



JOINT MEETING NOTICE

County Zoning Agency

MEETING NOTICE

Thursday, July 18, 2013 at 4:00 p.m.
Walworth County Government Center
County Board Room 114
100 West Walworth Street
Elkhorn, WI 53121

Land Use and Resource
Management Department

Rick Stacey, Chair – Dave Weber, Vice-Chair
Rich Brandl, Supervisor – Carl Redenius, Supervisor – Tim Brellenthin, Supervisor
Richard Kuhnke, Sr., Citizen Member – Jim Van Dreser, Citizen Member

Land Conservation Committee

MEETING NOTICE

Thursday, July 18, 2013 at 4:00 p.m.
Walworth County Government Center
County Board Room 114
100 West Walworth Street
Elkhorn, WI 53121

Dan Kilkenny – Chair, Nancy Russell - Vice Chair, Tim Schiefelbein – Supervisor
Sue Bellman – USDA/FSA Representative, Rosemary Badame – Citizen Member

(Posted in compliance with Sec. 19.84, Wis. Stats.)

**It is possible that a quorum of the County Board or a Committee of the County Board
could be in attendance**

All discussion items are subject to possible action

AGENDA

V=Items on Videotape

1. Call to Order
2. Roll Call
3. Approval of the Agenda Pg. 1
4. Discussion / possible action re: General Bonding Issues Pg. 2-15
5. Adjournment

Submitted by: Rick Stacey, County Zoning Agency Committee Chair
Dan Kilkenny – Land Conservation Committee Chair
Michael P. Cotter, Director, Land Use and Resource Management
Department

100 West Walworth Street
P.O. Box 1001
Room 222
Elkhorn, WI 53121

Planning/Zoning/Sanitation/

Conservation Divisions
262.741.4972 tel
262.741.4974 fax
262.741.4973 fax

Posted: July 12, 2013



Norem Mining Site/BR Amon, Operator Town of Lyons Reclaimed: 2009

Walworth County
Nonmetallic Mining Reclamation
Financial Assurance
Reclamation Bonding

Contents

<u>Topic</u>	<u>Page</u>
Financial Assurance- General	1
Reclamation Cost Estimates.....	3
Financial Assurance-Options.....	4
Walworth County Mining Sites	
Map.....	5
List of Financial Assurance.....	6
Sample Reclamation Bond.....	7
Sample Certificate of Completion...	9
Sample Reclamation Permit.....	10

Prepared by
The Walworth County Land Use and Resource Management Department-Land Conservation Division
July 7, 2013

Financial Assurance for Reclamation of Nonmetallic Mining Sites

General Information

Definition of Financial Assurance (Section 26-269 (9) Walworth County Code of Ordinances)

Financial assurance for the reclamation of a mining site is commitment of funds or resources by a mining site operator in a form accessible to Walworth County and sufficient to pay for reclamation activities required by the Walworth County Nonmetallic Reclamation Ordinance.

Purpose of Financial Assurance

The purpose of financial assurance is to ensure that the operator of a mining site will faithfully execute the requirements of the approved reclamation plan. The objective of financial assurance is to ensure Walworth County has direct access to funds necessary to reclaim a mining site in the event an operator defaults and does not perform the agreed-to tasks in the approved reclamation plan.

Filing Financial Assurance with Walworth County (Section 26-293 (a)(3) Walworth County Code of Ordinances)

The operator of the mining site must file financial assurance with Walworth County, prior to commencing mining activities on the approved parcel. Financial assurance must be payable exclusively to Walworth County.

Amount of Financial Assurance (Section 26-293 (a) (3) Walworth County Code of Ordinances)

The amount of the financial assurance shall equal, as closely as possible, the cost to Walworth County to hire a contractor to complete either the final reclamation, or progressive reclamation, according to the approved reclamation plan. The reclamation plan is the basis for the estimate of the cost of reclamation and for the amount of the financial assurance. The amount of the amount of the financial assurance shall be reviewed periodically to ensure the amount is equal to the outstanding reclamation costs. It is recommended that the reclamation plan be structured to keep the number of un-reclaimed acres to minimum. Generally, a smaller amount of acreage affected by mining will result in less financial assurance required. This is accomplished by mining in phases and extracting material and promptly performing reclamation prior to initiating mining elsewhere.

A *Schedule of Reclamation Costs* is included in **Exhibit #1**, (Page 3) of this Report.

Acceptable Forms of Financial Assurance (Section 26-293 (a) (4) Walworth County Code of Ordinances)

The financial assurance shall be by bond or a form described on **Exhibit # 2**, (Page 4) of this Report.

