



BURLEIGH COUNTY WATER RESOURCE DISTRICT AGENDA

Tuesday, July 9, 2013 – 8:00 a.m.

Tom Baker Meeting Room

8:00 a.m. - Call to Order

1. Roll Call (Fleck, Royse, Backstrand, Weixel, Jones)
2. **Approval of Minutes of (6-11-13)** 1-9
3. **Approval of Burnt Creek Special Meeting (6-26-13)** 10
4. Financial Reports
 - End of June Financial Data 11
5. **Approval of Bills Totaling \$65,582.01**
6. McDowell Dam Recreation Area Updates
 - McDowell Dam Expenses (Forrest/Greg) 13
 - NRCS Report on McDowell Dam (Gordon) 14-17
 - Update on Building Project (Forrest)
 - Water Permit Applications (Cary)
 - NRCS Dam Watch® monitoring – information sent (Michael)
7. Drainage Complaints
 - Eldin Spier/UTTC – City of Bismarck Letter (Update)
 - Emery/Koppang (Cary/Michael/Dave) – Enforcement letter sent 18-20
 - Cost Summary 21
 - Assignment of Judge 22
 - Mark Swenson – U Mary jurisdictional issue (Cary)
 - Country Creek Third Addition – Runnel Road Meeting Summary – Request from County Engineer (Michael)
 - Art Goldhammer - Reddoor Homes – SWMP Violation and Letter (Handout)
 - Prairie Wood Subdivision – South of Lincoln
 - 5600 Prairie Wood Drive – Thomas Murphy, Lincoln 23-31
 - Justin Berger – Prairie Wood Drive 32-33
 - Brad Steier – Shoal Drive 34-35
 - 8736 Mirage Place (Cary will provide Ms. Ell with a complaint form) 36
 - 3421 Bottom Road, it is Lot 1 Block 4, High Plains Country Estates. 37
8. Missouri River Flood Hazard Mitigation Studies (Michael)
 - Missouri River Correctional Center FHMP #23 – Next Steps
 - Sibley Area FHMP #26, #27 & #30 – no update
 - Sandy River Drive – Public Informational Meeting May 29th (WRD/County)
9. Comments and Discussion from Public
10. Break
11. Fox Island Flood Control Project (FM #19 & #21) (Michael)
 - Riverside Residents – Draft Easement Provided
 - Alignment levee survey – Floodway Staking
 - Township Roadway Cost Share Option – Alternative Impacts and Costs Memorandum (Handout)

12. Hogue Island Flood Control Project (FM #39)	
• Letter to SWC dated 6-12-13 request for reimbursement.....	38-39
• Funds received.....	40-42
• Property Acquisition Status – Purchase Agreements and Closings (Dave)	
○ Bernard.....	43-64
○ Boll.....	65-89
○ Magnus.....	90-116
○ Rodgers.....	117-134
• Liability Insurance (Dave).....	135-137
• Security fence and signage quotes and award (Michael).....	138-143
• Plans and advertising for cleanup (under \$100,000 – 2 weeks).....	144-157
• Bank Stabilization update	
• Levee Project Development (on hold)	
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• SWC Cost Share Request – Approved awaiting agreement (Fall Construction?).....	158
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14. Sunny View Flood Control Project (Michael)	
• Richter Meeting Summary – June 26 th	
15. Apple Valley Cooperative Lagoon Project (Travis) – Contract Extension	173
16. Missouri River Snagging and Clearing (Michael – Larry Kramka)	
• Field review completed – Memorandum	174-180
17. Other Old Business	
• Houston Engineering – EJCDC Contract (Ken/Dave/Gordon)	
• Records Retention Policy update – (Pending - Records Review)	
• Apple Creek Industrial Park – Flood Control Levee (Update – Budget – Direction to Landowners).....	181-190
• South 12 th Street Watershed – Stormwater Removal Alternatives update on meeting with Keith Demke (Michael)	
• Paperless Initiative – tablets (tabled from last meeting)	191-198
18. New Business	
• Security Pledge for American Bank Center	199-203
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19. Correspondence or Document Information	
• Hay Creek Commercial site email.....	207-209
• Terry Heck Dump correspondence.....	210-220
• ASDSO Dam Owner & Operator Webinar.....	221-222
• SFN-51695 Rink Dike permit.....	223-228
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• City Final Plats – emailed	
○ High Meadows 12 th Addition	
○ Meadowlark Commercial 7 th Addition	
○ Wagners First Addition	
• City Recorded Final Plat	
○ England Acres	
• City Preliminary Plats – emailed	
○ Pinehurst 9 th Addition	
○ Fazekas Subdivision	
○ Trillium 4 th Addition	

- Annexations/Street Names – emailed
 - United Tribes Technical College Addition
 - Koosman Addition (Revised Annexation)
 - Basalt Loop to Basalt Drive (Street Name Change)
- Storm Water Management Plans- Preliminary, Revised & Final– emailed
 - Wagners First Addition
 - Fazekas Subdivision
 - Alexander Addition
 - Oakland Subdivision
 - University of Mary Subdivision

20. Detailed Bills.....255

21. Next Meeting: August 13, 2013

22. Adjourn

Note: Bold Items Require Board Action



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Present: Chairman Fleck, Kathleen Jones, Gordon Weixel, Cary Backstrand, Commissioner Doug Schonert, Burleigh County Commissioner; Dave Bliss, Bliss & Stebbins Law Firm; Michael Gunsch, Houston Engineering, Inc.; and Mona Livdahl, Personalized Management Services, Inc.

Absent: Ken Royse

Chairman Fleck called the meeting to order at 8:03 a.m. noting Ken Royse is absent, a quorum was present.

Minutes: Kathleen moved to approve the minutes from the May 14th meeting, Cary seconded.
Motion Carried.

Financials: A copy of the financials was provided as a hand out. Discussion was held regarding the general engineering budget noting that we are close to going over the budgeted amount for this item. Michael noted that a lot of the activity and costs are related to the drainage complaints, as well as the Emery's issue which is approximately \$5,000 to \$6,000, noting the Board is likely to be over budget in this area due to this and other issues relating to these complaints.

Bills: A revised copy of the bills was handed out. Cary moved to approve the bills as revised in the amount of \$46,037.91. Kathleen seconded. Motion carried

McDowell Dam Recreation:

Update on Building Project: Gordon noted he was out yesterday to look at the new shed, and the rain seemed to have slowed things down. Gordon also met with the NRCS staff and they have some things they would like done related to maintenance of the dam. They will be sending out a report - Gordon will make sure Forrest and Mona get a copy.

McDowell Dam Expenses: No report was given this month as their financial person was out of the office. Forrest noted they finally started receiving building supplies at the end of last week and they are actively trying to get the building complete.

Water Permit: Gordon and Cary met with Todd Sando, State Engineer and Bruce Engelhardt at the SWC to express our dissatisfaction on this issue. Cary noted they asked them to take a look at it to either make a decision or find out why it is being delayed. Noted at this time it has been brought to the attention of the State Engineer.

Land Lease Renewal: Will be sent in July to the Finder.



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NRCS Dam Watch: Michael noted he would like Board consensus to send the information requested by the NRCS, which is mainly contact information for their database. Cary asked if there is a cost for this, Michael noted there is no cost to BCWRD.

Drainage Complaints:

Eldin Spier: Cary updated noting he looked at it and asked Michael if we are still waiting on the letter from the City. Cary felt that the water could be diverted from the problem site. Michael noted he received correspondence from Mel, who was unable to attend today's meeting. The UTTC is in the process of reviewing their entire Land Use Master Plan and updating the Stormwater management plan for the area, and they are aware of the situation. Mel and Michael discussed pumping alternatives to possibly take care of the situation.

Mark Swenson: Cary was out to visit the area and made contact with the NDDOT (Department of Transportation), but was not able to meet with them as yet. Cary he will visit with the DOT to see what can or can't be done, from their perspective. Questioned jurisdictional issue, Cary noted he was looking into it, however at this time he is trying to talk with them to see the downstream impacts or plans for detention, and trying to be proactive on this issue. Michael noted they looked at the information noting Mr. Swenson was concerned that there was only a stormwater permit submitted and not a plan, but the permit does contain much of the information that a plan would normally have. Michael noted some information is unclear and there appear to be inconsistencies and he will discuss this with Mel. Cary noted we don't know the jurisdictional issue as no formal complaint has been filed and no damage done, the jurisdiction at this time is that the residents of Burleigh County asking us to look at it, so it is more a courtesy to the constituents.

Country Creek 3rd - Runnel Road: Michael reviewed providing a background noting this area has been a problem since development was started. Due to flooding concerns, the developer elected to build a channel in 2009 or 2010, which was designated as a storm water easement. There appears to be a need to deepen the channel and lower township roadway culverts to hopefully alleviate the following problems. The Board questioned who would pay for this? Michael noted the Board likely will need to go back to the residents to have them file a formal complaint. Currently there are about 8 to 10 residents involved. Marcus Hall, Burleigh County Engineer, noted the developer is applying for another plat for two subdivisions upstream and he has recommended not approving it until the mess from the prior development is resolved. Marcus noted the first step is to assist in facilitating a meeting with the developer, City Engineer, BCWRD and other interested parties. Marcus noted we need to go on record noting the issues with this plat. Consensus was to first facilitate the meeting, Michael noted with consensus he can refine the plan and profile drawing to provide a possible solution to this issue. Ray Ziegler noted that typically they do issue certificate of occupancy prior to landscaping, however some of the issues are due to the landscaping and questioned if possibly with these highly sensitive



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areas, he should hold off until the landscaping or grading is done. Consensus of the Board is to have Michael coordinate with Marcus to get a meeting set up.

Thomas Murphy: Michael reviewed noting that he will need to contact Mr. Murphy to verify where the area of concern is at. Cary and Michael will review however we will ask him to fill out a formal complaint. Mona will provide the complaint form for Mr. Murphy.

8736 Mirage Drive: Michael noted that he has reviewed the aerial photos and the house built to the west of this area basically in filled the natural channels. Sherry Ell is the complainant – no formal complaint form was filed, however a letter was received from Ms. Ell. Cary will visit with Ms. Ell and provide the complaint form.

Emery Koppang: Michael and Cary visited with Chris Koppang and he has agreed to allow the relocated watercourse to be placed on his property as originally designated in the order. Cary felt that at this time the only way we will be able to accomplish this is to hire a contractor to go out and do the actual work and assess it to the Emery's property. Chairman Fleck questioned the legality and going after for payment for the Board's engineering costs. Dave noted by statute posted July 1, we should be able to bill for engineering costs, not unlike what the Board has done in the past. Dave reviewed the letter sent May 30th to the Emery's regarding the cost of preparation and filing of the appeal of the Board's Order. The law states that the appellant (Emery) needs to pay the costs for the preparation and filing of the record, once they have paid this amount, we can then bring a motion to dismiss. Discussed how long we have to hold off on them paying the filing costs and if we are able to move forward. Cary noted the order has been issued and at this time we need to get this taken care of. Discussed the letter and the prior request that we asked both parties to sign an agreement and questioned the purpose of the Emery's signing. Michael noted that the purpose for both parties signing was to set up an easement between the two parties that this is the watercourse. The Board discussed the alternative plan; that the Emery's provided from H&H Landscaping. Cary noted that we asked them to provide engineering background on that plan and they have not done so. **Cary moved to execute the order that we proposed and have Michael get a bid from some contractors and Dave Bliss send a letter letting them know what we will be doing. Kathleen seconded.** Dave noted that if the Board has a contractor out and the Emery's call the Sheriff's Department, the first question the Sheriff's Department will ask is "is there an order" - noted once we provided documentation to the sheriff's office it is complete. **A roll call vote was taken:**

Gordon: Aye

Cary: Aye

Kathleen: Aye

Ken: Absent

Chairman Fleck: Aye



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Motion Carried. Michael noted as point of order that he and Dave will work together to have the letter sent letting them know what the BCWRD Board is doing and that costs will be assessed.

Missouri River Flood Hazard Mitigation Studies:

MRCC: Michael has been in contact with Dave Krabbenhoft with the MRCC. Craig Odenbach, HEI and Michael will start putting together information for the next public informational meeting and the projected assessments. The monies they were allocated through the legislature included obtaining State Water Commission cost share. Public information meeting will be held as to the assessments, and will then go to the SWC for cost share and then to a vote.

Sibley Area: On hold for now, some background work has been done.

Sandy River Drive: Public Information meeting was on held on the 29th. Kathleen noted a small number of residents attended, but it was a positive meeting. Michael noted they are moving forward with analyzing the emergence control options. Michael noted another meeting is needed between Kathleen and Dave Pierce to discuss the analysis that was completed. The City is looking at the Ash and Ward Coulee Watersheds, which will impact this area.

Comments and Discussion from the Public: No one commented.

Break: 9:25 a.m. reconvened at 9:40 a.m.

Fox Island Flood Control Project

Riverside Residents: Michael reviewed noting that a draft easement was provided to Riverside residents, but he has not heard back from anyone as yet. Stakes were set in the field for the floodway and additional topography obtained, which will be used to update numbers and costs. Michael will also set up a meeting with Marcus to pursue the township cost share opportunities.

Hogue Island Flood Control Project:

Michael reviewed from a project development standpoint noting they are in the process of developing a site cleanup plan which will coincide and follow the purchase of the property. With the Board's concurrence, HEI will advertise the cleanup plans which will remove the trees, sediment, etc. and will concur with the advertisement for the structures for sale. We have five (5) structures – three homes and two garages. A flyer for each structure will be sent out with the descriptions and appraisal information. The terms and conditions of the sale have been developed and reviewed by legal. Michael noted they will advertise in the Finder, Bis-Man online, as well as sending letters to local house movers as soon as all the homes have been closed on and owned by the Board. An open house will be scheduled for on one day and they will be giving until August 31st to move the structure or the earnest money of \$5,000 will be lost.



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The next step in the process is doing a request for cost share of 60/40 for the bank stabilization through the State Water Commission so bank stabilization can occur immediately after or as part of the plan. Michael noted we also need to set it up so that if they sell and don't remove the structure that the demolition would cover removal..

The three project components are site cleanup, removal, demolition. We will also need a key from Dr. Bernard for an asbestos abatement review as required for each residence. The structure in the river is covered 75%/25%, and there will need to be someone from the asbestos abatement on site through that process of removing the Magnus home. The estimated inspection cost is \$700 to \$800 per residence. Demolition and clean up is part of the 75%/25% reimbursement cost share. Michael noted that if we do sell a house, the State Water Commission will receive 75 percent of the profit.

Dave discussed the acquisitions. Noted we have purchase agreements signed by all. The Boll's is complete and paid, the BCWRD now owns the structure. Magnus' are on vacation until the 17th or 18th of June. It was noted we will need the money from the SWC before we close on the balance of the homes. Mr. Rodgers closing is tomorrow at 10:00 a.m. The Coles Law Firm will review the title commitment policy, related to the sovereign lands question; as they are not liable for litigation on sovereign lands. The Board needs to purchase the homes with notice that no title will be conveyed to any part of the premises that has become submerged by the waters of the Missouri River, a navigable waterway as such lands will be claimed by the State of North Dakota. **Kathleen moved to approve to purchase with notice on the litigation issue, Gordon seconded. Motion carried.** Mr. Rodgers will close at 10 a.m. tomorrow. Kathleen asked about moving the homes on River Road as it is narrow and may need trees trimmed. Michael noted the buyer is responsible for these issues and for coordinating with the proper individuals related to moving. Dave noted he has prepared a draft sales agreement. There was a question related to if the Board has insurance on the Boll's residence as well as the other residences as we purchase. Should have at least liability insurance as well as security fencing. Michael will handle the security fencing. The option of having a special meeting at the auction sale was discussed. The process will be to open this up for sealed bids; with the top 5 bidders are then able to bid in the room against each other. We can notice this as an open meeting and also call a special meeting by telephone conference, if required. The consensus was to have a special meeting at the close of the bidding process. **Kathleen moved to allow Michael to complete the cleanup plans and advertise for the sale. Cary seconded. Motion Carried.** Chairman Fleck thanked Michael and Dave for keeping the Board in the loop on this process.

Greg Wavra: Mr. Wavra attended and questioned the liability on the lots and keeping people off - noted the fence should help. The Board discussed getting the security fencing placed ASAP as well as installing signage. **Kathleen moved that we get signage and security fence in place as soon as possible. Gordon seconded. Motion Carried.**



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Burnt Creek Flood Control Project:

Michael reviewed noting we received a letter from the NRCS noting no funds are available at this time. A letter request for cost share was submitted to the State Water Commission.

Site visit: Discussed doing a doodle request setting up a site visit in June.

Bismarck Park District Easements: Have an inquiry to Randy Bina and they are willing to meet related to easements for project reconstruction.

Cattail Spraying: The request has been put in, no response has been received.

Sediment removal: 9,600 yards of material in the bottom of the channel need to be removed. Discussed putting this off at this time due to the cost, noting this is not a cost share item, it is maintenance issue and should be considered for budgeting next year.

Hay Creek Greenway & Sediment & Geomorphic Assessment:

Phase I Report: The report has been completed and sent to the North Dakota Department of Health, we are waiting on Health Department reimbursement.

Sunnyview Flood Control Project:

Meeting with the Richter's has been scheduled for the 26th of June. Noted their attorney is back in town, Michael will send him the letter.

Apple Valley Lagoon Project:

The contractor has requested an extension noted it is an issue due to the recent rains, Michael noted he would not recommend the requested extension at this time, however we could revisit as the timeline gets closer. The project timeline ends in June and would be extended to August.

Missouri River Snagging:

Meeting: Michael noted HEI is trying to coordinate an onsite meeting at this time. Chairman Fleck noted that he has opted out, at this time only one BCWRD rep will be attending. Michael will check with Ken and if he is unable to attend, he will let the rest of the Board know to see who is available.

Old Business

FEMA Meeting: Kathleen updated noted NFIP is broke and if you have flood insurance now and dropped it, you will need recertification. The new policies will be at market value, at actuarial costs.



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Rating System: Michael has been having conversations with Mary Senger, Emergency Manager, and noted that all the 2013 FEMA sessions are booked. They are now working to on going to the 2014 meetings. Michael, Mary, Ray Z and Craig will attend. Noted the FEMA is creating a waiting list.

County Commission Report update: Cary updated listing the synopsis of projects that BCWRD is working on and that he presented to the commissioners. This information is also posted on the BCWRD website.

NFIP: Same as FEMA meeting – covered earlier.

Houston Engineering: Provided the contract for Ken, Gordon and Dave's review. Dave has provided is comments.

Record Retention Policy: On hold.

Financial Accounting - status update: We are now writing checks out of the BCWRD account.

Apple Creek Industrial Park Flood Control Levee: Michael noted we now have the landowner list and are putting things together on costs to have it ready for the July meeting. A number of landowners are calling to see how they can help the process as they are concern. A budget was put together should cost approximately \$130,000 for the study. Noted we are likely going to have a bonding procedure to go forward for the constituents by the next meeting.

Apple Creek USGS Gage: Informational only, the gage has been funded by the USGS with assistance from the State Water Commission.

New Business:

South 12th Street Watershed: Michael reviewed the area and updated on the storm water issues within the watershed. At this time the information is being presented for Board awareness. Discussed possibly having a meeting with the residents letting them know that in order to create some type of a project, they would need to get the Water Resource District involved. Michael noted at this time the process would be to let Keith Demke know this Board's interest in facilitating a discussion. Chairman Fleck asked that we leave this on the agenda and bring it up in 2014. Consensus was to have Cary, Keith Demke and Michael meet on it at this time and keep the Board informed.



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Bruce Livingston request to put road in: Mr. Livingston had called and asked about putting road in, he was asked to submit information. No information was submitted – so no action needed.

Paperless initiative: Tabled until Ken is present. Mona will get costs of the tablets for all members.

Correspondence:

Plats & SWMP: Michael reviewed noting the only issue is Country Ridge 1st and 2nd additions and is comfortable with analysis provided however there are other downstream issues at this time.

Water Permits: Dave noted that Bob Shaver retired and thanked him for the safe guards put in place for senior appropriators on Apple Creek.

2013 Annual Briefing Meeting: Chairman Fleck reviewed noting that if you attend, reimbursement will be made by the WRD.

Other: Ray Ziegler was present to discuss Community Rating System and asked if any other info is needed from him. Ray also discussed the correspondence that has been taking place with Terry Heck's fill on Apple Creek as he had applied for a non-structural flood plain permit and will provide copies of the correspondence to the BCWRD for their information. Mr. Ziegler noted that more fill is being hauled in and they currently have a cease and desist order in place.

Next Meeting: July 9th

With no further business, the meeting adjourned at 10:55 a.m.

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: June 11, 2013

NAME - PLEASE PRINT	ADDRESS/COMPANY REPRESENTING
Forrest Ecklund	Bos Parker & Re
Greg Smith	BPRD
Greg Wavra	9710 Island Road Bismarck
David Tschider	



BURLEIGH COUNTY WATER RESOURCE DISTRICT MINUTES

Tuesday, June 26, 2013

HEI Office – Burnt Creek Project Inspection

Present: Chairman Fleck, Kathleen Jones, Gordon Weixel, Cary Backstrand, Michael Gunsch, Houston Engineering, Inc. **Absent:** Ken Royle

Chairman Fleck called the meeting to order at 8:04 a.m. with a quorum present. The meeting's purpose was to visit the Burnt Creek Flood Control Project to review flood related damaged areas and to discuss project maintenance issues. The following is a summary of the review and consensus determinations. There were no formal votes taken and discussion was very general and focused on project issues.

Floodway – Highway #1804 and west

Michael provided a brief project history discussing the floodway design features. Cattail and sediment removal were reviewed. Spraying for cattail control is an option; however it was noted removal of sediments in the floodway should be considered further as it is overdue. Any channel work should also include the previous plan to raise the southern levee to achieve two (2) foot freeboard on the 100-year event. By consensus Houston Engineering was directed to review the options and costs to include this work in the current flood damage restoration plans. The use of a federal project assessment district to pay for maintenance work is to be reconsidered to determine viability given recent legislative changes.

Flood Control Levee North Side of Oxbow

Bank line protection is required in this area, along with partial levee relocation into park land. While an easement is required for this work, it was the consensus that the Board request the Bismarck Park District to consider transferring lands they own south of the levee and within the oxbow to BCWRD. These properties would then be under the control and authority of the BCWRD as part of the flood control project.

It was also suggested that the existing fence locate on the levee be removed, given its deteriorated condition, and being owned by the BCWRD. The park district would be informed regarding options to install a new fence along the northern toe of the dike. It was noted that they was no formal program to maintain the levee, such as mowing and vegetation control.

North Levee – 100 Year flow protection into Hogue Island

The purpose for this small dike installation was reviewed. Its intent was to prevent the 100 flood from the Missouri River from entering the island from the north, and to limit backwater flows from the flood control project north into the Missouri. The existing culvert and gate have deteriorated and were damaged by the flood and will be replaced. The Board suggested a general cleanup of the area under its control should be completed, including removal of trees and debris. The new sluice gate would be manually controlled during the flood events.

The meeting adjourned at around 9:30 am, after returning to Houston Engineering's office.

Respectfully Submitted,

Michael H. Gunsch, PE, Houston Engineering

Burleigh County Water Resource District (BCWRD) Profit & Loss Budget vs. Actual January 1 through July 2, 2013

	Jan 1 - Jul 2, 13	Budget	\$ Over Budget	% of Budget
Income				
31110 · Real Estate Tax	565,546.51	583,100.00	-17,553.49	97.0%
31810 · In Lieu of Tax	3,715.04	3,200.00	515.04	116.1%
33610 · State Aid Distribution	17,002.82	72,300.00	-55,297.18	23.5%
33620 · Homestead Credit	0.00	4,400.00	-4,400.00	0.0%
33810 · Reimbursements	0.00	5,604,073.00	-5,604,073.00	0.0%
34220 · Operating Grants	8,505.00	9,000.00	-495.00	94.5%
36110 · Interest	4.52	1,000.00	-995.48	0.5%
36910 · Misc Revenue	0.00	6,000.00	-6,000.00	0.0%
Total Income	594,773.89	6,283,073.00	-5,688,299.11	9.5%
Expense				
111 · Payroll Expenses	8,235.00	30,000.00	-21,765.00	27.5%
112 · Temporary Services	3,581.31	7,000.00	-3,418.69	51.2%
211 · Fringe Benefits	782.43	2,000.00	-1,217.57	39.1%
312 · Legal Fees	20,966.79	25,000.00	-4,033.21	83.9%
315 · Engineering Administration	27,424.82	25,000.00	2,424.82	109.7%
328 · Insurance	263.25	900.00	-636.75	29.3%
335 · Building Rent	308.78	1,500.00	-1,191.22	20.6%
341 · Travel	17.00	1,500.00	-1,483.00	1.1%
376 · Dues & Publications	2,325.00	3,600.00	-1,275.00	64.6%
398 · County Services	4,451.00	7,402.00	-2,951.00	60.1%
411 · Office Supplies	702.09	2,000.00	-1,297.91	35.1%
904 · McDowell Dam	28,236.95	185,829.00	-157,592.05	15.2%
905 · McDowell Dam-Additional	0.00	25,000.00	-25,000.00	0.0%
910 · Shared Projects	785,500.59	45,000.00	740,500.59	1,745.6%
911 · Misc	0.00	2,000.00	-2,000.00	0.0%
920 · Continuing Education	175.00	1,000.00	-825.00	17.5%
932 · Master Planning	0.00	25,000.00	-25,000.00	0.0%
933 · Missouri River General Services	7,550.50	150,000.00	-142,449.50	5.0%
937 · Design/Special Assessment	34,936.31	5,854,879.00	-5,819,942.69	0.6%
940 · Burnt Creek Rehab	2,411.75	175,000.00	-172,588.25	1.4%
941 · Apple Creek Watershed	0.00	10,000.00	-10,000.00	0.0%
953 · Hay Creek	6,187.78	22,900.00	-16,712.22	27.0%
Total Expense	934,056.35	6,602,510.00	-5,668,453.65	14.1%
Net Income	-339,282.46	-319,437.00	-19,845.46	106.2%

Buy out →

BCWRD Invoices

7-9-13

Name	Project	Invoice	Amount	Code
Bismarck Parks and Rec	May	3304	\$11,519.80	904
Bliss & Stebbins Law Firm	Legal	13695	\$5,134.81	312
City of Bismarck	Building Expense - April	68	\$43.73	335
City of Bismarck	Building Expense - May	82	\$36.73	335
City of Bismarck	Rent - June	72	\$95.33	335
Houston Engineering	General	15951	\$3,416.75	315
Houston Engineering	Missouri River Flood Risk Mitigation	15952	\$6,932.12	910
Houston Engineering	Apple Valley Cooperative	15953	\$1,371.46	937
Houston Engineering	Apple Creek Industrial Park	15956	\$1,313.75	937
Houston Engineering	Sandy River Drive	15954	\$4,967.00	933
Houston Engineering	Hogue Island	15955	\$14,985.50	937
Houston Engineering	Hogue Island (balance on June Inv.)	15603	\$3,141.00	910
Brady Martz	Accounting assistance	487672	\$1,253.50	398
Personalized Management Svs.	June Secretarial services	5193	\$643.75	112
Personalized Management Svs.	June Treasurer services	5193	\$150.00	398
Personalized Management Svs.	suplies	5193	\$256.53	411
Coles Law Firm	Title Opinion		\$1,450.00	910
Workforce Safety & Ins.	Premium		\$263.25	211
Fleck, Terry	2nd Quarter	2nd	\$4,522.00	111
Royse, Ken	2nd Quarter	2nd	\$395.00	111
Backstrand, Cary	2nd Quarter	2nd	\$1,620.00	111
Jones, Kathleen	2nd Quarter	2nd	\$855.00	111
Weixel, Gordon	2nd Quarter	2nd	\$1,215.00	111
		TOTAL:	\$65,582.01	

**Bismarck Parks Recreation
2013 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	\$ 3,201.09	\$ 318.36	\$ 1,277.94	\$ 766.24	\$ 5,563.63	\$ 1,390.91	\$ 6,954.54	3203
February	\$ 2,600.90	\$ 1,065.60	\$ 1,277.94	\$ 1,830.53	\$ 6,774.97	\$ 1,693.74	\$ 8,468.71	3220
March	\$ 2,943.90	\$ 296.68	\$ 1,277.94	\$ 838.20	\$ 5,356.72	\$ 1,339.18	\$ 6,695.90	3239
April	\$ 2,600.90	\$ 262.69	\$ 1,277.94	\$ 752.71	\$ 4,894.24	\$ 1,223.56	\$ 6,117.80	3268
May	\$ 6,050.10	\$ 606.97	\$ 1,413.19	\$ 1,145.58	\$ 9,215.84	\$ 2,303.96	\$ 11,519.80	3304
June				\$ -	\$ -	\$ -	\$ -	
July				\$ -	\$ -	\$ -	\$ -	
August				\$ -	\$ -	\$ -	\$ -	
September				\$ -	\$ -	\$ -	\$ -	
October				\$ -	\$ -	\$ -	\$ -	
November				\$ -	\$ -	\$ -	\$ -	
December				\$ -	\$ -	\$ -	\$ -	
Total	\$ 17,396.89	\$ 2,550.30	\$ 6,524.95	\$ 5,333.26	\$ 31,805.40	\$ 7,951.35	\$ 39,756.75	To Date

Capital Improvements: 2013 Budget: \$ 185,829.00
Over/Under Budget: \$ (146,072.25)

United States Department of Agriculture



Natural Resources Conservation Service
916 East Interstate Avenue, Suite 6
Bismarck, ND 58503-0548
(701) 250-4518, Ext. 3

Subject: PDM-O&M Inspection
McDowell Dam

May 24, 2013

To: Stuart Blotter
Assistant State Conservationist (FO)

File Code: 120-12-11-11

Inspection Team: Rhonda M. Nelson NRCS, Wendy Thomson NRCS, Gordon Weixel, BCWRD, Forest Ecklund McDowell Dam Staff. The inspection was completed on 5/17/2013. Weixel stated that the BCWRD is still talking about getting a water permit from the state water commission to pump water out of Apple Creek into McDowell Dam due to the size of the watershed. This has been discussed for the last few years.

A. Inspection of Structural Measures:

All four toe drains were flowing at time of inspection. A listing of the combined flow rates and reservoir elevation from 1979 to 2013 are as follows:

Date	Flow	Reservoir Elev.	Date	Flow	Reservoir Elev.
5/13	17.8	1721.6	6/95	36.0	1724.7
7/12	22.2	1721.1	5/94	33.0	1724.7
5/11	29.8	1721.5	6/93	22.0	1710.7
5/10	26.3	1724.0	7/92	24.0	1707.5
2/09*	35.0	1724.0	7/91	26.0	1710.8
5/08	22.5	1716.9	7/90	27.0	1713.4
6/07	21.5	1719.9	6/89	33.0	1716.9
7/06	25.0	1715.9	7/88	41.0	1720.0
8/05	31.0	1718.0	6/87	46.0	1724.7
6/04	31.5	1719.7	6/86	41.0	1724.3
7/03	28.5	1721.5	7/85	41.0	1720.2
8/02	24.7	1722.8	4/84	48.0	1722.6
7/01	34.5	1724.7	4/83	53.0	1724.2
7/00	33.0	1724.7	3/82	62.0	1724.6
6/99	33.0	1724.7	1/81	53.0	1715.6
6/98	35.0	1722.0	4/80	60.0	1718.0
6/97	32.0	1724.7	7/79	104.0	1721.3
7/96	41.0	1724.7			

The Natural Resources Conservation Service provides leadership in a partnership effort to help people conserve, maintain, and improve our natural resources and environment.

An Equal Opportunity Provider and Employer

15

United States Department of Agriculture

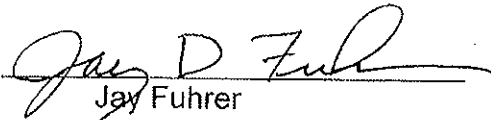


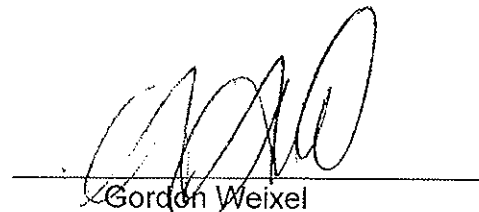
Natural Resources Conservation Service
916 East Interstate Avenue, Suite 6
Bismarck, ND 58503-0548
(701) 250-4518, Ext. 3

*Data taken by ND Water Commission

B: Maintenance required (recommendations):

- Item 1. Continue to monitor toe drains.
- Item 2. Clip/Mow wormwood plants on top of Dam and back side slope.
- Item 3. Remove smaller tree seedlings on the face of the Dam.
- Item 4. Continue to monitor for gophers.


Jay Fuhrer
District Conservationist


Gordon Weixel
Burleigh County Water
Resource District

Attachments

Cc: BCWRD
Forrest Ecklund, McDowell Dam
Erica Althoff, NRCS Jamestown

The Natural Resources Conservation Service provides leadership in a partnership effort to help people conserve, maintain, and improve our natural resources and environment.

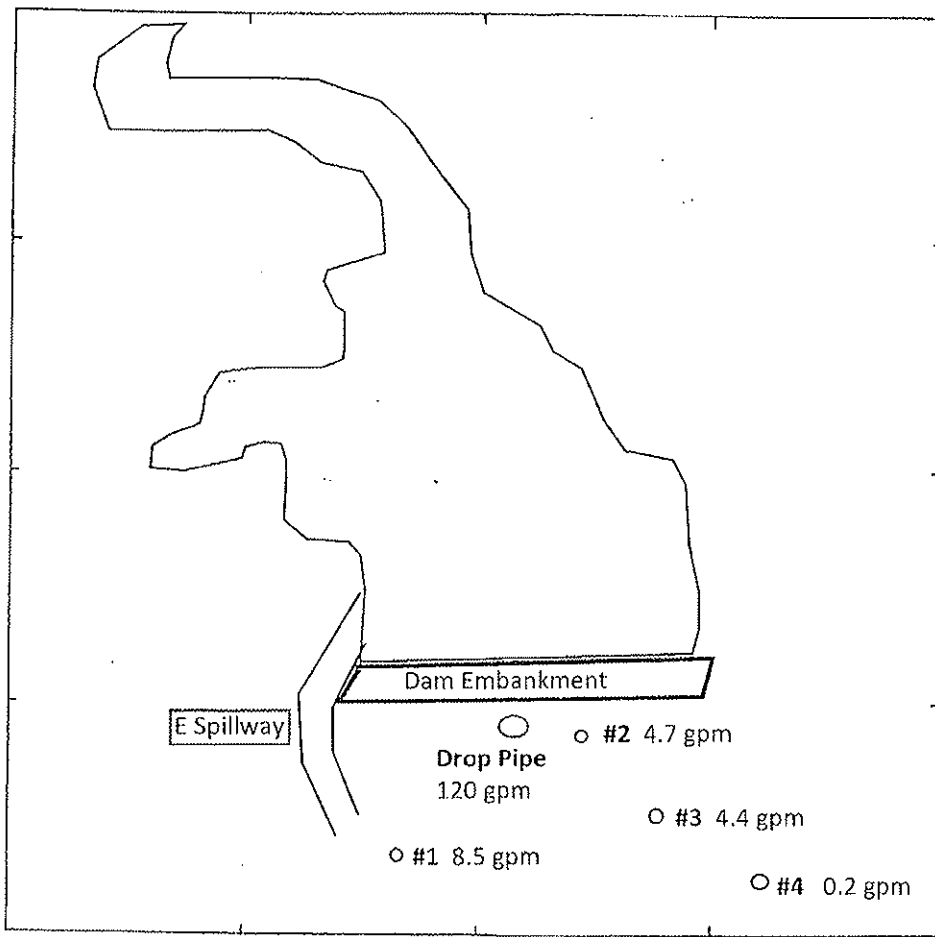
An Equal Opportunity Provider and Employer

LOCATION MAP

Owner : McDowell Dam

Operator : Burleigh County Water Resource Board

Address : 1811 East Thayer Ave, Bismarck ND 58501



Location
(Show Section Township and Range)

NOTES :

Toe drain flow rates combined flow = 17.8 gpm

Completed by PN/WT Reviewed by _____
Date 5/17/13 Date _____

INSPECTION REPORT - CHANNELS

Date: 5/17/2013

Location Burleigh County Section 27 Township 139 Range 79

Watershed (If applicable) _____

Inspection Team
 1 Rhonda Nelson 2 Wendy Thomson
 3 Forest Ecklund 4 Gordon Weixel
 5 _____ 6 _____

Project Channels - Review Subparts D & F of National O&M Manual before inspection.
 Non-project Channels - Review Subparts C & F of National O&M Manual before inspection.

ITEM	CHANNEL NAME OR NUMBER						
Sedimentation	NP						
Degradation	NP						
Channel Bank Stability	NP						
Riprap	NP						
Vegetation	NP						
Concrete Structures	NP						
Joints	NP						
Cracks	NP						
C.M. Pipe Structures	NA						
Corrosion	NA						
Rilling	NA						
Cathodic Protection	NA						
Dikes	NP						
Obstructions	NP						
Trees	1						
Brush	NP						
Debris	NP						
Field Dikes	NP						
Farming Operation	NA						
Bike Trails	NA						
Other (List)	3						
1.							
2.							

NA - Not Applicable NP - No Problem (1) - See Remarks, refer to remark by appropriate number

REMARKS
 (1) Remove tree seedlings from face of Dam. (2) Clip or Mow wormwood on the Top & Backside of Dam.
 (3) monitor gophers.



Burleigh County Water Resource District

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

CERTIFIED MAIL

July 2, 2013

Dan Emery
7245 Russell Road
Bismarck, ND 58505

RE: Complaint of Unauthorized Drainage

Dear Mr. Emery:

The Burleigh County Water Resource District (BCWRD) ordered the removal of the obstruction to a watercourse identified on your property in an order dated January 10, 2013 in accordance with ND Century Code Section 61-16.1-51. You were ordered to remove the obstruction by May 1, 2013. The order clearly specified that if the work was not completed by May 1, 2013, the BCWRD would procure the services necessary to remedy the situation, and the costs incurred in doing so would be assessed against your property.

Because the May 1 deadline has passed, and the obstruction has not been removed, the BCWRD is preparing to construct the required remedy. Because the house constitutes the actual obstruction in this instance, the Board shall construct an alternate channel for the water rather than removing the house. Chris Koppang has indicated his willingness to allow the construction of an alternate conveyance across his property, in the location previously agreed to.

We intend to procure the services of a contractor to construct the channel as proposed. We will then assess the cost of that construction, along with the costs incurred in addressing this complaint, against your property.

Sincerely,

A handwritten signature in black ink, appearing to read "Terry A. Fleck".

Terry Fleck, Chairman
Burleigh County Water Resource District

C: David Bliss, Bliss & Stebbins
Michael Gunsch, HEI

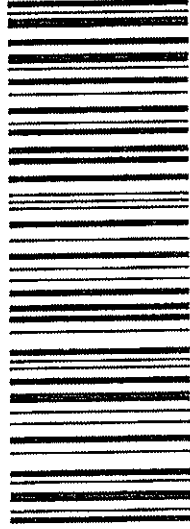
Current Board Members:

Terry Fleck, Vice Chair, Bismarck 223-9768 Cary Backstrand, Vice Chairman, Bismarck 471-9134 Ken Royse, Treasurer, Bismarck 258-1110
Kathleen Jones, Manager, Bismarck 258-1477 Gordon Weixel, Manager, Bismarck 258-5390

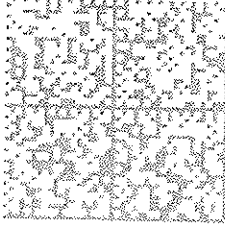
A small, stylized logo or mark in the bottom right corner of the page, possibly a recycling symbol or a similar emblem.

Burleigh County Water Resource District
City / County Office Bldg.
221 North 5th Street
Bismarck, ND 58501-0428

CERTIFIED MAIL



7011 2970 0003 3833 3107



US POSTAGE

\$ 06.11

First-Class

Mailed From 58503

07/02/2013

032A 0061804847

Dan Emery
7245 Russell Road
Bismarck, ND 58505





COMPLETE THIS SECTION ON DELIVERY

A. Signature Agent
 Addressee

B. Received by (Printed Name) C. Date of Delivery

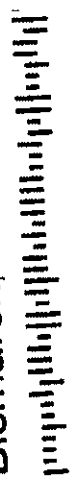
D. Is delivery address different from item 1? Yes
 If YES, enter delivery address below: No

SENDER: COMPLETE THIS SECTION

1. Article Addressed to:

2. Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
 Print your name and address on the reverse so that we can return the card to you.
 Attach this card to the back of the mailpiece, or on the front if space permits.

Dan Emery
7245 Russell Road
Bismarck, ND 58505



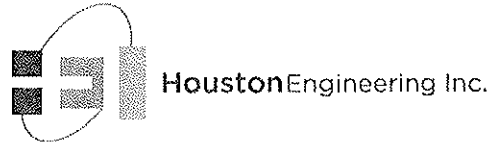
3. Service Type
 Certified Mail Express Mail
 Registered Return Receipt for Merchandise
 Insured Mail C.O.D.

4. Restricted Delivery? (Extra Fee) Yes

2. Article Number **7011 2970 0003 3833 3107**
 (Transfer from service)

DE Form 3811 Extension 2004 Domestic Return Receipt 40950E 09 14 4240

Drainage Complaint



Emery/Koppang Cost Summary

**To: Terry Fleck, Chairman
Burleigh County WRD**

**From: Craig Odenbach, P.E.
Michael Gunsch, P.E.**

Date: July 3, 2013

**Subject: Emery/Koppang Complaint
Engineering Services & Charges**

As part of reaching a conclusion to the drainage complaint filed by Chris Koppang against Dan and Trish Emery and the resulting enforcement action, we have reviewed our records to determine the cost to date for services provided by Houston Engineering to the Burleigh County Water Resource District in this matter.

We have determined that a total of \$7,574.50 has been invoiced to the Burleigh County Water Resource District for services provided in dealing with this complaint. These costs were incurred from March 21, 2012 through April 27, 2013, and included surveying, site visits, technical review, and preparation of all the required orders and pertinent correspondence. The Burleigh County Water Resource District has the option of seeking the recovery of these costs, along with the costs of constructing the required remedy.

If necessary, an itemized summarization of the costs incurred to date can be provided. Understand as well that additional costs have and will continue to accrue as the enforcement of the Board's order is carried forward to implementation.

STATE OF NORTH DAKOTA
COUNTY OF BURLEIGH

IN DISTRICT COURT
SOUTH CENTRAL JUDICIAL DISTRICT

Daniel Owen Emery)
)
 Plaintiff,)
)
 vs.)
)
 Burleigh County Water Resource)
 District)
)
 Defendant.)

ASSIGNMENT OF JUDGE

CASE NO. 08-2013-CV-00604

INTERESTED PARTIES:

Defendant

Burleigh County Water Resource
District

Plaintiff

Daniel Owen Emery

Defendant Attorney:

David Rodger Bliss ✓

Plaintiff Attorney:

Daniel Owen Emery; Trisha Ann Emery ✓

IV-D Attorney:

A request for Reassignment has been filed with the Office of the Presiding Judge, South Central Judicial District, by the Hon. **Thomas J. Schneider**.

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

X Pursuant to AR-2 the Hon. **Sonna Anderson** is assigned to act in this case.

Dated this 19th day of June, 2013.

BY THE COURT:
Gail Hagerty, Presiding Judge
BY: Barb Carter *BC*

18

DRAINAGE COMPLAINT
(Pursuant to Section 61-32-07 NDCC)

1. Burleigh Co. Water Resource District

2. Drain Location: _____ 1/4, _____ 1/4, Section _____, Twp. _____ N., Rge _____ W.
Note: Include an aerial or topographical map that shows the exact location of the drainage activity.

See attached map.

3. Acreage drained: 10-13 Original drain construction date: 1999 ~ 2002

Drain revision date: N/A (if any)

Drain was constructed by: ? Enterprises LLC (developer), Swenson Hagen (Engineer)
Requested plans still waiting.

Method of drainage: (circle one) Ditching Pumping Filling

Receiving water course, if known: closed basin w/o retention. Possibly Apple Creek.

4. This drain is resulting in:

a) Flooding of land owned by Complainant: Thomas J Murphy

b) Other adverse effects: Localized high water table causing basement damage.

... See attached doc. describing problem.

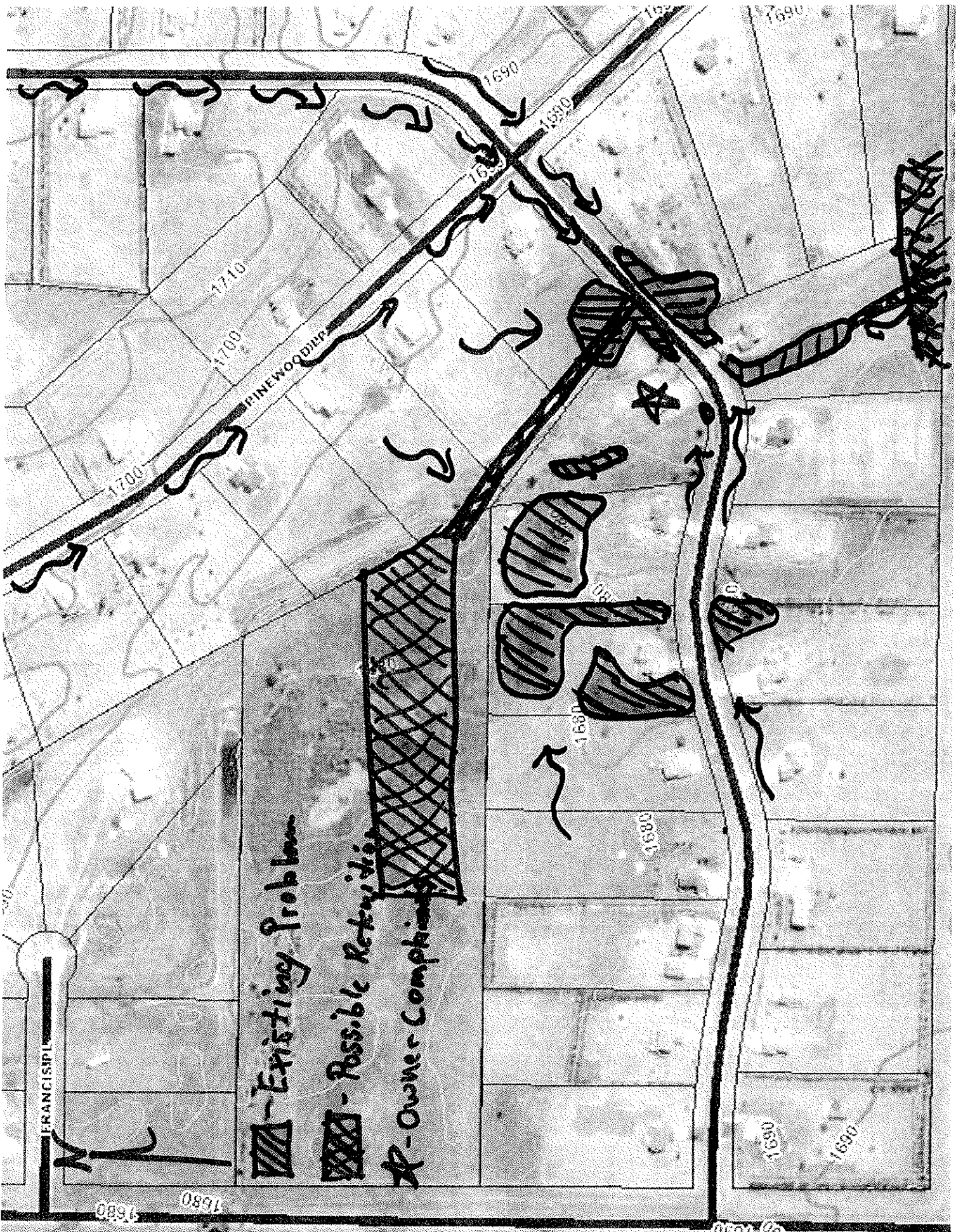
Complaint Filed Against: Name: Co., Developer, Eng, Contractor?
Address: _____

Complaint Filed By: Name: Thomas J Murphy
Address: 5600 Prairiewood dr.
Bismarck, ND 58504
Phone: 701-412-1998

Complainant's Signature: *T Murphy* Date: 6/13/13

Mail to: Water Resource District in which the drain is located.

13



FRANCIS PL

Existing Problem

Possible Retention

Owner Compliance



1680

1680

1690

1690

1710

1700

1700

1690

1690

1690

1680

1680

PINEWOOD DR.

From: tjmurphy@nd.gov [<mailto:tjmurphy@nd.gov>]
Sent: Wednesday, May 29, 2013 12:03 PM
To: mona@midco.net
Subject: BCWRD Contact Us Form

First Name Thomas
Last Name Murphy
Address 5600 Prairiewood dr.
City Bismarck
State North Dakota
Zip Code 58504
Email tjmurphy@nd.gov

Hello,

I am contacting you in regards to a recurring drainage issue in the prairiewood development south of Lincoln. I have experienced water retention and improper drainage grades. I am the owner of 5600 prairiewood dr. and have suffered basement flooding. I have contacted the developer (Chad Wachter) and have received no corrective action. I also have talked with the city and have received no corrective action.

Comments
Upon researching and looking into old aerial photos all of these lots appear to be built over some form of previous drainage system installed to hold the run off.

I am frustrated and confused on how this development was constructed-approved with such little oversight in the past and now our community has to deal with this. I merely am looking for any form of governmental agency to address this.

Again this is not merely a problem of a heavy winter or excessive moisture both could adequately be addressed. Water retention and drainage improvements should have been in place in the stamped design plans that were approved when the development was approved.

