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VIA EMAIL

December 20, 2011

Chairman Darrel Fehr
Town of Cooks Valley
cv1927@bloomer.net

RE: Town Road Maintenance Agreement

Dear Mr. Chairman:

Please find the revised Town Road Maintenance Agreement.

During the term of our negotiations, EOG obtained the Reclamation Plan from Chippewa County. With this in mind, I have changed the second sentence in the Recitals section on page 1 striking the term "applied for" and inserting the term "received."

I thought I would provide this to you in the event you want to forward it to the Clerk to make copies.

Thanks in advance and see you soon.

Very truly yours,

WELD, RILEY, PRENN & RICCI, S.C.


John Robert Behling

JRB/kan

Attachment

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TOWN ROAD MAINTENANCE AGREEMENT

This TOWN ROAD MAINTENANCE AGREEMENT (this "Agreement") is made and entered into this _____ day of _____, 2011 by and between the Town of Cooks Valley, a Wisconsin governmental entity, (the "Town"), and EOG Resources, Inc., an entity incorporated in the State of Delaware (the "Operator"). Each of the Operator and the Town are sometimes referred to herein individually as a "Party" and collectively as the "Parties." The term "Operator's Representatives" shall include Operator's contractors, sub-contractors, agents, employees, suppliers and designees.

RECITALS

WHEREAS, Operator is in the business of mining silica sand, and is in the process of constructing, developing, operating, maintaining and reclaiming a non-metallic mine (the "Project") in the Town of Cooks Valley, Chippewa County, Wisconsin. Operator has received a Non-metallic Mining Reclamation Permit for the Project from the Chippewa County Land Conservation and Forest Management Department in accordance with the Non-metallic Mining Reclamation Ordinance of Chippewa County; and

WHEREAS, Operator desires to mine sand from a quarry located on the real property (the "Property") in the Town of Cooks Valley described on Exhibit A; and

WHEREAS, simultaneously with the execution of this Agreement, the Town has issued the **TOWN ROAD UPGRADE AND RIGHT OF WAY PERMIT**, in which Operator is granted the right to improve and upgrade those roads collectively, the "Town Roads" shown on Exhibit B and attached hereto for reference; and

WHEREAS, Wis. Stat. §349.16(1)(c) authorizes the Town to enter into an agreement with any owner or operator of any vehicle being operated on a highway maintained by Town that provides that the Town will be reimbursed for any damage done to the highway; and

WHEREAS, this Agreement shall apply to those Town Roads listed on the attached Exhibit B and, subject to Section 4 herein, any other Town Road(s) used by Operator or Operator's Representatives in direct support of the construction, development, operation, maintenance and reclamation of the Project.

AGREEMENT

NOW, THEREFORE, in consideration of the mutual promises and covenants herein set forth, the Parties, intending to be legally bound, agree as follows:

Section 1. Term of Agreement.

This Agreement shall commence upon the date first written above (the "Effective Date") and shall continue in full force for ten (10) years or

until Operator's Non-metallic Mining Reclamation Permit has expired, has been terminated, or until Operator has fully discontinued its construction, development, operation, maintenance and reclamation of the Project and any and all transportation activities related thereto on the Town Roads listed on Exhibit B, whichever occurs later.

Section 2.

Maintenance Obligation of Operator.

In acknowledgement of the fact that the Project may create physical deterioration on the Town Road beyond historical use patterns, the Operator agrees as follows:

- A. Operator shall be responsible for all exceptional maintenance costs, above normal maintenance requirements, that are attributable to damage to Town Roads from the hauling of products and equipment related to the Project. Said maintenance cost may be incurred either before or after any of the improvements contemplated in this Agreement and/or the **TOWN ROAD UPGRADE AND RIGHT OF WAY PERMIT**. Town shall inform Operator if it has a good faith basis to believe any exceptional maintenance costs become necessary and provide a good faith estimate of costs to Operator prior to commencing work.

If the Town has reason to believe Operator has caused such damage, the Town shall provide written notice to the Operator itemizing the damage. The Operator shall have thirty (30) days to make payment.

- B. Operator shall, during the term of this Agreement, procure a performance bond for the purpose of securing Operator's obligation and performance hereunder. The performance bond shall be available to the Town in the event that Operator is unable or unwilling to pay the exceptional maintenance costs set forth in Section 2.A. The bond shall be of sufficient surety to cover Operator's anticipated costs under this Agreement. A certified copy of the performance bond shall be filed with Town Clerk prior to the commencement of construction.
- C. Operator understands the use of the proposed haul route may require additional services to be provided in order to maintain the road free of winter conditions (ice and snow). Operator agrees to pay for the additional costs attributed to plowing and salting in order to keep the road at an acceptable standard for commercial vehicle traffic. The Town shall make such services available upon request by the Operator, notify the Town Chair and make the request to the County Highway Department. Operator understands the Town will bill the Operator on a monthly basis for the extra costs attributable to the additional plowing and salting, beyond the normal and customary road services provided by the Town.

