



RECORDER'S NOTE:  
POSITION OF RECORDED DOCUMENT  
MAY NOT REPRODUCE LEGIBLY.

**DEVELOPMENT AGREEMENT  
GOVERNING DEVELOPER'S OBLIGATIONS IN  
Golden/Irwin/Thomas Gravel Mine Special Use Review  
(An Amendment to Boulder County Land Use Docket # SU-94-22, SU-94-23 and SU-94-24)**

THIS AGREEMENT is made by and between the Board of County Commissioners of Boulder County, Colorado ("the County"), and Aggregate Industries-WCR, Inc. ("the Developer").

**WHEREAS**, the Developer has submitted to the County a request to amend a Special Use Permit and Site Specific Development Plan previously approved in the above referenced Dockets. Said amendment will allow an open mine and two batch plants on a fourth property/area known as the Irwin/Thomas property/gravel mine ("the Development"), which the County has approved in an amendment to Land Use Dockets #SU-94-22, SU-94-23 and SU-94-24 ("the Docket"), as set forth in County Resolution No. 2002-135, adopted October 3<sup>rd</sup>, 2002, which is attached to and incorporated into this Agreement as Exhibit A; and

**WHEREAS**, the County has fully considered the Development and the improvement of the land proposed in the Docket, and has made its approval expressly contingent on the Developer's agreement to the matters set forth below; and

**WHEREAS**, the County has determined that this Agreement is consistent with the Boulder County Comprehensive Plan, the applicable County regulations, and the County's approval of the Development as set forth in Exhibit A; and

**WHEREAS**, the County and the Developer acknowledge and agree that the matters set forth herein are reasonable requirements for the County to impose as part of its approval of the Docket, and that such matters are necessary to protect and promote the public health, safety, and welfare.

**NOW, THEREFORE**, in consideration of the mutual covenants herein contained and the County's approval of the Development as set forth in Exhibit A hereto, the Developer and the County agree as follows:

**1. Description of Development**

The Development approved herein consists of the addition of open mining and two batch plants on approximately 151 acres of a 346 acre area on the Irwin/Thomas property located at the northwest intersection of Quail Road and North 119<sup>th</sup> Street, all as further described in the official file for the Docket and in Exhibit A hereto. The Development shall comply and be consistent with the terms, conditions, and commitments of record for the Docket, as set forth in Exhibit A, and with the site plan which is attached to and incorporated into this Agreement as Exhibit B.

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**2. Roads/Parking**

The following roads shall serve the Development subject to the conditions and limitations as further set forth in Exhibit A: N. 119<sup>th</sup> Street; and the future Highway 119 Bypass. Main access to the site from State Highway 119 is shown on Sheet 269 of the Colorado Department of Transportation's construction drawings for State Highway 119, prepared by Carter and Burgess, and revised on March 13, 2002. This access may be revised only upon the approval of the Colorado Department of Transportation, City of Longmont, and the County Transportation Department. The Developer shall obtain an access permit from the County Transportation Department before utilizing North 119<sup>th</sup> Street for truck hauling. The Developer shall provide written consent from the City of Longmont and Colorado Department of Transportation before conducting any construction work within any portion of the State Highway 119 right-of-way. The Development shall be subject to all other conditions related to access and traffic as stated in Exhibit A.

**3. Landscaping/Reclamation**

The Developer shall provide landscaping for the Development in accordance with the County-approved Mining Plan which is attached to and incorporated into this Agreement as Exhibit B. This landscaping shall include the installation of a berm, and associated landscaping, on the western edge of the project between any mined area and any residentially zoned adjacent land. The berm and landscaping shall be completed at least two years before any mining is commenced south of State Highway 119 as shown on the Mining Plan. The berm shall be removed at the completion of mining activities. The Development shall be subject to all other conditions related to landscaping and reclamation as stated in Exhibit A.

**4. Signage and Exterior Lighting**

All signs and lighting for the Development shall comply with the applicable provisions of the Boulder County Land Use Code, as well as the conditions of approval contained in Exhibit A. By October 3<sup>rd</sup>, 2003 the Developer shall post one sign along N. 119<sup>th</sup> Street, and one sign along Quail Road stating that mining will take place on the site in the future. The content, size, and location of the signs must be approved by the County Land Use Department prior to installation.

**5. Scope of Approval**

This Agreement shall be limited in scope and affect to that area included in Exhibit B and shall in no way alter those conditions, approvals and restrictions on other mining sites associated with Docket #'s SU-94-22, SU-94-23 and SU-94-24.

**6. Other Conditions of Approval/Impacts Fees**

The Developer shall comply with all other terms, conditions, and commitments of record of the County's approval of the Development, as set forth in Exhibit A hereto. In addition, the Developer shall participate in the applicable road impact fee fund if and when the County adopts



a countywide road impact fee system prior to the issuance of building permits pursuant to this Agreement.

**7. Building Permits**

The County shall not issue any building permits or related land use permits (such as grading permits) for the Development to proceed, until the Parties have executed and recorded this Agreement; the Developer has satisfied all conditions of the County's approval of the Development which are prerequisite to work on the Development commencing; and the Developer has met all other applicable requirements of the Boulder County Land Use Code and Building Code for the requested permit.