It appears the land to the north is unused- undeveloped and I believe it is owned by our developer and would be a good location for a future development.

for waterfowl and other wildlife.

If you doubt my testimony I encourage you to take a field trip out to Prairiewood dr. and see it in person.

I look forward to hearing from you and will be happy to provide you with more information or pictures.

Thank you for your time.

Sincerely,

Thomas J Murphy
5600 Prairiewood dr
Bismarck, ND 58504

Mona Livdahl

From: Michael Gunsch [mgunsch@houstoneng.com]
Sent: Thursday, June 13, 2013 4:38 PM
To: 'Murphy, Thomas J.'; Mona Livdahl
Cc: Cary Backstrand
Subject: RE: BCWRD Contact Us Form

TJ – we have a considerable amount of information on this area already.

I will send out what we have as background, unfortunately next week as today is near done and I am out tomorrow.

Then we can visit on the issue with everyone better informed, as do not believe Cary was part of the previous discussions.

Thanks,

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

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From: Murphy, Thomas J. [mailto:tjmurphy@nd.gov]
Sent: Thursday, June 13, 2013 4:15 PM
To: Mona Livdahl
Cc: Michael Gunsch; Cary Backstrand
Subject: RE: BCWRD Contact Us Form

Mona,

Thanks you for discussing my complaint in my absence. I was unable to attend because of a busy work schedule. I have attached Michael Gunsch and Cary Backstrand.

Again thank you all for your time.

Sincerely

Mona Livdahl

From: Michael Gunsch [mgunsch@houstoneng.com]
Sent: Wednesday, June 26, 2013 10:08 PM
To: 'Murphy, Thomas J.'; Brad Krogstad
Cc: Cary Backstrand; Fleck Terry (tfleck@attitudedr.com); David Bliss (dbliss@blisslaw.com); 'Mona Livdahl'
Subject: RE: BCWRD Contact Us Form

Brad and Thomas:

Unsure why the storage was not constructed as proposed, nor can I confirm what if anything was done at the time, however en BCWRD.

Unfortunately at the time this area was platted it was not uncommon for developers not to fully implement a SWMP, as oversight under the purview of the roadway authority (township), which was most likely the county engineer. As for the detention area implementation of this feature. Per the ordinance this appears to fall upon the City of Lincoln.

Unsure if deepening or creating new detention areas would resolve this flooding issue, though it has merit for consideration. A of compliance with the SWMP. The work that Thomas noted was completed might have been done by the developer in response.

As for the FAA regulations, they were not an issue during the first SWMP and arose later. As I recall the FAA question was raised and zoning and approval of the SWMP by the City of Lincoln. It may have been related to the fact this area was already a natural.

As for the proposed storage areas this remains a compliance issue with the SWMP under the purview of the City. Also unsure h improvements.

The BCWRD will discuss this complaint at their next meeting.

Michael Gunsch
Principal / Project Manager
Houston Engineering, Inc.
3712 Lockport St, Bismarck, ND 58102
☎ 701.323.0200 | ☎ 701.323.0300
www.houstoneng.com

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From: Murphy, Thomas J. [mailto:tjmurphy@nd.gov]
Sent: Monday, June 24, 2013 6:48 PM

To: Brad Krogstad; Michael Gunsch
Cc: Cary Backstrand; Fleck Terry (tfleck@attitudedr.com)
Subject: RE: BCWRD Contact Us Form

Michael,

I have attached some photo's from last nights rain event to show the impacts of run off from the Prairiewood loop. Our rain gauge showed 1" the second(IMG_6559) is in the morning after the total 2" of rain. I also spoke with city of Lincoln engineer and he informed me of the initial drainage complaint. The contractor who completed this action was not directed to do so by the city; upon completing the work the north right along an existing wetland.

In regards to the regulation stated earlier in this thread.

"There is one regulation, however, that may limit what can be completed in this area. The FAA's guidance regarding hazardous *Hazardous Wildlife Attractants on or near Airports* as well as the *Bismarck Municipal Airport Wildlife Hazard Management Plan*. Air Operations Area is not allowed. While there is the ability to store natural runoff opening the surface to expose groundwater

If this regulation is a limiting factor how did the Beulah Meadows Subdivision construct its retention?
I would also propose a similar retention along the western ditch of the abandon Soo RR line. I believe the proper relief is available for the issues existing. This land is relatively unused by the current occupants and appears to have a existing drainage easement. I would like to purchase and construct a retention along western side of the Soo RR Line along lots 11-13.

I look forward to any feedback and am willing to help in anyway I can.

Sincerely

TJ Murphy
5600 Prairiewood dr
Bismarck, ND 58504

From: Brad Krogstad [brad.krogstad@kljeng.com]
Sent: Monday, June 24, 2013 6:06 PM
To: Michael Gunsch; Murphy, Thomas J.
Cc: Cary Backstrand; Fleck Terry (tfleck@attitudedr.com)
Subject: RE: BCWRD Contact Us Form

Michael,

The City of Lincoln is uncertain as to why the retention area was never constructed as originally designed in your 1999 SWMP but we will look into it for the future. The work should be done by a licensed contractor and shall meet all applicable regulations.

Thanks,

Brad Krogstad PE
KLJ - Bismarck
701-355-8437

From: Michael Gunsch [<mailto:mgunsch@houstoneng.com>]
Sent: Saturday, June 15, 2013 2:36 PM
To: 'Murphy, Thomas J.'
Cc: Brad Krogstad; Cary Backstrand; Fleck Terry (tfleck@attitudedr.com)
Subject: RE: BCWRD Contact Us Form

Tom:

Thank you for completing and filing the drainage complaint and providing the related information.

This area was the subject of a previous complaint on drainage problems. See attached SWMP for this subdivision, and previous

As noted at the end of the BCWRD letter the jurisdictional authority related to compliance with the completed Storm Water Management Plan. Subsequently, I am including Brad Krogstad (KLJ), Lincoln City Engineer on this email. The rise in groundwater conditions has been a situation that might not be abated by some action to move storage to the retention area defined in the original SMWP.

There is one regulation, however, that may limit what can be completed in this area. The FAA's guidance regarding hazardous waste storage, *Hazardous Wildlife Attractants on or near Airports* as well as the *Bismarck Municipal Airport Wildlife Hazard Management Plan*. Storage of hazardous waste in the Air Operations Area is not allowed. While there is the ability to store natural runoff opening the surface to expose groundwater

Cary Backstrand and I have not had the opportunity to visit more about this, however in the near term you should contact the City of Lincoln on the complaint. Let me know what you find out.

Thanks,

Michael Gunsch
Principal / Project Manager
Houston Engineering, Inc.
3712 Lockport St, Bismarck, ND 58102
☎ 701.323.0200 | 📠 701.323.0300
www.houstoneng.com

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From: Murphy, Thomas J. [mailto:tjmurphy@nd.gov]
Sent: Thursday, June 13, 2013 4:50 PM
To: Michael Gunsch
Subject: RE: BCWRD Contact Us Form

Michael,

Next week will be just fine. I look forward to hearing the existing information on the area.

Have a good weekend.

TJ

From: Michael Gunsch [mailto:mgunsch@houstoneng.com]
Sent: Thursday, June 13, 2013 4:38 PM
To: Murphy, Thomas J.; Mona Livdahl
Cc: Cary Backstrand
Subject: RE: BCWRD Contact Us Form

TJ – we have a considerable amount of information on this area already.

I will send out what we have as background, unfortunately next week as today is near done and I am out tomorrow.

Then we can visit on the issue with everyone better informed, as do not believe Cary was part of the previous discussions.

Thanks,

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

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From: Murphy, Thomas J. [mailto:tjmurphy@nd.gov]
Sent: Thursday, June 13, 2013 4:15 PM
To: Mona Livdahl

Mona Livdahl

From: Berger, Justin L 1LT USARMY NG NDARNG (US) [justin.l.berger.mil@mail.mil]
Sent: Thursday, June 27, 2013 10:24 AM
To: brad.krogstad@kijeng.com; mona@midco.net; mgunsch@houstoneng.com; tfleck@attitudedr.com
Cc: bronco23bravo@hotmail.com
Subject: Drainage complaint (UNCLASSIFIED)
Attachments: Drainage complaint form.pdf

Classification: UNCLASSIFIED
Caveats: FOUO

Sir or Ma'am,

Attached is a drainage complaint form for my property located in Prairiewood Estates, Block 01, Lot 10. I have emailed you the form via email at bronco23bravo@hotmail.com or 701-290-4599 as I will be out of state until 06 July.

This 1/2 acre of my yard has been underwater since I moved here in March 2011. It dried out for a while but then had standing water since snow melt this year. The water has drowned out well established cottonwood trees. The neighbor and I have been pumping the water but with every rain the area fills back up. I have been told that and last year I installed three sand points and planted 35 willow trees to help the ground water is to recede and have swamp front property. I was informed that there were supposed to be retention ponds built to help solve the problem?

Respectfully,

Justin L. Berger
1LT EN
Supply Management Specialist
(701) 333-3044

Classification: UNCLASSIFIED
Caveats: FOUO

DRAINAGE COMPLAINT
(Pursuant to Section 61-32-07 NDCC)

1. Burleigh County Water Resource District
2. Drain Location: LOT D #4, SW 1/4, Section 19, Twp. 138 N., Rge 79 W.
Note: Include an aerial or topographical map that shows the exact location of the drainage activity.
3. Acreage drained: 20+ Original drain construction date: 1999
Drain revision date: _____ (if any)

Drain was constructed by: _____

Method of drainage: (circle one) Ditching Pumping Filling

Receiving water course, if known: _____

4. This drain is resulting in:

a) Flooding of land owned by Complainant: APPRX: 1/2 Acre under water

b) Other adverse effects: Flooded out and killed 100+ trees, water in basement. Started pumping with 2 inch xfer pump at snow melt still water and more added with each rain.

Complaint Filed Against: Name: _____
Address: _____

Complaint Filed By: Name: Justin Berger
Address: 4610 Pinewood Loop
Bismarck ND 58504
Phone: 701-290-4599

Complainant's Signature: [Signature] Date: 27 June 13

Mail to: Water Resource District in which the drain is located.

Mona Livdahl

From: bsteier@grenergy.com
Sent: Tuesday, July 02, 2013 10:09 AM
To: mona@midco.net
Subject: BCWRD Contact Us Form

First Name Brad
Last Name Steier
Address 6007 Shoal Dr
City Bismarck
State North Dakota
Zip Code 58503
Email bsteier@grenergy.com

Comments I could not find the exact dates on when your next meeting is scheduled. Could you please confirm.
Thank You.

DRAINAGE COMPLAINT
(Pursuant to Section 61-32-07 NDCC)

1. Michael Gunsch PE Water Resource District
2. Drain Location: 1/4, 1/4, Section _____, Twp. _____ N., Rge _____ W.
Note: Include an aerial or topographical map that shows the exact location of the drainage activity.
This is the 2 adjacent lots located East of 6007 Shoal Drive in the Country Creek
3. Acreage drained: approx 4 acres Original drain construction date: Some time in 2008 Subdivision _____
Drain revision date: July 1 2013 (if any)

Drain was constructed by: Red Door Homes

Method of drainage: (circle one) Ditching Pumping Filling

Receiving water course, if known: water will drain into my lot and the neighbor west of me

4. This drain is resulting in:
- a) Flooding of land owned by Complainant: yes Brad Steier
6007 Shoal Dr Bismarck ND 58503
- b) Other adverse effects: The drainage that was developed

East of my property was opened up. This will adversely cause the water to drain to the west into my backyard. This drainage needs to be closed back up.

Complaint Filed Against: Name: Art Goldhammer % Red Door Homes
Address: 3100 N 14th St
Bismarck ND 58503

Complaint Filed By: Name: Brad Steier
Address: 6007 Shoal Dr
Bismarck ND 58503
Phone: 701-255-0777

Complainant's Signature: Bradley J Steier Date: 7-2-13

Mail to: Water Resource District in which the drain is located.

To Gary Backlund

Find enclosed legal description of our
Land

8736 Muir Place
Lot 2 Block 1 Sunny Meadows Estates Replat
Bismarck ND 58503

The problem I'm having is we have a run
way through my backyard.

I've lived in this house for 14 yrs and
never had a problem until they build this
house next to us and it blocked the runway.
Now the water sits in our & his backyard.
The neighbors do nothing with their yard
but we are trying to keep ours nice.
We have lost over 20 evergreens and are
about to lose more because ground is so
wet. Plus other trees.

I'm putting in a complain, and I
want to know what can be done.

Sherry & Robert Ell
8736 Muir Place
BIS ND 58503
701-221-0682

From: Kevin Forde
Date: 6/28/2013 1:15:07 PM
To: cback@bis.midco.net
Subject: Forde Property

It was good to talk to you today about my water issue. I live at 3421 Bottom Road, it is Lot 1, Blk 4, High Plains Co Burleigh Ave.

The problem we face is there is no flow of water. When we get rain, the water sits in the low area's by the road until no ditches. It goes from the road straight into the yard.

My problem area is the West side (along Bottom Road) and the North Side of my property (runs along Burleigh Ave) be flowing and work towards getting the water to move in that direction.

There is a church across Bottom Road from my property and they have a ditch that runs along Burleigh Ave, but it st

Give me a call or write me back if you have any questions.

Thank you

Kevin Forde
701-426-2676 Cell

FREE Animations for your email - by IncrediMail

[Click Here! ►](#)



Burleigh County Water Resource District

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

BY HARD COPY AND ELECTRONIC MAIL

June 12, 2013

Todd Sando, P.E.
State Engineer
North Dakota State Water Commission
900 East Boulevard Ave.
Bismarck, North Dakota 58505-0850

**Re: Water District Acquisition/Hogue Island
Our File No.: BCH20/Hogue Island
SWC Cost Participation Project No.:1992-05
Request for Reimbursement & Certification of Costs**

Dear Mr. Sando:

As you know, all four Hogue Island homeowners have entered into purchase agreements to sell their respective residences to the Burleigh County Water Resource District ("District"). Two homeowners – Rodney and Laura Boll and Jerome Rodgers, respectively – have now closed on their respective properties. Mr. Rodgers closed on his property on June 12, 2013. The net duplication of FEMA benefits, if any, are set forth in Section 2 of all four purchase agreements.

Enclosed please find hard copies of the following closing documents from the Boll and Rodgers sales, respectively:

1. Fully-executed purchase agreement;
2. Fully-executed warranty deed; and
3. Settlement statement.

Attached please find hard copies of purchase agreements by which the District shall purchase the residences of Heather and Brad Magnus, and Dr. Steven Bernard. The amounts paid, or to be paid, for all four residences are as follows:

1. Boll - \$366,754.06 (already paid by the District);
2. Rodgers - \$388,279.68 (already paid by the District);
3. Bernard - \$382,361.00; (closing to be scheduled for the week of June 10, 2013); and
4. Magnus - \$173,000.00 (closing to be scheduled for the week of June 17, 2013).

Current Board Members:

Terry Fleck, Vice Chair, Bismarck 223-9768 Cary Backstrand, Vice Chairman, Bismarck 471-9134 Ken Roysse, Treasurer, Bismarck 258-1110
Kathleen Jones, Manager, Bismarck 258-1477 Gordon Weixel, Manager, Bismarck 258-5390

Page Two
Todd Sando
June 12, 2013

Total of invoices:	\$1,310,394.70.
Less District share of costs (25%):	<u>- 327,598.67</u>
	\$ 982,796.03

Total reimbursement request (75%) \$ 982,796.03

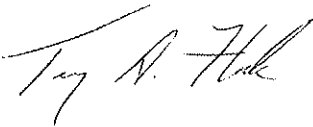
Please note that the District will submit subsequent requests for reimbursement from the SWC for the SWC's 75% share of engineering, legal and other expenses which are shared between the District and the SWC pursuant to the terms of the project agreement. As you know, additional work will be necessary to sell the above residences and to demolish and clean up the respective properties, and these costs and expenses will be pro-rated pursuant to the cost share agreement between the District and the SWC.

The District lacks sufficient funds by which the District can close on all four Hogue Island residences unless the District can receive the SWC's 75% cost share prior to or simultaneously with the closing of each property. Therefore, I respectfully request on behalf of the District that the SWC release its 75% cost obligation to the District for the Boll and Rodgers residences already purchased, and for the Bernard and Magnus residences in advance of the respective closings on these two remaining Hogue Island residences. In the alternative, please provide the District with the Boll and Rodgers reimbursements as soon as possible.

By my signature below, in my capacity as District chairman, I hereby certify that all of the above submitted itemized costs are within the eligible cost categories provided for in the District/SWC cost share agreement.

Thank you for your consideration. I look forward to hearing from you.

Very truly yours,



Terry Fleck, Chairman
Burleigh County Water Resource District
Enclosures

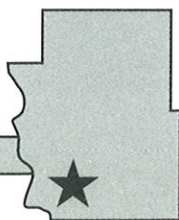
cc: District Board members w/o enclosures (by electronic mail only)
Doug Schonert, Burleigh County Commission w/o enclosures (by electronic mail only)
Michael Gunsch, District Engineer w/o enclosures (by electronic mail only)
John Paczkowski, State Water Commission w/enclosures (by electronic mail only)
Jeff Klein, State Water Commission w/enclosures (by electronic mail only)
Lonnie Hoffer, North Dakota Emergency Services w/enclosures (by electronic mail only)
David R. Bliss, w/enclosures (by hard copy and electronic mail)

Current Board Members:

Terry Fleck, Vice Chair, Bismarck 223-9768 Cary Backstrand, Vice Chairman, Bismarck 471-9134 Ken Royse, Treasurer, Bismarck 258-1110
Kathleen Jones, Manager, Bismarck 258-1477 Gordon Weixel, Manager, Bismarck 258-5390

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County of Burleigh



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

June 18, 2013

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

Dear Mona,

I have transmitted the \$982,696 we received from the State Water Commission to your bank account. Enclosed is a copy of the receipt and corresponding transmittal report for your reference.

Please let me know if you have any questions.

Sincerely,

A handwritten signature in blue ink that reads "Janet L. Alderin". The signature is written in a cursive style.

Janet L. Alderin
Burleigh County Deputy Auditor/Treasurer
(701)222-6719
jalderin@nd.gov

PAYMENT DATE
 06/17/2013
COLLECTION STATION
 Treasurer
RECEIVED FROM
 ND State Water
 Commission
DESCRIPTION
 SWC #1922-05 Hogue Island

County of Burleigh
 221 N 5th Street
 Bismarck ND 58501

BATCH NO.
 2013-06000287
RECEIPT NO.
 2013-00001077
CASHIER
 Janet A

PAYMENT CODE	RECEIPT DESCRIPTION	TRANSACTION AMOUNT						
MISC	General-Miscellaneous Revenue SWC #1922-05 Hogue Island 8006-21250 FEES PAYABLE \$982,696.00	\$982,696.00						
Payments:	<table border="1"> <thead> <tr> <th>Type</th> <th>Detail</th> <th>Amount</th> </tr> </thead> <tbody> <tr> <td>Other</td> <td>EFT</td> <td>\$982,696.00</td> </tr> </tbody> </table>	Type	Detail	Amount	Other	EFT	\$982,696.00	
Type	Detail	Amount						
Other	EFT	\$982,696.00						
	Total Amount:	\$982,696.00						

COUNTY OF BURLIEIGH

ACH Transmittal File Listing

4/2

Recipient

Bank Routing # Bank Account #

Account Type

Transaction Amount Pre Note

Bank ACH Name: WELLS FARGO BANK
 Bank Routing Number: 091300010
 Bank Account Number: 0229232558
 Export File Location: MyReports

Company ACH Name: BURLIEIGH COUNTY
 Company Fed Tax ID #: 1456002204
 ACH Transaction Date: 06/18/2013
 ACH Creation Date/Time: 06/18/2013 10:40:24

11031 Burleigh County Water Resource District 091310615

13000484

22 - Checking

982,696.00

Transmittal File Totals

Transaction Totals:	Account Type	Count	Credits	Debits
	22 - Checking	1	982,696.00	
	32 - Savings	0	0.00	
		1	982,696.00	

Pre Note Totals:

Account Type	Count
23 - Checking	0
33 - Savings	0
	0



JAMES J. COLES, J.D.
400 E. Broadway Suite #301
Post Office Box 2162
Bismarck, ND 58502
FAX: 701-222-8112
coleslaw@btinet.net
701-222-8131

July 1, 2013

David Bliss
Attorney at Law
400 E. Broadway Ave., Ste. 302
P.O. Box 4126
Bismarck, ND 58502-4126

RE: Title Opinion (Bernard Property)

At your request we have made an office examination of the abstract relative to title of the premises situated in the County of Burleigh and State of North Dakota, described in the caption of the abstract as follows, to wit:

Lot 1, Block 1, Riverside Subdivision, located in Sections 27 and 28,
Township 140 North, Range 81 West of the 5th P.M, Burleigh County,
North Dakota

The abstract, consisting of 162 entries and 3 abstractor's certificates, was last continued and certified to by The North Dakota Guaranty & Title Company, to and as of June 17, 2013, at 7:59 a.m.

From such examination of the abstract described above, certified to the date and time stated, we find and are of the opinion, subject to the **COMMENT** hereinafter made, as follows:

Ownership: Owner(s) of marketable record title of such premises, free and clear of all liens or encumbrances of record, except as noted in this opinion.

Entry	Name	Interest	Instrument/Recording Data
162	Stephen T. Bernard	Individual	Warranty deed dated March 31, 2011, and recorded April 4, 2011, as document no. 743163

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Mortgage, Assignments of Rent, and UCC Financing Statements: All of the foregoing instruments create enforceable liens against the premises according to their terms.

Entry	Type/Grantee	Date Recorded	Recording Data
	None		

Other Liens and Encumbrances: Other recorded or noted instruments and records creating liens and encumbrances upon the premises.

Entry	Type/Item	Date Recorded	Recording Data or Notation
Most recent certificate	Money judgment	Docketed March 5, 2013	In favor of David James Lutman et al, at Case no. 08-2013-SC-00001

Easements: The foregoing easements are of record and have a greater or lesser impact on the premises. Additional information as to the full nature and extent of any recorded easement may be obtained from the actual abstract entry, or by a review of the entire recorded instrument.

Entry	Type/Grantee	Date Recorded	Recording Data
	See Examiner's Note 1		

Taxes: None Delinquent

Examiner's Notes:

1. There are numerous easements, restrictions and issues of survey and riparian rights set forth in detail in a prior proposed title insurance commitment which is attached as Exhibit A and which is incorporated by reference. The undersigned Examiner believes that all such notations are valid and supported by his review of the abstract of title and his prior review of the title insurance binder. Accordingly, such matters are not set forth separately in this opinion.

Requirements, if any: Release of money judgment.

COMMENT

Scope of Opinion: Unless otherwise stated, this opinion is written from an examination of the abstract only and the court files of any proceedings that may appear, such as foreclosure, quiet title actions, probate proceedings or tax sales, have not been examined.

Location of Buildings: Abstract does not show the location of buildings. If buildings or other improvements are involved, you must satisfy yourself by survey or other proper

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investigation that the same lie within the boundaries of the property described in the abstract.

Possession: You are charged with notice of the rights of persons in possession of the premises and of easements, encroachments and the like which, though not appearing of record, are capable of ascertainment by inspection or survey.

Zoning Ordinances and Covenants: Information as to zoning ordinances is outside the scope of this opinion but can be obtained from the building inspector of the city in which the property is located.

Mechanic's Liens: Such liens may be filed for record within 90 days after the improvement or construction upon the premises. Therefore, if there have been any recent improvements, there is a possibility that liens for such work may still be filed though they do not appear in the abstract. Please note that a 1989 amendment to the North Dakota Mechanic's Lien law allows mechanic's liens to be filed for architectural services, construction staking, engineering, land surveying, mapping or soil testing.

Taxes: In North Dakota, the general real estate taxes are not due until the first day of January following the year for which they are assessed and levied.

Special Assessments: Special assessments are not normally shown in abstracts until they have been extended in the tax lists by the county auditor. Consequently, it is possible for property to be subject to special assessments which do not appear in the abstract.

Lien for Weed Control Purposes: Section 63-01.1-08 of the NDCC provides for a lien against the property of a landowner who is responsible for infestation or fails or refuses to perform requirements for the control of weeds, and said lien need not be filed for record.

Waiver of Homestead Exemption: This examiner does not express an opinion whether any mortgage(s) listed in this opinion are in compliance with Section 47-18-05.1 of the NDCC which requires a waiver of homestead exemption by the mortgagor(s) on a mortgage on homestead property, except for a purchase money mortgage.

Mineral Estate: No opinion is expressed as to the status of the mineral estate or the rights of the owners or holders of mineral estates.

Non-Access Control Line: This examiner has not viewed the subject property and does not express an opinion whether any driveway allowing access from a public street to the subject property is in violation of a non-access control line which may be dedicated in a subdivision plat in which the lot or lots are located.

Veterans Administration Loan Guarantees: This examiner does not express an opinion whether the borrower and lender in any mortgage cited in the title opinion have complied with Section 35-03-01.3 of the NDCC which requires a statement to be signed by both parties at the time of the loan application when the loan is insured or guaranteed by the United States Veterans Administration.


Environmental Concerns: This examiner does not express an opinion regarding the existence of any hazardous or toxic materials which may have been placed on the subject property or for other environmental concerns which may create a liability for the present or future owner of the property for the removal of such toxic materials or the abatement thereof. Any concerns regarding environmental matters should be addressed by an environmental audit or inspection of the subject property.

Environmental Laws and Hazardous Waste: The abstract does not reveal whether the property has been used in any manner that may have violated and would support a claim or cause of action under any federal, state or local environmental laws. You are required to satisfy yourself that such use has not occurred in the past and that there are no underground fuel storage facilities on the premises or other facilities which may have violated any applicable environmental laws. Notice should be taken that subsequent owners may be subject to action under said laws for prior owner's violations.

If you have any questions regarding this opinion, please feel free to call upon me.

Sincerely,

COLES LAW FIRM



James J. Coles
Attorney at Law

06291320.203.docx

First American Title Insurance Company
1 First American Way
Santa Ana, CA 92707

SCHEDULE A

Title Officer: Alicia Miller
Escrow Officer:

File No.: B110879

1. Effective Date: May 3, 2013 at 07:59AM

2. Policy or Policies to be issued:

a. Owner's Policy ALTA Owners Policy (06/17/06)

Policy Amount:
\$402,000.00

Proposed Insured:
Burleigh County Water Resource District

3. The estate or interest in the land described or referred to in this Commitment is:

Fee Simple

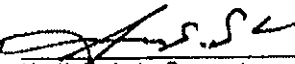
4. Title to the Fee Simple estate or interest in the land is at the Effective Date vested in:

Stephen T. Bernard

5. The land referred to in the Commitment is described as follows:

Lot 1, Block 1, Riverside Subdivision in all that part of Section 27 and Section 28, Township 140 North, Range 81, West of the Fifth Principal Meridian, Burleigh County, North Dakota

North Dakota Guaranty and Title Company

By 
North Dakota Guaranty and Title Company



**SCHEDULE B - SECTION I
REQUIREMENTS**

The following requirements must be met:

1. Documents satisfactory to us creating the interest in the land and/or the mortgage to be insured must be signed, delivered and recorded.

Warranty Deed to be executed by Stephen T. Bernard (and spouse if married) to end buyer.
2. IF THE BORROWERS ARE HUSBAND AND WIFE, THE WORDS "HUSBAND AND WIFE" MUST APPEAR IN THE MORTGAGOR NAME OR IN THE NOTARY SECTION IF BORROWERS ARE SINGLE, THE WORDS "A SINGLE PERSON" MUST APPEAR IN THE MORTGAGOR NAME.
3. Effective July 1, 2001 every document to be recorded must contain a 1 inch top, bottom or side margin on each page of the document. If the margin requirement for each page is not met, an additional charge of \$10.00 will be assessed for the total cost of recording the document.
4. ~~X~~ Provide an Addendum to the Purchase Agreement that amends the legal description. 7.
5. ~~X~~ Obtain a release or satisfaction of the Judgment in favor of the Carrington House Moving and James Lutman vs. Steve Bernard, dated March 4, 2013 at 9:40 AM as Case Number 08-2013-SC-00001 in the amount of \$3,035.00.

NOTE: For information purposes only, we submit the following tax figures: We assume no liability for the correctness of same.

Property Street Address: 9700 Island Road, Bismarck, ND

Taxes for the Year 2012 were \$0.00

Special Assessments for the Year 2012 were \$0.00

Tax Assessment Number: 23-140-81-65-01-010

Taxes for the year 2013 are due and payable on January 1, 2014 and become delinquent on March 1, 2014. There is a 5% discount if paid before February 15, 2014.

~~X~~ The following is the most recent deed or transfer affecting said land: Warranty Deed dated 03/31/2011, filed 04/04/2011, recorded as Doc. No. 743163, executed by Dan C. Riedinger and Jane E. Riedinger, husband and wife, grantor(s) to Stephen T. Bernard, grantee(s).

END OF SCHEDULE B - SECTION I

**SCHEDULE B - SECTION II
EXCEPTIONS**

Schedule B of the policy or policies to be issued will contain exceptions to the following matters unless the same are disposed of to the satisfaction of the company:

1. Defects, liens, encumbrances, adverse claims or other matters, if any created, first appearing in the public records or attaching subsequent to the effective date hereof but prior to the date the proposed insured acquires for value of record the estate or interest or mortgage thereon covered by this Commitment.
2. Rights or claims of parties in possession not shown by the public records.
3. Any encroachment, encumbrance, violation, variation, or adverse circumstance affecting the Title that would be disclosed by an accurate and complete land survey of the Land.
4. Easements or claims of easements not shown by the public records.
5. Any lien, or right to a lien, for services, labor or material heretofore or hereafter furnished, imposed by law and not shown by the public records.
6. No coverage is provided for unpaid utility, water, or sewer services or fees for tree, weeds, grass and snow or garbage removal.
7. Real estate taxes not yet due. Taxes for 2012 and prior years show paid. Real estate taxes for 2013 are not due until January 1, 2014.
8. Special assessments, if any. Note: There are no special assessments
9. Unpatented mining claims, reservations or exceptions in patents or acts authorizing the issuance thereof, water rights, claims or title to water, and all rights and claims to any of the oil, gas, coal or any and all minerals of any nature. Note: Final policy will not purport to show present owners of coal, oil, gas and other minerals, and the leases thereof, and no insurance is provided as to ownership of the mineral rights of any kind or nature
10. Right-of-Way Easement to Montana-Dakota Utilities Co., dated July 15, 1976 and filed for record August 5, 1976 as Doc. No. 271629, for the construction, operation and maintenance of an electric transmission or distribution and telephone line. (Blanket easement and location of line cannot be determined).
11. Right-of-Way Easement to Burleigh Water Management District dated September 17, 1976 and recorded September 22, 1976 as Doc. No. 272823, for the purposes of bank stabilization of the left bank of the Missouri River, and fully described in instrument of record. (Blanket easement and location of line cannot be determined.)
12. Right-of-Way Easement to Capital Electric Cooperative, Inc., dated June 29, 1981, filed for record March 4, 1982, as Doc. No. 328039, for the construction, operation and maintenance of a 3 phase electric underground distribution lines, upon the N? (less Eagles Park), Section 27, T140N, R81W. (Blanket easement and location of line cannot be determined.)
13. Declaration of public access easement for a public road filed May 28, 1985 recorded as Doc. No. 359826, for a strip of land 80 feet wide across Section 27 and Section 28, Township 140 North, Range 81 West, as part of the development of Riverside Subdivision, which easement is noted herein due to the apparent benefit conferred on the subject addition and its owners.

Bourgeois

14. Terms and conditions as contained in Perpetual Easement Agreement (Boat Landing and Recreational Area) dated August 20, 1985, filed for record September 3, 1985 as Doc. No. 362796, executed by Peter Hogue, a/k/a Pete Hogue and Karen Hogue, husband and wife, and Burleigh County Water Management District, to the Owners their heirs and assigns of the Residential Lots located within the Riverside Subdivision, dated August 20, 1985 and filed for record September 3, 1985 as Doc. No. 362796.
15. Right-of-Way Easement to Burleigh Water Users Cooperative, dated July 14, 1980 and filed for record December 31 1980, as Doc. No. 318438, for the construction, operation and maintenance of a rural water distribution line or system. (Blanket easement and location of line cannot be determined.)
16. Any and all matters that affect the land as shown on the Plat of Riverside Subdivision filed for record June 7, 1985 as Doc. No. 360261.
17. Restrictions and conditions as to the use of the premises as contained in Declaration of Restrictions dated May 28, 1985, filed for record June 7, 1985 as Doc. No. 360265; --and-- as contained in Declaration of Covenants dated (various dates) and filed for record August 30, 1994, as Doc. No. 465644, which contains no forfeiture provision, but omitting any covenants or restrictions, if any, based upon race, color, religion, sex, sexual orientation, familial status, marital status, disability, handicap, national origin, ancestry, or source of income, as set forth in applicable state or federal laws, except to the extent that said covenant or restriction is permitted by applicable law.
18. Perpetual Easement executed by Pete Hogue, a/k/a Peter Hogue, to Burleigh County Water Resource District dated August 22, 1985, filed for record September 3, 1985, as Doc. No. 262794, for the construction, operation and maintenance and operation of bank stabilization and protection devices, structures and facilities upon all that portion of Sections 27 and 28, T140N, R81W, that lies within the plat of "Bourgeois Island" as shown on the plat in Doc. No. 139893, and that lies within 100 feet of the left bank of the Missouri River, as the same is now or may hereby be situated, together with access to and from said lands through an easement area fully described in instrument of record.
19. Perpetual Easement Agreement to owners and their heirs and assigns of the residential lots of Riverside Subdivision, dated August 20, 1985 and filed for record September 3, 1985 as Doc. No. 362796, which contains an area to be used as a boat landing fully described in instrument of record. The easement also contains various covenants and restrictions, which impose upon the easement tract restrictive servitudes, and improvements and maintenance obligations.
20. Right-of-Way Easement to Capital Electric Cooperative, Inc., dated July 1, 1985 filed for record January 6, 1986 as Doc. No. 365867 for an electric transmission or distribution line or system on a strip of land 20 feet wide, 10 feet on either side of the following described line in S27, T140N, R81W; Beginning at a point on the westerly bank of an abandoned channel of the Missouri River, then West a distance of 35 feet North of center line of newly constructed access road to Riverside Subdivision, paralleling said road (35 feet North of centerline), to Riverside Division. (Exact location of line cannot be determined).
21. Right-of-Way Easement to Capital Electric Cooperative, Inc., dated July 1, 1985 and filed for record January 6, 1986 as Doc. No. 365868, for the construction, operation and maintenance of an electric transmission or distribution line or system on S27 and S28, T140N, R81W, Riverside Subdivision. (Blanket easement and location of line cannot be determined).
22. Right-of-Way Easement to Capital Electric Cooperative, Inc., dated May 10, 1990, filed for record December 20, 1990 as Doc. No. 415631, for the construction, operation and maintenance of an electric transmission line. (Blanket easement and location of line cannot be determined.)
23. Right-of-Way Easement to Northwestern Bell Telephone Company and Bismarck-Mandan CATV, dated November 2, 1990 and filed for record November 21, 1990 as Doc. No. 414729, for the construction, operation and maintenance of a buried communication system, 10 feet wide located in the SW? S27, and SE? S28, T140N, R81W. (Blanket easement and location of line cannot be determined.)

24. Right of Way Easement to Burleigh Water Users Cooperative, dated October 20, 1999 filed December 12, 1999 recorded as Doc. No. 536318, for a rural water distribution line or system on a circular area having a 15 foot radial distance with the center being the curbstop valve which is located on or as near as possible to the lot line parallel to the road right of way on Lot 1, Block 1, Riverside First Subdivision In Section 28, Township 140 North, Range 81 West.
25. Rights of the United States, State of North Dakota, County of Morton and the public to that part of property in question falling in the bed of, eroded by or submerged under the waters of The Missouri River, its sloughs or backwaters as well as to that portion, if any, that may have been formed by accretions, reversion or relictions
26. The Consequence of any change in location of the Missouri River, or the old Missouri River Channel
27. Rights of the upper and lower riparian owners in and to the free and unobstructed flow of water of the Missouri River extending through the subject land, without diminution or pollution
28. No title will be insured to land comprising the shores or bottoms of navigable waters or to artificial accretions or fills
29. Riparian rights are neither guaranteed nor insured.
30. Judgment in favor of the Carrington House Moving and James Lutman vs. Steve Bernard, dated March 4, 2013 at 9:40 AM as Case Number 08-2013-SC-00001 in the amount of \$3,035.00.

END OF SCHEDULE B - SECTION II

Purchase Agreement

THIS AGREEMENT made and entered into this 29 day of May, 2013, by and between Stephen Bernard, a single person, whose post office address is, 9700 Island Road, Bismarck, North Dakota 58503, hereinafter called "Seller," and the Burleigh County Water Resource District, a political subdivision organized under the laws of the State of North Dakota, whose post office address is 221 North 5th Street, Bismarck, North Dakota 58501, hereinafter called "the District."

WITNESSETH, that the Seller agrees to sell and the District agrees to purchase, upon the terms and conditions hereinafter set forth, the following described real property and all appurtenances thereunto belonging, owned by the Seller and located in the Burleigh County, State of North Dakota, to-wit:

Lot 1, Block 1, Riverside Subdivision in all that part of Section 27 and Section 28, Township 140 North, Range 81, West of the Fifth Principal Meridian

In further consideration of the covenants and obligations contained herein, the parties agree as follows:

1. PURCHASE PRICE. The gross purchase price for all of the Seller's right, title and interest in the property shall be Four Hundred And Two Thousand Dollars (\$402,000.00). The net purchase price for all of the Seller's right, title and interest in the property shall be Three Hundred Eighty Two Thousand Three Hundred Sixty One Dollars (\$382,361.00), payable at closing, which represents a deduction from the gross purchase price of FEMA Assistance (\$28,769.00) less Cost of Improvements (\$9,130.00).

2. ABSTRACT AND TITLE INSURANCE. Prior to closing, the Seller shall provide the District possession of an abstract of title or title insurance policy showing marketable title of the Seller to the real estate described in this agreement. The cost of any abstract continuation or provision of title insurance shall be paid by the Seller. In the event that the seller is unable to deliver an existing abstract or title insurance policy to the District, the cost of creating a new abstract or acquisition of title insurance policy shall be paid by the Seller. The Seller shall pay all costs required to perfect its title to the property. The Seller agrees to cooperate with the District and to execute all documents necessary to demonstrate or obtain marketable title to the property. Upon closing, all abstracts and title insurance policies shall become the property of the District.

If the Seller's title is not insurable or free of defects and cannot be made so within sixty (60) days after notice containing a written statement of defects delivered to the Seller, then this agreement may be terminated at the option of the District, except that the District may waive defects and elect to close the purchase.

3. DEED. The Seller shall, on full compliance by the District with the promises herein, execute and deliver to the District a warranty deed, in recordable form, conveying marketable title free from all encumbrances, except the following:

- A. Conditions, covenants, restrictions, limitations, terms, easements, and declarations of record;
- B. Taxes, general and/or special assessments, not yet certified for collection;
- C. Facts that a survey or personal inspection of the property will disclose;
- D. All zoning regulations and ordinances;
- E. Covenants required by federal, state or local authorities as a result of the acquisition of the property.

4. CLOSING DATE. This transaction shall be finally closed and a warranty deed as required herein delivered to the District within forty-five (45) days after the later of either delivery to the District of all necessary documents from the Seller or delivery of a current abstract of title or title insurance commitment demonstrating marketable title to the property in the condition required under purchase agreement and availability of adequate funding for the District.

5. POSSESSION. On and after the closing date, the District shall be entitled to immediate possession of the property and to receipt of all rents and profits from the property due thereafter.

6. INSPECTION OF PROPERTY. The District shall have the right to conduct such investigations, inspections and inventories of the property as it deems reasonable or necessary prior to closing. The Seller hereby grants the District, its officers, agents, employees and independent contractors, the right to enter upon the property at reasonable times upon reasonable notice, oral or written, from time to time after the date of this agreement for the purpose of investigation, inspecting and performing inventories of the property and for other purpose consistent with the District's interest under this agreement.

7. REMOVAL OF PERSONAL PROPERTY. Prior to the closing date, the Seller at its own expense shall remove all personal property which Seller wishes to retain. Also, prior to or on the closing date, Seller shall execute and deliver to the District the certificate of removal of personal property attached as Exhibit "A." Any personal property remaining in the structure at the time of closing will become the property of The District.

8. NO HOLDOVER PERIOD FOR OCCUPANTS. The Seller shall ensure that it and all other current occupants vacate the property prior to the closing date.

9. PURCHASE PRICE DEDUCTIONS.

- A. Prior to disbursing payment to the Seller, the District may use a portion of the purchase price to satisfy the Seller's obligations under this document, to pay taxes, assessments, mortgages, liens and acquisition of other parties' outstanding interests in the property.
- B. The Seller acknowledges that this voluntary acquisition is made pursuant to a program funded by the Federal Emergency Management Agency (FEMA), the U.S. Department of Housing and Urban Development (HUD), and/or the State of North Dakota. In order to prevent the duplication of assistance made to flood disaster victims, FEMA and other federal agencies require that certain types of assistance received by the Seller for flood-related damage be deducted from the purchase price. All decisions regarding deductions for duplication of benefits shall be made by the appropriate federal and state agency, including but not limited to, FEMA, SBA, HUD and the North Dakota Department of Emergency Services. The following deductions are likely to be directed by the federal and state agencies, but do not represent an exhaustive listing:
- i. All amounts equal to FEMA Individual and Family Grant Program Assistance received by the Seller after May 23, 2011.
 - ii. All amounts equal to all flood insurance proceeds received by the Seller after May 23, 2011.
 - iii. All amounts of other insurance paid for claims for structural damage after May 23, 2011.
 - iv. All amounts equal to outstanding balances on SBA Real Estate Repair and Replacement Disaster Loans received by the Seller after May 23, 2011.
 - v. All amounts equal to outstanding balances on Bank of North Dakota Rebuilders Loan received by the Seller.

Other deductions may be required as directed by the appropriate federal or state agency.

- C. Following execution of this purchase agreement, the District shall provide all information regarding this voluntary acquisition to the appropriate federal and/or state agencies for duplication of benefits determinations. Prior to closing, the District shall prepare and deliver to the Seller a document setting forth the deductions directed by appropriate agencies from the purchase price. Such deductions shall occur at time of closing.

10. STATUS QUO MAINTAINED. Except as otherwise authorized by the District, the property shall be preserved in its present condition and the Seller shall deliver it intact at the time of closing. In the event salvage is authorized, the replacement value of salvaged items will be deducted from the purchase price stated in Paragraph 1. All risk of loss or damage to the property is on the Seller until closing. Prior to closing, the Seller shall promptly give written notice to the District of any salvage, loss or damage to the property. In the event of salvage, loss, damage or destruction of all part of the property, the District shall have the option to terminate this agreement effective immediately. However, in the case of salvage, loss, damage or destruction of all or part of the property, the District shall have the option to: (1) take possession of the property upon completion of the terms and obligations of this purchase agreement; (2) terminate this agreement effective immediately; or (3) renegotiate the purchase price.

11. UTLILITES. The Seller shall be responsible for payment of all utility expenses incurred by it or incurred by any other occupants, prior to the date of possession by the District.

12. TAXES. The Seller shall pay a pro-rata share of taxes on the property through date of closing and all unpaid taxes for prior years.

13. SPECIAL ASSESSMENTS. The Seller shall pay a pro-rata share of special assessments on the property through date of closing and all unpaid special assessments for prior years.

14. TIME IS OF THE ESSENCE. Time is of the essence of this agreement.

15. LEASES. The Seller represents and warrants to the District that there are no leases, tenancies or other rights of occupancy for use for any portion of the property. The foregoing representation and warranty shall survive the closing date. The Seller shall hold harmless and indemnify the District from and against any claims which may arise or be based upon any alleged leasehold interest, tenancy or other right of occupancy or use of any portion of the property.

16. APPROVAL OF COURT. If the property is an asset of any estate, trust or guardianship, this document shall be subject to court approval prior to payment of purchase price, unless declared unnecessary by the District. If the court approval is necessary, the appropriate fiduciary shall proceed prompt and diligently to bring the matter on for hearing to enable the issuance of an order approving the sale.

17. ENVIROMENTAL MATTERS.

A. Environmental Representations and Warranties. For purposes of this agreement, the terms "hazardous waste" or "hazardous substance" shall include every material, waste, contaminant, chemical, toxic pollutant or other substance listed or described in any of the following sources, as amended from time to time: (i) the

Resource Conservation and Recovery Act to 1976, 42 U.S.C. 9601 et seq. (RCRA); (ii) the Comprehensive Environmental Response, Compensation, and Liability Act 1980, (Pub. Law. 96-510) (CERCLA) as amended by the Superfund Amendments and Reauthorization Act of 1986 (Pub. L. 99-499) (SARA) codified at 42 U.S.C. 9601 et seq.; (iii) Federal Environmental Protection Agency Regulations at 40 C.F.R. Parts 122-124 and 260-265; (iv) North Dakota Code Chapter 19-21; (v) any other federal, state, or local statute or ordinance which defines "hazardous waste" or "hazardous substance" or similar terms, and which could create liability in the District or the District's successors in interest; and (vi) any federal, state or local regulations, rules or orders issued or promulgated under or pursuant to any of the foregoing or otherwise by any department, agency or other administrative regulatory or judicial body having jurisdiction over the property (hereinafter collectively referred to as "Environmental Laws"). Without limiting the foregoing, the terms "hazardous waste" and "hazardous substance" shall also include all substances or materials containing asbestos, PCBs, or hydrocarbons. Seller hereby represents and warrants to the District that:

- (1) There are no abandoned wells, agricultural drainage wells, solid waste disposal sites or underground storage tanks located in, on or about the property;
- (2) There is and has been no hazardous waste or hazardous substance stored, generated, treated, transported, installed, dumped, handled or placed in, on or about the property;
- (3) At no time have any federal or state hazardous waste or hazardous substance cleanup funds been expended with respect to any of the property;
- (4) There has never been any solid waste disposal site or underground storage tank located in, on, or about the property, nor has there been any release from any underground storage tank on real property contiguous to the property which has resulted in any hazardous waste or hazardous substance coming in contact with the property;
- (5) The Seller has not received any directive, citation, notice letter or other communication, whether written or oral, from the Environmental Protection Agency, the North Dakota Department of Health, or any other governmental agency with authority under any environmental laws, or any other person or entity regarding the release, disposal, discharge, or presence of any hazardous waste or hazardous substance on the property, or any violation of any environmental laws; and

- (6) To the best of the Seller's knowledge, neither the property, nor any real property contiguous to the property, nor any predecessors in title to the property, are in violation of or subject to any existing, pending or threatened investigation or inquiry by any governmental authority or to any removal or remedial obligations under any environmental laws.

The foregoing representations and warranties, and the environmental indemnifications set forth in the following subparagraph B shall survive the closing. In addition, the foregoing representations and warranties and the indemnification provisions in this agreement shall not be affected by any study, investigation, or inspection of the property by the District or any agent of the District.

- B. Environmental indemnification. The Seller agrees to indemnify and hold harmless the District from and against any and all claims, demands, fines, penalties, causes of action, losses, damages, liabilities, expenses, and costs (including court costs and reasonable attorney's fees incurred by the District to enforce this provision) asserted against or incurred by the District by reason of or arising out of the breach of any representation or warranty of the Seller set forth above.
- C. Additional Environmental Provisions. The Seller shall not store, generate, treat, transport, install, dump, handle, or place in, on or about any portion of the property any hazardous waste or hazardous substance. If the Seller receives any notice from any governmental authority or any other party regarding the release or presence of any hazardous waste or hazardous substance on any portion of the property, or otherwise learns of any release or presence of any hazardous waste or hazardous substance on any portion of the property, the Seller shall immediately notify the District of such fact. In addition, the District or its agents shall have the right to enter upon the property at any time to perform additional environmental studies. If at any time the District in its sole and unrevocable discretion determines that hazardous wastes or hazardous substance are present on any portion of the property, the District may terminate this agreement effective immediately.
18. CONTRACT BINDING ON SUCCESSORS IN INTEREST. The document shall apply to and bind the heirs, executors, administrators, partners, assigns, and successors in interest of the respective parties.
19. INTENTION OF USE OF WORDS AND PHRASES. Words and phrases contained herein, including the acknowledgement clause, shall be construed as in the singular and plural number, and as masculine, feminine or neuter gender, according to the context.
20. PARAGRAPH HEADINGS. The paragraph headings contained herein are for convenience in reference and are not to intend to define or limit the scope of any provision of this document.

21. NO COMMISSION. Each party hereto represent to the other that no real estate commission shall be due on the conveyance contemplated by this agreement.
22. VOLUNTARY ACQUISITION. The Seller acknowledges that the District is acquiring this property pursuant to the District's Voluntary Acquisition of Residences Program and that the Seller's acceptance of this agreement is a voluntary transaction. The Seller is under no duress or coercive action by the District to accept this agreement but rather does so freely and willingly and under no threat of eminent domain. The Seller further acknowledges that if it accepts this agreement, it will be necessary to move permanently from the property. The acknowledgements set forth in this paragraph shall survive the closing.
23. ENTIRE AGREEMENT. This purchase agreement contains the entire agreement between the parties, and neither party has relied upon any verbal or written representations, agreements, or understandings not set forth in this agreement.
24. MODIFICATION. No modification of this agreement shall be valid or binding unless the modification is in writing, duly stated and signed by both parties.
25. EXHIBITS. Exhibit "A" (Certificate of Removal of Personal Property), Exhibit "B" (Bill of Sale), Exhibit "C" (Affidavit of Sellers), and Exhibit "D" (Certificate of Survey) are attached hereto and by this reference made part hereof.
26. SURVIVAL. The obligations and covenants of this purchase agreement, specifically, but not limited to, Paragraphs 17, 22 and 25, shall survive the closing of the sale and any transfer of title to the property to The District.

