

BEFORE THE DANE COUNTY BOARD OF ADJUSTMENT

In the Matter of the Appeal of:

KRUEGER QUARRY LLC,
a Wisconsin limited liability company,
DALE KRUEGER and
R.G. HUSTON COMPANY, INC.,
a Wisconsin corporation,

Appeal No. 3708

Appellants.

**SUPPLEMENTAL EXHIBIT LIST OF KRUEGER QUARRY, LLC,
DALE KRUEGER AND R.G. HUSTON COMPANY, INC.**

The Appellants, Krueger Quarry, LLC, Dale Krueger and R.G. Huston Company, Inc.,
submit for consideration the following supplemental exhibits:

- 17. Mineral Lease Agreement; and
- 18. Memorandum of Lease.

Dated this 13th day of September, 2021.

BOARDMAN & CLARK LLP
By:

Electronically Signed by Richard L. Bolton

Richard L. Bolton, SBN: 1012552

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*Attorneys for Krueger Quarry LLC, Dale Krueger
and R.G. Huston Company, Inc.*

MINERAL LEASE AGREEMENT

THIS MINERAL LEASE is made and entered into this **6th day of August, 2002**, by and between Dale R. & Dwight D. Huston, adult residents of Dane County, Wisconsin (the "Hustons"), and Richard & Marlene Kreuger and Ronald Kreuger, adult residents of Dane County, Wisconsin (the "Kreugers").

WITNESSETH

WHEREAS, the Kreugers own certain real property located in the Town of Pleasant Springs, Dane County, Wisconsin, and wish to lease to the Hustons the mineral rights on said property to the Hustons and the Hustons wish to lease said rights and the parties wish to enter into a Mineral Lease Agreement;

NOW, THEREFORE, for the good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties enter into this Mineral Lease Agreement upon the following terms and conditions:

1. Lease.

The Kreugers grant the Hustons the exclusive right to lease, and the Hustons hereby agree to lease, all rights to mine minerals in and on certain real property owned by the Kreugers which is located North of Rinden Road in Section 3, T6N, R11E, Town of Pleasant Springs, Dane County, Wisconsin (the "Property").

As used in this Agreement, "minerals" shall mean the limestone rock and aggregate material currently located in or on the Property. The Hustons, its agents, invitees, customers, and employees shall have the right to: (a) enter upon the Property for the purpose of extracting the minerals; (b) operate crushing, screening, washing, stockpiling, storing and hauling activities and operate equipment necessary for those activities; (c) conduct blasting operations; and (d) erect any other structure, and operate any other equipment or conduct any other function deemed necessary by the Hustons to conduct its mining operations. The Hustons will be permitted to mine only in areas designated by the Kreugers.

2. Payment.

- (a) After the Commencement Date, the Hustons shall pay to the Kreugers, or to such other person or account as the Kreugers may direct in writing, royalties of [REDACTED] per ton for minerals actually removed from the Property. This royalty shall be paid monthly based on weight tickets for each load leaving the Property (No royalty will be paid for material being brought into the Property. Royalty will be paid for all materials leaving the Property. The Hustons agree to install and maintain a scale on site and to record and submit monthly load totals to the Kreugers.). The monies shall be paid within 30 days past the end of that month (In the

event that payment is not made within 30 days, the contract shall be come void at the option of the Kreugers.). Royalties will be based upon the Hustons removing a minimum of [REDACTED] ton of minerals annually. At the end of the calendar year if [REDACTED] tons are not removed, the Hustons will pay an advanced royalty on the difference between [REDACTED] tons and what tonnage was actually removed. This advanced royalty will be applied as a credit against the following years tonnage royalty as provided in paragraph 2(b).

- (b) As a credit against the tonnage royalty, the Hustons shall have the right to remove one ton or part of a ton of Minerals from the Property free of the tonnage royalty for each ton or part of a ton of the Minerals for which the Hustons previously paid an advance royalty. The credit shall be based upon the royalty per ton established in paragraph 2(a). In the event that the Hustons have a tonnage credit at the time of termination of this Agreement, the Hustons shall have six (6) months to remove said credited amount of tonnage.
- (c) The Hustons and the Kreugers shall mutually develop and keep a running ledger, which accounts for tonnage of minerals leaving the Property, royalties paid, advanced royalties paid, and royalty free tonnage due and used.

