

# BENTON COUNTY ATTORNEY

December 7, 2006

Benton County Courthouse  
203 E. Central, Room 422  
Bentonville, Arkansas 72712

Melana Ewing  
1110 Ryan St.  
Bentonville, AR 72712

Tim Sorey  
8249 Houdan Way  
Bentonville, AR 72712

Adele E. Lucus  
1002 West Geneva St.  
Rogers, AR 72758

David Scott Borman  
15769 North Wimpy Jones  
Garfield, AR 72732

John Norman Butler  
9602 Benton Ridge Circle  
Bentonville, AR 72712

Don Phillips  
1503 Countywood Pl.  
Rogers, AR 72756

Bill Kneebone  
11792 White Oak Dr.  
Garfield, AR 72732

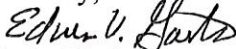
Ashley Pope  
905 NW 8<sup>th</sup> Street  
Bentonville, AR 72712

RE: Overland Development, Inc., v. Benton County, Arkansas,  
Case No. CV 2006-2202-3

Dear Ladies and Gentlemen:

Enclosed please find a copy of the Complaint and the Answer of Benton County in the above referenced case.

Sincerely,

  
Edwin V. Gartin  
Benton County Attorney

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OVERLAND DEVELOPMENT, INC.

V.

NO. CV 2006-2202

BRENDAN W. WHEELS  
CLERK AND RECORDER  
BENTON COUNTY, AR

BENTON COUNTY, ARKANSAS

FINCH

PLAINTIFF  
DEFENDANT

**COMPLAINT**

Plaintiff states for its Complaint:

**I. Nature of Action.**

1. This action is an appeal from a decision of the Benton County Appeal Review Board taken under Ark. Code Ann. 14-17-211 (Supp. 2005) and for a declaratory judgment pursuant to A.R.Civ.P. 57 and Ark. Code Ann. 16-111-101, *et seq.*

**II. Parties, Jurisdiction, and Venue.**

2. Plaintiff is an Arkansas corporation with its principal place of business being located in Benton County, Arkansas.

3. Defendant is a governmental entity that purports to regulate the development of unincorporated areas of Benton County, Arkansas.

4. This Court has jurisdiction over the parties to and the issues of this action.

5. Venue for this action is properly laid in this Court.

**III. General Allegations.**

6. Plaintiff has a leasehold interest in certain real estate located in Benton County, Arkansas, generally described as lying south of and immediately adjacent to Cross Hollows Road and west of and immediately adjacent to Old Wire Road.

7. Plaintiff submitted an Application to Benton County Planning Board on 27 January 2006 to operate a red dirt mine on this property.

8. Defendant purports to regulate industrial development in the unincorporated portions of Benton County, Arkansas, through Chapter VIII of its Regulations, Standards, and Specifications for the Subdivision, Conveyance, Development, and Improvement of Unincorporated Land in Benton County, Arkansas (Revised 08/08/05) (the "Regulations"). These Regulations require, *inter alia*, that the proposed development be "consistent and compatible with existing development and the environment." "Consistent and compatible" are not defined within the Regulations. Benton County, Arkansas, does not have a zoning ordinance.

9. Plaintiff appeared before the Benton County Planning Board on 15 February 2006 for a TAC meeting concerning its application. The Benton County Planning Board imposed the following conditions, among others, upon Plaintiffs as conditions for approval of its application:

- Go to the City of Lowell for comments
- Show no problem with historical area
- Get a formal Archeological study done

The Regulations do not establish any standards for any of the above-listed conditions.

10. Plaintiff appeared before the Benton County Planning Board on 16 August 2006 for its final consideration of Plaintiff's application. A majority of the members of the Benton County Planning Board voted to deny Plaintiff's application. The reasons for the denial were alleged inconsistency or incompatibility with the existing development and environment.

11. Plaintiff timely gave notice to Defendant of its intent to appeal the decision of the Benton County Planning Board to the Benton County Appeal Review Board.

12. The Benton County Appeal Review Board met on 12 October 2006 to consider this issue:

Whether the proposed red dirt mine south of Cross Hollow Rad and East of Old Wire Road meets the land use compatibility requirements of Chapter VIII of the Benton County Regulations.

13. A majority of the Benton County Appeal Review Board voted to affirm the decision of the Benton County Planning Board. The decision of the Benton County Appeal Review Board is a “final decision” under the Regulations.