The District hereby agrees to purchase the property described in this agreement for the price and on the terms and conditions set forth in this agreement.

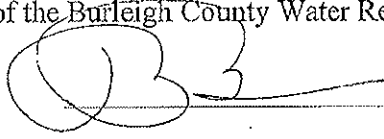
Burleigh County Water Resource District, A political
subdivision, State of North Dakota

By: Terry A. Fleck
Terry Fleck, Its Chairman

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


On this 29 day of May, 2013, before me, a notary public within and for said county and state, personally appeared Terry Fleck, Chairman, known to me to be the person described in and who executed the within and foregoing instrument, and severally acknowledged to me that he executed the same on behalf of the Burleigh County Water Resource District.

DAVID R BLISS
Notary Public
State of North Dakota
My Commission Expires October 16, 2013


_____, Notary Public
Burleigh County, North Dakota
My commission Expires: _____

The Seller hereby agrees to sell the above-described property at the price and on the terms and conditions set forth in this agreement.

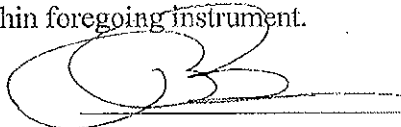
Stephen Bernard 5/28/13
Stephen Bernard (Seller)

Social Security No. 

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

On this 28 day of May, 2013, before me, a notary public within and for said county and state, personally appeared Stephen Bernard, a single person, known to me to be the Seller described in and who executed the within foregoing instrument.

DAVID R BLISS
Notary Public
State of North Dakota
My Commission Expires October 16, 2013


_____, Notary Public
Burleigh County, North Dakota
My Commission Expires: _____

C:\Users\Dave\Google Drive\Bliss Files\Burleigh County Water Resource\Hogue Island Project\Bernard Purchase Agreement & Exhibits\Homeowner's Purchase Agreement 10-12-12-Bernard.docx

Note: kitchen cabinets and granite countertop need to be returned and/or accounted for in the purchase and sale.

EXHIBIT "A"

CERTIFICATE OF REMOVAL OF PERSONAL PROPERTY

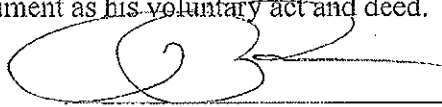
Stephen Bernard, hereby states that I have removed all wanted personal property, equipment, furnishings and appliances from the site at 9700 Island Road, Bismarck, North Dakota. I further declare that any and all personal property remaining on the premises is hereby abandoned and I relinquish any further claim or interest thereto.

This document shall be effective as of the date of closing

Stephen Bernard 5/28/13
Stephen Bernard (Seller)

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

On this 29 day of May, 2013, before me, a notary public, in and for the State of North Dakota, personally appeared Stephen Bernard, a single person, to me known to be the identical person named in and who executed the foregoing instrument, and acknowledgment that such persons executed the instrument as his voluntary act and deed.



, Notary Public

Burleigh County, North Dakota
My Commission Expires: _____

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DAVID R BLISS
Notary Public
State of North Dakota
My Commission Expires October 16, 2013

EXHIBIT "B"

BILL OF SALE

Steven Bernard, hereinafter the "Seller," for good and valuable consideration, receipt of which is hereby acknowledged, does hereby sell, convey, assign, transfer and release to the Burleigh County Water Resource District, North Dakota, all the Seller's right, title, and interest in all fixtures, improvements, furnishings, appliances and personal property located on the premises at 9700 Island Road, Bismarck, North Dakota, and legally described as:

Lot 1, Block 1, Riverside Subdivision in all that part of Section 27 and Section 28, Township 140 North, Range 81, West of the Fifth Principal Meridian
free and clear of all liens, encumbrances, reservations, exceptions and modifications.

For the purposes of this document, said fixtures, improvements and personal property includes, but is not limited to, all property that integrally belongs to or is part of the above-described real estate, whether attached or detached, such as light fixtures, shades, rods, blinds, awnings, storm windows, storm doors, storm sashes, screens, attached linoleum, plumbing fixtures, water heaters, water softeners, automatic heating equipment, air conditioning equipment other than window type, door chimes, built-in items on electrical service cable, and all equipment within the building for improvement, fencing, gates and other attached fixtures, trees, bushes, shrubs, and plants, and kitchen cabinets and countertop removed from the premises, except: _____

This document shall be effective as of the date of closing.

Dated this 28th day of May, 2013.

Stephen Bernard
Stephen Bernard (Seller)

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

On this 2 day of May, 2013, before me a notary public in and for the State of North Dakota, personally appeared Stephen Bernard, a single person, known to be the identical person named in and who executed the foregoing instrument, and acknowledged that such person executed the instrument as his voluntary act and deed.



DAVID R. BUSS
Notary Public
State of North Dakota
My Commission Expires October 16, 2013

_____, Notary Public

Burleigh County, North Dakota
My Commission Expires: _____

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EXHIBIT "C"

AFFIDAVIT OF SELLER

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

I, Steven Bernard, being sworn on oath, depose and say:

That I am of legal age and am the Seller of that real property described as:

Lot 1, Block 1, Riverside Subdivision in all that part of Section 27 and Section 28, Township 140 North, Range 81, West of the Fifth Principal Meridian

That I am now in possession of said property (or was in possession of said property until possession was delivered by the purchaser in this transaction, and no other persons (except other sellers or the purchaser (s) are in possession of said property, except as disclosed below;

That there are no unrecorded contracts for deed, leases, rental agreements, repair or construction orders or agreements, or any other contracts or agreements affecting that property, except the listing and sale agreements which are a part of this transaction, and those further agreements disclosed below;

That there have been no labor or materials furnished to said premises during the last ninety (90) days which full payment has not been made, and there are no contested or unpaid bills for materials or labor for improvements or repairs to the property, except as stated below;

That I have inspected the property and to the best of my knowledge and belief, there are no easements, or claims of easements which are shown by the public records, and that there are no discrepancies, conflicts in boundary lines, shortages in area or encroachments which are not shown by the public records, excepts as stated below;

That there are no bankruptcy or divorce proceedings, nor any other actions in county, state or federal courts, nor any tax lien proceedings, pending or in progress against or involving me (nor, to my knowledge, any other buyer), except as stated below; and


That any judgments, bankruptcy proceedings, or tax liens of record against parties with the same or similar names are not against me, excepts as stated below.

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Statement of exceptions: [list all exceptions here] _____

This affidavit is made for the purpose of inducting a title insurance company to issue an owner's policy of title insurance on the premises without exception to rights of parties in possession, mechanics' and materialmen's liens claims, easements or claims of easements, discrepancies, conflicts in boundary lines, shortages in area, or encroachments, which does not appear of record.

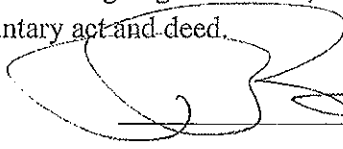
Dated this 28th day of May, 2013.



Stephen Bernard (Seller)

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

On this 28 day of May, 2013, before me a notary public in and for the State of North Dakota, personally appeared Stephen Bernard, a single person, to me known to be the identical person named in and who executed the foregoing instrument, acknowledgment that such person executed the instrument as his voluntary act and deed.



, Notary Public

DAVID R BLISS
Notary Public
State of North Dakota
My Commission Expires October 16, 2013

Burleigh County, North Dakota
My Commission Expires: _____

Purchase Agreement

THIS AGREEMENT made and entered into this 11 day of December, 2012, by and between Rodney J. Boll and Laura M. Boll, husband and wife, whose post office address is 9828 Island Road, Bismarck, North Dakota 58503, hereinafter called "Seller," and the Burleigh County Water Resource District, a political subdivision organized under the laws of North Dakota, whose post office address is 221 North 5th Street, Bismarck, North Dakota 58501, hereinafter called "the District."

WITNESSETH, that the Seller agrees to sell and the District agrees to purchase, upon the terms and conditions hereinafter set forth, the following described real property and all appurtenances thereunto belonging, owned by the Seller and located in the Burleigh County, State of North Dakota, to-wit:

That Portion Of Lot Eight (8), Block One (1), Riverside Subdivision, Located In Sections Twenty-Seven (27) And Twenty-Eight (28), Township One Hundred Forty (140) North, Range Eighty-One (81) West Of The Fifth Principal Meridian, Burleigh County, North Dakota, Lying Northeast Of The Following Described "Boundary Line": Beginning At The Most Southeasterly Corner Of Said Lot Eight (8); Thence Northeasterly Along The Southeasterly Boundary Of Lot Eight (8), For A Distance Of 60 Feet To The True Point Of Beginning; Thence Northwesterly Along A Line Which Is Parallel To And 60 Feet From The Lot Line Common To Lots Seven (7) And Eight (8), For A Distance Of 325.0 Feet, More Or Less, To The Bank Of The Missouri River.

And

Lot Nine (9), Block One (1), Riverside Subdivision, Located In Sections Twenty-Seven (27) And (28), Township One Hundred Forty (140) North, Range Eighty-One (81) West Of The Fifth Principal Meridian, Burleigh County, North Dakota.

And

That Portion Of Lot Ten (10), Block One (1), Riverside Subdivision, Located In Sections Twenty-Seven (27) And Twenty-Eight (28), Township One Hundred Forty (140) North, Range Eighty-One (81) West Of The Fifth Principal Meridian, Burleigh County, North Dakota, Lying Southwest Of The Following Described "Boundary Line": 50% Of The Distance Between The Southwesterly Lot Ten (10) Boundary Line That Lies Directly Adjacent To The Lot Line Common To Lots Nine (9) And Ten (10) And The

Northeasterly Lot Ten (10) Boundary Line That Lies Directly Adjacent To Lot Line Common To Lots Ten (10) And Eleven (11).

In further consideration of the covenants and obligations contained herein, the parties agree as follows:

1. PURCHASE PRICE. The gross purchase price for all of the Seller's right, title and interest in the property shall be Three Hundred Ninety Three Thousand Dollars (\$393,000.00). The net purchase price for all of the Seller's right, title and interest in the property shall be Three Hundred Sixty Six Thousand Three Hundred Fifty Eight Dollars (\$366,358.00), payable at closing, which represents a reduction in the gross purchase price of Twenty Six Thousand Six Hundred Forty Two Dollars (\$26,642.00) (\$28,421.00 - \$1,779.00 rental assistance), a sum paid to the Seller by FEMA, such reduction taken as required by the purposes set forth in Paragraph 9A and/or Paragraph 9B of this agreement. Except as otherwise provided herein, the Seller shall receive no other compensation from the District for the Seller's right, title, and interest in the property.

2. ABSTRACT AND TITLE INSURANCE. Prior to closing, the Seller shall provide the District possession of an abstract of title or title insurance policy showing marketable title of the Seller to the real estate described in this agreement. The cost of any abstract continuation or provision of title insurance shall be paid by the Seller. In the event that the seller is unable to deliver an existing abstract or title insurance policy to the District, the cost of creating a new abstract or acquisition of title insurance policy shall be paid by the Seller. The Seller shall pay all costs required to perfect its title to the property. The Seller agrees to cooperate with the District and to execute all documents necessary to demonstrate or obtain marketable title to the property. Upon closing, all abstracts and title insurance policies shall become the property of the District.

If the Seller's title is not insurable or free of defects and cannot be made so within sixty (60) days after notice containing a written statement of defects delivered to the Seller, then this agreement may be terminated at the option of the District, except that the District may waive defects and elect to close the purchase.

3. DEED. The Seller shall, on full compliance by the District with the promises herein, execute and deliver to the District a warranty deed, in recordable form, conveying marketable title free from all encumbrances, except the following:

- A. Conditions, covenants, restrictions, limitations, terms, easements, and declarations of record;
- B. Taxes, general and/or special assessments, not yet certified for collection;
- C. Facts that a survey or personal inspection of the property will disclose;

- D. All zoning regulations and ordinances;
- E. Covenants required by federal, state or local authorities as a result of the acquisition of the property.

4. CLOSING DATE. This transaction shall be finally closed and a warranty deed as required herein delivered to the District within forty-five (45) days after the later of either delivery to the District of all necessary documents from the Seller or delivery of a current abstract of title or title insurance commitment demonstrating marketable title to the property in the condition required under purchase agreement and availability of adequate funding for the District.

5. POSSESSION. On and after the closing date, the District shall be entitled to immediate possession of the property and to receipt of all rents and profits from the property due thereafter.

6. INSPECTION OF PROPERTY. The District shall have the right to conduct such investigations, inspections and inventories of the property as it deems reasonable or necessary prior to closing. The Seller hereby grants the District, its officers, agents, employees and independent contractors, the right to enter upon the property at reasonable times upon reasonable notice, oral or written, from time to time after the date of this agreement for the purpose of investigation, inspecting and performing inventories of the property and for other purpose consistent with the District's interest under this agreement.

7. REMOVAL OF PERSONAL PROPERTY. Prior to the closing date, the Seller at its own expense shall remove all personal property which Seller wishes to retain. Also, prior to or on the closing date, Seller shall execute and deliver to the District the certificate of removal of personal property attached as Exhibit "A." Any personal property remaining in the structure at the time of closing will become the property of The District.

8. NO HOLDOVER PERIOD FOR OCCUPANTS. The Seller shall ensure that it and all other current occupants vacate the property prior to the closing date.

9. PURCHASE PRICE DEDUCTIONS.

- A. Prior to disbursing payment to the Seller, the District may use a portion of the purchase price to satisfy the Seller's obligations under this document, to pay taxes, assessments, mortgages, liens and acquisition of other parties' outstanding interests in the property.
- B. Seller acknowledges that this voluntary acquisition is made pursuant to a program funded by the Federal Emergency Management Agency (FEMA), the U.S. Department of Housing and Urban Development (HUD), and/or the State of North Dakota. In order to prevent the duplication of

assistance made to flood disaster victims, FEMA and other federal agencies require that certain types of assistance received by the Seller for flood-related damage be deducted from the purchase price. All decisions regarding deductions for duplication of benefits shall be made by the appropriate federal and state agency, including but not limited to, FEMA, SBA, HUD and the North Dakota Department of Emergency Services. The following deductions are likely to be directed by the federal and state agencies, but do not represent an exhaustive listing:

- i. All amounts equal to FEMA Individual and Family Grant Program Assistance received by the Seller after May 23, 2011.
- ii. All amounts equal to all flood insurance proceeds received by the Seller after May 23, 2011.
- iii. All amounts of other insurance paid for claims for structural damage after May 23, 2011.
- iv. All amounts equal to outstanding balances on SBA Real Estate Repair and Replacement Disaster Loans received by the Seller after May 23, 2011.
- v. All amounts equal to outstanding balances on Bank of North Dakota Rebuilders Loan received by the Seller.

Other deductions may be required as directed by the appropriate federal or state agency.

- C. Following execution of this purchase agreement, the District shall provide all information regarding this voluntary acquisition to the appropriate federal and/or state agencies for duplication of benefits determinations. Prior to closing, the District shall prepare and deliver to the Seller a document setting forth the deductions directed by appropriate agencies from the purchase price. Such deductions shall occur at time of closing.

10. STATUS QUO MAINTAINED. Except as otherwise authorized by the District, the property shall be preserved in its present condition and the Seller shall deliver it intact at the time of closing. In the event salvage is authorized, the replacement value of salvaged items will be deducted from the purchase price stated in Paragraph 1. All risk of loss or damage to the property is on the Seller until closing. Prior to closing, the Seller shall promptly give written notice to the District of any salvage, loss or damage to the property. In the event of salvage, loss, damage or destruction of all part of the property, the District shall have the option to terminate this agreement effective immediately. However, in the case of salvage, loss, damage or destruction of

all or part of the property, the District shall have the option to: (1) take possession of the property upon completion of the terms and obligations of this purchase agreement; (2) terminate this agreement effective immediately; or (3) renegotiate the purchase price.

11. UTILITIES. The Seller shall be responsible for payment of all utility expenses incurred by it or incurred by any other occupants, prior to the date of possession by the District.

12. TAXES. The Seller shall pay a pro-rata share of taxes on the property through date of closing and all unpaid taxes for prior years.

13. SPECIAL ASSESSMENTS. The Seller shall pay a pro-rata share of special assessments on the property through date of closing and all unpaid special assessments for prior years.

14. TIME IS OF THE ESSENCE. Time is of the essence of this agreement.

15. LEASES. The Seller represents and warrants to the District that there are no leases, tenancies or other rights of occupancy for use for any portion of the property. The foregoing representation and warranty shall survive the closing date. The Seller shall hold harmless and indemnify the District from and against any claims which may arise or be based upon any alleged leasehold interest, tenancy or other right of occupancy or use of any portion of the property.

16. APPROVAL OF COURT. If the property is an asset of any estate, trust or guardianship, this document shall be subject to court approval prior to payment of purchase price, unless declared unnecessary by the District. If the court approval is necessary, the appropriate fiduciary shall proceed prompt and diligently to bring the matter on for hearing to enable the issuance of an order approving the sale.

17. ENVIRONMENTAL MATTERS.

- A. Environmental Representations and Warranties. For purposes of this agreement, the terms "hazardous waste" or "hazardous substance" shall include every material, waste, contaminant, chemical, toxic pollutant or other substance listed or described in any of the following sources, as amended from time to time: (i) the Resource Conservation and Recovery Act to 1976, 42 U.S.C. 9601 et.seq. (RCRA); (ii) the Comprehensive Environmental Response, Compensation, and Liability Act 1980, (Pub. Law. 96-510) (CERCLA) as amended by the Superfund Amendments and Reauthorization Act of 1986 (Pub. L. 99-499) (SARA) codified at 42 U.S.C. 9601 et.seq.; (iii) Federal Environmental Protection Agency Regulations at 40 C.F.R. Parts 122-124 and 260-265; (iv) North Dakota Code Chapter 19-21; (v) any other federal, state, or local statute or ordinance which defines "hazardous waste" or "hazardous substance" or similar terms, and which could create liability in the District or the District's successors in interest; and (vi)

any federal, state or local regulations, rules or orders issued or promulgated under or pursuant to any of the foregoing or otherwise by any department, agency or other administrative regulatory or judicial body having jurisdiction over the property (hereinafter collectively referred to as "Environmental Laws"). Without limiting the foregoing, the terms "hazardous waste" and "hazardous substance" shall also include all substances or materials containing asbestos, PCBs, or hydrocarbons. Seller hereby represents and warrants to the District that:

- (1) There are no abandoned wells, agricultural drainage wells, solid waste disposal sites or underground storage tanks located in, on or about the property;
- (2) There is and has been no hazardous waste or hazardous substance stored, generated, treated, transported, installed, dumped, handled or placed in, on or about the property;
- (3) At no time have any federal or state hazardous waste or hazardous substance cleanup funds been expended with respect to any of the property;
- (4) There has never been any solid waste disposal site or underground storage tank located in, on, or about the property, nor has there been any release from any underground storage tank on real property contiguous to the property which has resulted in any hazardous waste or hazardous substance coming in contact with the property;
- (5) The Seller has not received any directive, citation, notice letter or other communication, whether written or oral, from the Environmental Protection Agency, the North Dakota Department of Health, or any other governmental agency with authority under any environmental laws, or any other person or entity regarding the release, disposal, discharge, or presence of any hazardous waste or hazardous substance on the property, or any violation of any environmental laws; and
- (6) To the best of the Seller's knowledge, neither the property, nor any real property contiguous to the property, nor any predecessors in title to the property, are in violation of or subject to any existing, pending or threatened investigation or inquiry by any governmental authority or to any removal or remedial obligations under any environmental laws.

The foregoing representations and warranties, and the environmental indemnifications set forth in the following subparagraph B shall survive the closing. In addition, the foregoing representations and warranties and

the indemnification provisions in this agreement shall not be affected by any study, investigation, or inspection of the property by the District or any agent of the District.

- B. Environmental indemnification. The Seller agrees to indemnify and hold harmless the District from and against any and all claims, demands, fines, penalties, causes of action, losses, damages, liabilities, expenses, and costs (including court costs and reasonable attorney's fees incurred by the District to enforce this provision) asserted against or incurred by the District by reason of or arising out of the breach of any representation or warranty of the Seller set forth above.
- C. Additional Environmental Provisions. The Seller shall not store, generate, treat, transport, install, dump, handle, or place in, on or about any portion of the property any hazardous waste or hazardous substance. If the Seller receives any notice from any governmental authority or any other party regarding the release or presence of any hazardous waste or hazardous substance on any portion of the property, or otherwise learns of any release or presence of any hazardous waste or hazardous substance on any portion of the property, the Seller shall immediately notify the District of such fact. In addition, the District or its agents shall have the right to enter upon the property at any time to perform additional environmental studies. If at any time the District in its sole and unrevocable discretion determines that hazardous wastes or hazardous substance are present on any portion of the property, the District may terminate this agreement effective immediately.

D. Removal of Septic Systems, Drain Field, Wells and Utilities

It shall be the responsibility of the District to remove and reclaim any residential septic systems including the septic tanks and drain fields, and to plug any geothermal or groundwater well systems as well as to disconnect and remove or abandon other utilities located on the subject premises.

18. CONTRACT BINDING ON SUCCESSORS IN INTEREST. The document shall apply to and bind the heirs, executors, administrators, partners, assigns, and successors in interest of the respective parties.

19. INTENTION OF USE OF WORDS AND PHRASES. Words and phrases contained herein, including the acknowledgement clause, shall be construed as in the singular and plural number, and as masculine, feminine or neuter gender, according to the context.

20. PARAGRAPH HEADINGS. The paragraph headings contained herein are for convenience in reference and are not to intend to define or limit the scope of any provision of this document.

21. NO COMMISSION. Each party hereto represent to the other that no real estate commission shall be due on the conveyance contemplated by this agreement.

22. VOLUNTARY ACQUISITION. The Seller acknowledges that the District is acquiring this property pursuant to the District's Voluntary Acquisition of Residences Program and that the Seller's acceptance of this agreement is a voluntary transaction. The Seller is under no duress or coercive action by the District to accept this agreement but rather does so freely and willingly and under no threat of eminent domain. The Seller further acknowledges that if it accepts this agreement, it will be necessary to move permanently from the property. The acknowledgements set forth in this paragraph shall survive the closing.

23. ENTIRE AGREEMENT. This purchase agreement contains the entire agreement between the parties, and neither party has relied upon any verbal or written representations, agreements, or understandings not set forth in this agreement.

24. MODIFICATION. No modification of this agreement shall be valid or binding unless the modification is in writing, duly stated and signed by both parties.

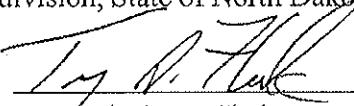
25. EXHIBITS. Exhibit "A" (Certificate of Removal of Personal Property), Exhibit "B" (Bill of Sale), Exhibit "C" (Affidavit of Sellers), and Exhibit "D" (Certificate of Survey) are attached hereto and by this reference made part hereof.

26. SURVIVAL. The obligations and covenants of this purchase agreement, specifically, but not limited to, Paragraphs 17, 22 and 25, shall survive the closing of the sale and any transfer of title to the property to The District.

The District hereby agrees to purchase the property described in this agreement for the price and on the terms and conditions set forth in this agreement.

Burleigh County Water Resource District, A political
subdivision, State of North Dakota

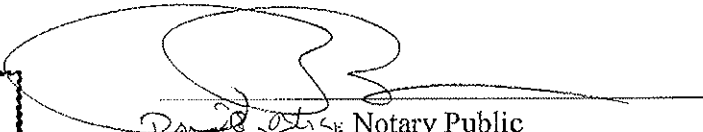
By: _____


Terry Fleck, Its Chairman

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

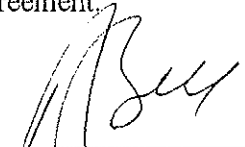
On this 13 day of December, 2012, before me, a notary public within and for said county and state, personally appeared Terry Fleck, Chairman, known to me to be the person described in and who executed the within and foregoing instrument, and severally acknowledged to me that he executed the same on behalf of the Burleigh County Water Resource District.

DAVID R BUSS
Notary Public
State of North Dakota
My Commission Expires October 16, 2013




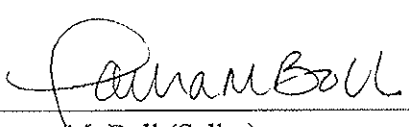
David R. Buss, Notary Public
Burleigh County, North Dakota
My commission Expires. 10-16-13

The Seller hereby agrees to sell the above-described property at the price and on the terms and conditions set forth in this agreement.



Rodney J. Boll (Seller)

Social Security No. 

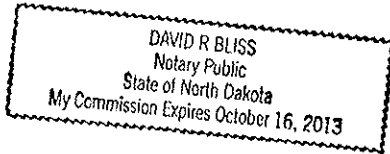


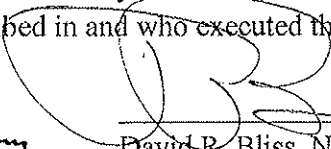
Laura M. Boll (Seller)

Social Security No. 

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

On this 11 day of December, 2012, before me, a notary public within and for said county and state, personally appeared Rodney J. Boll and Laura M. Boll, husband and wife, known to me to be the Seller described in and who executed the within foregoing instrument.





David R. Bliss, Notary Public
Burleigh County, North Dakota
My Commission Expires: 10-16-13


C:\Users\Dave\Google Drive\Bliss Files\Burleigh County Water Resource\Hogue Island Project\Boll Purchase Agreement & Exhibits\Homeowner's Purchase Agreement 10-15-12 Boll.docx

EXHIBIT "A"

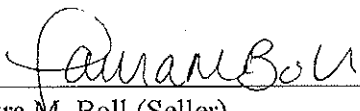
CERTIFICATE OF REMOVAL OF PERSONAL PROPERTY

Rodney J. Boll and Laura M. Boll, hereby state(s) that I/we have removed all wanted personal property, equipment, furnishings and appliances from the site at 9828 Island Road, Bismarck, North Dakota. I/we further declare that any and all personal property remaining on the premises is hereby abandoned and I/we relinquish any further claim or interest thereto.

This document shall be effective as of the date of closing



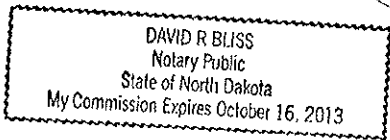
Rodney J. Boll (Seller)

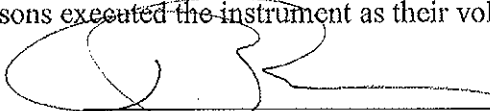


Laura M. Boll (Seller)

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

On this 11 day of December, 2012, before me, a notary public, in and for the State of North Dakota, personally appeared, Rodney J. Boll and Laura M. Boll, husband and wife, to me known to be the identical persons named in and who executed the foregoing instrument, and acknowledgment that such persons executed the instrument as their voluntary act and deed.





David R. Bliss, Notary Public
Burleigh County, North Dakota
My Commission Expires: 10-16-13

EXHIBIT "B"

BILL OF SALE

Rodney J. Boll and Laura M. Boll, hereinafter the "Seller," for good and valuable consideration, receipt of which is hereby acknowledged, do hereby sell, convey, assign, transfer and release to the Burleigh County Water Resource District, North Dakota, all the Seller's right, title, and interest in all fixtures, improvements, furnishings, appliances and personal property located on the premises at 9828 Island Road, Bismarck, North Dakota, and legally described as:

That Portion Of Lot Eight (8), Block One (1), Riverside Subdivision, Located In Sections Twenty-Seven (27) And Twenty-Eight (28), Township One Hundred Forty (140) North, Range Eighty-One (81) West Of The Fifth Principal Meridian, Burleigh County, North Dakota, Lying Northeast Of The Following Described "Boundary Line": Beginning At The Most Southeasterly Corner Of Said Lot Eight (8); Thence Northeasterly Along The Southeasterly Boundary Of Lot Eight (8), For A Distance Of 60 Feet To The True Point Of Beginning; Thence Northwesterly Along A Line Which Is Parallel To And 60 Feet From The Lot Line Common To Lots Seven (7) And Eight (8), For A Distance Of 325.0 Feet, More Or Less, To The Bank Of The Missouri River.

And

Lot Nine (9), Block One (1), Riverside Subdivision, Located In Sections Twenty-Seven (27) And (28), Township One Hundred Forty (140) North, Range Eighty-One (81) West Of The Fifth Principal Meridian, Burleigh County, North Dakota.

And

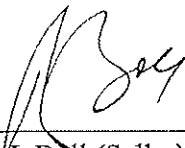
That Portion Of Lot Ten (10), Block One (1), Riverside Subdivision, Located In Sections Twenty-Seven (27) And Twenty-Eight (28), Township One Hundred Forty (140) North, Range Eighty-One (81) West Of The Fifth Principal Meridian, Burleigh County, North Dakota, Lying Southwest Of The Following Described "Boundary Line": 50% Of The Distance Between The Southwesterly Lot Ten (10) Boundary Line That Lies Directly Adjacent To The Lot Line Common To Lots Nine (9) And Ten (10) And The Northeasterly Lot Ten (10) Boundary Line That Lies Directly Adjacent To Lot Line Common To Lots Ten (10) And Eleven (11).

free and clear of all liens, encumbrances, reservations, exceptions and modifications.

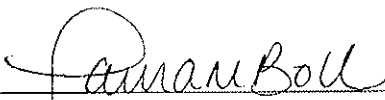
For the purposes of this document, said fixtures, improvements and personal property includes, but is not limited to, all property that integrally belongs to or is part of the above-described real estate, whether attached or detached, such as light fixtures, shades, rods, blinds, awnings, storm windows, storm doors, storm sashes, screens, attached linoleum, plumbing fixtures, water heaters, water softeners, automatic heating equipment, air conditioning equipment other than window type, door chimes, built-in items on electrical service cable, and all equipment within the building for improvement, fencing, gates and other attached fixtures, trees, bushes, shrubs, and plants except: _____

This document shall be effective as of the date of closing.

DATED this 11th day of December, 2012.



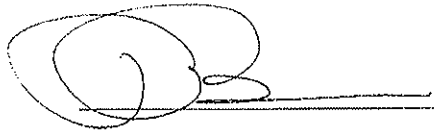
Rodney J. Boll (Seller)



Laura M. Boll (Seller)

STATE OF NORTH DAKOTA)
)SS
COUNTY OF BURLEIGH)

On this 11th day of December, 2012, before me a notary public in and for the State of North Dakota, personally appeared Rodney J. Boll and Laura M. Boll husband and wife, known to be the identical persons named in and who executed the foregoing instrument, and acknowledged that such persons executed the instrument as their voluntary act and deed.



_____, Notary Public

Burleigh County, North Dakota
My Commission Expires: 10-16-13

DAVID R BLISS
Notary Public
State of North Dakota
My Commission Expires October 16, 2013

EXHIBIT "C"

AFFIDAVIT OF SELLER (S)

STATE OF NORTH DAKOTA)

) ss.

COUNTY OF BURLEIGH)

We/I, being sworn on oath, depose and say:

That I am of legal age and am the Seller (or one of the Sellers) of that real property described as:

That Portion Of Lot Eight (8), Block One (1), Riverside Subdivision, Located In Sections Twenty-Seven (27) And Twenty-Eight (28), Township One Hundred Forty (140) North, Range Eighty-One (81) West Of The Fifth Principal Meridian, Burleigh County, North Dakota, Lying Northeast Of The Following Described "Boundary Line": Beginning At The Most Southeasterly Corner Of Said Lot Eight (8); Thence Northeasterly Along The Southeasterly Boundary Of Lot Eight (8), For A Distance Of 60 Feet To The True Point Of Beginning; Thence Northwesterly Along A Line Which Is Parallel To And 60 Feet From The Lot Line Common To Lots Seven (7) And Eight (8), For A Distance Of 325.0 Feet, More Or Less, To The Bank Of The Missouri River.

And

Lot Nine (9), Block One (1), Riverside Subdivision, Located In Sections Twenty-Seven (27) And (28), Township One Hundred Forty (140) North, Range Eighty-One (81) West Of The Fifth Principal Meridian, Burleigh County, North Dakota.

And

That Portion Of Lot Ten (10), Block One (1), Riverside Subdivision, Located In Sections Twenty-Seven (27) And Twenty-Eight (28), Township One Hundred Forty (140) North, Range Eighty-One (81) West Of The Fifth Principal Meridian, Burleigh County, North Dakota, Lying Southwest Of The Following Described "Boundary Line": 50% Of The Distance Between The Southwesterly Lot Ten (10) Boundary Line That Lies Directly Adjacent

**To The Lot Line Common To Lots Nine (9) And Ten (10) And The
Northeasterly Lot Ten (10) Boundary Line That Lies Directly Adjacent To
Lot Line Common To Lots Ten (10) And Eleven (11).**

That I am now (together with other sellers, if any) in possession of said property (or was in possession of said property until possession was delivered by the purchaser(s) in this transaction, and no other persons (except other sellers or the purchaser (s) are in possession of said property, except as disclosed below;

That there are no unrecorded contracts for deed, leases, rental agreements, repair or construction orders or agreements, or any other contracts or agreements affecting that property, except the listing and sale agreements which are a part of this transaction, and those further agreements disclosed below;

That there have been no labor or materials furnished to said premises during the last ninety (90) days which full payment has not been made, and there are no contested or unpaid bills for materials or labor for improvements or repairs to the property, except as stated below;


That I have inspected the property and to the best of my knowledge and belief, there are no easements, or claims of easements which are shown by the public records, and that there are no discrepancies, conflicts in boundary lines, shortages in area or encroachments which are not shown by the public records, excepts as stated below;

That there are no bankruptcy or divorce proceedings, nor any other actions in county, state or federal courts, nor any tax lien proceedings, pending or in progress against or involving me (nor, to my knowledge, any other buyer), except as stated below; and

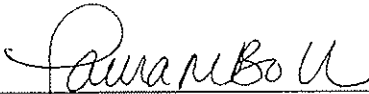
That any judgments, bankruptcy proceedings, or tax liens of record against parties with the same or similar names are not against me, excepts as stated below.

Statement of exceptions: [list all exceptions here] _____

This affidavit is made for the purpose of inducting a title insurance company to issue an owner's policy of title insurance on the premises without exception to rights of parties in possession, mechanics' and materialmen's liens claims, easements or claims of easements, discrepancies, conflicts in boundary lines, shortages in area, or encroachments, which does not appear of record.



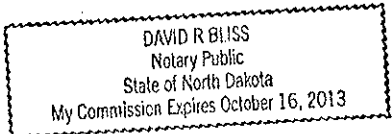
Rodney J. Boll (Seller)

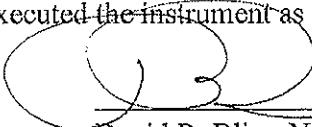


Laura M. Boll (Seller)

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

On this 11 day of December, 2012 before me a notary public in and for the State of North Dakota, personally appeared Rodney J. Boll and Laura M. Boll, husband and wife, to me know to be the identical persons named in and who executed the foregoing instrument, acknowledgment that such persons executed the instrument as their voluntary act and deed.

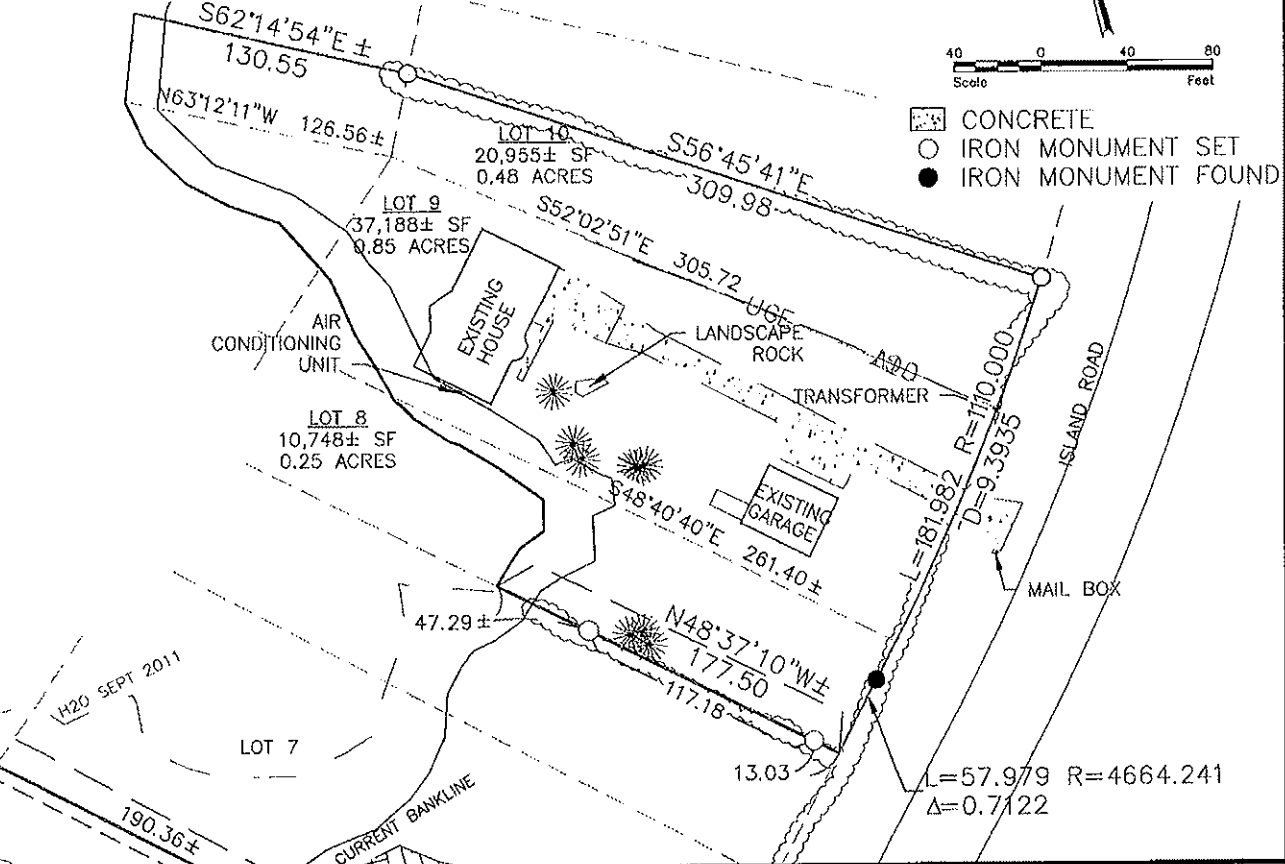




David R. Bliss, Notary Public
Burleigh County, North Dakota
My Commission Expires: 10-16-13

**LOT EXHIBIT
 FOR
 9828 ISLAND ROAD
 LOT 9, THE NORTH 1/2 OF LOT 8, & THE SOUTH 1/2 OF LOT 10, BLOCK 1
 RIVERSIDE SUBDIVISION
 BURLEIGH COUNTY, NORTH DAKOTA**

Area per Plat of Riverside Subdivision
 Lot 9 = 40,300± SF
 N½ Lot 8 = 20,000± SF
 S½ Lot 10 = 20,000± SF
TOTAL = 80,300± SF



CONCRETE
 IRON MONUMENT SET
 IRON MONUMENT FOUND

● LOT CORNERS SET WITH 3/8 INCH PIPE
 LEGAL DESCRIPTION: THAT PORTION OF LOT 8, BLOCK 1, RIVERSIDE SUBDIVISION, BURLEIGH COUNTY, NORTH DAKOTA, LYING NORTHEAST OF THE BOUNDARY LINE DESCRIBED IN DOCUMENT #706795; AND LOT 9, BLOCK 1, RIVERSIDE SUBDIVISION, BURLEIGH COUNTY, NORTH DAKOTA; AND THAT PORTION OF LOT 10, BLOCK 1, RIVERSIDE SUBDIVISION, BURLEIGH COUNTY, NORTH DAKOTA, LYING SOUTHWEST OF THE BOUNDARY LINE DESCRIBED IN DOCUMENT # 706796.
 THE ABOVE DESCRIBED TRACT OF LAND CONTAINS 68,891 SQUARE FEET, MORE OR LESS.
 ALL BEARINGS AND DISTANCES ARE FIELD MEASURED.

This document is
 preliminary and
 not for
 construction or
 implementation
 purposes.

I HERBY CERTIFY THAT THIS SURVEY, PLAN, AND OR REPORT WAS PREPARED UNDER MY DIRECT SUPERVISION AND THAT I AM A DULY REGISTERED LAND SURVEYOR UNDER THE LAWS OF THE STATE OF NORTH DAKOTA.

NAME _____ DATE _____ 5476 REG NO

SURVEYOR

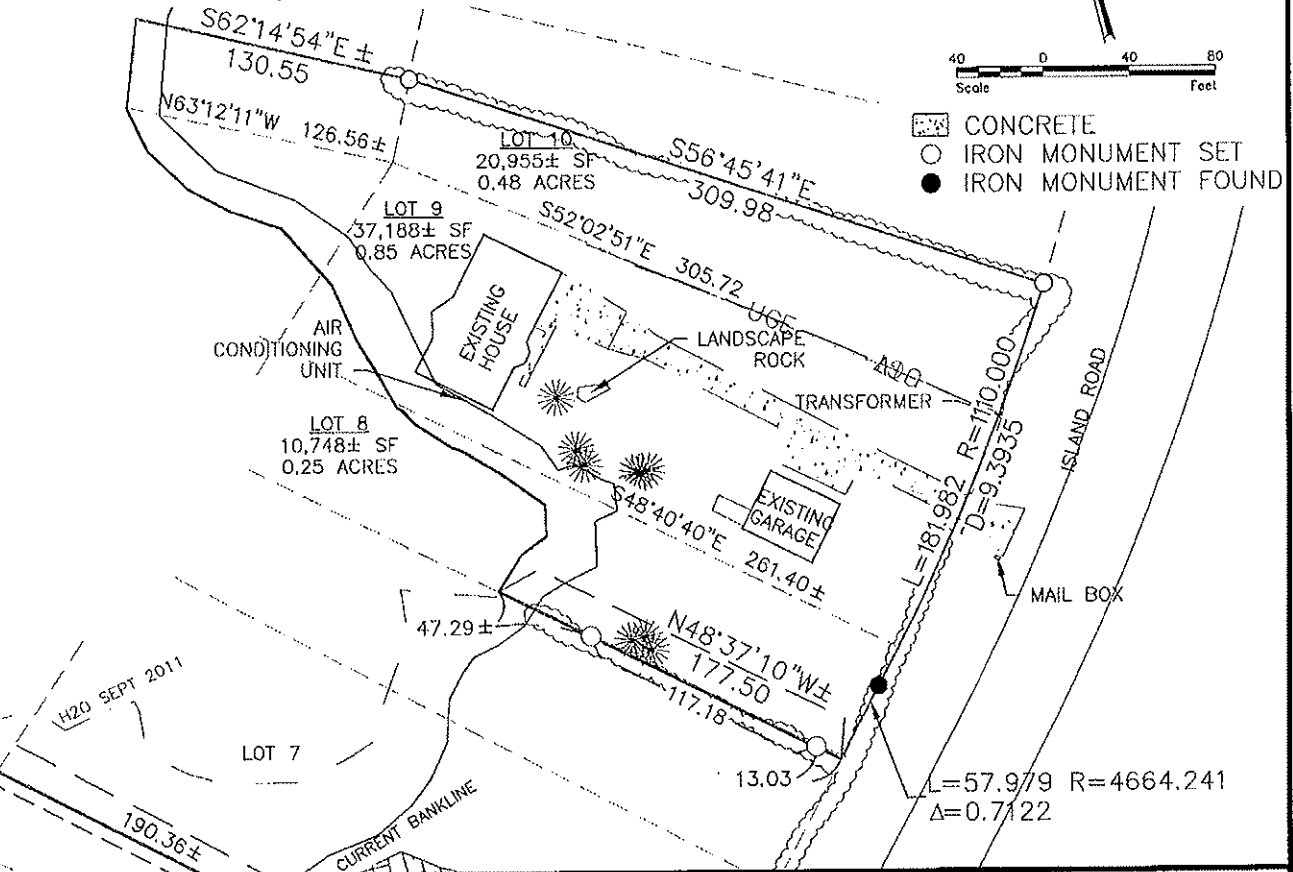
	Bismarck	Drawn by CCH	Date 11-1-12	RIVERSIDE SUBDIVISION BCWRD BURLEIGH COUNTY, NORTH DAKOTA PROJECT NO. 6025-011	SHEET
	P: 701.323.0200 F: 701.323.0300	Checked by SML	Scale AS SHOWN		1 of 1

11/20/12 10:00 AM Surveyor's Office 6025-011: Bismarck Field Station 6025-011: Bismarck Field Station 6025-011: Bismarck Field Station 6025-011: Bismarck Field Station

**LOT EXHIBIT
 FOR
 9828 ISLAND ROAD
 LOT 9, THE NORTH 1/2 OF LOT 8, & THE SOUTH 1/2 OF LOT 10, BLOCK 1
 RIVERSIDE SUBDIVISION
 BURLEIGH COUNTY, NORTH DAKOTA**

Area per Plat of Riverside Subdivision

Lot 9 = 40,300± SF
 N½ Lot 8 = 20,000± SF
 S½ Lot 10 = 20,000± SF
 TOTAL = 80,300± SF



● LOT CORNERS SET WITH 1/4 INCH PIPE
 LEGAL DESCRIPTION: THAT PORTION OF LOT 8, BLOCK 1, RIVERSIDE SUBDIVISION, BURLEIGH COUNTY, NORTH DAKOTA, LYING NORTHEAST OF THE BOUNDARY LINE DESCRIBED IN DOCUMENT #706795; AND LOT 9, BLOCK 1, RIVERSIDE SUBDIVISION, BURLEIGH COUNTY, NORTH DAKOTA; AND THAT PORTION OF LOT 10, BLOCK 1, RIVERSIDE SUBDIVISION, BURLEIGH COUNTY, NORTH DAKOTA, LAYING SOUTHWEST OF THE BOUNDARY LINE DESCRIBED IN DOCUMENT # 706796.
 THE ABOVE DESCRIBED TRACT OF LAND CONTAINS 68,891 SQUARE FEET, MORE OR LESS.
 ALL BEARINGS AND DISTANCES ARE FIELD MEASURED.
 I HERBY CERTIFY THAT THIS SURVEY, PLAN, AND OR REPORT WAS PREPARED UNDER MY DIRECT SUPERVISION AND THAT I AM A DULY REGISTERED LAND SURVEYOR UNDER THE LAWS OF THE STATE OF NORTH DAKOTA.

This document is preliminary and not for construction or implementation purposes.

PRELIMINARY

NAME _____ DATE _____ 5476 REG NO

	Bismarck	Drawn by CCH	Date 11-1-12	RIVERSIDE SUBDIVISION BCWRD BURLEIGH COUNTY, NORTH DAKOTA PROJECT NO. 6825-011	SHEET 1 of 1
	P: 701.323.0200 F: 701.323.0300	Checked by SML	Scale AS SHOWN		

11/1/2012 10:52 AM County Water Resources District 0205-011 Major Move Floor Control/DAO/Vogel/Island Lot 8-11/1/2012 3:57 PM (10/27/12)



706796

\$16.00
Page: 1 of 1
4/22/2009 10:39 AM
Burleigh County

Taxes and special assessments paid, all liens created under section 57-02-08.3 satisfied, if any, and TRANSFER accepted this 22 day of

WARRANTY DEED

April 2009
Robin J. Glott
Burleigh County Auditor
By Jacob Richers
Deputy, Burleigh County Auditor

THIS INDENTURE, Made this 16 day of APRIL, 2009, between Rodney J. Boll and Laura M. Boll, husband and wife, as grantors, and Rodney J. Boll and Laura M. Boll, as grantees, whose post office address is 9828 ISLAND RD, BISMARCK ND 58503

WITNESSETH, for and in consideration of the sum of Ten Dollars (\$10.00), grantors do hereby GRANT to the grantees, as joint tenants and not as tenants in common, with right of survivorship, all of the following real property lying and being in the County of Burleigh, State of North Dakota, and described as follows, to-wit:

See Exhibit A Attached Hereto and Made a Part Hereof

Subject to easements, rights-of-way, restrictive covenants, and mineral conveyances and reservations of record.

And the grantors for themselves, their heirs, executors and administrators, do covenant with the grantees that they are well seized in fee of the land and premises aforesaid and have good right to sell and convey the same in manner and form aforesaid; that the same are free from all incumbrance, except installments of special assessments or assessments for special improvements which have not been certified to the County Auditor for collection, and the above granted lands and premises in the quiet and peaceable possession of the grantees, against all persons lawfully claiming or to claim the whole or any part thereof, the said grantors will warrant and defend.

WITNESS, The hands of the grantors:

DELIVERED TO:
BISMARCK TITLE CO.
421 N. 5th Street
Bismarck, ND 58502-1911
19155-72

[Signature]
Rodney J. Boll
[Signature]
Laura M. Boll

STATE OF North Dakota)
) SS
COUNTY OF Burleigh

On this 16 day of April, 2009, before me, personally appeared Rodney J. Boll and Laura M. Boll, husband and wife, known to me to be the persons who are described in, and who executed the within and foregoing instrument, and severally acknowledged that they executed the same.

TAMARA D STECHER
Notary Public
State of North Dakota
My Commission Expires Jan 26, 2011
My Commission expires:

[Signature]
Notary Public
Burleigh County
State of North Dakota

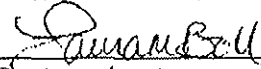
File No. 19155



706796

\$16.00
Page: 2 of 3
4/22/2009 10:39 AM
Burleigh County

I certify that the requirement for a report or statement of full consideration paid does not apply because this deed is for one of the transactions exempted by subdivision c of Section 6 of NDCC 11-18-02.2.



