

POSTED  
11-4-74  
*[Signature]*

ACTION

	DATE
HCPC COMMITTEE	<u>12-12-74</u>
M.A.P.C.	<u>12-12-74</u>
B.C.C./B. CO. C.	<u>1-29-75</u> <i>reconsider</i>

CU-166 - Kansas Turnpike Authority proposes sand extraction facility on west side of Kansas Turnpike and so. of 63rd St. So.

5539  
 Map No. N-5-D  
 Sec. 33  
 Twp. 28S  
 Range 1E

DATA SHEET  
 (ZONING & CONDITIONAL USE)

Z- \_\_\_\_\_  
 SCZ- \_\_\_\_\_  
 CU- 166  
 Filed 10-22-74

Sand Extraction Plant

APPLICATION DATA: ~~XXXX~~ KS  
 1. Applicant: Kansas Turnpike Authority  
 Address 9401 E. Kellogg Phone 682-4537  
 2. Agent: Jerry L. Brindle, General Manager  
 Address 9401 E. Kellogg, P.O. Box 18007 Phone 682-4537  
 3. General Location: West side of Kansas Turnpike and south of  
635d St. So. Address \_\_\_\_\_  
 4. Proposed Use: \_\_\_\_\_

AREA DATA:  
 1. Acres: 24.2 ( 871 ( 1257 ft. by 1257 ft.) )  
 2. Adjoining Zoning: E \_\_\_\_\_ S \_\_\_\_\_ W \_\_\_\_\_ N \_\_\_\_\_  
 3. Land Use: East KANSAS TURNPIKE South FLOOD CONTROL DITCH  
 West UNDEVELOPED North FRUIT ORCHARDS  
 4. Sketch Plan Land Use is for: \_\_\_\_\_  
 5. Present Land Use is for: UNDEVELOPED  
 6. Area ~~(is not)~~ (is not) platted.

PROCEDURE DATA:  
 1. Zoning Committee \_\_\_\_\_ by \_\_\_\_\_  
 2. MAPC Meeting: \_\_\_\_\_

Date	Action
<u>12-12-74</u>	<u>HCPC Approved</u>
<u>12-12-74</u>	<u>ma pc Approved</u>

3. Governing Body ~~Board of County Commissioners~~ Bd. County Commissioners  

Date	Action	Resolution
<u>1-29-75</u>	<u>Approved as Recommended</u>	<u>published 2-10-75</u>

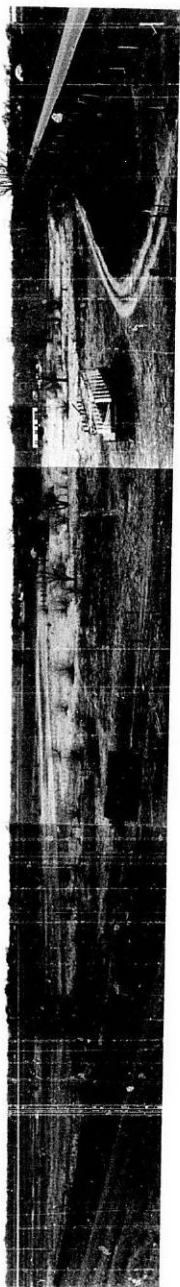
NOTES:

MOORE & IRBY  
 ATTORNEYS AT LAW  
 1014 CENTURY PLAZA BLDG.  
 WICHITA, KANSAS 67202  
 CURTIS IRBY PHONE 269-2201

Notifies on all correspondence

SHINCLE'S  
 No. 2153C  
 HARTING, MN, LOE, ANDRES  
 LOCAL CH. MEMBERS, T. C. S. A.





1.



2.



3.



A.

( L ) Published in The Wichita Beacon on 2-10, 1974<sup>8</sup>.

R E S O L U T I O N

CASE NO. CU-166

A RESOLUTION PERMITTING A SAND EXTRACTION OPERATION ON PROPERTY ZONED "R" RURAL RESIDENTIAL

ON CERTAIN LANDS LOCATED WITHIN THE UNINCORPORATED TERRITORY LYING WITHIN THREE MILES OF EITHER THE CITY OF WICHITA, THE CITY OF HAYSVILLE, THE CITY OF DERBY, THE CITY OF MULVANE, THE CITY OF VALLEY CENTER, THE CITY OF GODDARD, AND THAT PORTION OF THE AREA WITHIN THREE MILES OF THE CITY OF CHENEY AS ESTABLISHED BY THE BOARD OF COUNTY COMMISSIONERS ON OCTOBER 3, 1973, ALL IN SEDGWICK COUNTY, KANSAS, UNDER THE AUTHORITY GRANTED BY SECTION 3.A.8.f) AND SECTION 11.E OF THE ZONING RESOLUTION ADOPTED BY THE BOARD OF COUNTY COMMISSIONERS OF SEDGWICK COUNTY, KANSAS, ON MARCH 3, 1958, AND SUBSEQUENT AMENDMENTS THERETO.

BE IT RESOLVED BY THE BOARD OF COMMISSIONERS OF SEDGWICK COUNTY, KANSAS:

SECTION I. That after receiving a recommendation from Wichita-Sedgwick County Metropolitan Area Planning Commission and after said Planning Commission has given proper notice and held a public hearing as provided by law, and under authority granted by Section 3.A.8.f) and Section 11.E. of the Zoning Resolution, as amended, a Conditional Use Permit to allow a sand extraction operation on property zoned "R" Rural Residential

is hereby approved on the lands legally described as follows:

A tract of land in the NW 1/4 of Sec. 33, T-28-S, R-1-E of the 6th P.M., Sedgwick County, Kansas, described as follows: Beginning at a point on the north line and 461.37 feet west of the NE corner NW 1/4 of said Sec. 33, being 175 feet west of the center line Survey of the Kansas Turnpike Station 4533+87.50; thence south parallel to said Centerline making an included angle of 91°11' with the north line of said NW 1/4, Sec. 33 a distance of 591.12 feet to a point 175 feet west at right angles to said Centerline Station 4528+00; thence east at right angles to said Centerline a distance of 25 feet; thence south parallel to said Centerline 701.83 feet more or less to a point on the north right-of-way of the Wichita Valley Center Flood Control Project; thence northwest along said north right-of-way a distance of 887 feet more or less to the west line of the E 1/2 NW 1/4 of said Sec. 33; thence north along said west line a distance of 1303.7 feet more or less to a point on the north line of said NW 1/4 of Sec. 33; thence east 855.6 feet more or less to the point of beginning, except the road. Generally located on the west side of the Kansas Turnpike and south of 63rd Street South.

SUBJECT TO THE FOLLOWING:

- a. The applicant dedicating by separate instrument the additional ten feet of half-street right-of-way necessary for 63rd Street South.
- b. The applicant shall contact M. S. Mitchell of the Flood Control-Maintenance Office and shall obtain a letter stating that satisfactory arrangements have been made regarding drainage and loop levee construction; a copy of said letter shall be submitted to the Planning Department.

The applicant shall submit a restrictive covenant to the Planning Department, approved as to content by the Flood Control Division and to form by the County Counselor, providing for the construction and/or maintenance of a loop levee around the sandpit to a minimum height as the design water surface or approximately 1268 MSL. Said loop levee shall be constructed in accordance with construction specifications, Sections 1 and 4 inclusive, and maintenance specifications Sections 1 and 2, of Construction and Maintenance Specifications as prepared by the Maintenance Division of the Department of Public Works of the City of Wichita, Kansas; said covenant shall run with the land and be binding on all owners, successors or assigns. If, for any reason, such covenant is not submitted, the applicant shall comply with KSA 19-3309, which provides that no excavation shall be made or commenced within a thousand feet of a flood control works.

- c. No part of the sand plant operation, including the stockpiling of sand or storage of equipment, shall occur in the north 100 feet except ingress and egress to 63rd Street South.
- d. The applicant shall proceed in accordance with the operational sketch plan approved by the Metropolitan Area Planning Commission, and shall excavate the lake and form the banks to the approximate 16 acre size as indicated on the approved plan.
- e. A minimum 72-inch high chainlink fence shall be constructed prior to the beginning of the excavation operation and shall be maintained along the perimeter of the site, with posts set not more than 16 feet apart. The fence may provide for reasonable access gates installed at the same height and of the same construction as the fence, which gates shall be kept locked except when in use.
- f. The earth shall be extracted to at least a minimum depth of six (6) feet below the flow line of the floodway.
- g. To provide for bank stabilization and safety of future uses, the side slopes of the excavation shall be no more steep than five horizontal to one vertical.
- h. All of the area outside of the sandpit lake shall be graded so as to drain into the lake.
- i. The applicant shall be responsible for:
  - 1. Insuring that the loop levee elevation be maintained.
  - 2. Seeing that all operational roads are maintained in a graveled condition.
- j. The applicant shall be responsible for planting and maintaining three rows of either deciduous and/or coniferous trees along the north and west property lines. Said trees are to be planted in the first growing season after the approval of this conditional use (spring 1975).
- k. The sand plant operation shall commence in the year 1974 and shall cease operating after 10 years unless a new permit is authorized by the appropriate governing body.

1. The applicant shall submit a restrictive covenant to the Planning Department in a form satisfactory to the County Counselor, providing that no foreign matter, such as rubbish, car bodies, etc., shall be deposited within the excavation after approval of the Conditional Use by the Board of County Commissioners.
- m. The natural drainage flow shall be protected throughout the area. Any improvements made in the natural drainage or any obstruction or diversions shall meet with the approval of the Wichita-Sedgwick County Flood Control Office and the County Engineer, and shall be according to the specifications and standards of these authorities.
- n. Concrete and asphalt mixing plants, and commercial recreational activities, such as boating, fishing, skiing, etc., shall not be permitted in the area, unless duly authorized under provisions of the County Zoning Resolution and amendments thereto.
- o. All slopes shall have vegetative covering consisting of a perennial drought-resistant grass or combination of grasses which will permit the establishment of a good sod cover to help prevent erosion.
- p. The property shall be platted prior to the issuance of any zoning or building permits, except those necessary for the sand excavation operation.
- q. Five copies of the revised operational plan, indicating the minimum water depth as 6 feet, loop levee, the location of the sand plant operation and the perimeter setback lines shall be submitted to the Planning Department.
- r. The applicant shall comply with conditions a, b, l, and q. prior to the publication of the resolution effectuating the conditional use.
- s. All conditions of approval shall be complied with within one year from the date of approval by the Board of County Commissioners; or the conditional use permit shall be null and void.

SECTION II. That upon the taking effect of this Resolution, the notation of such Conditional Use approval shall be entered in the Official zoning atlas on file in the Office of the County Zoning Administrator and in the Office of the Wichita-Sedgwick County Metropolitan Area Planning Department.

SECTION III. That this Resolution shall take effect and be in force from and after its adoption and publication in the Official County Paper.

PASSED AND ADOPTED at Sedgwick County, Kansas, this 29<sup>th</sup> day of January, 1975.

Eugene E. Rusk, Chairman  
John Hale, Commissioner  
Wm. Lead, Commissioner

ATTEST:  
George Pierce  
 County Clerk, George Pierce  
 (SEAL)

Approved as to form by County Counselor

Jack Turner  
 Jack Turner



**THE CITY OF WICHITA**

**OFFICE OF** Ass't. Supt. of Public **DATE** Feb. 3, 1975  
Works Maint.

**TO** Jack Galbraith, Chief Planner, MAPD

**FROM** M. S. Mitchell

**SUBJECT** -- CU-166, Conditional Use Request  
for KTA

Reference is made to the requirement that the applicant should obtain from this office a letter that satisfactory arrangements have been made regarding drainage and loop levee construction. I have been handed a copy of a Covenant Running with the Land which guarantees construction and maintenance of a loop levee if conditions exist which make the levee necessary. I am assured that drainage of all of the area will be concentrated to the pit for which the application is required and have no further requirements.

I trust this information is sufficient to permit final processing of the application.

A handwritten signature in dark ink, appearing to read "M. S. Mitchell".

M. S. Mitchell,  
Ass't. Superintendent of  
Public Works Maintenance

MSM/glm

cc: G. H. Wilton  
Curtis Irby, Moore and Irby  
Sand Pit Correspondence File  
CU-166 File

January 29, 1975

Donald C. Gisick, City Clerk

Jack H. Galbraith, Chief Planner

Case No. CU-166 - Sand Extraction Operation on  
the west side of Kansas Turnpike and south of  
63rd Street South

Attached are copies of two covenants and a document marked  
"Exhibit A", which were conditions of approval on the above-  
captioned case by the Board of County Commissioners at their  
meeting of January 29, 1975. These covenants and document  
should be filed of record with the Register of Deeds, with the  
cost being billed to the Kansas Turnpike Authority, 9401 East  
Kellogg, Wichita, Kansas 67211

Jack H. Galbraith  
Chief Planner

JHG:GLS:ber

Attachments

January 7, 1975

Jack Turner, County Counselor

Jack H. Galbraith, Chief Planner

CU-166 - Conditional Use for sand extraction  
purposes - West side of Kansas Turnpike and  
south of 63rd Street South

Attached for your review and approval are copies of the covenants which were required as conditions of approval on the above-captioned case. These covenants have been prepared on standard forms prepared by the Planning Department and the Flood Control Office.