**8. Vested Right**

In consideration of the above conditions and covenants, the County agrees to grant a vested property right for the Development to proceed pursuant to the terms of this Agreement. The approval shall have a term of three years beginning on the date of adoption of Exhibit A (October 3, 2002) subject to the provisions for modification and termination contained herein. During the vesting period approved herein, subsequent regulations enacted by the County shall be applicable to the Development if necessary to protect the health and safety of the inhabitants of Boulder County, or if general in nature and applicable to all properties subject to County land use regulation.

The Developer may request an extension of the vested right approved herein, in accordance with the Boulder County Land Use Code and applicable state law. The vested property right granted herein shall be terminated if the County determines that Developer is not in good faith compliance with the terms of this Agreement.

**9. Amendment/Waiver**

This Agreement may be canceled or amended with the mutual consent of the parties or to bring the Development into conformance with federal or state law. The County shall have the right to waive its rights to enforce this Agreement, without obtaining the consent of any other entity or person, provided that any waiver shall be made in writing to be effective. However, any cancellation, amendment, or waiver which represents a material modification of the County's approval of the Development, as set forth in Exhibit A hereto, shall require a public hearing and approval according to applicable County land use regulations.

**10. Enforcement**

The County may conduct a periodic review of the Development as necessary to assure compliance with this Agreement. This right includes the right to enter upon the property included within the Development at any time, without prior notice, to inspect for compliance with the terms of this Agreement. The County or any purchaser of any land subject to the requirements of this Agreement shall have the authority to bring an action in the Boulder District



Court to compel the enforcement of this Agreement and the restrictions and requirements herein provided for, and to seek other relief as may be authorized by law.

**11. Transfer of Property/Annexation**

This Agreement is intended to provide for the orderly development of the property included in the Docket in accordance with the terms hereof. Those owners of the property or any portion of the property who obtain title subsequent to the date of this Agreement, or persons holding under Developer or subsequent owners, shall be entitled to construct and use the Development by complying with the terms hereof, and shall also be bound by all applicable terms and obligations of this Agreement. If the Development property becomes included within the boundaries of any city or town, the County's right to enforce this Agreement shall automatically pass to the governing body of the city or town.

**12. Subordination**

The Developer warrants that there is no existing senior mortgagee or lienholder in the property included in the Development, or that the Developer has obtained the release or subordination agreement from any such mortgagee or lienholder.

**13. Notation and Recordation**

The Developer shall file this Agreement for recording with the County Clerk and Recorder, along with any plans, or other documents required as part of the County's approval of the Development.

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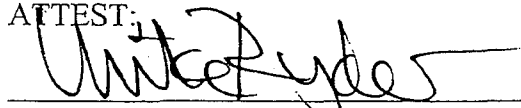
IN WITNESS WHEREOF, the Parties have hereunto set their hands and seals this 6<sup>th</sup>  
day of November, 2003.

**BOULDER COUNTY**

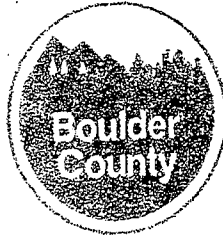


CHAIR, BOULDER COUNTY  
BOARD OF COUNTY COMMISSIONERS

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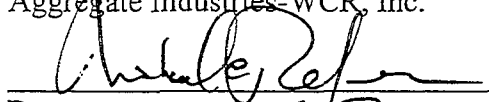


CLERK TO THE BOARD



**DEVELOPER**

Aggregate Industries-WCR, Inc.



By: MICHAEL C. REFER

Its: VICE PRESIDENT

STATE OF COLORADO )


)ss.

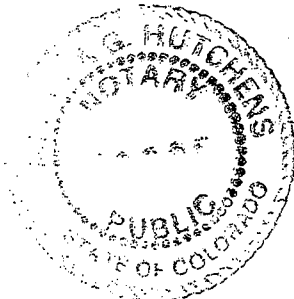
COUNTY OF BOULDER )

Subscribed and sworn to before me this 3<sup>RD</sup> day of October, 2003

by MICHAEL C. REFER

My commission expires October 13, 2007

  
NOTARY PUBLIC





RESOLUTION 2002-135

A RESOLUTION CONDITIONALLY APPROVING AN AMENDMENT (ADDITION OF A FOURTH PROPERTY/AREA TO BE MINED) TO BOULDER COUNTY LAND USE DOCKETS #SU-94-22 (NEIGHBORS/REDMOND GRAVEL PIT), #SU-94-23 (FREDSTROM GRAVEL PIT), AND #SU-94-24 (HYGIENE GRAVEL PIT), UNDER THE DOCKET NAME "GOLDEN/IRWIN/THOMAS GRAVEL MINE SPECIAL USE": A REQUEST FOR APPROVAL OF SPECIAL USE PERMIT, WITH ASSOCIATED SITE SPECIFIC DEVELOPMENT PLAN, TO ADD A FOURTH PROPERTY/AREA TO BE MINED (OPEN MINING AND TWO BATCH PLANTS ON APPROXIMATELY 151 ACRES OF A 346-ACRE AREA), ON THE SO-CALLED IRWIN/THOMAS PROPERTY LOCATED ALONG THE ST. VRAIN CREEK CORRIDOR OUTSIDE THE LONGMONT CITY LIMITS, NORTHWEST OF THE INTERSECTION OF QUAIL ROAD AND NORTH 119<sup>TH</sup> STREET, IN SECTION 13, T2N, R69W

