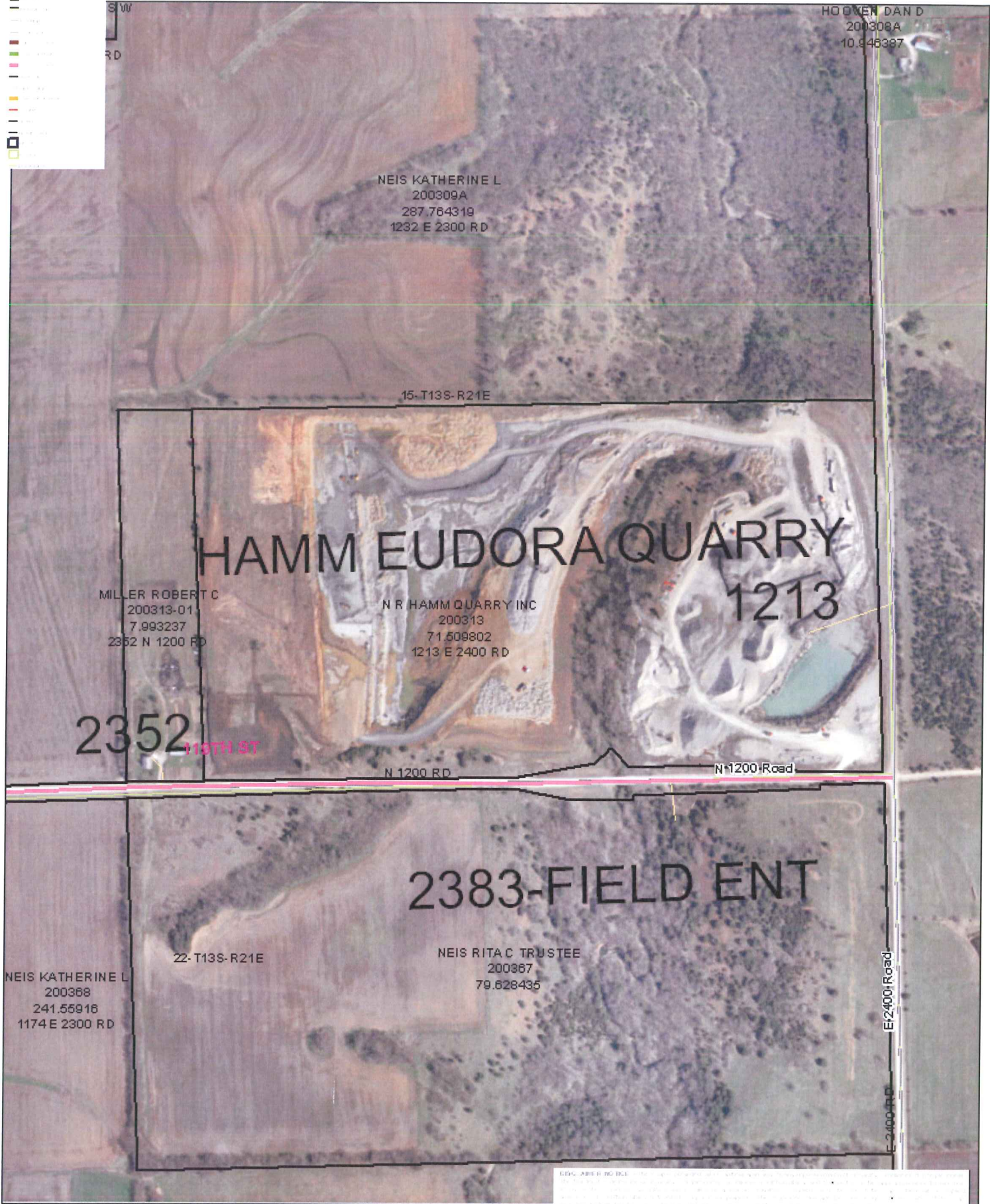
TEMPORARY BUSINESS USE PERMIT – SITE PLAN REQUIREMENTS

ASPHALT PLANT SITE – EUDORA QUARRY

1. Dust control on haul road from quarry to Dg Co 1061. Haul road maintenance from quarry to K-10 Highway.
2. All sanitation and health concerns will be addressed at the quarry.
3. Quarry site will have adequate lighting for night work.
4. Quarry site has security fence with locked gates. Security cameras are on site.
5. Local fire department will be notified of construction activities. Douglas County Emergency Preparedness Coordinator will be informed of asphalt plant location and start up.
6. Certificate of Liability Insurance is included with this application.

Hamm, Inc. - Temporary Business Use for Asphalt Batch Plant
 Plate 200313 Pin # 095-15-0-00-00-007.00-0

- LEGEND
 Street Centerline by Class
 CLASS
- 1' - 1" (Blue)
 - 2' - 2" (Green)
 - 3' - 3" (Yellow)
 - 4' - 4" (Orange)
 - 5' - 5" (Red)
 - 6' - 6" (Purple)
 - 7' - 7" (Brown)
 - 8' - 8" (Pink)
 - 9' - 9" (Light Blue)
 - 10' - 10" (Light Green)
 - 11' - 11" (Light Yellow)
 - 12' - 12" (Light Orange)
 - 13' - 13" (Light Red)
 - 14' - 14" (Light Purple)
 - 15' - 15" (Light Brown)
 - 16' - 16" (Light Pink)
 - 17' - 17" (Light Blue)
 - 18' - 18" (Light Green)
 - 19' - 19" (Light Yellow)
 - 20' - 20" (Light Orange)
 - 21' - 21" (Light Red)
 - 22' - 22" (Light Purple)
 - 23' - 23" (Light Brown)
 - 24' - 24" (Light Pink)
 - 25' - 25" (Light Blue)
 - 26' - 26" (Light Green)
 - 27' - 27" (Light Yellow)
 - 28' - 28" (Light Orange)
 - 29' - 29" (Light Red)
 - 30' - 30" (Light Purple)
 - 31' - 31" (Light Brown)
 - 32' - 32" (Light Pink)
 - 33' - 33" (Light Blue)
 - 34' - 34" (Light Green)
 - 35' - 35" (Light Yellow)
 - 36' - 36" (Light Orange)
 - 37' - 37" (Light Red)
 - 38' - 38" (Light Purple)
 - 39' - 39" (Light Brown)
 - 40' - 40" (Light Pink)
 - 41' - 41" (Light Blue)
 - 42' - 42" (Light Green)
 - 43' - 43" (Light Yellow)
 - 44' - 44" (Light Orange)
 - 45' - 45" (Light Red)
 - 46' - 46" (Light Purple)
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HOVEN DAND
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 10,946387

NEIS KATHERINE L
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 287.764319
 1232 E 2300 RD

15-T13S-R21E

HAMM EUDORA QUARRY
1213

MILLER ROBERT C
 200313-01
 7.993237
 2352 N 1200 RD

N R HAMM QUARRY INC
 200313
 71.509802
 1213 E 2400 RD

2352 116TH ST

N 1200 RD

N 1200 Road

2383-FIELD ENT

22-T13S-R21E

NEIS KATHERINE L
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NEIS RITA C TRUSTEE
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E 2400 Road
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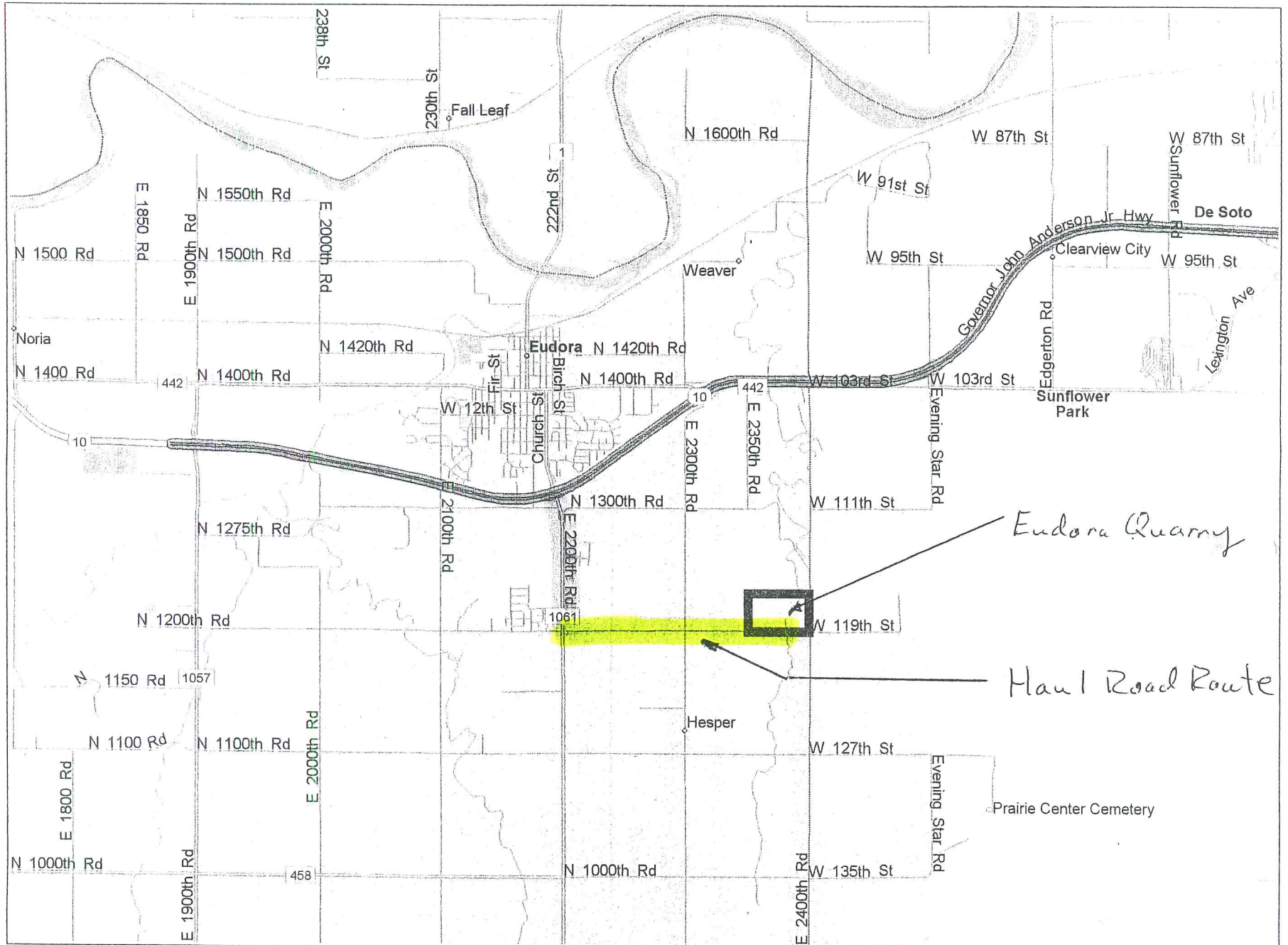
EDC AREA INC. This map is provided as a service to the public and is not intended to be used for any other purpose. It is not a guarantee of accuracy and is not to be used as a basis for any legal action. The information is provided as is and without warranty. The user assumes all responsibility for the use of this information. The information is provided for informational purposes only and is not intended to be used for any other purpose. It is not a guarantee of accuracy and is not to be used as a basis for any legal action. The information is provided as is and without warranty. The user assumes all responsibility for the use of this information.

Asphalt Plant Location

Eudora Quarry



Haul Route





EVIDENCE OF PROPERTY INSURANCE

DATE (MM/DD/YYYY)
04/22/2013

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

AGENCY Marsh USA, Inc. 1166 Avenue of the Americas New York, NY 10036 508628-UNSCH-ConEq-13-14		PHONE (A/C, No, Ext):	COMPANY AGCS Marine Insurance Company	
FAX (A/C, No):	E-MAIL ADDRESS:			
CODE:		SUB CODE:		
AGENCY CUSTOMER ID #:		LOAN NUMBER		POLICY NUMBER MXI93049172
INSURED HAMM, INC. 609 PERRY PLACE P.O. BOX 17 PERRY, KS 66073		EFFECTIVE DATE 03/31/2013	EXPIRATION DATE 03/31/2014	<input type="checkbox"/> CONTINUED UNTIL TERMINATED IF CHECKED
THIS REPLACES PRIOR EVIDENCE DATED:				

PROPERTY INFORMATION

LOCATION/DESCRIPTION

ASPHALT PLANT, ASTEC, S/N PDDC-835C, MANUFACTURED 1993, INCLUDING 400-TPH, COLD FEED BIN, 5-COMPARTMENT SINGLE SCREW; SINGLE SCREEN, 4-FT. X 8-FT.; DOUBLE BARREL DRUM; (3) FUEL OIL TANKS; (2) LIQUID ASPHALT TANKS; SLAT CONVEYOR, 50-FT.; OVERHEAD BIN; CONT. SERIAL NUMBER PDDC-835C. VALUE \$367,650. THERE WILL BE USAGE OF A LOADER AND GENERATOR AS WELL ON PREMISES.

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 EVIDENCE OF PROPERTY INSURANCE 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.