If you have any comments in regard to these covenants, we would appreciate hearing from you prior to the meeting of the Board of County Commissioners on January 15, 1975, so that any necessary corrections may be made prior to the publication of the resolution, in the event the application is approved by the Board of County Commissioners.

JHG:GLS:ber

Attachment

January 13, 1975

Mr. Curtis Irby  
1014 Century Plaza Building  
Wichita, Kansas 67202

Subject: CU-166 - Conditional  
Use Request - West side  
of the Kansas Turnpike  
and south of 63rd St. So.

Dear Mr. Irby:

The County Clerk's office advised us today that the above-captioned case would not be considered at the Board of County Commissioners meeting this Wednesday as originally scheduled. We were advised that they are installing the new Commissioner and electing officers and no business will be conducted. Inasmuch as they are not meeting the 22nd of January, this case will be scheduled for their consideration on January 29, 1975, the meeting to start at 9:00 a.m., in Room 320 Sedgwick County Courthouse.

If you have any questions concerning this matter, please call.

Sincerely,

Jack H. Galbraith  
Chief Planner

JHG:js

cc: Warner Moore, Attorney, 1014 Century Plaza Bldg., 67202  
Kansas Turnpike Authority, 9401 East Kellogg, 67211  
Jerry L. Brindle, General Manager, 9401 E. Kellogg, 67211

( ) Published in The Wichita Beacon on \_\_\_\_\_, 1974.

R E S O L U T I O N

CASE NO. CU-166

A RESOLUTION PERMITTING A SAND EXTRACTION OPERATION ON PROPERTY ZONED "R" RURAL RESIDENTIAL

ON CERTAIN LANDS LOCATED WITHIN THE UNINCORPORATED TERRITORY LYING WITHIN THREE MILES OF EITHER THE CITY OF WICHITA, THE CITY OF HAYSVILLE, THE CITY OF DERBY, THE CITY OF MULVANE, THE CITY OF VALLEY CENTER, THE CITY OF GODDARD, AND THAT PORTION OF THE AREA WITHIN THREE MILES OF THE CITY OF CHENEY AS ESTABLISHED BY THE BOARD OF COUNTY COMMISSIONERS ON OCTOBER 3, 1973, ALL IN SEDGWICK COUNTY, KANSAS, UNDER THE AUTHORITY GRANTED BY SECTION 3.A.8.f) AND SECTION 11.E OF THE ZONING RESOLUTION ADOPTED BY THE BOARD OF COUNTY COMMISSIONERS OF SEDGWICK COUNTY, KANSAS, ON MARCH 3, 1958, AND SUBSEQUENT AMENDMENTS THERETO.

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SUBJECT TO THE FOLLOWING:

- a. The applicant dedicating by separate instrument the additional ten feet of half-street right-of-way necessary for 63rd Street South.
- b. The applicant shall contact M. S. Mitchell of the Flood Control-Maintenance Office and shall obtain a letter stating that satisfactory arrangements have been made regarding drainage and loop levee construction; a copy of said letter shall be submitted to the Planning Department.

The applicant shall submit a restrictive covenant to the Planning Department, approved as to content by the Flood Control Division and to form by the County Counselor, providing for the construction and/or maintenance of a loop levee around the sandpit to a minimum height as the design water surface or approximately 1268 MSL. Said loop levee shall be constructed in accordance with construction specifications, Sections 1 and 4 inclusive, and maintenance specifications Sections 1 and 2, of Construction and Maintenance Specifications as prepared by the Maintenance Division of the Department of Public Works of the City of Wichita, Kansas; said covenant shall run with the land and be binding on all owners, successors or assigns. If, for any reason, such covenant is not submitted, the applicant shall comply with KSA 19-3309, which provides that no excavation shall be made or commenced within a thousand feet of a flood control works.

- c. No part of the sand plant operation, including the stockpiling of sand or storage of equipment, shall occur in the north 100 feet except ingress and egress to 63rd Street South.
- d. The applicant shall proceed in accordance with the operational sketch plan approved by the Metropolitan Area Planning Commission, and shall excavate the lake and form the banks to the approximate 16 acre size as indicated on the approved plan.
- e. A minimum 72-inch high chainlink fence shall be constructed prior to the beginning of the excavation operation and shall be maintained along the perimeter of the site, with posts set not more than 16 feet apart. The fence may provide for reasonable access gates installed at the same height and of the same construction as the fence, which gates shall be kept locked except when in use.
- f. The earth shall be extracted to at least a minimum depth of six (6) feet below the flow line of the floodway.
- g. To provide for bank stabilization and safety of future uses, the side slopes of the excavation shall be no more steep than five horizontal to one vertical.
- h. All of the area outside of the sandpit lake shall be graded so as to drain into the lake.
- i. The applicant shall be responsible for:
  1. Insuring that the loop levee elevation be maintained.
  2. Seeing that all operational roads are maintained in a graveled condition.
- j. The applicant shall be responsible for planting and maintaining three rows of either deciduous and/or coniferous trees along the north and west property lines. Said trees are to be planted in the first growing season after the approval of this conditional use (spring 1975).
- k. The sand plant operation shall commence in the year 1974 and shall cease operating after 10 years unless a new permit is authorized by the appropriate governing body.

1. The applicant shall submit a restrictive covenant to the Planning Department in a form satisfactory to the County Counselor, providing that no foreign matter, such as rubbish, car bodies, etc., shall be deposited within the excavation after approval of the Conditional Use by the Board of County Commissioners.
- m. The natural drainage flow shall be protected throughout the area. Any improvements made in the natural drainage or any obstruction or diversions shall meet with the approval of the Wichita-Sedgwick County Flood Control Office and the County Engineer, and shall be according to the specifications and standards of these authorities.
- n. Concrete and asphalt mixing plants, and commercial recreational activities, such as boating, fishing, skiing, etc., shall not be permitted in the area, unless duly authorized under provisions of the County Zoning Resolution and amendments thereto.
- o. All slopes shall have vegetative covering consisting of a perennial drouth-resistant grass or combination of grasses which will permit the establishment of a good sod cover to help prevent erosion.
- p. The property shall be platted prior to the issuance of any zoning or building permits, except those necessary for the sand excavation operation.
- q. Five copies of the revised operational plan, indicating the minimum water depth as 6 feet, loop levee, the location of the sand plant operation and the perimeter setback lines shall be submitted to the Planning Department.
- r. The applicant shall comply with conditions a, b, l, and q. prior to the publication of the resolution effectuating the conditional use.
- s. All conditions of approval shall be complied with within one year from the date of approval by the Board of County Commissioners; or the conditional use permit shall be null and void.

SECTION II. That upon the taking effect of this Resolution, the notation of such Conditional Use approval shall be entered in the Official zoning atlas on file in the Office of the County Zoning Administrator and in the Office of the Wichita-Sedgwick County Metropolitan Area Planning Department.

SECTION III. That this Resolution shall take effect and be in force from and after its adoption and publication in the Official County Paper.

PASSED AND ADOPTED at Sedgwick County, Kansas, this \_\_\_ day of \_\_\_\_\_, 1975.

\_\_\_\_\_, Chairman  
 \_\_\_\_\_, Commissioner  
 \_\_\_\_\_, Commissioner

ATTEST:

\_\_\_\_\_  
 County Clerk, George Pierce  
 (SEAL)

Approved as to form by County Counselor

\_\_\_\_\_  
 Jack Turner



EXCERPT FROM PLANNING COMMISSION MINUTES OF DECEMBER 12, 1974:

10. Case No. CU-166 - Kansas Turnpike Authority requests approval of a Conditional Use permit for sand extraction operation on property zoned "R" Rural Residential and described as follows:

A tract of land in the NW 1/4 of Sec. 33, T-28-S, R-1-E of the 6th P.M., Sedgwick County, Kansas, described as follows: Beginning at a point on the north line and 461.37 feet west of the NE corner NW 1/4 of said Sec. 33, being 175 feet west of the center line Survey of the Kansas Turnpike Station 4533+87.50; thence south parallel to said Centerline making an included angle of 91°11' with the north line of said NW 1/4, Sec. 33 a distance of 591.12 feet to a point 175 feet west at right angles to said Centerline Station 4528+00; thence east at right angles to said Centerline a distance of 25 feet; thence south parallel to said Centerline 701.83 feet more or less to a point on the north right-of-way of the Wichita Valley Center Flood Control Project; thence northwest along said north right-of-way a distance of 887 feet more or less to the west line of the E 1/2 NW 1/4 of said Sec. 33; thence north along said west line a distance of 1303.7 feet more or less to a point on the north line of said NW 1/4 of Sec. 33; thence east 855.6 feet more or less to the point of beginning, except the road. Generally located on the west side of the Kansas Turnpike and south of 63rd Street South.

GALBRAITH pointed out the area on the map and reviewed the following staff report:

Comments

1. The applicant is requesting a conditional use permit to establish a sand extraction operation on approximately 24 acres of land zoned "R" Rural Residential and located on the south side of 63rd Street South in an area west of the Kansas Turnpike.
2. In considering sand and gravel extraction permits, the normal practice is to require the applicant to submit redevelopment plans for the property in order that the Planning and County Commissions may be assured that a hazardous area does not remain once the operation is concluded. In the present case, no redevelopment plan was submitted because the applicant (Kansas Turnpike Authority) has stated that the property is not planned for redevelopment and will remain in ownership by the Turnpike Authority. The Planning Commission may wish to require the applicant to submit a landscape plan and comply with any other such conditions in order to assure that the application area will not be subject to erosion and will be aesthetically pleasing once the operation has concluded.
3. The Wichita-Valley Center Maintenance Flood Control Project (Big Ditch) is located adjacent to subject property on the south and M. S. Mitchell of the Flood Control Maintenance Office has requested that the applicant submit a protective covenant for the construction of a loop levee around the entire sandpit, said loop levee being constructed to a minimum height as the design water surface or approximately 1268 MSL. If for some reason such covenant is not submitted, the applicant should revise the operational plan to reflect compliance with KSA 19-3309 which provides that no excavation shall be made or commenced within 1000 feet of a flood control works without first obtaining a permit.
4. Subject property has been the site for dirt extraction prior to the present time and although a "pit" or water retention area does not exist, the topsoil has been substantially removed and subject property is several feet in elevation below that of surrounding property.

5. Should the Planning Commission determine this request is logical and proper and recommend its approval, it should be approved subject to the following conditions:
- a. The applicant dedicating by separate instrument the additional ten feet of half-street right-of-way necessary for 63rd Street South.
  - b. The applicant shall contact M. S. Mitchell of the Flood Control-Maintenance Office and shall obtain a letter stating that satisfactory arrangements have been made regarding drainage and loop levee construction; a copy of said letter shall be submitted to the Planning Department.

The applicant shall submit a restrictive covenant to the Planning Department, approved as to content by the Flood Control Division and to form by the County Counselor, providing for the construction and/or maintenance of a loop levee around the sandpit to a minimum height as the design water surface or approximately 1268 MSL. Said loop levee shall be constructed in accordance with construction specifications, Sections 1 and 4 inclusive, and maintenance specifications Sections 1 and 2, of Construction and Maintenance Specifications as prepared by the Maintenance Division of the Department of Public Works of the City of Wichita, Kansas; said covenant shall run with the land and be binding on all owners, successors or assigns. If, for any reason, such covenant is not submitted, the applicant shall comply with KSA 19-3309, which provides that no excavation shall be made or commenced within a thousand feet of a flood control works.

- c. No part of the sand plant operation, including the stockpiling of sand or storage of equipment, shall occur in the north 100 feet except ingress and egress to 63rd Street South.
- d. The applicant shall proceed in accordance with the operational sketch plan approved by the Metropolitan Area Planning Commission, and shall excavate the lake and form the banks to the approximate 16 acre size as indicated on the approved plan.
- e. A minimum 72-inch high chainlink fence shall be constructed prior to the beginning of the excavation operation and shall be maintained along the perimeter of the site, with posts set not more than 16 feet apart. The fence may provide for reasonable access gates installed at the same height and of the same construction as the fence, which gates shall be kept locked except when in use.
- f. The earth shall be extracted to at least a minimum depth of six (6) feet below the flow line of the floodway.
- g. To provide for bank stabilization and safety of future uses, the side slopes of the excavation shall be no more steep than five horizontal to one vertical.
- h. All of the area outside of the sandpit lake shall be graded so as to drain into the lake.
- i. The applicant shall be responsible for:
  - 1. Insuring that the loop levee elevation be maintained.
  - 2. Seeing that all operational roads are maintained in a graveled condition.

