

CONDITIONAL USE RESOLUTION NO. CU-509

WHEREAS, Kenneth Pauly and Marilyn B. Pauly, Keith A. Harrington, and Marga Harrington, pursuant to Section V-D of the Wichita-Sedgwick County Unified Zoning Code (herein referred to as Unified Zoning Code), requested a Conditional Use to allow the mining of salt water on Tract 1: approximately 288 acres; and Tract 2: approximately 166 acres zoned "RR" Rural Residential described as:

Tract 1: The North Quarter of the Southwest Quarter (N/4 SW/4) of Section 29, Township 29 South, Range 2 West of the 6th P.M., Sedgwick County, Kansas. And, All of the Southeast Quarter of the Southwest Quarter (SE/4 SW/4) of Section 20; and all of that part of the South Half of the Southeast Quarter (S/2 SE/4) of Section 20, except the East 17.6 acres thereof, all in Township 29 South, Range 2 West of the 6th P.M., Sedgwick County, Kansas. And, All that part of the Northwest Quarter (NW/4) of Section 29, Township 29 South, Range 2 West of the 6th P.M., Sedgwick County, Kansas, lying North of the present Township Road (same being the North 270 feet of said Northwest Quarter) except those portions of the above described tracts in such excepted out tracts are legally described to wit: A tract in the Southeast Quarter (SE/4) and the Southwest Quarter (SW/4) of Section 20, Township 29 South, Range 2 West of the 6th P.M., Sedgwick County, Kansas, described as beginning at the South Quarter Corner of said Section 20; thence North 89 degrees 56' 38" East along the South line of said Southeast Quarter, 33.75 feet; thence North 1 degree 02' 24" East 179.19 feet; thence South 87 degrees 11' 48" West 476.43 feet; thence South degree 23' 8" East, 155.51 feet to the South line of said Southwest Quarter; thence South 89 degrees 56' 38" East along the South line of said Southwest Quarter, 435.10 feet to the point of beginning; also a tract in the Northwest Quarter of Section 29, Township 29 South, Range 2 West of the 6th P.M., Sedgwick County, Kansas, described as follows: Beginning at the North Quarter Corner of said Section 29; thence North 89 degrees 56' 38" West along the North line of said Northwest Quarter (NW/4), 435.10 feet; thence South 1 degree 23' 08" East 298.19 feet; thence North 89 degrees 21' 26" East 432.84 feet to the East line of said Northwest Quarter; thence North 00 degrees 57' 50" West, 292.86 feet to the point of beginning. And, The Northwest Quarter of Section 29, Township 29 South, Range 2 West of the 6th P.M., Sedgwick County, Kansas, except the North 20 acres and except that portion Beginning at a point on the West Line of the NW/4 of Section 29, Township 29 South, Range 2 West of the 6th P.M., Sedgwick County, Kansas, 458 feet North of the Southwest Corner of said NW/4; thence North along the West line of said NW/4; thence North 00 degrees 00' East, 662.27 feet; thence South 88 degrees 35' East, 659.74 feet; thence South 00 degrees 00' West parallel to the West Line of said NW/4 662.27 feet; thence North 88 degrees 35' West, 659.74 feet to the point of beginning. Tract 2: Southwest Quarter, except a tract 13 rods square in the Southwest corner for Cemetery, and all that part of the Southwest Quarter of the Northwest Quarter, lying South of the center of the Ninnescah River, in Section 30, Township 29 South, Range 2 West of the 6th P.M., Sedgwick County, Kansas.

Generally located east of 199th Street West between 95th Street South and 111th Street South (Tract 1) and north of 111th Street South and east of 215 Street West (Tract 2).

