

# NOTICE

This scan only represents the application as filed. The information contained herein meets the requirements of K.A.R. 5-3-1 or K.A.R. 5-5-1, and has been found acceptable for filing in the office of the Chief Engineer. The application should not be considered to be a complete application as per K.A.R. 5-3-1b or K.A.R. 5-5-2a.

Submit To: CHIEF ENGINEER  
Division of Water Resources  
Kansas Department of Agriculture  
1320 Research Park Drive,  
Manhattan, Kansas 66502  
[www.ksda.gov/dwr](http://www.ksda.gov/dwr)

**APPLICATION FOR APPROVAL TO  
CHANGE THE PLACE OF USE, THE  
POINT OF DIVERSION OR THE USE  
MADE OF THE WATER UNDER AN  
EXISTING WATER RIGHT**



State of Kansas

**Filing Fee Must Accompany the Application**  
(Please refer to Fee Schedule on signature page of application form.)

Paragraph Nos. 1, 2, 3, 4 & 8 must be completed. Complete all other applicable portions. A topographic map or detailed plat showing the authorized and proposed points(s) of diversion and /or place of use must accompany this application.

1. Application is hereby made for approval of the Chief Engineer to change the

- Place of Use  
(Check one or more)  Point of Diversion  
 Use Made of Water

**WATER RESOURCES  
RECEIVED**  
OCT 30 2017  
11:50  
KS DEPT OF AGRICULTURE

File No. WL 006

2. Name of applicant: LAFARGE MIDWEST INC

Address: 1400 S CEMENT PLANT RD

City, State and Zip: FREDONIA KS 66736

Phone Number: (620) 205-7848 E-mail address: mark.metcalfe@lafargeholcim.com

What is your relationship to the water right;  owner  tenant  agent  other? If other, please explain. \_\_\_\_\_

Name of water use correspondent: LAFARGE MIDWEST INC ENVIRONMENTAL MANAGER

Address: 1400 S CEMENT PLANT RD

City, State and Zip: FREDONIA KS 66736

Phone Number: (620) 205-7848 E-mail address: mark.metcalfe@lafargeholcim.com

3. The change(s) proposed herein are desired for the following reasons (please be specific): \_\_\_\_\_

4. Systech desires to use the water in regular course of business to include expansion of current fire protection capabilities to include both use and system testing, activities of fuel preparation for non-bulk processing, fuel preparation in bulk processing, tank truck washout services, railcar cleaning services, fugitive dust control, conducting general maintenance activities.

The change(s) (was) (will be) completed by \_\_\_\_\_ (Date)

For Office Use Only:													
F.O.	1	GMD	Meets K.A.R. 5-5-1 (YES/NO)	Use	DND	Source	G(S)	County	WL	By	AW	Date	10/30/17
Code	CPU		Fee \$	200	TR #		Receipt Date	10/30/17	Check #	CC			

11/13/2017 CM

5. The presently authorized place of use is:

Owner of Land — NAME: LAFARGE MIDWEST INC

ADDRESS: 1400 S CEMENT PLANT RD, FREDONIA, KS 66736

Sec.	Twp.	Range	NE¼				NW¼				SW¼				SE¼				TOTAL ACRES
			NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	
24	29S	14E	Cement Plant (SW SW NE)																

List any other water rights that cover this place of use: 35, LAFARGE MIDWEST INC 711

Owner of Land — NAME: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

Sec.	Twp.	Range	NE¼				NW¼				SW¼				SE¼				TOTAL ACRES
			NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	
																			357

List any other water rights that cover this place of use. \_\_\_\_\_

(If there are more than two landowners, attach additional sheets as necessary.)

6. It is proposed that the place of use be changed to:

Owner of Land — NAME: LAFARGE MIDWEST INC

ADDRESS: 1400 S CEMENT PLANT RD, FREDONIA, KS 66736

Sec.	Twp.	Range	NE¼				NW¼				SW¼				SE¼				TOTAL ACRES
			NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	
24	29S	14E	Cement Plant (SW SW NE)																

List any other water rights that cover this place of use. \_\_\_\_\_

Owner of Land — NAME: SYSTECH ENVIRONMENTAL CORP

ADDRESS: 1420 South Cement Plant Road, Fredonia, KS 66736

Sec.	Twp.	Range	NE¼				NW¼				SW¼				SE¼				TOTAL ACRES
			NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	
24	29S	14E	Site wide usage																14.26

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List any other water rights that cover this place of use. \_\_\_\_\_

IF MORE SPACE IS NEEDED, ATTACH ADDITIONAL SHEETS AS NECESSARY

OCT 30 2017

7. The presently authorized point(s) of diversion is one pumpsite from the Fall River \_\_\_\_\_  
(Provide description and number of points)
8. The proposed point(s) of diversion (is) (are) N/A \_\_\_\_\_  
(Provide description and number of points)

**List all presently authorized point(s) of diversion:**

8. **Presently authorized point of diversion:**  
 One in the NW Quarter of the NE Quarter of the SW Quarter of Section 24, Township 29 South, Range 14 (E), in WILSON County, Kansas, 2470 feet North 3670 feet West of Southeast corner of section. Authorized Rate 350 Authorized Quantity 140.0 mgy  
 (DWR use only: Computer ID No. 1 GPS 2571 feet North 3602 feet West)  
 This point will not be changed     This point will be changed as follows: **2010 COMPLIANCE GPS DATA**  
**Proposed point of diversion: (Complete only if change is requested)**  
 One in the \_\_\_\_\_ Quarter of the \_\_\_\_\_ Quarter of the \_\_\_\_\_ Quarter of Section \_\_\_\_\_, Township \_\_\_\_\_ South, Range \_\_\_\_\_ (E/W), in \_\_\_\_\_ County, Kansas, \_\_\_\_\_ feet North \_\_\_\_\_ feet West of Southeast corner of section. Proposed Rate \_\_\_\_\_ Proposed Quantity \_\_\_\_\_  
 This point is:  Additional Well     Geo Center    List other water rights that will use this point 35711

9. **Presently authorized point of diversion:**  
 One in the SE Quarter of the SW Quarter of the NE Quarter of Section 24, Township 29 South, Range 14 (E/W), in WILSON County, Kansas, 2900 feet North 1440 feet West of Southeast corner of section. Authorized Rate SAME AS ID1 Authorized Quantity \_\_\_\_\_  
 (DWR use only: Computer ID No. 3 GPS 2924 feet North 1502 feet West)  
 This point will not be changed     This point will be changed as follows: **2010 COMPLIANCE GPS DATA**  
**Proposed point of diversion: (Complete only if change is requested)**  
 One in the \_\_\_\_\_ Quarter of the \_\_\_\_\_ Quarter of the \_\_\_\_\_ Quarter of Section \_\_\_\_\_, Township \_\_\_\_\_ South, Range \_\_\_\_\_ (E/W), in \_\_\_\_\_ County, Kansas, \_\_\_\_\_ feet North \_\_\_\_\_ feet West of Southeast corner of section. Proposed Rate \_\_\_\_\_ Proposed Quantity \_\_\_\_\_  
 This point is:  Additional Well     Geo Center    List other water rights that will use this point NONE