- j. The applicant shall be responsible for planting and maintaining three rows of either deciduous and/or coniferous trees along the north and west property lines. Said trees are to be planted in the first growing season after the approval of this conditional use (spring 1975).
- k. The sand plant operation shall commence in the year 1974 and shall cease operating after 10 years unless a new permit is authorized by the appropriate governing body.
- l. The applicant shall submit a restrictive covenant to the Planning Department in a form satisfactory to the County Counselor, providing that no foreign matter, such as rubbish, car bodies, etc., shall be deposited within the excavation after approval of the Conditional Use by the Board of County Commissioners.
- m. The natural drainage flow shall be protected throughout the area. Any improvements made in the natural drainage or any obstruction or diversions shall meet with the approval of the Wichita-Sedgwick County Flood Control Office and the County Engineer, and shall be according to the specifications and standards of these authorities.
- n. Concrete and asphalt mixing plants, and commercial recreational activities, such as boating, fishing, skiing, etc., shall not be permitted in the area, unless duly authorized under provisions of the County Zoning Resolution and amendments thereto.
- o. All slopes shall have vegetative covering consisting of a perennial drought-resistant grass or combination of grasses which will permit the establishment of a good sod cover to help prevent erosion.
- p. The property shall be platted prior to the issuance of any zoning or building permits, except those necessary for the sand excavation operation.
- q. Five copies of the revised operational plan, indicating the minimum water depth as 6 feet, loop levee, the location of the sand plant operation and the perimeter setback lines shall be submitted to the Planning Department.
- r. The applicant shall comply with conditions a, b, l, and q. prior to the publication of the resolution effectuating the conditional use.
- s. All conditions of approval shall be complied with within one year from the date of approval by the Board of County Commissioners; or the conditional use permit shall be null and void.

GALBRAITH said the staff would recommend approval subject to the conditions shown in the staff report. He said a copy of the report had been sent to the Chairman of the Sand and Gravel Committee recently appointed by the Board of County Commissioners, but that he had not had any response.

WARNER MOORE, attorney for the applicant, said they were prepared to comply with the conditions suggested and that they had discussed with the Flood Control personnel the loop levee. In response to questions about the type of planting screen to be provided, MOORE said they would plant whatever kind is required by the authorities. One of the Commissioners pointed out that in a previous case of a sand pit when plantings were required, the trees actually planted were only 6 inches high which provided no protection whatsoever. HENNESSY said it did not appear that trees were necessary on the south and east, since to the south is the drainage area and to the east is the Turnpike.

When questioned about the possibility of eventual redevelopment, MOORE said he had never known of the Turnpike Authority to dispose of any of its holdings and he was sure they did not intend to in this case, but if by chance it was ever sold, it could be redeveloped with dwelling units; however, the Turnpike Authority would have no interest in redevelopment, and it would seem that the conditions would cover any future redevelopment.

No one appeared in opposition.

**MOTION:** That the Planning Commission recommend to the County Commission that this application be approved subject to:

- a. The applicant dedicating by separate instrument the additional ten feet of half-street right-of-way necessary for 63rd Street South.
- b. The applicant shall contact M. S. Mitchell of the Flood Control-Maintenance Office and shall obtain a letter stating that satisfactory arrangements have been made regarding drainage and loop levee construction; a copy of said letter shall be submitted to the Planning Department.

The applicant shall submit a restrictive covenant to the Planning Department, approved as to content by the Flood Control Division and to form by the County Counselor, providing for the construction and/or maintenance of a loop levee around the sandpit to a minimum height as the design water surface or approximately 1268 MSL. Said loop levee shall be constructed in accordance with construction specifications, Sections 1 and 4 inclusive, and maintenance specifications Sections 1 and 2, of Construction and Maintenance Specifications as prepared by the Maintenance Division of the Department of Public Works of the City of Wichita, Kansas; said covenant shall run with the land and be binding on all owners, successors or assigns. If, for any reason, such covenant is not submitted, the applicant shall comply with KSA 19-3309, which provides that no excavation shall be made or commenced within a thousand feet of a flood control works.

- c. No part of the sand plant operation, including the stockpiling of sand or storage of equipment, shall occur in the north 100 feet except ingress and egress to 63rd Street South.
- d. The applicant shall proceed in accordance with the operational sketch plan approved by the Metropolitan Area Planning Commission, and shall excavate the lake and form the banks to the approximate 16 acre size as indicated on the approved plan.
- e. A minimum 72-inch high chainlink fence shall be constructed prior to the beginning of the excavation operation and shall be maintained along the perimeter of the site, with posts set not more than 16 feet apart. The fence may provide for reasonable access gates installed at the same height and of the same construction as the fence, which gates shall be kept locked except when in use.
- f. The earth shall be extracted to at least a minimum depth of six (6) feet below the flow line of the floodway.
- g. To provide for bank stabilization and safety of future uses, the side slopes of the excavation shall be no more steep than five horizontal to one vertical.

- h. All of the area outside of the sandpit lake shall be graded so as to drain into the lake.
- i. The applicant shall be responsible for:
  - 1. Insuring that the loop levee elevation be maintained.
  - 2. Seeing that all operational roads are maintained in a graveled condition.
- j. The applicant shall be responsible for planting and maintaining three rows of either deciduous and/or coniferous trees along the north and west property lines. Said trees are to be planted in the first growing season after the approval of this conditional use (spring 1975).
- k. The sand plant operation shall commence in the year 1974 and shall cease operating after 10 years unless a new permit is authorized by the appropriate governing body.
  - 1. The applicant shall submit a restrictive covenant to the Planning Department in a form satisfactory to the County Counselor, providing that no foreign matter, such as rubbish, car bodies, etc., shall be deposited within the excavation after approval of the Conditional Use by the Board of County Commissioners.
- m. The natural drainage flow shall be protected throughout the area. Any improvements made in the natural drainage or any obstruction or diversions shall meet with the approval of the Wichita-Sedgwick County Flood Control Office and the County Engineer, and shall be according to the specifications and standards of these authorities.
- n. Concrete and asphalt mixing plants, and commercial recreational activities, such as boating, fishing, skiing, etc., shall not be permitted in the area, unless duly authorized under provisions of the County Zoning Resolution and amendments thereto.
- o. All slopes shall have vegetative covering consisting of a perennial drought-resistant grass or combination of grasses which will permit the establishment of a good sod cover to help prevent erosion.
- p. The property shall be platted prior to the issuance of any zoning or building permits, except those necessary for the sand excavation operation.
- q. Five copies of the revised operational plan, indicating the minimum water depth as 6 feet, loop levee, the location of the sand plant operation and the perimeter setback lines shall be submitted to the Planning Department.
- r. The applicant shall comply with conditions a, b, l, and q. prior to the publication of the resolution effectuating the conditional use.
- s. All conditions of approval shall be complied with within one year from the date of approval by the Board of County Commissioners; or the conditional use permit shall be null and void.

Hill moved, Rising seconded and it carried  
unanimously. (Arnholz and Gardenhire absent.)

-----

COVENANT RUNNING WITH THE LAND

WHEREAS, the undersigned as owner of the property hereinafter described has made application to the Metropolitan Planning Commission of the City of Wichita and County of Sedgwick for permission to use said property as a borrow or sand pit together with such other uses as may be necessary to carry on a borrow or sand pit operation on said land; and

WHEREAS, the lands adjacent to the above described tract are and will be developed for urban purposes and the operation of a borrow or a sand pit at such location will endanger the health, welfare and property of residents who may live in such areas unless certain protective measures are taken; and

WHEREAS, the undersigned desires to obligate himself and his successors in title to protect the public welfare by constructing and maintaining a loop levee upon said property and to subject and burden the fee title thereto so that such obligation is a covenant running with the land;

NOW THEREFORE, in consideration of the premises and the zoning by the Metropolitan Planning Commission of my land hereinafter described so as to permit the use thereof for borrow and/or sand pit operations, the undersigned hereby covenants to and with the Metropolitan Planning Commission, the Board of County Commissioners of Sedgwick County and City of Wichita, Kansas, on behalf of itself and its successors in title of said land, to construct or cause to be constructed and maintained without cost or expense to the County of Sedgwick or the City of Wichita, a loop levee on, around and enclosing any borrow or sand pit located on the following described land to-wit:

A tract of land in the NW/4 of Section 33, Township 28 South, Range 1 East of the 6th P.M., Sedgwick County, Kansas, described as follows: Beginning at a point on the north line and 461.37 feet west of the NE corner NW/4 of said Section 33, being 175 feet west of the center line Survey of the Kansas Turnpike Station 4533+87.50; thence south parallel to said Centerline making an included angle of 91°11' with the north line of said NW/4, Section 33 a distance of 591.12 feet to a point 175 feet west at right angles to said Centerline Station 4528+00; thence east at right angles to said Centerline a distance of 25 feet thence south parallel to said Centerline 701.83 feet more or less to a point on the north right-of-way of the Wichita Valley Center Flood Control Project; thence northwest

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WICHITA, KANSAS  
67202  
TELEPHONE 263-2201

along said north right-of-way a distance of 887 feet more or less to the west line of the E 1/2 NW 1/4 of said Section 33; thence north along said west line a distance of 1303.7 feet more or less to a point on the north line of said NW/4 of Section 33; thence east 855.6 feet more or less to the point of beginning, except the road,

all in accordance with the plans and specifications prepared by the City and County Engineers attached hereto marked Exhibit "A" and made a part hereof:

To secure and guarantee the above obligation, the undersigned hereby subjects and encumbers said property with the covenant and obligation to construct and maintain said loop levee as above described as a covenant running with and burdening the land and, in event of the failure by the undersigned or any of his successors in title within sixty (60) days after receipt of written notice from the County or City to fulfill the obligation above set forth, then and in such event the Board of Commissioners of Sedgwick County or the Governing Body of the City of Wichita may order such work done and thereafter maintain and charge the entire cost of such construction and maintenance as a first lien against said land to be collected and foreclosed in the same manner as a mortgage is foreclosed.

The undersigned warrants that it is the owner of the fee title to said tract of land and that the obligation and covenant above set forth constitutes a first and prior lien against and encumbering said land.

This instrument shall be recorded in the Office of the Register of Deeds, Sedgwick County, Kansas, so as to appear in the chain of title of said land.

Executed in triplicate this 27<sup>th</sup> day of December, 1974.

KANSAS TURNPIKE AUTHORITY

By Jerry L. Brindle  
Jerry L. Brindle, Manager

A C K N O W L E D G M E N T

STATE OF KANSAS,  
SS:  
SEDGWICK COUNTY,

BE IT REMEMBERED, that on this 27<sup>th</sup> day of December, 1974, before me, the undersigned, a Notary Public, in and for the County and State aforesaid, came Jerry L. Brindle, who is personally known to me to be the same person who executed the within instrument of writing, and such person duly acknowledged the execution of the same.

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IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my notarial seal, the day and year last above written.

*Marie Dutton*  
\_\_\_\_\_  
Notary Public



My Commission Expires: May 24, 1978

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EXH. A

**CONSTRUCTION SPECIFICATIONS**

**SECTION I - CLEARING AND GRUBBING**

**1-01. ORDER OF WORK:**

All clearing and grubbing as specified below will be done in advance of sub-grade preparation and levee embankment.

**1-02. CLEARING:** Operations shall consist of removal and disposal of trees, fallen timber, brush, logs, bushes, vines, stumps, drift wood, fences, heavy growth of crops, weeds and grass and other obstructions existing above ground level. Clearing will be done on the area beneath the levee embankment together with strips 10 feet wide beyond the embankment toe.

**1-03. GRUBBING:** Operations shall consist of thoroughly cleaning the area outlined in sub-paragraph 1-02 of all stumps, roots, buried logs and other matter which would be objectionable in the foundation of the levee.

**SECTION II - EXCAVATION**

An inspection trench 4 feet deep and 4 feet wide shall be excavated along the approximate center of the levee base.

