



*Planning and Zoning Commission*  
*Nampa Paving and Asphalt Co. – CU2023-0008*

*Development Services Department*

**Findings of Fact, Conclusions of Law, Conditions of Approval, and Order**

Nampa Paving and Asphalt Co. – CU2023-0008 (Amending CU2022-0033)

**Findings of Fact**

1. Nampa Paving & Asphalt Co., represented by Quadrant Consulting, Inc., is requesting a conditional use permit modification to Case No. CU2022-0033 regarding a long-term mineral extraction use on parcels R34061 & R34144. The request revises the approved site plan showing an increase in the footprint of the extraction area.
2. On October 21, 2022, a conditional use permit was approved with 13 conditions of approval for the following: *Use Permit to allow a long-term mineral extraction use on Parcels R34061 and R34144 (approximately 136.9 acres total) to include sand and gravel extraction, staging, and crushing. The proposed mineral extraction will expand an existing approved operation (CU2018-0015) and will be tied to the conditions of that approval requiring operations to cease by November 3, 2037. See Exhibits 4, 5 & 6 of the Staff Report.*
3. The parcels are zoned “A” (Agricultural). The Future Land Use Map within the 2030 Canyon County Comprehensive Plan designates the parcels as “Agriculture”.
4. The subject properties are located within Caldwell’s Area of City Impact.
5. The subject properties are located within Canyon Highway District No. 4, Caldwell Rural Fire District, Vallivue School District, and Franklin Ditch Company jurisdiction.
6. A neighborhood meeting was conducted in accordance with CCZO §07-01-15 on May 2, 2023.
7. Notifications were made in accordance with CCZO §07-05-01. Affected agencies were noticed on October 3, 2023, and November 15, 2023. JEPA notice sent October 3, 2023, per CCCO Section 09-01-17(3). A newspaper notice was published on November 24, 2023. Property owners within 600’ were notified by mail on November 15, 2023. The property was posted on December 1, 2023.
  - a. On January 4, 2024, the Planning and Zoning Commission continued the hearing of Case CU2023-0008 to a date uncertain to give the applicant time to get the pit expansion into wetlands approved by the Idaho Department of Water Resources and U.S Army Corp of Engineers (Exhibit 8, Staff Report).
    - i. Case CU2023-0008 was scheduled for the March 21, 2024 hearing. Notifications were made in accordance with CCZO §07-05-01. Affected agencies were noticed on February 6, 2024. A newspaper notice was published on February 9, 2024. Property owners within 600’ were notified by mail on February 6, 2024. The property was posted on February 14, 2024.
  - b. On March 21, 2024, the hearing of Case CU2023-0008 was continued by the Planning and Zoning Commission to a date certain, April 4, 2024.
8. The record includes all testimony, staff reports, exhibits, and documents in the Case File. CU2023-0008.

**Conclusions of Law**

For case file CU2023-0008 amending CU2022-0033, the Planning and Zoning Commission finds and concludes the following regarding the Standards of Review for Conditional Use Permit (§07-07-05).

**1. Is the proposed use permitted in the zone by conditional use permit?**

Conclusion: The subject property is zoned “A” (Agricultural). Long-term mineral extraction and associated uses are allowed by conditional use permit (CUP) in the agricultural zone

(CCZO §07-10-27).

Finding: Canyon County Zoning Ordinance, §07-10-27 allows the proposed use as a conditional use permit in accordance with Use Standards §07-14-19 Mineral Extraction Long Term in the “A” (Agricultural) zone. The subject property is zoned “A” (Agricultural; Page 50 of Exhibit 5, Staff Report).

**2. What is the nature of the request?**

The approval of CU2022-0033 allowed Nampa Paving and Asphalt Co to establish a long-term mineral extraction permit with mining, excavation, staging, access, and stockpiling to occur on approximately 52 acres of approximately 114-acre subject properties (Exhibit 4 & 5, Staff Report). The proposed modification expands the gravel extraction from 52 acres to 74 acres (Attachment A). The applicant is proposing the following:

- Site Facilities: Site facilities would include a parking area and fuel storage. An existing scale from the adjacent operation will be utilized for the use.
- Duration: Not to exceed 15 years (November 3, 2037, CU2022-0033 – Exhibit 4 of the Staff Report).
- Employees: Up to 15 employees during peak operations.
- Hours of Operation:

<i>Normal Operations</i>	7 a.m. to 7 p.m. Monday through Saturday
<i>Temporary Operations</i>	24 hour per day seven days per week operations as required by projects that require nighttime delivery of materials.
<i>Crushing Operations</i>	Restricted to between 7 a.m. through 7 p.m.
- Access and Hauling: Lincoln Road will be utilized for access with internal roadways serving the site. The access was approved for the operation of the adjacent site (CU2018-0015 & CU2022-0033).
- Dust Control: Regular watering is proposed to minimize dust on haul roads. Due to the high water table, the material being removed will be wet.
- Reclamation Plan: A reclamation plan was approved by the Idaho Department of Lands on June 20, 2023 (Attachment B).
- Floodplain: Per Exhibit 3a, mineral extraction expansion activities are depicted in the master application site plan as, Pit 1 and Pit 2. FEMA-approved CLOMR Case No. 23-10-0172X, and Conditional LOMR Case No. 22-10-0727R (Exhibit 2e, Staff Report), indicate Pit 1 and Pit 2, are located outside of the SFHA floodway. County floodplain development permits shall be issued before Pit 1 and Pit 2 extraction commencement. Upon completion of mineral extraction activities and reclamation, an approved Letter of Map Revision (LOMR) shall be provided to Canyon County Development Services. Mineral extraction activities shall take place outside the SFHA floodway boundary.

