

STATE OF MICHIGAN  
KALAMAZOO COUNTY CIRCUIT COURT

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BILL SMITH SAND & GRAVEL, INC.,  
d/b/a AGGREGATE INDUSTRIES –  
CENTRAL REGION and G AVENUE  
PROPERTIES, LLC,

Plaintiffs,

v

ALAMO TOWNSHIP,

Defendant.

Case No. C 07-000399-CZ

Hon. Pamela L. Lightvoet

**STIPULATION AND  
CONSENT JUDGMENT**

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### STIPULATION

Plaintiffs, Bill Smith Sand & Gravel, Inc. (d/b/a Aggregate Industries – Central Region) and G Avenue Properties, LLC, and Defendant Alamo Township through their counsel stipulate and agree to the entry of this Consent Judgment.

Dated: September 18, 2007

BOSSENBROEK LAW, PLLC

By [Signature]  
Zachary J. Bossenbroek (P64774)  
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Grandville MI, 49418  
(616) 249-8444  
Attorney for G Avenue Properties, LLC

Dated: 9-18-2007, 2007

FORD KRIEKARD SOLTIS & WISE PC

By [Signature]  
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Dated: 9/18, 2007

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Dated: 9/18, 2007

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By [Signature]  
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Co-Counsel for Alamo Township

## CONSENT JUDGMENT

At a session of said Court, held on 10<sup>th</sup>,  
2007 in the Kalamazoo County Circuit Court,  
located in the City of Kalamazoo, Kalamazoo  
County, Michigan

Present: HONORABLE PAMELA L. LIGHTVOET  
Circuit Court Judge

UPON STIPULATION and consent of the parties, this Court finds:

A. Plaintiffs, Bill Smith Sand & Gravel, Inc. (d/b/a Aggregate Industries – Central Region) (“Operator”) and G Avenue Properties, LLC (“G Avenue Properties”) have an ownership and/or possessory interest in real property located along G Avenue in Alamo Township, Kalamazoo County, Michigan, described as follows (the “Property”):

Beginning at the Southeast corner of Section 35, T. 1 S., R. 12 W., Alamo Township, Kalamazoo County, Michigan; thence North 90°-00'-00" West along the South line of said Section, 2,615.41 feet to the South 1/4 post of said Section; thence North 00°-01'-41" West along the North and South 1/4 line of said Section, 1,000.00 feet; thence South 89°-36'-40" West, 287.46 feet to the Easterly right-of-way of the Kal Haven Trail (formerly Michigan Central Railroad); thence North 07°-07'-57" East along said right-of-way, 493.86 feet; thence continuing along said right-of-way Northwesterly 1,242.38 feet along a curve to the left with a radius of 1,513.37 feet and a chord bearing North 16°-23'-08" West, 1,207.79 feet to the East and West 1/4 line of said Section; thence South 89°-54'-32" East along said 1/4 line, 566.05 feet to the center 1/4 post of said Section; thence continuing along the East and West 1/4 line South 89°-38'-25" East, 643.28 feet; thence South 00°-21'-35" West, 150.00 feet; thence South 89°-38'-25" East parallel with the East and West 1/4 line, 1,321.73 feet; thence North 00°-21'-35" East, 150.00 feet to said 1/4 line; thence South 89°-38'-25" East thereon, 670.83 feet to the East 1/4 post; thence South 00°-24'-57" West along the East line of said Section, 2,629.45 feet to the place of beginning. Subject to the rights of the public over the South 33.00 feet for roadway purposes.

B. The Property consists of approximately 165 acres of land and is zoned R-2 under the Alamo Township Zoning Ordinance.

C. Defendant, Alamo Township (the “Township”), is a Michigan municipal corporation, created pursuant to and in accordance with the Constitution and statutes of the State of Michigan.

D. On or about December 8, 2006, Operator and G Avenue Properties submitted an application for a special exception use permit to mine and process sand and gravel on the Property (“Permit Application”).

E. On or about June 26, 2007, the Alamo Township Zoning Board voted to deny the request for a special exception use permit.

F. On or about July 27, 2007, Operator and G Avenue Properties instituted the present action raising certain constitutional challenges to the Alamo Township Zoning Ordinance, and claiming that the action of the Township Zoning Board resulted in a taking of a property interest without just compensation.

G. The Township contends that its actions in denying Operator’s request for a permit were within its legitimate governmental powers, and denies the claims of Operator and G Avenue Properties.

H. In order to avoid the future expenditure of funds and the uncertainties of the outcome of the instant litigation, the parties have agreed to resolve this matter by entry of this Consent Judgment.

NOW, THEREFORE, IT IS HEREBY ORDERED AND ADJUDICATED THAT:

1. Township hereby grants Operator a Special Exception Use Permit to mine, excavate, process, stockpile, and sell sand and gravel from the Property and hereby approves the

site plan attached hereto in accordance with the terms and conditions of this Consent Judgment and the entering into of this Consent Judgment shall represent such grant and approval.

2. Operator's mining, excavating, processing, stockpiling and selling sand and gravel shall comply with the applicable provisions of Township ordinances and state and federal laws, except that in the event any Township ordinance provision shall conflict with any provision of this Consent Judgment at any time, the provisions of this Judgment shall apply.

3. Hours of operation for mining and processing shall be limited to 7 a.m. to 6 p.m., Monday through Friday. No mining or processing activities shall occur on Saturdays, Sundays or legal holidays. Maintenance activities may be conducted during operating hours, after operating hours Monday through Friday until 9 p.m., and on Saturdays from 9 a.m. until 3 p.m. The hours for hauling shall be governed exclusively by the hauling policy attached hereto as Exhibit B.

4. A setback for mining activities from boundaries of the Property shall be maintained as follows:

- a) 50 feet from all adjoining residential and golf course properties.
- b) 200 feet from the Kal-Haven Trail border.
- c) 100 feet from any regulated wetland located on the Property.
- d) 150 feet from the centerline of "G" Avenue.
- e) 300 feet from any residential dwelling existing on the date of this Judgment, unless the owner of the residence consents to a reduced setback.

Berming and reclamation activities can occur within the designated setback areas.

5. To help with dust suppression, Operator shall pave the first 300 feet (from the center line of G Avenue) of its access road into the site. Additional dust suppression activities

shall be undertaken as necessary and as required by the Operator's air permit granted by the MDEQ and any other applicable State or Federal regulations.

6. The site shall be mined in incremental phases. The phasing shall be conducted substantially as depicted in Exhibit A, provided, however, that the pace of the mining will be dictated by market and other factors and such phasing may be completed sooner or later than that suggested in Exhibit A. Each phase, exclusive of roadways, stockpile areas, settlement basins, or plant/equipment storage area, shall have a maximum of 25 acres of active mine open at a time.

