

A large, stylized graphic consisting of several overlapping chevrons pointing to the right. The top chevron is dark teal, and the others are in shades of orange and yellow. A thick orange line runs diagonally from the bottom left towards the right, passing behind the chevrons.

Spring 2021

Bunkowski Gravel Pit

Compliance Report

Prepared for:

City of Vergas, Minnesota

May, 2021

Spring 2021
Bunkowski Gravel Pit Compliance Report
Vergas, Minnesota
KLJ Project #2104_00530
Report for the City of Vergas, MN
By: KLJ

CERTIFICATION

I HEREBY CERTIFY THAT THIS PLAN, SPECIFICATION, OR REPORT WAS PREPARED BY ME OR UNDER MY DIRECT SUPERVISION AND THAT I AM A DULY LICENSED PROFESSIONAL ENGINEER UNDER THE LAWS OF THE STATE OF MINNESOTA.

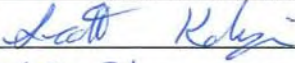
PRINTED NAME: SCOTT KOLBINGER
SIGNATURE: 
DATE: 5/7/2021 LICENSE NUMBER: 54153



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Bunkowski Gravel Pit Compliance Report

Vergas, Minnesota
KLJ Project 2104_00530

EXECUTIVE SUMMARY

The purpose of this compliance report is to determine if the current Bunkowski Gravel Pit is in compliance with the City of Vergas Ordinance NO. 2017-001 “151.70 Excavation, Mining and Gravel Pits”. As a consultant for the City of Vergas, KLJ Engineering surveyed the gravel pit property and developed maps to obtain excavation areas, setback distances, and surface grades. These measurements were compared to the requirements outlined in the City Ordinance 2017-001 to verify if the property is in compliance or if any violations exist.

We conclude that the Bunkowski Gravel Pit, owned and operated by Marks Sand and Gravel Co., is currently out of compliance with the City of Vergas Ordinance No. 2017-001 Revision 2 titled “151.70 Excavation, Mining, and Gravel Pits”. Two setback distances and the processing area are in violation at the time of the detailed inspection and reporting process. The violations are summarized below:

- One (1) setback violation located in the south pit along the east and south west property line off East Looney Lane.
- One (1) setback violation located in the south pit along the south boundary of the pit within 500’ of the nearest structures.
- Processing area size in excess of maximum allowed size.

The limits of excavation for “Active Gravel Pit” are currently less than the maximum areas allowed, thus in compliance with the ordinance.

We recommend that the pit be brought back into compliance with the Ordinance prior to the next inspection scheduled for the spring of 2022.

While reviewing the site, it appears that Mark’s Sand and Gravel has been working to correct the previous violations but has not fully completed the restoration. Along the southern boundary, the excavated slope within the setback has been filled in to comply with the slope requirements adjacent to the property lines. Similarly, along the east edge of the southern pit, stockpiles have been worked to remove the slope violation. While the slopes have been worked to meet compliance, the area does not appear to have been topsoiled and seeded. With a spring survey, it is difficult to tell if any new vegetation is present and therefore has been included in the open gravel pit calculation.



INTRODUCTION

The Bunkowski gravel pit located in the City of Vergas, Minnesota was originally established in the late 1960s and is currently owned by Marks Sand & Gravel for the purposes of extracting non-metallic minerals. A location map of the Bunkowski Gravel Pit can be found in **Appendix A**, and a copy of the contract for deed which contains the legal description of the property can be found in **Appendix B**. The aggregate mined from this pit will be used for various road construction projects throughout the region over a 20-year planned period.

Figure 1 - Bunkowski Gravel Pit



The purpose of this compliance report is to determine if the current gravel pit is within compliance with the City of Vergas Ordinance NO. 2017-001 Revision 2 “151.70 Excavation, Mining and Gravel Pits”. A copy of this ordinance can be found in **Appendix C**. The City of Vergas passed the ordinance to regulate existing and future mining operations, to ensure proper land utilization and to protect public health, life and general welfare.

Marks Sand & Gravel Co. has submitted an application or an interim use permit, found in **Appendix D**, for the continued use of the mine within city limits. The City of Vergas has approved the application and has granted Marks Sand & Gravel an interim use permit, found in **Appendix E**.

MINE DESCRIPTION

The gravel pit is located on the northeast corner of East Looney Lane and South Pelican Ave on the south side of Vergas. The property boundary encompasses approximately 140 acres. Currently, 26 acres have been mined or have been stripped in preparation for mining or stockpiling. Approximately 45 acres have been designated for mining operations in the future. The mining operation consists of stripping and stockpiling topsoil, excavating material using front end loaders, bobcats, and dozers, loading material on tri-axial dump trucks and semi-trucks, and hauling offsite.



Figure 2 - Edge of Active Mining Area



Phasing Plan

Marks Sand & Gravel plans to continue mining operations in the southern area of the existing pit until resources are exhausted. The excavated side slopes will be regraded to meet the maximum slope criteria. Topsoil will then be spread over the areas that have been completely mined as they are reclaimed.

SITE REQUIREMENTS

The City of Vergas Ordinance NO. 2017-001 Revision 2 “151.70 Excavation, Mining and Gravel Pits” outlines several requirements for gravel pits located within city limits to follow. Conditions on maximum slopes, minimum setbacks and limits on excavation are summarized below.

Maximum Slopes

During the entire period of operations, all excavations other than the working face shall be sloped on all sides at a maximum ratio of one foot horizontal to one foot vertical, unless a steeper slope shall be approved by the city. Where excavations are adjacent to a public roadway or other right-of-way, or the property adjacent to the excavation, the excavation shall have a maximum four to one slope. Slopes adjacent to or contiguous to bodies of water shall be sloped at a maximum of six to one.

Table 1 - Required Slopes

Location:	Maximum Slope (H:V)
Operating Areas other than Working Face	1:1
Adjacent to Public Roadways or Other Properties	4:1
Adjacent to Bodies of Water	6:1



Figure 3 - Excavation Slopes



Setbacks

The following setbacks shall apply: No mining shall take place within one-hundred (100) feet of any property line, road right-of-way or easement; No part of the operation shall be within five hundred (500) feet of any occupied structure not owned by the Operator or Owner and existed at the time of the original permitting.

Table 2 - Required Setbacks

Location:	Minimum Setback
Property Lines, Road Right-of-Way, or Easements	100 Feet
Occupied Structure	500 Feet

Limits of Excavation

Active Gravel Pit/Active Mining: Max. 10 Acres

No more than ten (10) acres shall be opened as an “active gravel pit” or “active mining. The terms “active gravel pit” and “active excavation” shall mean any area where topsoil or overburden has been removed and the excavation of earthly deposits or minerals is currently taking place or has taken place within the last 6 months. Generally, active gravel pits are characterized by deeply excavated areas with steep side slopes. Active gravel pit areas may also include the stockpiling and storage of sand, gravel, and other materials. No more than ten (10) acres shall be open to active mining as defined by “active gravel pit” or “active mining”. For each additional five (5) acre area to be mined, five (5) acres of previously mined area must be reclaimed.

Processing Area: Max. 5 Acres

No more than five (5) acres shall be utilized for processing as defined as a “processing area”. The term “Processing Area” refers to any area used for stockpiling and storage of sand, gravel and other materials, as well as any area with machinery used to crush, wash, mix, compound, and to treat dirt, sand, gravel, rocks, or similar products into consumable products such as construction grade sand, gravel and similar products. This area does not include asphalt plants and concrete



ready-mix plants. In the event that the processing area is moved, shifted, or relocated the previous area shall immediately be reclaimed or actively mined and shall than be classified as an “active gravel pit” area.

Idle Excavated Area: Only Pre-existing areas

The term “Idle Excavated Area” refers to any area where topsoil or overburden has been removed for the purposes of mining operations of earthly deposits or minerals, yet the area has remained idle and no active excavation or material processing has taken place within the past (1) year. Only pre-existing areas classified as “idle excavated areas” will be allowed. No new land shall be classified as such. “Active gravel pit” areas cannot be classified as “idle excavated areas”.

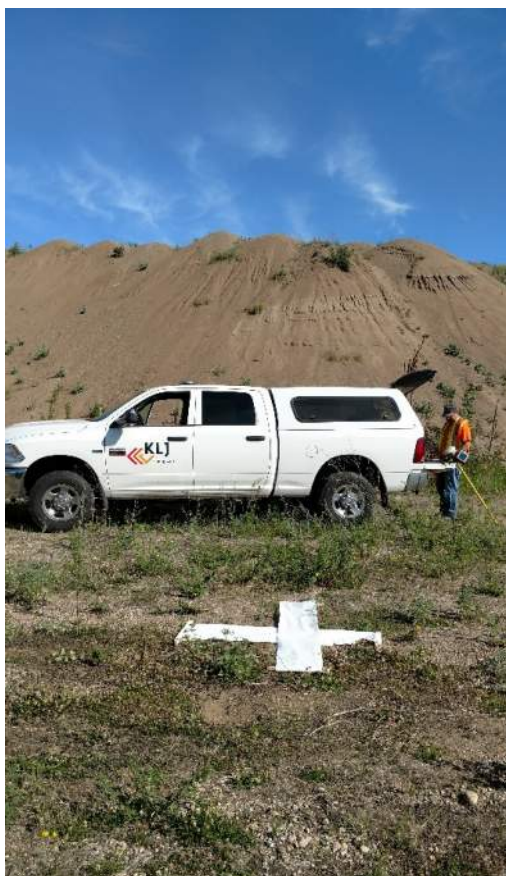
INSPECTION

The City of Vergas has requested that KLJ Engineering perform inspections of the Bunkowski gravel pit each year to verify compliance with the City of Vergas Ordinance NO. 2017-001 “151.70 Excavation, Mining and Gravel Pits”. KLJ conducted their survey and inspection of the site on April 20th, 2021. The Gravel Pit Inspection - Field Report can be found in **Appendix F**.

Process

KLJ utilized a combination of traditional survey methods and aerial drone surveying to obtain an aerial image and a ground surface file of the property. Several passes of the drone over the property were necessary to obtain an accurate image and surface elevations within the site.

Figure 4 - Drone Control Point





REPORTING

The aerial image and surface files were imported into AutoCAD Civil 3D software to analyze and measure the current properties of the mining operation. Detailed maps were produced showing active mining areas, disturbed areas, property lines, and setbacks. A map of the current conditions can be found in **Appendix G**.

Results

A detailed review of the site with its current conditions was conducted. Two (2) pits were discovered and measured within the overall mining area. Pit areas are classified as deeply excavated areas with steep side banks and no restoration or reclamation work complete. The south pit is classified as “Active Mining” and has an area of 7.0 acres. The north pit has an area of 6.2 acres and has not been actively mined since at least 2017 and is classified as an “Idle Excavated Area”. The total area that is currently classified as a steep sloped pit is 13.2 acres.

It was discovered that several requirements of the City ordinance are not in compliance. The eastern and southwest limits of the south pit violate both the 100 ft property setback and 500 ft structure setback requirements. A map showing the setback violations can be found in **Appendix H**, a map of the maximum slope violations can be found in **Appendix I**. Additionally, it appears that the processing area as expanded beyond the limits provided in the ordinance.

The setback violations noted were discovered in the south pit. The most severe violation is a setback infringement along the property lines.

Excavation Area Classification:	Acres	Limit
Active Gravel Pit	6.6 Acres	10 Acres
Processing Area	5.4 Acres	5 Acres
Idle Excavated Area	6.2 Acres	-
Total Open Gravel Pit	26.3 Acres	-

A comparison of the spring 2020 and spring 2021 ground surfaces of the south ‘active mining’ areas were analyzed to obtain the total amount of material mined from the gravel pit. The table below shows the amount of excavation taken from the gravel pit.

Material Quantity	Cubic Yards
Cut (excavation)	67,125 CY
Fill (embankment)	36,451 CY
Net	30,675 CY

Appendix J has been included to identify the areas within the south “active mining” area that have been excavated or filled from the previous review. It should be noted that the areas within the 100’ property setback lines have been modified by both excavation and filling (stockpiling) of materials. It does not appear that any of the area has been reclaimed.

CONCLUSION

As described above, the Burkoswki Gravel Pit is in violation of their permit and the City of Vegas Ordinance No. 2017-001 titled “151.70 Excavation, Mining, and Gravel Pits”. There are two areas of



setback violations and a violation in land use for the “Processing Area” size. The land use limitations for “Active Excavation” is currently within compliance.

Recommendations

It is recommended that Marks Sand & Gravel correct the violations outlined in this report using its own company means, methods, techniques, sequences, or procedures for all work located within the gravel pit property. These areas would then be smoothly graded, top-soiled, and seeded as described in the application for interim use permit submitted by Marks Sand and Gravel.

