

## History

The Acoma Township Board approves Craig Reiner's Mining Conditional Use Permit on January 10, 2013.

The Planning Advisory Committee approves Craig Reiner's Mining Conditional Use Permit on January 23, 2013.

Two members of the Planning Advisory Committee, Curt Carrigan and Bill Hard, state (best I can recall) the following to the overflowing crowd of concerned Acoma Township residence that:

- We as a committee recommend to the Board of Commissioners and we would need good reason not to follow the Acoma Township Board's recommendation. We understand and have heard your concerns but we think the committee should pass this as is and we will let the commissioners know what is going on.
- We recommend that you shrink all of your concerns down to what you really want and then get a petition stating those items and select a person(s) to represent you at the commissioners meeting.

Right after the meeting the Acoma Township residence selected Tom Dahl to represent them and to go door to door with a petition.

On or about February 3, 2013 Tom Dahl called Craig Reiner and informed him that there was petition requesting certain conditions be removed from and some items be added to his Mining Conditional Use Permit. They discussed each item and the reason why. They did not agree on anything except to be present at the commissioners meeting and let them decide.

On or about February 4, 2013 Craig Reiner called Zoning and Planning to have the hot mix plant request removed from the Conditional Use Permit.

On February 13, 2013 Tom presented the McLeod Board of Commissioners with the petition. Since there was a large crowd of Acoma residence in attendance, Chairman Wright asked the Acoma Township Board if they wanted to take this back and come with a different recommendation. Commissioner Wright continued with the meeting since there was no response. They allowed Craig to speak first and then asked me to speak. Commissioner Sheldon Nies took the lead and started asking us both questions. He asked if Acoma residence could compromise on the hot mix plant. Craig informed them that he removed it so it was no longer in the permit request. Commissioner Nies and Commissioner Christensen then went through each item until there was agreement to change or removal of the item. He then made a motion to have the items we agreed to, added to the permit, as additional conditions.

Nies/Christensen motion carried unanimously to approve Mining Conditional Use Permit 13-03 for Craig Reiner Contracting for the purpose of mining, extracting, recycling and stockpiling with the conditions as listed.

- Within the surveyed 35 acres site, a total of 5 acres will be opened for mining purposes at any time. Restoration shall be completed before opening another site. (Too many problems once the gravel is gone to get reclaimed easier to do it as you go. Bonding requirement could be less as only 10 acres is open at once. We understood open 5 acres move to the next 5 acres and have 365 days to close the old 5 acres.)

informed Planning and Zoning that the Board of Commissioner's conditions were not in the Reiner's CUP. As a Board you can ask where, what, how etc we only want to know is: Are they going to be in there? If so, Will Acoma be getting a copy of the updated Reiner CUP?"

On June 28, 2017 Ron Rusch and Tom Dahl attended the Planning Advisory Committee meeting. David Luedtke stated several different things at this meeting which lead us both to believe that he was no longer agreeing to what the Acoma Township Board approved. The Planning Advisory Committee by their motion and vote over turned what the Acoma Township approved. Ron Rusch, on several occasions stated something like "The Acoma Township Board did not approve that and would not have approved those conditions. The Acoma Board approved these CUP's under the same terms and conditions as Reiner's." Tom Dahl informed the Advisory Committee that the Commissioners had went through a process, a few years back, that set a standard, that Acoma had learned from and was following it and that the residence of Acoma Township wanted it followed.

Once the Luedtke CUP went through the same thing happened with the Duninick's CUP. Larry did ask if they were in the road right away and Jason said they could be and if not they are pretty close.

Ron and I informed Larry that we would be at the Commissioners meeting and that by the actions taken today caused more confusion than anything. A committee over riding a Board without providing a sound reason while the Board is following the Commissioners direction through their action appeared odd.

While the Board of Commissioners has changed and the Planning Advisory has changed and Acoma Board has changed there still needs to consistent communication. The Acoma Board still does not understand what the McLeod Board of Commissioners wants when it comes to Mining CUP's. It only knows what its residence demanded the last time and the McLeod Board of Commissioners agreed with the Acoma residence and over rode the Acoma Board decision.

The Acoma Board thought it was doing the right thing by trying to abide by the same standards, which is different than the ordinance, which it believed the McLeod Commissioners set.

After reviewing this information you conclude that the Acoma Board should only set a standard using conditions from within the county ordinance OR that we should not set a standard then we ask that you inform us of that. That way the Acoma Board knows what you expect and will proceed with that understanding.

The Acoma Board

# Dunnicks/Left Side - Hanson/Right Side



Disclaimer: McLeod County does not warrant or guarantee the accuracy of the data. The data is meant for reference purposes only and should not be used for official decisions. If you have questions regarding the data presented in this map, please contact the McLeod County GIS Department.

