



Inland Port Special Planning Authority

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February 12, 2021

Honourable Derek Johnson
Minister of Municipal Relations
Room 317 - Legislative Building
Winnipeg, MB R3C 0V8

Dear Minister:

**RE: INLAND PORT SPECIAL PLANNING AREA BY-LAW 3-20 TO REZONE
PART OF SECTION 4-12-2 EPM and PART of SECTION 33-11-2 EPM
IN THE RURAL MUNICIPALITY OF ROSSER FROM
INLAND PORT RURAL ZONE TO "I3" INDUSTRIAL HEAVY ZONE**

The Inland Port Special Planning Authority received an application to rezone approximately +/- 589.0 acres parcel in the Rural Municipality of Rosser CentrePort lands. The required public hearing was held January 28, 2021.

The Board has recommended approval, with conditions, of the zoning by-law amendment, as it does conform to the *Inland Port Special Planning Area Regulation 48/2016*. Ministerial approval is required for the proposed zoning by-law amendment

Enclosed is a report and recommendation of the Inland Port Special Planning Authority on the proposed zoning by-law amendment. Also enclosed are the minutes of the public hearing and the record of all representations made at the hearing, including objections.

As required by the *Special Planning Areas Regulation 49/2016*, a copy of this report will be provided to each person who made a representation at the hearing.

Yours truly,

Frances Smee
Chair

Attachments: IPSPA Board Report
Public Objections
Minutes of the Public Hearing
Municipal Board Decision Regarding Lilyfield Quarry
Consent Agreement
Copy of Rezoning Application

Attachment 1: IPSPA Board Report

INLAND PORT SPECIAL PLANNING AUTHORITY

REPORT AND RECOMMENDATION

Recommendation Date: February 9, 2021

File No.: 13-2-172-2019-0086

MATTER: Zoning By-law Amendment

BY-LAW NO.: 3-20

HEARING DATE: January 28, 2021, Winnipeg

PANEL: Frances Smee, Chair
Marina James, Member
Kelvin Stewart, Member
Linda McFadyen, Member

PARTIES AND APPEARANCES: *for the applicant*

Meagan Boles

for the Community Planning Branch

Kari Schulz, Planner, CentrePort

presenters

Gord Broda
Larry Wandowich
Doug Kroll
Deryk Coward
Tony Teixeira
Bruce Henley
Bruce Danylchuk (written submission)

INTRODUCTION

On behalf of Broda Properties Inc., the applicant WSP Canada Group Ltd proposed to rezone nine parcels equal to approximately 589.46 acres. The nine parcels are located in the Rural Municipality of Rosser and are legally described as follows:

Roll Number	Legal Description	Acres
95920	SW 1/4 4-12-2 EPM	144.40
95800	SE 1/4 4-12-2 EPM	158.49
95400	NE ¼ 4-12-2 EPM	55.77
95900	SW 1/4 4-12-2 EPM	9.00
95950	SW 1/4 4-12-2 EPM	5.00
90200	NE 1/4 33-11-2 EPM	142.87
90500	NW ¼ 33-11-2 EPM	73.93

The affected parcels are generally bordered by PTH 101 to the north; Klimpke Road to the east; Farmer Road to the south; and Sturgeon Road to the west. The applicant is proposing to rezone the nine parcels from “IPZ” Inland Port Rural Zone to “I3” Industrial Heavy Zone to accommodate an aggregate extraction operation.

The proposed operation will include an office, maintenance shop, parking and loading areas, crusher laydown area, stockpile area and a scale. Two access points to Mollard Road are proposed and the haul route will follow Mollard Road east to Brookside Boulevard.

The extraction of aggregate will occur over 5 phases – Phases 1 to 3 are north of Mollard Road and Phases 4 and 5 are south of Mollard Road. Once mining of a phase is complete, progressive reclamation and rehabilitation will begin. The estimated date of final progressive rehabilitation for the land is 2035.

ISSUE AND LEGISLATION

The issue before the Board is to make a recommendation to the minister to approve the proposed rezoning, with or without conditions or reject the proposed rezoning.

Section 12.2(1)(a) of the *The Planning Act* states that the mandate of a special planning authority, in respect of its special planning area, is to hold hearings to consider, among other things, any amendment to a zoning by-law.

Section 12.2(2) of the *The Planning Act* states that after holding a hearing on a matter set out in (1)(a), the special planning authority must provide the minister with a report on the hearing that includes the minutes of the hearing, the record of all representations made at the hearing and its recommendations on the matter considered at the hearing.

Section 12.2(5) of *The Planning Act* states that in carrying out its mandate, a special planning authority is to act in accordance with the regulations, being the *Special Planning Areas Regulation 49/2016* and the *Inland Port Special Planning Area Regulation 48/2016*, being the Development Plan and Zoning By-law for the Inland Port Special Planning Area.

PUBLIC PRESENTATIONS

Kari Schulz, Planner from the Community Planning Branch presented the planning report. Meagan Boles spoke in favour of the application on behalf of the applicant, Broda Properties Inc. Public attendees Gord Broda, Larry Wandowich, Doug Kroll, Deryk Coward, Tony Teixeira, and Bruce Henley also spoke at the hearing. Bruce Danylchuk provided a written submission.

Community and Regional Planning Branch:

Kari Schulz, Planner, presented the planning report. She confirmed the area proposed for rezoning is partly designated as Manufacturing and Logistics and partly designated as Service-Oriented Industrial. Policies within the development plan, specifically policies in Section 6 state that high or medium aggregate resources may be extracted.

The proposed "I3" Industrial Heavy Zone permits aggregate extraction operations. The "I3" zone is suitable for intensive industrial operations. The Zoning By-law also requires that new development applications achieve at least five points from one or more of the sustainable development measures. Because of the unique use of the site, the applicant will likely not be able to meet the sustainable development measures requirement and a variance will be required.

Ms. Schulz indicated a technical review of the application was completed. The following comments and recommendations were received:

RM of Rosser: The RM confirmed that the applicant has completed the Community Consultation Report to their satisfaction, as required under the Rural Municipality of Rosser Quarry Operations By-law No. 8-15. The RM also provided a list of recommendations:

- The development meet the standards of the Rural Municipality of Rosser's Quarry Operations By-law No. 8-15, as amended from time to time.
- The RM and developer consent to conditions implemented in earlier aggregate developments in the RM (see attached consent agreement for reference).
- The standards contained within the Quarry Operations By-law No. 8-15 and the consent agreement were approved as standards by The Municipal Board and the conditions of The Municipal Board shall be included (see attached Municipal Board report).
- The Capital Lot Levy By-law will apply.
- All municipal, provincial and federal by-laws and/or regulations are met by the proponent.
- That the developer enter into a development agreement with the RM.
- A traffic impact study is to be completed which will account for all conditionally approved developments and the impact on the intersection at Mollard Road and Brookside Boulevard.
- The developer must complete a Water and Resource Management Plan where de-watering must be approved by the RM.
- The developer must complete a drainage plan, according to the Master Plan and Drainage By-law 2-17 and must be approved by the RM.

Manitoba Infrastructure: Infrastructure does not object to the rezoning and the establishment of an aggregate extraction operation. Due to PTH 101's designation as a Limited Access Highway, access to PTH 101 would not be permitted, leaving Mollard Road as the haul route. Infrastructure requests that the following are included as conditions of approval:

- The developer provides written confirmation that sufficient information has been provided to the regional Technical Services Engineer to allow the engineer to determine if the development may adversely affect the provincial highway drainage system. The regional office may request the applicant to submit a detailed drainage plan.
- The developer provides written confirmation from the department that a traffic impact study has been received and approved for this development. The traffic impact study must identify the amount and type of traffic that will be generated by the development and its potential impact on the adjacent road network. The study will also identify the type of on-highway

improvements that will be required to safely accommodate the heavy truck traffic generated by this development.

Manitoba Conservation and Climate: The Drainage and Water Rights Licensing Branch has no concerns but may require an engineered drainage plan.

City of Winnipeg: The Public Works Department has determined, based on this type of development, that improvements will be required at the intersection of Mollard Road and Brookside Boulevard. The City has requested that the following is added as a condition of approval:

- Improvements to the intersection at Mollard Road and Brookside Boulevard shall be undertaken and completed to the satisfaction of the Director of Public Works, at no expense to the City.

Manitoba Agriculture and Resource Development (Mineral Resources): The Land Use and Resource Tenure Branch of Manitoba Agriculture and Resource Development has no concerns with the proposal to rezone the lands for aggregate extraction. The land is identified as being of “medium” quality for aggregate potential on Map 2C of the South Interlake Planning District Development Plan, and from a planning perspective, is suitable for rezoning to permit aggregate extraction.

When extraction facilities are to be established, and permit applications are made, the Department will consider the imposition of conditions on the permit.

Winnipeg Airports Authority (WAA): The WAA notes several federal regulatory requirements must be met. A land use submission must be approved by NAV Canada to ensure that the air navigation safety and efficiency are not compromised by the aggregate extraction operation. It is also noted that Transport Canada may require an Aeronautical Assessment for Obstacle evaluation.

WAA also provided several recommendations to ensure compliance with federal regulatory requirements:

- On-site standing water or ponds should be limited during the course of development and accordingly the proponent should complete:
 - Water Management Plan;
 - Wildlife Management Plan; and
 - Rehabilitation Plan.
- The site of the proposed aggregate extraction operation is between the direct extended centrelines for the two active runways of the Airport. The affected area regularly experiences overflights for aircraft on approaches, departures and local circuits at the Airport. An aeronautical assessment must be completed with Legal Land Survey for Airport Zoning Regulation Clearance Attestation. The survey certificate should be provided to the WAA and Transport Canada.
- “Cut-off” exterior lighting is to be used to ensure there is no upward light projection during operation.
- Previous applications in 2010 and 2001 indicated alternative methods for extraction, such as “surface mining” technology, instead of blasting. WAA requests the proponent to consider alternatives that minimize blasting and the potential negative impact to airport operations.

Historic Resources Branch: The Historic Resources Branch does not object to the proposed aggregate extraction operation, however they advise that human remains have been recovered from gravel pits in the past and that the operators should be aware of the procedures to follow if human remains or other heritage resources are encountered.

In Support of the Application:

Meagan Boles spoke in support of the application on behalf of the applicant, Broda Properties Inc. Ms. Boles stated that the purpose of the application was to rezone approximately 589 acres from Inland Port Rural Zone to "I3" Industrial Heavy Zone to permit the establishment of an aggregate extraction operation. Ms. Boles noted that in addition to the rezoning, the proposed operation must meet all legislative and regulatory requirements, including the Provincial Planning Regulation, the Inland Port Special Planning Area Regulation, the Rural Municipality of Rosser Quarry Operations By-law, and the Mines and Minerals Act.

Ms. Boles also noted that the applicant completed the Community Consultation requirement of the RM of Rosser Quarry Operations By-law. The consultation was undertaken from July 2019 to February 2020.

Gord Broda, the landowner, spoke in support of the application. He purchased the lands in 2001 and has worked with technical experts over the last twenty years, completing all technical studies required. Mr. Broda stated he is committed to meeting all conditions and to being a good neighbour.

Larry Wandowich, CAO for the RM of Rosser, spoke on behalf of the RM of Rosser. Mr. Wandowich provided detailed written comments and reiterated the contents of his submission. He stated the RM has standards for this type of development, as the recently approved Lilyfield Quarry demonstrates. The Municipal Board provided a list of standards and requirements for the Lilyfield Quarry and those same standards and requirements will apply to this application. Mr. Wandowich also highlighted three areas for their importance:

- Traffic: The RM will require an updated traffic impact study that examines the proposed haul route and signalization at the intersection of Mollard Road and Brookside Boulevard.
- Dewatering: Specific standards will apply and the applicant will be required to complete a drainage plan approved by the RM that accounts for the dewatering process.
- Development Agreement: Capital lot levies will apply as well as numerous other conditions outlined in the consent agreement between the RM and Lilyfield Quarry.

In Objection to the Application:

Doug Kroll objected to the proposed rezoning. Mr. Kroll stated that the proposed aggregate extraction operation is not aligned with the vision of the Inland Port Special Planning Area.

Deryk Coward objected to the proposed rezoning. Mr. Coward represents JMT Holdings Inc., a local landowner with an approximately 68 acre parcel immediately north of the proposed aggregate extraction operation. The concerns of his written submission and public presentation may be summarized as follows:

- Traffic: The additional traffic comprised of heavy duty trucks raises safety concerns.
- Blasting: Questioned how they can be assured that blasting will be limited.
- Water: The integrity of the water table must be preserved, which may be difficult with blasting and high water levels.
- Land value: The land values adjacent to the proposed operation will likely decrease in value. Requested that a land appraiser is obtained and any reduction in value results in compensation for his client.

Tony Teixeira objected to the proposed rezoning. In addition to the concerns raised by his legal counsel, Mr. Coward, Mr. Teixeira raised several questions:

- Can blasting be limited?
- What upgrades to Mollard Road will be completed?
- What is the process for approving the development agreement?

Bruce Henley objected to the proposed rezoning. Mr Henley raised two concerns: the lack of signalization at the intersection of Mollard Road and Brookside Boulevard; and the lack of consultation with nearby businesses.

Bruce Danylchuk objected to the proposed rezoning via written submission. Mr. Danylchuk objected for the following reasons:

- Water supply: Concerned about the impact on the water supply to their well. If there is contamination to the well, that will negatively impact the people residing here, as well as the livestock.
- Traffic: The increased traffic with heavy trucks and he questioned if there will be upgrades to Mollard Road.
- Property damage: The proposed blasting may damage his residence and questioned who will cover the damage, if incurred.

ANALYSIS AND CONCLUSION

The Board has carefully considered the evidence presented at the hearing, the information provided by the interdepartmental review of the application, and the five public objections.

Firstly, the Board is confident that all legislated procedures were followed in relation to providing notice of the public hearing, as required by The Planning Act and the Special Areas Regulation 49/2016. Secondly, the Board has considered each public objection carefully.

The area proposed for rezoning is mostly designated Manufacturing & Logistics and partly Service-Oriented Industrial according to the Inland Port Special Planning Area Regulation 48/2016 (refer to figure 2). Section 6 ensures that aggregate resources are dealt with appropriately and supports the extraction of medium to high aggregate resources within either of these designations.

The Province has identified the aggregate deposit of medium quality. Policies state no permanent structure may be placed upon a known medium aggregate deposit. It is importance to note that immediately surrounding land uses are residential and agricultural.

The Board notes that an aggregate extraction operation is a very complex project and that rezoning the affected parcels is only one step of many. It is extremely important to note that the enterprise must comply with all federal and provincial legislative regulatory requirements. Additionally, the operation must comply with the RM of Rosser Quarry Operations By-law and the standards set out in The Municipal Board decision related to the Lilyfield Quarry and the conditions outlined in the consent agreement. The Board seriously examined each public objection and determined that they may be categorized as follows:

1. Traffic/Infrastructure Improvements: The traffic impact study completed by the applicant indicates signalization will not be required at the intersection of Mollard Road and Brookside Boulevard. However, development in the region has occurred quickly and the traffic impact study must consider the impact of these new developments, in addition to the traffic generated by the aggregate extraction operation, will have on the intersection. Additionally, Mollard Road will require upgrades but the extent and nature of these upgrades is unclear.
2. Water: The proposed aggregate extraction operation has the potential to contaminate the aquifer, thereby affecting nearby wells. Additionally, the proposed dewatering process for the operation may negatively impact drainage.
3. Blasting: The main method of extraction will be surface mining. However, due to the known presence of dolomite in the area, blasting will be required at times. It is not clear how much blasting will actually occur. The Winnipeg Airports Authority also raised concerns about the impact of blasting on airport operations.
4. Land Values: Local landowners may experience a decrease in property value due to the operation, which will include blasting and heavy truck traffic. Property damage due to the blasting is a real concern.

The Board believes each issue may be addressed as follows:

1. Traffic/Infrastructure Improvements: The applicant will be required to submit an updated traffic impact study that accounts for all approved and conditionally approved development in the area. The traffic impact study will determine the nature of road upgrades to Mollard Road and Brookside Boulevard, as well as the need for signalization at the intersection.
2. Water: The RM will require the applicant to complete a drainage plan in accordance with the Master Plan and Drainage By-law 2-17. The drainage plan must be approved by the RM and the Departments of Infrastructure and Conservation and Climate.
3. Blasting: The development agreement will contain an appropriate clause to limit blasting to minimize the negative impact on nearby landowners and airport operations.
4. Land Values: The consent agreement between the RM of Rosser and Lilyfield Quarry contains a clause with a formula to ensure that land values retain their current value. If land values were to decrease, the formula ensures the land owners are compensated.

Overall, the Board is satisfied that the application is generally in keeping with the *Inland Port Special Planning Area Regulation 48/2016*.

THEREFORE, THE BOARD RECOMMENDS

That the approving authority approves the rezoning application, subject to the following conditions:

1. That a Development Agreement be entered into with the RM of Rosser to ensure consistency with the Inland Port Special Planning Areas Regulation 48/2016 and to cover any other such matters as deemed necessary by Council. The Development Agreement will ensure the aggregate extraction operation meets the standards of the Quarry Operations By-law No. 8-15, as well as the conditions of the consent agreement and recent Municipal Board decision (see attached for details). The development agreement may also include, but not be limited to, the following conditions to be addressed: road upgrades (including potential improvements to Mollard Road), an updated Traffic Impact Study and potential improvements to the intersection at Mollard Road and Brookside Boulevard, decreased land value compensation, establishment of proposed landscaping, drainage study, a Water and Resource Management Plan, a Rehabilitation Plan. lot grading, lighting, and the application of the Capital Lot Levy By-law.
2. That the Inland Port Special Planning Area Regulation 48/2016 is amended to rezone the affected parcels to "I3" Industrial Heavy.
3. Confirmation from Manitoba Infrastructure that drainage onsite will not adversely affect the provincial highway system.
4. Confirmation from Manitoba Infrastructure that an updated Traffic Impact Study has been provided and any items identified have been addressed appropriately.
5. Confirmation from Manitoba Conservation and Climate that a Drainage Plan has been provided and any items identified have been addressed appropriately.
6. Confirmation from the Winnipeg Airports Authority that the developer has completed an approach survey and submitted the survey certificate to the WAA.
7. Confirmation from the Winnipeg Airports Authority that a Water Management Plan has been completed.
8. Confirmation from the Winnipeg Airports Authority that a Wildlife Management Plan has been completed.
9. Confirmation from the Winnipeg Airports Authority that a Rehabilitation Plan has been completed.

10. Confirmation from the City of Winnipeg that an updated Traffic Impact Study has been provided.

11. That the applicant obtain a variance to reduce the Sustainability Measures requirement.

Submitted by:

Frances Smee
Chair, Inland Port Special Planning Authority

Attachments

c.: Meagan Boles, applicant
Doug Kroll
Deryk Coward
Tony Teixeira (JMT Holdings Inc.)
Bruce Henley
Bruce Danylchuk

Attachment 2: Public Objections

From: [Bruce Danylchuk](#)
To: [+WPG139 - Inland Port Special Planning Authority \(MR\)](#)
Subject: Attn: Kari Schulz - Re-Zoning of Section 4-12-2 EPM and Part of Section 33-11-2 EPM in the RM of Rosser
Date: January 27, 2021 4:18:38 PM
Importance: High

Attn: Kari Schulz

RE: Re-zone part of Section 4-12-2 EPM and part of Section 33-11-2 EPM in the RM of Rosser CentrePort lands from inland Port Rural Zone to "I3" Industrial Heavy Zone to establish an aggregate extraction operation.

I, Bruce Danylchuk, own property on the corner of sturgeon road and perimeter highway which is directly to the north west of the proposed quarry operation.

Below are several of my concerns:

Since we are in a close proximity to the proposed quarry, I am concerned about the impact this will have on the water supply from our well on our property.

Concerns I have are: well-being disturbed and lack of water or contamination to the water table

If there ever was an issue with water contamination or lack of water – how will this be taken care of as there are people living in the home on the property and livestock on the property.

Because of the blasting and quarry operation, if there is any structural damage to any of the buildings such as cracked floor, cracked foundation, cracked/broken windows or any structural damage would we be covered for these damages to the building on our property?

Traffic increase – there would be an influx of traffic mainly heavy trucks hauling out the aggregate, will the road be asphalted to control the dust?

Is it necessary to open another pit when one has just been opened on Lilyfield road just north of where are? It's called the Lilyfield Quarry

Thank you,

Bruce Danylchuk | bruce@ebdenterprises.com | 204-793-9700



Myers LLP

Barristers & Solicitors

Reply to: Deryk W. Coward
File No: 24120-062
mgerstein@myersfirm.com
Direct Line: 204-926-1526

January 27, 2021

Inland Port Special Planning Authority
604-800 Portage Avenue
Winnipeg, Manitoba, Canada R3G 0N4

By email inlandportspa@gov.mb.ca

Dear Sirs and Madams,

**RE: INLAND PORT SPECIAL PLANNING AREA BY-LAW 3-20 TO RE-ZONE
PART SECTION 4-12-2 EPM and PART SECTION 33-11-2 EPM
FROM INLAND PORT RURAL ZONE TO "I3" INDUSTRIAL HEAVY ZONE**

With respect to the above-noted matter, please be advised that we represent JMT Holding Inc. ("JMT"), which owns land adjacent to the proposed North Perimeter Aggregates Quarry (the "Quarry") of Broda Properties Inc. ("Broda"). JMT owns the property legally described as DES NE4 12 2E in the RM of Rosser, which is presently zoned as Agricultural land.

Our understanding is that the Virtual Public Hearing on Thursday, January 28, 2021 at 6:30pm is a special planning authority hearing pursuant to the *Special Planning Areas Regulation*, Regulation 49/2016 (the "*Special Planning Regulation*") to consider Broda's application for re-zoning of the above noted land to Industry 3, which would facilitate Broda to move forward with its plans to develop the Quarry (the "Hearing").

Please accept this letter as notice that pursuant to the *Special Planning Regulation* section 12(1), we intend to make representations / submissions at the Hearing pertaining to the following topics, namely:

ANTICIPATED EFFECTS ON LAND VALUES

We intend to submit that Broda ought to be required to supply better and additional information regarding the anticipated effects on land values for adjacent properties. We have reviewed the materials regarding the Quarry currently available on The Rural Municipality of Rosser's website at:

http://www.rmofrosser.com/main.asp?fxoid=FXMenu,7&cat_ID=1&sub_ID=76. In our view, very little information has been provided to explain Broda's anticipated effects on land value aside from the below noted vague and general assertion that:

"The properties located adjacent to and near the proposed quarry site are designated for industrial land uses under Regulation 49/2016. There is already increased value in this land use designation over an agricultural or rural residential type designation.

Aggregate development is different in that the resource cannot be moved or relocated. The quarry is not a long-term land use and the intent is that as contiguous industrial development within CentrePort proceeds to grow north and west from Brookside Boulevard, industrial development of the area will occur."

(Quarry Community Consultation Report of Broda, page 5)

We would further note that as regards the potential effects on property values for land which surrounds the proposed Quarry, evidence ought to be provided from duly qualified appraiser(s).

WATER

There is significant concern regarding the water table at the Quarry location and the risk of it being breached. There exist approximately 75 functional water wells within a 3.2 kilometer radius of the proposed Quarry. Any breach of the water table could cause disastrous results to the integrity of the water system and have a negative impact on humans and wildlife.

The environmental concerns raised in relation to the local water systems are linked to the issue of land values; if there were to be a negative impact upon the integrity of the local water system it would almost certainly have a negative effect on property values.

We note that the report of Ms. Schulz dated January 22, 2021 indicates that Manitoba Infrastructure – Water Review, and Manitoba Conservation and Climate responded with no concerns, but our client questions the quality and quantity of information provided to them and is of the view that more assessment of this issue is warranted.

An element of the water issue which is not adequately addressed in the materials is whether the proposed Quarry has submitted a viable plan to deal with the disposal of all of the water which would be used in its operations. This water generated from the

operations of the Quarry would also likely be contaminated and without a proper plan for its disposal it could have a negative effect on adjacent land owners.

Our client is of the view that evidence should be obtained from a municipal drainage engineer or a hydrological engineer in order to address the water issues and the potential impact of the Quarry on the surrounding area.

NUISANCE

Our client is concerned over the traffic issues which would be caused by a Quarry operation, as well as dust and noise which would be apparent throughout the area. The traffic, dust and noise all serve as significant negative elements which could lower property values of surrounding lands.

We note that it is not just local residents who would be affected by the proposed Quarry, but also the adjacent land owners such as JMT.

POTENTIAL CONFLICT OF INTEREST

Our client is respectfully concerned that the same entities which are being requested to approve this Application for Rezoning stand to benefit financially in the form of royalties, in the event the Application is approved. This has the potential of creating a conflict of interest.

The public perception of fairness throughout this decision making process is critical. Our client is given to understand that under the *Municipal Act*, anyone with a potential conflict of interest is required to distance themselves from the matter and/or recuse themselves from the matter.

PROCESS

Our client only became aware of this Application for Rezoning in December, 2020. It was never provided with any notice of this Application, which appears to have been under consideration for several years. Under these circumstances, our client requests more time to review and assess the Application and retain its own expert(s) to advise on these important issues.

Moreover, proceeding by video hearing on January 28, 2021 will present many challenges which will likely impede a fulsome discussion of all of the issues; it is clear that holding this hearing in person when Covid-19 permits is the better route to take.

There are many residents in the R.M. of Rosser who do not even have the ability to participate virtually in this hearing, since the internet strength in many parts of the R.M. is insufficient. In addition, due to the Covid-19 restrictions imposed on gatherings by the

Province, an individual cannot attend at another person's residence who may indeed have access to the internet.

The principals of our client are seniors who are not computer literate and are thereby significantly disadvantaged by a virtual process. This is all against the backdrop of a process which has been many years in the making and is not urgent from any realistic objective perspective.

There is no compelling reason to rush this process and hold a hearing which significantly diminishes the ability of major stakeholders to put forth their respective evidence. This is a very important decision for this area and in light of the fact there is no apparent urgency to approving the application, we suggest that it is only fair to postpone the hearing to allow for it to be conducted in-person.

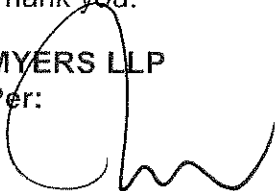
In that regard, we would pause to note that the R.M. of St. Andrew's and the R.M. of East St. Paul have already taken the stance that hearings of this kind cannot proceed by video. In our view, this is the appropriate approach to be taken in this case.

At the upcoming hearing, we intend to make oral representations / submission on these and other matters related to the Quarry, and depending upon the responses received thereto, our client reserves its right to subsequently file a written objection to the Minister, pursuant to the *Special Planning Regulation* section 13(2)(b).

Thank you.

