

STATE OF SOUTH CAROLINA)
)
COUNTY OF BERKELEY)

SETTLEMENT AGREEMENT

THIS SETTLEMENT AGREEMENT AND RELEASE is made this 31st day of March 2021, by and among the Coastal Conservation League (“CCL”), Huger Residents Group (“HRG”) together with DonMar Sand Mines, LLC (“DSM” or “Mine Operator”) collectively referred to herein as “the Parties.” The purpose of this Agreement is to settle the claims filed by CCL/HRG against DSM in (the “Lawsuit”).

WITNESSETH

WHEREAS, CCL is a public interest conservation organizations whose mission includes protection and preservation of South Carolina’s environmental resources for the use and enjoyment of its members and the citizens of this State, including those located in and around the Huger area in Berkeley County, South Carolina;

WHEREAS, the HRG is a group of CCL members and concerned residents in the community of Huger that is led by Representative Joseph H. Jefferson. The HRG is concerned about mining’s impacts to quality of life and the character of their community; and

WHEREAS, DSM has applied to DHEC for an individual permit to expand its two General Mine Operating Permits, GP1-002128 (permitted October 19, 2016) and GP1-002142 (permitted February 24, 2017) to mine sand and clay at a site located at 1411 Charity Church Road Huger, SC 29450 (TMS #248-00-03-065, #248-00-03-109, #248-00-03-114) in Berkeley County on a leased 141.86-acre proposed permitted area tract located approximately 6.5 miles south of Huger, South Carolina (“DonMar Mine”). DSM also requested DHEC grant a modification to the coverage for the DonMar Mine under NPDES General Permit SCG730000, which was granted on May 19, 2020 (collectively “Permit Decisions”); and

WHEREAS, DSM pursued Berkeley County Board of Zoning Appeal approval before ultimately settling with the County and entering into a list of concessions known as the Berkeley County Consent Order Concessions (Attached as **Exhibit A**); and under the agreement at **Exhibit A**, Donmar agreed to maintain an escrow account to fund certain community improvements;

WHEREAS, HRG members have been outspoken and concerned about the impacts associated with the DonMar Mine on the environment and community, including but not limited to the loss of wetland resources; water quality and quantity problems; adverse impacts to plants and wildlife and their respective habitats; and the health, safety, welfare and quality of life of the citizens of Berkeley County;

WHEREAS, on November 6, 2020, Coastal Conservation League filed a Request for Final Review of the Permit Decision on behalf of the HRG with the DHEC Board seeking to reverse the Permit Decision; and

WHEREAS, in order to avoid the costs of expensive and protracted litigation and in exchange for the promises and consideration set forth therein, on January 5th, 2021, all parties executed a Settlement Agreement (attached and incorporated as **Exhibit A**) wherein CCL and HRG agreed to abandon their Request for Final Review of the Permit Decision; and

WHEREAS, without admission of liability of either party and mutual release of all claims (known or unknown), CCL, HRG and DSM desire to enter into an agreement to settle the issues and potential claims related to the permitting of the DonMar Mine which may be raised by the CCL and HRG in Permit appeals; and this Agreement is intended to fully, finally, and forever compromise and settle any and all claims or issues the Parties may or may not have among themselves surrounding the permitting of the proposed mining project; this Agreement is not

intended, however, to compromise or settle any claim or issue HRG members may raise concerning the operation of the DonMar mine; and

NOW THEREFORE, IN CONSIDERATION OF MUTUAL COVENANTS CONTAINED HEREIN, THE PARTIES AGREE TO COMPROMISE AND SETTLE ALL CLAIMS, KNOWN OR UNKNOWN, CONCERNING THE PERMITTING OF THE DONMAR MINE UNDER THE TERMS AND CONDITIONS OF THIS AGREEMENT AS FOLLOWS:

- 1) The Recitals and other statements set forth above are hereby incorporated into and made a part of the terms and conditions of this Agreement by reference as if stated herein verbatim. Further, the Settlement Agreement (**Exhibit A**) is hereby incorporated by reference. If any conflict between a provision of **Exhibit A** and this Agreement, this Agreement shall supersede and control.
- 2) Within 30 days, DSM agrees to donate \$15,000 to Hearts of Huger Revitalization Efforts by check made payable to: Hearts of Huger Revitalization Efforts, P.O. Box 245 Huger, SC 29450 Tax ID#: 68-0663934, which will be used to fund the playground at 2084 Cainhoi Road, Huger SC 29450.
- 3) DSM agrees to tender the remaining balance of the Berkeley County escrow to the Huger Recreation Revitalization Project by check made payable to: Hearts of Huger Revitalization Efforts, P.O. Box 245 Huger, SC 29450 Tax ID#: 68-0663934, at the escrow's expiration set forth in **Exhibit B**;
- 4) Within 90 days after receiving proof of entity formation from HRG and/or its representatives, DSM agrees to convey fee simple title to the 10.259-acre tract adjacent to Charity Church Road which is depicted on **Exhibit C** as "Total Dedicated Area" to the HRG; and
- 5) As set forth in **Exhibit D**, DSM agrees to bi-annually meet with the Huger

Community for the first 2 years of the expanded mine's operation as part of its open-door policy and then annually thereafter for the life of the mine for purposes of maintaining open lines of communication, sharing information, addressing concerns and fostering a healthy working relationship among the Parties and interested stakeholder groups as mining activity progresses. DSM further agrees to hold an open community meeting at least once per year to give a status update on current and future mine operations and to allow for public awareness and discourse.

6) Any party may seek judicial enforcement of the provisions of this agreement, some of which require modifications to the Permit Decisions as set forth herein, by using any legal options available. However, the Parties shall perform the following steps prior to exercising those options:

- a) The complaining party asserting a violation of this Agreement shall inform the designated representative in writing of the alleged violating party of the specific requirement allegedly being violated, including evidence supporting such violation;
- b) If DSM fails to acknowledge the assertion of alleged violation or to otherwise address the alleged violation within forty-five (45) days of receipt of the above notice, the complaining party may notify DHEC of the alleged violation, including evidence supporting such violation, and ask for DHEC to expeditiously take action;
- c) If there is no action to investigate and/or remediate the asserted violation by DHEC within thirty (30) days of the above notice to DHEC, the complaining party may take legal action to enforce the terms of this Agreement;
- d) To effectuate these provisions, the Parties shall provide names, phone numbers, addresses and email addresses for a primary contact, and a secondary contact designated

to receive the above-described notice of alleged violation of this Agreement; and

e) Nothing herein shall be construed as limiting the right of any party to seek immediate injunctive relief to halt acts which threaten immediate and irreparable harm to persons or property.

7) The HRG and its members agree they will not seek DHEC or judicial review before any council, tribunal or court in connection with the Permit Decisions, except for enforcement of the provisions contained herein. Nothing herein shall be construed as limiting any party's rights with regard to any permits for new, modified or expanded mining activities beyond the DSM Site as delineated beyond the Permits outlined in this Agreement nor shall this Agreement be construed to limit, release, preclude, discharge or otherwise affect HRG and its members' individual, personal or collective rights concerning the operation of the DonMar Mine including but not limited to any cause of action for nuisance, interference with use and enjoyment of property, trespass, negligence, negligence per se, gross negligence, vicarious liability, strict liability, or any other tortious conduct or property claim that is related to the operation of the DonMar Mine at any time.

I. The Parties further agree to the following terms:

1) It is understood and agreed that this Agreement constitutes the entire agreement of the Parties, all prior or contemporaneous agreements and representations, whether oral or written, being merged herein and superseded hereby with respect to the matters addressed in this Agreement. No Party shall rely upon any statement or representation made by any other Party not embodied in this Agreement with respect to the matters addressed in this Agreement.

2) This agreement shall be binding on the Parties and their successors and assigns;

3) This agreement shall be governed by the laws of the State of South Carolina; and

4) Each Party by and through signature of its representatives below certifies, represents and warrants it is authorized to enter into the terms and conditions of this Settlement Agreement and is bound thereby, such representation and warranties surviving after execution of this Agreement;

5) The Effective Date of this Agreement shall be the date it is executed by all Parties or their representatives.

HUGER RESIDENTS GROUP

By: Edward Beaufort-Cutner

Name: Edward Beaufort-Cutner

Date: March 31, 2021

DONMAR SAND MINES, LLC

By: J

Name: John Mazzarella

Date: 03/29/2021

SC COASTAL CONSERVATION

LEAGUE

By: Laura Cantrel

Name: Laura Cantrel

Date: 3/23/2021

**South Carolina Coastal Conservation League
(on behalf of its Huger members, also known as the Huger Residents Group)**

v.

**Donmar Sand Mines, LLC
20-RFR-53
Settlement Agreement**

In consideration of Donmar Sand Mines, LLC's:

1. Conveyance of fee simple title to a 10.259 acre tract adjacent to Charity Church Road which is depicted on **Exhibit A** as "Total Dedicated Area;" and
2. Contribution of fifteen thousand dollars (\$15,000) immediately to the Hearts of Huger Revitalization Effort playground at 2084 Cainhoey Road; and
3. Tender the remaining balance of the Berkeley County escrow to the Hearts of Huger Revitalization Effort playground at the escrow's expiration (**Exhibit B**);
4. Agreement to bi-annually meet with the Huger Community for the first 2 years of the expanded mine's operation as part of its open door policy and then annually thereafter for the life of the mine;

Coastal Conservation League agrees to abandon the request for final review conference it filed before the Board of the South Carolina Department of Health and Environmental Control on November 6, 2020 on behalf of its members in Huger (20-RFR-53). Nothing in this agreement is intended to or effectuates a waiver of any individual or entity's ability to seek redress for any injury or harm to person or property associated with the mine's operation or closure. Specifically, the entering into of this agreement does not limit the Coastal Conservation League or any member thereof from seeking enforcement of any legal rights, duties, obligations or protections it, they or him or her may have in the future concerning the operation or closure of the mine that is the subject of this Agreement.

The parties hereby agree to jointly draft and execute a mutual Release. The Coastal Conservation League and Huger Residents Group will refrain from any further challenge in any other forum related to South Carolina Department of Health and Environmental Control's issuance of the mining permit and will give no other indemnities than that described herein. Any dispute as to the language of the settlement documents will be submitted to the Berkeley County Circuit Court for final resolution.

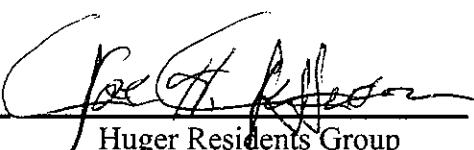
Once signed, this agreement shall be irrevocable and a filed copy hereof shall be enforceable by the contempt powers of the Court. Unless unanimously agreed otherwise, full conveyance and payment of the above terms is to be made within 180 days.