**SECTION III - EMBANKMENT**

**3-01. EMBANKMENT FOUNDATION PREPARATION:** After clearing and grubbing of the embankment foundation and the excavation of the inspection trench has been completed, and immediately prior to the placement of embankment material, the entire earth surface on or against which fill is to be placed shall be thoroughly broken to a depth of six inches and the area to be occupied by the levee proper shall be compacted in accordance with the provisions of sub-paragraph 3-03. If for any cause this broken surface becomes compacted in such a manner that a plane of seepage or weakness might be induced, it shall again be thoroughly broken before the depositing of material thereon.

a. **Drainage** - The foundation receiving fill and the inspection ditch hereinbefore specified, and all partially completed fill shall be kept thoroughly drained.

b. **Frozen Grounds** - No fill shall be placed upon frozen ground.

**3-02. EMBANKMENT MATERIALS:** The levee embankment shall be constructed of the most nearly impervious materials available from the construction site. Under no circumstances shall frozen earth, snow, or ice be placed in the levee. Embankment materials should be as homogeneous as possible and contain no foreign matter or pockets of soft unstable material.

3-03. EMBANKMENT CONSTRUCTION: Materials shall be placed or spread in layers not to exceed 12 inches in thickness prior to compaction. Layers shall be started full out to the toe of the embankment and shall be carried substantially horizontal with sufficient crown or slope to provide satisfactory drainage during construction. When the surface of any compacted layer is too smooth to bond properly with the succeeding layer, it shall be scarified before the succeeding layer is placed on it.

a. Moisture Control - It is the intent of these specifications to secure an embankment having the maximum density obtainable with natural moisture content of the embankment materials. However, if the material is too wet or too dry for proper compaction steps shall be taken to bring the moisture content back to near the optimum range. Wetting may be accomplished by wetting the borrow pit from which the embankment material is obtained or by distribution of sufficient moisture in each layer before rolling.

b. Rolling Operations - When moisture content and conditions of the spread layers are satisfactory, each layer shall be compacted by not less than four (4) complete passes of a tamper-type roller conforming to the requirements of sub-paragraph 3-03c.1, or by not less than two complete passes of a rubber-tired roller conforming to the requirements of sub-paragraph 3-03c.2. Portions of the embankment which the roller cannot reach for any reason must be compacted by other approved means to the density of the surrounding embankment.

c. Compaction Equipment -

1. Tamping Rollers - Tamping rollers shall consist of one or more units. Each unit shall consist of a cylindrical drum not less than 48 inches in length and not less than 48 inches in diameter. The drums shall be water or sand and water ballasted. Each drum shall have staggered feet uniformly spaced over the cylindrical surface such as to provide approximately three tamping feet for each two square feet of drum surface. The tamping feet shall be seven to nine inches in clear projection from the cylindrical surface of the roller and shall have a face area of not less than five nor more than seven square inches. The units shall be equipped with a suitable device for cleaning the feet. The rolling units of multiple-type tamping rollers shall be pivoted on the main frame in a manner which will permit the units to adapt themselves to uneven ground surfaces and to rotate independently. The weight of the roller shall be not less than 1,500 pounds per linear foot of drum length weighted, and shall be not more than 750 pounds per foot of drum length empty. The design and operation of the tamping roller shall be subject to the approval of the contracting officer who shall have the right at any time during the prosecution of the work to direct such

repairs to the tamping feet, minor alterations in the roller, and variations in the weight as may be found necessary to secure optimum compaction of the earth-fill materials. The roller shall be pulled by a crawler-type tractor of sufficient power to operate the roller at a speed of approximately 3-1/2 miles per hour.

2. Rubber-Tired Rollers - Rubber-tired rollers shall have a minimum of four wheels equipped with pneumatic tires. The tires shall be of such size and ply as to be capable of being operated at tire pressures between 80 and 100 pounds per square inch at a 25,000-pound wheel load. The roller wheels shall be located abreast and so designed that each wheel will carry approximately equal load in traversing uneven ground. The spacing of the wheels will be such that the distance between the nearest edges of adjacent tires will not be greater than 50 percent of the rated tire width of a single tire at the operating pressure for a 25,000-pound wheel load. The roller shall have a rigid steel frame provided with a body suitable for ballast loading such that the load per wheel may be varied, as directed by the contracting officer, from 18,000 to 25,000 pounds. The entire assembly (roller plus motivating equipment) must be capable of executing a 180-degree turn on a 15-foot radius. The roller shall be towed at speeds not to exceed ten miles per hour by pneumatic-tired equipment. The character and efficiency of this equipment shall be subject to the approval of the contracting officer.

d. Cross-Section of Levee Embankment - The levee embankment shall be constructed to conform with the requirements of typical standard levee section shown on Figure 1. Shrinkage and settlement allowances shall be allowed for by constructing the standard levee section plus a 5% addition in crest height.

#### SECTION IV - TURFING

4-01. SCOPE: It is the intent of these specifications to obtain a good firm stand of native grass or grass which will insure the stability of the levee embankment. Good vegetative cover is of prime importance to the maintenance and operation of the levee embankment. The top, slopes and a 5 foot wide strip at the base of the levee on each side shall be turfed.

#### 4-02. MULCHING:

a. Soil Preparation - If necessary the soil shall be loosened to a depth of 2 inches before application of the mulch material.

b. Materials - Hay shall be native prairie hay and a minimum of 50 percent by weight shall be 10 inches or more in length.

c. Application of Mulch - Mulch material shall be spread uniformly in a continuous blanket over the area to be mulched at the rate of approximately  $3\frac{1}{2}$  tons per acre. Mulch may be spread by hand or by mechanical means which do not break up the hay. Immediately following the spreading of the mulch material, it shall be anchored to the soil by pressing into the ground a minimum depth of  $1\frac{1}{2}$  inches, leaving enough material sticking upright to accomplish its primary purpose of temporary dust and erosion control. Anchoring shall be accomplished by using a mulch anchoring machine equipped with straight rolling Coulter-type discs that are spaced not more than 10 inches or less than 7 inches apart. The rolling discs shall be sufficiently dull to prevent cutting the mulch material. If anchoring machinery is not used, the mulch material shall be anchored with a spade at 6 inch intervals.

4-03. FERTILIZING AND SEEDING:

a. Materials -

1. Fertilizer shall be dry, free-flowing materials which can be distributed uniformly, and shall be commercial grade 15-10-10 or the equivalent.

2. Seed - Seed of mixed bluestem, switch grass, blue grama grass, side oats grama, sand drossseed grass, sand lovegrass, weeping lovegrass, or native bermuda grass, or a mixture of any or all of the above may be used.

b. Application - Fertilizer shall be applied uniformly at the approximate rate of 400 lbs per acre. Seed should be applied uniformly at the rate of approximately 30 lbs per acre.

(Revised 1-31-74)

## MAINTENANCE SPECIFICATIONS

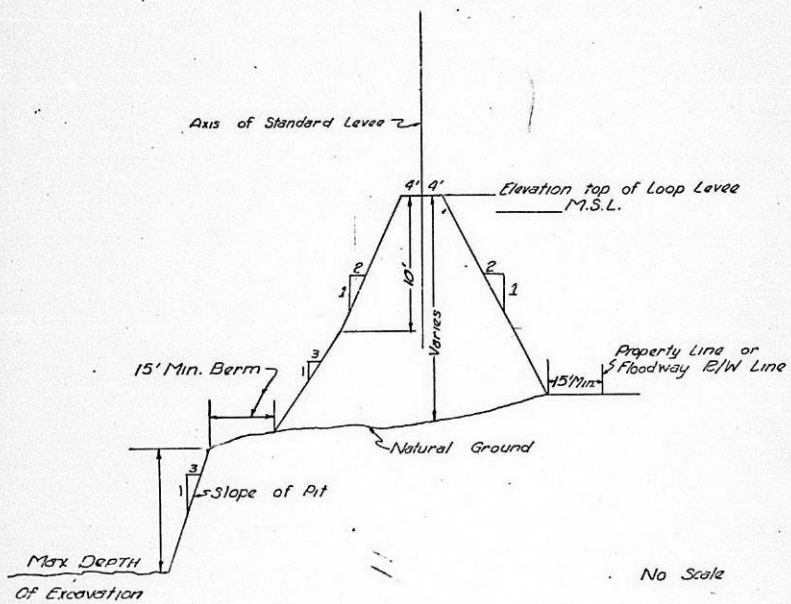
### SECTION I - GENERAL

In general maintenance should provide for those things which will insure the serviceability of the levee in time of high water. Measures should be taken to promote the growth of sod, exterminate burrowing animals, provide for routine mowing, removal of wild growth and repair the damage caused by erosion. Another important maintenance responsibility is to insure the integrity of the loop levee at all times.

### SECTION II - INSPECTION

Periodic inspections should be made to insure that the above measures are being effectively carried out and to be certain that:

- a. No unusual settlement, sloughing, or material loss of grade or levee cross section has taken place.
- b. No caving has occurred on either the land side or the water side of the levee which might affect the stability of the levee section.
- c. No seepage, saturated areas or sand boils are occurring.
- d. No action is being taken, such as burning grass and weeds during inappropriate seasons, which will retard or destroy the growth of sod.
- e. Access roads to and on the levee are being properly maintained.
- f. Cattle guards and gates are in good condition.
- g. Crown of levee is shaped so as to drain readily, and roadway thereon, if any, is well shaped and maintained.
- h. There is no damaging grazing or vehicular traffic on the levees.
- i. Encroachments are not being made on the levee right-of-way which might endanger the structure or hinder its proper and efficient functioning during times of emergency.



TYPICAL SECTION OF STANDARD  
LEVEE

(Revised 1-31-74)

RESTRICTIVE COVENANTS

KNOW ALL MEN BY THESE PRESENTS: That

The undersigned, KANSAS TURNPIKE AUTHORITY, does hereby impose upon the following described real property, to-wit:

A tract of land in the NW/4 of Section 33, Township 28 South, Range 1 East of the 6th P.M., Sedgwick County, Kansas, described as follows: Beginning at a point on the north line and 461.37 feet west of the NE corner NW/4 of said Section 33, being 175 feet west of the center line Survey of the Kansas Turnpike Station 4533+87.50; thence south parallel to said Centerline making an included angle of  $91^{\circ}11'$  with the north line of said NW/4, Sec. 33 a distance of 591.12 feet to a point 175 feet west at right angles to said Centerline Station 4528+00; thence east at right angles to said Centerline a distance of 25 feet thence south parallel to said Centerline 701.83 feet more or less to a point on the north right-of-way of the Wichita Valley Center Flood Control Project; thence northwest along said north right-of-way a distance of 887 feet more or less to the west line of the E 1/2 NW 1/4 of said Section 33; thence north along said west line a distance of 1303.7 feet more or less to a point on the north line of said NW/4 of Sec. 33; thence east 855.6 feet more or less to the point of beginning, except the road,

covenants to run with the land as follows:

1. Any sand pit created upon the above described real property shall have a loop levee constructed and maintained around its entire perimeter; such levee shall be constructed in accordance with Construction Specifications, Section 1 through 4, inclusive, and Maintenance Specifications, Sections 1 and 2 of Construction and Maintenance Specifications as prepared by the Maintenance Division of the Department of Public Works of the City of Wichita, Kansas. Such specifications are

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WICHITA, KANSAS  
67202  
TELEPHONE 263-2201

incorporated herein by this reference as fully as though set out at length herein.

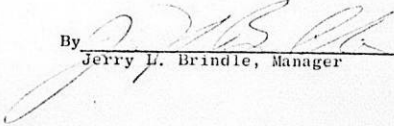
To secure and guarantee the above obligation, the undersigned hereby subjects and encumbers said property with the covenant and obligation to construct and maintain said loop levee as above described as a covenant running with and burdening the land and, in event of the failure by the undersigned or any of his successors in title within sixty (60) days after receipt of written notice from the County or City to fulfill the obligation above set forth, then and in such event the Board of Commissioners of Sedgwick County or the Governing Body of the City of Wichita may order such work done and thereafter maintain and charge the entire cost of such construction and maintenance as a first lien against said land to be collected and foreclosed in the same manner as a mortgage is foreclosed.

2. No foreign matter, including but without limitation to, rubbish, trees, car bodies or other trash shall be deposited on the above described real property or within any sand pit excavated thereon.

The covenants herein contained shall be binding upon the undersigned, his successors in interest and assigns. The said covenants may be enforced in any appropriate action in any Court having jurisdiction thereof by the City of Wichita, the County of Sedgwick or any member of the public in whose favor and for whose benefit these covenants are made.

IN WITNESS WHEREOF, I have hereunto set my hand this 10th day of December, 1974.

KANSAS TURNPIKE AUTHORITY

By   
Jerry L. Brindle, Manager

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MOORE & IRBY  
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WICHITA, KANSAS  
67202  
TELEPHONE 269-2201

STATE OF KANSAS,  
SS:  
SEDGWICK COUNTY,

BE IT REMEMBERED, that on this 27<sup>th</sup> day of December, 1974, before me, the undersigned, a Notary Public in and for the County and State aforesaid, came Jerry L. Brindle, personally known to me to be the identical person who executed the within and foregoing instrument and acknowledged to me that he executed the same as his free and voluntary act and deed for the uses and purposes therein set forth.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal the day and year last above written.