The Operator shall have thirty (30) days to make payment for these extra costs.

Section 3. Obligations of Town.

- A. For its part, Town agrees to provide the usual and customary services performed on other roads within its jurisdiction, which include, but are not limited to clearing of snow, storm debris and the appropriate posting of signage related to road matters.

Section 4. Incidental Use.

The Parties recognize the Project traffic may, either through mistake or with the consent of Town, use Town Roads other than those listed on Exhibit B of this Agreement. Maintenance repairs for damage caused by Operator or Operator's Representatives during such mistaken or permitted use shall be handled in the same manner as set forth in Section 2.A.

Section 5. Required Insurance.

Operator shall procure and maintain throughout the Term of this Agreement, 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 Agreement; (1) be primary and (2) list Town of Cooks Valley, its officers, officials, agents and employees as additional insureds. Operator shall, at the time of execution of this Agreement, provide the Town of Cooks Valley 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.

Section 6. Maintenance Cooperation.

- A. Operator.

Operator shall provide Town a schedule of planned maintenance activities that affect the Town Roads. Operator understands that Town Road maintenance activities will be on-going while Project hauling is occurring, and that while Town Roads will be open to traffic, Operator acknowledges maintenance activities may slow hauling operations.

B. Town:

During the term of this Agreement, Town and Operator shall meet as needed to discuss Project activities and Town Road maintenance schedules. Town agrees to keep those Town Roads specified in Exhibit B open to Project traffic during Town Road maintenance activities, except that Town may temporarily close any of the Town Roads specified in Exhibit B for replacement due to an emergency. Town will provide a temporary alternate haul route when reasonably practicable.

C. Emergency Actions.

Notwithstanding the foregoing, in the event Operator or Operator's Representatives have caused damage to Town Roads of a magnitude sufficiently great to create a hazard to the motoring public, which in Town's opinion warrants an immediate repair or Town Road closing, Town may unilaterally close those Town Road(s) affected and make or authorize repair, with the reasonable, documented costs thereof paid for by Operator consistent with Section 2.D. of this Agreement.

Both Parties acknowledge while Town is the Jurisdictional Authority for those Town Roads listed in Exhibit B, certain emergency situation(s) may arise that fall under law enforcement, fire district or emergency management control. In such situation(s) the road may be closed to traffic, including traffic from the Project, outside the control of Town. Town shall not be responsible for any harm to Operator, Operator's Representatives or the Project that may result from Town Road closings that occur due to such emergencies.

Section 7. Remedies and Enforcement.

Each of the Parties hereto covenant and agree in the event of default of any of the terms, provisions or conditions of this Agreement by any party (the "Defaulting Party"), which default is not caused by the party seeking to enforce said provisions (the "Non-Defaulting Party") and after notice and reasonable opportunity to cure has been provided to the Defaulting Party, then in such an event, the Non-Defaulting Party shall have the right of specific performance. The remedy of specific performance and injunctive relief shall not be exclusive of any other remedy available at law or in equity.

Section 8. Due Authorization.

Operator hereby represents and warrants this Agreement has been duly authorized, executed and delivered on behalf of Operator. Town hereby

represents and warrants that this Agreement has been duly authorized, executed and delivered on behalf of Town.

Section 9. Savings/Severability.

It is mutually agreed by the Parties that in the event any provision of this Agreement is determined by any court of law of competent jurisdiction to be unconstitutional, invalid, illegal or unenforceable in any respect, it is the intention of the parties that such unconstitutionality, invalidity, illegality or unenforceability shall not affect the other provisions, and the Agreement shall be construed as if such unconstitutional, invalid, illegal or unenforceable provision had never been contained in this Agreement.

Section 10. Entire Agreement.

This Agreement, along with the Town Road Upgrade and Right of Way Permit and the exhibits attached thereto constitute the entire agreement among the Parties hereto with respect to the subject matter hereof, and supersede any prior understandings or written or oral agreements between the parties with respect to the subject matter of this Agreement. No amendment, modification, cancellation or alteration of the terms of this Agreement shall be binding on any party hereto unless the same is in writing, dated subsequent to the date hereof and is duly authorized and executed by the Parties hereto.

Section 11. Designated Representative.

