

Landes Consulting LLC
Sound solutions for the conservation and use of natural resources.

2024 COMPLIANCE INSPECTION REPORT

AGGREGATE INDUSTRIES
KALAMAZOO WEST SAND AND GRAVEL OPERATION
PREPARED FOR ALAMO TOWNSHIP BOARD OF TRUSTEES

DECEMBER 3, 2024

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Exhibits

2024 Aerial Photographs (contained within the 2024 Operator’s Annual Report)
2024 Operator’s Annual Report
Reclamation Bond/Continuation Certificate (already on file with the Township)

EXECUTIVE SUMMARY

On Tuesday, November 19, 2024 Mr. Martin L. Landes of Landes Consulting LLC conducted the site inspection of the Aggregate Industries – Great Lakes Region’s Kalamazoo West Sand and Gravel Operation. Mr. Rob Hayes, Regional Environmental & Land Services Manager and Mr. Steve Leach, Area Operations Manager, escorted Mr. Landes around the property during the site inspection. This compliance analysis consisting of document review, interviews, and a site inspection found the operations to be within substantial compliance with the applicable terms and conditions of the approved Consent Judgment.

The following additional items, while not specifically a non-compliance issue, were noted during this annual review:

1. The site’s Spill Prevention, Control and Countermeasure (SPCC) plan is required to be reviewed and renewed every five years, and must be updated any time there are significant changes to the facility design, construction, operation, or maintenance that could affect the potential for oil discharge. The site’s SPCC is due to be updated in November of 2024. Mr. Hayes indicated that the SPCC will be updated and renewed in December. Additionally, the SPCC did not include all containers on site specifically the drums located in the maintenance building. Compliance with applicable regulations is included in the Consent Judgement, Item 2 and Item 34.
2. The Operator’s 2024 Annual Report regarding reclaimed acres differs from the observed “reclamation” during the site visit. The Report references that four (4) acres have been reclaimed and an additional three (3) acres are planned for reclamation “this fall.” Actual on-site observations indicate that no reclamation has been completed. There are areas (two separate areas totaling 2 acres +/- in size) that have been graded and sloped but no top-soil has been applied and no seeding has occurred. The Operator indicated that full reclamation of these areas will be completed along with additional stripping activities for the mine expansion. For instance, when the next area of topsoil is removed from the agricultural field, it will be applied to the graded and sloped areas to complete the reclamation. The Operator should be encouraged to complete the final grading, placement of topsoil, and seeding within the next operational season as required in the Consent Judgement, Item 7 to complete the reclamation within one (1) year.

PROJECT DESCRIPTION

Alamo Township currently has one active sand and gravel mine located in the southeast corner of Section 32 of the Township with a physical address of 6000 West G Avenue, Kalamazoo, Michigan. The mine referred to as Kalamazoo West Sand and Gravel is currently owned and operated by Aggregate Industries – a LafargeHolcim Company. The operation of the mine is controlled by the terms and conditions of a Consent Judgment executed September 19, 2007 by and between the operators (Aggregate Industries and G Avenue Properties LLC) and Alamo Township. Alamo Township has authorized Landes Consulting LLC as their professional representative to perform an annual inspection of the Kalamazoo West Sand and Gravel operation pursuant to Number 27 of the Consent Judgment that states “Township may retain an engineer or other professional to inspect the Property to ensure compliance with the Terms of this Consent Judgment.” This report and its associated attachments provide a thorough analysis of compliance to the terms and conditions of the executed Consent Judgment through a combination of document review, interviews, and on-site inspections for all aspects of the sand and gravel operation in the Township.

FINDINGS AND OBSERVATIONS

On Tuesday, November 19, 2024 Mr. Martin L. Landes of Landes Consulting LLC conducted the site inspection of the Aggregate Industries – Great Lakes Region’s Kalamazoo West Sand and Gravel Operation. Mr. Rob Hayes, Regional Environmental & Land Services Manager and Mr. Steve Leach, Area Operations Manager, escorted Mr. Landes around the property during the site inspection. The following findings and observations combine the results of the site inspection, document review, and interviews. For reference, the specific section of the Consent Judgment is provided in italics followed by Mr. Landes’ findings and observations.

