

**LINCOLN COUNTY ZONING BOARD OF ADJUSTMENT**

**Thursday, October 26, 2023 at 8:30am**

**Meeting Location: Lincoln County Service Center, 801 N. Sales St, Room #247, Merrill, WI 54452**

Via Teleconference and In-Person Attendance

**Electronic Attendance Available:** Persons wishing to attend the meeting electronically may enter the meeting beginning ten minutes prior to the start time indicated above using the following number or web address:

Conference Call: 1 413-998-6178

Access Code: 474 899 921#

Meeting ID: meet.google.com/gbp-owoc-owt

The teleconference cannot start until the host dials in and enters the host password. In the event there is an unforeseen technical difficulty that prevents all or a part of the meeting from being available electronically, the meeting will continue in person and those wishing to attend can appear in person at the location indicated in this agenda.

**MEETING AGENDA**

*Action where applicable and necessary*

1. Call Meeting to Order
2. Roll Call
3. Adopt Agenda
4. October 12, 2023 BOA Meeting Minutes

**OLD BUSINESS**

none

**NEW BUSINESS**

5. 9:00am Public Hearing – Testimony will be taken on the appeal hearings as noticed (see public hearing notice). Following each hearing for a variance there will be Discussion, Deliberations, Findings of Fact, conclusions and Determinations.
  - a) An appeal by Skanawan Property Owners Association, U.A. for an Appeal of Administrative Decision of the Land Services Committee which approved a Conditional Use Permit (CUP-96-1075) for Milestone Materials a division of Mathy Construction Co. regarding an expansion of a non-metallic mineral (NMM) extraction use (sand and gravel pit).
  - b) A request for variance by MNM Income Trust from Lincoln County Shoreland section 21.07(6)(2)(b) to allow for the building of a new boathouse exceeding maximum size allowances and from section 21.07(6)(2)(d) to allow for the building of a new boathouse outside of the allowable view and access corridor.

**ANNOUNCEMENTS**

6. Next meeting date and time
7. Adjourn

NOTE: Public Hearings published numerically are itemized in agenda alphabetically in the same order.

**DISTRIBUTION:**

Zoning Board of Adjustment Members – Kim Brixius, Curtis Powell, & Phillip Rausch  
Zoning Board of Adjustment Alternates – Jim Beaumont & vacant  
County Board Supervisors  
Administrative Coordinator  
Department Heads

Posted on \_\_\_\_\_ at \_\_\_\_\_ .m by \_\_\_\_\_

**While there may be a quorum of other Lincoln County committees present at this meeting, no other Lincoln County committee business will be conducted at this meeting.**

**Requests for reasonable accommodations for disabilities or limitations should be made prior to the date of this meeting. Please contact the Lincoln County Clerk at 715-539-1019 as early as possible so that proper arrangements may be made. Requests are kept confidential.**

#### GENERAL REQUIREMENTS:

1. Must be held in a location which is reasonably accessible to the public.
2. Must be open to all members of the public unless the law specifically provides otherwise.

#### NOTICE REQUIREMENTS:

1. In addition to any requirements set forth below, notice must also be in compliance with any other specific statute.
2. Chief presiding officer or his/her designee must give notice to the official newspaper and to any members of the news media likely to give notice to the public.

#### MANNER OF NOTICE:

Date, time, place, and subject matter, including subject matter to be considered in a closed session, must be provided in a manner and form reasonably likely to give notice to the public.

#### TIME FOR NOTICE:

1. Normally, a minimum of 24 hours prior to the commencement of the meeting.
2. No less than 2 hours prior to the meeting if the presiding officer establishes there is a good cause that such notice is impossible or impractical.

#### EXEMPTIONS FOR COMMITTEES AND SUB-UNITS:

Legally constituted sub-units of a parent governmental body may conduct a meeting during the recess or immediately after the lawful meeting to act or deliberate upon a subject which was the subject of the meeting, provided the presiding officer publicly announces the time, place, and subject matter of the sub-unit meeting in advance of the meeting of the parent governmental body.

#### PROCEDURE FOR GOING INTO CLOSED SESSION:

1. Motion must be made, seconded, and carried by roll call majority vote and recorded in the minutes.
2. If motion is carried, chief presiding officer must advise those attending the meeting of the nature of the business to be conducted in the closed session, and the specific statutory exemption under which the closed session is authorized.

#### STATUTORY EXEMPTIONS UNDER WHICH CLOSED SESSIONS ARE PERMITTED:

1. Deliberation of judicial or quasi-judicial matters. Sec. 19.85(1)(a)
2. Considering dismissal, demotion, or discipline of any public employee or the investigation of charges against such person and the taking of formal action on any such matter; provided that the person is given actual notice of any evidentiary hearing which may be held prior to final action being taken and of any meeting at which final action is taken. The person under consideration must be advised of his/her right that the evidentiary hearing be held in open session and the notice of the meeting must state the same. Sec. 19.85(1)(b).
3. Considering employment, promotion, compensation, or performance evaluation data of any public employee. Sec. 19.85(1)(c).
4. Considering strategy for crime detection or prevention. Sec. 19.85(1)(d).
5. Deliberating or negotiating the purchase of public properties, the investing of public funds, or conducting other specified public business whenever competitive or bargaining reasons require a closed session. Sec. 19.85(1)(c).
6. Considering financial, medical, social, or personal histories or disciplinary data of specific persons, preliminary consideration of specific personnel problems or the investigation of specific charges, which, if discussed in public would likely have an adverse effect on the reputation of the person referred to in such data. Sec. 19.85(1)(f).
7. Conferring with legal counsel concerning strategy to be adopted by the governmental body with respect to litigation in which it is or is likely to become involved. Sec. 19.85(1)(g).
8. Considering a request for advice from any applicable ethics board. Sec. 19.85(1)(h).

#### CLOSED SESSION RESTRICTIONS:

1. Must convene in open session before going into closed session.
2. May not convene in open session, then convene in closed session and thereafter reconvene in open session within twelve (12) hours unless proper notice of this sequence was given at the same time and in the same manner as the original open meeting. Sec. 19.85(2).
3. Final approval or ratification of a collective bargaining agreement may not be given in closed session.

#### BALLOTS, VOTES, AND RECORDS:

1. Secret ballot is not permitted except for the election of officers of the body or unless otherwise permitted by specific statutes.
2. Except as permitted above, any member may require that the vote of each member be ascertained and recorded.
3. Motions and roll call votes must be preserved in the record and be available for public inspection.

#### USE OF RECORDING EQUIPMENT:

The meeting may be recorded, filmed, or photographed, provided that it does not interfere with the conduct of the meeting or the rights of the participants.

#### LEGAL INTERPRETATION:

1. The Wisconsin Attorney General will give advice concerning the applicability or clarification of the Open Meeting Law upon request.
2. The municipal attorney will give advice concerning the applicability or clarification of the Open Meeting Law upon request.

#### PENALTY:

Upon conviction, any member of a governmental body who knowingly attends a meeting held in violation of Subchapter IV, Chapter 19, Wisconsin Statutes, or who otherwise violates the said law shall be subject to forfeiture of not less than \$25.00 nor more than \$300.00 for each violation.

**Lincoln County Board of Adjustment**  
**Minutes of Thursday, October 12, 2023 at 9:00 a.m.**  
**Lincoln County Service Center, Meeting room #247**  
Meeting recording available on the Lincoln County website

Members Present for Meeting (In-Person): Jim Beaumont, Curt Powell, and Phil Rausch  
Members Absent: Kim Brixius (excused)  
Department Heads/Staff (In-Person): Mike Huth (Zoning Program Manager/Land Services Administrator), Laura Boquist (Shoreland Specialist), and Elizabeth Peronto (Program Assistant)  
Department Heads/Staff (Virtual): none  
Visitors (In Person): Kate Kleen, Batya Barbara Kleen, Yechiel Kleen, Margaret Powell, Levi Denton, and Pamela Gojmerac  
Visitors (Virtual): none

1. Call Meeting to Order – Meeting was called to order by Chair Rausch at 9:00am
2. Roll Call - Quorum present.
3. Adopt Agenda – M/S Beaumont/Powell to adopt the agenda as presented. Motion carried on a voice vote.
4. August 10, 2023 BOA Meeting Minutes -

M/S Beaumont/Powell to approve the minutes from the 8/10/2023 BOA Meeting. Motion carried on a voice vote.

**OLD BUSINESS**

None

**NEW BUSINESS**

5. 9:00am Public Hearing - Testimony will be taken on the appeal hearings as noticed (see public hearing notice). Following each hearing for a variance there will be Discussion, Deliberations, Findings of Fact, conclusions and Determinations.

**Variance**

- a) A request for variance by Thomas Purnell from sections 21.12(3)(b) and (c) of Lincoln County Shoreland Ordinance to allow for the building of a structure which is less than the minimum required side yard setback from the property line.

Rausch asked if there were any proponents for the request. There were none present.

Rausch asked if there were any opponents for the request. There were none present.

A narrated video providing an overview/tour of the property was shown as prepared by Land Services staff.

Mike Huth and Laura Boquist were sworn in. Laura Boquist gave an overview of the proposed project. Huth presented the staff report. Discussion occurred.

Rausch closed the public hearing for the variance request.

The Board reviewed and completed the Findings of Fact, Conclusions of Law, and Order and Determination.

M/S Powell/Beaumont to return to the first question for this request and correct responses by the Board. Motion carried on a voice vote.

M/S Powell/Beaumont to APPROVE THE REQUEST for a variance to allow for the building of a structure which is less than the minimum required street yard setback from the town road right-of-way and the town road centerline to include staff recommendations.

Motion carried on a roll call vote:

Member	Vote
Rausch	Aye
Powell	Aye
Beaumont	Aye

- b) A request for variance by Levi Denton from sections 17.4.10 and 17.7.01(3) of Lincoln County Zoning Ordinance to allow for the building of a structure which is less than the minimum required street yard setback and is a modification of a non-conforming structure outside of its original footprint.

Rausch asked if there were any proponents for the request. Levi Denton was present, affirmed, and explained the request.

Rausch asked if there were any additional proponents for the request. There were none present. Rausch entered into the record that the Town of Corning submitted a favorable recommendation.

A narrated video providing an overview/tour of the property was shown as prepared by Land Services Staff.

Rausch asked if there were any opponents for the request. There were none present.

Mike Huth was reminded that he was sworn in prior. Huth presented the staff report. Discussion occurred.

Rausch closed the public hearing for the variance request.

The Board reviewed and completed the Findings of Fact, Conclusions of Law, and Order and Determination.

M/S Powell/Beaumont to APPROVE THE REQUEST for a variance to allow for the building of a structure, which is less than the minimum required street yard setback from the town road right-of-way and the town road centerline to include staff recommendations.

Motion carried on a roll call vote:

<b>Member</b>	<b>Vote</b>
Rausch	Aye
Powell	Aye
Beaumont	Aye

- c) A request for variance by Michael and Barbara Kleen from section 21.07(4)(c) of Lincoln County Shoreland Ordinance to allow for the building of a structure which is less than the minimum required street yard setback from the town road right-of-way and the town road centerline.

A narrated video providing an overview/tour of the property was shown as prepared by Land Services Staff.

Rausch asked if there were any proponents for the request. Kate Kleen, the petitioner, was present, sworn in, and explained the request. Discussion occurred.

Rausch asked if there were any additional proponents for the request. There were none present. Rausch entered into the record that a neighbor/citizen submitted a letter in support of the variance.

Rausch asked if there were any opponents for the request. There were none present.

Mike Huth and Laura Boquist were reminded that they were sworn in prior. Laura Boquist gave an overview of the proposed project. Huth presented the staff report. Discussion occurred.

Rausch closed the public hearing for the variance request.

The Board reviewed and completed the Findings of Fact, Conclusions of Law, and Order and Determination.

M/S Powell/Beaumont to APPROVE THE REQUEST for a variance to allow for the building of a structure which is less than the minimum required street yard setback from the town road right-of-way and the town road centerline to include staff recommendations.

Motion carried on a roll call vote:

<b>Member</b>	<b>Vote</b>
Rausch	Aye
Powell	Aye
Beaumont	Aye

#### ANNOUNCEMENTS

6. Next Meeting Date and Time – The next meeting will be on October 26<sup>th</sup> at 8:30am.
7. Adjourn – No further business, meeting adjourned at 9:41am.

Minutes prepared by Elizabeth Peronto

## NOTICE OF PUBLIC HEARING

The Lincoln County Board of Adjustment will hold a Public Hearing on Thursday October 26, 2023 at 9:00a.m. to take testimony on the items listed below. The public hearing will be held at the Lincoln County Service Center, Meeting room #247/248, at 801 N. Sales St., Merrill, WI. The public may attend either in person or via telephone conference (details may be found in agenda once it is posted at <https://co.lincoln.wi.us/meetings>).

### **APPEAL OF LAND SERVICES COMMITTEE CUP DECISION**

1. An appeal by Skanawan Property Owners Association, U.A. for an Appeal of Administrative Decision of the Land Services Committee which approved a Conditional Use Permit (CUP-96-1075) for Milestone Materials a division of Mathy Construction Co. regarding an expansion of a non-metallic mineral (NMM) extraction use (sand and gravel pit) on parcels 02634072129996 and 02634072129999 located in the E½ NW¼ of Section 21, T34N, R7E, in the Town of Skanawan at W4021 County Rd S. The appeal request is being heard under section 17.8.12(2)(b) of the Lincoln County Ordinance.

### **VARIANCE**

2. A request for variance by MNM Income Trust from Lincoln County Shoreland section 21.07(6)(2)(b) to allow for the building of a new boathouse exceeding maximum size allowances and from section 21.07(6)(2)(d) to allow for the building of a new boathouse outside of the allowable view and access corridor. The property is located in Section 4, T35N, R6E, and has a parcel number of 00435060449791 with an address of N11904 Rapel Rd in the Town of Bradley.

The above hearings will be held in **Meeting room #247/248 of the Lincoln County Service Center, at 801 N. Sales Street, Merrill, WI.** All parties wishing to be heard are requested to be present. Both written and oral testimony will be entered into the record and considered when making the decisions. All those wishing to testify must be sworn in. Original materials may be viewed in the Lincoln County Zoning office at 801 N. Sales St. Merrill, WI.

NOTE: A final decision on any of the above requests may be made at a later date. Items not acted upon or laid over will come before the Board again as "Old Business." The Board may but is not obligated to take any additional testimony.

Kim Brixius, Secretary

**NOTICE OF PUBLIC HEARING**

**\*AMENDED\***

The Lincoln County Board of Adjustment will hold a Public Hearing on Thursday October 26, 2023 at \*8:30a.m. to take testimony on the items listed below. The public hearing will be held at the Lincoln County Service Center, Meeting room #247/248, at 801 N. Sales St., Merrill, WI. The public may attend either in person or via telephone conference (details may be found in agenda once it is posted at <https://co.lincoln.wi.us/meetings>).

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Kim Brixius, Secretary

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AUG - 8 2023

STATE OF WISCONSIN  
LINCOLN COUNTY  
BOARD OF ADJUSTMENT

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SKANAWAN PROPERTY OWNERS ASSOCIATION, U.A.

W4676 Highway S  
Irma, Wisconsin 54442

Petitioner-Appellant,

+ 1105 Hawthorne  
Place.  
Pewaukee, WI  
53072

LINCOLN COUNTY  
LAND SERVICES COMMITTEE  
801 N Sales Street, Suite 201  
Merrill, Wisconsin 54452

Respondent.

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APPEAL TO BOARD OF ADJUSTMENT

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Now comes SKANAWAN PROPERTY OWNERS ASSOCIATION, U.A. ("SPOA") and as and for its appeal to the Board of Adjustment states as follows:

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**I. Nature of Action and Appeal.**

This is an appeal to the Board of Adjustment ("BOA") of a June 8, 2023 determination of the Lincoln County Land Services Committee ("LSC"). The determination approved a Conditional Use Permit ("CUP") approving an expansion of a gravel pit/non-metallic mine in the Town of Skanawan. The subject property is located at W4021 County Road S, Irma, WI 54442 in Section 21, Township 34 North, Range 7 East and consists of 80.62 acres in the RL zoning district. The Applicant and current permit holder is Mathy Construction, d/b/a Milestone Materials.





As part of the record the LSC was provided application materials from the Applicant, Mathy, and also a recommendation by the Town of Skanawan through its Town Board. The County staff prepared its report, which was also part of the record materials.

All record materials including the statements on the record are incorporated into this appeal and pursuant to statute, including Wis. Stats. § 59.694(4) – (7) the full record should be transmitted to the BOA for this Appeal.

SPOA reserves all rights including any requirement under the statutes that a stay be in place pending the disposition of the appeal.

## **II. Claim on Appeal.**

As noted, Petitioner-Appellant incorporates the entirety of the proceedings in this matter including the record of all previous hearings and written submissions in support of its claims on this appeal.

Appellant's claim on appeal is based on its objection to the LSC not considering and adopting conditions for the CUP as recommended by the Town, in particular those that were agreed to by the Applicant. Appellant asserts that Wis. Stats. § 59.69(5e) and applicable law requires that conditions agreed to by an applicant are to be made part of the approved CUP. That was not carried out by the LSC in this case.

Further, Appellant believes the proposed conditions by the Town, including but not limited to those that were agreed to by the applicant, are reasonable and in compliance with the requirements of Wis. Stats. § 59.69(5e).

Moreover, Appellant asserts that LSC's decision violates Wis. Stats. § 59.69(1) in that it does not promote the public health, safety, convenience, and welfare of the Town of Skanawan, and further fails to protect property values and the tax base.

Therefore, Appellant makes the appeal and claim that the LSC made an error of law in not adopting the agreed-to conditions when approving the CUP.

Appellant reserves the right to pursue any and all claims arising from the record of this matter.

**III. Request for Hearing at Lincoln Country Land Services Board of Adjustment.**

Pursuant to the above, Appellant requests a hearing in front of Lincoln County Land Services Department's Board of Adjustment for review of Appellant's appeal, and that Appellant's appeal be reviewed by the BOA to the fullest extent available under Wisconsin State Law.

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Respectfully submitted,

Dated this 7th day of July, 2023

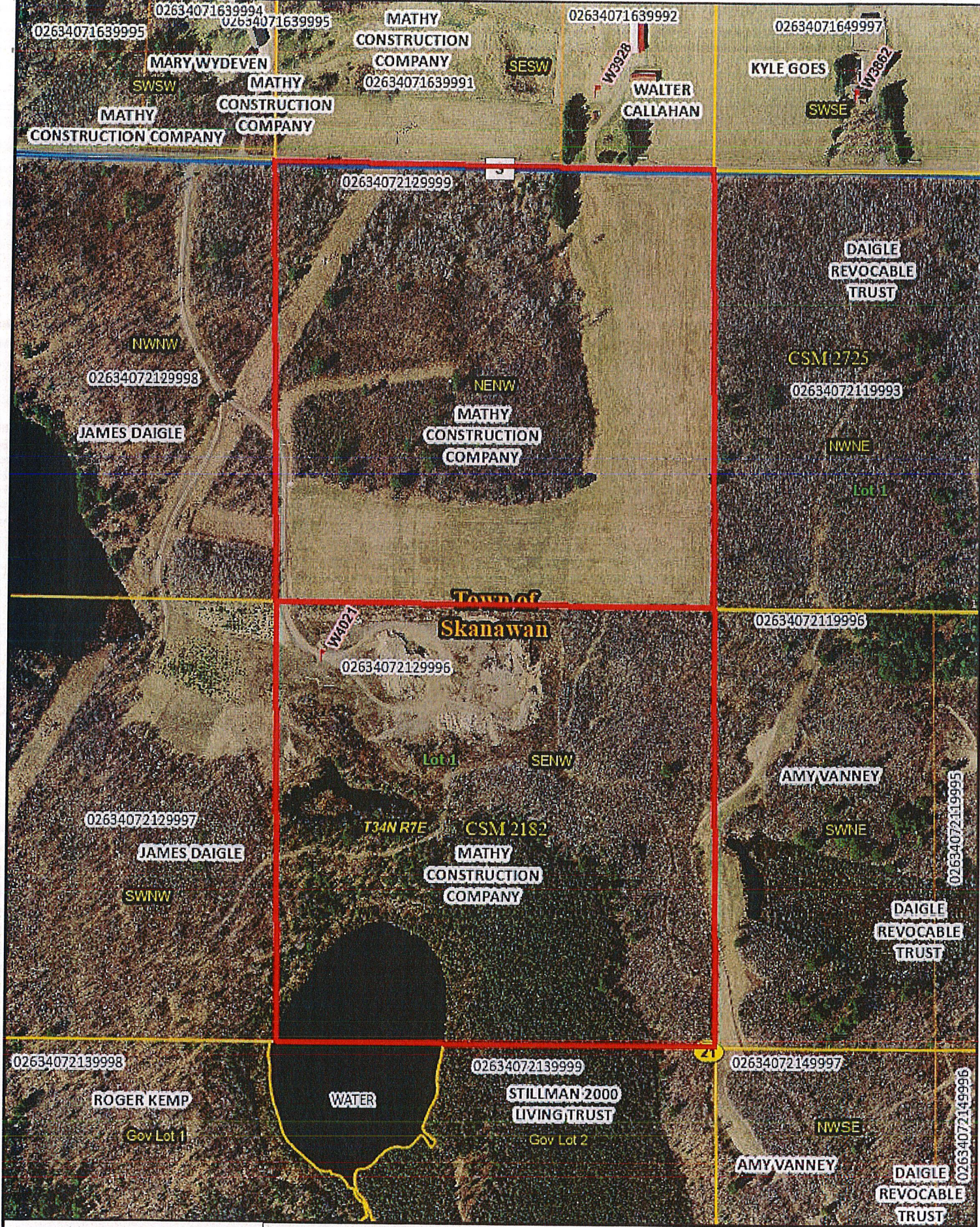
*Resubmitted,*

*Dated this 8th day of August, 2023*

SKANAWAN PROPERTY OWNERS ASSOCIATION, U.A.

*Electronically Signed by Patricia A. Heise*

On Behalf of Petitioner-Appellant  
Skanawan Property Owners Association, U.A.  
W4676 Highway S  
Irma, Wisconsin 54442



Lincoln County, WI

Author: Public  
Date Printed: 8/28/2023



DISCLAIMER: The information depicted on this map is a compilation of public record information including aerial photography and other base maps. No warranty is made, express or implied, as to the accuracy of the information used. The data layers are a representation of current data to the best of our knowledge and may contain errors. It is not a legally recorded map and cannot be substituted for field-verified information. Errors should be reported to Land Services Department, 801 North Sales St, Merrill, WI, 54452. Phone (715) 539-1087.



**LINCOLN COUNTY**  
LAND SERVICES DEPARTMENT  
Office of Zoning and Conservation  
Lincoln County Service Center  
801 N Sales Street-Suite 103  
Merrill, WI 54452  
Phone (715) 539-1087

## **APPEAL OF LAND SERVICES COMMITTEE CONDITIONAL USE PERMIT DECISION STAFF REPORT**

Report Date: October 18, 2023  
Hearing Date: October 26, 2023  
Applicant of Appeal: Skanawan Property Owners Association, U.A.  
Representative of Appeal Applicant: Kathleen Henry - Dairyland Public Interest Law  
Property Owner: Milestone Materials; a division of Mathy Construction Co.  
Property Address: W4021 County Rd S.  
Town of: Skanawan  
Tax Parcel Numbers: 02634072129996 and 02634072129999  
Zoning District: RL4-Rural Lands  
Zoning District Overlay: Shoreland

### **MATERIALS ENCLOSED**

- Public Hearing notices for the May 18, 2023 and June 8, 2023 meetings of the Land Services Committee (LSC)
- Agenda for said meetings
- Conditional Use Permit (CUP) Application Materials Submitted
- List and map of notified surrounding property owners and town officials
- Staff report and recommendation filed for said meetings
- 30-day Extension Town Request for LSC public hearing
- Town Recommendation Form
- Minutes of May 18, 2023 and June 8, 2023 meetings
- Notice of Action filed on June 12, 2023

### **APPLICABLE LINCOLN COUNTY CH-17 ZONING ORDINANCE SECTIONS**

- 17.2.13(1) establishes the intent of the RL4-Rural Lands Zoning District.
  - INTENT. This district is intended to preserve rural character and promote continued low-intensity and open space uses in areas of the County not envisioned for intensive agricultural or commercial forestry use. Appropriate uses include continued low-impact farming and forestry where viable, single family residences up to a density not exceeding 4 dwelling units per 40 acres owned, and associated home occupations and other limited compatible business opportunities.
- 17.2.13(1) and 17.2.100 establishes Non-Metallic Mining (NMM) extraction land use in the RL4 Zoning District

- LAND USES PERMITTED BY RIGHT OR AS A CONDITIONAL USE. Refer to the tables in [Section 17.2.100](#) for a list of principal and accessory land uses that are permitted by right or as conditional uses in this district. The uses listed in the tables refer to the detailed land use descriptions contained in [Division 17.3](#), which also includes parking standards.
- 17.8.11(2)(d) establishes the authority of the Land Services Committee to hear and decide Conditional Use permit (CUP) applications.
  - DUTIES AND RESPONSIBILITIES. The Land Services Committee shall have the following specific duties and responsibilities pertaining to this chapter: (Am. #2018-05-659)
    - (d) Review and decide on requests for conditional use permits, including associated site plans where required, following the procedures in [Section 17.8.30](#).
- 17.8.30(7) establishes the criteria for evaluating Conditional Use Permit applications
  - CONDITIONAL USE PERMIT STANDARDS. The applicant must demonstrate that the application and all requirements to the conditional use are or shall be satisfied, both of which must be supported by substantial evidence. If an applicant for a conditional use permit meets or agrees to meet all of the requirements and conditions specified in the county ordinance or those imposed by the Land Services Committee, the county shall grant the conditional use permit. (Am. #2018-05-659)

The Committee may impose reasonable conditions with the approval of a conditional use proposal, to the extent authorized by law as described in §59.69(5e)(2b), Wis. Stats. Conditions imposed shall meet all of the following requirements:

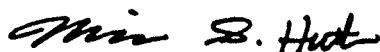
- a) Conditions must be practical and measurable. (Am. #2018-05-659)
  - b) Any condition imposed must be related to the purpose of the ordinance, outlined in [Section 17.3](#) regarding the specific land use and be based on substantial evidence. (Am. #2018-05-659)
  - c) Any condition must be reasonable and to the extent practicable, measurable and may include conditions such as the permits duration, transfer, or renewal. (Am. #2018-05-659)
  - d) The proposed conditional use will maintain compliance with the zoning standards and the county comprehensive land use plan, including town land use plans developed by individual towns and as incorporated in the county comprehensive land use plan. (Am. #2018-05-659)
  - e) The conditional use will meet all applicable standards of other divisions of this chapter, particularly any standard in [Division 17.3](#), which is applicable to the particular conditional use being sought. (Am. #2018-05-659)
- 17.8.30(4) establishes noticing and public hearing requirements to be heard by the Land Services Committee
    - PUBLIC HEARING. The Zoning Administrator shall cause to be scheduled and noticed a public hearing before the Land Services Committee. Not less than 10 days before the public hearing, the Zoning Administrator shall mail the petition and a public hearing notice to the Land Services Committee, the petitioner (and property owner if different), the clerk of the affected town, the owners of all properties within 300 feet of all edges of the lot or parcel that would contain the conditional use, the owner or operator of any airport if the petition would affect an airport affected area under §62.23(6)(am), Wis. Stats., the appropriate district office of WisDNR if required under subsection (8) below, and other interested parties on a request basis. The Zoning Administrator's report shall also be provided to the Land Services Committee and petitioner in advance of the hearing, and to other interested parties on a request basis. (Am. #2018-05-659)
  - 17.8.30(5) establishes Town recommendation procedures for Land Services Committee.

- TOWN RECOMMENDATION. The town within which a proposed conditional use permit is located may offer a recommendation to the Committee on whether to approve such request as presented, approve such request with conditions, or disapprove such request. Such town recommendation shall be in the form of a formal action of the town board, shall be signified by the addition of a town signature by an authorized town official on submitted plans, and shall be filed with the Zoning Administrator before or at the public hearing. The town may request one 30-day extension of the time required for a town recommendation. The Land Services Committee will not take action on the conditional use permit request until it receives a recommendation from the affected town board, or the town board indicates that it will not provide a recommendation, or a mutually agreed extension to the town review period elapses. (Am. #2018-05-659)
- 17.8.30(6) establishes Land Services Committee action details
  - COMMITTEE ACTION. As soon as possible following the public hearing and the passage of the allowable timeframe for town action in subsection (5), the Committee shall approve as presented, approve with conditions, or disapprove of the conditional use permit request. The Committee shall review the application for conditional use, together with reports and recommendations from the Zoning Administrator, public safety officials, public hearing testimony, and other reviewing agencies. The Committee shall then make a determination on the conditional use application based on the substantial evidence, other requirements and standards of this ordinance. The Committee shall provide the reasons for its action, proof of the required notice of the public hearing, proof of required notification to the affected town, and any submitted town action. A special meeting of the Land Services Committee to hear conditional use permit requests may be called by the committee chair upon written request and payment of a special meeting fee established by the Committee. In the event the scope, range of uses, character, or geographic area of the conditional use permit request is substantially altered from the time of the town recommendation, the Committee shall refer the altered request back to the appropriate town for further consideration and action within 40 days of the Committee's referral. In the event that the scope, range of uses, or geographic area of the request is substantially increased from that noticed or presented at the public hearing, the Committee shall cause to be noticed and conduct an additional public hearing before taking action on the request. (Am. #2006-06-477; Am. #2018-05-659)
- 17.8.30(11) establishes the recording of conditions made by the Land Services Committee.
  - RECORDING OF CONDITIONS. Each action taken with respect to a conditional use shall be duly recorded in the minutes of the Land Services Committee. The minutes shall record the findings of fact relative to each conditional use proposal, the grounds for the action taken, and any conditions imposed in conjunction with approval. (Am. #2018-05-659)

### ROLE OF THE BOARD OF ADJUSTMENT

Pursuant to Lincoln County Code 17.8.12(2)(b), the Board of Adjustment shall hear and decide appeals where it is alleged that there is an error in any decision of the Land Services Committee related to a conditional use permit request, with such review limited to determining whether the Committee's action considered the appropriate standards and met the requirements of this chapter (Chapter 17, Lincoln County Code), as opposed to the Board of Adjustment conducting a de novo review.

- a) The Lincoln County Code provisions relevant to this consideration are 17.2.13(1), 17.2.100, 17.2.11(2)(d) and 17.8.30 as well as Wis. Stat. §59.69(5e).
- b) Lincoln County Code 17.8.12(2)(b) expressly states the Board of Adjustment does not conduct a de novo review, i.e., a new hearing.



Lincoln County - Zoning Program Manager

10/18/2023

Date

RECEIVED

FEB 27 2023

CONDITIONAL USE PERMIT

Fee: \$ 400.00

Receipt Number 16360 (351076696)

# CUP - 96 - 1075 R

(revision)

To the Lincoln County Planning and Zoning Administration: The undersigned hereby makes application for a CONDITIONAL USE PERMIT for a determination that the following described site is suitable for the purpose indicated, and that suitable safeguards are met in accordance with the requirements of the Lincoln County Zoning Ordinance and with all other applicable County Ordinances and the laws and regulations of the State of Wisconsin. I declare that the information that I am supplying is true and accurate to the best of my knowledge and I acknowledge that this information will be relied upon for the issuance of this permit. By signing this application I am also granting permission to the zoning department staff to enter my property at any reasonable time for the purpose of inspection to assure compliance with the zoning laws relative to the issuance of this permit.

Legal Description: Section: 21 Township: 34 North Range: 7 East

Gov Lot: OR Quarter/Quarter: E 1/2 of NW 1/4

Lot Number: Subdivision/CSM:

Property Address: W4021 County Road S, Irma, Wisconsin 54442

Zoning district: RL-4 Lot size 80.62 acres

Proposed use: Sand and Gravel Extraction

Revision NM-01-13

PLEASE NOTE: No later than 5 days of its submittal to the Zoning Administrator, the applicant shall transmit 2 identical copies of the petition and all applicable materials to the clerk of the town in which the proposal lies. Lincoln County Code of Ordinances 17.8.30 (2)

Applicants Initials

COMPLETE A PLOT PLAN DRAWING ON REVERSE SIDE OR ATTACH A SEPARATE SHEET

Owner(s) Name(s): Will Mathy

Mailing Address: 920 10th Avenue North

Onalaska, WI 54650

Daytime Phone: (608) 783-6411

Note: All owners must sign

Signature: [Handwritten Signature]

Date: 2-7-23

Date:

CO-APPLICANT (other than owner)

Name: Robert Servais (Geologist)

Mailing Address: Same

Phone: ( )

FOR OFFICE USE ONLY

Ordinance section relating to the request 17.3.08 (10)

Use of adjoining property: Rural Lands

Date Application Received: 2-27-2023 By (Staff) EP

Date of Hearing: 4-13-2023 5-18-2023 per email (3-7-23)

Owner Mathy Construction Company First Name Last Name Tax Parcel # 02634072129996 & 02634072129999 Town Skanawan



## **PLOT PLAN DRAWING**

Include on the drawing ALL of the information requested below that applies to the property.

1. Shape of parcel, include all lot line dimensions.
2. Indicate NORTH.
3. Show the location and names of all surrounding roads/highways.
4. Show the location and names of all area water bodies (lakes, rivers, creeks, ponds, etc.)
5. Indicate ALL other existing buildings on parcel with "EB".

Complete the following if the request is for NEW Construction

6. Show the location of the proposed construction on the parcel. Include the following measurements:
  - a) Distance from the centerline of any/all roads.
  - b) Distance from the right-of-way of any/all roads.
  - c) Distance to all lot lines.
  - d) Distance to any/all water bodies adjacent to or within the parcel.
7. Indicate distance from septic tank or holding tank to proposed construction.
8. Indicate distance from sewage system drainfield to proposed construction.
9. Indicate distance from well to proposed construction.
10. (IF on water) Indicate proposed clearings within the vegetative buffer zone (please refer to Shoreland Ordinance for limitations on different water classifications).

**SITE SHOULD BE MARKED OR FLAGGED PRIOR TO ZONING ONSITE INDICATING EXISTING LOT LINES, PROPOSED LOT LINES AND ANY PROPOSED CONSTRUCTION**

Please see maps in accompanying application booklet.

**NO CONSTRUCTION SHALL BEGIN UNTIL A LAND USE PERMIT HAS BEEN ISSUED**

RECEIVED

FEB 27 2023 Fee: \$ 100.00

Receipt #: 16360

NMM Permit # NM-01-13

Date Received: 2-27-2023

LINCOLN COUNTY - Nonmetallic Mining Existing Mine Reclamation Plan Modification

Town of Skanawan

Name: Milestone Materials, Coombs South Pit E 1/2 NW 1/4, Sec. 21, T. 34 N. R. 7 E, Parcel # 02634072129996 & 02634072129999

Table with 2 columns: Applicant/Operator, Property Owners, Address, City, State, Zip, Phone. Applicant: Milestone Materials (a Division of Mathy Construction Co.), Property Owners: Mathy Construction Company, Address: 920 10th Avenue North, City: Onalaska, WI 54650, Phone: 608-783-6411.

LEGAL PROPERTY DESCRIPTION: (ATTACH COPY OF MAP IF DESIRED)

GL E 1/2 NW 1/4, Section 21 T 34 N R 7 E Town of: Skanawan

PARCEL NUMBER(S): 02634072129996 & 02634072129999 Pit Name: Coombs South

RECLAMATION PLAN:

Attach Proposed Reclamation Plan and cover letter outlining the major changes/modifications.

OPERATOR CERTIFICATION:

I hereby certify, as a duly authorized representative or agent, that the operator listed above will comply with the statewide nonmetallic mining reclamation standards established in NR 135 Wis. Adm. Code. The contractor will also provide a completed reclamation plan and financial assurance. I hereby certify that the information contained herein is true and accurate. I also certify that I am entitled to apply for a permit, or that I am the duly authorized representative or agent of an applicant who is entitled to apply for a permit. I hereby grant Lincoln Co. permission to enter the property on which the above-specified mine is located and to conduct any and all inspections necessary to administer the reclamation permit. I also certify that I am entitled to grant such permission or that I am the authorized representative or agent of an applicant who is entitled to grant such permission.

Signature of Applicant/Operator or Duly Authorized Representative: [Signature] Date Signed: 2-7-23

LANDOWNER CERTIFICATION: (attach 2nd sheet if necessary for signatures)

I/We hereby certify, as the landowner(s) of the referenced property, that we agree with the proposed reclamation plan being submitted by the Applicant/Operator or Duly Authorized Representative and that we will allow implementation of this plan.

Signature of Landowner: [Signature] Date Signed: 2-7-23

Signature of Landowner: \_\_\_\_\_ Date Signed: \_\_\_\_\_

Signature of Landowner: \_\_\_\_\_ Date Signed: \_\_\_\_\_

FOR OFFICE USE ONLY: Approved by: \_\_\_\_\_ Date Approved: \_\_\_\_\_

**TO:**

***Skanawan Township Town Board and Lincoln County Land Services Committee***

**IN REFERENCE TO:**

***Milestone Materials Site # NM-01-13  
Coombs South Pit Sand and Gravel Extraction Operation  
Conditional Use Permit Modification, NR 135 Reclamation  
Permit Modification, and Township Mining License Request***



**MILESTONE  
MATERIALS**

**A Division of Mathy Construction Co.**

**SUBMITTED BY:**

***Milestone Materials,  
Division of Mathy Construction Company  
920 10th Avenue North  
Onalaska, WI 54650***

**DATE:**

***January 26, 2023***

## SECTION 1.0

### INTRODUCTION

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#### 1.1 Purpose

This application is a request for a Non-Metallic Mining License from Skanawan Township and a request for Conditional Use (CUP) and NR 135 Reclamation Permit Modifications from Lincoln County. The requested approvals are to allow expansion of an existing sand and gravel extraction operation on land currently owned by Mathy Construction Company and locally referred to as the Coombs South Pit. The completed Lincoln County application forms for the requested CUP and NR 135 Permit modifications are provided in **Appendices A and B**, respectively. Mathy Construction Company purchased the south and north halves of the application property from Myra Coombs in 2009 and 2016, respectively. Contact information for the owner and operator are as follows:

#### ***Owner***

Mathy Construction Company  
920 10<sup>th</sup> Avenue North  
Onalaska, WI 54650  
(608)-783-6411

#### ***Operator***

Milestone Materials  
Division of Mathy Construction Company  
920 10<sup>th</sup> Ave North  
Onalaska, WI 54650  
(608)-783-6411

The legal description of the land within this request is as follows:

The Northeast Quarter of the Northwest Quarter and the Southeast Quarter of the Northwest Quarter of Section 21, Township 34 North, Range 7 East, all in the Town of Skanawan, Lincoln County, Wisconsin.

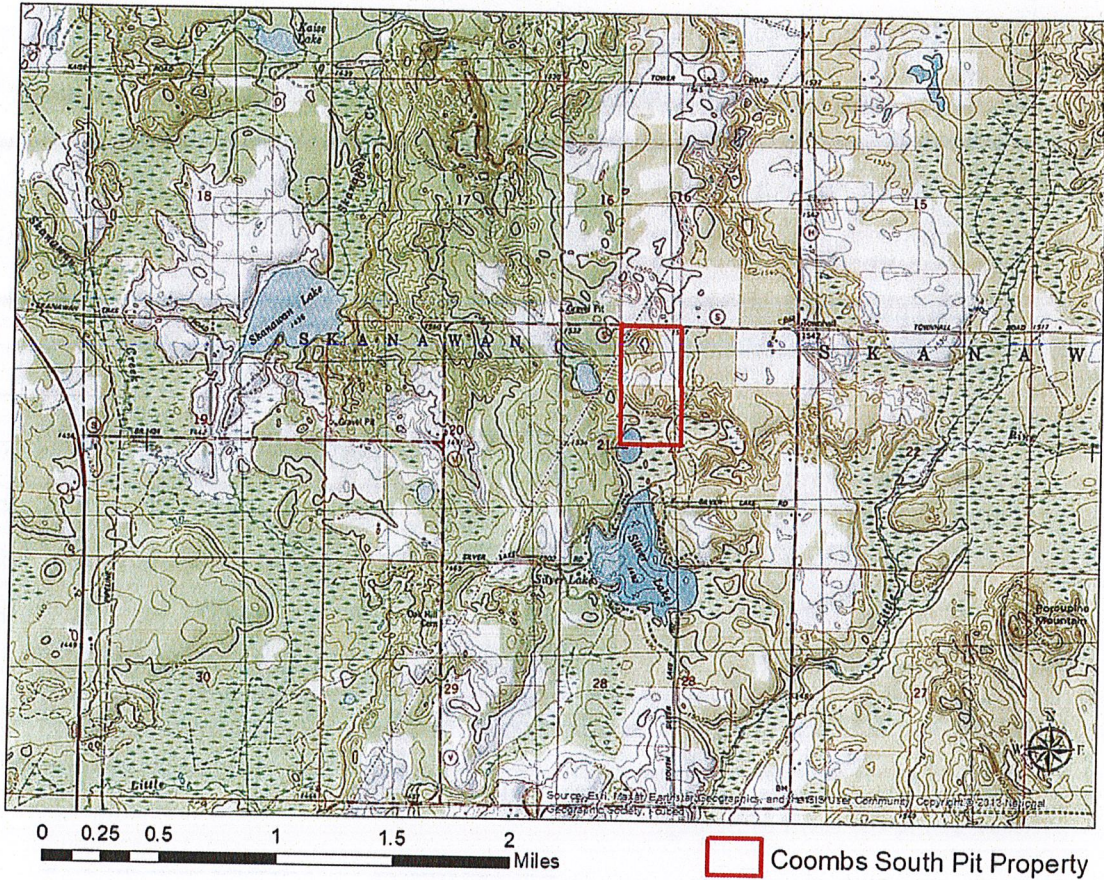
Parcel Numbers: 02634072129999 and 02634072129996  
Acres: 80.62

Milestone Materials proposes a plan for the progressive extraction of sand and gravel

and the final reclamation of the pit. Future mining will occur as a progressive expansion that will limit disturbed area and incorporate contemporaneous reclamation of mined areas. This will result in an efficient mining operation with reduced environmental impact to neighboring properties.

### **1.2 Location & Background**

The property within this request is located on the south side of County Road S,  $\frac{3}{4}$  mile northeast east of County Road V, and  $\frac{1}{2}$  mile west of County Road H (See **Figures 1**, Site Location Map).



**Figure 1: Site Location Map**

The original Special Exception Permit (SEP) for sand and gravel extraction at the Coombs South Pit was issued by Lincoln County on November 22, 1995. The 1995 SEP covered extraction operations on the south 40-acre parcel (Parcel ID 02634072129996) but not the north 40-acre parcel (Parcel ID 0263407212999) of this request. Part of the current request is, therefore, to modify the original SEP to allow mining of additional sand and gravel reserves detected on the north 40-acre request parcel (Parcel ID 0263407212999). Additionally, the original NR 135 Reclamation Plan for the Coombs South Pit (dated August 31, 2002) did not address extraction and reclamation activities to the lateral extents of the

current request. Therefore, the current request is to also modify the original reclamation plan for the facility to address reclamation of the expanded extraction area. Lastly, Skanawan Township adopted a Non-Metallic Mining Ordinance on August 10, 2004, which was after the Coombs South Pit extraction operation had already been established. To bring the operation into compliance with the current Township ordinance, pursuant to the above-listed permit modifications, the current request and plan are also intended to serve as the application and plan for obtaining a Non-Metallic Mining License through Skanawan Township.

