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**BOARD OF COUNTY COMMISSIONERS**  
**YELLOWSTONE COUNTY, MONTANA**  
**Tuesday, August 28, 2012**

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**SUBJECT:** Special Review #325 – Johnson Lane Materials – 3530 Coulson Road  
**THROUGH:** Candi Beaudry, AICP, Planning Director  
**FROM:** Nicole Cromwell, AICP, Zoning Coordinator, Planner II

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**REQUEST**

This is a special review application to allow the expansion of an existing gravel extraction operation to a total of 215 acres on a site located in an Agriculture Open Space (A-1) and Heavy Industrial (HI) zoning district as well as un-zoned property located generally at 3530 Coulson Road in Lockwood. The property was granted a previous special review approval and this would expand the current mined area from 130 acres to 215.8 acres. The legal description is Tracts 1 & 2, C/S 3477 and on Gov't Lot 9 in Section 8 of Township 1 North, Range 27 East and the property owner is the Johnson Lane Enterprises, LC Properties; MCL Property Holdings and Mark Carlstrom is the agent. The County Zoning Commission conducted a public hearing on August 13, 2012, and is forwarding a recommendation of conditional approval on a 4-0 vote.

**APPLICATION DATA**

<b>OWNERS:</b>	Johnson Lane Enterprises; MCL Property Holdings
<b>AGENT:</b>	Mark Carlstrom
<b>LEGAL DESCRIPTION:</b>	Tracts 1 & 2, C/S 3477 and on Gov't Lot 9 in Section 8 of Township 1 North, Range 27 East
<b>ADDRESS:</b>	3530 Coulson Road
<b>CURRENT ZONING:</b>	A-1, HI and Un-zoned
<b>EXISTING LAND USE:</b>	130 acre gravel mine
<b>PROPOSED LAND USE:</b>	Expansion to 215 acre gravel mine
<b>SIZE OF PARCEL:</b>	215.8 acres

**CONCURRENT APPLICATIONS**

None

**APPLICABLE ZONING HISTORY**

**Subject Property – Zoning Compliance review in 2006 to allow gravel mine on un-zoned property.**

**Surrounding Property**

**Special Review #282 – 3306 Coulson Road – Flack and Flack Gravel Mine** – Conditionally approved for a 153 acre gravel mine on June 25, 2002 in an HI zone.

**Special Review #305 – 1615 Johnson Lane – Johnson Lane Materials Asphalt Batch Plant** – Conditionally approved for an asphalt batch plant on March 28, 2006 in an HI zone.

## **SURROUNDING LAND USE & ZONING**

NORTH:	Zoning:	Un- zoned
	Land Use:	Vacant – riparian area – BLM land
SOUTH:	Zoning:	Un-zoned, A-S and HI
	Land Use:	Pasture, single family home and gravel mine
EAST:	Zoning:	Un-zoned
	Land Use:	Pasture, single family dwellings
WEST:	Zoning:	Un-zoned, A-1
	Land Use:	Yellowstone River, pasture

## **REASONS**

The applicant is requesting a special review to allow the expansion of an existing 130- acre gravel mine to 215.8 acres on property that straddles the 4.5-mile County zoning jurisdiction. The existing operation is mostly outside the zoning jurisdiction and the proposed expansion will move the operation into the property zoned A-1 and HI. The applicant, Johnson Lane Materials and MCL Property Holdings has been preparing to expand the operation since early in 2012. The Exxon pipeline spill in the Yellowstone River in 2011 did impact part of this property and the applicant has waited until the cleanup was completed. The main access to the property is at 3530 Coulson Road, outside the zoning jurisdiction. Coulson Road at this location is a gravel road. Coulson Road becomes paved approximately 750 feet south west of the main entrance where Coulson Road East intersects. The applicant states the existing mine has been operating since 2006. The Planning Division signed the applicant's 2006 MTDEQ gravel permit since the operation was proposed outside the zoning jurisdictional boundary.

Coulson Road is a County maintained road. Coulson Road is a 60-foot wide easement along the east side of the railroad tracks. All trucks and vehicles entering the site must cross the railroad tracks at grade. This is an uncontrolled grade crossing so drivers must determine whether it is safe to cross the tracks. Majestic Cove, a manufactured home park, is located on the east side Coulson Road about 1000 feet north of this location. There are no traffic counts available for Coulson Road. County staff commented that increased truck traffic on Coulson Road may contribute to the deterioration of the road surface. Tim Miller, County Public Works Director, indicated he may require a traffic impact analysis to determine the impact to Coulson Road. Keith Kober of Lockwood Fire Department was not concerned with proposed expansion except for the potential impact to Coulson Road. The Planning Division is recommending several conditions that may mitigate the impacts from increases in truck traffic.

