

**COUNTY BOARD OF ADJUSTMENT**  
MINUTES of Meeting No. 334  
Tuesday, March 18, 2008, 1:30 p.m.  
County Commission Room  
Room 119  
County Administration Building

**MEMBERS PRESENT   MEMBERS ABSENT   STAFF PRESENT   OTHERS PRESENT**

Dillard	Charney, Chair	Alberty	West, Co. Inspector
Hutson		Butler	
Tyndall, Vice Chair			
Walker			

The notice and agenda of said meeting were posted at the County Clerk's office, County Administration Building, Wednesday, March 12, 2008 at 10:21 a.m., as well as in the Office of INCOG, 201 W. 5<sup>th</sup> St., Suite 600.

After declaring a quorum present, Vice Chair Tyndall called the meeting to order at 1:30 p.m.

Mr. Alberty read the rules and procedures for the County Board of Adjustment Public Hearing.

\*\*\*\*\*

**MINUTES**

On **MOTION** of **Walker**, the Board voted 4-0-0 (Tyndall, Walker, Dillard, Hutson "aye"; no "nays"; "abstained"; Charney "absent") to **APPROVE** the Minutes of February 19, 2008 (No. 333).

\*\*\*\*\*

**UNFINISHED BUSINESS**

**Case No. 2056**

**Action Requested:**

Special Exception under Section 310. Table 1, to permit dredging and removal and processing of sand, gravel, and soil, and mineral processing under Use Unit 24, Section 310, located: East side of South 129<sup>th</sup> East Avenue ¼ - ½ mile Southeast 141<sup>st</sup>.

**Presentation:**

**Wayne Alberty**, with INCOG, stated this case of Charles Norman's has been the subject of several meetings and discussion. At the Board's direction, legal council prepared the final document for adoption. Mr. Tyndall added the members have reviewed them.

**Board Action:**

On **Motion** of **Hutson**, to **APPROVE** a Special Exception under Section 310. Table 1, to permit dredging and removal and processing of sand, gravel, and soil, and mineral processing under Use Unit 24, Section 310, submitted by Anchor Stone Company, in Tulsa County Board of Adjustment Case No. 2056, Hutson further moved that John Tyndall, the acting Chair be authorized to complete Findings by entering the attendance of the members present on page one of the Findings document; on page nine of the Findings document, the motion made and seconded by whom, and the roll call vote of the members of the Board and sign on behalf of the Board, the Board's formal Findings, setting out the basis for granting the original Special Exception in TCBOA Case 2056, which are subject to and conditioned upon appropriate conditions and safeguards as contained in these Findings, which will be so recorded, seconded by **Dillard**, Mr. Tyndall asked the Board members if there was any further discussion.

**Charles Norman**, on behalf of the applicant, suggested the findings should be read into the record. Mr. Tyndall found Mr. Norman out of order.

Mr. Hutson responded that he did not consider it beneficial to take the time to read the lengthy findings. He added that the findings would be available to everyone interested, as part of the record. He stated they could pick them up on the following day at the INCOG office. Mr. Dillard noted a typographical error on page four.

On **Amended Motion** of **Hutson**, the Board voted 4-0-0 (Tyndall, Walker, Dillard, Hutson "aye"; no "nays"; "abstained"; Charney "absent") to **APPROVE** a Special Exception under Section 310. Table 1, to permit dredging and removal and processing of sand, gravel, and soil, and mineral processing under Use Unit 24, Section 310, submitted by Anchor Stone Company, in Tulsa County Board of Adjustment Case No. 2056, Hutson further moved that John Tyndall, the acting Chair be authorized to complete the Findings by entering the attendance of the members present on page one of the Findings document; on page nine of the Findings document, the motion made and seconded by whom, and the roll call vote of the members of the Board, and sign on behalf of the Board, the Board's formal Findings, setting out the basis for granting the original Special Exception in TCBOA Case 2056, which are subject to and conditioned upon appropriate conditions and safeguards as contained in these Findings; in addition to make the correction of the word "he" to "the" hours of operation in Section 11, Item B, page 4. A copy of these Findings is attached to these minutes.

