



Land Use and Resource  
Management Department

**Walworth County  
Land Conservation Committee Meeting  
Monday, March 18, 2013 at 2:00 p.m.**

**Walworth County Government Center  
County Board Room 114  
Elkhorn, WI 53121**

*Dan Kilkenny – Chair, Nancy Russell - Vice Chair*

*Tim Schiefelbein - Supervisor*

*Sue Bellman – USDA/FSA Representative, Rosemary Badame – Citizen Member*

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*(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.***

**AGENDA**

1. Call to order
2. Roll call
3. Approval of the Agenda
4. Approval of Minutes from October 15, 2012 LCC Meeting
5. Public Comment
6. Public Hearing related to Certificate of Completion Reclamation of a Nonmetallic Mining Site is Complete; Burdick Trucking and Excavation, Inc. Mining Site Operator, Baker Enterprises, Owner
7. Discussion/Possible Action - Baker Final Determination – Committee may make their determination at this time or in writing within 20 days.
8. Next meeting date: Monday, April 22, 2013, 2:00 p.m.
9. Adjournment

**Submitted by: Michael P. Cotter, Director, Land Use and Resource Management Department,  
Louise Olson, Deputy Director, Land Conservation Committee Designee**

Posted: March 13, 2013

## Walworth County Land Conservation Committee Meeting

### MINUTES

Monday, October 15, 2012 at 2:00 p.m.

Walworth County Board Room 114  
Elkhorn, WI 53121

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The LCC Meeting was called to order by chair Kilkenny at 2:39 p.m.

Roll Call – Committee members present included: Supervisors Kilkenny, Russell, and Schiefelbein; Citizen Member Badame; and USDA, FSA Representative Sue Bellman. A quorum was declared.

County Staff present – David Bretl, County Administrator; Michael Cotter, Director, Land Use & Resource Management (LURM); Louise Olson, Deputy Director, Land Use & Resource Management, LURM; Fay Amerson, Urban Manager, LURM; and Joeann Douglas, Recording Secretary.

Also in attendance – David Terrall, USDA APHIS; Greg Igl, USDA NRCS, Carl Redenius, Walworth County Supervisor

Approval of Agenda – **Vice-Chair Russell and Citizen Member Badame moved and seconded approval of the agenda as presented. Motion carried 5-0.**

Approval of Minutes – **USDA/FSA Representative Bellman and Citizen Member Badame moved and seconded approval of the September 17, 2012 minutes. Motion carried 5-0.**

Public Comment – None

Wildlife Abatement Program – 2013 Budget and 2012 Crop Prices Approval – David Terrall, USDA/APHIS explained these are pass-through funding for the county. There are few changes for 2013. Louise Olson also said we do have the \$6,679.48 total funding included in the 2013 budget. **Supervisor Schiefelbein and Vice-Chair Russell moved and seconded to approve the 2013 Wildlife Abatement budget as presented. Motion carried 5-0.**

Mr. Terrall provided annual yearly average proposed crop prices as well as the July-September, 2012 average crop prices which are more indicative of the year due to the unusual growing conditions in 2012. USDA/FSA Representative Bellman agreed that the July-September crop prices should be used. **USDA/FSA Representative Bellman and Vice-Chair Russell moved and seconded to approve crop prices proposal using the July-September average crop prices. Motion carried 5-0.**

Charlotte Adelman in regard to controlling the spread of Purple Loosestrife in North Lake – Louise Olson said we have been dealing with Ms. Adelman's request regarding Purple Loosestrife. Correspondence with DNR, our staff, Audrey Green, and Ms. Adelman have occurred. Ms. Adelman is requesting our staff to grow the beetles that are natural predators of Purple Loosestrife. We don't have the staff, time or equipment needed to grow the beetles. Since the DNR already has a program in place, has agreed to work with Ms. Adelman, and the beetles are already on the plants in North Lake, Ms. Olson said the best recourse would be to let the DNR take the lead. We will be writing articles for the newspapers regarding invasive species. **Citizen Member Badame and**

**Vice-Chair Russell moved and seconded to place the correspondence on file. Motion carried 5-0.**

Initial Determination received from Baker Enterprises, Inc. – Michael Cotter said we met our statutory obligations and had set up a hearing which was then adjourned by Baker’s attorney. No new hearing has been set as yet. Mr. Cotter will keep abreast of any changes. **Supervisor Schiefelbein and Citizen Member Badame moved and seconded to place Attorney Thompson’s letter on file. Motion carried 5-0.**

Wastewater Management in the Linn Sanitary District – Louise Olson said Ted Peters was informing the LCC of all the work that has been done around Geneva Lake. The Sanitation Division of LURM has been working with Mr. Peters on reviewing these sanitary systems. There are approximately 100 systems not yet reviewed. LURM staff, Mr. Peters and a Linn Sanitary District representative will be meeting in the future to continue the review. No action needed by LCC.

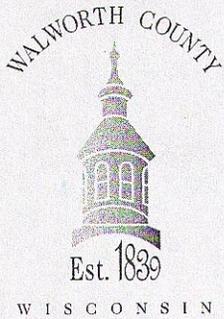
Communication received from Supervisor Carl Redenius in regard to allowing the removal of invasive species when they grow in the shoreyard. - Michael Cotter said Mr. Redenius’s letter indicated a citation was issued. Mr. Redenius said it is not a Citation; it was a Stop Work Order. The person who was issued the Stop Work Order is Pat McIntire. Her options were to pay a \$663 fine or pay \$300+ to get a conservation plan to remove the buckthorn and find something to replace it. Mr. Redenius said he felt the cost was excessive since it would be a good thing to remove the invasive buckthorn. Louise Olson said anyone removing woody vegetation in the shoreyard would be required to obtain a permit. The LURM was contacted by two constituents complaining about the cutting. Ms. Olson said with the proper plan, the cutting would be approved, but no permit was obtained. Fay Amerson explained the process of obtaining a permit and said if work commences without a permit the individual is assessed a double fee which is the reason it was \$300 in this case. If buckthorn is not removed properly it will grow back and the conservation plan indicates proper removal techniques. Mr. Redenius asked about a \$100 Final Inspection fee. Ms. Olson said we did not know what the \$100 reference was about. Ms. Amerson said there could be a compliance inspection fee, but we have some discretion on imposing it. Ms. Amerson said Ms. McIntire did not respond back to us regarding having a conservation plan. There is also a state requirement that must be adhered to regarding invasive species. We can set the fees but can’t allow people to remove whatever they want in the 35 foot shoreline setback. In 2005 the County Zoning Ordinance was amended from NO removal of vegetation within the 35 foot shoreline setback to allowing invasive species removal with a Zoning permit and Conservation plan. There is a fee required for the plan review.

Next Meeting Date: If necessary, Monday, November 19, 2012, 2:00 p.m. At this point, we have nothing for the agenda.

Adjournment – **On motion and second by Supervisor Schiefelbein and Citizen Member Badame, Chair Kilkenny adjourned the meeting at 3:24 p.m. Motion carried 5-0**

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Submitted by Joann Douglas, Recording Secretary. Minutes are not considered final until approved by the committee at the next regularly scheduled meeting.



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  
Urban Conservation Specialist  
Walworth County Land Conservation Division

8-16-2012

Date

Approved by:

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

8-16-12

Date

**Attachment:** Field Findings Report, dated August 16, 2012, prepared by Thomas Portle, WDNR 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





August 31, 2012

Ms. Fay Amerson, Urban Program Specialist  
Walworth County Land Conservation Division  
100 W. Walworth St.  
Elkhorn, WI 53121

Subject: Nonmetallic Mining Reclamation (NR 135) Program Review for Walworth  
County (RA # = 55-127-00000)

Dear Fay,

First I'd like to thank you for your time and cooperation both during the office review of program records and administration and during the field inspections that took place on July 25. I especially appreciate the thorough preparation work done in advance which facilitated the review and made more efficient use of everyone's time. I appreciate the by Louise Olson for her time that day and for follow-up materials provided after the audit.

The Department is required by ch. NR 135 Wis. Adm. Code and s. 295.12 (3) Stats., to periodically conduct program review audits of all nonmetallic mining reclamation programs. Pursuant to ch. NR 135.47 (4), Wis. Adm. Code, these must be done at least once every ten years and a written compliance determination must be provided to the audited regulatory authority (RA). The intent of the audit process is fourfold: 1) to ensure that all NR 135 programs are being administered in a consistent manner and in accordance with s. 295.12 (3) Stats., 2) to ensure that the uniform reclamation standards are being complied with, 3) to gather and/or verify information on program administration and 4) to provide you with any technical assistance and learn about any concerns you might have.

The following is a summary of the performance review for the Walworth County NR 135 Nonmetallic Mining Reclamation program.

#### **General - Program Administration;**

The Walworth County Reclamation program had previously been audited by the DNR in June of 2003. At that time the reclamation program was just beginning and the audit focused mostly on the fees (revenue) vs. program administrative expenses. The number of permitted nonmetallic mines in Walworth County has remained steady varying from 26 permitted mines in 2011 to a total of 30 reported in ARs in 2005 and 2006.

Walworth County continues to administer their Nonmetallic Mining Reclamation program through a revised reclamation ordinance – Chapter 26 Article VI., Nonmetallic Mining Reclamation (revised ordinance adopted in 2007 pursuant to the 2006 revisions to NR 135). We discussed other potential ordinance revisions during the program review.

#### **Recordkeeping**

Walworth County maintains well organized and comprehensive records of all program documents. Certain program information is now available on line including the reclamation ordinance, current maps of all mines in the county and contact information.

### **Collection and transfer of fees and reporting**

Walworth County has an effective method of assessing and collecting annual fees on unreclaimed acres. The DNR portion of the annual fees is transferred to the department in a timely manner; the annual reports are summarized to produce the annual report for the DNR as required by NR 135.37. This is now accomplished using DNR's on-line reporting format.

### **Response to inquiries, complaints and enforcement actions.**

Walworth County is responsive to complaints and in some cases, citizen inquiries. Site inspections may be triggered by complaints.

In fact, the DNR's review of the Walworth County reclamation program was partly in response to inquiries received at the state level. These were regarding administrative aspects of the Walworth County NR 135 Program and issues and disagreements on reclamation activities at two sites. Initially, DNR response entailed a visit to the Baker site on September 6, 2011. On the day of the audit a follow-up to that site occurred as well as visit to the Boss site (for more detail on these sites please see Attachments 3 - 5).

### **Site Inspections**

Walworth County generally performs annual inspections for all or most permitted mines. All mines are inspected on an annual or at least on a periodic basis. Besides those warranted by citizen complaints, requests from permittees to have reclamation success evaluated (pursuant to the issuance of a Certification of Completion (COC) and release of the financial assurance); there are regular periodic inspections. The County is using consistent methods for making determinations that result in the issuance of a COC and/or the release of Financial Assurance (FA).

It should be noted that inspections and possible enforcement may also take place in administering Walworth County's related Erosion Control Ordinance.

### **Review of reclamation plans, permitting, modifications and alternative requirements Forms and procedures**

No alternative requirements nor plan modifications been requested. In Walworth County it is very common for operators/permittees to lease the land on which their extraction activities are occurring.