The proposed wetland mitigation/restoration plan is located within the SFHA floodway boundary. Application has been made and has been approved, subject to conditions, by the U.S Army Corp of Engineers (USACE) and the Idaho Department of Water Resources (IDWR, Exhibit 2f, 9 & 10, Staff Report). The proposed No-rise Certification for the floodway encroachment meets Federal and County floodplain regulations. CCO 07-10A-11(4)(A)(1) 44CFR 60.3(d)(3).

The No-rise Certification, hydrology data, and floodplain development permit application for the wetland mitigation shall be provided to the Canyon County Floodplain Manager before the floodway encroachment. All required outside agency approvals shall also be included with the

floodplain development permit application. CCCO 07-10A-09(1)(G) & 44CFR 60.3(a)(2). See Amended Conditions of Approval 8 & 9

**3. Is the proposed use consistent with the Comprehensive Plan?**

Conclusion: The proposed use is consistent with the 2030 Canyon County Comprehensive Plan.

Finding: The Future Land Use designation for the area is Agricultural. The proposed use is consistent with multiple goals and policies of the Comprehensive Plan including but not limited to:

- *G3.05.00: Support a diverse economy in Canyon County and recognize that residential, commercial, and industrial uses are necessary components of overall economic stability.*
- *G4.03.00: Develop land in a well-organized and orderly manner while mitigating or avoiding incompatible uses, protecting public health and safety, and creating a vibrant economy through sustainable land use planning.*
  - *P4.03.03: Recognize that each land use application is unique and that agricultural and non-agricultural uses may be compatible and co-exist in the same area and in some instances may require conditions of approval to promote compatibility.*
- *G5.03.00: Support the conservation of productive mineral lands and discourage incompatible uses upon or adjacent to these lands.*
- *P5.03.01: Sand and gravel mining operations should be located to avoid adverse impacts to the river channel and promote compatibility with adjacent uses.*

**4. Will the proposed use be injurious to other property in the immediate vicinity and/or negatively change the essential character of the area?**

Conclusion: As conditioned, the proposed use will not change the essential character of the area. The primary land uses in the area are mineral extraction and agricultural crop production. Noise, dust, and traffic are associated with mining operations and can have a negative impact on properties in the immediate vicinity but will not change the character of the area.

Finding: The subject parcels and surrounding area are zoned “A” (Agricultural). The majority of land in the immediate area is used as agricultural land, mineral extraction, and sporadic homesites. The use is consistent with the essential character of the area. Nampa Paving and Asphalt Co. and/or any future operator must meet all federal, state, and local permitting requirements for the proposed uses on the property including mineral extraction and crushing operations. (Condition 1, 10, and 12)

**5. Will adequate water, sewer, irrigation, drainage, and storm water drainage facilities, and utility systems be provided to accommodate the use?**

Conclusion: Adequate facilities for sewer, irrigation, drainage, stormwater drainage facilities, and utility systems will be required at the time of development. The applicant shall comply with all federal, state, and local jurisdiction rules, regulations, and permitting requirements and the applicant shall not disrupt the irrigation structures, canals, or ditches on the property and shall not affect the upstream and downstream users of those systems as conditioned herein.

Finding: There are irrigation structures and ditches that are located on the subject properties and these structures shall remain undisturbed by the mining operations. Modifications of any irrigation structures, ditches, and drainages shall be in accordance with irrigation district permitting requirements and without disruption to water users. The applicant shall comply with all federal, state, and local permitting requirements concerning human-generated waste, dewatering, and mitigation of environmental contamination. (Condition 1, 5, and 11).

**6. Does legal access to the subject property for the development exist or will it exist at the time of development?**

Conclusion: Legal access to the subject properties currently exists.

Finding: Lincoln Road will be utilized for access with internal roadways serving the site. The access was approved for the operation of the adjacent site (CU2018-0015). The operator shall comply with Canyon Highway District No. 4 requirements (Condition 1).

**7. Will there be undue interference with existing or future traffic patterns?**

Conclusion: No evidence has been provided that the mining of the subject properties will create undue interference with existing or future traffic patterns.

Finding: The proposed haul route is Lincoln Road. Nampa Paving and Asphalt shall comply with the requirements of Canyon Highway District 4 (Conditions 1 and 13). Idaho Transportation Department (ITD) finds the expansion of the pit will not increase trips; and therefore, will not trigger a Traffic Impact Study (TIS). Therefore, ITD has no concerns (Exhibit 3b, Staff Report).

**8. Will essential services be provided to accommodate the use including, but not limited to, school facilities, police and fire protection, emergency medical services, irrigation facilities, and will the services be negatively impacted by such use or require additional public funding in order to meet the needs created by the requested use?**

Conclusion: Essential Services are available in the area and the proposed use will not impact existing services.

Finding: Agencies were notified of the intended use. No comments were received indicating that services would not be provided or negatively impacted by this application.

**Additional Standards Canyon County Code §09-01-21 (Area of City Impact Agreement)**

Conclusion: Notice of the public hearing was provided per CCZO §07-05-01. The property is located within the Caldwell Area of City Impact. A notice was sent to the City on October 3, 2023, per Canyon County Code Section 09-01-21.