Figure 5 - Mining Operations



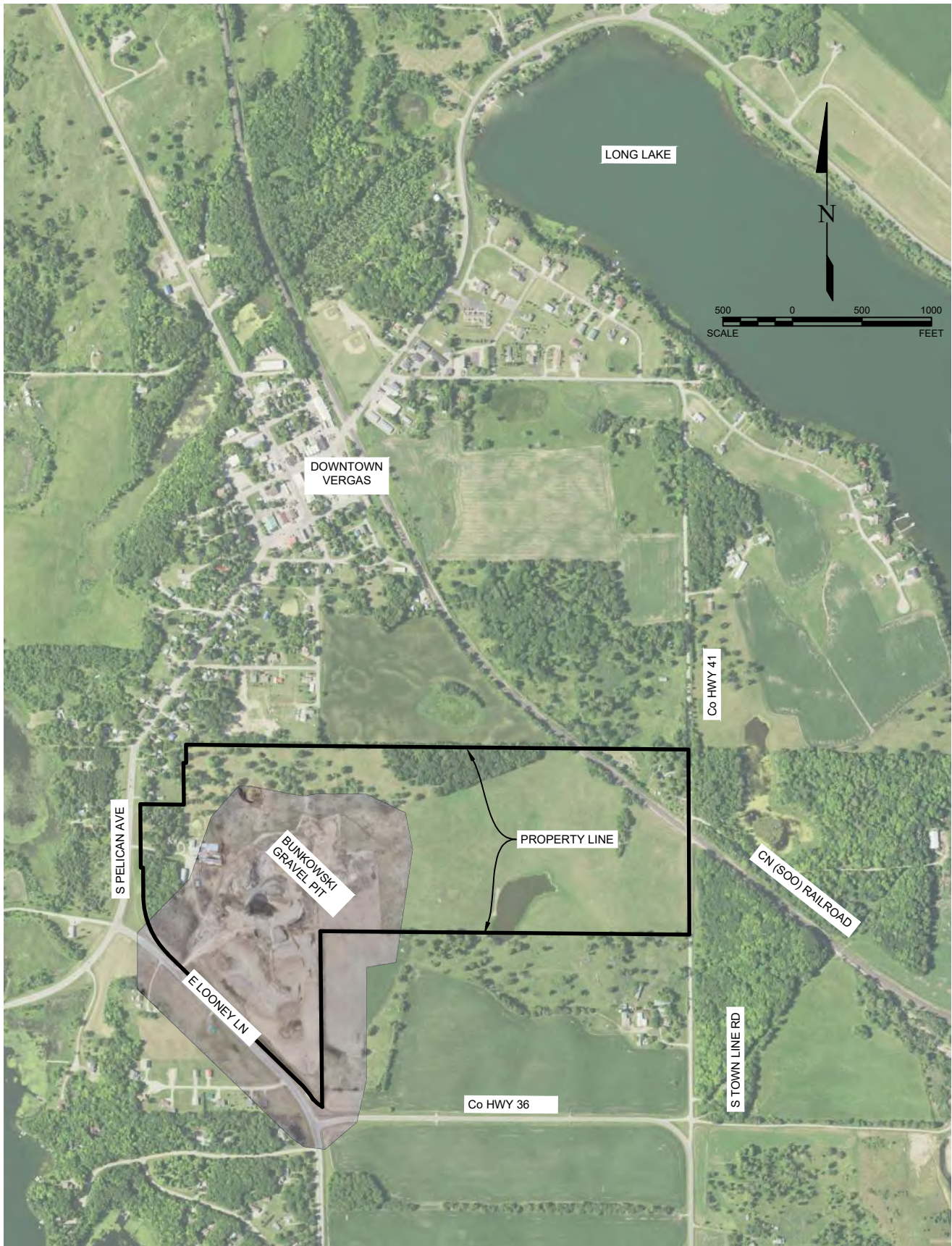
Summary

The conclusions and recommendations within this report were developed based on observations and measurements from aerial imagery and surface contours. It is anticipated that moderate grading and reclamation efforts will be required to correct the current violations prior to the next inspection scheduled for spring 2022 prior to the start of the pit being utilized. Fixing these violations will ensure that the land is properly utilized and will protect the public’s health, life and general welfare.

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APPENDIX A - LOCATION MAP



GRAVEL PIT COMPLIANCE REPORT

CITY OF VERGAS
VERGAS, MINNESOTA

APPENDIX A - LOCATION MAP

DRAFTED	EAS
REVIEWED	SK
PROJECT NUMBER	2104_00530
ISSUE DATE	05/06/2021





Appendix B Bunkowski Legal Description

CONTRACT FOR DEED
Individual Seller

Date: August _____, 2015

THIS CONTRACT FOR DEED is made on the above date by **Donald Bunkowski and Janette Bunkowski, husband and wife**, Seller (whether one or more), and **Mark Sand and Gravel Co.**, Purchaser.

Seller and Purchaser agree to the following terms:

1. **PROPERTY DESCRIPTION.** Seller hereby sells, and Purchaser hereby buys, real property in Otter Tail County, Minnesota, described as follows:

The North One Half of the Southeast One Quarter (N1/2 SE1/4), except 5 acres in the Northeast corner thereof, in Section 25, Township One Hundred Thirty-seven (137) North, Range Forty-one (41) West, which tract is described as follows: Beginning at the Northeast corner of the Southeast One Quarter (SE 1/4) of Section Twenty-five (25), of the unplatted lands of the Village of Vergas, thence South 34 rods and 4 feet following the township line between Candor and Hobart Townships to a point intersection with the Railway right of way of the Minneapolis, St. Paul & Ste. Marie Ry., then in a Northwesternly direction 58 rods and 10 feet to a place where the above named railway right of way intersects with the quarter section line thence due East 45 rods and 10 feet to place of beginning;

The East One Half of the Southwest One-Quarter, (E1/2 SW1/4), EXCEPT the following described tracts, to wit:

- 1) Beginning at the Southeast corner of the Southeast One-Quarter of the Southwest One-Quarter (SE1/4 SW1/4) of Section 25, thence in a straight line 80 rods West, thence in a straight line 80 rods North, thence in a straight line diagonally through said Southeast One-Quarter of the Southwest One-Quarter (SE1/4 SW1/4), to the place of beginning;

- 2) Beginning at a point 2 rods East of the Northwest corner of the East One-Half of the Southwest One-Quarter, (E1/2 SW1/4), running thence South 8 rods, thence East 20 rods, thence North 8 rods, thence West 20 rods to the place of beginning. Containing one acre;
- 3) Beginning at a point that is 33 feet East of the West line and 132 feet South of the North line of the East One-Half of the Southwest One-Quarter (E1/2 SW1/4) of Section 25, thence South along the East line of highway a distance of 173 feet, thence East a distance of 252 feet, thence North a distance of 173 feet, thence West a distance of 252 feet to point of beginning;
- 4) Beginning at a point that is 305 feet South of the North line of the East One-half of the Southwest One-Quarter (E1/2 SW1/4) of Section 25, thence due East a distance of 247 1/2 feet, thence due South a distance of 87 1/2 feet, thence due West 247 1/2 feet, thence North 87 1/2 feet to place of beginning, all in Section 25.

Subject to any easements, covenants, or restrictions of record.

together with all hereditaments and appurtenances belonging thereto (the Property).

SUBJECT TO THE RESERVATION OF A LIFE ESTATE IN THE SELLERS IN AND TO THE FOLLOWING:

That part of the East One-Half of the Southwest One-Quarter, (E1/2 SW1/4) of Section 25, Township 137, Range 41, lying west of the following described line:

Commencing at the northwest corner of the East One-Half of the Southwest One-Quarter, (E1/2 SW1/4), thence easterly on and long the north line of said east half a distance of 700 feet to the point of beginning; thence south and parallel to the west line of the said east half to a point of intersection with East Loony Lane and there terminating.

2. **TITLE.** Seller warrants that title to the Property is, on the date of this contract, subject only to the following exceptions:

- (a) Covenants, conditions, restrictions, declarations and easements of record, if any;
- (b) Reservations of minerals or mineral rights by the State of Minnesota, if any;
- (c) Building, zoning and subdivision laws and regulations;
- (d) The lien of real estate taxes and installments of special assessments which are payable by Purchaser pursuant to paragraph 6 of this contract; and



Appendix C City of Vergas Ordinance NO. 2017-001 151.70 Excavation, Mining and Gravel Pits

**ORDINANCE NO. 2017-001
CITY OF VERGAS
COUNTY OF OTTER TAIL
STATE OF MINNESOTA**

151.70 EXCAVATION, MINING AND GRAVEL PITS

151.70 PURPOSE AND INTENT

It is the purpose of this section to regulate the existing and future Mining Operations in the city. Mining Operations are inherently accompanied by noise and dust, often create hazardous conditions, and may result in lasting disfigurement of the land where they are conducted on, and therefore tend to interfere with the use of nearby property or the quality of life for the residents adjacent or in proximity to Mining Operations. It is also the city's intent to ensure that the disturbed areas are restored upon completion of Mining Operations, and overall, to protect public health, life and general welfare.

151.701 DEFINITIONS.

For the purposes of this section, the definitions listed below shall be construed as follows:

Abandonment. The inactivity of a work-site for one year or more without the act of extracting any minerals.

Active Gravel Pit. The terms "active gravel pit" and "active excavation" also mean any area where the topsoil or overburden has been removed for the purpose of mining earthly deposits or minerals, yet the area has remained idle since the topsoil removal. The terms "active gravel pit" and "active excavation" also mean any area that is being used for stockpiling, storage, or processing or recycling of sand, gravel, soils, or other materials or products derived from gravel mining, even if such materials did not originate or were not produced on the premises. Such operations may include, but are not limited to, concrete mixing, concrete block production, asphalt production, the grinding and/or crushing of concrete or asphalt, and the processing of petroleum-contaminated soil being managed pursuant to state pollution control agency approval, so long as the processing or recycling does not violate any federal or state law or any of the requirements of any regulatory agencies having jurisdiction over the operations.

Berm. A mound of earth designated to provide screening of areas and to reduce noise.

Dust. Airborne mineral particulate matter.

Engine Retard Breaking. Dynamic Brake, Jake Brake, Jacobs Brake, C Brake, Paccar Brake, transmission brake or other similar engine retarding brake system which alters the normal compression of the engine and subsequently releases that compression.

Excavation. The movement or removal of soil and minerals.

Interim Use Permit. A permit for temporary use of a property until a particular date, until the occurrence of a particular event, or until zoning regulations no longer permit it.

Manufacturing. Any activity that includes Portable or Permanent or Temporary Asphalt Plants, Concrete Ready Mix Plants, Processing and Recycling Plants.

Mineral. Sand, gravel, rock, clay and similar higher density non-metallic natural minerals.

Mineral Extraction. The removal of sand, gravel, rock, clay and other minerals from the ground.

Mineral Extraction Facility. Any area that is being used for removal, stockpiling and storage, of sand, gravel, topsoil, clay, and other minerals.

Operator. Any person or persons, partnership, corporations or other entities or a combination or assignees thereof, including public or governmental agencies, engaging in mineral extraction and any processing, recycling, and manufacturing activities derivatives.

Operation. "Operation" includes the driving of all hauling trucks or equipment into or out of a gravel pit, loading, roadwork or engine start-up of any kind.

Owner. Any person or persons, partnership, corporation or other entities owning fee title to the Subject Property.

Processing Plant. Machinery used to crush, wash, compounding, mixing, or treat dirt, sand, gravel, rocks, or similar mineral products into consumable products such as construction grade sand, gravel, and other similar products. This does not include Asphalt Plants and Concrete Ready Mix Plants.

Rehabilitation. To renew land to self-sustaining long-term use which is compatible with contiguous land uses, present and future, in accordance with the standards set forth in this Ordinance.

Rough Grade. The stage at which the grade approximately conforms to the approved plan.

Slope. An inclined ground surface the inclination of which is expressed as a rate of horizontal distance to vertical distance.

Soil. Is naturally occurring superficial deposits overlaying bedrock.

Stockpiling. Move or handle a reserve supply of goods or raw material accumulated for future use.

Subject Property. The real property on which Mineral Extraction Facilities, Processing Plant, Asphalt Plant and/or Ready Mix Plant is sought to be permitted.

Top Soil. Is the upper most layer of naturally occurring soil.

151.71 PERMIT REQUIRED.

Mineral Extraction.

- A. Permit Required. Irrespective of the zoning classification of a subject property a permit, as provided herein, is required for Mineral Extraction or Manufacturing unless specifically excepted from such permit.
- B. An Interim Use Permit (I.U.P.) is required for any Mineral Extraction or Manufacturing Facility.
- C. Interim Permits are valid for one year and shall be applied for on or before March 1 of each year.