For small operators, the Walworth County Nonmetallic Mining Ordinance and NR 135 of the Wisconsin Administrative Code, related to nonmetallic mining reclamation, authorizes a blend of different options that could include a regular payment, based on production or gross sales, to an escrow account designed to grow to amount necessary to guarantee reclamation at the expected time of final reclamation. This option would be set up along with a lien on the property to serve as collateral to guarantee performance of reclamation responsibilities.

In addition, a special provision to make it more feasible for small operators, in particular, to provide financial assurance without jeopardizing the solvency of their businesses, by demonstrating proof of financial responsibility by meeting net worth responsibilities. Net-worth determinations must comply with the net worth test requirements of Wis. Stats §289.41(4).

Financial Assurance for Reclamation of Nonmetallic Mining Sites – Continued

Form of Financial Assurance – continued

Walworth County has twenty-six (26) active mining sites. The location of mining sites in Walworth County are shown on **Exhibit #3**, (Page 5) of this Report.

Current financial assurance provided by operators of mining sites in Walworth County is listed on **Exhibit #4**, (Page 6) of this Report.

A Sample of a Permit Bond, Issued by Liberty Mutual for the Reesmans Excavating and Grading, Inc., operators, of the mining site on the Bolton Property, Town of Spring Prairie is included on **Exhibit #5**, (Page 7) of this Report.

Duration of Financial Assurance (Section 26-293 (a) (3) Walworth County Code of Ordinances)

The **length or duration** of the financial assurance is dictated by the period of time required to establish the post-mining land use specified in the reclamation plan and is released upon successful completion of reclamation specified in the plan. After determining that reclamation is complete, Walworth County will issue a certificate of completion and release the financial assurance.

An example of a *certificate of completion* issued by Walworth County is included in **Exhibit #6**, (Page 9) of this Report.

Cancellation of Financial Assurance (Section 26-293 (a) (9) Walworth County Code of Ordinances)

Financial assurance shall not be cancelled by the surety or the holder except after not less than a 90-day notice to Walworth County by registered or certified mail.

Not less than 30 days prior to the expiration of the 90-day notice of cancellation, the operator shall submit a replacement proof of financial assurance to Walworth County. In the absence of this replacement financial assurance, all mining shall cease until the time it is submitted to Walworth County and in effect.

Changing Methods of Financial Assurance (Section 26-293 (a) (10) Walworth County Code of Ordinances)

The operator of a nonmetallic mining site may changes from one method of financial assurance to another. This may not be done more than once a year unless the change is due to an adjustment that is necessary due to inflation or new reclamation costs.

Bankruptcy Notification (Section 26-293 (a) (11) Walworth County Code of Ordinances)

The operator of a nonmetallic mining site shall notify Walworth County by certified mail of the commencement of voluntary or involuntary proceedings under the bankruptcy code, 11 U.S.C. et seq., naming the operator as the debtor, within 10 days of commencement of the proceedings.

A sample *Reclamation Permit* is included in **Exhibit #7**, (Page 106)

**Walworth County
Cost Estimates for Reclaiming Nonmetallic Mining Sites for use in
Determining the Amount of the Required Financial Assurance**

The amount of financial assurance shall equal as close as possible the cost to Walworth County of hiring a contractor to complete either the final reclamation or progressive reclamation according to the approved reclamation plan or a plan modification approved by Walworth County, (see Section 26-293 of the Walworth County Code of Ordinances.)

Walworth County Land Conservation Division has prepared the following schedule of Reclamation Costs that should be used to determine the amount of the required financial assurance for a nonmetallic mining site.

Stabilization of Topsoil Stockpiles	\$ 300.00 per acre
Maintenance and re-seeding, only	
 Reclaiming Slopes and Topsoil Redistribution	
Re-grading side slopes and floor	\$ 2730.00 per acre
Grading of miscellaneous areas	580.00 per acre
Topsoil Replacement and Redistribution	2200.00 per acre
Purchase of Topsoil or substitute Topsoil	5800.00 per acre
 Erosion and sediment control during reclamation	
Construction of BMPs	\$ 3500.00 per acre
Maintenance of sediment basins and other BMPs	500.00 per acre
Silt fence installation and removal	3.00 per linear foot
 Establish vegetation	
Fertilizer, seed, mulching and cover crop	\$ 640.00 per acre
Matting:	2000-7000. per acre

Example: Active mining area = 31 acres

Stockpile maintenance :	\$ 300.00 per acre
Re-grading	2730.00 per acre
Topsoil Replacement	2200.00 per acre
Maintenance of BMPs	500.00 per acre
Establishment of Vegetation	640.00 per acre

Total Estimated Reclamation Costs \$ 6370.00 per acre x 31 acres = \$197,470.00

Additional Administrative Costs to County:

Bid Preparation: Modify /Revise Reclamation Plan, Survey and Drafting:	\$1500.00
Printing and Publishing Bidding Document:	\$250.00
Construction/Reclamation Supervision and Certification	\$2000.00

2/2013 fua This schedule was prepared using cost estimates generated by the WisDOT for reclamation of sites covered under their programs.