7. Once an area is completely mined out, that area shall be reclaimed within a period of one calendar year.

8. Final sloping as part of the reclamation shall be 1 foot (vertical) on 3 feet (horizontal). Slopes shall be graded and seeded.

9. A reclamation bond of \$3,500 per acre for each open or disturbed acre shall be posted with the Township and shall remain in full force and effect at all times while mining and processing occurs and until released by the Township after final reclamation.

10. All trucks and associated drivers entering or exiting the property for the purpose of transporting sand and gravel will abide by the conditions detailed in the attached Hauling Policy (Exhibit B).

11. Evergreen plantings (comprised of at least 50 trees of 5 feet or greater in height), as shown on the site plan attached hereto (Exhibit C), shall be planted prior to, or contemporaneous with, the start of any extraction operations.

12. Operator shall construct a berm along the G Avenue border of the Property near the northern edge of the 150 foot setback. The berm shall be at least 5 feet above the centerline

of G Avenue (meaning that it may be as high as approximately 10 feet in places because of the topography of the Property).

13. Operator will take whatever action is necessary to repair damage to homeowners' existing residential water wells from within the 0.5 foot simulated drawdown area (the "Potential Drawdown Area") as designated on the drawing attached hereto as Exhibit D that may be caused by the Operator's use of water from the lower aquifer. A listing of the 11 residential water wells from the MDEQ database currently within the Potential Drawdown Area is also set forth in Exhibit D. The procedure for determining whether Operator is required to repair a well shall be as follows:

a. Operator shall offer to cause each existing residential well within the Potential Drawdown Area to be tested at Operator's expense by a third party independent testing company mutually satisfactory to the Township and Operator (water consultant) for the purpose of inspecting well and related equipment and conducting physical and chemical tests to establish baseline, pre-mining operation conditions at those wells. Both the Township and well owner shall be entitled to a copy of any inspection report.

b. The period for baseline testing shall commence within three months of the date of this Consent Judgment and shall be completed not less than 14 days before any water pumping begins at the Property in connection with the mining and processing operations.

c. A property owner that declines to grant access during the baseline testing period and who experiences problems with the quantity or quality of his or her well or water supply after operations commence on the Property is excluded from the terms of this paragraph 13.

d. If, after commencement of operations at the G Avenue site (including drawing water from the lower aquifer), a homeowner's well in the lower aquifer of the Potential Drawdown Area runs dry or is adversely impacted, upon the homeowner giving written notice, Operator will promptly investigate the problem with respect to the well using the Water Consultant or another independent firm mutually acceptable to the Township and Operator.

e. If it is determined by such consultant that Operator's water usage on the G Avenue site has caused the subject well to go dry or otherwise perform inadequately, Operator will promptly rectify the situation at its cost.

f. Operator's obligation to correct the well problem is limited to repair or replacement of a well (and pump if necessary), but does not include responsibility for water softening equipment or other water treatment equipment desired by the homeowner. If Operator replaces the well, Operator will replace it with a well in the upper aquifer if possible so that future use of Operator's well will not impact the replacement well.

g. In no event will Operator be responsible for any problems with respect to a well as a result of poor maintenance, collapse, or other failure for any reason other than its activities in drawing water from the lower aquifer. In this regard, it is observed that a golf course north of the Property is a substantial user of water. Operator shall not be responsible for any problems to wells that are the result of any other users' actions with respect to groundwater including, without limitation, any material increases in watering or other water use by the golf course.

14. Prior to commencing any operations on the Property, Operator shall cease mining and processing activities on its Bennett Site located on C Avenue (and not seek to conduct such activities on the neighboring Lappin site) (referred to herein as "moth-balling"), and shall reclaim the mined areas in accordance with the special exception use permit for Bennett.

a. Operator shall be permitted to remove stockpiled material already at the Bennett pit within one year of ceasing mining and processing there to facilitate its reclamation activities.

b. The Township shall release the reclamation bond for the site once the reclamation is complete.

c. The Bennett/Lappin site shall be moth-balled as described herein until Operator ceases production from the G Avenue site.

d. By moth-balling the site, Operator does not waive any existing permit or nonconforming use rights it may have with respect to the Bennett/Lappin site and such rights shall not lapse by reason of inactivity at the Bennett/Lappin site.

e. To notify passersby and nearby or future residents of the area that a gravel mining and processing operation may recommence at the Bennett/Lappin site in the future, Operator shall post and maintain signage at the site of at least 1 foot by 2 feet in size advising that the site has historically been a sand and gravel mining and processing site and may again in the future have such operations present. The Operator shall place at least three such signs at the site and maintain them while the site is moth-balled. Such signage shall include contact information for the Operator so that questions may be directed to the Operator.



f. The commitment to moth-ball the Bennett/Lappin site and post signage shall be binding on the Operator and any successor in title to the Operator.

15. Operator shall ensure that the properties referenced in subparagraph 15b used for residential purposes will not suffer a negative impact on their fair market value as a result of its operations, in accordance with the following:

a. If, during the period that Operator is conducting gravel mining on the G Avenue site, an owner of property referenced in subparagraph 15b used for residential purposes wishes to sell his or her property in a bona fide sale to an independent third party, Operator shall guarantee that the consideration received by the owner in connection with such sale shall not be adversely impacted by the presence of Operator's gravel mining operations.

b. Operator shall make a payment to such owner to make up for any difference between such actual sale price and the appraised fair market value of the property, appraised as though it were adjacent to farmland instead of a gravel operation. The valuation and payment procedures shall be as set forth herein. This commitment applies to the current owners (as of the date of this Consent Judgment) of properties directly adjacent to the G Avenue site used for residential purposes and one other nearby residence, namely:

John and Patricia Deboer (35-226-020)  
Marlene Peacock (35-376-040 & 35-376-022)  
Julie A. LaMahieu (35-376-031)  
Debra Musk: (05-02-205-021)  
Brian and Mary Leonard (05-02-205-016)  
Robert and Deborah Batey (05-02-205-011).

c. If such an owner elects to sell his or her property at any time after the date of this Consent Judgment, but before completion of Operator's mining activities on the site, and if such an owner wishes to qualify for any payment to which he or she is entitled under this commitment, the owner shall be required to obtain an appraisal from a state licensed or certified appraiser experienced in appraising properties of the type in this location (collectively, "appraiser") and provide a copy of it to Operator, together with a written notice of intent to sell. The appraisal (together with any others obtained under this letter) shall be a full appraisal taking into account the condition of the property and shall be prepared as though the property was not directly adjacent to a gravel operation, but instead was adjacent to farmland.

d. Upon receipt of such notice and appraisal, Operator shall obtain an appraisal from a separate appraiser within 30 days. If the results of both appraisals are within 5% of each other, the fair market value shall be conclusively determined to be the average (mean) of the two. If they are not within 5% of each other, a third appraiser shall

be retained to prepare a third appraisal within 30 days following such initial 30-day period and the average (mean) of the two appraisals whose results are closest together shall be conclusively deemed to be the fair market value of the property for these purposes. The cost of the third appraisal, if one is needed, shall be split evenly between the owner and Operator.

