

Before the Shelbyville Board of)
Zoning Appeals)
In the Matter of W. Taylor Sumerford, Jr.)
and Sumerford Land Trust)

AFFIDAVIT BY W. TAYLOR SUMERFORD, JR.

W. Taylor Sumerford, Jr., being first duly sworn upon his oath, says as follows:

1. My name is W. Taylor Sumerford, Jr., and I own real estate near State Road 9 subject of the above proceedings. I own all of the beneficial interest of the Sumerford Land Trust as well.

2. The Shelbyville Planning Director provided a notice to me that I was in violation of the zoning ordinance for failure to obtain approval on matters set forth in Notice on August 18, 2020 (the "Notice"). This Affidavit sets forth reasons why the Planning Director's determinations are not valid.

3. It is customary for planning departments to telephone or give a letter to an owner, to bring a person in compliance. However, I received no prior contact whatsoever. I have served for over 21 years as a member of the Shelby County Plan Commission and participated in zoning matters for Shelby County.

4. The Notice was surprising, because the Plan Commission previously had given approvals by its director on prior occasions for the gravel pit near I-74 (North Pit), and the southerly gravel pit near the railroad track (Burnside Pit).

David Toll's Approval

5. David W. Toll as Plan Commission Director approved the filling of both pits by his letter dated August 4, 1993 attached as Exhibit A. We discussed the approval of the North Pit and the Burnside Pit. I enclose copies of the approvals in 1993 by the US Army Corps of Engineers, together with other extensive approvals I was required to obtain in order to fill the gravel pits.

6. The approvals include comments and input from the Wetlands Protection Agency, Indiana Department of Natural Resources, Indiana Department of Environmental Management, as well as private parties including the Sierra Club.

7. I have worked extensively to modify plans in order to meet the federal and state requirements for filling the gravel pits.

8. Then again in 2009, I obtained approval by the Army Corps of Engineers, Water Conservation agencies, Indiana Department of Environmental Management, and other organizations. The approvals are partially set forth on the attached Exhibit B for plans which were modified and extended.

9. The process for approvals was difficult, costly, and took extensive time. The North Pit and the Burnside Pit are in plain view of any person driving on State Road 9. The Shelbyville Planning Department did not object or notify me of any deficiency until August of 2020.

Daniel Bird's Approval of North Pit Extension

10. Also enclosed as Exhibit C is the approval in 2016 by Daniel Bird as the Plan Commission Director, for filling a remnant of the North Pit that I acquired in 2016, located at the southeast corner of Rampart Street and State Road 9. There was a remnant pond on the east end, which Daniel Bird as Plan Commission Director approved for filling. Matt House as City Engineer provided input for the City's approval of filling in 2016.

11. The Shelbyville Planning Department has never contacted me regarding any deficiencies on either the North Pit or the Burnside Pit in any manner whatsoever, until it issued the Notice of August 18, 2020 signed by Adam Rude.

12. However, I discontinued all filling activity after the Notice, as soon as reasonably possible on the North Pit. The North Pit is nearing completion and would likely have been finished within about one year, and ready for grading and soil installation.

13. The Burnside Pit has not had any filling activity for many years, dating back at least 18 years.

14. Also, the Notice contained items which seem objectionable. The only items remaining are some fill item consisting of concrete, which we have customarily used for filling operations and bridges to be installed on the real estate.

15. The filling on the North Pit is substantially completed and the bridges are planned to cross the remnant lakes that are created by the filling operation, so that access can be obtained to the peninsulas in the back. There is no reasonable access except for a bridge, because of the depth of the gravel pit ponds.

16. It is costly to obtain bridges, and they are only temporarily placed on the property so that they can be installed upon completion of the filling operation on the North Pit operation.

17. The completed Burnside Pit has been primarily used for the benefit of the City of Shelbyville. The City deposited approximately 65 to 70 percent of the materials in the Burnside Pit. I did not charge the City for this filling, and incurred expense in order to smooth out and grade the filling, including the deposit of soil and roadway over the top of the fill. Thus, I have incurred considerable expense in order to assist the City of Shelbyville in its projects. The major fill occurred when a sanitary sewer was constructed around the City of Shelbyville extending to serve the Knauf property and other areas.


18. At all times, I have relied upon the approval by David Toll, as Plan Commission Director, to proceed under the Burnside Pit and the North Pit. In addition, there are multiple approvals from federal, state, local and private approvals.

19. The City of Shelbyville has not objected to the North Pit or the Burnside Pit for its projects or other persons until August of 2020 in its Notice. Shelby Gravel now owns the 8 acre pond set forth on the attached Exhibit D, which is the east pond of the North Pit. The new owner subsequent to its acquisition on February 18, 2016 has commenced filling the east pond, without approval of the City. I have never filled on the back 8 acre pond.

20. I am a professional engineer and a graduate of Purdue University, working in highway and construction projects for over 50 years. I formerly was a Project Engineer with the Indiana State Highway Department. Based upon my professional experience, I obtained

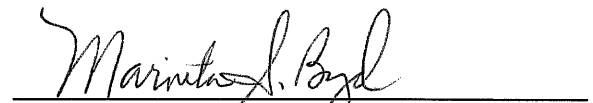
all appropriate approval from the City of Shelbyville for fill activities on both the North Pit and the Burnside Pit.

Respectfully submitted,


W. Taylor Sumerford, Affiant

Subscribed and sworn to before me this 12th day of January, 2021.




