

ORDINANCE NO. 2023 - 14

ZONING ORDINANCE AMENDMENT

THIS IS AN ORDINANCE for the purpose of amending and changing the zoning ordinance of the County of Shelby as it relates to a certain tracts of property located at generally, north of CR 1200 S, south of Old SR 252, east of CR 100 W, and west of SR 9, Flat Rock, Washington Township. Specifically amending the Shelby County, Indiana Zoning Ordinance adopted by the Board of Commissioners of Shelby County, Indiana on September 18, 2008, which became effective on October 18, 2008, including and incorporating therein Township Zoning Maps dated September 18, 2008 as amended, showing the boundary lines of certain Zoning Districts thereon.

BE IT ORDAINED by the Board of Commissioners of Shelby County Indiana, as follows:

Section 1: Purpose. The purpose of this Ordinance shall be to amend the Zoning Map of Washington Township of the Shelby County Code and the zoning ordinances thereunder as it relates to the real estate specifically described in Section 2 of this Ordinance to change the designation of said real estate from being zoned A1 (Conservation Agricultural) and R1 (Single-Family Residential) to HI (High Impact) (243.04-acres). A petition was filed by Heritage Aggregates LLC on October 25, 2022 under Case No. RZ 22-19, to amend the zoning map of Shelby County, Indiana to change the zoning of said real estate.

Section 2: Amendment. Shelby County, Indiana Zoning Ordinance adopted by the Board of Commissioners of Shelby County, Indiana on September 18, 2008, which became effective on October 18, 2008, including and incorporating therein Township Zoning Maps dated September 18, 2008, as amended, showing the boundary lines of certain Zoning Districts thereon, are hereby amended by adding the following sub-section:

Land rezoned from "A1," Conservation Agricultural and "R1", Single-Family Residential to "HI" High Impact:

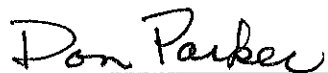
The parcel of land and real estate located in Washington Township, Shelby County, Indiana and particularly described by the attached legal description Exhibit "A" and shown on the attached map, Exhibit "B", being formerly zoned and shown on the Washington Township Zoning District Map as lying in an "A1" Conservation Agricultural and "R1" Single-Family Residential District is hereby rezoned to "HI" High Impact.

This zoning ordinance amendment is subject to and contingent upon Commitments Concerning the Use and Development of Real Estate, a copy of which is attached hereto as "Exhibit C".

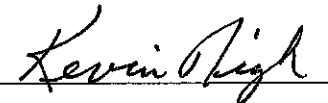
Section 3: Effective Date. This ordinance shall be in full force and effect from and after its adoption by the Board of Commissioners of Shelby County, Indiana.

Section 4: Repealable Provisions. All ordinances and parts of ordinances in conflict with the specific amendment herein are hereby repealed.

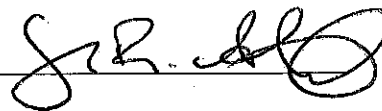
ADOPTED this 8th day of May, 2023 by a vote of 3 ayes and 0 nays of members of the Board of Commissioners of Shelby County, Indiana.



Don Parker, President



Kevin Nigh, Member



Jason Abel, Member

ATTEST:

A handwritten signature in black ink, appearing to read "Amy H. Glackman". The signature is written in a cursive, flowing style with a large initial "A".

Amy Glackman
Shelby County, Indiana

EXHIBIT A

TRACT: 73-15-31-200-001.000-021

The West Half of the Northeast Quarter of Section 31 in Township 11 North of Range 7 East, Washington Township, Shelby County, Indiana, containing 80 acres, more or less.

ALSO, a strip of land 83 rods long off of the entire North end of the East Half of the Northwest Quarter of Section 31 in Township 11 North of Range 7 East, containing 46 acres, more or less, and containing in both tracts hereby described 128 acres, more or less.