MYERS LLP

Per:

A handwritten signature in black ink, appearing to read 'Deryk W. Coward', written over the 'Per:' label.

Deryk W. Coward

DWC/mtg/dwc

Attachment 3: Minutes of Public Hearing

INLAND PORT SPECIAL PLANNING AUTHORITY

MINUTES OF PUBLIC HEARING

ZONING BY-LAW NO. 3-20

Thursday, January 28, 2021 at 6:30 p.m.
Virtual Public Hearing, Winnipeg

PRESENT
Frances Smee, Chair
Kelvin Stewart, Board Member
Linda McFadyen, Board Member
Marina James, Board Member
Kari Schulz, Planner, CentrePort

RECORD OF REPRESENTATION	IN SUPPORT	OBJECTING	FOR INFORMATION
Meagan Boles	X		
Gord Broda	X		
Lauren Lange	X		
Tony Teixeira (rep by Deryk Coward)		X	
Michael Gerstein (rep by Deryk Coward)		X	
Deryk Coward		X	
Curtis Kleinsasser			X
Colleen Munro			X
Chuck Chappell			X
Doug Kroll		X	
Lloyd Grenkow			X
LCG Equipment Sales			X
Ken Mulligan			X
Bruce Henley		X	

Chair Frances Smee called the public hearing to order at 6:40 p.m., introduced the Board and explained the purpose and process of the hearing.

Kari Schulz, Planner provided a summary of the procedure for processing rezoning applications, provided proof that the hearing was advertised in accordance with *The Planning Act*, and presented the planning report. Ms. Schulz recommended approval of the application with conditions.

The following persons were in attendance and spoke:

Meagan Boles spoke on behalf of the applicant, Broda Properties, and in favour of the application. The purpose of this application is to rezone approximately +/- 589

acres to permit the establishment of an aggregate extraction operation. In addition to the land being rezoned, the proposed operation must meet all legislative and regulatory requirements, including the Provincial Planning Regulation, the Inland Port Special Planning Area Regulation, the Rural Municipality of Rosser Quarry Operations By-law, the Mines and Mineral Act, as well as the conditions of the development agreement. Ms. Boles indicated that the operator will use surface mining as much as possible and will only blast when necessary. She also acknowledged that Mollard Road will require upgrades. However, the completed traffic impact study states no signalization at Mollard Road and Brookside Boulevard is required.

Ms. Boles also noted that the applicant has completed the Community Consultation requirement of the RM of Rosser Quarry Operations By-law. The consultation was undertaken from July 2019 to February 2020. The applicant will also meet the other requirements of the Quarry Operations By-law.

Ms. Boles indicated that the applicant is amenable to all proposed conditions in the planners zoning report except it is not clear why the Winnipeg Airports Authority requires an approach survey when the location of the operation is between the flight paths. Ms. Boles asked that the condition related to this requirement, is removed.

Mr. Gord Broda, the landowner, also spoke on behalf of his application. He purchased the lands in 2001 and has worked with technical experts over the last twenty years. Rezoning is the next step as he has completed all technical studies. He is committed to meeting all conditions and to being a good neighbour.

Mr. Larry Wandowich, the CAO for the RM of Rosser, previously submitted comments in writing. He also stated that the standard for this type of development are the same as those approved by The Municipal Board for the Lilyfield Quarry and that those conditions should be applied to this operation. Mr. Wandowich highlighted three areas for their importance. Firstly, an updated Traffic Impact Study should be required. Secondly, the specific standard should apply to the proposed dewatering. Thirdly, the applicant must meet the requirements of the RM's rehabilitation standards, which are more stringent than the provincial standards. Additionally, a development agreement is required and the Capital Lot Levies will apply.

Mr. Doug Kroll spoke in objection to the application. He stated that this area within the perimeter highway is not compatible with an aggregate extraction operation. He is pleased that the Traffic Impact Study will be updated.

Mr. Deryk Coward previously submitted written comments and spoke in objection to the application. He represents JMT Holdings Inc, who own an approximately 68 acre parcel immediately north of the proposed aggregate extraction operation. He stated that they are a major stakeholder in this process and is concerned there is no separation between his client's property and the proposed aggregate extraction operation. He noted that his client was disappointed that no notice of the project was received until mid-December and that no notice was received in regards to the Community Consultation. Mr. Coward noted this is a complex project, requiring many technical experts and his client is frustrated that time did not permit him to obtain his own technical experts. His concerns may be summarized as follows:

- Traffic: The additional traffic comprised of heavy duty trucks raises safety concerns.
- Blasting: Questions how they can be assured that blasting will be limited.
- Water: The integrity of the water table must be preserved, which may be difficult with blasting and high water levels.
- Land value: The land values adjacent to the proposed operation will likely decrease in value. Requested that a land appraiser is obtained and any reduction in value results in compensation for his client.

Tony Teixeira spoke in objection to the application. He reiterated Mr. Coward's concerns about lack of opportunity to obtain their own technical experts. Mr. Teixeira also stated he does not understand how an aggregate extraction operation fits with the overall vision of CentrePort. He also noted that the operation is not worth the risk to the environment and water supply, as well as land values. He asked how to ensure blasting is limited.

Chairperson Smee noted that blasting may be limited through the development agreement condition.

Mr. Teixeira asked what upgrades to Mollard Road will be performed.

Chairperson Smee answered that the needed upgrades will be dependent on the results of an updated traffic impact study.

Mr. Teixeira asked if local residents are contacted directly for community consultation.

Chairperson Smee noted that for the Community Consultation performed under the RM's Quarry Operations By-law, the applicant contacted local residents.

Ms. Boles confirmed that a notice was sent via registered mail on August 29, 2019 to JMT Holdings at 3000 Main Street, the notice was posted on all four sides of the affected property, and advertised in the newspaper.

Ms. Schulz confirmed (after the public hearing) that notice was sent to JMT Holdings at 3000 Main Street in mid-November and mid-December.

Mr. Teixeira asked what the process is for approving the development agreement.

Chairperson Smee confirmed that the development agreements must be reviewed and approved by Council.

Mr. Bruce Henley objected to the proposed application. He does not understand the lack of signalization at Mollard Road and Brookside Boulevard, given his personal experience with driving in the area. He also noted that he approved of the request for an updated traffic impact study. Finally, he remarked that only local residents are acknowledged and that other landowners and businesses are not consulted.

Ms. Schulz read Mr. Bruce Danylychuk's written submission into the minutes. Mr. Danylchuk objected to the proposed application. Mr. Danylchuk owns a property at

the corner of Sturgeon Road and the PTH 101, which is directly northwest of the proposed aggregate extraction operation. Mr. Danylchuk listed several concerns:

- Water supply: Concerned about the impact on the water supply to their well. If there is contamination to the well, that will negatively impact the people residing here, as well as the livestock.
- Traffic: The increase in traffic with heavy trucks and he questions if there will be upgrades to Mollard Road.
- Property damage: The proposed blasting may damage his residence and questions who will cover the damage, if incurred.

Mr. Teixeira asked which Board members are present and who they represent.

Chairperson Smee confirmed that all four Board members were present: herself and Councillor Stewart representing the RM of Rosser; Linda McFadyen representing CentrePort Canada Inc.; and Marina James representing the Winnipeg Airports Authority.

Mr. Teixeira requested that Mr. Coward's written submission is forwarded to the Board before their decision is made.

Mr. Broda concluded that this quarry application has been out in the public for many years. He also confirmed that the quality of the aggregate is worth removing.

Chairperson Smee closed the public hearing at 8:48 pm.

Attachment 4: Municipal Board Decision Regarding Lilyfield Quarry

THE MUNICIPAL BOARD OF MANITOBA
DECISION AND ORDER

DECISION DATE: September 17, 2020

Order No. B-20-004
File No. 19B5-0003

MATTER: Aggregate Quarry Appeal
Section 118. 2(1) of *The Planning Act*, C.C.S.M. c. P80

APPELLANTS: 6901142 Manitoba Ltd. and Lilyfield Quarry Inc.

RESPONDENT: The Rural Municipality of Rosser

HEARING DATES: July 27, 2020, July 28, 2020 and August 18, 2020

PANEL: Tom Raine, Acting Chair
George Orle, Q.C., Member
Rick Borotsik, Member

PARTIES AND APPEARANCES:

For the Appellants

Colleen Munro, Owner, 6901142 Manitoba Ltd. and
Lilyfield Quarry Inc.
Charles Chappell, Legal Counsel, Chappell Company

Jeffrey Bell, Hydrogeological Engineer, Friesen Drillers Ltd.
Jim Ogilvie, Hugh Munro Construction Limited
Michelle Richard, Partner,
Richard + Wintrup Planning and Development
Jennifer Rogers, Acting Director,
Manitoba Agriculture and Resource Development
Mandip Sainbhi, Regional Technical Services Engineer,
Highway Regional Operations
Larissa Sveinson, Regional Manager,
Community and Regional Planning
Karen Toews, Manager, Roadside Development,
Highway Planning and Design
John Wintrup, Partner,
Richard + Wintrup Planning and Development

For the Respondent

Larry Wandowich, Chief Administrative Officer,
Rural Municipality of Rosser
Orvel Currie, Legal Counsel, DD West LLP

Presenters

Dan Gough
Valerie Gough
Dawne Grenkow
Brynn Kaplen
David Kaplen
Karen Kaplen
Lynn Letkeman
Florence McCoy
Greg Mckee
Sheilagh Monchak
Yvette Mozol
Rick Rutherford
Heather Stewart
Tim Stone
James Thevenot
Judy Thevenot
Tessa Thevenot
Dana Thomson
Lindsay Torio

INTRODUCTION

This is the first appeal to the Municipal Board of Manitoba (the "Board") under Section 118.1 of *The Planning Act* (the "Act"). It is also the first appeal heard under the newly adopted Procedure at Aggregate Appeal Hearings, (the "Rules").

The Applicants, 6901142 Manitoba Ltd. and Lilyfield Quarry Inc. (the "Appellants"), appeal a decision of the Rural Municipality of Rosser, in the Province of Manitoba (the "Municipality"), rejecting the Appellants' application (the "Application") for approval of a conditional use made in respect of an aggregate quarry in the Municipality (the "Conditional Use").

BACKGROUND

The Application pertains to a proposed development and operation of a limestone aggregate quarry (the "Limestone Aggregate Quarry") on certain lands in the Municipality legally described as follows:

The NE, SE and SW ¼ Section 17-12-2 EPM in the Municipality (the "Lands")

The Lands are zoned "A80" Agricultural Zone, in the Municipality's Zoning By-law 15-14.

Zoning By-law 15-14 Part 5 - Rural Agricultural Zones, Table 5-1 Rural Agricultural Zones Use Table, requires a Conditional Use for Sand and Gravel Pits, and Quarry Operations on the Lands.

The Appellants submitted the Application dated June 2018, to the Municipality for a Conditional Use in respect of a Limestone Aggregate Quarry on the Lands.

On September 7, 2019, the Municipality held a public hearing (the "Hearing") to receive representations from the Appellants and any other interested persons. Upon completion of the Hearing the Municipality, on November 19, 2019, denied the Application (the "Decision").

The Decision was communicated to the Appellants in a letter from the South Interlake Planning District (the "District") dated November 26, 2019.

On November 28, 2019, the Appellants filed an appeal to the Board through their Legal Counsel, Charles L. Chappell of the law firm Chappell Company by way of letter dated November 27, 2019.

The appeal is made pursuant to Section 118.2(1)(a)(i) of the Act.

Following the filing of the Appellants' appeal to the Board, and prior to the hearing, the Appellants and Municipality came to an agreement, titled Municipal and Appellant Consent to Conditions, (the "Consent Agreement"). The Consent Agreement contained a number of substantial conditions under which the Appellants may operate the Limestone Aggregate Quarry on the Lands as a Conditional Use. The Consent Agreement was signed on July 9, 2020 and filed with the Board on July 21, 2020. It is Exhibit 14 in this appeal and is attached hereto as Schedule "A".

Before the hearing counsel for the District, Doug Grantham, informed the Board by letter dated July 23, 2020 that, as a result of the Consent Agreement, the District would not be taking any position on the appeal.

At the onset of this hearing, counsel for the Municipality advised that it did not oppose the appeal subject to the following:

That the Board:

- (i) impose all of the conditions in the Consent Agreement in approving the Application; and
- (ii) approve the Application subject to conditions regarding traffic safety concerns.

ISSUES

The Board determined that the issues on this appeal are as follows:

- (i) What is the role of the Board on this appeal?
- (ii) Should the Board reject the Appellants' Application for a Conditional Use?
- (iii) Should the Board approve the Application subject to conditions it considers appropriate with regard to Section 106(2) of the Act?
- (iv) Is the Board bound to accept the conditions agreed upon by the Municipality and the Appellants?
- (v) Should the Board impose a condition(s) regarding traffic safety sought by the Municipality and opposed by the Appellants?

LEGISLATION

The applicable Legislation and Rules pertaining to this appeal are provided for in Schedule "B" attached to this Order.

EVIDENCE AND SUBMISSIONS

Appellants

The Appellants presented expert witnesses to support all of the conditions agreed to in the Consent Agreement as part of the Conditional Use applied for and to give evidence in opposition to the imposition of any other

conditions. The Board reviewed all of the expert reports. The reports were hundreds of pages long and encompassed numerous volumes of information. The experts summarized their findings and the conclusion to all of their reports was that the Application complied with Section 106(1)(b) of the Act, in that the Application:

- i) will be compatible with the general nature of the surrounding area;
- ii) will not be detrimental to the health or general welfare of people living or working in the surrounding area, or negatively affect other properties or potential development in the surrounding area; and
- iii) is generally consistent with the applicable provisions of the development plan by-law, the zoning by-law and any secondary plan by-law.

The Appellants' experts further testified that the conditions set out in the Consent Agreement complied with Section 106(2)(a) of the Act whereby the conditions submitted for approval of the Application met the requirements of Section 106(1)(b) of the Act.

On the matter of traffic safety, the Appellants called evidence from two Manitoba Infrastructure ("Infrastructure") witnesses, Karen Toews and Mandip Sainbhi. They stated that the PTH 6 & PR 236 intersection was due for improvement but that it was not a priority at this time, and that funding has not been budgeted for the improvement. Their evidence was that the increase of truck traffic from the Limestone Aggregate Quarry would not be sufficient to change the timing of any improvements and that the traffic would not have any effect that would require immediate intervention by Infrastructure.

The WSP Canada Inc. consulting report dated October 2015 (the "WSP Report"), filed by the Appellants, provided information in regards to existing and proposed traffic volume at the PTH 6 and PR 236 intersection. The WSP Report noted that the approximate 240 additional vehicle movements per day would not create a traffic concern. The estimated increase in the number of trucks per day could be accommodated without any impact to the intersection.

The WSP Report also concluded that the additional traffic of a quarry did not provide any significant incremental concern from a traffic engineering perspective.

The Appellants provided further evidence relating to traffic studies from five separate reports. None of the studies recommend that a roundabout be provided as a condition for the Limestone Aggregate Quarry to operate.

The Appellants submit that the request of the Municipality for the Appellants to construct a roundabout has neither been discussed nor agreed upon between the parties.

The Appellants' further submit that the demand by the Municipality that a roundabout be put into place by the Appellants prior to the quarry operation contradicts the terms set out in the Consent Agreement.

Paragraph 2:01 of the Consent Agreement states that the Appellants will be able to commence the Limestone Aggregate Quarry operation in the year 2020. The Consent Agreement also provides that all permits required for the Limestone Aggregate Quarry will be issued within 45 days of July 9, 2020.

The Appellants submit that the Consent Agreement was passed by the Municipality at a duly convened Council meeting on July 9, 2020, where the notice of the agenda included consideration of the Consent Agreement. The Consent Agreement came before Council and was passed by Resolution. The Consent Agreement was executed by the proper officers of the Municipality as authorized by Council. It is the submission of the Appellants that any additional conditions sought by the Municipality could have and should have been brought forward at that meeting.

The final submission of the Appellants is as follows:

- 1) The Board has no jurisdiction to order traffic mitigation devices;
- 2) The evidence does not warrant having any traffic mitigation devices;
and
- 3) The Municipality's request is not in conformity with the Consent Agreement and contradicts the terms of that Consent Agreement.

Municipality

The Municipality presented no evidence on any of the issues set out in the Consent Agreement. Counsel for the Municipality confirmed to the Board that the Municipality had spent hundreds of thousands of dollars on its own

experts and that none of its experts could or would refute the findings and conclusions of the expert witnesses called by the Appellants. The Municipality did not cross-examine the Appellants' experts or file any expert reports of its own, with the exception of general information and data related to traffic and highway safety measures.

The Consent Agreement agreed to by the Appellants and the Municipality was described by the Municipality and the experts of the Appellants as being the "most robust" set of conditions ever imposed upon a Conditional Use as an aggregate quarry. The Consent Agreement is 16 pages long and contains a substantial number of conditions to address concerns raised by the Municipality and its residents. For the benefit of residents near the Limestone Aggregate Quarry, the conditions included in the Consent Agreement cover, *inter alia*, visual enhancements, replacement or repair of wells, protection of groundwater sources, noise monitoring and mitigation, as well as liability insurance for the protection of both the Municipality and individual residents. The Consent Agreement also includes an undertaking by the Appellants that, if any resident within a 2 mile radius sells their property during the lifetime of the Limestone Aggregate Quarry and perceives that the quarry operation has diminished the value of their property, they will be compensated.

Additionally, counsel for both the Municipality and the Appellants confirmed that the Appellants were providing performance bonds (the "Performance Bonds") as part of a development agreement that was completed and signed on July 17, 2020 (the "Development Agreement"). The Development Agreement was not provided to the Board. Counsel for the Municipality also confirmed that the Performance Bonds would be in an amount, which the Municipality agreed would provide for the enforcement of all undertakings made by the Appellants in the Consent Agreement, including all remediation required to bring the site back to its former state as agricultural land.

On the issue pertaining to the Board's role at this hearing, the Municipality relied on the modern rule of statutory interpretation which was most recently reviewed in the decision of *Ladco Company Limited v. The City of Winnipeg*, 2020 MBQB 101, where Justice Edmond stated the following regarding the modern principles of statutory interpretation:

"117 A court interpreting a statutory provision does so by applying the "modern principal" of statutory interpretation, that is, that the words of a statute must be read "in their entire context and in their

grammatical and ordinary sense harmoniously with the scheme of the act, the object of the act, and the intention of Parliament"

The statutory provisions to be interpreted are those under the *Municipal Board Act*, the Act and the Rules as published by the Board.

The legislative scheme dictates the following:

The Planning Act

- 1) Section 118.3 (1) provides that the board "must hold a hearing to consider the appeal".
- 2) Section 118.4 (1) provides that the Board must make an order either rejecting the proposal or approving the proposal subject to any conditions described in section 106 (2).

The Municipal Board Act

- 1) Section 24 (1) provides that all hearings and investigations conducted by the board shall be governed by rules adopted by the board.
- 2) Section 24 (3) provides that the Board may make rules of practice, not inconsistent with this act, regulating its procedure and the times of its sittings, but the rules do not come into force until they are published on the board's website.

The Rules, in part, as published on the Board's website contain the following language:

- 1) No. 2: A hearing before the Board is separate and distinct from previous council and public hearings on the matter.
- 2) No. 4: Any other person served with a notice of hearing pursuant to section 118.3 (2) of *The Planning Act* may make an oral and/or written presentation to the Board.
- 3) No. 7: All evidence given at the hearing of an appeal will be given under oath or affirmation.

- 4) No. 10: Each party will have an opportunity to present their case and call witnesses. The other parties will have an opportunity to cross-examine the evidence that has been presented. The Board may also question a party or witness on the evidence presented.
- 5) No. 14: At the conclusion of the hearing, the Panel will consider all of the evidence and make its decision within 30 days.

Barron's Law dictionary defines "hearing" as "a proceeding wherein evidence is taken for the purpose of determining an issue of fact and reaching a decision on the basis of that evidence".

The Appellants and the Municipality submitted that the appeal before the Board was a hearing de novo, meaning a new or fresh hearing.

On the matter of traffic safety, the Municipality submitted that the provision at Paragraph 11.05 g) of the Consent Agreement, that "the Appellant will work with Manitoba Infrastructure on any upgrades or improvements on provincial roads", is not sufficient. The Municipality therefore requests that the Board should impose additional conditions as a requirement for approving the Application.

The Municipality further submitted that the Board should impose a condition upon the Appellants that would require them to install a roundabout or other traffic intervention at the intersection of PTH 6 and eastern half of PR 236. If the Board finds that a roundabout or other intervention is unnecessary the Municipality, in the alternative, asks the Board to determine whether the Appellants should have to provide a traffic impact study that includes updated traffic safety and collision analysis.

The Municipality provided data that showed between the years 1995 and 2020 115 accidents with 39 reported injuries occurred on PTH 6 between the perimeter and the West half of PR 236.

The Municipality further submitted that it has a duty to ensure the interests of the Municipality and its local residents are protected by the prevention of death and injury.

Under the District's Development Plan 2011, (the "Development Plan") which includes the Municipality, the Municipality has the authority to disallow developments that may have a detrimental impact on the safe operation of a provincial highway unless there are mitigation measures

acceptable to the Province. The Development Plan further provides that the costs of any highway improvements deemed necessary by Infrastructure to accommodate a proposed development will be the responsibility of the Developer.

In its final submission the Municipality submits that the Board order include the following:

- 1) That the Limestone Aggregate Quarry not proceed until the Province of Manitoba has implemented a traffic mitigation device at the corner of PTH 6 and PR 236 such as a roundabout or traffic signals;
- 2) That a traffic impact study that includes updated traffic safety and collision analysis be provided;
- 3) That the Consent Agreement be implemented; and
- 4) That the Development Agreement be confirmed securing the Consent Agreement.

The Municipality also requested the Board take into account the "slippery slope" argument regarding the number of aggregate quarry conditional uses that should be allowed in the Municipality. The Municipality also asked the Board to order that any new aggregate development be required to provide a study confirming that aggregate resources are necessary and that developers, in the future, commission a study outlining what the cumulative effects of multiple aggregate developments will be.

Public Presentations

The Board heard both oral and written presentations from a number of residents of the Municipality. The Board has considered all of the presentations. The presentations were sincere and outlined the residents' concerns regarding the Limestone Aggregate Quarry operation. In particular, concerns regarding personal safety, environmental effects, health effects, sound impact, effects upon local business and upon wildlife, were expressed. Much concern was also raised regarding the traffic risks associated with approximately 240 vehicle movements to and from the Limestone Aggregate Quarry. Many of the presenters were unaware of the Consent Agreement that dealt with many of these concerns. Those that were aware of the Consent Agreement did not feel it was good enough. As highlighted by counsel for the Municipality, "for the local residents there is

no condition which could be implemented mitigate the risks or to allow them to consider the risks." (sic)

The Appellants called rebuttal evidence in response to the public presentations. The rebuttal evidence reviewed the residents' concerns and showed how the Consent Agreement dealt with those concerns and how they were mitigated.

ANALYSIS

(i) What is the role of the Board on this appeal?

Section 118.2.1(a) of the Act provides that an applicant for a conditional use may appeal to the Board from a decision of a board, council or planning commission to reject the application or impose conditions.

The Act does not specify if the appeal is to be a review of the original decision, which would require a deliberation on the appropriate standard of review or if the appeal is a new hearing that replaces the hearing before a board, council or planning commission. The Board, in determining this question, must have regard to its own legislation and interpretation of that legislation.

Following consideration of the legal and statutory authority presented, the Board concludes that, in its interpretation of the statutory provisions, an appeal under Section 118.2 (1) of the Act will be conducted as a new hearing and not an "appeal" in the traditional sense of reviewing the subordinate decision-maker's decision. Were this not the case, the parties to the appeal should have no ability to adduce evidence, call witnesses and there would be no requirement of the Board to "consider all of the evidence" in making its decision. The Board's role is to decide the Application on its merits with reference to the statutory criteria set out in Section 118.4 (1) of the Act.

(ii) Should the Board reject the Appellants' Application for a Conditional Use?

The Board, in making its decision on an appeal, has only two options, which are included in Section 118.4(1) of the Act. The first option is that the Board

rejects the proposal. Based upon the evidence presented by the Appellants, the Consent Agreement, and the submission of the Municipality that it was not opposing the appeal, although it is seeking additional conditions regarding traffic safety, the Board will not reject the Application.

(iii) **Should the Board approve the Application subject to conditions it considers appropriate with regard to subsection 106(2) of the Act?**

The only other option for the Board in making an order on an appeal is to approve the proposal, as provided under Section 118.4(1)(b)(i) of the Act, subject to any conditions described in Section 106(2) of the Act.

(iv) **Is the Board bound to accept the conditions agreed upon by the Municipality and the Appellants?**

The Council of the Municipality (the "Council") rejected the Application. It did so without any written reasons. No conditions were set that would allow the Application to be approved. Subsequently, however, Council entered into the Consent Agreement. When asked by the Board why we were proceeding with an appeal, counsel for the Municipality acknowledged that the Council no longer had any authority to proceed with the Application and was relying upon the Board to set the conditions for approval.

The Board on an appeal is bound by the requirements of the Act. The Board must have a hearing and hear evidence. The responsibility of the Board after the hearing is to deliver a decision, either rejecting the Application or allowing it subject to conditions that the Board deems appropriate.

The Board is of the view that it is not bound by any agreement regarding conditions. However, the Consent Agreement of both parties is a significant factor in deciding if the conditions are appropriate. The Board has a responsibility under the Act to independently determine which conditions will allow the Board to conclude that the Application should be approved. That determination requires applying the evidence to the conditions it considers appropriate pursuant to Section 118.4(1)(b)(i) of the Act.

The Board has reviewed all of the conditions in the Consent Agreement. The Board agrees that the conditions are robust and could be a useful guide

for other applicants and municipal councils on what constitute appropriate conditions to allow for a conditional use pertaining to aggregate quarry operations. The Board is persuaded that the conditions outlined in the Consent Agreement are appropriate and necessary in meeting the requirements under Section 106(1)(b) of the Act.

(v) **Should the Board impose a condition(s) regarding traffic safety sought by the Municipality and opposed by the Appellants?**

On the issue as to whether or not the Board should impose conditions to address traffic safety concerns, the Board is persuaded by the evidence presented by the Appellants on the issue. The evidence revealed that proposed improvements to the intersection of PTH 6 and PR 236 were not a priority at this time, and that any increase in vehicular traffic would not create a traffic concern, or have any effect that would require immediate intervention.

The Board notes that the Municipality did not provide any expert evidence at the hearing that would support the requirements for improvements at this time. The Board further notes that the Municipality confirmed that none of the experts it had previously engaged could or would refute the findings and conclusions of the Appellants' expert witnesses. Based on all the evidence provided, the Board is therefore not prepared to impose the additional conditions sought by the Municipality on the matter.