Marnita S. Boyd, Notary Public
Commissioned in Shelby County, Indiana

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SHELBYVILLE



INDIANA

44 WEST WASHINGTON STREET 46176 • (317) 398-6624 • FAX (317) 392-5143

DAVID W. TOLL
PLAN COMMISSION

August 4, 1993

Taylor Sumerford
N. State Road 9
Shelbyville, IN 46176

Dear Taylor;

This letter is in regard to our conversation of August 4, 1993, concerning dumping of concrete, dirt and or gravel on your property.

The city does not see any problems with dumping concrete, dirt and or gravel on you property as long as the dumping will not violate any state or federal dumping and drainage laws. You also must be advised that the contractor can not dump into the lake/gravel pit without a permit from the state.

If I can be of any further assistance, please feel free to call.

Sincerely,

David W. Toll
Plan Commission Director

EXHIBIT A-1

CITY COUNCILMEN

JEFF L. MARTIN — NANCY J. MCNEELY — ROLAND STINE — JERRY HIGGINS — ERNEST W. CONRAD — EDGHILL MOORE — GENE SEXTON



DEPARTMENT OF THE ARMY
U.S. ARMY ENGINEER DISTRICT, LOUISVILLE
CORPS OF ENGINEERS
P.O. BOX 59
LOUISVILLE, KENTUCKY 40201-0059
November 18, 1993

Operations and Readiness Division
Regulatory Branch (North)
ID No. 199300829-pmr

Mr. Taylor Sumerford
3149 North Riley Highway
Shelbyville, Indiana 46176

Dear Mr. Sumerford:

Enclosed is Department of the Army (DA) Permit Number 199300829, authorizing the plan to place fill material in a portion of a gravel pit (Burnside Pit), to provide land for commercial development, in Shelbyville, Shelby County, Indiana. Also enclosed is ENG Form 4336, "Notice of Authorization," which must be displayed at the construction site throughout construction.

Should any modification of the plans become necessary for any reason, approval from the District Engineer must be received prior to the start of the work. Copies of this letter will be sent to the appropriate coordinating agencies (see enclosure for addresses).

Sincerely,

Pat Rucker
Patricia M. Rucker
Regulatory Specialist
Regulatory Branch

Enclosures

EXHIBIT A-2

ADDRESSES FOR COORDINATING AGENCIES

Mr. Dale S. Bryson
Director, Water Division
U.S. Environmental Protection Agency
Region V
77 West Jackson Boulevard
Chicago, Illinois 60604

Mr. Dave Hudak
Field Supervisor
U.S. Department of the Interior
Fish and Wildlife Service
620 South Walker Street
Bloomington, Indiana 47403-2121

Ms. Kathy Prosser
Commissioner
State of Indiana
Department of Environmental Management
P.O. Box 6015
Indianapolis, Indiana 46206-6015

Mr. Steve Jose
Environmental Supervisor
Division of Fish and Wildlife
Department of Natural Resources
402 West Washington Street, Room 273
Indianapolis, Indiana 46204

Mr. John N. Simpson, P.E., L.S.
Director
Division of Water
Indiana Department of Natural Resources
402 West Washington Street, Room W264
Indianapolis, Indiana 46204

REGISTERED-INDIANA
PROFESSIONAL ENGINEER NO. 11036
LAND SURVEYOR NO. 11242

W. TAYLOR SUMERFORD, JR.

~~Post Office~~ 3149 North Riley Hwy.
SHELBYVILLE, INDIANA 46176

PHONE 317 398-9916

September 30, 1993

Ms. Patricia M. Rucker
Regulatory Specialist
Regulatory Branch
Department of the Army
P. O. Box 59
Louisville, Kentucky 40201-0059

Dear Ms. Rucker:

On Wednesday, September 22, 1993 I met with Ms. Patricia Werner of the Sierra Club and discussed the Sierra Club's objections to my proposed fill as described in Public Notice 199300829. In addition on Thursday September 23, 1993 I talked with Mr. Scott Pruitt of the U.S. Department of Fish and Wildlife of the Bloomington Field Office over the phone for his input.

At their suggestions, I have revised my application as shown on the drawing noted "Revised Drawing". It is my understanding that with these changes the Sierra Club would be agreeable with my proposal.

I am forwarding these drawings to your office along with copies to Ms Werner and Mr. Pruitt. I would appreciate your advising me if your office would have objections to this change.

Additionally I plan to call you within the next few days to see if you have had any word from the Indiana Department of Environmental Management.

Thank you for your assistance.

Sincerely yours,

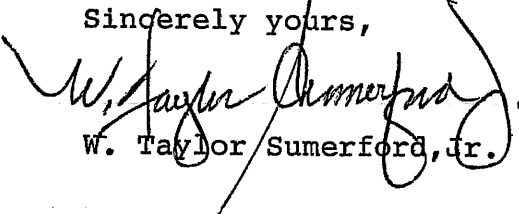

W. Taylor Sumerford, Jr.

EXHIBIT A-4



DEPARTMENT OF THE ARMY
U.S. ARMY ENGINEER DISTRICT, LOUISVILLE
CORPS OF ENGINEERS
INDIANAPOLIS REGULATORY OFFICE
9799 BILLINGS ROAD
INDIANAPOLIS, INDIANA 46216-1056
<http://www.lri.usace.army.mil>

September 24, 2009

Operations Division
Regulatory Branch (North)
ID No. LRL-2009-723-sjm

Mr. Taylor Sumerford, Jr.
1849 East 350 South
Shelbyville, Indiana 46176

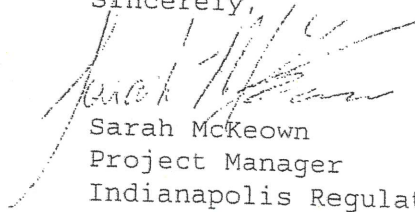
Dear Mr. Sumerford:

This is in regard to your letter of July 1, 2009, from Natural Resource Consulting concerning the proposed placement of fill into 4.1 acres of the reported gravel pit in the southwest 1/4 of Section 29, Township 13 North, Range 3 East, Shelby County, Indiana. We have reviewed the submitted data relative to Section 404 of the Clean Water Act.

