

## COUNTY HIGHWAY UPGRADE AND MAINTENANCE AGREEMENT

This COUNTY HIGHWAY UPGRADE AND MAINTENANCE AGREEMENT (this "Agreement") is made and entered into this 14th day of August, 2012, (the "Effective Date") by and between Pepin County (the "County"), and Greg Bechel Trucking and Excavating, LLC (the "Operator").

### RECITALS

WHEREAS, Operator is in the business of mining silica sand, and has sited a non-metallic mine (the "Quarry") in Pepin County, Wisconsin, and has obtained an Amended Non-metallic Mining Reclamation Permit (the "Permit") for the Quarry from Pepin County in accordance with the Non-metallic Mining Reclamation Ordinance of the County and Wis. Adm. Code Ch. NR 135, and

WHEREAS, this agreement shall remain in force for a subsequently issued Non-metallic Mining Reclamation Permit for the Quarry, if the Permit, which is currently being challenged in court, is nullified by the court and a subsequent permit is obtained within one year of that nullification, additionally the subsequent permit shall become the "Permit" under this Agreement.

WHEREAS, the Parties desire to address certain issues relating to the highways owned and maintained by the County (collectively, the "County Highways") over which it will be necessary for Operator to, among other things, transport heavy equipment and silica sand over certain County Highways; which may in certain cases be in excess of the design limits of the County Highways, and both parties acknowledge that certain of the County Highways may not be constructed to withstand the frequency and weight of shipments necessary for the Operator to transport its products and equipment.

WHEREAS, Wis. Stat. §349.16(1)(c) authorizes the County Highway Commissioner to enter into an agreement on behalf of County with any owner or operator of any vehicle being operated on a highway maintained by County that provides that the County will be reimbursed for any damage done to the highway, and

WHEREAS, Operator has provided to County a site layout plan for the project that shows the access road entrances, a copy of which is attached as Exhibit A (the "Plan"), and

WHEREAS, Operator and County wish to set forth their understanding and agreement as to the highway issues relating to use of County Highways pertaining to the construction, development, operation, maintenance and reclamation of the Project.

WHEREAS, this Agreement shall apply to those county Highways listed on the attached Exhibit B (the "Haul Route") and any other County Highway(s) used by Operator in the course of the construction, development, operation, maintenance and reclamation of the Project.

WHEREAS, the parties recognize completion of the projects described herein depend on weather conditions and availability of materials; the County enters this Agreement intending to complete the projects necessary to begin hauling before December 31, 2012, and the Operator waives any right to seek any remedy if the County fails to complete said work by December 31, 2012.

NOW, THEREFORE, THIS AGREEMENT:

Article 1. Term.

This Agreement shall commence upon the Effective Date and shall continue in full force and effect until the Permit has expired, has been terminated, or until Operator has fully discontinued its construction, development, operation, maintenance and reclamation of the Quarry and any and all transportation activities related thereto on the County Highways listed on Exhibit B, whichever occurs later and the final inventory has been completed, the holding period under section 2.8 has expired, and the County has released the Operator from its reclamation responsibilities, subject to the County Highway Commissioner's annual review.

Article 2. Operator acknowledges and agrees the use of County Highways pertaining to the Quarry may require the County to undertake one or more of the following activities in order to preserve County Highways and that the Operator shall be financially responsible for the costs of said activities to the extent provided for under the terms of this Agreement:

- 2.1. Upgrading pavement or roadbed sections on County Highways to a design standard as directed by the DOT, Facilities Development Manual, Section 11-40, to withstand the weight and volume of motor vehicle and heavy equipment traffic generated with respect to the Quarry.
- 2.2. Upgrading the geometric design of the County Highways to standards directed by the DOT, Facilities Development Manual, Section 11-40, that will safely and efficiently accommodate the traffic that Operator has indicated the Project will generate; including improvements at entrances, intersections and to the typical cross-section. Geometric improvements shall also include any improvements to structures and culverts necessary to accommodate the increased traffic from Quarry, subject to the Commissioner's determination. Operator and Commissioner may, at Operator's expense, hire an independent third party engineer to assess and recommend upgrades prior to the Commissioner making a determination.
- 2.3. Preparing an inventory, as described in §10.6., of all roads on the Haul Route in Exhibit B to determine 1) the necessary improvements prior to commencing hauling and 2) the life remaining in the road if traffic remained at its current volume.