The Board notes that subsection g) of Paragraph 11:05 in the Consent Agreement, provides that "the Appellant will work with Manitoba Infrastructure on any upgrades or improvements identified on provincial roads." The Board would encourage all parties to work together to determine if highway improvements are necessary. The Board would expect the appropriate traffic studies to be completed, if necessary, and that the parties work collaboratively to bring any needs forward to Infrastructure as quickly as may be possible.

In response to the Municipality's "slippery slope" argument in relation to any future aggregate quarry development, the Board is of the opinion that these are matters best left to the Municipality at a hearing, at first instance, before Council. A Council may have other legislative options to deal with this question and the Board does not wish to limit any of those options.

CONCLUSION

After careful consideration of all of the evidence, submissions, and legal authorities presented at the hearing, the Board is satisfied that the Application be approved on conditions. The Municipality has set conditions for approval to which the Appellants have agreed for the proposed development and operation of the Limestone Aggregate Quarry on the Lands. The conditions are set out in a fulsome Consent Agreement. The Board has reviewed these conditions and is satisfied the conditions are appropriate and necessary in meeting the requirements of the Act. The Board is not persuaded that any additional conditions are needed or warranted.

The Board notes the commitment expressed by the Appellants and Municipality that the completed Development Agreement will not diminish or further reduce the effect of the conditions set out in the Consent Agreement. The Board further notes that the Appellants and Municipality are committed to including Performance Bonds as part of the terms of the Development Agreement. The Municipality is satisfied that the said Bonds will ensure compliance by the Appellants to all of the terms of the Consent Agreement.

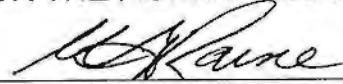
THEREFORE, THE BOARD ORDERS:

- 1) That the Appellants' proposal to operate a Limestone Aggregate Quarry on the NE, SE and SW ¼ Section 17-12-2 EPM in the Municipality, as a Conditional Use under Zoning By-law 15-14 Part 5 - Rural Agricultural Zones, Table 5-1 Rural Agricultural Zones Use Table, be **APPROVED** subject to:
 - a. All of the conditions set out in the Municipal and Appellant Consent to Conditions, dated July 9, 2020, attached hereto as Schedule "A".

FOR THE MUNICIPAL BOARD

September 17, 2020
Date

B. Loewen
Brenda Loewen, Secretary


Tom Raine, Acting Chair

SCHEDULE "A" TO MUNICIPAL BOARD ORDER B-20-004

File No. 1985-0003
Exhibit No. 14
Filed By to the Board
Date July 27, 2020
Asst Secretary Elissa Hohler

MUNICIPAL AND APPELLANT CONSENT TO CONDITIONS

Hugh Munro Construction Ltd. and 6901124 Manitoba Ltd. and Lilyfield Quarry Inc. (together as the "Appellant(s)") proposes the development and operation of a Limestone Aggregate Quarry on property in the NE, SE and SW of Section 17-12-2 EPM ("the Planned Area") in the Rural Municipality of Rosser, in the Province of Manitoba. The Planned Area is zoned "A80" Agricultural Zone in the Rural Municipality of Rosser's Zoning By-law 15-14 Part V – Agricultural Zone, Table V-I Agricultural Use & Bulk Table requires a conditional use for sand, gravel pits and mining operations. The Appellants submitted an application title Lilyfield Quarry Permit Application dated June 2018 (the "Application"). The Municipality held a public hearing on September 7th, 2019 (the "Hearing") to receive representations of the Appellant and any other persons interested. The Municipality denied the conditional use upon completion of the Hearing. The Appellant filed an Appeal under section 118.2(1) of the Planning Act of Manitoba to the Municipal Board and the Appellant and the Municipality have agreed upon the conditions under which the Appellant may operate a quarry through the conditional use under Part V – Agricultural Zone, Table V-I Agricultural Use Bulk Table to establish a limestone aggregate quarry on the NE, SE and SW of Section 17-12-2 EPM. The Municipality has set conditions for Approval and the Appellant has agreed to these conditions.

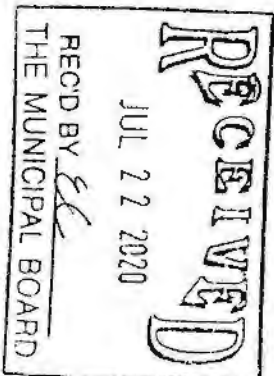
1:00 General/Administrative

1:01 The Appellant shall adhere to the such measures including blasting conditions and standards, noise and sound attenuation berming, visual conditions, water and natural resource conditions and standards, adaptive management conditions and progressive rehabilitation conditions and commitments made by the Applicant in their Application and as agreed to in a development agreement.

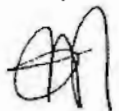
1:02 The Appellant must comply with and meet:

- a) All land use planning requirements under The Planning Act, the South Interlake Planning District Development Plan (Development Plan) and the RM of Rosser Zoning By-law (Zoning By-law);
- b) Quarry Operations By-Law 8-15, as amended from time to time;
- c) The requirement to apply for and be issued an annual licence to operate the Quarry Operations By-Law 8-15, as amended and as agreed to in a Development Agreement;

The requirement to apply for and be issued an annual transportation licence to ensure the quarry is abiding by the commitments in the application and the Municipality's Transportation By-law. The Appellant shall be deemed to have paid the requisit fees as part of the fees paid under the Development Agreement.




- e) All of the requirements of The Mines and Minerals Act and the Quarry Minerals Regulation.
- 1:03 The Appellant shall enter into a Development Agreement with the Municipality upon terms set by the Municipality including conditions as required to be incorporated from all requirements of the Quarry Operation By-law 8-15, as amended, as passed by the Council of the Rural Municipality of Rosser and including but not limited to those matters set out in the Development Agreement and the conditions set out herein; and the Appellant shall abide by all terms and conditions of the Development Agreement, including all fees, or other charges for services, activities or things provided or done by the Municipality as set out in the Development Agreement.
- 1:04 The Appellant shall comply with all Federal, Provincial and Municipal laws and regulations at all times, including but not limited to Quarry Operation By-law 8-15, as amended.
- 1:05 The Appellant shall comply and agree to make payment of all mining, transportation licenses and any municipal payments or regulatory charges to the Municipality and/or the government authority entitled to collect same (including the Municipality's By-Law No. 11-09, as amended from time to time), as set out in the Development Agreement.
- 1:06 The Appellant shall, in accordance with *The Mines and Minerals Act*, comply with and contribute funds as security for the performance of the reclamation work provided for under the reclamation plan and as set out in the Development Agreement.
- 1:07 The Appellant shall obtain and provide proof thereof to the Municipality that it has obtained comprehensive liability insurance and environmental insurance which lists the Municipality as additional insured, at a minimum of two million dollars (\$2,000,000.00) per policy
- 1:08 The Appellant shall provide to the Municipality and make available on its website contact information for the Appellant and the Chief Superintendent of the quarry operation.
- 1:09 The Appellant shall ensure they will maintain the transport haul route roads.
- 1:10 The Appellant shall pay and apply annual dust control in frost free conditions as required.
- 1:11 The Appellant shall pay for and be responsible for the grading of road surface on the haul road route as required.
- 1:12 The Appellant shall provide NAV Canada with topographic measurements, a land survey (if available), and a depiction of the quarry area, to assist with their Land Use Assessment. The Appellant will comply with all requirements of the approval obtained from NAV Canada.



- 1:13 The Appellant will comply with all requirements of Manitoba Hydro, which may include entering into a Secondary Land Use Agreement with Manitoba Hydro.
- 1:14 The Appellant will comply with all requirements of Manitoba Hydro, which may form part of the Development Agreement to be entered into between the Appellant and the Municipality, and may consider:
- a) It is possible that access across the right-of-way between the NE and SE quarters may be permitted, but certain conditions and limitations may be necessary to protect Manitoba Hydro's infrastructure and maintain electrical safety;
 - b) Excavation limits may be required within and adjacent to (relying on legislated quarry setbacks) the right-of-way to protect the geotechnical stability of tower foundations;
 - c) Blasting restrictions may be needed to protect the transmission towers and conductors from damage caused by excessive vibration or impact by stray blast material; and/or
 - d) Blasting restrictions may be needed to protect the transmission towers and conductors from damage caused by excessive vibration or impact by stray blast material.
 - e) The use of the municipal road allowance to have Hydro to install lines to service the quarry operations.
- 1:15 The Appellant shall pay all capital levies pursuant to the Rural Municipality of Rosser's Rural Capital Lot Levy By-Law 2-04, as amended from time to time, as set out in the Development Agreement.

2:00 Operation


- 2:01 The Appellant shall commence operations in 2020, and will do a first full year of operation in 2021 and complete the quarry in phases it is anticipated a complete mining date of 2035 however the Appellant will be allowed two periods of 5 years for an extension to 2040 and 2045 respectively all of which will be detailed in the Development Agreement.
- 2:02 The Appellant shall follow the phasing as depicted in the Phasing Schedule, as set out in the Development Agreement. Specifically, the Appellant shall rehabilitate 50% of each Phase by opening the following Phase and using the new Phases' overburden materials to rehabilitate the previous Phase.
- a) The Appellant shall adhere to the Site Plan, as set out in the Development Agreement.



- b) The Appellant shall not quarry any materials within 100 meters of any existing use, house or building, without the approval of the adjacent property owner.
 - c) The Appellant's structures shall be excluded from 100m requirements detailed at subsection 2:02(b) above.
- 2:03 Unless agreed to by the Municipality and the Appellant, the Appellant shall adhere to proposed areas for separate stockpiling of topsoil, overburden stripping, and mined material: Figure I.F illustrates the location of existing and proposed areas for separate stockpiling of topsoil (dark blue), overburden stripping (dark green), and mined material (orange) as set out in the Application and attached to the Development Agreement
- 2:04 The Appellant adhere to the proposed ancillary uses as set out in the Application have a 12 ft. by 60 ft. trailer (Photo 1) (Ancillary Use #1) and a 10 ft. by 80 ft. truck scale (Photo 2) (Ancillary Use #2) onto the site, both of which will be Ancillary Uses to the Quarry Operations. The trailer to be an office for employees. The scale to be used to weigh trucks carrying aggregate before leaving the site to ensure they do not exceed weight restrictions for local roads. The Appellant shall have a crusher (Ancillary Use #3), 4 C-Can Containers (Ancillary Use #4) and a Fuel Containment Pad and Liner (Ancillary Use #5) on site. Details of each Ancillary Use and the location of each Ancillary Use shall be set out in the Development Agreement.
- 2:05 In keeping with the most current methods of quarry development and in compliance with The Province of Manitoba Pit and Quarry Rehabilitation Program Standards and the Municipality's Quarry Operations By-Law 8-15, as amended from time to time, the Appellant will develop the quarry in smaller, discrete phases that will allow for the ongoing and progressive reclamation and rehabilitation of the Planned Area while the quarry is in operation.(As per Section 4.0 (3)(J) herein)
- 2:06 Initial mining of the Planned Area is proposed in the SW corner of the NE quarter section of the Planned Area. Starting in the area with the least disturbance to neighbouring residences.
- 2:07 Aggregate extraction will occur in a logical fashion along the seam containing the highest quality deposit of material to be mined.
- 3:00 Blasting & Sound**
- 3:01 The Appellant shall further adhere to the sound conditions they proposed as part of their Application or as set out in a Development Agreement.
- 3:02 The Appellant shall further adhere to the blasting conditions as set out in a Development Agreement, and required under the Quarry Operations By-law 8-15 and the The Quarry Minerals Regulation under *The Mines and Minerals Act* which includes:



- a) The quarry's operating hours are Monday to Friday from 6:00 a.m. to 7:00 p.m. for hauling of aggregate and Saturday from 6:00 a.m. to 2:00 p.m. for hauling of aggregate and until 3:00 pm for operations within the quarry extraction areas, subject to any changes as agreed to by the Developer and determined by the CAC process.
- b) The Appellant agrees that equipment will only be utilized during operating hours.
- c) Blasting to occur on average, for the first two months, once or twice per week between 9 AM – 4 PM, Monday to Friday, as per Provincial regulations. After that, once every two weeks.
- d) Details of each will blast to be recorded in a logbook including any siezmographic readings and provided for review by the Municipality, the Province and the public, and shall include:
 - i. A sketch of the blast areas showing the location, depth depth, weight and composition of charges and the arrangement and delay timing of each detonator uses;
 - ii. The timing of each firing;
 - iii. Details of the time of and reason for any malfunction or misfiring; and
 - iv. Corrective action taken because of each malfunction or misfiring.
- e) Non-blasting sounds shall not exceed 55 dba.
- f) No permanent or temporary storage of explosives is permitted on the Planned Area. All blasting (explosive) materials are to be monitored and tracked.
- g) Blasting will be done by an independent blasting firm with blasting expertise and in full compliance with governing guidelines and regulations. In addition, under the Quarry Operation By-law 8-15, the Municipality may appoint a staff member to observe the operations.
- h) The Appellant shall comply with the Quarry Minerals Regulation under *The Mines and Minerals Act* which requires wind entrainment of dust of the visible particulate matter does not exhibit any opacity in excess of 5% at the property line of the Planned Area.
- i) The Appellant, and its contractors, shall take all possible measures to ensure that the blasting operations are carried out in a safe and productive manner and ensure that damage to existing third-party buildings (receptors) does not occur.



- j) The Appellant shall use predictive formulas recommended by the International Society of Explosive Engineers to establish maximum allowable quantities of explosives per delay period at given standoff distances (closest sensitive receptor locations) from blasting operations. The blasting (drilling) patterns (distance between boreholes) will be calculated based on maximum allowable quantity of explosives per delay for a given standoff distance from the closest residence and vibration guidelines.
- k) Unless otherwise agreed to by a property owner, the Appellant shall ensure blasting does not occur within a minimum standoff distance of 400 metres from any third-party residence, which may house animals.
- l) The Appellant shall use seismographic equipment to determine ground vibration during a blasting event.
- m) The Appellant acknowledges blasting procedures are heavily regulated by the Province under The Mines and Minerals Act and the Quarry Minerals Regulation, and the Quarry Operation By-law 8-15 and agrees to comply with all forms of regulation.

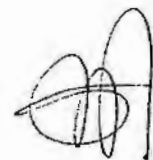
4:00 Visual

4:01 The Appellant shall further adhere to the Visual Impact conditions as follows:

- a) Placement of 3 m high berms with 3 to 1 slopes at locations along the East Side of NE ¼ along Sturgeon Road, along the South of SE ¼ on Road 68. As activity continues in the SW ¼, berms will be built accordingly as set out in the Development Agreement.

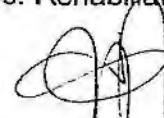
4:02 The Appellant will implement dust mitigation measures at and near the Planned Area, and which will include:

- a) seed soil and overburden stockpiles to grass;
- b) seed berms to grass;
- c) spray water on equipment as required;
- d) spray water on unpaved access roads as required;
- e) treat unpaved access roads with calcium chloride applications as required;
- f) subject to a Front Ending Agreement upgrade municipal roads used for heavy truck traffic as required;
- g) reduce truck speed on unpaved roads; and
- h) use aggregate stockpiles for screening.



4:03 That the Appellant shall adhere to the procedures, conditions and commitments regarding Noise Attenuation and Visual Impact including:

- a) Crusher can be located 50 m south of Road 69N.
- b) the location, width, height and description of existing and proposed landscaped buffers or berming, and existing and proposed entrances and exits, on-site roads and parking and loading area and proposed landscaped buffers or berming, and existing and proposed entrances and exits, on-site roads and parking and loading area all as agreed to and set out in a Development Agreement. The proposed berms will be 3m high and 28m wide, created using stripped overburden materials and as set out in the Development Agreement.
- c) The Appellant shall endeavor to maintain the majority of trees and shelter belts along 69N (NE 17-12-2E) during the lifetime of the quarry and will endeavour to maintain a buffer for wildlife movements within the Planned Area and to prevent further fragmentation of habitat. Although some trees may need to be removed to allow for Hydro installation and extract material below the surface, Munro shall maintain a 50 metre (150 foot) buffer to mitigate visual impact along 69N. In addition, the trees within 100 feet of the Stewart residence on the site shall be preserved.
- d) Berm construction to begin in the northeast corner of the Planned Area.
- e) During Phase 1 and 2 of the quarry operations, the Appellant will construct 3 m high berms along Road 68 N (Lilyfield Church Road) and Sturgeon Road as each 40 acre is developed.
- f) The Appellant commits to construction of the remaining berms along the periphery of the Planned Area as the quarry operation progresses and as agreed to under a Development Agreement.
- g) The Appellant shall ensure that no excavation may occur within 15 metres from any property line.
- h) Berms will have a 3:1 slope, with a width of 3 m at the top. All berms will be seeded and mowed.
- i) During Phase 1 and 2, all unused quarry lands (approximately 200 acres) to remain as agricultural fields to be farmed and tree stands, providing naturalized buffers.
- j) Berms to be constructed using soil and clay from the Planned Area. Eventually, the berms will be removed and used to for rehabilitation during the lifetime of the quarry as part of the rehabilitation process. First Phase of 40 acres to be rehabilitated with 20 acre opening to next 40 acres. Rehabilitation



will occur on the first 50% of the first Phase of 40 acres and the materials will come from the second Phase of 40 acre material.

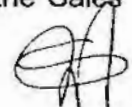
- k) Topsoil to remain onsite for rehabilitation purposes.
 - l) The ponds will not be vegetated.
 - m) The Appellant shall retain tree cover and establishing berms on site.
 - n) The Appellant is committed to building a berm along the east side and then the southern boundary of the quarry using overburden from the property. Estimated construction of berm to be two months.
 - o) The Appellant shall, once the clay and topsoil stockpiles are formed, seed with vegetation, and water the gravel piles, as needed, to help mitigate dust related issues.
- 4:04 The Appellant shall not remove or strip topsoil and other soils from the Planned Area and/or relocate any soil without permission as required under By-law 15-71 or as amended "Removal of Top-Soil" By-law and an application under the By-Law 15-71.

5:00 Structural Stability

- 5:01 The operator agrees to utilize standard seismographic sensors for blasting events which sensors readings shall be recorded and saved for the life of the quarry in an acceptable format (digital) for these types of readings.
- 5:02 All readings after a blasting event shall be saved and be available for the Municipality to access.
- 5:03 Compensation for any structural damages due to blasting will be assessed by an independent third party.

6:00 Land Value

- 6:01 The Appellant shall adhere to the following procedures, conditions and commitments including:
- a) Identification of landowners within a two mile radius of the Planned Area, and if they should sell their property within the lifetime of the quarry and believe that the sale price was affected because of the existence of the quarry operation, may make a one-time claim to HMCL for any perceived reduction in value.
 - b) The Appellant agrees to calculate the reduction in value by using the most recent Provincial assessment value and adjusting that value for the Sales



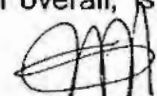
Assessment Ratio (SAR) and factoring in the Consumer Price Index (CPI). As the assessed value is not market value, applying the SAR and CPI is a means to monitor markets so as to estimate the market value of a property.

- c) After a claim is made and the Reduction in Value is calculated as above, the Appellant commits to providing the Reduction in Value amount to the current owner(s) of the eligible properties.
- d) This commitment will commence once a development permit has been issued to the Appellant and will extend until such time as quarry operations cease and the quarry has been rehabilitated under Provincial standards.
- e) The SAR shall continue to be applied to properties that lawfully preexist the quarry operation. SAR will not apply to any developments approved following the approval of the quarry operations.

7:00 Water & Natural Resource Management

7:01 The Appellant shall adhere to the procedures, conditions and commitments represented to be followed in its Application relating to Water & Natural Resource Management:

- a) An on-site observation well will be installed and maintained at the site. This well will be monitored, sampled quarterly during operation, and equipped with water level recording instrumentation for future references to static water levels.
- b) Based on the information available, the overall dewatering requirements at the site are expected to be minor. If dewatering is required, site specific testing will be conducted to assess the potential response of the local aquifers to pumping stresses.
- c) The determination of minor dewatering will be determined by a qualified municipal engineer retained by agreement of the Municipality and the operator.
- d) Excavations will not penetrate the Gunn Member of the Stony Mountain Formation
- e) The operation of the Lilyfield Quarry is not expected to permanently change the quantity of groundwater available in the local aquifer system, and the potential drawdown at the site would likely be within the range of seasonal water fluctuations.
- f) Based on the information available, the potential impacts of the Lilyfield Quarry on nearby water wells and offsite groundwater system overall, is



considered minimal. However, a groundwater monitoring plan will be developed for the site to monitor for potential offsite impacts over the lifetime of the quarry.

- g) Any water quality or quantity issues associated with the quarry will be addressed immediately by the Appellant including well replacement and interim water hauling to those local animal producers located on Roll No. 105900 {Grenkow Family} and Roll No. 105800 {Turbett Family}.
- h) Fuels and oils will not be stored on the quarry floor and any on the quarry floor will take place in accordance with the Mines and Mineral Act.

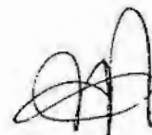
7:02 The Appellant agrees to obtain an engineered drainage plan and adhere to the procedures and conditions it represented to follow regarding drainage approved by the Municipality and as set out by Manitoba Sustainable Development which will detail how surface water will be managed at the site and which shall include these commitments:

- a) Post-Development (Phase 1) runoff is below Pre-Development runoff
- b) Stormwater basins detain runoff and are pumped dry
- c) Discharge is into the same drains receiving existing runoff
- d) Basins are lined to reduce potential ground water influence
- e) Sufficient land exists to construct proposed basins
- f) Stormwater from future phases will also be managed by pumping

7:03 The Appellant shall contact the Water Use Licensing Section to discuss licensing, permits or approval that may be required under The Water Rights Act.

7:04 That the Appellant adhere to the procedures and conditions it represented to follow in the Public Hearing regarding Water and Natural Resources including:

- a) On-site water-level monitoring;
- b) On-site water sampling;
- c) Regional Hydrograph Network monitoring;
- d) Development of a Well interference plan;
- e) A Groundwater monitoring plan;
- f) Specific sampling (routine, isotopic, and bacteriological);
- g) Well monitoring programs;



- h) All Quarry activity to remain at a minimum 1.5 m above the water table;
- i) Subject to 7.01 (c) and (d), there shall be no form of dewatering within the Planned Area or as part of its mining operations and operate under the water management plan provided proposed by the Appellant in the hearing of September 7, 2019;
- j) Pumping in extreme weather conditions to be limited to surface water accumulations and will not constitute groundwater extraction;
- k) No pumping of groundwater;
- l) A Water retention pond to retain sump pump discharge until it can be released;
- m) The Appellant commits to the repair and/or replacement of all water related household items impacted by water contamination. If something goes wrong with these items and the well had pre-existing issues, the Appellant is committed to an agreed-to percentage for repair or replacement based on the identified pre-existing condition. The percentage would be based on the well assessment and agreed to between the Appellant and the property owner prior to quarry operations;
- n) Create a water supply program for all livestock operations (as defined in The Planning Act) within a 2-mile radius of the Planned Area with two 1,500-gallon sea can tanks (3,000 gallons) before opening day of the quarry and will supply the tank hose and valves and ensure that the tanks are hooked up to the existing water system, including any existing filtration/treatment systems. The water supply program shall only apply to the two (2) existing livestock operations with the 2 mile radius of the of the quarry operations.
- o) Water will only be used for dust control during quarry operations, not for the processing of materials;
- p) The Appellant shall have conducted by a professional consultant/engineer, a comprehensive well inventory of all wells within a two-mile radius from the proposed quarry site who agree to participate to be monitored wells which document any existing issues with wells and provide the baseline data for continued monitoring and any required repair or replacement. The well monitoring involved will be undertaken voluntarily by the effected property owners within the area described;
- q) The Appellant shall file the well study and report with the Municipality for its review. The report will be reviewed by the Municipality's engineering consultants and will be acceptable to them;
- r) Should a blast create an issue with water supply, the Appellant will address the issue with interim water hauling and repair or replacement of the well;



- s) The Appellant shall haul and provide water from the Municipality's well (or potable water source) within 12 hours to dairy operations which are disrupted by blasting activities. The Appellant will install a valve and connecting filter system; program shall only apply to the two (2) existing livestock operations with the 2 mile radius of the of the quarry operations.
- t) If a property owner's well meets all standards, and their well goes dry, collapses, or is contaminated, and it has been deemed that the concerns of the well are the responsibility of the Appellant, the Appellant has committed to interim water hauling within 12* hours and well repair or replacement. The amount of water required will be identified based on the use.
- u) The Appellant will seek out where possible abandoned water wells and advise the province where they are located so the province may arrange to seal the wells through their process in accordance with the proper provincial standards. The Appellant will not be responsible for closing, capping or sealing the Wells.
- v) The Appellant will mitigate any concerns and address any issues as they arise relating to groundwater.

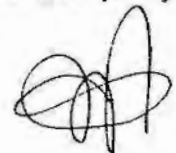
8:00 Fish & Wildlife Habitat Management

8:01 The Appellant adhere to the procedures, conditions and commitments represented to be followed in its Application regarding Wildlife Habitat including:

- a) Existing vegetation and wildlife habitat will be retained, wherever possible.
- b) Except as to the installation of the Hydro, the vegetation clearing will be completed outside the approximate breeding bird nesting season for the site (April 15 to August 25).

8:02 The Appellant shall ensure:

- a) That existing vegetation and wildlife habitat to be retained, wherever possible and vegetation clearing will be completed outside the approximate breeding bird nesting season for the site (April 15 through August 25)
- b) water will only be used for dust control during quarrying operations, not for the processing of materials;
- c) no soil will be brought in from other areas.
- d) eventually, the berms will be removed and used to rehabilitate the quarry mining pit during the lifetime of the quarry.

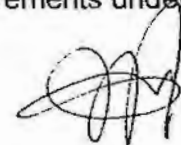


9:00 Adaptive Management

- 9:01 The Appellant will comply with its Lilyfield Quarry Adaptive Management Plan, which formed part of the Lilyfield Quarry Permit Application and shall establish a Citizens' Advisory Committee (CAC) that includes residents, the site operator of the quarry, and local municipal councillors or such other individuals as deemed appropriate. The Appellant will coordinate monthly or quarterly meetings of the CAC, as the community deems necessary, to provide committee members with project updates and gain important feedback on any concerns related to the quarry operations. This will provide a venue so any issues that arise throughout the lifetime of the quarry can be formally raised with the Appellant and addressed in a reasonable and effective manner. The Committee will establish an ongoing dialogue between area residents and HMCL and provide for efficient communication among all parties.
- 9:02 That the Appellant adhere to the procedures, conditions and commitments represented to be followed with respect the establishment of a Citizen's Advisory Committee including the terms of the Committee such as to provide residents with an effective ability to deal with complaints and resolve issues of concern. Such terms of the committee are to be agreed upon with Rosser Council. Terms and/or membership of the CAC shall be reviewed and amended at Council's sole discretion.
- 9:03 The Appellant has prepared an Adaptive Management Plan that provides a guideline for how the Lilyfield Quarry operations should be monitored and managed in a safe and efficient manner, evaluating and adjusting operations, as necessary.
- a) The *Adaptive Management Plan* includes monitoring plans, mitigation measures, trigger mechanisms, and contingency plans for the aspects of the quarry operations.

