



Wichita-Sedgwick County Metropolitan Area Planning Department

August 16, 2016

Milo M. Unruh Jr.
300 W Douglas Avenue
St 300
Wichita, KS, 67202

REFERENCE: CON2016-00028 – Conditional Use to amend CU-509, which permits mining and quarrying, specifically the extraction of salt water, on RR Rural Residential zoned property generally located northeast of 111th & 103rd Streets South and 215th and 199th Streets West & north of 103rd Street South on both the east and west sides of K-42 and east of 231st Street West (BoCC #2 & BoCC #3)

Dear Sir:

At its regular meeting on July 7, 2016, the Wichita - Sedgwick County Metropolitan Area Planning Commission (MAPC) considered the above captioned request. The action of the MAPC was to APPROVE, the request, with the conditions listed on the attached resolution.

No valid protests or appeals of the Conditional Use were received so the recommendation of the MAPC is final. If you have any questions concerning this application, please contact our office at 316-268-4421.

Sincerely,

A handwritten signature in black ink, appearing to read 'Bill Longoecker', written over the word 'Sincerely,'.

Bill Longoecker
Senior Planner

BL: mc

Attachments (Site Map and Resolution)

cc: Kenneth E. and Marilyn B. Pauley Revocable Trust, 10639 E. Glengate Circle, Wichita, KS 67206
Keith A. and Marga Harrington Trust, 1546 Quail, Howard, KS 67349
Occidental Chemical Corp., 5005 LBJ Freeway, Ste 1600, Dallas, TX 75244
Lemon Family Farm. LLC, 24600 W. State Rd 42, Viola, KS 67149
Jacqualine L. Weber, 2815 N. Wild Rose, Wichita, KS 67205
Trudy Doll, 20770 W. 111th St., S., Clearwater, KS 67026
Nora Werth, 20701 W. 111th St., S., Clearwater, KS 67026

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www.wichita.gov

REFERENCE: CON2016-00623 – Conditional Use to amend CU-509, which permits mining and quarrying, specifically the extraction of salt water, on RR Rural Residential zoned property generally located northeast of 111th & 103rd Streets South and 215th and 199th Streets West & north of 103rd Street South on both the east and west sides of K-42 and east of 231st Street West (BoCC #II & BoCC #III)
August 16, 2016

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Ricki Larsen, 11001 S. 119th St., W., Clearwater, KS 67026
Tim Norton, BoCC #2, County Mail Stop Rm 320
Karl Peterjohn, BoCC #3, County Mail Stop Rm 320
Justin Waggoner, County Law, County Mail Stop Rm 359
Jim Weber, County Public Works, 1144 S. Seneca, Wichita KS 67213
Kelly Dixon, MABCD, 1144 S. Seneca, Wichita KS 67213

CONDITIONAL USE RESOLUTION NO. CON2016-00028

WHEREAS, Kenneth E. and Marilyn B. Pauly Revocable Trust, c/o Kenneth and Marilyn Pauly, Trustees; Keith and Marga Harrington Trust, c/o Keith A Harrington, Trustees; Lemon Family Farm, LLC, c/o Roger W. Lemon Jr Manager; Occidental Chemical Corporation, c/o Robert Peterson, President (owners); pursuant to Section V-D of the Wichita-Sedgwick County Unified Zoning Code (herein referred to as Unified Zoning Code), requests a Conditional Use to amend Conditional Use CU-509, which "permits mining and quarrying," specifically the extraction of salt water and to expand CU-509 on approximately 934-acres zoned RR Rural Residential ("RR"), described as:

Tract 1: The North Quarter of the Southwest Quarter (N/4 SW/4) of Section 29, Township 29 South, Range 2 West of the 6th P.M., Sedgwick County, Kansas. And, All of the Southeast Quarter of the Southwest Quarter (SE/4 SW/4) of Section 20; and all of that part of the South Half of the Southeast Quarter (S/2 SE/4) of Section 20, except the East 17.6 acres thereof, all in Township 29 South, Range 2 West of the 6th P.M., Sedgwick County, Kansas. And, All that part of the Northwest Quarter (NW/4) of Section 29, Township 29 South, Range 2 West of the 6th P.M., Sedgwick County, Kansas, lying North of the present Township Road (same being the North 270 feet of said Northwest Quarter) except those portions of the above described tracts in such excepted out tracts are legally described to wit: A tract in the Southeast Quarter (SE/4) and the Southwest Quarter (SW/4) of Section 20, Township 29 South, Range 2 West of the 6th P.M., Sedgwick County, Kansas, described as beginning at the South Quarter Corner of said Section 20; thence North 89 degrees 56' 38" East along the South line of said Southeast Quarter, 33.75 feet; thence North 1 degree 02' 24" East 179.19 feet; thence South 87 degrees 11' 48" West 476.43 feet; thence South degree 23' 8" East, 155.51 feet to the South line of said Southwest Quarter; thence South 89 degrees 56' 38" East along the South line of said Southwest Quarter, 435.10 feet to the point of beginning; also a tract in the Northwest Quarter of Section 29, Township 29 South, Range 2 West of the 6th P.M., Sedgwick County, Kansas, described as follows: Beginning at the North Quarter Corner of said Section 29; thence North 89 degrees 56' 38" West along the North line of said Northwest Quarter (NW/4), 435.10 feet; thence South 1 degree 23' 08" East 298.19 feet; thence North 89 degrees 21' 26" East 432.84 feet to the East line of said Northwest Quarter; thence North 00 degrees 57' 50" West, 292.86 feet to the point of beginning. And, The Northwest Quarter of Section 29, Township 29 South, Range 2 West of the 6th P.M., Sedgwick County, Kansas, except the North 20 acres and except that portion Beginning at a point on the West Line of the NW/4 of Section 29, Township 29 South, Range 2 West of the 6th P.M., Sedgwick County, Kansas, 458 feet North of the Southwest Corner of said NW/4; thence North along the West line of said NW/4; thence North 00 degrees 00' East, 662.27 feet; thence South 88 degrees 35' East, 659.74 feet; thence South 00 degrees 00' West parallel to the West Line of said NW/4 662.27 feet; thence North 88 degrees 35' West, 659.74 feet to the point of beginning.

&

Tract 2: Southwest Quarter, except a tract 13 rods square in the Southwest Corner for Cemetery, and all that part of the Southwest Quarter of the Northwest Quarter, lying South of the center of the Ninnescah River, in Section 30, Township 29 South, Range 2 West of the 6th P.M., Sedgwick County, Kansas.

&

Tract 3: Beginning at the Southeast Corner of the Northeast Quarter of Section 30, Township 29, Range 2 West of the 6th Principal Meridian, Sedgwick County, Kansas, thence North to the Northeast Corner of said Quarter Section, thence in a Southwesterly direction down the center line of the Ninnescah River to a Point 79 Rods and 11 Feet East of the West Line of said Section, thence South to the South line of the North Half of said Section, thence East to the center of said Section, thence South 650.5 Feet, thence East to the East line of said Section, thence North to the point of beginning.

Subject to a Life Estate in favor of Donna F. Parsons in the following portion of said real estate described as

follows:

Beginning at the Southwest corner of the Northeast Quarter, the same being the center of Section 30, thence North 610 feet for a point of beginning, thence East 390 feet, thence North to the center line of the Ninnescah River, thence in a Southwesterly direction along the center line of said river to its intersection with the West line of said quarter section, thence South to the point of beginning, together with the right of access to said tract on a road constructed along the South bank of the Ninnescah river from the East boundary of said quarter section to the aforesaid tract.

&

Tract 4: The West 53 1/3 rods of the North Half of the Southwest Quarter of Section 24 and the South Half (S/2) of Section 23, Township Twenty-Nine (29) South, Range Three (3) West, except the following described tracts:

The right-of-way of the State Highway Commission of the State of Kansas obtained in condemnation proceedings in the District Court of Sedgwick County, Kansas, bearing Court No. A-1842, as filed of record in the office of the Register of Deeds, Sedgwick County, Kansas, in Book Miscellaneous 159, page 1; and, The right-of-way of the Atchison, Topeka & Santa Fe Railway Company obtained in condemnation proceedings in the District Court of Sedgwick County, Kansas, in an action brought by the Kansas City, Mexico & Orient Railway Company as recorded in the office of the Register of Deeds, Sedgwick County, Kansas, in Book Miscellaneous D, page 456 and as conveyed by Deed and recorded in said office in Book Deed 522, page 380.

and

A tract of land lying in the Southwest quarter of Section 23, Township 29 south, Range 3 west of the sixth P.M., Sedgwick County, Kansas, described as; beginning at a point on the south line 445.00 feet east of the southwest corner of said quarter section, thence northeasterly with a deflection angle to the left of 54 degrees 43 minutes a distance of 529.00 feet, thence east with a deflection angle to the right of 54 degrees 43 minutes a distance of 313.00 feet, thence north with a deflection angle to the left of 90 degrees 00 minutes a distance of 354.00 feet, thence west with a deflection angle to the left of 90 degrees 00 minutes a distance of 388.20 feet to a point on the southeasterly right-of-way line of K-42 Highway, thence northeasterly along said right-of-way line of said highway a distance of 1,032.75 feet, thence southeasterly a distance of 502.42 feet, thence southerly on a line perpendicular to the south line of said quarter section a distance of 1,500.00 feet to a point on the south line of said quarter section, thence westerly a distance of 1,310.00 feet to the point of beginning, containing 31.82 acres more or less.