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

WHEREAS, the MAPC did, at the meeting of March 11, 1999, consider said application; and

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

NOW, THEREFORE, BE IT RESOLVED by the Metropolitan Area Planning Commission that this application be approved to permit a conditional use to allow the mining of salt water on Tract 1: approximately 288 acres; and Tract 2: approximately 166 acres zoned "RR" Rural Residential described as:

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

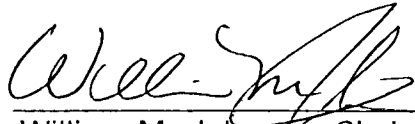
Range 2 West of the 6th P.M., Sedgwick County, Kansas, except the North 20 acres and except that portion Beginning at a point on the West Line of the NW/4 of Section 29, Township 29 South, Range 2 West of the 6th P.M., Sedgwick County, Kansas, 458 feet North of the Southwest Corner of said NW/4; thence North along the West line of said NW/4; thence North 00 degrees 00' East, 662.27 feet; thence South 88 degrees 35' East, 659.74 feet; thence South 00 degrees 00' West parallel to the West Line of said NW/4 662.27 feet; thence North 88 degrees 35' West, 659.74 feet to the point of beginning. Tract 2: Southwest Quarter, except a tract 13 rods square in the Southwest corner for Cemetery, and all that part of the Southwest Quarter of the Northwest Quarter, lying South of the center of the Ninnescah River, in Section 30, Township 29 South, Range 2 West of the 6th P.M., Sedgwick County, Kansas. Generally located east of 199th Street West between 95th Street South and 111th Street South (Tract 1) and north of 111th Street South and east of 215 Street West (Tract 2).

subject to the following conditions:

1. The site shall be developed as indicated on the site plan.
2. All wells on-site are required to be at least 200 feet from any adjoining property, with wells on Tract 1 being located no more or no less than 200 feet from the northern and eastern property lines.
3. During the development phases of the site, drilling and construction activities shall be limited to the hours of 7:00 A.M. to 6:30 P.M., Monday through Friday, and 9:00 A.M. to 1:00 P.M. on Saturday. Development phase activities shall not occur on Sunday or official county holidays.
4. The applicant shall obtain all required permits from the State of Kansas and Sedgwick County necessary for the production of brine from sub-surface formations by hydraulic methods.
5. Noise emitted by the equipment installed on this site shall not be audible beyond the property lines of the application area.
6. The approval of the Conditional Use is for a period not to exceed thirty years from the date of approval by the MAPC or the Board of County Commissioners, and subject operation is to cease after that period, or at such time as production ceases, with any above-ground equipment and materials associated with the operation removed from the premises. The site shall be returned to its natural state, such as prior to the beginning of this extraction, as approved by the Kansas Department of Health and Environment and/or Sedgwick County Health Department.

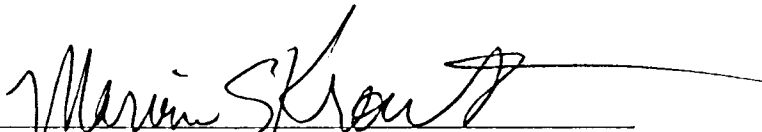
7. The applicant shall dedicate additional right-of-way along 111th Street South to equal 60' half street right-of-way, and shall dedicate additional right-of-way along 199th Street West, 103rd Street South, and the extension of 215th Street West to equal 50' half street right-of-way for arterial road purposes.
8. Any violation of the conditions of approval shall render the conditional use permit null and void.
Adopted this 11th day of March, 1999. This resolution shall become effective on the fifteenth day after the date last noted above unless the matter is forwarded to the Governing Body for final action under the provisions of Section V-D.6. When any one or more of the exceptions listed in Section V-D.6 exist, this resolution with its conditions of approval shall be considered a recommendation of the MAPC to the Governing Body which shall then have final authority to approve, approve with conditions or modifications, or deny the Conditional Use application.