- 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.*

No new site improvements were observed that are not detailed on the relevant site plans or approved in previous revisions/amendments. Please note that the portable processing plant was relocated from the base of the excavation to the original plant location in 2021. Additionally, a small, temporary wash plant has been placed in the bottom of the excavation. Neither of these plants/locations deviate from the Consent Judgment or other necessary later approvals.

- 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.*

Findings and observations in regard to Federal and State regulations and laws will be reviewed in following Sections of this report.

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.*

This inspection found no indication that the hours of operation for mining, processing, maintenance activities, or hauling have occurred beyond the specific hours provided unless approved for individual, limited, local projects.

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.*

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

This inspection found that setbacks for mining activities as established above are being met. Berms have been established with substantial vegetative growth for stabilization within the setback areas along "G" Avenue, along the eastern property border, and along the northeastern property border.

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.*

This inspection found the first 300 feet of the access drive to be paved as required. Additionally, a total of over 600 feet of concrete and asphalt track off/passive tire cleaning lane was added to the out-bound traffic lanes for dust and track-out control. Additionally, the internal gravel roadways were watered as necessary during the operational season to limit dust. To the best of the operator's knowledge, and as verified through this inspection, no reports of incidents in which the applicable air permit criteria were exceeded were received or on file with the MDEQ.

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.*

Pursuant to the Township Board approval on November 10, 2014 the direction of mining has been essentially "reversed" with mining to occur in a counter-clockwise direction instead of clockwise across the site as depicted on the original phasing plans. This inspection found that all mining and extraction operations to expand the open mining area primarily to the north and west within the eastern approximately one-third of the site. The plant, stockpiles, and roadways consist of approximately 28 acres. The remaining active open mine, which includes all areas stripped and prepared for mining or under extraction consists of approximately 18.45 acres. Please note that these acreage estimates do not include any bermed areas that will also require reclamation. The total area for active mining is less than the maximum 25 acres stipulated.

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

Mr. Leach and Mr. Hayes indicated that two (2) areas along the north extent of the active mine (1.25 acres and 1.01 acres) have been graded for reclamation but not covered with topsoil and that grading is not completed. Observation of the area shows that additional sloping is necessary at the top of the slope to bring the area into compliance with sloping requirements detailed in Item 8 of the CJ. Mr. Hayes indicated that topsoil from future stripping of additional open mine will be placed here in the coming operational year to complete the reclamation. No additional areas of the operation were mined out at the time of the inspection. Accordingly, no reclamation was required to be commenced or completed

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

No final reclamation activities have been completed to date. Accordingly, no sloping, grading, or seeding is required to be commenced or completed at this time.

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.*

The required reclamation bond was provided by Aggregate Industries and is included in this report. The bond was updated at the end of the 2023 mining season to reflect the open excavation as well as the operational footprint.

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).*

No variances from the Hauling Policy was revealed or discovered during the course of this inspection, unless approved in advance by the Township for short-term, limited projects only.

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.*

Evergreen plantings were observed in the locations detailed in the site plan. The trees were all at least five (5) feet in height.

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).*

A berm of at least five (5) feet in height above the centerline of “G” Avenue extends from the entrance gate west, terminating near the western property corner. Please that additional berming west of the current plant location was also installed and seeded. These berms are temporary and as such not included within the site plan.

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.*

The baseline testing results of the neighboring wells has been completed and is on file with the Township. This inspection did not reveal any instances of adverse well impact as a result of the Aggregate Industries operations on the property.

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.*

All operations on the Bennett Site have ceased. Bennett site reclamation has been completed as documented in the Township letter to Aggregate Industries dated October 3, 2011. The appropriate letters to release the bonds were provided to Aggregate Industries in 2011.

