

BURLEIGH COUNTY WATER RESOURCE DISTRICT AGENDA

June 13, 2012 at 8:00 a.m.

**Tom Baker Meeting Room
City/County Building - Bismarck**

1. 8:00 AM - Call to Order
2. Roll Call (Narum, Fleck, Royse, Backstrand, Kellar)
3. **Approval of Minutes of (5-8-12)..... 1-9**
4. Financial Reports
 - End of May Financial Data..... 10
5. **Payment of Bills \$40,723.11 (See attached list – back of book) 11**
6. McDowell Dam Updates
 - 2012 Expense Summary for Bismarck Parks & Rec. 12
 - Supplemental Water Supply Permit – Pending
 - Weed Control – Rynee Kellar
7. Drainage Complaints
 - Bitner & Smith – letter dated 6-1-12 to State Engineer to determine if a watercourse exists 13-16
 - Eldin Spier – letter dated 5-29-12 to Mel Bullinger to review adequacy of containment area 17-18
 - Emery/Koppang – Email correspondence 19-20
8. Legal Issues
 - Property Acquisition for Hogue Island Flood Control Project Update
 - Letter to John Olson dated 5-11-12 21
 - Letter to John Olson dated 5-22-12 22
 - **Fox Island/SWC Cost Share Agreement 23-28**
 - Dave Bliss’ review of Cost Share Agreement 29
 - Other legal issues or concerns - (Board Members)
9. Missouri River Flood Hazard Mitigation Studies – HEI Work Order #18
 - **Memo for the record dated 6-13-12 33-35**
 - Sibley Area Flood Control (FM #26, 27, 30) Update
 - Sandy River Drive Area (FM #15, 16 & 18) – Update
10. **Comments and Discussion from Public**
11. Break
12. Fox Island (FM #19 & #21) – Project Assessment Report
 - Update on meeting with technical group 36-37
 - Petition from Fox Island Residents..... 38-41
13. Missouri River Correctional Facility Flood Hazard Mitigation Feasibility Agreement(FM #23)..... 42-52
14. Hogue Island COE Section 33 Bank Stabilization Project (FM #37) – Update..... 53

15. Hogue Island Flood Control Project (FM #39) – On Hold	
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17. Hay Creek Sediment & Geomorphic Assessment.....	59-60
18. Sunny View Flood Control Project – Update	
19. Apple Valley Cooperative Lagoon Project – Update	
20. Other Old Business	
• Website - Update	
○ A BCWRD Statement on Authority, Powers and Responsibilities – To be adopted (on hold)	
• Apple Creek Bypass Project - Update	
• Geomorphic Assessment – Update	
• Kolbo 3 rd Subdivision Plat – letter drafted to Gibbs Township & Marcus Hall.....	61
• Signed Agreement between NDSWC and BCWRD for the Burleigh County Flood Acquisition Project.....	62-68
21. New Business	
22. Correspondence or Document Information	
• City Final Plats	
○ Rock Creek Fourth Subdivision	69-71
○ The Ridge at Hawktree Second Subdivision	72-74
○ Hay Creek Park Addition	75-78
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○ Trenton Addition	93-95
○ Gary Nelson Addition.....	96-98
• City Minor Subdivision Plat - None	
• Annexation – None	
• Storm Water Management Plan: Country Hills Subdivision	
• SOV S-1774: Rip Rap on channel bank of Missouri River	99-104
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• Permit Number 6373 Application to divert water	151
• 2012 Annual Meeting and Executive Briefing – ND Water Resource Districts Association.....	152-154
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23. Next Meeting: Wednesday, July 10 th , 2012	
24. Adjourn	
Note: Bold Items Require Board Action	



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Call to Order: Chairman Narum called the meeting to order at 8:03 a.m. noting a quorum was present.

Present: Chairman Gailen Narum, Cary Backstrand, Ken Royse and Reinold "Rynee" Kellar, Commissioner Doug Schonert, Burleigh County Commissioner, Dave Bliss, Bliss & Stebbins Law Firm, Michael Gunsch, Houston Engineering (HEI); and Mona Livdahl, Secretary, Personalized Management Services, Inc.

Absent: Terry Fleck

Approval of 4-10-12 Minutes: Cary moved to accept the minutes as printed. Rynee seconded.
Motion Carried.

Approval of 4-25-12 Minutes: Rynee moved to accept the minutes as printed. Rynee seconded.
Motion carried.

Financial Reports: Reviewed no action taken.

Payment of Bills in the amount of \$27,888.47: Cary moved to approve the bills as presented, Ken seconded. Rynee questioned the HEI bill – discussed mileage and the difference in prices, Michael noted it was based on the vehicle the rate for a car is less than taking the survey truck. **Motion carried.**

McDowell Dam Updates:

2012 Expenses Summary: Chairman Narum noted we are still under budget for the year.

Supplemental Water Permit: Still on hold.

Weed control: Rynee noted he went out the last day of April and met with Forrest and Gary (?) from the Weed Board and went through to determine the weed problem. There is a worm weed and that needs to be taken care of right away, the thistle he would like to wait with. Chairman Narum questioned if they need a formal motion to proceed or if it will be taken care of. Forrest noted he is using a 400 spray and is not sure if that will take care of the thistle or not. Chairman Schonert noted he is going to the Weed Board Meeting on the 10th and will address it with them at that time.

Kolbo 3rd Subdivision Plat: Michael noted he received a call from Jason Tomanick, from Community Development. As the plat is going through the process the Gibbs Township has approved but asked that the BCWRD comment on this plat given its proximity to McDowell Dam. Michael noted from his understanding, that this is a family business and they have a warehouse operation. There are several homes around the neighborhood with the exception of the Water Resource District's property. They are looking at expanding their operation which will make it more of an industrial operation around the neighborhood and will make for more traffic in that area. The master plan roadway for 17th Street would be on the east, which is by



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McDowell Dam and is not a good place for a roadway. Community Development is asking for our input. Rynee noted he went out to see it and did not see a problem, in talking with Forrest it was noted that we have a sign that says dead end on North 17th Street intersection, however trucks go on from there and cause some damage in the McDowell Dam area. Michael noted there are two issues, one is the traffic that goes into McDowell Dam Recreation Area and turns around and the other issue is the road that goes into the east, so they are two separate comments, one is internal traffic and the other is future planning. Marcus noted he did comment on this and asked for culverts along the driveway approaches, and that is being taken care of. Marcus noted that as a section line, the public does have the right to go down that path however at this time the county has no intentions of extending the roadway. Michael noted on the Master Plan it does show it as a future roadway, the question from Community Development is do we support the Master Plan? Cary noted comments on extending the roadway should come from Marcus. Forrest did not think it would have any issues, but did not feel that 17th Street needed to be extended. Forrest noted his only concern is that there is no signage up for the truck loading and they drive over our areas. Marcus noted on 17th Street there are no plans on extending that and City Planning has not asked him about vacating this. Marcus noted they could vacate it if that is our desire. Michael felt that if we forward that concern to Community Development that would be the end of that. Rynee asked if we should have signage to their loading dock. Marcus noted that there are certain standard signs that they could use, but in this instance they need more specific site specific signs which is up to the owners. Marcus noted that this could be a requirement of this board. Gibbs Township is asking for the comments. **Cary moved that we have HEI draft a letter for the Chairman's signature noting that: 1) appropriate culverts throughout the driveways need to be considered; 2) that if 17th Street is extended east in the future we have concerns about that because of McDowell Dam location and outlets works; and 3) that we highly suggest that the landowner place appropriate signage so that trucks are not going past and using our park property to turn around on. Rynee seconded. Motion carried.** Cary noted a copy of this letter should go to Gibbs Township.

Misc: Rynee noted that in the past, he had mentioned a traffic counter, but feels the loop system is too expensive and the present system they are using will work.

Drainage Complaints:

Bitner/Smith: A review summary was handed out. Cary reviewed the findings noting that appears to be a civil matter between landowners. Cary felt a letter should be sent to Mr. Barberi noting the two obstructions to natural drainage and encourage him to complete maintenance by removing sediments from each culvert. In the case of Mr. Smith, the letter would recommend the culvert be lowered to remove the obstruction to the natural drainage. Dave felt that the board has done what it needs to have done and encouraged sending the



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letter. Cary moved that we dismiss the Bitner/Smith complaint for the reasons listed and a letter be drafted either by Dave, Michael or both, along with a letter being sent to the township listing the discussion. Ken seconded. Ken asked if we are doing due diligence by not requiring the State Engineer decide if it is a natural watercourse. Cary noted that if the board felt we should have the State Engineer look at it, he would withdraw his motion but did not feel it was necessary. Cary felt that it did not appear that there was a watercourse. This board does not have jurisdiction for correcting this issue, the township appears to however they chose not to as the roadway is not an accepted part of their system. Cary asked to withdraw his motion, Ken withdrew his second. Cary moved that we request the State Engineer to determine if a watercourse exist and ask our legal counsel to provide us information regarding our jurisdiction in this matter. Ken seconded. Chairman Narum felt we keep getting in the middle of the landowners and the township. A roll call was taken:

Narum: No

Backstrand: Yes

Royse: Yes

Kellar: Yes

Motion carried.

Eldin Spier: Cary updated and noted it is recommended that a letter be sent to the Bismarck City Engineer requesting information regarding the storage capacity and capability of the constructed retention/infiltration area to accommodate the runoff from this property. The letter's purpose is to request a compliance review of this containment area. After this review is completed a response can be provided to Mr. Spier and additional action taken by the BCWRD if warranted. Cary noted that someone needs to revisit the size of the containment area to see if it is adequate. Cary moved that we send a letter to the City Engineer asking to review for the adequacy of the containment area. Ken seconded. Michael noted there is some documentation relative to containment area, but is not the site that was constructed, so we are looking at a compliance review. Cary noted part of that motion is to have Michael draft the letter for the Chairman's signature. A roll call vote was taken:

Narum: Yes

Backstrand: Yes

Royse: Yes

Kellar: Yes

Motion carried.

Emery/Koppang: Michael noted that Mr. Emery contacted the Board and asked that you send a letter Mr. Koppang with our findings which was mailed May 3rd. Michael noted he did contact



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Mr. Koppang directly noting that there is a timeline on that order if either party wishes to have a formal hearing before the BCWRD as well as a timeline on taking corrective action. Chairman Narum noted the timeline is 30 days; however that area may not be able to be worked on due to the water in that area. Michael noted as long as they show intent by both parties, an extension could be provided. Cary questioned Marcus if he was able to look at Russell Road – Marcus noted not at this time but he will follow up on that request.

Mark Miller: A letter was mailed to Mr. Miller on May 2nd noting our findings.

Legal Issues

Agreement between NDSWC & BCWRD for the Burleigh County Flood Acquisition Project: Rynee moved to sign the agreement, Cary seconded. Rynee questioned the Secretary signing the agreement; Cary noted that was the signature for Todd Sando, State Water Commission Secretary. Cary asked Dave if he was able to look the agreement over, Dave noted he did and it was good to go. **Roll Call vote:**

Narum: Yes

Backstrand: Yes

Royse: Yes

Kellar: Yes

Motion carried.

Acquisition of Hogue Island Property: Dave noted that we are in a holding pattern until the 30 days, which is their window to respond. Chairman Narum noted Dr. Bernard contacted him as the company that owns the beam under the house wanted it back. Chairman Narum noted he did ask Dr. Bernard the status of the counter offers, and was told they are having the homes appraised. Chairman Narum noted that it will be difficult to get the beam out without moving the house.

Other Legal issues or concerns: None noted.

Members of the Public Present: Rick Detwiller, Forrest Ecklund, Bismarck Parks & Recreation District Shannon McQuade-Ely, LeAnn Eckroth, Bismarck Tribune, Mel Bullinger, City of Bismarck, Marcus Hall, Burleigh County Highway Engineer; and Jerry Rodgers.

Comments and Discussion from the Public: No comments at this time, Mr. Detwiller asked to discuss Fox Island when we get to that issue.

Missouri River Flood Hazard Mitigation Studies – Work order 18: A signed copy was provided; a copy is in the book.



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Fox Island Executive Summary Report: Michael reviewed the timeline. Michael suggested not completing the Executive Summary or Draft Report at this time as we need to consider input from the local representatives, need to also consider alternatives based on comments received, as well as setting up a meeting with City/County representatives to avoid rework as well as additional preparation for the public meeting before we formalize the document. Discussed setting up a meeting with the Steering Committee and Riverwood West Homeowners Representatives. May 24th is a target date for sending a notice to the residents regarding a public informational meeting, as well as having the draft report on the BCWRD website. The Steering Committee meeting is a public meeting, but will not require minutes, etc. but is not a meeting of the Board. Dave noted it is important to notice the Steering Committee meeting to be on the safe side of the open records requirements. Michael noted this would still leave the June 13th meeting for consideration and designation of a preferred alternative and consideration of SWC Cost Share Request.

Ken asked if we are going to have a public information meeting and at that time if we would give them a preferred alternative. Michael noted we need to let them know it is not a final defined project, and alternatives would be provided at that time for discussion. Chairman Narum noted there are 177 properties being assessed and asked if that included some in SouthPort properties, Michael noted it did. Michael noted we need the input process before defining the final benefits and assessment district. The meeting with the City/County has not been set up, Michael noted he would be working on that for next week..

No action is needed as we do not have an Executive Summary and this will be on hold for the time being; as for the meeting dates with the representatives, Michael will set these up.

Rick Detwiller: Rick asked for clarification noting that the Board accepted the 20.5 foot plan and what significance that has. Chairman Narum noted that we accepted the draft report for the sake of information, which has the recommendation of 20.5 but did not move to proceed with a 20.5 foot plan, no level of protection have been committed to yet. Michael noted the determination to vote on the project will likely be at the June 13th meeting.

Rick also asked if the draft report could be shared with the public. Michael noted there is concern of releasing information before having it refined to a comfort level, as there are ongoing revisions that need to be completed. Michael noted that we tentatively plan on having this on the report on the website by the 24th of May. Rick also noted that he has a signed petition letter stating opposition and asked if BCWRD could accept this. Chairman Narum noted this will be added to our future books. Rick requested that someone take a look at their properties again and feels we are spending resources on something that is not practical and asked again that someone do an onsite visual look. Rick also asked for a copy of the minutes when they are out.



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Missouri River Correctional Facility: Michael reviewed the Missouri River Correctional Center memorandum. Michael noted at this time the Board needs to receive this memorandum and forward to Mr. Froehlich on behalf of the Board. Discussed the assessment project noting that only two properties would be impacted by construction, if the facility can fund it themselves; there will be no need for an assessment district. If there is no assessment district, there is probably no need for a public meeting. **Cary moved to receive this report and pass it on to the Missouri River Correctional Facility for their review. Ken seconded. A roll call vote was taken:**

Narum: Yes

Backstrand: Yes

Royse: Yes

Kellar: Yes

Motion carried.

Cost share letter to Todd Sando dated 4/26/12: No action needed informational only.

Sibley Area Flood Control: No action taken at this time.

Sandy River Drive Area: No action

Hogue Island COE Section 33 Bank Stabilization Project: Michael noted that we need to put the COE on notice. The COE provided plans and specifications and a timeline for comment which is today. They were sent to Brian Bitner, Chairman Burleigh County Commission. Michael noted we need to correct that as Doug Schonert is the Chairman and the easements are BCWRD not Burleigh County's. Michael would like to put a letter together letting them know the easements are the Districts, not the counties.

Jerry Rodgers: Jerry asked for the O&M easement agreements between the Water Resource District, The State Water Commission and Corp of Engineers. Michael will put together and forward to Jerry Rogers.

Hogue Island Flood Control Projects: On hold.

Burnt Creek Flood Control Repair Project: Dennis Reap called Michael noting they are eligible for cost share. Michael noted he has not seen any details as yet on the extent or amount. The Department of Emergency Services or FEMA denied the funding request to them.

Sunnyview Flood Control: Informational, have not started work on this yet.

Apple Valley Cooperative Lagoon Project: Michael noted he has staff working to locate a landowner that will allow disposal on their property – he will be trying to get a hold of the City of Bismarck as they have property that they use and it may be possible to do it in conjunction with them.



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Copper Ridge: Informational, the drainage permit was issued and returned to the State Engineer.

Other Old Business:

Website: Mona noted she will be working on this next week.

BCWRD Statement of Authority, Powers and Responsibilities: Rynee moved to adopt and have Mona put on the web page. Ken seconded. Cary noted his concern of quoting the NDCC and would prefer that we only list Section 61 which gives us the authority to operate and possibly do a short Mission Statement for the website. After considerable discussion, Ken moved that we defer until we have full board attendance. Cary seconded. Motion carried. Since the second motion passed, we did not have to address the first motion.

Apple Creek: No action.

Geomorphic Assessment: Handout was provided at last month's meeting.

New Business:

Legal Issues: Dave noted Number 9 on the agenda referencing legal issues and asked that we could bundle items so that he would be able to leave prior to plats, or other items that he did not need to attend for, etc. Chairman Narum noted that his concern is the budget and as far as utilizing Dave's time and going over on the budget. Cary noted that we are a decision making board and we need to base them on engineering and legal and feels comfortable having both engineering and legal representation here. Discussed possibly rearranging the agenda to where we feel guidance is needed. No action taken at this time.

Correspondence and Document: The following items were reviewed – no action taken.

City Final Plats

- Northern Sky Addition
- Expressway Industrial Park
- Edgewood Village Sixth Addition
- Promontory Point – Memorandum
- Hamburg Industrial Park 1st Addition

City Preliminary Plats - None

City Minor Subdivision Plat - Ridgefield Second Addition

Annexation – None

Permit Number ND2012-14214 Anderson Western

Permit Number ND2012-14168 Knife River

Permit Number ND2012-14165 Knife River

2012 Annual Meeting and Executive Briefing – ND Water Resource Districts Association

2012 Summer Water Tours



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SWMP (Storm Water Management Plan): Michael discussed the conundrum of the revised Storm Water Management ordinance in Bismarck – it states that they are reviewed by the City and the Burleigh County Resource District, and the Burleigh County Engineering would sign off on them. It was noted that the County needs to sign off on the SWMP. Michael asked for guidance on how to handle these issues in the future. Chairman Narum noted that this is in the jurisdiction of the City. Michael noted the City modified their ordinance stating that if the County Engineer and/or WRD are opposed to a SWMP, then the City will not approve the SWMP. In this instance in State Street Office Park the City asked the developer to get input from the Water Resource District. Chairman Narum noted the City should be contacting the BCWRD for input, not Michael directly. Cary noted he would prefer to take a more active role in SWMP but was under the understanding that we are only advisory in this role. Mel noted the City is trying to work cooperatively with the County especially with the ET area. Discussed the need to have this come to the Board versus to Michael. Michael noted this request was from the City to the Developer to resolve this issue and because of the BCWRD's past involvement, Michael received the call. Michael noted he needs concurrence from the Board to resolve this. Michael asked if Marcus calls him if he can respond on our behalf or if it needs to go before the BCWRD each time. This is what was done in the past; however the Board has directed him not to review or comment on SWMP's. Based on the City's ordinance we have the option to comment on them, but do not need to. Chairman Narum felt that if Marcus calls Michael and asks for advice then it should be billed under the county's services and noted that he will talk to Marcus regarding this. Chairman Schonert felt the City is acting appropriately in this issue and felt that if Marcus is asking for input or assistance that we work it out with Marcus. Chairman Narum noted he will talk to Marcus. Michael noted on the Ebbesen issue he would like consensus to address this issue to Marcus based on the Boards past extensive involvement with this issue in this development. **Ken moved to authorize Michael to communicate those issues to Marcus and the developer. Cary seconded. Motion carried.**

Knife River: Dave discussed the two water projects with Knife River noting he talked to Dan Ferrell and Bob Shaver from the Water Commission as a senior appropriator land owner of Apple Creek and they are looking at this issue closely.

With no further business, the meeting adjourned at 11:05 a.m.

Respectfully Submitted,

A handwritten signature in cursive script that reads "Mona Livdahl".

Mona Livdahl
BCWRD Secretary

Burleigh County Water Resource District Meeting

Members of the Public in Attendance Date: July 8

NAME - PLEASE PRINT	ADDRESS/COMPANY REPRESENTING
Rick Detwiler Forrest Ecklund	1700 HARBOR DR B'S - SELF
Shannon McQuade - Ely	1928 W HARBOE DR. B'S - SELF
Selma G. Smith	Tribune
MEL DULLINGER	CITY OF BEMIDJEE ENGINEERS
Jerry Roudgers	9750 Island Det B's.

Burleigh County
Water Resource District
Financial Data May 31, 2012

06/04/12

Balance Sheet

Cash & Investments	962,815
Taxes Receivable	26,893
Fund Balance	<u>989,708</u>

Statement of Revenues and Expenditures

	<u>ACCOUNT #</u>	<u>BUDGET</u>	<u>MARCH</u>	<u>ACTIVITY</u>	<u>APRIL</u>
REVENUE					
Real Estate Tax	31110	542,000	573,819	1,697	575,516
In Lieu of Tax	31810	3,100	3,158	-	3,158
State Aid Distribution	33610	48,500	19,145	-	19,145
Homestead Credit	33620	4,500	-	-	-
Reimbursements	33810	612,285	-	-	-
Operating Grants	34220	54,000	-	-	-
Interest	36110	2,500	947	-	947
Misc Revenue	36910	6,500	1	2,584	2,585
TOTAL		<u>1,273,385</u>	<u>597,070</u>	<u>4,281</u>	<u>601,351</u>
EXPENDITURES					
Salaries	111	20,000	9,585	945	10,530
Temporary Services	112	5,000	1,693	-	1,693
Fringe Benefits	211	1,599	802	73	875
Legal Fees	312	15,000	5,866	4,340	10,206
Engineering Administration	315	-	5,576	3,043	8,619
Insurance	328	900	-	-	-
Building Rent	335	1,500	310	140	450
Travel	341	1,200	-	-	-
Dues & Publications	376	3,300	1,225	-	1,225
County Services	398	6,824	-	6,824	6,824
Office Supplies	411	2,000	1,173	-	1,173
McDowell Dam	904	181,542	21,752	9,819	31,571
McDowell Dam-Additional	905	55,000	794	-	794
Shared Projects	910	200,000	38,551	1,868	40,419
Misc	911	2,000	1,415	-	1,415
Continuing Education	920	1,000	25	-	25
Bismarck Cost Share	932	25,000	-	-	-
Missouri River General Sen	933	-	6,864	-	6,864
Design/Specail Assesment	937	595,000	15,871	8,818	24,689
Burnt Creek Rehab	940	60,000	1,585	-	1,585
Apple Creek Watershed	941	10,000	-	-	-
Hay Creek	953	90,500	966	-	966
TOTAL		<u>1,277,365</u>	<u>114,053</u>	<u>35,870</u>	<u>149,923</u>
EXCESS OF REVENUE OVER EXPENDITURES			483,017	(31,589)	451,428

BCWRD 6-13-12

Name	Project	Invoice	Amount	Code
Bismarck Parks and Rec	May	3047	\$15,858.19	904
Bliss & Stebbins Law Firm	Legal	11885	\$1,163.40	312
Houston Engineering	McDowell Dam	11462	\$124.00	905
Houston Engineering	General	11463	\$3,005.48	315
Houston Engineering	Burnt Creek Floodway	11464	\$609.00	940
Houston Engineering	Missouri River Flood Risk Mitigation	11465	\$2,512.25	933
Houston Engineering	Fox Island Flood Control	11466	\$7,485.01	937
Houston Engineering	Apple Valley Cooperative Wastewater	11467	\$434.00	937
Houston Engineering	Hogue Island Bank Stabilization	11468	\$799.00	910
Houston Engineering	Missouri River Correctional Facility	11469	\$7,062.25	933
Personalized Management Svs.	Supplies - April	4993	\$397.37	411
Personalized Management Svs.	Typing, minutes, etc. - April	4993	\$601.88	112
Personalized Management Svs.	Supplies - May	4993	\$1.90	411
Personalized Management Svs.	Typing, minutes, etc. - May	4993	\$669.38	112
		TOTAL:	\$40,723.11	

**Bismarck Parks Recreation
2012 Expenses for
McDowell Dam Recreation Park**

Month	Salaries & Wages	Employer Payroll Tax	Pension & Benefits	Operating Expenses	Total Expenses	Admin. Fee (25%)	Total Amount	Invoice Number
January	\$ 2,993.65	\$ 302.36	\$ 1,259.31	\$ 688.28	\$ 5,243.60	\$ 1,310.90	\$ 6,554.50	2970
February	\$ 2,428.02	\$ 469.02	\$ 1,259.31	\$ 2,993.54	\$ 7,149.89	\$ 1,787.47	\$ 8,937.36	2985
March	\$ 2,428.02	\$ 245.23	\$ 1,259.31	\$ 1,075.72	\$ 5,008.28	\$ 1,252.07	\$ 6,260.35	3015
April	\$ 3,577.02	\$ 361.28	\$ 1,259.31	\$ 2,657.79	\$ 7,855.40	\$ 1,963.85	\$ 9,819.25	3032
May	\$ 6,516.77	\$ 658.19	\$ 1,259.31	\$ 4,252.28	\$ 12,686.55	\$ 3,171.64	\$ 15,858.19	3047
June	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 25,416.00	
July	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 29,047.00	
August	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 18,154.00	
September	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 23,600.00	
October	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 14,523.00	
November	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 12,708.00	
December	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 12,709.00	
Total	\$ 17,943.48	\$ 2,036.08	\$ 6,296.55	\$ 11,667.61	\$ 37,943.72	\$ 9,485.93	\$ 183,586.65	To Date

Capital Improvements:

2012 Budget: \$ 181,542.00
Over Budget through May: \$ 2,044.65



Burleigh County Water Resource District

City/County Office Building - 221 North 5th Street
Bismarck, North Dakota 58501-4028

June 1, 2012

Todd Sando, PE
North Dakota State Engineer
900 East Boulevard Avenue
Bismarck, ND 58505

Dear Mr. Sando:

The Burleigh County Water Resource District (BCWRD) requests your assistance to determine the existence of a watercourse as defined in NDCC 61-16-06. The BCWRD received a written complaint from Mr. Brian Bitner, which is supported by his neighbor Mr. Smith, against Mr. Dave Barbere regarding several obstructions to the natural drainage. These obstructions result in the retention of waters and flooding on the complainant's properties. The site is located in the NW¼ of Section 9, T138N R79W Apple Creek Township. There are two obstructions to consider in this complaint, as identified in the enclosed information. First is sediment buildup on the south side of the approach culvert located on the east side of a shared private roadway. The second is located on the private driveway to the Barbere residence, where the existing culvert and sediment is holding water 0.64 feet above the natural drainage to the north and is also blocked by sediment to a depth of around 1.47 feet. While the shared access is on a section line this roadway has not been accepted by Apple Creek Township for maintenance, as it does not meet the required roadway design standards.

The question to be resolved is whether or not these two flow paths are of such a character that they constitute a "watercourse" as defined in NDCC 61-16.1-06.

Please contact Cary Backstrand, BCWRD Manager to schedule a site review so that we might obtain a determination in this matter. If it is determined one or both of these is a watercourse the BCWRD can then proceed with action under NDCC 61-16.1-51 to have these obstructions removed. If not we will notify Mr. Bitner and Mr. Smith of the determination and that they have the option to proceed with other civil action to obtain their remedy against Mr. Barbere.

Sincerely,

A handwritten signature in cursive script that reads "Gailen Narum".

Gailen Narum, Chairman

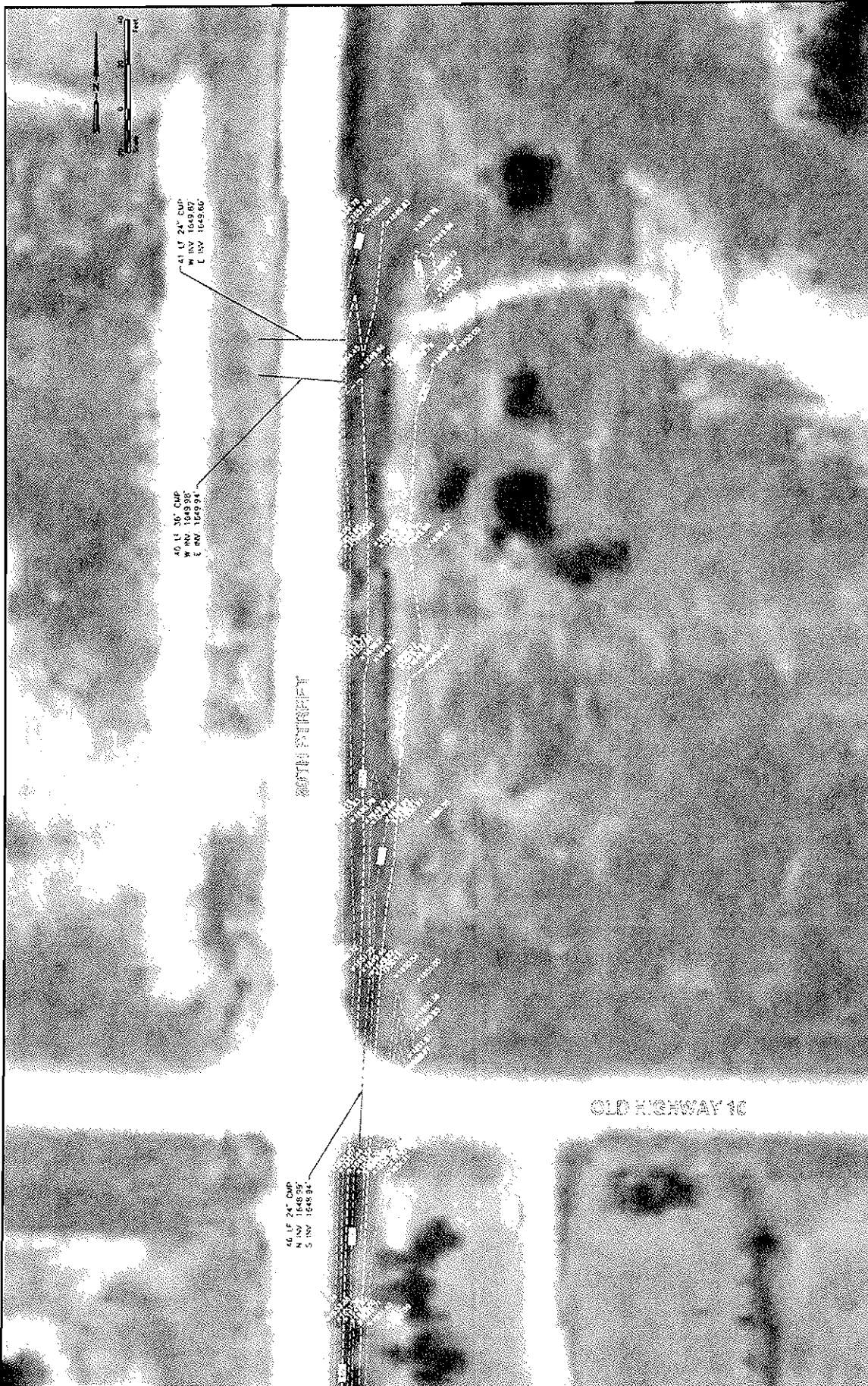
Enclosures

Cc: Brian Bitner, Landowner
Patrick Smith, Landowner
David Bliss, BCWRD Atty.
Dave Barbere, Landowner

Current Board Members:

Gailen Narum, Chair, Bismarck 323-0167 Terry Fleck, Vice Chair, Bismarck 265-3559 Ken Royse, Treas., Bismarck 258-1110 Cary Backstrand, Bismarck 223-4310 Rowlett Kellar, Bismarck 223-0165

12



40 LI 30" CUP
 W INV 1649.98'
 E INV 1649.94'

40 LI 24" CUP
 N INV 1648.95'
 S INV 1648.94'

41 LI 24" CUP
 W INV 1649.97'
 E INV 1649.90'

SHEET 2 of 3	
EXHIBIT 2 PROJECT NO. 5741 GRP	
DRAINAGE COMPLAINTS SOUTH STREET SOUTHEAST BURLEIGH COUNTY WATER RESOURCE DISTRICT NORTH DAKOTA	
Drawn by KFL Checked by MUG	Date 6.1.17 Scale AS SHOWN
Houston Engineering, Inc.	
No.	Revisions

15



Burleigh County Water Resource District

City/County Office Building - 221 North 5th Street
Bismarck, North Dakota 58501-4028

May 29, 2012

Mel Bullinger, P.E.
Bismarck City Engineer
221 N Fifth Street
PO Box 5506
Bismarck, ND 58506-5506

RE: United Tribes Technical College -- Stormwater Retention/Infiltration Area

Dear Mr. Bullinger:

The Burleigh County Water Resource District (BCWRD) received a written complaint from Mr. Eldin Spier regarding drainage from the United Tribes Technical College (UTTC) onto his properties located east of Highway 1804, see enclosed map. As part of our investigation we researched and obtained information from the NDDOT and your staff. We subsequently also reviewed topographic data that predates the recent highway reconstruction and development on the UTTC properties. While it appears no significant changes in watershed boundaries occurred, there were changes to the roadway system and the conversion of UTTC properties from agriculture to campus uses.

As part of the UTTC development a Stormwater Management Plan was required by the City of Bismarck. This plan included the construction of a temporary stormwater retention/infiltration pond. As such we are concerned that this pond may not be functioning as intended. Unfortunately, the information we were able to obtain is inadequate to make any determination as to its capacity to accommodate the land use conversion that has occurred or is proposed. The impacts primarily include increased runoff generated by the development activities. There is no documentation as to how the retention/infiltration area was sized, what its capacity is, or the projected changes in flows at Highway 1804.

We recognize there are other factors to consider including the Highway 1804 roadway reconstruction, prior use of the UTTC properties for gravel mining as well as high runoff conditions during 2011. While these may have affected runoff exiting this site the computational data still needs to be provided to determine the adequacy of the containment system. Therefore, we request if this information is unavailable that you require the UTTC to provide the necessary documentation to justify that their facility is in compliance with the City of Bismarck's stormwater ordinance. Once this information is provided the BCWRD can provide the landowners with a response to their complaint.

If you have any questions please contact Cary Backstrand, BCWRD Manager.

Sincerely,

A handwritten signature in cursive script that reads "Gailen Narum".

Gailen Narum, Chairman

Cc: David Bliss, BCWRD Atty.
Eldin Spier, Landowner
Arnie Zent, Landowner

Current Board Members:

Gailen Narum, Chair, Bismarck 323-0187 Terry Flock, Vice Chair, Bismarck 255-3550 Ken Royso, Treas., Bismarck 258-1110 Cary Backstrand, Bismarck 223-4310 Reinold Kollar, Bismarck 223-0166

Mona Livdahl

From: Gailen Narum [gonarum@yahoo.com]
Sent: Thursday, June 07, 2012 8:39 AM
To: Michael Gunsch; cback@bis.midco.net
Cc: David Bliss (dbliss@blisslaw.com); Mona Livdahl
Subject: Emery/Koppang Complaint

Michael/Cary/Dave,
For the record:

At 3:22 PM, yesterday, I received a call from Chris Koppang. He asked if we knew if we had heard whether the Emery's were going to meet the June 10th, 2012, date for correcting the obstruction as per the Notice of Decision and Order dated May 3rd, 2012. I informed Chris that to my knowledge the District has had no response to our letter and that I would follow up with a call to the Emery's. He also asked what the District would do if the Emery's did not respond and I told him I did not know. I told him that the District's response would not come until after the WRD Board meets and discusses the issue.