METROPOLITAN AREA PLANNING COMMISSION

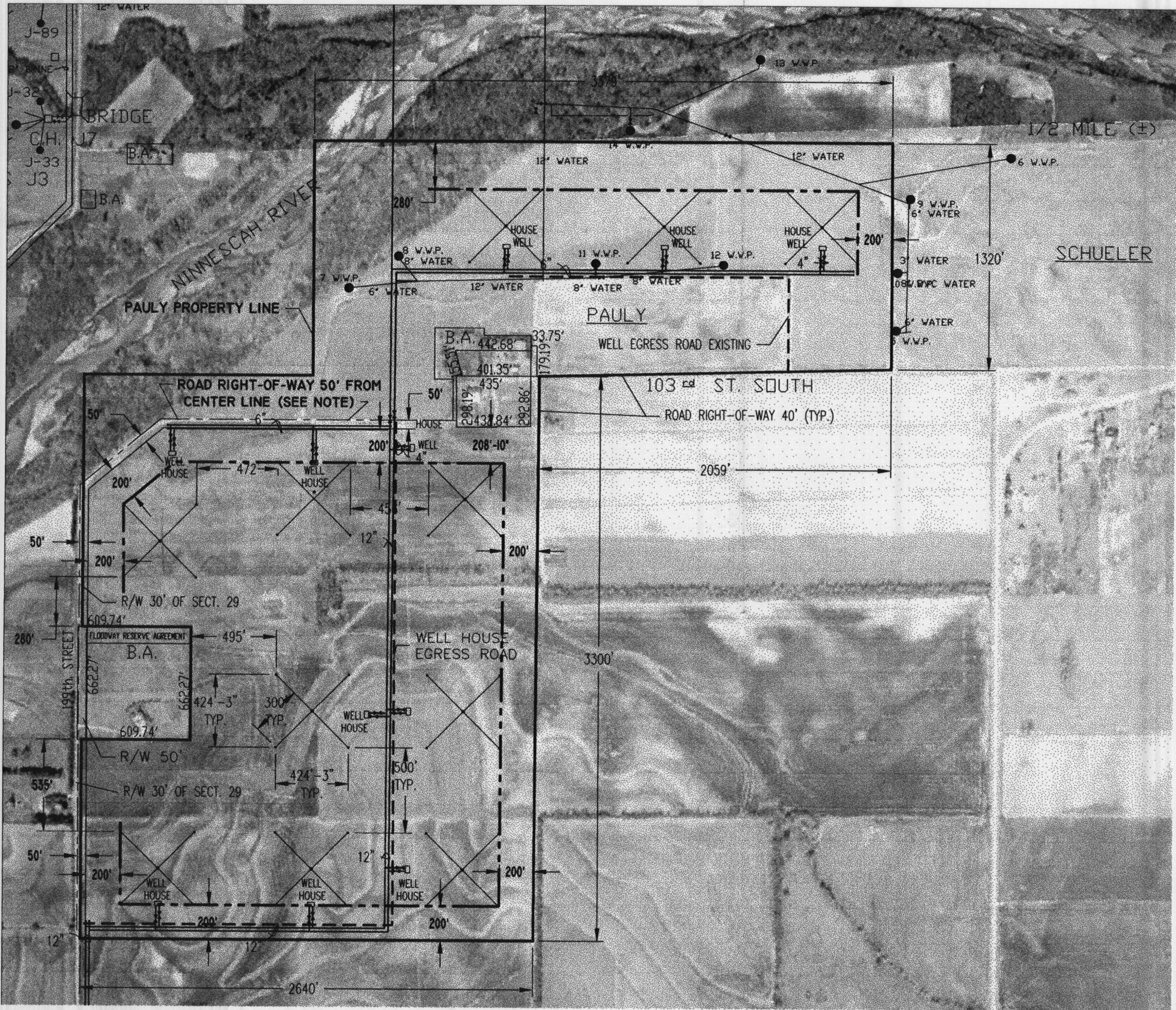


William M. Johnson, Chairman

ATTEST:



Marvin S. Krout, Secretary



LEGEND:

- DIRT ROAD TO CONTROL HOUSES
- PROPERTY BOUNDARY

NOTE:
THE STATE OF KANSAS REQUIRES A
CLEARANCE OF 150' MINIMUM FROM
THE PROPERTY LINE OR ROAD RIGHT
OF WAY; VULCAN REQUIRES 200'.

VULCAN MATERIALS COMPANY
CHEMICALS DIVISION
WICHITA, KANSAS

PIC-MAP4.DWG

REVISIONS

MK. DATE DR. CHK.