In addition to the existing Coombs South Pit, Milestone Materials presently has other existing mining operations in Lincoln County which have produced construction aggregate for use in road construction, road maintenance, hot-mix asphalt, Portland concrete cement, and various other rock products. Milestone Materials operations in Lincoln County currently include Hanke Pit (NM-01-22) in the Town of Rock Falls, Lawless Pit (NM-01-31) in the Town of Russell, Latzig Pit (NM-01-32) in the Town of Russell, Coombs North Pit (NM-01-33) in the Town of Skanawan, County R Pit (NM-01-51) in the Town of Merrill, and Beyer Pit (NM-01-57) in the town of Schley.

### **1.3 Site Characteristics & Land Use**

The existing topography, surface waters, neighboring land uses, neighboring land ownership, roads, wetlands, neighboring buildings, property lines, residences, and the proposed mining limits for the Coombs South Pit property can be seen on the Existing Conditions Map (**Drawing 1**). The area of proposed excavation is approximately 27 acres and consists of woodland and agricultural land. The proposed excavation area is gently to moderately sloped with a local relief of approximately 40 feet. Drainage from the undisturbed areas of the site flows gently to the north, south, east, and west, away from the upland reserve areas. Previously mined areas of the existing gravel pit on the south parcel are approximately

7.1 acres. Previously mined areas have been excavated to a depth of approximately 30 feet or a floor elevation of approximately 1510 feet above mean sea level (MSL). Surface drainage from the disturbed areas of the existing pit is contained within the excavation. Neighboring property land use is primarily forest, gravel pits, and agricultural land with a few rural residences. An overhead electrical transmission line (with one set of support poles on the property) extends from northeast to southwest over the northwest corner of the application property. The overhead transmission lines reach no closer than 210 feet to the nearest part of the proposed excavation area.

A display from the WDNR Surface Water Data Viewer website (accessed 01/24/2023) can be seen in **Appendix C**. This display shows that there are no surface waters or wetlands within the proposed extraction area. Wetlands and an unnamed lake (WBIC 1078700) can be seen on the property to the south of the proposed extraction operation. FEMA floodplains are not present on the application property.

#### **1.4 Land Ownership**

Land ownership of surrounding properties is shown on the Existing Conditions Map (Drawing 1) and on the below Neighboring Landowner Map (**Figure 2**).





Figure 2: Neighboring Landowner Map

## 1.5 Soil and Geology

A soils report for the application property was generated through the USDA NRCS Web Soils Survey website and is provided in **Appendix D**. Soils found within the proposed future mining areas primarily consist of Pence-Antigo complex (PcC) and Antigo silt loam (AoB). Both soil types are well drained and formed in loamy drift, loamy glaciofluvial deposits and/or loess over sandy and gravelly outwash. Pence-Antigo complex soils have approximately four-inch "A" (topsoil) horizons, formed on six to 15 percent slopes, and are not classified as prime farmland soils. Antigo silt loam soils have approximately nine-inch "A" (topsoil) horizons, formed on two to six percent slopes, and are classified as prime farmland soils.

The Pleistocene Geology of Lincoln County, Wisconsin, Plate 1 Map (Ham and Attig, 1997) indicates that glacial sand and gravel outwash of the Copper Falls Formation is present beneath the surficial soils at the site. This outwash was deposited by streams carrying meltwater away from the Wisconsin Valley and Langlade Lobes of Wisconsin Glaciation some 15,000 to 20,000 years ago. The surficial sand and gravel outwash deposits are the targeted deposit for extraction and are approximately 20 to 30 feet thick within the request area. The sand and gravel mined from the outwash deposits within the request area are of suitable quality for use in asphaltic concrete and other construction products. The surficial glacial outwash sediments may overly remnant, older glacial till, likely of the Merrill Member of the Lincoln Formation, deposited some 40,000 years ago. Well records indicate that Precambrian granite bedrock may be present at depths ranging from 80 to more than 143 feet below the surficial glacial deposits in the area of the request property.

## 1.6 Hydrogeology

Water well records on file at the Wisconsin Geological and Natural History Survey (WGNHS) indicate that nearby water wells are primarily drilled into the glacial sand and gravel aquifer, with a few wells tapping into the underlying, fractured, Precambrian granite aquifer. Most of the reviewed wells in the vicinity were drilled for household and low capacity uses. All of the reviewed wells were six inches in diameter. Wells completed in the sand and gravel aquifer produced eight to 30 gallons per minute, and wells completed in the Precambrian granite produced one to six gallons per minute during pump tests. Wells completed in the sand and gravel aquifer ranged from 80 to 143 feet in depth, with an average depth of 102.6 feet; sand and gravel wells had static water levels ranging from 41 to 103 feet below ground, with an average static water level of 65.6 feet; and sand and gravel wells had static water elevations ranging from 1458 to 1501 feet MSL, with an average water elevation of 1480.6 feet MSL. Wells completed in the Precambrian aquifer ranged from 88 to 301 feet in depth, with an average depth of 204.7 feet; Precambrian wells had static water levels ranging from 28 to 53 feet below ground, with an average static water level of 42 feet; and Precambrian wells had static water elevations ranging from 1491 to 1497 feet MSL, with an average water elevation of 1493.7 feet MSL. **Table 1** provides a summary of the reviewed data for area wells. The groundwater table beneath the application property is expected to be at approximately 1495 feet MSL with an expected westward direction of groundwater flow towards Skanawan Lake and the Wisconsin River.

Well ID	Elevation (Ft MSL)	Depth (Ft)	Static Water Level (Ft)	Pumping Water Level (Ft)	Pumping Rate (GPM)	Pumping Time (Hours)	Well Open Interval (Ft)	Well Radius (Inches)	Aquifer Thickness (Ft)	Well Use	Water Elevation (Ft MSL)
LI733 (Loc?)	1538	225	45	145	2	1	100	3	180	Homes	1493
OQ199	1550	97	68	85	8	1	3	3	29	Home	1482
UP942	1544	301	53	286	1	3	200	3	248	Private	1491
UQ394	1550	100	56	66	30	1	4	3	44	Sprinkler System	1494
FN456 (Loc?)	1542	106	41	80	20	1	2	3	65	Utility Building	1501
HL644	1525	88	28	50	6	1	8	3	60	Home	1497
KZ733	1530	80	53	70	8	2	3	3	27	Private	1477
ND878	1557	112	92	104	8	2	3	3	20	Private	1465
TZ173	1561	143	103	120	12	1	4	3	40	Private	1458
UD018	1533	80	46	50	14	5	1	3	34	Private	1487
Well ID	T34N, R7E Section	Aquifer Type	Geologic Log 1				Geologic Log 2			Geologic Log 3	
LI733 (Loc?)	16	Granite	0-8 Dirty Sand, 8-80 Sand				120-125 Hardpan Gravel			125-225 Granite	
OQ199	16	S&G	0-6 Sand, Gravel, & Clay, 6-17 Gravel				29-36 Gravel			36-97 Sand	
UP942	16	Granite	0-22 Sand Clay & Cobble				59-97 Gray Clay, 97-101 w/ Gravel			101-301 Black Granite	
UQ394	16	S&G	0-3 Sandy Clay, 3-36 Hardpan & Rocks				90-93 Silty, 93-100 S&G				
FN456 (Loc?)	9	S&G	0-4 Clay				103-106 Gravel				
HL644	9	Granite	0-80 Sand								
KZ733	9	S&G	0-25 Caving Sand				65-80 Sand				
ND878	9	S&G	0-8 Caving Sand & Clay				77-99 Clay & Gravel			99-112 Caving Sand	
TZ173	9	S&G	0-24 Non Caving S&G				103-140 Silt			140-143 S&G	
UD018	9	S&G	0-8 Silt Sand Gravel & Clay				62-76 Dirty S&G			76-80 S&G	

**Table 1: Area Well Information**

### 1.7 Biology

Most of the area included in this request is currently within the Harding/ Tomahawk forest unit. Historically, the pre-cultivation vegetation at the site was stands of pine, hemlock, and hardwoods in highlands and cedar, spruce and balsam in its lowlands. Aspen, jack and white pines, fir spruce and balsam are the dominant species in this type of forest community. Shrubs include brambles, poison ivy, gray dogwood, False Solomons seal and hazelnut. Common herbaceous species in this forest community are sedges, mayapple, trillium, wild geranium, and woodland sunflower.

Birds in both the cultivated cropland and adjacent Northern Dry Forest include ducks, geese, grouse, cardinal, chickadee, crow, bluejay, woodpecker, wren, robin, warbler, oriole

and hawk. Prominent mammals include field mice, gray and fox squirrels, chipmunk, cottontail rabbit, woodchuck, raccoon, opossum, skunk, red fox and white-tailed deer.

## **SECTION 2.0**

### **OPERATION PLAN**

#### **2.1 Site Layout**

The layout of the existing and planned sand and gravel extraction operation is depicted on the Operations Plan Map (**Drawing 2**). The Operations Plan Map shows the approximate limits of the existing and planned excavation. The currently disturbed area of the existing pit is approximately 7.1 acres and the area of planned future mining is approximately 19.9 acres for a total mining area of approximately 27 acres to be reclaimed over the life of the mine. Depending on market conditions, the remainder of operations are anticipated to take place over a twenty-five (25) year period.

#### **2.2 Operation Development Plan**

Aggregate excavation will progress in a counterclockwise direction from the area of the current pit for recovery of the remaining sand and gravel reserves. Arrows on **Drawing 2** show the planned direction of excavation. A berm will be established around the perimeter of the excavation area. As mining progresses, the processing and stockpile area will be periodically moved as close to the active excavation as possible to minimize haulage to the processing plant. Access to the pit will continue to be from the northwest, through the existing pit driveway off of County Highway S, as shown in **Drawings 1 and 2**.

A minimum 25-foot operational setback will be maintained from all adjoining property lines. The excavation floor will be maintained at approximately 1505 feet MSL which is approximately 10 above the estimated underlying groundwater table. A minimum five feet of separation from the underlying groundwater table will be maintained for the mining operation.

### **2.3 Operation Activity**

The primary operational activity will be the extraction of sand and gravel. The typical mining operation sequence will begin with the removal of the topsoil and subsoil overburden from the top of the sand and gravel using bulldozers, a backhoe and/or scrapers and haul trucks. As overburden is removed in each new area of operation, the topsoil removed will be separated and immediately placed on areas recently sloped and graded for reclamation. If the topsoil is not immediately used, then the topsoil stockpiles will be sloped and seeded according to the seeding plan prescribed in **Section 4.4**.

After the sand and gravel is uncovered, the sand and gravel will then be excavated from the bank and hauled by end-loaders a short distance to the crushing and screening plant where the sand and gravel will be crushed and sized into various products. The crushing and screening plant typically includes several crushing units, screening units and conveyors. The crushing and screening plants utilized are portable and are moved within the excavation area and in and out of the pit as needed to replenish the product stockpiles.

After processing by the crushing and screening plant, the various products are stockpiled for later use. End-loaders are used to load the product into trucks from the stockpiles. The trucks are then weighed either before or after the sand and gravel is transported to its final destination. The trucks will primarily be hauling the sand and gravel from the mining operation to the various construction projects in accordance with the operation schedule given in **Section 2.4**.

### **2.4 Operation Schedule**

Activity at the site will normally occur during the construction season (March to

November). However, reduced operations may occur December through February, as supply and demand conditions warrant.

Operational and hauling hours will be from 7:00 a.m. to 5:00 p.m. Monday through Friday. Additional operational and hauling hours may be temporarily granted by the Skanawan Town Board. Additional operational hours may be necessary on a temporary basis at peak operating times.

## **2.5 Operation Equipment List**

Equipment involved in the sand and gravel operation is listed below.

Overburden Removal:	1 backhoe
	1-2 bulldozers
	2-3 scrapers
	1-3 haul trucks
Processing Operations:	1 crushing and screening plants
	1 backhoe
	1-2 front end-loaders
	1 bulldozer
	1-2 tool van/ generator
	1 fuel truck
	1-4 conveyors/stackers
	1 portable chemical toilet



## **2.6 Sand and Gravel Use**

Most of the sand and gravel products manufactured at this operation will be used in various construction projects in the local area.

## **2.7 Haul Routes**

The primary haul route will leave the site onto County Road S and then east or west on County Road S to reach product destinations. The pit entrance will have the appropriate signage and gates.

## **2.8 Township Requirements**

The operation will comply with the requirements of Section 5 of the Town of Skanawan Non-Metallic Mining Ordinance adopted on August 10, 20004. As required under Section 5 of the Town Ordinance, the operation will a) maintain an approved reclamation plan and permit under Section 12.04 Lincoln County Code of Ordinances (Cr #374-2001); b) install and maintain a gate at each entrance of the mine site; c) maintain a 25-foot minimum operational setbacks from adjoining property lines, inhabited structures, and existing road rights-of-way; d) comply with environmental regulations and permits issued for the site; e) reach an agreement with the Town Board regarding the maintenance and repair of Town roads used as haul roads; f) maintain a paved access of 100 feet to any paved haul route that trucks use to enter or exit the facility; g) comply with operational and hauling hours of 7:00 a.m. to 5:00 p.m. Monday through Friday, unless Town Board approval is obtained for temporary additional hours; h) pay the annual license fee and any taxes or special assessments required by the Town; and i) keep a current address on file with the Town Clerk.

## **SECTION 3.0**

### **ENVIRONMENTAL CONSIDERATIONS**

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#### **3.1 Visual Site Screening**

The mining operation will be screened from view by the below grade nature of the operation and through construction of temporary berms and/or tree plantings at the mining boundary. Temporary berms will be seeded with grass to create an attractive and natural barrier. Temporary berms will be constructed as needed with soil and overburden materials removed from the top of the sand and gravel. Berm height may vary somewhat in different areas of the property depending on the need to effectively screen the operations from view, as well as contain and divert stormwater, but are planned to be approximately four to eight feet in height.

#### **3.2 Air Quality**

The WDNR Bureau of Air Management regulates crushing and screening operations at the site. The processing equipment is in compliance with the opacity requirements of the New Source Performance Standards and is permitted under the Aggregate Processing General Permit. The general permit provides flexibility for using different processing configurations and various pieces of equipment, depending on the type of product being produced. The permit outlines production requirements, including record keeping, employee training, malfunction prevention and abatement, and fugitive dust control measures that must be maintained for compliance with the permit. The plant foreman documents the compliance activities associated with these requirements on a daily environmental tracking form. Records of daily, monthly, and year-to-date production information is available for inspection at the

plant site. Wet suppression is used to supplement insitu moisture for control of fugitive emissions. Water for dust suppression at this operation will be obtained via truck from an off-site source.

### **3.3 Surface Water**

The WDNR Storm Water program regulates the proposed mining operation. Milestone Materials has an existing Storm Water Pollution Prevention Plan for aggregate operations that employs Best Management Practices (BMPs) for pollution prevention. The plan is implemented in conformance with a WDNR NR 216 Storm Water General Permit. The management practices listed in the plan address both petroleum product handling and erosion control, including the on-property containment of storm water runoff for suspended solids control. A copy of the WDNR NR 216 Storm Water General Permit which covers the existing quarry operation is provided in **Appendix E**.

All storm water and spring snowmelt water from within the mining operation will be contained either in the below grade excavation or on-property containment. When and where necessary to prevent surface runoff from entering the excavation, temporary small, earthen berms will be constructed to direct surface water flow from the site.

### **3.4 Ground Water**

The mining operation employs a variety of screening, crushing, and conveying equipment, including loaders and trucks. The lubrication, fueling, and repair practices used to maintain the equipment are designed to eliminate petroleum products from ground contact. The Storm Water Pollution Prevention Plan along with a Spill Prevention Plan address practices for proper storage, handling, and use of petroleum products, as well as inspection and

response procedures. Any fuel for mobile equipment that may be stored on-site will be stored in an aboveground tank with secondary containment.

The pollution prevention practices addressed in site management planning minimize the opportunity for infiltrating water to carry contaminants to groundwater. Plant foremen perform site inspections throughout the operating period. Observations and conditions are reported daily for all applicable environmental programs.

Rain that falls in the pit area will be contained and allowed to seep naturally into the underlying sand or be directed to on-site containment areas. When and where necessary to prevent surface runoff from entering the sand and gravel excavation, temporary small, earthen berms will be constructed to direct surface water flow from the site.

### **3.5 Waste Disposal and Recycling**

Solid wastes generated in the course of production will be disposed of in dumpsters provided by licensed haulers. Regular disposal intervals will be maintained to provide adequate availability. There will be no hazardous waste produced in conjunction with the mining operation. Used oil and lubricants from equipment maintenance will be collected for recycling by a licensed used-oil contractor. The waste receptacles will be located away from active mining operations. Sanitary facilities at the site will include a portable chemical toilet.

### **3.6 Safety and Health**

The United States Department of Labor, Mine Safety and Health Administration (MSHA) regulates the safety and health considerations of the mining operation. The site is subject to annual inspection by MSHA and must meet the noise and dust exposure limits

established for personnel employed in the mining activity.

Noise is mitigated on the site by maintaining functional mufflers and exhaust systems on all internal combustion engines and by shielding mechanical processes with noise barriers. The below grade location of the excavation for the crushing of aggregate products provides a natural acoustic buffer for reducing noise levels to conversation intensity at or near the property boundaries. Noise to neighboring residences will also be mitigated by berms built around the operation areas.

Respirable dust exposure is minimized at the site by using wet suppression for processing aggregate materials and controlling fugitive emissions from peripheral activities such as trucking. Shrouds, tarps, and shields are used to supplement wet suppression and to control wind effects on process aggregates. The company is committed to maintaining respirable dust limits within MSHA standards and to providing a healthy, dust-free environment for employees and neighboring property owners.

A safe and reasonable speed limit is enforced at the facility for loaders and trucks to provide safe working conditions and reduce fugitive emissions. Hard hats are mandatory for all personnel within the mine site. Visitors must have permission to enter the mine site and must observe all safety regulations while at the site.

## **SECTION 4.0**

### **RECLAMATION PLAN**

#### **4.1 Post-Mining Land Use**

Areas disturbed by the mining operation will be reclaimed to passive recreation or agricultural land uses which are permitted uses under current zoning. In order to achieve the prescribed post mining land uses, all remaining pit highwalls will be graded to 3:1 (horizontal:vertical) or shallower slopes. All slopes and pit floor areas will then be evenly covered with all available topsoil overburden and seeded according to the seeding plan in below **Section 4.4**. The proposed final site reclamation and post-mining land use can be seen in **Drawing 3** (Reclamation Plan Map) and **Drawing 3B** (Reclamation Cross Sections).

#### **4.2 Reclamation Area**

Reclamation will be completed contemporaneously as the sand and gravel reserves are removed. The planned 27-acre reclamation area is shown in **Drawing 3**. Initial reclamation efforts will be directed toward stabilizing internal slopes through grading and landscaping followed by creation of a more formalized appearance through additional grading and landscaping. Reclamation will continue to occur progressively and concurrently with the development and progression of mining activity through the various areas of the operation plan.

#### **4.3 Reclamation Sequence**

Reclamation will begin as sand and gravel reserves are depleted and formerly excavated areas are no longer needed for stockpiling and equipment setup. The reclamation

process will initially involve the filling of the lower portions of the exposed pit faces with excess sand or subsoil overburden to create stable 3:1 slopes. Available subsoil will then be used to backfill pit floor areas and the sloped pit faces. All available topsoil (A-horizon listed in **Appendix D**) encountered by the mining operation will then be evenly placed over the back-filled areas, graded to properly drain, and seeded according to the seeding plan prescribed in **Section 4.4** (if not soon thereafter placed back into pasture). This procedure will be followed until the mining is completed.

Part of the soil fill for reclamation will come from the temporary berms or stockpiles that were constructed during the mining process. The rest will come from direct stripping of overburden as new areas of the mine are developed. As overburden is removed in each new area of operation, the topsoil removed will be separated and immediately placed on areas recently sloped and graded for reclamation. If the topsoil is not immediately used for reclamation, then topsoil stockpiles will be created, sloped, and seeded according to the seeding plan prescribed in **Section 4.4** for use in later phases of reclamation.

At completion of reclamation, all stockpiles of aggregate products above the final grade of the surrounding land will be removed from the site or leveled. All reclaimed areas will be graded to have 3:1 or shallower slopes that blend into the surrounding topography. All areas will be graded to properly drain, evenly covered with all available topsoil, and seeded according to the seeding plan prescribed in **Section 4.4**. The entrance road will be left in place for future agricultural or recreational use.

#### **4.4 Seeding Plan**

Disturbed and reclaimed areas will be seeded with Seed Mixture No. 20 as specified in Section 630 of the Wisconsin DOT Standard Specifications (see **Appendix F**) if not sooner

placed back into pasture. Oats, rye or other equivalent early/late season grass seed mixture may be used as a cover crop if seeding occurs in the spring or early summer.

Mulching will be applied according to the standards in Section 627 of the DOT Standard Specifications (see **Appendix F**). Areas will be checked for nutrients and the “Standard” fertilizer will be applied to seeded areas according to the methods and rates prescribed in Section 629 of the DOT Standard Specifications (see **Appendix F**).

#### **4.5 Erosion Control**

Erosion control practices are addressed in the Storm Water Pollution Prevention Plan prepared by Milestone Materials and implemented as part of Wisconsin Department of Natural Resources (WDNR) NR 216 Storm Water General Permit. A copy of the WDNR NR 216 Storm Water General Permit is provided in **Appendix E**.

Section 628 of the Wisconsin DOT Standard Specifications (see **Appendix F**) will serve as the standard for erosion control of soils. Erosion control mats, fences, screens, blankets, bale checks, dikes and other erosion control devices will be used as needed to minimize soil loss during berm and other soil disturbance activities. These erosion control devices will meet the minimum requirements described in Section 628.2 Materials and be installed according to the methods and procedures described in Section 628.3 Construction Methods of the Wisconsin DOT Standard Specifications.

#### **4.6 Reclamation Cost and Financial Assurance**

An estimate of reclamation costs is provided in the below **Table 2** (Reclamation Cost Estimates). Financial assurance for reclamation will be in the form of a performance bond



issued by an independent surety in an amount to cover acres disturbed annually.

<b>Table 2: Coombs South Pit Reclamation Cost Estimate</b>				
Description	Units	# of Units	Cost/Unit	Amount
<b>3:1 Sloping of Pit Face</b>	CY	32,100	\$0.90	\$28,890.00
<b>Subsoil Redistribution (6")</b>	CY	21,780	\$1.80	\$39,204.00
<b>Topsoil Redistribution (4")</b>	CY	14,520	\$1.80	\$26,136.00
<b>Seeding, Mulching, Fertilizer</b>	Acres	27.00	\$1,000.00	\$27,000.00
<b>Erosion Control</b>	Lump Sum	1	\$2,500.00	\$2,500.00
<b>Maintenance and Monitoring</b>	Lump Sum	1	\$2,500.00	\$2,500.00
<b>Total Reclamation Cost</b>				\$126,230.00
<b>Reclamation Cost Per Acre</b>	Acres	27.00	\$4,675.19	
<b>Currently Active</b>	Acres	7.1	\$4,675.19	\$33,193.81

#### 4.7 Criteria for Successful Reclamation

Lincoln County will determine the criteria for successful reclamation in the field during annual inspections with input from Milestone and their consultants. During these inspections, if the County recommends either grading, seeding, remedial repair measures or erosion control, these measures will be implemented as appropriate to achieve successful reclamation. The reclamation measures implemented will later be re-evaluated to accomplish successful reclamation and a release of bond.

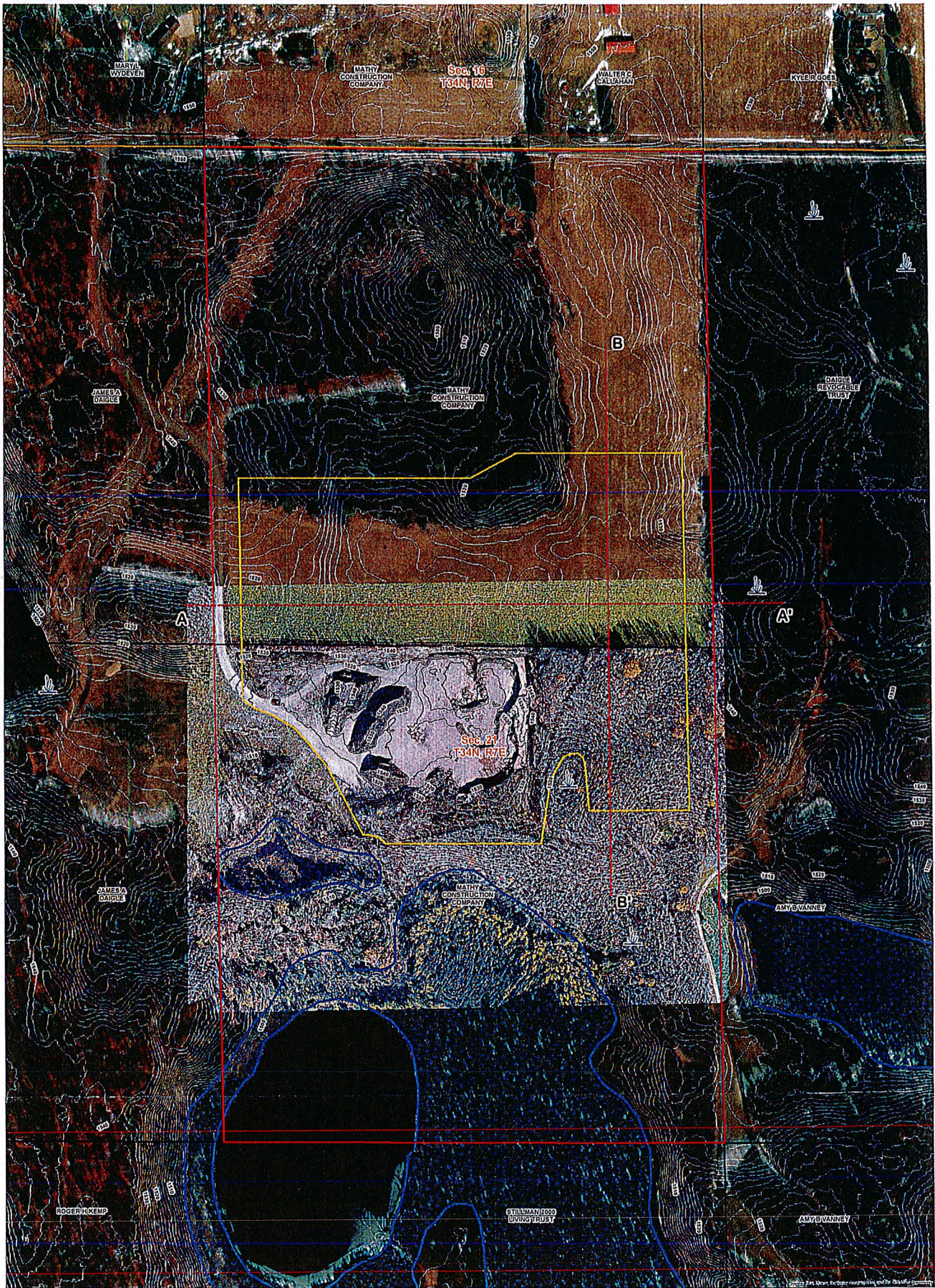
#### 4.8 Reclamation Certification

The required signed operator and owner certifications pertaining to reclamation are provided in **Appendix B**.

## DRAWINGS

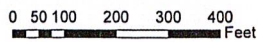
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Drawing 1	Existing Conditions Map
Drawing 2	Operations Plan Map
Drawing 3	Reclamation Plan Map
Drawing 3B	Reclamation Plan Cross Sections



**NOTES**

PROPOSED CUP FOR COOMBS SOUTH PIT  
 THIS IS NOT A SURVEY.  
 PARCEL LINES SHOWN ARE APPROXIMATE.  
 2 FOOT CONTOUR INTERVALS ARE FROM LINCOLN CO.  
 LIDAR WITH INSET 10' BY 21' DRONE CONTOURS.  
 DRONE CONTOURS AREA APPROXIMATE  
 INSET IS 10/18/21 DRONE PHOTOGRAPH



**LEGEND**

- OWNED PROPERTY
- MINING BOUNDARY
- PARCELS
- SECTIONS
- WDNR WETLANDS

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 Committed to Protecting Our  
 Environment and Natural Resources

**COOMBS SOUTH PIT  
 EXISTING CONDITIONS MAP**

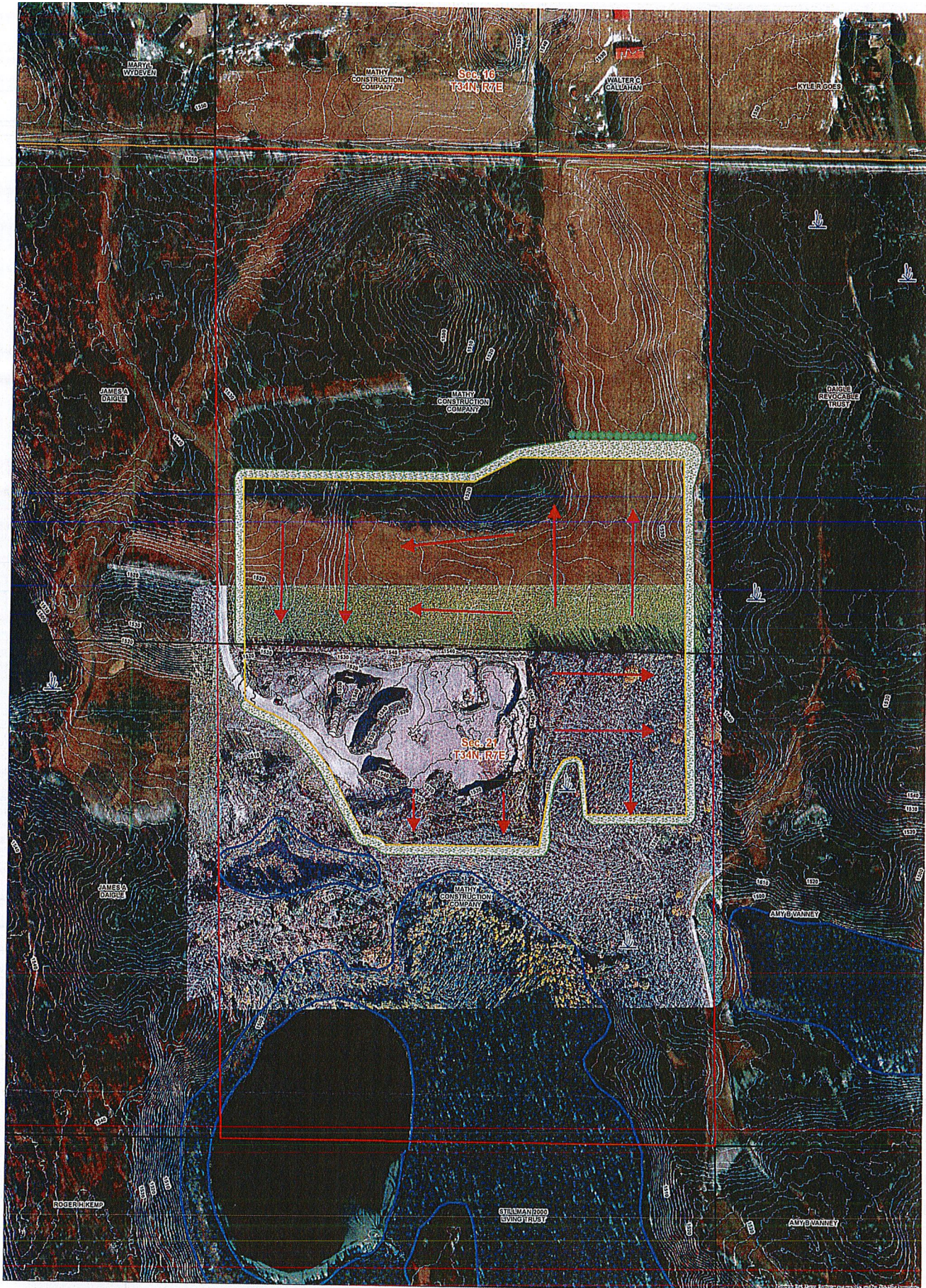
DATE: 09-12-2022

DRAWING: #1



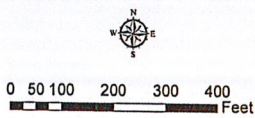
**MILESTONE  
 MATERIALS**

A Division of Mathy Construction Co.



**NOTES**

PROPOSED CUP FOR COOMBS SOUTH PIT  
 THIS IS NOT A SURVEY.  
 PARCEL LINES SHOWN ARE APPROXIMATE.  
 2 FOOT CONTOUR INTERVALS ARE FROM LINCOLN CO.  
 LIDAR WITH INSET 10/18/21 DRONE CONTOURS.  
 DRONE CONTOURS AREA APPROXIMATE  
 INSET IS 10/18/21 DRONE PHOTOGRAPH



**LEGEND**

- BERM AREA
- DIRECTION OF MINING
- OWNED PROPERTY
- MINING BOUNDARY
- PARCELS
- SECTIONS
- WDR WETLANDS

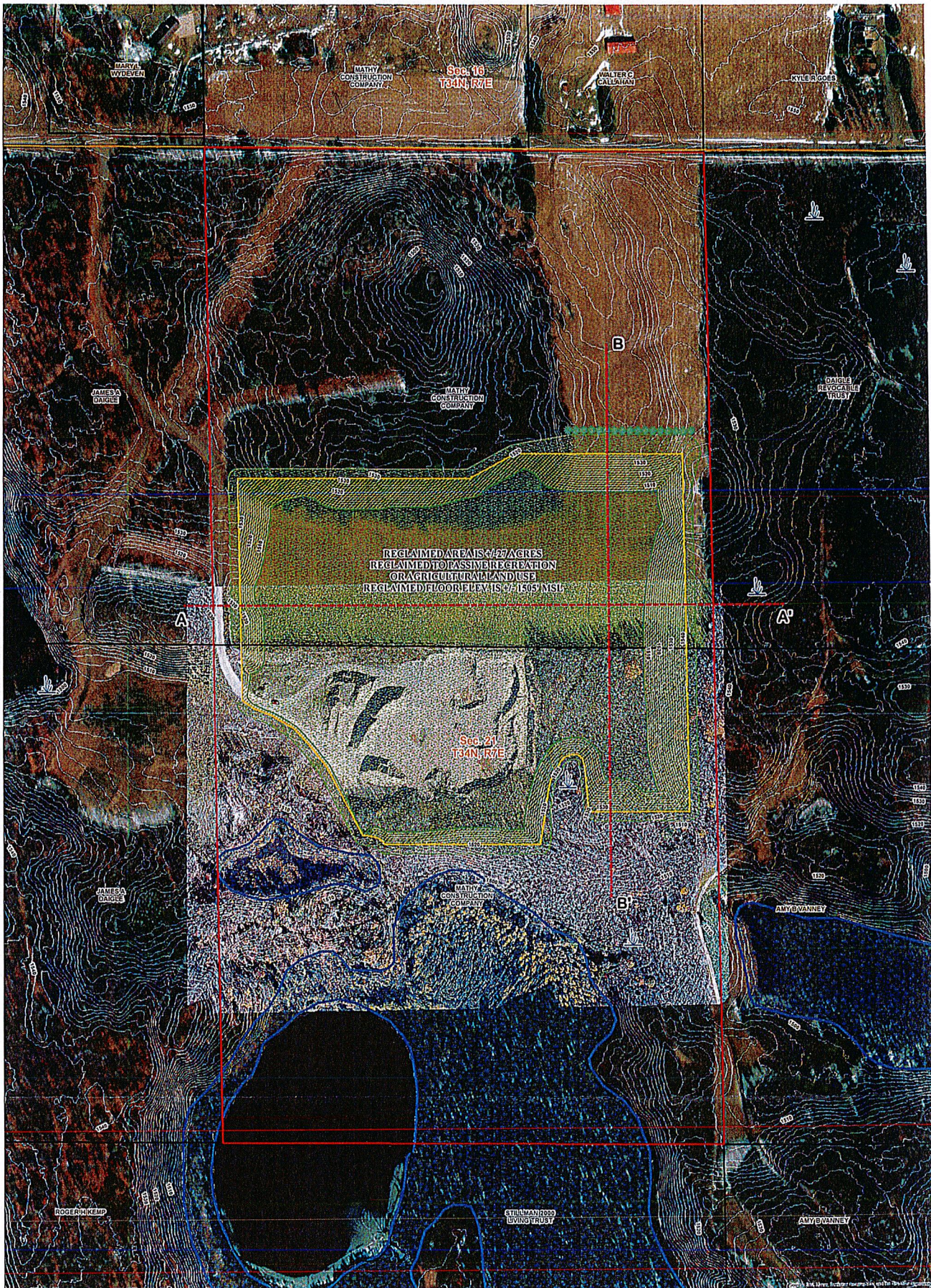
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**COOMBS SOUTH PIT  
 OPERATIONS PLAN MAP**

DATE: 09-12-2022      DRAWING: #2

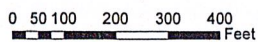


A Division of Mathy Construction Co.



**NOTES**

PROPOSED CUP FOR COOMBS SOUTH PIT  
 THIS IS NOT A SURVEY.  
 PARCEL LINES SHOWN ARE APPROXIMATE.  
 2 FOOT CONTOUR INTERVALS ARE FROM LINCOLN CO.  
 LIDAR WITH INSET PROPOSED RECLAMATION CONTOURS  
 PROPOSED RECLAMATION CONTOURS AREA APPROXIMATE  
 INSET IS 10/18/21 DRONE PHOTOGRAPH



**LEGEND**

- RECLAIMED AREAS
- 3:1 RECLAIMED SLOPES
- OWNED PROPERTY
- MINING BOUNDARY
- PARCELS
- SECTIONS
- WDNR WETLANDS

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**COOMBS SOUTH PIT  
 RECLAMATION PLAN MAP**

DATE: 09-12-2022

DRAWING: #3



**MILESTONE  
 MATERIALS**

A Division of Mathy Construction Co.

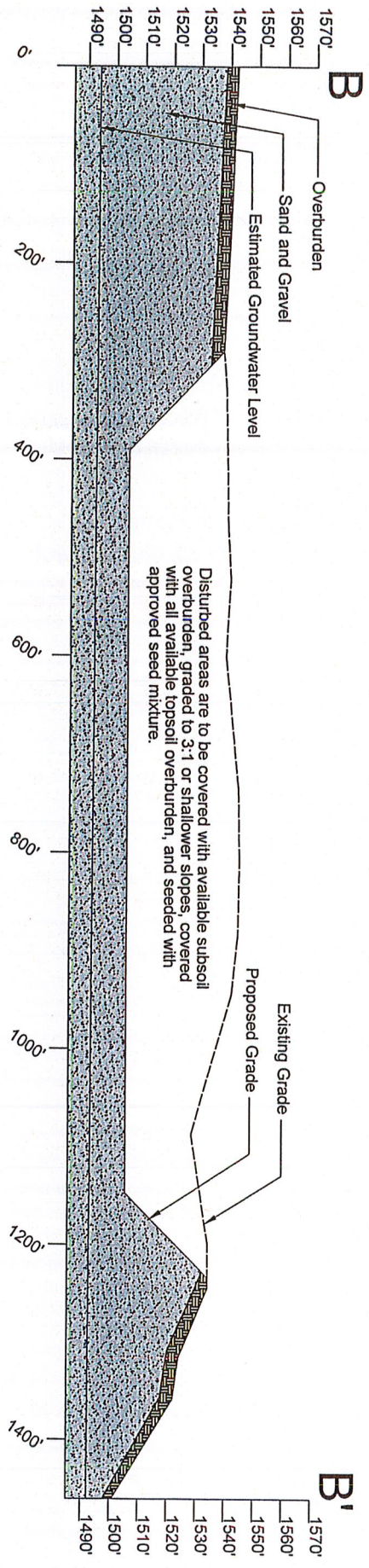
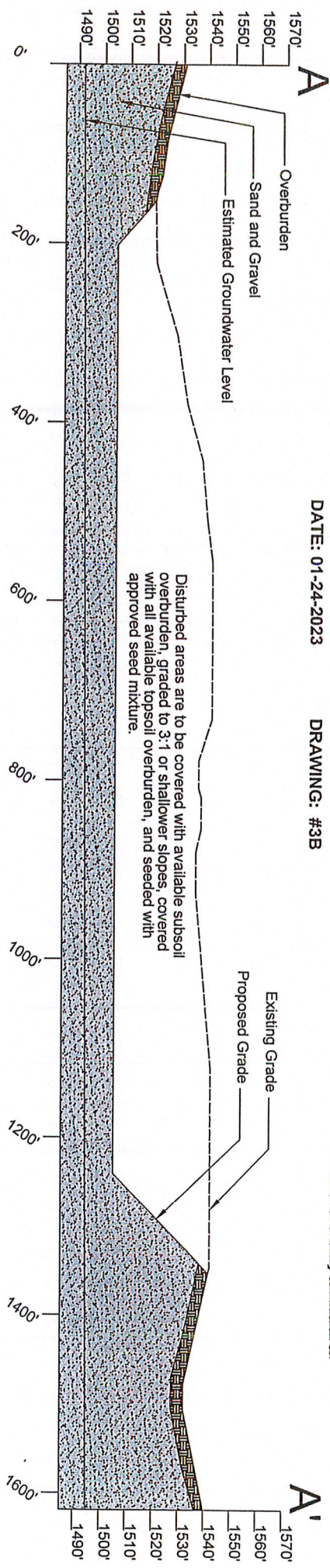
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 Committed to Protecting Our  
 Environment and Natural Resources

**COOMBS SOUTH PIT  
 RECLAMATION PLAN  
 CROSS SECTIONS**

DATE: 01-24-2023 DRAWING: #3B



**MILESTONE  
 MATERIALS**  
 A Division of Mathy Construction Co.



## APPENDICES

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APPENDIX A	Lincoln County Conditional Use Permit Application
APPENDIX B	Lincoln Co. Reclamation Plan Modification Application
APPENDIX C	WDNR Surface Water Data Viewer Display
APPENDIX D	NRCS Web Soil Survey Soils Report
APPENDIX E	WDNR NR 216 Storm Water General Permit
APPENDIX F	WisDOT Standard Specifications for Erosion Control

**APPENDIX A – Lincoln County Conditional Use Permit Application**

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# CONDITIONAL USE PERMIT

Fee: \$ 400.00

Receipt Number \_\_\_\_\_

# CUP - \_\_\_\_\_

To the Lincoln County Planning and Zoning Administration: The undersigned hereby makes application for a CONDITIONAL USE PERMIT for a determination that the following described site is suitable for the purpose indicated, and that suitable safeguards are met in accordance with the requirements of the Lincoln County Zoning Ordinance and with all other applicable County Ordinances and the laws and regulations of the State of Wisconsin. I declare that the information that I am supplying is true and accurate to the best of my knowledge and I acknowledge that this information will be relied upon for the issuance of this permit. By signing this application I am also granting permission to the zoning department staff to enter my property at any reasonable time for the purpose of inspection to assure compliance with the zoning laws relative to the issuance of this permit.

Legal Description: Section: 21 Township: 34 North Range: 7 East

Gov Lot: \_\_\_\_\_ OR Quarter/Quarter: E 1/2 of NW 1/14

Lot Number: \_\_\_\_\_ Subdivision/CSM: \_\_\_\_\_

Property Address: W4021 County Road S, Irma, Wisconsin 54442

Zoning district: RL-4 Lot size 80.62 acres

Proposed use: Sand and Gravel Extraction

**PLEASE NOTE: No later than 5 days of its submittal to the Zoning Administrator, the applicant shall transmit 2 identical copies of the petition and all applicable materials to the clerk of the town in which the proposal lies. Lincoln County Code of Ordinances 17.8.30 (2)**

Applicants Initials \_\_\_\_\_

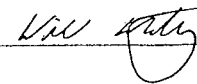
**COMPLETE A PLOT PLAN DRAWING ON REVERSE SIDE OR ATTACH A SEPARATE SHEET**

Owner(s) Name(s): Will Mathy

Mailing Address: 920 10th Avenue North  
Onalaska, WI 54650

Daytime Phone: ( 608 ) 783-6411

Note: All owners must sign

Signature: 

Date: 2-7-23

Date: \_\_\_\_\_

CO-APPLICANT (other than owner)

Name: Robert Servais (Geologist)

Mailing Address: Same

Phone: ( ) \_\_\_\_\_

### FOR OFFICE USE ONLY

Ordinance section relating to the request \_\_\_\_\_

Use of adjoining property: \_\_\_\_\_

Date Application Received: \_\_\_\_\_ By (Staff) \_\_\_\_\_

Date of Hearing : \_\_\_\_\_

Town Skanawan

Tax Parcel # 02634072129996 & 02634072129999

Owner Mathy Construction Company

First Name

Last Name

## **PLOT PLAN DRAWING**

Include on the drawing ALL of the information requested below that applies to the property.

