

ACTION

COMMITTEE	DATE
M.A.P.C. <i>Approved subject to Resolutions</i>	<i>5/15/86</i>
S.C.C./B. CO. C. <i>Approved to Recommend</i>	<i>6-11-86</i>

closed

CU-292 Foundation, Inc. requests a conditional use permit to ~~extract~~ sand extraction operation on the north side of 21st Street No. 1/4-mile east of Hoover.

POSTED 4-28-86 KM

ACTION

DATE

COMMITTEE _____

M.A.P.C.

*Approved sub to
conditions 5/15/86*

~~B.C.C./B. CO. C.~~

*Approved as
recommended 6-11-86*

Closed

CU-299 Foundation, Inc. requests a
condemnation permit to excavate
the sand extraction operation No.
the north side of 21st Street No.
1/4 mile east of Hoover.

DATA SHEET

Z- _____
 SCZ- _____
 CU- 292
 DR- _____
 DP- _____

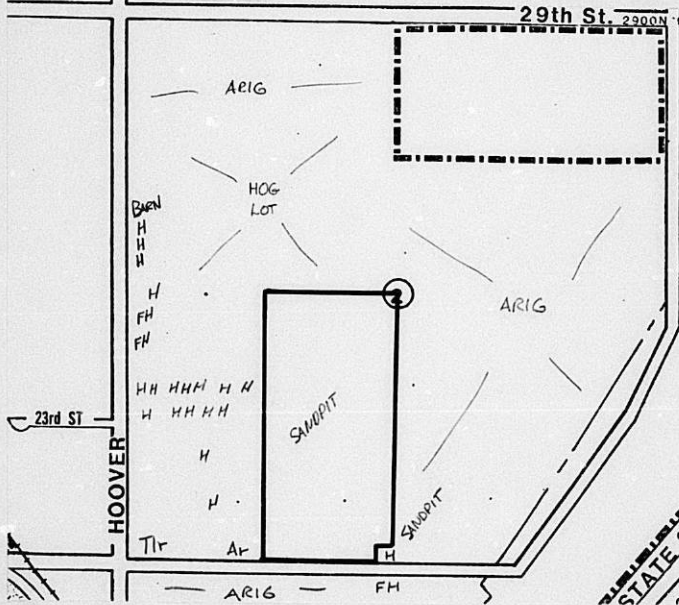
Case Filed: Amend
 4-16-86
 Associated Case: _____

APPLICATION DATA: Map No. 5150 C
 1. General Location: On the north side of 21st Street North in an area $\frac{1}{4}$ -mile east ~~west~~ of Hoover.
 2. From _____ to Expand
 3. Proposed Use: Conditional Use Permit to ~~establish~~ a Sand Extraction Operation on Property Zoned "R-1" Suburban Residential District
 4. DP Name: _____
 5. Applicant: Foundation, Inc. c/o Donald P. Cain, Sr., President
 Address P. O. Box 9090, Wichita, Kansas 67277 Phone 722-6071
 6. Agent: Professional Engineering Consultants, P.A. c/o Gary Wiley
 Address 1440 East English, Wichita, Kansas 67211 Phone 262-2691

AREA DATA:
 1. Acres: 77.5 (irregular) 1320' ft. by 2640' ft.)
 2. Adjoining Zoning: N "R-1" S "R-1" E "R-1" W "R-1"
 3. Land Use: North Sandpit / Area East Area / Farm
 South Single family West hog farm

PICTURE SHEET

PHOTO DATA:
 Taken by (P) Date 5-3-86 Time 12



NOTES:

23rd St. North east of Hoover: County has row agreement for 40' road dated 6-5-58. The township maintains this road. The agreement covers 1320 linear feet of row.

T9-214-2

Spauld
 No. 2153C
 HASTINGS MINN.
 LOS ANGELES-CHICAGO-LOKAN, OH
 HOUSTON, TX. LOCUST GROVE, GA
 U.S.A.

WICHITA-SEDGWICK COUNTY
METROPOLITAN AREA PLANNING DEPARTMENT

DATE: February 6, 1990

TO: John M. Davis, Waste Management Specialist
FROM: Louise Olivarez, Acting Chief Planner *L. Olivarez*
SUBJECT: Disposal of Maple Street bridge debris on the site of
Conditional Use Permit CU-292, generally located on
the north side of 21st Street North in an area
1/4-mile east of Hoover Road.

Pursuant to your February 1, 1990 memorandum, we have reviewed the case file for the above-captioned conditional use permit for sand extraction in the "R-1" zoning district. One of the conditions of approval involves a restrictive covenant which prohibits rubbish, trees, car bodies and other trash from being deposited on the site or within the sand pit (copy attached). On more recently approved sand extraction cases, the covenant is more specific and addresses bank stabilization materials (sample copy attached). These more specific requirements were a result of concerns over asphaltic materials being used for bank stabilization at some sand pit sites; also, the lengths of rebar protruding from the stabilization material at some sand pit sites. Considering the history of hazardous waste storage on this property and the EPA's interest in it, I would recommend that the more specific restrictions be enforced as a condition for allowing the use of the demolished Maple Street bridge as bank stabilization material along the east slope of the lake at 4900 W. 21st Street North.

If you need additional information or wish to discuss this matter, please call me at 268-4494.

LO:jcm
Attachments

cc: Ron Worley, Director of Code Enforcement

FILE COPY

RESTRICTIVE COVENANT

KNOW ALL MEN BY THESE PRESENTS: That

The undersigned, FOUNDATION, INC., does hereby impose upon the following described real property, to-wit:

The east half of the Southwest Quarter of Section 2, Township 27 South, Range 1 West of the 6th Principal Meridian, Sedgwick County, Kansas, except the east 165 feet of the south 264 feet thereof and except the south 50 feet thereof for road.

covenant to run with the land as follows:

1. 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 covenant herein contained shall be binding upon the undersigned, his successors in interest and assigns. The said covenant 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 this covenant is made.

IN WITNESS WHEREOF, we have hereunto set our hands this 24 day of March, 1983.

FOUNDATION, INC.

By Wanda Cain
WANDA CAIN
Authorized Officer

STATE OF KANSAS, SEDGWICK COUNTY, SS:

BE IT REMEMBERED, that on this 24 day of March, 1983, before me, the undersigned, a Notary Public in and for the County and State aforesaid, came WANDA CAIN, personally known to me to be the identical person who executed the within and foregoing instrument and acknowledged to me that she executed the same as her 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.

JOYCE N. SHIRKEY
STATE NOTARY PUBLIC
SEDGWICK COUNTY
MY APPL. EXP. 3/28/85

Joyce N. Shirkey
Notary Public

My Appointment Expires:

March 28, 1985

RECEIVED
OFFICE OF CITY CLERK
JUL 11 1983
 DG _____ DR _____
 Agenda _____ JE _____
 File _____

STATE OF KANSAS }
SEDGWICK COUNTY } SS
FILED FOR RECORD AT
8:00 AM
JUL 7 1983
NO. **6 40101**
BETTE F. McCART
REGISTER OF DEEDS

MICROFILMED
OF RECORD

Pat Hattler
Deputy

5.00
City Clerk

RESTRICTIVE COVENANT

We the undersigned, Associated Material and Supply Company, Inc., do hereby impose upon the following described real property, to wit:

THE NORTH 1/2 OF THE NE 1/4, SECTION 33, T28S, R1E OF THE 6TH P.M., EXCEPT THE EAST 640 FEET THEREOF. GENERALLY LOCATED ON THE WEST SIDE OF HYDRAULIC SOUTH OF 63RD ST. SOUTH,

covenant to run with the land as follows:

1. No foreign matter, including but without limitation to, rubbish, trees, car bodies, new asphaltic concrete mix, and building rubble or other trash shall be deposited on the above described real property or within any sand pit excavation thereon.

2. Bank stabilizations and fill materials may include sidewalk pavement, concrete pavement, concrete pavement with asphaltic concrete overlays, and asphaltic concrete pavement. All asphaltic concrete materials shall have aged sufficiently so that the water soluble pollutants have dissipated. In no instance will asphaltic concrete exceed 15% of the total materials used.

Reinforcing materials protruding in excess of 12 inches shall not be permitted. Materials used for final grade shall have reinforcing materials clipped as close to flush as possible.

The covenant herein contained shall be binding upon the undersigned, their successors in interest and assigns. The said covenant 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 this covenant is made.

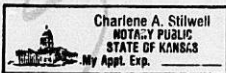
IN WITNESS WHEREOF WE HAVE HEREUNTO SET OUR HAND THIS 20th day of May, 1988.

ASSOCIATED MATERIAL AND SUPPLY COMPANY, INC.

D. L. Stannard
D. L. Stannard, President

STATE OF KANSAS)
SEDGWICK COUNTY) SS

Be it remembered that on this 20th day of May, 1988, before me, a notary public in aforesaid State and County, came D. L. Stannard, President of Associated Material and Supply Company, Inc. to me personally known to be the same person who executed the foregoing instrument of writing and duly acknowledged the execution of same for and on behalf and as the voluntary act and deed of said corporation. In testimony whereof I have hereunto set my hand and affixed my notarial seal the day and year above written.



Charlene A. Stillwell
Notary Public

My Commission Expires 11/30/91

STATE OF KANSAS
SEDGWICK COUNTY)
FILED FOR RECORD AT
9:00 A M

MICROFILMED
OF RECORD

JUN 10 1988

NO. 9 51992
PAT KETTLER
REGISTER OF DEEDS

Ed. Bernard
County

ooh

County Clerk

THE WICHITA SEDGWICK COUNTY DEPARTMENT OF COMMUNITY HEALTH
OFFICE OF Environmental Health DATE February 1, 1990


TO Distribution below
FROM John M. Davis, Waste Management Specialist

SUBJECT Big River Sand
Co, 4900 W 21st
St. North

We have been contacted by Barkley Construction for approval to dispose of the Maple Street bridge at the Big River Sand Co pit at 4900 W 21st Street North. The material is principally concrete, but may also contain dirt, rebar and wire. Disposal site is to be on the east bank line, as shown on the attached plan.

On one-time, limited duration, bank stabilization projects of this nature, we have normally given approval after review by appropriate agencies, rather than proceed with the full state permit process.

Would you please review your files on the site, and let me have any comments on the project, as well as this procedure, by Friday February 9, 1990.


John M. Davis
Waste Management Specialist

Distribution: Chief Gary Nichols, Fire Department
Louise Olivarez, Planning Department
David Spears, Bureau of Public Works
Ron Worley, County Zoning

cc: Jack Brown, Health Department

Att

RECEIVED

FEB 01 1990

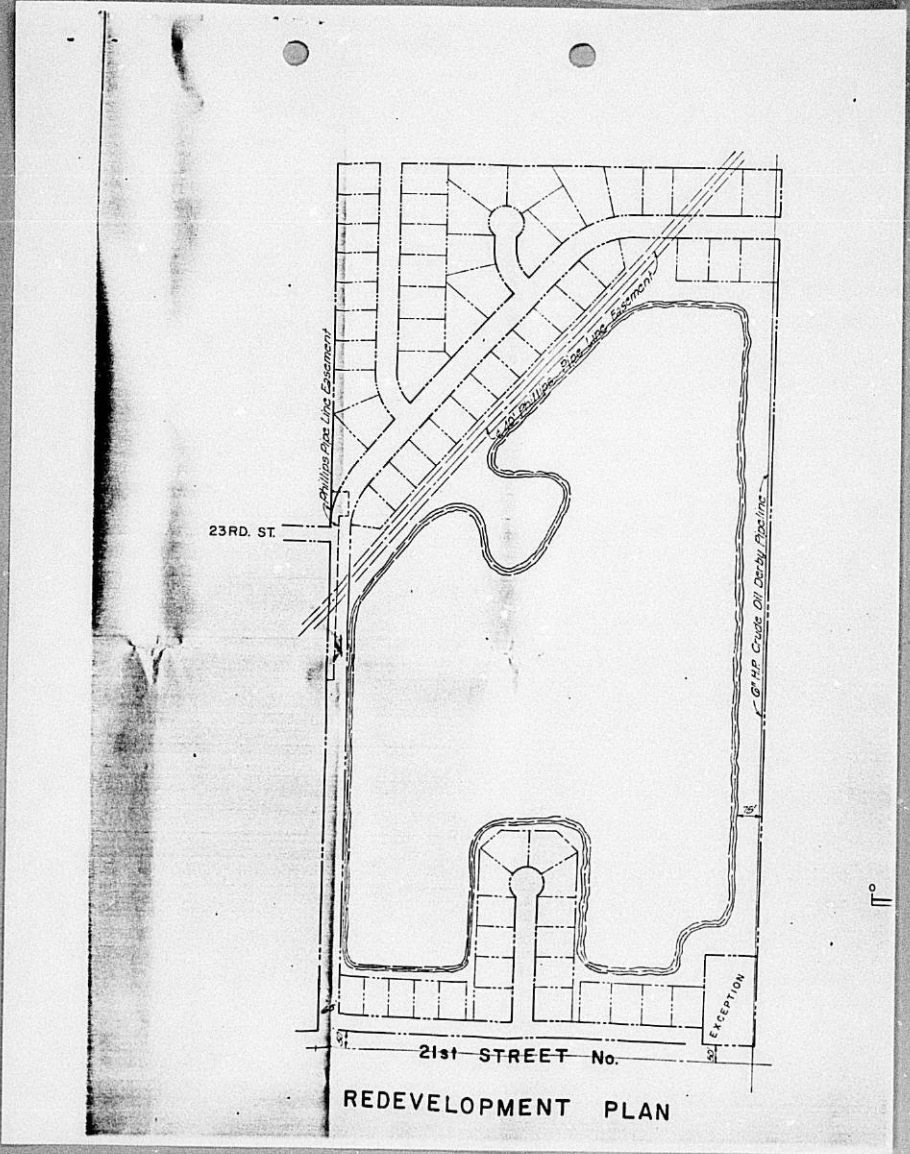
METROPOLITAN PLANNING

ROUTE *Forest: pull the CU*

*On this site I review
use for comment
restricting "rubber"*

*Let's discuss next
week before
responding.*

CU-292



July 2, 1986

Donald P. Cain, Sr., President
Foundation Inc.
P. O. Box 9090
Wichita, Kansas 67277

RE: CU-292 - North side of 21st Street North, $\frac{1}{4}$ -mile east of Hoover.