14. The Benton County Planning Board unanimously voted on 18 February 2004 to approve the application of George Anderson to operate a red dirt mine on property located immediately west of and adjacent to the property Plaintiff seeks to mine (the “Anderson red-dirt mine”).

15. Plaintiff has received a permit from the Arkansas Department of Environmental Quality to engage in open-cut mining pursuant to the Arkansas Open-Cut Land Reclamation Act and the Arkansas Open-Cut Mining and Reclamation Code, Ark. Code Ann. 15-57-301, *et seq.* (Supp. 2005). The term of this permit runs from 10 February 2006 to 09 February 2011.

**IV. Count One – Plaintiff’s Proposed Red Dirt Mine is “Consistent and Compatible with Existing Development and Environment.”**

16. Plaintiff re-alleges paragraphs 1 through 15 of this Complaint.

17. The area that Plaintiff seeks to mine is located in a relatively uninhabited and undeveloped area of Benton County.

18. The area that Plaintiff seeks to mine is approximately 35 acres of a 133 acre tract. It is heavily wooded and secluded from the few residences in this area.

19. The 133 acre tract was formerly the site of a lime quarry. The property immediately

east of and adjoining the 133-acre tract (the “Anderson red dirt mine”) hosts at least three red dirt mines.

20. The Arkansas Department of Environmental Quality has permitted Plaintiff’s proposed site for a red dirt mine.

21. Plaintiff’s application to operate a red dirt mine should be approved.

**V. Count Two – Denial of Substantive Due Process.**

22. Plaintiff re-alleges paragraphs 1 through 15 of this Complaint.

23. Plaintiff is guaranteed substantive due process under the Fourteenth Amendment to the Constitution of the United States and by Art. 2, §8 of the Constitution of the State of Arkansas.

24. Substantive due process guarantees that regulations promulgated by government entities, such as Defendant, will have ascertainable, fixed standards that are sufficiently clear so that applicants such as Plaintiff can act in light of them.

25. That part of the Regulations of Benton County that requires large scale industrial developments to be “consistent and compatible with existing development and the environment” fails to meet the requirements of substantive due process. The public, such as Plaintiff, and the administration of Benton County must guess as to its meaning. This part of the Regulations lends itself to ad hoc, subjective application and enforcement.

26. Plaintiff was denied substantive due process when its application was denied because the proposed red dirt mine was allegedly not “consistent and compatible with existing development and the environment.” There were no fixed, ascertainable standards in place to determine whether the proposed red dirt mine was not “consistent and compatible with existing development and the environment.”

27. Plaintiff is entitled to a declaratory judgment to the effect the part of the Regulations that requires large scale industrial developments to be “consistent and compatible with existing development and the environment” is vague and denies substantive due process to applicants such as Plaintiff and cannot be applied to deny applications for large scale industrial developments.

28. Plaintiff is entitled to supplementary relief in the form of an injunction that orders Defendant to grant Plaintiff’s application for a large-scale industrial development permit.

**VI. Count Three – Denial of Equal Protection of the Law.**

29. Plaintiff re-alleges paragraphs 1 through 15 of this Complaint.

30. Plaintiff is guaranteed equal protection of the law under the Fourteenth Amendment to the Constitution of the United States and by Art. 2, §18 of the Constitution of the State of Arkansas.

31. Defendant denied Plaintiff equal protection of the law when it approved a large-scale industrial development permit application for the Anderson red-dirt mine but denied Plaintiff’s application.

32. Plaintiff is entitled to a declaratory judgment to the effect that Defendant denied Plaintiff equal protection of the laws when it denied Plaintiff’s application for a large-scale industrial development permit after Defendant approved the application for the Anderson red-dirt mine.

33. Plaintiff is entitled to supplemental relief in the form of an injunction that orders Defendant to grant Plaintiff’s application for a large-scale industrial development permit.

**VII. Count Four – Pre-Exemption of the Benton County Regulations by the Arkansas Open-Cut Mining and Land Reclamation Code.**

34. Plaintiff re-alleges paragraphs 1 through 15 of this Complaint.

35. Plaintiff applied for and received a permit from the Arkansas Department of Environmental Quality (the “ADEN”) to engage in open-cut mining on the property described above. This permit was issued after public notice was given and an opportunity for public comment was allowed.