At about 5:00 PM, yesterday, I opened Karl and Michael's emails.

At about 6:00 PM, yesterday, I called and talked with Trisha Emery, to ask if what their plans are for corrective actions. She explained that they have been in contact with a contractor and some of the problems they are having. I suggested that they should advise the District, in writing their corrective actions to date, as requested in our letter on May 3rd, and request additional time if needed. She stated she would do that by the June 10th deadline.

My impression from the conversation with Trusha was, the ditch on Mr. Koppang's property, stays full of water (from his basement sump pumping) and continues to flow naturally to east and south across their property making it impossible to construct the ditch at this time. Their assumption is, if the ditch had not been dug, and if the sump water was pumped to his back yard, the surface area would be drying up by now and the water would flow with out a problem.

Gailen Narum

From: Michael Gunsch <mgunsch@houstoneng.com>
To: "Rockeman, Karl H." <krockema@nd.gov>; "cback@bis.midco.net" <cback@bis.midco.net>; "gailen.narum@narumfamily.com" <gailen.narum@narumfamily.com>
Cc: "David Bliss (dbliss@blisslaw.com)" <dbliss@blisslaw.com>
Sent: Wednesday, June 6, 2012 4:19 PM
Subject: RE: landowner complaint- sump pump drainage

Karl:

See attached Notice and Order to the owner of 7245 Russell Road to remove the obstruction from the natural channel. This is not an issue of the sump pump water being pumped onto the owner of 7245 Russell Road, but their obstruction of the natural watercourse that occurred through the construction of their residence. This is creating the majority of the issues that they are suffering.

This complaint is being addressed by the Burleigh County Water Resource District, and we appreciate your update and inquiry. The Emery's have until June 10th to address this issue or the BCWRD has the authority to consider other action as noted in the letter ... the BCWRD's next meeting is June 13th and anticipate this will be on the agenda.

Thanks, please share this information with Trisha.

Michael H. Gunsch, PE

Principal / Senior Project Manager

Houston Engineering, Inc.

3712 Lockport St. Bismarck, ND 58503

O 701.323.0200 | F 701.323.0300 | C 701.527.2134

mgunsch@houstoneng.com

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

From: Rockeman, Karl H. [<mailto:krockema@nd.gov>]

Sent: Wednesday, June 06, 2012 4:09 PM

To: cback@bis.midco.net; gailen.narum@narumfamily.com

Cc: Michael Gunsch

Subject: landowner complaint- sump pump drainage

We received a complaint from a citizen that lives on 7245 Russell Road NE of town, near 71st and TJ Lane. The complainant is concerned that their neighbor is directing sump pump drainage onto their property. Please contact Trisha at 720.6663 for more information.

Thank you.

Karl Rockeman, P.E.

Environmental Engineer

Division of Water Quality

North Dakota Department of Health

(701)328-5225

10

David R. Bliss
Attorney at Law

Jackie M. Stebbins
Attorney at Law



Catherine A. Bliss, CLA
Certified Legal Assistant

Erica L. Pullen
Legal Assistant

Lena M. Loftsgard
Legal Secretary

May 22, 2012

John M. Olson
Attorney at Law
c/o Medcenter One
300 North 7th Street
Bismarck, North Dakota 58501

Re: Water District Acquisition/Hogue Island
Our File No.: BCH20/Hogue Island

Dear Mr. Olson:

This letter will confirm our May 22, 2012 conversation in my office and my receipt of your May 22, 2012 letter to me in regard to the above-mentioned matter. The Burleigh County Water Resource District has previously notified you that the Board will grant your clients an additional fourteen (14) days by which to present their appraisals and other relevant information in regard to the potential purchase by the District of their respective homes.

The Board will expect the receipt of such information no later than June 9, 2012.

Very truly yours,

A handwritten signature in dark ink, appearing to be "D R Bliss", written over a circular scribble.

DAVID R. BLISS
DRB:

cc: Chairman Gailen Narum and Board members
Chairman Doug Schonert, Burleigh County Commission
Michael Gunsch, District Engineer

A small, handwritten mark or signature in the bottom right corner of the page.

David R. Bliss
Attorney at Law

Jackie M. Stebbins
Attorney at Law



Catherine A. Bliss, CLA
Certified Legal Assistant

Erica L. Pullen
Legal Assistant

Lena M. Loftsgard
Legal Secretary

May 11, 2012

John M. Olson
Attorney at Law
c/o Medcenter One
300 North 7th Street
Bismarck, North Dakota 58501

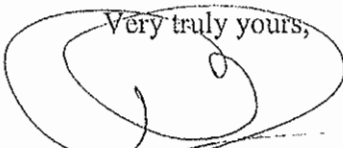
Re: Water District Acquisition/Hogue Island
Our File No.: BCH20/Hogue Island

Dear Mr. Olson:

This letter will confirm our May 11, 2012 telephone conversation in regard to the above mentioned matter. You have informed me that the four Hogue Island homeowners whom you represent will likely have their own appraisals submitted to the Water District prior to the May 27, 2012 deadline for submission of the same to the District. As you are aware, the District's acquisition program does allow for an additional fourteen (14) days by which to submit these proposals. However, you have not at this time requested any extension.

Thank you for your consideration.

Very truly yours,



DAVID R. BLISS
DRB:

cc: Chairman Gailen Narum and Board members
Chairman Doug Schonert, Burleigh County Commission
Michael Gunsch, District Engineer

S:\Burleigh County Water Resource\Hogue Island Project\Olson Ltr DRB 5-11-12.docx

5/17



North Dakota State Water Commission

900 EAST BOULEVARD AVENUE, DEPT 770 • BISMARCK, NORTH DAKOTA 58505-0850
701-328-2750 • TDD 701-328-2750 • FAX 701-328-3696 • INTERNET: <http://swc.nd.gov>

May 24, 2012

Gailen Narum, Chairman
Burleigh County WRD
221 North 5th Street
Bismarck, ND 58501-4028

Dear Chairman Narum:

Enclosed are two copies of the agreement between the North Dakota State Water Commission and the Burleigh County Water Resource District in the Flood Hazard Mitigation Evaluation Study Project (Project). Should the agreement be in error and/or the project been revised, please return the document with the appropriate documentation showing such.

Commission shall make one payment upon receipt and approval of District's written request. District shall provide Commission verification of actual costs and a copy of Study with request. A Commission representative may review Study for satisfaction of Commission's cost-share requirements before Commission makes payment to District.

The District and its attorney should review the agreement. If the terms of the agreement are acceptable, sign both copies and return one copy to me. Along with the signed agreement please forward the District's "certificate of insurance." All agreements returned without insurance requirement documentation are not acceptable.

This agreement is void if not signed and returned by the District within 60 days of the Secretary's signature. Don't hesitate to contact me at 701-328-2752 if you have any questions or concerns regarding this process.

Sincerely,

Melissa Behm
Water Development Division

MMB:1577
Enclosure

**Agreement for Cost-Share Reimbursement
Burleigh County Water Resource District's Fox Island
Flood Hazard Mitigation Evaluation Study**

1. PARTIES. This agreement is between the State of North Dakota (State), by and through the State Water Commission (Commission), and Burleigh County Water Resource District (District).

2. COMMISSION'S RESPONSIBILITY AND INTENT. Commission shall provide District with cost share, not to exceed \$23,900, as approved by the State Engineer, to reimburse 50% of the eligible costs incurred in District's Flood Hazard Mitigation Evaluation Study (Study), contingent on availability of funds and conditions of this agreement. Commission's intent in providing this funding to District is merely to help District financially afford Study. District retains sole and absolute discretion in the manner and means of carrying out Study, except to the extent specified in this agreement. *This agreement supersedes any and all other agreement(s) regarding Study.*

3. DISTRICT RESPONSIBILITIES. District shall:

- a. Complete Study.
- b. Maintain a Study file containing documents and correspondence relevant to Study generated during the course of Study. State shall not be responsible for maintaining a Study file.
- c. Provide a complete copy of Study report to Commission.

4. STUDY DESCRIPTION. Fox Island residents experienced ice jam flooding from the Missouri River in 2009, and summer flooding in 2011. These events have resulted in a desire to determine if it is feasible to develop a flood control project that would provide protection up to the 2011 flood levels. District has tasked Houston Engineering with preparing the study, which is comprised of the following seven identified tasks:

Task No. 1 - residential risk assessment to assess the benefits to each residential property. Available information, and where required, surveys will be used to create a residence and GIS layer inventory list.

Task No. 2 - survey Mills Avenue and property to the south and the right-of-way to determine the feasibility to raise the roadway or to construct an earthen levee to prevent floodwater inundation. An assessment of the reduced volume of floodplain storage associated with the construction of the Whispering Bay development and the Fox Island roadway levees will be completed based on LIDAR data.

Task No. 3 - determine locations for surface water easements and the channel work necessary to retain, restore, or construct storm water drainage evaluations.

Task No. 4 - survey the existing roadway culverts to determine their ability to accommodate the installation of flood control gates and pump systems to remove local surface water.

Task No. 5 - review of the floodplain management protection/mitigation measures and research alternative approaches.

Task No. 6 - draft Evaluation memorandum, including recommendations for a preferred flood hazard mitigation project and other flood mitigation measures.

Task No. 7 - assist District with the public hearing and voting process.

5. ELIGIBLE COSTS. Commission shall have sole discretion to determine eligible costs and availability of Commission funds. Additional information is outlined in Commission's cost-share policy.

6. PAYMENT. Commission shall make one payment upon receipt and approval of District's written request. District shall provide Commission verification of actual costs and a copy of Study with request. A Commission representative may review Study for satisfaction of Commission's cost-share requirements before Commission makes payment to District.

7. INDEMNIFICATION. District shall require all subcontractors, other than state employed subcontractors, before commencement of an agreement between District and the subcontractor, to defend, indemnify, and hold harmless the State, from and against claims based on the vicarious liability of the State or its agents, but not against claims based on the State's negligence or intentional misconduct. The legal defense provided by subcontractor to the State under this provision must be free of any conflicts of interest, even if retention of separate legal counsel for the State is necessary. Subcontractor also agrees to defend, indemnify, and hold the State harmless for all costs, expenses, and attorneys' fees incurred if the State prevails in an action against subcontractor in establishing and litigating the indemnification coverage provided herein. This obligation shall continue after the termination of this agreement.

8. INSURANCE. State and District each shall secure and keep in force during the term of this agreement, from an insurance company, government self-insurance pool, or government self-retention fund authorized to do business in North Dakota, commercial general liability with minimum limits of liability of \$250,000 per person and \$500,000 per occurrence.

In addition, District shall require all subcontractors, other than state employed subcontractors, before commencement of an agreement between District and the subcontractor, to secure and keep in force during the term of this agreement, from insurance companies authorized to do business in North Dakota, the following insurance coverages:

- a. Commercial general liability, including premises or operations, contractual, and products or completed operations coverages (if applicable), with minimum liability limits of \$250,000 per person and \$1,000,000 per occurrence.
- b. Automobile liability, including Owned (if any), Hired, and Non-owned automobiles, with minimum liability limits of \$250,000 per person and \$1,000,000 per occurrence.
- c. Workers compensation coverage meeting all statutory requirements. The policy shall provide coverage for all states of operation that apply to the performance of this contract.

- d. If subcontractor is domiciled outside the State of North Dakota, employer's liability or "stop gap" insurance of not less than \$1,000,000 as an endorsement on the workers compensation or commercial general liability insurance.

The insurance coverages listed above must meet the following additional requirements:

- a. Any deductible or other similar obligation under the policies shall be the sole responsibility of the subcontractor. The amount of any deductible is subject to approval by the State.
- b. This insurance may be in policy or policies of insurance, primary and excess, including the so-called umbrella or catastrophe form, and must be placed with insurers rated "A-" or better by A.M. Best Company, Inc., provided any excess policy follows form for coverage. Less than an "A-" rating must be approved by the State. The policies shall be in form and terms approved by the State.
- c. The duty to defend, indemnify, and hold harmless the State under this agreement shall not be limited by the insurance required in this agreement.
- d. The State shall be endorsed on the commercial general liability policy, including any excess policies, as additional insured. The State shall have all the benefits, rights, and coverages of an additional insured under these policies.
- e. The insurance required in this agreement, through a policy or endorsement, shall include:
 - (1) a "Waiver of Subrogation" waiving any right to recovery the insurance company may have against the State;
 - (2) a provision that the policy and endorsements may not be canceled or modified without thirty days' prior written notice to the Commission;
 - (3) a provision that any attorney who represents the State under this policy must first qualify as and be appointed by the North Dakota Attorney General as a Special Assistant Attorney General as required under N.D.C.C. § 54-12-08;
 - (4) a provision that subcontractor's insurance coverage shall be primary (i.e., pay first) as respects any insurance, self-insurance, or self-retention maintained by the State and that any insurance, self-insurance, or self-retention maintained by the State shall be in excess of the subcontractor's insurance and shall not contribute with it;
 - (5) cross liability/severability of interest for all policies and endorsements;
 - (6) The legal defense provided to the State under the policy and any endorsements must be free of any conflicts of interest, even if retention of separate legal counsel for the State is necessary;
 - (7) The insolvency or bankruptcy of the insured subcontractor shall not release the insurer from payment under the policy, even when such insolvency or bankruptcy prevents the insured subcontractor from meeting the retention limit under the policy.

- f. The subcontractor shall furnish a certificate of insurance to the Commission prior to commencement of this agreement. All endorsements shall be provided as soon as practicable.
- g. Failure to provide insurance as required in this agreement is a material breach of contract entitling the State to terminate this agreement immediately.

9. BREACH. Violation of any provision of this agreement by District constitutes breach of this agreement. A breach obligates District to reimburse Commission for all funds paid to District and relieves Commission of all obligations under this agreement.

10. AGREEMENT BECOMES VOID. This agreement is void if not signed and returned by District within 60 days of Commission's signature.

11. TERMINATION.

- a. Commission may terminate this agreement effective upon delivery of written notice to District, or a later date as may be stated in the notice, under any of the following conditions:
 - (1) If Commission determines an emergency exists.
 - (2) If funding from federal, state, or other sources is not obtained and continued at levels sufficient to provide the funds necessary to comply with this agreement. The parties may modify this agreement to accommodate a reduction in funds.
 - (3) If federal or state laws or rules are modified or interpreted in a way that the services are no longer allowable or appropriate for purchase under this agreement or are no longer eligible for the funding proposed for payments authorized by this agreement.
 - (4) If any license, permit, or certificate required by law, rule, or this agreement is denied, revoked, suspended, or not renewed.
 - (5) If Commission determines that continuing the agreement is no longer necessary or would not produce beneficial results commensurate with the further expenditure of public funds.
- b. Any termination of this agreement shall be without prejudice to any obligations or liabilities of either party already accrued prior to termination.
- c. The rights and remedies of any party provided in this agreement are not exclusive.

12. APPLICABLE LAW AND VENUE. This agreement is governed by and construed in accordance with the laws of the State of North Dakota. Any action to enforce this agreement must be brought in the District Court of Burleigh County, North Dakota.

13. SEVERABILITY. If any term of this agreement is declared by a court having jurisdiction to be illegal or unenforceable, the validity of the remaining terms must not be affected, and if possible, the rights and obligations of the parties are to be construed and enforced as if the agreement did not contain that term.

14. **SPOILIATION – NOTICE OF POTENTIAL CLAIMS.** District agrees to promptly notify Commission of all potential claims that arise or result from this agreement. District shall also take all reasonable steps to preserve all physical evidence and information that may be relevant to the circumstances surrounding a potential claim, while maintaining public safety, and grants to Commission the opportunity to review and inspect the evidence, including the scene of an accident.

15. **MERGER.** This agreement constitutes the entire agreement between the parties. There are no understandings, agreements, or representations, oral or written, not specified within this agreement. This agreement may not be modified, supplemented, or amended in any manner except by written agreement signed by both parties.

**NORTH DAKOTA STATE WATER
COMMISSION**

By:

TODD SANDO, P.E.
Chief Engineer and Secretary

Date: 5/22/12

**BURLEIGH COUNTY WATER
RESOURCE DISTRICT**

By:

GAILEN NARUM
Chairman

Date: _____

22

Mona Livdahl

From: David R. Bliss [dbliss@blisslaw.com]
Sent: Wednesday, June 06, 2012 1:51 PM
To: 'Gailen Narum'; 'Michael Gunsch'
Cc: 'Mona Livdahl'
Subject: RE: Fox Island/SWC Cost-Share Agreement

Gailen,

I've had the chance to review this agreement. The request for attorneys fees to be paid by the subcontractor in Section 7 of this agreement is the only red flag that I see. As we have discussed before, North Dakota functions under "the American Rule" when it comes to attorneys fees in civil actions. As a matter of public policy, attorneys fees are not usually awarded in civil actions unless one can prove fraud, malice, etc. I have tried and won fraud cases and I still did not receive my attorneys fees. Here, the State is asking for attorneys fees in a civil action if the State were to prevail in an action against the subcontractor, which would be Houston Engineering. Having said that, parties can, in fact, contract for the prevailing party to be awarded attorneys fees in such an action but I would not recommend signing such an agreement.

Dave



DAVID R. BLISS
400 E. Broadway Ave., Suite 308
PO Box 4126
Bismarck, ND 58502-4126
(701) 223-5769 (office)
(701) 471-3972 (cell)
(701) 751-1242 (fax)
dbliss@blisslaw.com

www.blisslaw.com

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From: Gailen Narum [<mailto:gonarum@yahoo.com>]
Sent: Monday, June 04, 2012 5:07 PM
To: David Bliss; Michael Gunsch
Cc: Mona Livdahl
Subject: Fox Island/SWC Cost-Share Agreement

Dave & Mickael,

Please review and have comments for the June 13th meeting. Gailen

Mona, Your copy for the agenda book. I have the Original's.



Burleigh County Water Resource District

City/County Office Building - 221 North 5th Street
Bismarck, North Dakota 58501

Memo for the Record
From: Gailen Narum, Chairman

A handwritten signature in black ink, appearing to be "GN", written over a horizontal line.

June 13th, 2012

Missouri River Flood Hazard Mitigation Studies – BCWRD - Work Order #18

At the Monday, April 10, 2012, meeting, Cary moved that we approve Task #2 (which was to evaluate a flood protection system for properties and structures owned by the Missouri River Correctional Facility as well as private properties located to the east south of Burleigh Ave and north of 48th Avenue) of Work Order 18 and do the rest of work order at a later date. Ken seconded. Motion carried.

At the Monday, April 25, 2012, meeting there was considerable discussion on a proposed Work Order #18. Ken moved that we move forward on Work Order 18, Terry seconded followed by more discussion. Chairman Narum called for a vote for Work Order 18 as corrected, Motion Carried. (The approved Work Order No. 18 was signed on May 3rd, 2012, and is copied on pages 42 through 45 of the May 8th Agenda Book).

The following email was received on May 9th, 2012, after the last regular meeting of the BCWRD Board on Tuesday, May 8, 2012.

To: Gailen, (*Gailen Narum, Chairman BCWRD*)

At the last County Board Meeting (May 8th, 2012) the Board Approved the following in regard to the new Ice Jam Permanent Flood Protection Plan projects:

See attached plan (*not included*). The attached Board Letter states that: (*included below*).

THEREFORE BE IT FURTHER RESOLVED: That the County Engineer is here by directed to request that the Burleigh County Water Resource District focuses on coordinating and

THEREFORE BE IT FURTHER RESOLVED: That the County Engineer is hereby developing projects within the Plan that are outside the jurisdiction of the Burleigh County Highway Department.

Please consider this e-mail as our request to focus on this new plan. If you have any questions please let me know.

From: Marcus J. Hall P.E., Burleigh County Engineer

The following email was sent on May 16th, 2012.

To: Michael, (*Michael Gunsch, HEI*)

Based on the attached (above) email from the Burleigh County Engineer and the Resolution passed by the Burleigh County Board at their regular meeting on May 8th (after the BCWRD Board meeting), I hereby direct Houston Engineering Inc. to discontinue any activity relative to Work Order No. #18, until the BCWRD Board can meet to discuss this development. This includes the reminder of Task #1, and all of Tasks #2, #3, and #4.

Also, I am notifying, Todd Sando, State Engineer to disregard our letter dated April 26, 2012, Re: Burleigh County Flood Control Alternatives Assessment - Cost Share Request.

You are requested, however, to attend the previously arranged meeting at the County Highway Department with Richard L. Frohlich, Director of the Missouri River Correctional Facility, Marcus Hall and Myself at 10:00 AM Friday, 11, 2012, to discuss the work completed to date on Task #1.

From: Gailen Narum, Chairman
BCWRD Board

Based on these developments relative to BCWRD Work Order 18, I hereby request a motion to ratify the above email dated May 16th, 2012, and include the following five (5) items:

1. Discontinue all activity relative to Work Order No. #18, following receipt of the Technical Memorandum on the Levee Feasibility Study for the Missouri River Correctional Center and approval by the MRCC and Burleigh County Engineer.
2. Prepare a Resolution of Necessity for Missouri River Correctional Facility Flood Control Project (FHMP #23).
3. Prepare a Resolution of Necessity for Sibley Area Flood Control Project (FHMP #26 & #27).
4. Withhold any action on Sandy River Drive Area (FHMP #15, #16, & #18) until petitioned by Property Owners.
5. Combine Missouri River Impact Assessment with individual project Work Orders.

Excerpt from the below "Request for County Board Action, letter dated May 7, 2012.

This (New County Master) Plan would also require the Burleigh County Water Resource District to construct projects 19, 21, 23, 26, and 27. Funding for these projects would come from the State Water Commission and Special assessments. The only funding concern the Department has with this option is the cost to Lincoln Township; however, with assistance from Burleigh County Highway Department and the State of North Dakota the burden could be manageable.



BURLEIGH COUNTY HIGHWAY DEPARTMENT

2000 NORTH 52ND STREET
BISMARCK, ND 58501-7900
701-221-6870
FAX 701-221-6872
www.burleighco.com

Request for County Board Action

DATE: May 7, 2012

TO: Kevin Glatt
County Auditor

FROM: Marcus J. Hall
County Engineer

RE: Direct County officials on how to precede with Flood Protection projects

Please include the following item in the May 7, 2012 Burleigh County Board packet.

ACTION REQUESTED:

Direct the proper County officials on how to proceed with Flood Protection projects.

BACKGROUND:

The summer flooding of 2011 exposed many residents of the Burleigh County area to extensive flood damage. In order to mitigate this damage in the future, Burleigh County Staff and the Burleigh County Water Resource District (BCWRD) have developed a Master Plan for flood protection for the area. The Plan includes the construction of levees, the raising of road grades, and the installation of control structures to protect and provide access to area residents.

At the December 19, 2011 County Board Meeting, the Board approved the Master Plan for flood protection for the area. A general cost estimate was included at the December meeting; however, cost splits and a detailed financing plan was not presented at that time. It has been the Highway Department's goal to refine the Master Plan projects and present a funding split and funding plan to the County Board before any of the projects where let.

At the April 16, 2012 County Board meeting, the Board reviewed the cost breakdown for the 22 highway projects (with a total estimated cost of \$15,940,330) which were required to protect the Burleigh County rural area to a river stage of 20 feet.

The cost breakdown per government entity was as follows:

County General Fund	\$75,000
County Highway Fund	\$1,020,000
Hay Creek Township Fund	\$1,640,000
Riverview Township Fund	\$2,800,000
Lincoln Township Fund	\$6,595,000
City of Bismarck	\$872,665
State of North Dakota	\$2,212,665
Corp of Engineers	\$650,000
Other Funds	\$75,000

Because of the high cost to the County and the Townships, the Board requested that we develop a cost breakdown for projects to protect the Burleigh County Rural area to a river stage of 18 feet and one for 16 feet, and the breakdowns are as follows.

We will be required to construct 19 projects (with a total estimated cost of \$9,695,330) to protect to the 18 feet level. The total cost breakdown per government entity is as follows:

County General Fund	\$75,000
County Highway Fund	\$770,000
Hay Creek Township Fund	\$1,190,000
Riverview Township Fund	\$1,350,000
Lincoln Township Fund	\$2,875,000
City of Bismarck	\$872,665
State of North Dakota	\$1,837,665
Corp of Engineers	\$650,000
Other Funds	\$75,000

We will be required to construct 10 projects (with a total estimated cost of \$6,825,330) to protect to the 16 feet level. The total cost breakdown per government entity is as follows:

County General Fund	\$75,000
County Highway Fund	\$695,000
Hay Creek Township Fund	\$650,000
Riverview Township Fund	\$0
Lincoln Township Fund	\$2,095,000
City of Bismarck	\$872,665

State of North Dakota	\$1,712,665
Corp of Engineers	\$650,000
Other Funds	\$75,000

In addition to the three previously described protection levels (20 ft, 18 ft, 16 ft), the Highway Department has put together a plan that focuses on flood protection against ice jams to the 20 foot level. The areas that would be protected would include the south leg of Burnt Creek Loop to Hoge Island and Fox Island south along the river to Dogwood Drive (Flood projects 14, 20, 22, 24, 25, 28, 34, 36, 38, and 40.)

This plan would require us to construct 10 projects with a total estimated cost of \$8,075,331. The total cost breakdown per government entity is as follows:

County General Fund	\$75,000
County Highway Fund	\$850,000
Hay Creek Township Fund	\$300,000
Riverview Township Fund	\$0
Lincoln Township Fund	\$2,080,000
City of Bismarck	\$682,665
State of North Dakota	\$3,362,665
Corp of Engineers	\$650,000
Other Funds	\$75,000

This plan would also require the Burleigh County Water Resource District to construct projects 19, 21, 23, 26, and 27. Funding for these projects would come from the State Water Commission and Special assessments. The only funding concern the Department has with this option is the cost to Lincoln Township; however, with assistance from Burleigh County Highway Department and the State of North Dakota the burden could be manageable.

At the April 16, 2012 County Board meeting, the Board did not indicate the desire to pursue any additional local funding sources (general levee or special township levee), only additional State and Federal funding.

With that in mind, it is the Highway Department's recommendation that we proceed with the Ice Jam flood protection plan and pursue State and Federal funding to help offset construction cost. All projects will be brought before the Board for their approval of plan concept and funding.

RECOMMENDATION:

It is recommended the Board adopt the attached proposed resolutions.



PROPOSED RESOLUTION:

THEREFORE BE IT RESOLVED: That the County Board approves the Ice Jam Permanent Flood Protection Plan and assorted projects as presented this date and shown on the Burleigh County website.

THEREFORE BE IT FURTHER RESOLVED: That the County Engineer is hereby directed to request that the Burleigh County Water Resource District focuses on coordinating and developing projects within the Plan that are outside the jurisdiction of the Burleigh County Highway Department.

THEREFORE BE IT FURTHER RESOLVED: That the County Engineer and the Burleigh County Water Resource District should proceed with the implementation of the Plan as quickly as possible using the available resources in order to meet the goal of completing



Mona Livdahl

From: Michael Gunsch [mgunsch@houstoneng.com]
Sent: Thursday, May 10, 2012 10:36 AM
To: Cary Backstrand; David Bliss; Gailen Narum; Ken Royse; Mona; Rynee Kellar; Terry Fleck
Subject: Technical Committee County/City Coordination Meeting
Attachments: County-City Flood Project Coordination Meeting.docx

Gailen, et. al.

The coordination meeting with the technical group has been set up.
See attached draft agenda, much of which is simply sharing status and direction.
I have requested input on additions or change, but do not anticipate any.

I have conformation from all parties relative to attending.

While we discussed posting this meeting, I believe we should keep this solely to the technical resources as we would get more accomplished than having Board members attend and creating an open meeting. Sounds like there will be a lot of people in the room already anyway. Also if posted there may be others that decide to attend that we cannot accommodate for seating and as they are not allowed input may side track the discussion... etc... So I am recommending it not be a posted meeting. I can prepare a summary of the meeting for the Board's review, and as always available for questions.

Thanks,

Michael H. Gunsch, PE

Principal / Senior Project Manager

O 701.323.0200 | F 701.323.0300 | C 701.527.2134

3712 Lockport St. • Bismarck, ND • 58503

mgunsch@houstoneng.com

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County / City Flood Project Coordination

Tuesday May 15, 2012

Technical Team Meeting Agenda

9:00 am – Houston Engineering Office

3712 Lockport Street

1. **Introductions**
 - a. City of Bismarck
 - b. HEI
 - c. APEX
 - d. Burleigh County Highway Dept.

2. **BCWRD – Fox Island Flood Control**
 - a. Draft Engineering Assessment
 - b. Design Criteria
 - c. Alternative Review
 - d. Preferred Alternative
 - e. Tentative Development Schedule
 - f. Special Assessment District – Residential Vote for or against project

3. **Tavis Road**
 - a. 2010 Grade Raise and Structure
 - b. COE and Sovereign Lands Permits
 - c. Gate and Pump System
 - d. Flood Elevation Closure
 - e. SWC Funding Request
 - f. Outfall Conditions and Risks

4. **Mills Avenue**
 - a. 2010 Mitigation Structure Design Plans and Materials On Hand
 - b. Mitigation Management Agreement
 - c. COE and Sovereign Lands Permits
 - d. Current Elevation
 - e. Alternative Design Elevations
 - f. Project Extent – Whispering Bay / West Harbor Drive Closure
 - g. Funding and Schedule

5. **Riverwood Drive**
 - a. Current Elevation
 - b. Alternative Design Elevations
 - c. Alternative Designs
 - d. Permits / Regulatory
 - e. Funding and Schedule

6. **Action Items**
 - a. Draft Concurrence Document on Design Approach
 - b. Information sharing – needs
 - c. Continued communication process

#1

We, the undersigned residents of Fox Island, petition the Burleigh County Water Resource Board to **NOT PLACE A PERMANENT DIKE** on the west side (river side) of the homes along West Harbor and Harbor Drives. Our reasons for wishing to avoid a permanent dike include:

- (1) Proven success in privately diking the riverbank during the unprecedented flood event of 2011 by over 80% of the riverside homes on Fox Island
- (2) Universal concern about the stability of the riverbank and the possibility of damage due to the weight of permanent dike materials on untested soils
- (3) A lack of assurance that a permanent dike would protect adjacent homes against the (much more likely) occurrence of an ice jam event, and in fact, may make the consequences of a large ice jam much worse for riverside homeowners than current naturally sloping back yards
- (4) A loss of view, river access, and trees, all of which are vital to the aesthetic appreciation and enjoyment of our homes
- (5) loss of the use of our back yards
- (6) Concern over the problems associated with dike runoff during common normal rain events
- (7) Permanent reduction in the market value of our homes

We believe a possible solution that may be satisfactory to interior home owners and to those living directly along the river would be to elevate Harbor and West Harbor Drives, allowing permanent access to Fox Island properties while providing a "dike" to homes to the east. Riverside homeowners with continual access to their properties would be able to prepare temporary emergency dikes in the unlikely occurrence of another significant flood the magnitude of the 2011 event.

	Name	Address	Phone No.
1.)	Tyler Leser	2250 Harbor Dr.	406-539-2200
2.)	Marlynn Bonagoff	2260 Harbor DR	701-355-0960
3.)	Valerie Kinley	2120 W Harbor Dr	701-951-2314
4.)	Mark Hoff	2130 W Harbor Dr	701-220-5743
5.)	Scott Staloch	2022 W Harbor Dr	701-471-0074
	Colleen Staloch	2022 W. Harbor Dr	701-471-0072
6.)	Shannon McQuade-Bry	1928 W. Harbor Dr	701-471-9440
7.)	Rick DEWILLER	1900 HARBOR DR	701-223-8782
8.)	Lyn D Stromberg	1918 HARBOR DR	701-258-4130

#2

We, the undersigned residents of Fox Island, petition the Burleigh County Water Resource Board to **NOT PLACE A PERMANENT DIKE** on the west side (river side) of the homes along West Harbor and Harbor Drives. Our reasons for wishing to avoid a permanent dike include:

- (1) Proven success in privately diking the riverbank during the unprecedented flood event of 2011 by over 80% of the riverside homes on Fox Island
- (2) Universal concern about the stability of the riverbank and the possibility of damage due to the weight of permanent dike materials on untested soils
- (3) A lack of assurance that a permanent dike would protect adjacent homes against the (much more likely) occurrence of an ice jam event, and in fact, may make the consequences of a large ice jam much worse for riverside homeowners than current naturally sloping back yards
- (4) A loss of view, river access, and trees, all of which are vital to the aesthetic appreciation and enjoyment of our homes
- (5) loss of the use of our back yards
- (6) Concern over the problems associated with dike runoff during common normal rain events
- (7) Permanent reduction in the market value of our homes

We believe a possible solution that may be satisfactory to interior home owners and to those living directly along the river would be to elevate Harbor and West Harbor Drives, allowing permanent access to Fox Island properties while providing a "dike" to homes to the east. Riverside homeowners with continual access to their properties would be able to prepare temporary emergency dikes in the unlikely occurrence of another significant flood the magnitude of the 2011 event.

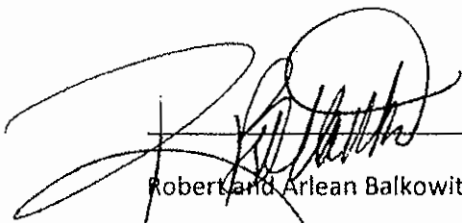
	Name	Address	Phone No.
9.)	<i>Ari Helmer</i>	<i>2012 W. Harbor Dr., Bism.</i>	<i>258-7865</i>
10.)	<i>William Beck</i>	<i>West Harbor Dr</i>	<i>471-008</i>
11.)	<i>Henry C. Allen</i>	<i>2110 W. Harbor</i>	<i>471-6000</i>
12.)	<i>Kelvin D. ...</i>	<i>2100 Harbor</i>	<i>220-0758</i>
13.)	<i>[Signature]</i>	<i>2240 Harbor Dr</i>	<i>220 9898</i>

STEVE SCHWAN 13

Burleigh County Water Resource Board
Re: Proposed Levee Projects Impact

These questions need to be addressed as residents of River Woods West Association will be impacted by the construction of the proposed levee.

1. Is FEMA approval definite.
2. Loss of property valuation.
3. Appraisal before and after levee.
4. Will individual projects be voted on separately or as a group.
5. Who is responsible for maintaining of levee/associated costs.
6. Has a decision been made regarding target elevation of proposed levee.
7. Cost of septic or tree removal/replacement.
8. Type of landscaping on levee.
9. Can sprinkling systems be run under levee.
10. Drainage for homes immediately behind levee.
11. Proposal to address groundwater issues behind levee.
12. Can floodway be moved.
13. Options in lieu of River Woods West levee.
14. Cost of levee per homeowner.
15. Estimated time of completion for levee projects.



Robert and Arlean Balkowitsch

2100 W Harbor Dr.

Mona Livdahl

From: Michael Gunsch [mgunsch@houstoneng.com]
Sent: Wednesday, May 09, 2012 9:45 AM
To: 'Frohlich, Dick L.'
Cc: Marcus Hall; Craig Odenbach; Senger, Mary H. (msenger@nd.gov); Cary Backstrand; David Bliss; Gailen Narum; Ken Royse; Mona; Rynee Kellar; Terry Fleck
Subject: Missouri River Correctional Center
Attachments: MRCC Levee Feasibility Tech Memo 5-8-2012.pdf

Dick:

Attached is the Draft Technical Memorandum on the Levee Feasibility Study for the Missouri River Correctional Center. The BCWRD received this report at its meeting on Tuesday.

The Opinion of Probable Costs (OPC) is generally close to the original rough projection of around \$750,000 that was discussed.