and

A tract of land described as: Beginning at the Southwest (SW) corner of the Southeast Quarter (SE/4) of Section Twenty-three (23), Township Twenty-nine South (29S), Range 3 West (3W) of the 6th P.M., Sedgwick County, Kansas; thence East along the south line of said SE/4, 628 feet; thence North parallel with the west line of said SE/4, 437 feet; thence West parallel with the south line of said SE/4, 488 feet; thence South parallel with the west line of said SE/4, 402 feet; thence West parallel with the south line of said SE/4, 140 feet; thence South along the west line of said SE/4, 35 feet to the point of beginning, containing 5.0 acres, more or less.

and

That part of the SE 1/4 of Section 23, Township 29 South, Range 3 West of the 6th P.M., Sedgwick County, Kansas, described as follows: Commencing at the SW Corner of said SE 1/4; thence N00°24'35"E (Assumed Bearing) along the West line of said SE 1/4, 35.00 feet to a Point of Beginning; thence continuing N00°24'35"E, 850.39 feet; thence N87°41'30"E, 301.85 feet; thence S45°58'26"E, 1272.55 feet to a point on the South line of said SE 1/4, said point being 1223.00 feet East of the SW Corner of said SE 1/4; thence S89°23'07"W, along the South line of said SE 1/4 595.00 feet to a point 628.00 feet East of the SW Corner of said SE 1/4; thence N00°24'35"E, parallel with the West line of said SE 1/4, 437.00 feet; thence

S89°23'07"W, parallel with the South line of said SE 1/4, 488.00 feet; thence S00°24'35"W, 402.00 feet to a point 35.00 feet North of the South line of said SE 1/4; thence S89°23'07"W, 140.00 feet to the Point of Beginning.

and

A tract of land in the Southwest Quarter of Section 23, Township 29 South, Range 3 West of the 6th P.M., described as follows: BEGINNING at the Southwest corner of said Quarter Section; FIRST COURSE, thence on an assumed bearing of North 00 degrees 37 minutes 44 seconds East, 11.236 meters (36.86 feet) along the West line of said Quarter Section to the Northwesterly right of way line of the existing highway; SECOND COURSE, thence North 35 degrees 49 minutes, 19 seconds East, 315.505 meters (1,035.12 feet) along said right of way line; THIRD COURSE, thence North 31 degrees 32 minutes 07 seconds East, 100.265 meters (328.95 feet); FOURTH COURSE, thence North 35 degrees 42 minutes 08 seconds East, 554.128 meters (1,818.01 feet) to a point on the North line of said Quarter Section 257.352 meters (844.33 feet) West of the Northeast corner of said Quarter Section; FIFTH COURSE, thence South 89 degrees 14 minutes 25 seconds East, 73.874 meters (242.37 feet) along said North line to the Southeasterly right of way line of the existing highway; SIXTH COURSE, thence South 35 degrees 49 minutes 19 seconds West, 989.103 meters (3,245.09 feet) along said right of way line, to the South line of said Quarter Section; SEVENTH COURSE, thence North 89 degrees 30 minutes 14 seconds West, 55.573 meters (182.33 feet) along said South line to the point of beginning. The above described tract contains 5.609 hectares (13.86 acres), which includes 5.122 hectares (12.66 acres) of existing right of way, resulting in an acquisition of 0.487 hectare (1.21 acres), more or less; generally located northeast of 111th & 103rd Streets South and 215th and 199th Streets West and north of 103rd Street South on both the east and west sides of K-42 & east of 231st Street West

WHEREAS, proper notice as required by the Unified Zoning Code and by the policy of the Metropolitan Area Planning Commission (hereinafter referred to as MAPC) has been given; and

WHEREAS, the MAPC did, at the meeting of July 7, 2016, consider said application; and

WHEREAS, the MAPC has authority to permit a Conditional Use, subject to any special conditions deemed appropriate in order to assure full compliance with the criteria of the Unified Zoning Code.

NOW, THEREFORE, BE IT RESOLVED by the MAPC that this application be approved to allow a a Conditional Use to amend Conditional Use CU-509, which "permits mining and quarrying," specifically the extraction of salt water and to expand CU-509 on approximately 934-acres zoned RR Rural Residential ("RR"), described as:

Tract 1: The North Quarter of the Southwest Quarter (N/4 SW/4) of Section 29, Township 29 South, Range 2 West of the 6th P.M., Sedgwick County, Kansas. And, All of the Southeast Quarter of the Southwest Quarter (SE/4 SW/4) of Section 20; and all of that part of the South Half of the Southeast Quarter (S/2 SE/4) of Section 20, except the East 17.6 acres thereof, all in Township 29 South, Range 2 West of the 6th P.M., Sedgwick County, Kansas. And, All that part of the Northwest Quarter (NW/4) of Section 29, Township 29 South, Range 2 West of the 6th P.M., Sedgwick County, Kansas, lying North of the present Township Road (same being the North 270 feet of said Northwest Quarter) except those portions of the above described tracts in such excepted out tracts are legally described to wit: A tract in the Southeast Quarter (SE/4) and the Southwest Quarter (SW/4) of Section 20, Township 29 South, Range 2 West of the 6th P.M., Sedgwick County, Kansas, described as beginning at the South Quarter Corner of said Section 20; thence North 89 degrees 56' 38" East along the South line of said Southeast Quarter, 33.75 feet; thence North 1 degree 02' 24" East 179.19 feet; thence South 87 degrees 11' 48" West 476.43 feet; thence South