151.72 PERMIT APPLICATION REQUIREMENTS.

An application for a permit required by this article shall contain the following:

- A. The legal description of the lands from which it is proposed to excavate, remove, process, store or handle minerals.
- B. The name and address of the applicant and the name and address of the owner of the land.
- C. Names and addresses of all adjacent landowners within one-half mile radius.
- D. Copies of any agreements pertaining to the operation including the duration of any lease, if applicable.
- E. The purpose of the removal.
- F. The estimated time required to complete the removal.
- G. The highways, streets or other public ways within the city upon and along which the material removed shall be transported.
- H. The plan of operation, including, but not limited to:

1. Soil processing (any operation other than direct mining and removal),
 2. Nature of the processing and equipment,
 3. The area to be included in the operation,
 4. Depth of topsoil and soil type,
 5. The depth and grade of excavation,
 6. The estimated quantity of material to be added to or removed from the premises,
 7. Location of the plant,
 8. Location of stock piles,
 9. Source of water, disposal of water and reuse of water. In the event that water is used in the operation of a pit, approval from the state department of natural resources and other appropriate state or federal agencies shall be obtained as to the type, location and depth of such well and contained with such application.
 10. The number and location of trees prior to excavation,
 11. Adjacent and on-site buildings and land uses,
 12. Map or plat of the proposed pit or excavation showing the confines or limits thereof, together with the proposed finished elevations based on sea level readings.
 13. Elevations and percent slope within 100 feet beyond the perimeter of the excavation and other such information necessary to analyze the site shall be provided by the applicant. United States Geological Survey datum shall be used for all topographic mapping where feasible.
 14. Phasing plan which provides no more than ten (10) acres of the site to be open to mining at any one time. Before any additional land may be mined, the applicant must reclaim the site to the condition that is indicated on the approved reclamation plan.
- I. The operation plan must also identify actions to be taken during operation to mitigate adverse environmental impacts, particularly erosion and rising dust out of any sand or gravel pit.
 - J. A reclamation plan including, but not limited to:
 1. Final grade of the property;
 2. Depth of topsoil reclaimed;

3. Type of vegetation replanted;
4. Number of trees to be replanted, replacing the trees removed during excavation.

151.73 BOND.

- A. The city council shall require the applicant for a special use permit under this article, owner or user of the property on which the pit or excavation is located, to post a cost bond with surety acceptable to the city or cash escrow in such form and sum as the city council shall determine, with sufficient surety running to the city, conditioned to pay the city the extraordinary cost and expense of managing or repairing, from time to time, any highways, streets or other public ways where such repair work is made necessary by the special burden resulting from hauling and travel, in removing material from any pit or excavation, the amount of such cost and expense to be determined by the city engineer; and conditioned further to comply with all the requirements of this chapter, and the particular permit, and to pay any expense the city may incur by reason of doing anything required to be done by any applicant to whom a permit is issued.

The city council, for failure of any person to comply with any requirements made of him in writing, under the provisions of this chapter, as promptly as the same can reasonably be done, may proceed to such requirement to be complied with and the cost of such work to be taxed against the property, whereon the pit or excavation is located or the city council may at its option proceed to collect such costs by an action against the entity to whom such permit has been issued and its sureties.

- B. In addition to the bond required in subsection (a), the applicant for the permit shall post a performance bond of at least \$50,000.00. The amount may be greater based on the city engineer's recommendation. The performance bond shall be executed by a corporate surety company authorized to do business in the state. The performance bond shall be used for the active areas for which a permit is granted and conditioned upon full performance of the terms and conditions of this chapter by the applicant and/or owner of the premises described in the permit application. The bond shall remain in effect for at

least one year after the expiration of the permit. The bond shall guarantee the required restoration of the entire site.

151.74 AGREEMENT TO HOLD CITY HARMLESS

No person shall open, operate or maintain mineral extraction facility or engage in mineral extraction on a subject property without an agreement with the city, saving the city free and harmless from any and all suits or claims for damage resulting from negligent excavation, removal or storage of minerals or operation of any mineral extraction facility within the city.

151.75 FEES AND APPLICATIONS.

151.75.001. **Annual fee required.** An annual fee will be required for the Interim Use Permit. Such fee shall be established by council resolution as adopted from time to time.

151.75.002. **Inspection and review permit fee.** The inspection and review permit fee shall be established by council resolution adopted from time to time.

151.75.003. **Denial of Permit.** In the event an application for the issuance of a permit is denied, the city council shall retain such amount of said fees as shall be necessary to defray costs of engineering and legal services incurred by the council in connection with such application and the balance, if any, shall be returned to the applicant.

151.75.004. **Reimbursement of city for engineering and legal services.** In the event of the cost of engineering and legal services exceeds the permit fee, then and in that event the applicant shall, upon notice from the city, reimburse the city for the same within 30 days.

151.75.005. **Form of application.** The application shall be in such form and shall furnish such information as shall be required by the city council.

151.76 INSPECTIONS.

The city engineer shall inspect operating gravel mining pits twice a year, May 1st and November 1st, to confirm compliance with this Ordinance. Written reports shall be submitted to

the city administrator within 30 days following each of these inspections. The Engineer shall inspect and certify as compliant or, if deficient, note the deficiency and corrective action to be taken pursuant to a checklist to be developed by the engineer and the City to ensure compliance with this ordinance.

151.77. CONDITIONS OF PERMIT.

151.77.01. **Hours of Operation.** Operation shall be conducted only between the hours of 7:00 a.m. and 7:00 p.m., Monday through Saturday, unless specifically authorized by the City. No mineral extraction or manufacturing shall take place on holidays. In cases of public emergencies, hours of operation may be extended by the City Clerk. It is the specific intent of this section that no crushing, loading, hauling, or engine startup activity of any kind shall take place on or upon any area or subject property other than during those hours specified above.

151.77.02. **Fencing or Berm:** Where deemed necessary by the City, a fence or berm may be required prior to the commencement or as a condition of the continuous operation of any Mineral Extraction or Manufacturing operation enclosing the area authorized by the applicable permit. If required, the fencing must have a minimum of two (2) single strand wires with posts a maximum of twelve (12) feet apart and at least four (4) feet in height. The berm must be a minimum of thirty (30) inches high and six (6) feet in width at the base.

151.77.03. **Screening.** The applicant or owner shall plant suitable and fast growing screening trees which shall be a minimum of six feet high placed in two rows, staggered with trees not more than ten feet apart in each row, reducing unsightly view of the operations and reducing noise and dust.

151.77.04. **Access Roads.** All access roads will be of a sufficient length from a public road so that any turns onto the public road can be completed with a margin of safety. All access roads shall be maintained so as to minimize noise and dust from vehicles using such access road.

151.77.05. **Dust Control.** The Operator shall utilize all practical means to reduce the amount of dust cause by the operation. In no case shall the amount of dust or other particulate matter exceed the standards established by the MPCA pollution control agency and the United States EPA.

151.77.06. **Noise.** Maximum noise levels at the perimeter of the Operation will be consistent with the standards established by the Minnesota Pollution Control Agency and the United States Environmental Protection Agency.

151.77.07. **Air Quality.** All activities on the Subject Property will be conducted in a manner consistent with the Minnesota Pollution Control Agency's standards.

151.77.08. **Maximum slopes.** During the entire period of operations, all excavations other than the working face shall be sloped on all sides at a maximum ratio of one foot horizontal to one foot vertical, unless a steeper slope shall be approved by the city. Where excavations are adjacent to a public roadway or other right-of-way, or the property adjacent to the excavation, the excavation shall have a maximum four to one slope. Slopes adjacent to or contiguous to bodies of water shall be sloped at a maximum of six to one.

151.77.09. **Setbacks.** The following setbacks shall apply:

- a. No mining shall take place within one-hundred (100) feet of any property lines, road right-of-way or easement;
- b. No part of the operation shall be within five hundred (500) feet of any occupied structure not owned by the Operator or Owner and existing at the time of the original permitting.

151.77.10. **Limits of Excavation.** No more than ten (10) acres shall be open to active mining. For each additional five (5) acre area to be mined, five (5) acres of previously mined area must be reclaimed.

151.77.11. **Noxious Weeds.** The Operator shall utilize all practical means to reduce and prevent the growth of noxious weeds.

151.77.12. **Spillage on Public Roadways.** Spillage of material on and damage to public streets used as haul roads shall be cleaned up and repaired to the satisfaction of the City Engineer in a timely manner.

151.77.13. **Water pollution.** Operators shall comply with all applicable state pollution control agency regulations and federal and Environmental Protection Agency regulations for the protection of water quality. No waste products or process residue, including untreated wash water, shall be deposited in any lake or natural drainage system, except that lakes or ponds wholly contained within the extraction site may be so utilized.

151.77.131. **Topsoil preservation.** All topsoil shall be retained at the site until complete rehabilitation of the site has taken place according to the rehabilitation plan.

151.78. RECLAMATION.

151.78.01. All mining sites shall be reclaimed immediately after mining operations cease. Reclamation shall be complete within one (1) year. The following standards shall apply:

- 1) The peaks and depressions shall be graded and backfilled to a surface which will result in a gentle rolling topography in substantial conformity to the land area immediately surrounding. All interior slopes shall be graded to a maximum of 4:1.
- 2) The slope to adjacent properties shall be four foot horizontal to one foot vertical (4/1) of mined areas;
- 3) Reclaimed areas shall be surfaced with six (6) inches of soil of a quality at least equal to the topsoil of the land areas immediately surrounding; and
- 4) The topsoil shall be seeded, sodded or planted with legumes and grasses. Trees and shrubs may also be planted, but not as a substitute to grasses and legumes. Erosion control measures must be implemented until ground cover is established.

151.78.0011. **Standards for filling and compaction.** Prior to reclamation, the operator shall provide to the city engineer the location, area, and depth of the land before and after the anticipated activity. Such activity and the materials used shall be subject to the following:

151.78.0012. Prior to such activity, the operator shall submit an engineering analysis of the proposed fill and compaction method to the city engineer. Side slopes of the excavation shall

be graded to a maximum 1:1 slope prior to the placement of fill and achieve a maximum final slope of 4:1 after filling operations are complete.

151.78.0013. Unless otherwise approved by the city council, materials including, but not limited to, organic soils and debris (topsoil, peat, muskeg, muck, stumps, roots, logs, brush, etc.), demolition debris (broken concrete or bituminous fragments, brick, lumber, metal, etc.) and any other solid or hazardous wastes shall not be used as fill in reclamation.

151.78.0014. Imported materials used as fill in reclamation shall consist of mineral soils which typically demonstrate a minimum soil bearing capacity of 1,500 psf and are suitable for building foundations.

151.78.0015. The top ten feet of all fill areas shall be compacted by mechanical equipment as the fill is placed, unless otherwise approved by the council, to a minimum of 95 percent of maximum density for a particular soil as determined by the Standard Proctor method.

151.79.00 PERMIT RENEWAL

Operations in compliance with the Interim Use Permit may renew the permit on an annual basis. Renewal applications must be submitted to the City on or before February 1 of each year.

151.80.00 TERMINATION OF PERMIT.

151.80.01. **Violations.** The Council may terminate an Interim Use Permit for violation of this Ordinance, or a condition of this permit, or for violation of other applicable laws.

151.80.02. **Notice to Terminate.** To terminate a permit, the Council shall give notice of the violation or other cause for termination along with an order that the condition be remedied. If the condition has not been repaired within two (2) weeks, the Council shall hold a hearing to determine whether the permit should be terminated.

151.80.03. **Cease Operation Upon Termination.** No mining shall take place after the permit is terminated.

151.81.000 PENALTY

151.81.01. **Violation a misdemeanor.** Any person, firm or corporation who violates or who fail to comply with any of the provision of this ordinance or who make any false statement or omission in any document required to be submitted under the provisions shall be guilty of a misdemeanor and upon conviction shall be punished not more than the maximum penalty for a misdemeanor as prescribed by state law.

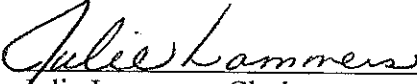
151.81.02. **Each day an offense.** Each day that a violation continues shall constitute a separate offense.

151.80 ENFORCEMENT.

Shall be pursuant to Chapter 151.99, as amended.

Adopted by the City Council of the City of Vergas on January 25th, 2017.

ATTEST:


Julie Lammers, Clerk

Approved:


Dean Haastick, Mayor



Appendix D Application for Interim Use Permit - Marks Sand & Gravel

APPLICATION FOR INTERIM USE PERMIT

CITY OF VERGAS
111 Main Street
Vergas, Minnesota 56587
218-342-2091

APPLICATION FOR INTERIM USE PERMIT

Application is hereby made for an Interim Use Permit for (description of Interim Use Permit) _____

Continued use of the existing gravel pit for extraction, stock piling and portable hot mix plant

Address of Property: 560 Pelican Ave S, Vergas, MN 56587

Owner: Mark Sand & Gravel Co.

Address: 525 Kennedy Park Rd, Fergus Falls, MN 56537

Phone: 218-736-7523

Applicant: Mark Sand & Gravel Co.

Address: 525 Kennedy Park Rd, Fergus Falls, MN 56537

Phone: 218-736-7523

The following information is submitted in support of this application.

- ☒ 1) Completed application for Interim Use Permit.
- ☒ 2) Cash fee \$300.00
- ☒ 3) Legal description of the property. See affirmation of sufficient interest form.
- ☒ 4) Acknowledgement of Responsibility form completed. See attachment
- ☒ 5) Affirmation of Sufficient Interest form completed. See attachment
- ☒ 6) A narrative explaining the purpose of the request, the exact nature of the Interim use, and the justification for the request. See attachment
- ☒ 7) Copies of all MPCA permits. See attachments
- ☒ 8) Other See attachments as required by the Sand & Gravel ordinance

APPLICATION FOR INTERIM USE PERMIT

AFFIRMATION OF SUFFICIENT INTEREST

I hereby affirm that I am **the fee title owner** of the below described property or that I have written authorization from the owner to pursue the described action.


Name of Applicant: Mark Sand & Gravel Co.

Phone: 218-736-7523

Street address/legal description of subject project: _____

560 Pelican Ave S, Vergas, MN 56587

N1/2 SE1/4 EX 5 AC TR IN NE COR & NELY 1/2 SE1/4 SW1/4 & NE1/4 SW1/4


Signature

02/22/2021
Date

If you are not the fee owner, attach another copy of this form which has been completed by the fee owner or a copy of your authorization to pursue this action.