Description of Financial Assurance Options

Exhibit #2

Financial Assurance mechanisms may be placed in two basic categories:

1) Funds are actually set aside (escrows, trusts, and deposits with Walworth County)

2) Financial guarantees (bonds, letters of credit, and insurance).

- Deposit with Walworth County (funds set aside) - A deposit of *cash, certificate of deposit or U.S. Government Securities* with Walworth County to guarantee performance of obligations under a reclamation permit.
- Escrow account (funds set aside) The operator transfers *cash, certificates of deposit or U.S. Government Securities* are and put into the custody of a third party, (usually a bank or financial institution). The escrow account is established by the operator to satisfy the financial assurance requirements.
- Irrevocable trust (funds set aside) - A trust fund is an arrangement in which a separate legal entity, the trust, is created by the operator to hold property or funds solely for the purpose of guaranteeing performance of obligations under a reclamation permit.
- Bond or surety bond (financial guarantee) - Also known as either:
 - a *performance bond* - surety company promises to pay for or perform reclamation or
 - a *forfeiture bond* - surety company promises to make a cash payment for the bond amount

A bond is an instrument provided by a surety company for which the operator pays a fee. This is a 3-party agreement that serves as a guarantee that the provider will pay costs associated with fulfilling the operator's obligations in the event of default

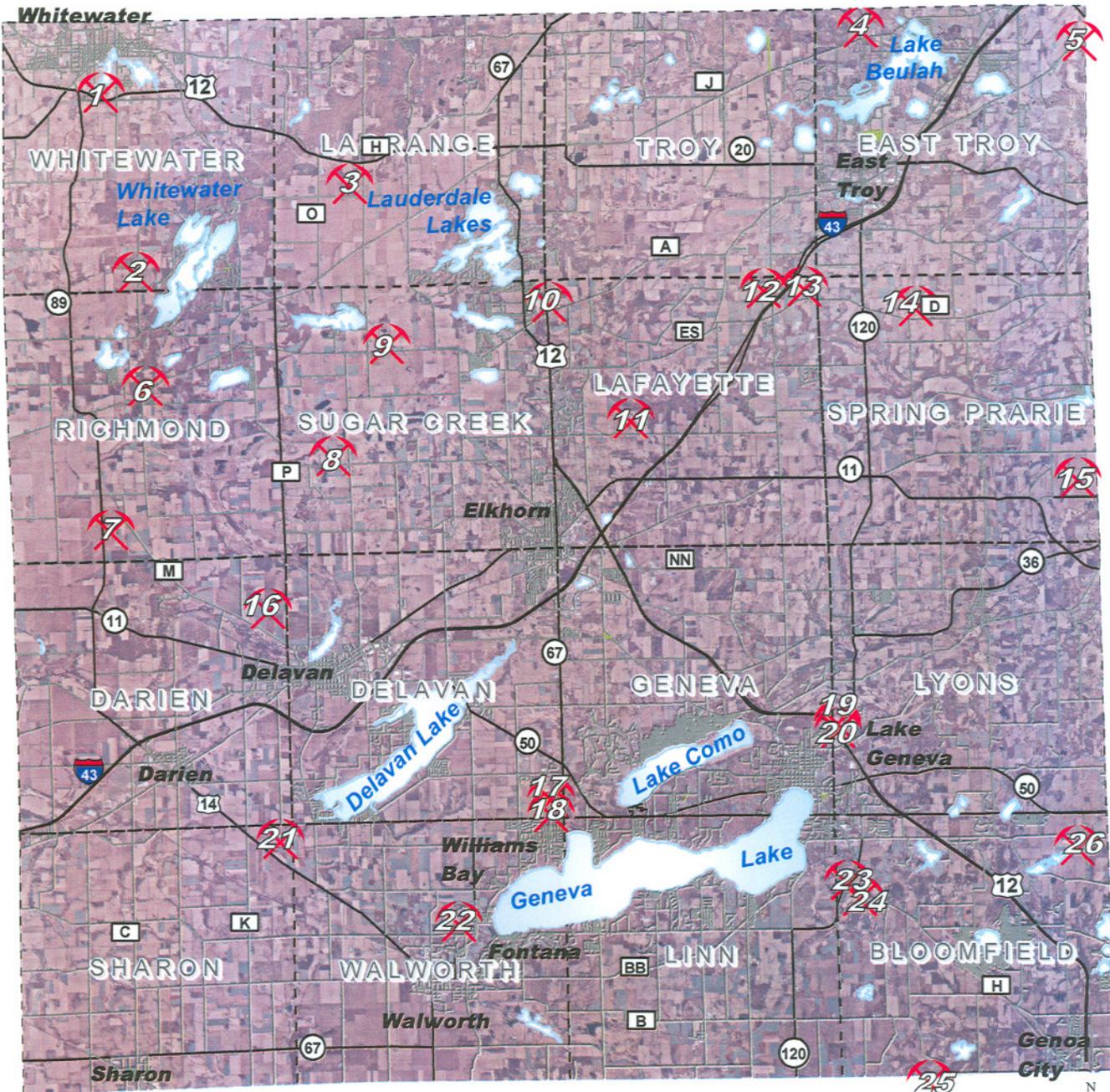
- Insurance (financial guarantee) - An operator takes out a closure insurance policy from an insurance company. The policy must be issued in an amount adequate to cover the reclamation costs. Walworth County is the beneficiary of the policy.
- Irrevocable letter of credit (financial guarantee) - This is similar to a bond with a bank or financial institution taking the place of a surety. An irrevocable letter of credit is established solely for the purpose of guaranteeing performance of obligations under a reclamation permit. The bank or financial institution agrees to pay Walworth County in event of default.
- Net worth test - Method in which an operator may demonstrate the financial viability of their company. Please refer to NR 135.40 (13), Wis. Adm. Code, for details of the legal review requirements. To do this, an operator must provide sufficient financial data to demonstrate compliance with minimum financial standards. The company must satisfy specific financial criteria and pass several financial ratios. The application must be supported by the opinion of an independent certified public accountant in order to establish proof of financial responsibility. The data used to demonstrate the financial viability must be taken from the company's audited financial statements from the most recently completed fiscal year. The financial information must be resubmitted every year, using the most current financial statement data.