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...*

To the best of the knowledge and belief of Mr. Robert Hayes, Regional Environmental & Land Services Manager of Aggregate Industries, none of the listed properties have provided Aggregate Industries with the required written notice of intent to sell or a certified appraisal. Additionally, the Township is not aware of any of the named landowners electing to utilize this clause of the Consent Judgment at this time.

16. *The primary haul route for material leaving or entering the site shall be 10th 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 10th 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 track route ordinance that presently does not establish 10th 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.*

The primary haul route at the time of the inspection was 10th Street southbound to truck routes approved by Oshtemo Township. A map for all drivers is posted in the Scale House office for driver's review. Interviews with Aggregate Industries personnel found that only local deliveries utilize "G" Avenue. Any changes in the haul route in the near future that may be communicated by Oshtemo Township to Aggregate Industries or Alamo Township should be immediately shared with each party to ensure prompt compliance. This report did not identify any significant truck route complaints.

17. *To the extent that significant truck traffic utilizes 10th 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.*

Oshtemo Township Ordinance does not allow the use of 10th Street southbound as a haul route south of “H” Avenue. Accordingly, the operator was not involved with the installation of the protected left turn signal installed at 10th Street and M-43.

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

Verification with Road Commission representatives as part of this inspection found that 10th Street has been up-graded to all-season status. However, Oshtemo Township Ordinance does not allow the use of 10th Street southbound as a haul route south of “H” Avenue.

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.*

At the time of the inspection all mobile equipment utilized on site for the operations are equipped with a white noise back up alarms as necessary. No records of complaints regarding traditional back up alarms were found with the Township.

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.*

This condition was been satisfied since 2010.

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.*

Mining activities are still being completed on the Property. Accordingly, the requirement to donate 40 acres is not yet active.

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.*

Alamo Township personnel indicated that the Township received the payment to the Foundation.

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.*

Sand and gravel has been provided to the Township upon request pursuant to the stipulation above.

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, 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.*

This inspection and report makes no statements as to the status of this clause of the Consent Judgment; thus leaving interpretation of the effects of this stipulation to appropriate legal counsel.

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.*

At the time of the inspection the processing equipment regularly used at the property was on site. Aggregate Industries provided a list of all regularly used equipment for inclusion with this compliance analysis.

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

The entrance sign observed during the inspection was substantially consistent with the sign approved as part of the Consent Judgment.

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.*

The operator provided their annual report to Landes Consulting via email dated September 27, 2024. Review of the 2024 Annual Report found substantial concurrence with the findings and observations of this compliance analysis with the exception of the following:

- a) Page 2 at Number 7 and Number 8 reference four (4) acres of completed reclamation with proper sloping. However, the site visit combined with interviews shows that no complete reclamation (i.e. completely sloped, top-soiled, and seeded) has been completed to-date. As indicated above in regard to Condition #7 two (2) small areas were graded but additional sloping is required which will impact this area in the future. Accordingly, this area was not deemed "reclaimed" for this report. Additionally, the 2024 Reclamation

Summary states that “another three (3) acres of the mined northeast bank will be filled, sloped, and revegetated later this fall.” The site visit completed on November 19, well after the end of the growing season did not observe any additional completed reclamation.

This compliance report, prepared by Landes Consulting LLC at the request of and on the behalf of the Township Board of Trustees and as authorized within the Consent Judgment at Number 14 (detailed above), meets the requirements of the above terms and conditions. Township Representatives have indicated to Landes Consulting that the escrow account at the time of this inspection and report is current or has been invoiced to AI for payment

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

Interviews conducted as part of this inspection found that with the addition of the wheel wash system that limited to no track-out complaints were received. Interviews with the Operator and the Township did not identify any outstanding complaints or instances when AI did not reasonably respond to track-out complaints.

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.*

The earlier of the exhaustion or depletion of the deposit or 31 years from the date of the Consent Judgment has yet to pass.