10:00 Progressive Rehabilitation

- 10:01 The Appellant shall adhere to the procedures, conditions and commitments represented to be followed in its Application:
- a) In keeping with the most current methods of quarry development and in compliance with the provincial pit and quarry rehabilitation program standards, the Appellant will develop the Lilyfield Quarry in smaller, discrete phases that will allow for the ongoing and progressive reclamation and rehabilitation of the site while the quarry is in operation, as set out in the Development Agreement.
- 10:02 The Appellant shall adhere to all Progressive Rehabilitation requirements under the Quarry Operations By-Law 8-15, as amended from time to time.



10:03 Further, the Appellant shall adhere to the procedures, conditions and commitments represented at the Community Consultation process regarding Progressive Rehabilitation including:

- a) Under the Mines and Minerals Act, the Appellant will contribute the necessary funds to the Province of Manitoba as security for performing the reclamation work provided for under the closure plan or made under a guarantee or letter of credit of the same nature. The Quarry Minerals Regulation establishes the rehabilitation levy as required by Provincial regulation. At the end of the quarry's lifetime, this is the funding that would ensure reclamation of the quarry lands to a standard approved by the Province and the RM.
- b) The ultimate rehabilitation plan, shall be approved by the RM of Rosser, will outline the end use of the proposed quarry lands.
- c) The Appellant commit to rehabilitating the quarry and returning it to general agricultural. That any future land uses would be in keeping with the Zoning By-law.

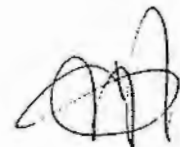
10:04 The rehabilitation plan includes restoring the site to its existing soil conditions by re-establishing the clay and till. The actual aggregate site will be naturally lower than it was prior to mining.

11:00 Transportation Plan & Haul Route Plan

11:01 The Appellant has obtained a new Traffic Impact Study, completed by a transportation engineer, to determine what on-highway improvements are needed to safely accommodate the traffic generated by the development.

11:02 That the Municipal Engineers, taking into consideration Council's perspectives, review the Appellant's draft Traffic Impact Study with respect to all haul roads and specifically the intersections of Municipal Road 68 and PR 236, PR 236 and Hwy 6 and the Perimeter and Hwy 6 due to concerns of dangerous and unsafe roadways affecting constituents and all individuals travelling within the Municipality.

- i) The Municipal Engineer shall consider all traffic control devices, such as, signalization, stop lights, flag persons, speed limits, turning lanes, and such other traffic controls as required to ensure safe roadways.
- ii) Council has expressed the view to Manitoba Infrastructure that the approved the Final Traffic Impact Study is in Council's opinion insufficient with respect PR 236 and PTH 6 because of public safety concerns.



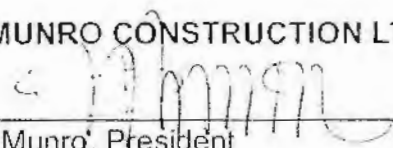
- 11:03 The upgraded haul road on 68 shall be construct to allow vehicle loads identical to PR 236 and PTH 6 and as such vehicles traveling on 68 shall be allow to carry the maximum allowable gross vehicle weight as on PR 236 and PTH 6.
- 11:04 The Appellant is to follow its proposed security measures of installing a locked gate at each entrance to the Planned Area, as identified in **Figure I.J.** of its Application. The Appellant to install security cameras at each entrance and around key areas where employees will be working and operating heavy machinery, as identified in **Figure I.J.** of its Application. Quarry operators will review the camera footage daily to monitor access to the Planned Area and address any unauthorized activity in a timely manner.
- 11:05 The Appellant will construct extensive berming along the periphery of the Planned Area will help to control unauthorized access of vehicles, ATVs, and pedestrians. The site will include multiple signs at each entrance and along its perimeter to remind visitors that all unauthorized access is prohibited. Signs may read, "Private Property" or "No Trespassing".
- a) The plan for the aggregate operation identifies a new access to be constructed on Lilyfield Church Road at the southwest corner of the site. This access will serve as the only entrance to and exit from the development for all heavy truck traffic.
 - b) Only one entrance and exit into the quarry for quarry trucks and trailers;
 - c) Any road upgrades shall be to the municipal standards from quarry entrance to a provincial road and at the cost of the Appellant.
 - d) All road upgrades shall be at the cost of the Appellant. (See section Front Ending Agreement)
 - e) Use dust control measures on haul route at the cost of the Appellant.
 - f) the only access in and out of the proposed quarry site is located at the southwest corner of the site. Alternate entrances will be barricaded with "no trespassing signage" and video surveillance cameras in-place around the entire periphery of the property. This will ensure no traffic enters or exits from other existing accesses except employee passanger vehicles and the quarry operators equipment necessary to complete work.
 - g) the Appellant will work with Manitoba Infrastructure on any upgrades or improvements identified on provincial roads.

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AND FURTHER BE IT Order THAT all required permits to be issued within 45 days of this Order.

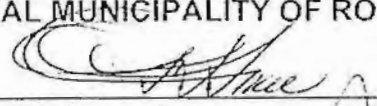
Dated: July 9, 2020

HUGH MUNRO CONSTRUCTION LTD.



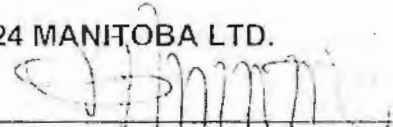
Colleen Munro, President

RURAL MUNICIPALITY OF ROSSER

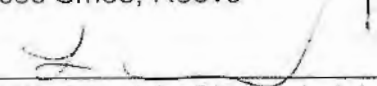


Frances Smee, Reeve

6901124 MANITOBA LTD.

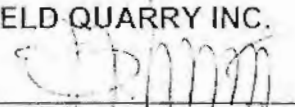


Colleen Munro, President



Larry Wandowich, Chief Administrative Officer

LILYFIELD QUARRY INC.



Colleen Munro, President

SCHEDULE "B" TO MUNICIPAL BOARD ORDER B-20-004

The Planning Act provides:

Decision

106(1) After holding the hearing, the board, council or planning commission must make an order

- (a) rejecting the application; or
- (b) approving the application if the conditional use proposed in the application
 - (i) will be compatible with the general nature of the surrounding area,
 - (ii) will not be detrimental to the health or general welfare of people living or working in the surrounding area, or negatively affect other properties or potential development in the surrounding area, and
 - (iii) is generally consistent with the applicable provisions of the development plan by-law, the zoning by-law and any secondary plan by-law.

Conditions of approval

106(2) When approving an application for a conditional use, the board, council or planning commission may, subject to section 107 and subsections 116(2) and (3) (conditions on livestock operations),

- (a) impose any conditions on the approval that it considers necessary to meet the requirements of clause (1)(b); and
- (b) require the owner of the affected property to enter into a development agreement under section 150.

Right to appeal

118.2(1) An applicant may appeal the following decisions of a board, council or planning commission to the Municipal Board:

- (a) for an application for approval of a conditional use made in respect of an aggregate quarry,
 - (i) a decision to reject the application,
 - (ii) a decision to impose conditions;
- (b) for an application for approval of a conditional use made in respect of a large-scale livestock operation,
 - (i) a decision to reject the application,
 - (ii) a decision to impose conditions.

SCHEDULE "B" TO MUNICIPAL BOARD ORDER B-20-004

Appeal hearing

118.3(1) The Municipal Board must hold a hearing to consider the appeal.

Decision of Municipal Board

118.4(1) The Municipal Board must make an order

- (a) rejecting the proposal; or
- (b) approving the proposal, subject to any conditions described in the following provisions that it considers appropriate:
 - (i) subsection 106(2), in the case of an aggregate quarry,
 - (ii) section 107, in the case of a large-scale livestock operation.

Notice of decision

118.4(2) The Municipal Board must make its order within 30 days after the hearing is concluded and must send a copy of the order to the appellant, the board, council or planning commission and any other party to the appeal.

Decision not subject to appeal

118.4(3) A decision of the Municipal Board on an appeal is final and not subject to further appeal.

The Municipal Board Act provides:

Procedure governed by rules

24(1) All hearings and investigations conducted by the board shall be governed by rules adopted by the board.

Rules of practice, their publication

24(3) The board may make rules of practice, not inconsistent with this Act, regulating its procedure and the times of its sittings; but the rules do not come into force until they are published on the board's website.

SCHEDULE "B" TO MUNICIPAL BOARD ORDER B-20-004

Procedure at Aggregate Appeal Hearings

1. The Municipal Board (the "Board") is an "Independent Body" appointed by Order-in-Council and hearings before the Board are open to the public.
2. A hearing before the Board is separate and distinct from previous council and public hearings on the matter. It is not a town hall meeting.
3. A party must, at least ten (10) days prior to the hearing of an appeal:
 - (a) serve one (1) copy of the written materials it intends to rely upon on each of the other parties as follows:
 - one (1) copy to the Appellant;
 - one (1) copy to the Municipality;
 - one (1) copy to the Board of a Planning District or Planning Commission (as applicable),
 - and
 - (b) file four (4) copies of the written materials with the Board.
4. Any other person served with a notice of hearing pursuant to Section 118.3(2) of *The Planning Act* may make an oral and/or written presentation to the Board. It is recommended that four (4) copies of any written presentations be filed with the Board and that one (1) copy be provided to each of the parties at least ten (10) days prior to the hearing, failing which copies of written presentations must be provided to the Board and the parties at the hearing.
5. If you wish to have service provided in French, please notify our office fifteen (15) days prior to the hearing.
6. Although a quorum of the Board is two, the Board typically sits as a panel of three, one of whom acts as the Chair. The Chair will introduce the panel members and explain how the hearing will proceed.
7. All evidence given at the hearing of an appeal will be given under oath or affirmation.
8. The Board requires all in attendance at the hearing to behave respectfully and not to interrupt the proceedings.
9. The Board will hear presentations from the parties as follows:
 - The Appellant
 - The Municipality
 - The Planning District or Planning Commission (as applicable)

SCHEDULE "B" TO MUNICIPAL BOARD ORDER B-20-004

10. Each party will have an opportunity to present their case and call witnesses. The other parties will have an opportunity to cross-examine the evidence that has been presented. The Board may also question a party or witness on the evidence presented.
11. The Board will also hear presentations from the persons referred to in 4. above. Once a presentation is complete, the Board may question the presenter on his or her presentation.
12. Following the completion of all presentations, each party will have an opportunity to present closing submissions.
13. The Board, in dealing with the appeal, must look at its duty which is set out in *The Planning Act*, as follows:

Section 118.4(1) states:

Decision of Municipal Board

118.4(1) The Municipal Board must make an order

(a) rejecting the proposal; or

(b) approving the proposal, subject to any conditions described in the following provisions that it considers appropriate:

(i) subsection 106(2), in the case of an aggregate quarry,

(ii)

14. At the conclusion of the hearing, the Panel will consider all of the evidence and make its decision within 30 days. A copy of the written Decision and Order and supporting reasons will be sent to the Appellant, the Municipality, and the Board of the Planning District or Planning Commission (as applicable), and any other person who was given notice of the hearing.
15. The Order of the Board is final and not subject to further appeal.
16. The Board will not accept any information or evidence after the hearing has concluded.
17. The Board has final discretion in the manner in which the hearing of an appeal is conducted. The Board may in its discretion dispense with, vary or amend these procedures.

**Attachment 5: Consent Agreement between RM of Rosser and Lilyfield
Quarry**

MUNICIPAL AND APPELLANT CONSENT TO CONDITIONS

Hugh Munro Construction Ltd. and 6901124 Manitoba Ltd. and Lilyfield Quarry Inc. (together as the "Appellant(s)") proposes the development and operation of a Limestone Aggregate Quarry on property in the NE, SE and SW of Section 17-12-2 EPM ("the Planned Area") in the Rural Municipality of Rosser, in the Province of Manitoba. The Planned Area is zoned "A80" Agricultural Zone in the Rural Municipality of Rosser's Zoning By-law 15-14 Part V – Agricultural Zone, Table V-I Agricultural Use & Bulk Table requires a conditional use for sand, gravel pits and mining operations. The Appellants submitted an application title Lilyfield Quarry Permit Application dated June 2018 (the "Application"). The Municipality held a public hearing on September 7th, 2019 (the "Hearing") to receive representations of the Appellant and any other persons interested. The Municipality denied the conditional use upon completion of the Hearing. The Appellant filed an Appeal under section 118.2(1) of the Planning Act of Manitoba to the Municipal Board and the Appellant and the Municipality have agreed upon the conditions under which the Appellant may operate a quarry through the conditional use under Part V – Agricultural Zone, Table V-I Agricultural Use Bulk Table to establish a limestone aggregate quarry on the NE, SE and SW of Section 17-12-2 EPM. The Municipality has set conditions for Approval and the Appellant has agreed to these conditions.

1:00 General/Administrative

- 1:01 The Appellant shall adhere to the such measures including blasting conditions and standards, noise and sound attenuation berming, visual conditions, water and natural resource conditions and standards, adaptive management conditions and progressive rehabilitation conditions and commitments made by the Applicant in their Application and as agreed to in a development agreement.
- 1:02 The Appellant must comply with and meet:
- a) All land use planning requirements under The Planning Act, the South Interlake Planning District Development Plan (Development Plan) and the RM of Rosser Zoning By-law (Zoning By-law);
 - b) Quarry Operations By-Law 8-15, as amended from time to time;
 - c) The requirement to apply for and be issued an annual licence to operate the Quarry Operations By-Law 8-15, as amended and as agreed to in a Development Agreement;
 - d) The requirement to apply for and be issued an annual transportation licence to ensure the quarry is abiding by the commitments in the application and the Municipality's Transportation By-law. The Appellant shall be deemed to have paid the requisit fees as part of the fees paid under the Development Agreement.



- e) All of the requirements of The Mines and Minerals Act and the Quarry Minerals Regulation.
- 1:03 The Appellant shall enter into a Development Agreement with the Municipality upon terms set by the Municipality including conditions as required to be incorporated from all requirements of the Quarry Operation By-law 8-15, as amended, as passed by the Council of the Rural Municipality of Rosser and including but not limited to those matters set out in the Development Agreement and the conditions set out herein; and the Appellant shall abide by all terms and conditions of the Development Agreement, including all fees, or other charges for services, activities or things provided or done by the Municipality as set out in the Development Agreement.
- 1:04 The Appellant shall comply with all Federal, Provincial and Municipal laws and regulations at all times, including but not limited to Quarry Operation By-law 8-15, as amended.
- 1:05 The Appellant shall comply and agree to make payment of all mining, transportation licenses and any municipal payments or regulatory charges to the Municipality and/or the government authority entitled to collect same (including the Municipality's By-Law No. 11-09, as amended from time to time), as set out in the Development Agreement.
- 1:06 The Appellant shall, in accordance with *The Mines and Minerals Act*, comply with and contribute funds as security for the performance of the reclamation work provided for under the reclamation plan and as set out in the Development Agreement.
- 1:07 The Appellant shall obtain and provide proof thereof to the Municipality that it has obtained comprehensive liability insurance and environmental insurance which lists the Municipality as additional insured, at a minimum of two million dollars (\$2,000,000.00) per policy
- 1:08 The Appellant shall provide to the Municipality and make available on its website contact information for the Appellant and the Chief Superintendent of the quarry operation.
- 1:09 The Appellant shall ensure they will maintain the transport haul route roads.
- 1:10 The Appellant shall pay and apply annual dust control in frost free conditions as required.
- 1:11 The Appellant shall pay for and be responsible for the grading of road surface on the haul road route as required.
- 1:12 The Appellant shall provide NAV Canada with topographic measurements, a land survey (if available), and a depiction of the quarry area, to assist with their Land Use Assessment. The Appellant will comply with all requirements of the approval obtained from NAV Canada.



1:13 The Appellant will comply with all requirements of Manitoba Hydro, which may include entering into a Secondary Land Use Agreement with Manitoba Hydro.

1:14 The Appellant will comply with all requirements of Manitoba Hydro, which may form part of the Development Agreement to be entered into between the Appellant and the Municipality, and may consider:

- a) It is possible that access across the right-of-way between the NE and SE quarters may be permitted, but certain conditions and limitations may be necessary to protect Manitoba Hydro's infrastructure and maintain electrical safety;
- b) Excavation limits may be required within and adjacent to (relying on legislated quarry setbacks) the right-of-way to protect the geotechnical stability of tower foundations;
- c) Blasting restrictions may be needed to protect the transmission towers and conductors from damage caused by excessive vibration or impact by stray blast material; and/or
- d) Blasting restrictions may be needed to protect the transmission towers and conductors from damage caused by excessive vibration or impact by stray blast material.
- e) The use of the municipal road allowance to have Hydro to install lines to service the quarry operations.

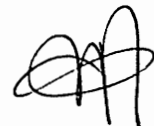
1:15 The Appellant shall pay all capital levies pursuant to the Rural Municipality of Rosser's Rural Capital Lot Levy By-Law 2-04, as amended from time to time, as set out in the Development Agreement.

2:00 Operation

2:01 The Appellant shall commence operations in 2020, and will do a first full year of operation in 2021 and complete the quarry in phases it is anticipated a complete mining date of 2035 however the Appellant will be allowed two periods of 5 years for an extension to 2040 and 2045 respectively all of which will be detailed in the Development Agreement.

2:02 The Appellant shall follow the phasing as depicted in the Phasing Schedule, as set out in the Development Agreement. Specifically, the Appellant shall rehabilitate 50% of each Phase by opening the following Phase and using the new Phases' overburden materials to rehabilitate the previous Phase.

- a) The Appellant shall adhere to the Site Plan, as set out in the Development Agreement.



- b) The Appellant shall not quarry any materials within 100 meters of any existing use, house or building, without the approval of the adjacent property owner.
- c) The Appellant's structures shall be excluded from 100m requirements detailed at subsection 2:02(b) above.

2:03 Unless agreed to by the Municipality and the Appellant, the Appellant shall adhere to proposed areas for separate stockpiling of topsoil, overburden stripping, and mined material: Figure I.F illustrates the location of existing and proposed areas for separate stockpiling of topsoil (dark blue), overburden stripping (dark green), and mined material (orange) as set out in the Application and attached to the Development Agreement

2:04 The Appellant adhere to the proposed ancillary uses as set out in the Application have a 12 ft. by 60 ft. trailer (Photo 1) (Ancillary Use #1) and a 10 ft. by 80 ft. truck scale (Photo 2) (Ancillary Use #2) onto the site, both of which will be Ancillary Uses to the Quarry Operations. The trailer to be an office for employees. The scale to be used to weigh trucks carrying aggregate before leaving the site to ensure they do not exceed weight restrictions for local roads. The Appellant shall have a crusher (Ancillary Use #3), 4 C-Can Containers (Ancillary Use #4) and a Fuel Containment Pad and Liner (Ancillary Use #5) on site. Details of each Ancillary Use and the location of each Ancillary Use shall be set out in the Development Agreement.

2:05 In keeping with the most current methods of quarry development and in compliance with The Province of Manitoba Pit and Quarry Rehabilitation Program Standards and the Municipality's Quarry Operations By-Law 8-15, as amended from time to time, the Appellant will develop the quarry in smaller, discrete phases that will allow for the ongoing and progressive reclamation and rehabilitation of the Planned Area while the quarry is in operation.(As per Section 4.0 (3)(J) herein)

2:06 Initial mining of the Planned Area is proposed in the SW corner of the NE quarter section of the Planned Area. Starting in the area with the least disturbance to neighbouring residences.

2:07 Aggregate extraction will occur in a logical fashion along the seam containing the highest quality deposit of material to be mined.

3:00 Blasting & Sound

3:01 The Appellant shall further adhere to the sound conditions they proposed as part of their Application or as set out in a Development Agreement.

3:02 The Appellant shall further adhere to the blasting conditions as set out in a Development Agreement, and required under the Quarry Operations By-law 8-15 and the The Quarry Minerals Regulation under *The Mines and Minerals Act* which includes:



- a) The quarry's operating hours are Monday to Friday from 6:00 a.m. to 7:00 p.m. for hauling of aggregate and Saturday from 6:00 a.m. to 2:00 p.m. for hauling of aggregate and until 3:00 pm for operations within the quarry extraction areas, subject to any changes as agreed to by the Developer and determined by the CAC process.
- b) The Appellant agrees that equipment will only be utilized during operating hours.
- c) Blasting to occur on average, for the first two months, once or twice per week between 9 AM – 4 PM, Monday to Friday, as per Provincial regulations. After that, once every two weeks.
- d) Details of each will blast to be recorded in a logbook including any siezmographic readings and provided for review by the Municipality, the Province and the public, and shall include:
 - i. A sketch of the blast areas showing the location, depth depth, weight and composition of charges and the arrangement and delay timing of each detonator uses;
 - ii. The timing of each firing;
 - iii. Details of the time of and reason for any malfunction or misfiring; and
 - iv. Corrective action taken because of each malfunction or misfiring.
- e) Non-blasting sounds shall not exceed 55 dba.
- f) No permanent or temporary storage of explosives is permitted on the Planned Area. All blasting (explosive) materials are to be monitored and tracked.
- g) Blasting will be done by an independent blasting firm with blasting expertise and in full compliance with governing guidelines and regulations. In addition, under the Quarry Operation By-law 8-15, the Municipality may appoint a staff member to observe the operations.
- h) The Appellant shall comply with the Quarry Minerals Regulation under *The Mines and Minerals Act* which requires wind entrainment of dust of the visible particulate matter does not exhibit any opacity in excess of 5% at the property line of the Planned Area.
- i) The Appellant, and its contractors, shall take all possible measures to ensure that the blasting operations are carried out in a safe and productive manner and ensure that damage to existing third-party buildings (receptors) does not occur.

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- j) The Appellant shall use predictive formulas recommended by the International Society of Explosive Engineers to establish maximum allowable quantities of explosives per delay period at given standoff distances (closest sensitive receptor locations) from blasting operations. The blasting (drilling) patterns (distance between boreholes) will be calculated based on maximum allowable quantity of explosives per delay for a given standoff distance from the closest residence and vibration guidelines.
- k) Unless otherwise agreed to by a property owner, the Appellant shall ensure blasting does not occur within a minimum standoff distance of 400 metres from any third-party residence, which may house animals.
- l) The Appellant shall use seismographic equipment to determine ground vibration during a blasting event.
- m) The Appellant acknowledges blasting procedures are heavily regulated by the Province under The Mines and Minerals Act and the Quarry Minerals Regulation, and the Quarry Operation By-law 8-15 and agrees to comply with all forms of regulation.

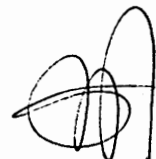
4:00 Visual

4:01 The Appellant shall further adhere to the Visual Impact conditions as follows:

- a) Placement of 3 m high berms with 3 to 1 slopes at locations along the East Side of NE ¼ along Sturgeon Road, along the South of SE ¼ on Road 68. As activity continues in the SW ¼, berms will be built accordingly as set out in the Development Agreement.

4:02 The Appellant will implement dust mitigation measures at and near the Planned Area, and which will include:

- a) seed soil and overburden stockpiles to grass;
- b) seed berms to grass;
- c) spray water on equipment as required;
- d) spray water on unpaved access roads as required;
- e) treat unpaved access roads with calcium chloride applications as required;
- f) subject to a Front Ending Agreement upgrade municipal roads used for heavy truck traffic as required;
- g) reduce truck speed on unpaved roads; and
- h) use aggregate stockpiles for screening.



4:03 That the Appellant shall adhere to the procedures, conditions and commitments regarding Noise Attenuation and Visual Impact including:

- a) Crusher can be located 50 m south of Road 69N.
- b) the location, width, height and description of existing and proposed landscaped buffers or berming, and existing and proposed entrances and exits, on-site roads and parking and loading area and proposed landscaped buffers or berming, and existing and proposed entrances and exits, on-site roads and parking and loading area all as agreed to and set out in a Development Agreement. The proposed berms will be 3m high and 28m wide, created using stripped overburden materials and as set out in the Development Agreement.
- c) The Appellant shall endeavor to maintain the majority of trees and shelter belts along 69N (NE 17-12-2E) during the lifetime of the quarry and will endeavour to maintain a buffer for wildlife movements within the Planned Area and to prevent further fragmentation of habitat. Although some trees may need to be removed to allow for Hydro installation and extract material below the surface, Munro shall maintain a 50 metre (150 foot) buffer to mitigate visual impact along 69N. In addition, the trees within 100 feet of the Stewart residence on the site shall be preserved.
- d) Berm construction to begin in the northeast corner of the Planned Area.
- e) During Phase 1 and 2 of the quarry operations, the Appellant will construct 3 m high berms along Road 68 N (Lilyfield Church Road) and Sturgeon Road as each 40 acre is developed.
- f) The Appellant commits to construction of the remaining berms along the periphery of the Planned Area as the quarry operation progresses and as agreed to under a Development Agreement.
- g) The Appellant shall ensure that no excavation may occur within 15 metres from any property line.
- h) Berms will have a 3:1 slope, with a width of 3 m at the top. All berms will be seeded and mowed.
- i) During Phase 1 and 2, all unused quarry lands (approximately 200 acres) to remain as agricultural fields to be farmed and tree stands, providing naturalized buffers.
- j) Berms to be constructed using soil and clay from the Planned Area. Eventually, the berms will be removed and used to for rehabilitation during the lifetime of the quarry as part of the rehabilitation process. First Phase of 40 acres to be rehabilitated with 20 acre opening to next 40 acres. Rehabilitation



will occur on the first 50% of the first Phase of 40 acres and the materials will come from the second Phase of 40 acre material.

- k) Topsoil to remain onsite for rehabilitation purposes.
- l) The ponds will not be vegetated.
- m) The Appellant shall retain tree cover and establishing berms on site.
- n) The Appellant is committed to building a berm along the east side and then the southern boundary of the quarry using overburden from the property. Estimated construction of berm to be two months.
- o) The Appellant shall, once the clay and topsoil stockpiles are formed, seed with vegetation, and water the gravel piles, as needed, to help mitigate dust related issues.

4:04 The Appellant shall not remove or strip topsoil and other soils from the Planned Area and/or relocate any soil without permission as required under By-law 15-71 or as amended "Removal of Top-Soil" By-law and an application under the By-Law 15-71.