1. Shape of parcel, include all lot line dimensions.
2. Indicate NORTH.
3. Show the location and names of all surrounding roads/highways.
4. Show the location and names of all area water bodies (lakes, rivers, creeks, ponds, etc.)
5. Indicate ALL other existing buildings on parcel with "EB".

Complete the following if the request is for NEW Construction

6. Show the location of the proposed construction on the parcel. Include the following measurements:
  - a) Distance from the centerline of any/all roads.
  - b) Distance from the right-of-way of any/all roads.
  - c) Distance to all lot lines.
  - d) Distance to any/all water bodies adjacent to or within the parcel.
7. Indicate distance from septic tank or holding tank to proposed construction.
8. Indicate distance from sewage system drainfield to proposed construction.
9. Indicate distance from well to proposed construction.
10. (IF on water) Indicate proposed clearings within the vegetative buffer zone (please refer to Shoreland Ordinance for limitations on different water classifications).

**SITE SHOULD BE MARKED OR FLAGGED PRIOR TO ZONING ONSITE INDICATING EXISTING LOT LINES, PROPOSED LOT LINES AND ANY PROPOSED CONSTRUCTION**

Please see maps in accompanying application booklet.

**NO CONSTRUCTION SHALL BEGIN UNTIL A LAND USE PERMIT HAS BEEN ISSUED**

**Town Recommendation Form**  
**Conditional Use Request, Petition for Modification of Subdivision Ord., Plat Approval**  
**Town of     Skanawan**  
**Lincoln County**

Name of Applicant     Mathy Construction Company      
Request:     Expansion of sand and gravel extraction operation to optimize recovery of owned sand and gravel reserves at existing Coombs South Gravel Pit.    

The **Town Planning Commission** has made a recommendation on this date \_\_\_\_\_ to:

\_\_\_\_\_ Approve the Request: by a vote of \_\_\_\_\_ For and \_\_\_\_\_ Against

Conditions: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_ Deny the Request: by a vote of \_\_\_\_\_ For and \_\_\_\_\_ Against

\_\_\_\_\_ Delay the Request for 30 days: by a vote of \_\_\_\_\_ For and \_\_\_\_\_ Against

Comments/Reasons for any of the above recommendations: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

The **Town Board** has made a recommendation on this date \_\_\_\_\_ to:

\_\_\_\_\_ Approve the Request: by a vote of \_\_\_\_\_ For and \_\_\_\_\_ Against

Conditions: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_ Deny the Request: by a vote of \_\_\_\_\_ For and \_\_\_\_\_ Against

\_\_\_\_\_ Delay the Request for 30 days: by a vote of \_\_\_\_\_ For and \_\_\_\_\_ Against

Comments/Reasons for any of the above recommendations: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_ (Check here if:) **The Town hereby waives its right to make a formal recommendation on this Request to the Lincoln County Land Services Committee.**

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Town Chairman Signature

\_\_\_\_\_  
Town Board Supervisor Signature

\_\_\_\_\_  
Town Board Supervisor Signature

\_\_\_\_\_  
Town Board Supervisor Signature

**APPENDIX B – Lincoln County NR 135 Reclamation Plan Modification Application**

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Name: Milestone Materials, Coombs South Pit E 1/2 NW 1/4, Sec. 21, T 34 N, R 7 E, Parcel # 02634072129996 & 02634072129999 Town of Skanawan

Fee: \$ 100.00

NMM Permit # \_\_\_\_\_

Receipt #: \_\_\_\_\_

Date Received: \_\_\_\_\_

## LINCOLN COUNTY - Nonmetallic Mining Existing Mine Reclamation Plan Modification

Applicant/Operator: <b>Milestone Materials (a Division of Mathy Construction Co.)</b>	Property Owners: (if different from Applicant/Operator) <b>Mathy Construction Company</b>
Address: <b>920 10th Avenue North</b>	Address: <b>Same</b>
City, State, Zip: <b>Onalaska, WI 54650</b>	City, State, Zip:
Phone: <b>608-783-6411</b>	Phone: <b>Same</b>

**LEGAL PROPERTY DESCRIPTION: (ATTACH COPY OF MAP IF DESIRED)**

GL          E   1/2   NW   1/4, Section   21   T   34   N R   7   E Town of:   Skanawan  

PARCEL NUMBER(S):   02634072129996 & 02634072129999   Pit Name:   Coombs South  

**RECLAMATION PLAN:**

Attach Proposed Reclamation Plan and cover letter outlining the major changes/modifications.

**OPERATOR CERTIFICATION:**

I hereby certify, as a duly authorized representative or agent, that the operator listed above will comply with the statewide nonmetallic mining reclamation standards established in NR 135 Wis. Adm. Code. The contractor will also provide a completed reclamation plan and financial assurance. I hereby certify that the information contained herein is true and accurate. I also certify that I am entitled to apply for a permit, or that I am the duly authorized representative or agent of an applicant who is entitled to apply for a permit. I hereby grant Lincoln Co. permission to enter the property on which the above-specified mine is located and to conduct any and all inspections necessary to administer the reclamation permit. I also certify that I am entitled to grant such permission or that I am the authorized representative or agent of an applicant who is entitled to grant such permission.

Signature of Applicant/Operator or Duly Authorized Representative: <i>Wick Mathy</i>	Date Signed: <b>2-7-23</b>
---	-------------------------------

**LANDOWNER CERTIFICATION: (attach 2<sup>nd</sup> sheet if necessary for signatures)**

I/We hereby certify, as the landowner(s) of the referenced property, that we agree with the proposed reclamation plan being submitted by the Applicant/Operator or Duly Authorized Representative and that we will allow implementation of this plan.

Signature of Landowner: <i>Wick Mathy</i>	Date Signed: <b>2-7-23</b>
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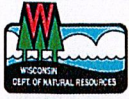
Signature of Landowner:	Date Signed:
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Signature of Landowner:	Date Signed:
-------------------------	--------------

FOR OFFICE USE ONLY:	Approved by:	Date Approved:
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**APPENDIX C – WDNR Surface Water Data Viewer Display**

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# Surface Water Data Viewer Map



## Legend

- Wetland Indicators
- Wetland Class Areas
- Wetland Class Points**
  - Dammed pond
  - Excavated pond
  - Filled/draind wetland
  - Wetland too small to delineate
  - Filled excavated pond
- Filled Points
- Wetland Class Areas
- Filled Areas
- Wetland Class Areas
- Wetland Class Points**
  - Dammed pond
  - Excavated pond
  - Filled/draind wetland
  - Wetland too small to delineate
  - Filled excavated pond
- Filled Points
- Wetland Class Areas
- Filled Areas
- 2D Water Surface Elevation Grid**
  - High : 937.629
  - Low : 853.184
- Dams**
  - Dams with FERC License
  - Dams
- Record Flood Levels
- Analysis Lines**
  - Other
  - Flood Insurance Study
  - Letter of Map Revision
  - Case By Case Analysis
  - Bridge
- Analysis Points**
  - Other

0.1 0 0.06 0.1 Miles

1:3,960

NAD\_1983\_HARN\_Wisconsin\_TM

DISCLAIMER: The information shown on these maps has been obtained from various sources, and are of varying age, reliability and resolution. These maps are not intended to be used for navigation, nor are these maps an authoritative source of information about legal land ownership or public access. No warranty, expressed or implied, is made regarding accuracy, applicability for a particular use, completeness, or legality of the information depicted on this map. For more information, see the DNR Legal Notices web page: <http://dnr.wi.gov/legal/>

## Notes

**APPENDIX D – NRCS Web Soil Survey Soils Report**

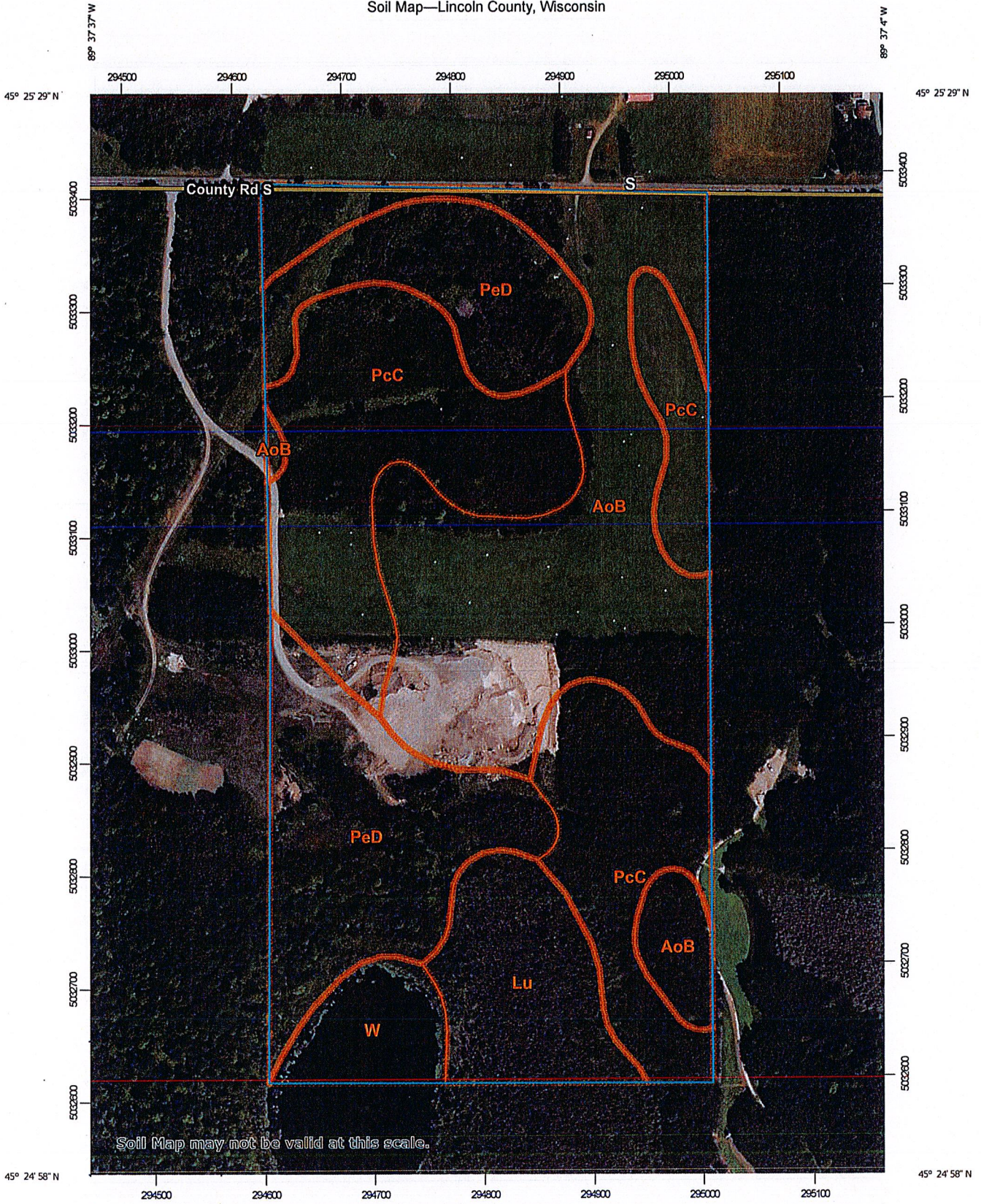
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Soil Map—Lincoln County, Wisconsin



Soil Map may not be valid at this scale.

Map Scale: 1:4,660 if printed on A portrait (8.5" x 11") sheet.

0 50 100 200 300 Meters

0 200 400 800 1200 Feet

Map projection: Web Mercator Corner coordinates: WGS84 Edge ticks: UTM Zone 16N WGS84


































Natural Resources Conservation Service

Web Soil Survey National Cooperative Soil Survey

1/24/2023 Page 1 of 3

## MAP LEGEND

-  Area of Interest (AOI)
-  Area of Interest (AOI)
-  Soils
-  Soil Map Unit Polygons
-  Soil Map Unit Lines
-  Soil Map Unit Points
-  Special Point Features
-  Blowout
-  Borrow Pit
-  Clay Spot
-  Closed Depression
-  Gravel Pit
-  Gravelly Spot
-  Landfill
-  Lava Flow
-  Marsh or swamp
-  Mine or Quarry
-  Miscellaneous Water
-  Perennial Water
-  Rock Outcrop
-  Saline Spot
-  Sandy Spot
-  Severely Eroded Spot
-  Sinkhole
-  Slide or Slip
-  Sodic Spot
-  Spoil Area
-  Stony Spot
-  Very Stony Spot
-  Wet Spot
-  Other
-  Special Line Features
-  Water Features
-  Streams and Canals
-  Transportation
-  Rails
-  Interstate Highways
-  US Routes
-  Major Roads
-  Local Roads
-  Background
-  Aerial Photography

## MAP INFORMATION

The soil surveys that comprise your AOI were mapped at 1:20,000.

**Warning:** Soil Map may not be valid at this scale.

Enlargement of maps beyond the scale of mapping can cause misunderstanding of the detail of mapping and accuracy of soil line placement. The maps do not show the small areas of contrasting soils that could have been shown at a more detailed scale.

Please rely on the bar scale on each map sheet for map measurements.

Source of Map: Natural Resources Conservation Service  
 Web Soil Survey URL:  
 Coordinate System: Web Mercator (EPSG:3857)

Maps from the Web Soil Survey are based on the Web Mercator projection, which preserves direction and shape but distorts distance and area. A projection that preserves area, such as the Albers equal-area conic projection, should be used if more accurate calculations of distance or area are required.

This product is generated from the USDA-NRCS certified data as of the version date(s) listed below.

Soil Survey Area: Lincoln County, Wisconsin  
 Survey Area Data: Version 19, Sep 6, 2022

Soil map units are labeled (as space allows) for map scales 1:50,000 or larger.

Date(s) aerial images were photographed: Aug 16, 2021—Sep 1, 2021

The orthophoto or other base map on which the soil lines were compiled and digitized probably differs from the background imagery displayed on these maps. As a result, some minor shifting of map unit boundaries may be evident.

## Map Unit Legend

Map Unit Symbol	Map Unit Name	Acres in AOI	Percent of AOI
AoB	Antigo silt loam, 2 to 6 percent slopes	25.2	31.7%
Lu	Lupton and Cathro soils, 0 to 1 percent slopes	6.8	8.5%
PcC	Pence-Antigo complex, 6 to 15 percent slopes	25.1	31.6%
PeD	Padus-Pence sandy loams, 15 to 35 percent slopes	19.1	24.0%
W	Water	3.3	4.2%
<b>Totals for Area of Interest</b>		<b>79.4</b>	<b>100.0%</b>

## Map Unit Description

The map units delineated on the detailed soil maps in a soil survey represent the soils or miscellaneous areas in the survey area. The map unit descriptions in this report, along with the maps, can be used to determine the composition and properties of a unit.

A map unit delineation on a soil map represents an area dominated by one or more major kinds of soil or miscellaneous areas. A map unit is identified and named according to the taxonomic classification of the dominant soils. Within a taxonomic class there are precisely defined limits for the properties of the soils. On the landscape, however, the soils are natural phenomena, and they have the characteristic variability of all natural phenomena. Thus, the range of some observed properties may extend beyond the limits defined for a taxonomic class. Areas of soils of a single taxonomic class rarely, if ever, can be mapped without including areas of other taxonomic classes. Consequently, every map unit is made up of the soils or miscellaneous areas for which it is named, soils that are similar to the named components, and some minor components that differ in use and management from the major soils.

Most of the soils similar to the major components have properties similar to those of the dominant soil or soils in the map unit, and thus they do not affect use and management. These are called noncontrasting, or similar, components. They may or may not be mentioned in a particular map unit description. Some minor components, however, have properties and behavior characteristics divergent enough to affect use or to require different management. These are called contrasting, or dissimilar, components. They generally are in small areas and could not be mapped separately because of the scale used. Some small areas of strongly contrasting soils or miscellaneous areas are identified by a special symbol on the maps. If included in the database for a given area, the contrasting minor components are identified in the map unit descriptions along with some characteristics of each. A few areas of minor components may not have been observed, and consequently they are not mentioned in the descriptions, especially where the pattern was so complex that it was impractical to make enough observations to identify all the soils and miscellaneous areas on the landscape.

The presence of minor components in a map unit in no way diminishes the usefulness or accuracy of the data. The objective of mapping is not to delineate pure taxonomic classes but rather to separate the landscape into landforms or landform segments that have similar use and management requirements. The delineation of such segments on the map provides sufficient information for the development of resource plans. If intensive use of small areas is planned, however, onsite investigation is needed to define and locate the soils and miscellaneous areas.

An identifying symbol precedes the map unit name in the map unit descriptions. Each description includes general facts about the unit and gives important soil properties and qualities.

Soils that have profiles that are almost alike make up a *soil series*. All the soils of a series have major horizons that are similar in composition, thickness, and arrangement. Soils of a given series can differ in texture of the surface layer, slope, stoniness, salinity, degree of erosion, and other characteristics that affect their use. On the basis of such differences, a soil series is divided into *soil phases*. Most of the areas shown on the detailed soil maps are phases of soil series. The name of a soil phase commonly indicates a feature that affects use or management. For example, Alpha silt loam, 0 to 2 percent slopes, is a phase of the Alpha series.

Some map units are made up of two or more major soils or miscellaneous areas. These map units are complexes, associations, or undifferentiated groups.

A *complex* consists of two or more soils or miscellaneous areas in such an intricate pattern or in such small areas that they cannot be shown separately on the maps. The pattern and proportion of the soils or miscellaneous areas are somewhat similar in all areas. Alpha-Beta complex, 0 to 6 percent slopes, is an example.

An *association* is made up of two or more geographically associated soils or miscellaneous areas that are shown as one unit on the maps. Because of present or anticipated uses of the map units in the survey area, it was not considered practical or necessary to map the soils or miscellaneous areas separately. The pattern and relative proportion of the soils or miscellaneous areas are somewhat similar. Alpha-Beta association, 0 to 2 percent slopes, is an example.

An *undifferentiated-group* is made up of two or more soils or miscellaneous areas that could be mapped individually but are mapped as one unit because similar interpretations can be made for use and management. The pattern and proportion of the soils or miscellaneous areas in a mapped area are not uniform. An area can be made up of only one of the major soils or miscellaneous areas, or it can be made up of all of them. Alpha and Beta soils, 0 to 2 percent slopes, is an example.

Some surveys include *miscellaneous areas*. Such areas have little or no soil material and support little or no vegetation. Rock outcrop is an example.

Additional information about the map units described in this report is available in other soil reports, which give properties of the soils and the limitations, capabilities, and potentials for many uses. Also, the narratives that accompany the soil reports define some of the properties included in the map unit descriptions.

## Report—Map Unit Description

### Lincoln County, Wisconsin

#### AoB—Antigo silt loam, 2 to 6 percent slopes

##### Map Unit Setting

*National map unit symbol:* 2tnz8

*Elevation:* 740 to 1,900 feet

*Mean annual precipitation:* 27 to 36 inches  
*Mean annual air temperature:* 37 to 46 degrees F  
*Frost-free period:* 80 to 150 days  
*Farmland classification:* All areas are prime farmland

#### Map Unit Composition

*Antigo and similar soils:* 80 percent  
*Minor components:* 20 percent  
*Estimates are based on observations, descriptions, and transects of the mapunit.*

#### Description of Antigo

##### Setting

*Landform:* Hillslopes, flats, terraces  
*Landform position (two-dimensional):* Summit, shoulder, backslope  
*Landform position (three-dimensional):* Interfluve, side slope, riser, rise  
*Down-slope shape:* Convex  
*Across-slope shape:* Convex  
*Parent material:* Loess and/or silty glaciofluvial deposits over loamy glaciofluvial deposits over stratified sandy and gravelly outwash

##### Typical profile

*Ap - 0 to 9 inches:* silt loam  
*E - 9 to 12 inches:* silt loam  
*B/E - 12 to 19 inches:* silt loam  
*Bt1 - 19 to 28 inches:* silt loam  
*2Bt2 - 28 to 31 inches:* loam  
*2Bt3 - 31 to 33 inches:* very gravelly sandy loam  
*3C - 33 to 79 inches:* stratified sand to very gravelly coarse sand

##### Properties and qualities

*Slope:* 2 to 6 percent  
*Depth to restrictive feature:* More than 80 inches  
*Drainage class:* Well drained  
*Capacity of the most limiting layer to transmit water (Ksat):* Moderately high to high (0.60 to 2.00 in/hr)  
*Depth to water table:* More than 80 inches  
*Frequency of flooding:* None  
*Frequency of ponding:* None  
*Maximum salinity:* Nonsaline to very slightly saline (0.0 to 2.0 mmhos/cm)  
*Available water supply, 0 to 60 inches:* Moderate (about 7.8 inches)

##### Interpretive groups

*Land capability classification (irrigated):* None specified  
*Land capability classification (nonirrigated):* 2e  
*Hydrologic Soil Group:* B  
*Ecological site:* F090AY016WI - Loamy Upland  
*Forage suitability group:* Mod AWC, adequately drained (G090BY005WI)

*Other vegetative classification:* Acer saccharum/Viola-Osmorhiza (AViO), Acer saccharum/Hydrophyllum (AH), Mod AWC, adequately drained (G090BY005WI)  
*Hydric soil rating:* No

#### Minor Components

##### Sconsin

*Percent of map unit:* 5 percent  
*Landform:* Flats, terraces, hillslopes  
*Landform position (two-dimensional):* Summit  
*Landform position (three-dimensional):* Interfluve, tread, rise  
*Down-slope shape:* Linear  
*Across-slope shape:* Linear  
*Ecological site:* F090AY016WI - Loamy Upland  
*Other vegetative classification:* High AWC, adequately drained (G090AY008WI), Acer saccharum/Caulophyllum-Circaea (ACaCi), Acer saccharum-Tsuga/Maianthemum (ATM), Acer saccharum/Hydrophyllum (AH), Acer saccharum/Viola-Osmorhiza (AViO)  
*Hydric soil rating:* No

##### Rosholt

*Percent of map unit:* 5 percent  
*Landform:* Terraces, flats, hillslopes  
*Landform position (two-dimensional):* Summit, shoulder, backslope  
*Landform position (three-dimensional):* Interfluve, side slope, riser, rise  
*Down-slope shape:* Convex  
*Across-slope shape:* Convex  
*Ecological site:* F090AY016WI - Loamy Upland  
*Other vegetative classification:* Acer saccharum/Athyrium (AAT), Acer saccharum/Vaccinium-Desmodium (AVDe), Acer saccharum-Quercus/Viburnum=(Vaccinium) (AQVb-V), Acer saccharum/Caulophyllum-Circaea (ACaCi), Mod AWC, adequately drained (G090AY005WI)  
*Hydric soil rating:* No

##### Billyboy

*Percent of map unit:* 5 percent  
*Landform:* Flats, terraces, hillslopes  
*Landform position (two-dimensional):* Foothslope  
*Landform position (three-dimensional):* Base slope, tread, rise  
*Down-slope shape:* Linear  
*Across-slope shape:* Linear  
*Ecological site:* F090AY016WI - Loamy Upland  
*Other vegetative classification:* Mod AWC, adequately drained (G090AY005WI), Acer saccharum/Caulophyllum-Circaea (ACaCi), Acer saccharum-Tsuga/Maianthemum (ATM), Acer saccharum/Hydrophyllum (AH), Acer saccharum/Viola-Osmorhiza (AViO)  
*Hydric soil rating:* No

**Brill**

*Percent of map unit:* 3 percent  
*Landform:* Terraces, hillslopes, flats  
*Landform position (two-dimensional):* Summit  
*Landform position (three-dimensional):* Interfluve, tread, rise  
*Down-slope shape:* Linear  
*Across-slope shape:* Linear  
*Ecological site:* F090AY016WI - Loamy Upland  
*Other vegetative classification:* Acer saccharum/Athyrium (AAt),  
Acer saccharum/Caulophyllum-Circaea (ACaCi), High AWC,  
adequately drained (G090BY008WI)  
*Hydric soil rating:* No

**Ossmer**

*Percent of map unit:* 2 percent  
*Landform:* Flats, terraces, hillslopes  
*Landform position (two-dimensional):* Footslope  
*Landform position (three-dimensional):* Base slope, tread, talf  
*Down-slope shape:* Concave  
*Across-slope shape:* Linear  
*Ecological site:* F090AY011WI - Moist Loamy Lowland  
*Other vegetative classification:* Acer saccharum/Hydrophyllum  
(AH), Acer saccharum-Tsuga/Maianthemum (ATM), Tsuga/  
Maianthemum-Coptis (TMC), Acer saccharum/Viola-Osmorhiza  
(AVIO), High AWC, high water table (G090AY007WI)  
*Hydric soil rating:* No

**Lu—Lupton and Cathro soils, 0 to 1 percent slopes**

**Map Unit Setting**

*National map unit symbol:* 2tnxw  
*Elevation:* 1,100 to 1,900 feet  
*Mean annual precipitation:* 27 to 36 inches  
*Mean annual air temperature:* 37 to 46 degrees F  
*Frost-free period:* 80 to 150 days  
*Farmland classification:* Not prime farmland

**Map Unit Composition**

*Lupton and similar soils:* 45 percent  
*Cathro and similar soils:* 35 percent  
*Minor components:* 20 percent  
*Estimates are based on observations, descriptions, and transects of  
the mapunit.*

**Description of Lupton**

**Setting**

*Landform:* Depressions on lake plains, depressions on outwash  
plains, depressions on moraines  
*Landform position (two-dimensional):* Toeslope  
*Landform position (three-dimensional):* Dip



*Down-slope shape:* Concave  
*Across-slope shape:* Concave  
*Parent material:* Woody organic material and/or herbaceous organic material

**Typical profile**

*Oa1 - 0 to 10 inches:* muck  
*Oa2 - 10 to 25 inches:* muck  
*Oa3 - 25 to 46 inches:* muck  
*Oa4 - 46 to 79 inches:* muck

**Properties and qualities**

*Slope:* 0 to 1 percent  
*Depth to restrictive feature:* More than 80 inches  
*Drainage class:* Very poorly drained  
*Runoff class:* Negligible  
*Capacity of the most limiting layer to transmit water (Ksat):* Moderately low to high (0.14 to 5.95 in/hr)  
*Depth to water table:* About 0 inches  
*Frequency of flooding:* None  
*Frequency of ponding:* Frequent  
*Maximum salinity:* Nonsaline to very slightly saline (0.0 to 2.0 mmhos/cm)  
*Available water supply, 0 to 60 inches:* Very high (about 23.9 inches)

**Interpretive groups**

*Land capability classification (irrigated):* None specified  
*Land capability classification (nonirrigated):* 6w  
*Hydrologic Soil Group:* A/D  
*Ecological site:* F090AY002WI - Mucky Swamp  
*Forage suitability group:* Frequently flooded, organics (G090AY010WI)  
*Other vegetative classification:* Frequently flooded, organics (G090AY010WI), Tsuga-Thuja-Mitella/Tsuga-Thuja-Sphagnum (TTM/TTS)  
*Hydric soil rating:* Yes

**Description of Cathro**

**Setting**

*Landform:* Depressions on lake plains, depressions on outwash plains, depressions on moraines  
*Landform position (two-dimensional):* Toeslope  
*Landform position (three-dimensional):* Dip  
*Down-slope shape:* Concave  
*Across-slope shape:* Concave  
*Parent material:* Herbaceous organic material over deposits loamy drift

**Typical profile**

*Oa1 - 0 to 15 inches:* muck  
*Oa2 - 15 to 28 inches:* muck  
*Cg1 - 28 to 49 inches:* loam

Cg2 - 49 to 79 inches: sandy loam

**Properties and qualities**

*Slope:* 0 to 1 percent

*Depth to restrictive feature:* More than 80 inches

*Drainage class:* Very poorly drained

*Runoff class:* Negligible

*Capacity of the most limiting layer to transmit water*

(Ksat): Moderately low to high (0.14 to 1.98 in/hr)

*Depth to water table:* About 0 inches

*Frequency of flooding:* None

*Frequency of ponding:* Frequent

*Calcium carbonate, maximum content:* 25 percent

*Maximum salinity:* Nonsaline to very slightly saline (0.0 to 2.0 mmhos/cm)

*Available water supply, 0 to 60 inches:* Very high (about 16.6 inches)

**Interpretive groups**

*Land capability classification (irrigated):* None specified

*Land capability classification (nonirrigated):* 6w

*Hydrologic Soil Group:* B/D

*Ecological site:* F090AY002WI - Mucky Swamp

*Forage suitability group:* Frequently flooded, organics (G090AY010WI)

*Other vegetative classification:* Frequently flooded, organics

(G090AY010WI), Tsuga-Thuja-Mitella/Fraxinus-Impatiens (TTM/FI)

*Hydric soil rating:* Yes

**Minor Components**

**Capitola**

*Percent of map unit:* 5 percent

*Landform:* Drainageways on moraines, depressions on moraines

*Landform position (two-dimensional):* Toeslope

*Landform position (three-dimensional):* Dip

*Down-slope shape:* Linear, concave

*Across-slope shape:* Concave

*Ecological site:* F090AY006WI - Wet Loamy Lowland

*Other vegetative classification:* Mod AWC, high water table

(G090AY004WI), Not Assigned (wet mineral soils) (Nmin)

*Hydric soil rating:* Yes

**Beseman**

*Percent of map unit:* 5 percent

*Landform:* Depressions on outwash plains, depressions on moraines, depressions on lake plains

*Landform position (two-dimensional):* Toeslope

*Landform position (three-dimensional):* Dip

*Down-slope shape:* Concave

*Across-slope shape:* Concave

*Ecological site:* F090AY001WI - Poor Fen

*Other vegetative classification:* Frequently flooded, organics (G090AY010WI), Not Assigned (acid organic soils) (Naor)

*Hydric soil rating:* Yes

#### **Loxley**

*Percent of map unit:* 5 percent

*Landform:* Depressions on outwash plains, depressions on moraines, depressions on lake plains

*Landform position (two-dimensional):* Toeslope

*Landform position (three-dimensional):* Dip

*Down-slope shape:* Concave

*Across-slope shape:* Concave

*Ecological site:* F090AY001WI - Poor Fen

*Other vegetative classification:* Frequently flooded, organics (G090AY010WI), Not Assigned (acid organic soils) (Naor)

*Hydric soil rating:* Yes

#### **Markey**

*Percent of map unit:* 5 percent

*Landform:* Depressions on lake plains, depressions on outwash plains, depressions on moraines

*Landform position (two-dimensional):* Toeslope

*Landform position (three-dimensional):* Dip

*Down-slope shape:* Concave

*Across-slope shape:* Concave

*Ecological site:* F090AY002WI - Mucky Swamp

*Other vegetative classification:* Not Assigned (non-acid organic soils) (Nnor), Frequently flooded, organics (G090AY010WI)

*Hydric soil rating:* Yes

### **PcC—Pence-Antigo complex, 6 to 15 percent slopes**

#### **Map Unit Setting**

*National map unit symbol:* gh4y

*Elevation:* 600 to 2,000 feet

*Mean annual precipitation:* 28 to 36 inches

*Mean annual air temperature:* 39 to 48 degrees F

*Frost-free period:* 120 to 170 days

*Farmland classification:* Not prime farmland

#### **Map Unit Composition**

*Pence, sandy substratum, and similar soils:* 75 percent

*Antigo and similar soils:* 25 percent

*Estimates are based on observations, descriptions, and transects of the mapunit.*

#### **Description of Pence, Sandy Substratum**

##### **Setting**

*Landform:* Outwash plains

*Landform position (two-dimensional):* Shoulder, backslope

*Down-slope shape:* Convex

*Across-slope shape:* Convex

*Parent material:* Loamy drift over sandy and gravelly outwash

**Typical profile**

*A,E - 0 to 4 inches:* loam

*Bs1,Bs2 - 4 to 16 inches:* sandy loam

*2BC1,2BC2 - 16 to 34 inches:* gravelly coarse sand

*2C - 34 to 60 inches:* gravelly coarse sand

**Properties and qualities**

*Slope:* 6 to 15 percent

*Depth to restrictive feature:* More than 80 inches

*Drainage class:* Well drained

*Runoff class:* High

*Capacity of the most limiting layer to transmit water (Ksat):* High  
(1.98 to 5.95 in/hr)

*Depth to water table:* More than 80 inches

*Frequency of flooding:* None

*Frequency of ponding:* None

*Available water supply, 0 to 60 inches:* Low (about 4.6 inches)

**Interpretive groups**

*Land capability classification (irrigated):* 3e

*Land capability classification (nonirrigated):* 4e

*Hydrologic Soil Group:* A

*Ecological site:* F090AY013WI - Sandy Upland

*Forage suitability group:* Low AWC, adequately drained  
(G090BY002WI)

*Other vegetative classification:* Acer saccharum/Viola-Osmorhiza  
(AViO), Low AWC, adequately drained (G090BY002WI), Acer  
saccharum-Tsuga/Maianthemum (ATM)

*Hydric soil rating:* No

**Description of Antigo**

**Setting**

*Landform:* Outwash plains

*Landform position (two-dimensional):* Shoulder, backslope

*Down-slope shape:* Convex

*Across-slope shape:* Convex

*Parent material:* Loamy and/or silty drift over sandy and gravelly  
outwash

**Typical profile**

*A - 0 to 4 inches:* silt loam

*Bs,E/B - 4 to 17 inches:* silt loam

*B/E - 17 to 21 inches:* silt loam

*2Bt1,2Bt2 - 21 to 31 inches:* sandy loam

*3C - 31 to 60 inches:* stratified very gravelly sand to sand

**Properties and qualities**

*Slope:* 6 to 15 percent

*Depth to restrictive feature:* More than 80 inches

*Drainage class:* Well drained

*Runoff class:* High  
*Capacity of the most limiting layer to transmit water (Ksat):* Moderately high to high (0.57 to 1.98 in/hr)  
*Depth to water table:* More than 80 inches  
*Frequency of flooding:* None  
*Frequency of ponding:* None  
*Available water supply, 0 to 60 inches:* Moderate (about 6.7 inches)

**Interpretive groups**

*Land capability classification (irrigated):* 3e  
*Land capability classification (nonirrigated):* 3e  
*Hydrologic Soil Group:* B  
*Ecological site:* F090AY016WI - Loamy Upland  
*Forage suitability group:* Mod AWC, adequately drained (G090BY005WI)  
*Other vegetative classification:* Acer saccharum-Tsuga/Maianthemum (ATM), Acer saccharum/Viola-Osmorhiza (AViO), Mod AWC, adequately drained (G090BY005WI)  
*Hydric soil rating:* No

**PeD—Padus-Pence sandy loams, 15 to 35 percent slopes**

**Map Unit Setting**

*National map unit symbol:* 2tnz2  
*Elevation:* 1,030 to 1,900 feet  
*Mean annual precipitation:* 27 to 36 inches  
*Mean annual air temperature:* 37 to 46 degrees F  
*Frost-free period:* 80 to 150 days  
*Farmland classification:* Not prime farmland

**Map Unit Composition**

*Padus and similar soils:* 45 percent  
*Pence and similar soils:* 40 percent  
*Minor components:* 15 percent  
*Estimates are based on observations, descriptions, and transects of the mapunit.*

**Description of Padus**

**Setting**

*Landform:* Disintegration moraines, hillslopes  
*Landform position (two-dimensional):* Shoulder, backslope  
*Landform position (three-dimensional):* Side slope  
*Down-slope shape:* Convex  
*Across-slope shape:* Convex  
*Parent material:* Loamy glaciofluvial deposits over stratified sandy and gravelly outwash

**Typical profile**

*A - 0 to 2 inches:* sandy loam  
*E - 2 to 3 inches:* sandy loam

*Bs - 3 to 19 inches:* sandy loam  
*E/B - 19 to 26 inches:* sandy loam  
*B/E - 26 to 38 inches:* sandy loam  
*2C - 38 to 79 inches:* stratified sand to very gravelly coarse sand

#### Properties and qualities

*Slope:* 15 to 35 percent  
*Depth to restrictive feature:* More than 80 inches  
*Drainage class:* Well drained  
*Capacity of the most limiting layer to transmit water (Ksat):* Moderately high to high (0.60 to 2.00 in/hr)  
*Depth to water table:* More than 80 inches  
*Frequency of flooding:* None  
*Frequency of ponding:* None  
*Maximum salinity:* Nonsaline to very slightly saline (0.0 to 2.0 mmhos/cm)  
*Available water supply, 0 to 60 inches:* Low (about 5.9 inches)

#### Interpretive groups

*Land capability classification (irrigated):* None specified  
*Land capability classification (nonirrigated):* 3e  
*Hydrologic Soil Group:* B  
*Ecological site:* F090AY016WI - Loamy Upland  
*Forage suitability group:* Mod AWC, adequately drained (G090AY005WI)  
*Other vegetative classification:* Acer saccharum-Tsuga/Dryopteris (ATD), Mod AWC, adequately drained (G090AY005WI), Acer saccharum-Tsuga/Maianthemum (ATM)  
*Hydric soil rating:* No

#### Description of Pence

##### Setting

*Landform:* Disintegration moraines, hillslopes  
*Landform position (two-dimensional):* Shoulder, backslope  
*Landform position (three-dimensional):* Side slope  
*Down-slope shape:* Convex  
*Across-slope shape:* Convex  
*Parent material:* Loamy glaciofluvial deposits over stratified sandy and gravelly outwash

##### Typical profile

*A - 0 to 3 inches:* sandy loam  
*E - 3 to 8 inches:* sandy loam  
*Bs - 8 to 15 inches:* gravelly sandy loam  
*2BC - 15 to 21 inches:* gravelly coarse sand  
*2C - 21 to 79 inches:* stratified sand to very gravelly coarse sand

#### Properties and qualities

*Slope:* 15 to 35 percent  
*Depth to restrictive feature:* More than 80 inches  
*Drainage class:* Somewhat excessively drained  
*Capacity of the most limiting layer to transmit water (Ksat):* High (2.00 to 6.00 in/hr)

*Depth to water table:* More than 80 inches  
*Frequency of flooding:* None  
*Frequency of ponding:* None  
*Maximum salinity:* Nonsaline to very slightly saline (0.0 to 2.0 mmhos/cm)  
*Available water supply, 0 to 60 inches:* Low (about 4.0 inches)

**Interpretive groups**

*Land capability classification (irrigated):* None specified  
*Land capability classification (nonirrigated):* 4e  
*Hydrologic Soil Group:* A  
*Ecological site:* F090AY019WI - Dry Sandy Uplands  
*Forage suitability group:* Low AWC, adequately drained (G090AY002WI)  
*Other vegetative classification:* Acer saccharum-Tsuga/Maianthemum (ATM), Low AWC, adequately drained (G090AY002WI)  
*Hydric soil rating:* No

**Minor Components**

**Padus, stony**

*Percent of map unit:* 10 percent  
*Landform:* Disintegration moraines, hillslopes  
*Landform position (two-dimensional):* Shoulder, backslope  
*Landform position (three-dimensional):* Side slope, interfluvium  
*Down-slope shape:* Convex  
*Across-slope shape:* Convex  
*Ecological site:* F090AY016WI - Loamy Upland  
*Other vegetative classification:* Acer saccharum-Tsuga/Dryopteris (ATD), Mod AWC, adequately drained (G090AY005WI), Acer saccharum-Tsuga/Maianthemum (ATM)  
*Hydric soil rating:* No

**Sayner**

*Percent of map unit:* 3 percent  
*Landform:* Hillslopes  
*Landform position (two-dimensional):* Shoulder, backslope  
*Landform position (three-dimensional):* Side slope  
*Down-slope shape:* Convex  
*Across-slope shape:* Convex  
*Ecological site:* F090AY019WI - Dry Sandy Uplands  
*Other vegetative classification:* Pinus/Maianthemum-Vaccinium (PMV), Acer rubrum-Quercus/Vaccinium (ArQV), Low AWC, adequately drained (G090AY002WI)  
*Hydric soil rating:* No

**Vilas**

*Percent of map unit:* 2 percent  
*Landform:* Hillslopes  
*Landform position (two-dimensional):* Shoulder, backslope  
*Landform position (three-dimensional):* Side slope  
*Down-slope shape:* Convex

*Across-slope shape:* Convex  
*Ecological site:* F090AY019WI - Dry Sandy Uplands  
*Other vegetative classification:* Acer rubrum-Quercus/Vaccinium  
(ArQV), Low AWC, adequately drained (G090AY002WI)  
*Hydric soil rating:* No

## **W—Water**

### **Map Unit Setting**

*National map unit symbol:* gh5c  
*Elevation:* 660 to 980 feet  
*Mean annual precipitation:* 30 to 34 inches  
*Mean annual air temperature:* 39 to 43 degrees F  
*Frost-free period:* 100 to 140 days  
*Farmland classification:* Not prime farmland

### **Map Unit Composition**

*Water:* 100 percent  
*Estimates are based on observations, descriptions, and transects of the mapunit.*

### **Description of Water**

#### **Interpretive groups**

*Land capability classification (irrigated):* None specified  
*Other vegetative classification:* Not Assigned (water) (Nwat)  
*Hydric soil rating:* Unranked

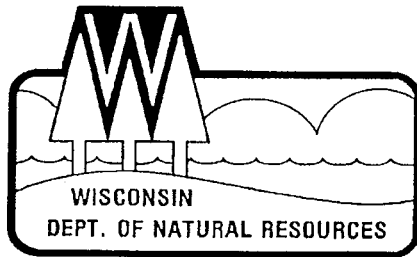
## **Data Source Information**

Soil Survey Area: Lincoln County, Wisconsin  
Survey Area Data: Version 19, Sep 6, 2022



**APPENDIX E – WDNR NR 216 Storm Water General Permit**

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***STATE OF WISCONSIN***  
***DEPARTMENT OF NATURAL RESOURCES***


**GENERAL PERMIT TO DISCHARGE UNDER THE  
WISCONSIN POLLUTANT DISCHARGE ELIMINATION SYSTEM**

In compliance with the provisions of Chapter 283, Wis. Statutes, any Wisconsin facility engaged in

**NONMETALLIC MINING OPERATIONS**

that meets the applicability criteria listed in Part 1 of this permit and that receives a letter from the Department granting coverage under this permit, is permitted to discharge storm water and process wastewater directly to surface waters of the state and/or indirectly to groundwater of the state in accordance with the effluent limitations, monitoring requirements and other conditions set forth in this permit.

State of Wisconsin Department of Natural Resources  
For the Secretary

By   
Russell A. Rasmussen, Director  
Bureau of Watershed Management  
Division of Water

  
Date Permit Signed

**PERMIT EFFECTIVE DATE – July 1, 2009**

**EXPIRATION DATE - March 31, 2014**

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## 1. APPLICABILITY CRITERIA

### 1.1. Activities Covered

This permit applies to discharges of wastewater and storm water from nonmetallic mining operations to surface waters or groundwater of Wisconsin directly or indirectly via a storm sewer or other conveyance. Concrete operations contiguous to or located within the mining site can also be covered under this permit when the nonmetallic mine operator has legal responsibility for the concrete plant's wastewater and storm water discharges. Concrete product process wastewater, such as contact cooling water, condensate, material washwater, and equipment washwater, may be discharged along with nonmetallic mining wastewater under this permit. Nonmetallic mining operations include sites and equipment engaged in excavation or processing of sand, gravel, dimension stone, crushed stone, rotten granite, clay, or other similar activities, that result in a discharge of one or more of the following:

- contaminated storm water as defined in s. NR 216.002(3), Wis. Adm. Code,
- washwater associated with cleaning or separating earthen materials,
- mining site dewatering wastewater,
- contact and noncontact cooling water, condensate or boiler water discharged in combination with other wastewater allowed under this permit,
- dust suppression water,
- water from the outside washing of vehicles, equipment, and other objects, or
- other similar wastewaters.