Mr. Dillard noted in the Findings, it was indicated they would request a vote by roll call. The Recording Secretary called the roll and recorded the votes as follows:

1 Roland Walker, "aye";

2 John Tyndall, "aye";

3 Gene Dillard, "aye";

4 Dana Hutson, "aye";

and

5 David Charney, Chair, was absent, **APPROVED** by a 4-0-0 vote, on the following described property:

Beg. at the SW/c NW/4 NW/4 of Section 16, T-17-N, R-14-E, and extending E 1,320.00', thence S a distance of 1,312.00' thence W a distance of 240.00' extending N 1° E of true N a distance of 1,122.00', extending W a distance of 1,105.00', thence N a distance of 190.00' to the POB; AND Beg. at a point 1,085.00' E of the SW/c NW/4 of Section 16, T-17-N, R-14-E, thence 33.00' S along a line running 1° W of true S, extending W on a line 1° N of W a distance of 550.00' thence due S 1,290.00' thence E a distance of 1,845.00' to a point in the Arkansas River, then extending northward 1,300.00' along a line 30° E of north to a point in the Arkansas River, then extending northward 190.00' along a line 20° E of N to a point in the Arkansas River, thence 2,000.00' W to the POB; AND Beg. at a point 970.00' E of the SW/c of Section 16, T-17-N, R-14-E, thence E a distance of 1,110.00' to a point in the Arkansas River, then extending northward 1,350.00' along a line 13° E of N to a point in the Arkansas River, thence W a distance of 1,045.00' to a point on the W bank of the Arkansas River, then S a distance of 1,368.00' along a line running 15° W of S to the POB, Tulsa County, State of Oklahoma.

\*\*\*\*\*

### **NEW APPLICATIONS**

#### **Case No. 2290**

##### **Action Requested:**

Special Exception to permit church use (Use Unit 5) in an AG district (Section 301), located: 4008 South 137<sup>th</sup> Avenue West.

##### **Presentation:**

**Wallace Wozencraft**, 1619 South Boston, Tulsa, Oklahoma, stated they are developing a one story church with about 7,600 square feet. The sanctuary seating is for about 200 people. They plan to have a family life center, classrooms, and administrative offices. There will be ample parking to meet the zoning code. There will be a detention pond. The property is zoned AG.

**Comments and Questions:**

Mr. Hutson asked the size of the sanctuary. He responded 58' x 90' includes the baptistery, choir room, dressing room, and two small classrooms. Mr. Wozencraft also informed the Board that the neighbors have shown support.

**Interested Parties:**

There were no interested parties who wished to speak.

**Board Action:**

On **Motion** of **Walker**, the Board voted 4-0-0 (Tyndall, Walker, Dillard, Hutson "aye"; no "nays"; "abstained"; Charney "absent") to **APPROVE** a Special Exception to permit church use (Use Unit 5) in an AG district (Section 301), finding it will be in harmony with the spirit and intent of the code and will not be injurious to the neighborhood, or otherwise detrimental to the public welfare, on the following described property:

S/2 LT 5, BOWLES' ACRES;Tulsa County, State of Oklahoma

\*\*\*\*\*

**Case No. 2291**

**Action Requested:**

Variance of the minimum required land area per dwelling unit from 2.1 acres to 2 acres (Section 330) to permit a lot split in the AG district, located: 14301 East 136<sup>th</sup> Street North.

**Presentation:**

**Mike Marrara**, 2001 South 114<sup>th</sup> East Avenue, Tulsa, Oklahoma, stated they needed the variance to obtain a lot-split. They proposed to have two dwellings on the property and were just short of the required 2.1 acres. He stated the size, and configuration of the property, plus a creek runs across the front, all of which are the hardship.

**Interested Parties:**

There were no interested parties who wished to speak.

**Board Action:**

On **Motion** of **Walker**, the Board voted 4-0-0 (Tyndall, Walker, Dillard, Hutson "aye"; no "nays"; "abstained"; Charney "absent") to **APPROVE** a Variance of the minimum required land area per dwelling unit from 2.1 acres to 2 acres (Section 330) to permit a lot split in the AG district, finding the size of the tract is one tenth of an acre too small, being a minor difference of the requirement, on the following described property:

W346 E838.1 S516.6 SE SE LESS S16.5 THEREOF FOR RD SEC 28 22 14  
Tulsa County, State of Oklahoma

\*\*\*\*\*

There being no further business, the meeting adjourned at 1:55 p.m.