AERIAL MAP
PAULY BRINE FIELD
BRINE FIELD EXPANSION
COST CENTER: BRINE FIELD

SCALE: 1: 7500	DWN: RRM	CHK:
DATE: 01/20/98	CHK:	APP:
JOB NO:	DWG NO: NONE	REV:

STAFF REPORT

Clearwater Planning Commission February 23, 1999
MAPC March 11, 1999

CASE NUMBER: CU-509

APPLICANT/AGENT: Kenneth Pauly and Marilyn B. Pauly (Owner of Tract 1),
Keith A. Harrington and Marga Harrington (Owner of
Tract 2), Vulcan Lands Inc. (Contract Purchaser); Milo M.
Unruh Jr. (Agent)

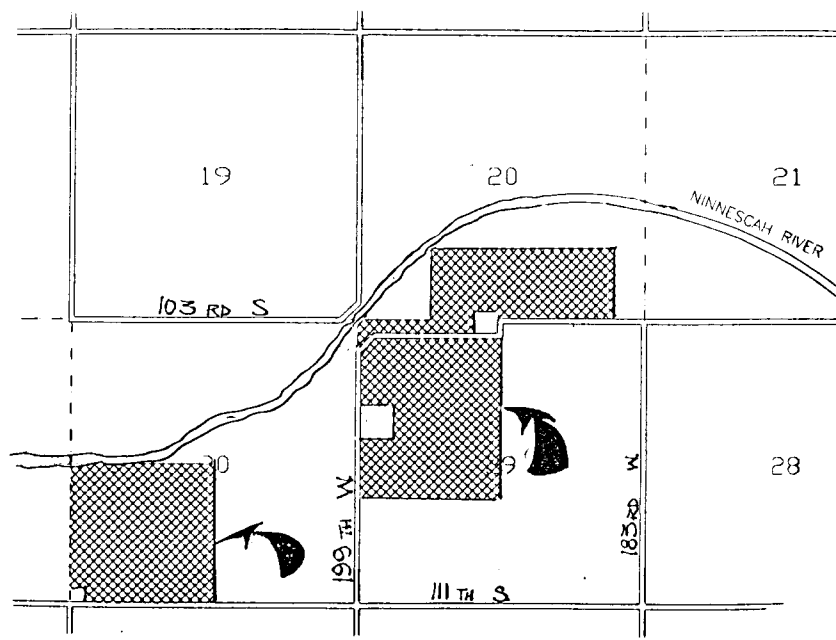
REQUEST: Conditional use to allow the mining of salt water

CURRENT ZONING: "RR" Rural Residential

SITE SIZE: Tract 1: approximately 288 acres;
Tract 2: approximately 166 acres

LOCATION: East of 199th Street West between 95th Street South
and 111th Street South (Tract 1) and north of 111th
Street South and east of 215 Street West (Tract 2)

PROPOSED USE: Mining of salt water



BACKGROUND: The applicant requests a Conditional Use permit to allow the mining of salt water on a total of approximately 454 acres of unplatted land divided between two sites. The sites are separated by a quarter section of land; otherwise forming a contiguous tract located south of the Ninescah River. The land immediately north of the Ninescah River along the application area is the location of existing mining operations of Vulcan Chemicals, with the exception of two single family residences also located north of the river.

Tract 1 is located east of 199th Street West between 95th Street South and 111th Street South and comprises 288 acres. The surrounding area is characterized by agricultural uses with one single family home west of Tract 1, two homes situated within the proposed application area, and one home located across 111th Street South, approximately ¼ mile south of the application area. Tract 2 is north of 111th Street South and east of 215th Street West and comprises 166 acres. One home is located east of the tract and another is across 111st Street South to the southeast. A small cemetery (one acre) is located on the southwest corner of the tract. A private recreational use, Ninescah Bowhunters Association, is also located to the northwest of the application area. Both tracts are currently zoned "RR" Rural Residential as is the property that surrounds the site.