- 2.4. Providing Engineering Plans, road inventory reports and core samples for all information and improvements needed under Sections 2.1., 2.2. and 2.3. above, including business limited to Right-of-Way acquisitions.
- 2.4.5 Projects to be undertaken prior to the commencement of hauling at the expense of the Operator include the following:
- (a) AET study of Haul Route highway conditions pursuant to Section 2.3, above.
  - (b) Study of CTH "P" bridge to determine life expectancy under proposed use. Parties shall agree upon a neutral third party to make this determination.
  - (c) Realignment or other improvements and maintenance to the intersection of CTH "D" and CTH "SS" as described in Exhibit C (the "AET Report"), subject to the Commissioner's determination to properly maintain the roads in the best interests of both parties per the Wisconsin Facility Development Manual (FDM) specifications. At the time of signing this Agreement Operator will deposit \$20,000 cash into the County Highway Account for improving this intersection. Any additional costs for these improvements will be made by the Operator within 30 days of written notice by the County to the Operator.
  - (d) Improve or maintain CTH "D" base and surface per the AET Report, subject to the Commissioner's determination to properly maintain the roads in the best interests of both parties per the (FDM) specifications. At the time of signing this Agreement Operator will deposit \$300,000 cash into the County Highway Account for improving CTH "D." Any additional costs, including but not limited to culvert costs, for these improvements will be made by the Operator within 30 days of written notice by the County to the Operator.
  - (e) Improve or maintain 0.8 miles of CTH "SS" by adding overlay per the AET Report, subject to the Commissioner's determination to properly maintain the roads in the best interests of both parties per the (FDM) specifications. At the time of signing this Agreement Operator will deposit \$150,000 cash into the County Highway Account for improving 0.8 miles of CTH "SS." Any additional costs for these improvements will be made by the Operator within 30 days of written notice by the County to the Operator.

- (f) Improve or maintain 0.9 miles (flat portion) of CTH "SS" surface per the AET Report, subject to the Commissioner's determination to properly maintain the roads in the best interests of both parties per the (FDM) specifications. At the time of signing this Agreement Operator will deposit \$150,000 cash into the County Highway Account for improving 0.9 miles CTH "SS." Any additional costs for these improvements will be made by the Operator within 30 days of written notice by the County to the Operator.
  - (g) Any funds not used for improvements in paragraphs 2.4.5(c)-(f) shall be refunded to Operator within sixty (60) days of completing all projects described therein.
- 2.5. Allow curing of highway surfaces. Highway improvements in 2.4.5. must be allowed at least one week to properly cure prior to the Operator using the improved route, subject to the Highway Commissioner's final determination that the improvements are able to withstand the Operator's anticipated or actual traffic use. For all future improvements, Operator must comply with any directive by the Highway Commissioner as to the time period needed for properly curing the improvements to the designated or alternative haul routes.
- 2.6. (a) Operator shall make payments to the County toward both general maintenance and exceptional maintenance costs pertaining to its use of County highways, in accord with Section 349.16 (1)(c), Wis. Stats., in accord with this Agreement. "General Maintenance" shall include but not be limited to crack sealing, seal coating, shoulder work and the brushing of rights of ways. "Exceptional Maintenance" shall include but not be limited to repaving, milling, pulverizing pavement and the adding of base course or necessary redesign of highways for safety purposes or to meet current state standards, subject to the Commissioner's determination. Operator and Commissioner may, at Operator's expense, hire an independent third party engineer to assess and recommend upgrades prior to the Commissioner making a determination.
- (b) Operator shall be responsible for all exceptional maintenance costs, beyond general maintenance requirements, that are attributable to damage to County Highways from the hauling of products and equipment related to the Project. Said exceptional maintenance costs may occur either before or after any of the improvements to County Highways indicated in Sections 2.1., 2.2., 2.3. and 2.4. above are made. County shall inform Operator if it has a good faith basis to believe any exceptional maintenance costs become necessary and provide a good faith estimate of costs to

Operator prior to commencing work. The standard of measure will be the difference between the projected remaining life of the road with traffic volume, prior to this Agreement, based on the information gathered in Section 2.3. Operator agrees to pay for reconstruction costs, calculated presently and subject to increased costs of material and labor, at \$170,000 per mile for 3 inches of blacktop, together with associated exceptional maintenance costs, as defined in (a), above.