Dear Mr. Cain:

On June 11, 1986, the Board of County Commissioners approved the above-referenced matter and adopted a resolution. The resolution was published and the conditional use permit became effective on June 23, 1986. Enclosed for your files is a copy of this resolution. Subject property may now be developed in accordance with the new conditional use permit regulations.

Sincerely,

Louise Olivarez
Senior Planner

LO:blw
Enclosure

Published in The Daily Reporter on June 23, 1986

RESOLUTION NO. R#134-1986

CASE NO. CU-292

A RESOLUTION TO EXPAND A SAND EXTRACTION OPERATION IN THE "R-1" SUBURBAN RESIDENTIAL DISTRICT ON CERTAIN LANDS LOCATED WITHIN THE UNINCORPORATED AREA OF SEDGWICK COUNTY, KANSAS, UNDER THE AUTHORITY GRANTED IN SECTION 17.C OF THE ZONING REGULATIONS ADOPTED BY THE BOARD OF COUNTY COMMISSIONERS OF SEDGWICK COUNTY, KANSAS, DECEMBER 12, 1984.

BE IT RESOLVED BY THE GOVERNING BODY OF SEDGWICK COUNTY, KANSAS.

SECTION 1. That after receiving a recommendation from the 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 17.C of the Zoning Regulations, a Conditional Use Permit to expand a sand extraction operation in the "R-1" Suburban Residential District is hereby approved on the lands legally described as follows:

The east half of the SW $\frac{1}{4}$ of Section 2, Township 27 South, Range 1 West of the 6th P.M., Sedgwick County, Kansas, except the south 314 feet of the east 156 feet thereof. Generally located on the north side of 21st Street North in an area 1/4-mile east of Hoover.

SUBJECT TO THE FOLLOWING CONDITIONS:

1. Prior to scheduling this request for County Commission review, the applicant shall revise the redevelopment sketch plan to provide for a 65-foot lake setback from the west property line and to re-align the east-west street north of the pipeline to connect with 23rd Street North. Four copies of the revised plan shall be submitted to the Planning Department.
2. 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 as indicated on the approved plan.
3. No stockpiling of sand or storage of equipment shall occur within 50 feet of any property line or within 100 feet of any public right-of-way.
4. A minimum 58-inch high fence shall be constructed prior to the beginning of the extraction operation and shall be maintained along the perimeter of the extraction area and plant operation area on no less than 7-foot steel posts, 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. Such fence and gates shall be a minimum height of 58 inches and shall be of the following types of construction:
 - a. A 48" or higher chainlink fence with three or more strands of barbed wire; or
 - b. A 48" or higher solid metal or solid masonry fence with three or more strands of barbed wire; or

- c. A 48" or higher wood fence which may have cracks or openings not in excess of five percent of the area of such fence, with three or more strands of barbed wire.

The term "barbed wire" shall mean any twisted wire with barbs spaced a minimum of 4 inches apart and placed at the top of the fence and gates at an angle not to exceed 160 degrees facing away from the extraction area.

5. The earth shall be extracted to a minimum depth of six feet below the normal water table as determined by the City-County Health Department.
6. To provide for bank stabilization and safety of future uses, the side slope of the extraction area shall be no more steep than five horizontal to one vertical.
7. All of the area included in the sand extraction operation shall be graded so as to drain into the lake or to an approved drainage system.
8. The sand plant operator shall be responsible for:
 - a. Insuring that the loop levee elevation is maintained if constructed.
 - b. Insuring that the grading of the area around the perimeter of the sand pit lake is maintained so as to direct drainage toward the lake.
 - c. Construction of any structure such as culverts, ditches, ditch checks, riprap, etc., necessary to carry out this plan.
 - d. Maintaining all operational roads in a graveled condition.
9. 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 Flood Control Office and the County Engineer and shall be according to the specifications and standards of these authorities.
10. No commercial recreational activities, such as boating, fishing, skiing, etc., shall be permitted in the area, unless duly authorized under provisions of the County Zoning Regulations and amendments thereto.
11. 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.
12. The property shall be platted prior to the issuance of any zoning or building permits, except those necessary for the sand extraction operation.
13. The covenants for loop levee construction and maintenance and for prohibiting the deposit of foreign matter on the site, as recorded on Film 594 at Pages 1526, 1527 and 1534 run with the land and are still binding on this property and its conditional use permit.
14. Any violation of conditions attached shall declare the conditional use permit 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 Commission.

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 by the Board of County Commissioners
at Wichita, Kansas, this 17th day of June, 1986.

B. A. Hentzen, Chairman
Bernard A. Hentzen

Donald E. Gragg, Commissioner
Donald E. Gragg

Tom Scott, Commissioner
Tom Scott

ATTEST:

Donnell L. Wright
Donnell L. Wright, County Clerk



Approved as to form by County Counselor

William D. Rustin
William D. Rustin, County Counselor

**WICHITA-SEDGWICK COUNTY
METROPOLITAN AREA PLANNING DEPARTMENT**

DATE: June 19, 1986

TO: Ron Worley, Sedgwick County Zoning Administrator
FROM: Louise Olivarez, Senior Planner, Current Plans
**SUBJECT: CU-292 - Conditional Use Permit to Expand a Sand Extraction
Operation on the north side of 21st Street North.**

Enclosed for your files are two copies of the approved amended operational plan for the Big River Sand Company's sand extraction operation on 21st Street east of Hoover. This revised plan was approved by the MAPC on May 15, 1986, and by the County Commission on June 11, 1986. It supersedes CU-274, the previous conditional use permit for this site.

**Louise Olivarez
Senior Planner**

**LO:blw
Attachments**

Planning Agenda

Item #

RECOMMENDATION FROM METROPOLITAN AREA PLANNING COMMISSION
TO BOARD OF COUNTY COMMISSIONERS

REQUEST FOR CONDITIONAL USE

CU-292 - CONDITIONAL USE PERMIT TO EXPAND A SAND EXTRACTION
OPERATION ON PROPERTY ZONED "R-1" SUBURBAN RESIDENTIAL,
LOCATED NORTH OF 21ST STREET NORTH, 1/4-MILE EAST OF HOOVER.

The MAPC recommends that the application be approved subject to conditions.
(see minutes for full motion)

Gardner moved, Crockett seconded and it carried unanimously. Conlee, Goebel, Miles
and Wilson were absent.

- ACTION:
1. Adopt the findings of fact of the Metropolitan Area Planning Commission and approve the conditional use permit subject to the recommended conditions; adopt a resolution authorizing the conditional use permit and authorize the Chairman or the Chairman Pro-Tem to sign the resolution; or
 2. Adopt findings and deny the application.

DATA AND MINUTES

MAPC Hearing Date: 5-15-86

BCoC Hearing Date: 6-11-86

Commission District #3

Size: 77.5 acres

	<u>Land Use</u>	<u>Zoning</u>
Application Area	Sand pit	"R-1" w/CU
North	Agriculture	"R-1"
South	Agriculture (approved for sand extraction)	"R-1"
East	Sand pit & agriculture	"R-1"
West	One-family dwelling & auto repair	"R-1"

History:	CU-133	7/22/71	MAPC approved
		8/04/71	BCoC approved
	CU-258	3/10/83	MAPC approved subject to conditions
		6/22/83	BCoC approved subject to conditions
	CU-274	12/13/84	MAPC approved subject to conditions
		1/09/85	BCoC approved subject to conditions

Applicant: Foundation, Inc., c/o Donald P. Cain, Sr., P. O. Box 9090,
Wichita, KS 67277.

Protestors: Dan Phillips, attorney, 901 N. Broadway.

EXCERPT FROM MAPC MINUTES
5-15-86

4. Case No. CU-292 - Foundation, Inc. request Conditional Use Permit for the east half of the SW $\frac{1}{4}$ of Section 2, Township 27 South, Range 1 West of the 6th P.M., Sedgwick County, Kansas, except the south 314 feet of the east 156 feet thereof. Generally located on the north side of 21st Street North in an area 1/4-mile east of Hoover.

GALBRAITH pointed out land use, zoning and showed slides of the general area. He reviewed the following staff report:

Background: Three previous permits for sand extraction operations have been granted on this site. Each revision was for expansion of the lake, first to the east to within 75 feet of the east property line, then to the west. This current request proposes to reduce the setback from the west property line from 200 feet to 50 feet. A Phillips pipeline diagonally crossing the northwest portion of this site essentially prohibits expansion to the north.

Analysis: Conditional use applications for sand pits have always required submission of a proposed redevelopment sketch plan indicating how the area might be developed after the sand extraction operation ceases. With expansion of the lake to within 50 to 75 feet of the west and east property lines, there would be no room for future development on these two sides of the lake. The redevelopment plan submitted with this current application shows a group of lots along 21st Street and a totally separate group of lots north of the pipeline with access only through adjacent properties. The proposed street connecting with land to the west should at least be moved south to align with 23rd Street North, a substandard but dedicated county street. It is recommended that the west edge of the lake be kept at least 75 feet from the west property line in order to provide for a possible future street at this location.

If the Planning Commission determines that this request for expansion of the sand pit is appropriate, the following are recommended conditions of approval:

1. Prior to scheduling this request for County Commission review, the applicant shall revise the redevelopment sketch plan to provide for a 75-foot lake setback from the west property line and to re-align the east-west street north of the pipeline to connect with 23rd Street North. Four copies of the revised plan shall be submitted to the Planning Department.
2. 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 as indicated on the approved plan.
3. No stockpiling of sand or storage of equipment shall occur within 50 feet of any property line or within 100 feet of any public right-of-way.
4. A minimum 58-inch high fence shall be constructed prior to the beginning of the extraction operation and shall be maintained along the perimeter of the extraction area and plant operation area on no less than 7-foot steel posts, 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. Such fence and gates shall be a minimum height of 58 inches and shall be of the following types of construction:
 - a. A 48" or higher chainlink fence with three or more strands of barbed wire; or
 - b. A 48" or higher solid metal or solid masonry fence with three or more strands of barbed wire; or
 - c. A 48" or higher wood fence which may have cracks or openings not in excess of five percent of the area of such fence, with three or more strands of barbed wire.

The term "barbed wire" shall mean any twisted wire with barbs spaced a minimum of 4 inches apart and placed at the top of the fence and gates at an angle not to exceed 160 degrees facing away from the extraction area.

EXCERPT FROM MAPC MINUTES
5-15-86

5. The earth shall be extracted to a minimum depth of six feet below the normal water table as determined by the City-County Health Department.
6. To provide for bank stabilization and safety of future uses, the side slope of the extraction area shall be no more steep than five horizontal to one vertical.
7. All of the area included in the sand extraction operation shall be graded so as to drain into the lake or to an approved drainage system.
8. The sand plant operator shall be responsible for:
 - a. Insuring that the loop levee elevation is maintained if constructed.
 - b. Insuring that the grading of the area around the perimeter of the sand pit lake is maintained so as to direct drainage toward the lake.
 - c. Construction of any structure such as culverts, ditches, ditch checks, riprap, etc., necessary to carry out this plan.
 - d. Maintaining all operational roads in a graveled condition.
9. 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 Flood Control Office and the County Engineer and shall be according to the specifications and standards of these authorities.
10. No commercial recreational activities, such as boating, fishing, skiing, etc., shall be permitted in the area, unless duly authorized under provisions of the County Zoning Regulations and amendments thereto.
11. 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.
12. The property shall be platted prior to the issuance of any zoning or building permits, except those necessary for the sand extraction operation.
13. The covenants for loop levee construction and maintenance and for prohibiting the deposit of foreign matter on the site, as recorded on Film 594 at Pages 1526, 1527 and 1534 run with the land and are still binding on this property and its conditional use permit.
14. Any violation of conditions attached shall declare the conditional use permit null and void.

GALBRAITH stated that this application is before the Planning Commission for the fourth time. It was first approved in 1971, and is in an area where there are a number of sand plant operations. GALBRAITH said that the applicants are now desirous of extracting sand closer to the west property line than previously approved. The history of this case has been that each time that they have come in, they have asked for an amendment so that they can extract more sand out of the site and go closer to the property lines.