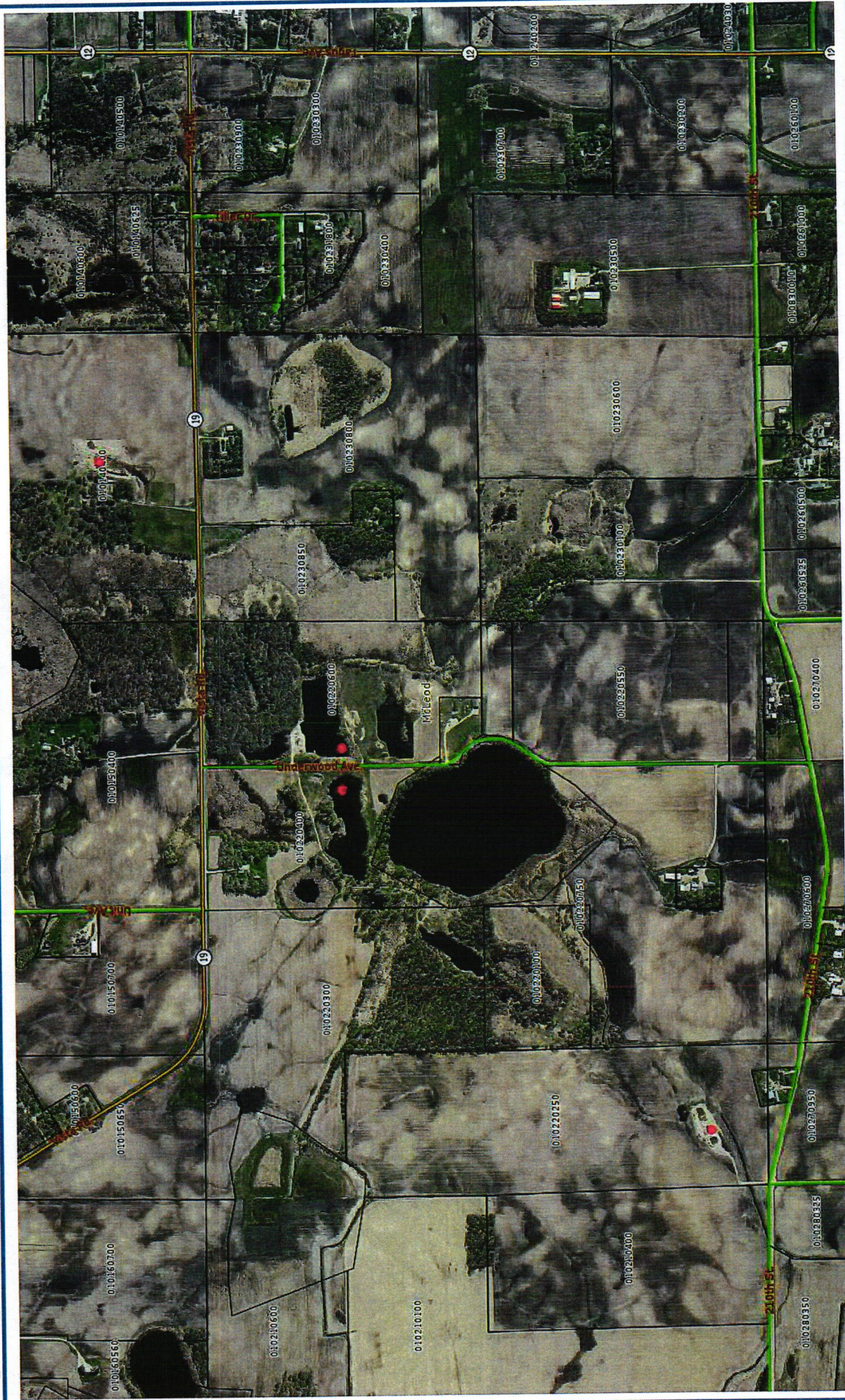
*This information is to be used for reference purposes only.*

# Pit to other Property =437' - Pit to house=711'



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*This information is to be used for reference purposes only.*

# 4 Gravel Pits Marked with Red Dots



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*This information is to be used for reference purposes only.*

	Condition	Duninicks	Luedtke	Reiner	Comments
1	A letter of credit or bond in the amount of \$35,000 (\$1000 per acre)	Same	Same	Same	We thought is was going to be \$10,000 as that is all that is allowed to be open at one time (10 acres X \$1000 per acre)
2	No wetland impacts shall take place unless prior approval from any agency with jurisdiction.	Same	Same	Same	
3	Applicant shall apply for DNR Dewatering permit, if needed	Same	Same	Same	
4	Applicant shall follow an orderly restoration plan with back sloping at a 4:1 grade	Same	Same	Same	
5	Applicant shall notify Zoning Office as restoration takes place so an inspection can be made.	Same	Same	Same	
6	Hours of Operation shall be Monday through Friday from 7:00 A.M. to 6:00 P.M.; Saturday's shall be on special needs only and applicant shall call the Zoning Office if Saturday work is needed so the Zoning Staff can properly notify property owners.	Different	Different	Different	Reiner is as stated. Other two can go 7 am to 8 pm M-F & 7am-Noon on Sat. No Holidays was agreed to but not in.
7	All gravel pit conditions shall be adhered to, such as maintain the haul route and applying appropriate dust control measures	Same	Same	Same	Reiner agreed to include the pit road but not in here.
8	Within the surveyed 35 acres site, a total of 5 acres will be opened for mining purposes at any time. Restoration shall be completed before opening another site.	Different	Different	Different	Only Reiner has this condition
9	Mining shall take place a minimum of 150 feet from the road right-of-way to CR #19.	Different	Different	Different	Only Reiner has this condition
10	Stockpiling of recyclable concrete and asphalt shall be in the NW corner of the surveyed area.	Different	Different	Different	Reiner may only bring in these two items. The other two may bring in foreign material.
11	Crushing of material shall take place no more than 15 days per year, every other year.	Different	Different	Different	This applies to Reiner. The other two may do it with no restrictions
12	Bonding for the township road	Different	Different	Different	Does not apply to Reiner as he is on a county road. Acoma Township would have required the bond if it knew that the county zoning ordinance had changed. Luedtke - \$5,000 bond. Duninicks - \$10,000 bond.

McLeod County

2015 Population & Household Estimates

Townships	Total Popula- tion	Household Population	# of House- holds	Persons per Household
Acoma	1,121	1,115	422	2.65
Bergen	948	948	348	2.72
Collins	440	440	173	2.54
Glencoe	469	469	193	2.43
Hale	911	911	354	2.57
Hassan Valley	658	658	242	2.72
Helen	820	820	303	2.71
Hutchinson	1,201	1,201	437	2.75
Lynn	529	529	212	2.50
Penn	314	314	121	2.60
Rich Valley	667	667	260	2.57
Round Grove	226	226	101	2.24
Sumter	504	504	183	2.75
Winsted	916	916	342	2.68
<b>Cities</b>				
Biscay	101	101	39	2.59
Brownton	727	727	305	2.38
Glencoe	5,540	5,401	2,223	2.43
Hutchinson	14,170	13,905	6,042	2.30
Lester Prairie	1,693	1,693	648	2.61
Plato	309	309	137	2.26
Silver Lake	810	810	345	2.35
Stewart	553	553	230	2.40
Winsted	2,303	2,232	940	2.37
<b>Total</b>	<b>35,942</b>	<b>35,462</b>	<b>14,585</b>	<b>2.43</b>

Clerk, Ja  
335 Gran  
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E-mail: b  
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Mayor, To  
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Clerk & T  
335 3rd S  
PO Box 2  
Brownton.  
Email: br  
Deputy C  
Mayor, No  
Council M  
Council M  
Council M  
Council M

Administ  
1107 11th  
Glencoe, I  
E-mail: m  
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Mayor, Ra  
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At Large,

4. **Discretionary Environmental Assessment Worksheet.** The County Board may, upon recommendation by the County Zoning Administrator, require that a discretionary EAW be prepared on any proposed action if, because of the nature and location of the project, the project may have the potential for significant environmental effects. Public questions or controversy concerning the environmental effects of the proposed action should also be considered in determining the need for a discretionary EAW.
5. **Enforcement and Penalty.**
  - A. No permit shall be issued for a project for which environmental documents are required until the entire environmental review procedures established by this Ordinance are completed.
  - B. Any person who violates any provision of this Ordinance is guilty of a misdemeanor and, upon conviction thereof, shall be punished according to Minnesota Statute. Each day that the violation is permitted to exist constitutes a separate offense.
  - C. No work shall commence and any work in progress on any project for which environmental documents are required shall cease until the environmental review procedures established by this Ordinance are fully complied with.