36. Plaintiff’s permit is property of the State of Arkansas.

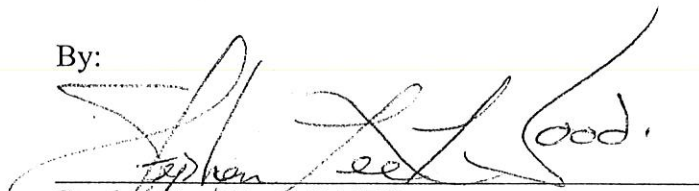
37. Plaintiff is entitled to a declaratory judgment to the effect that it is allowed to engage in open-cut mining operations on the property described above under the authority of its permit issued by the ADEN notwithstanding the Regulations of Benton County.

**VIII. Relief Requested.**

Plaintiff asks this Court to enter Judgment in its favor finding that it is entitled to a large-scale industrial development permit under the Regulations and ordering appropriate supplemental relief; alternatively, Plaintiff asks this Court to enter Judgment in its favor finding that Plaintiff is entitled to engage in open-cut mining operations under the permit issued to Plaintiff by the ADEN notwithstanding the Regulations, and to award Plaintiff all other relief to which Plaintiff proves himself entitled.

OVERLAND DEVELOPMENT, INC.,  
PLAINTIFF

By:

A handwritten signature in black ink, appearing to read "Stephen Lee Wood", is written over a horizontal line. The signature is stylized and cursive.

Stephen Lee Wood (81170)

Stephen Lee Wood, P.A.

110 South Second Street  
Rogers, AR 72756  
479-631-0808

Overland – Complaint, 2/I-O2006(II)/ 1532





# Trail of Tears Association

Alabama ♦ Arkansas ♦ Georgia ♦ Illinois ♦ Kentucky ♦ Missouri ♦ North Carolina ♦ Oklahoma ♦ Tennessee

December 1, 2018

Taylor Reamer  
Benton County Development Planning Board  
1204 SW 14<sup>th</sup> Street  
Bentonville, AR 72712

RE: Pending Application # 18-252-Covington Quarry Group, N. Old Wire Rd., Lowell, AR  
Compromising National Register of Historic Places Site at Cross Hollow

Dear Mr. Reamer:

The Trail of Tears Association is a national nonprofit with a mission to identify, protect and preserve, the Trail of Tears National Historic Trail resources. We have active chapters in each of the states through which the National Historic Trail passes.

The segment of the Trail of Tears National Historic Trail at the Cross Hollow site in Lowell is a rare gem in the Arkansas landscape. It has excellent integrity and retains the physical characteristics of an early 19<sup>th</sup> century roadbed. Because of these attributes this segment of the Cherokee Removal Route is listed in the National Register of Historic Places (NRHP#BE3596). This same roadbed is also associated with the Butterflied Trail and the Civil War.

This rare and beautiful area where history and culture are preserved will be severely diminished if the expansion of the mine in the subject application is allowed. The Trail of Tears segment is only 900 ft. from the proposed project and the project's access not only crosses the Trail, but includes this segment for transporting material from the project site.

Accordingly, we respectfully request that the Planning Board fully consider the significance of this site and the irreversible harm that the project may incur. We join the Cherokee Nation in recommending that the Applicant conduct a cultural resources survey which will consider potential direct and indirect effects if a limestone quarry is allowed.

You have the opportunity to protect a significant cultural and historic resource which will be important for generations to come.

Sincerely,

Jack D. Baker  
President  
National Trail of Tears Association



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**CHEROKEE NATION**®  
P.O. Box 948 • Tahlequah, OK 74465-0948 • 918-453-5000 • cherokee.org

**Office of the Chief**

Bill John Baker  
*Principal Chief*  
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S. Joe Crittenden  
*Deputy Principal Chief*  
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November 30, 2018

Taylor Reamer  
Benton County Development Planning Board  
1204 SW 14th Street  
Bentonville, AR 72712

Re: #18-252, Covington Quarry Group, North Old Wire Road, Lowell, AR

Mr. Taylor Reamer:

The Cherokee Nation (Nation) received notice of a pending permit application **#18-252, Covington Quarry Group, North Old Wire Road, Lowell, AR**, and appreciates the opportunity to provide comments about this proposed permit.

The Nation maintains databases and records of cultural, historic, and pre-historic resources in this area. Our Historic Preservation Office (Office) reviewed this project, cross referenced the project's legal description against our information, and found instances where this project intersects or adjoins such resources, including the CHEROKEE TRAIL OF TEARS, Northern Route.