10. **Presently authorized point of diversion:**  
 One in the \_\_\_\_\_ Quarter of the \_\_\_\_\_ Quarter of the \_\_\_\_\_ Quarter of Section \_\_\_\_\_, Township \_\_\_\_\_ South, Range \_\_\_\_\_ (E/W), in \_\_\_\_\_ County, Kansas, \_\_\_\_\_ feet North \_\_\_\_\_ feet West of Southeast corner of section. Authorized Rate \_\_\_\_\_ Authorized Quantity \_\_\_\_\_  
 (DWR use only: Computer ID No. \_\_\_\_\_ GPS \_\_\_\_\_ feet North \_\_\_\_\_ feet West)  
 This point will not be changed     This point will be changed as follows:  
**Proposed point of diversion: (Complete only if change is requested)**  
 One in the \_\_\_\_\_ Quarter of the \_\_\_\_\_ Quarter of the \_\_\_\_\_ Quarter of Section \_\_\_\_\_, Township \_\_\_\_\_ South, Range \_\_\_\_\_ (E/W), in \_\_\_\_\_ County, Kansas, \_\_\_\_\_ feet North \_\_\_\_\_ feet West of Southeast corner of section. Proposed Rate \_\_\_\_\_ Proposed Quantity \_\_\_\_\_  
 This point is:  Additional Well     Geo Center    List other water rights that will use this point \_\_\_\_\_

11. Describe the current condition of and future plans for any point(s) of diversion which will no longer be used. N/A

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12. The presently authorized use of water is for INDUSTRIAL purposes.  
It is proposed that the use be changed INDUSTRIAL purposes.
13. If changing the place of use and/or use made of water, describe how the consumptive use will not be increased.
14. Lafarge Midwest Inc. had used the water in the production of cement. The water was mixed with the dry raw mix feed for the kilns, and left the kilns as evaporation. No water was returned to the river. Systech does not anticipate to exceed previous usage gallons on a yearly basis. It is not anticipated that any water will be returned to the river due to presence of an onsite containment pond. Systech desires to use water in regular course of business to include expansion of current fire protection capabilities to include both use and system testing, activities of fuel preparation for non-bulk processing, fuel preparation in bulk processing, tank truck washout services, railcar cleaning services, fugitive dust control, and conducting general maintenance activities.
- (Please show any calculations here.)
15. It is requested that the maximum annual quantity of water be reduced to N/A (acre-feet or million gallons).
16. It is requested that the maximum rate of diversion of water be reduced to N/A gallons per minute (\_\_\_\_ c.f.s.).
17. The application must include either a topographic map or detailed plat. A U.S. Geological Survey Topographic Map, scale 1:24,000, is available through the Kansas Geological Survey, 1930 Constant Avenue, University of Kansas, Lawrence, Kansas 66047-3726 ([www.usgs.gov](http://www.usgs.gov)). The map should show the location of the presently authorized point(s) of diversion. Distances North and West of the Southeast corner of the section must be shown. The presently authorized place of use should also be shown. Identify the center of the section, the section lines and the section corners and show the appropriate section, township, and range numbers on the map. In addition the following information must also be shown on the map.
- a. If a change in the location of the point(s) of diversion is proposed, show:
    - 1) The location of the proposed point(s) of diversion. Distances North and West of the Southeast corner of the section must be shown. Please be certain that the information shown on the map agrees with the information shown in Paragraph Nos. 9, 10 and 11 of the application.
    - 2) If the source of supply is groundwater, please show the location of existing water wells of any kind, including domestic wells, within 1/2 mile of the proposed well or wells. Identify each well as to its use and furnish name and mailing address of the property owner or owners. If there are no wells within 1/2 mile, please indicate so on the map.
    - 3) If the source of supply is surface water, the names and mailing addresses of all landowner(s) 1/2 mile downstream and 1/2 mile upstream from your property lines must be shown.
  - b. If a change in the place of use is desired, show the proposed place of use by crosshatching on the map. Please be certain that the information shown on the map agrees with the information shown in Paragraph No. 5 of the application.
18. Attach documentation to show the change(s) proposed herein will not impair existing water rights and relates to the same local source of supply as to which the water right relates. This information may include statements, plats, geology reports, well logs, test hole logs, and other information as necessary information to show the above. Additional comments may be made below.

HISTORIC CONSUMPTIVE USE WILL NOT BE INCREASED AND THERE WILL BE NO CHANGE IN THE POINT OF DIVERSION

19. If the proposed change(s) does not meet all applicable rules and regulations of the Kansas Water Appropriation Act, please identify the rules and regulations for which you request a waiver. State the reason why a waiver is needed and why the request should be granted. Attach documentation showing that granting the request will not impair existing water rights and will not prejudicially and unreasonably affect the public interest.

MEETS ALL APPLICABLE RULES AND REGULATIONS

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IF MORE SPACE IS NEEDED, ATTACH ADDITIONAL SHEETS AS NECESSARY 2017

Any use of water that is not as authorized by the water right or permit to authorize water **before** the chief engineer approves this application is a violation of the Kansas Water Appropriation Act for which criminal or civil penalties may be assessed. Such violation is a class C misdemeanor, punishable by a fine not to exceed \$500 and/or a term of confinement not to exceed one month in the county jail. K.S.A. 82a-728(b). Civil penalties shall be not less than \$100 nor more than \$1,000 per violation. In the case of a continuing violation, each day such violation continues may be deemed a separate violation. In addition to these penalties the water right may be modified or suspended. K.S.A. 82a-737, as amended.

**The application must be signed by all owners of the place of use authorized under the water right and his or her spouse, if married. Please indicate if there is no spouse.** If land is being purchased under contract, the seller must sign as landowner until such time as the contract is completed.

In the event that all applicants cannot appear before one notary public, they may as necessary sign separate copies of the application before any notary public conveniently available to them. All copies signed in this manner shall be considered to be valid parts of the application.

If the request is signed on behalf of any Owner by someone with legal authority to do so (for example, an agent, one who has power of attorney, or an executor, executrix, conservator), it will be necessary to attach proper documents showing such authority.

I declare that I am an owner of the currently authorized place of use as identified herein, or that I represent all such owners and am authorized to make this application on their behalf, and declare further that the statements contained herein are true, correct, and complete. By filing this application I authorize the chief engineer to permanently reduce the quantity of water and/or rate of diversion as specified in sections 14 and 15 of this application.

Dated at Frederia, Kansas, this 27 day of October, 2017.

Mark Metcalf  
(Owner)

(Spouse)

Mark Metcalf  
(Please Print)

(Please Print)

(Owner)

(Spouse)

(Please Print)

(Please Print)

(Owner)

(Spouse)

(Please Print)

(Please Print)

TERESA ANDERSON  
NOTARY PUBLIC  
STATE OF KANSAS  
My Appointment Expires:  
6-13-2020

State of \_\_\_\_\_ }  
County of Wilson } SS

I hereby certify that the foregoing application was signed in my presence and sworn to before me this 27<sup>th</sup> day of October, 2017.

Teresa Anderson  
Notary Public

My Commission Expires 6-13-2020

**FEE SCHEDULE**

Each application to change the place of use, the point of diversion or the use made of the water under this section shall be accompanied by the application fee set forth in the schedule below:

- (1) Application to change a point of diversion 300 feet or less ..... \$100
- (2) Application to change a point of diversion more than 300 feet ..... \$200
- (3) Application to change the place of use ..... \$200
- (4) Application to change the use made of the water ..... \$300

Make check payable to **Kansas Department of Agriculture.**

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## INDUSTRIAL USE SUPPLEMENTAL SHEET

File No. WL006

Name of Applicant (Please Print): Systech Environmental Corporation (File No: WL006)

1. Please describe type of industry or product produced: Systech collects, blends, and distributes alternate fuels for co-processing and reuse in cement manufacturing processes. Note: water previously diverted was purchased water from the City of Fredonia, KS.