5:00 Structural Stability

5:01 The operator agrees to utilize standard seismographic sensors for blasting events which sensors readings shall be recorded and saved for the life of the quarry in an acceptable format (digital) for these types of readings.

5:02 All readings after a blasting event shall be saved and be available for the Municipality to access.

5:03 Compensation for any structural damages due to blasting will be assessed by an independent third party.

6:00 Land Value

6:01 The Appellant shall adhere to the following procedures, conditions and commitments including:

- a) Identification of landowners within a two mile radius of the Planned Area, and if they should sell their property within the lifetime of the quarry and believe that the sale price was affected because of the existence of the quarry operation, may make a one-time claim to HMCL for any perceived reduction in value.
- b) The Appellant agrees to calculate the reduction in value by using the most recent Provincial assessment value and adjusting that value for the Sales



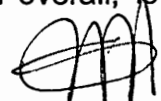
Assessment Ratio (SAR) and factoring in the Consumer Price Index (CPI). As the assessed value is not market value, applying the SAR and CPI is a means to monitor markets so as to estimate the market value of a property.

- c) After a claim is made and the Reduction in Value is calculated as above, the Appellant commits to providing the Reduction in Value amount to the current owner(s) of the eligible properties.
- d) This commitment will commence once a development permit has been issued to the Appellant and will extend until such time as quarry operations cease and the quarry has been rehabilitated under Provincial standards.
- e) The SAR shall continue to be applied to properties that lawfully preexist the quarry operation. SAR will not apply to any developments approved following the approval of the quarry operations.

7:00 Water & Natural Resource Management

7:01 The Appellant shall adhere to the procedures, conditions and commitments represented to be followed in its Application relating to Water & Natural Resource Management:

- a) An on-site observation well will be installed and maintained at the site. This well will be monitored, sampled quarterly during operation, and equipped with water level recording instrumentation for future references to static water levels.
- b) Based on the information available, the overall dewatering requirements at the site are expected to be minor. If dewatering is required, site specific testing will be conducted to assess the potential response of the local aquifers to pumping stresses.
- c) The determination of minor dewatering will be determined by a qualified municipal engineer retained by agreement of the Municipality and the operator.
- d) Excavations will not penetrate the Gunn Member of the Stony Mountain Formation
- e) The operation of the Lilyfield Quarry is not expected to permanently change the quantity of groundwater available in the local aquifer system, and the potential drawdown at the site would likely be within the range of seasonal water fluctuations.
- f) Based on the information available, the potential impacts of the Lilyfield Quarry on nearby water wells and offsite groundwater system overall, is



considered minimal. However, a groundwater monitoring plan will be developed for the site to monitor for potential offsite impacts over the lifetime of the quarry.

- g) Any water quality or quantity issues associated with the quarry will be addressed immediately by the Appellant including well replacement and interim water hauling to those local animal producers located on Roll No. 105900 {Grenkow Family} and Roll No. 105800 {Turbett Family}.
- h) Fuels and oils will not be stored on the quarry floor and any on the quarry floor will take place in accordance with the Mines and Mineral Act.

7:02 The Appellant agrees to obtain an engineered drainage plan and adhere to the procedures and conditions it represented to follow regarding drainage approved by the Municipality and as set out by Manitoba Sustainable Development which will detail how surface water will be managed at the site and which shall include these commitments:

- a) Post-Development (Phase 1) runoff is below Pre-Development runoff
- b) Stormwater basins detain runoff and are pumped dry
- c) Discharge is into the same drains receiving existing runoff
- d) Basins are lined to reduce potential ground water influence
- e) Sufficient land exists to construct proposed basins
- f) Stormwater from future phases will also be managed by pumping

7:03 The Appellant shall contact the Water Use Licensing Section to discuss licensing, permits or approval that may be required under The Water Rights Act.

7:04 That the Appellant adhere to the procedures and conditions it represented to follow in the Public Hearing regarding Water and Natural Resources including:

- a) On-site water-level monitoring;
- b) On-site water sampling;
- c) Regional Hydrograph Network monitoring;
- d) Development of a Well interference plan;
- e) A Groundwater monitoring plan;
- f) Specific sampling (routine, isotopic, and bacteriological);
- g) Well monitoring programs;



- h) All Quarry activity to remain at a minimum 1.5 m above the water table;
- i) Subject to 7.01 (c) and (d), there shall be no form of dewatering within the Planned Area or as part of its mining operations and operate under the water management plan provided proposed by the Appellant in the hearing of September 7, 2019;
- j) Pumping in extreme weather conditions to be limited to surface water accumulations and will not constitute groundwater extraction;
- k) No pumping of groundwater;
- l) A Water retention pond to retain sump pump discharge until it can be released;
- m) The Appellant commits to the repair and/or replacement of all water related household items impacted by water contamination. If something goes wrong with these items and the well had pre-existing issues, the Appellant is committed to an agreed-to percentage for repair or replacement based on the identified pre-existing condition. The percentage would be based on the well assessment and agreed to between the Appellant and the property owner prior to quarry operations;
- n) Create a water supply program for all livestock operations (as defined in The Planning Act) within a 2-mile radius of the Planned Area with two 1,500-gallon sea can tanks (3,000 gallons) before opening day of the quarry and will supply the tank hose and valves and ensure that the tanks are hooked up to the existing water system, including any existing filtration/treatment systems. The water supply program shall only apply to the two (2) existing livestock operations with the 2 mile radius of the of the quarry operations.
- o) Water will only be used for dust control during quarry operations, not for the processing of materials;
- p) The Appellant shall have conducted by a professional consultant/engineer, a comprehensive well inventory of all wells within a two-mile radius from the proposed quarry site who agree to participate to be monitored wells which document any existing issues with wells and provide the baseline data for continued monitoring and any required repair or replacement. The well monitoring involved will be undertaken voluntarily by the effected property owners within the area described;
- q) The Appellant shall file the well study and report with the Municipality for its review. The report will be reviewed by the Municipality's engineering consultants and will be acceptable to them;
- r) Should a blast create an issue with water supply, the Appellant will address the issue with interim water hauling and repair or replacement of the well,



- s) The Appellant shall haul and provide water from the Municipality's well (or potable water source) within 12 hours to dairy operations which are disrupted by blasting activities. The Appellant will install a valve and connecting filter system; program shall only apply to the two (2) existing livestock operations with the 2 mile radius of the of the quarry operations.
- t) If a property owner's well meets all standards, and their well goes dry, collapses, or is contaminated, and it has been deemed that the concerns of the well are the responsibility of the Appellant, the Appellant has committed to interim water hauling within 12* hours and well repair or replacement. The amount of water required will be identified based on the use.
- u) The Appellant will seek out where possible abandoned water wells and advise the province where they are located so the province may arrange to seal the wells through their process in accordance with the proper provincial standards. The Appellant will not be responsible for closing, capping or sealing the Wells.
- v) The Appellant will mitigate any concerns and address any issues as they arise relating to groundwater.

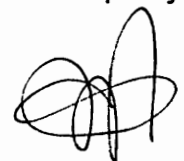
8:00 Fish & Wildlife Habitat Management

8:01 The Appellant adhere to the procedures, conditions and commitments represented to be followed in its Application regarding Wildlife Habitat including:

- a) Existing vegetation and wildlife habitat will be retained, wherever possible.
- b) Except as to the installation of the Hydro, the vegetation clearing will be completed outside the approximate breeding bird nesting season for the site (April 15 to August 25).

8:02 The Appellant shall ensure:

- a) That existing vegetation and wildlife habitat to be retained, wherever possible and vegetation clearing will be completed outside the approximate breeding bird nesting season for the site (April 15 through August 25)
- b) water will only be used for dust control during quarrying operations, not for the processing of materials;
- c) no soil will be brought in from other areas.
- d) eventually, the berms will be removed and used to rehabilitate the quarry mining pit during the lifetime of the quarry.

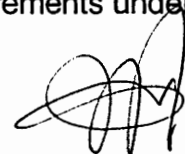


9:00 Adaptive Management

- 9:01 The Appellant will comply with its Lilyfield Quarry Adaptive Management Plan, which formed part of the Lilyfield Quarry Permit Application and shall establish a Citizens' Advisory Committee (CAC) that includes residents, the site operator of the quarry, and local municipal councillors or such other individuals as deemed appropriate. The Appellant will coordinate monthly or quarterly meetings of the CAC, as the community deems necessary, to provide committee members with project updates and gain important feedback on any concerns related to the quarry operations. This will provide a venue so any issues that arise throughout the lifetime of the quarry can be formally raised with the Appellant and addressed in a reasonable and effective manner. The Committee will establish an ongoing dialogue between area residents and HMCL and provide for efficient communication among all parties.
- 9:02 That the Appellant adhere to the procedures, conditions and commitments represented to be followed with respect the establishment of a Citizen's Advisory Committee including the terms of the Committee such as to provide residents with an effective ability to deal with complaints and resolve issues of concern. Such terms of the committee are to be agreed upon with Rosser Council. Terms and/or membership of the CAC shall be reviewed and amended at Council's sole discretion.
- 9:03 The Appellant has prepared an Adaptive Management Plan that provides a guideline for how the Lilyfield Quarry operations should be monitored and managed in a safe and efficient manner, evaluating and adjusting operations, as necessary.
- a) The *Adaptive Management Plan* includes monitoring plans, mitigation measures, trigger mechanisms, and contingency plans for the aspects of the quarry operations.

10:00 Progressive Rehabilitation

- 10:01 The Appellant shall adhere to the procedures, conditions and commitments represented to be followed in its Application:
- a) In keeping with the most current methods of quarry development and in compliance with the provincial pit and quarry rehabilitation program standards, the Appellant will develop the Lilyfield Quarry in smaller, discrete phases that will allow for the ongoing and progressive reclamation and rehabilitation of the site while the quarry is in operation, as set out in the Development Agreement.
- 10:02 The Appellant shall adhere to all Progressive Rehabilitation requirements under the Quarry Operations By-Law 8-15, as amended from time to time.



10:03 Further, the Appellant shall adhere to the procedures, conditions and commitments represented at the Community Consultation process regarding Progressive Rehabilitation including:

- a) Under the Mines and Minerals Act, the Appellant will contribute the necessary funds to the Province of Manitoba as security for performing the reclamation work provided for under the closure plan or made under a guarantee or letter of credit of the same nature. The Quarry Minerals Regulation establishes the rehabilitation levy as required by Provincial regulation. At the end of the quarry's lifetime, this is the funding that would ensure reclamation of the quarry lands to a standard approved by the Province and the RM.
- b) The ultimate rehabilitation plan, shall be approved by the RM of Rosser, will outline the end use of the proposed quarry lands.
- c) The Appellant commit to rehabilitating the quarry and returning it to general agricultural. That any future land uses would be in keeping with the Zoning By-law.

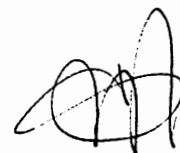
10:04 The rehabilitation plan includes restoring the site to its existing soil conditions by re-establishing the clay and till. The actual aggregate site will be naturally lower than it was prior to mining.

11:00 Transportation Plan & Haul Route Plan

11:01 The Appellant has obtained a new Traffic Impact Study, completed by a transportation engineer, to determine what on-highway improvements are needed to safely accommodate the traffic generated by the development.

11:02 That the Municipal Engineers, taking into consideration Council's perspectives, review the Appellant's draft Traffic Impact Study with respect to all haul roads and specifically the intersections of Municipal Road 68 and PR 236, PR 236 and Hwy 6 and the Perimeter and Hwy 6 due to concerns of dangerous and unsafe roadways affecting constituents and all individuals travelling within the Municipality.

- i) The Municipal Engineer shall consider all traffic control devices, such as, signalization, stop lights, flag persons, speed limits, turning lanes, and such other traffic controls as required to ensure safe roadways.
- ii) Council has expressed the view to Manitoba Infrastructure that the approved the Final Traffic Impact Study is in Council's opinion insufficient with respect PR 236 and PTH 6 because of public safety concerns.

A handwritten signature in black ink, consisting of several overlapping loops and a long horizontal stroke at the bottom.

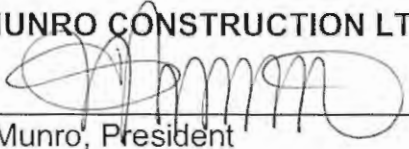
- 11:03 The upgraded haul road on 68 shall be construct to allow vehicle loads identical to PR 236 and PTH 6 and as such vehicles traveling on 68 shall be allow to carry the maximum allowable gross vehicle weight as on PR 236 and PTH 6.
- 11:04 The Appellant is to follow its proposed security measures of installing a locked gate at each entrance to the Planned Area, as identified in **Figure I.J.** of its Application. The Appellant to install security cameras at each entrance and around key areas where employees will be working and operating heavy machinery, as identified in **Figure I.J.** of its Application. Quarry operators will review the camera footage daily to monitor access to the Planned Area and address any unauthorized activity in a timely manner.
- 11:05 The Appellant will construct extensive berming along the periphery of the Planned Area will help to control unauthorized access of vehicles, ATVs, and pedestrians. The site will include multiple signs at each entrance and along its perimeter to remind visitors that all unauthorized access is prohibited. Signs may read, "Private Property" or "No Trespassing".
- a) The plan for the aggregate operation identifies a new access to be constructed on Lilyfield Church Road at the southwest corner of the site. This access will serve as the only entrance to and exit from the development for all heavy truck traffic.
 - b) Only one entrance and exit into the quarry for quarry trucks and trailers;
 - c) Any road upgrades shall be to the municipal standards from quarry entrance to a provincial road and at the cost of the Appellant.
 - d) All road upgrades shall be at the cost of the Appellant. (See section Front Ending Agreement)
 - e) Use dust control measures on haul route at the cost of the Appellant.
 - f) the only access in and out of the proposed quarry site is located at the southwest corner of the site. Alternate entrances will be barricaded with "no trespassing signage" and video surveillance cameras in-place around the entire periphery of the property. This will ensure no traffic enters or exits from other existing accesses except employee passanger vehicles and the quarry operators equipment necessary to complete work.
 - g) the Appellant will work with Manitoba Infrastructure on any upgrades or improvements identified on provincial roads.

A handwritten signature in black ink, consisting of a stylized, cursive 'M' followed by a vertical line and a small flourish at the top.

AND FURTHER BE IT Order THAT all required permits to be issued within 45 days of this Order.

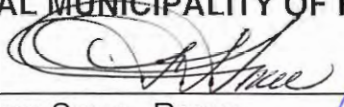
Dated: July 9, 2020

HUGH MUNRO CONSTRUCTION LTD.




Colleen Munro, President

RURAL MUNICIPALITY OF ROSSER

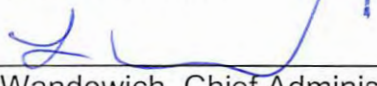


Frances Smee, Reeve

6901124 MANITOBA LTD.

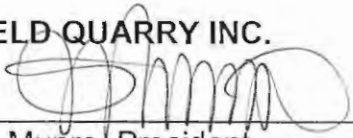


Colleen Munro, President



Larry Wandowich, Chief Administrative Officer

LILYFIELD QUARRY INC.



Colleen Munro, President

Attachment 6: Copy of Rezoning Application



April 1, 2019

Confidential

Ms. Kari Shultz
Senior Planner, CentrePort
Inland Port Special Planning Area
610-800 Portage Avenue
Winnipeg MB R3G 0N4
Phone: 204.945.2146
Email: inlandportspa@gov.mb.ca

Subject: Letter of Intent for a Zoning Amendment for Part Section 4-12-2 EPM and Part Section 33-11-2 EPM within the Inland Port Special Planning Area in the Rural Municipality of Rosser

Dear Ms. Shultz:

Please find below the necessary information to initiate a zoning amendment for part of Section 4-12-2E and part of Section 33-11-2E from “IPZ” Inland Port Rural Zone to “I3” Industrial Heavy Zone to allow for the establishment of an aggregate extraction use.

Applicant Information

WSP Canada Group Limited (WSP), is acting as applicant for the zoning application on behalf of Broda Properties Inc. (Client).

Applicants Contact Information: Meagan Boles, Senior Planner
WSP Canada Group Limited
111 – 93 Lombard Avenue
Winnipeg MB R3B 3B1
Phone: 204.943.3178
Email: meagan.boles@wsp.com

Owners Contact Information: North Perimeter Aggregates Inc.
c/o Broda Properties Inc.
RR 2 Site 4 Comp 207
Prince Albert, SK
S6V 5P9
306-961-2726
Gord.Broda@sasktel.net

A Letter of Authorization for the property is attached as **Appendix A**.

Location and Description

The subject lands are generally bordered by the Perimeter Highway (PTH 101) to the north; Klimpie Road to the east; Farmer Avenue to the south; and Sturgeon Road to the west, with Mollard Road running east-west through the site.



The aggregate extraction use will be established across several parcels of land as follows:

ROLL NUMBER	CERTIFICATE OF TITLE	LEGAL DESCRIPTION	CIVIC ADDRESS	ACRES (±)
95920	2405479	Pt. SW ¼ 4-12-2E	no civic address	144.40
95800	2405478	SE ¼ 4-12-2E	8 128 E Road 66 N	158.49
	2405481			
95400	2405478	Pt. NE ¼ 4-12-2E	no civic address	55.77
95900	2406450	Pt. SW ¼ 4-12-2E	8 054 E Road 66 N	9.00
95950	2405482	Pt. SW ¼ 4-12-2E	8 070 E Road 66 N	5.00
90200	2405477	Pt. NE ¼ 33-11-2E	no civic address	142.87
90500		Pt. NW ¼ 33-11-2E	no civic address	73.93

The approximate area of the re-zoning is ± 589.46 acres.

The land is flat and currently agricultural in nature, with the exception of three farmsteads located on Certificate of Title (CT) 2406450, CT 2405482 and CT 2405478. These properties are owned by Broda Properties Inc. and the residences on site are currently rental properties. There are also remnants of an abandoned farmstead on CT 2405477 (Roll 90200) but there are no remaining buildings on site. Both CT 2406450 and CT 2405478 contain a residence and several out buildings. CT 2405482 just contains a residence. All structures will be removed if the aggregate extraction operation is approved.

There is one caveat on CT 2405478 (Registration Number 2717565/1), which is an easement on the property from Manitoba Hydro from 2002. There is one caveat on CT 2406450 (Registration Number 2750687/1), which is a declaration of beneficial ownership from L7 Farms Ltd. in 2002. The caveat impacts the southerly 956 feet perp. of SW ¼ 4-12-2E. There are two caveats on CT 2405477, one which is an easement from BellMTS from 1984 (84-53609/1) and the second a mortgage from L7 Farms Ltd. to Carpathia Credit Union Limited from 1999 (2424664/1).

A title plot, the Status of Titles and all caveats are attached as **Appendix B**.

There are two Manitoba Hydro transmission rights-of-way that bisect the property.

Description of Application

The Client wishes to re-zone the subject land to accommodate an aggregate extraction operation. A map of the area proposed for re-zoning, a site plan and phasing plan have been attached as **Appendix C**.

The subject lands are located above a geological formation deemed to be of ‘high’ quality aggregate, one of the last ‘high’ quality deposits in Manitoba.

The aggregate extraction operations will include an office, maintenance shop, parking and loading areas, crusher laydown area, stockpile area and a scale.

There are two proposed accesses identified off Mollard Road, with the three existing accesses to be removed.

A berm will be established surrounding the aggregate extraction operation.



The aggregate extraction operation is proposed for five phases. The Quarry Minerals Regulation 65/92 under *The Manitoba Mines and Minerals Act* prohibits aggregate extraction 400 metres from a residential dwelling. These areas, where there will be no extraction, are shown on the phasing plan and impact Phase 1, Phase 4 and Phase 5. There will be no quarry activity north of the northerly Manitoba Hydro right-of-way.

In conjunction with the enclosed zoning amendment request, the applicant is also required to submit a Quarry Permit Application to the Rural Municipality (RM) of Rosser, in accordance with the RM of Rosser's Quarry Operations By-law 8-15. The complete Quarry Permit Application, including its various technical reports, has been included as part of this application. These reports include the following: Blasting Impact Assessment, Sound Impact Assessment, Water and Natural Resources Management Plan, Adaptive Management Plan, Progressive Rehabilitation Plan, and Transportation and Haul Route Plan.

The aggregate extraction use is not proposed to be serviced with water and wastewater.

Development Plan and Zoning By-law

The property proposed for subdivision is currently designated part Manufacturing and Logistics and part Service-Oriented Industrial according to the *Inland Port Special Planning Area Regulation 49/2016* (Regulation). Section 6 of the Regulation states that where 'high' aggregate resources have been identified, they may be extracted from areas designated as Manufacturing and Logistics in accordance with the Zoning By-law. Application to establish zoning to permit aggregate extraction from land within the Service-Oriented Industrial designation should be restricted to ensure that once the resource has been depleted, the policies of the Service-Oriented Industrial will guide the redevelopment and subsequent zoning of the site. The Quarry Minerals Regulation 65/92 under *The Manitoba Mines and Minerals Act* prohibits aggregate extraction 400 metres from a residential dwelling. Due to this requirement, no aggregate extraction will occur within the Service-Oriented Industrial designation. The down zoning of the property in the future may be addressed in the Development Agreement.

The property is currently zoned "IPZ" Inland Port Rural Zone and needs to be re-zoned to "I3" Industrial Heavy Zone in order for an aggregate extraction use to be established. Aggregate extraction is a permitted use in the "I3" Industrial Heavy Zone.

Sustainable Development Standards

In accordance with the Regulation, all developments must achieve at least five points from one or more sustainable development measures. If the re-zoning is conditionally approved, it is expected it would be conditional upon meeting the sustainable development measures requirement. Due to the use proposed and the sustainable development measures outlined in the Regulation, it is expected that a variance for some or all of the sustainable development measures would be required. After conditional approval, WSP will submit an application to the Senior Planner detailing any proposed sustainable development measures that may be considered for approval. If the number of sustainable development measures cannot be met due to the nature of the development, WSP will apply for a variance of the measures to be considered for approval by the Senior Planner. This would be consistent with how the sustainable development measures have been applied in other developments and would be verified at the time of issuance of a Development permit and/or Building Permit by the South Interlake Planning District.



Should you have any questions, you may contact me at 204.943.3178 or via email at Meagan.Boles@wsp.com.

Regards,

WSP Canada Group Limited

A handwritten signature in black ink that reads "meaganboles." with a period at the end.

Meagan Boles, MCP

Senior Planner

Planning, Landscape Architecture and Urban Design

MB/tc

cc: Gord Broda

Encl. Appendix A – Letter of Authorization
Appendix B – Title Plot, Status of Titles and Caveats
Appendix C – Plan of Development

APPENDIX

A

LETTER OF
AUTHORIZATION

Inland Port Special Planning Area

Letter of Authorization

What is a letter of authorization?

A letter of authorization is required when the person(s) applying for a planning application is not the registered owner(s) of the subject property. The letter of authorization ensures that the registered owner(s) of

the subject property has knowledge of, and authorizes, the planning application. The registered owner(s) of the property is the name that appears on the Certificate of Title.

TO: Inland Port Special Planning Area
610-800 Portage Avenue
Winnipeg, MB R3G 0N4
or by email at inlandportspa@gov.mb.ca.
CT 2405479, CT 2405478, CT 2406450, CT 2405482 and CT 2405477
RE: Part SW, SE and NE 1/4 4-12-2E and Part NE and NW 1/4 33-11-2E
(civic address or legal description of property)

I/we hereby give authorization to:

WSP Canada Group Ltd.

(Applicant's name)

to apply for a planning application for the above property.

Registered owner(s) on the current Status of Title or Certificate of Title:

GORDIE BRODA
(please print name)

Gordie Broda APRIL 1, 2019
(signature) *(date)*

(please print name)

(signature) *(date)*

(please print name)

(signature) *(date)*

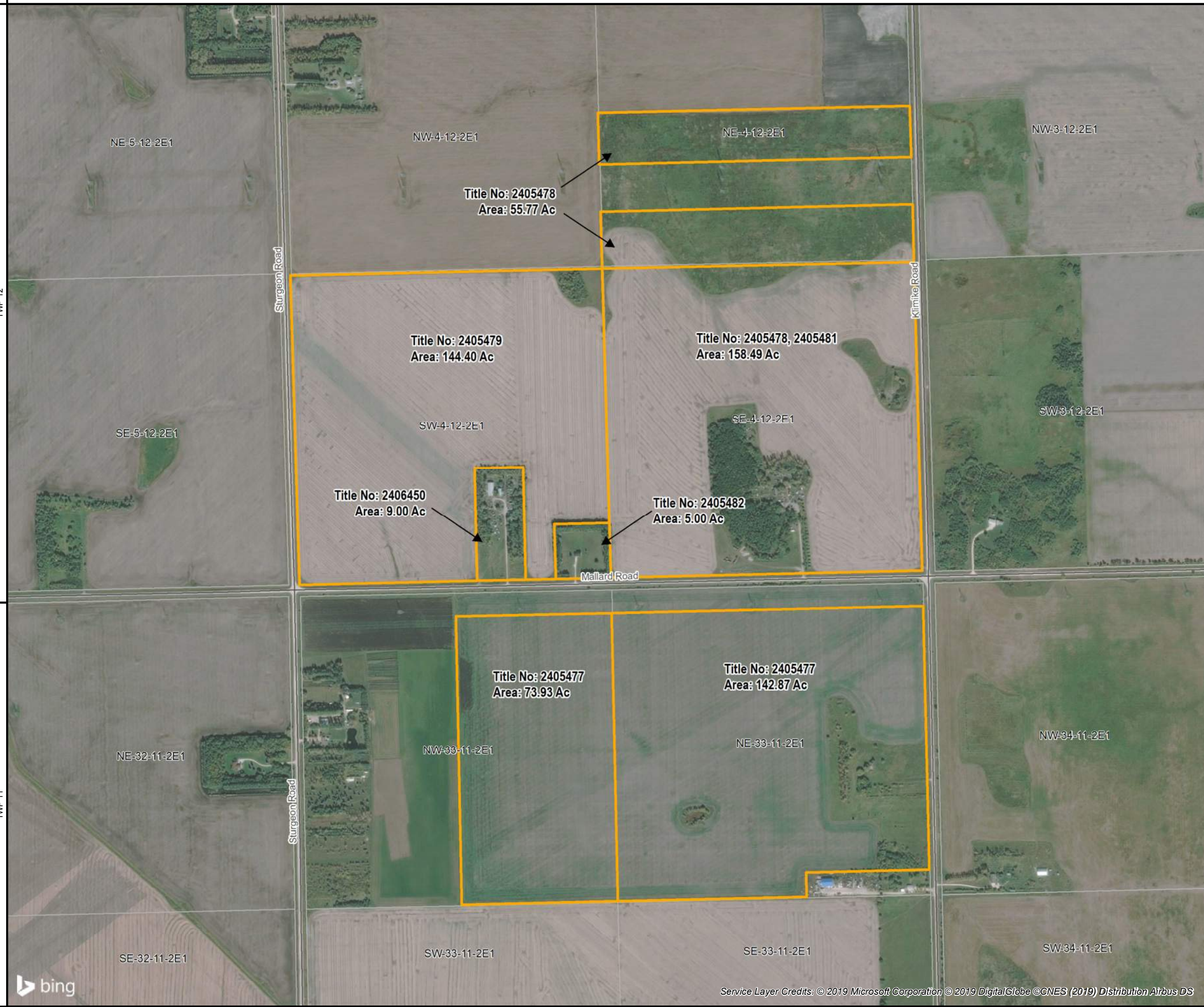
(please print name)

(signature) *(date)*

APPENDIX

B

TITLE PLOT, STATUS OF
TITLES AND CAVEATS



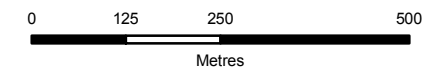
MUNICIPALITY OF ROSSER



Legend

- Title Plots
- Parcel Mapping
- Road

Projection: NAD 83, UTM Zone 14N
 Data Source(s): ESRI Bing Imagery, NRCAN, MG, MLI, WSP
 Date Created: March 21, 2019
 Revision Date: March 21, 2019



MAP 1 TITLE PLOT MAP



STATUS OF TITLE

Title Number **2405479/1**
Title Status **Accepted**
Client File **18M-00240-00-201**

The Property Registry

A Service Provider for the Province of Manitoba



1. REGISTERED OWNERS, TENANCY AND LAND DESCRIPTION

BRODA PROPERTIES INC.