The provided information indicates that a placement of dredged or fill material will not be required, permanently or temporarily, into any "waters of the United States". Therefore, a Department of the Army (DA) permit is not required. We urge you to contact the Indiana Department of Environmental Management for applicability of state law at the reported wetland.

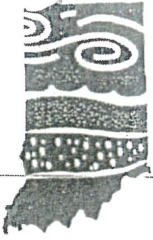
If you have any questions concerning this matter, please contact me by emailing Sarah.J.McKeown@usace.army.mil, calling 317-532-4392, or by writing to the above address. Any correspondence should reference our assigned Identification Number LRL-2009-723-sjm.

Sincerely,



Sarah McKeown
Project Manager
Indianapolis Regulatory Office

Copy Furnished: IDEM (Baldwin)
Natural Resource Consulting, Inc.



Shelby County Soil and Water Conservation District

1110 Amos Road, Suite C
Shelbyville, IN 46176-2806

Phone: (317) 392-1394 Ext. 3
Fax: (317) 392-0739

July 27, 2009

Taylor Sumerford
25 W Polk St B20
Shelbyville, IN 46176

Mr. Sumerford

Your Rule 5 plan submission to the Shelby County Soil and Water Conservation District has been reviewed and deemed adequate. Your Notice of Intent may now be sent to the Indiana Department of Environmental Management. Please also send a copy to our agency. Contact our office if you have any questions or concerns.

Sincerely,

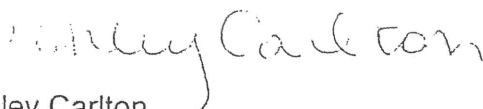

Ashley Carlton
Natural Resource Specialist

EXHIBIT B-2

**Construction/Stormwater Pollution Prevention Plan
Technical Review and Comment (Form I)**

Project Information	Project Name: Burnside Pit	County: Shelby
	Plan Submittal Date: 07/20/09	Hydrologic Unit Code: 5120204030070
	Project Location Description:	
	Latitude and Longitude: 39 deg 32 min 39.3 sec 85 deg 46 min 28.9 sec	
	Civil Township: Addison	Quarter: SW Section: 29 Township: 13N Range: 7E
	Project Owner Name: Taylor, Marna, and Andrew Sumerford	
	Contact: Taylor Sumerford	
	Address: 1849 E 350 S	
	City: Shelbyville	State: IN Zip: 46176
	Phone: 317.398.9916	FAX: E-Mail:
Plan Preparer Name: W. Taylor Sumerford, Jr.		
Affiliation: Shelby County Surveyor		
Address: 25 W Polk St. B20		
City: Shelbyville	State: IN Zip: 46176	
Phone: 317.392.6481	FAX: E-Mail:	

Plan Review	Review Date: 07/27/09
	Principal Plan Reviewer: Ashley Carlton, Resource Specialist
	Agency: Shelby County Soil and Water Conservation District
	Address: 1110 Amos Road, Suite C
	City: Shelbyville State: IN Zip: 46176
	Phone: 317.392.1394 ex. 3 FAX: 317.392.0739 E-Mail: ashley.carlton@in.nacdnet.net
Assisted By:	

PLAN IS ADEQUATE: A comprehensive plan review has been completed and it has been determined that the plan satisfies the minimum requirements and intent of 327 IAC 15-5.

Please refer to additional information included on the following page(s).

Submit Notice of Intent (NOI): Attach a copy of this cover page when submitting the NOI to the Indiana Department of Environmental Management. Construction activities may begin 48 hours following the submittal of the NOI. A copy of the NOI must also be sent to the Reviewing Authority (e.g. SWCD, DNR).

A preliminary plan review has been completed; a comprehensive review will not be completed within the 28-day review period. The reviewing authority reserves the right to perform a comprehensive review at a later date and revisions to the plan may be required at that time to address deficiencies.

Please refer to additional information included on the following page(s).

Submit Notice of Intent (NOI): Attach a copy of this cover page when submitting the NOI to the Indiana Department of Environmental Management. Construction activities may begin 48 hours following the submittal of the NOI. A copy of the NOI must also be sent to the Reviewing Authority (e.g. SWCD, DNR).

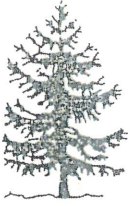
PLAN IS DEFICIENT: Significant deficiencies were identified during the plan review.

Please refer to additional information included on the following page(s).

DO NOT file a Notice of Intent for this project.

DO NOT commence land disturbing activities until all deficiencies are adequately addressed, the plan re-submitted, and notification has been received that the minimum requirements have been satisfied.

Plan Revisions **Deficient Items** should be mailed or delivered to the Principal Plan Reviewer identified in the Plan Review Section above.



Ron L. Dixon

Natural Resource Consulting, Inc.