We Agree:



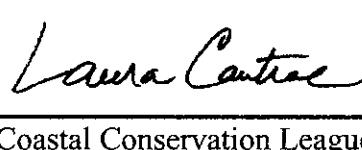
Donmar Sand Mines, LLC

Dated: 12/30/2020



Huger Residents Group

Dated: 1-5-2021



Coastal Conservation League

Dated: 12/23/2020

Please see attached provisions of the DONMAR Mines agreement with the Berkeley County to move forward with the approval of the mining operation.

1. DONMAR has recently constructed a new private roadway for logging purposes as shown and depicted on the Mine Map which shall serve as the sole ingress-egress right of way to service DONMAR's operations to and from South Carolina Highway 41.
2. Blessing Lands will close access for DONMAR mining and/or logging activities to and from Charity Church Road.
3. Prior to the commencement of mining operations in the Pit Area utilizing the New Road, DONMAR shall obtain all required encroachment permits and/or authorizations from any agency/entity other than Berkeley County having jurisdiction relative to said encroachments and the lands impacted thereby.
4. Berkeley County consents to the construction and use of the New Road for the purposes herein provided without any additional permissions from Berkeley County being required other than the normal review process required by Berkeley County ordinances.
5. At all times during DONMAR's operations permitted by this Consent Order, Blessing shall maintain a minimum Five Hundred (500') foot undisturbed buffer or, where a naturally occurring vegetative buffer does not exist, Blessing shall install a berm and plantings in a manner consistent with Article 17 of the Berkeley County Zoning Ordinance at all points along and around the Pit Area.
6. DONMAR shall utilize excavators and other industry standard equipment in its mining operations only. DONMAR shall not employ explosives, blasting materials, chemical agents or other means or methods to extract minable materials from the Pit Area.
7. DONMAR will be permitted to de-water the Pit Area in accordance with industry standards and in accordance with any Department of Health and Environment Control, ("DHEC"), permit and discharge water into an area located generally north of the Pit Area and shown and depicted on Exhibit "A" as 2.55 acres, and designated "Basin and Outfall".

8. Water discharging from the Basin and Outfall shall be monitored and reported to DHEC, by DONMAR, not less than monthly at all times during DONMAR's dewatering operations.
9. DONMAR's hours of operation shall not exceed Monday through Friday between the hours of 7:30 A.M. and 4:30 P.M. No weekend operations shall be allowed.
10. Within ten (10) days of the entry of this Consent Order, DONMAR shall pay over to a mutually agreeable third-party Escrow Agent, the sum of sixty thousand (\$60,000.00) Dollars. The Escrow Agent shall hold and disburse the funds in accordance with an Escrow Agreement, as shown and depicted in a form materially consistent with Exhibit "B", attached hereto and made a part hereof by reference.
11. For any owner-occupied dwelling existing as of the date of this Order within 2500' from the Pit Area as depicted in Exhibit "D", DONMAR agrees to pay the "tap fee" or install a DHEC-approved well (at landowner's option), using a contractor of DONMAR's choice, who makes a request within two (2) years from the date of this Consent Order.
12. Upon completion of all mining activities allowed pursuant to this Consent Order, or seven (7) years from the date of this Consent Order, whichever occurs first, all mining operations shall cease and DONMAR and Blessing agree to landscape the property according to the pre-approved landscape plan depicted on Exhibit "C" (Landscape Plan).
13. The current temporary driveway onto 41 is permitted by SCDOT. If and when converted to a permanent driveway DONMAR and Blessing agree to comply with all governmental approvals and requirements.
14. To the extent any item, feature or matter depicted on Exhibit "A" is inconsistent with the terms and provisions of this Consent Order, the terms hereof shall supersede, control and apply.

15. To the extent that any item, feature or matter is depicted on Exhibit "A" is not specifically itemized and identified in this Consent Order, but which are required to give efficacy to the settlement of the parties as set forth in this Consent Order, the items, features or matters depicted on Exhibit "A" shall be merged and incorporated herein.
16. All operations shall be performed in accordance with any permit issued by DHEC for the Blessing Lands and any other permits issued in connection with DONMAR's operations. Except as permitted herein to the contrary, all operations shall be performed in accordance with all applicable ordinances of Berkeley County, including but not limited to the Noise Ordinance, Section 38.1 of the Berkeley County Code of Ordinances.

STATE OF SOUTH CAROLINA) IN THE COURT OF COMMON PLEAS
)
COUNTY OF BERKELEY) CASE NO. 2018-CP-08-00485
) CASE NO. 2018-CP-08-00486
)
DONMAR SAND MINES, LLC,)
)
)
Appellant,) CONSENT ORDER
)
vs.)
)
BERKELEY COUNTY and BERKELEY)
COUNTY BOARD OF ZONING)
APPEALS,)
)
)
Respondents)

)
STATE OF SOUTH CAROLINA)
)
COUNTY OF BERKELEY)
)
)
BLESSING INVESTMENTS, LLC,)
)
)
Appellant,)
)
vs.)
)
BERKELEY COUNTY and BERKELEY)
COUNTY BOARD OF ZONING)
APPEALS,)
)
)
Respondents)

BACKGROUND

Blessing Investments, LLC, (“Blessing”), is the owner of three parcels of land in Berkeley County. The largest parcel is comprised of 131.85 acres, more or less. It bears Berkeley County TMS# 248-00-03-065. Another parcel is comprised of 47.54 acres, more or less. It bears Berkeley County TMS# 248-00-03-114. The smallest parcel is comprised of 9.16 acres, more or less. That parcel bears Berkeley County TMS# 248-00-03-109. The three parcels are located in the Huger Community of Berkeley County and are contiguous to one another. For purposes of this order, the properties together shall constitute the (“Blessing Lands”).

Donmar Sand Mines, LLC, (“Donmar”), is engaged in the business, *inter alia*, of extracting sand and clay materials from the Blessing Lands for sale to buyers in the marketplace. Donmar previously conducted mining operations on the Blessing Lands under conditional use permits for pits of less than five (5) acres and/or twenty (20’) feet in depth.

On November 3, 2017, Blessing and Donmar made an application to the Berkeley County Board of Zoning Appeals for a Special Exception Permit to exceed the allowable maximum of five (5) acres and/or twenty (20’) feet deep, which if granted would allow Donmar to expand its operations on the Blessing Lands both in size and depth.

A public hearing was held on the application by the Berkeley County Board of Zoning Appeals at the Berkeley County Administration Building on December 19, 2017 and deferred. On January 16, 2018, the Board of Zoning Appeals denied the application for special exception by a 4-2 vote.

By notice and petition timely filed, Blessing and Donmar separately appealed the decision of the Berkeley County Board of Zoning Appeals to the Court of Common Pleas pursuant to *S.C. Code Ann.* § 6-29-840. For purposes of this order the appeals are consolidated.

By mutual agreement of the parties the appeals were stayed in order to enable them to mediate the matter. The parties extensively mediated the matter of the appeals on January 4, 2019. As a result of their negotiations, the parties reached a full, final and complete settlement, subject to all required approvals.

By this Consent Order, as evidenced by the signatures of counsel of record below, the parties are desirous of memorializing their agreements and understandings and the terms thereof and to have the same approved and adopted and made an order of this Court.

AGREEMENT

The parties covenant, stipulate and agree as follows:

1. Donmar shall be permitted to mine a pit area located on the Blessing Lands not to exceed a total of 29.5 acres with a maximum depth at any location therein of not greater than 30 feet as shown and depicted on a map attached hereto and made a part hereof by reference as Exhibit "A", ("Pit Area").
2. Prior to the commencement of mining operations in the Pit Area, Donmar has recently constructed a new private roadway for logging purposes as shown and depicted on Exhibit "A" which shall serve as the sole ingress-egress right of way to service Donmar's operations to and from South Carolina Highway 41, ("New Road"). No access to Blessing Lands for Donmar mining or logging activities shall be to and from Charity Church Road or any other roadway public or private.
3. Prior to the commencement of mining operations in the Pit Area utilizing the New Road, Donmar shall obtain all required encroachment permits and/or authorizations from any agency/entity other than Berkeley County having jurisdiction relative to said encroachments and the lands impacted thereby.

4. Berkeley County consents to the construction and use of the New Road for the purposes herein provided without any additional permissions from Berkeley County being required other than the normal review process required by Berkeley County ordinances.
5. At all times during Donmar's operations permitted by this Consent Order, Blessing shall maintain a minimum Five Hundred (500') foot undisturbed buffer or, where a naturally occurring vegetative buffer does not exist, Blessing shall install a berm and plantings in a manner consistent with Article 17 of the Berkeley County Zoning Ordinance at all points along and around the Pit Area.
6. Donmar shall utilize excavators and other industry standard equipment in its mining operations only. Donmar shall not employ explosives, blasting materials, chemical agents or other means or methods to extract minable materials from the Pit Area.
7. Donmar will be permitted to de-water the Pit Area in accordance with industry standards and in accordance with any Department of Health and Environment Control, (“DHEC”), permit and discharge water into an area located generally north of the Pit Area and shown and depicted on Exhibit “A” as 2.55 acres, and designated “Basin and Outfall”.
8. Water discharging from the Basin and Outfall shall be monitored and reported to DHEC, by Donmar, not less than monthly at all times during Donmar's dewatering operations.
9. Donmar's hours of operation shall not exceed Monday through Friday between the hours of 7:30 A.M. and 4:30 P.M. No weekend operations shall be allowed.
10. Within ten (10) days of the entry of this Consent Order, Donmar shall pay over to a mutually agreeable third-party Escrow Agent, the sum of sixty thousand (\$60,000.00) Dollars. The Escrow Agent shall hold and disburse the funds in accordance with an Escrow Agreement, as shown and depicted in a form materially consistent with Exhibit “B”, attached hereto and made a part hereof by reference.