P.M., Sedgwick County, Kansas, described as; beginning at a point on the south line 445.00 feet east of the southwest corner of said quarter section, thence northeasterly with a deflection angle to the left of 54 degrees 43 minutes a distance of 529.00 feet, thence east with a deflection angle to the right of 54 degrees 43 minutes a distance of 313.00 feet, thence north with a deflection angle to the left of 90 degrees 00 minutes a distance of 354.00 feet, thence west with a deflection angle to the left of 90 degrees 00 minutes a distance of 388.20 feet to a point on the southeasterly right-of-way line of K-42 Highway, thence northeasterly along said right-of-way line of said highway a distance of 1,032.75 feet, thence southeasterly a distance of 502.42 feet, thence southerly on a line perpendicular to the south line of said quarter section a distance of 1,500.00 feet to a point on the south line of said quarter section, thence westerly a distance of 1,310.00 feet to the point of beginning, containing 31.82 acres more or less.

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of 231st Street West

Approved subject to the following conditions:

1. The extraction of salt water from the described 934-acre site shall be good for 30-years beginning the day of the final approval by the appropriate governing body. Upon the end of the permitted 30-years of the extraction of salt water from the site, the well houses and all equipment will be removed from site and it will be returned to its original state as agricultural fields along KDHE rules, guidelines, and regulations.
2. The site will be developed in accordance with the rules, guidelines and regulations of the Kansas Department of Health and Environment (KDHE) and other appropriate local, state and federal rules, guidelines and regulations. The site will be developed as indicated on the site plan, but that the specific location of the lines and wells are subject to possible changes as development circumstances warrant. All applicable local, state, and federal permits necessary for the extraction operation and for flood plain development shall be obtained and maintained.
3. On-site wells will be no closer than 200 feet from adjoining properties if that property is not included as part of the Conditional Use and/or under ownership or lease by the applicants as prescribed by the rules, guidelines and regulations of KDHE. On-site wells shall be either in line or in a cluster pattern as shown on the site plan.
4. The applicant shall obtain all required permits and inspections as required by Sedgwick County, the State of Kansas and any needed federal agency for the extraction of salt from the site.
5. Noise emitted by equipment permanently installed on the site after drilling and development activities are completed shall not be audible beyond the property lines of the application area, except for those circumstances when occasional maintenance is required by KDHE; testing of wells is mandated.
6. If operations have not begun within one year of approval, the Conditional Use shall be null and void.
7. If the Zoning Administrator finds that there is a violation of any of the conditions of this Conditional Use, the Zoning Administrator may, with the concurrence of the Planning Director, declare the Conditional Use null and void. Upon the receipt of a complaint that is determined to be a violation of the conditions of approval, the applicant shall be notified of the complaint and have 72 hours to contact zoning enforcement to address the complaint. Failure to address the validated complaint may lead to additional enforcement efforts.

Adopted this 7th day of July 2016.

METROPOLITAN AREA PLANNING COMMISSION

Carol Chapman Neugent
Carol Chapman Neugent, Chair MARC

ATTEST:

Dale Miller
Dale Miller, Secretary

STAFF REPORT
MAPC July 7, 2016

CASE NUMBER: CON2016-00028

APPLICANTS/AGENT: Kenneth E. and Marilyn B. Pauly Revocable Trust, c/o Kenneth and Marilyn Pauly, Trustees; Keith and Marga Harrington Trust, c/o Keith A. Harrington, Trustees; Lemon Family Farm, LLC, c/o Roger W. Lemon Jr. Manager; Occidental Chemical Corporation, c/o Robert Peterson, President (applicants) Milo M. Unruh Jr. (agent)