The applicant has provided a description of operations proposed to be conducted on the application area in order to mine salt water (see Attachment 6). The applicant proposes to pump salt water from wells located on the site which are to be drilled to a 450 foot depth. Each well site is referred to as a series and consists of five well borings drilled in an X formation with four borings generally located at the terminus of an X-shaped pattern for pumping in fresh water and one central boring for extracting the salt water. Additionally, a 16'x24' well house located along the perimeter of each series contains monitoring equipment. The pumps are electronically powered and located 120 feet below the surface. Therefore there is no audible noise transmitted to the surface. The salt water will be transported through an underground pipeline system which will tie into an existing line located approximately 1/8 mile from the northern boundary of the site. The existing pipe line collects and distributes salt water from existing well fields located north and west of the application area. This pipeline system carries salt water to the Vulcan Materials plant located near Ridge Road and 55th Street South. Vulcan Chemical uses saturated brine as a primary feed stock in the manufacturing of its finished products.

The production life of the brine field is expected to be 30 years. After production is complete the casing will be terminated two-to-three feet below the surface and the site will be restored to its original condition. During the production phase, the site surface will continue to be used for agricultural purposes.

CASE HISTORY: None.

ADJACENT ZONING AND LAND USE:

Tract 1:

NORTH: "RR" Ninnescah River, Agriculture and Industrial (existing salt mining operation)
SOUTH: "RR" Agriculture
EAST: "RR" Agriculture
WEST: "RR" Two Single-Family Residences and Agriculture

Tract 2:

NORTH: "RR" Ninnescah River, Agriculture and Industrial (existing salt mining operation)
SOUTH: "RR" Agriculture and Cemetery
EAST: "RR" Single Family Residence and Agriculture
WEST: "RR" Agriculture and Recreation

PUBLIC SERVICES: Municipal water and sewer services are not required for the proposed use. Both tracts have access to 111th Street South, an asphalt, two lane section line road. The applicant has indicated that access to the application area will be from this road.

CONFORMANCE TO PLANS/POLICIES: The Land Use Guide of the Comprehensive Plan identifies this area for agricultural uses. This request is in conformance with the land use objective of the plan by placing industrial uses in rural areas only when it is agriculturally-oriented, dependent upon a natural resource or as part of an appropriate expansion of an existing industrial area.

RECOMMENDATION: Based upon information available prior to the public hearings, planning staff recommends that the request be APPROVED, subject to the following conditions:

1. The site shall be developed as indicated on the site plan.
2. All wells on-site are required to be at least 200 feet from any adjoining property.
3. During the development phases of the site, drilling and construction activities shall be limited to the hours of 7:00 A.M. to 6:30 P.M., Monday through Friday, and 9:00 A.M. to 1:00 P.M. on Saturday. Development phase activities shall not occur on Sunday or official county holidays.
4. The applicant shall obtain all required permits from the State of Kansas and Sedgwick County necessary for the production of brine from sub-surface formations by hydraulic methods.

5. Noise emitted by the equipment installed on this site shall not be audible beyond the property lines of the application area.
6. The approval of the Conditional Use is for a period not to exceed thirty years from the date of approval by the MAPC or the Board of County Commissioners, and subject operation is to cease after that period, with any above-ground equipment and materials associated with the operation removed from the premises. The site shall be returned to its natural state, such as prior to the beginning of this extraction, as approved by the Kansas Department of Health and Environment and/or Sedgwick County Health Department.
7. The applicant shall dedicate additional right-of-way along 111th Street South to equal 60' half street right-of-way, and shall dedicate additional right-of-way along 199th Street West, 103rd Street South, and the extension of 215th Street West to equal 50' half street right-of-way for arterial road purposes.
8. Any violation of the conditions of approval shall render the conditional use permit null and void.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The application area and all nearby lands are zoned "RR", Rural Residential. The surrounding area is characterized by agricultural uses, existing mining operations, and scattered rural residential dwellings.
2. The suitability of the subject property for the uses to which it has been restricted: The property can continue to be used for the agricultural and other uses permitted in the "RR" Rural Residential zone.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: With staff's recommended conditions of approval, the type of extraction being requested as well as the surrounding land uses, most of the negative impacts on adjoining property should be minimized.
4. Conformance of the requested change to adopted or recognized Comprehensive Plan: This request is in conformance with the land use objective of the plan by placing industrial uses in rural areas only when it is agriculturally-oriented, dependent upon a natural resource, or as part of an appropriate expansion of an existing industrial area.
5. Impact of the proposed development on community facilities: Municipal water and sewer services are not necessary for the proposed use. The proposed use should have a minimal impact upon 111th Street South.



