

DECLARATION OF PROTECTIVE COVENANTS AND RESTRICTIONS

RE: Parcel I. A parcel of land in the South 1/2 of the Northeast 1/4 of Section 28, Township 5 North, Range 10 East (Town of Rutland), Dane County, Wisconsin, more particularly described as follows: Commencing at the East quarter corner of said Section 28, thence South 87 degrees 10' 26" West, 408.24 feet to the point of beginning; thence continue South 87 degrees 10' 26" West, 2252.33 feet to the center of Section 28; thence North 3 degrees 07' 50" West, 899.76 feet along the Westerly line of said Northeast 1/4; thence North 87 degrees 12' 08" East, 2243.84 feet; thence South 3 degrees 40' 20" East, 898.74 feet to the point of beginning.

EXCEPT the following described real estate:

Part of the SE 1/4 of the NE 1/4 of Section 28, T.5 N., R.10 E., Town of Rutland, Dane County, Wisconsin, being more fully described as follows:

Commencing at the E 1/4 corner of said Section 28, and the Southeast corner of Lot 1 of Dane County Certified Survey Map Number 2590; thence S87°09'36"W along the South line of said Lot 1, 407.90 feet to the Southwest corner thereof, and the point of beginning; thence N03°41'05"W along the West line of said Lot 1, 832.84 feet; thence S87°12'08"W, 32.33 feet; thence S03°41'05"E, 832.87 feet to the South line of the aforesaid SE 1/4 of the NE 1/4; thence N87°09'36"E along said South line, 32.33 feet to the point of beginning. The above described containing 26,923 square feet.

Parcel II. Part of Lot 1 of Dane County Certified Survey Map Number 2590, being further located in part of the SE 1/4 of the NE 1/4 of Section 28, T.5 N., R.10 E., Town of Rutland, Dane County, Wisconsin, being more fully described as follows:

Commencing at the E 1/4 corner of said Section 28, and the Southeast corner of Lot 1 of the aforesaid Certified Survey Number 2590; thence N03°41'00"W along the East line of said Certified Survey, 898.54 feet to the Northeast corner thereof and the point of beginning; thence S87°12'08"W along the North line of said

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Lot 1, 407.93 feet to the Northwest corner thereof; thence S03°41'05"E along the West line of said Lot 1, 66.00 feet; thence N87°12'08"E, 407.92 feet to the aforesaid East line of said Lot; thence N03°41'00"W along said East line, 66.00 feet to the point of beginning. The above described containing 26,920 square feet, being subject to a right of way for Center Road across the Easterly 33 feet thereof.

WHEREAS, the undersigned, Henry N. Spelter and Violet M. Spelter, husband and wife (hereafter the "Spelters"), are the owners of the lands described above (hereafter the "Spelter Property"); and

WHEREAS, Harold N. Homburg, Shirley A. Homburg, Andrew G. Homburg and Chris A. Homburg (hereafter the "Homburgs"), are the owners of the following described property (hereafter the "Homburg Property") which adjoins the Spelter Property:

Lot One (1) of Certified Survey Map #2590 recorded in the Dane County Register of Deeds office in Volume 10 of Certified Survey Maps, page 180, as Document No. 1539995, in the Town of Rutland, Dane County, Wisconsin.

Subject to Center Road.

(Being a part of the Southeast 1/4 of the Northeast 1/4 of Section 28, Township 5 North, Range 10 East, in the Town of Rutland, Dane County, Wisconsin.); and

Part of the SE 1/4 of the NE 1/4 of Section 28, T.5 N., R.10 E., Town of Rutland, Dane County, Wisconsin, being more fully described as follows:

Commencing at the E 1/4 corner of said Section 28, and the Southeast corner of Lot 1 of Dane County Certified Survey Map Number 2590; thence S87°09'36"W along the South line of said Lot 1, 407.90 feet to the Southwest corner thereof, and the point of beginning; thence N03°41'05"W along the West line of said Lot 1, 832.84 feet; thence S87°12'08"W, 32.33 feet; thence S03°41'05"E, 832.87 feet to the South line of the aforesaid SE 1/4 of the NE 1/4; thence N87°09'36"E along said South line, 32.33 feet to the point of beginning. The above described containing 26,923 square feet; and

WHEREAS, the Homburgs and the Spelters have entered into a Settlement Agreement in an action now pending between them in Dane County Circuit Court, Case No. 89CV4802, and this

Declaration is executed and recorded by the Spelters pursuant to such Settlement Agreement; and

WHEREAS, it is deemed proper to impose upon the Spelter Property the restrictions, reservations, limitations and covenants, as hereinafter set forth, for the benefit of protection of the owners, both present and future, of the Homburg Property, and by agreeing to this Declaration, the Spelters have obtained fee simple title to a parcel 66 feet in width of the Homburg Property which will allow a public roadway or driveway to be built allowing access from the Spelter Property to Center Road;

NOW, THEREFORE, IT IS HEREBY DECLARED that the following restrictions, reservations, limitations and covenants be and the same hereby are adopted and that the Spelter Property shall be subject thereto as follows:

1. The Spelter Property is restricted to use only for purposes now permitted under the current zoning applicable to the Spelter Property, except that two (2) single-family dwelling structures may be erected and used for residential purposes on the portion of such property described above as Parcel I and except further that the portion of such property described above as Parcel II may be used as a roadway or driveway to provide access from Parcel I to Center Road and for an accessory building or outbuilding related to a permitted use on Parcel I.

2. Present and future owners of the Spelter Property shall advise any purchaser of such property in the offer to purchase or contract of sale that the property is subject to this Declaration and that the Homburg Property is used as an active stone quarry having the status of a nonconforming use under applicable Dane County Zoning Ordinances and will likely remain as an active quarry for an indefinite period of time, and, further, that the stone quarry operation involves blasting from time to time, the presence of excavation equipment and trucks, dust and noise.

3. Present and future owners of the Spelter Property hereby consent to the continued quarry operation on the Homburg Property and agree not to object now or in the future to such continued operation provided the operators of the quarry comply with all applicable ordinances, statutes and regulations.

4. These covenants are to run with the land and shall be binding upon all parties and all persons who may now own or who may later become the owner or owners of the Spelter Property and all parties claiming under them until January 1, 2005, when they shall cease and terminate, except that the covenants in