GALBRAITH stated now that the applicants are asking for permission to extract sand to within 50 feet of the west property line, it leaves no ability for a road to go along that property line. He said that the area developed north of the pipeline has to assume that someone else has to plat their land first before they can ever have access to that property. GALBRAITH said that staff believes that this is a mistake. The applicants are almost trying to utilize the entire site for extraction of sand leaving no capabilities at all of getting up to that area on their own property, and although staff does not necessarily feel that they have to keep a row of lots, staff believes that they should keep enough, 75 feet as required on the east side, so that they can have a street going north to serve that area north of the pipeline.

GALBRAITH stated that staff was in support of the amendment if the lake is kept further from the west property line, and would recommend that the new application be approved subject to the conditions listed on the staff report, which are essentially the same conditions as approved in the past.

EXCERPT FROM MAPC MINUTES

5-15-86

GALBRAITH mentioned that staff has new site plans that were just submitted today that have modified the 75-foot setback that staff asked for down to 65 feet on the west side. He said that staff's concern was, if there is to be a public street there, it should be sufficient distance away from the edge of the lake so that there would not be undercutting to damage that road. Staff would still prefer to see a 75-foot setback maintained.

GARY WILEY, Professional Engineering Consultants, representing the applicants, stated that they did not disagree with the 75-foot setback, but felt that they could live with a 65-foot setback. He said that what they were showing was the top of the excavation. There is a 4 to 1 side slope and 65 feet would be ample to allow a public roadway to go up there without any problems. He said that they were in agreement with all of the other staff comments.

GARDNER asked Wiley if the applicants had any interest ownership-wise on either of the adjacent properties.

WILEY said no, not at this time. He said that the applicant has been in his office over the last six months talking to him about the other sites. He has run out of sand, and this will buy him another year or 18 months. Hopefully by then he can have another site to move to.

GARDNER commented that the Commission has seen dwellings built on strips that were narrower than this in the past and fronted on the interstate that were quite nicely done.

WILEY said that since this case was last heard, the applicant has done a lot of work in this area to remedy some previous problems in the area.

DAN PHILLIPS, attorney representing Richard and Peggy Cook, and Lawrence Fast, adjacent landowners to this site, stated that they object to reducing the setback from 75 feet. Their major concerns were the possibility of some encroachment. PHILLIPS said that if there were some precautions taken, encroachment could be avoided and they would not have too much objections. He said that their other objection was that they think this is going to decrease the value of their property as it relates to any future development. The earlier plans shown on slides seem to indicate that on the west side of this property there were originally plans for residential development, and they would like to see that residential development to the east side of the proposed road on the west side of the property. PHILLIPS said he would like for the Commission to consider their property values, the possibilities of encroachment, and find some middle ground that would satisfy all of the parties.

GARDNER commented that he would be happy to consider that if he would explain how having water a little bit closer would diminish their property value.

PHILLIPS said that their concern was that they would like to see homes to the east side of that particular road, which would place homes east of their property but west of that body of water. Their view is that that would leave the road residential all the way back to the northernmost part of that development.

GARDNER asked Phillips to describe what is there presently.

PHILLIPS said that there were no homes there presently, but what they were looking at was a situation where for the next few years they really would not have much development, but at sometime in the future, the operator of the sandpit will want to turn that into residential, and they would like to see residential buildings running the entire length of the road.

GARDNER stated that Galbraith's comment about the likelihood of sewer being extended up in that area and the problems that exist in doing that are points that need to be taken into consideration. He pointed out that this is an area that has had extensive use for nearly everything but residential in there; the likelihood of development in the near future without utilities close or proximate or economically feasible to extend, pretty well sets the uses in there.

EXCERPT FROM MAPC MINUTES
5-15-86

MOTION: Having considered the factors as contained in Policy Statement No. 10; taking into consideration the character of the neighborhood; the zoning and uses of properties nearby, especially to the east and south; the suitability of subject property for the uses proposed; the recommendation of staff, and noting that the applicant has cleaned up the site since his last request; I move that we recommend to the governing body that this application be approved subject to the following conditions:

1. Prior to scheduling this request for County Commission review, the applicant shall revise the redevelopment sketch plan to provide for a 65-foot lake setback from the west property line and to re-align the east-west street north of the pipeline to connect with 23rd Street North. Four copies of the revised plan shall be submitted to the Planning Department.
2. 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 as indicated on the approved plan.
3. No stockpiling of sand or storage of equipment shall occur within 50 feet of any property line or within 100 feet of any public right-of-way.
4. A minimum 58-inch high fence shall be constructed prior to the beginning of the extraction operation and shall be maintained along the perimeter of the extraction area and plant operation area on no less than 7-foot steel posts, 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. Such fence and gates shall be a minimum height of 58 inches and shall be of the following types of construction:
 - a. A 48" or higher chainlink fence with three or more strands of barbed wire; or
 - b. A 48" or higher solid metal or solid masonry fence with three or more strands of barbed wire; or
 - c. A 48" or higher wood fence which may have cracks or openings not in excess of five percent of the area of such fence, with three or more strands of barbed wire.The term "barbed wire" shall mean any twisted wire with barbs spaced a minimum of 4 inches apart and placed at the top of the fence and gates at an angle not to exceed 160 degrees facing away from the extraction area.
5. The earth shall be extracted to a minimum depth of six feet below the normal water table as determined by the City-County Health Department.
6. To provide for bank stabilization and safety of future uses, the side slope of the extraction area shall be no more steep than five horizontal to one vertical.
7. All of the area included in the sand extraction operation shall be graded so as to drain into the lake or to an approved drainage system.
8. The sand plant operator shall be responsible for:
 - a. Insuring that the loop levee elevation is maintained if constructed.

EXCERPT FROM MAPC MINUTES
5-15-86

- b. Insuring that the grading of the area around the perimeter of the sand pit lake is maintained so as to direct drainage toward the lake.
 - c. Construction of any structure such as culverts, ditches, ditch checks, riprap, etc., necessary to carry out this plan.
 - d. Maintaining all operational roads in a graveled condition.
9. 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 Flood Control Office and the County Engineer and shall be according to the specifications and standards of these authorities.
10. No commercial recreational activities, such as boating, fishing, skiing, etc., shall be permitted in the area, unless duly authorized under provisions of the County Zoning Regulations and amendments thereto.
11. 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.
12. The property shall be platted prior to the issuance of any zoning or building permits, except those necessary for the sand extraction operation.
13. The covenants for loop levee construction and maintenance and for prohibiting the deposit of foreign matter on the site, as recorded on Film 594 at Pages 1526, 1527 and 1534 run with the land and are still binding on this property and its conditional use permit.
14. Any violation of conditions attached shall declare the conditional use permit null and void.

Gardner moved, Crockett seconded and it
carried unanimously. Conlee, Goebel, Miles
and Wilson were absent.

Published in The Daily Reporter on _____, 1986

RESOLUTION NO. _____

CASE NO. CU-292

A RESOLUTION TO EXPAND A SAND EXTRACTION OPERATION IN THE "R-1" SUBURBAN RESIDENTIAL DISTRICT ON CERTAIN LANDS LOCATED WITHIN THE UNINCORPORATED AREA OF SEDGWICK COUNTY, KANSAS, UNDER THE AUTHORITY GRANTED IN SECTION 17.C OF THE ZONING REGULATIONS ADOPTED BY THE BOARD OF COUNTY COMMISSIONERS OF SEDGWICK COUNTY, KANSAS, DECEMBER 12, 1984.

BE IT RESOLVED BY THE GOVERNING BODY OF SEDGWICK COUNTY, KANSAS.

SECTION 1. That after receiving a recommendation from the 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 17.C of the Zoning Regulations, a Conditional Use Permit to expand a sand extraction operation in the "R-1" Suburban Residential District is hereby approved on the lands legally described as follows:

The east half of the SW $\frac{1}{4}$ of Section 2, Township 27 South, Range 1 West of the 6th P.M., Sedgwick County, Kansas, except the south 314 feet of the east 156 feet thereof. Generally located on the north side of 21st Street North in an area 1/4-mile east of Hoover.

SUBJECT TO THE FOLLOWING CONDITIONS:

1. Prior to scheduling this request for County Commission review, the applicant shall revise the redevelopment sketch plan to provide for a 65-foot lake setback from the west property line and to re-align the east-west street north of the pipeline to connect with 23rd Street North. Four copies of the revised plan shall be submitted to the Planning Department.
2. 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 as indicated on the approved plan.
3. No stockpiling of sand or storage of equipment shall occur within 50 feet of any property line or within 100 feet of any public right-of-way.
4. A minimum 58-inch high fence shall be constructed prior to the beginning of the extraction operation and shall be maintained along the perimeter of the extraction area and plant operation area on no less than 7-foot steel posts, 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. Such fence and gates shall be a minimum height of 58 inches and shall be of the following types of construction:
 - a. A 48" or higher chainlink fence with three or more strands of barbed wire; or
 - b. A 48" or higher solid metal or solid masonry fence with three or more strands of barbed wire; or

- c. A 48" or higher wood fence which may have cracks or openings not in excess of five percent of the area of such fence, with three or more strands of barbed wire.
- The term "barbed wire" shall mean any twisted wire with barbs spaced a minimum of 4 inches apart and placed at the top of the fence and gates at an angle not to exceed 160 degrees facing away from the extraction area.
5. The earth shall be extracted to a minimum depth of six feet below the normal water table as determined by the City-County Health Department.
 6. To provide for bank stabilization and safety of future uses, the side slope of the extraction area shall be no more steep than five horizontal to one vertical.
 7. All of the area included in the sand extraction operation shall be graded so as to drain into the lake or to an approved drainage system.
 8. The sand plant operator shall be responsible for:
 - a. Insuring that the loop levee elevation is maintained if constructed.
 - b. Insuring that the grading of the area around the perimeter of the sand pit lake is maintained so as to direct drainage toward the lake.
 - c. Construction of any structure such as culverts, ditches, ditch checks, riprap, etc., necessary to carry out this plan.
 - d. Maintaining all operational roads in a graveled condition.
 9. 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 Flood Control Office and the County Engineer and shall be according to the specifications and standards of these authorities.
 10. No commercial recreational activities, such as boating, fishing, skiing, etc., shall be permitted in the area, unless duly authorized under provisions of the County Zoning Regulations and amendments thereto.
 11. 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.
 12. The property shall be platted prior to the issuance of any zoning or building permits, except those necessary for the sand extraction operation.
 13. The covenants for loop levee construction and maintenance and for prohibiting the deposit of foreign matter on the site, as recorded on Film 594 at Pages 1526, 1527 and 1534 run with the land and are still binding on this property and its conditional use permit.
 14. Any violation of conditions attached shall declare the conditional use permit 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 Commission.

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 by the Board of County Commissioners
at Wichita, Kansas, this _____ day of _____, 19____.

_____, Chairman
Bernard A. Hentzen

_____, Commissioner
Donald E. Gragg

_____, Commissioner
Tom Scott

ATTEST:

Donnell L. Wright, County Clerk

(SEAL)

Approved as to form by County Counselor

William D. Rustin, County Counselor

May 16, 1986

Dan Phillips, Attorney
901 North Broadway
Wichita, Kansas 67203

Re: CU-292

Dear Mr. Phillips:

The Planning Commission at its regular meeting of May 15, 1986, considered the above-captioned conditional use request, and their action was as indicated on the attached letter.

This is to advise you that if property owners within 1000 feet of the application area desire to submit legal protest petitions, they must be submitted to the Office of the County Clerk no later than 5:00 p.m., Thursday, May 29, 1986. Enclosed are several copies of the protest petition form, and if you have need for more forms, they may be obtained at this office.

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

Sincerely yours,

Jack H. Galbraith
Chief Planner

JHG/lw

Enclosures (6)

May 16, 1986

Gary Wiley
Professional Engineering Consultants
1440 East English
Wichita, Kansas 67211

Re: CU-292 Conditional Use Permit. On the north side of 21st Street North in an area $\frac{1}{4}$ -mile east of Hoover.

Dear Mr. Wiley:

At its regular meeting of May 15, 1986, the Metropolitan Area Planning Commission considered the above-captioned request. The action of the Commission was to recommend approval subject to the following conditions:

1. Prior to scheduling this request for County Commission review, the applicant shall revise the redevelopment sketch plan to provide for a 65-foot lake setback from the west property line and to re-align the east-west street north of the pipeline to connect with 23rd Street North. Four copies of the revised plan shall be submitted to the Planning Department.
2. 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 as indicated on the approved plan.
3. No stockpiling of sand or storage of equipment shall occur within 50 feet of any property line or within 100 feet of any public right-of-way.
4. A minimum 58-inch high fence shall be constructed prior to the beginning of the extraction operation and shall be maintained along the perimeter of the extraction area and plant operation area on no less than 7-foot steel posts, 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. Such fence and gates shall be a minimum height of 58 inches and shall be of the following types of construction:

Gary Wiley
May 16, 1986
Page 2

- a. A 48" or higher chainlink fence with three or more strands of barbed wire; or
- b. A 48" or higher solid metal or solid masonry fence with three or more strands of barbed wire; or
- c. A 48" or higher wood fence which may have cracks or openings not in excess of five percent of the area of such fence, with three or more strands of barbed wire.

The term "barbed wire" shall mean any twisted wire with barbs spaced a minimum of 4 inches apart and placed at the top of the fence and gates at an angle not to exceed 160 degrees facing away from the extraction area.

