

FILE No.

52824

Wyoming Department of Transportation
MATERIALS AGREEMENT

Project No. ROW 0302(60)
Road: Sheridan - Gillette
Section: Clearmont North
County: Sheridan
Parcel No.: 11

THIS AGREEMENT, made and entered into this 1st day of Sept. ~~August~~, 1999, by and between Richard M. Bumbaca, herein after referred to as "Landowner", and the Wyoming Department of Transportation, hereinafter referred to as "Department,"

WITNESSETH: that

WHEREAS, the Landowner is the owner of the following described land, to wit: a portion of the SE1/4SW1/4 of Section 26, all in T. 55 N., R. 79 W. of the 6th P.M., Sheridan County, Wyoming, as shown on the copy of the engineering plans marked Exhibit A, and said exhibit is hereby attached to and made a part of this agreement. The Department believes said area to contain stone, gravel, sand or soil of a quantity and quality desirable for use by the Department in construction and maintenance of highway projects; and,

WHEREAS, the Department is desirous of obtaining the right to go upon said land to dig, drill, extract, search, explore and otherwise test said material for highway purposes; and,

WHEREAS, the Department is also desirous of obtaining the right to go upon said land and to take therefrom said stone, sand, gravel or soil for the purpose herein stated; and,

WHEREAS, the Landowner is agreeable to granting the Department the exclusive right and privilege to enter upon said land for the herein above stated purposes.

IT IS FURTHER AGREED that if satisfactory and acceptable material is located on the Landowner's property, said Landowner does hereby sell to said Department all of the sand, stone, gravel or soil which said Department may remove from said parcel of land from the date hereof until the date of October 1, 2002 at the price of twenty-five cents per cubic yard for unclassified borrow material and fifty cents per cubic yard for gravel, giving and granting the Department the right to enter upon said parcel of land for the removal of said materials and to erect or construct thereon such machinery and equipment as in the judgment of the Department is necessary and proper to extract and remove from the said land and/or process the material herein purchased, the number of cubic yards to be determined according to methods prescribed in the current edition of Specifications For Road and Bridge Construction adopted by the State Highway Commission and the further right to enter upon said parcel of land to remove any such equipment, machinery, or structures placed thereon by the Department. The Department estimates that 80,000 cubic yards of unclassified material could be removed from the ~~two~~ pit sites, however both parties agree that only the material removed and used in the above referenced project will be paid for based on the payment per cubic yard as stated herein. If additional material is needed and the ~~two~~ pits can provide the source for the additional material, then any amounts removed over and above the cubic yards stated herein will be paid for in the same manner as outlined herein. JTP

THIS AGREEMENT is for removal of material for use on highway projects and maintenance only and removal by any other persons including the Department's contractor or contractors for any purpose other than as herein provided, shall be under a separate agreement with the Landowner and only with prior written approval of the Department.

IT IS FURTHER AGREED by and between the parties hereto, that the Department and its agents or assigns shall have the right to haul material taken from said parcel of land, across any land owned by the Landowner, on routes mutually agreeable to the parties hereto.

IT IS ALSO AGREED that the Landowner gives the Department the option to extend this Agreement for an additional year upon the same terms and conditions as herein set forth. The Department will exercise this option by notifying the Landowner in writing of its intention to do so prior to the termination of this Agreement.

IT IS FURTHER AGREED that any contractor operating under any agreement or contract with the Department that will extract and remove said material, is acting as the agent of the Department and is subject to all rights of and responsibilities of the Department under this agreement, and will be

permitted to use said parcel of land to stockpile and/or properly process said material for highway purposes. Compensation for such right shall be and in addition to any right and other consideration stated herein.