The site has an office and weighing scale for customer purchases. The site does not have access to public water or sewer services but has a well and septic system. There is no proposal to expand the office or scales. The proposal does not include the addition of any asphalt batching plant.

Planning staff reviewed this application and recommended conditional approval and the Zoning Commission concurred. The expansion of the gravel mine is compatible with existing uses in the area. Potential impacts to Coulson Road and residents in Majestic Cove are proposed to be

mitigated by conditions of approval. Many of the proposed conditions apply to other gravel mine operations in the area for the same reasons.

Special review uses must meet three primary criteria; 1) the application complies with all parts of the Unified Zoning Regulations, 2) the application is consistent with the objectives and purposes of the Unified Zoning Regulations and the 2008 Growth Policy, and 3) the application is compatible with surrounding land uses and is otherwise screened and separated from adjacent land to minimize adverse impacts. This application conforms to the first criteria in so far that it is within a zoning district where gravel mining can be allowed by special review approval.

The application also conforms to the second and third criteria. The zoning regulations adopted by the Board of County Commissioners have designated all zoning districts as locations where gravel mines may be allowed by special review approval. The 2008 Growth Policy encourages new development that is compatible and similar in form and use. The existing gravel mine is compatible with most uses in the area and other surrounding uses if conditions are imposed to mitigate impacts. Conditions of approval can ensure the mitigation of any potential negative effects on surrounding property.

The Zoning Commission reviewed this application, held a public hearing, and is forwarding a recommendation of conditional approval on a 4-0 vote.

### **ZONING COMMISSION HEARING AND DISCUSSION**

The Zoning Commission held a public hearing on August 13, 2012, regarding this application. The applicant, Johnson Lane Materials, attended the hearing but did not provide additional testimony to the Zoning Commission.

#### **County Zoning Commission Discussion:**

The County Zoning Commission closed the public hearing and discussed the application. Zoning Commission Vice Chair Al Littler, stated the application will go to the Board of County Commissioner on August 28, 2012, and that anyone wishing to participate in that public hearing is welcome to do so.

Commission member Dan Austin made a motion to recommend conditional approval of the application and this was seconded by member Ole Shafer. The Zoning Commission concurred with the proposed conditions and voted 4 in favor and none opposed to the motion.

### **RECOMMENDATION**

The Zoning Commission is forwarding a recommendation of conditional approval on a 4-0 vote.

### **CONDITIONS**

1. The approval shall be limited to Tracts 1 & 2, C/S 3477 and on Gov't Lot 9 in Section 8 of Township 1 North, Range 27 East.
2. This special review approval is for the expansion of an existing gravel mine from 130 acres to 215.8 acres. No other special review use is intended or implied by this approval.

3. The development of the gravel mine expansion shall be in substantial conformance with the submitted site plan. Minor adjustments to the location of haul roads or phasing of active gravel mining within the 215.8 acre site are allowed.
4. Dust suppression shall be employed on all exposed rock, gravel, sand or topsoil.
5. A traffic impact analysis shall be submitted to and approved by County Public Works. The applicant will consult with County Public Works on the scope of the analysis. Any mitigation recommended by such analysis shall be implemented as required by County Public Works.
6. Internal haul roads shall be graveled with dust suppression or paved.
7. The site shall be reclaimed according to the plan submitted to MT DEQ.
8. A weed control plan shall be submitted and approved by Yellowstone County Weed Control.
9. Any mining activity within 500 feet of a residence shall be limited to the hours of 7:00 am and 8:00 pm.
10. The operator of the mine shall appoint an individual to act as a contact person and complaints about failure to comply with these conditions shall be directed to that person in writing as a first step in resolving the problem. The name, address and phone number of the contact person will be provided to Yellowstone County Code Enforcement, County Public Works and the County Commissioners. Failure to respond to a complaint or to reasonably comply with the conditions of approval will allow the matter to be brought to the attention of County Code Enforcement. Failure to comply with a notice from County Code Enforcement may be resolved by filing a complaint with the County Attorney by the Code Enforcement Officer.
11. These conditions of special review approval shall run with the land described in this authorization and shall apply to all current and subsequent owners, operators, managers, lease holders, heirs and assigns.
12. Failure to comply with these conditions of approval of the special review use shall be deemed a violation of the zoning regulations. Enforcement of the regulations and conditions shall be as set forth in Section 27-1601 et seq. of the Unified Zoning Regulations.