Standard Industrial Classification Code Number: 4953

2. Please complete the following table to show your past and present water requirements:

### PAST PRODUCT PRODUCTION AND WATER DIVERTED, IF APPLICABLE

LAST 5 YEARS	AMOUNT OF PRODUCT	WATER DIVERTED (GALLONS)	GALLONS PER PRODUCT PER DAY
5 years ago	15,063,435	1,214,600	3,327
Last year	13,594,685	2,568,200	7,036
Present year	13,864,078	702,693	1,925

3. Please complete the following table to show your future water requirements:

### ESTIMATED FUTURE PRODUCT PRODUCTION AND WATER DIVERTED

NEXT 5 YEARS	AMOUNT OF PRODUCT	WATER TO BE DIVERTED (GALLONS)	GALLONS PER PRODUCT PER DAY
Year 1	15,500,000	1,385,609	3,796
Year 2	17,500,000	1,486,978	4,074
Year 3	20,500,000	1,639,031	4,490
Year 4	20,500,000	1,639,031	4,490
Year 5	20,500,000	1,639,031	4,490

Number of days of operation of the industry per year is 365 days.

Please attach any tables, curves or additional information showing past, present and estimated future water requirements to substantiate the amount of water requested.

4. Please designate the legal description of the location where the water is to be used. Show in the space provided below the Section (S), Township (T), and Range (R), and the number of acres in each forty acre tract or fractional portion thereof.

S	T	R	NE¼				NW¼				SW¼				SE¼				TOTAL
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
24	29S	14E	Site wide																14.26

You may attach any additional information you believe will assist in informing the Division of the Resources for your request.

**INDUSTRIAL USE  
SUPPLEMENTAL SHEET**

File No. 35711

Name of Applicant (Please Print): Systech Environmental Corporation (File No: 35711)

1. Please describe type of industry or product produced: Systech collects, blends, and distributes alternate fuels for co-processing and reuse in cement manufacturing processes. Note: water previously diverted was purchased water from the City of Fredonia, KS.

Standard Industrial Classification Code Number: 4953

2. Please complete the following table to show your past and present water requirements:

**PAST PRODUCT PRODUCTION AND WATER DIVERTED, IF APPLICABLE**

LAST 5 YEARS	AMOUNT OF PRODUCT	WATER DIVERTED (GALLONS)	GALLONS PER PRODUCT PER DAY
5 years ago	15,063,435	1,214,600	3,327
Last year	13,594,685	2,568,200	7,036
Present year	13,864,078	702,693	1,925

3. Please complete the following table to show your future water requirements:

**ESTIMATED FUTURE PRODUCT PRODUCTION AND WATER DIVERTED**

NEXT 5 YEARS	AMOUNT OF PRODUCT	WATER TO BE DIVERTED (GALLONS)	GALLONS PER PRODUCT PER DAY
Year 1	15,500,000	1,385,609	3,796
Year 2	17,500,000	1,486,978	4,074
Year 3	20,500,000	1,639,031	4,490
Year 4	20,500,000	1,639,031	4,490
Year 5	20,500,000	1,639,031	4,490

Number of days of operation of the industry per year is 365 days.

Please attach any tables, curves or additional information showing past, present and estimated future water requirements to substantiate the amount of water requested.

4. Please designate the legal description of the location where the water is to be used. Show in the space provided below the Section (S), Township (T), and Range (R), and the number of acres in each forty acre tract or fractional portion thereof.

S	T	R	NE¼				NW¼				SW¼				SE¼				TOTAL
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
24	29S	14E	Site wide																14.26

**WATER RESOURCES  
RECEIVED**

You may attach any additional information you believe will assist in informing the Division of the need for your request.

**OCT 30 2017**



## WATER RIGHTS LEASE AGREEMENT

This Water Rights Lease Agreement ("Lease") is made and entered into as of this 13th day of October 2017, by and between Lafarge Midwest, Inc. ("Lafarge") and Systech Environmental Corporation ("Systech") (collectively the "Parties").

### RECTALS:

1. Lafarge owns the real property described in Appendix A (the "Property").

2. Lafarge believes that the following water rights that are appurtenant to the Property are in good standing with the Kansas Department of Agriculture, Division of Water Resources ("DWR"): DWR Files WL06 and 35,711 (the "Water Rights").

3. Systech is in need of additional water for current and future operations at its facility located on the property described in Appendix B.

4. The Water Right designated as File WL06 permits the diversion of water from a point located on Fall River in the Northwest Quarter of the Northeast Quarter of the Southwest Quarter (NW/4 NE/4 SW/4), and from a point located on Clear Creek in the Southeast Quarter of the Southwest Quarter of the Northeast Quarter (SE/4 SW/4 NE/4) of Section 24, Township 29 South, Range 14 East, Wilson County, Kansas.

5. The Water Right designated as File 35,711 permits the diversion of the natural flows of the Fall River at a point located in the Northwest Quarter of the Northeast Quarter of the Southwest Quarter (NW/4 NE/4 SW/4) of Section 24, Township 29 South, Range 14 East, Wilson County, Kansas, more particularly described as being near a point 2,470 feet North and 3,670 feet West of the Southeast corner of said Section 24.

6. Lafarge holds a Right of Way Easement (the "Easement") dated August 27, 1980, from Lyle and Naomi Mellen to General Portland Inc., filed of record on August 28, 1980 and recorded in Book 111 at Page 602 for an overhead power line and an underground pipeline described as follows:

A strip of land thirty (30) feet wide the center line of which is described as follows: Beginning at a point 99 feet North of the Southeast corner of the NW/4 of Section 24, Township 29 South, Range 14 East, Wilson County, Kansas, thence West 699.5 feet, thence South 48°30' West, 281 feet, thence south 65 feet.

The Easement was assigned to Lafarge Midwest, Inc. on June 28, 2000 and the assignment was recorded on July 12, 2000, in Book 157 Misc. at Page 440.

7. Lafarge desires to lease the Water Rights and the Easement to Systech and Systech desires to lease the Water Rights and the Easement from Lafarge.

8. Systech is installing upgrades to its plant to allow it to test and document the use of water prior to December 31, 2017. The upgrades will provide the Systech Fredonia plant with a secondary source of non-potable water.

9. The Parties understand that to enable Systech to use water, Systech will be required to obtain DWR approval for various aspects of this transaction, including possible changes in the type of use, point of diversion, and place of use of the Water Rights. Such changes may involve a reduction in the total quantity of water that Systech will be able to use.

NOW, THEREFORE, in consideration of the mutual promises and covenants herein contained, the Parties agree as follows:

1. **Leased Property.** In consideration of the payment of the rent and the other terms and conditions in this Lease, Lafarge agrees to lease the following to Systech:

- a. the Water Rights;
  - b. the Easement;
  - c. access across the Property to the Clear Creek point of diversion;
- and
- d. any existing pumps, piping, and equipment associated with the diversion of water.

2. **Price and Payment Terms.** Systech will pay Lafarge the sum of one dollar per year during the Term of this Lease.

3. **Effective Date.** This Lease will become effective and be binding upon its signature by both Parties and the payment of the rent for the first year.