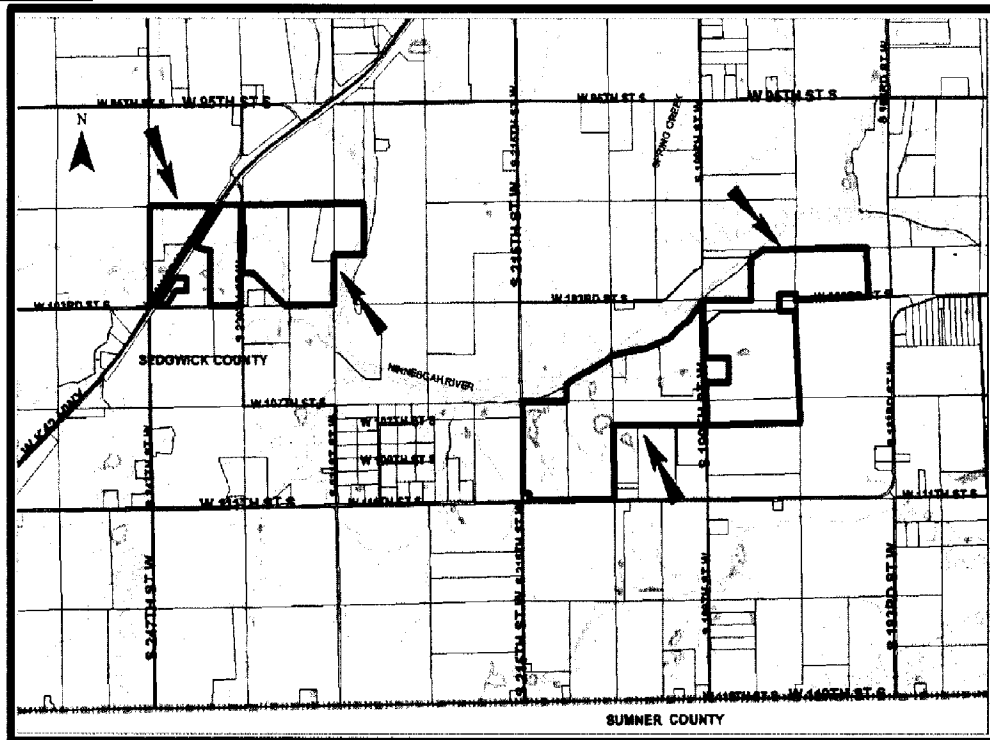
REQUEST: Conditional Use to amend CU-509, which permits mining and quarrying and to increase the area of CU-509

CURRENT ZONING: RR Rural Residential

SITE SIZE: 934-acres

LOCATION: The east portion is generally located northeast of 111th & 103rd Streets South and 215th and 199th Streets West (BoCC 2). The west portion is generally located north of 103rd Street South on both the east and west sides of K-42 & east of 231st Street West (BoCC 3).

PROPOSED USE: Extraction of salt water



BACKGROUND: The applicants are requesting Conditional Use approval to amend the RR Rural Residential zoned site of Conditional Use CU-509. CU-509 permitted “mining and quarrying,” specifically the extraction of salt water from 454-acres of RR zoned tracts for 30-years with eight conditions; see attached Metropolitan Area Planning Commission (MAPC) Resolution, approved March 11, 1999. If approved the request would enlarge CU-509 to include another 480-acres of RR zoned land and to amend/modify the eight conditions. The Wichita-Sedgwick County Unified Zoning Code (UZO) permits mining and quarrying in the RR zoning district with Conditional Use approval.

The applicant’s color Exhibit B-1 (site plan) shows the two original tracts; the 288-acre Tract 1 (green tract) and the 166-acre Tract 2 (yellow tract). Both tracts are located north of 111th Street South and east of 215th Street West. Both sites generally abut the south side of the Ninnescah River, following the river northeast past 103rd Street South and within 650 feet of 183rd Street West. There is a gap between Tract 1 and Tract 2, which the applicants propose to fill with the additional 160-acre Tract 3 (red tract located between the green and yellow tracts). 215th Street West divides Sedgwick County into the Board of County Commissioner’s Districts (BoCC) 2 and 3. Properties located east of 215th Street West, such as Tracts 1, 2 and 3, are in BoCC 2. Properties located west of 215th Street West, such as Tract 4 (red tract by itself), are in BoCC 3. The proposed additional 320-acre Tract 4 is located approximately three-quarters of mile west of 215th Street West, on both the east and west sides of Kansas Highway K-42 and 239th Street West and north of 103rd Street South.

A summary of the proposed amendments (Exhibit B, pages 3-5) to the eight conditions of CU-509 are:

1. Has additional language stating that that the site will be developed in accordance with the rules, guidelines and regulations of the Kansas Department of Health and Environment (KDHE), but that the specific location of the lines and wells are subject to possible changes as development circumstances warrant.
2. Remains the same with the exception of allowing on-site wells to be no closer than 200 feet from adjoining properties if that property is not included as part of the Conditional Use and/or under ownership or lease by the applicants as prescribed by the rules, guidelines and regulations of KDHE.
3. Removes the restriction of having certain times and days for drilling and construction activities during the development phase of the sites. The applicants claim that since 1999 there has been new and approved drilling equipment, development methods and technology advances that have greatly reduced the noise generated from the equipment and eliminated the need for work hour and work day restrictions. The applicants goes on to elaborate those improvements in Exhibit B, pages 3, 4, 6, 7, 11, and 12
4. Remains the same.
5. Specifies that the noise emitted by equipment permanently installed on the site after drilling and development activities are completed shall not be audible beyond the property lines of the application area, except for those circumstances when occasional maintenance is required by KDHE; testing of wells is mandated.
6. Moves the start of the 30-year operational time from 1999 (ending in 2029) to the approval of CON2016-00028 by the MAPC or the BoCC (ending in 2046).
7. Is no longer needed as the applicant has stated that the public street right-of-way dedications have been completed.
8. Has additional language in regards to what would render the Conditional Use null and void.