*Marie Dutton*  
\_\_\_\_\_  
Notary Public



Commission Expires:  
24, 1978

LAW OFFICES  
MOORE & IRBY  
614 CENTURY PLAZA BLDG.  
WICHITA, KANSAS  
67202  
TELEPHONE 263-2201

January 7, 1975

Jack Turner, County Counselor

Jack H. Galbraith, Chief Planner

CU-166 - Request for Conditional Use  
for sand extraction purposes - West  
side of Kansas Turnpike and south of  
63rd Street South

Attached for your information and files is a copy of the referral sheet and minutes of the Metropolitan Area Planning Commission meeting of December 12, 1974 on the above-captioned case, which is scheduled to appear on the agenda of the Board of County Commissioners at their meeting of January 15, 1975.

Enclosed for your review and approval is a copy of the resolution effectuating the Conditional use, which has been prepared on our standard form.

If you have any comments in regard to the resolution, we would appreciate hearing from you by January 14, 1975, so that any corrections or additions may be made prior to being submitted to the Commissioners for their signatures.

JHG:GLS:ber

Attachment

D E D I C A T I O N

KNOW ALL MEN BY THESE PRESENTS:

That for and in consideration of the sum of One Dollar (\$1.00) and other good and valuable considerations, the receipt of which is hereby acknowledged, the undersigned,

KANSAS TURNPIKE AUTHORITY

being the owner \_\_\_\_\_ of the following described real estate in Sedgwick County, Kansas to-wit:

Beginning at a point 40 feet south and 461.37 feet west of the northeast corner of the northwest quarter of Section 33, Township 28 South, Range 1 East, being 175 feet west of the center line survey of the Kansas Turnpike Station 4533+87.50, thence south parallel to said centerline a distance of 10 feet; thence west parallel to the north line of said Section 33 to a point on the west line of the east half of the northwest quarter of Section 33; thence north along said west line of the east half of the northwest quarter a distance of 10 feet; thence east on a line parallel to the north line of Section 33 to the point of beginning,

do <sup>es</sup> hereby dedicate the above described real estate to the public for \_\_\_\_\_ street \_\_\_\_\_ purposes.

EXECUTED this 20th day of December, 1974.

KANSAS TURNPIKE AUTHORITY

By \_\_\_\_\_

Jerry L. Brindle, Manager

STATE OF KANSAS)  
SEDGWICK COUNTY) ss

BE IT REMEMBERED, that on this 20th day of December, 1974, came Jerry L. Brindle, Manager of the Kansas Turnpike Authority



personally known to be the same person \_\_\_\_\_ who executed the instrument and duly acknowledged the execution of the

WITNESS WHEREOF, I have hereunto subscribed my name and my official seal, the day and year last above written.

Marie Dutton  
Notary Public

My Commission Expires: May 24, 1978

Submitted to the Wichita-Sedgwick County Metropolitan Area Planning Commission and the Board of Commissioners of the City of Wichita, Kansas, and approved by said Board of Commissioners of the City of Wichita, Kansas, this \_\_\_\_\_

\_\_\_\_\_  
City Clerk

D E D I C A T I O N

KNOW ALL MEN BY THESE PRESENTS:

That for and in consideration of the sum of One Dollar (\$1.00) and other good and valuable considerations, the receipt of which is hereby acknowledged, the undersigned,

\_\_\_\_\_

being the owner of the following described real estate in Sedgwick County, Kansas to-wit:

Beginning at a point 40 feet south and 461.37 feet west of the northeast corner of the northwest quarter of Section 33, Township 28 South, Range 1 East, being 175 feet west of the center line survey of the Kansas Turnpike Station 4533+87.50, thence south parallel to said centerline a distance of 10 feet; thence west parallel to the north line of said Section 33 to a point on the west line of the east half of the northwest quarter of Section 33; thence north along said west line of the east half of the northwest quarter a distance of 10 feet; thence east on a line parallel to the north line of Section 33 to the point of beginning,

do hereby dedicate the above described real estate to the public for \_\_\_\_\_ purposes.

EXECUTED this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

\_\_\_\_\_  
\_\_\_\_\_  
STATE OF KANSAS) ss  
SEDGWICK COUNTY)

BE IT REMEMBERED, that on this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, came \_\_\_\_\_

\_\_\_\_\_

to me personally known to be the same person who executed the foregoing instrument and duly acknowledged the execution of the same.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my official seal, the day and year last above written.

Submitted to the Wichita-Sedgwick County Metropolitan Area Planning Commission and the Board of Commissioners of the City of Wichita, Kansas, and approved by said Board of Commissioners of the City of Wichita, Kansas, this \_\_\_\_\_

\_\_\_\_\_  
City Clerk

\_\_\_\_\_  
Notary Public

My Commission Expires: \_\_\_\_\_

WICHITA - SEDGWICK COUNTY



METROPOLITAN AREA PLANNING  
COMMISSION

262-0611 — AREA CODE 316  
CITY BUILDING ANNEX  
104 S. MAIN ST.  
WICHITA, KANSAS 67202

Mr. Warner Moore, Attorney  
1014 Century Plaza Building  
Wichita, Kansas 67202

December 13, 1974

*Mr. Irby called on 1/3/75  
and advised that he would  
try and comply with conditions  
by 1/6/75 so that items  
could be scheduled on 1/15/75*

Re: CU-166 - Conditional Use  
Request - West side of  
Kansas Turnpike and south  
of 63rd Street South

Dear Mr. Moore

The Metropolitan Area Planning Commission and the Haysville City Planning Commission considered the above-captioned case at their separate meetings on December 12, 1974. Their actions were to recommend to the Board of County Commissioners that this request be approved, subject to the 19 conditions listed in the Planning Department staff report, a copy of which is enclosed.

It is necessary that you comply with items a, b, l. and q. prior to our forwarding this matter to the Board of County Commissioners. It is my understanding that you have obtained a sample covenant for item b. Enclosed is the necessary dedication for the additional right-of-way for 63rd Street South, which should be executed and returned to our office. Regarding item l, also enclosed is a sample covenant which should be retyped, executed and returned to our office.

If we receive all these documents by December 31, 1974, this matter will be forwarded on to the Board of County Commissioners for consideration on January 8, 1975, the meeting to start at 9:00 a.m. in Room 320 Sedgwick County Courthouse.

If you have any questions, please call.

Sincerely,

*Jack H. Galbraith*  
Jack H. Galbraith  
Chief Planner

JHG:ber

Enclosures

cc: Kansas Turnpike Authority, 9401 East Kellogg 67211  
Jerry L. Brindle, General Manager, 9401 E. Kellogg 67211  
Curtis Irby, 1014 Century Plaza Bldg. 67202  
Max Christman, County Zoning Office  
M. S. Mitchell, Flood Control-Maintenance Supervisor

CU-166 - 7 NOTICES TO ADJACENT PROPERTY OWNERS MAILED 12-5-74 for MAPC 12-12-74  
also HAYSVILLE P.C. on 12-12-74.

Referral sheet mailed to Haysville City Planning Commissioners on this date.

WICHITA-SEDGWICK COUNTY  
METROPOLITAN AREA PLANNING COMMISSION  
CITY BUILDING ANNEX, 104 SOUTH MAIN  
WICHITA, KANSAS 67202

December 5, 1974

NOTICE TO ADJOINING PROPERTY OWNERS:

NOTICE IS HEREBY GIVEN that on Thursday, December 12, 1974, at 1:30 p.m., the Wichita-Sedgwick County Metropolitan Area Planning Commission, in Room 401 City Building Annex, 104 South Main, Wichita, Kansas, will consider the following application:

CASE NO. CU-166

Conditional Use Request to Permit a Sand Extraction  
Operation on Property Zoned "R" Rural Residential

A tract of land in the NW 1/4 of Sec. 33, T-28-S, R-1-E of the 6th P.M., Sedgwick County, Kansas, described as follows: Beginning at a point on the north line and 461.37 feet west of the NE corner NW 1/4 of said Sec. 33, being 175 feet west of the center line Survey of the Kansas Turnpike Station 4533+87.50; thence south parallel to said Centerline making an included angle of 91°11' with the north line of said NW 1/4, Sec. 33 a distance of 591.12 feet to a point 175 feet west at right angles to said Centerline Station 4528+00; thence east at right angles to said Centerline a distance of 25 feet thence south parallel to said Centerline 701.83 feet more or less to a point on the north right-of-way of the Wichita Valley Center Flood Control Project; thence northwest along said north right-of-way a distance of 887 feet more or less to the west line of the E 1/2 NW 1/4 of said Sec. 33; thence north along said west line a distance of 1303.7 feet more or less to a point on the north line of said NW 1/4 of Sec. 33; thence east 855.6 feet more or less to the point of beginning, except the road. Generally located on the west side of the Kansas Turnpike and south of 63rd Street South.

Also, the Haysville City Planning Commission will consider this same request at 8:00 p.m. on this same date at 711 East Grand Avenue, Haysville, Kansas. Should you have an interest in this case, or desire to be heard, it is important that you attend both meetings.

**NOTE:** It is the policy of the Planning Commission that any request for a deferral of the hearing of this case shall be submitted to the Secretary, Robert A. Lakin, 104 South Main, 7 days prior to the meeting. The Chairman and Secretary may grant such a request for deferral. Persons requesting deferrals will be charged with the cost of preparing and mailing new notices.

Robert A. Lakin  
Secretary



Dec. 10, 1974

Mr. Curtis Irby  
Moore and Irby  
1014 Century Plaza Bldg.  
Wichita, Kansas 67202

Subject: CU 166 - Conditional Use Permit  
for Sand Extraction by KTA at 63rd  
Street South

Dear Mr. Irby:

Reference is made to our telephone conversation of this afternoon. I am enclosing a copy of a draft of the "Covenant Running with the Land" which may be used to insure construction, operation and maintenance of a loop levee around subject property. As I described to you, the purpose of the Covenant is to guarantee the ability to require construction of a loop levee at whatever time in the future it is deemed necessary by the appropriate governing body. The alignment of the loop levee can be governed by your client's desire and could attach to the Flood Control levee on the south and the Turnpike on the east.

If further information or discussion is desired, please advise.

Yours truly,

M. S. Mitchell,  
Ass't. Superintendent of  
Public Works Maintenance

MSM/glm

cc: G. H. Wilton  
Jack Galbraith  
CU 166 File

Enc.



WICHITA-SEDGWICK COUNTY  
METROPOLITAN AREA PLANNING DEPARTMENT

MCPC HEARING DATE: 12-12-74  
MAPC HEARING DATE: 12-12-74

Case No. CU-166

Request: Conditional Use Permit  
for sand extraction

Location: West side of Kansas Turnpike and  
south of 63rd Street South

Reason: Want to conduct sand extraction on the property for  
use in the operation of the Kansas turnpike

Acres: 24.95

Size: 871 ft. by 1257 ft.

	<u>Land Use</u>	<u>Zoning</u>
Existing	Mobile home; accessory building	"R"
North	Orchard	"R"
East	Kansas Turnpike	"R"
South	Flood Control Ditch	"R"
West	Undeveloped	"R"

Existing R/1 - 63rd St. So. (half) 40 ft.	Platted: No
Proposed R/1 - 63rd St. St. (half) 50 ft.	History: None

Comments

1. The applicant is requesting a conditional use permit to establish a sand extraction operation on approximately 24 acres of land zoned "R" Rural Residential and located on the south side of 63rd Street South in an area west of the Kansas Turnpike.
2. In considering sand and gravel extraction permits, the normal practice is to require the applicant to submit redevelopment plans for the property in order that the Planning and County Commissions may be assured that a hazardous area does not remain once the operation is concluded. In the present case, no redevelopment plan was submitted because the applicant (Kansas Turnpike Authority) has stated that the property is not planned for redevelopment and will remain in ownership by the Turnpike Authority. The Planning Commission may wish to require the applicant to submit a landscape plan and comply with any other such conditions in order to assure that the application area will not be subject to erosion and will be aesthetically pleasing once the operation has concluded.

