

**A MERGER SCREENING SYSTEM
TO MONITOR ACQUISITIONS
OCCURRING IN THE
AGGREGATE, ASPHALT CONCRETE,
AND CONCRETE INDUSTRIES**

I. SCREENING SYSTEM OVERVIEW

The screening system proposed by the Antitrust Division (“Division”) utilizes a series of three spreadsheets and three maps that track the ownership and sale of aggregate, asphalt concrete, and concrete facilities that serve state department of transportation (“State DOT”) highway construction projects. The screening system is being proposed in response to the significant consolidation that has occurred in the aggregate, asphalt concrete, and concrete industries. In various states across the country, large aggregate, asphalt concrete, and concrete suppliers and highway construction companies are making numerous small acquisitions in local and regional markets. Some of these acquisitions can eliminate competition and provide the acquiring firm with the ability to raise prices. Because these acquisitions often do not trigger the statutory requirement to report a proposed acquisition to the federal antitrust agencies, the Division does not receive notice that these transactions have occurred. The proposed screening system should provide notice to enable a state attorney general’s office (“State AG Office”) and the Division to investigate the transactions and take appropriate action should an anticompetitive acquisition occur. In two instances, where State DOTs implemented elements of the screening system, the system has provided the information that helped trigger the abandonment of one transaction and led to divestitures in another.

To implement the proposed screening system, the State DOTs would create spreadsheets and maps that contain information about the location, production capacity, ownership, and acquisition status of the aggregate, asphalt concrete, and concrete facilities located in the state. For each spreadsheet, there should be an accompanying map illustrating the locations of the facilities. The spreadsheets and maps should be updated annually to ensure that the system provides timely notice of acquisitions. The annual updating of the spreadsheets and maps should not be difficult as few new aggregate, asphalt concrete or concrete facilities are built each year.

For some State DOTs that may want to participate in the screening system initiative but do not have the resources to create both the spreadsheets and maps, Paragraph II.F offers an alternative whereby State DOTs would provide spreadsheets for each product containing limited amounts of information, but no accompanying maps. State DOTs that select this alternative should be aware that, because the State AG Offices or the Division would need to create the maps, review by the State AG Offices and the Division would be more difficult.

After the spreadsheets and maps are completed by the State DOT, they should be sent to the State AG Office, which will be primarily responsible for reviewing the materials and determining whether action is required, and to the Division. The Division generally will be available to consult, analyze, and assist the State DOTs and State AG Offices in creating and reviewing the spreadsheets and maps. Section IV provides a telephone number and e-mail address for obtaining assistance from the Division.

II. IMPLEMENTING THE SCREENING SYSTEM

A. The Spreadsheets

- The spreadsheets should contain the information necessary to track acquisitions of aggregate, asphalt concrete, and concrete facilities in a state that supply product to State DOT projects and prepare maps depicting the competitive structure of each of the three industries in a state.
- The spreadsheets should be prepared first.

1. Sample Spreadsheets

- Samples of how the aggregate, asphalt concrete, and concrete spreadsheets should be prepared are set forth in the hypothetical spreadsheets illustrated at Appendices 1, 2, and 3. These samples should be used as a reference for following the directions set forth below to prepare the three spreadsheets.
- The facility information contained in the sample spreadsheets is completely fictitious and developed for the purpose of creating the sample spreadsheets.

2. The Information To Be Collected

- For each aggregate, asphalt concrete, and concrete facility in a state that is capable of serving DOT projects, the State DOT should assemble information about the location, ownership, and size of that facility, and if ownership of the facility changed during the previous year, the year of the acquisition and the name of the party that sold the facility.
- This information should permit the State AG Office to assess whether, following an acquisition, there is a sufficient number of participants in the market with adequate capacity to keep prices competitive.
- Set forth below is the specific information that needs to be assembled by State DOTs to monitor the impact of acquisitions occurring in the aggregate, asphalt concrete, and concrete industries.