11. For any owner-occupied dwelling existing as of the date of this Order within 2500' from the Pit Area as depicted in Exhibit "D", Donmar agrees to pay the "tap fee" or install a DHEC-approved well (at landowner's option), using a contractor of Donmar's choice, who makes a request within two (2) years from the date of this Consent Order.
12. Upon completion of all mining activities allowed pursuant to this Consent Order, or seven (7) years from the date of this Consent Order, whichever occurs first, all mining operations shall cease and Donmar and Blessing agree to landscape the property according to the pre-approved landscape plan depicted on Exhibit "C" (Landscape Plan).
13. The current temporary driveway onto 41 is permitted by SCDOT. If and when converted to a permanent driveway Donmar and Blessing agree to comply with all governmental approvals and requirements.
14. To the extent any item, feature or matter depicted on Exhibit "A" is inconsistent with the terms and provisions of this Consent Order, the terms hereof shall supersede, control and apply.
15. To the extent that any item, feature or matter is depicted on Exhibit "A" is not specifically itemized and identified in this Consent Order, but which are required to give efficacy to the settlement of the parties as set forth in this Consent Order, the items, features or matters depicted on Exhibit "A" shall be merged and incorporated herein.
16. All operations shall be performed in accordance with any permit issued by DHEC for the Blessing Lands and any other permits issued in connection with Donmar's operations.
17. Except as permitted herein to the contrary, all operations shall be performed in accordance with all applicable ordinances of Berkeley County, including but not limited to the Noise Ordinance, Section 38.1 of the Berkeley County Code of Ordinances.

18. In consideration of the terms of settlement and the delivery thereof, Blessing and Donmar release and forever discharge Berkeley County and Berkeley County Board of Zoning Appeals, their employees, agents, elected officials and their successors and assigns from all actions, causes of action, losses, liabilities, indemnifications, damages, suits, liens, rights or any other claims or liabilities of any nature whatsoever, known or unknown fixed or contingent, liquidated or unliquidated, arising out of their application for special exception permit which is the subject of their appeals.
19. In consideration of the terms of settlement and the delivery thereof Berkeley County and Berkeley County Board of Zoning Appeals forever discharge Blessing and Donmar, their members, principals, agents, employees, guarantors, successors and assigns from all actions, causes of action, losses, liabilities, indemnifications, damages, suits, liens, rights or any other claims or liabilities of any nature whatsoever, known or unknown fixed or contingent, liquidated or unliquidated, arising out of their application for special exception permit which is the subject of their appeals.
20. No waiver or modification of any of the terms of this Agreement will be valid or effective unless in writing and signed by all parties to this Agreement. The failure of any party to enforce, at any time, any provision of this Agreement, or to require the performance of any provision hereof, shall not be and shall not be construed to be a waiver or modification of such provision, or of the right thereafter to enforce such provision or any other provision of this Agreement. No waiver of any breach of this Agreement shall be nor shall such be construed to be a waiver of any other or subsequent breach.
21. The parties hereto declare and represent that no promise, inducement, or agreement not expressed herein has been made or offered to them and that this order contains and represents the entire agreement between the parties regarding the settlement of the claims in the dispute.

22. The parties and each of them, represent and warrant that all necessary authorizations and all other actions and approvals have been taken and received such that execution, delivery, and performance of this settlement and all other actions taken or to be taken pursuant to or in connection therewith have been authorized and approved and the signatories hereof have been authorized and directed to sign the same.
23. The terms of settlement and all covenants and undertakings shall be binding on, and inure to the benefit of, all of the parties hereto, as well as all of their successors and assigns.
24. Each party hereto, before executing this order had ample opportunity to consult with counsel with respect to the full force and effect hereof and each of the terms and provisions hereof, and each party fully understands and intends the full force and effect and each of its terms and provisions and each party has had a full and complete opportunity to investigate any and all matters believed by her to be appropriate or prudent for investigation or understanding prior to endorsing this consent order.
25. Each of the parties hereto represents and warrants that no part of any alleged claim or claims released herein have been assigned to any other entity, person, firm or corporation.
26. Counsel for the Appellants shall in the ordinary course file a Stipulation of Dismissal With Prejudice as to the consolidated cases upon the entry of this order.

Having considered the inherent reasonableness of the terms of the agreement of the parties as set forth herein and having considered that the parties are represented by competent counsel, I find and conclude that the agreement of the parties be, and hereby is, adopted and approved and merged and incorporated herein and made the order of this Court.

AND IT IS SO ORDERED.

CHIEF ADMINISTRATIVE JUDGE

_____, 2019

WE CONSENT:

s/ Jeffrey S. Tibbals

Jeffrey S. Tibbals S.C. Bar No. 72628
BYBEE & TIBBALS, LLC
735 Johnnie Dodds Blvd., Suite 104 (29464)
P.O. Box 1542
Mt. Pleasant, SC 29465
Phone: 843.881.1623
Facsimile: 843.881.4406
E-mail: jst@bybeetibbals.com

ATTORNEYS FOR APPELLANT
DONMAR SAND MINES, LLC

s/John S. West

John S. West S.C. Bar No. 6035
West Law Firm, LLC
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Moncks Corner, SC 29461
Phone: 843.761.5626
Facsimile: 843.761.5627
E-mail: jwestlaw@HomeSC.com

ATTORNEYS FOR DEFENDANT
BERKELEY COUNTY AND BERKELEY
COUNTY BOARD OF ZONING APPEALS



Berkeley Common Pleas

Case Caption: DONMAR Sand Mines, LLC VS County Of Berkeley

Case Number: 2018CP0800485

Type: Order/Consent Order

It is so ordered.

/s Roger M. Young, Sr. S.C. Circuit Judge 2134

Exhibit "A"

Pit Area

CONSENT ORDER

DONMAR Sand Mines, LLC

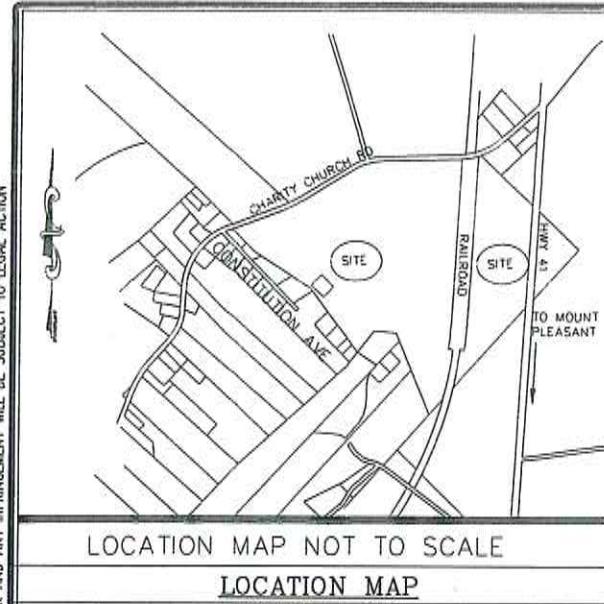
v.

Berkeley County and Berkeley County Board of Zoning Appeals
Case No. 2018-CP-08-000485

Blessing Investments, LLC

v.

Berkeley County and Berkeley County Board of Zoning Appeals
Case No. 2018-CP-08-00486



ZONING INFORMATION:

1. THE CURRENT ZONING IS "FLEX 1" AND "R2" FOR TMS 248-00-03-065, 109 & 114 IN BERKELEY COUNTY.
2. SITE TBM IS A MAG NAIL IN THE ASPHALT. THE VERTICAL DATUM IS NGVD 29.
3. IT IS THE INTENT OF THESE PLANS TO ADHERE TO THE BERKELEY COUNTY PLANNING AND ZONING ORDINANCES AND ROAD CODES.
4. THE GENERAL INTENT OF THE PROJECT IS TO MINE A SAND PIT AND THE APPURTENANT SEDIMENT TRAP, HAUL ROAD AND STORM DRAINAGE TO SUPPORT SAID DEVELOPMENT.
5. THE PROJECT WILL HAVE ONE ENTRANCE/EXIT.
6. ONCE THE SEDIMENT CONTROL DEVICES ARE IN PLACE THE SEDIMENT TRAP AND ITS DISCHARGE PIPE WILL BE INSTALLED. ONCE THESE ITEMS HAVE BEEN CONSTRUCTED THE MINING OPERATION CAN BEGIN AND THE OWNER OR THE OPERATOR WILL BE RESPONSIBLE FOR THE CONTINUED MAINTENANCE OF THE SEDIMENT CONTROL DEVICES IN ACCORDANCE WITH THE SEDIMENT CONTROL PRACTICES AS MANDATED BY BERKELEY COUNTY PUBLIC WORKS AND THE SCOCHEC-OFFICE OF COASTAL AND RESOURCE MANAGEMENT.
7. CONTRACTOR IS TO REFER TO THE MOST CURRENT EDITION OF THE SCOTD STANDARD DRAWINGS TO VERIFY CONSTRUCTION SPECIFICATIONS AND DIMENSIONS OF THE PORTION OF THE ENTRANCE ROAD WITHIN THE SCOTD RIGHT OF WAY.
8. ANY FIELD CHANGES WITHIN SCOTD RIGHT OF WAY (OR CHANGES THAT WOULD IMPACT THE SCOTD RIGHT OF WAY) WILL REQUIRE WRITTEN SCOTD APPROVAL PRIOR TO CHANGES BEING IMPLEMENTED IN THE FIELD.
9. FOR ALL WORK PERFORMED INSIDE THE SCOTD RIGHT OF WAY, CONTRACTOR IS TO REFER TO DETAILS FOR SAME.
10. PERMANENT MAINTENANCE COVENANTS AND AS-BUILT DRAWINGS FOR MINING FACILITIES IN ACCORDANCE WITH THE MSA SPECIFICATIONS NEED TO BE RECEIVED AND ACCEPTED BEFORE THE NOT OF THE COP.