Exemptions from this provision may be granted for projects for which a substantial portion of the project has been completed and for which an EIS would not influence remaining implementation or construction.

#### **Subdivision 6: Mining and Extraction**

1. **Purpose.** To minimize land use conflicts and potential nuisance caused by mining operations.
2. **Conditional Use Permit.** A Conditional Use Permit shall be required for all mining operations over 400 cubic yards. Any person, firm, corporation or governmental unit desiring to commence, expand or enlarge a commercial mining, processing or similar activity shall comply with the requirements of this Subdivision. This includes, but is not limited to, the following types of commercial or processing operations: sand; gravel; crushing; washing; other minerals or earthen materials; and any similar production or manufacturing process related to these activities.
  - A. Said permit shall be valid for up to a five (5) year period, after which a new Conditional Use Permit shall be required. The County Board shall also require a performance bond from the landowner for both reclamation and road repair standards.
  - B. Discontinuance. A Conditional Use Permit shall be discontinued and considered null and void:
    - (1) When mining operations cease and the approved reclamation plan has been completed and approved,
    - (2) If the conditions of the permit are not fulfilled.



- C. If a new mining area is found on a site that already has a Mining Conditional Use Permit, an additional Conditional Use Permit shall be required for the new area. The applicant shall provide a new survey and fee, and a public hearing will be conducted to address any concerns with Site 1 before Site 2 commences.
  - D. Exclusions – Borrow pits located on property, which is adjacent to or adjoined to a public or private road project, shall be excluded from the provisions of this Subdivision 6 of the McLeod County Zoning Ordinance.
- 3. Information Required.** The following information shall be provided by the person requesting the permit:
- A. A complete McLeod County Mining and Reclamation Plan Proposal Form available from the McLeod County Zoning Office.
  - B. A letter of agreement signed by the Town Board(s) listing all operating agreements and their approval of the proposed haul route as documented in the McLeod County Mining and Reclamation Plan Application.
  - C. Any other information requested by the Zoning Administrator, Planning Commission, County Board or governing body as necessary to protect the public's safety, health and general welfare.

**4. Performance Standards**

- A. General Provisions – Weeds and any other unsightly or noxious vegetation shall be cut or trimmed as may be necessary to preserve a reasonably neat appearance and to prevent seeding on adjoining property.

All equipment used for mining operations shall be constructed, maintained and operated in such a manner as to minimize, as far as practicable, noises and vibrations which are injurious or substantially annoying to persons living in the vicinity.

- B. Water Resources – The mining operation shall not be allowed to interfere with surface or artificial subsurface water drainage beyond the boundaries of the mining operation. The mining operation shall not adversely affect the quality of surface or subsurface water resources.

Surface water originating outside and passing through the mining area shall, at its point departure from the mining site, be of equal quality to the water at the point where it enters the mining site. The mining operator shall perform any water treatment necessary to comply with this provision.

- C. Mining Access Roads – The location of the intersection of mining access roads with any public roads shall be selected such that traffic on the access roads will have a sufficient distance of public road in view so that any turns onto the public road can be completed with a margin of safety. All new or existing accesses to a public road shall be approved or permitted by the local road authority and/or the McLeod County Board, by the granting of the conditional use permit.

**D. Setbacks:**

- 1) Processing of minerals shall not be conducted closer than one hundred (100) feet to the property line nor closer than five hundred (500) feet to any residential or commercial structures located prior to commencement of processing operations.
  - 2) Mining extraction shall not be conducted closer than one hundred (100) feet to the boundary of any zone where such operations are not permitted, nor shall such production or processing be conducted closer than ten (10) feet to the boundary of an adjoining property line, unless the written consent of the fee title owner of such adjoining property is first secured in writing.
  - 3) Mining extraction shall not be conducted closer than 60 feet to the center of a township road, 75 feet to the center of a county road and 130 feet to the center of a state highway with a 4:1 slope, except that excavating may be conducted within such limits in order to reduce the elevation thereof in conformity to the existing or platted street, road or highway.
- E. Screening - Adequate planning, fencing or berming sufficient to screen the operation from public view may be required along all public roads adjacent to the property. Where possible, existing trees and ground cover along public road frontage shall be preserved, maintained and supplemented for the depth of the required road setback except where traffic safety requires cutting and trimming.
- F. Appearance – All buildings, structures and equipment used for the production of processing of sand and gravel shall be maintained in such a manner as is practicable and according to acceptable industrial practice as to assure that such buildings, structures and equipment will not become dangerously dilapidated.
- G. Dust control along all access roads and designated haul routes shall be provided at adequate levels as determined by the Road Authority for the protection of area residents. Proposed dust control methods shall be approved in writing by the Road Authority and shall be submitted as part of the Conditional Use Permit application.
- H. Hours of operation at the site shall run from 5:30 a.m. to 8:30 p.m., unless otherwise authorized by the McLeod County Board.
- I. All stockpiling of topsoil shall be seeded down to grass or other appropriate vegetation to minimize erosion (the Noxious Weed Laws shall apply.)

**5. Land Rehabilitation.**

All permits shall contain a restoration plan, as outlined in the McLeod County Mining and Reclamation Plan Proposal Form, providing for the use of the land after project completion. The permittee is responsible for restoration. Phasing requirements for the use of the entire site must be part of the restoration plan. The permittee must have an approved restoration plan and schedule for the current phase before moving into any subsequent phase. Following are the minimum standards for restoration:

SECTION 16 GENERAL DEVELOPMENT REGULATIONS

- A. All disturbed areas shall be restored within one year from the completion of the project.
- B. All restoration shall include the application of a minimum of four (4) inches of topsoil or similar material that will support plant growth.
- C. Grade site after extraction is completed so as to render it usable, seeding where required to avoid erosion and an unsightly mark on the landscape.
- D. Grading standards:
  - (1) Final grades shall be in conformity with the topography of the surrounding land.
  - (2) If the land is to be restored to crop production, no slope shall exceed twelve (12) percent (8:1).
  - (3) If the restoration is not for crop production, no grade shall exceed twenty-five (25) percent (4:1).
- E. Standards D-2 and D-3 above may be raised or modified to accommodate a specific restoration plan.