Aggregate

- (1) Name of facility's ultimate owner (parent), including joint venture partners.
- (2) If the facility is operated by a subsidiary whose name is different from the ultimate owner, the name of the operating subsidiary.
- (3) Street address of facility
- (4) City
- (5) State
- (6) Zip Code
- (7) Does the facility produce coarse stone qualified for use in State DOT asphalt concrete? Yes/No
- (8) Does the facility produce fine stone qualified for use in State DOT asphalt concrete? Yes/No
- (9) Does the facility produce coarse stone qualified for use in State DOT concrete? Yes/No
- (10) Does the facility produce fine stone qualified for use in State DOT concrete? Yes/No
- (11) Facility's annual production capacity in tons per year.
- (12) If the facility was acquired by the current owner in the past year, the name of the company from which the facility was acquired.
- (13) Year of acquisition

Asphalt Concrete

- (1) Name of facility's ultimate owner (parent), including joint venture partners.
- (2) If the facility is operated by a subsidiary whose name is different from the ultimate owner, the name of the operating subsidiary.
- (3) Street address of facility
- (4) City
- (5) State
- (6) Zip Code
- (7) Production capacity in tons per hour
- (8) Type of plant (e.g., drum or batch)
- (9) If the facility was acquired by the current owner in the past year, the name of the company from which the facility was acquired.
- (10) Year of acquisition

Concrete

- (1) Name of facility's ultimate owner (parent), including joint venture partners.
- (2) If the facility is operated by a subsidiary whose name is different from the ultimate owner, the name of the operating subsidiary.
- (3) Street address of facility
- (4) City
- (5) State
- (6) Zip Code
- (7) Production capacity in cubic yards per day
- (8) If the facility was acquired by the current owner in the past year, the name of the company from which the facility was acquired.
- (9) Year of acquisition

3. Obtaining the Information for the Spreadsheets

a. Pre-qualification Information

- A reliable source for obtaining the information listed above is the pre-qualification process that many State DOTs use to pre-qualify company facilities to supply aggregate, asphalt concrete, or concrete to State DOT highway projects.
- By using this source of information, a State DOT can be certain that it has included on the spreadsheets every facility that is qualified to supply product to State DOT highway projects.

b. Requiring Companies to Submit the Information

- If a State DOT does not annually assemble information to pre-qualify facilities or the pre-qualification system does not provide all the information needed to create the spreadsheets, the State DOT may want to implement a requirement that companies bidding on State DOT projects must submit this information to the State DOT.
- The information being requested is limited and not burdensome for companies to assemble – many State DOTs already require the submission of some of the requested information.

4. Spreadsheet Formatting and Data Entry

a. Organizing the Data

- Before the spreadsheets are formatted and the information entered, each facility that can supply product to State DOT projects should be given a distinct number used only for that facility, and the facilities should be numbered consecutively.
- For example, if there are 25 asphalt concrete facilities in a state, each facility should receive a number from 1 to 25. (See column one of the sample spreadsheets at Appendices 1, 2, and 3.)
- The number given to each facility should remain with the facility through all the annual updates of the spreadsheets and maps. Without this numbering system, the maps cannot be created.

b. Formatting the Spreadsheet and Entering the Data

- Each column should contain a heading stating the type of information that the column contains. To maximize the ability to interchangeably use the maps and the spreadsheets, the first column should list each facility's number.
- Using the numbering system, the information assembled about each facility should be entered on the spreadsheet in rows according to each column's heading.

B. The Maps

- Separate maps should be created illustrating the locations of all State DOT qualified aggregate, asphalt concrete, and concrete facilities found in each spreadsheet.

1. The Purpose of the Maps

- The purpose of the maps is to enable antitrust enforcement officials to easily locate each facility, reference the information contained on the spreadsheets about each facility, and visualize the potential competitive impact that an acquisition can have on a geographic area.

2. Sample Maps

- Samples of how the aggregate, asphalt concrete, and concrete maps should be prepared are set forth in the sample maps illustrated at Appendices 4, 5, and 6.
- These samples should be used as a reference for following the directions set forth below to prepare the three maps.
- The information concerning the location of each facility was taken from the sample spreadsheets found at Appendices 1, 2, and 3.

3. Preparing the Maps

a. The Legend

- Before the locations of the facilities can be entered on the maps, a legend must be created for each map that lists each company that operates a facility in the state; provides a production capacity scale that will show the general size of each the aggregate, asphalt concrete, and concrete plant illustrated on the maps; and a mileage scale.