Grantee or Agent

File No. 19155

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EXHIBIT A

23-140-81-65-01-090

THAT PORTION OF LOT EIGHT (8), BLOCK ONE (1), RIVERSIDE SUBDIVISION, LOCATED IN SECTIONS TWENTY-SEVEN (27) AND TWENTY-EIGHT (28), TOWNSHIP ONE HUNDRED FORTY (140) NORTH, RANGE EIGHTY-ONE (81) WEST OF THE FIFTH PRINCIPAL MERIDIAN, BURLEIGH COUNTY, NORTH DAKOTA, LYING NORTHEAST OF THE FOLLOWING DESCRIBED "BOUNDARY LINE": BEGINNING AT THE MOST SOUTHEASTERLY CORNER OF SAID LOT EIGHT (8); THENCE NORTHEASTERLY ALONG THE SOUTHEASTERLY BOUNDARY OF LOT EIGHT (8), FOR A DISTANCE OF 60 FEET TO THE TRUE POINT OF BEGINNING; THENCE NORTHWESTERLY ALONG A LINE WHICH IS PARALLEL TO AND 60 FEET FROM THE LOT LINE COMMON TO LOTS SEVEN (7) AND EIGHT (8), FOR A DISTANCE OF 325.0 FEET, MORE OR LESS, TO THE BANK OF THE MISSOURI RIVER.

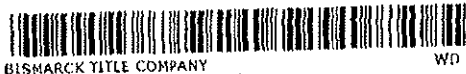
AND

LOT NINE (9), BLOCK ONE (1), RIVERSIDE SUBDIVISION, LOCATED IN SECTIONS TWENTY-SEVEN (27) AND TWENTY-EIGHT (28), TOWNSHIP ONE HUNDRED FORTY (140) NORTH, RANGE EIGHTY-ONE (81) WEST OF THE FIFTH PRINCIPAL MERIDIAN, BURLEIGH COUNTY, NORTH DAKOTA.

AND

THAT PORTION OF LOT TEN (10), BLOCK ONE (1), RIVERSIDE SUBDIVISION, LOCATED IN SECTIONS TWENTY-SEVEN (27) AND TWENTY-EIGHT (28), TOWNSHIP ONE HUNDRED FORTY (140) NORTH, RANGE EIGHTY-ONE (81) WEST OF THE FIFTH PRINCIPAL MERIDIAN, BURLEIGH COUNTY, NORTH DAKOTA, LYING SOUTHWEST OF THE FOLLOWING DESCRIBED "BOUNDARY LINE": 50% OF THE DISTANCE BETWEEN THE SOUTHWESTERLY LOT TEN (10) BOUNDARY LINE THAT LIES DIRECTLY ADJACENT TO THE LOT LINE COMMON TO LOTS NINE (9) AND TEN (10) AND THE NORTHEASTERLY LOT TEN (10) BOUNDARY LINE THAT LIES DIRECTLY ADJACENT TO LOT LINE COMMON TO LOTS TEN (10) AND ELEVEN (11).

The legal description was prepared by Bismarck Title Company, 421 N. 4th St., Bismarck, ND 58501 or obtained from a previously recorded instrument.



Debbie Koskus

706796

\$16.00
Page: 3 of 3
4/27/2009 10:39 AM
Burleigh County

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<p>A.</p> <p style="text-align: center;">U.S. DEPARTMENT OF HOUSING & URBAN DEVELOPMENT SETTLEMENT STATEMENT</p>	<p style="text-align: center;">B. TYPE OF LOAN</p> <p>1. <input type="checkbox"/> FHA 2. <input type="checkbox"/> FmHA 3. <input type="checkbox"/> Conv. Unins. 4. <input type="checkbox"/> VA 5. <input type="checkbox"/> Conv. Ins.</p> <p>6. FILE NUMBER: B108611</p> <p>7. LOAN NUMBER:</p> <p>8. MORTGAGE INS CASE NUMBER:</p>
----------------------------------------------------------------------------------------------------------------------------------------	------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

C. NOTE: *This form is furnished to give you a statement of actual settlement costs. Amounts paid to and by the settlement agent are shown. Items marked "POC" were paid outside the closing; they are shown here for informational purposes and are not included in the totals.*
1.0 3/98 (6108611/22)

<p>D. NAME AND ADDRESS OF BORROWER: Burleigh County Water Resource District 221 North 5th Street Bismarck, ND 58501</p>	<p>E. NAME AND ADDRESS OF SELLER: Rodney J. Boll and Laura M. Boll 9828 Island Road Bismarck, ND 58503</p>	<p>F. NAME AND ADDRESS OF LENDER:</p>
--------------------------------------------------------------------------------------------------------------------------------------------	-------------------------------------------------------------------------------------------------------------------------------	----------------------------------------------

<p>G. PROPERTY LOCATION: 9828 Island Road Bismarck, ND 58503 Burleigh County, North Dakota Riverside Subdivision, Burleigh County, North Dakota.</p>	<p>H. SETTLEMENT AGENT: North Dakota Guaranty and Title Co. PLACE OF SETTLEMENT: 400 East Broadway Suite 102 Bismarck, ND 58501</p>	<p>I. SETTLEMENT DATE: May 21, 2013</p>
-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------	-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------	----------------------------------------------------

J. SUMMARY OF BORROWER'S TRANSACTION	
100. GROSS AMOUNT DUE FROM BORROWER:	
101. Contract Sales Price	366,358.00
102. Personal Property	
103. Settlement Charges to Borrower (Line 1400)	629.00
104.	
105.	
<i>Adjustments for items paid by seller in advance</i>	
106. City/Town Taxes	
107. County Taxes	
108. Assessments	
109.	
110.	
111.	
112.	
120. GROSS AMOUNT DUE FROM BORROWER	366,987.00
200. AMOUNTS PAID BY OR IN BEHALF OF BORROWER:	
201. Deposit or Earnest Money	
202. Principal Amount of New Loan(s)	
203. Existing Loan(s) Taken Subject to	
204.	
205.	
206.	
207.	
208.	
209.	
<i>Adjustments for items unpaid by seller</i>	
210. City/Town Taxes	
211. County Taxes 01/01/13 to 05/21/13	232.94
212. Assessments	
213.	
214.	
215.	
216.	
217.	
218.	
219.	
220. TOTAL PAID BY/FOR BORROWER	232.94
300. CASH AT SETTLEMENT FROM/TO BORROWER:	
301. Gross Amount Due From Borrower (Line 120)	366,987.00
302. Less Amount Paid By/For Borrower (Line 220)	(232.94)
303. CASH FROM BORROWER	366,754.06

K. SUMMARY OF SELLER'S TRANSACTION	
400. GROSS AMOUNT DUE TO SELLER:	
401. Contract Sales Price	
402. Personal Property	
403.	
404.	
405.	
<i>Adjustments for items paid by seller in advance</i>	
406. City/Town Taxes	
407. County Taxes	
408. Assessments	
409.	
410.	
411.	
412.	
420. GROSS AMOUNT DUE TO SELLER	
500. REDUCTIONS IN AMOUNT DUE TO SELLER:	
501. Excess Deposit (see instructions)	
502. Settlement Charges to Seller (Line 1400)	
503. Existing Loan(s) Taken Subject to	
504. Payoff of First Mortgage Loan to GCB	
505. Payoff of Second Mortgage Loan	
506. Pay Remaining 2012 RE Taxes	
507.	
508.	
509.	
<i>Adjustments for items unpaid by seller</i>	
510. City/Town Taxes	
511. County Taxes 01/01/13 to 05/21/13	
512. Assessments	
513.	
514.	
515.	
516.	
517.	
518.	
519.	
520. TOTAL REDUCTION AMOUNT DUE SELLER	
600. CASH AT SETTLEMENT TO/FROM SELLER:	
601. Gross Amount Due To Seller (Line 420)	
602. Less Reductions Due Seller (Line 520)	
603. CASH TO SELLER	

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L. SETTLEMENT CHARGES

700. TOTAL COMMISSION Based on Price \$ @ %			PAID FROM	PAID FROM
Division of Commission (line 700) as Follows:			BORROWER'S	SELLER'S
701.	to		FUNDS AT	FUNDS AT
702.	to		SETTLEMENT	SETTLEMENT
703. Commission Paid at Settlement				
704.	to			
800. ITEMS PAYABLE IN CONNECTION WITH LOAN				
801.	Loan Origination Fee	% to		
802.	Loan Discount	% to		
803.	Appraisal Fee	to		
804.	Credit Report	to		
805.	Lender's Inspection Fee	to		
806.	Mortgage Insurance Application Fee	to		
807.	Assumption Fee	to		
808.		to		
809.		to		
810.		to		
811.		to		
900. ITEMS REQUIRED BY LENDER TO BE PAID IN ADVANCE				
901.	Interest From 05/21/13 to 06/01/13 @ \$ /day (11 days %)			
902.	Mortgage Insurance Premium for month to			
903.	Hazard Insurance Premium for year to			
904.		for year to		
905.		to		
1000. RESERVES DEPOSITED WITH LENDER				
1001.	Hazard Insurance	@ \$ per		
1002.	Mortgage Insurance	@ \$ per		
1003.	City/Town Taxes	@ \$ per		
1004.	County Taxes	@ \$ per		
1005.	Assessments	@ \$ per		
1006.		@ \$ per		
1007.		@ \$ per		
1008.		@ \$ per		
1100. TITLE CHARGES				
1101.	Settlement or Closing Fee	to North Dakota Guaranty and Title Co.	350.00	
1102.	Abstract or Title Search	to North Dakota Guaranty and Title Co.	225.00	
1103.	Title Examination	to		
1104.	Title Insurance Binder	to		
1105.	Document Preparation	to		
1106.	Notary Fees	to		
1107.	Attorney's Fees	to		
	(includes above item numbers:)		
1108.	Title Insurance	to North Dakota Guaranty and Title Co.		
	(includes above item numbers:)		
1109.	Lender's Coverage			
1110.	Owner's Coverage	\$ 393,000.00 1,086.00		
1111.	E-Recording Fee	to North Dakota Guaranty and Title Co.	5.00	
1112.	Wire Fee	to North Dakota Guaranty and Title Co.	30.00	
1113.		to		
1200. GOVERNMENT RECORDING AND TRANSFER CHARGES				
1201.	Recording Fees: Deed \$ 19.00; Mortgage ; Releases \$ 13.00		19.00	
1202.	City/County Tax Stamps: Deed ; Mortgage			
1203.	State Tax/Stamps: Deed ; Mortgage			
1204.		to		
1205.		to		
1300. ADDITIONAL SETTLEMENT CHARGES				
1301.	Survey	to		
1302.	Pest Inspection	to		
1303.		to		
1304.		to		
1305.		to		
1400.	TOTAL SETTLEMENT CHARGES (Enter on Lines 103, Section J and 502, Section K)		629.00	

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Signature Page

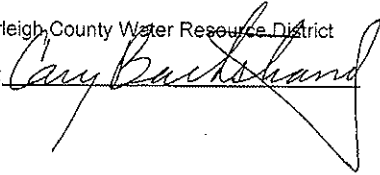
Borrower(s): Burleigh County Water Resource District Seller(s): Rodney J. Boll and Laura M. Boll, husband and wife
9828 Island Road
Bismarck, ND 58503

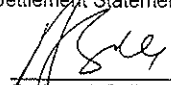
Lender:
Settlement Agent: North Dakota Guaranty and Title Co.
(701)223-6835
Place of Settlement: 400 East Broadway, Suite 102
Bismarck, ND 58501
Settlement Date: May 21, 2013
Disbursement Date: May 21, 2013
Property Location: 9828 Island Road, Bismarck, ND 58503

I have carefully reviewed the HUD-1 Settlement Statement and to the best of my knowledge and belief, it is a true and accurate statement of all receipts and disbursements made on my account or by me in this transaction. I further certify that I have received a copy of the HUD-1 Settlement Statement.

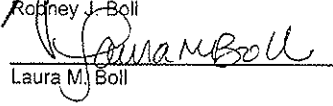
Burleigh County Water Resource District

BY:



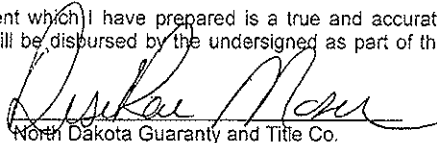


Rodney J. Boll



Laura M. Boll

To the best of my knowledge, the HUD-1 Settlement Statement which I have prepared is a true and accurate account of the funds which were received and have been or will be disbursed by the undersigned as part of the settlement of this transaction.



North Dakota Guaranty and Title Co.
Settlement Agent

Warning: It is a crime to knowingly make false statements to the United States on this or any similar form. Penalties upon conviction can include a fine and imprisonment. For details see: Title 18 U.S. Code Section 1001 and Section 1010.

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JAMES J. COLES, J.D.
400 E. Broadway Suite #301
Post Office Box 2162
Bismarck, ND 58502
FAX: 701-222-8112
coleslaw@btinet.net
701-222-8131

July 1, 2013

David Bliss
Attorney at Law
400 E. Broadway Ave., Ste. 302
P.O. Box 4126
Bismarck, ND 58502-4126

RE: Title Opinion (Magnus Property)

At your request we have made an office examination of the abstract relative to title of the premises situated in the County of Burleigh and State of North Dakota, described in the caption of the abstract as follows, to wit:

Lot 7 and the S½ of Lot 8, Block 1, Riverside Subdivision, located in Sections 27 and 28, Township 140 North, Range 81 West of the 5th P.M., Burleigh County, North Dakota (But see Examiner's Note 1 and exhibits as to actual legal description.)

The abstract, consisting of 171 entries and 4 abstractor's certificates, was last continued and certified to by The North Dakota Guaranty & Title Company, to and as of June 17, 2013, at 7:59 a.m.

From such examination of the abstract described above, certified to the date and time stated, we find and are of the opinion, subject to the **COMMENT** hereinafter made, as follows:

Ownership: Owner(s) of marketable record title of such premises, free and clear of all liens or encumbrances of record, except as noted in this opinion.

Entry	Name	Interest	Instrument/Recording Data
155	Bradford Magnus and Heather Magnus, but See Examiner's Note 1.	Joint tenants	Warranty deed dated April, 26, 2005, and recorded April, 28, 2005, as document no. 635999

Mortgage, Assignments of Rent, and UCC Financing Statements: All of the foregoing instruments create enforceable liens against the premises according to their terms.

Entry	Type/Grantee	Date Recorded	Recording Data
170	Mortgage/ Gate City Bank	February 23, 2009	Document no. 703433
171	Mortgage/ Gate City Bank	February 23, 2009	Document no. 703435

Other Liens and Encumbrances: Other recorded or noted instruments and records creating liens and encumbrances upon the premises.

Entry	Type/Item	Date Recorded	Recording Data or Notation
148	First right of refusal. See Examiner's Note 2 below.	February 3, 2004	Document no. 613715
	See Examiner's Note 3		

Easements: The foregoing easements are of record and have a greater or lesser impact on the premises. Additional information as to the full nature and extent of any recorded easement may be obtained from the actual abstract entry, or by a review of the entire recorded instrument.

Entry	Type/Grantee	Date Recorded	Recording Data
	See Examiner's Note 3		

Taxes: None Delinquent

Examiner's Notes:

1. The Magnus's predecessors in title were Joseph Cichy and Barbara Cichy who acquired title to the premises under a deed conveyance using the legal description contained in the caption of the abstract. While the Cichys owned the premises they exchanged deeds with the Dresslers to apparently clarify the boundary line between them for Lot 8. See Exhibits A and B. Thereafter, such description for Lot 8 was used to include the conveyance to Magnus. See Exhibit C. The undersigned Examiner has no basis upon which to determine the ownership interest of the Dresslers in Lot 8. However, the title insurance binder prepared by North Dakota Guaranty & Title Company indicated clear title and that company may have confirmed the ownership by Dresslers. It should be noted that in this regard entry 141 of the abstract contains an error of description and varies from the recorded instrument.

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2. The Magnus' predecessors in title were Joseph Cichy and Barbara Cichy who were divorced. A portion of the divorce decree was recorded as to the premises. As reflected in the portion recorded, Barbara was to quit claim her interest in the premises to Joseph, but she was also granted a right of first refusal if Joseph sells the property. As worded, it would appear that Barbara's first right survived her quit claim deed, and there is no other indication of record that such right was waived or released. Barbara did not join in the deed to Magnus. A request has been made to North Dakota Guaranty & Title Company to determine if they found that such first right was waived for released.
3. There are numerous easements, restrictions and issues of survey and riparian rights set forth in detail in a prior proposed title insurance commitment which is attached as Exhibit D and which is incorporated by reference. The undersigned Examiner believes that all such notations are valid and supported by his review of the abstract of title and his prior review of the title insurance binder. Accordingly, such matters are not set forth separately in this opinion.

Requirements, if any: A waiver, release, or some other proof that the first right of refusal of Barbara Cichy Perry is no longer an encumbrance on the premises.

COMMENT

Scope of Opinion: Unless otherwise stated, this opinion is written from an examination of the abstract only and the court files of any proceedings that may appear, such as foreclosure, quiet title actions, probate proceedings or tax sales, have not been examined.

Location of Buildings: Abstract does not show the location of buildings. If buildings or other improvements are involved, you must satisfy yourself by survey or other proper investigation that the same lie within the boundaries of the property described in the abstract.

Possession: You are charged with notice of the rights of persons in possession of the premises and of easements, encroachments and the like which, though not appearing of record, are capable of ascertainment by inspection or survey.

Zoning Ordinances and Covenants: Information as to zoning ordinances is outside the scope of this opinion but can be obtained from the building inspector of the city in which the property is located.

Mechanic's Liens: Such liens may be filed for record within 90 days after the improvement or construction upon the premises. Therefore, if there have been any recent

improvements, there is a possibility that liens for such work may still be filed though they do not appear in the abstract. Please note that a 1989 amendment to the North Dakota Mechanic's Lien law allows mechanic's liens to be filed for architectural services, construction staking, engineering, land surveying, mapping or soil testing.

Taxes: In North Dakota, the general real estate taxes are not due until the first day of January following the year for which they are assessed and levied.

Special Assessments: Special assessments are not normally shown in abstracts until they have been extended in the tax lists by the county auditor. Consequently, it is possible for property to be subject to special assessments which do not appear in the abstract.

Lien for Weed Control Purposes: Section 63-01.1-08 of the NDCC provides for a lien against the property of a landowner who is responsible for infestation or fails or refuses to perform requirements for the control of weeds, and said lien need not be filed for record.

Waiver of Homestead Exemption: This examiner does not express an opinion whether any mortgage(s) listed in this opinion are in compliance with Section 47-18-05.1 of the NDCC which requires a waiver of homestead exemption by the mortgagor(s) on a mortgage on homestead property, except for a purchase money mortgage.

Mineral Estate: No opinion is expressed as to the status of the mineral estate or the rights of the owners or holders of mineral estates.

Non-Access Control Line: This examiner has not viewed the subject property and does not express an opinion whether any driveway allowing access from a public street to the subject property is in violation of a non-access control line which may be dedicated in a subdivision plat in which the lot or lots are located.

Veterans Administration Loan Guarantees: This examiner does not express an opinion whether the borrower and lender in any mortgage cited in the title opinion have complied with Section 35-03-01.3 of the NDCC which requires a statement to be signed by both parties at the time of the loan application when the loan is insured or guaranteed by the United States Veterans Administration.

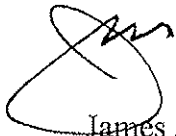
Environmental Concerns: This examiner does not express an opinion regarding the existence of any hazardous or toxic materials which may have been placed on the subject property or for other environmental concerns which may create a liability for the present or future owner of the property for the removal of such toxic materials or the abatement thereof. Any concerns regarding environmental matters should be addressed by an environmental audit or inspection of the subject property.

Environmental Laws and Hazardous Waste: The abstract does not reveal whether the property has been used in any manner that may have violated and would support a claim or cause of action under any federal, state or local environmental laws. You are required to satisfy yourself that such use has not occurred in the past and that there are no underground fuel storage facilities on the premises or other facilities which may have violated any applicable environmental laws. Notice should be taken that subsequent owners may be subject to action under said laws for prior owner's violations.

If you have any questions regarding this opinion, please feel free to call upon me.

Sincerely,

COLES LAW FIRM



James J. Coles
Attorney at Law

06281320.203.docx

9/21



QUIT CLAIM DEED

23-140-81-65-01-090

THIS INDENTURE, Made this 1st day of March 2002, between Joseph J. Cichy and Barbara Belle Cichy, husband and wife whose post office address is 9806 Island Road, Bismarck, ND 58503, party of the first part, and Enge D. Dressler and Patricia (Patty) L. Dressler, whose post office address is 9828 Island Road, Bismarck, ND 58503, party of the second part;

WITNESSETH, That the said party of the first part, for and in consideration of the sum of One Dollar and other good and valuable consideration to them in hand paid by the said party of the second part, the receipt whereof is hereby acknowledged, does SELL, REMISE, RELEASE AND QUIT CLAIM to the said party of the second part, their heirs, and assigns FOREVER, as joint tenants, and not as tenants in common, all their right, title, interest, claim or demand in and to the tract or parcel of land lying and being in the County of Burleigh, and State of North Dakota, and described as follows:

That portion of Lot Eight (8), Block One (1), Riverside Subdivision, located in sections Twenty-Seven (27) and Twenty-Eight (28), Township One Hundred Forty (140) North, Range Eighty One (81) West of the Fifth Principal Meridian, Burleigh County, North Dakota, lying Northeast of the following described "Boundary Line": Beginning at the most Southeasterly corner of said Lot Eight (8); thence Northeasterly along the Southeasterly boundary of Lot Eight (8), for a distance of 60 feet to the true point of beginning; thence Northwesterly along a line which is parallel to and 60 feet from the lot line common to lots Seven (7) and Eight (8), for a distance of 325.0 feet, more or less, to the bank of the Missouri River.

I certify that the full consideration for the property conveyed by this deed is \$ 10.00
TO HAVE AND TO HOLD, the above quit claimed premises, together with all the hereditaments and appurtenances thereunto belonging or in anywise appertaining to the said party of the second part, their heirs, and assigns, FOREVER.

IN WITNESS WHEREOF, the said party of the first part has hereunto set their hands the day and year first above written.

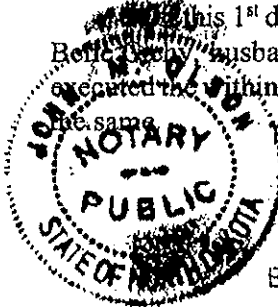
Signature of Joseph J. Cichy

Signature of Barbara Belle Cichy

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

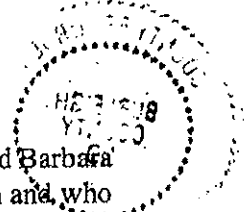
PLEASE RETURN TO:
DISMARCK TITLE CO.
421 N. 4th Street
P.O. Box 1811
Bismarck, ND 58502-1811

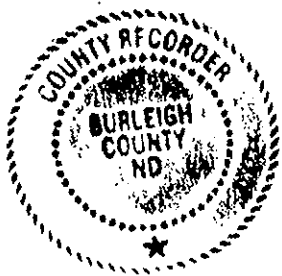
On this 1st day of March, 2002, before me personally appeared Joseph J. Cichy and Barbara Belle Cichy, husband and wife, and know to me to be the persons who are described in and who executed the within and foregoing instrument, and severally acknowledged to me that they executed the same.



TRANSFER accepted this 7 day of
MARCH 20 2002
Kevin Blath, Notary Public

By: [Signature], Deputy, Burleigh County Auditor
My Commission Expires: JUNE





BISMARCK TITLE CO GCD 23.00 Burleigh County

569422
Page: 2 of 2
03/07/2002 04:38P

Spindler & Bell



QUIT CLAIM DEED

23-140-21-65-01-090

THIS INDENTURE, Made this 1st day of March, 2002, between Enge D. Dressler and Patricia (Patty) L. Dressler, husband and wife whose post office address is 9828 Island Road, Bismarck, ND 58503, party of the first part, and Joseph J. Cichy and Barbara Belle Cichy, whose post office address is 9806 Island Road, Bismarck, ND 58503, party of the second part;

WITNESSETH, That the said party of the first part, for and in consideration of the sum of One Dollar and other good and valuable consideration to them in hand paid by the said party of the second part, the receipt whereof is hereby acknowledged, does SELL, REMISE, RELEASE AND QUIT CLAIM to the said party of the second part, their heirs, and assigns FOREVER, all their right, title, interest, claim or demand in and to the tract or parcel of land lying and being in the County of Burleigh, and State of North Dakota described as follows:

That portion of Lot Eight (8), Block One (1), Riverside Subdivision, located in sections Twenty-Seven (27) and Twenty-Eight (28), Township One Hundred Forty (140) North, Range Eighty One (81) West of the Fifth Principal Meridian, Burleigh County, North Dakota, lying Southwest of the following described "boundary line": Beginning at the most Southeasterly corner of said Lot Eight (8); thence Northeasterly along the Southeasterly boundary of Lot Eight (8), for a distance of 60 feet to the true point of beginning; thence Northwesterly along a line which is parallel to and 60 feet from the lot line common to lots Seven (7) and Eight (8), for a distance of 325.0 feet, more or less, to the bank of the Missouri River.

I certify that the full consideration for the property conveyed by this deed is \$ 10.00. *Maury* Grantee or agent TO HAVE AND TO HOLD, the above quit claimed premises, together with all the hereditaments and appurtenances thereunto belonging or in anywise appertaining to the said party of the second part, their heirs, and assigns, FOREVER.

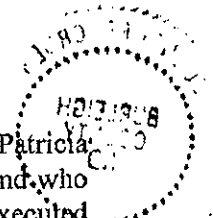
IN WITNESS WHEREOF, the said party of the first part has hereunto set their hands the day and year first above written.

Enge D. Dressler
Enge D. Dressler

Patricia L. Dressler
Patricia L. Dressler

PLEASE RETURN
BISMARCK TITLE CO.
421 N. 4th Street
P.O. Box 1811
Bismarck, ND 58505
713.9065-82

STATE OF NORTH DAKOTA)
COUNTY OF BURLEIGH)
NOTARY PUBLIC
KILEY HART
Bismarck, ND



On this 1st day of March, 2002, before me personally appeared Enge D. Dressler and Patricia L. Dressler, husband and wife, and know to me to be the persons who are described in and who executed the within and foregoing instrument and severally acknowledged to me that they executed

Taxes and special assessments paid and TRANSFER accepted this 7 day of

MARCH 2002
Leanne Platt
Burleigh County Auditor

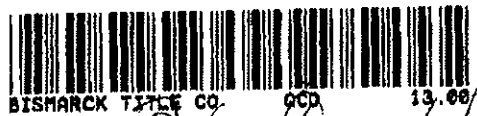
Kiley Hart
Kiley Hart, Notary
Burleigh County, North Dakota
My Commission Expires: 3-22-2005



By *HADA TAVADAVID*
Deputy, Burleigh County Auditor



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Page: 1 of 2
03/07/2002 04:37P



569421
Page: 2 of 2
03/07/2002 04:37P
13.00 Burleigh County

BISMARCK TITLE CO. QCD

Handwritten signature

Handwritten initials

No. 155

Joseph J. Cichy, a single person

WARRANTY DEED.

-to

Dated April 26, 2005.
Filed April 28, 2005 at 12:08 PM.
Recorded as Document No. 635999.

Bradford Magnus and Heather Magnus
9806 Island Road
Bismarck, ND 58503

Grant to the grantee, as joint tenants and not as tenants in common, with right of survivorship, all of the real property described as follows, to-wit:

Lot 7 and that portion of Lot 8, Block 1, Riverside Subdivision, located in Section 27 and 28, Township 140 North, Range 81 West of the Fifth Principal Meridian, Burleigh County, North Dakota, lying Southwest of the following described "Boundary Line": Beginning at the most Southeasterly corner of said Lot 8; thence Northeasterly along the Southeasterly boundary of Lot 8, for a distance of 60 feet to the true Point of beginning; thence Northwesterly along a line which is parallel to and 60 feet from the Lot Line common to Lots 7 and 8, for a distance of 325.0 feet, more or less, to the Bank of the Missouri River.

Free from all incumbrances EXCEPT easements, rights-of-way, restrictive covenants and mineral conveyances and reservations of record.

Acknowledged April 26, 2005, by Joseph J. Cichy, a single person, before J. K. Bischof, Notary Public, State of North Dakota (Seal) Comm. expires January 29, 2011.

No. 156

Bradford Magnus and Heather Magnus, husband and wife as joint tenants with full rights of survivorship

MORTGAGE.

-to

Dated April 26, 2005.
Filed April 28, 2005 at 12:08 PM.
Recorded as Document No. 636000.

"MERS" (Mortgage Electronic Registration Systems, Inc.) acting solely as nominee for Dakota Community Bank, a North Dakota Corporation
4321 Memorial Highway
Mandan, ND 58554

Mortgages:

Lot 7 and that portion of Lot 8, Block 1, Riverside Subdivision, located in Section 27 and 28, Township 140 North, Range 81 West of the Fifth Principal Meridian, Burleigh County, North Dakota, lying Southwest of the following described "Boundary Line": Beginning at the most Southeasterly corner of said Lot 8; thence Northeasterly along the Southeasterly boundary of Lot 8, for a distance of 60 feet to the true Point of beginning; thence Northwesterly along a line which is parallel to and 60 feet from the Lot Line common to Lots 7 and 8, for a distance of 325.0 feet, more or less, to the Bank of the Missouri River.

To secure the principal sum of \$276,000.00, last payment due on or before May 1, 2035.

Homestead Exemption Waiver dated April 26, 2005, by Bradford Magnus and Heather Magnus.

Acknowledged April 26, 2005, by Bradford Magnus and Heather Magnus, husband and wife, before J. K. Bischof, Notary Public, State of North Dakota (Seal) Comm. expires January 29, 2011.



SCHEDULE B - SECTION II EXCEPTIONS

Schedule B of the policy or policies to be issued will contain exceptions to the following matters unless the same are disposed of to the satisfaction of the company:

1. Defects, liens, encumbrances, adverse claims or other matters, if any created, first appearing in the public records or attaching subsequent to the effective date hereof but prior to the date the proposed insured acquires for value of record the estate or interest or mortgage thereon covered by this Commitment.
2. Taxes and special assessments which are not shown as existing liens by the Public Records.
3. Any facts, rights, interest or claims which are not shown by the public records but which could be ascertained by an inspection of land or by making inquiry or persons in possession thereof.
4. Easements, liens or encumbrances, or claims thereof, which are not shown by the public records.
5. Discrepancies, conflicts in boundary lines, shortage in area, encroachments, or any other facts which a correct survey would disclose, and which are not shown by the public records.
6. Any service, installation or connection charge for any and all utilities, including, but not limited to sewer, gas, water, or electricity.
7. Taxes for 2012 and prior years show paid. Real estate taxes for 2013 are not due until January 1, 2014.
8. Special assessments, if any. Note: There are no special assessments
9. Unpatented mining claims, reservations or exceptions in patents or acts authorizing the issuance thereof, water rights, claims or title to water, and all rights and claims to any of the oil, gas, coal or any and all minerals of any nature. Note: Final policy will not purport to show present owners of coal, oil, gas and other minerals, and the leases thereof, and no insurance is provided as to ownership of the mineral rights of any kind or nature
10. Rights of the United States, State of North Dakota, County of Morton and the public to that part of property in question falling in the bed of, eroded by or submerged under the waters of The Missouri River, its sloughs or backwaters as well as to that portion, if any, that may have been formed by accretions, reversion or relictions
11. The Consequence of any change in location of the Missouri River, or the old Missouri River Channel
12. Rights of the upper and lower riparian owners in and to the free and unobstructed flow of water of the Missouri River extending through the subject land, without diminution or pollution
13. No title will be insured to land comprising the shores or bottoms of navigable waters or to artificial accretions or fills
14. Riparian rights are neither guaranteed nor insured.
15. Right of Way Easement to Capital Electric Cooperative, Inc., dated July 1, 1985, filed January 6, 1986 at 1:50 PM, recorded as Doc. No. 365867. See instrument for full particulars.
16. Right of Way Easement to Capital Electric Cooperative, Inc., dated July 1, 1985, filed January 6, 1986 at 1:50 PM, recorded as Doc. No. 365868. See instrument for full particulars.



17. Right of Way Easement to Capital Electric Cooperative, Inc., dated May 10, 1990, filed December 20, 1990 at 1:40 PM, recorded as Doc. No. 415631. See instrument for full particulars.
18. Perpetual Easement Agreement with the Owners of residential lots located within Riverside Subdivision as relates to a boat landing and recreational area, dated August 20, 1985, filed September 3, 1985 at 9:15 AM, recorded as Doc. No. 362796. See instrument for full particulars.
19. Right of Way Easement to Northwestern Bell Telephone Company and Bismarck-Mandan CATV dated November 2, 1990, filed November 21, 1990 at 8:00 AM, recorded as Doc. No. 414729. See instrument for full particulars.
20. An Assignment of Easement to Sioux Falls Cable Television, a South Dakota general partnership, c/o Midcontinent Media, Inc., dated March 9, 1995, filed May 9, 1995 at 8:00 AM, recorded as Doc. No. 472487. See instrument for full particulars.
21. Any and all matters that affect the land as shown on the Plat of Riverside Subdivision filed June 7, 1985 at 10:30 AM, recorded as Doc. No. 360261.
22. Declaration of Restrictions dated May 28, 1985, filed June 7, 1985 at 10:30 AM, recorded as Doc. No. 360265, but omitting any covenants or restrictions, if any, based upon race, color, religion, sex, sexual orientation, familial status, marital status, disability, handicap, national origin, ancestry, or source of income, as set forth in applicable state or federal laws, except to the extent that said covenant or restriction is permitted by applicable law.
23. Declaration of Restrictions dated August 29, 1994, filed August 30, 1994 at 12:35 PM, recorded as Doc. No. 465644, but omitting any covenants or restrictions, if any, based upon race, color, religion, sex, sexual orientation, familial status, marital status, disability, handicap, national origin, ancestry, or source of income, as set forth in applicable state or federal laws, except to the extent that said covenant or restriction is permitted by applicable law.
24. Reservation of all minerals in and under the premises hereinafter by grantor by virtue of a Warranty Deed dated August 10, 1959, filed August 12, 1959 at 9:00 AM, recorded in Book 331, Page 192, executed by Wendelin Schmaltz and Mavis Schmaltz, husband and wife to Irvin Bourgois. See instrument for full particulars.
25. Reservation 50% of all minerals in and under the premises hereinafter by grantor by virtue of a Warranty Deed dated August 10, 1959, filed August 12, 1959 at 9:25 AM, recorded in Book 333, Page 417, executed by Wendelin Schmaltz and Mavis Schmaltz, husband and wife to Glen A. Sherwood and JoAnn Janice Sherwood. See instrument for full particulars.
26. Reservation 50% of all minerals in and under the premises hereinafter by grantor by virtue of a Warranty Deed dated August 24, 1960, filed August 31, 1960 at 11:50 AM, recorded in Book 331, Page 422, executed by Glen A. Sherwood and JoAnn Janice Sherwood, husband and wife, to Frantemal Order of Eagles #2237. See instrument for full particulars.
27. Right of Way Easement Burleigh Water Users Cooperative dated March 28, 2002, filed May 1, 2002 at 2:56 PM, recorded as Doc. No. 572448. See instrument for full particulars.
28. A mortgage to secure an original indebtedness of \$69,922.65, and any other amounts or obligations secured thereby, recorded dated February 12, 2009, filed February 23, 2009 at 10:26 AM, recorded as Doc. No. 703433; Mortgagor: Bradford Magnus and Heather Magnus; Mortgagee/Beneficiary: Gate City Bank
29. A mortgage to secure an original indebtedness of \$44,500.00, and any other amounts or obligations secured thereby, recorded dated February 12, 2009, filed February 23, 2009 at 10:26 AM, recorded as Doc. No. 703435; Mortgagor: Bradford Magnus and Heather Magnus; Mortgagee/Beneficiary: Gate City Bank

Purchase Agreement

THIS AGREEMENT made and entered into this 15 day of February, 2013, by and between Bradford Magnus and Heather Magnus, husband and wife, whose post office address is 9806 Island Road, Bismarck, North Dakota 58503, hereinafter called the "Seller," and the Burleigh County Water Resource District, a political subdivision organized under the laws of the State of North Dakota, whose address is 221 North 5th Street, Bismarck, North Dakota 58501, hereinafter called "the District."

WITNESSETH, that the Seller agrees to sell and the District agrees to purchase, upon the terms and conditions hereinafter set forth, the following described real property and all appurtenances thereunto belonging, owned by the Seller and located in the Burleigh County, State of North Dakota, to-wit:

Lot Seven (7) And That Portion Of Lot Eight (8), Block One (1), Riverside Subdivision, Located In Sections Twenty-Seven (27) And Twenty-Eight (28), Township One Hundred Forty (140), Range Eighty-One (81) West Of The Fifth Principal Meridian, Burleigh County, North Dakota, Lying Southwest Of The Following Described "Boundary Line": Beginning At The Most Southeasterly Corner Of Said Lot Eight (8); Thence Northeasterly Along The Southeasterly Boundary Of Lot Eight (8), For A Distance Of 60 Feet To The True Point Of The Beginning; Thence Northwesterly Along The Line Which Is Parallel To And 60 Feet From The Lot Line Common To Lots Seven (7) And Eight (8), For A Distance Of 325.00 Feet, More Or Less, To The Bank Of The Missouri River.

In further consideration of the covenants and obligations contained herein, the parties agree as follows:

1. PURCHASE PRICE. The gross purchase price for all of the Seller's right, title and interest in the property shall be Four Hundred Twenty Three Thousand Dollars (\$423,000.00). The net purchase price for all of the Seller's right, title and interest in the property shall be One Hundred Seventy Three Thousand Dollars (\$173,000.00), payable at closing, which represents a reduction in the gross purchase price of Two Hundred Fifty Thousand Dollars (\$250,000.00), a sum paid to the Seller by the FEMA National Flood Insurance Program, such reduction taken as required by the purposes set forth in Paragraph 9A and/or Paragraph 9B of this agreement. Except as otherwise provided herein, the Seller shall receive no other compensation from the District for the Seller's right, title, and interest in the property.

2. ABSTRACT AND TITLE INSURANCE. Prior to closing, the Seller shall provide the District possession of an abstract of title or title insurance policy showing marketable title of the Seller to the real estate described in this agreement. The cost of any abstract continuation or

provision of title insurance shall be paid by the Seller. In the event that the seller is unable to deliver an existing abstract or title insurance policy to the District, the cost of creating a new abstract or acquisition of title insurance policy shall be paid by the Seller. The Seller shall pay all costs required to perfect its title to the property. The Seller agrees to cooperate with the District and to execute all documents necessary to demonstrate or obtain marketable title to the property. Upon closing, all abstracts and title insurance policies shall become the property of the District.

If the Seller's title is not insurable or free of defects and cannot be made so within sixty (60) days after notice containing a written statement of defects delivered to the Seller, then this agreement may be terminated at the option of the District, except that the District may waive defects and elect to close the purchase.

3. DEED. The Seller shall, on full compliance by the District with the promises herein, execute and deliver to the District a warranty deed, in recordable form, conveying marketable title free from all encumbrances, except the following:

- A. Conditions, covenants, restrictions, limitations, terms, easements, and declarations of record;
- B. Taxes, general and/or special assessments, not yet certified for collection;
- C. Facts that a survey or personal inspection of the property will disclose;
- D. All zoning regulations and ordinances;
- E. Covenants required by federal, state or local authorities as a result of the acquisition of the property.

4. CLOSING DATE. This transaction shall be finally closed and a warranty deed as required herein delivered to the District within forty-five (45) days after the later of either delivery to the District of all necessary documents from the Seller or delivery of a current abstract of title or title insurance commitment demonstrating marketable title to the property in the condition required under purchase agreement and availability of adequate funding for the District.

5. POSSESSION. On and after the closing date, the District shall be entitled to immediate possession of the property and to receipt of all rents and profits from the property due thereafter.

6. INSPECTION OF PROPERTY. The District shall have the right to conduct such investigations, inspections and inventories of the property as it deems reasonable or necessary prior to closing. The Seller hereby grants the District, its officers, agents, employees and independent contractors, the right to enter upon the property at reasonable times upon reasonable

notice, oral or written, from time to time after the date of this agreement for the purpose of investigation, inspecting and performing inventories of the property and for other purpose consistent with the District's interest under this agreement.

7. REMOVAL OF PERSONAL PROPERTY. Prior to the closing date, the Seller at its own expense shall remove all personal property which Seller wishes to retain. Also, prior to or on the closing date, Seller shall execute and deliver to the District the certificate of removal of personal property attached as Exhibit "A." Any personal property remaining in the structure at the time of closing will become the property of The District.

8. NO HOLDOVER PERIOD FOR OCCUPANTS. The Seller shall ensure that it and all other current occupants vacate the property prior to the closing date.

9. PURCHASE PRICE DEDUCTIONS.

- A. Prior to disbursing payment to the Seller, the District may use a portion of the purchase price to satisfy the Seller's obligations under this document, to pay taxes, assessments, mortgages, liens and acquisition of other parties' outstanding interests in the property.
- B. The Seller acknowledges that this voluntary acquisition is made pursuant to a program funded by the Federal Emergency Management Agency (FEMA), the U.S. Department of Housing and Urban Development (HUD), and/or the State of North Dakota. In order to prevent the duplication of assistance made to flood disaster victims, FEMA and other federal agencies require that certain types of assistance received by the Seller for flood-related damage be deducted from the purchase price. All decisions regarding deductions for duplication of benefits shall be made by the appropriate federal and state agency, including but not limited to, FEMA, SBA, HUD and the North Dakota Department of Emergency Services. The following deductions are likely to be directed by the federal and state agencies, but do not represent an exhaustive listing:
 - i. All amounts equal to FEMA Individual and Family Grant Program Assistance received by the Seller after May 23, 2011.
 - ii. All amounts equal to all flood insurance proceeds received by the Seller after May 23, 2011.
 - iii. All amounts of other insurance paid for claims for structural damage after May 23, 2011.

- iv. All amounts equal to outstanding balances on SBA Real Estate Repair and Replacement Disaster Loans received by the Seller after May 23, 2011.
- v. All amounts equal to outstanding balances on Bank of North Dakota Rebuilders Loan received by the Seller.

Other deductions may be required as directed by the appropriate federal or state agency.

- C. Following execution of this purchase agreement, the District shall provide all information regarding this voluntary acquisition to the appropriate federal and/or state agencies for duplication of benefits determinations. Prior to closing, the District shall prepare and deliver to the Seller a document setting forth the deductions directed by appropriate agencies from the purchase price. Such deductions shall occur at time of closing.

10. STATUS QUO MAINTAINED. Except as otherwise authorized by the District, the property shall be preserved in its present condition and the Seller shall deliver it intact at the time of closing. In the event salvage is authorized, the replacement value of salvaged items will be deducted from the purchase price stated in Paragraph 1. All risk of loss or damage to the property is on the Seller until closing. Prior to closing, the Seller shall promptly give written notice to the District of any salvage, loss or damage to the property. In the event of salvage, loss, damage or destruction of all part of the property, the District shall have the option to terminate this agreement effective immediately. However, in the case of salvage, loss, damage or destruction of all or part of the property, the District shall have the option to: (1) take possession of the property upon completion of the terms and obligations of this purchase agreement; (2) terminate this agreement effective immediately; or (3) renegotiate the purchase price.

11. UTLILITES. The Seller shall be responsible for payment of all utility expenses incurred by it or incurred by any other occupants, prior to the date of possession by the District.

12. TAXES. The Seller shall pay a pro-rata share of taxes on the property through date of closing and all unpaid taxes for prior years.

13. SPECIAL ASSESSMENTS. The Seller shall pay a pro-rata share of special assessments on the property through date of closing and all unpaid special assessments for prior years.

14. TIME IS OF THE ESSENCE. Time is of the essence of this agreement.

15. LEASES. The Seller represents and warrants to the District that there are no leases, tenancies or other rights of occupancy for use for any portion of the property. The foregoing representation and warranty shall survive the closing date. The Seller shall hold harmless and

indemnify the District from and against any claims which may arise or be based upon any alleged leasehold interest, tenancy or other right of occupancy or use of any portion of the property.

16. APPROVAL OF COURT. If the property is an asset of any estate, trust or guardianship, this document shall be subject to court approval prior to payment of purchase price, unless declared unnecessary by the District. If the court approval is necessary, the appropriate fiduciary shall proceed prompt and diligently to bring the matter on for hearing to enable the issuance of an order approving the sale.

17. ENVIROMENTAL MATTERS.

A. Environmental Representations and Warranties. For purposes of this agreement, the terms "hazardous waste" or "hazardous substance" shall include every material, waste, contaminant, chemical, toxic pollutant or other substance listed or described in any of the following sources, as amended from time to time: (i) the Resource Conservation and Recovery Act to 1976, 42 U.S.C. 9601 et.seq. (RCRA); (ii) the Comprehensive Environmental Response, Compensations, and Liability Act 1980, (Pub. Law. 96-510) (CERCLA) as amended by the Superfund Amendments and Reauthorization Act of 1986 (Pub. L. 99-499) (SARA) codified at 42 U.S.C. 9601 et.seq.; (iii) Federal Environmental Protection Agency Regulations at 40 C.F.R. Parts 122-124 and 260-265; (iv) North Dakota Code Chapter 19-21; (v) any other federal, state, or local statute or ordinance which defines "hazardous waste" or "hazardous substance" or similar terms, and which could create liability in the District or the District's successors in interest; and (vi) any federal, state or local regulations, rules or orders issued or promulgated under or pursuant to any of the forgoing or otherwise by any department, agency or other administrative regulatory or judicial body having jurisdiction over the property (hereinafter collectively referred to as "Environmental Laws"). Without limiting the foregoing, the terms "hazardous waste" and "hazardous substance" shall also include all substances or materials containing asbestos, PCBs, or hydrocarbons. To the best of the Seller's knowledge:

- (1) There are no abandoned wells, agricultural drainage wells, solid waste disposal sites or underground storage tanks located in, on or about the property;
- (2) There is and has been no hazardous waste or hazardous substance stored, generated, treated, transported, installed, dumped, handled or placed in, on or about the property;

- (3) At no time have any federal or state hazardous waste or hazardous substance cleanup funds been expended with respect to any of the property;
- (4) There has never been any solid waste disposal site or underground storage tank located in, on, or about the property, nor has there been any release from any underground storage tank on real property contiguous to the property which has resulted in any hazardous waste or hazardous substance coming in contact with the property;
- (5) The Seller has not received any directive, citation, notice letter or other communication, whether written or oral, from the Environmental Protection Agency, the North Dakota Department of Health, or any other governmental agency with authority under any environmental laws, or any other person or entity regarding the release, disposal, discharge, or presence of any hazardous waste or hazardous substance on the property, or any violation of any environmental laws; and
- (6) To the best of the Seller's knowledge, neither the property, nor any real property contiguous to the property, nor any predecessors in title to the property, are in violation of or subject to any existing, pending or threatened investigation or inquiry by any governmental authority or to any removal or remedial obligations under any environmental laws.

The foregoing representations and warranties, and the environmental indemnifications set forth in the following subparagraph B shall survive the closing. In addition, the forgoing representations and warranties and the indemnification provisions in this agreement shall not be affected by any study, investigation, or inspection of the property by the District or any agent of the District.

- B. Environmental indemnification. The Seller agrees to indemnify and hold harmless the District from and against any and all claims, demands, fines, penalties, causes of action, losses, damages, liabilities, expenses, and costs (including court costs and reasonable attorney's fees incurred by the District to enforce this provision) asserted against or incurred by the District by reason of or arising out of the breach of any representation or warranty of the Seller set forth above.
- C. Additional Environmental Provisions. The Seller shall not store, generate, treat, transport, install, dump, handle, or place in, on or about any portion of the property any hazardous waste or hazardous substance. If the Seller receives any notice from any governmental authority or any other party regarding the release or presence of any hazardous waste or hazardous substance on any portion of the property, or otherwise learns of any release or

presence of any hazardous waste or hazardous substance on any portion of the property, the Seller shall immediately notify the District of such fact. In addition, the District or its agents shall have the right to enter upon the property at any time to perform additional environmental studies. If at any time the District in its sole and unrevocable discretion determines that hazardous wastes or hazardous substance are present on any portion of the property, the District may terminate this agreement effective immediately.

D. Removal of Septic Systems, Drain Field, Wells and Utilities

It shall be the responsibility of the District to remove and reclaim any residential septic systems including the septic tanks and drain fields, and to plug any geothermal or groundwater well systems as well as to disconnect and remove or abandon other utilities located on the subject premises.

18. CONTRACT BINDING ON SUCCESSORS IN INTEREST. The document shall apply to and bind the heirs, executors, administrators, partners, assigns, and successors in interest of the respective parties.

19. INTENTION OF USE OF WORDS AND PHRASES. Words and phrases contained herein, including the acknowledgement clause, shall be construed as in the singular and plural number, and as masculine, feminine or neuter gender, according to the context.

20. PARAGRAPH HEADINGS. The paragraph headings contained herein are for convenience in reference and are not to intend to define or limit the scope of any provision of this document.

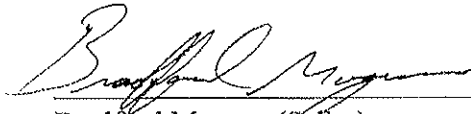
21. NO COMMISSION. Each party hereto represent to the other that no real estate commission shall be due on the conveyance contemplated by this agreement.