e. The homeowner shall then use reasonable efforts to market the property for sale for a reasonable period (at least 90 days, unless a favorable offer is received sooner) at an amount equal to the fair market value as determined above. If no offer is received at or near the fair market value, as determined above, the property may be marketed at a reduced amount reasonably acceptable to Operator. Marketing the home for sale shall minimally include placing appropriate for sale signs and listing the property for sale in the local newspaper, or listing the property with a local realtor. Any accepted offer must be from an unaffiliated third party and the seller and its agents shall use reasonable good faith efforts to obtain the highest offer reasonably available for such property. The owner shall not unreasonably discount the price.

f. At the closing of such sale, Operator shall pay to the seller any difference between the selling price and the fair market value as determined herein, subject to the terms herein.

g. Notwithstanding anything to the contrary herein, Operator shall not be responsible for any reduction in the actual sale price from the fair market value as determined herein resulting from the need for repairs to the property not taken into account in the appraisals. In this regard, to determine whether such repairs are needed, Operator may obtain a home inspection of the condition of the property as is customarily obtained by prospective buyers. Further, a copy of any home inspection reports obtained by or provided to the seller shall be made available to Operator by the seller.

16. The primary haul route for material leaving or entering the site shall be 10<sup>th</sup> Street to the south. Only occasional local deliveries shall use G Avenue westbound. Operator intends that approximately half of the hauling from the site will be used in its asphalt plant operation in the City of Kalamazoo. Material heading to that asphalt operation shall use 10<sup>th</sup> Street southbound to H Avenue eastbound and ultimately to Ravine Road and into Kalamazoo. The Township and Operator acknowledge that Oshtemo Charter Township currently has in place a truck route ordinance that presently does not establish 10<sup>th</sup> Street as a haul route. The terms of this Consent Judgment with respect to haul routes shall be subject to the lawful, valid, and enforceable terms of the truck route ordinance of the Charter Township of Oshtemo and the

terms of this Consent Judgment shall be modified to the extent inconsistent therewith. Any substantial alteration in the expected haul route described above within Alamo Township shall be subject to the approval of Alamo Township, which approval shall not be unreasonably withheld, delayed, or conditioned.

17. To the extent that significant truck traffic utilizes 10<sup>th</sup> Street southbound to M-43 as Operator intends, Operator shall commit to work with MDOT, or any other pertinent entity to seek to implement a protected or exclusive left turn signal from southbound 10th Street to eastbound M-43.

18. To the extent Operator uses 10<sup>th</sup> Street southbound as a haul route as it intends, Operator will work with the Township, County, or other entities to bring 10<sup>th</sup> Street up to all season standards as necessary.

19. Operator will use white noise back up alarms on equipment to be utilized during operations at the Property, provided, however, that if legal requirements are modified to require some other safety alarm on equipment, this provision shall be modified to be consistent therewith.

20. Within a reasonable time after commencement of mining activities at the Property, Operator agrees to donate 20 acres of real estate from its site along C Avenue to the Township for purposes of a township park in accordance with the following:

a. Operator will seek to obtain a release of a right of first refusal currently held by a neighbor (American Campgrounds) over the parcel owned by Operator on C Avenue of approximately 20 acres adjacent to the American Campgrounds site. If Operator is successful in obtaining such a release, it shall promptly donate such parcel to the Township for purposes of a township park.

b. If Operator is unable to obtain a release of the right of first refusal, Operator will donate to the Township for park purposes a different parcel of 20 acres from its Bennett/Lappin site.

21. Upon completion of mining and reclamation activities on the Property, G Avenue Properties and successors will donate 40 acres of such Property to the Township for use as a township park. Such acreage shall be configured approximately as shown on Exhibit E.

22. While Operator is conducting its sand and gravel mining and processing operations on the Property, each of G Avenue Properties and Operator will contribute \$5,000 per year to the Township (totaling \$10,000 annually) on or about May 1 of each year toward costs associated with making improvements to or maintaining township parks or for other appropriate purposes for the benefit of the Township.

23. While Operator is conducting its sand and gravel mining and processing operations on the Property, it will provide without charge (except for hauling) sand and gravel from the Property to the Township as reasonably needed for the Township's parks.

24. While Operator is conducting its sand and gravel mining and processing activities on the Property and is operating an asphalt plant and paving crews in Kalamazoo or the Kalamazoo area, Operator will sell and lay asphalt at its actual cost to the Township for road resurfacing projects for all township roads in the Township as is reasonably necessary to maintain such roads. Upon request, Operator shall provide documentation establishing such actual cost.

25. Operator agrees that its equipment and other personal property regularly used for its sand and gravel mining and processing operations on the Property shall be present at the Property through December 31 of each year.

26. Operator shall maintain attractive signage identifying the site. Such signage shall be consistent with the sample signage depicted in Exhibit F.

27. On an annual basis, (1) Operator shall provide Township with such reports of compliance (with this Consent Judgment) and mining activity as Township may reasonably request and (2) Township may retain an engineer or other professional to inspect the Property to ensure compliance with the terms of this Consent Judgment and Operator shall pay the reasonable costs thereof, not to exceed \$2,500 per year, which "cap" may be adjusted from time to time over the course of Operator's mining activities to reflect general changes in costs of services (measured, for example, by changes in the CPI). Upon request of the Township, the payment of such expenses may be completed through the payment by Operator of amounts on an annual basis to be held in an escrow account maintained by the Township.

28. In the event Operator's hauling tracks dirt or mud onto G Avenue or 10<sup>th</sup> Street, Operator shall be responsible for sweeping and/or otherwise cleaning off such mud or dirt..

29. The special exception use shall continue until the complete exhaustion or depletion of the economically viable sand and gravel deposit on the Property, but no longer than 31 years from the date of this Consent Judgment.

30. Upon entry of this Consent Judgment, Operator and G Avenue Properties do hereby release and forever discharge the Township and all of its successors, divisions, units, bodies, representatives, officials, employees and agents (including, but not limited to, the Township Board and Township Zoning Board and all members of such boards) (collectively, the "Township Parties") from and against any and all liabilities and causes of action, accruing prior to the date of this Consent Judgment, arising out of any and all matters and/or actions pertaining to the Permit Application including, but not limited to, all claims that were asserted or could have been asserted in the above-referenced civil action.