5. The earth shall be extracted to a minimum depth of six feet below the normal water table as determined by the City-County Health Department.
6. To provide for bank stabilization and safety of future uses, the side slope of the extraction area shall be no more steep than five horizontal to one vertical.
7. All of the area included in the sand extraction operation shall be graded so as to drain into the lake or to an approved drainage system.
8. The sand plant operator shall be responsible for:
 - a. Insuring that the loop levee elevation is maintained if constructed.
 - b. Insuring that the grading of the area around the perimeter of the sand pit lake is maintained so as to direct drainage toward the lake.
 - c. Construction of any structure such as culverts, ditches, ditch checks, riprap, etc., necessary to carry out this plan.
 - d. Maintaining all operational roads in a graveled condition.
9. 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 Flood Control Office and the County Engineer and shall be according to the specifications and standards of these authorities.
10. No commercial recreational activities, such as boating, fishing, skiing, etc., shall be permitted in the area, unless duly authorized under provisions of the County Zoning Regulations and amendments thereto.

Gary Wiley
May 16, 1986
Page 3

11. 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.
12. The property shall be platted prior to the issuance of any zoning or building permits, except those necessary for the sand extraction operation.
13. The covenants for loop levee construction and maintenance and for prohibiting the deposit of foreign matter on the site, as recorded on Film 594 at Pages 1526, 1527 and 1534 run with the land and are still binding on this property and its conditional use permit.
14. Any violation of conditions attached shall declare the conditional use permit null and void.

This matter will be forwarded to the Board of County Commissioners for their consideration at 9:00 a.m., on Wednesday, June 11, 1986. This meeting is tentatively scheduled to be held in the Board Room, First Floor, City Hall, 455 North Main. You may call our office prior to the meeting for confirmation of the location.

Sincerely yours,

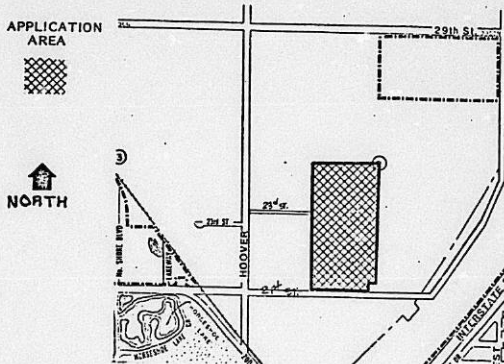
Jack H. Galbraith
Chief Planner

JHG/lw

cc: Dan Phillips, Attorney, 901 North Broadway, Wichita, KS 67203
Ron Worley, County Zoning Administrator

MAY 15, 1986

STAFF REPORT



CU-292 - REQUEST FOR CONDITIONAL USE PERMIT TO EXPAND A SAND EXTRACTION OPERATION ON PROPERTY ZONED "R-1" SUBURBAN RESIDENTIAL LOCATED NORTH OF 21ST STREET NORTH, 1/4 TO 1/2-MILE EAST OF HOOVER.

Applicant: Foundation, Inc., c/o Donald P. Cain, Sr., P. O. Box 9090, Wichita, KS 67277.

Size: 77.5 acres

	<u>Land Use</u>	<u>Zoning</u>
Application Area	Sand pit	"R-1" w/CU
North	Agriculture	"R-1"
South	Agriculture (approved for sand extraction)	"R-1"
East	Sand pit & agriculture	"R-1"
West	One-family dwelling & auto repair	"R-1"

<u>History:</u>	<u>CU-133</u>	<u>7/22/71</u>	<u>MAPC approved</u>
		<u>8/04/71</u>	<u>BCoC approved</u>
	<u>CU-258</u>	<u>3/10/83</u>	<u>MAPC approved subject to conditions</u>
		<u>6/22/83</u>	<u>BCoC approved subject to conditions</u>
	<u>CU-274</u>	<u>12/13/84</u>	<u>MAPC approved subject to conditions</u>
		<u>1/09/85</u>	<u>BCoC approved subject to conditions</u>

Background: Three previous permits for sand extraction operations have been granted on this site. Each revision was for expansion of the lake, first to the east to within 75 feet of the east property line, then to the west. This current request proposes to reduce the setback from the west property line from 200 feet to 50 feet. A Phillips pipeline diagonally crossing the northwest portion of this site essentially prohibits expansion to the north.

Analysis: Conditional use applications for sand pits have always required submission of a proposed redevelopment sketch plan indicating how the area might be developed after the sand extraction operation ceases. With expansion of the lake to within 50 to 75 feet of the west and east property lines, there would be no room for future development on these two sides of the lake. The redevelopment plan submitted with this current application shows a group of lots along 21st

Street and a totally separate group of lots north of the pipeline with access only through adjacent properties. The proposed street connecting with land to the west should at least be moved south to align with 23rd Street North, a substandard but dedicated county street. It is recommended that the west edge of the lake be kept at least 75 feet from the west property line in order to provide for a possible future street at this location.

If the Planning Commission determines that this request for expansion of the sand pit is appropriate, the following are recommended conditions of approval:

1. Prior to scheduling this request for County Commission review, the applicant shall revise the redevelopment sketch plan to provide for a 75-foot lake setback from the west property line and to re-align the east-west street north of the pipeline to connect with 23rd Street North. Four copies of the revised plan shall be submitted to the Planning Department.
2. 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 as indicated on the approved plan.
3. No stockpiling of sand or storage of equipment shall occur within 50 feet of any property line or within 100 feet of any public right-of-way.
4. A minimum 58-inch high fence shall be constructed prior to the beginning of the extraction operation and shall be maintained along the perimeter of the extraction area and plant operation area on no less than 7-foot steel posts, 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. Such fence and gates shall be a minimum height of 58 inches and shall be of the following types of construction:
 - a. A 48" or higher chainlink fence with three or more strands of barbed wire; or
 - b. A 48" or higher solid metal or solid masonry fence with three or more strands of barbed wire; or
 - c. A 48" or higher wood fence which may have cracks or openings not in excess of five percent of the area of such fence, with three or more strands of barbed wire.

The term "barbed wire" shall mean any twisted wire with barbs spaced a minimum of 4 inches apart and placed at the top of the fence and gates at an angle not to exceed 160 degrees facing away from the extraction area.
5. The earth shall be extracted to a minimum depth of six feet below the normal water table as determined by the City-County Health Department.
6. To provide for bank stabilization and safety of future uses, the side slope of the extraction area shall be no more steep than five horizontal to one vertical.
7. All of the area included in the sand extraction operation shall be graded so as to drain into the lake or to an approved drainage system.
8. The sand plant operator shall be responsible for:
 - a. Insuring that the loop levee elevation is maintained if constructed.
 - b. Insuring that the grading of the area around the perimeter of the sand pit lake is maintained so as to direct drainage toward the lake.
 - c. Construction of any structure such as culverts, ditches, ditch checks, riprap, etc., necessary to carry out this plan.
 - d. Maintaining all operational roads in a graveled condition.
9. 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 Flood Control Office and the County

Engineer and shall be according to the specifications and standards of these authorities.

10. No commercial recreational activities, such as boating, fishing, skiing, etc., shall be permitted in the area, unless duly authorized under provisions of the County Zoning Regulations and amendments thereto.
11. 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.
12. The property shall be platted prior to the issuance of any zoning or building permits, except those necessary for the sand extraction operation.
13. The covenants for loop levee construction and maintenance and for prohibiting the deposit of foreign matter on the site, as recorded on Film 594 at Pages 1526, 1527 and 1534 run with the land and are still binding on this property and its conditional use permit.
14. Any violation of conditions attached shall declare the conditional use permit null and void.

CASE NO. CU-292

21	"Notices to adjoining property owners mailed on 5-1-86 for MAPC meeting on 5-15-86.
2	One each to Applicant and Agent.
3	One each to Ron Worley, David Spears and Karen Crook.
2	One each to Louise and Glen.
<hr/>	
28	TOTAL

WICHITA-SEDGWICK COUNTY
METROPOLITAN AREA PLANNING COMMISSION
CITY HALL, TENTH FLOOR, 455 NORTH MAIN STREET
WICHITA, KANSAS 67202-1688

May 1, 1986

NOTICE OF PUBLIC HEARING

Case No.: CU-292.

Location: On the north side of 21st Street North in an area $\frac{1}{4}$ -mile east of Hoover.

Address: 4900 West 21st Street North.

Request: Conditional Use Permit to expand a sand extraction operation on property zoned "R-1" Suburban residential district.

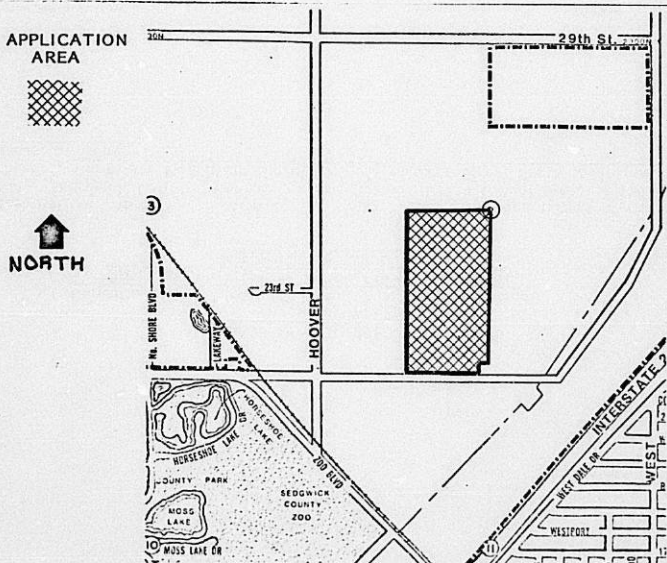
A public hearing to consider the above noted request has been scheduled before the Wichita-Sedgwick County Metropolitan Area Planning Commission (MAPC) on Thursday,

MAY 15, 1986

The meeting will begin at 1:30 p.m. in the City Commission Meeting Room, First Floor, City Hall, 455 North Main, Wichita, Kansas.

As an owner or occupant of property in the area, you have the right to appear at the MAPC meeting, either in person or by agent or attorney, to support or oppose this request. If you have no interest in or objection to the request, you have no obligation to appear at the public hearing.

If you have any questions or wish additional information, please call 268-4421.



SEE REVERSE SIDE

LEGAL DESCRIPTION OF THE AREA PROPOSED TO BE CHANGED

CASE NO. CU-292

Conditional Use Permit to Establish a Sand Extraction
Operation on Property Zoned "R-1" Suburban
Residential District

The east half of the SW $\frac{1}{4}$ of Section 2, Township 27 South, Range 1 West of the 6th P.M., Sedgwick County, Kansas, except the south 31 $\frac{1}{2}$ feet of the east 156 feet thereof. Generally located on the north side of 21st Street North in an area $\frac{1}{4}$ -mile east of Hoover.

Most Restrictive



Least Restrictive

DISTRICT	NAME OF DISTRICT AND USES PERMITTED
R	RURAL RESIDENTIAL Agriculture and One Family Dwellings
R-1	SUBURBAN RESIDENTIAL Agriculture, One Family Dwellings, Schools and Churches
AA	ONE FAMILY DWELLING Agriculture, One Family Dwellings, Schools and Churches
BB	OFFICE All Uses Permitted in More Restrictive Zones and Business and Professional Offices
OC	OFFICE COMMERCIAL Offices, Limited Retail and Service Uses Operated Within a Building
LC	LIGHT COMMERCIAL All Uses Permitted in More Restrictive Zones and Purely Retail Businesses Operated Within a Building
C	GENERAL COMMERCIAL All Uses Permitted in More Restrictive Zones Plus All Commercial Uses
E	LIGHT INDUSTRIAL All Uses Permitted in More Restrictive Zones Plus Industrial Uses Which Do Not Create Hazards or Nuisance From Fire, Dust, Odor or Smoke***
F	HEAVY INDUSTRIAL Any Use, Some as Conditional Uses***

***Mobile home parks and trailer camps are not permitted.

() Published in The Eagle Beacon on April 25, 1986 (One Time)

OFFICIAL NOTICE

TO WHOM IT MAY CONCERN AND TO ALL PERSONS INTERESTED:

NOTICE IS HEREBY GIVEN THAT ON THURSDAY, May 15, 1986, the WICHITA-SEDGWICK COUNTY METROPOLITAN AREA PLANNING COMMISSION, in the City Commission Meeting Room, City Hall, First Floor, 455 North Main Street, Wichita, Kansas, beginning at 1:30 p.m., will consider the following applications:

CASE NO. CU-292
Conditional Use Permit to Establish a Sand Extraction
Operation on Property Zoned "R-1" Suburban
Residential District

The east half of the SW $\frac{1}{4}$ of Section 2, Township 27 South, Range 1 West of the 6th P.M., Sedgwick County, Kansas, except the south 314 feet of the east 156 feet thereof. Generally located on the north side of 21st Street North in an area $\frac{1}{2}$ -mile east of Hoover.

As provided in Section 17C of the Sedgwick County Zoning Regulations, the same will there be discussed and considered by the said MAPC and all persons interested in said matter(s) will be heard at this time concerning their views and wishes in the premises, and any protest against any of the provisions of the proposed application(s) will be considered by the MAPC as by law provided.

WITNESS my hand and seal on this 21st day of April, 1986.

