BOX ELDER COUNTY
April 16, 1992

The Board of Planning Commissioners of Box Elder County, Utah, met in public session in the Commission Chambers of the Box Elder County Courthouse, 01 South Main Street, in Brigham City, Utah at 7:30 p.m. on April 16, 1992.

The meeting was called to order by Chairman Kimber with the following members present, constituting a quorum:

Richard Kimber	Chairman
Steve Grover	Member
Junior Okada	Member
DeVon Breitenbeker	Member
Jon Thompson	Member
Allen Jensen	Commissioner, Member
Marie Korth	Ex-Officio Member

Excused:

Denton Beecher	Ex-Officio Member

Others present:

Darrell Nielsen
Jerry Blossom, Lakeside Mountain Limestone Project

APPROVAL OF MINUTES:
Chairman Kimber presented the Minutes of February 20, 1992 for approval. Commissioner Jensen made a motion to approve the Minutes as prepared. Mr. Breitenbeker seconded. None opposed. The motion carried unanimously.

AGENDA: (Attachment No. 1)
Chairman Kimber presented the Agenda for adoption. Commissioner Jensen made a motion to move Item D, Jack Molgard Letter, to the last Agenda item of the evening and move into Executive Session at that time. Mr. Grover seconded. None opposed. The motion carried unanimously.

LAKESIDE MOUNTAIN LIMESTONE PROJECT:
Mr. Jerry Blossom, Union Pacific Resources, met with the Planning Commission to request a permit for a limestone quarry. Mr. Blossom explained the proposed project and displayed a drawing illustrating it. He stated he has also given copies to BLM and Utah DOGM. He said the northern half of the quarry is in Box Elder

County, but most of the facilities are in Toole County, with a haul road going to the kiln site. Mr. Blossom stated he had met with Tooele County, however, they have not approved his request. As soon as he gets BLM approval, he will meet with Tooele County again.

Mr. Blossom stated about one third of the pit (39 acres) and part of one of the waste rock disposal sites (22 acres) will be in Box Elder County along with a top soil storage area (3 acres). The crusher area and the maintenance buildings will be in Tooele County. He said the pits will be about 150 feet deep, and the area will be revegetated after the work is completed. The roads will have magnesium chloride on them to keep the dust down, and they will also be watered.

Mr. Breitenbeker made a motion to accept the concept plan and requested that Mr. Blossom submit the documentation from the BLM and any changes for the Planning Commission's final approval. Commissioner Jensen seconded. None opposed. The motion carried

ZONING AND PLANNING LAW:
Letter from Millard Consultant:
Chairman Kimber stated that due to some legislative action, there is a need to change the planning and zoning code in the County. Commissioner Jensen stated Millard Consultants have offered to do it. He stated Millard did the county's Master Plan and Zoning Ordinances in 1971. With the new legislation there are many changes that will have to be made to the Ordinances. This is found in Chapter 27, Zoning and Planning, of the Utah Code. Commissioner Jensen stated they are proposing to update all the Ordinances for a cost of $1,295.00. Mr. Thompson made a motion that the Planning Commission recommend to the County Commissioners that Millard Consultants proceed with the update for a cost of $1,295.00. Mr. Breitenbeker seconded. None opposed. The motion carried.

DARRELL NIELSEN, AMENDMENT TO PLAN: (Attachment No. 2)
Mr. Darrell Neilsen met with the Planning Commisison to present an amendment to his plan. Chairman Kimber stated at this point the Planning Commission could accept receipt of the plan. He said he would like Surveyor Denton Beecher to review the plan, and he would also like to give a copy of the plan to the Flood Control District. Mr. Todd Davis from the Willard Flood Control District was present and stated he would take the plan to the Flood Control Meeting on May 6 and return to the May Planning commission Meeting with his comments. Mr. Grover made a motion to acknowledge receipt of the plan and that a copy has been given to the Flood Control District. Mr. Thompson seconded. None opposed. The motion carried.

Mr. Nielsen stated he has someone interested in buying his gravel pit and wondered if there would be any problem with transferring the permit as long as the conditions are the same. Chairman Kimber stated the Planning Commission would need to get a legal opinion. He suggested Mr. Nielsen write a letter to the Planning Commission or the County Commission indicating his intent with the request for information relative to the tansfer of such a conditional use permit.

Commissioner Jensen stated he did not think the permit is transferrable. Chairman Kimber stated this needs to be researched for an answer.