4. **Term.** The term is for a period of 10 years beginning on the date hereof. However, Systech acknowledges that (i) Lafarge may, in its sole discretion, sell the Property, including the Water Rights and the Easement and (ii) this Lease will terminate upon the sale of the Property to any third party.

5. **Ownership of the Water Rights.** Notwithstanding the provisions of the Kansas Water Appropriations Act, K.S.A. 82a-701, *et seq.*, relating to ownership of water rights, the Parties intend that Lafarge will remain the owner of the Water Rights subject only to Systech's right to use water under the terms of this Lease.

6. **Change Applications.** Within 10 days after the date hereof, Systech will file appropriate applications to change the point of diversion, place of use, or the type of use with DWR.

- a. In the event DWR fails or refuses to issue an Order making the requested changes, Systech may terminate the Lease at its sole option.
- b. The Parties agree to cooperate with one another to obtain necessary and appropriate approvals from DWR and other appropriate governmental agencies and will sign required and necessary documents as requested by such agencies.
- c. Upon termination of the Lease the Parties agree to file an application to change the point of diversion, place of use, and type of use to that desired by Lafarge, or its successors.
- d. The Parties agree to execute the documents reasonably required to facilitate the filing or granting of the change applications.

7. **Representations and Warranties.** Lafarge makes no representations or warranties about:

- a. the availability of water in the sources of supply;
- b. the quality of the water or its fitness for use by Systech; or
- c. any right of access across the railroad right of way to the Clear Creek point of diversion.

8. **Reporting and Compliance.** Systech agrees that it will:

- a. make actual use of the Water Rights;
- b. not divert or use water unless and until permitted to do so by DWR;
- c. comply with all of the terms, conditions, and limitations imposed by the Kansas Water Appropriations Act, DWR regulations, and the Water Rights;
- d. meter all water use and prepare and file accurate and complete water use reports in a timely manner; and
- e. maintain the Water Rights in good standing with DWR.

9. **Binding on Successors and Assigns.** The provisions of this Lease are binding on the Parties and their successors.

10. **Taxes and Special Assessments.** Lafarge will remain liable for all ad valorem taxes and special assessments levied against the Property during the term of this Lease.

11. **Notices.** All notices must be in writing and served either personally, by recognized public or private express mail service, or by depositing the same with the

United States Postal Service, certified or registered mail, return receipt requested, postage prepaid, and properly addressed as follows:

If to Lafarge:

John T. Fay, AICP  
Land Manager - United States  
LafargeHolcim  
1300 South Illinois Route 31,  
South Elgin, Illinois 60177  
(847) 742-6060 Ext: 9-311  
with copies to:

LafargeHolcim Legal Department  
6211 Ann Arbor Road  
Dundee, MI 48131

If to Systech:

Joe Littleton  
Facility Manager  
Systech Environmental Corporation  
1420 South Cement Road  
Fredonia, KS 66736  
800-778-7224 x117

Notices will be deemed to have been given when personally delivered, one day after depositing the notice with a next day delivery service, or two (2) days after depositing the notice in the United States mail.

12. **Real Estate Broker or Salespersons.** The Parties acknowledge that they have not used a realtor in this transaction. The Parties do not believe that either owes a real estate commission as a result of this Lease. Nevertheless, if a real estate commission becomes due, such commission is the sole responsibility of the Party entering into an agreement with a broker or agent.

13. **Entire Agreement.** This Lease contains the Parties' entire agreement with respect to the subject matter of this Lease and its terms may not be amended, altered, or waived except in a writing signed by both Parties.

14. **Governing Law.** This Lease is governed by and is to be construed in accordance with the laws of the State of Kansas without reference to the choice of law or conflicts of law principles thereof.

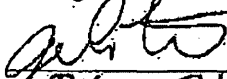

15. *General Interpretative Principles.* This Lease shall not be construed in favor of or against any Party and, except as otherwise specifically provided, all of the words and phrases shall be given their usual and ordinary meanings.

16. *Counterparts.* This Lease may be executed in counterparts that together shall constitute a single Lease that is binding on the Parties even though the Parties have not signed the same counterpart. Scanned signatures transmitted by electronic mail and signatures transmitted by facsimile are deemed to be original signatures.

17. *Time is of the Essence.* Time is of the essence in this Lease.

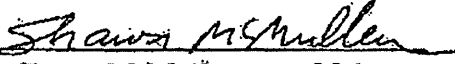
LESSOR:

Lafarge Midwest, Inc.

  
By John Stull its President 

LESSEE:

System Environmental Corporation

  
By Shawn McMullen its COO

1320 Research Park Drive  
Manhattan, Kansas 66502  
(785) 564-6700



900 SW Jackson, Room 456  
Topeka, Kansas 66612  
(785) 296-3556

Jackie McClaskey, Secretary

Governor Sam Brownback

LAFARGE MIDWEST, INC 11/9/17  
1400 S CEMENT PLANT RD  
FREDONIA, KS 66736

**FILE COPY**

RE: File No 0

Dear Sir or Madam:

An application for approval of the Chief Engineer to change the following condition or conditions of the file number referred to above has been received:

- place of use            PU
- point of diversion
- use made of water

As a matter of record, the Division of Water Resources has on hand a large number of applications awaiting processing. Therefore, to be fair to all concerned, and so that we can process those applications on hand in the order they were received, we intend to concentrate on the backlog of applications until the issue is resolved. You will be contacted regarding this application as soon as it has been examined.

In accordance with the provisions of the Kansas Water Appropriation Act, a portion of which is included below, the use of water prior to approval of the application is unlawful. You should not proceed and divert water as indicated by your plans in your application for a change for this file until you receive approval for this change from the Chief Engineer. Once approved, compliance with the terms, conditions and limitations of the permit is necessary. Conservation of the water resources of Kansas is required.

**Section 82a-728 of the Kansas Water Appropriation Act, provides (a) except for the appropriation of water for the purpose of domestic use, . . . it shall be unlawful for any person to appropriate or threaten to appropriate water from any source without first applying for and obtaining a permit to appropriate water in accordance with the provisions of the Water Appropriation Act or for any person to violate any condition of a vested right, appropriation right or an approved application for a permit to appropriate water for beneficial use.**

**(b) (1) The violation of any provision of this section by any person is a class C misdemeanor...**

**A class C misdemeanor is punishable by a fine not to exceed \$500 and/or a term of confinement not to exceed one month in the county jail. Each day that the violation occurs constitutes a separate offense.**

