



AXLEY BRYNELSON, LLP

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MITCHELL R. OLSON  
[molson@axley.com](mailto:molson@axley.com)  
608.283.6724

March 13, 2015

**VIA HAND DELIVERY**

Mr. Roger Lane  
Dane County Zoning Administrator  
City-County Building, Room 216  
210 Martin Luther King, Jr., Blvd.  
Madison, WI 53703

RE: *Administrative Appeal of Zoning Administrator's Determination  
Oak Park Quarry, LLC*  
Our Client: Mr. Jon Halverson / Oak Park Quarry, LLC

Dear Mr. Lane:

We represent Mr. Jon Halverson and Oak Park Quarry, LLC. Please let this letter serve as a notice of an administrative appeal to the Dane County Board of Adjustment of the Zoning Administrator's written decision dated March 3, 2015. A copy of the decision subject to appeal is attached hereto as Exhibit A. Also enclosed herewith is a check for \$350.00 payable to the Dane County Zoning Division, for the administrative appeal fee.

This appeal is made pursuant to Dane County Ordinance §15.14(6), which authorizes the Board of Adjustment "[t]o hear and decide appeals where it is alleged that here has been an error in any order, requirement, decision or determination made by the zoning administrator in the enforcement of the zoning ordinance or section 59.97 of the Wisconsin Statutes."

The following factual history is relevant to this appeal:

1. Oak Park Quarry, LLC owns the former Vernon Mandt farm in Section 29, Town of Deerfield, Dane County, Wisconsin (the "Quarry"). The Quarry parcel as acquired from Mandt by Oak Park Quarry, LLC, consists of Dane County Parcel Numbers 071229395005, 071229380002, 071229295319, 071229280110, and 071229190011.
2. Individuals with first hand observations of the Quarry from the 1940s to 1980s have supplied Affidavits documenting that they observed a quarry on the Mandt Farm just to the east of Oak Park Road. See Affidavits of Sharon Halverson, Donald Strand, Phyllis

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Mr. Roger Lane  
 Dane County Zoning Administrator  
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Syvrud, John Prescott, Richard Erickson, and Robert Riege. (Exhibits B, C, D, E, F, and G) These witnesses recollect a quarry with a high wall of 15-20 feet in height dating back to the 1940s and 1950s.

3. Aerial photography records also show that mineral extraction operations have existed at the Quarry since before 1969. Provided herewith is the Affidavit of Jeff Kraemer of Stantec. The Kraemer Affidavit incorporates and interprets a series of historical aerial photographs. Mr. Kraemer renders an expert opinion that the area claimed to be a quarry was clearly subjected to man-made operations consistent with quarry operations, and inconsistent with agriculture. This man-made disturbance dates back at least to 1937 per the aerial photos. (Exhibit H)
  
4. In 1969, N. Carpenter & Sons attempted to register the Vernon Mandt Quarry with Dane County pursuant to Dane County Code of Ordinance (“DCCO”) § 10.191(6). (Exhibit I) Under § 10.21(1)(c) DCCO: “Mineral extraction operations which existed prior to 1969 and were registered with and approved by the Dane County Zoning Administrator shall be considered nonconforming uses.” The significance of having a registered mineral extraction site is that once registered, the mineral extraction site is not to be considered abandoned or discontinued if the site is inactive for more than one year. DCCO § 10.21(1)(d).
  - a. The document indicates that the Quarry was “started in 1859.”
  - b. The original handwriting on the document lists the location as “Town of Deerfield, Section # 29.”
  - c. The document describes the quarry as “rock quarry comprising 10 to 15 acres of rock.”
  - d. In what appears to be *different handwriting*, someone entered in “N.W. of N.W. ¼.”
  
5. As indicated in the Administrator’s Decision, Dane County completed a document entitled “Mineral Extraction Registration,” purportedly in 1969, for Vernon Mandt in Section 29, Town of Deerfield. (Exhibit J)
  - a. The Form indicates review only on aerial photo inspection, not photo evidence or field evidence.
  - b. The Form indicates the review was only of the NW ¼ NW ¼.
  - c. Dane County asserts the Form declines to accept the registration.

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6. There never was a quarry in the NW ¼ NW ¼ of Section 29. All aerial photography documents that fact. Moreover, Vernon Mandt never owned the NW ¼ NW ¼ of Section 29. The only reasonable conclusion is that the person who wrote “NW of NW ¼” on the application in 1969 made a mistake of fact / scrivener’s error.
7. Vernon Mandt also never owned the parcels in Section 29 which held what was commonly known as the “Kelly Quarry.” The Kelly Quarry was in the NW ¼ NE ¼ and/or NE ¼ NE ¼ of Section 29. The Administrator’s Decision suggests the intent of Vernon Mandt was to register the Kelly Quarry. Neither the owner nor the legal description match the Kelly Quarry, however.
8. Wisconsin DOT records show the Mandt Pit in Section 29 was subject to testing in years 1987, 1989, and 1995. (Exhibit K)
9. Wisconsin DOT records show the Mandt Pit in Section 29 was subject to testing, based on notations as to test numbers 2151-2-50 and 2013-3-53, in years 1950 and 1953. The document supports a conclusion that the Mandt Pit was an approved source for DOT projects. (Exhibit L)

The following procedural history is relevant to this appeal:

1. Jon Halverson and legal counsel met with Administrator Lane on January 5, 2015. All of the affidavits, except for Kraemer and Riege, were then presented. An oral request was made for an opinion on whether the Oak Park Quarry qualified as a non-conforming use.
2. By letter dated 2/4/2015, Counsel for Oak Park wrote to Administrator Lane, submitting the Kraemer Affidavit. Said letter specifically requested a formal opinion on whether the Oak Park Quarry has nonconforming use status. (Exhibit M)
3. By letter dated 2/27/2015, Counsel for Oak Park wrote to Administrator Lane, submitting the Riege Affidavit. Said letter again requested a formal opinion on whether the Oak Park Quarry has nonconforming use status. (Exhibit N)
4. By letter dated March 3, 2015, Roger Lane responded to the 2/4/2015 Letter and concluded that the “property does not contain a non-conforming use.” (Exhibit A)

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## DISCUSSION

### **I. The Appeal Is Properly Brought before the Board of Adjustment.**

#### **A. Applicable Dane County Ordinances**

DCO 10.25(1) Zoning Administrator. (a) The provisions of this ordinance shall be administered by or under the zoning administrator.... (b) It shall be the duty of the zoning administrator to ... take such action as may be necessary for the enforcement of the regulations provided herein....

DCO 15.14(6) The board of adjustment shall exercise the following powers and responsibilities: (a) To hear and decide appeals where it is alleged that there has been an error in any order, requirement, decision or determination made by the zoning administrator in the enforcement of the zoning ordinance or section 59.97 of the Wisconsin Statutes.

DCO10.26(3) *Appeals to the board.* Appeals to the board of adjustment may be taken by any person aggrieved or by any officer, department, board or bureau of the municipality affected by any decision of the zoning administrator or other administrative officer.... Such appeal shall be taken within a reasonable time, as provided by the rules of the board, by filing with the officer from whom the appeal is taken and with the board of adjustment a notice of appeal specifying the grounds thereof.

DCO 10.26(6) *Powers of the board of adjustment.* The board of adjustment shall have the following powers: (a) To hear and decide appeals where it alleged there is error in any order, requirement, decision or determination made by an administrative official in the enforcement of sections 59.69, 59.692 or 87.30. Wis. Stats., or of any ordinance adopted pursuant thereto.

#### **B. The Administrator's March 3, 2015 Letter is an appealable decision.**

The County Ordinances clearly indicate that an appeal to the Board of Adjustment must relate to a zoning administrator's determination. Roger Lane's 3/3/2015 Letter made a direct and substantive response to the request for a determination on non-conforming use status.

Oak Park submits that this appeal within 30 days of the 3/3/2015 Letter. Thus, this appeal should be deemed timely and addressed on the merits.

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## II. The Oak Park Quarry Has Non-Conforming Use Rights.

Jon Halverson / Oak Park Quarry, LLC, appeal the March 3, 2015 Determination on the following grounds:

The Quarry was first opened in 1859. The Quarry, based on eye witness testimony and aerial photography analysis, clearly existed in the 1940s and 1950s. In 1969, N. Carpenter & Sons attempted to register the Quarry with Dane County pursuant to Dane County Code of Ordinance (“DCCO”) § 10.191(6). Under § 10.21(1)(c) DCCO: “Mineral extraction operations which existed prior to 1969 and were registered with and approved by the Dane County Zoning Administrator shall be considered nonconforming uses.” The significance of have a registered mineral extraction site, *inter alia*, is that once registered, the mineral extraction site is not to be considered abandoned or discontinued if the site is inactive for more than one year. DCCO § 10.21(1)(d).

The Quarry qualifies as a nonconforming mineral extraction site. There are two criteria to meet the standard. First, the mineral extraction operation must have existed prior to 1969. DCCO § 10.21(1)(c). Second, the site must be registered with and approved by the Dane County Zoning Administrator. *Id.* These two standards should be deemed satisfied under the facts presented.

First, mineral extraction operations existed at the Quarry since well before 1969. The Affidavits of Sharon Halverson, Donald Strand, Phyllis Syvrud, John Prescott, Richard Erickson, and Robert Riege, as well as the Affidavit and aerial photos from Jeff Kramer, cannot be disputed. [DOT records?]

The second criterion is whether the site was registered with Dane County zoning. Enclosed is a copy of the N. Carpenter & Son registration of the Property. The location of the property is identified as Section 29 in the town of Deerfield. We note that there is a notation at the end of the registration of “N.W. of N.W. ¼.” Dane County Zoning interprets this to mean that only the N.W. of the N.W. ¼ was sought to be registered.

However, the N.W. of N.W. ¼ must be disregarded for several reasons. Further, as discussed below, the indication of the quarter quarter section on a registration is immaterial to whether a mineral extraction site was registered.

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First, the handwriting of the N.W. of N.W. ¼ is plainly different than the rest of the handwriting on the registration of the site. Since this was submitted to Dane County in 1969, we have no way of knowing who included this extra notation. However, it is plain that the extra notation was not written by whoever prepared the registration. It suggests that a mistake may have been made.

Second, Mr. Mandt did not own any property in the NW ¼ of the NW ¼, Section 29, Town of Deerfield. Nevertheless, Mr. Mandt and N. Carpenter & Sons obviously intended to register Mr. Mandt's property, because they completed and submitted a mineral extraction registration to Dane County (*see also*, Exhibit G, Mr. Mandt's *Affidavit of Intent to Mine*). This further suggests a mistake was made.

Third, Mr. Mandt has submitted an *Affidavit of Intent to Mine* (Exhibit G). That Affidavit explicitly provides that the inclusion of the N.W. of N.W. ¼ in the registration was in error. Rather, the registration was intended for all of the Mandt property located in Section 29 in the town of Deerfield.

Under these circumstances, the County's aerial review of a registration in the NW ¼ NW ¼ was in review of an erroneous description. If actual aerial photography or a field inspection were made of the correct Quarry location, the registration certainly would have been verified. The County today should be readily able to appreciate this erroneous legal description and correct same.

Thus, the Quarry has met both requirements of § 10.21(1)(c) DCCO, mineral extraction, and is as a legal nonconforming use, which Dane County cannot prohibit. Further, under § 10.21(1)(d), as a registered nonconforming site, it does not matter if the Quarry has been mined continuously, or if mineral extraction operations were otherwise discontinued.

As a nonconforming use, Dane County cannot prohibit, or require permits for, the establishment or expansion of the Quarry. Wisconsin has long-standing law regarding nonconforming uses for mineral extraction. In *Sturgis v. Winnebago Co. Bd. of Adjustment*, 141 Wis. 2d 149, 413 N.W.2d 642 (Ct. App. 1987), Wisconsin first recognized the diminished asset rule. In *Sturgis*, the Wisconsin Court of Appeals quoted from the Illinois Supreme Court explaining the rule:

This is not the usual case of a business conducted within buildings, nor is the land held merely as a site or location whereon the enterprise can be conducted indefinitely with existing facilities. In a quarrying business the land itself is a mineral or resource. It constitutes a diminishing asset and is consumed in the very process of use. Under such facts the ordinary concept of use, as applied in

Mr. Roger Lane  
Dane County Zoning Administrator  
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determining the existence of a nonconforming use, must yield to the realities of the business in question and the nature of its operations. We think that in cases of a diminishing asset the enterprise is “using” all that land which contains the particular asset and which constitutes an integral part of the operation, notwithstanding the fact that a particular portion may not yet be under actual excavation. It is in the very nature of such business that reserve areas be maintained which are left vacant or \*332 devoted to incidental uses until they are needed. Obviously, it cannot operate over an entire tract at once.