EROSION CONTROL NOTES:

1. IF NECESSARY, SLOPES THAT EXCEED EIGHT (8) VERTICAL FEET SHALL BE STABILIZED WITH SYNTHETIC OR VEGETATIVE MATERIAL. IN ADDITION TO HYDROSEEDING, IT MAY BE NECESSARY TO INSTALL TEMPORARY SLOP DRAINS DURING CONSTRUCTION. TEMPORARY BERMS MAY NEED TO BE ERECTED UNTIL THE SLOPE IS BROUGHT TO GRADE.
2. STABILIZATION MEASURES MUST BE INITIATED AS SOON AS PRACTICABLE IN PORTIONS OF THE SITE WHERE CONSTRUCTION ACTIVITIES HAVE TEMPORARILY OR PERMANENTLY CEASED, BUT IN NO CASE MORE THAN 14 DAYS AFTER WORK HAS CEASED, EXCEPT AS STATED BELOW.
3. WHERE STABILIZATION BY THE 14TH DAY IS PRECLUDED BY SNOW COVER OR FROZEN GROUND CONDITIONS, STABILIZATION MEASURES SHALL BE INITIATED AS SOON AS PRACTICABLE.
4. WHERE CONSTRUCTION ACTIVITIES ON A PORTION OF THE SITE IS TEMPORARILY CEASED DUE TO CONSTRUCTION ACTIVITIES WILL BE RESUMED WITHIN 14 DAYS, TEMPORARY STABILIZATION MEASURES DO NOT HAVE TO BE INITIATED ON THAT PORTION OF THE SITE.
5. ALL SEDIMENT AND EROSION CONTROL DEVICES SHALL BE INSPECTED EVERY SEVEN (7) DAYS. IF SITE INSPECTIONS IDENTIFY BMP'S THAT ARE DAMAGED OR ARE NOT OPERATING EFFECTIVELY, MAINTENANCE MUST BE PERFORMED AS SOON AS PRACTICAL AS REASONABLY POSSIBLE AND BEFORE THE NEXT STORM EVENT WHENEVER PRACTICABLE.
6. PROVIDE SILT FENCE AND/OR OTHER CONTROL DEVICES, AS MAY BE REQUIRED, TO CONTROL SOIL EROSION DURING UTILITY CONSTRUCTION. ALL DISTURBED AREAS SHALL BE CLEANED, GRADED, AND STABILIZED WITH GRASSING IMMEDIATELY AFTER THE UTILITY CONSTRUCTION IS COMPLETED. SILT FENCE SHALL BE MAINTAINED FOR ONE DAY PER RECOMMENDED. IF WATER IS ENCOUNTERED WHILE TRENCHING, THE WATER SHALL BE FILTERED TO REMOVE ANY SEDIMENTS BEFORE BEING PUMPED BACK INTO ANY WATERS OF THE STATE.
7. ALL EROSION CONTROL DEVICES SHALL BE PROPERLY MAINTAINED DURING ALL PHASES OF CONSTRUCTION. AT THE COMPLETION OF ALL CONSTRUCTION ACTIVITIES AND ALL DISTURBED AREAS HAVE BEEN STABILIZED ADDITIONAL CONTROL DEVICES MAY BE REQUIRED DURING CONSTRUCTION IN ORDER TO CONTROL EROSION AND/OR OFF-SITE SEDIMENTATION. ALL TEMPORARY CONTROL DEVICES SHALL BE REMOVED ONCE CONSTRUCTION IS COMPLETE AND THE SITE IS FULLY STABILIZED.
8. THE CONTRACTOR SHALL TAKE NECESSARY ACTION TO MINIMIZE THE TRACKING OF MUD INTO PAVED ROADWAYS FROM CONSTRUCTION AREAS AND THE GENERATION OF DUST. THE CONTRACTOR SHALL DAILY REMOVE MUD/SOIL FROM PAVEMENT, AS MAY BE REQUIRED.
9. RESIDENTIAL SUBDIVISIONS REQUIRE EROSION CONTROL FEATURES FOR INFRASTRUCTURE AS WELL AS FOR INDIVIDUAL LOT CONSTRUCTION. INDIVIDUAL PROPERTY OWNERS SHALL FOLLOW THESE PLANS DURING CONSTRUCTION OR OBTAIN APPROVAL OF AN INDIVIDUAL PLAN IN ACCORDANCE WITH S.C. REG. 73-300 ET SEQ. AND SCOTD00000.
10. TEMPORARY DIVERSION BERMS AND/OR DITCHES WILL BE PROVIDED AS NEEDED DURING CONSTRUCTION TO PROTECT WORK AREAS FROM UPSLOPE RUNOFF AND/OR TO DIVERT SEDIMENT-LADEN WATER TO APPROPRIATE TRAPS OR STABLE OUTLETS.
11. ALL WATERS OF THE STATE (WOS), INCLUDING WETLANDS, SHALL BE FLAGGED OR OTHERWISE CLEARLY MARKED IN THE FIELD. A DOUBLE ROW OF SILT FENCE SHALL BE INSTALLED IN ALL AREAS WHERE A 50-FOOT BUFFER CANNOT BE MAINTAINED BETWEEN THE DISTURBED AREA AND ALL WOS. A 10-FOOT BUFFER SHALL BE MAINTAINED BETWEEN THE LAST ROW OF SILT FENCE AND ALL WOS.
12. LITTER, CONSTRUCTION DEBRIS, OILS, FUELS, AND BUILDING PRODUCTS WITH SIGNIFICANT POTENTIAL FOR IMPACT (SUCH AS STOCKPILES OF FRESHLY TREATED LUMBER) AND CONSTRUCTION CHEMICALS THAT COULD BE EXPOSED TO STORMWATER SHALL BE PREVENTED FROM BECOMING A POLLUTANT SOURCE IN STORMWATER DISCHARGES.
13. PROVIDE WRITTEN PROOF THAT ALL OFF-SITE EASEMENTS HAVE BEEN OBTAINED.

UTILITY LOCATE NOTES:

1. THE CONTRACTOR SHALL CALL 811 FOR A UTILITY LOCATE A MINIMUM OF 72 HOURS PRIOR TO BEGINNING ANY CLEARING AND/OR LAND DISTURBANCE. IT IS THE CONTRACTOR'S RESPONSIBILITY TO HAVE THE UTILITIES LOCATED AND MAINTAIN THE LOCATE TICKET UNTIL ALL WORK HAS SUSPENDED ON SITE. UTILITIES SHOWN ON THE PLAN ARE FOR INFORMATION ONLY AND REPRESENT WHAT WAS LOCATED AT THE TIME OF THE SURVEY.



ALL ITEMS IN SECTION 100 OF THE CURRENT ARMS MANUAL FOR BOTH CONSTRUCTION AND POST-CONSTRUCTION DESIGN HAVE BEEN STUDIED AND ADDRESSED. ALL NECESSARY BMP'S HAVE BEEN IMPLEMENTED FOR BOTH PHASES (CONSTRUCTION AND POST-CONSTRUCTION) TO AVOID NEGATIVELY IMPACTING IMPAIRED WATERS OF THE SCOTD SYSTEM AND/OR ITS DISCHARGES.

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Exhibit “B”

Escrow Agreement

CONSENT ORDER

DONMAR Sand Mines, LLC

v.

Berkeley County and Berkeley County Board of Zoning Appeals
Case No. 2018-CP-08-000485

Blessing Investments, LLC

v.

Berkeley County and Berkeley County Board of Zoning Appeals
Case No. 2018-CP-08-00486

ESCROW AGREEMENT

THIS ESCROW AGREEMENT (the "Escrow Agreement" or "Agreement") is made to be effective as of the _____ day of May, 2019, by and among DONMAR SAND MINES, LLC, a South Carolina limited liability company ("Appellant") and BERKELEY COUNTY ("Respondent"), and _____, a South Carolina limited liability company ("Escrow Agent").

WITNESSETH:

WHEREAS, Appellant and Respondent entered into that certain Consent Order by and between Appellant and Respondent dated on or about _____, 2019 (the "Consent Order") concerning certain dirt mining activities by Appellant in Berkeley County, South Carolina, and related permitting for same (the "Project"); and

WHEREAS, within ten (10) days of the entry of the Consent Order the sum of sixty thousand dollars (\$60,000) shall become due and owing upon satisfaction of the terms and conditions set forth in Section 10 of the Consent Order, as supplemented by this Agreement; and

WHEREAS, Appellant has agreed to deposit the sum on sixty thousand (\$60,000) (the "Escrow Money") into escrow pending resolution of the matters under the Consent Order; and

WHEREAS, Appellant and Respondent wish for Escrow Agent to hold the Escrow Money in accordance with the terms and provisions of this Escrow Agreement; and

WHEREAS, Escrow Agent has agreed to hold and disburse the Escrow Money pursuant to the terms of this Escrow Agreement.

NOW, THEREFORE, in consideration of the sum of Ten and No/100 Dollars (\$10.00), the agreements herein, and other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the parties hereby do mutually agree as follows:

1. Deposit of the Escrow Money.

The parties to this Agreement hereby designate, constitute and appoint Escrow Agent as escrow agent under this Agreement, and Escrow Agent hereby accepts such designation and appointment. The Escrow Money has been or shall, contemporaneously with the execution hereof, be deposited into escrow with Escrow Agent and Escrow Agent shall hold and disburse the Escrow Money solely in accordance with the terms of this Escrow Agreement.

2. Funds to be Placed in Trust Account.

The Escrow Money deposited hereunder shall be placed by Escrow Agent in an interest-bearing account, whose deposits are insured by the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation (the "Escrow Account").

3. Release of the Escrow Money by Escrow Agent.

The parties acknowledge that the Escrow Money deposited with Escrow Agent will be disbursed by Escrow Agent to any claimant(s) who prove damages directly resulting from Appellant's mining operations, with a cap of \$2500 per property affected, pursuant to an adjudicative process to be created and

administered by Appellant. Any funds remaining in the Escrow Account as of the date which is three years subsequent to entry of the Consent Order shall be returned to Appellant.

4. Notices.

All notices permitted or required to be given under this Escrow Agreement shall be in writing and shall be delivered personally, by facsimile, or by certified, return receipt requested prepaid United States mail to the following addresses:

To Escrow Agent: _____

If to Appellant: DONMAR Sand Mines, LLC
Attention: John Mazzarella
1411 Charity Church Rd.
Huger, SC 29450

With a copy to: Jeffrey S. Tibbals, Sr., Esquire
Bybee & Tibbals, LLC
735 Johnnie Dodds Boulevard, Suite 104 (29464)
P.O. Box 1542
Mt. Pleasant, SC 29465

If to Respondent: Berkeley County
c/o John O. Williams
1003 US Highway 52
Moncks Corner, SC 29461

With a copy to: John S. West, Esquire
West Law Firm, LLC
207 Carolina Avenue
Post Office Box 1869
Moncks Corner, SC 29461

Notice shall be effective and deemed given upon actual receipt or upon the third (3rd) day after same is sent as specified above, whichever is earlier.

5. Entire Agreement.

This Agreement constitutes the whole agreement between the parties and any alterations or additions thereto shall be effective only if reduced to writing, dated and signed by the parties by their duly authorized representatives.