7719 Knapp Road • Indianapolis, IN 46259
Tel.: (317) 862-7446 • Fax (317) 862-7437

June 30, 2009

Max Hagan, Team Leader
U.S. Army Corps of Engineers
9799 Billings Road
Indianapolis, Indiana 46216-1055

Dear Mr. Hagan:

Please find for your review a wetlands assessment I made for Mr. Taylor Sumerford Jr. regarding the potential of jurisdictional wetlands and/or waters existing in a man-made gravel pit in Shelbyville, Indiana. USACOE permit (ID#199400162-bkc) was previously issued to Mr. Sumerford to allow him to accept 46,000 cu/yds. of clean fill (soil, concrete, brick and sand) into a portion of the gravel pit at its NW corner. Mr. Sumerford has recently been contacted by IDEM (Brad Baldwin) and asked to have an updated USACOE jurisdictional call made for additional ongoing and continued filling of this pit due to the changes that have taken place since 1994 with USACOE jurisdiction.

The gravel pit that is currently being filled is located east of State Road 9 and just south of Interstate 74 (part of the S.W. ¼ of Section 29, T.13 N., R.3 E. Shelbyville, Indiana Quadrangle) The gravel pit appears to have been constructed in non-hydric soils (Fox loam FoB2 and Nineveh loam NnA) based upon projection of the Shelby County Soil Survey (Field Sheet #23). I observed an area just west of the pit that Mr. Sumerford indicated was natural undisturbed ground which did appear to be non-hydric Fox loam. The pit has a normal pool of deep water (>6') which appears to occasionally rise from 12"-18" above normal pool based upon water marks on the shoreline trees which are predominantly large hydrophytic species of eastern and/or swamp cottonwood, red and soft maples.

In her 1994 COE letter (copy attached), Ms. Carter indicated the pit was "adjacent" to the Big Blue River. Due to jurisdictional changes since 1994, I felt it would be best to send this assessment report and brief history to your office for review and for your direction on what if any additional work may be needed on Mr. Sumerford's behalf for an update or modification of this permit, as well as continued use of the pit as a basin for fill material.

As always, thank you and your team for all of your assistance.

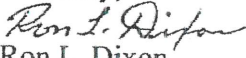
Sincerely,

Ron L. Dixon
Natural Resource Consultant

EXHIBIT B-4

 COPY



INDIANA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

We Protect Hoosiers and Our Environment.

Mitchell E. Daniels Jr.
Governor

Thomas W. Easterly
Commissioner

100 North Senate Avenue
Indianapolis, Indiana 46204
(317) 232-8603

Toll Free (800) 451-6027

www.idem.IN.gov

August 17, 2010

Mr. W. Taylor Sumerford JR.
1849 East County Road 350 South
Shelbyville, IN 46176

Dear Mr. Sumerford:

Re: No State Regulated Wetland Permit Needed
Project: SR 9/I-74 Gravel Pit Fill
COE No.: LRL-2009-723-sam
County: Shelby

The Office of Water Quality has reviewed your letter dated July 7, 2010, and received July 8, 2010. According to the letter, you received authorization in 1994 from the Army Corps of Engineers to discharge clean earthen fill material into a gravel pit. Since that time, changes in regulations have determined the gravel pit to be a type of isolated waterbody not within the jurisdiction of the Corps of Engineers. According to a report, dated July 1, 2009, by Ron Dixon, Natural Resource Consulting Inc., the gravel pit was excavated from upland and has a fringe wetland. Based on the report, the waterbody is also not regulated by the State of Indiana. The site is located on the east side of SR 9 just south of the I-74 interchange, in the SW ¼, Section 29, Township 13 North, Range 3 East, Shelby County.

Because the proposed activity does not involve a discharge of fill material to State Regulated (isolated) wetlands, it does not require a State Regulated Wetland Permit as specified under Indiana Code (IC) 13-18-22.

This correspondence does not relieve the recipient of the responsibility of obtaining any other permits or authorizations that may be required for this project or related activities from IDEM or any other agency or person. You may wish to contact the Indiana Department of Natural Resources at 317-232-4160 (toll free at 877-928-3755) concerning the possible requirement of natural freshwater lake or floodway permits. In addition, you may wish to contact IDEM's Storm Water Permits Section at 317-233-1864 concerning the possible need for a 327 IAC 15-5 (Rule 5) permit if you plan to disturb greater than one (1) acre of soil during construction.

If you have any questions about this letter, please contact Jason Randolph, Project Manager, of my staff at 317-233-0467, or you may contact the Office of Water Quality through the IDEM Environmental Helpline (1-800-451-6027).

Sincerely,

Martha Clark Mettler
Deputy Assistant Commissioner
Office of Water Quality

cc: Ron Dixon, Natural Resource Consulting Inc.



Archaeological Consultants of Ossian

July 2, 2009

Mr. Taylor Sumerford
Shelby Co. Surveyor
1849 C.R. East 350 South
Shelbyville, IN 46176

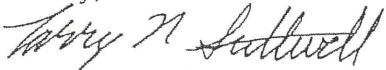
Dear Mr. Sumerford:

Enclosed is a report entitled *An Archaeological Field Reconnaissance of a Proposed Disposal Area in Shelbyville, Shelby County, Indiana*. Archaeological Consultants of Ossian Cultural Resource Management Report #09 FR 144. Please forward this report to the Indiana Division of Historic Preservation and Archaeology along with any original site forms. Please make a copy of the report and any site forms that may be present in the report.

As you will see from the report, Phase I survey has detected no properties that are eligible for nomination to the National Register of Historic Places. Since no historically or archaeologically significant sites will be impacted by the proposed undertaking, we recommend that project clearance be granted.