Date approved: 4-15-08

John N. Fitzgerald  
Chair

TULSA COUNTY BOARD OF ADJUSTMENT  
CASE NO. \_\_\_\_\_  
OFFICIAL RECORD: EXHIBIT \_\_\_\_\_  
ENTERED IN THE \_\_\_\_\_  
MINUTES OF THE TULSA COUNTY BOARD OF ADJUSTMENT

TULSA COUNTY BOARD OF ADJUSTMENT  
CASE NO. 2056  
OFFICIAL RECORD: EXHIBIT A-1  
ENTERED IN THE 3-18-08  
MINUTES OF THE TULSA COUNTY BOARD OF ADJUSTMENT

**BEFORE THE TULSA COUNTY BOARD OF ADJUSTMENT  
STATE OF OKLAHOMA**

**IN RE APPLICATION )  
OF ANCHOR STONE COMPANY )  
FOR SPECIAL EXCEPTION )**

**TCBOA Case No. 2056**

**FINDINGS**

Now on this 18<sup>th</sup> day of March, 2008, pursuant to Section 1680.3 of the Tulsa County Zoning Code (hereinafter "the Code" ), the Tulsa County Board of Adjustment (hereinafter "the Board") hereby enters the following findings with respect to the Application for Special Exception submitted by Anchor Stone Company (hereinafter "Anchor Stone") that would permit dredging and removal and processing of sand and gravel from the bed of the Arkansas River on the East side of South 129<sup>th</sup> East Avenue, South of East 131<sup>st</sup> Street South in the County of Tulsa, State of Oklahoma. Present are ( ) David Charney, Chair; (  ) John Tyndall, Vice Chair; (  ) Roland Walker, Secretary; (  ) Gene Dillard; and (  ) Dana Hutson.

**Summary of Proceedings**

1. Anchor Stone submitted an application for Special Exception from the Principle Uses Permitted in an Agricultural District under Section 310 of the Tulsa County Zoning Code, Use Unit 24, Mining and Mineral Processing, to permit the removal and processing of sand and gravel from the bed of the Arkansas River (hereinafter "the Application"). (See Original Application, Record of the Board of Adjustment of Tulsa County, Oklahoma, pertaining to Case Number CBOA 2056 [hereinafter "the Record"], at page 166).

2. Adequate notice, including notice to nearby homeowners, was provided pursuant to the Code for all meetings at which the subject Application was considered. (See the Record at pages 8 & 174-177).
3. The Application was first set on the Board agenda for August 19, 2003. At that date, Anchor Stone requested that the Application be continued until September 16, 2003 to provide an opportunity for the City of Broken Arrow to review the Application, as the property included in the Application is within the annexation fence line of Broken Arrow. (See the Record at pages 5-6)
4. Anchor Stone submitted an Amended Application, prepared by Enercon Services, Inc., on September 2, 2003. (The Record at pages 18-26).
5. On September 12, 2003, Anchor Stone submitted Amended Exhibits A, B and C to their Amended Application. (See the Record at pages 12-15).
6. The Application was amended to show compliance with the Tulsa County flood-plain regulations after Anchor Stone reviewed information by the U.S. Army Corps of Engineers and Flood Insurance Maps published by the Federal Emergency Management Administration (FEMA). (See the Record at page 19).
7. On September 8, 2003, the Broken Arrow Board of Adjustment conducted a referral hearing on the Application, and recommended to the Tulsa County Board of Adjustment that the Application be approved subject to the following conditions:
  - a. That a licensed engineer shall stamp all reports requiring an engineering study.

- b. That if any deterioration of the sandbar protecting the Indian Springs Sports Complex occurs, Anchor Stone will correct the damage.
- c. That Anchor Stone shall provide annually to the City of Broken Arrow and Tulsa County aerial surveys evaluated by an independent engineer, for the first five (5) years of operation. After the first five (5) years, aerial surveys shall be provided every three (3) years thereafter.
- d. That the Tulsa County Board of County Commissioners consider a resolution to limit the gross vehicle weight on 129<sup>th</sup> E. Avenue between 131<sup>st</sup> Street and 141<sup>st</sup> Street to ten (10 ) tons.