(1) The Company List

- To create the company list that will be contained in the legend, a list of all the companies operating facilities in the state should be compiled.
- The list should be compiled using the name of the ultimate parent, not the name of a subsidiary. (Using subsidiary names to create the legend could make it difficult to visualize the actual competitive situation depicted on the maps.)
- After the list of companies is compiled, each company on the list should receive a color designation.
- The list should then be included in the legend that will be placed on each map. The legend will list the name of each company operating a facility in the state, and next to each company's name, a circle should be created containing the distinct color associated with the company. Using the legend, the operator of every facility in the state can be identified quickly. Examples are provided at Appendices 4, 5, and 6.

(2) The Production Capacity Scale

- To create the production capacity scale that will be contained in the legend, a production capacity range that accounts for the production capacity of every plant in the state should be assembled. The range should begin with the number corresponding to the production capacity of the plant with the lowest production capacity in the state and end with the number corresponding to the production capacity of the plant with the highest production capacity in the state. The plant with highest production capacity will be at the top of the range, and the plant with lowest production capacity will be at the bottom of the range. Using Appendix 1, the production capacity range for all the aggregate plants in a state would be 3,800 to 200,000 total tons per year, and 200,000 would be at the top of the range and 3,800 would be at the bottom. Once the top and the bottom of the range are determined, an approximate mid point between 3,800 and 200,000 should than be selected. In Appendix 1, the midpoint is 100,000.
- Once the top, middle, and bottom points of the production capacity range have been determined, these points should be illustrated in the legend using three descending sizes of circles. The largest circle would illustrate plants having the highest production capacities, the medium-sized circle would illustrate plants having moderate production capacities, and the smallest circle would illustrate the plants having the lowest production capacity. The production range represented by each circle should be stated in the legend. Examples of how to illustrate the production capacity scale in the legend are provided in Appendices 4, 5, and 6.

(3) Mileage Scale

- The legend should contain a mileage scale to estimate driving distances. Examples of how to illustrate the mileage scale in the legend are provided in Appendices 4, 5, and 6.

b. Illustrating the Facilities on the Maps

- Using the addresses of each facility listed on the spreadsheet, the location of every facility listed on the spreadsheet should be illustrated on a map of the state with a circle accompanied by the facility's number listed on the spreadsheet.
- The circle showing the location of each facility should be color coded according to the company owning the facility.

- The size of the circle that is selected for each facility from the legend's production capacity range scale should be the circle with the production capacity number that is closest to the production capacity number of the plant being illustrated.
- The facility numbers should enable the reviewers to quickly reference the spreadsheet information about each facility. The color coding, circle size, and mileage scale should enable reviewers to quickly visualize concentration levels within the state. Examples of completed maps are provided at Appendices 4, 5, and 6.

C. Mapping and Spreadsheet Software

1. The Importance of Using Software to Create the Maps and Spreadsheets

- Mapping and spreadsheet software should be used by the State DOT to create the maps and spreadsheets. It facilitates their creation, simplifies the task of annually updating them, and improves the ability of the State AG Office to review the data.

2. Considerations for Selecting Software

- To facilitate the electronic transfer of the maps and spreadsheets to the State AG Office and the ability of the State DOT and State AG Office to confer about acquisitions, the mapping and spreadsheet software that is selected by a State DOT should be accessible by the State AG Office.
- To assist the antitrust enforcement officials who will review the maps, the mapping software should have the following features:
 - a. designation of county lines within a state;
 - b. designation of township lines for states where county governments do not exist or are not relevant (e.g., some states in New England);
 - c. designation of major cities and towns;
 - d. designation of major highways; and
 - e. the inclusion of a distance scale.

D. Annual Updating of the Maps and Spreadsheets

1. The Need to Update

- Annual updating of the maps and spreadsheets is necessary to ensure that antitrust enforcement authorities are made aware of the acquisitions that occur each year in the aggregate, asphalt concrete, and concrete industries and have the information needed to properly evaluate the impact of these acquisitions on competition.

2. Annual Submission of Pre-qualification Information by Companies

- To facilitate the updating of the maps and spreadsheets, State DOTs should require companies to annually update their pre-qualification information.