**6. Performance Securities and Insurance.**

The applicant shall provide a bond to McLeod County in the amount of one thousand dollars (\$1,000) per acre or a minimum of five thousand dollars (\$5,000), whichever amount is greater, to assure proper reclamation of the site and haul roads after completion of the operation. The applicant shall also provide a bond for a minimum of five thousand dollars (\$5,000) for road repairs during mining operations. The exact required bond amount shall be set by the Local Road Authority.

~~**Subdivision 7: Performance Standards.**~~

~~It is the intent of this Subdivision to provide that uses of land and buildings in all districts shall be established and maintained with proper appearance from streets and adjoining properties and to provide that each permitted use shall be a good neighbor to adjoining properties by the control of the following:~~

~~1. **Standards.**~~

- ~~A. **Noise.** Noise shall be measured on any property line of the tract on which the operation is located. Noise shall be muffled so as not to become objectionable due to intermittence, beat frequency, shrillness or intensity. Noise generated by agricultural use shall be exempted.~~
- ~~B. **Vibration.** Any use creating periodic earth-shaking vibrations shall be prohibited if such vibrations are perceptible beyond the property line of the site on which the use is located. The standard shall not apply to vibrations created during the process of construction.~~

May 30, 2017

**Via Email** ([larry.gasow@co.mcleod.mn.us](mailto:larry.gasow@co.mcleod.mn.us))

McLeod County Board of Commissioners  
830 11th Street E.  
Glencoe, MN 55336

Re: CUP Application JP-C3 for property located at 20712 Hwy. 15  
PID 08.030.0500

Dear Commissioners:

I represent Tim and Cindy Litzau, Rick and Dianne Roskammer, and Leroy and Darlene Barrick, all of whom own and reside on property near the property located at 20712 Highway 15 ("the Property"), which is the subject of a pending application for a conditional use permit that has been submitted by Creative Curbing Solutions, LLC, doing business as LandsKapings ("the Application"). My clients are opposed to this application and urge the Board to reject it for the reasons identified below.

Before addressing those reasons, certain background information should be considered. Contrary to the information set forth in the draft Joint Planning Board minutes, the applicant's principal, Mr. Kaping, does not reside on the Property. In fact, he owns and resides on the property to the north of the Property, where he is currently operating his business. This is significant because Mr. Kaping is operating on that property and has done so for quite some time without the necessary conditional use permit. Mr. Kaping's property has a CUP that was issued to a previous owner in 2005 for what is described as "a race parts home based business" with up to six employees. That business was contained entirely within a shop building located on the property. What Mr. Kaping is doing, however, is outdoor storage, in storage bunkers and elsewhere on the property. None of this outdoor storage activity is permitted in the "A" district or covered by the existing CUP. The existing business practices have also entailed unacceptable levels of noise, dust and smoke from the burning of brush and other debris, which negatively impact my clients' use and enjoyment of their homes. Based on this track record, my clients greatly fear that allowing this business to expand onto the adjoining property is only going to exacerbate the existing problems.

For those reasons, and the following additional reasons, the Application should be denied.

**1. Outdoor storage is not a permitted or conditional use in the "A" district.**

According to the Application, the applicant is seeking a CUP for a home occupation in an accessory building exceeding 2,000 or a home occupation that employs more than one non-

resident. In fact, what is actually being proposed is outdoor storage, which is not permitted in the "A" district, either as a conditional or a permitted use.

While the applicant references the construction of an accessory building as one of the bases for his application, he is in fact not intending to build the necessary accessory building at this time. That building is referred to a "possible future building over 2,000 sq. ft." in the application, which means that unless and until the accessory structure is actually built, all of the proposed activity to be conducted under the CUP would be outdoors. And the only actual activity described in the application is "install bunkers for landscape materials." Similarly, at the public hearing, Mr. Gasow described the application as one for "outdoor storage and staging." This is accordingly an application for a CUP to conduct outdoor storage and nothing more.

Outdoor storage is not specifically permitted in the "A" district,<sup>1</sup> and under the Hutchinson Joint Planning Area Zoning Ordinance ("the Zoning Ordinance") that means that the use is prohibited. See Sec. 3, subd. 5 ("[w]henver in any zoning district a use is neither specifically permitted nor denied, the use shall be considered prohibited"). For this reason alone the Application must be denied.

**2. The proposed home occupation exceeds the scale of a permissible accessory use.**

A conditionally permitted home occupation in the "A" district "shall be incidental and subordinate to the use of the premises for farming and residential purposes." Sec. 13, subd. 10(3)(B). What has been proposed in the Application is clearly not a use that is incidental or subordinate to the single-family residential use of the Property. The residential use would be far overshadowed by the proposed use, which would employ up to 20 persons,<sup>2</sup> would involve loading and unloading material using heavy equipment and the transportation of heavy equipment, and would operate six days a week, including from 5:00 a.m. to 7:00 p.m. on weekdays. The reality would be an industrial site that also includes a residence, rather than a residential property with an accessory home occupation that is incidental and subordinate to the residential use.

Because the proposed use would not be an accessory use of the Property as defined under the Zoning Ordinance, the Application must be denied.

**3. The proposed use would violate the performance standards governing conditionally permitted home occupations in the "A" district.**

The Zoning Ordinance sets forth certain mandatory performance standards that are applicable to the proposed use. Specifically, Section 13 of the Ordinance provides that "no equipment or process shall be used in such home occupation which creates noise, vibration, fumes, [or] odors detectable off of the premises." This is further indication that the Zoning Ordinance simply does not contemplate the type of industrial use in the "A" district that the applicant has proposed. It is simply not possible for the applicant to operate heavy equipment and to load and unload

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<sup>1</sup> The only district in which outdoor storage is permitted is the "I-1" Light Industrial District. See Sec. 7, Subd. 3(1) (establishing "any... storage of materials, goods or products" as a permitted use in the I-1 district).