If a corporation is fee title holder, attach copy of the resolution of the Board of Directors authorizing this action.

If a joint venture or partnership is the fee owner, attach a copy of agreement authorizing this action on behalf of the joint venture or partnership.

APPLICATION FOR INTERIM USE PERMIT

ACKNOWLEDGEMENT OF RESPONSIBILITY

This is to certify that I am making application for the described action by the City and that I am **responsible for complying with all City requirements** with regard to this request. This application should be processed in my name and I am the party whom the City should contact regarding any matter pertaining to this application.

I have read and understand the instructions supplies for processing this application. The documents and/or information I have submitted are true and correct to the best of my knowledge. I will keep myself informed of the deadlines for submission of material and of the progress of this application.

If this is an application for **underground tank installation**, I understand that I must notify the Fire Marshall immediately in writing upon any change in required resident agent information.

I further understand that additional information, such as a traffic analysis or expert testimony, may be required for analysis of this request, and that upon my authorization the fees for such will be my responsibility.

I agree to allow access by City authorized persons in, on, or to the property for purposes of review of this application and any necessary inspections.


Applicant's Signature

2/22/2021

Date

Name of Applicant: Mark Sand & Gravel Co.

Address: 525 Kennedy Park Rd., Fergus Falls, MN 56537

Phone: 218-736-7523

Name and Address of Additional Contract(s): Jeff Hatlewick, Vice President of Administration

PO Box 458, Fergus Falls, MN 56538

Phone: 218-766-6977

APPLICATION FOR INTERIM USE PERMIT

I fully understand that all of the above required information must be submitted at least 28 days prior to a Planning Commission meeting to ensure review by that date.

Jeff Hollowick
Applicant's Signature

2/22/2021
Date

Comments/Revisions _____

Received by:

Julie Sammons
City Clerk's Signature

02/22/2021
Date

Application for Interim Use Permit

Date: February 22, 2021

Application Fee: \$300.00

1. Applicant's Name: Mark Sand & Gravel Co. Phone: 218-736-7523
525 Kennedy Park Road
Fergus Falls, MN 56537 Fax: 218-736-2647
2. Owner of premises on which Mining and Reclamation is to take place:
Mark Sand & Gravel Co. Phone: 218-736-7523
525 Kennedy Park Rd
Fergus Falls, MN 56537 Fax: 218-736-2647
3. Legal description or other description of land:
 - Bunkowski Pit
 - - N1/2 SE1/4 Ex 5 AC TR in NE corner & NELY1/2 SE1/4 SW1/4 & NE1/4 SW1/4



OTTER TAIL COUNTY - MINNESOTA

Friday February 19th, 2021

PLEASE NOTE: When land is valued by frontage, the amount of feet shown is based on the widest dimension on the front or the back of the lot.

Any questions regarding the information on the Appraisal Information section should be directed to the [County Assessor](#).

[Parcel Map](#)

[Parcel Summary](#)

[Parcel Detailed Results](#)

[Sales Data](#)

Parcel Summary

Parcel Number: 82000500022000			
Town / City:	VERGAS CITY	HRA District:	OTTER TAIL COUNTY HRA
School District:	FRAZEE/VERGAS ISD 23 (BECKER)	Lake Improvement District:	
Watershed District:		Tax Increment District:	TAX INCREMENT
Hospital District:		Site Address / Site Zip:	560 S PELICAN AVE 56587
Plat / Legal Description:			
Section-25 Township-137 Range-041			
132.34 AC			
N1/2 SE1/4 EX 5 AC TR IN NE COR & NELY 1/2 SE1/4 SW1/4 & NE1/4 SW1/4 EX TRS			
Primary Taxpayer:	Alternate Taxpayer:		
MARK SAND & GRAVEL COMPANY	N/A		
PO BOX 458			
FERGUS FALLS, MN 56538-0458			

Summary Data

Parcel Number: 82000500022000				
Summary of Land Value				
Record	Description	Hmstd Status	Land Value	Land Program Acre Value
1	AGRICULTURAL	Non-Homestead	207006	0
2	INDS LAND & BLDGS	Non-Homestead	80000	0
3		Non-Homestead	20000	0
Total Land Value:			307006	0
Summary of Building Value				
Record	Description	Hmstd Status	Building Value	
1	AGRICULTURAL	Non-Homestead	19498	
2	INDS LAND & BLDGS	Non-Homestead	0	
3		Non-Homestead	154508	
Total Building Value:			174006	
Total of Land Value & Building Value				
Total Parcel Value:			481012	0

[NEW SIMPLE SEARCH](#)

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[Back to Home Page](#)

Appendix I

Plan of Operation

Purpose

To continue the extraction of non-metallic minerals from this existing non-conforming use mine that was established in the late 1960's during the installation of the sewer system in the City of Vergas. Mark Sand & Gravel Co., under current ownership, has actively leased, mined aggregate materials and operated portable hot mix plants at this location since 1998. The aggregates from this mine are used for various road construction projects throughout the region. This particular mine has an extremely large aggregate deposit with hundreds of thousands of tons of aggregate materials still remaining to be mined. The rate of mining will depend on the local road construction projects offered for bid letting and the number of those projects awarded to Mark Sand & Gravel Co. At the current rate of mining there may be up to 20 years or more of aggregate materials remaining in this deposit.

Plan of Operation

Mining will continue in the southern area of the existing pit until resources are exhausted. Approximate depth of material to be mined is 25 to 40 feet. All entrances and exits will occur off of Otter Tail County Highway 35 from the existing approach. All materials will be transported by trucks on Otter Tail County Highway 35, Otter Tail County Highway 4 and/or Otter Tail County Highway 17. Any material that is hauled by Mark Sand & Gravel Co. authorized trucks and is spilled on these roadways will be removed as soon as reasonably possible.

The open portion of this aggregate resource has had the topsoil stripped and piled in berms at the edge of the excavation. This top soil will be spread over the areas that have been completely mined as they are reclaimed. If there is not sufficient top soil to cover the entire mined area to the desired depth it may be feasible to borrow topsoil from the eastern most lowland pasture area during the final reclamation process.

We will move in portable crushing/screening machines with several conveyors to stockpile the materials. These machines will be located in the area necessary to complete the mining of each phase. Stockpiles of aggregate materials will be located in each area of the mining phase. These stockpiles will be hauled to the end user as needed or used in the reclamation process. Our primary source of power will be a self-contained generator. Water during heavy rainfalls may be pooled in an approximate 1 acre area located at the lowest elevation. We will utilize front-end loaders, track excavators, skid steers, and dozers on this site to mine the land. Dump trucks and semi-trucks will be used to haul the equipment in as well as truck the finished product to the end-users. Dust control will be applied to ensure minimal disturbance for the neighbors near the pit.

Water resources are used for dust control as needed. In the past the water has been acquired through purchasing from the City of Vergas or by an approved Department of Natural Resources water appropriation permit for the pumping of water from Lawrence Lake. All of the water that is used for the mining operation, including dust control is allowed to pool and absorb into the soil at the lowest elevation of the pit. Dust control at the crusher is mainly attained by spraying water at the point of rock crushing. Dust control for the gravel roads within the pit area is attained by spraying a mixture of

calcium chloride and water onto the roadway. The pit entrance driveway has been paved to reduce the amount of fugitive dust created by vehicles entering and exiting.

The trees on this property are considered a valuable resource. It is our intention to avoid removing any trees if possible and especially those that are located near the property boundaries. Please see the phase maps for additional information on tree locations. The proposed phasing map impacts an extremely limited number of trees.

The on-site buildings will remain intact and are currently used for storage of personal belongings as related to the farming operation of Thomas Bunkowski. The family has agreed to rent the current farmstead. The hobby farm has great potential value and will remain as it is now and into the future as a rental property. Adjacent properties consist of seasonal storage garages, residential homes, vacant lots and agricultural land.

Phasing Plan – Currently there are 26 acres that have been mined or have been stripped to prepare for mining or stockpiling. While it is not feasible to reclaim land that has not been completely mined there can be a phasing plan implemented to eventually work towards the goal of having only 10 acres being openly mined at one time. The included phase map will outline the areas to be mined and the estimated time frames involved with each area. Once the sections of these phase areas are completely mined the sloping and backfilling will begin as the mining continues in that area. The sloped area will be leveled again to fix any possible area of erosion before the land is seeded into grassland. It is important that this sloped area be brought to finish grade before spreading the topsoil.

Hot Mix Asphalt Plant – This existing site includes approximately 7 acres of level ground. Included in this 7 acre area will be at least two stockpiles of aggregate materials. The hot mix plant is portable and temporary. It will be placed only as long as is needed to complete the local road construction projects and removed promptly when completed. The existing paved approach will be the entrance and exit to the hot mix asphalt production area. Semi-trucks will be utilized to haul the equipment into the pit area and to truck the finished product to the construction sites.

Reclamation

Sloping of the boundaries of the mined area will occur at a ratio of four to one as the mining progresses. Reclamation of the mined site will continue to occur during the mining process. Sloped areas are considered to be reclaimed. Topsoil will be spread at a depth of up to 6 inches and it will be seeded with MNDOT 330, Dry Prairie General 35-221. This mix is a general dry prairie mix for native roadsides, ecological restoration, or conservation program plantings. Our goal will be to leave the land mostly level with gently rolling hills and sloped borders near the mine boundaries. Any on-site water will be minimized into a temporary pond. 250 trees will be maintained and/or replaced as needed along the County Highway 35 property border for privacy and security until future development occurs.

Hot Mix Asphalt Plant – A seven-acre level stockpile area may be utilized throughout the permit period. The Hot Mix Asphalt Plant will be set upon the current stock pile site. This area may be mined in the phasing plan to help limit the line of sight and sound exposure to the Hot Mix Asphalt Plant. The Plant would then be placed at the pit bottom. Reclamation of this hot mix site will be completed last after all other pit materials have been depleted.

Appendix II

151.72 PERMIT APPLICATION REQUIREMENTS.

An application for a permit required by this article shall contain the following:

- A. The legal description of the lands from which it is proposed to excavate, remove, process, store or handle minerals. **See affirmation of sufficient interest form.**
- B. The name and address of the applicant and the name and address of the owner of the land. **See application for interim use permit**
- C. Names and addresses of all adjacent landowners within one-half mile radius. **See attached list of property owners.**
- D. Copies of any agreements pertaining to the operation including the duration of any lease, if applicable. **Not applicable**
- E. The purpose of the removal. **See attachment Appendix I**
- F. The estimated time required to complete removal. **See attachment Appendix I**
- G. The highways, streets or other public ways within the city upon and along which the material removed shall be transported. **See attachment Appendix I**
- H. The plan of operation, including, but not limited to:
 - 1. Soil processing (any operation other than direct mining and removal),
 - 2. Nature of the processing and equipment, **See attachment Appendix I**
 - 3. The area to be included in the operation, **See attached Phase maps**
 - 4. Depth of topsoil and soil type, **See attached Soils Map and legend**
 - 5. The depth and grade of excavation, **See attachment Appendix I**
 - 6. The estimated quantity of material to be added to or removed from the premises, **See attachment Appendix I**
 - 7. Location of the plant, **all plants are portable, See attached Phase maps**
 - 8. Location of stock piles, **See attached Phase maps**
 - 9. Source of water, disposal of water and reuse of water. In the event that water is used in the operation of a pit, approval from the state department of natural resources and other appropriate state or federal agencies shall be obtained as to the type, location and depth of such well and contained with such application. **See attachment Appendix I**
 - 10. The number and location of trees prior to excavation, **See attachment Appendix I and several maps**
 - 11. Adjacent and on-site buildings and land uses **See attachment Appendix I**

12. Map or plat of the proposed pit or excavation showing the confines or limits thereof, together with the proposed finished elevations based on sea level readings. See attached maps
13. Elevations and percent slope within 100 feet beyond the perimeter of the excavation and other such information necessary to analyze the site shall be provided by the applicant. United States Geological Survey datum shall be used for all topographic mapping where feasible. See attached maps
14. Phasing plan which provides no more than ten (10) acres of the site to be open to active mining at any one time. Before any additional land may be mined, the applicant must reclaim the site to the condition that is indicated on the approved reclamation plan. See attached maps
- I. The operation plan must also identify actions to be taken during operation to mitigate adverse environmental impacts, particularly erosion and rising dust out of any sand or gravel pit. See attachment Appendix I
- J. A reclamation plan including, but not limited to:
 1. Final grade of the property; See attachment Appendix I
 2. Depth of topsoil reclaimed; See attachment Appendix I
 3. Type of vegetation replanted; See attachment Appendix I
 4. Number of trees to be replanted, replacing the trees removed during excavation. See attachment Appendix I and attached maps

151.73 Bond

A. A cost bond of \$10,000.00 as determined by the city council will be placed in escrow once this permit application is approved.

B. A performance bond of \$50,000.00 will be provided for upon approval of this permit. This property is owned by Mark Sand & Gravel Co. and will be maintained at a high level during the future of this operation. We want this property to maintain the high value that it has for future sales and development once the area has been completely mined.