Source: *A GUIDE TO PREPARING AND REVIEWING FINANCIAL ASSURANCE FOR RECLAMATION OF NONMETALLIC MINING SITES*, WDNR, PUBL-WA- 835 2002

Walworth County Nonmetallic Mine Sites

Active Mining Sites 2013

Mukwonago



Updated 4-30-13

Location Key

- | | | |
|-----------------------------------|-------------------------------------|----------------------------------|
| 1 - Amon - Whitewater LS | 10 - Rock Road - Radecki/Lauderdale | 19 - Payne & Dolan - R.W. Miller |
| 2 - Kienbaum - Triebold | 11 - Amon - Potter | 20 - Counihan |
| 3 - Payne & Dolan - Nelson/Miller | 12 - Amon - Friemoth | 21 - Amon - Whelan |
| 4 - Johnson - Mainka | 13 - Payne & Dolan - New Atkinson | 22 - Stewart |
| 5 - MLSMM, LLC - Berg | 14 - Reesman - Bolton | 23 - Otto Jacobs - Home |
| 6 - Amon - Richmond | 15 - Amon - Wilson | 24 - Mann - OJ-Short |
| 7 - Boss | 16 - Odling - Keizer | 25 - Thelen |
| 8 - Mann - Jacobsen | 17 - Amon - Bay | 26 - Payne & Dolan - Bloomfield |
| 9 - Amon - Junker | 18 - Odling - Bay | |