WHEREAS, in 1995, pursuant to Boulder County Land Use Dockets #SU-94-22, #SU-94-23, and #SU-94-24, and Resolution 95-93, Golden's Andesite Mining Company received County special use approval for a comprehensive, long-term plan for the mining of three of its parcels/sites of property located along the St. Vrain Creek corridor west of Longmont, which parcels were known as the Neighbors/Redmond parcel/gravel pit, the Fredstrom parcel/gravel pit, and the Hygiene parcel/gravel pit; and

WHEREAS, the current applicants, Aggregate Industries, Inc. and Reggie Golden/Golden Farm. Ltd. ("Applicants"), desire to amend the comprehensive mining plan approved in 1995 pursuant to Resolution 95-93, to add to the comprehensive mining plan a fourth property/area known as the Irwin/Thomas property/gravel mine, specifically to mine and locate two accessory batch plants on approximately 151 acres of the 346-acre site, which property is located as generally described in the caption to this Resolution, above, in the Agricultural Zoning District in unincorporated Boulder County ("the Subject Property"); and

WHEREAS, over the life of the subject mine, the Applicants propose to extract approximately 3.5 million tons of material from 151 acres, which on an annual basis equates to 500,000 to 750,000 tons, depending on market conditions; and

WHEREAS, the Applicants expect to sell about 70% of the material directly to customers, and use the remaining 30% on-site at the requested batch plants, with this 30% ultimately leaving the site as an asphalt or concrete mixture; and



WHEREAS, the proposed mining pods range in size from 11 to 21 acres pods, and will be mined in the numbered sequence indicated on the site plan which is part of the official Docket file; and

WHEREAS, the mining pods will be mined one at a time, so that only one pod or portions of two pods and the processing site are disturbed during any phase of mining; and

WHEREAS, the proposed material stockpiles and batch plants will be located on the last pod to be mined (11), so the batch plants are expected to be removed before this area is mined; and

WHEREAS, the Applicants commit to monitor groundwater wells quarterly throughout the life of the mine, to insure water quality for adjacent properties; and

WHEREAS, the final reclamation plan includes five irregularly shaped ponds totaling about 73 acres, with the area between the St. Vrain Creek and Burlington Northern Railroad consisting of about 25.5 acres of wetlands; and

WHEREAS, the Applicants propose to begin mining in 7 to 10 years, and plan for another 7 to 10 years to mine and reclaim the property; and

WHEREAS, the Applicants propose the following hours of operation:

- Mining activities from 7:00 am to 7:00 pm, or dusk to dark, whichever is more restrictive, Monday through Saturday;
- No work allowed on Sundays except for equipment maintenance;
- Batch plants operating from 4:00 am to 8:00 pm, depending on specific project demands; and

WHEREAS, the main access to the site will be from the new State Highway 119 (Ken Pratt Blvd.); and

WHEREAS, the Applicants' transportation study estimates the requested use will generate 150 average daily trips (all vehicle types), with the exception of certain additional truck trips that are not included in this number (the additional truck trips are to allow Golden Farm, Ltd. to mine the remaining gravel from each pod that Aggregate Industries, Inc. would not otherwise mine); and



WHEREAS, the Applicants seek approval of "limited" access from N. 119<sup>th</sup> Street, just south of St. Vrain Creek, to accommodate these additional truck trips; and

WHEREAS, the above-referenced Docket (special use amendment, hereafter referred to as "the Golden/Irwin/Thomas Gravel Mine"), was processed and reviewed as part of previously approved Dockets #SU-94-22, #SU-94-23, and #SU-94-24, all as further described in the Boulder County Land Use Department's Memorandum and written recommendation to the Boulder County Board of County Commissioners ("the Board") dated September 26, 2002, with its attachments ("the Staff Recommendation"), which is incorporated into this Resolution by this reference; and

WHEREAS, on August 21, 2002, the Boulder County Planning Commission held a duly noticed public hearing on the Docket, and recommended conditional approval of the Docket to the Board; and

WHEREAS, on September 26, 2002, the Board held a duly noticed public hearing on the Golden/Irwin/Thomas Gravel Mine ("the Public Hearing"), at which time the Board considered the Staff Recommendation and the recommendation of the Planning Commission, and also considered the documents and testimony of the County Land Use Department Planning Staff and a representatives of the Applicants, with no members of the public being present to speak; and

WHEREAS, based on the Public Hearing, the Board finds that the special use amendment request proposed as the Golden/Irwin/Thomas Gravel Mine, subject to the conditions stated below, meets the criteria for special use approval pursuant to Article 4 of the Boulder County Land Use Code ("the Land Use Code"), and, premised upon the submission of the County's standard development agreement, meets the criteria for approval of a site specific development plan associated with the special use approval, and can be approved on that basis, all as further set forth in this Resolution, below.