### 1.2. Activities Not Covered

This permit does not authorize discharge of contaminants from the following:

- wastewater from the following nonmetallic mining processes: crushed stone flotation, construction sand and gravel heavy liquid separation, industrial sand flotation, and industrial sand acid leaching;
- wastewater from the manufacturing of cement by the kiln dust process;
- wastewater from the washing of a precast concrete surface treated with retarder (to expose aggregate after the unset surface cement is cleaned off);
- wastewater from the regeneration of ion exchange water treatment units;
- wastewater from use of petroleum or halogenated hydrocarbon degreasing agents during the washing of vehicles, equipment or other objects;
- wastewater from dredging or excavation operations in areas that the Department has determined contain contaminated soils or sediments;
- noncontact cooling water treated with biocides, except that uncontaminated water from a municipal water supply may be discharged;

- wastewater to wetlands where the Department has determined the pollutant discharge does not meet Ch. NR 103 wetland protection requirements. Note: s. NR 103.06(4), Wis. Adm. Code, contains exemptions for certain sedimentation basins, storm water detention basins and artificial wetlands within active nonmetallic mining operations;
- wastewater directly to an outstanding resource water as defined in s. NR 102.10, Wis. Adm. Code, or a wastewater discharge that would lower the water quality of downstream outstanding resource waters;
- wastewater directly to an exceptional resource water as defined in s. NR 102.11, Wis. Adm. Code, or a wastewater discharge that would lower the water quality of downstream exceptional resource water;
- wastewater containing pollutants in quantities that must be limited to prevent harm to animals, aquatic life, or human health, to prevent violation of the surface water quality standards in chs. NR 102, NR 105, NR 106, and NR 207, Wis. Adm. Code, or to prevent violation of the groundwater standards in ch. NR 140, Wis. Adm. Code;

## **2. REQUIREMENTS FOR ALL DISCHARGES**

### **2.1. Dikes and Berms**

There shall be no above ground leakage through or flow over the top of dikes or berms utilized for holding or diverting wastewater or storm water. Outflow shall be through structures or channels designed to withstand the force of flowing water.

### **2.2. Adequate Design**

Constructed wastewater disposal or treatment facilities shall have at least sufficient capacity to contain all wastewater discharges and any precipitation resulting from a 10-year, 24-hour storm event that falls within or flows into the area of disposal or treatment.

### **2.3. Dust Suppression Control for Roads**

Collected storm water and process wastewaters may be used for road dust suppression. The permittee shall not use excess water in roadway dust suppression practices that will: (1) result in a discharge of the dust suppression water to surface waters, or (2) result in dust suppression water running off the nonmetallic mining site. Wastewaters contaminated with pollutants other than suspended solids (such as petroleum products, salt, solvent degreasers, etc.) may not be used for dust suppression activities. Road dust suppression water is not required to be monitored under this permit.

### **2.4. Water Treatment Additives**

The water treatment additive discharge concentrations shall be below the level of concern for impacts to aquatic life and human health as specified in s. NR 106.10, Wis. Adm. Code, for surface water discharges, or for impacts to human health as specified in ch. NR 140, Wis. Adm. Code, for discharges to groundwater.

### **2.5. Requirements for Discharges to Impaired Surface Waters & to Surface Waters With Total Maximum Daily Load Allocations**

2.5.1 "Pollutant(s) of concern" means a pollutant that is contributing to the impairment of a water body.

2.5.2 By February 15<sup>th</sup> of each calendar year, the permittee shall perform an **annual check** to determine

whether its facility discharges a pollutant of concern to an **impaired water body** listed in accordance with Section 303(d)(1) of the Federal Clean Water Act, 33 USC §1313(d)(1)(C), and the implementing regulation of the U.S. Environmental Protection Agency, 40 CFR §130.7(c)(1). Impaired waters are those listed as not meeting applicable surface water quality standards.

Note: The section 303(d) list of Wisconsin impaired surface water bodies may be obtained by contacting the Department or by searching for the section 303(d) list on the Department's Internet site. The Department updates the section 303(d) list approximately every two years. The updated list is effective upon approval by EPA. The current link to the section 303(d) list is: <http://dnr.wi.gov/org/water/wm/wqs/303d/>.

**2.5.3**, A permittee that discharges a pollutant of concern to an impaired water body shall, **within 180 days of the annual check** that determines the facility discharges to an **impaired water body**, include a written section in a storm water pollution prevention plan that specifically identifies control measures and management practices that will collectively be used to reduce, with the goal of eliminating, the storm water discharge of pollutant(s) of concern that contribute to the impairment of the water body and explain why these control measures and management practices were chosen as opposed to other alternatives. The discharge of a pollutant of concern from mining wastewater shall also be evaluated, within 180 days of identification that the discharge is to an impaired water body, to determine whether additional pollution prevention activities, pollutant control measures and treatment enhancements will be used to reduce, with the goal of eliminating, the discharge of a pollutant of concern that contributes to the impairment of the water body.

**2.5.4** The permittee may not establish a new wastewater or storm water discharge of a pollutant of concern to an impaired water body or **significantly increase** an existing discharge of a pollutant of concern to an **impaired water body** unless the new or increased discharge does not contribute to the receiving water impairment, or the discharge is consistent with a State and Federal approved total maximum daily load (TMDL) allocation for the impaired water body.

**2.5.5** By February 15<sup>th</sup> each calendar year, the permittee shall perform an **annual check** to determine whether its facility discharges a wastewater or storm water pollutant of concern to a water body included in a **State and Federal Approved TMDL**. If so, the permittee shall assess whether the TMDL wasteload allocation for the facility's discharge is being met through the existing pollutant controls or whether additional control measures are necessary and feasible. The assessment of the feasibility of additional control measures shall focus on the ability to improve the wastewater pollution prevention and treatment system effectiveness and the adequacy of implementation and maintenance of the permittee's storm water pollution prevention plan controls.

Note: State and Federal Approved TMDLs can be identified by contacting the Department, or by searching for the State and Federal Approved TMDL list on the Department Internet site. The current link to identify the list of State and Federal Approved Final TMDLs is:

[http://dnr.wi.gov/org/water/wm/wqs/303d/Approved TMDLs.html](http://dnr.wi.gov/org/water/wm/wqs/303d/Approved%20TMDLs.html)

**2.5.6** **Within 180 days** of the annual check that determines the facility discharges to a TMDL allocated water body, a permittee that is included in a **State and Federal Approved TMDL** shall submit to the Department a **proposed implementation plan** for the wastewater and storm water discharges that meets the requirements of the State and Federal Approved TMDL wasteload allocation for the facility. The proposed TMDL implementation plan shall specify any feasible pollution prevention and wastewater treatment improvements that could be made and specify any revisions or redesigns that could be implemented to increase the effectiveness of the permittee's storm water pollution prevention controls. The TMDL implementation plan shall also specify a time schedule for implementation of the pollutant controls necessary to meet the wasteload allocation for the facility.

### 3. STORM WATER CONTAMINANT CONTROL REQUIREMENTS

As authorized in ch. NR 216, Wis. Adm. Code, nonmetallic mining operations (including contiguous concrete product operations) that have storm water contact with raw materials, intermediate products, final products, waste materials, by-products, material handling equipment or other nonmetallic mining machinery shall implement storm water best management practices as specified below. **Facilities are exempted from parts 3.3 through 3.7 of the storm water control requirements listed below when they obtain Department concurrence that their storm water contaminants are limited to only earthen materials from the nonmetallic mining operation, the contaminated storm water is captured and seeped into the ground within the mining site (not including runoff from greater than a 10 year, 24 hour frequency storm), and the storm water contaminants are discharged to a previously non-wetland area or a wetland exempted under s. NR 103.06, Wis. Adm. Code.** Storm water treatment and seepage areas that are totally within the permittee's owned or leased property boundaries shall be considered part of the nonmetallic mining site.

#### 3.1. Physical Controls

Nonmetallic mining operations (including any contiguous concrete operations) covered under this permit shall operate the following physical controls to prevent the discharge of storm water contaminants to surface or ground waters:

##### 3.1.1. Source Area Pollution Prevention Best Management Practices (BMPs)

The permittee shall install, to the maximum extent practicable and to the extent it is cost effective, source area pollution prevention BMPs that are designed to prevent storm water from becoming contaminated at the site. Source area pollution prevention BMPs include:

- 3.1.1.1. Practices that prevent and control soil erosion and sediment movement including, but not limited to, soil stabilization practices, structural practices to divert overland storm flow away from exposed soil and material stockpiles, and minimization of tracking on access roads. Sound engineering principles and practices shall be utilized to minimize erosion and movement of sediment by storm water.
- 3.1.1.2. Practices that manage and control residual contaminants from the outside washing of vehicles, equipment, and other objects.
- 3.1.1.3. Practices that prevent storm water from being contaminated by maintenance fluids, fuels, and lubricants associated with vehicles and machinery, including: good house-keeping measures, preventative maintenance measures, visual inspections, spill prevention and response measures, and employee training and awareness.
- 3.1.1.4. Structures or materials that cover or otherwise enclose salt handling areas or storage piles so that neither precipitation nor storm water runoff comes into contact with the salt. Any salt spillage, resulting from activities such as loading or unloading, shall be managed to minimize contact with storm water. Permittees that use brine and have salt storage piles on impervious curbed surfaces shall have a means of diverting contaminated storm water to a brine treatment system to facilitate reuse.
- 3.1.1.5. Practices that use a combination of precipitation control, containment, drainage controls or diversions to control SARA section 313 water priority chemicals potentially discharged through the action of storm water runoff, leaching or wind.

**3.1.1.6.** Protection practices for petroleum product and chemical bulk storage structures that prevent any significant loss of the material to surface or ground waters.

### **3.1.2. Contaminated Storm Water Treatment Best Management Practices**

When the permittee determines that source area pollution prevention BMPs are not feasible, not cost effective or are inadequate to control storm water contamination, or when the Department notifies the permittee that source area pollution prevention BMPs are inadequate to achieve a water quality standard, contaminated storm water shall be treated to reduce pollutant levels prior to discharge to waters of the state. Nonmetallic mining operations (including any contiguous concrete operations) that cannot prevent the exposure of earthen materials to precipitation shall implement sediment treatment BMPs as follows:

**3.1.2.1.** Storm water contaminated with sediment shall, to the maximum extent practicable, be captured on the nonmetallic mining site and then allowed to evaporate or infiltrate into the earth so the sediment is removed prior to discharge to groundwater. The tracking of sediment onto local roads shall be minimized by the use of BMPs such as, an asphalt or concrete approach to the road or use of a vehicle-tracking pad. There shall be no direct injection, through wells, of storm water into the groundwater.

**3.1.2.2.** Storm water discharges off the mining site, to wetlands not exempted under s. NR 103.06, Wis. Adm. Code or to surface waters from areas with exposed earthen materials (including aggregate materials stockpiled for reuse) shall be treated with solids separation best management practices to reduce the amount of sediment discharged to the maximum extent practicable. These treatment practices may include settling, sedimentation, filtration, and modifications to retain sediment at drainage inlets (e.g., storm sewer grates or drainage pipe openings) where they occur. [Note: Technical standards developed in accordance with NR 151, Wis. Adm. Code, such as #1063 Sediment Traps, #1001 Wet Detention Basins, # 1064 Sediment Basins, are available for control of erosion and pollutant runoff. This information can be accessed by contacting Department storm water program staff or by accessing the storm water page on the Department internet site. The current link to the storm water page is <http://dnr.wi.gov/runoff/stormwater.htm>]

**3.1.2.3.** An adequately sized, designed and functioning oil/water separation wastewater treatment device shall be provided for storm water significantly contaminated with petroleum products. The Department may require coverage under an additional WPDES permit for this wastewater if the discharge from the petroleum treatment devices is not limited to a daily maximum of 15 mg/L by the process wastewater sections of this permit.

## **3.2. Annual Facility Site Compliance Inspections**

The permittee shall perform and document the results of an annual facility site compliance inspection for all nonmetallic mining operations and contiguous concrete operations covered under this permit. A qualified individual shall perform the inspections. The inspector shall verify that all pollution sources are correctly identified and that the site drainage pattern description remains accurate. The inspector shall also check that appropriate storm water pollution prevention and treatment best management practices have been chosen, and the practices are being implemented, properly operated and adequately maintained. The timing of the inspection shall include seasonal or cyclical activities at the facility so the inspection is representative of the full range of activities at the site. A report shall be completed for each inspection and shall include: the inspection date, inspection personnel, scope of the inspection, major observations, and a schedule for implementing any further actions needed to control storm water contaminants. The annual inspection reports shall be available for



Department review at the nonmetallic mining site, company headquarters, or any other location approved by the Department. The inspection reports shall be kept for the duration of this permit or three years after the report is generated whichever is longer. [An example annual facility site compliance inspection report is available on the Department website or can be obtained by contacting Department storm water staff].

When inspection activities are impractical at inactive facilities that have no product or waste stockpiles, inspections may be performed on the following alternate schedule: these facilities shall be inspected within 10 days of changing to active status or, at a minimum, once every three years.

### **3.3. Storm Water Pollution Prevention Plan (SWPPP)**

Nonmetallic mining operations that have storm water contact with overburden, raw material, intermediate product, finished product or waste material and that storm water is discharged off the mining site, to a surface water (excluding mine water treatment ponds) or to a wetland not exempted under s. NR 103.06, Wis. Adm. Code shall be operated in compliance with a Storm Water Pollution Prevention Plan. Any concrete product operations covered under this permit and any portable nonmetallic mining equipment groupings specifically requested to be covered under this permit shall also be operated in compliance with a SWPPP. **The SWPPP and any amendments thereto shall be available for Department review and maintained at the nonmetallic mining site, company headquarters, or any other location approved by the Department.** [Note: A model SWPPP for nonmetallic mining operations is available on the Department internet site or by contacting Department industrial storm water staff in the region or Madison office.]

#### **3.3.1. Purpose and Content of the Storm Water Pollution Prevention Plan**

The SWPPP is a written document that: 1) identifies sources of storm water contamination; 2) prescribes appropriate source area pollution prevention best management practices designed to prevent or minimize storm water contamination; 3) prescribes storm water treatment best management practices to reduce storm water contaminants prior to discharge; 4) prescribes actions needed either to bring non-storm water discharges under a WPDES permit or to remove these discharges from the storm drainage system; and 5) includes schedules, as necessary, to ensure that the storm water management actions prescribed in the SWPPP are implemented and evaluated on a regular basis.

Source area pollution prevention and sediment treatment best management practices shall be utilized to minimize sediment discharge to the maximum extent practicable. Control of other storm water pollutants, such as salt, petroleum products, cement materials, or other materials potentially hazardous to groundwaters or surface waters shall be controlled to the maximum extent practicable by the use of source area pollution prevention best management practices and treatment best management practices.

#### **3.3.2. SWPPP Contact**

The SWPPP shall identify the job title of the person responsible for SWPPP development and implementation. The individual acting in that job title shall have the responsibility to coordinate the development, implementation, evaluation, maintenance, and amendment of the SWPPP. This person shall also coordinate facility compliance with the specific management actions identified in the SWPPP, including maintaining best management practices, conducting monitoring activities, preparing and submitting reports, and serving as facility contact for the Department.

### **3.3.3. Site Description and Drainage Base Map**

The SWPPP for nonmetallic mining sites shall contain a drainage base map that depicts how storm water drains on, through and from the mining site (including any controlled contiguous concrete operations) to either surface waters, surface water tributaries, wetlands, or seepage to groundwater. The drainage base map shall show the following: site property boundaries; the storm drainage collection and disposal system (including all known surface and subsurface conveyances, with the conveyances named); any secondary containment structures; roadways (paved and unpaved); groundcover features (i.e., grass, wooded areas, etc.); the location of all water discharge outfall pipes (including any outfalls permitted under another WPDES permit) numbered for reference, that discharge channelized flow to surface water, groundwater or wetlands); the drainage area boundary for each outfall pipe; the approximate surface area in acres draining to each outfall; the name and location of any surface water features; source area control BMPs and storm water treatment BMPs that are in place at the facility.

The permittee shall also identify on the drainage base map any potential sources of pollution (materials or activities) and areas susceptible to erosion that have the potential to contaminate storm water. Such sources may include: disturbed areas with no stabilizing vegetative cover; product or waste stockpiles; truck loading and washing areas, haul roads; equipment storage and maintenance areas; and fuel storage areas.

### **3.3.4. Description of Storm Water Controls**

The SWPPP shall describe (including diagrams as necessary) all source area pollution prevention BMPs and storm water treatment BMPs that are in place or will be implemented for the operation.

## **3.4. Certification of SWPPP Completion**

Nonmetallic mining operations required to have a SWPPP shall certify, in writing, to the Department that the operation has complied with the SWPPP requirements of this permit. A copy of the certification, showing the date mailed to the Department, must be retained as part of the SWPPP documentation. The certification shall contain the following statement and be signed in accordance with the Authorized Signature standard requirement in Part 6 of this permit:

"I certify under penalty of law that the Storm Water Pollution Prevention Plan (SWPPP) required by WPDES General Permit No. WI-0046515-5 has been completed and retained on site at the facility, at the company headquarters, or any other location approved by the Department. The SWPPP and attachments were completed under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information contained in the plan. Based on my inquiry of the person, or persons, who manage the system, or those persons directly responsible for gathering the information; the information contained in the SWPPP is, to the best of my knowledge and belief, true, accurate and complete. I am aware that there are significant penalties for providing false information, including the possibility of fine and imprisonment. In addition, I certify under penalty of law that, based upon inquiry of persons directly under my supervision, to the best of my knowledge and belief, the SWPPP adheres to the storm water control provisions of WPDES General Permit No. WI-0046515-5 for the development and implementation of a Storm Water Pollution Prevention Plan. I certify that the plan will be complied with."

## **3.5. SWPPP Amendments**

The permittee shall amend the SWPPP and notify the Department, in writing, that an amendment has been made under the following circumstances:

**3.5.1.** When expansion, production increases, process modifications, changes in material handling or storage or other activities are planned, and the changes will result in a significant increase in the exposure of pollutants or a need for significant modifications to the treatment best management practices. The amendment shall contain: a description of the new activities that contribute to the increased pollutant loading, planned source control activities that will be used to minimize pollutant loads, an estimate of the new or increased discharge of pollutants following treatment, and a description of any treatment system modifications needed to manage the storm water contaminants.

**3.5.2.** Upon written notice that the Department finds the storm water controls to be ineffective in achieving the conditions of this permit.

### **3.6. Compliance with SWPPP Requirements**

**3.6.1.** Nonmetallic mining operations that have previously submitted a SWPPP certification due to the previous version of this general permit (WI-0046515-4) may be considered to be in compliance with the SWPPP certification requirement specified in part 3.4 above if the previously submitted SWPPP meets the requirements of this permit.

**3.6.2.** Nonmetallic mining operations that include a contiguous concrete operation and have previously submitted a SWPPP certification due to a previous version of this general permit (WI-0046515-4) or the tier II storm water general permit (WI-S0067857) may be considered to be in compliance with the SWPPP certification requirement specified in part 3.4 above if the previously submitted SWPPP meets the requirements of this permit.

**3.6.3.** For existing nonmetallic mining operations found to be discharging without an industrial storm water WPDES permit, the Department may, through an appropriate enforcement action or stipulation, agree to cover the operation under this permit and specify a schedule for SWPPP development, implementation and certification within the shortest time practicable.

**3.6.4.** New nonmetallic mining operations covered under this permit shall comply with the SWPPP requirements of this permit and shall submit a SWPPP certification to the Department prior to initiating nonmetallic mining activities that result in a discharge of contaminated storm water.

### **3.7. Inspections for Facilities Required to Implement a SWPPP**

**3.7.1.** Nonmetallic mining operations required to prepare and implement a SWPPP in part 3.3 above, shall inspect the system of storm water controls at least once each calendar quarter. A qualified individual shall perform the inspections. The inspector shall check that site drainage conditions and potential pollution sources identified in the SWPPP remain accurate, and that appropriate storm water pollution prevention and treatment best management practices are being implemented, properly operated and adequately maintained. A report shall be completed for each quarterly inspection and shall include: the inspection date, inspection personnel, scope of the inspection, major observations, possible sources of any observed storm water contamination, any appropriate revisions needed to the SWPPP, and a schedule for implementing any further actions needed to control storm water contaminants. The quarterly inspection reports shall be available for Department review at the nonmetallic mining site, company headquarters, or any other location approved by the Department. The inspection reports shall be kept for the duration of this permit or three years after the report is generated, whichever is longer.

**3.7.2.** Sites required to prepare and implement a SWPPP in part 3.3 above shall **visually check** the quality of storm water discharge within 60 minutes of a significant storm water runoff event. A qualified individual should be trained to perform this visual inspection at least once per quarter (except as provided below) for NMM operations that generally have staff on site. Remote, inactive and operations that do not generally have a qualified individual on site may perform this visual inspection on an alternate schedule of at least once every three years. A visual observation record shall be created for each visual runoff check that includes the discharge outfall location and any observations of color, odor, turbidity, floating solids, foam, oil sheen, or other obvious indicators associated with storm water contamination. The visual observation record shall be kept with, and for the same time period as, the quarterly inspection reports described above.

**3.7.3.** The quarterly inspection and/or the visual check requirement can be waived if any of the following apply: (1) the permittee indicates that an employee could not reasonably be present at the time of a snow melt or runoff event; (2) the permittee determines that attempts to complete the inspection would endanger employee safety or well being; (3) the permittee indicates that there were no snow melt or runoff events large enough to conduct a visual check at an outfall; (3) the permittee demonstrates that a quarterly inspection or visual check is impractical or unnecessary at an inactive or remote facility and an alternate inspection frequency of at least once every three years is established; or (4) the permittee demonstrates that the sources of storm water contamination are outside the site's property boundary and are not associated with the permittee's activities. These demonstrations shall be presented in the SWPPP and submitted to the Department as part of the SWPPP certification.

#### 4. ADDITIONAL REQUIREMENTS FOR DISCHARGES OF NONMETALLIC MINING & CONCRETE WASTEWATERS TO GROUNDWATER VIA SEEPAGE

Discharges to groundwater that contain mine dewatering wastewater, equipment washwater, mining material or concrete material washwater, contact and noncontact cooling water, or other process wastewaters related to production of nonmetallic mining materials or concrete products shall comply with the limits and requirements listed below. The discharge of storm water to seepage areas within the mining site does not require monitoring under this section. Samples collected to fulfill the monitoring requirements shall be taken at each outfall following treatment (if applicable) and prior to discharge to groundwater. Monitoring during a specified sample period is only required when nonmetallic mining process wastewater or concrete product wastewater is being discharged to seepage during that period. The samples taken shall be representative of the discharge to groundwater.

Table 1

Limitations for Groundwater Discharges		Monitoring Requirements	
Parameter	Daily <sup>(a)</sup> Maximum	Sample <sup>(b)</sup> Frequency	Sample <sup>(c,d)</sup> Type
Discharge Flow (Gallons per Day)	-	Quarterly, or as specified in Part 4.3	Estimate
Oil and Grease	15 mg/l	Annually, or as specified in Part 4.4	Grab
Water Treatment Additives	-	Monthly	Keep Record of Usage on site

(a) A daily maximum effluent limitation is to be compared with each analysis for that day. Compliance is achieved when the result of each analysis is less than the maximum daily effluent limitation. If multiple samples are collected, all the test results should be reported.

(b) A quarterly sample frequency means performing the associated monitoring at least once during each of the four calendar quarters (Jan.-March, April-June, July-Sept., Oct.-Dec.). If there is no discharge during a quarter, the permittee shall enter a zero flow for that quarter on the annual discharge monitoring report.

(c) Flow estimate means a reasonable approximation of the average daily flow of process wastewater to groundwater based on amounts of makeup water added to a pond, estimates of pond seepage based on hydraulic conductivity and head, meter measurements of discharge to a seepage area, any other method specified in s. NR 218.05(1), Wis. Adm. Code. Seepage flow estimates need not include storm water that falls within the boundaries of or diffusely enters a pit or infiltration area.

(d) A grab sample means a single sample taken at one moment of time or a combination of several smaller samples of equal volume taken in less than a two-minute period.

##### 4.1. Solids Removal

Solids shall be removed from seepage areas, if needed, to maintain the absorptive capacity of the soils and prevent plugging.

##### 4.2. Water Treatment Additives

The permittee shall maintain records of monthly water treatment additive use including additive name, manufacturer, and maximum daily amount used.

#### **4.3. Sample Frequency for Flow**

The daily flow to seepage shall be estimated at least once per quarter, except that the permittee shall monitor flow to seepage **each month for 12 months** starting the month following a recorded daily discharge value greater than 200,000 gal/day. Facilities that monitor flow to seepage on a monthly frequency shall also report an estimate of the monthly total flow to seepage.

#### **4.4. Sample Frequency for Oil and Grease**

Oil & grease shall be monitored annually under this permit, except that: (1) the oil & grease monitoring frequency shall be **once each quarter for 4 calendar quarters** beginning the quarter following receipt of any sample result showing an oil & grease discharge above 15 mg/L, and (2) further annual monitoring is not required if the first annual sample result is less than 7.5 mg/L. An increased monitoring frequency is independent of any Department enforcement response to permit noncompliance. More frequent monitoring may be specified in an order or stipulation resulting from enforcement of permit noncompliance. For portable operations, any required monitoring for oil and grease may occur at any site where the unit is located during the specified sampling period. Samples shall be representative of the process wastewater (i.e., washwater or cooling water) discharge associated with operation of the portable unit.

#### **4.5. pH of Discharges to Seepage**

Any nonmetallic mining or concrete wastewater with a pH outside the range of 6.0 to 9.0 s.u. (such as concrete block curing condensate or concrete truck washwater) shall not be discharged directly to groundwater, but shall be passed through a soil zone to moderate the pH or mixed with other process or rinse waters to bring the pH to within the range of 6.0 to 9.0 Standard Units before the wastewater mixes with groundwater.

#### **4.6. Outside Washing Activities**

Wastewater from the outside washing of vehicles, equipment, and other objects used in the processing or transportation of earthen materials shall be diverted to seepage areas to the maximum extent practicable. Biodegradable soaps shall be used, and the washing of road deicing chemicals to seepage areas shall be minimized. Wash water containing petroleum products or volatile organic solvents (such as from engine degreasing, or washing off diesel or gasoline) shall not be discharged to seepage areas.

#### **4.7. Monitoring Reports for Process Wastewaters**

The permittee shall submit an annual report to the Department, by February 15th each year, that summarizes the monitoring information and shows all of the monitoring results required by this section of the permit during the previous calendar year. A Department monitoring form may be used to submit the annual data, or an alternate report format may be used that clearly shows the monitoring results from the previous calendar year. The annual report shall be submitted to: WI Department of Natural Resources, Attn: WPDES GP DMR, at (1) the office identified on the reporting form or the correspondence granting coverage under this permit, (2) the nearest Department of Natural Resources Regional Headquarters office, or (3) the watershed bureau address in Madison, Wisconsin. The operator of portable equipment groups specifically covered under this permit shall submit the annual reporting information, including the site and county where the monitoring data was collected, preferably to the Headquarters office of the Department Region in which the portable operation was primarily operated.

## 5. ADDITIONAL REQUIREMENTS FOR DISCHARGES OF NONMETALLIC MINING AND CONCRETE PROCESS WASTEWATER TO SURFACE WATERS

Discharges to surface waters of Wisconsin that contain mine dewatering wastewater, equipment washwater, mining material or concrete material washwaters, contact and noncontact cooling water, or other wastewaters related to production of nonmetallic mining materials or concrete products shall comply with the limits and requirements listed below. The pumping of excess ponded water (which may include storm water or groundwater) off the mining site is considered to be mine dewatering wastewater. Samples collected to fulfill the monitoring requirements shall be taken at each outfall following treatment (as applicable) and prior to discharge to surface waters. Monitoring during a specified sample period is only required when nonmetallic mining production wastewater or concrete product wastewater is being discharged during that period. The samples taken shall be representative of the discharge to surface waters.

Table 2

Limitations for Surface Water Discharges			Monitoring Requirements	
Parameter	Daily <sup>(a)</sup> Minimum	Daily <sup>(b)</sup> Maximum	Sample <sup>(c)</sup> Frequency	Sample <sup>(d,e)</sup> Type
Discharge Flow (Gallons Per Day)	-	-	Quarterly, or as specified in Part 5.4	Estimate
Flow – number of days of discharge	-	-	Quarterly	Record # of days with discharge flow in the quarter
Total Suspended Solids	-	40 mg/l	Quarterly, or as specified in Part 5.5	Grab, or as specified in Part 5.5
pH	6.0 s.u.	9.0 s.u.	NMM Annual, Concrete Quarterly, or as specified in Part 5.6	Grab
Oil and Grease	-	15 mg/l	Annually, or as specified in Part 5.7	Grab

(a) A daily minimum effluent limitation for pH is to be compared with each single daily analysis. Compliance is achieved when the result of each analysis is greater than the minimum daily effluent limitation.

(b) A daily maximum effluent limitation is to be compared with each analysis for that day. Compliance is achieved when the result of each analysis is less than the maximum daily effluent limitation. If multiple samples are collected, all the test results should be reported.

(c) A quarterly sample frequency means performing the associated monitoring once during each of the four calendar quarters (Jan.-March, April-June, July-Sept., Oct.-Dec.). If there is no discharge during a quarter, no sampling is required, and the permittee shall enter a zero flow for that quarter on the annual discharge monitoring report.

(d) An estimate means a reasonable approximation of the average daily flow based on s. NR 218.05(1), Wis. Adm. Code, or any other method approved by the Department.

(e) A grab sample means a single sample taken at one moment of time or a combination of several smaller samples of equal volume taken in less than a two-minute period.

### 5.1. Floating Solids and Foam

There shall be no discharge of floating solids or visible foam in other than trace amounts.

### 5.2. Suspended Solids Treatment and Solids Removal

Wastewater shall be treated for suspended solids removal prior to discharge to surface waters. Captured solids shall be removed from solids separation equipment or facilities as needed to maintain treatment unit hydraulic capacity and effective removal of suspended solids.

### 5.3. Water Treatment Additives

The permittee shall maintain records of monthly water treatment additive use including additive name, manufacturer, and maximum daily amount used.

### 5.4. Sample Frequency for Flow

The daily discharge flow shall be estimated at least once per quarter, except that the permittee shall monitor discharge flow **each month for 12 months** starting the month following a recorded daily discharge value greater than 200,000 gal/day. Facilities that monitor discharge flow on a monthly frequency shall also report an estimate of the total monthly discharge flow on the annual reporting form.

### 5.5. Sample Frequency and Sample Type for Total Suspended Solids

Total suspended solids (TSS) shall be monitored with a grab sample each quarter, except that the TSS monitoring frequency shall be **once per month for 12 months** beginning the month following receipt of a sample result showing a discharge TSS above 40 mg/L. When this monthly sampling requirement is effective, representative TSS **composite samples** shall be created by combining at least 3 individual grab samples of equal volume, taken at approximately equal intervals over a 3-hour period. This increased monitoring frequency is independent of any Department enforcement response to permit noncompliance. More frequent monitoring or a different sample type may be specified in an order or stipulation resulting from enforcement of permit noncompliance.

### 5.6. Sample Frequency for pH

Discharges of nonmetallic mining process wastewater shall be sampled for pH annually, except that no further pH monitoring is required if the first two annual samples are within the pH range of 6.7 to 8.3. Discharges containing process wastewater from concrete product operations shall be sampled quarterly for pH, except that pH monitoring is reduced to annually if four consecutive quarterly samples are within the range of 6.7 to 8.3 s.u.

### 5.7. Sample Frequency for Oil and Grease

Discharges containing nonmetallic mining or concrete product production wastewater shall be sampled annually under this permit for oil & grease, except that: (1) the monitoring frequency shall be **once each quarter for 4 calendar quarters** beginning the quarter following receipt of any sample result showing an oil & grease discharge above 15 mg/L, and (2) further annual oil & grease monitoring is not required if the first annual sample result is less than 7.5 mg/L. An increased monitoring frequency is independent of any Department enforcement response to permit noncompliance. More frequent monitoring may be specified in an order or stipulation resulting from enforcement of permit noncompliance.

### 5.8. Monitoring Portable Operations

For portable operations, any required monitoring for flow, total suspended solids, oil and grease or pH may occur at any site where the unit is located during the specified sampling period. Samples shall be representative of the process wastewater discharge associated with operation of the portable unit.



### **5.9. Outside Washing Activities**

The discharge of wastewater to surface waters from the outside washing of vehicles, equipment, and other objects shall comply with the oil & grease, total suspended solids, pH and floating foam discharge requirements and limitations listed in Part 5 of this permit. Phosphorus free biodegradable soaps shall be used, and the washing of road deicing chemicals to surface water resources shall be minimized. Wash water containing significant levels of petroleum products (such as diesel or gasoline) or volatile organic solvents (such as from engine degreasing) shall not be discharged to surface waters.

### **5.10. Monitoring Reports for Process Wastewaters**

The permittee shall submit an annual report to the Department, by February 15th each year, that summarizes the monitoring information and shows all of the monitoring results required by this section of the permit during the previous calendar year. A Department monitoring form may be used to submit the annual data, or an alternate report format may be used that clearly shows the monitoring results from the previous calendar year. The annual report shall be submitted to: WI Department of Natural Resources, Attn: WPDES GP DMR, at (1) the office identified on the reporting form or the correspondence granting coverage under this permit, (2) the nearest Department of Natural Resources Regional Headquarters office, or (3) the watershed bureau address in Madison, Wisconsin. The operator of portable equipment groups specifically covered under this permit shall submit the annual reporting information, including the site and county where the monitoring data was collected, preferably to the Headquarters office of the Department Region in which the portable operation was primarily operated.

## **6. STANDARD REQUIREMENTS**

**6.1. NR 205, Wisconsin Administrative Code:** The conditions in ss. NR 205.07(1) and NR 205.07(3), Wis. Adm. Code, are included by reference in this permit. The permittee shall comply with all of these requirements, except for s. NR 205.07(1)(n), which does not apply to facilities covered under general permits. Selected s. NR 205.07 requirements are listed below for convenience.

**6.2. Spill Reporting for Hazardous Substances:** The permittee shall immediately notify the Department of an accidental release or spill of any hazardous substance to the environment as specified in ch. NR 706 and s. NR 205.07(3)(b), Wis. Adm. Code. The Department shall be notified via the 24-hour toll free spills hotline (1-800-943-0003).

**6.3. Duty to Halt or Reduce Activity:** Upon failure or impairment of treatment facility operation, the permittee shall as required in s. NR 205.07(3)(e) and to the extent necessary to maintain compliance with its permit, curtail production or wastewater discharges or both until the treatment facility operations are restored or an alternative method of treatment is provided.

**6.4. Permit Noncompliance Reporting:** As specified in s. NR 205.07(1)(s), Department notification is required within 24 hours of becoming aware of permit noncompliance.

**6.5. Bypassing:** As specified in s. NR 205.07(1)(u) & (v) bypass or overflow of wastewater at the treatment works or collection system is prohibited unless there were no feasible alternatives to the bypass, the bypass is necessary to prevent severe injury or property damage, and the permittee notified the Department as required in s. NR 205 (1)(u)3.

**6.6. Planned Changes:** The permittee shall report to the Department any facility expansion, production increase or process modifications which will result in new, different or increased discharges of pollutants as set forth in s. NR 205.07(3)(c).

**6.7. Inspection and Entry:** The permittee shall allow an authorized representative of the Department, upon the presentation of credentials, to enter the permittee's premises, have access to records, and inspect and monitor the discharge as described in s. NR 205.07(1)(d).

**6.8. Authorized Signature:** Reports, records, and monitoring results required by this permit shall be signed by the permittee's authorized representative or, in his or her absence, as specified in s. NR 205.07(1)(g).

**6.9. Water Quality Sampling and Testing Procedures:** Sampling and laboratory testing procedures shall be performed as specified in s. NR 205.07(1)(p) and as set forth below. Sampling and analysis of effluent samples shall be performed as specified in chs. NR 218 and NR 219, Wis. Adm. Code, respectively and shall be performed by a laboratory certified or registered in accordance with the requirements of ch. NR 149.

#### **6.10. Retention and Submittal of Reports, Records, and Monitoring**

**Results:** The permittee shall retain records of all monitoring required by this permit and report monitoring results as set forth in s. NR 205.07(1)(f) and (r) and as specified in 6.11 below. Reports (including storm water inspection reports), records, and monitoring results required by this permit shall be retained by the permittee for the duration of this permit or three years after this information is generated, whichever is longer.

**6.11. Recording of Results:** For each effluent measurement or sample taken, the permittee shall record the following information as required in s. NR 205.07(1)(e):

- The date, exact place, method and time of sampling or measurements,
- The individual who performed the sampling or measurements,
- The date of the analysis and the individual who performed the analysis,
- The analytical techniques or methods used, and the results of the analysis.

**6.12. Conventions for the Reporting and Use of Low Level Results:** The permittee shall use the following conventions when reporting effluent monitoring results: (a) non-detected pollutant results shall be reported as < (less than) the value of the analytical method's limit of detection; (b) pollutant concentrations equal to or greater than the limit of detection, but less than the limit of quantitation, shall be reported and the limit of quantitation shall be specified; and (c) a zero value may be substituted for any non-detected pollutant result for the purposes of calculating an average or a mass discharge.

**6.13. Continuation of an Expired General Permit:** As provided in s. NR 205.08(9), the terms and conditions of this general permit shall continue to apply until this general permit is reissued or revoked or until an individual permit is issued for the discharge to which the general permit applied. The status of a general permit and forms for updating facility information can be accessed on the Department website by searching for WPDES Wastewater Permits and selecting "General Permits".

**6.14. Enforcement:** Any violation of this permit is enforceable under ss. 283.89 and 283.91, Wisconsin Statutes.

**6.15. Severability:** The provisions of this permit are severable, and if any provisions of this permit or the application of any provision of this permit to any circumstance is held invalid the remainder of this permit shall not be affected thereby.

**6.16. Work near Surface Waters and Wetlands:** Any work performed in wetland areas or within areas subject to local floodplain and shoreland regulations must conform to all applicable county or local ordinances. All applicable state permits and/or contracts required by chs. 30, 31 and 87, Wis. Stats. and sections 281.15, 281.17(10), 281.36 and 281.37, Wis. Stats. (or Wisconsin Administrative Code adopted under these laws), and applicable federal permits must be obtained as necessary.

**6.17. Property Rights:** This permit does not convey property rights of any sort, or any exclusive privilege. This permit does not authorize any injury or damage to private property, any invasion of personal rights, or any infringement of Federal, State, or local laws or regulations.

**APPENDIX F – WisDOT Standard Specifications for Erosion Control**

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## 627 Mulching

### 627.1 Description

- (1) This section describes furnishing, placing, and anchoring a mulch cover, usually in connection with seeding the surfaces of the roadway.

### 627.2 Materials

- (1) Mulching material consists of straw or hay in an air-dry condition, wood excelsior fiber, wood chips, or other suitable material of a similar nature that the engineer approves, and is substantially free of noxious weed seeds and objectionable foreign matter.
- (2) Furnish tackifiers from the PAL.

### 627.3 Construction

#### 627.3.1 General

- (1) Do not perform mulching during periods of excessively high winds that might preclude proper mulch placement.
- (2) Place the mulch loosely or open enough to allow some sunlight to penetrate and air to slowly circulate, but thick enough to shade the ground, conserve soil moisture, and prevent or reduce erosion.
- (3) Maintain the mulched areas and repair areas damaged by wind, erosion, traffic, fire or other causes.

#### 627.3.2 Placing

- (1) The contractor may perform the work as specified in one of the following ways: Method A, Method B, or Method C, or a combination of the 3, unless a specific method is specified in the contract.

##### 627.3.2.1 Method A, Netting

- (1) Uniformly spread the mulching material over the designated areas to a loose depth of 1/2 to 1 1/2 inches. Use a specific rate of application; dependent on the character of the material, that results in a cover conforming to the requirements specified above in 627.3.1. Loosen or make fluffy the mulch material from compacted bales before spreading in place. Unless directed otherwise, begin mulching at the top of the slopes and proceed downward.
- (2) Securely anchor straw or hay mulch by using engineer-approved netting anchored to the ground with pegs or staples to prevent it from floating as the vegetation grows. Instead of this anchorage, the contractor may secure mulch by heavy biodegradable twine fastened by pegs or staples to form a grid with 6 to 10 feet spacing.
- (3) The contractor may use department-approved erosion control mats, listed in the PAL, instead of separately applying mulch and netting.

##### 627.3.2.2 Method B, Tackifier

- (1) Treat straw or hay with a tackifier, blow from a machine, and uniformly deposit over designated areas in one operation. Place straw or hay uniformly over the area 1/2 to 1 inch deep, using 1/2 to 3 tons of mulch per acre. Mix and place tackifier according to the PAL. Within the above limits, the engineer will determine, on the job, the application rate of the mulch and the tackifier, and the engineer may vary the rates during mulching to produce the desired results. Use an engineer-approved machine to place the mulch that blows or ejects by constant air stream a controlled quantity of mulch and applies a spray of tackifier to partially coat the straw or hay, sufficient to hold together and keep in place the deposited straw or hay. The contractor may apply the tackifier as an overspray in a separate operation after placing the straw or hay.
- (2) Apply wood fiber, wood chips, or similar material with engineer-approved blowing machines, or other engineer-approved methods, that place a controlled quantity of mulch uniformly over the area 1/2 to 1 1/2 inches deep. Treat areas receiving wood chip mulch, with one pound of available nitrogen per 1000 square feet before or after applying the chips.
- (3) Throughout the process, feed the mulch material into the blowing machine to produce a constant and uniform ejection from the discharge spout, and operate in a position to produce mulch of uniform depth and coverage.

##### 627.3.2.3 Method C, Crimping

- (1) Spread the straw or hay mulch uniformly over the designated areas to a loose depth of 1/2 to 1 1/2 inches, using 1/2 to 3 tons of mulch per acre, by blowing from a machine, as specified in Method B, or by other engineer-approved methods.
- (2) Immediately after spreading, anchor the mulch in the soil by using a mulch crimper consisting of a series of dull, flat discs with notched edges. Space the 20 inch diameter discs at about 8 inch centers. Equip the crimper with a ballast compartment to allow adjusting the weight for depth control.

- (3) Impress the mulch into the soil 1 1/2 to 2 1/2 inches deep in one pass of the crimper. The department will not allow mulch crimpers to operate on slopes so steep that damage to the mulch, seedbed, or soil occurs. Anchor the mulch on these areas by one of the following methods: Method A or Method B. Equip and operate tractors to minimize disturbing or displacing the soil. This process may require more than one pass of the crimper to ensure adequate anchoring of the mulch.
- (4) Do not use Method C if it cannot impress the mulch to a minimum of 1 1/2 inch.

**627.4 Measurement**

- (1) The department will measure Mulching acceptably completed by the square yard or by the ton, whichever the contract specifies.
- (2) If measured by the square yard, the measured quantity equals the number of square yards of surface area that the contractor applied the mulch.
- (3) If measured by the ton, the measured quantity equals the number of tons of mulch provided, placed, and acceptably completed.