<sup>2</sup> To put this number of employees into perspective, the existing CUP on the Kaping property, under which the business is currently (and illegally) operating, the number of employees is capped at 6. An existing home occupation CUP for the subject property limits non-resident employees to 3.

material without creating noise that is detectable off of the premises. There are numerous residences nearby, including several directly across the road from the Property, and the occupants of those residences would be forced to endure this noise up to 14 hours a day if the use were allowed. In addition, the applicant's current business practices involve burning brush and other material that has been hauled to the property from job sites, and the smoke and odor from these fires is impossible to contain within the property.

Because the proposed use will involve the use of equipment that generates noise and odors that will be detectable off of the premises, the Application must be denied.

**4. Even if the proposed use were eligible for a home occupation CUP, the proposed conditions are insufficient to protect the public interest.**

My clients and others have raised significant concerns about the applicant's current business operations and the proposed use on the Property, and for all of the reasons described above, my clients firmly believe that a CUP should not be granted for that use. Without waiving those arguments, my clients will also address certain conditions that should be placed on the CUP if the Board decides to grant the Application.

First, the CUP should specify that there shall be no open burning of any material of any type on the Property, including brush and vegetation that may be cleared from the Property as part of the project. My clients have witnessed the applicant on many occasions burning brush and other material at his existing business, and they should not have to tolerate the smoke and odor that this practices causes.

Second, the application seeks permission to store landscaping materials only, so the CUP should specify there shall be no storage of brush or any job site debris. The property should not be used as a disposal site or transfer station.

Third, the CUP should require that all stored materials be screened from view from all residences, pursuant to Section 7, subd. 7(2).

Fourth, the CUP should require adequate onsite dust control.

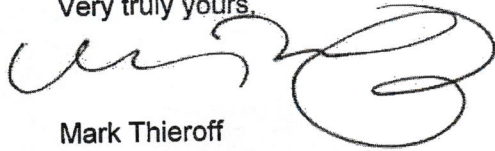
Fifth, the CUP should require the applicant to submit and obtain approval of a site plan that specifically identifies the location of the proposed access road, the storage bunkers, parking areas, and all other portions of the property that will be used for any purpose in the landscaping business. This is essential to establish a baseline that neighbors can refer to if concerns regarding the operation of the business arise in the future.

Sixth, the CUP should not be issued until the Applicant provides the County with a copy of all necessary approvals from MnDOT or any other agency relating to the proposed new access drive.

Seventh, the CUP should require annual review of the premises for compliance with all applicable ordinance provisions and the conditions in the permit.

The operation of this business and its proposed expansion are issues of critical importance to my clients and their quality of life. On their behalf, I thank you for your consideration of the views expressed in this letter.

Very truly yours,

A handwritten signature in black ink, appearing to read 'Mark Thieroff', with a large, stylized flourish at the end.

Mark Thieroff

612-337-6102 | Direct  
markthieroff@siegelbrill.com

## Larry Gasow

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**From:** Mark Thieroff <MarkThieroff@siegelbrill.com>  
**Sent:** Tuesday, May 23, 2017 9:37 AM  
**To:** Larry Gasow  
**Subject:** Application of LandsKapings

Larry:

Following up on the voicemail message I left for you moments ago, this is to request a copy of the application materials and planning commission meeting packet for the land use application submitted by the business operating in Hutchinson Township as LandsKapings.

Please let me know if you have any questions regarding this request.

Thank you.

**Mark Thieroff**  
Siegel Brill PA

Direct: (612) 337-6102

T (612) 337-6100 F (612) 339-6591  
100 Washington Ave S | Suite 1300  
Minneapolis, MN 55401

[www.siegelbrill.com](http://www.siegelbrill.com)



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## Larry Gasow

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**From:** Mark Thieroff <MarkThieroff@siegelbrill.com>  
**Sent:** Tuesday, May 23, 2017 1:08 PM  
**To:** Larry Gasow  
**Cc:** Marc Telecky  
**Subject:** Application of LandsKaping

Larry:

This will confirm that I just spoke with Marc Telecky in your office and he confirmed that your office will send to me by email the meeting packet from the Planning Commission meeting on the LandsKaping CUP application. I would also like to receive the minutes from that meeting once they are prepared, but those can be sent separately. Given the quickly approaching Board of Commissioners meeting, I would like to receive the Planning Commission meeting packet as soon as possible.

Can you also please let me know the date by which you would need to receive a submission on this application in order to include it in the meeting packet for the June 2 meeting of the Board of Commissioners?

Thank you for your assistance.

**Mark Thieroff**  
Siegel Brill PA

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## Larry Gasow

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**From:** Sandy Posusta <Sandra.Posusta@co.mcleod.mn.us>  
**Sent:** Tuesday, May 23, 2017 1:39 PM  
**To:** Mark Thieroff  
**Cc:** Marc Telecky  
**Subject:** RE: LandsKapings - Comments Date

Mr. Thieroff,

You're welcome!

In addition, the final date to submit comments in order to be included in the County Board of Commissioners packet is May 31 by 2:00 p.m. for the June 6, 2017 County Board meeting.

Please submit to me and I will ensure they are provided to the Administration office.

Thank you.

### **Sandy Posusta**

Planning, Zoning and Environmental Services Secretary  
County of McLeod  
830 – 11<sup>th</sup> Street East, Ste 113  
Glencoe, MN 55336  
PH: [320.864.1291](tel:320.864.1291) | Fax: [320.864.3410](tel:320.864.3410)

[www.co.mcleod.mn.us](http://www.co.mcleod.mn.us)

### **Sandy Posusta**

Planning, Zoning and Environmental Services Secretary  
County of McLeod  
830 – 11<sup>th</sup> Street East, Ste 113  
Glencoe, MN 55336  
PH: [320.864.1291](tel:320.864.1291) | Fax: [320.864.3410](tel:320.864.3410)

[www.co.mcleod.mn.us](http://www.co.mcleod.mn.us)

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**From:** Mark Thieroff [mailto:MarkThieroff@siegelbrill.com]  
**Sent:** Tuesday, May 23, 2017 1:34 PM  
**To:** Sandy Posusta  
**Cc:** Marc Telecky  
**Subject:** RE: LandsKapings

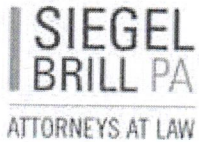
Thank you very much.