The additional costs are likely a conservative projection given unknowns associated design requirements that remain to be determined through a geotechnical study. This geotechnical work would be completed once the project proceeds to preliminary design.

At this point the BCWRD has completed its task and awaits your review and response to this document. Once they have your response they will complete the document and, if necessary, hold a public informational meeting to discuss this project with the benefited residents. As these are the same residents benefited by the 48th Avenue SE grade raise this meeting will be coordinated with the Burleigh County Engineer. Should the Department of Corrections elect to proceed with full funding these improvements there may not be a need for a formal meeting with the residents. That issue remains to be discussed.

Please let us know your thoughts on this matter.

Thanks,

Michael H. Gunsch, PE

Principal / Senior Project Manager

☎ 701.323.0200 | ☎ 701.323.0300 | ☎ 701.527.2134

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DRAFT

Missouri River Correctional Center

Flood Hazard Mitigation Memorandum



To: Burleigh County WRD

From: Craig Odenbach, PE
Michael H. Gunsch, PE

Date: May 5, 2012

Subject: Missouri River Correctional Center
Flood Hazard Mitigation Feasibility Assessment

BACKGROUND

The Missouri River Correctional Center (MRCC) is located on property south of the Fox Island backwater channel, west of Tavis Road and north of 48th Avenue SW, see **Figure 1**.

The MRCC and surrounding properties have been subject to significant flooding in recent years, both during the 2009 ice jam event and again on the 2011 flood event. The extent of flooding during these two events is illustrated in **Figure 2** and **Figure 3**. Due to these recent events and the inability to adequately protect the area during the 2011 flood, the Burleigh County Water Resource District (BCWRD) was requested to assess the feasibility of providing flood protection to these properties. This memorandum was completed as part of the Burleigh County Flood Hazard Mitigation Program. The MRCC site is designated as **FHMP #23**, see **Figure 4**. In addition to providing protection for the MRCC facilities, there are rural residential properties located to the east that would be protected if a flood control levee system were constructed along the Missouri River, as shown on **Figure 1**. The protection area for this facility is illustrated on **Figure 5**.

DESIGN CONSIDERATIONS

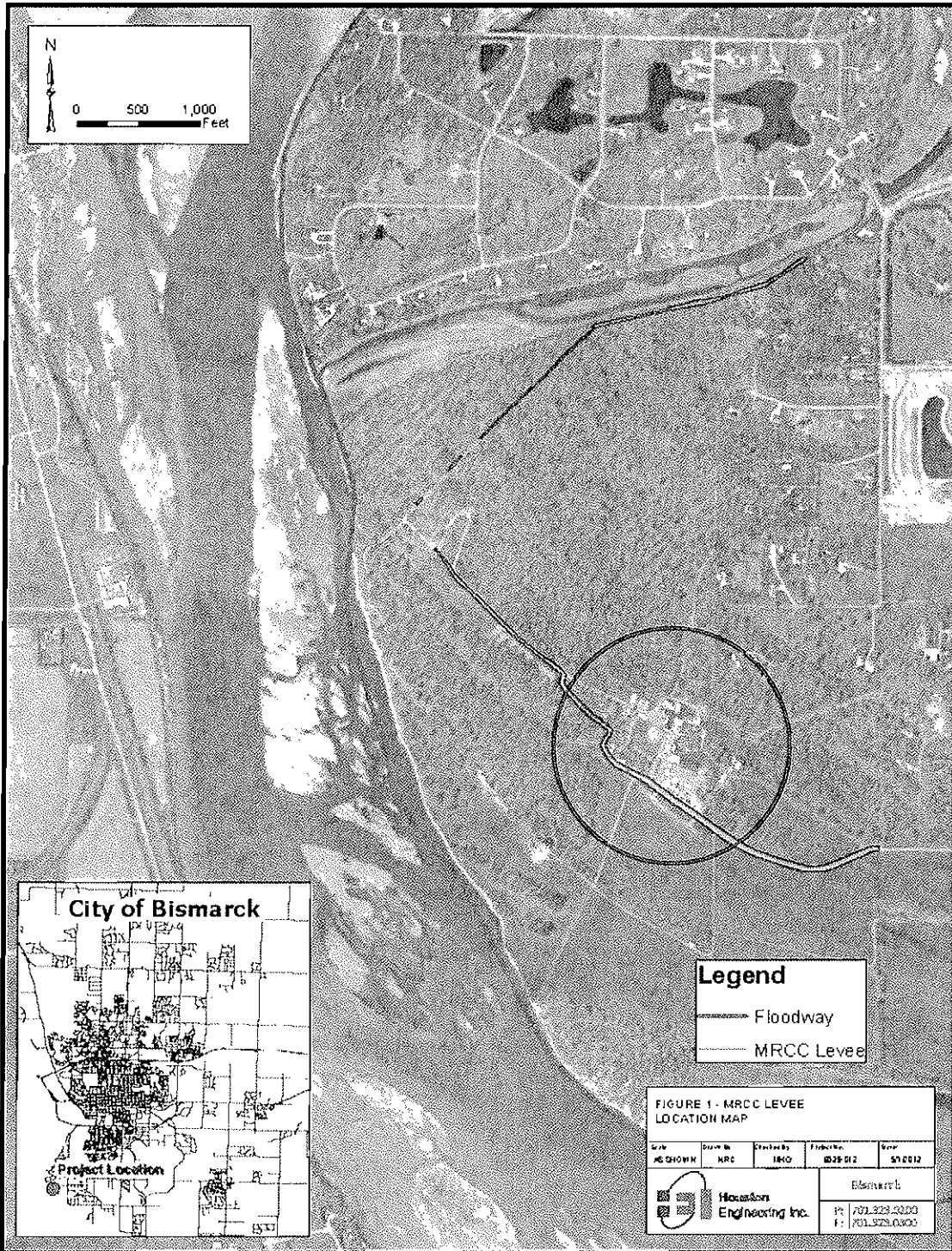
Any levee system providing flood protection to the Missouri River Correctional Center and the adjoining rural residential properties must tie into the Tavis Road grade raise at the northeastern extent and into the proposed grade raise on 48th Avenue SW at the southeastern extent of the project area. The project design will need to recognize this project's function as one component of an integrated flood control system for the South Bismarck area. The connecting features are the 48th Avenue SW and Washington Street Grade Raise, **FHMP #24** and **FHMP #25**.

The proposed levee alignment illustrated on **Figure 1** was selected to coincide with the location of the existing MRCC access roadway and an existing earthen trail they use to access their perimeter fencing. Staying outside the regulatory floodway was also a design requirement. The floodway boundary is shown on **Figure 1**.

The level of protection to be provided by this levee is a key design consideration. The maximum river stage during the 2011 event, at the USGS Missouri River Bismarck Stream Gage, was 19.5 feet. Thus constructing a levee system based on a 20.5 foot stage would provide protection on a 2011 event with one foot of freeboard. This approach does not provide the three feet of freeboard required for FEMA levee certification and the removal of the protected properties from the floodplain. The County has taken the position that removing properties from the designated floodplain under the Nation Flood Insurance Program is not included in their flood hazard mitigation projects. A preliminary engineering assessment for a flood hazard mitigation project to protect Fox Island is nearing completion. The preferred alternative is based on a 20.5 foot stage.

Missouri River Correctional Center Flood Hazard Mitigation Memorandum

FIGURE 1
Missouri River Correctional Center – Location Map

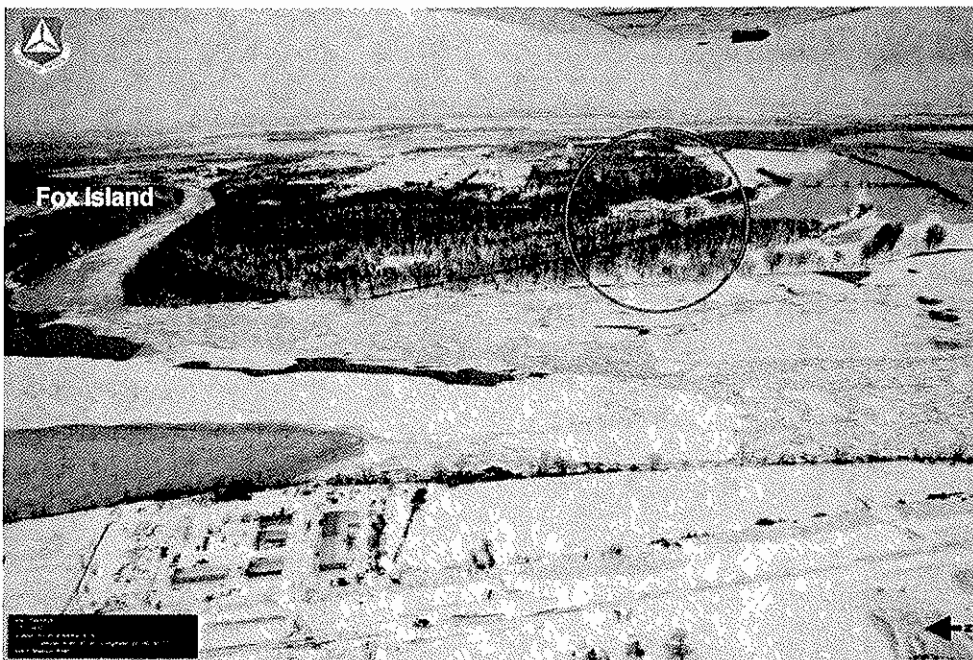


Missouri River Correctional Center Flood Hazard Mitigation Memorandum

FIGURE 2
Missouri River Correctional Center - 2009 Flood Event



Looking east toward MRCC



Looking east toward MRCC – Fox Island is to the left

Missouri River Correctional Center Flood Hazard Mitigation Memorandum

FIGURE 3
Missouri River Correctional Center - 2011 Flood Event (July)



Path: T:\GIS\333_Engineering\Missouri River Correctional Center\2011 Flood Hazard Mitigation\Map\Figure 3_2011 Photo.mxd

Missouri River Correctional Center Flood Hazard Mitigation Memorandum



FIGURE 4
Burleigh County Flood Hazard Mitigation Plan – FHMP #23, 24 and 25

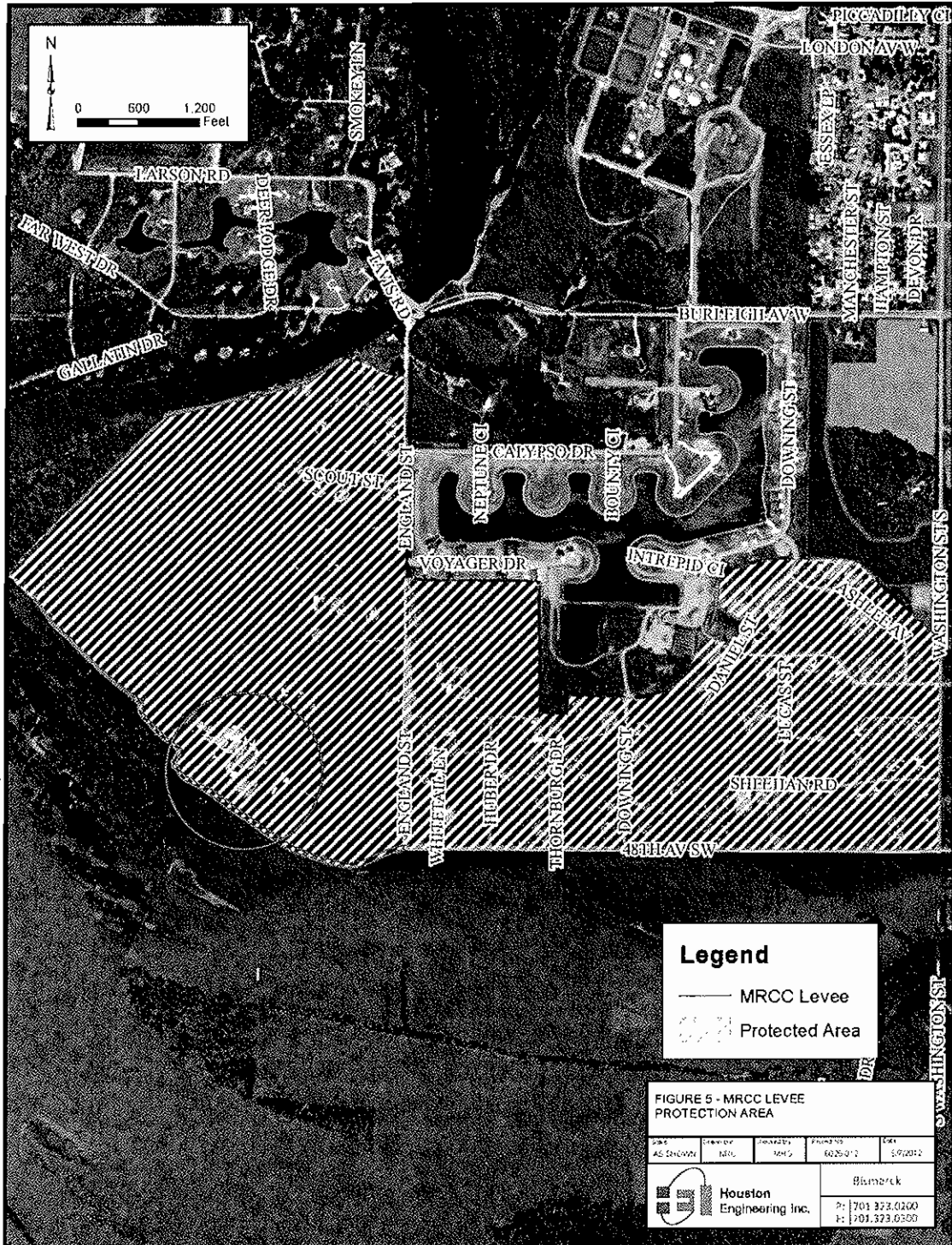


47

Missouri River Correctional Center Flood Hazard Mitigation Memorandum



FIGURE 5
Missouri River Correctional Center – Protection Area



From: T:\0025\0001\Bismarck\County\Water\Reservoirs\EC\11202505-013\MRCC Flood\Common\5-Massart\page 4 - Protection Area.mxd

11/12

Missouri River Correctional Center

Flood Hazard Mitigation Memorandum



There are those who question the need to construct to a 20.5 foot stage, given the extreme nature of the 2011 event. The peak flows were considered equivalent to a 500-year event. Another important consideration in flood protection in this area is the impact from ice jams. The primary Missouri River reach in Burleigh County subject to ice jam concerns is located just below the confluence of the Heart River, which is located just west of the MRCC. Ice jams have been recorded on a number of occasions and were evaluated as part of the currently effective 2005 Flood Insurance Study. The highest recorded ice jam stage at the Missouri River Gage prior to the 2009 event was 14.8 feet, recorded in 1983. Based on measured flood elevations, the 2009 ice jam event represented approximately a 50-year open water event, with equivalent flood stages between 17 feet and 18 feet in the Fox Island area. Many professionals working with Missouri River flood issues are justifiably concerned that the new river geomorphology resulting from the 2011 flood, and its associated degradation and deposition, has created a river system that is more susceptible to ice jam flooding. In their opinion this was readily apparent based on the river's dramatic rise during the relatively mild 'ice-in' period this winter.

For the purpose of this initial feasibility assessment construction to a 20.5 foot stage was assumed. However, if the Tavis Road and 48th Avenue 5W grade raises are designed to a lower level, then the elevations for this project could be adjusted accordingly prior to final design. The Burleigh County Commission recently authorized construction for ice jams to a 20 foot stage.

The southeastern extent of the proposed levee would be coupled with the access roadway for the Missouri River Correctional Facility. The roadway/levee would include a 28 foot top width and 4:1 side slopes, which is a typical township roadway section. This would have an asphalt paved section to the primary buildings and access locations. This roadway/levee would be constructed with either a clay core or potentially all clay materials. The final determination on this would be the available soil materials and economic/design considerations. A geotechnical evaluation will be required to determine the final designs configuration; however a proposed typical section for the roadway/levee is illustrated in **Figure 6**.

The rest of the proposed levee would be constructed as an earthen trail with a 12 foot top width and 4:1 side slopes. The trail/levee would be constructed entirely of clay materials, and would have a core trench similar to the roadway/levee. In many locations the trail/levee height is very small, and in these areas no core trench would be required. A typical trail section is illustrated in **Figure 7**.

PERMITS

Since the proposed levee would be capable of diverting more than 50 acre-feet of water a construction permit would be required from the North Dakota State Engineer in accordance with North Dakota Century Code Section 61-16.1-38. No permit should be required from the Corps of Engineers under either their Section 404 or Section 10 authority, as no fill will be placed in wetlands or waters of the United States.

The levee will also be constructed completely outside the regulatory floodway; however, a floodplain development permit will be required from the Burleigh County Floodplain Coordinator. The potential impacts to water surface elevations resulting from this encroachment into the floodplain as well as other proposed flood control projects in Burleigh County will be assessed separately.

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Missouri River Correctional Center Flood Hazard Mitigation Memorandum

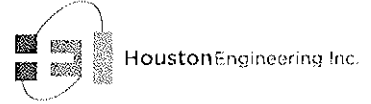
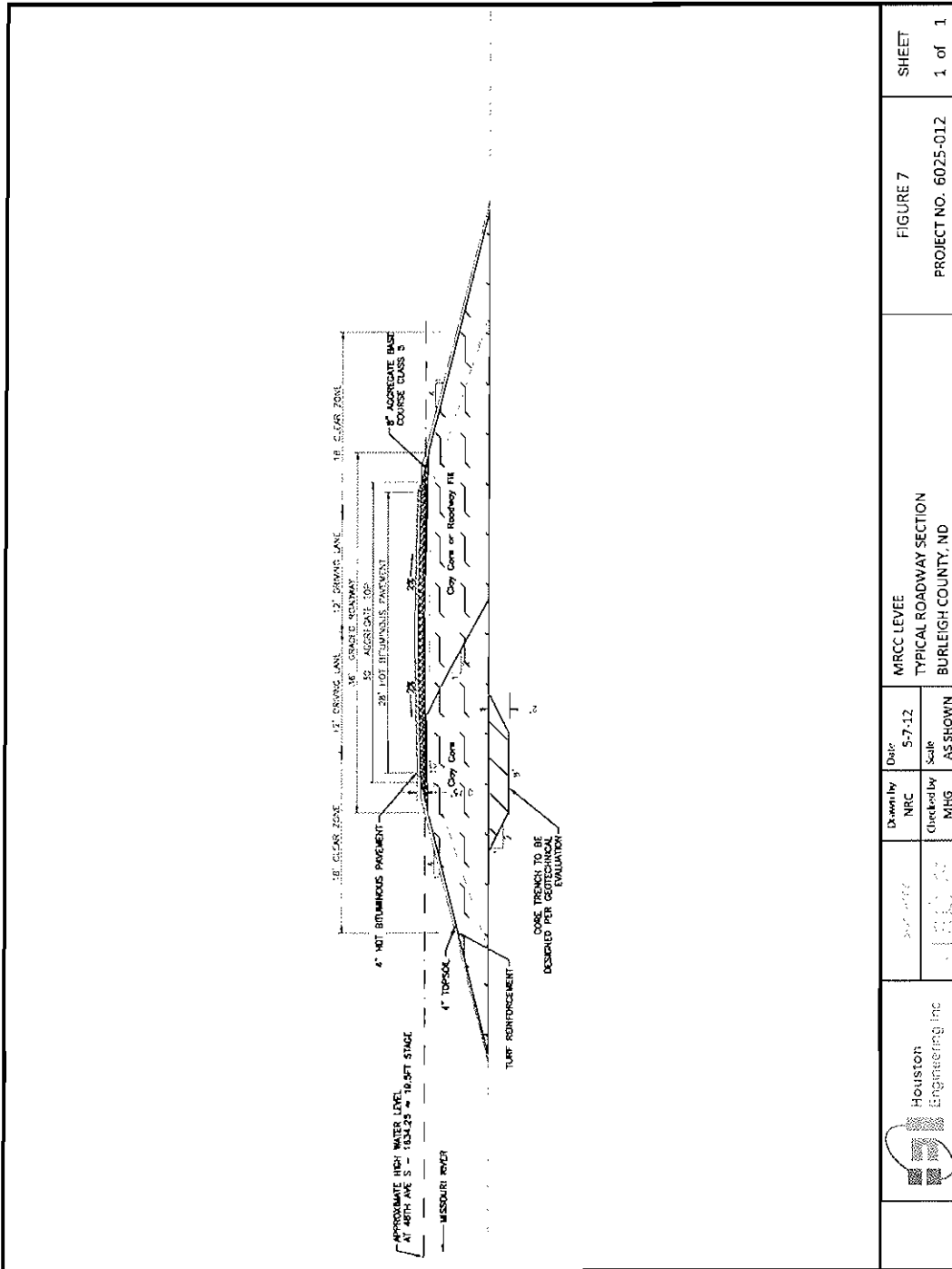


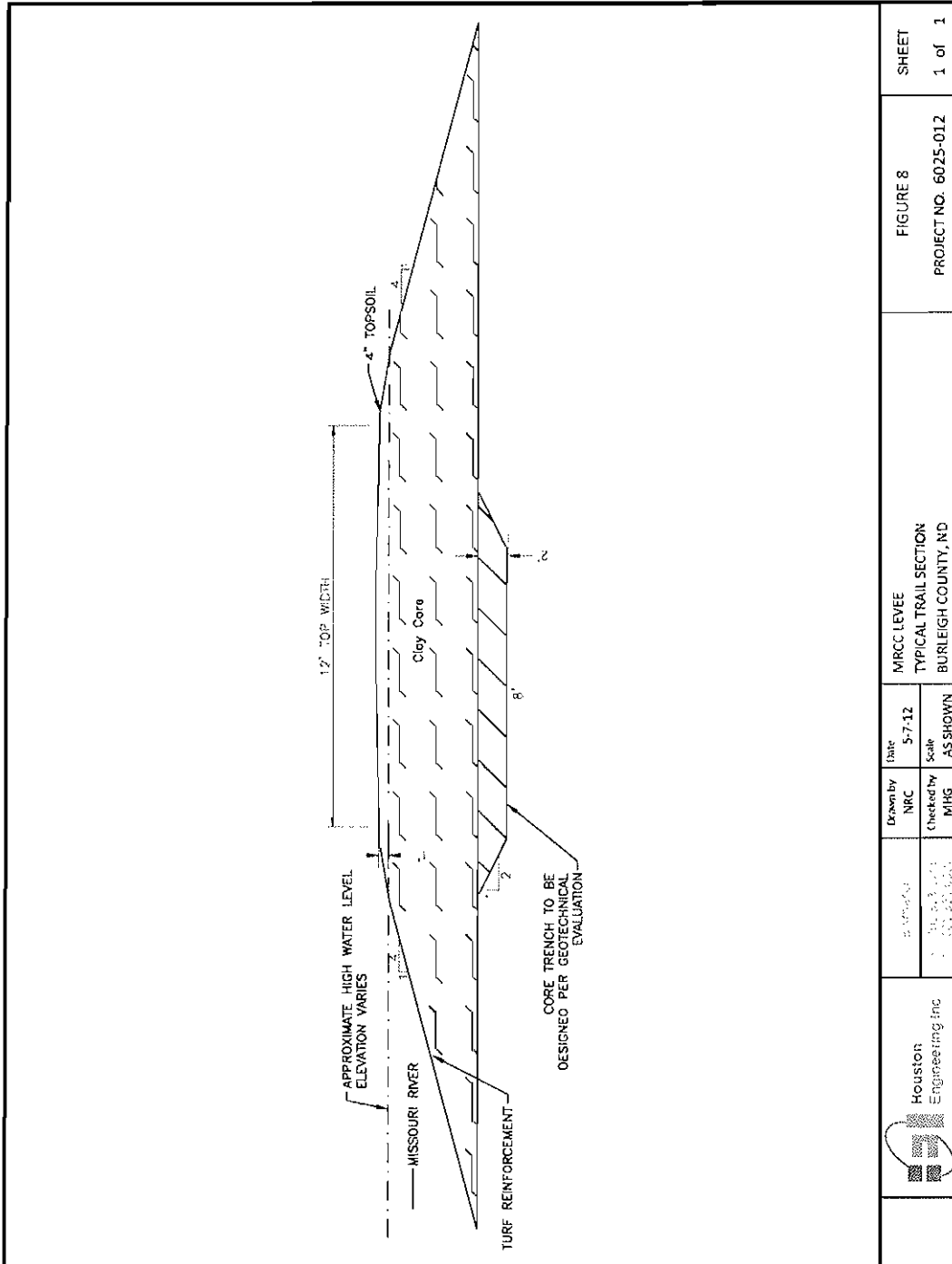
FIGURE 6
Missouri River Correctional Center – Typical Roadway Section



Missouri River Correctional Center Flood Hazard Mitigation Memorandum



FIGURE 7
Missouri River Correctional Center – Typical Trail Section



Houston Engineering Inc. 	Drawn By NRC	Date 5-7-12	MRCC LEVEL TYPICAL TRAIL SECTION BURLEIGH COUNTY, ND	FIGURE 8	SHEET 1 of 1
	Checked by MHG	Scale AS SHOWN			

Missouri River Correctional Center

Flood Hazard Mitigation Memorandum



OPINION OF PROBABLE CONSTRUCTION COST

The Opinion of Probable Cost (OPC) for constructing this flood hazard mitigation project was separated into two components, the roadway/levee section and the trail/levee section. These costs are based on an assumed height of 20.5 and the typical sections illustrated in **Figure 6** and **Figure 7**. These OPC's consider a number of cost factors including contingencies, engineering, geotechnical and administration. A detailed breakdown is provided at the end of this memorandum.

Roadway Construction Cost	\$ 525,826
<u>Trail Construction Cost</u>	<u>\$ 350,707</u>
Total Construction Cost	\$ 876,533

FUNDING OPTIONS

One potential funding option is for the North Dakota Department of Corrections to directly finance this project in its entirety. This could be accomplished through the Department of Correction's budget process during the 2013 legislative session, with construction occurring in the spring/summer of 2013. If the Department has funds available in their current budget, construction of a portion of the project may be possible in 2012, though not likely. Given a 2012 construction timeline, the design would need to begin in early June with construction in late fall.

Another option is to establish a special assessment district to finance project construction. The Department of Corrections and the benefitting landowners to the east could be assessed in direct proportion to the benefits received and an assessment district formed in accordance with ND Century Code Chapter 61-16.1. This approach would require a positive vote of the benefitted landowners to form the assessment district. The one potential public concern with this option is the amount of benefit that is attributed to the MRCC, and if they were to have a controlling interest in the voting process.

Cost share assistance may also be available through the North Dakota State Water Commission. They typically provide a 60% cost share for eligible construction costs on flood control projects. Their assistance may be available whether or not an assessment district is formed, however, they may view this cost share as an unnecessary overlap in the budget process between the two state agencies.

PUBLIC INFORMATIONAL MEETING

The BCWRD is prepared to hold a public informational meeting regarding this project with the residents from the protected rural residential areas. The purpose would be to discuss its purpose, design and funding options along with the necessary right of way needs for those portions of the project not located on state property. This meeting would be scheduled in coordination with the Department of Corrections.

APPENDICES

- Preliminary plan and profile sheets for the proposed levee system
- A breakdown of the OPC project cost items



Mona Livdahl

From: Michael Gunsch [mgunsch@houstoneng.com]
Sent: Thursday, May 10, 2012 10:38 AM
To: 'David Tschider'; Cary Backstrand; David Bliss; Gailen Narum; Ken Royse; Mona; Rynee Kellar; Terry Fleck
Cc: Mike Eggl; Tom Job <intimidator@bis.midco.net>; Bill Mitzel (dcmag@orbitcom.biz); 'Drew Steichen'; Wavra, Greg P. (gwavra@nd.gov); Tom Dickson
Subject: RE: COE Report on Flood Control

The COE's plans and specifications are in my office for comment, working on that into next week. I have inquired with the COE on several questions, one is when they plan to advertise for bids?

No response as yet.

Michael H. Gunsch, PE
Principal / Senior Project Manager
Houston Engineering, Inc.
3712 Lockport St, Bismarck, ND 58503
O 701.323.0200 | F 701.323.0300 | C 701.527.2134
mgunsch@houstoneng.com
www.houstoneng.com

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From: David Tschider [mailto:dtschider@Tschider-smithlaw.com]
Sent: Thursday, May 10, 2012 10:28 AM
To: Michael Gunsch; Cary Backstrand; David Bliss; Gailen Narum; Ken Royse; Mona; Rynee Kellar; Terry Fleck
Cc: Mike Eggl; Tom Job <intimidator@bis.midco.net>; Bill Mitzel (dcmag@orbitcom.biz); 'Drew Steichen'; Wavra, Greg P. (gwavra@nd.gov); Tom Dickson
Subject: RE: COE Report on Flood Control

Mike, any word on the revetment repairs? The sand storms continue, are a significant nuisance and are growing old! It would be nice to be able to plant grass to keep the sand down. Thanks. Dave t

From: Michael Gunsch [mailto:mgunsch@houstoneng.com]
Sent: Saturday, April 21, 2012 5:28 PM
To: Cary Backstrand; David Bliss; Gailen Narum; Ken Royse; Mona; Rynee Kellar; Terry Fleck
Cc: Mike Eggl; Tom Job <intimidator@bis.midco.net>; David Tschider; Bill Mitzel (dcmag@orbitcom.biz); 'Drew Steichen'; Wavra, Greg P. (gwavra@nd.gov)
Subject: COE Report on Flood Control

FYI all – See attached COE report.

Thought you would be interested in reviewing the results.
It is only 47 pages – I have not read as yet, but will.
Please share with others as you feel comfortable doing so.

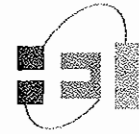
Thanks – Enjoy the Day!!

Michael H. Gunsch, PE
Principal / Senior Project Manager



Burnt Creek Floodway - Flood Repair

NRCS Request for Funding Assistance



Houston Engineering Inc.

To: Burleigh County WRD

From: Michael H. Gunsch, PE, Project Manager

Date: May 19, 2012

Subject: Burnt Creek Floodway
2011 Flood Damage Repair

BACKGROUND

As you are aware the FEMA funding request to repair damages to the Burnt Creek Floodway project resulting from the 2011 event was formally denied on April 25, 2012 [FEMA-1981-DR-ND-015URROZ-00, PW 4023]. Prior to that date, your request for assistance was referred by North Dakota Emergency Management to the Natural Resources Conservation Service (NRCS) for their consideration. After being contacted by NRCS a letter requesting their assistance was submitted on January 31, 2012, see attached. This was followed by an onsite inspection, by Chairman Narum and me along with representatives from the NRCS. They reviewed project damages and agreed to consider eligibility and economic issues related to the requested project sites.

STATUS AND FUNDING UPDATE

I received a phone call from Dennis W. Reep, PE, North Dakota State Conservation Engineer, regarding your request for funding assistance. NRCS has determined that damage sites 4, 5, 7 and 8 are eligible for their participation based on a 75% Federal/25% local cost share; see **Figure 1** for site location. Mr. Reep indicated that the Burleigh County Water Resource District (BCWRD) will be receiving a written agreement to participate in the construction cost for these repairs. The construction cost for this work, as estimated by NRCS, is \$75,000. The NRCS also has the ability to provide technical assistance (e.g. engineering services) but typically works with the sponsor to have the design work completed. As such they have technical assistance funding available, so when the work is completed by the sponsor they participate in engineering costs up to a maximum of 7.5% of the actual construction costs. This is 50% of the total engineering costs they typically allocate toward technical assistance.

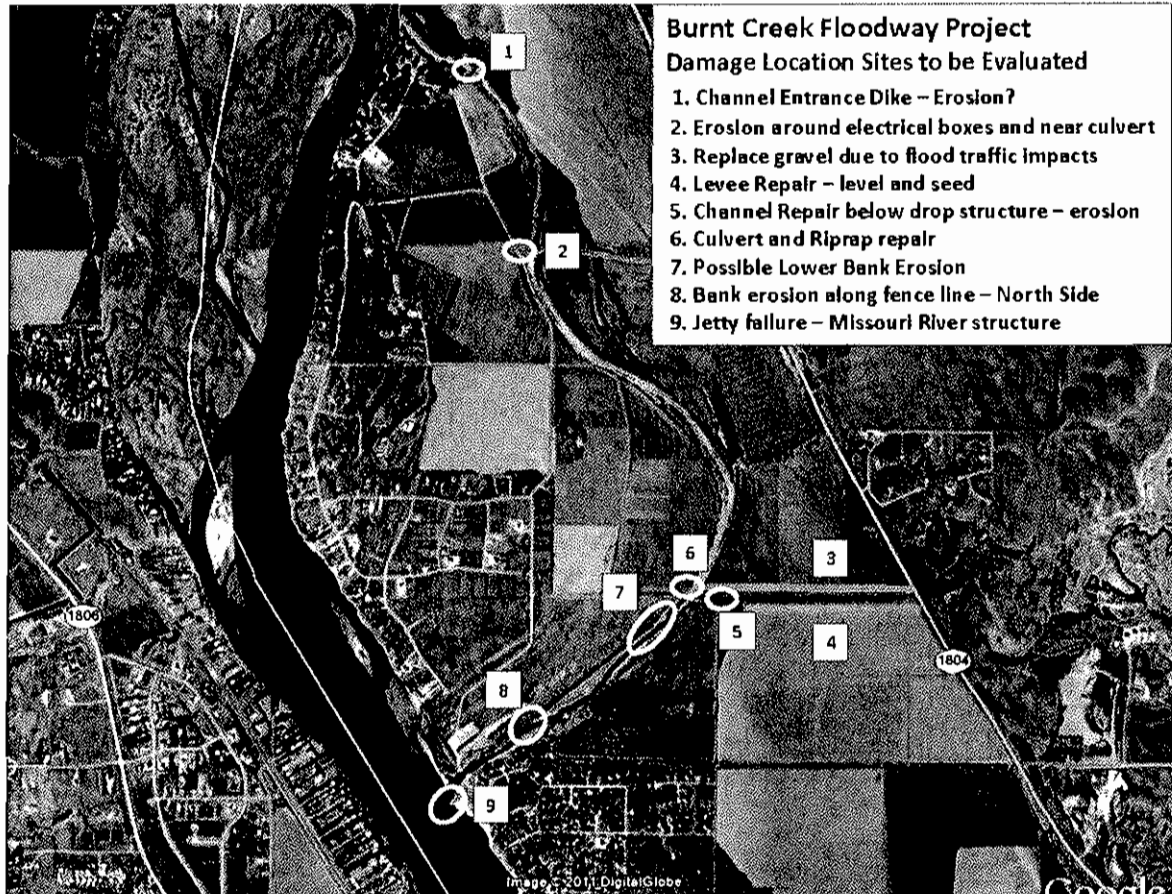
In my opinion a reasonable period for engineering and design would allow the plans and specifications to be completed and ready for bid in late July or early August 2012. This would allow around 30 to 45 days for the work after bidding for a late fall completion. The NRCS agreement will require that such work be completed within 220 calendar days from when the contract is signed. They do have the option for an extension, but prefer the work be completed and the project closed out.

In addition, the NRCS would provide the construction administration services on the contract. The local sponsor would provide construction survey and observation.