COVERAGE INFORMATION

COVERAGE / PERILS / FORMS	AMOUNT OF INSURANCE	DEDUCTIBLE
Unscheduled Owned/Rented-Per Item - \$1,000,000 per occurrence/\$500,000 Per Item	367,650	
Leased and Rented Per Item - \$2,000,000 Per Occurrence/\$2,000,000 Per Item		

REMARKS (Including Special Conditions)

EVIDENCE OF INSURANCE

CANCELLATION

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

ADDITIONAL INTEREST

NYC-006613948-03

NAME AND ADDRESS DOUGLAS COUNTY PUBLIC WORKS PLANNING & DEVELOPMENT SERVICES DEPT. CITY HALL PO BOX 708 LAWRENCE, KS 66044-0708	<input type="checkbox"/> MORTGAGEE	<input type="checkbox"/> ADDITIONAL INSURED
	<input type="checkbox"/> LOSS PAYEE	
LOAN #		
AUTHORIZED REPRESENTATIVE of Marsh USA Inc. Gregory Blenk <i>Gregory Blenk</i>		

Memorandum

City of Lawrence

Planning & Development Services

TO: Board of County Commissioners

CC: Craig Weinaug

FROM: Mary Miller, City/County Planner

Date: For June 19, 2013 meeting

RE: Annual review of Hamm/Buchheim Quarry

Attachments

- A) County Commission minutes
- B) Performance Bond
- C) Communications

A Conditional Use Permit, CUP-11-5-76, was approved by the County Commission on January 12, 1977 for Hamm Quarry # 69 which is commonly referred to as the Hamm/Buchheim Quarry. The quarry is located at 1453 E 550 Road (Previously identified as County Road 1029). The conditions of approval were listed in the meeting minutes which are attached with this memo.

Ramon Gonzalez of Hamm Quarry contacted the Planning Office in November of 2011 regarding the process for continuing operation of the quarry as it had been inactive for quite a long time. Planning staff notified Mr Gonzalez that the CUP for the quarry was still valid and remains in force and provided him with the conditions of approval.

Condition No. 5 requires "That this Conditional Use Permit shall be subject to annual review by the Planning Staff." As the quarry had been inactive for several years, there have been no recent reviews. The file doesn't contain any written reviews so it's not clear if there were any reviews previously. There will be annual reviews from this point forward regardless of whether quarrying is occurring or not.

We've received several communications from the public regarding the quarry, These are included in the attachments and were forwarded on to the County Engineer as they listed concerns related to the road maintenance and safety.

The following table outlines the review of the quarry. Each action step of the conditions are listed in the left column and staff's review is in the right column.

At this time, there are 3 items that have not yet been resolved:

- 1) The maintenance agreement for the road.

The quarry operator is working with the County Engineer to develop a written maintenance agreement. A draft agreement has been provided and is being reviewed by the quarry operator. It is expected that this will be completed shortly.

- 2) Improvements to the entrance on E 550 Road.

The Public Works department inspected the entrance and determined that repairs were necessary. The quarry operator was only recently informed of these repairs but indicated that one month would be adequate time to complete the repairs.

- 3) Verification of a current NPDES permit.

The operator indicated they have a current permit. A copy will be provided to the County Commission at the June 19th meeting.

Action Requested:

No action is necessary on this item. Staff is presenting the annual review to the Commission tonight, and will provide an update memo in one month for the outstanding items.

CONDITIONS OF APPROVAL ANNUAL REVIEW / 2013

<p>Condition 1. Entrance to site from County Road 1029 (E 550) be constructed to standards and specifications set by the County Engineer.</p>	<p>The Public Works Department inspected the entrance. Hamm has widened the entrance significantly so that a truck can pull in or out without encroaching into oncoming traffic. With use; however, one end of pipe has been crushed. The County Engineer indicated that Hamm should work with the County Public Works Department on improvements to bring the entrance into compliance with Douglas County Standards, as directed by County Engineer. Hamm was notified of this on June 13th and haven't had time to make the repairs at this time. They indicated they would make the repairs and felt that a month would be adequate time.</p> <p><u>An update memo will be provided to the County Commission in a month on this repair.</u></p>
<p>Condition 2. That all applicable regulations of the Environmental Protection Agency, Kansas Department of Health and Environment, US Mining and Safety Commission, Kansas Department of Agriculture-Water Resources Division, and any other applicable agency be strictly adhered to, and that any permit required by these agencies be obtained</p>	<p align="center"><u>Zoning and Codes review</u></p> <p align="center">KDHE: Kansas Water Pollution Control Facility Inspection Report KWPC Permit No. I-KS31-PO10 Inspection Date: 4/1/2013 H. Vic Montgomery No follow up actions needed.</p> <p>Letter from H Vic Montgomery dated 4/1/2013 stated "Items reviewed the stormwater plan (SWP), plan training, updated site maps, outfall inspection reports, changes since the last inspection, overall quarry condition and outfalls. Overall, the facility is in compliance with the permit and the SWP requirements."</p> <p align="center">..... Pat Simpson KDHE Environmental Air Quality Permit Confirmed by email on March 25, 2013 that the quarry (0450038) is current on their permits </p> <p align="center">Scott Carlson Conservation Division, KDA Need an annual mine report and site registration Linda Finger talked with Scott on May 14, 2013. He said the issues they had with this not being on the annual mine report and site registration have now been addressed. KDA now finds them in compliance. </p> <p align="center">Bob Becroft MSHAW (Mine Safety and Health) Mine ID# 1401687 Permit goes with equipment not the location --Last inspection date—Aug 2012 in Pott Co Received notice 2/15/13 that equipment had been moved to</p>

	<p style="text-align: center;">Bucheim Site MSHAW tracks the equipment and have no interest in inspecting sites from any other perspective. Quarry is current on permits.</p> <p style="text-align: center;">..... Carol Lowery/ State Fire Marshall Storage of explosive materials Carol said they had a permit on file (Nov 2012) and that she had viewed the storage locations on the site. Permit is good for 3 years.</p>
<p>Condition 3. That the applicant, N. R. Hamm Quarry, Inc., enter into an agreement with the Douglas County Board of Commissioners in regard to the maintaining of that portion of Douglas County Road #1029 regularly used by N. R. Hamm Quarry, Inc. vehicles in the operation of the quarry for which the Conditional Use Permit. No. CUP-11-5-76, is approved.</p>	<p>Public Works staff met with John Strome, Ramon Gonzalez, Charlie Sedlock, and Pat Watkins to discuss a maintenance agreement. In 1976, a written agreement may not have been required As written agreements are standard today, one is being developed. The final items are being worked out at this time.</p> <p><u>If the agreement is completed in time, it will be provided to the Commission at the June 19th meeting. If not, it will be provided with the update the following month.</u></p>
<p>Condition 3 (cont.) Such agreement shall provide and require that upon the applicants opening of the aforementioned approved quarry he (N. R. Hamm Quarry, Inc.) shall be responsible for dust proofing said County Road No. 1029 (E 550 Rd) a minimum distance of 300 ft in either direction in front of any home along the affected portion of said County Road No. 1029 (E 550 Rd).</p>	<p>The County Engineer indicated that Hamms has paid for dust palliative application this year somewhat in excess of what's required in the CUP conditions. They will pay for palliative 600' at each residence (as called for in CUP conditions), and also at the intersection with Route 442 and through the S-curve just north of the Hamm entrance. Palliative will be applied within the next few weeks.</p>
<p>Condition 3 (cont.) Maintenance costs of this road shall, during period of quarry operation, be the responsibility of N. R. Hamm Quarry, Inc. for the duration of the Conditional Use Permit and said road shall be maintained in such manner as to prevent damage to vehicles utilizing the road and to prevent , to the extent practical, the occurrence of unsafe driving conditions that might result from the condition of the roads.</p>	<p>This is being addressed with the development agreement.</p>
<p>Cond. 4 That the plan of operation, setbacks and reclamation plan proposed by the applicant and attached to or shown on the application be followed,</p>	<p>Itemized review of this condition follows later</p>
<p>Condition 4 (cont.) ...and that the applicant file a performance bond with the County Zoning Administrator, in an amount set by the Board of County Commissioners, to insure compliance with the reclamation plans within 6 months of the termination of quarry operations, and that such bond shall also insure the maintenance of county</p>	<p>The performance bond is included as an attachment with this memo.</p>

Road 1029 (E 550 Rd) used by the quarry operation to original condition or as might otherwise be agreed to in accordance with Condition # 3. The amount of the performance bond shall be based upon \$1500/acre for any land area disturbed and not reclaimed at this site; however, the Board of County Commissioners may amend or require a revised base figure at any time they believe such to be reasonable.	
Condition 5. That this Conditional Use Permit shall be subject to annual review by the planning staff.	This is the 2013 annual review of the quarry. The Quarry has been inactive for several years. The file does not contain information regarding previous annual reviews. An annual review will be conducted in May of each year and a written report provided to the Commission.
Condition 6. That the berm be covered with vegetation meeting recommendations of the Soil Conservation service.	The berm was vegetated; however, the site visit was in April and vegetation wasn't well established yet.
OPERATION PLAN	
Crushing will be done by portable equipment over a period of 90 days and then removed until the reserve supply has been diminished. (page 5, EIS)	Portable equipment was on site. It will be removed when quarrying is complete until the reserve supply has been diminished. Quarrying has not occurred for 90 days at this point.
National Pollutant Discharge Elimination System (NPDES) Permit	The applicant indicated they have this permit and are sending a copy to Planning. <u>A copy of the permit will be provided to the County Commission at the June 19 meeting.</u>
Entrance road, stockpile areas and screening dikes will be built as first step of quarrying	These features were installed with first step of quarrying.
Sequential reclamation with exception of first area.	Reclamation will occur sequentially; however, as the quarry had been inactive for a long period of time it was necessary to open a new hole for quarrying. This overburden material will be used to reclaim the quarry as it is expanded.
Stockpiling is done on the property in such a manner as to inhibit dust. Haul roads are watered and unwashed crusher-run products are stockpiled as far as necessary from adjoining property lines.	The stockpile area is located in the southeast corner of the property, near the quarrying area (see Figure 1). The operation plan reflects the practices common in 1976, when materials to be stockpiled were 'hailed' to the stockpile area in trucks and dumped. Stockpiling is now done with a radial stacker which creates much less dust as there is less movement of the stockpile material.
The abrupt elevation of the hill will provide screening on the west. The west ½ of the south boundary will be screened by a hedge row. The remainder of the boundary will be screened by the building of earth berms as quarrying progress to that particular area.	An earth berm was built south of the quarrying area. The hill provides screening to the west and the hedge row remains along the south property line.

Crushing plants are equipped with dust control systems,	The operator indicated that means of production have changed since 1976. The current practice is for KDHE and EPA to rate a plant and equipment and issue a 'wet' or 'dry' permit. This quarry is permitted 'dry' and passed an inspection by KDHE earlier this year. Dust control has been approved by KDHE.
Operators maintain the equipment keeping mufflers and noise suppressors in good repair. They provide ear plugs and protectors for employees and have a noise level meter to provide our own measurement and control.	The operator indicated that they maintain their equipment and mufflers in good repair. Ear plugs and protectors for employees are required and they have use a noise meter level.
The operator employs the use of delays and conservative charges to safely break the ledge.	The operator indicated that they typically blast between 10 AM and 2 PM each day they are in operation. This allows them to blast smaller areas. They installed a seismograph on the property with the commencement of the operations in January and installed another on a neighboring property on March 18 th following a meeting with area neighbors on March 14 th . The seismograph reports are available for review by contacting the Quarry operator.
The operator proposes a setback distance of 75 ft.	The setback distance is observed.
Any spoil piles created by the mining operation will be utilized in reclamation as fill each time a box cut is closed.	As noted earlier, a new hole was created with this phase of the operation. As the hole is expanded, spoil piles will be used to sequentially reclaim the quarried area.
Explosive control is maintained by the superintendent on site. He makes daily inventory and has only access to the explosive magazines.	The materials are stored in 3 locations on site. The operator indicated that the superintendent has the only access to the explosive magazines and makes a daily inventory.
Operation plan shows 17 sequencing areas from south to north. (Figure 2a)	Operation plan provided in 2012 shows several of the sequencing areas combined to create larger areas for quarrying. (Figure 2b) The operator indicated that this is necessary due to changes in quarrying equipment. Modern equipment is able to quarry larger areas, and requires larger area to maneuver. The operation plan is generally the same but has been adjusted to accommodate modern equipment.
RECLAMATION PLAN	
The property, because of its unusual topography, will be partially restored as pasture land, graded to support ultimate reseeding and partially as a large lake.	No part of the quarry has been reclaimed to date. The previously quarried area is being used for the stockpile area. This area will be reclaimed when no longer used for stockpiling.