Operator designates EOG's Regional Operations Manager as Agent with primary responsibility for the performance of this Agreement. In the event this Agent is replaced by another for any reason, Operator will designate another Agent within seven (7) calendar days and provide notice to Town of replacement pursuant to the procedure set forth in Section 12.

Section 12. Notices.

All notices to be given under the terms of this Agreement shall be in writing and signed by the person serving the notice and shall be sent via registered or certified mail, return receipt requested, postage prepaid, or hand delivered to the addresses of the parties listed below. Notice shall be deemed to have been received on the date of receipt as shown on the return receipt or other written evidence of receipt.

FOR TOWN: Town of Cooks Valley
Victoria Trinko, Town Clerk
15784 40th Street
Bloomer WI 54724

FOR OPERATOR: EOG Resources, Inc.
619 Bridge Street
Suite 101
Chippewa Falls, WI 54729

Section 13. Assignability/Consent.

This Agreement shall be binding on the Parties hereto, their respective heirs, devisees and successors. Except as otherwise provided herein, or except as may be hereafter determined by the Parties, Operator may not sell, assign or transfer its interest in this Agreement, or any of its rights, duties or obligations hereunder, without the prior written consent of Town. Whenever the consent or the approval of Town is required herein, Town shall not unreasonably withhold, delay or deny such consent or approval.

Section 14. Force Majeure.

The performance of this Agreement shall be subject to events of force majeure. Events of force majeure shall mean any contingency or cause beyond the reasonable control of a Party including, without limitation, acts of God or the public enemy, war, riot, civil commotion, insurrection, government or de facto government action (unless caused by acts or omissions of the party), fires, explosions, rain or other weather delays, floods, strikes, slowdowns or work stoppages.

Section 15. Modification.

No modification of this Agreement or of any covenant, condition or limitation herein contained shall be valid unless in writing and duly executed by both Parties. No evidence of any modification shall be offered or received in evidence in any proceeding arising between the Parties hereto out of or affecting this Agreement, or the rights or obligations of the Parties hereunder, unless such modification is in writing and duly executed. The parties further agree that the provisions of this Section 15. will not be waived unless herein set forth.

Section 16. Counterparts.

This Agreement may be executed in any number of counterparts, each of which shall be deemed an original. Delivery of an executed counterpart of a signature page to this Agreement by telecopier shall be as effective as delivery of a manually signed counterpart to this Agreement.

Section 17. Choice of Law and Forum Selection.

This Agreement shall be governed by, and construed, interpreted and enforced in accordance with the laws of the State of Wisconsin. The Parties agree, for any claim or suit or other dispute relating to this Agreement that cannot be mutually resolved, the venue shall be in the Circuit Court of Chippewa County, a court of competent jurisdiction within the State of Wisconsin, and the parties further agree to submit themselves to the jurisdiction of said court, to the exclusion of any other judicial district that may have jurisdiction over such a dispute according to any law.

Section 18. Default Termination.

In the event Operator shall default in any of the covenants, agreements, commitments, conditions or obligations herein contained, and any such default shall continue unremedied for a period of ten (10) calendar days after written notice thereof to Operator, Town may, at its option and in addition to all other rights and remedies which it may have at law or in equity against Operator, including expressly the specific enforcement hereof, forthwith have the cumulative right to immediately terminate this Agreement and all rights of Operator under this Agreement.

Section 19. Waiver of Terms and Conditions.

The failure of Town to enforce or insist upon compliance with any of the terms or conditions of this Agreement shall not constitute a general waiver or relinquishment of any such terms or conditions, but the same shall be and remain at all times in full force and effect.

Section 20. Compliance with Applicable Laws.

Operator shall become familiar with, and shall at all times comply with and observe all federal, state and local laws, ordinances and regulations which in any manner affect the conduct or performance of Operator and its agents and employees in keeping with terms and obligations under this Agreement.

Section 21. Captions.

The captions contained in this Agreement are for informational purposes only and shall not in any way affect the substantive terms or conditions of this Agreement.

Section 22. Cooperation.

The Parties agree to cooperate with each other in addressing any unforeseen or exceptional events caused by Operator's activity that would result in significant impacts to the Town Roads. The parties further agree to cooperate with each other in addressing any unforeseen impact to Operator's ability to utilize the haul route or any alternative route provided for in this Agreement.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement the day and year first written above.

OPERATOR:

EOG Resources, Inc.

By: Gary Thomas
Its Chief Operating Officer

TOWN:

Town of Cooks Valley, Wisconsin governmental entity

By: Darrel Fehr
Chairman

By: Victoria Trinko
Town Clerk