3. Term.

- (a) This Lease Agreement shall commence when all necessary permits have been issued for the mining operation (the "Commencement Date"), and for a period of two (2) consecutive years thereafter. Prior to the Commencement Date, the Hustons shall not mine or remove any minerals from the Property. The Kreugers shall be allowed to farm any portion of the Property, which is not being used for the Hustons mineral extraction operation.
- (b) The parties acknowledge that the Hustons shall incur substantial expense in time and money obtaining the necessary government entitlements before being able to develop the mineral rights which are the subject matter of this agreement. The Hustons expect to occupy the Property and exploit the mineral so as to recoup these expenses over time, to invest in and develop the Property to improve its economic viability, and to predicate their future business enterprise upon the expected availability of minerals from the Property. Furthermore, the parties acknowledge that the permits themselves shall have substantial value to the Kreugers and/or their successors or lessees in the future should the Hustons cease to occupy and use the Property under this agreement. Therefore, in order to promote the recoupment of their costs and to protect their investment in and commitment to the site, it is agreed

that the Hustons shall have the right to renew and extend this agreement for one (1) successive two (2) year term, provided that the Hustons have made all of the payments required under this Agreement and has otherwise complied with all terms, conditions, and provisions of the Agreement. Such option term may be exercised by the Hustons giving written notice to the Kreugers on or before ninety (90) days prior to the end of the current two (2) year period of their desire to extend this Lease.

- (c) In the event of renewal under paragraph 3(b) above, the royalty price for minerals shall be renegotiated between the parties for each renewal period. If the parties cannot agree upon a price, then a fair and reasonable price shall be established through arbitration. Each party shall select a qualified engineer and they shall determine by agreement a fair and reasonable price. If they cannot agree, then they shall appoint a third party qualified engineer whose price shall be final.
- (d) The Hustons may terminate this Lease by notifying the Kreugers in writing that there are insufficient remaining mineral deposits to support an economically viable mineral extraction operation.
- (e) The Hustons may not operate or haul material from the Property on Sundays without permission from the Kreugers.

4. Taxes and Insurance.

- (a) The Kreugers shall be responsible for prompt and timely payment of all taxes, special and area assessments and other charges associated with their ownership of the Property. The Hustons shall obtain general liability insurance in the minimum amount of \$1,000,000 for its employees, agents, customers, invitees and the general public governing actions taken on the Property under the terms of this Lease, and the Hustons shall name the Kreugers as additional insureds. The Kreugers assume no liability of any amount and no obligation whatever under this Lease except as specifically stated herein.
- (b) Each party will release and will hold each other harmless for any injuries liabilities, claims causes of action or judgments sustained by any persons or entity in connection with the performance of their respective obligations under this Lease.

5. Required Permits.

- (a) The Hustons will be responsible for applying for and securing all permits required to operate a mineral extraction operation on the Property. If granted, the Hustons will assume all obligations to perform fully under all the terms and conditions of all permits issued. The Kreugers agree to cooperate with the Hustons in

performing its obligations under any of these permits and to use their best efforts to support any effort by the Hustons to secure or alter the terms of any such permits if requested to do so by the Hustons, provided that the Hustons will initiate such change and bear full cost of any such changes.

- (b) The operation and restoration of the Property shall be at the expense of the Hustons and shall be conducted in accordance with the requirements of all permits. The owners will have the right to review and approve the proposed reclamation plan before it is submitted for county approval. A restoration bond shall be provided by the Hustons for the life of the Lease. The property shall be restored according to the county approved restoration plan.
- (c) If the Hustons are unable to secure the necessary permits to operate a mineral extraction operation on the Property, then upon written notice from the Hustons, this Lease Agreement shall be terminated, and the parties shall have no further obligations to each other.

6. Right to First Refusal.

- (a) In the event the Kreugers intend to sell the Property during the term of this Lease, having received a bona fide offer, then the Hustons shall be given written notice of intent and a copy of such offer and the Hustons shall have sixty (60) days thereafter to match the terms of said offer and to close on the terms and conditions and within the time frame set forth in the offer. This paragraph shall not apply to a bona fide conveyance of the Property by the Kreugers to any of their children or by conveyance of this Property due to death of either owner. This right of first refusal shall survive until exercised or until the actual closing of an accepted offer.

7. Termination for Cause.

- (a) Either party may terminate this Lease for breach by the other party of any of the material terms, covenants, and conditions hereof, provided that before such termination can be made, the non-breaching party shall mail to the breaching party by certified mail, return receipt requested, a sixty (60) day notice of intention to terminate said Lease, specifying the default for which termination is sought and affording the breaching party the opportunity to cure said default within said sixty (60) day period. If the Hustons are prohibited from conducting mining operations on the Property for any reason whatever, then this Lease may be terminated upon sixty (60) days' written notice from the Hustons to the Kreugers, and the Hustons shall pay all royalties due for material removed from the Property through the date of termination. The Hustons shall

reclaim the Property, which has been mined in accordance with the reclamation plan approved by the county.