**I received and reviewed (on July 25 and in the period thereafter) the following:**

- Received an example Nonmetallic Mining Reclamation Permit (a 'certificate' type document issued to a recent permittee in 2006 with an attachment containing applicable permit conditions.
- An example COC for B.R. Amon and Sons, Inc. (Owner: Lake Geneva Canopy Tours, Inc.) – same document released financial assurance.
- Complaint form - used by Zoning, Land Conservation and Sanitation.
- Mine inspection record worksheet.

- Permit Transfer application.
- Recent reclamation Plan review<sup>1</sup> along with complimentary checklist application.
- Recent plans and maps pertaining to the Boss site.

Modifications are processed in the same manner as permit applications. Given the zoning requirements it is likely that in most reclamation permit modifications would involve the Conditional Use Permit (CUP) as well.

### *Enforcement*

Enforcement proceedings are currently on-going at the Boss site located on the border of the Town of Sharon and the Town of Walworth. These are primarily of CUP violations however a failure to perform contemporaneous reclamation has entered into the NR 135 Reclamation Program jurisdiction (Attachments 4 and 5 deal with these).

I viewed a recent enforcement letter (July 3, 2012) with a one month deadline) for pertaining to issues with the permittees difficulties in maintaining current and adequate financial assurance (FA).

### **Financial Assurance**

Financial assurance (FA) amounts are reviewed on an annual basis. The Walworth County NR 135 Regulatory Authority (RA) is currently addressing FA in cases in which the dollar amounts are inadequate. Actions: (1) I reviewed a compliance letter requiring FA form on permittee where it had lapsed (no reclamation permit is valid without having FA posted with the RA). (2) Procedures aimed at ensuring that current and adequate (sufficient funds) financial assurance have been enhanced in the recent past. (3) The County has taken steps to reevaluate the adequacy of the dollar amount of FA as required by NR 135.40(3). I received an update to such figures which was done in April 2009 and was based on WisDOT cost figures. These updated estimates were fairly detailed with regard to the array of reclamation activities addressed. The dollar amounts are for generic reclamation activities and were both reasonable and comprehensive. However, I saw no direct connection to costs that would vary owing to differing approved post-mining land uses. These can sometimes be a main factor in determining an adequate FA amount. This is further discussed in the conclusions and recommendations section of this letter.

### **Review of Program Finances**

On July 25 Louise Olson provided me with the detailed cost data for the period of 2007 through 2011. These data address the balance between revenue from fees and administrative costs over a five year period. Because 2007 data appeared to not be representative of the other years provided and for which the Department has records - I omitted that year and used data covering the period of 2008 – 2011.

The Walworth County Reclamation Ordinance references, in 26-315, an external fee schedule (section 30-288 County code of ordinances) which contains annual reclamation fees; this fee schedule is approved by the Land Conservation Committee. Changes can be made as needed by adjustments to this external schedule.

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<sup>1</sup> I reviewed a recent reclamation plan and maps provided to Walworth County for the proposed Bolton Gravel Pit in a January 2012 application, the County's review comments and site visit records of February 15, 2012, and the applicant's response to these comments. It is apparent that Walworth County has a defined and consistently applied plan review and permit decision process and that timeframes provided in NR 135.21.

Based on my review of these data covering the period between 2008 and 2011, the County accurately records fees received from operators and keeps detailed records on administrative expenditures. Based on these data it appears that revenue and administrative expenses are largely in balance with a minimal average surplus of \$1,713 for the four-year period reviewed. This is well within the acceptable range per NR 135.39; which states: "...fees shall as closely as possible equal its expenses to administer its reclamation..." or as nearly in balance as possible. Please see Attachment I. This is further discussed in the conclusions and recommendations section of this letter.

**Note:** - it should be noted that reduced administrative expenses in 2011 accounted for nearly the entire surplus.

A key factor point here has to do with flexibility, that is, because Walworth County can adjust its fees (the ordinance refers to an external fee schedule) on an annual basis keeping revenue in line with administrative expenses this minor surplus does not seem likely to cause a problem.

### **Field Portion of program review**

On July 25, 2012 I visited four sites with Fay Amerson, Urban Program Specialist for Walworth County. .

These were:

#### **PART I. Simple Sites: Sites that have been successfully reclaimed.**

**Site # 1.** The former Amon Brothers nonmetallic mine site located on County Road H near Elkhorn. This site has been reclaimed for recreational use, received its Certificate of Completion (COC) and released the financial assurance (FA) for this reclaimed minesite. Fay and I met with Phil Kroll, Course manager of the Lake Geneva Canopy Tours (this multi-recreational use site features 8 zip-lines that carry folks from platform to platform) may be used year round as it is open year-around to hikers and bikers.

**Site # 2.** The Amon site that has post mining land use slated as a residential development. The site is currently maintained in a stable state with respect to erosion and sedimentation pending demand for housing..

#### **PART II Complex and controversial sites that have attracted attention, controversy, citizen complaints and alleged violations of county code of ordinances.**

#### **Preliminary Remarks:**

Of special interest during the field portion of this audit were two sites that have attracted controversy in the recent past. These were the Baker (lessor) and permittee (*Baker-BTE*) and the Boss Site. I had previously visited the site in September of 2011. (Also please see detailed report in **Attachment 3**). I was present at the Baker site during reclamation last September (please see detailed report on site visits in **Attachment 3**). These two sites have been the subject of attention and controversy of late. It should be said that I viewed Site # 3 the same day as sites Nos. 1 and 2 which were very similar with regard to the required reclamation activities and land use. Both of these had received their COCs due to as the result of similar success evaluation procedures and had had their FAs released by the County.

**Site # 3.** The *Baker-BTE* site, Fay and I met with Louise Olson, Mike Cotter and the Bakers (site owners) at the reclaimed mine located near the intersection of State Highway 14 and County Highway K. Reclamation of this site was done by Burdick Trucking and Excavation, Inc., the NR 135 reclamation permit holder. On July 25, 2012 during the site visit the *Baker-BTE* site was subject to a COC evaluation inspection by Walworth County staff. I observed the method of determining reclamation success which includes vegetative cover combined with overall site stability so as to determine if the reclamation of the *Baker-BTE* site was successful and warranted the issuance of a COC.

It should be emphasized that reclamation results, stability and a good prognosis for revegetation and assurance of meeting the approved final land use at the *Baker-BTE* site was consistent with other reclaimed sites I visited as part of this performance review audit for Walworth County (see information and photos on Sites #1 and #2). It should be noted that this growing season was among the most challenging in recent history the year was subject to a severe drought and Walworth County was among the twenty-some counties in Wisconsin that were declared drought emergencies at the federal level. Nonetheless, due to some recent rain the emergence of several species were observed and photo-documented (please see **Attachment 3**). Significantly, overall site stability was very good largely owing to diligence exercised by the permittee during last year's reclamation efforts –The results: vegetation, albeit less dense and productive than would be expected in a more typical year were good considering the drought. Unfortunately, I observed some evidence of tracks apparently made by the usage of 'Off Road Vehicles' on these slopes. Slopes at this stage of reclamation are best left undisturbed until reclamation success is assured<sup>2</sup>.

**Site # 4.** The Boss site in the Town of Richmond (note: in partial response to inquiry/complaint from Ron Piening). On analysis of the circumstances of the Boss site I have concluded that most issues properly cited in the complaint are more of the nature of zoning than NR 135 reclamation permit issues<sup>3</sup>. (Also please see more details in **Attachments 4 & 5**). Basically, most issues are clearly zoning type matters (on which NR 135 is silent) or have some overlap between zoning requirements and the compliance with the NR 135 Reclamation Permit.

First, it is important to note that this is a historic site with a CUP that pre-dated the effective date of NR 135 (December 2000). Early efforts at synchronizing the zoning and reclamation requirements were not always seamless. A common thread appears to be that the permittee paid scant attention to compliance with either the CUP, zoning regulations, or with provisions in the approved reclamation plan and the reclamation permit. Specific to reclamation under the NR 135 permit there was a long-standing failure to perform any contemporaneous reclamation according plan and in keeping with its to the approved phased approach to excavation and reclamation. During my visit I observed contemporaneous reclamation which demonstrates a level of compliance with the NR 135 permit. (Please see detailed report in **Attachment 3**; also see photos 10 – 14).

Much of the solution to issues at this site has to do with zoning compliance and current efforts are underway to: (1) separate/clarify reclamation vs. zoning requirements (often difficult for complainants to appreciate), and (2) amend or revise the CUP along with any required zoning land use changes that may be necessary so as to allow for activities previously or currently engaged in on the site.

### Conclusions and Recommendations

Pursuant to NR 135.47 (4) and based on my observations and review of the Walworth County's NR 135 Nonmetallic Mining Reclamation Program, I find that Walworth County, is currently administering the nonmetallic mining reclamation program **in substantial compliance** with the requirements in Chapter 295, Wis. Stats., and ch. NR 135, Wis. Adm. Code. as well as with the requirements of Walworth County Reclamation Ordinance. Walworth County appears diligent and consistent in administering an effective NR

<sup>2</sup> Understanding that this activity is beyond the control of Walworth County, I nonetheless encourage the exclusion of such vehicles from steeper downslopes near the pond until the vegetative cover becomes better established and more robust; and not allow their use elsewhere until the vegetation on site is more firmly established. Again, this is particularly critical given the combination of just emerging and vulnerable vegetation, the challenges in a drought year – especially of concern when combined with steeper slopes. It appeared that ATVs ascended from near the pond at the bottom of the slope, at least in some instances, and proceeded up slope. This can cause spinning of the wheels –especially when climbing- which can become the initial pathway for formation set the stage for initial rill erosions and eventually gullies. This increase in surface erosion and sedimentation may result in sedimentation to near-by water features.

<sup>3</sup> citizen inquiries (routed to me through various channels).

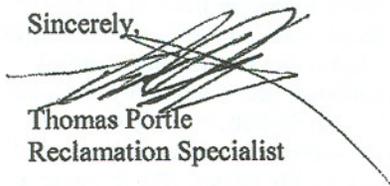
135 Reclamation Program. My field inspections verified the mandate given in state statute: that the compliance with the uniform statewide reclamation standards is being achieved through the efforts of the county reclamation program.

Based on the findings of the program review of the Walworth County's NR 135 program I am making the following recommendations and requests so as to enhance a well-run program. These are as follows:

1. Periodic reevaluation of the FAs for individual permits and for the generic county-wide dollar figures should be done per NR 135.40(3). This is important to ensure that adequate funds are available should the County need to seize the FA and cause the reclamation to happen. A more direct relationship between differing approved post-mining land uses and associated reclamation activities (that depart from generic figures) should be looked at on a site-specific basis. To assist Walworth County in the process of determining specific costs to better determine and obtain adequate FA please see the following link that may be of help in this process.  
<http://dnr.wi.gov/org/aw/wm/publications/mining/NonmetFinAssure.pdf>.
2. Please consider making slight revisions to financial recordkeeping to separate out line items for the NR 135 reclamation program. In particular, travel costs, training costs, supplies/office materials, hearing costs, or fees for licensing etc. maybe tracked for comparison with program revenue. Please see DNR guidance on establishing fees at <http://dnr.wi.gov/files/PDF/pubs/wa/WA832.pdf>. More specific tracking of such items will provide data upon which to make any needed adjustments in the fee schedule to balance revenue and expenses and may be useful in future NR 135 performance review audits. Fee guide document and example attached.
3. Please ensure that any operators that may be using clean fill as part of their reclamation backfill and grading process or in order to come to grade have language in their approved reclamation plans to address this use. Please see the applicable newsletter at:  
<http://dnr.wi.gov/files/PDF/pubs/wa/WA1280.pdf>. Further I recommend looking into sources of substitute soil for reclamation where soil or fill deficiencies exist. Along the same line, compost, clean fill or other materials may be considered (technical assistance to operators) where material deficiencies exist. I'd also encourage the County to look at the possible use of sediment accumulated from Stormwater ponds as a potential source. I am including a newsletter, as well as information on NR 528 – the code that addresses the use of accumulated sediment and associated guidance <http://dnr.wi.gov/topic/Waste/NR528.html>.
4. Please keep me advised as to the status of and implementation of the above items.

