BURLEIGH COUNTY WATER RESOURCE DISTRICT AGENDA
Wednesday, December 13, 2017
City County Building – Tom Baker Meeting Room
8:00 a.m. - Call to Order

1. Roll Call (Reep, Larson, Detwiller, Beck, Landenberger)

2. **Approval of 11-8-17 Minutes** **3-7**

3. **Approval of 2018 BCWRD Meeting Schedule** **8**

4. McDowell Dam
   - Water Permit Application (Pending)
   - McDowell Property negotiations (On-hold – Landenberger, Larson)
   - **McDowell Dam lease with Bismarck Parks and Rec expires 12/31/17 (Landenberger, Detwiller)** **9-14**
   - Updates to McDowell Dam Residence (Landenberger, Detwiller, Meyer) 117-118
   - Breach Overlay District – Pending SWC response on Breach Zone and Hazard Classification (Landenberger, Reep, Gunsch)
   - Policy for inventory Tags (Landenberger/Mayer)

5. Comments from Members of the Public:

6. Financial Reports
   - End of November 14-17
   - Security Pledge 18

7. **Approval of Bills $36,714.36** **19**

8. **Approval of MRCC Bills: $11,095.75** **19**

9. **Approval of Fox Island Bills: $33,976.50** **19**

10. Drainage Permits/Complaints/Issues
    - Pavlicek – Apple Creek Floodplain – Memorandum (Beck/Gunsch)
      - **Hearing: Pavlicek/Krein – 9 a.m.** **20-22**
    - Jeff Schild, Noel Laxdal, Gary Christianson Hay Creek Pines Drainage complaints 23-27
    - Nina Bonanno – SEH on behalf of City of Lincoln – Apple Creek 28-30

11. Projects
    - Hay Creek Pines – Roadway and Groundwater Issues – Preliminary Engineering Report (on Website)
      - Stormwater Easements (Jeff Schild and Luke Steen)
      - Records requests 31-41
      - Nitschke complaint appeal to District Court 42-50
      - Letter to Joyce and Randy Schwartz opposing specials (Bliss/Beck) 51-58
      - **ND Department of Health request for operating plan** **59-60**
    - Missouri River Correctional Center Flood Control Project
      - Operations and Maintenance Plan
      - Final Project Accounting
      - Commercial Blanket Bond 61-63
    - Fox Island Status (Michael)
      - Project Meetings (Larson)
      - Township Roadway ROW - Easement Request (Submitted to County Engineer)
      - USACE Section 408 (Pending) Garrison-Oahe Revetment Easements
      - Plans and Specifications – 90% Consultations with County Engineer on Design Standards
      - Landowner Levee Easements (Signatures)
      - Temporary Construction Easements
      - Proposed Project Reroute Meeting
      - Richard Riha re: Rescinding approval of Fox Island Levy 64-65

12. Break

13. Other Old Business
    - Policy Manual – REVISED Draft Update (Michael, Dave, Mona)
        - Subsurface Drain Tile Permitting
        - Missouri River SOV's and Section 408 Requests
        - Policy on email communications (Bliss)
    - Missouri River Setback Resolutions - Burleigh County/City of Bismarck Planning Commission – (On hold Policy Considerations)
    - Mitchell Lake Culvert – (Greg Larson/Houston Engineering)
    - SOV S-2089 (Landenberger/Gunsch)
    - SOV S-1959B letter (Gunsch) 51-67
    - Request for Proposal (RFP) status for Legal, Engineer, Secretarial and Auditor

14. New Business
    - FEMA Flood Mapping (Larson) 68-69
    - Burnt Creek Floodway easements/posting land 70-95

15. Correspondence or Document Information
    - SOV S-2095 BNSF Railway Company 96-112
    - Notice of Application permit No. 6939 113
    - Bureau of Reclamation letter re: Environmental Assessment 114-116
    - Plats & SWMP – Emailed – will be brought to meeting due to size of some (Comments on Plats)
        - Ace Hardware Addition
        - Boulder Ridge Eighth Addition
        - Heritage Reserve Subdivision Preliminary
        - Heritage Reserve Subdivision
        - K&RSubdivision Plat – May
        - K&R Subdivision Plat July
        - Promontory Point VI Addition Annexation
        - Silver Ranch First Addition Annexatin

16. McDowell Dam House (Final cost breakdown) 117-118

17. Detailed Bills 119

18. **Executive Session** – meet with Board counsel on the status of Hay Creek Pines appeal and the status of Fox Island re-route proposal to County Commission.

19. Next Meeting: January 10, 2018

20. Adjourn

Note: Bold Items Require Board Action

BCWRD Meeting Minutes
November 8, 2017 – City County Building
Draft – not approved yet

Agenda Items	Discussion	Board Action	Responsible Party	Due Date

Present: Chairman Greg Larson, Dennis Reep, Rick Detwiller, Rod Beck; James Landenberger, Michael Gunsch, Houston Engineering, Inc.; Dave Bliss, Bliss Law Firm, LLC; Commissioner Kathleen Jones, Burleigh County Commissioner and Mona Livdahl, Personalized Management Services.

Others Present: Alton & Arlene Nitschke, Noel Laxdol, Jeff Schild, Nick Cullen, Houston Engineering, Don Roloff, Gary Christianson, Ray Ziegler, Burleigh County Building and Planning; Dave Mayer, Dave Robinson, Bismarck Parks & Rec.

Chairman Larson called the meeting to order at 8:00 a.m. noting a quorum was present.

	Discussion	Action Taken	Responsible Party(s)	Due Date
Approval of 10-11-17 Minutes:		**Mgr. Reep moved to approve, Beck seconded. Motion carried.**		
Approval of 10-24-17 Exec. Session Special Meeting Minutes:	Correction that we did not call the executive session back to order, but rather the regular meeting.	**Mgr Detwiller moved to approve as corrected, Landenberger seconded. Motion carried.**		
McDowell Dam				
Water Permit:	Have not heard anything.			
Lease:	Attorney Bliss has reviewed the contract and it has been sent to Bismarck Parks and Rec.	Dave Mayer stated that it is on the next agenda for the Bismarck Parks and Rec.		12/31/17
Property Negotiations:	No update.			
Update on McDowell Dam house:	Dave Mayer noted that all the work which was discussed has been completed, only a few fine tuning items remain.	**Dave will take photos and show to the board at the next meeting.**		
Breach Overlay District:	Engineer Gunsch noted it will probably be early 2018 before they have a statewide policy.			
Inventory tags	Mgr. Landenberger did research and found some that would withstand lower temps. Discussed what we want to inventory (i.e. items over $500)	Discussed first coming up with a policy on what needs to have an inventory tag. Landenberger will work with Dave Mayer.	Landenberger/Mayer	
Comments from Members of the Public:				
Jeff Schild	Mr. Schild is a resident of Hay Creek Pines and submitted a complaint for surface water issues. Mr. Schild also addressed the board in support of the Hay Creek project. Discussed the issues they	Chairman Larson noted that we would accept the complaint and will deal with all of them at once.		

Agenda Items	Discussion	Board Action	Responsible Party	Due Date
	are currently having with trees dying, road issues, sump pumps running, etc.			
Arlene Nitschke	Mrs. Nitschke spoke in opposition of the project. Mrs. Nitschke noted that the development was told they were not to have basements, as for the trees, the lifespan has been met on most of the trees. Mrs. Nitschke stated that the Bismarck Tribune and BCWRD will continue to hear from her.			
Alton Nitschke:	Mr. Nitschke spoke in opposition of the project and reviewed the timeline on the project and meetings held.	Attorney Bliss asked Mr. Nitschke to clarify his request for the boards emails asking if only for the Hay Creek Pines or all. Mr. Nitschke asked for all emails from June 1st until November 1st. Mr. Nitschke also noted that some of the emails on the website were not working. We will check on this and correct.		
Gary Christianson:	Mr. Christianson noted he purchased the lot in 1980 and was never told they could not build basements. Noted he was sorry to see this become such a contentious issue and feel it is a lot to do about nothing.			
Financial Reports				
End of October:	Reviewed no action needed.			
BCWRD Bills:		**Manager Detwiller moved to approve the bills in the amount of $26,689.91, Landenberger seconded. Motion Carried.**		
MRCC Bills:	The project is almost complete and the specials were submitted to the county.	**Mgr. Reep moved to approve the MRCC bill in the amount of $11,331.21, Mgr. Landenberger seconded. Motion Carried.**		
Fox Island bills:		**Mgr. Beck moved to approve the Fox Island bills totaling $11,659.53, Detwiller seconded. Motion Carried.**		
Drainage Permits & Complaints				
Peterka/Dettling	Letter of compliance was sent.	**Complaint closed.**		
Pavlicek/Apple Creek Floodplain	A hearing was scheduled for today, but Mr. Klein was out of town. It was noted that he had been contacted prior to scheduling the date and was aware of it.	**Mgr. Detwiller moved to schedule for the next meeting which is December 13th and to clarify in the letter that if he does not attend, the BCWRD board will make a decision. Beck seconded. Motion carried.**	Beck, Gunsch, Bliss	12/13/2017
Laxdol Complaint:	The complaint is tied to the Hay Creek Pines area, we already have a complaint filed from Mr. Christianson.	**Hold and handle at the same time as Mr. Christianson's complaint.**		

Agenda Items	Discussion	Board Action	Responsible Party	Due Date
Projects:				
Hay Creek Pines				
Easements:	Eng. Gunsch has prepared them and we get them to the affected landowners.			
Water Samples:	The additional water samples were completed. We do not have the results yet but should within the next couple of weeks. Noted that Manager Beck did authorize our engineer to do a drone flight for topography in preparation of the road to be put in.	**Wait on results for additional water samples on 26th and 84th Avenue as well as Walsh Dam.**		12/13/17
Open Records	An open records request was received from the Nitschke's on board members emails..	**Discussed earlier.**		November
Schwartz Appeal:	Received a letter from Mr. Schwartz appealing the specials.	**Consensus of the board to have Attorney Bliss and Manager Beck prepare a response.**		November
Misc:	Chairman Larson was served a letter by the Sheriff's department that the Nitschke's are appealing the decision to the District Court.			
MRCC:				
Bond Information:	Project is completed, noted that the ND House and Water staff would like to take a look at the project.	**Chairman Larson as well as one of the Houston Engineer staff members will schedule this.**		
Fox Island:				
Project Meeting:	Eng. Gunsch noted that they continue to meet with the landowners regarding the easements..	Still have ongoing construction easements that need to be obtained. We do have landscape drawings		
USACE Section 408/Easements	The easements on the roadway are going as planned. We still have a few easements that need signing.		Gunsch, Larson	
Old Business				
Policy Manual	We are still revising.		BCWRD board	
Mitchell Lake	The SWC stated that we do have the authority to modify the culvert. The contractor can't get to this until next spring. A call was made to the owner but he has not called back yet.	**Consensus of the board to authorize Engineer Gunsch to draft a letter with specific instructions to the contractor on what is needed to resolve this issue.**		Spring, 2018
Missouri River:	Setbacks are still under review.			
Geomorphic Study:	No updates.			
USGS Gages:	Signed – informational only.			

Agenda Items	Discussion	Board Action	Responsible Party	Due Date
SOV S2089	A letter went to several entities including Mr. Ziegler and we need discussion on this. The landowner is working within our easements.	Manager Landenberger will work with Eng. Gunsch on this issue.	Landenberger/Gunsch	
New Business				
I-pad or Surface pro purchases:	At the March 8, 2017 meeting a motion had been made to allow up to $1,000 for new I-pads or Surface Pros to the board members.	Purchase prior to year end, return the old equipment to Mona.	BCWRD Board members	
RFP's	Chairman Larson noted that at the end of the year we need to send out an RFP for Legal, Engineer and Secretarial staff. The RFP is not written yet,	**Chairman Larson to write the RFP's and get them out, we are also looking for one to provide our audits. We will schedule a special meeting after the RFP's go out, we cannot go into Executive Session for this.**	Chairman Larson	
Correspondence:				
SOV-1959B	Eng. Gunsch recommended that we let the SWC know that we do not have issues with the proposed work the Bismarck Parks and Rec are doing.	Consensus to have Eng. Gunsch write and send a letter in response to the SOV.	Gunsch	11/2017
ND Irrigation:	Discussed the breakfast that the BCWRD generally sponsors. Noted they are not doing the breakfast, but have asked that we sponsor dinner along with Morton County WRD. Discussed cost, noted it is generally around $250.	**Manager Reep moved that we sponsor half the dinner cost, Detwiller seconded. Motion Carried.**		
Plats	No comments necessary			
Next Meeting:	The next meeting will be held 12/13/17h			December 13
Meeting adjourned at 9:15 a.m. The BCWRD Board went into Executive Session at 9:30 a.m. to discuss with legal counsel the request for emails. Reconvened into regular session at 9:53 a.m.				
Request for waiver of fees on open records requests:	**Manager Detwiller moved that we respond to the Nitschke's request and inform them that we will provide our own thumb drive and we will charge every and all fees as provided for in NDCC. Manager Landenberger seconded. Motion Carried.**			
Timeline:	**Discussed the reasonable timeline for open records. Consensus to ge the information to Mona by close of business on Wednesday of next week.**			
ND Irrigation Expo:	Manager Reep reminded the board that if you go the water convention on behalf of BCWRD, submit your proof of payment with your quarterly expense report and it will be paid by BCWRD.t			

Meeting adjourned at 9:58 a.m.

Mona Livdahl

Mona Livdahl, BCWRD Admin. Secretary

Burleigh County Water Resource District
Members of the Public in Attendance

Date: 11-8-17

PLEASE PRINT

NAME - **PLEASE PRINT**	ADDRESS/COMPANY REPRESENTING	EMAIL—if you want to be included on agenda list
Alton Nitschke (Arlene)	2160 84th Ave NE, BISMARCK	
Noel Laxdal	9040 Oak Dr. Bis	
Jeff Schild	9130 Forest Dr. Bismarck	
Nic Cullen	~~[illegible]~~ Houston	
DON ROLOFF	3005 DEER Lodge Dr Bismarck	
Ray Ziegler	Burleigh Co Building / Plan.	

Burleigh County Water Resource District

1720 Burnt Boat Drive, Suite 205, Bismarck, ND 58503
City/County Office Building Location:
221 North 5th Street Bismarck, North Dakota 58501
City County Office Phone: 701-222-6718

2018 MONTHLY MEETING SCHEDULE

Wednesday at 8:00 a.m. at the City/County Building Tom Baker Meeting Room
2nd Wednesday of each month (*unless noted below)

MONTH	DATE
January	10th
February	14th
March	14th
April	11th
May	9th
June	13th
July	11th - NO (Alternative dates: July 10th and 18th are available)
August	8th
September	12th
October	10th
November	14th
December	12th

*Dates verified 11-20-17 with Erin Buchwitz: email: ebuchwitz@nd.gov

BISMARCK PARKS AND RECREATION DISTRICT
Est. 1927

Let's Play!

November 21, 2017

Burleigh County Water Resource District Board
1720 Burnt Boat Drive, Suite 205
Bismarck, ND 58503

Re: Maintenance and Management Agreement McDowell Dam

Attached are two copies of the Maintenance and Management Agreement of McDowell Dam Recreational Facility agreed upon and signed by the President of the Bismarck Park and Recreation District Board.

We ask that you review the document and return one originally signed document to Bismarck Parks and Recreation District.

Thank You.

David Mayer, Operations Director
400 E. Front Ave.
Bismarck, ND 58504
701-222-6464 (phone)
701-250-7602 (fax)
dmayer@bisparks.org

AGREEMENT
FOR THE MAINTENANCE AND MANAGEMENT
OF MCDOWELL DAM RECREATIONAL FACILITY

This Agreement is made between the Burleigh County Water Resource District (hereinafter "the District"), and the Bismarck Parks and Recreation District, whose address is 400 East Front Avenue, Bismarck, ND, 58504, hereinafter ("BPRD").

Whereas, the District is interested in obtaining daily operation, management, planning and development services for its McDowell Dam recreational facility; and

Whereas, BPRD is in the position to provide daily operation, management, planning and development services for the McDowell Dam recreation facility; and

Now, therefore, in consideration of the premises, it is agreed as follows:

1. **Scope of Services:** The District and BPRD agree that BPRD, as an independent contractor through its designated and employed staff, shall furnish services to and for the benefit of the District by providing management and operational services for its McDowell Dam recreational facility and through planning a master plan for future development of the McDowell Dam recreational facility in accordance with the terms and conditions of this agreement. BPRD assumes the obligation to provide such services through its designated and employed staff consistent with the terms of this agreement in compliance of established professional standards. In furtherance, but not in limitation of the scope of services designated herein, such duties, obligations and responsibilities shall include the following:

    a. BPRD shall require its designated and employed staff providing services under the provisions of this agreement to comply with any and all policies and procedures which are developed through the joint efforts of the parties relating to and concerning the provision of operational services for the McDowell Dam recreational facility and the implementation of the March 2005 strategic plan for future development of the facility as directed by and in coordination with the District.

    b. BPRD shall be responsible for the supervision and management of the District's designated and employed staff providing services under the provisions of this agreement.

    c. BPRD shall be solely responsible for the selection, retention, supervision and compensation of all designated BPRD employees or staff engaged by BPRD required to fulfill the obligations and duties imposed by this agreement.

    d. BPRD through its designated and employed staff shall be responsible for:

        i. Maintaining the McDowell Dam recreational facility within the accepted practices of grounds maintenance to include mowing, weed control, forestry, public safety, cleaning of bathrooms, maintenance of the public beach swimming area, docks, pet cemetery and other facilities including permanent and temporary structures and shelters;

ii. Providing a friendly and knowledgeable and trained staff;

iii. Caring for all equipment including machinery and tools owned by the District;

iv. Keeping buildings and structures in good repair and upkeep to include painting and cleaning;

v. Establishing garbage systems and hauling of refuse for proper disposal;

vi. Assuring that road and trail repair and maintenance (crack sealing, pavement marking, patching, etc.) is maintained;

vii. Developing of fees, an annual work plan and budget (personnel, utilities, supplies, repairs and maintenance, contract services, equipment and capital improvements) for approval by the District in accordance with and agreed-upon timeline and budget process;

viii. Coordinating and overseeing of budget development, planning and implementation;

ix. Overseeing and planning of marketing and promotional efforts of the McDowell Dam recreational facility and programs and public information related to management and operations of the facility;

x. Coordinating required insurance policies and inventory (property and liability);

xi. Developing and overseeing capital improvement projects and non-engineered construction management, with a 5% management fee based upon actual construction costs, subject to the District's approval of such projects.

xii. Preparing a capital improvement and equipment schedule that would be developed and reviewed during the annual budget process;

xiii. Managing the bidding process, and current and future leases, contracts and rental agreements of the McDowell Dam recreational facility. BPRD will provide recommendations to the District on current contracts, leases and rental agreements for the District's consideration and final approval;

xiv. Maintain an operating manual that provides administrative guidelines and operating procedures for the management of the McDowell Dam recreational facility, containing existing and new operating policies, administrative rules, ordinances, legal requirements, protocols and each party's responsibilities and authorities.

xv. Managing the listings of any McDowell Dam recreational properties for any sale of such property. BPRD will provide recommendations to the District on the proposed sale of any McDowell Dam recreational property for the District's consideration and final approval;

xvi. Collecting all fees, donations, contributions and other revenues generated from the use and for the benefit of the District and the McDowell Dam recreational facility with said funds being paid to the District quarterly.

xvii. Other duties as agreed upon by the parties to this agreement.

2. **Communication**: BPRD shall designate its Executive Director or other designee as the primary contact to work with a District Board member or members as designated by the District.

3. **Reporting:** BPRD will provide a monthly written report, including income and expenses, to the District on the McDowell Dam recreational facility to the District. A comprehensive annual report will be completed and presented by BPRD to the District by March 1, 2018, and by March 1 of each of the following years of this agreement.

4. **Existing Agreements.** This contract shall replace all existing oral agreements, leases, and/or memorandums of agreement and contracts between the District and BPRD.

5. **Funding.** The District is responsible for funding the annual approved operation, maintenance and capital improvement budgets for the McDowell Dam recreational facility. In the event of an emergency, BPRD has the right to appear before the District for budget enhancements directly related to the emergency project.

6. **Compensation.** The District shall pay BPRD an annual management fee of 25 percent, based upon actual gross operating expenses for administrative services provided under this contract, excluding all capital improvements as set forth in Section 1(d. xi) of this agreement.

7. **Reimbursement**. BPRD shall submit a monthly statement of income and expenses incurred for the operation of the McDowell Dam recreational facility to the District, and thereupon the District shall reimburse BPRD for all items of expense within the budget or thereafter approved by the District. All expense items are subject to limitations as set forth as a part of the District's normal budgeting process.

8. **Ownership and Custody of Property.** All real and personal property, publications, trade names, plans, logo or ideas prepared for and purchased by the District shall be the District's sole property. Film, photographs, etc. supplied to media, printers, etc., shall not be recovered unless specifically requested by the District through its designated agent. BPRD shall not be responsible for loss by media. The District has the right and authority to use all property purchased from the BPRD. BPRD shall acknowledge the District's ownership of the McDowell Dam recreational facility in all written and/or distributed information.

9. **Embankment and Dam Safety:** The District will retain authority and responsibility over the dam itself, including management of water quality, water quantity and dam safety concerns.

10. **Relationship of Parties:** This agreement shall not be construed to create any form of any employment relationship between the District and BPRD, or any person designated by BPRD under the provisions of this agreement. It is the intention of the parties hereto to maintain separate and distinct organizations, and BPRD through its designated employees shall at all times be acting as an independent contractor in providing services to and for the benefit of the McDowell Dam recreational facility. BPRD shall be responsible to control and supervise all of its employees and to pay compensation to or for the employees of all wages, salaries, taxes, withholding payments, fees, as well as other benefits or compensation to any pension or retirement plans. BPRD shall not claim that the District is responsible for the payment of any of the foregoing payments, withholdings, contributions, or taxes in relationship to its designated employees.

    Further, it is understood that this management relationship is between the District and BPRD and BPRD has no other responsibility to report management duties or operations, including budget and capital projects, or represent on behalf of the District unless so approved by the District or agreed to by BPRD.

11. **Severability.** The unenforceability or invalidity of any provision of this contract shall not render any other provisions of this contract unenforceable or invalid.

12. **Governing Law.** This contract is to be governed by and construed according to the North Dakota Century Code and local and federal laws.

13. **Insurance**. BPRD shall maintain in full force and effect during the term of this agreement, at BPRD's sole cost and expense, general liability coverage, including liability coverage for any of its employees designated to provide services under the terms of this contract and shall name the District as an additional insured. In addition to the liability insurance coverage, BPRD shall, at its own expense, obtain and maintain appropriate workers compensation coverage for all of BPRD's employees who shall provide services under this contract.

14. **Indemnification and Hold Harmless**. Each party to this agreement shall be responsible for the claims, losses, damages and expenses, which may arise out of the negligent or wrongful acts or omissions of that party or that party's agents, employees, or representatives acting in the scope of their duties in this contract. Each party to this agreement agrees to inform the other in the event such party is notified of an investigation or claim arising out of the services of managing the McDowell Dam recreational facility under the terms and conditions of this contract and shall provide reasonable access to the information involving such investigation or claim. Each party shall further notify the other party of the disposition of any such investigation or claim.

15. **Contract Term**. This agreement is for a period effective on the date signed by the last party to sign the agreement through December 31, 2027.

16. **Termination of Agreement.** The District or BPRD may unilaterally terminate this agreement upon 90 days written notice to the other party.

17. **Attorneys Fees and Costs**. Each party shall pay their own attorneys fees and costs.

IN WITNESS WHEREOF, the parties have executed this contract as of the day, month and year written above, and each party hereby acknowledges that it has the full right and authority to enter into this contract and bind the respective party to the terms stated herein.

Wayne Munson, President
Bismarck Park Commission Board

11-16-17
Date

Greg Larson, Chairman
Burleigh County Water Resource District

Date

Burleigh County Water Resource District (BCWRD)
Profit & Loss Budget vs. Actual
January through November 2017

	Jan - Nov 17	Budget	$ Over Budget
Income			
31110 · Real Estate Tax	666,751.89	709,500.00	-42,748.11
31810 · In Lieu of Tax	5,137.48	5,000.00	137.48
33610 · State Aid Distribution	98,689.12	50,000.00	48,689.12
33620 · Homestead Credit	0.00	4,000.00	-4,000.00
33810 · Reimbursements			
33810-A · Missouri River Correctional	389,075.00		
33810-C · Apple Valley Special Assessment	1,302.69		
33810-E · Country Ridge/Creek	157.65		
33810-G · Burnt Creek	55,986.15		
33810-J · Hay Creek	35,128.47		
33810 · Reimbursements - Other	847.16		
Total 33810 · Reimbursements	482,497.12		
34110 · Operations & Maintenance			
34110-b · Apple Valley Cooperative Lagoon	2,686.52		
34110-c · Burnt Creek Floodway O&M	135.04		
34110-e · Country Creek/Country Ridge	409.44		
Total 34110 · Operations & Maintenance	3,231.00		
36110 · Interest	2,281.73	100.00	2,181.73
36210 · McDowell Dam Recreation Income	23,244.07	8,000.00	15,244.07
36215 · McDowell Dam Land Lease	2,825.00	2,800.00	25.00
36910 · Misc Revenue	0.00	1,500.00	-1,500.00
Total Income	1,284,657.41	780,900.00	503,757.41
Gross Profit	1,284,657.41	780,900.00	503,757.41
Expense			
111 · Payroll Expenses	17,934.00	30,000.00	-12,066.00
111A · Payroll Taxes	0.00	3,000.00	-3,000.00
112 · Management Services			
113 · Accounting Services	3,315.00	3,000.00	315.00
112 · Management Services - Other	13,726.57	18,000.00	-4,273.43
Total 112 · Management Services	17,041.57	21,000.00	-3,958.43
114 · Audit	6,000.00	6,000.00	0.00
312 · Legal Fees	13,589.00	18,000.00	-4,411.00
315 · Engineering Administration	11,000.00	18,000.00	-7,000.00
328 · Liability Insurance	3,419.11	2,700.00	719.11
335 · Building Rent	0.00	2,000.00	-2,000.00
341 · Travel	163.80	1,600.00	-1,436.20
376 · Dues & Publications	1,200.00	4,000.00	-2,800.00
411 · Office Supplies	1,899.05	2,500.00	-600.95
904 · McDowell Dam			
904-1 · Engineering Costs	7,421.50		
904-2 · Legal Fees	254.10		
904-A · Administrative Fee	34,092.37		
904-B · McDowell Dam (Buffer Zone)	0.00	80,000.00	-80,000.00

Burleigh County Water Resource District (BCWRD)
Profit & Loss Budget vs. Actual
January through November 2017

	Jan - Nov 17	Budget	$ Over Budget
904 · McDowell Dam - Other	133,690.24	234,375.00	-100,684.76
Total 904 · McDowell Dam	175,458.21	314,375.00	-138,916.79
905 · McDowell Dam-Capital Improvemen	69,623.22	10,000.00	59,623.22
910 · Projects			
910A · Missouri River Shared			
910A-1 · Engineering Costs	1,472.50		
Total 910A · Missouri River Shared	1,472.50		
910D · MRCC			
910D-1 · Engineering Costs	554,856.75		
910D-2 · Legal Fees	4,550.70		
910D-3 · Administrative / Other	1,634.30		
910D · MRCC - Other	493,858.14		
Total 910D · MRCC	1,054,899.89		
910F · Apple Creek Industrial Park			
910F-1 · Engineering Costs	997.50		
910F · Apple Creek Industrial Park - Other	50.00		
Total 910F · Apple Creek Industrial Park	1,047.50		
910G · Burnt Creek			
910G-1 · Engineering Costs	2,677.50		
910G-3 · Interest Expense	9,075.00		
910G · Burnt Creek - Other	3,225.00		
Total 910G · Burnt Creek	14,977.50		
910H · Fox Island			
910H-1 · Engineering Costs	319,308.77		
910H-2 · Legal Fees	3,811.50		
910H · Fox Island - Other	1,645.00		
Total 910H · Fox Island	324,765.27		
910I · Apple Valley			
910I-3 · Interest Charges	7,560.00		
Total 910I · Apple Valley	7,560.00		
910K · Apple Creek	0.00	6,500.00	-6,500.00
910L · Hay Creek	12.50	188,025.00	-188,012.50
910M · Neideffer Dam	0.00	5,000.00	-5,000.00
910N · Hay Creek Pines			
910N-1 · Engineering Costs	39,780.37		
910N-2 · Legal Fees	7,726.95		
910N-3 · Hay Creek Pines --- Other	14,041.21		
Total 910N · Hay Creek Pines	61,548.53		
Total 910 · Projects	1,466,283.69	199,525.00	1,266,758.69
911 · Misc	2,010.00	2,500.00	-490.00
920 · Continuing Education	145.00	2,500.00	-2,355.00
932 · City/County Watershed Planning	0.00	20,000.00	-20,000.00
933 · Missouri River General Services	0.00	25,000.00	-25,000.00
937 · Design/Special Assessment			

Burleigh County Water Resource District (BCWRD)
Profit & Loss Budget vs. Actual
January through November 2017

	Jan - Nov 17	Budget	$ Over Budget
937A · Apple Valley - Administrative			
937A-3 · Apple Valley Interest	507.50		
937A · Apple Valley - Administrative - Other	11,537.50		
Total 937A · Apple Valley - Administrative	12,045.00		
Total 937 · Design/Special Assessment	12,045.00		
940 · Operations & Maintenances			
940A · Burnt Creek Watershed	0.00	5,000.00	-5,000.00
Total 940 · Operations & Maintenances	0.00	5,000.00	-5,000.00
941 · Stream Gages			
941A · Apple Creek & Hay Creek	5,800.00		
941 · Stream Gages - Other	0.00	3,200.00	-3,200.00
Total 941 · Stream Gages	5,800.00	3,200.00	2,600.00
960 · Drainage Complaints			
960-1 · Engineering Costs	22,883.10		
960-2 · Legal	1,131.90		
960 · Drainage Complaints - Other	62.50	70,000.00	-69,937.50
Total 960 · Drainage Complaints	24,077.50	70,000.00	-45,922.50
970 · Storm Water Management Plans	0.00	20,000.00	-20,000.00
975 · Workforce Safety Insurance	250.00		
Total Expense	1,827,939.15	780,900.00	1,047,039.15
Net Income	-543,281.74	0.00	-543,281.74

American

November 3, 2017

Burleigh County Water Resource District
Mona Livdahl
1811 E Thayer Ave
Bismarck, ND 58501

Dear Mona:

This letter is to certify that at a meeting of the American Bank Center Board of Directors on October 25, 2017 the pledge of securities to the Burleigh County Water Resource District was approved.

The approval of the pledged securities will be reflected in the October 25, 2017 minutes of the Board of Directors. The following information was reviewed as of September 30, 2017.

Deposits	$4,215,360
Required Pledges	$4,361,896
Par Value Pledged	$5,745,000
Market Value as of September	$5,878,397

If you have any questions, please contact me at 483-3241.

Sincerely,

Rhonda Maher
Finance Support
American Bank Center
140 1st Avenue West
Dickinson, ND 58601
701-483-3241
rmaher@weareamerican.com

BCWRD Invoices
12-13-17

Name	Project	Invoice	Amount
Agency Mabu	Website hosting fee	8595	$425.00
Bliss Law Firm	November Services	19250	$8,054.70
Bismarck Parks and Rec	Admin	4848	$3,160.21
Bismarck Parks and Rec	Expenses	4848	$12,640.84
Houston Engineering	General	37251	$1,000.00
Houston Engineering	Drainage - Lake Mitchell	37255	$746.50
Houston Engineering	Drainage Complaints	37254	$2,631.20
Houston Engineering	Missouri River Bank Stabilization	37256	$665.00
I Floor and More	House at McDowell Dam - cabinets		$3,059.50
Menards	House at McDowell Dam - flooring	17829	-$35.97
Menards	house at McDowell - Mosaic	17819	$692.38
ND Irrigation Association	2018 Dues	2018	$250.00
PMS	November Services	6103	$3,425.00
	Subtotal		$36,714.36
MRCC Bills			
Houston Engineering	Work Order #18 SA 25	37253	$3,595.75
Arnston Stewart Wegner	MRCC - Refunding improvement bonds	17159	$7,500.00
	Subtotal		$11,095.75
Fox Island Bills			
Houston Engineering	Fox Island	37252	$12,351.50
Axtman and Associate	Fox Island	145	$5,500.00
Axtman and Associate	Landscape improvements	156	$16,125.00
	Subtotal		$33,976.50
	TOTAL		$81,786.61

BURLEIGH COUNTY Water Resource DISTRICT

Burleigh County Water Resource District

1720 Burnt Boat Drive, Suite 205
Bismarck, North Dakota 58503
www.bcwrd.org

September 15, 2017

Chris Krein
3405 East Divide Avenue
Bismarck, ND 58501

Dustin Pavlicek
1800 Poplar Drive
Bismarck, ND 58504

Re: Dustin Pavlicek Drainage Complaint
Notice of Hearing

Dear Mr. Pavlicek and Mr. Krein:

As you know, Mr. Pavlicek filed a drainage complaint with the water resource district which alleged that Mr. Krein placed fill on adjacent property, which adversely affected drainage from and along his property. The district subsequently issued its notice and order to compel Mr. Krein to take certain actions to remedy the drainage issues presented by Mr. Pavlicek. Mr. Krein has since requested a hearing on the district's order.

Please take notice that the district has set this matter for hearing on September 29, 2017 at approximately 6:15 p.m., in the Tom Baker Room, City/County Building, at which time it will hear Mr. Krein's response to the district's order.

Also, please take notice that the district has a prior hearing scheduled for 5:30 p.m. on the same date, so there may need to be some flexibility as to 6:15 p.m. time at which Mr. Krein's hearing may begin. Please advise if the time will work or if you are unbale to attend.

Sincerely,

Greg Larson, Chairman

Current Board Members:

Greg Larson, Chairman, Bismarck 400-7217 Dennis Reep, Vice Chairman, Bismarck 223-7052 Rick Detwiller, Secretary/Treasurer, Bismarck 223-8782 Rodney Beck, Bismarck 220-5313.....James Landenberger 426-6439

10

COPY

Burleigh County Water Resource District

1720 Burnt Boat Drive, Suite 205
Bismarck, North Dakota 58503
www.bcwrd.org

November 21, 2017

Chris Krein
3405 East Divide Avenue
Bismarck, ND 58501

Dustin Pavlicek
1800 Poplar Drive
Bismarck, ND 58504

Re: Dustin Pavlicek Drainage Complaint
Notice of Hearing

Dear Mr. Pavlicek and Mr. Krein:

As you know, Mr. Pavlicek filed a drainage complaint with the District alleging that Mr. Krein placed fill, which adversely affected drainage from and along his property. The District subsequently issued its notice and order to compel Mr. Krein to take certain actions to remedy the drainage issues presented by Mr. Pavlicek. Mr. Krein has since requested a hearing on the district's order.

Please take notice that the district has set two prior hearings (September 29th and November 8th) with no response from Mr. Krein. Subsequently, we are scheduling a final hearing opportunity on Wednesday, December 13th at approximately 9 a.m., at which time if Mr. Krein is not available, the board will reaffirm its original order regarding Mr. Krein's obstruction of a natural watercourse, and constructing surface drainage from a watershed greater than 80 acres without a required permit, and then establish a new compliance timeline.

Sincerely,

Gregory Larson

Greg Larson, Chairman

Current Board Members:

Greg Larson, Chairman, Bismarck 400-7217 Dennis Reep, Vice Chairman, Bismarck 223-7052 Rick Detwiller, Secretary/Treasurer, Bismarck 223-8782 Rodney Beck, Bismarck 220-5313 James Landenberger 426-6439

21

SENDER: *COMPLETE THIS SECTION*

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Chris Krein
3405 East Divide Avenue
Bismarck, ND 58501

9590 9403 0213 5146 6966 80

2. Article Number *(Transfer from service label)*

7013 3020 0000 0547 0295

COMPLETE THIS SECTION ON DELIVERY

A. Signature

x

☐ Agent
☐ Addressee

B. Received by *(Printed Name)* Chris Krein

C. Date of Delivery 11-22-17

D. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☐ No

3. Service Type

- ☐ Adult Signature
- ☐ Adult Signature Restricted Delivery
- ☑ Certified Mail®
- ☐ Certified Mail Restricted Delivery
- ☐ Collect on Delivery
- ☐ Collect on Delivery Restricted Delivery
- ☐ Insured Mail
- ☐ Insured Mail Restricted Delivery (over $500)
- ☐ Priority Mail Express®
- ☐ Registered Mail™
- ☐ Registered Mail Restricted Delivery
- ☐ Return Receipt for Merchandise
- ☐ Signature Confirmation™
- ☐ Signature Confirmation Restricted Delivery

PS Form 3811, April 2015 PSN 7530-02-000-9053 Domestic Return Receipt

emailed 11-13-17

COMPLAINT FOR WATER-RELATED ISSUES

Burleigh County Water Resource District
1811 East Thayer Avenue
Bismarck, ND 58501
Phone: 701.222.3499
www.bcwrd.org

GENERAL INFORMATION

(1) This Complaint must include a map from an actual survey, aerial photo, or topographic map. The size of the map shall be at least 8½ by 11 inches and shall have a north arrow. If, in the opinion of the Water Resource District, the map does not contain enough information to properly evaluate the project, more information may be requested.

(2) The Complaint Is Regarding:

- ☐ Dam, Dike, Or Other Device (North Dakota Century Code (N.D.C.C.) §61-16.1-53)
- ☐ Drainage (N.D.C.C. §61-32-07)
- ☒ Obstruction To A Drain/Watercourse (N.D.C.C. §61-16.1-51)

(3) Water issue is located in which Water Resource District (District)? Burleigh County WRD

(4) Legal Description					
NW ? 1/4	SE 1/4	Section 34	Township 140 N	Range 80 W	Burnt Creek Township

(5) Approximate Construction Date N/A

(6) Description of the issue

A berm just South of the subdivision (Hay Creek Pines) appears to be blocking the natural waterflow,

(7) Is your property impacted? ☒ Yes ☐ No If Yes, number of acres impacted < 1

Please explain

Proper drainage of Hay Creek is not occurring on my property after spring melt or heavier rain events due to the blockage. This leads to a large area of mushy ground and water not evacuating properly on my property and the lot directly South of me.

Complaint Filed Against			Complaint Filed By		
Name (print) Randall Bakke			Name (print) Jeffrey Schild		
Address 1850 Bonn Blvd			Address 9130 forest Dr		
City Bismarck	State ND	ZIP Code 58504	City Bismarck	State ND	ZIP Code 58503
Telephone number (if known)			Telephone number		

By signing this form I certify (1) that this complaint is made in good faith and not to harass or annoy or for any other improper purpose and (2) that I have been provided a copy of N.D.C.C. §61-32-07 and N.D.C.C. §61-16.1-51. I understand that the Board may assess certain costs associated with this complaint under N.D.C.C. §61-16.1-51 or N.D.C.C. §61-32-07 if it finds the complaint to be frivolous.

Complainant's Signature: [signature] Date 11/8/17

ADDITIONAL SHEETS MAY BE ATTACHED IF NECESSARY

DAM, DIKE, OR OTHER DEVICE COMPLAINTS (N.D.C.C. § 61-16.1-53):

The District will determine if a landowner or tenant constructed a dam, dike, or other device without first securing a construction permit as required under N.D.C.C. § 61-16.1-38, or in conflict with the terms or conditions of a construction permit. North Dakota Administrative Code § 89-08-01-01 defines "other device" as "a water control structure, other than a dam or dike, including diversions and holding ponds, lagoons, or dugouts."

DRAINAGE COMPLAINTS (N.D.C.C. § 61-32-07):

Surface Drainage: The District will determine if a landowner or tenant constructed any surface drainage that impacts a watershed area of 80 acres or more without first securing a drainage permit as required under N.D.C.C. § 61-32-03, or in conflict with the terms or conditions of a drainage permit.

Tile Drainage: The District will determine if a landowner or tenant constructed or installed a tile or subsurface drainage system with a footprint of 80 acres or more without first securing a tile or subsurface permit as required under N.D.C.C. § 61-32-03.1, or in conflict with the terms or conditions of a tile or subsurface permit.

OBSTRUCTION TO DRAIN COMPLAINTS (N.D.C.C. § 61-16.1-51):

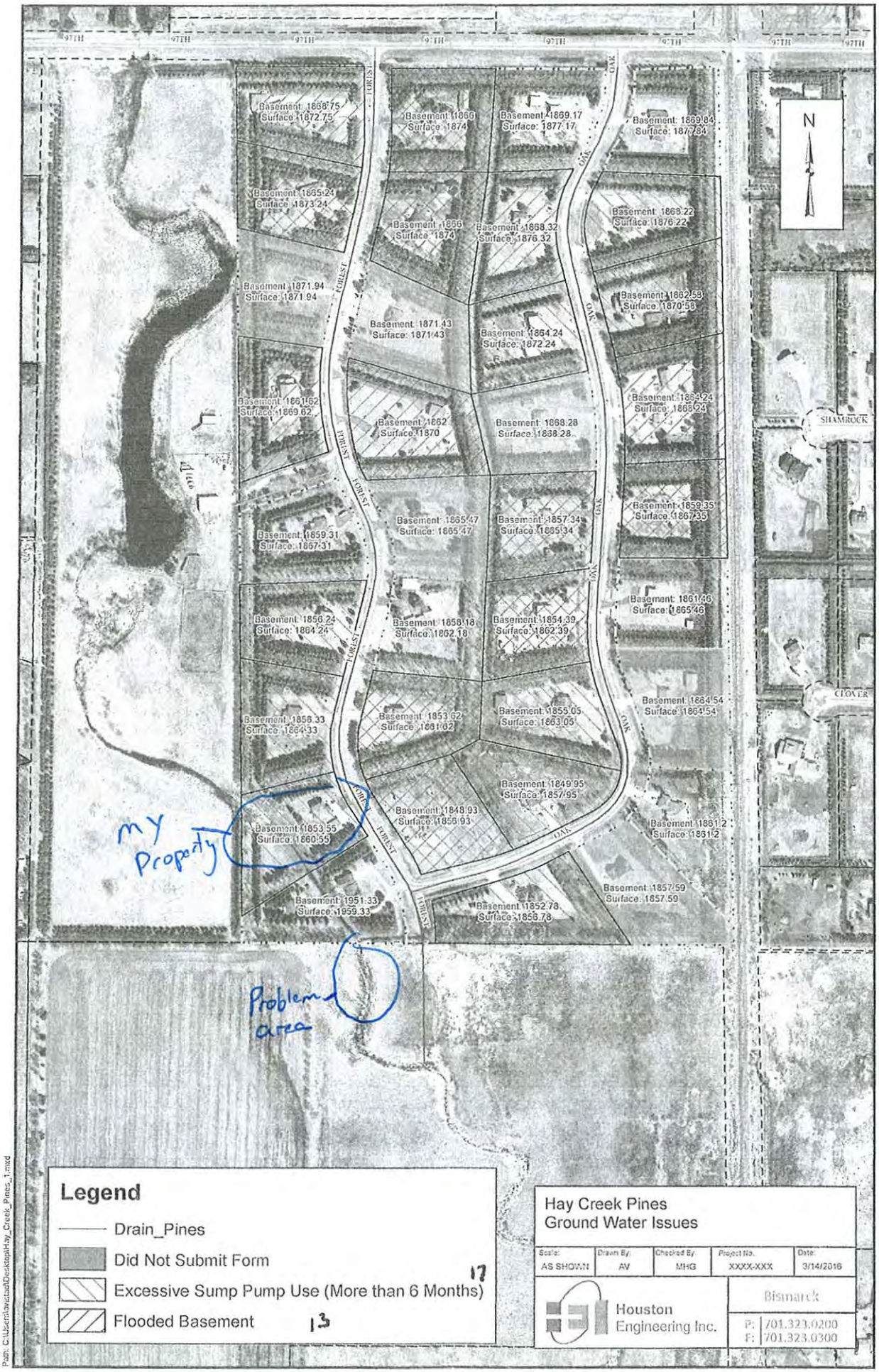
The District will determine if a landowner or tenant has intentionally or negligently caused an obstruction to a natural watercourse or drain.

The District must act pursuant to the appropriate code listed above. The District shall investigate and make a determination within a reasonable amount of time (not to exceed 120 days for dams, dikes, other devices, or drains). The District shall notify all parties of its decision as required by code. If complained of activity was a dam, dike, other device, or drain, the District's decision may be appealed to the State Engineer within 30 days of the District's decision. If the complained of activity was an obstruction to drain, the District's decision may be appealed to District Court.