**627.5 Payment**

- (1) The department will pay for measured quantities at the contract unit price under the following bid items:

<u>ITEM NUMBER</u>	<u>DESCRIPTION</u>	<u>UNIT</u>
627.0200	Mulching	SY
627.0205	Mulching	TON

- (2) Payment for Mulching is full compensation for providing materials, including tackifiers or nitrogen; for hauling, treating, placing, spreading, and anchoring of the mulch material; and for maintaining the work and repairing damaged areas.
- (3) If the contractor opts to use department-approved erosion control mats instead of separately applying mulch and netting, the department will pay for it at the contract unit price for Mulching only.

## 628 Erosion Control

### 628.1 Description

- (1) This section describes providing erosion control mats, bale checks or dikes, fences, screens, blankets, and other erosion control devices.
- (2) This section also describes cleaning sediment basins and mobilizations for erosion control.

### 628.2 Materials

#### 628.2.1 General

##### 628.2.1.1 Acronyms

- (1) Interpret acronyms used throughout this section as follows:

**ECRM** Class I, II, and IIIA erosion control revegetative mats.

**TRM** Class III B, C, and D turf reinforcement mats.

##### 628.2.1.2 Product Acceptability

- (1) The department prequalifies selected erosion control products in the PAL. If the contract specifies, furnish products of the class, type, and subject to the seasonal limitations the PAL designates. Before installing a product from the PAL, submit to the engineer a written copy of the manufacturer's specifications for installing that product on slopes, channels, shorelines, high wind locations, and next to live traffic lanes as applicable to the contract installation. Install products from the PAL conforming to those manufacturer's specifications. The department may specify modifications to the manufacturer's procedures for individual materials here within 628.
- (2) The department may sample and test products supplied in the field to verify that they conform to the PAL prequalification requirements. Provide samples as the engineer directs.

##### 628.2.2 Erosion Mat

- (1) The department must prequalify erosion mat products before use. Furnish erosion mat products from the PAL.
- (2) The PAL identifies prequalified erosion mat products by class and type. Use the required class and type of erosion mat the plans show or the engineer specifies. The contractor may furnish any prequalified erosion mat product of the class and type the plans show or that the engineer specifies.
- (3) If using jute fabric for a Class II Type A erosion mat, use a woven fabric of a uniform open weave of single jute yarn. Use a jute yarn of loosely twisted construction with an average twist of not less than 1 1/2 turns per one inch. Ensure the average size of the warp and weft yarns are approximately the same. Furnish the woven fabric in rolled strips. Submit a certificate of compliance certifying that the jute fabric erosion mat conforms to the following:
  - Is a minimum 48 inches wide with a tolerance of minus one inch.
  - Has 78 warp ends, +/- one for each 48 inches of width. Has 45 weft yarns, +/- 2, per linear yard of length.
  - Weighs 92 pounds per 100 square yards +/- 10 percent, measured under average atmospheric conditions.
  - Is non-toxic to vegetation.

##### 628.2.3 Staples

- (1) Furnish U-shaped staples, made of No. 11 or larger diameter steel wire, or other engineer-approved material, one to 2 inches wide, and not less than 6 inches long for firm soils and not less than 12 inches for loose soils. The contractor may use anchors the staple gun manufacturer recommends, either lighter gage staples or equivalent, for engineer-approved staple gun systems.

##### 628.2.4 Bales

- (1) For bales, use straw, hay, or other engineer-approved material, in good condition, of the dimensions the plans show.

##### 628.2.5 Stakes

- (1) Furnish wood or metal stakes of the dimensions the plans show.

##### 628.2.6 Silt Fence

###### 628.2.6.1 Geotextile

- (1) Furnish one of the following geotextiles: woven or non-woven polyester, polypropylene, stabilized nylon, polyethylene, or polyvinylidene chloride. For non-woven fabric the contractor may use needle punched, heat bonded, resin bonded, or combinations of all 3. Submit a certificate of compliance certifying that the geotextile conforms to the following:

TEST REQUIREMENT	METHOD	VALUE <sup>(1)</sup>
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Minimum grab tensile strength (machine direction)	<u>ASTM D4632</u>	120 lb
Minimum grab tensile strength (cross machine direction)	<u>ASTM D4632</u>	100 lb
Maximum apparent opening size (equivalent standard sieve)	<u>ASTM D4751</u>	No. 30
Minimum Permittivity	<u>ASTM D4491</u>	0.05 s <sup>-1</sup>
Minimum ultraviolet stability (strength retained at 500 hrs of exposure)	<u>ASTM D4355</u>	70%

<sup>(1)</sup> Numerical values represent minimum or maximum average roll values. Average test results from all rolls in a lot must conform the tabulated values.

**628.2.6.2 Fence Support System**

- (1) Conform to plan requirements.

**628.2.7 Silt Screen**

- (1) Furnish fabric and submit a certificate of compliance certifying that the fabric conforms to the following:
 

Thickness .....	15 mils
Minimum grab tensile strength.....	120 lb
Minimum equivalent opening .....	No.170 sieve
- (2) Heat seal or sew all fabric seams.
- (3) For flotation, use an 8-inch diameter solid expanded polystyrene log, or engineer-approved equal, with a buoyancy of approximately 20 pounds per foot. Do not use polystyrene beads or chips.
- (4) For the main load line, use 5/16-inch cable. For ballast, use a 1/4-inch chain.

**628.2.8 Sand Bags**

- (1) Furnish bags made of canvas, burlap, nylon, or other engineer-approved material filled with concrete sand or other engineer-approved granular material.

**628.2.9 Polyethylene Sheeting**

- (1) Furnish 6 mil or thicker polyethylene sheeting conforming to ASTM D4397.

**628.2.10 Turbidity Barriers**

- (1) Furnish barrier made of coated impervious fabric capable of containing sediment at the location placed. It must have a cable, with a 5/16 inch or larger diameter, capable of supporting the barrier at the required height above the water. It must have a self-contained ballast that weighs at least 0.7 pound per foot. The ballast may be either chain or flexible cable. Barrier ends must have grommets to lace together adjoining sections. For anchor posts use one of the following: steel fence posts, steel pipes, or steel channels.
- (2) Submit a certificate of compliance certifying that the turbidity barrier fabric conforms to the following:

TEST REQUIREMENT	METHOD	VALUE <sup>(1)</sup>
Minimum grab tensile strength	<u>ASTM D4632</u>	200 lb
Minimum puncture strength	<u>ASTM D4833</u>	90 lb
Maximum permeability	<u>ASTM D4491</u>	1x10 <sup>-7</sup> cm/s
Minimum ultraviolet stability	<u>ASTM D4355</u>	70%

(strength retained at 500 hrs of exposure)

<sup>(1)</sup> Numerical values represent minimum or maximum average roll values. Average test results from all rolls in a lot must conform the tabulated values.

**628.2.11 Soil Stabilizer**

- (1) Soil stabilizer type A is one of the following: a cementitious soil binder added to wood cellulose fiber mulch, or a bonded fiber matrix. Soil stabilizer type B is a polyacrylimide.
- (2) Furnish soil stabilizer products from the PAL.

**628.2.12 Inlet Protection**

- (1) Furnish type FF geotextiles, or bags manufactured from type FF geotextiles, from the PAL. If using field sewn seams, furnish a field sewn seam sample produced from the geotextile and thread and with the equipment proposing to use on the project, before incorporating into the work.



### 628.2.13 Rock Bags

- (1) Furnish rock bags made of a porous, ultraviolet resistant, high-density polyethylene or geotextile that will retain 70 percent of its original strength after 500 hours of exposure according to ASTM D4355 and a minimum in-place filled size of 18 inches long by 12 inches wide by 6 inches high. Ensure that the fabric conforms to the following:

TEST REQUIREMENT	METHOD	VALUE
Minimum Tensile	<u>ASTM D4632</u>	
Machine direction		70 lb minimum
Cross direction		40 lb minimum
Elongation	<u>ASTM D4632</u>	
Machine direction		20% minimum
Cross direction		10% min
Puncture	<u>ASTM D4833</u>	65 lbs minimum
Minimum Apparent Opening		0.0234 inches (No. 30 sieve)
Maximum Apparent Opening		0.0787 inches (No. 10 sieve)

- (2) Fill the bags with a clean, sound, hard, durable, engineer-approved coarse aggregate conforming by visual inspection to the gradation specified for No. 2 coarse aggregate for concrete in 501.2.7.4.2.

### 628.2.14 Tracking Pads

- (1) Furnish tracking pad aggregate conforming to 312.2 for select crushed material except the material must be substantially free of particles passing the No. 10 sieve. Furnish type R geotextile conforming to 645.2.2.6.

## 628.3 Construction

### 628.3.1 General

- (1) Arrange to have available a sufficient quantity of contract-required temporary erosion control materials to protect the project site from erosion at all times during construction. Include erosion mat, erosion bales, silt fence, manufactured alternative materials for temporary ditch checks, and other temporary erosion control materials the contract requires.
- (2) Ensure that erosion control products selected from the PAL are properly installed and maintained to remain in place and functioning as the contract specifies.

### 628.3.2 Erosion Mat

- (1) Provide protective covering mats or soil retention mats for erosion control on prepared planting areas of slopes, ditches, channels, or shorelines, at locations the plans show or the engineer directs. Conform to the seasonal limitations designated in the PAL for photodegradable products.
- (2) Install as the manufacturer specifies except as follows:
1. Do not use single roll material less than 6 feet wide in channels.
  2. Entrench mats approximately 3 inches deep along the edge facing traffic for installations within 5 feet of active traffic lanes.
  3. Overlap mats by 3 inches or less and anchor with anchoring devices selected from the PAL for mats the PAL designates as urban.
- (3) Cover TRM's immediately after installation with materials from the PAL as follows:
1. On slopes use either an ECRM or a type A soil stabilizer. If using a soil stabilizer, apply at the manufacturer's recommended rate unless the contract or engineer specifies otherwise.
  2. In channels use an ECRM of a class and type the PAL allows for channel applications.
- (4) Remove stones, clods, roots, sticks, or other foreign material that prevent the mat from bearing completely on the surface before placing the mat.
- (5) Reseed any seeded areas damaged or destroyed during placement of the erosion mat as specified for the original seeding.
- (6) Dispose of surplus excavation or materials, and stones, clods, or other foreign material removed in preparing for placing the mat.
- (7) Maintain the erosion mat and repair any damaged areas until the work is accepted.
- (8) Do not overlap type urban erosion mat with type urban or other type erosion mat.

### 628.3.3 Erosion Bales

- (1) Furnish bales of straw, hay, or other suitable baled material to form erosion control structures other than ditch checks. Install at locations the plans show or as the engineer directs.

- (2) Maintain the bales as required including removing and disposing of sediment deposits. Remove erosion bales after slopes and ditches are stable and turf develops enough to make future erosion unlikely. The engineer will determine when the contractor meets these criteria satisfactorily. The contractor may use bales as mulch. Dispose of bales not used as mulch in a manner acceptable to the engineer. Reshape ditches; fill sumps and trenches; dispose of excess eroded material; and topsoil, fertilize, and seed the affected area.

#### **628.3.4 Silt Fence**

##### **628.3.4.1 Installation and Removal**

- (1) Install silt fence before starting a construction operation that might cause sedimentation or siltation.
- (2) If possible, construct the silt fence in an arc or horseshoe shape with its ends pointing up slope. Construct the silt fence to the dimensions, and according to the details the plans show. Remove silt fences, as the engineer determines, after stabilizing the slopes and ditches and developing the turf to the extent that future erosion is unlikely. Clean up and restore the surface after removal. The contractor owns materials remaining after removal and is responsible for their disposal off the right-of-way.

##### **628.3.4.2 Inspection and Maintenance**

- (1) Inspect all silt fences immediately after each rainfall and at least daily during prolonged rainfall. Correct any deficiencies immediately. Additionally, review the locations for silt fences and filter barriers in areas that construction activity changed the earth contour and drainage runoff on a daily basis to ensure that the silt fences are properly and effectively located. If deficiencies exist, install additional silt fences as the engineer directs or approves.
- (2) Remove sediment deposits when the build-up exceeds approximately 1/2 the volume capacity of the silt fence. The engineer may order the contractor to remove deposits if the engineer determines deposits exceed 1/2 the volume capacity of the silt fence. Dress, to the existing grade, sediment deposits remaining in place after the silt fence is no longer required, this includes topsoiling, fertilizing, and seeding the affected area.

#### **628.3.5 Silt Screen**

- (1) Install the silt screen to prevent drift shoreward or downstream. Securely attach the flotation log to the fabric in both the horizontal and vertical direction.
- (2) Attach the 5/16-inch cable at the flotation members and extend along the entire length of each section of silt screen. Seal a 1/4-inch chain in the lower hem for ballast.
- (3) Use connectors to join the main load line and ballast chain to carry tensile pressure. Join the fabric for its entire height with grommets and lacing rope.
- (4) Ensure the silt screen extends from the water surface to a maximum 10 foot depth.
- (5) Install anchorages or stakes on both shore and stream side to maintain stability. Use a post with deadman or engineer-approved equal for shore anchors. Ensure stream anchors are of sufficient size, type, and strength to stabilize the barrier beyond the construction area.
- (6) Buoy anchors to prevent pulling the barrier under water. Use Danforth-type anchors in sandy bottom and heavy kedge type or mushroom anchors on mud bottoms.
- (7) Maintain the barrier throughout construction operations.
- (8) After completing the work, remove the barrier in a way that prevents siltation of the river.

#### **628.3.6 Cleaning Sediment Basins**

- (1) Clean sediment basins when the engineer determines the sediment has accumulated to an extent that impairs the effectiveness of the sediment basin.
- (2) Dispose of the surplus material according to 205.3.12 for disposal of surplus or unsuitable material.

#### **628.3.7 Erosion Control Orders**

##### **628.3.7.1 Corrective Action**

- (1) Begin erosion control corrective action within 24 hours of the engineer's written order and promptly complete items on the written order.

##### **628.3.7.2 Mobilizations Erosion Control**

- (1) Under the Mobilizations Erosion Control bid item; move personnel, equipment, and materials to the project site and promptly install erosion control items at the stages the contract indicates or the engineer directs.

- (2) Submit for approval an ECIP required in 107.20 for accomplishing temporary and permanent erosion control work. Stage the ECIP erosion control work to conform to the number of Mobilizations Erosion Control bid items the contract plans show. The department will not allow any deviation from approved staging without the engineer's written approval. The engineer will direct each of the mobilizations. Mobilize with sufficient personnel, equipment, supplies, and incidentals, within 72 hours of the engineer's written order.

#### **628.3.7.3 Mobilizations Emergency Erosion Control**

- (1) Under the Mobilizations Emergency Erosion Control bid item; move personnel, equipment, and materials to the project site to install temporary erosion control items on an emergency basis as the engineer directs.
- (2) Mobilize with sufficient personnel, equipment, materials, and incidentals on the job site within 8 hours the engineer's written order to install temporary erosion control items on an emergency basis.
- (3) An emergency is a sudden occurrence of a serious and urgent nature, beyond normal maintenance of erosion control items and mobilizations the ECIP includes. Under this definition, an emergency mobilization requires immediate action to move necessary personnel, equipment, and materials to the emergency site followed by immediate installation of temporary erosion control measures.
- (4) Unless the engineer directs otherwise, replenish stockpiled material delivered as specified for plan quantities in 628.3.1 and subsequently used for emergency erosion control to the pre-emergency totals of these stockpiles.

#### **628.3.8 (Vacant)**

#### **628.3.9 Polyethylene Sheeting**

- (1) Install polyethylene sheeting at locations the plans show or as the engineer directs.
- (2) Secure the sheeting from wind and water dislocation. Before placing, remove stones, roots, sticks, and other materials that interfere with the sheeting bearing completely on the soil. Overlap adjacent sheets a minimum of 3 feet in the direction of flow; and seal the edges with waterproof tape or other engineer-approved method. Patch damaged areas with sheeting overlapped a minimum of 3 feet and seal the joints with waterproof tape or other engineer-approved method. Maintain the sheeting and make satisfactory repairs of damaged areas.
- (3) Upon completing the work, remove the polyethylene sheeting. Assume ownership of removed material.

#### **628.3.10 Turbidity Barriers**

- (1) Install turbidity barriers at locations the plans show or as the engineer directs.
- (2) Place barriers, before beginning adjacent construction, in a way that causes minimum disturbance of the streambed and banks. Extend the barrier into the stream banks far enough to preclude washing out or erosion around the ends. Drive posts securely into the streambed at 10 foot intervals along the line of the barrier installation. Fasten the barrier to the posts and securely anchor the barrier load lines at the barrier ends and at 10 foot intervals between the barrier ends, unless the engineer directs otherwise. Provide additional anchoring if necessary to maintain the barrier location during construction operations. Install sand bags as the plans show to anchor the barrier to the streambed. The engineer may require additional sand bags to ensure adequate performance. Provide and anchor both danger buoys and navigational markers as required by permit under 107.19.
- (3) Maintain the integrity of the barrier as necessary to contain erosion from adjacent construction operations. Promptly correct deficiencies. Barrier maintenance includes removing and disposing of accumulations of soil and other detrimental material.
- (4) Remove the barrier after completing the adjacent work. Delay removal until removing and disposing of accumulated soils and other suspended materials, and all suspended materials settle. Minimize disturbing the streambed and banks during removal operations.
- (5) If the engineer approves, the contractor may substitute sheet pile installed as a part of their construction operation for all or part of the turbidity barrier the plans show.

#### **628.3.11 (Vacant)**

#### **628.3.12 Soil Stabilizer**

##### **628.3.12.1 General**

- (1) Provide soil stabilizer as a soil bonding agent to prevent or minimize erosion. Install on exposed soil surfaces of temporary or permanent slopes as the plans show or as the engineer directs.

#### **628.3.12.2 Soil Stabilizer Type A**

- (1) Apply soil stabilizer with conventional hydraulic seeding equipment. Ensure that surrounding surfaces, structures, signs, trees, and shrubs are not over-sprayed. The engineer will not accept the work until the contractor cleans over-sprayed surfaces. Provide a finished application 3/16 to 1/4 inches thick.
- (2) For permanent slope applications, sow seed separately, before applying the soil stabilizer, to ensure that the seed has direct contact with the soil.

#### **628.3.12.3 Soil Stabilizer Type B**

- (1) Apply soil stabilizer with conventional hydraulic seeding equipment or by dry spreading. Apply the material at the manufacturer's recommended rate unless the engineer directs otherwise.
- (2) For permanent slope applications, apply a department-approved mulch when applying the soil stabilizer or after applying it to protect the seed.

#### **628.3.13 Inlet Protection**

- (1) Furnish, install, maintain, and remove type FF geotextile, and fabric hold down and support systems for inlet protection where the plans show or the engineer directs. The contractor may provide manufactured alternatives selected from the PAL.
- (2) For type A inlet protection, install around field inlets until establishing permanent soil stabilization; and around pavement inlets before placing curb, gutter, or curb & gutter.
- (3) For type B inlet protection, install on curb, gutter, curb & gutter, and pavement inlets after placing the surrounding pavement surfaces.
- (4) For type C inlet protection use a wooden 2 x 4, wrapped and secured in type FF geotextile, installed in front of the curb head as the plans show. The wood must not block the entire opening of the curb box.
- (5) For type D inlet protection, the contractor may make the bag from type FF geotextile or choose a manufactured type FF bag from the PAL. Ensure that the device is designed to fit the size and shape of the inlet. At a minimum, inspect and maintain after every precipitation event.

#### **628.3.14 Temporary Ditch Checks**

- (1) Provide suitable ditch check materials, installed and maintained at locations the plans show or as the engineer directs.
- (2) Construct temporary ditch checks using a double row of erosion bales or a manufactured alternative from the PAL. Place temporary ditch checks across ditches at locations the plans show or as the engineer directs immediately after shaping the ditches or slopes. Excavate upstream sumps as the engineer directs.
- (3) Remove sediment deposits when the build-up exceeds approximately 1/2 the erosion bale structures volume capacity. The engineer may order the contractor to remove deposits if the engineer determines that sediment deposits exceed 1/2 the erosion bale structures volume capacity. Dispose of excess sediment as the engineer directs.
- (4) Remove ditch checks after the slopes and ditches are stable and the turf develops enough to make future erosion unlikely. The engineer will determine when the contractor meets these criteria. The contractor may use bales as mulch. Dispose of bales not used as mulch in a manner acceptable to the engineer. Reshape the ditch; fill sumps and trenches; dispose of excess eroded material; and topsoil, fertilize, and seed the affected area.

#### **628.3.15 Culvert Pipe Checks**

- (1) Install rock bag culvert pipe checks as the plans show and as the engineer directs. Place bags immediately after installing new culverts and before beginning earth disturbing activities in areas drained by existing culverts. Place rock bags on the inlet end of the culvert only. Leave rock bags in place until slopes and ditches are stable and turf develops enough to make future erosion unlikely. Periodically remove sediment to maintain effective function. Remove and dispose of the bags and rock filler when they are no longer needed to control erosion. Dispose of accumulated sediment and restore the site. The contractor may spread accumulated sediment to form a surface suitable for seeding.

#### **628.3.16 Tracking Pads**

- (1) Install tracking pads at the locations the plans show, locations consistent with an engineer-approved ECIP, or where the engineer directs before allowing construction traffic to leave the site. Ensure that the pad is wide enough to cover the full width of the egress point. Design the installation to divert surface water flow away from the pad and, if field conditions dictate, provide a culvert to channel flow under the pad.

- (2) Replace or rework material in the surface of the pad to minimize material tracked onto public roads. Maintain the driving surface in a clean and safe operating condition. Remove the pad and restore the site upon completion of contract work.

#### **628.3.17 Rock Bags**

- (1) Install rock bags as the plans show or the engineer directs either in conjunction with work done under other contract bid items or as stand-alone erosion control devices. Periodically remove sediment to maintain effective function. Remove and dispose of the bags and rock filler when they are no longer needed to control erosion. Dispose of accumulated sediment and restore the site. The contractor may spread accumulated sediment to form a surface suitable for seeding.

### **628.4 Measurement**

#### **628.4.1 General**

##### **628.4.1.1 Borrow Sites and Material Disposal Sites**

- (1) The department will measure work acceptably completed under selected bid items placed on borrow sites and material disposal sites if that work is consistent with an engineer-approved ECIP. The department will measure only the following bid items using the methods described in their respective measurement subsections:

Erosion Mat (type)	Soil Stabilizer (type)	Mulching
Erosion Bales	Culvert Pipe Checks	Seeding
Temporary Ditch Checks	Polyethylene Sheeting	Seeding Temporary
Silt Fence	Tracking Pads	Fertilizer Type (type)
Silt Fence Maintenance	Rock Bags	Seed Water
Inlet Protection (type)	Mobilizations Emergency Erosion Control	

##### **628.4.1.2 Sand Bags**

- (1) The department will not measure sand bags. Sand bags are incidental to the bid items that use sand bags.

##### **628.4.2 Erosion Mat**

- (1) The department will measure the Erosion Mat bid items by the square yard acceptably completed. The department will not make allowance for portions of the mat that must be entrenched in the soil for any end or junction slot, or for required overlaps.

##### **628.4.3 (Vacant)**

##### **628.4.4 Erosion Bales**

- (1) The department will measure Erosion Bales as each individual bale acceptably completed.

##### **628.4.5 (Vacant)**

##### **628.4.6 Silt Fence**

- (1) The department will measure Silt Fence by the linear foot acceptably completed. The department will measure along the base of the fence, center-to-center of end post, for each section of fence.

##### **628.4.7 (Vacant)**

##### **628.4.8 Silt Fence Maintenance**

- (1) The department will measure Silt Fence Maintenance by the linear foot acceptably completed. The department will measure along the base of the fence, end-to-end of the section maintained, for each time a section of fence is cleaned and repaired.

##### **628.4.9 Silt Screen**

- (1) The department will measure Silt Screen by the linear foot acceptably completed.

##### **628.4.10 Cleaning Sediment Basins**

- (1) The department will measure Cleaning Sediment Basins by the cubic yard acceptably completed, measured in the vehicle.

##### **628.4.11 Mobilizations Erosion Control**

- (1) The department will measure Mobilizations Erosion Control as each individual mobilization acceptably completed. The department will not include the following:

1. Delivering and installing materials provided for in specific contract bid items.
2. Work specified under the Mobilizations Emergency Erosion Control bid item, or the work and operations necessary for normal contractor maintenance of erosion control items.

3. The movement of personnel, equipment, and materials to the work site to accomplish installing additional erosion control items the engineer deems necessary to control erosion between the stages contained in the department-approved plan of operations, unless the engineer directs otherwise in writing.

**628.4.12 Mobilizations Emergency Erosion Control**

- (1) The department will measure Mobilizations Emergency Erosion Control as each individual mobilization acceptably completed. The department will not include delivering and installing temporary erosion control materials provided for in specific contract bid items.

**628.4.13 Polyethylene Sheeting**

- (1) The department will measure Polyethylene Sheeting by the square yard acceptably completed.

**628.4.14 Turbidity Barriers**

- (1) The department will measure Turbidity Barrier by the square yard acceptably completed. The department will make no allowance for portions of the turbidity barrier considered as part of the anchorages, required overlaps, or having a bottom flap greater than 48 inches.
- (2) If the contractor substitutes sheet pile for turbidity barrier as allowed in 628.3.10, the department will measure that turbidity barrier as the plan quantity in square yards of material replaced.

**628.4.15 Soil Stabilizer**

- (1) The department will measure the Soil Stabilizer bid items by the acre acceptably completed within the limits the contract designates or as the engineer directs.

**628.4.16 Inlet Protection**

- (1) The department will measure the Inlet Protection bid items as each individual location and type acceptably completed.

**628.4.17 Temporary Ditch Checks**

- (1) The department will measure Temporary Ditch Checks by the linear foot acceptably completed. If using erosion bales, the department will only measure the length across the ditch, not the length of each row of bales. The department will not measure ditch checks constructed with a single row of bales.

**628.4.18 (Vacant)**

**628.4.19 Culvert Pipe Checks**

- (1) The department will measure Culvert Pipe Checks as each individual rock bag acceptably completed.

**628.4.20 Tracking Pads**

- (1) The department will measure Tracking Pads as each individual location acceptably completed measured only at the locations the plans show, consistent with an engineer-approved ECIP, and where the engineer directs.

**628.4.21 Rock Bags**

- (1) The department will measure Rock Bags as each individual bag acceptably completed.

**628.5 Payment**

**628.5.1 General**

- (1) The department will pay for measured quantities at the contract unit price under the following bid items:

<u>ITEM NUMBER</u>	<u>DESCRIPTION</u>	<u>UNIT</u>
628.1104	Erosion Bales	EACH
628.1504	Silt Fence	LF
628.1520	Silt Fence Maintenance	LF
628.1550	Silt Screen	LF
628.1905	Mobilizations Erosion Control	EACH
628.1910	Mobilizations Emergency Erosion Control	EACH
628.1920	Cleaning Sediment Basins	CY
628.2000 - 2099	Erosion Mat (class) (type)	SY
628.5505	Polyethylene Sheeting	SY
628.6005	Turbidity Barriers	SY
628.6500 - 6599	Soil Stabilizer (type)	ACRE
628.7000 - 7099	Inlet Protection (type)	EACH
628.7504	Temporary Ditch Checks	LF

628.7555	Culvert Pipe Checks	EACH
628.7560	Tracking Pads	EACH
628.7570	Rock Bags	EACH

- (2) The department will pay for measured quantities at the contract unit price under selected bid items placed on borrow sites and material disposal sites if that work is consistent with an engineer-approved ECIP. The department will pay for only the following bid items using the methods described in their respective payment subsections:

Erosion Mat (type)	Soil Stabilizer (type)	Mulching
Erosion Bales	Culvert Pipe Checks	Seeding
Temporary Ditch Checks	Polyethylene Sheeting	Seeding Temporary
Silt Fence	Tracking Pads	Fertilizer Type (type)
Silt Fence Maintenance	Rock Bags	Seed Water
Inlet Protection (type)	Mobilizations Emergency Erosion Control	

#### **628.5.2 Erosion Mat**

- (1) Payment for the Erosion Mat bid items is full compensation for providing, protecting, and storing erosion mat materials on the project; for placing and anchoring the mat, including staples; for preparing the seeded areas; for installing end and junction slots; and for repairing and reseeded damaged areas.
- (2) The department will pay separately for covering class III types B, C, and D mats with an ECRM under the applicable Erosion Mat bid item, or with type A soil stabilizer under the Soil Stabilizer Type A bid item.

#### **628.5.3 (Vacant)**

#### **628.5.4 Erosion Bales**

- (1) Payment for Erosion Bales is full compensation for providing, protecting, and storing erosion bales on the project; for placing materials, including stakes; for anchoring the bales; for excavating, including trenches and sumps; for removing excess sediment during construction; for removing the bales and eroded material; and for shaping and restoring ditches.
- (2) The department will pay separately for any required topsoiling, fertilizing, or seeding under the applicable bid item.

#### **628.5.5 (Vacant)**

#### **628.5.6 Silt Fence**

- (1) Payment for Silt Fence is full compensation for providing, protecting, and storing silt fence on the project; for erecting fence, including excavating, placing posts, backfilling, and attaching geotextile; and for removing the fence at project completion.

#### **628.5.7 (Vacant)**

#### **628.5.8 Silt Fence Maintenance**

- (1) Payment for Silt Fence Maintenance is full compensation for required cleaning and repairing; for removing or spreading the accumulated sediment to form a surface suitable for seeding; and for replacing silt fence and damages caused by overloading sediment material or ponding water adjacent to the silt fence.

#### **628.5.9 Silt Screen**

- (1) Payment for Silt Screen is full compensation for providing, assembling, erecting, maintaining, and removing the silt screen barrier.

#### **628.5.10 Cleaning Sediment Basins**

- (1) Payment for Cleaning Sediment Basins is full compensation for excavating; and for disposing of eroded material.

#### **628.5.11 Erosion Control Orders**

##### **628.5.11.1 Corrective Action**

- (1) If the contractor fails to begin corrective action within 24 hours of the engineers written order, or fails to promptly install the required corrective action, the department will deduct \$500 per calendar day of delay under the Failing to Perform Corrective Action for Erosion Control administrative item. The engineer may extend the 24-hour period for delays not the contractor's fault.

#### **628.5.11.2 Mobilizations Erosion Control**

- (1) Payment for Mobilizations Erosion Control is full compensation for the staged moving of personnel, moving equipment, and moving materials. The department will pay separately for delivery and installation of erosion control devices under the other bid items in this section.
- (2) If the contractor fails to mobilize and promptly install staged erosion control work within 72 hours of receipt of the engineer's written order, the department will deduct \$500 per calendar day of delay under the Failing to Mobilize for Erosion Control administrative item. The engineer may extend the 72-hour period for delays not the contractor's fault.

#### **628.5.11.3 Mobilizations Emergency Erosion Control**

- (1) Payment for Mobilizations Emergency Erosion Control is full compensation for the emergency moving of personnel, moving equipment, and moving materials. The department will pay separately for delivery and installation of temporary erosion control devices under the other bid items in this section.
- (2) If the contractor fails to mobilize and immediately install temporary erosion control measures within 8 hours of receipt of the engineer's written order, the department will deduct \$500 per calendar day of delay under the Failing to Mobilize for Emergency Erosion Control administrative item. The engineer may extend the 8-hour period for delays not the contractor's fault.

#### **628.5.12 (Vacant)**

#### **628.5.13 Polyethylene Sheeting**

- (1) Payment for Polyethylene Sheeting is full compensation for furnishing and delivering the polyethylene sheeting to the project site; for storing on the project; for installing the sheeting; for excavating and backfilling; for securing the sheeting and sealing the edges of the sheeting; for removing the sheeting; and for disposing of eroded material.

#### **628.5.14 Turbidity Barriers**

- (1) Payment for Turbidity Barriers is full compensation for furnishing, assembling, installing, maintaining, and removing the turbidity barrier; and for sandbags, buoys, navigational markers, anchors, and anchor ropes.
- (2) If the contractor substitutes sheet pile for turbidity barrier as allowed in 628.3.10, the department will pay for the plan quantity of turbidity barrier replaced.

#### **628.5.15 Soil Stabilizer**

- (1) Payment for the Soil Stabilizer bid items is full compensation for furnishing, mixing, and applying soil stabilizer.

#### **628.5.16 Inlet Protection**

- (1) Payment for the Inlet Protection bid items is full compensation for furnishing, transporting, and installing materials; and for maintaining and removing the inlet protection devices.

#### **628.5.17 Temporary Ditch Checks**

- (1) Payment for Temporary Ditch Checks is full compensation for providing, protecting, and storing ditch check materials on the project; for installing and removing ditch checks at project completion or as the engineer directs; for repairing and reseeding damaged areas; and for disposing of eroded material.
- (2) The department will not pay for installing ditch checks if constructed of a single row of erosion bales.

#### **628.5.18 (Vacant)**

#### **628.5.19 Culvert Pipe Checks**

- (1) Payment for Culvert Pipe Checks is full compensation for providing rock bags; for periodic sediment removal; for removing rock bags and rock filler; for disposing of eroded material; and for restoring the site.

#### **628.5.20 Tracking Pads**

- (1) Payment for Tracking Pads is full compensation for providing tracking pads including aggregate and geotextile; for replacing or reworking material as required to maintain performance; and for removing the pad and restoring the site.

#### **628.5.21 Rock Bags**

- (1) Payment for Rock Bags is full compensation for providing rock bags; for periodic sediment removal; for removing rock bags and rock filler; for disposing of eroded material; and for restoring the site.



## 629 Fertilizer and Agricultural Limestone

### 629.1 Description

- (1) This section describes furnishing and incorporating fertilizing material in the soil on areas of proposed seeding or proposed sodding.
- (2) This section also describes furnishing and incorporating agricultural limestone in the soil.

### 629.2 Materials

#### 629.2.1 Fertilizers

##### 629.2.1.1 General

- (1) Use fertilizers for seeding, sodding, or other planting that are standard commercial packaged or bulk products in granular or liquid form conforming to Wisconsin statutes and the Wisconsin administrative code chapter ATCP 40. Ensure that each container of packaged fertilizer is plainly marked with the analysis of the contents showing minimum percentages of total nitrogen, available phosphoric acid, and soluble potash. If furnishing the fertilizer in bulk, include an invoice in each shipment indicating the minimum percentages of total nitrogen, available phosphoric acid, and soluble potash in the contents.

<http://docs.legis.wi.gov/statutes/statutes/>

[http://docs.legis.wi.gov/code/admin\\_code/atcp/020/40.pdf](http://docs.legis.wi.gov/code/admin_code/atcp/020/40.pdf)

- (2) If using fertilizer with a total of nitrogen, phosphoric acid, and potash greater than 32 percent for type A or 50 percent for type B, apply them at a rate that provides equal nitrogen, phosphoric acid, and potash.

##### 629.2.1.2 Type A

- (1) Type A fertilizer must conform to the following minimum requirements:

Nitrogen, not less than.....	16%
Phosphoric Acid, not less than .....	6%
Potash, not less than .....	6%

- (2) The total of nitrogen, phosphoric acid, and potash must equal at least 32 percent.
- (3) Total nitrogen must at least equal the sum of the phosphoric acid and soluble potash.

##### 629.2.1.3 Type B

- (1) Type B fertilizer must conform to the following minimum requirements:

Nitrogen, not less than.....	16%
Phosphoric Acid, not less than .....	6%
Potash, not less than .....	24%

- (2) The total of nitrogen, phosphoric acid, and potash must equal at least 50 percent.

#### 629.2.2 Agricultural Limestone

- (1) Conform to chapter 94.66 of the Wisconsin statutes and of the Wisconsin administrative code chapter ATCP 41. Furnish limestone with a neutralizing index of not less than 40 or more than 109.

<http://docs.legis.wi.gov/statutes/statutes/94>

[http://docs.legis.wi.gov/code/admin\\_code/atcp/020/41.pdf](http://docs.legis.wi.gov/code/admin_code/atcp/020/41.pdf)

- (2) Before using, furnish a statement to the engineer indicating the index zone or grade of the limestone for each deposit.

### 629.3 Construction

#### 629.3.1 Fertilizer

##### 629.3.1.1 General

- (1) Uniformly apply the fertilizer selected for the seeding areas and incorporate into the soil by light discing or harrowing. If applying granular fertilizer, ensure it is well pulverized and free from lumps.
- (2) If incorporating fertilizer into topsoiled areas, the contractor may apply it just before, and in conjunction with, final discing or harrowing, or if hand manipulating the topsoil, apply it just before final raking and leveling.
- (3) If placing fertilizer on surfaces with no topsoil, prepare the soil by discing or harrowing to at least 6 inches deep and then incorporate the fertilizer as specified above.
- (4) If sowing seeding areas by pressure sprayer, then fertilize by placing the required quantity of fertilizer in the tank, mixing with the water and the seed, agitating constantly, and apply during the seeding

operation. If applying fertilizer this way then the department will not require discing and harrowing after placement.

- (5) If fertilizing areas to receive sod, spread the fertilizer uniformly over the soil before sodding at the rate specified below, and then work the fertilizer into the soil while preparing as specified for preparing the earth bed in 631.3.1.
- (6) If applying fertilizer for work specified under 632, then apply the fertilizer as specified in that section.

**629.3.1.2 Type A**

- (1) Apply fertilizer containing 32 percent total of nitrogen, phosphoric acid, and potash at 7 pounds per 1000 square feet, unless the contract specifies otherwise. For type A fertilizer that contains a different percentage of components, determine the new application rate by multiplying the specified rate by a dimensionless conversion factor determined as follows:

$$\text{Conversion Factor} = 32 / \text{New Percentage of Components}$$

**629.3.1.3 Type B**

- (1) Apply fertilizer containing 50 percent total of nitrogen, phosphoric acid, and potash at 7 pounds per 1000 square feet, unless the contract specifies otherwise. For type B fertilizer that contains a different percentage of components, determine the new application rate by multiplying the specified rate by a dimensionless conversion factor determined as follows:

$$\text{Conversion Factor} = 50 / \text{New Percentage of Components}$$

**629.3.2 Agricultural Limestone Treatment**

- (1) Unless the contract specifies otherwise, spread agricultural limestone over the contract-designated areas at a uniform rate, measured in pounds per 1000 square feet, as follows:

INDEX ZONES	40-49	50-59	60-69	70-79	80-89	90-99	100-109
RATE	140	120	100	90	80	70	60

- (2) To conveniently check the required application rate, the contractor may measure materials used on a volumetric basis, providing the conversion from weight to volume is determined from representative samples of materials used.
- (3) Incorporate the agricultural limestone with the required fertilizers into the soils in the designated areas. The construction requirements applicable to fertilizers must apply to those materials also.

**629.4 Measurement**

- (1) The department will measure the Fertilizer bid items by the hundred pounds (CWT) acceptably completed, measured based on an application rate of 7 pounds per 1000 square feet. The department will not measure fertilizer used for the bid items under 632. The measured quantity equals the number of hundred-weight (CWT) of material determined by multiplying the actual number of cwt. of material incorporated by the ratio of the actual percentage of fertilizer components used to 32 percent for type A and to 50 percent for Type B.
- (2) The department will measure Agricultural Limestone Treatment by the ton acceptably completed, measured based on an application rate of 100 pounds per 1000 square feet and an index zone of 60-69. The measured quantity equals the number of tons of material determined by multiplying the actual number of tons of material incorporated by 100 and dividing by the application rate required for the index zone of the material used.

**629.5 Payment**

- (1) The department will pay for measured quantities at the contract unit price under the following bid items:

<u>ITEM NUMBER</u>	<u>DESCRIPTION</u>	<u>UNIT</u>
629.0200 - 0299	Fertilizer (type)	CWT
629.1100	Agricultural Limestone Treatment	TON

- (2) Payment for the Fertilizer bid items is full compensation for providing, hauling, placing, and incorporating in the work.
- (3) Payment for Agricultural Limestone Treatment is full compensation for furnishing, hauling, placing, and incorporating the required materials in the soil.

## 630 Seeding

### 630.1 Description

- (1) This section describes preparing seed beds and furnishing and sowing the required seed on slopes, appurtenances, and other areas, and on borrow pits and material disposal sites.
- (2) This section also describes furnishing and sowing temporary seed mixture on the slopes and appurtenances of temporary embankments and roadways.

### 630.2 Materials

#### 630.2.1 Seed

##### 630.2.1.1 General

- (1) Use seed within one year of the test date appearing on the label.
- (2) Seed mixtures 70, 70A, 75, and 80 contain wild type forbs and grasses. Wild type is defined as seed that is derived directly from native, wild stock, including seed that was wild collected and placed into production or has been harvested directly from native stands.

##### 630.2.1.2 Purity and Germination

- (1) Test seed for purity, germination, and noxious weed seed content according to the Rules for Testing Seed, published by the Association of Official Seed Analysts.
- (2) Percent live seed (PLS) is determined by multiplying the percent purity times the percent germination. Determine sowing rate and measure mixtures containing PLS as described in CMM 640.3.4 to ensure the correct quantity of viable seed of each species is applied.

##### 630.2.1.3 Inoculation

- (1) Inoculate legume seed (white clover, red clover, alsike clover, partridge pea, purple prairie clover, Canada tick-trefoil, and lupine) unless pre-inoculated by the vendor. Follow the inoculation instructions that come with the culture purchases. If applying the seed according to method B, 630.3.3.3, treat seeds requiring inoculation with 5 times the quantity of inoculant recommended in the instructions.
- (2) Avoid exposure of the culture or inoculated seed to the sunlight; do not exceed 1/2 hour exposure.

##### 630.2.1.4 Storing Seed

- (1) Store seed delivered before use in a way that protects it from damage by heat, moisture, rodents, or other causes. Discard and replace any previously tested and accepted seed that becomes damaged.

##### 630.2.1.5 Seed Mixtures

###### 630.2.1.5.1 Permanent

###### 630.2.1.5.1.1 Composition

- (1) Seed mixtures for the right-of-way and easements must, unless specified otherwise, be composed of seeds of the purity, germination, and proportions, by weight, as given in table 630-1 and table 630-2.
- (2) Use seed of the species and varieties listed below. If no variety is listed, there will be no restriction on the variety furnished, except as follows:

1. Pure live seed (PLS) species must contain no named or improved varieties and be grown in Wisconsin, northern Illinois, northeastern Iowa, or eastern Minnesota. Use out-of-state seed grown in one of the following counties:

###### 1.1 From northern Illinois:

Boone	Bureau	Carroll	Cook	De Kalb	Du Page	Grundy	Henry
Jo Daviess	Kane	Kendall	Lake	La Salle	Lee	McHenry	Ogle
Putnam	Rock Island	Stevenson	Whiteside	Will	Winnebago		

###### 1.2 From northeastern Iowa:

Allamakee	Benton	Black Hawk	Bremer	Buchanan	Cedar	Chickasaw	Clayton
Clinton	Delaware	Dubuque	Fayette	Floyd	Howard	Jackson	Johnson
Jones	Linn	Mitchell	Muscatine	Scott	Winneshiek		

###### 1.3 From eastern Minnesota:

Aitkin	Anoka	Carlton	Carver	Chisago	Dakota	Dodge	Fillmore
Goodhue	Hennepin	Houston	Isanti	Kanabec	La Sueur	Mille Lacs	Mower
Olmsted	Pine	Ramsey	Rice	Scott	Sherburne	Steele	Wabasha
Washington	Winona	Wright					

2. PLS for seed mixtures 70, 70A, 75, and 80 must be packaged separately by species and clearly labeled with the vendor's name, species common and botanical names, gross weight, percent PLS, year of harvest and any specialized treatments that have been applied to ensure or enhance germination.
  3. Minimum percent purity for native for species is 90 percent. If a listed species is not available, substitutions may be made with engineer's approval and must be documented.
- (3) Mix native species on the project; clean and debarbed seed with awns or excessive hairs before mixing.