NOW, THEREFORE, BE IT RESOLVED that the special use amendment request proposed as the Golden/Irwin/Thomas Gravel Mine is hereby approved, on the basis and terms set forth in this Resolution, above, and subject to the following conditions:





1. The Applicants shall submit a Development Agreement for the review and approval of County staff prior to recordation and the issuance of permits. The County hereby grants a vested right for the approved development (special use amendment request proposed as the Golden/Irwin/Thomas Gravel Mine), subject to the terms and conditions of this approval, which right shall run for a period of three years beginning on the date of adoption of this Resolution as set forth below. The vested right shall expire immediately upon the running of this three-year period, unless the Board in its discretion approves an extension pursuant to the applicable provisions of the Land Use Code.
2. If sustained winds exceed 30 MPH at mining sites, loading and hauling operations will cease until the wind speed drops below 30 MPH. Crushing, conveying, and drilling operations may continue. Wind speed shall be measured at the mine site.
3. The Applicants shall be subject to the terms, conditions, and commitments of record for this amendment to Dockets #SU-94-22, #SU-94-23, and #SU-94-24, Golden/Irwin/Thomas Gravel Mine Special Use Review/Site Specific Development Plan. Commitments of record include, but are not limited to:
  - a. A prohibition on truck hauling on Quail Street and south of the proposed access on North 119<sup>th</sup> Street; and
  - b. The use of the existing house, including its well and septic, to serve as the office space for the site (the Applicants may propose an alternative office building, which may be approved by the County Land Use Department, and may request additions or improvements to the existing house, provided that all applicable County land use, building and health codes are met); and
  - c. Any ditch crossings or relocations shall be done only upon the consent of the ditch companies and in accordance with all applicable regulations.
4. The Applicants shall obtain all applicable permits as required and necessary. This includes, but is not limited to: Floodplain Development permits, National Pollution Discharge Elimination System permits, Air Pollution Control Emission permits, Construction Materials Regular Operation (112) Reclamation permits, Water Discharge permits, and any well permits or temporary substitute supply plans required by the State Engineer. The operation of any aspect of this proposal that does not comply with the terms and conditions



of all required permits shall be grounds for a revocation hearing before the Board of County Commissioners.

5. This use must comply with all applicable state noise standards and state fugitive dust standards.
6. This approval shall be subject to a pre-mining review and assessment. The cost of studies or data produced by the Applicants as part of the required review, as well as of the County staff's time to process the review, shall be borne by the Applicants. Before any mining activity occurs at the site, there shall be a public hearing before the Planning Commission and the Board. The purpose of the hearings shall be to determine if the Board should impose new conditions of approval, or should modify, reduce or waive the existing conditions, to accommodate changing technology, knowledge of new health concerns, or other material, new information not available at the time of this approval.
7. The perimeter of the preservation zone depicted on the mining plan prepared by Rocky Mountain Consultants Inc., revised on 11/7/01, which is part of the official Docket file, shall be marked with permanent monuments on the ground for the duration of the mining period. No mining activities shall occur within this defined area. The Applicants must reclaim all adjacent areas in accordance with the plans approved by the County before removing any monument.
8. Sheet 269 of the Colorado Department of Transportation's construction drawings for State Highway 119, prepared by Carter and Burgess, and revised on 03/13/02, which is part of the official Docket file, shows the approved main access to the site. Any revision to this access requires review and approval by the Colorado Department of Transportation, the City of Longmont, and the County Transportation Department.
9. Outside storage, and the storage of fuel, oil, and grease, as well as the repair of equipment and machinery, are accessory uses to this approval, provided the Applicants meet all-applicable regulations of Section 4-516 of the Land Use Code, as amended.
10. The Applicants shall install a berm and landscaping on the western edge of the project between any mining area and any residentially zoned land. The installation shall occur two years before any mining is commenced south of State Highway 119. The berm height and quantity of landscape materials



shall minimally equal the materials installed to the south, between the existing homes and the mining area. Upon completion of mining, the Applicants shall remove the berm completely from the Subject Property. The Applicants shall receive prior County approval if any material from the dismantled berm is to be used or stored elsewhere on the Subject Property, or if that material is to be disposed of or used as fill on any other property in the unincorporated County.

11. Any exterior lighting or signs associated with this use must comply with applicable provisions of the Land Use Code, as amended. No later than one year after the date of adoption of this Resolution as set forth below, the Applicants shall post two signs on the Subject Property. One sign shall be installed along N. 119<sup>th</sup> Street, and the other along Quail Road. The content of the signs shall explain that mining will take place on the Subject Property in the future. The content, size, and location of the signs must be approved by the County Land Use Department prior to installation.
12. This approval recognizes the following:
  - Mining of approximately 3.5 million tons of material;
  - A total of 150 average daily trips to the site, not to exceed 200 trips per day;
  - Accessory processing of sand and gravel including crushing, screening, washing, and stockpiling; and
  - Accessory concrete and asphalt batch plants.
13. The Applicants shall mitigate adverse impacts on neighboring wells caused by de-watering or other mining operations that result in lower ground water levels outside of mining boundaries. To meet this requirement, the Applicants shall install peizometers adjacent to residential areas sufficient to determine the effect on adjoining properties. If mining operations cause a reduction by more than 10% in water quality or quantity, the Applicants shall provide replacement water equal to or better in quantity and quality to the original conditions. In fulfilling this condition, the Applicants shall be responsible for conducting industry recognized water quality/quantity analyses at least four times a year.
14. The mined portion of any mining pod in any phase shall be limited to that shown on the approved plan which is part of the official Docket file. If mining is underway in more than one pod at a time, the combined mining area shall not exceed



35 acres. For purposes of interpreting this condition, "combined mining area" shall mean any area that has been disturbed in preparation of mining, or in which mining is underway, or in which reclamation is underway.