3. The Wichita-Valley Center Maintenance Flood Control Project (Big Ditch) is located adjacent to subject property on the south and M. S. Mitchell of the Flood Control Maintenance Office has requested that the applicant submit a protective covenant for the construction of a loop levee around the entire sandpit, said loop levee being constructed to a minimum height as the design water surface or approximately 1268 MSL. If for some reason such covenant is not submitted, the applicant should revise the operational plan to reflect compliance with KSA 19-3309 which provides that no excavation shall be made or commenced within 1000 feet of a flood control works without first obtaining a permit.
4. Subject property has been the site for dirt extraction prior to the present time and although a "pit" or water retention area does not exist, the topsoil has been substantially removed and subject property is several feet in elevation below that of surrounding property.
5. Should the Planning Commission determine this request is logical and proper and recommend its approval, it should be approved subject to the following conditions:
  - a. The applicant dedicating by separate instrument the additional ten feet of half-street right-of-way necessary for 63rd Street South.
  - b. The applicant shall contact M. S. Mitchell of the Flood Control-Maintenance Office and shall obtain a letter stating that satisfactory arrangements have been made regarding drainage and loop levee construction; a copy of said letter shall be submitted to the Planning Department.

The applicant shall submit a restrictive covenant to the Planning Department, approved as to content by the Flood Control Division and to form by the County Counselor, providing for the construction and/or maintenance of a loop levee around the sandpit to a minimum height as the design water surface or approximately 1268 MSL. Said loop levee shall be constructed in accordance with construction specifications, Sections 1 and 4 inclusive, and maintenance specifications Sections 1 and 2, of Construction and Maintenance Specifications as prepared by the Maintenance Division of the Department of Public Works of the City of Wichita, Kansas; said covenant shall run with the land and be binding on all owners, successors or assigns. IF, for any reason, such covenant is not submitted, the applicant shall comply with KSA 19-3309, which provides that no excavation shall be made or commenced within a thousand feet of a flood control works.

- c. No part of the sand plant operation, including the stockpiling of sand or storage of equipment, shall occur in the north 100 feet except ingress and egress to 63rd Street South.
- d. The applicant shall proceed in accordance with the operational sketch plan approved by the Metropolitan Area Planning Commission, and shall excavate the lake and form the banks to the approximate 16 acre size as indicated on the approved plan.
- e. A minimum 72-inch high chainlink fence shall be constructed prior to the beginning of the excavation operation and shall be maintained along the perimeter of the site, with posts set not more than 16 feet apart. The fence may provide for reasonable access gates installed at the same height and of the same construction as the fence, which gates shall be kept locked except when in use.
- f. The earth shall be extracted to at least a minimum depth of six (6) feet below the flow line of the floodway.
- g. To provide for bank stabilization and safety of future uses, the side slopes of the excavation shall be no more steep than five horizontal to one vertical.
- h. All of the area outside of the sandpit lake shall be graded so as to drain into the lake.
- i. The applicant shall be responsible for:
  1. Insuring that the loop levee elevation be maintained.
  2. Seeing that all operational roads are maintained in a graveled condition.
- j. The applicant shall be responsible for planting and maintaining three rows of either deciduous and/or coniferous trees along the north and west property lines. Said trees are to be planted in the first growing season after the approval of this conditional use (spring 1975).
- k. The sand plant operation shall commence in the year 1974 and shall cease operating after 10 years unless a new permit is authorized by the appropriate governing body.
- l. The applicant shall submit a restrictive covenant to the Planning Department in a form satisfactory to the County Counselor, providing that no foreign matter, such as rubbish, car bodies, etc., shall be deposited within the excavation after approval of the Conditional Use by the Board of County Commissioners.

- m. The natural drainage flow shall be protected throughout the area. Any improvements made in the natural drainage or any obstruction or diversions shall meet with the approval of the Wichita-Sedgwick County Flood Control Office and the County Engineer, and shall be according to the specifications and standards of these authorities.
  - n. Concrete and asphalt mixing plants, and commercial recreational activities, such as boating, fishing, skiing, etc., shall not be permitted in the area, unless duly authorized under provisions of the County Zoning Resolution and amendments thereto.
  - o. All slopes shall have vegetative covering consisting of a perennial drouth-resistant grass or combination of grasses which will permit the establishment of a good sod cover to help prevent erosion.
  - p. The property shall be platted prior to the issuance of any zoning or building permits, except those necessary for the sand excavation operation.
  - q. Five copies of the revised operational plan, indicating the minimum water depth as 6 feet, loop levee, the location of the sand plant operation and the perimeter setback lines shall be submitted to the Planning Department.
  - r. The applicant shall comply with conditions a,b,l, and g prior to the publication of the resolution effectuating the conditional use.
  - s. All conditions of approval shall be complied with within one year from the date of approval by the Board of County Commissioners; or the conditional use permit shall be null and void.
-

December 6, 1974

Dr. Kathleen Q. Camin  
Economics Department  
Wichita State University  
Wichita, Kansas 67208

Dear Dr. Camin:

Enclosed for your information and files is a copy of the staff report associated with the request by the Kansas Turnpike Authority for the extraction of sand on the west side of the Turnpike south of 63rd Street South.

If you have any questions or comments on this matter, please call.

Sincerely,

Jack H. Galbraith  
Chief Planner

JHG:rme  
Enclosure

limitation prescribed by article 19 of chapter 79 of the Kansas Statutes Annotated or acts amendatory thereof or supplementary thereto. [K. S. A. 19-3106; L. 1970, ch. 100, § 26; July 1.]

**19-3107.** Tax levy for certain uncared for cemeteries or burial places in certain counties between 19,000 and 25,000. In any county having a population of not less than nineteen thousand (19,000) and not more than twenty-five thousand (25,000) and having an assessed tangible taxable valuation of less than thirty-three million dollars (\$33,000,000) and in which there is located a cemetery or other burial place in which ten (10) or more human bodies have been interred, some of which bodies are those of veterans of the armed forces of the United States, and which cemetery or burial place has not been cared for, for a period of the last five (5) years, the board of county commissioners of said county is hereby authorized to provide for the care of such cemetery or burial place. For the purpose of providing funds for such care, said board may make an annual tax levy not to exceed the limitation prescribed by K. S. A. 79-1947, on all taxable tangible property of said county. Said tax levy shall be in addition to all other tax levies authorized or limited by law and shall not be subject to or within the aggregate tax levy limit prescribed by K. S. A. 79-1947. [K. S. A. 19-3107; L. 1970, ch. 100, § 27; July 1.]

#### Article 33.—FLOOD CONTROL

**19-3301.** Counties in which federal agencies authorized to construct certain works; powers of county commissioners. That in any county of the state of Kansas in which the corps of engineers of the United States army or other department or agency of the federal government shall be authorized by the congress to construct works for the prevention, control, or mitigation of floods or flood hazards upon or along any river or the tributaries thereof, lying or situate within said county, the board of county commissioners thereof shall, if in their opinion the said construction is necessary for the public welfare, have the power and they are hereby authorized to:

(a) Enter into an undertaking in the name of the county to hold the United States of America free from any damage to persons or property resulting during construction or after the completion thereof.

(b) to contract with the federal government in the name of the county that when said work is completed the said county will

maintain, keep in repair, and operate such flood control works.

(c) to furnish all necessary lands, rights-of-way and easements, as provided in K. S. A. 19-3302 and any amendments thereto, and

(d) to regulate excavations in the vicinity of such flood control works as provided in sections 2 [19-3309] and 3 [19-3310] of this act. [K. S. A. 19-3301; L. 1971, ch. 93, § 1; April 19.]

**19-3305.** Flood control works; tax levies for maintenance; repairs. For the purpose of maintaining and operating such flood control works as shall be constructed by the United States army corps of engineers or other agency of the United States government, when the same shall have been completed and turned over to the county, the board of county commissioners of such county shall be empowered to make an annual tax levy upon all of the taxable tangible property within said county, in an amount not to exceed the limitation prescribed by K. S. A. 79-1947, and such levy shall be in addition to all other levies authorized or limited by law. It shall be the duty of the board of county commissioners and the county engineer to keep all such flood control works in serviceable condition and to make such repairs as may, from time to time, be necessary. [K. S. A. 19-3305; L. 1970, ch. 100, § 28; July 1.]

**19-3307.** Powers conferred by 19-3301 *et seq.* also vested in cities. Except as herein otherwise expressly provided, all of the rights, powers, authority and jurisdiction conferred on counties and boards of county commissioners by the provisions of chapter 19, article 33 of the Kansas Statutes Annotated are hereby also conferred upon and vested in any city located in any county such as described in K. S. A. 19-3301 and the governing body thereof.

The governing body of any such city, in the name of the city, shall have the power to enter into undertakings and contracts and make agreements in like manner and for like purposes as the board of county commissioners are authorized by this act to enter into undertakings and contracts and make agreements in the name of the county; and may acquire lands, rights-of-way and easements either within or without the limits of the city for like purposes as the board of county commissioners are authorized by K. S. A. 19-3302 and 19-3305 by purchase, gift or by eminent domain proceeding in the manner prescribed by K. S. A. 26-501 to

26-516, inclusive, and may issue general obligation bonds of the city to pay the costs thereof and expenses connected therewith in the manner now provided by law; but the aggregate of any such bonds so issued shall not be in excess of three and one-half percent (3½%) of the total assessed tangible valuation of the city. *Provided*, The governing body of any city may issue additional general obligation bonds of the city for such purposes not in excess of one and one-half percent (1½%) of the total assessed tangible valuation of the city, but before such additional bonds may be issued, the governing body of the city shall submit the question of the issuance of such additional bonds and the amount thereof to the qualified electors of the city at a regular city election or at a special election called for that purpose as provided by law: *Provided further*, That the total aggregate of all such bonds shall not be in excess of five percent (5%) of the total assessed tangible valuation of the city. *Provided, however*, That any city having a population of more than one hundred ten thousand (110,000) located in a county having a population of less than one hundred eighty thousand (180,000) may issue such bonds in an aggregate amount, including bonds outstanding and any bonds previously retired, which is not in excess of six and one-half percent (6½%) of the total assessed tangible valuation of such city.

Such bonds shall not be subject to, nor included in any restrictions or limitations upon the amount of bonded indebtedness of said city contained in any other law. Funds received from the sale of bonds by any such city may be used to pay any loss, damage or expense for which the city or the governing body thereof may be liable in like manner as counties are authorized to pay such loss, damages or expense under the provisions of K. S. A. 19-3304. For the purposes of maintaining and operating such flood control works as shall be constructed by the United States army corps of engineers or other agencies of the United States government, when the same shall have been completed and turned over to the city, and for the purpose of maintaining and operating any flood control works or dikes heretofore or hereafter constructed for the purpose of protecting such city from floods, the governing body of such city shall be empowered to make an annual tax levy upon all the taxable tangible property within said city, not to exceed the limitation

prescribed by K. S. A. 79-1948, 79-1949, 79-1950, 79-1951, 79-1952 and 79-1953, and such levy shall be in addition to all other levies authorized or limited by law. It shall be the duty of the governing body of the city to keep all such flood control works and dikes in serviceable condition and to make such repairs as may, from time to time, be necessary. Such cities are authorized to regulate excavations within their city limits as provided in this section, K. S. A. 19-3301, as amended and section 2 [19-3309] of this act. Applications for excavation permits filed with the city shall be first considered by the city engineer and subject to review by the city governing body in the manner prescribed by section 2 [19-3309] of this act for the county engineer and the board of county commissioners. [K. S. A. 19-3307; L. 1965, ch. 180, § 1; L. 1970, ch. 69, § 18; L. 1971, ch. 93, § 4; April 19.]

## CASE ANNOTATIONS

5. Mentioned; plaintiff in injunction action held liable on bond signed as principal. *Alder v. City of Florence*, 194 K. 104, 107, 397 P. 2d 375.

**19-3309.** Same; regulation of excavation; permits; appeal. No excavation shall be made or commenced within one thousand (1,000) feet landward or riverward of the center line of any portion of a flood control works constructed under the provisions of chapter 19, article 33 of the Kansas Statutes Annotated without first obtaining a permit. Permits requested of the county shall be reviewed by the county engineer. If he determines that the proposed excavation shall be detrimental or will impair or endanger the function of any flood protection works, permission for such excavation shall be denied. If he determines that a restricted or conditional permit for excavation can be granted to the applicant which will not be detrimental or will not impair or endanger the function of such flood protection works he shall issue such restricted or conditional permit. If he determines that no impairment of or danger to such flood protection works will occur as a result of such excavation he shall issue a permit to the applicant. The issuance of any permits hereunder shall not authorize the violation of any existing zoning laws or building codes.

Any person feeling aggrieved by the determination of the county engineer may appeal his decision in writing to the board of county commissioners within ten (10) days of the determination and the board after a public hearing shall have authority to affirm, reverse

or modify the determination. [L. 1971, ch. 93, § 2; April 19.]

**19-3310. Penalty for failure to obtain permit.** Failure to obtain such permit from the proper authority prior to commencing excavation or excavating contrary to the authorization of such a permit is a class B misdemeanor. [L. 1971, ch. 93, § 3; April 19.]