Again, thank you for your time and effort provided during and after the DNR review of the of Walworth County's Nonmetallic Mining Reclamation Program. It has been a pleasure working with you. If you have questions or concerns or if you'd like to further discuss any of this please contact me at (608) 267-0877 or [Thomas.Portle@Wisconsin.gov](mailto:Thomas.Portle@Wisconsin.gov).

Sincerely,



Thomas Portle  
Reclamation Specialist

cc: (electronically)

Ed Lynch - WA/5; Phil Fauble – WA/5

Louise Olson - Walworth County Land Conservation Division

Frank Schultz – SER, Milwaukee

Attachment 1 - Financial data.

Attachment 2 - Site visit photos.

Attachment 3 - FIELD FINDINGS REPORT – THE BAKER BURDICK TRUCKING AND EXCAVATION, INC., SITE.

Attachment 4 - FIELD FINDINGS REPORT – THE BOSS SITE.

Attachment 5 – Selected events and contacts pertaining to the Boss Site.

## Attachment 1

### Financial data from review of program finances

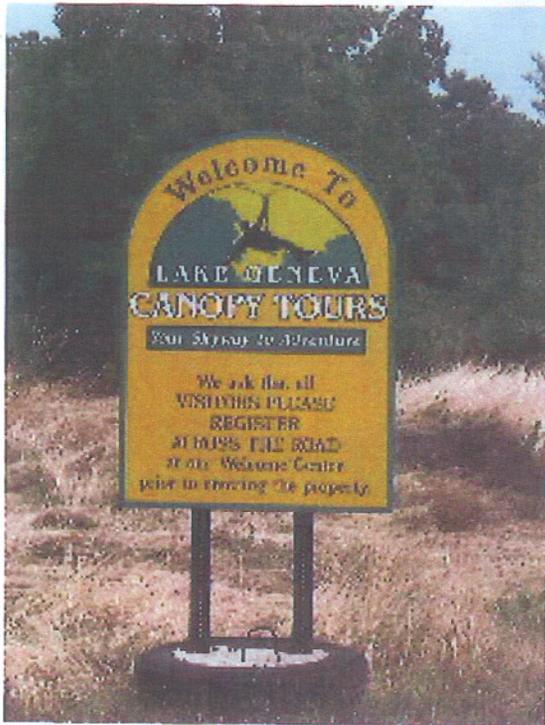
General program information	
Regulatory Authority/ Audit year	Walworth County 2012 for: average of years - 2008-2011
Administered by:	Walworth County
Fee structure	The Walworth County Reclamation Ordinance references, in 26-315, an external fee schedule (section 30-288 County code of ordinances) which contains annual reclamation fees; this fee schedule is approved by the Land Conservation Committee. Changes can be made as needed by adjustments to this external schedule.
Revenue vs. Expenditures on program administration Represents an average for the 4-year period from 2008-2011	
Fees collected on unreclaimed acres	\$ 24,875
(+) Permit Review fees	\$ 1,700
Total revenue	\$ 26,575
(-) Amount transferred to DNR	\$ 3,600
Total operating revenue	\$ 26,575
(-) Total administrative expenses	\$ 24,862
<b>Surplus or (deficit)</b>	<b>\$ 1,713</b>

Represents the 4-year period (2008-2011)	Permit revue fees	Gravel Pit fees	Operating revenue	Administrative Expenses	Overall balance	Annual average balance
totals	\$6,800	\$99,500	\$106,300	\$99,447	\$6,853	_____
Average	\$1,700	\$24,875	\$26,575	\$24,862	_____	\$1,713

ATTACHMENT 2.

Site photos - All photos taken on July 25, 2012.

**Site # 1.** This reclaimed minesite (permittee was a B.R. Amon and Sons, Inc.). Site is located on County Road H near Elkhorn in the Town of Geneva. Walworth County issued a COC and released the FA finding the site was successfully reclaimed to its post mining land – use: recreational. The site now supports *Lake Geneva Canopy Tours*. This unique reclamation offers multi-recreational use with 8 zip-lines that carry users from platform to platform. It is used year-round open to hikers and bikers. Fay and I met with **Phil Kroll**, Course manager of the Lake Geneva Canopy Tours (this multi-recreational use site features 8 zip-lines that carry folks from platform to platform may be used year round as it is open year-around to hikers and bikers.



Photos Nos. 1 & 2.

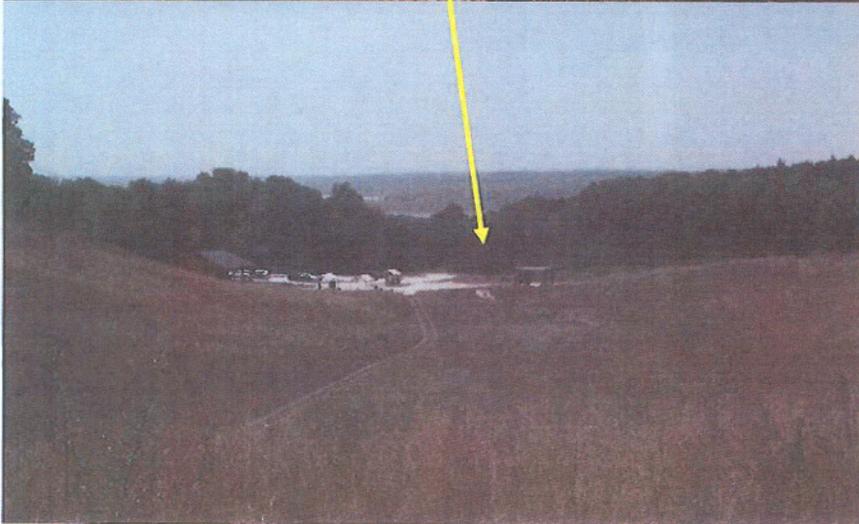


**Photo No. 3.**

Reclaimed nonmetallic mine site now supports a recreational land use and is managed by *Lake Geneva Canopy Tours*.

Sloped and revegetated slopes on either side are evidence of past mining and its successful reclamation.

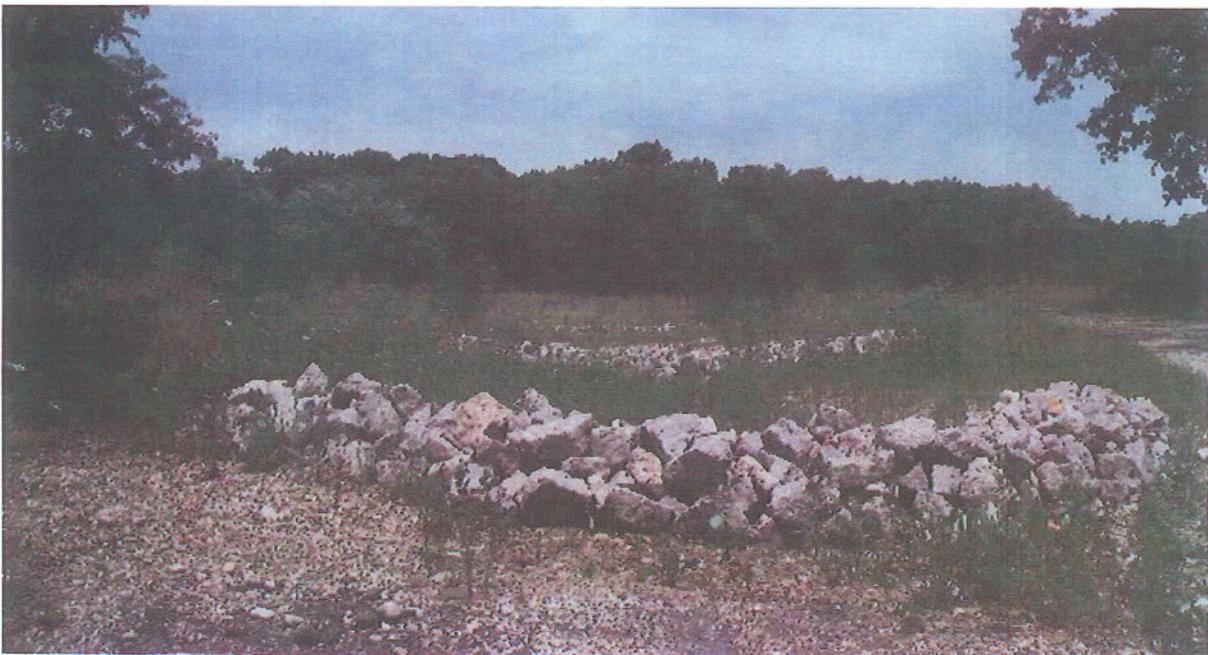
**Photos Nos. 3 & 4.** These depict the interval between platforms at this final portion of the course is 1,200 feet long and users reach speeds of 45 mph.



**Photo No. 4.** View from upper platform shows length of course with Lake Como visible to the Southeast.



**Site # 2. Photo No. 5.** The Amon site that has post mining land use slated as a future residential development. Ultimate land use to be residential but currently maintained in a stable state. Areas where roads will be are left stable but not entirely vegetated.



**Site # 2. Photo No. 6.** The reclaimed Amon site. During this indefinite period the site is well protected from erosion as evidenced by this series of rip-rap energy dissipater check dams.

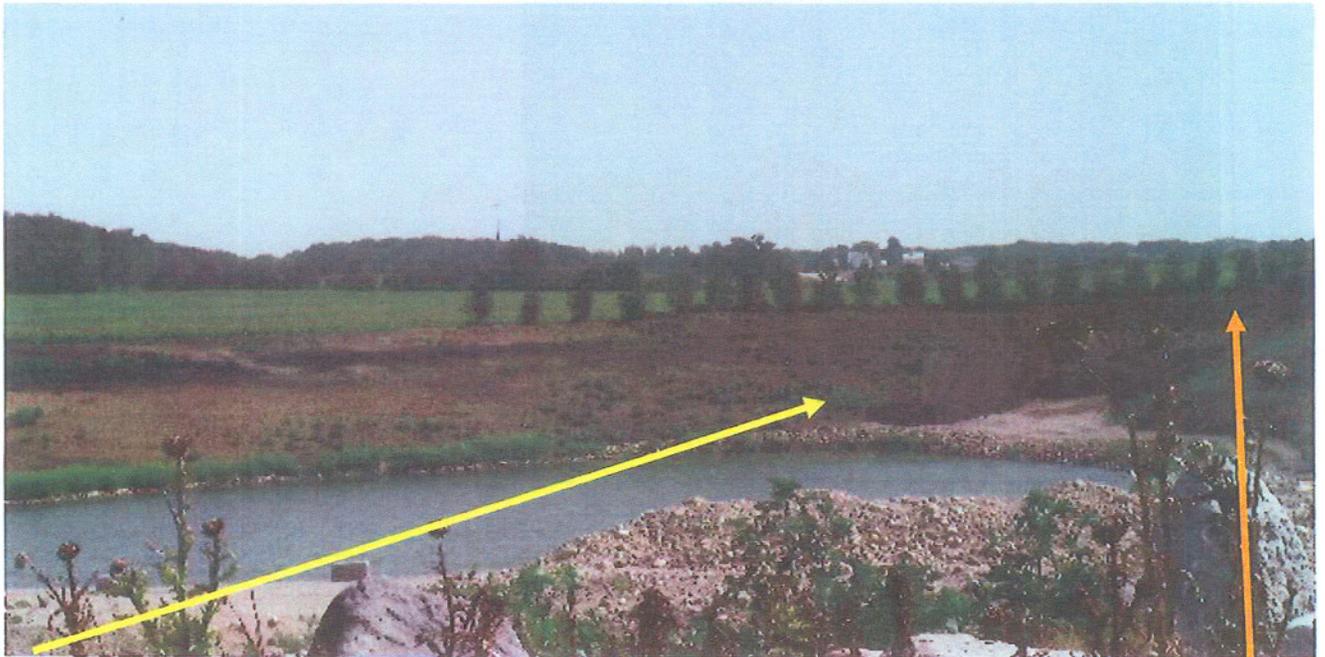
**Site # 3. Baker-BTE site.** Fay and I met with Louise Olson and Mike Cotter of Walworth County and the Bakers at the site. The Baker or *Baker-BTE* site was subject to a COC inspection by Walworth County on July 25, 2012.