HARDY SUBDIVISION CONCEPT PLAN:

Chairman Kimber stated the Hardy Subdivision Concept Plan was received on Wednesday, April 15. The County Surveyor, Denton Beecher, has been ill, and therefore the plan has not been reviewed by him. However, he did say there was a question on the roadway.

Greg Hansen, of Hansen & Associates, was there to represent the Hardys. He explained the plan, stating that two of Mr. Hardy's sons now live on lots 1 and 2, and he would like to create three more lots. Also he would like to increase the size of the two lots now occupied. He said Mr. Hardy is asking to put in a gravel road. Mr. Thompson made a motion to accept the concept plan for the Hardy Estate Subdivision. Mr. Okada seconded. None opposed. The motion carried.

The Planning Commission moved into a short Executive Session. After the session, Chairman Kimber reconvened the regular meeting.

JACK MOLGARD LETTER: (Attachment No. 3, Attorney Bunderson's letter)

Chairman Kimber stated at this point the concerns listed in Attorney Molgard's letter appear to be an interpretation of the law and suggested the Planning Commission direct Denton Beecher or Commissioner Jensen to take the question back to Jon Bunderson and explain the situation. Commissioner Jensen stated he would go to Air Quality and obtain a copy of the regulation. Chairman Kimber stated he felt that if the regulations for Air Quality change, and Condition No. 1 and any amendment to that says they will comply with Air Quality, interpretation is needed.

Mr. Breitenbeker made a motion to direct Commissioner Jensen and Surveyor Denton Beecher to pursue this action and get an interpretation from the County Attorney and the information from Air

Quality so that the Planning Commission can interpret and make a decision. Mr. Grover seconded. None opposed. The motion carried.

RESIGNATION, LONNIE THORPE: (Attachment No. 4)

Chairman Kimber stated Lonnie Thorpe has presented a letter of resignation. Mr. Thompson made a motion to accept the resignation of Lonnie Thorpe with thanks for his unselfish devotion to Box Elder County and recommend the County Commission appoint a new member. Mr. Grover seconded. None opposed. The motion carried.

Mr. Breitenbeker stated with reference to Mr. Thorpe's letter which stated "I find it very unpleasant to continually be involved in the issue of the Darrell Nielsen gravel pit", he felt the same way and thought there should be an end to this and not do it every month. It is the same story told a different way every month.

Mr. Thompson made a motion to adjourn at 8:45 p.m. Mr. Grover seconded. None opposed. The motion carried.

Passed and adopted in regular session this 20th day of May, 1992.

Richard D. Kimber, Chairman

ATTEST:

Marie G. Korth
Recorder/Clerk

AGENDA
BOX ELDER COUNTY PLANNING COMMISSION
MEETING PLACE; COUNTY COMMISSION CHAMBERS
BOX ELDER COUNTY COURTHOUSE
BRIGHAM CITY, UTAH

1. Public agenda for the Box Elder County Planning Commission meeting scheduled for April 16, 1992 at 7:30 P.M.

2. Notice given to the newspaper this 15th day of April, 1992.

3. Approval of the minutes of February 20, 1992.

4. Scheduled Delegations:

   A. Lakeside Mountains-Limestone Project

   B. Zoning of Planning Law-Letter from Millard Consultant

   C. Darrell Nielsen amendement to plan

   D. Jack Molgard letter

   E. Hardy subdivision concept plan

   F. Willard Flood District unknown request

5. Old Business

   A.

   B.

   C.

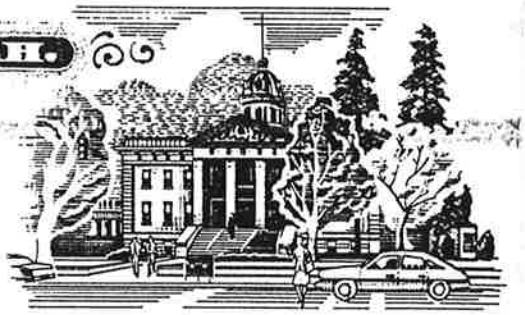
   D.