(See the Record at pages 198-202)

- 8. On September 16, 2003 the Board conducted a hearing on the Application as Amended. (See the Record at pages 7-11).
- 9. The evidence presented by Anchor Stone to the Board and considered in connection with the Board's decision on this Application as Amended included the following: a Site Plan (Official Exhibit A-1, Record at page 12); Anchor Stone's Amended Application (Official Exhibit A-2, Record at pages 18-26 ); a Sandbar Evaluation report (Official Exhibit A-3, Record at pages 27); a Water Management Analysis report (Official Exhibit A-4, Record at 56); a Noise Survey report (Official Exhibit A-5, Record at page 59-67); and letters to INCOG and the District 3 Commissioner (Official Exhibit A-6, Record at page 68).
- 10. The Board also considered evidence and testimony from other interested parties, including a letter from Tulsa County Engineer Ray Jordan (Official Exhibit A-8, Record at page 73); a book of exhibits submitted by Sam Perryman, whose residence (the "Perryman residence") is located approximately 1,300 feet to the



northwest of the center of the proposed site (Official Exhibit A-9, Record at pages 8 & 74); an independent engineering report submitted by Sam Perryman (Official Exhibit A-11, Record at page 99); a number of photos of the area following an August 30, 2003 flooding event (Official Exhibit A-10, Record at pages 93-98); a Tulsa World article (Official Record Exhibit A-7, Record at page 71-72); a Petition Against Case No. 2056 (Official Exhibit A-12, Record at page 105); and a Site Map of Anchor's South Delaware Avenue Sand Plant (Official Exhibit A-13, Record at page 112).

11. During the course of the September 16, 2003 hearing, Charles Norman, Attorney on behalf of Anchor Stone, agreed to the following:

- a. The recommendations of the Broken Arrow Board of Adjustment. (Record at page 10).
- b. The hours of operation would be limited to 7:00 a.m. to 5:00 p.m. Monday through Friday, with an extension of those hours for up to six days during July, August and September (peak business months), for unusual demand, or lost production days due to the high water. (Record at page 10).
- c. The scale house would be the only structure allowed in the flood plain; that the scale house was a manufactured building, not a mobile home. (Record at page 10).
- d. There would be no service or maintenance facilities on site except for fueling the on-site equipment, and that the fuel facilities would be on stilts or sleds for ease of moving at times of high water. (Record at page 10).

### Factual Findings

In accordance with the Order of the Tulsa County District Court in CJ-2003-6125 remanding the matter to the Board, and consistent with the Court of Civil Appeals' Opinion in this case, the current members of the Board have reviewed the Record of this case, including the Minutes of the August 19, 2003 and September 16, 2003 meetings during which the Application was discussed. The Board has also reviewed the transcript, all exhibits and evidence submitted at the September 16, 2003 meeting, and has discussed the matter with its attorney in executive session. Based upon the Board's review of the Record, the exhibits, and the minutes of the previous hearings, the Board hereby finds:

1. That the Tulsa County Board of Adjustment is an ongoing governmental entity, and is an administrative body with an institutional life that transcends the tenure of any of its members. Upon the advice of counsel, we find that the current member of the Board who was not a member in 2003 and the members of the Board who were not present at the September 16, 2003 hearing, when the Special Exception sought by Anchor Stone was granted, may participate in this decision, without the need for further hearings in that all parties in the original presentation for or against the Application were afforded ample opportunity to develop and present their positions and objections, on the condition that those members of the Board participating in this decision review the record of the proceedings on this Application.

2. That the Record contains the sufficient information upon which the current Board can rely in reaching a decision on whether or not to grant the Special Exception sought for in the Application as Amended.

3. That the property adjacent to the site, including the entire square mile

south of East 141<sup>st</sup> Street and between South 129<sup>th</sup> East Avenue and South Garnett Road is located within the 100-year flood-plain (Zone AE- Floodway of the Arkansas River), as determined by the Flood Insurance Rate Map (FIRM), Panel 630 for Tulsa County (effective 9/22/99), and no further residential or commercial development will be permitted within the area. The area included in the 100-year flood-plain is denoted by the yellow line on Amended Exhibit A to Anchor Stone's Application. (Record at page 13). The entire area around the proposed plant site has on a number of occasions flooded. (See Exhibits submitted by Perryman, Record at pages 93-98), which has resulted in the deposit of significant amounts of sand in the area around the plant site. (See Record at 23).