Finding: The subject property is located in the Caldwell Area of City Impact.

Section 09-01-21 of the Ordinance states: *All proposed amendments to the text and/or map of the Canyon County zoning ordinance or subdivision regulations, which may relate to the Caldwell area of city impact, shall be referred by the county to the city of Caldwell in the same manner as provided for in subsection 09-01-17(3) of this article. Any recommendation of the city of Caldwell shall be considered in the same manner as provided for in subsection 09-01-17(3) of this article.* A comment letter from the City of Caldwell received and reviewed as part of CU2022-0033 designated the properties as “Residential Estates” in the City’s future land use map. Due to the parcels being

located in a floodplain and adjacent to similar uses, the City did not oppose the request (Page 57 of Exhibit 5, Staff Report).

Pursuant to Section 09-01-17(3) of the Ordinance, notice shall be provided to the City of Caldwell at least 30 days prior to the first public hearing. An official notice was provided on October 3, 2023. A hearing notice was provided on November 15, 2023. No comments were received from the City of Caldwell regarding the requested modification.

**Additional Standards §07-14-19 Mineral Extraction Long-Term**

When deciding on a conditional use permit for the use, the decision-making body shall consider the following:

**1. The uses of the surrounding properties in the determination of the compatibility of the proposed application with such uses;**

Conclusion: The use is compatible with the surrounding properties.

Finding: The primary use of the surrounding properties is mineral extraction and agricultural production. The property is currently approved for mineral extraction (CU2022-0033; Exhibit 4, Staff Report). Four approved mineral extraction sites are located in the immediate vicinity of the subject parcels: Canyon Highway District No. 4 (R34069-010, CU2002-1), Idaho Materials/Oldcastle MMG Inc. (R3467010 & R34071, CU2003-284), Sunroc Corporation (R34067, PH2016-66), and Nampa Paving and Asphalt (R34063010, R34063010A, R34063011, R34062011, R34164011, CU2018-0015).

**2. Duration of the proposed use;**

Conclusion: The proposed duration of the operation is no more than 15 years (November 3, 2037) as approved via CU2022-0033 (Exhibit 4, Staff Report).

Finding: According to CCZO 07-07-23: Provisions for Land Use Time Limitations; “gravel pits are exempt from commencement and time completion requirements. The presiding party has the discretionary power to establish commencement and completion requirements as specific conditions of approval for gravel pits.” The applicant is requesting a permit to operate for a duration of fifteen years on the subject properties. (Condition 6)

**3. Setbacks from surrounding uses;**

Conclusion: The applicant shall comply with CCZO §07-14-19 standards. A greater setback has been applied as proposed by the applicant and conditioned.

Finding: A 50-foot undisturbed perimeter along the external property boundaries other than a permitted approach to public roads. A minimum 50-foot undisturbed buffer along both sides of Fifteen Mile Creek. All ditches, canals, laterals, and rights of ways shall not be disturbed, re-routed, or changed without proper permitting and agreements with the appropriate irrigation company/associations. Franklin Ditch Company is an affected entity. (Condition 4 and 5)

**4. Reclamation plan as approved by Idaho Department of Lands;**

Conclusion: An updated reclamation plan was approved as S602993 dated June 20, 2023.

Finding: The applicant has submitted an updated reclamation plan approved by the Idaho Department of Lands (Attachment B). A condition of approval has been applied to

ensure all conditions required by the Idaho Department of Lands are met (Condition 7).

**5. The locations of all proposed pits and any accessory uses;**

Conclusion: The applicant has provided a site plan showing the location of proposed pits and operations (Attachment A).

Finding: The applicant has provided an updated site plan showing the location of proposed pits and operations. No mining or construction of mitigation measures in the floodplain special flood hazard area and no mining, stockpiling, or construction shall occur in the regulated floodplain without first obtaining a DSD Floodplain Development permit and completing required studies in accordance with federal regulations and Canyon County Code. (Condition 1, 2, 5, and 9). Future proposed pit and accessory uses not included in the site plan will require a modification to the conditional use permit.

**6. Recommendation from applicable government agencies**

- The Department of Lands approved the Reclamation Plan on June 20, 2023, with the required conditions (Condition 7 & Attachment B).
- U.S. Army Corp of Engineers (USACE) has authorized mining activities and discharge in ditches permit (NWP No. 44, NWW-2022-00275, Exhibit 10, Staff Report). Adherence to the USACE permit is required per Condition No 7a.

**Conditions of Approval**

**Nampa Paving and Asphalt Co. Long Term Mineral Extraction - Parcels R34061 and R34144**

1. The development shall comply with all applicable federal, state, and county laws, ordinances, rules, and regulations that pertain to the subject property and the proposed use. (Unchanged from CU2022-0033).
2. The operator shall be in substantial conformance with the proposed site plan and mining area extents attached hereto as Attachment A; the intended expansion of the operation shall require a modification to this conditional use permit. The operation permitted is for mineral extraction and processing which includes mining activities comprised of excavations, staging, access, and stockpile areas with gravel resources processed onsite. There will be employee and mining equipment parking and fuel storage located on the site. A scale on the adjacent operation will be utilized. (Unchanged from CU2022-0033).
3. The operator shall maintain a minimum 50-foot undisturbed perimeter along the external property boundaries other than the permitted approach to public roads. There shall be a minimum 50-foot undisturbed buffer along both sides of Fifteen Mile Creek. (Unchanged from CU2022-0033).
4. Development shall not impede, disrupt, or destroy irrigation canals, ditches, laterals, drains, and associated irrigation works and rights-of-way. Any alteration of irrigation structures located on the properties shall be conducted with written approval from Franklin Ditch Company. The alterations shall not impede or affect water delivery to adjacent properties/water users. (Unchanged from CU2022-0033).
5. Water surface and groundwater, shall be discharged in accordance with state, federal, and local standards and/or regulations. (Unchanged from CU2022-0033).
6. The duration of the proposed operation on the subject properties shall be 15 years (November 3, 2037). The properties shall be operated as conditioned. (Unchanged from CU2022-0033).