**Photos Nos. 7 - 9.** Site now reclaimed and stable. County's evaluation method for determining reclamation success which includes evaluation of vegetative cover combined with overall site stability. (For additional detail please see **Attachment 3**).



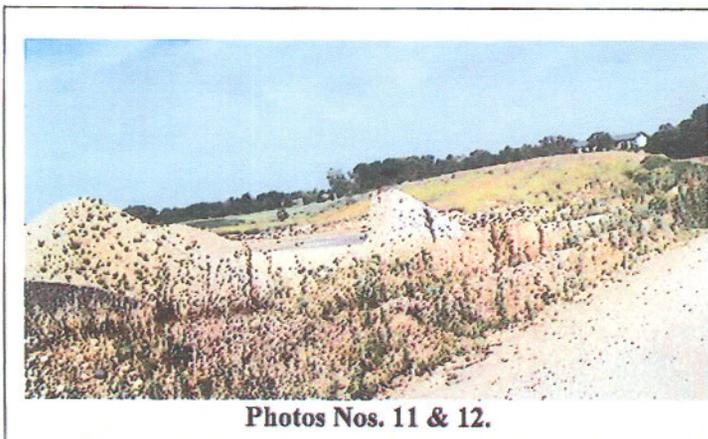
Site # 4. The Boss site. (Also see Attachments 4 & 5).



**Photo 10.** Permittee currently engaged in contemporaneous reclamations was required in both the original CUP and in the ore recent NR 135 Reclamation Permit. This has been neglected until the recent past. However, at the time of my site visit a couple stages of land restoration of mined out areas (previous phases) had occurred or was occurring. Soil is being brought in from constructions sites being distributed for reclamation along side of pond. Trees in center above excavated area have been there for some time.

**CUP issues require resolution –in progress.**

Concrete being recycled part of resolution of a pending CUP matter.



**Photos Nos. 11 & 12.**





**Photo No. 13.** Area from which timber matts were removed



**Photo No. 14.** Soil berms (topsoil to be used in final reclamation) are in place at the required distance from (100 feet) from the highway. This was a requirement of the original CUP.

### Attachment 3.

#### *FIELD FINDING REPORT – THE BAKER-BTE site*

**The Baker-BTE– reclaimed former mine site**  
Walworth County

**August 16, 2012**  
(as amended on August 23, 2012)

I had previously visited the *Baker-BTE* site in Walworth County on September 6, 2011. Purpose: Both in response to a complaint originally received in the DNR's Madison office I had received from and at the request of Walworth County: to provide technical assistance as per NR 135.52 (1). Additionally I had received a complaint from an aggrieved citizen (in this case it happened to be the property owner),

My second site visit was during the July 25, 2012 NR 135 Reclamation Program review for Walworth County.

On that day I had both the opportunity to view reclamation progress at the site but also to be available to provide technical assistance as per NR 135.52 (1), if requested, by the County. Further this was done as part of a routine, periodic NR 135 Reclamation program audit. It afforded a chance to view a reclamation success evaluation<sup>4</sup> at this site and to inspect similar previously reclaimed sites to ensure compliance with the uniform statewide reclamation standards contained in subchapter II. of NR 135 Wis. Adm. Code.  
(Please see below photos).

**2011**



Reclamation, slope stabilization and revegetation activities that were taking place during my site visit. Photo taken during my site visit on September 6, 2011.

**2012**



The above photo was taken on July 25, 2012 during the NR 135 Reclamation program review audit.

<sup>4</sup> County performs a final site inspection while considering the issuance of a Certificate of Completion (COC). This field inspection is to confirm site reclamation and overall success in achieving the approved post mining land use is a necessary part of the process through which the County may issue the COC.



2011 site overview.



2012 site overview.

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**2012 close-ups of erosion mat and vegetation.**


Nurse crop planted last year is still and has worked to promote site stability and cover for emerging seedlings. With recent rain after protracted drought – one can observe the emergence of plants that were contained in the approved WisDOT seed mix<sup>5</sup>.



Erosion mat still visible and appears effective in stabilizing the site during the period of revegetation.

**CONCLUSION:**

As part of the NR 135 program audit and as the result of the reclamation I observed in the field on July 25, 2012 it appears reasonable and advisable for the county to issue a COC for this site. There was no question as to the overall stability and therefore overall-safety. Vegetation is doing well despite drought and looks to be improving in response to belated precipitation. It appears that the reclamation work in 2011 at the *Baker-BTE* site has achieved its objective with the former mine site having been restored to a productive and stable state and a productive post mining land use.

**REMARK:** Of concern were vehicle tracks going up and down the slope. This practice increases the risk of forming rills and eventually erosion gullies in the future.

Thomas Portle, Reclamation Specialist

<sup>5</sup> It had been the subject of a complaint brought into the office in 2011. I had performed a previous site visit in September 6, 2011 and documented the reclamation in progress. This work was of a level superior to most nonmetallic sites I have observed and involved the use of netting and a DOT seed mix (although typical seed mix) – the county has documentation of all seed tags available.

## Attachment 4.

### *FIELD FINDING REPORT – THE BOSS SITE*

The Boss – active mine site  
Walworth County

August 16, 2012  
(as amended on August 23, 2012)

**BACKGROUND:** On analysis of the circumstances of the Boss site I have concluded that most issues that have risen in the recent past (some to which I have been privy to due to citizen inquiries, information provided and other input.

Complaint form (one cited above in general use by County for Zoning, Land Conservation and Sanitation) was filed with County by Mr. Ron Piening on March 13, 2012. Attached was detailed memo describing alleged violations and issues.

#### **INITIAL COMMENTS:**

- The NR 135 Reclamation rule is silent on most operational and land use matters and I have been awaiting the results of the permittee and the CUP hearing before formulating what is appropriate from the point of view of the WDNR and NR 135. An on-going but important challenge is the separation between zoning (CUP) requirements and reclamation requirements per NR 135 and county applicable reclamation ordinance.
- Complaint was addressed through proper channels. Most of the land use issues, storage of improper materials or operational actions that may not have been included in the original CUP have been addressed in due course and are being addressed.

#### **Drivers for my involvement:**

- Complaint form Mr. Ron Piening of Delevan
- Conversation with former State Senator Jim Baumgart (Original author of statute enabling NR 135 Reclamation rule.
- Conversations with Wayne Redenius (Town Board)
- Additional conversations with both Ron Piening and Wayne Redenius.
- Had discussion with Matt Weidensee; obtained background on more about the permitting history and the compliance actions that the county is taking with regard to requiring revision to the CUP via a letter provided to Boss Family LLC by Mr. Weidensee.
- Discussion and site visit to the Boss site accompanied by Fay Amerson July 25, 2012.

#### **OBSERVATIONS:**

I observed removal or timber matts, the distribution of topsoil for the purpose of site reclamation and areas that have been planted in the lat few months. (See photos 10 - 14).

- I obtained and reviewed copy of a letter from the County NR 135 Nonmetallic Mining Reclamation program here letter stating reclamation ordinance requirements, reclamation plan commitments etc. to

ensure requirements in the existing permit and the Walworth County Nonmetallic Mining Reclamation Plan and ordinance (covers detailed requirements from the standpoint of the NR 135).

- I observed nothing, from the reclamation point of view, at the Boss Family, LLC site that appeared out of the ordinary when compared with many similar mines in the region and the state. I was mostly concerned about the lack of minimizing the area disturbed and the lack of due diligence in following the reclamation plan which requires contemporaneous reclamation<sup>6</sup> – Also required by state law, Chapter 295 State. Stats.

Also see photos Nos. 10 – 14) for The Boss Site (Site Number 4 above).

#### CONCLUSION:

- Ms. Amerson provided detailed requirements for the standpoint of the NR 135 reclamation program, the amendments to the reclamation plan that may be necessary and I believe a clear signal that contemporaneous reclamation needs to be promptly pursued in accord with the phased approach to the mining operations and reclamation plan and applicable zoning permits, rules and state and County reclamation rules.
- Nearly all issues at the site are NOT under the jurisdiction of the state NR 1325 Reclamation Program but are clearly issues best addressed under zoning.
- However, there are certain on-going issues related to top NR 135 and to the NR 135 reclamation permit issued by Walworth County. Specifically, these entail the failure to perform contemporaneous reclamation and minimize the area disturbed at any on time during the extraction, processing and or storage of nonmetallic minerals.

**REMARK:** Having said that, I as pleased to see the reclamation work that had been done and would expect that phased reclamation would be in a rough balance with site development and operations in the future as a matter of course. It should require the County to provide additional inspections to facilitate what is already a requirement/commitment in the reclamation plan and permit.

Thomas Portle  
Reclamation Specialist

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<sup>6</sup> s. 295.12 (3) states: “... to minimize the area disturbed by nonmetallic mining at any time and provide for ... reclamation of (those) ... portions of the nonmetallic mining site (not required for excavation activities or support activities) while monometallic mining continues on other portions of the nonmetallic mining site.

## Attachment 5.

### Contacts regarding the Boss Site

#### DATES & CONTACTS - ACTIONS:

March – Mr. Ron Piening  
Senator James Baumgart

#### Fact finding and Discussions

- Ron Piening Complaint filed on March 13, 2012. A list of items in the Piening Complaint filed on with the County on March 13, 2012.
- I had a conversation with Matthew Weidensee, Walworth County Land Use Planner, to learn more on the site history and nature of the issues.
- May 15 hearing date set.
- Hearing rescheduled.
- On June 18, 2012 I received a fax from Mr. Wayne Redenius, Chair, Town of Richmond.
- At a later date, I also discussed this matter with him.
- Inspected the site on July 25, 2012.

#### POINTS:

- County continues to allow land uses that are not in conformance with zoning.
- Noncompliance of original CUP for extended duration absent county oversight and enforcement;
- Pit depth now 35 feet – originally approved for a depth of 4 – 12 feet max.
- He wished to speak to me about a DNR audit or enforcement.