31. Operator and G Avenue Properties, for themselves, their successors and assigns agree to indemnify and hold harmless the Township Parties from and against any and all claims, expenses, costs or attorneys fees, in excess of available insurance coverage (“Indemnifiable Costs”), arising out of third party challenges to the Township’s approval or execution of this Consent Judgment, subject to the following: (1) Operator and G Avenue Properties shall be responsible for 90% of such Indemnifiable Costs and the Township shall to responsible for the remaining 10%; and (2) the maximum amount of Indemnifiable Costs for which Operator and G Avenue Properties shall be responsible shall be \$100,000 each (for a total of \$200,000). Relative to any claims brought by third parties as contemplated by this paragraph, the Township shall affirmatively cooperate with the Operator and G Avenue Properties in any defense of claims and, upon request of Operator and G Avenue Properties and so long as they are responsible to pay Indemnifiable Costs, legal counsel utilized by the Township shall be chosen by Operator and G Avenue Properties. In addition, the Township upon request of Operator and G Avenue Properties (and at their expense as part of the Indemnifiable Costs), shall bring any counter claims the Township may have against any such third parties so long as counsel for the Township shall not have concluded such counter claims are without merit. Any proceeds from such counter claims shall be used first to repay Operator and G Avenue Properties for Indemnifiable Costs paid by them with any remainder going to the Township.

32. If any third party intervenes in the instant case prior to entry of this Consent Judgment by the Court, any party to this Consent Judgment may terminate it by written notice to the other parties, in which case this Consent judgment shall be null and void.

33. In the event this Consent Judgment is entered by this Court, but a third party brings a subsequent challenge to the Township’s approval and execution of this Consent

Judgment or to a party's performance of the terms of this Consent Judgment, and a later and superseding judgment is entered that is substantially inconsistent with the material terms of this Consent Judgment, any party to this Consent Judgment may terminate it by written notice to the other parties, in which case this Consent Judgment shall be null and void.

34. This Consent Judgment constitutes the complete agreement between the parties with respect to the planned mining and processing operation. The Township shall not impose any of the terms, conditions or requirements of its zoning ordinance on such activities; provided, however, that nothing herein shall be construed or interpreted as waiving the obligation of Operator or G Avenue Properties to apply for and obtain any other approvals and permits required by Federal, state, or local law or ordinance, except to the extent otherwise expressly permitted herein.

35. This Consent Judgment shall be binding on the parties' successors and assigns and shall run with the land. It may be recorded with the Kalamazoo County Register of Deeds.

36. This Judgment is the result of a compromise and resolution of all disputes and nothing herein shall be construed as: (a) an admission by any party that any claim or defense has or lacks merit; or (b) an admission by any party of any obligation or liability.

37. Any party to this action aggrieved by the failure of any other party to comply with any of the obligations imposed upon it by this Judgment may apply to the Court for appropriate relief, including the specific enforcement of the terms hereof.

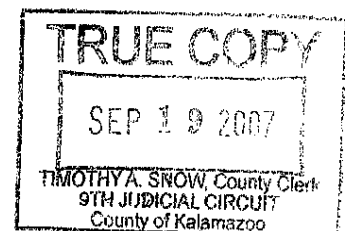
38. This Consent Judgment resolves all pending claims and closes the case.

**Pamela L. Lightvoet**

Hon. Pamela L. Lightvoet  
Circuit Court Judge

Attest: \_\_\_\_\_

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## **EXHIBIT A TO CONSENT JUDGMENT**

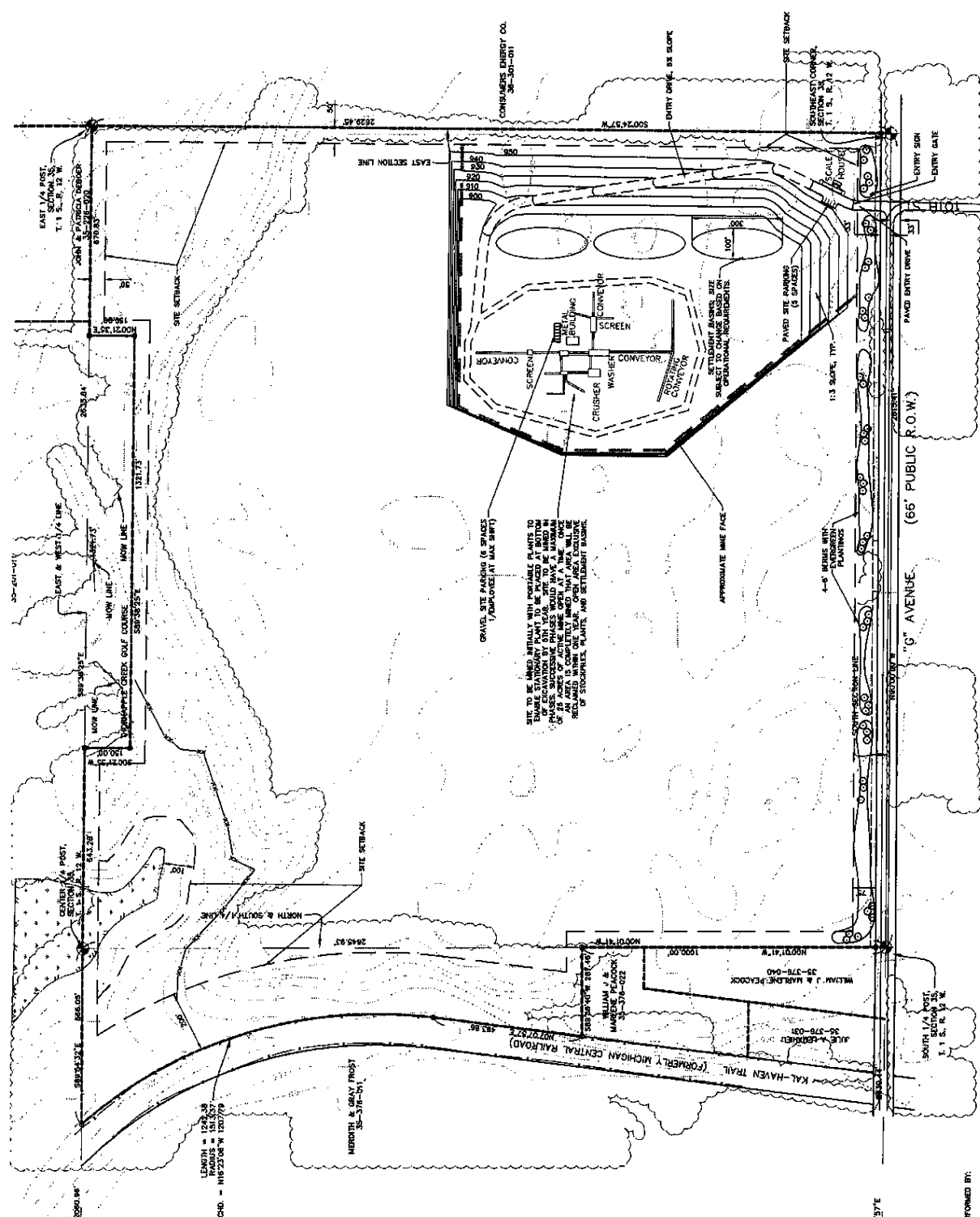
### **Mining Phases**



**5 YEAR STAGING PLAN**  
**ALAMO TOWNSHIP AGGREGATE MINE**  
**AGGREGATE INDUSTRIES, INC.**

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**HS**  
hurley & stewart  
hurley & stewart, llc  
350 s. michigan avenue  
suite 405  
kalamazoo, michigan 49007  
616.552.4560 fax 616.552.4561  
www.hurleyandstewart.com



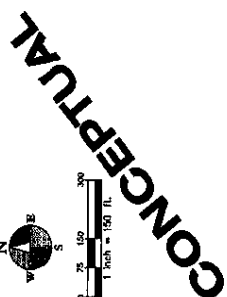
A conceptual diagram showing a circular path. A shaded segment represents a portion of the path. Below the path is a scale bar with markings at 0, 75, 150, and 300 ft. The text "CONCEPTUAL" is written vertically along the right side of the diagram.