7. The properties shall be mined as conditioned and reclaimed in accordance with reclamation plan S602993 (or as amended) attached hereto as Attachment B and in accordance with federal and county special flood hazard regulations for floodplain and floodway encroachment.
  - a. Mining and reclamation shall adhere to the requirements and conditions of the Nationwide Permit (NWP) issued by the U.S. Army Corp of Engineers (Permit #NWW-2022-00275; Exhibit 10, Staff Report)
8. A No-rise Certification, hydrology data, and a floodplain development permit application for the wetland mitigation shall be provided to the Canyon County Floodplain Manager prior to the floodway encroachment. All required outside agency approvals shall also be included with the floodplain development permit application. If No-rise Certification cannot be achieved, an approved CLOMR and Conditional LOMR shall be submitted to the County Floodplain Manager prior to the commencement of the wetland restoration portion of this project (Exhibit 3a, Staff Report).
9. Operator shall comply with floodplain and floodway regulations in effect at the time of completion (on or before November 3, 2037) of the mineral extraction operations on the approximate 137-acre subject properties. Upon completion of mineral extraction activities and reclamation, an approved Letter of Map Revision (LOMR) shall be provided to Canyon County Development Services. Mineral extraction activities shall take place outside the SFHA floodway boundary (Exhibit 3a, Staff Report).
  - a. Chain-link or net fencing shall be placed along the northern boundary of Pit 1 and Pit 2 to prevent extraction encroachment into the floodway (Exhibit 3a, Staff Report).
10. Normal business hours of operation shall be Monday through Saturday 7:00 a.m. to 7:00 p.m. Temporary 24 hours per day seven days per week operations may be conducted as required by projects mandating nighttime delivery of materials. No crushing of materials shall occur after 7:00 p.m. or prior to 7:00 a.m. The duration of 24-hour operations should be temporary. (Unchanged from CU2022-0033).
11. The storage of diesel fuel, petroleum products, and any other hazardous materials must meet the standards set forth by the applicable agencies. (Unchanged from CU2022-0033).
12. Noise emissions shall follow the regulations and standards of OSHA and MSHA. (Unchanged from CU2022-0033).
13. Commercial truck traffic shall not travel eastbound on Lincoln Road from the property access point on Lincoln Road. (Unchanged from CU2022-0033).

**Order**

Based upon the Findings of Fact and Conclusions of Law, and Conditions of Approval contained herein, the Planning and Zoning Commission **approves** Case CU2022-0008, amending the approval (CU2022-0033) of a conditional use permit for long-term mineral extraction on parcels R34061 and R34144.

APPROVED this 4<sup>th</sup> day of April, 2024.

PLANNING AND ZONING COMMISSION  
CANYON COUNTY, IDAHO



Brian Sheets, Vice Chairman

State of Idaho )

SS

County of Canyon County )