4. That exhibits submitted by protestant Perryman show that there are a number of active and inactive sand plants in the immediate surrounding area of the proposed sand plant, including an active sand plant located directly to the northeast of the Perryman residence. (See Record at pages 75 & 77). In addition, the Anchor Stone plant will be limited to extraction of sand from the bed of the Arkansas River. No open-pit operations will be conducted on Anchor Stone's site.

5. That the nearest residence to the center of Anchor Stone's plant operations is located 1,050 feet away. (Record at page 8). The occupants of that residence did not appeal or challenge the original granting of Anchor Stone's application. The next nearest residences are the Perryman's, which is located 1,300 feet to the northwest of the center of the plant (Record at page 8), and the Bagwell residence, which is located approximately 2,200 feet to the southwest of the plant center. (See Amended Exhibit A to Anchor Stone's Application, Record at 13).

6. That the Sandbar Evaluation report submitted to the Board by Anchor Stone, and prepared by Enercon Services, Inc., concluded that the operation of the proposed sand plant on South 129<sup>th</sup> East Avenue will have no adverse effect on the Broken Arrow Indian Springs Sports Complex. (See Record Exhibit A-3, Record at pages 27-55, specifically at pages 30& 37). The sandbar report also concludes that the operation of the proposed plant will have no impact on Haikey Creek. (Record at page 37).

7. That the Noise Survey report submitted to the Board by Anchor Stone, and prepared by Enercon Services, Inc., indicates that the dredge motor at the proposed plant will not be heard from any of the site boundaries, including the closest residence (1,050 feet from the plant). (See Record Exhibit A-5, Record at pages 59-67). The Noise Survey report conclusion was made without considering the earthen berms, which will absorb the sound or project it upwards. (Record at page 64). However, the report does indicate that the Mine Safety and Health Administration mandated backup alarms may, under certain circumstances, be audible from the site boundaries. (Record at page 64).

8. That there has been an increasing shortage of sand since the closure of the Keystone Dam. The construction of various low water dams in the area have added to this problem. The best solution to provide enough sand for residential and commercial use at a feasible cost is to obtain sand from natural sand deposits. (See Record at page 8).

9. That sand will only be removed from the bed of the river during the sand dredging proposed by Anchor Stone. No sand will be removed above the bank of the river. (See Record at pages 8, 20-21).

10. That a six feet earthen berm with a six feet cedar plank fence on top of the

berm will be constructed around the north, west and south side of the plant area. The berm will have breaks for equalization of water levels during periods of flood and a drainage swale. The berm's location is shown on Amended Exhibits B and C to Anchor Stone's Application (Record at pages 14-15). The dimensions of the berm and plank fence are shown on Amended Exhibit D (Record at page 26).

11. That, in response to objections by certain residents along both sides of South 129<sup>th</sup> East Avenue north of East 141<sup>st</sup> Street at least one-half mile north of the plant site, Anchor Stone has agreed to a restriction on the special exception to prohibit its sand trucks from using South 129<sup>th</sup> East Avenue north of East 141<sup>st</sup> Street and to require its trucks to turn west from South 129<sup>th</sup> East Avenue to East 141<sup>st</sup> Street, then travel west to South Garnett and then north to East 131<sup>st</sup> Street from which Anchor Stone trucks will have access to the arterial street system and the Broken Arrow extension of the Creek Turnpike. Anchor Stone should not be expected to control the routes traveled by trucks belonging to sand purchasers. (Record at page 10 and Record Exhibit A-6 at page 68).

12. That Anchor Stone has agreed to help with the cost of the maintenance of the proposed truck route by providing Tulsa County road aggregate as required by Tulsa County to maintain South 129<sup>th</sup> East Avenue from the sand plant entrance and exit north to East 141<sup>st</sup> Street, East 141<sup>st</sup> Street from South 129<sup>th</sup> East Avenue to South Garnett Road and South Garnett Road from East 141<sup>st</sup> Street to East 131<sup>st</sup> Street. (Record Exhibit A-6, Record at pages 68 & 117).

