

**MINING AGREEMENT BETWEEN THE TOWN OF AUBURN AND
SUPERIOR SILICA SAND**

RECITALS

- A. In 2011, Superior Silica Sands (“Superior”) began nonmetallic mining operations in the Town of Auburn (“Town”), Chippewa County, Wisconsin pursuant to a Chippewa County nonmetallic mining permit dated May 6, 2011. The original permitted area was 135 acres. The operations commenced prior to the adoption of the Town’s Nonmetallic Mine Operator’s License ordinance as Chapter 46 on May 9, 2012. On December 21, 2012, Superior applied for an expansion of its operations to approximately 275 acres of adjacent land. A revised nonmetallic mining reclamation permit for the entire site (the “Property”) was granted by the County on April 24, 2013.
- B. The Property is owned by Anthony Glaser; Chris and Dennis Culver; Kevin Pietz; Lary and Anna Boese; Robert Hass; and David and Bonnie Dobbs (collectively, the “Owners”).
- C. This Mining Agreement (“Agreement”) is predicated on the Superior operations on the Property as described in the Non-Metallic Mining Reclamation Plans submitted by Superior to Chippewa County on May 2, 2011 and subsequent plan amendments, the mine expansion plan filed on December 21, 2012 (collectively “Reclamation Plan”), and the County Nonmetallic Mining Reclamation Permit (“Reclamation Permit”) issued on April 24, 2013.
- D. Superior desires certain exceptions from and modifications of the requirements of Chapter 46 of the Town’s code of ordinances (“Mine Ordinance”) in accordance with Section 46.13.
- E. The Mine Ordinance recognizes that large scale nonmetallic mining operations while a vital component of state and local economy can also have direct and indirect adverse impacts on the Town particularly if among other things, washing or drying operations are undertaken. The Town has reviewed the scope and size of the proposed Superior operation as set forth in the Reclamation Plan and Reclamation Permit. Pursuant to Section 46.13 of the Mine Ordinance, the Town finds that the intent of the Mine Ordinance will be achieved and that the public health, safety and welfare will be protected and not adversely affected by alternative measures, terms and conditions set forth in this Agreement.

AGREEMENT

THEREFORE, Superior and the Town (Parties) agree as follows:

1. Approval

1.1. Superior agrees to pay the fees necessary for the negotiation of this Agreement in accordance with Mine Ordinance Section 46.05(3) including reimbursable costs and ordinance preparation costs. The Town acknowledges receipt of fees, and materials sufficient to fulfill the application requirements of Chapters 45, 46 and 47 of the Town's code of ordinances.

1.2. This Agreement is issued pursuant to Section 46.13 of the Mine Ordinance and grants an approval (Approval) authorizing Superior to proceed with nonmetallic mining on the Property under the terms and conditions set forth herein. This Approval is intended to satisfy the license requirements of the Mine Ordinance, the weight limit permit provisions of under Chapter 45 and the blasting permit provisions under Chapter 47 as set forth herein.

1.3 This Agreement modifies certain requirements of the Mine Ordinance. Any sections not specifically modified by this Agreement remain in effect. To the extent of any conflict between the terms of this Agreement and applicable law that falls under the jurisdiction of the Town, the parties agree that Superior's rights under this Agreement shall supersede such laws and continue in effect for the duration of this Agreement.

1.4 The Approval granted under this Agreement shall run for the term of this Agreement set forth in Section 2.2, but shall be subject to annual review. The annual review shall include a review of the Annual Report required under Mine Ordinance §46.08(1). The cost of the review shall be reimbursed in accordance with the provisions of Mine Ordinance §46.05(3) (a).

2. Term

2.1. This Agreement shall be effective upon signing by all parties (Effective Date).

2.2. This Agreement shall terminate at 11:59 p.m. on December 31, 2043, unless Superior notifies the Town that all mining activities on the Property have ceased.

2.3. The obligations of the Owners and Superior and the Town's rights under this Agreement shall survive termination of the Agreement.

3. Hours of Operation

3.1. On-site operations. Mining excavation, extraction or grading operations on the Property and on-site processing operations including crushing, sorting, washing and stockpiling may occur 24 hours per every day.

3.2 Off-site operations. Transportation of nonmetallic minerals and waste materials to or from the Property shall be limited to 6:00 a.m. to 7:00 p.m. each day Monday through Friday and 6:00 am to 3:00 pm on Saturday.