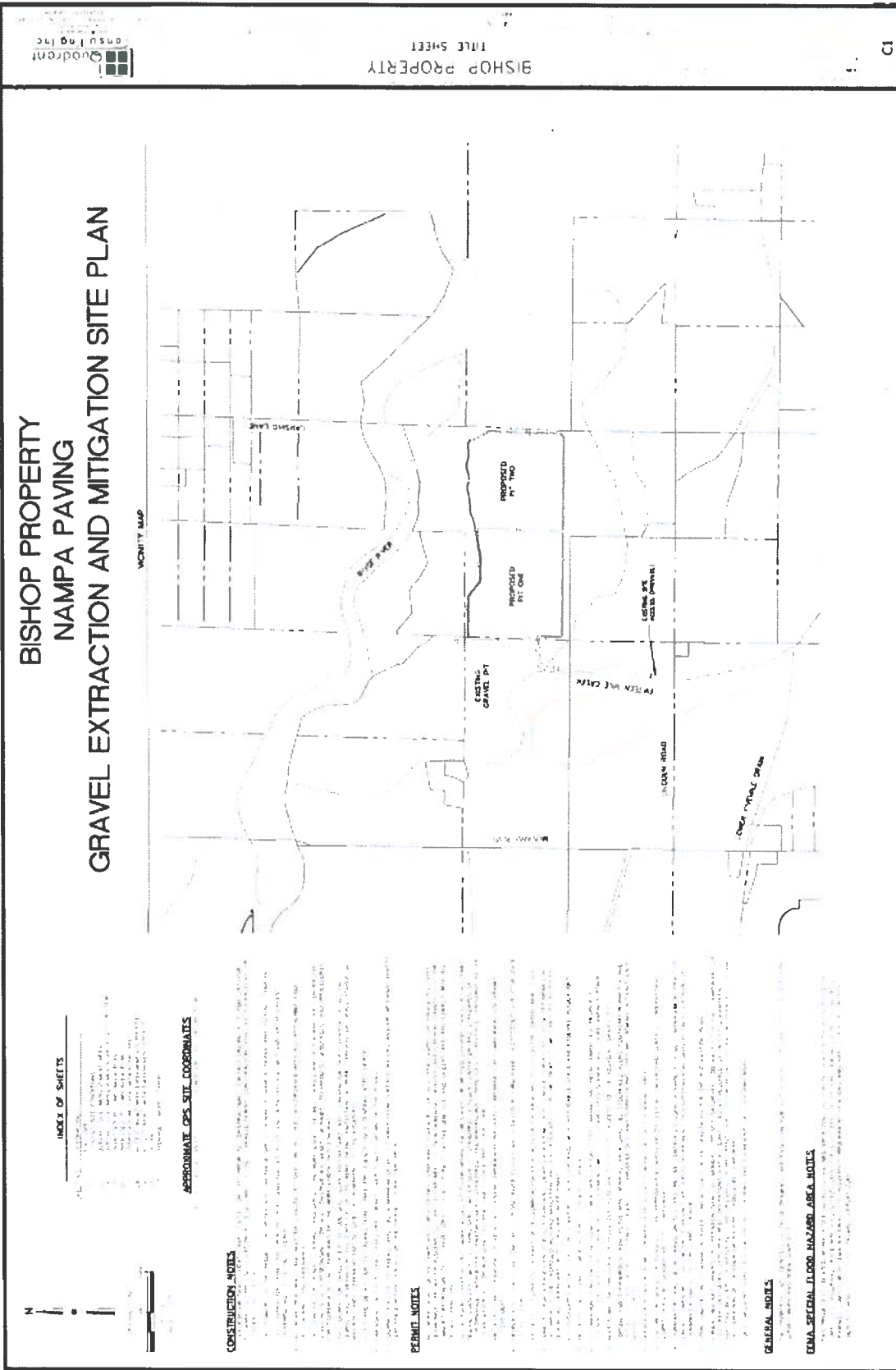
On this day of April 4<sup>th</sup>, in the year 2024, before me Amber Lewter, a notary public, personally appeared Brian Sheets, personally known to me to be the person whose name is subscribed to the within instrument, and acknowledged to me that he/she executed the same.