SPECIES COMMON NAME	SPECIES BOTANICAL NAME	ACCEPTABLE VARIETIES
Kentucky Bluegrass	Poa pratensis	Low Maintenance
Red Fescue	Festuca rubra	Creeping
Hard Fescue	Festuca ovina var. duriuscula	Improved
Tall Fescue	Festuca arundinacea	Improved turf type
Salt Grass	Puccinella distans	Fult's
	Puccinella distans	Salty
Redtop	Agrostis alba	
Timothy	Phleum pratense	
Canada Wild Rye	Elymus canadensis	
Perennial Ryegrass	Lolium perenne	
Perennial Ryegrass	Lolium perenne	Improved Fine
Annual Ryegrass	Lolium multiflorum	
Alsike Clover	Trifolium hybridum	
Red Clover	Trifolium pratense	
White Clover	Trifolium repens	
Japanese Millet	Echinochola crusgalli var. frumentacea	
Annual Oats	Avena sativa	
Agricultural Rye	Secale cereale	
Winter Wheat	Triticum aestivum	

TABLE 630-1 HIGHWAY SEED MIXTURES

SPECIES	PURITY minimum %	GERMINATION minimum %	MIXTURE PROPORTIONS (in percent)				
			NO.10	NO.20	NO.30	NO.40	NO.60
Kentucky Bluegrass	98	85	40	6	10	35	
Red Fescue	97	85	25	15	30	30	
Hard Fescue	97	85		24	25	20	
Tall Fescue	98	85		40			
Salt Grass	98	85			15		
Redtop	92	85	5				
Timothy	98	90					12
Canada Wild Rye		PLS					10
Perennial Ryegrass	97	90	20	15			
Improved Fine Perennial Ryegrass	96	85			20	15	
Annual Ryegrass	97	90					30
Alsike Clover	97	90					4
Red Clover	98	90					4
White Clover	95	90	10				
Japanese Millet	97	85					20
Annual Oats[1]	98	90					20

[1] Substitute winter wheat for annual oats in fall plantings started after September 1.

TABLE 630-2 NATIVE SEED MIXTURES

SPECIES	SPECIES BOTANICAL NAME	PURITY & GERMINATION minimum %	MIXTURE PROPORTIONS in percent				
			NO. 70	NO. 70A	NO. 75	NO. 80	
FORBES	Canada Anemone	Anemone canadensis	PLS	2			
	Butterflyweed	Asclepias tuberosa	PLS		2		
	New England Aster	Aster novae-angliae	PLS	2	2		
	Partridge-pea	Chamaecrista (Cassia) fasciculata	PLS		2		
	Purple Prairie Clover	Dalea (Petalostemum) purpurea	PLS	2	2	4	
	Canada Tick-trefoil	Desmodium canadense	PLS	2			
	Flowering Spurge	Euphorbia corollata	PLS		2		
	Wild Geranium	Geranium maculatum	PLS	2			
	Western Sunflower	Helianthus occidentalis	PLS	3	2		
	Rough Blazingstar	Liatris aspera	PLS		2		
	Prairie Blazingstar	Liatris pycnostachya	PLS	2			
	Lupine	Lupinus perennis	PLS		3		
	Wild Bergamot	Monarda fistulosa	PLS	2			
	Horse Mint	Monarda punctata	PLS		2		
	Yellow Coneflower	Ratibida pinnata	PLS	2	2		
	Blackeyed Susan	Rudbeckia hirta	PLS			1	
	Showy Goldenrod	Solidago speciosa	PLS	2	2		
	Spiderwort	Tradescantia ohiensis	PLS	2	2		
	Golden Alexanders	Zizia aurea	PLS	2			
GRASSES	Big Bluestem	Andropogon gerardi	PLS	15	15	10	
	Sideoats Grama	Bouteloua curtipendula	PLS	15	20	20	25
	Canada Wildrye	Elymus Canadensis	PLS	15	15	35	23
	Slender Wheatgrass	Elymus trachycaulus	PLS				20
	Junegrass	Koeleria macrantha	PLS		5		
	Annual Ryegrass	Lolium multiflorum	[1]			10	10
	Switchgrass	Panicum virgatum	PLS				10
	Salt Grass	Puccinella distans	[1]				2
	Little Bluestem	Schizachyrium (Andropogon) scoparium	PLS	15	20	10	10
	Indiangrass	Sorgastrum nutans	PLS	15		10	
ALTERNATE FORBES	Sky Blue Aster	Aster azureus	PLS	[2]	[2]		
	White Wild Indigo	Baptisia leucantha	PLS	[2]	[2]		
	Pale Purple Coneflower	Echinacea pallida	PLS	[2]	[2]		
	White Prairie Clover	Petalostemum candidum	PLS	[2]	[2]		
	Stiff Goldenrod	Solidago rigida	PLS	[2]	[2]		
	Hoary Vervain	Verbena stricta	PLS	[2]	[2]		

<sup>[1]</sup> Provide the minimum purity and germination specified in table 630-1.

<sup>[2]</sup> The contractor may, if the engineer approves, substitute an alternate forb for a required forb that is not available using the same percentage as specified for the required forb. Use a different alternate forb for each unavailable required forb. Provide documentation showing that a required forb is not available before using an alternate.

### 630.2.1.5.1.2 Mixture

- (1) Use seed mixtures that meet with the engineer's approval and conform to the following:
  - No. 10 where average loam, heavy clay, or moist soils predominate.
  - No. 20 where light, dry, well-drained, sandy, or gravelly soils predominate and for high cut and fill slopes generally exceeding 6 to 8 feet, except where using No. 70.
  - No. 10 or 20 on ditches, inslopes, median areas, and low fills, except where using No. 30 or 70.
  - No. 30 for medians and on slopes or ditches generally within 15 feet of the shoulder where a salt-tolerant turf is preferred.
  - No. 40 in urban or other areas where a lawn type turf is preferred.
  - No. 60 only on areas, the contract designates or the engineer specifies. Use it as a cover seeding for newly graded wet areas or as a nurse crop for specified wetland seed mixtures. Do not apply it to flooded areas.
  - Nos. 70 and 70A on slopes and upland areas the contract designates or the engineer specifies. Use seed mixture No. 70 on loamy soils and seed mixture No. 70A on sandy soils.
  - No. 75 where native grasses are desired for erosion control.
  - No. 80 on inslopes where a salt tolerant seed mix containing native grasses is desired.

### 630.2.1.5.2 Temporary

- (1) Under the Seeding Temporary bid item, use a temporary seed as follows:

SPECIES	% MINIMUM PURITY	% MINIMUM GERMINATION
Annual Oats	98	90
Agricultural Rye	97	85
Winter Wheat	95	90

- (2) Use oats in spring and summer plantings. Use winter wheat or rye for fall plantings started after September 1.

### 630.2.1.5.3 Nurse Crop

- (1) If seeding bare soil with either mixture 70, 70A, 75, or 80, include the Seeding Nurse Crop as follows:

SPECIES	% MINIMUM PURITY	% MINIMUM GERMINATION
Annual Oats	98	90
Annual Ryegrass	97	90
Winter Wheat	95	90

- (2) When a nurse crop is required for spring seeding before June 15, or if the engineer allows seeding between June 15 and October 15, use annual oats. For fall seeding after October 15, use winter wheat, or annual ryegrass.

### 630.2.2 Water

- (1) Furnish clean water, free of impurities or substances that might injure the seed.

## 630.3 Construction

### 630.3.1 General

- (1) Perform seeding when and as the engineer directs or allows. Provide protective cover within 24 hours after sowing. The engineer may direct or allow covering with mulch as specified in 627, erosion mat as specified in 628, or using other contract bid items.
- (2) If using Nos. 60, 70 and 70A mixtures, do not seed between June 15 and October 15 unless the engineer allows.

### 630.3.2 Seed Bed Preparation

- (1) Complete grading, shouldering, topsoiling, and fertilizing, if part of the work under contract, before permanent seeding, except the contractor may place the fertilizer and seed mixture in one operation if using equipment designed for the purpose.
- (2) Just before seeding, work the area being seeded with discs, harrows, or other appropriate equipment to obtain a reasonably even and loose seedbed. Place topsoil as specified in 625.3.3.

### 630.3.3 Sowing Methods

#### 630.3.3.1 General

- (1) Select the method of sowing from either method A, method B, method C, or an appropriate combination of methods A, B, and C. Obtain the engineer's approval for the sowing method and specific procedures used for each seed mixture used before sowing that mixture.

#### **630.3.3.2 Method A**

- (1) Sow the selected seed mixture using equipment adapted to the purpose, or by scattering it uniformly over the areas to be seeded. Lightly rake or drag to cover the seed with approximately 1/4 inch of soil. After seeding, lightly roll or compact the areas using suitable equipment, preferably the cultipacker type, when the engineer judges the seedbed too loose, or if the seedbed contains clods that might reduce seed germination. Do not roll slopes steeper than 1:3.
- (2) If scattering seed by hand, perform this work with satisfactory hand seeders and only when the air is calm enough to prevent seeds from blowing away.

#### **630.3.3.3 Method B**

- (1) Sow or spread the seed upon the prepared bed using a stream or spray of water under pressure and operated from an engineer-approved machine designed for that purpose. Place the selected seed mixture and water into a tank, provided within the machine, in sufficient quantities that when spraying the seed on a given area it is uniformly spread at the required application rate. During this process, keep the tank contents stirred or agitated to provide uniform distribution. Spread the tank contents within one hour after adding the seed to the tank. The engineer will reject seed that remains mixed with the water for longer than one hour. The engineer will not require dragging or rolling.

#### **630.3.3.4 Method C**

- (1) For spring seeding of seed mixtures 70 and 70A into existing ground cover, mow existing vegetation to 4 inches or less in height 2 to 4 weeks before seeding. Ten to 14 days after mowing, spray with vegetation control herbicide conforming to 632.2.12.
- (2) For fall seeding of seed mixtures 70 and 70A into existing ground cover, mow existing vegetation to 4 inches or less in height 4 to 6 weeks before seeding. Ten to 14 days after mowing, spray with vegetation control herbicide conforming to 632.2.12. Retreat with vegetation control herbicide 10 to 14 days after initial application if live vegetation persists.
- (3) Seed with a rangeland type drill with one or more seed boxes that can be calibrated independently to deliver different sized seeds uniformly at the required rate and equipped with a rear-mounted press wheel for each seed drop tube. If seeding into existing vegetation or thatch, use a rangeland type drill equipped with a no-till attachment that can cut through the vegetation or thatch in front of the V disc and seed drop tube. If the configuration of the area to be seeded allows, apply seed at 1/2 the specified seed rate and apply the second 1/2 in a perpendicular direction.

#### **630.3.4 Borrow Pits and Material Disposal Sites**

- (1) Seed borrow pits and material disposal sites off the right-of-way. Consult with the landowner or the landowner's agent when selecting the seed mixture.

#### **630.3.5 Seeding Rates**

- (1) Use the following sowing rate for seeds in pounds per 1000 square feet:
  - No. 10 at 1.5 pounds
  - No. 20 at 3 pounds
  - No. 30 at 2 pounds
  - No. 40 at 2 pounds
  - No. 60 at an equivalent seeding rate of 1.5 pounds<sup>[1]</sup>
  - No. 70 or 70A at 0.4 pounds
  - No. 75 at an equivalent seeding rate of 0.7 pounds<sup>[1]</sup>
  - No. 80 at an equivalent seeding rate of 0.8 pounds<sup>[1]</sup>
  - Temporary seeding at 3 pounds
  - Nurse crop seeding at 0.8 pounds

<sup>[1]</sup> Determine the actual seeding rate by multiplying the equivalent seeding rate by the sum of the unadjusted and adjusted percentages of the various species in the seed mixtures as sown.

- (2) The unadjusted percentage equals the minimum percent of purity and germination specified in the table 630-1 and table 630-2.
- (3) Obtain the adjusted percentage for each of the PLS species by dividing the specified percentage of the species by the product of the percent of purity and the percent of germination for each of the PLS species as delivered.

#### **630.3.6 Watering**

- (1) If rainfall is not sufficient, keep seeded areas thoroughly moist. Once the seed has germinated, do not let the top inch of soil dry out until the grass is well established. Maintain soil moisture for 30 days

unless the engineer directs or allows otherwise. Apply water in a manner that precludes washing or erosion.

**630.3.7 Establishment Period for Native Seeding**

- (1) During the growing season after planting seed mixture 70 or 70A, mow seeded areas twice as the engineer directs. Mow vegetation back to 6 inches when it has reached a height of at least 12 inches.
- (2) During the growing season after planting seed mixture 70 or 70A, eradicate the following species from the seeded areas as soon as they become evident:

SPECIES COMMON NAME	SPECIES BOTANICAL NAME
Musk thistle	Carduus nutans
Spotted knapweed	Centaurea maculosa
Canada thistle	Cirsium arvense
Bull thistle	Cirsium vulgare
Field bindweed	Convolvulus arvensis
Leafy spurge	Euphorbia esula
Sweetclover	Melilotus species
Wild parsnip	Pastinaca sativa
Teasel	Dipsacus species
Phragmites	Phragmites australis

- (3) Eradicate by hand pulling or by applying a vegetation control herbicide conforming to 632.2.12 to individual plants.

**630.4 Measurement**

**630.4.1 Seeding**

- (1) The department will measure the Seeding bid items by the equivalent pound acceptably completed, measured based on net weights of seed shipments or weighed on department-approved scales the contractor furnishes. The department will deduct quantities wasted or not actually incorporated in the work according to the contract. The department will determine the equivalent pounds of seed furnished and applied by dividing the actual pounds of seed applied by the sum of the unadjusted and adjusted percentages, determined as specified in 630.3.5, of the various species in the seed mixture sown.

**630.4.2 Watering**

- (1) The department will measure Seed Water by the 1000 gallons acceptably completed, measured as the volume indicated by engineer-approved meters or by the volume of tanks of known capacity.

**630.5 Payment**

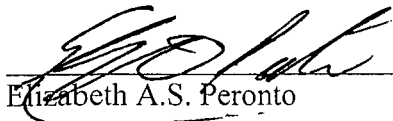
- (1) The department will pay for measured quantities at the contract unit price under the following bid items:

<u>ITEM NUMBER</u>	<u>DESCRIPTION</u>	<u>UNIT</u>
630.0100 - 0199	Seeding (mixture)	LB
630.0200	Seeding Temporary	LB
630.0300	Seeding Borrow Pit	LB
630.0400	Seeding Nurse Crop	LB
630.0500	Seed Water	MGAL

- (2) Payment for the Seeding bid items is full compensation for providing, handling, and storing seed; for providing the required culture and inoculating seed as specified; and for preparing the seed bed, sowing, covering, and firming the seed. If the landowner does not want the pit or material disposal site seeded, or seeded with any of the mixtures allowed, the department will not pay for fertilization or seeding of those areas.
- (3) Payment for Seed Water is full compensation for watering seed.
- (4) The department will pay separately for seed covering required under 630.3.1 as follows:
  - Under the Mulching bid items as specified in 627.5.
  - Under the Erosion Mat and Soil Stabilizer Type A bid items as specified in 628.5.
  - Absent the appropriate bid items, as extra work.



I, Elizabeth Peronto, do solemnly swear that the applicant(s), surrounding property owners and town officials listed below were sent a notice for the May 18, 2023 (date) public hearing.

  
Elizabeth A.S. Peronto

4-14-23  
Date

USPS TRACKING #  
& CUSTOMER  
RECEIPT

**9114 9022 0078 9655 3683 37**  
For Tracking or inquiries go to USPS.com  
or call 1-800-222-1811.

Ben Mehring  
Town of Skanawan  
W3410 Stevenson Rd  
Irma, WI 54442

Loyetta Dennis  
Town of Skanawan  
W3294 Stevenson Rd  
Irma, WI 54442

MATHY CONSTRUCTION CO  
ATTN: ROBERT SERVAIS  
920 10TH AVE N  
ONALASKA WI 54650

AMY B VANNEY  
4456 URSULA LN  
RHINELANDER WI 54501

DAIGLE REVOCABLE TRUST  
W3836 EAST SILVER LAKE RD  
IRMA WI 54442

JAMES A DAIGLE  
1514 THEILER DR  
TOMAHAWK WI 54487

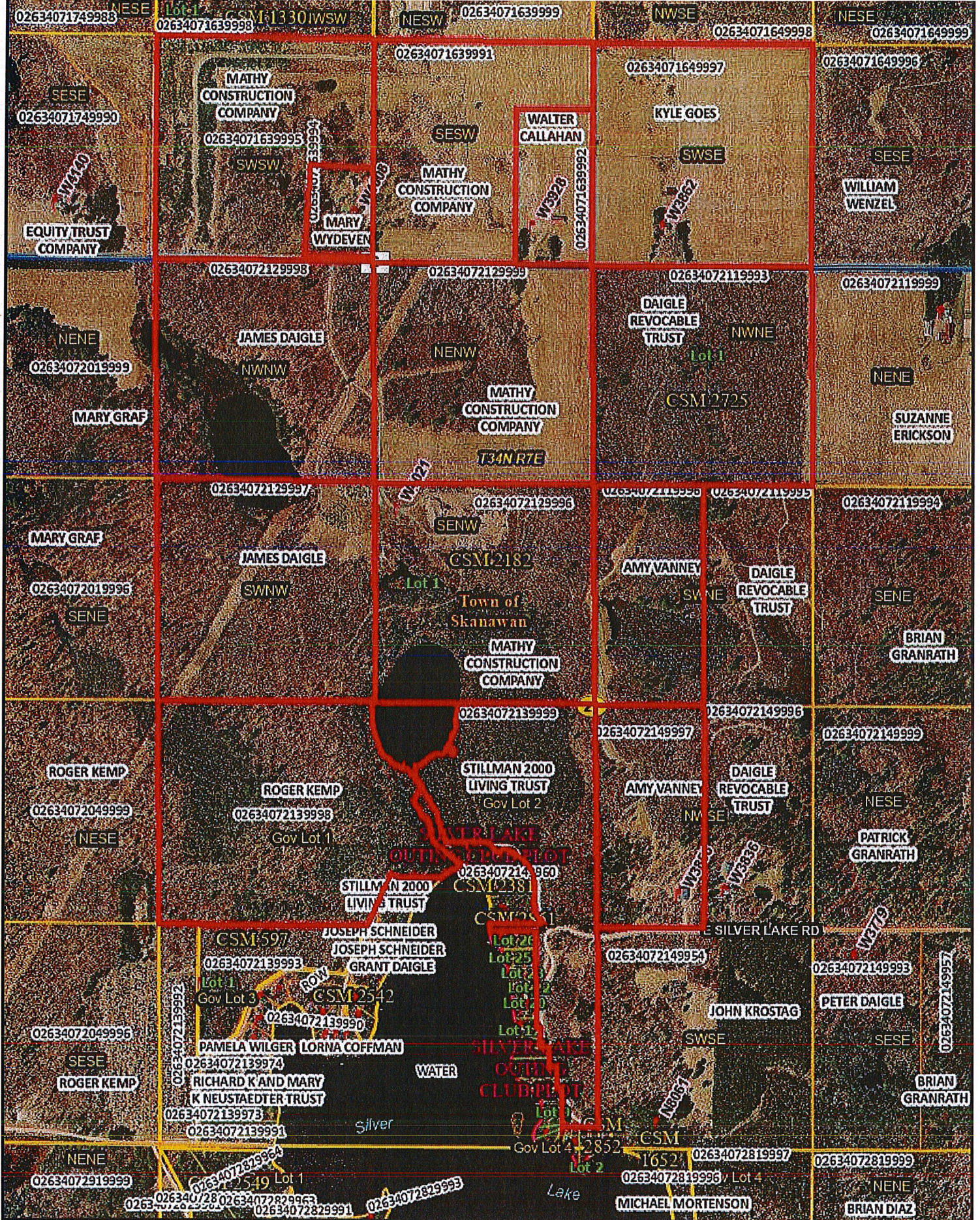
KEMP FAMILY LLC  
1508 MERRILL AVE #318  
WAUSAU WI 54401

KYLE R GOES  
W3862 COUNTY RD S  
IRMA WI 54442

MARY L WYDEVEN  
W4008 COUNTY RD S  
IRMA WI 54442

WALTER CALLAHAN  
N8085 COUNTY RD V  
IRMA WI 54452

STILLMAN 2000 LIVING TRUST  
1324 AMERICAN WAY  
MENLO PARK CA 94025



Lincoln County, WI

Author: Public  
Date Printed: 3/23/2023



DISCLAIMER: The information depicted on this map is a compilation of public record information including aerial photography and other base maps. No warranty is made, express or implied, as to the accuracy of the information used. The data layers are a representation of current data to the best of our knowledge and may contain errors. It is not a legally recorded map and cannot be substituted for field-verified information. Errors should be reported to Land Services Department, 801 North Sales St, Merrill, WI, 54452. Phone (715) 539-1087.

## NOTICE OF PUBLIC HEARING

The Lincoln County Land Services Committee will hold a Public Hearing on Thursday, May 18, 2023 at 4:00p.m. to take testimony on the items listed below. The public hearing will be held at the Lincoln County Service Center, Meeting room #255/257/260, at 801 N. Sales St., Merrill, WI. The public may attend either in person or via telephone conference (details may be found in agenda once it is posted at <https://co.lincoln.wi.us/meetings>).

### CONDITIONAL USE REQUESTS

1. A request by Milestone Materials a division of Mathy Construction Co (Representative: Robert Servais) to amend an existing Conditional Use Permit (CUP-96-1075) regarding non-metallic mining in the Rural Lands 4 (RL-4) zoning district.. The property is located in the E½ NW¼ of Section 21, T34N, R7E, in the Town of Skanawan at W4021 County Rd S. The tax pins are 02634072129996 and 02634072129999 and the parcels are a combined total of approximately 80.62 acres. The request is being heard under section 17.8.30 and relating to section 17.3.08(10) of the Lincoln County Zoning Ordinance.

NOTE: A final decision on any of the above requests may be made at a later date. Items not acted upon or laid over may come before the Committee again as "Old Business". The Committee may but is not obligated to take any additional testimony.

Original applications and materials may be viewed at the Lincoln County Zoning office located at 801 N. Sales Street, Merrill, Wisconsin.

The above hearing will be held in **Meeting room #255/257/260 of the Lincoln County Service Center, at 801 N. Sales Street, Merrill, WI.** All parties wishing to be heard are requested to be present. Both written and oral testimony will be entered into the record.

Greta Rusch, Secretary

**NOTICE OF PUBLIC HEARING**

**\*\*AMENDED\*\***

The Lincoln County Land Services Committee will hold a Public Hearing on Thursday, May 18, 2023 at \*4:00p.m. to take testimony on the items listed below. The public hearing will be held at the Lincoln County Service Center, Meeting room #255/257/260, at 801 N. Sales St., Merrill, WI. The public may attend either in person or via telephone conference (details may be found in agenda once it is posted at <https://co.lincoln.wi.us/meetings>).

**CONDITIONAL USE REQUESTS**

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**PETITIONS FOR MODIFICATION OF THE SUBDIVISION ORDINANCE**

2. **\*\*OLD BUSINESS** - A request by Jeffrey Daurer to create a lot that does not have 30 feet of frontage on a public road. The property is located in Section 8, T35N-R5E, in the Town of Wilson. The tax pin# is 03235050819965 with a parcel size of approximately 3.96 acres. The request is to modify portions of section 18.7.08 and is being heard under provisions of section 18.9.03 of Lincoln County Ordinance.

NOTE: A final decision on any of the above requests may be made at a later date. Items not acted upon or laid over may come before the Committee again as "Old Business". The Committee may but is not obligated to take any additional testimony.

\*Every effort will be made to begin the public hearing at the posted time, however, the public hearing may begin later due to other committee business. In no event will the public hearing begin prior to the time provided on this notice.

Original applications and materials may be viewed at the Lincoln County Zoning office located at 801 N. Sales Street, Merrill, Wisconsin.

The above hearing will be held in **Meeting room #255/257/260 of the Lincoln County Service Center, at 801 N. Sales Street, Merrill, WI.** All parties wishing to be heard are requested to be present. Both written and oral testimony will be entered into the record.

Greta Rusch, Secretary

RECEIVED

MAY - 3 2023

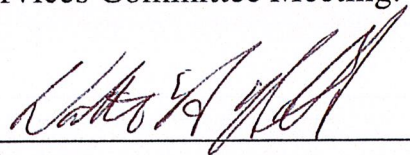
**30-Day Extension Town Request**  
**Land Services Committee Public Hearing**

Please remit this form to the Land Services office as soon as possible after an extension is deemed necessary

A request by Mathy Construction Company (name of applicant/petitioner)

is scheduled to be heard at the 5-18-23 (date) Land Services Committee meeting.

The Town of Skawan is requesting a one-time 30-day extension of the time required to submit a Town Recommendation. We understand that the Land Services Committee may still hold the public hearing for the request on the date listed above but a decision will not be rendered until the following Land Services Committee Meeting.

  
\_\_\_\_\_

Date: MAY 3, 2023

Signature of Authorized Town Board Member

WALTER H HORNGIK  
\_\_\_\_\_

Print Name



**LINCOLN COUNTY**  
**LAND SERVICES DEPARTMENT**  
**Office of Zoning and Conservation**  
**Lincoln County Service Center**  
**801 N Sales Street-Suite 103**  
**Merrill, WI 54452.0**  
**Phone (715) 539-1087 Fax (715) 539-8325**

**CONDITIONAL USE PERMIT**  
**And**  
**NON-METALLIC MINE RECLAMATION PLAN**  
**STAFF REPORT**

Report Date: May 10, 2023  
Hearing Date: May 18, 2023  
Property Owner: Milestone Materials a division of Mathy Construction Co.  
Project Representative: Robert Servais (Geologist)  
Property Address: W4021 County Road S  
Town of: Skanawan  
Tax Parcel Number: 02634072129996 and 02634072129999  
Staff Reviewer: Mike Huth – Zoning Program Manager  
Zoning District: RL4-Rural Lands  
Overlay Zoning District: S-Shoreland (See staff report for further details)  
Submitted Materials: CUP Application, Operation Narrative, Reclamation Plan

**OVERVIEW**

**REQUEST**

The applicant seeks a Conditional Use Permit (CUP) to amend an existing Conditional Use Permit (CUP-96-1075) regarding non-metallic mineral (NMM) extraction use (sand and gravel pit) on parcels 02634072129996 and 02634072129999 pursuant to Chapter 17.3.08(10) of the Lincoln County Zoning Ordinance.

**SUMMARY OF NOTEWORTHY TOPICS**

The existing County Road S pit (NM-01-13, aka Coombs South Pit) is located in the southern half of the applicant’s property (see mapping) and was originally granted a Special Exception Permit in 1996 (see enclosed). In 2002, the existing NMM pit (NM-01-13) received a Lincoln County Reclamation permit coverage pursuant to Wisconsin NR 135 reclamation rules.

As indicated in the applicant’s Non-metallic Mining (NMM) Operation and Reclamation Plan; the primary operational activity on the site will be phased extraction of sand and gravel on approximately 27 acres of the approximate 40 acre parcel. The sand and gravel, when crushed and sized, is of a quality that can be utilized in local construction projects.

The applicant has proposed the site to be reclaimed to a passive recreation or agricultural land use. The slopes will be graded during the phased reclamation to a 3:1 ratio with vegetation being established per the reclamation plan. All other aspects of the reclamation plan are proposed to meet the minimum requirements of Lincoln County’s reclamation ordinance section 12.04 and Wisconsin administrative code NR135.

## **SITE CHARACTERISTICS**

The property is located in the Town of Skanawan along County Road R. The area of the proposed non-metallic mine is moderately rolling and ranges in elevation (see submitted plans for existing and reclaimed elevations). The majority of the proposed NMM expansion has been used for agricultural and forestry purposes. Access to the extraction site is achieved through utilization of an existing access from County Road S.

## **SURROUNDING LAND USE AND ZONING**

As indicated by the zoning district map, the property is zoned RL4-Rural Lands. **NORTH** of the property and across County Road S are properties used for agricultural purposes and a residential dwelling in the RL4-Rural Lands zoning district. **NORTHEAST** of the property and across County Road S is a property with a dwelling and agricultural lands in the RL4-Rural Lands zoning district. **EAST** of the property are vacant wooded properties in the RL4-Rural Lands zoning district. **SOUTH** of the property is a wooded property in the RL4-Rural Lands zoning district. **WEST** of the property is a wooded property in the RL4-Rural Lands zoning district.

## **PUBLIC NOTIFICATION**

The applicant has made contact with the Town of Skanawan. The Town of Skanawan has asked for a 30 day extension to provide the LSC with the Town recommendation. Staff advises the Land Services Committee review any comments the Town submits regarding this petition prior to taking action on this matter.

The legal notice of the request was noticed in the proper manner. Staff mailed notices of the petitioner's request to neighboring property owners within 300' from the property boundary and the Town of Skanawan. At the date of this report, staff has not received any formal comments from neighboring property owners.

## **ACTION**

Consider the Conditional Use Permit, with conditions. The applicant must demonstrate that all requirements of the conditional use are or shall be satisfied, which must be supported by substantial evidence. If an applicant for a conditional use permit meets or agrees to meet all of the requirements and conditions specified in the county ordinance or those imposed by the Land Services Committee, the county shall grant the conditional use permit.

The Committee may impose reasonable conditions with the approval of a conditional use proposal, to the extent authorized by law as described in §59.69(5e)(2b), Wis. Stats. Conditions imposed shall meet all of the following requirements:

- (a) Conditions must be practical and measurable.
- (b) Any condition imposed must be related to the purpose of the ordinance, outlined in section 17.3 regarding the specific land use and be based on substantial evidence.
- (c) Any condition must be reasonable and to the extent practicable, measurable and may include conditions such as the permits duration, transfer, or renewal.

## **RELEVANT ORDINANCE SECTION(S)**

The performance standards located in 17.3.08:

*17.3.08- NONMETALLIC MINERAL EXTRACTION USE. Includes land uses involving the removal of soil, clay, sand, gravel, rock, nonmetallic minerals, peat, or other related material. May include on-site processing of extraction material if part of the application and conditional use permit approval. Does not include relocation of materials required for domestic use on the same lot or a contiguous lot under the same ownership, approved on-site development grading, excavations within public road rights-of-way or easements, agricultural grading, or any soil removal activities on a hazardous waste site.*

*Regulations:*

- a) *The applicant for a conditional use permit shall meet the standards in Section 17.8.30 and shall submit a complete application to the Zoning Administrator. In addition to the information required by Sections 17.8.30 and 17.8.40, the application shall include the following information: The appropriate County approval authority may require a landscaped bufferyard, per the standards in Section 17.5.05(2).*
1. *A written description of the proposed operation, including the types and quantities of the materials that would be extracted; proposed dates to begin extraction, end extraction, and complete reclamation; geologic composition and depth and thickness of the mineral deposit; existing use of the land and proposed use after reclamation; existing natural and archaeological features on and adjacent to the site; where extracted materials would be hauled and over what roads; types, quantities, and frequency of use of equipment to extract, process, and haul; whether and how frequently blasting, drilling, mining, crushing, screening, washing, refueling, fuel storage, asphalt batching, or concrete mixing would be performed on site; description and elevations of all temporary or permanent structures; proposed hours and days of operation; any special measures that will be used for spill prevention and control, dust control, or environmental protection; and assurances that the site will be developed, operated, and reclaimed in accordance with all approved plans and all County, State, and Federal regulations, including a listing of all applicable regulations.*
  2. *A site/operations plan map, drawn to scale by a qualified professional, and including site boundaries; existing contour lines; existing roads, driveways, and utilities; existing natural features including lakes, streams, floodplains, wetlands, and shoreland areas; all residences and private and municipal wells within 1,000 feet; location of the proposed extraction, staging areas, fueling, fuel storage, and equipment storage areas; proposed location and surfacing of roads, driveways, and site access points; proposed phasing plan, if any; proposed fencing of property and gating of access points; proposed locations of stockpiles; proposed location and types of screening berms and landscaping; and proposed temporary and permanent structures, including scales and offices.*
  3. *An erosion control plan, drawn to scale by a professional engineer, meeting all applicable State and County requirements.*
  4. *A reclamation plan prepared in accordance NR 135, Wis. Adm. Code, and the Lincoln County reclamation ordinance.*
- b) *Shall comply with all applicable County, State and Federal regulation.*
- c) *The appropriate County approval authority may require a landscaped bufferyard, per the standards in Section 17.5.05(2).*
- d) *The nearest edge of all buildings, structures, and surface activity areas, including pit edges, shall be located a minimum of 200 feet from all dwellings on adjacent properties, and no less than 10 feet from any lot line.*
- e) *To prevent tracking of mud onto public roads, access driveways shall be paved within 100 feet of public roads, unless the adjacent road is unpaved.*
- f) *Access to the site shall only be through points designated as entrances on the site/operations plan; such access points shall be secured when the site is not in operation.*
- g) *Provisions for the upgrade, repair, and maintenance of town and County roads shall depend on the intensity of the operation and the existing condition and capacity of such roads. A bond or other performance guarantee for such work may be required provided that a clear relationship is established between the operation and the need for road upgrades, repair, and maintenance. If any town or County road is damaged or destroyed as a result of owners operations, the owner shall restore or pay for the restoration of the same to an acceptable condition and value. The owner shall have the right to show and bear the burden of proof in showing that the indicated damage was not the result of its operations.*
- h) *Spraying of the site and driveways shall be conducted to control dust.*



- i) *On-site bulk fuel storage areas and appropriate places for fueling of equipment (e.g., above the water table) shall be located to minimize the potential for groundwater contamination and in accordance with ILHR 10 and other chapters of the Wis. Adm. Code and provisions of Wisconsin Statutes.*
- j) *Hours or days of operation may be limited if the extraction site is close to residential properties.*
- k) *Expectations for any blasting, drilling, screening, and asphalt batching shall be clearly understood, and separate acceptable hours for these activities may be established. Blasting is also regulated under §101.15(2)(e), Wis. Stats., and COMM 8, Wis. Adm. Code. The conditional use permit may specifically restrict such activities from occurring if the conditional use permit standards cannot be met.*
- l) *If blasting or drilling is requested, additional standards or conditions may be applied with relation to frequency, noise and vibration levels, notice to neighbors, preinspection of neighboring basements and wells, and claims procedures in accordance with ILHR 10 and other chapters of Wis. Adm. Code.*
- m) *Unless the extraction site is inaccessible, the area of extraction shall be completely enclosed by a safety fence or maintained at a slope not to exceed 3:1.*
- n) *The applicant shall furnish a certificate of insurance before operations commence.*
- o) *Approval shall be subject to amendment or revocation if noncompliance with approved plans, this section, or approval conditions is identified.*
- p) *Approval shall be subject to periodic review of the operation to ensure compliance with the conditional use permit, and to specific limitations over the portion of the lot or parcel where extraction may occur.*

*Parking Requirements: One space per each employee on the largest work shift.*

## **ASSESSMENT**

### **CONCLUSION**

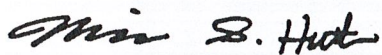
Staff finds that the petition satisfies the performance standards found in section 17.3.03(1) of the Lincoln County Zoning Ordinance. In the RL4-Rural Lands zoning district, the proposed non-metallic mineral extraction use (sand and gravel pit) is conditionally permitted; however, the committee still needs to form a basis for a decision by reviewing information provided by the applicant, the Town, testimony at the public hearing, and the staff report.

### **RECOMMENDATION**

Staff recommends the Land Services Committee grants a Conditional Use Permit to Milestone Materials a division of Mathy Construction Co., to allow for a non-metallic mineral extraction use (sand and gravel pit) if the Committee is confident the request satisfies the approval criteria listed in this Report. If the Committee approves the request, staff suggests the Committee attach the following conditions to the approval:

1. The Conditional Use Permit (CUP) is for a sand and gravel mining operation including gravel/aggregate material crushing. No asphalt plants, cement plants, or blasting will be permitted with this CUP.
2. The mineral extraction mining operation shall be restricted to the area and depth shown on the applicant's approved site plan. Any work beyond the approved plan boundaries will require application for a new conditional use permit.
3. The applicant is to follow the prepared reclamation plan in accordance with NR 135, Wis. Adm. Code, and the Lincoln County reclamation ordinance. The site is to be completely restored upon completion of non-metallic mineral extraction.
4. Solid waste shall not be placed in the gravel pit; illegally dumped material shall be immediately removed by the applicant.
5. The site is to be cleaned of all debris and equipment after closure of the pit.

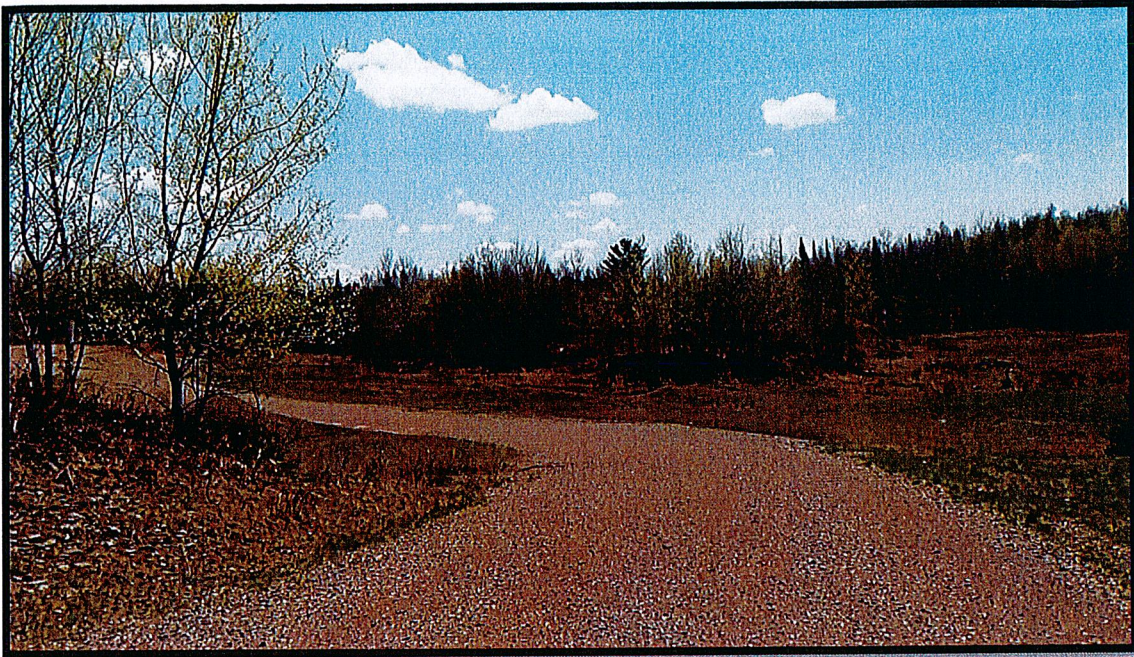
6. The nearest edge of all buildings, structures, and surface activity areas, including pit edges, shall be located a minimum of 200 feet from all dwellings on adjacent properties, and no less than 10 feet from any lot line.
7. To prevent tracking of mud onto public roads, access driveways shall be paved or use crushed recycled asphalt (RAP) within 100 feet of public roads, unless the adjacent road is unpaved.
8. Access to the site shall only be through points designated as entrances on the site/operations plan; such access points shall be secured when the site is not in operation.
9. A bond or other performance guarantee for such work is required prior to the start of excavation in the expanded area providing that a clear relationship/document is established between the operation and the need for road upgrades, repair, and maintenance. If the County road is damaged or destroyed as a result of owners operations, the owner shall restore or pay for the restoration of the same to an acceptable condition and value. The owner shall have the right to show and bear the burden of proof in showing that the indicated damage was not the result of its operations.
10. Spraying of the site and driveways shall be conducted to control dust.
11. On-site bulk fuel storage areas and appropriate places for fueling of equipment (e.g., above the water table) shall be located to minimize the potential for groundwater contamination and in accordance with ILHR 10 and other chapters of the Wis. Adm. Code and provisions of Wisconsin Statutes.
12. The applicant shall furnish a certificate of insurance before operations commence.
13. Approval shall be subject to amendment or revocation if noncompliance with approved plans, this section, or approval conditions is identified.
14. Approval shall be subject to periodic review of the operation to ensure compliance with the conditional use permit, and to specific limitations over the portion of the lot or parcel where extraction may occur.
15. Parking Requirements: One space per each employee on the largest work shift. Parking shall not occur on the county road or within the road right-of-way.
16. Owner is responsible for obtaining any permit or approval required for project under other State Statutes, Administrative Codes or by municipal, town or county zoning ordinances, and by the Department of Natural Resources and U.S. Army Corps of Engineers before starting the project. No filling or dumping of spoil material in wetland – must be disposed of in upland project.
17. Hours of operation shall be 6am to 6pm Monday thru Friday and 6am to noon Saturday.