FOR DISTRICT USE ONLY

Date Received	Date Investigated	
Does the complainant have standing to file a complaint? ☐ Yes ☐ No		
If No, why?		
Does the project have a Permit? ☐ Yes ☐ No	If Yes, Permit Number	Date Granted
Does the project meet a permitting exemption? ☐ Yes ☐ No		
If Yes, which one?		
Project Construction Date	Revision Date (if any)	
District Action		
District Action Compliance Date	Project Owner Compliance Date	Decision Appeal Date
Subsequent Action		
Chairman's Signature	Date of Signature	

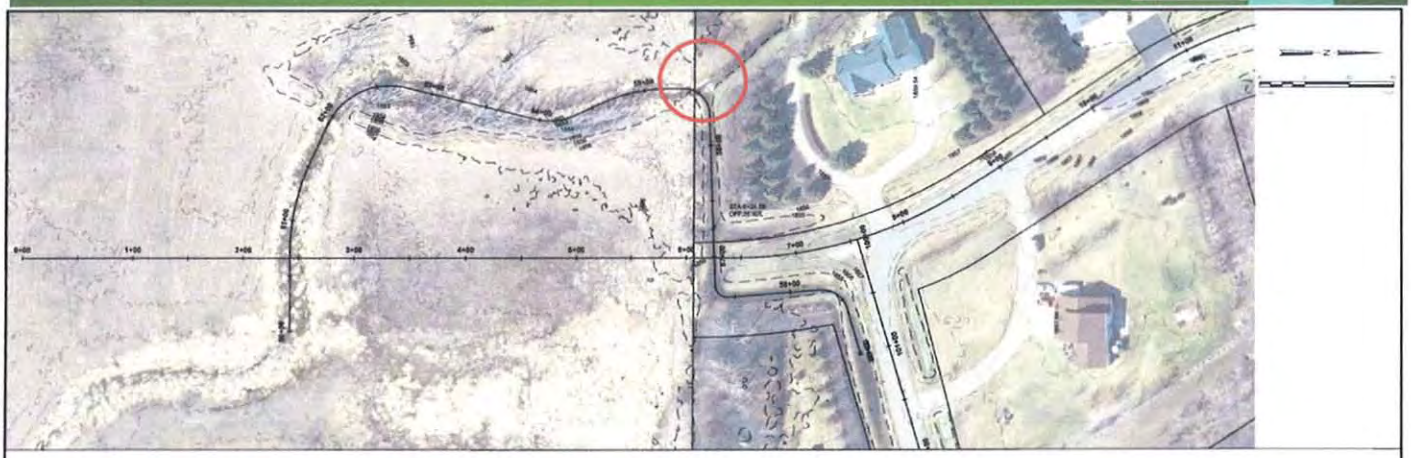
ADDITIONAL SHEETS MAY BE ATTACHED IF NECESSARY


97TH
FOREST
OAK
SHAMROCK
CLOVER
N
Basement: 1866.75
Surface: 1872.75
Basement: 1866
Surface: 1874
Basement: 1869.17
Surface: 1877.17
Basement: 1869.84
Surface: 1877.84
Basement: 1865.24
Surface: 1873.24
Basement: 1866
Surface: 1874
Basement: 1868.32
Surface: 1876.32
Basement: 1868.22
Surface: 1876.22
Basement: 1871.94
Surface: 1871.94
Basement: 1871.43
Surface: 1871.43
Basement: 1864.24
Surface: 1872.24
Basement: 1862.58
Surface: 1870.58
Basement: 1861.62
Surface: 1869.62
Basement: 1862
Surface: 1870
Basement: 1868.28
Surface: 1868.28
Basement: 1864.24
Surface: 1868.24
Basement: 1865.47
Surface: 1865.47
Basement: 1857.34
Surface: 1865.34
Basement: 1859.35
Surface: 1867.35
Basement: 1859.31
Surface: 1867.31
Basement: 1858.18
Surface: 1862.18
Basement: 1854.39
Surface: 1862.39
Basement: 1861.46
Surface: 1865.46
Basement: 1856.24
Surface: 1864.24
Basement: 1853.62
Surface: 1861.62
Basement: 1855.05
Surface: 1863.05
Basement: 1864.54
Surface: 1864.54
Basement: 1856.33
Surface: 1864.33
Basement: 1849.95
Surface: 1857.95
Basement: 1848.93
Surface: 1856.93
Basement: 1853.55
Surface: 1860.55
Basement: 1861.2
Surface: 1861.2
Basement: 1857.59
Surface: 1857.59
Basement: 1951.33
Surface: 1959.33
Basement: 1852.78
Surface: 1856.78
my Property
Problem area
Legend
Drain_Pines
Did Not Submit Form
Excessive Sump Pump Use (More than 6 Months)
Flooded Basement
17
13
Hay Creek Pines
Ground Water Issues
Scale: AS SHOWN
Drawn By: AV
Checked By: MHG
Project No.: XXXX-XXX
Date: 3/14/2016
Houston Engineering Inc.
Bismarck
P: 701.323.0200
F: 701.323.0300
Path: C:\Users\avaldez\Desktop\Hay_Creek_Pines_1.mxd

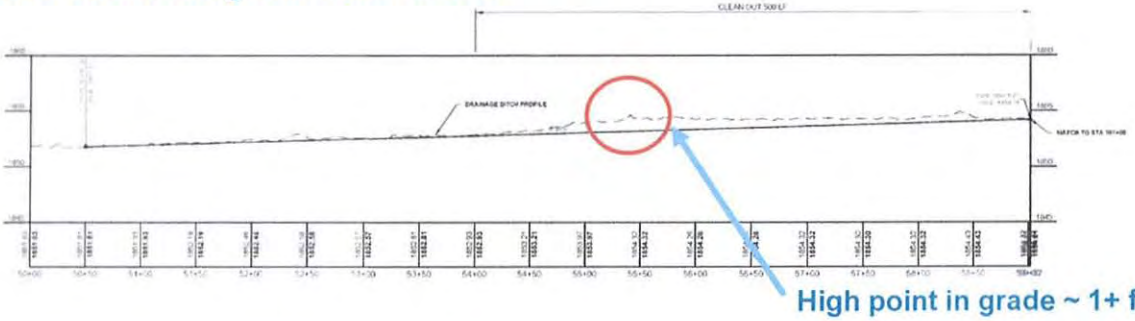
25

North →

Surface Water Drainage



Include regrading in overall project, however it will not resolve the groundwater issues.



	Houston Engineering Inc		Drawn by: AV	Date: 9-15-16	HAY CREEK PINES BURLIGH COUNTY BURLIEGH COUNTY, NORTH DAKOTA	DRAINAGE DITCH PROFILE PROJECT NO 6025-018	SHEET 7 of 7
			Checked by: MHG	Scale: AS SHOWN			

from The Hay Creek Pines Groundwater Removal Project Technical findings
Date: Aug 4, 2017

- The private access roadway contains 4-18" CMP's, which are too small to convey the projected flows from the upstream watershed. Subsequently, this access is routinely overtopped during spring runoff and heavy rainfalls. This overtopping and culvert flows may have created sediment accumulation downstream, which is undetermined due to the height of the existing vegetative overgrowth. This vegetation would create a local obstruction that retains water in the culverts and upstream as well as impacting flows.

- The landowner noted an area on the north and east side of the private access where drainage was poor and flooding of areas occurred in a low area. This could be resolved with channelization along the roadway, which is outside of the natural watercourse. Elevations at the top of the private access indicate that overflows would need to occur before backwaters would extend out into the low areas that flood. The project releases would not create measurable increases in water surface elevations, therefore no impacts will occur.

- The area east of the private access is experiencing issues associated with the overgrowth of vegetation due to wet conditions and groundwater flows from upstream, including the watershed to the east of 26th Avenue and north to the project outfall.

- The natural watercourse north to the project outfall appears is affected by overgrowth in vegetation, however it appears common throughout this area any in other similar watercourses in the area.

- The natural watercourse just south of the Hay Creek Pines subdivision has a large berm to the east side, which appears to have been placed to create some level of previous water storage. This berm appears to have been breached either by flows or by landowner action, and no longer retains water. The issue of this berm being an obstruction to the natural flows and backing waters into the southern end of the subdivision has not been determined.

✓ Lowering groundwater levels will expand the distance between base of the septic systems and groundwater, subsequently decreasing the potential risk for direct connection transfer. It was noted that some septic systems in this subdivision have been converted from standard installations to mound systems due to groundwater issues.

✓ Lowering groundwater levels will improve the capacity of the soils to accept runoff via the infiltration of rainfall and snowmelt. This reduction in runoff is projected to be in the range of 10% to 20%, which could significantly reduce stream flows from the subdivision. As a point of reference this level of reduction could reduce discharges from this subdivision on a 2-year (AMC-II) rainfall event by 0.24 to 0.48 ac-ft. While precipitation would now infiltrate, additional losses would then occur due to evaporation and groundwater movement into the sands below the drain tile system, therefore this represents a net reduction in downstream flows.

✓ The influence of rural water on groundwaters was raised. While this has decreased the use of wells for domestic use, which we understand were limited to a few residences, the groundwater impacts are small compared to other factors. As an example, groundwater in the spring of 2017 increased from 2.5 to 3.0 feet due to snowmelt infiltration. This dramatic increase is not possible based on rural water and septic infiltration alone. These influences were included in the groundwater model calibration.

27

emailed 12/7/17

COMPLAINT FOR WATER-RELATED ISSUES

Burleigh County Water Resource District

1720 Burnt Boat Drive Suite 205
Bismarck, ND 58503
Phone: 701.222.3499
www.bcwrd.org

GENERAL INFORMATION

(1) This Complaint must include a map from an actual survey, aerial photo, or topographic map. The size of the map shall be at least 8½ by 11 inches and shall have a north arrow. If, in the opinion of the Water Resource District, the map does not contain enough information to properly evaluate the project, more information may be requested.

(2) The Complaint Is Regarding:

- ☒ Dam, Dike, Or Other Device (North Dakota Century Code (N.D.C.C.) § 61-16.1-53)
- ☐ Drainage (N.D.C.C. § 61-32-07)
- ☐ Obstruction To A Drain/Watercourse (N.D.C.C. § 61-16.1-51)

(3) Water issue is located in which Water Resource District (District)? BURLEIGH COUNTY - APPLE CREEK

(4) Legal Description	1/4	1/4	Section	Township	Range
	SW	NW	18	138N	79W

(5) Approximate Construction Date: UNKNOWN

(6) Description of the issue

A DAM IN APPLE CREEK IS FAILING CAUSING EROSION TO OCCUR ON THE EAST BANK IMMEDIATELY DOWNSTREAM OF IT. A STORM WATER POND IS LOCATED TO THE EAST OF THE CREEK, AND THE EROSION IS POTENTIALLY PUTTING THE POND CONTAINMENT BERM AT RISK.

(7) Is your property impacted? ☐ Yes ☒ No If Yes, number of acres impacted _____

Please explain

Complaint Filed Against			Complaint Filed By		
Name (print)			Name (print) NINA BONANNO		
Address			Address 4719 SHELBURNE ST, SUITE 6		
City	State	ZIP Code	City BISMARCK	State ND	ZIP Code 58503
Telephone number (if known)			Telephone number 701-354-7121		

By signing this form I certify (1) that this complaint is made in good faith and not to harass or annoy or for any other improper purpose and (2) that I have been provided a copy of N.D.C.C. § 61-32-07 and N.D.C.C. § 61-16.1-51. I understand that the Board may assess certain costs associated with this complaint under N.D.C.C. § 61-16.1-51 or N.D.C.C. § 61-32-07 if it finds the complaint to be frivolous.

Complainant's Signature: Nina Bonanno

Date: 12/6/2017

ADDITIONAL SHEETS MAY BE ATTACHED IF NECESSARY

28

DAM, DIKE, OR OTHER DEVICE COMPLAINTS (N.D.C.C. § 61-16.1-53):
The District will determine if a landowner or tenant constructed a dam, dike, or other device without first securing a construction permit as required under N.D.C.C. § 61-16.1-38, or in conflict with the terms or conditions of a construction permit. North Dakota Administrative Code § 89-08-01-01 defines "other device" as "a water control structure, other than a dam or dike, including diversions and holding ponds, lagoons, or dugouts."

DRAINAGE COMPLAINTS (N.D.C.C. § 61-32-07):
Surface Drainage: The District will determine if a landowner or tenant constructed any surface drainage that impacts a watershed area of 80 acres or more without first securing a drainage permit as required under N.D.C.C. § 61-32-03, or in conflict with the terms or conditions of a drainage permit.

Tile Drainage: The District will determine if a landowner or tenant constructed or installed a tile or subsurface drainage system with a footprint of 80 acres or more without first securing a tile or subsurface permit as required under N.D.C.C. § 61-32-03.1, or in conflict with the terms or conditions of a tile or subsurface permit.

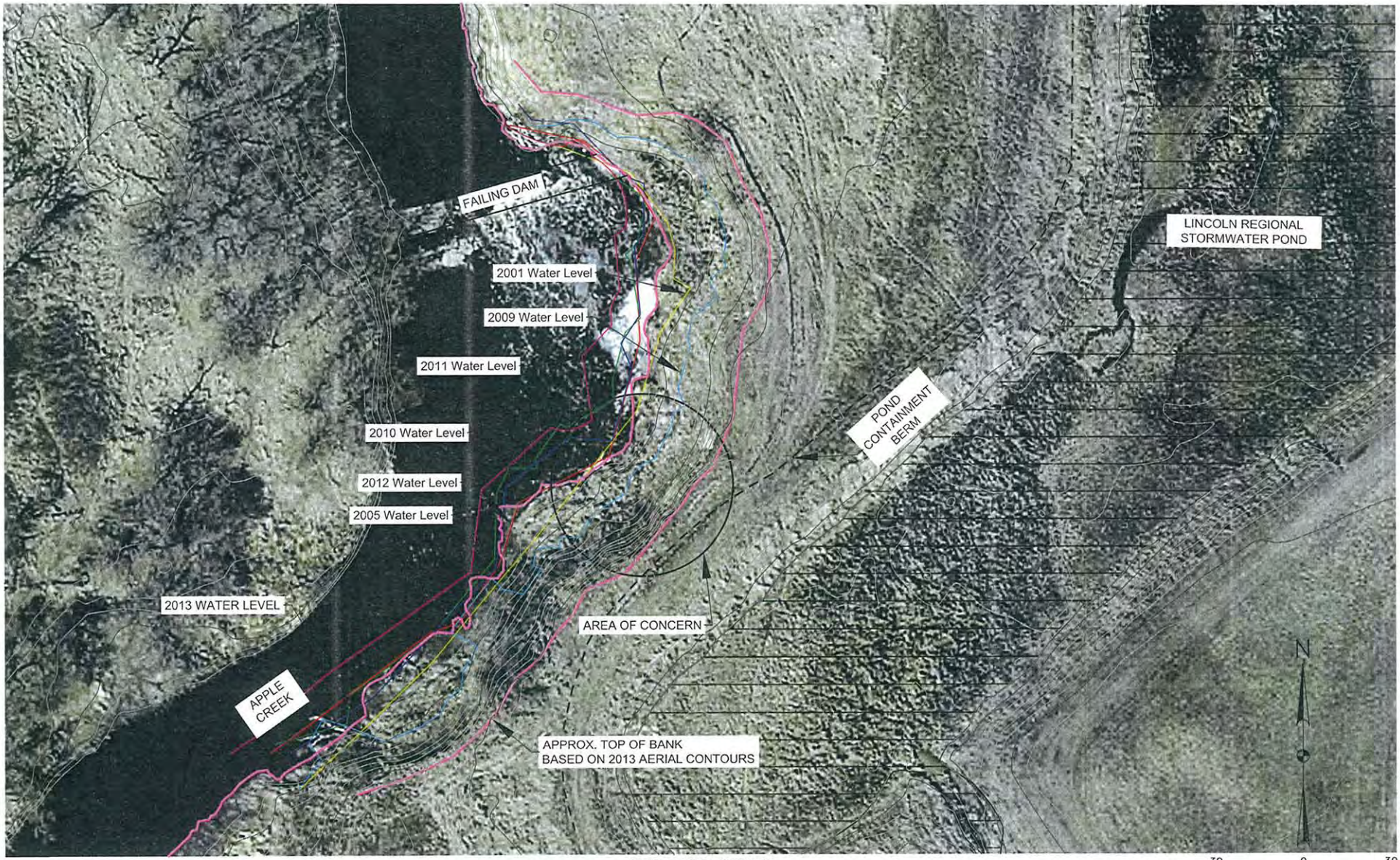
OBSTRUCTION TO DRAIN COMPLAINTS (N.D.C.C. § 61-16.1-51):
The District will determine if a landowner or tenant has intentionally or negligently caused an obstruction to a natural watercourse or drain.

The District must act pursuant to the appropriate code listed above. The District shall investigate and make a determination within a reasonable amount of time (not to exceed 120 days for dams, dikes, other devices, or drains). The District shall notify all parties of its decision as required by code. If complained of activity was a dam, dike, other device, or drain, the District's decision may be appealed to the State Engineer within 30 days of the District's decision. If the complained of activity was an obstruction to drain, the District's decision may be appealed to District Court.

FOR DISTRICT USE ONLY

Date Received	Date Investigated	
Does the complainant have standing to file a complaint? ☐ Yes ☐ No		
If No, why?		
Does the project have a Permit? ☐ Yes ☐ No	If Yes, Permit Number	Date Granted
Does the project meet a permitting exemption? ☐ Yes ☐ No		
If Yes, which one?		
Project Construction Date	Revision Date (if any)	
District Action		
District Action Compliance Date	Project Owner Compliance Date	Decision Appeal Date
Subsequent Action		
District Chairman's Signature		Date of Signature

ADDITIONAL SHEETS MAY BE ATTACHED IF NECESSARY



2013 AERIAL PHOTO

Burleigh County Water Resource District

1720 Burnt Boat Drive, Suite 205
Bismarck, North Dakota 58503
www.bcwrd.org

BY ELECTRONIC MAIL ONLY

November 9, 2017

Alton and Arlene Nitschke
(aen2160@outlook.com)

Dear Mr. and Mrs. Nitschke:

The Burleigh County Water Resource District is in receipt of your November 2, 2017 electronic request for Board records. I understand from your email request and your November 9, 2017 testimony at our Board meeting that you have requested an electronic copy of "all the emails of the following board members, consultant and county Commissioner for the period from June 1, 2017 to November 1, 2017."

The Board has discussed your request at its November 9, 2017 monthly meeting. The Board will provide all discoverable emails which you have requested, and will provide these emails to you as quickly as we can. The Board has considered your request for a waiver of all expenses incurred by the Board to assemble this information for you. The Board has denied your request for waiver, and will present you with an invoice for the preparation of such information as allowed by law.

Sincerely,

Rod Beck
Board Manager

Current Board Members:

Greg Larson, Chairman, Bismarck 400-7217 Dennis Reep, Vice Chairman, Bismarck 223-7052 Rick Detwiller, Secretary/Treasurer, Bismarck 223-8782 Rodney Beck, Bismarck 220-5313.... James Landenberger 426-6439

Mona Livdahl

From: Alton Arlene Nitschke <aen2160@outlook.com>
Sent: Wednesday, November 15, 2017 10:41 PM
To: Mona Livdahl
Cc: David Bliss ; Dennis Reep; Greg Larson; James Landenberger; Kathleen Jones; Michael Gunsch; rbeckbcwrd@gmail.com; Rick Detwiller; Rodney Beck; Travis Johnson
Subject: RE: BCWRD Open Records Request

Rod Beck

I see I didn't finish one sentence. I do want to know the cost beforehand and will decide on whether I want those emails once I receive the cost estimate from you.

Alton Nitschke

From: Alton Arlene Nitschke
Sent: Wednesday, November 15, 2017 8:43 AM
To: 'Mona Livdahl' <mona@midco.net>
Cc: David Bliss <dbliss@blisslaw.com>; Dennis Reep <dwrburleighwrd@gmail.com>; Greg Larson <glarson@century21morrison.com>; James Landenberger <james.landenberger@bartwest.com>; Kathleen Jones <kjathome@midco.net>; Michael Gunsch <mgunsch@houstonengineeringinc.com>; rbeckbcwrd@gmail.com; Rick Detwiller <rdetwiller1@gmail.com>; Rodney Beck <rrbeck54@bis.midco.net>; Travis Johnson <tjohnson@houstoneng.com>
Subject: RE: BCWRD Open Records Request

Rod Beck and everyone

Based on the amount of time that this is expected to take, I amend my request to include only the records (emails) for the Month of September 2017 and exclude Commissioner Kathleen Jones and James Landenberger. This should reduce the amount of time significantly.

I see a Travis Johnson included on this email. I assume that does not mean his emails are included.

This should allow you to make an accurate estimate of the cost. I do want to know the estimate of cost beforehand. I understand you are working to provide this information on a timely basis.

Alton Nitschke

From: Mona Livdahl [mailto:mona@midco.net]
Sent: Wednesday, November 15, 2017 7:29 AM
To: 'Alton Arlene Nitschke' <aen2160@outlook.com>
Cc: David Bliss <dbliss@blisslaw.com>; Dennis Reep <dwrburleighwrd@gmail.com>; Greg Larson <glarson@century21morrison.com>; James Landenberger <james.landenberger@bartwest.com>; Kathleen Jones <kjathome@midco.net>; Michael Gunsch <mgunsch@houstonengineeringinc.com>; rbeckbcwrd@gmail.com; Rick Detwiller <rdetwiller1@gmail.com>; Rodney Beck <rrbeck54@bis.midco.net>; Travis Johnson <tjohnson@houstoneng.com>
Subject: BCWRD Open Records Request

BY ELECTRONIC MAIL ONLY

November 15, 2017

Alton and Arlene Nitschke
(aen2160@outlook.com)

Dear Mr. and Mrs. Nitschke:

Mona, our Burleigh County Water Resource District executive secretary, has forwarded your November 13, 2017 letter to me with regard to whether the Board can provide you with an estimate of costs to assemble the Hay Creek Pines information which you have requested.

Board members are in the process of assembling the information for you. The Board is aware that it must provide you with this information within a reasonable time, and we are doing our best to do so. At present the Board cannot give you an estimate of costs to prepare this information. The Board should be able to estimate any such costs once the Board has a better idea of its time and expense incurred in order to assemble this information.

Sincerely,

Rodney Beck

Rod Beck
Board Manager

cc: Board members (via email only), Commissioner Jones

From: Alton Arlene Nitschke [mailto:aen2160@outlook.com]
Sent: Monday, November 13, 2017 10:10 AM
To: Mona Livdahl <mona@midco.net>
Cc: David Bliss <dbliss@blisslaw.com>; Dennis Reep <dwrburleighwrd@gmail.com>; Greg Larson <glarson@century21morrison.com>; James Landenberger <james.landenberger@bartwest.com>; Kathleen Jones <kjathome@midco.net>; Michael Gunsch <mgunsch@houstonengineeringinc.com>; rbeckbcwrd@gmail.com; Rick Detwiller <rdetwiller1@gmail.com>; Rodney Beck <rrbeck54@bis.midco.net>; Travis Johnson <tjohnson@houstoneng.com>
Subject: RE: BCWRD Open Records Request

Mona

Can you give me an idea as to what you are looking at billing for this? As I stated earlier, it shouldn't take that much time. But as it appears BCWRD business is done on personal or other business emails, that sort is not part of the work to get these emails.

As I stated at the meeting, once emails are deleted, it's not possible to know what has been deleted.

Alton Nitschke

From: Alton Arlene Nitschke
Sent: Friday, November 10, 2017 7:08 AM

33

To: 'Mona Livdahl' <mona@midco.net>
Cc: David Bliss <dbliss@blisslaw.com>; Dennis Reep <dwrburleighwrd@gmail.com>; Greg Larson <glarson@century21morrison.com>; James Landenberger <james.landenberger@bartwest.com>; Kathleen Jones <kjathome@midco.net>; Michael Gunsch <mgunsch@houstonengineeringinc.com>; rbeckbcwrd@gmail.com; Rick Detwiller <rdetwiller1@gmail.com>; Rodney Beck <rrbeck54@bis.midco.net>; Travis Johnson <tjohnson@houstoneng.com>
Subject: RE: BCWRD Open Records Request

Mona

Thanks

It actually shouldn't take that much time, any qualified IT Tech can do this in a short period of time. I've done it myself. Of course if everybody has personal emails included in with BCWRD business, I wouldn't be paying for making that sort.

Let me know if you want me to supply the media, i.e. flash drive.

Alton Nitschke

From: Mona Livdahl [mailto:mona@midco.net]
Sent: Friday, November 10, 2017 6:31 AM
To: 'Alton Arlene Nitschke' <aen2160@outlook.com>
Cc: David Bliss <dbliss@blisslaw.com>; Dennis Reep <dwrburleighwrd@gmail.com>; Greg Larson <glarson@century21morrison.com>; James Landenberger <james.landenberger@bartwest.com>; Kathleen Jones <kjathome@midco.net>; Michael Gunsch <mgunsch@houstonengineeringinc.com>; rbeckbcwrd@gmail.com; Rick Detwiller <rdetwiller1@gmail.com>; Rodney Beck <rrbeck54@bis.midco.net>; Travis Johnson <tjohnson@houstoneng.com>
Subject: RE: BCWRD Open Records Request

I converted it to a document for you below:

Burleigh County Water Resource District

1720 Burnt Boat Drive, Suite 205
Bismarck, North Dakota 58503
www.bcwrd.org

34

BY ELECTRONIC MAIL ONLY

November 9, 2017

Alton and Arlene Nitschke
(aen2160@outlook.com)

Dear Mr. and Mrs. Nitschke:

The Burleigh County Water Resource District is in receipt of your November 2, 2017 electronic request for Board records. I understand from your email request and your November 9, 2017 testimony at our Board meeting that you have requested an electronic copy of "all the emails of the following board members, consultant and county Commissioner for the period from June 1, 2017 to November 1, 2017."

The Board has discussed your request at its November 9, 2017 monthly meeting. The Board will provide all discoverable emails which you have requested, and will provide these emails to you as quickly as we can. The Board has considered your request for a waiver of all expenses incurred by the Board to assemble this information for you. The Board has denied your request for waiver, and will present you with an invoice for the preparation of such information as allowed by law.

Sincerely,

Rod Beck
Board Manager

Current Board Members:

Greg Larson, Chairman, Bismarck 400-7217 Dennis Reep, Vice Chairman, Bismarck 223-7052 Rick Detwiller, Secretary/Treasurer, Bismarck 223-8782 Rodney Beck, Bismarck 220-5313..... James Landenberger 426-6439

From: Alton Arlene Nitschke [mailto:aen2160@outlook.com]
Sent: Thursday, November 9, 2017 6:40 PM
To: Mona Livdahl <mona@midco.net>
Cc: David Bliss <dbliss@blisslaw.com>; Dennis Reep <dwrburleighwrd@gmail.com>; Greg Larson <glarson@century21morrison.com>; James Landenberger <james.landenberger@bartwest.com>; Kathleen Jones <kjathome@midco.net>; Michael Gunsch <mgunsch@houstonengineeringinc.com>; rbeckbcwrd@gmail.com; Rick Detwiller <rdetwiller1@gmail.com>; Rodney Beck <rrbeck54@bis.midco.net>; Travis Johnson <tjohnson@houstoneng.com>
Subject: RE: BCWRD Open Records Request

Mona

Your attachment comes up as a gray graphic, so I can't tell what is attached

Alton

From: Mona Livdahl [mailto:mona@midco.net]
Sent: Thursday, November 9, 2017 4:07 PM
To: Alton & Arlene Nitschke <aen2160@outlook.com>
Cc: David Bliss <dbliss@blisslaw.com>; Dennis Reep <dwrburleighwrd@gmail.com>; Greg Larson <glarson@century21morrison.com>; James Landenberger <james.landenberger@bartwest.com>; Kathleen Jones <kjathome@midco.net>; Michael Gunsch <mgunsch@houstonengineeringinc.com>; rbeckbcwrd@gmail.com; Rick Detwiller <rdetwiller1@gmail.com>; Rodney Beck <rrbeck54@bis.midco.net>; Travis Johnson <tjohnson@houstoneng.com>
Subject: BCWRD Open Records Request

3K

Copy

Burleigh County Water Resource District

1720 Burnt Boat Drive, Suite 205
Bismarck, North Dakota 58503
www.bcwrd.org

BY ELECTRONIC MAIL ONLY

November 21, 2017

Alton and Arlene Nitschke
(aen2160@outlook.com)

Dear Mr. and Mrs. Nitschke:

On November 2nd, 2017, you requested from the Burleigh County Water Resource District "all of the emails of the Board members, consultant and county commissioner for the period from June 1, 2017 to November 1, 2017." You requested an estimate of costs to assemble this information for you. Enclosed please find the Board's estimate of costs worksheet and instructions for this request.

On November 15, 2017, you amended your information request to "include only the records (emails) for the Month of September 2017 and exclude Commissioner Kathleen Jones and James Landenberger." Enclosed please find the Board's estimate of costs worksheet and instructions for this second request.

Sincerely,

Rodney Beck

Rod Beck
Board Manager

cc: Board members (via email only), Commissioner Jones

Current Board Members:

Greg Larson, Chairman, Bismarck 400-7217 Dennis Reep, Vice Chairman, Bismarck 223-7052 Rick Detwiller, Secretary/Treasurer, Bismarck 223-8782 Rodney Beck, Bismarck 220-5313....James Landenberger 426-6439

37

Burleigh County Water Resource District

1720 Burnt Boat Drive, Suite 205
Bismarck, North Dakota 58503
www.bcwrd.org

BY ELECTRONIC MAIL AND HARD COPY
(aen2160@outlook.com)

November 27, 2017

Alton and Arlene Nitschke
2160 84TH Avenue NE
Bismarck, North Dakota 58503

Re: Water District Appeal
Civil No.: 08-2017-cv-3205

Dear Mr. and Mrs. Nitschke:

Mona, our Burleigh County Water Resource District executive secretary, has forwarded to our Board the estimated cost of preparing the record of proceedings related to your appeal of the Board's Hay Creek Pines decision. This estimated cost is in the amount of $1,050.00. I have attached a copy of our estimate of costs for your information.

You may provide your payment to Mona. Upon receipt of your payment, the Board will promptly file the record with the court.

Sincerely,

Rodney Beck

Rod Beck
Board Manager
Enclosure

cc: Board members (via email only), Commissioner Jones w/ enclosure

COPY

Current Board Members:

Greg Larson, Chairman, Bismarck 400-7217 Dennis Reep, Vice Chairman, Bismarck 223-7052 Rick Detwiller, Secretary/Treasurer, Bismarck 223-8782 Rodney Beck, Bismarck 220-5313.....James Landenberger 426-6439

Job Estimate

Burleigh County
Water Resource District

1720 Burnt Boat Drive, Suite 205
Bismarck, ND 58503
701-222-3499

ESTIMATE # 2017-101
DATE November 27, 2017
CUSTOMER ID Nitschke

Bid to:

PAYMENT METHOD	CHECK NO.	JOB
N/A		Estimated cost of transcripts

QTY	ITEM #	DESCRIPTION	UNIT PRICE	DISCOUNT	LINE TOTAL
15.00	Admin.	Gather info for transcript - Mona	$ 50.00		$ 750.00
1.00	HEI	Houston Eng. information gathering	300.00		$ 300.00
		Information gathered from 2001 to present on Hay Creek Pines			
			TOTAL DISCOUNT		
				SUBTOTAL	$ 1,050.00
				SALES TAX	
				TOTAL	$ 1,050.00

THANK YOU FOR YOUR BUSINESS!

Burleigh County Water Resource District

1720 Burnt Boat Drive, Suite 205
Bismarck, North Dakota 58503
www.bcwrd.org

TO: Alton Nitschke

FROM: Burleigh County WRD

Re: Your November 2, 2017 request for records

DATE: November 21, 2017

You requested records[1]: All of the emails from Board members, consultant and county commissioner for the period from June 1, 2017 to November 1, 2017.

☐ The records you requested cannot be provided because no such records exist; OR the requested records are not records of this agency.

☐ Attached are the records you requested.

☐ Some information is redacted because it is exempt and/or confidential pursuant to Marsy's Law and/or N.D.C.C. §§ _____.

☐ To the extent [requested] [other records] may exist, release is prohibited by the provisions of Marsy's law, OR the records are/would be confidential or exempt in entirety, under N.D.C.C. §§ _____.

☑ The estimated cost for the requested records is $ calculated as follows:

_____ pages @ 25¢ per page $_____
_____ other copies @ $ _____ each $_____
21 hours for locating the records @ $25/hr each [after the first hour] $525.00
____ hours for redacting the records @ $25/hr each [after the first hour] $_____

Estimated costs are payable *in advance*. We do not waive estimated costs. When we receive a cashier's check/money order to "Burleigh County Water Resource District," we will begin work on your request.

☐ We estimate it will take two business days to provide you with your request, *after* we receive full payment.

☐ Your request did not provide sufficient information for us to identify specific records. We cannot comply with your request without clarification. Please contact _____.

☐ If we do not receive payment/hear from you within ten (10) days from today's date, we will consider your request withdrawn and take no further action.

☐ Your request did not reasonably identify a specific record.

☐

[1] A public entity does not have to convert its records to another format, create or compile records that do not exist, or obtain records originating from another public entity that it does not have in its possession. A public entity has no obligation to respond to requests for information, questions about its duties, functions or operations, or to explain the content of its records.

1/0

Burleigh County Water Resource District

1720 Burnt Boat Drive, Suite 205
Bismarck, North Dakota 58503
www.bcwrd.org

TO: Alton Nitschke

FROM: Burleigh County WRD

Re: Your November 15, 2017 request for records

DATE: November 21, 2017

You amended your request for records[1]: All of the emails from Board members, excluding Commissioner Kathleen Jones and James Landenberger for the month September, 2017 only.

☐ The records you requested cannot be provided because no such records exist; OR the requested records are not records of this agency.

☐ Attached are the records you requested.

☐ Some information is redacted because it is exempt and/or confidential pursuant to Marsy's Law and/or N.D.C.C. §§ _____.

☐ To the extent [requested] [other records] may exist, release is prohibited by the provisions of Marsy's law, OR the records are/would be confidential or exempt in entirety, under N.D.C.C. §§ _____.

☑ The estimated cost for the requested records is $calculated as follows:

_____ pages @ 25¢ per page $_____
_____ other copies @ $ _____ each $_____
8 hours for locating the records @ $25/hr each [after the first hour] $200.00
_____ hours for redacting the records @ $25/hr each [after the first hour] $_____

Estimated costs are payable *in advance*. We do not waive estimated costs. When we receive a cashier's check/money order to "Burleigh County Water Resource District," we will begin work on your request.

☐ We estimate it will take two business days to provide you with your request, *after* we receive full payment.

☐ Your request did not provide sufficient information for us to identify specific records. We cannot comply with your request without clarification. Please contact _____.

☐ If we do not receive payment/hear from you within ten (10) days from today's date, we will consider your request withdrawn and take no further action.

☐ Your request did not reasonably identify a specific record.

☐

---

[1] A public entity does not have to convert its records to another format, create or compile records that do not exist, or obtain records originating from another public entity that it does not have in its possession. A public entity has no obligation to respond to requests for information, questions about its duties, functions or operations, or to explain the content of its records.

Mona Livdahl

From: David Bliss <dbliss@blisslaw.com>
Sent: Thursday, November 9, 2017 11:49 AM
To: Greg Larson; 'Rodney L. Beck; Rick Detwiller; james.landenberger@bartwest.com; Dennis Reep; Kathleen Jones
Cc: Michael Gunsch; Mona Livdahl
Subject: Nitschke Appeal
Attachments: Notice of Appeal.tif; Assignment of Judge.tif; Sheriff Service.tif

Board Members,

Attached please find Alton and Arlene Nitschke's notice of appeal, assignment of Judge Jim Hill to the case, and sheriff's service upon Chairman Larson.

Dave

DAVID R. BLISS
Bliss Law Firm, LLC
400 E. Broadway Ave., Suite 308
Bismarck, ND 58501
(701) 223-5769 (office)
(701) 471-3972 (cell)
(701) 751-1242 (fax)
dbliss@blisslaw.com

Licensed in North Dakota,
South Dakota and Minnesota

www.blisslaw.com

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13

IN THE DISTRICT COURT OF BURLEIGH COUNTY, STATE OF NORTH DAKOTA

BEFORE THE CLERK OF COURT

* * * * * * *

Alton A Nitschke, Arlene E. Nitschke Plaintiff(s) vs Burleigh County Water Resource District, Residents of Hay Creek Pines, Defendant(s)	))))))))	**NOTICE OF APPEAL** 08-2017-CV-3205

* * * * * * *

The above named Plaintiffs hereby appeal to the District Court of the above named County from the Permit for a drain tile project granted to the Burleigh County Water Resource district on behalf of the Hay Creek Pines Residents approved on the 29th day of September 2017 by virtue of no action taken and being approved October 9th, 2017.

We request that this permit for a drain tile permit be denied for reasons stated herein.

WHEREAS said permit for a drain tile project has been approved with significant flaws and errors and is based on inadequate technical findings which will cause irreparable harm to the plaintiffs. Said permit provides no relief from contaminated water discharges and flooding on Plaintiffs property. Said defendant has not done any hydrology studies or done engineering or testing analysis to prove that downstream landowners' claims of irreparable harm will not occur. Cost estimates have not been made by BCWRD to determine that the requests of downstream landowners to mitigate any damages to their property are cost prohibitive. Said permit was approved by taking no action, we assert that the taking of no action is an action taken intentionally to avoid addressing downstream landowners' technical findings.

The crossing at 84th Ave is virtually non-functional and because of misaligned culverts as well as other issues it acts more as a dam than a crossing. This crossing also slows the velocity of the water which then drops sediment onto the Nitschke property creating further issues with flooding. Hay Creek on the Nitschke property is poorly defined but other than for this project works its way out of flooding from the spring surge in a couple of weeks because no further water is applied. This project will provide a constant flow of contaminated water which will create alkalinity to the extent that it will render downstream landowners property unproductive wherever this water is applied.

Downstream landowners provided technical findings prepared by an Engineer skilled in water issues, but these findings were not addressed in a technical way. BCWRD responses to the downstream landowners' technical findings were provided to the downstream landowners at the start of the September 29, 2017 meeting which was insufficient time to review and dispute these responses. These responses were prepared on September 25, 2017 in sufficient time to provide them to downstream landowners' days ahead of this meeting.

RECEIVED
2017 OCT 27 AM 11 53

WHEREAS said permit approved under ND CC 61-32 which denies due process to downstream landowners as well as requiring downstream landowners to provide the burden of proof of unreasonable harm. We take the position that the lack of due process and other onerous provisions in ND CC 61-32 including the burden of proof requirements by downstream landowners are not constitutional.

Whereas E.coli and coliform were not sampled and tested. Said permit will drain water from properties with 35 septic tanks raising concerns about further contamination of water drained onto the downstream landowners. BCWRD has not addressed this concern.

WHEREAS said plaintiff has objected to potential flooding, said defendant has not addressed this concern including consideration of a control device to stop the flow of water from Hay Creek Pines during flooding periods.

The appellants reserve the right to modify, amend or correct this appeal notice based on information that should become available.

Dated this 27th day of October 2017.

Appellant

Appellant

* * * * * *

Certificate of Service

I hereby certify that a true and correct copy of the Notice of Appeal was served upon the Defendant by placing the same in with the Burleigh County Sheriff, addressed as follows:

Greg Larson

2525 Larson Road

Bismarck, ND 58504

Appellant

Appellant

IN DISTRICT COURT COUNTY OF BURLEIGH STATE OF NORTH DAKOTA

NOTIFICATION OF ASSIGNMENT AND CASE NUMBER

ARLENE AND ALTON NITSCHKE 2160 84TH AVE NE BISMARCK, ND 58503	)	
vs.	)	CASE NO. 08-2017-CV-03205
BURLEIGH COUNTY WATER RESOURCE DISTRICT 1720 BURNT BOAT DRIVE, SUITE 205 BISMARCK, ND 58503	)	

INTERESTED PARTIES:

Defendant	Burleigh County Water Resource District
Plaintiff	Arlene Nitschke and Alton A. Nitschke
Defendant Attorney:	
Plaintiff Attorney:	

RE: Administrative Appeal

This case has been assigned to the Hon. James S Hill on 11/07/2017. All future proceedings will be before this judge.

Pursuant to Rule 3.1 of the North Dakota Rules of Court, it is incumbent upon you to place the assigned file number on the front or title page in the upper right-hand corner of the instrument to be filed.

Dated this 7th day of November, 2017

By: Sheny Mills

District Court
P.O. Box 1055
Bismarck ND 58502
(701) 222-6690

STATE OF NORTH DAKOTA | IN DISTRICT COURT

COUNTY OF BURLEIGH | SOUTH CENTRAL JUDICIAL DISTRICT

Alton A. Nitschke,
Arlene E. Nitschke,
Plaintiff(s)

VS | SHERIFFS RETURN

Burleigh County Water Resource District, Residents of Hay Creek Pines,
Defendant(s)

STATE OF NORTH DAKOTA
COUNTY OF BURLEIGH

Date received:	October 27, 2017
Action:	Notice of Appeal
Type of Service:	Personal
On whom served:	Greg Larson
Date & Time served:	October 30, 2017 at 4:20 pm
Location:	2525 Larson Rd., Bismarck, ND
Today's date:	October 31, 2017
Service Fee	$ 20.00
Mileage Fee	$ 15.00
Copy Fee	$
Total Fees	$ 35.00 PAID

Pat D. Heinert, Sheriff of Burleigh County

Vern Yri

By Vern Yri
Burleigh County Sheriff's Department

4/9

BY HARD COPY ONLY

November 30, 2017

RE: CIVIL CASE 08-2017-CV-03205

Mr. Rod Beck
Board Manager
1720 Burnt Boat Drive Suite 205
Bismarck, ND 58503

Dear Mr. Beck:

As of this date we have filed a Notice of Undertaking pursuant to N.D.C. C. 61-16.1-54. I trust this takes care of the matters in your letter dated November 27, 2017. Enclosed is a copy of the same.

If you do not believe this addresses your November 27, 2017 Letter, please advise which statute you are relying on.

Sincerely,

Alton Nitschke

Enclosure

emailed 11-15-17

STATE OF NORTH DAKOTA — IN DISTRICT COURT

COUNTY OF BURLEIGH — SOUTH CENTRAL JUDICIAL DISTRICT

Alton Nitschke, et al. Appellant, vs. Burleigh County Water Resource District, et al. Appellee.	)	ASSIGNMENT OF JUDGE CASE NO. 08-2017-CV-03205

A Demand for Change of Judge has been filed with the District Court, South Central Judicial District, against Judge James Hill.

The following action has been taken:

_X__ The Demand for Change of Judge is Granted.

____ Pursuant to case management procedures of this district, the case is not being assigned at this time. No further hearings in this case will be set before the disqualified judge.

_X__ Pursuant to AR-2 the Hon. **David E Reich** is assigned to act in this case.

____ The Demand for Change of Judge is Denied.

Comments:_____

Signed: 11/13/2017 9:46:27 AM

BY THE COURT:

Judge, District Court

1/2

IN THE DISTRICT COURT OF BURLEIGH COUNTY, STATE OF NORTH DAKOTA

BEFORE THE CLERK OF COURT

Case No.08-2017-CV-03205

Alton A Nitschke, Arlene E. Nitschke Plaintiff(s) v. Burleigh County Water Resource District, Residents of Hay Creek Pines, Defendant(s)	)	**NOTICE OF UNDERTAKING** **DELIVERED TO COURT**

[¶1] **PLEASE TAKE NOTICE:** Defendants today delivered a $200 undertaking to the Clerk of Court in this matter to fulfill the requirements of N.D.C.C. § 61-16.1-54.

Dated this 30th Day of November 2017

Alton A. Nitschke

Plaintiff

Arlene E. Nitschke

Plaintiff

Burleigh County Water Resource District

1720 Burnt Boat Drive, Suite 205
Bismarck, North Dakota 58503
www.bcwrd.org
Email: BCWRD@midco.net

BY ELECTRONIC MAIL AND HARD COPY
(aen2160@outlook.com)

December 4, 2017

Alton and Arlene Nitschke
2160 84TH Avenue NE
Bismarck, North Dakota 58503

Re: Water District Appeal
Civil No.: 08-2017-cv-3205

Dear Mr. and Mrs. Nitschke:

Mona, our Burleigh County Water Resource District executive secretary, has forwarded to our Board your November 30, 2017 reply to my November 27, 2017 letter to you. In my letter to you, I informed you that the Board's estimated cost of preparing the record of proceedings related to your appeal of the Board's Hay Creek Pines decision is in the amount of $1,050.00. I attached a copy of our estimate of costs for your information.

Whether you have filed a notice of undertaking has no bearing on your payment to the Board of its estimated costs to prepare the record of proceedings in this matter. You may provide your payment to Mona. Upon receipt of your payment, the Board will promptly file the record with the court.

Sincerely,

Rodney Beck

Rod Beck
Board Manager
Enclosure

cc: Board members (via email only), Commissioner Jones w/ enclosure

FILE COPY

Current Board Members:
Greg Larson, Chairman, Bismarck 400-7217 Dennis Reep, Vice Chairman, Bismarck 223-7052 Rick Detwiller, Secretary/Treasurer, Bismarck 223-8782 Rodney Beck, Bismarck 220-5313.....James Landenberger 426-6439

Mona Livdahl

From: David Bliss <dbliss@blisslaw.com>
Sent: Wednesday, November 8, 2017 7:19 AM
To: Greg Larson; 'Rodney L. Beck; Rick Detwiller; james.landenberger@bartwest.com; Dennis Reep; Kathleen Jones
Cc: Michael Gunsch; Mona Livdahl
Subject: FW: Follow-up on Hay Creek Pines Water Project
Attachments: 10-17-17 Schwartz Letter to Burleigh County Water District Managers.pdf

Board Members,

Attached please find an email to me from Randy Schwartz. I will bring hard copies of this correspondence to our meeting this morning.

Dave

DAVID R. BLISS
Bliss Law Firm, LLC
400 E. Broadway Ave., Suite 308
Bismarck, ND 58501
(701) 223-5769 (office)
(701) 471-3972 (cell)
(701) 751-1242 (fax)
dbliss@blisslaw.com

Licensed in North Dakota,
South Dakota and Minnesota

www.blisslaw.com

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From: Randy Schwartz [mailto:ndrockpicker@aol.com]
Sent: Saturday, October 28, 2017 5:21 PM
To: dbliss@blisslaw.com
Cc: kathleenathome@bis.midco.net; schwartzje@hotmail.com
Subject: Follow-up on Hay Creek Pines Water Project

Dear David,

Good afternoon.

Following my message below (and attached letter) to Burleigh County Commissioners (copied to the Burleigh County Auditor and States Attorney), Commissioner Jones called to let me know that you would be informed of my request and best be in a position to respond. Thank you.

My wife, Joyce Schwartz, attended the September 29th hearing on objections to the special assessment for the Hay Creek Pines Groundwater Project.

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She is on record providing objection to our property not being included in the Special Assessment District as the "Project" was developed outside of the parameters requested by the official homeowner complaint to the ND Water Engineer and that this "Project" appears to have only been formed to take advantage of new provisions for the utilization of drain tile systems without full consideration of many other options. Overall, this "Project" appears to be of questionable benefit to the Hay Creek Pines subdivision and there are no benefits the "Project" attributes to our property.