Notary: Amber Lewter  
My Commission Expires: 10/20/2029

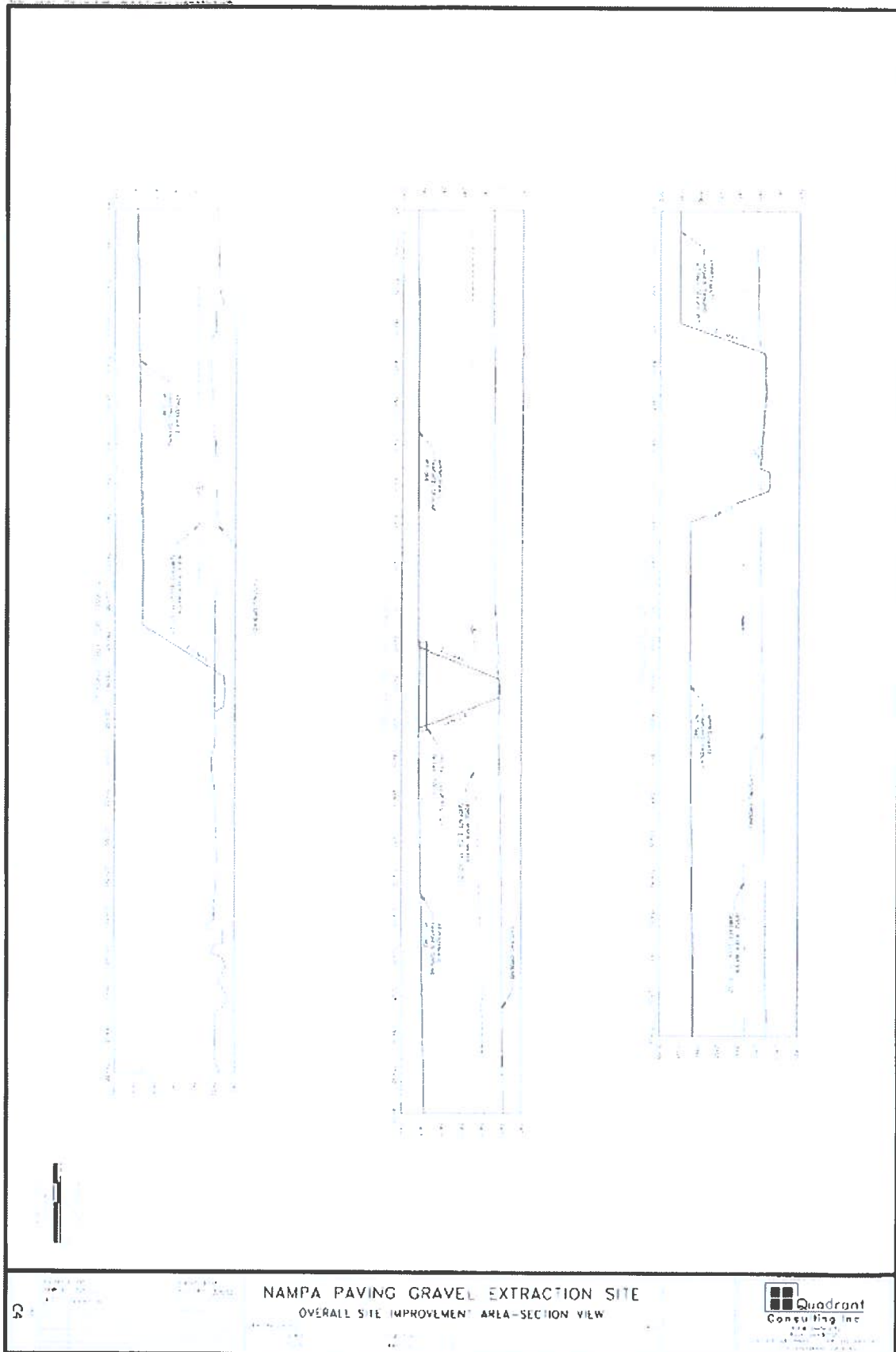


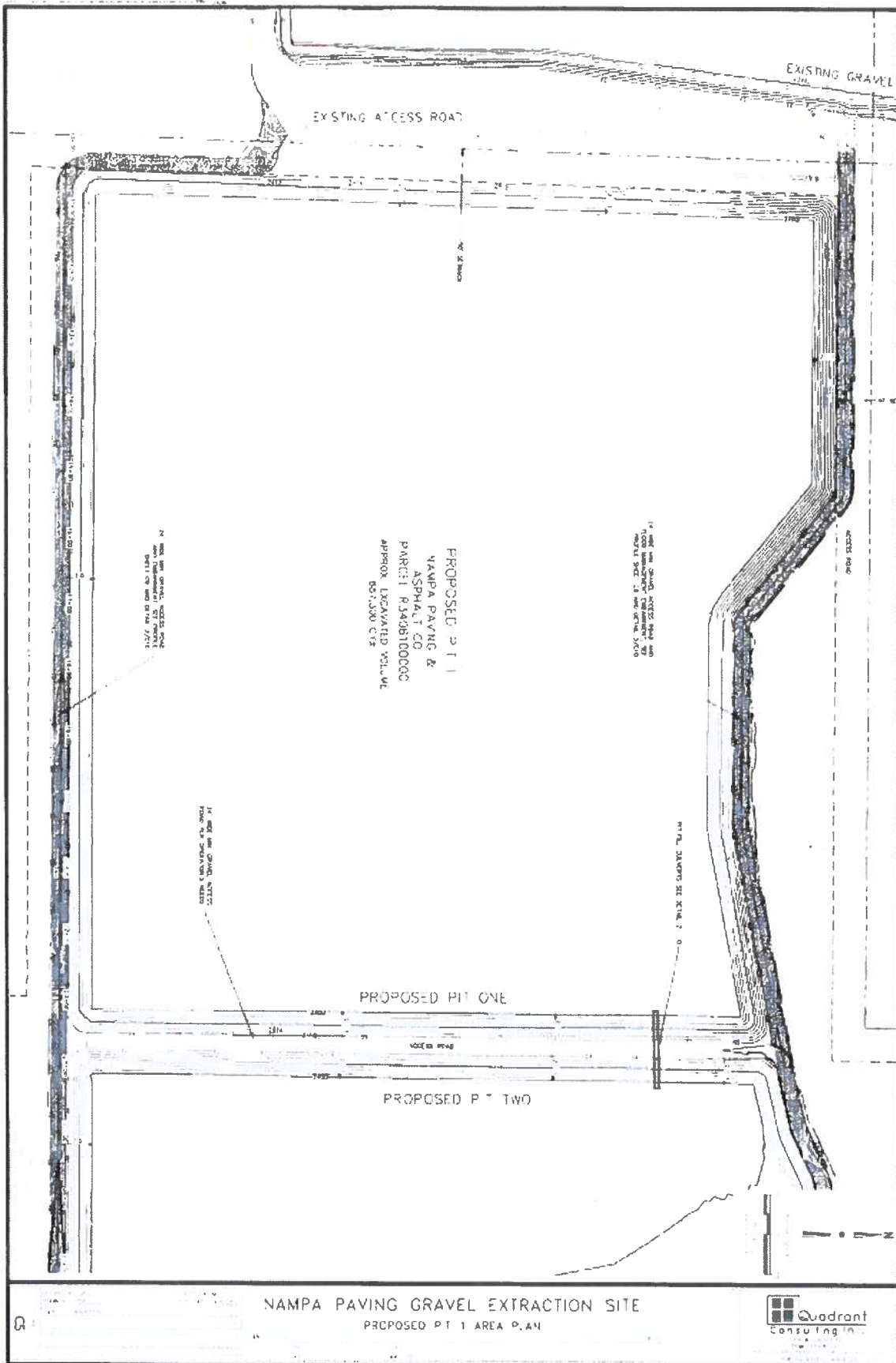
**ATTACHMENT A**





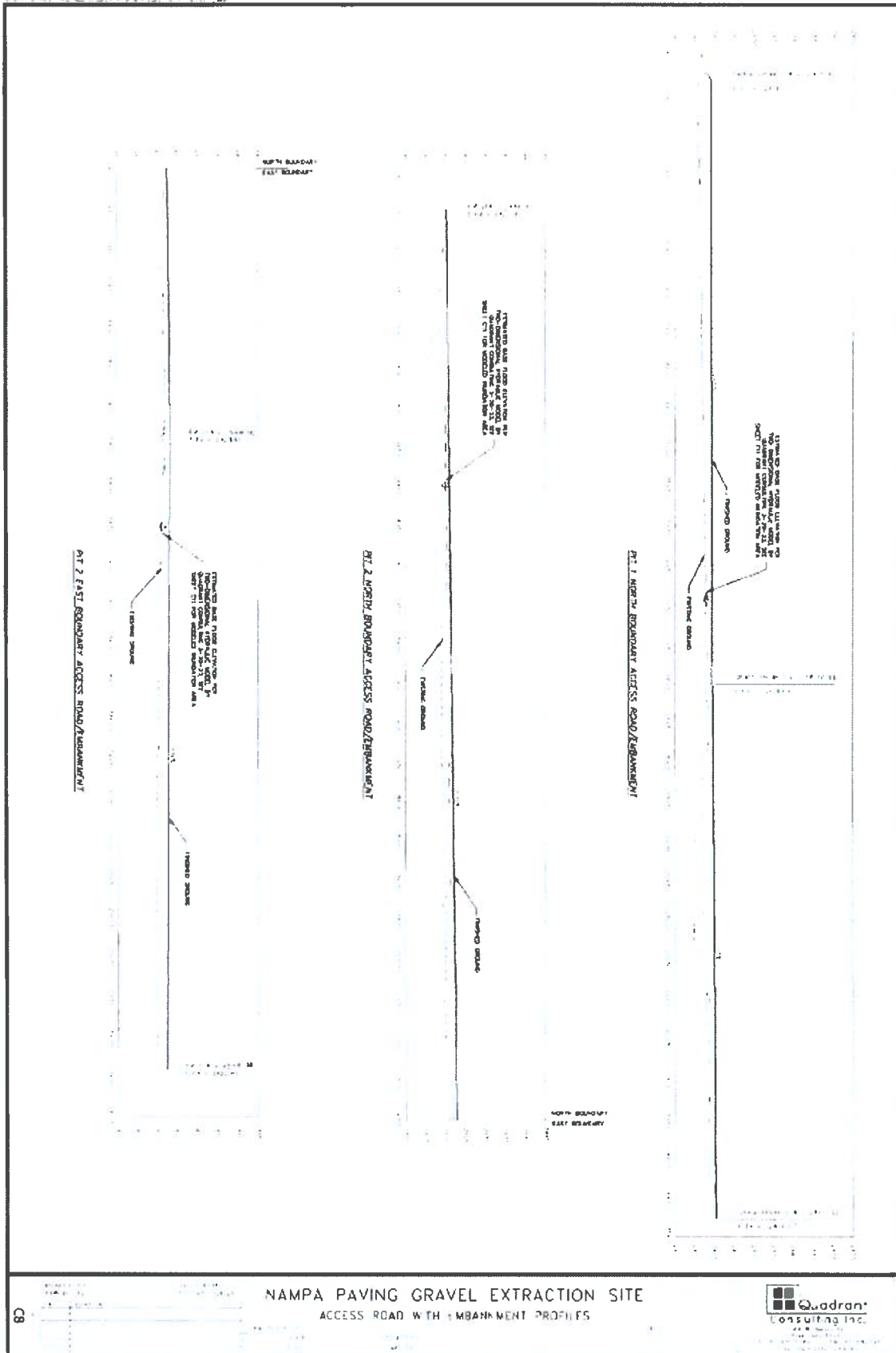




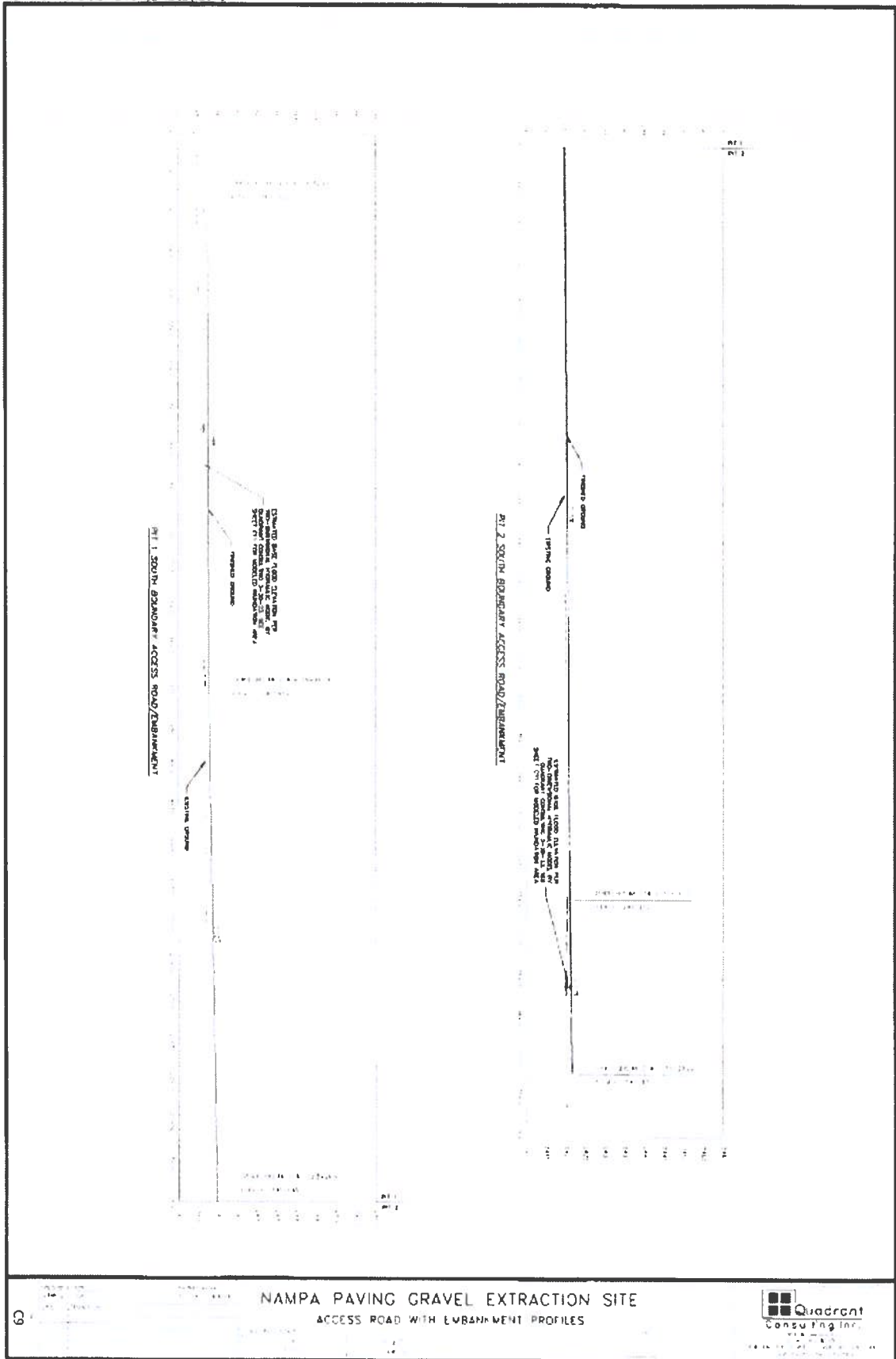














ATTACHMENT B

SOUTHWEST SUPERVISORY AREA  
8355 West State Street  
Boise ID 83714-6071  
Phone (208) 334-3488  
Fax (208) 853-6372



STATE BOARD OF LAND COMMISSIONERS  
*Brad Little, Governor*  
*Phil McGrane, Secretary of State*  
*Raúl R. Labrador, Attorney General*  
*Brandon D. Woolf, State Controller*  
*Debbie Critchfield, Sup't of Public Instruction*

June 20<sup>th</sup>, 2023

Nampa Paving and Asphalt Company  
444 W. Karcher Rd  
Nampa, ID 83687

To whom it may concern,

This correspondence is notification that the following reclamation plan was approved on 5/8/2023:

PLAN NO.	ACRES	COUNTY	LEGAL DESCRIPTION
S602993	114.72	Canyon	T04N R02W Section 16

The plan was granted approval subject to the following terms and conditions:

1. All refuse, chemical and petroleum products and equipment shall be stored and maintained in a designated location, 100 feet away from any surface water and disposed of in such a manner as to prevent their entry into a waterway.
