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APR 07 2000

STATE OF ILLINOIS
Pollution Control Board

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,)
)
Complainant,)
)
-vs-) PCB 97-207
) (Enforcement)
INSPIRATION DEVELOPMENT)
COMPANY, a Delaware)
corporation,)
)
Respondent.)

NOTICE OF FILING

TO: Mr. Ross Kinney
734 Clinton Street
Waukesha, Wisconsin 53186

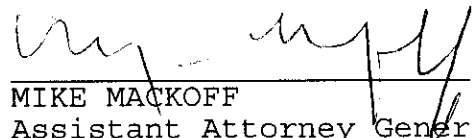
Mr. John Knittle
Hearing Officer
Pollution Control Board
100 W. Randolph St.
Chicago, Illinois 60601

PLEASE TAKE NOTICE that we have today filed with the Illinois Pollution Control Board an Motion to Request Relief from Hearing Requirement and Stipulation and Proposal for Settlement, copies of which are attached and herewith served upon you.

Respectfully submitted,

JAMES E. RYAN
Attorney General
State of Illinois

BY:



MIKE MACKOFF
Assistant Attorney General
Environmental Bureau
188 W. Randolph St. - 20th Fl.
Chicago, IL 60601
(312) 814-2381

Date: April 7, 2000

THIS FILING IS SUBMITTED ON RECYCLED PAPER

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STATE OF ILLINOIS
Pollution Control Board

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PEOPLE OF THE STATE OF ILLINOIS,)
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)
Respondent.)

MOTION TO REQUEST RELIEF
FROM HEARING REQUIREMENT

NOW COMES the Complainant, PEOPLE OF THE STATE OF ILLINOIS, by JAMES E. RYAN, Attorney General of the State of Illinois, and requests relief from the hearing requirement in the above captioned matter. In support thereof, the Complainant states as follows:

1. On April 7, 2000, a Stipulation and Proposal for Settlement in this case was filed before the Board.
2. Section 31 of the Environmental Protection Act, 415 ILCS 5/31 (1998) ("Act") provides, in pertinent part, as follows:

Notwithstanding the provisions of subdivision (1) of this subsection (c), whenever a complaint has been filed on behalf of the Agency or by the People of the State of Illinois, the parties may file with the Board a stipulation and proposal for settlement accompanied by a request for relief for the requirement of a hearing pursuant to subdivision (1). Unless the Board, in its discretion, concludes that a hearing will be held, the Board shall cause notice of the stipulation, proposal and request for relief to be published and sent in the same manner as is required for hearing pursuant to subdivision (1) of this subsection. The notice shall include a statement that any person may file a written demand for hearing within 21 days after receiving the notice. If any person files a timely written demand for hearing, the Board shall deny the request for relief from a hearing and shall hold a

hearing in accordance with the provisions of
subdivision (1).

415 ILCS 5/31(c)(2)(1998).

3. No hearing is currently scheduled in the instant case.

4. The Complainant requests the relief conferred by
Section 31(c)(2) of the Act.

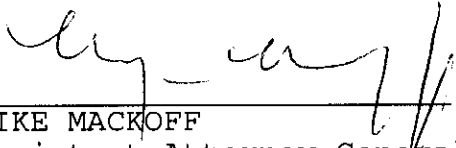
WHEREFORE, the Complainant, PEOPLE OF THE STATE OF ILLINOIS,
by JAMES E. RYAN, Attorney General of the State of Illinois,
requests relief from requirement of a hearing pursuant to 415
ILCS 5/31(c)(2)(1998).

Respectfully submitted,

PEOPLE OF THE STATE OF ILLINOIS

JAMES E. RYAN,
Attorney General of the
State of Illinois

BY:


MIKE MACKOFF
Assistant Attorney General
Environmental Bureau
100 W. Randolph St. - 11th Fl.
Chicago, Illinois 60601
(312) 814-2381

RECEIVED
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APR 07 2000
STATE OF ILLINOIS
Pollution Control Board

PEOPLE OF THE STATE OF ILLINOIS,)	
)	
Complainant,)	
)	
-vs-)	PCB 97-207
)	(Enforcement)
INSPIRATION DEVELOPMENT)	
COMPANY, a Delaware)	
corporation,)	
)	
Respondent.)	

STIPULATION AND PROPOSAL FOR SETTLEMENT

Complainant, PEOPLE OF THE STATE OF ILLINOIS, by JAMES E. RYAN, Attorney General of the State of Illinois, at the request of the Illinois Environmental Protection Agency (collectively, the "State"), and Respondent, INSPIRATION DEVELOPMENT COMPANY, a Delaware corporation, ("Inspiration"), the present owner of the site, ("Respondent") do hereby agree to this Stipulation and Proposal for Settlement ("Agreement"). The parties further stipulate that this statement of alleged facts is made and agreed upon for purposes of settlement only and that neither the fact that a party has entered into this Agreement, nor any of the alleged facts stipulated herein, shall be introduced into evidence in this or any other proceeding except to enforce the terms of this Agreement. Notwithstanding the previous sentence, this Agreement and any Illinois Pollution Control Board ("Board") order entered hereinafter in this proceeding that accepts this Agreement, may be used in any future enforcement action by Complainant in the same way and for the same purpose as if it were

evidence of a past adjudication of the Illinois Environmental Protection Act ("Act"), 415 ILCS 5/1 *et seq.* (1996), for purposes of Section 42(h) of the Act, 415 ILCS 5/42(h) (1996). This Agreement shall be null and void unless the Board approves and disposes of this matter on each and every one of the terms and conditions of the settlement which are expressly set forth herein.