#### Article 34.—ELECTION COMMISSIONERS

**19-3419. Counties over 130,000, appointment, term, removal, vacancies, qualifications, oath, salary.** In counties of this state having a population of over one hundred thirty thousand (130,000), there is hereby created the office of commissioner of elections, which shall be in charge of an election commissioner who shall be appointed by the secretary of state, subject to confirmation by the senate, and shall hold his office for a term of four (4) years, and until a successor is appointed and qualified. The person so appointed may, for official misconduct, be removed by the secretary of state. The secretary of state, subject to confirmation by the senate, shall appoint his successor for the same term of years; and in case of death, resignation or removal of the election commissioner, the appointment shall be for the unexpired term. Such election commissioner shall have been a qualified elector and a resident of said county at least two (2) years prior to his appointment, and shall before entering upon his duties, take and subscribe and cause to be filed in the office of the secretary of state an oath of office for the faithful discharge of his official duties, within ten (10) days after receiving official notice of his appointment. Election commissioners holding office at the time this amendment takes effect shall hold their respective offices for the terms for which originally appointed unless sooner removed for official misconduct. [K. S. A. 19-3419; L. 1965, ch. 181, § 1; L. 1969, ch. 159, § 1; April 19.]

**19-3419a. Salaries and allowances of election commissioners in certain counties.** (a) The election commissioners in any county having a population of more than one hundred fifty thousand (150,000) and less than one hundred eighty thousand (180,000) shall receive a salary of eight thousand eight hundred eighty dollars (\$8,880) per annum, and shall also receive the mileage allowance provided for in K. S. A. 1972 Supp. 75-3203 for the use of a private automobile in carrying out his duties.

(b) The election commissioner in any county having a population of more than two hundred twenty thousand (220,000) and less than three hundred thousand (300,000) shall receive a salary of eleven thousand and twenty-five dollars (\$11,025) per annum. Such election commissioner shall also receive a car allowance of one thousand two hundred dollars (\$1,200) per annum for the use of private automobile in carrying out his duties.

(c) The election commissioner in any county having a population of more than three hundred thousand (300,000) shall receive a salary of eleven thousand six hundred eighty-seven dollars (\$11,687) per annum, and shall also receive mileage allowance provided for in K. S. A. 1972 Supp. 75-3203 for the use of private automobile in carrying out his duties.

(d) All salaries by this act shall be paid in equal monthly installments by warrants signed by the chairman of the board of county commissioners attested by the county clerk, and drawn on the county treasury. The salaries and allowances for private automobiles of the officers named in this act shall be exclusive for such officers' salaries and allowances, and no statute providing for an increased salary under certain circumstances shall be applicable to any officer named in this act, but this provision shall not be construed to prevent the payment of the employers' share of any statutory tax or benefit. [L. 1969, ch. 160, § 1; L. 1972, ch. 153, § 28; L. 1973, ch. 175, § 37; Nov. 1.]

#### Gross References to Related Sections:

Effect of federal economic stabilization act on salary increases in 1973 act, see 25-432.

Protest of and election on salary increases in 1973 act, see 28-431.

Salaries of election commissioners in certain counties between 180,000 and 220,000, see 28-701a.

**19-3420. Assistant election commissioners; appointment, salary; expenses.** The election commissioner shall appoint one assistant, known as assistant election commissioner, who shall receive an annual salary to be fixed by the election commissioner and shall be paid in the same manner as other county officers and employees, and in addition the election commissioner shall certify to the board of county commissioners the amount necessary for clerk hire and expense, which amount shall be allowed by the board of county commissioners of said county. The board of county commissioners shall also authorize the statutory mileage allowance provided for in K. S. A. 1968 Supp. 75-3203 for

WICHITA-SEDGWICK COUNTY  
METROPOLITAN AREA PLANNING COMMISSION  
CITY BUILDING ANNEX, 104 SOUTH MAIN  
WICHITA, KANSAS 67202

December 5, 1974

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Robert A. Lakin  
Secretary

*7 notices mailed 12-5-74 to property owners and agent  
also to Curtis Joby*

REFERRAL FROM WICHITA-SEDGWICK COUNTY METROPOLITAN AREA PLANNING COMMISSION  
TO HAYSVILLE CITY PLANNING COMMISSION.

CASE No. CU-166 TO BE HEARD BY THE M. A. P. C. ON December 12, 1974

REQUEST FOR Conditional Use Permit for a sand extraction  
operation on property zoned "R" Rural Residential

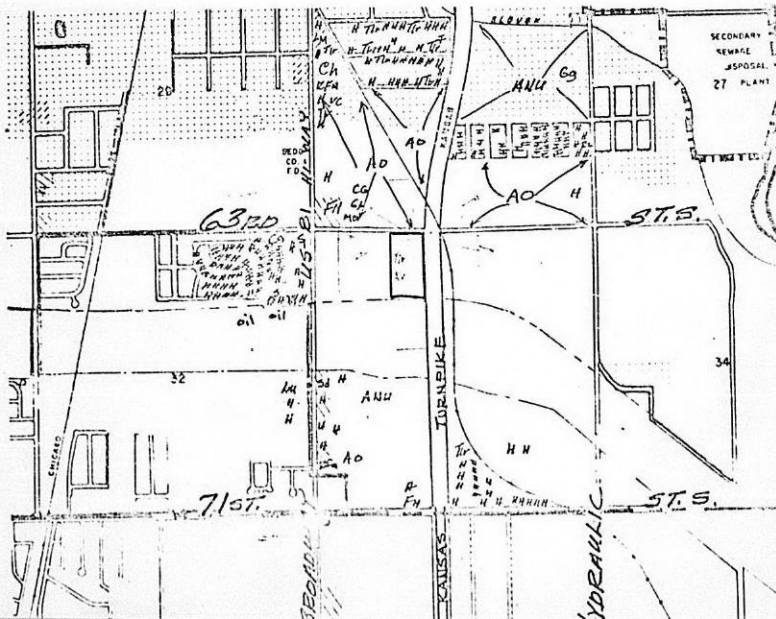
LOCATION OF PROPERTY: Generally located on the west side of the Kansas  
Turnpike and south of 63rd Street South

Legal Description of Property:

A tract of land in the NW 1/4 of Sec. 33, T-28-S, R-1-E of the 6th P.M., Sedgwick County, Kansas, described as follows: Beginning at a point on the north line and 461.37 feet west of the NE corner NW 1/4 of said Sec. 33, being 175 feet west of the center line Survey of the Kansas Turnpike Station 4533+87.50; thence south parallel to said Centerline making an included angle of 91°11' with the north line of said NW 1/4, Sec. 33 a distance of 591.12 feet to a point 175 feet west at right angles to said Centerline Station 4528+00; thence east at right angles to said Centerline a distance of 25 feet thence south parallel to said Centerline 701.83 feet more or less to a point on the north right-of-way of the Wichita Valley Center Flood Control Project; thence northwest along said north right-of-way a distance of 887 feet more or less to the west line of the E 1/2 NW 1/4 of said Sec. 33; thence north along said west line a distance of 1303.7 feet more or less to a point on the north line of said NW 1/4 of Sec. 33; thence east 855.6 feet more or less to the point of beginning, except the road.

Petitioner: Kansas Turnpike Authority  
Address: 3401 East Kellogg 67211

Counsel for Petitioner: Jerry L. Brindle, Agent





I I I. THIS PROPERTY IS LOCATED AT (ADDRESS) no street address

THE GENERAL LOCATION IS (USE APPROPRIATE SECTION)  
West of the Kansas Turnpike and adjacent to 63rd Street South,  
Sedgwick County, Kansas.

~~AT THE \_\_\_\_\_ CORNER OF \_\_\_\_\_ AND  
\_\_\_\_\_, OR  
B. ON THE \_\_\_\_\_ SIDE OF \_\_\_\_\_ (AVENUE)  
STREET BETWEEN \_\_\_\_\_ (AVENUE) STREET AND  
\_\_\_\_\_ (AVENUE) STREET.~~

I V. THE PROPERTY INCLUDED IN THIS APPLICATION IS ZONED Rural Residential.  
(ZONING DISTRICT CLASSIFICATION).

V. I REQUEST THIS CONDITIONAL USE PERMIT FOR THE FOLLOWING REASONS:

Want to conduct sand extraction on the above property for use  
in the operation of the Kansas Turnpike.

V I. I (~~WE~~), THE APPLICANT(~~S~~), ACKNOWLEDGE RECEIPT OF THE INSTRU-  
TION SHEET EXPLAINING THE METHOD OF SUBMITTING THIS APPLICATION.  
I (~~WE~~) REALIZE THAT THIS APPLICATION CANNOT BE PROCESSED UNLESS  
IT IS COMPLETELY FILLED IN; IS ACCOMPANIED BY A CURRENT ABSTRACTOR'S  
CERTIFICATE AS REQUIRED IN THE INSTRUCTION SHEET; AND IS ACCOMPANIED  
BY THE APPROPRIATE FEE. I (~~WE~~) FURTHER CERTIFY THAT THE ABOVE AND  
FOREGOING INFORMATION IS TRUE AND CORRECT TO THE BEST OF MY (~~OUR~~)  
KNOWLEDGE. I (~~WE~~) ACKNOWLEDGE THAT THE BOARD OF COUNTY COMMISSIONERS  
SHALL HAVE AUTHORITY TO IMPOSE SUCH CONDITIONS AS IT DEEMS NECESSARY  
IN ORDER TO SERVE THE PUBLIC INTEREST AND WELFARE.

NOTE: AT LEAST ONE OWNER MUST SIGN THIS APPLICATION. OTHER  
OWNERS MAY BE REPRESENTED BY AN AGENT OR AGENTS.

KANSAS TURNPIKE AUTHORITY

BY [Signature]  
AUTHORIZED AGENT (IF ANY)

BY \_\_\_\_\_  
AUTHORIZED AGENT (IF ANY)

BY \_\_\_\_\_  
AUTHORIZED AGENT (IF ANY)

BY \_\_\_\_\_  
AUTHORIZED AGENT (IF ANY)

BY \_\_\_\_\_  
AUTHORIZED AGENT (IF ANY)

BY \_\_\_\_\_  
AUTHORIZED AGENT (IF ANY)

V I I. OFFICE USE ONLY

This application was received at the Planning Department at 1:30 PM  
(AM, PM) on Oct 22 (day, month, year). It has been checked  
and found to be complete and accompanied by required documents and  
the appropriate fee of \$ none reqd.

Custer L. Hendry Name  
Dr Planner Title



CERTIFICATE OF OWNERSHIP  
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LAWYERS TITLE INSURANCE CORPORATION, Guarantee Title Division, hereby certifies the following to be a true and correct list of the property owners as shown by the last deed of record in the Office of the Register of Deeds of Sedgwick County, Kansas, within a 1000 foot radius of and including the following described property, viz:

A tract of land in the NW $\frac{1}{4}$  of Sec. 33, T-28-S, R-1-E of the 6th P.M., Sedgwick County, Kansas described as follows: Beginning at a point on the North line and 461.37 feet West of the NE corner NW $\frac{1}{4}$  of said Sec. 33, being 175 feet West of the Center line Survey of the Kansas Turnpike Station 4533+87.50; thence South parallel to said Centerline making an included angle of 91 Degrees 11 Minutes with the North line of said NW $\frac{1}{4}$ , Sec. 33 a distance of 591.12 feet to a point 175 feet West at right angles to said Centerline Station 4528+00; thence East at right angles to said Centerline a distance of 25 feet; thence South parallel to said Centerline 701.83 feet more or less to a point on the North right-of-way of the Wichita Valley Center Flood Control Project; thence Northwest along said North right-of-way a distance of 887 feet more or less to the West line of the E $\frac{1}{2}$  NW $\frac{1}{4}$  of said Sec. 33; thence North along said West line a distance of 1303.7 feet more or less to a point on the North line of said NW $\frac{1}{4}$  of Sec. 33; thence East 855.6 feet more or less to the point of beginning, except the road.