**SITE STATISTICS:**

- SITE SIZE: 18.6 ACRES
- SETBACK FROM RAIL: 4'
- PROPOSED FRONT YARD 78'
- PROPOSED SIDE YARD 50'
- PROPOSED SIDE YARD 50'
- PROPOSED SIDE YARD 50'
- PROPOSED REAR YARD 50'
- PROPOSED SETBACK FROM CAL-HAVEN TRAIL 200'
- PROPOSED SETBACK FROM RAIL 100'
- PROPOSED SETBACK FROM RAIL 100' FOR EMPLOYEE AT LARGEST PART, 7 GARAGES, 7 SPACES
- PROPOSED SETBACK FROM RAIL 100' FOR EMPLOYEE AT LARGEST PART, 7 GARAGES, 7 SPACES
- SITING PROPOSED BY SETTING YARD, EVERGREEN PLANTING ALONG 0' AVE.

ALL UTILITIES AS SHOWN ARE APPROXIMATE LOCATIONS DERIVED FROM ACTUAL MEASUREMENTS AND AVAILABLE RECORDS. THEY SHOULD NOT BE INTERPRETED TO BE EXACT LOCATIONS NOR SHOULD IT BE ASSUMED THAT THEY ARE THE ONLY UTILITIES IN THE AREA.

ORIGINAL SURVEY PERFORMED BY:  
PUGH & HENHOF



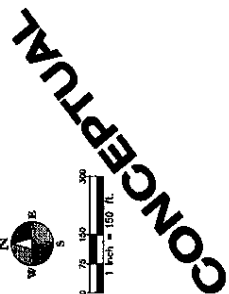
**SITE STATISTICS:**

- SITE AREA: 60 ACRES
- REQUIRED FRONT YARD SETBACK 5'
- REQUIRED SIDE YARD SETBACK 75'
- REQUIRED SIDE YARD 30'
- REQUIRED REAR YARD 50'
- REQUIRED REAR YARD 50'
- PROVIDED SETBACK FROM KAL-HAVEN TRAIL 200'
- PROVIDED SETBACK FROM METALWORK 100'
- PROVIDED SETBACK FROM METALWORK FOR EMPLOYEE AT LARGEST SHED 7' EMPLOYEES 19 SPACES
- PROVIDED PARKING: 11 SPACES TOTAL
- PROVIDED PROPOSED BY STEPHAN AND EVERGREEN PLANTING ALONG AVE.

ORIGINAL SURVEY PERFORMED BY:  
MICHELLE PREEM & MEMPHIS

ALL UTILITIES AS SHOWN ARE APPROXIMATE LOCATIONS DERIVED FROM ACTUAL MEASUREMENTS AND AVAILABLE RECORDS. THEY SHOULD NOT BE INTERPRETED TO BE EXACT LOCATIONS NOR SHOULD IT BE ASSUMED THAT THEY ARE THE ONLY UTILITIES IN THE AREA.





**SITE STATISTICS:**

|   |                                      |
|---|--------------------------------------|
| - SITE SIZE                                   | 18.5 ACRES                           |
| - REQUIRED FRONT YARD SETBACK                 | 3'                                   |
| - PROVIDED FRONT YARD SETBACK                 | 75'                                  |
| - REQUIRED SIDE YARD SETBACK                  | 50'                                  |
| - PROVIDED SIDE YARD SETBACK                  | 60'                                  |
| - REQUIRED REAR YARD SETBACK                  | 50'                                  |
| - PROVIDED REAR YARD SETBACK                  | 60'                                  |
| - PROVIDED SETBACK FROM KAL-HAVEN TRAIL       | 200'                                 |
| - REQUIRED PARKING SPACES (MINIMUM)           | PER EMPLOYEE AT 1 SPACE / 1 EMPLOYEE |
| - PROVIDED PARKING SPACES TOTAL               | 19 SPACES                            |
| - REQUIRED SHED / STORAGE SPACES              | 1 SPACE                              |
| - PROVIDED SHED / STORAGE SPACES              | 1 SPACE                              |
| - ALLOTTED FOR BURNING AND EVERGREEN PLANTING | 0.0 A.C.                             |

ALL UTILITIES AS SHOWN ARE APPROXIMATE LOCATIONS DERIVED FROM ACTUAL MEASUREMENTS AND AVAILABLE RECORDS. THEY SHOULD NOT BE INTERPRETED TO BE EXACT LOCATIONS NOR SHOULD IT BE ASSUMED THAT THEY ARE THE ONLY UTILITIES IN THE AREA.

ORIGINAL SURVEY PERFORMED BY:

**25 YEAR STAGING PLAN  
ALAMO TOWNSHIP AGGREGATE MINE  
AGGREGATE INDUSTRIES, INC.**



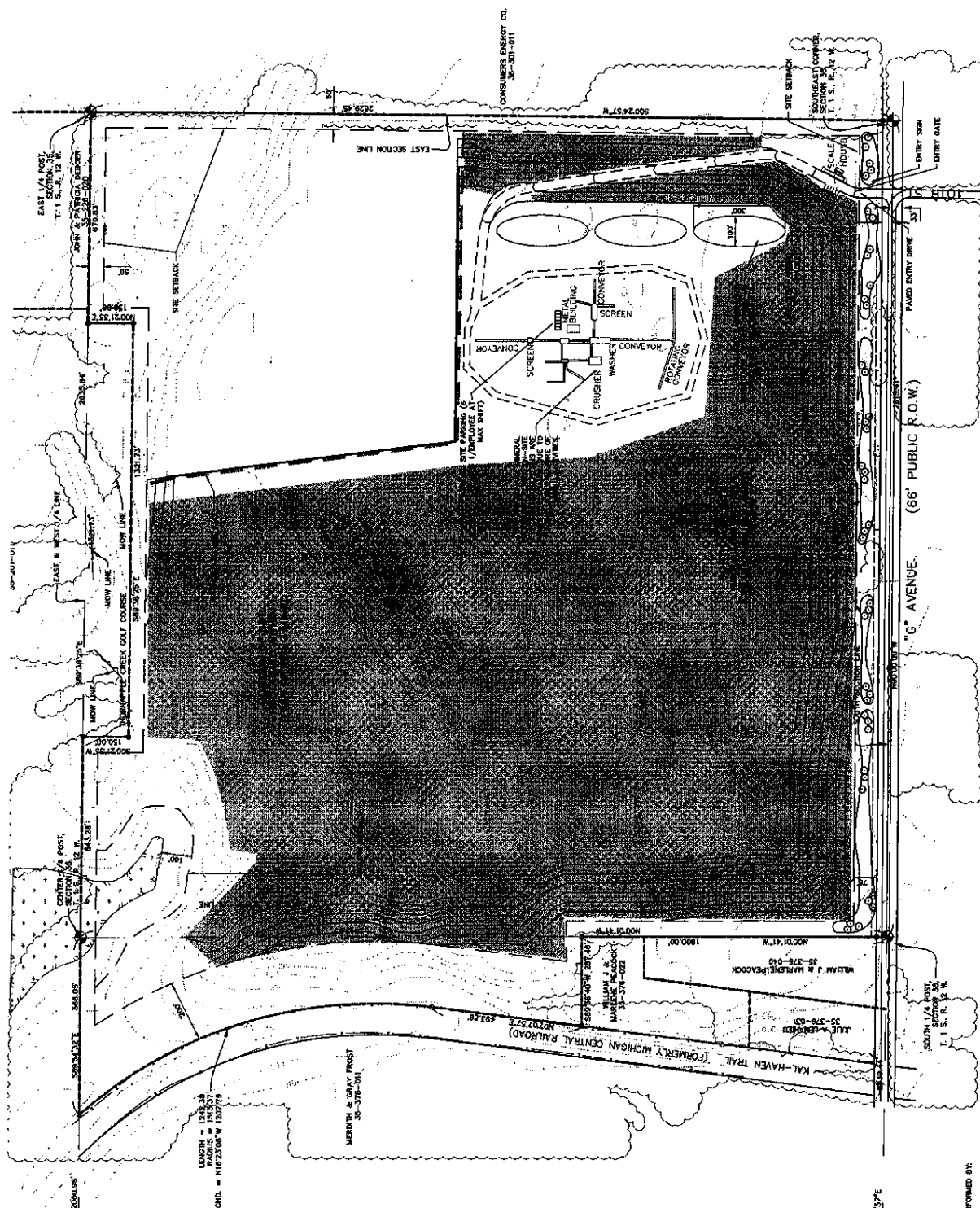
hurdley & stewart, llc  
350 e. michigan avenue  
suite 405  
kalamazoo, michigan 49007  
616.552.4960 fax 552.4961  
www.hurdleystewart.com

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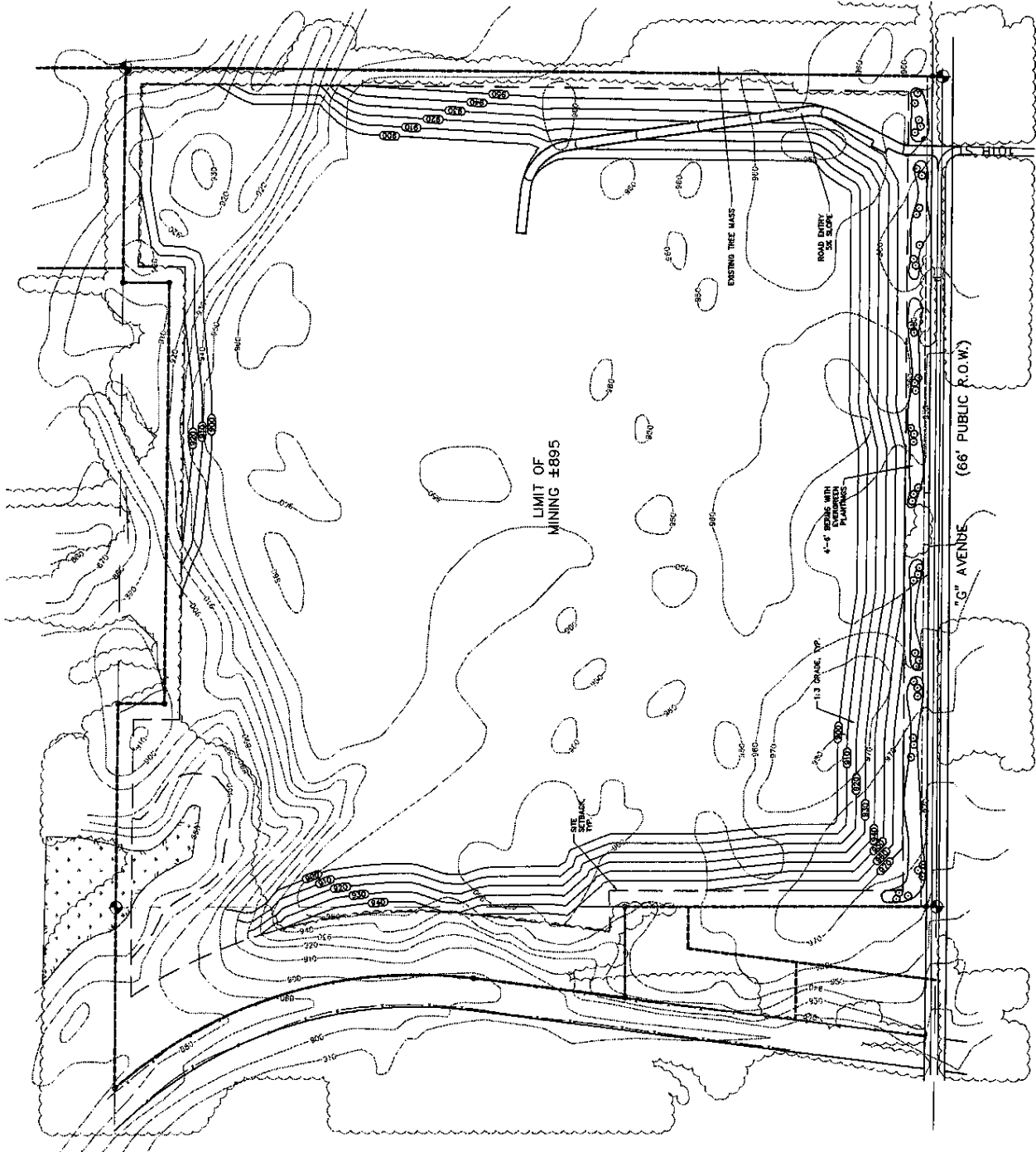


A conceptual drawing of a globe with a scale bar. The globe is divided into four quadrants labeled N, S, E, and W. Below the globe is a scale bar with markings for 0, 75, 150, and 300. A label indicates that 1 inch equals 150 miles. The word 'CONCEPTUAL' is written vertically along the right side of the drawing.