CIRCA 1890's

Box Elder County, STATE OF UTAH

COUNTY COMMISSIONERS
ALLEN L. JENSEN
FRANK O. NISHIGUCHI
JAMES J. WHITE

OFFICERS
CARLLA J. SECRIST, COUNTY AUDITOR-TREASURER
MARIE G. KORTH, COUNTY RECORDER-CLERK
ROBERT E. LIMB, COUNTY SHERIFF
JON J. BUNDERSON, COUNTY ATTORNEY
MONTE R. MUNNS, COUNTY ASSESSOR
DENTON BEECHER, COUNTY SURVEYOR



CIRCA 1980's

March 25, 1992

Mr. Denton Beecher
Box Elder County Zoning Administrator
Box Elder County Courthouse
Brigham City, Utah 84302

RE: Darrell Nielson Conditional Use Permit/
Division of Air Quality Amendments

Dear Denny:

On March 19th I received a letter from Jack Molgard dated March 18th, with attachments indicating that the Utah Division of Environmental Health has amended its Approval Order for the Darrell Nielson gravel pit/crushing plant in at least one particular which concerns Mr. Molgard's client, Willard City.

The amendment appears in Paragraph #11 of the original Approval Order, dated July 21, 1988; the corresponding change appears in Paragraph #12 of the new order.

The 1988 Approval Order provided that the total area of unreclaimed disturbed soil should not exceed four (4) acres at any given time. The 1992 Approval Order provides that the total area of unstabilized disturbed soil shall not exceed forty (40) acres, and further provides that storage piles are not to be included in the unstabilized area.

Mr. Molgard compares the two statements and argues that they refer to the same thing, concluding that Mr. Nielson can now have forty (40) acres where he previously was only allowed four (4). The earlier permit refers the "unreclaimed" disturbed soil, while the later permit refers to "unstabilized" disturbed soil. Additionally, the later permit deals with the issue of storage piles.

Mr. Molgard didn't go into any discussion of the difference

Attn no. 3

between "unreclaimed" and "unstabilized", but it seems to me there may be a meaningful difference between the two terms. Please advise as to whether there is indeed any difference, in engineering parlance. It may be that unreclaimed soil is that which has not been replanted, while unstabilized soil is that which may slide down the hill.

The other thing which Mr. Molgard failed to do is provide a copy of the language in the County Conditional Use Permit which adopted or referred to the terms and conditions of the Approval Order. I had asked him to do that, since I don't readily have available at my office a copy of the final Conditional Use Permit; I have always relied on you for that reference.

Furthermore, Mr. Molgard simply states that the original Conditional Use Permit had within it several conditions which were based on the fact that no more than four (4) acres would be disturbed at any one time, including fixing of the Bond, rehabilitation possibilities, dust, flooding, and "many other factors". That's quite a vague statement, and not very helpful to us in terms of examining our permit.

Nevertheless, despite the lack of detail in Mr. Molgard's letter, he may have a point. I believe that if we incorporated into our Conditional Use Permit conditions contained within another document issued by a separate jurisdiction (in this case, the 1988 Approval Order), we should at the very least consider how we are going to interpret and enforce our Conditional Use Permit in light of the obvious amendments in the State's Approval Order.

I would like to discuss this with you at your earliest convenience, so would you please give me a call and inform me of a time when you are available, so we can arrange for you and I to review our Conditional Use Permit, and particularly any references therein to the Approval Order of 1988. Further, I would like to have you explain to me at that time the difference, if any, between the words "unreclaimed" and "unstabilized", as those words are used in connection with soils, engineering projects, and/or gravel pits.

Thanks for your help and assistance in this matter.

Very truly yours,

Jon J. Bunderson
Box Elder County Attorney

JJB:me

Molgard & Hunsaker

Jack H. Molgard
Quinn D. Hunsaker

ATTORNEYS AT LAW

102 SOUTH 100 WEST - P. O. BOX 461 - BRIGHAM CITY, UTAH 84302

OFFICE
801-723-8569

March 18, 1992

TO: Box Elder County Commission
Box Elder County Planning Commission
Denny Beecher, B. E. County Zoning Administrator
Jon J. Bunderson, Box Elder County Attorney

RE: Darrell Nielson Conditional Use Permit/
Division of Air Quality Amendments

Gentlemen:

My client, Willard City, and many individual citizens residing in the Willard City area are very concerned with the Division of Air Quality's amended Approval Order for Crushing Plant dated February 19, 1992, in relation to the Darrell Nielson Conditional Use Permit. There are a number of changes from the original Air Quality Permit which were adopted by reference by the Box Elder County Planning Commission.