Wichita-Sedgwick County Metropolitan Area Planning Department

August 1, 2012

Kenneth and Marilyn B. Pauly
809 St. Andrews
Wichita, KS 67230

Keith A. Harrington
1546 Quail
Howard, KS 67349

Occidental Chemical Corporation attn: John Hildebrand
5005 LBJ Freeway
Dallas, TX 75244

Milo Unruh
300 W. Douglas #330
Wichita, KS 67202

Re: CON2012-38 – County Conditional Use site plan adjustment for CU-509 to
reconfigure well sites (salt water mining), generally located north of West 111th Street
South and both sides of South 199th Street West.

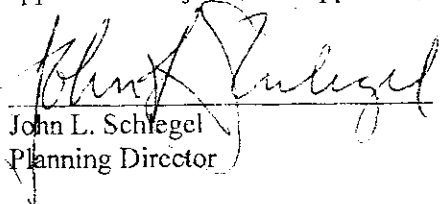
Dear Applicants:

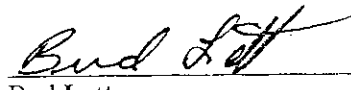
We reviewed your request for an Administrative Adjustment to the site plan associated with CU-509, which permitted salt water mining. The current request is to permit an adjustment to the site plan, placing wells in rows instead of the originally approved clusters on the Tract 1 portion of the site plan.

Art. V, Sec. V-D.14 of the UZC states that the Planning Director, with the concurrence of the Zoning Administrator, may approve minor adjustments to approved Conditional Use site plans or conditions of approval, unless finding that the proposed development would have one or more of the negative impacts stated in Sec. V-I.6, as set out below:

- 1) Impact on safety and convenience of vehicular and pedestrian circulation: The proposed adjustments to the site plan should have no impact on the safety and convenience of vehicular and pedestrian circulation in the vicinity, as the proposed expansion is located all on private property.
- 2) Impact on existing uses in surrounding areas: There should be no impact on the existing uses in surrounding areas as a result of the proposed adjustment; the adjustment simply reconfigures the wells.
- 3) Compatibility with existing or permitted uses on abutting sites: The salt water mining project is compatible with land uses on abutting sites; the site plan adjustment will have no impact on this compatibility.
- 4) Effect on public health, safety or welfare: There should be no impact on the public health, safety or welfare, nor will properties or improvements in the vicinity be materially injured.

Our signatures below indicate that the site plan is adjustment is hereby APPROVED. None of the other conditions of approval associated with the original Conditional Use application, or subsequent amendments or adjustments, are modified by this administrative action. This approval is subject to the approved, adjusted site plan.


John L. Schlegel
Planning Director


Bud Lett
Interim Assistant Director
Sedgwick County Code Enforcement

Attachments

cc: James Weber, P.E., Assistant Director, Public Works, Sedgwick County, 1144 South Seneca, Wichita, KS 67213
Kelly Dixon, Sedgwick County Code Enforcement, 1144 South Seneca, Wichita, KS, 67213
Bud Lett, Sedgwick County Code Enforcement, 1144 South Seneca, Wichita, KS, 67213