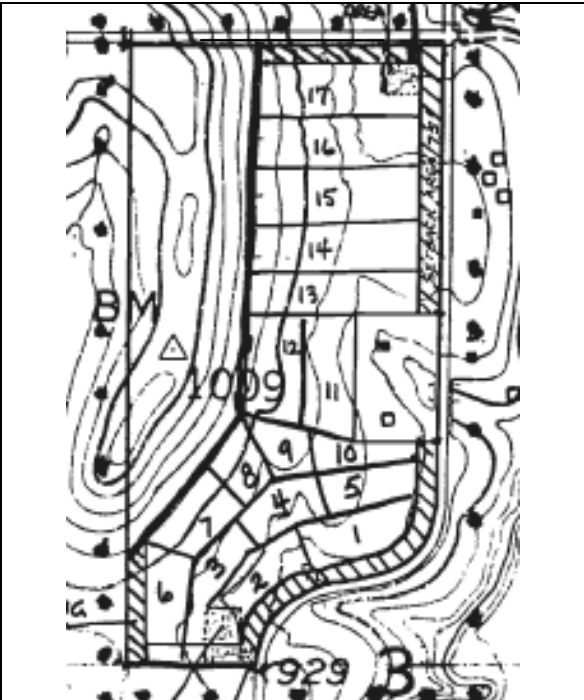
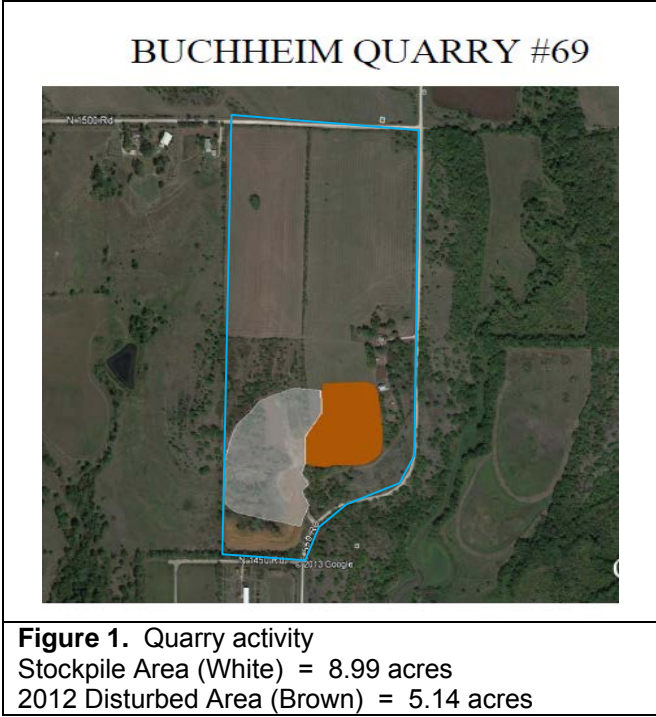


Figure 2a Sequence of box cuts shown in operation plan.

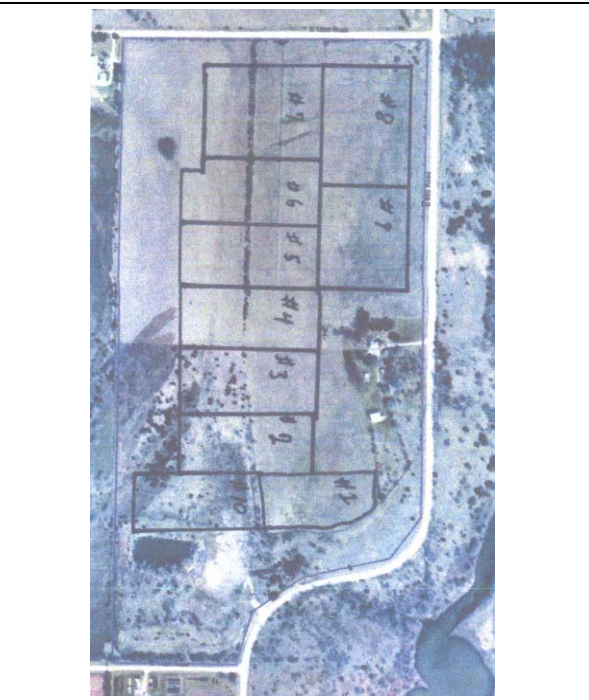


Figure 2b. Sequence shown in 2012 letter to Zoning and Codes.



January 12, 1977

At the appointment hour of 10:00, designated for public hearing on planning items, Lawrence-Douglas County Planning Director Dick McClanathan appeared before the Board to present an application for a conditional use permit submitted by N. R. Hamm Quarry, Inc. The permit request was forwarded to the Board of Commissioners with a unanimous recommendation from the planning commission subject to certain conditions. After thorough discussion on the matter it was moved by Mr. Neis that the recommendation of the planning commission be accepted subject to those conditions as amended by the Douglas County Commission. The conditions follow:

1. That entrance to the site from County Road 1029 be constructed to standards and specifications set by the County Engineer;
2. That all applicable regulations of the Environmental Protection Agency, Kansas Department of Health and Environment, U.S. Mining and Safety Commission, Kansas Department of Agriculture-Water Resources Division, and any other applicable agency be strictly adhered to, and that any permit required by these agencies be obtained;

County Commission
1/12/77

January 12, 1977

3. That the applicant, N.R. Hamm Quarry, Inc., enter into an agreement with the Douglas County Board of Commissioners in regard to the maintaining of that portion of Douglas County Road No. 1029 regularly used by N.R. Hamm Quarry, Inc. vehicles in the operation of the quarry for which the Conditional Use Permit, No. CUP-11-5-76, is approved. Such agreement shall provide and require that upon the applicants opening of the afore-mentioned approved quarry he (N.R. Hamm Quarry, Inc.) shall be responsible for dust proofing said County Road No. 1029 a minimum distance of 300 feet in either direction in front of any home along the affected portion of said County Road No. 1029. Maintenance costs of this road shall, during period of quarry operation, be the responsibility of N.R. Hamm Quarry, Inc. for the duration of the Conditional Use Permit and said road shall be maintained in such manner as to prevent damage to vehicles utilizing the road and to prevent, to the extent practical, the occurrence of unsafe driving conditions that might result from the condition of the roads.
4. That the plan of operation, setbacks and reclamation plan proposed by the applicant and attached to or shown on the application be followed, and that the applicant file a performance bond with the County Zoning Administrator, in an amount set by the Board of County Commissioners, to insure compliance with the reclamation plans within six months of the termination of quarry operations, and that such bond shall also insure the maintenance of County Road 1029 used by the quarry operation to original condition or as might otherwise be agreed to in accordance with Condition No. 3. The amount of the performance bond shall be based upon \$1500/acre for any land area disturbed and not reclaimed at this site, however, the Board of County Commissioners may amend or require a revised base figure at any time they believe such to be reasonable;
5. That this Conditional Use Permit shall be subject to annual review by the planning staff; and
6. That the berm be covered with vegetation, meeting the recommendations of the Soil Conservation Service.

Motion was seconded by Mrs. Bradley and carried unanimously.



CHANGE RIDER

To be attached to and form a part of Bond Number 327013054, dated the 11TH day of JUNE, 2012, issued by Liberty Mutual Insurance Company (the "Surety") on behalf of
Hamm, Inc.

(the "Principal")

in favor of STATE OF KANSAS

(the "Obligee").

The Principal and the Surety hereby consent to changing the attached bond as follows:

THE BOND AMOUNT IS INCREASED TO \$22,500.00
THE ACREAGE IS INCREASED TO 15 ACRES

This change is effective the 11TH day of JUNE, 2013.

The attached bond shall be subject to all of its terms, conditions and limitations except as herein modified.

DATED as of this 16TH day of MAY, 2013.

WITNESS/ATTEST:

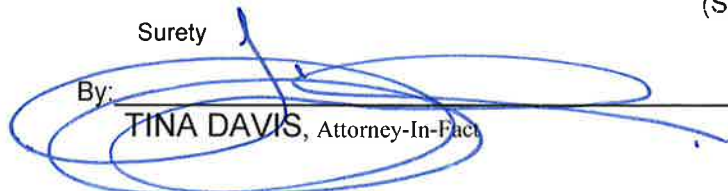


HAMM, INC. (Seal)
Principal

By: 
Name: Brad Hen
Title: GM

LIBERTY MUTUAL INSURANCE COMPANY (Seal)

Surety

By: 
TINA DAVIS, Attorney-In-Fact

ACCEPTED:

Date: _____

THIS POWER OF ATTORNEY IS NOT VALID UNLESS IT IS PRINTED ON RED BACKGROUND.

This Power of Attorney limits the acts of those named herein, and they have no authority to bind the Company except in the manner and to the extent herein stated.

Certificate No. 6034062

American Fire and Casualty Company
The Ohio Casualty Insurance Company

Liberty Mutual Insurance Company
West American Insurance Company

Attachment B
Page 1

POWER OF ATTORNEY

KNOWN ALL PERSONS BY THESE PRESENTS: That American Fire & Casualty Company and The Ohio Casualty Insurance Company are corporations duly organized under the laws of the State of New Hampshire, that Liberty Mutual Insurance Company is a corporation duly organized under the laws of the State of Massachusetts, and West American Insurance Company is a corporation duly organized under the laws of the State of Indiana (herein collectively called the "Companies"), pursuant to and by authority herein set forth, does hereby name, constitute and appoint, Jessica Arnold; Lindsey Plattner; Lisa Hall; Tina Davis

all of the city of Salt Lake City, state of UT each individually if there be more than one named, its true and lawful attorney-in-fact to make, execute, seal, acknowledge and deliver, for and on its behalf as surety and as its act and deed, any and all undertakings, bonds, recognizances and other surety obligations, in pursuance of these presents and shall be as binding upon the Companies as if they have been duly signed by the president and attested by the secretary of the Companies in their own proper persons.

IN WITNESS WHEREOF, this Power of Attorney has been subscribed by an authorized officer or official of the Companies and the corporate seals of the Companies have been affixed thereto this 14th day of March, 2013.

American Fire and Casualty Company
The Ohio Casualty Insurance Company
Liberty Mutual Insurance Company
West American Insurance Company

By: *Gregory W. Davenport*
Gregory W. Davenport, Assistant Secretary



STATE OF WASHINGTON ss
COUNTY OF KING

On this 14th day of March, 2013, before me personally appeared Gregory W. Davenport, who acknowledged himself to be the Assistant Secretary of American Fire and Casualty Company, Liberty Mutual Insurance Company, The Ohio Casualty Company, and West American Insurance Company, and that he, as such, being authorized so to do, execute the foregoing instrument for the purposes therein contained by signing on behalf of the corporations by himself as a duly authorized officer.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my notarial seal at Seattle, Washington, on the day and year first above written.



By: *KD Riley*
KD Riley, Notary Public

This Power of Attorney is made and executed pursuant to and by authority of the following By-laws and Authorizations of American Fire and Casualty Company, The Ohio Casualty Insurance Company, Liberty Mutual Insurance Company, and West American Insurance Company which resolutions are now in full force and effect reading as follows:

ARTICLE IV – OFFICERS – Section 12. Power of Attorney. Any officer or other official of the Corporation authorized for that purpose in writing by the Chairman or the President, and subject to such limitation as the Chairman or the President may prescribe, shall appoint such attorneys-in-fact, as may be necessary to act in behalf of the Corporation to make, execute, seal, acknowledge and deliver as surety any and all undertakings, bonds, recognizances and other surety obligations. Such attorneys-in-fact, subject to the limitations set forth in their respective powers of attorney, shall have full power to bind the Corporation by their signature and execution of any such instruments and to attach thereto the seal of the Corporation. When so executed, such instruments shall be as binding as if signed by the President and attested to by the Secretary. Any power or authority granted to any representative or attorney-in-fact under the provisions of this article may be revoked at any time by the Board, the Chairman, the President or by the officer or officers granting such power or authority.

ARTICLE XIII – Execution of Contracts – SECTION 5. Surety Bonds and Undertakings. Any officer of the Company authorized for that purpose in writing by the chairman or the president, and subject to such limitations as the chairman or the president may prescribe, shall appoint such attorneys-in-fact, as may be necessary to act in behalf of the Company to make, execute, seal, acknowledge and deliver as surety any and all undertakings, bonds, recognizances and other surety obligations. Such attorneys-in-fact subject to the limitations set forth in their respective powers of attorney, shall have full power to bind the Company by their signature and execution of any such instruments and to attach thereto the seal of the Company. When so executed such instruments shall be as binding as if signed by the president and attested by the secretary.

Certificate of Designation – The President of the Company, acting pursuant to the Bylaws of the Company, authorizes Gregory W. Davenport, Assistant Secretary to appoint such attorneys-in-fact as may be necessary to act on behalf of the Company to make, execute, seal, acknowledge and deliver as surety any and all undertakings, bonds, recognizances and other surety obligations.

Authorization – By unanimous consent of the Company's Board of Directors, the Company consents that facsimile or mechanically reproduced signature of any assistant secretary of the Company, wherever appearing upon a certified copy of any power of attorney issued by the Company in connection with surety bonds, shall be valid and binding upon the Company with the same force and effect as though manually affixed.

I, David M. Carey, the undersigned, Assistant Secretary, of American Fire and Casualty Company, The Ohio Casualty Insurance Company, Liberty Mutual Insurance Company, and West American Insurance Company do hereby certify that the original power of attorney of which the foregoing is a full, true and correct copy of the Power of Attorney executed by said Companies, is in full force and effect and has not been revoked.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the seals of said Companies this 16TH day of MAY, 20 13.



By: *David M. Carey*
David M. Carey, Assistant Secretary

Not valid for mortgage, note, loan, letter of credit, bank deposit, currency rate, interest rate or residual value guarantees.

To confirm the validity of this Power of Attorney call 1-610-832-8240 between 9:00 am and 4:30 pm EST on any business day.

RECEIVED

APR 01 2013

City County Planning Office
Lawrence, Kansas

March 27, 2013

To: Douglas County Planning Office
From: Neighbors of the Hamm Quarry located at 1453 E. 550 Road

Ladies and Gentlemen,

This letter is being sent by all property owners which directly adjoin the Hamm Quarry mentioned above as well as other neighboring property owners.

Hamm Quarries was issued a Conditional Use Permit (CUP) in 1977. During the nearly 35 years this CUP has been issued, Hamm has only occasionally conducted quarry operations on this property, and have not quarried for 20 years or more. They have used it for collection of rubble and fill during the expansion of I-70 west of Lawrence. During the past 35 years, this area has significantly changed resulting in a residential area with one private enterprise adjoining the property which also contains residential rental property.

In examining the CUP created in 1977 by the Douglas County Planning Commission, we believe there constitutes sufficient changes, violations of regulations, lack of adherence to the original CUP, dangers to neighboring property and environmental concerns that warrant the Douglas County Planning Commission to re-open, for public review, this CUP and address potential changes and amendments in order to satisfy the concerns of all parties.