Of particular concern is an allowance that forty (40) acres may be opened without, first, rehabilitation. As you will recall, the original permit specifically Item No. 11 had the following limitation: "The total area of unreclaimed disturbed soils shall not exceed four (4) acres at any given time." The Box Elder County Planning Commission granted the original Conditional Use Permit with that limitation intact, and based several conditions on the fact that no more than four acres would be disturbed at any one time such as: the fixing of bond, the possibility of rehabilitation, dust, flooding, and many other factors.

I have discussed the Air Quality amendments with Denny Beecher; and it is my understanding that Mr. Beecher thinks the four-acre limitation is no longer in effect because Air Quality is not requiring it. It is our position that Box Elder County cannot grant the division of Air Quality authority to amend the Conditional Use Permit in any of its terms including Air Quality requirements without positive action by the Box Elder County Planning Commission. The Utah Enabling Act does not allow Box Elder County to grant bodies other than the Planning Commission authority to grant or amend Conditional Use Permits.

Further, it is our position that if the four-acre limitation and other limitations contained in the original Air Quality Permit are to be amended as they apply to the original Conditional Use Permit, that the Box Elder County Planning Commission should hold appropriate hearings and allow all parties to be heard pursuant to past practices. We are concerned that the four-acre limitation has already been violated; and if Box Elder County does not take appropriate actions to insure compliance with the four-acre limitation or move to amend the Conditional Use Permit in the appropriate way, we will consider taking further actions to insure enforcement by Box Elder County of the Conditional Use Permit issued by Box Elder County.

We would appreciate a response to this letter at your earliest convenience.

Sincerely,

Jack H. Molgard
Willard City Attorney

JHM/aw
cc: Willard City
B. E. County Willard City Flood Control District
Jeff R. Thorne
Jody Burnett

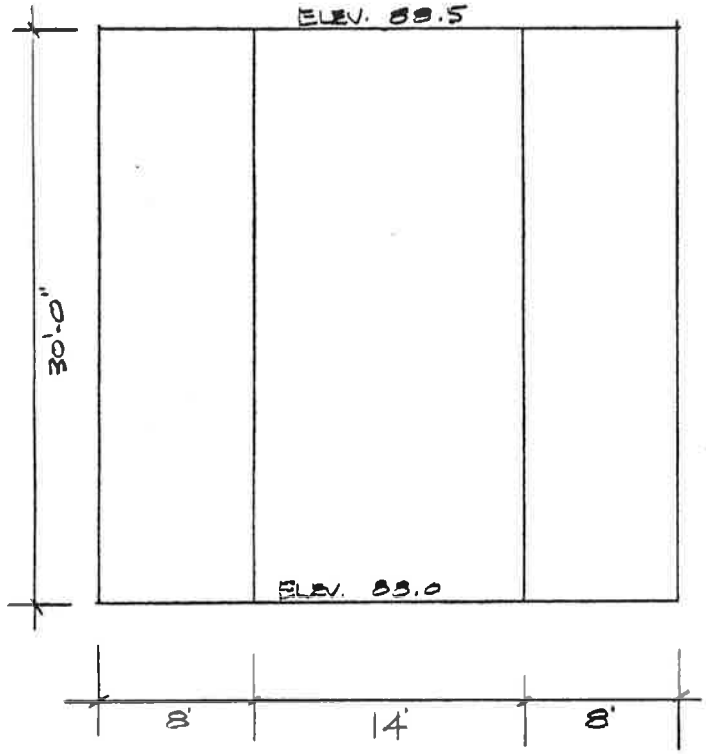
LEN A. WANGSGARD P.E. MAR. 1992

D.N. LAND CO. - WILLARD, UT
FLOOD FLOW OVER 48" R.C.P.

1/1

DESIGN FLOOD FLOW = 124 CFS.

SEE BACKUP DATA ATTACHED



$V = \frac{1.486}{n} \times r^{2/3} \cdot s^{1/2}$

$n = .013.$

$A_{18'} = 330'$ $P = 30.5$

$r = \frac{33}{30.5} = 1.08$

$s = \frac{0.5}{30'} = 0.0167$

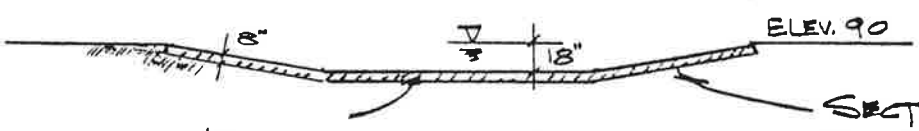
$V = \frac{1.486}{.013} \times (1.08)^{2/3} \times (0.0167)^{1/2}$

$= 114.3 \times 1.05 \times .129$

$= 15.5$ f.p.s.