The County will invoice the Operator for maintenance costs incurred beyond those payable from the then existing maintenance fund under Section 2.8, below, as the work is completed. Operator shall have thirty (30) days from the date of invoicing to make payment to County.

- 2.7. The County shall be responsible for the cost of seal-coating the entire haul route once every ten (10) years. The start date for calculating this cost begins on the date when the initial improvement or maintenance is completed under this Agreement. For the purpose of this section, no more than eighty (80) operations per day will be generated for each day of projected use, in accord with § 10.7.
- 2.8. Prior to commencing operations on County highways under this Agreement, the Operator shall deposit with the County the sum of \$1,000,000 cash, which shall be placed in an interest bearing account and segregated by the County for use with respect to maintenance costs as follows: Exceptional maintenance costs shall be limited to expenditures pertaining to the designated haul route while general maintenance expenditures may be spent on such maintenance work on County highways identified in Exhibit B, alternate haul routes, or limestone or gravel haul routes generally, in the discretion of the Highway Commissioner.

The County may withdraw monies from said account for use with respect to both general and exceptional maintenance costs. To the extent that the fund is wholly or partially depleted because of improvement or maintenance cost expenditures, the Operator shall be required to re-establish the minimum fund balance of \$1,000,000. Operator shall have thirty (30) days from the date of invoicing to make payment to County. The said fund shall be funded by the Operator at all times until the Quarry has been completely reclaimed and its obligations under the NR 135 Permit issued to it by the County have been fully satisfied.

Upon release of Operator by County from NR 135 permit requirements, Operator shall pay for a final road inventory inspection (substantially similar to the AET report as described in Section 10.6(c)) by a mutually

agreed upon independent engineer to determine the maintenance or improvements necessary to return the Haul Route and any alternate, limestone, or gravel routes to at least their condition as of the Effective Date. At the Operator's expense, the parties may use an independent third party engineer to determine reasonable costs for final maintenance attributable to Operator on the alternate, limestone and gravel routes. Maintenance shall be made as per the inspection, unless the parties mutually agree on alternate improvements or maintenance. Within one (1) year after the final maintenance has been completed, the Highway Commissioner shall inspect all routes. Upon the Highway Commissioner deeming the routes in compliance with the final improvements and maintenance recommendations or agreed upon alternative, the County shall release and refund any unused and unallocated funds held under this Agreement.

For the purpose of this section, no more than eighty (80) operations per day will be generated for each day of projected use, in accord with § 10.7. In the event that the volume of daily traffic exceeds eighty (80) loads per day to and from the Quarry or volume transported out of the mine exceeds 500,000 tons per year, as determined in 10.8 below, the County reserves the right to recalculate the payment for maintenance. In addition, given the length of the potential term of this Agreement, the County reserves the right to adjust the payment annually to take inflation in labor and material costs into account. Inflation in this case shall be based on market prices for labor and material costs.

If the loads per day exceed eighty (80) operations per day or annual volume transported out of the mine exceeds 500,000 tons, the County reserves the right to reopen this section and increase the level of contribution of the Operator toward maintenance costs and require a new or revised Highway Maintenance Agreement.

For verification purposes, the Operator shall on a monthly basis provide the County with a summary of trip tickets reflecting the number of trips and volume of all material hauled, and its trip tickets as evidence supporting the summary.

- 2.9 Operator shall pay an administrative fee on all improvements not to exceed the percentage (currently 4.84%) determined by the Wisconsin Department of Transportation Bureau of Highway Maintenance as described in the Highway Maintenance Manual at Chapter 02, Section 20, Subject 25. The rate shall be the maximum percent allowed under state law at the start of the given improvement project. At the time of signing

this Agreement Operator will deposit \$30,000.00 cash into the County Highway Account for the administrative fee on the pre-haul improvements and maintenance.