Sturgis, 141 Wis.2d at 153, 413 N.W.2d at 643-44 (quoting *County of DuPage v. Elmhurst-Chicago Stone Co.*, 18 Ill.2d 479, 165 N.E.2d 310, 313 (1960))

In *Smart v. Dane Co. Bd. of Adjustment*, 177 Wis. 2d 445, 501 N.W.2d 582 (1993), the Wisconsin Supreme Court applied the diminishing asset rule to the expansion of a nonconforming mining operation. Under the diminished asset rule, the property owner is “using” all of the land that contains the particular asset and which constitutes an integral part of the operations, notwithstanding the fact that the particular portion may not be under actual excavation. *Smart*, 177 Wis. 2d at 454. The Court reasoned that in the quarrying business the land itself is a mineral or resource and constitutes a diminished asset as it is consumed in the very process of use. *Id.*

As related to the matter at hand, *Schroeder v. Dane Co. Bd. of Adjustments*, 228 Wis. 2d 324, 596 N.W.2d 472 (Ct. App. 1999), is directly on point. In that case, the Wisconsin Court of Appeals considered how §§ 10.191 and 10.21 DCCO are to be interpreted in light of the diminishing assets rule. The specific issue was whether a registration that only indicated one quarter quarter section could be expanded beyond that quarter quarter section without a conditional use permit issued by Dane County. The court reviewed §§ 10.191 and 10.21 DCCO and determined that under the diminishing asset rule, regardless of the quarter quarter section listed on the registration, the property owner could expand the mineral extraction site without the need for a conditional use permit.. The court stated:

Neither § 10.191(6) nor § 10.21(1)(c) make any reference to the intended area of expansion of the operation, whether it must be registered, or how it is to be determined and approved by the county. The ordinance sections do not refer to registration of “area” at all, but only to registration of “operations.”

*Schroeder*, 228 Wis. 2d at 335.

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The Wisconsin Court of Appeals explained that “[t]he diminishing asset rule is a gloss on the definition of ‘existing use’ for mineral extraction operations whereby all land which constitutes an integral part of the operation, notwithstanding the fact that it was not under actual excavation, is considered ‘in use.’” *Schroeder v. Dane Co. Bd. of Adjustments*, 228 Wis. 2d 324, 341, 596 N.W.2d 472 (Ct. App. 1999). Therefore, when a property owner has a legal nonconforming mineral extraction site, it can be expanded under the law of diminishing assets, regardless of any size included with the registration. The only limitation is the owner’s intent and ownership of the property. *Id.*

The above legal authorities make absolutely clear that the Quarry is a legal nonconforming mineral extraction site, and that Oak Park Quarry, LLC can conduct a mineral extraction operation at the Quarry without the need for a conditional use permit. Under what is commonly referred to as the “diminishing assets rule,” the county cannot require a conditional use permit for the expansion of the legal, nonconforming mineral extraction site, nor can it prohibit extraction regardless of whether a conditional use permit has been issued.

Finally, the fact that Oak Park, and its predecessors, have applied for and received a conditional use permit for this quarry does not eliminate the non-conforming use rights. No Wisconsin cases provide that a CUP eliminates non-conforming use status. Further, the Minnesota Supreme Court recently addressed this issue and concluded that a CUP does not terminate non-conforming use rights.

In *White v. City of Elk River*, it was undisputed that the land use (campground) was nonconforming when the zoning ordinance became effective. The litigants disputed what effect, if any, the CUP obtained by the campground had on the non-conforming use rights. The issue was one of first impression in Minnesota. 840 N.W.2d 43 (MN Sup. Ct. 2013). Following the decision of Connecticut in *Taylor v. Zoning Board of Appeals*, 783 A.2d 526 (Conn. App. Ct. 2001) (holding a nonconforming sand and gravel mine that existed before the zoning ordinance was enacted, and which applied for and received a CUP for the use, did not extinguish the right to continue the use independent of the permit), the Minnesota Supreme Court concluded that “a landowner does not surrender the right to continue a nonconforming use by obtaining a conditional use permit unless the landowner validly waives that right.”

A waiver is an intentional relinquishment of a known right. A valid waiver requires (1) knowledge of the right; and (2) an intent to waive the right. An application for a CUP and acceptance of a CUP are not sufficient, alone, to constitute a waiver. *White v. City of Elk River*. Unless there is other evidence of intent to waive, the right remains.

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Dane County Zoning Administrator  
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Here, there is absolutely no evidence that Oak Park, or its predecessors, ever knowingly waived its nonconforming use rights. Their mere exercise of applying for and receiving a CUP is meaningless. Yet Dane County places great emphasis on that CUP process. Dane County is in error in that regard.

For the aforementioned reasons we disagree with the Zoning Administrator's Determination dated March 3, 2015, and consequently we are requesting that the Board of Adjustment reverse the decision of the Zoning Administrator.

Please set this matter for a hearing in a timely fashion, and advise us of the hearing date.

Thank you.

Sincerely,

AXLEY BRYNELSON, LLP



Mitchell R. Olson

MRO/tmd

Enclosures

cc: Mr. Hans Hilbert (via email w/out encl.)

Attorney David R. Gault (w/encl.)

Attorney Charles V. Sweeney (w/encl.)



# DANE COUNTY PLANNING & DEVELOPMENT

Room 116, City-County Building, Madison, Wisconsin 53703  
Fax (608) 267-1540

*Housing &  
Economic Development*  
(608)266-4270, Rm. 362

*Planning*  
(608)266-4251, Rm. 116

*Records & Support*  
(608)266-4251, Rm. 116

*Zoning*  
(608)266-4266, Rm. 116

March 3, 2015

Mitchell R. Olsen  
Axley Brynelson, LLP  
2 East Mifflin Street  
Madison, WI 53703

RE: Oak Park Quarry LLC letter (former Vernon Mandt property)

This correspondence is in regards to your letter that you had sent to me on February 4, 2015 with the heading: *Open Records Request*. The letter did not request any open records but in fact request an opinion as to whether an existing mineral extraction site qualifies as a non-conforming use. My analysis of the matter is as follows:

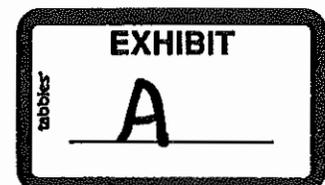
The property in question is known as the Oak Park Quarry which located at 3528 Oak Park Road, Section 29, in the Town of Deerfield. There is a mineral extraction operation located on the property operating under Conditional Use Permit #2103. The 181-acre property was owned by Vernon Mandt from 1959 until 2010 when it was sold to the current owner, Oak Park Quarry, LLC.

In 1969, property owners were given the opportunity to submit information on the location of existing mineral extraction sites so that sites could be recorded as existing land uses prior to the adoption of new mineral extraction ordinances. At the time, the new ordinance amendment (#1163) would change mineral extraction activities from a permitted use to a use requiring a conditional use permit. The change would make existing sites non-conforming uses.

The record shows that N. Carpenter and Son had tried to register the Vernon Mandt Property located in Section 29 of the Town of Deerfield for a "rock quarry comprising of 10 to 15 acres of rock". (See exhibit A). The Zoning Supervisor (Administrator) in 1969, William Massarene, reviewed aerial photography for the requested site and denied the property for registration. The registration report notes "no" as being accepted as an existing site. (See exhibit B). The area was not mapped in the Non-conforming Mineral Extraction Maps and not included in as a non-conforming site.

In looking at the 1968 photo, it appears that N. Carpenter and Son were trying to identify a quarry located on the Kelley property in Section 29. The photo clearly shows an existing active quarry but unfortunately it is not part of the Vernon Mandt Property. (See exhibit C) The Kelley property was not submitted as part of registration.

In 1969, Dane County Zoning Supervisor William Massarene determined that the Mandt property was not an existing mineral extraction site and thus not registered as a non-conforming site. It



appears from the historic records that this determination was not disputed by Vernon Mandt in 1969 or in any future years.

Further, the record shows that Vernon Mandt kept all of the land use activities on his property in compliance with Dane County Code of Ordinances from 1969 to the time he sold the property in 2010. He obtained a mineral extraction permit M81-61, in 1981 to allow mineral extraction. (See exhibit D). Mr. Mandt continued to obtain conditional use permits (CUP) throughout the years for mineral extraction to keep his property in conformance with current zoning regulations. He obtained CUP #427 in 1985, CUP #1316 in 1995, and CUP #1757 in 2002. Mr. Mandt also obtained the current conditional use permit, CUP #2103 that allows the extraction of non-metallic minerals on the property to date. (See exhibit E).

The current owner, Oak Park Quarry LLC, is operating a mineral extraction site on the property under the conditions of CUP 2103. There is a communication tower on the property that is allowed under CUP 1596. The remaining land is being agriculturally cropped which is permitted by right in the A-1 Exclusive Agriculture Zoning District. All land uses that are being conducted on the former Mandt property appear to be in compliance with Dane County Code of Ordinances.

My review finds that the property and its activities located at 3528 Oak Park Road, Section 29, in the Town of Deerfield are in conformance with the Dane County Zoning Ordinance. The property does not contain any non-conforming uses.

I have reviewed all the information that you have sent me over the last few months that gives a historic perspective on the Mandt property. The area that is referenced in the Stantec report has never been included as a registered non-conforming mineral extraction site. The referenced area is included in the boundaries of the current conditional use permit #2103 and is deemed to be compliance with current Dane County Zoning Ordinances. (See exhibit F)

In summary, the record shows that the property was never included as a non-conforming mineral extraction site; determination was never disputed as not being a non-conforming site; the previous owner did his due diligence to keep all of the land use activity on his property in conformance with current Dane County Code of Ordinances. The property does not contain a non-conforming use.

I hope this information provides value to you and your client.

Respectfully,



Roger Lane  
Dane County Zoning Administrator

Cc:  
Oak Park Quarry, LLC  
Assistant Zoning Administrator Daniel Everson  
Planning and Development Director Todd Violante  
Assistant Corporation Counsel David Gault  
Town of Deerfield Clerk



AXLEY BRYNELSON, LLP

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MITCHELL R. OLSON  
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608.283.6724

February 4, 2015

VIA HAND DELIVERY

RECEIVED

FEB 4 2014

DANE COUNTY PLANNING & DEVELOPMENT

Mr. Roger Lane  
Dane County Zoning Administrator  
City-County Building, Room 116  
210 Martin Luther King, Jr., Blvd.  
Madison, WI 53703

RE: *OPEN RECORDS REQUEST*  
Our Client: Mr. Jon Halverson

Dear Mr. Lane:

This follows the meeting held with you, Attorney Charles V. Sweeney, and the undersigned, on January 5, 2015 regarding the Oak Park Quarry in the Town of Deerfield, Wisconsin. At that time, we presented to you a package of Affidavits documenting our client's position that the Oak Park Quarry should qualify as a non-conforming use. At that time we promised that we would be supplying an additional Affidavit from Mr. Jeff Kraemer, at Stantec, which included historical aerial photographic analysis.

Enclosed please find Mr. Kraemer's Affidavit as well as a disk containing the Exhibits and aerial photographs which are referenced in his Affidavit.

At this time, we have submitted to you all of our supplemental information relative to this issue. We refer you back to our letter of September 25, 2014, seeking establishment of a non-conforming use.

We formally request that you, as Dane County Zoning Administrator, issue a written opinion as to whether this site qualifies as a non-conforming use. Please supply your written opinion in that regard to the undersigned at your earliest convenience. Thank you for your attention to this matter.

Sincerely,

AXLEY BRYNELSON, LLP

Mitchell R. Olson  
MRO/tmd  
Enclosures

cc: Attorney Charles V. Sweeney  
Mr. Jon Halverson  
Attorney David Gault, Corporation Counsel Dane County (via U.S. mail w/encl.)

# N. CARPENTER and SON

LIMESTONE PRODUCTS

CAMBRIDGE, WISCONSIN 53523

PHONE 608 — 423-3635

✓ (4)

VERNON MANROT (OWNER)

Sign X

Vernon Mandt

TOWN OF DEERFIELD

SECTION # 29

STARTED IN  
1859

ROCK QUARRY COMPRISING 10 TO 15  
ACRES OF ROCK

N. W. 1/4 ~~1/4~~ N. W. 1/4

EXHIBIT A

MINERAL EXTRACTION REGISTRATION

TOWN Deerfield SECTION 29

OWNER Vernon Mandt

REGISTERED BY N. Carpenter and Son

DESCRIPTION OF LAND REGISTERED NE 1/4 NW 1/4

ZONING DISTRICT A-1

ZONING DEPARTMENT VERIFICATION

<u>1/4</u>	<u>AERIAL PHOTO NO.</u>	<u>PHOTO EVIDENCE</u>	<u>FIELD EVIDENCE</u>	<u>ACCEPTED</u>
<u>NE 1/4 NE 1/4</u>	<u>1JJ-88</u>	<u>-</u>	<u>-</u>	<u>no</u>
<u>_____</u>	<u>_____</u>	<u>_____</u>	<u>_____</u>	<u>_____</u>
<u>_____</u>	<u>_____</u>	<u>_____</u>	<u>_____</u>	<u>_____</u>
<u>_____</u>	<u>_____</u>	<u>_____</u>	<u>_____</u>	<u>_____</u>
<u>_____</u>	<u>_____</u>	<u>_____</u>	<u>_____</u>	<u>_____</u>

COMMENTS \_\_\_\_\_

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\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

EXHIBIT B



EXHIBIT C

10:18 AM

MINERAL EXTRACTION PERMIT - DANE COUNTY, WISCONSIN

The undersigned hereby applies for a permit to extract mineral resources in Dane County as required by Chapter 10.12 (2) (a) of the Dane County Ordinances. The undersigned declares that the statements made below are true and that the proposed mineral extraction is in full compliance with all laws and ordinances applicable thereto.