$Q = 33 \times 15.5 = 511$ CFS

511 > 124 OK
AND 216 CFS.



8" REINFORCED CONC. SLAB

SECTION TO ALLOW ACCESS THRU DRAINAGE WAY

CONCRETE REQ'D:

$\frac{30' \times 30' \times .67}{27} = 22.3$ CU. YDS.

3000 psi = f'_c

REINFORCE WITH:

6 x 6 2.9/2.9 WWF

RIP RAP BOTH ENDS WITH 24" THICKNESS 12" MIN DIMENSION.

RECEIVED
BOX ELDER COUNTY
SURVEYOR
MAR 31 1992
Filed
Brigham City, Utah

March 16, 1992

Dear Richard;

As chairman of the Box Elder County Planning Commission, please accept this letter as my official resignation as a member of said commission.

I find it very unpleasant to continually be involved in the issue of the Darrell Nielson gravel pit operation, after having been opposed to it and fighting against it as a representative of the people of Willard City for so many years, and now I find myself in the position of having to defend the conditional use permit issued by others..

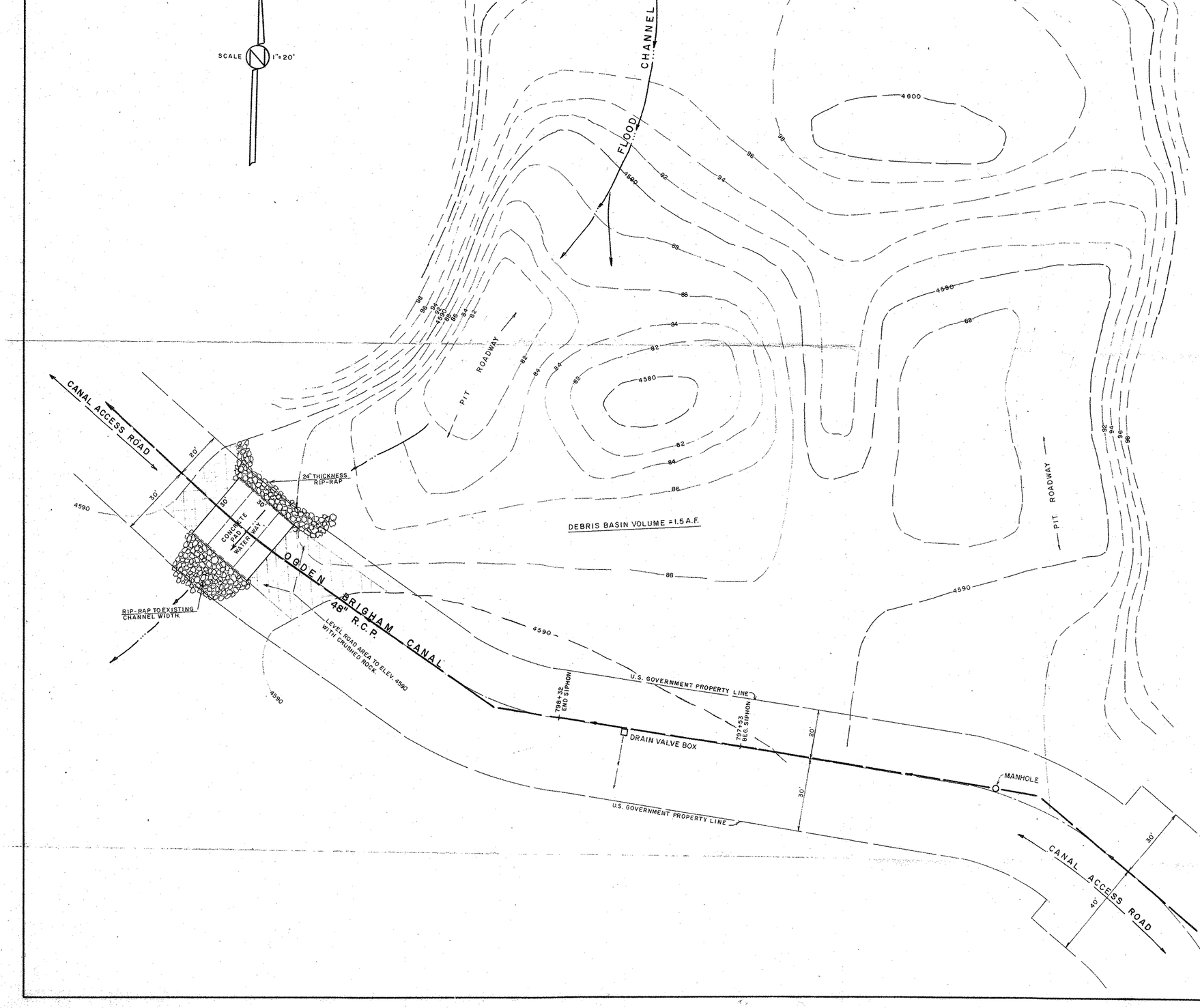
I respect and admire each of you as members of the County Planning Commission for the many hours of service rendered to this County and its people, its been an honor serving with each of you.