In examining the original Action Letter created in 1977 by the Douglas County Planning Commission, we have found that Hamm Quarries has not met or violated some of the conditions set forth in that letter. In specific, we call your attention to the following issues:

1. In the second paragraph of the Action Letter, it states that Hamm must adhere to all regulations and obtain all permits required by all the applicable agencies listed in the letter.

- Hamm did not have a permit from the KDHE Water Division when they commenced quarry operations and blasting in 2012. They have applied for and have now been granted a permit slated to take effect 4/1/13, some 6 months or more after quarry operations began.
- Hamm also has been inaccurate in filing their annual Mine report with the Department of Agriculture - Reclamation Division. The Hamm Buchheim Quarry located at 1453 E. 550 road is not listed in the most recent annual report dated 2010 -2011.

2. In the third paragraph of the original Action Letter, it states Hamm shall pay for the maintenance and dust control during the period of quarry operation, of a certain portion of County road 1029 for the duration of the Conditional Use Permit.

- We have not found any documentation of any Hamm Maintenance from 1977 to 2012 and in particular there was no maintenance nor dust control during the Hamm operation of depositing rubble during the expansion of I-70 west of Lawrence.
- We have not found evidence that Hamm has compensated Douglas County for any maintenance of Douglas County 1029/550 RD during the time of 1977 to 2012 as required by the Action Letter.
- No Hamm road maintenance has been performed other than a dust control during the current quarry operation. In 2012 Douglas County applied one application of a partial dust control application, which was administered in mid Summer 2012, Hamm did pay Douglas County for this service. No maintenance nor additional dust control has been applied in 2013. Such lack of maintenance has created unsafe driving conditions.

3. In the fourth paragraph of the original Action Letter it states that the plan of operation, setbacks, and reclamation plan proposed by the applicant attached to or shown on the application must be followed.

- There are portions of the plan of operation that have not been followed. Specifically the plan states the quarry shall blast for a period of 90 days followed by the removal of rock during a period of time up to a two year period. The current quarry operation has been blasting for nearly 6 months and Hamm has indicated such blasting may continue for an additional 6 to 8 more weeks.

4. In the 5th paragraph of the original Action Letter, it states that the Conditional Use Permit shall be subject to annual review by the Douglas County Planning Commission.

- We could not find documentation that there has ever been a single review of Hamm's Conditional Use Permit for this quarry conducted in the past 35 years.

In conclusion, in our opinion Hamm Quarries has violated 4 of the 6 conditions of the original Action Letter. Therefore, we as concerned citizens would request a public forum with the County to discuss the Conditional Use Permit granted to Hamm Quarries and the related zoning codes and regulations.

Sincerely,

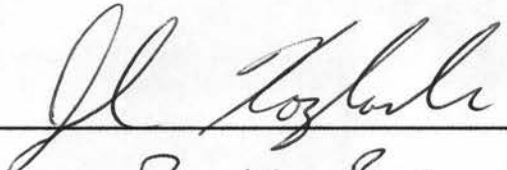
Mark Schneider
Nicole Schneider
515 N. 1500 RD.
Lawrence, KS 66049



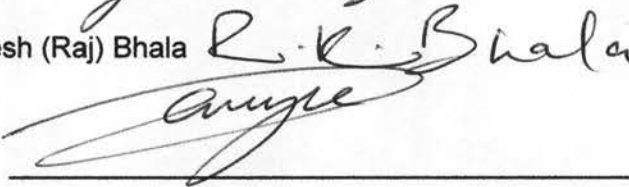
Nicole Schneider

515 N. 1500 RD.
Lawrence, KS 66049

Jacob Kozlowski
494 N 1500 Rd
Lawrence, KS 66049



Associate Dean and Professor Rakesh (Raj) Bhala
Dr. Kara Tan Bhala
1435 East 550 Road 66049
Lawrence, Kansas 66049



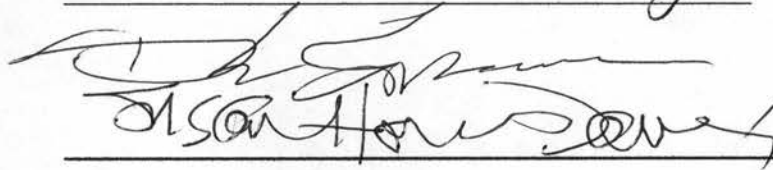
Larry Puckett
Judith A Puckett
1427 E 550 Road
Lawrence, Ks 66049




Kenneth Kimmel
Ginney Kimmel
1551 E. 500 Rd
Lawrence. Kansas 66049



Susan H. Davis Trust
529 North 1450 Rd.
Lawrence, 66049



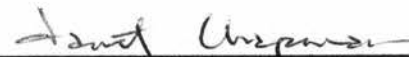
Stephen J Freidell
Deborah A Freidell
521 N 1450 Road
Lawrence, Kansas 66049



James L. Kelley
Linda L. Kelley
466 N 1500 Rd.
Lawrence, Kansas 66049




Janet Chapman.
1564 E. 550 Rd.
Lawrence, Kansas 66049



Mary Miller

From: Steve Freidell (Google Drive) [sfreidell@gmail.com]
Sent: Sunday, April 14, 2013 7:50 PM
To: Mary Miller
Subject: Ms Mary Miller (mmiller@lawrenceks.org)

I've shared an item with you.



Snapshot of the item below:

Ms Mary Miller

Lawrence-Douglas County Metropolitan
Planning Commission

April, 13, 2013

Dear Ms. Miller,

My name is Steve Freidell. My wife Debby and I live at 521 N 1450 Rd, Lawrence Kansas 66049. I am writing you today to share some feelings, grievances, and suggested amendments to the Hamm Quarry CUP, which abuts my property near the NE corner of 550 rd and 1450 rd.

We purchased our property in 2003. Prior to placing a contract on the property, I contacted Mr. John Hamm regarding their plans for the Quarry on 550 rd. At that time, Mr. Hamm indicated to me that they had few plans for the quarry. Mr. Hamm indicated that they had quarried in that location a couple of times and it didn't produce a lot of rock suitable for their needs. For the 10 years we have owned our property, the only activity we observed was the filling in of the old pit with rubble from the widening of I-70 to Topeka.

In late summer of 2012, Hamm began moving in equipment to begin quarry operations. My wife called their office and they indicated they would only be blasting for a few weeks, maybe six max. Needless to say that statement was incorrect, as many more statements from Hamm have been. We never received a notice of the quarry beginning operation from Hamm or Douglas County.

On January 16, 2013, a significant explosion occurred at that site. My wife, Debby had just begun emptying the dishwasher and set a dinner plate on our Kitchen counter top. The explosion was so intense that Debby said it felt like the whole house was bucked upward and she observed one of our full size dinner plates elevate in the air and drop onto the floor. After I got home I examined our foundation and discovered significant damage. We have had two meetings with Hamm personnel and no one can explain what went wrong or how they can avoid duplicating the event in the future. Again a statement we feel is inaccurate.

We realized when we purchased this property that the quarry was there and don't deny them the right to extract their rock. What we do have problems with is their actions which have created damage to our property and unsafe living conditions. The blasting, lack of road maintenance, excessive dust coming off their quarry, noise, and unsafe truck traffic has resulted in a very dangerous place to live.

Blasting

The blasting has occurred at all times of the daylight hours. Sometimes a siren announces the upcoming blast, many times it does not. My wife has taken our dogs for a walk on our property several times and has been shocked when a blast occurred a few hundred feet from her. I previously mentioned the damage to our house. Our house sits on 34 pilings which extend to bedrock, the same shelf which the quarry is blasting. According to an independent Structural Engineer, rock is a tremendous conduit of vibrations. He is of the opinion that the damage to our house may continue, if blasting is permitted to remain above the .100 PPV level. The explosion which occurred on 1/16/13 was 5 times that amount at 5.65 PPV level. It has already put a significant crack in our foundation. This is a residential area consisting of many upscale homes. To allow such activity to occur within 500 feet of homes is unthinkable.

Lack of Road Maintenance

According to Hamm's CUP issued back in 1977, the CUP requires Hamm to pay for road maintenance during Quarry operations. In late summer 2012 my wife Debby was coming home with a load of groceries and was stopped at the

intersection of 550rd and 1600rd. She was instructed by Douglas County authorities that they had just begun applying a solution to the road in order to control the dust. She was instructed not to drive on it for 1 hour otherwise it could damage her car. We received no notice of this application. We had to throw away many of the groceries just purchased as they had spoiled in the heat during that time. When the solution dried it was applied only on a portion of the road. I contacted the Douglas County operations center and was told they originally had planned to do this another day but the contractor was in the area and applied it without much notice. Since quarry operations have begun and even several years ago when the rubble was used to fill in the old quarry, very little road maintenance has been performed. Once, gravel had been dropped at the top of 550rd near 1600. Hamm dropped gravel at their quarry entrance, as some of their trucks were getting stuck in the slippery mud. During the winter months, with the snow and rain brought mucky roads. Near the quarry entrance is an S curve. Frequently, when going to work or coming home from work, I encounter quarry workers and truck traffic. On Several occasions I stopped my vehicle as I could tell the other vehicle was going too fast to negotiate that S curve with the hazardous road conditions. It was wise for me to do so, as had I not done so, it would have resulted in a traffic accident. The County or someone else years ago put up large boulders on that S curve, presumably to keep people from going over the side and down the hillside. Recently I noticed that many of those boulders have been moved. I suspect many drivers have hit those boulders as the road conditions were just too poor to control their vehicle. That S Curve is narrow and two vehicles must be cautious when passing. If one vehicle is driving in a hazardous manner there will be insufficient room for oncoming traffic.

During the start of quarry operations, the County had only come out once and re-graded the road, which was after the winter snows in 2013. However the truck traffic has left little remaining gravel on the road and neither Hamm nor the County has applied any gravel to recondition this road for over a year or longer. The attention to this road has declined substantially during the past year. We were very pleased with the snow removal and subsequent re-grading of the road this year, but the same activity during prior years was substantially better and more frequent. According to the Hamm CUP, the requirement is for Hamm to pay for such maintenance. I am completely lost as to why the County has not provided more service to this road with this cost recovery requirement. Also, to spray this road for dust control now, with no Gravel down, seems opposite of what process should be. In order to properly control the dust a hard surface may be considered or increased effort on the county to monitor this road.

Lack of Dust Control

This road receives a lot of traffic, primarily from people using the boat ramp, hunting, and fishing areas at the far south end of 550 rd. I spoke to Jim Flory and asked him to suggest to the County to consider requesting Hamm to apply the dust control on the entire road, as the few spots where they apply it provide little dust control. Each afternoon, our area receives southerly winds due to natural thermal heating of the land which then pulls cooler air in from the lake. With traffic, the wind just blows the dust from untreated areas, to areas where the county was attempting to provide dust control on. Hamm's CUP written in 1977 only requires dust control on 550 rd before and after 300 feet near a home bordering the road. That is completely insufficient and may have been appropriate back in 1977, but today's modern trucks weighing 80,000 pounds or more create a huge amount of dust. Such a small application is insignificant to properly control the dust. The CUP should be changed requiring all of 550 Road to be treated. In addition I asked if they could provide notice of when and what date the application would be performed so residents could prepare for the road closing during that time. At the time of this writing it appears flags have been set to indicate to the operator where to apply the dust control solution, we have received no notice. On site inspection should occur monthly to ascertain if additional gravel is needed and to determine if additional dust control product should be applied. The lack of such allows Hamm to avoid the requirements stated within their CUP. We believe Hamm has skated past this provision with little oversight of the County since 1977.

Noise

When we purchased our property in 2003 we were very impressed with this quiet location, with plenty of wildlife, and fresh clean air. For 9 years we enjoyed that. However in 2012 all that has changed. Quarry operations begin most days at 7am and occasionally earlier and last until 5 pm and recently, a little longer, with shifts also on Saturdays as well. This has already resulted in one neighbor losing a renter due specifically to the constant noise. When this CUP was granted 35 years ago only two homes were present within a mile, not counting the home on Hamm's property. During that 35 year period, the County has issued many single family building permits and knew it was going to create a problem for anyone living within this area. My home is 2090 feet away from the quarry, yet inside my modern era home I have to turn up my TV due to the noise from the quarry. My wife goes out weekly with a broom and snow shovel to pick up the dust on our front porch. Having windows open at anytime of the day is impossible. Wildlife now is non-existent. Even

the Skunks stay away. Hunters that I have seen come back to this area over the years have asked me what happened, there are no deer here. I just point to the quarry.

Unsafe Truck Traffic

During a previous quarry operation, several years ago where Hamm was dumping asphalt and rock from the project to widen I-70, we would have significant truck traffic up and down the road all day long. It was obvious that these truckers were paid by the load. Trucks would barrel up and down the road at speeds unintended for a road of this type and many times my wife and I would have to completely pull off the road to avoid being hit or suffer damage to our vehicles from gravel tossed up by the speeding truck. In addition, our windshields of our cars have become pitted from getting sandwiched between two trucks and being forced to travel at the truck's speed in front of us or get our rear bumpers hugged by the truck following us. Typically it was not uncommon to see these trucks approach speeds in the 40 to 50 mph range. Frequently, we tried to pull off the road to keep this from happening, and there wasn't enough room for the other truck to pass or he was just annoyed with us as he just blasted us with his air horn. Several times my wife called and complained about this type of behavior to Hamm. They always ask us to get the truck's license plate but that's impossible given the dust billowing up from behind the truck. At the start of quarrying operation in 2012, I stopped at the quarry and recounted the prior problems. While most of their workers are courteous drivers, the contract drivers are not. I have talked to Sheriff deputies several times and asked them to keep an eye out for this situation. We haven't observed Sheriff activities during those hours, nor has any speed sign been erected, nor are there any warnings regarding the upcoming S curve to warn new rock haulers. This is now a very dangerous road to travel upon.