6. Duties of Escrow Agent/Indemnity.

Notwithstanding anything in this Escrow Agreement to the contrary, in the event of a dispute between Appellant and Respondent arising prior to or at the time of the delivery or other disposition of the Escrow Money by Escrow Agent pursuant hereto, which dispute shall be sufficient, in the sole discretion of Escrow Agent, to justify its doing so, Escrow Agent shall be entitled to tender the Escrow Money into

the registry or custody of any court of competent jurisdiction, together with such legal pleadings as it may deem appropriate, and thereupon Escrow Agent shall be discharged from all further duties and liabilities under this Escrow Agreement. Any such legal action may be brought in such court as Escrow Agent shall determine to have jurisdiction thereof. Escrow Agent's determination of whether a dispute exists between Appellant and Respondent shall be binding and conclusive upon all parties hereto, notwithstanding any contention that no dispute exists. All costs and expenses incurred by Escrow Agent in taking any action pursuant to this paragraph shall be covered by and paid pursuant to the indemnification of Escrow Agent contained in the following paragraph.

Appellant and Respondent shall, and do hereby, jointly indemnify, defend, and hold Escrow Agent harmless from, against, and in respect of: (i) any and all demands, judgments, expenses, costs, losses, injuries, or claims of any kind whatsoever whether existing on the date hereof or hereafter arising, incurred by Escrow Agent by reason of, from, or in connection with this Escrow Agreement or any action taken or not taken by Escrow Agent under or in connection with this Escrow Agreement, unless such arose (a) in connection with Escrow Agent's duties or obligations under paragraphs 2, 3 and 6 hereof or (b) by the gross negligence or willful misconduct of Escrow Agent; and (ii) any and all reasonable counsel fees, expenses, disbursements of counsel, amounts of judgments, demands, assessments, costs, fines, or penalties, and amounts paid in compromise or settlement, incurred or sustained by Escrow Agent by reason of, in connection with, or as a result of any claim, demand, action, suit, investigation, or proceeding (or any appeal thereof or relating thereto or other review thereof) incident to the matters covered by the immediately preceding clause (i), unless such arose (a) in connection with Escrow Agent's duties or obligations under paragraphs 2, 3 and 6 hereof or (b) by the gross negligence or willful misconduct of Escrow Agent. Escrow Agent's right to indemnification hereunder shall survive Escrow Agent's resignation or removal as Escrow Agent and shall survive the termination of this Escrow Agreement by lapse of time or otherwise.

If, at any time, Escrow Agent shall notify Appellant and Respondent of its desire to be relieved of any further duties and liabilities hereunder, then Escrow Agent shall deliver the Escrow Money, to a successor escrow agent designated by Appellant and Respondent. If Appellant and Respondent shall fail to agree upon and designate a successor escrow agent within ten (10) days after having been requested by Escrow Agent to do so, then Escrow Agent shall in its discretion designate the successor escrow agent in accordance with the terms of this paragraph. The successor escrow agent designated by Appellant and Respondent or by Escrow Agent, as the case may be, shall be a bank or trust company having trust powers in good standing and located in Moncks Corner, South Carolina, or a national title insurance company with an office in Moncks Corner, South Carolina, and shall agree to be bound by all the terms and conditions of this Escrow Agreement. Immediately upon agreement by the successor escrow agent to be bound by all terms and conditions of this Escrow Agreement, the original Escrow Agent shall be relieved of any and all duties and liabilities under or in connection with this Escrow Agreement; provided, however, that no successor escrow agent shall assume any liability for the acts or omissions of its predecessor escrow agent(s) hereunder.

The agency created in Escrow Agent hereby is coupled with an interest of Appellant and Respondent and shall be binding upon and enforceable against the respective heirs, successors, legal representatives and assigns of Appellant and Respondent. This escrow shall not be revoked or terminated by reason of the death, incompetency, dissolution, or liquidation of Appellant and Respondent but shall continue to be binding upon and enforceable against the respective heirs, successors, legal representatives and assigns of Appellant and Respondent in the manner provided herein. In the event of the death, incompetency, dissolution, or liquidation of Appellant and Respondent, Escrow Agent may rely and act upon any notices permitted or required to be given hereunder from any person, firm, partnership, or corporation believed by Escrow Agent in good faith to be the heir, successor, legal representative or assign of such dissolved or liquidated party.

Anything in this Escrow Agreement to the contrary notwithstanding, in no event shall Escrow Agent be liable for special, indirect or consequential loss or special, indirect or consequential damages of any kind whatsoever (including but not limited to lost profits), even if Escrow Agent has been advised of the likelihood of such special, indirect or consequential loss or special, indirect or consequential damages and regardless of the form of action.

7. Governing Law.

This Agreement shall be governed and construed in accordance with the laws of the State of South Carolina.

8. Counterparts.

This Agreement may be executed in counterparts, all of which counterparts taken together, constitute one and the same instrument.

9. Reasonableness.

All parties to this Agreement agree to act reasonably, diligently, and in good faith with regard to all actions and/or requirements contemplated under this Agreement.

[SIGNATURE PAGES ATTACHED]

IN WITNESS WHEREOF, the parties hereto have caused these presents to be executed on the day and year first above written.

ESCROW AGENT:

By: _____
Name: _____
Title: _____
Date: _____

APPELLANT:

DONMAR SAND MINES, LLC

By: _____
Name: _____
Title: _____
Date: _____

RESPONDENT:

BERKELEY COUNTY

By: _____
Name: _____
Title: _____
Date: _____

Exhibit “C”

Landscape Plan

CONSENT ORDER

DONMAR Sand Mines, LLC

v.

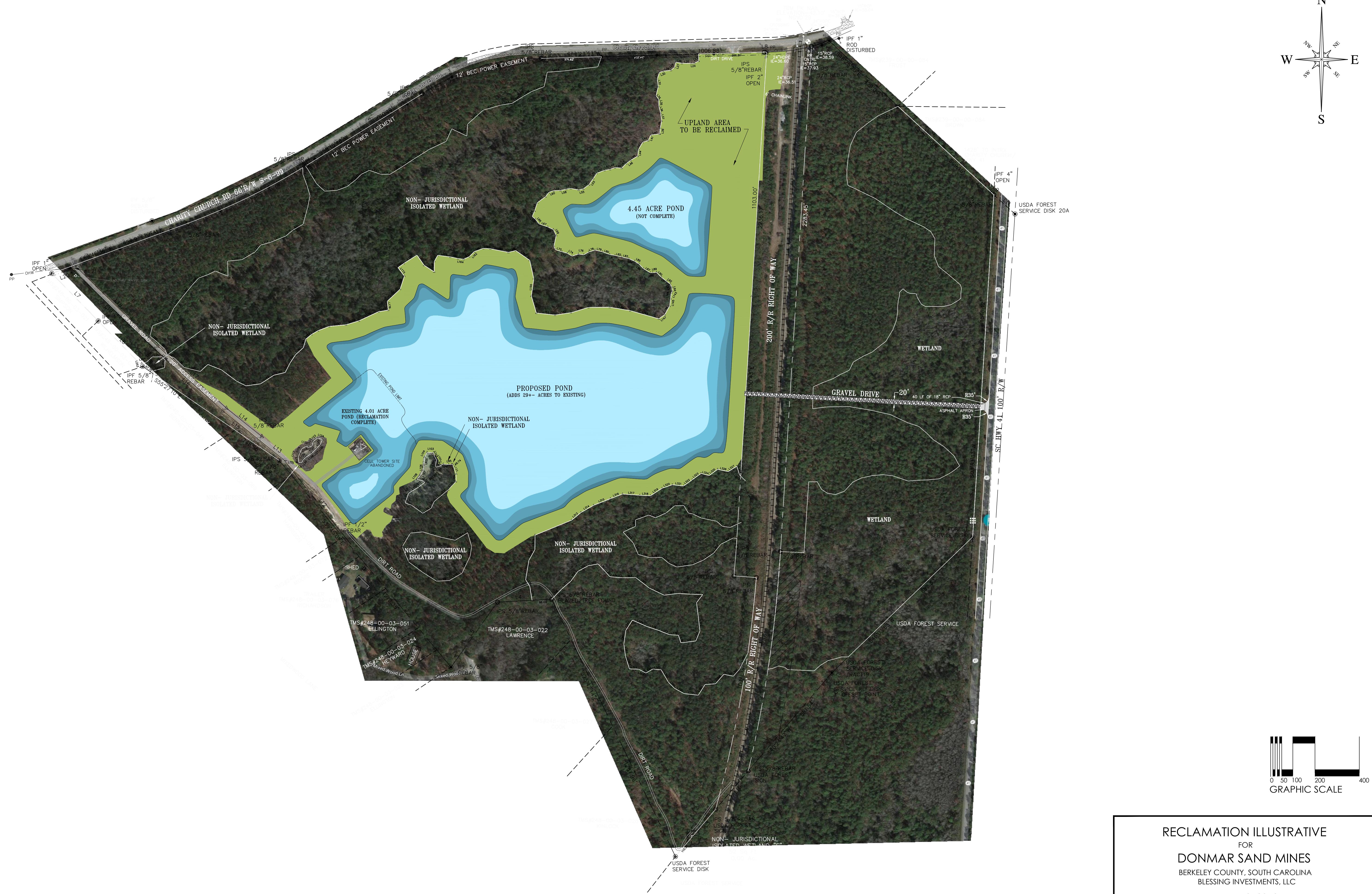
Berkeley County and Berkeley County Board of Zoning Appeals
Case No. 2018-CP-08-000485

Blessing Investments, LLC

v.

Berkeley County and Berkeley County Board of Zoning Appeals
Case No. 2018-CP-08-00486

ELECTRONICALLY FILED - 2019 Oct 24 3:55 PM - BERKELEY - COMMON PLEAS - CASE#2018CP0800485
ELECTRONICALLY FILED - 2019 Oct 28 10:16 AM - BERKELEY - COMMON PLEAS - CASE#2018CP0800485



RECLAMATION ILLUSTRATIVE
FOR
DONMAR SAND MINES
BERKELEY COUNTY, SOUTH CAROLINA
BLESSING INVESTMENTS, LLC

Exhibit "D"

2500' Radius Map

CONSENT ORDER

DONMAR Sand Mines, LLC

v.