**Mark Thieroff**  
Siegel Brill PA

Direct: (612) 337-6102

T (612) 337-6100 F (612) 339-6591  
100 Washington Ave S | Suite 1300  
Minneapolis, MN 55401

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**From:** Sandy Posusta [mailto:Sandra.Posusta@co.mcleod.mn.us]  
**Sent:** Tuesday, May 23, 2017 1:33 PM  
**To:** Mark Thieroff <MarkThieroff@siegelbrill.com>  
**Cc:** Marc Telecky <marc.telecky@co.mcleod.mn.us>  
**Subject:** LandsKapings  
**Importance:** High

Greetings, Mr. Thieroff:

Attached, please find the requested information for LandsKapings as presented at the May 17, 2017 Hutchinson Joint Planning Board. Note that the minutes are draft at this time.

Contact our office should you require further information.

Sincerely,

**Sandy Posusta**

Planning, Zoning and Environmental Services Secretary  
County of McLeod  
830 – 11<sup>th</sup> Street East, Ste 113  
Glencoe, MN 55336  
PH: [320.864.1291](tel:320.864.1291) | Fax: [320.864.3410](tel:320.864.3410)

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**From:** Mark Thieroff [mailto:MarkThieroff@siegelbrill.com]  
**Sent:** Tuesday, May 23, 2017 1:08 PM  
**To:** Larry Gasow  
**Cc:** Marc Telecky  
**Subject:** Application of LandsKapings

Larry:

This will confirm that I just spoke with Marc Telecky in your office and he confirmed that your office will send to me by email the meeting packet from the Planning Commission meeting on the LandsKaping CUP application. I would also like to receive the minutes from that meeting once they are prepared, but those can be sent separately. Given the quickly approaching Board of Commissioners meeting, I would like to receive the Planning Commission meeting packet as soon as possible.

Can you also please let me know the date by which you would need to receive a submission on this application in order to include it in the meeting packet for the June 2 meeting of the Board of Commissioners?

Thank you for your assistance.

**Mark Thieroff**  
Siegel Brill PA

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## Larry Gasow

---

**From:** Larry Gasow <Larry.Gasow@co.mcleod.mn.us>  
**Sent:** Tuesday, May 30, 2017 4:27 PM  
**To:** Mark Thieroff  
**Cc:** Marc Telecky; Sandy Posusta  
**Subject:** RE: CUP application for 20712 Hwy. 15

Mr. Thieroff,  
I want to take this time to inform you that I have received your message regarding the application of JP-C3 by Mr. Kaping.  
Larry Gasow

---

**From:** Mark Thieroff [mailto:MarkThieroff@siegelbrill.com]  
**Sent:** Tuesday, May 30, 2017 3:52 PM  
**To:** Larry Gasow  
**Cc:** Marc Telecky; Sandy Posusta  
**Subject:** CUP application for 20712 Hwy. 15

Mr. Gasow:

Attached for inclusion circulation to the County Commissioners and inclusion in the meeting packet for the June 6 meeting of the Board of Commissioners is a letter addressing the application for a Conditional Use Permit for the property located at 20712 Hwy. 15.

I would appreciate your confirming receipt of this message.

Thank you.

**Mark Thieroff**  
Siegel Brill PA

Direct: (612) 337-6102

T (612) 337-6100 F (612) 339-6591  
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## Larry Gasow

---

**From:** Mark Thieroff <MarkThieroff@siegelbrill.com>  
**Sent:** Tuesday, May 30, 2017 4:28 PM  
**To:** Larry Gasow  
**Cc:** Marc Telecky; Sandy Posusta  
**Subject:** RE: CUP application for 20712 Hwy. 15

Thank you.

**Mark Thieroff**  
Siegel Brill PA

Direct: (612) 337-6102

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**From:** Larry Gasow [mailto:Larry.Gasow@co.mcleod.mn.us]  
**Sent:** Tuesday, May 30, 2017 4:27 PM  
**To:** Mark Thieroff <MarkThieroff@siegelbrill.com>  
**Cc:** Marc Telecky <marc.telecky@co.mcleod.mn.us>; Sandy Posusta <Sandra.Posusta@co.mcleod.mn.us>  
**Subject:** RE: CUP application for 20712 Hwy. 15

Mr. Thieroff,  
I want to take this time to inform you that I have received your message regarding the application of JP-C3 by Mr. Kaping.  
Larry Gasow

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**From:** Mark Thieroff [mailto:MarkThieroff@siegelbrill.com]  
**Sent:** Tuesday, May 30, 2017 3:52 PM  
**To:** Larry Gasow  
**Cc:** Marc Telecky; Sandy Posusta  
**Subject:** CUP application for 20712 Hwy. 15

Mr. Gasow:

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I would appreciate your confirming receipt of this message.

Thank you.

**Mark Thieroff**  
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**SIEGEL  
BRILL PA**  
ATTORNEYS AT LAW

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## Larry Gasow

---

**From:** Mark Thieroff <MarkThieroff@siegelbrill.com>  
**Sent:** Tuesday, June 06, 2017 4:59 PM  
**To:** Larry Gasow  
**Cc:** Ron Shimanski; Doug Krueger; Paul Wright; Rich Pohlmeier; Joseph Nagel; Marc Telecky  
**Subject:** Omission from Board of Commissioners meeting packet  
**Attachments:** Letter MT to McLeod County Board of Commissioners 5 30 17.pdf; RE: LandsKapings - Comments Date; CUP application for 20712 Hwy. 15; RE: CUP application for 20712 Hwy. 15

Dear Mr. Gasow:

As you know I represent a group of McLeod County residents who are opposed to the CUP application that was filed by LandKapings/Adam Kaping and that was considered by the Board of Commissioners earlier today.

I am writing to express to you my clients' serious dismay that the letter that I prepared and submitted on their behalf was omitted from the meeting packet for today's meeting. This omission is particularly troubling given that I gave your office advance notice of my intention to submit a letter, asked when and how I should submit that letter, and then complied with the instructions I received. (The related correspondence is attached to this message.) It is my understanding that the omission of the letter was even mentioned during the Board meeting today, apparently with no effort to rectify the situation.