Ms Miller, the Lawrence and Douglas County area has changed significantly over the years. The Zoning and planning of that growth is something that all of you on the Commission should be very proud of. I grew up and lived in the Leawood/Overland Park area where they too have strict, but excellent zoning and planning, and the efforts taken by the City and County are commendable. However, this Division has been required to review the Hamm CUP every year since 1977. According to a neighbor she believes this has never been done. I also was informed recently that earlier in 2012, Hamm filed documents indicating their interest to abandon this quarry, only to rescind it weeks later. It seems that at that time, the Lawrence Douglas County Planning Commission should have re-opened this CUP and updated it for the obvious changes which have occurred in this area over the past 35 years. I among every neighboring property owner and most neighbors living within a mile or more recently signed a letter asking you to re-open this CUP for discussion and for public forum. Seeing over the past 10 years the excellent work your Division and the City of Lawrence have done, I sincerely hope you will make the right decision in this instance as well.

As I have said, I have no intentions of stopping the quarry from obtaining the assets from their property. I have always approached Hamm as I would any other neighbor. Our neighbors can do anything on their property they wish, but that doesn't give them the right to damage my property and permit others to create unsafe and intolerable living conditions. I believe opening and amending Hamm's CUP will help to serve all neighbors of this area and we can make certain stipulations which will prevent these situations from ever arising again. I therefore submit the following points as possible changes to the CUP:

1. Set hours of quarry operation to normal business hours 8-5 M-F.
2. Limit blasting to no more than .100 ppv to prevent damage to nearby homes.
3. Enforce all provisions within the CUP and in particular regular monthly onsite reviews of 550 rd conditions. Specifically rock condition and Dust control effectiveness.
4. Apply Dust Control on all of 550 rd, not just the few homes which border it.
5. Place several maximum speed limit signs and encourage Sheriff deputies to enforce those speeds.
6. Place several warning signs near the Quarry regarding blasting and caution signs on both ends of the S Curve.
7. Require 15 business days notice to be sent to all residents surrounding the Quarry or within one and one half mile, of any road dust control to be applied. Such notice should list the date and time of such application. In addition send same notices before the start of any new blasting operations.
8. Require strict enforcement of the blasting warning sirens.
9. Seek ways to reduce the noise and dust of rock crushing and the conveyance of rock to certain piles. Perhaps spraying the rock as it is moved with water would aid in that control.
10. Require Hamm to report daily seismograph data monthly to the County for compliance and post it on their website for residents to refer to.
11. Place an expiration on the CUP of 7 years.

12. When an explosion outside the maximum permitted amount has occurred, a full examination of what went wrong, and what additional measures have been taken to prevent this occurrence from occurring again should be a requirement set in stone.

Ms. Martin, these suggestions may seem unusual compared to what other quarry operations are required to do, however I believe the size of this quarry is small and the proximity to residential areas is equally unusual and call for more stringent procedures and requirements. Had Hamm exercised their rights, and quarried this land as they had requested 35 years ago, these changes now may not have been necessary. If Hamm owned the property for 35 years and approached you in 2012, my hope would have been you would have denied a request for a Quarry operation so close to residential property. We residents are highly dependable upon our County officials to find resolutions which are acceptable to everyone as much as possible. We hope you strongly consider the request to reopen the CUP and work with all persons involved to comprise an equitable list of amendments to the CUP.

Thank you in advance for your assistance in this matter.

Sincerely

Steve Freidell

521 1450 Rd

Lawrence, Kansas 66049

785-550-0774 cell

785-887-9981 home

Google Drive: create, share, and keep all your stuff in one place.



Mary Miller

From: Dr. Kara Tan Bhala [burmajoe@mac.com]
Sent: Wednesday, May 01, 2013 12:44 PM
To: Mary Miller
Cc: Raj Bhala; Jim Kelley; Kenneth Kimmel; Jacob Kozlowski; Larry Magee; Larry Puckett; Deb Spencer; Nicole Schneider; Steve Freidell
Subject: Complaint about Hamm Quarry on E. 550th Road

Dear Ms. Miller,

I am writing to complain about the Hamm's quarry operations on E. 550th Road. Here is the list of grievances:

1. **PROBLEM:** The trucks carrying gravel from the quarry throw up an inordinate amount of dust when traveling at high speeds up and down E. 550th Road. Drivers and their cars who are behind these trucks can see nothing in front of them. The dust churned up by these big Hamm trucks resemble huge dust storms in deserts. The lack of visibility makes driving behind the trucks a HAZARD, increasing the risk of vehicular accidents and injuries on the gravel road.

SOLUTION: Hamm must be responsible for spraying the entire length of the gravel road with a dust palliative treatment. Just spraying 600 feet in front of each home on 550th Road is not good enough to ameliorate the driving dangers and environmental disturbance. Hamm is required in its CUP to spray the dust palliative, but so far, to the knowledge of residents in the area, the company has sprayed just ONCE since it started its quarrying operations last year.

2. **PROBLEM:** The Hamm trucks SPEED. This is dangerous to residents and other drivers on 550th Road.

SOLUTION: The Hamm drivers must be given instructions to drive at slow speeds and make way for vehicles behind them to allow these vehicles to pass.

3. **PROBLEM:** Hamm operates its quarry starting at 6am in the morning, Monday to Saturday. This period of operation is not in line with the conditions imposed on other quarry operations in Douglas County. Residents should not have to put up with the sound of loud machinery and blasting for so many hours. It seems most unfair that we should have to listen to blasting and digging even on Saturdays.

SOLUTION: Change the CUP for Hamm's operation on E. 550th Road to limit the hours of operation from 9am-4pm, Mondays to Fridays.

4. **PROBLEM:** The blasting at Hamm's quarry on E. 550th Road does not appear to be regulated nor overseen by any agency. There was an extraordinarily large explosion on 1/16/2013 that caused foundational damage to residents' homes. If this sort of explosion continues, the value of properties in this area is likely to fall -- see Problem #6. Residents feel these blasts, which ruins their peace and serenity (one of the reasons we moved to the country).

SOLUTION: The CUP of Hamm's quarry on E. 550th Road should be amended to regulate blasting levels and times. Regular monitoring should also be done on these explosions.

5. **PROBLEM:** The initial CUP for Hamm's quarrying operation was written before ANY significant residential development around the area. Thirty or so years later, there are now many people who live in nice houses in the area. The original conditions levied on Hamm quarry operations are no longer sufficient for a quarry operation that is located in a residential area.

SOLUTION: The CUP for Hamm operations on 550th Road must be amended to take into account the needs and safety of the people who live around the quarry operations.

6. PROBLEM: If Hamm continues to operate with little regard for the common good of the residents in the area, then values of homes in the area may fall. A fall in the value of homes in the area will lead to a fall in property taxes collected by the county. These consequences are harmful to both residents and the county.

SOLUTION: Amend the CUP under which Hamm operates its quarry on E. 550th Road.

Thank you for your attention and I hope we can all work together to achieve the common good.

With all good wishes,

Dr. Kara Tan Bhala
President and Founder
[Seven Pillars Institute for Global Finance and Ethics](http://SevenPillarsInstitute.org)
kara@sevenpillarsinstitute.org
Editor
[Moral Cents: The Journal of Ethics in Finance](http://MoralCents.org)

Lecturer
The University of Kansas
School of Business
tan@ku.edu

Mary Miller

From: Bhala, Raj [bhala@ku.edu]
Sent: Tuesday, May 14, 2013 8:49 PM
To: sfreidell@gmail.com; dstephens@douglas-county.com; browning@douglas-county.com; Mary Miller
Cc: Nicole and Mark Schneider; Larry Puckett; Kara Bhala
Subject: RE: E. 550 Road south of 1600 rd.
Importance: High

Dear Mr. Stephens:

May I please note my wife, Dr. Kara Tan Bhala, and I are in absolutely full agreement with what Steve Freidell has expressed below, as well as in all of his other correspondence, and that of Nikki Schneider. Moreover, we have a young daughter, and we are concerned about her safety, and that of her many friends who come to study and play.

Thanks be to God, Debbie was lucky with her life today. The son of one of my colleagues was not so lucky. In a similar incident (as I understand it), many years ago, involving dust spewed by a truck, he was permanently disabled in a car accident.

So, please understand how unified we are as a neighborhood, how much solidarity we share over the problems noted.

May I please add that Kara and I have lived, worked, and traveled in nearly 50 countries. We must say the operation of the quarry, along with its aesthetics (or lack thereof), remind us vividly of some of the unpalatable scenes of Third World countries.

We moved here 10 years ago from Washington, D.C., happy to escape the lifestyle, congestion, noise, and relentlessly political insider-dealing of being inside the Beltway. Never then would we have thought of "Third World" and the East 550 neighborhood in the same breath.

Yet, now we suffer what we suffer. And, we read on the website of the local paper Lawrence ranks dreadfully poorly among comparably sized cities in which to live.

Communities, cities, and indeed countries rise, fall, and rise again, because of a few big decisions, and thousands of little ones, over the course of many years. In that decision making, "managers" make "management" decisions, which means they make decisions in the "right way." But, leaders distinguish themselves: "leadership" is making the "right" decision.

Thank you for your kind attention to this matter.

With all good wishes,

Raj Bhala
Associate Dean for International and Comparative Law Rice Distinguished Professor The
University of Kansas School of Law bhala@ku.edu www.law.ku.edu
<http://ssrn.com/author=679823>

From: sfreidell@gmail.com [sfreidell@gmail.com]
Sent: Tuesday, May 14, 2013 20:28
To: dstephens@douglas-county.com; browning@douglas-county.com; mmiller@lawrenceks.org

Cc: Nicole and Mark Schneider; Larry Puckett; Bhala, Raj; Kara Bhala
Subject: E. 550 Road south of 1600 rd.

Good evening Doug. As you recall I emailed you several weeks ago regarding the condition of 550 road, You were kind enough to go out that day and survey the situation and now have dropped rock twice and applied a partial dust palliative. I previously had requested the County to either request Hamm apply a dust palliative to the entire road or consider paying for dust palliative for the remainder of the road. I noticed you first applied a sand stone application and rolled it in. A week later you applied limestone and then applied the dust palliative.

This morning my wife and I had an appointment and drove two cars so that I could go on to work afterwards. After we pulled out of 1450 Road on to 550 and rounded the s curve a large gravel truck came out of the Hamm Quarry. Going at a high rate of speed he approached the back of my wife's car quickly and then passed her at a high rate of speed. Observing this in my rear view mirror, I could see he buried her in the dust and as such I could see her visibility was completely obscured which caused her to go off into a ditch. Fortunately neither her no her car was damaged, but not knowing if there was another truck behind her, she felt her only option was not to stop but to head for the ditch to keep from potentially being hit from behind. This occurred right after the spot where the dust palliative stopped on 550 road which was what created the huge amount of dust and the dangerous road conditions. Had the dust palliative been applied to the entire road, the dust would still be bad, being passed by the truck, but she could have seen if anyone was behind her and come to a stop safely. Seeing all this occur I stopped my vehicle in the middle of the road and got out and stopped the driver. I asked him not to speed anymore or I would contact the Sheriff's department which I did upon his refusal to slow down and a challenge for me to call law enforcement. (not said in exactly those kind words).

The Sheriffs deputy was very nice and helpful but he admitted with only 4 officers out there he wasn't going to be able to commit to any regular surveillance. While we appreciated your office getting this road back in shape, fully loaded gravel trucks going 50 miles an hour up and down the road will not make much difference with the limited amount of palliative applied. The only solution is monthly applications of fresh rock and dust palliative for the entire road. We have discussed this already and while the Hamm CUP doesn't require it, in the name of public safety the County must apply the remaining portion. A few feet one direction or another and my wife could have been driven into the culvert at 1500 road or rolled her car by being forced into a larger ditch.

I don't think its a matter of if, but when someone will be seriously injured on 550 road. I did speak to Hamm today regarding this situation and he confirmed their CUP is under review for changes. I believe until that change, the County must treat the entire 550 road immediately.

I'm not anti-quarry but I'm truly concerned that someone will get seriously injured as a result of the conditions of this road and the amount of traffic. When that happens, someone is going to come looking for deep pockets with which to take legal action . The County has been told by many people both in your office and the County Planning Commission regarding this situation. Please lets not wait until a serious incident happens again before we take action to prevent this situation from having more disastrous results.

Another tid bit of information, the trucks are many times going past the quarry and have been observed turning around at the KDWP parking lot south of the quarry. They also have torn up 1450 road by pulling into there and backing up sometimes dropping larger rock left in their truck. My point for mentioning this is your dust palliative stops at 300 ft south of the quarry but three homes and a business south of the quarry also experience considerable dust issues. Once again an additional reason to treat the entire road of 550 not a select few homes and the Quarry.

Thank you for you kind assistance in the past and your continued help in the future.

Steve Freidell
521 N 1450 Rd
Lawrence, Kansas 66049
785-550-0774 cell

Mary, I think this story exemplifies the problem we residents are having residing around the Hamm Quarry which I mentioned in my previous letter to you. I've understood that your team has had several meetings with Hamm regarding this situation. It would be nice to perhaps consider a meeting with the citizens in this area to hear their concerns as well as possible solutions they believe are acceptable. Usually, after hearing both sides, your information will make it easier to make the proper recommendations to the County Commissioners. If this is something you might be interested in doing, please contact me and I will help organize a meeting at my house or County offices, whichever you prefer. I would hope to avoid my neighbors feeling like a good old boy network exists in Douglas County which would trump citizens safety and concerns by not having a chance to offer solutions but provide Hamm similar access. Lets all work together to find acceptable solutions so all neighbors benefit.