Our questions are:

1. If homeowners on the south side of the Hay Creek Pines Subdivision can be considered for partial or full exclusion from the Special Assessment, (due to the Project documents stating that they will receive no or negligible benefit - included with the letter to the Commissioners), that provision should apply to other homeowners in Hay Creek? Would that be correct?

2. Has the "Project" final design been determined? If so, when was the "Project" final design determined? In the final design is the proposed drain tile installed in the entire roadways of Forest Drive and Oak Drive? If it does not, why not?

3. Were Homeowner votes cast on this "Project" to secure their support before the final design? If so, is that in keeping with North Dakota Century Code and provisions for Special Assessment Districts?

4. If the Project does not perform, what recourse will be available to the homeowners - investors in the "Project"?

Is the Burleigh County Water District going to ensure that recourse is identified and provided to the homeowners?

5. If negative impacts are incurred as a result of this "Project", which party or parties are liable for those negative impacts? Would it be:

(1) Burleigh County?

(2) Burleigh County Water District?

(3) Hay Creek Pines "Project" engineering firm(s)?

and/or

(4) the Hay Creeks Pines Homeowners Association - the Hay Creek Pines homeowners?

Thank you for your review and response to these questions.

Sincerely,

Randy & Joyce Schwartz
9500 Oak Drive
Bismarck, ND 58503
701.226.5369 (mobile)

-----Original Message-----
From: Randy Schwartz <ndrockpicker@aol.com>
To: bbitner <bbitner@bitcobuilds.com>; dpschonert <dpschonert@msn.com>; dschoner <dschoner@century21morrison.com>; info <info@arrowheadcleaners.com>; pelusohockey <pelusohockey@yahoo.com>; kathleenathome <kathleenathome@bis.midco.net>
Cc: kglatt <kglatt@nd.gov>; rriha <rriha@nd.gov>; schwartzje <schwartzje@hotmail.com>
Sent: Tue, Oct 24, 2017 7:35 am
Subject: Follow-up on Hay Creek Pines Water Project

Dear Burleigh County Commissioners,

Good morning.

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A few days ago you were copied on a response by Kevin Glatt to my inquiry related to the Hay Creek Pines water removal "Project".

Attached to this message you will find a letter with two enclosures we sent to each of the Water District Board Managers. The letter requests our property to be excluded from the Special Assessment District that would be formed to support the "Project" along with the rational for that request.

The letter also brings up the issue of recourse. By that, what will be done to improve the performance of the "Project" if needed in order to justify the investment made by the homeowners?

An additional concern may be related to this "Project" and it's potential impact on adjacent landowners. If negative impacts can be proven, which party or parties may be liable for those impacts?

Would it be:

(1) Burleigh County?

(2) Burleigh County Water District?

(3) Hay Creek Pines "Project" engineering firm(s)?

and/or

(4) the Hay Creeks Pines Homeowners Association - the Hay Creek Pines homeowners?

May the State's Attorney Office (copied on this message) be able to address these issues for the Hay Creek Pines homeowners?

As you may be aware this "Project" was developed in response to a Hay Creek Pines homeowner complaint to the North Dakota State Water Commission that indicated drainage to the south of the Hay Creek Pines subdivision was obstructed causing the water table to rise within the subdivision. The "Project" has since developed quite differently.

We've lived in Hay Creek Pines since 1993 and have not had the ground water or road issues that homeowners have experienced on the south side of the development. My wife and I have recently decided to put our home up for sale. An adjacent neighbor is also seeking to sell their home.

We would like to clarify the related "Project" issues as soon as possible for our benefit and those of future homeowners.

Thank you for your service.

Sincerely,

Joyce and Randy Schwartz
9500 Oak Drive
Bismarck, ND 58503

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October 17th, 2017

Greg Larson
2525 Larson Road
Bismarck, North Dakota 58504

Dear Greg:

We are homeowners at 9500 Oak Drive – in the Hay Creek Pines subdivision.

We support improving the Hay Creek drainage and groundwater conditions that have impacted property owners from 110th Avenue North to Arizona Drive. However, we don't believe the proposed "Project" for Hay Creek Pines will greatly improve the groundwater conditions within the Subdivision nor does it provide benefit to our home and property. **We request that we are not included in the Special Assessment District that would be set up to pay for this "Project".**

Enclosed, you will find the Preliminary Plans / Special Assessment District information provided as page 9 of the May, 2017 Hay Creek Pines Groundwater Removal Project. The highlighted paragraph states *"that residences on the southern end of Oak Drive might not receive the same level of benefit as other properties."* In these cases, their basements elevations are apparently below that of the drain tile system and the landowners can protest their assessment level.

Enclosed, you will also find the Drain Tile Layout – Preliminary map reflecting the drain tile main line and laterals. This was part of the "Project's" Feasibility Evaluation. Note the drain tile main line for the northern half of Oak Drive (where we reside) is a red dotted line. In a message received in July from your Professional Engineer, he indicated that *"the decision for eliminating a portion of the alignment will be made during the final design."* That would seem to indicate the Project does not have a final design and / or that there may be a need for additional groundwater investigations to be made. It may also indicate that this red dotted line is a budget balancing measure rather than a "Project" design decision.

If our request is denied, we request that you identify exactly what legal and financial **recourse** the District is providing to the investors in this "Project". Any contractor installing a drain tile system would be expected to ensure customer satisfaction and stand behind their work. What assurances are we being provided - the customers investing in and being served by this "Project"?

From the model output analysis of the drain tile system made by Braun Intertec (page 9 of the 3-3-17 Hydrogeological Analysis) the "Project" will remove 66,000 gallons from the Subdivision each year. Obviously, this is hardly worth the investment the Board has put into this "Project" – let alone the additional investment that would be made. Connecting sump pump systems to the drain tile may benefit a few if it happens.

There is one primary reason why homeowners have provided support to this "Project". That is, the Burleigh County directive that excess groundwater be addressed prior to "fixing" the roads. However, the roads are over 40 years old and were substandard in their construction to begin with. The asphalt put on top of a poor roadbed is well over 20 years old. There's been no indication that this "Project" will ensure a higher quality roadbed will be designed or built in the future.

Thank you for your consideration of our request.

Sincerely,

Joyce and Randy Schwartz
9500 Oak Drive
Bismarck, ND 58503
E-Mail: ndrockpicker@aol.com, 701.226.5639 (mobile)

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PRELIMINARY PLANS / SPECIAL ASSESSMENT DISTRICT

The project evaluation included developing preliminary plan and profile sheets along with an Opinion of Probable Cost (OPC). The plan and profile sheets showing approximate location and depth are contained in **Appendix F**. The selected drain tile system location is effectively east and south of Oak Drive and west of Forest Drive, then these two lines connect at the intersection and will drain south under agricultural properties owned by a Mr. Bakke to a point of discharge in a natural watercourse. The alignment paralleling the roadways was selected to remain within the dedicated public ROW and avoids the utilities on the other side. In addition, it avoids the need for easements from individual landowners, which could increase costs and extend the design schedule. The OPC was used to create the Special Assessment District for this project, see **Appendix G**.

The OPC, which is $555,100, equally distributed over thirty-five lots results in a cost of $15,860 per residence. By statue the BCWRD assigns benefits to properties included within a special assessment district. In our opinion, all properties benefit by the groundwater removal and surface drainage improvements. These benefits include lowering of groundwater to protect the integrity of the roadbed for pavement rehabilitation, lowering groundwater to reduce the frequency and duration of sump pump operation for residences, removal of standing waters in the southern portion of the subdivision, and protection of the mature trees that are part of a defining character of this subdivision. These costs are higher than those presented during the public informational meeting. There several reasons for this, one is that some channel work that was part of the paving project will be completed now, a second is the addition of the private connections systems included in the project design.

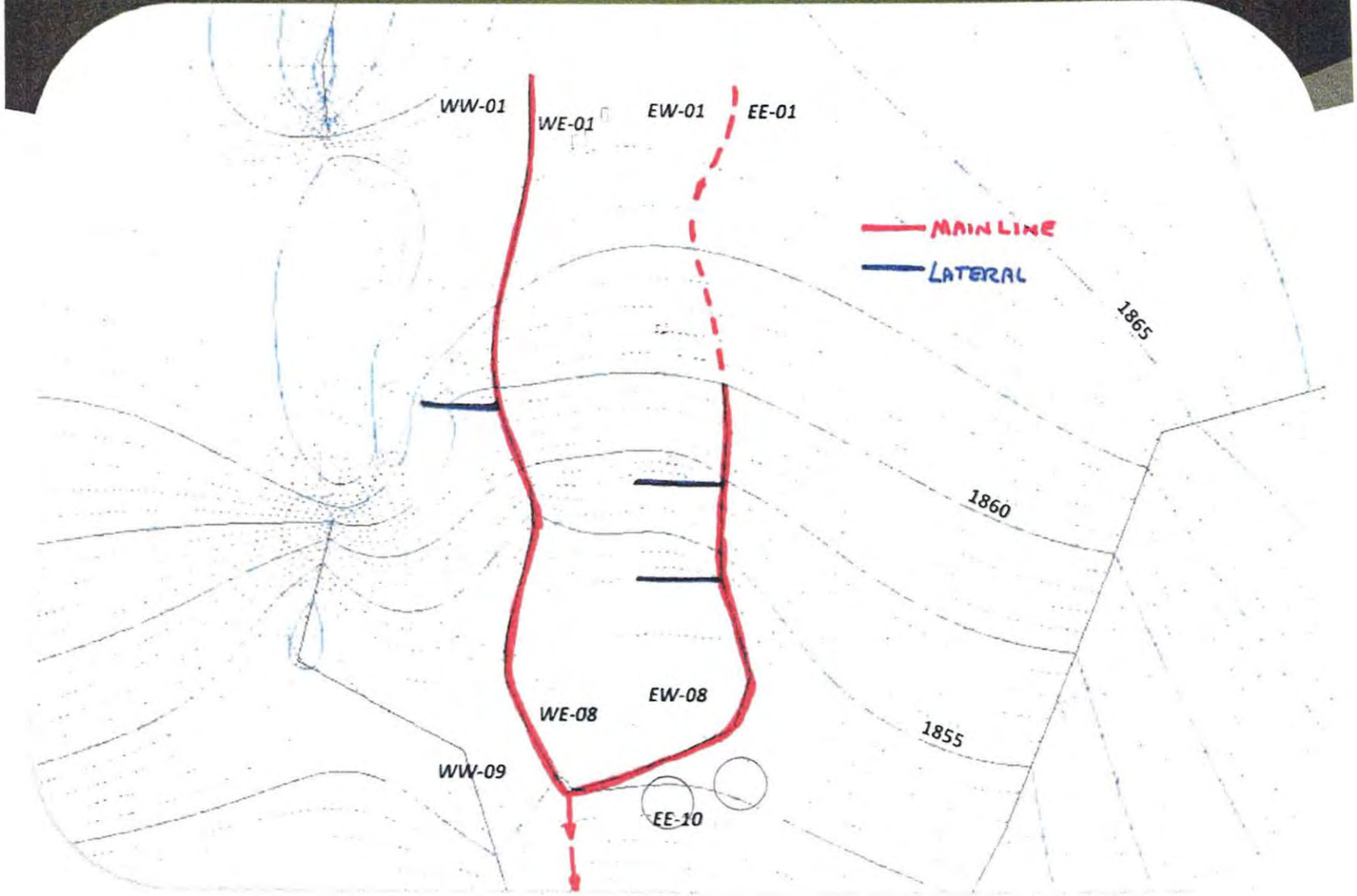
As a point of reference several residences located on the southern end of Oak Drive might not receive the same level of benefit as other properties. It appears these structures basement elevations may still be below the proposed drain tile system. As such the Board upon review of these residents could lower their assessment now or leave them the same. Landowners can protest their assessment level, which the Board can change at that time. Again, the proposed drain tile system would allow the ability to discharge waters from individual residences into the system. As such at this stage of development we recommend all lots be assessed equally.

The downstream property, where the project outfall will be located, was not part of the original landowner petition. In addition, this agricultural property does not receive the same benefits as the rural residential properties. Some benefits will be provided to this property, which includes removal of groundwater along the outfall segment of the system. Given the need for construction easements and other factors it is recommended this property not be included in the special assessment district.

FINAL DESIGN CONSIDERATIONS

At this stage, there are several elements associated with the final design that remain to be evaluated prior to formalizing the plan documents. First, is the need to file and obtain a permit for the proposed drain tile system. As such it is recommended that the application be completed, along with the impact evaluation and necessary Record of Decision.

Drain Tile Layout – Preliminary



BLISS LAW FIRM, LLC
PO Box 4126 | 400 E Broadway, Suite 308
Bismarck, North Dakota 58502
701-223-5769 | www.blisslaw.com

David R. Bliss
Attorney at Law
Licensed in ND & SD
dbliss@blisslaw.com
701-471-3972 (cell)

Catherine Bliss
Certified Legal Assistant
cbliss@blisslaw.com
701-226-0716 (cell)

November 21, 2017

Randy and Joyce Schwartz
9500 Oak Drive
Bismarck, North Dakota 58503

Re: Hay Creek Pines Assessment District

Dear Mr. and Mrs. Schwartz:

I am in receipt of your October 28, 2017 letter to me as counsel for the Burleigh County Water Resource District. You have set forth several questions with regard to the assessment district established for Hay Creek Pines. I have forwarded your letter to District Manager Rod Beck, who has been assigned to the Hay Creek Pines project.

Since I'm the attorney for the Burleigh County Water Resource District, I cannot advise you as to legal matters pertaining to this assessment district. However, I have visited with Mr. Beck as to the questions you have raised. I understand that he will get back to you shortly in response to your inquiry.

Very truly yours,

DAVID R. BLISS
DRB: vel

cc: Rod Beck, Board Manager (via email only)
Board Members (via email only)

S:\Hay Creek Pines - Nitschke 17-31\Correspondence\Schwartz Ltr (DRB) 11-21-17.doc

Burleigh County Water Resource District

1720 Burnt Boat Drive, Suite 205
Bismarck, North Dakota 58503
www.bcwrd.org

November 21, 2017

Randy and Joyce Schwartz
9500 Oak Drive
Bismarck, North Dakota 58503

Re: Hay Creek Pines Assessment District

Dear Mr. and Mrs. Schwartz:

Thank you for your October 17, 2017 letter to the Burleigh County Water Resource District and your October 28, 2017 letter to our Board counsel, David Bliss, which he has forwarded to our Board for reply. Mr. Bliss will also reply separately to you. Let me address your questions as follows:

1. Assessments – As you know, the Board certified the assessment district for voting purposes with each Hay Creek Pines homeowner being assessed equally. On September 29, 2017, the Board held a protest hearing at which any homeowner affected by the project could voice his or her concerns in regard to this project. The Board heard landowner protests at this hearing, including your testimony. The Board will now review all such landowner comments to determine whether its current equal assessment shall be its final assessment or whether adjustments will be made. At present, the Board anticipates that all landowners within the assessment district will be assessed equally.

2. Final design – the Board does not yet have a final project design. This project is in its pre-design phase, which means that the Board is gathering information and data from which a final design can be made.

3. Yes, homeowner votes were cast prior to the final design, pursuant to law.

4. Potential negative impacts – as with any such project, there may need to be adjustments made after the project is completed. The Board retains jurisdiction over the project for operation and maintenance and may modify the project as necessary.

Sincerely,

Rodney Beck

Rodney Beck
Board Manager
cc: Board Members, Commissioner Jones (via email only)

FILE COPY

Current Board Members:

Greg Larson, Chairman, Bismarck 400-7217 Dennis Reep, Vice Chairman, Bismarck 223-7052 Rick Detwiller, Secretary/Treasurer, Bismarck 223-8782 Rodney Beck, Bismarck 220-5313.....James Landenberger 426-6439

emailed 12/7/17

NORTH DAKOTA
DEPARTMENT *of* HEALTH

ENVIRONMENTAL HEALTH SECTION
Gold Seal Center, 918 E. Divide Ave.
Bismarck, ND 58501-1947
701.328.5200 (fax)
www.ndhealth.gov

December 5, 2017

Greg Larson
Chairman, Burleigh County Water Resource District
1720 Burnt Boat Drive, Suite 205
Bismarck, ND 58502

Re: Hay Creek Pines, Groundwater Removal Project

Dear Chairman Larson:

The North Dakota Department of Health (department) received a letter on November 30, 2017 (attached) from U.S. EPA regarding Burleigh County Water Resource District's Hay Creek Pines Groundwater Removal Project. Under North Dakota Century Code 61-28-04 the Standards of Quality for Waters of the State, North Dakota Administrative Code (NDAC) § 33-16-02.1 must be supported. To make sure that the standards are being supported, the department asks the district to supply a copy of the operating plan that ensures the groundwater releases into Hay Creek and the receiving tributary will not cause an exceedance of the water quality criteria. Water quality criteria of concern are the numeric and antidegradation provisions for a class III stream.

Should you have any questions, please contact me at 701-328-5210 or at krockema@nd.gov.

Sincerely,

Karl H. Rockeman, P.E.
Director
Division of Water Quality

KHR/PW:dlp
xc: John A. Paczkowski, Chief, Regulatory Section SWC
Johanna Miller, Director, U.S. EPA Clean Water Program

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8
1595 Wynkoop Street
Denver, CO 80202-1129
Phone 800-227-8917
www.epa.gov/region8

NOV 30 2017

Ref: 8WP-CWW

Karl Rockeman
Director of Water Quality Programs
North Dakota Department of Health
918 East Divide Ave
4th Floor
Bismarck, ND 58501-1947

Re: Proposed Tile Drain Discharge from Hay Creek Pines Subdivision (Bismarck, ND) to Hay Creek

Dear Mr. Rockeman:

This matter was referred to us by a downstream landowner, Mr. Alton Nitschke. We understand that the residents of the Hay Creek Pines Subdivision have requested that the Burleigh County Water Resource District install a tile drain that would discharge to Hay Creek. Mr. Nitschke is concerned that the discharge will flood his property and damage his soils due to high electrical conductivity and sodium adsorption ratio, and also has concerns about bacterial contamination. We are referring the matter to you to ensure this project is in compliance with the Clean Water Act and that Water Quality Standards are met. Please keep me informed as to how you address this complaint.

Sincerely,

Johanna Miller, Director
Clean Water Program

cc: Alton Nitschke, via email

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COMMERCIAL BLANKET BOND
PUBLIC EMPLOYEES AND/OR PUBLIC OFFICIALS

North Dakota Insurance Department
State Bonding Fund
600 E Boulevard Ave Dept 401
Bismarck ND 58505-0320

Bond No.: **4041**
Issue Date: **01/01/2018**

DECLARATIONS

Obligee: **Burleigh County Water Resource District**
1720 Burnt Boat Dr
Suite 205
Bismarck ND 58503-

County: **Burleigh**
Phone: **(701) 222-3499**

Contact: **Mona Livdahl**
Entity Type: **Water Resource**
Limits of Liability: **$366,000.00**

This bond remains in effect until it is cancelled or terminated by either party pursuant to the conditions included in the Insuring Agreement.

State Bonding Fund
Summary of Coverage
North Dakota Insurance Department

Scope of coverage

The State Bonding Fund (Fund) hereby agrees to provide the Applicant, as the obligee of the Bond, with the "Blanket Bond" coverage provided by Chapter 26.1-21 of the North Dakota Century Code subject to the limit of liability shown on the Declaration page in effect at the time of discovery of any default or wrongful act on the part of any public employee or public official covered under the Bond.

The "Blanket Bond" is a "Fidelity Bond." "Fidelity Bonds" cover losses arising from embezzlement, or the want of honesty, integrity, or fidelity by an employee or other person holding a position of trust. The Bond provided by the Fund is conditioned on the public employee or public official, as principal, rendering a true account of all moneys and property possessed as a public employee or public official, and delivering the money or property as required by law.

The provisions of Chapter 26.1-21 of the North Dakota Century Code and of any statute requiring the Bond constitute the entire contract between the Fund and a state agency or political subdivision as the obligee of the Bond.

Limitations of coverage

This Bond does not apply to the defense of any legal proceedings brought against a public employee or public official. This Bond does not cover costs, fees or expenses incurred by the obligee in establishing the existence or the amount of loss covered by the Bond.

Obligations of obligee upon discovery of default of a public employee or public official

A claim shall be filed with the Fund immediately upon, and in no event later than sixty days, after the discovery of any default or wrongful act on the part of any public employee or public official for which the Fund is or may become liable. If a claim is not filed within the sixty day time limit, the claim is waived.

Statute of limitation and interest on claims

An action may not be maintained against the Fund upon any claim unless the action is commenced within one year after filing of the claim with the Commissioner. Interest on the claim runs from the date of filing the claim with the Commissioner. The liability of the Fund is limited to a breach of a condition of the Bond which occurred within two years before the date of filing the claim with the Commissioner.

Judgment required to effect recovery

The Fund requires that either a criminal or civil judgment be obtained against the Public Employee or Public Official prior to allowing a claim. If a civil action is pursued against the Public Employee or Public Official, the Fund must be joined as a codefendant to effect recovery from the Fund.

Term of coverage

The term of the "Blanket Bond" is two years from its effective date and each state agency and each political subdivision shall apply to be bonded in the Fund on a biennial basis or if a change in coverage is requested as set forth in N.D.C.C. § 26.1-21-10(1).

Cancellation of bond

After due investigation, the Bond of a public official or public employee may be canceled prior to the end of the term of the Bond as set forth in N.D.C.C. §§ 26.1-21-19 and 26.1-21-20. The cancellation of a public official or public employee's Bond takes effect thirty days after written notice is provided.

Loss or losses in excess of the bond limit

If the obligee sustains any loss or losses covered by this Bond which exceed the limit of liability provided by this Bond, the obligee shall be entitled to all recoveries except from reinsurance, by whomsoever made, on account of such loss or losses under this Bond until fully reimbursed, less the actual cost of effecting the same; and any remainder shall be applied to the reimbursement of the Fund.

Public employee

"Public employee" means an individual employed by a state agency or any political subdivision, an officer or employee eligible under N.D.C.C. § 57-15-56, an employee under N.D.C.C. § 61-16.1-05, and an officer or employee of the International Peace Garden. "Public employee" does not include an individual employed by an occupational and professional board or commission under Title 43 of the North Dakota Century Code or by the State Bar Association.

Public official

"Public official" means an elected or appointed officer or deputy of a state agency or a political subdivision, except for an officer of an occupational and professional board or commission under Title 43 of the North Dakota Century Code or of the State Bar Association.

Mona Livdahl

From: Riha, Richard J. <rriha@nd.gov>
Sent: Friday, December 8, 2017 8:32 AM
To: David Bliss
Subject: FW: Fox Island

Dave – This is what I sent to the commissioners this morning concerning the township's involvement in the Fox Island project.

From: Riha, Richard J.
Sent: Friday, December 08, 2017 8:23 AM
To: Jerry Woodcox <info@arrowheadcleaners.com>; Jim Peluso <pelusohockey@yahoo.com>; 'kathleenathome@bis.midco.net' <kathleenathome@bis.midco.net>; Brian Bitner <bbitner@bitcobuilds.com>; 'dpschonert@msn.com' <dpschonert@msn.com>
Cc: Glatt, Kevin J. <kglatt@nd.gov>
Subject: Fox Island

Dear Commissioners:

At your November 20, 2017, meeting, a question arose as to whether the commission, sitting as the board of township supervisors for Lincoln Township, may rescind its approval of roughly $900,000.00 for the Fox Island levy. This sum is intended to aid the special assessment district established by the water resource district in flood control at Fox Island. The brief answer to your question is yes, the township may rescind its support. However, there may be negative consequences for doing so.

There appears to be no statutory prohibition for a township to rescind a vote of this nature. However, although the township may have the ability to rescind it support, negative consequences could result. Those consequences include the possibility of owing damages to the different entities that have detrimentally relied upon the funding the township has offered in support of the project. If the other entities have relied upon the township's pledge of support and have expended time, effort, and money on the project, those entities could sustain pecuniary or other losses. The township could be held liable for those losses.

Another consequence which may occur pertains to special assessments. Under NDCC §61-16.1-33, a water resource district shall apportion assessments for the benefit of a project against a township. Section 61-16.1-33 states:

> Whenever a water resource board discovers or ascertains that the county, a township, or city therein, ... is being benefited by a project and ... such township ... was not included in the project area assessed for the cost of construction and maintenance of the project when established, the board shall
>
> commence proceedings for reassessment of lands originally assessed for the cost of establishing and constructing such project and shall apportion and assess the part of the balance remaining unpaid, if any, of the cost of such project, and the expense of maintenance, which such county, township, or city ... found benefited thereby should bear.

Therefore, if the township withdraws its support, the water resource district may be able to assess costs to the township for the benefit of the project.

Further, a court may determine that a township cannot withdraw its support without the consent of the other entities involved in the project. The Attorney General has issued an opinion in which a township sought to withdraw its financial support of a regional airport authority without the consent of the other entities involved. The Attorney General's

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opinion stated that the township could not withdraw its support because of a statutory prohibition. Atty. Gen. Op. 91-05 (March 13, 1991). In our case, we do not have such a statutory prohibition, but a court may follow the reasoning set out in the opinion and require consent before withdrawal would be permitted.

In sum, it is important to note that although the township may be able to withdraw its support of the project and the other entities involved may have different remedies for damages they sustain, the decisions of each party should not be viewed in isolation from one another; the decision of one party to act independently from the others will likely affect the other parties.

There were also references to the special assessment district itself at your November 20 meeting. The assessment district was established by the water resource district so the county is not involved in that aspect of the project. Therefore, any concerns with the establishment of the assessment district should be addressed to the water resource district.

Sincerely,

Richard J. Riha
Burleigh County State's Attorney

Mona Livdahl

From: Michael Gunsch <mgunsch@houstoneng.com>
Sent: Sunday, November 19, 2017 4:47 PM
To: 'Heiser, Gerald R.'
Cc: 'apersinger@nd.gov'; 'Dave Mayer'; 'Ray Ziegler (rjziegler@nd.gov)'; 'Erhardt, Toni R CIV USARMY CENWO (US)'; 'Marcus Hall (mahall@nd.gov)'; 'Mona Livdahl'
Subject: Fox Island Boat Ramp S-1959
Attachments: SOV Fox Island S-1959-B 11-15-2017.pdf; Burleigh County Easement - Transfer of Authority for OM.pdf

Gerry:

See attached comment letter and attachments that are in the mail.

Thanks, appreciate the discussion on this application.

Michael Gunsch
Principal / Project Manager
Houston Engineering, Inc.
O 701.323.0200 | **D** 701.751.6277 | **F** 701.323.0300

3712 Lockport Street • Bismarck, ND • 58503

www.houstoneng.com

This entire message (including all forwards and replies) and any attachments are for the sole use of the intended recipient(s) and may contain proprietary, confidential, trade secret, work-product, attorney-client or privileged information. Any unauthorized review, use, disclosure or distribution is prohibited and may be a violation of law. If you are not the intended recipient, please contact the sender by reply email and destroy all copies of the original message.

Burleigh County Water Resource District

1720 Burnt Boat Drive, Suite 205
Bismarck, North Dakota 58503
www.bcwrd.org

November 15, 2017

Gerald Heiser
Sovereign Lands Manager
North Dakota State Water Commission
900 East Boulevard
Bismarck, ND 58503

RE: SOLICITATION OF VIEWS - SOVEREIGN LANDS PERMIT APPLICATION S-1959-B
COMMENTS AND REQUIREMENTS – FOX ISLAND BANK STABILIZATION

Dear Mr. Heiser:

The Burleigh County Water Resource District (BCWRD) has reviewed the proposed application and has the following comments:

- This project is located within a bank stabilization easement transferred by the Burleigh County Commission to the Bismarck Parks and Recreation District, see Exhibit A. It is our recommendation the State Engineer consider permitting the entire revetment in this location. We also encourage the USACE to do the same to reduce the permitting burden for future maintenance. Based on our assessment this revetment is approximately 1420 feet in length and contains approximately 5,700 tons of riprap, see attached figure.
- The project is located within the Missouri River floodplain and subsequently requires a floodplain development permit from the Burleigh County Floodplain Coordinator. The project work, while located within the designated floodway, (see enclosed FIRMette) involves restoring the previous bank line. Subsequently, there is no floodway impact.

The BCWRD supports permitting the entire reach and has no concerns with project completion. If there are questions, please contact Michael Gunsch, Houston Engineering at 323-0200.

Respectfully,

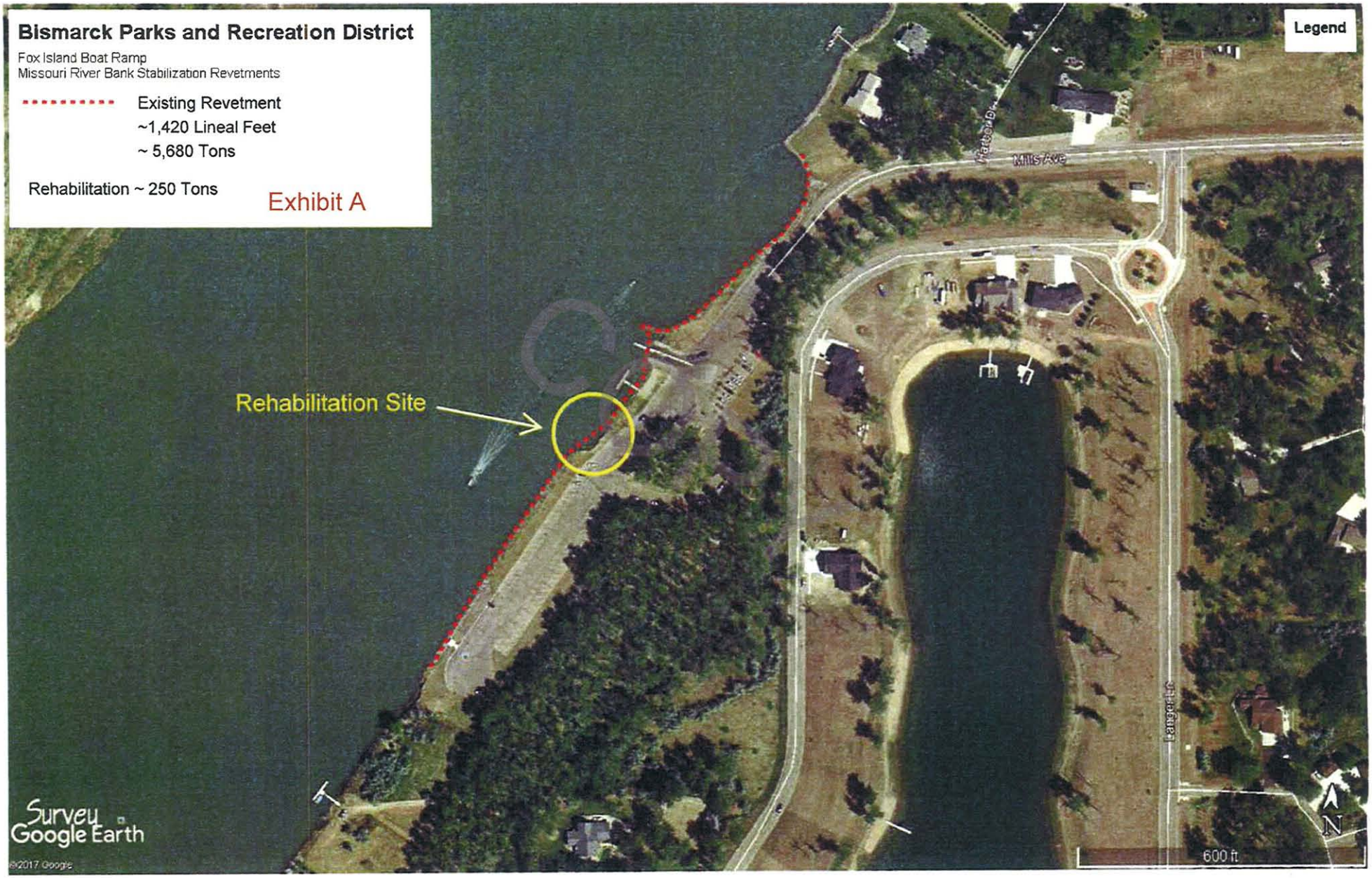
Greg Larson, Chairman
Burleigh County Water Resource District

Enclosures

C: BCWRD Board Members, David Bliss, Bliss Law, Michael Gunsch, Houston Engineering
Dave Mayer, Bismarck Parks and Recreation District
Marcus Hall, Burleigh County Engineer
Ray Zeigler, Burleigh County Floodplain Coordinator
Toni Erhardt, USACE

Current Board Members:

Greg Larson, Chairman, Bismarck 400-7217 Dennis Roop, Vice Chairman, Bismarck 223-7052 Rick Detwiller, Secretary/Treasurer, Bismarck 223-8782 Rodney Bock, Bismarck 220-5313 James Landenberger 426-6439


Bismarck Parks and Recreation District
Fox Island Boat Ramp
Missouri River Bank Stabilization Revetments
Existing Revetment
~1,420 Lineal Feet
~ 5,680 Tons
Rehabilitation ~ 250 Tons
Exhibit A
Legend
Rehabilitation Site
Mills Ave
Harbor Dr
Langer Ln
600 ft
N
Survey
Google Earth
©2017 Google

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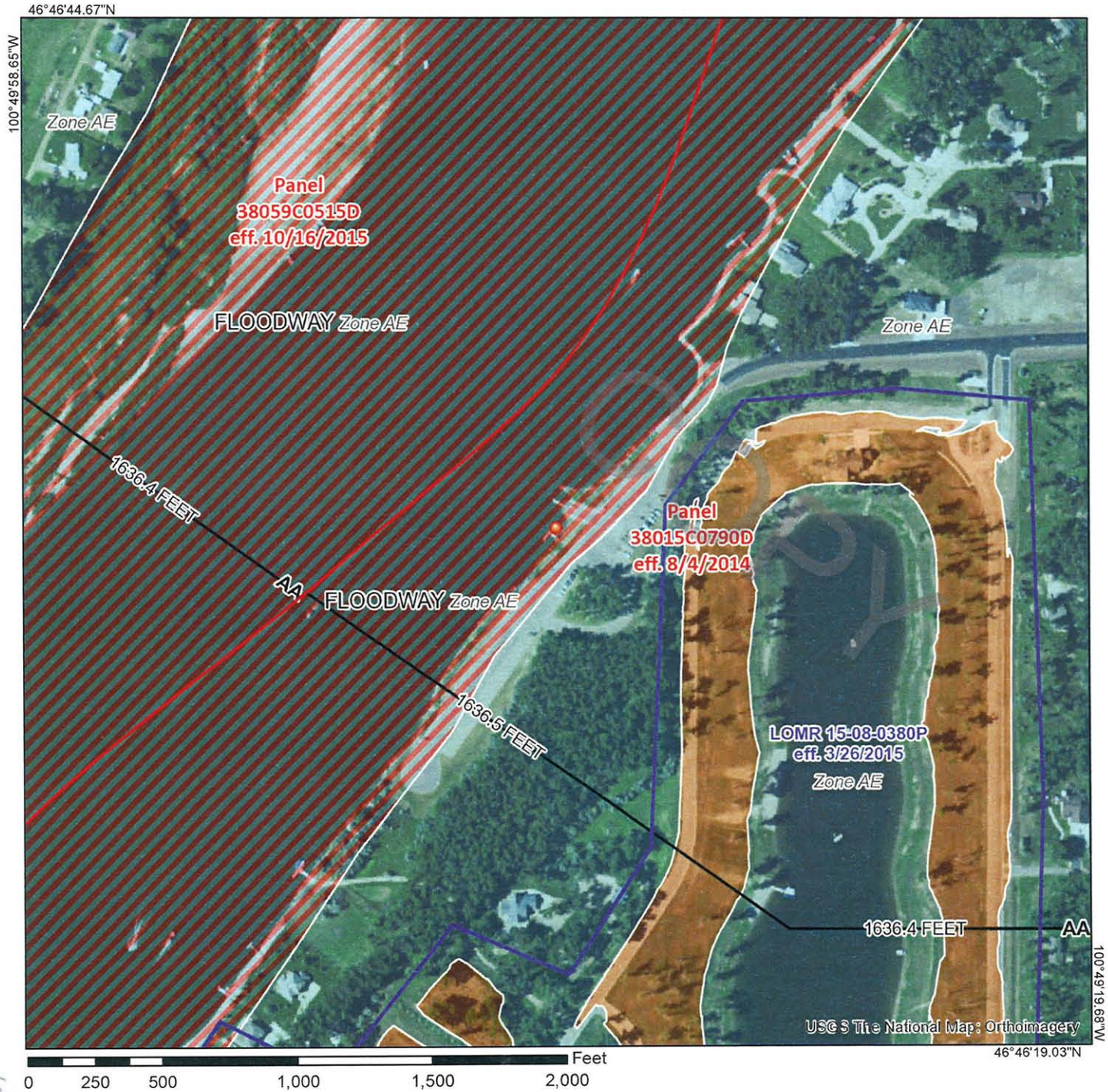
National Flood Hazard Layer FIRMette



Legend

- Cross-Sections
- Base Flood Elevations

N

Flood Hazard Zones

- 1% Annual Chance Flood
- Regulatory Floodway
- Special Floodway
- Area of Undetermined Flood Hazard
- 0.2% Annual Chance Flood
- Future Conditions 1% Annual Chance Flood Hazard
- Area with Reduced Risk Due to Levee

LOMRs

- Effective

Map Panels

- Digital Data
- Unmodernized Maps
- Unmapped

This map complies with FEMA's standards for the use of digital flood maps. The flood hazard information is derived directly from the authoritative NFHL web services provided by FEMA. The base map shown complies with FEMA's base map accuracy standards.

The NFHL is a living database, updated daily, and this map represents a snapshot of information at a specific time.

Flood risks are dynamic and can change frequently due to a variety of factors, including weather patterns, erosion, and new development. FEMA flood maps are continually updated through a variety of processes. Users should always verify through the Map Service Center (http://msc.fema.gov) or the Community Map Repository that they have the current effective information.

NFHL maps should not be created for unmapped or unmodernized areas.

FEMA

Date: 11/13/2017 Time: 4:53:34 PM

STATE OF NORTH DAKOTA

County of Burleigh

221 NORTH 5TH STREET • P.O. BOX 5518 • BISMARCK, NORTH DAKOTA 58506-5518

July 28, 2015

Gerald R. Heiser
Sovereign Lands Manager
ND State Water Commission
900 East Boulevard
Bismarck, ND 58505

Dan Cimarosti
State Program Coordinator
USACE North Dakota Regulatory Office
1513 South 12th Street
Bismarck, ND 58504

RE: Fox Island Boat Ramp Bank Stabilization
Sovereign Lands Permit Application No. S-1959
COE Application No. NWO-2008-1585-BIS

Dear Mr. Heiser and Mr. Cimarosti:

On May 4, 2015 the Burleigh County Commission authorized the preparation of a bank stabilization easement with the Bismarck Parks and Recreation District. This easement authorizes the completion of bank stabilization repair work within an existing easement held by the Burleigh County Commission, Recorded Document No. 255350. This work is also identified as the Fox Island Boat Ramp Bank Stabilization project, and includes all elements as defined in the plans prepared by Kadrmas Lee and Jackson, dated April 23, 2015.

The Burleigh County Commission and the Bismarck Parks and Recreation District have subsequently executed this easement. This easement also spells out the continued rights of access currently held by the Burleigh County Commission as well as the maintenance responsibilities of the Bismarck Parks and Recreation District. A copy of the executed easement is enclosed.

With this document in place, the Burleigh County Commission has no objection to issuance of the requested permit authorizations for the reconstruction of these bank stabilization measures and the associated improvements.

Sincerely,

Brian Bittner, Vice-Chairman
Burleigh County Commission

Encl.

C: Randy Bina, Director Bismarck Parks and Recreation District
Terry Fleck, Burleigh County WRD
Benjamin Reile, USACE, Bismarck Regulatory Office
Erik Gilbertson, KLJ
Michael Gunsch, Houston Engineering

BURLEIGH COUNTY AUDITOR ESMT
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Page: 1 of 7
7/30/2015 11:55 AM
Burleigh County

MISSOURI RIVER
BANK STABLIZATION EASEMENT

THIS INDENTURE made this 24 day of June, 2015 by and between **Bismarck Parks and Recreation District**, whose address is 400 East Front Avenue; Bismarck, North Dakota, 58502, hereafter referred to as the Grantor(s), and the **Burleigh County Commission**, whose address is City/County Office Building 221 North 5th Street, Bismarck, North Dakota 58501 hereinafter referred to as the County Commission.

WITNESSETH:

WHEREAS, the Grantor is owner in fee of the following tract of land situated in Burleigh County, State of North Dakota, to wit:

I. LEGAL DESCRIPTIONS:

BANK STABILIZATION AND MAINTENANCE EASEMENT

A TRACT OF LAND LYING IN GOVERNMENT LOT 3 OF SECTION 18; AUDITOR'S LOT M-1 OF PART OF THE NORTHEAST ¼ AND THE SOUTHEAST ¼, SECTION 18; AND AN UPLATTED PORTION OF THE NORTHEAST ¼, ALL IN SECTION 18, TOWNSHIP 138N, RANGE 80W OF THE FIFTH PRINCIPAL MERIDAN, BURLEIGH COUNTY, NORTH DAKOTA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF SAID GOVERNMENT LOT 3 WHICH IS THE POINT OF BEGINNING; THENCE FROM SAID POINT OF BEGINNING ALONG THE SOUTH LINE OF SAID GOVERNMENT LOT 3, S 89°10'06" E, 94.18 FEET TO A LINE PARALLEL TO AND 50.00 FEET SOUTHEAST OF THE HIGH BANK OF THE MISSOURI RIVER AS SURVEYED ON JULY 29, 2008; THENCE ALONG SAID PARALLEL LINE AS FOLLOWS; THENCE N 35°54'32" E, 434.50 FEET; THENCE N 35°08'09" E, 300.17 FEET; THENCE N 42°08'23" E, 290.28 FEET; THENCE N 63°33'24" E, 49.37 FEET; THENCE N 39°01'31" E, 364.49 FEET; THENCE N 45°35'07" E, 73.94 FEET; THENCE N 22°32'52" E, 133.56 FEET TO THE NORTH LINE OF THE SOUTH ½ OF THE NORTHEAST ¼, SAID SECTION 18 AND THERE TERMINATING. THE SIDE LINES OF SAID EASEMENT SHALL BE PROLONGED OR SHORTENED TO TERMINATE ON SAID NORTH LINE OF THE SOUTH ½ AND THE SOUTH LINE OF SAID GOVERNMENT LOT 3.

SAID TRACT CONTAINS 82,392 SQUARE FEET OR 1.8915 ACRES MORE OR LESS, AND AS ILLUSTRATED AS TRACT 1 ON EXHIBIT 1.

II. PURPOSE OF EASEMENT

WHEREAS, the above-described land parcels are needed by the County Commission, the North Dakota State Water Commission, and the United States Army Corps of Engineers in connection with the maintenance and operation of an existing bank stabilization and protection project constructed along the Missouri River as part of the Garrison-Oahe Projects.

WHEREAS, the Grantor has requested permission to conduct maintenance and reconstruction of the originally constructed structural measures and subsequent boundary of the original easement Recorded Document No. 255350, the Grantor hereby acknowledges the following:

That the existing bank stabilization facilities were not installed with neither the purpose nor intent to protect recreational properties or facilities, therefore all risks associated with the design and construction of these facilities are accepted by the Grantor.

Grantor acknowledges that the County Commission is under an agreement with the State of North Dakota to operate and maintenance the existing bank stabilization facilities, but is not obligated to otherwise participate in the funding for such work requested by others. The Grantor subsequently accepts current and future operation and maintenance costs associated with the facilities located within this easement.

That no permanent structures are allowed to be constructed within the designated easement areas and as such any such structures may be removed at the expense of Grantor, or Grantor's successors and assigns following the transfer and conveyances of title by Grantor.

That the Grantor, together with the Grantor's successors and assigns, following the transfer and conveyance of title by Grantor, is obligated to monitor the condition of the bank stabilization facilities and report any major or significant changes or deterioration of said facilities to the County Commission.

That, if maintenance is required, access across non-easement areas, removed from the original easements or otherwise owned by the Grantor, or Grantor's successors and assigns, may be beneficial to the Grantor and the County Commission to protect and maintain the bank stabilization facilities and subject properties. Failure of the Grantor, or Grantor's successors and assigns to provide such access may prevent such activities from occurring in a timely manner.

That the Grantor, and Grantor's successors and assigns, are authorized to place additional rock riprap on or above the existing bank stabilization structure for the purposes for minor maintenance or extending to a higher elevation to increase the level of protection provided. The Grantor and the Grantor's successors and assigns shall obtain any additional required regulatory permits from federal or state authorities prior to commencing this work. The party placing the additional rock riprap shall be responsible for all costs associated with the related materials and work and any incidental or permanent damages to the existing structure associated directly or indirectly with these activities.

That portion of the original easement obtained by the Burleigh County Commission on June 10th, 1969 and recorded as Document No. 255350, on May 16, 1974 contained within the boundaries of the above described parcel is herein vacated and replaced by the easements more particularly described above.

NOW, THEREFORE, in consideration of the sum of One Dollar, the receipt of which is hereby acknowledged and the benefits to be derived by the Grantor from the existing Missouri River bank stabilization and protection project, the Grantor does hereby grant, bargain, sell and convey to the County Commission and its assigns, a ninety nine (99) year easement with an additional ninety nine (99) year easement, in consideration of the sum of One Dollar to be paid to Grantor(s) within ninety (90) days of the first ninety nine (99) year easement, right and easement to enter upon, occupy and use the above-described tracts of land for the purpose of accessing, maintaining and operating bank stabilization and protection devices, structures, facilities, and appurtenance devices, including the right to clear, cut, fell, remove and dispose of any and all timber, trees, underbrush, and obstructions, (existing or future), natural or man-made, that may interfere with the operation or maintenance of this project together with the right to perform any and all acts thereon necessary and incident thereto. In order to confine to a minimum the impact of operations and maintenance on the natural environment, the clearing of timber and brush within right-of-way areas shall be limited to the minimum amount necessary to provide access to the facilities. All alterations shall be restored as nearly as possible to original conditions after completion of contract work, with the exception of the necessary removal of above ground elements (e.g. trees, structures, fences, etc.). Where the additional required right-of-way is not covered by these easements, any Contractor hired to complete said maintenance shall make all necessary arrangements with the Grantor for the use, clearing, and restoration of the required area in accordance with this easement.