**\*\*NOTE\*\*** Approval of this Special Review does not constitute approval of a building permit, zoning compliance permit, sign permit, or fence permit. Compliance with all applicable local codes will be reviewed at the zoning compliance permit level.

### **BOARD OF COUNTY COMMISSION ACTION**

The Board of County Commissioners may do the following when acting on a Special Review application:

1. Deny the application for a special review use.
2. Grant the application for a special review use.
3. Conditionally grant the application for a special review use.
4. Delay action on the application for a period not to exceed thirty (30) days.
5. Give reasons for the recommendation.

Before approving a special review use, the Board of County Commissioners shall find that the contemplated use:

1. Complies with all requirements of this Resolution;
2. Is consistent with the objectives and purposes of the County Zoning Regulations and the Growth Policy;
3. Is compatible with surrounding land uses or is otherwise screened and separated from adjacent land in such a way as to minimize adverse effects.

Further the Board of County Commissioners shall consider and may impose modifications or conditions concerning, but not limited to the following:

1. Street and road capacity;
2. Ingress and egress to adjoining streets;
3. Off-street parking;
4. Fencing, screening and landscaping;
5. Building bulk and location;
6. Usable open space;
7. Signs and lighting;
8. Noise, vibration, air pollution and similar environmental influences.

The proposed use fits with the existing gravel mining and industrial activity in the area. Residential uses may be impacted and conditions of approval are recommended to mitigate those impacts. The proposed land use complies with the following goals of the Yellowstone County and City of Billings 2008 Growth Policy and the Lockwood Neighborhood Plan:

- Goal: Predictable land use decisions that are consistent with neighborhood character and land use patterns.  
*Approval of this special review is consistent with neighboring properties. Limitations on mining close to residences and the requirement for dust suppression will ensure the compatibility of the use. A Traffic Impact Analysis is recommended to accurately gauge the impact of the expansion on Coulson Road. Compliance with the conditions of approval will ensure compatibility with the neighborhood.*
- Goal: New developments that are sensitive to and compatible with the character of existing neighborhoods.  
*The existing gravel mine and its expansion is consistent with the surrounding developments and consistent with the zoning.*