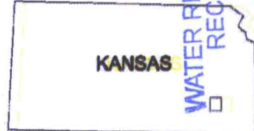
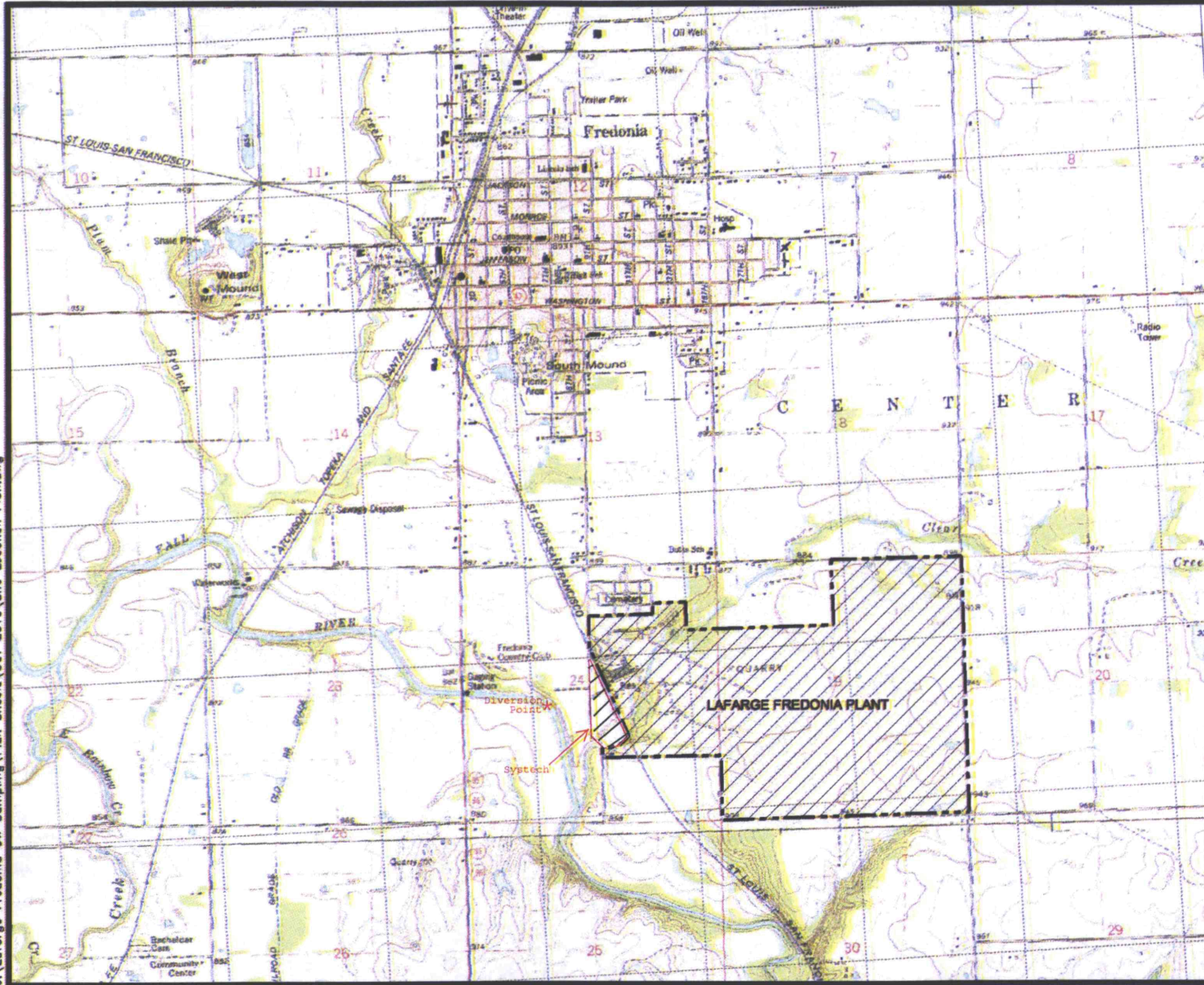
If you have any questions, please contact me at (785) 564-6645. If you wish to discuss a specific file, please have the file number ready so that we may help you more efficiently.

Sincerely,

Brent Tournay, L.G.  
Change Applications Unit Supervisor  
Water Appropriation Program

BAT: DLW  
pc: TOPEKA Field Office    GMD

January 24, 2011 7:21:49 am (ora)  
 J:\Lafarge Fredonia GW Sampling\Plan Sheets\OCT 2010\Site Location Plan.dwg



QUADRANGLE LOCATION

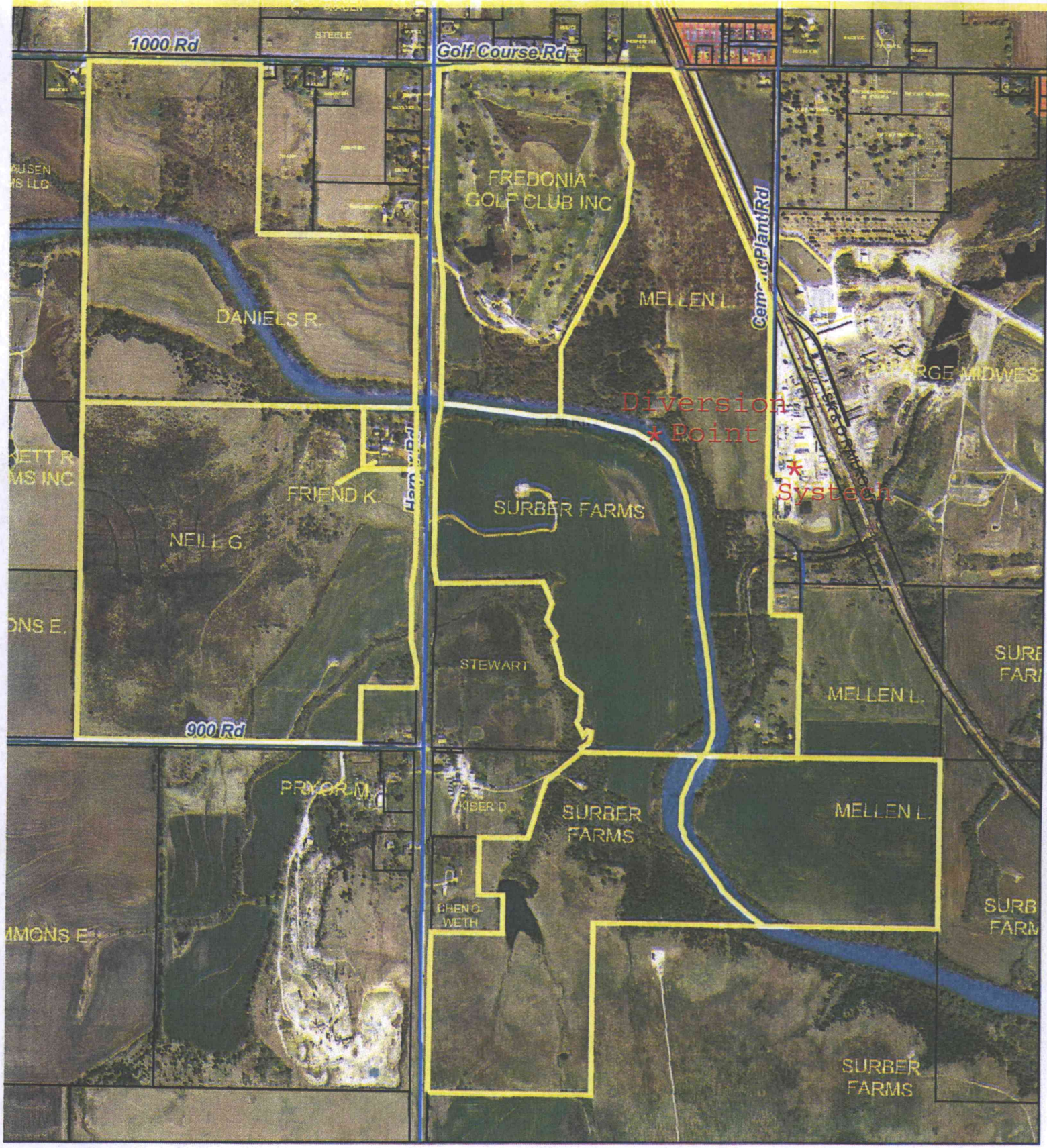
WATER RESOURCES  
 RECEIVED

OCT 30 2017

KS DEPT OF AGRICULTURE







<b>URS</b> 8300 College Blvd., Suite 200 Overland Park, Kansas 66210		
CLIENT: LAFARGE MIDWEST, INC.		
LOCATION: FREDONIA PLANT, WILSON COUNTY, KANSAS		
TITLE: SITE LOCATION PLAN		
DRAWN BY: <b>CTD</b>	CHECKED BY: <b>LAT</b>	APPROVED BY: <b>ALS</b>
PROJECT NO. <b>16530596</b>	DATE <b>JAN 2011</b>	DRAWING NO. <b>1</b>