Thank you very much for the opportunity to work with you. If there is anything more I can do for you, please do not hesitate to call me at 765 281-0969 or 765 730-0524.

Sincerely,



Larry N. Stillwell
Archaeologist

enclosures: CRM Report 09 FR 144



DEPARTMENT OF THE ARMY
U.S. ARMY ENGINEER DISTRICT, LOUISVILLE
CORPS OF ENGINEERS
P.O. BOX 59
LOUISVILLE, KENTUCKY 40201-0059
September 17, 1993

Operations and Readiness Division
Regulatory Branch (North)
ID No. 199300829-pmr

Mr. Taylor Sumerford
3149 North Riley Highway
Shelbyville, Indiana 46176

Dear Mr. Sumerford:

Enclosed for your information is a copy of a letter objecting to your proposal to place fill material in a portion of a gravel pit (Burnside Pit), to provide land for commercial development, in Shelbyville, Shelby County, Indiana.

This letter has been forwarded to you so that you can review any specific concerns it has raised. If you feel that Ms. Werner's objection is based on a misunderstanding or that it can be resolved to the satisfaction of you both, you may wish to contact her directly. As an alternative, you may file a written rebuttal of her concerns.

If you have any questions, please contact this office by writing to the above address, ATTN: CEORL-OR-FN, or by calling me at (502) 582-5607.

Sincerely,

Pat Rucker
Patricia M. Rucker
Regulatory Specialist
Regulatory Branch

Enclosure

EXHIBIT B-7



Sierra Club

HOOSIER CHAPTER

The Wetlands Project
960 East Washington Street
Suite 200B
Indianapolis, Indiana 46202
September 3, 1993

Mrs. Rucker, CEORL-OR-FN
Corps of Engineers
P.O. Box 59
Louisville, Kentucky 40201-0059

Dear Mrs. Rucker,

The following are comments related to Public Notice 199300829, a permit request by Mr. Taylor Sumerford to fill a portion of a gravel pit for commercial use near Shelbyville, Indiana.

Gravel pits, while not natural features, offer aquatic sites for fish and wildlife habitat and in-turn provide recreational opportunities for the public. The site in question does both, and is nicely buffered with a tree corridor which enhances its wildlife value. The pit to the south has been fairly recently converted, which has resulted in increased pressure on the northern pit for these public benefits.

The proposed commercial use is not water-dependent, and it appears that no mitigation plan for the aquatic habitat impairment has been offered in the notice. Therefore, we request denial of this permit request based on the public harm it would cause.

Thank-you for your consideration of this request.

Sincerely,

Patricia S. Werner
Project Director

EXHIBIT B-8

"Not blind opposition to progress, but opposition to blind progress."



Recycled Paper



DEPARTMENT OF THE ARMY
U.S. ARMY ENGINEER DISTRICT, LOUISVILLE
CORPS OF ENGINEERS
P.O. BOX 59
LOUISVILLE, KENTUCKY 40201-0059
September 17, 1993

Operations and Readiness Division
Regulatory Branch (North)
ID No. 199300829-pmr

Mr. Taylor Sumerford
3149 North Riley Highway
Shelbyville, Indiana 46176

Dear Mr. Sumerford:

This is in regard to our Public Notice No. 199300829 which announced your proposal to place fill material in a portion of a gravel pit (Burnside Pit), to provide land for commercial development, in Shelbyville, Shelby County, Indiana. We have received a letter from the U.S. Fish and Wildlife Service dated August 31, 1993, copy enclosed.

In accordance with our regulations, you are given the opportunity to resolve or rebut all concerns. Please note that any action taken by you is strictly voluntary and that you are not required to meet with them or submit comments addressing their concerns.

If you have any questions concerning this matter, please contact this office by writing to the above address, ATTN: CEORL-OR-FN, or by calling me at (502) 582-5607.

Sincerely,

A handwritten signature in cursive script that reads "Pat Rucker".

Patricia M. Rucker
Regulatory Specialist
Regulatory Branch

Enclosure

EXHIBIT B-9



IN REPLY REFER TO:

United States Department of the Interior



FISH AND WILDLIFE SERVICE
BLOOMINGTON FIELD OFFICE (ES)
620 South Walker Street
Bloomington, Indiana 47403-2121
(812) 334-4261 FAX 334-4273

August 31, 1993

Colonel Herbert F. Harback
District Engineer
U.S. Army Engineer District
Louisville
P.O. Box 59
Louisville, Kentucky 40201

Dear Colonel Harback:

The U.S. Fish and Wildlife Service (FWS) has reviewed Public Notice 199300829 dated August 11, 1993. Under this Public Notice, Mr. Taylor Sumerford, Jr. proposes to fill approximately 1.2 acres of a 20 acre borrow pit in Shelbyville, Shelby County, Indiana.

These comments have been prepared under the authority of the Fish and Wildlife Coordination Act (16 U.S.C. 661 et seq.) and are consistent with the intent of the National Environmental Policy Act of 1969, the Endangered Species Act of 1973, and the U.S. Fish and Wildlife Service's Mitigation Policy.

A biologist from this office inspected the project site August 24, 1993. The borrow pit has steep banks, deep water, and the banks are lined with mature cottonwood, silver maple, and sycamore trees. It appears that the borrow pit is used frequently by sport fishermen. While the borrow pit is not high quality habitat, it is probably used by waterfowl during migration. Therefore, we recommend that the applicant reestablish a tree line, on the water side of the fill, for a visual buffer. Otherwise, the FWS has no objection to the proposed project.