#### ACTIONS:

- Site visit - Walworth County NR 135 audit of July 26, 2012. (See photos 10 - 14).
- Early August - reviewed paperwork provided to me by Mr. Piening, Mr. Wayne Redenius, and materials provided by Walworth County
- Wrote initial reports and shared with county on August 16, 2012.

**Note: It should be emphasized that there is a clear distinction between zoning designations, operational activities that have no bearing on reclamation and the NR 135 Reclamation rule and statewide program which focuses primarily on reclamation and operational activities that compliment or could impede successful reclamation of the nonmetallic mining site.**

My objective is to ensure that amendments to the reclamation plan made necessary by revisions to then CUP are in accord with the statewide NR 35 reclamation program. To accomplish this technical assistance is provided and performance review audits are conducted followed by written letters addressing program compliance with s. 295, Wis. Stats. And ch. NR 135 Wis. Adm. Code. From the reclamation point of view, at the Boss Family, LLC site - Failure to promptly restore areas disturbed by excavation and related activities that appeared out of the ordinary. The concern here was a previous lack of due diligence in following the reclamation plan in following the reclamation plan which requires contemporaneous reclamation<sup>7</sup> – Also required by state law - Chapter 295 State. Stats.<sup>8</sup> and the CUP when it comes to restoring in phases and minimizing the disturbed area - contemporaneous reclamation per plan.

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<sup>8</sup> s. 295.12 (3) states:

REQUEST FOR REVIEW OF INITIAL DETERMINATION

TO: Nancy Russell, Chairperson  
Walworth County Board of Supervisors  
P.O. Box 1001  
Elkhorn, WI 53121

Kim Bushey  
Walworth County Clerk  
P.O. Box 1001  
Elkhorn, WI 53121

Walworth County Land Use and Resource Management Department  
Attorney Michael P. Cotter, Director  
P.O. Box 1001  
Elkhorn, WI 53121

2012 SEP 13 AM 10:34

RECEIVED  
WALWORTH COUNTY CLERK

Baker Enterprises, Inc., James F. Baker and Jean E. Baker, as entities for persons aggrieved under §68.06, Wis. Stats., and more broadly allowed under §287.13(9)(b) hereby make demand for review of the Walworth County Land Use and Resource Management Department's written determination made on or about August 16, 2012 that the reclamation of a nonmetallic mining site is complete, and the issuance of a Certificate of Completion, for the nonmetallic mining site (Tax Key Parcel No. AS 100007A and EW 600004A). This demand is made pursuant to §68.08, Wis. Stats.

For the reasons set forth below, Baker Enterprises, Inc., James F. Baker and Jean E. Baker ("Persons Aggrieved") do not believe that the reclamation of the mining site is complete, as of when the initial determination was made, and therefore are pursuing review under §§68.08 and 68.09, Wis. Stats., and otherwise elect to do so under §68.10(1)(b), Wis. Stats.

Pursuant to §68.09(4), Wis. Stats., the Persons Aggrieved wish to file with the municipal authority written evidence and argument in support of the Persons Aggrieved position with respect to the initial determination.

Pursuant to §68.09(4), Wis. Stats., the following evidence is presented to support the Persons Aggrieved position that the reclamation of the mining site is not complete:

1. The “Baker Pit Reclamation Plan” submitted by Burdick Trucking and Excavating, Inc. and signed on March 31, 2004 specifically contained a provision that Burdick Trucking and Excavating, Inc. would comply with the provisions of said Reclamation Plan, as well as the Statewide Non-Metallic Mining Reclamation standards established in ss.NR 135.05 through NR 135.15, Administrative Code.

2. Burdick Trucking and Excavation, Inc. did not comply with the requirements of said Reclamation Plan.

3. The Certificate of Completion issued to Burdick Trucking and Excavation, Inc., the mining site operator, dated August 16, 2012, was in error because the parcels have not been successfully reclaimed in accordance with the Walworth County – approved reclamation plan dated March 31, 2004, and was not consistent with Chapter 26, Article VI, of the Walworth County Code of Ordinances, relating to Nonmetallic Mining Reclamation.

4. Section 26-281 of Chapter 26, Article VI, of the Walworth County Code of Ordinances, relating to Nonmetallic Mining Reclamation provides general standards that all nonmetallic mining sites shall be reclaimed in conformance with such standards.

5. The above-referenced mining site was not reclaimed in conformance with the standards, including but not limited to the final reclaimed slopes are not covered by topsoil or topsoil substitute material which may not be steeper than a 3:1 horizontal to vertical incline.

6. The Certificate of Completion issued on August 16, 2012 was not performed pursuant to the requirements of Section 26-281(8) of Chapter 26, Article VI, of the Walworth County Code of Ordinances, relating to Nonmetallic Mining Reclamation.

7. Section 26-311 of Chapter 26, Article VI, of the Walworth County Code of Ordinances, relating to Nonmetallic Mining Reclamation requires the operator of any nonmetallic mine to request a modification of the Reclamation Permit if changes occur to the area to be mined, and requires that the Application for Permit Modification shall be acted on using the standards and procedures of Article VI, of the Walworth County Code of Ordinances, relating to Nonmetallic Mining Reclamation.

8. The operator, Burdick Trucking and Excavating, Inc., did not properly request a modification of the Reclamation Permit, and such Application for Modification was not accurate on using the standards and procedures of Chapter 26, Article VI, of the Walworth County Code of Ordinances, relating to Nonmetallic Mining Reclamation.

9. Section 26-311 of Chapter 26, Article VI, of the Walworth County Code of Ordinances, relating to Nonmetallic Mining Reclamation specifically requires a public hearing on plan modification. Section 26-311(s) states that:

“Pursuant to Section 26-294, the county shall provide public notice and an opportunity for a public hearing for the proposed modification of any reclamation plan previously approved by the county.”

10. The Persons Aggrieved assert that the County failed to provide public notice and an opportunity for a public hearing for any proposed modification of the Reclamation Plan previously approved by the County dated March 31, 2004.

11. There was no public notice required by the Walworth County Code of Ordinances, Section 26-311(s) for modification to the Reclamation Plan certified by the Operator and Owner on March 31, 2004, and date-stamped by Walworth County on April 5, 2004.

12. There was no justification to support the approval of plan slopes steeper than 3:1 horizontal to vertical incline, as required by the Walworth County Code of Ordinances, Section 26-381(5)b.

13. The Certificate of Completion dated August 16, 2012 was issued despite the fact that the final graded slope (topsoil and vegetation cover) was not in compliance with the Walworth County-approved reclamation plan dated March 31, 2004.

14. The overall stability, and therefore the overall safety of this site, alleged now to be “complete” is in question, and the former mining site has not been restored to a productive and stable space or for productive post-mining land use.

15. The Site Restoration Plan submitted by Burdick Trucking and Excavating, Inc. provided that Burdick Trucking and Excavating, Inc. would bulldoze the cutbank to achieve

side slopes not exceeding 3:1 with slopes varying up to 5:1 in places to give the reclaimed site a more visually interesting natural look with some undulation of side slopes. The Baker Pit Reclamation Plan also provided that the subsoil would be placed and finished to the required lines, grades, and slopes as shown on the Site Plan. Topsoil would then be placed to a minimum depth of four (4) inches where possible. The approved Reclamation Plan also stated that if problems were detected, the work necessary to ensure long-term success of a restoration project would be promptly undertaken by Burdick Trucking and Excavating, Inc.

16. The modification of the Walworth County-approved Reclamation Plan certified by the Operator and the Owner on March 31, 2004 was a violation of the Persons Aggrieved constitutional and statutory due process rights under the Constitution and under Chapter 287.

17. With respect to the alleged findings that the Baker Nonmetallic Mining Site has been successfully reclaimed in accordance with the Walworth County-approved reclamation plan, and consistent with Chapter 26, Article VI, of the Walworth County Code of Ordinances, relating to Nonmetallic Mining Reclamation, said findings are in violation of the Due Process Clause of the Wisconsin and U.S. Constitution.

18. There were deficiencies in the adoption of the alleged County-approved reclamation plan dated 9/21/2010.

19. The initial Determination dated August 16, 2012 should be reversed.

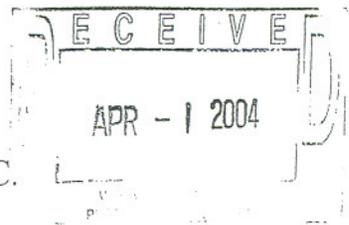
Dated this 11<sup>th</sup> day of September, 2012.

BAKER ENTERPRISES, INC.

By: James F. Baker - Pres.  
James F. Baker, President

James F. Baker  
James F. Baker

Jean E. Baker  
Jean E. Baker



BURDICK TRUCKING AND EXCAVATING, INC.  
369 SUNSHINE AVENUE  
DELAVAN, WISCONSIN

## BAKER PIT RECLAMATION PLAN

### Location

The Baker Pit is located approximately 2½ miles southeast of the Village of Darien on the east side of Highway 14, ¾ of a mile past the intersection with County K. The enclosed air photo (Appendix A) will help locate the pit.

### Owner

Baker Enterprises, Inc.  
N2298 State Road 14  
Delavan, WI

### Operator

Burdick Trucking and Excavating, Inc.  
369 Sunshine Avenue  
Delavan, WI

### Property Boundaries

The M-3 zoned site is a 50 acre parcel that consists of a triangular piece extending 660 feet west of the east line of Section 1 in the NW ¼, SE ¼, Section 1, T1N, R15E, Town of Sharon and the NW ¼, SW ¼, Section 6, T1N, R16E, Town of Walworth, Walworth County, Wisconsin. Adjacent landowners are indicated on Appendix B.

### Areal Extent

Mining activities are currently taking place in the portion of the site that was previously used as a borrow pit for cover material used on the adjacent former Baker sanitary landfill. This area is slightly less than 10 acres in size. After gravel removal is completed in this area, it is planned that mining will proceed to the east in the southern half of the 40 acres to the pipeline easement (Phase 2), then north to the property line (Phase 3). These areas are shown on the site reclamation plan.

### Geologic Composition

USGS information indicates that Baker Pit is located in the Geneva end moraine formed from the Delavan lobe of the Lake Michigan glacier. (See Appendix C) The total thickness of unconsolidated glacial deposits over dolomite bedrock is mapped by USGS to be approximately 500 feet.

### Distribution, Thickness, and Type of Topsoil

Soil Survey of Walworth County shows predominant soils on the site to be McHenry silt loam (6-12% slopes) and Miami silt loam (6-12% slopes). These soils have

a brown silt loam topsoil varying from 4 to 8 inches thick over a clay subsoil. (Soil mapping is shown in Appendix D.)

The Phase I portion of the site was previously used as a borrow area for the Baker sanitary landfill immediately to the west. Topsoil in this area was used to cover the landfill.

#### **Approximate Elevation of Groundwater**

This site is located in the area of a groundwater divide and has shown considerable variation in groundwater elevation between 960 feet and 950 feet, depending on seasonal rainfall.

#### **Location of Surface Waters and Wetlands**

Delavan Lake is located approximately 2 miles northeast of the site and is the nearest body of water. The undulating till plain characteristic of the area leads to drainage from the tops of hummocks to nearby low areas with no defined drainage pattern in the area. The low areas will hold some water for a period in the spring thaw or after a heavy rain, but all depressions near the site drain well enough to be farmed each year.