151.74 Agreement to hold city harmless

Mark Sand & Gravel Co. will provide the city with a certificate of current insurance upon approval of this permit which will name the city as an additional insured. We will hold the city harmless as required.

151.75.002 Inspection and Review Permit Fee

Upon approval of this permit application Mark Sand & Gravel Co. agrees to provide the City of Vergas with the established inspection and review permit fee. This fee is to be held in escrow account and used strictly for the engineering fees that are required due to the ordinance. An accounting for all expenses charged to the escrow account will be provided to the applicant annually by February 15th of each year.

151.76 Inspections

Mark Sand & Gravel Co. wishes to be notified of each inspection by the city engineer so that we may accompany him on site during the inspection.

151.77.03 Screening

Mark Sand & Gravel Co. will continue to maintain and or upgrade the trees as necessary during the 2021 season.



MINNESOTA POLLUTION CONTROL AGENCY

Nonmetallic Mining Permit NOC

National Pollutant Discharge Elimination System/State Disposal System

MNG490125

Permittee: Mark Sand & Gravel Co
Facility name: Mark Sand & Gravel Acquisition Co
City or Township: Fergus Falls, **County:** Otter Tail
Issuance date: November 1, 2017
Expiration date: May 31, 2022

The state of Minnesota, on behalf of its citizens through the Minnesota Pollution Control Agency (MPCA), authorizes the Permittee to operate a disposal system at the facility named above and in accordance with the requirements of this permit.

The goal of this permit is to reduce pollutant levels in point source discharges and protect water quality in accordance with the U.S. Clean Water Act, Minnesota statutes and rules, and federal laws and regulations.

This permit is effective on the issuance date identified above. This permit expires at midnight on the expiration date identified above.

Signature:

This document has been electronically signed.

for the Minnesota Pollution Control Agency

Jeff Udd, P.E.
Supervisor, Water Quality Permits Unit
Water Section
Industrial Division

Submit eDMRs

Submit via the MPCA Online Services Portal at
<https://netweb.pca.state.mn.us/private/>

Submit other WQ reports to:

Attention: WQ Submittals Center
Minnesota Pollution Control Agency
520 Lafayette Road North
St. Paul, MN 55155-4194

Questions on this permit?

For eDMR and other permit reporting issues, contact:
Sheri Woitalewicz, (507) 476-4271

For specific permit requirements please refer to:

Joe Braun, (218) 846-8126

Wastewater Permit Program general questions, contact:
MPCA, 651-282-6143 or 1-800-657-3938.



Minnesota Pollution Control Agency

520 Lafayette Road North | St. Paul, MN 55155-4194 | 651-296-6300 | 800-657-3864 | 651-282-5332 TTY | www.pca.state.mn.us

June 9, 2009

Mr. Jeff Hatlewick
Director of Safety and Compliance
525 Kennedy Park Road
Fergus Falls, MN 56537

RE: Air Emission Permit No. 11100082-001 and Voiding Air Emission Registration Permit
Nos. 99000305-001, 99000234-002, 99000264-001, 99000263-001, and 99000306-001

Dear Mr. Hatlewick:

The enclosed permit, Air Emission Permit No. 11100082-001, authorizes operation of your nonmetallic mineral processing facilities.

Please read through the permit and review its conditions and requirements. Distribute the permit to staff members responsible for ensuring compliance with the conditions and limitations in the permit.

Minn. R. 7007.1110, subp. 2b requires facilities that hold a registration permit and are eligible for a nonmetallic mineral processing general permit to apply for the general permit. This letter also serves as your notice that the MPCA has voided, effective the date of this letter, the following Air Emission Permits in accordance with Minn. R. 7007.1110, subp. 17 (see below):

<u>Permit No.</u>	<u>Name of Facility</u>	<u>Date Permit Issued</u>
99000305-001	Mark Sand & Gravel Acquisition – Plant 2	April 25, 2002
99000234-002	Mark Sand & Gravel Acquisition – Plant 3	January 17, 2003
99000264-001	Mark Sand & Gravel Acquisition – Plant 4	August 8, 1997
99000263-001	Mark Sand & Gravel Acquisition – Plant 5	August 8, 1997
99000306-001	Mark Sand & Gravel Acquisition – Plant 6	April 25, 2002

Minn. R. 7007.1110

Subp. 17. Voiding an existing permit. The commissioner shall void a part 70, capped, or state permit for a stationary source which is issued a registration permit. A stationary source which is covered under the terms of a general permit is no longer covered by the general permit when it is issued a registration permit. The commissioner shall void a registration permit issued under one registration permit option for a stationary source that is issued a registration permit for a different registration permit option. The commissioner shall void a registration permit for a stationary source that is issued a part 70, state, capped, or general permit.

The reason to void the registration permits is the issuance of Air Emission Permit No. 11100082-001.



AIR EMISSION PERMIT NO. 11100082- 001

IS ISSUED TO

Mark Sand & Gravel Co – Multiple Sites

MARK SAND & GRAVEL CO - NONMETALLIC

525 Kennedy Park Road

Fergus Falls, Otter Tail County, MN 56537

The emission units, control equipment and emission stacks at the stationary source authorized in this general permit are as described in the Permit Applications Table.

This general permit supersedes Air Emission Registration Permit Nos. 99000305-001, 99000234-002, 99000264-001, 99000263-001, and 99000306-001, and authorizes the Permittee to construct, modify, and operate nonmetallic mineral processing stationary sources at multiple locations in Minnesota under the conditions set forth herein as long as all conditions of this general permit are always met at each stationary source covered by the Permittee's general permit. (Portable crushing spreads or aggregate processing plants in some situations may be stationary sources themselves, or in other situations parts of another stationary source). If the construction, modification, or operation of a nonmetallic mineral processing stationary source by the Permittee would not comply with all conditions of this general permit, the Permittee must apply for and obtain an individual Part 70, state, or registration permit before beginning actual construction of the modification or change. Terms used in this general permit are as defined in the state air quality rules unless the term is explicitly defined in this general permit.

Unless otherwise indicated, all the Minnesota rules cited as the origin of the permit terms are incorporated into the State Implementation Plan under 40 CFR § 52.1220 and as such are enforceable by the U.S. Environmental Protection Agency (EPA) Administrator or citizens under the Clean Air Act.

Permit Type: State General, Limits to Avoid Pt 70/Limits to Avoid NSR

Issue Date: June 9, 2009

Expiration: Nonexpiring
Title I Conditions do not expire

Marilyn Wegwert
for Don Smith, P.E., Manager
Air Quality Permits Section
Industrial Division

for Paul Eger
Commissioner
Minnesota Pollution Control Agency



AIR EMISSION PERMIT NO. 99000150 - 002

'OPTION D' REGISTRATION PERMIT

FOR A

HOT MIX ASPHALT FACILITY

According to Minnesota Statutes Chapter 115 and 116, Minnesota Rules Chapters 7001 and 7007, and 40 CFR part 52, subp. Y:

Mark Sand & Gravel Acquisition Co
PO Box 458
Fergus Falls, MN 565380458

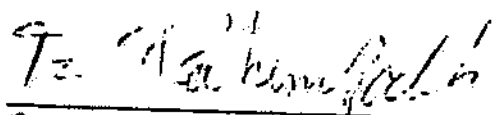
(hereinafter Permittee) is issued an Air Emission Registration Permit by the Minnesota Pollution Control Agency for its Mark Sand & Gravel Acquisition - Plant 9 facility located at various locations throughout the state of Minnesota.

The permit authorizes modification, construction, reconstruction, and operation of the stationary source under the conditions set forth below.

Issue Date: 09/26/2002

Expiration: Pursuant to Minn. Rules pt. 7007.1050, subp. 3a, the permit shall be considered not to expire until a new permit is issued.

Compliance Requirements: The Permittee shall comply with Minn. Rules pts. 7007.1110 (Registration Permit General Requirements) and 7007.1130 (Option D Requirements) and all applicable requirements.


for Karen A. Studders
Commissioner
Minnesota Pollution Control Agency

LICENSE AND PERMIT BOND**KNOW ALL MEN BY THESE PRESENTS:**

THAT WE, Mark Sand & Gravel Co., PO Box 458, Fergus Falls, MN 56538 as Principal, and Liberty Mutual Insurance Company, a Massachusetts Corporation, as Surety, are held and firmly bound unto City of Vergas, PO Box 32, 111 Main St., Vergas, MN 56587 in the sum of Fifty Thousand and 00/100 DOLLARS (\$50,000.00) for the payment of which sum, well and truly to be made, we bind ourselves, our personal representatives, successors and assigns, jointly and severally, firmly by these presents.

THE CONDITION of this bond is such that the Principal has applied for an Interim Use Permit for Reclamation of Aggregate Mining at 560 Pelican Ave S, Vergas, MN 56587, Vergas, Minnesota; Plat or Addition 82000500022000 in accordance with the requirements of ordinances of said Obligee, and has agreed to hold said Obligee harmless from suffering and loss or damage occasioned by said Principal's failing to comply with any provisions of any ordinances applicable to the work performed by said Principal.

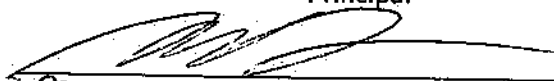
NOW, THEREFORE, if the Principal shall, during the period commencing on the aforesaid date, faithfully perform all the duties according to the requirement of the Ordinances regulating said license, and protect said Obligee from and damage as hereinbefore stated, then this obligation shall become void and of no effect, otherwise to be and remain in full force and virtue.

This bond may be terminated as to future acts of the Principal upon thirty (30) days written notice by the Surety. Otherwise, this bond expires at midnight May 19, 2021. All claims must be made before the expiration date.

Dated this 4th day of May, 2020.

Mark Sand & Gravel Co.

Principal


Mark Thorson, Pres.

Liberty Mutual Insurance Company

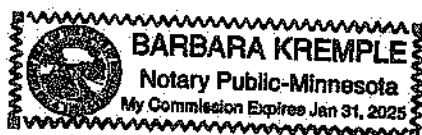
Surety


Joshua R. Loftis, Attorney-in-Fact

CORPORATE ACKNOWLEDGMENT

State of Minnesota)
) ss
County of Otter Tail)

On this 4 day of May 2020, before me appeared Mark Thorson, to me personally known, who, being by me duly sworn, did say that he/she is the President of Mark Sand & Gravel Co., a corporation, that the seal affixed to the foregoing instrument is the corporate seal of said corporation, and that said instrument was executed in behalf of said corporation by authority of its Board of Directors, and that said Mark Thorson acknowledged said instrument to be the free act and deed of said corporation.

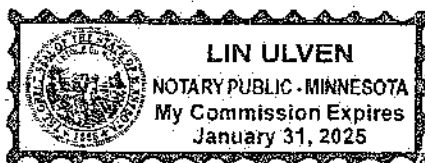


Barbara Krempfle
Notary Public Otter Tail County, MN
My commission expires 1-31-2025

SURETY ACKNOWLEDGMENT

State of Minnesota)
) ss
County of Hennepin)

On this 4th day of May 2020, before me appeared Joshua R. Loftis, to me personally know, who being by me duly sworn, did say that (s)he is the Attorney-in-Fact of Liberty Mutual Insurance Company, a corporation, that the seal affixed to the foregoing instrument is the corporate seal of said corporation and that said instrument was executed in behalf of said corporation by authority of its Board of Directors; and that said Joshua R. Loftis acknowledged said instrument to be the free act and deed of said corporation.



[Signature]
Notary Public Ramsey County, MN
My commission expires 1/31/2025



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

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

Certificate No: 8200451-190054

POWER OF ATTORNEY

KNOWN ALL PERSONS BY THESE PRESENTS: That The Ohio Casualty Insurance Company is a corporation duly organized under the laws of the State of New Hampshire, that Liberty Mutual Insurance Company is a corporation duly organized under the laws of the State of Massachusetts, and West American Insurance Company is a corporation duly organized under the laws of the State of Indiana (herein collectively called the "Companies"), pursuant to and by authority herein set forth, does hereby name, constitute and appoint, Colby D. White, Melinda C. Blodgett, R. C. Bowman, Tina L. Domask, R. Scott Egginton, Sandra M. Engstrom, R. W. Frank, Ted Jorgensen, Joshua R. Loftis, Kurt C. Lundblad, Brian J. Oestreich, Jerome T. Ouimet, Ross S. Squires, Nicole Stillings, John E. Tauer, Rachel Thomas, Lin Ulven, Emily White

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

IN WITNESS WHEREOF, this Power of Attorney has been subscribed by an authorized officer or official of the Companies and the corporate seals of the Companies have been affixed thereto this 4th day of February, 2019.



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

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

State of PENNSYLVANIA ss
County of MONTGOMERY

On this 4th day of February, 2019 before me personally appeared David M. Carey, who acknowledged himself to be the Assistant Secretary of Liberty Mutual Insurance Company, The Ohio Casualty Company, and West American Insurance Company, and that he, as such, being authorized so to do, execute the foregoing instrument for the purposes therein contained by signing on behalf of the corporations by himself as a duly authorized officer.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my notarial seal at King of Prussia, Pennsylvania, on the day and year first above written.