The Trail of Tears is a vitally significant cultural and historic resource to the Nation. This particular segment that runs along Old Wire Road is listed in the National Register of Historic Places (NRHP #BE3596) under Criteria A for its national significance. The proposed project's access not only crosses the Trail, but also includes this segment for transporting material from the project site. Please find enclosed the NRHP form and our internal map for the Benton County Planning Board's (Board) reference and consideration.

The form's background information alone provides a deep understanding about this segment's cultural significance, which is connected to a horrific chapter in American history, including the removal of Cherokees from our homelands. Later, this segment would be associated with the Butterfield Trail and the American Civil War. It is the Nation's opinion that the proposed permit may affect the integrity of this property's historic significance.

The Nation respectfully requests that the Board consider the potential adverse impacts of this proposed permit to this NRHP road segment even though the County is not bound by the National Historic Preservation Act (16 U.S.C. 470 §§ 470-470w6) 1966. Examples of adverse effects are listed in 36 CFR 800.5(a)(2)(i-vii), and include "alteration of a property" and the "introduction of . . . elements that diminish the integrity of the property's significant historic features." These factors may exist with the Covington permit project.

Further, the Nation reviewed the 2006 report for red dirt mining activities. The report focuses on the project area and limits its scope to the physical impact area rather than the potential indirect project impacts that would include the Trail of Tears segment. While the segment itself is 900 feet from the project site, the report is silent in regard to an inventory of NRHP properties within one kilometer of the project. Additionally, while the report is dated, it does not include a map of its investigation and focuses primarily on the Civil War era of the location. Thus, the Nation requests that the following recommendations are considered for this proposed permit.

- The Nation recommends that the Applicant conduct a cultural resources survey that considers the updated proposed project from red dirt mining to a limestone quarry in addition to its potential direct and indirect effects, which includes increased project-related truck traffic upon access roads and NRHP BE3596. In addition to the survey, any related comments upon this report from other pertinent Historic Preservation Offices would be helpful.
- In consideration of this proposed report, the Nation recommends that the Applicant include a reclamation plan that involves mitigation measures that would protect the integrity of this NRHP-listed Trail of Tears segment.
- The Nation requests that potential plans for future road expansion or paving balance the potential effects of causing irreparable adverse effects to this Trail of Tears segment to ensure that our shared history remain intact.

The State of Arkansas has an opportunity to consider and protect a significant cultural and historic resource. If the Board requires additional information or have any questions, please contact me at your convenience. Thank you for your time and attention to this matter.

Wado,



Elizabeth Toombs, Tribal Historic Preservation Officer  
Cherokee Nation Tribal Historic Preservation Office  
elizabeth-toombs@cherokee.org  
918.453.5389

Enclosure: NRHP Form for Site BE3596  
Cherokee Nation Geoinformation Systems Project Map

CC: Jack Baker, Trail of Tears Association (TOTA)  
Timothy Dodson, Arkansas State Historic Preservation Officer  
Jack Fountain  
Troy Wayne Poteete, TOTA



January 16, 2019

Mr. Bill Watkins  
Watkins, Boyer, Gray & Curry, PLLC  
1106 West Poplar Street  
Rogers, AR 72756

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*VP of Advocacy*  
Kathy Boyette  
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Hunter M. Windle  
*Secretary*

RE: Covington Quarry Proposal, Benton County, Arkansas

Dear Mr. Watkins:

I stand by my assertion that the National Register-listed portion of Old Wire Road from Stoney Point Road to Frisco Cemetery Road is the longest and best-preserved section of the Northern Route of the Trail of Tears in Arkansas. Although the road has carried automobile traffic for many years, this particular section retains high integrity of location, design, setting, materials, workmanship, feeling, and association per the requirements set forth in the National Register Criteria for Evaluation determined by the National Park Service.

Julie Bridgforth  
Denise Ennett  
Mike Kinkade  
Tim Maddox, AIA  
Duncan McKinnon, Ph.D.  
Edward Salo, Ph.D.  
W. Chris Sheppard  
Mandy Welch

*Ex-Officio*

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Scott Kaufman  
Carl H. Miller, Jr.  
Cheri Nichols  
Greg Phillips  
Debbie Shea  
Hon. John Thurston  
David Ware, Ph.D.  
Charles Witsell, Jr., FAIA

According to the property's National Register of Historic Places Registration Form, the Cross Hollow segment "is a well-defined nineteenth-century roadbed. Its location has had an important impact throughout the state's history and appears very much as it would have during the nineteenth century. It is approximately two miles in length, twenty feet wide, and is of earth and gravel base." While Benton County has graded and maintained the road, its overall appearance would be recognizable to a nineteenth century traveler. Additional heavy truck traffic will degrade the road at a faster rate, ultimately resulting in a negative impact on the segment's integrity.