EXCEPT THEREFROM:

A part of the West Half of the Northeast Quarter of Section 31, Township 11 North, Range 7 East, Shelby County, Indiana, described as follows:

Commencing at a stone that marks the Northeast corner of the above described Half Quarter Section; thence South along the East line thereof 863.0 feet to a railroad spike and the true point of beginning; thence South with said East line 145.0 feet to a railroad spike; thence South 90°00' West 301.6 feet to an iron stake; thence North 00°00' East 145.0 feet to an iron stake; thence North 90°00' East 301.6 feet to the point of beginning, containing 1.00 acre more or less.

ALSO EXCEPT:

A part of the Northeast Quarter and the East Half of the Northwest Quarter of Section 31 and a part of the East Half of the Southeast Quarter of Section 30, all in Township 11 North, Range 7 East, Shelby County, Indiana, being more particularly described as follows:

Beginning at the Northeast corner of said Section 31; thence South 00°08'56" West 15.116 meters (49.60 feet) along the East line of said Section 31; thence South 51°30'39" West 2.929 meters (9.61 feet); thence North 89°49'46" West 6.000 meters (19.40 feet); thence North 51°10'11" West 6.403 meters (21.01 feet); thence North 89°49'46" West 380.000 meters (1,246.72 feet); thence South 8°45'48" West 60.686 meters (199.11 feet) to the East boundary of County Road 25 West; thence North 89°47'47" West 5.029 meters (16.50 feet) to the West line of the East Half of the Northeast Quarter of said Section 31; thence South 0°12'13" West 69.990 meters (228.63 feet) along said West line; thence North 89°47'47" West 5.029 meters (16.50 feet) to the West boundary of said County Road 25 West; thence North 35°24'50" West 6.155 meters (20.19 feet); thence North 0°15'31" East 80.000 meters (262.47 feet); thence North 8°16'20" West 20.224 meters (66.35 feet); thence North 0°15'31" East 15.000 meters (49.21 feet); thence North 55°09'21" West 17.545 meters (57.58 feet); thence North 89°49'46" West 75.000 meters (246.06 feet); thence South 86°24'26" West 60.208 meters (197.83 feet); thence North 89°49'46" West 280.000 meters (863.02 feet); thence North 86°03'57" West 60.208 meters (197.83 feet); thence North 89°49'46" West 336.792 meters (1,104.66 feet) to the West line of the East Half of the Northwest Quarter of said Section 31; thence North 0°03'50" East 9.089 meters (29.82 feet) along said West line to the Northwest corner of the East Half of the Northwest Quarter of said Section 31; thence North 89°43'59" East 411.888 meters (1,351.34 feet) along the North line of said Half-Quarter Section to the Northeast corner of the East Half of the Northwest Quarter of said Section 31; thence South 89°56'07" East 40.5879 meters (1,331.62 feet) along the North line of the West Half of the Northeast Quarter of said Section 31 to the Northeast corner of the West Half of the Northeast Quarter of said Section 31; thence North 0°12'13" East 80.011 meters (164.08 feet) along the West line of the East Half of the Southeast Quarter of said Section 30; thence South 89°47'47" East 6.029 meters (19.60 feet) to the East boundary of County Road 25 West; thence South 26°52'38" East 3.371 meters (11.06 feet); thence South 11°18'11" East 22.438 meters (73.62 feet); thence South 79°42'17" East 28.443 meters (93.32 feet); thence South 89°49'46" East 320.000 meters (1,049.87 feet); thence North 86°21'23" East 47.466 meters (155.73 feet) to the East line of said Section 30; thence South 0°22'07" West 23.210 meters (76.15 feet) along said East line to the point of beginning and containing 0.8562 hectares (2.113 acres), more or less, in said Section 30, and containing 1.8268 hectares (4.514 acres), more or less, in said Section 31, and containing in all 2.6820 hectares (6.627 acres), more or less. The portion of the above-described real estate which is not already embraced within public rights of way contains 0.8300 hectares (2.051 acres), more or less, in said Section 30, and containing 1.7182 hectares (4.248 acres), more or less, in said Section 31, and containing in all 2.5482 hectares (6.297 acres), more or less.

TRACT: 73-15-31-400-005.000-021

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TRACT: 73-15-32-300-001.000-021

The East half of the Southeast Quarter of Section 31, Township 11 North, Range 7 East, containing 80 acres, more or less.