15. The Applicants shall obtain an access permit from the County Transportation Department before using North 119<sup>th</sup> Street for any truck hauling. Before issuing the access permit, the Transportation Department may determine what, if any, mitigation measures are necessary. Mitigation measures may include, but are not limited to, payment by the Applicants of a pro-rata share of the costs of any acceleration or deceleration lanes, pavement rehabilitation, traffic control devices, or other measures necessary to correct adverse impacts to the street. Any costs associated with determining the proper mitigation measures are the responsibility of the Applicants.
16. The Applicants shall provide proof of written consent from the City of Longmont and the Colorado Department of Transportation before conducting any construction work within any portion of the State Highway 119 right-of-way. The Applicants shall obtain written consent from the Burlington Northern Railroad before conducting any construction work within any portion of railroad right-of-way.
17. This application is subject to the Applicants' compliance with any highway improvements or permits required by the Colorado Department of Transportation.
18. The Applicants shall require all sand and gravel loads hauled from the site in any Applicant-owned or leased trucks, or by haulers under contract to the Applicants, to be covered with tarps, to prevent fugitive dust and gravel from escaping during hauling.
19. Mining and batch plant operations and truck hauling are limited to Mondays through Fridays: during the period of daylight savings time the hours of operation shall be 7:00 a.m. to 7:00 p.m., and during the period of standard time the hours of operation shall be 7:00 a.m. to 7:00 p.m. or daylight to dark (whichever is more restrictive). On Saturdays, work is restricted to equipment maintenance, maintenance necessary to ensure compliance with required permits, and hauling. Hauling on Saturdays is restricted to



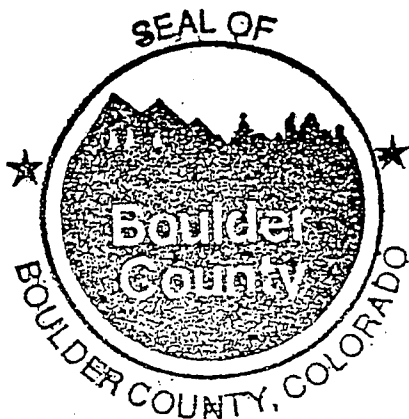
the hours listed above. No work at the site can occur on Sundays.

- 20. The Applicants shall provide temporary trail easements through the site in accordance with the City of Longmont's St. Vrain Greenway Master Plan.

A motion to approve the special use amendment request proposed as the Golden/Irwin/Thomas Gravel Mine, subject to the conditions stated above, was made by Commissioner Danish, seconded by Commissioner Mendez, and passed by a 2-0 vote of the Board, with Commissioner Stewart being excused.

ADOPTED this 3<sup>rd</sup> day of October, 2002, nunc pro tunc the 26th day of September, 2002.

BOARD OF COUNTY COMMISSIONERS  
OF BOULDER COUNTY:



Jana L. Mendez  
Jana L. Mendez, Chair

Paul D. Danish  
Paul D. Danish, Vice Chair

Ronald K. Stewart, Commissioner  
(EXCUSED)

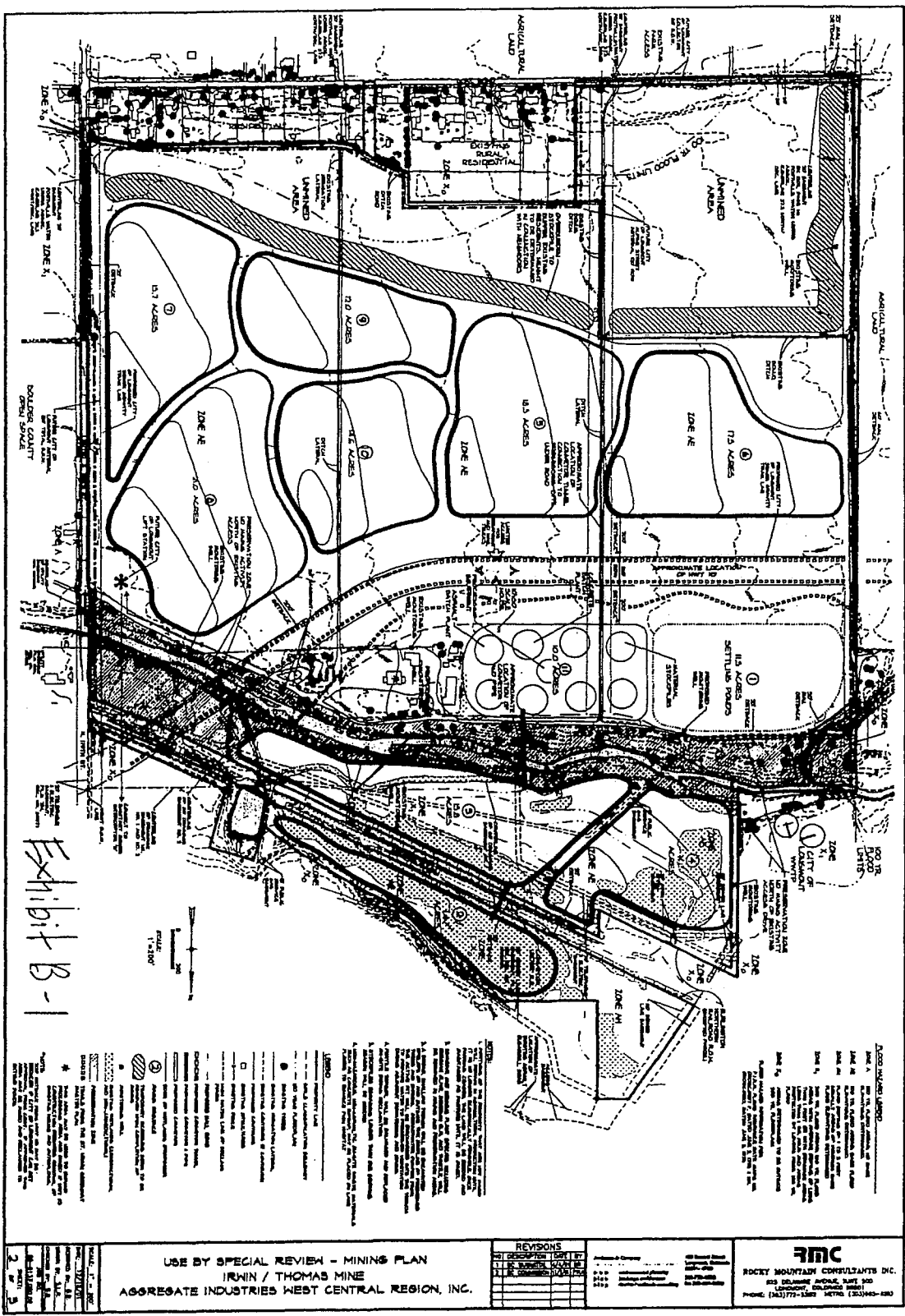
ATTEST:

Jessie M. Ashcraft  
Clerk to the Board

RECORDERS NOTE:  
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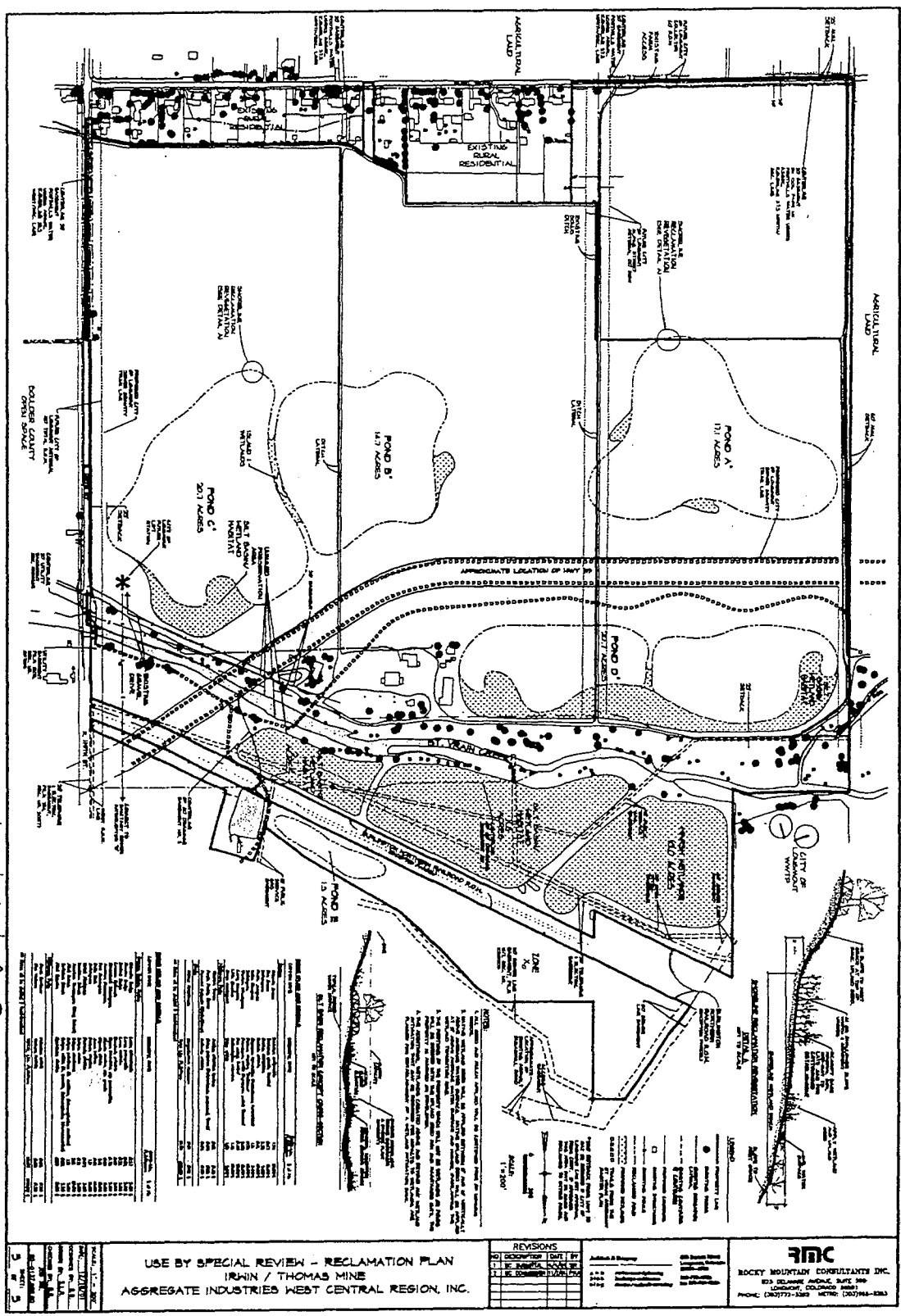
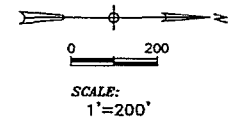