Article 3. County, in accordance with the terms of this Agreement, agrees to:

- 3.1. Review for approval all access points at the site of the Quarry to the County Highway system by giving consideration to sight distances, drainage and proximity to other entrances, in a reasonable manner, and in accordance with accepted engineering practices;
- 3.2. Coordinate with Operator so as to minimize the impact of their use of the County Highway system;
- 3.3. Perform or designate another entity to perform all maintenance and construction of all improvements pursuant to this Agreement on the County Highways used to facilitate the construction, development, operation, maintenance and reclamation of the Quarry. Maintenance and construction will be done only by the County or its designee.
- 3.4. Keep those County Highways listed on the attached Exhibit B open to Operator to haul products and equipment related to the Quarry for the entire term of this Agreement without further restrictions, other than those indicated in this Agreement, for all vehicles meeting statutory requirements for weight, width, height and length. County shall retain the right and its authority to establish and set traffic speed limits in accordance with generally accepted highway standards and safety practices.

Article 4. Highway Inventory.

4.1. Routing and Access Approval.

This Agreement applies only to the County Highways listed on the attached Exhibit B of this Agreement. If conditions or circumstances change and Operator desires to change haul routes, it must first request authorization from the County. Terms and conditions of Operator's use of highways other than those designated in Exhibit B shall be negotiated by the Operator and County in a separate agreement. Notwithstanding any provision of this Agreement to the contrary, the parties agree the purpose of this Agreement is to address the Operator's silica sand operations under its Permit, as such the County will exempt the Operator's historic road use of hauling no more than 20,000 tons of limestone and gravel per year. Any limestone and gravel hauling exceeding 20,000 tons per year shall be included in this Agreement.

4.2. Incidental Use.

The Parties recognize that Quarry traffic may, either through mistake or with the consent of County, use County Highways other than those listed on Exhibit B of this Agreement. Repairs for damage caused by Operator during such mistaken or permitted use shall be treated as exceptional maintenance under Section 2.6 above.

Article 5. Construction Cooperation.

5.1. County.

On an as needed basis, during the term of this Agreement, County and Operator shall meet to discuss Quarry-generated traffic and County Highway construction and maintenance schedules. The County agrees to keep those County Highways specified in Exhibit B open to Quarry traffic during County Highway construction and maintenance activities, except where necessary in the opinion of the Highway Commissioner to facilitate maintenance or repairs. Annual seasonal weight limitations shall apply to all haul routes in Exhibit B and to any alternate routes approved by County. In the event that whether due to normal or exceptional maintenance, any portion of the Haul Route is closed to public travel during the term of this Agreement, the parties agree to confer and establish an alternate route for the duration of said highway closure.

5.2. Emergency Actions.

Notwithstanding the foregoing, in the event Operator caused damage to County Highways of a magnitude sufficiently great to create a hazard to the traveling public, which in County's opinion warrants an immediate repair or County Highway closing, County may unilaterally close those County Highway(s) affected and make or authorize repair, with documented costs thereof paid for by Operator.

Both Parties acknowledge that while County is the Jurisdictional Authority for those County Highways listed in Exhibit B, certain emergency situations may arise that fall under law enforcement, fire district or emergency management control. In such situations the Highway may be closed to traffic, including traffic from the Project, outside the control of County. County shall not be responsible for any harm to Operator, Operator's Representatives or the Project that may result from County Highway closings that occur due to such emergencies.



Article 6. Indemnification/Hold Harmless and Liability Insurance Provisions.

6.1. Indemnification by Operator.

Operator hereby releases and agrees to indemnify and hold harmless County and its respective officers, employees, and agents, and their respective heirs, executors, administrators, successors and assigns (hereinafter collectively "County Releasees") from any and all third party actions, causes of action, suits, claims, expenses (including reasonable attorney's fees) and demands against County Releasees arising out of or relating to the performance by Operator of its obligations under this Agreement. More particularly, but without in any way limiting the foregoing, Operator hereby releases County and County Releasees and agrees to indemnify and hold harmless County and County Releasees from any and all third party actions, causes of action, suits, claims, expenses (including reasonable attorney's fees) and demands arising directly or indirectly from any personal injury, death or property damage arising out of the use by Operator of any County Highway subject to this Agreement.

(a) Limitations of Liability.

In no event shall County or County Releasees be liable (in contract or in tort, involving negligence, strict liability, or otherwise) to any other party or their contractors, suppliers, employees, members and shareholders for indirect, incidental, consequential, or punitive damages resulting from the performance, non-performance, or delay in performance under this Agreement.

(b) Required Insurance.

Operator shall at all times throughout the term of this Agreement maintain in full force and effect commercial general liability insurance, naming County and County Releasees as an additional insured, in the aggregate amount equal to two-million dollars (\$2,000,000.00), subject to the County's insurance agent or authorized person's review. Operator may utilize any combination of primary and excess insurance to satisfy this requirement.