The method of extraction in 1999 was hydro fracturing but is now done by mechanically drilling using coiled tubing and directionally guided horizontal drilling techniques. All extraction is limited to the applicants’ properties and will not cross over into adjoining properties, staying no closer than 200 feet from the adjoining properties that are not in the application. No waste water is generated. The sites will

not require an on-site sewer system. The pumping operations will be housed in 16-foot by 12-foot well houses that will be painted in earth tone colors. Each well house will have a process control system (PCS) computer that monitors, regulates and controls the operation. All of the PCS will be connected to a central control room located off of 95th Street South and 183rd Street West. In addition the operations will be checked daily by the applicants moving from well to well in a pickup truck. The extracted salt water is sent by underground pipeline, including a pipeline underneath the Ninnescha River, to the Occidental Chemical Chlor-alkali plant located approximately nine-miles northeast of the site at 6200 South Ridge Road. The pipeline underneath the Ninnescha River was installed late 2000 or early 2001, approximately 18 feet below the riverbed. The applicants have stated that prior to the pipeline being installed Occidental contacted various agencies including the Corp of Engineers, KDHE, Underground Injection Control, the Kansas Corporation Commission and the Kansas Division of Water Resources.

KDHE does not have regulations for the pipelines that carry the brine, but does consider these lines in their overall review of the operation of the facility. KDHE has stated that the brine at this facility is not particularly corrosive and the piping is of good quality steel, which makes leaks on these line a very low risk. All brine is corrosive in the presence of oxygen. However, the applicants have stated that the pipelines do not have corrosion because of two specific reasons: the brine's purity or lack of contaminants in the Occidental brine field, and; and, the pipeline is kept completely full of brine to exclude the presence of any oxygen. As previously noted solution mining operation, which includes the pipelines, is PCS monitored for flow rate and pressure. As previously noted daily field checks are also conducted by Occidental.

This portion of unincorporated, rural RR zoned Sedgwick County is located over a southwest portion of the geological feature known as the Wellington Formation, which extends over parts of McPherson, Harvey, and Sedgwick Counties. There are large deposits of salt in the Wellington Formation, which is currently being extracted by the applicants. One of the applicants, Occidental Chemical, has been extracting salt water from this area since 1962. There are currently 10 operating salt water extraction facilities located in the area. The area is developed primarily as agricultural fields with scattered farmsteads and a few large tract single-family residences. The Ninnescah River and its drainage tributaries impact a large portion of this area as evidence by most of the west site/tract being in the FEMA 100-year Floodplain and at least half of the east site/tracts also being located in the FEMA 100-year Floodplain.

CASE HISTORY: Conditional Use CU-509 permitted "mining and quarrying," specifically the extraction of salt water from 454-acres of RR zoned tracts for 30-years with eight conditions; MAPC Resolution, approved March 11, 1999. The 454-acres are located north of 111th Street South and east of 215th Street West. Both sites generally abut the south side of the Ninnescah River, following the river northeast past 103rd Street South and within 650 feet of 183rd Street West. CON2012-00038 adjusted CU-509's site plan to allow a cluster of wells as well as an in-line layout of wells. There has been no recorded violations reported to the Metropolitan Area Building and Construction Department (MABCD).

ADJACENT ZONING AND LAND USE:

North:	RR	Ninnescah River, agricultural fields, scattered farmsteads
South:	RR	Ninnescah River agricultural fields, scattered farmsteads
East:	RR	Ninnescah River agricultural fields, large tract single-family residences, scattered farmsteads
West:	RR	Ninnescah River agricultural fields, large tract single-family residences

PUBLIC SERVICES: Parts of the sites are located in Rural Water District 5. There is no public sewer and the proposed operation will not require on-site sewer. Access to the sites are off of K-42, a paved

two-lane Kansas highway or 111th Street South, a paved two-lane County highway. Access is also provided by the unpaved section line roads 199th Street West, 215th Street West, 239th Street West and 103rd Street South.