LAND

TOWN DIERFIELD SECTION 29 QUARTER SE NW 1/4 NE SW ACREAGE 10 ±  
 HIGHWAY OAK PARK RD. WIDTH 66 CLASS C FRONTAGE \_\_\_\_\_  
 OWNER \_\_\_\_\_ CONTRACTOR \_\_\_\_\_  
VERNON MANDT RUDE SAND + GRAVEL, INC.  
3522 OAK PARK RD 1942 U.S.H. 12  
DIERFIELD, 53531 CAMBRIDGE, WI, 53523

PUBLIC HEARING

DISTRICT A-2 Agr. LAND USES (600 FEET FROM EXCAVATION) \_\_\_\_\_  
AGRICULTURAL  
 READY-MIX PLANT No HOT BLACK TOP MIX PLANT No  
 PUBLIC HEARING REQUIRED No INSPECTION — HEARING —  
 DECISION OF ZONING, PLANNING & WATER RESOURCES COMMITTEE —

OPERATION INFORMATION

TYPE OF EXTRACTION QUARRY AREA OF EXCAVATION 10 ACRES ±  
 DISTANCE FROM RIGHT OF WAY OF HIGHWAY \_\_\_\_\_ TOPSOIL STOCKPILED YES  
 WASHING OPERATION NO SOURCE OF WATER — ESTIMATED \_\_\_\_\_  
 DAILY QUANTITY — DISPOSITION —  
 EXCAVATION TO WATER PRODUCING DEPTH — (If excavated to water producing level, excavation must be continued to at least three (3) feet below water line).  
 SITE PLAN SUBMITTED \_\_\_\_\_ ESTIMATED STARTING DATE \_\_\_\_\_ ESTIMATED TERMINATION DATE \_\_\_\_\_  
 RECLAMATION PLAN SUBMITTED YES PROPOSED LAND USE AFTER TERMINATION PROBABLE FIELD-LOT, CATTLE AREA

SIGNED AS PER LETTER  
 (Owner - Agent)

PERMIT ISSUED 4-29-81 EXPIRES 4-29-85 PERMIT NUMBER MS1-61

William Fleck  
 Zoning Supervisor

INSPECTION

DATE \_\_\_\_\_ COMMENT \_\_\_\_\_  
 DATE \_\_\_\_\_ COMMENT \_\_\_\_\_  
 DATE \_\_\_\_\_ COMMENT \_\_\_\_\_  
 DATE \_\_\_\_\_ COMMENT \_\_\_\_\_

TERMINATION INSPECTION \_\_\_\_\_ COMPLIANCE WITH TERMINATION AND RECLAMATION PLA \_\_\_\_\_

EXHIBIT D



Dane County Zoning Division  
City-County Building  
210 Martin Luther King, Jr., Blvd., Room 116  
Madison Wisconsin 53703  
(608) 266-4260

EXHIBIT E

**DANE COUNTY**  
**CONDITIONAL USE PERMIT #2103**

THE ZONING AND LAND REGULATION COMMITTEE OF THE DANE COUNTY BOARD PURSUANT TO SECTION 10.255(2) OF THE DANE COUNTY CODE OF ORDINANCES DOES HEREBY:

GRANT Conditional Use Permit #2103 for a Mineral Extraction Site pursuant to Dane County Code of Ordinance Section 10.194 and subject to any conditions contained herein.

EFFECTIVE DATE OF PERMIT: MARCH 24, 2009

THE CONDITIONAL USE SHALL BE LOCATED ON THE PROPERTY DESCRIBED AS FOLLOWS: 3522 Oak Park Road, Town of Deerfield, Dane County, Wisconsin.

**Parcel # 0712-293-8000-2**

**Description:**

Part of the SE  $\frac{1}{4}$  NW  $\frac{1}{4}$ , Section 29, Town of Deerfield described as follows: Commencing at the southeast corner of the Northwest quarter of said Section 29, thence West along the South line of said NW  $\frac{1}{4}$  to the centerline of Oak Park Road and the Southwest corner of the SE  $\frac{1}{4}$  NW  $\frac{1}{4}$  of said Section 29; thence North along the West line of the SE  $\frac{1}{4}$  NW  $\frac{1}{4}$  of Section 29, 150 feet to the point of beginning; thence North along the West line of the SE  $\frac{1}{4}$  NW  $\frac{1}{4}$  of Section 29, 820 feet; thence east 1010 feet; thence S23 degrees West, 580 feet; thence South parallel to the West line of the SE  $\frac{1}{4}$  NW  $\frac{1}{4}$  of Section 29, 280 feet; thence West 770 feet to the point of beginning.

**Also:**

Part of the SE  $\frac{1}{4}$  NW  $\frac{1}{4}$  and part of the NE  $\frac{1}{4}$  SW  $\frac{1}{4}$ , Section 29, Town of Deerfield described as follows: Commencing at the Southeast corner of the Northwest quarter of said Section 29; thence West along the South line of said NW  $\frac{1}{4}$  to the centerline of Oak Park Road and the Southwest corner of the SE  $\frac{1}{4}$  NW  $\frac{1}{4}$  of said Section 29; thence North along the West line of the SE  $\frac{1}{4}$  NW  $\frac{1}{4}$  of Section 29, 150 feet to the point of beginning. Thence East 800 feet; thence South parallel to the West line of the SE  $\frac{1}{4}$  NW  $\frac{1}{4}$  and the NE  $\frac{1}{4}$  SW  $\frac{1}{4}$  of Section 29, 550 feet; thence West 800 feet; thence North along the West line of the NE  $\frac{1}{4}$  SW  $\frac{1}{4}$  and the SE  $\frac{1}{4}$  NW  $\frac{1}{4}$  of Section 29, 550 feet to the point of beginning.

**CONDITIONS:**

1. The applicant shall submit an erosion control plan covering the entire CUP area for the duration of operations, and receive approval of an erosion control permit prior to commencing extraction operations.
2. Reclamation shall meet the requirements of Chapter 74 of the Dane County Code of Ordinances.

**(Page 2, CUP 2103)**

3. The applicant shall apply for and receive all other required local, state and federal permits.
4. Operations shall cease no later than 10 (ten) years from the date of CUP approval.
5. The driveway accessing the subject site shall be paved for a distance of at least 100 feet from the public road. The operator shall maintain the driveway in a dust free manner in accordance with local, state, and federal regulations, and shall clean any dust or mud tracked onto public roads.
6. The haul route will be Oak Park Road South to USH 12.
7. The access to the driveway shall have gates securely locked when the extraction site is not in operation. The site shall be signed "no trespassing."
8. Hours of operation shall be from 6:00 a.m. to 6:00 p.m., Monday through Friday, and from 7:00 a.m. to 1:00 p.m. on Saturdays. No operations of any kind shall take place on Sundays or legal holidays.
9. There shall be a safety fence around the entire extraction area at all times. That safety fence shall be a minimum of 5 feet in height with a single strand of barbed wire on the top.
10. No water shall be pumped or otherwise removed from the site.
11. There shall be no bulk fuel stored on site.
12. The operator shall require all trucks and excavation equipment to have muffler systems that meet or exceed then current industry standards for noise abatement.
13. The operator shall meet DNR standards for particulate emissions as described in NR 415.075 and NR 415.076.
14. The Zoning Administrator or designee may enter the premises of the operation in order to inspect those premises and to ascertain compliance with these conditions or to investigate an alleged violation. Unless the operation is in reasonable compliance with these terms of this approval, such approval is subject to amendment or revocation.

**THE ZONING AND LAND REGULATION COMMITTEE AFTER PUBLIC HEARING  
AND IN THEIR CONSIDERATION OF THE CONDITIONAL USE PERMIT MADE THE  
FOLLOWING FINDINGS OF FACT:**

1. That the establishment, maintenance and operation of the proposed conditional use will not be detrimental to or endanger the public health, safety, morals comfort or general welfare.
2. That the uses, values, and enjoyment of other property in the neighborhood for purposes already permitted will not be substantially impaired or diminished by the establishment, maintenance, and operation of the proposed conditional use.

(Page 3, CUP 2103)

3. That the establishment of the proposed conditional use will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district.
4. That adequate utilities, access roads, drainage and other necessary site improvements will be made.
5. That adequate measures will be taken to provide ingress and egress so designed as to minimize traffic congestion in the public streets.
6. That the proposed conditional use does conform to all applicable regulations of the district in which it is proposed to be located.

EXPIRATION OF PERMIT

In addition to any time limit established as a condition in granting this CUP, Section 10.25(2)(n) of the Dane County Code of Ordinances provides that any use for which a conditional use permit has been issued, upon its cessation or abandonment for a period of one year, will be deemed to have been terminated and any future use shall be in conformity with the ordinance.



0 250 500 1,000 Feet



**Exhibit F**

Oak Park Quarry Property  
3528 Oak Park Road  
Town of Deerfield

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AFFIDAVIT OF SHARON L. HALVERSON

---

STATE OF WISCONSIN    )  
  ) ss.  
COUNTY OF DANE )

Sharon L. Halverson, being duly sworn on oath, deposes and states as follows:

1. I am an adult resident of the state of Wisconsin.
2. I make this affidavit on the basis of my personal knowledge of the facts set forth herein.
3. I was born in 1941.
4. I grew up on a farm located on Schadel Road, which is approximately 1 mile south of US Hwy 12 just off County Hwy W. We lived on that farm until 1956, when we moved closer to Stoughton.
5. My father, Hartman Midthun, worked for the Dane County Highway Department for approximately ten years, 1956 through 1966.
6. When we lived on Schadel Road, we would travel north on County W, cross Hwy 12, and continue north on Oak Park Road, as the main route into Deerfield. I recall making that trip several times a week throughout my childhood.
7. I specifically recall, when travelling on Oak Park Road during the 1940's and 1950's, that there was a Quarry on the east side of the Road. That Quarry was approximately 2½ miles from my home.

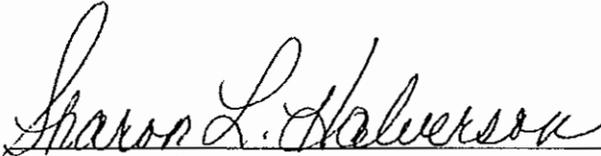


8. I have continued to live in the area and have frequently visited the Deerfield area my entire life. The Quarry that I remember was on land just to the north of the Oak Park Quarry boundaries as they now appear.

9. Attached hereto as Exhibit A is an aerial photo which I understand to be taken in 1955. I have reviewed that photo. I recognize many landmarks on that photo.

10. I have marked a "Q" on Exhibit A at the precise area where I recall the Quarry which existed in the 1940's and continuing into the 1950's.

11. I recall truck traffic on a periodic basis utilizing the quarry in the 1940's and 1950's.

  
Sharon L. Halverson  
801 Haskell Court  
Stoughton, WI 53589  
608.873.8786

Subscribed and sworn to before me this  
1<sup>st</sup> day of December, 2014.