COMMONWEALTH OF PENNSYLVANIA
Notarial Seal
Teresa Pastella, Notary Public
Upper Merion Twp., Montgomery County
My Commission Expires March 28, 2021
Member, Pennsylvania Association of Notaries

By: Teresa Pastella
Teresa Pastella, Notary Public

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

ARTICLE IV - OFFICERS: Section 12. Power of Attorney.

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

ARTICLE XII - Execution of Contracts: Section 5. Surety Bonds and Undertakings.

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

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

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

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

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the seals of said Companies this 4th day of May, 2020.

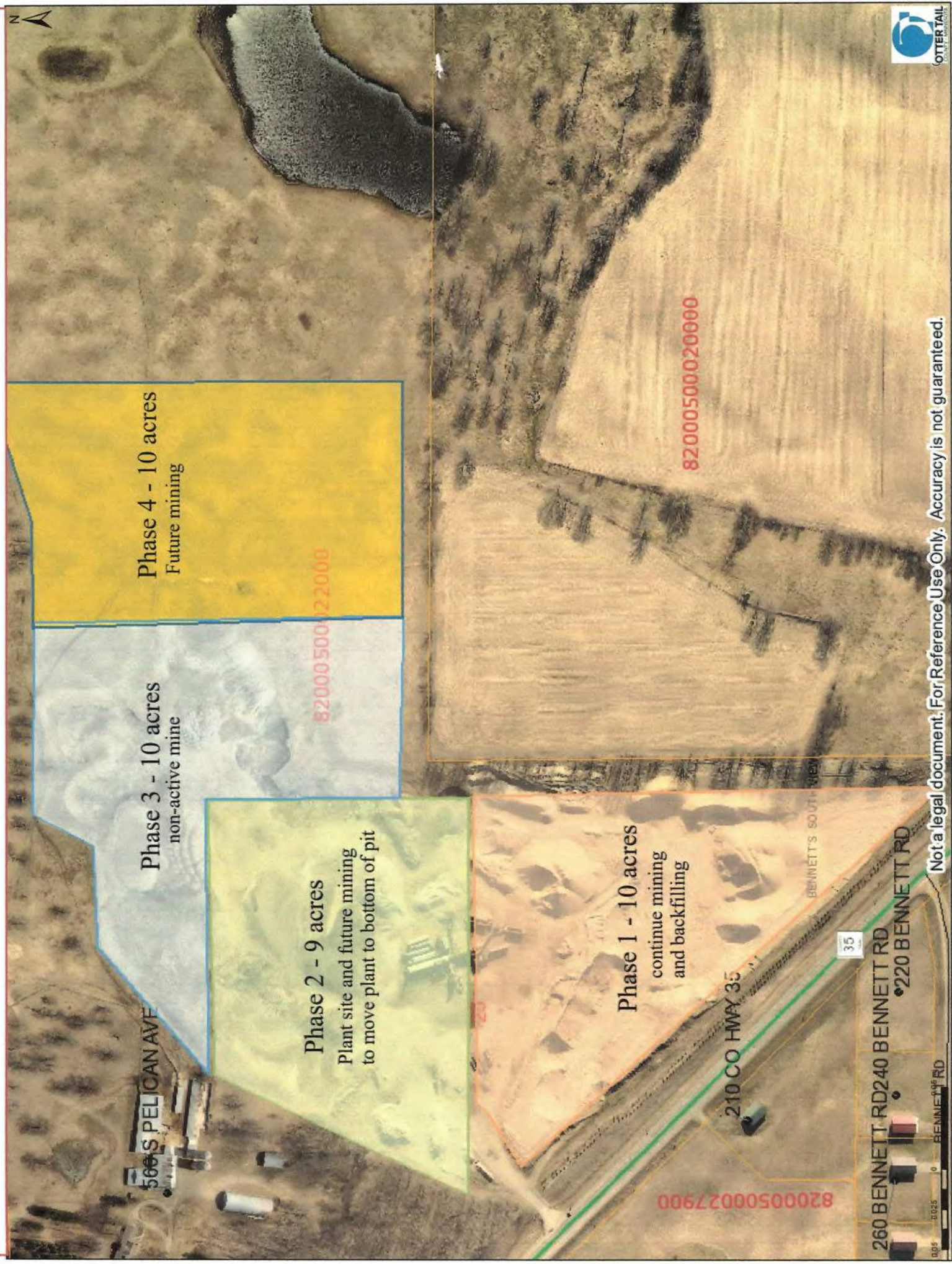


By: Renee C. Llewellyn
Renee C. Llewellyn, Assistant Secretary

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

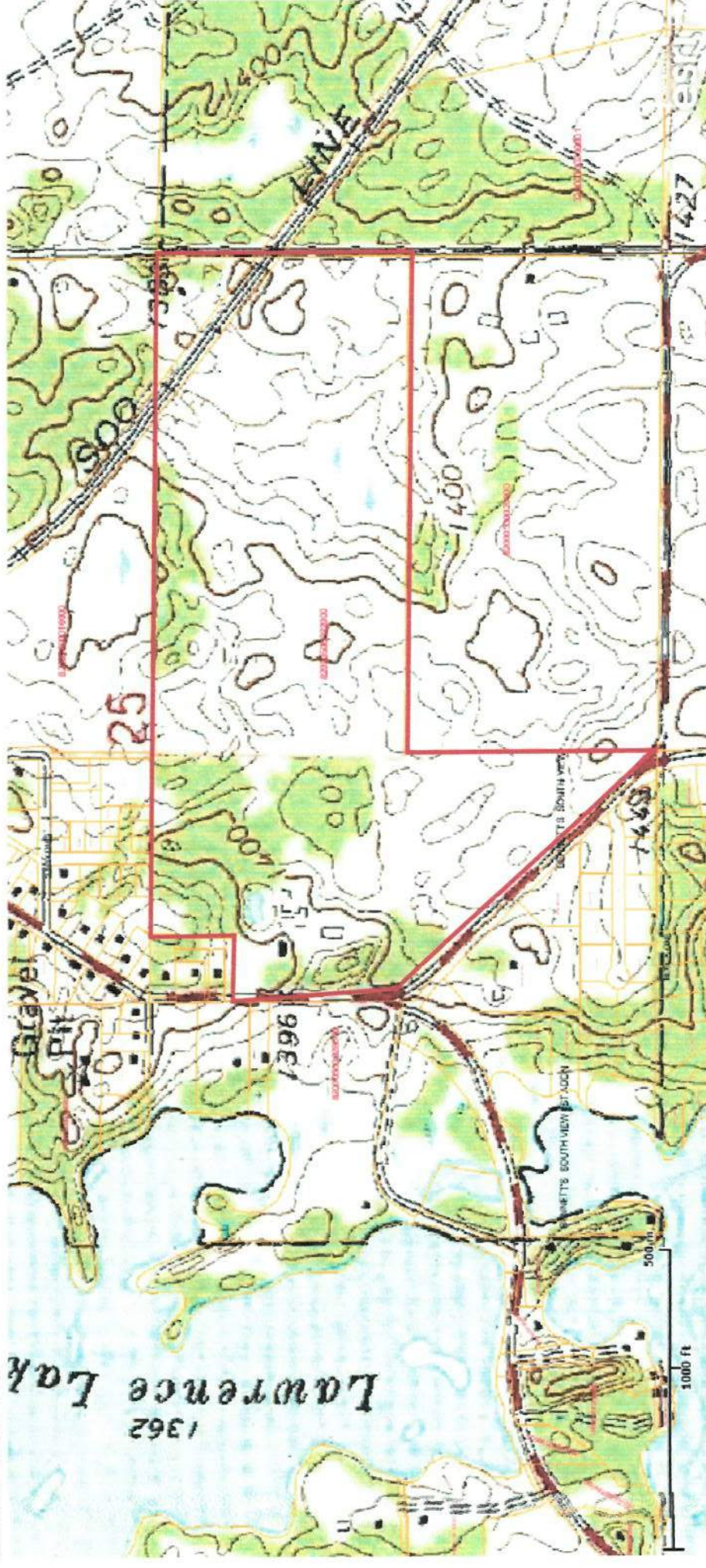
To confirm the validity of this Power of Attorney call 1-813-886-8881





Otter Tail County, Minnesota

Bunkowski Pit



Bunkowski Pit Topographical Map

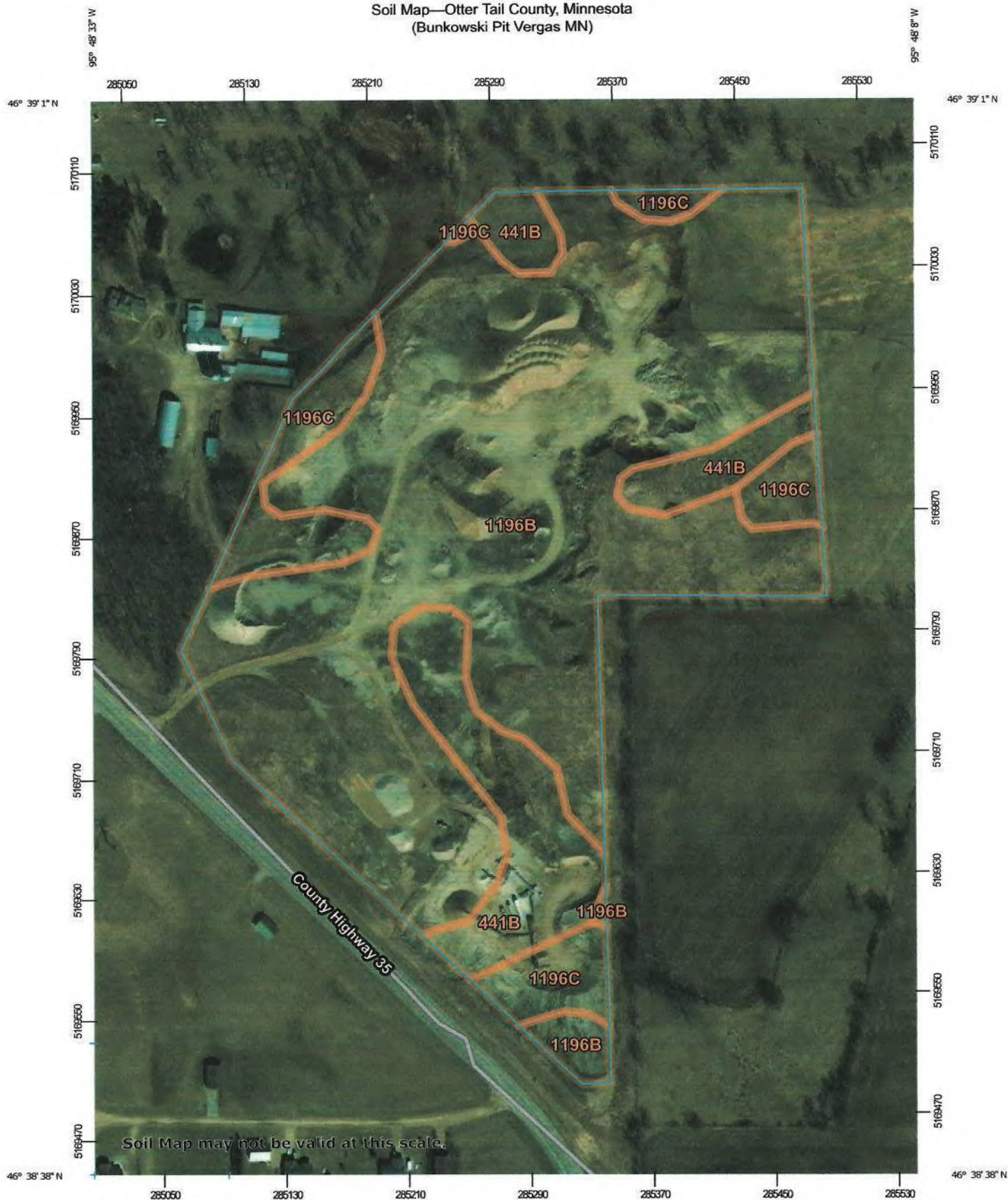
This area historically consisted of gently rolling hills with a maximum elevation of 1400 feet above sea-level to a low of 1360 feet near a slough on the east side of the property.

The proposed finished topography will include 4 to 1 sloped edges at the mined boundaries with a level to gently rolling floor.

The finished elevations will range from 1360 to 1370 feet above sea-level across the mined area.

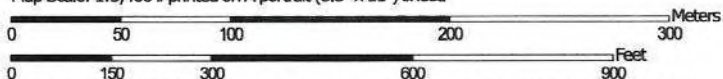
Elevations within 100 feet beyond the perimeter of the mine boundaries will remain as they are currently and will not be affected by this operation.

Soil Map—Otter Tail County, Minnesota (Bunkowski Pit Vergas MN)



Soil Map may not be valid at this scale.

Map Scale: 1:3,460 if printed on A portrait (8.5" x 11") sheet.