The omission of my letter may have been due to oversight, but in any event, the consequence is that the procedure for approving the CUP application in question was fundamentally unfair to my clients. They have very strong arguments as to why that application should have been denied, including but not limited to the fact that what the applicant is proposing is outdoor storage under the zoning ordinance, which is not a permitted or conditionally permitted use in the "A" zone. Those arguments should have been considered.

For these reasons, the Board of Commissioners should reconsider this application with the benefit of the letter I submitted on behalf of my clients, a copy of which is attached to this message.

Please confirm receipt of this message and inform me of how the County intends to proceed.

Thank you.

**Mark Thieroff**  
Siegel Brill PA

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## Larry Gasow

---

**From:** Mark Thieroff <MarkThieroff@siegelbrill.com>  
**Sent:** Wednesday, June 07, 2017 3:11 PM  
**To:** Larry Gasow  
**Cc:** Michael Junge  
**Subject:** Data Practices Act request

Dear Mr. Gasow:

I am writing to request the following documents pursuant to the Data Practices Act:

***All documents that refer or relate to the 2017 CUP application filed by Adam Kaping, which is identified as Application JP-C3.***

This request includes but is not limited to all correspondence, including electronic correspondence, to or from County employees and/or elected officials that refers or relates in any way to the Kaping application.

Please let me know if you require any additional information to process this request.

Thank you for your assistance.

**Mark Thieroff**  
Siegel Brill PA

Direct: (612) 337-6102

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## Larry Gasow

---

**From:** Mark Thieroff <MarkThieroff@siegelbrill.com>  
**Sent:** Wednesday, June 07, 2017 3:02 PM  
**To:** Larry Gasow  
**Cc:** Ron Shimanski; Doug Krueger; Paul Wright; Rich Pohlmeier; Joseph Nagel; Marc Telecky; Michael Junge  
**Subject:** RE: Omission from Board of Commissioners meeting packet

Dear Mr. Gasow:

Thank you for your response. My clients are requesting the following additional information about this situation.

1. Why was my letter not included in the meeting packet?
2. When was the letter provided to Commissioners? Since at least one Commissioner stated on the record—Mr. Krueger, I believe it was—that he was unaware of the letter, it would appear likely that the letter was not provided to Commissioners until the meeting or shortly beforehand, when there would have been no time to review it. I would note in this context that your office received the letter one full week before the Board meeting.

Finally, I would ask that you please send me a copy of the approved CUP.

**Mark Thieroff**  
Siegel Brill PA

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---

**From:** Larry Gasow [mailto:Larry.Gasow@co.mcleod.mn.us]  
**Sent:** Wednesday, June 07, 2017 12:03 PM  
**To:** Mark Thieroff <MarkThieroff@siegelbrill.com>  
**Cc:** Ron Shimanski <Ron.Shimanski@co.mcleod.mn.us>; Doug Krueger <Doug.Krueger@co.mcleod.mn.us>; Paul Wright <Paul.Wright@co.mcleod.mn.us>; Rich Pohlmeier <Rich.Pohlmeier@co.mcleod.mn.us>; Joseph Nagel <Joseph.Nagel@co.mcleod.mn.us>; Marc Telecky <marc.telecky@co.mcleod.mn.us>; Michael Junge <Michael.Junge@co.mcleod.mn.us>  
**Subject:** RE: Omission from Board of Commissioners meeting packet

Dear Mr. Thieroff,

Please consider this reply as receipt of your message as seen below. Unfortunately you are correct, your letter did not get included in the Commissioner's packet. Although, I do want you to know that your letter was given to the Board of County Commissioners and the County Attorney prior to their meeting on June 6<sup>th</sup>. This was confirmed during the discussion of Mr. Kaping's proposed request as to which your clients can attest as several were present and in attendance during this meeting.

The McLeod County Board of Commissioners did approve the CUP request as submitted to them with the 15 conditions as recommended by the Hutchinson Joint Planning Board. The County Board also placed a date of August 1, 2017 for the zoning office to inspect the site for compliance.

If you have any other questions, please feel free to contact our office.

Thank you,

Larry Gasow  
Zoning Administrator

---

**From:** Mark Thieroff [<mailto:MarkThieroff@siegelbrill.com>]

**Sent:** Tuesday, June 06, 2017 4:59 PM

**To:** Larry Gasow

**Cc:** Ron Shimanski; Doug Krueger; Paul Wright; Rich Pohlmeier; Joseph Nagel; Marc Telecky

**Subject:** Omission from Board of Commissioners meeting packet

Dear Mr. Gasow:

As you know I represent a group of McLeod County residents who are opposed to the CUP application that was filed by LandKapings/Adam Kaping and that was considered by the Board of Commissioners earlier today.

I am writing to express to you my clients' serious dismay that the letter that I prepared and submitted on their behalf was omitted from the meeting packet for today's meeting. This omission is particularly troubling given that I gave your office advance notice of my intention to submit a letter, asked when and how I should submit that letter, and then complied with the instructions I received. (The related correspondence is attached to this message.) It is my understanding that the omission of the letter was even mentioned during the Board meeting today, apparently with no effort to rectify the situation.

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For these reasons, the Board of Commissioners should reconsider this application with the benefit of the letter I submitted on behalf of my clients, a copy of which is attached to this message.

Please confirm receipt of this message and inform me of how the County intends to proceed.

Thank you.

**Mark Thieroff**  
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July 5, 2017

To: Meeker-McLeod-Sibley Community Health Board

From: McLeod County Board of Commissioners.

After careful consideration we, the McLeod County Board of Commissioners have decided that the McLeod County Household Hazardous Waste Building (HHW) will not be an option for office space for Meeker-McLeod-Sibley Community Health Services (CHS) employees.

Recently a proposal was accepted by a recycling company called GreenForest that will impact office availability at HHW. At this point in time there a lot of unknowns about planning and what offices will be unavailable. Long range planning for McLeod County and the CHS would be very difficult, including options for office expansion needs in the future.

In addition, there are challenges with IT services. From the IT perspective the best approach is a "clean break" from McLeod County. A clean break would include having office space at a non-county owned location, that way there are no issues with servers, wi-fi, networks, printers, etc.