2013- Nonmetallic Mining Sites & Reclamation Financial Assurance

Mining Site Name	Operator	Location	Acres	Reclamation Bond	Amount	Term
Whitewater Limestone Inc.	B.R. Amon & Sons, Inc.	Whitewater	20.4	Bond -Hanover Ins.	\$14,000	Reinstated
Whelen	B.R. Amon & Sons Inc	Sharon	34.6	Bond -Hanover Ins.	\$200,000	5/10/2014
Richmond	B.R. Amon & Sons Inc	Richmond	13.5	Bond -Hanover Ins.	\$68,000	Reinstated
Potter Pit	B.R. Amon & Sons Inc	Lafayette	97.8	Bond -Hanover Ins.	\$200,000	Reinstated
Junker	B.R. Amon & Sons Inc	Sugar Creek	16.1	Bond -Hanover Ins.	\$70,000	7/8/2014
Bay Pit	B.R. Amon & Sons Inc	Delavan	62.0	Bond -Hanover Ins.	\$120,000	Reinstated
Wilson	B.R. Amon & Sons Inc	Spring Prairie	15.0	Bond -Hanover Ins.	\$54,175	6/14/2014
Friemoth Pit	B.R. Amon & Sons Inc	LaFayette	53.0	Bond -Hanover Ins.	\$197,470	9/28/2014
Bolton	Reesman	Spring Prairie	6.5	Bond-Liberty Mutual	\$70,000	Continuous
Mainka	Johnson Sand and Gravel	East Troy	23.3	Bond	\$40,000	Continuous
Counihan Pit	Counihan, Dennis	Lyons	2.9	Bank Deposit	\$3,013.15	Continuous
Berg	Equiptech, Inc	East Troy	5.0	N/A	N/A	N/A
Keizer	Ddling / Keiser	Darien	19.3	Bond-West Bend	\$62,817	2/1/2014
Ehlen/Payne and Dolan	Payne & Dolan Inc	Bloomfield	83.0	Western Surety Bond	54,000	Continuous
R.W. Miller & Sons Inc	Payne & Dolan Inc	Lyons	68.0	Bond	\$72,000.00	Continous
Boss	Daniel Boss	Richmond	29.2	IRR LOC / CD	\$56,910.00	Renewable
Otto Jacobs - All Sites	Otto Jacobs Co LLC	Linn/Bloomfield	59.9	N/A	N/A	N/A
Otto Jacobs /Mann Brothers	Mann Brothers Inc	Bloomfield/V				Canceled
New Atkinson/Payne & Dolan	Payne & Dolan Inc	LaFayette	64.9	Bond	\$174,545.00	Continuous
Radecki/Lauderdale	Rock Road	LaFayette	37.5	Bond -Fidelity	\$86,797	Continuous
Miller/Payne & Dolan	Payne & Dolan Inc	LaGrange	19.1	Western Surety Bond	\$197,136	Continuous
Nelson/Payne & Dolan	Payne & Dolan Inc	LaGrange	69.0	Bond	\$197,136.00	Continuous
Jacobsen	Mann Brothers Inc	Sugar Creek	16.7	Bond-Hanover	\$100,000	8/14/2012
Bay Pit/Odling	Odling	Delavan	20.1	LOC-Community Bank	\$45,800	Continous
Thelen (Bass)	Thelen Sand & Gravel	Bloomfield	38.6	Western Surety Bond	\$57,000.00	8/10/2013
Kienbaum/Treibold	Kienbaum	Whitewater	10.9	Financial Worth	\$15,000	Continous
Stewart	Stewart	Walworth	8.3	PB Net Worth Statement	\$150,000.00	Continuous



Interchange Corporate Center
450 Plymouth Road, Suite 400
Plymouth Meeting, PA. 19462-1644
Ph. (610) 832-8240

Bond No. 354029836

License or Permit Bond

KNOW ALL MEN BY THESE PRESENTS, that we,
Reesman's Excavating & Grading, Inc.
28815 Bushnell Road
Burlington, WI 53015

as Principal, and Liberty Mutual Insurance Company, a Massachusetts Corporation with principal offices at Plymouth Meeting, Pennsylvania, as Surety, are held and firmly bound unto
Walworth County
100 West Walwoth Street
Elkhorn, WI

in the sum of
\$70,000.00 Seventy Thousand and No/100 Dollars

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 obligation is such, that Whereas Principal is desirous of obtaining a license or permit from **Walworth County** to do business as **Site Restoration at Bolton Aggregate Site, W 1650 County Highway D, Burlington, WI, Tax Parcel O SP 400005** in the Town of Spring Prairie.

Commencing on the **19th day of October, 2012**.

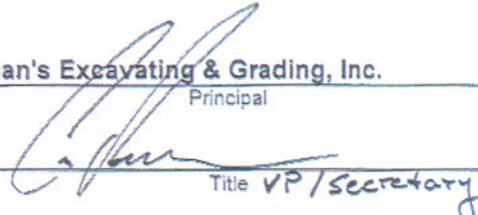
NOW, THEREFORE, if Principal shall, during the period commencing on the aforesaid date, faithfully observe and honestly comply with such Ordinances, Rules and Regulations, and any Amendments thereto, as require the execution of this bond, then this obligation shall become void and of no effect, otherwise to be and remain in full force and virtue, subject, however, to the following condition:

This bond may be canceled and the Surety relieved of all further liability hereunder by the surety's giving ninety (90) days written notice thereof to the Principal and Oblige, in accordance with the provisions of Wisconsin NR 135.40 (9).

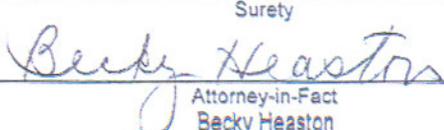
SIGNED, SEALED AND DATED this **19th day of October, 2012**.