WATER RESOURCES RECEIVED

OCT 30 2017

**Legend**

-  parcels
-  Road Centerline
-  lots
-  CITY LIMITS



Disclaimer:  
 Map features are representations of original data sources and do not intend to replace or modify land surveys, deeds or other legal instruments used to describe land ownership or use. Every effort has been made to assure accuracy of data displayed on this map. Information contained on this map may have changed since such information was compiled. Under no circumstances shall Wilson County be responsible to any party for any costs, expenses, damages, to any person or property arising from the use, misuse, sale or reliance on this map.

Date Printed: 10/12/2017

Tina Hladky, Wilson County GIS Coordinator

DEPT OF AGRICULTURE



### Property Owners

The following is a list of the property owners located within ½ mile upstream and downstream of the WL 6, 35711 diversion point on the Fall River. The number listed prior to the property owner name is listed on the attached map for location reference.

Mellen L.: Lyle D & Naomi Mellen, 8638 Cement Plant Road, Fredonia, KS 66736.

Surber Farms LLC: Agent is Kristie K. Surber, 19230 Gove Road, Fredonia, KS 66736.

Fredonia Golf Club Inc.: PO Box 203, 9711 Harper Road, Fredonia, KS 66736.

Daniels R.: Rita Boyer & Michael D. Daniels, 10410 N. 148<sup>th</sup> Avenue, Owasso, OK 74055.

Neill G.: George Neill, PO Box 478, Fredonia, KS 66736.

Friend K.: Kari Friend, 9444 Harper Road, Fredonia, KS 66736.

WATER RESOURCES  
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1:24,000



**Legend**

 Point of Diversion



WATER RESOURCES  
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OCT 30 2017

KS DEPT OF AGRICULTURE

Vested Right, File No. WL-6  
Wilson County, Kansas  
Section 24, Township 29 South, Range 14 East

AM/DWR  
Date: 10/9/2017

Possible Encroachments

AA BUILDINGS LOCATED WITHIN RAILROAD RIGHT-OF-WAY, DISTANCES VARY.

Miscellaneous Notes

- A The bearings shown hereon are based upon the Kansas State Plane Coordinate System, South Zone.
- B This survey does not reflect any easements, rights-of-way or other instruments of record except those shown on the above mentioned Title Commitment.
- C Underground utilities are shown by above ground markings provided by others.
- D At the date this survey was done in the field asphalt paving and concrete work were complete.
- E There is no evidence of subject site being used as a solid waste dump or sanitary land fill, except in those areas labeled.
- F There is no evidence of subject site being used as a burial ground or cemetery.

Commitment Legal Description

WILSON COUNTY TITLE COMPANY, LLC, COMMITMENT NO. 17416, E...  
DATE: SEPTEMBER 14, 2105 AT 8:00 AM.

Beginning at a point 754.8 feet North of the Southwest corner of Northeast Quarter (NE/4) of Section Twenty-four (24), Township (29S) South, Range Fourteen (14E) East, thence South 1656.4 feet, thence South 58°34' East 239.2 feet, thence South 16°05' East 110.3 feet, thence North 85°54' East 274.6 feet, thence North 58°43' East 224.5 feet to of the Burlington Northern Railroad Right of Way, thence Northward along said Right of Way 1083 feet, thence East 54.3 feet, thence Northward along said Railroad Right of Way 821.1 feet to point of beginning.