IS REGISTERED OWNER SUBJECT TO SUCH ENTRIES RECORDED
HEREON IN THE FOLLOWING DESCRIBED LAND:

SW 1/4 4-12-2 EPM,
EXC, FIRSTLY: THE SLY 466.7 FEET PERP OF THE ELY 466.7 FEET PERP, AND
SECONDLY: ALL THAT PORTION OF THE SLY 956 FEET PERP
WHICH LIES BETWEEN 2 LINES DRAWN NLY AT RIGHT ANGLES TO THE SOUTHERN
LIMIT OF SAID SW 1/4, FROM POINTS IN THE SAME, DISTANT WLY THEREON WLY
THEREON 722 FEET AND 1132 FEET FROM THE EASTERN LIMIT OF SAID SW 1/4.

The land in this title is, unless the contrary is expressly declared, deemed to be subject to the reservations and restrictions set out in section 58 of *The Real Property Act*.

2. ACTIVE INSTRUMENTS

No active instruments

3. ADDRESSES FOR SERVICE

BRODA PROPERTIES INC.
POSTAL BAY 5800
4271-5TH AVENUE EAST
PRINCE ALBERT SK
S6V 1V6

4. TITLE NOTES

No title notes

5. LAND TITLES DISTRICT

Winnipeg

6. DUPLICATE TITLE INFORMATION

Duplicate not produced

7. FROM TITLE NUMBERS

1775127/1 All

8. REAL PROPERTY APPLICATION / CROWN GRANT NUMBERS

No real property application or grant information

9. ORIGINATING INSTRUMENTS

Instrument Type: **Request To Issue Title**

Registration Number: **3844379/1**

Registration Date: 2009-10-15

From/By: BRODA PROPERTIES INC.

To:

Amount:

10. LAND INDEX

SW 4-12-2E

EXC PART

CERTIFIED TRUE EXTRACT PRODUCED FROM THE LAND TITLES DATA STORAGE
SYSTEM OF TITLE NUMBER 2405479/1

STATUS OF TITLE

Title Number **2405478/1**
Title Status **Accepted**
Client File **18M-00240-00-201**

The Property Registry

A Service Provider for the Province of Manitoba



1. REGISTERED OWNERS, TENANCY AND LAND DESCRIPTION

BRODA PROPERTIES INC.

IS REGISTERED OWNER SUBJECT TO SUCH ENTRIES RECORDED
HEREON IN THE FOLLOWING DESCRIBED LAND:

SE 1/4 AND S 1/2 OF NE 1/4 4-12-2 EPM
EXC OUT OF SAID SE 1/4 THE SLY 1321 FEET PERP
AND EXC OUT OF THE SAID NE 1/4
TRANSMISSION LINE ROW PL 7926 WLTO

The land in this title is, unless the contrary is expressly declared, deemed to be subject to the reservations and restrictions set out in section 58 of *The Real Property Act*.

2. ACTIVE INSTRUMENTS

Instrument Type: **Caveat**
Registration Number: **2717565/1**
Instrument Status: **Accepted**

Registration Date: 2002-05-08
From/By: THE MANITOBA HYDRO ELECTRIC BOARD
To:

Amount:
Notes: AFF: WTN LTS ROW PL 40566
Description: EASEMENT

3. ADDRESSES FOR SERVICE

BRODA PROPERTIES INC.
POSTAL BAY 5800
4271-5TH AVENUE EAST
PRINCE ALBERT SK
S6V 1V6

4. TITLE NOTES

No title notes

5. LAND TITLES DISTRICT Winnipeg
6. DUPLICATE TITLE INFORMATION Duplicate not produced
7. FROM TITLE NUMBERS 2017263/1 All
8. REAL PROPERTY APPLICATION / CROWN GRANT NUMBERS No real property application or grant information
9. ORIGINATING INSTRUMENTS Instrument Type: Request To Issue Title Registration Number: 3844379/1 Registration Date: 2009-10-15 From/By: BRODA PROPERTIES INC. To: Amount:
10. LAND INDEX NE 4-12-2E S 1/2 EXC RT OF WAY PLAN 7926 SE 4-12-2E EXC SLY 1321 FT

CERTIFIED TRUE EXTRACT PRODUCED FROM THE LAND TITLES DATA STORAGE SYSTEM OF TITLE NUMBER 2405478/1

STATUS OF INSTRUMENT

Instrument Number **2717565/1** **CAV**
Instrument Status **Accepted**
Client File **18M-00240-00-201**

The Property Registry

A Service Provider for the Province of Manitoba



1. INSTRUMENT SUMMARY

Instrument Type: **Caveat**
Registration Number: **2717565/1**
Instrument Status: **Accepted**

Registration Date: 2002-05-08
Completion Date: 2002-05-13

From/By: THE MANITOBA HYDRO ELECTRIC BOARD
To:

Amount:
Description: EASEMENT

2. TITLES AFFECTED

<u>Title Number</u>	<u>Title Status</u>	<u>Effect</u>	<u>Notes</u>
1742408/1	Cancelled	Active	AFF: WTN LTS ROW PL 40566
	Land Index:	NE 4-12-2E S 1/2 EXC RT OF WAY PLAN 7926 SE 4-12-2E EXC SLY 1321 FT	
1977479/1	Cancelled	Active	AFF: WTN LTS ROW PL 40566
	Land Index:	NE 4-12-2E S 1/2 EXC RT OF WAY PLAN 7926 SE 4-12-2E EXC SLY 1321 FT	
2017263/1	Cancelled	Active	AFF: WTN LTS ROW PL 40566
	Land Index:	NE 4-12-2E S 1/2 EXC RT OF WAY PLAN 7926 SE 4-12-2E EXC SLY 1321 FT	

<p>2405478/1 Accepted Active AFF: WTN LTS ROW PL 40566</p> <p>Land Index: NE 4-12-2E S 1/2 EXC RT OF WAY PLAN 7926</p> <p>SE 4-12-2E EXC SLY 1321 FT</p>								
<p>3. TITLES CREATED</p> <p>No titles created</p>								
<p>4. AFFECTS THE FOLLOWING INSTRUMENTS</p> <p>No affected instruments</p>								
<p>5. AFFECTED BY THE FOLLOWING INSTRUMENTS</p> <p>No affecting instruments</p>								
<p>6. ADDRESSES FOR SERVICE</p> <p>MANITOBA HYDRO /PROPERTY DEPT. 820 TAYLOR AVENUE P.O. BOX 815 WINNIPEG MB R3C 2P4</p>								
<p>7. LAND TITLES DISTRICT</p> <p>Winnipeg</p>								
<p>8. DEFICIENCY INFORMATION</p> <p>This instrument is not deficient</p>								
<p>9. SERIES DETAILS</p> <p>First Instrument Number in Series: 2717565/1 Number of Instruments in Series: 1 Presented By: MANITOBA HYDRO /PROPERTY DEPT.</p> <table border="0"> <thead> <tr> <th><u>Instrument Type</u></th> <th><u>Registration Number</u></th> <th><u>Instrument Status</u></th> <th><u>Deficient</u></th> </tr> </thead> <tbody> <tr> <td>Caveat</td> <td>2717565/1</td> <td>Accepted</td> <td>No</td> </tr> </tbody> </table>	<u>Instrument Type</u>	<u>Registration Number</u>	<u>Instrument Status</u>	<u>Deficient</u>	Caveat	2717565/1	Accepted	No
<u>Instrument Type</u>	<u>Registration Number</u>	<u>Instrument Status</u>	<u>Deficient</u>					
Caveat	2717565/1	Accepted	No					

**CERTIFIED TRUE EXTRACT PRODUCED FROM THE LAND TITLES DATA
STORAGE SYSTEM OF INSTRUMENT NUMBER 2717565/1**

LTO USE ONLY

FEES CHECKED REFUND AMOUNT

Certificate of Registration

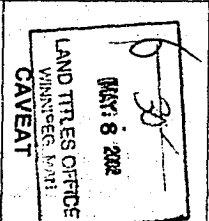
Registered this date MAY - 8 2002.

as No. 2717565

I certify that the within instrument was registered in the

on Title No. 1742408 Land Titles Office and entered

[Signature] For District Registrar



SURVEYS ^{CHL}

2717565

1139/01

Att NE & W to Lts R.O.W. PL 40566 - Pt. 1742408

Registered as to Form - Registration of Interest - Regulation No. 220/2002 - Where an instrument is registered that does not conform with the form of the instrument prescribed by regulation, the Registrar General and the District Registrar disclaim liability for loss resulting from the non-conformance.

Manitoba Consumer and Corporate Affairs Land Titles

Caveat Form 18.1

File No. 98-0050-B-8

2717565

District of WINNIPEG

1. CAVEATOR (include address and postal code)

✓ THE MANITOBA HYDRO-ELECTRIC BOARD, 820 Taylor Avenue, P.O. Box 815, Winnipeg, MB, R3C 2P4 claims an interest in the following land and forbids the registration of any instrument affecting the interest unless such instrument be expressed to be subject to its claim.

2. PARTICULARS OF ESTATE OR INTEREST CLAIMED

An agreement in writing, dated the 8TH day of NOVEMBER 2001 between

L 7 FARMS LTD. IS REGISTERED OWNER OF AN UNOVIQEO 85% INTEREST AND RIVERSIOE DEVELOPMENTS LTD. IS REGISTERED OWNER OF THE REMAINING 15% INTEREST

and The Manitoba Hydro-Electric Board which grants to The Manitoba Hydro-Electric Board, its successors and assigns, the right, license and easement to enter upon the land hereinafter described and use, excavate, construct, place, operate, inspect, maintain, repair, alter, add to and remove, on, under, across, along, over, through or from said land overhead and underground, or either, electric power lines and related plant, equipment and facilities.

see schedule A

3. LANO OESCRPTION

ALL THAT PORTION OF THE S 1/2 OF NE 1/4 4-12-2 EPM EXCEPT FIRSTLY: TRANSMISSION LINE ROW PL 7926 WLTO REQUIRE FOR EASEMENT AS SHOWN ON PLAN 40566 WLTO Dep 1137/01

TITLE NUMBER(S) 1742408

see schedule

4. NAME AND ADDRESS OF REGISTERED OWNER(S) FOR SERVICE (include postal code)

✓ L 7 FARMS LTD.
✓ RIVERSIOE DEVELOPMENTS LTD.
BOX 36, R.R. #3, GROUP 355
WINNIPEG MB R3C 2E7

see schedule

5. ADDRESS OF CAVEATOR FOR SERVICE (include postal code)

The Manitoba Hydro-Electric Board, 820 Taylor Avenue, P.O. Box 815, Winnipeg, MB, R3C 2P4

8. SIGNATURE OF CAVEATOR

- 1. That I, W. Bruce MacFarlane, am the Agent of the Caveator, and I verily believe the statements herein are true in substance and in fact.
- 2. The within Caveator has a good and valid claim upon the within land, and this caveat is not filed for the purpose of delaying or embarrassing any person.

The Manitoba Hydro-Electric Board

per:

W. Bruce MacFarlane
Authorized Signing Officer

DATE		
Y	M	O
02	03	7

7. FARM LANDS OWNERSHIP DECLARATION

BY VIRTUE OF Agreement to Purchase Lease Loan Option to Purchase

The registration of this instrument does not contravene the provisions of The Farm Lands Ownership Act because: (Strike out inappropriate statement(s) and initial)

- 1. The within land is not farm land as defined in The Farm Lands Ownership Act; or
- 2. The within farm land is exempt by Regulation 325/87 R of The Real Property Act, i.e. it is 5 acres or less; or
- 3. The aggregate holdings of farm land by the Caveator is less than 40 acres (including the land in this instrument); or

4. The Caveator is a Canadian citizen, permanent resident of Canada, agency of the government, municipality, local government district, Qualified Canadian Organization, Family Farm Corporation, or a Qualified Immigrant as defined in The Farm Lands Ownership Act; or

5. The interest in farm land is being claimed pursuant to a bona fide debt obligation; or

6. The Caveator is exempt by the Farm Lands Ownership Act (Order enclosed); or

7. Other (specify section of The Farm Lands Ownership Act)

Particulars:

The Manitoba Hydro-Electric Board

per:

W. Bruce MacFarlane
Authorized Signing Officer

DATE		
Y	M	D
02	03	7

8. INSTRUMENT PRESENTED FOR REGISTRATION BY include address, postal code, contact person and phone number

Attn: Marianna Racette, Property Department Phona (204) 474-4465
The Manitoba Hydro-Electric Board, 820 Taylor Avenue, P.O. Box 815
Winnipeg, MB, R3C 2P4

IMPORTANT NOTICE: By virtue of Section 194 of The Real Property Act, any statement set out in this document and signed by the party making the statement has the same effect and validity as an oath, affidavit, affirmation or statutory declaration given pursuant to The Manitoba Evidence Act.

Approved
MMB
M.I.E.B.
Property

11/9/94 Rev. 01/95

File No. 98-0050-B-8

MEMORANDUM OF AGREEMENT made this 8 day of November 2001 BETWEEN:

L 7 FARMS LTD. IS REGISTERED OWNER OF AN UNDIVIDED 55% INTEREST AND RIVERSIDE DEVELOPMENTS LTD. IS REGISTERED OWNER OF THE REMAINING 45% INTEREST

(hereinafter called the "Grantor"), OF THE FIRST PART.

- and -

THE MANITOBA HYDRO-ELECTRIC BOARD,

(hereinafter called "Manitoba Hydro"), OF THE SECOND PART.

of an undivided 85% and 15% interest in an

WHEREAS the Grantor is registered as the owner of an estate in fee simple in possession in the following described land:

ALL THAT PORTION OF THE S 1/2 OF NE 1/4 4-12-2 EPM EXCEPT FIRSTLY: TRANSMISSION LINE ROW PL 7926 WLTO REQUIRED FOR EASEMENT AS SHOWN ON PLAN WLTD-41131/01

(hereinafter referred to as "said land").

AND WHEREAS Manitoba Hydro requires a right-of-way on, under, across, along, over, through or from certain portions of said land:

NOW THEREFORE THIS AGREEMENT WITNESSETH that in consideration of the sum of One Dollar (\$1.00) now paid by Manitoba Hydro to the Grantor. (the receipt of which is hereby acknowledged), the parties hereto covenant and agree as follows:

1. The Grantor hereby grants to Manitoba Hydro, its successors and assigns, for so long as required by Manitoba Hydro, the right, licence and easement to enter upon all that portion of said land to be fixed and determined by Manitoba Hydro as hereinafter provided, (hereinafter called the "right-of-way") and use, excavate, construct, place, operate, inspect, maintain, repair, alter, add to and remove on, under, across, along, over, through or from the right-of-way an electric power Transmission Line, Distribution Line, Communication Equipment and any other plant or equipment that is, in the opinion of Manitoba Hydro necessary or desirable to carry on its works, or the works of its licensees or assigns (hereinafter collectively referred to as the "said electric power line").

This Agreement is Schedule "A" of a Caveat Dated 2001-11-08

GST Registration Number: 7% GST Payable on

2. Manitoba Hydro shall, in due course, indicate, fix and determine the location of the right-of-way either by means of a plan of survey to be filed in the appropriate Land Titles Office or by means of a metes and bounds description set forth in an instrument to be filed in said office.

3. When Manitoba Hydro has fixed and determined the location of the right-of-way as hereinbefore provided, Manitoba Hydro shall pay the Grantor named herein an amount calculated as follows:

Easement Payment	* Number of acres contained within said Right-of-Way	X	** Market Value per Acre of said land	X	75%	=	Amount of Payment
	<u>3.06</u>	X	<u>3300</u>	X		=	<u>7575</u>
		X		X		=	

* Number of acres within the right-of-way shall be adjusted in accordance with the plan of survey or instrument to be filed in the appropriate Land Titles Office by Manitoba Hydro.

** Compensation shall be paid in accordance with the appraised Market Value of said land as of the date of execution of the agreement or the date fixed as the expropriation date for the project by Manitoba Hydro, whichever is greater.

4. Manitoba Hydro shall have the right to install, place, locate, affix and otherwise attach such structures to the right-of-way as it, in its sole discretion, deems necessary or appropriate, provided that compensation shall be paid on account of the structures installed, placed or affixed on the right-of-way in accordance with the structure payment schedule in effect as of the date of the installation thereof.

5. The Grantor hereby grants to Manitoba Hydro the right of free and unimpeded ingress and egress to and from the right-of-way over and upon lands adjoining the right-of-way which are now or may hereafter be owned by the Grantor insofar as ingress and egress cannot conveniently be had from the right-of-way.

6. The Grantor hereby grants to Manitoba Hydro the right to cut and trim trees and brush on and on either side of the right-of-way which, in the opinion of Manitoba Hydro, interfere with or are likely to interfere with the said electric power line.

7. Manitoba Hydro shall exercise the rights, licences and easements hereby granted in a careful and workmanlike manner so as to cause a minimum of inconvenience or damage to the Grantor, and shall make good any such damage.

8. The Grantor shall not, without the prior consent in writing of Manitoba Hydro excavate, drill, place, install, erect or permit to be excavated, drilled, placed, installed or erected on, over or under the right-of-way any pit, well, foundation, pavement, material, fence, structure or thing, but otherwise the Grantor shall have the right fully to use and enjoy the right-of-way, subject always to and so as not to interfere with the rights, licenses and easements hereby granted.

9. Manitoba Hydro shall indemnify and save harmless the Grantor and the Grantor's heirs, executors, administrators, successors and assigns (the "Indemnified") from and against any and all claims, causes of action or suits ("Claims"), that any third party shall or may have against the Indemnified for any loss, cost, damage or expense including personal injury or death, caused by Manitoba Hydro's exercise of the rights, licenses and easements hereby granted, unless the Claims are caused by or arise out of the negligence or wrongful act of the Grantor or his, her, their or its agents, servants, employees or contractors.

10. Manitoba Hydro shall at its own expense undertake reasonable efforts to eliminate any interference to the Grantor's communication equipment attributable to said electric power line.

11. Manitoba Hydro shall be responsible for all reasonable legal costs of the Grantor associated with the execution of this easement agreement.

12. The Grantor hereby agrees that the rights, licences, and easements hereby granted shall be exercisable forthwith and at any and all times hereafter by Manitoba Hydro, its servants, agents, contractors and employees, in any manner, free and without charge.

13. Manitoba Hydro performing and observing the covenants and agreements on its part to be performed and observed shall and may hold and enjoy the rights, licences and easements hereby granted without hindrance, molestation or interruption on the part of the Grantor or of any person claiming by, through, under or in trust for the Grantor.

14. To the extent that the burden of all rights, licences, easements, grants, covenants and agreements contained in this Agreement may run with the said land, the Grantor covenants and agrees with Manitoba Hydro that the rights, licences and easements hereby granted shall inure to the benefit of Manitoba Hydro, its successors and assigns, and shall be binding upon the Grantor, the successors in title of the Grantor, and on the owners or occupiers for the time being of the said land or any part thereof. Furthermore, Manitoba Hydro or its successors may grant in the form of a licence, or assign, the rights, licences and easements described in the grant of easement, in whole or in part, separately from the remainder of the rights, licences and easements in this grant of easement, but in conjunction with such other terms and conditions of this grant of easement in whole or in part as provided in the licence or assignment document, and the licensee or assignee shall, to the extent provided in the licence or assignment document, enjoy the same rights, licences and easements and obligations hereunder as Manitoba Hydro and following such licence or assignment, Manitoba Hydro shall remain liable for all its covenants herein.

IN WITNESS WHEREOF the parties hereto have executed these presents.

WITNESS:

L 7 FARMS LTD.

[Signature]
Witness

[Signature]
Grantor
Authorized Signing Officer

Witness

Grantor
Authorized Signing Officer

Manitoba
Hydro
Approved

[Signature]
Property

THE MANITOBA HYDRO-ELECTRIC BOARD

[Signature]
Authorized Signing Officer
W. Bruce MacFarlane
Manager, Property Department

TENANT'S CONSENT

The undersigned
being the

hereby approves of, joins in and consents to the foregoing Grant of Easement,
and covenants that Manitoba Hydro shall have quiet possession of the right-of-way and the said rights, licenses
and easements thereby granted.

Dated at _____ this _____ day of _____


WITNESS:

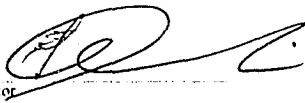
IN WITNESS WHEREOF the parties hereto have executed these presents.

WITNESS:

RIVERSIDE DEVELOPMENTS LTD.

The address of The Manitoba Hydro-Electric Board is
820 Taylor Avenue, Winnipeg, Manitoba R3C 2P4


Witness

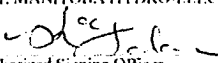

Grantor
Authorized Signing Officer

Witness

Grantor
Authorized Signing Officer

Manitoba
Hydro
Approved


Proprietor

THE MANITOBA HYDRO-ELECTRIC BOARD

Authorized Signing Officer

TENANT'S CONSENT

The undersigned
being the

hereby approves of, joins in and consents to the foregoing Grant of Easement,
and covenants that Manitoba Hydro shall have quiet possession of the right-of-way and the said rights, licenses
and easements thereby granted.

Dated at _____ this _____ day of _____

WITNESS:

11/24/49
Proclamation

PROPERTY DEPARTMENT

FILE NO. 98-0050-B-8

L. J. FARMS LTD.

AND

RIVERSIDE DEVELOPMENTS LTD.

and
THE MANITOBA HYDRO-ELECTRIC
BOARD

GRANT OF EASEMENT

Re Certificate of Title No. 1742405

THIS INSTRUMENT WAS REGISTERED
IN
LAND TITLES OFFICE ON

AS NO.

K. M. TENNENHOUSE
GENERAL COUNSEL
THE MANITOBA HYDRO-ELECTRIC BOARD

STATUS OF TITLE

Title Number **2405481/1**
Title Status **Accepted**
Client File **18M-00240-00-201**

The Property Registry

A Service Provider for the Province of Manitoba



1. REGISTERED OWNERS, TENANCY AND LAND DESCRIPTION

BRODA PROPERTIES INC.

IS REGISTERED OWNER SUBJECT TO SUCH ENTRIES RECORDED
HEREON IN THE FOLLOWING DESCRIBED LAND:

SLY 1321 FEET PERP OF SE 1/4 4-12-2 EPM

The land in this title is, unless the contrary is expressly declared, deemed to be subject to the reservations and restrictions set out in section 58 of *The Real Property Act*.

2. ACTIVE INSTRUMENTS

No active instruments

3. ADDRESSES FOR SERVICE

BRODA PROPERTIES INC.
POSTAL BAY 5800
4271-5TH AVENUE EAST
PRINCE ALBERT SK
S6V 1V6

4. TITLE NOTES

No title notes

5. LAND TITLES DISTRICT

Winnipeg

6. DUPLICATE TITLE INFORMATION

Duplicate not produced

7. FROM TITLE NUMBERS

2017264/1 All

8. REAL PROPERTY APPLICATION / CROWN GRANT NUMBERS

No real property application or grant information

9. ORIGINATING INSTRUMENTS

Instrument Type: **Request To Issue Title**

Registration Number: **3844379/1**

Registration Date: 2009-10-15

From/By: BRODA PROPERTIES INC.

To:

Amount:

10. LAND INDEX

SE 4-12-2E

SLY 1321 FEET PERP

CERTIFIED TRUE EXTRACT PRODUCED FROM THE LAND TITLES DATA STORAGE
SYSTEM OF TITLE NUMBER 2405481/1

STATUS OF TITLE

Title Number **2406450/1**
Title Status **Accepted**
Client File **18M-00240-00-201**

The Property Registry

A Service Provider for the Province of Manitoba



1. REGISTERED OWNERS, TENANCY AND LAND DESCRIPTION

BRODA PROPERTIES INC.

IS REGISTERED OWNER SUBJECT TO SUCH ENTRIES RECORDED HEREON
IN THE FOLLOWING DESCRIBED LAND:

ALL THAT PORTION OF THE SLY 956 FEET PERP OF SW 1/4 4-12-2 EPM
WHICH LIES BETWEEN 2 LINES DRAWN NLY AT RIGHT ANGLES TO THE SOUTHERN
LIMIT OF SAID 1/4 SECTION FROM POINTS IN THE SAME DISTANT WLY
THEREON 722 FEET AND 1132 FEET RESPECTIVELY FROM THE EASTERN LIMIT OF
SAID 1/4 SECTION

The land in this title is, unless the contrary is expressly declared, deemed to be subject to the reservations and restrictions set out in section 58 of *The Real Property Act*.