## **ATTACHMENTS**

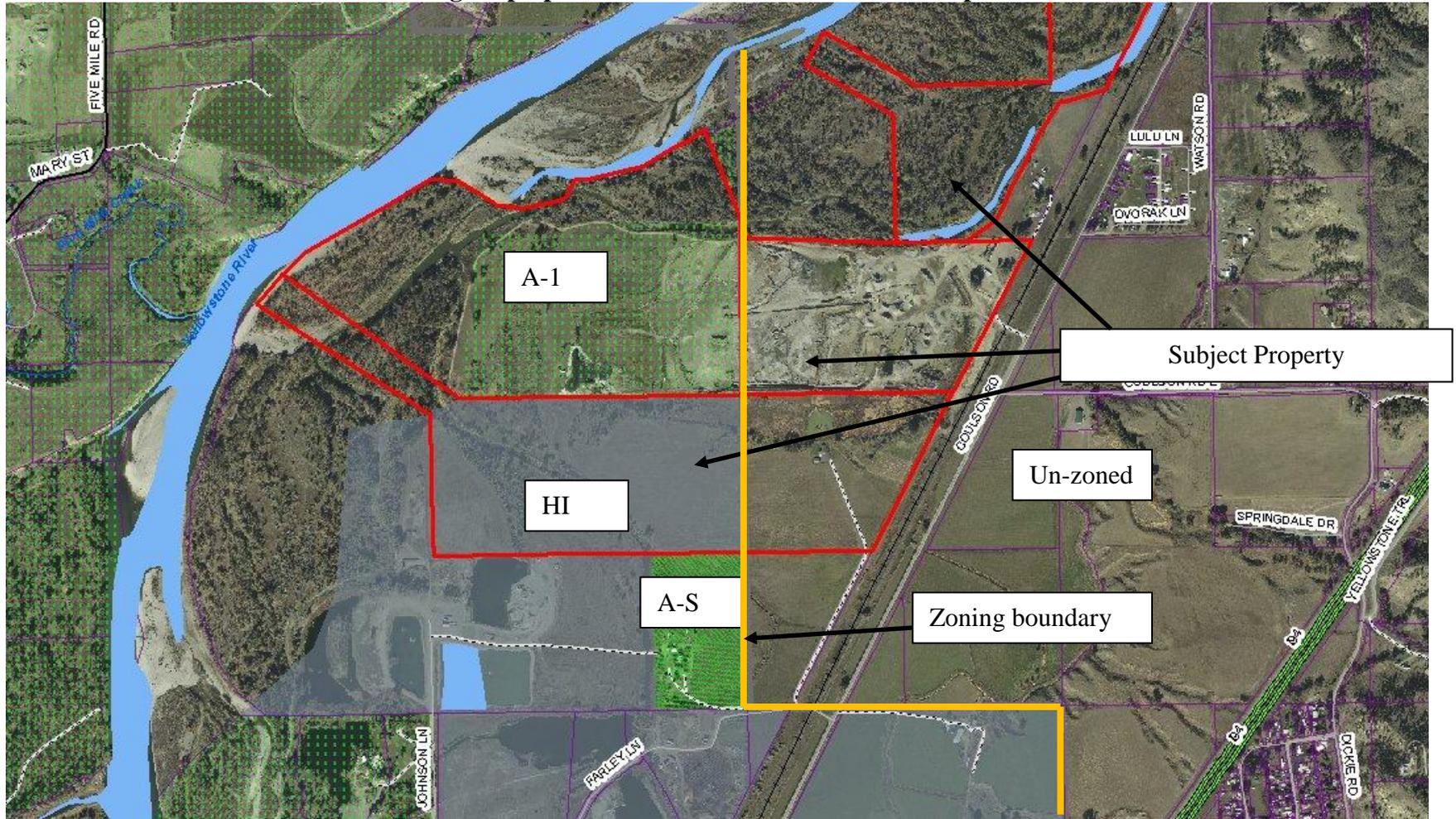
Attachment A: Zoning Map

Attachment B: Site Plan

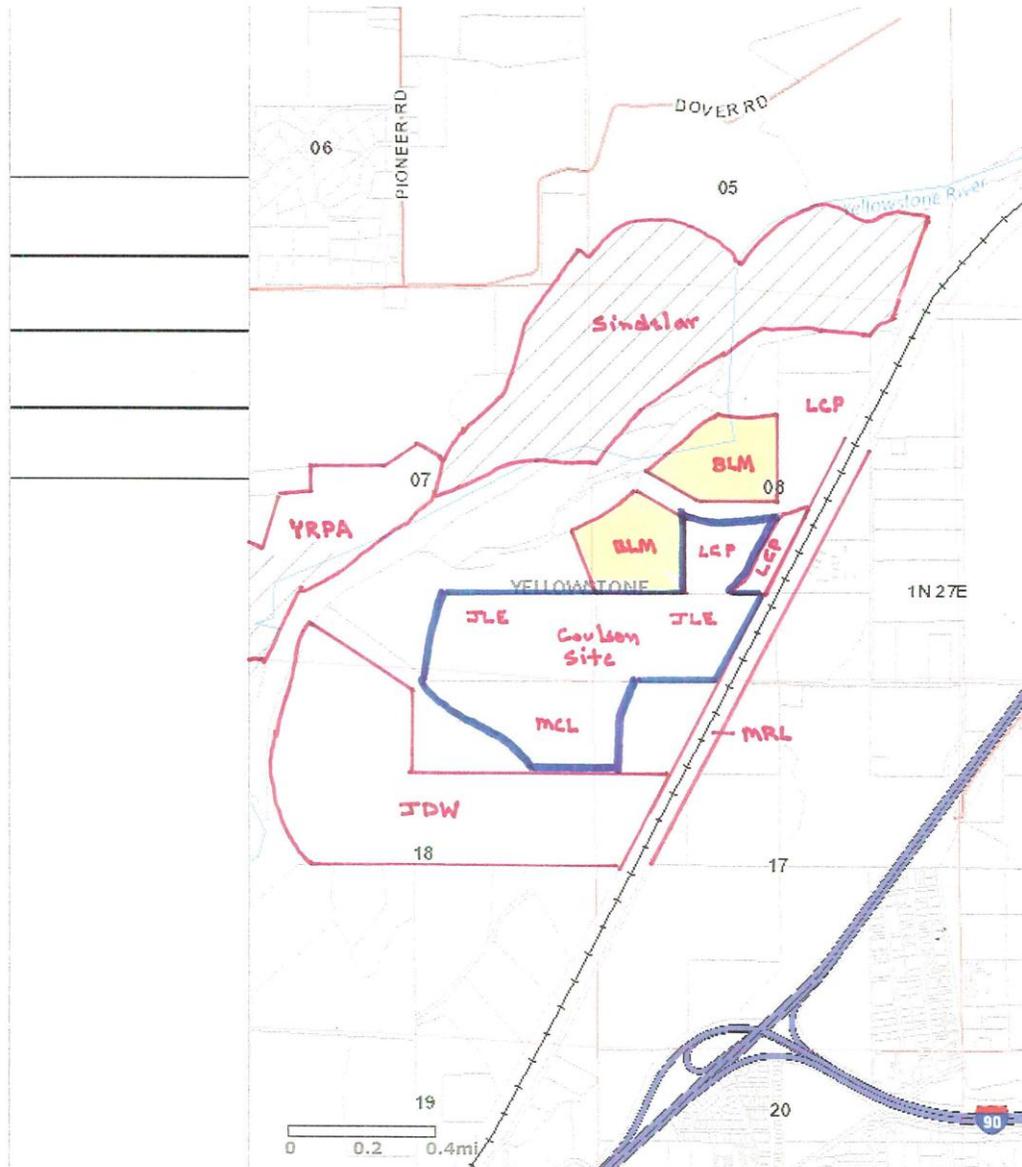
Attachment C: Site Photos

Attachment D: Applicant's Letter

Attachment A  
Zoning Map Special Review #325 – Gravel Mine Expansion

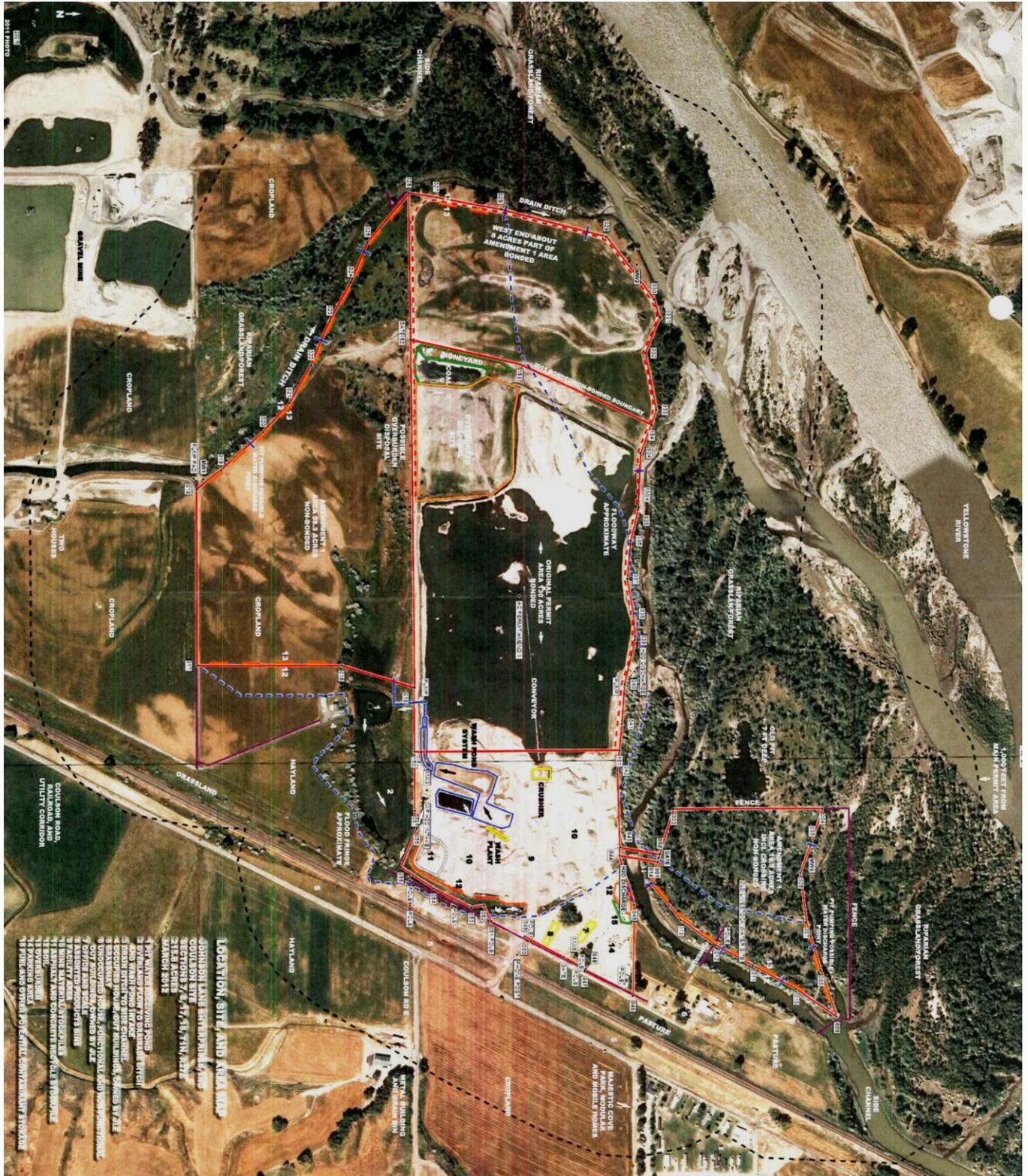


**Attachment B**  
**Site Plan Special Review #325- Gravel Mine**



Johnson Lane Enterprises, Inc, Coulsen Site, Adjacent  
Landowners, March 2012

**Attachment B, continued**  
**Site Plan Special Review #325– Gravel Mine**



**Attachment C**  
**Site Photographs Special Review #325 – Gravel Mine**



Subject Property



Existing gravel mining on un-zoned area

**Attachment C, continued**  
**Site Photographs Special Review #325 – Gravel Mine**



View south and west from entrance road



View east to railroad crossing and Coulson Road

**Attachment C, continued**  
**Site Photographs Special Review #325 – Gravel Mine**



View south and east to Coulson Road



View south and west towards Coulson Road