Endangered Species

The proposed project is within the range of the Federally endangered Indiana bat (Myotis sodalis) and bald eagle (Haliaeetus leucocephalus). While some foraging habitat may exist in the project area, the proposed project is not likely to adversely affect these endangered species.

This precludes the need for further consultation on this project as required under Section 7 of the Endangered Species Act of 1973, as amended. If, however, new information on endangered species at the site becomes available or if project plans are changed significantly, please contact our office for further consultation.

Please provide a copy of the permit to this office. If you have questions about our recommendations, please call Scott Pruitt at (812) 334-4261 ext. 217.

Sincerely yours,

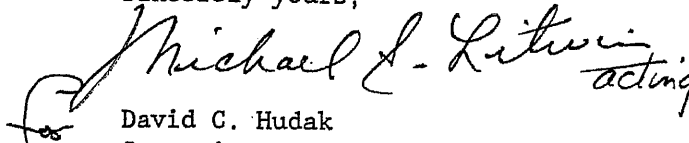
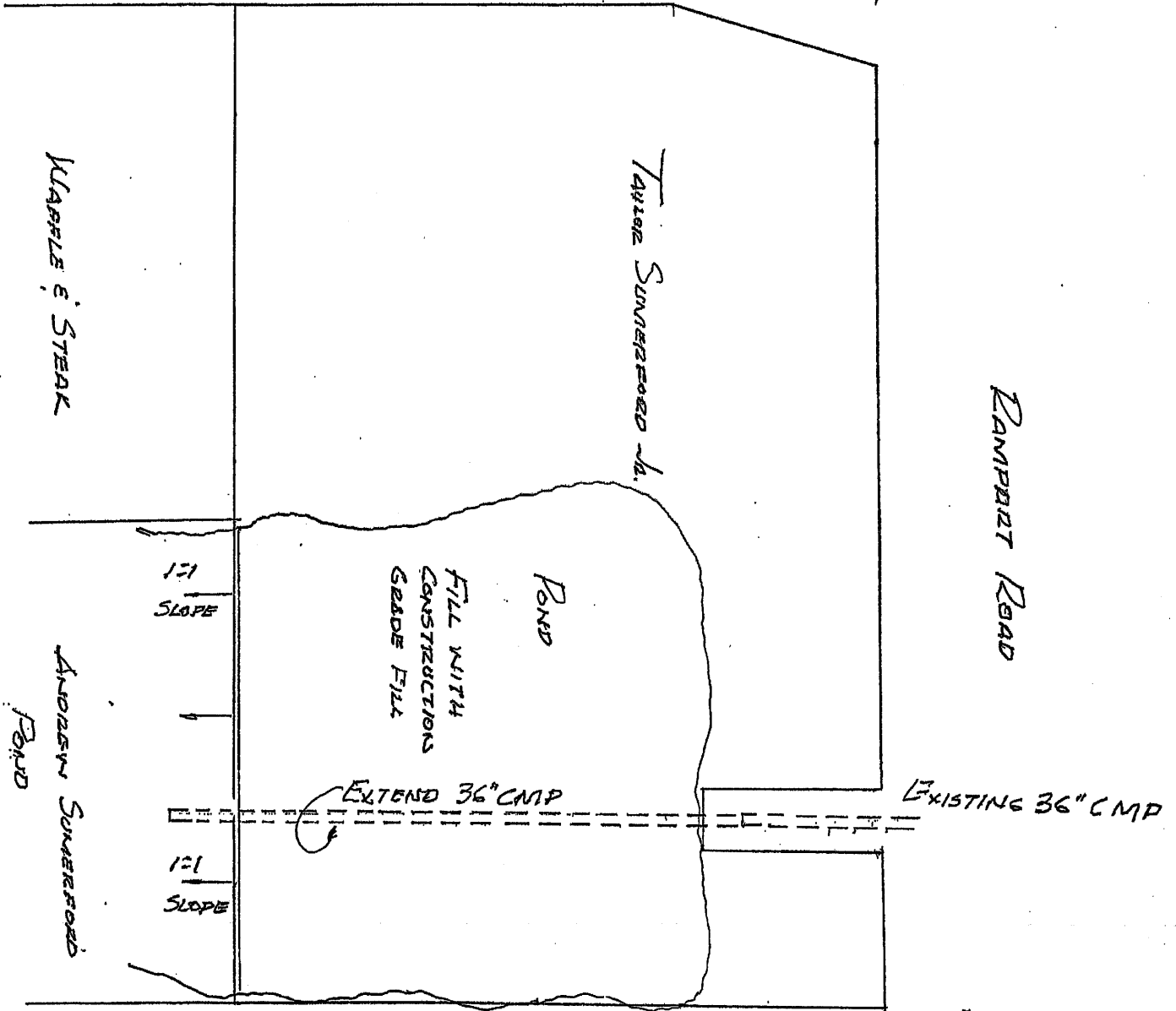

David C. Hudak
Supervisor

EXHIBIT B-10

cc: U.S. EPA Region V, Aquatic Resources Section, 5WQD, Chicago, IL
Director, Indiana Division of Fish & Wildlife, Indianapolis, IN
Steve Jose, Division of Fish & Wildlife, Indianapolis, IN
IDEM, Division Water Management, Indianapolis, IN

STATE ROAD 9 (HARRISON ST.)