Lincoln County - Zoning Program Manager

5/10/2023

Date



**Looking South**



**Looking West**

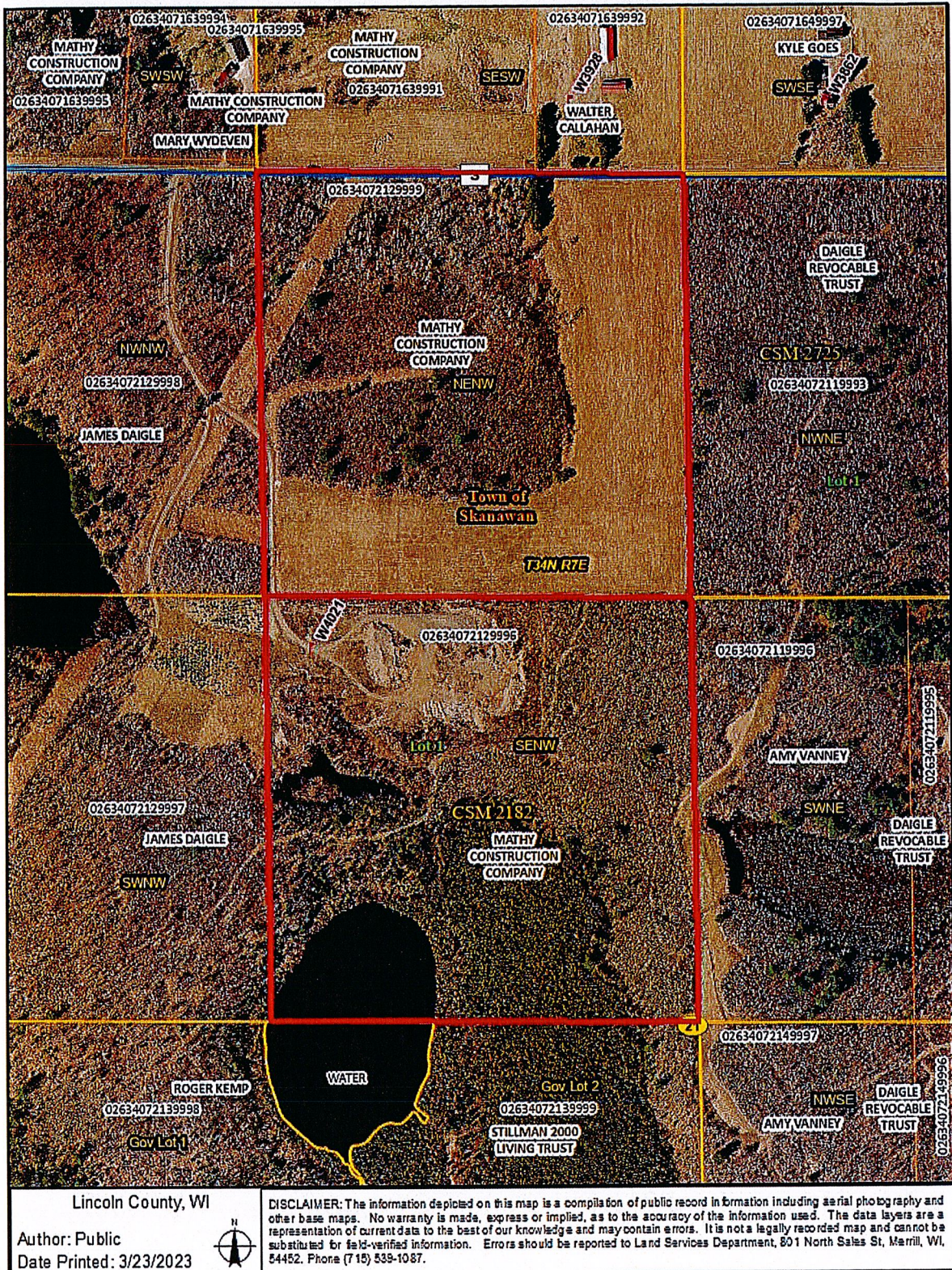


**Looking North**

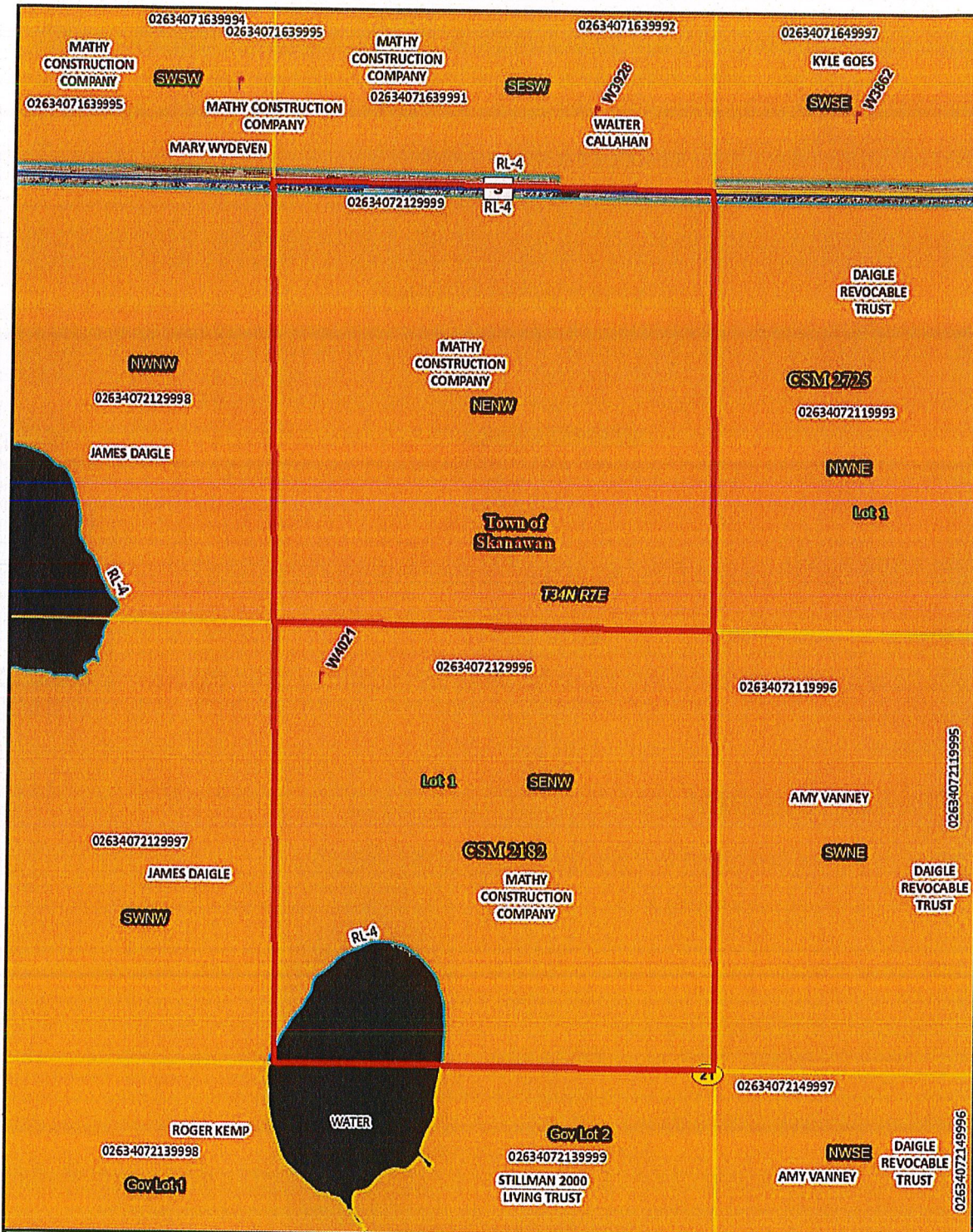


**Looking East**

# Property Overview



# Zoning District Map



Lincoln County, WI  
 Author: Public  
 Date Printed: 3/23/2023

DISCLAIMER: The information depicted on this map is a compilation of public record information including aerial photography and other base maps. No warranty is made, express or implied, as to the accuracy of the information used. The data layers are a representation of current data to the best of our knowledge and may contain errors. It is not a legally recorded map and cannot be substituted for field-verified information. Errors should be reported to Land Services Department, 801 North Sales St, Merrill, WI, 54452. Phone (715) 539-1087.

**LINCOLN COUNTY LAND SERVICES COMMITTEE**

**Thursday, May 18, 2023 at 3:30pm**

**Meeting Location: Lincoln County Service Center, 801 N. Sales St, Room #257, Merrill, WI 54452**

Via Teleconference and In-Person Attendance

**Electronic Attendance Available:** Persons wishing to attend the meeting electronically may enter the meeting beginning ten minutes prior to the start time indicated above using the following number or web address:

Conference Call: 1 530-564-6203

Access Code: 501 568 426#

Meeting ID: [meet.google.com/pqh-xuim-euk](https://meet.google.com/pqh-xuim-euk)

The teleconference cannot start until the host dials in and enters the host password. In the event there is an unforeseen technical difficulty that prevents all or a part of the meeting from being available electronically, the meeting will continue in person and those wishing to attend can appear in person at the location indicated in this agenda.

**Attendance Policy:** Lincoln County encourages all individuals attending in person to follow the most recent CDC guidelines for vaccinated and unvaccinated individuals. All public participants' phones, microphones and chat dialog boxes will be muted or disabled during the meeting. If "public comment" appears on the agenda, before the meeting is called to order, the clerk will ask teleconference attendees whether any public comment is being offered. When called upon by the clerk or chair, any person offering public comment should state their name and comments.

***MEETING AGENDA***

1. Call meeting to order
2. Roll Call
3. Adopt Agenda
4. April 13, 2023 LSC meeting minutes
5. Public Comment

**DEPARTMENT REPORTS**

6. Register of Deeds
  - a) Monthly Financial Reports
  - b) Monthly Written Reports
  - c) Amended 2024 Budget
7. Land Services
  - a) Administrator Department/Programs Report
  - b) Monthly Financial Report
  - c) Zoning Program Manager/Land Services Administrator Timesheets (4/3/2023 – 4/30/23)

**OLD BUSINESS**

none

**NEW BUSINESS**

8. Agency Updates
9. Text Amendment Discussion - 17.3.02 Rural Land Uses
10. Land Services Fleet Vehicle Replacement Schedule and CIP Request.
11. NCLWCA Vacancies – President and LCC Board of Directors Representative
12. **4:00pm Public Hearings** (See Public Hearing Notice.)

**CONDITIONAL USE REQUEST**

- a) A request by Milestone Materials a division of Mathy Construction Co (Representative: Robert Servais) to amend an existing Conditional Use Permit (CUP-96-1075) regarding non-metallic mining in the Rural Lands 4 (RL-4) zoning district.

**PETITION FOR MODIFICATION**

- b) OLD BUSINESS – A request by Jeffrey Daurer to create a lot that does not have 30 feet of frontage on a public road.

13. Tax Deed Procedure and Funding
14. Convene into **CLOSED SESSION** pursuant to sec. 19.85(1)(g), Stats., for conferring with legal counsel for the governmental body who is rendering oral or written advice concerning strategy to be adopted by the body with respect to litigation in which it is or is likely to become involved. – *Shoreland Zoning Ordinance DNR interpretation and application to shoreland properties for purposes of recommending and/or pursuing citation or other legal action.*
15. Reconvene Open Session – Take any action on items discussed during closed session.

## **ANNOUNCEMENTS**

16. Future Agenda Items
17. Confirm next meeting/public hearing date
18. Adjourn

NOTE: Public Hearings published numerically are itemized in agenda alphabetically in the same order.

### **DISTRIBUTION:**

Land Services Committee Members: Bill Bialecki, Julie DePasse, Randy Detert, Greg Hartwig, Marty Lemke, Elizabeth McCrank, Greta Rusch, & Steven F Roets  
Agencies: Luke Irish – APHIS-WS, Peggy Winter – NRCS, Carrie Brezesinski – FSA, Tracy Beckman – Lumberjack RC&D  
County Board Chairman: Don Friske  
Administrative Coordinator: Renee Krueger

Posted on \_\_\_\_\_ at \_\_\_\_\_ .m by \_\_\_\_\_

*While there may be a quorum of the County Administrative and Legislative Committee, County Highway Committee or the Public Property Committee present, no County Highway Committee, County Administrative and Legislative Committee or Public Property Committee business will be conducted at this meeting.*

*Requests for reasonable accommodations for disabilities or limitations should be made prior to the date of this meeting. Please contact the Lincoln County Clerk at 715-539-1019 as early as possible so that proper arrangements may be made. Requests are kept confidential.*

### **GENERAL REQUIREMENTS:**

1. Must be held in a location which is reasonably accessible to the public.
2. Must be open to all members of the public unless the law specifically provides otherwise.

### **NOTICE REQUIREMENTS:**

1. In addition to any requirements set forth below, notice must also be in compliance with any other specific statute.
2. Chief presiding officer or his/her designee must give notice to the official newspaper and to any members of the news media likely to give notice to the public.

### **MANNER OF NOTICE:**

Date, time, place, and subject matter, including subject matter to be considered in a closed session, must be provided in a manner and form reasonably likely to give notice to the public.

### **TIME FOR NOTICE:**

1. Normally, a minimum of 24 hours prior to the commencement of the meeting.
2. No less than 2 hours prior to the meeting if the presiding officer establishes there is a good cause that such notice is impossible or impractical.

### **EXEMPTIONS FOR COMMITTEES AND SUB-UNITS:**

Legally constituted sub-units of a parent governmental body may conduct a meeting during the recess or immediately after the lawful meeting to act or deliberate upon a subject which was the subject of the meeting, provided the presiding officer publicly announces the time, place, and subject matter of the sub-unit meeting in advance of the meeting of the parent governmental body.

### **PROCEDURE FOR GOING INTO CLOSED SESSION:**

1. Motion must be made, seconded, and carried by roll call majority vote and recorded in the minutes.
2. If motion is carried, chief presiding officer must advise those attending the meeting of the nature of the business to be conducted in the closed session, and the specific statutory exemption under which the closed session is authorized.

### **STATUTORY EXEMPTIONS UNDER WHICH CLOSED SESSIONS ARE PERMITTED:**

1. Deliberation of judicial or quasi-judicial matters. Sec. 19.85(1)(a)
2. Considering dismissal, demotion, or discipline of any public employee or the investigation of charges against such person and the taking of formal action on any such matter; provided that the person is given actual notice of any evidentiary hearing which may be held prior to final action being taken and of any meeting at which final action is taken. The person under consideration must be advised of his/her right that the evidentiary hearing be held in open session and the notice of the meeting must state the same. Sec. 19.85(1)(b).
3. Considering employment, promotion, compensation, or performance evaluation data of any public employee. Sec. 19.85(1)(c).
4. Considering strategy for crime detection or prevention. Sec. 19.85(1)(d).
5. Deliberating or negotiating the purchase of public properties, the investing of public funds, or conducting other specified public business whenever competitive or bargaining reasons require a closed session. Sec. 19.85(1)(c).
6. Considering financial, medical, social, or personal histories or disciplinary data of specific persons, preliminary consideration of specific personnel problems or the investigation of specific charges, which, if discussed in public would likely have an adverse effect on the reputation of the person referred to in such data. Sec. 19.85(1)(f).
7. Conferring with legal counsel concerning strategy to be adopted by the governmental body with respect to litigation in which it is or is likely to become involved. Sec. 19.85(1)(g).
8. Considering a request for advice from any applicable ethics board. Sec. 19.85(1)(h).

### **CLOSED SESSION RESTRICTIONS:**

1. Must convene in open session before going into closed session.
2. May not convene in open session, then convene in closed session and thereafter reconvene in open session within twelve (12) hours unless proper notice of this sequence was given at the same time and in the same manner as the original open meeting. Sec. 19.85(2).
3. Final approval or ratification of a collective bargaining agreement may not be given in closed session.



**BALLOTS, VOTES, AND RECORDS:**

1. Secret ballot is not permitted except for the election of officers of the body or unless otherwise permitted by specific statutes.
2. Except as permitted above, any member may require that the vote of each member be ascertained and recorded.
3. Motions and roll call votes must be preserved in the record and be available for public inspection.

**USE OF RECORDING EQUIPMENT:**

The meeting may be recorded, filmed, or photographed, provided that it does not interfere with the conduct of the meeting or the rights of the participants.

**LEGAL INTERPRETATION:**

1. The Wisconsin Attorney General will give advice concerning the applicability or clarification of the Open Meeting Law upon request.
2. The municipal attorney will give advice concerning the applicability or clarification of the Open Meeting Law upon request.

**PENALTY:**

Upon conviction, any member of a governmental body who knowingly attends a meeting held in violation of Subchapter IV, Chapter 19, Wisconsin Statutes, or who otherwise violates the said law shall be subject to forfeiture of not less than \$25.00 nor more than \$300.00 for each violation.

## OLD BUSINESS

none

## NEW BUSINESS

8. Agency Updates – none
9. Text Amendment Discussion – 17.3.02 Rural Land Uses – Huth gave an overview of the proposed amendments. Discussion occurred.  
  
M/S Hartwig/Rusch to approve the proposed changes. Hartwig withdrew action.
10. Land Services Fleet Vehicle Replacement Schedule and CIP Request – Huth gave an overview of the replacement schedule and current years/miles of the department fleet vehicles. Discussion occurred.  
  
M/S Bialecki/Hartwig to hold over until 2024. Motion carried on a voice vote.
11. NCLWCA Vacancies – Boisvert gave an overview of the vacancies and asked if any members were interested in the positions.
12. 4:00pm Public Hearings – Public Hearing was called to order at 4:02pm by Chair Lemke. Lemke explained the rules of conduct for public hearings and introduced the Committee members and staff.

## **CONDITIONAL USE REQUEST**

- a) A request by Milestone Materials a division of Mathy Construction Co (Representative: Robert Servais) to amend an existing Conditional Use Permit (CUP-96-1075) regarding non-metallic mining in the Rural Lands 4 (RL-4) zoning district.

Lemke asked for testimony in support of the Conditional Use application. Robert Servais, the representative, was present and explained the request. Servais and Tom Burch answered questions from the committee. Discussion occurred.

Lemke asked for additional testimony in support of the request. There were none.

Lemke asked for testimony from opponents of the request. Benjamin Mehring expressed concerns about truck safety, noise, and enforceability. Mike Heise expressed concerns about truck safety and road conditions. Wally Horbik expressed concerns about truck safety and road infrastructure. John Heckendorf expressed concerns about road infrastructure and noise. Joe Dorava expressed concerns about road infrastructure and noise. Discussion occurred.

Chair Lemke left at 4:51pm and returned at 4:52pm.

Lemke asked for the staff report. Huth presented the staff report. Huth informed the committee that the Town of Skanawan requested a 30-day extension in order to file the recommendation. County staff recommends that the committee approve the Conditional Use Permit with the seventeen recommended conditions, as written in the staff report. Discussion occurred.

Lemke called for a recess at 5:12pm. Meeting resumed at 5:28pm.

M/S Hartwig/Detert to approve the 30-Day extension as requested by the Town of Skanawan specifying that this will be heard at the June 8<sup>th</sup>, 2023 LSC meeting. Motion carried on a voice vote.

**PETITION FOR MODIFICATION OF THE SUBDIVISION ORDINANCE**

- b) A request by Jeffrey Daurer to create a lot that does not have 30 feet of frontage on a public road. The property is located in Section 8, T35N-R5E, in the Town of Wilson. The tax pin# is 03235050819965 with a parcel size of approximately 3.96 acres.

Lemke asked staff if there is an update to the Staff Report. Huth informed the committee that the Town of Wilson submitted a neutral recommendation for this request and there is no change to the staff report.

Lemke asked for additional testimony from proponents of the request. Jeffrey Daurer was present virtually and asked to be on the record as a proponent.

Lemke asked for additional testimony from opponents of the request. There was none.

Lemke closed the public hearing for the request. There was no discussion.

M/S McCrank/DePasse to approve the Petition for Modification request by Jeffrey Daurer with the one recommended condition as listed on the staff report. Motion carried on a voice vote.

Conditions:

- 1. All other applicable ordinance standards are adhered to regarding the subdivision of the parcel and zoning district standards.

- 13. Tax Deed Procedure and Funding – Huth gave an overview of the report and RFP results. Discussion occurred. Committee members direct staff to bring an amended 2024 budget to reflect this additional line item and to include an agenda item to award the RFP at the June meeting.
- 14. Convene into CLOSED SESSION pursuant to sec. 19.85(1)(g), Stats., for conferring with legal counsel for the governmental body who is rendering oral or written advice concerning strategy to be adopted by the body with respect to litigation in which it is or is likely to become involved. – Shoreland Zoning Ordinance DNR interpretation and application to shoreland properties for purposes of recommending and/or pursuing citation or other legal action.

M/S DePasse/Detert to convene into closed session to include Mike Huth, Laura Boquist, Elizabeth Peronto, and Karry Johnson. Motion carried on a roll call vote.

Supervisor	Aye	Nay
Lemke	X	
Bialecki	X	
Rusch	X	
Detert	X	
DePasse	X	
Hartwig	X	
McCrank	X	

- 15. Reconvene Open Session – Take any action on items discussed during closed session.

M/S Hartwig/McCrank to reconvene into open session. Motion carried on a roll call vote. No action taken.

## NOTICE OF PUBLIC HEARING

The Lincoln County Land Services Committee will hold a Public Hearing on Thursday, June 8, 2023 at 4:00p.m. to take testimony on the items listed below. The public hearing will be held at the Lincoln County Service Center, Meeting room #255/257/260, at 801 N. Sales St., Merrill, WI. The public may attend either in person or via telephone conference (details may be found in agenda once it is posted at <https://co.lincoln.wi.us/meetings>).

### **CONDITIONAL USE REQUESTS**

1. OLD BUSINESS - A request by Milestone Materials a division of Mathy Construction Co (Representative: Robert Servais) to amend an existing Conditional Use Permit (CUP-96-1075) regarding non-metallic mining in the Rural Lands 4 (RL-4) zoning district. The property is located in the E½ NW¼ of Section 21, T34N, R7E, in the Town of Skanawan at W4021 County Rd S. The tax pins are 02634072129996 and 02634072129999 and the parcels are a combined total of approximately 80.62 acres. The request is being heard under section 17.8.30 and relating to section 17.3.08(10) of the Lincoln County Zoning Ordinance.
2. A request by Terrance and Jill Gaeu to allow an Outdoor Commercial Entertainment (Wedding/Event Barn) in a Commercial Mixed Use zoning district. The property is located at W4754 County Rd Q in Section 30, T31N-R7E, in the Town of Scott. The tax pin# is 02431073039969 with a parcel size of approximately 31 acres. The request is being heard under section 17.8.30 and relating to section 17.3.04(10) of the Lincoln County Zoning Ordinance.
3. A request by Texas Recreational Center Inc (Representatives: Mike and Steve Malinowski) to allow an Outdoor Commercial Entertainment (Golf Course) land use in a Recreation zoning district. The properties are located in Section 18, T31N-R7E, in the Town of Scott. The tax pin #s are 02431071839937 and 02431071839936 with a combined parcel size of approximately 1.3 acres. The request is being heard under section 17.8.30 and relating to section 17.3.04(10) of the Lincoln County Zoning Ordinance.

### **COMPREHENSIVE PLAN AMENDMENTS**

4. A request by John and Diane Blaubach to amend the Lincoln County Comprehensive Plan Map from Non-Residential (Planned Business) to Rural/Environmental (Rural Lands) for tax parcel pin# 00435061639996. The property is located in Section 16, T35N-R6E, in the Town of Bradley.

### **PETITIONS FOR REZONING**

5. A request by John and Diane Blaubach to rezone tax parcel pin# 00435061639996, from Planned Business (PB) to Rural Lands-2 (RL2). The property is located in Section 16, T35N-R6E, in the Town of Bradley. The request is being heard under section 17.8.25 and relating to sections 17.2.51 and 17.2.12 of the Lincoln County Zoning Ordinance.
6. A request by RuttnRod Propeties LLC (Representatives: Jon and Michelle Smith. Petitioners: Dean and Maria Schalow) to rezone tax parcel pin# 01431060119919, from General Business (GB) to Crossroads Mixed Use (CMU). The property is located in Section 1, T31N-R6E, in the Town of Merrill. The request is being heard under section 17.8.25 and relating to sections 17.2.52 and 17.2.53 of the Lincoln County Zoning Ordinance.

NOTE: A final decision on any of the above requests may be made at a later date. Items not acted upon or laid over may come before the Committee again as "Old Business". The Committee may but is not obligated to take any additional testimony.

Original applications and materials may be viewed at the Lincoln County Zoning office located at 801 N. Sales Street, Merrill, Wisconsin.

The above hearing will be held in **Meeting room #255/257/260 of the Lincoln County Service Center, at 801 N. Sales Street, Merrill, WI.** All parties wishing to be heard are requested to be present. Both written and oral testimony will be entered into the record.

Greta Rusch, Secretary

Received 6-8-23

Town Recommendation Form  
Conditional Use Request, Petition for Modification of Subdivision Ord., Plat Approval  
Town of Skawanaw  
Lincoln County

Name of Applicant Mathy Construction Company

Request: Expansion of sand and gravel extraction operation to optimize recovery of owned sand and gravel reserves at existing Coombs South Gravel Pit.

The Town Planning Commission has made a recommendation on this date \_\_\_\_\_ to:

\_\_\_\_\_ Approve the Request: by a vote of \_\_\_\_\_ For and \_\_\_\_\_ Against

Conditions: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_ Deny the Request: by a vote of \_\_\_\_\_ For and \_\_\_\_\_ Against

\_\_\_\_\_ Delay the Request for 30 days: by a vote of \_\_\_\_\_ For and \_\_\_\_\_ Against

Comments/Reasons for any of the above recommendations: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

The Town Board has made a recommendation on this date June 5, 2023 to:

Approve the Request: by a vote of 3 For and \_\_\_\_\_ Against

Conditions: See Attached Document  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_ Deny the Request: by a vote of \_\_\_\_\_ For and \_\_\_\_\_ Against

\_\_\_\_\_ Delay the Request for 30 days: by a vote of \_\_\_\_\_ For and \_\_\_\_\_ Against

Comments/Reasons for any of the above recommendations: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_ (Check here if:) The Town hereby waives its right to make a formal recommendation on this Request to the Lincoln County Land Services Committee.

Dated this 5<sup>th</sup> day of June, 2023.

Benjamin M. [Signature]  
Town Chairman Signature

[Signature]  
Town Board Supervisor Signature

[Signature]  
Town Board Supervisor Signature

\_\_\_\_\_  
Town Board Supervisor Signature

# TOWN OF SKANAWAN

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Regarding Conditional Use Permit No. Revision 96-1075-R.

Applicant: Mathy Construction.

Based on the information supplied by the Applicant and the facts and information discussed at Town meetings, and as the record will show, the Town Board of the Town of Skanawan voted at its meeting of June 5, 2023 as follows:

“The Town recommends that the County approve the proposed CUP but only with the Town’s proposed conditions being included in the final CUP.”

Vote: 3 Ayes, 0 No.

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The final conditions being recommended by the Town of Skanawan to be included in any approved Condition Use Permit for this applicant are as follows:

1. Applicant is responsible for any violations of traffic or noise or nuisance ordinances or laws and applicant shall take care to not violate any such applicable laws.
2. No exhaust or engine braking shall be allowed at any time.
3. Applicant shall have made appropriate signage for the road accessing the subject property and any other active NMMs clearly stating the prohibition in No. 3 above.
4. Town reserves the right to revoke or suspend the Town’s license in the case of violations caused through operations at the subject NMM property or on any roads or highways over which the applicant hauls materials either in or out of the property and over which the Town has jurisdiction.
5. Applicant responsible for ensuring that any debris including sand gravel, excess dust, grubbed materials are cleared on Highway S adjacent to the entrance to the Property and also along the haul route on Highway S up to and through the right and left turns located approximately 1.5 miles to the West of the property entrance. Applicant is responsible for safe and reasonable travel over the

entire haul route and in particular should avoid taking the aforementioned right and left turns by passing over the gravel shoulder. Past experience has shown that this creates a disturbance at the location and has also led to materials being ejected from hauling vehicles. Applicant will be responsible for ensuring that this corner is clear of debris at the end of each day of operation.

6. No wash plants or operations may be conducted as part of the operations of the NMM on the subject property.

7. No hot mix operations of any kind may be conducted as part of the operations of the NMM on the Subject Property.

8. A copy of the approved reclamation plan will be provided to the Town and kept on file. Applicant will not bring materials onto the Property such as fill, grade, mulch, grub debris except if those materials are needed and identified within an approved reclamation plan. Crushed concrete and crushed asphalt (i.e. bit conc.) may be brought on site in limited quantities to be used as part of preparing product for use on active road projects but only on an as needed basis and shall not be stockpiled.

9. Applicant will provide a written report to the Town with demonstrative pictures or diagrams each year for of the life of the operation on November 30 showing the current extent of the extraction operations and also the areas that have been reclaimed during the previous year.

10. Applicant shall maintain an appropriate bond to allow for proper reclamation in accordance with the reclamation plan approved for the operation.

11. Applicant shall not commence any activities on the expanded territory covered by the application until its reclamation plan has been approved by the appropriate authorities.

12. The requirements in the applicable Town and County ordinances shall apply to both the existing operation at the site and the contemplated expanded operation into the adjacent parcel to the north. The operations shall be considered a single operation under the control of the applicant and any CUP granted and approved by the County along with any conditions shall apply to the entire operation on both parcels going forward.

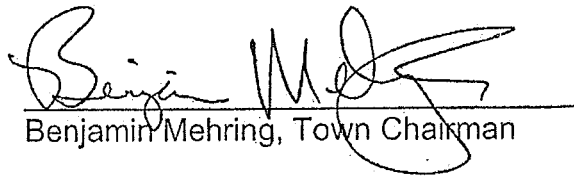
13. In addition, consistent with the purpose of the Town's NMM licensing ordinance, any operations at NMM/gravel pit operations conducted by the applicant in other areas of the Town, including at the so-called "North Pit," will hereinafter be conducted in compliance with the Town NMM licensing ordinance.

14. The Town advises applicant that it is the Town's position under applicable law that the approval of a CUP with conditions and the granting of a Town license does not waive any liability of an applicant or the owner of the subject

properties in any respect for nuisance or other injuries or negligence properly found to be caused by the operations covered by the CUP and the Town license. The Town advises applicant that it is the Town's position under applicable law that obtaining a CUP and Town license does not act to immunize the applicant from injuries caused by its actions in conducting its operations on the site except to the extent of applicable law expressly exempts the applicant from legal liability in a particular case.

Dated this 7<sup>th</sup> Day of June, 2023

Town of Skanawan



Benjamin Mehring, Town Chairman



## LINCOLN COUNTY LAND SERVICES COMMITTEE

Thursday, June 8, 2023 at 3:30pm

Meeting Location: Lincoln County Service Center, 801 N. Sales St, Room #257, Merrill, WI 54452

Via Teleconference and In-Person Attendance

**Electronic Attendance Available:** Persons wishing to attend the meeting electronically may enter the meeting beginning ten minutes prior to the start time indicated above using the following number or web address:

Conference Call: 1 530-564-6203

Access Code: 501 568 426#

Meeting ID: [meet.google.com/pqh-xuim-euk](https://meet.google.com/pqh-xuim-euk)

The teleconference cannot start until the host dials in and enters the host password. In the event there is an unforeseen technical difficulty that prevents all or a part of the meeting from being available electronically, the meeting will continue in person and those wishing to attend can appear in person at the location indicated in this agenda.

**Attendance Policy:** Lincoln County encourages all individuals attending in person to follow the most recent CDC guidelines for vaccinated and unvaccinated individuals. All public participants' phones, microphones and chat dialog boxes will be muted or disabled during the meeting. If "public comment" appears on the agenda, before the meeting is called to order, the clerk will ask teleconference attendees whether any public comment is being offered. When called upon by the clerk or chair, any person offering public comment should state their name and comments.

### MEETING AGENDA

1. Call meeting to order
2. Roll Call
3. Adopt Agenda
4. May 18, 2023 LSC meeting minutes
5. Public Comment

### DEPARTMENT REPORTS

6. Register of Deeds
  - a) Monthly Financial Reports
  - b) Monthly Written Reports
  - c) Travel Expense Report
7. Land Services
  - a) Administrator Department/Programs Report
  - b) Monthly Financial Report
  - c) Zoning Program Manager/Land Services Administrator Timesheets (5/1/2023 – 5/28/23)

### OLD BUSINESS

none

### NEW BUSINESS

8. Agency Updates
9. Authorization to Replace Fiscal Clerk Position/Staffing Adjustments
10. Award Tax Delinquent Title Search RFP
11. 4:00pm Public Hearings (See Public Hearing Notice.) (Public Hearing items d and e will be discussed simultaneously.)

### CONDITIONAL USE REQUEST

- a) OLD BUSINESS - A request by Milestone Materials a division of Mathy Construction Co (Representative: Robert Servais) to amend an existing Conditional Use Permit (CUP-96-1075) regarding non-metallic mining in the Rural Lands 4 (RL-4) zoning district.
- b) A request by Terrance and Jill Gaeu to allow an Outdoor Commercial Entertainment (Wedding/Event Barn) in a Commercial Mixed Use zoning district.
- c) A request by Texas Recreational Center Inc (Representatives: Mike and Steve Malinowski) to allow an Outdoor Commercial Entertainment (Golf Course) land use in a Recreation zoning district.

### COMPREHENSIVE PLAN AMENDMENTS

- d) A request by John and Diane Blaubach to amend the Lincoln County Comprehensive Plan Map from Non-Residential (Planned Business) to Rural/Environmental (Rural Lands) for tax parcel pin# 00435061639996.

### PETITIONS FOR REZONING

- e) A request by John and Diane Blaubach to rezone tax parcel pin# 00435061639996, from Planned Business (PB) to Rural Lands-2 (RL2).
- f) A request by RuttnRod Properties LLC (Representatives: Jon and Michelle Smith. Petitioners: Dean and Maria Schalow) to rezone tax parcel pin# 01431060119919, from General Business (GB) to Crossroads Mixed Use (CMU).

- 12. Text Amendment - 17.3.02 Rural Land Uses
- 13. Text Amendment - 17.3.03 Residential Land Uses

**ANNOUNCEMENTS**

- 14. Future Agenda Items
- 15. Confirm next meeting/public hearing date
- 16. Adjourn

NOTE: Public Hearings published numerically are itemized in agenda alphabetically in the same order.

**DISTRIBUTION:**

Land Services Committee Members: Bill Bialecki, Julie DePasse, Randy Detert, Greg Hartwig, Marty Lemke, Elizabeth McCrank, Greta Rusch, & Steven F Roets  
 Agencies: Luke Irish – APHIS-WS, Peggy Winter – NRCS, Carrie Brezesinski – FSA, Tracy Beckman – Lumberjack RC&D  
 County Board Chairman: Don Friske  
 Administrative Coordinator: Renee Krueger

Posted on \_\_\_\_\_ at \_\_\_\_\_ .m by \_\_\_\_\_

***While there may be a quorum of the County Administrative and Legislative Committee, County Highway Committee or the Public Property Committee present, no County Highway Committee, County Administrative and Legislative Committee or Public Property Committee business will be conducted at this meeting.***

***Requests for reasonable accommodations for disabilities or limitations should be made prior to the date of this meeting. Please contact the Lincoln County Clerk at 715-539-1019 as early as possible so that proper arrangements may be made. Requests are kept confidential.***

**GENERAL REQUIREMENTS:**

- 1. Must be held in a location which is reasonably accessible to the public.
- 2. Must be open to all members of the public unless the law specifically provides otherwise.

**NOTICE REQUIREMENTS:**

- 1. In addition to any requirements set forth below, notice must also be in compliance with any other specific statute.
- 2. Chief presiding officer or his/her designee must give notice to the official newspaper and to any members of the news media likely to give notice to the public.

**MANNER OF NOTICE:**

Date, time, place, and subject matter, including subject matter to be considered in a closed session, must be provided in a manner and form reasonably likely to give notice to the public.

**TIME FOR NOTICE:**

- 1. Normally, a minimum of 24 hours prior to the commencement of the meeting.
- 2. No less than 2 hours prior to the meeting if the presiding officer establishes there is a good cause that such notice is impossible or impractical.

**EXEMPTIONS FOR COMMITTEES AND SUB-UNITS:**

Legally constituted sub-units of a parent governmental body may conduct a meeting during the recess or immediately after the lawful meeting to act or deliberate upon a subject which was the subject of the meeting, provided the presiding officer publicly announces the time, place, and subject matter of the sub-unit meeting in advance of the meeting of the parent governmental body.

**PROCEDURE FOR GOING INTO CLOSED SESSION:**

- 1. Motion must be made, seconded, and carried by roll call majority vote and recorded in the minutes.
- 2. If motion is carried, chief presiding officer must advise those attending the meeting of the nature of the business to be conducted in the closed session, and the specific statutory exemption under which the closed session is authorized.

**STATUTORY EXEMPTIONS UNDER WHICH CLOSED SESSIONS ARE PERMITTED:**

- 1. Deliberation of judicial or quasi-judicial matters. Sec. 19.85(1)(a)
- 2. Considering dismissal, demotion, or discipline of any public employee or the investigation of charges against such person and the taking of formal action on any such matter; provided that the person is given actual notice of any evidentiary hearing which may be held prior to final action being taken and of any meeting at which final action is taken. The person under consideration must be advised of his/her right that the evidentiary hearing be held in open session and the notice of the meeting must state the same. Sec. 19.85(1)(b).
- 3. Considering employment, promotion, compensation, or performance evaluation data of any public employee. Sec. 19.85(1)(c).
- 4. Considering strategy for crime detection or prevention. Sec. 19.85(1)(d).
- 5. Deliberating or negotiating the purchase of public properties, the investing of public funds, or conducting other specified public business whenever competitive or bargaining reasons require a closed session. Sec. 19.85(1)(c).
- 6. Considering financial, medical, social, or personal histories or disciplinary data of specific persons, preliminary consideration of specific personnel problems or the investigation of specific charges, which, if discussed in public would likely have an adverse effect on the reputation of the person referred to in such data. Sec. 19.85(1)(f).

7. Conferring with legal counsel concerning strategy to be adopted by the governmental body with respect to litigation in which it is or is likely to become involved. Sec. 19.85(1)(g).
8. Considering a request for advice from any applicable ethics board. Sec. 19.85(1)(h).

CLOSED SESSION RESTRICTIONS:

1. Must convene in open session before going into closed session.
2. May not convene in open session, then convene in closed session and thereafter reconvene in open session within twelve (12) hours unless proper notice of this sequence was given at the same time and in the same manner as the original open meeting. Sec. 19.85(2).
3. Final approval or ratification of a collective bargaining agreement may not be given in closed session.

BALLOTS, VOTES, AND RECORDS:

1. Secret ballot is not permitted except for the election of officers of the body or unless otherwise permitted by specific statutes.
2. Except as permitted above, any member may require that the vote of each member be ascertained and recorded.
3. Motions and roll call votes must be preserved in the record and be available for public inspection.

USE OF RECORDING EQUIPMENT:

The meeting may be recorded, filmed, or photographed, provided that it does not interfere with the conduct of the meeting or the rights of the participants.

LEGAL INTERPRETATION:

1. The Wisconsin Attorney General will give advice concerning the applicability or clarification of the Open Meeting Law upon request.
2. The municipal attorney will give advice concerning the applicability or clarification of the Open Meeting Law upon request.

PENALTY:

Upon conviction, any member of a governmental body who knowingly attends a meeting held in violation of Subchapter IV, Chapter 19, Wisconsin Statutes, or who otherwise violates the said law shall be subject to forfeiture of not less than \$25.00 nor more than \$300.00 for each violation.

7. Land Services

- a. Administrator Department/Programs Report – Huth gave an overview of the department report. No discussion occurred.
- b. Monthly Financial Report – Huth gave an overview of the financial report. No discussion occurred.
- c. Zoning Program Manager/Land Services Administrator Timesheets (5/1/2023-5/28/2023) –  
M/S McCrank/Hartwig to approve the timesheets. Motion carried on a voice vote.

**OLD BUSINESS**

none

**NEW BUSINESS**

8. Agency Updates – none

10. Award Tax Delinquent Title Search RFP – Huth gave an overview of the submitted bids.

M/S Hartwig/McCrank to award the RFP bid to Knight Barry Title Services LLC. Motion carried on a voice vote.

M/S Detert/Rusch to suspend the rules and move to agenda item #12. Motion carried on a voice vote.

12. Text Amendment – 17.3.02 Rural Land Uses – Huth gave an overview of the proposed amendments. Discussion occurred.

M/S Detert/McCrank to approve the proposed changes. Motion carried on a voice vote.

Meeting resumed at agenda item #11.

11. **4:00pm Public Hearings** – Public Hearing was called to order at 4:00pm by Chair Lemke. Lemke explained the rules of conduct for public hearings and introduced the Committee members and staff. Lemke further explained that items d and e will be discussed simultaneously.

**CONDITIONAL USE REQUEST**

- a) OLD BUSINESS - A request by Milestone Materials a division of Mathy Construction Co (Representative: Robert Servais) to amend an existing Conditional Use Permit (CUP-96-1075) regarding non-metallic mining in the Rural Lands 4 (RL-4) zoning district.

Lemke asked staff if there is an update to the Staff Report. Huth informed the committee that the Town of Skanawan submitted a recommendation.

Lemke read into the record a letter in support for the request. Lemke asked for additional testimony from proponents of the request. Robert Servais, the representative of the request, was present and informed the committee that Milestone Materials agrees to the Land Services Staff conditions as stated in the staff report.

Lemke asked for additional proponents of the request. There were none.

Lemke asked for additional testimony from opponents of the request. Ben Mehring, Town of Skanawan Chair, was present and explained the additional conditions requested by the Town of Skanawan. Mehring clarified that

the Town is in support of the request so long as the town proposed conditions are added onto the CUP. Discussion occurred.

Additional opponents giving testimony include Mike Heise, John Heckendorf, and Wally Horbik.

Lemke permitted Thomas Tomashek to rebut statements by opponents.

Lemke asked for input from Land Services Staff. Huth and Johnson gave an overview of the proposed Land Services Conditions and ordinance standards relating to CUP decisions. Discussion occurred.

Lemke closed the public hearing for the request. Discussion occurred.

Lemke asked if the applicants agree to the seventeen conditions listed on the Lincoln County Staff Report. Tomashek stated that they do.

M/S Bialecki/Hartwig to approve the Conditional Use request by Milestone Materials with the seventeen recommended conditions as listed on the Land Services staff report. Motion carried on a voice vote.

Conditions:

1. The Conditional Use Permit (CUP) is for a sand and gravel mining operation including gravel/aggregate material crushing. No asphalt plants, cement plants, or blasting will be permitted with this CUP.
2. The mineral extraction mining operation shall be restricted to the area and depth shown on the applicant's approved site plan. Any work beyond the approved plan boundaries will require application for a new conditional use permit.
3. The applicant is to follow the prepared reclamation plan in accordance with NR 135, Wis. Adm. Code, and the Lincoln County reclamation ordinance. The site is to be completely restored upon completion of non-metallic mineral extraction.
4. Solid waste shall not be placed in the gravel pit; illegally dumped material shall be immediately removed by the applicant.
5. The site is to be cleaned of all debris and equipment after closure of the pit.
6. The nearest edge of all buildings, structures, and surface activity areas, including pit edges, shall be located a minimum of 200 feet from all dwellings on adjacent properties, and no less than 10 feet from any lot line.
7. To prevent tracking of mud onto public roads, access driveways shall be paved or use crushed recycled asphalt (RAP) within 100 feet of public roads, unless the adjacent road is unpaved.
8. Access to the site shall only be through points designated as entrances on the site/operations plan; such access points shall be secured when the site is not in operation.
9. A bond or other performance guarantee for such work is required prior to the start of excavation in the expanded area providing that a clear relationship/document is established between the operation and the need for road upgrades, repair, and maintenance. If the County road is damaged or destroyed as a result of owners operations, the owner shall restore or pay for the restoration of the same to an acceptable condition and value. The owner shall have the right to show and bear the burden of proof in showing that the indicated damage was not the result of its operations.
10. Spraying of the site and driveways shall be conducted to control dust.
11. On-site bulk fuel storage areas and appropriate places for fueling of equipment (e.g., above the water table) shall be located to minimize the potential for groundwater contamination and in accordance with ILHR 10 and other chapters of the Wis. Adm. Code and provisions of Wisconsin Statutes.
12. The applicant shall furnish a certificate of insurance before operations commence.
13. Approval shall be subject to amendment or revocation if noncompliance with approved plans, this section, or approval conditions is identified.

14. Approval shall be subject to periodic review of the operation to ensure compliance with the conditional use permit, and to specific limitations over the portion of the lot or parcel where extraction may occur.
15. Parking Requirements: One space per each employee on the largest work shift. Parking shall not occur on the county road or within the road right-of-way.
16. Owner is responsible for obtaining any permit or approval required for project under other State Statutes, Administrative Codes or by municipal, town or county zoning ordinances, and by the Department of Natural Resources and U.S. Army Corps of Engineers before starting the project. No filling or dumping of spoil material in wetland – must be disposed of in upland project.
17. Hours of operation shall be 6am to 6pm Monday thru Friday and 6am to noon Saturday.

- b) A request by Terrance and Jill Gaeu to allow an Outdoor Commercial Entertainment (Wedding/Event Barn) in a Commercial Mixed Use zoning district. The property is located at W4754 County Rd Q in Section 30, T31N-R7E, in the Town of Scott.

Lemke asked for testimony in support of the Conditional Use application. Terrance and Jill Gaeu, the applicants, were present and explained the request.

Lemke asked for additional testimony in support of the request. There was none.

Lemke asked for testimony from opponents of the request. There was none.

Lemke asked for the staff report. Huth presented the staff report. Huth informed the committee that the Town of Scott submitted their recommendation. County staff recommends that the committee approve the Conditional Use Permit with the five recommended conditions, as written in the staff report. Discussion occurred.

Lemke closed the public hearing for the request. Discussion occurred.

Lemke asked the applicants if they agree to the conditions listed in the staff report. Jill and Terrance Gaeu stated that they do.

M/S McCrank/Detert to approve the Conditional Use request by Terrance and Jill Gaeu with the five recommended conditions as listed on the staff report. Motion carried on a voice vote.

Conditions:

1. Shall follow all applicable regulations of Department of Agriculture, Trade and Consumer Protection (DATCP), Wisconsin Department of Safety and Professional Services (DSPS), and the Lincoln County Health Department.
  2. One parking space per every 2 persons at the maximum capacity of the establishment.
  3. No guest parking shall occur within the county road right of way (ROW).
  4. Signage shall comply with Chapter 17.6 of Lincoln County Ordinance.
  5. Exterior Lighting shall comply with Chapter 17.5.04 of Lincoln County Ordinance.
- c) A request by Texas Recreational Center Inc (Representatives: Mike and Steve Malinowski) to allow an Outdoor Commercial Entertainment (Golf Course) land use in a Recreation zoning district. The properties are located in Section 18, T31N-R7E, in the Town of Scott.

Lemke asked for testimony in support of the Conditional Use application. There was none.