RESERVING, however, to the Grantor and its successors and assigns, all such rights and privileges in the above-described tract of land not specifically granted to the County Commission by this instrument.

TO HAVE AND TO HOLD, the rights, and easements hereunto granted to the County Commission and its assigns, the Grantor for itself, and its successors and assigns, does hereby covenant with the County Commission, and its assigns, that it has good and sufficient right, title and interest in and to the above-described tracts of land to convey the rights and easement as aforesaid, and that it will warrant and defend the title to the County Commission and its assigns, against the lawful claims and demand of all persons. This instrument, and the covenants and agreements contained in this instrument shall inure to the benefit of and be binding and obligatory upon the heirs, executors, administrators, successors and assigns of the respective parties, all such rights and privileges in the area hereinabove described as may be used without interfering with or abridging the rights and easements hereby granted to the County Commission by this instrument.

IN WITNESS WHEREOF, this instrument is executed by the undersigned on this 24th day of June, 2015.

Randy Bina — 6/24/15

Bismarck Parks and Recreation District, Grantor — Date

STATE OF NORTH DAKOTA)
) ss
COUNTY OF Burleigh)

On this 24 day of June, before me, a Notary Public within and for said County, personally appeared Randy Bina, who executed the foregoing instrument and acknowledged that they executed the same as their free act and deed.

JULIE D. FORNSHELL
Notary Public
State of North Dakota
My Commission Expires May 09, 2020

My Commission Expires 5-9-2020

Julie D. Fornshell
Notary Public

BURLEIGH COUNTY AUDITOR ESMT
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Page: 5 of 7
7/30/2015 11:55 AM
Burleigh County

Brian Bittner, Vice Chairman
Burleigh County Commission, Grantee

7/29/15
Date

STATE OF NORTH DAKOTA)
) ss
COUNTY OF Burleigh)

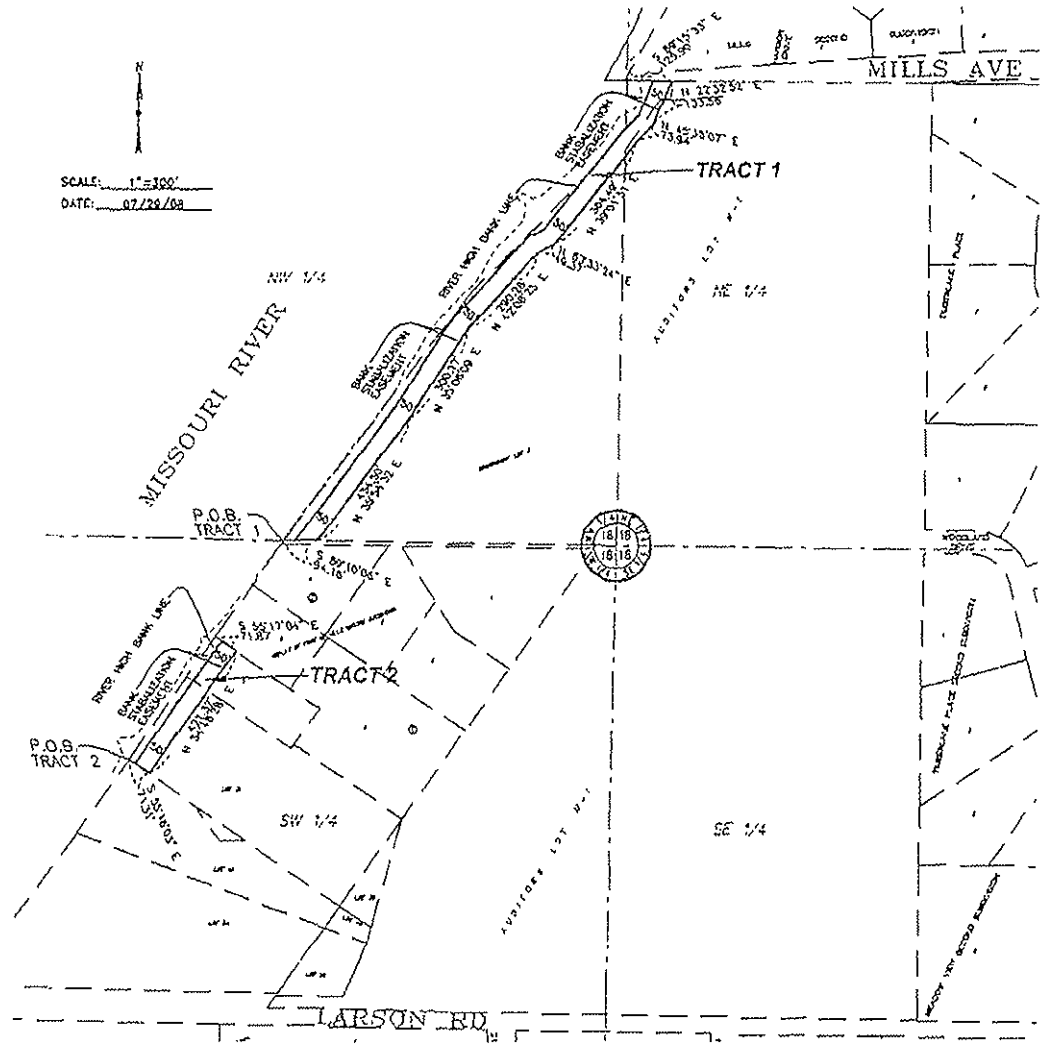
On this 29th day of July, before me, a Notary Public within and for said County, personally appeared Brian Bittner, who executed the foregoing instrument and acknowledged that they executed the same as their free act and deed.

KEVIN J GLATT
Notary Public
State of North Dakota
My Commission Expires August 10, 2018

My Commission Expires

Notary Public

EXHIBIT 1
BANK STABILIZATION EASEMENT



TRACT 1:

A TRACT OF LAND LYING IN GOVERNMENT LOT 3 OF SECTION 18; AUDITOR'S LOT M-1 OF PART OF THE NORTHEAST 1/4 AND THE SOUTHEAST 1/4, SECTION 18; AND AN UNPLATTED PORTION OF THE NORTHEAST 1/4, ALL IN SECTION 18, TOWNSHIP 138N, RANGE 80W OF THE FIFTH PRINCIPAL MERIDIAN, BURLEIGH COUNTY, NORTH DAKOTA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF SAID GOVERNMENT LOT 3 WHICH IS THE POINT OF BEGINNING; THENCE FROM SAID POINT OF BEGINNING ALONG THE SOUTH LINE OF SAID GOVERNMENT LOT 3, S 89°10'06" E, 94.16 FEET TO A LINE PARALLEL TO AND 50.00 FEET SOUTHEAST OF THE HIGH BANK OF THE MISSOURI RIVER AS SURVEYED ON JULY 29, 2008; THENCE ALONG SAID PARALLEL LINE AS FOLLOWS: THENCE N 35°54'32" E, 434.50 FEET; THENCE N 35°08'09" E, 300.17 FEET; THENCE N 42°08'23" E, 290.28 FEET; THENCE N 83°33'24" E, 49.37 FEET; THENCE N 39°01'31" E, 364.49 FEET; THENCE N 45°35'07" E, 73.94 FEET; THENCE N 22°32'52" E, 133.56 FEET TO THE NORTH LINE OF THE SOUTH 1/2 OF THE NORTHEAST 1/4, SAID SECTION 18 AND THERE TERMINATING. THE SIDE LINES OF SAID EASEMENT SHALL BE PROLONGED OR SHORTENED TO TERMINATE ON SAID NORTH LINE OF THE SOUTH 1/2 AND THE SOUTH LINE OF SAID GOVERNMENT LOT 3.

SAID TRACT CONTAINS 82,392 SQUARE FEET OR 1.8915 ACRES MORE OR LESS.

TRACT 2:

A TRACT OF LAND LYING IN PART OF LOT 3A, MILLS FIRST SUBDIVISION AND A PART OF LOT 7, BLOCK 1, REPLAT OF LOTS 1A, 2A, AND PART OF 3A OF MILLS FIRST SUBDIVISION, ALL IN SECTION 18, TOWNSHIP 138N, RANGE 80W OF THE FIFTH PRINCIPAL MERIDIAN, BURLEIGH COUNTY, NORTH DAKOTA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF SAID LOT 3A WHICH IS THE POINT OF BEGINNING; THENCE FROM SAID POINT OF BEGINNING ALONG THE SOUTH LINE OF SAID LOT 3A, S 55°16'03" E, 71.31 FEET TO A LINE PARALLEL TO AND 50.00 FEET SOUTHEAST OF THE HIGH BANK OF THE MISSOURI RIVER AS SURVEYED ON JULY 29, 2008; THENCE ALONG SAID PARALLEL LINE N 43°48'28" E, 421.32 FEET TO THE NORTH LINE OF SAID LOT 7 AND THERE TERMINATING. THE SIDE LINES OF SAID EASEMENT SHALL BE PROLONGED OR SHORTENED TO TERMINATE ON SAID NORTH LINE OF SAID LOT 7 AND THE SOUTH LINE OF SAID LOT 3A.

SAID TRACT CONTAINS 21,085 SQUARE FEET OR 0.4838 ACRES MORE OR LESS.

Kadrmas Lee & Jackson

BURLEIGH COUNTY AUDITOR ESMT

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Page: 6 of 7
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Burleigh County

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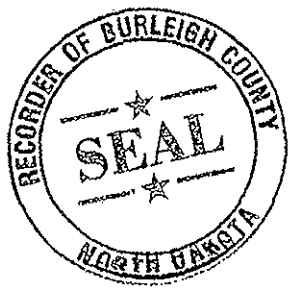

BURLEIGH COUNTY AUDITOR ESMT

Debbie Kraschnewski

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Page: 7 of 7
7/30/2015 11:55 AM
Burleigh County

Mona Livdahl

From: Michael Gunsch <mgunsch@houstoneng.com>
Sent: Sunday, November 19, 2017 3:12 PM
To: 'Ray Ziegler (rjziegler@nd.gov)'; 'Heiser, Gerald R.'
Cc: Rick Detwiller; 'Mona Livdahl (mona@midco.net)'; 'apersinger@nd.gov'; 'Erhardt, Toni R CIV USARMY CENWO (US)'
Subject: Hyder Bank Stabilization Permit
Attachments: Hyder Stabilization DFIRM NFHLMap_88.pdf

Ray:

I spoke to Gerry Heiser this past week and we discussed the Hyder Bank Stabilization application, and others.

So I took a look at the location of this project site with respect to the floodway.
Based on the DRFIRM and FIRMette the proposed project work, while in the floodplain, is east and behind the floodway, so there is no effect. In addition, the proposed stabilization is effectively the rehabilitation or restoration of the failed bank line so will not have a notable conveyance impact.

The real issue here is approval of the SL permit the USACE and Section 408 questions. The BCWRD will not make a determination regarding the work within their easement until the Section 408 question is answered as the two are related.

Any questions give me a call.

Thanks,

Sent via
Michael Gunsch's Surface

National Flood Hazard Layer FIRMette

Legend

- Cross-Sections
- Base Flood Elevations

N

Flood Hazard Zones

- 1% Annual Chance Flood
- Regulatory Floodway
- Special Floodway
- Area of Undetermined Flood Hazard
- 0.2% Annual Chance Flood
- Future Conditions 1% Annual Chance Flood Hazard
- Area with Reduced Risk Due to Levee

LOMRs

- Effective

Map Panels

- Digital Data
- Unmodernized Maps
- Unmapped

This map complies with FEMA's standards for the use of digital flood maps. The flood hazard information is derived directly from the authoritative NFHL web services provided by FEMA. The base map shown complies with FEMA's base map accuracy standards.

The NFHL is a living database, updated daily, and this map represents a snapshot of information at a specific time.

Flood risks are dynamic and can change frequently due to a variety of factors, including weather patterns, erosion, and new development. FEMA flood maps are continually updated through a variety of processes. Users should always verify through the Map Service Center (http://msc.fema.gov) or the Community Map Repository that they have the current effective information.

NFHL maps should not be created for unmapped or unmodernized areas.

FEMA

Date: 11/13/2017 Time: 4:57:28 PM

Mona Livdahl

From: Michael Gunsch <mgunsch@houstoneng.com>
Sent: Monday, November 13, 2017 1:25 PM
To: 'Mona Livdahl'; 'Dennis Reep'; 'Rick Detwiller'
Cc: 'Greg Larson'
Subject: RE: Hunting on Burleigh Water management board land
Attachments: Burnt Creek Floodway ROW.pdf; BCWRD Burnt Creek.pdf

FYI – Most of these areas are easement and not owned by the BCWRD.
The landowner in this area typically posts.
The primary entries to the channel are posted with no trespass signs, attached is an old photo.
As I recall these were reinstalled or new owns put in place.
See attached map... owners have changed, but the BCWRD's ownership has not.

Michael Gunsch
Principal / Project Manager
Houston Engineering, Inc.
3712 Lockport St, Bismarck, ND 58503
O 701.323.0200 | **F** 701.323.0300
www.houstoneng.com

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From: Mona Livdahl [mailto:mona@midco.net]
Sent: Monday, November 13, 2017 1:11 PM
To: Dennis Reep <dwrburleighwrd@gmail.com>; Rick Detwiller <rdetwiller1@gmail.com>
Cc: Michael Gunsch <mgunsch@houstoneng.com>; Greg Larson <glarson@century21morrison.com>
Subject: Hunting on Burleigh Water management board land

[External Email]

As this is the portfolio for Dennis (lead) and Rick (alternate) I said one of you would contact him – it is the Burnt Creek Floodway area. Just realized there is no phone number attached. He is with the ND Game and Fish and his email is included.

From: Erck, Corey E. [mailto:cerck@nd.gov]
Sent: Monday, November 13, 2017 1:08 PM
To: mona@midco.net
Subject: Hunting on Burleigh Water management board land

As the local Game Warden for the area the subject has been brought up, whether or not hunting is allowed on board land. And if not is the board willing to pursue charges against those who are willfully trespassing or hunting on board land. Thanks

Corey Erck

BURLIEGH COUNTY
WATER RESOURCE DISTRICT
BISMARCK, ND

Legend

- Streets
- Grading Extents
- Section Lines
- Lots
- Subdivisions

Easement Types

- Unknown
- Fee Title
- Fee Title & Indefinite Easement
- Indefinite Easement
- Permanent & Indefinite Easement
- Permanent Easement
- Temporary Easement

N

0 25 50 100 Feet

BURNT CREEK FLOODWAY ROW - SITE 1

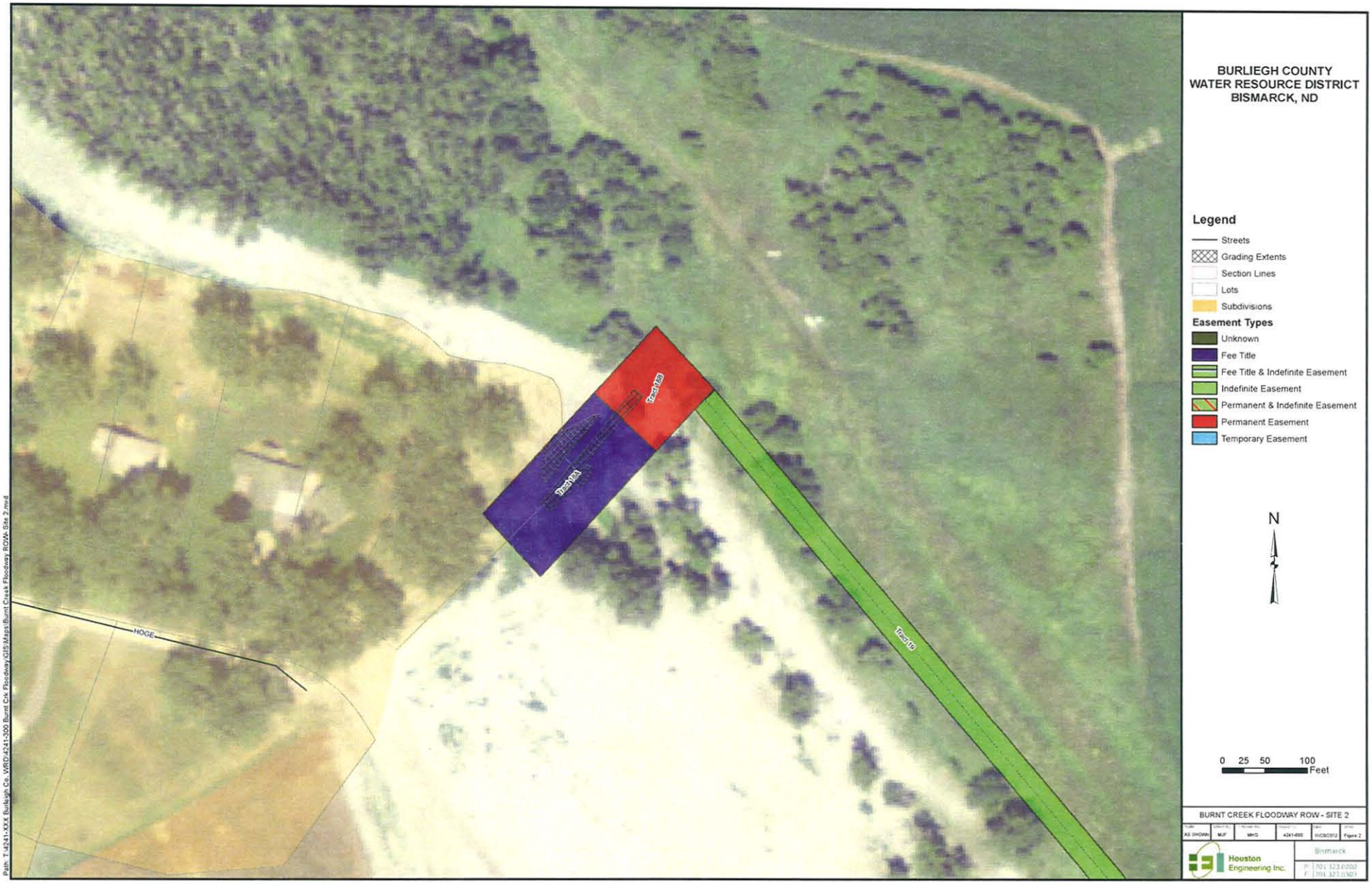
Scale	Drawn By	Checked By	Project No.	Date	Sheet
AS SHOWN	MJF	MHG	4241-000	11/28/2012	Figure 1

Houston Engineering Inc.

Bismarck
P 701.323.0202
F 701.323.0303

Path: T:\4241-XXX Burleigh Co. WRD\4241-300 Burnt Crk Floodway\GIS\Maps\Burnt Creek Floodway ROW\ROW-Site 1.mxd

17


BURLIEGH COUNTY
WATER RESOURCE DISTRICT
BISMARCK, ND
Legend
Streets
Grading Extents
Section Lines
Lots
Subdivisions
Easement Types
Unknown
Fee Title
Fee Title & Indefinite Easement
Indefinite Easement
Permanent & Indefinite Easement
Permanent Easement
Temporary Easement
Tract1a
Tract1b
Tract1c
HOGE
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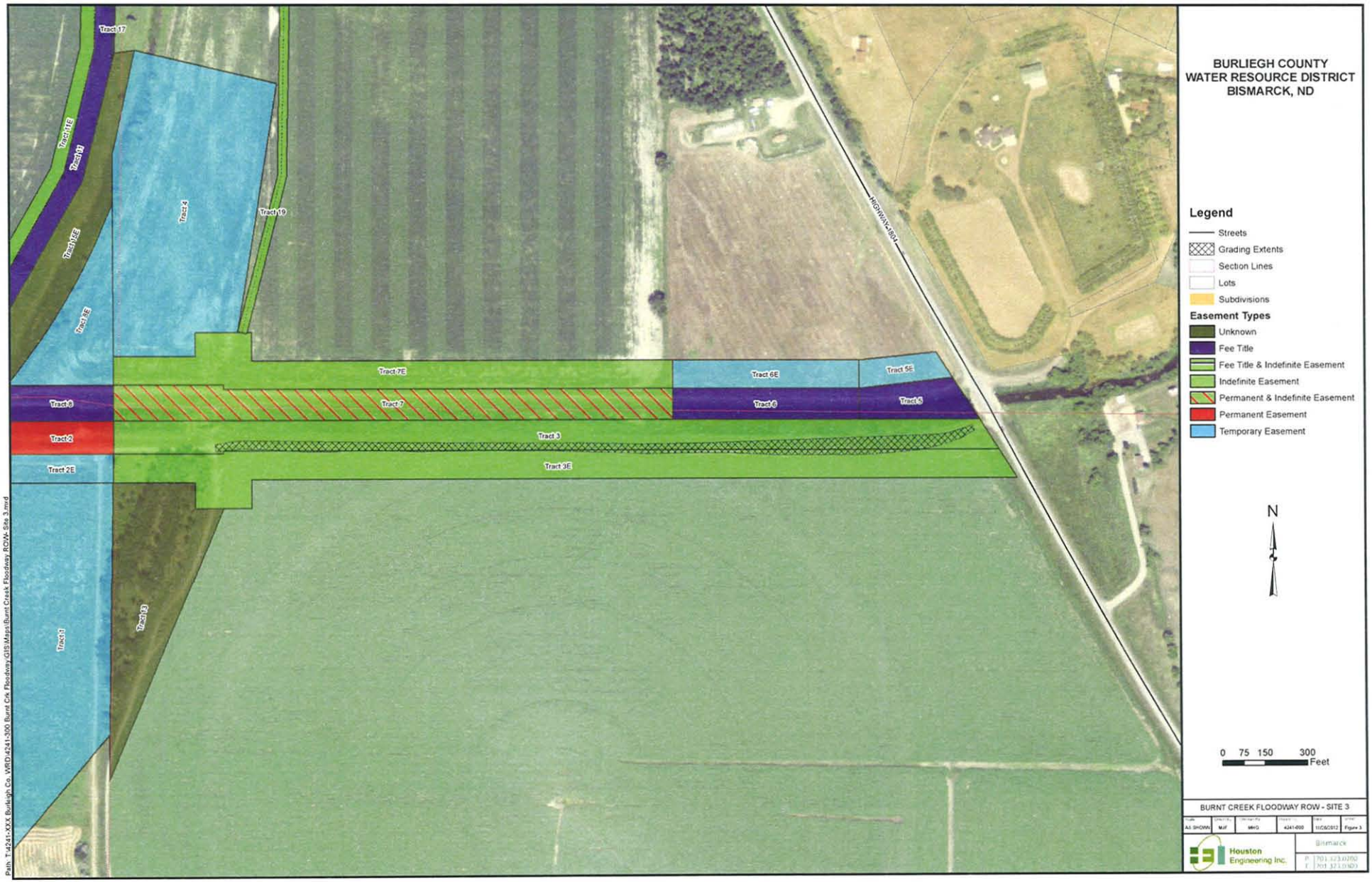
Feet
BURNT CREEK FLOODWAY ROW - SITE 2
AS SHOWN
MJF
MHG
4241-000
01/30/2012
Figure 2
Houston Engineering Inc.
Bismarck
P: 701.323.0200
F: 701.323.0301
Path: T:\4241-XXX Burleigh Co. WRD\4241-300 Burnt Crk Floodway\GIS\Maps\Burnt Creek Floodway ROW- Site 2.mxd


Tract 17
Tract 1E
Tract 1
Tract 4
Tract 19
Tract 1TE
Tract 4E
HIGHWAY-1804
Tract 7E
Tract 6E
Tract 5E
Tract 8
Tract 7
Tract 6
Tract 5
Tract 2
Tract 3
Tract 2E
Tract 3E
Tract 10
Tract 10
BURLIEGH COUNTY
WATER RESOURCE DISTRICT
BISMARCK, ND
Legend
Streets
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Section Lines
Lots
Subdivisions
Easement Types
Unknown
Fee Title
Fee Title & Indefinite Easement
Indefinite Easement
Permanent & Indefinite Easement
Permanent Easement
Temporary Easement
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0 75 150 300
Feet
BURNT CREEK FLOODWAY ROW - SITE 3
AS SHOWN
MJF
MHG
4241-000
11/5/2012
Figure 3
Houston Engineering Inc.
Bismarck
P 701.323.0200
F 701.323.0303
Path: T:\4241-XXX Burleigh Co. WRD\4241-300 Burnt Cre. Floodway\GIS Maps\Burnt Creek Floodway ROW-Site 3.mxd

AUTHORIZED
PERSONNEL ONLY
NO
TRESPASSING

Mona Livdahl

From: Michael Gunsch <mgunsch@houstoneng.com>
Sent: Wednesday, November 29, 2017 9:33 AM
To: 'David Bliss'; Greg Larson; Rick Detwiller; Dennis Reep; 'Rodney L. Beck; james.landenberger@bartwest.com
Cc: Mona Livdahl; Travis Johnson
Subject: RE: Scanned image from Tschider & Smith Law
Attachments: Burnt Creek Floodway ROW.PDF; BCWRD Burnt Creek.pdf

Greg, et. al.

As a follow up to the issue of legal description for Tract 11.

As best I recall these tracts are based on an exhibit attached to the documents.
There was a lot of research completed on these areas in the past, for title and easements, so we have documentation related to what the BCWRD owns and that which is simply under easement. That is where the attached map comes from and it can be reproduced as needed. This mapping includes all project easements as noted in legend. All those tracts marked with an "E" are temporary construction easements, which have expired long ago. The best way at the time was to document all of them. With authorization we could reduce this map to only those currently existing. Bottom line what is under your authority is defined

The question here is posting public land and the reasoning behind that determination.
Note the floodway itself is posted for no trespassing, the other tracts are not.

Thanks,

Michael Gunsch
Principal / Project Manager
Houston Engineering, Inc.
3712 Lockport St, Bismarck, ND 58503
O 701.323.0200 | F 701.323.0300
www.houstoneng.com

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From: David Bliss [mailto:dbliss@blisslaw.com]
Sent: Wednesday, November 29, 2017 8:35 AM
To: Greg Larson <glarson@century21morrison.com>; Rick Detwiller <rdetwiller1@gmail.com>; Dennis Reep <dwrburleighwrd@gmail.com>; 'Rodney L. Beck <rbeck@mooreengineeringinc.com>; james.landenberger@bartwest.com
Cc: Mona Livdahl <mona@midco.net>; Michael Gunsch <mgunsch@houstoneng.com>
Subject: FW: Scanned image from Tschider & Smith Law

[External Email]

Board members,

Below please find Dave Tschider's request of the District to post its Tract 11 Burnt Creek Floodway property. I have attached Mr. Tschider's two attachments to me. Please call if you have questions.

Mona, would you include this correspondence in the agenda book?

Dave

DAVID R. BLISS
Bliss Law Firm, LLC
400 E. Broadway Ave., Suite 308
Bismarck, ND 58501
(701) 223-5769 (office)
(701) 471-3972 (cell)
(701) 751-1242 (fax)
dbliss@blisslaw.com

Licensed in North Dakota,
South Dakota and Minnesota

www.blisslaw.com

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-----Original Message-----
From: David Tschider [mailto:dtschider@Tschider-smithlaw.com]
Sent: Tuesday, November 28, 2017 3:47 PM
To: David Bliss
Subject: RE: Scanned image from Tschider & Smith Law

Hello.
As was discussed, the Deed delivered to the Water District was very poorly drafted. At this point, it is unclear as to what property in the North "creek" the District owns, as the Deed failed to include a legal description of "Tract 11" . The District owned Tract appears to be a corridor either 70' or 50' feet in width, on the West side of the abandoned channel bank, and "dead ends" well South of 97th Avenue. No one is looking to pick a fight with the District regarding who owns what.

The problem which gave rise to my request relates to an individual who said the creek bed is "public property". To say the least, he is a problem child with an attitude. I posted the creek bed for Bourgois and Hogue, which did not stop his incursions onto their land. To be sure I have all bases covered, I would ask that the District allow the posting of its Tract, whatever that tract may be, on the North side of the diversion ditch, where the diversion channel bends from the East to the South. A metal NO TRESPASSING sign would be fine. In fact, I will install the sign if the District provides the post and the sign...easy task. If he dare enter the

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property thereafter I will deal with him.

This would not be a problem but for the fact that he is a self-proclaimed expert who is of the opinion that he and his guests can hunt wherever they please. All he had to do was ask and he likely would have been granted permission. In his opinion he has no obligation to ask.

Thanks. dt

-----Original Message-----
From: David Bliss [mailto:dbliss@blisslaw.com]
Sent: Tuesday, November 28, 2017 10:07 AM
To: David Tschider <dtschider@Tschider-smithlaw.com>
Cc: Greg Larson <glarson@century21morrison.com>; Rick Detwiller <rdetwiller1@gmail.com>; Michael Gunsch <mgunsch@houstoneng.com>
Subject: FW: Scanned image from Tschider & Smith Law

Dave,

This email will confirm our November 27, 2017 telephone conversation. I understand that landowners adjacent to the District's Tract 11 Burnt Creek property have experienced trespassing issues, and that you and/or landowners would like to request that the District post its Tract 11 property. As we discussed, please send me an email which sets forth your request to the District, and the District can then discuss your request at its December meeting.

Best,

Dave

DAVID R. BLISS
Bliss Law Firm, LLC
400 E. Broadway Ave., Suite 308
Bismarck, ND 58501
(701) 223-5769 (office)
(701) 471-3972 (cell)
(701) 751-1242 (fax)
dbliss@blisslaw.com

Licensed in North Dakota,
South Dakota and Minnesota

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BURLIEGH COUNTY
WATER RESOURCE DISTRICT
BISMARCK, ND

Legend

- Streets
- Grading Extents
- Section Lines
- Lots
- Subdivisions

Easement Types

- Unknown
- Fee Title
- Fee Title & Indefinite Easement
- Indefinite Easement
- Permanent & Indefinite Easement
- Permanent Easement
- Temporary Easement

N

0 25 50 100 Feet

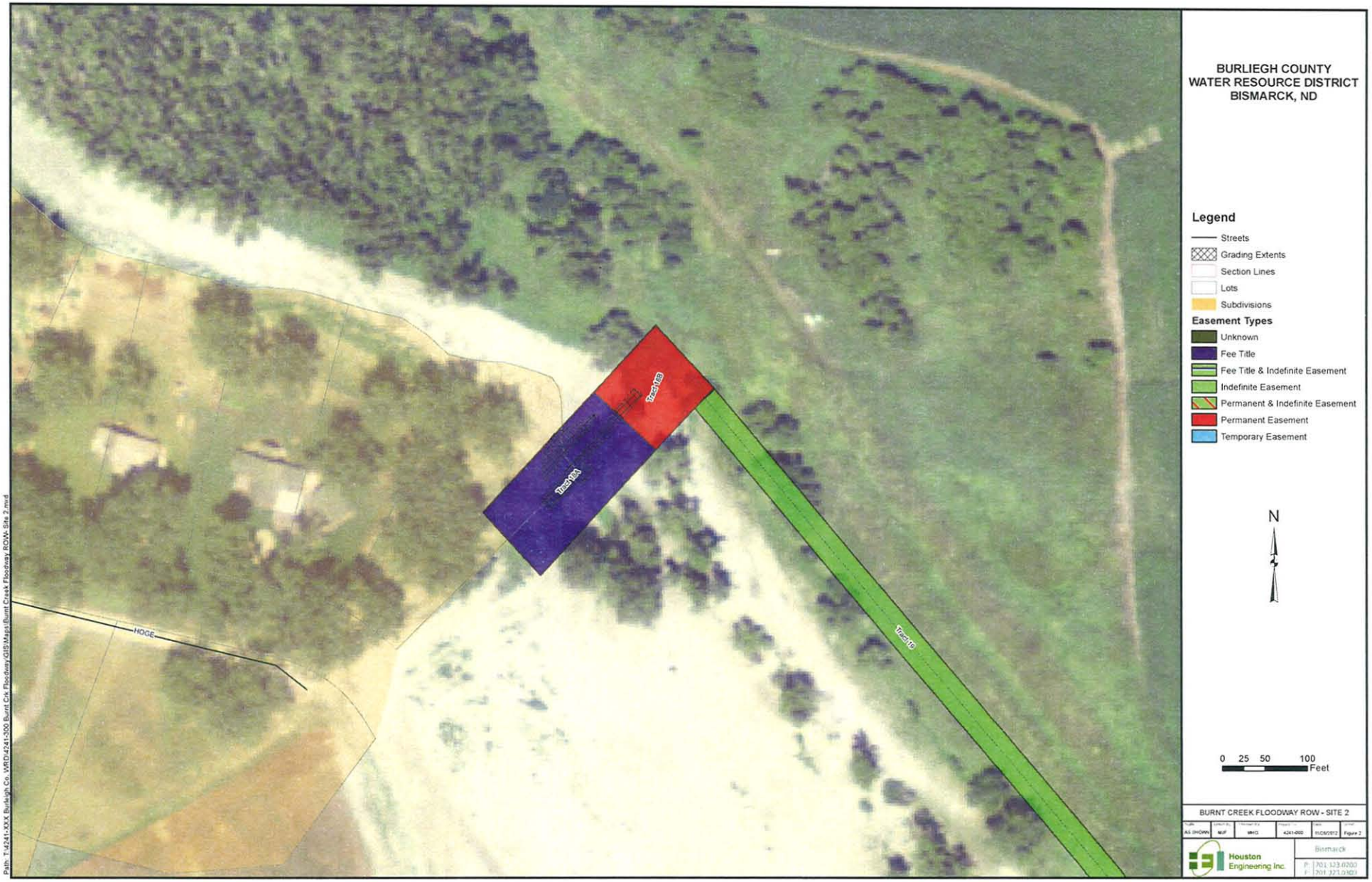
BURNT CREEK FLOODWAY ROW - SITE 1

Scale	Drawn By	Checked By	Project No.	Date	Sheet
AS SHOWN	MJF	MHG	4241-000	11/26/2012	Figure 1

Houston Engineering Inc.

Bismarck
P: 701.323.0200
F: 701.323.0301

Path: T:\4241-XXX Burleigh Co. WRD\4241-300 Burnt Crk Floodway\GIS\Maps\Burnt Creek Floodway ROW- Site 1.mxd



BURLIEGH COUNTY
WATER RESOURCE DISTRICT
BISMARCK, ND

Legend

- Streets
- Grading Extents
- Section Lines
- Lots
- Subdivisions

Easement Types

- Unknown
- Fee Title
- Fee Title & Indefinite Easement
- Indefinite Easement
- Permanent & Indefinite Easement
- Permanent Easement
- Temporary Easement

N

0 25 50 100 Feet

BURNT CREEK FLOODWAY ROW - SITE 2

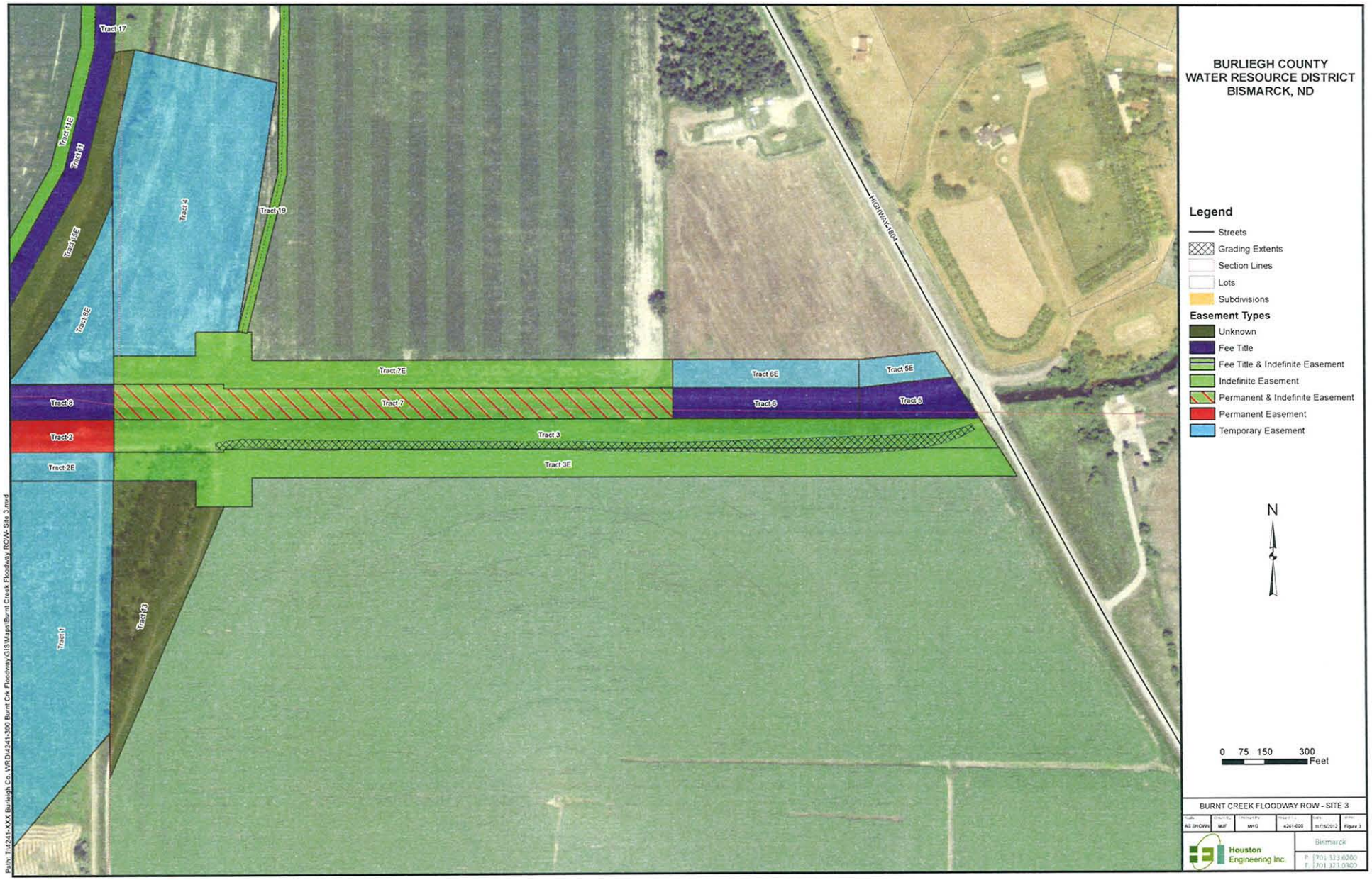
Scale	Drawn By	Checked By	Project #	Date	Sheet
AS SHOWN	MJF	MHG	4241-000	11/26/2012	Figure 2

Houston Engineering Inc.

Bismarck

P: 701.323.0200
F: 701.323.0301

Path: T:\4241-XXX Burleigh Co. WRD\4241-300 Burnt Crk Floodway\GIS\Maps\Burnt Creek Floodway ROW- Site 2.mxd


Tract 17
Tract 1E
Tract 11
Tract 4E
Tract 4
Tract 19
HIGHWAY 1804
Tract 7E
Tract 6E
Tract 5E
Tract 8
Tract 7
Tract 6
Tract 5
Tract 2
Tract 3
Tract 2E
Tract 3E
Tract 1
Tract 13
BURLIEGH COUNTY
WATER RESOURCE DISTRICT
BISMARCK, ND
Legend
Streets
Grading Extents
Section Lines
Lots
Subdivisions
Easement Types
Unknown
Fee Title
Fee Title & Indefinite Easement
Indefinite Easement
Permanent & Indefinite Easement
Permanent Easement
Temporary Easement
N
0 75 150 300
Feet
BURNT CREEK FLOODWAY ROW - SITE 3
AS SHOWN
MJF
MHG
4241-000
11/26/2012
Figure 3
Houston Engineering Inc.
Bismarck
P 701.323.6200
F 701.323.6300
Path: T:\4241-XXX Burleigh Co. WRD\4241-300 Burnt Crk. Floodway\GIS\Maps\Burnt Creek Floodway ROW\ Site 3.mxd

ab

AUTHORIZED
PERSONNEL ONLY
NO
TRESPASSING

Mona Livdahl

From: David Bliss <dbliss@blisslaw.com>
Sent: Wednesday, November 29, 2017 8:35 AM
To: Greg Larson; Rick Detwiller; Dennis Reep; 'Rodney L. Beck; james.landenberger@bartwest.com
Cc: Mona Livdahl; Michael Gunsch
Subject: FW: Scanned image from Tschider & Smith Law
Attachments: Deed, May, 1975, Tract 11, etc..pdf; Tract 11 Aerial.pdf

Board members,

Below please find Dave Tschider's request of the District to post its Tract 11 Burnt Creek Floodway property. I have attached Mr. Tschider's two attachments to me. Please call if you have questions.

Mona, would you include this correspondence in the agenda book?

Dave

DAVID R. BLISS
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(701) 471-3972 (cell)
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South Dakota and Minnesota

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-----Original Message-----
From: David Tschider [mailto:dtschider@Tschider-smithlaw.com]
Sent: Tuesday, November 28, 2017 3:47 PM
To: David Bliss
Subject: RE: Scanned image from Tschider & Smith Law

Hello.
As was discussed, the Deed delivered to the Water District was very poorly drafted. At this point, it is unclear as to what property in the North "creek" the District owns, as the Deed failed to include a legal description of "Tract 11" . The District owned Tract appears to be a corridor either 70'

or 50' feet in width, on the West side of the abandoned channel bank, and "dead ends" well South of 97th Avenue. No one is looking to pick a fight with the District regarding who owns what.

The problem which gave rise to my request relates to an individual who said the creek bed is "public property". To say the least, he is a problem child with an attitude. I posted the creek bed for Bourgois and Hogue, which did not stop his incursions onto their land. To be sure I have all bases covered, I would ask that the District allow the posting of its Tract, whatever that tract may be, on the North side of the diversion ditch, where the diversion channel bends from the East to the South. A metal NO TRESPASSING sign would be fine. In fact, I will install the sign if the District provides the post and the sign...easy task. If he dare enter the property thereafter I will deal with him.

This would not be a problem but for the fact that he is a self-proclaimed expert who is of the opinion that he and his guests can hunt wherever they please. All he had to do was ask and he likely would have been granted permission. In his opinion he has no obligation to ask.

Thanks. dt

-----Original Message-----
From: David Bliss [mailto:dbliss@blisslaw.com]
Sent: Tuesday, November 28, 2017 10:07 AM
To: David Tschider <dtschider@Tschider-smithlaw.com>
Cc: Greg Larson <glarson@century21morrison.com>; Rick Detwiller <rdetwiller1@gmail.com>; Michael Gunsch <mgunsch@houstoneng.com>
Subject: FW: Scanned image from Tschider & Smith Law

Dave,

This email will confirm our November 27, 2017 telephone conversation. I understand that landowners adjacent to the District's Tract 11 Burnt Creek property have experienced trespassing issues, and that you and/or landowners would like to request that the District post its Tract 11 property. As we discussed, please send me an email which sets forth your request to the District, and the District can then discuss your request at its December meeting.

Best,

Dave

DAVID R. BLISS
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262254

DEED

THIS INDENTURE, Made this 23 day of May, 1975, between Peter Hogue of Bismarck, North Dakota, party of the first part, and The Burleigh County Water Management District, a body politic, and a corporation under the laws of the State of North Dakota, party of the second part;

WITNESSETH:

That the said party of the first part, for and in consideration of the sum of Seven Thousand Six Hundred Fifty Seven Dollars ($7,657.00), to him in hand paid by said party of the second part, the receipt whereof is hereby acknowledged, does by these presents Grant, Bargain, Sell and Convey unto the said party of the second part, its successors and assigns, the tracts and parcels of land lying and being in the County of Burleigh and State of North Dakota, and described as follows, towit:

> Tracts 11, 15, 16A, 17, and 18A, all in Sections Twenty Seven (27) and Thirty Four (34), Township One Hundred Forty (140), North, Range Eighty One (81), West of the 5th P.M., which tracts are more fully described in the document hereto attached as Exhibit A.

That in addition, the party of the first part grants, bargains, sells, conveys and releases unto the said party of the second part a temporary easement for construction purposes only to the following described real property, also situated in Burleigh County, North Dakota, towit:

> Tract 11E in Section Thirty Four (34), Township One Hundred Forty (140) North, Range Eighty One (81), West of the 5th P.M., which tract is more fully described in the document hereunto attached and marked Exhibit A.

That in addition, the party of the first part grants, bargains, sells, conveys and releases unto the party of the second part, a permanent easement for the purpose of ingress and egress only by the party of the second part, its agents and employees, for the purpose

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of access to Tract 11 as herein described, the said real property in Burleigh County, North Dakota, towit:

Tract 12 in Section Thirty Four (34), Township One Hundred Forty (140), North, Range Eighty One (81), West of the 5th P.M., which tract is more fully described in the document hereunto attached as Exhibit B.

The property conveyed herein in fee is for the purpose of the construction, maintenance and operation of a ditch for the drainage of excess waters, flap gates and embankments connected therewith in accordance with plans and specifications prepared by the United States Department of Agriculture, Soil Conservation Service, dated March 10th and April 30th 1975, respectively, for a project described as the Burnt Creek Flood Control Project, a copy of which has been furnished to the grantor, and for the construction and maintenance of a roadway over the hereindescribed property for the purpose of maintenance of said improvements with the right of ingress and egress for such purposes. The party of the second part shall be responsible for the operation and maintenance of the above described works of improvement.

The temporary easement conveyed herein is granted for the purpose of construction only and shall remain in effect only during the course of the construction of such project and upon the termination of such construction such temporary easement shall be terminated.

The party of the second part hereby agrees to indemnify and to hold and save the party of the first part harmless from any and all damages to his lands not conveyed herein ~~either~~ in fee ~~or easement~~ arising from the use of the rights, easement and right-of-way herein granted, and agrees to pay any damages which may arise to the party of the first part's property through the use, occupation and possession of the rights herein granted by the party of the second part.