Sincerely

McLeod County Board Chair

GRAVEL PITS (expiration dates are 5 years from date approved by the Board of Commissioners)													Rehev Ltr	Close Date
Year	Appl Date	CUP No.	Applicant	Property Owner	Twp	PID#	Sect	5 yr exp. date	ORDER No.	Notify Assessor	Description	Rehev Ltr	Close Date	
2012	11/28/12	12-23	Litzau Excavating	Orville Foust	Bergen	02.012.0300	12	12/27/17	407658		Continued mining/excavation/crushing/stockpiling. Restore to wildlife by 12/27/2017.			
2013	01/04/13	13-02	Duininck LLC	Sharen Farehbaugh	Lynn	09.005.0500	5	02/05/17			Excavation, crushing and stockpiling to be restored into wildlife. (25.28 ac parcel)			
2013	01/03/13	13-03	Reiner Contracting, C. R.	Reiner Contracting	Acoma	01.014.0400	14	02/05/18	412662					
2013	04/10/13	13-07	Wm Mueller & Son's Inc	Charles Ulrich	Hassan Valley	06.022.1100	22	06/04/18	413140		Crush, mine and stockpile and recyclable material. Restore into wildlife purposes. A			
2013	06/18/13	13-09	Michael Loncorich	Michael Loncorich	Collins	03.026.0350 & 03.027.1100	25&27	08/06/18	411210					
2014	12/16/13	14-01	Wm Mueller & Sons's	Emmert Dose	Bergen	02.012.1100	12	02/04/19	414677		To mine, crush and stockpile.			
2014	02/20/14	14-04	WmMueller & Son's Inc	Janelle Katzenmeyer / L&D Baumetz	Hassan Valley	06.021.1100	21	05/20/19	415436		continued mining and excavating of gravel w/ crushing and recycling of demolition material.			
2014	04/08/14	14-07	Daniel Rickert	Richard Kosek	Sumter	13.006.0100	6	06/17/19	415854		Renewal from CUP 09-11 of existing gravel pit for another 5 years. (excavating, stockpiling and possibly some crushing.			
2014	06/03/14	14-10	Virgil Mathews	Virgil Mathews	Rich Valley	11.023.1200	23	06/03/19	415855		Renewal from CUP 09-11 of existing gravel pit for another 5 years. (excavating, stockpiling and possibly some crushing.			
2014	05/12/14	14-11	Eugene Feltmann	Eugene Feltmann							Renewal from CUP 09-11 of existing gravel pit for another 5 years. (excavating, stockpiling and possibly some crushing.			
2014		14-12												
2014		14-13	Verizon Wireless	Reiner Contracting	Acoma									
2014	07/16/14	14-14	Kenneth Polifka	Gene Streachek	Rich Valley	11.021.1100	21	09/16/19	416881		5.00 AC continuation from permit 08-01. 10/17/18: Check to see if this gravel pit had a court order that no operation can be taking place. Marc Telecky is on this.)			
2014		14-15	Jeremy Bleil	Jeremy Bleil	Lynn		15							
2014		14-16	Paul Trana	Paul Trana	Hutchinson		16							
2014		14-17	City of Biscay		Hassan Valley		23							
2014	12/22/14	14-21	Shane / Brett Madsen	Shane Madsen	Rich Valley	11.008.0900	8	02/17/16	419747		Mining of contaminate clay and other fill material to a licensed facility to be restored into farm land. (Project to take 1 year)			
2015	1/13/2015	15-01	Wm Mueller & Sons	Anna Ulrich	Hassan Valley	06.026.0350	26	3/17/2020	419749		48.65 AC E 1/2 NE 1/4 N of RR N/W EX W 2895' of S 360.29' - renewal (CUP 10-01) Continued mining on existing pit.	2020		
2015	4/23/2015	15-08	Hanson Gravel	Same	Lynn	09.005.1000	5	6/16/2021	420997		continued mining and excavating (crushing and recycling of concrete and bituminous materials with stockpiling of gravel)	2020		
2015	4/20/2015	15-10	Duininck Inc	Duininck Inc	Bergen	02.012.0800	12	7/2/2020	421159		new mining operation to excavate gravel, stockpiling, crushing and recycling of roadway surface materials.	2020		
2015	4/20/2015	15-11	Duininck Inc	Duininck Inc	Bergen	02.012.0700	12	7/2/2020	421160		new mining operation to excavate gravel, stockpiling, crushing and recycling of concrete and bituminous materials.	2020		
2015	5/12/2015	15-12	Wm Mueller / Hueser			04.023.0225	23							
2016	1/25/2016	16-03	BAR Properties LLC/Brent Rel	BAR Properties LLC	Lynn	09.004.0750	35	3/22/2021	425050	X	Mining, processing & stockpiling	2021		
2016	2/4/2016	16-06	Randy/Dillian Peterson	Steve Jergens	Hassan Valley	06.023.1450	23	4/5/2021	424685	X	gravel mining, screening and stockpiling	2021		
2016	3/7/2016	16-11	Duininck Inc.	Robert & Julie Jergens	Hassan Valley	06.022.0200/0300	22	5/17/2021	426407	X	Mining, processing and stockpiling of gravel, granular Materials, and Recycled Aggregate products, periodic production of Hot Mix Asphalt or Ready-mix concrete. (Renew from CUP 11-03)	2021		
2016	3/7/2016	16-12	Duininck Inc.	John Chmielewski	Hassan Valley	06.025.0700	25	5/17/2016	426408	X	Continue gravel mining, crushing, screening, processing & stockpiling of gravel and granular material for another 5 years (5/17/2021) 22.61 AC	2021		
2016	4/1/2016	16-13	Rickert Excavating	Neil Eggsgluess Etal / Kurkel	Sumter	13.036.0500	36	5/3/2016	425425	X	(27.5 AC of 80 AC parcel to mine, screen & stockpile) including crushing and mining	2021		
2016	4/28/2016	16-15	Hansen Gravel Inc.	Travis Peterson	Rich Valley	11.031.0350	35	6/7/2021	426408	X	Renewal from (Previous CUP 11-13) - Recorded Order in preparation; 14.57 Acre site.	2021		
2016	6/17/2016	16-17	Thomas Maers	Thomas & LaMae Maers	Collins	03.030.0600	30	8/16/2021	426911	X	Renewal permit (CUP 11-11) but to include mining, crushing, stockpiling, recycling of concrete and bituminous material.	2021		
2017	6/7/28/2017	17-13	Luedtke Contracting	Bonnie Lou Krueger	Acoma	1.022	22	7/15/2022				2022		
2017-	6/28/2017	17-14	Duininck Inc	Paul Lind	Acoma	1.022.0400	22	7/15/2022				2022		