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.*

This inspection and report makes no statements as to the status of this clause of the Consent Judgment.

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.*

This inspection and report makes no statements as to the status of this clause of the Consent Judgment.

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.*

The Consent Judgment was entered and neither party terminated it with written notice.

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.*

This inspection and report makes no statements as to the status of this clause of the Consent Judgment.

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.*

The following section of this report details the necessary approvals and permits required by Federal and State law or ordinance.

STATE AND FEDERAL RULES & REGULATIONS

The following State and Federal rules and regulations apply to the operations on the property.

Air Permit:

The Michigan Department of Environmental Quality (MDEQ), Air Quality Division (AQD) issues a general permit to install for nonmetallic mineral crushing facilities. The general permit is issued pursuant to R 336.1201a of the Administrative Rules for Air Pollution Control (Rule 201a). As part of this inspection copies of all Relocation Notices pertinent to the activities on site were requested from the operator. Mr. Leach indicated that “the plant remained on site all year long so no relocation notices were necessary” and that “no new equipment was added within the last year. Mr. Leach indicated that no malfunctions or abnormal conditions have been encountered which would require EGLE notification.

Michigan Air Emissions Reports:

Michigan Air Pollution Control Rule R336.202 (Rule 2) requires an annual report from a commercial, industrial, or governmental source of emission of an air contaminant if, in the judgment of the department, information on the quantity and composition of an air contaminant emitted from the source is considered by the department as necessary for the proper management of the air resources. The MAERs report is due March 15. A copy of the filed 2023 MAERs report for this site was reviewed as part of this report.

SARA Title III, Tier II Reports:

SARA Title III was enacted by the U.S. Congress in 1986 in response to an incident where 2,500 people were killed by a chemical release. The purpose behind SARA Title III/EPCRA has been to create a cooperative relationship among government, business, and the public involving all of them in the effort to prevent, to plan, to prepare for, and to manage chemical emergencies.

The law sets requirements for facilities that manufacture, process, or store certain hazardous or toxic chemicals, at certain threshold levels, on-site to report annually to the state and local governments and to report any accidental releases on a timely basis. The information submitted by facilities provides the basis for community right-to-know and local emergency planning and preparedness.

The Tier II report is due March 1. A copy of the filed 2023 Tier II report for this site was reviewed as part of this report.

Soil Erosion and Sedimentation Control:

Soil Erosion and Sedimentation Control Program was implemented to regulate the pollution of Michigan waters by improper construction site management practices. Part 91 of the Natural Resources and Environmental Protection Act (NREPA) 1994, PA 451 as amended detail the requirements of permitting and inspection for SESC permits. Permit lengths and expiration dates vary by authorizing agency. The permit was posted in the scale house as required. The permit was renewed in 2023 and expires in July of 2025. A follow up phone call with the SESC Agent for Kalamazoo County found no current concerns or violations on record with the operation. The

High-Capacity Water Withdrawal:

Effective on February 28, 2006 Parts 327 and 328 of the NREPA and the Safe Drinking Water Act were amended. These amendments address reporting, registering, environmental protection standards, and permitting requirements for large quantity withdrawals from groundwater and surface water. The well and pump at the property was installed and provided appropriate capacity for high-capacity water withdrawal following the appropriate rules and regulations. The reporting and permitting requirements for the well are included in the Groundwater Use and Discharge Permit detailed below.

Groundwater Use and Discharge Permit:

The Groundwater Program regulates discharge to groundwater under Part 31, Water Resources Protection, of the Natural Resources and Environmental Protection Act, 1994 PA 451 and Part 22 Rules. The permit indicates that daily records of water use and discharge be maintained on site. Additionally, the permit details that an annual report must be filed by April 1. The wash plant did not operate in 2024 so no process water was discharged. .

Storm Water Pollution Prevention Plan:

All construction activities that have a total earth disturbance over one acre AND had have a point source discharge to waters of the US require a permit under the NPDES Phase II Storm Water Regulations. The regulations require that an operation meeting these requirements shall file a Notice of Intent before discharge begins and prepare and implement a SWPPP.