CONFORMANCE TO PLANS/POLICIES: The “2035 Urban Growth Concept Map” of the Comprehensive Plan identifies the general location as “rural.” The rural category encompasses land outside the 2035 urban growth areas for Wichita and the small cities. Agricultural uses, rural-based businesses, and larger lot residential exurban subdivisions likely will be developed in this area. Commercial/industrial development should be limited to the following: agricultural-oriented uses; rural home occupations; natural resource dependent; convenience services; highway-oriented services at interchange areas; or uses that need significant buffering from residential areas (to mitigate nuisance or hazard impacts).

The Plan discourages encroachment of land uses such as residential and recreation that would be negatively impacted by noise, dust, odor, light, and other impacts of agricultural operations into primarily agricultural areas outside the 2035 Urban Growth Areas. Industrial and commercial uses located in rural areas should be separate and distinct from lower-intensity lands uses and should provide appropriate screening and buffering to ensure compatibility among land uses.

RECOMMENDATION: Based upon the information available at the time the staff report was prepared it is recommended that the Conditional Use request for the extraction of salt water be APPROVED subject to the following conditions:

1. The extraction of salt water from the described 934-acre site shall be good for 30-years beginning the day of the final approval by the appropriate governing body. Upon the end of the permitted 30-years of the extraction of salt water from the site, the well houses and all equipment will be removed from site and it will be returned to its original state as agricultural fields along KDHE rules, guidelines, and regulations.
2. The site will be developed in accordance with the rules, guidelines and regulations of the Kansas Department of Health and Environment (KDHE) and other appropriate local, state and federal rules, guidelines and regulations. The site will be developed as indicated on the site plan, but that the specific location of the lines and wells are subject to possible changes as development circumstances warrant. All applicable local, state, and federal permits necessary for the extraction operation and for flood plain development shall be obtained and maintained.
3. On-site wells will be no closer than 200 feet from adjoining properties if that property is not included as part of the Conditional Use and/or under ownership or lease by the applicants as prescribed by the rules, guidelines and regulations of KDHE. On-site wells shall be either in line or in a cluster pattern as shown on the site plan.
4. The applicant shall obtain all required permits and inspections as required by Sedgwick County, the State of Kansas and any needed federal agency for the extraction of salt from the site.
5. Noise emitted by equipment permanently installed on the site after drilling and development activities are completed shall not be audible beyond the property lines of the application area, except for those circumstances when occasional maintenance is required by KDHE; testing of wells is mandated.
6. If operations have not begun within one year of approval, the Conditional Use shall be null and void.
7. If the Zoning Administrator finds that there is a violation of any of the conditions of this Conditional Use, the Zoning Administrator may, with the concurrence of the Planning Director, declare the Conditional Use null and void. Upon the receipt of a complaint that is determined to be a violation of the conditions of approval, the applicant shall be notified of the complaint and have 72 hours to contact zoning enforcement to address the complaint. Failure to address the

validated complaint may lead to additional enforcement efforts.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: This portion of unincorporated, rural RR zoned Sedgwick County is located over a southwest portion of the geological feature known as the Wellington Formation, which extends over parts of McPherson, Harvey, and Sedgwick Counties. There are large deposits of salt in the Wellington Formation, which is currently being extracted by the applicants and sent by pipeline to the Occidental Chemical Chlor-alkali plant located approximately nine-miles northeast of the site at 6200 South Ridge Road. One of the applicants, Occidental Chemical, has been extracting salt water from this area since 1962. There are currently 10 operating salt water extraction facilities located in the area. The area is developed primarily as agricultural fields with scattered farmsteads and a few large tract single-family residences. The Ninnescah River and its drainage tributaries impact a large portion of this area as evidence by most of the west site/tract being in the FEMA 100-year Floodplain and at least half of the east site/tracts also being located in the FEMA 100-year Floodplain.
2. The suitability of the subject property for the uses to which it has been restricted: The site is zoned RR. The RR zoning district accommodates agricultural uses, rural-based businesses, natural resource dependent uses, such as mining and quarrying and larger lot residential exurban subdivisions in areas where a full range of municipal facilities and services are not available and not likely to be available in the near future. The RR zoning district is generally compatible with the "rural" designation of the "2035 Urban Growth Concept Map" of the Comprehensive Plan.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: The requested action permits an expansion of Conditional Use CU-509, the extraction of salt water. There have been no complaints filed with the MABCD or KDHE on CU-509, which would seem to indicate that the use has been integrated into this rural, unincorporated portion of southwest Sedgwick County. KDHE considers the applicant Occidental Chemical to be a careful and prudent operator.

There is a sinkhole located in an old brine field located approximately a quarter-mile south of the Occidental Chemical brine field offices, southwest of the intersection of 183rd Street West and 95th Street South. This old field where the sinkhole is located was operated before the regulations for these wells came into effect in 1979 and by a company other than Occidental. The regulations in effect are designed to prevent sinkholes and no sinkholes have occurred for wells operated under the regulations. Impacts of a sinkhole are potential brine contamination of groundwater and soil and damage to any property within the impact area of the sinkhole.