**SITE STATISTICS:**  
 SITE SIZE: 14.5 ACRES  
 RECORDED FRONT YARD SETBACK 5'  
 PROVIDED FRONT YARD SETBACK 5'  
 RECORDED SIDE YARD 30'  
 PROVIDED SIDE YARD 30'  
 RECORDED REAR YARD 60'  
 PROVIDED REAR YARD 50'  
 PROVIDED SETBACK FROM KAL-HAVEN TRAIL 200'  
 RECORDED SETBACK FROM KAL-HAVEN TRAIL 200'  
 REQUIRED PARKING: 1 SPACE (100% PER EMPLOYEE AT  
 100% OCCUPANCY)  
 REQUIRED SET-7 EMPLOYEES = 7 SPACES  
 TOTAL REQUIRED PARKING: 11 SPACES  
 TOTAL PROVIDED PARKING: 11 SPACES  
 TOTAL PROVIDED PARKING BY SETBACK AND EVERGREEN PLANTING  
 ALONGS DAVE

ALL UTILITIES AS SHOWN ARE APPROXIMATE LOCATIONS DERIVED FROM ACTUAL MEASUREMENTS AND AVAILABLE RECORDS. THIS SHOULD NOT BE INTERPRETED TO BE EXACT LOCATIONS NOR SHOULD IT BE ASSUMED THAT THEY ARE THE ONLY UTILITIES IN THE AREA.

ORIGINAL SURVEY PERFORMED BY:  
JOHN A. RIGGS  
LEARN TWINING



A conceptual diagram of a water body. It features a scale bar at the bottom with markings for 70, 150, and 200 feet. A north arrow is located to the right of the scale bar, pointing towards the top right. The word "CONCEPTUAL" is written vertically along the right side of the diagram.

**SITE REHABILITATION**  
**A-SAIL UNIFORMITY**  
EXCESS SANDWILL BE PLACED TO PROMOTE ROUGH GRAINED SLOPES OF 1 FOOT HORIZONTAL DISTANCE AS SHOWN ON THE REHABILITATION PLAN. THE REHABILITATION PLAN WILL BE PREPARED BY THE CONTRACTOR ON-SITE STOCKPILE AND SPREAD ON THE ROUGH-GRAINED SLOPES IN A LAYER APPROXIMATELY AS THICK AS PRESENT ON THE PROPERTY PRIOR TO MINING. THE TOP-SOIL PAVEN WILL BE PREPARED AS A REED BED.  
**B-SEEDING AND MULCH**  
GRADES AND TOPSOIL COVERED AREAS WILL BE SEED ON THE TOPSOIL. A STRAW BARKET ANCHORS MARCH OR EQUIVALENT WILL BE PLACED ON THE SEEDED GRADE SLOPES.

ALL UTILITIES AS SHOWN ARE APPROXIMATE LOCATIONS DERIVED FROM ACTUAL MEASUREMENTS AND AVAILABLE RECORDS. THEY SHOULD NOT BE INTERPRETED TO BE EXACT LOCATIONS NOR SHOULD IT BE ASSUMED THAT THEY ARE THE ONLY UTILITIES IN THE AREA.

ORIGINAL SURVEY PERFORMED BY:  
PREIN & NEWHOF

## EXHIBIT B TO CONSENT JUDGMENT

### Hauling Policy

G Avenue Property, Alamo Township, Kalamazoo County

This Hauling Policy is applicable to all trucks that enter or exit the Site for the purpose of transporting sand and gravel. All such trucks and their drivers must comply with this Policy. Failure to comply will result in termination of the privilege for that individual driver to haul from this Site.

The "Site" referenced in this Policy is known as the Thornapple Site located on G Avenue in Alamo Township, Michigan, on which Aggregate Industries is operating a sand and gravel mining and processing operation.

- The site will be open for hauling from 7:00am to 6:00pm Monday through Friday, from April 1<sup>st</sup> through September 30<sup>th</sup> each year, and from 8:00 am to 6:00 pm, Monday through Friday, at all other times during the year. The site will be closed for hauling every Saturday, Sunday and legal Holiday.
- Access by Haul truck is prohibited prior to and after the defined hours of operation.
- Staging of trucks along G Avenue, 10<sup>th</sup> Street, or on any other road prior to or during the hours of operation is prohibited.
- The use of "jake" brakes near the Site is prohibited at all times.
- Each truck driver shall abide by all applicable local, State, and Federal traffic laws as applicable.
- Each driver is strongly encouraged to minimize their speed while travel to or from the site and is also strongly encouraged to remain constantly vigilant for any bicyclists and pedestrian foot traffic (including but not limited to school children, elderly, or any other neighbor). It is requested that in the presence of bicyclists and pedestrian foot traffic that each driver slow the vehicle and act in a courteous professional manner.
- Failure to comply with the above will result in a warning, with any second failure to comply resulting in termination of the privilege for that individual driver to haul from this Site.