E. Transfer of the Spreadsheets and Maps to the State AG Office and the Division

- The State DOT and the State AG Office should agree upon an annual date that the maps and spreadsheets will be submitted to the State AG Office for review.
- On the date that the spreadsheets and maps are submitted to the State AG Office, they should also be sent to the Division. Because the various states may use different types of software to create the spreadsheets and maps, when these materials are transmitted to the Division, they should be sent in a PDF color format.
- Setting an annual date for submission of the spreadsheets and maps to the State AG Office should ensure that an annual review occurs regarding the acquisition of aggregate, asphalt concrete, and concrete facilities in a state.

F. The Minimum Requirements for Participating in the Screening System

- At a minimum, to participate in the screening system, a State DOT must have a reliable source of information to create spreadsheets that will show the addresses of all facilities in the state capable of supplying product, the companies that own the facilities, the year of each acquisition, and the name of the company from

which the facility was acquired. The maps are not absolutely required for a State DOT to participate; however, by creating the maps, a State DOT will greatly facilitate the ability of the State AG Offices and the Division to review an acquisition and determine its possible impact on competition.

III. APPOINTMENT OF A STATE DOT OFFICIAL TO IMPLEMENT THE MONITORING SYSTEM

- The State DOT should appoint an official who will have responsibility for creating the spreadsheets and maps. The official should have the following responsibilities:
 - A. create the spreadsheets and maps needed to monitor acquisitions occurring in the aggregate, asphalt concrete, and concrete industries;
 - B. reach agreement with the State AG Office regarding the type of software that will be used to create and review the spreadsheets and maps;
 - C. insure that the spreadsheets and maps are updated on an annual basis;
 - D. confer with the State AG Office and establish an annual date that the spreadsheets and maps should be submitted for review; and
 - E. receive and respond to all State AG Office and Division requests for information concerning the review of the spreadsheets and maps.

IV. ANTITRUST DIVISION ASSISTANCE

The Division will be available to consult, provide advice, and assist the State DOTs in their efforts to create the spreadsheets and maps. The Division may also assist the State AG Offices and the State DOTs in their review of the spreadsheets maps to determine the possible impact of an acquisition and what, if any, action should be taken. In appropriate circumstances, the Division may either become involved in an investigation with the State AG Office and State DOT or initiate an investigation on its own. For assistance, State AG Offices and State DOTs may contact the Division by telephone at (202) 307-0924 or by e-mail at statedotmonitoringsystem@usdoj.gov.

APPENDIX 1 AGGREGATE

ID	Ultimate Owner	Operating Subsidiary	Address	City	State	Zip	Asphalt Coarse	Asphalt Fine	Concrete Coarse	Concrete Fine	Total Production Capacity	Acquired From	Year Acq.
1	MATERIALS CORP.	MIDWEST STONE	1234 Elm St.	LINCOLN	NE	68502	YES	NO	YES	NO	100,000	STONE REGIONAL	2008
2	MATERIALS CORP.	MIDWEST STONE	7777 Oak St.	CRETE	NE	68333	YES	YES	YES	YES	125,000		
3	MATERIALS CORP.	MIDWEST STONE	1111 Twig St.	BEATRICE	NE	68310	NO	NO	YES	YES	100,000		
4	MATERIALS CORP.	MIDWEST STONE	2222 Nut St.	MALCOLM	NE	68402	YES	YES	YES	YES	115,000	STONE REGIONAL	2008
5	MATERIALS CORP.	MIDWEST STONE	6666 Acorn St.	WAVERLY	NE	68462	YES	YES	YES	YES	132,500		
6	MATERIALS CORP.	NEB STONE	9876 Rose St.	CORDOVA	NE	68359	YES	YES	YES	YES	100,000		
7	MATERIALS CORP.	NEB STONE	5432 White St.	FRIEND	NE	68359	YES	YES	YES	YES	92,000	STONE REGIONAL	2008
8	FOUR BROS.	None	7766 Tiny St.	DAVID CITY	NE	68632	YES	YES	NO	NO	3,800		
9	MATERIALS CORP.	NEB STONE	4444 Pine St.	CEDAR BLUFFS	NE	68015	YES	YES	YES	YES	66,500		
10	CENTRAL STONE	None	1010 Bass St.	FREMONT	NE	68025	YES	YES	YES	YES	46,000		
11	MATERIALS CORP.	NEB STONE	2022 Trout St.	BELLEVUE	NE	68133	YES	YES	YES	YES	210,000		
12	LAKE STONE	None	3333 Hill St.	OTOE	NE	68417	YES	YES	YES	YES	33,000		
13	MATERIALS CORP.	NEB STONE	5544 King St.	DOUGLAS	NE	68344	YES	YES	YES	YES	53,000		
14	STATE STONE	None	6688 Dun St	WESTERN	NE	68464	YES	NO	YES	NO	33,000		
15	STATE STONE	None	9911 Lake St.	ROCA	NE	68430	YES	YES	YES	YES	95,000		

