

REQUEST FOR BOARD ACTION

CANE CREEK WATER AND SEWER DISTRICT

BOARD OF DIRECTORS

MEETING DATE: August 4, 2014

SUBJECT: **Permanent Utility Easement
Snowball Pump Station Replacement**

PRESENTER: Marcus A. Jones, P. E.

ATTACHMENTS: Yes

1. Executed Easement
2. Snowball Pump Station Exhibit Map

SUMMARY OF REQUEST:

With the loss of access from the quarry, the replacement of Snowball Pump Station with a gravity sewer line is no longer possible. The next best option is to replace the Pump Station with a new station out of the floodplain. This provides the District with a much needed upgrade to the pump station and removes the old station currently located in the floodplain which will satisfies FEMA's funding criteria. FEMA has approved this scope change.

Staff has negotiated the attached easement with the owners (Joyce Lance, William Lance and APAC-Atlantic (Quarry owner)) to locate the new station as shown on the location map below and detailed on the attached exhibit. The easement has been executed by the grantors and ready to be recorded with Board's approval of the compensation. Typically, the District does not compensate for sewer easements; however, this easement has above infrastructure and an obvious impact on the property. The proposed compensation is for payment to the owners of \$5,000. This value appropriately reflects the value of the property and the small acreage impacted. The compensation has been approved by FEMA to be a grant eligible expense.

BOARD ACTION REQUESTED: Approve the permanent utility easement with Joyce Lance, William Lance and APAC-Atlantic for the Snowball Pump Station replacement.

Suggested Motion:

I move that the Board approve the permanent utility easement with Joyce Lance, William Lance and APAC-Atlantic for the Snowball Pump Station replacement.

Location Map (proposed pump station located with yellow star):



GRANT OF NON-EXCLUSIVE UTILITY EASEMENT

KNOW ALL MEN BY THESE PRESENTS that Joyce Lance, Bill Lance and APAC-Atlantic, Inc. d/b/a Harrison Construction company as successor and assign from Oldcastle Industrial Minerals, Inc., for themselves, their heirs, successors and assigns, (collectively referred to as "**Grantor**") for and in consideration of the sum of five thousand Dollars (\$5000.00), and other good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, do hereby grant, convey and confirm unto Henderson County Engineering, whose address is 1 Historic Courthouse Square, Suite 6, Hendersonville, NC 28792, its successors and assigns ("**Grantee**"), a non-exclusive easement to construct, inspect, operate and maintain a sewer pump station and required appurtenances, for the service of Snowball Lane, Fletcher, N.C. (the "**Facilities**") upon and under a portion of the property located at 639 Fanning Bridge Road in the County of Henderson, State of North Carolina, more particularly described at Exhibit A hereto.

The dimensions of the easement shall be a thirty six (36) foot by fifty (50) foot area as depicted at Exhibit A beginning in the Eastern corner of Kimsey Creek and Lime Kiln Creek, and running Northerly contiguous to the stock pile area as illustrated (the "**Easement**").

This Easement is subject to any and all other easements, rights-of-way, variances, memorandums and/or agreements currently of record.

Grantee shall promptly repair any damage to the Easement, or any other property not owned by Grantee, caused by Grantee exercising its rights under this Easement including without limitation, landscaping, ground cover, planting, roadways, driveways, sidewalks, parking areas and structures. In the event that Grantee, its employees, agents or contractors cause damage to the Easement in the exercise of the privilege granted herein, Grantee agrees to restore the Easement parcel so damaged to its original condition and grade as may be requested by Grantor.

Grantee hereby agrees that it will indemnify and hold harmless Grantor and its officers, shareholders, directors, agents, affiliates, insurers and employees from any and all injuries to person or property, claims, actions, judgments, expenses, losses, damages, costs and attorneys' fees arising out of or in any way related to the negligence of Grantee or its agents, employees, licensees, or invitees in connection with the Easement, its activities on the Easement or other properties of Grantor, the presence of the Facilities or any breach of this Easement.

This Easement shall continue for so long as the Facilities continue in operation such sewer pump station and necessary appurtenances. Grantee and Grantee employees, that perform work at the above reference easement parcel, shall sign in at the scale house during normal operating hours. In the event that the Grantee arrives at the easement parcel after normal business hours, the Grantee shall contact Oldcastle Industrial Minerals Fletcher plant management.