Michael E. Lindebak, Secretary
Wichita-Sedgwick County
Metropolitan Area Planning
Commission

(SEAL)

() Published in The Eagle Beacon on April 25, 1986 (One Time)

OFFICIAL NOTICE

TO WHOM IT MAY CONCERN AND TO ALL PERSONS INTERESTED:

NOTICE IS HEREBY GIVEN THAT ON THURSDAY, May 15, 1986, the WICHITA-SEDGWICK COUNTY METROPOLITAN AREA PLANNING COMMISSION, in the City Commission Meeting Room, City Hall, First Floor, 455 North Main Street, Wichita, Kansas, beginning at 1:30 p.m., will consider the following application:

CASE NO. CU-292
Conditional Use Permit to Establish a Sand Extraction
Operation on Property Zoned "R-1" Suburban
Residential District

The east half of the SW $\frac{1}{4}$ of Section 2, Township 27 South, Range 1 West of the 6th P.M., Sedgwick County, Kansas, except the south 314 feet of the east 156 feet thereof. Generally located on the north side of 21st Street North in an area $\frac{1}{2}$ -mile ~~west~~ ^{east} of Hoover.

As provided in Section 17C of the Sedgwick County Zoning Regulations, the same will there be discussed and considered by the said MAPC and all persons interested in said matter will be heard at this time concerning their views and wishes in the premises, and any protest against any of the provisions of the proposed application will be considered by the MAPC as by law provided.

WITNESS MY HAND AND SEAL this 21st day of April, 1986.

Michael E. Lindebak, Secretary
Wichita-Sedgwick County
Metropolitan Area Planning
Commission

(SEAL)

62

CASE NO. CU-292

Conditional Use Permit to Establish a Sand Extraction
Operation on Property Zoned "R-1" Suburban
Residential District

The east half of the SW $\frac{1}{4}$ of Section 2, Township 27 South, Range 1 West of the 6th P.M., Sedgwick County, Kansas, except the south 314 feet of the east 156 feet thereof. Generally located on the north side of 21st Street North in an area $\frac{1}{4}$ -mile ~~west~~ east of Hoover.

2/17/27 314 21st 1-29
C.C. 2/28/27

APPLICATION FOR CONDITIONAL USE PERMIT

WICHITA-SEDGWICK COUNTY METROPOLITAN AREA PLANNING COMMISSION

This is an application for a Conditional Use Permit. The form must be completed and filed at the Planning Department, Tenth Floor, City Hall, 455 North Main Street, Wichita, Kansas, in accordance with directions on the accompanying instruction sheet. AN INCOMPLETE APPLICATION CANNOT BE ACCEPTED.

- 1. The names of the owners of all property included in this application must be listed as applicants. Contract purchasers, leasees or others directly associated with the property may also be listed if they desire to be advised of the proceedings.

CU-292

A. APPLICANT Foundation, Inc. - Donald P. Cain, Sr., President

ADDRESS P. O. Box 9090 Zip Code 67277 PHONE 722-6071

AGENT Professional Engineering Consultants, P.A., (Gary Wiley)

ADDRESS 1440 East English Zip Code 67211 PHONE 262-2691

B. APPLICANT

ADDRESS Zip Code PHONE

AGENT

ADDRESS Zip Code PHONE

C. APPLICANT

ADDRESS Zip Code PHONE

AGENT

ADDRESS Zip Code PHONE

(Use separate sheet if necessary for names of additional applicants).

- 2. A. The applicant proposes to establish a Sand Extraction Operation (C.U.-258 Amendment #2) (use)

on property legally described as Lot(s)

Block(s)

of the Addition.

(If appropriate, metes and bounds description may be provided in the space below or on an attached sheet).

The east 1/2 of the southwest 1/4, of Section 2, T27S, R1W of the 6th P.M., except the south 50 feet and except the south 264 feet of the east 156 feet.

- B. There are 77.5 acres (round to nearest tenth) in the above described property.

FOR OFFICE USE ONLY

Map No. 5150C Zoning (N) R-1 (S) R-1 (E) R-1 (W) R-1 MAPC 5/15/86

T9-333-2

Revised 1/85

3. This property is located at (address) 4900 W. 21st Street North.

THE GENERAL LOCATION IS (USE APPROPRIATE SECTION)

A. At the _____ corner of _____ and _____, OR

B. On the North side of 21st Street North (Ave.) Street between 1/4 mile West of Hoover Ave. Street and _____ (Ave.) Street.

4. We request this Conditional Use Permit for the following reasons:
To amend CU-258 to permit the extraction of sand and gravel in a configuration different from that originally approved. This Amendment would allow us to pump approximately one more year at this location.

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

FOUNDATION, INC.
APPLICANT'S SIGNATURE

BY [Signature]
AUTHORIZED AGENT (IF ANY)

APPLICANT'S SIGNATURE

BY _____
AUTHORIZED AGENT (IF ANY)

APPLICANT'S SIGNATURE

BY _____
AUTHORIZED AGENT (IF ANY)

OFFICE USE ONLY

This application was received at the Planning Department at 10:30 (AM, ~~PM~~) on APRIL 16, 1986 (day, month, year). It has been checked and found to be complete and accompanied by required documents and the appropriate fee of \$ 500⁰⁰.

[Signature] Name _____
Title _____

Please Update
Sam Staley PEC
4-11-86

OWNERSHIP LIST

<u>Tract Description</u>	<u>Property Owner</u>
The South 1/2 of the NW $\frac{1}{4}$ of 2-27-1W exc. a tract beg. 1568 ft. south of the NW corner of the NW $\frac{1}{4}$; th. south 531.9'; th. east 245.7'; th. North 531.9'; th. west 245.7; to beg.	E. C. Carp (Dec'd) AND Charles N. Carp 2700 N. Hoover Rd. Wichita, KS 67205 ✓ AND Wallace F. Carp 2714 N. Hoover Wichita, KS 67205
South 1/2 of the NE $\frac{1}{4}$ of 2-27-1W	Ken-Win Farms, Inc. ✓ c/o Kenneth Ott Mazie, KS 67101
North 1/2 of the SE $\frac{1}{4}$ of 2-27-1W	Same As Above
That part of the South 1/2 of the SE $\frac{1}{4}$ of 2-27-1W lying west of the westerly r/o/w line of the Wichita-Valley Center Floodway.	Victor B. Eisenring ✓ 4700 W. 21st St. Wichita, KS 67212
That part of the NE $\frac{1}{4}$ of 11-27-1W lying north & west of the Wichita-Valley Center Floodway.	Drillers Production ✓ Co., Inc. 110 N. Market Wichita, KS 67202
That part of the North 1/2 of the NW $\frac{1}{4}$ of 11-27-1W lying north & east of the Missouri Pacific Railroad r/o/w and lying north & west of the Wichita-Valley Center Floodway, except the West 500 ft. thereof.	Victor B. Eisenring <i>dup</i> 4700 W. 21st St. Wichita, KS 67212
The West 500 ft. of the North 1/2 of the NW $\frac{1}{4}$ of 11-27-1W lying north & east of the Missouri Pacific Railroad r/o/w	Lloyd B. Stewart, ✓ Address Unknown (as trustee) AND <i>c/o</i> Emily M. Stewart 2 Parkwood Dr. Wichita, KS 67208 ✓ (as trustee) AND Jack C. Stewart 2 Parkwood Dr. Wichita, KS 67208 (as trustee) AND James M. Stewart 700 Preston Trail Wichita, KS 67230 ✓ (as trustee)
East 1/2 of the SW $\frac{1}{4}$ 2-27-1W except 1 acre in the Southeast Corner thereof being 165' in width (East to West) and 264' in depth (South to North)	Foundation, Inc. ✓ 8027 W. Kellogg Wichita, KS 67209
1 acre in the Southeast corner of the E $\frac{1}{2}$ of the SW $\frac{1}{4}$ 2-27-1W being 165' in width (East to West) by 264' in depth (South to North)	Victor B. Eisenring <i>dup</i> 4700 W. 21st St. Wichita, KS 67212

Tract DescriptionProperty Owner

East 10 acres of the SW $\frac{1}{4}$ of the SW $\frac{1}{4}$ of 2-27-1W except the north 440' and except the east 165' thereof.

John F. Petersen
5228 W. 21st St.
Wichita, KS 67212

Tract in the SW $\frac{1}{4}$ of 2-27-1W beg. 880' north of the SE/c of said SW $\frac{1}{4}$ of the SW $\frac{1}{4}$; th. North 440'; th. West 330'; th. South 440'; th. East 330' to beg.

Same As Above

West 10 acres of the SW $\frac{1}{4}$ of the SW $\frac{1}{4}$ of 2-27-1W

Elgin M. Gupton
Odessa M. Gupton
2815 George Washington Blvd.
Wichita, KS 67210

West 20 acres of the East 30 acres of the SW $\frac{1}{4}$ of the SW $\frac{1}{4}$ of 2-27-1W

Victor B. Eisenring
4700 W. 21st St.
Wichita, KS 67212

Tract in the SW $\frac{1}{4}$ of the SW $\frac{1}{4}$ of 2-27-1W beg. at the SE corner of said SW $\frac{1}{4}$ of the SW $\frac{1}{4}$; th. north 880'; th. west 165'; th. south 880'; th. east 165' to beg.

Helen M. Peterson
Address Unknown

The East 56.2' of the South 420' of the NW $\frac{1}{4}$ of the SW $\frac{1}{4}$ of 2-27-1W except the north 40' of the south 230'.

Richard D. Cook
Peggy L. Cook
2452 N. Hoover
Wichita, KS 67205

East 210' of the West 840' of the south 210' of the NW $\frac{1}{4}$ of the SW $\frac{1}{4}$ of 2-27-1W, except the north 20' thereof.

Bruce M. Shepherd
Deborah K. Shepherd
5333 W. 23rd St. North
Wichita, KS 67205

East 105' of the west 525' of the north 210' of the south 420' of the NW $\frac{1}{4}$ of the SW $\frac{1}{4}$ of 2-27-1W, except the south 20' thereof.

Gregory Leigh Jamis
Tammy Jo Jamis
5410 W. 23rd St. North
Wichita, KS 67205

East 210' of the west 420' of the south 210' of the NW $\frac{1}{4}$ of the SW $\frac{1}{4}$ of 2-27-1W

Marvin Kralicek
5539 W. 23rd St. North
Wichita, KS 67205

South 225' of the north 450' of the south 870' of the NW $\frac{1}{4}$ of the SW $\frac{1}{4}$ of 2-27-1W

Laurence R. Fast
Sherry E. Fast
2446 N. Hoover
Wichita, KS 67205

East 210' of the west 630' of the south 210' of the NW $\frac{1}{4}$ of the SW $\frac{1}{4}$ of 2-27-1W

Steven J. Grochowsky
5335 W. 23rd St. North
Wichita, KS 67205

South 210' of the west 420' of the east 476.2' of the south 420' of the NW $\frac{1}{4}$ of the SW $\frac{1}{4}$ of 2-27-1W, subject to road on the north 20'.

Kenny L. Davis
Elaine F. Davis
5311 W. 23rd St. North
Wichita, KS 67205

North 225' of the North 450' of the South 870' of the NW $\frac{1}{4}$ of the SW $\frac{1}{4}$ of 2-27-1W

Richard D. Cook
Peggy L. Cook
2452 N. Hoover
Wichita, KS 67205

Tract Description	Property Owner
North 220.5' of the NW $\frac{1}{4}$ of the SW $\frac{1}{4}$ of 2-27-1W	Teall Construction Co., Inc. ✓ 719 N. St. Francis Wichita, KS 67214
South 225' of the North 445' of the NW $\frac{1}{4}$ of the SW $\frac{1}{4}$ of 2-27-1W	Same As Above
East 210' of the west 840' of the north 210' of the South 420' of the NW $\frac{1}{4}$ of the SW $\frac{1}{4}$ of 2-27-1W	Ben Otis Parkhurst Dorothy L. Parkhurst ✓ 5354 W. 23rd St. North Wichita, KS 67205
East 210' of the west 420' of the north 210' of the south 420' of the NW $\frac{1}{4}$ of the SW $\frac{1}{4}$ of 2-27-1W	Kelley Cast Stone Co., Inc. ✓ 7080 W. 29th St. North Wichita, KS 67205
East 105' of the West 630' of the north 210' of the south 420' of the NW $\frac{1}{4}$ of the SW $\frac{1}{4}$ of 2-27-1W	D. N. Myers Lanelda Myers ✓ 5400 W. 23rd St. North Wichita, KS 67205
North 210' of the West 420' of the east 476.2' of the South 420' of the NW $\frac{1}{4}$ of the SW $\frac{1}{4}$ of 2-27-1W	Ida Heck (Dec'd)

We hereby certify the foregoing to be a true and correct list of the property owners of the hereinbefore described tract within a 1000 foot radius of:

The East Half of the Southwest Quarter of Section 2, Township 27 South, Range 1 West of the 6th P.M., Sedgwick County, Kansas, except the South 314 feet of the East 156 feet thereof.

as shown by the last deed of record on file in the Office of the Register of Deeds, Sedgwick County, Kansas, on the 16th day of November, 1984, at 7:00 o'clock A.M.

see next page for recertification to April 1986

THE SECURITY ABSTRACT AND TITLE COMPANY, INC.