22. VOLUNTARY ACQUISITION. The Seller acknowledges that the District is acquiring this property pursuant to the District's Voluntary Acquisition of Residences Program and that the Seller's acceptance of this agreement is a voluntary transaction. The Seller is under no duress or coercive action by the District to accept this agreement but rather does so freely and willingly and under no threat of eminent domain. The Seller further acknowledges that if it accepts this agreement, it will be necessary to move permanently from the property. The acknowledgements set forth in this paragraph shall survive the closing.

23. ENTIRE AGREEMENT. This purchase agreement contains the entire agreement between the parties, and neither party has relied upon any verbal or written representations, agreements, or understandings not set forth in this agreement.

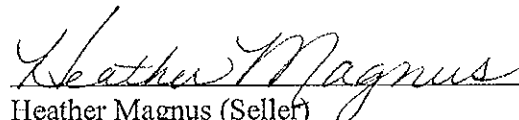
24. MODIFICATION. No modification of this agreement shall be valid or binding unless the modification is in writing, duly stated and signed by both parties.

The Seller hereby agrees to sell the above-described property at the price and on the terms and conditions set forth in this agreement.



Bradford Magnus (Seller)

Social Security No. ~~500-800-0000~~

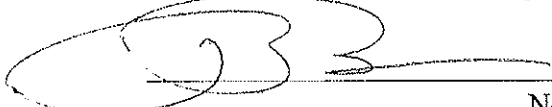


Heather Magnus (Seller)

Social Security No. ~~577-800-0000~~

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

On this 1st day of February, 2013, before me, a notary public within and for said county and state, personally appeared Bradford Magnus and Heather Magnus, husband and wife, known to me to be the Seller described in and who executed the within foregoing instrument.



, Notary Public
Burleigh County, North Dakota
My Commission Expires: 10-16-13

DAVID R BLISS
Notary Public
State of North Dakota
My Commission Expires October 16, 2013

EXHIBIT "B"

BILL OF SALE

Brad and Heather Magnus, hereinafter the "Seller," for good and valuable consideration, receipt of which is hereby acknowledged, do hereby sell, convey, assign, transfer and release to the Burleigh County Water Resource District, North Dakota, all the Seller's right, title, and interest in all fixtures, improvements, furnishings, appliances and personal property located on the premises at 9806 Island Road, Bismarck, North Dakota, and legally described as:

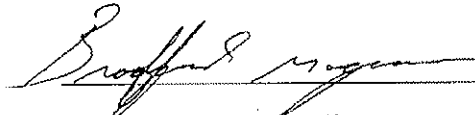
Lot Seven (7) And That Portion Of Lot Eight (8), Block One (1), Riverside Subdivision, Located In Sections Twenty-Seven (27) And Twenty-Eight (28), Township One Hundred Forty (140), Range Eighty-One (81) West Of The Fifth Principal Meridian, Burleigh County, North Dakota, Lying Southwest Of The Following Described "Boundary Line": Beginning At The Most Southeasterly Corner Of Said Lot Eight (8); Thence Northeasterly Along The Southeasterly Boundary Of Lot Eight (8), For A Distance Of 60 Feet To The True Point Of The Beginning; Thence Northwesterly Along The Line Which Is Parallel To And 60 Feet From The Lot Line Common To Lots Seven (7) And Eight (8), For A Distance Of 325.00 Feet, More Or Less, To The Bank Of The Missouri River.

free and clear of all liens, encumbrances, reservations, exceptions and modifications.

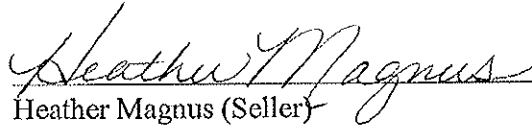
For the purposes of this document, said fixtures, improvements and personal property includes, but is not limited to, all property that integrally belongs to or is part of the above-described real estate, whether attached or detached, such as light fixtures, shades, rods, blinds, awnings, storm windows, storm doors, storm sashes, screens, attached linoleum, plumbing fixtures, water heaters, water softeners, automatic heating equipment, air conditioning equipment other than window type, door chimes, built-in items on electrical service cable, and all equipment within the building for improvement, fencing, gates and other attached fixtures, trees, brushes, shrubs, and plants except: _____

This document shall be effective as of the date of closing.

Dated this _____ day of February, 2013.



Bradford Magnus (Seller)



Heather Magnus (Seller)

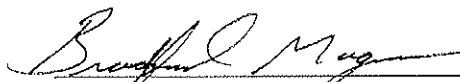
C:\Users\Dave\Google Drive\Bliss Files\Burleigh County Water Resource\Hoguc Island Project\Magnus Purchase Agreement & Exhibits\Homeowner's Purchase Agreement Exhibit B 10-12-12 Magnus.docx


EXHIBIT "A"

CERTIFICATE OF REMOVAL OF PERSONAL PROPERTY

Bradford Magnus and Heather Magnus, hereby state(s) that I/we have removed all wanted personal property, equipment, furnishings and appliances from the site at 9700 Island Road, Bismarck, North Dakota. I/we further declare that any and all personal property remaining on the premises is hereby abandoned and I/we relinquish any further claim or interest thereto.

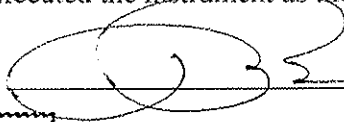
This document shall be effective as of the date of closing


Bradford Magnus (Seller)


Heather Magnus (Seller)

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

On this 12th day of February, 2013, before me, a notary public, in and for the State of North Dakota, personally appeared Bradford Magnus and Heather Magnus, husband and wife, to me known to be the identical persons named in and who executed the foregoing instrument, and acknowledgment that such persons executed the instrument as their voluntary act and deed.



DAVID R BLISS
Notary Public
State of North Dakota
My Commission Expires October 16, 2013

, Notary Public
Burleigh County, North Dakota
My Commission Expires: 10-16-13

EXHIBIT "C"

AFFIDAVIT OF SELLER (S)

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

I/WE, being sworn on oath, depose and say:

That I am of legal age and am the Seller (or one of the Sellers) of that real property described as:

Lot Seven (7) And That Portion Of Lot Eight (8), Block One (1), Riverside Subdivision, Located In Sections Twenty-Seven (27) And Twenty-Eight (28), Township One Hundred Forty (140), Range Eighty-One (81) West Of The Fifth Principal Meridian, Burleigh County, North Dakota, Lying Southwest Of The Following Described "Boundary Line": Beginning At The Most Southeasterly Corner Of Said Lot Eight (8); Thence Northeasterly Along The Southeasterly Boundary Of Lot Eight (8), For A Distance Of 60 Feet To The True Point Of The Beginning; Thence Northwesterly Along The Line Which Is Parallel To And 60 Feet From The Lot Line Common To Lots Seven (7) And Eight (8), For A Distance Of 325.00 Feet, More Or Less, To The Bank Of The Missouri River.

That I am now (together with other sellers, if any) in possession of said property (or was in possession of said property until possession was delivered by the purchaser(s) in this transaction, and no other persons (except other sellers or the purchaser (s) are in possession of said property, except as disclosed below;

That there are no unrecorded contracts for deed, leases, rental agreements, repair or construction orders or agreements, or any other contracts or agreements affecting that property, except the listing and sale agreements which are a part of this transaction, and those further agreements disclosed below;

That there have been no labor or materials furnished to said premises during the last ninety (90) days which full payment has not been made, and there are no contested or unpaid bills for materials or labor for improvements or repairs to the property, except as stated below;

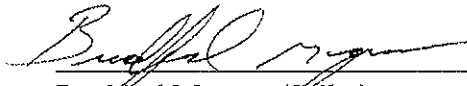
That I have inspected the property and to the best of my knowledge and belief, there are no easements, or claims of easements which are shown by the public records, and that there are no discrepancies, conflicts in boundary lines, shortages in area or encroachments which are not shown by the public records, excepts as stated below;

That there are no bankruptcy or divorce proceedings, nor any other actions in county, state or federal courts, nor any tax lien proceedings, pending or in progress against or involving me (nor, to my knowledge, any other buyer), except as stated below; and

That any judgments, bankruptcy proceedings, or tax liens of record against parties with the same or similar names are not against me, excepts as stated below.

Statement of exceptions: [list all exceptions here] _____
_____.

This affidavit is made for the purpose of inducting a title insurance company to issue an owner's policy of title insurance on the premises without exception to rights of parties in possession, mechanics' and materialmen's liens claims, easements or claims of easements, discrepancies, conflicts in boundary lines, shortages in area, or encroachments, which does not appear of record.



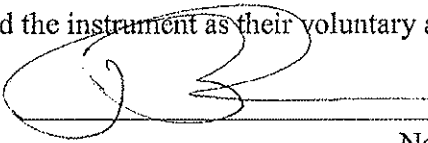
Bradford Magnus (Seller)



Heather Magnus (Seller)

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

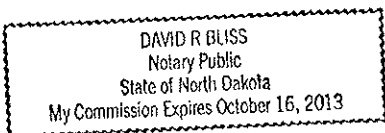
On this 12 day of February, 2013, before me a notary public in and for the State of North Dakota, personally appeared Bradford Magnus and Heather Magnus, husband and wife, to me know to be the identical persons named in and who executed the foregoing instrument, acknowledgment that such persons executed the instrument as their voluntary act and deed.



, Notary Public

Burleigh County, North Dakota

My Commission Expires: 10-16-11



From: David Bliss [mailto:dbliss@blisslaw.com]
Sent: Thursday, June 13, 2013 5:04 PM
To: Jerry Rodgers
Cc: Cary Backstrand; Michael Gunsch
Subject: Date of Vacation of Premises

Jerry,

Have you got a date for your vacation of the premises and for the removal of your personal property items?

Thanks.

Dave



DAVID R. BLISS
Bliss & Stebbins Law Firm, LLC
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

IMPORTANT NOTICE: This communication and any documents or files transmitted with it are confidential, contain information individual or entity to which it is addressed. If you are not the intended recipient, be advised that you have received this e-mail in communication is strictly prohibited. If you have received this in error, please immediately notify the sender at dbliss@blisslaw.com.

Cc: 'Michael Gunsch'; 'Fleck Terry (tfleck@attitudedr.com)'
Subject: RE: Date of Vacation of Premises

Thanks, Jerry. Mike Gunsch is handling the subsequent sale/cleanup segment of these transactions. I anticipate that h

Dave



DAVID R. BLISS
Bliss & Stebbins Law Firm, LLC
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](mailto:d bliss@blisslaw.com)

www.blisslaw.com

IMPORTANT NOTICE: This communication and any documents or files transmitted with it are confidential, contain information individual or entity to which it is addressed. If you are not the intended recipient, be advised that you have received this e-mail in communication is strictly prohibited. If you have received this in error, please immediately notify the sender at [dbliss@blisslaw.com](mailto:d bliss@blisslaw.com).

From: Jerry Rodgers [<mailto:rodgershardwood@bis.midco.net>]
Sent: Monday, June 17, 2013 8:04 AM
To: 'David Bliss'
Subject: RE: Date of Vacation of Premises

David, I will remove personal property and vacate within the 60 day period agreed upon. On or before August 11th 2013. Jerry

Purchase Agreement

THIS AGREEMENT made and entered into this 25 day of March, 2013, by and between Jerome Rodgers, a single person, whose post office address is, 9750 Island Road, Bismarck, North Dakota 58503, hereinafter called "Seller," and the Burleigh County Water Resource District, a political subdivision organized under the laws of the State of North Dakota, whose post office address is 221 North 5th Street, Bismarck, North Dakota 58501, hereinafter called "the District."

WITNESSETH, that the Seller agrees to sell and the District agrees to purchase, upon the terms and conditions hereinafter set forth, the following described real property and all appurtenances thereunto belonging, owned by the Seller and located in Burleigh County, North Dakota, to-wit:

Lot 6 and N1/2 of Lot 5, Block 1, Riverside Subdivision in all that part of Section 27 and Section 28, Township 140 North, Range 81, West of the Fifth Principal Meridian.

In further consideration of the covenants and obligations contained herein, the parties agree as follows:

1. PURCHASE PRICE. The gross purchase price for all of the Seller's right, title and interest in the property shall be Four Hundred Three Thousand Dollars (\$403,000.00). The net purchase price for all of the Seller's right, title and interest in the property shall be Three Hundred Eighty Eight Thousand Five Hundred Forty Two Dollars (\$388,542.00), payable at closing, which represents a reduction in the gross purchase price of Fourteen Thousand Fifty Eight Dollars, such reduction taken as required by the purposes set forth in Paragraph 9A and/or Paragraph 9B of this agreement. Except as otherwise provided herein, the Seller shall receive no other compensation from the District for the Seller's right, title, and interest in the property.

2. ABSTRACT AND TITLE INSURANCE. Prior to closing, the Seller shall provide the District possession of an abstract of title or title insurance policy showing marketable title of the Seller to the real estate described in this agreement. The cost of any abstract continuation or provision of title insurance shall be paid by the Seller. In the event that the seller is unable to deliver an existing abstract or title insurance policy to the District, the cost of creating a new abstract or acquisition of title insurance policy shall be paid by the Seller. The Seller shall pay all costs required to perfect its title to the property. The Seller agrees to cooperate with the District and to execute all documents necessary to demonstrate or obtain marketable title to the property. Upon closing, all abstracts and title insurance policies shall become the property of the District.

If the Seller's title is not insurable or free of defects and cannot be made so within sixty (60) days after notice containing a written statement of defects delivered to the Seller, then this

agreement may be terminated at the option of the District, except that the District may waive defects and elect to close the purchase.

3. DEED. The Seller shall, on full compliance by the District with the promises herein, execute and deliver to the District a warranty deed, in recordable form, conveying marketable title free from all encumbrances, except the following:

- A. Conditions, covenants, restrictions, limitations, terms, easements, and declarations of record;
- B. Taxes, general and/or special assessments, not yet certified for collection;
- C. Facts that a survey or personal inspection of the property will disclose;
- D. All zoning regulations and ordinances;
- E. Covenants required by federal, state or local authorities as a result of the acquisition of the property.

4. CLOSING DATE. This transaction shall be finally closed and a warranty deed as required herein delivered to the District within forty-five (45) days after the later of either delivery to the District of all necessary documents from the Seller or delivery of a current abstract of title or title insurance commitment demonstrating marketable title to the property in the condition required under purchase agreement and availability of adequate funding for the District.

5. POSSESSION. On and after the closing date, the District shall be entitled to immediate possession of the property and to receipt of all rents and profits from the property due thereafter. Seller shall have sixty (days) from the date of closing by which to vacate the premises.

6. INSPECTION OF PROPERTY. The District shall have the right to conduct such investigations, inspections and inventories of the property as it deems reasonable or necessary prior to closing. The Seller hereby grants the District, its officers, agents, employees and independent contractors, the right to enter upon the property at reasonable times upon reasonable notice, oral or written, from time to time after the date of this agreement for the purpose of investigation, inspecting and performing inventories of the property and for other purpose consistent with the District's interest under this agreement.

7. REMOVAL OF PERSONAL PROPERTY. Prior to the closing date, the Seller at its own expense shall remove all personal property which Seller wishes to retain. Also, prior to or on the closing date, Seller shall execute and deliver to the District the certificate of removal of personal property attached as Exhibit "A." Any personal property remaining in the structure at the time of possession will become the property of The District.

8. NO HOLDOVER PERIOD FOR OCCUPANTS. The Seller shall ensure that it and all other current occupants vacate the property prior to the possession date.

9. PURCHASE PRICE DEDUCTIONS.

- A. Prior to disbursing payment to the Seller, the District may use a portion of the purchase price to satisfy the Seller's obligations under this document, to pay taxes, assessments, mortgages, liens and acquisition of other parties' outstanding interests in the property.
- B. The Seller acknowledges that this voluntary acquisition is made pursuant to a program funded by the Federal Emergency Management Agency (FEMA), the U.S. Department of Housing and Urban Development (HUD), and/or the State of North Dakota. In order to prevent the duplication of assistance made to flood disaster victims, FEMA and other federal agencies require that certain types of assistance received by the Seller for flood-related damage be deducted from the purchase price. All decisions regarding deductions for duplication of benefits shall be made by the appropriate federal and state agency, including but not limited to, FEMA, SBA, HUD and the North Dakota Department of Emergency Services. The following deductions are likely to be directed by the federal and state agencies, but do not represent an exhaustive listing:
- i. All amounts equal to FEMA Individual and Family Grant Program Assistance received by the Seller after May 23, 2011, except as herein agreed upon by the parties.
 - ii. All amounts equal to all flood insurance proceeds received by the Seller after May 23, 2011.
 - iii. All amounts of other insurance paid for claims for structural damage after May 23, 2011.
 - iv. All amounts equal to outstanding balances on SBA Real Estate Repair and Replacement Disaster Loans received by the Seller after May 23, 2011.
 - v. All amounts equal to outstanding balances on Bank of North Dakota Rebuilders Loan received by the Seller.

Other deductions may be required as directed by the appropriate federal or state agency.

C. Following execution of this purchase agreement, the District shall provide all information regarding this voluntary acquisition to the appropriate federal and/or state agencies for duplication of benefits determinations. Prior to closing, the District shall prepare and deliver to the Seller a document setting forth the deductions directed by appropriate agencies from the purchase price. Such deductions shall occur at time of closing.

10. STATUS QUO MAINTAINED. Except as otherwise authorized by the District, the property shall be preserved in its present condition and the Seller shall deliver it intact at the time of closing. In the event salvage is authorized, the replacement value of salvaged items will be deducted from the purchase price stated in Paragraph 1. All risk of loss or damage to the property is on the Seller until closing. Prior to closing, the Seller shall promptly give written notice to the District of any salvage, loss or damage to the property. In the event of salvage, loss, damage or destruction of all part of the property, the District shall have the option to terminate this agreement effective immediately. However, in the case of salvage, loss, damage or destruction of all or part of the property, the District shall have the option to: (1) take possession of the property upon completion of the terms and obligations of this purchase agreement; (2) terminate this agreement effective immediately; or (3) renegotiate the purchase price.

11. UTLILITES. The Seller shall be responsible for payment of all utility expenses incurred by it or incurred by any other occupants, prior to the date of possession by the District.

12. TAXES. The Seller shall pay a pro-rata share of taxes on the property through date of closing and all unpaid taxes for prior years.

13. SPECIAL ASSESSMENTS. The Seller shall pay a pro-rata share of special assessments on the property through date of closing and all unpaid special assessments for prior years.

14. TIME IS OF THE ESSENCE. Time is of the essence of this agreement.

15. LEASES. The Seller represents and warrants to the District that there are no leases, tenancies or other rights of occupancy for use for any portion of the property. The foregoing representation and warranty shall survive the closing date. The Seller shall hold harmless and indemnify the District from and against any claims which may arise or be based upon any alleged leasehold interest, tenancy or other right of occupancy or use of any portion of the property.

16. APPROVAL OF COURT. If the property is an asset of any estate, trust or guardianship, this document shall be subject to court approval prior to payment of purchase price, unless declared unnecessary by the District. If the court approval is necessary, the appropriate fiduciary shall proceed prompt and diligently to bring the matter on for hearing to enable the issuance of an order approving the sale.

17. ENVIROMENTAL MATTERS.

A. Environmental Representations and Warranties. For purposes of this agreement, the terms "hazardous waste" or "hazardous substance" shall include every material, waste, contaminant, chemical, toxic pollutant or other substance listed or described in any of the following sources, as amended from time to time: (i) the Resource Conservation and Recovery Act to 1976, 42 U.S.C. 9601 et.seq. (RCRA); (ii) the Comprehensive Environmental Response, Compensations, and Liability Act 1980, (Pub. Law. 96-510) (CERCLA) as amended by the Superfund Amendments and Reauthorization Act of 1986 (Pub. L. 99-499) (SARA) codified at 42 U.S.C. 9601 et.seq.; (iii) Federal Environmental Protection Agency Regulations at 40 C.F.R. Parts 122-124 and 260-265; (iv) North Dakota Code Chapter 19-21; (v) any other federal, state, or local statute or ordinance which defines "hazardous waste" or "hazardous substance" or similar terms, and which could create liability in the District or the District's successors in interest; and (vi) any federal, state or local regulations, rules or orders issued or promulgated under or pursuant to any of the forgoing or otherwise by any department, agency or other administrative regulatory or judicial body having jurisdiction over the property (hereinafter collectively referred to as "Environmental Laws"). Without limiting the foregoing, the terms "hazardous waste" and "hazardous substance" shall also include all substances or materials containing asbestos, PCBs, or hydrocarbons. Seller hereby represents and warrants to the District that:

- (1) There are no abandoned wells, agricultural drainage wells, solid waste disposal sites or underground storage tanks located in, on or about the property;
- (2) There is and has been no hazardous waste or hazardous substance stored, generated, treated, transported, installed, dumped, handled or placed in, on or about the property;
- (3) At no time have any federal or state hazardous waste or hazardous substance cleanup funds been expended with respect to any of the property;
- (4) There has never been any solid waste disposal site or underground storage tank located in, on, or about the property, nor has there been any release from any underground storage tank on real property contiguous to the property which has resulted in any hazardous waste or hazardous substance coming in contact with the property;
- (5) The Seller has not received any directive, citation, notice letter or other communication, whether written or oral, from the Environmental

Protection Agency, the North Dakota Department of Health, or any other governmental agency with authority under any environmental laws, or any other person or entity regarding the release, disposal, discharge, or presence of any hazardous waste or hazardous substance on the property, or any violation of any environmental laws; and

- (6) To the best of the Seller's knowledge, neither the property, nor any real property contiguous to the property, nor any predecessors in title to the property, are in violation of or subject to any existing, pending or threatened investigation or inquiry by any governmental authority or to any removal or remedial obligations under any environmental laws.

The foregoing representations and warranties, and the environmental indemnifications set forth in the following subparagraph B shall survive the closing. In addition, the forgoing representations and warranties and the indemnification provisions in this agreement shall not be affected by any study, investigation, or inspection of the property by the District or any agent of the District.

- B. Environmental indemnification. The Seller agrees to indemnify and hold harmless the District from and against any and all claims, demands, fines, penalties, causes of action, losses, damages, liabilities, expenses, and costs (including court costs and reasonable attorney's fees incurred by the District to enforce this provision) asserted against or incurred by the District by reason of or arising out of the breach of any representation or warranty of the Seller set forth above.
- C. Additional Environmental Provisions. The Seller shall not store, generate, treat, transport, install, dump, handle, or place in, on or about any portion of the property any hazardous waste or hazardous substance. If the Seller receives any notice from any governmental authority or any other party regarding the release or presence of any hazardous waste or hazardous substance on any portion of the property, or otherwise learns of any release or presence of any hazardous waste or hazardous substance on any portion of the property, the Seller shall immediately notify the District of such fact. In addition, the District or its agents shall have the right to enter upon the property at any time to perform additional environmental studies. If at any time the District in its sole and unrevocable discretion determines that hazardous wastes or hazardous substance are present on any portion of the property, the District may terminate this agreement effective immediately.
- D. Removal of Septic Systems, Drain Field, Wells and Utilities

It shall be the responsibility of the District to remove and reclaim any residential septic systems including the septic tanks and drain fields, and to plug any geothermal or

groundwater well systems as well as to disconnect and remove or abandon other utilities located on the subject premises.

18. CONTRACT BINDING ON SUCCESSORS IN INTEREST. The document shall apply to and bind the heirs, executors, administrators, partners, assigns, and successors in interest of the respective parties.

19. INTENTION OF USE OF WORDS AND PHRASES. Words and phrases contained herein, including the acknowledgement clause, shall be construed as in the singular and plural number, and as masculine, feminine or neuter gender, according to the context.

20. PARAGRAPH HEADINGS. The paragraph headings contained herein are for convenience in reference and are not to intend to define or limit the scope of any provision of this document.

21. NO COMMISSION. Each party hereto represent to the other that no real estate commission shall be due on the conveyance contemplated by this agreement.

22. VOLUNTARY ACQUISITION. The Seller acknowledges that the District is acquiring this property pursuant to the District's Voluntary Acquisition of Residences Program and that the Seller's acceptance of this agreement is a voluntary transaction. The Seller is under no duress or coercive action by the District to accept this agreement but rather does so freely and willingly and under no threat of eminent domain. The Seller further acknowledges that if it accepts this agreement, it will be necessary to move permanently from the property. The acknowledgements set forth in this paragraph shall survive the closing.

23. ENTIRE AGREEMENT. This purchase agreement contains the entire agreement between the parties, and neither party has relied upon any verbal or written representations, agreements, or understandings not set forth in this agreement.

24. MODIFICATION. No modification of this agreement shall be valid or binding unless the modification is in writing, duly stated and signed by both parties.

25. EXHIBITS. Exhibit "A" (Certificate of Removal of Personal Property), Exhibit "B" (Bill of Sale), Exhibit "C" (Affidavit of Sellers), and Exhibit "D" (Certificate of Survey) are attached hereto and by this reference made part hereof.

26. SURVIVAL. The obligations and covenants of this purchase agreement, specifically, but not limited to, Paragraphs 17, 22 and 25, shall survive the closing of the sale and any transfer of title to the property to The District.

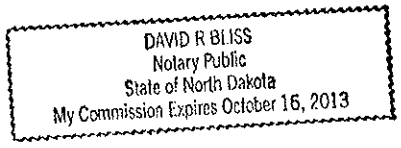
The District hereby agrees to purchase the property described in this agreement for the price and on the terms and conditions set forth in this agreement.

Burleigh County Water Resource District, A political subdivision, State of North Dakota

By: Terry Fleck 3/26/13
Terry Fleck, Its Chairman

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

On this 26 day of March, 2013, before me, a notary public within and for said county and state, personally appeared Terry Fleck, Chairman, known to me to be the person described in and who executed the within and foregoing instrument, and severally acknowledged to me that he executed the same on behalf of the Burleigh County Water Resource District.



[Signature], Notary Public
Burleigh County, North Dakota
My commission Expires: _____

The Seller hereby agrees to sell the above-described property at the price and on the terms and conditions set forth in this agreement.

[Signature]
Jerome Rodgers (Seller)

Social Security No. [REDACTED]

126

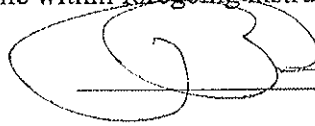
STATE OF NORTH DAKOTA)

) ss.

COUNTY OF BURLEIGH)

On this 25 day of March, 2013, before me, a notary public within and for said county and state, personally appeared Jerome Rodgers, a single person, known to me to be the Seller described in and who executed the within foregoing instrument.

DAVID R BLISS
Notary Public
State of North Dakota
My Commission Expires October 16, 2013



, Notary Public

Burleigh County, North Dakota

My Commission Expires: _____

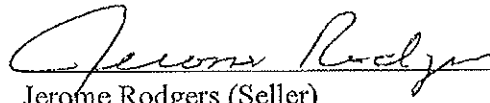
927

EXHIBIT "A"

CERTIFICATE OF REMOVAL OF PERSONAL PROPERTY

Jerome Rodgers, hereby state(s) that I/we have removed all wanted personal property, equipment, furnishings and appliances from the site at 9750 Island Road, Bismarck, North Dakota. I/we further declare that any and all personal property remaining on the premises is hereby abandoned and I/we relinquish any further claim or interest thereto.

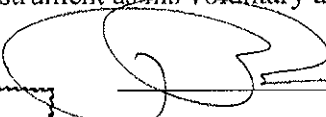
This document shall be effective as of the date of possession.


Jerome Rodgers (Seller)

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

On this 25 day of March, 2013, before me, a notary public, in and for the State of North Dakota, personally appeared Jerome Rodgers, a single person, to me known to be the identical person named in and who executed the foregoing instrument, and acknowledgment that such person executed the instrument as his voluntary act and deed.

DAVID R BLISS
Notary Public
State of North Dakota
My Commission Expires October 16, 2013


_____, Notary Public
Burleigh County, North Dakota
My Commission Expires: _____

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EXHIBIT "B"

BILL OF SALE

Jerome Rodgers, hereinafter the "Seller," for good and valuable consideration, receipt of which is hereby acknowledged, do hereby sell, convey, assign, transfer and release to the Burleigh County Water Resource District, North Dakota, all the Seller's right, title, and interest in all fixtures, improvements, furnishings, appliances and personal property located on the premises at 9750 Island Road, Bismarck, North Dakota, and legally described as:

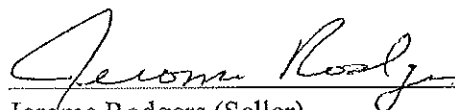
Lot 6 and N1/2 of Lot 5, Block 1, Riverside Subdivision in all that part of Section 27 and Section 28, Township 140 North, Range 81, West of the Fifth Principal Meridian.

free and clear of all liens, encumbrances, reservations, exceptions and modifications.

For the purposes of this document, said fixtures, improvements and personal property includes, but is not limited to, all property that integrally belongs to or is part of the above-described real estate, whether attached or detached, such as light fixtures, shades, rods, blinds, awnings, storm windows, storm doors, storm sashes, screens, attached linoleum, plumbing fixtures, water heaters, water softeners, automatic heating equipment, air conditioning equipment other than window type, door chimes, built-in items on electrical service cable, and all equipment within the building for improvement, fencing, gates and other attached fixtures, trees, bushes, shrubs, and plants except: _____

This document shall be effective as of the date of possession.

DATED this 25th day of March, 2013.



Jerome Rodgers (Seller)

139

EXHIBIT "C"

AFFIDAVIT OF SELLER (S)

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

I, Jerome Rodgers, being sworn on oath, depose and say:

That I am of legal age and am the Seller of that real property described as:
**Lot 6 and N1/2 of Lot 5, Block 1, Riverside Subdivision in all that part of
Section 27 and Section 28, Township 140 North, Range 81, West of the Fifth
Principal Meridian.**

That I am now in possession of said property (or was in possession of said property until possession was delivered by the purchaser(s) in this transaction, and no other persons (except other sellers or the purchaser (s) are in possession of said property, except as disclosed below;

That there are no unrecorded contracts for deed, leases, rental agreements, repair or construction orders or agreements, or any other contracts or agreements affecting that property, except the listing and sale agreements which are a part of this transaction, and those further agreements disclosed below;

That there have been no labor or materials furnished to said premises during the last ninety (90) days which full payment has not been made, and there are no contested or unpaid bills for materials or labor for improvements or repairs to the property, except as stated below;

That I have inspected the property and to the best of my knowledge and belief, there are no easements, or claims of easements which are shown by the public records, and that there are no discrepancies, conflicts in boundary lines, shortages in area or encroachments which are not shown by the public records, excepts as stated below;

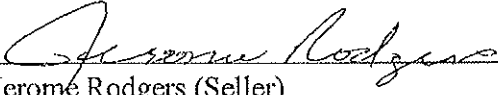
That there are no bankruptcy or divorce proceedings, nor any other actions in county, state or federal courts, nor any tax lien proceedings, pending or in progress against or involving me (nor, to my knowledge, any other buyer), except as stated below; and

That any judgments, bankruptcy proceedings, or tax liens of record against parties with the same or similar names are not against me, excepts as stated below.

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Statement of exceptions: [list all exceptions here] _____

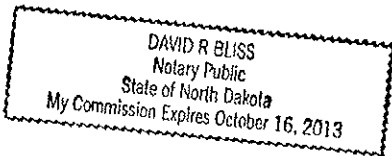
This affidavit is made for the purpose of inducting a title insurance company to issue an owner's policy of title insurance on the premises without exception to rights of parties in possession, mechanics' and materialmen's liens claims, easements or claims of easements, discrepancies, conflicts in boundary lines, shortages in area, or encroachments, which does not appear of record.

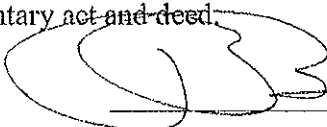


Jerome Rodgers (Seller)

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

On this 25 day of March, 2013, before me a notary public in and for the State of North Dakota, personally appeared Jerome Rodgers, a single person, to me known to be the identical person named in and who executed the foregoing instrument, acknowledgment that such person executed the instrument as his voluntary act and deed.





, Notary Public
Burleigh County, North Dakota
My Commission Expires: Oct 16, 2013

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WARRANTY DEED

THIS INDENTURE, made this 12th day of June, 2013, between Jerome Rodgers, a single person, 9750 Island Road, Bismarck, North Dakota 58503, grantor, and the Burleigh County Water Resource District, a political subdivision created under the laws of the State of North Dakota, 221 North 5th Street, Bismarck, North Dakota 58501, grantee;

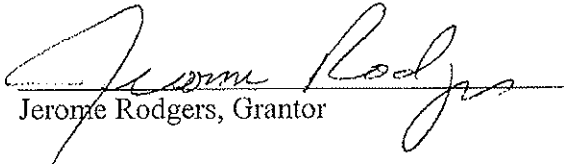
8110479

WITNESSETH, that the grantor, for and in consideration of the sum of Three Hundred Eighty Eight Thousand Five Hundred Forty Two Dollars (\$388,542.00), to him in hand paid by the grantee, the receipt of which is hereby acknowledged, does by these presents, grant unto the grantee, its heirs and assigns, FOREVER, all of the following real property lying and being in Burleigh County, North Dakota and described as follows, to-wit:

North One Half (N½) of Lot Five (5), All of Lot 6 (6), Block One (1), Riverside Subdivision in all that part of Section Twenty-seven (27) and Section Twenty-eight (28), Township One Hundred Forty (140) North, Range Eighty-one (81), West of the Fifth Principal Meridian.

TO HAVE AND TO HOLD THE SAME, together with all the hereditaments and appurtenances thereunto belonging or in anywise appertaining to the grantee, its heirs and assigns, FOREVER. The grantor, his heirs and assigns, hereby covenants with the grantee, its heirs and assigns, that he is well seized in fee of the land and premises aforesaid and has good right to sell and convey the same in manner and form represented in this deed; that the same are free from all encumbrances, except installments of special assessments or assessments for special improvements which have not been certified by the County Auditor for collection, and the above bargained and granted lands and premises in the quiet and peaceable possession of said grantee, its heirs and assigns, against all persons lawfully claiming or to claim the whole or any part hereof, the said grantor WILL WARRANT AND DEFEND.

IN WITNESS WHEREOF, the grantor has set his hand the day and year first above written.


Jerome Rodgers, Grantor

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Mona Livdahl

From: David Bliss [dbliss@blisslaw.com]
Sent: Thursday, June 13, 2013 5:07 PM
To: Fleck Terry; Kathleen Jones; Gordon Weixel; Cary Backstrand; ken.royse@bartwest.com
Cc: Michael Gunsch; Mona Livdahl; steve@bainagency.com
Subject: FW: Hogue Island Purchases/Insurance
Attachments: Bernard- Purchase Agreement.pdf; Boll- Purchase Agreement.pdf; Homeowner's Purchase Agreement.pdf

Folks,

We now have insurance on the Hogue Island properties. Obviously we don't yet own Bernard's and Magnuses' property.

Dave



DAVID R. BLISS
Bliss & Stebbins Law Firm, LLC
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: Steve Bain [<mailto:Steve@BainAgency.com>]
Sent: Thursday, June 13, 2013 9:08 AM
To: Judy Ness

Cc: dbliss@blisslaw.com

Subject: FW: Hogue Island Purchases/Insurance

Judy,

Please add the following lots to Burleigh County's with NDIRF effective 6-12-13 per Clyde Thompson.

These lots are part of the Burleigh County Water Resource District buy out of homes damaged in the flood of June 2011 and are now owned by Burleigh County.

9700 Island Road, Bismarck, ND 58503

9750 Island Road, Bismarck, ND 58503

9806 Island Road, Bismarck, ND 58503

9828 Island Road, Bismarck, ND 58503

Thank you

Steve R. Bain

Bain Agency, Inc

701-223-2233

www.bainagency.com



Note: This email is legally privileged and confidential. If you are not the intended recipient, you must not disclose or use this information immediately by phone, fax or return email and delete the document. Thank you.

From: David Bliss [<mailto:dbliss@blisslaw.com>]

Sent: Wednesday, June 12, 2013 2:27 PM

To: Steve Bain

Subject: Hogue Island Purchases/Insurance

Steve,

13/10

As we discussed this afternoon, the Burleigh County Water Resource District is buying four Hogue Island homes. I ha and Jerome Rodgers, have both closed on their respective homes. The District now owns both homes. I anticipate a cl time frame for Heather and Brad Magnus. Although the fair market values of the homes vary, it seems to me that we sl coverage. The Rodgers home, for example, has been inhabited consistently since the flood and Mr. Rodgers continues days from today. The Bolls and Bernard residences are uninhabited. The Magnus property is under water for the mos vandalism and trespass are still issues with the Magnus residence.

Let me know when the Boll and Rodgers properties have been insured, and I'll notify the Board. If you would, let me

Thanks.

Dave



DAVID R. BLISS
Bliss & Stebbins Law Firm, LLC
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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Mona Livdahl

From: Michael Gunsch [mgunsch@houstoneng.com]
Sent: Monday, July 01, 2013 9:53 PM
To: Kathleen Jones (kjathome@midco.net); Fleck Terry (tfleck@attitudedr.com)
Cc: 'Mona Livdahl'; David Bliss (dbliss@blisslaw.com)
Subject: FW: Securty Fence Quote
Attachments: 20130701100540088.pdf; Security Fence Plan 7-1-2013.pdf

Kathleen - See attached quote and security fence plan set.

We received two quotes for the security fence and one for the signage. While 3-D was a bit higher on the fence (~\$830) they are busy and also would have quoted the signs from 3D with markup. Considering the added coordination time on our part to work one contract.

Several comments and then questions to be answered.

1. The number of signs has been reduced from 9 to 7
2. What size of sign would you like?
 - a. I think the 12" x 18" are sizable though your call
3. Can we authorize this work to proceed?
 - a. Presume the closing on Dr. B is this week?

If authorized we will inform 3D to install as soon as practical. This fence will remain in place until project cleanup is completed. use until the project is completed.

Thanks,


Michael Gunsch

Principal / Project Manager
Houston Engineering, Inc.
3712 Lockport St, Bismarck, ND 58102
O 701.323.0200 | F 701.323.0300
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 or otherwise confidential information. If you are not the intended recipient, the 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.

-----Original Message-----

From: Rick Ripplinger [<mailto:rickr@dakotafence.com>]

Division of Dakota Fence

3D Specialties
 Inc.

Minot, ND
 (701) 839-6557
 FAX (701) 852-0931

Bismarck, ND
 (701) 223-0828
 FAX (701) 223-3140

PO Box 1615
 Fargo, ND 58107
 (701) 293-8599 • FAX (701) 293-7811

Williston, ND
 (701) 826-6264
 FAX (701) 826-6263



PROPOSAL SUBMITTED TO STREET CITY, STATE AND ZIP CODE	Equal Opportunity Employer PHONE JOB NAME Safety Fence & Signs JOB LOCATION Hogue Island - Bismarck, ND	DATE July 1, 2013
---------------------------------------------------------------------	------------------------------------------------------------------------------------------------------------------------------------	----------------------

We hereby submit specifications and estimates for:

All material, labor, and equipment necessary to complete the following:

Safety Fence per Note 1 on Sheet 2
 1000 LF @ \$4.39 per LF = \$4,390.00

Signs per Note 2 on Sheet 2
 9 each signs of one of the following options:

- 18" x 12" = \$110.00 per each
- 24" x 18" = \$148.00 per each
- 30" x 24" = \$238.00 per each

Terms of Payment: Lump Sum, Net 30 Days

96 business hours may be required due to state law for locates before our work may begin. Staking is not included. Excavation protection is not included. Pedestrian control, temporary pedestrian access routes, temporary curb ramps, and/or meeting PROWAG/TPAR requirements is not included. Flagging, incidental sign/stripping work and watchperson is not included. Temporary mailbox installation/maintenance is not included. Shadow vehicle/TMA work is not included. Pavement sweeping is not included. Temporary pavement marking tape/markers require 50 degree-dry surfaces for application. Traffic control for stripping and electrical work is not included. Private/NDDOT utility locate work is not included in our price above. "One-Call" utility locates are included in our price. Traffic control supervisor is not included unless noted. The above price is based upon standard NDDOT insurance requirements. No allowance is included for any additional insurance that may be required by the contractor or the railroad.

Purchaser agrees to indemnify and hold harmless 3D and its agents from any and all claims or damages arising directly or indirectly from any work relating to this Proposal. Purchaser agrees that 3D's liability shall not exceed the amount paid to it under this Proposal. All work to be completed according to standard industry practices and The Manual of Uniform Traffic Control Devices. Purchaser agrees that any alternation or deviation from the above price specifications requires 3D's prior written consent and shall automatically become part of and subject to this Proposal, which may include additional charges. This proposal is contingent upon strikes, accidents or delays beyond 3D's control and supersedes all prior written or oral agreements. Purchaser agrees to carry all necessary and required insurance. 3D's workers are fully covered by Workers Compensation Insurance or other required insurance. Notwithstanding anything to the contrary, items or services not included in this Proposal are not included in 3D's price above.

Acceptance of Proposal The above prices, specifications, terms and conditions are satisfactory and are hereby accepted by Purchaser. 3D is authorized to do the work as specified and Purchaser shall make payment as outlined above.
 Date of Acceptance: _____

3D Specialties, Inc.

By: *Rick Ripplinger*
 Rick Ripplinger

This proposal may be withdrawn by 3D Specialties, Inc. Within 15 _____ days

Purchaser
 Purchaser Name: _____

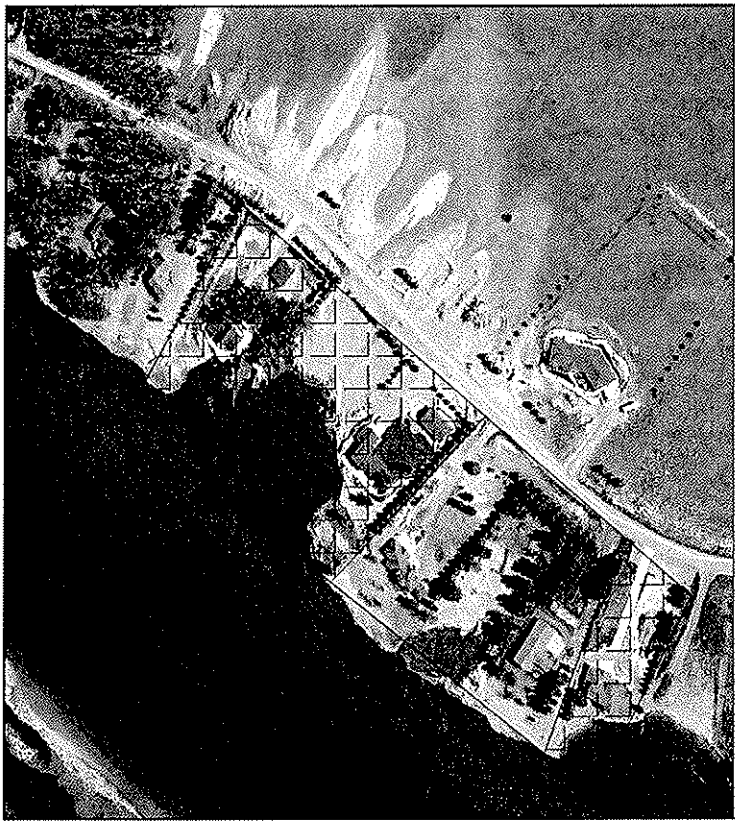
By: _____

Print Name: _____
 Its: _____

PROPOSAL

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**HOGUE ISLAND
SECURITY FENCE AND SIGNING
BURLEIGH COUNTY, NORTH DAKOTA
JUNE 2013**



LOCATION MAP

HEI PROJECT NO. 6025-016

C:\Projects\6025\6025-016\6025-016.dwg 02/12/2013 1:37 PM (david)

19/0

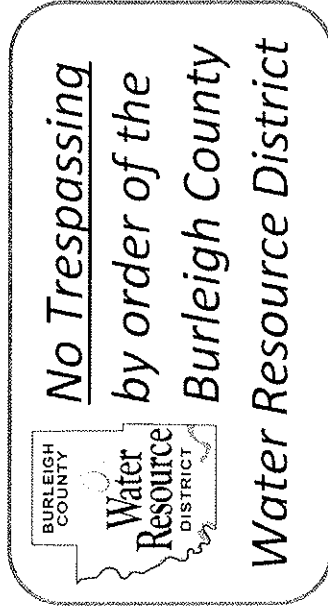
QUANTITIES

Notes	Spec	Code	Description	Unit	Quantity
			SIGNING	L.SDM	7
			SECURITY FENCING	LF	1,000

NOTES

- CONSTRUCTION NOTES
- SPECIAL PROVISION NO. 1 - SECURITY FENCE
 PROVIDE SECURITY FENCE AS SHOWN ON THE PLANS. SECURITY FENCE WILL CONSIST OF 6 FOOT METAL FENCE POSTS DRIVEN TO PAST THE ANCHOR PLATE. THE POST WILL BE SPACED APPROXIMATELY 16 FEET APART. ATTACH 4 FOOT HIGH ORANGE SNOW/SECURITY FENCE TO EACH POST AT A MINIMUM OF THREE PLACES USING ZIP TIES, WIRE TIES OR OTHER APPROVED ATTACHMENT.
 - SPECIAL PROVISION NO. 2 - INFORMATIONAL SIGNS
 INSTALL SIGNS AT LOCATIONS SHOWN ON THE PLANS. SIGNS WILL BE SUPPORTED ON WOODEN OR METAL APPROVED POSTS. SIGNS ARE TO BE PLACED TO BE EASILY READ AND SHALL FACE THE DIRECTION INDICATED BY THE ARROW. LETTERING WILL BE A MINIMUM OF 1" IN HEIGHT OF STANDARD NDOT SIGN FONT. THE LETTERS WILL BE BLACK ON A WHITE BACKGROUND WITH A BLUE BORDER AS SHOWN BELOW.

EXAMPLE OF INFORMATIONAL SIGN



		HOUSIE ISLAND FENCING AND SIGNING BURLEIGH COUNTY HIGHWAY DEPARTMENT BURLEIGH COUNTY, NORTH DAKOTA		ESTIMATED QUANTITIES AND NOTES PROJECT NO. 6025-016	SHEET 2 of 3
Drawn by CMC	Date 7-1-13	Checked by ELL	Scale AS SHOWN		
Revision:					
No.	Revision	Date	By		

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No.	Revision	Date	By

- LEGEND**
- SECURITY FENCE
 - PROJECT STABILIZATION CLOSURE
 - PROJECT STABILIZATION OLD
 - FLOODWAY
 - BANK STABILIZATION
 - PARALLEL BOUNDARY
 - PROJECT STABILIZATION ELOUERE



Drawn by
Date
Checked by
Scale
AS SHOWN

HOGUE ISLAND LEVEE
BURLEIGH COUNTY, ND

HOGUE ISLAND LEVEE
SECURITY FENCE AND
SIGNAGE
PROJECT NO. 6025-016

10/23/2013 11:03:52 AM C:\Users\paul.miller\Documents\Projects\6025-016\6025-016.dwg

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Mona Livdahl

From: Michael Gunsch [mgunsch@houstoneng.com]
Sent: Monday, July 01, 2013 10:34 PM
To: Kathleen Jones (kjathome@midco.net); Fleck Terry (tfleck@attitudedr.com)
Cc: David Bliss (dbliss@blisslaw.com); 'Mona Livdahl'; Craig Odenbach; Lindsey Dockter; Travis Johnson
Subject: Hogue Island Advertisement
Attachments: 2013 Hogue Auction Terms and Conditions (mhg) 7-1-2013.docx; Hogue Island Advertisement.pdf

Kathleen:

Ready to advertise?

As I recall we close on Dr. Bernard and Magnus this week?

See attached Terms and Conditions – need the following answers:

1. Confirmation of date/time bid opening – July 24th
 - a. Special Board Meeting to Accept Bids
 - b. This will be advertising for at least two weeks – will need to confirm add dates as this may shift it as it to site.... Will notify those who have contacted us already.
 - c. This is not a construction bid so no need to do 21 days?
2. Confirmation of place – Dave your office or Tom Baker Room?
 - a. Mona – Can you check if Tom Baker is available?
 - b. I expect the press may want to watch
3. Date of Open House – Kathleen what day works for you?
 - a. I suggest some time after the 4th so the advertisement has time to reach people. July 18th?
4. Dates in document for securing permits and completion date
 - a. Payment August 31st
 - b. Permits September 15th
 - c. Dumpster and structure removal September 15th
 - d. Materials on Site removal September 30th

Think we need to include an option for extension on the removal – see markup.

Not sure it can be done as quickly as we would like, leave the door open for someone who offers then the choice can be the BO

Also Travis in our office will put together a bid sheet that they can use for putting in the envelope to separate the bids for each

Thanks, - let me know time is now to get this done!



Burleigh County Water Resource District

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

Terms and Conditions for Sale of Auctioned Properties

1. GENERAL TERMS AND CONDITIONS

The Burleigh County Water Resource District (“Seller”) will receive sealed bids for property (i.e., structures) it has acquired through voluntary acquisition until 3 p.m., Central Time, July 8, 2013. Bids shall be delivered by mail or in person to: Bliss & Stebbins, LLC, 400 East Broadway Avenue, Suite 308, Bismarck, North Dakota 58502-4126 (701-223-5769).

The sealed bids will be opened during a special meeting of the Burleigh County Water Resource District on July 24th at 10 am, held in the offices of Bliss & Stebbins, LLC. Buyers will have an opportunity to increase their bids at that time.

Buyers will not be discriminated against based on sex, race, color, religion, or national origin.

2. DISCREPANCIES

Information presented on the Seller’s website and printed and digital ads are for informational purposes only. Discrepancies, if any, are the Buyer’s sole responsibility. The Buyer agrees to hold the Seller harmless for any damages as a result of discrepancies not resolved at the time of bidding.