ADDITIONAL CONDITIONS:

1. The premises will be left in a neat condition with backslopes no steeper than 3 to 1.
2. Under the word "process" used herein above, it is contemplated that there may be cases wherein controlled emission of smoke, fumes, dust and odors will result. In such event, the Department, its assigns and contractors will control said emission and odors as required and in conformity with existing State and Federal anti-pollution laws.
3. If deemed necessary by the Department, the designated borrow area will be fenced with six strands of barbed wire placed on ~~metal~~ posts and spaced according to Department's specifications. Said fencing will be left in place for the landowner to remove upon the emerging of seeding and said fence will become the property of the Landowner. *Said fence will be 54 inches high in spacing.*
4. Upon completed use of the pit area, the disturbed areas will be sloped, blended and re-seeded where feasible by the Department.
5. The Department shall pay ten thousand and no/100 dollars (\$10,000.00) to the Landowner within 45 days from the date of this agreement and said consideration shall be applied towards the total consideration paid for the removal and use of the borrow material removed from the ~~two~~ pit. The remaining balance of the consideration for the total material removed shall be paid as stated herein.
6. This material agreement nullifies any previous material agreement signed by both parties prior to the date of this agreement.

IT IS DEFINITELY UNDERSTOOD AND AGREED BY BOTH PARTIES HERETO THAT THE DEPARTMENT IN NO WAY GUARANTEES OR ASSURES THE LANDOWNER THAT ANY MATERIAL, WHETHER DESIRABLE OR NOT, WILL BE REMOVED IN MEASURABLE QUANTITIES FROM SAID PREMISES; THAT ROYALTY PAYMENT TO THE LANDOWNER WILL BE MADE ONLY IF MATERIAL IS ACTUALLY REMOVED IN MEASURABLE QUANTITIES.

This Agreement shall be binding on the parties' successors and assigns.

IN WITNESS WHEREOF, I, we, have caused this Agreement to be executed on the day and year first herein above written.

WYOMING DEPARTMENT OF TRANSPORTATION

By: *Joel T. Peckham*

Joel T. Peckham, Senior Negotiator

LANDOWNER

Richard M. Bumbaca
Richard M. Bumbaca

ACKNOWLEDGMENT

STATE OF WYOMING)

)ss.

COUNTY OF SHERIDAN)

The foregoing instrument was acknowledged before me by Richard M. Bumbaca, this 15th day of September, 1999.

Witness my hand and official seal.

My commission expires.