**Attachment D**  
**Applicant Letter Special Review #325 – Gravel Mine**

**SPECIAL REVIEW APPLICATION**

**Johnson Lane Enterprises, Inc (JLE), Coulson Site, Special Review (2012)**

In 2006 JLE obtained a 130-acre permit from the Department of Environmental Quality's (DEQ) Opencut Mining Program to mine sand and gravel at the Coulson Site. JLE was required to submit a permit application that complied with the requirements of the Opencut Mining Act (Act) and Rules adopted thereunder. In 2012 JLE plans to submit an amendment application to add 85.8 acres on the north and south sides of its permit area (see the Location, Site, and Area Map).

In the Act, 82-4-402, MCA, states that it is the legislature's intent that the requirements of the Act provide adequate remedies for the protection of the environmental life support system from degradation, and provide adequate remedies to prevent unreasonable depletion and degradation of natural resources. The listed purposes of the Act are to:

- Preserve natural resources
- Aid in the protection of wildlife and aquatic resources
- Safeguard and reclaim through effective means and methods all sites subjected to or that may be affected by opencut operations
- Protect and perpetuate the taxable value of property through reclamation
- Protect scenic, scientific, historic, or other unique areas
- Promote the health, safety, and general welfare of the people of Montana

**1A. In what ways is your proposal consistent with the goals and policies of the adopted Growth Policy?**

The requirements of the Act and Rules adopted thereunder, and operation and reclamation oversight by DEQ, ensure that many of the goals and policies of the 2003 Growth Policy are met. Several components of the Growth Policy are discussed below.

**Land Use Element**

For several decades sand and gravel mining has been a land use in the Johnson Lane/Coulson Road area. JLE's Coulson Site has been under operation since 2006. Mining and related activities at the site are consistent and compatible with adjacent land uses.

JLE plans to submit an amendment application to the DEQ to expand its mine permit area from 130 to 215.8 acres. As part of this application, the Plan of Operation will be updated to current standards. These standards include requirements to protect the human and natural environments.