The party of the second part further agrees to replace any fences of the grantor which may be upon the property herein conveyed to the satisfaction of the party of the first part, not later than October 15, 1975, to protect cattle brought down for winter.

Party of the first part reserves unto himself, his heirs and assigns a right-of-way over tracts which are granted in fee herein for access to any property of said first party severed by this conveyance.

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TO HAVE AND TO HOLD THE SAME, Together with all the hereditaments and appurtenances thereunto belonging or in anywise appertaining, to the said party of the second part, its successors and assigns, FOREVER. And the said Peter Hogue, party of the first part, for himself, his heirs, executors and administrators, does covenant with the said party of the second part, its successors and assigns, that he is well seized in fee of the land and premises aforesaid, and has good right to sell and convey the same in manner and form aforesaid; and the above bargained and granted land and premises in the quiet and peaceable possession of said party of the second part, its successors and assigns, against all persons lawfully claiming or to claim the whole or any part thereof, and the said party of the first part will warrant and defend.

For and in the further consideration of the covenants and agreements herein stated, the party of the second part covenants and agrees that a roadway not less than sixty-six feet (66') in width will be acquired by the party of the second part from the Burnt Creek Bridge over North River Road, also known as Lewis & Clark Highway No. 1804, to the Old Missouri River Channel separating Bourois Island from the mainland, and that said right-of-way will be dedicated as a highway right-of-way for public use.

IN WITNESS WHEREOF, The said party of the first part hereunto sets his hand the day and year first above written.

Peter Hogue
PETER HOGUE

STATE OF NORTH DAKOTA)
)ss.
COUNTY OF BURLEIGH)

On this 23 day of May, 1975, before me, a Notary Public within and for said county and state, personally appeared Peter Hogue, known to me to be the person who is described in and who executed the within and foregoing instrument, and acknowledged to me that he executed the same.

Delinquent taxes and special assessments or installments of special assessments paid for and transfer entered this 28 day of May 1975
J. Kenneth Kaplan
Burleigh County Auditor
By Esther M. Zinke
Deputy

(SEAL)

Jean Zaw
NOTARY PUBLIC
Burleigh County, North Dakota
My Commission expires: 11-4-76

Lundberg & Nolland
Box 1675, Bsk. $4.00

TRACT 11 - PERMANENT

TRACT 11E - WORK EASEMENT

ALL THAT PART OF THE EAST ONE HALF (E½) OF SECTION THIRTY-FOUR (34), TOWNSHIP ONE HUNDRED FORTY NORTH (T. 140 N.), RANGE EIGHTY-ONE WEST (R. 81 W.) OF THE FIFTH PRINCIPAL MERIDIAN (5TH P.M.), BURLEIGH COUNTY, NORTH DAKOTA THAT LIES WITHIN SEVENTY (70.00) FEET TO THE RIGHT AND WITHIN FIFTY (50.00) FEET TO THE LEFT OF THE FOLLOWING DESCRIBED TRAVERSE LINE:

BEGINNING AT A POINT THAT LIES ON THE SOUTH LINE OF SAID SECTION THIRTY-FOUR (34) A DISTANCE OF SEVEN HUNDRED SIXTY-THREE AND EIGHTY-NINE HUNDREDTHS (763.89) FEET WEST OF THE SOUTHEAST CORNER OF SAID SECTION THIRTY-FOUR (34); THENCE BEARING NORTH THIRTY-NINE DEGREES, FORTY-EIGHT MINUTES AND TWENTY SECONDS EAST (N. 39°-48'-20" E.) A DISTANCE OF FOUR HUNDRED FORTY-FIVE AND THIRTY-FIVE HUNDREDTHS (445.35) FEET; THENCE BEARING NORTH THIRTY DEGREES, SIX MINUTES AND THIRTY-EIGHT SECONDS EAST (N. 30°-06'-38" E.), A DISTANCE OF SIX HUNDRED FOURTEEN AND SIX HUNDREDTHS (614.06) FEET; THENCE BEARING NORTH FOURTEEN DEGREES, ELEVEN MINUTES AND TWENTY-EIGHT SECONDS EAST (N. 14°-11'-28" E.) A DISTANCE OF FOUR HUNDRED FORTY AND TWO HUNDREDTHS (440.02) FEET; THENCE BEARING NORTH ONE DEGREE, FIFTY-TWO MINUTES AND TWENTY-EIGHT SECONDS EAST (N. 1°-52'-28" E.) A DISTANCE OF TWO HUNDRED SIXTY-SIX AND FIFTY-ONE HUNDREDTHS (266.51) FEET; THENCE BEARING NORTH THIRTEEN DEGREES, FIFTY-SEVEN MINUTES AND THIRTY-THREE SECONDS WEST (N. 13°-57'-33" W.) A DISTANCE OF THREE HUNDRED FIFTY-ONE AND FORTY-ONE HUNDREDTHS (351.41) FEET; THENCE BEARING NORTH TWENTY-TWO DEGREES, FORTY-NINE MINUTES AND TWELVE SECONDS WEST (N. 22°-49'-12" W.) A DISTANCE OF THREE HUNDRED SIXTY-SIX AND THIRTY-SEVEN HUNDREDTHS (366.37) FEET; THENCE BEARING NORTH THIRTY-NINE DEGREES, THIRTY-FIVE MINUTES AND SIX SECONDS WEST (N. 39°-35'-06" W.) A DISTANCE OF FIVE HUNDRED THIRTY-ONE AND NINETY-NINE HUNDREDTHS (531.99) FEET; THENCE BEARING NORTH FORTY-SEVEN DEGREES, FORTY MINUTES AND TWENTY-NINE SECONDS WEST (N. 47°-40'-29" W.) A DISTANCE OF NINE HUNDRED SIXTY-NINE AND SEVENTY-NINE HUNDREDTHS (969.79) FEET; THENCE BEARING NORTH SIXTY-FIVE DEGREES, FIFTY-ONE MINUTES AND TWENTY-FOUR SECONDS WEST (N. 65°-51'-24" W.) A DISTANCE OF SIX HUNDRED SIX AND ONE HUNDREDTH (606.01) FEET TO THE POINT OF ENDING.

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PERMANENT EASEMENT IN THE ABOVE DESCRIBED TRACT LIES WITHIN SEVENTY (35) FEET TO THE RIGHT OF THE TRAVERSE LINE AND CONTAINS SEVEN AND FOUR TENTHS (7.4) ACRES, MORE OR LESS.

WORK EASEMENT IN THE ABOVE DESCRIBED TRACT LIES WITHIN FIFTY (50) FEET TO THE LEFT OF THE TRAVERSE LINE AND CONTAINS FIVE AND THREE TENTHS (5.3) ACRES, MORE OR LESS.

OFFICE OF REGISTER OF DEEDS SEAL BURLEIGH COUNTY, N.D.

STATE OF NORTH DAKOTA
COUNTY OF BURLEIGH

I HEREBY CERTIFY THAT THE WITHIN INSTRUMENT WAS FILED IN THIS OFFICE FOR RECORD ON MAY 28 1975 AT 11:25 O'CLOCK A. M. AND RECORDED AS DOCUMENT No. 262284

BY Thomas Holmes
DEPUTY

REGISTER OF DEEDS

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Ex. B

TRACT 12

ALL THAT PART OF THE NORTH ONE HALF (N ½) OF SECTION THIRTY-FOUR (34) AND THE SOUTH ONE HALF OF THE SOUTH ONE HALF OF THE SOUTH ONE HALF (S ½ S ½ S ½) OF SECTION TWENTY-SEVEN (27), TOWNSHIP ONE HUNDRED FORTY NORTH (T. 140 N.), RANGE EIGHTY-ONE WEST (R. 81 W.) OF THE FIFTH PRINCIPAL MERIDIAN (5TH P.M.), BURLEIGH COUNTY, NORTH DAKOTA, THAT LIES WITHIN SIXTEEN AND FIVE TENTHS (16.5) FEET ON EACH SIDE OF THE FOLLOWING DESCRIBED CENTERLINE:

THE BEARINGS OF THIS DESCRIPTION ARE BASED ON THE SOUTH LINE OF SECTION THIRTY-FOUR (34) OF SAID TOWNSHIP AS BEING DUE WEST.

BEGINNING AT A POINT THAT LIES THREE THOUSAND FIVE HUNDRED EIGHTY-SEVEN (3587) FEET NORTH AND ONE THOUSAND EIGHT HUNDRED SEVENTY-FOUR (1874) FEET WEST OF THE SOUTHEAST CORNER OF SAID SECTION THIRTY-FOUR (34), SAID POINT OF BEGINNING ALSO DESCRIBED AS LYING NORTH TWENTY-SEVEN DEGREES, TWELVE MINUTES AND FOURTEEN SECONDS EAST (N. 27°-12'-14" E.) A DISTANCE OF THIRTY-FIVE (35) FEET FROM THE POINT OF ENDING OF TRACTS ELEVEN (11) AND ELEVEN E (11E) OF SAID SECTION THIRTY-FOUR (34); THENCE BEARING NORTH SIXTY-FOUR DEGREES, THIRTY-SEVEN MINUTES AND FORTY-TWO SECONDS WEST (N. 64°-37'-42" W.) A DISTANCE OF THREE HUNDRED TWENTY-TWO AND SIX HUNDREDTHS (322.06) FEET; THENCE BEARING NORTH FORTY-NINE DEGREES, FOURTEEN MINUTES AND ELEVEN SECONDS WEST (N. 49°-14'-11" W.) A DISTANCE OF ONE HUNDRED NINETY-ONE AND FORTY-FOUR HUNDREDTHS (191.44) FEET; THENCE BEARING NORTH THIRTY-EIGHT DEGREES, ONE MINUTE AND FORTY-EIGHT SECONDS WEST (N. 38°-01'-48" W.) A DISTANCE OF FOUR HUNDRED FIFTY-FOUR AND FORTY-NINE HUNDREDTHS (454.49) FEET; THENCE BEARING NORTH

THIRTY DEGREES, FORTY-FOUR MINUTES AND FOURTEEN SECONDS WEST (N. 30°-44'-14" W.) A DISTANCE OF SIX HUNDRED NINETY-FOUR AND FIFTY-SEVEN HUNDREDTHS (694.57) FEET; THENCE BEARING NORTH SIXTEEN DEGREES, THIRTY MINUTES AND SIXTEEN SECONDS WEST (N. 16°-30'-16" W.) A DISTANCE OF FIVE HUNDRED SIXTY-THREE AND TWENTY-ONE HUNDREDTHS (563.21) FEET TO THE POINT OF ENDING.

THE ABOVE DESCRIBED TRACT OF LAND CONTAINS ONE AND SEVEN TENTHS (1.7) ACRES, MORE OR LESS.

A

TRACT 15

ALL THAT PART OF THE SOUTH ONE HUNDRED TWENTY-FIVE (125) FEET OF THE SOUTHEAST QUARTER OF THE SOUTHEAST QUARTER (SE ¼ SE ¼) OF SECTION THIRTY-FOUR (34), TOWNSHIP ONE HUNDRED FORTY NORTH (T. 140 N.), RANGE EIGHTY-ONE WEST (R. 81 W.) OF THE FIFTH PRINCIPAL MERIDIAN (5TH P.M.), BURLEIGH COUNTY, NORTH DAKOTA THAT LIES WEST OF THE CENTER LINE OF THE SECONDARY MISSOURI RIVER CHANNEL AND EAST OF A LINE THAT IS PARALLEL TO AND SEVENTY (70) FEET EASTERLY OF THE FOLLOWING DESCRIBED TRAVERSE LINE:

BEGINNING AT A POINT ON THE SOUTH LINE OF SAID SECTION THIRTY-FOUR (34) AND SEVEN HUNDRED SIXTY-THREE AND EIGHTY-NINE HUNDREDTHS (763.89) FEET WEST OF THE SOUTHEAST CORNER OF SAID SECTION THIRTY-FOUR (34); THENCE BEARING NORTH THIRTY-NINE DEGREES, FORTY-EIGHT MINUTES AND TWENTY SECONDS EAST (N. 39°-48'-20" E.) A DISTANCE OF FOUR HUNDRED FORTY-FIVE AND THIRTY-FIVE HUNDREDTHS (445.35) FEET. THE SEVENTY (70) FOOT PARALLEL LINE DESCRIBED ABOVE IS ALSO THE EASTERLY BOUNDARY OF TRACT ELEVEN (11) OF SAID SECTION THIRTY-FOUR (34).

THE ABOVE DESCRIBED TRACT CONTAINS SIX TENTHS (0.6) OF AN ACRE, MORE OR LESS.

TRACT 16 A

A

ALL THAT PART OF THE SOUTH ONE HALF OF THE SOUTH ONE HALF OF THE SOUTH ONE HALF (S½, S½, S½) OF SECTION TWENTY-SEVEN (27), TOWNSHIP ONE HUNDRED FORTY NORTH (T. 140 N.), RANGE EIGHTY-ONE WEST (R. 81 W.) OF THE FIFTH PRINCIPAL MERIDIAN (5TH P.M.), BURLEIGH COUNTY, NORTH DAKOTA THAT LIES WITHIN FIFTY (50) FEET ON EACH SIDE OF THE FOLLOWING DESCRIBED CENTERLINE AND WEST OF THE CENTERLINE OF THE SECONDARY MISSOURI RIVER CHANNEL:

THE BEARINGS OF THIS DESCRIPTION ARE BASED ON THE SOUTH LINE OF SECTION THIRTY-FOUR (34) OF SAID TOWNSHIP AND RANGE AS BEING DUE WEST.

BEGINNING AT A POINT THAT LIES FIVE THOUSAND THREE HUNDRED FORTY-FIVE (5345) FEET NORTH AND THREE THOUSAND ONE HUNDRED FIVE (3105) FEET WEST OF THE SOUTHEAST CORNER OF SECTION THIRTY-FOUR (34) SAID TOWNSHIP ONE HUNDRED FORTY NORTH (T. 140 N.), RANGE EIGHTY-ONE WEST (R. 81 W.), SAID POINT ALSO DESCRIBED AS BEING THE POINT OF ENDING FOR TRACT TWELVE (12) OF SAID SECTIONS THIRTY-FOUR (34) AND TWENTY-SEVEN (27); THENCE BEARING NORTH TWENTY-TWO DEGREES, TWENTY-TWO MINUTES AND FORTY-EIGHT SECONDS WEST (N. 22°-22'-48" W.) A DISTANCE OF NINETY-ONE AND NINETY-TWO HUNDREDTHS (91.92) FEET; THENCE BEARING NORTH SIXTY-FOUR DEGREES, FORTY-SEVEN MINUTES AND FIFTY-SIX SECONDS EAST (N. 64°-47'-56" E.) A DISTANCE OF ONE HUNDRED NINETY (190) FEET, MORE OR LESS TO THE CENTERLINE OF THE SECONDARY MISSOURI RIVER CHANNEL.

THE ABOVE DESCRIBED TRACT OF LAND CONTAINS SEVEN TENTHS (0.7) OF AN ACRE, MORE OR LESS.

A

TRACT 17

ALL THAT PART OF THE WEST HALF OF THE SOUTHWEST QUARTER (W ½ SW ¼) OF SECTION THIRTY-FIVE (35), TOWNSHIP ONE HUNDRED FORTY NORTH (T. 140 N.), RANGE EIGHTY-ONE WEST (R. 81 W.) OF THE FIFTH PRINCIPAL MERIDIAN (5TH P.M.), BURLEIGH COUNTY, NORTH DAKOTA THAT LIES EAST OF THE WEST SECTION LINE OF SAID SECTION THIRTY-FIVE (35) AND ALSO LIES WITHIN SEVENTY (70) FEET TO THE RIGHT OF THE FOLLOWING DESCRIBED TRAVERSE LINE:

BEGINNING AT A POINT THAT LIES ON THE SOUTH LINE OF SECTION THIRTY-FOUR (34), SAID TOWNSHIP ONE HUNDRED FORTY NORTH (T. 140 N.), RANGE EIGHTY-ONE WEST (R. 81 W.) A DISTANCE OF SEVEN HUNDRED SIXTY-THREE AND EIGHTY-NINE HUNDREDTHS (763.89) FEET WEST OF THE SOUTHEAST CORNER OF SAID SECTION THIRTY-FOUR (34); THENCE BEARING NORTH THIRTY-NINE DEGREES, FORTY-EIGHT MINUTES AND TWENTY SECONDS EAST (N. 39°-48'-20" E.) A DISTANCE OF FOUR HUNDRED FORTY-FIVE AND THIRTY-FIVE HUNDREDTHS (445.35) FEET; THENCE BEARING NORTH THIRTY DEGREES, SIX MINUTES AND THIRTY-EIGHT SECONDS EAST (N. 30°-06'-38" E.) A DISTANCE OF SIX HUNDRED FOURTEEN AND SIX HUNDREDTHS (614.06) FEET; THENCE BEARING NORTH FOURTEEN DEGREES, ELEVEN MINUTES AND TWENTY-EIGHT SECONDS EAST (N. 14°-11'-28" E.) A DISTANCE OF FOUR HUNDRED FORTY AND TWO HUNDREDTHS (440.02) FEET; THENCE BEARING NORTH ONE DEGREE, FIFTY-TWO MINUTES AND TWENTY-EIGHT SECONDS EAST (N. 1°-52'-28" E.) A DISTANCE OF TWO HUNDRED SIXTY-SIX AND FIFTY-ONE HUNDREDTHS (266.51) FEET; THENCE BEARING NORTH THIRTEEN DEGREES, FIFTY-SEVEN MINUTES AND THIRTY-THREE SECONDS WEST (N. 13°-57'-33" W.) A DISTANCE OF THREE HUNDRED FIFTY-ONE AND FORTY-ONE HUNDREDTHS (351.41) FEET TO THE POINT OF ENDING.

THE ABOVE DESCRIBED TRACT OF LAND CONTAINS ONE TENTH (0.1) ACRES, MORE OR LESS.

A

TRACT 18A

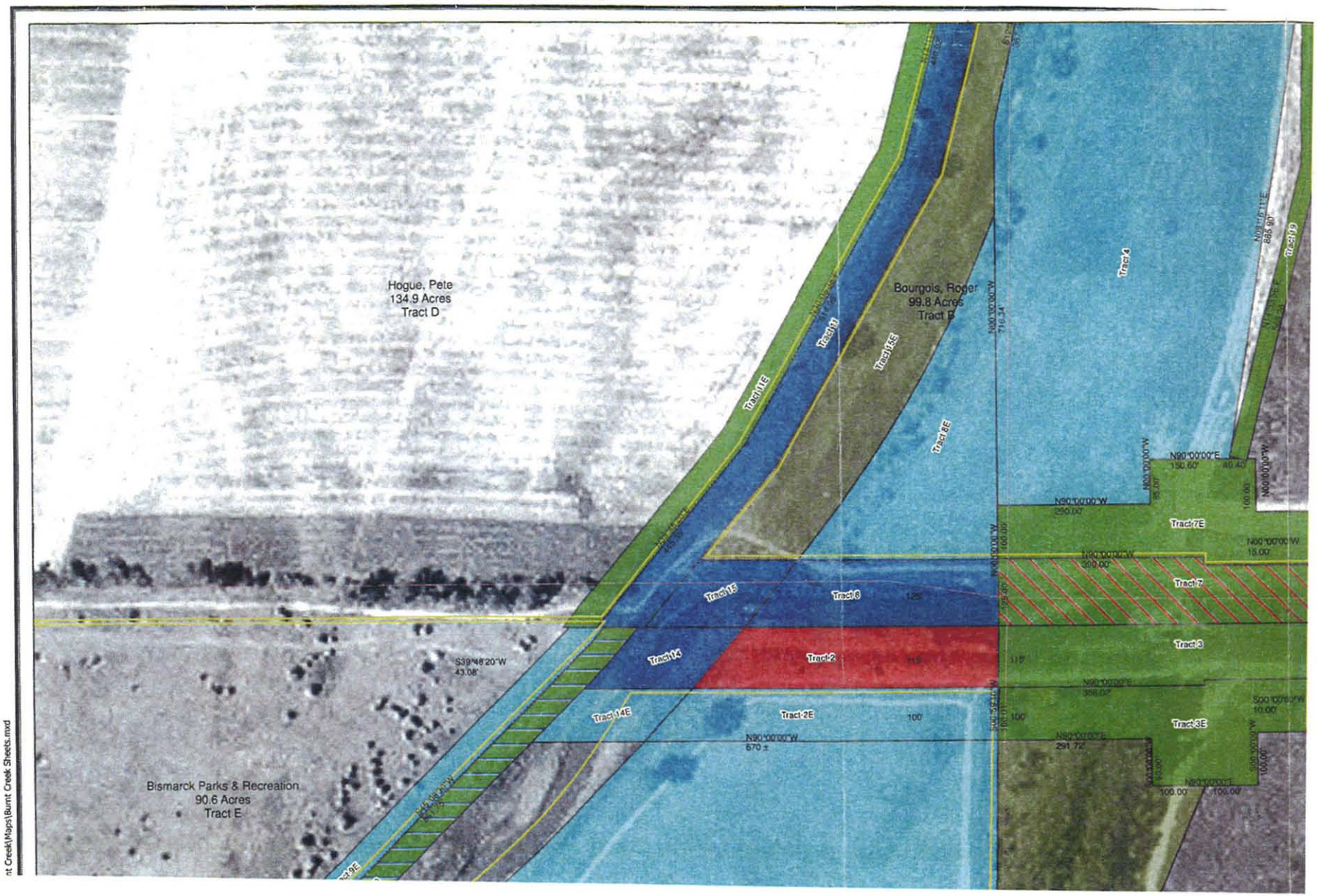
ALL THAT PART OF THE NORTHWEST QUARTER (NW¼) OF SECTION TWENTY-SEVEN (27), TOWNSHIP ONE HUNDRED FORTY NORTH (T. 140 N.), RANGE EIGHTY-ONE WEST (R. 81 W.) OF THE FIFTH PRINCIPAL MERIDIAN (5TH P.M.), BURLEIGH COUNTY, NORTH DAKOTA THAT LIES WITHIN ONE HUNDRED (100) FEET TO THE LEFT OF THE FOLLOWING DESCRIBED TRAVERSE LINE:

THE BEARINGS OF THIS DESCRIPTION ARE BASED ON THE SOUTH LINE OF SECTION THIRTY-FOUR (34) OF SAID TOWNSHIP AND RANGE AS BEING DUE WEST.

BEGINNING AT A POINT THAT LIES EIGHT THOUSAND ONE HUNDRED FORTY-SIX AND SIX HUNDREDTHS (8146.06) FEET NORTH AND THREE THOUSAND NINE HUNDRED NINETY AND THIRTY-THREE HUNDREDTHS (3990.33) FEET WEST OF THE SOUTHEAST CORNER OF SECTION THIRTY-FOUR (34), SAID TOWNSHIP ONE HUNDRED FORTY NORTH (T. 140 N.), RANGE EIGHTY-ONE WEST (R. 81 W.); THENCE BEARING NORTH FORTY-TWO DEGREES, FIFTY-TWO MINUTES AND FORTY-FOUR SECONDS EAST (N. 42°-52'-44" E.) A DISTANCE OF TWO HUNDRED (200) FEET, MORE OR LESS TO THE CENTERLINE OF THE SECONDARY MISSOURI RIVER CHANNEL.

THE ABOVE DESCRIBED TRACT OF LAND CONTAINS FIVE TENTHS (0.5) OF AN ACRE, MORE OR LESS.

94



nt Creek\Maps\Burnt Creek Sheets.mxd

Emailed 11-14-17

State of North Dakota
Office of the State Engineer

900 EAST BOULEVARD AVE. • BISMARCK, ND 58505-0850
701-328-2750 • FAX 701-328-3696 • http://swc.nd.gov

November 9, 2017

SOLICITATION OF VIEWS

RE: APPLICATIONS TO THE STATE ENGINEER FOR AUTHORIZATION TO CONSTRUCT A PROJECT WITHIN ISLANDS AND BEDS OF NAVIGABLE STREAMS OR WATERS OF THE STATE OF NORTH DAKOTA.

BNSF Railway Company, Lincoln, Nebraska, Applicant, Application No. **S-2095**

BNSF Railway Company (Applicant), Lincoln, Nebraska, has filed an application with the Office of the State Engineer to construct a new single-track railroad bridge (Bridge No. 196.6A) over the Missouri River between Bismarck and Mandan in Burleigh and Morton Counties. The new bridge is intended to replace the existing bridge which was constructed in 1883. The existing structure consists of three primary steel-truss river spans totaling approximately 1,200-feet of the overall 1,470-foot long structure. The new bridge would be located approximately 30-feet north of the center line of the existing bridge.

The new bridge would consist of 5-steel deck plate girder river spans totaling approximately 1,000-feet of the overall 1,550-foot long structure. The five river spans would be supported by 4- cast in place concrete piers placed on driven steel piling. Construction of river piers 5, 6, 7, and 8 would result in the permanent placement of concrete piers, riprap mats, and H-steel piling below the ordinary high water mark (OHWM), which has been identified as 1,628.50 (NAVD 88). The new bridge pier width would extend south of the proposed alignment to accommodate a future second track within the existing alignment.

Work occurring below the OHWM would consist of temporary sheet pile cofferdam installation, pier construction within the cofferdams, riprap scour countermeasures, dock wall construction, and if necessary, construction of an earthen causeway. The primary means of access for construction of the river piers and spans would be by barges. A minimum of two barges would be delivered to the staging and lay-down area located above the right bank on the river and set into the river using cranes. Barges would remain moored adjacent to the active work site within the river while in use. Additional material barges would be moored to the dock wall and used to transport construction materials and spoil between the work areas and the staging and lay-down area.

The use of barges would require the construction of a dock wall and temporary staging and lay-down area on the right bank of the river. The staging and lay-down area would consist of approximately 9,380 cubic yards (CY) of compacted fill material over 4,425 square yards (SY) of geotextile fabric

below the OHWM to provide a flat work area. The fill material would be retained in place by the temporary dock wall of sheet piling 585-feet long parallel to the shoreline. The sheet piling would be placed in the river as close to the shore as possible while still providing an adequate water depth for the barges. A similar designed, smaller 165-foot long temporary working platform would be required on the left bank which would require the placement of approximately 140 CY of fill over 262 SY of geotextile fabric below OHWM.

To minimize impacts to river hydraulics, no more than two cofferdams would be installed at any one time. The steel sheet pile cofferdams would be 52-feet wide and 72-feet long and be installed using vibratory methods. Approximately 17,400 CY of material contained within the cofferdams would be excavated using a clamshell and transported by barge holding tanks to the right bank staging and lay-down area for disposal. Within the excavated cofferdams, steel H-piling would be installed using a diesel-powered hammer. A permanent concrete seal would be installed at the base of the cofferdams, the water pumped out into the main channel, and pier stem construction would begin. The cofferdam would no longer be needed once stem construction has risen to above the waters surface. The excavated volume of riverbed material would be backfilled with approximately 4,950 CY of seal concrete, 3,230 CY of footing concrete, 1,710 CY of stem concrete, 1,060 CY of riprap, and 6,450 CY of fill. Removal of the steel sheets would then be attempted by vibratory methods. If removal is not possible, the sheets would be cut-off at the lowest possible elevation.

The anticipated construction method would involve the use of barges which would require a minimum depth of 6 feet to operate as intended. However, sufficient water depth at the time of construction cannot be guaranteed. Therefore, localized dredging near the dock wall may be necessary to obtain and maintain this required depth. Dredge materials would be transported by barge to the spoil pile within the staging area to be disposed of.

If dredging proves ineffective or offensive, an earth causeway may be necessary. Given the depth of the river, it is assumed the causeway would be required for the construction of pier 7 only. The 30-foot wide causeway would begin at the dock wall and continue to pier 7 and would require approximately 1,835 CY of compacted fill and 565 CY of rip rap material over a 1,180 SY of geotextile fabric.

Riprap scour countermeasures would be installed at the base of each river pier and consist of 3-foot thick riprap mats each measuring 76-feet wide and 118-feet long. In total, the four mats would require approximately 3,700 CY of riprap placed over 3,700 SY of geotextile fabric.

Upon completion of the substructure piers, construction of the superstructure sections would begin. The river spans would be constructed of steel plate girders which would be fabricated off site and delivered in segments to the project. Installation of the girders would be completed with cranes placed on barges, within the staging and lay-down area, or on the left bank working platform.
The existing bridge would remain in place to maintain rail traffic until construction of the new bridge is complete. The construction of the additional piers within the river would increase the water surface profile and river hydraulics. To minimize these impacts, the existing bridge would be completely removed once the new structure is completed. Removal operations would be completed by mechanical means only and demolition would not be allowed. A separate application and authorization would be required for the removal of the existing bridge.

The project is expected to begin during the 2018 construction season. Bridge construction is anticipated to be complete in May 2021. Demolition of the existing bridge is anticipated to occur in the fall/winter of 2021.

The project would be located in the N ¼ of Section 31, Township 139 North, Range 80 West, Burleigh and Morton Counties.

Projects which lie either partially or wholly below the ordinary high watermark of navigable streams or waters may require authorization from the State Engineer prior to construction or operation. At the discretion of the State Engineer, a public meeting may be held on the project for the purpose of gathering information. The State Engineer will consider riparian owner's rights, recreation, navigation, aesthetics, erosion, wildlife, water quality, maintenance of existing water flows, alternative uses, and the environment in determining whether to grant the authorization.

To ensure that all environmental, economic and social factors are considered in the evaluation of this application, your views and comments are solicited. It is requested that any comments or information be forwarded within **30** days of the date of this mailing to the State Engineer, at 900 East Boulevard Avenue, Bismarck, North Dakota. If no reply is received within the **30** days, it will be assumed that your agency has no comment on this project.

Sincerely,

Ashley C. Persinger

Ashley C. Persinger
Sovereign Land Specialist

AP:ph/1625

Enclosures: Sovereign Land Application
Specifications
Map

cc: Mike Humann, North Dakota Department of Trust Lands
Jesse Hanson, North Dakota Parks and Recreation Department
Greg Link, North Dakota Game and Fish Department
Peter Wax, North Dakota Department of Health
U.S. Fish and Wildlife Service, Bismarck
State Historical Society of North Dakota
Burleigh County Water Resource District
Morton County Water Resource District
U.S. Army Corps Engineers, Bismarck

HoustonEngineering Inc. Fargo Office T 701.237.5065 F 701.237.5101
1401 21st Avenue North Fargo ND 58102

September 25, 2017

RECEIVED
SEP 26 2017
STATE WATER COMMISSION

Office of the North Dakota State Engineer
900 East Boulevard
Bismarck, ND 58505-0850

Subject: BNSF Railway Bridge 196.6
Application for Authorization to Construct a Project within Navigable Streams and Waters
HE Project No. 6680.007

On behalf of BNSF Railway Company, we are submitting this application and supporting documents to the Office of the North Dakota State Engineer to request a permit for the construction of this project. The location of Navigable Streams and Waters (Sovereign Lands) have been identified within the construction corridor and are shown on the attached Drawings. Minimal temporary and permanent impacts are anticipated from the construction of these features. Project impacts are described in the enclosed supporting information. The proposed work is scheduled to begin in 2018.

BNSF Railway Company currently owns and operates a single-track structure across the Missouri River in Bismarck, North Dakota. Located on the Jamestown subdivision of Line Segment 0038, the current structure is approximately 1470' in length and consists of three primary river spans and six approach spans. The primary river truss spans were installed in 1905 and are replacement structures for the steel truss spans dating from the original construction in 1883. With in-service components over 130 years old, the in-place structure is approaching the end of its useful service life. The structure has a history of exposure to ice jams and its substructure configuration renders it potentially susceptible to scour events. Although currently stable, the structure has experienced slope stability issues at both approaches in the past, resulting in unanticipated substructure movements.Therefore, the intent of the project is to construct a new, independent single-track bridge across the Missouri River upstream of the in-place structure.

This portion of track is an integral part of BNSF Railway Company's interstate rail system. Under the ICC Termination Act (ICCTA), 49 U.S.C. § 10501(b), the federal Surface Transportation Board has exclusive jurisdiction over railroad operations and facilities. Although state and local agencies do not have jurisdiction to compel railroads to submit to state or local permitting requirements as a condition of improving the railroads' interstate facilities, BNSF and other railroads can and often do voluntarily agree to comply with reasonable state and local environmental requirements in connection with railroad construction projects. This voluntary cooperation in no way is meant to confer jurisdiction on the state or local regulator but instead is a by-product of BNSF's commitment to partnership with the community.

BNSF Railway Company is committed to working closely with your agency to identify reasonable requirements we can mutually agree to implement as part of this project.

If you have any questions, or require additional information, please contact me at 701-237-5065.

Sincerely,
HOUSTON ENGINEERING, INC.

Mark D. Aanenson

MDA: he
Enclosures
cc: Ben Steinkamp, BNSF Railway Co.
Kris Swanson, BNSF Railway Co.
Michael Schaefer, BNSF Railway Co.

99

APPLICATION FOR AUTHORIZATION TO CONSTRUCT A PROJECT WITHIN ISLANDS AND BEDS OF NAVIGABLE STREAMS AND WATERS

Office of the State Engineer
900 East Boulevard
Bismarck, ND 58505-0850

Permit No. 5-2095

Project No. 1625

RECEIVED
Date Received Stamp
SEP 26 2017
SWC USE ONLY
STATE WATER COMMISSION

I, the undersigned, do hereby submit the following information to the Office of the State Engineer as an application to construct a project that may impact islands and beds of navigable streams and waters of North Dakota under NDCC Chapter 61-33.

GENERAL INFORMATION:

This Application must include a map from an actual survey, aerial photo or topographic map and plot map (if a development). The size of the map shall be 8½ by 11 inches. The map shall have a north arrow and approximate scale. Indicate the existing or proposed work on the drawing. Plans and specifications must be submitted if project includes construction work.

(1) Project will be located in the: Burleigh County and Morton County Water Resource District

(2) Legal description to the nearest 40 acre tract: ____ ¼ ____ ¼ Section 31 Township 139N Range 80W

(3) Is this application for modification of an existing project ☑Yes ☐No If so, what year was project constructed: 1880

By whom: George Shattuck Morison and Northern Pacific Railroad

(4) Proposed project involves ☑ water crossing, type railway bridge ☐ boat dock, ☐ boat ramp, ☐ water intake, ☐dredge, volume ____ cu. yds. ☑ filling, volume ____cu. yds. , type ____, ☐other (explain) see supporting information for details

(5) Water body on which project will be located: Missouri River

(6) Purpose: To construct a new, independent bridge across the Missouri River

(7) Project Description: The proposed construction includes the addition of a new, independent single-track bridge across the Missouri River upstream of the in-place structure.

(8) Contractor, if known: To be determined

(9) Anticipated construction start date: 2018 Completion date: May 2021

The filing of this application and its approval in no way relieves the applicant or riparian landowner from any responsibility or liability resulting from the construction, operation or failure of the project.

Riparian Land Owner or Organization Sponsor: (Print) BNSF Railway

Applicant: (Print) Michael Schaefer

Address: 201 N 7th St.
Lincoln, NE 68508

Phone: (H) ____

(W) 402-304-1437

Signature: M Schaefer Date Submitted: 9-25-17
(Riparian landowner or Organization Sponsoring the project)

100

NORTH DAKOTA STATE ENGINEER 1905

Sovereign Lands Permit Application No. S-2095
BNSF Railway

N 1/2 Section 31, T139N, R80W, Burleigh-Morton Counties

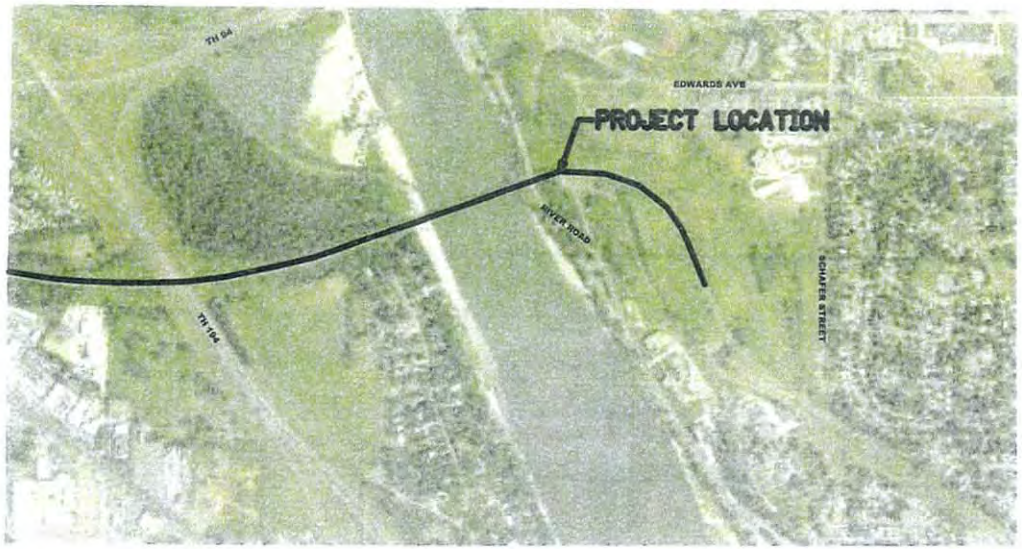
New Bridge Construction

N W E S

Date: 10/2/2017
Prepared by: CWN

THIS PLAN MUST NOT BE MODIFIED WITHOUT THE APPROVAL OF BNSF SYSTEM ENGINEERING

BNSF RAILWAY COMPANY
BRIDGE NO 196.6A GRADING PLAN
BISMARCK, ND (MP 196.39 - MP 197.20)



LIST OF DRAWINGS

GENERAL

DWG	REV	TITLE
G100	1	TITLE SHEET
G101	1	ESTIMATED QUANTITIES AND TYPICAL SECTION

TRACK

DWG	REV	TITLE
T100 - T103	1	TRACK PLAN AND PROFILE

CROSS SECTIONS

DWG	REV	TITLE
X100 - X115	1	CROSS SECTIONS

DATE: 8/28/2017
TIME: 5:19:2 PM
FILENAME: K:\c-f\BNSF\15955000\04_Production\01_CAD\02_Sheets\G100.dgn

NO	DATE	BY	DESCRIPTION OF REVISIONS
3	8-28-17	JEH	90% PLAN SUBMITTAL
2	7-10-17	JEH	60% PLAN SUBMITTAL
1	4-24-17	JEH	30% PLAN REVIEW

TKDA
444 Cedar Street, Suite 1500
Saint Paul, MN 55101
651.292.4400
tkda.com

DES: TJG | DRW: TJG | CHK: JEH
DATE | AFE NO.:

VERIFY SCALES
BAR IS ONE INCH ON ORIGINAL DRAWING
IF NOT ONE INCH ON THIS DRAWING
ADJUST SCALES ACCORDINGLY
0 1

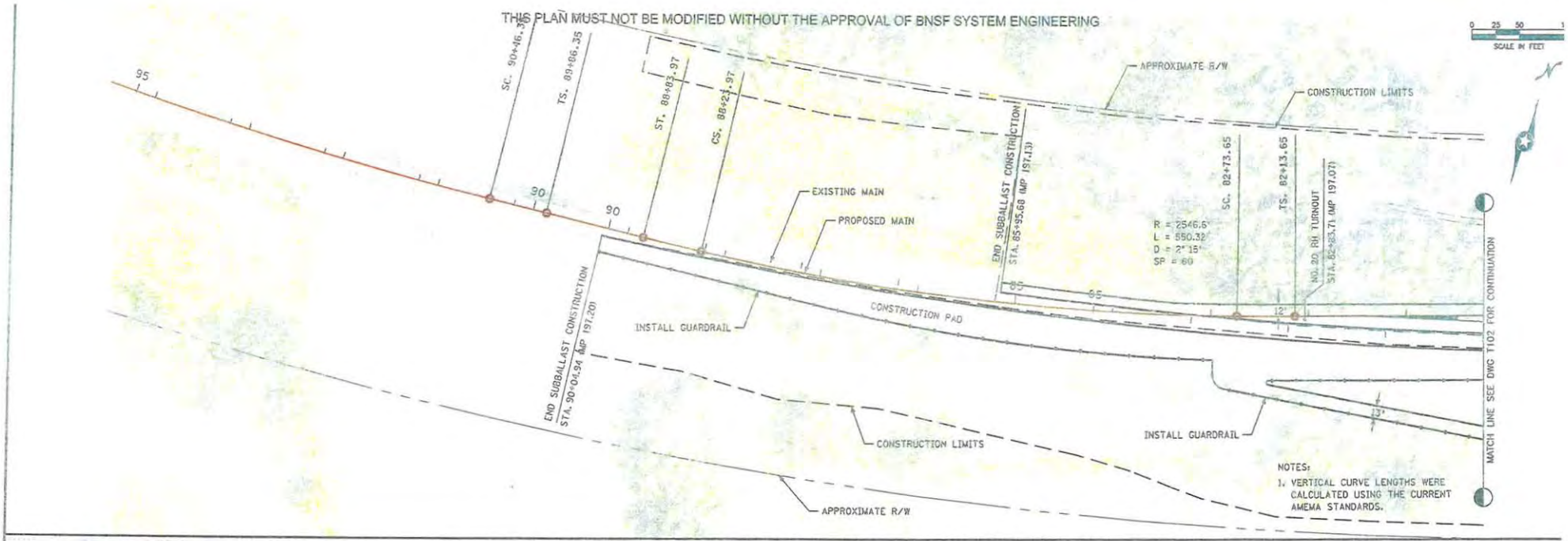
BNSF RAILWAY

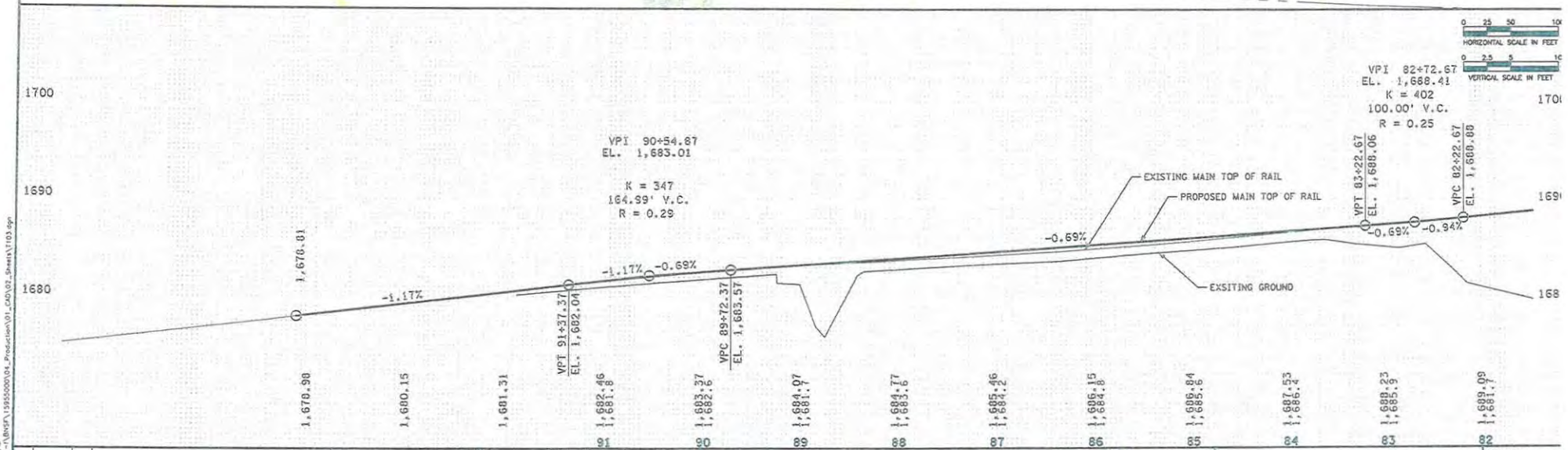
BNSF RAILWAY COMPANY
BRIDGE NO 196.6A GRADING PLAN
BISMARCK, ND (MP 196.38 - MP 197.20)

TITLE SHEET
AND LOCATION MAP

COMM. NO
15955.000
DRAWING NO
G100

THIS PLAN MUST NOT BE MODIFIED WITHOUT THE APPROVAL OF BNSF SYSTEM ENGINEERING





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444 Cedar Street, Suite 1500
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DES: TJG | DRW: TJG | CHK: JEH
DATE: | AFE NO.

VERIFY SCALES
BAR IS ONE INCH ON ORIGINAL DRAWING
IF NOT ONE INCH ON THIS DRAWING
ADJUST SCALES ACCORDINGLY

BNSF RAILWAY

BNSF RAILWAY COMPANY
BRIDGE NO 196.6A GRADING PLAN
BISMARCK, ND (MP 196.38 - MP 197.20)

TRACK PLAN AND PROFILE

COMM NO. 15955 000
DRAWING NO. T103

DATE: 8/28/2017
TIME: 5:14:08 PM
FILENAME: K:\a-f\BNSF\15955000\04_Production\01_CAD\02_Sheets\T103.dgn

GENERAL NOTES

SPECIFICATIONS
STRUCTURAL: 2016 AREMA MANUAL FOR RAILWAY ENGINEERING.

WELDING: CURRENT A.W.S. BRIDGE WELDING CODE D1.5 AND AREMA MANUAL CHAPTER 15 FOR RAILWAY ENGINEERING. ALL WELD METAL MUST BE EQUIVALENT TO THE BASE METAL IN STRENGTH, CORROSION RESISTANCE, AND WEATHERED APPEARANCE.

LOADINGS
A. AREMA E-80 OR ALTERNATE LIVE LOAD (4-100 KIP AXLES) WITH DIESEL IMPACT FOR ROLLING EQUIPMENT WITHOUT HAMMER BLOW FOR BALLAST DECK.
B. STREAM FLOW: 5.5 FT/SECOND APPLIED AT THE 100 YEAR FLOOD ELEVATION.
C. WIND LOADS:
45 PSF ON UNLOADED STRUCTURE.
22.5 PSF ON LOADED STRUCTURE.
D. ICE LOADING: 48" OF ICE AT 200 PSI ACTING AT THE 25% FLOW LINE WITH A NO-SCOUR CONDITION.
E. SCOUR: DESIGN FOR 100 YEAR FLOW SCOUR DEPTH AND CHECK FOR 500 YEAR FLOW SCOUR DEPTH. FOR BARGE IMPACT LOADING USE 50 YEAR FLOW SCOUR DEPTH.
F. OTHER LOADS AND COMBINATIONS: IN ACCORDANCE WITH AREMA MANUAL FOR RAILWAY ENGINEERING.