Preserve Arkansas is a nonprofit organization that exists to educate and advocate for the preservation of our state's historic resources. As such, we do not have permitting authority. If the proposed quarry project involves federal funds, permitting, or licensing, it could be subject to Section 106 Review, which is done at the Arkansas Historic Preservation Program, an agency of the Department of Arkansas Heritage.

Sincerely,

Rachel Patton  
Executive Director

# CITY OF LOWELL

CHRIS MOORE, MAYOR

December 3, 2019

Benton County Planning Board

To whom It May Concern,

The Covington Rock Quarry which is seeking project approval from the Benton County Planning Commission to operate a rock quarry at 1425 N Old Wire Road, is located within the planning area boundary of the City of Lowell.

According to Arkansas State Code 14-56-413, cities having a population of 8,000 or more shall have the authority to administer and enforce planning ordinances outside their corporate limits. The City of Lowell is aware that the Arkansas State Code also states that the populations will be based on the most recent federal decennial census. However, with the most recent census estimate by the United States Census Bureau in 2018 showing Lowell's population to be 9,422, and the next decennial census scheduled for 2020, it is understood that the authority of the City of Lowell will soon change and the City will have all rights to enforce planning ordinances in the planning area boundary, up to one mile outside the City limits of Lowell.

Given these circumstances, and the fact that the proposed quarry is located less than one mile outside the City limits of Lowell, the City would like to request that the Benton County Planning Board deny the application of a rock quarry located in the Lowell planning area boundary with the understanding that City code and authority will be adjusted as of the 2020 census and the City, under its authority, would not allow a rock quarry within it's zoning district due to the use of the project not being an allowed use within Lowell and the incompatibility with the existing agricultural and residential land use. According to Section 16-145 of the Lowell Land Development Code, mining or quarrying is NOT an allowed use within the Lowell zoning district.

It is the opinion of most Lowell residents located in the vicinity of the quarry, that the nature of the project associated with blasting and heavy truck traffic, would have a negative impact on the general quality of life and on public safety.

*216 N. Lincoln Street  
Lowell, AR 72745*

*Phone (479)770-2185  
fax (479)770-2106*

# CITY OF LOWELL

CHRIS MOORE, MAYOR

On December 10<sup>th</sup>, 2018, the Lowell City Council passed resolution #18-54, declaring opposition to the proposed Covington quarry plan and location.

As a city, it is our duty to protect our citizens, which includes their safety and quality of life. The potential negative impact from increased truck traffic and the potential damage that the truck traffic would create on Lowell infrastructure and the potential negative impact from rock crushing facilities and blasting from the quarry is not something that Lowell would ask our citizens to endure. In the best interest of our citizens, the City of Lowell would like to request that the Benton County Planning Commission deny the proposal of a limestone quarry at 1425 N Old Wire Road.

Sincerely,

Chris Moore  
Mayor  
City of Lowell



*216 N. Lincoln Street  
Lowell, AR 72745*

*Phone (479)770-2185  
fax (479)770-2106*

# BEAVER WATERSHED ALLIANCE

Ron Homeyer, Chair  
Benton County Planning Board  
November 7, 2018

Subject: Comments on Covington Quarry Site Plan Review, SPR 18-252

Dear Mr. Homeyer and members of the Benton County Planning Board:

My name is Clell Ford and I am the Executive Director of the Beaver Watershed Alliance (BWA). The BWA is a 501(c)3 organization formed in 2011 to proactively protect, maintain, and enhance the water quality of Beaver Lake and the integrity of its watershed through outreach and education, voluntary best management practice implementation, and scientific investigation. BWA represents a diverse stakeholder group from conservation, education, water utilities, technical and science, agriculture, recreation, business, and local government groups working together for the goal of clean water. We are governed by the 2012 Beaver Lake Watershed Protection Strategy, which describes our goals and the US EPA approved nine-element management plan that we are using to achieve those goals.

I am writing to you today with comments on the proposed Covington Quarry Site Plan (SPR 18-252). Unfortunately I have an unavoidable conflict with this meeting and cannot attend. I do have comments regarding the proposed changes to land use at this site that I am submitting for your consideration. My review of the available documents indicates that this request is to modify the current site use from a 30 acre red dirt mine to, at full development, a 58 acre limestone quarry.