I.

JURISDICTION

The Board has jurisdiction of the subject matter herein and of the parties consenting hereto pursuant to the Act, 415 ILCS 5/1 *et seq.* (1996).

II.

AUTHORIZATION

The undersigned representative for each party certifies that he or she is fully authorized by the party or parties whom he or she represents to enter into the terms of this Agreement and to legally bind them to it.

III.

APPLICABILITY

This Agreement shall apply to and be binding upon the Complainant and Respondent, and any officer, agent and employee or servant of Respondent, as well as Respondent's successors and assigns. Respondent shall not raise as a defense to any enforcement action taken pursuant to this Agreement the failure

of its officers, agents, servants or employees to take such action as shall be required to comply with the provisions of this Agreement.

IV.

STATEMENT OF FACTS

A. Parties

1. The Attorney General of the State of Illinois brings this action on his own motion and at the request of the Illinois Environmental Protection Agency ("Illinois EPA"), and pursuant to the statutory authority vested in him under Section 31 of the Act, 415 ILCS 5/31 (1996).

2. The Illinois EPA is an administrative agency in the executive branch of the State government of Illinois, created pursuant to Section 4 of the Act, 415 ILCS 5/4 (1996), and is charged, *inter alia*, with the duty of enforcing the Act.

3. Respondent, Inspiration Development Company, at all times pertinent hereto, has been a Delaware Corporation doing business in the State of Illinois.

B Facility

1. The Graham Mine site, at one time, consisted of approximately fifty-seven (57) acres located near Galena, in Jo Daviess County, Illinois.

2. The facility relevant to this action is a forty-eight (48) acre parcel of the Graham Mine site, purchased by

Inspiration from Eagle-Picher in 1981 and presently owned by Inspiration ("Site" or "facility").

3. The Site contains, among other things, piles of mine tailings which have been graded and vegetated according to a reclamation plan approved by the Illinois EPA ("reclamation plan" attached hereto and incorporated by reference herein as Exhibit A).

4. Respondent has completed reclamation of the site according to the reclamation plan and this completion has been approved by the Illinois EPA.

5. There is some residential property adjacent to the Site.

C. Alleged Violations

1. In its Complaint, Complainant alleges that Respondent allowed the mine tailings, generated by Eagle-Picher prior to 1981, to remain at the Site, that the mine tailings are waste as defined by Section 3.53 of the Act, 415 ILCS 5/3.53 (1996), and that from 1981 to the date of completion of the reclamation plan, Respondent was required to have an operating and a development permit for the site. In addition, in the Complaint currently before the Board, Complainant alleges that windborne particles from the tailing piles caused air pollution. The Complaint specifically alleges the following violations of the Act with regard to the mine tailings piles:

Count I: Conducting a waste storage or disposal operation without a permit in violation of Section 21 of the Act, 415 ILCS 5/21 (1996).

Count II: Conducting a waste disposal operation without a development permit in violation of 415 ILCS 5/21(d)(1) and (2) (1996), and 35 Ill. Adm. Code 807.201.

Count III: Conducting a waste disposal operation without an operating permit in violation of 415 ILCS 5/21(d)(1) and (2) (1996), and 35 Ill. Adm. Code 807.202(a).

Count IV: Causing or allowing air pollution in violation of Section 9(a) of the Act, 415 ILCS 5/9(a)(1996), and 35 Ill. Adm. Code 201.141.

Count V: A cost recovery count pursuant to Section 22.2(f) of the Act, 415 ILCS 5/22.2(f) (1996).

Respondent denies these alleged violations.

2. The parties agree that the Respondent's implementation and completion of the reclamation plan and subsequent maintenance of the facility to prevent air emissions adequately addresses the violations alleged in the Complaint.

V.

IMPACT ON THE PUBLIC RESULTING FROM ALLEGED NON-COMPLIANCE

Section 33(c) of the Act, 415 ILCS 5/33(c)(1996), provides as follows:

In making its orders and determinations, the Board shall take into consideration all the facts and circumstances bearing upon the reasonableness of the emissions, discharges, or deposits involved including, but not limited to:

1. the character and degree of injury to, or interference with the protection of the health, general welfare and physical property of the people;

2. the social and economic value of the pollution source;
3. the suitability or unsuitability of the pollution source to the area in which it is located, including the question of priority of location in the area involved;
4. the technical practicability and economic reasonableness of reducing or eliminating the emissions, discharges or deposits resulting from such pollution source; and
5. any subsequent compliance.

In response to these factors, the parties state the following:

1. Although human health and the environment were potentially threatened by Respondent's alleged unpermitted storage of mine tailings and air pollution in the State of Illinois, there is no current evidence of significant impact to the public resulting from the alleged violations as set forth in paragraph IV.C., above.

2. The former mining site denoted in this Stipulation as the "Site" or "facility" is presently of nominal social and economic benefit.

3. The facility is presently suitable for the area in which it is located.

4. Proper storage by Respondent of the aforementioned wastes was both technically practicable and economically reasonable, as demonstrated by Respondent's eventual implementation and completion of the reclamation plan.

5. Respondent has subsequently complied with the Act and the Board Regulations.

VI.

CONSIDERATION OF SECTION 42(h) FACTORS

As the parties have agreed to resolve this matter according to the cost recovery relief requested in Count V, the consideration of civil penalty aggravators and mitigators is not appropriate for this Stipulation and Proposal for Settlement.

VII.