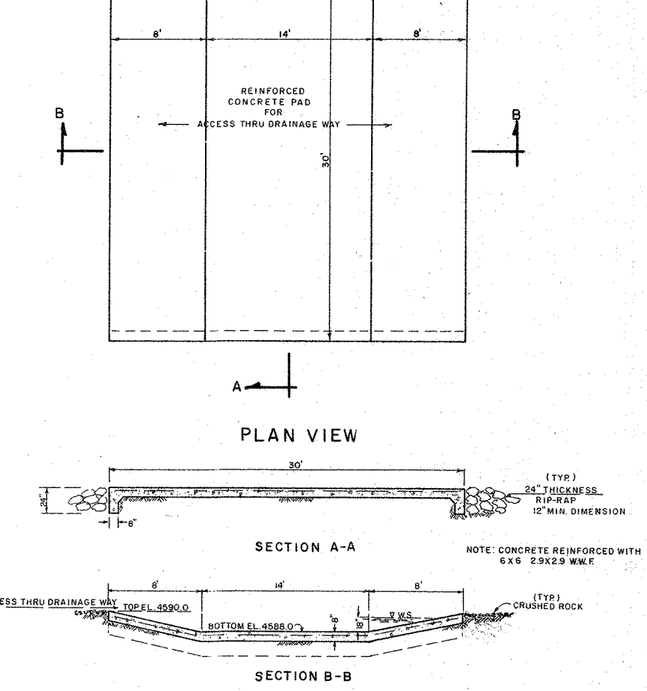
May God bless you in your future endeavors.

Thanks;

Ronnie Thorpe

Att. no 4.





FLOOD FLOW STRUCTURE OVER 48"R.C.P.