2. ACTIVE INSTRUMENTS

Instrument Type: **Caveat**
Registration Number: **2750687/1**
Instrument Status: **Accepted**

Registration Date: 2002-08-01
From/By: L7 FARMS LTD.
To:

Amount:
Notes: No notes
Description: BENEFICIAL OWNERSHIP

3. ADDRESSES FOR SERVICE

BRODA PROPERTIES INC
POSTAL BAY 5800
4271 - 5TH AVENUE EAST
PRINCE ALBERT SK
S6V 1V6

4. TITLE NOTES

No title notes

5. LAND TITLES DISTRICT
Winnipeg
6. DUPLICATE TITLE INFORMATION
Duplicate not produced
7. FROM TITLE NUMBERS
1840044/1 All
8. REAL PROPERTY APPLICATION / CROWN GRANT NUMBERS
No real property application or grant information
9. ORIGINATING INSTRUMENTS
Instrument Type: Transfer Of Land
Registration Number: 3846433/1
Registration Date: 2009-10-20
From/By: GILLES COLLET & ANDRE COLLET
To: BRODA PROPERTIES INC.
Consideration: \$1.00
10. LAND INDEX
SW 4-12-2E PART SLY 956 FEET PERP

CERTIFIED TRUE EXTRACT PRODUCED FROM THE LAND TITLES DATA STORAGE SYSTEM OF TITLE NUMBER 2406450/1

STATUS OF INSTRUMENT

Instrument Number **2750687/1** **CAV**
Instrument Status **Accepted**
Client File **18M-00240-00-201**

The Property Registry

A Service Provider for the Province of Manitoba



1. INSTRUMENT SUMMARY

Instrument Type: **Caveat**
Registration Number: **2750687/1**
Instrument Status: **Accepted**

Registration Date: 2002-08-01
Completion Date: 2002-08-08

From/By: L7 FARMS LTD.
To:

Amount:
Description: **BENEFICIAL OWNERSHIP**

2. TITLES AFFECTED

<u>Title Number</u>	<u>Title Status</u>	<u>Effect</u>	<u>Notes</u>
1840044/1	Cancelled	Active	
	Land Index:	SW 4-12-2E PART SLY 956 FEET PERP	
2406450/1	Accepted	Active	
	Land Index:	SW 4-12-2E PART SLY 956 FEET PERP	

3. TITLES CREATED

No titles created

4. AFFECTS THE FOLLOWING INSTRUMENTS

No affected instruments

5. AFFECTED BY THE FOLLOWING INSTRUMENTS

No affecting instruments

6. ADDRESSES FOR SERVICE

L7 FARMS LTD.
BOX 36, R.R. #3, GROUP 355
WINNIPEG MB
R3C 2E7

7. LAND TITLES DISTRICT

Winnipeg

8. DEFICIENCY INFORMATION

This instrument is not deficient

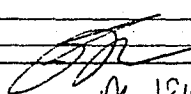
9. SERIES DETAILS

First Instrument Number in Series: 2750687/1
Number of Instruments in Series: 1
Presented By: BURNSIDE & CO. (SWAN RIVER MB)

<u>Instrument Type</u>	<u>Registration Number</u>	<u>Instrument Status</u>	<u>Deficient</u>
Caveat	2750687/1	Accepted	No

CERTIFIED TRUE EXTRACT PRODUCED FROM THE LAND TITLES DATA
STORAGE SYSTEM OF INSTRUMENT NUMBER 2750687/1

LTO USE ONLY

FEES CHECKED <i>RR</i>	REFUND AMOUNT
Certificate of Registration Registered this date <u>AUG 01 2002</u>	
Instrument No. <u>2750687</u>	<div style="border: 1px solid black; padding: 2px;"> LAND TITLES OFFICE WINNIPEG, MAN. </div>
I certify that the within instrument was registered in the <u>WINNIPEG</u> Land Titles Office and entered	
on Certificate of Title No. <u>1840044</u>	
 _____ For District Registrar	<div style="border: 1px solid black; padding: 2px;"> LAND TITLES OFFICE WINNIPEG, MAN. JUL 24 2002 <i>RR</i> </div>

LAND TITLES OFFICE
 WINNIPEG, MAN.
 JUL 24 2002
RR

RR
RR
RR

2750687 RR



Caveat

2750687

District of WINNIPEG

1. CAVEATOR(S) (include address and postal code)

I(We), L7 FARMS LTD., Box 36, Rural Route 3, Group 355, Winnipeg, Manitoba, R3C 2E7

claim an interest in the following land or mortgage, and I forbid the registration of any instrument affecting the interest unless such instrument be expressed to be subject to my claim.

2. PARTICULARS OF ESTATE OR INTEREST CLAIMED

By virtue of a Declaration of Trust in writing dated May 8th, 2002, settling beneficial ownership of the within property upon L7 Farms Ltd.

(as set forth in an instrument hereto attached)

3. LAND (description)

All that portion of the S1/4 956 feet perp. of SW 1/4 4-12-2 EPM, Which lies between 2 lines drawn Nly at right angles to the Southern Limit of said 1/4 section, from points in the same, distant Nly Thereon 722 feet and 1132 feet respectively from the Eastern limit of said 1/4 section.

TITLE NUMBER(S) 1840044

MORTGAGE NUMBER(S)

* if additional room required, attach schedule

4. NAME AND ADDRESS OF REGISTERED OWNER(S) FOR SERVICE (include postal code)

Andre Collet and Gilles Collet, both of Box 100, Notre Dame De Lourdes, Manitoba, ROG 1M0

* if additional room required, attach schedule

5. ADDRESS OF CAVEATOR(S) FOR SERVICE (include postal code)

Box 36, Rural Route 3, Group 355, Winnipeg, Manitoba, R3C 2E7

6. SIGNATURES OF CAVEATOR(S)

- That I (we) am (are) the within Agent of a Caveator(s) and the statements herein are true in substance and in fact.
- The within Caveator(s) has (have) a good and valid claim upon the within land, and this caveat is not filed for the purpose of delaying or embarrassing any person.

GARY GRANT BURNSIDE

(Name)

(Signature)

(Name)

(Signature)

DATE		
Y	M	D
02	07	19

F A R M 7 EVIDENCE - FARM LANDS OWNERSHIP ACT

BY VIRTUE OF Agreement to Purchase Lease Loan Option to Purchase

The registration of this instrument does not contravene the provisions of The Farm Lands Ownership Act but only *(Strike out inappropriate statement(s) and initial)*

- The within Land is not farm land as defined in The Farm Lands Ownership Act, or
- The within farm land is exempt by Regulation 325/87 of The Real Property Act, or
- The Aggregate holdings of farm lands by the Caveator is less than 40 acres, (including the Land in this instrument), or
- The Caveator is a Canadian Citizen, permanent resident of Canada, agency of the government, municipality, local government district, Qualified Canadian Organization, Family Farm Corporation, or a Qualified Immigrant as defined in The Farm Lands Ownership Act, or
- The interest in farm land is being claimed pursuant to a bona fide debt obligation, or
- The within Caveator is exempt by the Farm Lands Ownership Act Board (Other clause 4), or
- Other (specify section of The Farm Lands Ownership Act)

GARY GRANT BURNSIDE

(Name)

(Signature)

(Name)

(Signature)

Caveator or Agent

DATE		
Y	M	D
02	07	19

8. INSTRUMENT PRESENTED FOR REGISTRATION BY (include address and postal code)

Burnside & Company Box 340 Swan River MB R0L 1Z0
Gary G. Burnside (204) 734-3485 ext. 223

IMPORTANT NOTICE: By virtue of Section 194 of The Real Property Act, any statement set out in this document and signed by the party making the statement has the same effect and validity as if made in oath, affidavit, affirmation or statutory declaration given pursuant to The Manitoba Evidence Act.

STATUS OF TITLE

Title Number **2405482/1**
Title Status **Accepted**
Client File **18M-00240-00-201**

The Property Registry

A Service Provider for the Province of Manitoba



1. REGISTERED OWNERS, TENANCY AND LAND DESCRIPTION

BRODA PROPERTIES INC.

IS REGISTERED OWNER SUBJECT TO SUCH ENTRIES RECORDED
HEREON IN THE FOLLOWING DESCRIBED LAND:

THE SLY 466.7 FEET PERP OF THE ELY 466.7 FEET PERP OF
SW 1/4 4-12-2 EPM.

The land in this title is, unless the contrary is expressly declared, deemed to be subject to the reservations and restrictions set out in section 58 of *The Real Property Act*.

2. ACTIVE INSTRUMENTS

No active instruments

3. ADDRESSES FOR SERVICE

BRODA PROPERTIES INC.
POSTAL BAY 5800
4271-5TH AVENUE EAST
PRINCE ALBERT SK
S6V 1V6

4. TITLE NOTES

No title notes

5. LAND TITLES DISTRICT

Winnipeg

6. DUPLICATE TITLE INFORMATION

Duplicate not produced

7. FROM TITLE NUMBERS

1775130/1 All

8. REAL PROPERTY APPLICATION / CROWN GRANT NUMBERS

No real property application or grant information

9. ORIGINATING INSTRUMENTS

Instrument Type: **Request To Issue Title**

Registration Number: **3844379/1**

Registration Date: 2009-10-15

From/By: BRODA PROPERTIES INC.

To:

Amount:

10. LAND INDEX

SW 4-12-2E

SLY 466.7 FEET PERP OF ELY 466.7 FEET PERP

CERTIFIED TRUE EXTRACT PRODUCED FROM THE LAND TITLES DATA STORAGE
SYSTEM OF TITLE NUMBER 2405482/1

STATUS OF TITLE

Title Number **2405477/1**
Title Status **Accepted**
Client File **18M-00240-00-201**

The Property Registry

A Service Provider for the Province of Manitoba



1. REGISTERED OWNERS, TENANCY AND LAND DESCRIPTION

BRODA PROPERTIES INC.

IS REGISTERED OWNER SUBJECT TO SUCH ENTRIES RECORDED
HEREON IN THE FOLLOWING DESCRIBED LAND:

NE 1/4 AND E 1/2 OF NW 1/4 33-11-2 EPM
EXC OUT OF SAID NE 1/4, LAND DESCRIBED AS FOLLOWS:
COMMENCING AT THE SE CORNER OF SAID NE 1/4, THENCE NLY ALONG
EASTERN LIMIT OF SAID NE 1/4 208.71 FEET
THENCE WLY PARALLEL WITH SOUTHERN LIMIT OF SAID NE 1/4, 1043.55 FEET,
THENCE SLY PARALLEL WITH SAID EASTERN LIMIT TO SAID SOUTHERN LIMIT,
THENCE ELY ALONG SAID SOUTHERN LIMIT TO POINT OF COMMENCEMENT AND
EXC OUT OF BOTH SAID 1/4 SECTIONS,
POWER TRANSMISSION LINE PLAN 7155 WLTO

The land in this title is, unless the contrary is expressly declared, deemed to be subject to the reservations and restrictions set out in section 58 of *The Real Property Act*.

2. ACTIVE INSTRUMENTS

Instrument Type: **Caveat**
Registration Number: **84-53609/1**
Instrument Status: **Accepted**

Registration Date: 1984-06-20
From/By: MANITOBA TELEPHONE SYSTEM
To:

Amount:
Notes: AFFECTS PT OF NE 1/4
Description: No description

Instrument Type: **Mortgage**
Registration Number: **2424664/1**
Instrument Status: **Accepted**

Registration Date: 1999-10-05
From/By: L 7 FARMS LTD.
To: CARPATHIA CREDIT UNION LIMITED

Amount: \$162,500.00
Notes: No notes
Description: No description

3. ADDRESSES FOR SERVICE

BRODA PROPERTIES INC.
POSTAL BAY 5800
4271-5TH AVENUE EAST
PRINCE ALBERT SK
S6V 1V6

4. TITLE NOTES

No title notes

5. LAND TITLES DISTRICT

Winnipeg

6. DUPLICATE TITLE INFORMATION

Duplicate not produced

7. FROM TITLE NUMBERS

1679698/1 All

8. REAL PROPERTY APPLICATION / CROWN GRANT NUMBERS

No real property application or grant information

9. ORIGINATING INSTRUMENTS

Instrument Type: **Request To Issue Title**
Registration Number: **3844379/1**

Registration Date: 2009-10-15
From/By: BRODA PROPERTIES INC.
To:
Amount:

STATUS OF INSTRUMENT

Instrument Number **84-53609/1** **CAV**
Instrument Status **Accepted**
Client File **18M-00240-200**

The Property Registry

A Service Provider for the Province of Manitoba



1. INSTRUMENT SUMMARY

Instrument Type: **Caveat**
Registration Number: **84-53609/1**
Instrument Status: **Accepted**

Registration Date: 1984-06-20
Completion Date: 1993-01-04

From/By: MANITOBA TELEPHONE SYSTEM
To:

Amount:
Description: No description

2. TITLES AFFECTED

<u>Title Number</u>	<u>Title Status</u>	<u>Effect</u>	<u>Notes</u>
1589984/1	Cancelled	Active	AFFECTS PT OF NE 1/4
	Land Index:	NE 33-11-2E EX PT EX PL 7155	
		NW 33-11-2E E 1/2 EX PL 7155	
1679698/1	Cancelled	Active	AFFECTS PT OF NE 1/4
	Land Index:	NE 33-11-2E EX PT EX PL 7155	
		NW 33-11-2E E 1/2 EX PL 7155	
2405477/1	Accepted	Active	AFFECTS PT OF NE 1/4
	Land Index:	NE 33-11-2E EX PT EX PL 7155	
		NW 33-11-2E E 1/2 EX PL 7155	

3. TITLES CREATED			
No titles created			
4. AFFECTS THE FOLLOWING INSTRUMENTS			
No affected instruments			
5. AFFECTED BY THE FOLLOWING INSTRUMENTS			
No affecting instruments			
6. ADDRESSES FOR SERVICE			
No address for service			
7. LAND TITLES DISTRICT			
Winnipeg			
8. DEFICIENCY INFORMATION			
This instrument is not deficient			
9. SERIES DETAILS			
First Instrument Number in Series:		84-53609/1	
Number of Instruments in Series:		1	
Presented By:		N/A	
<u>Instrument Type</u>	<u>Registration Number</u>	<u>Instrument Status</u>	<u>Deficient</u>
Caveat	84-53609/1	Accepted	No

CERTIFIED TRUE EXTRACT PRODUCED FROM THE LAND TITLES DATA STORAGE SYSTEM OF INSTRUMENT NUMBER 84-53609/1

10. LAND INDEX

NE 33-11-2E
EX PT EX PL 7155

NW 33-11-2E
E 1/2 EX PL 7155

CERTIFIED TRUE EXTRACT PRODUCED FROM THE LAND TITLES DATA STORAGE
SYSTEM OF TITLE NUMBER 2405477/1

84 53509

The Real Property Act

THE MANITOBA TELEPHONE SYSTEM

vs.

SECOND PROPERTY HOLDINGS LTD.

MANITOBA TELEPHONE SYSTEM

**Caveat Forbidding
Registration**

CERT. OF TITLE NO. B. 21914

No. 53509
 I CERTIFY THAT THIS INSTRUMENT
JUN 2 1984
 in the Winnipeg Land Titles Office
 and entered on Certificate of Title
 No. B. 21914
 Deputy District Registrar
[Signature]

MAILED

LAND TITLES OFFICE
 WINNIPEG, MAN.
 JUN 20 1984
 15

A. Harris and I are entitled to practice as such in the
 Province of Manitoba.

[Signature]

[Signature]

SWORN before me at the city
 of Winnipeg
 in the Province of Manitoba,
 this 14th day of June
 A.D. 1984.

1. I am the agent of the within named Caveator.
2. I believe that The Manitoba Telephone System has a good and valid claim upon the said land and I say that this Caveat is not being filed for the purpose of delaying or embarrassing any person interested in or proposing to deal therewith.
3. The allegations in the within Caveat are true in substance and in fact, as I verily believe.

The Manitoba Telephone System, make oath and say as follows:

John Kenneth Beatty
 of the City of Winnipeg,
 in the Province of Manitoba,
 General Counsel
 of

The Real Property Act

84-53609

To the District Registrar for the Land Titles District of WINNIPEG

TAKE NOTICE that THE MANITOBA TELEPHONE SYSTEM

claims an equitable estate or interest in an estate in fee simple in possession in the undermentioned land by virtue of an agreement in writing, dated the 19th day of April A.D. 19 84. between SECOND PROPERTY HOLDINGS LTD.

and The Manitoba Telephone System whereby the said

SECOND PROPERTY HOLDINGS LTD.

granted to said Manitoba Telephone System an Easement or Right-of-Way for the purpose of constructing, erecting, laying and maintaining underground telecommunication lines or cables with pedestals as more specifically referred to therein on, over, under, upon, along and across the following described land, namely -

The most Easterly 16.5 feet in perpendicular width of the North East Quarter of Section Thirty-three (33) in the Eleventh (11) Township and Second (2) Range, East of the Principal Meridian in Manitoba, excepting thereout **FIRSTLY:** All that portion lying to the South of a line drawn Westerly parallel with the Southern limit of said Quarter Section from a point in the Eastern limit of said Quarter Section distant Northerly thereon 208 and Seventy-one One-hundredths feet from the South East corner of said Quarter Section and **SECONDLY:** All that portion taken for Power Transmission Line as same is shewn on a plan deposited in the Winnipeg Land Titles Office as No. 7155.

standing in the Register in the name of SECOND PROPERTY HOLDINGS LTD.

and it forbids the registration of any person as transferee or owner of, or of any instrument affecting the said estate or interest unless such instrument be expressed to be subject to its claim.

It appoints the office of THE MANITOBA TELEPHONE SYSTEM, 489 Empress Street, Winnipeg, Manitoba, R3C 3V6, as the place at which notices and proceedings relating hereto may be served

DATED this 19th day of June one thousand nine hundred

and Eighty-four

SIGNED in the presence of

THE MANITOBA TELEPHONE SYSTEM

per REGISTRAR

Post Office Box 700
CALGARY, Alberta
C/o 6-6624 Centre St. S.
R3P 2J3
The Address of the Registered Owner is

Dated APRIL 19th A.D. 19 84.

SECOND PROPERTY HOLDINGS LTD.

TO

MANITOBA TELEPHONE SYSTEM

RIGHT-OF-WAY AGREEMENT

Sec. 106 R.P.A.

Cert. of Title No. B 21914

MANITOBA TELEPHONE SYSTEM

.....	L.T.O.
CAVEAT No.
DATE REG'D.
TIME:

LEGAL DEPARTMENT
MANITOBA TELEPHONE SYSTEM

MANITOBA TELEPHONE SYSTEM

RIGHT-OF-WAY AGREEMENT

Sec. 106 R.P.A.

THIS AGREEMENT made in triplicate this 19th day of April
A.D. Nineteen Hundred and Eighty-four
BETWEEN: SECOND PROPERTY HOLDINGS LTD.

(Hereinafter called the "the Grantor"),
Party of the First Part

and

THE MANITOBA TELEPHONE SYSTEM
(Hereinafter called "the System").
Party of the Second Part

Address of the Grantee is

1. IN CONSIDERATION of the payment of -----Thirty----- dollars(\$ 30.00)
(the receipt whereof is hereby acknowledged) the Grantor hereby grants to the System, on, from and
after the 19th day of APRIL A.D. Nineteen
Hundred and Eighty-four the right to construct, maintain, repair, remove and make
additions to, telephone and other telecommunication lines with all necessary wires, cables, pedestals, and
conduits (all of which is hereinafter referred to as "telecommunication plant") on, over, along, under and
across the following described land, namely:

The most Easterly 16.5 feet in perpendicular width of the North
East Quarter of Section Thirty-three (33) in the Eleventh (11)
Township and Second (2) Range, East of the Principal Meridian
in Manitoba, excepting thereout FIRSTLY: All that portion lying
to the South of a line drawn Westerly parallel with the Southern
limit of said Quarter Section from a point in the Eastern limit
of said Quarter Section distant Northerly thereon 208 and
Seventy-one one-hundredths feet from the South East corner of
said Quarter Section and SECONDLY: All that portion taken for
Power Transmission Line as same is shewn on a plan deposited in
the Winnipeg Land Titles Office as No. 7155.

and for that purpose to enter on the said land with any vehicles, personnel and equipment necessary for
the construction, maintenance, repair, removal of, or the making of any addition to said telecommunica-
tion plant, together with the right to cut or trim any trees upon the said land that, in the opinion of the
party of the second part interferes with or is likely to interfere with the said telecommunication plant or
any part thereof.

2. THE GRANTOR hereby grants to the System the right of free and unimpeded access to any part of
the right of way for the above mentioned purposes.
3. THE GRANTOR hereby agrees that the rights and licenses hereby granted shall be exercisable
forthwith and at any and all times hereinafter by the System or by its servants, agents or employees free
and without charge.
4. The System shall exercise the rights, licenses and easements hereby granted in a careful and
workmanlike manner so as to cause a minimum of inconvenience or damage to the Grantor, and shall
make good any such damage.
5. THE GRANTOR, covenants and agrees not to erect or permit the erection of any building or struc-
ture on the right of way without the consent of the party of the second part.

MANITOBA TELEPHONE SYSTEM,
489 Empress Street, P.O. Box 6686,
Winnipeg, Manitoba R3C 3V6

AFFIDAVIT OF EXECUTION OF CONSENT BY HUSBAND

CANADA
PROVINCE OF MANITOBA
TO WIT:

I,
of the _____ of
in the Province of Manitoba

make oath and say:

1. THAT I was personally present and did see the husband of _____ execute his consent to the within instrument.
2. THAT I know the said party and am satisfied that he is of the full age of eighteen years.
3. THAT the said agreement was executed at _____ aforesaid and that I am a subscribing witness thereto.

Sworn before me at the _____ in the
of _____ Province of Manitoba, this
day of _____ A.D. 19 _____

AFFIDAVIT OF EXECUTION

CANADA
PROVINCE OF MANITOBA
TO WIT:

I,
of the _____ of
in the Province of Manitoba.

make oath and say:

1. THAT I was personally present and did see _____ the within grantor(s) execute the within instrument.
2. THAT I know the said part _____ and am satisfied that _____ of the full age of eighteen years.
3. THAT the said instrument was executed at _____ aforesaid and that I am a subscribing witness thereto.

Sworn before me at the _____ in the
of _____ Province of Manitoba, this
day of _____ A.D. 19 _____

AFFIDAVIT OF GRANTOR

CANADA
PROVINCE OF MANITOBA
TO WIT:

I,
and I,
(Both) of the _____ of
in the Province of Manitoba

(Severally) make oath and say:

1. That I am (one of) the within named Grantor(s) and that I am the full age of eighteen years.
2. That I am (one of) the (person(s) entitled to be) registered owner(s) of the within described lands.
3. That my Co-Grantor is the husband of me, _____, one of the Grantors.
4. That my Co-Grantor is the wife of me, _____, one of the Grantors.
5. THAT I have no husband/wife.
6. That the person who consents as _____ wife husband to the instrument within written is the _____ wife husband of me, _____, the Grantor
7. That no part of the land referred to in the instrument within written is or ever has been the homestead of me, _____ the Grantor(s), within the meaning of "The Dower Act".

(Severally) SWORN before me at the _____
In the Province of Manitoba this
day of _____ 19 _____

6. THE GRANTOR will not excavate in, or remove the soil from the said land, if such excavation or removal would endanger the said telecommunication plant, including any underground cable, without first giving the System reasonable notice of his intention to carry out such excavation or removal, so to enable the System to take necessary measures to protect the said cable.

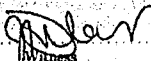
7. It is understood and agreed that in addition to the consideration the System will pay for any damage to crops or other property of the grantor, caused in the exercise of the rights granted herein.

8. TO THE INTENT THAT the burden of all rights, licenses, covenants, and agreements contained in this agreement may run with the said land, the Grantor covenants and agrees with the System that the rights, licenses and privileges hereby granted shall enure to the benefit of the System and its successors and assigns and shall be binding upon the grantor and on the successors in title of the grantor and the owners or occupiers for the time being of said land or any part thereof.

IN WITNESS WHEREOF, the said parties have hereunto set their hands and seals, the day and year first written.

SIGNED, SEALED AND DELIVERED

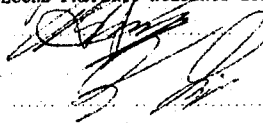
in the presence of


Witness


Witness

THE MANITOBA TELEPHONE SYSTEM


(General Counsel)
SECOND PROPERTY HOLDINGS LTD.



CONSENT UNDER DOWER ACT

I, _____ the
of _____ the Grantor named in the
agreement within written, hereby consent to the making of the same by

Dated this _____ day of _____ A.D. 19 _____

WITNESS: _____

CERTIFICATE OF ACKNOWLEDGEMENT OF CONSENT BY WIFE

The above consent was acknowledged before me by _____
wife of _____ apart from her husband, to have
been voluntarily executed by her own free will and accord and without any compulsion on the part of her
husband. She has further acknowledged that she is aware of the nature and effect of the same.

Dated at the _____ of _____ in the Province
of Manitoba, this _____ day of _____ A.D. 19 _____

STATUS OF INSTRUMENT

Instrument Number **2424664/1** **M**
Instrument Status **Accepted**
Client File **18M-00240-200**

The Property Registry

A Service Provider for the Province of Manitoba



1. INSTRUMENT SUMMARY

Instrument Type: **Mortgage**
Registration Number: **2424664/1**
Instrument Status: **Accepted**

Registration Date: 1999-10-05
Completion Date: 1999-10-14

From/By: L 7 FARMS LTD.
To: CARPATHIA CREDIT UNION LIMITED

Amount: \$162,500.00
Description: No description

2. TITLES AFFECTED

<u>Title Number</u>	<u>Title Status</u>	<u>Effect</u>	<u>Notes</u>
1679698/1	Cancelled	Active	
	Land Index:	NE 33-11-2E EX PT EX PL 7155	
		NW 33-11-2E E 1/2 EX PL 7155	
2405477/1	Accepted	Active	
	Land Index:	NE 33-11-2E EX PT EX PL 7155	
		NW 33-11-2E E 1/2 EX PL 7155	

3. TITLES CREATED

No titles created

4. AFFECTS THE FOLLOWING INSTRUMENTS

No affected instruments

5. AFFECTED BY THE FOLLOWING INSTRUMENTS

No affecting instruments

6. ADDRESSES FOR SERVICE

CARPATHIA C U L (WINNIPEG)
950-MAIN ST.
WINNIPEG MB
R2W 3P4

7. LAND TITLES DISTRICT

Winnipeg

8. DEFICIENCY INFORMATION

This instrument is not deficient

9. SERIES DETAILS

First Instrument Number in Series: 2424662/1
Number of Instruments in Series: 3
Presented By: TRUSEWYCH, NICHOLAS

<u>Instrument Type</u>	<u>Registration Number</u>	<u>Instrument Status</u>	<u>Deficient</u>
Full Discharge	2424662/1	Discharged	No
Request To Issue Title	2424663/1	Accepted	No
Mortgage	2424664/1	Accepted	No

CERTIFIED TRUE EXTRACT PRODUCED FROM THE LAND TITLES DATA
STORAGE SYSTEM OF INSTRUMENT NUMBER 2424664/1

Mortgage

District of Winnipeg ESTATE AFFECTED Freehold Leasehold
 Mortgage Mortgage of Mortgage/Encumbrance Encumbrance

1. MORTGAGOR/GRANTOR OF ENCUMBRANCE (ENCUMBRANCEE) (include address and postal code)

L 7 FARMS LTD.
 P.O. BOX 36 GRP. 355 R.R. #1
 WINNIPEG, MB R3C 2E7

COVENANTOR (if any) (include address and postal code)
 LAWRENCE HADIKEN, BOX 2170, SWAN RIVER MB R0L 1Z0

* see schedule

2. LAND (description)

NE 1/4 AND E 1/2 OF NW 1/4 33-11-2 EPH,
 EXCEPT OUT OF SAID NE 1/4, LAND DESCRIBED AS FOLLOWS:
 COMMENCING AT THE SOUTH EAST CORNER OF SAID NE 1/4, THENCE NLY
 ALONG EASTERN LIMIT OF SAID NE 1/4 208.71 FEET
 THENCE WLY PARALLEL WITH SOUTHERN LIMIT OF SAID NE 1/4, 1043.55 FEET,
 THENCE SLY PARALLEL WITH SAID EASTERN LIMIT TO SAID SOUTHERN LIMIT,
 THENCE ELY ALONG SAID SOUTHERN LIMIT TO POINT OF COMMENCEMENT, AND
 EXCEPT OUT OF BOTH SAID QUARTER SECTIONS
 POWER TRANSMISSION LINE PLAN 7155 WLTO

TITLE NUMBER(S) 1679698 MORTGAGE/ENCUMBRANCE NUMBER(S)

* see schedule

3. MORTGAGEE/ENCUMBRANCER (include address and postal code)

CARPATIA CREDIT UNION LIMITED
 950 MAIN STREET
 WINNIPEG, MB R2W 3P4

* see schedule

4. NAME AND ADDRESS OF MORTGAGEE/ENCUMBRANCER FOR SERVICE (include postal code)

SAME AS ABOVE Q1

* see schedule

5. TERMS

The following terms are incorporated herein:

- (a) Standard Charge Mortgage Terms filed as number 2105130 name Co-operative Credit
 (b) The terms attached hereto as schedule(s) Society of Manitoba Limited

In this instrument unless otherwise specified, "herein" means this instrument, all schedules to this instrument and the terms referred to in Box 5.