Items Corresponding to Schedule

- 4 Right of Way dated November 24, 1925, to The Ladow Gas Co.; filed February 15, 1926, at 3:00 P.M.; recorded at Page 78; for pipeline.
- 5 AFFECTS SUBJECT PROPERTY, VAGUE DESCRIPTION, NOT PLOTTABLE.
- 6 Right of Way Contract dated April 21, 1937, to Union Gas System Inc.; filed May 5, 1937, at 8:00 A.M.; recorded at Page 587; for pipeline.
- 7 AFFECTS SUBJECT PROPERTY, VAGUE DESCRIPTION, NOT PLOTTABLE.
- 8 Right of Way dated February 26, 1941, to Kansas Gas & Electric Co.; filed March 12, 1941, at 2:00 P.M.; recorded at Page 362.
- 9 AFFECTS SUBJECT PROPERTY, NO WIDTH PROVIDED, CENTERLINE PLOTTED.
- 10 Right of Way dated February 26, 1941, to Kansas Gas & Electric Co.; filed March 12, 1941, at 2:00 P.M.; recorded at Page 363.
- 11 AFFECTS SUBJECT PROPERTY, VAGUE DESCRIPTION, NOT PLOTTABLE.
- 12 Easement for Substation Site dated June 24, 1947, to Kansas Gas and Electric Company; filed July 17, 1947, at 6:30 A.M.; recorded in Book 63 of Miscellaneous at Page 576.
- 13 DOES NOT AFFECT SUBJECT PROPERTY.
- 14 Easement dated June 1, 1973, to General Portland Cement Company, filed June 28, 1973, at 9:20 A.M.; recorded in Book 99 of Miscellaneous at Page 273.
- 15 DOCUMENT IS MISSING EXHIBIT 'A'
- 16 Easement dated June 1, 1973, to The City of Fredonia, filed June 28, 1973, at 9:20 A.M.; recorded in Book 99 of Miscellaneous at Page 273.
- 17 DOCUMENT IS MISSING EXHIBIT 'A'
- 18 Ordinance No. 856 dated June 1, 1973, to The City of Fredonia, filed June 27, 1973, at 9:30 A.M.; Recorded in Book 139 of Miscellaneous at Page 625; Assignment dated August 9, 1989; filed August 17, 1989, in Book 139 of Miscellaneous at Page 631.
- 19 NOT SURVEY RELATED
- 20 Notice of Contents of Order Determining and Establishing Vested Rights to Continue the Beneficial Use of Water Right to Systeck Environmental Corporation; filed June 21, 1978, at 1:10 P.M.; recorded in Book 106 of Miscellaneous at Page 129.
- 21 AFFECTS SUBJECT PROPERTY, BLANKET IN NATURE, NOT PLOTTABLE.
- 22 Notice of Lease dated August 7, 1989, between the City of Fredonia and Systeck Environmental Corporation; filed August 9, 1989, at 9:00 A.M.; recorded in Book 139 of Miscellaneous at Page 625; Assignment dated August 9, 1989; filed August 17, 1989, in Book 139 of Miscellaneous at Page 631.
- 23 AFFECTS SUBJECT PROPERTY, BLANKET IN NATURE, NOT PLOTTABLE.
- 24 Grant of Easement and Agreement dated August 1, 1989, between the City of Fredonia and Lafarge Corporation; filed August 9, 1989, at 9:00 A.M.; recorded in Book 139 of Miscellaneous at Page 645.
- 25 AFFECTS SUBJECT PROPERTY, BLANKET IN NATURE, NOT PLOTTABLE.
- 26 Terms and Conditions of a Special Warranty Deed with Provisions for Reserved Easement and Restrictive Covenants to Systeck Environmental; filed August 3, 1989, at 3:10 P.M.; recorded in Book 156 of Deeds at Page 129.
- 27 AFFECTS SUBJECT PROPERTY, BLANKET IN NATURE, NOT PLOTTABLE.
- 28 Assignment of Leasehold Interest dated June 28, 2000, to Lafarge Midwest, Inc.; filed August 2, 2000, at 4:30 P.M.; recorded in Book 157 of Deeds at Page 577; for a recorded term lease with Burlington Northern Railroad Co. and General Portland Cement Co.; filed August 2, 2000, at 4:30 P.M.; recorded in Book 157 of Deeds at Page 577.
- 29 AFFECTS SUBJECT PROPERTY, BLANKET IN NATURE, NOT PLOTTABLE.
- 30 Oil and Gas Lease dated May 24, 1959, to Fredonia Portland Cement Co.; filed June 24, 1959, at 3:00 P.M.; recorded in Book 138 of Miscellaneous at Page 475, and any assignments, mortgage, etc., derived thereof.
- 31 AFFECTS SUBJECT PROPERTY, VAGUE DESCRIPTION, NOT PLOTTABLE.
- 32 Agreement dated July 23, 1914, between U.J. Glass and wife to Fredonia Portland Cement Co.; filed July 27, 1914, in Book 19 of Miscellaneous at Page 486; for pipeline.
- 33 AFFECTS SUBJECT PROPERTY, BLANKET OVER PORTION, NOT PLOTTABLE.
- 34 Oil and Gas Lease dated January 21, 1919, to C.V. Ladow; filed January 22, 1919, at 8:00 A.M.; recorded in Book 138 of Miscellaneous at Page 138, and any assignments, mortgage, etc., derived thereof.
- 35 AFFECTS SUBJECT PROPERTY, BLANKET IN NATURE, NOT PLOTTABLE.
- 36 Right of Way Contract dated April 5, 1937, to Union Gas Systems, Inc.; filed May 5, 1937, at 8:00 A.M.; recorded at Page 588.
- 37 AFFECTS SUBJECT PROPERTY, VAGUE DESCRIPTION, NOT PLOTTABLE.
- 38 Right of Way Contract dated April 21, 1937, to Union Gas Systems, Inc.; filed May 5, 1937, at 8:00 A.M.; recorded at Page 587.
- 39 AFFECTS SUBJECT PROPERTY, VAGUE DESCRIPTION, NOT PLOTTABLE.
- 40 Right of Way dated September 28, 1940, to Union Gas System, Inc.; filed September 23, 1940, at 1:00 P.M.; recorded at Page 248, for pipeline.
- 41 AFFECTS SUBJECT PROPERTY, VAGUE DESCRIPTION, NOT PLOTTABLE.
- 42 Notice dated April 2, 1990, by and between Systeck Environmental Corporation and Lafarge Corporation; filed April 2, 1990, in Book 141 of Miscellaneous at Page 258.
- 43 AFFECTS SUBJECT PROPERTY, BLANKET IN NATURE, NOT PLOTTABLE.
- 44 As an appurtenance is an Easement dated August 18, 1989, to Systeck Corporation; filed August 23, 1989, at 1:40 of Miscellaneous at Page 17; for a water main.
- 45 DOCUMENT NOT PROVIDED.

ALTA/ACSM Land Title Survey

To:  
Systeck  
First American Title Insurance Company

This is to certify that this map or plat and the survey on which it is based were made in accordance with the 2011 Minimum Standard Detail Requirements for ALTA/ACSM Land Title Surveys, jointly established and adopted by ALTA and NSPS, and includes Items 1, 2, 3, 4, 6(b), 7(a), 7(b)(1), 8, 9, 11(b), 13, 14, 16, 17 and 18 of Table A thereof. The field work was completed in July 2015.

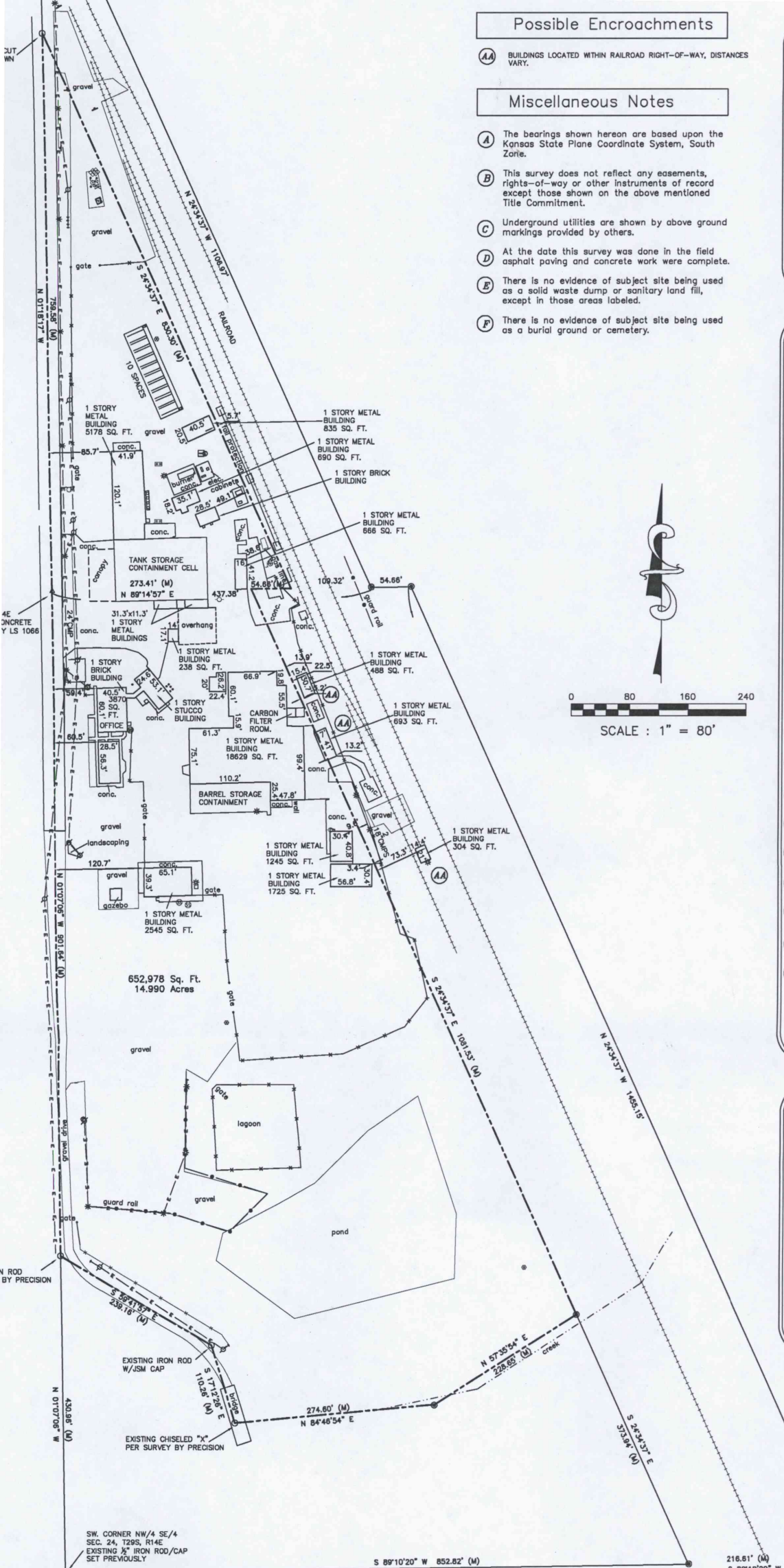
William A. Booe, L.S.