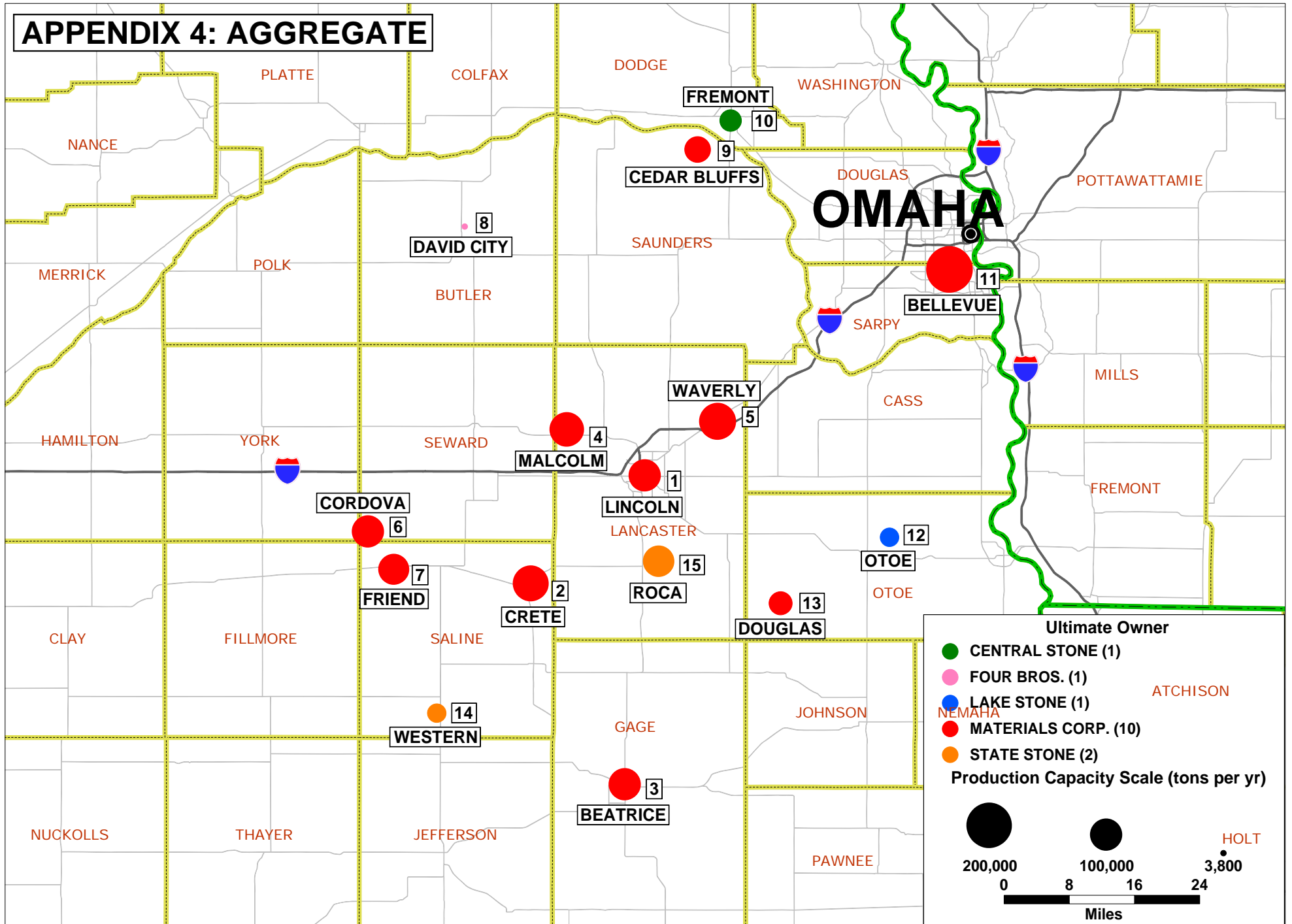
APPENDIX 2 ASPHALT

ID	Ultimate Owner	Operating Subsidiary	Address	City	State	Zip	Production Capacity/hr	Type of Plant	Acquired From	Year Acq.
1	Paving Group, Inc.	Southern Paving	1234 Elm St.	Columbia	SC	29201	400	Drum	SC Regional	2008
2	Paving Group, Inc.	Southern Paving	7777 Oak St.	Dentville	SC	29223	400	Drum		
3	Paving Group, Inc.	Southern Paving	1111 Twig St.	Cayce	SC	29033	350	Drum		
4	Paving Group, Inc.	Southern Paving	2222 Nut St.	Camden	SC	29020	300	Drum	SC Regional	2008
5	Paving Group, Inc.	Southern Paving	6666 Acorn St.	Lugoff	SC	29078	350	Drum		
6	Paving Group, Inc.	NC/SC Paving	9876 Rose St.	Winnsboro	SC	29180	300	Drum		
7	Paving Group, Inc.	NC/SC Paving	5432 White St.	Newberry	SC	29108	250	Drum	SC Regional	2008
8	Two Bros.	None	7766 Tiny St.	Saluda	SC	29138	90	Batch		
9	Paving Group, Inc.	GA/SC Paving	4444 Pine St.	Johnston	SC	29832	250	Drum		
10	Central SC	None	1010 Bass St.	Wagener	SC	29164	200	Drum		
11	Paving Group, Inc.	GA/SC Paving	2022 Trout St.	Neeses	SC	29107	250	Drum		
12	Lake Paving	None	3333 Hill St.	Creston	SC	29047	200	Drum		
13	Paving Group, Inc.	GA/SC Paving	5544 King St.	Sumter	SC	29150	300	Drum		
14	State Paving	None	6688 Dun St	Gable	SC	29051	200	Drum		
15	State Paving	None	9911 Lake St.	Kershaw	SC	29067	200	Drum		