By *Mary Sable*
Sr. Vice-President

UPDATE OWNERSHIP LIST NO. 340612

We hereby update Ownership List No. 340612 of the property owners within a 1000 foot radius of:

The East Half of the Southwest Quarter of Section 2, Township 27 South, Range 1 West of the 6th P.M., Sedgwick County, Kansas, except the South 314 feet of the East 156 feet thereof.

on the 16th day of April, 1986, at 7:00 o'clock A.M. without change.

THE SECURITY ABSTRACT AND TITLE COMPANY, INC.

Mary Gable

By
Sr. Vice-President

Order No: 359289
nj

FORM 29-001 PAYMENT NOTICE
City of Wichita

Bldg.	Use of Str.	Code Bks	Copies
Elec	Elev. Insp.	Hse Moving	Lic.
Mech	Boiler Insp.	Fav. Cuts	Cert.
Plbg	Exam Fees	Sewer	Elev.
Signs	Plan Rev. (P.W.)	Cement	M.S.P.

Planning CU-292

DESCRIPTION	AMOUNT
	75002

NAME PFC

ADDRESS 1205 E. 11th St

FUND 2000 DUE DATE

COMMENTS

DATE 4/16/10 BY [Signature]

FROM JLS

DATE 5-31-88

ADMINISTRATION

- Kibut
- Lopez
- Eubanks
- Henderson
- Kelly
- Wasko
- Wimbley

ADVANCE PLANS

- Stockwell
- Young
- Bechtel
- Hart
- Kelley
- Kidd
- Mitchell
- Shen
-
-
-

CURRENT PLANS

- Galbraith
- Lytle
- Harris
- Losew
- Nagley
- Olivarez
-

GRAPHICS

- Pierce
- Commer
- Crook
- Jones

CU-292

L. F. Olivarez related sand pit file.

REMARKS *EPA delineated this today. Although there is now time for public comment, they don't require that we make comments & or take any action. Health Dept and Hahn + Worley all have*

- Note & Return
- Handle
- All Staff
- Comment
- Signature
- Library
- Information
- Files
- Type
- Initial

T9-105





U.S. Environmental Protection Agency, Region 7
Iowa, Kansas, Missouri, Nebraska



United States
Environmental Protection Agency
Washington DC 20460

August
1987



The New Superfund

What It Is,
How It Works



U. S. Environmental Protection Agency
Region VII, Superfund

STEVE A. KOVAC
Environmental Engineer
Remedial Project Manager

726 Minnesota Avenue
Kansas City, KS 66101

(913) 236-2856
FTS 757-2856

The Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), commonly known as Superfund, was enacted in 1980. This law provided broad federal authority and resources to respond directly to releases (or threatened releases) of hazardous substances that could endanger human health or the environment. Costs for the first five years of the Superfund program were covered by a \$1.6 billion Hazardous Substance Response Trust Fund established to pay for cleanup of abandoned or uncontrolled hazardous waste sites. The law also authorized enforcement action and cost recovery from those responsible for a release.

The hazardous waste problem, brought to public attention in the late 1970s by Love Canal in Niagara Falls, New York, is now recognized as larger and more complex than originally expected — generating a need for new and stronger legislation.

On October 17, 1986, the Superfund Amendments and Reauthorization Act of 1986 (SARA) was enacted. The new Superfund:

- reauthorizes the program for five years;
- increases the size of the Fund to \$8.5 billion;
- strengthens and expands the cleanup program;
- focuses on the need for emergency preparedness and community right-to-know; and
- changes the tax structure for financing the Fund.

How Superfund Works

The U.S. Environmental Protection Agency (EPA) has the primary responsibility for managing the cleanup and enforcement activities under Superfund. A comprehensive regulation known as the National Contingency Plan (NCP) describes the guidelines and procedures for implementing this law.

Every Superfund site is unique, and cleanups must be tailored to the specific needs of each site or release of hazardous substances. From the beginning of the process, EPA makes a concerted effort to encourage those responsible to pay for cleanup. However, if an immediate problem threatens human health, welfare,

or the environment, EPA will take action.

If efforts to ensure responsible party response do not lead to prompt action and EPA determines that action is necessary, EPA can initiate:

• **removal actions** — short-term actions which stabilize or clean up a hazardous site that poses a threat to human health or the environment. Typical removal actions include removing tanks or drums of hazardous substances on the surface, installing fencing or other security measures, and providing a temporary alternate source of drinking water to local residents.

or

• **remedial actions** — the study, design, and construction of longer-term and usually more expensive actions aimed at permanent remedy. EPA can respond in this way only at sites on the National Priorities List (NPL) — the list of the nation's most serious hazardous waste sites. Typical remedial responses include removing buried wastes from the site; installing a clay "cap" over the site; constructing underground walls to control movement of ground water; on-site incineration or solidification of wastes; or providing a permanent alternate source of drinking water.

Removal Actions

Removals can take place at any site, including those on the NPL. Removals may be ordered, for example, to clean up spills of hazardous materials when a truck or train overturns, to keep the public from being exposed to hazardous substances, or to protect a drinking water supply from contamination.

Under the 1980 law, each removal was limited to six months and a total cost of \$1 million. EPA could grant an exemption to these limits if:

- continued federal response was needed to prevent, limit, or control an emergency;
- there was an immediate risk to human health or welfare or the environment; and
- such assistance was not otherwise available on a timely basis.

The new Superfund raises the limits on removal actions to 12 months and \$2 million and provides an additional exemption. The removal can continue if it is consistent with long-term action to be taken at the site.

Remedial Actions

Remedial response is a long and complicated process. After learning of a site, EPA's first step is to review all available information about the site. If this preliminary assessment indicates that there may be a hazardous waste problem that poses risks to human health or the environment, EPA orders a site inspection. These inspections include visiting the site, sampling drums, soil, surface water, and ground water, where necessary, and documenting the site layout and terrain. By using a system designed to rank the hazards associated with a site, sites to be proposed for the NPL are identified. After a public comment period, sites that meet established criteria will be placed on the final NPL.

The New Superfund at a Glance

The new Superfund reflects EPA's experience in administering this complex cleanup program since 1980. The new program builds on the existing program by:

- increasing the size of the Fund;
- stressing permanent remedies and treatment or recycling technologies in cleaning up hazardous waste sites;
- setting specific cleanup goals and standards;
- providing new enforcement authorities and responsibilities;
- increasing state involvement in every phase of the Superfund program;
- increasing attention to community and state emergency preparedness activities;
- increasing the focus on human health problems posed by hazardous waste sites;
- encouraging greater citizen participation in making decisions on how sites should be cleaned up;
- expanding research and training activities to promote the development of alternative and innovative treatment technologies;
- requiring cleanup of federal facilities to meet Superfund requirements; and
- expanding the statutory cost and duration limits on removal actions.

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The new Superfund also sets the following goals:

- By January of 1988, EPA should complete preliminary assessments for all facilities that were listed in the inventory of potentially hazardous waste sites (CERCLIS) as of October 17, 1986.
- EPA should complete site inspections at all facilities in the inventory, where necessary, by January 1989.

Since each NPL site presents a unique set of challenges, there is no single, all-purpose solution. A workable and permanent solution is developed through a four-stage process.

- The Remedial Investigation/Feasibility Study (RI/FS) examines the type and extent of contamination and identifies possible remedies. The new Superfund sets several requirements for this phase of remedial response:

— Remedies must protect human health and the environment, be cost-effective, and emphasize use of permanent solutions that encourage treatment or recycling rather than land disposal.

— Remedies must meet all applicable and relevant federal and state standards for protecting human health and the environment.

— By December 1988, health assessments must be completed at all sites proposed for the NPL as of October 17, 1986 and at all newly-proposed NPL sites within one year of proposal.

- A Record of Decision (ROD) documents the action plan for the remedy chosen for a site and provides background on the decision. The ROD also provides the basis for future EPA efforts to recover Fund monies spent on cleanup from responsible parties.

- The Remedial Design (RD) details design plans and specifications for conducting the cleanup.

- Remedial Action (RA), also known as the construction or implementation phase, follows the completion and approval of the remedial design and includes actual site cleanup measures. The new Superfund requires EPA to begin 175 new remedial actions by October 1989 and another 200 by October 1991.

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State Involvement

States have always been encouraged to participate in the Superfund process. (Under the new Superfund, Indian Tribes are generally treated as states.) Now, states are more formally involved in the selection, initiation, and development of remedial responses. EPA must develop state participation regulations that will provide for a number of opportunities to participate, including review and comment on planning documents, involvement in long-term planning activities, and participation in negotiations.

Either EPA or the state may take the lead role in managing cleanup activities. When EPA takes the lead, the U.S. Army Corps of Engineers manages the remedial design and remedial action phases for EPA. Private contractors actually complete the work at a site under federal or state government supervision.

Research, Development, and Training

The 1980 Superfund law had no specific provisions for research, development, and training. The new Superfund establishes a research and development program, including demonstration programs for technologies that offer alternatives to conventional methods of handling site cleanups, and favoring methods that lead to the destruction or recycling of wastes rather than land disposal.

It also calls for the establishment of training programs for hazardous substance response and research.

Enforcement Authorities

Based on the principle that "the polluter should pay," Superfund contains authorities which allow EPA to ensure that those responsible for hazardous waste problems pay for their cleanup. Superfund enforcement authorities enable EPA to encourage responsible parties to undertake cleanup activities and recover Fund monies spent for cleanup from those responsible parties.

● **Cleanup Action** — In cases of imminent hazard to human health or the environment, Superfund authorizes EPA to order the responsible party to undertake necessary actions to control the threat. To accomplish this, the Agency can either issue an administrative order or bring a civil action against the responsible party. The new Superfund provides specific procedures for negotiating settlements with

responsible parties to conduct response actions. These are designed to encourage voluntary cleanup.

● **Criminal Authorities** — Criminal penalties for failure to notify proper authorities of a release have been increased and submitting false information is now a criminal offense.

● **Citizen Suits** — Superfund authorizes a citizen to sue any person, the United States, or an individual state for any violation of standards and requirements of the law.

● **Access to Sites** — Superfund strengthens EPA's ability to obtain access to sites in order to investigate and clean up.

● **Cost Recovery** — EPA can recover cleanup costs for Fund-financed responses from the responsible parties. Past and present facility owners and operators, as well as those who produce or transport hazardous substances can all be liable under Superfund for response costs and for damage to natural resources. EPA may recover federal response costs from any or all of the responsible parties involved in a cleanup action. The dollars recovered go back into the Fund for use in future response actions.

Community Involvement

Because the people in a community with a Superfund site personally face the hazardous waste problems associated with that site, EPA encourages community residents to participate in the process of determining the best way to clean it up. To ensure effective and substantive two-way communications from the outset at each remedial response site, a community relations program is tailored to local circumstances. Often, EPA or state staff will interview residents, local officials, and civic leaders to learn all they can about the site and about the community's concerns.

These interviews are conducted before and during field work on the Remedial Investigation. The new Superfund formalizes existing EPA community relations policy and public participation requirements outlined in the National Contingency Plan. It also requires EPA to:

- publish a notice and brief analysis of the proposed remedial action plan;
- provide an opportunity for the public to comment on that plan;

- provide an opportunity for a public meeting to allow for two-way communication on the remedial action plan;
- make a copy of the transcript of the public meeting available to the public; and
- prepare a response to each significant comment made on the proposed remedial action plan.

Community relations activities are somewhat different during a removal action, where human health and the environment must be protected from an immediate threat. During the initial phase of these response actions, the Agency's primary responsibility is to inform the community about actions being taken and the possible effect on the community.

The new Superfund also requires EPA to develop a grant program to make funding for technical assistance available to those who may be affected by a release. The purpose of these grants is to help concerned citizens understand and interpret technical information on the nature of the hazard and recommended alternatives for cleanup. Grants are limited by law to one grant of no more than \$50,000 per NPL site. In addition, the grant recipient must contribute at least 20 percent of the total cost of the grant.

Federal Facilities

The new Superfund confirms that Superfund applies to federal agencies and states that they must comply with its requirements. It also defines the process federal agencies must follow in undertaking remedial responses. If the federal agency and EPA disagree, EPA is responsible for selecting the remedy. State and local officials must be given the opportunity to participate in the planning and selection of any remedy at a federal facility, including reviewing all data. States are given a formal opportunity to review remedies to ensure that they incorporate state standards. The new Superfund also provides a schedule for response actions at federal facilities, including a schedule for preliminary assessments, listing on the National Priorities List, remedial investigations/feasibility studies, and remedial actions.

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New Authorities

In passing the new Superfund, Congress gave EPA a number of significant new authorities. These authorities formalize federal, state, and local cooperation in emergency preparedness and expand EPA's authorities to include identifying and cleaning up leaking underground petroleum storage tanks through state cooperative agreements.

Emergency Preparedness and Community Right-to-Know

In response to the tragic toxic chemical release in Bhopal, India, and a subsequent serious incident in Institute, West Virginia, Congress established new reporting requirements for facilities that handle hazardous chemicals. It also authorized new measures to increase the nation's focus on emergency preparedness. Provisions in Title III of the Superfund Amendments and Reauthorization Act establish a Preparedness and Community Right-to-Know program.