Burnt Creek Floodway - Flood Repair

NRCS Request for Funding Assistance

Figure 1 – Damage Sites



A summary of the status for the remaining sites is as follows:

- Site 1 – Maintenance work not necessarily flood damage (pipe failure)
- Site 2 - Was corrected by Capitol Electric
- Site 3 - Maintenance of pedestrian trail
- Site 6 – Withdrawn no repair required
- Site 9 – To be repaired under Section 33 by COE – 2012

The unfunded sites should be reviewed and discussed for possible corrective measures. In our opinion these projects could be delayed until 2013 as they are not critical. In the case of Site 3, the option of having Bismarck Parks and Recreation District complete these repairs should be pursued, as it is simply the addition of gravel onto their pedestrian trail. On Site #1 this work could be completed by direct contact with several contractors for quotes as this is a small project repair. Essentially this includes a new culvert, new gate, sediment removal, topsoil and seeding.



Burleigh County Water Resource District

City/County Office Building - 221 North 5th Street
Bismarck, North Dakota 58501-4028

January 31, 2012

Mary Podall
State Conservationist
Natural Resources Conservation Service
PO Box 1458
Bismarck, ND 58502-1458

Re: Burnt Creek Flood Control Project, Burleigh County, North Dakota

Dear Ms. Podall:

The Burleigh County Water Resource District (BCWRD) requests NRCS's assistance with the review and potential funding for the repair of damages to the Burnt Creek Flood Control Project and related facilities caused by the 2011 Missouri River flood event. The BCWRD has been in contact with NDDDES and FEMA representatives regarding these damages and were referred to you by Mr. Neil Hutchinson, FEMA. Mr. Hutchinson also has information regarding the site having conducted an on-site inspection with Gailen Narum, BCWD Chairman.

Attached is an impact area map that identifies nine (9) specific damage locations. A brief summary of these locations is as follows:

1. The channel dike installed as part of the original 1975 project needs further review as erosion damages may have affected its elevation.
2. The erosion around the electrical boxes has been repaired by Capitol Electric.
3. The gravel pedestrian trail and Operation and Maintenance (O&M) access on the north side floodway levee was damaged by traffic during very wet conditions and needs to be leveled and gravel needs to be added to restore it to pre-flood conditions.
4. The southern levee along the floodway was seriously rutted by private traffic using this levee to access an area where boats were launched west of the concrete drop structure. These boats were used to access residences on the island, since the only roadway into the area was submerged with high velocity flows across it. The southern levee needs to be reshaped and topsoiled to restore it to its design elevation and the area then reseeded.
5. There is an erosion scour downstream from the new drop structure on the south side that requires shaping and the installation of rock rip rap to stabilize.
6. High flows over this culvert installation have created a wash out that needs to be restored and stabilized, to maintain O&M access and the channel grade stabilization per the 2008 design.

Current Board Members:

Gailen Narum, Chair, Bismarck 323-0167 Terry Fleck, Vice Chair, Bismarck 223-9768 Ken Royce, Treas., Bismarck 258-1110 Cary Backstrand, Bismarck 471-9134 Reinold Keller, Bismarck 425-6158

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Mary Podall, State Conservationist
Natural Resources Conservation Service
Re: Burnt Creek Flood Control Project, Burleigh County, North Dakota
January 31, 2012
Page -2-

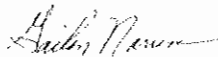
7. There has been erosion along the bankline through this area that needs to be further evaluated for potential stabilization measures.
8. There has been major erosion along the north side of the channel in this area that has caused the failure of the flood control levee constructed as part of the 1975 flood control project. The channel bank in this area will need to be pulled back and stabilized and the levee elevation restored. This work will likely require acquisition of additional properties or easements as the levee is located on property owned by the BCWRD, while the relocation of the levee north appears to require the use of properties owned by the Bismarck Parks and Recreation District.
9. This jetty was constructed as part of the Corps of Engineers Section 32 Bank Stabilization Program. The BCWRD is responsible for the Operation and Maintenance of this project feature. The damage to this jetty needs to be repaired and we understand if this feature is determined not to be eligible for NRCS assistance as it was constructed by another federal agency, and we have had a similar response from FEMA once before on this question.

We understand that as sponsor of an emergency watershed protection project, our responsibilities will include acquiring the land rights, permits necessary to complete the project work, and to continue our operation and maintenance of these facilities and any rehabilitation features that might be implemented. We also understand that our local contribution to these repairs will be 25% of the construction costs, which may include in-kind services. I am the contact person for the BCWRD and my address is as follows:

Gailen Narum, PE (Retired) Chairman
Burleigh County Water Resource District
2422 LaCorte Loop
Bismarck, ND,
Cell No. 701-202-7666
Federal Tax ID Number 45-6002204
DUNS Number 025767323

Please contact me if you have any questions.

Sincerely,



Gailen Narum, Chairman

cc: Dennis W Reep, PE, USDA-NRCS State Conservation Engineer
Jay Fuhrer, NRCS District Conservationist, Burleigh County
BCWRD Board Members

Current Board Members:

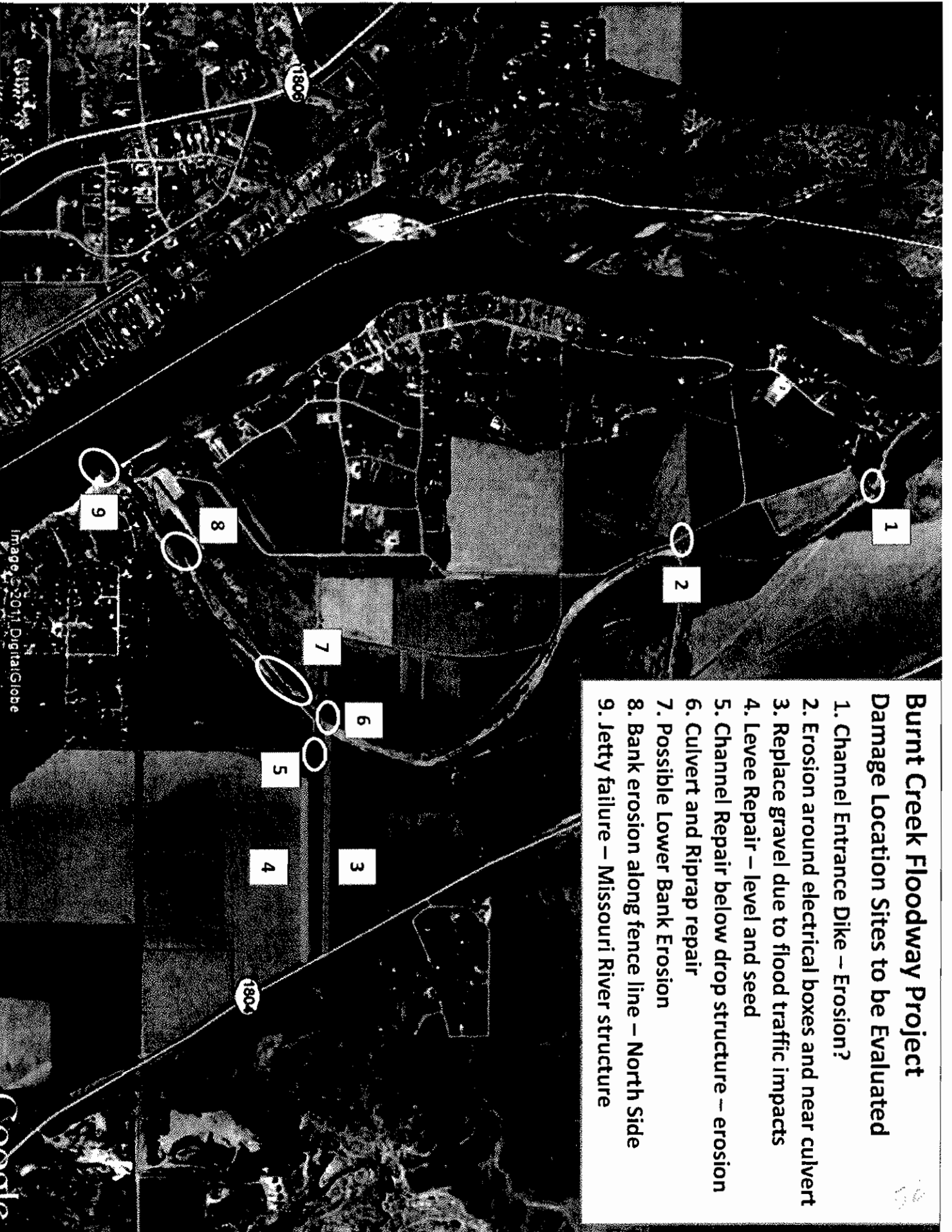
Gailen Narum, Chair, Bismarck 323-0167 Terry Fleck, Vice Chair, Bismarck 223-9768 Ken Royse, Treas., Bismarck 258-1110 Cary Backstrand, Bismarck 471-9134 Reinold Keller, Bismarck 425-6158

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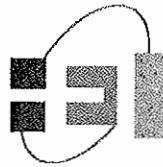
Burnt Creek Floodway Project

Damage Location Sites to be Evaluated

1. Channel Entrance Dike – Erosion?
2. Erosion around electrical boxes and near culvert
3. Replace gravel due to flood traffic impacts
4. Levee Repair – level and seed
5. Channel Repair below drop structure – erosion
6. Culvert and Riprap repair
7. Possible Lower Bank Erosion
8. Bank erosion along fence line – North Side
9. Jetty failure – Missouri River structure



MEMO



Houston Engineering Inc.

Technical Memorandum

To: Gailen Narum, Chairman
Burleigh County WRD

From: Craig Odenbach, P.E.

Date: May 30, 2011

Subject: Hay Creek Sediment & Geomorphic Assessment

The ND Department of Health (NDDH) has made funding available through their Section 604b program for the monitoring of flows and sediment data along Hay Creek for several years. The results of this data collection program have recently been provided by the USGS. Now, the NDDH has indicated they have additional funding available to interpret the raw sampling results and to once again assess the geomorphology of the stream for comparisons to the base line established several years ago. At the request of the NDDH, we developed a proposed scope and budget for completing the desired work as follows:

Task 1 – Historic Data **\$1,700**

This will include compilation and organization of the prior existing sediment and geomorphologic data including prior electronic files for the prior surveyed cross sections.

Task 2 – Geomorphologic Assessment **\$13,800**

The current stream morphology will be assessed and compared to historic conditions. This will include the following three approaches:

- *Historic Aerial Imagery*
Aerial Imagery will be used to characterize geomorphologic changes in sinuosity, channel length and estimated slope since the 2001 baseline work was completed.
- *Re-Survey of Cross Sections*
The cross sections from the prior assessment will be re-surveyed and the results used to further characterize geomorphologic changes.
- *Field Geomorphology Assessment*
Prior Geomorphologic Sites will be re-visited and stream will be re-classified. Comparative photos will be taken at prior photo sites.

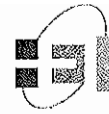
A Technical Memorandum will summarize the results of the geomorphologic assessment.

Task 3 – Sediment Yield Assessment **\$3,600**

The daily streamflow record published by the USGS will be used in conjunction with the newly developed sediment/discharge rating to quantify annual sediment yields for the watershed. The resulting sediment yields will be compared to A. Simon reference condition sediment yields to assess Hay Creek's degree of impairment in respect to sediment load. The results will be summarized in a Technical Memorandum.

Total Cost **\$19,100**

MEMO



HoustonEngineering Inc.

This work would be funded 100% by the NDDH with the Burleigh County Water Resource District (BCWRD) acting as the local sponsor. This work would provide a final summarization of the sediment data collection program as well as the stream geomorphologic assessment. One anticipated outcome of this proposed work is a determination of whether or not Hay Creek could be removed from the list of streams that are impaired due to sediment load.

The NDDH is prepared to submit the required grant applications for the federal funding if the BCWRD agrees to sponsor the study.





Burleigh County Water Resource District

City/County Office Building - 221 North 5th Street
Bismarck, North Dakota 58501-4028

June 7, 2012

John Hauck, Chairman
Gibbs Township
6420 TJ Lane
Bismarck ND 58503

Re: Proposed Kolbo 3rd Subdivision

Dear Mr. Hauck:

The Burleigh County Water Resource District (BCWRD) has reviewed and provides the following comments on the proposed Kolbo 3rd Subdivision. We understand Gibbs Township does not oppose the proposed plat and development, but requested the BCWRD's position through Community Development due to the proximity of the site to the McDowell Dam Recreation Area.

After considering the proposed plat and development several items need to be address. First, the site layout and topographic mapping does not indicate the size of the culverts in the three approaches into the development. The appropriate culverts must be determined and documented in the stormwater management plan. Second, there is a concern with both existing and future truck traffic within this area. It has been documented that a number of trucks arriving at this development pass the site thus entering the McDowell Dam Recreation Area, and then having to turn around in the park to return to this location. Since the expansion will result in additional traffic it is requested that appropriate signage be installed by the owner to control and reduce undesirable traffic into the park. Third, a question was raised regarding the roadway master plan showing a future extension of 17th Avenue SE to the east downstream from the McDowell Dam. The BCWRD would not support construction of this roadway until the impacts on outlet works on the dam and revisions to the McDowell Dam Emergency Action Plan have been fully evaluated.

The BCWRD does not oppose the approval of this plat and its subsequent development.

Sincerely,

A handwritten signature in cursive script that reads "Gailen Narum".

Gailen Narum, Chairman

c: Marcus Hall, Burleigh County Engineer
Doug Schonert, Chairman Burleigh County Commission
Jason Tomanek, Community Development
Forrest Ecklund, Bismarck Parks and Recreation District

Current Board Members:

Gailen Narum, Chair, Bismarck 323-0167 Terry Fleck, Vice Chair, Bismarck 255-3559 Ken Royle, Treas., Bismarck 258-1110 Cary Backstrand, Bismarck 223-4319 Reinold Kellar, Bismarck 223-9166

A small, faint handwritten mark or signature in the bottom right corner of the page.

COPY



Burleigh County Water Resource District

City/County Office Building - 221 North 5th Street
Bismarck, North Dakota 58501

May 15, 2012

Melissa Behm
Water Development Division
North Dakota State Water Commission
900 East Boulevard Avenue, Dept. 770
Bismarck, ND 58505-0850

Dear Ms. Behm:

Enclosed is one copy of the signed agreement between the NDSWC and the BCWRD for the Burleigh County Flood Acquisition Project along with the required "certificate of insurance" coverage. If additional information is necessary, please contact me.

Sincerely,

Gailen Narum, Chairman
BCWRD Board

cc:

David Bliss, Attorney
Chairman Doug Schonert, Burleigh County Commissioner
Clyde Thompson, County Treasurer

Enclosure

Current Board Members:

Gailen Narum, Chair, Bismarck 323-0167 Terry Fleck, Vice Chair, Bismarck 255-3558 Ken Roysse, Treas., Bismarck 258-1110 Reinold Kellar, Bismarck 223-9166 Cary Backstrand, Bismarck 223-4319

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**Agreement for Cost Participation
Burleigh County Flood Acquisition**

1. PARTIES. This agreement is between the State of North Dakota (State), by and through the State Water Commission (Commission), and Burleigh County, North Dakota (County), by and through its agent, the Burleigh County Water Resource District.

2. COMMISSION'S RESPONSIBILITY AND INTENT. Commission shall provide County with funds, not to exceed \$1,425,000, for costs incurred in County's Flood Acquisition Project (Project) to provide long-term flood reduction benefits that compliment, but do not duplicate, federal funding of flood mitigation projects. The funds are contingent on availability of funds and conditions of this agreement. Commission's intent in providing this funding to County is merely to help County financially afford Project. County retains sole and absolute discretion in the manner and means of carrying out Project, except to the extent specified in this agreement.

3. COUNTY'S RESPONSIBILITIES. County shall:

- a. Adopt a Project plan that includes: a description and map of properties to be acquired; the estimated cost of property acquisitions, including contract costs and removal of structures; a statement regarding the benefit of acquiring the properties; and information regarding the ineligibility for federal Hazard Mitigation Grant Program (HMGP) funding. This plan must also include a description of how the applicant will ensure there is not a duplication of benefits.
- b. Provide justification acceptable to Commission describing the property's ineligibility to receive federal HMGP funding and other federal funding. If inability to receive federal funding is not shown to the satisfaction of Commission, following Commission's consultation with the North Dakota Department of Emergency Services, the requests for costs share will be returned to County for submittal for federal funding prior to use of Commission funds.
- c. Acquire properties as described in the plan.
- d. Within six months of closing date, remove existing structures on property acquired.
- e. Submit full documentation of acquisition costs to Commission.

- f. If any structures acquired under this program are re-sold, County shall reimburse Commission 75% of the salvage value of any structure within 30 days of the re-sale closing date.
- g. Ensure all applicable permits (federal, state, and local) are obtained.
- h. Submit a perpetual restrictive covenant similar to the restrictions required by the federal HMGP funding, with the additional exceptions being that the property may be utilized for flood control structures and related infrastructure, paved surfaces, and bridges. These covenants must be recorded either in the deed or in a restrictive covenant that would apply to multiple deeds.
- i. Comply with all North Dakota laws governing procurement requirements for competitive bids, advertising, and awarding of contracts for the Project.
- j. Maintain files containing documents relevant to the Project for the lifetime of the Project, including all permits, plans, correspondence, and all other documents generated during the course of the Project.
- k. Submit requests for payment according to the requirements of this agreement and document locally funded cost share.
- l. Fund the local cost share amount.

4. ELIGIBLE COSTS. Commission shall have sole discretion to determine eligible costs and availability of Commission funds. In addition, Commission shall have sole discretion to determine whether County has appropriately fulfilled its local match requirements. Funds reimbursed for cost sharing to County for eligible land acquisition costs incurred are not limited to any aggregate amount other than the total amount provided by this agreement (\$1,425,000). Purchase and removal of structures are eligible acquisition costs. All contracted costs directly associated with the acquisition will be considered eligible for cost share. Contracted costs may include: appraisals, legal fees (title and abstract search/update, property survey, closing costs, etc.), hazardous materials abatement needs (asbestos, lead paint, etc.), and site restoration. Salary and administrative costs incurred by the local sponsor shall not be cost shared.

5. PAYMENT. County shall submit to Commission written requests for payment that shall include an itemization of actual costs and a certification, signed by an appropriate official, that all submitted itemized costs are within the eligible cost categories provided for in this agreement.

6. INSURANCE. State and County each shall secure and keep in force during the term of this agreement, from an insurance company, government self-insurance pool, or government self-retention fund authorized to do business in North Dakota, commercial general liability with minimum limits of liability of \$250,000 per person and \$500,000 per occurrence.

In addition, County shall require all subcontractors, other than state employed subcontractors, before commencement of an agreement between County and the subcontractor, to secure and keep in force during the term of this agreement, from insurance companies authorized to do business in North Dakota, the following insurance coverages:

- a. Commercial general liability, including premises or operations, contractual, and products or completed operations coverages (if applicable), with minimum liability limits of \$250,000 per person and \$500,000 per occurrence.
- b. Automobile liability, including Owned (if any), Hired, and Non-owned automobiles, with minimum liability limits of \$250,000 per person and \$500,000 per occurrence.
- c. Workers compensation coverage meeting all statutory requirements.

The insurance coverages listed above must meet the following additional requirements:

- d. Any deductible or self-insured retention amount or other similar obligation under the policies shall be the sole responsibility of County. The amount of any deductible or self-retention is subject to approval by State.
- e. This insurance may be in policy or policies of insurance, primary and excess, including the so-called umbrella or catastrophe form, and must be placed with insurers rated "A-" or better by A.M. Best Company, Inc., provided any excess policy follows form for coverage. Less than an "A-" rating must be approved by State. The policies shall be in form and terms approved by State.
- f. The insurance required in this agreement, through a policy or endorsement, shall include a provision that the policy and endorsements may not be canceled or modified without thirty days' prior written notice to Commission.
- g. County shall furnish a certificate of insurance to Commission prior to commencement of this agreement.
- h. Failure to provide insurance as required in this agreement is a material breach of contract entitling State to terminate this agreement immediately.

7. BREACH. Violation of any provision of this agreement by County constitutes breach of this agreement. A breach obligates County to reimburse Commission for all funds paid to County and relieves Commission of all obligations under this agreement.

8. AGREEMENT BECOMES VOID. This agreement is void if not signed and returned by County within 60 days of Commission's signature.

9. TERMINATION.

- a. Commission may terminate this agreement effective upon delivery of written notice to County, or a later date as may be stated in the notice, under any of the following conditions:
 - (1) If Commission determines an emergency exists.
 - (2) If funding from federal, state, or other sources is not obtained and continued at levels sufficient to provide the funds necessary to comply with this agreement. The parties may modify this agreement to accommodate a reduction in funds.
 - (3) If federal or state laws or rules are modified or interpreted in a way that the services are no longer allowable or appropriate for purchase under this agreement or are no longer eligible for the funding proposed for payments authorized by this agreement.
 - (4) If any license, permit, or certificate required by law, rule, or this agreement is denied, revoked, suspended, or not renewed.
 - (5) If Commission determines that continuing the agreement is no longer necessary or would not produce beneficial results commensurate with the further expenditure of public funds.
- b. Any termination of this agreement shall be without prejudice to any obligations or liabilities of either party already accrued prior to termination.
- c. The rights and remedies of any party provided in this agreement are not exclusive.

10. APPLICABLE LAW AND VENUE. This agreement is governed by and construed in accordance with the laws of the State of North Dakota. Any action to enforce this agreement must be brought in the District Court of Burleigh County, North Dakota.

11. SEVERABILITY. If any term of this agreement is declared by a court having jurisdiction to be illegal or unenforceable, the validity of the remaining terms must not be affected, and if possible, the rights and obligations of the parties are to be construed and enforced as if the agreement did not contain that term.

12. SPOLIATION – NOTICE OF POTENTIAL CLAIMS. County agrees to promptly notify Commission of all potential claims that arise or result from this agreement. County shall also take all reasonable steps to preserve all physical evidence and information that may be relevant to the circumstances surrounding a potential claim, while maintaining public safety, and grants to Commission the opportunity to review and inspect the evidence, including the scene of an accident.

13. **MERGER.** This agreement constitutes the entire agreement between the parties. There are no understandings, agreements, or representations, oral or written, not specified within this agreement. This agreement may not be modified, supplemented, or amended in any manner except by written agreement signed by both parties.

**NORTH DAKOTA STATE WATER
COMMISSION**

By:

TODD SANDO, P.E.
Chief Engineer/Secretary

Date: 3/27/12

**BURLEIGH COUNTY WATER
RESOURCE DISTRICT**

By:

GALLEN NARUM
Chairman

Date: 5.8.12



NORTH DAKOTA INSURANCE RESERVE FUND

P.O. BOX 2268
BISMARCK, ND 58502

NAMED MEMBER	AGENT
BURLEIGH COUNTY & BURLEIGH COUNTY PARK BOARD CLYDE THOMPSON, FINANCE DIRECTOR 221 NORTH 6TH STREET BISMARCK, ND 58501	BAIN AGENCY INC-BISMARCK 1500 E CAPITOL AVENUE BISMARCK ND 58501 PHONE NUMBER : 701-223-2233

CONFIRMATION OF COVERAGE

THIS CONFIRMATION OF COVERAGE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CONFIRMATION OF COVERAGE HOLDER. THIS CONFIRMATION OF COVERAGE DOES NOT AMEND, EXTEND, OR ALTER THE COVERAGE AFFORDED THE NAMED MEMBER.

THIS IS TO CERTIFY THAT THE MEMORANDUM OF COVERAGE LISTED BELOW HAS BEEN ISSUED TO THE NAMED MEMBER SHOWN ABOVE. IF ANY MEMORANDUM OF COVERAGE LISTED BELOW BE CANCELLED DURING THE COVERAGE PERIOD, THE NORTH DAKOTA INSURANCE RESERVE FUND WILL PROVIDE THE CONFIRMATION OF COVERAGE HOLDER A THIRTY (30) DAY NOTICE OF CANCELLATION.

COVERAGE	MEMORANDUM NUMBER	COVERAGE PERIOD		LIMIT OF LIABILITY	
		FROM	TO	EACH PERSON	EACH OCCURRENCE
LIABILITY <input checked="" type="checkbox"/> PREMISES/OPERATIONS <input type="checkbox"/> GOVERNANCE <input type="checkbox"/> PROFESSIONAL SERVICES	GL 1227 26	07/01/2011	07/01/2012	\$2,000,000.00	\$2,000,000.00
AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> HIRED & NONOWNED AUTOS <input type="checkbox"/> DESCRIBED AUTOS					
<input type="checkbox"/> OTHER COVERAGE					

DESCRIPTIONS OF OPERATIONS, LOCATIONS, AUTOS, OR SPECIAL ITEMS:

CONFIRMATION OF COVERAGE HOLDER
 STATE OF NORTH DAKOTA
 ND STATE WATER COMMISSION
 900 EAST BOULEVARD AVE, DEPT 770
 BISMARCK, ND 58505-0850

AUTHORIZED REPRESENTATIVE

Blaine Markwart

ISSUE DATE

05/17/2012



Community Development Department

MEMORANDUM CITY FINAL PLAT ROCK CREEK FOURTH SUBDIVISION

TO: Kathy Feist, Finance
Mel Bullinger, City Engineer
Ray Ziegler, Building Inspections
Mike Dannenfelzer, Communications Manager
Keith Demke/Jeff Heintz, Public Works
Kevin Glatt, County Auditor Office
Marcus Hall, County Engineer
Kim Lee, Planning
John Hauck, Gibbs Township Supervisor
Duwayne Schoepp, Qwest
Patrick Darras, MDU
Terry Mertz, Capital Electric
Bill Boyd, Midcontinent Communications
Roger Roehl, ND Department of Transportation
Al Klein, Rural Fire (location map & reduction)
Randy Bina, Parks and Recreation (location map & reduction)
Darin Scherr, Bismarck Public Schools (location map & reduction)
Jeff, BEK Communications (location map & reduction)
Burleigh County Water Resource District (location map & reduction)
Al Wood, Western Area Power Association (location map & reduction)
Les Witkowski, Sheriff's Office (location map & reduction)
Corrine Jochim, County Auditor/Treasurer Office (reduction and location map)
Keith Witt, Police (location map & reduction)
Fire Department (location map & reduction)
City Assessing (location map & reduction)

FROM: City/County Community Development Department ~ Planning Division

DATE: May 3, 2012

Attached please find a copy of the final plat titled Rock Creek Fourth Subdivision, which has tentatively been scheduled for a public hearing by the City Planning & Zoning Commission on Wednesday, May 23, 2012.

If you have any questions or need any additional information on this request, please contact Kim Lee, the planner in our office assigned to this request, at 355-1846.

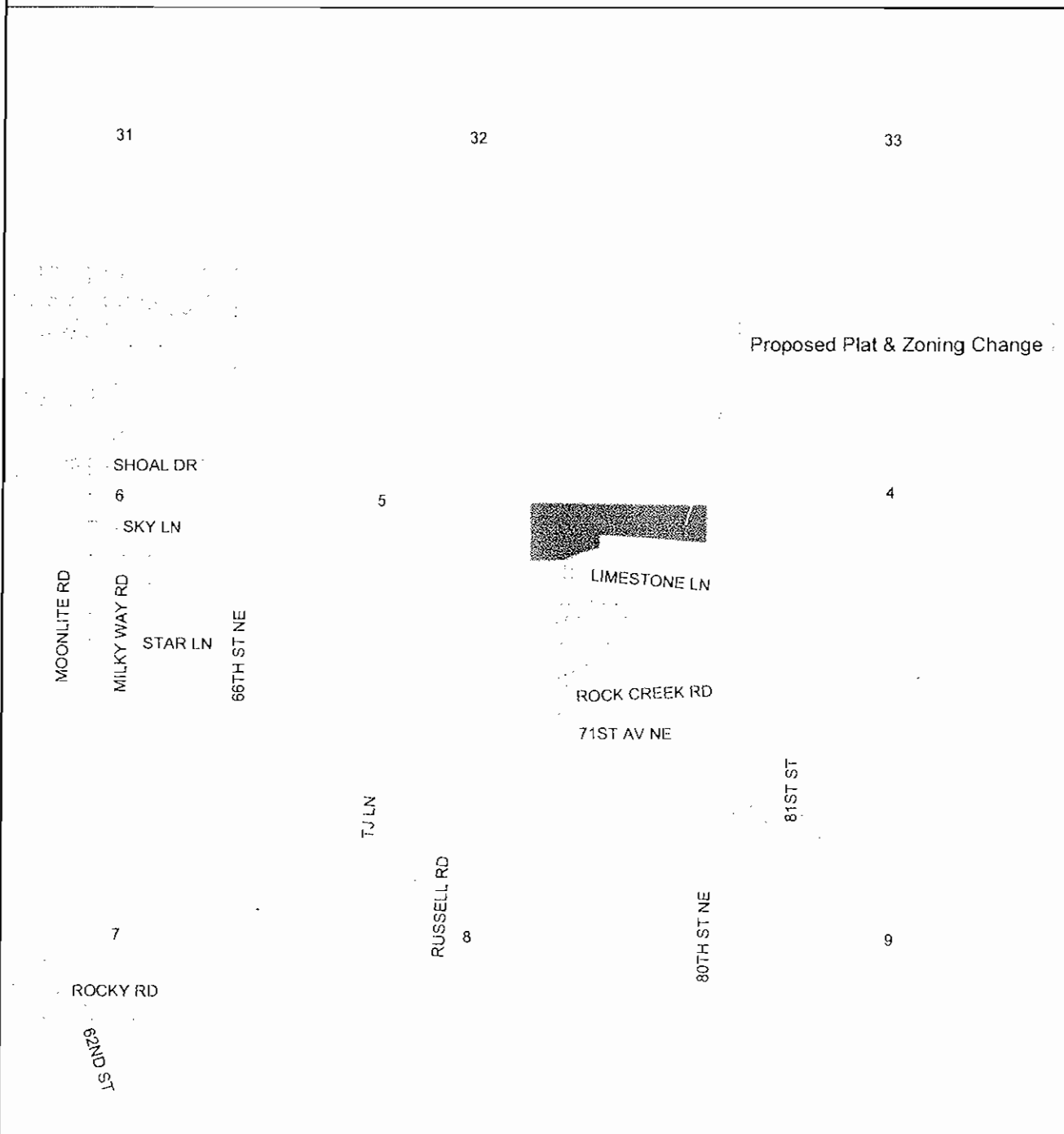
Attachment(s)

Bismarck-Burleigh County Community Development Department
221 North 5th Street • PO Box 5503 • Bismarck, ND 58506-5503 • TDD: 711 • www.bismarck.org



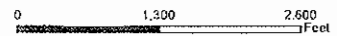
69

Proposed Plat & Zoning Change Rock Creek Fourth Subdivision



DISCLAIMER: This map is for representation use only and does not represent a survey. No liability is assumed as to the accuracy of the data delineated hereon.
Map was Updated/Created: November 23, 2011 (kdg)

Source: City of Bismarck





Community Development Department

**MEMORANDUM
CITY RECORDED FINAL PLAT
THE RIDGE AT HAWKTREE SECOND SUBDIVISION**

TO: Kathy Feist, Finance
Kevin Glatt, County Auditor
Deb Goodsell, Assessing
Ray Ziegler
Ray Ziegler, Building Inspections (Addressing-Combined Communications)
Ray Ziegler, Building Inspections (Addressing-County Auditor's Office)
Marcus Hall, County Engineer
Jeron Fuller, Public Works
Roger Roehl, ND Department of Transportation
Mike Berg, Capital Electric
Patrick Darras, MDU
Duwayne Schoepp, Qwest
Bill Boyd, Midcontinent Communications
Brian White, US Postal Service
Lynette Bjornson, US Postal Service (location map & reduction)
Mike Dannenfelzer, Combined Communications (location map & reduction)
Jeff, BEK Communications (location map & reduction)
Burleigh County Water Resource District (location map & reduction)
Darin Scherr, Bismarck Public Schools (location map & reduction)
Al Klein, Rural Fire (location map & reduction)
Corrine Jochim, County Auditor/Treasurer Office (reduction and location map)
Les Witkowski, Sheriff's Office (location map & reduction)
Mel Bullinger, City Engineer (memo only)

FROM: City/County Community Development Department ~ Planning Division

DATE: May 7, 2012

Attached please find a copy of the above-signed plat, which was approved by the City Planning & Zoning Commission on September 26, 2007, Board of City Commissioners on October 17, 2007, Board of County Commissioners on November 5, 2007, again by the Board of City Commissioners on January 13, 2009 and recorded by the Recorder's Office on April 24, 2012.

If you have any questions or need any additional information on this request, please contact Kim Lee, the planner in our office assigned to this request, at 355-1846.