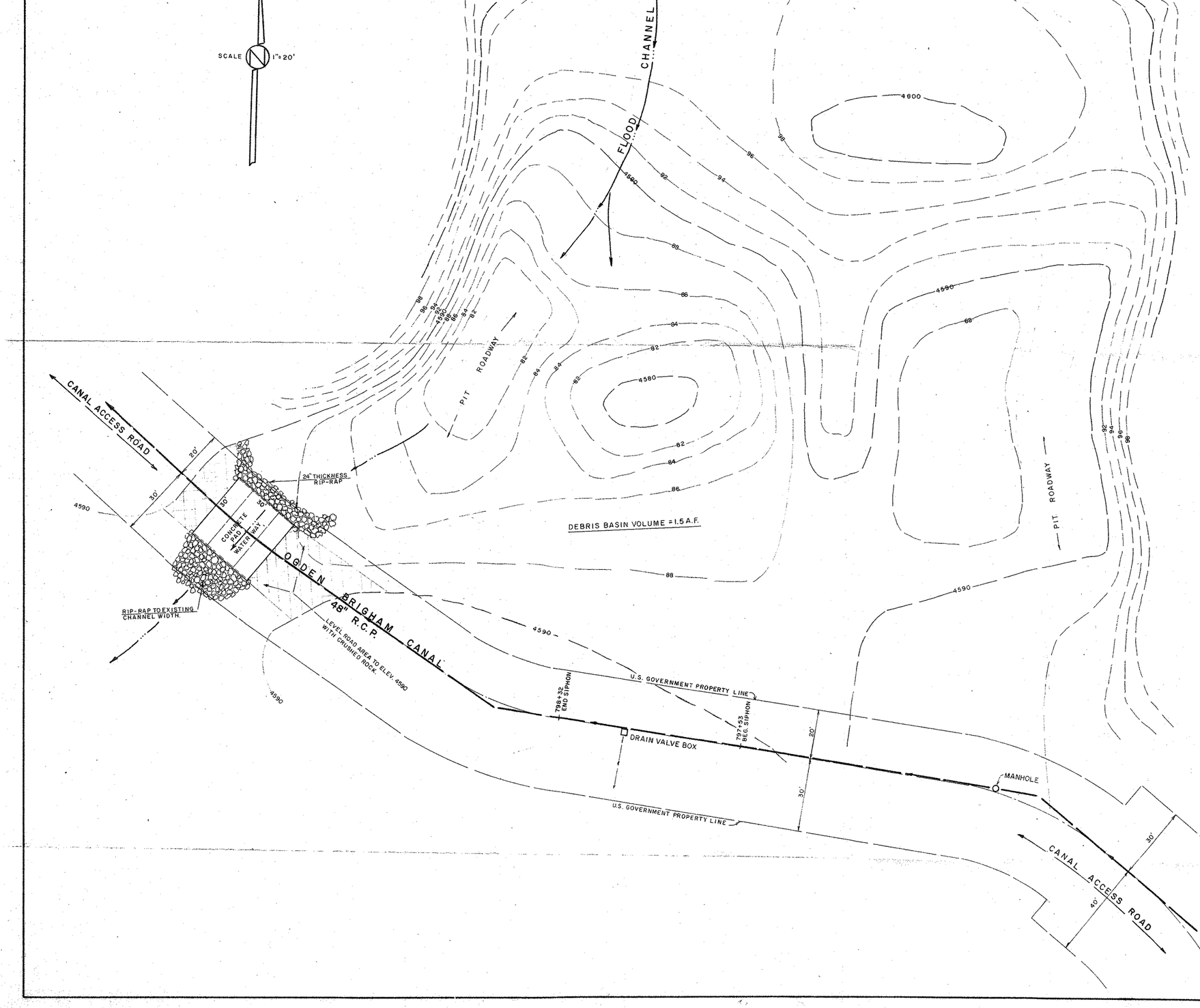
TOPOGRAPHY

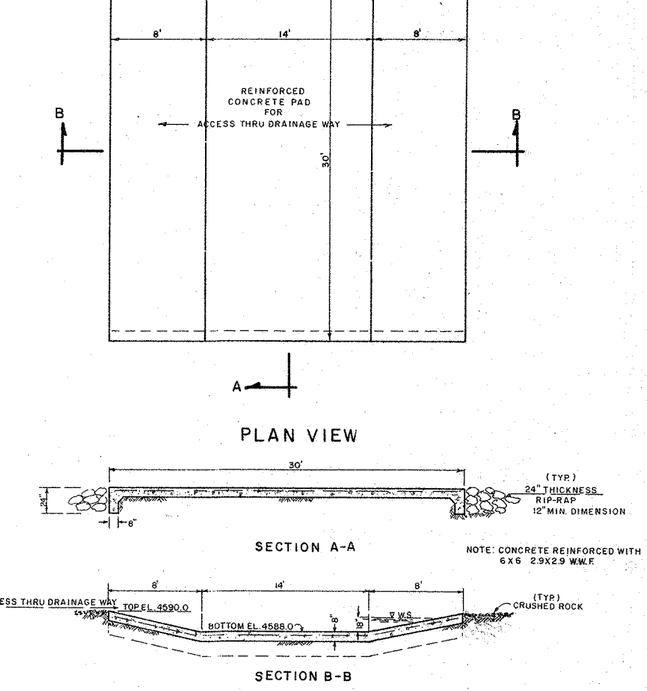
D. N. LAND COMPANY
SOUTH WILLARD GRAVEL PIT

WILLARD, UTAH

PREPARED BY: LEW A. WANGSGARD P.E.
DATE: MARCH 1992

REGISTERED ENGINEER LEW A. WANGSGARD No. 2764 STATE OF UTAH





FLOOD FLOW STRUCTURE OVER 48"R.C.P.

TOPOGRAPHY

D. N. LAND COMPANY
SOUTH WILLARD GRAVEL PIT

WILLARD, UTAH

PREPARED BY: LEW A. WANGSGARD P.E.
DATE: MARCH 1992

REGISTERED ENGINEER LEW A. WANGSGARD No. 2764 STATE OF UTAH