Having sand, gravel, and related products readily available keeps the costs of these products lower, thus encouraging improvements and development in the population center.

After sand and gravel removal, the mine site will be reclaimed to pond and grassland, providing additional water-related habitat for plants and animals.

### **Economic Development**

JLE is a force for economic development in the Greater Billings Area. It provides good-paying jobs, purchases products and services from other vendors, and produces sand, gravel, and rock necessary for improvements and development.

JLE's management objectives and compliance with governmental regulations result in a clean industry on Coulson Road that does not detract from the community or discourage other economic development.

Although the Coulson Site is relatively isolated, Coulson Road and Coulson Road East provide ready access to the Frontage Road, Interstates, and Lockwood. Product can be easily and economically delivered to areas in and around Billings using primary access routes, thus minimizing disturbance to developed areas and making product readily available for private and governmental projects.

### **Aesthetic Element**

Residential, commercial, and industrial sites are normal components of vigorous communities. JLE's management objectives and compliance with governmental regulation ensure that sand and gravel mining and processing at the Coulson Site are compatible with the human and natural environments.

Regarding aesthetic impact on the Yellowstone River, JLE's current facility area is located 1,500 feet from the main river channel. The facility area will remain at its current location for the life of the operation. Although mining will come near the river, it should remain undetectable from it since mining takes place from the pit floor about 20 feet below ground surface.

### **Natural Resources Element**

Protection of the human and natural environments is discussed above. The Coulson Site is operated in a manner that protects air, and surface and ground water, resources. JLE is required to control noxious weeds per an approved county weed control plan. The Plan of Operation and bond posted with DEQ guarantees that the site will be reclaimed to a natural condition.

Mining at the Coulson Site will convert grassland, farmland, and riparian area to pond and grassland area.

### **1B. Why is there a need for the intended use of property at this location?**

Billings and the surrounding area continue to build, repair, and rebuild. Sand, gravel, asphalt, and concrete are basic construction materials needed for a growing community. Having sand, gravel, asphalt, and concrete readily available to Billings keeps the costs of these products lower for private and governmental consumers.

Large deposits of sand and gravel are located on the Yellowstone River Valley floor and adjacent terraces. Some of this material is being mined, but much of it has been, is being, and will be made inaccessible due to residential, commercial, and industrial development. The Coulson Site is in an open area where sand and gravel resource are still readily available. It is relatively out of the way yet Coulson Road and Coulson Road East provide ready access to the Frontage Road, Interstates, and Lockwood. Product can be easily delivered to all areas in and around Billings using primary access routes.

**1C. How will the public interest be served if the application is approved?**

See 1 B.

**1D. Prepare a written statement addressing what is intended to be done with the property...and why a special review is being sought.**

The DEQ issued an Opencut Mine Permit to JLE for the Coulson Site in 2006. The permit covers 130 acres shown as the east-west "rectangular" area on the accompanying map. JLE would like to adjust the boundary of this area (slight acreage additions and deletions that cancel out) and expand westerly by about 8.0 acres. On the north side of the original permit area JLE would like to add 19.5 acres, including 0.3 acre for an access corridor and 19.2 acres for mine area. On the south side of the original permit area JLE would like to add 58.3 acres for mine area. Therefore, JLE is proposing the addition of 85.8 acres to its 130.0-acre Opencut Mine Permit, for a total of 215.8 acres.

The general mining and reclamation plan is to remove sand and gravel to an average bedrock depth of 19 feet, grade the highwall around the perimeter of each mine area to 3:1 or flatter, replace soil material on these slopes to about 6 feet below original ground surface (just above the seasonal high water level), seed the resoiled areas, and leave the remaining pit area as wildlife pond with an average water depth of about 12.5 feet.

A special review is being sought to allow JLE to expand their gravel mining operation. Such an expansion would be allowed if a special review is applied for and approved.

**2 and 3. Site plan.**

See accompanying small- and large-scale maps. Also see the accompanying Coulson Site and Adjacent Landowners.

**4. Photographs.**

The air photo base on the Location, Site, and Area Map is from July 2011. It gives a current clear view of the site and area.

**5 and 6. Property Owners.**

The 300-foot radius map, certified landowners list, and mailing labels are part of this application.

**7. Filing Fee and Sign Deposit.**

A \$1,075 fee and deposit check made out to the City of Billings is part of this application.