TERMS OF SETTLEMENT

1. The Respondent shall reimburse the State its costs in the sum of Twenty-Two Thousand, Five Hundred Thirty-One Dollars (\$22,531.00) within thirty (30) days of the date of entry of this Agreement by the Board. These costs were incurred by the State for its oversight, assistance and guidance of the reclamation, regrading, and revegetation of the Site, including the tailings piles. These costs described in this Agreement shall be paid by certified check to the Treasurer of the State of Illinois, designated to the Illinois Hazardous Waste Fund and submitted to:

Illinois Environmental Protection Agency
Fiscal Services Section
1021 North Grand Avenue East
Post Office Box 19276
Springfield, IL 62794-9276

The name and number of the case and Respondent's Federal Employer Identification Number (FEIN), 52-1145429, shall appear on the check.

2. The contact person for collection of the State's costs shall be:

Mark Kalafut
Vice President
Terra Industries, Inc.
600 Fourth Street
Sioux City, Iowa 51101

3. Respondent shall at all times comply with the Act and Pollution Control Board regulations promulgated thereunder.

4. As long as it is the legal owner of the site, Respondent shall maintain the site according to the reclamation plan and in such a way as to prevent the emission into the air of any contaminants in sufficient quantities and of such characteristics and duration as to be injurious to human, plant or animal life, to health or to property or to unreasonably interfere with the enjoyment of life or property.

5. Respondent shall file this Stipulation with the Recorder for Jo Daviess County.

6. If Respondent transfers the site, it shall notify the Attorney General's Office and the Illinois EPA of the transfer at least fourteen (14) days prior to the transfer. In addition to its statutory and common law disclosure requirements, including, but not limited to, those under the Responsible Property Transfer Act of 1988, 765 ILCS 90/1 *et seq.* (1998), Respondent shall also notify the transferee of this Stipulation and shall provide the transferee with a copy of this Stipulation. Respondent shall inform any purchaser that the tailings are considered hazardous substances, and that the disturbance of the tailing piles may cause the discharge through stormwater run-off or the emission into the air of contaminants in

sufficient quantities and of such characteristics and duration as to be injurious to human, plant or animal life, to health or to property or to unreasonably interfere with the enjoyment of life or property.

VIII.

COMPLIANCE WITH OTHER LAWS AND REGULATIONS

This Agreement in no way affects the responsibility of the Respondent in the future to comply with any federal, state or local regulations, including but not limited to the Act, 415 ILCS 5/1 et seq. (1996), and the Board regulations, 35 Ill. Adm. Code Subtitles A through H.

IX.

RIGHT OF ENTRY

In addition to any other authority, the Illinois EPA, its employees and representatives, the Illinois Attorney General, and his/her agents and representatives, shall have the right of entry to Respondent's facility at all reasonable times, for the purposes of conducting inspections. In conducting any inspection, the Illinois EPA, its employees and representatives, the Attorney General, and his/her agents and representatives, may take any photographs or samples as they deem necessary in order to conduct their inspection.

X.

RELEASE FROM LIABILITY

In consideration of Respondent's payment of the response costs

specified herein, and commitment to refrain from future violation of the Act, Complainant shall release, waive and discharge Respondent and all of its officers, agents, servants, employees, successors and assigns, past and present from any further liability or penalties for the alleged violations of the Act which are the subject matter of the Complaint following receipt by the Complainant of all monies owing to Complainant pursuant to Section VII.1. of this Agreement. Nothing in this Agreement shall be construed as a waiver by the Attorney General or the Illinois EPA of the right to redress future violations, if any, or to obtain penalties with respect thereto.

WHEREFORE, Complainant and Respondent request that the Board adopt and accept the foregoing Stipulation and Proposal for Settlement as written.

PEOPLE OF THE STATE OF ILLINOIS,

JAMES E. RYAN,
Attorney General
State of Illinois

MATTHEW J. DUNN, Chief
Environmental Enforcement/
Asbestos Litigation Division

BY: Rosemarie Cazeau
ROSEMARIE CAZEAU, Chief
Environmental Bureau
Assistant Attorney General

DATE: 4/3/00

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

BY: Joseph E. Svobeda
JOSEPH E. SVOBODA
Chief Legal Counsel

DATE: 2/28/00

INSPIRATION DEVELOPMENT COMPANY

BY: George H. Valentine
INSPIRATION DEVELOPMENT CO.
GEORGE H. VALENTINE

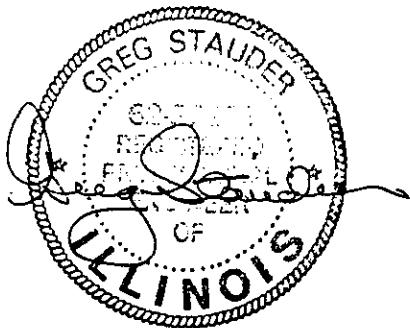
DATE: 3/27/00

c:inspir12.doc

Completion Report
Graham Mine Reclamation
for
Inspiration Development
Galena, Illinois

November 8, 1996

Prepared by:
Greg Stauder & Co.
Consulting Engineers
331 Franklin
Galena, Illinois 61036
815-777-1588



GREG STAUDER & Co.

Consulting Engineers

November 8, 1996

Ms. Sheila Lang
6 Mist Flower Place
The Woodlands, TX 77381

331 Franklin
Galena, IL 61036
815-777-1588

202 S. Main
Witt, IL 61036
800-254-5700

Status of Reclamation
Graham Mine, Galena, Illinois

Dear Sheila:

Enclosed with this letter form report are four drawings and recent photographs of the Graham Mine site. You may wish to refer to these for clarification.