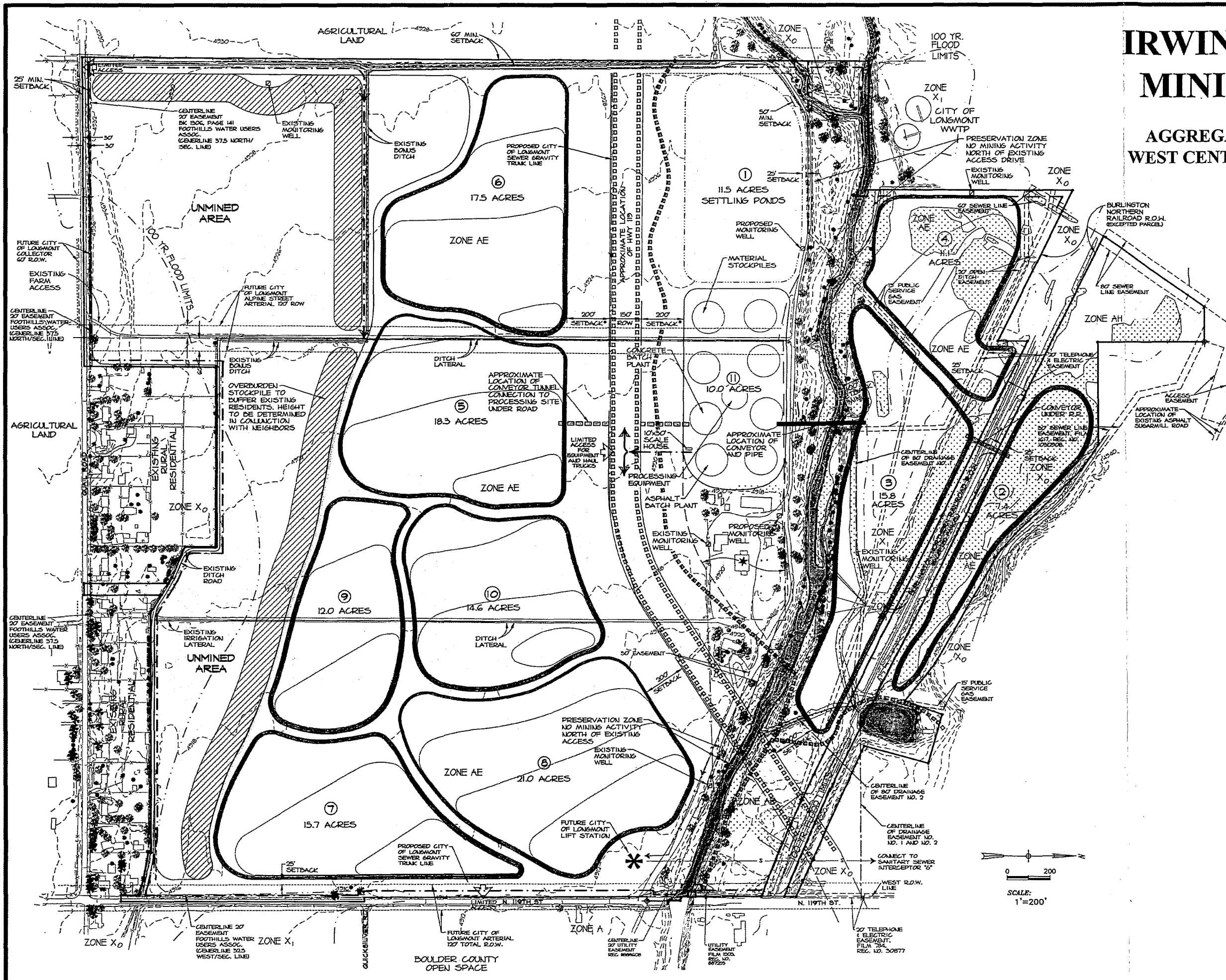


Exhibit B-2

RECORDER'S NOTE:  
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# IRWIN/THOMAS MINING PLAN

AGGREGATE INDUSTRIES  
WEST CENTRAL REGION, INC.