  
Notary Public, State of Wisconsin  
My commission expires: in person

1955

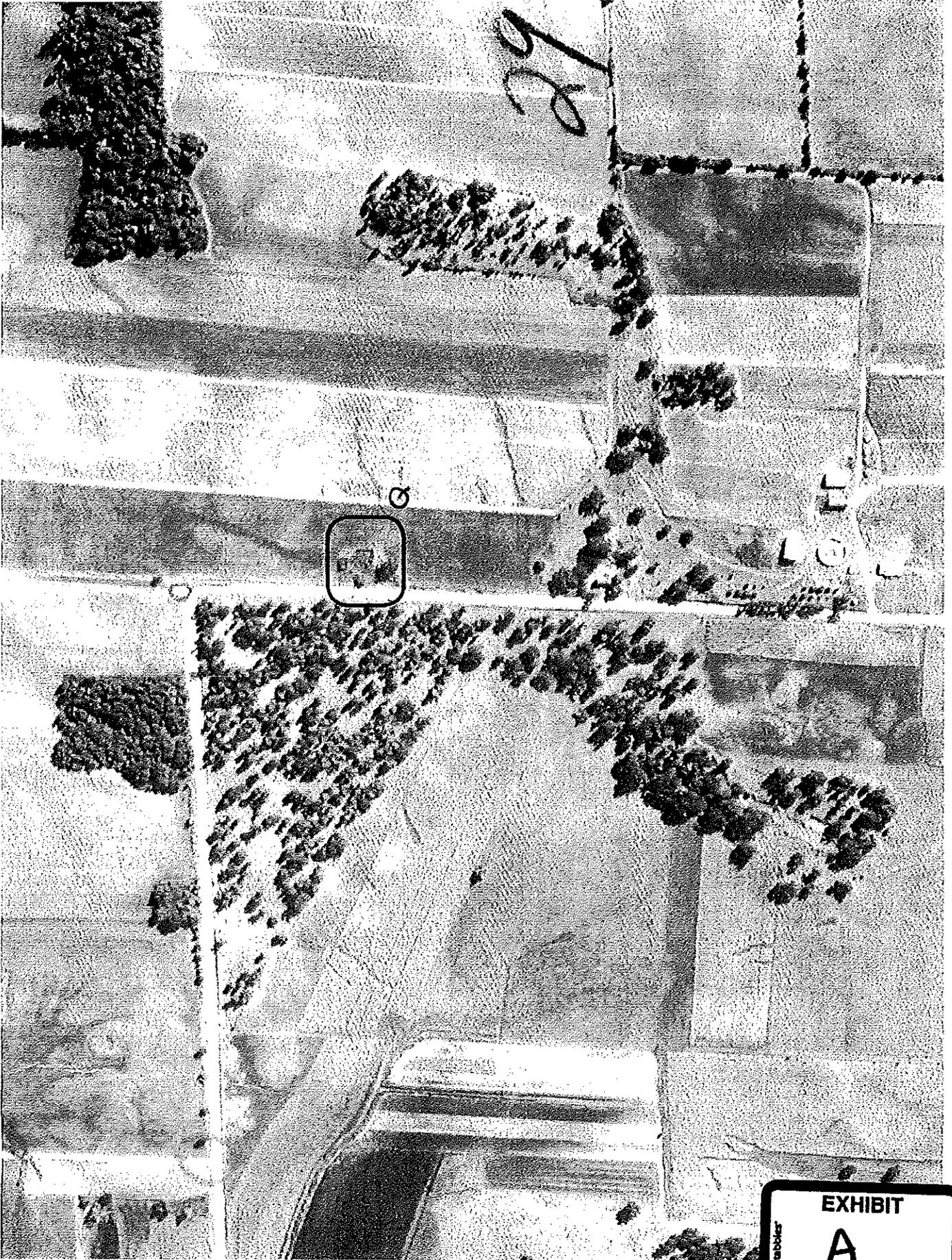


EXHIBIT  
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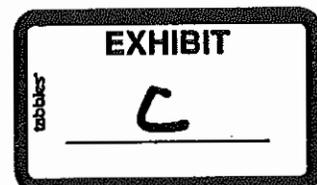
AFFIDAVIT OF DONALD STRAND

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STATE OF WISCONSIN    )  
                                  ) ss.  
COUNTY OF DANE        )

Donald Strand, being duly sworn on oath deposes and states as follows:

1. I am an adult resident of the state of Wisconsin.
2. I make this affidavit on the basis of my personal knowledge of the facts set forth herein.
3. I was born in 1933. I am 81 years old.
4. I grew up in Deerfield, WI and lived in that area continuously for my first 42-43 years until I divorced in 1974 or 1975.
5. After my divorce, until the present date, I have periodically travelled through Deerfield. I would Deerfield on a weekly basis to visit family and friends in that community.
6. I frequently (multiple times per week) traveled on Oak Park Road, north of US Hwy 12, from the 1940s into the 1970's. Thereafter, I have periodically (approximately once a week), traveled on that route.
7. I remember the presence of a Quarry on Oak Park Road back into the 1940's and 1950's. The Quarry also was subject to ancillary activities, including trucking.
8. Attached hereto as Exhibit A is an aerial photo which I understand to be taken in 1955. I have reviewed that photo. I recognize many landmarks on that photo. I have marked a "PH" on the old Prescott Home on the east side of Oak Park Road. That home was abandoned and caved in years later. I have marked a "PF" on the old Prescott Farm to the south of the



Prescott Home. I have marked a "RB" on the Round Barn further to the south, which barn was later destroyed by a tornado.

9. I have marked a "Q" on Exhibit A at the precise area where I recall the Quarry which existed beginning in the 1940's and continuing into the 1950's.

10. Attached hereto as Exhibit B is a blow-up of the 1955 Aerial Photo. This photo focuses on the Quarry area I have identified. I can clearly see on this photo man-made linear rock walls that are clear evidence of this Quarry. I have a recollection of these rock walls dating back at least to the 1950's.

11. Attached hereto as Exhibit C is a 1968 Aerial Photo. This photo shows the same area as Exhibit A. I have marked a "Q" on this Exhibit to show where the Quarry existed. This photo appears to show some increase in vegetation at the Quarry site.

12. During my working career, I often worked in the quarry business.

13. I at one time worked for Carl Rude at what was then called the Mandt Quarry. Carl Rude asked me to come work for him. I told him he could not afford me. Nevertheless, I did work for Rude for one entire summer season. My best recollection is that I worked for Rude in 1981. The Quarry at which I worked on a daily basis was the exact same quarry referenced above on Oak Park Road.

14. I recall around the early 1980's considering an attempt to buy out Carl Rude with a partner. We would have acquired a lease, as part of that buy-out, on the Quarry I have identified above.

15. I have been aware, since I was a child, of another quarry now called the "Kelly Quarry." Attached hereto as Exhibit D is a map showing the location of the Kelly Quarry. I recall that the Kelly property was previously owned by the Lee Family. My father told me that

the Deerfield Community Festival occurred on that Lee Family Farm back in the 1920's. There is a cemetery north of the Kelly Quarry and the original driveway to the Kelly Quarry runs along the west line of the cemetery. I have been aware of that cemetery and surrounding land at all times.

16. I am certain that the Kelly Quarry is not the same as the Quarry I have identified just east of Oak Park Road. They are separate and distinct quarries which both existed dating back to the 1940's and 1950's. The Kelly Quarry was not the only Quarry in that area.



Donald Strand  
420 Lum Avenue  
Waterloo, WI 53594  
920.220.9665

Subscribed and sworn to before me this  
1<sup>st</sup> day of December, 2014.



Notary Public, State of Wisconsin  
My commission expires: is per

1955



EXHIBIT  
A

1955



EXHIBIT  
B

1968



EXHIBIT  
C

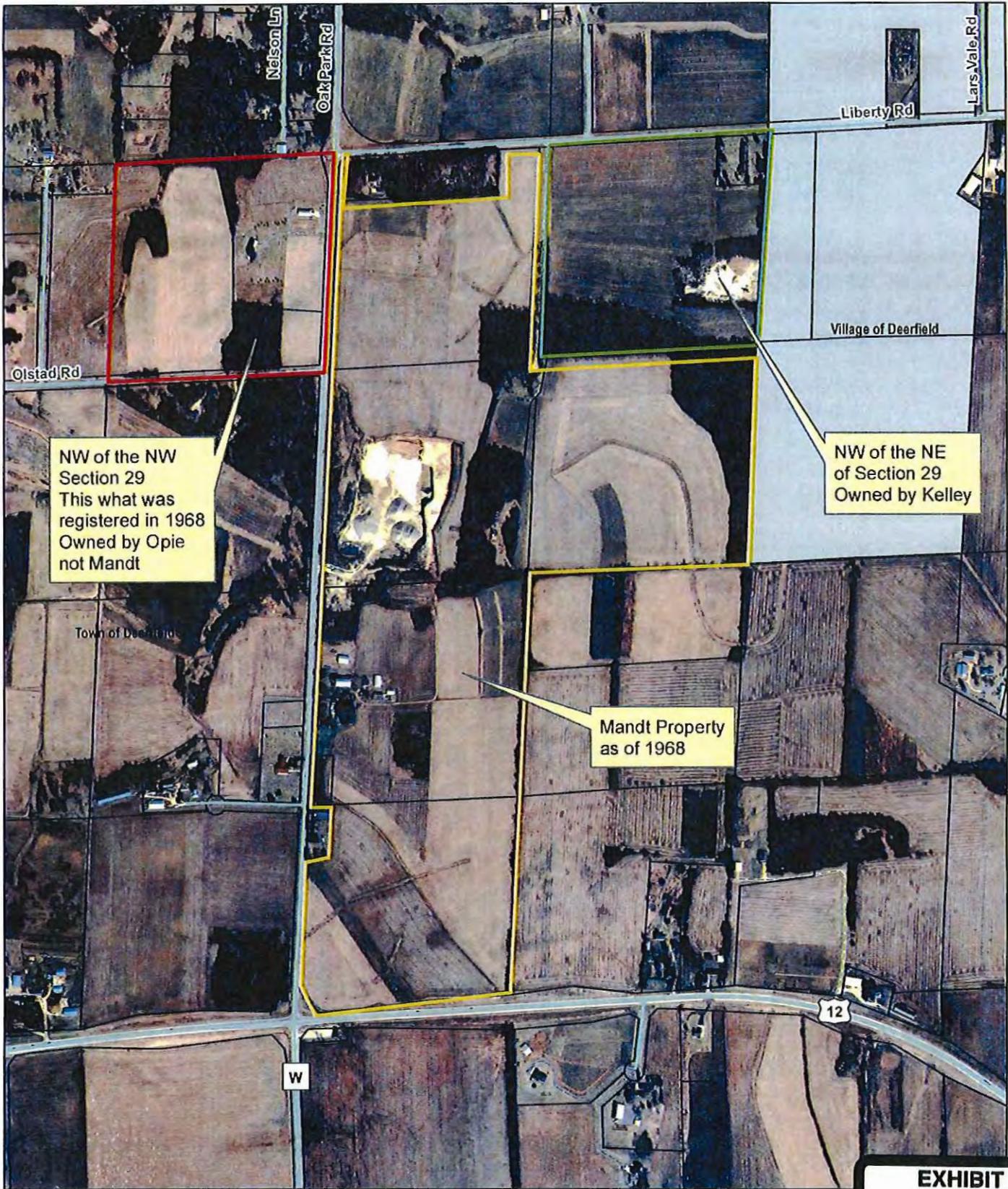
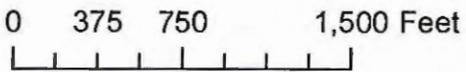


EXHIBIT  
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Legend

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AFFIDAVIT OF PHYLLIS SYVRUD

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STATE OF WISCONSIN    )  
  ) ss.  
COUNTY OF DANE        )

Phyllis Syvrud, being duly sworn on oath deposes and states as follows:

1. I am an adult resident of the state of Wisconsin. I currently reside in Lake Windsor WI.

2. I make this affidavit on the basis of my personal knowledge of the facts set forth herein.

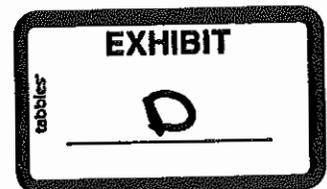
3. I was born in 1935. I am 79 years old.

4. I grew up in Deerfield, WI and lived in that area continuously for my first 16 years until approximately 1951.

5. During the period from the 1800's to 1951, my family owned a Farm on the east side of what is now called Oak Park Road. The farm was just to the north of the Lutheran Church which sits on the west side of the road. I lived on that farm until 1951.

6. I remember the presence of a Quarry on the land just to the north of our Farm House, on the east side of what is now Oak Park Road.

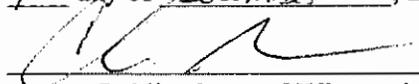
7. Attached hereto as Exhibit A is an aerial photo which I understand to be taken in 1955. I have reviewed that photo. I recognize many landmarks on that photo. There is marked a "PH" on the old Prescott Home on the east side of Oak Park Road. There is marked a "Q" on Exhibit A at the precise area where I recall the Quarry which existed during the period from the mid-1940's to early 1950's.

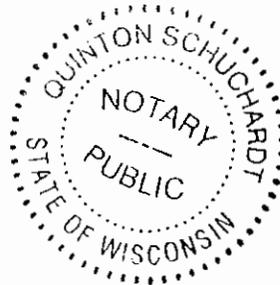


8. Attached hereto as Exhibit B is a blow-up of the 1955 Aerial Photo. This photo focuses on the Quarry area I have identified. I can clearly see on this photo man-made linear rock walls that are clear evidence of this Quarry. I have a recollection of these rock walls dating back to the period of the mid-1940's to early 1950's. I recall that the floor level of the quarry was at the approximate elevation of the adjacent road. The quarry had been cut into the hillside to the east. I recall the tallest walls in the quarry were approximately twenty (20) feet high.

  
Phyllis Syvrud

Subscribed and sworn to before me this  
9<sup>th</sup> day of December, 2014.