## **EXHIBIT C TO CONSENT JUDGMENT**

### **Site Plan**



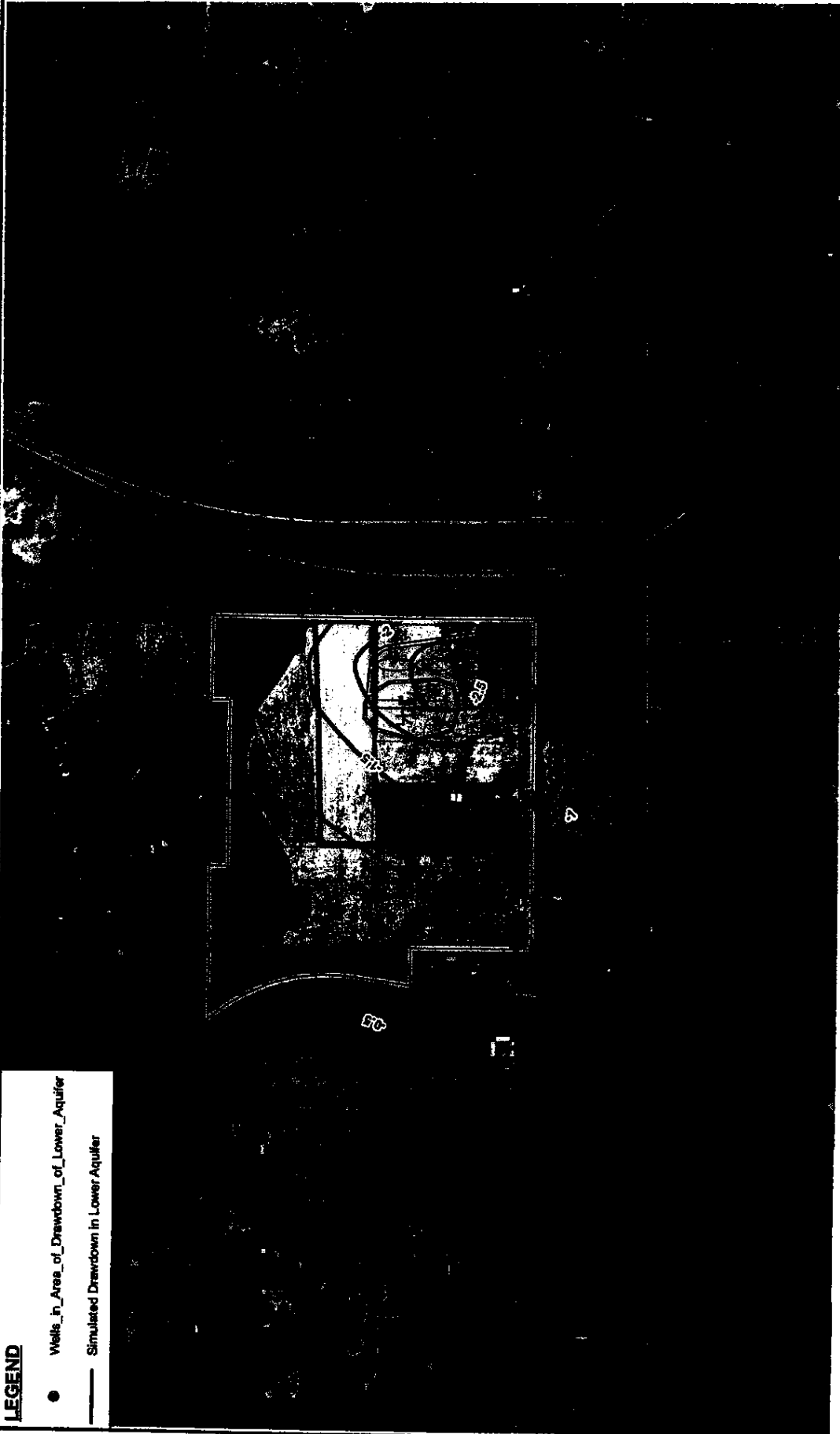


## **EXHIBIT D TO CONSENT JUDGMENT**

Potential Drawdown Area Involving  
Existing Water Wells And Listing Of Such Wells

**LEGEND**

- Wells\_in\_Area\_of\_Drawdown\_of\_Lower\_Aquifer
- Simulated Drawdown in Lower Aquifer



0 250 500 1,000 Feet

**WATER WELL LOCATIONS**  
(From MDEQ Database)

2

PROJECT NO.  
G08839  
FIGURE NO.

Aggregate Industries  
Alamo Township, Kalamazoo County, Michigan

Review

engineers  
scientist  
architects  
constructors

fich

Project & Location:  
Aggregate Industries  
Alamo Township, Kalamazoo County, Michigan  
Project Name:  
Aggregate Industries  
Project Number:  
G08839  
Project Date:  
10/1/2009  
Project Status:  
Final  
Project Type:  
Environmental  
Project Phase:  
Site Assessment  
Project Description:  
Aggregate Industries  
Alamo Township, Kalamazoo County, Michigan  
Project Location:  
Alamo Township, Kalamazoo County, Michigan  
Project Contact:  
Aggregate Industries  
Project Phone:  
269-326-1234  
Project Email:  
info@aggregateindustries.com

**Table A - Number of Wells Within 0.5-Foot Drawdown Contour**

| No. of Wells | Upper Aquifer | Intermediate Aquifer | Lower Aquifer | Unknown |
|--------------|---------------|----------------------|---------------|---------|
| 10           | 4             | 4                    | 0             | 2       |

The address, well depth, SWL, and completion aquifer, plus select additional information for each of the wells, are provided in Table B. The names and addresses associated with parcel information are provided as an attachment to this document. An additional table is provided as an attachment giving names, well identification (ID) numbers, and well location addresses, as shown in the MDEQ well record database, for the wells shown in Table B below.

**Table B - Wells Potentially Within 0.5-Foot Drawdown Contour**

| Township | Section | Well Address  | Well Depth (ft bgs) | SWL (ft bgs) | Surface Elevation (ft amsl) | SWL (ft amsl) | Aquifer           | Well ID and Comments                                      |
|----------|---------|---------------|---------------------|--------------|-----------------------------|---------------|-------------------|---|
| Alamo    | 35      | 6440 G Avenue | 216                 | 140          | 970                         | 830           | I                 | #39000003202  |
| Alamo    | 35      | 6154 G Avenue | No Data             | 90           | 945                         | 855           | No Data           | #39000003203 Replacement Well                             |
| Alamo    | 35      | 6154 G Avenue | 121                 | 90           | 945                         | 855           | U                 | Original Well   |
| Alamo    | 35      | 6458 G Avenue | 119                 | 100          | 940                         | 840           | U                 | #39000003217  |
| Alamo    | 36      | 5590 G Avenue | 0                   | 110          | 980                         | 870           | No Lithology Data | #39000003219  |
| Alamo    | 35      | 6010 G Avenue | No Log              |              | No Log Available            |               | No Data           | North of G Avenue at 10 <sup>th</sup> Street and G Avenue |
| Oshtemo  | 1       | 5675 G Avenue | 172                 | 105          | 970                         | 860           | I                 | #39000004725  |
| Oshtemo  | 2       | 6473 G Avenue | 185                 | 120          | 929                         | 809           | I                 | #39000004754  |
| Oshtemo  | 2       | 6377 G Avenue | 144                 | 120          | 960                         | 840           | U                 | #39000004759  |
| Oshtemo  | 2       | 6327 G Avenue | 145                 | 125          | 965                         | 840           | U                 | #39000014185  |
| Alamo    | 36      | 5442 G Avenue | 119                 | 55           |                             |               | I                 | #39000014188  |

**Notes:**

The data represented is based on information reported on the well log.

(U) Upper Aquifer = Layer 1 of the U.S.G.S. Model; (I) Intermediate Aquifer = Layer 3; and (L) Lower Aquifer = Layer 5

ft amsl = feet above mean sea level

ft bgs = feet below ground surface

The numbers in the comment column are well-identifying numbers shown in the MDEQ's well record database.

Surface elevation data is based on estimates from the U.S.G.S. topographic map.

Shaded rows represent the same well (i.e., one location)

**EXHIBIT E TO CONSENT JUDGMENT**

Depiction Of 40 Acres To Be Donated  
For Park Purposes By G Avenue Properties

**EXHIBIT F TO CONSENT JUDGMENT**

Sample Signage



# AGGREGATE INDUSTRIES

Atlanta, GA  
Asphalt Plant  
Regional Office