Utility Information

Please call Kansas One-Call before digging. 1-800-455-1111  
No underground utilities were located.

Flood Note

The Northwest corner of this property is in a Special Flood Hazard Zone according to the Insurance Rate Map, Community Number 200617 0003 A, effective date June 7, 2006. No buildings or improvements are located in Zone A.



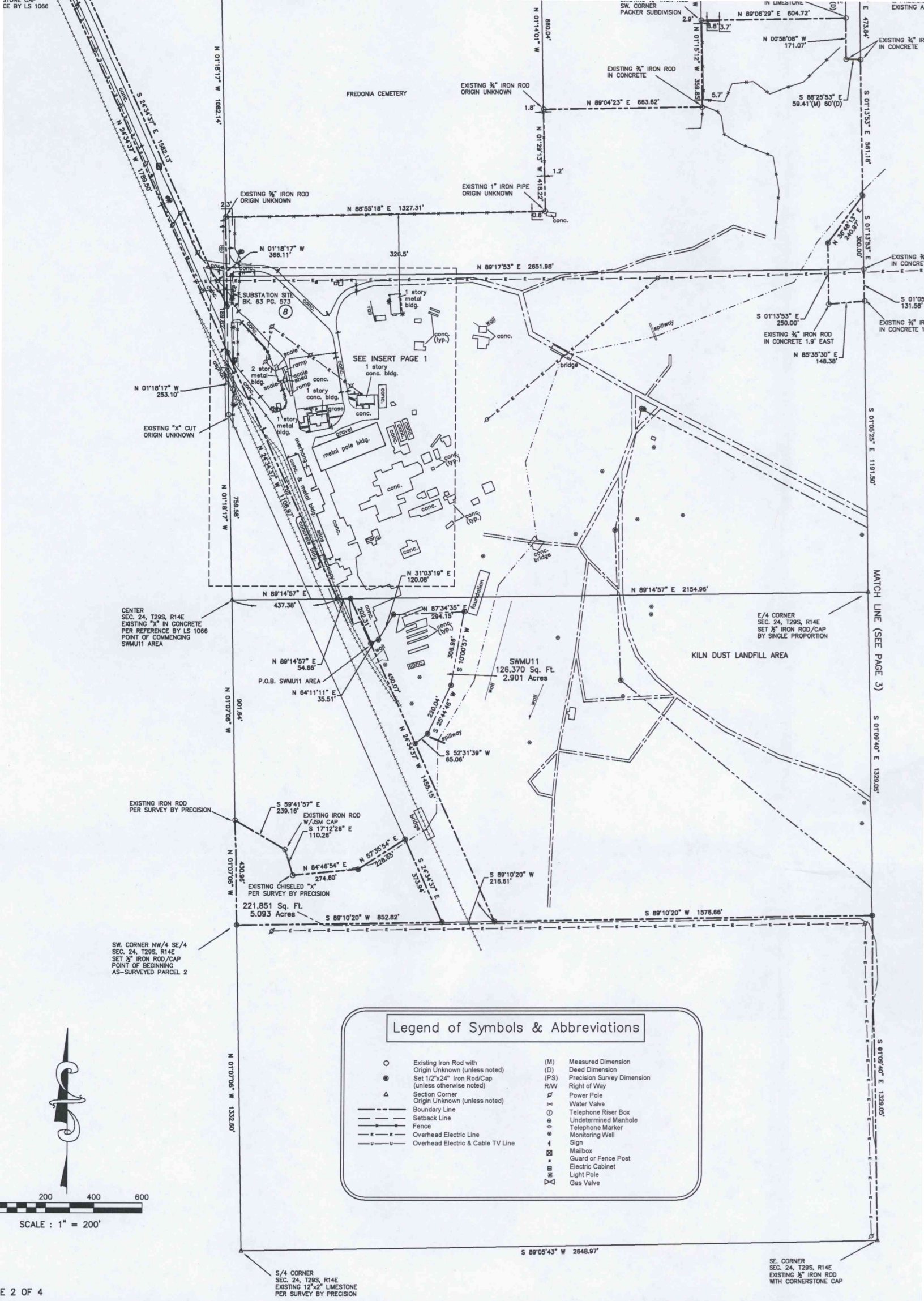
**CORNERSTONE**  
Regional Surveying, LLC  
Serving Kansas, Missouri & Oklahoma  
1 Penn, Independence, KS 67301 Ph:620-331-6767

DRAWN BY: DLB	DATE: 7-14-2015	JOB NO. 1504082SYSTECH
CHECKED BY: WAB	REVISION DATE: 9-28-15	REFERENCE JOB NO. 1-1504082-K
PREPARED FOR: SYSTECH		

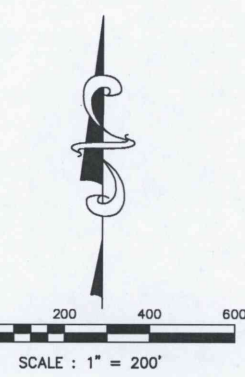
BOUNDARY SURVEY of a portion of  
the SE/4 of SECTION 24, TOWNSHIP 29 S  
RANGE 14 EAST of the 6th P.M.  
WILSON COUNTY, KANSAS

OCT 30  
KS DEPT OF AGR





Legend of Symbols & Abbreviations	
○	Existing Iron Rod with Origin Unknown (unless noted)
●	Set 1 1/2"x2 1/4" Iron Rod/Cap (unless otherwise noted)
△	Section Corner Origin Unknown (unless noted)
---	Boundary Line
---	Setback Line
---	Fence
---	Overhead Electric Line
---	Overhead Electric & Cable TV Line
(M)	Measured Dimension
(D)	Dead Dimension
(PS)	Precision Survey Dimension
RAW	Right of Way
⊕	Power Pole
⊕	Water Valve
⊕	Telephone Riser Box
⊕	Undetermined Manhole
⊕	Telephone Marker
⊕	Monitoring Well
⊕	Sign
⊕	Mailbox
⊕	Guard or Fence Post
⊕	Electric Cabinet
⊕	Light Pole
⊕	Gas Valve



**CORNERSTONE**  
 Regional Surveying, LLC  
 Serving Kansas, Missouri & Oklahoma  
 North Penn, Independence, KS 67301 Ph:620-331-6767

DRAWN BY: DLB  
 CHECKED BY: WAB  
 PREPARED FOR: LAFARGE NORTH AMERICA

JOB NO. 1-1504082-K  
 LATEST REVISION: 5-27-2015

**ALTA/ACSM LAND TITLE SURVEY**  
 of a portion of SECTION 19, TOWNSHIP 29 SOUTH  
 RANGE 15 EAST of the 6th PRINCIPAL MERIDIAN  
 WILSON COUNTY, KANSAS

WATER DIVISION  
 REC'D  
 OCT 3  
 KS DEPT OF AGRICULTURE