The first 11" x 17" drawing represents the original site reclamation plan. The ultimate goal was to vegetate the entire surface of the remaining tailing pile. In particular, the eastern, southern, and western sides of the site were largely composed of mill sands from the ore extraction process. These manmade sands have a grain size capable of being transported by strong wind and, before the reclamation began, stood at a very steep slope.

To allow vegetation to establish on the perimeter, the first step of the reclamation was to reduce the steepness of the mill sands, particularly along the south and west. In anticipation of reclamation, jig tailing material from the middle of the site had been sold and removed over a period of years, lowering the center and gradually forming the topography into a bowl configuration. The reclamation contractor was directed to move material from the tops of the perimeter slopes into the created depression, thereby reducing the slope gradients to something capable of supporting vegetation.

Earthwork began in the fall of 1995, work was suspended for the winter, and was completed in early 1996. The ground surface was fertilized, seeded with a mixture of grasses, and mulched to complete the reclamation effort by early summer, 1996.

The second and third drawings accompanying this letter show as-built deviations from the original reclamation plan. The original plan intended to preserve as much of the settling pond along the south side of the site as possible. The second 11" x 17" plan sheet shows an area where the contractor built a more gradual slope, resulting in a $\pm 60'$ encroachment of the finished embankment onto the settling pond. Originally, the settling pond was designed for process water from the ore extraction process and is considerably oversized for precipitating suspended solids in storm water runoff. Excessive suspended solids have not been an issue during storm water sampling. This minor reduction in settling pond area has had no measurable impact on storm water leaving the site.

Need for the other modification became evident after heavy rain in the spring of 1996. In regrading the west slope, the contractor extended the toe of the embankment slope into the adjacent drainage swale and regraded it with a steeper flow line. As a result, the cross sectional area of the ditch was reduced, water velocity increased, and storm water began to erode both the toe of the reshaped embankment and the adjoining farm property.

The third 11" x 17" plan sheet shows the stabilized ditch constructed in July, 1996, to correct the erosion problem. In addition to reducing the flow line grade to slow the water, the wider ditch is constructed using cohesive topsoil from off-site and is lined with a biodegrading soil reinforcement mat. To date, this system seems to have corrected the problem.

The photographs included as attachments were taken within the past two weeks and show the overall condition of the site. The tan colored vegetation in the photographs is the nurse crop of annual plants, oats, annual rye, etc. used for quick cover and protection of the slower germinating perennial grass varieties. The green color you see is from the perennial grasses not yet affected by frost. With very few exceptions, the vegetation has established well and seems to be preventing rilling or other erosion in the slopes.

A map showing the location and orientation of the photographs is included as Sheet 4/4. There are three sets of photos showing the major areas affected by the project. Sheet 1 of the photos shows the southern slope vegetation, a view across the interior of the site, and the former shaft-storage bin area. Sheet 2 illustrates the western slopes along the entrance road and facing the Einsweiler farm. Sheet 3 shows the ditch project. Though they do not document the entire area, I believe these photo accurately represent current site conditions.

Of particular note, the photographs of the ditch project also show the extent of grass cover on the reshaped embankment facing the Einsweiler residence. There has been an ongoing concern about wind borne material from the site reaching this residence. I believe the reclamation project has been successful in that regard.

In my opinion, the reclamation is substantially complete. The site should be observed periodically to verify the vegetation remains healthy.

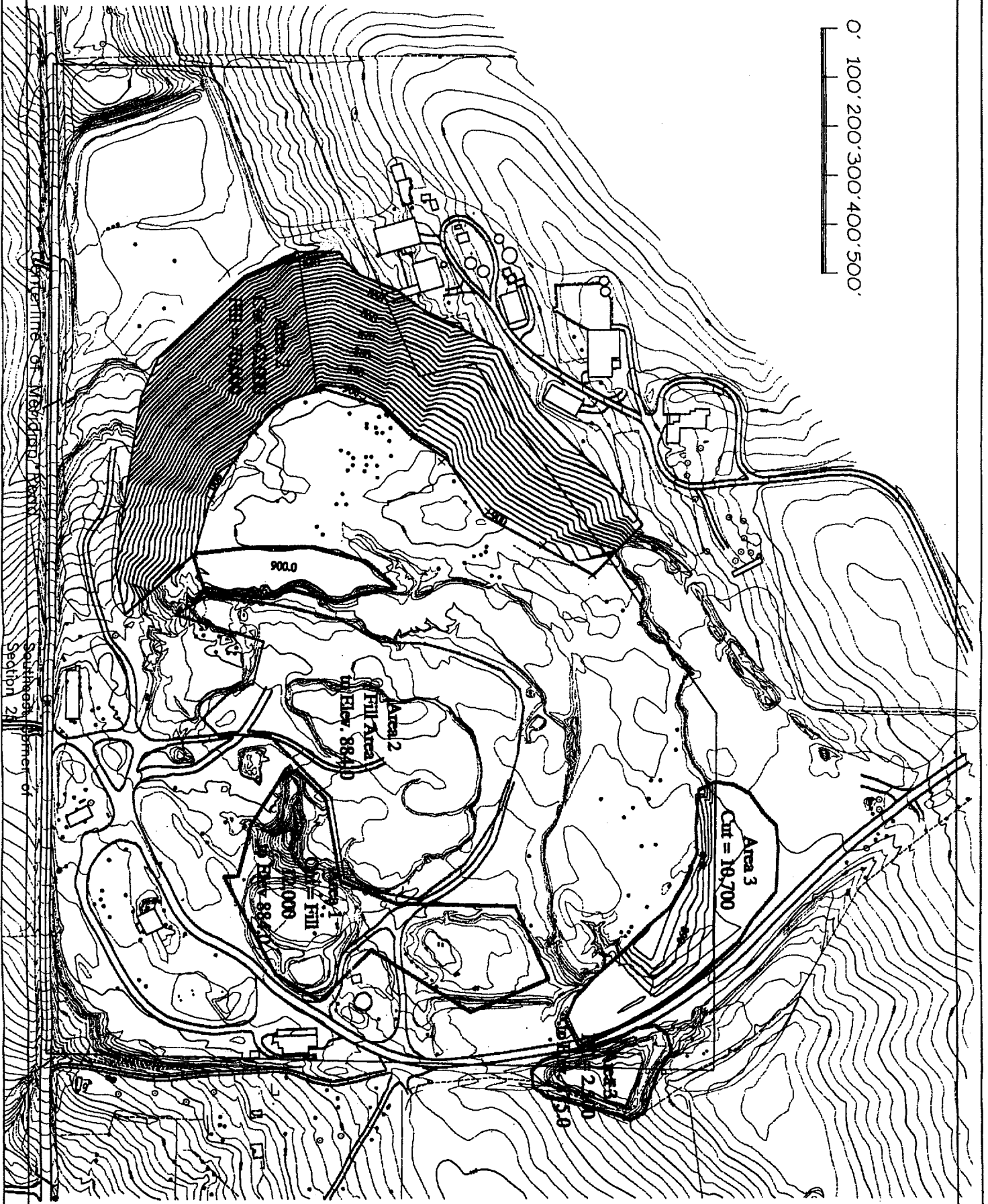
If you have any questions or wish clarification of anything included in this report, please feel free to call.