SCALE 1" = 50'

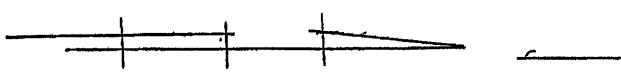


EXHIBIT C-2

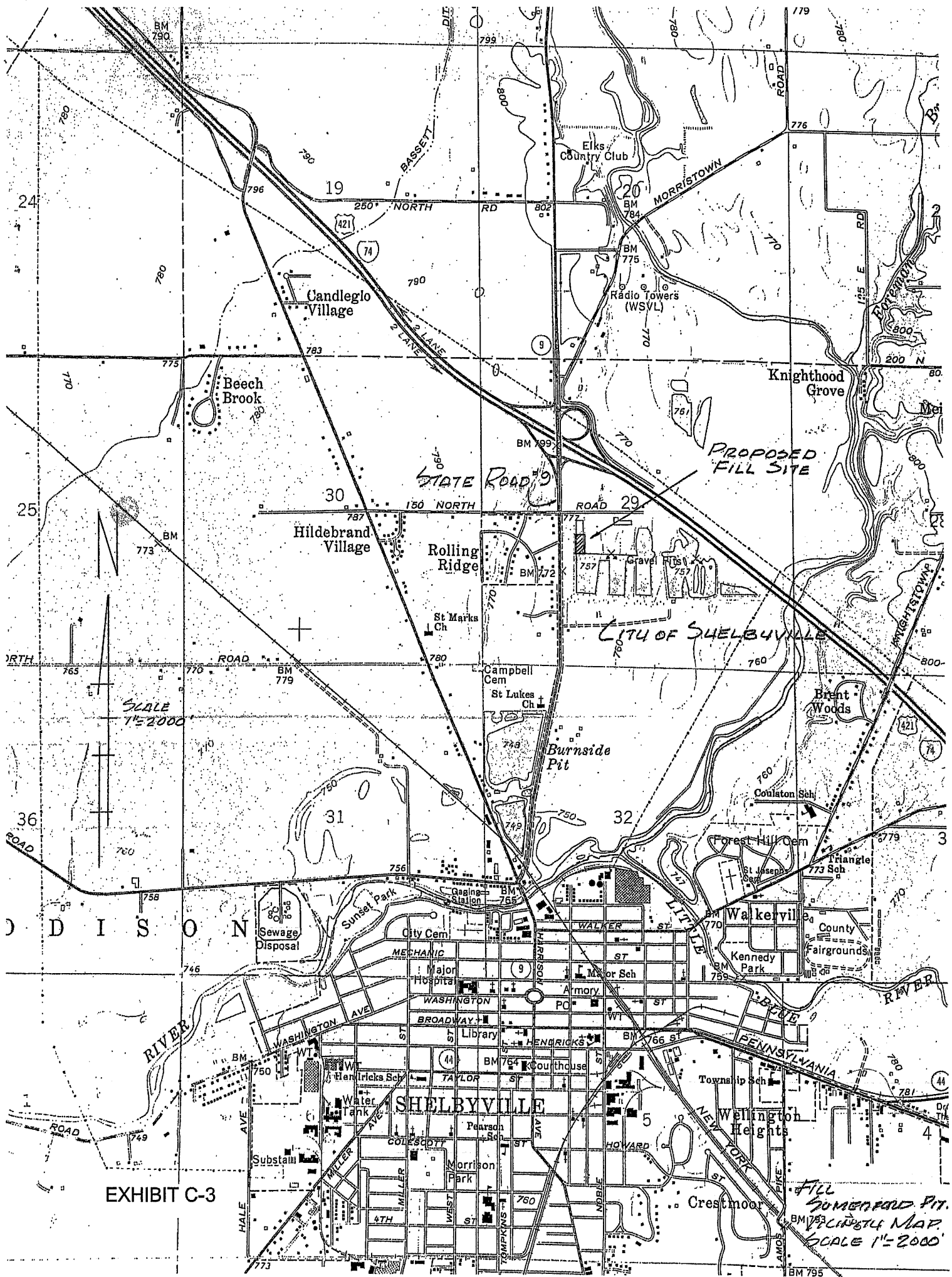


EXHIBIT C-3

FILL SUMNERFORD PIT.
 COUNTY MAP
 SCALE 1" = 2000'

ENTER FOR TAXATION

FEB 22 2016

Mary Jo Phares

SHELBY COUNTY AUDITOR

2016000793 SWD \$20.00
02/22/2016 04:13:57P 3 PGS
Taunya J Williams
SHELBY County Recorder IN
Recorded as Presented
[Barcode]

SPECIAL WARRANTY DEED

THIS INDENTURE WITNESSETH, that W. Taylor Sumerford ("Grantor") of Shelby County, Indiana CONVEYS AND WARRANTS to Shelby Gravel, Inc., an Indiana corporation ("Grantee") of Shelby County, Indiana, the following described real estate in Shelby County, Indiana, to-wit:

THE REAL ESTATE DESCRIBED ON THE ATTACHED EXHIBIT A,
WHICH IS INCORPORATED HEREIN.

Grantee assumes and agrees to pay real estate taxes for 2016 due and payable in 2017 and all subsequent real estate taxes.

By this conveyance, the above described real estate constitutes "Replacement Property" to Grantees and "Relinquished Property" to Grantor as part of a §1031 qualified exchange under the Internal Revenue Code of 1986, as amended, and pursuant to an Qualified Exchange Agreement dated February 18, 2016.

Dated this 18 day of February, 2016.