  
Notary Public, State of Wisconsin  
My commission expires: 2, 12, 2018



1955



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EXHIBIT  
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EXHIBIT  
B

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AFFIDAVIT OF JOHN PRESCOTT

---

STATE OF WISCONSIN    )  
                                  ) ss.  
COUNTY OF DANE        )

John Prescott, being duly sworn on oath deposes and states as follows:

1. I am an adult resident of the state of Wisconsin. I currently reside near Rio, WI.
2. I make this affidavit on the basis of my personal knowledge of the facts set forth herein.
3. I was born in 1936. I am 78 years old.
4. I grew up in Deerfield, WI and lived in that area continuously for my first 15 years until approximately 1951.
5. During the period from the 1800's to 1951, my family owned a Farm on the east side of what is now called Oak Park Road. The farm was just to the north of the Lutheran Church which sits on the west side of the road. I lived on that farm until 1951.
6. I remember the presence of a Quarry on the land just to the north of our Farm House, on the east side of what is now Oak Park Road.
7. Attached hereto as Exhibit A is an aerial photo which I understand to be taken in 1955. I have reviewed that photo. I recognize many landmarks on that photo. There is marked a "PH" on the old Prescott Home on the east side of Oak Park Road. There is marked a "Q" on Exhibit A at the precise area where I recall the Quarry which existed during the period from the mid-1940's to early 1950's.



8. Attached hereto as Exhibit B is a blow-up of the 1955 Aerial Photo. This photo focuses on the Quarry area I have identified. I can clearly see on this photo man-made linear rock walls that are clear evidence of this Quarry. I have a recollection of these rock walls dating back to the period of the mid-1940's to early 1950's. I recall that the floor level of the quarry was at the approximate elevation of the adjacent road. The quarry had been cut into the hillside to the east. I recall the tallest walls in the quarry were approximately twenty (20) feet high.

  
\_\_\_\_\_  
John Prescott

Subscribed and sworn to before me this  
4<sup>th</sup> day of December, 2014.

  
\_\_\_\_\_  
Notary Public, State of Wisconsin  
My commission expires: 1-18-2015

1955



EXHIBIT  
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EXHIBIT  
B

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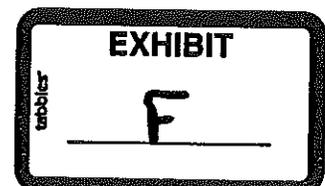
AFFIDAVIT OF RICHARD ERICKSON

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STATE OF WISCONSIN            )  
  ) ss.  
COUNTY OF WAUKESHA        )

Richard Erickson, being duly sworn on oath deposes and states as follows:

1. I am an adult resident of the state of Wisconsin. I currently reside near Milton, WI.
2. I make this affidavit on the basis of my personal knowledge of the facts set forth herein.
3. I was born in 1958. I am 56 years old.
4. I grew up on a farm in the Town of Rutland, Dane County, WI and have lived in or near Dane County my entire life.
5. My father worked in the limestone business throughout his adult life.
6. I have worked in the sand, gravel, limestone and road building business since I was 14 years old, and continue to do so at the present time.
7. During my youth, I would frequently accompany my father during his work day and would assist him with his work at various quarry sites.
8. I remember the presence of a Quarry in the Town of Deerfield on the east side of Oak Park Road, north of Hwy 12. You could drive right into the quarry off of Oak Park Road. I remember it as the Karl Rude Quarry because I believe he was then operating that quarry.
9. I remember being present with my father working in that Karl Rude Quarry during years 1966 - 1968 when I was ages 8-10. I specifically remember helping my father crush



limestone in that quarry. I remember Karl Rude kept an old crusher in that quarry. I also remember there being vertical rock walls in that quarry.

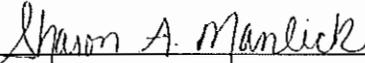
10. Attached hereto as Exhibit A is an aerial photo which I understand to be taken in 1968. I have reviewed that photo. I recognize many landmarks on that photo, including a long tobacco shed to the west of the Lutheran Church on Oak Park Road. I recall my father and I had worked on that tobacco shed. I also recognize the farm owned by my uncle at the intersection of Oak Park Road and County BB.

11. There is marked a "Q" on Exhibit A at the precise area where I recall the Quarry which existed in the time period from 1966-68.

12. The area marked with a "Q" on the aerial photo is consistent with my memory of the quarry described in this Affidavit, in terms of size and location.

  
Richard Erickson

Subscribed and sworn to before me this  
23 day of December, 2014.

  
Notary Public, State of Wisconsin  
My commission expires: 9/17/2017

1968



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EXHIBIT  
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AFFIDAVIT OF ROBERT RIEGE

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STATE OF WISCONSIN    )  
  ) ss.  
COUNTY OF DANE    )

Robert Riege, being duly sworn on oath deposes and states as follows:

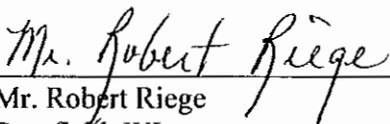
1. I am an adult resident of the state of Wisconsin.
2. I make this affidavit on the basis of my personal knowledge of the facts set forth herein.
3. I was born in 1955 and am 60 years old.
4. I am currently Chairman of the Town Board for the Town of Deerfield. I have served in that capacity for the past 14 years. Immediately prior thereto, I served as Town Clerk and Treasurer for 26 years. My service to the Town totals 40 years as of 2015.
5. I have lived in the Town of Deerfield since 1959.
6. Over the past 50 years, I have been familiar with the segment of Oak Park Road running north from US Highway 12, including the farmstead on the east side of Oak Park Road which was owned by the Prescott and Mandt families. I recall travelling that segment on a regular basis since the mid 1960's, when as a boy, I would ride bikes and drive motor bikes in that immediate area.
7. I have the recollection today of the presence of a Quarry on the east side of Oak Park Road dating back 50 years, to approximately 1965.
8. Attached hereto as Exhibit A is a set of aerial photos, both a wider view and a close-in view, which I understand was taken in 1968. I specifically recall the landscape and



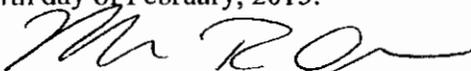
structures depicted in these photographs. I have marked a "Q" on both pages at the area where I recall a quarry being present at that time.

9. At the Quarry location, I remember that I could see man made disturbance to the landscape, including a vertical rock wall at least 15-20 feet in height.

10. Dating back to the 1960s, I was also familiar with a quarry to the east of the Quarry discussed above. It was known as the Kelly Quarry. The Quarry marked on Exhibit A, and discussed herein, was separate and distinct from the Kelly Quarry.

  
\_\_\_\_\_  
Mr. Robert Riege  
Deerfield, WI

Subscribed and sworn to before me this  
24th day of February, 2015.

  
\_\_\_\_\_  
Notary Public, State of Wisconsin  
My commission expires: 10 p.m.



tabbles  
**EXHIBIT**  
A





I support require various levels of recent and historic aerial photograph review and interpretation to understand historic and recent land uses, and effects on specific landforms and environmental resources. I have served as an expert witness for aerial photographic interpretation on behalf of the Lake Koshkonong Wetlands Association in Rock Koshkonong Lake District, et al v. WDNR, 2006 CV 1846 (and administrative law proceedings prior) to assess historic and recent shoreline erosion, wetland community types and changes over time, and water-level fluctuations. In addition, I have served as an expert witness in a similar capacity in support of Margaret van Boldrik v. Wahabuddin Syed, et al (Dane County case no. 2006 cv 1617) to assess recent and historic land uses involving a property line dispute. Furthermore, my day to day job responsibilities include overseeing more than 100 environmental staff within Stantec. This includes mentoring and training staff in various aspects of their job duties including historic and recent aerial photograph interpretation and field verification and assessment.

6. I have been retained as an expert consultant on behalf of Mr. Jon Halverson and Oak Park Quarry, LLC.

7. I was asked to address whether historical aerial photography focused on an area to the east of Oak Park Road in the Town of Deerfield, Wisconsin, depicted evidence of man-made disturbances consistent with a quarry type land use.

8. I collected and reviewed the following aerial photographs:

- a. 1937 Aerial Photograph (sourced from the Robinson Map Library at the University of Wisconsin-Madison 1940 Aerial Photograph (sourced from National Archives and Records Administration, College Park, MD).
- b. 1949 Aerial Photograph (sourced from Dane County)
- c. 1955 Aerial Photograph (sourced from the Robinson Map Library at the

University of Wisconsin-Madison)

- d. 1962 Aerial Photograph (sourced from the Robinson Map Library at the University of Wisconsin-Madison)
- e. 1968 Aerial Photograph (sourced from the Robinson Map Library at the University of Wisconsin-Madison)
- f. 1976 Aerial Photograph (sourced from the Robinson Map Library at the University of Wisconsin-Madison)
- g. 1980 Aerial Photograph (sourced from the Robinson Map Library at the University of Wisconsin-Madison)

9. Discuss observations of key photos.

- a. 1937 Aerial Photograph. The subject area clearly has a different land use than the adjacent lands which were in agricultural crop production. The subject area was not in crop production and appears vegetated. The boundaries between the crop land use and the non-crop land use are not symmetrical and form a thumb shaped feature projecting northeast from Oak Park Road. The subject area is relatively clear of trees, with the presence of a larger tree obvious in the southeast portion. A fairly linear feature is apparent projecting northeast into the subject area connecting to Oak Park Road and forms a somewhat horseshoe shape into the subject area which may be an access route. There appears to be abrupt topographic changes along the perimeter of the linear feature within the subject area that appear to be man-induced activity within the area. Along the east central portion of the subject area a light colored linear feature is

apparent. This may be some type of rock outcropping that was present at the time.

- b. 1940 Aerial Photograph. In 1940 the land use within the subject area and surrounding land use remain similar as 1937 with distinct boundaries between crop land and the non-cropped subject area. The large tree in the southeastern portion is still present. The linear feature identified in 1937 as a potential rock outcropping is no longer visible. Most notably, a linear feature with right angles along the central portion of the eastern perimeter of the subject area is present which includes the area in 1937 where the potential rock outcrop was identified. Right angles are defined by this linear feature in the central portion of the eastern perimeter, the linear feature is then continuous along the entire eastern perimeter of the subject area extending at approximate 45 degree angles nearly to Oak Park Road at both the north and southern extents of the subject area. There appears to be an abrupt topographic difference along the edges of this linear feature that were not noted in 1937 at this location. The access path identified in 1937 near the southwest portion of the subject area connecting from Oak Park Road into the central portion of the area is distinct. See Exhibit B of 1940 aerial photograph with features described above labeled.
- c. 1947 Aerial Photograph. The 1947 aerial photograph is of lower resolution than the previous and details within the subject area are more difficult to discern. The land use difference and boundaries within the subject area and adjacent lands are consistent with previous years. The

large tree still remains in the southeast portion of the site and vegetation appears to be herbaceous. There are distinctly darker shades and shadowing effects within the central portion of the subject area with distinct unnatural borders, projecting towards the perimeter of the subject area indicating abrupt topographic changes.

- d. 1955 Aerial Photograph. In 1955 the land use differences and boundaries within the subject area and surrounding land use remain similar as previous years. The large tree in the southeastern portion is still present and the subject area is largely void of trees. The linear feature with right angles identified in 1940 is present along the central portion of the eastern perimeter of the subject area. There appears to be a shrub or tree line developing along the perimeter of this linear feature, further highlighting the linear nature and right angles. Within the northern portion of the subject area there appears to be a new linear feature with right angles developed. Based on color variations and shadowing effects, the subject area appears to have distinct topographic variations within the interior portion of the subject area extending from Oak Park Road to the defined linear features, with the interior appearing distinctly lower in elevation.
- e. 1962 Aerial Photograph. In 1962 the land use differences and boundaries within the subject area and surrounding land use remain similar as previous years. The large tree in the southeastern portion is still present. The linear feature with right angles identified in 1940 is present along the central portion of the eastern perimeter of the subject area. Shrub and/or

tree growth within the subject area is developing and the linear features identified in previous years have become slightly obscured by the vegetation growth, although still identifiable.

- f. 1968 Aerial Photograph. In 1968 the land use differences and boundaries within the subject area and surrounding land use remain similar as previous years. Further development of tree and shrub cover has occurred throughout the subject area, nearly covering the majority of the area. The linear feature and right angle identified in previous years in the central portion of the eastern perimeter remain evident and define the establishing tree line. Similarly the linear features extending from this area at approximate 45 degree angles define the tree line at those locations.
- g. 1976 Aerial Photograph. In 1976 the land use differences and boundaries within the subject area and surrounding land use remain similar as previous years. The tree canopy has continued to mature and covers the majority of the subject area. Of note, there is an area in the northeast/central portion of the subject area where trees that were present in 1968 are not present in 1976. The southern and eastern edges of this area are linear and form a right angle at their conjunction. This particular area is consistent with the distinct lower lying area identified in previous years and lies inside of the linear features that were first identified in the 1940 aerial photograph.
- h. 1980 Aerial Photograph. In 1980 the land use differences and boundaries within the subject area and surrounding land use remain similar as

previous years. The tree canopy has continued to mature and covers the majority of the subject area. Similar to 1976, there is an area in the northeast/central portion of the subject area where trees that were present in 1968 are not present in 1980. The southern and eastern edges of this area are linear and form a right angle at their conjunction. This particular area is consistent with the distinct lower lying area identified in previous years and lies inside of the linear features that were first identified in the 1940 aerial photograph and were prevalent in other years.