Attachment(s)

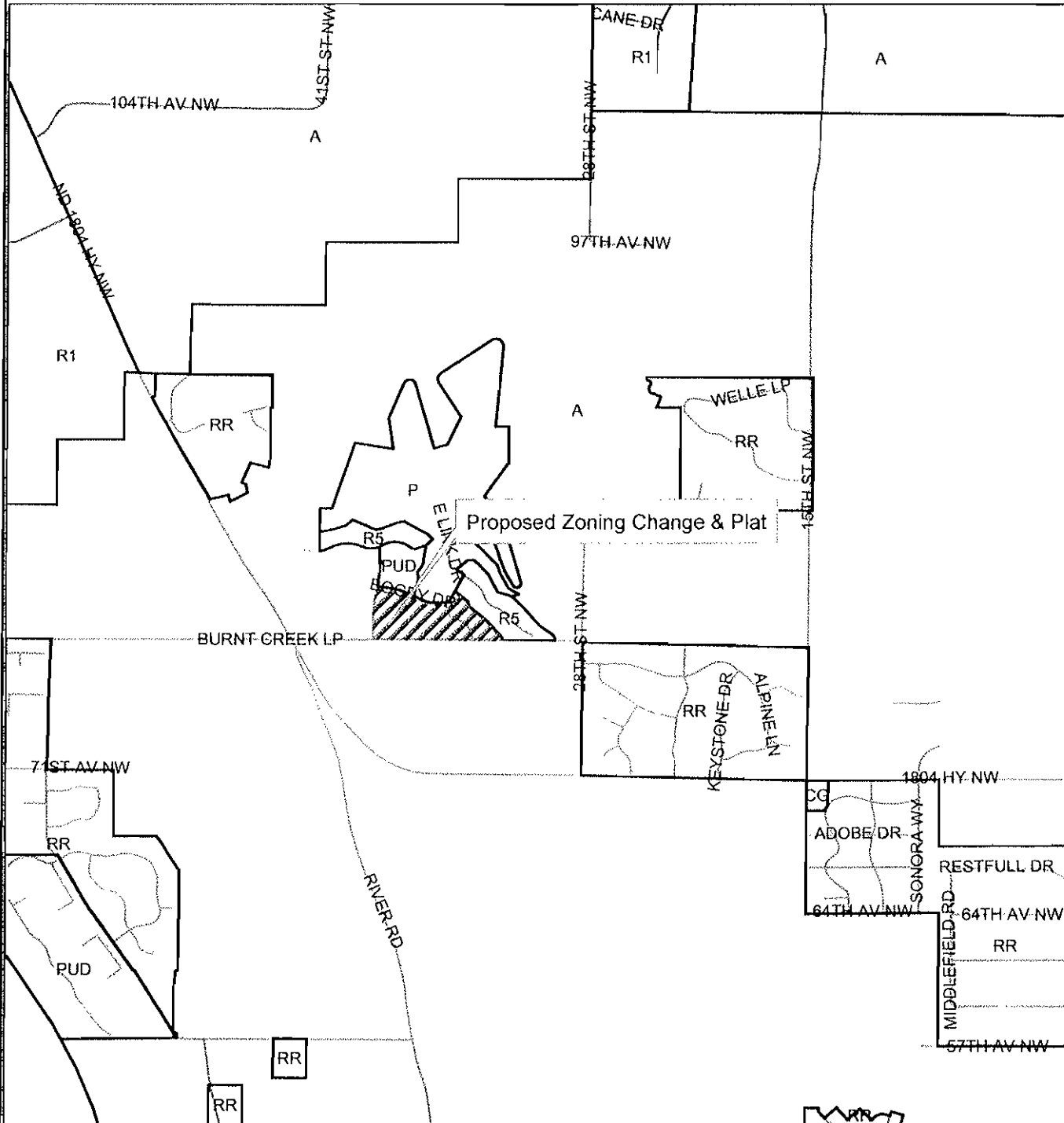
Bismarck-Burleigh County Community Development Department
221 North 5th Street • PO Box 5503 • Bismarck, ND 58506-5503 • TDD: 711 • www.bismarck.org



12

Proposed Zoning Change (A to R5) & Plat The Ridge at Hawktree Second

Conditional



0 1,000 Feet

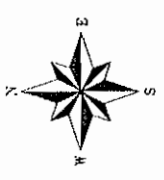
DISCLAIMER: This map is for representation use only and does not represent a survey. No liability is assumed as to the accuracy of the data delineated herein. Map was Updated/Created: May 29, 2007 (smc)

Source: City of Denver



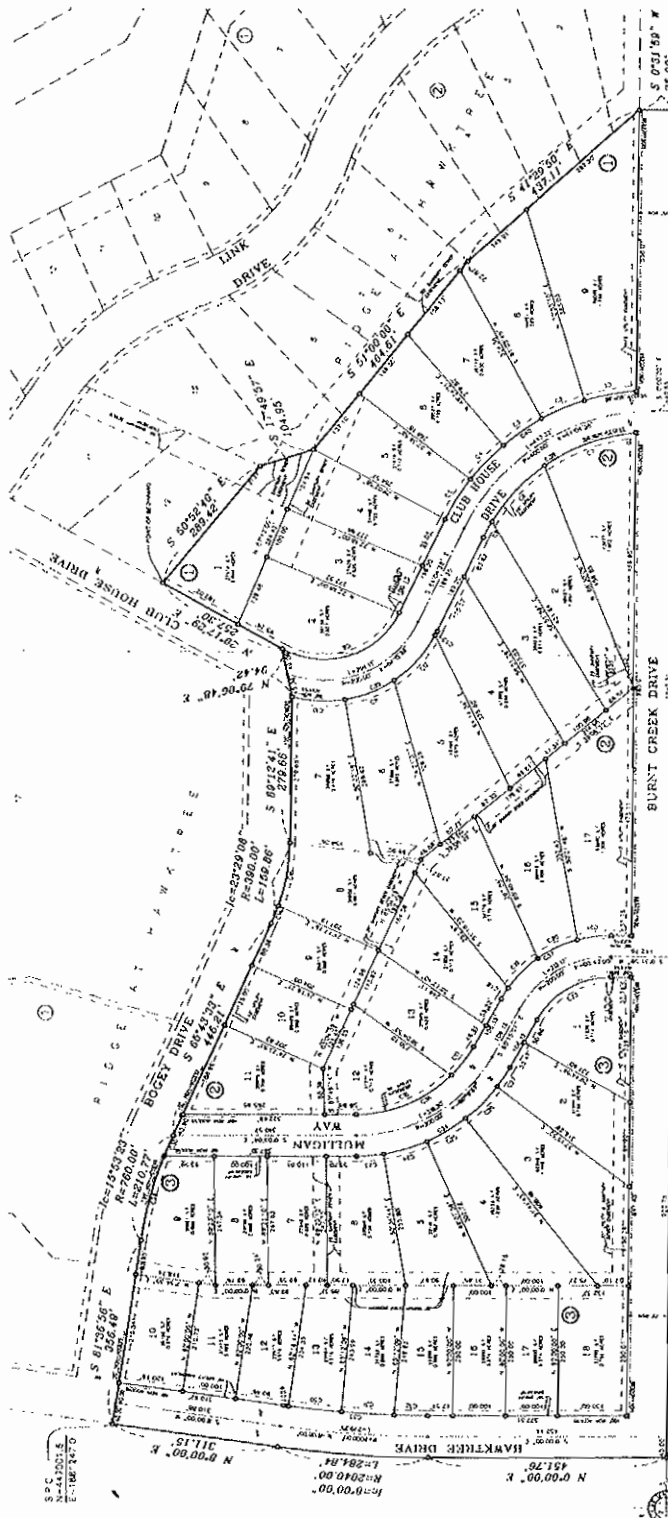
THE RIDGE AT HAWKTREE SECOND SUBDIVISION

A PORTION OF HAWKTREE DRIVE RIGHT OF WAY AND A PORTION OF CLUB HOUSE DRIVE
RIGHT OF WAY TOGETHER WITH AN UNPLATTED PORTION OF THE NORTH HALF OF SECTION 1,
TOWNSHIP 139 NORTH, RANGE 81 WEST BURLEIGH COUNTY, NORTH DAKOTA



DATE: FEBRUARY 2012
 TOPOGRAPHIC DATA: NAD 83
 2005 PL. 8833
 BASIS OF SURVEY: S.P.C SYSTEM

PLAT INFORMATION
 - NUMBER OF LOTS: 44
 - LOT ACREAGE = 34.893 ACRES
 - ROW ACREAGE = 9.732 ACRES
 - TOTAL ACREAGE = 44.625 ACRES
 - ACREAGE 1/4 = 11.156 ACRES
 - ACREAGE 1/2 = 22.313 ACRES



PARCEL	CURVE DATA
01	14.00' RADIUS
02	14.00' RADIUS
03	14.00' RADIUS
04	14.00' RADIUS
05	14.00' RADIUS
06	14.00' RADIUS
07	14.00' RADIUS
08	14.00' RADIUS
09	14.00' RADIUS
10	14.00' RADIUS
11	14.00' RADIUS
12	14.00' RADIUS
13	14.00' RADIUS
14	14.00' RADIUS
15	14.00' RADIUS
16	14.00' RADIUS
17	14.00' RADIUS
18	14.00' RADIUS
19	14.00' RADIUS
20	14.00' RADIUS
21	14.00' RADIUS
22	14.00' RADIUS
23	14.00' RADIUS
24	14.00' RADIUS
25	14.00' RADIUS
26	14.00' RADIUS
27	14.00' RADIUS
28	14.00' RADIUS
29	14.00' RADIUS
30	14.00' RADIUS
31	14.00' RADIUS
32	14.00' RADIUS
33	14.00' RADIUS
34	14.00' RADIUS
35	14.00' RADIUS
36	14.00' RADIUS
37	14.00' RADIUS
38	14.00' RADIUS
39	14.00' RADIUS
40	14.00' RADIUS
41	14.00' RADIUS
42	14.00' RADIUS
43	14.00' RADIUS
44	14.00' RADIUS

APPROVAL OF BOARD OF COUNTY COMMISSIONERS
 I, _____, County Commissioner, do hereby approve this plat for recording.

OWNER'S CERTIFICATE AND DENIGATION
 I, _____, owner of the above described property, do hereby certify that the above described property is not subject to any other liens or encumbrances.

APPROVAL OF BOARD OF CITY COMMISSIONERS
 I, _____, City Commissioner, do hereby approve this plat for recording.

APPROVAL OF CITY ENGINEER
 I, _____, City Engineer, do hereby approve this plat for recording.

APPROVAL OF CITY PLANNING COMMISSION
 I, _____, City Planning Commission member, do hereby approve this plat for recording.

DESCRIPTION
 This plat shows the subdivision of a portion of the right of way of Club House Drive and a portion of the right of way of Link Drive, together with an unplatted portion of the north half of Section 1, Township 139 North, Range 81 West, Burleigh County, North Dakota.

SURVEYOR'S CERTIFICATE
 I, _____, Surveyor, do hereby certify that the above described property is not subject to any other liens or encumbrances.

CONVEYANCE CERTIFICATE
 I, _____, Conveyance Clerk, do hereby certify that the above described property is not subject to any other liens or encumbrances.

Kadmas
Lee S.
Jackson

THE RIDGE AT HAWKTREE SECOND ADDITION



Community Development Department

MEMORANDUM CITY RECORDED FINAL PLAT HAY CREEK PARK ADDITION

TO: Kathy Feist, Finance
Kevin Glatt, County Auditor
Deb Goodsell, Assessing
Ray Ziegler
Ray Ziegler, Building Inspections (Addressing-Combined Communications)
Ray Ziegler, Building Inspections (Addressing-County Auditor's Office)
Marcus Hall, County Engineer
Jeron Fuller, Public Works
Roger Roehl, ND Department of Transportation
Mike Berg, Capital Electric
Patrick Darras, MDU
Duwayne Schoepp, Qwest
Bill Boyd, Midcontinent Communications
Brian White, US Postal Service
Lynette Bjornson, US Postal Service (location map & reduction)
Mike Dannenfelzer, Combined Communications (location map & reduction)
Jeff, BEK Communications (location map & reduction)
Burleigh County Water Resource District (location map & reduction)
Darin Scherr, Bismarck Public Schools (location map & reduction)
Al Klein, Rural Fire (location map & reduction)
Corrine Jochim, County Auditor/Treasurer Office (reduction and location map)
Les Witkowski, Sheriff's Office (location map & reduction)
Mel Bullinger, City Engineer (memo only)

FROM: City/County Community Development Department ~ Planning Division

DATE: May 8, 2012

Attached please find a copy of the above-signed plat, which was approved by the City Planning & Zoning Commission on December 15, 2004, Board of City Commissioners on January 25, 2005 and recorded by the Recorder's Office on May 1, 2012.

If you have any questions or need any additional information on this request, please contact Kim Lee, the planner in our office assigned to this request, at 355-1846.

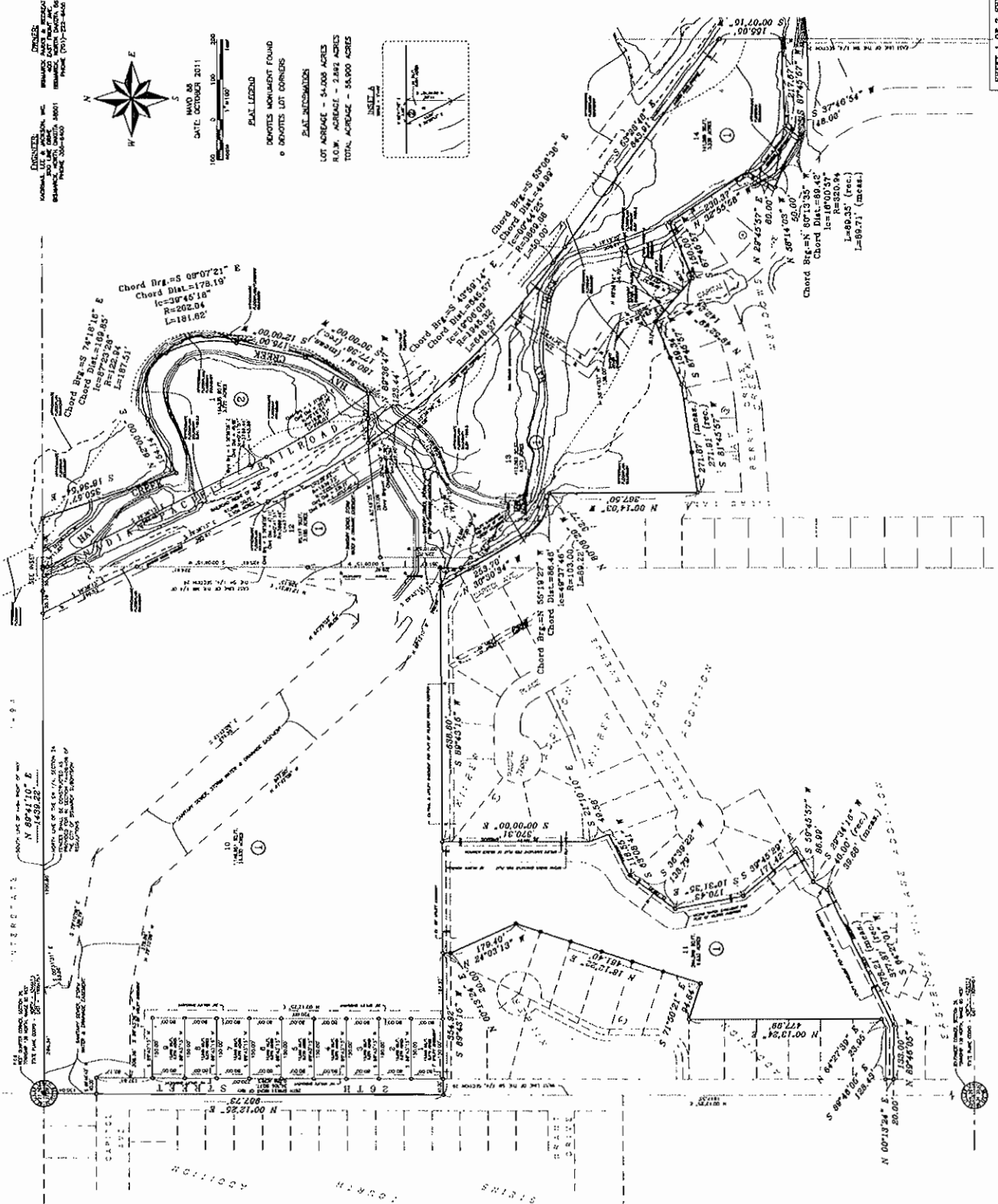
Attachment(s)

Bismarck-Burleigh County Community Development Department
221 North 5th Street • PO Box 5503 • Bismarck, ND 58506-5503 • TDD: 711 • www.bismarck.org



HAY CREEK PARK ADDITION

REPLAT OF LOT 20, BLOCK 1, KILBER ADDITION; TRACT B OF KILBER ADDITION; TRACT C OF THE S 1/2 OF THE SW 1/4, SECTION 26; LOT 10, BLOCK 4, HAY CREEK MEADOWS; AND PART OF THE SW 1/4, SECTION 26, TOWNSHIP 139, RANGE 80 WEST, BURLEIGH COUNTY, NORTH DAKOTA.

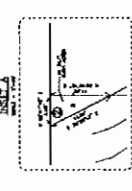


DESIGNED BY
 ENGINEER
 NORTH DAKOTA, INC.
 201 N. 17TH ST. SUITE 200
 BISMARCK, NORTH DAKOTA 58103
 PHONE: (701) 752-2222



DATE: OCTOBER 2011
 SCALE: 1" = 100'

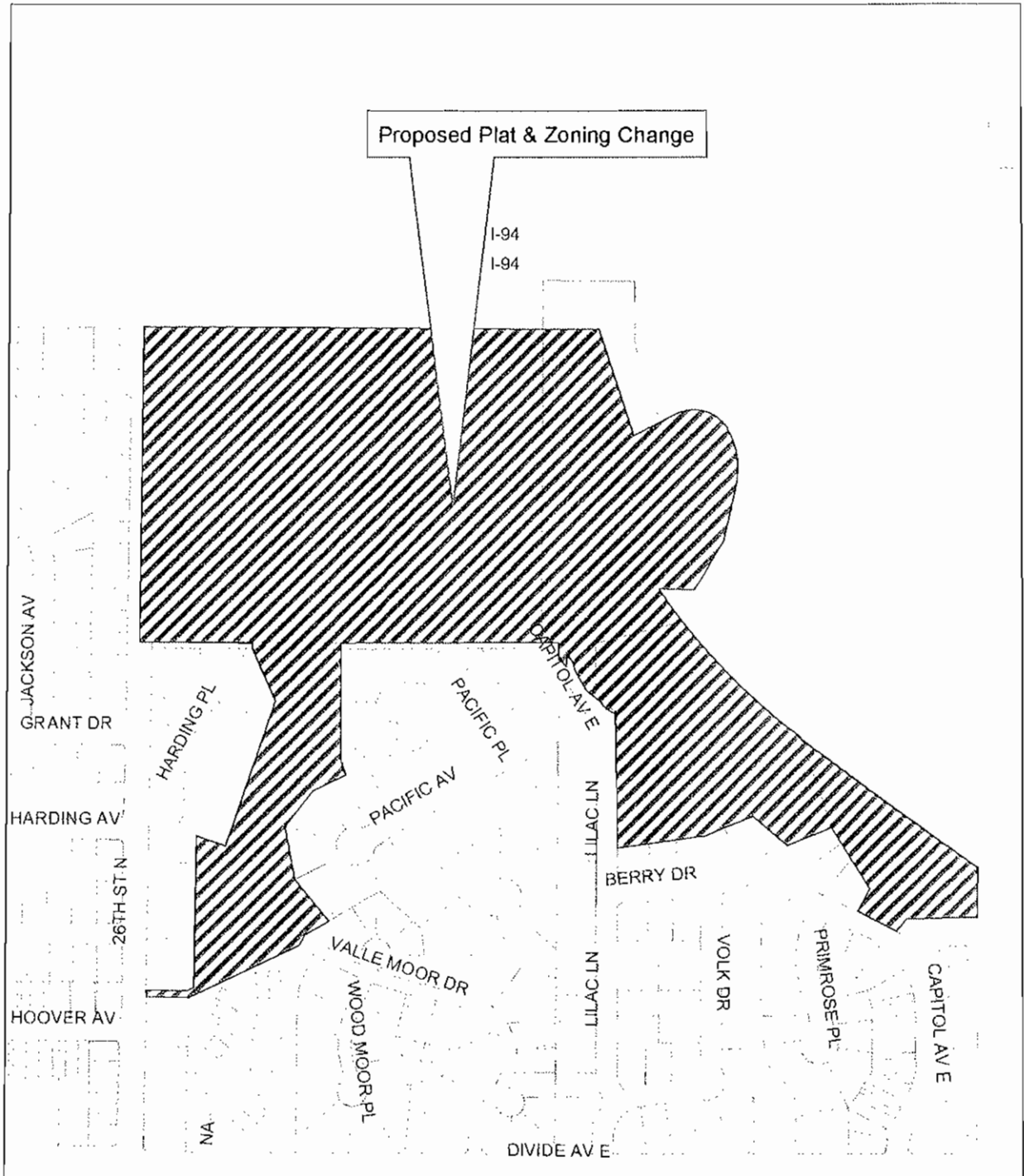
- PLAT LEGEND**
- DEMONSTRATES MONUMENT FOUND
 - DEMONSTRATES LOT CORNERS
 - PLAT DIMENSIONS
- LOT AVERAGE - 54,000 ACRES
 R.O.W. AVERAGE - 2,887 ACRES
 TOTAL AVERAGE - 56,887 ACRES



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Proposed Plat & Rezoning (R5, P & RR to R5 & P)

Hay Creek Park Addition



Source: City of Bismarck

DISCLAIMER: This map is for representation use only and does not represent a survey. No liability is assumed as to the accuracy of the data delineated hereon. Map was Updated/Created: March 3, 2004.



Community Development Department

MEMORANDUM CITY RECORDED FINAL PLAT BOULDER RIDGE FOURTH ADDITION

TO: Kathy Feist, Finance
Kevin Glatt, County Auditor
Deb Goodsell, Assessing
Ray Ziegler
Ray Ziegler, Building Inspections (Addressing-Combined Communications)
Ray Ziegler, Building Inspections (Addressing-County Auditor's Office)
Marcus Hall, County Engineer
Jeron Fuller, Public Works
Roger Roehl, ND Department of Transportation
Mike Berg, Capital Electric
Patrick Darras, MDU
Duwayne Schoepp, Qwest
Bill Boyd, Midcontinent Communications
Brian White, US Postal Service
Lynette Bjornson, US Postal Service (location map & reduction)
Mike Dannenfelzer, Combined Communications (location map & reduction)
Jeff, BEK Communications (location map & reduction)
Burleigh County Water Resource District (location map & reduction)
Darin Scherr, Bismarck Public Schools (location map & reduction)
Al Klein, Rural Fire (location map & reduction)
Corrine Jochim, County Auditor/Treasurer Office (reduction and location map)
Les Witkowski, Sheriff's Office (location map & reduction)
Mel Bullinger, City Engineer (memo only)

FROM: City/County Community Development Department ~ Planning Division

DATE: May 8, 2012

Attached please find a copy of the above-signed plat, which was approved by the City Planning & Zoning Commission on January 25, 2011, Board of City Commissioners on February 28, 2012 and recorded by the Recorder's Office on April 25, 2012.

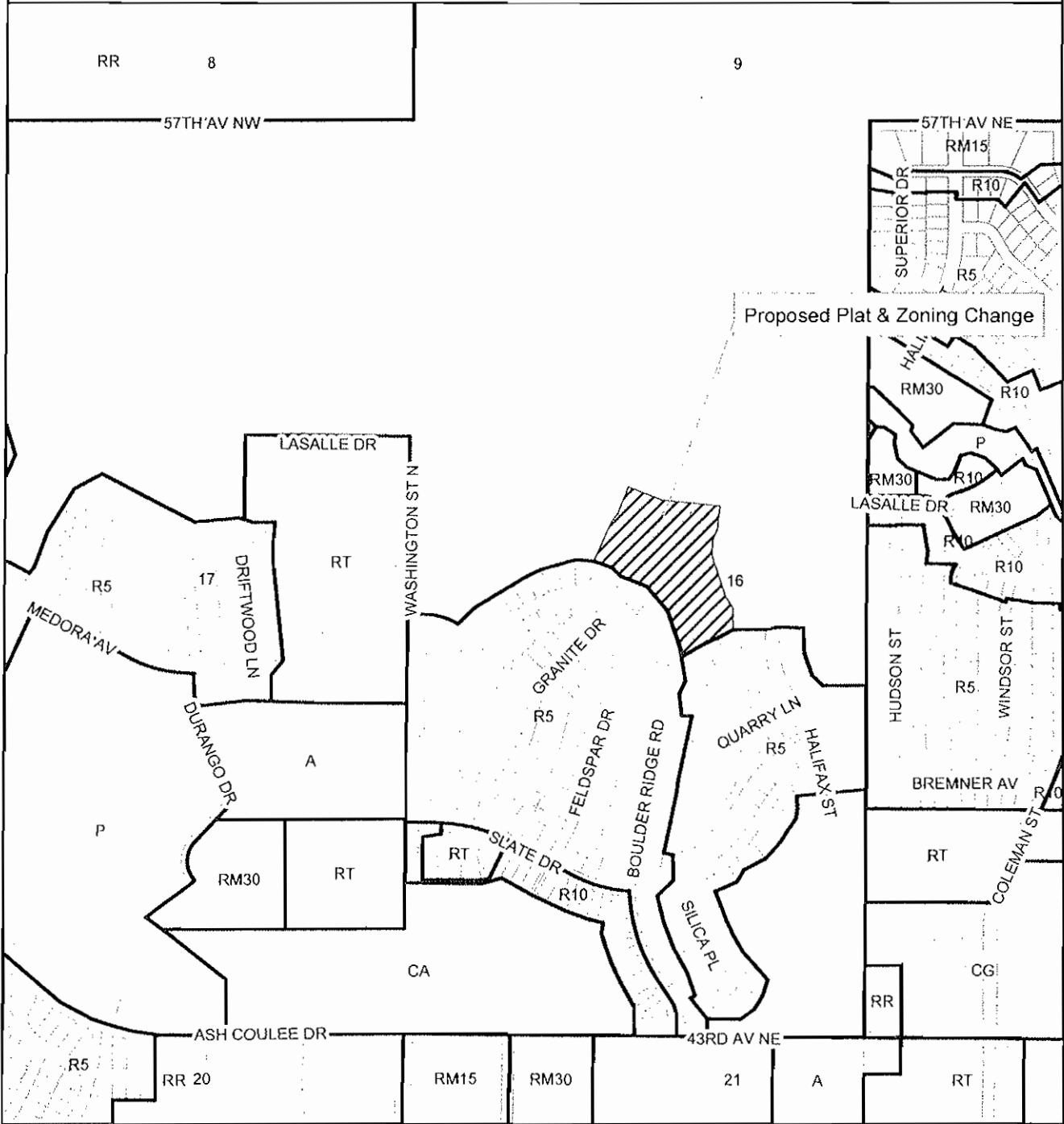
If you have any questions or need any additional information on this request, please contact Kim Lee, the planner in our office assigned to this request, at 355-1846.

Attachment(s)

Bismarck-Burleigh County Community Development Department
221 North 5th Street • PO Box 5503 • Bismarck, ND 58506-5503 • TDD: 711 • www.bismarck.org

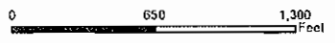


Proposed Plat & Zoning Change (A to R5) Boulder Ridge Fourth Addition



DISCLAIMER: This map is for representation use only and does not represent a survey. No liability is assumed as to the accuracy of the data delineated hereon.
Map was Updated/Created November 21, 2011 (kdj)

Source, City of Bismarck





Community Development Department

MEMORANDUM CITY RECORDED FINAL PLAT BOULDER RIDGE THIRD ADDTION

TO: Kathy Feist, Finance
Kevin Glatt, County Auditor
Deb Goodsell, Assessing
Ray Ziegler
Ray Ziegler, Building Inspections (Addressing-Combined Communications)
Ray Ziegler, Building Inspections (Addressing-County Auditor's Office)
Marcus Hall, County Engineer
Jeron Fuller, Public Works
Roger Roehl, ND Department of Transportation
Mike Berg, Capital Electric
Patrick Darras, MDU
Duwayne Schoepp, Qwest
Bill Boyd, Midcontinent Communications
Brian White, US Postal Service
Lynette Bjornson, US Postal Service (location map & reduction)
Mike Dannenfelzer, Combined Communications (location map & reduction)
Jeff, BEK Communications (location map & reduction)
Burleigh County Water Resource District (location map & reduction)
Darin Scherr, Bismarck Public Schools (location map & reduction)
Al Klein, Rural Fire (location map & reduction)
Corrine Jochim, County Auditor/Treasurer Office (reduction and location map)
Les Witkowski, Sheriff's Office (location map & reduction)
Mel Bullinger, City Engineer (memo only)

FROM: City/County Community Development Department ~ Planning Division

DATE: May 8, 2012

Attached please find a copy of the above-signed plat, which was approved by the City Planning & Zoning Commission on January 25, 2011, Board of City Commissioners on February 28, 2012 and recorded by the Recorder's Office on April 25, 2012.

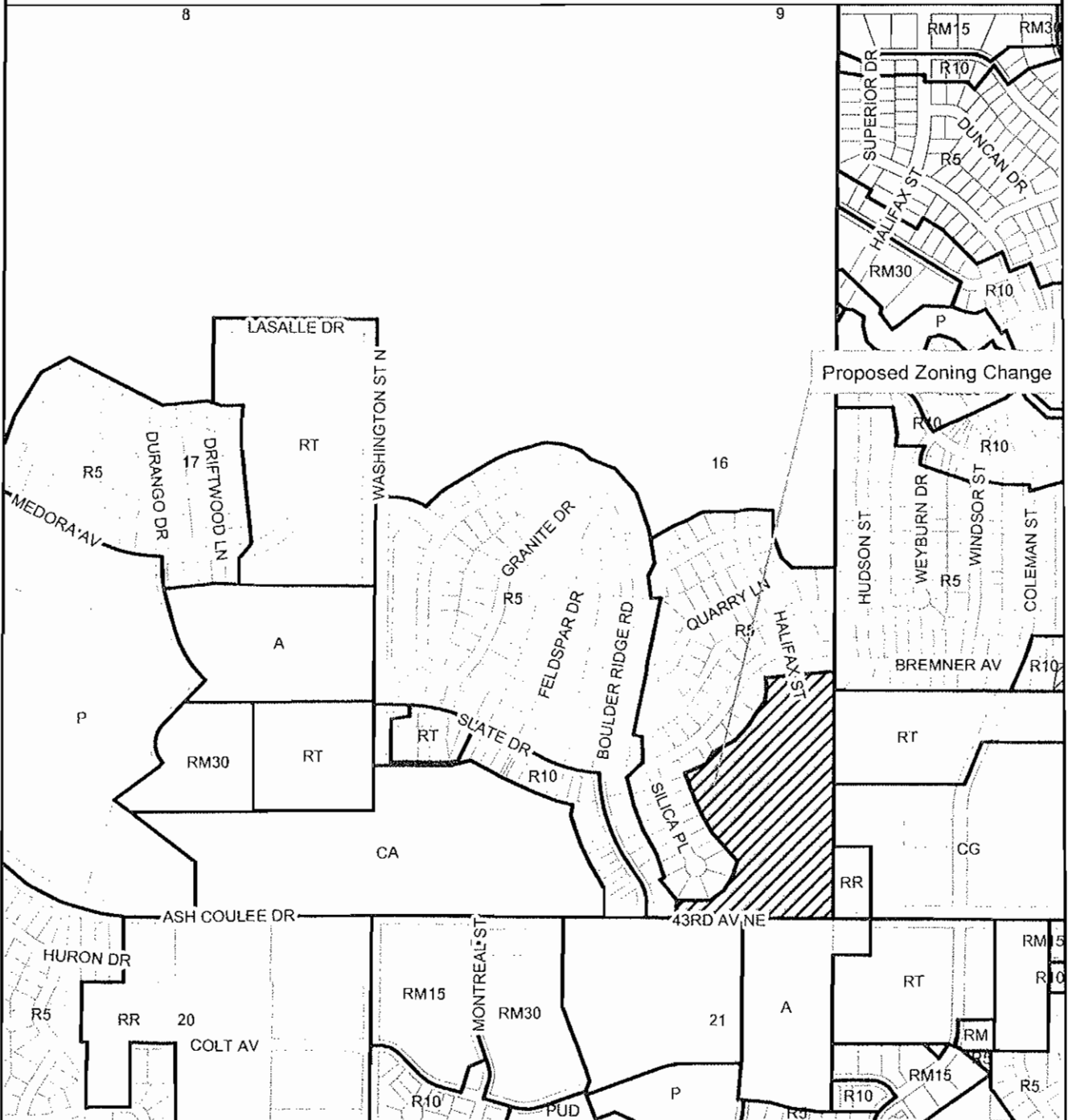
If you have any questions or need any additional information on this request, please contact Kim Lee, the planner in our office assigned to this request, at 355-1846.

Attachment(s)

Bismarck-Burleigh County Community Development Department
221 North 5th Street • PO Box 5503 • Bismarck, ND 58506-5503 • TDD: 711 • www.bismarck.org

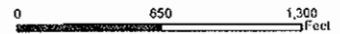


Proposed Plat & Zoning Change (A to R10, R5 & RM15) Boulder Ridge Third Addition



DISCLAIMER This map is for representation use only and does not represent a survey. No liability is assumed as to the accuracy of the data delineated hereon
Map was Updated/Created November 22, 2011 (Mee)

Source: City of Bismarck



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Community Development Department

MEMORANDUM CITY RECORDED FINAL PLAT SHILOH CHRISTIAN SCHOOL THIRD ADDITION

TO: Kathy Feist, Finance
Kevin Glatt, County Auditor
Deb Goodsell, Assessing
Ray Ziegler
Ray Ziegler, Building Inspections (Addressing-Combined Communications)
Ray Ziegler, Building Inspections (Addressing-County Auditor's Office)
Marcus Hall, County Engineer
Jeron Fuller, Public Works
Roger Roehl, ND Department of Transportation
Mike Berg, Capital Electric
Patrick Darras, MDU
Duwayne Schoepp, Qwest
Bill Boyd, Midcontinent Communications
Brian White, US Postal Service
Lynette Bjornson, US Postal Service (location map & reduction)
Mike Dannenfelzer, Combined Communications (location map & reduction)
Jeff, BEK Communications (location map & reduction)
Burleigh County Water Resource District (location map & reduction)
Darin Scherr, Bismarck Public Schools (location map & reduction)
Al Klein, Rural Fire (location map & reduction)
Corrine Jochim, County Auditor/Treasurer Office (reduction and location map)
Les Witkowski, Sheriff's Office (location map & reduction)
Mel Bullinger, City Engineer (memo only)

FROM: City/County Community Development Department ~ Planning Division

DATE: May 8, 2012

Attached please find a copy of the above-signed plat, which was approved by the City Planning & Zoning Commission on January 25, 2012, Board of City Commissioners on February 28, 2012 and recorded by the Recorder's Office on April 24, 2012.

If you have any questions or need any additional information on this request, please contact Jason Tomanek, the planner in our office assigned to this request, at 355-1849.

Attachment(s)

Bismarck-Burleigh County Community Development Department
221 North 5th Street • PO Box 5503 • Bismarck, ND 58506-5503 • TDD: 711 • www.bismarck.org





Community Development Department

MEMORANDUM CITY FINAL PLAT EXPRESSWAY INDUSTRIAL PARK

TO: Kathy Feist, Finance
Mel Bullinger, City Engineer
Ray Ziegler, Building Inspections
Mike Dannenfelzer, Communications Manager
Keith Demke/Jeff Heintz, Public Works
Kim Lee, Planning
Duwayne Schoepp, Qwest
Patrick Darras, MDU
Terry Mertz, Capital Electric
Bill Boyd, Midcontinent Communications
Roger Roehl, ND Department of Transportation
Al Klein, Rural Fire
Randy Bina, Parks and Recreation
Darin Scherr, Bismarck Public Schools (location map & reduction)
Jeff, BEK Communications (location map & reduction)
Burleigh County Water Resource District (location map & reduction)
Al Wood, Western Area Power Association (location map & reduction)
Les Witkowski, Sheriff's Office (location map & reduction)
Corrine Jochim, County Auditor/Treasurer Office (reduction and location map)
Keith Witt, Police (location map & reduction)
Fire Department (location map & reduction)
City Assessing (location map & reduction)

FROM: City/County Community Development Department ~ Planning Division

DATE: May 30, 2012

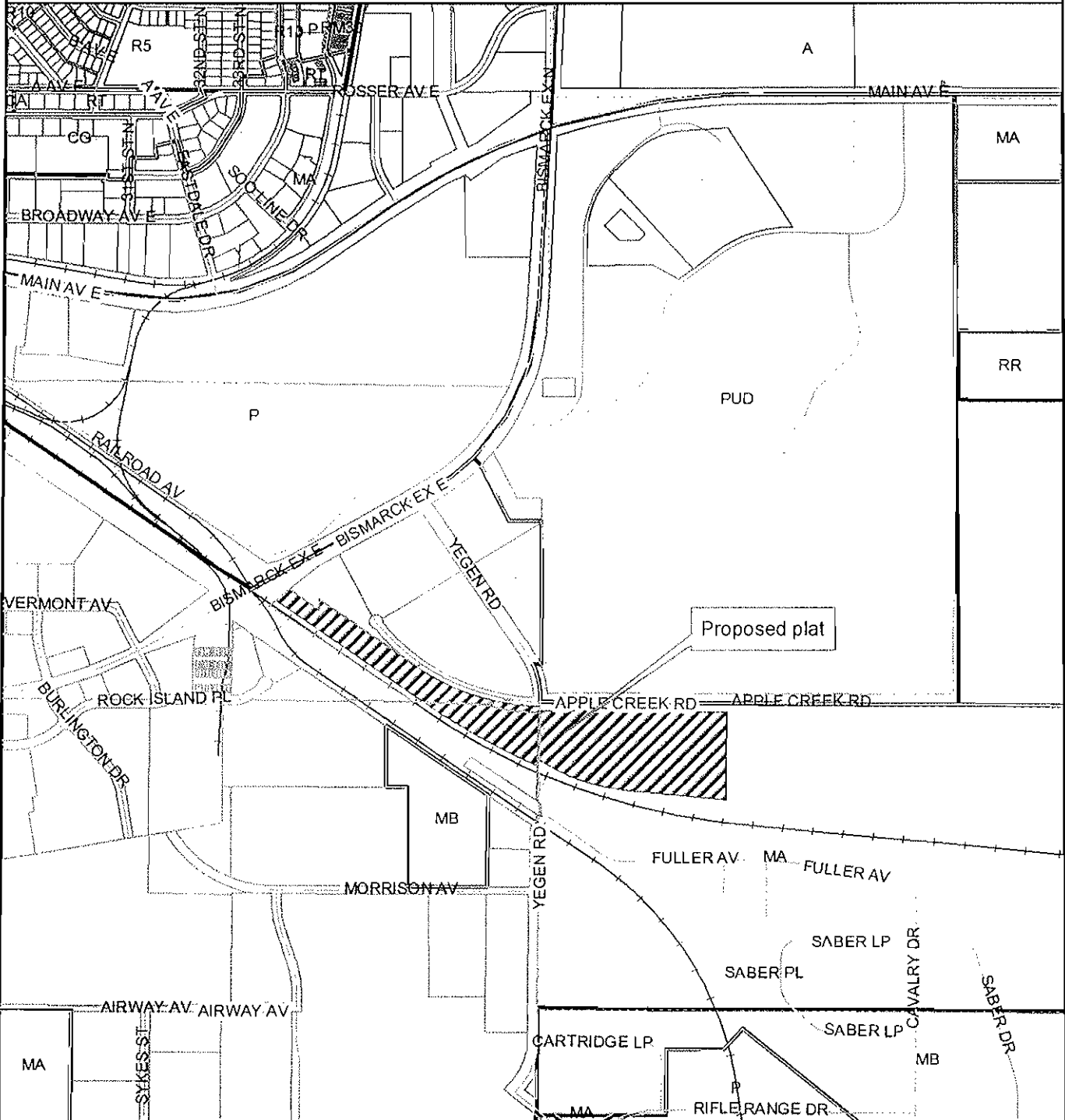
Attached please find a copy of the final plat titled Expressway Industrial Park, which has tentatively been scheduled for a public hearing by the City Planning & Zoning Commission on Wednesday, June 27, 2012.