W. Taylor Sumerford

W. Taylor Sumerford

SALES DISCLOSURE
APPROVED
SHELBY CO. ASSESSOR

EXHIBIT D-1

State of Indiana, County of Shelby, SS:

Before me, the undersigned a Notary Public in and for said County and State this 18 day of February, 2016 personally appeared W. Taylor Sumerford, and executed and acknowledged the execution of the above and foregoing instrument.

My Commission Expires:

March 13, 2016

Send tax statements to:
157 E. Rampart Road
Shelbyville, IN 46176

Grantee's address is:
157 E. Rampart Road
Shelbyville, IN 46176



N. Gregg Graham
N. Gregg Graham, Notary Public
Resident of Shelby County, Indiana

I affirm, under the penalties for perjury, that I have taken reasonable care to redact each Social Security number in this document, unless required by law. N. Gregg Graham

THIS INSTRUMENT PREPARED BY N. GREGG GRAHAM, ATTORNEY AT LAW, #7246-73
33 WEST WASHINGTON STREET, SHELBYVILLE, INDIANA 46176
TELEPHONE: (317) 398-6626 FACSIMILE: (317) 392-1962

h:\documents\real\sumerford.shelby.gravel.swd\t

EXHIBIT D-2

A part of the Southeast Quarter of Section 29, Township 13 North, Range 7 East, Shelby County, Indiana; described as follows:

Commencing at the Northwest corner of the above described Southeast corner of Section 29; thence South 00 degrees 00 minutes 00 seconds East (assumed bearing) 660.00 feet along the West line of the quarter to the true point of beginning of the tract herein described;

Thence parallel with the North line of the quarter South 88 degrees 53 minutes 15 seconds East 462.00 feet to an iron pipe; thence parallel with the West line of the quarter South 00 degrees 00 minutes 00 seconds East 827.00 feet to an iron pipe; thence North 88 degrees 53 minutes 15 seconds West 462.00 feet to the West line of the quarter; thence with said West line North 00 degrees 00 minutes 00 seconds East 827.00 feet to the point of beginning, containing 8.770 acres more or less and subject to all existing right of ways and easements of record.

Split from 73-07-29-300-097.000-002

EXHIBIT D-3

EXHIBIT A

73-07-29-400-006,000-002

General Information

Parcel Number
73-07-29-400-006,000-002
Parent Parcel Number

SHELBY GRAVEL INC AN INDIANA CORP

Ownership

SHELBY GRAVEL INC AN INDIANA CORPORATIO
157 E RAMPART RD
SHELBYVILLE, IN 46176

Rampart ST

300, Vacant Land

Transfer Of Ownership

Date	Owner	Doc ID	Code	Book/Page	Sale Price
02/22/2016	SHELBY GRAVEL INC AN				\$00
02/16/2016	SUMERFORD, W TAYLOR				\$00
10/10/2003	Sumnerford Land Trust				\$70,000
10/28/1999	SUMERFORD ANDREW MAR				\$00
01/01/1900	SUMERFORD WOOTEN TAY				\$00

INDUSTRIAL/
7302061-002

Notes

Property Class 300
Vacant Land

INDUSTRIAL

Location Information

County
Shelby
Township
ADDISON TOWNSHIP
District 002 (Local)

School Corp
SHELBYVILLE CENTRAL
Neighborhood 7302061-002
INDUSTRIAL

Location Address
Rampart ST
SHELBYVILLE, IN 46176

Zoning

Valuation Records (work in progress values are not certified values and are subject to change)

Assessment Year	Reason For Change	As Of Date	Valuation Method	Equalization Factor	Notice Required	Land	Land Res(1)	Land Non Res(2)	Land Non Res(3)	Improvement	Imp Res(1)	Imp Non Res(2)	Imp Non Res(3)	Total	Total Res(1)	Total Non Res(2)	Total Non Res(3)
2020	AA	04/06/2020	Indiana Cost Mod			\$11,000	\$00	\$00	\$00	\$00	\$00	\$00	\$00	\$11,000	\$00	\$00	\$00
2019	AA	03/28/2019	Indiana Cost Mod			\$11,000	\$00	\$00	\$00	\$00	\$00	\$00	\$00	\$11,000	\$00	\$00	\$00
2018	AA	03/21/2018	Indiana Cost Mod			\$11,000	\$00	\$00	\$00	\$00	\$00	\$00	\$00	\$11,000	\$00	\$00	\$00
2017	AA	03/22/2017	Indiana Cost Mod			\$11,000	\$00	\$00	\$00	\$00	\$00	\$00	\$00	\$11,000	\$00	\$00	\$00
2017	AA	06/21/2017	Indiana Cost Mod			\$11,000	\$00	\$00	\$00	\$00	\$00	\$00	\$00	\$11,000	\$00	\$00	\$00

Land Computations

Calculated Acreage 8.77
Actual Frontage

Developer Discount

Parcel Acreage 8.77

81 Legal Drain NV

82 Public Roads NV

83 UT Towers NV

8 Homesite

84/82 Acres

Total Acres Farmland

Farmland Value

Measured Acreage

Avg Farmland Value/Acre

Value Of Farmland

Classified Total

Farm / Classified Value

Homesite(s) Value

81/82 Values

Supp Page Land Value

CAP 1 Value

CAP 2 Value

CAP 3 Value

Total Value

Characteristics

Topography
Level
Public Utilities
All
Streets or Roads
Paved

73-07-29-400-006,000-002

Printed Monday, January 11, 2021

Data Source

Collector

Appraiser