4. Use of Roads in the Town

4.1 The transport nonmetallic minerals and waste materials to and from the Property will occur from the driveway on Parcel 23110-3311-0020000 to County Trunk Highway DD, then north to State Highway 64 and then to State Highway 53, as of the Effective Date (Route).

4.2 Superior will not use Town Roads during the term of this Agreement.

4.3 Superior shall avoid transportation to and from the Property to the maximum extent practicable during the hours of normal school bus operations in the morning and afternoon on the Route to the extent and at such times those roads are used by school busses. Such schedules shall be reviewed at the beginning of each school year with the Town Board.

4.4. Within the Town, trucks traveling to or from the Property;

4.4.1. Shall use only the identified Route;

4.4.2. Shall not use compression release engine brakes, commonly known as Jake brakes except in the case of emergency; and

4.4.3 Shall adhere to all posted speed limits.

5. Control of Light and Noise

5.1 The Operator shall limit night lighting on the Property, to that which is the minimum necessary for security and worker safety consistent with MSHA rules, regulations, and requirements for worker safety. Every effort shall be made to minimize illumination of the night sky and properties within ¼ mile of the mine site. At a minimum and if not contradictory to MSHA rules, regulations and requirements Superior shall undertake the following:

5.1.1. The use of cutoff shrouds on all lights.

5.1.2. Portable lighting shall be used only as necessary to illuminate temporary work areas.

5.1.3. The use of berms and/or other methods of visual screening to block light from neighboring properties.

5.1.4. The design and location of any new access roads to minimize lights from traffic and operations to neighboring properties.

5.2. The Operator shall control noise levels off of the Property to the maximum extent practicable to minimize adverse impacts to adjoining landowners. Among other things, these practices include the use of mining, safety and health administration (MSHA) approved “white noise” back up alarms, and properly maintained mufflers on mining equipment.

5.3 The noise levels at the residences listed on Appendix C shall not exceed 60dB Noise levels shall not include vehicles roadways adjacent to such residences. Decibels shall be based on dbA, which is the unit of sound level expressed in decibels (db) and A-weighted, as described in ANSI S 1.4, 1983, section 1.5, and shall be measured in accordance with accepted protocols.

5.4 Upon request by any of the residences listed on Appendix C, the Operator shall contract with an independent testing service to install a decibel monitor at the residence Noise levels shall be taken to avoid off-site truck noise. The tests shall occur for a 10-day period. If the test results are 60 db or below, the resident may not request another test for one year. If the test results are above 60 db, then Superior shall undertake additional efforts to mitigate noise on the property within 180 days of the test result, and provide a re-test upon request of the resident. Superior shall provide notice to the Town prior to the testing and shall provide any test results within 30 days of Superior’s receipt of the test results.

6. Air Quality and Fugitive Dust

6.1. Superior shall comply with Wis. Admin Code §NR 415.075 and the Wisconsin Department of Natural Resources (DNR) Type A Air Registration Permit and its fugitive dust plan.

6.2. Superior agrees that there will be no dry plant processing facility located on the mine site.

6.3 Superior agrees to utilize one air monitor to monitor particulate matter. The type of monitor and monitor location shall be agreed upon by the Operator and the Town. Monitoring shall occur at least quarterly for two years. During the quarterly sampling period, the air monitor location shall be rotated between three off-site sites in reasonable proximity to the mine Property, provided that approval for locating such an air monitor is granted by the property owners. If no exceedances of state or federal standards are recorded during the quarterly sampling, further air monitoring shall be limited to one downwind site and taken

annually thereafter. Air monitoring results shall be reported to the Town within 10 days of receipt of the results.

6.3. Stockpiling of sand-related material pursuant to processing shall be placed to minimize distances between transfer points to control potential dust issues.

6.4. All loaded vehicles utilized for Transportation shall be tarp covered or enclosed hopper when transporting material.

6.5 Entrances to the mine site from any public road or highway shall be constructed with breaker run or asphalt for at least 100 feet from the right of way. If asphalt is utilized, it shall be maintained in a manner to control dust and sediment.

7. Control of Waste Materials

The amount of waste material (non-marketable fines) returned to the Property as part of the reclamation process shall not exceed the site waste material extracted as determined on an ongoing basis with changes in the raw material. Unless otherwise agreed to by the Town, the Operator shall not bring waste material from off-site sources onto the Property

8. Standards Regarding Groundwater

8.1 Superior agrees that mining will occur at least 5 feet above the water table.

8.2 Superior agrees to comply with the groundwater monitoring required by the County and include any such results as part of its Annual Report.