Thank you.

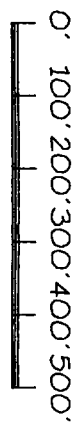
Sincerely,



Greg Stauder



Section 21
 Southeastern
 corner of
 Township 21
 Range 10
 East
 of
 Meridian 1
 East

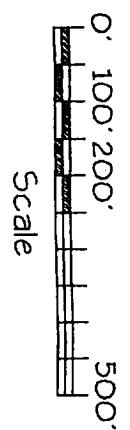


Greg Stauder + Co.
 Consulting Engineers

202 S. Main, Witt. L. 62094
 1-800-254-5700
 331 Franklin, Galena, L. 61036
 615-777-1566

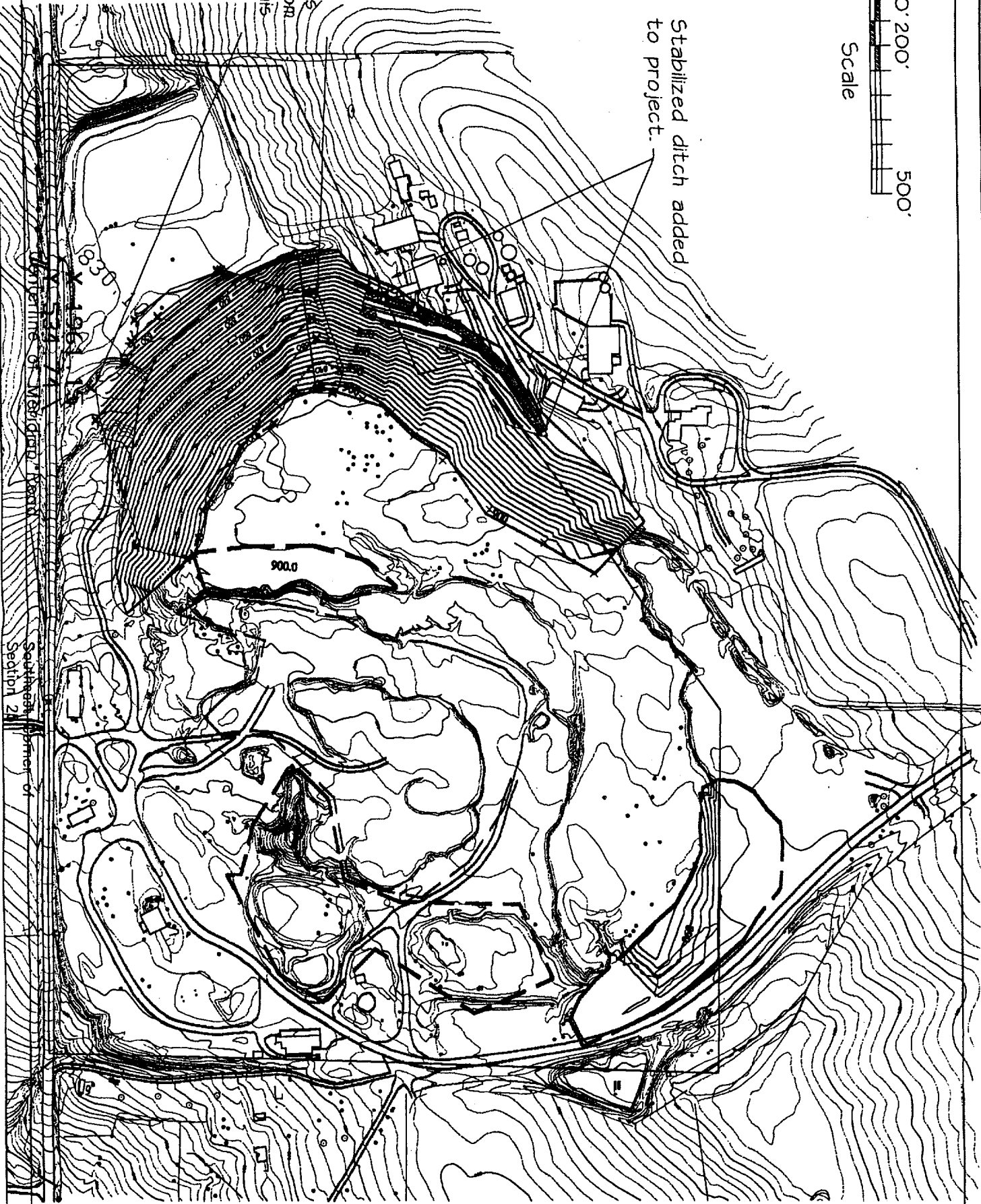
10/16/95
 Sheet 1/4

Original Proposed Contours, Earthwork Quantities
 Graham Mine Reclamation, Galena, Illinois



Stabilized ditch added to project.