8. Recording and Memorandum of Lease.

- (a) The parties agree that the Hustons may record either this Lease or a Memorandum of this Lease, which conforms to the requirements of section 706.05 of the Wisconsin Statutes, and the Kreugers will promptly execute such a Memorandum upon request.

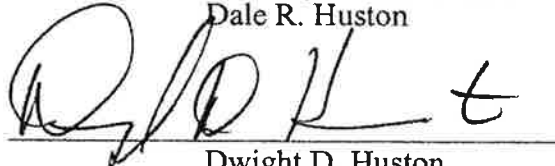
9. Entire Agreement, Binding Effect and Assignment.

- (a) This Agreement contains the entire Agreement between the parties. This Lease shall be binding upon the heirs, successors, legal representatives and assigns of the parties hereto and shall obligate and encumber the Property as to any subsequent assignees of the Kreugers.

IN WITNESS WHEREOF, the parties have entered into this Mineral Lease Agreement as of the date first above written.



Dale R. Huston



Dwight D. Huston



Richard Kreuger



Marlene Kreuger




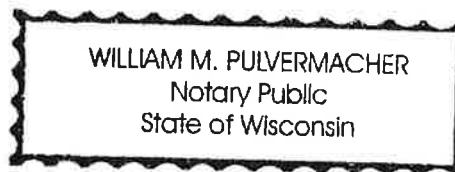
Ronald Kreuger

AUTHENTICATION

STATE OF WISCONSIN)
) ss.
COUNTY OF DANE)


Personally came before me this 10 day of August, 2002,
Dale R. and Dwight D. Huston, who signed the above Mineral Lease Agreement
for the purposes recited therein.

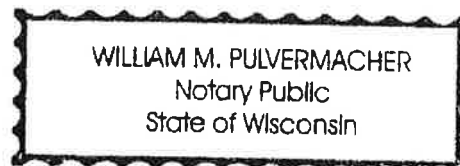

Notary Public, State of Wisconsin
My Commission 4-26-06



STATE OF WISCONSIN)
) ss.
COUNTY OF DANE)

Personally came before me this 6 day of August, 2002,
Richard & Marlene Kreuger and Ronald Kreuger, who signed the above Mineral
Lease Agreement for the purposes recited therein.


Notary Public, State of Wisconsin
My Commission 4-26-06





DOCUMENT NO.	MEMORANDUM OF LEASE	
	<p>PLEASE TAKE NOTICE, that Richard & Marlene Kreuger and Ronald Kreuger ("Owners") and Dale R. and Dwight D. Huston ("Lessees"), have entered into a Lease Agreement ("Lease Agreement") which provides, among other things, for the extraction of minerals, for the property described below ("Leased Premise").</p> <ol style="list-style-type: none">1. The parties hereto acknowledge, affirm and re-establish the existence of the Lease Agreement and agree to all of its terms as of the date hereof.2. The Lease Agreement was entered into on August 6, 2002 by and between Owners and Lessees.3. The Leased Premises is located in Section 3, Town 6 North, Range 11 East, Town of Pleasant Springs, Dane County, Wisconsin, and more particularly described as: Approximately 145 acres lying north of Rinden Road in the SW and SE 1/4 of Section 3, Town 6 North, Range 11 East, Town of Pleasant Springs, Dane County, Wisconsin. Parcel Numbers: #046/0611-033-9500-3, #046/0611-033-8000-0, #046/0611-033-8500-5, & #046/0611-034-9076-7 <ol style="list-style-type: none">4. This Lease Agreement will remain in effect for the life of the Lease Agreement from the date of August 6, 2002.5. This Memorandum of Lease is intended for notification purposes only. The Lease is not recorded and contains additional provisions not included in this Memorandum. In the event of conflict between this Memorandum and the unrecorded Lease, the unrecorded Lease shall control. <p>IN WITNESS WHEREOF, the parties hereto have entered into this Memorandum of Lease as of the 25 day of September, 2002.</p> <p>OWNERS:</p> <p><i>Richard Kreuger</i> Richard Kreuger</p> <p><i>Marlene Kreuger</i> Marlene Kreuger</p> <p>LESSEES:</p> <p><i>Dale R. Huston</i> Dale R. Huston</p> <p><i>Dwight D. Huston</i> Dwight D. Huston</p> <p>THIS SPACE RESERVED FOR RECORDING DATA</p> <p>NAME AND RETURN ADDRESS</p> <p>Dennis Richardson R.G. Huston Company, Inc. 2561 Coffeytown Road Cottage Grove, WI 53527</p>	