Grantee acknowledges that some or all of Grantor's property is an active mining operation. Grantee warrants that all persons entering Grantor's property shall be properly trained as required by the Mine Safety and Health Act and all applicable federal, state and local laws. Grantee acknowledges that all

persons entering the property shall be fully capable of identifying and addressing any risk associated with the operations of Grantor or its property and accepts all risk of injury to person or property associated with presence on or at Grantor's property.

Grantee further warrants Grantor's activities and uses do not and will not endanger, harm or impair the Facilities. Grantee further represents and warrants that all activities allowed hereunder, including ingress and egress, shall be conducted in strict compliance with all applicable laws and regulations and that all construction, design, installation, inspection, maintenance, renewal, repair, removal, replacement and operation of the Facilities are solely the responsibility of Grantee.

IN WITNESS WHEREOF, Grantor has hereunto set its hand this 13th day of May, 2014

GRANTOR: Oldcastle Industrial Minerals, Inc. Harrison Construction Company, Joyce Lance and Bill Lance

By: 
Its: _____

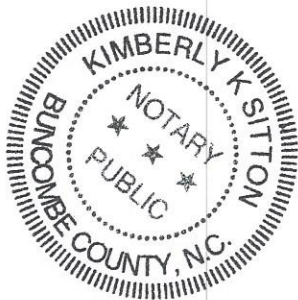
ACKNOWLEDGMENT

STATE OF NORTH CAROLINA §
§
COUNTY OF Buncombe §

This instrument was acknowledged before me on 13th May, 2014, by Eric W. Ogren the V.P. of APAC-Atlantic, Inc., on behalf of said corporation.

WITNESS my hand and official seal.

Name: Kimberly K. Sitton
Kimberly R. Sitton
Notary Public, State of: North Carolina
My commission expires: Nov. 23, 2018