There are four major elements of this program:

- **Emergency Planning** requires the designation of state emergency response commissions and local emergency planning committees that are responsible for developing local contingency plans. This planning is done in cooperation with local hazardous chemical handlers.
- **Emergency Notification** requires hazardous chemical handlers to notify the local emergency planning committee and state emergency response commission immediately when there has been a release of a hazardous chemical.
- **Right-to-Know** requires handlers to provide information on the chemicals they produce, use, or store to the local planning committee and the public.
- **Emissions Inventory** requires chemical handlers to report any emissions of hazardous chemicals to EPA annually. EPA will maintain this information in a public inventory.

Leaking Underground Storage Tank (LUST) Trust Fund

Based on increasing evidence of ground water contamination from leaks in underground petroleum storage tanks,

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Congress added new response authorities to the Resource Conservation and Recovery Act (RCRA) to regulate underground storage tanks and respond to leaks that seriously threaten the nation's ground water. Under these authorities, EPA is issuing regulations for underground storage tanks. EPA (and states that have entered into cooperative agreements with EPA) have also been given the authority to take corrective action or order a tank owner or operator to take corrective action to protect human health and the environment.

To finance the corrective actions and enforcement measures taken, Congress established a \$500 million LUST Trust Fund, supported by a tax on gasoline. States can receive Trust Fund money after they enter into cooperative agreements with EPA. In addition to cleaning up leaks from underground petroleum storage tanks, states can use Trust Fund money to assess exposure, temporarily or permanently relocate residents, and provide alternate household water supplies. Priority for Trust Fund cleanups is given to releases posing the greatest threat to human health and the environment and to sites where there is no solvent owner or operator of the tank who will take proper action. In cases where a responsible party is identified, EPA or states may recover money spent out of the LUST Trust Fund from the tank owner or operator.

Conclusion The Superfund program is a coordinated effort of federal, state, and local governments, private industry, and citizens. The problems are widespread and will take time to solve. But the Superfund program is a significant part of our national response to one of the major environmental challenges of the decade. For further information about Superfund, please contact EPA Headquarters or a Regional Office or call the national information number listed on the back page of this leaflet. The toll-free number of the National Response Center is also provided for citizens to report releases of oil and hazardous substances.

Superfund in Perspective

Superfund is the newest in a number of federal pollution control laws, including the Clean Water Act, the Clean Air Act, the Resource Conservation and Recovery Act, the Toxic Substances Control Act, the Safe Drinking Water Act, and the Federal Insecticide, Fungicide, and Rodenticide Act. Together, these interrelated laws provide EPA with the authorities needed to protect our environment.

Superfund is a significant addition to the pollution control effort because it is fundamentally action-oriented. Before Superfund, the federal government lacked the authority and resources to respond to releases of hazardous substances or to clean up hazardous waste sites. The earlier federal authorities are primarily regulatory:

- The Resource Conservation and Recovery Act (RCRA) establishes a regulatory system to track hazardous wastes from the time they are generated to their final disposal. RCRA also requires safe hazardous waste management and imposes standards for transporting, treating, storing, and disposing of hazardous wastes. It is designed to prevent the creation of new hazardous waste sites. RCRA provides administrative, civil, and criminal enforcement authorities for EPA to take action against facility owners and operators who do not comply with RCRA requirements. Some RCRA enforcement provisions apply to hazardous substance cleanup.

- The Clean Water Act (CWA) provides limited response authority, enabling the federal government to take action when oil or certain hazardous substances are released into navigable waterways. CWA does not authorize the government to act when hazardous substances are released elsewhere in the environment.

Even before enactment of the new Superfund, some states had established programs for responding to spills or cleaning up uncontrolled waste disposal sites. Like the federal government, however, state governments often lacked the funds and legal authority needed to deal fully with the problem. Superfund established a program to spearhead both federal and state efforts to respond to releases of hazardous substances into the environment.

EPA Superfund Offices

EPA Headquarters
Office of Emergency & Remedial Response
401 M Street, SW
Washington, DC 20460
(202) 382-2180

EPA Region 1
Emergency and Remedial Response Division
John F. Kennedy Building
Boston, MA 02203
(617) 565-3626
Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, Vermont

EPA Region 2
Superfund Branch
26 Federal Plaza
New York, NY 10278
(212) 264-8672
New Jersey, New York, Puerto Rico, Virgin Islands

EPA Region 3
Superfund Branch
841 Chestnut Building
Philadelphia, PA 19106
(215) 597-8132
Delaware, District of Columbia, Maryland, Pennsylvania, Virginia, West Virginia

EPA Region 4
Emergency and Remedial Response Branch
343 Courtland Street, NE
Atlanta, GA 30365
(404) 257-4897
Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, Tennessee

EPA Region 5
Emergency and Remedial Response Branch
230 S. Dearborn Street
Chicago, IL 60604
(312) 353-8773
Illinois, Indiana, Michigan, Minnesota, Ohio, Wisconsin

EPA Region 6
Superfund Program Branch
Allied Bank Tower
1445 Ross Avenue
Dallas, TX 75202-2733
(214) 255-6745
Arkansas, Louisiana, New Mexico, Oklahoma, Texas

EPA Region 7
Superfund Branch
726 Minnesota Avenue
Kansas City, KS 66101
(913) 757-2855
Iowa, Kansas, Missouri, Nebraska

EPA Region 8
Waste Management Division
1 Denver Place
999 18th Street
Denver, CO 80202-2413
(303) 594-1720
Colorado, Montana, North Dakota, South Dakota, Utah, Wyoming

EPA Region 9
Superfund Programs Branch
215 Fremont Street
San Francisco, CA 94105
(415) 454-8910
Arizona, California, Guam, Hawaii, Nevada, American Samoa

EPA Region 10
Superfund Branch
1200 6th Avenue
Seattle, WA 98101
(206) 399-1987
Idaho, Oregon, Washington, Alaska

Superfund/RCRA Hotline
(800) 424-9346 or 382-3000
in the Washington, DC, metropolitan area (for information on programs)

National Response Center (800) 424-8802
(to report releases of oil and hazardous substances)

PROPOSED PLAN

Big River Sand Company Superfund Site
Wichita, Kansas

Prepared by:

U.S. Environmental Protection Agency
Region VII
Kansas City, Kansas

FOREWARD

Section 117 of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), as amended by the Superfund Amendments and Reauthorization Act (SARA) of 1986, requires that a Proposed Plan for site remediation be made available to the public. The U.S. Environmental Protection Agency (EPA) is hereby presenting the Proposed Plan for the Big River Sand Company Superfund site in Wichita, Kansas. This Proposed Plan identifies and discusses the alternative for site remediation preferred by EPA, the lead agency in site activities and the Kansas Department of Health and Environment (KDHE), the support agency.

The EPA and KDHE have not made a final decision on what remedy to implement. This Proposed Plan provides background information on the site, presents the rationale for identification of the preferred alternative and outlines the community's role in helping EPA make a final decision on a remedy.

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SECTION 1

PURPOSE OF PROPOSED PLAN

Section 117(a) of CERCLA provides that a notice and brief analysis of the Proposed Plan must be published, and that the Proposed Plan be made available to the public. The primary purposes of the Proposed Plan are to: 1) Highlight key information from the Remedial Investigation (RI) and Feasibility Study (FS) reports; 2) Briefly describe the alternatives for site remediation detailed in the RI and FS reports; 3) Identify the preferred alternative and the rationale; and 4) Invite public review and comment on all the alternatives presented.

For the Big River Sand Company site, only a RI report was prepared. The public is encouraged to review and comment on the detailed information presented in the RI report and in the Administrative Record file, which includes all documents and site information which form the basis and rationale for remedy selection. Both the RI report and Administrative Record file are available for public review at the Sedgwick County Public Library, Main Branch, 223 S. Main Street, Wichita, Kansas, and at the EPA Region VII Library in Kansas City, Kansas.

The EPA and KDHE have not made a final decision on what remedy to implement. The final remedy selection will be made through a Record of Decision (ROD) only after EPA has taken into consideration the public's comments and any new and significant information presented. Changes to the preferred alternative may be made if public comments or additional information indicate that modifications to the preferred alternative or a different remedy would better achieve adequate protection of public health and welfare and the environment.

SECTION 2

SITE DESCRIPTION

Site Location

The Big River Sand Company site is located just northwest of Wichita, Kansas, in Sedgwick County (Figure 2-1). The site is east of Hoover Road and north of 21st Street. The Wichita Valley Center Floodway and Arkansas River are less than a mile to the east.

The site consists of approximately 123 acres, half of which has been extensively mined for sand and gravel. The site includes two property owners: Mr. Eric Eisenring and the Big River Sand Company. Mr. Eisenring, former owner of the entire site, currently owns the eastern portion of the site and the Big River Sand Company owns the western portion (Figure 2-2).

Land use adjacent to the site is a mixture of agricultural and residential. Approximately 25 residences are located west of the site and two residences are to the south. Land use to the north is predominantly agricultural. Adjacent to the site on the east is the Wichita Valley Center Floodway and the Arkansas River.

Site History

During the early 1970's, approximately 2,000 drums of paint-related wastes were disposed of on the Eisenring property, adjacent to a five-acre sand quarry lake. In 1978, Mr. Eisenring sold about 80 acres of his property, which included the quarry lake and drum storage area, to the Big River Sand Company. As part of the sales agreement, Mr. Eisenring began to transfer the drums to his adjacent property in 1982. Nearly 200 barrels were transferred before the KDHE halted the action because Mr. Eisenring did not have a permit to store or dispose of the waste.

After KDHE sampling identified some of the wastes as hazardous, the State ordered a removal and cleanup. From 1982 to 1985, the State provided oversight on the removal and site cleanup conducted by Mr. Eisenring. The barreled wastes were separated into hazardous and non-hazardous components. Non-hazardous materials were recycled or disposed of in a local landfill. The hazardous materials were disposed of at an approved RCRA facility in Oklahoma.

Nature of Problem

The initial site inspection conducted by the KDHE in August 1982 identified damaged, corroded and leaking drums. The KDHE sampled waste solvents and paint sludges from several drums and

detected metals (including arsenic, cadmium, chromium, lead and selenium) and volatile organic compounds (VOCs, including toluene, ethylbenzene and trichloroethylene). Between 1982 and 1985, KDHE sampled soils, the quarry lake, and residential drinking water wells. The State also installed and sampled onsite monitoring wells. Arsenic, lead and selenium were detected in the drinking water wells at concentrations greater than Maximum Contaminant Levels (MCLs) established by the Safe Drinking Water Act. Concentrations of several metals detected in the onsite monitoring wells also exceeded MCLs. VOCs, including toluene, were detected in onsite soils and in the monitoring wells.

The site was proposed for the National Priorities List (NPL) in October 1984 and in May 1986 was placed on the NPL. The EPA initiated a remedial investigation to determine the presence and extent of contamination in soils, sediments, surface water and ground water and to determine the need for further remedial response actions to protect the public health and welfare and the environment.

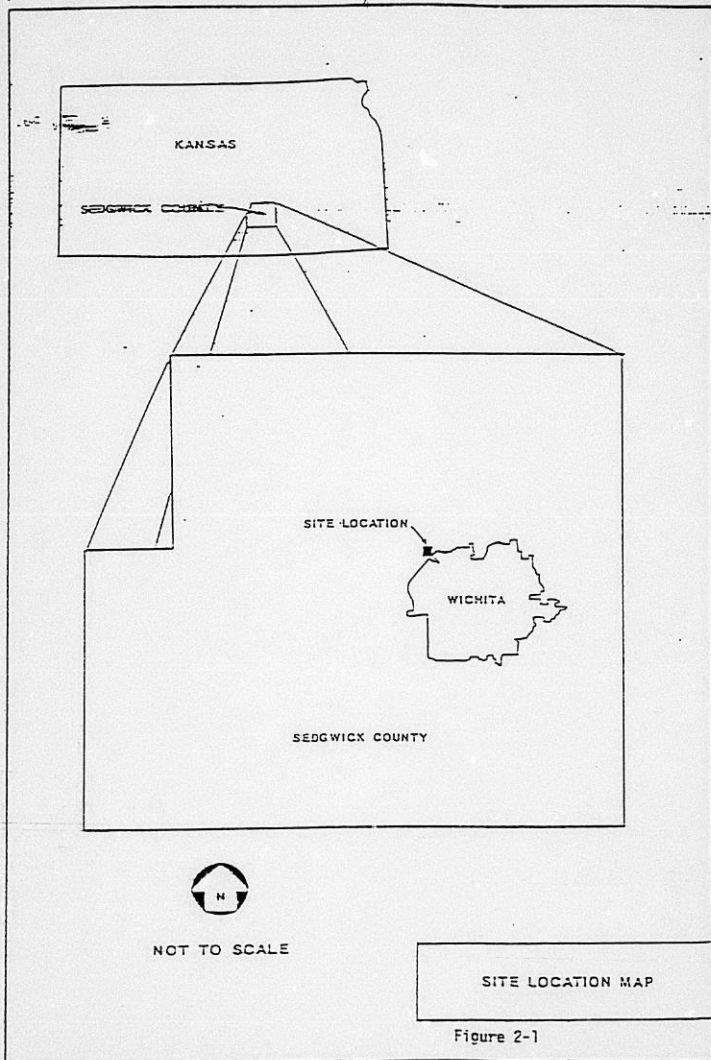
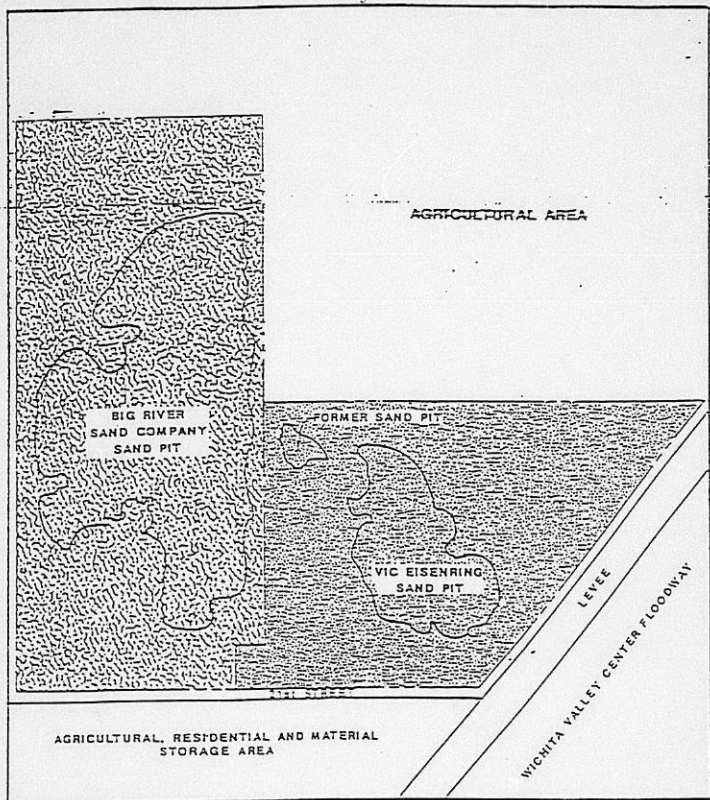