Reesman's Excavating & Grading, Inc.
Principal (Seal)

By 
Title **VP/Secretary**

Liberty Mutual Insurance Company
Surety (Seal)

By 
Attorney-in-Fact
Becky Heaston

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

5485598

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

Certificate No. _____

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

Liberty Mutual Insurance Company
Peerless Insurance Company

POWER OF ATTORNEY

KNOWN ALL PERSONS BY THESE PRESENTS: That American Fire & Casualty Company and The Ohio Casualty Insurance Company are corporations duly organized under the laws of the State of Ohio, that Liberty Mutual Insurance Company is a corporation duly organized under the laws of the State of Massachusetts, that Peerless Insurance Company is a corporation duly organized under the laws of the State of New Hampshire, 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, BRAD BABCOCK, BECKY HEASTON, ALL OF THE CITY OF WAUKESHA, STATE OF WISCONSIN, AMY E. CALLAHAN, PETER S. FORKER.....

all of the city of ARLINGTON HEIGHTS, state of IL 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 26th day of JULY, 2012.



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

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

STATE OF WASHINGTON ss
COUNTY OF KING

On this 26th day of JULY, 2012, before me personally appeared Gregory W. Davenport, who acknowledged himself to be the Assistant Secretary of American Fire and Casualty Company, Liberty Mutual Insurance Company, The Ohio Casualty Insurance Company, Peerless Insurance Company and West American Insurance Company, and that he, as such, being authorized so to do, execute the foregoing instrument for the purposes therein contained by signing on behalf of the corporations by himself as a duly authorized officer.

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



By: *KD Riley*
KD Riley, Notary Public

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

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

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

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

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

I, David M. Carey, the undersigned, Assistant Secretary of American Fire and Casualty Company, The Ohio Casualty Insurance Company, Liberty Mutual Insurance Company, West American Insurance Company and Peerless 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 19th day of October, 2012.



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

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

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



August 16, 2012

RE: Nonmetallic Mining Reclamation
Town of Sharon: Tax Key Parcel #AS 100007A
Town of Walworth: Tax key Parcel #EW 600004A

Land Use and Resource
Management Department

Burdick Trucking and Excavation, Inc.
369 Sunshine Ave.
Delavan, WI 53115

CERTIFICATE OF COMPLETION
Reclamation of a Nonmetallic Mining Site is Complete
Burdick Trucking and Excavation, Inc., Mining Site Operator
Baker Enterprises, Owner

Non-metallic mining activities on the mining site referenced above have ceased and reclamation of the mining site is complete.

The Walworth County Land Conservation Division and the Wisconsin Department of Natural Resources inspected this mining site on July 25, 2012 and on September 6, 2011 and determined the parcels have been successfully reclaimed in accordance with the County-approved reclamation plan, dated 9/21/2010, prepared by Warren Hansen, P.E., and consistent with Chapter 26, Article VI, of the Walworth County Code of Ordinances, related to Nonmetallic Mining Reclamation.

The nonmetallic mining reclamation annual fees for this mining site will no longer be assessed.

Walworth County releases the operator from the nonmetallic mining reclamation financial assurance requirements.

Recommended by: *Fay U. Amerson* 8-16-2012
Fay U. Amerson Date
Urban Conservation Specialist
Walworth County Land Conservation Division

Approved by: *Louise A. Olson* 8-16-12
Louise A. Olson Date
Deputy Director
Walworth County Land Use and Resource Management Department.

Attachment: Field Findings Report, dated August 16, 2012, prepared by Thom Reclamation Specialist.

100 West Walworth Street
P.O. Box 1001
Room 222
Elkhorn, WI 53121
Planning/Zoning/Sanitation/
Conservation Divisions
262.741.4972 tel
262.741.4974 fax
262.741.4973 fax

Walworth County
Nonmetallic Mining Reclamation Permit

Permit # 150766

Operator: Reesman's Excavating and Grading Inc.
Gregory M. Reesman, Registered AgentExpiration Date: September 20, 2022Owner: Hard Rock Farms LLC.
James E. Bolton, Registered AgentNonmetallic Mining Site Location: Township: Spring Prairie.
Tax Key Parcel # O SP 400005
Address: W1650 CTH DMining Description: Extraction and processing of sand and gravel materials. The mining site will cover 45 acres.Post-mining Land Use and Reclamation Goals : The post-mining land use is agriculture, wildlife Habitat and private recreational use. A secondary reclamation goal is to protect the adjacent wetland community and isolated natural area with permanent storm water management best management practices.Walworth County Code of Ordinances: Environment, Section 26, Article VI, Nonmetallic Mining Reclamation

Conditions of Permit Approval

This approval is based on a Nonmetallic Mining Reclamation Permit Application and Reclamation Plan, prepared by Crispel-Snyder, Inc. and submitted to the Walworth County Land Conservation Division on August 8, 2012.