DESCRIPTION	OWNER/OWNERS/ADDRESS
<u>Section 28-28-1E</u>	
S $\frac{1}{2}$ of SE $\frac{1}{4}$ of Sec. 28	George W. Nicholson ✓ 7901 Berner St. Long Beach, Calif 90308
SW $\frac{1}{4}$ of Sec. 28, Exc W 300' of N 200' of S 1110' & Exc RR Row & Exc 22.03 Acres Condemned in Case A-55178 for Turnpike	✓ Gerald E. Blood 6346 S. Broadway 67215
23.03 Acres Condemned in District Court Case A-55178 for Turnpike	✓ Kansas Turnpike Authority 9401 E. Kellogg
<u>Section 33-28-1E</u>	
Tract in NW $\frac{1}{4}$ of Sec. 33-28-1E, Beg 461.37' W of NE cor sd NW $\frac{1}{4}$ , S 591.12', E 25', S 701.83' to Floodway, NW along N line of Floodway 887', N 1303.7' to N line of sd NW $\frac{1}{4}$ , E 855.6' to beg. Exc Road. (More fully described in caption above)	✓ Kansas Turnpike Authority 9401 E. Kellogg 67207
NW $\frac{1}{4}$ Exc S 65.72 Acres & Exc ROW & Exc 12.28 Acres Floodway condemned in Case A-29459 & Exc 35.2 Acres condemned in Case A-54472	✓ J. T. Wheeler 6534 S. Broadway 67233
35.2 Acres Condemned in Case A-54472 for Turnpike	✓ Kansas Turnpike Authority 9401 E. Kellogg 67207
N $\frac{1}{2}$ of N $\frac{1}{2}$ exc ROW	✓ Ethel Martin 1132 N. Ridgewood Drive 67208
S $\frac{1}{2}$ of NE $\frac{1}{4}$ exc ROW & Exc Floodway	Edna & Lawrence Nelson Haysville, Kans 67060 328 E GRAND AVE. 2.00 c. ?

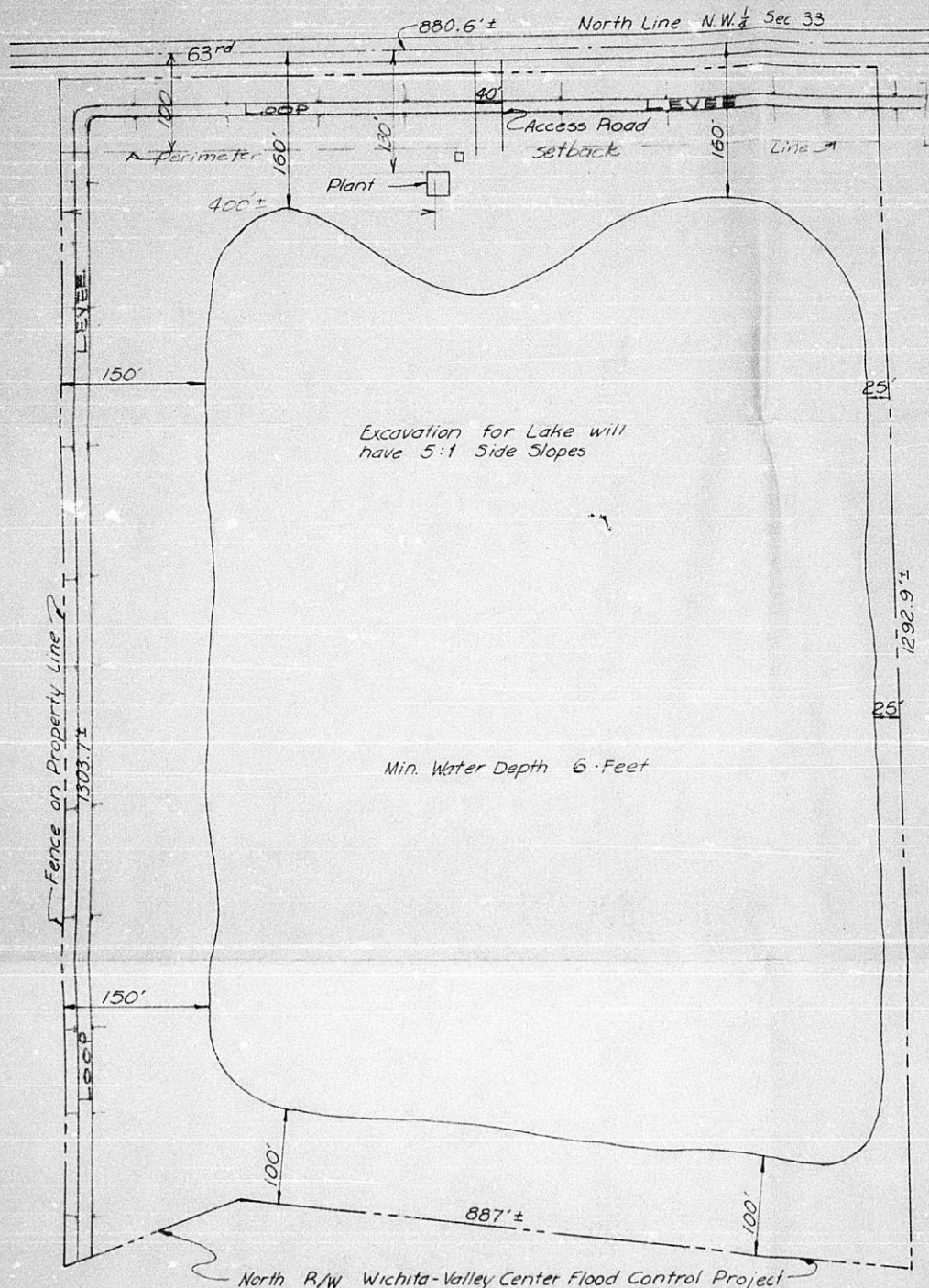
Dated October 4th, 1974 at 7:00 o'clock A. M.

LAWYERS TITLE INSURANCE CORPORATION  
GUARANTEE TITLE DIVISION

No. 637

By

*Frank R. Hester*  
Title Officer



Excavation for Lake will have 5:1 Side Slopes

Min. Water Depth 6 Feet

Fence on Property Line

Turnpike

North R/W Wichita-Valley Center Flood Control Project

880.6'± North Line N.W. 1/4 Sec 33

63rd

Perimeter

Plant

Access Road setback

Line

LEVEE

LEVEE

150'

400'±

160'

100'

887'±

100'

25'

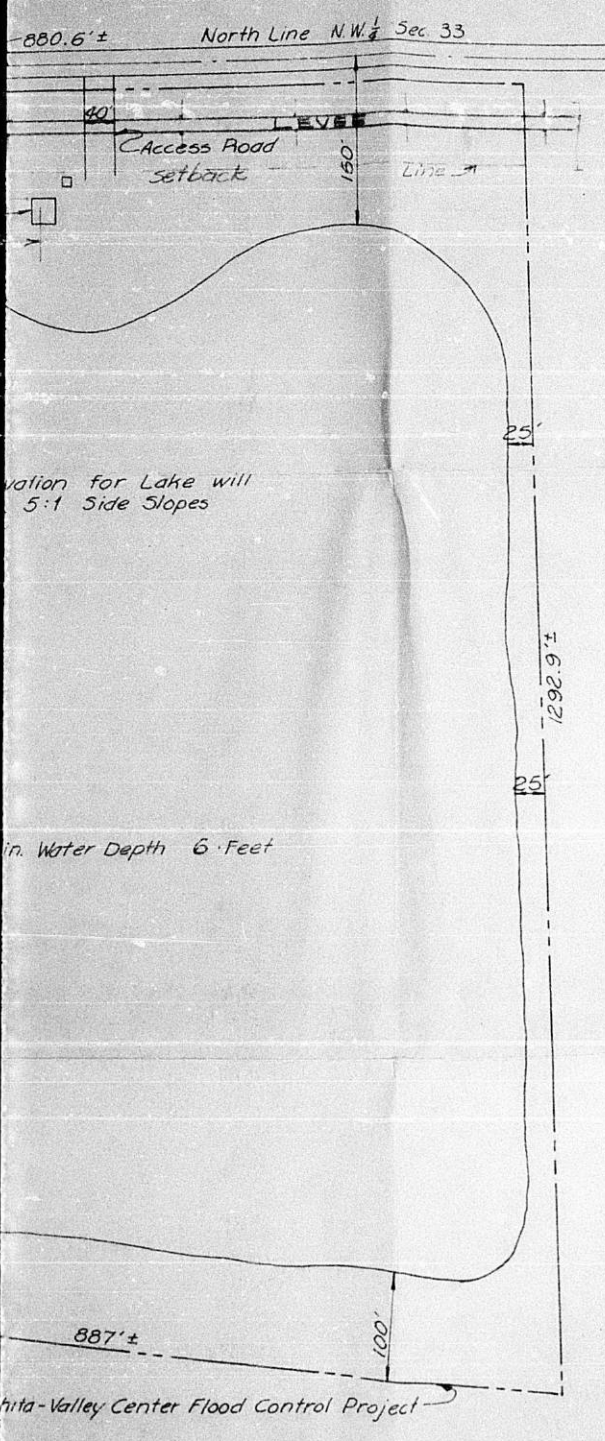
25'

1292.9'±

1303.7'±

CV-166  
Revised Copy

**OFFICE COPY**  
DO NOT REMOVE



Scale 1"=100'

Turnpike

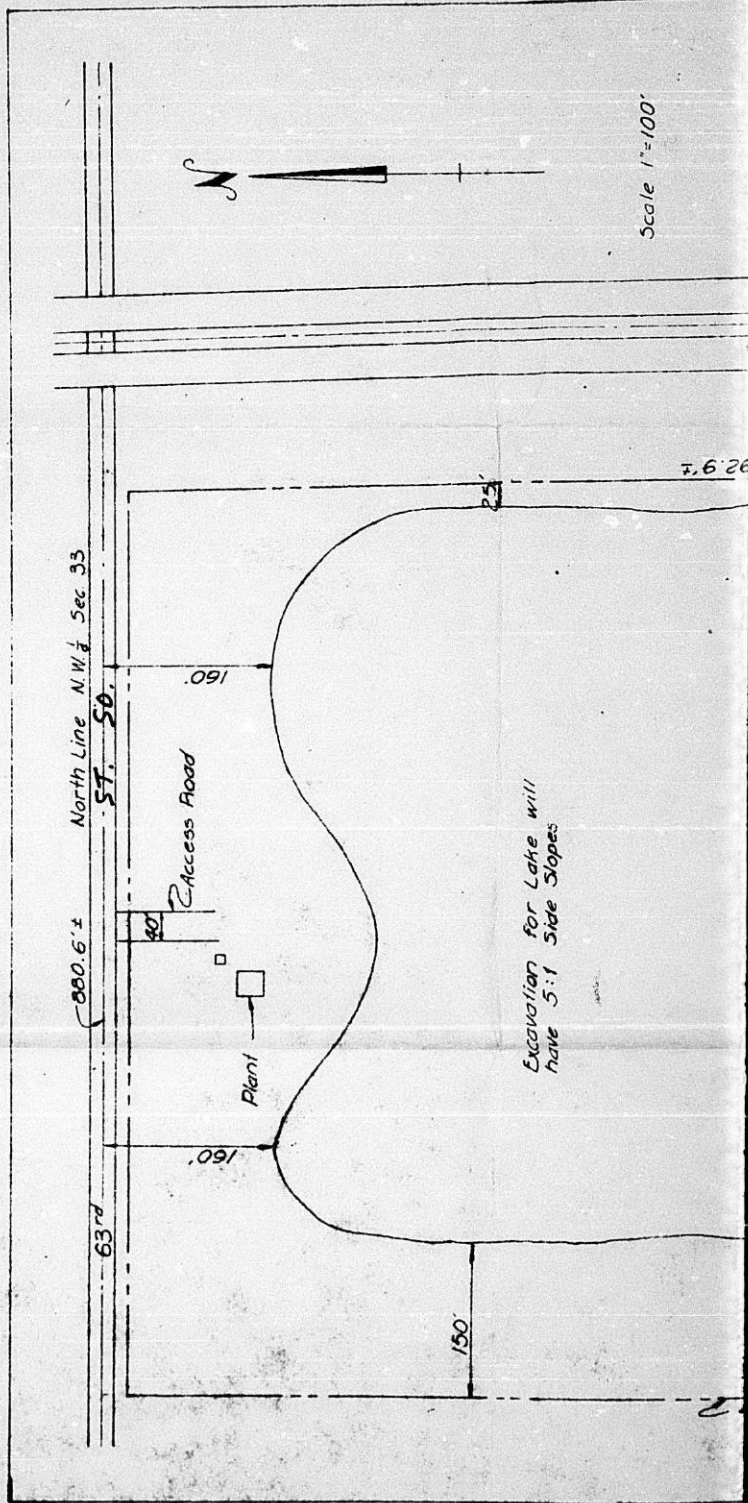
CV-166

**OFFICE COPY**

DO NOT REMOVE

**SUPERSEDED**

Kansas Turnpike Authority



Scale 1"=100'

E Turnpike

1292.9 ±

Excavation for Lake will have 5:1 Side Slopes

Min. Water Depth 2 Feet

887 ±

North R/W Wichita-Valley Center Flood Control Project

100'

100'

150'

150'

1503.7 ±

Fence on Property Line