Regarding drainage and stormwater runoff to the Beaver Lake, though the plans provided per Chapter 4, section 10.B (Benton County Planning and Development Regulations) do indicate there will not be an increase in overall discharge from the project, they do not address peak velocity impacts from alterations to natural drainage. The primary source of contamination that threatens Beaver Lake is sediment caused by erosion from streams, and from offsite discharge from land disturbing activities. The discharge outlet from the quarry (identified as outlet 1 in the documents) is located less than 8,500 feet from Beaver Lake; increased flow velocities due to changes in the land use this close to the lake have caused tremendous amounts of erosion in other parts of the watershed. There are three water utilities downstream from this location on Beaver Lake, providing drinking water to 180,000 residents of Northwest Arkansas. Increases in sediment load to the lake may have an unforeseen impact on their operations and, while they will continue to provide safe drinking water to their customers, increases in sediment loading will impact the cost of water treatment. Protection of Beaver Lake as a drinking water source is one of our top priorities. Additional protective and monitoring measures, beyond those of the Arkansas Department of Environmental Quality's Industrial Stormwater General Permit is needed protect the quality of Beaver Lake.

The site is adjacent to agricultural, low density residential and open spaces land uses. Though it is not clear into which category of land use a limestone quarry falls, a review of the land use compatibility in Table 6.5 of the Planning and Development Regulations of Benton County would be helpful in clarifying this concern.

Once developed, heavy truck traffic from the quarry will increase dramatically. There is no indication from the documents provided that a study of the impacts on the Benton County and state roads resulting from this land use change has been completed. If so, a copy of that would be greatly appreciated, particularly if road improvements are needed.

# BEAVER WATERSHED ALLIANCE

Finally, this site lies close to the Northern Route of the Trail of Tears, a potential source of significant cultural resources for both Benton County, the state and the Cherokee Nation. Additionally, a Civil War encampment known as the Cross Hollow Site which is eligible for the National Register of Historic Places is within a mile of the location. If it has not already been completed, a cultural resources survey may be needed for this area. Additionally, if additional permitting from the U.S. Army Corps of Engineers or other Federal agency becomes necessary in the future due to these land impacts, a historical and cultural review governed by Section 106 of the National Historic Preservation Act may be required. The applicant should be made aware of the potential for future federal requirements prior to commencing with additional activities on this site.

I appreciate the opportunity to provide these comments to you. Please do not hesitate to contact me if you have questions or concerns about my comments. I do regret that I cannot attend the meeting in person.

Sincerely,



Clell J. Ford  
Executive Director, Beaver Watershed Alliance  
e-mail: [clell@beaverwatershedalliance.org](mailto:clell@beaverwatershedalliance.org)  
cell: (479)301-8297





PETERS & ASSOCIATES  
ENGINEERS, INC.

December 3, 2018

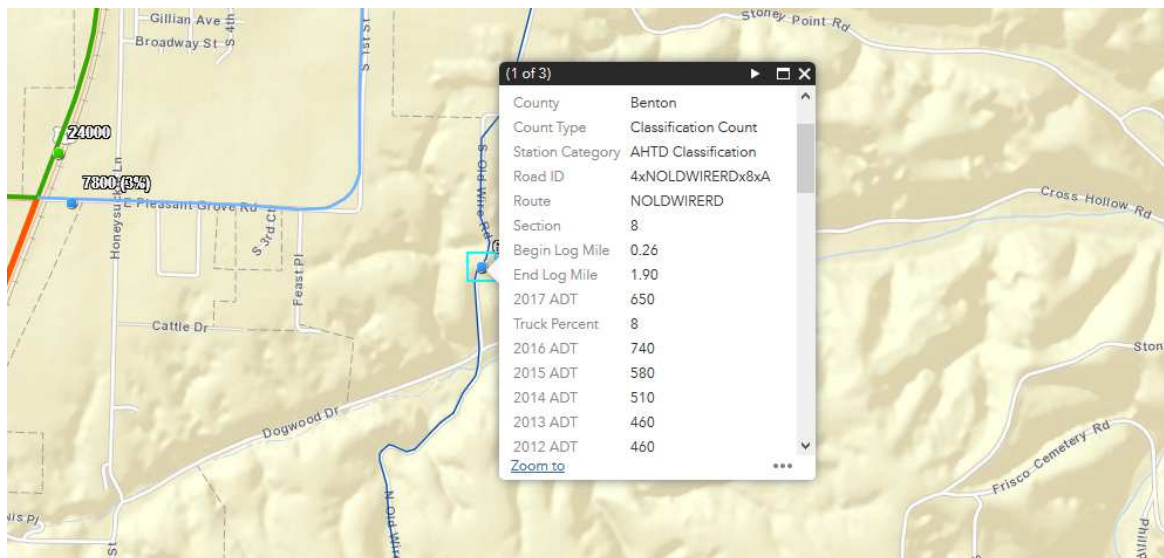
Mr. Ken Booth  
Sand Creek Engineering  
1610 NW 12th Street  
Bentonville, AR 72712