General Permit Conditions

1. **Compliance with Environmental Regulations.** Reclamation of this nonmetallic mining site shall comply with any other applicable federal, state and local laws, including those related to environmental protection, zoning and land use control. Copies of all required state and federal permits, related to the mining activities must be submitted to the Walworth County Land Conservation Division.

2. **Annual Permit Fees.** The required annual nonmetallic mining reclamation permit fee will be submitted to Walworth County by January 31, of each year and shall be based on the unclaimed acres of the nonmetallic mining site at the end of previous year.

3. **Annual Operator Reporting.** An Annual Report covering the calendar year will be prepared and submitted to the Walworth County Land Conservation Division by January 31, of each year and will include the following information:

- The name and address of the operator.
- The location of the non-metallic mining site.
- The Walworth County Permit Number.
- The acreage currently affected by nonmetallic mining and not reclaimed.
- A plan map showing the acreage that has that has been permanently reclaimed.
- A plan map showing the acreage that has been reclaimed on an interim basis
- Description of proposed changes to the mining plan of operations or reclamation plan.
- Operator's Certification.

4. **Financial Assurance.** Proof of financial assurance covering the cost of implementing the Nonmetallic Mining Reclamation Plan shall be obtained and kept current. Proof of financial Assurance must be submitted to the Walworth County Land Conservation Division prior to commencing any land disturbing activities related to mining or the preparation for mining on the parcel. The amount of the financial assurance must be approved by the Walworth County Land Conservation Division and be based on the cost to Walworth County to complete the reclamation tasks. Financial assurance must meet the requirements specified in Section 26-293 of the Walworth County Code of Ordinance, related to Nonmetallic Mining Reclamation.

5. **County Construction Site Erosion Control and Storm Water Management Permit.** A Walworth County-approved Construction Site Erosion Control and Storm Water Management Permit and Plan must be obtained prior to commencing any land disturbing activity on the parcel

Nonmetallic Mining Reclamation Permit

Reesman's Excavating and Grading Inc., Operator

Hard Rock Farms LLC., Owner

Permit # 150766

Page Two

6. **Permit and Plan Modification.** The operator must obtain approval from Walworth County prior to modifying the mining plan of operation or the reclamation plan. The County shall provide public notice and the opportunity for a public hearing for any significant modification to the reclamation plan. This reclamation permit or the reclamation plan may be modified by Walworth County, if the County finds that due to changing conditions, the reclamation plan is no longer in compliance with the Walworth County Nonmetallic Mining Reclamation Ordinance.
7. **Permit Transfer.** This nonmetallic mining reclamation permit may be transferred to a new operator upon the satisfaction of the following conditions:
- Submittal of a permit transfer application and required application fees by the new owner and operator.
 - Verification that all Federal, State and Local permits have been transferred, including any County zoning approval.
 - Certification to implement the approved reclamation plan or the approved reclamation plan modification.
 - Submittal of financial assurance by the new operator.
8. **Bankruptcy Notification.** The operator shall notify Walworth County ten days prior to the commencement of any voluntary or involuntary proceedings under the bankruptcy code, 11 USC et seq, naming the operator as the debtor.
9. The operator shall keep a copy of the reclamation plan at the mining site, or if not practicable, at the operator's nearest place of business.
10. **Completed Reclamation, Reporting and Certification.** The operator shall file a request for *certification of completed reclamation* with Walworth County when the operator deems reclamation activities to be complete for a portion of the mining site or for the entire mining site.
11. **Right of Entry and Inspection.** The operator or the owner may not refuse entry or access to the mining site by the Walworth County Land Conservation Division staff or an agent of the County, to inspect the site for compliance with the reclamation permit and reclamation plan.
12. **Orders and Ordinance Citations.** The County may issue an Ordinance Citation to enforce a nonmetallic reclamation permit issued. This permit may be revoked or suspended to abate violations to the County Nonmetallic Mining Reclamation Ordinance.
13. The selection, design, construction and maintenance of all structural and non-structural, permanent and temporary reclamation measures, erosion prevention, sediment control and storm water management best management practices will comply with County Conservation and Technical Standards.

Specific Permit Conditions

14. **Protection of Endangered Species.** The operator will implement the site requirements determined by the Wisconsin Bureau of Endangered (BER) Resources to protect endangered species known to be present near the mining site.
15. **Wetland Protection.** A wetland is located adjacent to the mining site and the wetland delineated boundary line has been staked. A 75 foot undisturbed vegetative buffer will be staked and labeled and will be maintained between the mining site and the wetland boundary line.
16. **Groundwater Protection.** Mining and reclamation shall be conducted in a manner that does not cause a permanent lowering of the water table that results in adverse effects on surface waters, wetlands or a significant reduction in the quantity of groundwater reasonable available for future uses of groundwater. Nonmetallic mining shall be conducted in a manner which does not cause groundwater standards in ch NR 140 .. Administrative Code to be exceeded at a point of standards application defined in that chapter.