As-built contours vary from plans, this area



Section 21
 Southeast corner of
 Quarter 21
 Township 33 N
 Range 10 E
 Section 21

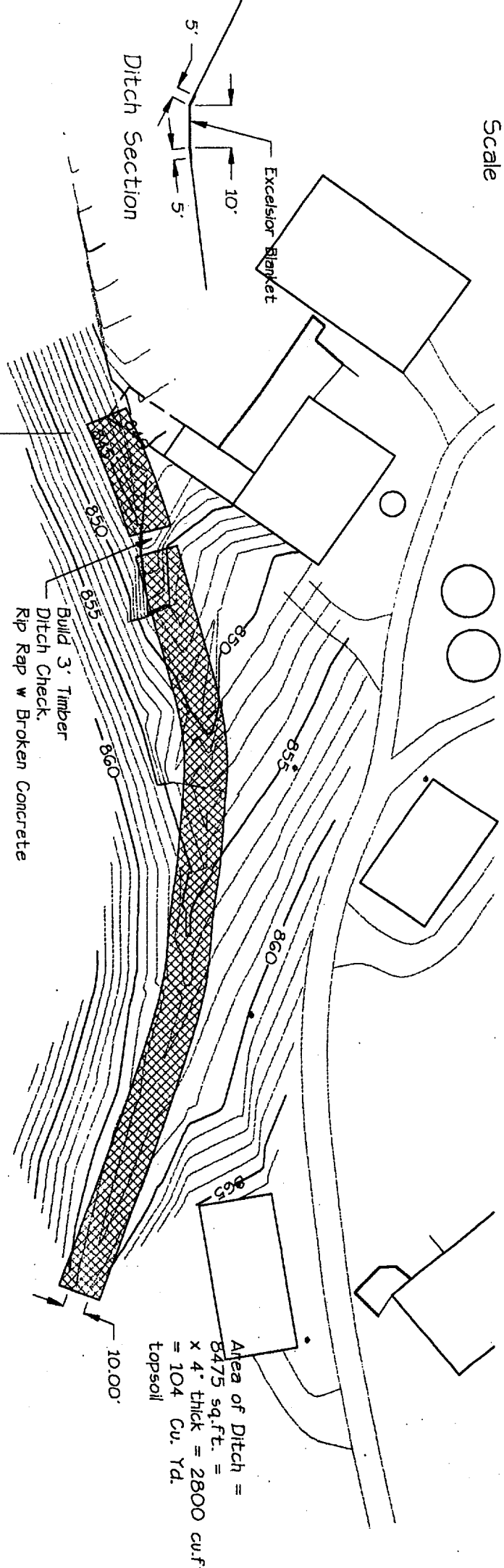
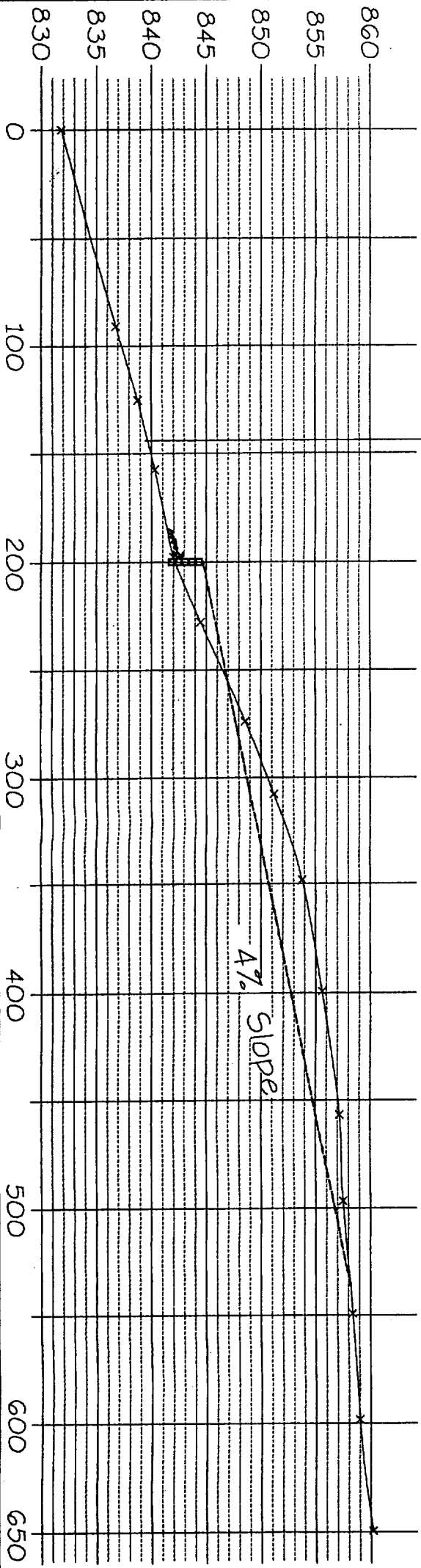
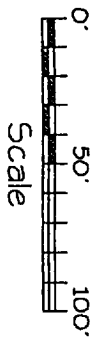
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815-777-1566