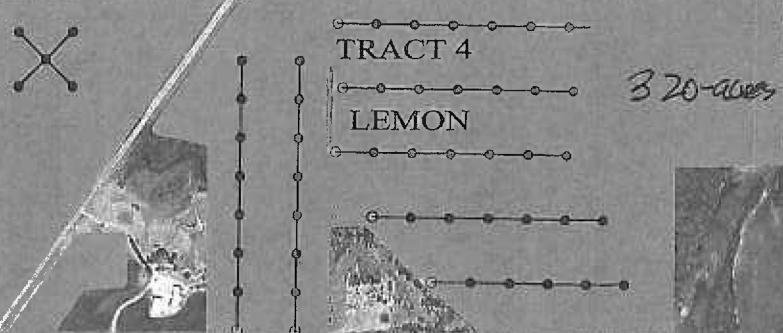
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The 2035 Urban Growth Concept Map" of the Comprehensive Plan identifies the general location as "rural." The rural category encompasses land outside the 2035 urban growth areas for Wichita and the small cities. Agricultural uses, rural-based businesses, and larger lot residential exurban subdivisions likely will be developed in this area. Commercial/industrial development should be limited to the following: agricultural-oriented uses; rural home occupations; natural resource dependent, such as mining and quarrying; convenience services; highway-oriented services at interchange areas; or uses that need significant buffering from residential areas (to mitigate nuisance or hazard impacts).

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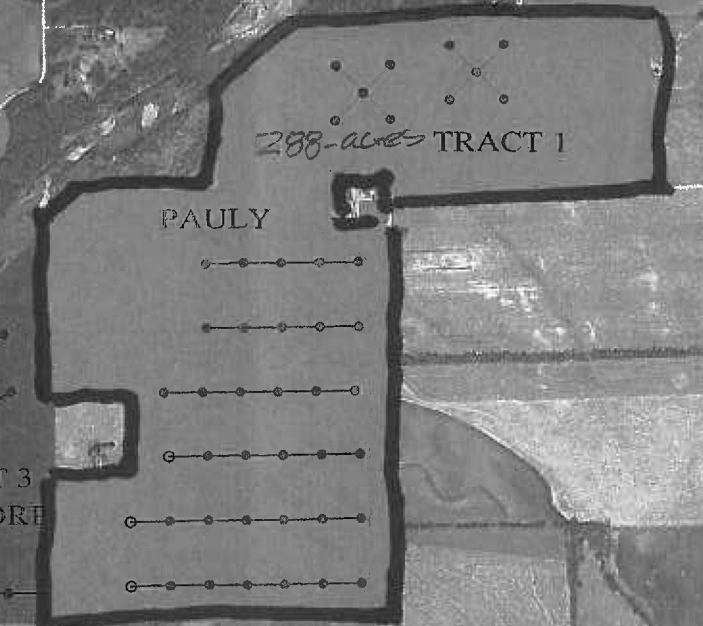
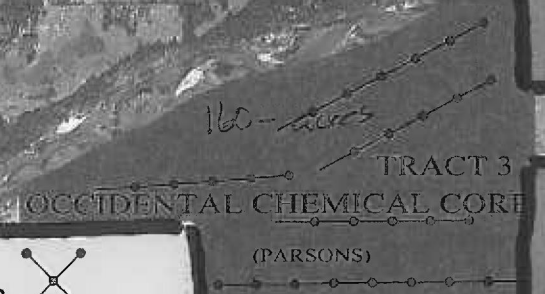
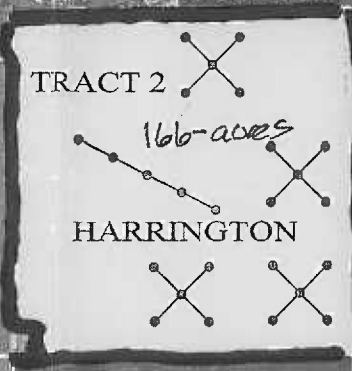
5. Impact of the proposed development on community facilities: Existing or required facilities are in place to address anticipated demands on community facilities.

CON2016-00028

EXHIBIT B-1
OCCIDENTAL CHEMICAL CORPORATION
EXISTING AND PROPOSED BRINE FIELD DEVELOPMENTS
Parts of Sections 23 & 24, Township 29 South, Range 3 West
And
Parts of Sections 20, 29, and 30, Township 29 South, Range 2 West



SCALE: 1" = 1500'
FILE #2016001
0' 1500' 3000'
PREPARED: JANUARY 4, 2016



TERRA TECH //
// LAND SURVEYING INC.

539 N Kessler
Wichita, Kansas 67203
(316) 641-4949
T29S29W10E1T

SITE PLAN

original CO-509

APPROVED Aug 1, 2016 BY Bill Longacker

NINNESCAH RIVER