#### **Existing Drainage Patterns**

The sanitary landfill hills drain toward the pit area. A diversion was previously constructed to divert part of this water north of the active pit. All storm water falling in the pit runs to the low point and soaks away. Farmed areas of the site drain to depressions in the fields.

#### **Location of Subsurface Drainage**

None

#### **Existing Topography**

Existing topography is shown on the enclosed site plan by Farris and Hansen, based on Walworth County photogrammetric mapping from April 4, 1998 photography.

#### **Location of Manmade Features On or Near the Site**

The Baker sanitary landfill is located immediately west of the site. This feature serves as a screening berm for traffic on Highway 14. Another gravel pit operated by B.R. Amon is located immediately north of the site.

The Lakehead Gas Pipeline transects the property from the southeast corner toward the center of the north property line. This easement limits the eastern extent of Phase II and Phase III.

#### **Location of Previously Mined Areas**

Phase I of Baker Pit is a former borrow pit for the landfill operation. This previously excavated area was cut down to approximately elevation 974.

#### **Biological Resources**

Description of Plant Communities

The majority of the site is currently being used as cropland. The former borrow pit had limited grass and sweet clover cover. The former landfill has a good brome, timothy, and orchard grass turf.

The surrounding land is agricultural cropland with the exception of the gravel pit to the north and a 5 acre woodlot behind it. Pastured oak woods are also located to the south and east.

#### Description of Wildlife Use

Cropland areas provide feeding opportunities for deer and geese. The edge habitat has also supported coyote, woodchucks, rabbits, raccoons, squirrels, pheasants, and many other birds common to southeastern Wisconsin.

#### Land Use

##### Present Land Use and Land Cover

At the present time, less than 10 acres of the site are used in our gravel operations. The remainder of the site is farmland.

##### Post Mining and Land Use

The entrance road will remain as an all weather access to the back of the Baker farm. A portion of the floor of Phases I and III will remain as a wildlife pond as shown on our reclamation site plan. The remainder of the site will be open grassland pasture/wildlife habitat.

#### Site Reclamation Measures

Active mining will continue to the north and west in Phase I. As the limits of excavation are reached in that area, the unsaleable overburden which has been stockpiled along the north and remains on the east side of Phase I will be used to slope the banks. Once the excavation is completed in the north we should be able to begin contemporaneous overburden removal and sloping which will continue as the excavation moves south and then turns east in Phase II and then north again in Phase III.

#### Earthwork to be Performed on the Site

When gravel excavation reaches the limit of a phase, Burdick Trucking and Excavating will bulldoze the cut bank to achieve side slopes not exceeding 3:1 with slopes varying up to 5:1 in places to give the reclaimed site a more visually interesting natural look with some undulation of side slopes. Excess overburden and other clean fill from our excavating jobs in the area will help augment the slope variation. X

#### Topsoil Removal Storage and Redistribution

Topsoil removal will be accomplished with scrapers or excavator and haul trucks with the goal of recovering as much of the existing soil as possible. No earthwork is planned on the site prior to topsoil removal just before excavation of gravel. We will attempt to minimize the surface exposed to erosion by only stripping an area that will be used within 1 year. Whenever possible the soil removed to prepare an area for gravel excavation will be placed to complete restoration of a previous area. We will mow topsoil berms several times a season to prevent tree growth and promote grass cover. X

Future topsoil removal should be used for contemporaneous reclamation where it will be graded and seeded to minimize erosion problems.

### **Soil Redistribution and Site Preparation**

Burdick Trucking and Excavating will perform all necessary grading to achieve the final topography and drainage patterns as soon as practicable once mining has ceased in a portion or phase of the operation. This shall be performed in order to prepare the site for reclamation.

All grading will be completed and resulting surfaces scarified prior to topsoil redistribution to promote good adherence/bonding between the subsoil and topsoil. This will also improve infiltration and drainage. Grading will be accomplished so as to prevent ponding of water on the reclaimed surface. The topsoil (and/or subsoil) will be placed and finished to the required lines, grades, and slopes as shown on the site plan. Topsoil will be placed to a minimum depth of 4 inches where possible. In areas where the topsoil was previously used we plan to mix previously piled partially composted manure with the subsoil to provide a seedbed. This material is available to Burdick Trucking and Excavating from the owner at no cost.

When compaction of soil is found or when underlying material is too compact or dense to allow for a suitable bond, the applicant shall take suitable measures to rectify the situation. This may include disking, chisel plowing, ripping, and/or scarification. These measures will be employed to alleviate compaction, promote good bonding between the topsoil and the underlying materials, enhance drainage, and ensure a suitable substrate for plant growth and the development of plant root systems.

All topsoil will be distributed onto a prepared site. Topsoil redistribution will be performed only during dry conditions using appropriate equipment and in a manner so as to minimize compaction. Any clods and/or lumps present after redistribution will be broken down by the use of harrows, discs or other appropriate equipment in order to provide uniform textured soil. In addition, the surface will be dressed to present a uniform particle size to improve seed germination through good soil contact with the seed.

### **Description of Structures to Remain**

Final site reclamation will include removal of all stockpiles and structures, with the exception of the access road which will remain.

### **Revegetation**

Burdick Trucking and Excavating will use a site stabilization mix conforming to WI DOT seed mix #20 at a rate of 3#/1000 sq. ft. on slopes at the site. The floor of the site will be seeded per WI DOT section 630.3.3.4 at a rate of 1½ #/1000 sq. ft. We will alter the seeding in the area near the pond to attempt to introduce some native wetland varieties.

Burdick Trucking and Excavating will apply seed to soils that are properly graded and prepared. All necessary physical seed bed preparation measures, (such as tilling, disking, or cultipacking) and chemical measures such as amendments (fertilizer, lime, or

other) will be done prior to seeding. Amendments will be used as necessary based on soil tests. Seeding will be done at any time during the growing season when soil conditions are suitable except for the period between June 25 and August 25. Seeding will not be done immediately following rain, when the soil is excessively dry, or during windy periods. Seed will be placed by broadcast, drill, or hydro seeding as conditions and size of the area warrant. Straw mulch will be applied uniformly as necessary at a rate of up to 1 1/2 T / acre. Erosion blanket, jute netting, or a tactifier may be used in addition to or in lieu of mulch at our discretion.

X

X

If the adequacy of the revegetative stand in any area is questionable to Walworth County personnel, NRCS WI Technical Note – Agronomy – WI-1 Guidelines will be utilized to evaluate the success of revegetation.

X

**Erosion Control and Storm Water Management**

Erosion control measures at the site include the construction of diversions as part of the topsoil removal to minimize the amount of runoff from stripped areas entering the active pit area. We will also maintain the diversion that keeps landfill runoff from entering the pit.

X

Temporary infiltrative basins will be utilized near the active excavation area.

The pit floor has been designed to direct any runoff that does not infiltrate the pit floor to a pond to the north of center in the Phase I area.

This site is internally drained and does not impact any neighboring property.

**Proposed Schedules and Sequences**

Operations in Phase I have been underway for approximately 12 years. We anticipate that we will continue to operate in Phase I for another 4-5 years. Phase II is expected to have an 8-10 year life and Phase III should last another 7-8 years before the site is completed.

**Inspection, Operation, and Maintenance Plan**

Burdick Trucking and Excavating will inspect the sediment and erosion control systems on a regular basis and immediately after major storms. All reclaimed areas will also be inspected and maintained with periodic mowing to encourage turf and control weed growth. If problems are detected, the work necessary to ensure long-term success of the restoration project will be promptly undertaken.

X

**Cost Estimate of Reclamation**

Sloping cut banks	\$ 231.00/acre
Grade sub grade	500.00/acre
Spread and grade 6" topsoil	1120.00 /acre
Seed, fertilize, mulch	484.00/acre
Maintenance and Mowing	<u>70.00/acre</u>
	\$ 2405.00/acre

**Certification of Reclamation Plan**

I hereby certify, as a duly authorized representative or agent, that BURDICK TRUCKING (name of operator) will comply with the provisions of this reclamation plan as well as the statewide nonmetallic mining reclamation standards established in ss.NR 135.05 through NR 135.15, Admin. Code.

Signature of Applicant or Duly Authorized Agent

Date Signed

Gary Burdick, Pres

3-31-04

**This section is required if the landowner or lessee of the property is different from the operator indicated above.**

I/we, as the landowner(s) or Lessee(s) of the property described herein, do hereby certify that I/we reviewed the reclamation plan submitted by BURDICK TRUCKING + EXCAVATING (name of operator), concur with its provisions, and agree to permit its implementation.

Signature of Landowner(s) or Lessee(s)