13. Based upon these findings, the Record before the Board, the comments of protestants at the September 16, 2003 hearing, and other materials on file with the Board related to this Application, the Board finds that approval of the Special Exception sought

by Anchor Stone (a) will be in harmony with the spirit and intent of the Tulsa County Zoning Code, and (b) will not be injurious to the neighborhood, or (c) otherwise be detrimental to the public welfare when conditions and safeguards are imposed.

**DECISION**

Upon motion of Hudson and the second by Dillard, motion was made to Approve a Special Exception on the following described land:

Beg. at the SW/c NW/4 NW/4 of Section 16, T-17-N, R-14-E, and extending E 1,320.00', thence S a distance of 1,312.00' thence W a distance of 240.00' extending N 1° E of true N a distance of 1,122.00', extending W a distance of 1,105.00', thence N a distance of 190.00' to the POB; AND Beg. at a point 1,085.00' E of the SW/c NW/4 of Section 16, T-17-N, R-14-E, thence 33.00' S along a line running 1° W of true S, extending W on a line 1° N of W a distance of 550.00' thence due S 1,290.00' thence E a distance of 1,845.00' to a point in the Arkansas River, then extending northward 1,300.00' along a line 30° E of north to a point in the Arkansas River, then extending northward 190.00' along a line 20° E of N to a point in the Arkansas River, thence 2,000.00' W to the POB; AND Beg. at a point 970.00' E of the SW/c of Section 16, T-17-N, R-14-E, thence E a distance of 1,110.00' to a point in the Arkansas River, then extending northward 1,350.00' along a line 13° E of N to a point in the Arkansas River, thence W a distance of 1,045.00' to a point on the W bank of the Arkansas River, then S a distance of 1,368.00' along a line running 15° W of S to the POB, Tulsa County, State of Oklahoma.

The Board voted David Charney, \_\_\_\_\_; John Tyndall, Aye; Roland Walker, Aye; Gene Dillard Aye; and Dana Hutson Aye ( 4, "aye"; 0 "nay"; 0 "abstain") to approve a Special Exception under Section 310, Table 1 of the Tulsa County Zoning Code to permit Use Unit 24, Mining and Mineral Processing, for the dredging and removal and processing of sand and gravel only on the above-described

property from the bed of the Arkansas River, provided that the grant of the Special Exception is subject to, and conditioned upon, the following:

- A. Anchor Stone shall operate its facilities in accordance with applicable local, state and federal laws and regulations.
- B. Anchor Stone shall submit applications and obtain the appropriate permits from the Oklahoma Department of Mines (Non-Coal Mining Permit) and the Oklahoma Division of Water (Point Source Oklahoma Pollution Discharge Elimination System Permit).
- C. Anchor Stone shall file appropriate documentation with the Oklahoma Corporation Commission for the above ground fuel storage tanks that will be installed to fuel the dredge and mobile mining equipment.
- D. Anchor Stone shall prepare and implement an approved Spill Prevention, Control and Countermeasures (SPCC) Plan.
- E. Anchor Stone shall arrange for installation of utilities.
- F. Anchor Stone shall prepare and implement a Storm Water Pollution Prevention Plan (SP3).
- G. Anchor Stone shall comply with the following recommendations of the Broken Arrow City Board of Adjustment:
  - 1. A licensed engineer shall stamp all reports requiring an engineering study.
  - 2. If any deterioration in the sandbar protecting the Broken Arrow Indian Springs Sports Complex occurs, Anchor Stone will correct the damage.
  - 3. Annually Anchor Stone shall provide to the City of Broken Arrow and Tulsa County aerial surveys, evaluated by the independent engineer, for the first five (5) years of operation. After the first five (5) years, aerial surveys shall be provided every three (3) years thereafter.
- H. The plant shall be operated in accordance with the Amended Operational Plan contained in of Anchor Stone's Amended Application, which includes the following
  - 1. The installation of a series of sedimentation ponds, a secondary containment area for motor fuel storage tanks, a shop for repairing mobile equipment, an office trailer, a truck scale and scale house, and an access road to provide access to the rear and north of the Perryman residence to South 129<sup>th</sup> East Avenue. The locations of these facilities and the access

shall be as shown in the Facility Site Plan, Amended Exhibit C to the Application.