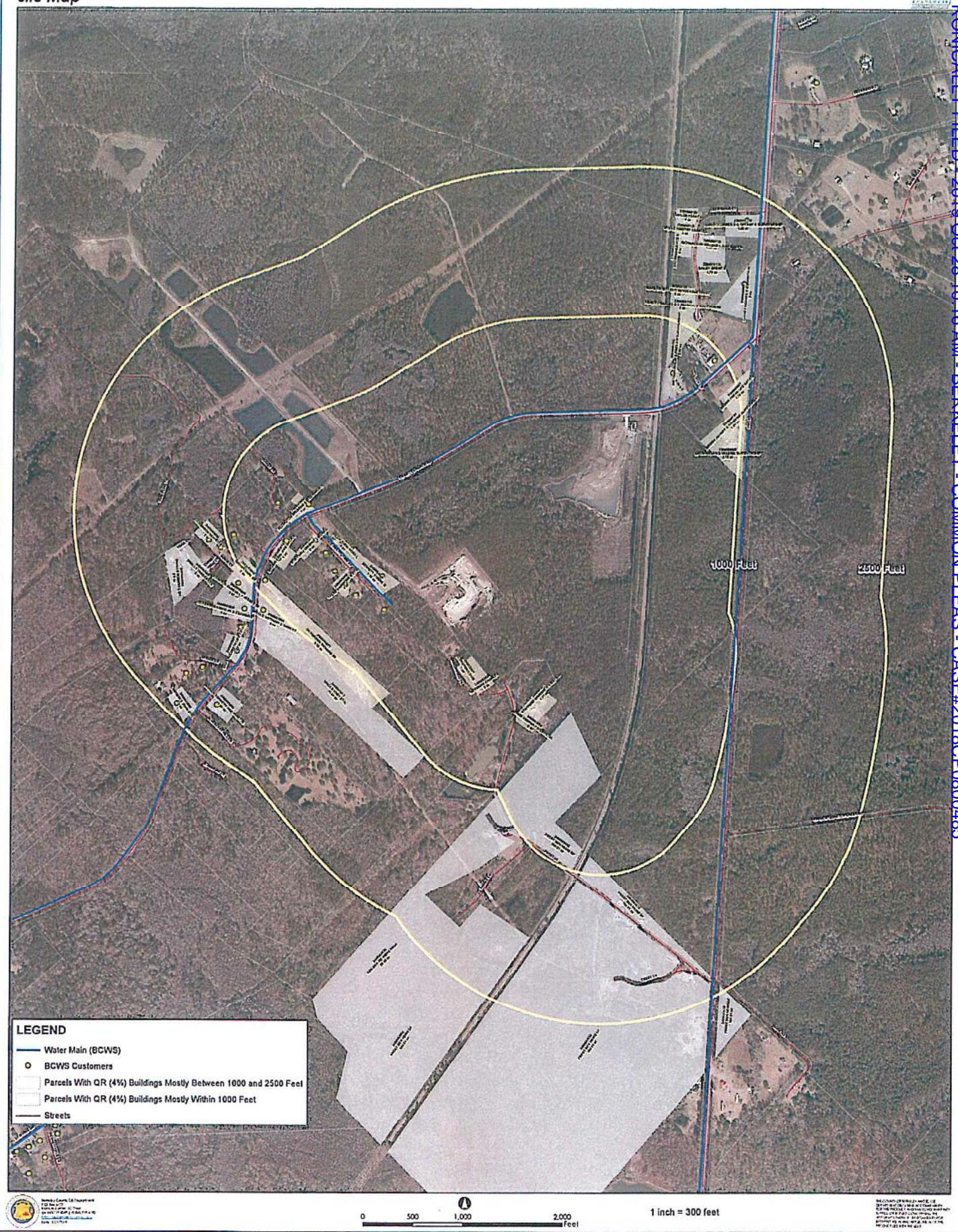
Berkeley County and Berkeley County Board of Zoning Appeals
Case No. 2018-CP-08-0485

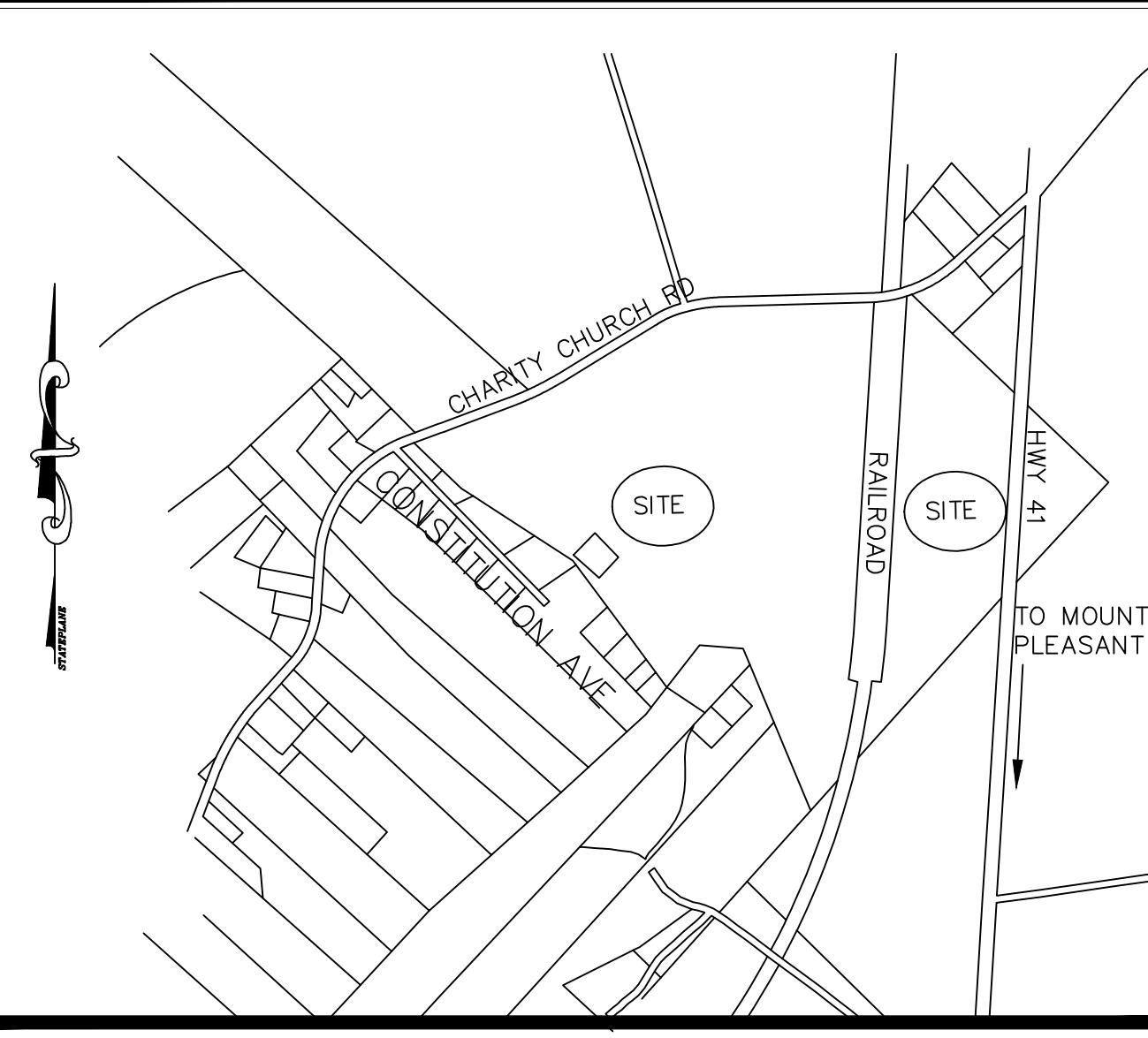
Blessing Investments, LLC

v.

Berkeley County and Berkeley County Board of Zoning Appeals
Case No. 2018-CP-08-0486

Site Map





LOCATION MAP

ZONING INFORMATION:

1. THE CURRENT ZONING IS "FLEX 1" FOR TMS 248-00-03-065, 109 & 114 IN BERKELEY COUNTY.
2. SITE TBM IS A MAG NAIL IN THE ASPHALT. THE VERTICAL DATUM IS NGVD 29.

GENERAL NOTES:

1. IT IS THE INTENT OF THESE PLANS TO ADHERE TO THE BERKELEY COUNTY PLANNING AND ZONING ORDINANCES AND ROAD CODES.
2. THE GENERAL INTENT OF THE PROJECT IS TO MINE A SAND PIT, AND THE APPURTEINANT SEDIMENT TRAP, HAUL ROAD AND STORM DRAINAGE TO SUPPORT SAID DEVELOPMENT.
3. THE PROJECT WILL HAVE ONE ENTRANCE/EXIT OFF OF SC HWY 41.
4. ONCE THE SEDIMENT CONTROL DEVICES ARE IN PLACE THE SEDIMENT TRAP AND ITS DISCHARGE PIPE WILL BE INSTALLED. ONCE THESE ITEMS HAVE BEEN CONSTRUCTED THE MINING OPERATION CAN BEGIN AND THE OWNER OR THE OPERATOR WILL BE RESPONSIBLE FOR THE CONTINUED MAINTENANCE OF THE SEDIMENT CONTROL DEVICES IN ACCORDANCE WITH EROSION CONTROL AND SEDIMENT CONTROL PRACTICES AS MANDATED BY BERKELEY COUNTY PUBLIC WORKS AND THE SCODEC-OFFICE OF COASTAL AND RESOURCE MANAGEMENT.
5. CONTRACTOR IS TO REFER TO THE MOST CURRENT EDITION OF THE SCOTD STANDARD DRAWINGS TO VERIFY CONSTRUCTION SPECIFICATIONS AND DIMENSIONS OF THE PORTION OF THE ENTRANCE ROAD WITHIN THE SCOTD RIGHT OF WAY.
6. ANY FIELD CHANGES WITHIN SCOTD RIGHT OF WAY OR CHANGES THAT WOULD IMPACT THE SCOTD RIGHT OF WAY WILL REQUIRE WRITTEN SCOTD APPROVAL PRIOR TO CHANGES BEING IMPLEMENTED IN THE FIELD.
7. FOR ALL WORK PERFORMED INSIDE THE SCOTD RIGHT OF WAY, CONTRACTOR IS TO REFER TO DETAILS FOR SAME.
8. PERMANENT MAINTENANCE COVENANTS AND AS-BUILT DRAWINGS FOR MINING FACILITIES IN ACCORDANCE WITH THE M4 SPECIFICATIONS NEED TO BE RECEIVED AND ACCEPTED BEFORE THE NOT OF THE COP.

EROSION CONTROL NOTES:

1. IF NECESSARY, SLOPES THAT EXCEED EIGHT (8) VERTICAL FEET SHALL BE STABILIZED WITH SYNTHETIC OR VEGETATIVE MATS, IN ADDITION TO HYDROSEEDING. IT MAY BE NECESSARY TO INSTALL TEMPORARY SLOPE DRAINS DURING CONSTRUCTION. TEMPORARY BERMS MAY BE NEEDED UNTIL THE SLOPE IS BROUGHT TO GRADE.