Joyce R LANCE

Joyce Lance

William Newton Lance

William Newton Lance

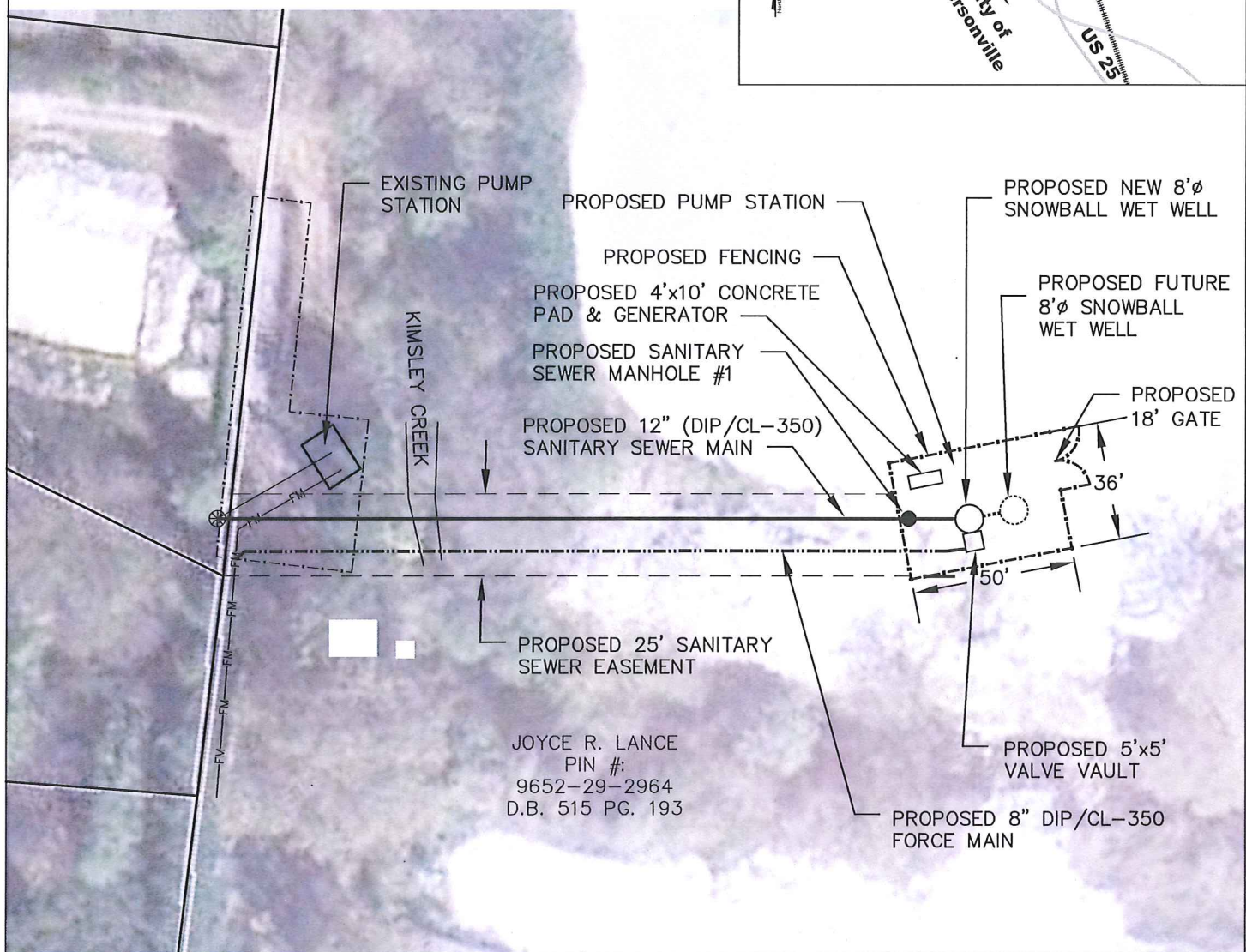
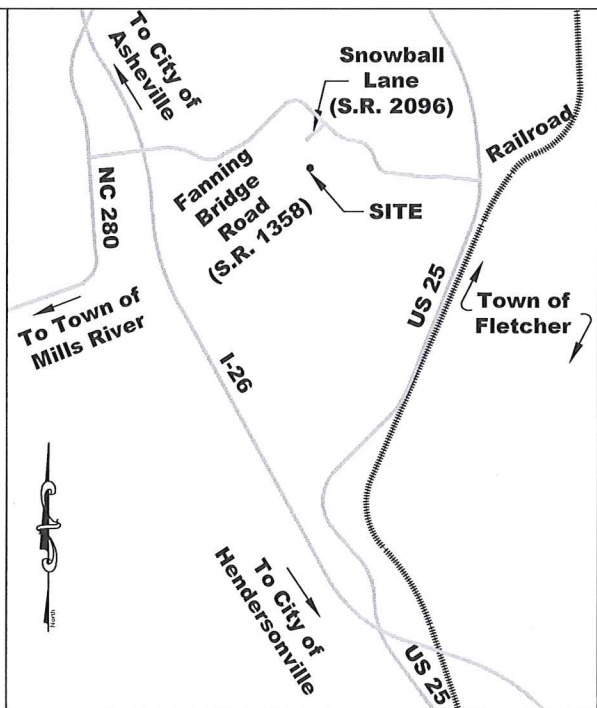
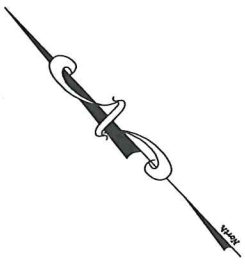
14 MAY 2014

This instrument was acknowledged before me on 14th May, 2014
by Joyce R. Lance and William Newton Lance.

Sandra Raines Ledford
Sandra Raines Ledford
Notary Public, State of NC
My Commission Expires 9/17/18

EXHIBIT A
(TO BE ATTACHED)





JOYCE R. LANCE
 PIN #:
 9652-29-2964
 D.B. 515 PG. 193

WILLIAM G. LAPSLEY & ASSOCIATES, P.A.
 CONSULTING ENGINEERS & LAND PLANNERS



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 214 N. King Street
 Hendersonville, NC 28792
 (828) 687-7177
 wgla.com

Cane Creek Water
 and Sewer District
 Henderson County
 North Carolina

Snowball Pump Station
 Exhibit Map

Date: 7/09/14
 Scale: 1"= 50'