11/6/96
Sheet 2/4

As-Built Conditions based on 10/28/96 Survey Data

Graham Mine Reclamation, Galena, Illinois

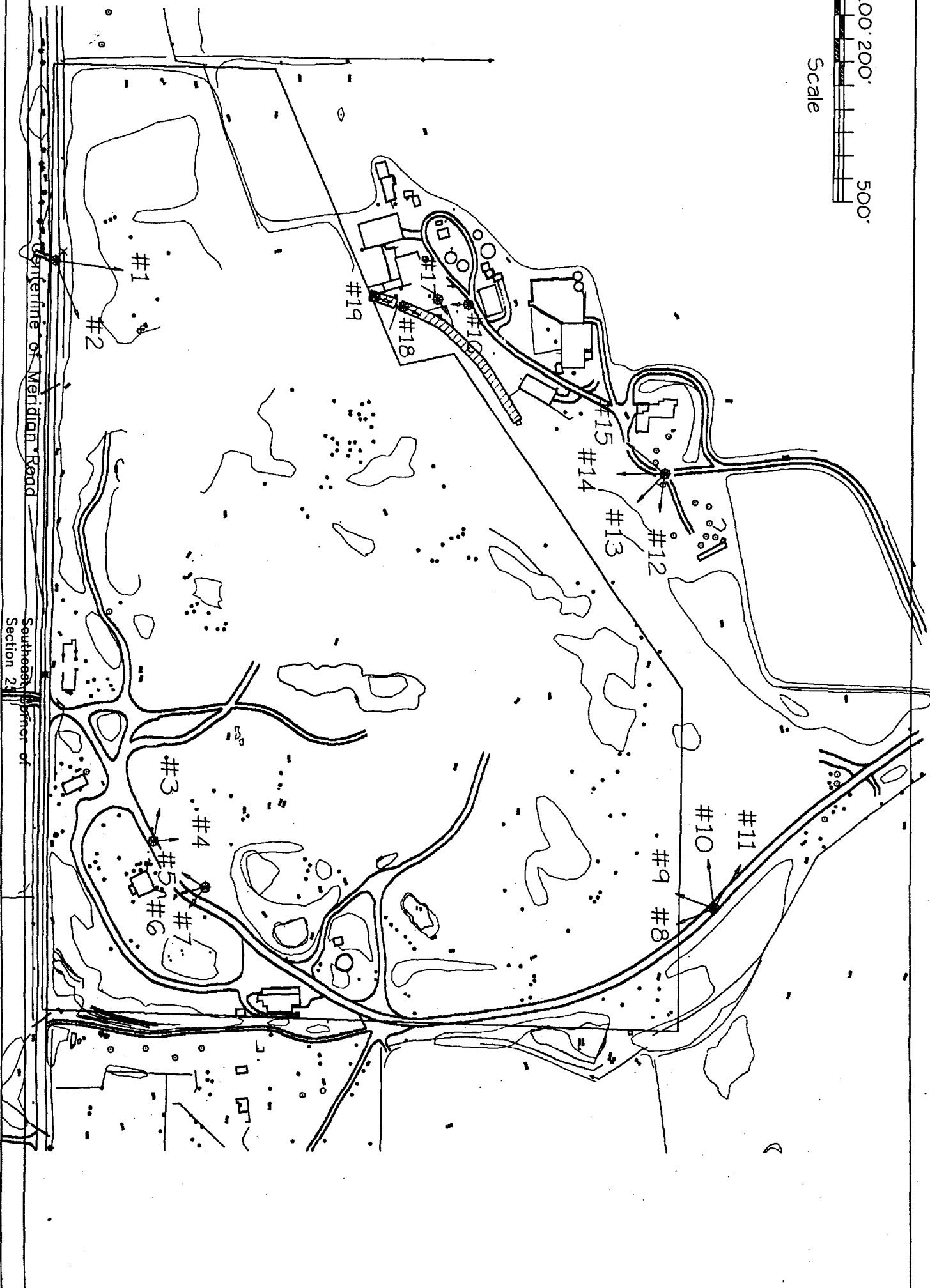
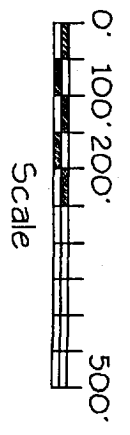


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Consulting Engineers

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815-777-1566

7/24/96
Sheet 3/4

Stabilized Ditch Construction Details
Inspiration Development Graham Mine Reclamation



Greg Stauder + Co.
Consulting Engineers

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615-777-1566

11/8/96
Sheet 4/4

Key to Photograph Location + Orientation
Graham Mine Reclamation, Galena, Illinois



NOTE: BARE AREAS IN
PHOTOS #3 AND #4 ARE
THE EDGE OF THE ACCESS
ROAD TO REMAIN.