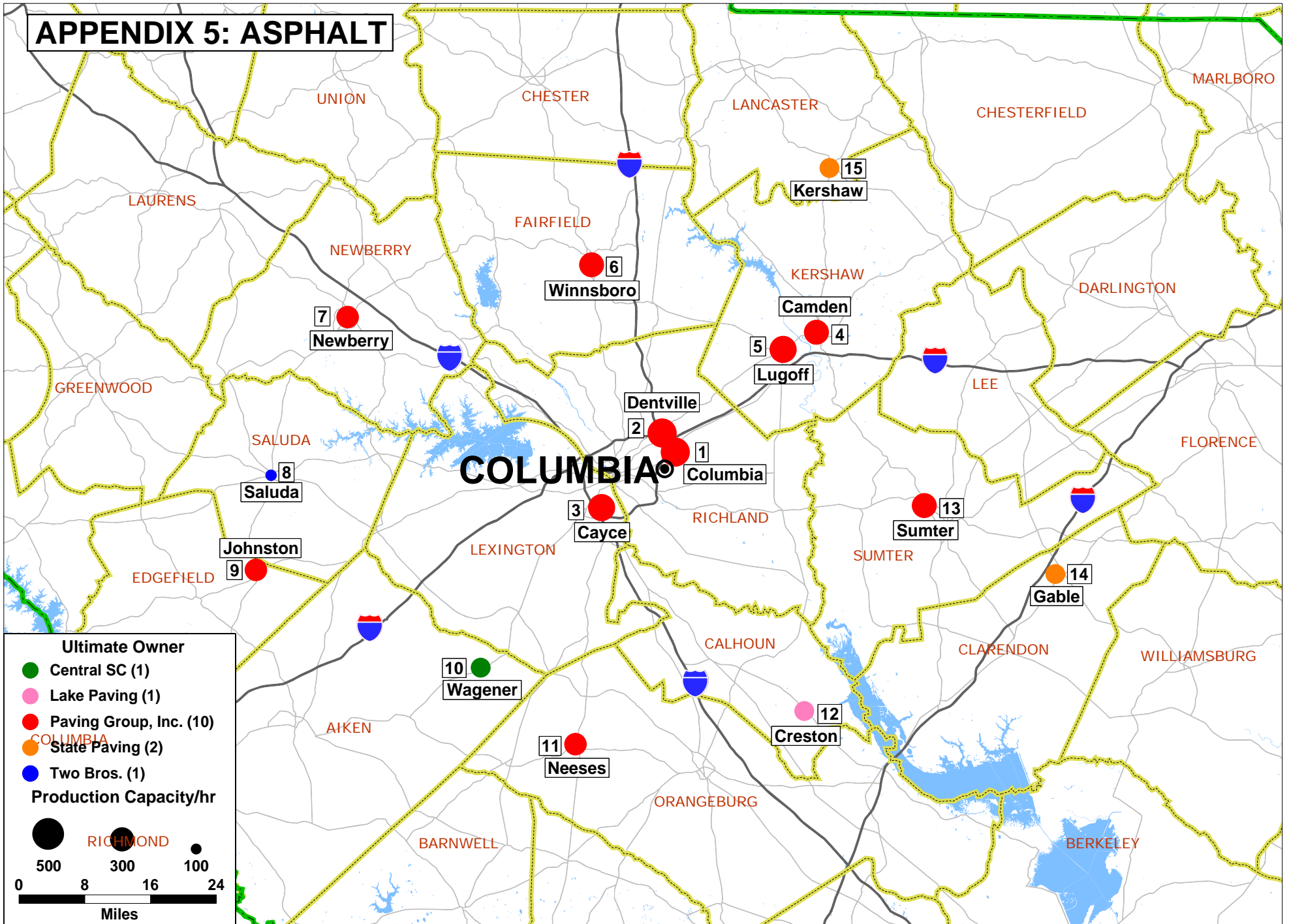
APPENDIX 3 CONCRETE

ID	Ultimate Owner	Operating Subsidiary	Address	City	State	Zip	Production Capacity/ Yds per Day	Type of Plant	Acquired From	Year Acq.
1	MATERIALS, INC.	SOUTHERN CONCRETE	1234 Elm St.	BIRMINGHAM	AL	35233	1000	Ready Mix	2008	1000
2	MATERIALS, INC.	SOUTHERN CONCRETE	7777 Oak St.	TARRANT	AL	35217	11000			11000
3	MATERIALS, INC.	SOUTHERN CONCRETE	1111 Twig St.	HUEYTOWN	AL	35023	11000			11000
4	MATERIALS, INC.	SOUTHERN CONCRETE	2222 Nut St.	JASPER	AL	35501	600	Ready Mix	2008	600
5	MATERIALS, INC.	SOUTHERN CONCRETE	6666 Acorn St.	CULLMAN	AL	35055	800			800
6	MATERIALS, INC.	SOUTHERN CONCRETE	9876 Rose St.	SNEAD	AL	35952	800			800
7	MATERIALS, INC.	ALABAMA REDIMIX	5432 White St.	RAGLAND	AL	35131	700	Ready Mix	2008	700
8	PELL CITY CONCRETE	None	7766 Tiny St.	PELL CITY	AL	35128	500			500
9	MATERIALS, INC.	ALABAMA REDIMIX	4444 Pine St.	TALLADEGA	AL	35160	700			700
10	CENTRAL CONCRETE	None	1010 Bass St.	VINCENT	AL	35178	600			600
11	MATERIALS, INC.	ALABAMA REDIMIX	2022 Trout St.	CHILDERSBURG	AL	35078	700			700
12	BROOK MIX	None	3333 Hill St.	COALING	AL	35453	150			150
13	MATERIALS, INC.	ALABAMA REDIMIX	5544 King St.	BERRY	AL	35546	500			500
14	AL CRETE	None	6688 Dun St.	VANCE	AL	35490	500			500
15	AL CRETE	None	9911 Lake St.	OAKMAN	AL	35579	500			500