If you have any questions or need any additional information on this request, please contact Kim Lee, the planner in our office assigned to this request, at 355-1846.

Attachment(s)



Proposed Plat Expressway Industrial Park Addition



DISCLAIMER: This map is for representation use only and does not represent a survey. No liability is assumed as to the accuracy of the data delineated hereon.
Map was Updated/Created February 28, 2012 (klec)

Source: City of Bismarck

0 950 1,900

59

MAY 25 2012

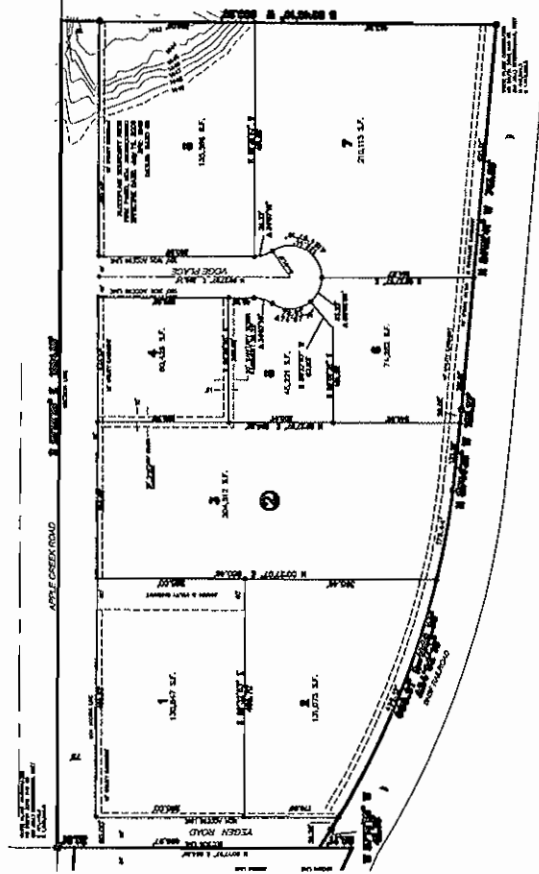
EXPRESSWAY INDUSTRIAL PARK

ALL OF TRACTS 910A & 910B PART OF THE SE 1/4 OF SECTION 2, NE 1/4 OF SECTION 11 AND PART OF THE NW 1/4 OF SECTION 12 T.138, R.80 W. BISMARCK, NORTH DAKOTA



NOTES:

1. ALL DIMENSIONS UNLESS OTHERWISE NOTED.
2. ALL DIMENSIONS ARE TO THE CENTERLINE OF THE ROAD UNLESS OTHERWISE NOTED.
3. THE SURVEY POINTS OF THIS SURVEY ARE SHOWN BY BLACK 'X' IN THE DRAWING. THE SURVEY POINTS ARE TO BE PROTECTED AND NOT TO BE MOVED OR DISTURBED.
4. THE SURVEY POINTS ARE TO BE PROTECTED AND NOT TO BE MOVED OR DISTURBED.
5. THE SURVEY POINTS ARE TO BE PROTECTED AND NOT TO BE MOVED OR DISTURBED.





Community Development Department

MEMORANDUM CITY PRELIMINARY PLAT TRENTON ADDITION

TO: Kathy Feist, Finance
Mel Bullinger, City Engineer
Ray Ziegler, Building Inspections Division
Mike Dannenfelzer, Emergency Management
Keith Demke/Jeff Heintz, Public Works
Kevin Glatt, County Auditor Office
Corrine Jochim, County Auditor/Treasurer Office
Kim Lee, Planning
Duwayne Schoepp, Qwest
Patrick Darras, MDU
Mike Berg, Capital Electric
Bill Boyd, Midcontinent Communications
Roger Roehl, ND Department of Transportation
Al Klein, Rural Fire Department (reduction and location map)
Randy Bina, Parks and Recreation (reduction and location map)
Darin Scherr, Bismarck Public Schools (reduction and location map)
Jeff, BEK Communications (reduction and location map)
Burleigh County Water Resource District (reduction and location map)
Al Wood, Western Area Power (reduction and location map)
Les Witkowski, Sheriff's Office (reduction and location map)
Corrine Jochim, County Auditor/Treasurer Office (reduction and location map)
Keith Witt, Police (reduction and location map)
Fire Department (reduction and location map)
City Assessing (reduction and location map)

FROM: City/County Community Development Department ~ Planning Division

DATE: June 1, 2012

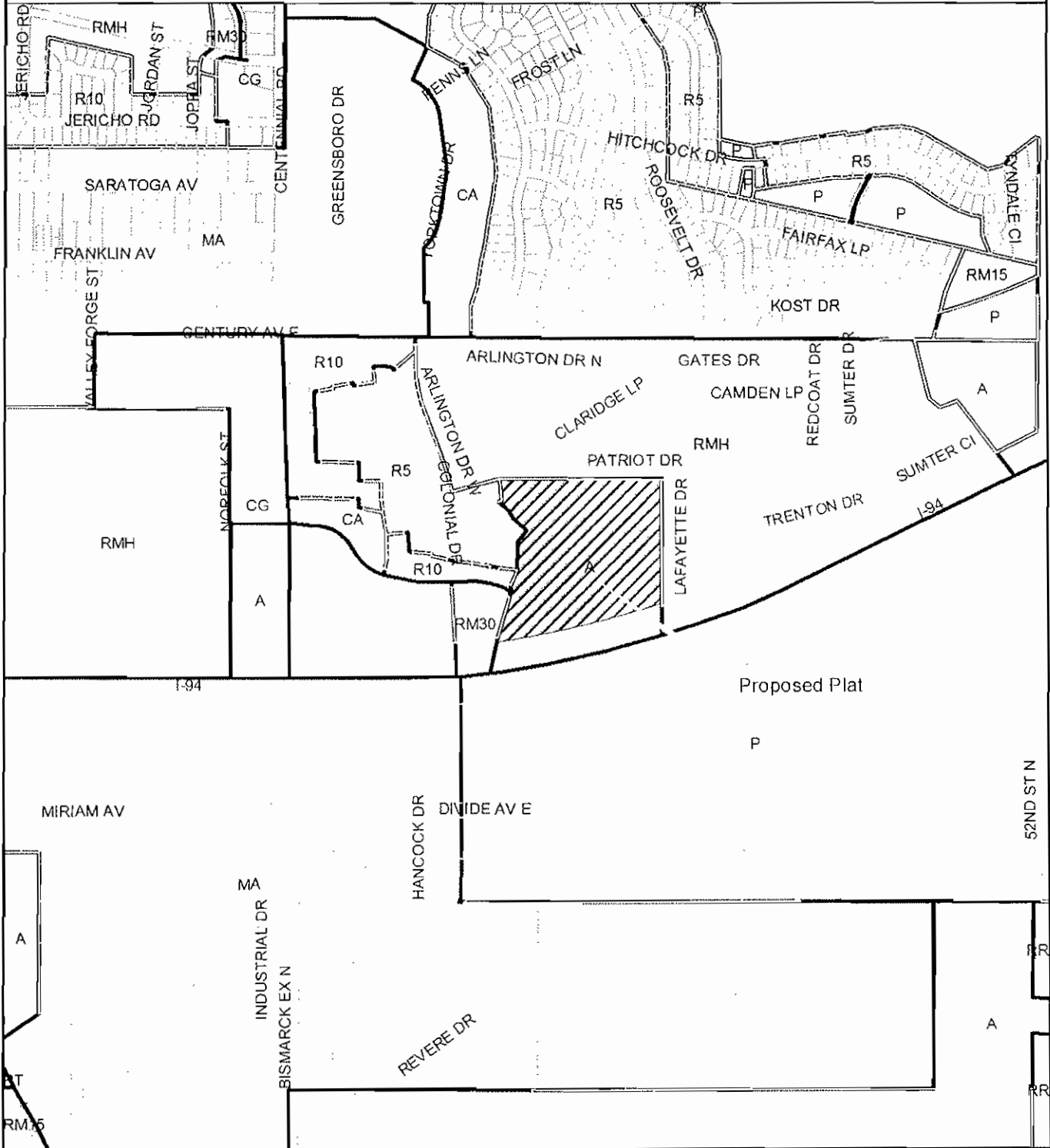
Attached please find a copy of the preliminary plat titled Trenton Addition, which has tentatively been scheduled for consideration by the City Planning & Zoning Commission on Wednesday, June 27, 2012.

If you have any questions or need any additional information on this request, please contact Kim Lee, the planner in our office assigned to this request, at 355-1846.

Attachment

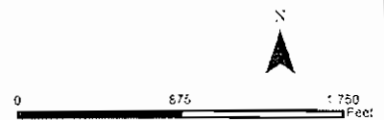


Proposed Plat and Zoning Change (A to CG & RM15) Trenton Addition



DISCLAIMER: This map is for representation use only and does not represent a survey. No liability is assumed as to the accuracy of the data delineated hereon.
Map was Updated/Created: May 31, 2012 (klee)

Source: City of Bismarck.



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Community Development Department

MEMORANDUM CITY PRELIMINARY PLAT GARY NELSON ADDITION

TO: Kathy Feist, Finance
Mel Bullinger, City Engineer
Ray Ziegler, Building Inspections Division
Mike Dannenfelzer, Emergency Management
Keith Demke/Jeff Heintz, Public Works
Jason Tomanek, Planning
Duwayne Schoepp, Qwest
Patrick Darras, MDU
Mike Berg, Capital Electric
Bill Boyd, Midcontinent Communications
Roger Roehl, ND Department of Transportation
Al Klein, Rural Fire Department (reduction and location map)
Randy Bina, Parks and Recreation (reduction and location map)
Darin Scherr, Bismarck Public Schools (reduction and location map)
Jeff, BEK Communications (reduction and location map)
Burleigh County Water Resource District (reduction and location map)
Al Wood, Western Area Power (reduction and location map)
Les Witkowski, Sheriff's Office (reduction and location map)
Corrine Jochim, County Auditor/Treasurer Office (reduction and location map)
Keith Witt, Police (reduction and location map)
Fire Department (reduction and location map)
City Assessing (reduction and location map)

FROM: City/County Community Development Department ~ Planning Division

DATE: June 1, 2012

Attached please find a copy of the preliminary plat titled Gary Nelson Addition, which has tentatively been scheduled for consideration by the City Planning & Zoning Commission on Wednesday, June 27, 2012.

If you have any questions or need any additional information on this request, please contact Jason Tomanek, the planner in our office assigned to this request, at 355-1849.

Attachment





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>

SOLICITATION OF VIEWS

May 22, 2012

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.

U.S. Geological Survey, Bismarck, ND Applicant

Application No. S-1774

The U.S. Geological Survey (USGS), Bismarck, North Dakota has filed an application with the State Engineer to place rock rip-rap on the channel bank of the Missouri River in Burleigh County. USGS has a stream gage on the left bank of the Missouri River near the Bismarck Water Treatment Plant. The 2011 Missouri River flood event caused erosion at the site, threatening to compromise the USGS stream gage. The rock rip-rap is intended to prevent further erosion of the site.

Construction will occur in the NW ¼ SE ¼ of Section 31, Township 139 North, Range 80 West, Burleigh County.

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 ND. If no reply is received within the **30** days, it will be assumed that your agency has no comment on this project.

Sincerely,

Gerald R. Heiser
Sovereign Lands Manager

GRH: /1625

Enclosure: Sovereign Lands Permit Application
Map

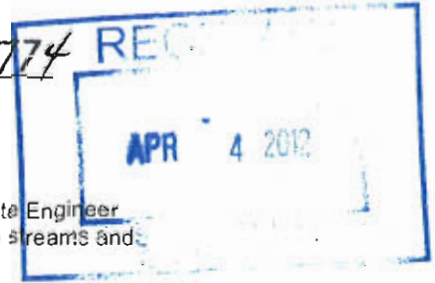
Copies to: Mike Brand, North Dakota Department of Trust Lands
Jesse Hanson, North Dakota Parks and Recreation Department
Terry Steinwand, Director, North Dakota Game and Fish Department
Terry Dwelle, M.D., State Health Officer, North Dakota Department of Health
Dave Koland, Garrison Diversion Conservancy District
U.S. Fish and Wildlife Service, Bismarck
State Historical Society of North Dakota
Burleigh County Water Resource District
U.S. Army Corps of Engineers, Regulatory Office, Bismarck



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. S-1774
Project No. 1625



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 Water Resource District
 - (2) Legal description to the nearest 40 acre tract: NW ¼ SE ¼ Section 31 Township 139 N. Range 80 W
 - (3) Is this application for modification of an existing project Yes No If so, what year was project constructed: _____
By whom: _____
 - (4) Proposed project involves water crossing, type _____ boat dock, boat ramp, water intake, dredge, volume _____ cu. yds. filling, volume _____ cu. yds., type _____, other (explain) Rip-Rapping of a portion of channel bank
 - (5) Water body on which project will be located: Missouri River
 - (6) Purpose: To prevent further erosion and consequential compromise of USGS stream gage (Missouri At Bismarck)
 - (7) Project Description: Placement of rip-rap rock on left bank of Missouri River
-
- (8) Contractor, if known: ND SWC
 - (9) Anticipated construction start date: _____ Completion date: _____

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) US Geological Survey

Applicant: (Print) Brent R. Hanson

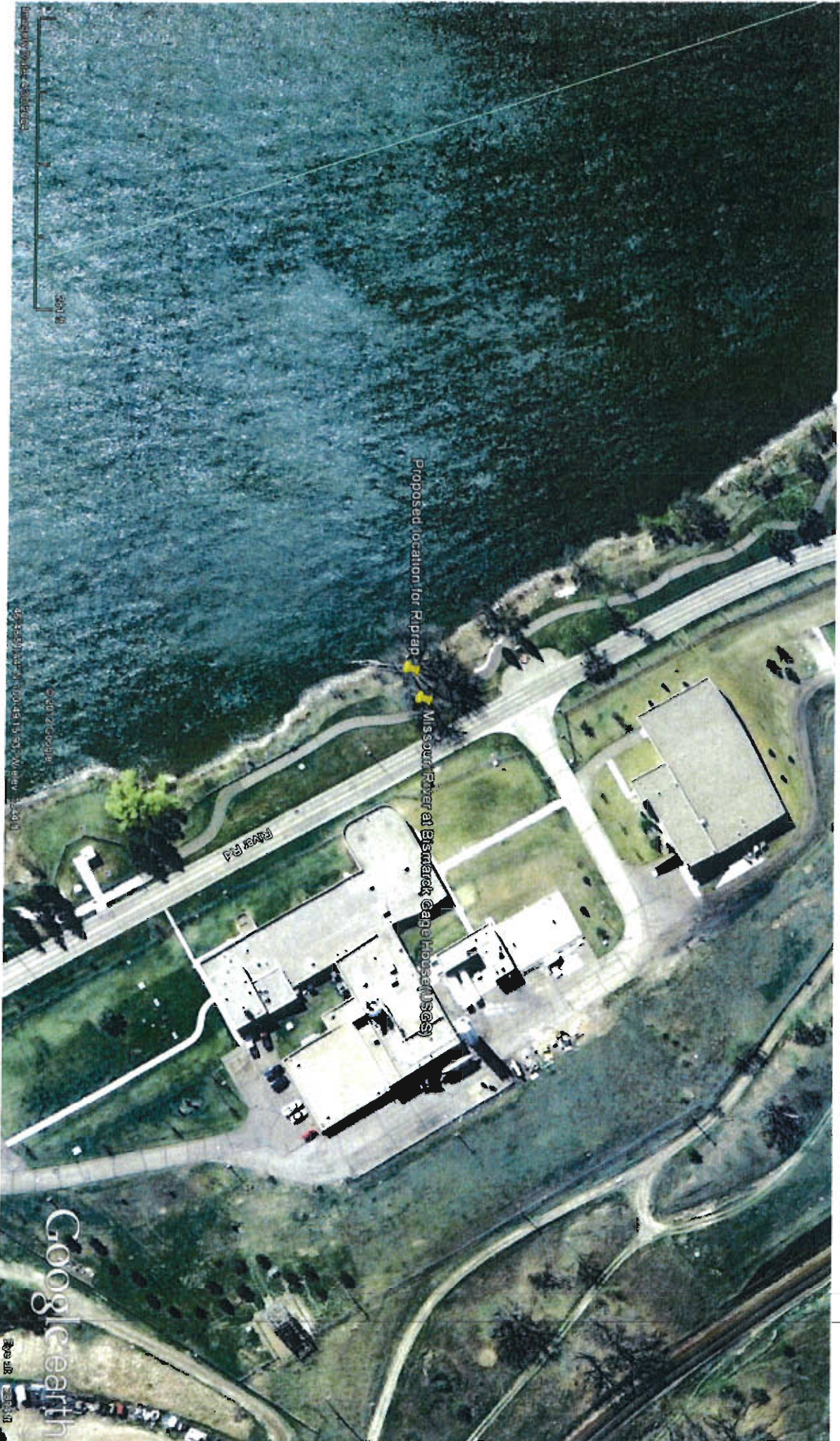
Address: 821 E Interstate Ave

Bismarck, ND 58503

Phone: (H) 701-793-4490

(W) 701-250-7421

Signature: *Brent R. Hanson* Date Submitted: 3-29-12
(Riparian landowner or Organization Sponsoring the project)



Proposed location for Riprap
Missouri River at Bismarck (Cape House USGS)



© 2012 Google
45.34501, -100.45115, 53.7 W, 15.30 D

Google Earth

300 M



Proposed location for Riprap (Missouri River at Bismarck Gage House (USGS))

Missouri River

Bismarck Hwy

Capitol Blvd

1090 E

2012 Google

48° 48' 44.68" N 100° 48' 08.54" W 49m 1653ft

Missouri River

W Main Ave

Google Earth



US Geological Survey
T139NR80W Section 31

Burleigh Co.
Permit No. S1774



104



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>

*Emailed
5.17.12*

SOLICITATION OF VIEWS

May 9, 2012

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.

Brent and Patricia Levinson, Bismarck, ND Applicant

Application No. S-1780

Brent and Patricia Levinson, Bismarck, North Dakota have filed an application with the State Engineer to repair a rock revetment originally constructed by the U.S. Army Corps of Engineers and damaged during the 2011 flood event proximate to their property on the Missouri River in Burleigh County. Specifically the project involves removal of dead trees, reshaping the bank, and placement of approximately 400 cubic yards of 6-inch to 24-inch crushed rock along approximately 125 feet of shoreline.

Construction will occur in the SW $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 18, Township 138 North, Range 80 West, Morton County.

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 ND. If no reply is received within the **30** days, it will be assumed that your agency has no comment on this project.

Sincerely,

Gerald R. Heiser
Sovereign Lands Manager

GRH: /1625

105

Enclosures: Sovereign Lands Application

U.S. Army Corps of Engineers Permit Application NWO-2008-2796-BIS

Drawings

Map

Copies to: Mike Brand, North Dakota State Land Department

Jesse Hanson, North Dakota Parks and Recreation Department

Terry Steinwand, Director, North Dakota Game and Fish Department

Terry Dwelle, M.D., State Health Officer, North Dakota Department of Health

Dave Koland, Garrison Diversion Conservancy District

U.S. Fish and Wildlife Service, Bismarck

State Historical Society of North Dakota

Burleigh County Water Resource District

U.S. Army Corps Engineers, Bismarck



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. S-1780
Project No. 1625

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 8 1/2 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 Water Resource District
(2) Legal description to the nearest 40 acre tract: SW 1/4 NE 1/4 Section 18 Township 138 Range 80
(3) Is this application for modification of an existing project Yes No If so, what year was project constructed: 1950 & 60s? By whom: Army Corps of Engineers
(4) Proposed project involves water crossing, type boat dock, boat ramp, water intake, dredge, volume 0 cu. yds. filling, volume 400 cu. yds., type 6-24" crushrock
(5) Water body on which project will be located: Missouri River
(6) Purpose: Repair Revetment
(7) Project Description: See attached - Army Corps Permit documentation: 18. Nature of Activity Additional Material
(8) Contractor, if known: To be determined
(9) Anticipated construction start date: unknown, as soon as possible Completion date: 12/31/2012

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) Brent and Patricia Levinson

Applicant: (Print) Brent Levinson

Address: 2830 Langer Way

Bismarck, ND 58504

Phone: (H) 701-226-2698 (cell)

(W)

Signature: [Handwritten Signature]

Date Submitted: 4/27/2012

(Riparian landowner or Organization Sponsoring the project)



Area
of
work

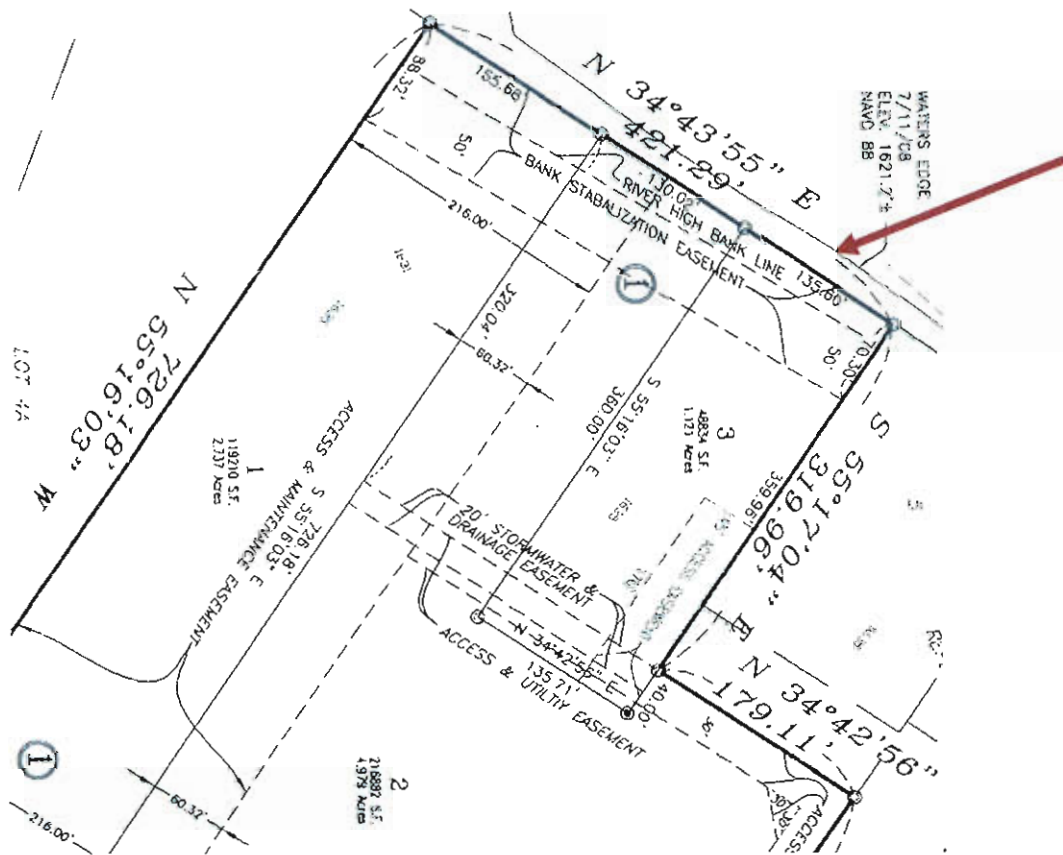
20 ft
10 m

18. Nature of Activity – Additional Material

This request to protect our home and restore the Army Corps of Engineers revetment structure proposes that the Whispering Bay riprap south of our property be continued to tie into the normal high water mark shoreline at the north end of our property line. Whispering Bay riprap lies directly upon the revetment.

The following diagrams and pictures show the location and condition of the shoreline at 2830 Langer Way. *Please be aware that the properties discussed at 2810 and 2830 Langer Way until recently had a street name of Langer Lane. Due to recent Whispering Bay paving our address name has changed to Langer Way.*

Whispering Bay Platt – Red Arrow marks 2830 Langer Way Missouri shoreline



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These pictures progressively show how this shoreline has been eroded both prior to the 2011 flood and as a result of the 2011 flood.

*View South 2830 Langer Way Shoreline October 2, 2011
(Whispering Bay riprap in background)*



*View South 2830 Langer Way Shoreline April 23, 2011
(also significantly eroded from high 2010-11 Winter releases)*



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View South 2830 Langer Way Shoreline July 15, 2009



View South 2830 Langer Way Shoreline July 25, 2008



Prior to the 2011 flood, during 3 years of Corps discussion with our neighbors Goodin's and ourselves regarding the need to riprap this shoreline some 10 feet of shoreline was lost. This erosion is primarily due to boat wake. Boats along this area of the Missouri often travel at high speed less than 50 feet from shore.

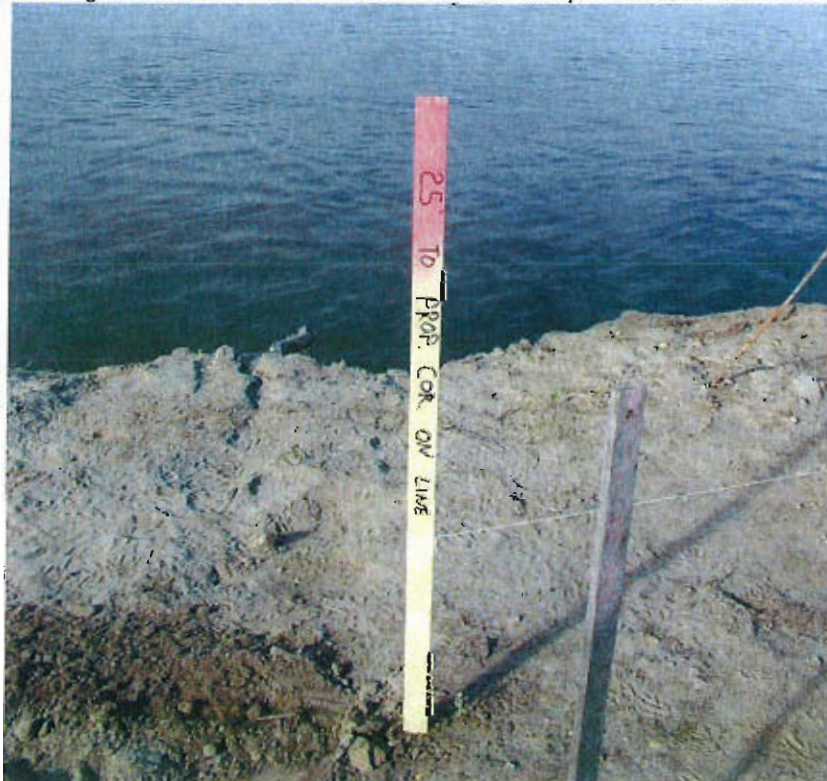
This means that 3 years ago our home foundation was some 90 feet from the river, now it is 55 feet from the river. 10 feet of shoreline was lost between 2008 and 2010 and then 25 was lost as result of the 2011 flood. Given a future flood event, the revetment could be compromised which would put our home in jeopardy.

View North 2830 & 2810 Langer Way Shoreline July 15, 2009



Survey stake place by KLJ Engineering October 28, 2011

(Note: String shown is the 3D baseline for all measurements provided later in this document)



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The following dramatic picture provided below shows a 9 foot rock ledge of revetment rock fully exposed clearly indicating where revetment has been washed away. I estimate that along some 100 feet of our shoreline approximately 20 feet into the revetment has been eroded away.

View North 2830 Langer Way Shoreline October 1, 2011

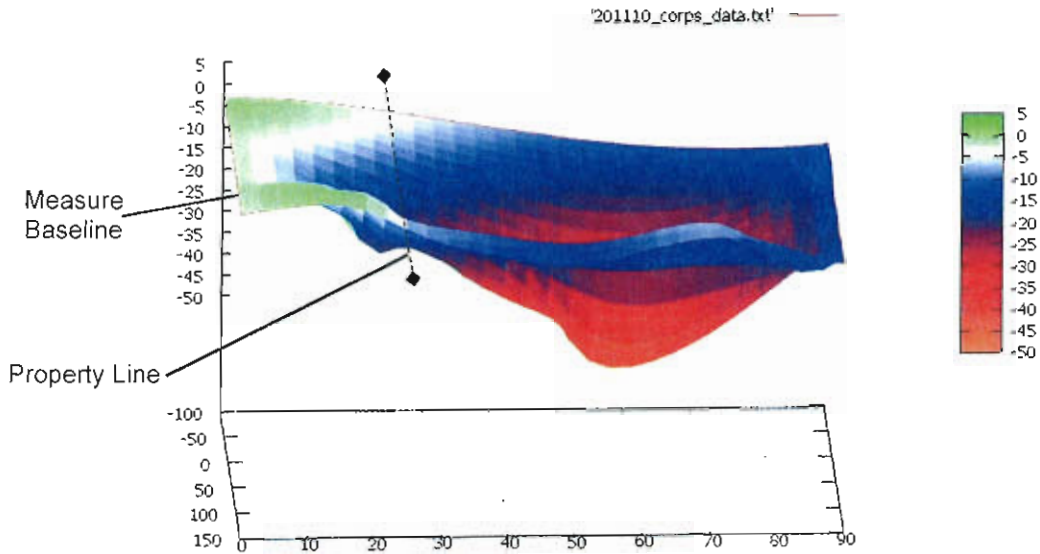


The following pages show three 3D surfaces plots generated through my measure of over 130 data points along the shoreline and in the river. Measurements start 25 feet back from our river's edge property line (the property line is now part of the Missouri River as shown by the KLJ Engineering stake in a previous photo). Measurements are with respect to the string line shown tied to that KLJ Engineering stake. These measurements extended 80 feet out into the river. This data shows that:

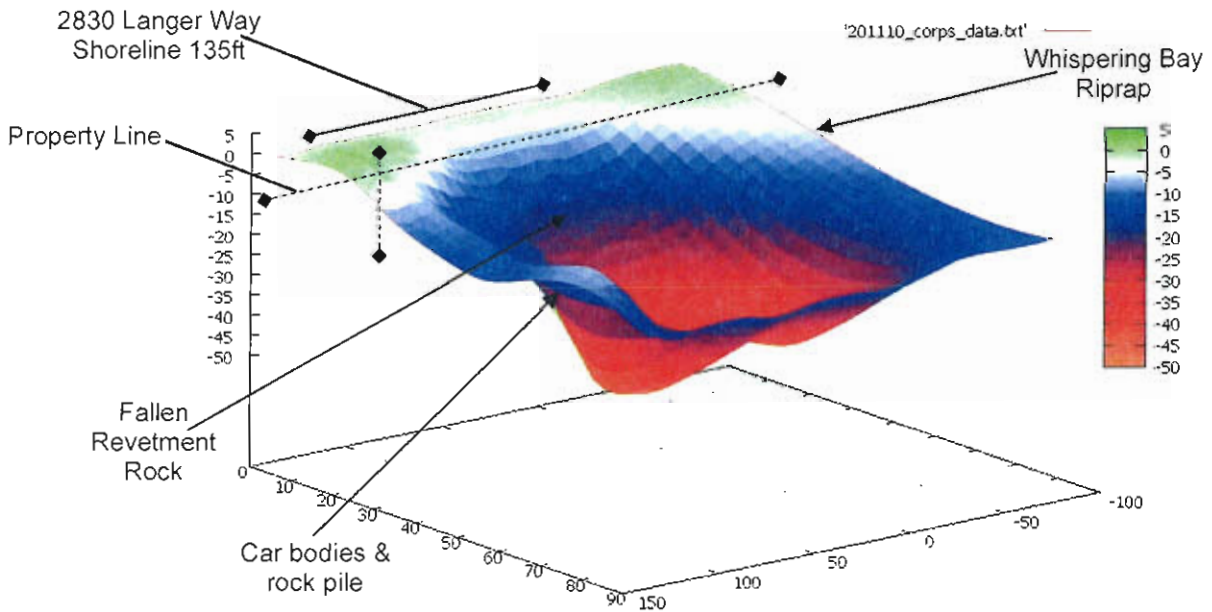
- Shoreline erosion was a result of a large pile of concrete and car bodies some 70-100 feet off shore
- The riprap shoreline of Whispering Bay protected the shoreline south of our property
- Several rock ledges of remaining eroded revetment rock extend some 40 feet into the river from our base measurement line
- The 2011 flood eroded some 25 feet of into our shoreline, of which, at least 20 feet included revetment

Our proposal is to build upon the remains of the revetment, now underwater, by topping this rock with more large rock. Because there is already this rock bed, no "toe in" should be necessary.