RE: P1957  
Traffic Assessment  
Cross Hollow Quarry  
Cross Hollow Road and Old Wire Road  
Lowell, Arkansas

Dear Mr. Booth:

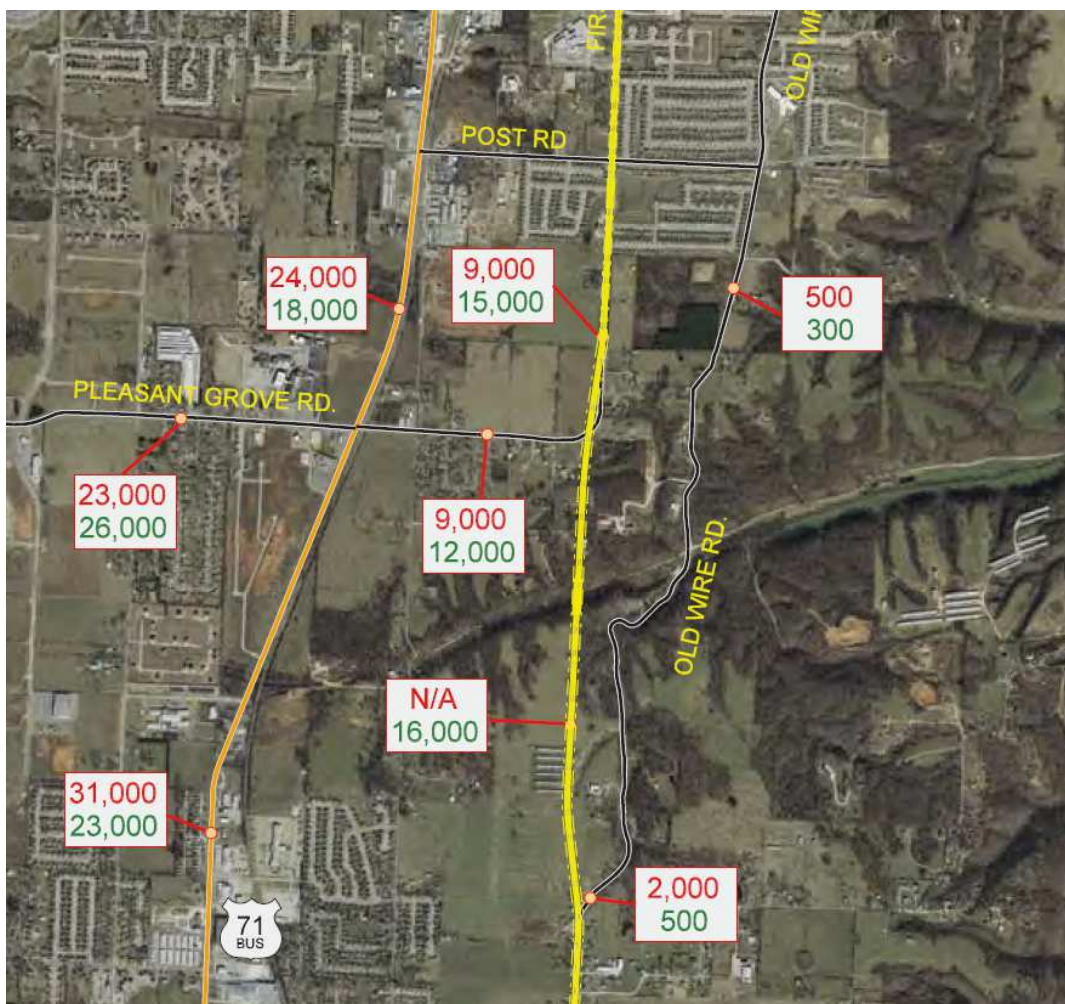
As requested, Peters & Associates Engineers, Inc. has prepared this traffic assessment related to a proposed rock quarry operation at an existing red dirt mine in Benton County, Arkansas. The only point of access to serve the proposed quarry operation will be on Old Wire Road south of Cross Hollow Road.