3. PROPERTY VIEWING

Buyers are encouraged to attend the open house on July 18, 2013 from 1 pm to 4 pm to examine and inspect the structures prior to submitting a bid. Private showings are available by appointment only, but are not guaranteed. By submitting a bid for any property the Buyer agrees to be bound by the terms and conditions stated herein regardless of whether pre-bid inspection was performed by the Buyer or not and agrees to receive the property “as is” and with all faults and defects.

4. CURRENT PHYSICAL CONDITION OF STRUCTURES TO BE AUCTIONED

The Buyer acknowledges that all structures, miscellaneous appurtenances (if installed) or personal property located within the structures are sold “as-is” and “with all faults” and agrees to accept the property under these conditions. The Buyer shall assume all risk with purchasing structures or appurtenances as to the quality, condition or the remaining lifetime of the structure, appurtenances or mechanical features.

The Seller provides no warranties, express or implied of any kind as to the structures or appurtenances, including any warranties of merchantability or fitness for a particular purpose, or warranty of habitability with respect to the property described. Any and all damage as a result from prior ownership shall not be repaired by the Seller. Necessary repairs shall be the responsibility of the Buyer.

5. **AUCTION DETAILS**

Auction details will be posted on the Burleigh County Water Resource District's website located at www.bcwrld.org. Specific questions as to the sale may be directed to District Engineer Michael Gunsch (323-0200) or David Bliss, Bliss & Stebbins, LLC (223-5769).

6. **SUBMITTING A BID**

All bids shall be binding. The Buyer will be required to sign a bill of sale and must comply with the terms and conditions stated herein and those terms and conditions set forth in the bill of sale. Retractions of bids will not be allowed.

Bids submitted for each structure shall include all contents and miscellaneous appurtenances. Trees are excluded from the property and shall remain with the property. Bids received shall be for moving the structure and its contents or for salvage rights. If the Buyer is only interested in salvaging items they may do so as long as they adhere to the Terms & Conditions stated herein. The Seller will demolish all structures remaining after September 15, 2013, without written authorization from the Seller. Bids received for removal and relocation will be given priority over bids received for salvage, regardless of price.

Seller retains ownership of the real estate at all times.

7. **SECURITY DEPOSIT AND DEFAULT**

The Buyer shall pay to the Seller \$5,000 as a security deposit over and above the agreed-upon sale price. The security deposit will be returned to the Buyer if the following conditions are met: 1) The Buyer removes the structure(s) or completes all salvaging from the property no later than August 31, 2013; and 2) the Buyer removes any remaining debris or hazardous waste and performs all items listed in #10 below. Failure to comply by August 31, 2013 will result in the Buyer's forfeiture of the security deposit to the Seller. Further, the Buyer shall forfeit any and all rights to the structure(s) purchased, the purchase price paid to the Seller and any monies invested in the structure(s). The Seller shall then take ownership of the structure and may resell or demolish the structure at its discretion.

The security deposit shall be paid to the Seller in full at the close of the auction (no exceptions).

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8. **INSURANCE AND RISK OF LOSS**

The Buyer is responsible for obtaining insurance on the property on the date of the sale. Risk of loss or damage to the property will transfer from the Seller to the Buyer upon acceptance of the Buyer's bid. The Seller shall not be held responsible for any losses incurred by the Buyer once the auction is complete and the sale is finalized.

If flooding conditions occur and warrant emergency flood protection to be placed on the existing lot, the Seller reserves the right to construct emergency flood protection operations on the existing lot. Emergency flood protection measures may consist of house demolition with levee construction, levee placement around, in front, or behind the existing house or other appropriate measures. The Buyer agrees to hold the Seller harmless if the structure purchased sustains damage as a result of installation of flood protection measures. If the structure is demolished as part of emergency flood protection operations, the Seller will refund the entire purchase price for the structure(s) along with the security deposit to the Buyer. Any preparatory work performed on the structure by the Buyer or the Buyer's agent to relocate the structure will be the sole cost of the Buyer and those costs **will not** be reimbursed by the Seller.

9. **HOUSE RELOCATION REQUIREMENTS, GUIDELINES AND PROCEDURES**

Buyer acknowledges that the deadline for moving structures or completing salvaging operations is on or before September 15, 2013. The Buyer and house mover ("Buyer's agent") shall have the right to enter upon the property when payment for deposit and sale price is received in full through August 31, 2013 and at all reasonable times to perform such preparatory work as is needed to relocate the structure. Work hours are restricted to between 7 a.m. and 7 p.m. Monday – Saturday. Excessively loud exterior and/or interior preparatory work shall not be performed on Sundays. The Buyer shall take all reasonable efforts to minimize disruption & minimize loud activities that may disturb neighboring property owners.

No tree trimming or tree removal will be permitted. Houses too large to be moved in one piece may be divided into smaller sections. It is the Buyer's and the Buyer's agent's responsibility to determine maximum dimensions for safe relocation without damage to roadways or adjoining utilities and property.

Buyers submitting a bid are certifying that they have consulted a house mover prior to submitting a bid. Wide structures will either be divided into multiple sections or alternate accommodations will be provided. If the Buyer does not divide the house into multiple sections, or alternate accommodations are not provided, the Buyer agrees that the house will not be moved and will be limited to salvage rights only. Buyers must secure written agreements with the private property owners if they plan to move structures across private property. The Buyer and the private property owner must be in agreement regarding restoring any damage to private property resulting from moving structures. The Seller will not be a participant in agreements between the private property landowners and the Buyer to restore any damage created.

The Buyer agrees that the Buyer or the Buyer's agent will be responsible for securing all permits necessary to move the structure by the deadline date of September 15, 2013. All departments listed on the application must approve the move. Moved structures may not be temporarily stored on Township, City or County owned property or right-of-way.

The Buyer is solely responsible for all risk and costs associated with moving of the structures and shall include, but be not limited to, the following:

- i. New lot purchase and preparation of submittal documents for agency approvals.
- ii. Permit fees, performance bonds, utility accommodations, traffic control, etc.
- iii. Lot preparation, grading, elevating, compacting fill, storm water erosion protection BMP's.
- iv. Public and private utility connections (sanitary sewer, water, cable TV, telephone, natural gas, electric, etc.) at the new lot.
- v. Moving of house, garage(s), detached structures, etc.
- vi. Repair damage to public streets, pavement, curbs, sidewalks, boulevards, etc. incurred during the move as a result of the Buyer's or the Buyer's agent's actions and/or movements.
- vii. Repair any damage to adjoining private property caused by the Buyer or the Buyer's agents to the satisfaction of the Seller.
- viii. Existing site and street right of way cleanup of all building materials, trash, moving equipment, materials, haul roads, etc.
- ix. New foundation construction.
- x. Sidewalk, driveway & driveway approach at new site.
- xi. Boulevard tree planting and any other required by ordinance, covenants and applicable regulations at the new site.
- xii. The Buyer is solely responsible for any needed repairs or applicable code compliance requirements.

10. **REMOVAL OF THE STRUCTURE FROM THE PROPERTY AND SITE CLEANUP**

The Buyer and the Buyer's agent must secure all permits necessary prior to the completion date of September 15, 2013 to move the structures.

The Buyer agrees not to dispose hazardous waste in, on or around the structure. The Buyer may remove any materials that exist in the structures at the time of purchase. If large amounts of debris, garbage or hazardous waste is left behind by the Buyer and it is deemed by the Seller to be supplemental to the materials that existed pre-purchase, the security deposit will be forfeited by the Buyer.

The Seller will assume site protection responsibilities only upon completion and acceptance of all required site cleanup activities. The Seller will take responsibility to protect exposed excavations, foundations, or other hazards by installing barricades, orange snow fencing or other appropriate measures around dangerous openings. The Seller will contract the demolition & removal of existing foundations, driveways, concrete flat work, trees, sandbags, sediment, landscaping, along with site backfill & restoration.

The Seller retains the right to withhold any portion or the full amount of the security deposit deemed necessary to remove additional debris that is found to be in violation of these terms and conditions.

If the Buyer is relocating the structure(s):

The Buyer and/or the Buyer's agent shall neatly separate into piles differing materials they encounter while preparing the structure to be moved. Concrete or exterior brickwork that is removed to facilitate moving (partial removal of foundation walls, garage slabs, sidewalks, driveways, etc.) shall be kept separate from other materials and stockpiled in a neat pile located on the property. Topsoil and clay that may need to be removed around the foundation shall be separated and stockpiled in separate neat piles on the property (topsoil stockpile & clay stockpile). Any sand bedding under concrete slabs shall be stockpiled into a separate pile. Landscaping rock and appurtenances, etc. shall be stockpiled separately in a neat pile on the property. Trees around the structure that may need to be removed to facilitate moving shall require advance approval from the Seller prior to their removal. Upon approval, the trees may be stockpiled adjacent to the curb and the Seller will dispose of them.

If all materials are separated into neat piles, the Buyer may leave them on-site for the Seller to dispose of. If the Buyer and/or the Buyer's agent commingles concrete, bricks, siding, landscaping rock & appurtenances, wood, trees, brush, topsoil, clay and other miscellaneous building materials into one contiguous pile, the Buyer and/or Buyer's Agent will be responsible for disposing that material offsite at the Buyer's own expense. Any piles of commingled materials remaining on-site on September 30, 2013 will be removed by the Seller and the security deposit will be forfeited by the Buyer. The Buyer and/or the Buyer's agent is encouraged to contact the Seller during moving operations to determine if their actions on-site are in line with this requirement or if they need to change their practices of separating piles to comply with this requirement for their deposit to be reimbursed.

If the Buyer and/or the Buyer's agent remove walls from the basement (drywall & wall studs) or a deck from the exterior of the structure the materials must be placed in a roll off dumpster that shall be acquired and disposed of at the Buyer's expense. Roll off dumpsters must be removed no later than September 15, 2013

If the Buyer salvages materials from the structure(s):

If the Buyer salvages windows and exterior main doors from the structure(s), the Buyer shall secure the entire perimeter of all exterior openings (1st and 2nd floors) with ½” plywood secured to the structure with 2” decking screws as necessary to fasten the plywood to the structure. This requirement also applies to skylights that may be removed from the roof by the Buyer and/or Buyer’s agent. If the Buyer salvages car garage doors from the structure(s) the Buyer does not need to secure those openings with plywood.

Any items that the Buyer and/or the Buyer’s agent may remove from the structure(s) that will not be removed from the property must be neatly placed inside the structure and not strewn around the foundation and property. Examples of this placement include removing brickwork around windows, siding, miscellaneous building materials, etc. Any materials that have the potential to become airborne (blown-in insulation, etc.) must be secured with plastic to prevent them from becoming airborne.

11. ASBESTOS AND LEAD PAINT

The Seller will secure an independent asbestos testing company to perform asbestos testing in all structures prior to the auction. The list of reported asbestos containing materials for any structure will be made known to the Buyer via www.bcwr.org. The Seller does not warrant that all items have been tested for the presence of asbestos and makes no guarantee to the completeness of the testing process and report.

The Seller will not abate the asbestos if it is found in a structure prior to the sale of the property. The Buyer agrees to purchase the structure on an “as-is” basis and will be responsible for proper asbestos abatement. If applicable, the Buyer agrees to have a licensed asbestos contractor certify that the items on the list are in good condition prior to moving. If the asbestos can become friable during the move it shall be abated by an individual licensed with the North Dakota Department of Health in accordance with all current rules and regulations regarding asbestos abatement and disposal. Once the house has been moved, the licensed asbestos contractor must inspect the items on the list and certify that none have become friable.

The Seller has not, and will not, test for the presence of lead-based paint. If a structure was built prior to 1978, it is assumed to contain lead based paint. The Buyer shall be responsible for proper abatement. The Buyer will be required to acknowledge that the property may contain lead paint at the end of the auction if the structure was built prior to 1978.

12. FLOODPLAIN REQUIRMENTS FOR HOUSES RELOCATED WITHIN BURLEIGH COUNTY OR THE CITY OF BISMARCK

All structures relocated to parcels of land within Burleigh County or the City of Bismarck will be subjected to all city or county ordinances, regulations, guidelines, procedures, flood proofing requirements and all special provisions listed below. Structures will not be allowed to be relocated to parcels located within the designated setback distances from rivers or drains.

Structures relocated to a parcel of land within Burleigh County or the City of Bismarck that is mapped in the 500 year floodplain will be mandated to install a flood proof foundation. The top of the foundation wall and/or lowest opening, and crawl space must be elevated 2.0' above the 100-year Base Flood Elevation (BFE). Imported fill on the lot must be elevated such that the fill at the foundation is 2.0 feet above the BFE and shall transition to the BFE a minimum of 25 feet away from the structure in all directions. Imported fill must be compacted to 95%. Records of compaction testing must be taken during fill placement and compaction to verify soil compaction.

The Buyer shall submit to the City/County Floodplain Manager the following items for approval prior to house moving:

- i. Legal description of the lot the house will be moved to.
- ii. Alta survey of the new lot.
- iii. Site plan which details proposed and minimum dimensional standards to include all front, rear, and side yard setbacks.
- iv. Elevation and grading site plan.
- v. Proof of compliance to all zoning, land use, subdivision covenants or other regulations allowing the house to be moved to the site.
- vi. Performance bond or other appropriate performance guarantees to ensure completion of the move.
- vii. List of all contractors with specified duties to complete all work items associated with moving and relocation. All contractors shall be licensed in the field of their specified duties.
- viii. Summary costs and bid proposals/contracts for all work items.
- ix. Letter of Map Revision based on Fill (LOMR-F) submittal prepared by a registered Professional Engineer. Fees to process the LOMR-F are the responsibility of the Buyer.
- x. Properties located in the 100 year floodplain: LOMR-F shall be prepared and completed by a registered Professional Engineer. The Buyer shall submit a completed LOMR-F to FEMA **and** the City/County Floodplain Administrator for their review and approval.
- xii. If the LOMR-F application is being processed but not completed by the September 15, 2013 deadline, the Buyer may apply for a permit to move the structure to a temporary storage area designated by the Buyer or Buyer's Agent until the LOMR-F application has been approved. Structures shall not remain on their current foundations past the September 15, 2013 deadline, without written authorization from the Seller and may not be temporarily stored on Township, City or County owned property or right-of-way. No structure shall be placed at its final location prior to meeting all provisions of these terms and conditions.

13. **UTILITIES**

Water meters have been removed from all vacant structures and the water service has been shut off at the curb stop.

The Seller will notify the private serving utility to disconnect services to the vacant structures on July 15, 2013.

14. **AMENDMENTS, MODIFICATIONS OR WAIVERS**

No amendment, modification, or waiver of any condition, provision or term shall be valid or of any effect unless made in writing and signed by Buyer and Seller, or a duly authorized representative, and specifying with particularity the extent and nature of such amendment, modification or waiver. Any waiver by any party of any default of another party shall not effect or impair any right arising from any subsequent default. Except as expressly and specifically stated otherwise, nothing herein shall limit the remedies and rights of the parties.

15. **INDEMNITY AND HOLD HARMLESS**

The Buyer agrees to indemnify and hold the Seller, its directors, employees, attorneys and agents harmless from any and all claims, liabilities, losses, damages and expenses, including claims arising from death or personal injury and attorney's fees, that may arise directly or indirectly from the condition of the building(s) and materials, the Buyer's performance of these terms and conditions, the moving of structures and the relocation of other structures.

16. **BINDING EFFECT**

The terms herein and the bill of sale comprise the entire agreement and shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, personal representatives, successors and assigns.

17. **GOVERNING LAW**

This agreement shall be governed by the laws of the State of North Dakota.

Dated this 10 day of July, 2013

Burleigh County Water Resource District, A
political subdivision, State of North Dakota

By: _____
Terry Fleck, Its Chairman
(Seller)

152

Structure Sale?

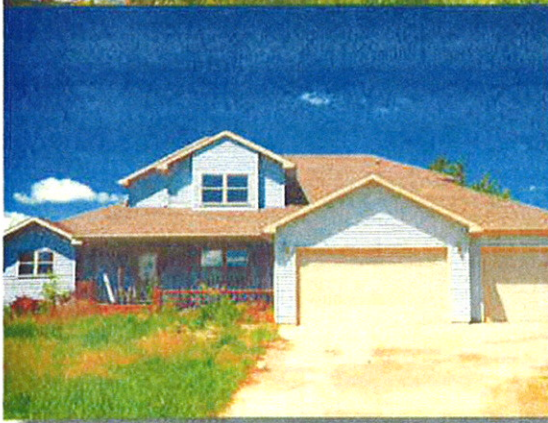
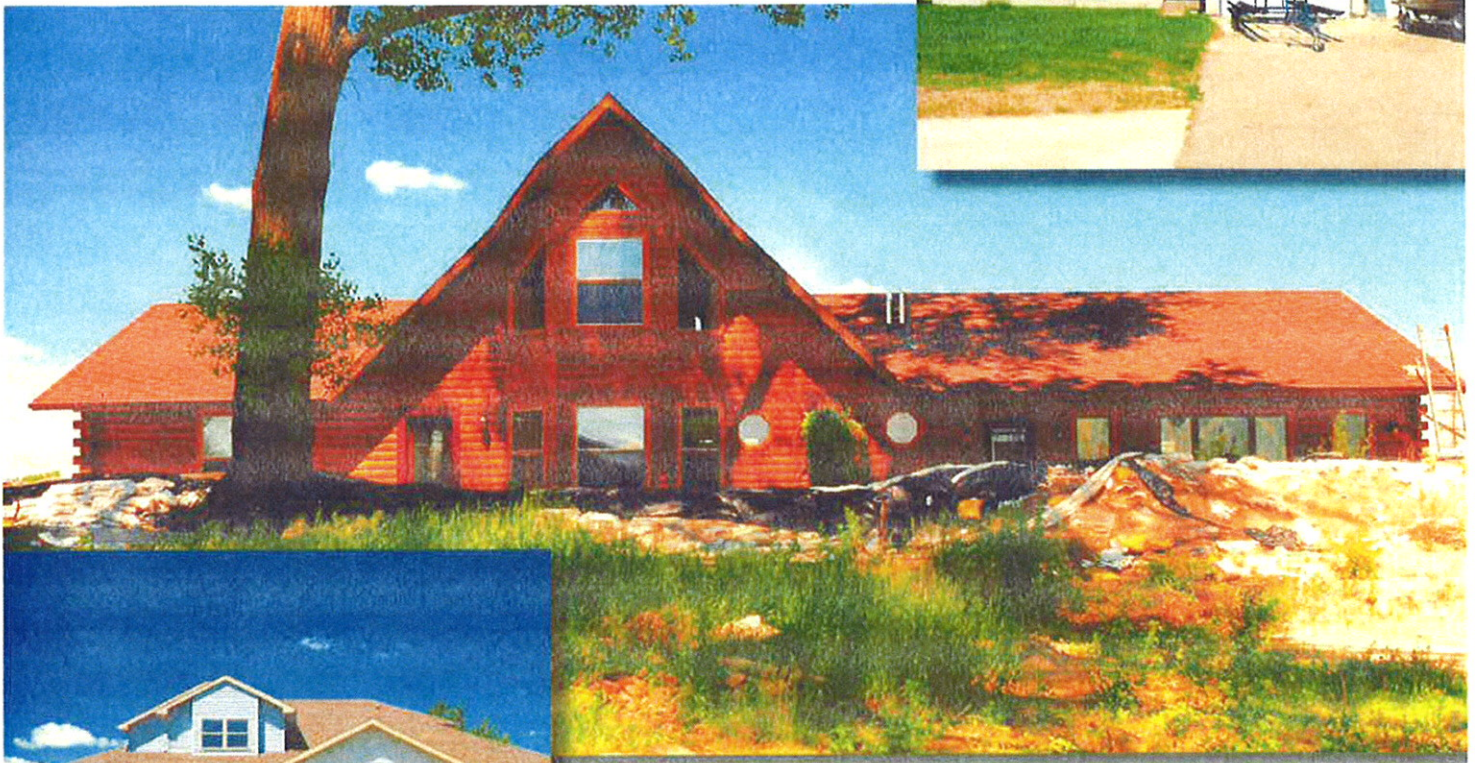
Property Bidding

Bids returned by 3:00 pm, July 15, 2013

Bliss & Stebbins, LLC • 400 East Broadway Ave, Suite 308
Bismarck, ND 58502-4126
701.223.5769



Open House: July 3¹⁸⁷, 2013 • 1-4 PM



Terms and conditions and more info
available at www.bcwrd.org
Kathleen Jones at 701.400.7129

Property 1-9700 Island Road Residence
Property 2-9750 Island Road Residence
Property 3-9750 Island Road Shop
Property 4-9828 Island Road Residence
Property 5-9828 Island Road Garage

154

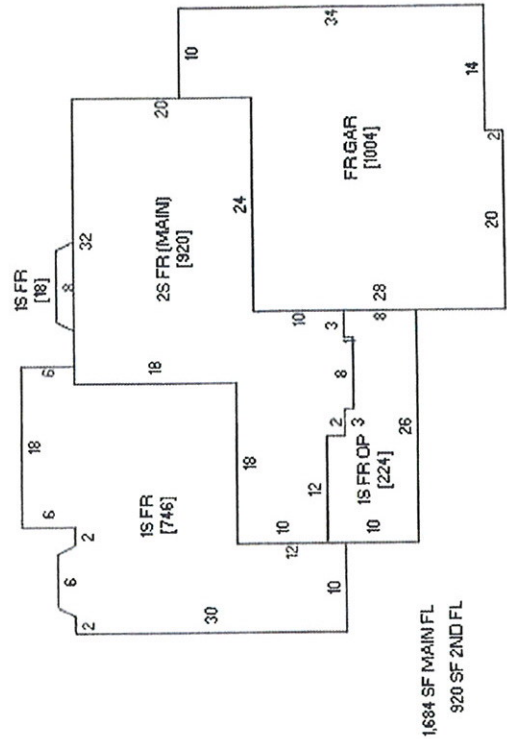
PIN 23-140-81-65-01-010
 Deed BERNARD, STEPHEN T
 Contract
 Address 9700 ISLAND RD
 Map Area RIVERVIEW RIVER RES
 Route Number 000-000-000 Plat Map
 Legal RIVERSIDE Block 01 LOT 1 743163
 Section Block 01
 Lot 010
 Township 140
 Range 81
 Deeded Acres 0.950



Land Basis 1	Front	Rear	Side 1	Side 2	R. Lot	SF	Acres
Lump Sum						0.00	0.950
Grand Total*							0.950

*Includes all land areas

Residential Dwelling	
Occupancy	Single-Family / Owner Occupied
Year Built	1999
Ttl Living Area	2,620
Bsmt/Attic	Crawl / None
Heat/AC	FHA - Gas / Yes AC
Bsmt Finish	0/ 0/ 0
Ttl Bdrms	4 Above 4 Below
Ttl Fireplaces	1
Plumbing	Garage
Full Bath	3 Att Frame 1,004 SF



1,684 SF MAIN FL
 920 SF 2ND FL

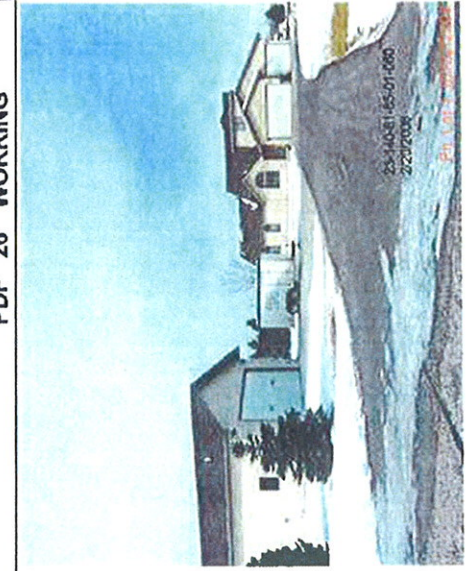
	PrYr 2011	PrYr 2010	PrYr 2009
Land	\$91,000	\$91,000	\$91,000
Dwelling	\$225,400	\$225,400	\$225,400
Impr	\$0	\$0	\$0
Total	\$316,400	\$316,400	\$316,400
Sale Amount	\$475,000		
Sale Date	03/31/2011		
Recording	WD743163		
Date	05/22/2002		

Property 1

Sketch 1 of 1

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PIN 23-140-81-65-01-060
 Deed RODGERS, JEROME D
 Contract Section 01
 Address 9750 ISLAND RD Block 060
 Map Area RIVERVIEW RIVER RES Township 140
 Route Number 000-000-000 Plat Map Range 81
 Legal RIVERSIDE Block 01 LOT 6 & N1/2 LOT 5 620398 681932 Deeded Acres 1.400



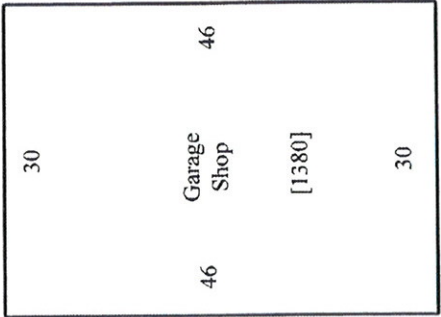
Land Basis 1	Front	Rear	Side 1	Side 2	R. Lot	SF	Acres
Lump Sum						0.00	1.400
Grand Total*							1.400

*Includes all land areas

Residential Dwelling	
Occupancy	Single-Family / Owner Occupied
Year Built	1993
Ttl Living Area	2,764 Ttl Rms 10
Bsmi/Attic	Crawl / None
Heat/AC	FHA - Gas / Yes AC
Bsmt Finish	0/ 0/ 0
Ttl Bdrms	3 Above 3 Below
Ttl Fireplaces	
Plumbing (More)	Garage
Full Bath 1	Att Frame 848 SF
Toilet Room 1	
Shower Stall/Tub 1	

	PrYr 2011	PrYr 2010	PrYr 2009
Land	\$109,000	\$109,000	\$109,000
Dwelling	\$196,600	\$196,600	\$196,600
Impr	\$0	\$0	\$0
Total	\$305,600	\$305,600	\$305,600
Sale Amount	Sale Date	Recording	
\$0	11/15/2007	QD681932	
	06/10/2004		

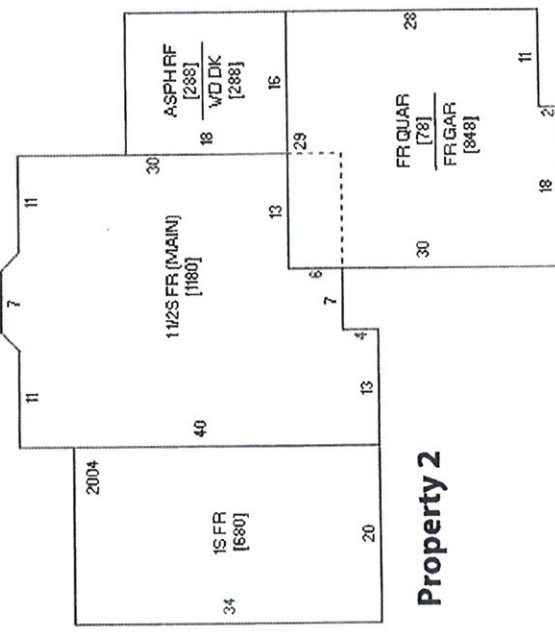
Property 3



1860SF MAIN
 1256SF 2NDFLR

Sketch 1 of 1

Property 2



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PIN 23-140-81-65-01-090 Deeded Acres 1.850
 Deed BOLL, RODNEY J & LAURA M Section 01
 Contract Block 090
 Address 9828 ISLAND RD Lot 140
 Map Area RIVERVIEW RIVER RES Township 140
 Route Number 000-000-000 Plat Map Range 81
 Legal RIVERSIDE Block 01 N1/2 LOT 8, ALL LOT 9, S1/2 LOT 10 706796

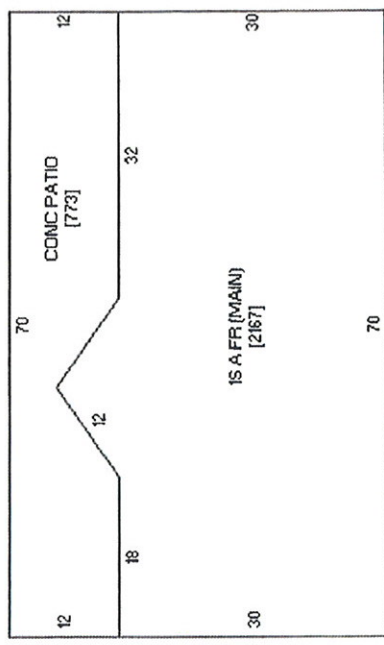


Land Basis 1	Front	Rear	Side 1	Side 2	R. Lot	SF	Acres
Lump Sum						0.00	1.850
Grand Total*							1.850

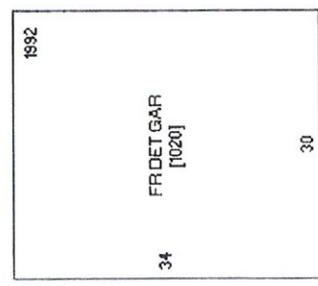
*Includes all land areas

Residential Dwelling	
Occupancy	Single-Family / Owner Occupied
Year Built	1990
Ttl Living Area	2,925
Bsmt/Attic	Crawl / 1/2 Finished
Heat/AC	FHA - Gas / Yes AC
Bsmt Finish	0/ 0/ 0
Ttl Bdrms	3 Above 3 Below
Ttl Fireplaces	
Plumbing	Garage
Full Bath	2 Det Frame 1,020 SF
Sink	1

	PrYr 2011	PrYr 2010	PrYr 2009
Land	\$132,200	\$132,200	\$132,200
Dwelling	\$192,200	\$192,200	\$192,200
Impr	\$0	\$0	\$0
Total	\$324,400	\$324,400	\$324,400
Sale Amount	Sale Date	Recording	
\$291,500	07/15/2004	WD622322	



Property 4



Property 5

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Mona Livdahl

From: Michael Gunsch [mgunsch@houstoneng.com]
Sent: Wednesday, June 19, 2013 10:29 PM
To: Cary Backstrand; Craig Odenbach; David Bliss; Gordon Weixel (gweixel@nd.gov); Kathleen Jones (k
Subject: Burnt Creek Flood Control Cost Share Request

Good Evening:

Earlier today the NDSWC approved the BCWRD cost share request for the repairs to the Burnt Creek Flood Control Project. This determination related making repairs in 2013. Mona will be sending out a doodle to see what time works next week for a site r

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

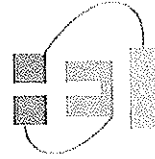
mgunsch@houstoneng.com

www.houstoneng.com

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MEMO



Houston Engineering Inc.

Technical Memorandum

To: Terry Fleck, Chairman
Burleigh County WRD

From: Craig Odenbach, P.E.
Michael Gunsch, P.E.

Date: July 2, 2013

Subject: Burnt Creek Floodway
Assessment District

In 2006 the Burleigh County Water Resource District asked that we look into the establishment of an assessment district to finance maintenance of the Burnt Creek Floodway Project. Three memorandums dated March 27, 2006, August 11, 2006, and October 30, 2006 were developed and are attached for reference.

At that time, ND Century Code Section 61-16.1-40.1 provided that a special assessment district could be established for the maintenance of a federally constructed project with a 2/3 vote of the Water Resource District and the County Commission. This is a special process intended to allow for the maintenance of federally constructed projects without having to go through the more onerous process of holding an election to form an assessment district. The statute allowed the assessment of \$1.50 per acre on agricultural lands and \$1.50 for each five hundred dollars of taxable valuation of nonagricultural property. In 2005 this amount was calculated to total \$7,083, and in 2006, the total that could be assessed was estimated to be \$8,789.

Since 2005, the statutory language has been adjusted twice. The current language allows the assessment of \$4.00 per acre of agricultural property and up to \$2.00 annually for each five hundred dollars of taxable valuation of nonagricultural property. In 2006, the total assessment was estimated to be \$7,083. Taking into account the statute changes and assuming a 4% increase in taxable evaluations annually since 2006, the potential total assessment for 2013 can be estimated to be \$17,926. The following table breaks down the assumed values.

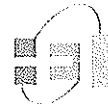
	Ag \$/acre	Agricultural Assessment	\$/500,000 Valuation	Nonagricultural Assessment	Total Assessment
2005	\$1.50	\$2,745	\$1.50	\$4,228	\$7,083
2006	\$1.50	\$2,745	\$1.50	\$6,044	\$8,789
2013	\$4.00	\$7,320	\$2.00	\$10,606	\$17,926

In 2006, the development of an assessment district was not pursued further because the general feeling, shared by the then Chairman of the WRD and the Burleigh County Auditor was that the amount to be assessed was too small to justify the burden of implementation, and the financing of the required repairs through the WRD's general fund was justified by the fact that the benefitting landowners are tax payers within the county. The numbers listed above are very preliminary estimates, intended only to provide enough background information to make an informed decision whether or not to expend additional funds toward establishment of the assessment district. It is likely that the estimates listed above are somewhat conservative, as the taxable valuations and additional residential development within the area has probably grown more than 4% annually.

The statute has also been changed since 2006 to now require that a public hearing be held in addition to obtaining a 2/3 approval of both the WRD and the County Commission. Another consideration is the fact that Burleigh County parcel data is now available in a GIS format, which it was not in 2006. This would make the process much easier to accomplish and would offset some of the cost associated with the newly required public hearing. Questions remaining to be answered include whether or not the assessments need to be approved by

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MEMO



Houston Engineering Inc.

the WRD and the County Commission on an annual basis if multiple years are required to finance the repairs and whether or not interest charges could be included in the assessments.

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MEMO



Houston Engineering, Inc.

3712 Lockport Street
Bismarck, ND 58103-5535

Ph. (701) 323-0200
Fax (701) 323-0300

Special Assessment District

Date: March 27, 2006

From: Craig Odenbach, P.E.
Assistant Project Manager

To: Ken Royse, Chairman BCWRD
Michael H. Gunsch, Project Manager

Subject: Burnt Creek Floodway
Special Assessment District

A spreadsheet has been developed listing the various parcels within the area identified during the original project development as being benefited by the Burnt Creek Floodway. The area determined to be benefited as part of the original project development was used. **Figure One**, included in the 1975 SCS Measure Plan, reflects the established benefit area. The various assumptions and understandings involved in compiling the assessment list are documented below. The need for further refinement is also explained.

ND Century Code Section 61-16.1-40.1 states:

If a water resource board enters or has been assigned rights in a contract with a federal agency for construction of a flood control project or soil conservation service project, and the terms of the contract require the water resource board to provide for maintenance of the project after construction, the water resource board may finance in whole or in part the maintenance of the project with funds raised through the collection of a special assessment levied against the land and premises benefited by maintenance of the project. The assessments to be levied may not exceed one dollar and fifty cents per acre (.40 hectare) annually on agricultural lands and may not exceed one dollar and fifty cents annually for each five hundred dollars of taxable valuation of nonagricultural property. No action is required for the establishment of the assessment district or the assessments except the water resource board must approve the maintenance and assessment therefore by a vote of two-thirds of the members and the board of county commissioners of the county must approve and levy the assessments to be made by a vote of two-thirds of its members.

In order to perform required maintenance on the Burnt Creek Floodway, the Burleigh County Water Resource District (BCWRD) is proceeding toward establishing a special assessment district under this statutory authority.

The Burleigh County Auditor's Office provided parcel information for the area included within the identified benefited area. This included the platted subdivisions as well as the un-platted rural areas. For the lots located within platted subdivisions, the Assessed Property Value was computed as 50% of the listed Market Value. The Taxable Valuation was then calculated as 9% of the Assessed Property Value, for those properties assessed as Residential, and 10% of the Assessed Property Value, for those properties assessed as either Commercial or Farmland. A weighted average Taxable Valuation was calculated for those lots assessed as a combination of Residential and either Commercial or Farmland. The Assessment for these parcels was calculated as \$1.50/\$500 of Taxable Valuation.



MEMO

Special Assessment District

For the rural areas, where the parcels are primarily assessed as farmland, the Total Assessment was calculated as \$1.50 per acre. These rural areas are included in the front of the spreadsheet and can be identified as having a "Subdivision No." of '00'.

The Misty Waters Subdivision data listed nearly all of the lots assessed as farmland. These are included in the spreadsheet assessed as \$1.50 per \$500 of Taxable Valuation with the Taxable Valuation calculated as 10% of the Assessed Value rather than \$1.50 per acre. I'm not sure if these parcels would be considered agricultural or non-agricultural in accordance with the statute. The determination on the final assessment for these areas will need to be made by the County Auditor.

Unfortunately, the parcel data was unavailable in any sort of GIS format. While the county is working on this, it has yet to be completed, which made a significant amount of manual manipulation necessary to get to this point. The Auditor's office provided the parcel information for all of the sections identified as being at least partially within the benefited area. Thus some of the parcels listed lie either wholly or partially outside the benefited area. In some cases it has been possible to determine which parcels, or which portions of parcels are actually located within the benefited area; however in some instances it is not possible to make that determination with the information provided. Specifically, we are unable to make determinations for Sections 24 and 25 of Hay Creek Township (T139N - R81W). Given the large number of irregularly shaped parcels, the only way to make such a determination would involve researching the County Recorder's office to obtain the maps and meets and bounds descriptions for all of the parcels which would then need to be mapped and overlain on the benefited area boundary. Such an endeavor is likely to require a significant investment of time and budget. Since this assessment district is being established by the BCWRD, a branch of Burleigh County government, it is prudent to request assistance from the Burleigh County Auditor's office for further refinement of this list. The County Auditor will be required to certify the final assessment list prior to making the special assessments.

Once the assessment list has been verified, including those areas in question in Sections 24 and 25, the statute requires a 2/3 vote by the BCWRD to approve the assessment and another 2/3 vote by the County Commission to actually levy the assessment. The statute does not require a public hearing, but either entity could decide to hold a hearing prior to voting if they so desired. One benefit of a public hearing would be the opportunity for members of the public to identify any errors in the assessment list as well as any instances where the data provided may be outdated.

Given the information presently available we recommend that the BCWRD review this documentation and make a formal determination whether to take the next step in this process, submitting this data along with a request for review by the County Commission. A formal vote would occur once the list is finalized and verified by the County Auditor. The issue at this time would be to obtain a consensus to continue with the formation of the special assessment district. As additional information, **Figure Two** illustrates the current GIS mapping that has been developed as part of our work on this district. The total annual revenue from this special assessment district is estimated at roughly \$7,000. Approximately 61% of this is generated by residential or commercial assessments. This will increase as development continues (e.g., sales at Misty Waters or new plats).

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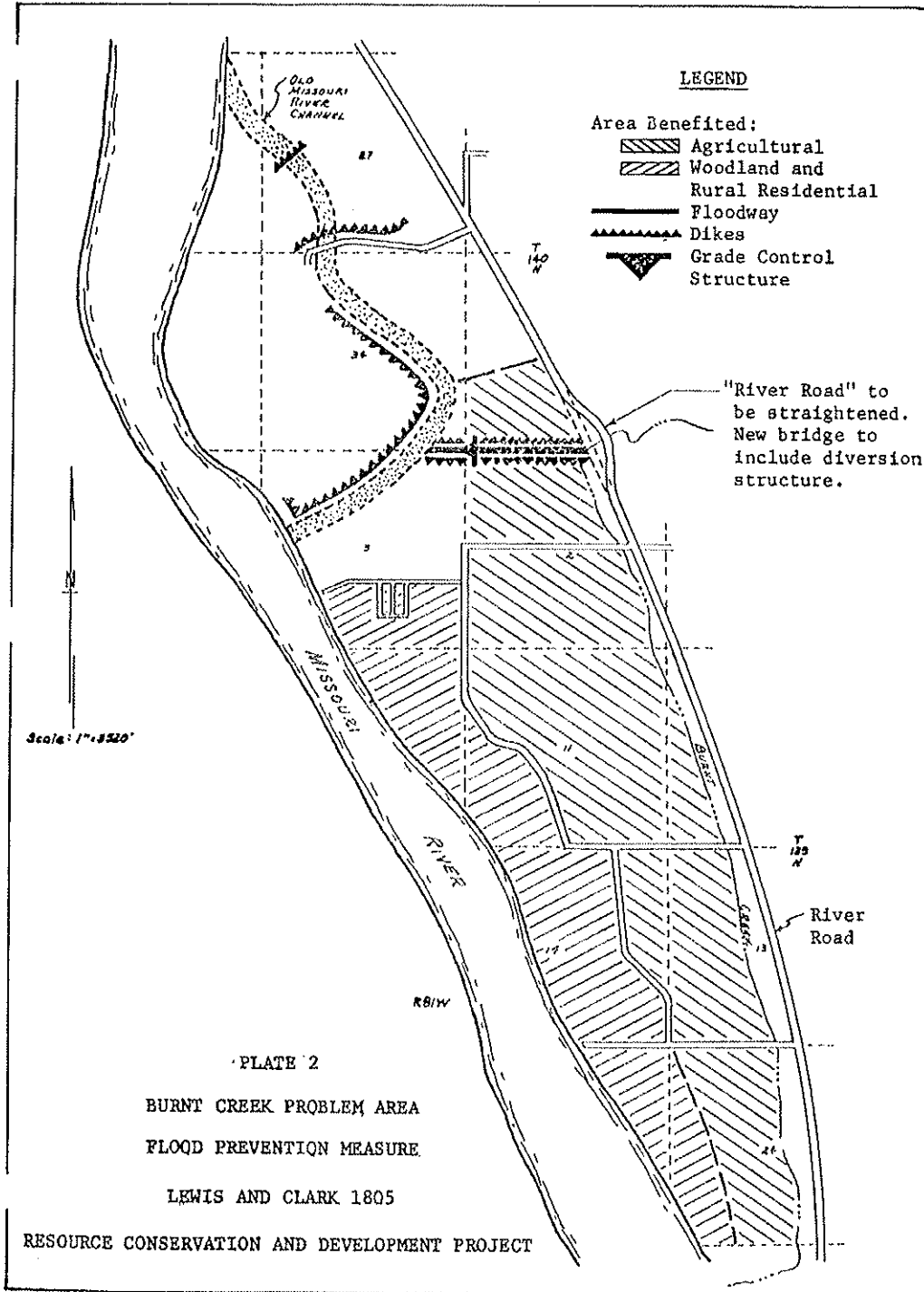


Figure One – 1975 Measure Plan Map - Burnt Creek Floodway Benefited Area

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MEMO **Special Assessment District**

Figure Two – Current GIS Mapping Boundary



MEMO

Technical Memorandum

Houston Engineering, Inc.

3712 Lockport Street
Bismarck, ND 58103-5535

Ph. (701) 323-0200
Fax (701) 323-0300

Date: August 11, 2006

From: Craig Odenbach, P.E.

To: Michael Gunsch, P.E.

Subject: Burnt Creek Assessment

The total maintenance assessment based on the 2005 data was \$7,083. This total was derived without clarification of the tracts within the benefited area in Sections 24 & 25.

2005

\$2,745 from taxable acreage
\$4,228 from taxable valuation
\$7,083 Total

2006

Assume a 15% increase in taxable valuation:

$$(\$4,338)(1.15) + \$2,745 = \$7,734$$

Accounting for the Misty Waters anomaly:

2005

$$(\$0.02)(125) + \$3.39 = \$5.89$$

2006

$$(\$4.88)(13) + (\$8.87)(112) + \$14.63 = \$1,061.43$$

$$\text{Increase} = \$1,061.43 - \$5.89 = \$1,055.54$$

$$\text{Therefore 2006 total} = \$7,734 + \$1,055 = \$8,789$$

2005 = \$7,083

2006 = \$8,789



MEMO



Houston Engineering, Inc.

3712 Lockport Street
Bismarck, ND 58103-5535

Ph. (701) 323-0200
Fax (701) 323-0300

Project Finance Options

Date: October 30, 2006

From: Michael Gunsch, PE - Project Manager
Craig Odenbach, PE - Assistant PM

To: Ken Royse, Chairman
Burleigh County Water Resource District

Subject: Burnt Creek Floodway Channel
Project Funding Options

The Burnt Creek Floodway was originally designed and constructed by the Soil Conservation Service, predecessor of the Natural Resources Conservation Service (NRCS), with the Burleigh County Water Management District, predecessor to the Burleigh County Water Resource District (BCWRD) serving as the local sponsor. The project provided flood control benefits to the agricultural properties and developing properties located to the south and between the natural Burnt Creek channel and Missouri River. A small area of agricultural land located immediately north of the floodway was also designated to be within the benefited area. The NRCS has since assigned full management responsibility and project authority to the BCWRD. This transfer occurred following the completion of prescribed benefit period, which was designated as 25-years in the Work Plan. No assessment district was ever formed to provide a revenue stream for operation and maintenance activities, nor is any federal funding available for such purposes.

The need to perform extensive maintenance on the Burnt Creek Floodway Project has been recognized by the BCWRD for a number of years. The FY2007 budget authorized \$325,000 for this project, excluding possible cost share requests. As part of the preliminary engineering and design process, a field survey was conducted in the spring of 2006. The survey revealed that damages to the project are more extensive and the solution more complicated than erosion scour and sedimentation as originally anticipated. The oxbow area, and now the floodway channel itself are actually head cutting to a depth greater than six feet when compared to the 1999 FIS Survey Data. This head cutting will, over time, progress toward the current concrete drop structure which will eventually lead to damages and possible structural failure. Estimates for reconstructing the floodway channel and providing measures to prevent additional head cutting and damages are under development. This process includes an assessment of issues raised by the landowner to the north related to field drainage, trail issues, and the capacity and grading of the oxbow channel.

In addition to the need for immediate repairs, there have been previous discussions regarding an expanded project that would include raising the southern floodway dike to provide adequate freeboard and bring it into compliance with current design standards on a 100-year event. This would allow increased protection for lands to the south as well as create the ability to reduce the regulatory floodplain elevations in some locations. Also included in the project would be the removal of accumulated sediments from within the floodway channel upstream from the drop structure. While the expanded project has been discussed, it has largely been viewed as a "long term alternative" that may, or may not, ultimately be pursued. The primary reasons include funding and acceptance by the benefited property owners.

Depending on the philosophical approach preferred by the District and, to some extent, the County Commission, there are essentially three options to be considered for financing the repair work or an expanded project.



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MEMO Project Finance Options

Option #1 – General Fund

Historically, the operation and maintenance of such projects in Burleigh County have been financed through expenditures from general mill levy appropriations provided to the BCWRD. The shortcoming of this approach is that the whole county is then responsible for paying these costs no matter how narrow and specific the benefits are. In this situation, the original federal project identified a benefited area of approximately 2,300 acres located predominantly to the south of the project. Subsequently, under current practice, general fund monies spent on operating and maintaining this project are not available for other projects potentially providing broader benefits or meeting other needs within the county.

In light of these considerations, the BCWRD has been considering alternative methods to assess these costs specifically against the benefited properties. Establishing assessment districts for such a purpose is a common practice for water resource districts across the state, and the North Dakota Century Code (NDCC) provides specific guidance for their establishment. There are essentially two methods by which this can be accomplished as explained in greater detail under Options #2 and #3.

Option #2 – Maintenance Assessment District

The federal government constructed numerous flood control projects across the state during periods when federal funding was available for such activities. The federal government turned ownership and operations over to the local sponsors, while retaining federal oversight for a specified period. In many cases, as with the Burnt Creek Floodway Project, the local sponsor had no revenue stream available for maintenance work. In apparent recognition of this need, legislation was approved providing a mechanism whereby a Water Resource District may establish an assessment district specifically for maintenance activities on federally constructed projects. This legislation was codified in *NDCC Section 61-16.1-40.1* which provides as follows:

If a water resource board enters or has been assigned rights in a contract with a federal agency for construction of a flood control project or soil conservation service project, and the terms of the contract require the water resource board to provide for maintenance of the project after construction, the water resource board may finance in whole or in part the maintenance of the project with funds raised through the collection of a special assessment levied against the land and premises benefited by maintenance of the project. The assessments to be levied may not exceed one dollar and fifty cents per acre (.40 hectare) annually on agricultural lands and may not exceed one dollar and fifty cents annually for each five hundred dollars of taxable valuation of non-agricultural property. *No action is required for the establishment of the assessment district or the assessments except the water resource board must approve the maintenance and assessment therefore by a vote of two-thirds of the members and the board of county commissioners of the county must approve and levy the assessments to be made by a vote of two-thirds of its members.* {emphasis added}



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MEMO Project Finance Options

This approach simplifies the establishment of an assessment district by not requiring a vote of those property owners to be assessed; rather a two-thirds majority of the District Board is required along with a two-thirds vote of the County Commission for the actual assessment. This approach provides representation by the people through their elected and appointed officials. This stream lining was likely considered appropriate given the limited nature of the assessment that can be levied and the relatively cumbersome effort that is required to establish an assessment district through a formal vote of the property owners benefited. It also accounts for the fact that the beneficiaries did not have to pay for project construction. The difficulty in obtaining a positive vote for maintenance of an already existing and functional federally constructed project may also have been a consideration.

In an apparent indication of further recognition of the difficulty in establishing assessment districts for smaller projects, the North Dakota Legislature more recently approved legislation allowing a similar approach to be used for establishing assessment districts for small snagging and clearing projects. This legislation was codified in *NDCC Section 16-16.1-09.1*. One difference between the two approaches is that the latter specifically requires a public hearing. The former process, applicable to the Burnt Creek Floodway Project, does not specifically require a public hearing. Given the general desire to inform the affected property owners, as well as to obtain public input, it appears desirable that a public hearing be held.

The District has completed significant work toward defining a formalized assessment list for the area designated in the Work Plan as benefited by the project. While significant work remains to be completed in terms of refining the assessment list, it appears the statutory limitations of \$1.50 an acre on agricultural land and \$1.50 per \$500 of taxable valuation on non-agricultural land would result in a maximum annual revenue stream of around \$9,000 (see attached memorandum dated October 25th). This assessment will increase as valuations within the benefited area increase and as rural residential development continues. The construction of residences with the Misty Waters Subdivision alone will significantly increase the available funding.