Joel T. Peckham
Notary Public

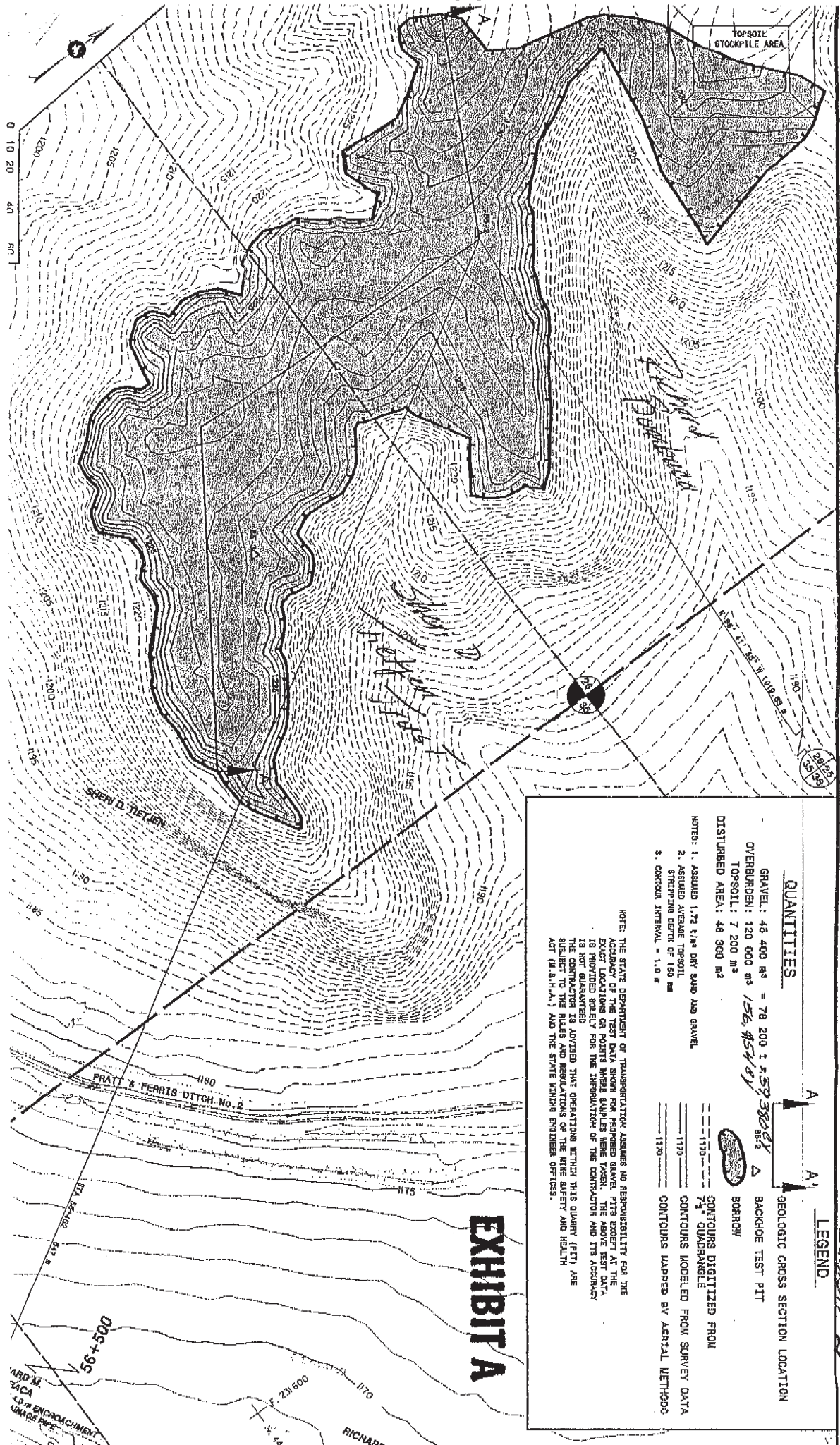


EXHIBIT A

QUANTITIES

GRAVEL: 45 400 m³ = 76 200 + 559 380 cu
 OVERBURDEN: 120 000 m³ 156,454 cu
 TOPSOIL: 7 200 m³
 DISTURBED AREA: 48 300 m²

- NOTES: 1. ASSUMED 1.72 CUBIC DRY SAND AND GRAVEL.
 2. ASSUMED AVERAGE TOPSOIL.
 3. STRIPPING DEPTH OF 160 mm.
 4. CONTOUR INTERVAL = 1.0 m

NOTE: THE STATE DEPARTMENT OF TRANSPORTATION ASSURES NO RESPONSIBILITY FOR THE
 ACCURACY OF THE TEST DATA SHOWN FOR PROPOSED GRAVEL PIT EXCEPT AT THE
 EXACT LOCATIONS OR POINTS WHERE SAMPLES WERE TAKEN. THE STATE DEPT.
 OF TRANSPORTATION ASSURES NO RESPONSIBILITY FOR THE INTRODUCTION OF THE CONTRACTOR AND ITS ACCURACY
 IS NOT GUARANTEED.
 THE CONTRACTOR IS ADVISED THAT OPERATIONS WITHIN THIS QUARRY (PIT) ARE
 SUBJECT TO THE RULES AND REGULATIONS OF THE MINE SAFETY AND HEALTH
 ACT (U.S.H.A.) AND THE STATE MINING ENGINEER OFFICES.

LEGEND

- BACKHOE TEST PIT
- BORROW
- CONTOURS DIGITIZED FROM 74 QUADRANGLE
- CONTOURS MAPPED BY AERIAL METHODS

EXHIBIT "A"