Map projection: Web Mercator Corner coordinates: WGS84 Edge tics: UTM Zone 15N WGS84











































**Natural Resources
Conservation Service**

Web Soil Survey
National Cooperative Soil Survey

2/19/2021
Page 1 of 3

MAP LEGEND

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

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: Otter Tail County, Minnesota
Survey Area Data: Version 16, Jun 10, 2020

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

Date(s) aerial images were photographed: Jul 25, 2014—Oct 23, 2016

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
441B	Almora loam, 2 to 6 percent slopes	4.9	13.8%
1196B	Lida-Two Inlets complex, 1 to 8 percent slopes	26.8	76.2%
1196C	Lida-Two Inlets complex, 8 to 15 percent slopes	3.5	10.0%
Totals for Area of Interest		35.2	100.0%



Appendix E Interim Use Permit - Marks Sand & Gravel

\$300.00

Owner Mark Sand & Gravel Co.
Applicant Jeff Hatlewick

No. 2021-001

Interim Use Permit

City of Vergas

IN CONSIDERATION OF The statements and representations made by, Jeff Hatlewick Applicant for Interim Use Permit for address 560 Pelican Ave S, Vergas MN 56587 in the application therefore duly filed in this office, which application is hereby made a part hereof, PERMISSION IS HEREBY GRANTED to Mark Sand and Gravel with the following conditions:

The \$7,000.00 annual fee is paid to the City for gravel pit.

A \$50,000 performance bond is posted to the City, naming City as party to be indemnified.

A certificate of general liability insurance is provided to the City, naming the City as an additional insured.

Mark Sand & Gravel gives approval to KLI, Engineering to inspect property. (Engineers will contact Mark Sand & Gravel and allow them to accompany them while doing inspection)

Gravel must be swept off road regularly to protect cyclists that also use the highway.

Applicant shall control dust emission impacts from the site by employing best management practices and meeting all MPCA Dust Limitations, at a minimum.

Mining and plant operations shall be limited to day time hours between 7:00 a.m. and 7:00 pm.

Applicant shall control noise emissions from the site by employing best practice management practices and shall meet all applicable MPCA noise limit at a minimum.

Use of all production equipment will be designed to meet the federal and MPCA noise standards at the nearest receptor.

Operator shall construct screening berms where such a berm is necessary to screen the mining activities from public view and to limit noise emissions.

In any exposed areas that have not been covered by permanent vegetation, operator shall water these exposed areas within the permitted area during those periods when weather conditions are generating fugitive dust.

Haul roads within mine permit area boundaries shall be sprayed with water or other permitted dust suppressants as needed to control fugitive dust.

Reclamation of completely mined areas shall follow active mining operations as detailed in the application.

The applicant agrees to the terms and conditions of this IUP and such agreement is hereby entered the official proceedings of the Planning Commission and City Council.

plat or addition 82009500022000 which tracts is of the size and area specified in said application.

Given under the hand of the Mayor of said City of Vergas and its corporate seal and attested by its Clerk this 22 day of March 2021.

Attest:

Julie Sammers
Clerk

Permit Expires in one year

Steve Smith
Mayor



Appendix F Bunkowski Gravel Pit - Field Inspection Report



GRAVEL PIT INSPECTION – FIELD REPORT

SHEET 1 OF 2

LOCATION: Vergas MN Gravel Pit

DATE: 04/20/21

DAY: Tuesday

OWNER: Marks Sand & Gravel

Contact: Jeff Hatlewick

O: 1-218-736-7523

C: 1-218-766-6977

KLJ Project #: 2104-00530

KLJ Personnel: D. Tell

WEATHER REPORT

Weather Conditions:	Partly Cloudy, Overcast
Temp. (high/Low):	36°F, 23°F
Wind: (low, moderate, high)	Moderate
Soil (dry, wet, saturated)	Dry

OWNERS CONSTRUCTION ACTIVITY

Mining Operations:	N/A
Mining Personnel:	N/A
Mining Equipment/Class:	N/A



MINING ACTIVITY OBSERVED: (truck traffic, active mining, crushing, hauling, etc..)

Equipment loading aggregate onto trucks, trucks hauling through yard.

NOISE LEVELS: (high, mod, low, no noise)

Low

DUST LEVELS: (high, mod, low, no dust)

Low

SITE CONDITIONS: (open cut/disturbed areas, stockpile locations, perimeter boundary, new trees/fence, screening berms, use of water to control dust, steep slopes)

Piles had been formed/moved since visiting 1 year prior. Large, deep open cut remains on West edge of Property.

SURROUNDING PROPERTY CONDITIONS: (Ex. Roadways, haul roads)

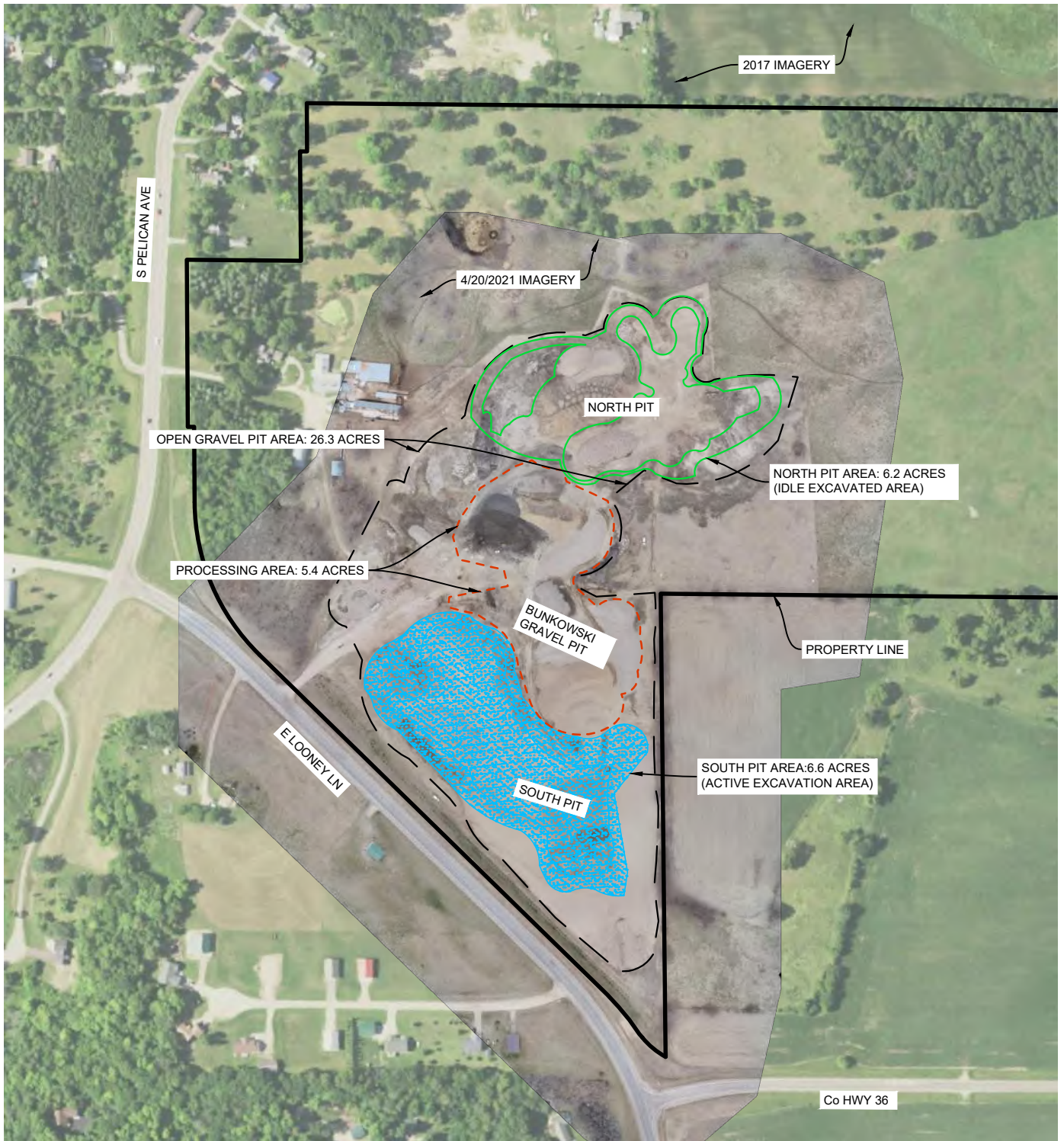
Trucks hauling on road and moderate civilian traffic.

VISITORS:


INSPECTOR: D. Tell



Appendix G Current Conditions Map



LEGEND

- — — — — TOTAL OPEN GRAVEL PIT: 26.3 ACRES
- - - - - PROCESSING AREA: 5.4 ACRES
-  ACTIVE EXCAVATION AREA (SOUTH PIT): 6.6 ACRES

200 0 200 400
SCALE FEET



GRAVEL PIT COMPLIANCE REPORT

CITY OF VERGAS
VERGAS, MINNESOTA

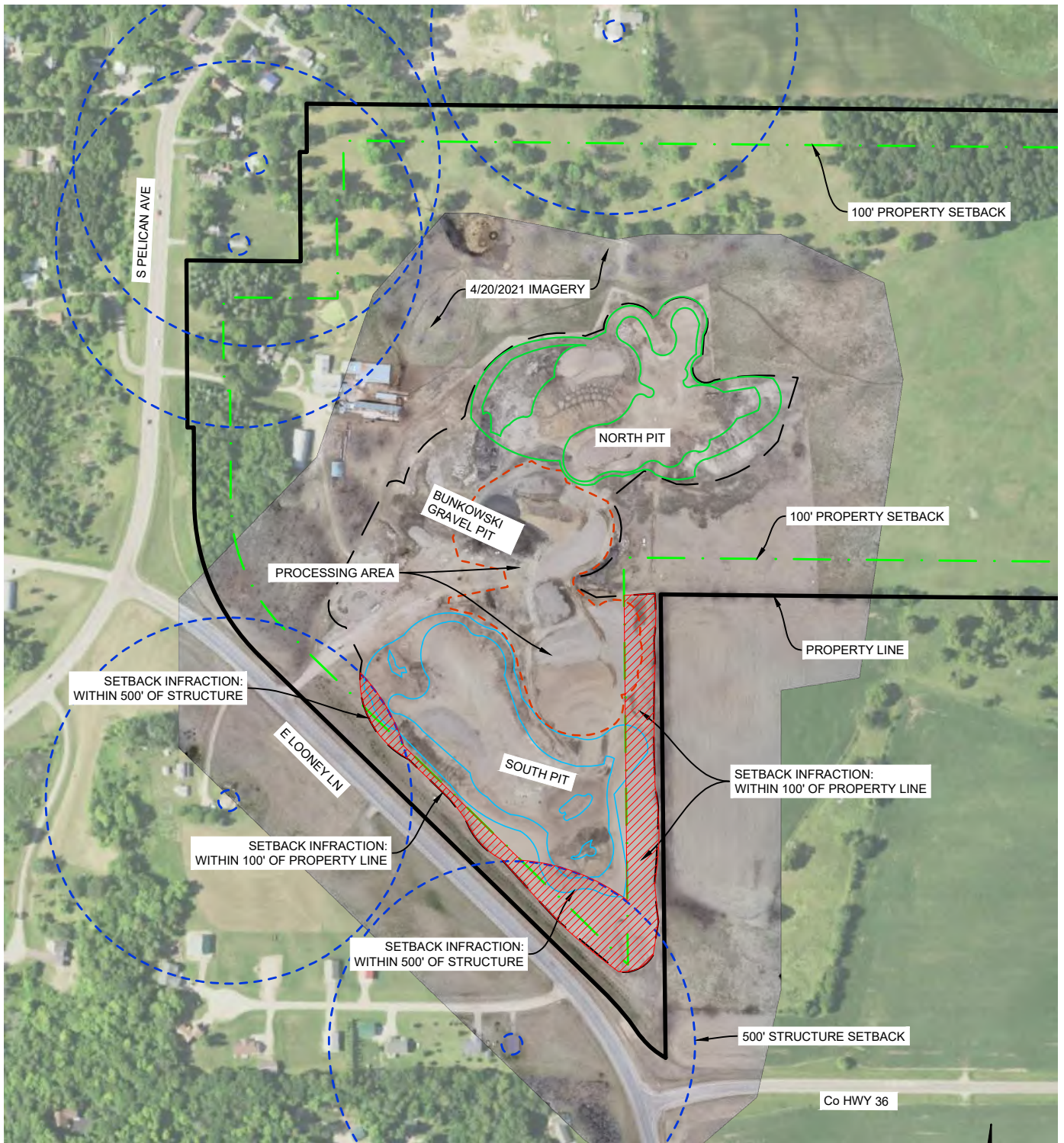
APPENDIX G - CURRENT CONDITIONS MAP

DRAFTED	EAS
REVIEWED	SK
PROJECT NUMBER	2104_00530
ISSUE DATE	05/06/2021





Appendix H Setbacks Map



LEGEND

- OPEN GRAVEL PIT AREA
- ACTIVE MINING PIT AREA
- . - 100' PROPERTY SETBACK
- - - 500' STRUCTURE SETBACK
- ▨ SETBACK INFRACTION