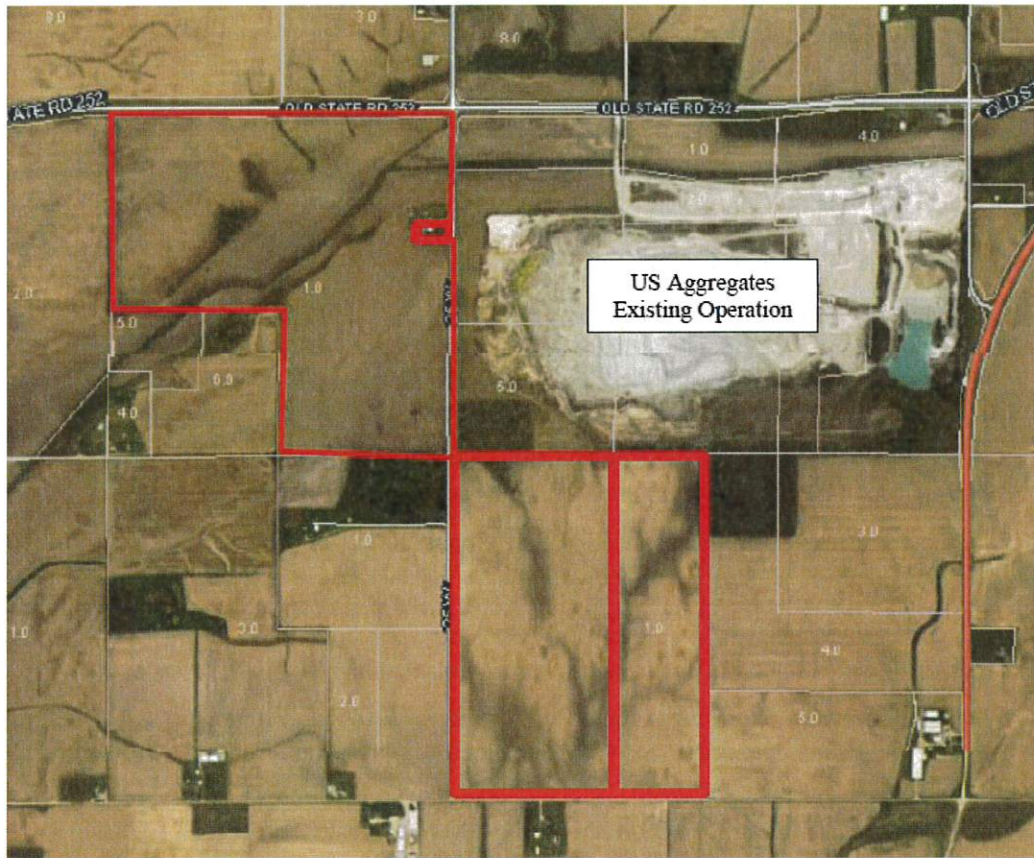
ALSO: The West 1/2 of the West 1/2 of the Southwest Quarter of Section 32, Township 11 North, Range 7 East, containing 40 acres, more or less.

TRACT: 73-15-31-200-002.000-021

A part of the West half of the Northeast quarter of Section 31, Township 11 North, Range 7 East, Shelby County, Indiana; described as follows:

Commencing at the stone that marks the Northeast corner of the above described half quarter section; thence South along the East line thereof 863.0 feet to a railroad spike and the true point of beginning; thence South with said East line 145.0 feet to a railroad spike; thence South 80 degrees no minutes West 301.6 feet to an iron stake; thence North no degrees no minutes East 145.0 feet to an iron stake; thence North 90 degrees no minutes East 301.6 feet to the Point of Beginning; subject to the right of way of the public highway on the East side of the Tract.

EXHIBIT B



**COMMITMENTS CONCERNING THE USE OR DEVELOPMENT OF REAL ESTATE MADE
IN CONNECTION WITH A REZONING**

In accordance with I.C. 36-7-4-1015, the owner ("Owner") of the real estate located in Shelby County, Indiana, which is described below, makes the following COMMITMENTS concerning the use and development of the parcel of real estate:

Legal Description: See Exhibit A attached hereto and incorporated herein by reference (the "Real Estate").