Nonmetallic Mining Reclamation Permit
Reesman's Excavating and Grading Inc., Operator
Hard Rock Farms LLC., Owner
Permit # 150766
Page Three

17. Post mining Land Use. The post-mining land use of this mining site shall be agriculture, wildlife habitat and recreational use. The storm water management pond will be permanent and serve to protect the adjacent wetland community and isolated natural area.

A long-term operation and maintenance plan for the permanent storm water management pond will be prepared and approved prior to Walworth County issuing the *Certificate of Completion*.

A reclamation plan modification is required for any change in the post-mining land use. The mining site will be monitored for at least 1 year following reclamation to verify the success of the reclamation activities.

18. Permit Termination Date. This permit expires on the date indicated on page one of this permit. The expiration date is based on the *Reclamation Plan Narrative* and the duration of the lease agreement. The permit may be renewed, if requested in writing, prior to the expiration date indicated on this permit. The request must include a revised reclamation narrative and a new reclamation schedule.

19. Lease Renewal, Transfer or Termination. The Walworth County Land Conservation Division will be notified of any lease renewal, modification, transfer or termination, within 60 days of such action.

20. Contemporaneous Reclamation. Mining and Reclamation will be undertaken in three distinct phases as described in the reclamation plan narrative and depicted on the site plans to minimize the area disturbed by nonmetallic mining and to provide for contemporaneous reclamation while mining continues on other portions of the mining site.

21. Topsoil Management. All topsoil removed to prepare the site for nonmetallic mining will be stored in perimeter berms at the locations shown on the site plans submitted and stabilized with vegetation until reused for reclamation.

- Diversion swales will be established at the locations shown on the site plan submitted to divert water around the topsoil stockpiles.

22. Final Sloping and Grading and Site Stabilization. A large portion of the reclaimed mining site will be prepared for agricultural use with a slope no greater than 1% and will be planted in an alfalfa-grass mixture for hay production. The perimeter slopes will be no steeper than 3:1 (33.5%) and will be established in a mixture of native grasses as specified in the reclamation plan.

The Walworth County Land Conservation Division reserves the right to require matting, mulching, temporary seeding, dormant seeding or additional stabilization measures to aid in the establishment of the native vegetation or the area planned for hay production.

The Walworth County Land Conservation Division reserves the right to require the establishment of grassed waterways to safely transport runoff through the reclaimed agricultural field without erosion. Grassed waterways, if determined to be needed will be designed, constructed and maintained according to the standards and specifications contained in NRCS Conservation Practice Code #412, Grassed Waterways.

23. Criteria for Successful Reclamation.

- An as-built plan verifying the planned slopes of the reclaimed mining site will be prepared following the reclamation of each of the three phases and submitted to Walworth County Land Conservation Division.
- An as-built plan of the permanent storm water management pond and any other permanent management practices, established, including any grassed waterway constructed, will be prepared and submitted to Walworth County Land Conservation Division.

Nonmetallic Mining Reclamation Permit
Reesman's Excavating and Grading Inc., Operator
Hard Rock Farms LLC., Owner
Permit # 150766
Page Four

- A long-term operation and maintenance plan for the permanent storm water management pond and any other permanent best management practice established will be prepared and submitted to the Walworth County Land Conservation Division.
- Native vegetation established on the reclaimed perimeter slopes will be considered successful if the diversity of plants are established and the density provides at least 70% cover.
- The absence of sheet, rill and gully erosion on the reclaimed mining site.

24. Certificate of Completion of Reclamation

The operator will certify completion of reclamation for a portion or all of the mining site and submit documentation to verify achieving or completing the conditions listed in Condition #23.

Walworth County will issue a Certificate of Completion of Reclamation for the entire mining site or a portion of the mining site the following a site inspection and it is confirmed that the interim or final reclamation is complete and the successful reclamation has been achieved using the criteria listed in Condition #23.

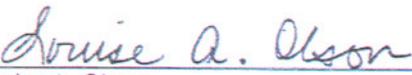
Recommended for Approval by:



Fay U. Amerson
Urban Conservation Specialist
Walworth County Land Conservation Division

11-1-2012
Date

Approved by:



Louise A. Olson
Deputy Director
Walworth County Land Use and Resource Management Department

11-1-2012
Date