Article 7. Remedies and Enforcement.

Each of the Parties hereto covenant and agree that in the event of default of any of the terms, provisions or conditions of this Agreement by any party (the "Defaulting Party"), which default is not caused by the party seeking to enforce said provisions (the "Non-Defaulting Party") and after notice and reasonable opportunity to cure has been provided to the Defaulting Party, then in such an event, the Non-Defaulting Party shall have the right of specific performance. The

remedy of specific performance and injunctive relief shall not be exclusive of any other remedy available at law or in equity. Operator shall pay all of the County's attorney fees incurred in pursuing and enforcing County's rights and remedies under this Article.

Article 8. Due Authorization.

Operator hereby represents and warrants that this Agreement has been duly authorized, executed and delivered on behalf of Operator. County hereby represents and warrants that this Agreement has been duly authorized, executed and delivered on behalf of County.

Article 9. Savings/Severability.

It is mutually agreed by the Parties that in the event any provision of this Agreement is determined by any court of law of competent jurisdiction to be unconstitutional, invalid, illegal or unenforceable in any respect, it is the intention of the parties that such unconstitutional, invalid, illegal or infirm provision of this Agreement be severed from the remainder of the Agreement which shall be construed as if such unconstitutional, invalid, illegal or infirm provision had never been incurred in this Agreement.

Article 10. Miscellaneous Provisions

10.1. Operator Only Person Hauling From Quarry.

Except for the historic use of hauling of limestone and gravel in 4.1., the Operator agrees that it shall not assign, delegate, subcontract, or otherwise enlist, authorize, or allow third parties who are not a party to this Agreement to engage in the operation of motor vehicles or heavy equipment on County highways, which operation is associated with the construction, development, operation, maintenance, and reclamation of the Quarry.

10.2. Hours of Operation.

Shall be identical to the Town(s) days and hours of operation. The sole exception to this shall be during highway closures when alternate routes must be used and during the time any weight restrictions are imposed by the County on use of highways pursuant to §348.17, Wis. Stats.

10.3. Alternate Routes.

In the event that one or more of the County highways described in Exhibit B, or any portion thereof, are closed, whether due to maintenance or repairs, flooding, or other hazards or impediments to public travel, the

Operator agrees that it shall endeavor to use CTH SS west to the Pepin/Pierce County line and travel through Pierce County. Unless it is impractical or impossible to make use of this route through the County, the Operator shall avoid using CTH N through the Village of Arkansaw. Before making use of CTH N or any other County highway the Operator shall confer with the Highway Commissioner, as to use of this or another alternative route to USH 10, who shall designate an appropriate alternative, which may include but is not limited to CTH N through the Village of Arkansaw. The County reserves the right to implement weight restrictions and road bans when the Commissioner determines such measures are required to protect the integrity of the roads.

10.4. Operator Not to Use Town Highways.

The Operator agrees to restrict its motor vehicle and heavy equipment traffic to the County highways identified in Exhibit B. Under no circumstances, without first obtaining the approval of the Town Board charged with operation, maintenance, and repair of a given highway, shall the Operator use Town highways in the County for any purpose associated with the construction, development, operation, maintenance, or reclamation of the Quarry.

10.5. Operator Agreement to Not Use Semi-Trailers.

Except for the historic use of hauling of limestone and gravel in 4.1., the Operator agrees that it shall use its own fleet of quad-axle trucks for hauling on highways associated with the Quarry under this Agreement and that it shall under no circumstances use semi-trailer trucks for such purpose.

10.6. Agreed-Upon Baseline and Subsequent Inspections and Analysis: Conditions of Highways Subject to Agreement.

The Operator acknowledges that the County commissioned an independent study of the remaining useful life of each segment of highway subject to this Agreement, together with the degree to which each such highway segment complies with State construction standards for county highways as well as with respect to the identification of any segments of the affected highways that require immediate repairs or restructuring in order to withstand or sustain the anticipated volume and weight of Quarry-related traffic for and during the term of this Agreement.

(a) Pre-operation repairs.

To the extent that the study demonstrates the need to

engage in repairs prior to commencement of use associated with the Quarry, the Operator agrees to pay to the County a sum equal to the cost thereof before the repairs are commenced.