#### 10. Impressions / Conclusions

Based on my review of the available historic aerial photographs I can make the following conclusions relevant to past mining related activities within the subject area. There is strong evidence suggesting that man-induced activities of various degrees have occurred within the subject area throughout the duration of the available aerial photographs (1937-1980). These signatures are not consistent with agricultural uses or land uses adjacent to the subject area. Signatures identified on the aerial photographs are consistent with features often associated with mining activities. Most notably, the linear features that first appeared in the 1940 imagery appear to be the result of soil stripping, excavation, berm construction. The access path commencing from Oak Park Road from the southwest portion of the subject area into the central portion of the area is indicative of repetitive and maintained access to the areas with constructed features. There is distinct and abrupt topographic breaks along the perimeter of the central portions of the subject area that are consistent with signatures often associated with the headwall of a quarry site. These features are particularly evident in the 1940 and 1955 imagery.

Specifically within the area immediately interior (west) to the linear feature, there appears to be a flattened surface that lies at a lower elevation than the linear feature. This is indicative of surface soil stripping that may have been stripped for future mining activities while the linear feature is indicative an earthen berm where the stripped top soil was placed. Furthermore, within the interior portion of the linear feature, slightly west of the potentially stripped surface there is a distinct and somewhat irregular signature indicative of an abrupt change in topography that is consistent with a headwall. This could indicate that the central portion of the subject area was actively being mined with the intent to continue expansion of mining activities to the east where the apparent surface stripping and berm construction may have occurred. There appears to be a contiguous access path from this apparent headwall southwest to Oak Park Road, further indicating repeated access to this location within the subject area.

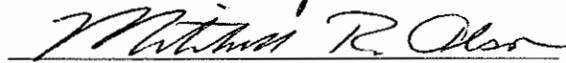
Beyond 1955, the subject area appears to have developed tree and shrub growth. However, the linear feature potentially associated with surface stripping and/or a headwall continues to be a distinct feature and seems to delineate the edge of the tree canopy. By 1968, much of the subject area appears to have developed tree coverage. Of interesting note, in the 1976 imagery, a clearing within the northeastern/central portion of the subject area is apparent and coincides with the apparent headwall location identified in 1955 subsequent to the tree growth. This area is also noted in the 1980 imagery.

In summary, based on review of the historic aerial photographs, there is clear indication of man-induced activity within the subject area, including activities that involved

reshaping the land surface, repetitive access to specific portions of the subject area from Oak Park Road, and removal of vegetation including trees in later years. The signatures identified and activities likely resulting in such signatures are consistent with activities involved in mining or quarry development. In my opinion the most plausible cause of the identified signatures was a result of mining activities.

  
Jeff Kraemer

Subscribed and sworn to before me this  
3<sup>rd</sup> day of February, 2015.



Notary Public, State of Wisconsin

My commission expires: is perm.

# N. CARPENTER and SON

LIMESTONE PRODUCTS

CAMBRIDGE, WISCONSIN 53523

PHONE 608 — 423-3635

✓ (4)

VERNON MANOT (OWNER) <sup>See X</sup>

Vernon Mandt

TOWN OF DEERFIELD

SECTION # 29

STARTED IN  
1859

ROCK QUARRY COMPRISING 10 TO 15  
ACRES OF ROCK —

N. W. OF ~~1/4~~ N. W. 1/4.

16



MINERAL EXTRACTION REGISTRATION

TOWN Deerfield SECTION 29

OWNER Vernon Mandt

REGISTERED BY N. Carpenter and Son

DESCRIPTION OF LAND REGISTERED NW 1/4 NW 1/4

ZONING DISTRICT A-1

ZONING DEPARTMENT VERIFICATION

<u>1/4 1/4</u>	<u>AERIAL PHOTO NO.</u>	<u>PHOTO EVIDENCE</u>	<u>FIELD EVIDENCE</u>	<u>ACCEPTED</u>
<u>NW 1/4 NE 1/4</u>	<u>1JJ-88</u>	<u>-</u>	<u>-</u>	<u>Yes</u>
<u>_____</u>	<u>_____</u>	<u>_____</u>	<u>_____</u>	<u>_____</u>
<u>_____</u>	<u>_____</u>	<u>_____</u>	<u>_____</u>	<u>_____</u>
<u>_____</u>	<u>_____</u>	<u>_____</u>	<u>_____</u>	<u>_____</u>
<u>_____</u>	<u>_____</u>	<u>_____</u>	<u>_____</u>	<u>_____</u>

COMMENTS \_\_\_\_\_

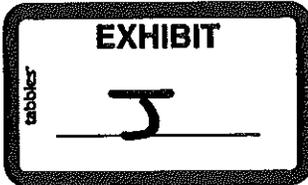
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\_\_\_\_\_





WisDOT DTSD  
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Truax Materials Lab  
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Madison, WI 53704

Scott Walker, Governor  
Mark Gottlieb, P.E., Secretary  
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E-mail:[thomas.brokaw@dot.wi.gov](mailto:thomas.brokaw@dot.wi.gov)

April 25, 2014

MITCHELL R. OLSON  
AXLEY BRYNELSON, LLP  
PO BOX 1767  
MADISON, WI 53701-1767

Dear Mr. Olson,

In response to your April 16, 2014 Open Records Request regarding the Mandt Quarry, the enclosed documents listed below are all the documents currently maintained by the Department related to the subject quarry.

1. "1987 TO PRESENT AGGREGATE INFORMATION IN ORDER BY DEPOSIT AND COUNTY" report dated 13:43, Thursday, November 1, 1990, page 84.
2. "1989 TO PRESENT AGGREGATE INFORMATION IN ORDER BY COUNTY AND DEPOSIT" report dated 10:37, Thursday December 17, 1992, page 34.
3. "1995 TO PRESENT AGGREGATE INFORMATION IN ORDER BY DEPOSIT AND COUNTY" report dated 16:04, Tuesday, January 12, 1999, page 71.

The information requested under item 2) is significantly past the department's record disposal authorization(RDA). Accordingly, we are not in possession of that document.

Sincerely,

Thomas F. Brokaw  
Materials Laboratory Supervisor

Cc: Joan Meier  
Peg Schmitt



1987 TO PRESENT AGGREGATE INFORMATION

13:43 THURSDAY, NOVEMBER 1, 1990 84

IN ORDER BY DEPOSIT AND COUNTY

D E P O S I T	C O U N T Y	T E S T I N G	T E S T	T E S T	A G G	Q U A R R Y	Q U A R R Y	Q U A R R Y	Q U A R R Y	R A N G E	R A N G E	S O L A R	S O L A R	O L D M S R	S A W E D S R	
		F I C S T	I D N D E	T Y P E		SW	NE	SE	NE	W	W	W	W	F C P E	R O N O	
LEMANSKE	GRANT	AGG	247	0062	90	QUARRY	SW	NE	32	6	1	W	23.5	29.9	76	7.3
LEMANSKE	GRANT	AGG	247	0101	90	QUARRY	SW	NE	32	6	1	W	10.5	26.6	56	6.3
LEMANSKE	GRANT	AGG	247	0102	90	QUARRY	SW	NE	32	6	1	W	11.8	27.1	49	6.5
LEMANSKE	GRANT	AGG	217	0255	90	QUARRY	SW	NE	32	6	1	W	7.8	32.7	74	8.6
LEMANSKE	GRANT	AGG	217	0256	90	QUARRY	SW	NE	32	6	1	W	6.6	31.5	75	8.1
LEMANSKE	GRANT	AGG	217	0257	90	QUARRY	SW	NE	32	6	1	W	21.4	33.5	68	8.8
LEMANSKE	GRANT	AGG	217	0258	90	QUARRY	SW	NE	32	6	1	W	11.2	33.8	78	9.2
LEMANSKE	GRANT	AGG	247	0272	90	QUARRY	SW	NE	32	6	1	W	20.2	29.4	52	7.0
LEMANSKE	GRANT	AGG	247	0275	90	QUARRY	SW	NE	32	6	1	W	11.9	28.1	49	6.5
LEYER	WOOD	PCC	162	1686	88	PIT	W	2	25	3	E	5.1	27.0	70	99	
LIBERTY POLE	VERNON	AGG	217	0251	90	QUARRY	NE	NW	30	12	4	W	18.0	47.1	76	15.1
LIETZKE	EAU CLAIRE	AGG	217	0478	88	PIT	SW	NE	2	27	6	W	3.8	22.0	72	38
LIME & CEMENT	DODGE	AGG	247	0169	90	QUARRY	SE	SW	18	13	17	E	1.0	31.4	66	7.4
LISSNER	TAYLOR	AGG	247	0215	88	PIT	N	SW	27	32	1	E	3.0	20.0	88	32
LONGHORN MINE	LAFAYETTE	AGG	217	0168	89		NE	NW	25	1	1	E	3.7	31.0	87	0.0
LONGRIDGE	CLARK	AGG	217	0054	90	PIT	NE	9	27	2	W	3.2	19.0	63	44	
LONGRIDGE	CLARK	PCC	162	1381	87	PIT	SW	NW	10	27	2	W	0.1	16.0	20	94
LOSINSKI	TREMPEALEAU	PCC	162	0445	89	QUARRY			0	0	0	T	1.5	45.0	100	99
LOTZ	MARATHON	PCC	161	0748	89	QUARRY			13	27	7	E	0.1	15.0	100	98
LUNDSTRUM	DANE	AGG	217	0016	89	QUARRY	S	SW	17	5	12	E	1.0	34.0	61	0.0
LUPPINO	ASHLAND	AGG	217	0139	90	PIT	NW	NW	4	46	2	E	10.9	28.0	78	82
LYCON		PCC	161	0502	88	PIT			0	0	0		0.0	0.0	0	98
LYCON (BLAU)	COLUMBIA	PCC	162	0611	87	PIT	NE	SE	2	11	9	E	0.4	29.0	55	68
LYCON (BREUNIG)	DANE	PCC	162	0612	87	PIT	SW	7	9	7	E	0.4	27.0	60	77	
LYCON MAT'L		AGG	216	0266	88				0	0	0		0.0	56	13	0.0
LYCON-SAUK CITY		PCC	162	1021	90				0	0	0		4.0	31.0	52	76
LYNUM	PIERCE	AGG	217	0302	90	QUARRY	NW	NE	34	27	16	W	4.9	38.7	88	8.8
H. DONSKEY	MONROE	PCC	162	0298	87	QUARRY	NE	SE	11	16	3	W	0.7	38.0	100	100
MADISON CONC. PIPE	DANE	PCC	161	0543	88	PIT			0	0	0		2.7	28.0	0	86
MADISON STONE	DANE	PCC	161	1632	87	QUARRY		NE	17	8	10	E	0.9	33.0	100	98
MADISON STONE #1	DANE	AGG	217	0129	88	QUARRY		NE	17	8	10	E	1.6	38.0	61	0.0
MADISON STONE #1	DANE	PCC	161	0506	88	QUARRY		NE	17	8	10	E	1.1	33.0	100	99
MADISON STONE #1	DANE	PCC	162	0834	90	PIT		NE	17	8	10	E	2.5	34.0	100	100
MADISON STONE #2	DANE	AGG	217	1122	87	QUARRY		NE	14	7	10	E	2.6	38.0	56	0.0
MADISON STONE #2	DANE	AGG	217	0130	88	QUARRY		NE	14	7	10	E	2.1	38.0	60	0.0
MADISON STONE #2	DANE	PCC	161	0507	88	QUARRY		NE	14	7	10	E	1.0	29.0	100	95
MADISON STONE NO.2	DANE	AGG	217	0480	87	QUARRY		NE	14	7	10	E	2.1	39.0	58	0.0
MAHR	CHIPPEWA	AGG	267	0055	89	PIT	W	NW	32	29	5	W	2.3	18.0	84	35
MALDNE	IRON	AGG	217	0396	87	PIT	NW	SE	6	42	4	E	1.8	19.0	60	34
MANCHESTER		PCC	161	0443	89	PIT			0	0	0		2.5	26.0	100	100
MANDY	DANE	AGG	217	0050	88	QUARRY	NW	SW	29	7	12	E	5.0	35.0	59	0.0
MANDY	DANE	AGG	217	0708	87	QUARRY		SW	0	7	12	E	4.0	34.0	63	0.0
MANITOWOC S & G	MANITOWOC	PCC	162	0140	87	PIT		NE	33	17	21	E	0.6	35.0	35	95
MANITOWOC S & G	MANITOWOC	PCC	162	0468	88	PIT			33	17	21	E	0.8	33.0	55	90
MANITOWOC S. & G.	MANITOWOC	PCC	162	0444	89	PIT			33	17	21	E	0.4	34.0	32	95
MANITOWOC S&G	MANITOWOC	PCC	162	0326	87	PIT			33	17	21	E	0.1	32.0	58	90