8.3 Superior agrees to monitor groundwater as follows:

8.3.1 It shall monitor its on-site monitoring wells for the following constituents lead, arsenic, turbidity, total suspended solids, chlorides, nitrates, specific conductivity and any other toxic substance that may reasonably be believed to be present in the area of the deposit. Sampling shall occur once a year for the first two years of this Agreement and, if there are no exceedances of preventative action limits in Wis. Admin Code ch. NR 140, then annually at one down gradient well thereafter. If there is an exceedance of a PAL, then monitoring shall continue annually.

Mutually agreed by the town of Auburn and Superior Silica Sand Co. JC

8.3.2 It shall monitor all private wells within 1/2 mile of the mine site down gradient of the groundwater flow, for the same constituents as set forth in 8.3.1. Monitoring shall occur once within 90 days of this Agreement. The presumption shall be that any substances detected in this

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initial test shall be considered background or naturally occurring substances unless conclusively established otherwise.

8.3 In the event there is a damage to private water supplies the provisions of Wis. Stat. §281.77 shall apply.

8.4 Superior agrees to use a liner approved by the County for its settling ponds and maintain such liner.

9. Incorporation of Other Operational Standards

9.1 Mine Ordinance Operation Standards. The Operator shall comply with the Mine Ordinance Operation Standards not modified by this agreement which include:

9.1.1 General Standards in Mine Ordinance 46.07(1)

9.1.2 Buffer Areas in Mine Ordinance 46.07(2), except that if a property owner otherwise entitled to notice of blasting events indicates in writing that notification is not required, then no such notification need be provided.

9.1.3 Control of hazardous materials in Mine Ordinance 46.07(9).

9.2. Storm Water Management

9.2.1. Superior shall comply with the Storm Water Management and Erosion Control plan included in the Reclamation Plan which is incorporated by reference.

9.2.2. Superior shall repair any damage to, and remove sediment from town road ditches and other drainage ways adjacent the Property caused as a direct result of the mine operations.

9.2.3. Superior shall maintain the detention and retention ponds per the Reclamation Plan which is incorporated herein by reference.

9.3. Blasting. Blasting as defined in chapter 47 of the Town's code of ordinances and shall occur between the hours of 9:00 a.m. and 3:00 p.m.; except that blasting may occur after 3:00 p.m. if required for safety reasons beyond the reasonable control of Superior and its contractors. Blasting is not anticipated to occur more than 2 to 3 times per week.

9.4. Restoration. Superior shall complete sequential restoration of the Property as set forth in the Reclamation Plan which is incorporated herein by reference.

10. Property Value Assurance

10.1. Superior hereby grants the property owners specified in the attached Exhibit C the Property Value Guaranty set forth in the attached Exhibit B.

10.2. The property owners listed in Exhibit C are third party beneficiaries of section 10.1.

11. Laws to be Observed

11.1. Superior shall at all times comply with all federal, state, county, and local laws, regulations and ordinances applicable to Superior's operations on the Property which are in effect or which may become effective in the future.

11.2. This Agreement modifies certain requirements of the Mine Ordinance relating to license application requirements pursuant to Section 46.06(5) and minimum standards of operation pursuant to Section 46.07(5) as set forth in this Agreement. It replaces the license requirements and procedures in Section 46.04 and 46.05. Any sections not specifically modified by this Agreement remain in effect.

12. Reimbursement and Enforcement

12.1 Reimbursement. Superior shall reimburse the Town for all consulting, inspection, engineering and legal fees incurred in connection with the drafting of this Agreement. Any amounts due under this Agreement which are not paid within 30 days of billing shall accrue interest at the rate of one percent per month.

12.2 Inspection and Right of Entry. Superior shall, upon request by the Town, provide the Town's officers, agents, employees and contractors with access to the Property for purposes of determining or enforcing compliance with this Agreement or as otherwise provided by law or this Agreement. In the event of Superior's failure or refusal to permit access to the Property, the Town may obtain an inspection warrant, injunction or other relief from a court to enforce its right to access.