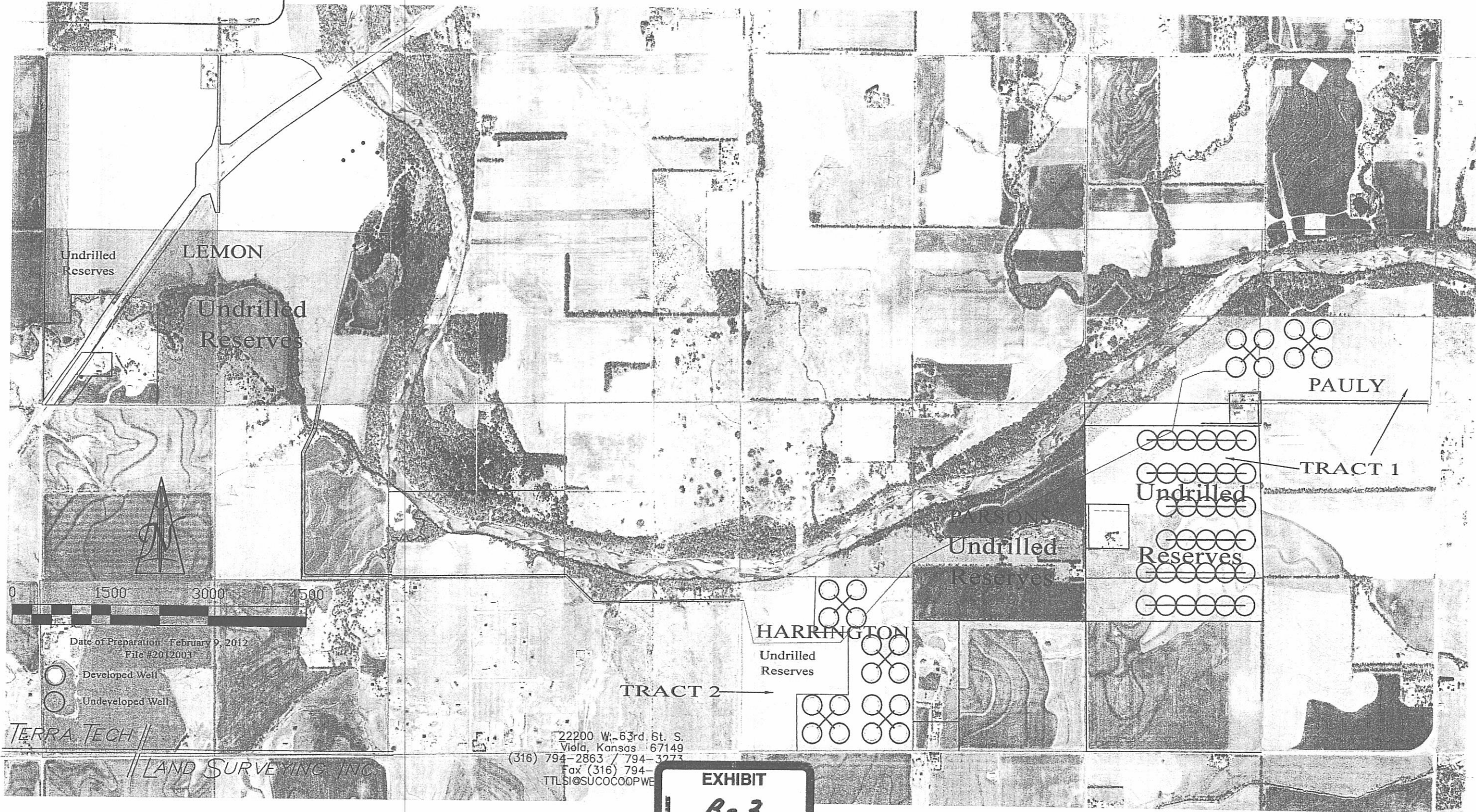
APPROVED

SITE PLAN CU-1509 (CON2012-38)

William L. Van Vleet

Date: *8-2-12*

OCCIDENTAL CHEMICAL CORPORATION
GALLERY DEVELOPMENT OF PAULY RESERVES
CLEARWATER, KANSAS



Date of Preparation: February 9, 2012
File #2012003

- Developed Well
- Undeveloped Well

TERRA TECH // LAND SURVEYING INC

22200 W. 63rd St. S.
Viola, Kansas 67149
(316) 794-2863 / 794-3273
Fax (316) 794-
TTLIS@SUCOCOOPWE

EXHIBIT

B-3