(b) Semi-Annual Inspections.

Twice each year an agreed upon, independent engineer shall visually inspect the road condition. Operator shall pay for the inspections. The inspections shall be done in the Spring and Fall, the specific day and month shall be determined by the Highway Commissioner. The inspection shall be for purposes of monitoring wheel-rutting, pavement movement, shoulder damage, and other road degradation caused by trucks operating under this Agreement.

(c) Regular Analysis.

At years 5, 10, 20, 30 and when this Agreement terminates, Operator shall pay for a road inventory assessing the areas, qualities and road conditions substantially similar to the AET report used to determine the baseline road conditions prior to hauling materials under this Agreement. The inventory shall be done by an engineer agreed upon by the Operator and Highway Commissioner.

10.7. Estimated Value/Weight of Hauling.

The Operator estimates that it will process sixty (60) trucks per day each way from the Quarry, while maximum weight shall not exceed 80,000 pounds per truckload and 6,400,000 pounds per day. In the event the Operator exceeds eighty (80) trucks per day each way from the Quarry or an annual volume transported out of the mine exceeds 500,000 tons, the County reserves the right to reopen this Agreement, and the Operator agrees to confer with the County in good faith as to possible modifications to this Agreement.

10.8. Scaling of Trucks; Weight Limitations.

The Operator agrees that each truck shall be weighed at the Quarry scale in its loaded and unloaded states and that all weight slips shall be kept by it for a period of six (6) years after the reclamation under the Operator's NR 135 permit is complete and shall be provided to the County after the end of each calendar month of operation. No trucks shall be operated on County highways in excess of statutorily permitted weight limits under

Ch. 348, Wis. Stats., or as otherwise ordered by the Highway Commissioner in accord with his legal authority.

10.9 Load Cover and Materials Left in Highway.

All loads must be sprayed with a sufficient amount of water or covered with a tarp so as to prevent the blowing of sand off of the truck. As a complete alternative to requiring the wetting down of the haul sand, at the option of the Operator, it may choose to use covers that are sealed so as to prevent the release of any sand from its hauling trucks. Operator must not allow materials to escape the trucks or be left in the highway as set forth under Wisconsin Statutes §§ 348.10, 86.01 and 86.02.

10.10. Notice to Operator of Certain Highway Conditions.

The Operator is placed on notice that the County mows the rights-of-way of its highways once per year, on average. As such, it shall take notice of conditions occasioned by weed and grass control in the rights-of-ways when operating on the highways. In addition, three poor sight lines exist at the intersection of CTH D and CTH SS.

10.11. Limitation of Use on Highways.

Traffic generated to and from the Quarry shall use the Haul Route or alternates thereto, as designated by the Highway Commissioner.

Article 11. Entire Agreement.

This Agreement and the exhibits attached thereto constitute the entire agreement among the Parties hereto with respect to the subject matter hereof, and supersedes any prior understandings or written or oral agreements between the parties with respect to the subject matter of this Agreement.

Article 12. Modifications.

No modification of this Agreement shall be binding unless the same is put in writing, and is duly authorized and executed by the Parties hereto with the same formality as this Agreement.

Article 13. Designated Representative.

Operator designates Gregory S. Bechel as Agent with primary responsibility for the performance of this Agreement. In the event this Agent is replaced by another for any reason, Operator will designate another Agent within seven (7) calendar days and provide notice to County of replacement pursuant to the procedure set forth in Article 14, below.

Article 14. Notices.

All notices to be given under the terms of this Agreement shall be in writing and signed by the person serving the notice and shall be sent via registered or certified mail, return receipt requested, postage prepaid, or hand delivered to the addresses of the parties listed below. Notice shall be deemed to have been received on the date of receipt as shown on the return receipt or other written evidence of receipt.

FOR COUNTY: Highway Commissioner  
312 Tenth Avenue East  
Durand, WI 54736

FOR OPERATOR: Gregory S. Bechel  
W2171 County Road S  
Maiden Rock, WI 54750

Article 15. Assignability/Consent.

This Agreement shall be binding on the parties hereto, their respective assignees and successors who remove nonmetallic material from the Quarry in the Permit or engage in washing, sorting or processing of nonmetallic product. Except as otherwise provided herein, or except as may be hereafter determined by the Parties in writing, Operator, may not sell, assign or transfer its interest in this Agreement, or any of its rights, duties or obligations hereunder, without the prior written consent of County. Whenever the consent of the County is required, County shall not unreasonably withhold such written consent or approval.