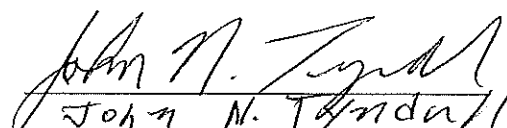
2. Excess water shall be diverted to the sedimentations ponds in order to settle suspended solids prior to discharge into the Arkansas River.
  3. Under low water conditions sand within the river bed along the west bank of the Arkansas River may be removed by front-end loader and transported by truck to the sand plant for processing.
  4. Mobile equipment shall normally be parked in the vicinity of the maintenance shop at the conclusion of the workday. Lubricants shall be stored in the maintenance shop and motor fuels shall be stored onsite in a concrete secondary containment area adequate to hold 110% of the contents of the largest tank in containment.
  5. During sand plant construction and prior to the commencement of operations, Anchor Stone shall construct interrupted six-foot high landscaped earthen berms around the three sides of the plant site above the riverbed. The location of the berms is to be as shown on Amended Exhibit C to Anchor Stone's Application.
  6. The berms are to be constructed of local, native material removed from the sedimentation ponds to be constructed on site.
  7. The earthen berms shall be a minimum of six feet in height with slopes of approximately 2.5:1. The berms shall be topped with a six foot tall wooden fence to further visually separate the sand plant from the two nearby residences. Grass shall be established on the berms. A swale shall be constructed on the outside of the berm as compensatory storage. The berms, fence, and swale shall be constructed according to the screening and fencing map that is attached as Amended Exhibit D to Anchor Stone's Amended Application.
  8. The access road around the rear of the Perryman residence shown on the Site Plan (Amended Exhibit B) shall be surfaced with asphalt. In addition, Anchor Stone shall plant a screen of 10'-12' Aristocrat Pear trees on the west side of the access road east of the Perryman residence located to the northwest of the plant site in accordance with Amended Exhibit D.
  9. Anchor Stone shall require all that all truck beds be covered by tarps by drivers prior to leaving the site.
- I. The hours of operation shall be limited to 7:00 a.m. to 5:00 p.m. Monday through Friday, with an extension of those same operating hours for up to six days a week



during July, August and September to meet unusual demand, or to make up for lost production days due to the high water.

- J. The only structure that shall be permitted in the flood plain shall be the scale house, which must be a manufactured building, not a mobile home.
- K. No service or maintenance facilities shall be permitted on the site, except for the purpose of fueling the on-site equipment. The fuel facilities shall be on stilts or sleds for moving at times of high water.
- L. When the mining operations cease, Anchor Stone shall be required to fill and grade the sedimentation ponds to grade. The dredge, sand plant and all support facilities shall be removed. The site shall then be re-vegetated with bermuda grass. There are to be no open excavations remaining at the conclusion of the reclamation of the site.
- M. Anchor Stone's sand trucks are prohibited from using South 129<sup>th</sup> East Avenue north of East 141<sup>st</sup> Street. Anchor Stone's trucks shall be required to turn west from South 129<sup>th</sup> East Avenue to East 141<sup>st</sup> Street, and then travel west to South Garnett and then north to East 131<sup>st</sup> Street from which Anchor Stone's trucks will have access to the arterial street system and the Broken Arrow extension of the Creek Turnpike.
- N. Anchor Stone shall assist Tulsa County with the cost of the maintenance of the proposed truck route by providing Tulsa County road aggregate as required by Tulsa County to maintain South 129<sup>th</sup> East Avenue from the sand plant entrance and exit north to East 141<sup>st</sup> Street, East 141<sup>st</sup> Street from South 129<sup>th</sup> East Avenue to South Garnett Road and South Garnett Road from East 141<sup>st</sup> Street to East 131<sup>st</sup> Street.

Inasmuch as the Tulsa County Board of Adjustment does not have jurisdiction over roads within Tulsa County, the Board also recommends that the County Engineer and the Board of County Commissioners consider a resolution to limit the gross vehicle weight on 129<sup>th</sup> E. Avenue between 131<sup>st</sup> Street and 141<sup>st</sup> Street to 10 tons consistent with the recommendation of the Board of Adjustment for the City of Broken Arrow.

  
John N. Lyndall  
Tulsa County Board of Adjustment