GRAVEL PIT COMPLIANCE REPORT

CITY OF VERGAS
VERGAS, MINNESOTA

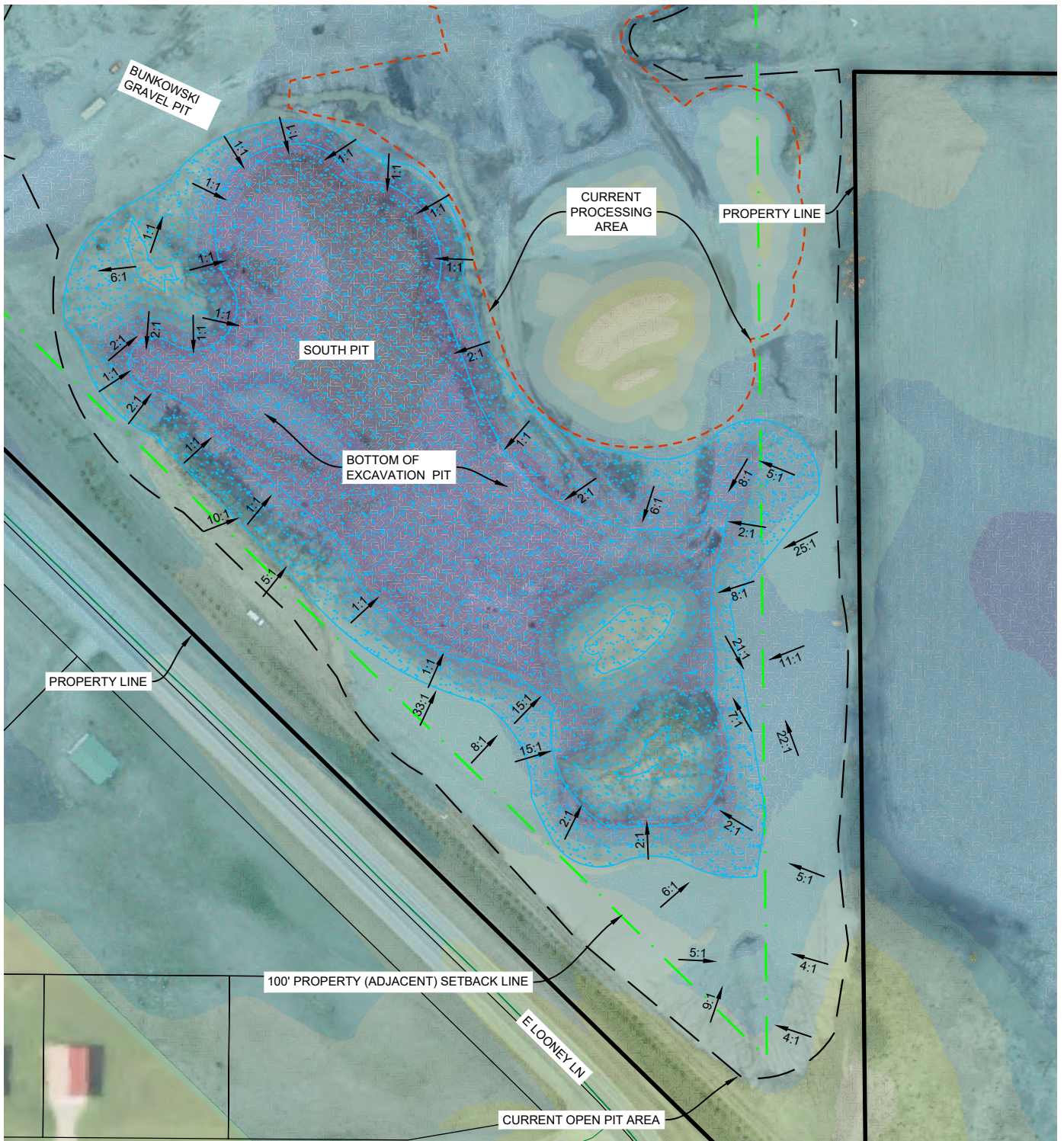
APPENDIX H - SETBACKS MAP

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REVIEWED	SK
PROJECT NUMBER	2104_00530
ISSUE DATE	05/06/2021



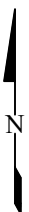


Appendix I Slope and Grade Map (South Pit, North Pit)



LEGEND

- — — — — CURRENT OPEN GRAVEL PIT AREA
- — — — — SOUTH PIT AREA
- — — — — 100' PROPERTY (ADJACENT) SETBACK
- MAX SLOPE INFRACTION



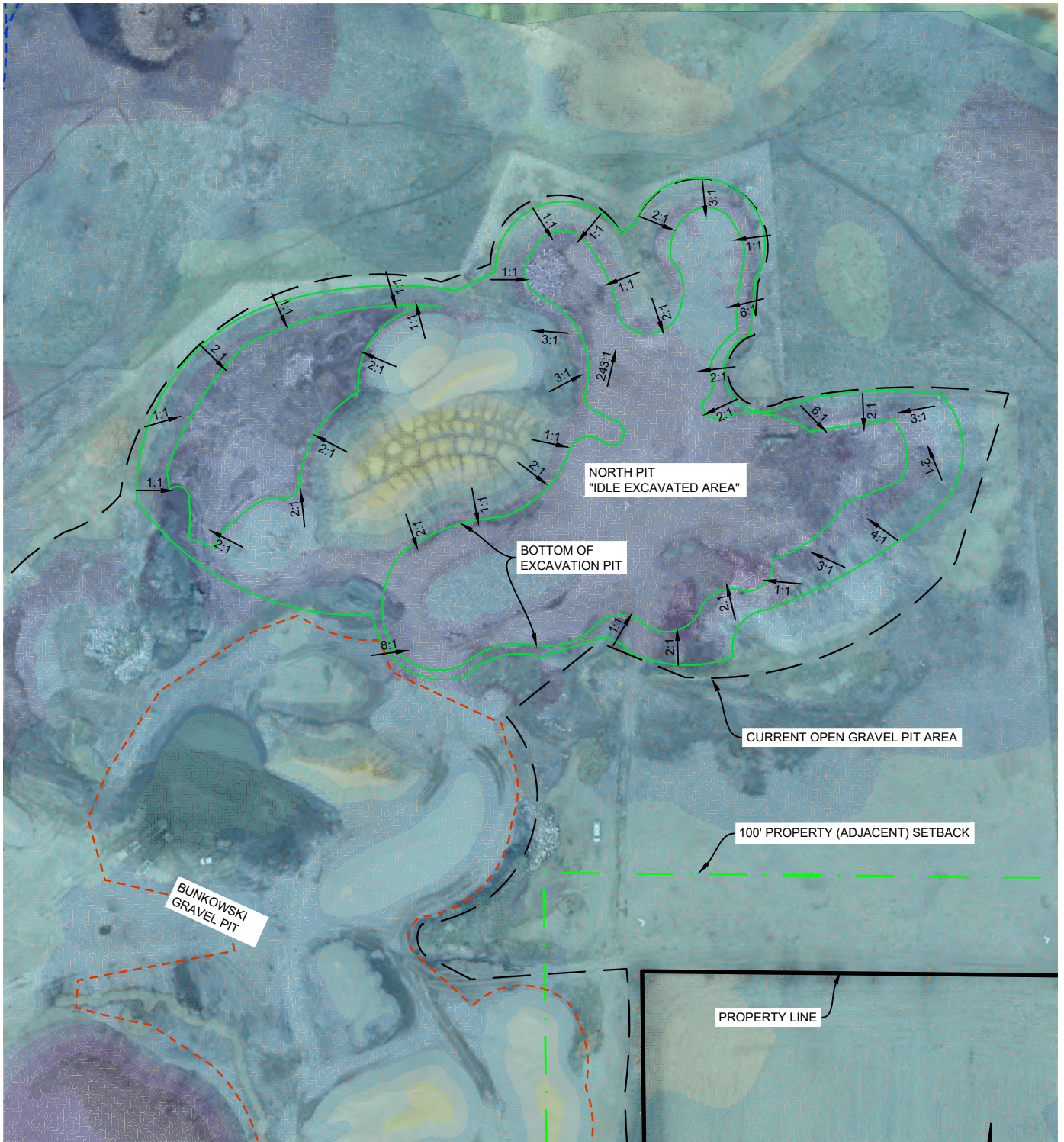
GRAVEL PIT COMPLIANCE REPORT

CITY OF VERGAS
VERGAS, MINNESOTA

APPENDIX I - SLOPE & GRADES MAP - SOUTH PIT

DRAFTED
EAS
REVIEWED
SK
PROJECT NUMBER
2104_00530
ISSUE DATE
05/06/2021





LEGEND

- CURRENT OPEN GRAVEL PIT AREA
- NORTH PIT AREA
- 100' PROPERTY (ADJACENT) SETBACK
- MAX SLOPE INFRACTION



GRAVEL PIT COMPLIANCE REPORT

CITY OF VERGAS
VERGAS, MINNESOTA

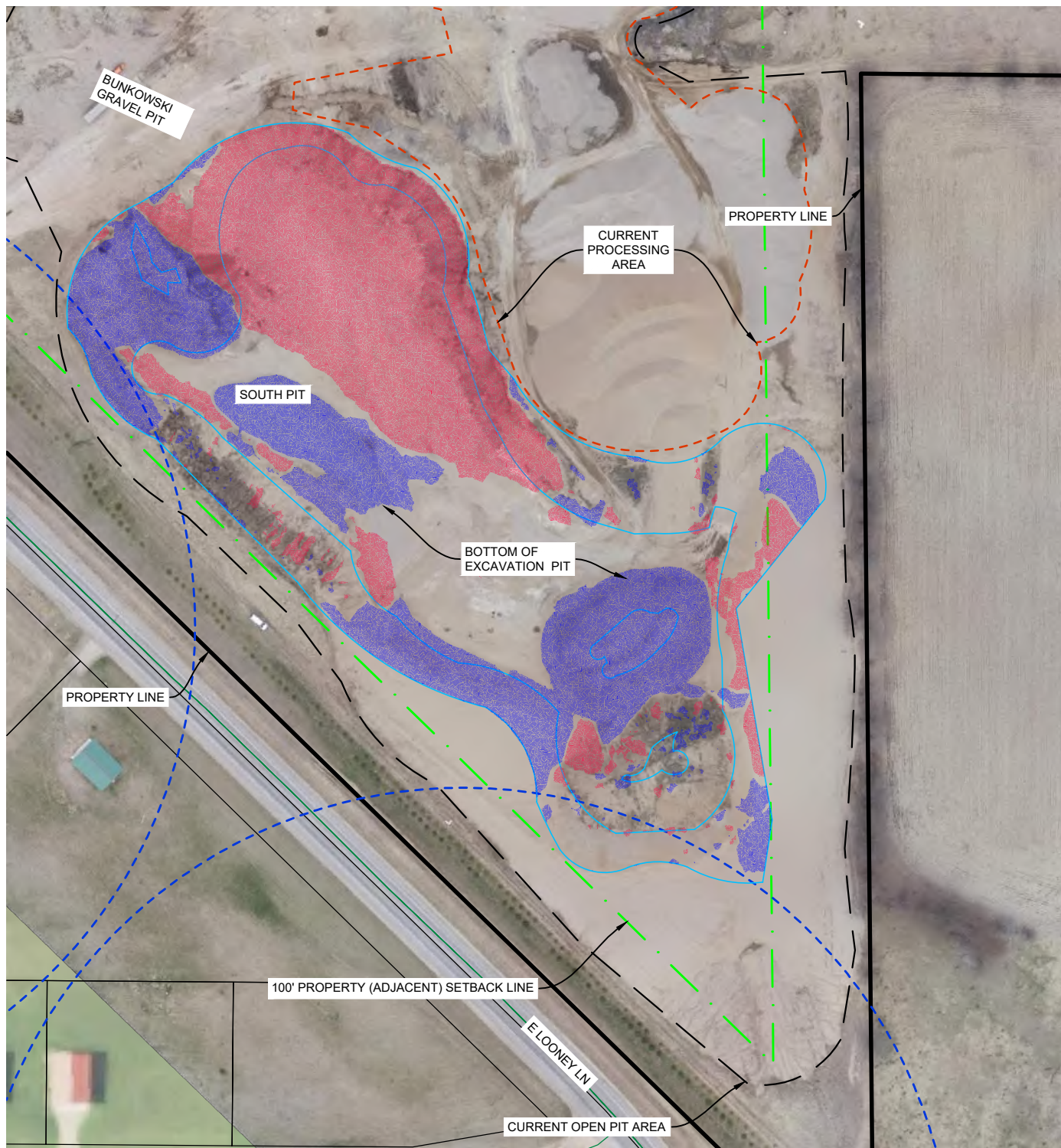
APPENDIX I - SLOPE & GRADES MAP - NORTH PIT

DRAFTED
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REVIEWED
SK
PROJECT NUMBER
2104_00530
ISSUE DATE
05/06/2021





Appendix J Fill & Excavation Areas - South Pit



LEGEND

- CURRENT OPEN GRAVEL PIT AREA
- SOUTH PIT AREA
- 100' PROPERTY (ADJACENT) SETBACK
- AREAS FILLED FROM SPRING 2020
- AREAS EXCAVATED FROM SPRING 2020

AREAS OF ELEVATION CHANGE LESS THAN 1' (+/-) HAVE BEEN OMITTED FROM THE EXHIBIT TO REMOVE MINOR CHANGES AND POTENTIAL ERRORS IN SURVEY METHOD.



GRAVEL PIT COMPLIANCE REPORT

CITY OF VERGAS
VERGAS, MINNESOTA

APPENDIX J - FILLED & EXCAVATED AREAS - SOUTH PIT

DRAFTED	EAS
REVIEWED	SK
PROJECT NUMBER	2104_00530
ISSUE DATE	05/06/2021