Article 16. Force Majeure.

The performance of this Agreement shall be subject to events of force majeure. Events of force majeure shall mean any contingency or cause beyond the reasonable control of a Party including, without limitation, acts of God or the public enemy, war, riot, civil commotion, insurrection, government or de facto government action (unless caused by acts of omissions of the party), fires, explosions, rain or other weather delays, floods, strikes, slowdowns or work stoppages.

Article 17. Counterparts.

This Agreement may be executed in any number of counterparts, each of which shall be deemed an original, with the same effect as if the signatures thereto and hereto were upon the instrument. Delivery of an executed counterpart of a signature page to this Agreement by telecopier shall be as effective as delivery of a manually signed counterpart to this Agreement.

Article 18. Choice of Law and Forum Selection.

This Agreement shall be governed by the laws of the State of Wisconsin. The Parties agree, for any claim or suit or other dispute relating to this Agreement that cannot be mutually resolved, the venue shall be in the Circuit Court of Pepin County.

Article 19. Default Termination.

In the event Operator shall default in any of the covenants, agreements, commitments, conditions or obligations herein contained, and any such default shall continue unremedied for a period of ten (10) calendar days after written notice thereof to Operator, County may, at its option and in addition to all other rights and remedies which it may have at law or in equity against Operator, including expressly the specific enforcement hereof, forthwith have the cumulative right to immediately terminate this Agreement and all rights of Operator under this Agreement. Operator shall pay all of the County's attorney fees incurred in pursuing and enforcing County's rights and remedies under this Article.

Article 20. Waiver of Terms and Conditions.

The failure of County to enforce or insist upon compliance with any of the terms or conditions of this Agreement shall not constitute a general waiver or relinquishment of any such terms or conditions, but the same shall be and remain at all times in full force and effect.

Article 21. Compliance with Applicable Laws.

Operator is responsible to observe and comply with all applicable federal, state and local laws, ordinances and regulations which in any manner affect the conduct or performance of Operator and its agents and employees of the terms and obligations under this Agreement.

Article 22. Captions.

The captions contained in this Agreement are for informational purposes only and shall not in any way affect the substantive terms or conditions of this Agreement.

Article 23. Cooperation.

The Parties agree to cooperate with each other in addressing any unforeseen or extraordinary events caused by Operator's activity that may result in significant

impacts to the County Highways. The parties further agree to cooperate with each other in addressing any unforeseen impact to Operator's ability to utilize the haul route or any alternative route provided for in this Agreement.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement the day and year first written above.