**NOTICE OF ACTION**

Date: June 12, 2023

WILL MATHY  
MATHY CONSTRUCTION CO  
920 10<sup>TH</sup> AV NORTH  
ONALASKA, WI 54650

ROBERT SERVAIS  
MATHY CONSTRUCTION CO  
920 10<sup>TH</sup> AV NORTH  
ONALASKA, WI 54650

Dear Applicant(s):

On May 18, 2023 and June 8, 2023 the Lincoln County Land Services Committee held a Public Hearing to hear your application to modify #CUP-96-1075 for a CONDITIONAL USE PERMIT to:

amend an existing Conditional Use Permit (CUP-96-1075) regarding non-metallic mining in the Rural Lands 4 (RL-4) zoning district. The property is located in the E½ NW¼ of Section 21, T34N, R7E, in the Town of Skanawan at W4021 County Rd S. The tax pins are 02634072129996 and 02634072129999 and the parcels are a combined total of approximately 80.62 acres.

On the basis of the evidence presented at the hearing, your request for a CONDITIONAL USE PERMIT has been:

GRANTED ON CONDITION

Conditions:

SEE ATTACHED EXHIBIT A

This order may be revoked by the Committee after notice and opportunity to be heard for violation of any of the conditions imposed.

A record of the hearing and the decision of the Committee are available for inspection in the Zoning Office. If copies are desired, they may be secured upon request and payment of fees [Sec. 1.33, Lincoln County Code]. A complete transcript may be secured upon payment of all transcription fees.

APPEALS OF COMMITTEE DECISIONS. Proceedings for an appeal of the Committee's decision may be initiated by any person aggrieved, or by any officer, department, board, or bureau of the County affected by the Committee's decision to the circuit court under the procedures contained in §59.694(10), Wis. Stats. An appeal must be made not more than 30 days from the date of the decision. [Sec 17.8.30(10), Lincoln County Code]

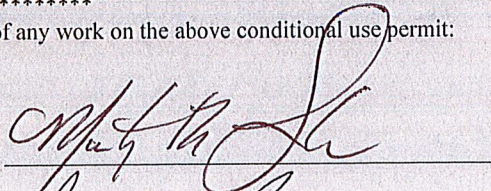
TIME LIMITS ASSOCIATED WITH CONDITIONAL USES. Pursuant to §59.69(5e)(d), Wis. Stats. once granted, a conditional use permit shall remain in effect as long as the conditions upon which the permit was issued are followed, but the Land Services Committee may impose conditions through the approval process, such as the permit's duration, transfer, or renewal, in addition to any other conditions specified in the zoning ordinance or by the Land Services Committee [Sec. 17.8.30(12), Lincoln County Code]. Unless a specific condition of approval indicates otherwise, conditional use permits shall run with the land.

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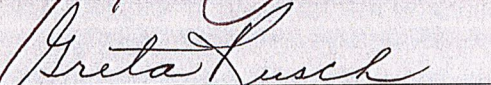
The following permits are required to be obtained PRIOR to the commencement of any work on the above conditional use permit:

Sincerely,

Chair



Secretary



**EXHIBIT A**  
**CUP-96-1075**

M/S Bialecki/Hartwig to approve the Conditional Use request by Milestone Materials with the seventeen recommended conditions as listed on the Land Services staff report. Motion carried on a voice vote.

Conditions:

1. The Conditional Use Permit (CUP) is for a sand and gravel mining operation including gravel/aggregate material crushing. No asphalt plants, cement plants, or blasting will be permitted with this CUP.
2. The mineral extraction mining operation shall be restricted to the area and depth shown on the applicant's approved site plan. Any work beyond the approved plan boundaries will require application for a new conditional use permit.
3. The applicant is to follow the prepared reclamation plan in accordance with NR 135, Wis. Adm. Code, and the Lincoln County reclamation ordinance. The site is to be completely restored upon completion of non-metallic mineral extraction.
4. Solid waste shall not be placed in the gravel pit; illegally dumped material shall be immediately removed by the applicant.
5. The site is to be cleaned of all debris and equipment after closure of the pit.
6. The nearest edge of all buildings, structures, and surface activity areas, including pit edges, shall be located a minimum of 200 feet from all dwellings on adjacent properties, and no less than 10 feet from any lot line.
7. To prevent tracking of mud onto public roads, access driveways shall be paved or use crushed recycled asphalt (RAP) within 100 feet of public roads, unless the adjacent road is unpaved.
8. Access to the site shall only be through points designated as entrances on the site/operations plan; such access points shall be secured when the site is not in operation.
9. A bond or other performance guarantee for such work is required prior to the start of excavation in the expanded area providing that a clear relationship/document is established between the operation and the need for road upgrades, repair, and maintenance. If the County road is damaged or destroyed as a result of owners operations, the owner shall restore or pay for the restoration of the same to an acceptable condition and value. The owner shall have the right to show and bear the burden of proof in showing that the indicated damage was not the result of its operations.
10. Spraying of the site and driveways shall be conducted to control dust.
11. On-site bulk fuel storage areas and appropriate places for fueling of equipment (e.g., above the water table) shall be located to minimize the potential for groundwater contamination and in accordance with ILHR 10 and other chapters of the Wis. Adm. Code and provisions of Wisconsin Statutes.
12. The applicant shall furnish a certificate of insurance before operations commence.
13. Approval shall be subject to amendment or revocation if noncompliance with approved plans, this section, or approval conditions is identified.
14. Approval shall be subject to periodic review of the operation to ensure compliance with the conditional use permit, and to specific limitations over the portion of the lot or parcel where extraction may occur.
15. Parking Requirements: One space per each employee on the largest work shift. Parking shall not occur on the county road or within the road right-of-way.
16. Owner is responsible for obtaining any permit or approval required for project under other State Statutes, Administrative Codes or by municipal, town or county zoning ordinances, and by the Department of Natural Resources and U.S. Army Corps of Engineers before starting the project. No filling or dumping of spoil material in wetland – must be disposed of in upland project.
17. Hours of operation shall be 6am to 6pm Monday thru Friday and 6am to noon Saturday.





Mike Huth <mike.huth@co.lincoln.wi.us>

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## Please Submit to Record | Land Services Meeting June 8 2023

1 message

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patricia heise <patricia.ann.heise@gmail.com>

Tue, Jun 6, 2023 at 10:17 AM

To: "mike.huth@co.lincoln.wi.us" <mike.huth@co.lincoln.wi.us>

Hi, Mike,

Very nice speaking with you. Attached is our objection to Mathy's CUP application, which is coming up again at the June 8th meeting. Really appreciate your help.


Best,

Patricia Heise, Counsel  
Skanawan Property Owners Association, U.A.

cc. Karry Johnson, Corporation Counsel

\* This e-mail and any files transmitted with it are confidential and intended solely for the use of the individual or entity whom they are addressed. If you have received this e-mail in error please notify the sender. This message contains confidential information and is intended only for the individual named. If you are not the named addressee you should not disseminate, distribute, or copy this e-mail. Please notify sender immediately by e-mail if you have received this e-mail by mistake and delete this e-mail from your system. If you are not the intended recipient you are notified that disclosing, copying, distributing, or taking any action in reliance on the contents of this information is strictly prohibited.

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 Skanawan Land Services\_SPOA\_June 2023.pdf  
197K

SKANAWAN PROPERTY OWNERS ASSOCIATION, U.A.  
W4676 Highway S  
Irma, Wisconsin 54442

**Re: Objection to Granting of Non-Metallic Mining CUP Permits in Town of Skanawan /  
Mathy Construction Co d/b/a Milestone Materials**

Members of the Lincoln County Land Services Committee:

We request that you deny any expansion or modification of existing non-metallic mining operations in the Town of Skanawan. Any such modifications further the extralegal industrialization of our town, contrary to existing zoning and practice. We believe that these activities are wholly inconsistent with surrounding land uses, significantly disrupt the enjoyment of neighboring properties, and have a profound negative impact on the community, its safety, and its infrastructure.

Conditional Use Permits

The Town of Skanawan is zoned as RL4 and planned for Rural Lands. RL4 zoning allows for small farming and sparse residential uses, and its designation as such is meant to “preserve [the] rural character and promote continued **low-intensity and open space uses** of the County not envisioned for intensive agricultural or commercial forestry use,” per Section 17.2.13 of the Lincoln County Zoning Code. Although non-metallic mining is designated as a conditional use under RL4 zoning, it is not a use by right, and those who seek to apply for this conditional use must satisfy all CUP standards. A property owner has a vested right to use his or her property for *express* uses set forth in a zoning ordinance, but **has no right to use such property for a use that requires a conditional use permit.** *Town of Rhine v. Bizell*, 311 Wis.2d 1, 39 (2008). Unlike permitted uses, which are uses that attach to the property as of right, **conditional uses are those activities property owners may engage in at the discretion of the municipality or county.** *Daniel R. Mandelker, Land Use Law § 6.39, at 6-44 (5<sup>th</sup> ed. 2003).* These uses are occasionally allowed at the discretion of the relevant governing body due to the dubious nature of these activities, and **only when they are uses “that a community recognizes as desirable or necessary but which the community will sanction only in a controlled manner.”** *State ex rel. Skelly Oil Co. v. Common Council, City of Delafield*, 58 Wis. 2d 695, 701, 207 N. W.2d 585 1973).

Similarly, conditional uses are flexibility devices, which, when permits for them are properly granted, are meant to allow for activities that, while nonconforming within a particular zoning district, **are not “inherently inconsistent” with the surrounding land uses.** *Gail Easley, Conditional Uses: Using Discretion, Hoping for Certainty, American Planning Assoc. Zoning Practice, May 2006, at 2.* **Heavy industrial sites that span, in the aggregate, hundreds of acres in the middle of low-density residential and agricultural districts are far from consistent with surrounding land uses**, and any expansion does not constitute an appropriate conditional use.

Lincoln County Codes of Ordinances, Section 17.8.30(7) – Conditional Use Permit Standards

Chapter 17 of the Lincoln County Code of Ordinances pertains to all zoning-related matters. Section 17.8.30 and its subsections specify proper procedure for CUP review. Specifically, Section 17.8.30(7) sets out Conditional Use Permit Standards, which, before being amended in 2018, stated that “the Committee

shall find that all the following standards are or will be met” in order to approve a CUP application. The new amended ordinance section sets more ambiguous standards that must be met to receive a CUP. However, the applicable zoning ordinance, RL4, lists **non-metallic mining as a conditional use, not one permitted by right**, and any attempt to make an end-run around that fact would create a legal paradox.

It is our position that **the following ordinance requirements are not met:**

- (d) The proposed conditional use will maintain compliance with the zoning standards and the county comprehensive land use plan, including town land use plans developed by individual towns and as incorporated in the county comprehensive land use plan.

The common themes throughout the Town of Skanawan’s 2020 Comprehensive Plan are the protection of private property rights, the protection of the public health, safety, and welfare, and a collective concern regarding the myriad impacts of new and/or expanded non-metallic mining operations. **These impacts include: reduced property values, noise/dust control, road damage, traffic safety, residential water quality, and high-capacity wells.**

Several statements cite the preservation of the Town’s **rural and peaceful character**, as well as the conservation of its exceptional natural resources. Aside from low-impact, non-industrial farming and forestry, the Town of Skanawan is largely utilized for recreational activities, such as hunting, fishing, and ATV trail riding. The further introduction and **expansion of industrial activities in this area represents a complete and total departure from these goals and practices.**

The Town of Skanawan’s Comprehensive Plan also cites, repeatedly, serious concerns regarding non-metallic mining operations impacts on traffic and roadway conditions. Currently, the surfaces on Highway S between existing mining sites and Highway 51 are a shambles. With the uptick in heavy truck traffic related to increased mining, **roadway conditions have deteriorated far below what any reasonable standard.** Moreover, a pattern of unsafe traffic conditions have developed, particularly where Highway S curves. Speeding and loud engine breaking have become endemic. With any increase in mining, and thus trucking, these problems will only intensify, posing an unreasonable risk to public safety and quiet enjoyment.

The residents of Skanawan are already bearing an outsized burden for the benefit and enrichment of these mining corporations, and Skanawan’s Comprehensive Plan, and the public feedback that informed it, clearly cite the collective desire to **limit further expansion of mining operations.** The Plan clearly expresses that our weakest attributes include gravel pits, and repeatedly indicates **broad concern regarding the inherent conflict between existing gravel pits and residential development as well as concerns about potential large-scale industrial development.** It also repeatedly conveys that its most desirable attributes include its abundant forests and wildlife, and the quiet, rural setting.

- (e) The conditional use will meet all applicable standards of other divisions of this chapter, particularly any standard in Division 17.3, which is applicable to the particular conditional use being sought.

Lincoln County Code of Ordinances, Section 17.1.04, outlines the fundamental purpose of the regulation of land use regulations:

This chapter is adopted [...] for the purpose of **protecting the public health, safety, morals, comfort, convenience and general welfare of the residents** of Lincoln County. More specifically, this chapter is designed to **control and lessen congestion in the streets; [...] to promote adequate light and air; [...] to encourage the protection of groundwater resources; [...] to preserve and protect property values [...].**

The government enacts land use and zoning ordinances to avoid reckless and ad hoc land use development decisions by setting forth parameters for that development. It is the core function of the Lincoln County government and its various boards—Land Services Committee and County Board—to protect its constituents from the whims of unscrupulous commercial actors, particularly when those whims **run up directly against the interests stated and enumerated above.**

#### Degradation of Adjacent Property Rights, County Roads, and Traffic Safety

It is **inconsistent with the nature of conditional uses, broadly, to give mining companies carte blanche** to interrupt private activities on adjacent lands, or to exploit and degrade public infrastructure for its private gain. The unchecked expansion of mining activities is **directly at odds with principles of local control and the protection of private property and property values.** It imperils the land and conditions required for recreation and low-impact farming and forestry, and further augments mining corporations' rights far beyond what is necessary to further interests of County infrastructure development. Recent amendments to County and State law represent **an attempt to avoid the inconvenience of seeking permission and reasonable oversight from local government, to avoid respecting the legal rights of adjacent property owners, and to avoid the health and safety mandates of the communities they sit in** purely to conduct industrial activities on non-industrial and/or rural lands. It is our position that they will not hold up to legal challenges.

This specific conditional use within this specific zoning district only existed to accommodate small borrow pits throughout the County. These borrow pits, and the land they sit on, are now being used as **pretext for large-scale industrial mining in areas that are not zoned, or otherwise intended for, industrial use on that scale.** We understand and support development throughout the County, and are all committed to making sure that the County has sufficient materials for infrastructure development. But this must be weighed against other important interests. Your constituents, your neighbors, and perhaps, someday, you, **will find their property values, their legally protected property rights to quiet enjoyment, and their rights to health and safety greatly diminished,** bearing the full cost of unlimited expansion of industrial activities outside the bounds of what was intended by the original authors of these ordinances.

#### Nuisance

A legal nuisance is “any human activity or physical condition that is harmful to the health of another person, is indecent or offensive to the senses, or interferes with another person’s reasonable use and enjoyment of his or her property.” *Amir Tikriti, Private vs. Public Nuisance Claims Against Property Owners (2015)*, <http://www.alllaw.com/articles/nolo/personal-injury/private-public-nuisance-claims-property-owners.html>. The law grants property owners a right to the “quiet enjoyment” of their property. It follows that if one property owner interferes with another property owner’s right to the quiet enjoyment of his or her property, then the interfering property owner has committed a tort, namely the tort of nuisance. To be direct: **one party’s rights end where the other’s begin.**

There are two types of nuisance: public and private. Public nuisance encompasses activities that **“threaten the health, morals, safety, comfort, convenience, or welfare of a community.”** *West's Encyclopedia of American Law, edition 2. S.v. "Right to quiet enjoyment."* Retrieved September 8 2015 from <http://legal-dictionary.thefreedictionary.com/Right+to+quiet+enjoyment>. Pertinent examples of a public nuisance may be air and water pollution, or **“creating a condition to make travel unsafe or highly disagreeable** are examples of nuisances threatening the public convenience.” *Id.*

Private nuisance involves “an interference with a person's enjoyment and use of his land.” *Id.* Examples of private nuisance include interference “with the physical condition of the land include[ing] **vibration or blasting that damages a house**, destruction of crops, raising of a water table, or the **pollution of soil, a stream, or an underground water supply.**” Examples of nuisances interfering with the comfort, convenience, or health of an occupant are **foul odors, noxious gases, smoke, dust, [or] loud noises.”** *Id.*

In this case, the proposed conditional use is arguably bound to be both a public and private nuisance, as it will inflict several types of harm on both the community and adjacent property owners without providing the community with a social benefit significant enough to justify the nuisance. As discussed previously, patterns of unsafe road and traffic conditions have already developed along Highway S, and will only worsen with increased mining and trucking activity. We believe these existing conditions rise to the level of public nuisance.

#### Conclusion

We request that the Members of the Lincoln County Land Services Committee deny this CUP application, or, at the very least, adopt any and all conditions proposed by the Town of Skanawan Town Board. Private citizens are facing unprecedented challenges posed by non-metallic mining expansion state-wide. Please restrict these expansions and protect your constituents, your neighbors, and small, rural communities throughout the County. Thank you for your attention and concern.

Sincerely,



Patricia Heise  
Counsel and Member, SKANAWAN PROPERTY OWNERS ASSOCIATION, U.A.

SEP 22 2023

# PETITION FOR VARIANCE

LINCOLN COUNTY BOARD OF ADJUSTMENT

Receipt: 16885

Fee: \$450

VAR- 23 - 007

APPLICATION WILL BE RETURNED/DISMISSED IF NOT COMPLETED IN FULL

### Property Owner Information

Name: Michael + Nicole Marcell Daytime Phone: (715) 551-9792

Mailing Address: 226930 Phoenix Street City, State ZIP Ringle, WI 54471

### Petitioner Information (if other than property owner)

Name: R. Smith Construction Ryan Smith Daytime Phone: (715) 572-8132

Mailing Address: 525 Copper Leaf Court City, State ZIP Plaver, WI 54467

Site Address: N11904 Rapel Road Tomahawk, WI 54487 Zoning District: RR-1

Legal Description Summary: Acres: .52

Section: 4 Township: 35 North Range: 6 East

Gov Lot: 6 OR Quarter/Quarter: \_\_\_\_\_

Lot Number: 30, 31, 32 Subdivision/CSM: Plat of Rapel's Subdivision

Current use and improvements: Single Family Dwelling With Boat House

Proposed use and improvements: Single Family Dwelling (Requesting Relocation of Boat house)

Ordinance section relating to variance request: 21.07(6)(2)(b) and 21.07(6)(2)(d)

Relief is requested to allow: To Maintain a Boat house on the Property, but to Move it OFF of WVIC's Property

Address each of the following criteria for granting a variance (please be specific).

- 1) Unnecessary hardship is present because... WVIC Owns The First 30' From the OHWM Making it impossible to Comply with Lincoln County's Shoreland Zoning Code. 21.07(6)(2)(d) We Are also Requesting a Variance From 21.07(6)(2)(b) to keep the same size Boat house that
- 2) Unique features of this property prevent compliance with the terms of the ordinance; they include... WVIC's ownership of the First 30' of Land From the OHWM

- 3) A variance will not be contrary to the public interest because... The has Been a Boat house on this Property and others around the Lake. We are Just Requesting to Move it Back OFF of WVIC's Property. In Regards to 21.07(6)(2)(b) we are Requesting no Larger than what is currently on the Property. Current Boat house Size is 24'x28' 672,

Owner: MNM Income Trust First Name: Bradley Last Name: Town Tax Parcel #: 00435060449791

Names of adjoining property owners: John Schoone, WVIC, Kevin Kinch

**A SCALE DRAWING MUST BE ATTACHED that accurately depicts the following:**

Include on the drawing ALL of the information requested below that applies to the property.

1. Shape of parcel, include all lot line dimensions.
2. Indicate NORTH.
3. Show the location and names of all surrounding roads/highways.
4. Show the location and names of all area water bodies (lakes, rivers, creeks, ponds, etc.)
5. Indicate ALL other existing buildings on parcel with "EB".

Complete the following if the request is for NEW Construction

6. Show the location of the proposed construction on the parcel. Include the following measurements:
  - a) Distance from the centerline of any/all roads.
  - b) Distance from the right-of-way of any/all roads.
  - c) Distance to all lot lines.
  - d) Distance to any/all water bodies adjacent to or within the parcel.
7. Indicate distance from septic tank or holding tank to proposed construction.
8. Indicate distance from sewage system drain field to proposed construction.
9. Indicate distance from well to proposed construction.
10. (IF on water) Indicate proposed clearings within the vegetative buffer zone (please refer to Shoreland Ordinance for limitations on different water classifications).

**APPLICANTS ARE REQUIRED TO CLEARLY MARK THE LOCATION OF:**

1. The proposed change of construction
2. All Property Lines
3. Sanitary System components (Drain fields, tanks, etc.)
4. Well(s)
5. Other physical features pertinent to the decision.

**THESE FEATURES SHOULD BE MARKED WITH HIGH VISIBILITY FLAGS, TAPE, OR STAKES**

*Additional information beyond what has been specifically requested in this application may be required by the Lincoln County Board of Adjustment before rendering a decision. Failure to provide all requested information could result in the dismissal or denial of your application. The Lincoln County Board of Adjustment is governed by Rules of Procedure. A copy of the Rules of Procedure are available to any interested party upon request.*

**To the Lincoln County Zoning Administrator / Lincoln County Board of Adjustment:** The undersigned hereby makes application for a PETITION FOR VARIANCE for work described and located as shown herein. The undersigned agrees that all work shall be done in accordance with the requirements of the Lincoln County Zoning Ordinance and with all other applicable County Ordinances and the laws and regulations of the State of Wisconsin. I declare that the information that I am supplying is true and accurate to the best of my knowledge and I acknowledge that this information will be relied upon for the issuance of this permit. By signing this application I am also granting permission to the zoning department staff to enter my property at any reasonable time for the purpose of inspection to assure compliance with the zoning laws relative to the issuance of this permit.

Property Owner Signature: Neal I. Morant Date: 9-22-23

Property Owner Signature: \_\_\_\_\_ Date: \_\_\_\_\_

**FOR OFFICE USE ONLY**

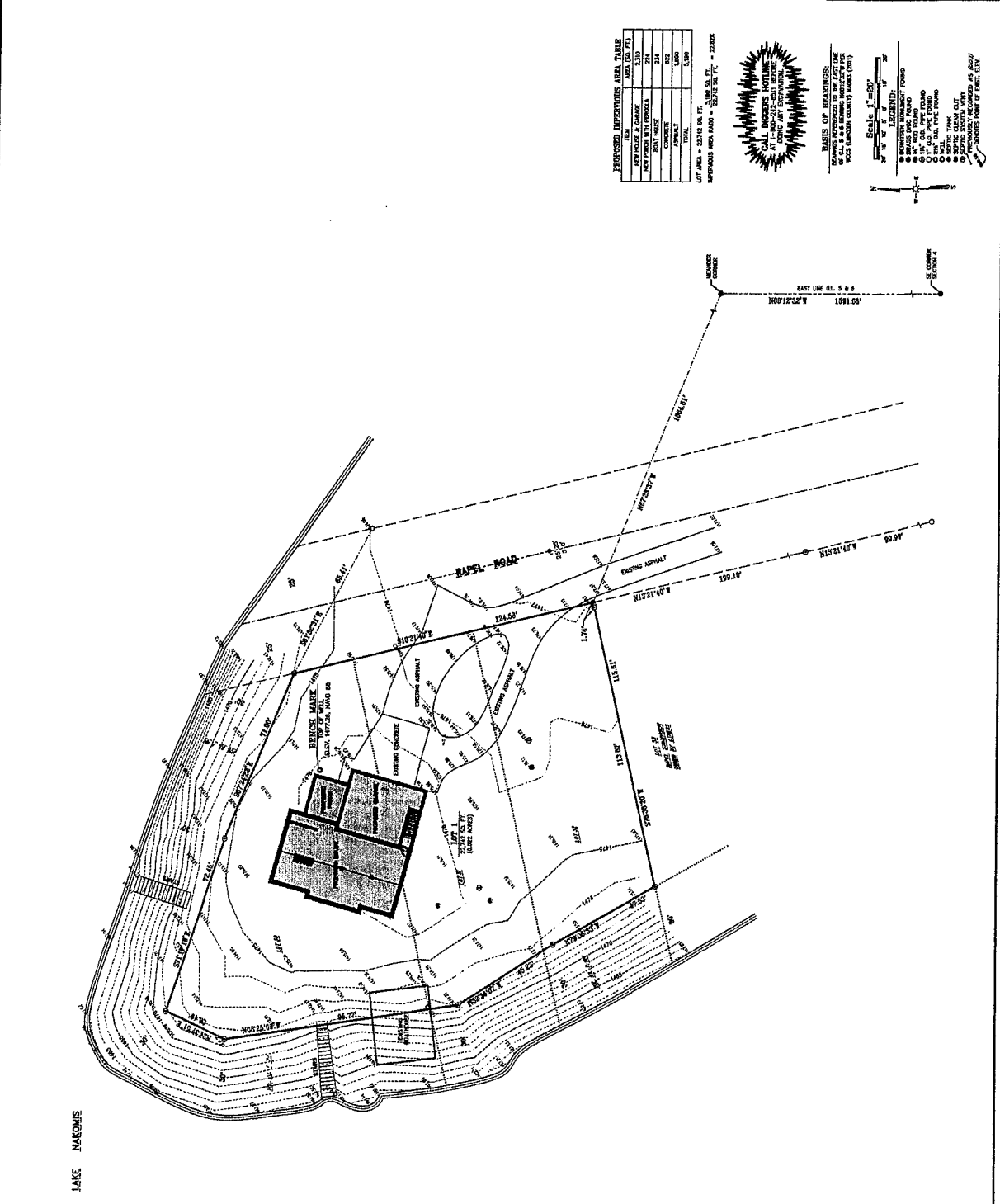
Date Application Received: 9-22-23 By (Staff): LB Date of Hearing: 10-26-23

New Home Site Plan

<b>PROPOSED SITE PLAN</b> <b>MARCELL CABIN</b> <b>R. SMITH CONSTRUCTION</b>	
PRELIMINARY <input type="checkbox"/> NOT FOR CONSTRUCTION <input type="checkbox"/> FOR RECORD ONLY <input checked="" type="checkbox"/> FOR CONSTRUCTION <input type="checkbox"/> WORKING OF RECORD	CLIENT: _____ DATE: _____ DATE: _____ DATE: _____
DESIGNER: LARRY GOODMAN FIELD DATA BY: _____ DATE: _____ DATE: _____ DATE: _____ PROJECT NO. 22-028 PLAN SHEET 2 OF 2	

SCALE: 1" = 20'  
 DESIGNER: LARRY GOODMAN  
 FIELD DATA BY: \_\_\_\_\_  
 DATE: \_\_\_\_\_  
 DATE: \_\_\_\_\_  
 DATE: \_\_\_\_\_  
 PROJECT NO. 22-028  
 PLAN SHEET 2 OF 2

ORIGINAL DOCUMENT MUST BE MARKED  
 WITH A "C" IN THE UPPER RIGHT CORNER  
 OF THE DRAWING TO INDICATE THIS IS THE  
 ORIGINAL DRAWING.



REVISIONS	DATE	DESCRIPTION

PROPOSED IMPROVEMENTS AREA TABLE  
 ITEM: \_\_\_\_\_ AREA: \_\_\_\_\_ FT.  
 COST: \_\_\_\_\_  
 TOTAL: \_\_\_\_\_  
 LOT AREA: 22742 SQ. FT. (LAW 50 FT.) = 22.82 AC.  
 IMPROVEMENTS AREA: 22742 SQ. FT. = 22.82 AC.

BASIS OF MEASUREMENTS:  
 MEASUREMENTS TO BE MADE BY THE CONTRACTOR.  
 ALL DIMENSIONS TO BE MADE BY THE CONTRACTOR.  
 ALL DIMENSIONS TO BE MADE BY THE CONTRACTOR.  
 ALL DIMENSIONS TO BE MADE BY THE CONTRACTOR.





Lake

WIS VALLEY  
IMP CO



Lincoln County, WI

Author: Public  
Date Printed: 9/28/2023



DISCLAIMER: The information depicted on this map is a compilation of public record information including aerial photography and other base maps. No warranty is made, express or implied, as to the accuracy of the information used. The data layers are a representation of current data to the best of our knowledge and may contain errors. It is not a legally recorded map and cannot be substituted for field-verified information. Errors should be reported to Land Services Department, 801 North Sales St, Merrill, WI, 54452. Phone (715) 539-1087.



**PETITION FOR VARIANCE REQUEST**  
**STAFF REPORT**

Report Date: October 18, 2023  
Hearing Date: October 26, 2023  
Property Owner: MNM Income Trust (Michael & Nicole Marcell)  
Property Address: N11904 Rapel Road  
Town of: Bradley  
Tax Parcel Numbers: 004-3506-044-9791  
Zoning District: RR-1, Rural Residential  
Zoning District Overlay: Shoreland  
Staff Reviewer: Laura Boquist- Shoreland Specialist  
Submitted Materials: Request for Variance Application and supporting documents

**OVERVIEW**

**REQUEST**

A request for variance by Ryan Smith of R. Smith Construction on behalf of the Landowner MNM Income Trust (Michael & Nicole Marcell) from Lincoln County Shoreland Ordinance section 21.07(6)(2)(b) to allow for the construction of a new boathouse exceeding the maximum size allowance and from section 21.07(6)(2)(d) to allow for the construction of a new boathouse outside of the allowable view and access corridor of the parcel.

The property is located in Section 4, T35N, R6E, and has a parcel number of 004-3506-044-9791 with an address of N11904 Rapel Road, in the Town of Bradley. See photos towards the end of the staff report for a visual of current site conditions.

Section 21.07(6)(2)(b) of the Lincoln County Shoreland Zoning Ordinance states a new boathouse may not exceed a dimension of 450 sq. ft. nor may the wall height exceed 10 feet. The proposed dimension of the new boathouse is 24 ft. x 28 ft., a size of 672 sq. ft. The proposed wall height will not exceed 10 feet.

Section 21.07(6)(2)(d) states a new boathouse structure must be completely located within the allowable view and access corridor of the parcel. The view and access corridor is defined in the County Shoreland Ordinance as an area of land within 35 feet of the ordinary high water mark (OHWM) of the Lake, which may be cleared of trees and shrubs, consistent with section 21.08 of the Lincoln County Shoreland Ordinance. New boathouses are required to be located entirely within 35 feet of the OHWM, where the allowable view and access corridor is located. The proposed boathouse will be located at 30 feet from the OHWM, at the closest set-back from the Lake. Therefore, as proposed, 552 sq. ft. of the new boathouse structure will be located over 35 feet from the OHWM and therefore, outside of the designated view and access corridor area.

## **SITE CHARACTERISTICS**

The Rapel subdivision Plat was recorded in 1938. N11904 Rapel Road consists of lots 30, 31, and 32 of the Rapel Subdivision and is calculated at .52 acres or roughly 22,651 sq. ft. in size. The lot is considered a legal substandard parcel, as it is below the current minimum size requirement of 30,000 sq. ft. for the RR-1 zoning district. The lot was created before applicable ordinance requirements for minimum lot size.

The property does not contain mapped wetlands or floodplain. The lot is located within the shoreland overlay zone and is subject to all shoreland zoning requirements but is not considered riparian/water-front, as the land within 30 feet of OHWM of Lake Nokomis is owned by Wisconsin Valley Improvement Company (WVIC).

The lot is currently being re-developed with construction occurring for a new dwelling, attached garage and porch. The principal structure footprint is nonconforming to the required shoreland set-back, with a portion of the structure located within 75 feet of the ordinary high water mark (OHWM) of the lake. There are steep grades /topography in areas closer to the shoreline. The grade is relatively flat in the area where the principal structure is being re-built.

The majority of the existing boathouse structure is located within 30 feet of the OHWM of the Lake which is WVIC owned land. Per WVIC staff, starting in 2013, a moratorium was placed on their land for most soil disturbing activities and any new permanent structures or reconstruction of existing permanent structures. Limited repairs and maintenance of existing permanent structures, piers, and walkways may still be allowed with WVIC authorization.

Based on the site plan for the recently permitted development, the impervious surface coverage is about 22-23% of the lot area. This includes the new dwelling, garage, porch, concrete parking areas, asphalt driveway, and the portion of the boathouse that is located on the parcel, over 30 feet from the OHWM of the Lake.

## **PROPERTY HISTORY AND SUMMARY OF NOTEWORTHY TOPICS**

According to zoning permit records, the initial development of the parcel occurred in 1973 with the construction of a home and garage. The installation of a septic system also occurred in 1973.

In 1975, a land-use permit was issued for the construction of a 12 ft. x 20 ft. concrete block boathouse located 10 feet from the OHWM of the Lake.

In April of 1992, a land-use permit was issued for the construction of a 24 ft. x 28 ft. block and wood frame boathouse located 12 feet from the OHWM of the Lake. In July of 1992, a variance was granted to construct the boathouse 17 feet in height, which was over the maximum height allowance stated in zoning codes at that time.

In 2005, a new septic system was installed on the lot.

In 2007, a soil disturbance permit was issued for the reconstruction of existing retaining walls in the same footprint. Also in 2007, a Conditional Use Permit (CUP) was granted to combine the width of allowable view and access corridors for the purpose of creating one larger corridor opening instead of multiple smaller view and access corridor areas. The CUP approval conditions included the requirement to actively restore the vegetative buffer zone to a depth of 40 feet from the OHWM of the lake in areas outside of the allowed view/access corridor, restoration of the hillside between the boathouse and a walkway, and preservation of all remaining trees within 40 feet of the OHWM of the Lake. A deed affidavit was also recorded in the county register of deeds, as a condition of the CUP, in order to ensure the conditions will remain in effect in perpetuity. As part of the requirements, a shoreland revegetation plan was developed in 2007.

In 2014, zoning staff monitored the lot with regard to the revegetation requirements and found the lot to be in compliance with CUP conditions. It should be noted, current code requirements related to shoreland buffers and allowable view and access corridors are largely different than what code requirements stated

in 2007. Currently, WVIC has allowances for vegetation removal within 30 feet of the OHWM of the Lake that are more restrictive than Lincoln County code allowances outlined in section 21.08(2).

### **2023 permits & construction activities:**

In March of 2023, a land-use permit was issued to re-build the principal structure (dwelling) on the lot in the same footprint as the existing nonconforming principal structure. A sanitary permit was issued in March to re-connect to the existing septic system on the lot.

In July of 2023, a land-use permit was submitted for a porch addition within the shoreland set-back as well as a roof replacement to the existing boathouse. The porch addition was permitted as a lateral expansion to the structure footprint and per section 21.12(3) and required a mitigation plan. In order to authorize the project, the owners agreed to the installation of two rain gardens on the lot which will need to be completed within 2 years of the approval date of the permit.

The boathouse roof replacement was not granted during the July 2023 permit process. During the time-frame that the land-use permit application was being reviewed by Land Services, WVIC notified the Land Services Department that more substantial structural work was occurring to the existing boathouse without WVIC approval. The work being done to the boathouse structure consisted of more substantial structural alterations than only a roof replacement and also included soil disturbance/excavation around the existing boathouse structure.

As stated in the e-mail provided to Land Services Department staff on August 10, 2023.

*“WVIC does not consider the unauthorized and unpermitted boathouse construction activities to be repair or maintenance of the previous structure. The newly poured concrete floor and apron, the new concrete block walls that replaced the traditional stick-framed front of the boathouse, and the old concrete block walls that were filled with new rebar and concrete creating a new structural wall will all need to be removed from WVIC property. In addition, the south side of the hill adjacent to the boathouse where vegetation was removed and the soil excavated to gain access to the boathouse wall will need to be restabilized and revegetated. To accomplish the boathouse removal and hillside stabilization and revegetation requirements on WVIC property, a plan and schedule will need to be provided to and approved in writing by WVIC and Lincoln County Land Services Dept. (Lincoln County).”*

In September 2023, a soil disturbance permit was issued, with WVIC authorization, in order to complete the ground work needed to back-fill and stabilize the excavated areas around the existing boathouse.

WVIC has stated that they will provide a time-frame to the landowners for the removal of the portion of the existing boathouse located within 30 feet of the OHWM of the Lake. Currently this is on hold pending the decision of the variance request.

### **PUBLIC NOTIFICATION**

The legal notice of the request was noticed in the proper manner. Staff mailed notices of the petitioner’s request to neighboring property owners within 300’ from the property boundary and the Town of Bradley.

### **APPLICABLE ORDINANCE SECTIONS**

The general purpose of the Lincoln County Shoreland Ordinance is “For the purpose of promoting the public health, safety, convenience, and welfare, and protect the public trust in navigable waters”. Areas regulated by Chapter 21 shall include all the lands (referred to herein as shorelands) in the unincorporated areas of Lincoln County, which are within 1,000 feet of the ordinary high-water mark of navigable lakes, ponds or flowages and lands within 300 feet of the ordinary high-water mark of navigable rivers or streams, or to the landward side of the floodplain, whichever distance is greater. Projects must comply with the requirements specified under general provisions for Lincoln County.

- 21.07(6)- EXEMPT STRUCTURES
- 21.08(2) - SHORELAND BUFFER STANDARDS
- 21.10 - SOIL DISTURBING ACTIVITIES

- *17.8.60 (1) - VARIANCE REVIEW AND APPROVAL PROCEDURE. PURPOSE.* The purpose of this section is to provide regulations which enable the Board of Adjustment to hear and decide requests for permitted variation from the terms of this chapter as will not be contrary to the public interest; where owing to special factors, a literal enforcement of the provisions of this chapter would result in practical difficulty or unnecessary hardship, so that the spirit of this chapter shall be observed, public safety and welfare secured, and substantial justice done; as provided for by Wisconsin Statutes and applicable case law.
- *17.8.60 (9) TIME LIMITS ASSOCIATED WITH VARIANCES.* An approved variance shall expire 24 months from the date issued if the work described in the permit is not commenced, unless a one-time, one-year extension is applied for, without fee, from the Board of Adjustment prior to the expiration date.

## EVALUATION

### APPROVAL CRITERIA

The Board of Adjustment shall review all variance petitions against the standards provided under Wisconsin Statutes and applicable case law, and with the consideration to the following three legal standards of the Lincoln County Zoning Ordinance. The petitioner has submitted responses to the variance standards outlined in the variance application (see variance application in packet) and below is the staff analysis of the request.

**1) Unnecessary Hardship – Compliance with variance standards would unreasonably prevent the owner from use of the property for a permitted purpose, or would be unnecessarily burdensome.**

**Staff Analysis:** In the case of the standard “Unnecessary Hardship”, the applicant states an unnecessary hardship is present because WVIC owns the first 30 feet from the OHWM, making it impossible to comply with Lincoln County’s shoreland zoning code. Per staff analysis, these regulations would have not prevented the landowner from utilizing the existing boathouse structure which was originally built in 1992. The hardship appears to have been created by the applicant in the fact that the work done to the structure was not authorized by WVIC and did not consist of only a roof replacement as proposed in the County land-use permit application. Additionally, staff has been informed of discussions between the applicant and WVIC staff that they are exploring other legal alternatives. Thus, the applicant does not provide clear evidence that denial of the variance would unreasonably prevent them from using this property for the proposed use.

**2) Unique Property Features - this hardship is created because of unique qualities of the property, not the circumstances of the owner.**

**Staff Analysis:** To meet this standard, the hardship must be because of unique property features, rather than the circumstances of the owner. Examples of unique property features could include a legal substandard lot size, steep slopes, existing building configurations, or existing septic layout/location which prevent building in compliance with the ordinance.

The applicant states on the variance application that unique features of the property prevent compliance, including WVIC’s ownership of the first 30 feet of land from the OHWM. Per staff analysis, while this does prevent compliance with the construction of a new boathouse by the applicant meeting ordinance standards, it would not have prevented the landowner from obtaining a land use permit for a roof replacement on the existing boathouse as originally proposed by the applicant. As defined above, unique property features do not exist for the applicant’s property as it relates to building a new boathouse on a nonriparian property, exceeding the maximum size allowance and outside of the allowable view and access corridor of the parcel.

**3) Public Interest – the variance would not harm the public interest, which is the purposed and intent of the ordinance.**

**Staff Analysis:** Under standard three, the variance cannot be contrary to public interest or overall intent of the shoreland ordinance. The applicant states there has been a boathouse on this property and others around the lake. They are requesting to move it back off of WVIC owned property. They are requesting a size no larger than the current structure.

By allowing a new boathouse structure to be constructed as proposed; starting at 30 feet from the Lake; a variance approval would harm the public interest and be contrary to the intent of the Lincoln County Shoreland Ordinance due to the excavation and soil disturbance that will be needed on the property for placement of the new boathouse in unstable and highly erodible soil conditions. The contractor has stated that the new boathouse will not be able to be placed on the current grade and land will need to be excavated to set the new boathouse at a lower elevation; so as not to obstruct the view from the new dwelling. Some of the excavation will be occurring within 35 feet of the OHWM of the Lake. Shoreland code section 21.10(e) states: "Filling, grading or excavating within the required shoreland buffer, the area of land located within 35 feet of the OHWM, is prohibited, except where authorized in association with a permitted use by this chapter, state, or federal regulations, and only to the minimum extent necessary to accomplish said permitted use." Therefore, the plan for excavation in this location does not meet the intent of shoreland ordinance. Further, section 21.08(2)(a)(4) of the Lincoln County Shoreland Ordinance states: "The view and access corridor must be maintained with some form of vegetation that prevents bank erosion and sedimentation of the waterway. Sand, gravel, rock or other similar materials shall be prohibited as an alternative to vegetation unless otherwise allowed by this chapter." There will be continual challenges with how the land between the new boathouse and lake will remain vegetated with groundcover due to the erodible soil conditions, wave action from watercraft, and user foot traffic going from upland areas to the lake. New Impervious surfaces will not be able to be constructed lake-side of the new boathouse, thus presenting further challenges to meet vegetation standards to establish and maintain a groundcover lake-side of the new boathouse and control erosion of the soil in this location long-term.

**STAFF RECOMMENDATION**

Based on the evidence available in the application and the three variance standards, staff recommends **Denial** of the variance to sections section 21.07(6)(2)(b) and section 21.07(6)(2)(d) of the Lincoln County Shoreland Zoning Ordinance, to allow for the construction of a new boathouse exceeding the maximum size allowance and for the construction of a new boathouse outside of the allowable view and access corridor of the parcel.

*Laura Boquist*

Laura Boquist, Lincoln County Shoreland and Land Use Specialist

10/18/2023

Date

*Mike S. Huth*

Mike Huth, Lincoln County Zoning Program Manager

10/18/2023

Date

# Looking East- Photo from 2014

Prior existing boathouse structure. Provided to Land Services Dept. by WVIC



# Looking North-East- Photo from 7-21-23

Photo provided to Land Services Dept. by WVIC





## Looking East- Photo from 7-21-23

Photo provided to Land Services Dept. by WVIC



## Looking West - Photo from 10-6-23

Photo Provided to Land Services Dept. by the Landowner (Nicole Marcell)



## Looking North-West- Photo from 10-6-23

Photo Provided to Land Services Dept. by the Landowner (Nicole Marcell)



# Looking North- Photo from 10-6-23

Photo Provided to Land Services Dept. by the Landowner (Nicole Marcell)



# Property Overview

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eye7

WIS VALLEY  
IMP CO



Lincoln County, WI

Author: Public  
Date Printed: 9/28/2023



DISCLAIMER: The information depicted on this map is a compilation of public record information including aerial photography and other base maps. No warranty is made, express or implied, as to the accuracy of the information used. The data layers are a representation of current data to the best of our knowledge and may contain errors. It is not a legally recorded map and cannot be substituted for field-verified information. Errors should be reported to Land Services Department, 801 North Sales St, Merrill, WI, 54452. Phone (715) 539-1087.