2. State water quality standards will be maintained at all times during the life of the operation. Should a violation of water quality standards occur, mining operations will cease immediately, corrective action will be taken, and the Department of Environmental Quality will be notified.
3. Erosion and non-point source pollution shall be minimized by careful design of the site access and implementing Best Management Practices, which may include, but are not limited to:
  - a. Diverting all surface water flows around the mining operation.
  - b. Removing and stockpiling vegetation and slash, except merchantable timber, for use in erosion control and reclamation;
  - c. Removing and stockpiling all topsoil or suitable plant growth material for use in reclamation.
4. **An initial reclamation bond in the amount of \$83,648.21 for up to 30 acres of disturbance will be submitted to and maintained with the Idaho Department of Lands prior to conducting surface mining operations.**

5. If the reclamation plan is not bonded within 18 months of approval, or if no operations are conducted within three years, the department may withdraw this plan. This shall not prevent the operator from re-applying for reclamation plan approval.

6. Acceptance of this permit does not preclude the operator from obtaining other necessary permits and approvals from state and federal authorities, i.e. Storm Water Pollution Prevention Plan (SWPPP), waste water generation and/or air quality permits, consultation with the National Oceanic and Atmospheric Administration Fisheries, U.S. Army Corps of Engineers 404 Permit and Stream Channel Alteration Permits for each production process.

8. At the beginning of each calendar year the operator or plan holder shall notify the director of any increase in the acreage of affected lands which will result from the planned surface mining activity within the next twelve (12) months. A correlative increase in the bond will be required for an increase in affected acreage.

Please note -- pursuant to Idaho Code section 47-1512(a), operations cannot commence until the bond established in Stipulation No. 4 is submitted to this department. Failure to submit payment before mining commences may subject you to legal action by the state pursuant to Idaho Code section 47-1513(d), which may include issuance of an order by the district court to temporarily restrain your mining operations without prior notice to you.

If the department does not receive a written notice of objection from you regarding these stipulations by July 11, 2023, the stipulations will be considered as accepted.

If you have any questions, you may contact me at the above address or telephone number.

Sincerely,



Connor MacMahon  
Lands Resource Specialist—Minerals