Date Signed

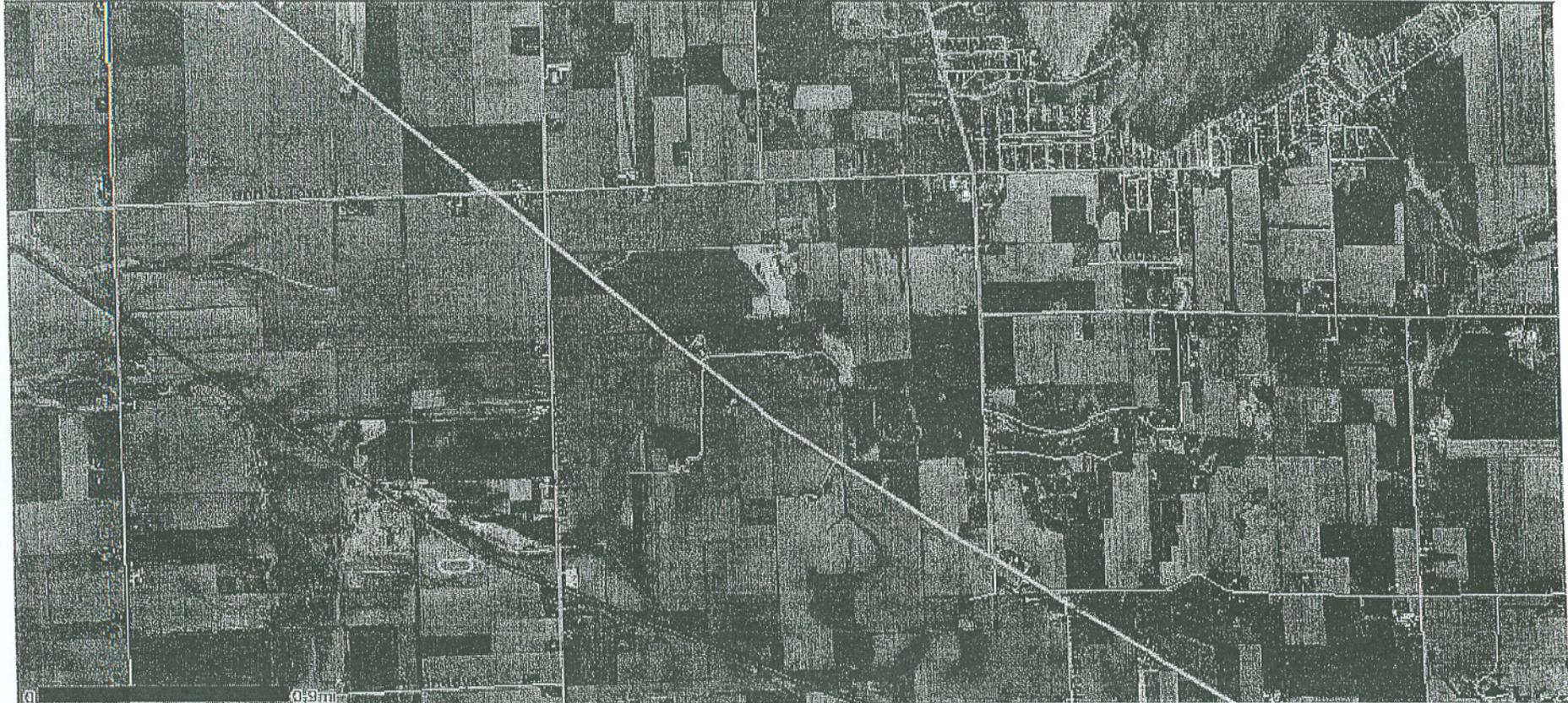
James T. Baker Pres

3/31/04



Layers Refresh Map Legend Find Location Themes Select Help

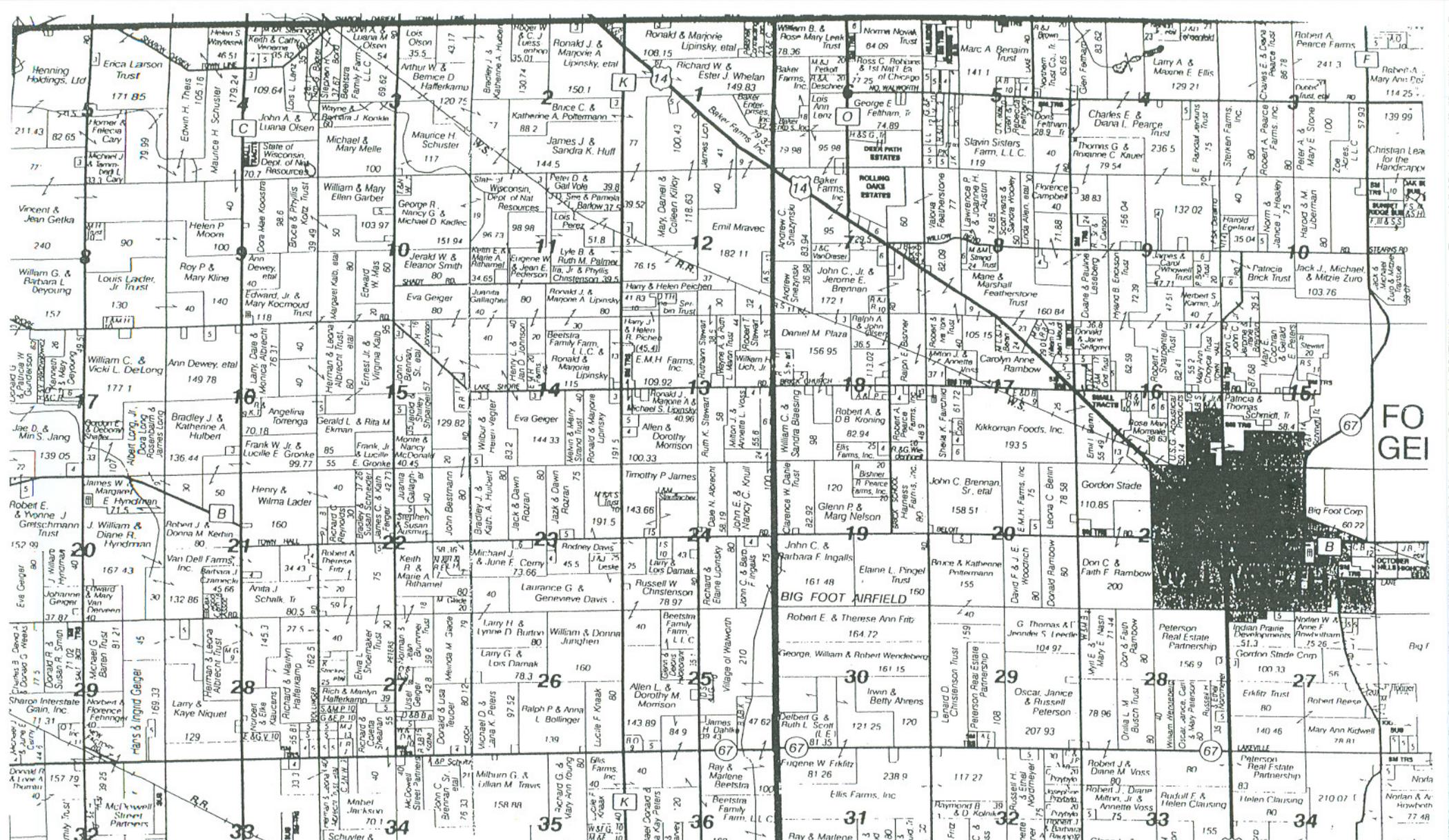
Full State Zoom In Zoom Out Zoom to... Move Identify Print Advanced Tools



BURDICK TRUCKING + EXCAVATING, INC.  
BAKER PIT - APPENDIX A - LOCATION

Scale: 1: go Selected Map Tool: Zoom Out Zoom Out

APPENDIX A



Burdick Trucking + Excavating, Inc  
 Baker Pit - Adjacent Landowners

HOPENDIX  
 B



Layers Refresh Map Legend Find Location Themes Select Help

Full State Zoom In Zoom Out Zoom to... Move Identify Print Advanced Tools

### Identify Results



#### Coordinate Position

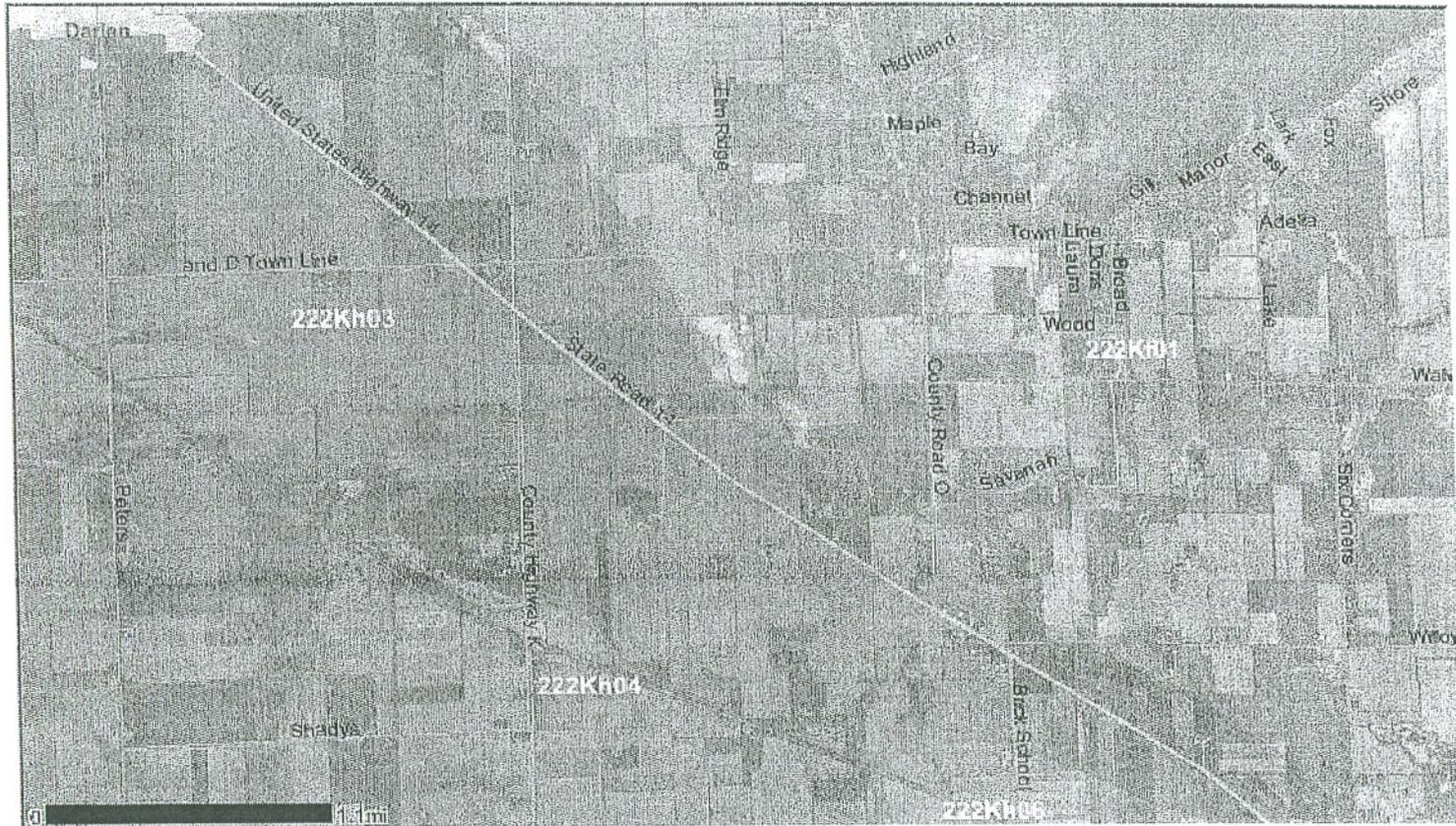
Lat/Lon: 88° 38' 0" W  
42° 34' 33" N  
UTM (x, y): 365944, 4715007  
(zone 16)  
WTM: 632147, 234619

#### Landtype Associations

Name: Geneva Moraines  
LTA Code: 222Kf01  
Description: The characteristic landform pattern is undulating till plain with hummocky moraines, scattered lake plains, and low drumlins. Soils are predominantly well drained silt and loam over calcareous sandy loam till. Common habitat type is ATiFrVb(Cr).