2. STABILIZATION MEASURES MUST BE INITIATED AS SOON AS PRACTICABLE IN PORTIONS OF THE SITE WHERE CONSTRUCTION ACTIVITIES HAVE TEMPORARILY OR PERMANENTLY CEASED, BUT IN NO CASE MORE THAN 14 DAYS AFTER WORK HAS CEASED, EXCEPT AS STATED BELOW:

- WHERE STABILIZATION BY THE 14TH DAY IS PRECLUDED BY SNOW COVER OR FROZEN GROUND CONDITIONS, STABILIZATION MEASURES SHALL BE INITIATED AS SOON AS PRACTICABLE.

- WHERE CONSTRUCTION ACTIVITY ON A PORTION OF THE SITE IS TEMPORARILY CEASED, AND EARTHMOVING ACTIVITY WILL CONTINUE WITHIN 14 DAYS, TEMPORARY STABILIZATION MEASURES DO NOT HAVE TO BE INITIATED ON THAT PORTION OF THE SITE.

3. ALL SEDIMENT AND EROSION CONTROL DEVICES SHALL BE INSPECTED EVERY SEVEN (7) DAYS. IF SITE INSPECTIONS IDENTIFY BMPs THAT ARE DAMAGED OR ARE NOT OPERATING EFFECTIVELY, MAINTENANCE MUST BE PERFORMED AS SOON AS PRACTICAL OR AS REASONABLY POSSIBLE AND BEFORE THE NEXT STORM EVENT WHENEVER PRACTICABLE.

4. PROVIDE SILT FENCE AND/OR OTHER CONTROL DEVICES, IF NECESSARY, TO CONTROL EROSION DURING CONSTRUCTION. ALL DISTURBED AREAS SHALL BE CLEANED, GRADED, AND STABILIZED WITH GRASSING IMMEDIATELY AFTER THE UTILITY INSTALLATION, FILL, COVER, AND TEMPORARY SEEDING AT THE END OF EACH DAY ARE RECOMMENDED. IF WATER IS ENCOUNTERED WHILE TRENCHING, THE WATER SHALL BE FILTERED TO REMOVE ANY SEDIMENTS BEFORE BEING PUMPED BACK INTO ANY WATERS OF THE STATE.

5. ALL EROSION CONTROL DEVICES SHALL BE PROPERLY MAINTAINED DURING ALL PHASES OF CONSTRUCTION UNTIL THE COMPLETION OF ALL CONSTRUCTION ACTIVITIES AND ALL DISTURBED AREAS HAVE BEEN STABILIZED. ADDITIONAL CONTROL DEVICES MAY BE REQUIRED DURING CONSTRUCTION IN ORDER TO CONTROL EROSION AND/OR OFFSITE SEDIMENTATION. ALL TEMPORARY CONTROL DEVICES SHALL BE REMOVED ONCE CONSTRUCTION IS COMPLETE AND THE SITE IS FULLY STABILIZED.

6. THE CONTRACTOR SHALL TAKE NECESSARY ACTION TO MINIMIZE THE TRACKING OF MUD ONTO PAVED ROADWAYS FROM CONSTRUCTION AREAS AND THE GENERATION OF DUST. THE CONTRACTOR SHALL DAILY REMOVE MUD/SOIL FROM PAVEMENT, AS MAY BE REQUIRED.

7. RESIDENTIAL SUBDIVISIONS REQUIRE EROSION CONTROL FEATURES FOR INFRASTRUCTURE AS WELL AS FOR INDIVIDUAL LOT CONSTRUCTION. INDIVIDUAL PROPERTY OWNERS SHALL FOLLOW THESE PLANS DURING CONSTRUCTION OR OBTAIN APPROVAL OF AN INDIVIDUAL PLAN IN ACCORDANCE WITH S.C. REG. 72-300 ET SEQ. AND SCR100000.

8. TEMPORARY DIVERSION BERMS AND/OR DITCHES WILL BE PROVIDED AS NEEDED DURING CONSTRUCTION TO PROTECT WORK AREAS FROM UPSLOPE RUNOFF AND/OR TO DIVERT SEDIMENT-LADEN WATER TO APPROPRIATE TRAPS OR STABLE OUTLETS.

9. ALL WATERS OF THE STATE (WOS), INCLUDING WETLANDS, SHALL BE FLAGGED OR OTHERWISE CLEARLY MARKED IN THE FIELD. A DOUBLE ROW OF SILT FENCE SHALL BE INSTALLED IN ALL AREAS WHERE A 50-FOOT BUFFER CANNOT BE MAINTAINED BETWEEN THE DISTURBED AREA AND ALL WOS. A 10-FOOT BUFFER SHALL BE MAINTAINED BETWEEN THE LAST ROW OF SILT FENCE AND ALL WOS.

10. LITTER, CONSTRUCTION DEBRIS, OILS, FUELS, AND BUILDING PRODUCTS WITH SIGNIFICANT POTENTIAL FOR IMPACT (SUCH AS STOCKPILES OF FRESHLY TREATED LUMBER) AND CONSTRUCTION CHEMICALS THAT COULD BE EXPOSED TO STORMWATER SHALL BE PREVENTED FROM BECOMING A POLLUTANT SOURCE IN STORMWATER DISCHARGES.

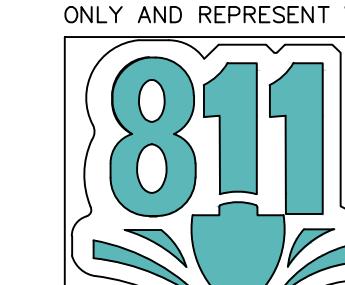
11. PROVIDE WRITTEN PROOF THAT ALL OFF-SITE EASEMENTS HAVE BEEN OBTAINED.

MINE NOTES:

1. THE MINE SITE WILL BE IN OPERATION FOR UP TO 7 YEARS INCLUDING THE RECLAMATION PORTION OF THE PERMIT.
2. THE MINE OPERATOR SHALL PERIODICALLY WET DOWN MINE ACCORDING TO LOCAL AND AIRBORNE EXPOSURE OF SOILS WITHIN THE SITE AS WELL AS OUTSIDE OF THE SITE CAUSED BY MINING ACTIVITIES AND/OR PROVIDE A STABILIZED ROADWAY. THE OPERATOR SHALL SET A SPEED LIMIT NOT TO EXCEED 10 MPH WITHIN THE SITE TO HELP CONTROL DUST AND MINING ACTIVITIES.
3. SOIL MONITORING, RECLAMATION AND OPERATION REGULATIONS MUST BE OBSERVED AT ALL TIMES.
4. MINING OPERATIONS MUST COMPLY WITH BERKELEY COUNTY NOISE ORDINANCE AND FOR SITES LOCATED WITHIN THE MS-1 AREA THE BERKELEY COUNTY STORMWATER MANAGEMENT PLAN.
5. TRUCKS WILL BE ENTERING AND EXITING THE PIT FROM SC HWY 41 AT THE TRAIN TRACK NEAR THE INTERSECTION OF CHARITY CHURCH ROAD AND HWY 41. THERE IS NO THRU TRAFFIC ALLOWED (PLEASE SEE SIGN).

UTILITY LOCATE NOTES:

1. THE CONTRACTOR SHALL CALL 811 FOR A UTILITY LOCATE A MINIMUM OF 72 HOURS PRIOR TO BEGINNING ANY CLEARING AND/OR LAND DISTURBANCE. IT IS THE CONTRACTOR'S RESPONSIBILITY TO HAVE THE UTILITIES LOCATED AND MAINTAIN THE LOCATE TICKET UNTIL ALL WORK HAS SUSPENDED ON SITE. UTILITIES SHOWN ON THE PLAN ARE FOR INFORMATION ONLY AND REPRESENT WHAT WAS LOCATED AT THE TIME OF THE SURVEY.



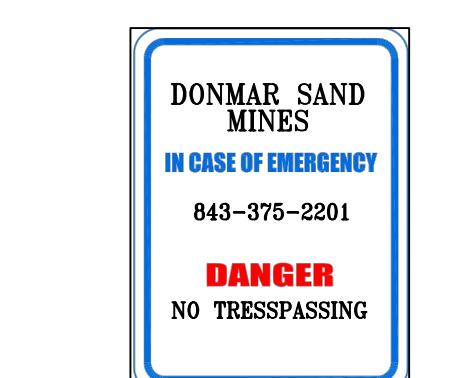
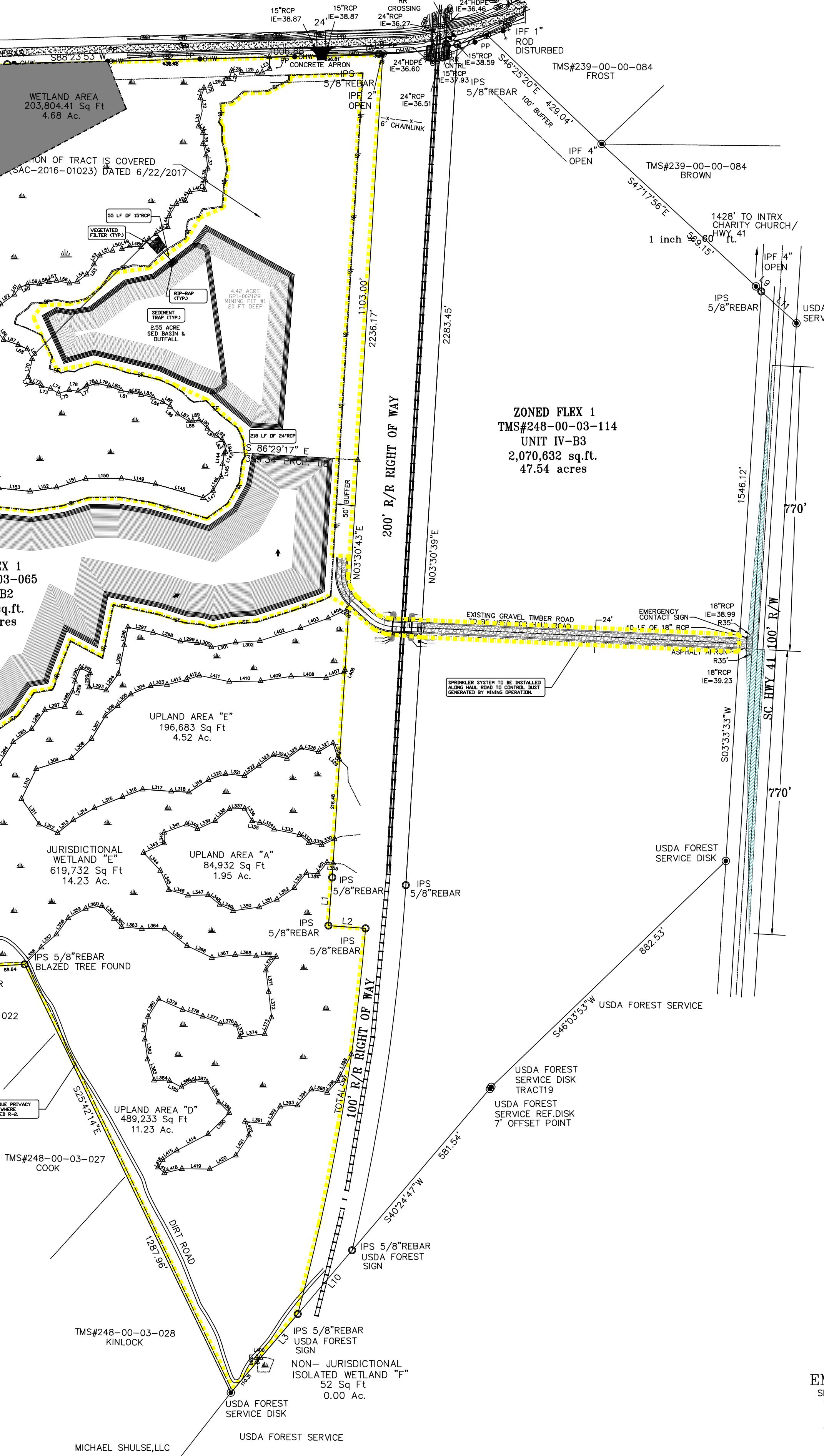
CALL before you dig.