12.3. Notice of Default. In the event that Superior fails to perform any of its obligations under this Agreement, the Town shall provide a notice of default and the parties shall hold an initial meeting within ten (10) days following notice of such default for purposes of attempting to resolve the default on an amicable basis unless the Town determines that threats to health, safety or property require a shorter notice period. If the parties cannot so resolve the matter the Town may elect to enforce the remedies provided for herein.

12.4 Disputes Concerning Agreement. Any dispute concerning any provision of this Agreement, other than a default under 12.3, shall be resolved as follows: The party which asserts a dispute shall first give notice thereof to the other party and specify the nature of the dispute and shall meet with such other party, within 30

days of the event giving rise to the dispute. Such notice shall set forth all reasons supporting the basis of the dispute. Within 30 days following the date of the notice, a meeting between the Parties shall be held to attempt in good faith to negotiate a resolution of the dispute or controversy.

12.5 Mediation. In the case that a dispute cannot be resolved per Section 12.4, either Party can request to have the dispute resolved through mediation.

12.5.1 The Parties shall meet within 20 days of the request for mediation. The Parties shall jointly appoint a mutually acceptable neutral person not affiliated with either Party (the “Mediator”) to conduct the mediation. The fees of the Mediator shall be shared equally by the Parties. If the Parties are unable to agree upon the selection of a Mediator within twenty (20) days after the initial meeting in this section, the Parties shall either request that the Chippewa County Circuit Court select the Mediator or, in the alternative, each select a third party and have the two third parties appoint a mediator.

12.5.2. In consultation with the Parties, the Mediator will select or devise the mediation procedure to be held in Chippewa County, Wisconsin, by which the Parties will attempt to resolve the dispute or controversy. In consultation with the Parties, the Mediator will also select a date and time for the mediation and a date by which the mediation will be completed.

12.5.3. The Parties shall participate in good faith in the mediation to its conclusion as designated by the Mediator. If the Parties are not successful in resolving the dispute or controversy through the mediation, then the Parties may agree in writing to resolve the dispute by binding arbitration or, if no written agreement to resort to binding arbitration is reached by the Parties, the dispute may be resolved by litigation or other appropriate means.

12.5.4. Except as expressly provided herein, each Party shall bear its own costs associated with dispute resolution, including attorneys’ fees and litigation expenses, unless such fees and expenses are awarded to the prevailing Party by a court.

12.6 Remedies

12.6.1 Corrective orders. The Town may issue a notice of violation and order that specifies the action to be taken to remedy a default and the time period for curing the default.

12.6.2 Remediation and reimbursement. In the event Superior fails to perform any of its obligations under this Agreement, including, but not

limited to, maintenance of storm water management facilities and restoration of the Property, the Town may, but shall not be required to, perform such obligations at Superior's expense. Before performing Superior's obligations, the Town shall give Superior at least 60 days written notice unless the Town determines that threats to health, safety or property require a shorter notice period. Superior shall reimburse the Town for all expenses incurred for materials, contractors, engineers, attorneys and other consultants in connection with performing Superior's obligations within 60 days of billing therefor.

12.6.3 Nonexclusivity. The remedies provided above are not exclusive. The Town may use any other remedies available to it under this Agreement or in law or in equity in addition to, or in lieu of, the remedies provided above.

13. Obligations to Run with the Land

13.1. Superior warrants that the Owners have authorized Superior to engage in nonmetallic mining on the Property and to enter into this Agreement.

13.2. Superior and the persons signing for Superior warrant that Superior has full right and authority to enter into this Agreement.

13.3. The obligations of Superior or either of them under this Agreement shall run with the land and be binding on the Owners and Superior and their heirs, grantees, representatives, successors and assigns.

13.4. The Town may record a memorandum of this Agreement with the Register of Deeds. The cost of recording shall be paid by Superior.

14. Miscellaneous Provisions

14.1. All Parties participated in negotiating the terms of this Agreement. No party shall benefit from not having drafted this Agreement. If any term, section or other portion of this Agreement is reviewed by an administrative agency, court, mediator, arbitrator or other judicial or quasi-judicial entity, such entity shall treat this Agreement as having been jointly drafted by the parties.

14.2. No waiver of any provision of this Agreement shall be deemed or constitute a waiver of any other provision, nor will it be deemed or constitute a continuing waiver unless expressly provided for by a written amendment to this Agreement signed by both the Town and Superior, nor shall the waiver of any default under this Agreement be deemed a waiver of any subsequent default or defaults of the same type. The Town's failure to exercise any right under this Agreement shall not constitute approval of any breach or wrongful act by Superior.