Greg Stauder + Co.
Consulting Engineers

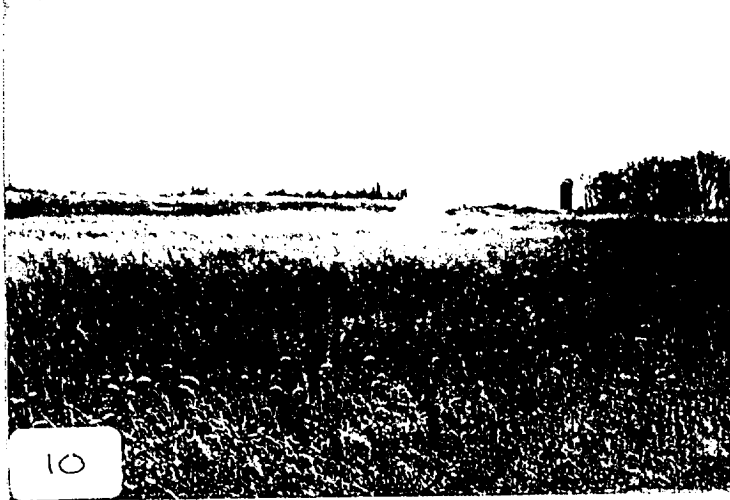
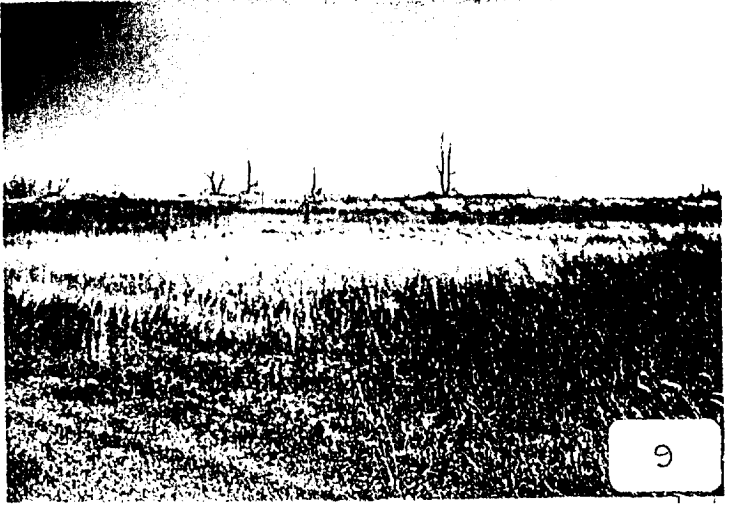
202 S. Main, Witt. IL 62094
1-800-254-5700
331 Franklin, Galena, IL 61036
815-777-1588

10/8/96

Sheet 1/3

As-Built Photos 1 - 7

Graham Mine Reclamation, Galena, Illinois



Greg Stauder + Co.
Consulting Engineers

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615-777-1568

10/8/06
Sheet 2/3

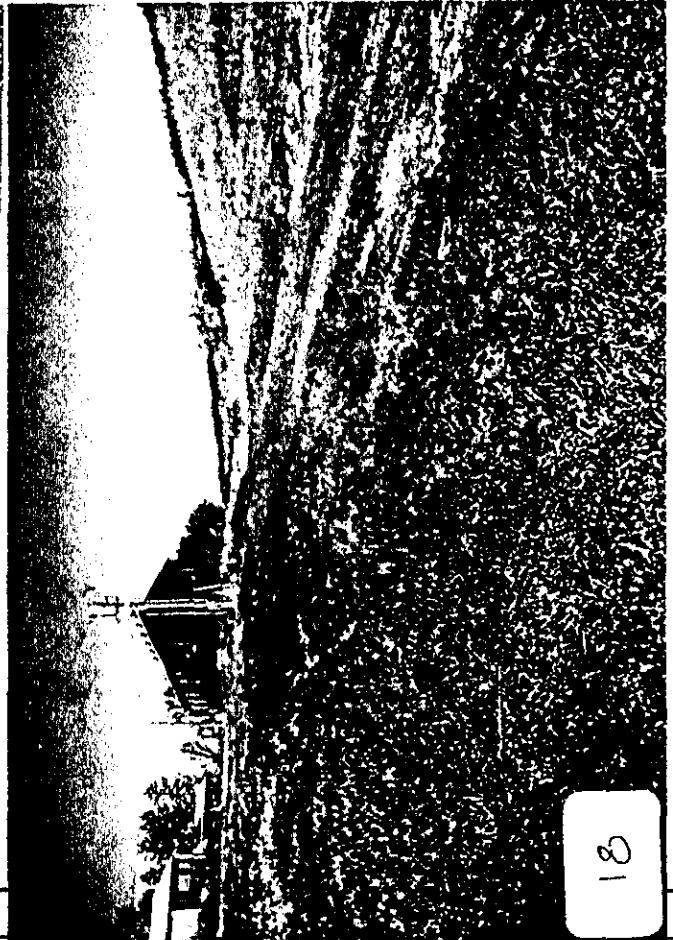
As-Built Photos 8 - 15
Graham Mine Reclamation, Galena, Illinois



16



17



18



19

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Consulting Engineers

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11/8/96

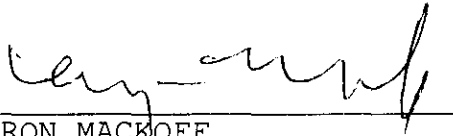
Sheet 3/3

As-Built Photos 16 - 19

Galena Mine Reclamation, Galena, Illinois

CERTIFICATE OF SERVICE

I, MYRON F. MACKOFF, an Assistant Attorney General in this case, do certify that I caused to be mailed this 7th day of April, 2000, the foregoing Notice of Filing and Motion to Request Relief From Hearing Requirement and Stipulation and Proposal for Settlement upon the persons listed on said Notice by certified mail in an envelope bearing sufficient postage with the United States Postal Service located at 100 West Randolph Street, Chicago, Illinois.



MYRON MACKOFF