DIMENSIONS:
ALL DIMENSIONS ARE MEASURED AT 60° F AND ARE HORIZONTAL.

VERTICAL DATUM:
NAVD 88

STRUCTURAL STEEL:
A. UNLESS OTHERWISE SHOWN ON THE PLANS OR DESCRIBED IN THE CONTRACT SPECIFICATIONS, ALL STRUCTURAL STEEL SHALL CONFORM TO THE REQUIREMENTS OF ASTM A709 GRADE 50W AND NOT BE PAINTED.
B. STEEL GIRDER WEB PLATES AND BOTTOM FLANGE PLATES, OTHER STRUCTURAL STEEL DENOTED IN THE PLANS AS NTR (NOTCH TOUGHNESS REQUIREMENT) SHALL CONFORM TO ASTM A709, GR. 50WT3 & SHALL MEET IMPACT REQUIREMENTS FOR HIGH STRENGTH STRUCTURAL STEEL IN ACCORDANCE WITH THE AREMA MANUAL. STIFFENERS, DIAPHRAGMS AND OTHER SECONDARY MEMBERS SHALL BE EXEMPT FROM IMPACT TEST REQUIREMENTS.
C. SHIM PLATES AND FILL PLATES LESS THAN 3/8" THICK SHALL BE STAINLESS STEEL MEETING THE REQUIREMENTS OF ASTM A480 OR A484.
D. FABRICATION AND WORKMANSHIP SHALL CONFORM TO THE 2016 AREMA MANUAL CHAPTER 15 FOR RAILWAY ENGINEERING.
E. ALL REENTRANT CUTS TO BE FILLETED TO A MINIMUM 1" RADIUS, UNLESS OTHERWISE SHOWN.
F. ALL CORNER CLIPS TO BE 1" X 1", UNLESS OTHERWISE SHOWN.
G. ALL FASTENERS SHALL BE 7/8" DIAMETER HIGH STRENGTH BOLTS (ASTM A325, TYPE 3) WITH 15/16" DIAMETER OPEN HOLES UNLESS OTHERWISE NOTED. NUTS WILL BE HEAVY HEX AND CONFORM TO ASTM A563. WASHERS WILL BE FLAT HARDENED AND CONFORM TO ASTM F436. WASHER WILL BE PLACED UNDER THE TURNED ELEMENT. HIGH STRENGTH BOLTS SHALL BE TIGHTENED BY THE TURN-OF-NUT METHOD TO OBTAIN PROPER BOLT TENSION. HOLE TOLERANCES IN ACCORDANCE WITH TABLE 3.1 OF THE SPECIFICATIONS FOR STRUCTURAL JOINTS USING ASTM A325 OR A490 BOLTS, PREPARED BY THE RESEARCH COUNCIL ON STRUCTURAL CONNECTIONS 2014 EDITION

CAMBER:
A. CAMBER FOR DECK PLATE GIRDER SPANS IS AS NOTED IN THE PLANS

ANCHOR BOLTS:
A. ANCHOR BOLTS FOR THE BEARING DEVICES, SHALL CONFROM TO F1554, GR. 105, UNLESS OTHERWISE SHOWN ON THE PLANS OR DESCRIBED IN THE CONTRACT SPECIFICATIONS.

SHOP NOTES
A. THE BOTTOM FLANGES OF THE BEAMS MUST BE SQUARE WITH THE VERTICAL AXIS AT BOTH ENDS OF THE BEAMS.
B. THE TOP SURFACE OF BEAMS SHALL BE ADJUSTED TO FORM A STRAIGHT LINE AT ANY TRANSVERSE SECTION THROUGHOUT THE SPAN. (TOLERANCE 1/16 "±)
C. FABRICATOR IS TO SHOW WELD CONFIGURATION, JOINT PREPARATION AND WELD PROCEDURE IN THE TAIL OF THE WELD SYMBOL ON ALL DETAIL DRAWINGS.
D. ALL SURFACES, INCLUDING FAYING SURFACES, OF STRUCTURAL STEEL SHALL BE CLEANED PER STEEL STRUCTURES PAINTING COUNCIL SPECIFICATION SSPC-SP6.
E. SPANS SHALL BE SHOP ASSEMBLED AS DESCRIBED IN SPECIAL PROVISIONS TO ASSURE ACCURATE FIT. DISASSEMBLE AS REQUIRED FOR SHIPPING.
F. FOLLOWING FABRICATION, GALVANIZE ANCHOR BOLTS, NUTS, WASHERS AND DECK PLATES PER ASTM A123/A153 AS APPLICABLE

INSPECTION WALKWAY GRATING
A. INSPECTION WALKWAY GRATING SHALL BE GRIP STRUT SAFETY GRATING, HAVING A 2 1/2" MINIMUM DEPTH, 12 GAGE, GALVANIZED STEEL AS MANUFACTURED BY GS METALS CORPORATION OR APPROVED EQUAL.
B. INSPECTION WALKWAY GRATING SHALL BE INSTALLED IN ACCORDANCE WITH THE MANUFACTURERS RECOMMENDATIONS. NO SELF TAPPING CONNECTIONS ALLOWED

REINFORCING STEEL
A. REINFORCING STEEL SHALL BE DEFORMED BILLET STEEL BARS CONFORMING TO ASTM A615 GRADE 60 (INCH-POUND UNITS).
B. THE FIRST DIGIT OF THE BAR MARK (OR FIRST TWO DIGITS OF A FOUR DIGIT BAR MARK) DENOTES THE SIZE OF REINFORCING STEEL BAR.
C. MINIMUM CONCRETE COVER TO REINFORCING STEEL SHALL BE 2" UNLESS OTHERWISE SHOWN.
D. ALL DIMENSIONS RELATIVE TO REINFORCING STEEL ARE TO CENTERLINE OF BAR, UNLESS NOTED OTHERWISE.
E. MECHANICAL SPLICES AND END ANCHORAGES SHALL BE SUBSIDIARY TO THE REINFORCING STEEL PAY ITEM.

PRECAST CONCRETE
A. ALL MATERIAL AND WORKMANSHIP SHALL BE AS PER THE CURRENT BNSF STANDARD SPECIFICATIONS.
B. THE ULTIMATE COMPRESSIVE STRENGTH OF CONCRETE SHALL BE NOT LESS THAN 8,500 PSI IN 28 DAYS. CONCRETE MEMBERS SHALL NOT BE REMOVED FROM THE CASTING BED BEFORE THE CONCRETE REACHES A STRENGTH OF 7,500 PSI. ALL EXPOSED CORNERS SHALL BE BEVELED 3/4" UNLESS NOTED OTHERWISE.
C. ALL REINFORCING STEEL NOTES ARE APPLICABLE.

CAST-IN-PLACE CONCRETE
A. STRUCTURAL CONCRETE SHALL HAVE A MINIMUM 28 DAY COMPRESSIVE STRENGTH OF 4,000 PSI UNLESS NOTED OTHERWISE. PIERS 5, 6, 7, 8, & 9 SHALL HAVE A MINIMUM 28 DAY COMPRESSIVE STRENGTH OF 6,000PSI. THE CONCRETE DECK SHALL HAVE A MINIMUM 28 DAY COMPRESSIVE STRENGTH OF 5,000PSI.
B. ALL EXPOSED CORNERS SHALL BE BEVELED 3/4" UNLESS NOTED OTHERWISE.
C. NO STAY-IN-PLACE FORMS OR PRECAST CONCRETE PANELS ALLOWED FOR CAST-IN-PLACE CONCRETE DECK.
D. ALL PIER TOPS WILL RECEIVE A SMOOTH TROWELED FINISH.
E. CONTACT SURFACE OF CONCRETE CONSTRUCTION JOINTS SHALL BE ROUGHENED TO 1/4 " MINIMUM AMPLITUDE.

PERMITTING
CONTRACTOR SHALL MAINTAIN COMPLIANCE WITH PERMITTING REQUIREMENTS AS NOTED IN SPECIAL PROVISIONS.

DECK WATERPROOFING
A. THE CONCRETE DECK SHALL BE WATERPROOFED WITH A COLD APPLIED SPRAY ON WATERPROOFING IN ACCORDANCE WITH 2016 AREMA CHAPTER 8 PART 29.
B. PRIOR TO PLACING BALLAST THE DECK SURFACE SHALL BE PROTECTED WITH ONE LAYER OF 1/2 " ASPHALT PLANKING.

PILES
A. ALL PILES SHALL HAVE PILE POINTS INSTALLED.

PIER PROTECTION
THE CONTRACTOR SHALL SUBMIT ACTIVITY DETAILS TO THE ENGINEER FOR APPROVAL NO LESS THAN 15 DAYS PRIOR TO THE START OF ANY CONSTRUCTION ACTIVITY IN THE MISSIOURI RIVER. APPROVAL OF AN ACTIVITY BY THE ENGINEER SHALL IN NO WAY RELIEVE THE CONTRACTOR OF RESPONSIBILITY AND/OR LIABILITY FOR MOVEMENTS OR DAMAGES STEMMING FROM THE ACTIVITY.

LADDER CLIMBING SAFETY SYSTEMS
LADDER CLIMBING SAFETY SYSTEMS SHALL BE INSTALLED ON LADDERS L1, L2, AND L3 AS SHOWN ON THE INSPECTION WALKWAY DETAILS. THE LADDER CLIMBING SAFETY SYSTEM SHALL BE DYNA-GLIDE WITH AUTOMATIC PASS-THROUGH AS MANUFACTURED BY MSA OR APPROVED EQUIVALENT.

HORIZONTAL LIFELINES
HORIZONTAL LIFELINES SHALL BE INSTALLED ALONG THE WALKWAYS OF THE STEEL DECK GIRDERS (3 PER SPAN). THE HORIZONTAL LIFELINES SHALL BE MANUFACTURED BY MSA OR APPROVED EQUAL AND SHALL BE INSTALLED IN ACCORDANCE WITH THE MANUFACTURES RECOMMENDATIONS AND DETAILS APPROVED BY THE ENGINEER

DIVISION OF RESPONSIBILITY
A. RAILROAD
1. PROVIDE AND INSTALL ALL BALLAST AND TRACK COMPONENTS EXCEPT AS NOTED.
2. PROVIDE AND INSTALL BRIDGE MARKER SIGN.

B. CONTRACTOR
1. COORDINATE ALL CONSTRUCTION ACTIVITIES WITH THE RAILROAD.
2. PRIOR TO ORDERING ANY MATERIAL OR PERFORMING ANY OF THE CONSTRUCTION, THE CONTRACTOR SHALL MAKE A DETAILED FIELD INSPECTION OF THE SITE VERIFYING ALL PERTINENT DIMENSIONS, ELEVATIONS AND INFORMATION. ANY DISCREPANCIES BETWEEN THE PLANS AND EXISTING CONDITIONS OR THE INFORMATION PRESENTED SHALL BE REPORTED IMMEDIATELY TO THE RAILROAD. DOCUMENTATION OF THE FIELD INSPECTION COMPLETED BY THE CONTRACTOR SHALL BE SENT TO THE RAILROAD.
3. VERIFY THE LOCATION, RELOCATION, ABANDONMENT AND/OR TEMPORARY SUPPORT OF ALL UTILITIES AFFECTED BY THE CONSTRUCTION OF THE STRUCTURE OR EMBANKMENT AND COORDINATE THESE ACTIVITIES WITH THE APPROPRIATE UTILITY COMPANIES, AGENCIES AND/OR AUTHORITIES. FOR INFORMATION ON, AND RELOCATION OF FIBER OPTIC CABLE CALL 1-800-336-9193.
4. APPLY FOR AND OBTAIN ALL CONSTRUCTION PERMITS NECESSARY TO PERFORM THE WORK.

B. CONTRACTOR (CONT.)
5. PROVIDE THE RAILROAD WITH A DETAILED CONSTRUCTION PLAN DEFINING THE ACTIVITY, SCHEDULE AND PROCEDURE FOR EACH ASPECT OF THE WORK. CONSTRUCTION SHALL NOT BEGIN UNTIL THE CONSTRUCTION PLAN HAS BEEN APPROVED BY THE RAILROAD.
6. FURNISH INCIDENTAL MATERIAL AS REQUIRED.
7. PROVIDE ALL MEANS AND METHODS FOR CONSTRUCTION OF THE BRIDGE, INCLUDING PERMANENT AND TEMPORARY WORK. TEMPORARY WORK INCLUDES, BUT IS NOT LIMITED TO, ACCESS ROADS, VERTICAL AND LATERAL SHORING, COFFERDAMS, CRANE TRESTLES, FALSEWORK, AND BRACING. THE CONTRACTOR SHALL SUBMIT SCOUR CALCULATIONS FOR ANY TEMPORARY WORK IN THE MISSOURI RIVER. THE CONTRACTOR'S MEANS AND METHODS SHALL NOT HAVE ANY ADVERSE EFFECTS ON EXISTING BNSF BRIDGE 196.6. ALL CONTRACTOR CALCULATIONS AND PLANS (TEMPORARY WORK AND SHOP DRAWINGS) SHALL BE CERTIFIED BY A LICENSED PROFESSIONAL ENGINEER IN THE STATE OF NORTH DAKOTA AND BE APPROVED BY BNSF PRIOR TO BEGINNING CONSTRUCTION.
8. PLACE MOVEMENT MONITORING DEVICES, VERTICAL AND HORIZONTAL, AT ALL EXISTING PIERS AND MONITOR THROUGHOUT CONSTRUCTION.
9. MAINTENANCE AND PROTECTION OF TRAFFIC ALONG RIVER ROAD. ALL COORDINATION AND APPROVAL OF TRAFFIC CONTROL PLAN WITH LOCAL AND STATE AGENCIES. ALL COSTS ARE CONSIDERED INCLUDED WITH OTHER PAY ITEMS.
10. PROVIDE A SEQUENCE OF CONSTRUCTION TO THE RAILROAD.

SUMMARY OF QUANTITIES			
ITEM NUMBER	PAY ITEM	UNIT	QUANTITY
14	STRUCTURE EXCAVATION AND BACKFILL	EACH	8
15	STRUCTURE EXCAVATION (RIVER PIERS)	CY	17,173
16	STRUCTURE BACKFILL (RIVER PIERS)	CY	10,647
17	SUBSTRUCTURE STEM CONCRETE (CLASS 60)	CY	6,527
18	SUBSTRUCTURE FOOTING CONCRETE (CLASS 40)	CY	4,167
19	SUBSTRUCTURE STEM CONCRETE (CLASS 40)	CY	737
20	SUPERSTRUCTURE CONCRETE (CLASS 50)	CY	531
21	SUPERSTRUCTURE CONCRETE (200' DPG SPANS, f'c = 5500 psi)	CY	1,079
22	SEAL CONCRETE	CY	5,625
23	COFFERDAM - RIVER	EACH	4
24	COFFERDAM - APPROACH	EACH	1
25	REINFORCEMENT BARS (SUBSTRUCTURE)	POUND	1,352,572
26	REINFORCEMENT BARS (SUPERSTRUCTURE)	POUND	161,760
27	STRUCTURAL STEEL (200' GIRDER SPANS)	POUND	4,295,830
28	PRECAST PRESTRESSED CONC. I-GIRDER	LF	2,144
29	DIAPHRAGMS FOR PRESTRESSED CONC. I-GIRDER	LF	278
30	HP14x102 PILING DELIVERED	LF	32,280
31	HP14x102 PILING DRIVEN	LF	32,280
32	PILE POINTS	EACH	444
33	PREBALLASTING	SY	2,237
34	INSPECTION LADDERS, PLATFORMS, WALKWAYS AND RAILING	LUMP SUM	1
35	STEEL PIPE HANDRAIL	LF	3,110
36	LADDER CLIMBING SAFETY & HORIZONTAL LIFELINES	LUMP SUM	1
37	REMOVE EXISTING BRIDGE	LUMP SUM	1
38	DISC BEARING ASSEMBLY - 200' STEEL GIRDERS	EACH	40
39	BEARING ASSEMBLY - PRESTRESSED CONC. I-GIRDERS	EACH	56
40	SPRAY-ON WATERPROOFING	SY	2,893
41	DECK DRAINAGE SYSTEM	LUMP SUM	1
42	JOINT WATERPROOFING	LF	253
43	DAMPPROOFING	SY	150
44	CONDUIT SYSTEM AND CONDUITS	LUMP SUM	1
45	MONITOR MOVEMENT OF EXISTING PIERS	LUMP SUM	1
46	MONITOR MOVEMENT OF EAST APPROACH SLOPE	LUMP SUM	1

DES: XXX	BNSF RAILWAY	BISMARCK TO MANDAN
DRAWN: XXX	BRIDGE ENGINEERING KANSAS CITY, KS	BRIDGE NUMBER 196.6A
CHECK: XXX	APPROVED:	OVER MISSOURI RIVER NEAR BISMARCK, ND
DATE: XXX, 20XX		GENERAL NOTES & QUANTITIES
AUTH: AXXXXX	DIRECTOR STRUCTURES ENGINEERING	PLAN NO: 0038-0196.600-XXX
LINE SEG: 0038		SHEET: XX OF

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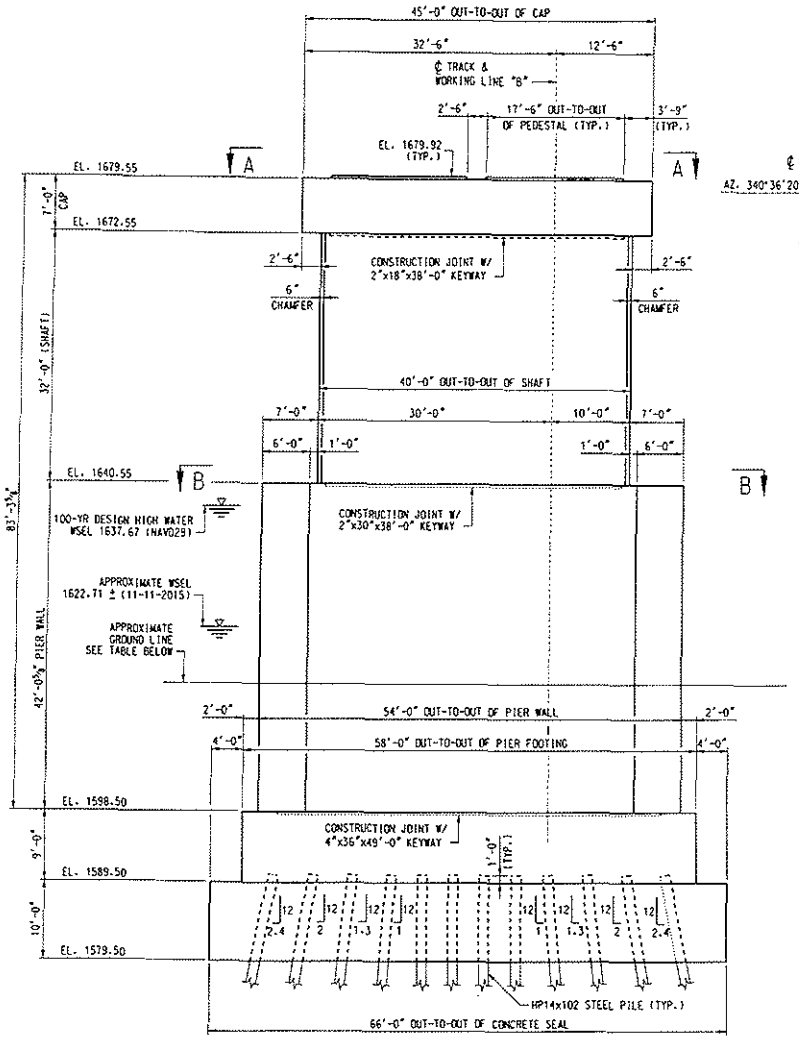
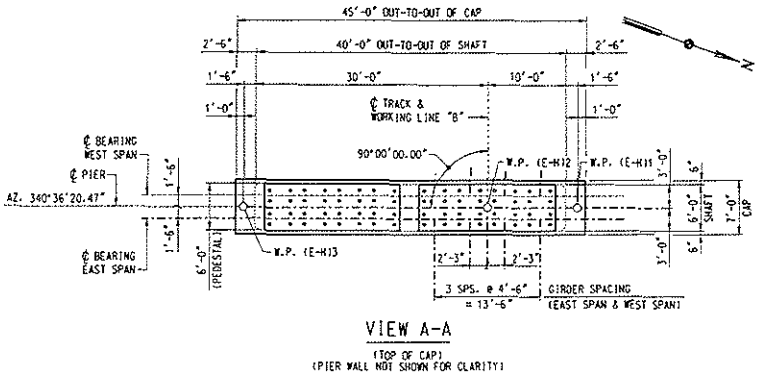


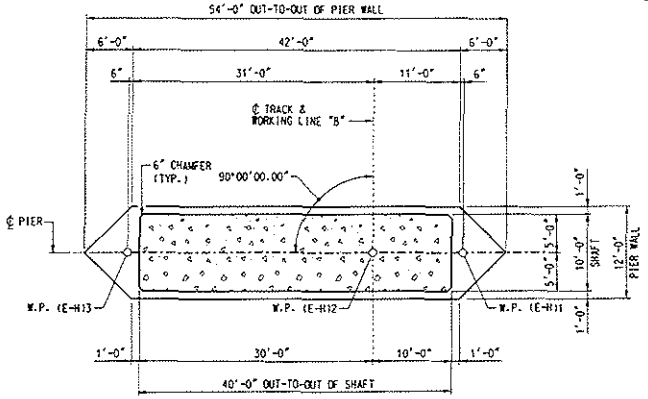
SOUTH END — PIER 5 THRU PIER 8 ELEVATION — NORTH END

PIER NO.	GROUND LINE ELEVATION
PIER 5	1604.70
PIER 6	1612.14
PIER 7	1615.12
PIER 8	1620.59



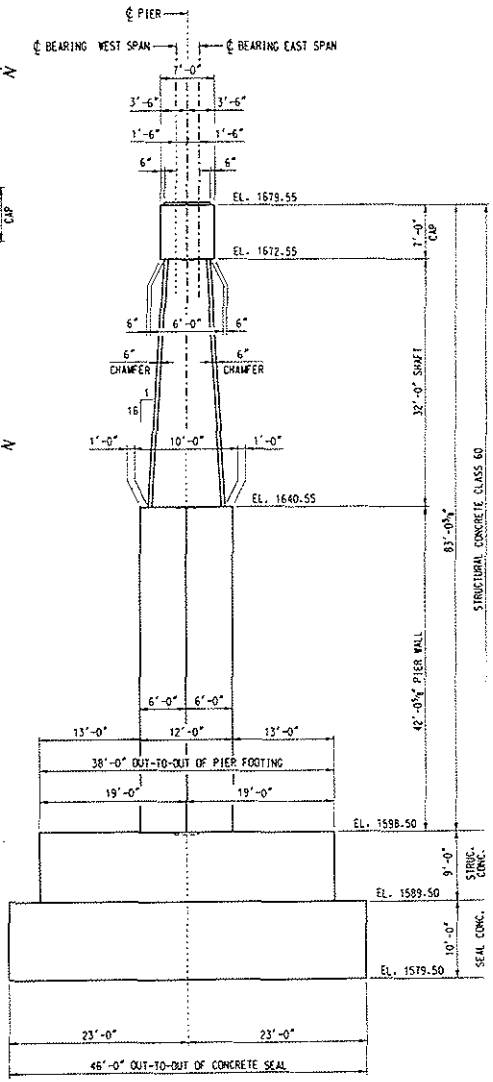
VIEW A-A

(TOP OF CAP)
(PIER WALL NOT SHOWN FOR CLARITY)



SECTION B-B

(TOP OF PIER WALL/BASE OF COLUMN)
(FOOTING AND SEAL NOT SHOWN FOR CLARITY)



PIER 5 THRU PIER 8 END VIEW

(LOOKING NORTH)
(PILING NOT SHOWN FOR CLARITY)

DES:	MJC-TKDA
DRAWN:	ADL-TKDA
CHECK:	EJL-TKDA
DATE:	AUGUST 2017
AUTH:	AXXXXX
LINE SEG:	0038

BNSF RAILWAY
BRIDGE ENGINEERING KANSAS CITY, KS
APPROVED:
DIRECTOR STRUCTURES ENGINEERING

BISMARCK TO MANDAN
BRIDGE NUMBER 196.6A
OVER MISSOURI RIVER NEAR BISMARCK, ND
PIER 5 THRU PIER 8 - GENERAL PLAN AND ELEVATION
PLAN NO: 0038-0196.600-XXX SHEET: XX C

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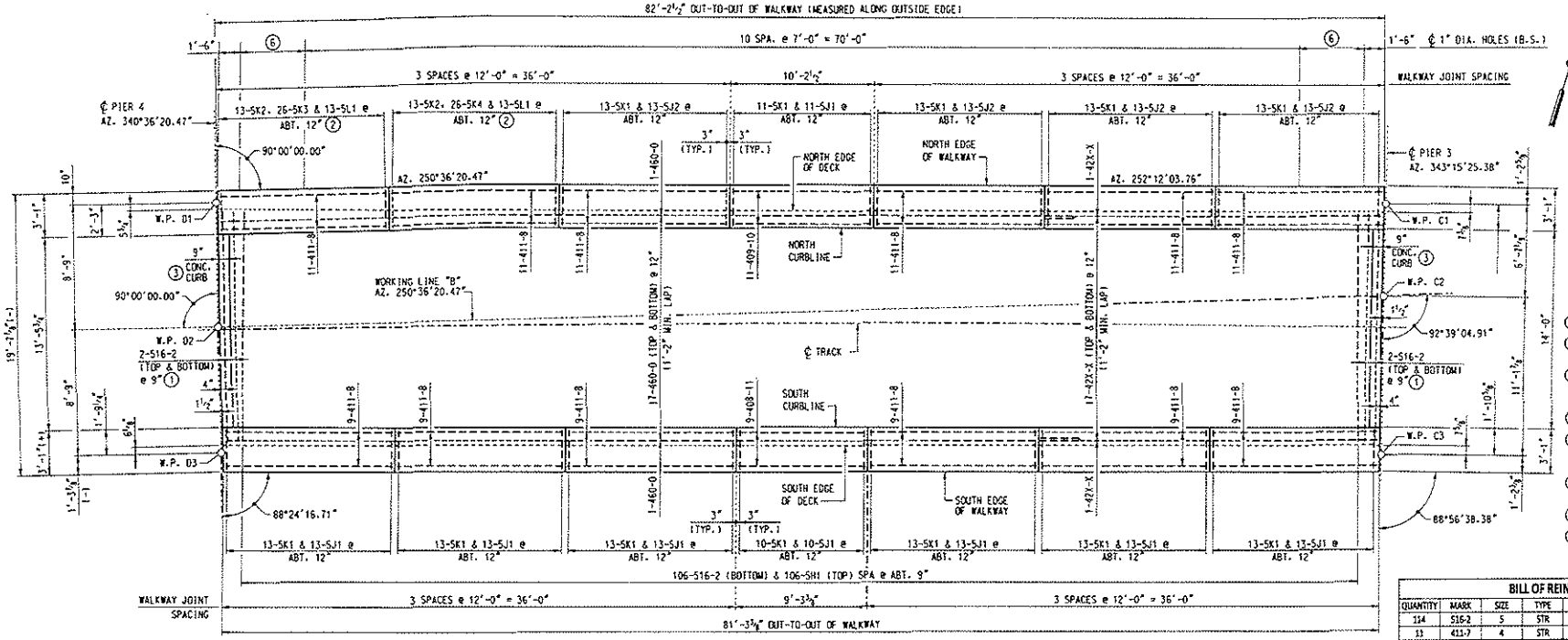
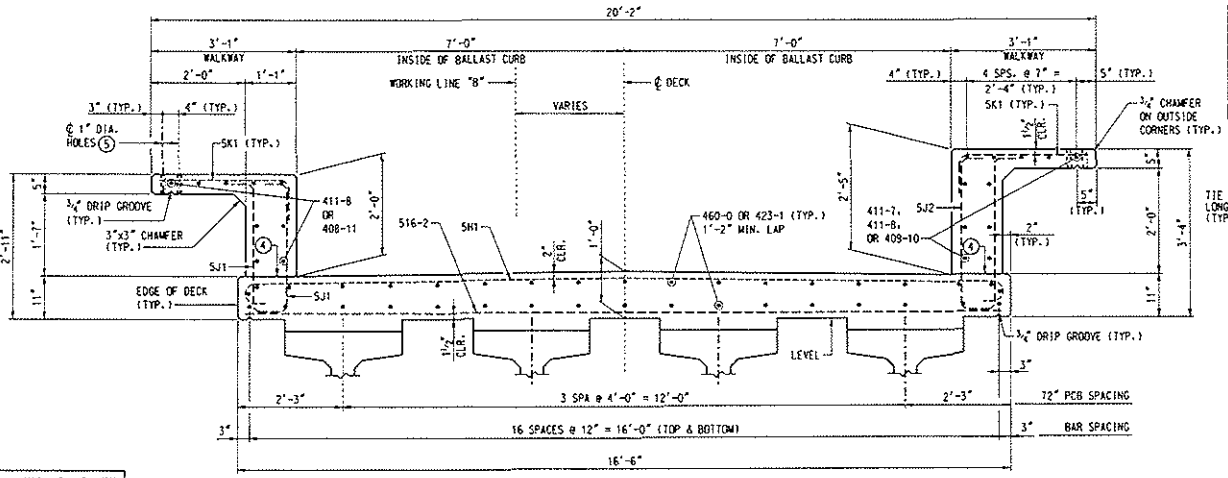
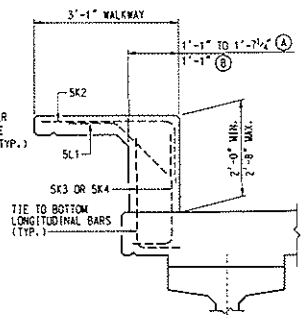
File: L:\0038\0196\600\XXX\Drawings\Bridge\Pier 5 thru Pier 8 Elevation.dgn
Date Printed: 8/28/2017 Time Printed: 4:32:43 PM



DECK REINFORCEMENT PLAN



TYPICAL SECTION



WALKWAY TRANSITION REINFORCEMENT

(NOT ALL DECK AND WALKWAY REINFORCEMENT ARE SHOWN FOR CLARITY)

NOTES:

THE TOP OF WALKWAY SHALL RECEIVE A BROOM FINISH.

ADJUST THE SPACING OF REBAR TO AVOID INTERFERENCE WITH DECK DRAINS.

FOR DECK DRAIN DETAILS SEE DEC DRAINAGE DETAILS SHEETS.

B.S. DENOTES BOTH SIDES.

FOR DECK GEOMETRY SEE SHEET "DECK PLAN TRANSITION NEAR PIER 4".

FOR WALKWAY JOINT DETAIL SEE SHEET "SPAN 1 REINFORCEMENT DECK PLAN".

(1) PLACE PARALLEL TO ℄ PIER

(2) SEE "WALKWAY TRANSITION REINFORCEMENT" FOR SECTION.

(3) SEE SHEET "TRANSVERSE CURB PLAN AND REINFORCEMENT" FOR GEOMETRY AND REINFORCEMENT.

(4) CONSTRUCTION JOINT

(5) 1" DIA. HOLES MUST BE POSITIOI ACCURATELY OR HANDRAIL PANELS WILL NOT FIT.

(6) 4'-7½"(-) (A) 4'-1⅝"(+) (B)

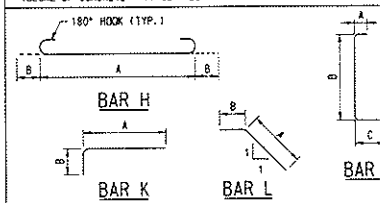
(A) NORTH WALK

(B) SOUTH WALK

BILL OF REINFORCING - SPAN 3

QUANTITY	MARK	SIZE	TYPE	A	B	C	D	LE
154	516-2	5	STR					1
13	411-7	4	STR					1
109	411-8	4	STR					1
9	408-11	4	STR					8
13	409-10	4	STR					9
36	460-0	4	STR					6
36	423-1	4	STR					2
106	5H1	5	H	16'-2"	0'-7"			1
151	5K1	5	K	2'-9"	1'-0"			3
26	5K2	5	K	2'-9"	1'-4"			4
26	5K3	5	K	2'-7"	0'-11"			3
26	5K4	5	K	3'-3"	0'-11"			4
88	5J1	5	J	0'-10"	2'-9"	0'-9"		7
63	5J2	5	J	0'-10"	3'-3"	0'-9"		8
26	5L1	5	L	1'-6"	1'-0"			2

EST. WT. OF REINFORCING STEEL = 9,190 LBS.
VOLUME OF CONCRETE = 77 CU. YDS.



ALL DIMENSIONS ARE OUT-TO-OUT.

DES:	ADL-TKDA
DRAWN:	ADL-TKDA
CHECK:	LJL-TKDA
DATE:	AUGUST 2017
AUTH:	AXXXXX
LINE SEG:	0038

BNSF RAILWAY
BRIDGE ENGINEERING KANSAS CITY, KS
APPROVED:
DIRECTOR STRUCTURES ENGINEERING

BISMARCK TO MANDAN
BRIDGE NUMBER 196.6A
OVER MISSOURI RIVER NEAR BISMARCK, ND
SPAN 3 DECK REINFORCEMENT PLAN
PLAN NO: 0038-0196.600-XXX SHEET: XX OF

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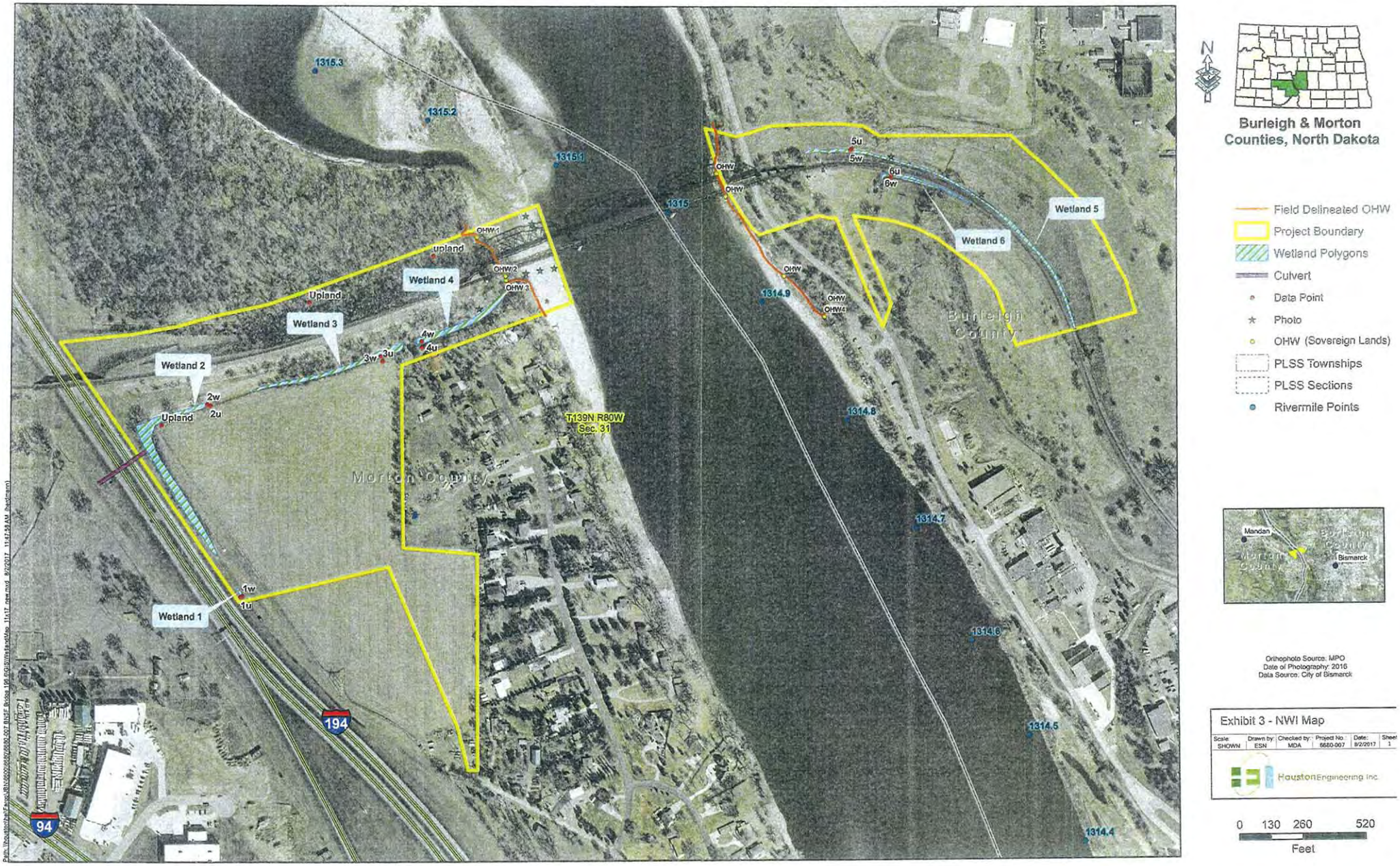
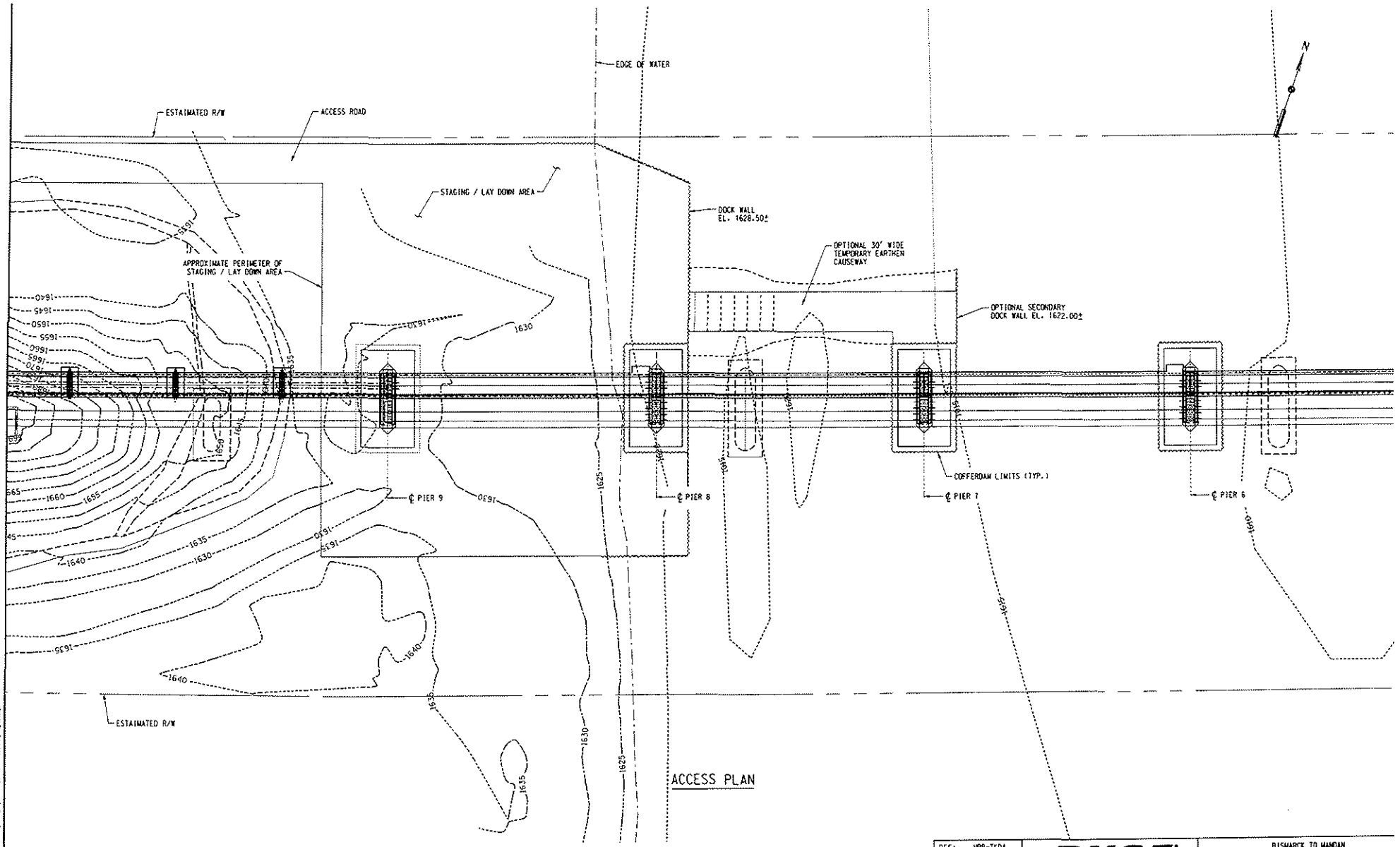


1315.3
1315.2
1315.1
1315
1314.9
1314.8
1314.7
1314.6
1314.5
1314.4
Wetland 1
Wetland 2
Wetland 3
Wetland 4
Wetland 5
Wetland 6
Upland
upland
OHW 1
OHW 2
OHW 3
OHW 4
OHW
1w
1u
2w
2u
3w
3u
4w
4u
5u
5w
6u
6w
T139N R80W
Sec. 31
Morton County
Burleigh County
194
94
N
Burleigh & Morton Counties, North Dakota
Field Delineated OHW
Project Boundary
Wetland Polygons
Culvert
Data Point
Photo
OHW (Sovereign Lands)
PLSS Townships
PLSS Sections
Rivermile Points
Mandan
Bismarck
Orthophoto Source: MPO
Date of Photography: 2016
Data Source: City of Bismarck
Exhibit 3 - NWI Map
Scale: SHOWN
Drawn by: ESN
Checked by: MDA
Project No.: 6680-007
Date: 8/2/2017
Sheet 1
Houston Engineering Inc.
0 130 260 520
Feet

107



ACCESS PLAN

DES: MPB-TKDA	BNSF RAILWAY	BISMARCK TO MANDAN	
DRAWN: MPB-TKDA	BRIDGE ENGINEERING KANSAS CITY, KS	BRIDGE NUMBER 196.6A	
CHECK: HLE-TKDA		OVER MISSOURI RIVER NEAR BISMARCK, ND	
DATE: APRIL 2017	APPROVED:	SITE ACCESS PLAN	
AUTH: AXXXXX	DIRECTOR STRUCTURES ENGINEERING	PLAN NO: 0038-0196.600-XXX	SHEET: XX OF
LINE SEG: 0038			

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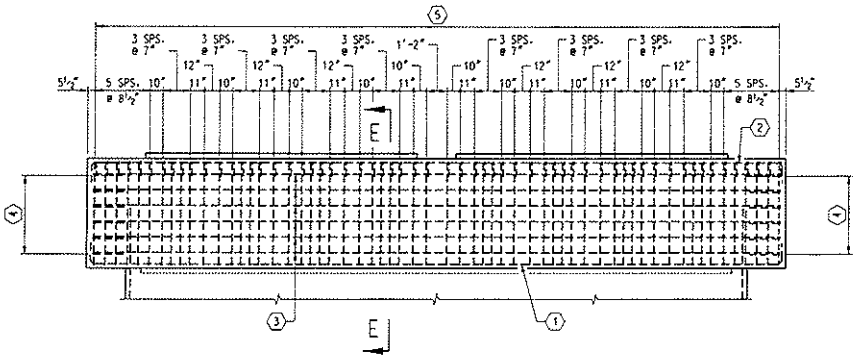
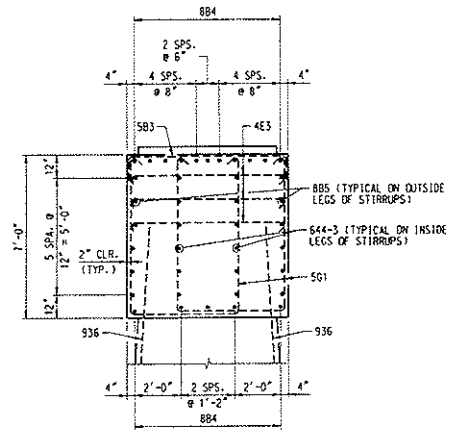
Date Printed: 8/23/2017 Time Printed: 7:02:16 AM

BAR CALL-OUTS:

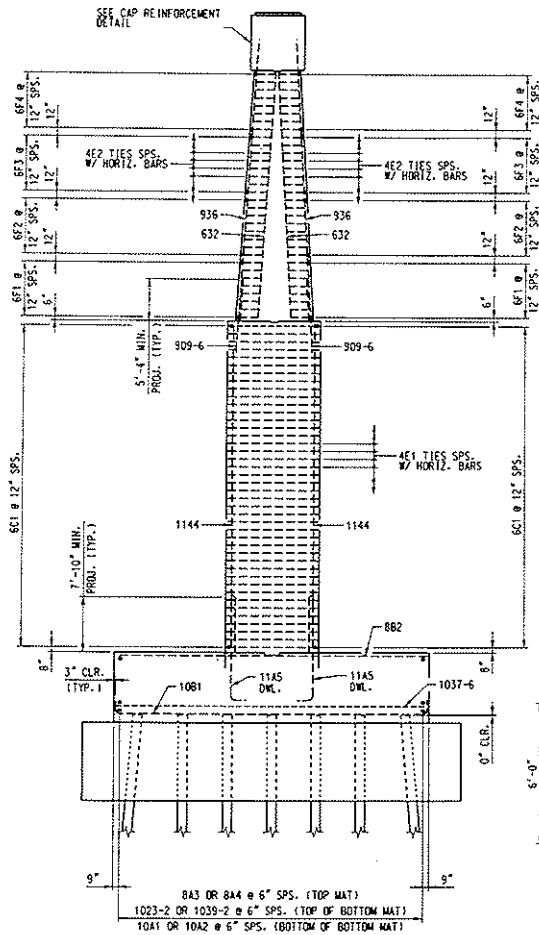
1. 5-8B4 SPACED AS SHOWN IN SECTION E-E.
2. 11-8B4 SPACED AS SHOWN IN SECTION E-E.
3. 2-8B5 & 2-644-3 SPACED AS SHOWN IN SECTION E-E.
4. 6-6B6 END TIES SPACED TO MATCH 8B5.
5. 120-5G1 (PLACED IN PAIRS), 180-4E3 (PLACED IN THREES) & 60-5B3 TOP TIES SPACED AS SHOWN.



