

**TOWN ROAD UPGRADE AND RIGHT OF WAY PERMIT
AND ROAD USE AGREEMENT
TOWN OF ARLAND
Permit No. 2**

This Right of Way Permit ("Permit") is hereby approved and issued by the Town of Arland, a Wisconsin municipal entity located in Barron County, Wisconsin, (the "Town") and issued to EOG Resources, Inc., an entity incorporated in the state of Delaware (the "Operator").

WHEREAS, it is the desire of the Operator to mine sand from a quarry located on that real property (the "Property") in the Town of Arland described on Exhibit A; and

WHEREAS, the desired haul route for sand on roads within the Town encompass a route between County Highway P, thence easterly on 11 ½ Avenue a distance of approximately .5 miles; and

WHEREAS, the Town has agreed that Operator shall be granted a Right of Way Permit relative to the Town road bed, improvements and right of way to allow the Operator to perform all functions incidental and necessary to reconstruct and improve that roadway that is the subject of this Right of Way Permit (the "Permit"); and

WHEREAS, Operator will supply at no cost to the Town, all labor, materials and equipment necessary to reconstruct and improve the Town roads to a standard consistent with the proposed use and dedicate the improvements thereafter to the Town; and

NOW THEREFORE, the Town hereby grants this Permit subject to the conditions described below.

CONDITIONS

1. The proposed haul route is attached and marked as Exhibit B and encompasses a route on 11 ½ Avenue from County Highway P, thence easterly on 11 ½ Avenue a distance of approximately .5 miles. Operator will not haul sand on any other Town roads, or utilize any other Town roads for heavy trucks, without the Town's prior approval.
2. All work done on the Right of Way shall be performed by Wisconsin Department of Transportation ("WIDOT") approved contractors rated for the type of work performed. Operator shall bear full financial responsibility for the design phase of the improvements contemplated herein, and shall submit such plans and specifications as may be required by state or local regulations for the improvement of Town roads in Wisconsin. All such plans shall be prepared at Operator's sole cost and expense and shall be prepared by a licensed civil engineer. Construction shall not commence until the Town has reviewed and approved the submittal. The Permit shall run from the commencement period described above and shall be in place until either the cessation of mining, or a thirty year time period, whichever occurs first, except that the provisions in Section 8 shall survive until its conditions are met. The project improvements shall be dedicated to the Town upon final inspection by the Town Board or a third-party designated by the Town Board.

3. This Right of Way Permit shall become effective upon the date it is approved by the Town of Arland Town Board and when Operator is compliant with all conditions precedent hereto.
4. The upgrading of pavement sections on the Town road will be to a design standard as directed by the WIDOT Facilities Development Manual Section 11-40, to withstand the hauling of products and equipment that are necessary for the type of traffic generated by the operations of Operator. This upgrade includes improvements at entrances, intersections and to the typical cross-section. Geometric improvements shall also include any improvements to structures and culverts that are necessary to accommodate the increased traffic from the Project.
5. Operator agrees to incur all costs related to the recruitment, supervision and payment of a private contractor who shall rebuild the Town roads consistent with the standard set forth in this Permit. The chosen contractor shall be fully insured, bonded and in good corporate and financial standing and shall not have been debarred from public employment. Operator shall provide assurance to Town that contractor is fully compliant with all state and federal road building regulations for towns, including but not limited to employment regulations such as prevailing wage regulations and equal employment provisions.
6. Upon completion of the improvements provided for in this permit, the Town shall be responsible for all road maintenance consistent with the Town's maintenance of those other Town roads in the Town except Operator shall be responsible to make any repairs to the Town road caused solely by Operator's use of the Town road.
7. Operator shall procure and maintain throughout the term of this Permit, Commercial General Liability insurance including bodily injury, property damage and personal injury, in an amount not less than Five Million Dollars (\$5,000,000.00) per occurrence. The policy shall also provide contractual liability in the same amount. Operator's coverage shall to the extent of the liability and indemnity obligations assumed by Operator under this Permit; (1) be primary, and (2) list Town of Arland, its officers, officials, agents and employees as additional insureds. Operator shall, at the time of execution of this Permit, provide the Town of Arland with certificate(s) of insurance showing the type, amount, class of operations covered, effective dates and expiration dates of the policy. A certified copy of the Certificate of Insurance shall be filed with the Town Clerk prior to construction.
8. Upon Operator discontinuing its sand mine operation on the Property, including the reclamation of the Property pursuant to its Non-metallic Reclamation Permit, Operator agrees, at Operator's sole cost, to restore, the Town road to such condition as shall meet the minimum town road standards of the Town, in effect as of the date of issuance of this Permit. The guaranty covers all improvements done in the right of way consistent with Exhibit B.

9. Operator agrees to indemnify and hold harmless the Town for any costs, claim, suit, liability and/or award which might come, be brought or be assessed, because of the issuance or exercise of the Permit, or because of any adverse effect upon any person or property which is attributed to the partially or entirely completed works of the Operator. This indemnification language shall also include any prevailing wage claim filed in conjunction with this project.
10. Operator is hereby further granted all necessary rights of ingress, egress and access to the right of way, road bed, subsurface and improvements located within the Town road as may be necessary to fulfill Operator's obligations hereunder.
11. Town agrees that during the pendency of construction and as long as Operator continues, or intends to continue, its sand mining operation on the Property, the weight limits and frost bans will not be imposed by the Town on the Operator, Operator's representatives, agents, contractors, subcontractors, successors and assigns. Operator recognizes the Town has the authority to retain a Town Engineer to inspect the Road at any time to determine if it is capable of continuing to handle the weight and volume of traffic generated by Operator's operations. Such costs shall be handled consistent with Section 12 of this Agreement.
12. Operator agrees to pay the Town's administrative costs associated with processing this Permit and the reconstruction of 11 ½ Avenue, including but not limited to costs incurred by the Town for the Town Engineer, Town Attorney, and Town staff time. Town will invoice the Operator for such additional costs along with an itemized invoice. Operator shall have thirty (30) days from the date of invoicing to make payment to Town.
13. Operator will provide to the Town financial assurance that it can complete the reconstruction of 11 ½ Avenue. Said assurance shall be in the form of a deposit with the Town of funds, or a bond or letter of credit in the amount of \$100,000, which shall be issued by a party acceptable to the Town and in a form accessible to the Town if the Town should need to complete construction of 11 ½ Avenue. At the completion of construction, and with the Town's approval, the bond or letter of credit may be released.
14. This Permit is not assignable without the express written consent and approval of the Town, which consent shall not be unreasonably withheld. It is agreed by the parties that it is reasonable as a condition for the Town's consent for the Town to require proof of financial integrity of any assignee or transferee, and it is reasonable for the Town to require financial assurance such as that provided for in Section 13 of this agreement."
15. This Permit shall be interpreted so as to best protect the health, safety and welfare of the public, and shall be governed by the laws of the State of Wisconsin and venue shall be in Barron County, Wisconsin Circuit Court or other Wisconsin court of competent jurisdiction at the Town's discretion.

TOWN:

Town of Arland

Maynard Hoff - 5/10/12
By: Maynard Hoff, Chairman

Paul J. Lee 5-10-12
By: Paul J. Lee, Town Clerk