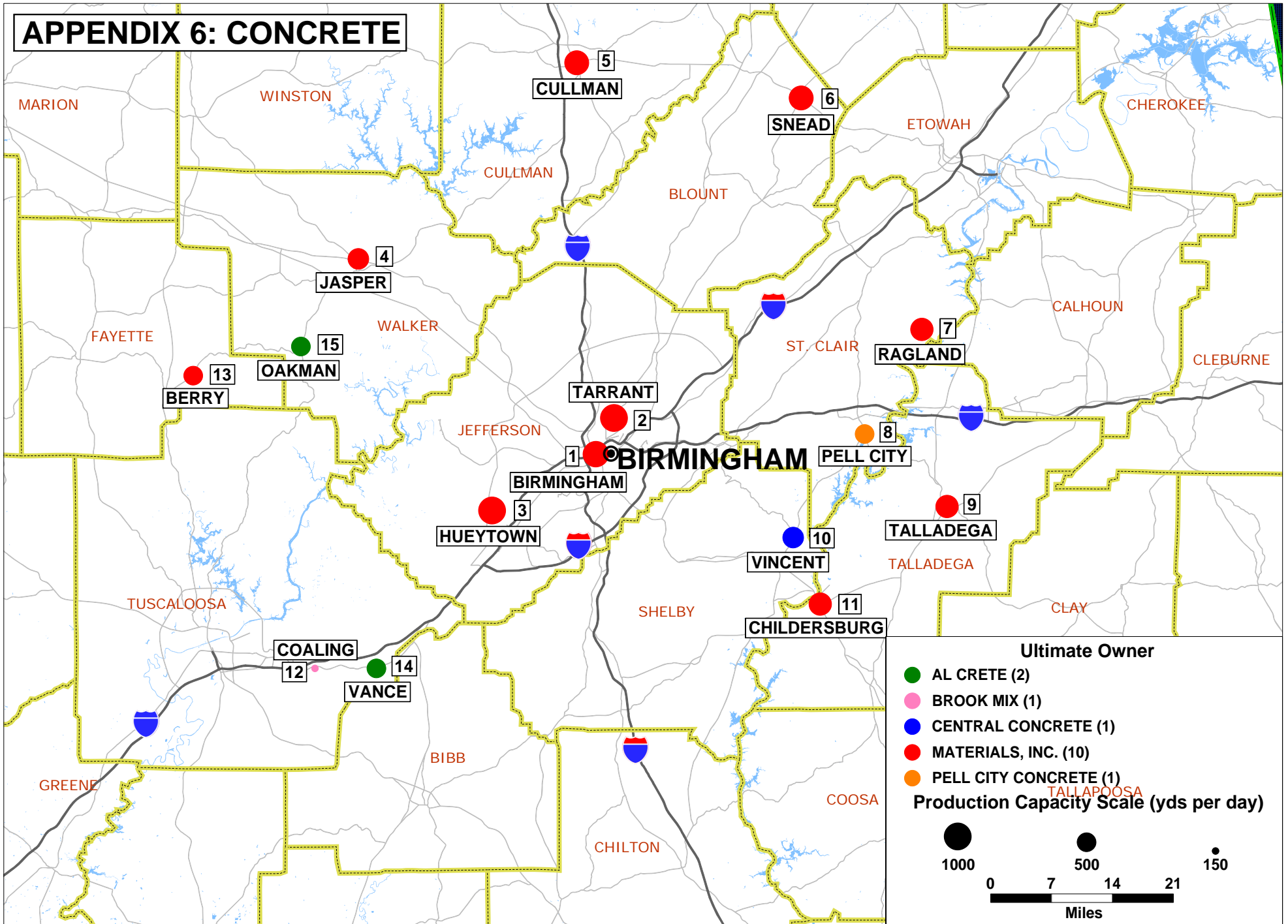
APPENDIX 4: AGGREGATE



APPENDIX 5: ASPHALT



APPENDIX 6: CONCRETE



Map showing concrete production locations in Alabama, including counties and cities. The locations are numbered 1 through 15, corresponding to the legend. The map includes major highways and county boundaries.

Counties shown: MARION, WINSTON, CULLMAN, BLOUNT, ETOWAH, CHEROKEE, FAYETTE, WALKER, JEFFERSON, ST. CLAIR, CALHOUN, CLEBURNE, TUSCALOOSA, SHELBY, TALLADEGA, CLAY, GREENE, BIBB, COOSA, CHILTON.

Cities shown: BIRMINGHAM, TARRANT, HUEYTOWN, BIRMINGHAM, PELL CITY, VINCENT, CHILDERSBURG, TALLADEGA, RAGLAND, JASPER, OAKMAN, COALING, VANCE, BERRY, CULLMAN, SNEAD.

Production Capacity Scale (yds per day): 1000, 500, 150.