

# Codington County

## Planning Commission / Board of Adjustment

1910 West Kemp Avenue  
Watertown, SD 57201-3048

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August 26, 2025

J&J Land Sales LLC  
1002 S Madison St  
Milbank, SD 57272

RE: Compliance for Violations of Conditional Use Permit

This letter is written in reference to your message on August 19, 2025 regarding the intended compliance of orders for complete reclamation of the 31<sup>st</sup> Street East right-of-way and the area within 65 feet of that right-of-way. Specifically, you were ordered to cease and desist all mining and were not allowed to haul any material out of the gravel mine until the following actions were taken:

### Violation #1

Since excavation and piling occurred within sixty-five (65) feet of the right-of-way and within the right-of-way; reclamation of the right-of-way and any property within sixty-five (65) feet of the right-of-way is allowed to commence while mining has ceased. Reclamation of land within 65' shall occur as follows:

- All property shall be reclaimed (including the removal of piles) to within 2' of the original grade (at the time of permitting) unless such grade involved a slope steeper than 3 (horizontal) feet : 1 (vertical) foot.
  - All property within 65' of the 31<sup>st</sup> Street Northeast right-of-way shall be leveled with a slope no steeper than 3 (horizontal) feet : 1 (vertical) foot on or before September 11, 2025.
  - Complete reclamation to (within 2' of) original grade shall be completed on or before November 11, 2025; or prior to any request for extension/re-approval of the original conditional use permit issued on May 20, 2015.
  - Figure #3 includes the contours of the property (1') as determined by LiDar in 2011 (prior to permitting.) The Codington County Zoning Office would accept these elevations as original conditions. Contact this office for a shapefile or similar file format with geo-reference for your convenience if necessary.
- Unless otherwise agreed to with Elmira Township, the grade of the property within the section line right-of-way shall be returned to original grade.
  - Please contact Elmira Township to establish a time frame for the reclamation to occur and any specific requirements they may establish.

On August 21 and August 22, 2025, the Zoning Officer visited the site. Based upon that site visit a roadway has been established in the approximate location of the 31<sup>st</sup> Street right-of-way. Further, property was reclaimed at a slope equal to or more gradual than 3' (horizontal) :1' (Vertical) beyond the roadway (see Figure #1). Thank you for your efforts to start reclaiming the

right-of-way and setback area. However, as noted in the August 6, 2025 letter no materials may be removed from the site, nor any mining occur unless or until ALL corrective actions listed for “Violation #1” are completed.

Elmira Township has informed this office through its Clerk, on August 22, 2025 that due to the excavation that has occurred they request a survey be performed to determine the exact location of the section line that serves as the west boundary of this legal description, and markings to indicate the location of the statutory right-of-way in order to determine what area should be reclaimed to their expectations. Likewise, a survey would establish the setback distance that needs to be reclaimed to or near original (2011) grade prior to commencement of removing previously mined materials. Based upon the zoning officer’s site visit on August 22, 2025, it appears that twenty (20) or more feet (east of the 31<sup>st</sup> Street right-of-way) will additionally need to be reclaimed to elevations between 1,760 and 1,780 as in the map labeled “Figure #3” below.

Finally, on the way to conducting the review of reclamation of the setback area and right-of-way on August 22, 2025 the zoning officer met one truck leaving the mine on 31<sup>st</sup> Street. During the measuring of the slope and distance to reclamation a truck returned to the site, was loaded and at 1:02pm that same truck left the site after having been loaded with gravel. (Figure #2) Though it is presumed the truck met on the way to the site was loaded as well, the zoning officer cannot attest to the truck being loaded from the site. However, having witnessed the truck being loaded and leaving the site at 1:02pm on August 22, 2025, it is my duty as zoning officer to inform you that the truck leaving the site, loaded constitutes a violation of the original order dated August 6, 2025. This violation is punishable under Section 1.02.03 of the City of Watertown/Codington County Joint Jurisdiction Zoning Ordinance. The Codington County Zoning Office and Sheriff’s Office will continue to monitor the site for further violations. In accordance with Section 1.02.03 Each violation (ie, loaded truck) carries a maximum penalty of a \$500 fine and up to 30 days in jail. This violation and any future violations involving loaded trucks will be forwarded to the Codington County State’s Attorney for prosecution.

A copy of this notice of violation will be kept with a copy of your conditional use permit application.

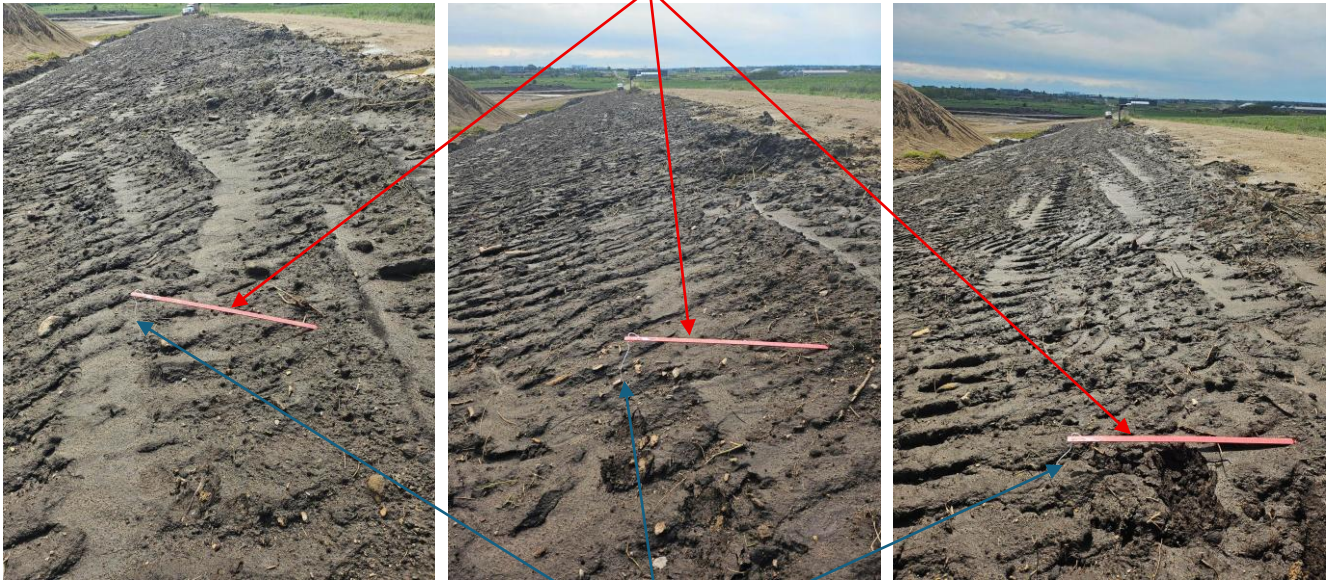
Sincerely,

Luke Muller  
Codington County Zoning Officer

cc: Allison Bakken; Codington County States Attorney; 14 – 1<sup>st</sup> Ave. SE; Watertown, SD 57201  
Brian Olson; Elmira Township Clerk; 1733 43<sup>rd</sup> Ave; Watertown, SD 57201

**Figure #1**

Yardstick (3 Feet)



1' Weighted String

**Figure #2**