ALL ITEMS IN SECTION 10D OF THE CURRENT ARMS MANUAL FOR BOTH CONSTRUCTION AND POST-CONSTRUCTION DESIGN HAVE BEEN STUDIED AND ADDRESSED. ALL NECESSARY BMPs HAVE BEEN IMPLEMENTED FOR BOTH PHASES (CONSTRUCTION AND POST-CONSTRUCTION) TO AVOID NEGATIVELY IMPACTING IMPAIRED WATERS OF THE SCOTD SYSTEM AND/ OR ITS DISCHARGES.

KEVIN J. COFFEY SC #22399

SC #22399

| AREA SUMMARY | | |
|----------------------|--------|----|
| TOTAL AFFECTED AREA | 40.54 | AC |
| BUFFER AREA | 101.32 | AC |
| TOTAL PERMITTED AREA | 141.86 | AC |



EMERGENCY CONTACT SIGN
SIGN NOTES:
1) SIGN CAN NOT EXCEED AN AREA OF 4 SQ. FT. IN SIZE.
2) ALL LETTERING ON THE SIGN MUST BE RETRO-REFLECTIVE AND A MINIMUM OF 4 INCHES IN HEIGHT.

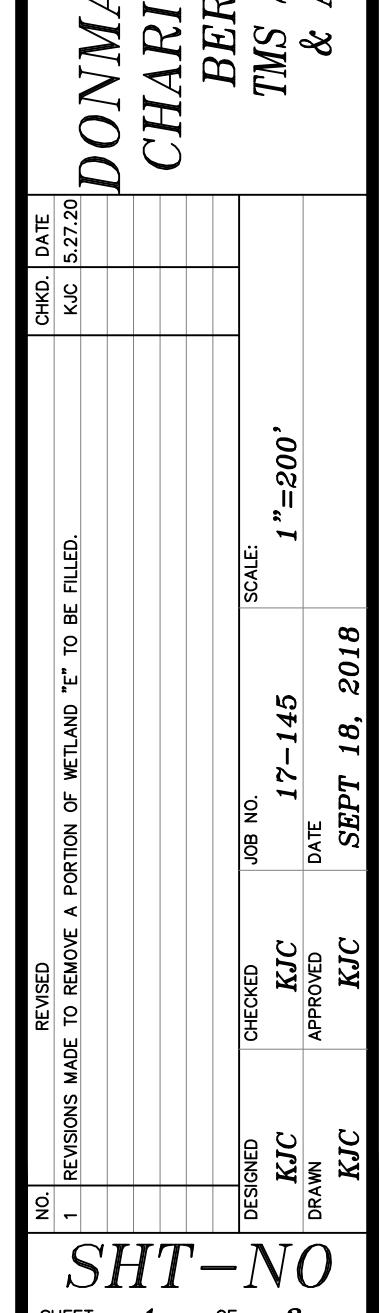
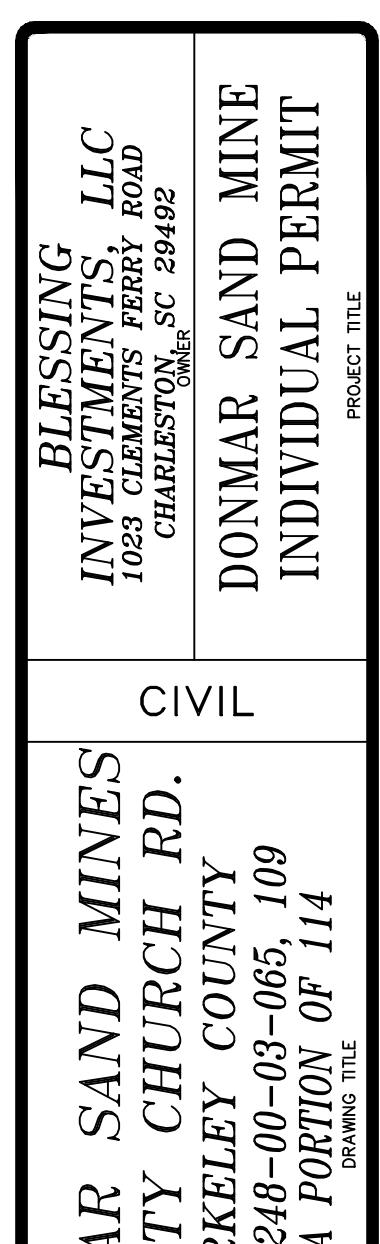
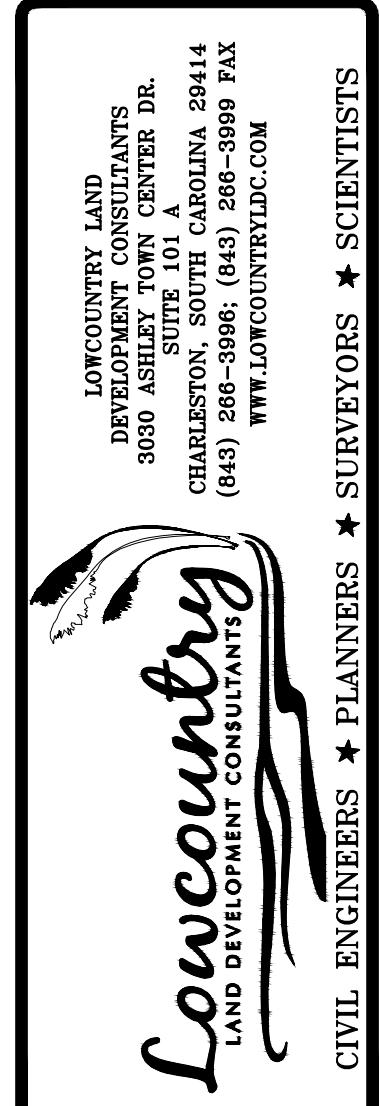
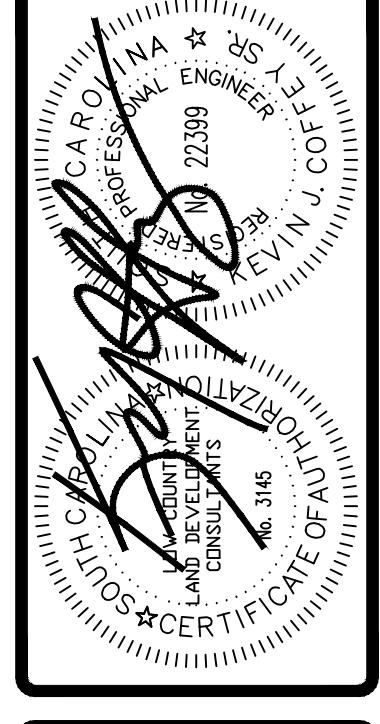
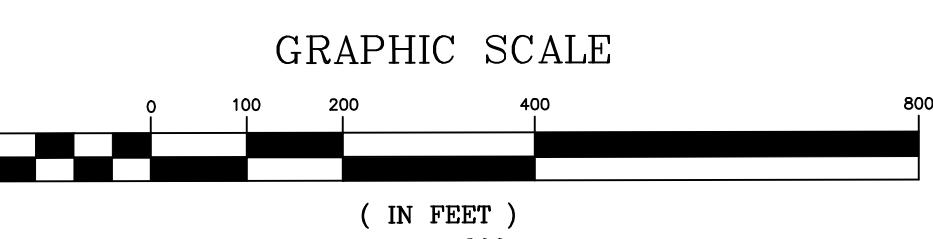


EXHIBIT D
DONMAR MINE COMMUNITY REPRESENTATIVES COMMITTEE

The Huger Residents Group (“HRG”) and DonMar Sand Mines, LLC (“DSM”) have agreed to the following terms and procedures relating to a DonMar Mine Community Representatives Committee (“DonMar Mine CRC”) relating the DonMar Mine in Berkeley County, South Carolina:

1. DonMar Mine Community Representatives Committee Members
 - a. Six (6) members designated by the HRG.
 - b. One (1) representative of SCCCL;
 - c. One (1) representative of County/Parks/Community
2. DonMar Mine Community Representatives Committee Meetings:
 - a. To discuss the status of current and future mine operations and discuss any issues of concern raised by the community:
 - i. The DonMar Mine CRC will meet bi-annually for the first two (2) years after issuance of the Individual Permit;
 - ii. After the first two (2) years after issuance of the Individual Permit, DonMar Mine CRC will meet at least one time per calendar year (“Annual Meeting”) for the life of the DonMar Mine.
 - b. Coastal Conservation League will organize and facilitate the meetings, to be held at a local meeting place in Berkeley county.
3. Modifications or Amendments to Terms and Procedures
 - a. In any calendar year, the DonMar Mine CRC Members and the DonMar Sand Mine, LLC may agree to modifications to the DonMar Mine CRC meetings by written agreement between the DonMar Sand Mine, LLC and the majority of the DonMar Mine CRC Members.