Shoreline profile looking South
 (light blue tiles represent water level at approximately 30Kcfs or -7ft on the vertical axis)

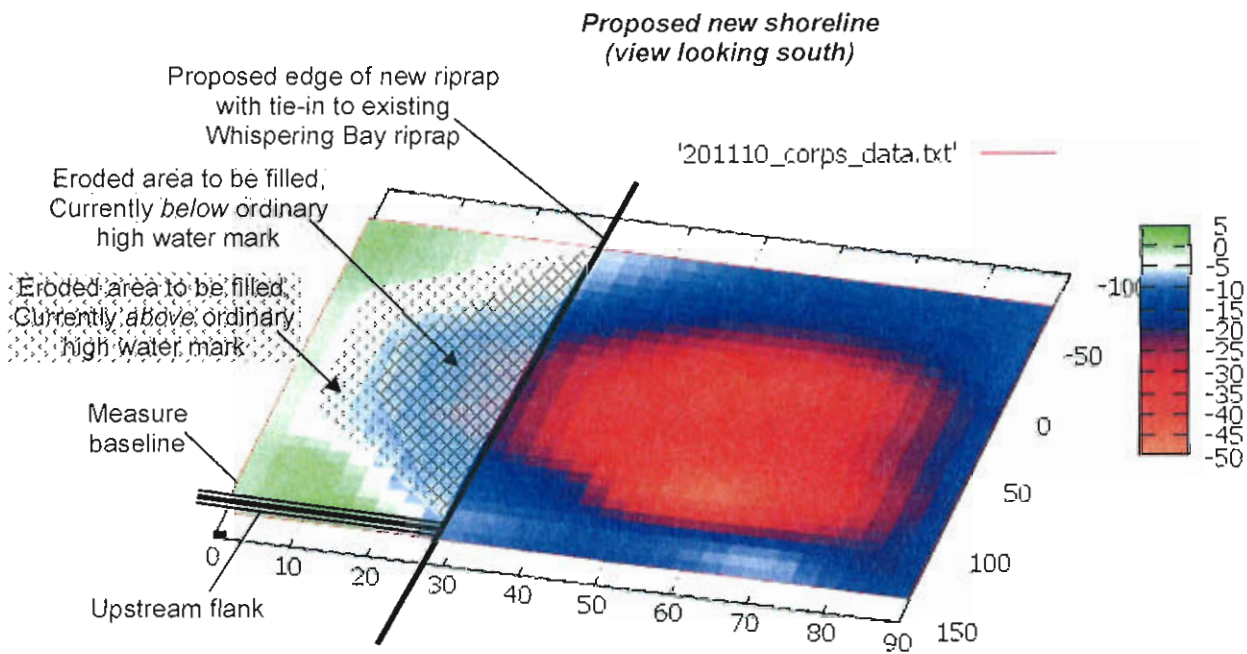


Shoreline profile looking Southwest



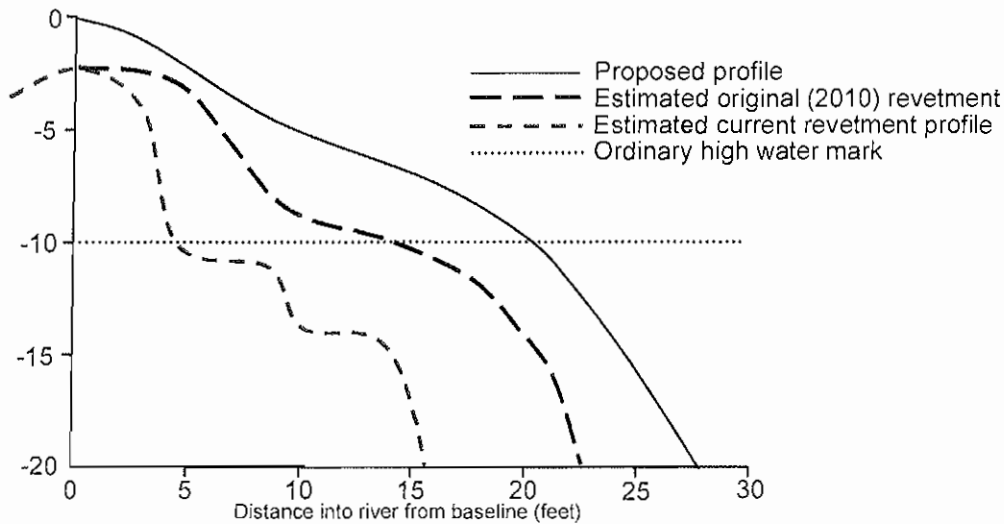
119

An estimated 230 cubic yards of packed rock fill is required to rebuild the revetment, slope the bank surface matching the Whispering Bay riprap and provide for an upstream flank. The following diagram shows the proposed new shoreline. Prior to the 2011 flood the areas shown "*to be filled*" were above the normal high water mark. The diagram shows, in blue, the area now below the normal high water mark. It is anticipated that this area will require approximately 150 cubic yards of fill to raise it above the ordinary high water mark, back to its pre-flood condition. The area in green and in solid white represents land currently above the normal high water mark. It is anticipated that 80 cubic yards of fill will be used to re-slope, reinforce the revetment and riprap the entire shoreline. All fill would match the size and structure of existing revetment rock which is crushed and varies from 6-24 inches. When placed it would be packed or tamped.



The following *proposed profile* is based on the existing profile of the adjacent Whispering Bay riprap. The *2010 revetment profile* provided was estimated based on Brent Levinson's first hand inspection of the revetment excavation done when the Whispering Bay channel was created and also based on inspection of surfacing revetment rock along the shoreline of 2830 Langer Way and adjacent properties. The *current revetment profile* represents the most eroded section of the revetment at 2830 Langer Way based on actual measurements taken on shore, within the river and then supplemented with pole probing to identify underwater rocky ledges versus sediment. The ordinary high water is known based on measurements taken in November 2011 when Garrison Dan releases were 28,500 cfs. This release level marks the ordinary high water mark on the Missouri River at Bismarck according to Gerald Heiser of the North Dakota State Water Commission and is the their standard for evaluating ordinary high water mark post 2011 flood.

Proposed Profile





DEPARTMENT OF THE ARMY
CORPS OF ENGINEERS, OMAHA DISTRICT
NORTH DAKOTA REGULATORY OFFICE
1513 SOUTH 12TH STREET
BISMARCK ND 58504-6640
February 8, 2012

NWO-2008-2796-BIS

North Dakota State Water Commission
Attn: Gerald Heiser
900 East Boulevard Avenue
Bismarck, North Dakota 58505-0850

Dear Mr. Heiser:

Enclosed for your review and records is a copy of the permit application we received from Mr. Brent Levinson requesting Department of the Army (DA), Corps of Engineers (Corps) authorization to conduct work on the rock revetment, located adjacent to his property within the Missouri River. It is my understanding that work on or that could potentially affect a Corps constructed structure in the Missouri River does require approval from the North Dakota State Water Commission and any designated local sponsor, which in this case is the Burleigh County Water Commission or their authorized representative, prior to any Corp of Engineers approvals.

As currently proposed the application will likely be processed as a Nationwide Permit and has been assigned number **NWO-2008-2796-BIS**. This information is being forwarded for your review and approval. If a permit or approval is granted for the project please send it directly to the applicant with a copy furnished to this office.

If you have any questions concerning this project, please contact Jason Renschler of this office by letter or telephone at (701)-255-0015.

Sincerely,

Daniel E. Cimarosti
Regulatory Program Manager
North Dakota

Enclosure
- copy of application

CF w/encl.: CENWO-ED-H (J. Remus)
BCWRD (G. Narum)
Houston Eng. (M. Gunsch)
CF wo/encl. B. Levinson



APPLICATION FOR DEPARTMENT OF THE ARMY PERMIT
(33 CFR 325)

OMB APPROVAL NO. 0710-0003
EXPIRES: 31 August 2012

Public reporting burden for this collection of information is estimated to average 11 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to Department of Defense, Washington Headquarters, Executive Services and Communications Directorate, Information Management Division and to the Office of Management and Budget, Paperwork Reduction Project (0710-0003). Respondents should be aware that notwithstanding any other provision of law, no person shall be subject to any penalty for failing to comply with a collection of information if it does not display a currently valid OMB control number. Please DO NOT RETURN your form to either of those addresses. Completed applications must be submitted to the District Engineer having jurisdiction over the location of the proposed activity.

PRIVACY ACT STATEMENT

Authorities: Rivers and Harbors Act, Section 10, 33 USC 403; Clean Water Act, Section 404, 33 USC 1344; Marine Protection, Research, and Sanctuaries Act, Section 103, 33 USC 1413; Regulatory Programs of the Corps of Engineers; Final Rule 33 CFR 320-332. Principal Purpose: Information provided on this form will be used in evaluating the application for a permit. Routine Uses: This information may be shared with the Department of Justice and other federal, state, and local government agencies, and the public and may be made available as part of a public notice as required by Federal law. Submission of requested information is voluntary, however, if information is not provided the permit application cannot be evaluated nor can a permit be issued. One set of original drawings or good reproducible copies which show the location and character of the proposed activity must be attached to this application (see sample drawings and instructions) and be submitted to the District Engineer having jurisdiction over the location of the proposed activity. An application that is not completed in full will be returned.

(ITEMS 1 THRU 4 TO BE FILLED BY THE CORPS)

1. APPLICATION NO. <i>11W0-2008-2790-BIS</i>	2. FIELD OFFICE CODE	3. DATE RECEIVED	4. DATE APPLICATION COMPLETE
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COPY

(ITEMS BELOW TO BE FILLED BY APPLICANT)

5. APPLICANT'S NAME: First - Brent Middle - Last - Levinson Company - E-mail Address - brentl@affinitygs.com		8. AUTHORIZED AGENT'S NAME AND TITLE (an agent is not required) First - Middle - Last - Company - E-mail Address -	
6. APPLICANT'S ADDRESS: Address - 2830 Langer Way City - Bismarck State - ND Zip - 58504 Country - USA		9. AGENT'S ADDRESS Address - City - State - Zip - Country -	
7. APPLICANT'S PHONE NOS. W/AREA CODE: a. Residence b. Business c. Fax 701-258-7610 701-223-3565 701-223-3565		10. AGENT'S PHONE NOS. W/AREA CODE a. Residence b. Business c. Fax	

STATEMENT OF AUTHORIZATION

11. I hereby authorize, _____ to act in my behalf as my agent in the processing of this application and to furnish, upon request, supplemental information in support of this permit application.

APPLICANT'S SIGNATURE

DATE

NAME, LOCATION, AND DESCRIPTION OF PROJECT OR ACTIVITY

12. PROJECT NAME OR TITLE (see instructions)
2830 Langer Way Bismarck Missouri River Revetment and Bank Maintenance

13. NAME OF WATERBODY, IF KNOWN (if applicable)
Missouri River

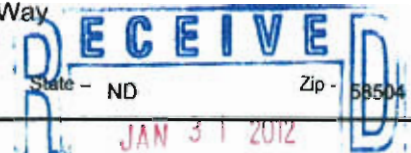
14. PROJECT STREET ADDRESS (if applicable)

Address 2830 Langer Way

15. LOCATION OF PROJECT

Latitude: *N 46.772181
Longitude: *W 100.83105

City - Bismarck



16. OTHER LOCATION DESCRIPTIONS, IF KNOWN (see instructions)
State Tax Parcel ID 2010-001-015 Municipality Bismarck
Section - 18 Township - 138 Range - 80

17. DIRECTIONS TO THE SITE

None should be required, location via address is available on conventional city maps and GPS

18. Nature of Activity (Description of project, include all features)

As a result of the 2011 Missouri River Flood a Corps revetment at 2830 Langer Way requires maintenance and has been identified by the Burleigh County Water Resource District as a structure in need of repair. This project would undertake to repair the revetment and further armor the shoreline with riprap to protect it from boat wake, river current and a future flood event. Please refer to attached detail analysis and discussion for further information.

19. Project Purpose (Describe the reason or purpose of the project, see instructions)

Rebuild, maintain revetment and riprap shoreline to fulfill Burleigh County and Corps agreement for revetment maintenance signed July 16, 1971 and to protect shoreline from erosion due to boat wake, river current and a future flood event. It is anticipated that this work would be undertaken and completed in 2012.

USE BLOCKS 20-23 IF DREDGED AND/OR FILL MATERIAL IS TO BE DISCHARGED

20. Reason(s) for Discharge

Not applicable

21. Type(s) of Material Being Discharged and the Amount of Each Type in Cubic Yards:

Type	Type	Type
Amount in Cubic Yards	Amount in Cubic Yards	Amount in Cubic Yards

22. Surface Area in Acres of Wetlands or Other Waters Filled (see instructions)

Acres

Or

Liner Feet 125 Feet

23. Description of Avoidance, Minimization, and Compensation (see instructions)

This project anticipates that some 2000 square feet of erode shoreline currently below the normal high water mark will be filled at a depth of 2 to 10 feet. This will be clean, crushed rock fill immediately adjacent to shore. Further this material will be on top and adjacent to existing revetment rock. Therefore, a minimal area of water will be affected during the time when rock fill is dumped into the water until the fill area rises above the water line.

24. Is Any Portion of the Work Already Complete? Yes No IF YES, DESCRIBE THE COMPLETED WORK

25. Addresses of Adjoining Property Owners, Lessees, Etc., Whose Property Adjoins the Waterbody (if more than can be entered here, please attach a supplemental list).

Address - Dave and Pat Goodin - 2810 Langer Way

City - Bismarck

State - ND

Zip - 58504

26. List of Other Certifications or Approvals/Denials Received from other Federal, State, or Local Agencies for Work Described in This Application.

AGENCY	TYPE APPROVAL*	IDENTIFICATION NUMBER	DATE APPLIED	DATE APPROVED	DATE DENIED
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* Would include but is not restricted to zoning, building, and flood plain permits

27. Application is hereby made for a permit or permits to authorize the work described in this application. I certify that the information in this application is complete and accurate. I further certify that I possess the authority to undertake the work described herein or am acting as the duly authorized agent of the applicant.

SIGNATURE OF APPLICANT

1/31/2012

DATE

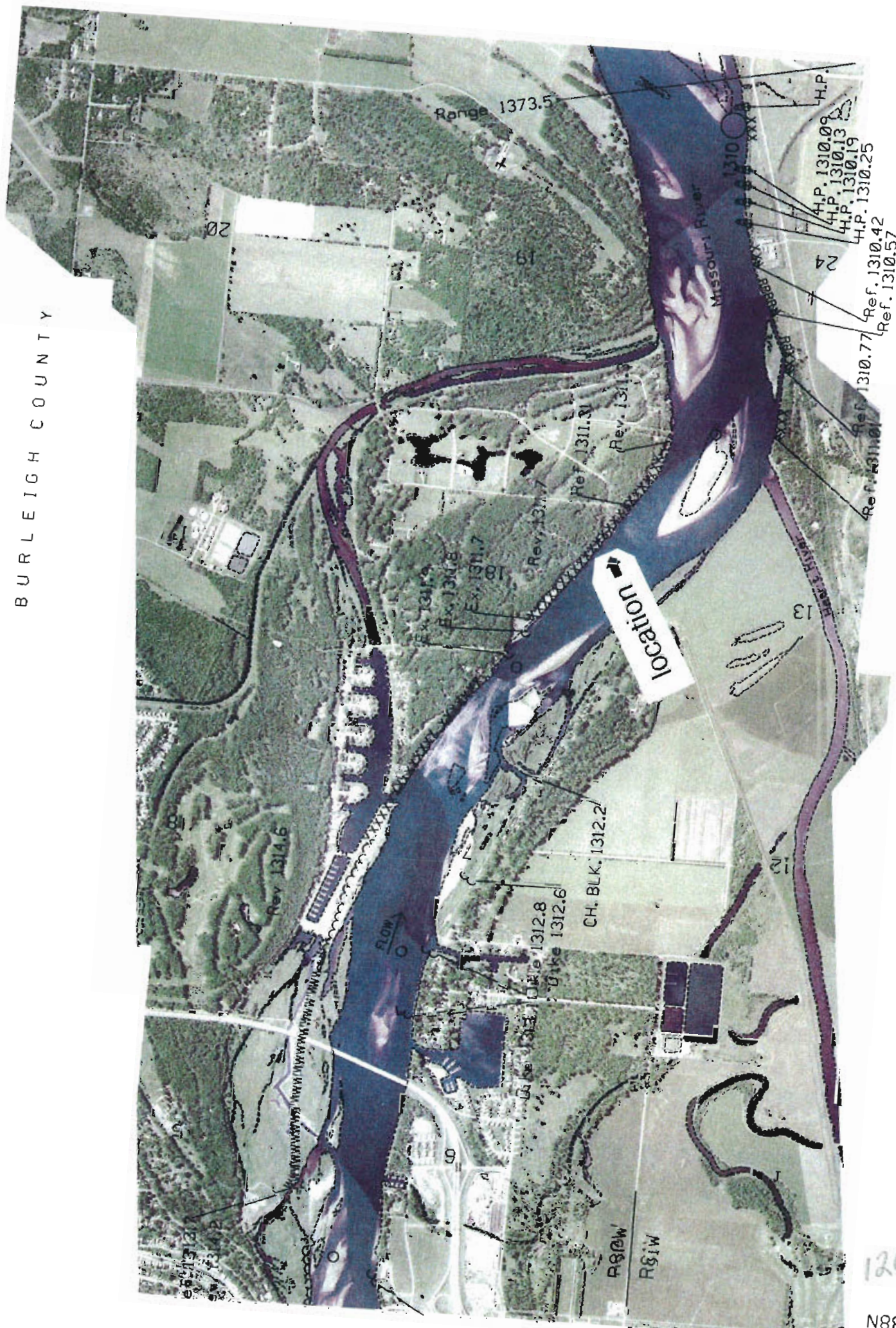
SIGNATURE OF AGENT

DATE

The application must be signed by the person who desires to undertake the proposed activity (applicant) or it may be signed by a duly authorized agent if the statement in block 11 has been filled out and signed.

18 U.S.C. Section 1001 provides that: Whoever, in any manner within the jurisdiction of any department or agency of the United States knowingly and willfully falsifies, conceals, or covers up any trick, scheme, or disguises a material fact or makes any false, fictitious or fraudulent statements or representations or makes or uses any false writing or document knowing same to contain any false, fictitious or fraudulent statements or entry, shall be fined not more than \$10,000 or imprisoned not more than five years or both.

BURLEIGH COUNTY



120

138N



Project Site

Project Site

NORTH DAKOTA



Brent Levinson
T138N, R80W Section 18

Burleigh Co.
Permit No.S1780



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Burleigh County Water Resource District

City/County Office Building - 221 North 5th Street
Bismarck, North Dakota 58501-4028

May 10, 2012

John Paczkowski
Regulatory Section Chief
ND State Water Commission
900 East Boulevard
Bismarck, ND 58505

RE: Levinson and Goodin Sovereign Lands Permit Applications

Dear Mr. Paczkowski:

The Burleigh County Water Resource District has been working closely with Burleigh County, and we are aware of the applications recently filed by Brent Levinson and Dave Goodin for restoration of the existing revetment along their property. Both landowners have filed applications for the construction which will occur at least partially on sovereign lands. We have reviewed their proposed construction and are writing to indicate our support of the proposed maintenance activities.

The repair work will be funded in part by Burleigh County and in part by the land owner. This work will satisfy Burleigh County's obligation for maintenance of the revetment as identified in the 1971 agreement. This repair work is important both to halt the loss of private property and to ensure the continued effectiveness and integrity of the downstream revetment that protects the channel to Whispering Bay.

It is also our understanding that both Levinson and Goodin have filed applications with the US Army Corps of Engineers and the Corps has indicated their intent to authorize the work under an applicable nationwide permit once the state's regulatory requirements have been satisfied.

We hope you will take a positive view of these applications and urge their timely approval so the intended repairs can be completed in a timely fashion this summer.

Sincerely,

A handwritten signature in cursive script that reads "Gailen Narum".

Gailen Narum, Chairman
Burleigh County Water Resource District

C: Marcus Hall, Burleigh County
Michael Gunsch, HEI

Current Board Members:

Gailen Narum, Chair, Bismarck 323-0167 Terry Fleck, Vice Chair, Bismarck 223-8768 Ken Royse, Treas., Bismarck 258-1110 Cary Backstrand, Bismarck 471-9134 Reinold Keller, Bismarck 425-

Handwritten initials

3712 Lockport Street Bismarck ND 58503



Houston Engineering Inc.

May 11, 2012

Daniel E. Cimarosti
Regulatory Program Manager
US Army Corps of Engineers
1513 South 12th Street
Bismarck, ND 58504-6640

COPY

SUBJECT: Dave Goodin Revetment Repair

Dear Mr. Cimarosti:

The enclosed Permit Application is filed on behalf of Dave and Pat Goodin. The project will repair the existing revetment along his property at 2810 Langer Way. The revetment was originally constructed by the US Army Corps of Engineers, but was damaged during the 2011 flood event.

Brent Levinson, Mr. Goodin's neighbor to the south, has similarly filed an application for maintenance work along his portion of the same revetment. Burleigh County has agreed to pay the cost of the materials and to bid the project and manage the construction effort for both landowners. The landowners have agreed to pay the cost of labor. These repairs will satisfy Burleigh County's responsibility for maintaining these facilities under their 1971 agreement with your agency.

In order to restore the revetment, we have estimated we will need to place approximately 600 cubic yards of rock along the 200 lineal feet bank line. Fabric will also be installed under the rock. Applications to construct projects on Sovereign Lands have also been filed by both parties.

If you have any questions or require additional information, please feel free to call at (701)323-0200.

Sincerely,

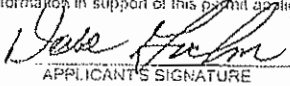
HOUSTON ENGINEERING, INC.



Michael G. Gursch, P.E.
Senior Project Manager

Encl.

C: Dave Goodin
Marcus Hall, Burleigh County
Gailen Narum, Burleigh County WRD

APPLICATION FOR DEPARTMENT OF THE ARMY PERMIT (33 CFR 325)		OMB APPROVAL NO. 0710-0003 EXPIRES: 31 August 2012	
Public reporting burden for this collection of information is estimated to average 11 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to Department of Defense, Washington Headquarters, Executive Services and Communications Directorate, Information Management Division and to the Office of Management and Budget, Paperwork Reduction Project (0710-0003). Respondents should be aware that notwithstanding any other provision of law, no person shall be subject to any penalty for failing to comply with a collection of information if it does not display a currently valid OMB control number. Please DO NOT RETURN your form to either of those addresses. Completed applications must be submitted to the District Engineer having jurisdiction over the location of the proposed activity.			
PRIVACY ACT STATEMENT			
Authorities: Rivers and Harbors Act, Section 10, 33 USC 403, Clean Water Act, Section 404, 33 USC 1344; Marine Protection, Research, and Sanctuaries Act, Section 103, 33 USC 1413; Regulatory Programs of the Corps of Engineers; Final Rule 33 CFR 320-332. Principal Purpose: Information provided on this form will be used in evaluating the application for a permit. Routine Uses: This information may be shared with the Department of Justice and other federal, state, and local government agencies, and the public and may be made available as part of a public notice as required by Federal law. Submission of requested information is voluntary, however, if information is not provided the permit application cannot be evaluated nor can a permit be issued. One set of original drawings or good reproducible copies which show the location and character of the proposed activity must be attached to this application (see sample drawings and instructions) and be submitted to the District Engineer having jurisdiction over the location of the proposed activity. An application that is not completed in full will be returned.			
(ITEMS 1 THRU 4 TO BE FILLED BY THE CORPS)			
1. APPLICATION NO.	2. FIELD OFFICE CODE	3. DATE RECEIVED	4. DATE APPLICATION COMPLETE
(ITEMS BELOW TO BE FILLED BY APPLICANT)			
5. APPLICANT'S NAME: First - Dave Middle - Last - Goodin Company - E-mail Address - d.goodin@bis.midco.net		8. AUTHORIZED AGENT'S NAME AND TITLE (an agent is not required) First - Michael Middle - Last - Gimsch Company - Houston Engineering, Inc. E-mail Address - mgimsch@houstoneng.com	
6. APPLICANT'S ADDRESS: Address - 2810 Langer Way City - Bismarck State - ND Zip - 58504 Country - US		9. AGENT'S ADDRESS Address - 3712 Lockport Street City - Bismarck State - ND Zip - 58503 Country - US	
7. APPLICANT'S PHONE NOS. WAREA CODE a. Residence b. Business c. Fax 701-221-2371		10. AGENT'S PHONE NOS. WAREA CODE a. Residence b. Business c. Fax (701) 323-0200	
STATEMENT OF AUTHORIZATION			
11. I hereby authorize <u>Michael Gimsch</u> to act in my behalf as my agent in the processing of this application and to furnish, upon request, supplemental information in support of this permit application.			
 APPLICANT'S SIGNATURE		<u>5/10/2012</u> DATE	
NAME, LOCATION, AND DESCRIPTION OF PROJECT OR ACTIVITY			
12. PROJECT NAME OR TITLE (see instructions) 2810 Langer Way Bismarck Missouri River Revetment and Bank Maintenance			
13. NAME OF WATERBODY, IF KNOWN (if applicable) Missouri River		14. PROJECT STREET ADDRESS (if applicable) Address 2810 Langer Way City - Bismarck State - ND Zip - 58504	
15. LOCATION OF PROJECT Latitude: <u>N46.7721</u> Longitude: <u>W100.8311</u>			
16. OTHER LOCATION DESCRIPTIONS, IF KNOWN (see instructions) State Tax Parcel ID Municipality Section - 18 Township - 138 Range - 80			
17. DIRECTIONS TO THE SITE Riverwood Drive to Mills Avenue to Larson Road to Larson Way			

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18. Nature of Activity (Description of project, include all features)
 Repair of Corps revetment. Fabric and rock will be placed to restore revetment damaged during the 2011 flood event

19. Project Purpose (Describe the reason or purpose of the project, see instructions)
 Structure has been identified by the Burleigh County WRD as being in need of repair. This repair work will fulfill the Burleigh County WRD's maintenance responsibilities under the 1971 agreement.

USE BLOCKS 20-23 IF DREDGED AND/OR FILL MATERIAL IS TO BE DISCHARGED

20. Reason(s) for Discharge

21. Type(s) of Material Being Discharged and the Amount of Each Type in Cubic Yards:

Type	Amount in Cubic Yards	Type	Amount in Cubic Yards
Rock	600 CYD		

22. Surface Area in Acres of Wetlands or Other Waters Filled (see instructions)
 Acres
 Or
 Liner Feet 200 Liner Feet

23. Description of Avoidance, Minimization, and Compensation (see instructions)
 This is a maintenance activity. Only the amount of work required to restore the prior functionality will be completed

24. Is Any Portion of the Work Already Complete? Yes No IF YES, DESCRIBE THE COMPLETED WORK

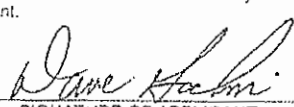
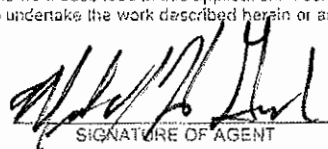
25. Addresses of Adjoining Property Owners, Lessees, Etc., Whose Property Adjoins the Waterbody (if more than can be entered here, please attach a supplemental list)
 Address - Brent Levinson, 3830 Langer Way
 City - Bismarck State - ND Zip - 58501

26. List of Other Certifications or Approvals/Denials Received from other Federal, State, or Local Agencies for Work Described in This Application.

AGENCY	TYPE APPROVAL*	IDENTIFICATION NUMBER	DATE APPLIED	DATE APPROVED	DATE DENIED

* Would include but is not restricted to zoning, building, and flood plain permits

27. Application is hereby made for a permit or permits to authorize the work described in this application. I certify that the information in this application is complete and accurate. I further certify that I possess the authority to undertake the work described herein or am acting as the duly authorized agent of the applicant.

SIGNATURE OF APPLICANT DATE 5/10/2012 SIGNATURE OF AGENT DATE 5/10/2012

The application must be signed by the person who desires to undertake the proposed activity (applicant) or it may be signed by a duly authorized agent if the statement in block 11 has been filled out and signed.

18 U.S.C. Section 1001 provides that: Whoever, in any manner within the jurisdiction of any department or agency of the United States knowingly and willfully falsifies, conceals, or covers up any trick, scheme, or disguise a material fact or makes any false, fictitious or fraudulent statements or representations or makes or uses any false writing or document knowing same to contain any false, fictitious or fraudulent statements or entry, shall be fined not more than \$10,000 or imprisoned not more than five years or both.



Google earth

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DEPARTMENT OF THE ARMY
CORPS OF ENGINEERS, OMAHA DISTRICT
NORTH DAKOTA REGULATORY OFFICE
1513 SOUTH 12TH STREET
BISMARCK ND 58504-6640
May 29, 2012

North Dakota Regulatory Office

[NWO-2012-1198-BIS]

North Dakota State Water Commission
Attn: Mr. Gerald Heiser
900 East Boulevard Avenue
Bismarck, North Dakota 58505-0850

Dear Mr. Heiser:

Enclosed for your review and records is a copy of a Department of the Army (DA) permit application received from Mr. Dave Goodin for proposed repairs to a rock revetment damaged during the 2011 flood event. The revetment is located in and along the Missouri River at Mr. Goodin's property at 2810 Langer Way. The project was originally constructed by the U.S. Army Corps of Engineers. It is my understanding that the work requires approval from the North Dakota State Water Commission and a designated local sponsor (if any).

The information provided to this office, indicates that material cost, project bidding and management of construction activities would be assumed by Burleigh County.

As proposed, the activity would be processed as a Nationwide Permit and has been assigned Corps Identification No. NWO-2012-1198-BIS. If your office issues a permit or approval for this project, please send it directly to the applicant and provide a copy to this office.

Sincerely,

Matthew J. Mikulecky
Regulatory Project Manager
North Dakota Regulatory Office

Enclosure

Copy Furnished (w/ enclosure):

CENWO-ED-H (J. Remus)
BCWRD (G. Narum)
Houston Engineering (M. Gunsch)

Copy Furnished (w/out enclosure):
D. Goodin

APPLICATION FOR DEPARTMENT OF THE ARMY PERMIT
(33 CFR 325)

OMB APPROVAL NO. 0710-0063
EXPIRES: 31 August 2012

Each printing order for this collection of information is estimated to average 11 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and reviewing the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Department of Defense, Washington Headquarters, Executive Service and Communications Directorate, Information Management Division and to the Office of Management and Budget, Paperwork Reduction Project (0710-0063). Respondents should be aware that notwithstanding any other provision of law, no person shall be held liable for any failure to comply with a collection of information if it does not display a currently valid OMB control number. Please DO NOT RETURN your form to any of the above addresses. Completed applications must be submitted to the District Engineer having jurisdiction over the location of the proposed activity.

PRIVACY ACT STATEMENT

Executive Order 12958, Privacy Act, Section 10, 50 USC 402; Clean Water Act, Section 404, 33 USC 1349; Native Protection, Research, and Information Act, Section 109, 33 USC 1413; Regulatory Programs of the Corps of Engineers, Final Rule 33 CFR 325-332. Purpose: Information provided on this form will be used in evaluating the application for a permit (Routine Use). This information may be shared with the Department of Justice and other federal, state, and local government agencies, and the public, and may be made available as part of a public act or as required by Federal law. Information provided on this form is voluntary; however, if information is not provided the permit application cannot be evaluated for such a permit issuance. One set of original drawings or other required forms, which show the location and character of the proposed activity must be attached to this application (see sample drawings and instructions) and be submitted to the District Engineer having jurisdiction over the location of the proposed activity. An application that is not accompanied by the required forms will be returned.

(ITEMS 1 THRU 4 TO BE FILLED BY THE CORPS)

1. APPLICATION NO.	2. FIELD OFFICE CODE	3. DATE RECEIVED	4. DATE APPLICANT RECEIVED
		MAY 14 2012	

(ITEMS BELOW TO BE FILLED BY APPLICANT)

5. APPLICANT'S NAME		CORPS OF ENGINEERS		SOCIAL SECURITY NUMBER (If known, do not include)	
Last: NORTH CAROLINA		REGULATORY OFFICE		MIDWEST REGION	
Company:		Company:		Company:	
E-mail Address:		E-mail Address:		E-mail Address:	
6. APPLICANT'S ADDRESS		7. AGENT'S ADDRESS		8. AGENT'S PHONE NO.	
Address:		Address:		City:	
City:		State:		Zip:	
9. APPLICANT'S PHONE NO.		10. AGENT'S PHONE NO.		11. APPLICANT'S FAX NO.	
a. Home:		a. Residence:		b. Business:	
b. Business:		b. Business:		c. Fax:	
Tel: 701-737-1371		City: Bismarck		State: ND	
		Zip: 58001		County: Bismarck	

STATEMENT OF AUTHORIZATION

I, the undersigned, M. Chad Christ, to act as my agent in the processing of this application and to assist in the collection of information in support of this permit application.

M. Chad Christ
APPLICANT'S SIGNATURE

5/10/2012
DATE

NAME, LOCATION, AND DESCRIPTION OF PROJECT OR ACTIVITY

12. PROJECT NAME AND TYPE: Construction

13. NAME OF WATER BODY, RIVER, OR WADWAY (If project is on a waterway): North Fork of the River

14. PROJECT SITE ADDRESS (If project is on a waterway): North Fork of the River

15. LOCATION OF PROJECT: North Fork of the River

16. OTHER LOCATION IDENTIFIERS (If known): North Fork of the River

17. OTHER NOTES TO THE FILE: North Fork of the River



Google earth





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>

May 15, 2012

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.

North Dakota Game and Fish Department, Bismarck, ND Applicant Application No. **S-1781**

The North Dakota Game and Fish Department, Bismarck, North Dakota has filed an application with the State Engineer to restore boating access from an existing boat ramp on the south end of Hogue Island out to the main Missouri River channel in Burleigh County. The Missouri River flood event of 2011 deposited a considerable amount of sand in the channel between the boat ramp and the main channel of the Missouri River rendering the channel too shallow for most boats to safely navigate during normal summer flow levels.

Specifically, the project involves dredging approximately 1,500 cubic yards of material from the channel to create a 140-foot long by 50-foot wide by 8-foot deep channel from the boat ramp to the main channel of the Missouri River. The excavated material will be disposed of on an approved upland site. If the excavated material is too wet at the time of excavation to be hauled out, the excavated material will be temporarily stockpiled to the north of the excavation site to dry and then disposed of on an approved upland site.

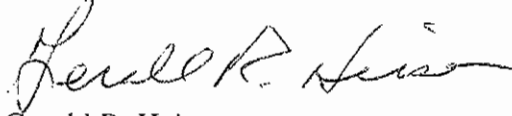
Construction will occur in the NE ¼ SW ¼ of Section 3, Township 139 North, Range 81 West, Burleigh County.

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 **20** days of the date of this mailing to the State Engineer, at 900 East Boulevard Avenue, Bismarck ND. If no reply is received within the **20** days, it will be assumed that your agency has no comment on this project.