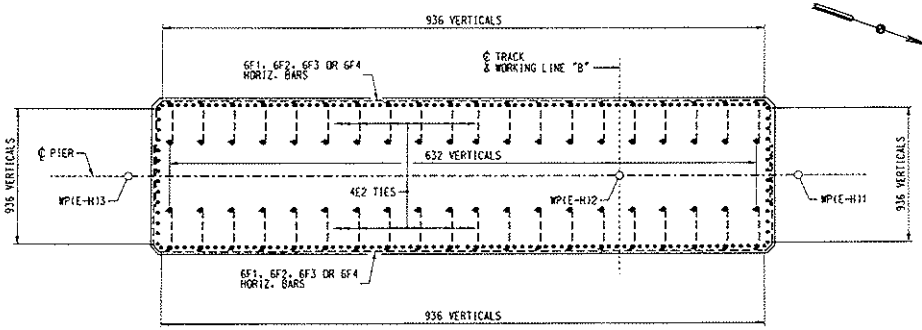
CAP REINFORCEMENT DETAIL



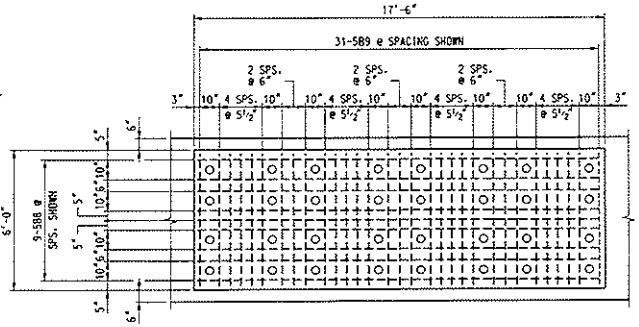
SECTION E-E



SECTION A-A



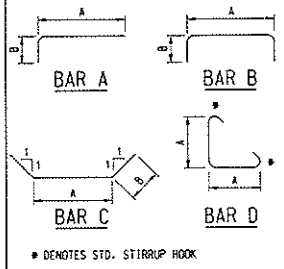
SECTION D-D



PEDESTAL REINFORCEMENT

(2 THUS)

EST. WT. OF REINFORCING STEEL = 118,880 LBS.
VOLUME OF CONCRETE = 1,409 CU. YDS.



BILL OF REINFORCING - PIER 5 (PIERS 6, 7 & 8 SIMILAR)

QUANTITY	MARK	SIZE	TYPE	A	B	C	LENGTH
232	1144	11	STR	—	—	—	44'-0"
2 SER. OF 7	481	4	B	2'-6" TO 11'-0"	2'-0"	—	6'-6" TO 15'-0"
2	487	4	B	11'-6"	2'-0"	—	15'-6"
80	4A1	4	A	3'-0"	2'-0"	—	5'-0"
88	6C1	6	C	43'-10"	3'-0"	—	47'-10"
88	6D1	6	D	8'-4"	—	—	18'-0"
28	4A2	4	A	8'-8"	2'-0"	—	10'-8"
2	682	6	B	42'-10"	2'-0"	—	46'-10"
924	4E1	4	E	11'-8"	—	—	12'-5"
184	909-6	9	STR	—	—	—	9'-6"
184	936	9	STR	—	—	—	36'-0"
16	6F1	6	F	39'-8"	6'-5"	6½"	53'-7"
16	6F2	6	F	39'-8"	5'-11"	6½"	52'-7"
16	6F3	6	F	39'-8"	5'-5"	6½"	51'-7"
16	6F4	6	F	39'-8"	4'-11"	6½"	50'-7"
1280	4E2	4	E	2'-8"	—	—	5'-5"
40	632	6	STR	—	—	—	32'-0"
120	5G1	5	G	4'-8"	6'-8"	—	18'-11"
60	5B3	5	B	6'-8"	1'-0"	—	8'-8"
180	4E3	4	E	6'-8"	—	—	7'-5"
16	884	8	B	44'-6"	1'-4"	—	47'-2"
12	885	8	B	44'-3"	1'-4"	—	46'-11"
12	686	6	B	6'-6"	1'-0"	—	8'-6"
12	644-3	6	STR	—	—	—	44'-3"
18	588	5	B	17'-2"	2'-0"	—	21'-2"
62	589	5	B	5'-8"	2'-0"	—	9'-8"

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DES:	MJC-TKDA
DRAWN:	JRH-TKDA
CHECK:	MJC-TKDA
DATE:	MARCH 2016
AUTH:	XXXXXX
LINE SEG:	0038

BNSF RAILWAY
BRIDGE ENGINEERING KANSAS CITY, KS
APPROVED:
DIRECTOR STRUCTURES ENGINEERING

BISMARCK TO MANDAN
BRIDGE NUMBER 196.6A
OVER MISSOURI RIVER NEAR BISMARCK, ND
PIER 5 THRU PIER 8 - REINFORCEMENT (2 OF 2)
PLAN NO: 0038-0196.600-XXX SHEET: XX OF

Date Printed: 8/26/2017 Time Printed: 4:32:46 PM

DIMENSIONS BETWEEN WORKING POINTS. CONT'D.

POINT	STATION	X-COORD.	Y-COORD.	W.P. H2	W.P. G2	W.P. F2	W.P. E2	W.P. D2	W.P. C2	W.P. B2	W.P. A2	W.P. N3	W.P. M3	W.P. L3	W.P. K3	W.P. J3	W.P. H3	W.P. G3	W.P. F3	W.P. E3	W.P. D3	W.P. C3	W.P. B3	W.P. A3	TOP/ RAIL PROFILE	POINT
W.P. N1	74+85.45	1,885,855.827	419,837.645										81.08	160.15											1695.75	W.P. N1
W.P. M1	74+06.24	1,885,930.485	419,864.105									81.08		81.89	160.95										1696.26	W.P. M1
W.P. L1	73+26.24	1,886,005.945	419,890.670									160.15	81.89		81.89	164.98									1696.59	W.P. L1
W.P. K1	72+46.24	1,886,081.406	419,917.235										160.95	81.89		89.55	285.85								1696.74	W.P. K1
W.P. J1	71+66.24	1,886,155.953	419,946.395	203.33										161.28	82.52		207.50	408.27							1696.75	W.P. J1
W.P. H1	69+63.24	1,886,347.435	420,013.805	11.50	203.33										283.72	207.50		207.50	408.27						1696.75	W.P. H1
W.P. G1	67+60.24	1,886,538.915	420,081.214		11.50	203.33										408.27	207.50		207.50	408.27					1696.76	W.P. G1
W.P. F1	65+57.24	1,886,730.396	420,148.624			11.50	203.33										408.27	207.50		207.50	406.50				1696.76	W.P. F1
W.P. E1	63+54.24	1,886,921.877	420,216.034				11.50	203.32										408.27	207.50		204.01	285.46			1696.76	W.P. E1
W.P. D1	61+51.32	1,887,114.270	420,280.849					8.75	82.54										407.99	206.95		83.95	150.92		1696.80	W.P. D1
W.P. C1	60+69.25	1,887,192.692	420,306.167						6.60	68.50										287.91	83.80		70.28	137.03	1697.01	W.P. C1
W.P. B1	60+01.24	1,887,258.854	420,328.928							3.65	68.79										151.02	70.25		70.28	1697.33	W.P. B1
W.P. A1	59+33.24	1,887,326.010	420,337.867								8.51											137.14	70.34		1697.77	W.P. A1
W.P. N2	74+85.45	1,885,858.677	419,829.549									8.58	79.69												1695.75	W.P. N2
W.P. M2	74+06.24	1,885,933.391	419,855.851										8.75	80.48											1696.26	W.P. M2
W.P. L2	73+26.24	1,886,008.851	419,882.417											8.75	80.48										1696.59	W.P. L2
W.P. K2	72+46.24	1,886,084.312	419,908.982												8.75	85.98									1696.74	W.P. K2
W.P. J2	71+66.24	1,886,159.772	419,935.547	203.00												31.50	205.43								1696.75	W.P. J2
W.P. H2	69+63.24	1,886,351.253	420,002.957		203.00												31.50	205.43							1696.75	W.P. H2
W.P. G2	67+60.24	1,886,542.734	420,070.367			203.00												31.50	205.43						1696.76	W.P. G2
W.P. F2	65+57.24	1,886,734.215	420,137.777				203.00												31.50	205.43					1696.76	W.P. F2
W.P. E2	63+54.24	1,886,925.696	420,205.186					203.00												31.50	203.19				1696.76	W.P. E2
W.P. D2	61+51.24	1,887,117.175	420,272.595						82.07												8.75	82.32			1696.80	W.P. D2
W.P. C2	60+69.24	1,887,194.592	420,299.850							68.27												11.15	68.71		1697.01	W.P. C2
W.P. B2	60+01.24	1,887,259.699	420,320.380								68.33												14.10	69.32	1697.33	W.P. B2
W.P. A2	59+33.24	1,887,327.420	420,329.478																					9.67	1697.77	W.P. A2
W.P. N3	74+85.45	1,885,861.528	419,821.452										79.21												1695.75	W.P. N3
W.P. M3	74+06.24	1,885,936.297	419,847.598											80.00											1696.26	W.P. M3
W.P. L3	73+26.24	1,886,011.757	419,874.163												80.00										1696.59	W.P. L3
W.P. K3	72+46.24	1,886,087.218	419,900.729													83.17									1696.74	W.P. K3
W.P. J3	71+66.24	1,886,170.232	419,905.835														203.00								1696.75	W.P. J3
W.P. H3	69+63.24	1,886,361.713	419,973.245															203.00							1696.75	W.P. H3
W.P. G3	67+60.24	1,886,553.194	420,040.654																203.00						1696.76	W.P. G3
W.P. F3	65+57.24	1,886,744.675	420,108.064																	203.00					1696.76	W.P. F3
W.P. E3	63+54.24	1,886,936.156	420,175.474																		204.27				1696.76	W.P. E3
W.P. D3	61+51.17	1,887,120.081	420,264.342																			81.59			1696.80	W.P. D3
W.P. C3	60+69.22	1,887,197.805	420,289.170																				67.47		1697.01	W.P. C3
W.P. B3	60+01.24	1,887,262.968	420,306.661																					67.38	1697.33	W.P. B3
W.P. A3	59+33.24	1,887,329.023	420,319.943																						1697.77	W.P. A3

NOTE:

FOR "WORKING POINT LAYOUT" AND ADDITIONAL WORKING POINT INFORMATION REFER TO THE PRECEDING PLAN SHEET.

LOCATION	TOP OF RAIL ELEVATION	TOP OF SLAB ELEVATION	TOP OF CAP ELEVATION	TOP OF RAIL PROFILE TO TOP OF SLAB [ft.]	TOP OF RAIL PROFILE TO TOP OF SLAB [in.]	TOP/ SLAB TO TOP/ CAP [ft.]	TOP/ SLAB TO TOP/ CAP [in.]
Abutment 13	1,695.75	1,693.33	1,685.40	2.42	2'-5"	7.93	7'-11 1/8"
Pier12	1,696.26	1,693.84	1,685.91	2.42	2'-5"	7.93	7'-11 1/4"
Pier 11	1,696.59	1,694.18	1,686.24	2.42	2'-5"	7.94	7'-11 1/4"
Pier 10	1,696.74	1,694.33	1,686.39	2.42	2'-5"	7.94	7'-11 1/4"
Pier 9 (W)	1,696.75	1,694.33	1,686.40	2.42	2'-5"	7.93	7'-11 1/4"
Pier 9 (E)	1,696.75	1,694.13	1,679.92	2.62	2'-7 3/8"	14.21	14'-2 5/8"
Pier 8	1,696.75	1,694.14	1,679.92	2.62	2'-7 3/8"	14.22	14'-2 5/8"
Pier7	1,696.76	1,694.14	1,679.92	2.62	2'-7 3/8"	14.22	14'-2 5/8"
Pier 6	1,696.76	1,694.14	1,679.93	2.62	2'-7 3/8"	14.21	14'-2 5/8"
Pier 5	1,696.76	1,694.15	1,679.93	2.62	2'-7 3/8"	14.22	14'-2 5/8"
Pier 4 (W)	1,696.80	1,694.18	1,679.87	2.62	2'-7 3/8"	14.31	14'-3 3/4"
Pier 4 (E)	1,696.80	1,694.05	1,686.36	2.75	2'-9"	7.69	7'-8 1/4"
Pier 3 (W)	1,697.01	1,694.26	1,686.43	2.75	2'-9"	7.83	7'-9 7/8"
Pier 3 (E)	1,697.01	1,694.26	1,687.18	2.75	2'-9"	7.08	7'-0 7/8"
Pier 2	1,697.33	1,694.58	1,687.39	2.75	2'-9"	7.18	7' 2 1/4"
Abutment 1	1,697.77	1,695.02	1,687.84	2.75	2'-9"	7.18	7'-2 1/8"

444 Cedar Street, Suite 1500
Saint Paul, MN 55101
651.292.4400
tkda.com
TKDA

DES:	GM-TKDA
DRAWN:	GM-TKDA
CHECK:	LJL-TKDA
DATE:	AUGUST 2017
AUTH:	AXXXXX
LINE SEG:	0038

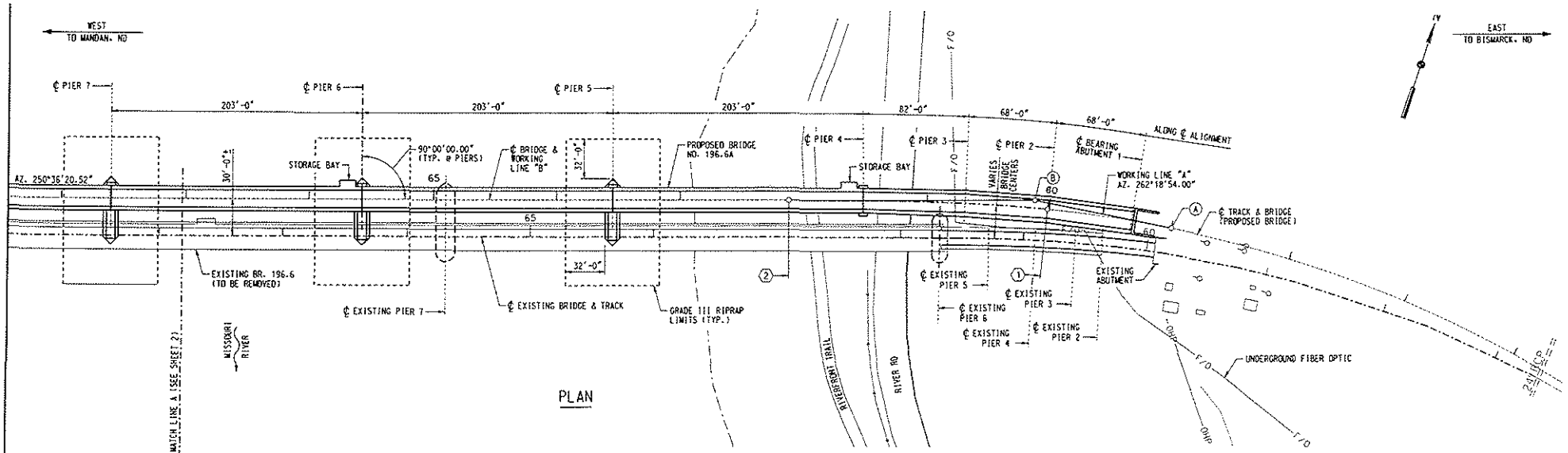
BNSF RAILWAY
BRIDGE ENGINEERING KANSAS CITY, KS

APPROVED:
DIRECTOR STRUCTURES ENGINEERING

BISMARCK TO MANDAN
BRIDGE NUMBER 196.6A
OVER MISSOURI RIVER NEAR BISMARCK, ND
WORKING POINT DATA. CONT'D.

PLAN NO: 0038-0196.600-XXX SHEET: XX OF

File location: C:\PROJECTS\0038\04_Preliminary\BRIDGE\0038_WP_Data.dgn
Date Printed: 8/24/2017 Time Printed: 4:32:24 PM



ALIGNMENT NOTES:

THE ℄ TRACK ALIGNMENT OF THE PROPOSED BRIDGE IS MOSTLY TANGENT, EXCEPT FOR THE EAST APPROACH (SPANS 1, 2, AND 3). THERE, THE TRACK ALIGNMENT CHANGES TO A SPIRAL CURVE AND THEN TO A 5°41' CIRCULAR CURVE.

THE DESIGN SPEED OF 40 MPH AND THE DEGREE OF CURVATURE OF THE CIRCULAR CURVE REQUIRE A SUPERELEVATION OF 4½".

SPANS 1, 2, AND 3 ARE PRESTRESSED CONCRETE BEAM SPANS. THE PCB'S, CONCRETE DECK AND WALKWAYS HAVE BEEN CHORDED WITH RESPECT TO THE TRACK ALIGNMENT.
THE DISTANCE BETWEEN THE VERTICAL CURBS IN THESE SPANS HAS BEEN INCREASED 14'-0" IN ORDER TO PROVIDE A MINIMUM HORIZONTAL CLEARANCE OF 5'-6" WITH RESPECT TO THE TRACK ALIGNMENT. THE TRANSITION TO THE 13'-0" CURB DISTANCE IS ACCOMPLISHED BY MITERING. THE CURB HEIGHTS MATCH THE SUPERELEVATION GEOMETRY. ADJACENT TO PIER 4, CURB HEIGHTS GET TRANSITIONED TO MATCH THE WALKWAY ELEVATIONS IN THE TANGENT SECTION OF THE BRIDGE.

GENERAL NOTES:

STATIONING AND ELEVATIONS ARE BASED ON A SITUATION SURVEY OF SITE COMPLETED NOVEMBER 23, 2015 BY TKDA OF ST. PAUL, MINNESOTA.

ATTENTION: THE CONTRACTOR SHALL VERIFY THAT ALL UNDERGROUND AND OVERHEA UTILITIES HAVE BEEN LOCATED AND IDENTIFIED PRIOR TO BEGINNING CONSTRUCTION.

FOUNDATION DETAILS ARE BASED ON THE GEOTECHNICAL EVALUATION REPORT DATE XXXX, 2017 BY BRAUN INTERTEC CORPORATION.

PROPOSED BRIDGE OPENING IS BASED ON HYDRAULIC ANALYSIS OF BRIDGE 196.6A HOUSTON ENGINEERING OF FARGO, ND.

X" BALLAST TO BE FURNISHED AND PLACED BY BRIDGE CONTRACTOR. REMAINING BALLAST, TIES, AND RAILS TO BE INSTALLED BY X.

(1) CAST-IN PLACE CONCRETE DECK JOINT OPENING @ 45°F.

(2) I-GIRDER SPAN W/ COMP. CAST-IN-PLACE CONC. DECK

TABLE OF EST. LIFTING WEIGHTS

ITEM	MARK NO.	ESTIMATED WEIGHT (LBS)
81'-9" PRESTRESSED CONCRETE BEAM		69,120
79'-9" PRESTRESSED CONCRETE BEAM		67,460
67'-9" PRESTRESSED CONCRETE BEAM		53,300
200'-0" WELDED DECK PLATE GIRDER		181,960

ALIGNMENT NOTES:

(1) C.S. STA. 60+01.70
X = 1,887,260.430
Y = 420,315.308

(2) S.T. STA. 62+11.69
X = 1,887,060.153
Y = 420,252.521

WORKING LINE NOTES:

(A) WORKING LINE "A" = ℄ TRACK & BRIDGE (PROPOSED BRIDGE)
STA. 59+00.00
X = 1,887,360.375
Y = 420,333.905
= 180°00'00.00"

(B) WORKING LINE "A" = WORKING LINE "B"
X = 1,887,248.718
Y = 420,318.904
= 168°17'26.52"

TKDA
444 Cedar Street, Suite 1500
Saint Paul, MN 55101
651.292.4400
tkda.com

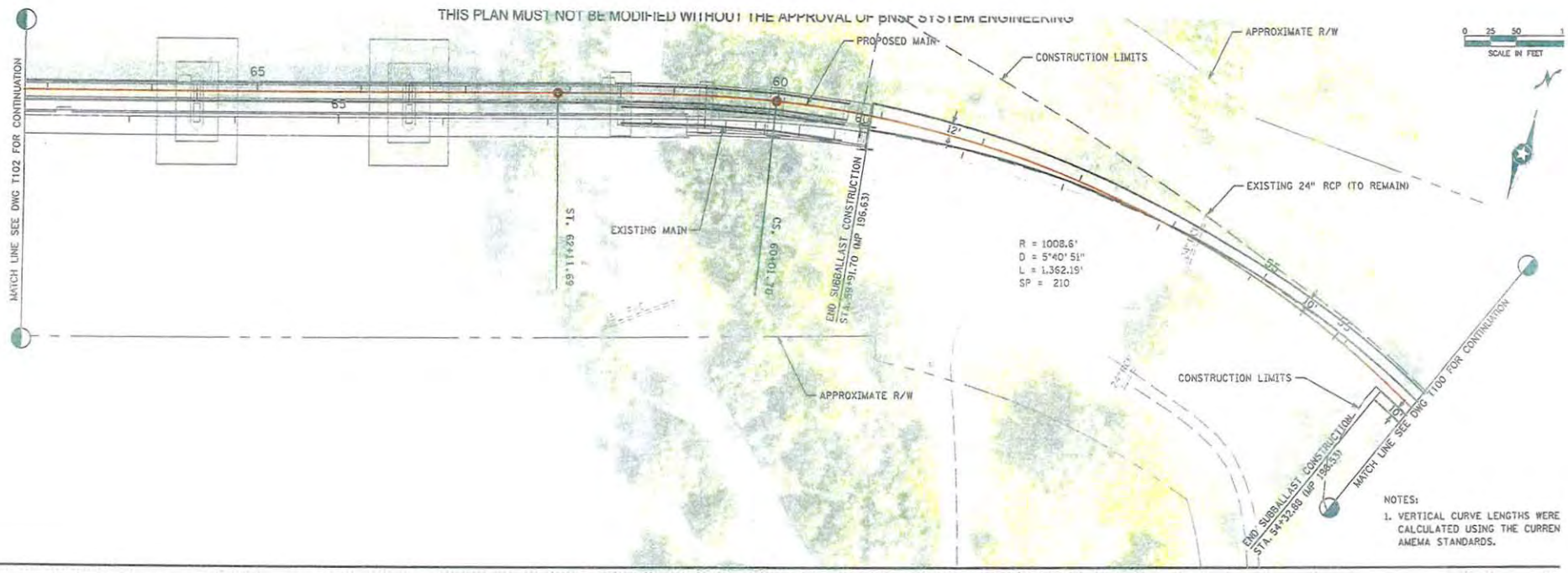
DES:	MJC-TKDA
DRAWN:	ADL-TKDA
CHECK:	HLE-TKDA
DATE:	FEB. 2017
AUTH:	AXXXXX
LINE SEG:	0038

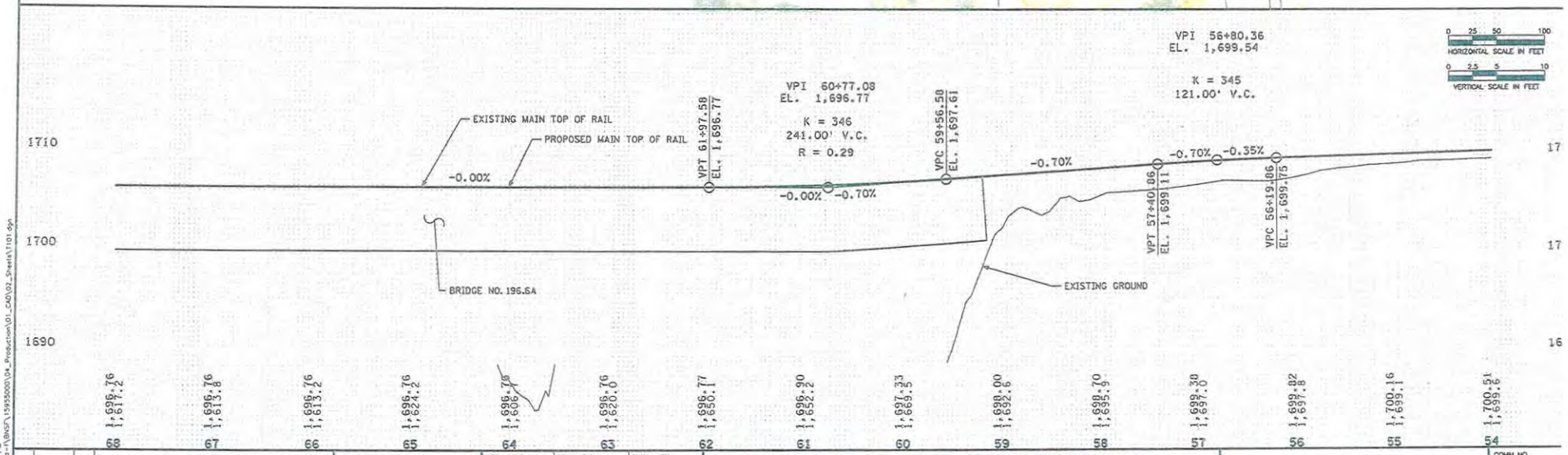
BNSF RAILWAY
BRIDGE ENGINEERING KANSAS CITY, KS
APPROVED:
DIRECTOR STRUCTURES ENGINEERING

BISMARCK TO MANDAN
BRIDGE NUMBER 196.6A
OVER MISSOURI RIVER NEAR BISMARCK, ND
GENERAL PLAN AND ELEVATION (1 OF CONCEPT NO. 1

PLAN NO: 0038-0196.600-001 SHEET: 1 OF

THIS PLAN MUST NOT BE MODIFIED WITHOUT THE APPROVAL OF BNSF SYSTEM ENGINEERING





NO	DATE	BY	DESCRIPTION OF REVISIONS
3	8-28-17	JEH	90% PLAN SUBMITTAL
2	7-10-17	JEH	60% PLAN SUBMITTAL
1	4-24-17	JEH	30% PLAN REVIEW

TKDA
444 Cedar Street, Suite 1500
Saint Paul, MN 55101
651.292.4400
tkda.com

DES: TJG | DRW: TJG | CHK: JEH
DATE: | AFE NO.:
VERIFY SCALES: BAR IS ONE INCH ON ORIGINAL DRAWING. IF NOT ONE INCH ON THIS DRAWING ADJUST SCALES ACCORDINGLY

BNSF RAILWAY

BNSF RAILWAY COMPANY
BRIDGE NO 196.6A GRADING PLAN
BISMARCK, ND (MP 196.38 - MP 197.20)

TRACK PLAN AND PROFILE

COMM NO 15955.000
DRAWING NO **T101**

DATE: 8/28/2017
TIME: 5:14:05 PM
FILENAME: T:\BNSF\15955000.04_Production\01_CAD\02_Sheets\T101.dgn

emailed 11-15-17

NOTICE OF APPLICATION

ON PETITION FOR APPROPRIATION OF WATER FROM GROUND WATER SOURCES

TAKE NOTICE that Jeff Hornbacher, Menoken, North Dakota, has submitted water permit application No. 6939 to the North Dakota Office of the State Engineer for a permit to divert and appropriate water from ground-water sources.

The application requests a permit to appropriate water from ground-water sources, utilizing point(s) of diversion located in the SW1/4 of Section 28, Township 137 North, Range 78 West, in Burleigh County, at a pumping rate of 900 gallons per minute during the operating season, for each year said permit may remain in force, with an annual appropriation of 165.0 acre-feet of water, for the purpose of irrigating 109.8 acres of land located in the SW1/4 of Section 28, Township 137 North, Range 78 West, as shown on the map(s) accompanying the application.

TAKE NOTICE that written comments regarding the proposed appropriation must be filed in the North Dakota Office of the State Engineer, 900 East Boulevard Avenue, Bismarck, North Dakota 58505-0850, by 5:00 o'clock p.m. on the 18th of December, 2017. The State Engineer shall consider all written comments received and prepare a recommended decision which will be provided to the applicant and any person who filed written comments. Those persons may file additional comments with the State Engineer, request an adjudicative proceeding on the application, or both.

Dated at Bismarck, North Dakota, November 13, 2017.

/S/ Garland Erbele, P.E.
North Dakota State Engineer
900 East Boulevard Avenue
Bismarck, ND 58505-0850

Notice of Application mailed to the Burleigh County WRD Chair/Office, Dept. of Health, G&F, F&WS, and NRCS on November 13, 2017

To be published in The Bismarck Tribune, Bismarck, ND on November 16 and 23, 2017

11

Emailed 11-22-17

United States Department of the Interior

BUREAU OF RECLAMATION
Great Plains Region
Dakotas Area Office
P.O. Box 1017
Bismarck, ND 58502-1017

IN REPLY REFER TO:
DK-5000-17-02
ENV-6.00

NOV 13 2017

Subject: Bureau of Reclamation's Preparation of an Environmental Assessment for the Funding and Construction of the Heart Butte Conduit Repair, Grant County, North Dakota

Dear Interested Party:

The Bureau of Reclamation (Reclamation) is preparing an Environmental Assessment (EA) for the funding and construction of a diaphragm filter and drainage system for the combined outlet works/spillway conduit and stilling basin structure for Heart Butte Dam. Reclamation is the lead Federal agency responsible for ensuring compliance with the National Environmental Policy Act, National Historic Preservation Act, and related federal environmental and cultural resource legislation. The project would be financed by Reclamation.

Heart Butte Dam is located on the Heart River in southwestern North Dakota, approximately 100 river miles upstream of Bismarck (**Map**). It forms the principal feature of the Heart Butte Unit of the Pick Sloan Missouri Basin Program (authorized under Section 9 of the Flood Control Act of December 22, 1944, 58 Stat. 887). The dam is in generally good condition; however, there are concerns with the seepage in the conduit and the potential for associated internal erosion.

Reclamation will use this EA to evaluate the environmental impacts associated with the installation of a sand filter diaphragm surrounding three sides of the conduit. The sand filter diaphragm would include a drain on two sides of the conduit with outfall pipes leading to downstream inspection manholes which would discharge to the downstream river channel. Reclamation would also construct an earthen berm above the filter.

A reservoir drawdown to 2050.00 feet or 14.50 feet below the crest of the spillway would be required. This elevation is equivalent to the historic low experienced during normal reservoir operations. The reduction in reservoir elevation is necessary to contain the most potential rainfall events and lessen the probability of uncontrolled releases during the construction period.

Subject: Bureau of Reclamation's Preparation of an Environmental Assessment for the Funding and Construction of the Heart Butte Conduit Repair, Grant County, North Dakota

We are requesting your input about the proposed action and information or concerns you may have regarding potential project effects. If no significant issues are identified during scoping or preparation of the EA, Reclamation would issue a Finding of No Significant Impact. Conversely, if any significant issues are identified, Reclamation would consider whether to proceed with the preparation of an environmental impact statement.

Reclamation defines significance in accordance with 40 CFR 1508.27.

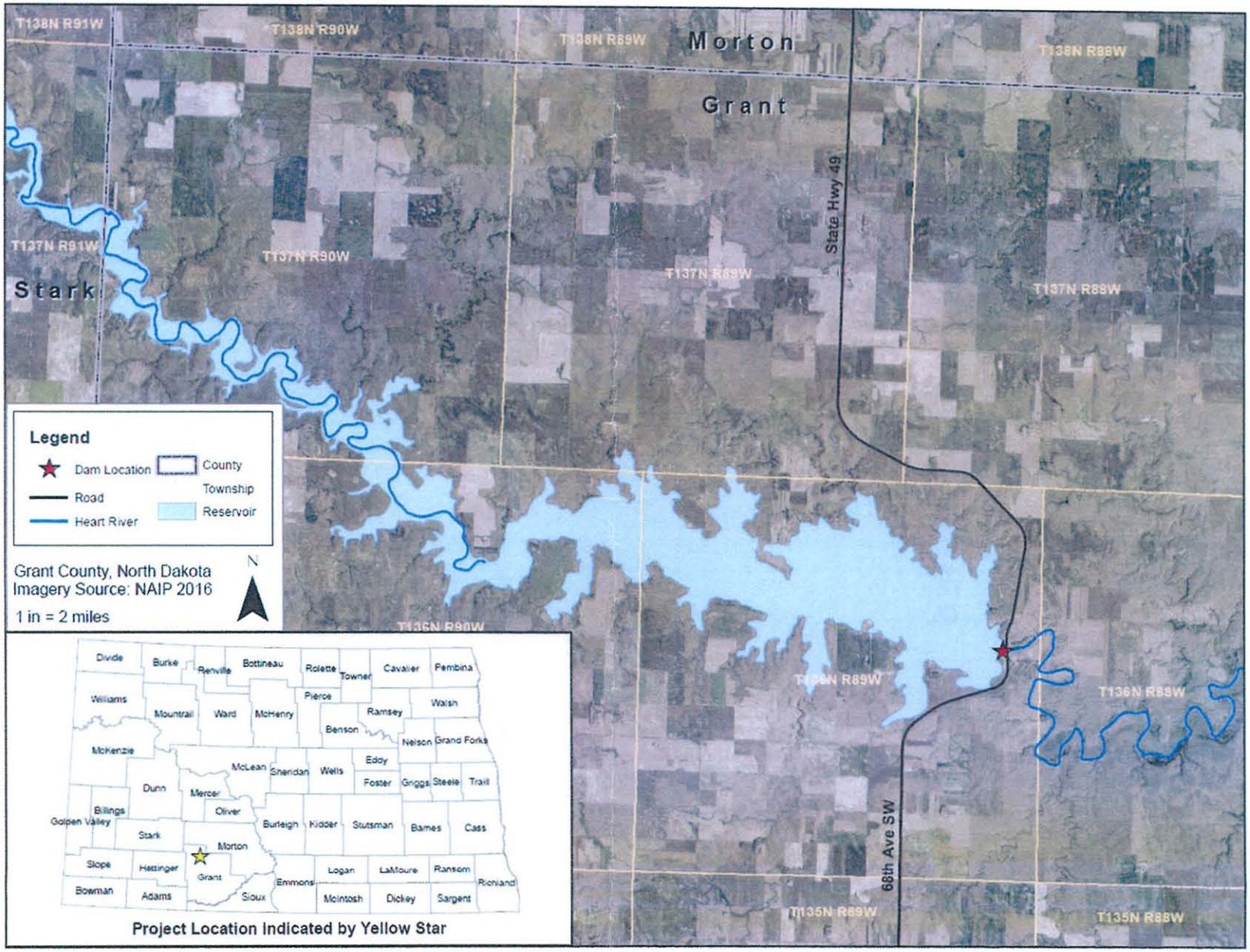
To be most helpful to the preparers of the EA please provide any comments, concerns or information regarding this project by December 18, 2017. Questions or comments regarding the preparation of the EA may be directed to Kate Kenninger at 701-221-1282, kkenninger@usbr.gov, or in writing to: Area Manager, Bureau of Reclamation, P.O. Box 1017, Bismarck, North Dakota 58502.

Sincerely,

Arden Freitag
Area Manager

Enclosure - Map

cc: Contact List Available From Dakotas Area Office


T138N R91W
T138N R90W
T138N R89W
Morton
T138N R88W
Grant
State Hwy 49
T137N R91W
T137N R90W
T137N R89W
T137N R88W
Stark
T136N R90W
T136N R89W
T136N R88W
68th Ave SW
T135N R89W
T135N R88W
Legend
Dam Location
County
Township
Road
Heart River
Reservoir
Grant County, North Dakota
Imagery Source: NAIP 2016
1 in = 2 miles
N
Divide
Burke
Renville
Bottineau
Rolette
Towner
Cavalier
Pembina
Williams
Mountrail
Ward
McHenry
Pierce
Ramsey
Walsh
Benson
Nelson
Grand Forks
McKenzie
McLean
Sheridan
Wells
Eddy
Foster
Griggs
Steele
Trail
Dunn
Mercer
Billings
Golden Valley
Oliver
Burleigh
Kidder
Stutsman
Barnes
Cass
Stark
Morton
Slope
Hettinger
Grant
Logan
LaMoure
Ransom
Richland
Bowman
Adams
Sioux
Emmons
McIntosh
Dickey
Sargent
Project Location Indicated by Yellow Star

Mona Livdahl

From: Dave Mayer <dmayer@bisparks.org>
Sent: Friday, December 1, 2017 8:31 AM
To: Mona Livdahl
Cc: James Landenberger; Tony Schmitt; David Robinson
Subject: McDowell Dam install bill
Attachments: Contractorinstall.pdf; McDowellDamResidence12-1.pdf

Mona,
Please see the attached bill for the install of the flooring, cabinets and countertops.
In conversations with Dave R. this should be the final bill for the home improvements.
That brings the grand total to $24,984.26 (see attached spreadsheet) for all improvements and labor associated with improving the residence.
Thank you,

Dave

117

2017 Mc Dowell Dam Residence Improvements		
1	Concrete Stoop Removals	$ 1,400.00
2	New Access/Deck	$ 9,820.00
3	Irrigation System	$ 1,172.00
4	Kitchen Cabinets	$ 7,401.29
5	Flooring/kitchen faucet	$ 1,475.06
6	Countertop, misc.	$ 656.41
7	Contractor Install	$ 3,059.50
		$ 24,984.26

BCWRD Invoices
12-13-17

Name	Project	Invoice	Amount
Agency Mabu	Website hosting fee	8595	$425.00
Bliss Law Firm	November Services	19250	$8,054.70
Bismarck Parks and Rec	Admin	4848	$3,160.21
Bismarck Parks and Rec	Expenses	4848	$12,640.84
Houston Engineering	General	37251	$1,000.00
Houston Engineering	Drainage - Lake Mitchell	37255	$746.50
Houston Engineering	Drainage Complaints	37254	$2,631.20
Houston Engineering	Missouri River Bank Stabilization	37256	$665.00
I Floor and More	House at McDowell Dam - cabinets		$3,059.50
Menards	House at McDowell Dam - flooring	17829	-$35.97
Menards	house at McDowell - Mosaic	17819	$692.38
ND Irrigation Association	2018 Dues	2018	$250.00
PMS	November Services	6103	$3,425.00
	Subtotal		$36,714.36
MRCC Bills			
Houston Engineering	Work Order #18 SA 25	37253	$3,595.75
Arnston Stewart Wegner	MRCC - Refunding improvement bonds	17159	$7,500.00
	Subtotal		$11,095.75
Fox Island Bills			
Houston Engineering	Fox Island	37252	$12,351.50
Axtman and Associate	Fox Island	145	$5,500.00
Axtman and Associate	Landscape improvements	156	$16,125.00
	Subtotal		$33,976.50
	TOTAL		$81,786.61

Use Your BIG CARD 2% REBATE MENARDS®

mcDowell house

MENARDS - BISMARCK
3300 State Street
Bismarck, ND 58503

KEEP YOUR RECEIPT
RETURN POLICY VARIES BY PRODUCT TYPE

Unless noted below allowable returns for items on this receipt will be in the form of an in store credit voucher if the return is done after 01/26/18

If you have questions regarding the charges on your receipt, please email us at:
BISMfrontend@menards.com

Merchandise Return

Invoice # 17829
CHARGE SALE

Account: 30550255
Guest Name: G- BISMARCK PARKS & REC

ORIG DOC# 17819

Back splash & Flooring

Tax Exempt 12
Government/School

RAND HONEY WHEAT MOSAIC
7350754 30 @11.99 359.70- NT
ORIG STORE: 3055 4 8933 10/28/2017
RAND HONEY WHEAT MOSAIC *
7350754 27 @11.99 323.73 NT

TOTAL SALE 35.97-
CHARGE 35.97-

TOTAL SAVINGS 53.73

TOTAL NUMBER OF ITEMS = 57

MENARDS IS NOW HIRING

APPLY TODAY

THANK YOU, YOUR CASHIER, John

63780 60 9002 10/28/17 04:03PM 3055

Use Your BIG CARD 2% REBATE MENARDS®

MENARDS - BISMARCK
3300 State Street
Bismarck, ND 58503

KEEP YOUR RECEIPT
RETURN POLICY VARIES BY PRODUCT TYPE

Unless noted below allowable returns for items on this receipt will be in the form of an in store credit voucher if the return is done after 01/26/18

If you have questions regarding the charges on your receipt, please email us at:
BISMfrontend@menards.com

Cust name: Robinson, David
PO # McDOWELL
Invoice # 17819
CHARGE SALE

Account: 30550255
Guest Name: G- BISMARCK PARKS & REC

Tax Exempt 12
Government/School

RAND HONEY WHEAT MOSAIC *
7350754 4 @11.99 47.96 NT
EZ CLICK PREMIER VNL PLN*
7256576 8.00 P @35.59/PKG 284.72 NT
SPECIAL ORDER 30389652
RAND HONEY WHEAT MOSAIC -PICK*
7350754 30 @11.99 359.70 NT
DELIVERY 0.00 NT
END OF ORDER

TOTAL SALE 692.38
CHARGE 692.38

TOTAL SAVINGS 132.06

TOTAL NUMBER OF ITEMS = 43

I acknowledge this purchase is governed by the terms and conditions posted in the front of the store and authorize MENARD, Inc. to bill the above named account and agree to pay for the goods according to the terms of the credit agreement which is on file.

Guest Signature

MENARDS IS NOW HIRING

APPLY TODAY

THANK YOU, YOUR CASHIER, Elaine

1863 04 8933 10/28/17 03:31PM 3055

Use Your BIG CARD RI MENARDS

MENARDS - BISM
3300 State Str
Bismarck, ND 5

KEEP YOUR RECEIPT
RETURN POLICY VARIES BY PROD

Unless noted below allowable r
items on this receipt will be
of an in store credit vouche
return is done after 01/

If you have questions regar
charges on your receipt,
email us at:
BISMfrontend@menards.c

Cust name: Robinson, David
PO # McDowell
Invoice # 16057
CHARGE SALE

Account: 30550255
Guest Name: G- BISMARCK PARKS

Tax Exempt 12
Government/School

ACROPOLIS VINYL PLANK *
7256622 34.00 @34.59/PKG
SPECIAL ORDER 30388
OVERLAND TOUCH 1H PD SP -PICK*
6730041
Tax Override - ND5850139
END OF ORDER

TOTAL SALE
CHARGE

TOTAL SAVINGS 199.60

TOTAL NUMBER OF ITEMS = 35

I acknowledge this purchase is by the terms and conditions po front of the store and authori Inc. to bill the above named a agree to pay for the goods acc the terms of the credit agreem is on file.

Guest Signature

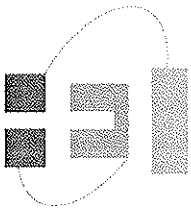
MENARDS IS NOW HIRI

APPLY TODAY

THANK YOU, YOUR CASHIER, Elair

1863 04 2194 10/12/17 01:

INVOICE



HoustonEngineering Inc.

Remit to:
1401 21st Ave N, Fargo, ND 58102
Phone: 701 237 5065
Fed Tax ID: 45-0314557
Interest of 1%/month applied to past due invoices

Ms. Mona Livdahl
Burleigh County Water Resource District
1720 Burnt Boat Drive, Suite 205
Bismarck, ND 58503

December 7, 2017
Invoice No: 0037256
Due Date: January 6, 2018

Project R146025-021 Missouri River Bank Stabilization Issues

BCWRD Account No.: 937I-1

See attached Project Status Report and Invoice Description.

Professional Services from October 22, 2017 to November 25, 2017

Phase 004 COE Section 32 Easement Documentation

Professional Personnel

	Hours	Rate	Amount	
Senior Project Manager	3.50	190.00	665.00	
Totals	3.50		665.00	
Total Labor				**665.00**
			Total this Phase	**$665.00**
			Total this Invoice	**$665.00**

HoustonEngineering Inc.
3712 Lockport Street
Bismarck, ND 58503
Phone: 701-323-0200
Fax: 701-323-0300

Project Status and Invoice Description

HEI Project No.:	**6025-021: Missouri River Bank Stabilization**
BCWRD Account No.	**937I-1**
Project Name:	**Missouri River Bank Stabilization**

Billing Period: *October 22, 2017 through November 25, 2017*

Professional engineering and surveying services related to Missouri River Bank Stabilization permits and related issues.

Tasks Completed:

Sovereign Lands Permit Application Hyder – Hogue Island

- Additional contacts with USACE related to Section 408 compliance and Section 404 Permit
- Created FIRMette related to Burleigh County Floodplain Development Permit
- Approval from the BCWRD to complete the work within the easement has not been requested

Sovereign Lands Permit Application – Fox Island Boat Ramp

- Prepared and submitted letter to the NDSE regarding permit application
- Created FIRMette related to Burleigh County Floodplain Development Permit
- Provide approved revetment easement transfer document to the NDSE and USACE

Comments and Issues:

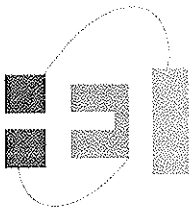
- Contact with NDSE Sovereign Lands Coordinator regarding Section 408 processes and its impact on various applications and approval status. It is likely to delay the USACE permit consideration and approvals.

- Both applicants have yet to secure a floodplain development permit.

See accompanying invoice for personnel cost breakdown.

Phase (004) COE Section 32 Easement Documentation	$ 665.00
Total	**$ 665.00**

INVOICE



HoustonEngineering Inc.