Thank you for your assistance with this CUP review.

Steve Freidell

Memorandum

City of Lawrence

Planning & Development Services

TO: Board of County Commissioners

CC: Craig Weinaug

FROM: Mary Miller, City/County Planner

Date: For June 19, 2013 meeting

RE: Annual review of Hamm/Buchheim Quarry

Attachments

- Quarry production spreadsheet
- NPDES Permit

The staff memo with the Compliance Report noted that there were 3 items that had not yet been resolved. This memo is an update on those items.

One was the maintenance agreement for the road. The draft agreement was included in your packet. The quarry operator indicated that this agreement is acceptable. The agreement will be executed and recorded with the Register of Deeds. Public Works staff will be available at the meeting to provide additional information on the terms of the agreement.

Another was the NPDES Permit. The quarry operator provided a copy of the permit, attached.

The third item was the condition of the entrance on E 550 Road. The operator was informed of the needed repairs in early June and indicated that they would be able to complete the repairs within a month. Staff will provide the Commission with an update in a month (mid-July) on these repairs.

The quarry operator provided additional information regarding the timeframe for the quarry operations to clarify the first item under the 'Operation Plan' section of the report (below):

Condition	Staff discussion
Crushing will be done by portable equipment over a period of 90 days and then removed until the reserve supply has been diminished. (page 5, EIS)	Portable equipment was on site. It will be removed when quarrying is complete until the reserve supply has been diminished. Quarrying has not occurred for 90 days at this point.

The operator indicated that the rock crushing plant was moved off-site in mid May and provided a spreadsheet showing the quarry's operation schedule, attached. The operator indicated that the only operations on the site at this time are retail sales.

Action requested.

No action is required on this item. It is staff's opinion, based on the annual review, that the quarry is in compliance with the conditions of the CUP.

As a written agreement was not required in the original conditions the lack of a written agreement is not seen as a compliance issue; however, the written agreement will note the specific maintenance provisions which are required. Future annual reviews will include a review of the provisions of the maintenance agreement.

Maintenance of the entrance drive is an ongoing condition. When maintenance issues are identified, the quarry operator will be provided time to make repairs. The Commission will be provided an update in a month, mid-July, on the status of the repairs.

Mary Miller

From: Ramon Gonzalez [rgonzalez@nrhamm.com]
Sent: Monday, June 17, 2013 5:34 PM
To: Mary Miller; John Strome
Subject: RE: annual review of the Hamm/Buchheim Quarry
Attachments: Buchheim Production 12-13.xlsx

Mary,

The crusher is no longer in the Buchheim Quarry. It was moved out in the middle of May. There were 77 days in which the quarry was in production. I have attached a spreadsheet showing days when crushing occurred.

Ramon Gonzalez

Aggregate Sales Manager

Hamm, Inc. • 609 Perry Place • P.O. Box 17 • Perry, KS 66073

(p) 785.597.5111 x222 • (f) 785.597.9914

rgonzalez@nrhamm.com • www.nrhamm.com



OCTOBER	1	MON	
	2	TUE	
	3	WED	
	4	THU	
	5	FRI	
	6	SAT	
	7	SUN	
	8	MON	
	9	TUE	
	10	WED	
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	12	FRI	
	13	SAT	
	14	SUN	
	15	MON	
	16	TUE	
	17	WED	
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	20	SAT	
	21	SUN	
	22	MON	
	23	TUE	
	24	WED	
	25	THU	
	26	FRI	
	27	SAT	
	28	SUN	
	29	MON	
	30	TUE	
	31	WED	
NOVEMBER	1	THU	
	2	FRI	
	3	SAT	
	4	SUN	
	5	MON	
	6	TUE	
	7	WED	
	8	THU	
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DECEMBER	1	SAT	
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MARCH	1	FRI	
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APRIL	1	MON	
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	27	SAT	
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	29	MON	
	30	TUE	
MAY	1	WED	
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	3	FRI	
	4	SAT	
	5	SUN	

Kansas Permit No.: I-KS31-PO10

Federal Permit No.: KS0081213

KANSAS WATER POLLUTION CONTROL PERMIT AND
AUTHORIZATION TO DISCHARGE UNDER
THE NATIONAL POLLUTANT DISCHARGE
ELIMINATION SYSTEM

Pursuant to the Provisions of Kansas Statutes Annotated 65-164 and 65-165, the Federal Water Pollution Control Act as amended, (33 U.S.C. 1251 et seq; the "Act"),

Owner: N.R. Hamm Quarry Inc.

Owner's Address: P.O. Box 17
Perry, Kansas 66073

Facility Name: Buchheim Quarry #69

Facility Location: NW¼ of Section 3, Township 13S, Range 18E of Douglas
County, Kansas

Feature Name	Latitude	Longitude
Outfall 001	38.95101	-95.40403

Receiving Stream & Basin: Kansas River via Clinton Lake and Wakarusa River via
Coon Creek
Kansas River Basin

is authorized to discharge from the waste treatment facility described herein, in accordance with effluent limitations and monitoring requirements as set forth herein.

This permit is effective April 1, 2013, supercedes the previously issued water pollution control permit I-KS31-PO10 and expires March 31, 2018.

FACILITY DESCRIPTION:

This is a limestone quarrying and crushing operation with no washing. However, Outfall 001 consists of stormwater runoff and quarry pit water.



Secretary, Kansas Department of Health and Environment

March 20, 2013
Date

3-26-13 on server - copy to Q69

A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

The permittee is authorized to discharge from outfall(s) with serial number(s), as specified in this permit.

001 - Pit Drainage and Stormwater Runoff

The permittee is authorized to discharge from the above named outfall(s), in accordance with the conditions as specified herein. The discharge shall not cause a violation of Kansas Surface Water Quality Standards, K.A.R. 28-16-28b through 28-16-28e, including the following:

- a. Oil or grease in concentrations which cause any visible film or sheen to form upon the surface of the receiving water;
- b. Oil or grease which causes a sludge or emulsion to be deposited beneath the surface of the receiving water, upon submerged substrate, or upon adjoining shorelines;
- c. Turbidity or color producing substances causing any change in the natural appearance of the stream or water body;
- d. Substances in the wastewater which cause objectionable odors in the vicinity of the receiving water;
- e. Floating debris, scum, foam, froth, or other floating material in other than trace amounts or
- f. Materials which create deposits of sludge or fine solids causing aesthetic or environmental concerns downstream of the outfall.

The permittee shall, at a minimum, visually inspect the outfall(s) and receiving stream(s) in May and September to ensure compliance with the above Water Quality Standards. The permittee shall maintain a log documenting the results of any visual inspections performed and shall provide the log to KDHE staff for review upon request.

Any violation of the above general Water Quality Standards shall be reported within 24 hours of discovery, to either the Kansas Department of Health and Environment, Division of Environment at (785) 296-5517 or the appropriate KDHE District Office followed by a letter, within 5 days of discovery, explaining the cause of the water quality violation, the actions taken to correct the violation, and actions taken to prevent recurrence.

B. STANDARD CONDITIONS

In addition to the specified conditions stated herein, the permittee shall comply with the attached Standard Conditions dated August 1, 2010.

C. SCHEDULE OF COMPLIANCE

None

D. SUPPLEMENTAL CONDITIONS

1. This permit shall be modified, or alternatively, revoked and reissued, to comply with any applicable effluent standard or limitation issued or approved under Sections 301 (b)(2), (C), and (D), 304 (b)(2), and 307 (a)(2) of the Clean Water Act, if the effluent standard or limitation so issued or approved:

- a. Contains different conditions or is otherwise more stringent than any effluent limitation in the permit, or
- b. Controls any pollutant not limited in the permit.

The permit as modified or reissued under this paragraph shall also contain any other requirements of the Act then applicable.

2. Changes in Discharges of Toxic Substances

The permittee shall notify the Director as soon as it knows or has reason to believe:

a. That any activity has occurred or will occur which would result in the discharge, on a routine or frequent basis, of any toxic pollutant which is not limited in the permit, if that discharge will exceed the highest of the following "notification levels":

- (1) One hundred micrograms per liter (100 µg/l);
- (2) Two hundred micrograms per liter (200 µg/l) for acrolein and acrylonitrile; five hundred micrograms per liter (500 µg/l) for 2,4-dinitrophenol and for 2-methyl-4, 6-dinitrophenol; and one milligram per liter (1 mg/l) for antimony;
- (3) Five (5) times the maximum concentration value reported for that pollutant in the permit application.

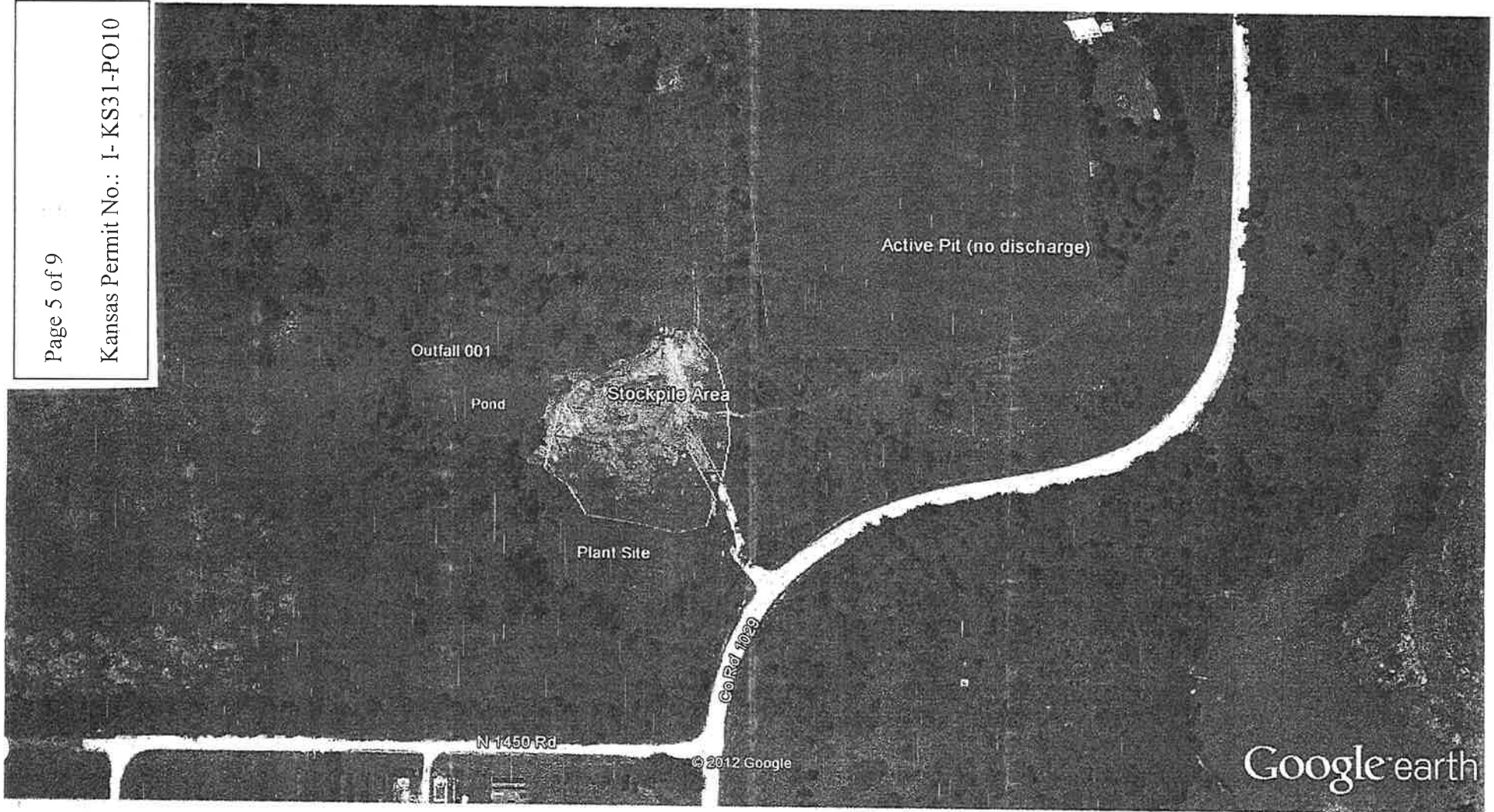
b. That any activity has occurred or will occur which result in any discharge, on a non-routine or infrequent basis, of a toxic pollutant which is not limited in the permit if that discharge will exceed the highest of the following notification levels".

- (1) Five hundred micrograms per liter (500 µg/l);
- (2) One milligram per liter (1 mg/l) for antimony;
- (3) Ten (10) times the maximum concentration value reported for that pollutant in the permit application.

3. In the event the Environmental Protection Agency amends or promulgates the BPT, BAT, and/or BCT effluent guideline limitations for a specific Point Source Category or any of the subcategories covering your industry, this permit will be revoked and reissued to incorporate the new limitation(s).