Existing traffic volumes in the vicinity of the site have been researched from Arkansas Department of Transportation (ARDOT) and City of Lowell available data. It was found that current volumes on Old Wire Road at Cross Hollow Road are approximately 650 vehicles per day (two-way volume) per ARDOT 2017 published count data as shown below. Old Wire Road in the vicinity of Cross Hollow Road is currently unpaved (approximately 1,000 to the north of Cross Hollow Road and approximately 5,000 feet to the south of Cross Hollow Road). The width varies on the unpaved portions of these sections of Old Wire Road with some areas less than 20 feet wide. The paved sections to the north and to the south of the site are currently approximately 20 feet wide.



ARDOT 2017 Average Daily Traffic (ADT)

There is a roadway improvement project by ARDOT (Job 090373) that is currently under construction. This ARDOT improvement project planning started in 2012 and was bid for construction in 2015. This ARDOT project includes improvements to construct an eastern north-south corridor in northwest Arkansas, extending existing Highway 265 from Highway 264 north to Highway 94, in the Cities of Springdale, Bethel Heights, Lowell, and Rogers in Benton County. This includes the immediate vicinity (just to the west) of the Cross Hollow Quarry. The roadway improvement project in the vicinity of this site is referred to as the 1<sup>st</sup> Street improvements and include construction of a three-lane roadway to also include bike lanes. The 1<sup>st</sup> Street improvements are expected to reduce the traffic volumes on Old Wire Road from the existing 2017 average daily traffic (ADT) of approximately 650 vehicles per day to a projected year 2035 ADT of 500 vehicles per day just south of the site and 300 vehicles per day just north of the site, as shown by the green volumes on the ARDOT environmental assessment for the project as depicted on the graphic below.



ARDOT Job 090373 in Vicinity of Site

(NOTE: Red volumes depict 2035 projected ADT volumes without the 1<sup>st</sup> Street Project.  
Green volumes depict 2035 projected ADT volumes with the 1<sup>st</sup> Street Project.)

Trip generation for heavy industrial or other similar uses in the ITE Trip Generation Manual do not represent the expected quarry operations. Per information provided by the developer, it is estimated that approximately 35 to 50 trucks a day will access the quarry. Trucks will arrive empty, and leave the site loaded. Haul trucks are expected to be dump trucks. Although the projected truck traffic is low, peak hour truck traffic is expected in the initial hour as the trucks arrive for the first load of the day. The timing of arrivals and departures throughout the day will be varied based on the location of the deliveries and demand for the product. Even with the addition of the expected site-generated traffic of only 50 vehicles per day and when combined with the projected year 2035 volumes daily volumes are expected to remain very low on these sections of Old Wire Road (less than 350 vehicles per day north of Cross Hollow Road and less than 550 vehicles per day south of Cross Hollow Road).

An assessment of projected traffic conditions is as follows:

Short-Term Recommendation

The unpaved section of Old Wire Road can handle the additional traffic expected to be associated with the site development if the entire unpaved road section is at least 20 feet wide (allowing for two 10-foot travel lanes) and with some areas re-graded to the north and south of Cross Hollow Road to the existing paved roadway sections. This improved two-lane roadway would add safety and allow adequate traffic operations.

Long-Term Recommendation

In the long-term, the developer should work with Benton County to eventually pave the existing unpaved section of Old Wire Road to a minimum of 20 feet wide (allowing for two 10-foot marked travel lanes). This would add additional safety and continue to allow adequate traffic operations.

In conclusion, based on the high-end estimate of only 50 additional vehicles (trucks) per day expected to be associated with the site, the two-lane Old Wire Road improved as recommended will be able to adequately handle the existing plus site-generated traffic volumes at the site with negligible impact in traffic operations. Old Wire Road in the vicinity of the site can handle the additional traffic expected to be associated with the site development with the recommended short-term improvements (which are expected to be made within the existing right-of-way). In the long-term, the paved roadway of Old Wire Road will adequately serve existing and site-generated traffic volumes for many years.

Please let me know if there are any questions or if you need additional information.

Sincerely,  
**PETERS & ASSOCIATES, ENGINEERS, INC.**

**Ernest J. Peters, P.E.**



President



12-3-2018