Where there is insufficient space in this form for all signatures, one or more Mortgagor or Encumbrancee may sign the schedule identified in Box 7 and attached hereto and/or one or more Covenantor may sign the schedule identified in Box 9 and attached hereto, and such signature or signatures shall bind and obligate the person or persons so signing to the terms herein in the same manner as if such person or persons had signed this form.

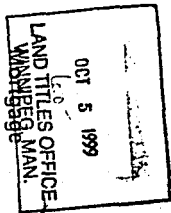

6. PAYMENT PROVISIONS

* see schedule

(e) Principal Amount \$ <u>162,500.00</u>	(b) Interest Rate <u>7.000</u> % per annum	(c) Calculation Period <u>monthly</u>
(d) Interest Adjustment Date	Y M D 99 10 01	(e) Payment Date and Period <u>monthly</u>
(g) Last Payment Date	Y M D 00 10 01	(f) First Payment Date
(i) Balance Due Date	Y M D 00 10 01	Y M D 99 11 01
	(h) Amount of Each Payment Dollars \$ <u>1,900.00</u>	
	Guarantee Mortgage <input checked="" type="checkbox"/>	

Additional Provisions Provided there exists no default the mortgagor shall be entitled to, by way of not more than two payments in each year, non-cumulative, pay an additional sum on account of the principal balance not to exceed 20% of the original principal amount without penalty or bonus. see schedule

LTO USE ONLY

FEES CHECKED <input checked="" type="checkbox"/>	REFUND AMOUNT
Certificate of Registration	
Registered this date <u>OCT 05 1999</u>	
as No. <u>5434664</u>	
I certify that the within instrument was registered in the	
<u>1409</u>	Land Titles Office and entered
on Certificate of Title No <u>1679698</u>	
	
	
District Registrar	
ALL 1679698	

IMPORTANT NOTICE: The Mortgage Act provides that the Mortgagor can obtain, free of charge, from the mortgagee a statement of the debts secured by this mortgage once every twelve months or as needed for pay off or sale.

OK

1679664

7. SIGNATURE OF MORTGAGOR/ENCUMBRANCEE

L 7 Farms Ltd. is ~~strike out inappropriate statement(s) and initial by party(s) signing~~ * see schedule

- I am entitled to be and the owner of the Land/Mortgage/Encumbrance of the Land;
- As security for performance of all my obligations herein I hereby mortgage/encumber to the Mortgagee/Encumbrancee my interest in the Land/Mortgage/Encumbrance of the Land;
- I promise to pay the principal amount and interest and all other charges and money hereby secured and to be bound by all the terms herein;
- I acknowledge receipt of a copy of this instrument and all of the terms herein;
- I am of the full age of majority; *The mortgagor is a corporation*
- The registration of this instrument does not contravene the provision of The Farm Lands Ownership Act because:
 - the within Land is not farm land as defined in The Farm Lands Ownership Act; or
 - the interest in farm land is being mortgaged/encumbered pursuant to a bona fide debt obligation; or
 - other (specify section of The Farm Lands Ownership Act)

- My co-mortgagor is my spouse;
- The person who has consented to this instrument is my spouse;
-
-
-

L 7 Farms Ltd.

Per Lawrence Hadiken
President & CEO

Lawrence Hadiken
(Signature)

Witness

(Name)

(Signature)

(Name)

(Signature)

NICHOLAS TRUSEWYCH: B.A.(Hons.), B.Ed., LL.B.
BARRISTER, SOLICITOR, NOTARY PUBLIC
IN AND FOR THE PROVINCE OF MANITOBA
200 - 552 MAIN ST., WINNIPEG, MB R2W 3P4
PHONE: (204) 582-4978

** Attach affidavit of subscribing witness if the witness is not an officer under subsection 72(4) of The Real Property Act

DATE

Y M D

99 09 29

8. TYPE OF PROPERTY

Residential

Farm

Commercial

9. SIGNATURE OF COVENANTOR

I acknowledge receipt of a copy of this instrument and all of the terms herein and I agree to perform my obligations herein. * see schedule

Lawrence Hadiken
(Name)

Lawrence Hadiken
(Signature)

(Name)

(Signature)

DATE

Y M D

99 09 29

10/11. HOMESTEADS ACT CONSENT TO DISPOSITION AND ACKNOWLEDGEMENT

(Note: For consent by widower) see section 22 of The Homesteads Act

* see schedule

I, the spouse of the Mortgagor/Encumbrancee, consent to the disposition of the homestead effected by this instrument and acknowledge that:

- I am aware that The Homesteads Act gives me a life estate in the homestead and that I have the right to prevent this disposition of the homestead by withholding my consent.
- I am aware that the effect of this consent is to give up my life estate in the homestead to the extent necessary to give effect to this disposition.
- I execute this consent apart from my spouse freely and voluntarily without any compulsion on the part of my spouse.

(Name of Spouse)

(Signature of Spouse)

(Name of Witness)

(Signature of Witness)

A Notary Public in and for the Province of Manitoba
A Commissioner for Oaths in and for the Province of Manitoba
My commission expires:

Or other person authorized to take affidavits under The Manitoba Evidence Act: (Specify)

DATE

Y M D

12. INSTRUMENT PREPARED BY (include address and postal code)

NICHOLAS TRUSEWYCH: B.A.(Hons.), B.Ed., LL.B.
BARRISTER, SOLICITOR, NOTARY PUBLIC
IN AND FOR THE PROVINCE OF MANITOBA
200 - 552 MAIN ST., WINNIPEG, MB R2W 3P4
PHONE: (204) 582-4978

13. ENCUMBRANCES, LIENS, AND INTERESTS-The within document is subject to Instrument No (s)

Caveat No. 84-53609

* See schedule

14. INSTRUMENT PRESENTED BY FOR REGISTRATION BY (include address, postal code, contact person and phone no.)

NICHOLAS TRUSEWYCH: B.A.(Hons.), B.Ed., LL.B.
BARRISTER, SOLICITOR, NOTARY PUBLIC
IN AND FOR THE PROVINCE OF MANITOBA
200 - 552 MAIN ST., WINNIPEG, MB R2W 3P4
PHONE: (204) 582-4978

NOTE:

REGULAR INCLUDES PLURAL AND VICEVERSA WHERE APPLICABLE.
To be read as including all Mortgagee(s) whether individual or corporate.

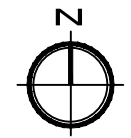
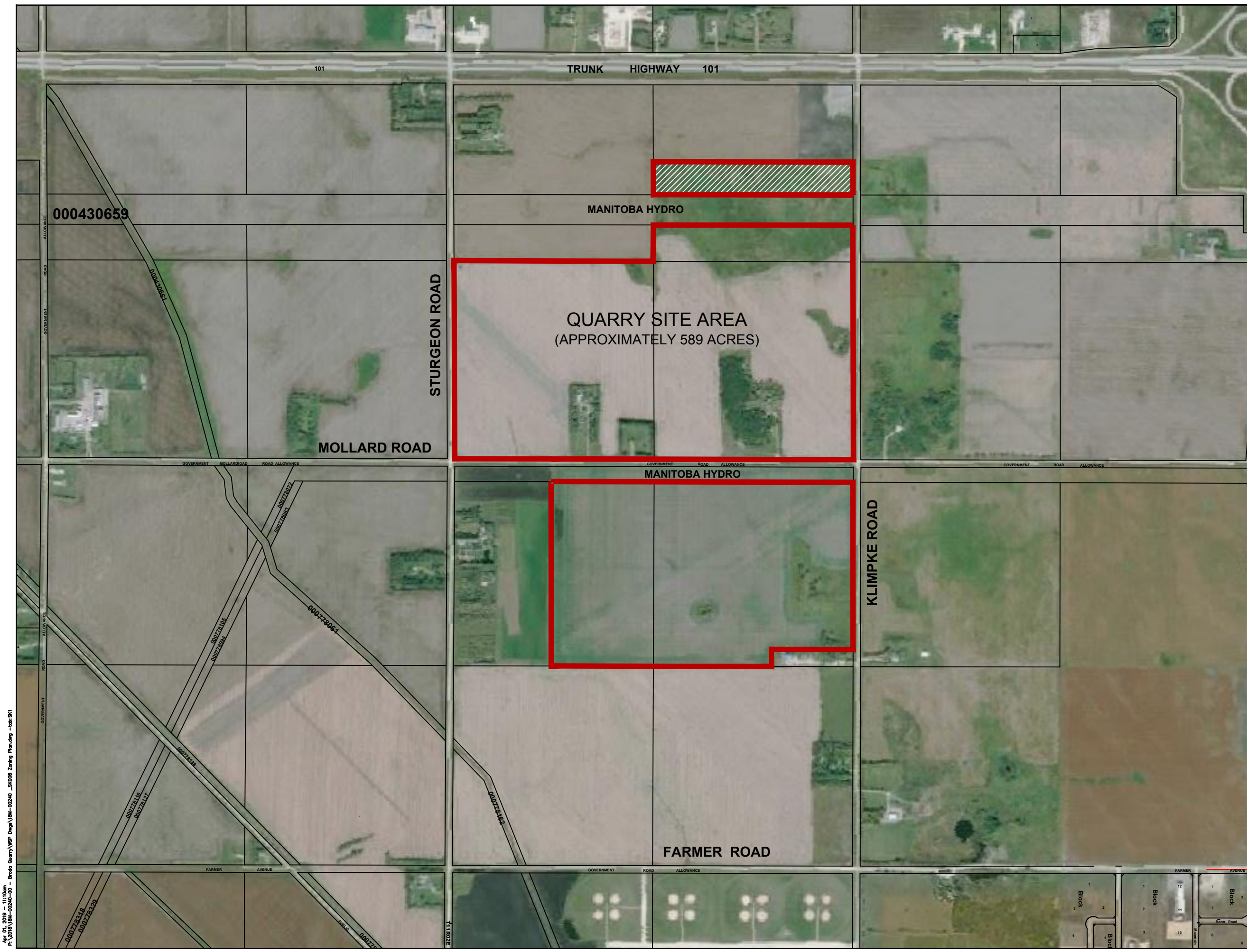
IMPORTANT NOTICE:

Real Property Act, any statement set out in this document and signed by the party making the statement has the same effect as an oath, affidavit, affirmation or statutory declaration given pursuant to The Manitoba Evidence Act.

APPENDIX


C

PLAN OF DEVELOPMENT



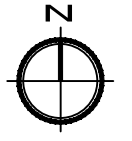
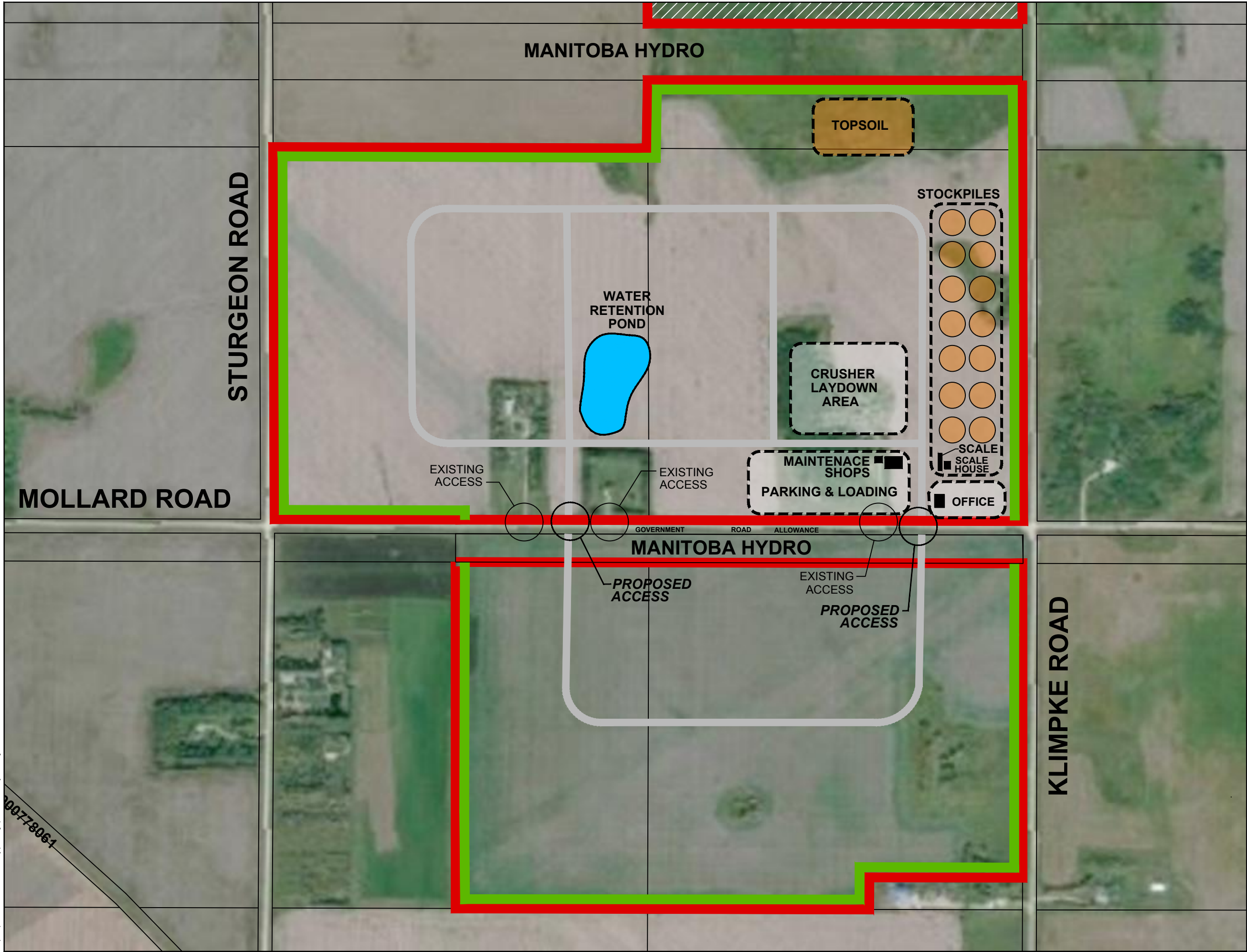
- LEGEND:
- AREA TO BE RE-ZONED
 - NO QUARRY ACTIVITY

Apr 01, 2019 - 11:00am
 P:\Data\18M-00240-00 - Broda Quarry\WSP Design\18M-00240_36008 Zoning Plan.dwg -ldh:SK1

CONSULTANTS

 WSP Canada Group Limited
 Suite 111 - 93 Lombard Ave
 Winnipeg, MB R3B 3B1
 t. 204.943.3178
 f. 204.943.4948
 www.wsp.com

SHEET TITLE
Broda Properties
Quarry Conceptual Operating Plan
 RM of Rosser - CentrePort
 Zoning

SCALE	DATE	DRAWING No
NTS	April 1, 2019	18M-00240-SK-008



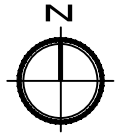
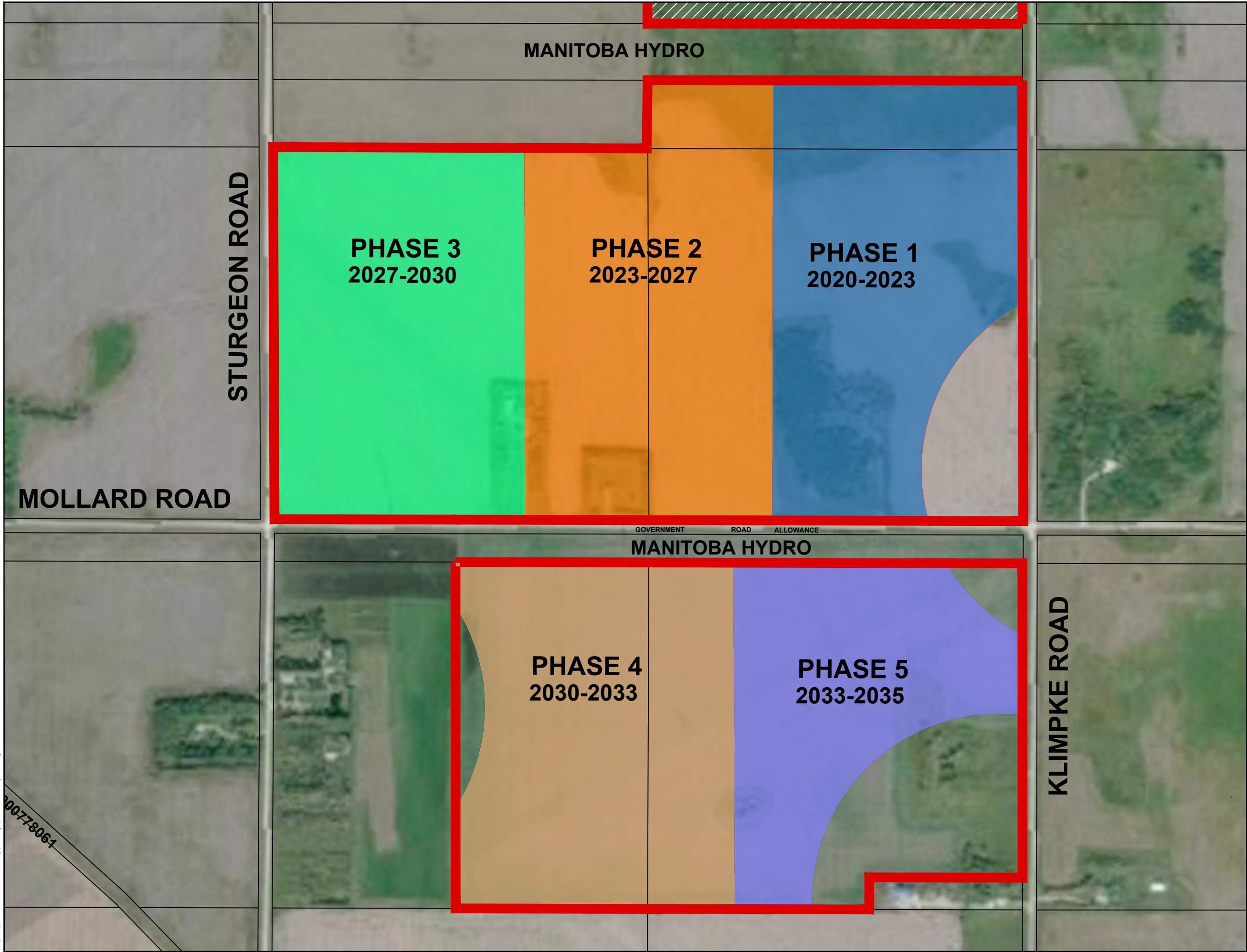
- LEGEND:**
- QUARRY SITE AREA
 - PROPOSED BERM
 - 10m WIDE HAUL ROAD
 - STOCKPILES
 - NO QUARRY ACTIVITY

19087100
 P:\Data\18M-00240-00 - Broda Quarry\WSP Design\18M-00240 Quarry Rev2.dwg - 14th Nov 2019 4:16pm

CONSULTANTS
 WSP Canada Group Limited
 Suite 111 - 93 Lombard Ave
 Winnipeg, MB R3B 3B1
 t. 204.943.3178
 f. 204.943.4948
 www.wsp.com

SHEET TITLE
 Broda Properties
 Quarry Conceptual Operating Plan
 RM of Rosser - CentrePort
 Quarry Layout

SCALE	DATE	DRAWING No.
NTS	March 2019	18M-00240-SK-006



LEGEND:

QUARRY SITE AREA



NO QUARRY ACTIVITY



MOLLARD ROAD

STURGEON ROAD

GOVERNMENT ROAD ALLOWANCE

MANITOBA HYDRO

KLIMPKE ROAD

PHASE 3
2027-2030

PHASE 2
2023-2027

PHASE 1
2020-2023

PHASE 4
2030-2033

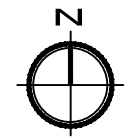
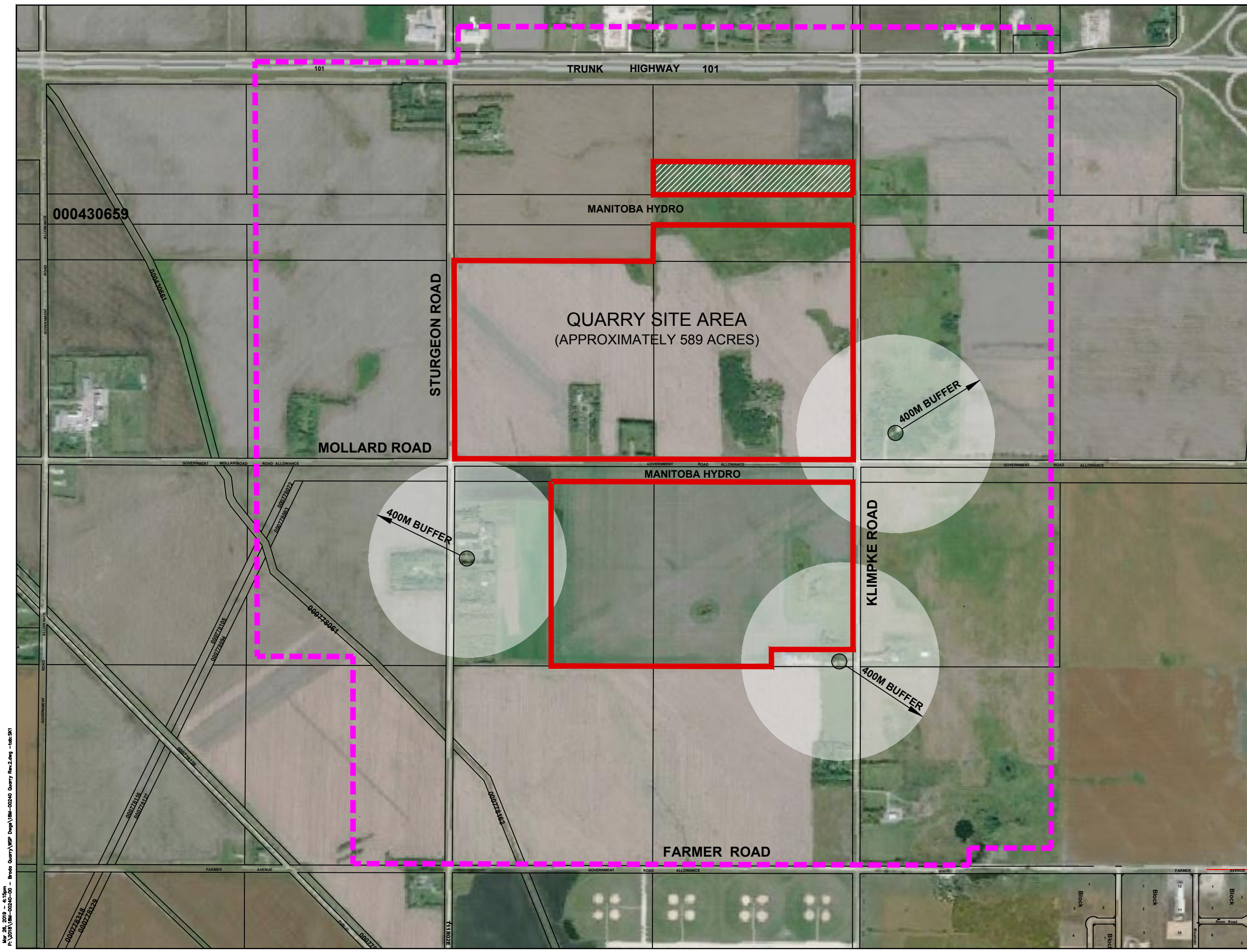
PHASE 5
2033-2035

19087700
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 May 28, 2019 4:19pm

CONSULTANTS
 WSP Canada Group Limited
 Suite 111 - 93 Lombard Ave
 Winnipeg, MB R3B 3B1
 t. 204.943.3178
 f. 204.943.4948
 www.wsp.com

SHEET TITLE
**Broda Properties
 Quarry Conceptual Operating Plan**
 RM of Rosser - CentrePort
 Phasing

SCALE	DATE	DRAWING No
NTS	March 2019	18M-00240-SK-003



LEGEND:

QUARRY SITE AREA

800m BUFFER

NO QUARRY ACTIVITY



Map 28, 2019 - 4:19pm
 P:\Data\18M-00240-00 - Broda Quarry\WSP Design\18M-00240 Quarry Plan.dwg - tab:SK1

CONSULTANTS



WSP Canada Group Limited
 Suite 111 - 93 Lombard Ave
 Winnipeg, MB R3B 3B1
 t. 204.943.3178
 f. 204.943.4948
 www.wsp.com

SHEET TITLE

**Broda Properties
 Quarry Conceptual Operating Plan**

RM of Rosser - CentrePort

Quarry Boundary

SCALE	DATE	DRAWING No.
NTS	March 2019	18M-00240-SK-001