14.3. Any notice required or permitted by this Agreement, except the notice required under the Property Value Guaranty (Exhibit B), shall be deemed effective when personally delivered in writing, or three (3) days after notice is deposited with the U.S. Postal Service, postage prepaid, and addressed as follows:

If to Superior:

Josh Clements
Superior Silica Sand
140 W. Pine St.
New Auburn, WI 54757

:

If to the Town: Town Clerk, Town of Auburn
Town of Auburn
1811 State Highway 64
Bloomer, WI 54724

Any party may change the address to which notices must be sent by giving notices as provided herein.

14.4. This Agreement shall be governed by and construed in accordance with the laws of the state of Wisconsin. All disputes arising under this Agreement shall be venued in a Wisconsin court of competent jurisdiction.

14.5. No changes, amendments, alterations or modifications to this Agreement shall be effective unless in writing and signed by both Parties and, if required, upon approval by competent governing authorities of each Party following notice and opportunity for hearing.

14.6. This Agreement is entered into with Superior for the Property for the purposes of nonmetallic mining. Superior may assign or transfer its rights and obligations under this Agreement to any entity without the prior written consent of the Town, provided the property will continue to be used for mining activities and that the assignee assumes in writing the obligations of Superior pursuant to this Agreement, obtains a letter of financial assurance from a federally insured banking institution that it has sufficient assets to comply with the obligations of this Agreement, and provides a copy of such agreement and letter of financial assurance to the Town prior to the transfer. In the event Superior transfers its rights and obligations for a purpose other than nonmetallic mining, the Agreement shall be terminated.

14.7. Superior shall at all times have an agent, whose name, fax number, email address and telephone numbers are made known to the Town Clerk, available to

respond to complaints and problems and the notice required under section B.2. of the Property Value Guaranty (Exhibit B).

Dated: Nov 9, 2013

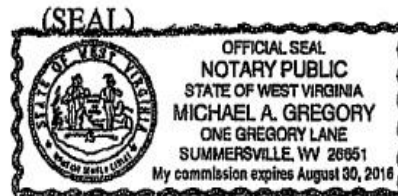
Superior Silica Sand

By: Richard J. Shearer

STATE OF WISCONSIN
CHIPPEWA COUNTY

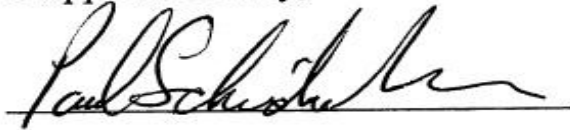
Personally came before me this 9th day of November, 2013 the above-named Richard J. Shearer to me known to be the PRESIDENT & CEO of Superior Silica Sand., and the persons who executed the foregoing instrument and acknowledge the same.

Michael A. Gregory
Print Name: Michael A. Gregory
Notary Public, State of ~~Wisconsin~~ West Virginia
My commission expires August 30, 2016

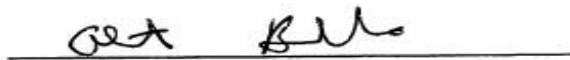


Dated: Nov 12, 2013

TOWN OF AUBURN
Chippewa County, Wisconsin



Paul Scheidecker, Town Board Chairperson

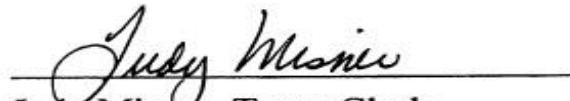


Albert Blaha, Supervisor



Kevin Ludwigson, Supervisor

Attested to as of Nov. 12, 2013.



Judy Misner, Town Clerk

EXHIBIT A
PROPERTY MAP
OF SUPERIOR SILICA SANDS OPERATION

EXHIBIT B

PROPERTY VALUE GUARANTY

Upon the execution the Effective Date of the attached Agreement and until December 31, 2018 (“Termination Date”), Superior Silica Sands, Inc. (Superior) will provide a property value Guaranty (“Guaranty”) to the property owners of parcels of land within 1320 feet of the Property on which a residence is located, who have purchased the property prior to May 6, 2011 and who are not leasing land to Superior, subject to the terms and conditions set forth below. These property owners are identified on Exhibit C (Property Owners). The Termination Date is subject to extension under the provisions in paragraph C. 3 below.