D. SUPPLEMENTAL CONDITIONS - Continued

4. This permit is issued specifically for operations, described in the FACILITY DESCRIPTION, on page 1 of this permit. Any other activities conducted at the site, such as rock washing, asphalt production or Construction/Demolition (C/D) landfill use, is not permitted and will need approval and permit modifications, prior to operation or use.
5. The permittee shall develop and implement procedures to minimize the discharge of silt from this site. Procedures shall provide for, but not be limited to, methods to minimize erosion of stockpiles on-site and minimize the amount of solids in the water discharged from the clay pit. The written procedures shall be available for KDHE staff review, upon request.
5. Industrial Stormwater Discharges: This permit also authorizes the discharge of industrial stormwater as defined in 40 CFR part 122.26 (b)(14), in accordance with Kansas Water Quality Standards (KAR 28-16-28), the requirements of this permit, and in accordance with an Industrial stormwater pollution prevention plan. If expansion or changes to the facility are planned which involves construction activities such as the removal of overburden, the development of roads, the creation of overburden piles, etc., the permittee shall amend and implement the Industrial SWP2 Plan to control sediment and other pollutants from the expansion activities prior to construction. Upon completion of expansion activities the permittee shall amend and implement the Industrial SWP2 Plan to address the changes to the quarry within 90 days of the expansion. The permittee shall keep a copy of the most current SWP2 Plan either on-site or at a local office and this plan shall be submitted to the KDHE, Bureau of Water when revised and shall be provided to the KDHE District Office staff, upon request.
7. The permittee shall implement the SWP2 Plan dated *August 28, 2012* or a more recent, revised plan submitted to KDHE. This plan shall be re-evaluated and modified in a timely manner, but in no case more than 90 days after (1) a change in the design, construction, operation or maintenance of the facility that would have a significant effect on the potential for discharge of pollutants from the facility's outfalls; (2) deficiencies are found in the SWP2 Plan or any BMPs, discovered during the site compliance evaluation or during other on-site inspections conducted by KDHE; (3) a visual inspection of the site indicates the plan appears to be ineffective in eliminating or significantly minimizing pollutants from sources identified in the SWP2 Plan; (4) an outfall is either added or eliminated. The permittee shall keep a copy of the most current SWP2 Plan either on-site or at a local office and this plan shall be submitted to the KDHE, Bureau of Water when revised and shall be provided to the KDHE District Office staff, upon request.



Google Earth Pro

feet
meters



N.R. Hamm Quarry, Inc.

Permit # I-KS31-PO10

Buchheim Quarry #69

STANDARD CONDITIONS FOR
KANSAS WATER POLLUTION CONTROL AND
NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMITS

Representative Sampling and Discharge Monitoring Report Submittals:

- A. Samples and measurements taken as required herein shall be representative of the quality and quantity of the monitored discharge. Test results shall be recorded for the day the samples were taken. If sampling for a parameter was conducted across more than one calendar day, the test results may be recorded for the day sampling was started or ended. All samples shall be taken at the locations designated in this permit, and unless specified, at the outfall/monitoring location(s) before the wastewater joins or is diluted by any other water or substance.
- B. Monitoring results shall be recorded and reported on forms acceptable to the Division and postmarked no later than the 28th day of the month following the completed reporting period. Signed and certified copies of these, prepared in accordance with KAR 28-16-59, and all other reports required herein, may be faxed to 785.296.0086, e-mailed as scanned attachments to dmr4kdhe@kdheks.gov, or sent by U.S. mail to:

Kansas Department of Health & Environment
Bureau of Water-Technical Services Section
1000 SW Jackson Street, Suite 420
Topeka, KS 66612-1367

2. Definitions:

- A. Unless otherwise specifically defined in this permit, the following definitions apply:
 - 1. The "Daily Maximum" is the total discharge by weight or average concentration, measurement taken, or value calculated during a 24-hour period. The parameter, pH, is limited as a range between and including the values shown.
 - 2. The "Weekly Average" is the arithmetic mean of the value of test results from samples collected, measurements taken or values calculated during four monitoring periods in each month consisting of calendar days 1-7, 8-14, 15-21 and 22 through the end of the month.
 - 3. The "Monthly Average", other than for E. coli bacteria, is the arithmetic mean of the value of test results from samples collected, measurements taken or values calculated during a calendar month. The monthly average is determined by the summation of all calculated values or measured test results divided by the number of calculated values or test results reported for that parameter during the calendar month. The monthly average for E. coli bacteria is the geometric average of the value of the test results from samples collected in a calendar month. The geometric average can be calculated by using a scientific calculator to multiply all the E. coli test results together and then taking the nth root of the product where n is the number of test results. Non-detect values shall be reported using the less than symbol (<) and the minimum detection or reportable value. To calculate average values, non-detects shall be defaulted to zero (or one for geometric averages). Greater than values shall be reported using the greater than symbol (>) and the reported value. To calculate average values, the greater than reported value shall be used in the averaging calculation.
- B. A "grab sample" is an individual sample collected in less than 15 minutes. A "composite sample" is a combination of individual samples in which the volume of each individual sample is proportional to the flow, or the sample frequency is proportioned to the flow rate over the sample period, or the sample frequency is proportional to time.
- C. The terms "Director", "Division", and "Department" refer to the Director, Division of Environment, Kansas Department of Health and Environment, respectively.
- D. "Severe property damage" means substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of an in-plant diversion. Severe property damage does not mean economic loss caused by delays in production.
- E. "Bypass" means the intentional diversion of waste streams from any portion of the treatment facility.

3. **Schedule of Compliance:** No later than 14 calendar days following each date identified in the "Schedule of Compliance," the permittee shall submit via mail, e-mail or fax per paragraph 1.B above, either a report of progress or, in the case of specific action being required by identified dates, a written notice of compliance or noncompliance. In the latter case, the notice shall include the cause of noncompliance, any remedial actions taken, and the probability of meeting the next scheduled requirements, or, if there are no more scheduled requirements, when such noncompliance will be corrected.
4. **Test Procedures:** All analyses required by this permit shall conform to the requirements of 40 CFR Part 136, unless otherwise specified, and shall be conducted in a laboratory accredited by the Department. For each measurement or sample, the permittee shall record the exact place, date, and time of measuring/sampling; the date and time of the analyses, the analytical techniques or methods used, minimum detection or reportable level, and the individual(s) who performed the measuring/sampling and analysis and, the results. If the permittee monitors any pollutant at the location(s) designated herein more frequently than required by this permit, using approved procedures, the results shall be included in the Discharge Monitoring Report form required in 1.B. above. Such increased frequencies shall also be indicated.
5. **Change in Discharge:** All discharges authorized herein shall be consistent with the permit requirements. The discharge of any pollutant not authorized by this permit or of any pollutant identified in this permit more frequently than or at a level in excess of that authorized shall constitute a violation of this permit. Any anticipated facility expansions, production or flow increases, or production or wastewater treatment system modifications which result in a new, different, or increased discharge of pollutants shall be reported to the Division at least one hundred eighty (180) days before such change.
6. **Facilities Operation:** The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the permittee to achieve compliance with the requirements of this permit and Kansas and Federal law. Proper operation and maintenance also include adequate laboratory controls and appropriate quality assurance procedures. This provision requires the operation of back-up or auxiliary facilities or similar systems which are installed by a permittee only when the operation is necessary to achieve compliance with the requirements of this permit. The permittee shall take all necessary steps to minimize or prevent any adverse impact to human health or the environment resulting from noncompliance with any effluent limits specified in this permit, including such accelerated or additional monitoring as necessary to determine the nature and impact of the non-complying discharge. When necessary to maintain compliance with the permit requirements, the permittee shall halt or reduce those activities under its control which generate wastewater routed to this facility.
7. **Incidents:**

"Collection System Diversion" means the diversion of wastewater from any portion of the collection system.

"In-Plant Diversion" means routing the wastewater around any treatment unit in the treatment facility though which it would normally flow.

"In-Plant Flow Through" means an incident in which the wastewater continues to be routed through the equipment even though full treatment is not being accomplished because of equipment failure for any reason.

"Spill" means any discharge of wastewater, sludge or other materials from the treatment facility other than effluent or as more specifically described by other "Incidents" terms.

"Upset" means an exceptional incident in which there is unintentional and temporary noncompliance or anticipated noncompliance with permit effluent limits because of factors beyond the reasonable control of the permittee, as described by 40 C.F.R. 122.41(n).
8. **Diversions not Exceeding Limits:** The permittee may allow any diversion to occur which does not cause effluent limits to be exceeded, but only if it also is for essential maintenance to assure efficient operation. Such diversions are not subject to the Incident Reporting requirements shown below.
9. **Prohibition of an In-Plant Diversion:** Any in-plant diversion from facilities necessary to maintain compliance with this permit is prohibited, except: (a) where the in-plant diversion was unavoidable to prevent loss of life, personal injury, or severe property damage; (b) where there were no feasible alternatives to the in-plant diversion, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime and (c) the permittee submitted a notice as required in the Incident Reporting paragraph below. The Director may approve an anticipated in-plant diversion, after considering its adverse effects, if the Director determines that it will meet the three conditions listed above.

10. Incident Reporting: The permittee shall report any unanticipated collection system diversion, in-plant diversion, in-plant flow through occurrences, spill, upset or any violation of a permitted daily maximum limit within 24 hours from the time the permittee became aware of the incident. A written submission shall be provided within 5 days of the time the permittee became aware of the incident. The written submission shall contain a description of the noncompliance and its cause, the period of noncompliance, including exact dates and times; and if the noncompliance has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent recurrence of the noncompliance. An Incident Report form is available at www.kdheks.gov/water/tech.html.

For an anticipated incident or any planned changes or activities in the permitted facility that may result in noncompliance with the permit requirements, the permittee shall submit written notice, if possible, at least ten days before the date of the event.

For other noncompliance, the above information shall be provided with the next Discharge Monitoring Report.

11. Removed Substances: Solids, sludges, filter backwash, or other pollutants removed in the course of treatment of water shall be utilized or disposed of in a manner acceptable to the Division.
12. Power Failures: The permittee shall provide an alternative power source sufficient to operate the wastewater control facilities or otherwise control pollution and all discharges upon the loss of the primary source of power to the wastewater control facilities.
13. Right of Entry: The permittee shall allow authorized representatives of the Division of Environment or the Environmental Protection Agency upon the presentation of credentials, to enter upon the permittee's premises where an effluent source is located, or in which are located any records required by this permit, and at reasonable times, to have access to and copy any records required by this permit, to inspect any facilities, monitoring equipment or monitoring method required in this permit, and to sample any influents to, discharges from or materials in the wastewater facilities.
14. Transfer of Ownership: The permittee shall notify the succeeding owner or controlling person of the existence of this permit by certified letter, a copy of which shall be forwarded to the Division. The succeeding owner shall secure a new permit. This permit is not transferable to any person except after notice and approval by the Director. The Director may require modification or revocation and reissuance of the permit to change the name of the permittee and incorporate such other requirements as may be necessary.
15. Records Retention: Unless otherwise specified, all records and information resulting from the monitoring activities required by this permit, including all records of analyses and calibration and maintenance of instruments and recordings from continuous monitoring instruments, shall be retained for a minimum of 3 years, or longer if requested by the Division. Biosolids/sludge records and information are required to be kept for a minimum of 5 years, or longer if requested by the Division. Groundwater monitoring data, including background samples results, shall be kept for the life of the facility regardless of ownership.
16. Availability of Records: Except for data determined to be confidential under 33 USC Section 1318, all reports prepared in accordance with the terms of this permit shall be available for public inspection at the offices of the Department. Effluent data shall not be considered confidential. Knowingly making any false statement on any such report or tampering with equipment to falsify data may result in the imposition of criminal penalties as provided for in 33 USC Section 1319 and KSA 65-170c.
17. Permit Modifications and Terminations: As provided by KAR 28-16-62, after notice and opportunity for a hearing, this permit may be modified, suspended or revoked or terminated in whole or in part during its term for cause as provided, but not limited to those set forth in KAR 28-16-62 and KAR 28-16-28b through g. The permittee shall furnish to the Director, within a reasonable amount of time, any information which the Director may request to determine whether cause exists for modifying, revoking and reissuing, or terminating this permit or to determine compliance with this permit. The permittee shall also furnish upon request, copies of all records required to be kept by this permit. The filing of a request by the permittee for a permit modification, revocation and reissuance, or termination, or a notification of planned changes or anticipated noncompliance does not stay any permit condition.

18. Toxic Pollutants: Notwithstanding paragraph 17 above, if a toxic effluent standard or prohibition (including any schedule of compliance specified at such effluent standards) is established under 33 USC Section 1317(a) for a toxic pollutant which is present in the discharge and such standard or prohibition is more stringent than any limitation for such pollutant in this permit, this permit shall be revised or modified in accordance with the toxic effluent standard or prohibition. Nothing in this permit relieves the permittee from complying with federal toxic effluent standards as promulgated pursuant to 33 USC Section 1317.
19. Administrative, Civil and Criminal Liability: The permittee shall comply with all requirements of this permit. Except as authorized in paragraph 9 above, nothing in this permit shall be construed to relieve the permittee from administrative, civil or criminal penalties for noncompliance as provided for in KSA 65-161 et seq., and 33 USC Section 1319.
20. Oil and Hazardous Substance Liability: Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the permittee from any responsibilities, liabilities or penalties to which the permittee is or may be subject to under 33 USC Section 1321 or KSA 65-164 et seq. A municipal permittee shall promptly notify the Division by telephone upon discovering crude oil or any petroleum derivative in its sewer system or wastewater treatment facilities.
21. Industrial Users: A municipal permittee shall require any industrial user of the treatment works to comply with 33 USC Section 1317, 1318 and any industrial user of storm sewers to comply with 33 USC Section 1308.
22. Property Rights: The issuance of this permit does not convey any property rights in either real or personal property, or any exclusive privileges, nor does it authorize any injury to private property or any invasion of personal rights nor any infringements of or violation of federal, state or local laws or regulations.
23. Operator Certification: The permittee shall, if required, ensure the wastewater facilities are under the supervision of an operator certified by the Department. If the permittee does not have a certified operator or loses its certified operator, appropriate steps shall be taken to obtain a certified operator as required by KAR 28-16-30 et seq.
24. Severability: The provisions of this permit are severable. If any provision of this permit or any circumstance is held invalid, the application of such provision to other circumstances and the remainder of the permit shall not be affected thereby.