Remit to:
1401 21st Ave N. Fargo, ND 58102
Phone: 701 237 5065
Fed Tax ID: 45-0314557
Interest of 1%/month applied to past due invoices

Ms. Mona Livdahl
Burleigh County Water Resource District
1720 Burnt Boat Drive, Suite 205
Bismarck, ND 58503

December 7, 2017
Invoice No: 0037255
Due Date: January 6, 2018

Project R146025-018 Burleigh County WRD Drainage Complaints

BCWRD Account No.: 910

See attached Project Status Report and Invoice Description.

Professional Services from October 22, 2017 to November 25, 2017

Phase 016 Lake Mitchell Overflow Restoration

Professional Personnel

	Hours	Rate	Amount	
Senior Project Manager	1.50	190.00	285.00	
Professional Engineer	3.25	142.00	461.50	
Totals	4.75		746.50	
Total Labor				**746.50**
			Total this Phase	**$746.50**
			Total this Invoice	**$746.50**

HoustonEngineering Inc.
3712 Lockport Street
Bismarck, ND 58503
Phone: 701-323-0200
Fax: 701-323-0300

Project Status and Invoice Description

HEI Project No.:	**6025-018: Drainage Complaints**
BCWRD Account No.	**910 Shared Projects**
Project Name:	**Drainage Complaints**

Billing Period: ***October 22, 2017 through November 25, 2017***

Professional engineering and surveying services related to the evaluation of drainage complaints.

Lake Mitchell Overflow Restoration (016)

- Contact and letter request to the contractor for bid for additional work
- Contact with landowner regarding letter to contractor

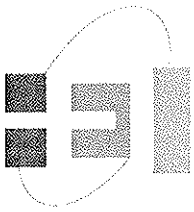
Comments:

- Board requested proposal to complete installation of the band and reducer in the spring of 2018. The proposal has yet to be received.

Phase (016) Lake Mitchell	$	746.50
Total	**$**	**746.50**

See accompanying invoice for personnel cost breakdown.

INVOICE



HoustonEngineering Inc.

Remit to:
1401 21st Ave N, Fargo, ND 58102
Phone: 701.237.5065
Fed Tax ID: 45-0314557
Interest of 1%/month applied to past due invoices

Ms. Mona Livdahl
Burleigh County Water Resource District
1720 Burnt Boat Drive, Suite 205
Bismarck, ND 58503

December 7, 2017
Invoice No: 0037254
Due Date: January 6, 2018

Project R146025-018 Burleigh County WRD Drainage Complaints

BCWRD Account No.: 910

See attached Project Status Report and Invoice Description.

Professional Services from September 24, 2017 to November 25, 2017

Phase 014 Hay Creek Pines Obstruction and Groundwater

Professional Personnel

	Hours	Rate	Amount	
Senior Project Manager	3.75	190.00	712.50	
Professional Engineer	2.50	142.00	355.00	
Graduate Engineer	1.25	114.00	142.50	
GIS Technician II	4.50	99.00	445.50	
Two Person Crew	5.00	167.00	835.00	
Totals	17.00		2,490.50	
Total Labor				**2,490.50**

Reimbursable Expenses

Hardware and Field Supplies				
10/11/2017	North Dakota One Call	1 - Locate Utility Lines Requests (with volume rebate)	1.00	
	Total Reimbursables		**1.00**	**1.00**

Unit Billing

(BSK) GPS Equipment Unit Hours	1.0 Hour @ 25.00	25.00	
(BSK) Mileage - Survey/Inspection	20.0 Miles @ 0.735	14.70	
(BSK) Small UAS	4.0 Hours @ 25.00	100.00	
Total Units		**139.70**	**139.70**
	Total this Phase		**$2,631.20**
	Total this Invoice		**$2,631.20**

HoustonEngineering Inc.
3712 Lockport Street
Bismarck, ND 58503
Phone: 701-323-0200
Fax: 701-323-0300

Project Status and Invoice Description

HEI Project No.:	**6025-018-14: Drainage Complaints**
BCWRD Account No.	**910 Shared Projects**
Project Name:	**Hay Creek Pines Groundwater Evaluation**

Billing Period: *September 24, 2017 through November 25, 2017*

Professional engineering and surveying services related to the evaluation of the Hay Creek Pines groundwater removal project.

Hay Creek Pines Obstruction and Groundwater (014)

- Subdivision landowner calls and contacts on issues – updates as requested
- Provided stormwater easements to two landowners for their consideration
- Coordination of additional water quality data testing
- Site photos within subdivision taken to document existing site conditions
- Coordinate and completed aerial drone survey to obtain topography data
- Processed aerial topography data, then place on hold

Comments:

- Costs have increased with additional landowner issues and project development
  - Concerns noted to the board on cost and next steps approach
- Subsurface Drainage Permit NDCC process implemented
  - Permit was approved via statutory timeline
  - Landowner filed an appeal of the permit decision to the NDSE
    - NDSE noted jurisdictional issue is with the district court
    - Landowner has appealed the permit approval to district court
- Additional steps awaiting Board authorization and direction
- Two additional drainage complaints have been filed against downstream landowner

Phase (014) Hay Creek Pines Obstruction and Groundwater	**$ 2,631.20**
Total	**$ 2,631.20**

See accompanying invoice for personnel cost breakdown.

INVOICE

HoustonEngineering Inc.

Remit to:
1401 21st Ave N, Fargo, ND 58102
Phone: 701.237.5065
Fed Tax ID: 45-0314557
Interest of 1%/month applied to past due invoices

Ms. Mona Livdahl
Burleigh County Water Resource District
1720 Burnt Boat Drive, Suite 205
Bismarck, ND 58503

December 7, 2017
Invoice No: 0037253
Due Date: January 6, 2018

Project R126025-012 Missouri River Correctional Facility FHMP

BCWRD Account No.: 937F-1
Work Order No. 18; Specific Authorization No. 25
Amendment #1

See attached Project Status Report and Invoice Description.

Professional Services from October 22, 2017 to November 25, 2017

Phase 600 Construction Management Services

Task 004 Project Closeout

Professional Personnel

	Hours	Rate	Amount	
Project Engineer	1.50	158.00	237.00	
CAD Supervisor	3.25	101.00	328.25	
Totals	4.75		565.25	
Total Labor				**565.25**
		Total this Task		**$565.25**
		Total this Phase		**$565.25**

Phase 700 Financial and Bonding

Professional Personnel

	Hours	Rate	Amount	
Senior Project Manager	2.50	190.00	475.00	
Professional Engineer	.25	142.00	35.50	
Totals	2.75		510.50	
Total Labor				**510.50**
		Total this Phase		**$510.50**

Phase 800 Operations and Maintenance Manual

Professional Personnel

	Hours	Rate	Amount	
Project Engineer	15.50	158.00	2,449.00	
Professional Engineer	.50	142.00	71.00	
Totals	16.00		2,520.00	
Total Labor				**2,520.00**
		Total this Phase		**$2,520.00**

Project	R126025-012	Missouri River Correctional Facility FHM	Invoice	0037253
		Total this Invoice		**$3,595.75**

HoustonEngineering Inc.
3712 Lockport Street
Bismarck, ND 58503
Phone: 701-323-0200
Fax: 701-323-0300

Project Status and Invoice Description

HEI Project No.: **6025-012**
BCWRD Account No. **937F-1**
Project Name: **Missouri River Correction Facility FHMP**

Billing Period: ***October 22, 2017 through November 25, 2017***

Professional engineering and surveying services related to the Missouri River Correctional Facility FHMP including time associated with, but not limited to the following:

Tasks Completed:

- Project Close Out - Record drawings – completed an on file
- Complete work on assessment district and bonding documentation
- Continued development Operations and Maintenance Manual

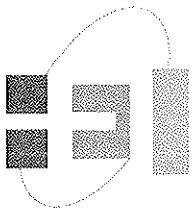
Comments and Issues:

- This is the 13th invoice under Specific Authorization #25 Amendment #1, and continuation of previously authorized work on construction management services
- A copy of the O&M Manual and record drawings will be transmitted to the ND State Engineer when completed.
- The NDSE has requested a final accounting of the final project expenses and costs. These will be prepared at the direction of the Board after the Bond Funds have been received and the final documents completed.

See accompanying invoice for personnel cost breakdown.

Phase (600) Construction Management Services	$	565.25
Phase (700) Financial and Bonding	$	510.50
Phase (800) O&M Manual	$	2,520.00
Total	**$**	**3,595.75**

INVOICE



HoustonEngineering Inc.

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1401 21st Ave N. Fargo, ND 58102
Phone: 701 237 5065
Fed Tax ID: 45-0314557
Interest of 1%/month applied to past due invoices

Ms. Mona Livdahl
Burleigh County Water Resource District
1720 Burnt Boat Drive, Suite 205
Bismarck, ND 58503

December 7, 2017
Invoice No: 0037252
Due Date: January 6, 2018

Project R106025-006 Fox Island Flood Control

BCWRD Account No.: 937 - Special Assessment Projects

See attached Project Status Report and Invoice Description.

Professional Services from October 22, 2017 to November 25, 2017

Phase 100 Regulatory and Easements

Task 001 Permitting and Regulatory

Professional Personnel

	Hours	Rate	Amount	
Senior Project Manager	3.75	190.00	712.50	
Totals	3.75		712.50	
Total Labor				**712.50**
			Total this Task	**$712.50**

Task 002 Easements and Rights-of-Way

Professional Personnel

	Hours	Rate	Amount	
Professional Engineer	11.25	142.00	1,597.50	
Graduate Engineer	15.00	114.00	1,710.00	
Senior Land Surveyor	12.50	155.00	1,937.50	
Senior Technician	1.00	114.00	114.00	
CAD Operator	2.00	77.00	154.00	
Totals	41.75		5,513.00	
Total Labor				**5,513.00**

Reimbursable Expenses

Reproductions			4.00	
Total Reimbursables			**4.00**	**4.00**
			Total this Task	**$5,517.00**
			Total this Phase	**$6,229.50**

Phase 200 Final Design

Task 001 Ground Reconnaissance Survey

Professional Personnel

	Hours	Rate	Amount
Professional Engineer	18.75	142.00	2,662.50

CAD Supervisor	2.50	101.00	252.50
Totals	21.25		2,915.00
Total Labor			**2,915.00**
		Total this Task	**$2,915.00**

Task 005 Project Manual

Professional Personnel

	Hours	Rate	Amount
Project Engineer	5.25	158.00	829.50
Professional Engineer	2.00	142.00	284.00
Totals	7.25		1,113.50
Total Labor			**1,113.50**
		Total this Task	**$1,113.50**

Task 007 Project QA/QC and Meetings

Professional Personnel

	Hours	Rate	Amount
Project Engineer	13.25	158.00	2,093.50
Totals	13.25		2,093.50
Total Labor			**2,093.50**
		Total this Task	**$2,093.50**
		Total this Phase	**$6,122.00**
		Total this Invoice	**$12,351.50**

HoustonEngineering Inc.
3712 Lockport Street
Bismarck, ND 58503
Phone: 701-323-0200
Fax: 701-323-0300

Project Status and Invoice Description

HEI Project No.:	**R106025-006**
BCWRD Account No.	**937 – Special Assessment Projects**
Project Name:	**Fox Island Flood Control**

Billing Period: ***October 22, 2017 through November 25, 2017***

Professional engineering services related to the activities associated with the preparation of the easement documents, regulatory submittals and final design documents for the Fox Island Flood Control Project.

Tasks Completed:

- Landowner negotiations with Ness and Brown continue along with additional landscape architectural services to assist with securing the easements.
- Contacts with Lincoln Oakes Nursery regarding the abandonment of their existing irrigation line after their new line becomes operational.
- Discussion with several landowners regarding temporary construction easements
- Preparation of various temporary construction easements for transmittal to the landowners
- Continued final design work, QA/QC process and development of project manual

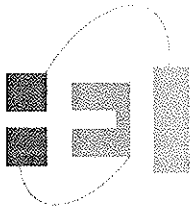
Comments and Issues

- *Securing landowner easements continues to absorb considerable and time consuming during design and have increased design costs. It also has delayed the permit application to the ND State Engineer.*
- USACE Section 408 may result in the need to complete an Environmental Assessment. Submittal to the USACE remains to be completed pending final design for levee permit application to the ND State Engineer.
- Bidding in 2017 is no longer practical, early in 2018 is an objective, though permit review needs to be considered before advertising.
- Final negotiations with residents continues with one landowner easement remaining
- Gallatin Drive Landowners raised the issue of an alternative alignment with the Burleigh County Commission. Time to review and advise on this issue is out of scope and is being tracked separately for future invoicing.

See accompanying invoice for personnel cost breakdown.

Regulatory and Easements (100)	$ 6,229.50
Final Design (200)	$ 6,122.00
Total Invoice	**$ 12,351.50**

INVOICE



HoustonEngineering Inc.

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1401 21st Ave N, Fargo, ND 58102
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Fed Tax ID: 45-0314557
Interest of 1%/month applied to past due invoices

Ms. Mona Livdahl
Burleigh County Water Resource District
1720 Burnt Boat Drive, Suite 205
Bismarck, ND 58503

December 7, 2017
Invoice No: 0037251
Due Date: January 6, 2018

Project R084241-000 Burleigh Co. WRD - General

BCWRD Project No.: 315 - Engineering Administration

See attached Project Status Report and Invoice Description.

Professional Services from October 22, 2017 to November 25, 2017

Phase 000 Burleigh Co. WRD - General

Monthly Lump Sum Amount

Fee		**1,000.00**
	Total this Phase	**$1,000.00**
	Total this Invoice	**$1,000.00**

HoustonEngineering Inc.
3712 Lockport Street
Bismarck, ND 58503
Phone: 701-323-0200
Fax: 701-323-0300

Project Status and Invoice Description

HEI Project No.:	**4241-000: BCWRD General Services**
BCWRD Account No.	**315 – Engineering Administration**
Project Name:	**General Engineering Services**

Billing Period: *October 22, 2017 through November 25, 2017*

Professional engineering and surveying services related to activities and issues addressed at the request and direction of the BCWRD during this billing period, including time associated with, but not limited to the following:

- November Meeting
- Meeting preparation and discussion
- Review of minutes and agenda updates
- Various BCWRD issues, contacts and calls

Comments:

- This invoice is only for Board meeting related time only. In accordance with Board direction, all costs associated with drainage complaints, storm water master plans, and other project related activities have been invoiced to assigned project numbers.

Total Invoice $1,000

Personalized Management Services, Inc.

1720 Burnt Boat Drive, Suite 205
Bismarck, ND 58503

Invoice

Date	Invoice #
11/30/2017	6103

Bill To
BCWRD

Description	Amount
Administrative/Management Fees (~~October~~ November meeting)	1,000.00
Work on Nitschke Open record request for emails	650.00
Work on District Court records request	925.00
Bookkeeping	350.00
Hay Creek Pines	50.00
MRCC	50.00
Admin other: change drainage form, send out Chris K letter, bond info from Insurance Dept, McDowell	400.00
Total	$3,425.00

NORTH DAKOTA IRRIGATION ASSOCIATION
P.O. Box 2254
Bismarck, North Dakota 58502
(701) 223-4615

DEDICATED TO STRENGTHEN AND EXPAND IRRIGATION TO BUILD AND DIVERSIFY OUR ECONOMY.

MEMBERSHIP DUES STATEMENT

MONA LIVDAHL
BURLEIGH COUNTY WRD
1811 E THAYER AVE
BISMARCK ND 58501

DATE DUE: January 1, 2018

COUNTY	MEMBERSHIP CLASSIFICATION	AMOUNT DUE
BURLEIGH	INDUSTRY MEMBER	$250.00

The portion of dues paid to the North Dakota Irrigation Association, which is attributable to lobbying activities, is 5% or less.

Please return this portion with your check payable to ND Irrigation Association.

(Please mark address corrections)
MONA LIVDAHL
BURLEIGH COUNTY WRD
~~1811 E THAYER AVE~~ 1720 Burnt Boat Drive Suite 205
BISMARCK ND 58501 Bismarck, NO 58503

Mail remittance to:
North Dakota Irrigation Association
P.O. Box 2254
Bismarck, ND 58502

Amount Due: $250.00

County: BURLEIGH

Contact Person: _____ Fax Number: _____

Phone Number: _____ E-Mail Address: _____

Arntson Stewart Wegner PC
Attorneys at Law

3101 Broadway North, Suite B
Fargo, ND 58102-1485

701-280-0195

November 10, 2017

Mona Livdahl
Burleigh County Water Resource District
1720 Burnt Boat Drive, Suite 205
Bismarck, ND 58503

Invoice #: 17159

RE: $395,000 Burleigh County Water Resource District
Refunding Improvement Bonds, Series 2017

	Amount
FOR PROFESSIONAL SERVICES RENDERED:	$7,500.00
TOTAL DUE:	**$7,500.00**

Pursuant to Section 13-01-14, N.D.C.C., a late payment charge of 1-3/4% per month may be assessed upon accounts not paid 30 days from billing date. You may at any time pay the total unpaid balance.

Agency MABU

Marketing and Advertising
Business Unlimited, Inc.
1003 Gateway Avenue
Bismarck, ND 58503
(701) 250-0728

WEB SITE HOSTING INVOICE

Date	Invoice #
10/31/2017	8595

Burleigh County Water Resource Board
Attn: Mona Livdahl
BCWRD Secretary
~~1811 E. Thayer Avenue~~ 1720 Burnt Boat Dr Suite 205
Bismarck, ND 58501

Terms
At Least Two (2) Weeks Prior to Renewal Date

Description	Amount
Annual website hosting fee and CMS maintenance fee for www.bcwrd.org (12/1/17 - 11/30/18)	425.00

Payment of web site hosting fees must be received at least two weeks prior to renewal date to allow for processing. Thank you.

It is a pleasure to serve you. Please include invoice number on payment. Thank you.

Total $425.00

BISMARCK PARKS AND RECREATION
400 East Front Avenue
Bismarck, ND 58504
701-222-6455
701-221-6838 (fax)

INVOICE

INVOICE NO: 4848
DATE: 12/5/2017

TO: Mona Livdahl
BCWRD
1811 E. Thayer Avenue
Bismarck, ND 58501

QUANTITY	DESCRIPTION	UNIT PRICE	TOTAL AMOUNT
	November 2017 McDowell Dam billing		$ 15,801.05
		TOTAL DUE:	**$ 15,801.05**

Make all checks payable to Bismarck Parks and Recreation.
If you have any additional questions concerning this invoice, call 222-6455.

THANK YOU!
Please return bottom portion with your payment

	Invoice No.	Amt. Due
Mona Livdahl BCWRD 1811 E. Thayer Avenue Bismarck, ND 58501	4848	$ 15,801.05

Mail payment to: Bismarck Parks & Recreation, 400 East Front Ave., Bismarck, ND 58504

BURLEIGH COUNTY WATER RESOURCE DISTRICT
McDowell Dam Monthly Billing

Bismarck Parks & Recreation District
400 E. Front Ave
Bismarck, ND 58504

For The Month Ended November 30, 2017

Date Submitted: 12/1/2017

Salaries & Wages	$	5,376.04
Employer Payroll Taxes		411.27
Employee Pension & Health/Life Benefits		1,355.16
Operating Expenses		5,498.37
Capital Improvement Expenses		-
Total Expenses	$	12,640.84
Administrative Fee		
(25% of Operating Expenses)	$	3,160.21
(5% of Capital Improvement Expenses)		-
Total Amount Requested	$	15,801.05

Megan Pederson MP
Prepared By

Board Member

Accounting Specialist
Title

McDowell Dam Monthly Billing

November-17

Salaries & Wages		
Salaries - Full time	$ 3,323.54	
Accrued Sick and Annual Leave Pay	-	
Wages - Part time	2,052.50	
Wages - Part time (Overtime)	-	
Total Salaries & Wages		$ 5,376.04
Employer Payroll Taxes		
Social Security/Medicare	411.27	
Worker's Compensation - Paid Benefits	-	
Unemployment	-	
Total Employer Payroll Taxes		411.27
Employee Benefits		
Pension	345.65	
Job Service	-	
Health & Life Insurance	1,009.51	
Total Employee Benefits		1,355.16
Property & Liability Insurance		
General Liability	-	
Multi Coverage	-	
Auto Liability	-	
Total Property & Liability Insurance		-
Operating Expenses		
Sanitary Systems	56.00	
Parking Lots & Trail Repair	1,750.00	
Fuel	1,601.64	
Repairs & Replacement	898.25	
Concession Purchases	385.82	
	4,691.71	
Utilities		
Electricity	-	
Garbage Removal	217.59	
Water	459.30	
Telephone	129.77	
Total Utilities	806.66	
Total Operating Expenses		5,498.37
Capital Improvements		
Building and Building Remodeling	-	-
Capital Equipment	-	
Total Capital Improvements		-
Total Expenses		$ 12,640.84

Bismarck Parks and Recreation District

Detail Report
Account Detail
Date Range: 11/01/2017 - 11/30/2017

Account	Name	Beginning Balance	Total Activity	Ending Balance
Fund: 01 - GENERAL FUND				
01.12.000.510100	FULL-TIME SALARIES	33,619.69	3,323.54	36,943.23

Post Date	Packet Number	Source Transaction	Pmt Number	Description	Vendor	Project Account	Amount	Running Balance
11/09/2017	PYPKT00141	PYPKT00141 - 2017-11/...		ROBINSON, DAVID H.:000415 - McDowell ...			1,661.77	35,281.46
11/22/2017	PYPKT00148	PYPKT00148 - 2017-11/...		ROBINSON, DAVID H.:000415 - McDowell ...			1,661.77	36,943.23
01.12.000.510200	PART-TIME SALARIES					41,016.78	2,052.50	43,069.28

Post Date	Packet Number	Source Transaction	Pmt Number	Description	Vendor	Project Account	Amount	Running Balance
11/09/2017	PYPKT00142	PYPKT00142 - 2017-11/...		JOHNSON, SETH M.:000217 - Operations...			973.00	41,989.78
11/09/2017	PYPKT00142	PYPKT00142 - 2017-11/...		OSHANYK, JAMES L.:000366 - Operations...			274.50	42,264.28
11/22/2017	PYPKT00149	PYPKT00149 - 2017-11/...		JOHNSON, SETH M.:000217 - Operations...			805.00	43,069.28
01.12.000.520400	SANITARY SYSTEMS					737.00	56.00	793.00

Post Date	Packet Number	Source Transaction	Pmt Number	Description	Vendor	Project Account	Amount	Running Balance
11/28/2017	APPKT00419	SI-107123	192564	BILLING PERIOD 10/08/17 - 11/04/17	0846 - SPIFFY BIFFS		56.00	793.00
01.12.000.520900	PKG LOTS,SNOW REM,TRAIL REPAIR					2,646.00	1,750.00	4,396.00

Post Date	Packet Number	Source Transaction	Pmt Number	Description	Vendor	Project Account	Amount	Running Balance
11/27/2017	APPKT00417	MCDOWELL - 2017	192532	PAVEMENT FOR RESIDENCE DRIVEWAY RE...	0251 - DAKOTA CONCEPTS LLC.		1,750.00	4,396.00
01.12.000.531300	FUEL					2,931.31	1,601.64	4,532.95

Post Date	Packet Number	Source Transaction	Pmt Number	Description	Vendor	Project Account	Amount	Running Balance
11/15/2017	APPKT00404	099703	192475	156 GAL FUEL	0918 - TRI-ENERGY COOPERATIVE		355.85	3,287.16
11/15/2017	APPKT00404	099704	192475	423 GAL DIESEL	0918 - TRI-ENERGY COOPERATIVE		1,084.49	4,371.65
11/15/2017	APPKT00404	FLTS-17-0015	192440	OCTOBER 2017 FUEL CHARGES	0209 - CITY OF BISMARCK		161.30	4,532.95

Account	Name	Beginning Balance	Total Activity	Ending Balance
01.12.000.531400	REPAIRS & REPLACEMENT	20,084.86	898.25	20,983.11

Post Date	Packet Number	Source Transaction	Pmt Number	Description	Vendor	Project Account	Amount	Running Balance
11/10/2017	APPKT00412	23126040635	DFT0000194	CRACK SEALER, LANDSCAPE BLOCKS, INSU...	0948 - US BANK - ONE CARD		30.34	20,115.20
				Purchased From Vendor: 0581 - MENARDS				
11/10/2017	APPKT00412	4653985	DFT0000194	WIRE TIRE	0948 - US BANK - ONE CARD		5.99	20,121.19
				Purchased From Vendor: 0785 - RUNNINGS SUPPLY INC				
11/10/2017	APPKT00412	4659439	DFT0000194	DRILL BITS	0948 - US BANK - ONE CARD		13.88	20,135.07
				Purchased From Vendor: 0785 - RUNNINGS SUPPLY INC				
11/10/2017	APPKT00412	60139	DFT0000194	PAINT	0948 - US BANK - ONE CARD		39.90	20,174.97
				Purchased From Vendor: 0139 - BOBCAT OF MANDAN, INC.				
11/10/2017	APPKT00412	66521048200	DFT0000194	BALLAST, BULBS, WIRE NUTS	0948 - US BANK - ONE CARD		81.19	20,256.16
				Purchased From Vendor: 0581 - MENARDS				
11/10/2017	APPKT00412	66530079323	DFT0000194	BRACKETS	0948 - US BANK - ONE CARD		25.50	20,281.66
				Purchased From Vendor: 0581 - MENARDS				
11/10/2017	APPKT00412	P78015	DFT0000194	WHEEL, BUSHING, SCREW, LOCK NUT, WA...	0948 - US BANK - ONE CARD		71.94	20,353.60
				Purchased From Vendor: 0751 - RDO EQUIPMENT CO.				
11/10/2017	APPKT00412	S2426354.001	DFT0000194	PLUMBING REPAIR ITEMS	0948 - US BANK - ONE CARD		55.34	20,408.94
				Purchased From Vendor: 0981 - WESTERN STEEL & PLUMBING, INC.				
11/15/2017	APPKT00404	10038583 GP	192474	FUEL VALVE	0909 - TITAN MACHINERY - MANDAN		94.00	20,502.94
11/15/2017	APPKT00404	1536-374499	192458	WIRE COMPONENTS	0682 - O'REILLY AUTO PARTS		28.98	20,531.92
11/15/2017	APPKT00404	1536-374698	192458	WIRING	0682 - O'REILLY AUTO PARTS		12.57	20,544.49
11/15/2017	APPKT00404	1536-376116	192458	O-RING	0682 - O'REILLY AUTO PARTS		1.13	20,545.62
11/15/2017	APPKT00404	1536-376616	192458	TRAILER WIRING	0682 - O'REILLY AUTO PARTS		16.89	20,562.51
11/15/2017	APPKT00404	1536-376928	192458	O-RING	0682 - O'REILLY AUTO PARTS		1.13	20,563.64
11/15/2017	APPKT00404	1536-377159	192458	FUEL INTAKE PARTS	0682 - O'REILLY AUTO PARTS		10.78	20,574.42
11/15/2017	APPKT00404	1536-378868	192458	DOOR HANDLE	0682 - O'REILLY AUTO PARTS		23.86	20,598.28
11/15/2017	APPKT00404	1536-379093	192458	TRAILER CONNECTOR	0682 - O'REILLY AUTO PARTS		29.99	20,628.27
11/15/2017	APPKT00404	1766-451597	192458	WIRE CONNECTORS	0682 - O'REILLY AUTO PARTS		5.98	20,634.25
11/15/2017	APPKT00404	C7162	192463	GARDEN TILLER PARTS	0721 - PRECISION SMALL ENGINE SERVICE		24.98	20,659.23
11/15/2017	APPKT00404	C7166	192463	MOWER BLADES	0721 - PRECISION SMALL ENGINE SERVICE		323.88	20,983.11

Account	Name	Beginning Balance	Total Activity	Ending Balance
01.12.000.540130	ELECTRICITY	3,887.91	385.82	4,273.73

Post Date	Packet Number	Source Transaction	Pmt Number	Description	Vendor	Project Account	Amount	Running Balance
11/15/2017	APPKT00404	110617	192438	OCTOBER 2017 BILLING PERIOD	0175 - CAPITAL ELECTRIC COOPERATIVE		385.82	4,273.73

Account	Name	Beginning Balance	Total Activity	Ending Balance
01.12.000.540140	GARBAGE	868.28	217.59	1,085.87

Post Date	Packet Number	Source Transaction	Pmt Number	Description	Vendor	Project Account	Amount	Running Balance
11/10/2017	APPKT00412	2535a	DFT0000194	SEPTEMBER 2017 TRASH COLLECTION	0948 - US BANK - ONE CARD		109.50	977.78
				Purchased From Vendor: 0268 - DAKOTA SANITATION, INC.				
11/15/2017	APPKT00404	6475838-0506-2	192481	OCTOBER 2017 TRASH COLLECTION	0968 - WASTE MANAGEMENT OF ND		108.09	1,085.87

Account	Name	Beginning Balance	Total Activity	Ending Balance
01.12.000.540150	WATER	2,210.10	459.30	2,669.40

Post Date	Packet Number	Source Transaction	Pmt Number	Description	Vendor	Project Account	Amount	Running Balance
11/03/2017	APPKT00390	102017	192379	SEPTEMBER 2017 BILLING	0837 - SOUTH CENTRAL REGIONAL WATER		234.55	2,444.65
11/28/2017	APPKT00419	112117	192563	OCTOBER 2017 BILLING	0837 - SOUTH CENTRAL REGIONAL WATER		224.75	2,669.40

Account	Name	Beginning Balance	Total Activity	Ending Balance
01.12.000.540160	TELEPHONE	1,140.81	129.77	1,270.58

Post Date	Packet Number	Source Transaction	Pmt Number	Description	Vendor	Project Account	Amount	Running Balance
11/10/2017	APPKT00412	100317	DFT0000194	OCTOBER 2017 INTERNET, PHONE	0948 - US BANK - ONE CARD		123.77	1,264.58
				Purchased From Vendor: 0087 - BEK COMMUNICATIONS				
11/14/2017	APPKT00402	102817	192415	BILLING PERIOD 10/28/17 - 11/27/17	0202 - CENTURYLINK		6.00	1,270.58

Account	Name	Beginning Balance	Total Activity	Ending Balance
01.12.000.550100	HEALTH INSURANCE	9,623.18	1,009.51	10,632.69

Post Date	Packet Number	Source Transaction	Pmt Number	Description	Vendor	Project Account	Amount	Running Balance
11/27/2017	APPKT00417	EINS-17-0099	192528	NOVEMBER 2017 HEALTH BENEFITS	0209 - CITY OF BISMARCK		1,009.51	10,632.69

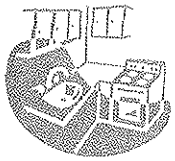
Total Fund: 01 - GENERAL FUND:	Beginning Balance: 118,765.92	Total Activity: 11,883.92	Ending Balance: 130,649.84
Grand Totals:	Beginning Balance: 118,765.92	Total Activity: 11,883.92	Ending Balance: 130,649.84

Date Range: 11/01/2017 - 11/30/2017

Fund Summary

Fund		Beginning Balance	Total Activity	Ending Balance
01 - GENERAL FUND		118,765.92	11,883.92	130,649.84
	Grand Total:	118,765.92	11,883.92	130,649.84

Mike Zacher
1500 W Blossom Dr
Minoken, ND 58558
701-400-1233



Job/Customer	McDowel Dam
Address	House

Cabinet Install		$275.00
Cabinet Hardware		$81.00
Countertops		$1250.00
Flooring Install		$1453.50
	Total Due	$3059.50

Thank you for your business!!!!

axtman+associates, pc
landscape architecture | planning
www.axtmanassociates.com

From **Axtman + Associates, PC**
400 East Broadway Ave. | Suite 304
Bismarck | North Dakota | 58501
(701) 220-5659

Invoice ID	145
Issue Date	07/03/2017
Due Date	08/02/2017 (Net 30)
Subject	Fox Island Levee - Landscape Review

Invoice For **Houston Engineering, Inc.**
Bismarck, ND
3712 Lockport Street
Bismarck, ND 58503

Item Type	Description	Quantity	Unit Price	Amount
Hours	MEETINGS: April 21st, May 4th, May 8th, May 12th, May 16th, May 31st, June 5th	12.50	$100.00	**$1,250.00**
Hours	Basemap: Create basemap information - proposed/existing topography, aerial photography, 3D buildings with facade photos, existing trees.	16.50	$100.00	**$1,650.00**
Hours	Heringer Renderings: 3D renderings of proposed landscape improvements. Additional trees, berming, deck area, fire pits, volleyball.	8.00	$100.00	**$800.00**
Hours	Brown Renderings: 3D renderings of proposed landscape improvements. Paver patio, landscaping, fire pit, flood wall cladding, steps.	8.00	$100.00	**$800.00**
Hours	Ness Renderings: 3D renderings of proposed landscape improvements. Various options for fill in yard. Deck, landscaping, rock outcroppings, save vs. eliminate trees, building additions.	10.00	$100.00	**$1,000.00**

Amount Due **$5,500.00**

Notes

The above invoice reflects billing through 7/3/2017. Should you have any questions regarding this invoice, please contact me at your convenience. I do appreciate the opportunity to work with HEI.

axtman+associates, pc
landscape architecture | planning
www.axtmanassociates.com

From **Axtman + Associates, PC**
400 East Broadway Ave. | Suite 304
Bismarck | North Dakota | 58501
(701) 220-5659

Invoice ID	156
Issue Date	12/01/2017
Due Date	12/30/2017
Subject	Fox Island Levee - Landscape Improvements Construction Documents

Invoice For **Houston Engineering, Inc.**
Bismarck, ND
3712 Lockport Street
Bismarck, ND 58503

Item Type	Description	Quantity	Unit Price	Amount
Service	Brown Residence: Construction documents and specifications for a paver patio, landscape walls, and miscellaneous landscaping improvements. Grading plan, material plan, landscape plan, construction details. Construction documents and specifications coordination for floodwall cladding (limestone). Product review with stone manufacturer. Product review with paver patio product distributor (Hebron Brick). Revisions to planting plan. Coordination meetings with client. (Aug. 31st, Sept. 11th, Sept. 29th, Oct. 13th)	118.50	$100.00	**$11,850.00**
Service	Heringer Residence: Construction documents and specifications for landscaping and grading improvements around the property. Construction details for replacement deck. No meetings.	12.50	$100.00	**$1,250.00**
Service	Ness Residence: Construction documents and specifications for landscaping and grading improvements around the perimeter of the property. Meetings (Oct. 31st & Oct. 7th) with Ness Family to discuss. Revision to grading plans. Edit conceptual renderings for Ness to review. Edit construction documents.	20.25	$100.00	**$2,025.00**
Service	Larson Residence: Design concept for retaining wall within floodwall. Construction documents for retaining wall. Brief meeting (Oct. 7th) with clients at Houston Engineering office.	8.00	$100.00	**$800.00**
Hours	Miscellaneous: Meeting (Sept. 7th) with Nic and Tyler to discuss coordination of construction documents. Prepare seeding specifications.	2.00	$100.00	**$200.00**

Amount Due **$16,125.00**

Bliss Law Firm, LLC
400 East Broadway, Suite 308
Bismarck, ND 58501

Invoice submitted to:

Burleigh County Water Resource District
1720 Burnt Boat Dr., Suite 205
Bismarck, ND 58503

December 05, 2017

Invoice #19250

Professional Services

		Hrs/Rate	Amount
10/27/2017	(953) Two telephone calls to/from Attorney Doug Bahr with regard to his firm's potential Nitschke representation; subsequent e-mail from Attorney Bahr who later declined representation.	0.80 231.00/hr	184.80
10/30/2017	(953) Telephone call from Chairman Larson with regard to the Nitschke matter and Nitschke appeals; receipt and review of photocopy of notice of appeal served on Chairman Larson.	0.50 231.00/hr	115.50
	(953) Telephone call from Mike Gunsch with regard to Braun Intertec studies, status of case.	0.40 231.00/hr	92.40
10/31/2017	(953) Follow-up telephone call to Attorney Doug Bahr with regard to his scope of representation of Nitschkes.	0.30 231.00/hr	69.30
11/1/2017	(953) Telephone call from Kathleen Jones with regard to status of Hay Creek Pines.	0.30 231.00/hr	69.30
	(953) Review appropriate statutory bases relevant to Nitschke appeal.	0.40 231.00/hr	92.40
	(953) Telephone call from Mike Gunsch with regard to Hay Creek Pines, Braun Intertec report, status of case.	0.50 231.00/hr	115.50
11/2/2017	(953) Research Administrative Practices Acts NDCC 28-34 and 61-32-08 case law which govern filing and service procedures; review Nitschke appeal to date.	2.00 231.00/hr	462.00
	(953) Follow-up telephone call to Mike Gunsch with regard to Hay Creek Pines and Houston Engineering/Board request for additional testing and reporting, chronology of events.	0.40 231.00/hr	92.40

		Hrs/Rate	Amount
11/2/2017	(953) Telephone call from Commissioner Kathleen Jones with regard to Hay Creek Pines status.	0.30 231.00/hr	69.30
11/3/2017	(953) Several telephone calls to/from Mike Gunsch with regard to e-mail requests of Mr. Nitschke; discussion of logistics of obtaining same.	1.00 231.00/hr	231.00
	(953) Telephone call from Kathleen Jones with regard to e-mail compilation.	0.40 231.00/hr	92.40
	(953) Legal research with regard to open records requests for electronic communications.	1.00 231.00/hr	231.00
11/4/2017	(953) Telephone call from Kathleen Jones with regard to Hay Creek Pines and open records request.	0.30 231.00/hr	69.30
11/7/2017	(910D) Receipt and review of draft of documentation on MRCC opinion; revise draft, send as noted.	0.30 231.00/hr	69.30
	(953) Receipt and review of storm water easement drafts; revise and amend, reply to Mike Gunsch with regard to the same.	0.90 231.00/hr	207.90
11/8/2017	(312) Prepare for Board meeting; attend Board meeting.		1,000.00
	(953) Follow-up telephone call to Mike Gunsch with regard to Hay Creek Pines assessment district procedures, status of case.	0.40 231.00/hr	92.40
	(953) Telephone call from Mona with regard to status of our e-mail collection from Board members.	0.40 231.00/hr	92.40
11/9/2017	(953) Telephone calls to/from Mike Gunsch with regard to Braun Intertec test results, appeal process.	0.40 231.00/hr	92.40
	(953) Follow-up telephone call to Assistant Attorney General Mary Kae Kelsch with regard to open meetings requests, audio taping of public meetings.	0.30 231.00/hr	69.30
	(953) Follow-up telephone call to Burleigh County Clerk of Court, obtain civil number of Nitschke appeal; forward to all Board members via e-mail; obtain copy of assignment of judge and sheriff's service of process upon Chairman Larson.	0.20 231.00/hr	46.20
	(953) Prepare drafts of reply letters to Attorney Bakke and Mr. and Mrs. Nitschke, Mr. Randy Schwartz; conference with Manager Ron Beck with regard to the same; e-mail to/from Mona with regard to the same.	0.50 231.00/hr	115.50
	(953) Conference with Rod, review draft Board replies to Mr. Bakke, Schwatz and Nitschke.	1.00 231.00/hr	231.00

		Hrs/Rate	Amount
11/10/2017	(953) Receipt and review of e-mail correspondence between Nitschke and Mona; e-mail from Mona; follow-up telephone call to Mike Gunsch with regard to compilation of board e-mails for Hay Creek Pines.	0.30 231.00/hr	69.30
11/13/2017	(953) Telephone call from Rod with regard to Hay Creek Pines documents.	0.30 231.00/hr	69.30
11/14/2017	(953) Telephone calls to/from Mona as to the Nitschke open records e-mail gathering from Board members; discussion of assembly of proceedings to the court.	0.50 231.00/hr	115.50
	(953) Telephone call and e-mail to/from Mike Gunsch with regard to Houston Engineering's assembly of district engineer documents for inclusion in Hay Creek Pines appeal record.	0.50 231.00/hr	115.50
	(953) Amend draft proposals provided to Rod Beck for Randy Schwartz; follow-up telephone call to Mike Gunsch with regard to Houston Engineering reports related to Hay Creek Pines; receipt of comments from Mr. Beck; forward draft to Mona.	0.50 231.00/hr	115.50
11/15/2017	(953) E-mail, telephone calls to/from Mona with regard to Nitschke open records request and formatting issues for obtaining and filing court record.	0.40 231.00/hr	92.40
	(910H) Receipt and review of Houston Engineering proposed levee easements for Fox Island, reply to the same.	0.30 231.00/hr	69.30
11/16/2017	(953) Follow-up telephone call to Mike Gunsch with regard to Houston Engineering e-mail compilation.	0.40 231.00/hr	92.40
	(953) Several telephone calls to/from Mona with regard to compilation of open records request and compilation of court record.	0.40 231.00/hr	92.40
	(953) Receipt and review of proposed project resolution of Hay Creek Pines from Houston Engineering, reply to the same.	0.20 231.00/hr	46.20
11/17/2017	(953) Receipt of compilation of all e-mail correspondence from Board members as assembled by Mona.	1.00 231.00/hr	231.00
	(910H) Telephone call from Chairman Larson with regard to Fox Island matters.	0.40 231.00/hr	92.40
	(953) Telephone calls to/from Rod Beck with regard to correspondence in reply to Schwartz/Nitschke requests.	0.30 231.00/hr	69.30
	Review open records procedures; review Nitschke documentation to date; draft reply to Nitschke's requests of the Board; memorialize invoices based upon Mona's compilation, forward invoices to Mona for review.	0.50 231.00/hr	115.50

		Hrs/Rate	Amount
11/20/2017	(910H) Telephone call from Rod Beck with regard to Fox Island matters.	0.30 231.00/hr	69.30
	(953) Numerous call/e-mail to/from Mona, Mike Gunsch with regard to assembly of the Nitschke open records request; review indexing, pagination, chronology; telephone calls/e-mail to Mona with regard to finalizing Board response to Nitschke open records requests.	1.40 231.00/hr	323.40
	(953) Prepare for conference with Gary, Mike Gunsch, Nick Cullen, Travis at Houston Engineering; attend conference.	1.50 231.00/hr	346.50
11/21/2017	(953) Legal research with regard to governing a body decision appeal process; follow-up e-mail to Board with regard to the same.	0.80 231.00/hr	184.80
	(953) E-mail to/from Mike Gunsch with regard to Hay Creek Pines easements.	0.30 231.00/hr	69.30
	(953) Review Burleigh County Commission meeting/Dakota Access video with regard to Hay Creek Pines testimony; telephone call from Mike Gunsch with regard to Burleigh County Commission/Hay Creek Pines testimony.	0.90 231.00/hr	207.90
	(953) Telephone call from Chairman Larson with regard to Hay Creek Pines and Burleigh County Commission testimony, status of case.	0.50 231.00/hr	115.50
	(953) Telephone call from Attorney Bakke with regard to status of Hay Creek Pines.	0.20 231.00/hr	46.20
	(953) Telephone call from Commissioner Kathleen Jones with regard to Hay Creek Pines County Commission hearing on Monday.	0.30 231.00/hr	69.30
	(953) Telephone call from Mike Gunsch with regard to status of Hay Creek Pines procedures, County Commission hearing.	0.30 231.00/hr	69.30
	(953) Initial review of assembled court record; follow-up e-mail to Mona, Mike Gunsch with regard to compilation matters.	0.40 231.00/hr	92.40
11/27/2017	(910H) Telephone call from Commissioner Kathleen Jones with regard to Fox Island matters.	0.40 231.00/hr	92.40
	(910H) Telephone call from Commissioner Kathleen Jones with regard to status of Fox Island matters.	0.20 231.00/hr	46.20
	(910B) Receipt and review of e-mail from Attorney Dave Tschider with regard to Burnt Creek floodway property posting matters; receipt and review of Hogue Island aerial tract map from Attorney Tschider (Tract 11); telephone call from Attorney Tschider with regard to the same; receipt and review of e-mail correspondence from Attorney Tschider, forward to Mona for agenda inclusion; notification to Chairman Larson and Board Member Rick Detwiler with regard to the same.	0.80 231.00/hr	184.80

		Hrs/Rate	Amount
11/27/2017	(953) Follow-up telephone calls to Mona with regard to Hay Creek Pine's court record and organization thereof; discussion of cost estimates for assembly of the information; receipt and review of drafts of estimates; follow-up telephone call to Rod with regard to status of Nitschke appeals; notice to Nitschkes of estimates, status of case.	0.40 231.00/hr	92.40
11/28/2017	(910B) Review May, 1975 Pete Hogue deed and temporary construction easement to the district (Tract 11); follow-up e-mail to Attorney Tschider with regard to yesterday's communication with him; follow-up telephone call to Board Member Rick Detweiler with regard to posting issue on Tract 11.	0.40 231.00/hr	92.40
11/29/2017	(910H) Telephone call from Commissioner Jones with regard to Burleigh County Commission meeting and Fox Island testimony.	0.30 231.00/hr	69.30
	(910B) Receipt and review of e-mail from Attorney Tschider with regard to Tract 11 posting; forward letter to Board members.	0.20 231.00/hr	46.20
11/30/2017	(910H) Receipt and review of Fox Island constituent letter to Burleigh County Commission; follow-up telephone call to Chairman Larson, Commissioner Kathleen Jones with regard to the same.	0.50 231.00/hr	115.50
	(953) Receipt and review of Braun Intertec's second water analysis of Hay Creek Pines area; follow-up telephone call to Mike Gunsch with regard to the same.	0.40 231.00/hr	92.40
12/1/2017	(953) Receipt and review from Mona of Mr. Nitschke's letter to Manager Beck (11-30-17); follow-up telephone call to Rod Beck with regard to his reply; draft reply at Mr. Beck's directive, forward to Rod, Mona; discussion with Rod Beck as to the implications of the recent Braun Intertec report, procedural status.	0.70 231.00/hr	161.70
	For professional services rendered		$7,976.20
	Additional Charges :		
12/4/2017	Copying costs		78.50
	Total additional charges		$78.50
	Total amount of this bill		$8,054.70
	Previous balance		$4,512.65
	Accounts receivable transactions		
11/8/2017	Payment - Thank You. Check No. 1547		($4,512.65)
	Total payments and adjustments		($4,512.65)

	Amount
Balance due	$8,054.70