Sincerely,



Gerald R. Heiser
Sovereign Lands Manager

GRH: /1625

Enclosures: Sovereign Lands Application
Design Drawings
Map

Copies to: Mike Brand, North Dakota Department of Trust Lands
Jesse Hanson, North Dakota Parks and Recreation Department
Terry Steinwand, Director, North Dakota Game and Fish Department
Terry Dwelle, M.D., State Health Officer, North Dakota Department of Health
Dave Koland, Garrison Diversion Conservancy District
U.S. Fish and Wildlife Service, Bismarck
State Historical Society of North Dakota
Burleigh County Water Resource District
U.S. Army Corps Engineers, Bismarck



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. S-1781
Project No. 1625



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 8 1/4 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 Water Resource District
- (2) Legal description to the nearest 40 acre tract: NE 1/4 SW 1/4 Section 3 Township 139 Range 81
- (3) Is this application for modification of an existing project Yes No If so, what year was project constructed: ?
By whom: old drainage channel for Burnt Creek
- (4) Proposed project involves water crossing, type _____ boat dock, boat ramp, water intake.
 dredge, volume 1,500 cu. yds. filling, volume _____ cu. yds., type _____
 other (explain) _____
- (5) Water body on which project will be located: side channel of Missouri River
- (6) Purpose: to restore boating access from existing ramp out to main river channel
- (7) Project Description: utilize an excavator and remove sand from the north side of the channel to create a 140' long by 50' wide by 8' deep trench leading out to the river. Material will be hauled away and disposed of in an upland site. If too wet, material will be temporarily stockpiled north of channel to dry and then removed at a later date.
- (8) Contractor, if known: not know at this time
- (9) Anticipated construction start date: June 1, 2012 Completion date: June 10, 2012

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) ND Game & Fish Department

Applicant: (Print) _____

Address: 100 N Bismarck Expressway
Bismarck, ND 58501

Phone: (H) _____

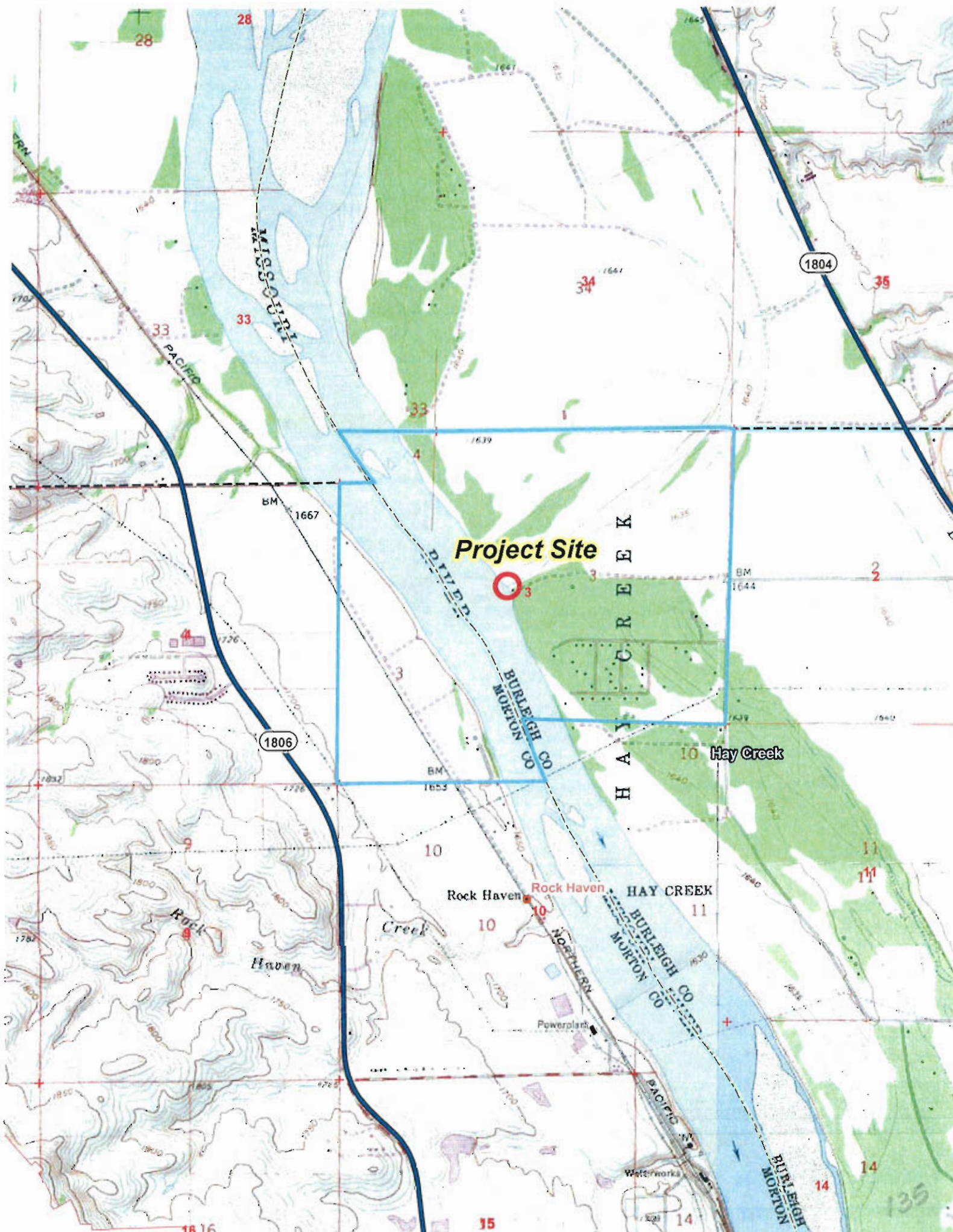
(W) 701-328-6346

Signature: *Bob Follis* Date Submitted: 4-24-12

(Riparian landowner or Organization Sponsoring the project)



Hoge's Island Boat Ramp



Project Site



Hay Creek

Rock Haven



Powerplant

Wellworks

Kiln

1806

1804

MISSOURI RIVER

HAY CREEK

BURLEIGH CO
MORTON CO

BURLEIGH CO
MORTON CO

BURLEIGH CO
MORTON CO

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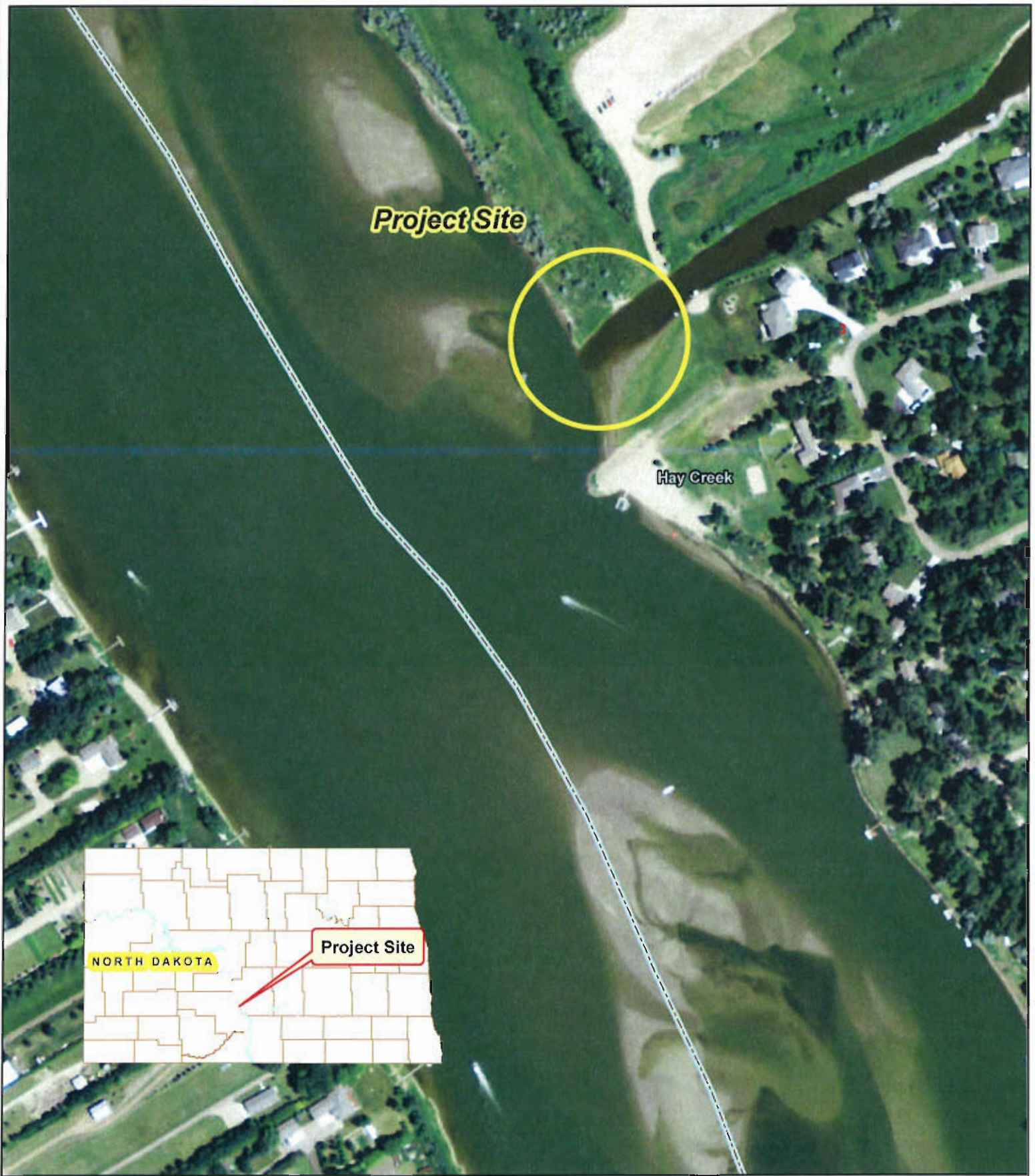
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Project Site

Hay Creek



NORTH DAKOTA

Project Site



**ND Game and Fish Dept
T139N, R81W Section 3**

**Burleigh Co.
Permit No.S1781**



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Website Maintenance and Support Agreement

Agency MABU typically does not charge basic maintenance and support fees. After initial training, MABU's clients typically administer and manage their websites without having to rely on MABU for ongoing support. MABU provides "no cost" phone consultation and advice for basic questions about the content management system. Such consultation is completed within a few minutes on the phone and does not require MABU's staff to perform any actual work on the client's website. If the client needs/requests Agency MABU to perform actual work on their website such as adding content/images, creating artwork, modifying templates, revising forms, or adjusting code, MABU charges for the services rendered based on the following fee schedule:

Item	Description of Work To Be Performed By MABU	Rate
1	Work requests requiring 15 minutes to 5 hours of staff time. <ul style="list-style-type: none">MABU will let the client know that the work request may take up to 5 hours to complete. All such work will require written approval from the client (e-mail is sufficient).MABU's standard rate for such work is \$80/hour.	\$72/hour (Represents a 10% discount from MABU's standard web rates)
2	Work requests requiring 5 or more hours of staff time. <ul style="list-style-type: none">MABU will provide the client with a quote describing the estimated number of hours required to complete the project. All such work will require written approval from the client (e-mail is sufficient).MABU's standard rate for such work is \$80/hour.	\$68/hour (Represents a 15% discount from MABU's standard web rates)

Compensation Terms:

Agency MABU will track hours and bill the client for actual hours worked at the end of each month or the end of each project, whichever comes first.

Client's Acceptance:

Client Signature: _____ Date: _____

Name/title: (Please print): _____

Company Name: _____

The contract will become effective on the date signed and will remain in effect until the end of the current calendar year, at which time the client and MABU will determine whether or not to renew the agreement for another term.

MABU Fax: 701-250-1788

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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>

May 18, 2012

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.

Ken Dockter, Bismarck, ND Applicant

Application No. **S-1785**

Ken Dockter, Bismarck, North Dakota has filed an application with the State Engineer to excavate a sump in a side channel of the Missouri River proximate to his home from which he intends to draw water for the purpose of irrigating his yard. Prior to 2012, the applicant had a boat dock on the Missouri River attached to his property above the ordinary high water (OHWM) with access to the main channel of the river. The applicant also had a water intake and pump attached to his dock to draw water from the Missouri for the purpose of watering his yard. The Missouri River flood event of 2011 greatly enlarged a small island proximate to the applicants lot with several shallow braided channels through and around this and other small islands near the project site. During "normal" summer flows, the braided channels contain several small pools of water but no flows from the main river channel.

Specifically, the project will involve excavating approximately 27.7 cubic yards of sand and silt from a shallow pool proximate to the applicant's lot to form a sump. Hydraulic pressure will fill the sump with ground water. The applicant will pump the water to his yard watering system. Excavated material will be disposed of on an upland site above the OHWM.

Construction will occur in the SE ¼ of Section 33, Township 140 North, Range 81 West, Burleigh County.

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 ND. If no reply is received within the **30** days, it will be assumed that your agency has no comment on this project.

Sincerely,



Gerald R. Heiser
Sovereign Lands Manager

GRH: /1625

Enclosure: Sovereign Lands Permit Application
Map

Copies to: Mike Brand, North Dakota Department of Trust Lands
Jesse Hanson, North Dakota Parks and Recreation Department
Terry Steinwand, Director, North Dakota Game and Fish Department
Terry Dwelle, M.D., State Health Officer, North Dakota Department of Health
Dave Koland, Garrison Diversion Conservancy District
U.S. Fish and Wildlife Service, Bismarck
State Historical Society of North Dakota
Burleigh County Water Resource District
U.S. Army Corps of Engineers, Regulatory Office, Bismarck



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. 51785
Project No. 1825



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 Water Resource District Lot 16, Block 10 Island Park Estates
- (2) Legal description to the nearest 40 acre tract: 1/4 56 1/4 Section 33 Township 140 Range 81
- (3) Is this application for modification of an existing project Yes No If so, what year was project constructed: _____
By whom: _____
- (4) Proposed project involves water crossing, type _____ boat dock, boat ramp, water intake, dredge, volume 27.7 cu. yds. filling, volume _____ cu. yds., type _____, other (explain) _____
- (5) Water body on which project will be located: Missouri River
- (6) Purpose: Irrigation For Watering Lawns
- (7) Project Description: Remove sand, make larger hole so more volume of water is available for watering (Note: sand will be removed + put on property)
- (8) Contractor, if known: _____
- (9) Anticipated construction start date: ASAP Completion date: ASAP

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) Ken Dockett

Applicant: (Print) Ken Dockett

Address: 8544 Island Rd
Bismarck ND 58503

Phone: (H) 701.222.2129

(W) 701.222.7668

Signature: Ken Dockett Date Submitted: 5/1/12
(Riparian landowner or Organization Sponsoring the project)

140





Ken Dockter
SE 1/4 33 T140N R81W

Burleigh Co.
Permit # S1785



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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>

May 18, 2012

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.

Terry Tschosik, Bismarck, ND Applicant

Application No. **S-1786**

Terry Tschosik, Bismarck, North Dakota has filed an application with the State Engineer to excavate a sump in a side channel of the Missouri River proximate to his home from which he intends to draw water for the purpose of irrigating his yard. Prior to 2012, the applicant had a boat dock on the Missouri River attached to his property above the ordinary high water (OHWM) with access to the main channel of the river. The applicant also had a water intake and pump attached to his dock to draw water from the Missouri for the purpose of watering his yard. The Missouri River flood event of 2011 greatly enlarged a small island proximate to the applicants lot with several shallow braided channels through and around this and other small islands near the project site. During "normal" summer flows, the braided channels contain several small pools of water but no flows from the main river channel.

Specifically, the project will involve excavating approximately 27.7 cubic yards of sand and silt from a shallow pool proximate to the applicant's lot to form a sump. Hydraulic pressure will fill the sump with ground water. The applicant will pump the water to his yard watering system. Excavated material will be disposed of on an upland site above the OHWM.

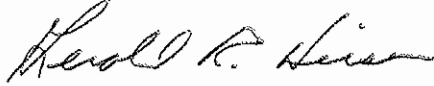
Construction will occur in the SE ¼ SW ¼ of Section 33, Township 140 North, Range 81 West, Burleigh County.

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 ND. If no reply is received within the **30** days, it will be assumed that your agency has no comment on this project.

Sincerely,



Gerald R. Heiser
Sovereign Lands Manager

GRH: /1625

Enclosure: Sovereign Lands Permit Application
Map

Copies to: Mike Brand, North Dakota Department of Trust Lands
Jesse Hanson, North Dakota Parks and Recreation Department
Terry Steinwand, Director, North Dakota Game and Fish Department
Terry Dwelle, M.D., State Health Officer, North Dakota Department of Health
Dave Koland, Garrison Diversion Conservancy District
U.S. Fish and Wildlife Service, Bismarck
State Historical Society of North Dakota
Burleigh County Water Resource District
U.S. Army Corps of Engineers, Regulatory Office, Bismarck



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. 51786

Project No. 1625



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 8 1/2 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: Burlingame Co. Water Resource District
lot 15 BLOCK 10
- (2) Legal description to the nearest 40 acre tract: SE 1/4 SW 1/4 Section 33 Township 140N Range 81W
- (3) Is this application for modification of an existing project Yes No If so, what year was project constructed: _____
By whom: _____
- (4) Proposed project involves water crossing, type _____ boat dock, boat ramp, water intake,
 dredge, volume 27.7 cu. yds. filling, volume _____ cu. yds., type _____,
 other (explain) _____
- (5) Water body on which project will be located: Missouri River
- (6) Purpose: FERTIGATION TO WATER LAWN
- (7) Project Description: REMOVE SAND AND MAKE A HOLE, SAND WILL BE REMOVED AND PLACED ON PROPERTY
- (8) Contractor, if known: _____
- (9) Anticipated construction start date: _____ Completion date: _____

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) _____

Applicant: (Print) Terry A. Tschosik

Address: 8566 ISLAND RD.
BISMARCK, N.D. 58503

Phone: (H) 701-258-1256

(W) 701-400-5698

Signature: Terry A. Tschosik Date Submitted: _____
(Riparian landowner or Organization Sponsoring the project)



Terry Tschosik
SE1/4 SW1/4 33 T140N R81W Permit # S1786

Burleigh Co.



146

emailed 5.31.12



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>

May 23, 2012

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.

Mark Haider Bismarck, ND Applicant

Application No. **S-1788**

Mark Haider, Bismarck, North Dakota has filed an application with the State Engineer to excavate a sump in a side channel of the Missouri River proximate to his home from which he intends to draw water for the purpose of irrigating his yard. Prior to 2012, the applicant had a boat dock on the Missouri River attached to his property above the ordinary high water (OHWM) with access to the main channel of the river. The applicant also had a water intake and pump attached to his dock to draw water from the Missouri for the purpose of watering his yard. The Missouri River flood event of 2011 greatly enlarged a small island proximate to the applicants lot with several shallow braided channels through and around this and other small islands near the project site. During "normal" summer flows, the braided channels contain several small pools of water but no flows from the main river channel.

Specifically, the project will involve excavating up to approximately 222 cubic yards of sand and silt from a shallow pool proximate to the applicant's lot to form a sump. The amount of material to be excavated could be considerably less than 222 cubic yards, depending on how quickly water moves into the sump. Hydraulic pressure is expected to fill the sump with ground water. The applicant will pump water from the sump to his yard watering system. Excavated material will be disposed of on an upland site above the OHWM.

Construction will occur in the SE ¼ of Section 33 and the SW ¼ of Section 34, Township 140 North, Range 81 West, Burleigh County.

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.

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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 ND. If no reply is received within the **30** days, it will be assumed that your agency has no comment on this project.

Sincerely,



Gerald R. Heiser
Sovereign Lands Manager

GRH: /1625

Enclosure: Sovereign Lands Permit Application
Map

Copies to: Mike Brand, North Dakota Department of Trust Lands
Jesse Hanson, North Dakota Parks and Recreation Department
Terry Steinwand, Director, North Dakota Game and Fish Department
Terry Dwelle, M.D., State Health Officer, North Dakota Department of Health
Dave Koland, Garrison Diversion Conservancy District
U.S. Fish and Wildlife Service, Bismarck
State Historical Society of North Dakota
Burleigh County Water Resource District
U.S. Army Corps of Engineers, Regulatory Office, Bismarck



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. 51788
Project No. 1625



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 8 1/2 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 Water Resource District
- (2) Legal description to the nearest 40 acre tract: SE 33 1/4 SW 1/4 Section 34 Township 140 Range 81
- (3) Is this application for modification of an existing project Yes No If so, what year was project constructed: _____
By whom: _____
- (4) Proposed project involves water crossing, type _____ boat dock, boat ramp, water intake, dredge, volume 222 cu. yds. filling, volume _____ cu. yds., type _____
 Other (explain) _____
- (5) Water body on which project will be located: Missouri River
- (6) Purpose: Lawn irrigation
- (7) Project Description: Would like to dig a little Deeper to get enough water for lawn irrigation 15 X 50 X 8 I would remove all Fill and haul away.
- (8) Contractor, if known: SELF
- (9) Anticipated construction start date: 6-1-12 Completion date: 9-1-12

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) MARK HAIDER

Applicant: (Print) _____

Address: 3616 ISLAND ROAD
BISMARCK N.D. 58503

Phone: (H) 701-223-0621
(W) _____

Signature: Mark Haider Date Submitted: 5-18-12
(Riparian landowner or Organization Sponsoring the project)



15' x 50' x 8'
Dredging



Mark Haider
Deepen Pool for Lawn Irrigation Permit No. S1788

Burleigh Co.



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mailed
5-27-12

NOTICE OF APPLICATION

ON PETITION FOR APPROPRIATION OF WATER
FROM GROUND WATER SOURCES

TAKE NOTICE that Albert G. Kershaw and Colleen Kershaw, McKenzie, North Dakota, has submitted water permit application No. 6373 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 NE1/4 and NW1/4 of Section 14, Township 138 North, Range 77 West, in Burleigh County, North Dakota, 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 198.0 acre-feet of water, for the purpose of irrigating 113.65 acres located in the NW1/4 of Section 14, Township 138 North, Range 77 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 9th day of July, 2012. 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, May 25, 2012.

/S/ Todd Sando, 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 May 25, 2012

To be published in the Bismarck Tribune,
Bismarck, ND, on June 6 and 13, 2012

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MEMO: June 4, 2012
TO: North Dakota Water Resource Districts
FROM: Ken Royse, Chairman
RE: 2012 Annual Meeting and Executive Briefing for Water Managers

Enclosed are registration materials for the North Dakota Water Resource Districts Association (NDWRD) Annual Summer Meeting and the 2012 Executive Briefing. This year the Executive Briefing is devoted to the *Fargo-Moorhead Metro Flood Protection*.

The Summer Meeting and Executive Briefing are scheduled for **Wednesday, July 11 - Friday, July 13**, at the Ramada Plaza Suites in Fargo. This year's meeting will again be a joint meeting with the Garrison Diversion Conservancy District. All of our meetings and on-site meals will take place at the Ramada Plaza Suites (1635 42nd St. South).

There will be a NDWRD Executive Board meeting on the afternoon of Wednesday, July 11 and dinner that evening will be on your own.

The Annual Summer Water Resource Districts business meeting for all water managers will begin the morning of **Thursday, July 12**, with the Fargo-Moorhead Flood Facilities tour in the afternoon. The cost for the tour is included in your registration, and is an additional \$20 for spouses or guests. The evening activity is a steak and catfish fry at Rustic Oaks located on the banks of the Red River in Moorhead. The last stop on the tour will be at Rustic Oaks, so plan accordingly if you need to connect with guests not on the tour! The buses will bring you back to the hotel when the evening meal is finished.

On **Friday, July 13**, there will be an Executive Briefing on the *Fargo-Moorhead Metro Flood Protection* from 8 a.m., to noon. A copy of the three-day meeting schedule is enclosed.

We have a block of rooms for the evenings of Wednesday, July 11 and Thursday, July 14. For reservations, call the Ramada Plaza Suites at 701-277-9000 and ask for the North Dakota Water Resource group locally negotiated rate. Our negotiated room rate is \$77 for single or double occupancy and \$94 for two-room suites, and the room reservation deadline is **June 22**. There is also an overflow room block at the Expressway Suites located next door to the Ramada if additional rooms are needed. The Expressway Suites rates are the same as the Ramada Plaza rates.

As always, I encourage you to **register in advance** so that we may plan accordingly, and if you have any questions, call Jean Schafer or Julie Ellingson at 701-223-4615.

JOINT SUMMER MEETING AND EXECUTIVE BRIEFING

N.D. Water Resource Districts Association
Garrison Diversion Conservancy District
July 11-13, 2012
Ramada Plaza Suites, Fargo, N.D.

ADVANCE REGISTRATION FORM

Please pre-register by the deadline if you and any guests plan on attending this meeting, tour and/or meals. On-site registrations ARE NOT included in the guarantee counts that we give to the hotel, motorcoach service and restaurants, and while we always make every effort to accommodate all attendees, we cannot guarantee that on-site registrations (including additions for guests to the tour or meals) will be able to participate in the meals or tour.

NAME(S): _____

ORG: _____

ADDRESS: _____

Registration \$100.00 per person (\$ 115.00 after June 22)

<u>#</u>	<u>Cost</u>	<u>Total</u>	
___	\$100.00	___	Registration includes ALL meals, annual meeting, executive briefing and tour
___		___	<i>Please check here if you are NOT attending the tour on Thursday, July 12</i>

Additional Guest Tickets:

___	\$10.00	___	Additional persons for Wednesday Reception (spouses and guests)
___	\$10.00	___	Additional persons for Thursday Breakfast (spouses and guests)
___	\$13.00	___	Additional persons for Thursday Luncheon (spouses and guests)
___	\$15.00	___	Additional persons for Thursday Tour (spouses and guests)
___	\$25.00	___	Additional persons for Thursday Dinner (spouses and guests)
___	\$10.00	___	Additional persons for Friday Breakfast (spouses and guests)

___ **TOTALS \$** ___ Send completed form and check to:

**North Dakota Water Resource Districts Assn
PO Box 2254
Bismarck, ND 58502**

Room Blocks: We have a block of rooms for the evenings of Wednesday, July 11 and Thursday, July 12. For reservations call the Ramada Plaza Suites at 701-277-9000 and ask for the *ND Water Resource Group locally negotiated rate*. Our negotiated room rate is \$77 for single/double occupancy and \$94 for 2-room suites. The room reservation deadline is **June 22**.

Cancellation Policy: A **\$40 administrative fee** will be charged on all refund requests for registration and meals, on or before **July 6**. There will be no refunds for cancellations received after **July 6**.

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Joint Summer Meetings and Executive Briefing

July 11-13, Ramada Plaza Suites, Fargo

Wednesday, July 11

- 11:30 a.m. – Registration,
5:00 p.m. *East Entrance Lobby*
- 1:00 p.m. – Garrison Diversion Conservancy
5:00 p.m. District Board of Directors
Meeting, *Bach*
- 1:00 p.m. – Red River Joint Board
4:00 p.m. Meeting, *Mozart I*
- 4:00 p.m. – N.D. Water Resource Districts
6:00 p.m. Association Board Meeting,
Mozart II
- 5:30 p.m. – Welcoming Reception, *Brahms*
6:30 p.m.

Dinner on your own

Thursday, July 12

- 7:00 a.m. Breakfast, *Crystal Ballroom III*
- 7:30 a.m. – Registration open,
Noon *East Lobby*
- 8:00 a.m. – N.D. Water Resource Districts
11:45 a.m. Association Summer Business
Meeting, *Bach/Brahms*
- 11:45 a.m. – Box Lunch Buffet,
12:15 p.m. *Crystal Ballroom III*
- 12:15 p.m. – Load for tour
- 12:30 p.m. – Fargo-Moorhead Metro Flood
5:30 p.m. Protection Tour
- 5:30 p.m. – Steak and Catfish Fry at
8:00 p.m. Rustic Oakes

Friday, July 13

- 7:30 a.m. – Breakfast, *Crystal Ballroom III*
- 8:30 a.m. – **Executive Briefing on Fargo
Flood Protection,**
Noon *Crystal Ballroom I*

ND Water Education Foundation's
Executive Briefing on Fargo Flood Risk Reduction
Friday July 13, 2012
Ramada Plaza Suites, Fargo
8:30 a.m. to Noon

8:30 a.m.	Welcome and introduction <i>Ken Royse, N.D. Water Resource Districts Association</i>
8:35 a.m.	Project Overview Presentation <i>Brett Coleman, Army Corps of Engineers, St. Paul District</i>
9:05 a.m.	Local Issues and Flood Diversion Authority, <i>Darrell Vanyo, Chair, Flood Diversion Authority</i>
9:30 a.m.	Red River Basin and FM Diversion Hydrology, <i>Gregg Thielman, Houston-Moore Group</i>
9:50 a.m.	Federal Process and Post-Record of Decision Analysis, <i>Tom Waters, FM Diversion Program Management Consultant</i>
10:10 a.m.	Financial Modeling, <i>Martin Nicholson, FM Diversion Program Management Consultant</i>
10:30 a.m.	Break
10:45 a.m.	Red River Retention Modeling, <i>Chad Engels, Moore Engineering</i>
11:15 a.m.	Long-Term Flood Solutions for the Red River Basin, <i>Lance Yohe, Red River Basin Commission</i>
11:45 a.m.	Wrap up <i>Ken Royse, N.D. Water Resource Districts Association</i>
Noon	Adjourn

Mona Livdahl

From: Michael Gunsch [mgunsch@houstoneng.com]
Sent: Thursday, May 10, 2012 9:52 AM
To: Cary Backstrand; David Bliss; Gailen Narum; Ken Royse; Mona; Rynee Kellar; Terry Fleck Hall, Marcus J.; DOUG SCHONERT (dschoner@century21morrison.com); Doug Schonert (dpschonert@msn.com); Mel Bullinger <mbullinger@nd.gov>; Heintz, Jeff <jeintz@nd.gov>; Bill Wocken; Keith Demke
Cc:
Subject: Levee Design and Protection
Attachments: 20120510004559.pdf


See attached as you proceed with the consideration of constructing levees and roadways that act as levees, as well as managing flood risk.

Michael H. Gunsch, PE

Principal / Senior Project Manager

O 701.323.0200 | F 701.323.0300 | C 701.527.2134

3712 Lockport St. • Bismarck, ND • 58503

 mgunsch@houstoneng.com

www.houstoneng.com

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From the Director's Desk

Larry A. Larson, P.E., CFM
Executive Director, ASFPM



While attending the recent World Water Forum in France, I was struck by the difference in attitude, regarding residual risk behind levees, of people from around the world compared to those of us in the U.S. Citizens of most other nations do not view levees as providing total safety from floods, but rather as providing relief from some events but not all flood events. Importantly, they see the need to take other measures in combination with levees, for example, elevating structures behind levees, flood insurance, evacuation and emergency action plans and allowing the river to reconnect with its natural floodplain during major events.

This raises some challenges to floodplain management professionals in the U.S. What are we doing or not doing that leads to our citizens' refusal to believe they are still at risk when living behind levees? Or, more importantly, what causes them to not take any actions that could reduce their risk to either loss of life or financial ruin? Take financial ruin as an example: Flood insurance is the only insurance that would make the disaster-struck citizens whole, or close to it, should the levee overtop or fail. Yet, people act as if buying flood insurance is a bigger risk than the chance of flooding. We can use facts and statistics to show otherwise, but it seems to make no difference to them. It cannot be that they do not believe insurance provides financial protection, given that the vast majority have invested in auto and home insurance where the probability of financial ruin is far less. It cannot be that they think the levee will not overtop or fail, because that happens to levees around the country every year—there have been hundreds of such events.

Perhaps people in this country believe the federal government will come in with disaster relief, following a flood, and make them whole. But that is not true. Disaster relief provides an average of less than \$5000 per family after an event, and this amount would not begin to cover the losses to a home in a deep floodplain where the structure is likely to be a total loss. Is it because we tell people that areas behind an "adequate" levee are not required to buy flood insurance, therefore, it must be safe or the government would not allow them to live there? Is it because community leaders usually do not tell people behind a levee there is residual risk because those leaders think it will impact property values? If that is the case, does that mean those leaders put tax revenue ahead of public safety? If asked that question directly, most would say they do not, but somehow that comparison does not pop up during the decision making process. Does our system of disaster relief, tax structure, and other incentives, mean those who live at risk pay very little of that risk - with it mostly covered by the general taxpayers?

What about the 94% of the nation's population that do not live in flood risk areas or residual risk areas? Why aren't they objecting to these perverse laws, incentives, and programs that allow a few to make money off of development in high risk areas, whereas most of the costs are picked up by them: the 94%? Are we, as professionals, only talking to the 6% and not to the 94%, leaving the latter in ignorant bliss?

These issues should give all of us pause, and reason to think and rethink how we do our jobs to identify, manage, and mitigate flood risk. As our population grows (and we are projected to be one of the fastest growing nations in the world this century) our challenges to manage flood risk will grow even faster.

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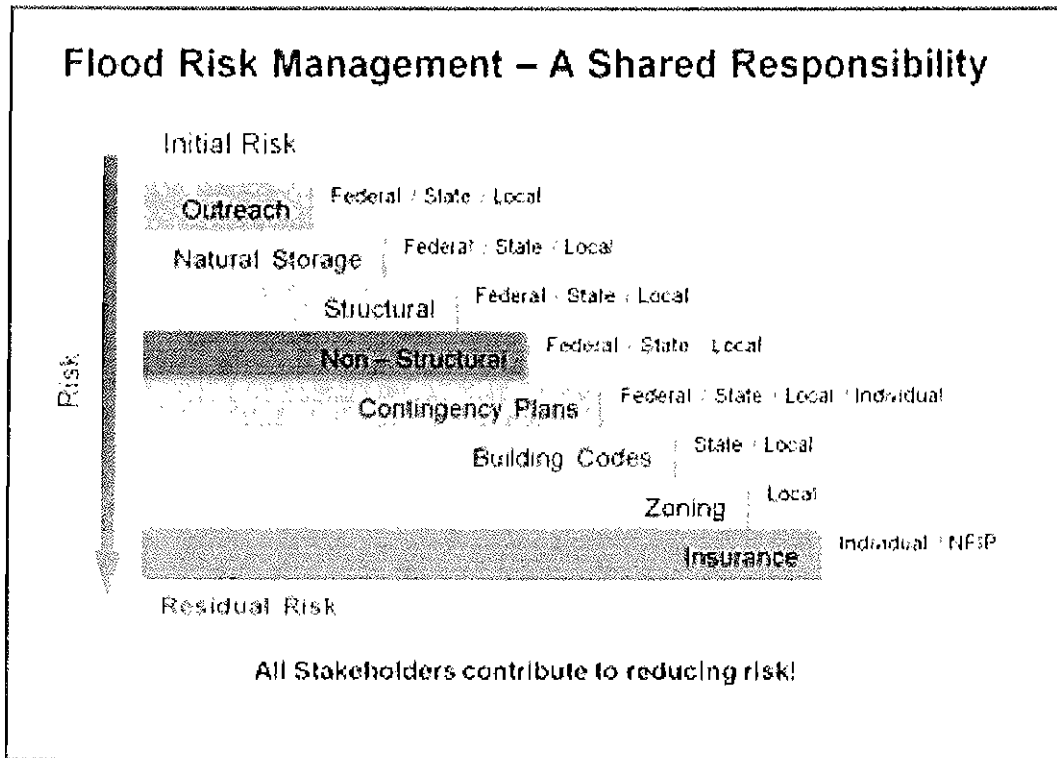
**[Click here](#) to access Larry Larson's World Water Forum 2012 Powerpoint presentation*

Definition of Terms - Residual Risk

Buying Down Flood Risk

There are two very critical points to keep in mind when it comes to buying down flood risk.

- 1) Reducing risk is not a single activity effort.
- 2) It is a joint responsibility in which individual, local, state, and federal entities all have a role. All are stakeholders



Some considerations in flood risk management:

- ** Risk = Probability x Consequences
- ** Structural measures reduce Probability, but do nothing to reduce Consequences
- ** Federal money is used for levees and dams (build, rebuild, pay damages), all without conditions that locals will limit the consequences so risk does not increase.
- ** So who can reduce risk?

Participate in the discussion by heading to the [ASFPM LinkedIn conversation](#) to answer the following:

What is *your* preferred definition for 'residual risk', both in conversations with other floodplain managers, and with the general public? What would you consider to be the most critical factors of the concept - and how can we better communicate the idea to those who do not understand the term or its application such as when it comes to buying down flood risk? In promoting a culture of mitigation - how can we address the disconnect when trying to reach an audience that doesn't 'get it'?

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