Statement of COMMITMENTS:

1. Owner shall operate all mineral extraction activities on the Real Estate consistent with the Operations Plan prepared by US Aggregates, Inc. ("USAgg") dated as of October 25, 2022, attached hereto as Exhibit B (the "Site Plan"), and the Proposed Operations Area Improvement Details prepared by USAgg, attached hereto as Exhibit C (jointly, with the Site Plan, the "Operation Plans").
2. Owner shall comply with the Security Plan attached hereto as Exhibit D and incorporated herein by reference at all times mineral extraction activities occur on the Real Estate.
3. Owner shall restore and reclaim the Real Estate upon cessation of mineral extraction activities on the Real Estate in accordance with the Reclamation Plan attached hereto as Exhibit E and incorporated herein by reference (the "Reclamation Plan"). All required perimeter landscaping and mounding shall remain in place until removal is approved by Shelby County Plan Commission (the "Plan Commission") or such other governmental agency that has zoning jurisdiction over the Real Estate.
4. Owner shall only use explosives on the Real Estate for blasting to remove stone or other material from the Real Estate in accordance with the Mine Safety and Health Administration ("MSHA") rules and regulations.
5. Prior to conducting mineral extraction activities on the Real Estate, Owner shall (i) obtain all necessary and required permits and approvals from all applicable local, state and federal governmental agencies (collectively, the "Required Permits"), and (ii) submit copies of all Required Permits to the Plan Commission.
6. Specific state and federal permits that shall be obtained include the following:
 - a. A "Rule 5 Storm Water Run-Off Associated with Construction Activity Permit" pursuant to 327 IAC 15-5, which will include an erosion control plan, submission of an NOI letter to the Indiana Department of Environmental Management ("IDEM") and compliance with all requirements of the general permit rule.
 - b. A Source Specific Operating Agreement ("SSOA") permit pursuant to 326 IAC 2-9-7 regarding the emission of particulate matter, including dust. The SSOA is administered by IDEM, and requires annual compliance certification.
 - c. A Mine Safety and Health Administration ("MSHA") mine ID number. Acquisition of the ID number results in not less than one inspection per year by MSHA for compliance with permissible noise exposure limits and noise levels and other safety issues involving employees on site.
7. Owner shall at all times during mineral extraction activities on the Real Estate maintain in good standing, as applicable, all operational permits required by all applicable local, state and federal governmental agencies.
8. The removal of minerals will require dewatering on the Real Estate. Any dewatering shall only be permitted after amendment of all existing permits, as needed, and the acquisition of any additional

permits from IDEM, IDNR or the United States Army Corps of Engineers, as applicable.

9. Hours of operation will be from 5:00 a.m. to 8:00 p.m. Monday through Saturday, except during the construction season, during which hours of operation may commence at dawn and end at dusk. No operations shall occur on Sunday. Notwithstanding the forgoing to the contrary, mineral extraction operations may be conducted outside these hours only (i) to supply materials for inclusion in a public (state, federal or municipal) project; (ii) to respond to an emergency involving a matter of public interest that requires the immediate use of USAgg's materials, such as by way of illustration, flooding or emergency road or structural repair; or (iii) to meet exceptional demands caused by special projects requiring work outside normal hours. Owner shall make a good faith effort to provide the Plan Commission or such other governmental agency that has zoning jurisdiction over the Real Estate with notice of operations outside the stated hours.
10. Illumination levels at the property line of the Real Estate shall not exceed 30 lux, and all lighting shall be designed and installed to minimize spillage of light onto surrounding property
11. Owner shall minimize dust and airborne particulate by water and water products, and shall keep a water truck on site during mineral extraction operations.
12. Owner shall submit detailed site plans to the Indiana Mineral Aggregates Association's Technical Advisory Committee ("TAC") for its approval prior to the commencement of mineral extraction operations on the site.
13. No aggregate stockpile shall be located within 300-feet of the edge of pavement of any public road, within 200-feet of any adjoining property in a lower intensity zoning district, or within 500-feet of any residential structure in the County not otherwise owned by USAgg.
14. Any asphalt batch plant to be operated on site shall be located northwest of the designated flood hazard area and setback at least 200-feet from any property line and setback at least 600-feet from the edge of pavement of Old SR 252.
15. Any deed conveying any portion of the Real Estate shall cross-reference these Commitments.
16. Prior to commencement of mineral extraction operations on the Real Estate, Owner shall review the IDNR's Database to determine if there are any species or habitats in the area that are of interest. If the review identifies threatened and/or endangered species on the Real Estate, the Owner shall comply with guidelines from IDNR on the Real Estate.
17. All mining extraction activities, structural development, outdoor storage areas, and parking, loading, and maneuvering areas (excluding access drives) shall be setback in accordance with Exhibit C. Required Landscaping and mounding may be installed within the setback.
18. Prior to commencement of mineral extraction operations within 400-feet of the edge of pavement of any public road, Owner shall install a landscaping buffer yard within the setback area. The buffer yard shall include:
 - a. Mound: A mound shall be installed roughly parallel to the property lines. Mounding shall be at least 10-feet in height from existing land grade.
 - b. Vegetation: A diverse, effective, and permanent vegetation cover capable of self-regeneration and plant succession.
19. Prior to commencement of mineral extraction operations within 300-feet of any adjoining property in a lower-intensity zoning district, Owner shall install a landscaping buffer yard within the setback area. The buffer yard shall be installed within 600 feet site distance of any existing residential structure in the County not owned by USAgg and shall include:
 - a. Mound: A mound shall be installed roughly parallel to the property lines along any lot including a residential structure not owned by USAgg. Mounding shall be at least 10-feet