Removal from Service: The permittee shall inform the Division at least three months before a pumping station, treatment unit, or any other part of the treatment facility permitted by this permit is to be removed from service and shall make arrangements acceptable to the Division to decommission the facility or part of the facility being removed from service such that the public health and waters of the state are protected.
26. Duty to Reapply: A permit holder wishing to continue any activity regulated by this permit after the expiration date, must apply for a new permit at least 180 days prior to expiration of the permit.



DOUGLAS COUNTY PUBLIC WORKS

1242 Massachusetts Street
Lawrence, KS 66044-3350
(785) 832-5293 Fax (785) 841-0943
dgcopubw@douglas-county.com
www.douglas-county.com

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

Date : June 13, 2013

Re : Road maintenance agreement associated with Hamm Quarry CUP
Hamm's Bucheim Quarry in NW ¼, Sec 3, T 13 S, R 18 E
Route 1029 from quarry entrance to Route 442

The CUP issued in 1977 (CUP-11-5-76) for Hamm's Bucheim quarry contains a provision that N.R. Hamm Quarry, Inc. and Douglas County enter into a road maintenance agreement for the portion of Route 1029 regularly used by quarry traffic, i.e. Route 1029 from the quarry entrance north to Route 442. This department has been in discussions with Hamm to develop terms of the maintenance agreement.

The basic terms included in the attached agreement are agreeable to this department and Hamm, however, at the time of this writing, Hamm has not completed a full review of the agreement's language. Under terms of the agreement, Hamm provides (1) dust control, and (2) road rock donation for the affected portion of Route 1029.

Dust Control: Under terms of the attached agreement, Hamm is obligated to annually provide at least one treatment (two applications) of dust palliative the full length of Route 1029 from the quarry entrance to Route 442. This treatment could be through Douglas County's user-fee dust palliative program, or Hamm could provide and apply the dust palliative material with Douglas County oversight and approval. Hamm has agreed to treat the full length of Route 1029 between their entrance and Route 442. The original CUP provision required only treating "300 feet in either direction in front of any home" along the affected portion of Route 1029. The agreement also stipulates Hamm and Douglas County will work together in good faith to provide additional dust control if, in the County's opinion, in any particular year the dust palliative is no longer effective.

Road Rock: Under terms of the agreement, Hamm is obligated to provide up to 250 tons of free road rock to Douglas County for each 20,000 tons of rock sold by the quarry. This number was derived by our estimating we will need 400 tons of road rock per year per mile to maintain the affected portion of Route 1029 assuming Hamm was selling 50,000 tons of rock per year. The distance between the Hamm quarry entrance and Route 442 is approximately 1.55 miles. This amount of rock is the upper limit of free rock provided to Douglas County, and the rock can only be used in maintenance operations on the affected portion of Route 1029.

Hamm's Conditional Use Permit No. CUP-11-5-76 includes the following language in Condition #3: *"Maintenance costs of this road shall, during period of quarry operation, be the responsibility of N.R. Hamm Quarry, Inc. for the duration of the Conditional Use Permit and said road shall be maintained in such manner as to prevent damage to vehicles utilizing the road and to prevent, to the extent practical, the occurrence of unsafe driving conditions that might result from the condition of the roads."* The attached agreement was drafted with the idea that Hamm meets this condition by providing free road rock for Douglas County forces to maintain the road and by providing, or paying for, dust palliative for the full road length. We do not want Hamm personnel maintaining the road, rather we feel this department's personnel should maintain the road. The agreement does not include other road maintenance activities such as mowing, noxious weeds control, snow & ice removal, signs, culverts, etc. Our judgment is that the intent of Condition #3 is to keep the rock surfacing in good, safe condition.

The agreement stipulates the Road Maintenance Agreement will be reviewed annually at the request of either party. This mirrors the CUP provision that the CUP is reviewed annually.

At the time of this writing, Hamm has not approved the specific language of the agreement. If the agreement language is changed, an updated version will be emailed to commissioners prior to the July 17 meeting. If revisions are requested by Hamm, and a final version of the agreement is not available sufficiently in advance of the July 17 meeting, we will place the final version on a future meeting's agenda for BOCC consideration.

Action Required: Consider approval of, and, if appropriate, authorize BOCC Chair to sign a Road Maintenance Agreement with Hamm, Inc. for maintenance of that portion of Route 1029 between Hamm's Bucheim quarry entrance and Route 442.

ROAD MAINTENANCE AGREEMENT

THIS ROAD MAINTENANCE AGREEMENT (“Agreement”) is made and entered into this ____ day of _____, 2013, by and between DOUGLAS COUNTY, KANSAS (the “County”) by and through the BOARD OF COUNTY COMMISSIONERS OF DOUGLAS COUNTY, KANSAS (the “Board”) and Hamm, Inc. (“Hamm”), a Kansas corporation with its principal offices located in Perry, Kansas.

WHEREAS, Hamm is the owner and/or lessee of certain real property located in Douglas County, Kansas, on which Hamm conducts quarrying operations, (the “Subject Property”); and

WHEREAS, Hamm conducts the quarrying and related operations (the “Quarry”) on the Subject Property pursuant to a Conditional Use Permit No. 11-5-76 (the “CUP”) that the Board issued pursuant to the County Zoning Regulations; and

WHEREAS, Hamm conducts and intends to continue to operate the Quarry in the future on the Subject Property; and

WHEREAS, in connection with its Quarry, trucks containing rock, gravel and other construction aggregates (all of such material, hereinafter, “Rock”) travel from the Subject Property and across and along the public road designated Route 1029, a.k.a. E 550 Road (the “Haul Road”); and

WHEREAS, the CUP requires that Hamm and the Board enter into a road maintenance agreement by which Hamm agrees to pay certain road maintenance costs which have an essential nexus to the offsite impacts of the Quarry; and

WHEREAS, Rock is continually being hauled from the Subject Property and the effectiveness of this Agreement includes the obligation of Hamm to pay the County for all Rock hauled as of January 1, 2013, as hereinafter provided.

NOW THEREFORE, in consideration of the above recitals, and the mutual benefit and promises, covenants, agreements, understandings and undertakings hereinafter set forth; the County and Hamm agree as follows:

1. Dust Control

- a. Hamm agrees to be responsible for the full cost of applying dust palliative to the portions of the Haul Road, as follows: from the south side of the Quarry entrance to the intersection of the Haul Road with Route 442. Dust palliative will be provided each year Quarry is active with a minimum of one full treatment applied in two applications. If providing dust control by utilizing County’s user-fee dust palliative program, such payment shall be made by

May 1 of each year. If Hamm applies dust palliative material separate from County's user-fee dust palliative program, Hamm will provide County at least 30-days advance notice of application date to allow for road preparation.

- b. County must approve dust palliative material and oversee and approve its application.
- c. If due to traffic, weather, or other conditions, the dust palliative treatment is no longer effective, in County's judgment, Hamm and County will provide appropriate additional dust control measures on the Haul Road, as the County determines in good faith.
- d. Upon the execution of this Agreement, and in consideration for this mutual benefit of this agreement, Hamm hereby agrees to pay the County, and the County agrees to accept, a check from Hamm in the amount required to complete one full dust palliative treatment (two applications) of the Haul Road in 2013.

2. Rock Donation

Hamm agrees to donate road rock to the County at the rate of up to two hundred and fifty (250) tons of road rock per twenty thousand (20,000) tons of Rock hauled by truck from the Subject Property, retroactive to January 1, 2013, as the County requires for maintaining the Haul Road (the "Rock Donation"). For example, if 30,000 tons of Rock is hauled from the Subject Property, Hamm will donate $(250 \text{ tons}) \times (30,000/20,000) = 375$ tons of road rock. The monthly haulage shall be tallied from the monthly statements, and Hamm shall provide the County with an account for the amount of road rock calculated as stipulated above, all at no additional charge. The amount of road rock to be donated and available to the County at any given time shall be limited to an amount consistent with only the most recent twelve (12) months of Rock hauled by truck from the Subject Property, and less any road rock the County has used during that time frame. The Rock Donation shall be arranged and accessible upon the County's request to Hamm.

3. Use of Dust Control Payments and Rock Donation

Any application of dust palliative or payment to the County in lieu thereof and Rock Donation (collectively, "Payments") are not paid as a severance tax. The County and Hamm agree that the Payments are for the sole purpose of maintaining the Haul Road, and for no other purpose, and shall be used solely for maintenance costs which have an essential nexus to the offsite impacts of the Quarry.

4. Term and Operational Review

The term of this Agreement shall be directly related to the term of Hamm's Conditional Use Permit of the Subject Property issued by the County. The parties hereby agree to meet at the request of either party, each year from the date of this Agreement, to discuss the operation of the Road Maintenance Agreement. Notwithstanding the foregoing, however, Hamm and the County acknowledge that this Agreement is intended to satisfy road maintenance requirements that the Board requires in terms and conditions of the CUP. If the County subsequently determines that the Payments are insufficient to satisfy Hamm's road maintenance and dust palliative obligations under the CUP, the County and Hamm can renegotiate the Agreement, in good faith, or, upon failure of renegotiations, County can withdraw from this Agreement and demand compliance with the terms and conditions of the CUP.

5. Cooperation

- a. Hamm and the County shall cooperate with each other, deal with each other in good faith, and assist each other in the performance of the provisions of this Agreement.
 - b. In the event any legal action is submitted by a third party to another governmental entity or official challenging the validity of any provision of this Agreement, the parties hereby agree to cooperate in defending said action. Hamm shall be entitled, subject to court approval, to join or intervene in any such action on its own behalf. In the event of any litigation as herein provided, the County and Hamm shall each bear its own attorney fees and costs.
6. Hamm shall have the right to sell, transfer or assign the Subject Property, in whole or in part, to any person, partnership, joint venture, firm or corporation at any time during the term of this Agreement; provided, however, that the sale is made in accordance with and subject to the terms and conditions of the CUP. In connections with the sale, transfer or assignment of the Subject Property, Hamm shall have the right, at its sole option, to assign the Agreement; provided, however, that the purchaser, assignee or transferee shall execute an agreement with the County under which such purchaser, transferee or assignee agrees to assume all of the obligations of Hamm under this Agreement. Upon the sale, transfer or assignment of the Subject Property, Hamm shall have no further obligations or liability under this Agreement.
7. Hamm shall have the right to record this Agreement or a memorandum hereof.
8. Hamm Quarry shall have the right to use the Haul Roads for all transportation, egress, ingress, and similar purpose in connection with its operation of the Quarry, for so long as this Agreement remains in full force and effect.

9. All notice, demands and correspondence required or permitted by this Agreement shall be in writing and personally delivered to or sent by overnight mail, postage prepaid, addressed as follows:

If to the County, to:

Douglas County Engineer
Douglas County Public Works
1242 Massachusetts Street
Lawrence, Kansas 66044

If to Hamm, to:

Gary Hamm
Hamm, Inc.
609 Perry Place
P.O. Box 17
Perry, Kansas 66073

A party may change its address by giving notice in writing to the other party in the same manner as provided herein for notices. Thereafter, notices, demands and correspondence shall be addressed and transmitted to the new address. Notice shall be deemed given upon personal delivery or, if mailed, one (1) business day following deposit with the overnight mail carrier.

10. This Agreement constitutes the entire understanding and agreement of the parties with respect to the matters set forth in this Agreement. This Agreement supersedes all negotiation or previous agreements related to the matters addressed in this Agreement and between the parties respecting this Agreement.
11. This Agreement may be amended from time to time or canceled only by the mutual written agreement of the parties. This Agreement supersedes all negotiations and previous agreements between the parties respecting the subject matter of this Agreement.
12. It is specifically understood by the parties that; (a) the use and operation of the Subject Property is a private development; (b) except with respect to enforcing the terms and conditions of the CUP, zoning regulations, and other governmental functions, the County has no interest in or responsibilities for or duty to third parties concerning the use of the Subject Property; and (c) no partnership, joint venture or other association is formed by this Agreement, and Hamm is not an agent of the County.

- 13. Upon termination of this Agreement, no party shall have any further right or obligation hereunder except with respect to any obligation to have been performed prior to such termination or with respect to any default in their performances of the provisions of this Agreement, which has occurred prior to such termination.
- 14. This Agreement is made and entered into for the sole protection and benefit of the parties hereto and their successors and assigns. No other person shall have any right of action based upon any provisions of this Agreement.
- 15. This Agreement shall be governed by and construed in accordance with the laws of the State of Kansas.
- 16. Invalidation of any of the provisions contained in this Agreement, or of the application thereof to any person, by judgment or court order, shall in no way affect any of the other provisions hereof or the application thereof to any other person or circumstance, and the same shall remain in full force and effect, unless enforcement of this Agreement, as so invalidated, would be unreasonable or inequitable under all the circumstances or would frustrate the purposes of this Agreement and/or the rights and obligations of the parties hereto.

IN WITNESS WHEREOF, the parties have each executed this Agreement on the date first above written.

BOARD OF COUNTY COMMISSIONERS
ON BEHALF OF COUNTY

HAMM, INC.

By: Mike Gaughan, Chair

By:

ATTEST:

Date:
County Clerk