A. Determination of Fair Market Value.

1. Except as provided below, Fair Market Value (FMV) shall be determined based on the estimated fair market value of the Property Owner’s property (Owner’s Property) on the Town tax rolls as of 2011 plus 10%.

2. If a Property Owner believes that the FMV in par. A.1. does not accurately reflect the value of the Owner’s Property, a Property Owner desiring to sell property shall notify Superior of that fact no later than June 1, 2018. Upon such notification, Superior shall contact the Property Owner within thirty (30) days and attempt to reach agreement on an adjusted fair market value of the Owner’s Property. If no agreement on an adjusted fair market value can be reached, Superior and the owner shall retain a qualified appraiser to appraise the Owner’s Property at Superior’s expense. The appraiser shall provide an appraisal of the fair market value of the property, assuming Superior’s mine on the Property did not exist. For this purpose the appraiser may use comparable properties within Chippewa County that are not within a quarter mile of a mine site. In the event Superior and the Property Owner cannot agree on an appraiser, they shall each select and pay for an appraiser, and the final determination of fair market value shall be the average of the two appraisals plus 10%.

B. Sale of Property.

1. Listing a property. If a Property Owner elects to proceed with the sale of the property, then the owner shall then enter into a listing contract with a Wisconsin licensed real estate broker. The listing contract shall be at FMV +/- 10%. The listing contract shall exclude Superior as a potential buyer so that if Superior purchases the property, no commission shall be due. The Property Owner shall provide written notice to the Town and Superior of any such listing.

2. Offers. Before accepting any offer of less than the Fair Market Value, the Property Owner shall give five (5) business days' notice by fax, email or personal delivery with a copy of the offer to Superior's agent as designated in this Agreement. If notice is by fax or e-mail, it shall also require confirmed receipt by Superior that the notice has been received within five (5) business days.
3. Sale Price. If the Property Owner sells the property for less than the Fair Market Value, Superior Shall pay the owner the difference between the selling price and the Fair Market Value. Superior shall make the payment within 30 days of the recording of the conveyance of the property. If the Property Owner receives more than the FMV no payment shall be due.
4. Failure to Sell. If the property is not sold within 270 days from the listing date, then Superior shall immediately purchase the property for the Fair Market Value.

C. Applicability and Conditions.

1. The Guaranty shall apply only once for any Property Owners identified in Exhibit C.
2. The Guaranty applies to the Property Owner's entire parcel on which the residence is located.
3. The Guaranty shall only be available to the Property Owners for accepted offers to purchase made prior to the Termination Date set forth above except that if the Property Owner has a medical issue identified by a licensed physician that results in the sale of the residence, this Guaranty is available according to the terms set forth above during the full term of this Agreement subject to the further limitation that the amount of compensation after the Termination Date shall be capped at no more than \$25,000 to the Property Owner.
4. Properties do not qualify for the Guaranty in the event the Property Owner wishes to sell or otherwise convey the property to a third-party by a transaction which is not considered an arm's-length transaction (such as a sale or gift to a relative).
5. The Guaranty is limited to the property value as set forth above and does not apply to any claims of loss of rental value or business losses.
6. Nothing in this Agreement precludes Superior from reaching a separate agreement with any of the Property Owners in lieu of the provisions of this Guaranty. However in the event any such agreement is reached, Superior shall notify the Town of the agreement.

7. This Guaranty shall apply only once for any Property Owner identified in Exhibit C. Any withdrawal of the intention to sell under Section B. 1 shall disqualify the property from participating in the Guaranty.

EXHIBIT C

PROPERTY OWNERS ELIGIBLE FOR PROPERTY VALUE GUARANTY

Tom and Bonnie Hendricks
2984 195th Ave
Bloomer, WI 54724

Allen and Lorraine Prill
19050 County Hwy DD
Bloomer, WI 54724

Paul and Barbara Sykora
2824 195th Ave
Bloomer, WI 54724

Jay Stewart
4717 State Hwy 64
Bloomer, WI 54724

Judy Bohl
Dorothy Conrad Trust
3255 State Hwy 64
Bloomer, WI 54724

Marcie Pietz
19990 Cty Hwy DD
Bloomer, WI 54724

Wayne and Judy Rogge
707 W. Tarr Road
New Auburn, WI 54757

Marvin Pietz
19998 Cty Hwy DD
Bloomer, WI 54724