in height from existing land grade.

- b. Vegetation: A diverse, effective, and permanent vegetation cover capable of self-regeneration and plant succession.
- 20. All other landscape requirements from the Unified Development Ordinance are not applicable.
 - 21. Safety mounds shall be installed progressively around the perimeter of any active mining areas
 - 22. All areas designated for the storage of hazardous materials or objectionable substances shall be constructed in a manner to prevent a release from the storage area.
 - 23. Sediment shall be held in a containment area. The containment area shall comply with the IDEM requirements for clean water discharge.
 - 24. Any area used for the bulk delivery, fueling of vehicles, or transfer of liquids shall be within a containment area. All containment areas shall comply with the hazardous material storage under IDEM and/or MSHA regulations as appropriate.
 - 25. Mining activities and containment areas shall be prohibited in any area designated as a Flood Hazard Area by the Federal Emergency Management Agency (FEMA) or Indiana Department of Natural Resources (IDNR). Applicable Floodplain Development Permits shall be obtained from IDNR and/or Shelby County prior to any other development activities in a designated Flood Hazard Area.


These COMMITMENTS shall be binding on the owner, subsequent owners, and other persons acquiring an interest in the Real Estate. These COMMITMENTS may be modified or terminated by a decision of the Plan Commission made at a public hearing after proper notice has been given.

COMMITMENTS contained in this instrument shall be effective upon the grant of rezoning petition by the Shelby County Commissioners.

These COMMITMENTS may be enforced jointly and severally by the Board of Commissioners of Shelby County or the Shelby County Plan Commission.

The undersigned hereby authorizes the Plan Commission to record this Commitment in the office of the Recorder of Shelby County, Indiana, upon final approval of petition # _____.

HERITAGE AGGREGATES, LLC
d/b/a US AGGREGATES, INC.

A handwritten signature in blue ink, consisting of a stylized 'C' followed by a horizontal line.

By: _____
Chad Roots, Director of Land

TRACT: 73-15-31-200-001.000-021

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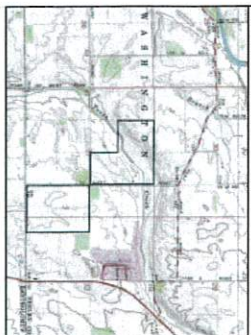
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NOTES:
PROPOSED BERMS IN SETBACK
AREAS.

HOPE, IN U.S.G.S.
7.5 Minute Quadrangle

SCALE: Not to Scale

NOTES:
PROPOSED BERMS IN SETBACK
AREAS.