## IN ORDER BY COUNTY AND DEPOSIT

COUNTY=DANE  
(continued)

D E P O S I T	F I L E	T E S T I D E	T E S T N O	T E S T Y P E	A G G T Y P E	Q U A R Y	O U A R Y	S E C T O R Y	T O W N	R A N G E	R A N G E	S O U N D	L A W	D O L O M	S A N D S	W E A R	
																	4
GASTON (OLSON)	AGG	217	0150	89	QUARRY	S	NW	4	7	11	E	7.2	47.0	.	.	45	0.0
HAMMERSLEY #2	AGG	217	0115	91	QUARRY	SW	NE	18	6	9	E	1.6	37.1	.	.	58	9.6
HANLEY	AGG	217	0142	90	QUARRY	NW	NE	34	9	11	E	7.2	37.3	.	.	43	9.1
HANSEN	AGG	217	0308	90	QUARRY	NW	SW	16	6	6	E	2.2	50.4	.	.	59	17.2
HANSEN	PCC	162	1117	90	QUARRY	SE	NW	16	8	12	E	7.2	43.0	100	100	95	.
HENSEN	AGG	247	0069	91	QUARRY	NE	SW	16	8	12	E	.	34.7	.	.	89	9.5
HERMAN ERB	PCC	161	0725	89	PIT		NW	22	8	11	E	8.0	43.0	0	0	100	.
KAMPMEIER	PCC	161	1034	92	QUARRY	SW	SW	26	7	10	E	8.4	41.0	100	100	87	.
KAMPMEIER	PCC	162	1040	92	QUARRY	SW	SW	26	7	10	E	0.0	0.0	0	0	98	.
KAMPMEIER	PCC	162	1041	92	QUARRY	SW	SW	26	7	10	E	0.0	0.0	0	0	98	.
KAMPMEIER	PCC	162	1042	92	QUARRY	SW	SW	26	7	10	E	0.0	0.0	0	0	98	.
KAMPMEIER	PCC	162	1052	92	QUARRY	SW	SW	26	7	10	E	0.0	0.0	0	0	100	.
KRUEGER	AGG	217	0018	90	QUARRY	SW	SW	3	6	11	E	15.0	30.7	.	.	70	7.4
KRUGER	AGG	217	0031	90	QUARRY	SE	SW	3	6	11	E	2.4	31.0	.	.	88	8.9
KRUGER	AGG	217	0032	90	QUARRY	SE	SW	3	6	11	E	13.8	31.3	.	.	87	6.8
KRUGER	AGG	217	0033	90	QUARRY	SE	SW	3	6	11	E	2.0	30.0	.	.	98	7.1
KRUGER	AGG	217	0076	90	QUARRY	SE	SW	3	6	11	E	17.9	32.3	.	.	81	7.7
LUNDSTRUM	AGG	217	0016	89	QUARRY	S	SW	17	5	12	E	1.0	34.0	.	.	61	0.0
MADISON STONE	PCC	162	1000	91			NE	17	8	10	E	0.3	32.0	100	100	88	.
MADISON STONE #1	PCC	162	0834	90	PIT		NE	17	8	10	E	2.5	34.0	100	100	96	.
MANDT	AGG	217	0255	91	QUARRY		SW	29	7	12	E	3.8	35.3	.	.	58	8.2
MARTY	AGG	247	0022	89	PIT		NW	9	6	8	E	1.5	29.0	91	.	48	0.0
MATSON	AGG	217	0287	91	PIT		SW	10	5	11	E	4.4	33.0	85	.	72	0.0
MAUER PIT	AGG	247	0198	89			SW	8	6	8	E	1.9	32.0	94	.	54	0.0
MC CARTHY	PCC	161	0312	89	PIT		SE	33	8	11	E	2.9	31.0	0	0	100	.
MC CARTHY	PCC	162	0371	89	PIT		SE	33	8	11	E	1.5	30.0	62	91	97	.
MIDTHUN	AGG	247	0053	91	PIT		SE	22	8	9	E	1.8	30.0	64	.	96	0.0
NOLDEN	AGG	217	0125	90	QUARRY		SE	32	5	8	E	5.5	41.2	.	.	86	9.6
NORSLIEN (YAHARA)	AGG	217	0236	90	QUARRY		SW	2	7	6	E	1.0	36.0	.	.	59	8.4
OVERGAARD	AGG	247	0030	89	PIT		SE	14	9	9	E	1.4	29.0	91	.	42	0.0
OVERGAARD #2	PCC	162	0968	89	PIT		SE	14	9	9	E	2.9	32.0	0	0	98	.
RANSEY	AGG	217	0264	91	QUARRY		NE	6	5	12	E	0.4	31.1	.	.	99	7.5
REINDAHL	AGG	217	0126	92	QUARRY		NW	24	5	9	E	3.4	37.9	.	.	66	10.0
RILEY	AGG	267	0254	89	QUARRY		NE	7	8	12	E	22.0	28.0	.	.	89	0.0
RILEY	AGG	267	0283	89	QUARRY		NE	7	8	12	E	27.6	30.0	.	.	87	0.0
SCHY	AGG	217	0101	89	QUARRY		NE	30	9	11	E	5.3	38.0	.	.	49	0.0
SCHUETZ	AGG	217	0013	92	QUARRY		NE	26	6	10	E	3.3	37.1	.	.	64	9.9
SCHUETZ	PCC	161	1047	92	QUARRY		NE	26	6	10	E	3.0	36.0	98	100	97	.
URBAN	AGG	217	0219	89	QUARRY		SE	24	7	7	E	2.0	41.0	.	.	54	0.0
VOLENBERG	AGG	217	0070	89	PIT		NE	19	6	12	E	5.8	37.0	63	.	47	0.0
VOLENBERG	AGG	217	0011	90	QUARRY		NE	19	6	12	E	6.1	29.3	.	.	59	6.9
VOSS	AGG	217	0089	89	QUARRY		SW	14	7	8	E	5.5	30.0	.	.	55	0.0
WINGRA	AGG	217	0144	90	QUARRY		NW	14	6	6	E	4.2	48.0	.	.	75	15.3
WINGRA HENSEN	AGG	217	0227	89	QUARRY		NE	16	8	12	E	1.7	32.0	.	.	71	0.0

1995 TO PRESENT AGGREGATE INFORMATION

15:04 Tuesday, January 12, 1999 71

IN ORDER BY DEPOSIT AND COUNTY

D E P O S I T	C O U N T Y	T E S T T Y P E	T E S T N O	T E S T Y P E	A G G R E G A T E	Q U A R R Y	Q U A R R Y	S E C T I O N	R A N G E	R A N G E	S O U N D	L A W E A R	D O L O M F I T C P E	S A N D S T O N E	W E A R I N G					
																F O O T	F O O T	F O O T	F O O T	F O O T
MADISON STONE #1	DANE	PCC	162	0127	96	QUARRY	SW	NE	17	8	10	E	0.6	33.0	0	0	98	.	.	
MADISON STONE #2	DANE	PCC	162	0009	95			NE	14	7	10	E	1.2	27.0	0	0	95	.	.	
MANDT	DANE	AGG	217	0009	98	QUARRY	NW	SW	29	7	12	E	4.0	46.5	.	.	87	.	11.6	
MANITOWOC SAND AND	MANITOWOC	PCC	162	0069	98	GRAVEL		SE	33	17	21	E	0.5	30.0	0	0	96	.	.	
MANITOWOC SAND AND	MANITOWOC	PCC	162	0070	98	GRAVEL		SE	33	17	21	E	0.3	28.0	0	0	86	.	.	
MANKOWSKI	JEFFERSON	AGG	267	0177	95	PIT			9	6	13	E	1.6	31.9	.	.	97	.	7.6	
MANKOWSKI	JEFFERSON	AGG	217	0008	98	QUARRY	SE	SE	4	6	12	E	1.3	27.3	.	.	96	.	6.3	
MANN BORS-PADDOCK	WALWORTH	PCC	162	0025	98			E	SE	1	3	16	E	5.5	29.0	0	0	99	.	.
MANN-NELSON	WALWORTH	PCC	162	0017	97	PIT		W	SE	20	4	16	E	1.1	25.0	0	0	97	.	.
MANTHEY	JUNEAU	AGG	247	0043	95	PIT		SE	SE	27	17	7	E	2.2	29.5	98	.	53	.	7.5
MANTHEY	JUNEAU	AGG	247	0068	95	PIT		SE	SE	27	17	7	E	.	0.0	.	.	.	.	0.0
MANTHEY	JUNEAU	AGG	247	0069	95	PIT		SE	SE	27	17	7	E	.	0.0	.	.	11	.	0.0
MANTHEY	JUNEAU	PCC	161	0001	95	PIT		SE	27	17	7	E	1.0	28.0	0	0	98	.	.	
MANTHEY	ADAMS	PCC	162	0071	98	PIT		SE	27	17	7	E	1.7	29.0	0	0	94	.	.	
MARBLEHEAD	DODGE	PCC	162	0060	96	QUARRY			7	14	18	E	2.4	31.0	0	0	98	.	.	
MARSDLEK	BUFFALO	PCC	162	0155	97	QUARRY			0	0	0		1.6	45.0	0	0	95	.	.	
MARUM	BUFFALO	AGG	217	0136	97	QUARRY	SW	NW	36	23	11	W	2.3	41.5	.	.	87	.	9.3	
MARUM	BUFFALO	AGG	217	0137	97	QUARRY	SW	NW	36	23	11	W	3.0	44.6	.	.	42	.	12.7	
MATERIAL SERVICES		PCC	162	0133	97	PIT			0	0	0		0.5	19.0	0	0	93	.	.	
MATERIAL SERVICES		PCC	162	0143	98	PIT			0	0	0		0.0	0.0	0	0	70	.	.	
MATERIALS SERVICES		PCC	162	0078	95	PIT			0	0	0		0.7	22.0	0	0	87	.	.	
MATERIALS SERVICES	LAFAYETTE	PCC	162	0110	96	PIT			0	0	0		1.0	20.0	0	0	94	.	.	
MATRISCH PIT	MARINETTE	AGG	217	0166	96				4	31	19	E	3.2	30.2	.	.	54	.	0.0	
MAUER	LAFAYETTE	AGG	217	0144	95	QUARRY	NE	NE	15	1	5	E	3.5	43.5	.	.	61	.	11.5	
MAYVILLE WHITELINE	DODGE	AGG	217	0064	98			SW	SW	0	11	16	E	1.5	30.6	.	.	60	.	6.7
MCC HWY 29 LEMHOUS	SHAWANO	PCC	161	0008	97	E		NW	SW	0	26	16	E	2.4	28.0	0	0	98	.	.
MCGARTY	VERNON	AGG	217	0162	96	QUARRY	NE	SE	7	14	2	W	2.4	36.9	.	.	67	.	10.2	
MCGLYNN	RICHLAND	AGG	217	0081	95	QUARRY	SE	SE	14	12	1	E	3.4	45.0	.	.	59	.	11.0	
MCKEEFRY	SHAWANO	AGG	217	0162	95	QUARRY			23	25	18	E	0.5	28.0	.	.	83	.	4.9	
MCKEEFRY	SHAWANO	PCC	161	0053	96	QUARRY			23	25	18	E	0.9	24.0	0	0	58	.	.	
MCKEEFRY	SHAWANO	PCC	161	0072	96	QUARRY			23	25	18	E	0.9	21.0	0	0	99	.	.	
MERGET S & G	WASHINGTON	AGG	217	0100	97			SW	19	9	20	E	1.7	30.8	76	.	44	.	0.0	
MERGET S & G	WASHINGTON	PCC	162	0203	98			SW	19	9	20	E	4.6	31.0	0	0	98	.	.	
MERGET S&G	WASHINGTON	AGG	217	0199	98			SW	19	9	20	E	1.6	30.5	.	.	62	.	6.8	
MEYERDEN	SHAWANO	AGG	217	0049	97	PIT			32	28	11	E	1.3	30.5	78	.	48	.	0.0	
MEYER	SALK	AGG	217	0104	98	QUARRY			35	12	3	E	3.1	37.2	.	.	59	.	10.2	
MEYER	WALSHARA	AGG	247	0288	97	PIT			27	20	9	E	4.7	47.3	67	.	85	.	5.3	
MICHAEL	GREEN	AGG	217	0015	98	QUARRY	NE	NW	11	1	6	E	2.5	38.2	.	.	69	.	10.6	
MICHEL'S MAT'L-KET	FOND DU LAC	PCC	162	0134	95	PIT		SW	4	13	19	E	1.2	36.0	0	0	98	.	.	
NICHEL'S	CHIPPEWA	PCC	162	0285	97	PIT		NE	6	30	8	W	1.3	28.0	0	0	100	.	.	
NICHEL'S # 41	SHEBOYGAN	PCC	162	0131	97	PIT			18	15	21	E	1.1	28.0	0	0	98	.	.	
NICHEL'S BECKER	WASHINGTON	PCC	162	0183	97	PIT		SW	SW	27	11	18	E	0.2	25.0	0	0	96	.	.
NICHEL'S KINLA	DZAUKEE	AGG	217	0341	98	PIT		SW	SE	7	11	21	E	1.5	32.7	95	.	49	.	8.4
NICHEL'S MAT'L-KERR	FOND DU LAC	AGG	217	0136	95	QUARRY		SW	4	13	19	E	3.2	34.0	72	.	54	.	0.0	
NICHEL'S MATERIALS		AGG	217	0241	98				0	0	0		0.4	27.5	.	.	65	.	5.5	
NICHEL'S MATERIALS	GREEN LAKE	AGG	247	0298	98	PIT		SW	SW	9	14	13	E	2.5	28.4	.	.	94	.	6.0
NICHEL'S PARADICE	WASHINGTON	AGG	217	0045	98	PIT		NE	NW	26	11	19	E	2.4	30.1	82	.	42	.	0.0