One downside to this option, noted during discussions with County officials, is the relative difficulty to maintain such an assessment list in comparison to the annual return. This appears to be a valid concern, as updating the information in our original draft assessment list from the 2005 parcel data to the 2006 data has taken considerable effort. However, the majority of this difficulty results from the unavailability of the County parcel data in a GIS format. It is our understanding that Burleigh County is making progress toward a GIS system to manage this parcel data, which would greatly reduce the effort required to maintain an accurate assessment list. We strongly encourage the County to proceed with that effort. Whether or not formation of an assessment district should be delayed until this effort is completed, is a topic for discussion by the Board.



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Option 3 – Typical Assessment District

A third option to obtain revenues would be to establish an assessment district through the process outlined in *NDCC Sections 16-16.1-17 through 61-16.1-24*. In brief, this approach requires a resolution by the District finding that the project is warranted and development of an engineer's report to include profiles, plans, and specifications and estimates of total cost. A public hearing must then be held, and, prior to the hearing, a complete assessment list must be on file with the County Auditor. Affected landowners must be informed during that hearing of the scheduled time and place for a vote on the project.

The preliminary assessment district listing that has already been developed would need to be finalized and formalized under this process as the landowners have a specific right to protest based on their scheduled assessment. Each landowner receives one vote for each dollar of proposed assessment. The project is approved if 50% or more of the votes cast are in favor of the project, which is a simple majority. Another public hearing is then required to hear any objections to the proposed assessments. There is also an appeal process available to the landowners opposed to the project or their assessment, which involves the North Dakota State Engineer.

The benefit to this approach is that funds can be raised beyond the limitations under the maintenance assessment. Under this funding method any debt incurred for reconstruction or maintenance work could be assessed. This higher annual assessment limitation would allow the debt to be paid off in a shorter period than is possible under Option #1. The downside to this approach for maintenance purposes alone is the effort and cost involved in forming the assessment district, given the potential that the vote could fail.

Further Alternative Discussion

All three finance options should be evaluated by the BCWRD and the County Commission, as both boards would need to approve the maintenance assessment district with a two-thirds vote, or would be involved with a larger project. Each alternative has its own set of pros and cons as noted. While financing the required maintenance through the general mill levy appears the simplest alternative; there is merit in having such costs paid directly by the beneficiaries. The maintenance district is the simpler, and thus less costly, to form, but may be less desirable since it does not allow for a voting process and generates limited revenues. Some may view the benefit as not justifying the difficulty and cost of administering the assessment district, although development of a GIS system for the parcel data should significantly simplify that effort. The standard assessment district process allows for a vote, and the assessment amount is not limited by statute, but the likelihood of receiving a positive vote needs to be carefully considered. Given the increased capitol costs, Option #3 appears to be the only reasonable or viable option for funding an expanded project.

MEMO Project Finance Options

Project Repair and Reconstruction

After carefully considering existing conditions and evaluating the status of the head cutting erosion within the Oxbow and Burnt Creek Floodway Channel, in our opinion, the use of the term "maintenance" is not necessarily wholly accurate. The head cutting is principally related to high flows within the diversion and extended low river conditions, and, as such, the damages are beyond maintenance. Subsequently, this project rehabilitation requires measures to prevent future damages, and reconfiguration of the original project. Therefore, we recommend that the BCWRD submit a cost share request to the North Dakota State Water Commission. If the project is classified as a flood control project, it should be eligible for cost share up to 50% of eligible costs. If the project is viewed as rural flood control, then the level of funding may be reduced to either 35% or 40% of eligible costs. Eligible costs typically include preliminary engineering work completed within two years of the cost share request. Prior to requesting payment under an approved cost share, we will need to audit past invoices to remove those costs associated with the easement issues and any other work unrelated to the damages and rehabilitation.

The larger expanded project would certainly fall under the regulatory jurisdiction of the State Engineer, and a construction permit would be required. The rehabilitation project likely involves significant enough changes from the original design, that a construction permit would likely be required for that project as well. The permit application should be filed concurrently with the request for cost share assistance. A full set of plans will be required for review for both the permit application and the cost share request.

We will continue to work toward completion of a design and a full plan set for the rehabilitation with the hope that both the cost share request and the permit application can be filed in early 2007. A determination as to the merits of the expanded project will be addressed independently. The options for funding the local share of either project should be discussed between the District and the County Commission.



dikes, or other works or devices shall be made without complying fully with the provisions of this chapter.

61-16.1-39.1. Petition for maintenance - Bond required.

A written petition for maintenance of a project other than an assessment drain may be made to the board under this section. The petition shall designate the maintenance requested. The petition must be signed by six, or if a majority is less than six, by a majority of the landowners within the area benefited by the project. The petitioners shall supply a surety bond in the amount of two hundred fifty dollars. The bond must be for the payment of costs if the board finds the petition was improvidently made.

61-16.1-39.2. Maintenance of project - Exception.

If, upon receipt of a petition meeting the requirements of section 61-16.1-39.1, or upon the board's own motion, the board determines a project established under the provisions of this chapter requires maintenance, the board may provide the required maintenance by using the same method used initially to finance the project. Unless otherwise provided by law or agreement, the participation of the state in financing the initial project does not bind the state to finance any maintenance. Any maintenance financed through special assessments may not exceed the maximum levy established by section 61-16.1-45. This section does not apply to maintenance of assessment drains.

61-16.1-40. When dams constructed by federal agency under control of district.

Any dam, dike, or other water control device or flood control project constructed by or with the assistance of any federal agency but which is not maintained or operated by any federal agency shall become the responsibility of the district where it is located. The district may take any action concerning this dam, dike, or other water control device it deems feasible or necessary.

61-16.1-40.1. Maintenance of federally constructed projects - Assessment district established.

With regard to projects constructed by a federal agency, including the soil conservation service or natural resources conservation service, the water resource board may finance in whole or in part the maintenance of the project with funds raised through the collection of a special assessment levied against the land and premises benefited by maintenance of the project. The assessments to be levied may not exceed four dollars per acre [.40 hectare] annually on agricultural lands and may not exceed two dollars annually for each five hundred dollars of taxable valuation of nonagricultural property. No action is required for the establishment of the assessment district or the assessments except the water resource board must approve the maintenance and assessment therefor by a vote of two-thirds of the members and the board of county commissioners of the county in which the project is located must approve and levy the assessments to be made by a vote of two-thirds of its members. If a board that undertakes a project finds that the project may benefit lands in this state outside water resource district boundaries, the board shall provide notice to the water resource board where the benefited lands are located. The board of each water resource district containing lands benefited by a project must approve the project and assessment by vote of two-thirds of its members. The board of county commissioners in each county that contains lands benefited by a project must approve and levy the assessment to be made by vote of two-thirds of its members. If a project and assessment is not approved by all affected water resource boards and boards of county commissioners, the board of each water resource district and the board of county commissioners of each county shall meet to ensure that all common water management problems are jointly addressed. In addition, the water resource board that undertakes the project may proceed with the project if the board finances the cost of the project and does not assess land outside of the district. Before an assessment may be levied under this section, a public hearing must be held. The hearing must be preceded by notice as to date, time, location, and subject matter published in the official newspaper in the county or counties in which the

proposed assessment is to be levied. The notice must be published at least ten days but not more than thirty days before the public hearing.

61-16.1-41. Permit to drain waters required - Penalty.

Repealed by S.L. 1987, ch. 642, § 13.

61-16.1-41.1. Removal or placement of fill.

Prior to removing or placing any fill adjacent to a watercourse, the person responsible shall provide written notice to the district describing the amount and type of fill to be placed or removed and the location of the activity.

For purposes of this section, "adjacent" means within two hundred feet [60.96 meters] of the bank of the body of water during normal flow or stage.

The requirements of this section do not apply to surface coal mining and reclamation operations for which a permit has been secured from the public service commission pursuant to chapter 38-14.1.

61-16.1-42. Drains along and across public roads and railroads.

Drains may be laid along, within the limits of, or across any public road or highway, but not to the injury of such road. In instances where it is necessary to run a drain across a highway, the department of transportation, the board of county commissioners, or the board of township supervisors, as the case may be, when notified by the water resource board to do so, shall make necessary openings through the road or highway at its own expense, and shall build and keep in repair all required culverts or bridges as provided under section 61-16.1-43. In instances where drains are laid along or within the rights of way of roads or highways, the drains shall be maintained and kept open by and at the expense of the water resource district concerned. A drain may be laid along any railroad when necessary, but not to the injury of the railroad, and when it is necessary to run a drain across the railroad, the railroad company, when notified by the water resource board to do so, shall make the necessary opening through such railroad, shall build the required bridges and culverts, and shall keep them in repair.

61-16.1-43. Construction of bridges and culverts - Costs.

The water resource board shall construct such bridges or culverts over or in connection with a drain as in its judgment may be necessary to furnish passage from one part to another of any private farm or tract of land intersected by such drain. The cost of such construction shall be charged as part of the cost of constructing the drain, and any such bridge, culvert, or passageway shall be maintained under the authority of the water resource board, and the necessary expense shall be deemed a part of the cost of maintenance.

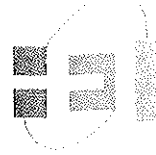
Whenever any bridge or culvert is to be constructed on a county or township highway system over and across or in connection with a drain, the cost of constructing such bridge or culvert shall be shared in the following manner:

1. The state water commission may, if funds are available, participate in accordance with such rules and regulations as it may prescribe. The remaining cost shall be borne forty percent by the county and sixty percent by the district which has created the need for such construction.
2. If, however, moneys have not been made available to the commission for participation in accordance with subsection 1, then forty percent of the cost of a bridge or culvert shall be paid by the county and sixty percent shall be charged as the cost of the drain to the district.
3. Where such bridges or culverts are constructed with federal financial participation, the costs exceeding the amount of the federal participation shall be borne by the district and county according to the provisions of this section, as the case may be.

61-16.1-44. Culvert and pipe arch bids and acceptance.

A water resource board may advertise for bids to supply culverts and pipe arches and may accept one or more low bids. A board may utilize bids for such materials received by the county

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July 2, 2013

Don Weisz
Weisz & Sons, Inc.
PO Box 1756
Bismarck, ND 58502-1756

COPY

**Subject: Apple Valley Lagoon Improvements
Request for Extension**

Dear Mr. Weisz:

We have received your letter dated May 22, 2013 requesting a 65 day time extension for the above referenced project. The Owner acknowledges that there have been impacts beyond the control of the Contractor, and is willing to adjust the contract times accordingly.

We visited the site and have reviewed the impacts high water levels have created this spring, and concur with the conclusion there were impacts beyond your control which have not allowed the project to proceed as originally anticipated. Those conditions have since abated and work could proceed on the project. We will continue to monitor site conditions.

Our recommendation is to add 45 calendar days to the project completion period. Change Order #2 (enclosed) revises the project Substantial Completion date to July 29th with Final Completion on August 12th.

Sincerely,

HOUSTON ENGINEERING, INC.

Travis G. Johnson, PE
Project Manager

Enclosure

- c: Glenda Anderson, Apple Valley Cooperative
- Dave Bergsagel, North Dakota Department of Health
- Terry Fleck, Burleigh County Water Resource District
- HEI – Bismarck

Fargo	701.237.5065	701.237.5101	Minot	701.852.7931	701.858.5655
Maple Grove	765.493.4522	765.493.5572	Thief River Falls	218.681.2951	218.681.2987

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Mona Livdahl

From: Michael Gunsch [mgunsch@houstoneng.com]
Sent: Wednesday, June 19, 2013 5:15 PM
To: 'Fleck Terry'; 'kenroyse@bartwest.com'; 'Joel Galloway'; 'Lindquist, Todd J NWO'; 'Erhardt, Toni R NWO'; 'Heiser, Gerald R.'; Craig Odenbach; 'Timian, Robert G.'; Larry Kramka; 'Ronald Sando'; Daniel.E.Cin
jeffrey_towner@fws.gov; kcasteel@nd.gov; 'Wade Bachmeier'; 'Bill Robinson'; 'Bill Wocken'; 'Jim Ne
'Joel Galloway'; 'Fleck Terry'; 'kenroyse@bartwest.com'; 'Joel Galloway'; 'Lindquist, Todd J NWO'; 'Er
Manchester'; 'Heiser, Gerald R.'; Craig Odenbach; 'Timian, Robert G.'; Larry Kramka; 'Ronald Sando'
pwax@nd.gov; jeffrey_towner@fws.gov; kcasteel@nd.gov; 'Wade Bachmeier'; 'Bill Robinson'; 'Bill W
gpower@nd.gov; Cary Backstrand; Craig Odenbach; David Bliss; Gordon Weixel (gweixel@nd.gov);
Subject: RE: Missouri River Snagging and Clearing Project inspection survey
Attachments: Doodle[11].pdf

Good Afternoon All!

Preparing for the a river trip to remember the following are on the list of attendees for the Missouri River Snagging and Clearing

Meet at the SouthPort Boat Ramp/Dock at around 8 am sharp. Will be leaving shortly thereafter, anticipate the time on the wa
conditions.

Then after the tour we are looking at having lunch at the Pier around noon-ish, for those who are interested for additional discu
staying for lunch so if that works we will be able to provide a count. If this does not work we can all head out for the weekend.

1. Toni Erhardt – COE
2. Larry Kramka – HEI
3. Ron Sando – Morton County WRD
4. Joel Galloway – USGS
5. Dan Cimarosti – COE
6. Bruce Engelhardt – SWC
7. Jeff Towner – USFWS
8. Steve Krenz - USFWS
9. BCWRD – Gordon or Kathleen (Others are unavailable) – let me know if you can attend.
10. Lower Heart WRD – Ron Manchester or Bill Robinson (TBD)

I will not be attending, though if there is anyone that can't make it let me know ASAP.

If there is a seat open we can consider someone else, but we are pegged at no more than the ten noted above

Michael Gunsch
Principal / Project Manager

**Snagging and Clearing – Removal of Cottonwood Trees
Missouri River South of Bismarck
Heart River Confluence to Tokach Timberhaven
May 4, 2013**

Purpose and Need – To evaluate and remove organic/physical impediments (i.e. cottonwood trees and related debris) to the flow of water within the main channel of the Missouri River from the confluence of the Heart River (River Mile 1311) south to the Tokach Timberhaven area (River Mile 1303). These materials create an undesirable obstruction that significantly increase the risk for ice jams and excessive sediment deposition, both which decrease channel conveyance capacity and increase upstream flood risks in Burleigh and Morton County. These materials also present a significant public hazard to recreational navigation within the river channel. The primary removal area is projected to be located between River Mile 1306 and 1304.

Project is to have a fast track schedule for completion to occur in the fall of 2013

COE and Sovereign Lands Applications – **June 2013**

Interagency Meeting – **June 2013**

State Water Commission costs share request - **June meeting** (no date as yet)

OPC needs to be projected early (request 30 days prior to SWC meeting)

Cost share is 50% of eligible construction (engineering is not cost shared)

Design Plans and Specifications to be completed **mid-July**

Bidding to occur in **August 2013**

September and October Construction – Low flow period better access (Latest – Mid Nov)

Other participants and potential funding entities include:

Burleigh County WRD (Lead Entity)

City of Bismarck

Burleigh County Commission

City of Mandan

Morton County WRD

Lower Heart WRD

Morton County Commission

North Dakota State Water Commission – Will provide technical support where possible

Contact and encourage support from the Congressional Delegation

No Federal funding is to be requested or required

Cost share partners would have to agree to carry the tab – To Be Determined

BCWRD has budgeted funding available to cover the front end costs ~ \$50-100K

Set up Email Contact group for information sharing – Meeting attendees noted below

Need to determine local cost share distribution methodology

By river mile the counties are equal

By potential affected properties Burleigh County has more

By ability to pay Burleigh County has more – County Taxable Valuation

GIS Option – Taxable property value within the floodplain?

Aerial extent within the floodplain?

Other wider county values?

Issues of concern to work through:

Sovereign Lands Permit – State Engineer is in favor of the project (application and timing)

COE Permit – Nationwide Permit Option (ask the question)
Individual Permit (apply in June possibly obtain in August-Sept?)
Next interagency meeting is mid-June – File COE Application and review

Agency Issues:

COE – Interagency Review and Coordination
ND State Health Department – Section 401 certification (site disposal and testing)
ND Game and Fish – (Structure in the River)
USFWS – Endangered species (piping plover/least tern) – Sturgeon should not be an issue?
Emergent Habitat Program - Committee
SHPO – Section 106 (in water removal – not an issue)
NEPA – Possible compliance questions
No known Tribal issues or concerns
Others – TBD

- Need to establish agency contacts ASAP to start the discussion

Critical Issues for Permitting and Construction:

Construction methods for removal and disposal

Define for permit approval (practicable alternatives review)

Need to visit directly with contractors – willingness to bid/unit prices/payment methods
Industrial Builders
Swengen Construction
Northern Improvement
Wanzek Construction
Others – out of state ...?

Site Access – Who owns property, contact information, equipment access, and disposal options

Construction Specifications

Means and Methods to comply with potential permit conditions
Impacts to river bed (water quality) – turbidity etc... removal impacts (scour/deepening)
Fishery Impacts – Time of year
Recreational Impacts – Time of year
Turn/Plover Impacts – Long after nesting and fledging period
Define limits of removal
River Mile 1306 to 1304
Shoreline or bank line impacts – leave trees along the bank (stabilization)
Sediment movement and disturbance during construction
Equipment in the river or on the shore (upland)
No removal of sandbar materials
Barges, Cranes, Backhoes, Dozers, etc...
Site restoration – River and Upland - Leveling, seeding, etc...

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May 2, 2013 - Kick off meeting attendees:

Terry Fleck, Chairman BCWRD (Moderator)
Craig Odenbach, HEI
Michael Gunsch, HEI

State Water Commission

Todd Sando, ND State Engineer
Bruce Engelhardt, Director of Engineering
John Paczkowski, Regulatory Section Chief
Jerry Heiser, Sovereign Lands Coordinator
Mellissa Boehm, Cost Share Technician

City – County Representatives

Bill Wocken, Bismarck City Administrator
Jim Neubauer, Mandan City Administrator
Bruce Strinden, Morton County Commission
Ron Manchester, Toman Engineering (Lower Heart WRD)
Ron Sando, Engineer (Morton County WRD)

Mona Livdahl

From: Michael Gunsch [mgunsch@houstoneng.com]
Sent: Wednesday, July 03, 2013 12:24 AM
To: 'Fleck Terry'; 'kenroyse@bartwest.com'; 'Joel Galloway'; 'Lindquist, Todd J NWO'; 'Erhardt, Toni R NWO'; 'Power, Greg J.'; 'Link, Greg W.'; 'Bruce W. Engelhardt'; 'Ron Manchester'; 'Heiser, Gerald R.'; 'Craig Odenbach'; 'Timian, Robert G.'; 'Larry Kramka'; 'Ronald Sando'; 'Daniel.E.Cimarosti@usace.army.mil'; 'Kelly.A.Crane@usace.army.mil'; 'pwax@nd.gov'; 'jeffrey_towner@fws.gov'; 'kcasteel@nd.gov'; 'Wade Bachmeier'; 'Bill Robinson'; 'Bill Wocken'; 'Jim Neubauer'; 'Bruce Strinden'; 'Doug Schonert'; 'DOUG SCHONERT'; 'gpower@nd.gov'; 'Joel Galloway'; 'Fleck Terry'; 'kenroyse@bartwest.com'; 'Joel Galloway'; 'Lindquist, Todd J NWO'; 'Erhardt, Toni R NWO'; 'Power, Greg J.'; 'Link, Greg W.'; 'Bruce W. Engelhardt'; 'Ron Manchester'; 'Heiser, Gerald R.'; 'Craig Odenbach'; 'Timian, Robert G.'; 'Larry Kramka'; 'Ronald Sando'; 'Daniel.E.Cimarosti@usace.army.mil'; 'Kelly.A.Crane@usace.army.mil'; 'pwax@nd.gov'; 'jeffrey_towner@fws.gov'; 'kcasteel@nd.gov'; 'Wade Bachmeier'; 'Bill Robinson'; 'Bill Wocken'; 'Jim Neubauer'; 'Bruce Strinden'; 'Doug Schonert'; 'DOUG SCHONERT'; 'gpower@nd.gov'; 'Cary Backstrand'; 'Craig Odenbach'; 'David Bliss'; 'Gordon Weixel (gweixel@nd.gov)'; 'Kathleen Jones (kjathome@midco.net)'; 'Ken Roysel'; 'Mona'; 'Terry Fleck'
Cc: 'Mona Livdahl'; 'Terry Steinwand'
Subject: RE: Missouri River Snagging and Clearing Project inspection survey
Attachments: MO River Sanging and Clearing - Memo.pdf

Good Morning All....

Attached is a summary of the Missouri River inspection tour.

If you have comments or questions regarding its content, please let me know. The BCWRD will be discussing this project further at their July 9th meeting. There are elements we are anticipating to be provided from various attendees, as a follow up to the tour, so please forward those comments to myself or Larry on completion.

On behalf of the BCWRD, Larry and I we extend our appreciation to the NDGF for providing the transportation, and to everyone for their participation and cooperation in this effort.

Happy July 4th – Enjoy the Holiday!!

Michael Gunsch

Principal / Project Manager
Houston Engineering, Inc.
3712 Lockport St, Bismarck, ND 58102
O 701.323.0200 | F 701.323.0300
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: Michael Gunsch

Sent: Wednesday, June 19, 2013 5:15 PM

To: 'Fleck Terry'; 'kenroyse@bartwest.com'; 'Joel Galloway'; 'Lindquist, Todd J NWO'; 'Erhardt, Toni R NWO'; 'Power, Greg J.'; 'Link, Greg W.'; 'Bruce W. Engelhardt'; 'Ron Manchester'; 'Heiser, Gerald R.'; 'Craig Odenbach'; 'Timian, Robert G.'; 'Larry Kramka'; 'Ronald Sando'; 'Daniel.E.Cimarosti@usace.army.mil'; 'Kelly.A.Crane@usace.army.mil'; 'pwax@nd.gov'; 'jeffrey_towner@fws.gov'; 'kcasteel@nd.gov'; 'Wade Bachmeier'; 'Bill Robinson'; 'Bill Wocken'; 'Jim Neubauer'; 'Bruce Strinden'; 'Doug Schonert'; 'DOUG SCHONERT'; 'gpower@nd.gov'; 'Joel Galloway'; 'Fleck Terry'; 'kenroyse@bartwest.com'; 'Joel Galloway'; 'Lindquist, Todd J NWO'; 'Erhardt, Toni R NWO'; 'Power, Greg J.'; 'Link, Greg W.'; 'Bruce W. Engelhardt'; 'Ron Manchester'; 'Heiser, Gerald R.'; 'Craig Odenbach'; 'Timian, Robert G.'; 'Larry Kramka'; 'Ronald Sando'; 'Daniel.E.Cimarosti@usace.army.mil'; 'Kelly.A.Crane@usace.army.mil'; 'pwax@nd.gov'; 'jeffrey_towner@fws.gov'; 'kcasteel@nd.gov'; 'Wade Bachmeier'; 'Bill Robinson'; 'Bill Wocken'; 'Jim Neubauer'; 'Bruce Strinden'; 'Doug Schonert';

Missouri River Evaluation



To: Michael Gunsch, PE
Senior Project Manager

From: Larry Kramka, Environmental Service Lead

Date: June 27, 2013

Subject: Missouri River Snagging and Clearing

This is a follow up to the June 21, Missouri River tour downstream from Fox Island and south to Tokach Timberhaven. The purpose of the tour was to consider the possibility of a snag (tree) removal project for two bends in the river, as early as the fall of 2013. The primary reason for considering this project is to reduce the risks for spring ice jam formation and to address channel capacity/conveyance concerns. The tour brought the agencies and project proponents together to develop a common understanding of concerns related to the risk for ice jam formation due to the obstructions in the river, the site characteristics, environmental effects, and permitting related issues. The tour also provided a unique opportunity for the proponent and agencies to discuss what type of data and analysis would be necessary to evaluate any potential project that was identified and subsequently moved into a formal permit application. The anticipated application is to be submitted in July 2013, with project implementation as early as fall 2013. Lastly, the proponent's desired to gain a better understanding of what potential actions would likely be acceptable in order to present the best possible project for further consideration.

The tour commenced at 8:30 am and concluded at approximately noon, a list of attendees is provided at the end of this memorandum. Access to the entire reach was possible and there were no portions of the areas of concern that were unable to be assessed by boat. The overall site assessment was that the snags that had been identified in the previous year had been somewhat reduced through the reach, and that in general the debris field had diminished in extent through the natural movement of material by the river. Although obstructions are reduced there are still considerable snags present and the local water districts and communities remain concerned that their presence increases the risk for ice jam formation and subsequent flooding.

The following is a list of the general discussion items identified as concerns, in no particular order of importance:

- The area continues to be at risk for ice jam formation and flooding.
- Snag removal could provide a modified risk of ice jam formation (not quantified).
- Snag removal does not eliminate the risk of ice jams altogether.
- The presence of woody debris within this reach of the river provides habitat and food source for fish and wildlife.
- Removal of this material would have an effect on the distribution of fish and wildlife (not quantified).
- The water resource district has identified that concerns regarding flood risk are present and that they desire to reduce the concerns associated with that real/perceived risk.

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- Agency staff are concerned that the benefit of a project be quantified in a manner that documents the before and after condition, related to the reduced risk.
- Agency staff desire information regarding the hydraulic effects of the snag removal.
- Agency staff identified that methods that reduce the movement of bed load are preferred over a project that would mobilize bottom sediments.
- The proponents identified concern that the methods used to identify benefits and impacts be based on a reasonable analysis.
- The agencies were asked to identify their concerns early and help to identify project parameters that allow the proponents to develop a project that reduces the impacts to acceptable levels and meets the purpose and need.
- There was some discussion about reducing the area of the project and monitoring the effects to identify the effects and whether additional work would be conducted.

The USCOE indicated that they would be providing a letter characterizing the information requirements and concerns related to this project.

Missouri River Trip Attendees

1. Larry Kramka – HEI
2. Ron Sando – Morton County WRD
3. Joel Galloway – USGS
4. Dan Cimarosti – COE Bismarck Regulatory Office
5. Bruce Engelhardt – SWC
6. Carol Aron – USFWS
7. Steve Krenz – USFWS
8. Kathleen Jones – BCWRD
9. Scott Gangl – NDGF

Apple Creek Industrial Park



Levee Accreditation – Feasibility Study

To: Terry Fleck, Chairman
Burleigh County WRD

From: Craig Odenbach, P.E.
Michael Gunsch, P.E.

Date: July 3, 2013

Subject: Apple Creek Industrial Park Levee

As requested we have prepared an initial scope and budget for the evaluation of the Apple Creek Industrial Park Levee, as it related to the desired accreditation of the levee for flood control purpose under FEMA guidelines and design criteria. Subsequently, we have identified the following tasks to be completed as part of this evaluation:

- Kickoff Meeting
- Topographic Survey
- Geotechnical Review and Analysis
- Alternative Analysis
- Hydraulic Analysis
- Storm Water Design
- Progress Meetings
- Design Report
- Final Meeting

Braun Intertec would complete the Geotechnical Review and Analysis in accordance with the attached proposal. We estimate that completing these tasks, including geotechnical, would cost **\$130,359**, and result in a feasibility level design sufficient to prepare a Conditional Letter of Map Revision (CLOMR) submittal. The scope and budge does not include the actual CLOMR submittal, nor does it include any final design, public hearing and voting process associated with an assessment district or any construction services.

The Burleigh County Water Resource District has the authority to establish a project under the authority of North Dakota Century Code Chapter 61-16.1. However, there are questions remaining regarding their authority to require a bond from the landowners as part of the project evaluation process. This question requires legal review prior to proceeding further. Base on projected costs this project requires a significant front end investment on the part of the BCWRD, given the possibility that a special assessment vote to construct the project may not pass.

If the Board elects to continue with this process, and if so directed, we would assist the landowners by providing them a listing of all potentially benefited property owners within the Apple Creek Industrial Park and drafting of the petition request to the Board.

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Braun Intertec Corporation | Phone: 701.232.8701
 526 10th Street NE, Suite 300 | Fax: 701.232.7817
 P.O. Box 485 | Web: braunintertec.com
 West Fargo, ND 58078

June 3, 2013

Proposal FA-13-03016

Mr. Michael Gunsch, PE
 Houston Engineering, Inc.
 3712 Lockport Street
 Bismarck, ND 58503

Re: Proposal for Geotechnical Review and Evaluation
 Levee Certification in Accordance with NFIP Regulations
 Levee along Apple Creek Near
 Apple Creek Industrial Park
 Bismarck, North Dakota

Dear Mr. Gunsch:

We respectfully submit our proposal to complete the requested geotechnical review and evaluation of the existing Levees along the Apple Creek near Apple Creek Industrial Park in Bismarck, North Dakota.

Our Understanding of Project

We understand that an existing levee is in place along the west side of Apple Creek in Bismarck, North Dakota which protects Apple Creek Industrial Park from flooding of Apple Creek. The levee is approximately 1 1/2 miles long and was constructed in the 1977. The south end of the levee is located east of the intersection of Airway Ave and Carbine Drive and extends along Apple Creek to the north at the intersection of Fuller Avenue and Hemlock Street. We understand that Swenson, Hagen & Co. was involved in the approval of levee construction and later Dames and Moore conducted the original flood insurance study; however, no geotechnical information or design documents are available for the levee.

This levee is to be evaluated and qualified in accordance with Section 65.10 of the National Flood Insurance Program (NFIP) regulations for existing levees, regulations which are overseen by the Federal Emergency Management Agency (FEMA). FEMA will only recognize in its flood hazard and risk mapping effort of those levees that meet minimum design, operation and maintenance standards. From a geotechnical standpoint, whether a levee of other flood control structure meets these standards can be determined through documents including the US Army Corps of Engineers' April 2000 Design and Construction of Levees manual EM 1110-2-1913 and the September 1989 Retaining and Flood Walls manual EM 1110-2-2502, both cited by FEMA as appropriate references for levee certification.

From a geotechnical standpoint, both FEMA and the Corps of Engineers require an evaluation of seepage, piping and uplift potential during the course of a flood event and the demonstration of levee stability under loading conditions including flood stage, rapid drawdown, long-term steady-state, and earthquake. FEMA also requires an evaluation of levee settlement as it pertains to the maintenance of minimum freeboard.

The results of the geotechnical evaluation (and of work required by other consultants involved in the evaluation of other aspects of Section 65.10 of the NFIP regulations such as closures, embankment

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protection, interior drainage and other operation and maintenance standards) are to be certified by a Registered Professional Engineer.

Proposed Scope of Services

Our intention is to execute a scope of services that will fulfill the requirements of Section 65.10 of the NFIP regulations and allow us to certify the levee from a geotechnical standpoint. Note that certification may be dependent on the completion of work to mitigate defects found in the existing levee, or to enhance the overall stability of the levee.

Based on flood control work we have been performing in North Dakota and Minnesota for new levees and flood control structure design and construction, as well as levee certifications we have performed in North Dakota, Minnesota, and Iowa, we recommend the following scope of services. If unfavorable or unforeseen conditions are encountered at any point during the completion of these tasks that lead us to recommend an expanded scope of services, we will contact you to discuss those conditions before resuming our work.

Site Reconnaissance

This phase of the project will include a reconnaissance and visual characterization of the levee to confirm what has been reported to-date regarding levee integrity and stability, and to identify and stake proposed exploration locations.

Site Access, Staking and Utility Clearance

For purposes of this proposal, we have assumed that each of the boring locations will be accessible to our truck-mounted drill rig, and that there will be no cause for delays in accessing the boring locations. Access delays resulting from circumstances beyond our control will require additional charges.

Prior to drilling, we will contact the North Dakota One-Call service and request they clear public utilities in the area to be explored. We request you or your client inform us of any private utilities in the area of our borings which a public locating service will not clear.

Penetration Test Borings

For our evaluation, we will perform soil borings to evaluate the fill that was placed for the levee post-design, and also to aid in performing stability, seepage and deformation analyses according to current regulations. We propose to perform nine borings at approximately 1,000 feet intervals, five of which will be relatively shallow (20 feet) and intended to evaluate the condition of the levee fill and foundation soils. The remaining four will be extended deeper (75 feet) for the purposes of evaluating stability, seepage and deformation.

If groundwater is encountered in the boreholes, the depth where it is observed will be recorded on the boring logs.

If additional borings are needed, or if conditions warrant extending the proposed borings, we will contact you prior to increasing our total estimated drilled footage, and submit a Change Order summarizing the anticipated additional effort and associated cost, for your review and authorization.

Borehole Sampling

Penetration tests will be performed at 2 1/2-foot vertical intervals to a depth of 30 feet and then 5-foot intervals to the termination of the borings.

Borehole Abandonment

We have made provisions to seal the levee boreholes, for a total of 400 lineal feet of borehole.

Sample Review and Laboratory Testing

Samples will be returned to our laboratory where they will be visually classified and logged by a geotechnical engineer. After classification, we will then set up a laboratory testing schedule to establish the necessary engineering properties for our stability and engineering analyses.

For purposes of developing a project budget, we have assumed our classification and physical property testing scope will include up to 60 moisture content tests, 16 moisture-density measurements, 6 Atterberg limit tests, 4 Sieve analysis through #200 sieve, 4 mechanical sieve-hydrometer analysis, 2 consolidation testing and 4 consolidated undrained triaxial tests with pore pressure measurement.

Stability, Settlement and Seepage Analyses

We will evaluate the stability of the levee, evaluate historic and projected future levee settlement, and evaluate the potential for seepage and piping based on standards and methods contained in FEMA's December 2007 Riverine Structures Form 81-89B for flood protection structures, and in the US Army Corps of Engineers' manuals EM 1110-2-1913 and EM 1110-2-2502. We propose to analyze five cross sections.

We will use finite element methodology to model typical flood control structure and subsurface geologic profiles and evaluate stability, settlement and seepage. Slope/W, Sigma/W and Seep/W by Geo-Slope International, will be used to accomplish these analyses. We will look to achieve the factors of safety set forth by FEMA and the Corps of Engineers for the design condition and, in the event that those factors of safety are not met based on the proposed design, use the analyses to modify the design and meet those factors of safety.

Reporting

Data obtained from the soil borings and laboratory tests will be used to evaluate the subsurface profile and groundwater conditions, perform engineering analyses related to structure design and performance, and prepare a report including:

- A CAD sketch showing the project components and limits, as well as exploration locations.
- Logs of the borings describing the materials encountered and presenting the results of our groundwater measurements and laboratory tests.
- A summary of the subsurface profile and groundwater conditions.
- Summary of the laboratory testing results.
- The results of our stability, seepage and settlement analyses for the existing levee.
- An opinion regarding the integrity of portions of the existing levee not explored or analyzed.
- A certification statement by a Registered Professional Engineer, or the presentation of recommendations for the mitigation of levee stability, seepage or settlement issues or additional exploration, testing and/or analysis to assist in the development of mitigation recommendations.

Three (3) hard copies and one (1) electronic copy of our report will be submitted to you. At your request, however, additional copies can be prepared for other project team members. If you anticipate that additional copies will be needed, please request them prior to the report being completed and forwarded to you so that we can prepare a copy list for the recipients and broadcast the additional reports expediently.

Requested Information

We would like to review any as-built plans of utilities that penetrate or pass beneath the levee. We will also need a design flood event hydrograph showing the flood stage elevation, duration of the flood stage, and time rate of drawdown.

Meetings

We have included time for one meeting in Bismarck to meet with you and representatives of the City of Bismarck.

Estimated Cost and Invoicing

We will furnish the services described in this proposal for an estimated fee of \$31,743. A tabulation showing our estimated hourly and/or unit rates associated with our proposed scope of services is also attached. We would be happy to meet with you and discuss our proposed scope of services further, clarifying the various scope components, or discussing how the scope may be adjusted to meet your project requirements.

Our work will extend over multiple invoicing periods. As such, for work that is performed during the course of each invoicing period, we will submit partial progress invoices.

General Remarks

Braun Intertec appreciates the opportunity to present this Proposal to you. We are providing it in duplicate so the original can be retained for your records and the ***copy can be signed and returned to us. Please return the copy in its entirety.***

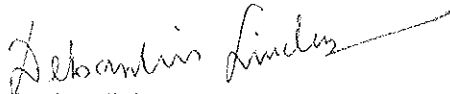
The proposed fee is based on the scope of services described and the assumptions that our services will be authorized within 30 days and that others will not significantly delay us beyond our proposed schedule.

We include the attached General Conditions, which provide additional terms and are a part of our agreement.


To have questions answered or schedule a time to meet and discuss our approach to this project further, please feel free to call Nathan McKinney or Debashis Sikdar at 701.232.8701.

Sincerely,

BRAUN INTERTEC CORPORATION



Debashis Sikdar, PE
Project Engineer



Nathan L. McKinney, PE
Senior Engineer/ Associate Principal

Attachments:

Table 1: Estimated Costs

General Conditions for Houston Engineering, Inc. (6/30/11) – modified

The Proposal including the Braun Intertec General Conditions is accepted, and you are authorized to proceed.

Authorizer's Firm

Authorizer's Signature

Authorizer's Name (please print or type)

Authorizer's Title

Date

W:\DRAFTS\FA\2013\03016-Apple Creek Levee\Proposal

COST ESTIMATE

FA-13-03016

Apple Creek Industrial Park Levee

Houston Engineering, Inc.
Michael Gunsch
3712 Lockport St
Bismarck, ND 58503-1225

Service Desc: Levee Certification
Work Location: Apple Creek Industrial Park
Bismarck, ND
Estimator : Debashis Sikdar

Description:	Quantity:	Units:	Unit Price:	Extension:
Phase:Geo				
Start Date: 5/16/2013	End Date: 12/31/2013			
Task: Drilling				
Truck-or skid mounted drill rig, per hour	35.00	Hours	216.00	7,560.00
Thin-walled sample tubes (ASTM D 15 87), each	16.00	Each	24.00	384.00
Bore hole abandonment, per foot	400.00	Feet	2.00	800.00
Mobilization	1.00	Each	275.00	275.00
Drilling Total:				9,019.00
Task: Soil Observations & Testing				
Moisture content (Astm D 2216)	60.00	Tests	16.75	1,005.00
Moisture content and density	16.00	Tests	31.00	496.00
Atterberg Limits: LL and PL (AASHTO T89 and T90 and Wet Preparation (A ASHTO T146)	6.00	Tests	130.00	780.00
Sieve analysis through No. 200 Sieve (ASTM C 136, D 1140 or C 117)	4.00	Tests	118.00	472.00
Mechanical (sieve)-hydrometer analysis (ASTM D 422)	4.00	Tests	155.00	620.00
Consolidation testing, time-rate (e-log p curve, time-deflection curves, and cv, Pc, and Cc values	2.00	Tests	525.00	1,050.00
Consolidated-Undrained Triax testing with Pore Pressure Measurements	4.00	Tests	1,125.00	4,500.00
Soil Observations & Testing Total:				8,923.00
Task: Staking and Utility Clearance				
Technician II	1.00	Hours	81.00	81.00
Staking and Utility Clearance Total:				81.00
Task: Engineering Consulting Services				
Project Engineer	45.00	Hours	149.00	6,705.00
Senior Engineer	35.00	Hours	167.00	5,845.00
Principal Engineer	2.00	Hours	198.00	396.00
Project Assistant	4.00	Hours	81.00	324.00
Soil Boring location sketch(to scale)	1.00	Each	150.00	150.00
Trip Charge for Site Reconnaissance	1.00	Trips	300.00	300.00
Engineering Consulting Services Total:				13,720.00
Geo Total:				31,743.00
Project Total:				31,743.00

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General Conditions For Houston Engineering, Inc.

BRAUN
INTERTEC

Our agreement ("Agreement") with you consists of these General Conditions and the accompanying written proposal or authorization.

Section 1: Our Responsibilities

1.1 We will provide the services specifically described in our Agreement with you. You agree that we are not responsible for services that are not fairly included in our specific undertaking. Unless otherwise agreed in writing, our findings, opinions, and recommendations will be provided to you in writing. You agree not to rely on oral findings, opinions, or recommendations without our written approval.

1.2 In performing our professional services, we will use that degree of care and skill ordinarily exercised under similar circumstances by reputable members of our profession practicing in the same locality.

1.3 We will reference our field observations and sampling to available reference points, but we will not survey, set, or check the accuracy of those points unless we accept that duty in writing. Locations of field observations or sampling described in our report or shown on our sketches are based on information provided by others or estimates made by our personnel. You agree that such dimensions, depths, or elevations are approximations unless specifically stated otherwise in the report. You accept the inherent risk that samples or observations may not be representative of things not sampled or seen and, further, that site conditions may change over time.

1.4 Our duties do not include supervising your contractors or commenting on, overseeing, or providing the means and methods of their work, unless we accept such duties in writing. We will not be responsible for the failure of your contractors to perform in accordance with their undertakings, and the providing of our services will not relieve others of their responsibilities to you or to others.

1.5 We will provide a health and safety program for our employees, but we will not be responsible for contractor, job, or site health or safety unless we accept that duty in writing.

1.7 Estimates of our fees or other project costs will be based on information available to us and on our experience and knowledge. Such estimates are an exercise of our professional judgment and are not guaranteed or warranted. Actual costs may vary. We will obtain your authorization before we perform services in excess of the estimated fee.

Section 2: Your Responsibilities

2.1 You will provide us with prior geotechnical and other reports, specifications, plans, and information to which you have access about the site. You agree to provide us with all plans, changes in plans, and new information as to site conditions until we have completed our work.

2.2 You will provide access to the site. In the course of our work some site damage is normal even when due care is exercised. We will use reasonable care to minimize damage to the site. We have not included the cost of restoration of normal damage in the estimated charges.

2.3 You agree to provide us, in a timely manner, with information that you have regarding buried objects at the site. We will not be responsible for locating buried objects at the site unless we accept that duty in writing. You agree to hold us harmless from claims, damages, losses, and related expenses involving buried objects of which you had knowledge but did not timely call to our attention or correctly show on the plans you or others on your behalf furnished to us.

2.4 You will notify us of any knowledge or suspicion of the presence of hazardous or dangerous materials in a sample provided to us. You agree to provide us with information in your possession or control relating to contamination at the work site. If we observe or suspect the presence of contaminants not anticipated in our Agreement, we may terminate our work without liability to you or to others, and we will be paid for the services we have provided.

2.5 Neither this Agreement nor the providing of services will operate to make us an owner, operator, generator, transporter, treator, storer, or a disposal facility within the meaning of the Resource Conservation Recovery Act, as amended, or within the meaning of any other law governing the handling, treatment, storage, or disposal of hazardous materials. You agree to hold us harmless and indemnify us from any such claim or loss.

2.6 Monitoring wells are property of the owner, and we will not assume responsibility for their permitting, maintenance, and abandonment unless we accept that duty in writing.

2.7 You agree to make disclosures required by law. In the event you do not own the site, you acknowledge that it is your duty to inform the owner of the discovery or release of contaminants at the site. You agree to hold us harmless and indemnify us from claims related to disclosures made by us that are required by law and from claims related to the informing or failure to inform the site owner of the discovery of contaminants.

Section 3: Reports and Records

3.1 We will furnish reports to you in duplicate. We will retain analytical data for seven years and financial data for three years.

3.2 Our reports, notes, calculations, and other documents and our computer software and data are instruments of our service to you, and they remain our property but are subject to a license to you and the project owner for your use in the related project for the purposes disclosed to us. You may not transfer our reports to others or use them for a purpose for which they were not prepared without our written approval, which will not be unreasonably withheld. You agree to indemnify and hold us harmless from claims, damages, losses, and expenses, including attorney fees, arising out of such a transfer or use. At your request, we will provide endorsements of our reports or letters of reliance, but only if the recipients agree to be bound by the terms of our agreement with you and only if we are paid the administrative fee stated in our then current Schedule of Charges.

3.3 Because electronic documents may be modified intentionally or inadvertently, you agree that we will not be liable for damages resulting from change in an electronic document occurring after we transmit it to you. In case of any difference or ambiguity between an electronic and a paper document, the paper document shall govern.

3.4 If you do not pay for our services in full as agreed in section 4, we may retain work not yet delivered to you and you agree to return to us all of our work that is in your possession or under your control. You agree not to use or rely upon our work for any purpose whatsoever until payment is made in accordance with section 4.

3.5 Samples remaining after tests are conducted and field and laboratory equipment that cannot be adequately cleansed of contaminants are and continue to be your

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property. They will be discarded or returned to you, at our discretion, unless within 15 days of the report date you give us written direction to store or transfer the materials at your expense.

Section 4: Compensation

4.1 You will pay for services as agreed upon or according to our then current Schedule of Charges if there is no other written agreement as to price. An estimated cost is not a firm figure. You agree to pay all sales taxes and other taxes based on your payment of our compensation. Our performance is subject to credit approval and payment of any specified retainer.

4.2 You will notify us of billing disputes within 15 days. You will pay undisputed portions of invoices within 10 days of your receiving payment from your client. You agree to pay interest on unpaid balances after that time at the rate of 1.5% per month, or at the maximum rate allowed by law.

4.3 If you direct us to invoice another, we will do so, but you agree to be responsible for our compensation unless you provide us with that person's written acceptance of all terms of our Agreement and we agree to extend credit to that person and to release you.

4.4 You agree to compensate us in accordance with our fee schedule if we are asked or required to respond to legal process arising out of a proceeding related to the project and as to which we are not a party.

4.5 If we are delayed by factors beyond our control, or if project conditions or the scope or amount of work change, or if changed labor union conditions result in increased costs, decreased efficiency, or delays, or if the standards or methods change, we will give you timely notice and we will receive an equitable adjustment of our compensation. If you and we do not reach agreement on such compensation within 30 days of our written application, we may terminate without liability to you or others.

4.6 If you fail to pay us within 75 days following invoice date, we may consider the default a total breach of our Agreement and, at our option, terminate our duties without liability to you or to others.

4.7 In consideration of our providing insurance to cover claims made by you, you hereby waive any right of offset as to fees otherwise due us.

Section 5: Disputes, Damage, and Risk Allocation

5.1 Each of us will exercise good faith efforts to resolve disputes without litigation. Such efforts will include, but not be limited to, a meeting(s) attended by each party's representative(s) empowered to resolve the dispute. Before either of us commences an action against the other, disputes (except collections) will be submitted to mediation.

5.2 Neither of us will be liable for special, incidental, consequential, or punitive damages, including but not limited to those arising from delay, loss of use, loss of profits or revenue, loss of financing commitments or fees, or the cost of capital.

5.3 We will not be liable for damages unless suit is commenced within two years of the date of injury or loss. We will not be liable unless you have notified us of the discovery of the claimed breach of contract, negligent act, or omission within 30 days of the date of discovery and unless you have given us an opportunity to investigate and to recommend ways of mitigating damages.

5.4 The law of the state in which our servicing office is located will govern all disputes. Each of us waives trial by jury. No employee acting within the scope of employment shall have individual liability for his or her acts or omissions, and you agree not make a claim against individual employees.

Section 6: General Indemnification

6.1 We will indemnify and hold you harmless from and against demands, damages, and expenses to the comparative extent they are caused by our negligent acts or omissions or those negligent acts or omissions of persons for whom we are legally responsible. You will indemnify and hold us harmless from and against demands, damages, and expenses to the comparative extent they are caused by your negligent acts or omissions or those negligent acts or omissions of persons for whom you are legally responsible.

6.2 To the extent it may be necessary to indemnify either of us under Section 6.1, you and we expressly waive, in favor of the other only, any immunity or exemption from liability that exists under any worker compensation law.

6.3 You agree to indemnify us against losses and costs arising out of claims of patent or copyright infringement as to any process or system that is specified or selected by you or by others on your behalf.

Section 7: Miscellaneous Provisions

7.1 We will provide a certificate of insurance to you naming you as an Additional Insured on our general liability insurance. Any claim as an Additional Insured shall be limited to losses caused by our sole negligence.

7.2 This Agreement is our entire agreement. It supersedes prior agreements. It may be modified only in a writing, making specific reference to the provision modified.

7.3 Neither of us will assign or transfer any interest, any claim, any cause of action, or any right against the other. Neither of us will assign or otherwise transfer or encumber any proceeds or expected proceeds or compensation from the project or project claims to any third person, whether directly or as collateral or otherwise.

7.4 Our Agreement may be terminated early only in writing. We will receive an equitable adjustment of our compensation in the event of early termination.