HOPE, IN U.S.G.S.
7.5 Minute Quadrangle

<p>----- IN ZONED PROPERTY</p> <p>----- PROPOSED IN ZONED PROPERTY</p> <p>----- PROPERTY SETBACKS</p> <p>----- DRIVEWAY CATCHER</p> <p>----- IN - ADOPT PLAN</p> <p>----- IN - REMODE PLANNED PLAN</p>	<p>LEGEND</p> <p>IN MAY 2021 PARCELS</p> <p>IN MAY 2021 CENTRELINES</p> <p>----- DRIVEWAYS</p> <p>----- ROADWAYS</p> <p>----- STRUCTURES</p> <p><input checked="" type="checkbox"/> PROPOSED IN ZONED PROPERTY</p>	<p>SCALE:</p> <p>Not to Scale</p> <p>DATE:</p> <p>12-22-2022</p> <p>DRAWN BY:</p> <p>ROD, modified by CER</p> <p>ACAD FILE:</p> <p>Fal Rock 2022_Zoning Change Map.dwg</p>	<p>USAGGREGATES</p> <p>US AGGREGATES, INC</p> <p>5400 W. 86th St.</p> <p>INDIANAPOLIS, IN 46268</p>	<p>PROJECT TITLE:</p> <p>REZONING MAP</p> <p>FOR US AGGREGATES</p> <p>FAL ROCK QUARRY</p> <p>WASHINGTON TWP.</p> <p>SHELBY COUNTY, IN</p>
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Exhibit C

PROPOSED OPERATIONS AREA IMPROVEMENT DETAILS FOR US AGGREGATES, INC. OPERATION OF FLAT ROCK QUARRY EXPANSION

US Aggregates, Inc. ("USAgg") seeks to rezone approximately 243.04 acres immediately adjacent to our existing mine operation located at 15 E. State Road 252, Flat Rock, IN 47234 in Washington Township in southeastern Shelby County.

The lands proposed for rezone include Parcel Numbers: 73-15-31-200-001.000-021 (122.04 AC); 73-15-31-200-002.000-021 (1.0 AC); 73-15-31-400-005.000-021 (80.0 AC); and 73-15-32-300-001.000-021 (40.0 AC); collectively, the "Property".

The Property contains a significant quantity of mineral aggregates ("Aggregates") and was acquired by USAgg as part of its long term business plan for its Aggregates operation. Aggregates will be extracted from the Property and sold from our adjoining existing operation at 15 E. State Road 252, Flat Rock, IN 47234.

Prior to the extraction of Aggregates, the mining area will be prepared by removing overburden that is on top of the Aggregates. A minimum front setback of one hundred and fifty feet (150') from the property to public roadways will be utilized and a minimum side setback of one hundred feet (100') will be utilized to property lines. The overburden will be excavated using construction equipment typical on most construction sites, such as excavators, haul trucks, and dozers. The overburden will likely be stored on the Property and utilized for construction of berms and future reclamation purposes. Once the mining area is prepared, equipment will be utilized to extract the in-situ Aggregate. The Aggregate will be crushed and hauled to the existing, adjoining mine operation for processing and sale.

Blasting and/or explosives will be used as part of the operation and will be within the existing and routine operation as currently utilized and in accordance with the Mine Safety and Health Administration ("MSHA") rules and regulations. Hours of operation will be from 5:00 a.m. to 8:00 p.m., Monday through Saturday, except during peak season, where the operations will operate from dawn until dusk. No operations shall occur on Sundays. Notwithstanding the foregoing to the contrary, mineral extraction operations may be conducted outside these hours only (i) to supply materials for inclusion in a public (municipal, county, state, or federal) project; (ii) to respond to an emergency involving a matter of public interest that requires immediate use of USAgg's materials; or (iii) to meet exceptional demands caused by special projects requiring work outside normal hours. Except in the case of emergencies, USAgg will make a good faith effort to notify the Shelby County Plan Commission in advance of all operations outside the stated hours.

Any lighting used in the project shall be focused downward towards the mining areas. The mining operations will be conducted behind berms which will help mitigate light and noise impact on adjoining properties.