Figure 2-1



EXPLANATION



BIG RIVER SAND COMPANY PROPERTY



VIC EISENRING PROPERTY



APPROXIMATE SITE BOUNDARY (FENCED)

NOTE

Pit boundaries are based on aerial photography from May 1986.



SCALE IN FEET



SITE MAP FOR THE
BIG RIVER SAND COMPANY
SUPERFUND SITE

Figure 252

SECTION 3

SUMMARY OF REMEDIAL INVESTIGATION

RI Objectives

A remedial investigation was conducted by EPA to determine the presence and extent of contamination in soils, sediments, surface water and ground water and to determine the need for further remedial response actions to protect public health and welfare and the environment. Additional objectives of the investigation were to define the geology and hydrogeology of the site, determine the direction and rate of ground water flow, identify potential migration pathways and receptors, and to identify general response actions and potential remedial technologies for the site.

RI Activities

The RI field activities were performed in 1986 and 1987 and consisted of two phases. The first phase included an initial site visit, a soil-gas survey, ambient air sampling and shallow-soil sampling. The second phase consisted of surface water and sediment sampling, subsurface soil sampling and ground water sampling of both onsite and nearby residential drinking water wells. Seven onsite monitoring wells were also installed and sampled during the second phase (Figure 3-1).

Both phases of the RI field activities focused on three areas: the former 2,000-drum disposal area at the northern end of the Big River Sand Company property; the former 200-drum disposal area on the eastern side of the Eisenring property; and the previous location of four solvent storage tanks used during the removal effort in the southeastern portion of the Eisenring property.

RI Results

The initial site visit conducted in May 1986 confirmed that ongoing sand mining operations had removed most of the former 2,000-drum disposal area at the northern end of the Big River Sand Company property. The former 200-drum disposal area on the Eisenring property was in a natural vegetative state that included tall grass, scrub vegetation and small trees. Neither disposal area had signs of stressed vegetation or evidence of remaining drums. The site visit and additional information obtained from the Kansas Biological Survey did not identify any environmentally sensitive areas or threatened and endangered species in the vicinity.

The soil-gas survey, ambient air sampling and surficial soil sampling were conducted in February 1987. Forty-five vadose zone

soil-gas samples were obtained during the soil-gas survey to determine the presence of volatile organic compound contamination in surficial soils and ground water. The sample results indicate significant volatile organic contamination was not present.

Ambient air samples for particulate matter were collected at 13 locations onsite and portable air monitoring equipment was used to test for organic vapors. The air sampling results indicated no health hazards were present.

Shallow-soil samples were collected at 12 locations and analyzed for metals, volatiles, semivolatiles and pesticides. The only significant contamination identified was for metals. Several soil samples had metal concentrations above the background sample (upgradient from any drum disposal areas). However, comparison of the concentrations to typical median values throughout the United States indicates onsite shallow soils are similar to median soil concentrations in the country.

The second phase of field activities was conducted in April and May 1987 and included the installation and sampling of seven onsite monitoring wells, subsurface soil sampling, surface water and sediment sampling, and sampling of both onsite and offsite residential drinking water wells.

During installation of the onsite monitoring wells, 10 composite soil samples for the depth intervals 0 to 6 feet, 9 to 11 feet and 14 to 16 feet were collected and analyzed for metals and volatile organic compounds. As was the case for the shallow soil samples, the subsurface soil samples had metal concentrations above the background sample. Again, comparison of the concentrations to soils throughout the country indicates the subsurface soil samples are well within a typical range for metals.

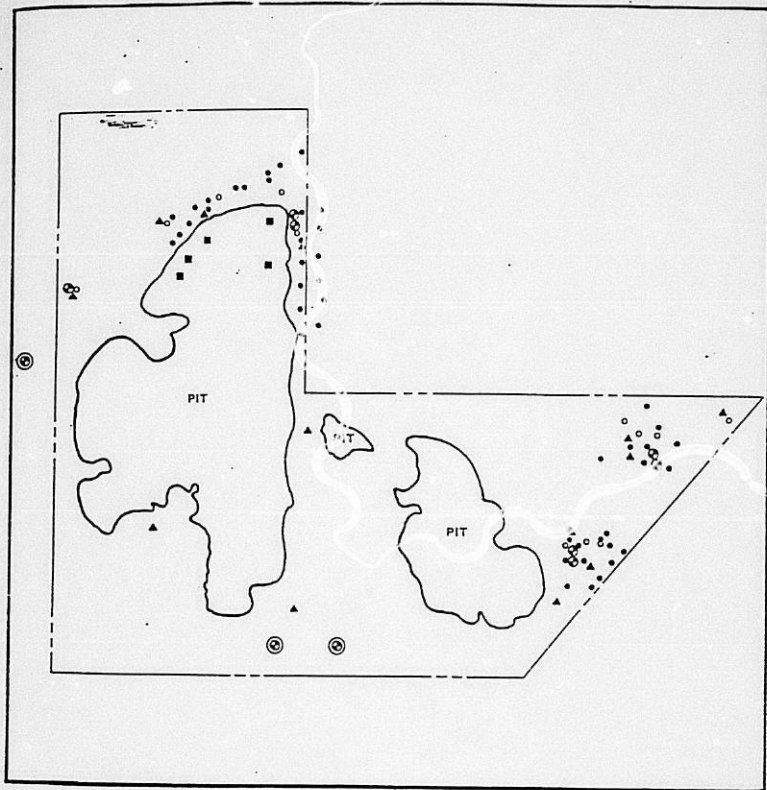
Ground water samples were collected from the seven onsite monitoring wells and analyzed for total and dissolved metals and volatile organic compounds. Total and dissolved metals were detected in the ground water samples. Only one monitoring well, however, had a metal concentration which exceeded a primary drinking water standard established by the Safe Drinking Water Act. Selenium was detected at a concentration of 62 ug/l, exceeding the MCL of 10 ug/l. Selenium was not detected in any of the other monitoring wells.

Ground water samples were also collected from three residential drinking water wells. Two of the wells were located on the southern portion of the site and one well was to the northwest of the site. The samples were analyzed for total and dissolved metals and volatile organic compounds. No significant contamination was detected.

Five surface water samples and five sediment samples were taken from the quarry lake on the Big River Sand Company property. The samples were analyzed for total and dissolved

metals and volatile organic compounds. No significant contamination was detected.

The geology and hydrogeology of the site was better defined by the installation of the monitoring wells. Geologic logs and water level measurements for the wells indicate that the shallow aquifer consists of a relatively homogeneous sandy material with rapid ground water flow (1.9 to 3.4 feet per day) in a southeasterly direction. The depth to ground water ranged from 7 to 14 feet below the ground surface.



EXPLANATION

- VADOSE ZONE SOIL-GAS
- PIT SEDIMENT AND PIT WATER
- ⊙ GROUNDWATER AND SUBSURFACE SOIL
- ⊗ PRIVATE WELL
- ▲ AMBIENT AIR
- SHALLOW SOIL
- APPROXIMATE SITE BOUNDARY



**SAMPLING LOCATION MAP
FOR ALL MEDIA**

Figure 3-1

SECTION 4
PROPOSED REMEDY

As stated in Section 1 of this document, the primary purposes of this Proposed Plan are to highlight key information from the RI and FS reports, identify the preferred alternative and the rationale and invite public review and comment on the preferred alternative and all other alternatives which have been developed.

Section 3 highlighted key information from the RI report. In summary, the remedial investigation found metals in soil and ground water above background levels, but not outside the range of metals normally naturally occurring in soil and ground water. Selenium was detected at a concentration of 62 ug/l, exceeding the MCL of 10 ug/l. Selenium was not detected in any of the other monitoring wells or in any of the private wells sampled.

At the request of EPA, the Agency for Toxic Substances and Disease Registry (ATSDR) Department of Health and Human Services, provided a Health Consultation for the Big River Sand Company site in November 1987. The ATSDR concluded, based on the RI data and information, that the site does not currently appear to present a significant health threat. The ATSDR attributed this conclusion to the previous site mitigation activities, natural site flushing of contamination from the soils and rapid ground water transport.

During the initial phase of the remedial investigation, preliminary remedial alternatives were developed. General remedial response actions were identified for each suspected contaminated media at the site and potential remedial technologies were selected. A Feasibility Study to develop and evaluate in detail the remedial alternatives was not conducted, however, because the RI Report and ATSDR Health Consultation concluded that previous cleanup actions effectively eliminated any threats to the public health and welfare and the environment.

The ATSDR Health Consultation also recommended that private wells downgradient of the site and the monitoring wells onsite be sampled periodically for potential site-related contaminants to assure the protection of human health.

In response to ATSDR's recommendation, EPA sampled in March 1988 two residential drinking water wells onsite and three of the monitoring wells. Selenium was detected in the same monitoring well as in the RI at a concentration of 56 ug/l.

The ATSDR reviewed the RI Report and the additional data from the March sampling and again concluded that the site does not currently appear to present a significant health threat and recommended monitoring.

The EPA, in consultation with the State, has determined that the Big River Sand Company site does not pose a significant threat to public health and welfare and the environment. This determination is based on a review and evaluation of the: 1) Site sampling and removal activities conducted from 1982 to 1985; 2) Remedial Investigation activities, data and report; 3) Health Consultation provided by ATSDR; and 4) Analytical results of the March 1988 sampling event.

The EPA and KDHE are thus proposing the no-action alternative as the preferred alternative for the Big River Sand Company site remedy.

The preferred alternative proposed by EPA and the State does not include monitoring as recommended by ATSDR in their Health Consultation. The EPA and the State do not believe monitoring is necessary as a precautionary measure to ensure protection of public health given the site-specific conditions present at the site. Ground water flow is rapid and to the southeast. The Wichita Valley Center Floodway is located to the east/southeast of the site so no residences are located directly downgradient of the site. All onsite and offsite residential drinking water wells are located west/southwest of the monitoring well which exceeded the MCL for selenium. In addition, sampling conducted in May 1987 and March 1988 has demonstrated that there has been no migration of selenium from the area of the one well. In both sampling events, selenium was not detected in other monitoring wells immediately to the south or in the onsite residential drinking water wells further southwest.

As explained in Section 1 of this Proposed Plan, the EPA and KDHE have not reached a final decision on the remedy for the Big River Sand Company site. The final remedy selection will be made through a Record of Decision, taking into consideration all public comments and any new and significant information presented.

SECTION 5

ROLE OF COMMUNITY

The EPA and KDHE, by providing this Proposed Plan, encourage public review and comment on the preferred alternative. To provide the community with a reasonable opportunity to submit written and oral comments on this Proposed Plan and the RI Report, the EPA and KDHE has established a public comment period from May 31 through June 20, 1988. The EPA and KDHE will also conduct, if requested, a public meeting in the community to present the Proposed Plan and RI report, answer questions and receive both oral and written comments.

The Proposed Plan, the RI report and the Administrative Record file are available for public review at the Sedgwick County Public Library, Main Branch, 223 S. Main Street, Wichita, Kansas, and at the EPA Region VII Library in Kansas City, Kansas (see address below).

The public can submit written comments, request a public meeting or obtain additional information from:

Rowena Michaels
Director, Office of Public Affairs
U.S. EPA, Region VII
726 Minnesota Avenue
Kansas City, Kansas 66101
(913) 236-2803
Toll Free 1-800-221-7749

Larry L. Knoche
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Kansas Department of Health and Environment
Forbes Field
Topeka, Kansas 66620-0001
(913) 296-1500

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This CU File

Has a Large Drawing

On 35mm Microfilm.

Roll # 1

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