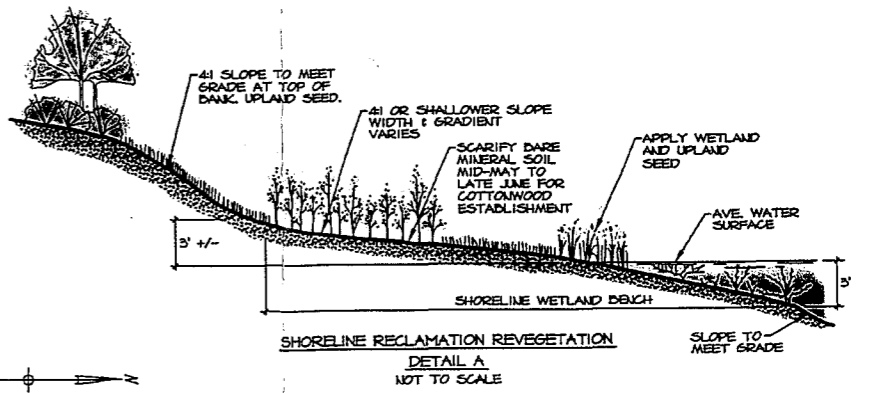
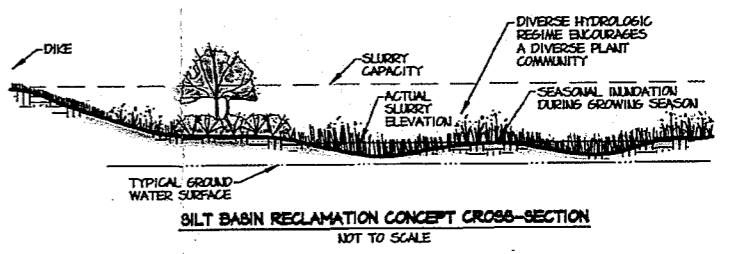
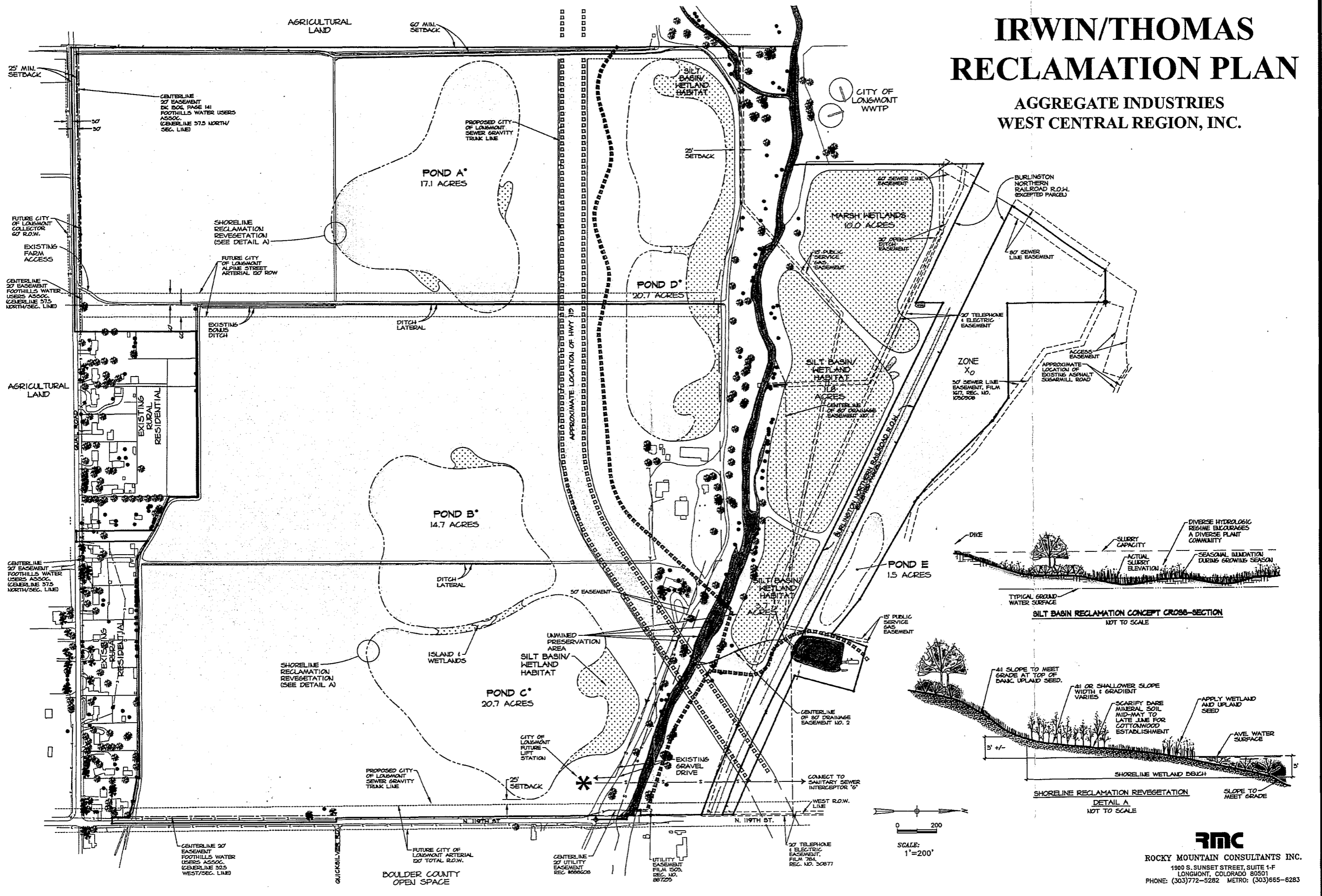


ROCKY MOUNTAIN CONSULTANTS INC.  
1900 S. SUNSET STREET, SUITE 1-F  
LONGMONT, COLORADO 80501  
PHONE: (303)772-5282 METRO: (303)665-6283



# IRWIN/THOMAS RECLAMATION PLAN

AGGREGATE INDUSTRIES  
WEST CENTRAL REGION, INC.



**RMC**  
ROCKY MOUNTAIN CONSULTANTS INC.  
1900 S. SUNSET STREET, SUITE 1-F  
LONGMONT, COLORADO 80501  
PHONE: (303)772-5282 METRO: (303)665-6283