Exhibit D

Security Plan

SECURITY PLAN FOR US AGGREGATES, INC. OPERATION OF FLAT ROCK
QUARRY EXPANSION

1. Safety mounds shall be installed progressively around the perimeter of any active mining areas.
2. Entrances to the Real Estate will be gated and locked to prevent the passage of vehicular traffic at all times, except during operating hours when employees of the operator of the operation are present.
3. "No Trespassing" signs will be prominently posted along all boundaries of the Real Estate.
4. All equipment used on the Real Estate will have keys removed while not in use and keys secured during those times outside of operational hours.
5. Owner shall arrange for regular patrols of the site if requested by any governmental agency.

Exhibit E

Reclamation Plan

RECLAMATION PLAN FOR US AGGREGATES, INC. OPERATION OF FLAT ROCK QUARRY EXPANSION

This Reclamation Plan (the "Plan") provides the guidelines for the reclamation and beautification of the Real Estate upon the conclusion of mining operations. To the extent possible, time frames for implementation of the guidelines are included. The guidelines, however, may be implemented during mining if feasible.

These guidelines are based on the Guiding Principles (the "Principles") of the Environmental Stewardship Council (the "ESC") of the Indiana Mineral Aggregates Association, published on June 1, 2000. The Principles were drafted after ESC contacted several consulting firms and two universities. The Principles were drafted over a period of six months, after which they were adopted through a series of hearings and meeting over approximately a one year period.

1. Reclamation Principles. The following reclamation principles and guidelines will be adhered to with respect to the reclamation and restoration of the Real Estate upon the conclusion of mining operations.
 - 1.1. Stabilization of Soil and Loose Rock.
 - 1.2. Slope Materials. Sufficient volumes of overburden will be maintained on the Real Estate to ensure the reclamation plan can be completed. All overburden placed on the real estate will be placed graded and stabilized to minimize soil erosion, surface disturbance, and stream or river contamination. Sufficient water-retarding siltation control structures and diversion ditches will be utilized, if necessary, to control runoff.
 - 1.3. Grading Slopes. Upon completion of reclamation, no vertical or near vertical high walls will remain in unconsolidated deposits. Any ridges, peaks or slopes created by excavation, overburden removal or replacement will be graded to a slope that provides for stability, prevents erosion, and supports vegetation. The grading of any slopes will be compatible with the surrounding topography.
 - 1.4. Depending on the mineral produced and the topography and the geology of the site, it may be necessary to retain bedrock highwalls as permanent features at the completion of mining and reclamation. Final mined faces will be designed and configured to minimize the possibility of rock falls and slope failure.
 - 1.5. Post Mining Vegetation.
 - 1.5.1. A vegetative cover will be established on all portions of the affected Real Estate that is not covered by water or existing vegetation. The re-vegetation will provide a diverse, effective and permanent vegetation cover capable of self-regeneration and plant succession.

1.5.2. Ground Cover. Soil stabilizers and or mulch will be applied, as necessary, to promote seed germination and prevent washing away of seeds. Soil materials will be prepared utilizing appropriate standard agricultural methods. Seedbed preparation will be accomplished along the contour of all slopes and the soil material loosened to a depth sufficient to promote proper seed germination.

1.5.3. Vegetative Material. Quick germinating, rapid-growing vegetative species capable of stabilizing the surface soil and preventing erosion will be sown. Vegetative materials will consist of grasses, legumes, herbaceous or woody plants, shrubs and trees. Specific material will be chosen based on soil test results, post-mining land use, long-term erosion control, growth rates, ability to provide permanent vegetative cover, self-regeneration and plant succession capabilities, potential soil rebuilding abilities, and potential benefits to wildlife.

2. Site Specific Guidelines. The following guidelines are specific to the Real Estate. The Reclamation Principles contained above shall be utilized when complying with the site specific guidelines.

2.1 Use of Reclaimed Property. Since the anticipated time horizon for cessation of mining operations is greater than fifty years, specific uses for the reclaimed area have not yet been identified. The goal with respect to the reclamation of the areas is to make such areas suitable for potential recreational use and/or development that may be consistent with the surrounding area and the local Comprehensive Plan.

2.2 A final Site Specific Reclamation Plan will be submitted to the County for approval prior to the reclamation of the site.