POSIT NAME	TYP	QR-QR-SN-TWN-RNG	TEST NUMBER	WR	SND	USE FOR	REMARKS
LEHNHERR, E.	GRY	SW-SW-34-06N-07E	2269-20-63	35	4.5	BIT AGG	
LEHNHERR, E.	GRY	SW-SW-34-06N-07E	2093-20-63	48	10.8	BIT AGG	
LEHNHERR E.	GRY	SW-SW-34-06N-07E	2-17-544-70	36	5.0	BASE	
LEHNHERR E.	GRY	SW-SW-34-06N-07E	2-17-162-71	37	4.9	BASE	
LEITZ	PIT	SE-SE-35-05N-12E	2071-8-62	39	9.5	PC CONC	KRUCKENBERG
LEITZ	PIT	SE-SE-35-05N-12E	2322-20-62	37	11.4	PC CONC	KRUCKENBERG
LEITZ	PIT	SE-SE-35-05N-12E	2410-20-62	35	5.7	BASE	KRUCKENBERG
LOFTSGORDON	PIT	NE-SE-33-08N-10E	2601-20-63	39	9.1	BASE	
LOWRY	PIT	NW-NW-17-05N-09E	2060-3-54	44		BASE	
LOWRY	PIT	SE-08-05N-09E	2198-3-58	46		BASE	
LUNDE	GRY	NE-NE-24-06N-11E	2-17-846-75	32	3.3	BASE	
MAD. STONE #1	GRY	NE-17-08N-10E	2-17-334-71	41	5.1	BASE	
MAD. STONE #1	GRY	NE-17-08N-10E	2-17-159-72	29	4.0	BASE	
MAD. STONE #1	GRY	NE-17-08N-10E	2-17-107-73	36	6.1	BASE	
MAD. STONE #1	GRY	NE-17-08N-10E	2-17-654-73	39	4.4	BASE	
MAD. STONE #1	GRY	SW-NE-17-08N-10E	2-17-408-74	32	1.9	BASE	
MAD. STONE #1	GRY	NE-NE-17-08N-10E	2-17-195-75	38	7.4	BASE	ALSO SW-NE
MAD. STONE #1	GRY	NE-17-08N-10E	2-17-169-77	34	1.8	CONC DECK	OVERLAY
MAD. STONE #1	GRY	NE-17-08N-10E	2-17-286-78	36	2.3	BASE	
MAD. STONE #1	GRY	NE-17-08N-10E	2-17-286-78	36	2.3	BASE	
MAD. STONE #1	GRY	NE-17-08N-10E	2-17-398-78	38	3.2	BALLAST	
MAD. STONE #1	GRY	NE-17-08N-10E	2-17-249-79	38	5.2	BASE	
MAD. STONE #1	GRY	NE-17-08N-10E	2-17-37-80	34	4.7	BASE	
MAD. STONE #1	GRY	NE-17-08N-10E	2-17-409-81	32	2.9	BASE	
MAD. STONE #2	GRY	SW-NE-14-07N-10E	2132-3-57	30		BASE	GEHRKE
MAD. STONE #2	GRY	SW-NE-14-07N-10E	2492-20-67	32	10.1	BASE	GEHRKE
MAD. STONE #2	GRY	SW-NE-14-07N-10E	2069-20-67A	30	6.4	BASE	GEHRKE
MAD. STONE #2	GRY	SW-NE-14-07N-10E	2-17-1154-69	29	9.9	BIT AGG	GEHRKE
MAD. STONE #2	GRY	SW-NE-14-07N-10E	2-17-767-72	32	9.1	BASE	GEHRKE
MAD. STONE #2	GRY	SW-NE-14-07N-10E	2-17-408-81	26	1.2	BASE	
MAD. STONE #3	GRY	SW-NW-26-08N-10E	2646-20-60	38	8.3	BASE	FESS, PERRY
MAD. STONE #3	GRY	SW-NW-26-08N-10E	2372-20-61	42	11.2	BASE	FESS, PERRY
MAD. STONE #3	GRY	SW-NW-26-08N-10E	2-17-655-70	33	1.4	BASE	FESS, PERRY
MAD. STONE #3	GRY	SW-NW-26-08N-10E	2-17-335-71	38	7.5	BASE	FESS, PERRY
MAD. STONE #4	GRY	NE-SW-02-07N-10E	2647-20-60	38	15.0	BASE	
MAD. STONE #4	GRY	NE-SW-02-07N-10E	2-23-753-75			BACKFILL	
MAD. STONE #5	GRY	NE-NE-30-09N-11E	2-17-584-69	44	19.2	BASE	HENSEN CLEM
MAD. STONE #6	GRY	SE-SE-10-08N-09E	2562-20-64A	40	10.1	BASE	BONG ROAD
MAD. STONE #6	GRY	SE-SE-10-08N-09E	2-17-433-73	38	13.3	BASE	BONG ROAD
MADISON STONE	GRY	SE-08-08N-10E	2019-8-45	44		BASE	
MADISON STONE	GRY	NE 18-08N-10E	2-17-37-80	34	4.7	BASE	
HANDT	PIT	SW-SE-09-07N-12E	2151-2-50	29		BASE	
HANDT	GRY	NW-NE-29-07N-12E	2023-3-53	39		BIT AGG	
MANKOWSKI	PIT	SE-SE-04-06N-13E	2-17-159-78	31	1.7	BASE	

EXHIBIT

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AXLEY BRYNELSON, LLP

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MITCHELL R. OLSON  
[molson@axley.com](mailto:molson@axley.com)  
608.283.6724

February 4, 2015

VIA HAND DELIVERY

Mr. Roger Lane  
Dane County Zoning Administrator  
City-County Building, Room 116  
210 Martin Luther King, Jr., Blvd.  
Madison, WI 53703

RE: Oak Park Quarry  
Our Client: Mr. Jon Halverson

Dear Mr. Lane:

This follows the meeting held with you, Attorney Charles V. Sweeney, and the undersigned, on January 5, 2015 regarding the Oak Park Quarry in the Town of Deerfield, Wisconsin. At that time, we presented to you a package of Affidavits documenting our client's position that the Oak Park Quarry should qualify as a non-conforming use. At that time we promised that we would be supplying an additional Affidavit from Mr. Jeff Kraemer, at Stantec, which included historical aerial photographic analysis.

Enclosed please find Mr. Kraemer's Affidavit as well as a disk containing the Exhibits and aerial photographs which are referenced in his Affidavit.

At this time, we have submitted to you all of our supplemental information relative to this issue. We refer you back to our letter of September 25, 2014, seeking establishment of a non-conforming use.

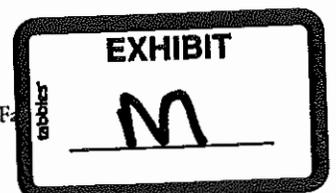
We formally request that you, as Dane County Zoning Administrator, issue a written opinion as to whether this site qualifies as a non-conforming use. Please supply your written opinion in that regard to the undersigned at your earliest convenience. Thank you for your attention to this matter.

Sincerely,

AXLEY BRYNELSON, LLP

Mitchell R. Olson  
MRO/tmd  
Enclosures

cc: Attorney Charles V. Sweeney  
Mr. Jon Halverson  
Attorney David Gault, Corporation Counsel Dane County (via U.S. mail w/encl.)





AXLEY BRYNELSON, LLP

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MITCHELL R. OLSON  
[molson@axley.com](mailto:molson@axley.com)  
608.283.6724

February 27, 2015

VIA EMAIL

Mr. Roger Lane  
Dane County Zoning Administrator  
City-County Building, Room 116  
210 Martin Luther King, Jr., Blvd.  
Madison, WI 53703

RE: Oak Park Quarry  
Our Client: Mr. Jon Halverson  
Our File No: 15066.71772

Dear Mr. Lane:

As you know, this firm represents Mr. John Halverson and Oak Park Quarry, LLC with respect to the Oak Park Quarry in the Town of Deerfield. We previously presented to you a set of affidavits at a meeting on January 5, 2015. We subsequently supplied the Affidavit of Jeff Kraemer with supporting documents on February 4, 2015. We are now submitting to you an additional Affidavit of Robert Riege and supporting documents, which are attached hereto.

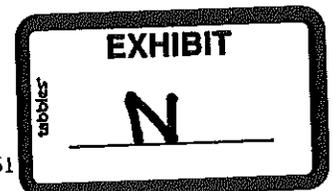
Upon your review of this new Affidavit, in combination with the other documents and information provided to your office previously, we ask that you please timely issue a written opinion with respect to the assertion that the subject site has legal non-conforming use status to operate as a non-metallic quarry in Dane County. Thank you for your attention to this matter.

Sincerely,

AXLEY BRYNELSON, LLP

Mitchell R. Olson  
MRO/tmd  
Enclosures

cc: Attorney Charles V. Sweeney (via email w/encl.)  
Mr. Jon Halverson (via email w/encl.)  
Attorney David Gault, Corporation Counsel Dane County (via email w/encl.)



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*AFFIDAVIT OF INTENT TO MINE*

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STATE OF WISCONSIN     )  
  )ss.  
COUNTY OF DANE         )

Vernon Mandt, being first duly sworn, on oath says:

1. That I am an adult resident of the state of Wisconsin.
2. That I reside at 3522 Oak Park Road, Deerfield, WI 53531.
3. I purchased the "Mandt Farm" in 1959 from my father.
4. The Mandt Farm consists of approximately 180 acres of land located in the NE ¼ of the NW ¼, SE ¼ of the NW ¼, NE ¼ of the SW ¼, SE ¼ of the SW ¼, SW ¼ of the NE ¼, all located in Section 29, Township 7 North, Range 12 East, Town of Deerfield, Dane County, Wisconsin; parcel nos. 0712-292-8011-0, 0712-292-9531-9, 0712-293-8000-2, 0712-293-9500-5, 0712-291-9001-1 (the "Property"),
5. I placed the Mandt Farm in the Mandt Living Trust, which is the current fee simple owner of the Property.
6. I am the Trustee of the Mandt Living Trust.
7. The Property was "registered" for mineral extraction with Dane County prior to April 16, 1969 by N. Carpenter and Son ("Carpenter").
8. I signed a copy of the registration, indicating that I wanted to have the Property registered with Dane County to permit mineral extraction.
9. Carpenter indicated that my property, the Mandt Farm, was the "N.W. of N.W. ¼" of Section 29; however, I did not own the NW ¼, NW ¼ of Section 29; rather I owned property in the NE ¼ of the NW ¼, SE ¼ of the NW ¼, NE ¼ of the SW ¼, and the SE ¼ of the SW ¼.
10. Carpenter erred when it indicated that the registration was for the NW ¼, NW ¼. The registration should have been for the NE ¼ of the NW ¼, SE ¼ of the NW ¼, NE ¼ of the SW ¼, and the SE ¼ of the SW ¼ of Section 29, Township 7 North, Range 12 East, Town of Deerfield, Dane County, Wisconsin.



11. The mining has always taken place on my farm and not at the incorrect legal description indicated on the registration.
12. A quarry has been operating on the Property since before April 16, 1969, when the site was registered with Dane County (the "Quarry"). In fact, to the best of my knowledge, there has been a quarry on the Property since 1859.
13. Since before April 16, 1969, aggregate has been consistently mined from the Property and I have always intended to mine the entire Property.
14. I respectfully request Dane County to correct the error in the legal description in the mineral extraction registration.

Jensen Mandt

Subscribed and sworn to before me  
this 13 day of October, 2010.

Patricia A. Winkler  
Notary Public, State of Wisconsin  
My Commission expires 11-7-10.

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