Inspection of the site, confirmed by the operator, found the site does not currently have a point source discharge of storm water off site or to any waters of the US.

Spill Prevention Control and Countermeasure:

The Spill Prevention, Control, and Countermeasure (SPCC) rules (40 CFR 112) includes requirements for oil spill prevention, preparedness, and response to prevent oil discharges to navigable waters and adjoining shorelines. The rule requires specific facilities to prepare, amend, and implement SPCC Plans. The total combined storage capacity of petroleum products on site exceeds the regulatory threshold of 1,320 gallons. Thus, a SPCC plan is required for site operations. A signed hard copy of the SPCC Plan was on site and was dated and signed by the site manager. The SPCC plan is required to be reviewed and renewed every five years, and must be updated any time there are significant changes to the facility design, construction, operation, or maintenance that could affect the potential for oil discharge. The site's SPCC is due to be updated in November of 2024. Mr. Hayes indicated that the SPCC will be updated and renewed in December. Additionally, the SPCC did not include all containers on site specifically the drums located in the maintenance building. Compliance with applicable regulations is included in the Consent Judgement, Item 2 and Item 34.

Michigan Flammable Liquid Combustible Liquid Rules

Above ground storage tanks (ASTs) are regulated under the Michigan Flammable Liquid Combustible Liquid Rules (FL/CL Rules), promulgated under the authority of the Michigan Fire Prevention Code, 1941 PA 207, as amended, being R 29.5601 et seq., of the Michigan Administrative Code. Rules R 29.5602 through R 29.5605, of Part 1 of the FL/CL Rules, adopts by reference four specific editions of the National Fire Protection Association (NFPA) standards. The adopted standards are NFPA 30 and 30A, 2012 Edition; NFPA 31, 2011 Edition; and NFPA 37, 2010 Edition. These standards were adopted with Michigan-specific additions and amendments and made applicable to the storage and handling of flammable and combustible liquids having a flash point below 200 degrees Fahrenheit. The site reconnaissance did not identify any non-compliance issues with the current AST systems.

CONCLUSIONS

This compliance analysis consisting of document review, interviews, and a Thursday, November 19, 2024 site inspection found the operations to be within substantial compliance with the applicable terms and conditions of the approved Consent Judgment.

The following additional items, while not specifically a non-compliance issues, were noted during this annual review:

1. The site's Spill Prevention, Control and Countermeasure (SPCC) plan is required to be reviewed and renewed every five years, and must be updated any time there are significant changes to the facility design, construction, operation, or maintenance that could affect the potential for oil discharge. The site's SPCC is due to be updated in November of 2024. Mr. Hayes indicated that the SPCC will be updated and renewed in December. Additionally, the SPCC did not include all containers on site specifically the drums located in the maintenance building. Compliance with applicable regulations is included in the Consent Judgement, Item 2 and Item 34.
2. The Operator's 2024 Annual Report regarding reclaimed acres differs from the observed "reclamation" during the site visit. The Report references that four (4) acres have been reclaimed and an additional three (3) acres are planned for reclamation "this fall." Actual on-site observations indicate that no reclamation has been completed. There are areas (two separate areas totaling 2 acres +/- in size) that have been graded and sloped but no top-soil has been applied and no seeding has occurred. The Operator indicated that full reclamation of these areas will be completed along with additional stripping activities for the mine expansion. For instance, when the next area of topsoil is removed from the agricultural field, it will be applied to the graded and sloped areas to complete the reclamation. The Operator should be encouraged to complete the final grading, placement of topsoil, and seeding within the next operational season as required in the Consent Judgement, Item 7 to complete the reclamation within one (1) year.

Recommendations for corrective actions with the items above belong solely to the Township Board of Trustees. The experts at Landes Consulting will provide consultation and assistance on these corrective action recommendations to the Board upon request.