#### County Boundaries

Name: Walworth  
FIPS Code: 127  
DNR County Code: 65  
DNR Region: Southeastern



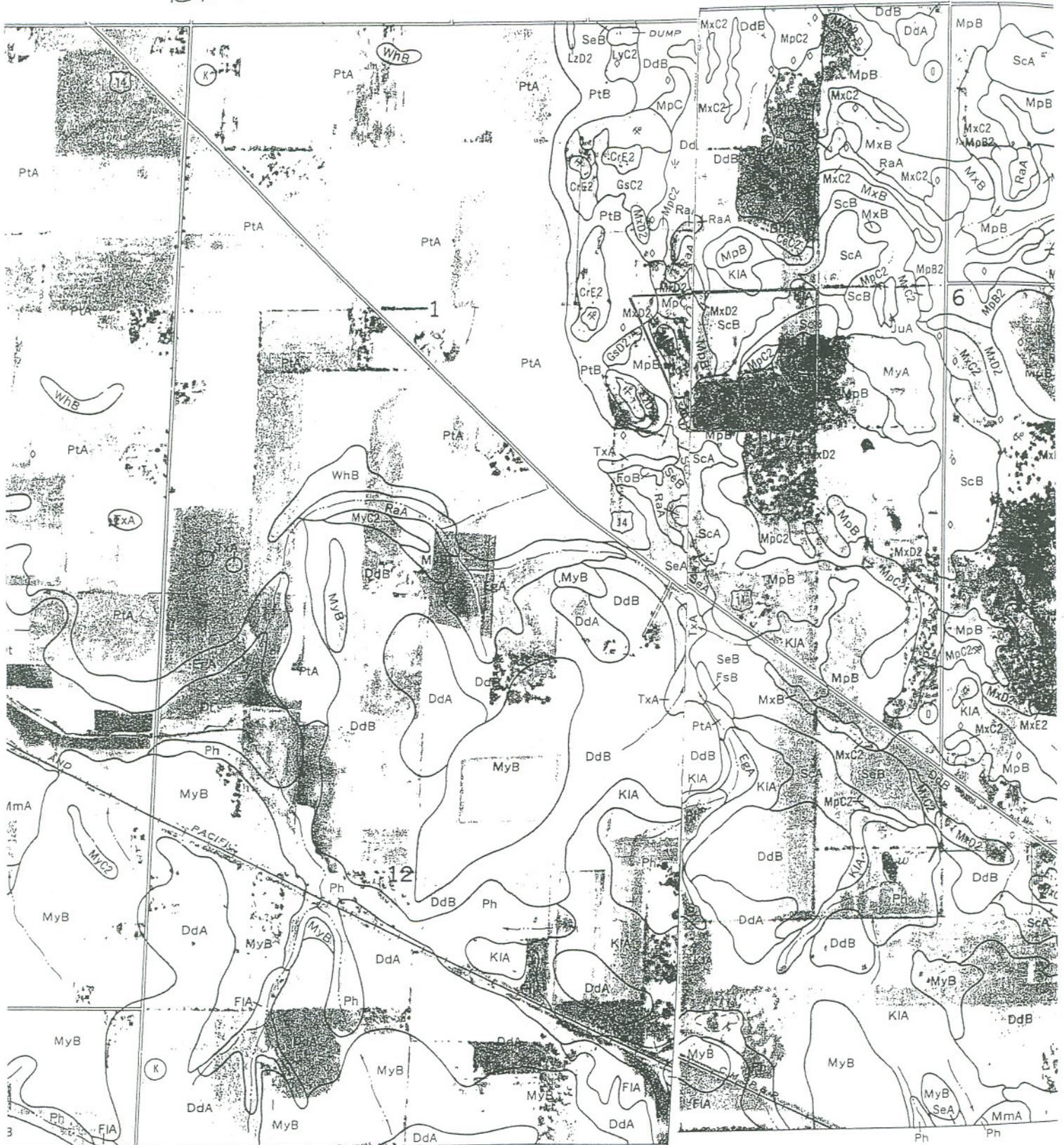
BURDICK TRUCKING + EXCAVATING  
BAKER PIT - GEOLOGY

Scale: 1: go Selected Map Tool: Identify Drill Down Identify

APPENDIX C

# BURDICK TRAIL KING + EXCAVATING BAKER PIT

# APPENDIX D



SOIL MAP

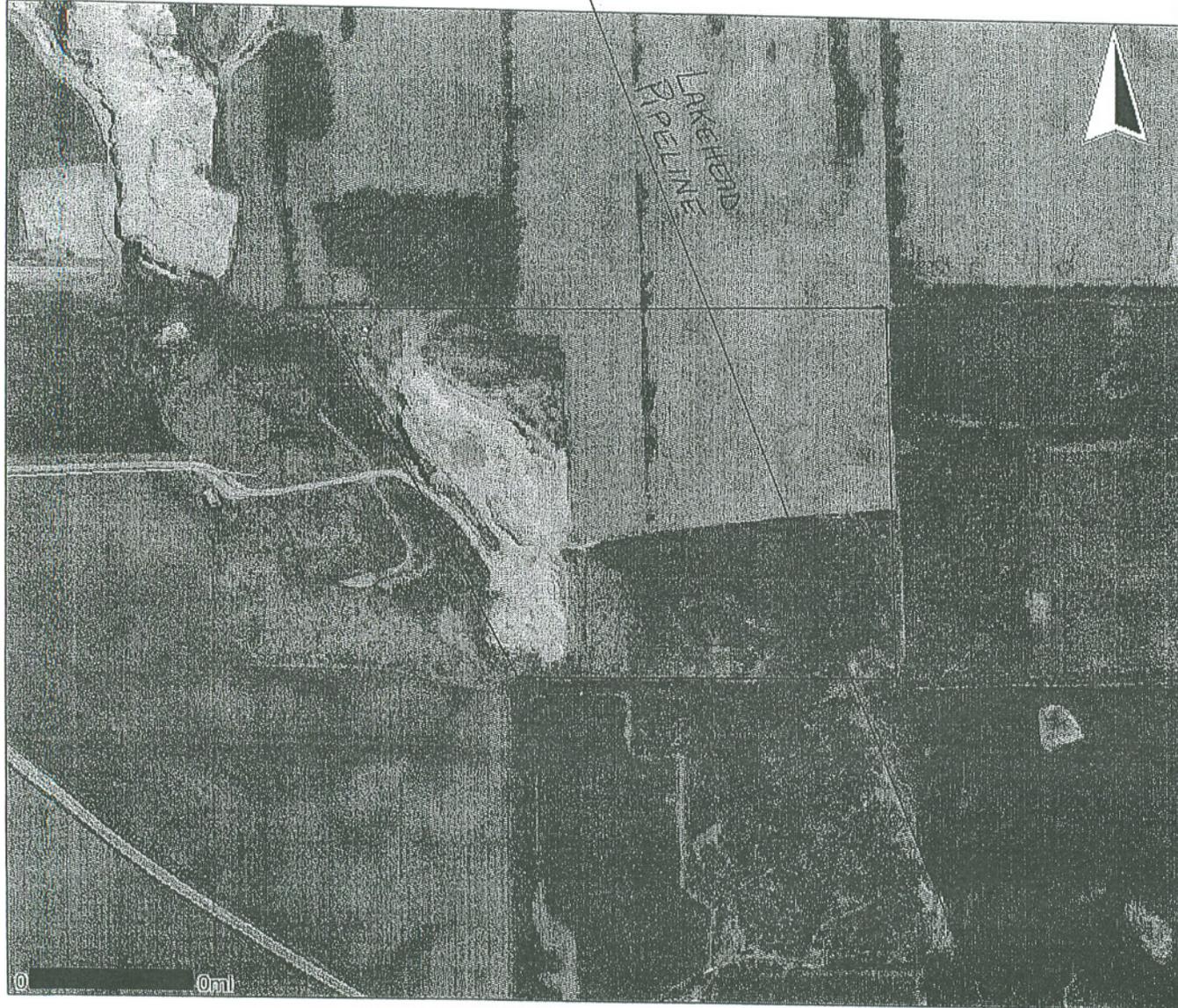
FROM SOIL SURVEY  
WAWORTH CO, WI

FEB 1971

Map created Thu Mar 18 20:23:01 CST 2004

### Legend

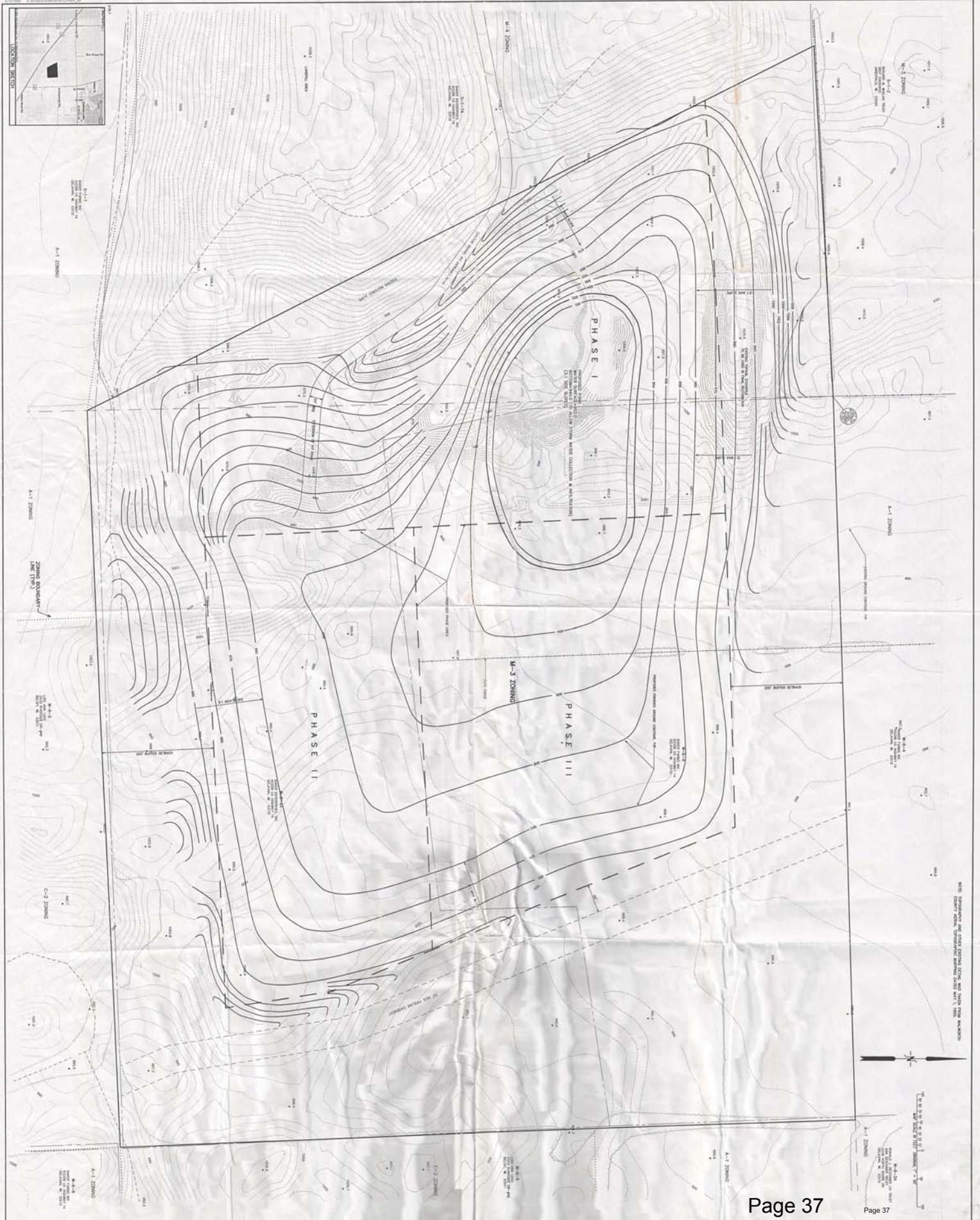
- Local Roads
- Cities and Villages
- Village
- City



Scale: 1:6,303  
DO NOT USE FOR NAVIGATION

BURDICK TRUCKING + EXCAVATING, INC  
BAKER PIT - PIPELINE LOCATION

APPENDIX E



<p>PROJECT NO. 6499 DATE 01/06/2005 SHEET NO. 1 OF 1</p>	<p>FARRIS, HANSEN &amp; ASSOCIATES, INC.          ENGINEERING - ARCHITECTURE - SURVEYING          7 BROADWAY COURT P.O. BOX 437          ELMHORN, WISCONSIN 53122          OFFICE (262) 733-9366 FAX (262) 733-8866</p>	<p>NOT REPRODUCED BY -          BIRDAK TRADING &amp; ENGINEERING INC.          222 S. BROADWAY AVENUE          CLARK, WISCONSIN 53111</p>	<p>PIT RESTORATION PLAN          BAKER GRAVEL PIT          LOCATED IN SECTION 1 T1N R1E AND SECTION 8          T1N R1E, WALWORTH COUNTY, WISCONSIN</p>	
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