**GREG BECHEL TRUCKING AND EXCAVATING, LLC (OPERATOR)**

By: Gregory S. Bechel  
GREGORY S. BECHEL  
Its ~~Owner~~ President/CEO  
Owner

**PEPIN COUNTY (COUNTY)**

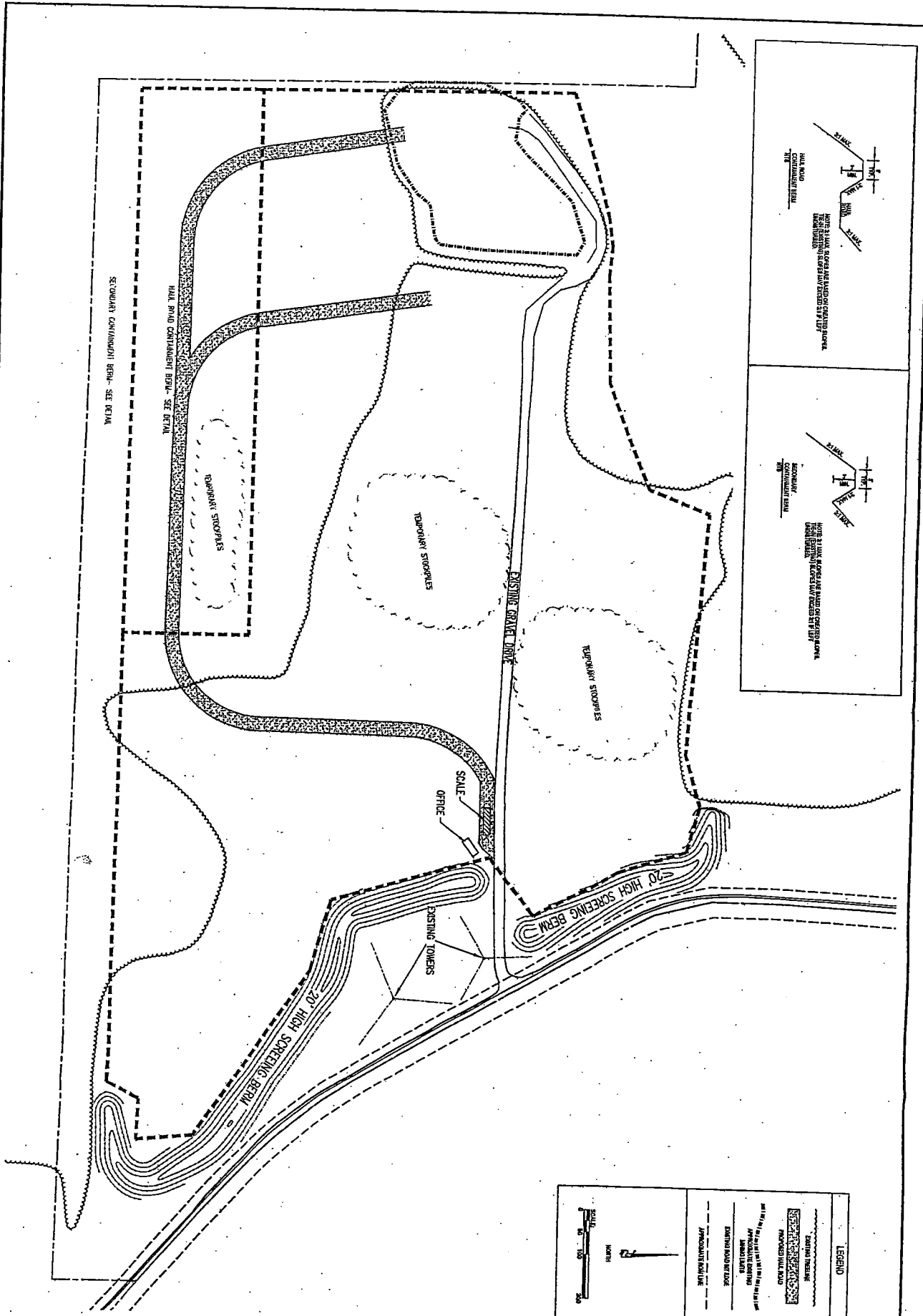
By: Steven Schofield  
STEVEN SCHOFIELD  
Its Highway Commissioner

As Ordered by the Highway Committee

By: William Mavity  
WILLIAM MAVITY  
Its Chairman



# EXHIBIT A



PROJECT:  
**RICHARDSON QUARRY**  
 NONMETALLIC MINING PERMIT AMENDMENT  
 TOWN OF FRANKFORT, PEPIN COUNTY, WISCONSIN  
**PROPOSED SITE PLAN**

**A-C/a**  
 Arth-Consulting/associates

BRANCH OFFICE  
 3000 Madison Street  
 Suite 100  
 Rockford, IL 61101  
 Tel: 815-398-8400  
 Fax: 815-398-8402  
 web: arth-consulting.com

DRAWN BY: JMS  
 CHECKED BY: MDH  
 DATE: 04/20/11  
 SHEET FILE: 5203-pollis  
 SHEET NUMBER: 5203-002  
 JOB NUMBER: 5203-002

REVISION DESCRIPTION	DATE
SITE VISIT UPDATES	MDH 05/07/11
RELEASED FOR REVIEW	MDH 04/28/11
NAME:	DATE:

**LEGEND**

- EXISTING TOWERS
- OFFICE
- 20' HIGH SCREENING BERM
- EXISTING COLLECT DITCH
- HAZARDOUS STOCKPILES

SCALE  
 0 50 100  
 FEET

# EXHIBIT B

## Haul Route

1. From the Quarry at N4870 CTH D, Arkansaw, WI 54750; to
2. North on County Highway D; to
3. East on County Highway SS; to
4. North on County Highway N; to
5. East and Northeast on County Highway P; to
6. State Highway 10.

See also maps depicting Haul Route in Exhibit C.

# EXHIBIT C