6-30-11

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Tablet Comparison

Shopping for the best tablet can be complicated — we wanted to make it easy. Our new tablet comparison chart compares the most popular tablets from Amazon, Apple, Asus, Google, and Samsung, including Kindle Fire and Kindle Fire HD, iPad 2 and iPad mini, Nexus 7, Galaxy Note, and Galaxy Tab 2. The charts below feature the 10 best tablets according to

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experience for HD mov
tablets offer the same g
significantly lower price
click the **Shop now** but

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[Compare Sma](#)

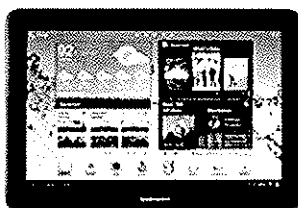
Large Tablets



Kindle Fire HD 8.9"

by Amazon

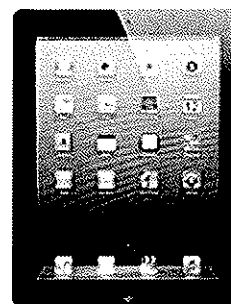
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Galaxy Tab 2 (10.1)

by Samsung

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iPad 2

by Apple

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Price*

\$269

\$349

\$399

Customer Reviews**

4,664 Kindle Fire HD reviews

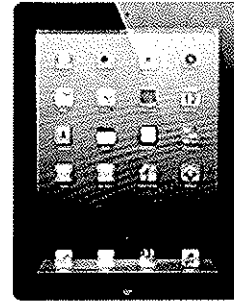
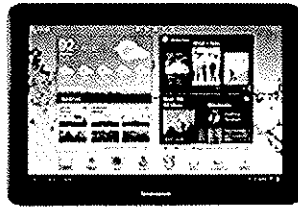
737 customer reviews

1,467 customer reviews

652

Screen Size

191



Kindle Fire HD 8.9"

by Amazon

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8.9"

Galaxy Tab 2 (10.1)

by Samsung

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10.1"

iPad 2

by Apple

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9.7"

Nexus 7

Resolution

1920x1200 (254 ppi)

1280x800 (149 ppi)

1024x768 (132 ppi)

12

Processor

1.5GHz, Dual-Core

1GHz, Dual-Core

1GHz, Dual-Core

1.4

Audio

Dual Stereo Speakers with Dolby Digital Plus

Dual Speakers

Built-in Speaker

Dual

Battery Life***

Up to 10 hours

Up to 9 hours

Up to 10 hours

Wi-Fi

Dual band, dual antenna, MIMO Wi-Fi

Single antenna Wi-Fi

Single antenna Wi-Fi

Single

Wireless

Optional 4G LTE

Optional 3G

Optional 3G

Cellular

Camera

1MP front

VGA front, 3MP rear

VGA front and rear

1.9MP

Storage

16, 32, or 64GB

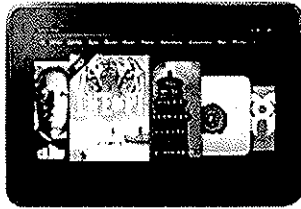
16 or 32GB + microSD

16GB

16, 32

Dimensions

106



Kindle Fire HD 8.9"

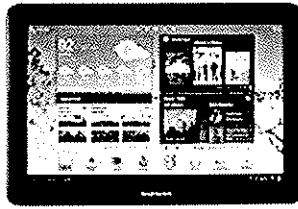
by Amazon

[Shop now](#)

240 x 164 x 8.8mm

Weight

20.0 ounces (567 grams)



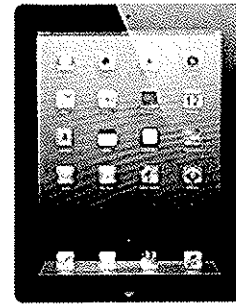
Galaxy Tab 2 (10.1)

by Samsung

[Shop now](#)

257 x 175 x 9.7mm

20.5 ounces (581 grams)



iPad 2

by Apple

[Shop now](#)

241 x 186 x 8.8mm

21.2 ounces (601 grams)



G

26

21.1

(Back to top)

Small Tablets



Kindle Fire

by Amazon

[Shop now](#)

Price*

\$159

Customer Reviews**

7,958 Kindle Fire reviews



Kindle Fire HD

by Amazon

[Shop now](#)

\$199



Galaxy Tab 2

by Samsung

[Shop now](#)

\$179

1,755 customer reviews

635

193



Kindle Fire

by Amazon

[Shop now](#)

Kindle Fire HD

by Amazon

[Shop now](#)

Galaxy Tab 2

by Samsung

[Shop now](#)

10,636 Kindle Fire HD reviews

Screen Size

7"

7"

7"

Resolution

1024x600 (169 ppi)

1280x800 (216 ppi)

1024x600 (170 ppi)

12

Processor

1.2GHz, Dual-Core

1.2GHz, Dual-Core

1GHz, Dual-Core

1.3

Audio

Stereo Speakers

Dual-Driver Stereo Speakers with Dolby Digital Plus

Dual Speakers

Battery Life***

Up to 9 hours

Up to 11 hours

Up to 8 hours

Wi-Fi

Single antenna Wi-Fi

Dual band, dual antenna, MIMO Wi-Fi

Single antenna Wi-Fi

Sin

Wireless

None

None

Optional 3G or 4G LTE

Camera

None

1 MP front

VGA front, 3MP rear

1991



Kindle Fire
by Amazon
[Shop now](#)



Kindle Fire HD
by Amazon
[Shop now](#)



Galaxy Tab 2
by Samsung
[Shop now](#)



Storage

8GB

16 or 32GB

8, 16, or 32GB + microSD

Dimensions

189 x 120 x 11.5mm

193 x 137 x 10.3mm

194 x 122 x 10.5mm

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Weight

14.1 ounces (400 grams)

13.9 ounces (395 grams)

12.2 ounces (345 grams)

12.0

[\(Back to top\)](#)

* MSRP as of 3/22/13.

** Amazon.com customer reviews as of 3/22/13.

*** Manufacturer's quoted battery life.

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- Help



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Tablet PC	Stars	US\$ ▲	Release	OS	Screen	Resolution	ppi	CPU	GHz	Storage	Batt(h)	lbs	kg
Samsung Series 7	4.2	1599.99	2011-10	Win7	11.6	1366 x 768	135	Intel Core i5	1.60	64,128	6.0	1.98	0.90
Razer Edge Pro	4.0	1299.00	2013-04	Win8	10.1	1366 x 768	155	Intel Core i7	1.90	128,256	4.0	2.11	0.96
Samsung Ativ Smart PC Pro	3.8	1070.00	2012-10	Win8	11.6	1920 x 1080	190	Intel Core i5	1.70	128,256	0.0	1.95	0.88
Razer Edge	4.0	999.00	2013-04	Win8	10.1	1366 x 768	155	Intel Core i5	1.70	64	4.0	2.10	0.95
Microsoft Surface Pro	4.5	899.00	2013-02	Win8	10.6	1920 x 1080	208	Intel Core i5	1.70	64,128	4.0	1.99	0.90
Acer Iconia W700	3.7	729.99	2012-10	Win8	11.6	1920 x 1080	190	Intel Core i3	1.70	64,128	7.0	2.09	0.95
HP Envy X2	3.9	655.00	2013-01	Win8	11.6	1366 x 768	135	Intel Atom	1.80	64	8.0	1.50	0.68
Lenovo ThinkPad Tablet 2	3.6	609.00	2012-12	Win8	10.1	1366 x 768	155	Intel Atom	1.86	64	10.5	1.29	0.58
Samsung Ativ Smart PC	3.6	579.99	2012-10	Win8	11.6	1366 x 768	135	Intel Atom	1.50	64	7.0	1.65	0.75
Acer Iconia Tab W500	4.1	563.04	2011-04	Win7 Home	10.1	1280 x 800	146	AMD Brazos C-50	1.00	32,64	6.0	2.07	0.96
Motorola Droid XYboard	0.0	530.00	2011-11	Android 3.2	10.1	1280 x 800	149	TI OMAP 4430	1.20	16,32,64	9.0	1.32	0.60
Samsung Galaxy Tab 7.0 +	4.3	524.40	2011-10	Android 3.2	7.0	1024 x 600	169	Exynos 4210	1.20	16,32	8.0	0.77	0.35
Samsung Galaxy Tab 7.7	4.3	499.99	2011-12	Android 3.2	7.7	1280 x 800	196	Exynos 4210	1.40	16,32,64	12.0	0.75	0.34
Samsung Galaxy Tab 8.9	4.4	499.99	2011-11	Android 3.1	8.9	1280 x 800	169	Nvidia Tegra 2	1.00	16,32	9.5	0.99	0.45
Asus Vivo Tab Smart	3.7	499.00	2012-12	Win8	10.1	1366 x 768	155	Intel Atom	1.80	64	7.5	1.28	0.58
Microsoft Surface Win. RT	3.9	499.00	2012-10	Win8 RT	10.6	1366 x 768	149	Nvidia Tegra 3	1.30?	32,64	9.5	1.49	0.67
Dell Latitude 10	0.0	499.00	2013-01	Win8	10.1	1366 x 768	155	Intel Atom	1.80	32,64	9.0	1.43	0.65
Apple iPad 4	4.4	499.00	2012-11	iOS6	9.7	2048 x 1536	264	Apple A6X	1.39	16,32,64	11.0	1.44	0.65
Acer Iconia W510	3.8	475.00	2012-11	Win8	10.1	1366 x 768	155	Intel Atom	1.50	32,64	8.5	1.27	0.58
Asus Transformer Infinity	4.0	468.78	2012-07	Android 4.0	10.1	1920 x 1200	224	Nvidia Tegra 3	1.70	32,64	9.5	1.18	0.54
Apple iPad 3	4.3	455.00	2012-03	iOS5	9.7	2048 x 1536	264	Apple A5X	1.00	16,32,64	10.0	1.44	0.65
Dell XPS 10	3.7	449.99	2013-01	Win8 RT	10.1	1366 x 768	155	Snapdragon S4	1.50	32,64	0.0	1.40	0.64
Samsung Galaxy Note 10.1	4.6	447.99	2012-08	Android 4.0	10.1	1280 x 800	149	Exynos 4	1.40	16,32	8.0	1.31	0.59
Samsung Galaxy Tab 10.1	3.4	447.99	2011-06	Android 3.1	10.1	1280 x 800	149	Nvidia Tegra 2	1.00	16,32	10.0	1.26	0.57
Google/Samsung Nexus 10	3.9	443.00	2012-11	Android 4.2	10.1	2560 x 1600	299	Exynos 5	1.70	16,32	7.5	1.33	0.60
Asus Transformer Prime	3.7	409.99	2011-12	Android 3.2	10.1	1280 x 800	149	Nvidia Tegra 3	1.30	32,64	10.0	1.29	0.59
Acer Iconia Tab A500	4.1	395.95	2011-05	Android 3.0	10.1	1280 x 800	149	Nvidia Tegra 2	1.00	16	7.0	1.60	0.73
Apple iPad 2	4.4	385.99	2011-03	iOS5	9.7	1024 x 768	132	Apple A5	1.00	16,32,64	10.5	1.33	0.60
Acer Iconia Tab A510	3.9	379.99	2012-03	Android 4.0	10.1	1280 x 800	149	Nvidia Tegra 3	1.30	32	10.5	1.54	0.70
Asus Vivo Tab RT	3.8	372.00	2012-10	Win8 RT	10.1	1366 x 768	155	Nvidia Tegra 3	1.30	32	9.5	1.15	0.52
Apple iPad	4.0	360.00	2010-04	iOS4/iOS5	9.7	1024 x 768	132	Apple A4	1.00	16,32,64	9.5	1.50	0.68

Toshiba Excite 13	4.7	349.98	2012-06	Android 4.0	13.3	1600 x 900	138	Nvidia Tegra 3	1.40	32,64	9.0	2.20	1.00
Samsung Galaxy Tab2 10.1	4.4	344.00	2012-05	Android 4.0	10.1	1280 x 800	149	TI OMAP 4430	1.00	16,32	9.0	1.28	0.58
Sony Tablet S	3.9	340.00	2011-08	Android 3.1	9.4	1280 x 800	161	Nvidia Tegra 2	1.00	16,32	8.0	1.30	0.60
Toshiba Excite 10	3.6	340.00	2012-04	Android 4.0	10.1	1280 x 800	149	Nvidia Tegra 3	1.30	16,32,64	9.5	1.32	0.60
Sony Xperia Tablet S	4.2	340.00	2012-08	Android 4.0	9.4	1280 x 800	161	Nvidia Tegra 3	1.30	16,32,64	8.5	1.26	0.57
Lenovo IdeaTab S2110	3.8	330.00	2012-07	Android 4.0	10.1	1280 x 800	149	Snapdragon S4	1.50	16,32	8.0	1.28	0.58
Asus Eee Pad Transformer	3.9	329.99	2011-04	Android 3.0	10.1	1280 x 800	149	Nvidia Tegra 2	1.00	16,32	9.5	1.50	0.68
Apple iPad Mini	3.8	329.00	2012-11	iOS6	7.9	1024 x 768	163	Apple A5	1.00	16,32,64	12.5	0.68	0.31
Lenovo IdeaTab S2109	4.0	328.00	2012-07	Android 4.0	9.7	1024 x 768	132	TI OMAP 4430	1.00	16	7.0	1.28	0.58
Acer Iconia Tab A700	3.9	328.00	2012-06	Android 4.0	10.1	1920 x 1200	224	Nvidia Tegra 3	1.30	32	8.5	1.50	0.68
Asus Transformer Pad 300	3.9	324.99	2012-04	Android 4.0	10.1	1280 x 800	149	Nvidia Tegra 3	1.20	32	8.5	1.40	0.64
Toshiba Excite 7.7	4.2	319.99	2012-06	Android 4.0	7.7	1280 x 800	196	Nvidia Tegra 3	1.30	16,32	10.5	0.77	0.35
Acer Iconia Tab A210	4.4	319.99	2012-10	Android 4.1	10.1	1280 x 800	149	Nvidia Tegra 3	1.20	16	0.0	1.50	0.69
Amazon Kindle Fire HD 8.9	4.1	299.00	2012-11	Android 4.0	8.9	1920 x 1200	254	TI OMAP 4470	1.50	16,32	9.0	1.25	0.57
HTC Flyer 7	4.1	296.00	2011-06	Android 2.3	7.0	1024 x 600	169	Snapdragon S2	1.50	32	8.0	0.93	0.42
HP TouchPad	4.0	279.00	2011-06	HP webOS	9.7	1024 x 768	131	Snapdragon S3	1.20	16,32	8.5	1.60	0.73
Acer Iconia Tab A200	3.8	275.00	2012-01	Android 4.0	10.1	1280 x 800	149	Nvidia Tegra 2	1.00	8,16	8.0	1.54	0.72
Barnes&Noble Nook HD+	3.6	269.00	2012-09	Android 4.0	9.0	1920 x 1280	256	TI OMAP 4470	1.50	16,32	0.0	1.14	0.52
Kobo Arc	5.0	265.00	2012-12	Android 4.0	7.0	1280 x 800	215	TI OMAP 4470	1.50	16,32,64	0.0	0.80	0.36
Lenovo IdeaTab A2109	4.0	259.90	2012-10	Android 4.0	9.0	1280 x 800	168	Nvidia Tegra 3	1.20	16	0.0	1.30	0.59
Google/Asus Nexus 7	4.0	215.99	2012-06	Android 4.1	7.0	1280 x 800	216	Nvidia Tegra 3	1.20	8,16	10.0	0.75	0.34
Acer Iconia Tab A110	4.4	205.43	2012-10	Android 4.0	7.0	1024 x 600	170	Nvidia Tegra 3	1.20	8	0.0	0.85	0.39
Acer Iconia Tab A100	3.8	200.00	2011-08	Android 3.2	7.0	1024 x 600	170	Nvidia Tegra 2	1.00	8,16	5.0	0.92	0.42
Barnes&Noble Nook HD	5.0	199.00	2012-09	Android 4.0	7.0	1440 x 900	243	TI OMAP 4470	1.30	8,16	0.0	0.69	0.32
Samsung Galaxy Tab2 7.0	4.3	199.00	2012-04	Android 4.0	7.0	1024 x 600	169	TI OMAP 4430	1.00	8,16,32	7.5	0.77	0.35
Amazon Kindle Fire HD 7"	4.1	199.00	2012-09	Android 4.0	7.0	1280 x 800	216	TI OMAP 4460	1.20	16,32	10.0	0.87	0.39
Lenovo IdeaPad K1	3.4	187.99	2011-07	Android 3.1	10.1	1280 x 800	149	Nvidia Tegra 2	1.00	32	8.0	1.65	0.75
Lenovo IdeaPad A1	3.4	183.99	2011-11	Android 2.3	7.0	1024 x 600	170	TI OMAP 3622	1.00	16	5.5	0.88	0.40
Le Pan II	3.5	169.99	2011-12	Android 3.2	9.7	1024 X 768	132	Snapdragon S3	1.20	8	7.0	1.50	0.68
Vizio 8 Tablet	3.3	164.50	2011-07	Android 2.3	8.0	1024 x 768	160	Armada 600	1.00	4	8.0	1.20	0.50
Fuhu Nabi 2	3.2	160.00	2012-06	Android 4.0	7.0	1024 x 600	170	Nvidia Tegra 3	1.30	8	6.0	1.31	0.60

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June 10, 2013

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

Mona,

Enclosed are two copies of the Bank of North Dakota Agreement for Safekeeping of Pledged Securities between Burleigh County Water Resource District and American Bank Center.

Please sign both copies of the agreement and return them to the Bank of North Dakota in the envelope provided.

As soon as the Bank of North Dakota notifies us that they have the signed agreements, we will pledge securities to cover your deposits at American Bank Center.

Please let me know if you have any questions.

Thank you,

A handwritten signature in black ink, appearing to read "Rhonda Maher", with a long, sweeping horizontal flourish extending to the right.

Rhonda Maher
Finance Support
American Bank Center
140 1st Avenue West
Dickinson, ND 58601
701-483-6811
rmaher@weareamerican.com



AGREEMENT FOR SAFEKEEPING OF PLEDGED SECURITIES

BANK OF NORTH DAKOTA
 INVESTMENTS
 SFN 60276 (12-2012)

Name of Pledgee Burleigh County Water Resource District
Name of Pledgor American Bank Center

This Agreement, to be effective as of the date it is executed by the Bank of North Dakota, is between the "Pledgee" (as stated above), the "Pledgor" (as stated above), and the Bank of North Dakota (the "Bank") as custodian.

The Bank, for good and valuable consideration, receipt of which is hereby acknowledged, agrees to accept as custodian for safekeeping the securities, receipt of which is also hereby acknowledged, described in the attached Exhibit A, which is hereby made a part of this Agreement, subject to the following terms:

1. The Pledgee and the Pledgor each represent that they are in full compliance with all laws pertaining to the transactions described in and contemplated by this Agreement and, specifically, that the selection of the Bank as custodian has been approved or performed in conformity with all applicable laws.
2. Until the Bank receives from the Pledgee instructions to the contrary, the Bank will detach and surrender to the Pledgor any interest coupons on the securities from time to time as the coupons mature and the Bank will pay over to the Pledgor any income from the securities collected or received by the Bank.
3. Upon the receipt of a written request of the Pledgor to do so, the Bank will surrender to the Pledgor any of the securities upon the substitution therefore of securities eligible, both as to type and amount, for such substitution. The Bank is herewith authorized to accept the representation of the Pledgor as to the eligibility, both as to type and amount, of the securities so substituted and the Bank will not be liable either as to type or amount. In the event of a substitution, the Bank will mail a receipt to the Pledgee and to the Pledgor specifically describing and identifying both the securities so substituted and those released and returned to the Pledgor.
4. Upon the receipt of a written demand from the Pledgee to do so, the Bank will surrender all of the securities, including any that may be hereafter substituted as contemplated in paragraph 3, to the Pledgee and in such event the Bank will notify the Pledgor of such surrender at the time it is made. Mailing the notice to the Pledgor at the address shown below shall be sufficient notice.
5. Upon the receipt of a written request as provided below of the Pledgee to do so, the Bank will surrender all of the securities, including any securities as may be substituted therefore as contemplated in paragraph 3, to the Pledgor.
6. Each person signing this Agreement represents and warrants that he or she is duly authorized and has legal capacity to execute and deliver this Agreement. Each party represents and warrants to the other that the execution and delivery of the Agreement and the performance of such party's obligation hereunder have been duly authorized and that the Agreement is a valid and legal agreement binding on such party and enforceable in accordance with its terms.

Date Executed			Date Executed <i>6-6-13</i>		
Name of Pledgee Burleigh County Water Resource District			Name of Pledgor American Bank Center		
Address 1811 E Thayer Ave			Address 140 1st Ave W		
City Bismarck	State ND	ZIP Code 58501	City Dickinson	State ND	ZIP Code 58601-5104
Signature			Signature <i>Tom Wyckoff</i>		
Title BCWRD Secretary			Title <i>Tom Wyckoff</i> VP & Cashier		

SIGN HERE

SIGN HERE

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Date Executed On		
Custodian The Bank of North Dakota		
Address PO Box 5509		
City Bismarck	State ND	ZIP Code 58506-5509
Signature		
Title		

**CANCELLATION OF PLEDGE
AGREEMENT AND RELEASE OF PLEDGE SECURITIES**

To: The Bank of North Dakota
PO Box 5509
Bismarck, North Dakota 58506-5509

Attn: Investment Department

You are hereby directed to surrender and deliver the securities described in the attached Exhibit A including any substituted securities, to the Pledgor shown above. The requirement for the pledge having been satisfied, the above Agreement may then be terminated without further notice.

Name of Pledgee	Title	
Signature of Pledgee	Dated	

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001



AGREEMENT FOR SAFEKEEPING OF PLEDGED SECURITIES

BANK OF NORTH DAKOTA
INVESTMENTS
SFN 60276 (12-2012)

Name of Pledgee Burleigh County Water Resource District
Name of Pledgor American Bank Center

This Agreement, to be effective as of the date it is executed by the Bank of North Dakota, is between the "Pledgee" (as stated above), the "Pledgor" (as stated above), and the Bank of North Dakota (the "Bank") as custodian.

The Bank, for good and valuable consideration, receipt of which is hereby acknowledged, agrees to accept as custodian for safekeeping the securities, receipt of which is also hereby acknowledged, described in the attached Exhibit A, which is hereby made a part of this Agreement, subject to the following terms:

1. The Pledgee and the Pledgor each represent that they are in full compliance with all laws pertaining to the transactions described in and contemplated by this Agreement and, specifically, that the selection of the Bank as custodian has been approved or performed in conformity with all applicable laws.
2. Until the Bank receives from the Pledgee instructions to the contrary, the Bank will detach and surrender to the Pledgor any interest coupons on the securities from time to time as the coupons mature and the Bank will pay over to the Pledgor any income from the securities collected or received by the Bank.
3. Upon the receipt of a written request of the Pledgor to do so, the Bank will surrender to the Pledgor any of the securities upon the substitution therefore of securities eligible, both as to type and amount, for such substitution. The Bank is herewith authorized to accept the representation of the Pledgor as to the eligibility, both as to type and amount, of the securities so substituted and the Bank will not be liable either as to type or amount. In the event of a substitution, the Bank will mail a receipt to the Pledgee and to the Pledgor specifically describing and identifying both the securities so substituted and those released and returned to the Pledgor.
4. Upon the receipt of a written demand from the Pledgee to do so, the Bank will surrender all of the securities, including any that may be hereafter substituted as contemplated in paragraph 3, to the Pledgee and in such event the Bank will notify the Pledgor of such surrender at the time it is made. Mailing the notice to the Pledgor at the address shown below shall be sufficient notice.
5. Upon the receipt of a written request as provided below of the Pledgee to do so, the Bank will surrender all of the securities, including any securities as may be substituted therefore as contemplated in paragraph 3, to the Pledgor.
6. Each person signing this Agreement represents and warrants that he or she is duly authorized and has legal capacity to execute and deliver this Agreement. Each party represents and warrants to the other that the execution and delivery of the Agreement and the performance of such party's obligation hereunder have been duly authorized and that the Agreement is a valid and legal agreement binding on such party and enforceable in accordance with its terms.

Date Executed			Date Executed <i>6-6-13</i>		
Name of Pledgee Burleigh County Water Resource District			Name of Pledgor American Bank Center		
Address 1811 E Thayer Ave			Address 140 1st Ave W		
City Bismarck	State ND	ZIP Code 58501	City Bismarck	State ND	ZIP Code 58601-5104
Signature			Signature <i>Tom Wickoff</i>		
Title BCWRD Secretary <i>Manager</i>			Title Tom Wickoff <i>VP & Cashier</i>		

SIGN HERE

SIGN HERE

2013

Date Executed On		
Custodian The Bank of North Dakota		
Address PO Box 5509		
City Bismarck	State ND	ZIP Code 58506-5509
Signature		
Title		

**CANCELLATION OF PLEDGE
AGREEMENT AND RELEASE OF PLEDGE SECURITIES**

To: The Bank of North Dakota
PO Box 5509
Bismarck, North Dakota 58506-5509

Attn: Investment Department

You are hereby directed to surrender and deliver the securities described in the attached Exhibit A including any substituted securities, to the Pledgor shown above. The requirement for the pledge having been satisfied, the above Agreement may then be terminated without further notice.

Name of Pledgee	Title	
Signature of Pledgee	Dated	

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Just wanted to follow up on the items from our last meeting.

Regarding the errors and omission policy—per phone call with Steve Bain at Bain Insurance the board is covered under members.

Per discussion with Clyde, yes the County will still be responsible for assessing and collecting any fees (Chad W.) and the same process as in the past.

I will have the 2013 amortization schedule for you later this week.

Mona, did you have any questions or need any additional information on the new trial balance that Clyde sent over? If

Just let me know if you need anything else.

Thanks.

Patrick J. Brown, CPA
Brady, Martz & Associates, P.C.
207 East Broadway Avenue
Bismarck, ND 58502-1297
Phone: 701-223-1717
Fax: 701-222-0894
Internet: [Brady Martz & Associates](http://www.brady-martz.com)

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2,000

ASSET DEPRECIATION SHORT REPORT
 Burleigh County Water Resource Dec. 31, 2013

Sorted: ASSET A/C#
 Method: 1-BOOK-Std Conv Applied

Range: 100 - 140
 Include: All assets

Date Acq	Description	Meth/Life	Cost	Salvage Value	Depr Basis	Includes Section 179		
						Beg A/Depr	Curr Depr	End A/Depr
ASSET A/C#: 100 - BUILDING								
01/01/76	MAIN RESTROOM	SL/40.00	35,000.00	0.00	35,000.00	32,375.06	875.00	33,250.06
01/01/76	SMALL BATHOUSE	SL/40.00	10,000.00	0.00	10,000.00	9,249.94	250.00	9,499.94
01/01/76	MAINTENANCE SHOP	SL/40.00	22,000.00	0.00	22,000.00	20,349.94	550.00	20,899.94
01/01/77	SHELTERS (4) 1951 93RD ST NE	SL/40.00	18,208.00	0.00	18,208.00	16,367.12	455.20	16,842.32
01/01/78	CARETAKERS HOUSE	SL/40.00	40,000.00	0.00	40,000.00	34,999.90	1,000.00	35,999.90
01/01/80	STORAGE BUILDING	SL/40.00	6,000.00	0.00	6,000.00	4,950.00	150.00	5,100.00
05/01/84	GARAGE BUILDING MCDOWELL	SL/20.00	5,956.00	0.00	5,956.00	5,956.00	0.00	5,956.00
10/01/04	COLD STORAGE BUILDING	SL/40.00	23,371.54	0.00	23,371.54	4,820.35	584.29	5,404.64
Grand totals: 100 - BUILDING (8 assets)			160,535.54	0.00	160,535.54	129,088.31	3,864.49	132,952.80
ASSET A/C#: 110 - EQUIPMENT								
12/01/77	LOADER 1975 KUBOTA 4WD DIESEL	SL/10.00	17,600.00	0.00	17,600.00	17,600.00	0.00	17,600.00
12/01/89	MOWER KUBOTA F200 4WD DIESEL	SL/10.00	12,500.00	0.00	12,500.00	12,500.00	0.00	12,500.00
05/01/93	TRACTOR BELARUS 400A 2WD	SL/10.00	9,925.00	0.00	9,925.00	9,925.00	0.00	9,925.00
07/01/00	MOWER TORO GROUNDMASTER 325D	SL/10.00	16,955.00	0.00	16,955.00	16,955.00	0.00	16,955.00
01/01/01	FLOATING FISHING DOCK	SL/10.00	6,800.00	0.00	6,800.00	6,800.00	0.00	6,800.00
02/01/03	MOWER KUBOTA 2021	SL/10.00	8,250.00	0.00	8,250.00	8,181.25	68.75	8,250.00
11/01/11	2011 BOBCAT CT450 CAB TRACTOR W/ 9T	SL/10.00	33,465.00	0.00	33,465.00	3,408.71	3,348.50	6,755.21
Grand totals: 110 - EQUIPMENT (7 assets)			105,495.00	0.00	105,495.00	75,369.96	3,415.25	78,785.21
ASSET A/C#: 120 - LAND								
04/08/74	LAND MCDOWELL DAM	LAND/ 1.00	15,718.00	0.00	15,718.00	0.00	0.00	0.00
08/01/88	LAND MCDOWELL DAM	LAND/ 1.00	89,162.50	0.00	89,162.50	0.00	0.00	0.00
08/28/03	LAND ROAD EASEMENT	LAND/ 1.00	7,600.00	0.00	7,600.00	0.00	0.00	0.00
Grand totals: 120 - LAND (3 assets)			112,481.50	0.00	112,481.50	0.00	0.00	0.00
ASSET A/C#: 130 - INFRASTRUCTURE								
01/01/79	ROADS MCDOWELL DAM	SL/40.00	92,848.00	0.00	92,848.00	78,920.68	2,321.20	81,241.88
Grand totals: 130 - INFRASTRUCTURE (1 assets)			92,848.00	0.00	92,848.00	78,920.68	2,321.20	81,241.88
ASSET A/C#: 140 - IMPROVEMENTS								
01/01/76	DAM	SL/40.00	453,152.00	0.00	453,152.00	419,165.66	11,328.80	430,494.46
07/01/09	BURNT CREEK DRAINAGE	SL/20.00	531,456.67	0.00	531,456.67	90,790.50	26,572.93	117,363.33
09/01/09	PLAYGROUND	SL/15.00	72,351.86	0.00	72,351.86	15,676.24	4,823.46	20,499.70
12/31/10	MCDOWELL DAM MULTI-USE TRAIL	SL/15.00	179,998.41	0.00	179,998.41	23,999.78	11,999.89	35,999.67
Grand totals: 140 - IMPROVEMENTS (4 assets)			1,236,958.94	0.00	1,236,958.94	549,632.18	54,724.98	604,357.16
Grand totals for all accounts: (23 assets)			1,708,318.98	0.00	1,708,318.98	833,011.13	64,325.92	897,337.05

Codes that may appear next to the date acquired include: A - Addition, D - Disposal, T - Traded, MQ - Mid Quarter Applied

Additional Summary Statistics:	Cost	Curr Yr Salv	Prior Yr Salv	Depr Basis	Beg A/Depr	Curr Depr	Ending A/Depr	Net Book Val
Grand Totals for All Assets	1,708,318.98	0.00	0.00	1,708,318.98	833,011.13	64,325.92	897,337.05	810,981.93
Less: Inactive Assets	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Disposed Assets	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Traded Assets	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Net Totals (Active Assets)	1,708,318.98	0.00	0.00	1,708,318.98	833,011.13	64,325.92	897,337.05	810,981.93

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1-020



JOB SERVICE NORTH DAKOTA
UNEMPLOYMENT INSURANCE
(R. 11-07)

UI/Tax & Field Services
PO Box 5507
Bismarck ND 58506-5507
701-328-2814 OR 800-472-2952
TTY RELAY ND 800-366-6888 FAX: 701-328-1882
Email: jsuits@nd.gov

June 24, 2013

**NOTICE OF DETERMINATION
EMPLOYER LIABILITY**

TM

BURLEIGH COUNTY WATER RESOURCE DISTRICT
1811 E THAYER AVE
BISMARCK ND 58501

Effective Date 05/01/2013

Dear Employer:

ACCOUNT 1252674

Job Service North Dakota has determined from the information on form SFN 41216, Report to Determine Liability, that:

The above named employing unit is an employer as defined by Section 52-01-01(15) of the North Dakota Unemployment Compensation Law effective on the date shown above.

Your unemployment insurance account number is shown above and should be included in all future references to your account.

Pursuant to Chapter 52-04, the contribution rate applicable to each calendar year of liability is as follows:

Year	Contribution Rate
2013	1.250%

Year	Contribution Rate
0	0.000%

Year	Contribution Rate
0	0.000%

Year	Contribution Rate
0	0.000%

This determination will become final unless an appeal is mailed within 15 days after the mailing of this determination. Your appeal must be in writing and mailed to the above address.

Sincerely,

UI/TAX & FIELD SERVICES
UNEMPLOYMENT INSURANCE

I hereby certify that on June 24, 2013
a copy of this determination was mailed to the above
named employing unit at the address listed above.

Job Service North Dakota is an equal opportunity employer/program provider.
Auxiliary aids and services are available on request to individuals with disabilities.

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From: Michael Gunsch [mailto:mgunsch@houstoneng.com]
Sent: Monday, June 10, 2013 3:19 PM
To: 'William.Jiang@kljeng.com'
Cc: 'Mona Livdahl'; Nancy Huether; Fleck Terry (tfleck@attitudedr.com); Cary Backstrand
Subject: RE: Hay Creek Commercial Site

Mr. Jiang:

All recent Hay Creek hydrology studies and modeling were completed for the City of Bismarck, by various engineering consultants. The BCWRD does not have any independent studies related to the timing of flows in Hay Creek, but was a participant in many of the storm water management plans that were completed.

The ability to support an assertion that there is a lesser impact downstream, due to early release of waters is possible, though problematic in the big picture. One can presume the purpose for such an assertion is to avoid or reduce the size and/or need for storm water detention. To fully support this claim requires an analysis and justification of peak flow changes at the discharge point, as well as downstream from the site. There are also other reasons for creating detention including, but not limited to, limiting discharge velocities, water quality controls, and preventing localized stream impacts.

If you have additional questions, please let me know.

Michael Gunsch

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

From: Mona Livdahl [mailto:mona@midco.net]
Sent: Monday, June 10, 2013 2:59 PM
To: Michael Gunsch
Subject: FW: Hay Creek Commercial Site

This gentlemen contacted me this morning, I asked him to forward the info as I was having a hard time understanding what he needed. Do we want him to attend the meeting tomorrow, or is this a matter in which you can email direct to him?

Let me know one way or another.

From: William Jiang [mailto:William.Jiang@kljeng.com]
Sent: Monday, June 10, 2013 2:52 PM
To: mona@midco.net
Subject: Hay Creek Commercial Site

Hi Mona,

As I have told you earlier over the phone, we got comments back from Bismarck City Engineers regarding to our Stormwater Management Plan For Hay Creek Commercial Site. Our project Site is located along the east side of US Highway 83 between 43rd Avenue NE and 57th Avenue NE. The city wants to know if BCWRD have any studies done for the Hay Creek in this area. See attachments for further information and please let me know if you have any questions.

Thanks
William Jiang



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Bismarck

UNIFIED PLAT REVIEW MEMORANDUM

SUBJECT: Hay Creek Commercial Addition – Final Plat

Location: Part of the W½ of Section 15, T139N-R80W/Hay Creek Township (along the east side of US Highway 83 between 43rd Avenue NE and 57th Avenue NE)

Engineer: KLJ

DATE: June 10, 2013

Engineering

Plat - Resubmit (Dale Heinert & Linda Oster)

1. Need water main shown on LaSalle on Utility Plan.

Storm Water Management Plan (Nancy Huether)

1. It appears that some of the proposed watershed boundaries and analysis is incorrect, particularly Sub-basin PR-2. Please review this area and revise as needed.
2. In the conclusions, there is a statement that it is preferable to get the water into Hay Creek prior to arrival of upstream flows. Have you considered the downstream effects of this water? Does BCWRD have any studies which may or may not substantiate this?
3. Two of the tables are split between pages. The entire table should be on one page.
4. The report states that in large events, the curbs in several places overtop and flows go directly into Hay Creek. This is not the main channel for Hay Creek, but a tributary channel. It is critical, however, that these areas of potential overflow be stabilized adequately to prevent any erosion and sedimentation into this coulee.
5. Revise and resubmit SWMP by 5:00 p.m. on Wednesday, June 12th.

Traffic Engineering (Mark Berg)

No comment

Emergency Communications (Michelle Lucas)

1. No comments, street names are ok

Metropolitan Planning Organization (Ben Ehreth)

1. Long Range Transportation Plan identifies the expansion of US 83 to a 6 – lane section or 3 through lanes in each direction (between 2015-2024) adjacent to the proposed project.



VICINITY MAP
NO SCALE



BISMARCK, ND

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NORTH DAKOTA
DEPARTMENT of HEALTH

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



FILE: Burleigh County – Bismarck (Terry Heck Dump)

May 21, 2013

Garrett D. Ludwig, Attorney
Kelsch, Kelsch, Ruff & Kranda Law Firm
103 Collins Avenue
PO Box 1266
Mandan, ND 58554-7266

RE: Terry Heck Dump, 10511 East Highway 10, Bismarck, ND 58501-8567

Dear Mr. Ludwig:

In response to your letter to the North Dakota Department of Health, Division of Waste Management (Department) dated May 1, 2013, on behalf of Mr. Terry Heck, we would like to discuss our concerns on the site and clarify the status of the site and a number of apparent violations of state law and rule.

On January 2, 2013, the Department received a complaint of illegal dumping on the south side of County Road 10 in Burleigh County, ND, a site located on the SW1/4 of the NW1/4 of Section 35, Township 139N, Range 79W. Records indicate that the owner of this property is Mr. Terry Heck. We have observed the site from the road a number of times in recent years and have tried to work with the apparent owner/operator of the site. Aerial imagery photos of the property show apparent disposal at the site from June 22, 2009 to September 4, 2011. The area is over two acres in size and it appears there are a number of compliance issues.

The Department, various state, federal and local officials met with you and Mr. Heck on March 21, 2013 to try to resolve the issues and it was agreed the site access would be closed to prevent further dumping. On April 30, the Department observed access to the site was not controlled with a locked gate and there was little to prevent anyone from driving into the site. A sign stated "To Dump, call 222-4675 or Call 319-9123 if no call don't dump." A "No Trespassing" sign was also posted. Looking up the phone numbers on-line, 701-222-4675 is listed as Jesse L. Heck. Phone number 701-319-0123 is a cell phone east of Bismarck.

We have discussed the issues with the U.S. Army Corp of Engineers, the U.S. Environmental Protection Agency, the U.S. Fish and Wildlife Service, Bismarck/Burleigh County Planning and Zoning staff, and other officials and had anticipated meeting your client on the property this month; however, he has reportedly declined to meet with members of the Department.

It appears Mr. Heck is operating a solid waste disposal facility without a permit (open dump). Observed waste materials dumped and buried on site appear to include building debris, construction and

Environmental Health
Section Chief's Office
701.328.5150

Division of
Air Quality
701.328.5188

Division of
Municipal Facilities
701.328.5211

Division of
Waste Management
701.328.5166

Division of
Water Quality
701.328.5210

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demolition waste, concrete with exposed steel rebar, old culverts, demolition wood, demolition brick, ash and debris from burned commercial buildings, earthen materials and similar waste materials. The site is in a wetland, which is not suited for disposal of solid waste. Access is not controlled with a gate and no attendant is on duty.

It appears Mr. Heck is in violation of North Dakota Century Code (NDCC) 23-29 which states:

"23-29-07. Permits

1. The department may issue permits for solid waste management facilities and solid waste transporters. **It is unlawful for any person to own, operate, or use a facility for solid waste disposal or transport solid wastes without a valid permit..."**

In addition, it appears that Mr. Heck is in violation of North Dakota Administrative (NDAC) Article 33-20 (North Dakota Solid Waste Rules) as follows:

"33-20-01.1-04. Care and disposal of solid waste.

1. Any person who owns or operates any premises, business establishment, or industry is responsible for the solid waste management activities, such as storage, transportation, resource recovery, or disposal of solid waste generated or managed at that person's premises, business establishment, or industry.
2. No solid waste may be delivered to a facility which is not in compliance with this article or abandoned upon any street, alley, highway, public place, or private premises."

"33-20-02.1-01. Solid waste management permit required. Every person who treats or transports solid waste or operates a solid waste management unit or facility is required to have a valid permit issued by the department, unless the activity is an emergency, exemption, or exception as provided in this section...."

"33-20-04.1-01. General location standards.

1. No solid waste management facility may be located in areas which result in impacts to human health or environmental resources or in an area which is unsuitable because of reasons of topography, geology, hydrology, or soils."

"33-20-04.1-02. General facility standards. An owner or operator of a solid waste management facility shall comply with these general facility standards:

1. All personnel involved in solid waste handling and in the facility operation or monitoring must be instructed in specific procedures to ensure compliance with the permit, the facility plans, and this article as necessary to prevent accidents and environmental impacts. Documentation of training, such as names, dates, description of instruction methods, and copies of certificates awarded, must be placed in the facility's operating record.

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2. The solid waste management facility shall comply with the water protection provisions of chapter 33-20-13.
3. The solid waste management facility may not cause a discharge of pollutants into waters of the state unless such discharge is in compliance with requirements of the North Dakota pollutant discharge elimination system pursuant to chapter 33-16-01.
4. The solid waste management facility may not cause a violation of the ambient air quality standard or odor rules, article 33-15, at the facility boundary.
5. Suitable control measures must be taken whenever fugitive dust is a nuisance or exceeds the levels specified in article 33-15.
7. A permanent sign must be posted at the entrance of a facility, or at the entrance of a solid waste management unit used by a facility for wastes generated onsite, which indicates the following:
 - a. The name of the facility;
 - b. The permit number;
 - c. The name and telephone number of the owner and the operator if different than the owner;
 - d. The days and hours the facility is open for access;
 - e. The wastes not accepted for disposal; and
 - f. Any restrictions for trespassing, burning, hauling, or nonconforming dumping.
8. The owner or operator of a facility shall periodically inspect solid waste managed at the facility, on a schedule proposed by the owner or operator and approved by the department, to control and reject unauthorized solid wastes as specified by this article, a permit, or a plan of operation.
9. All litter or windblown rubbish, trash, or garbage must be returned to collection containers or vehicles, to storage containers or areas, or to a solid waste management facility as soon as practicable."

"33-20-04.1-05. General closure standards. The requirements of this section apply to all solid waste management facilities, unless otherwise specified.

1. Each owner or operator shall close their facility in a manner that achieves the following:

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- a. Minimizes the need for further maintenance; and
 - b. Controls, minimizes, or eliminates any escape of solid waste constituents, leachate, fugitive emissions, contaminated runoff, or waste decomposition products.
2. Sequential partial closure must be implemented to minimize the working face of a landfill.
 3. Closure must be implemented within thirty days after receipt of the final volume of waste and must be completed within one hundred eighty days following the beginning of closure activities, unless otherwise specified and approved under subsection 5. Prior to beginning closure, the owner or operator must notify the department in writing of the intent to close.
 4. The owner or operator of a landfill for which closure is completed in part or whole shall enter into the operating record and submit to the department:
 - a. As-built drawings showing the topography, pertinent design features, extent of waste, and other appropriate information; and
 - b. Certification by the owner or operator and a professional engineer that closure has been completed in accordance with the approved closure plan and this article.
 5. Each owner or operator shall prepare and implement a written closure plan approved by the department as part of the permitting process. The closure plan must:
 - a. Estimate the largest area ever requiring final cover at any time during the active life of the site;
 - b. Estimate the maximum inventory of solid waste onsite over the active life of the facility;
 - c. For landfills, describe the final cover and the methods to install the cover;
 - d. Project time intervals at which sequential partial closure or closure is to be implemented;
 - e. Describe the resources and equipment necessary for closure; and..."

3/2

"33-20-04.1-09. General disposal standards, states in part:

1. In addition to sections 33-20-04.1-02, 33-20-04.1-03, 33-20-04.1-04, and 33-20-04.1-05, the standards of this section apply to all landfills, surface impoundments closed with solid waste in place, and land treatment units, unless otherwise indicated.
2. Construction and operation standards for solid waste management facilities regulated by this section:
 - a. Every solid waste landfill or facility shall have and maintain, or have access to, equipment adequate for the excavation, compaction, covering, surface water management, and monitoring procedures required by approved plans and this article....
 - c. There must be available an adequate supply of suitable cover material, which, if necessary, must be stockpiled and protected for winter operation.
 - d. The final cover of all disposal facilities must be designed and constructed in a manner that ensures the quality and integrity of the hydraulic barrier and the protective vegetative cover.
 - e. The working face or open area of a landfill must be limited in size to as small an area as practicable. Sequential partial closure must be implemented as necessary to keep the disposal area as small as practicable and to close filled areas in a timely manner.
 - f. All disposal facilities shall identify, quantify, remove, stockpile, and maintain suitable plant growth material for later use in closure...
4. Closure standards, excluding land treatment units.
 - a. Closed solid waste management units may not be used for cultivated crops, heavy grazing, buildings, or any other use which might disturb the protective vegetative and soil cover.
 - b. All solid waste management units must be closed with a final cover designed to:
 - (1) Limit the amount of percolation that may enter the waste to meet the efficiency requirements for that type of solid waste management unit;
 - (2) Minimize precipitation run-on from adjacent areas;

2.10

- (3) Minimize erosion and optimize drainage of precipitation falling on the landfill. The grade of slopes may not be less than three percent, nor more than fifteen percent, unless the applicant or permittee provides justification to show steeper slopes are stable and will not result in long-term surface soil loss in excess of two tons [1.82 metric tons] per acre per year. In no instance may slopes exceed twenty-five percent; and
 - (4) Provide a surface drainage system which does not adversely affect drainage from adjacent lands.
 - c. The final cover must include six inches [15.2 centimeters] or more of suitable plant growth material which must be seeded with shallow rooted grass or native vegetation.
 5. Postclosure standards for solid waste management facilities regulated by this section.
 - a. The owner or operator of a landfill or a surface impoundment closed with solid waste in place shall meet the following during the postclosure period:
 - (1) Maintain the integrity and effectiveness of the final cover, including making repairs to the cover to correct effects of settlement, subsidence, and other events, and preventing run-on and runoff from eroding or otherwise damaging the final cover;..."

"33-20-05.1-02. Performance and design criteria. The owner or operator of an inert waste landfill shall comply with these design, construction, and operating standards.

1. Access to the facility must be controlled by lockable gates and a combination of fencing, natural barriers, or artificial barriers.
2. Disposal of the following solid waste into inert waste landfills is prohibited: agricultural waste, asbestos waste, municipal waste, commercial waste, industrial waste, special waste, regulated infectious waste, liquid solid waste, hazardous waste, and radioactive waste."

"33-20-05.1-04. Closure criteria. Closure of an existing unit must be completed as outlined in sections 33-20-04.1-05 and 33-20-04.1-09. All existing units must be covered with two feet [61.0 centimeters] or more of earthen material, the lower twelve inches [30.5 centimeters] of which must be compacted clay-rich earthen material, free from cracks and extrusions of solid waste. If a cover of four feet [1.2 meters] or more of clay-rich earthen material is achieved, compaction is not required. At least six inches [15.2 centimeters] of suitable plant growth material must be placed over the covered landfill and planted with adapted grasses."

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"33-20-05.1-05. Postclosure criteria. Owners or operators of inert waste landfills shall conduct annual postclosure inspections for a period of five years after closure."

It also appears Mr. Heck is not in compliance with state water quality laws or rules and does not have a Stormwater Pollution Protection (SWPP) Plan or Permit.

NDCC 61-28-06 states, in part:

"61-28-06. Prohibitions.

1. It shall be unlawful for any person:
 - a. To cause pollution of any waters of the state or to place or cause to be placed any wastes in a location where they are likely to cause pollution of any waters of the state..."

It appears Mr. Heck is in violation of the state solid waste and water quality laws and rules and may be subject to enforcement and appropriate penalties. NDCC 23-29-12 and 61-28-08 state in part:

"23-29-12. Penalties. Unless another penalty is specifically prescribed, a person violating this chapter, or any rule, order, or condition in a permit issued under this chapter, is subject to a civil penalty not to exceed one thousand dollars per day of such violation."

"61-28-08. Penalties - Injunctions.

1. Any person who willfully violates this chapter, or any permit condition, rule, order, limitation, or other applicable requirement implementing this chapter, is subject to a fine of not more than ten thousand dollars per day per violation, or by imprisonment for not more than one year, or both. If the conviction is for a violation committed after a first conviction of such person under this subsection, punishment shall be by a fine of not more than twenty thousand dollars per day per violation, or by imprisonment for not more than two years, or both....
4. Any person who violates this chapter, or any permit condition, rule, order, limitation, or other applicable requirement implementing this chapter, is subject to a civil penalty not to exceed five thousand dollars per day per violation."

Your letter had some discussion about burned debris and ash from a building in Steele. We would point out that most if not all of the material dumped at the site is solid waste and subject to state law and rules. The Department also provided information on facility closure via a variance guideline; however, we would clarify that a variance does not appear to apply to this site since it has already occurred, the site and operation appears to be in violation of state solid waste and water quality laws and rules, zoning has not been addressed, and the use is not in accordance with other local, state, and federal requirements. Based on the apparent evidence and history, a variance does not appear appropriate for this proposal.

1/16

It appears Mr. Heck has been in violation of the North Dakota Solid Waste Management and Water Quality Laws and Rules for several years and may be subject to enforcement. Disposal or placement of waste materials at this site should be discontinued immediately. Access to the site should be secured with a sturdy, locked gate and a prominent sign placed to prohibit dumping. Your client should contact any parties who have disposed waste at this site and inform them it is closed and any further waste must be hauled to a permitted facility such as the Bismarck Landfill.

Your client will need to work with a licensed engineer and work with our Department, local officials and the U.S. Corp of Engineers, and other entities to determine a plan and schedule for formal closure of the site and managing the waste materials in a manner approved by our Department. Appropriate disposal sites in the area include the Bismarck Landfill, the Mandan Landfill, and the DB Waste Landfill (north of Bismarck). Waste materials must not be hauled or disposed at any other location that is not formally approved and permitted by the Department. Disposal or placement of waste on the road east of the site is also subject to the state solid waste rules.

Please inform the Department, in writing, of any corrective steps your client has taken and intends to take with respect to the above-mentioned items of noncompliance and the date all corrective action was or will be completed. Your timely reply, within ten (10) days of receipt of this letter, is necessary to address these issues and may help resolve the need for enforcement.

Failure to respond or subsequent incidents of noncompliance of similar provisions or a history of noncompliance with the North Dakota Solid Waste Management Rules may result in escalated enforcement action.

If you have any questions, please contact me at 701-328-5166, or Ted Poppke at 701-328-5264 or tpoppke@nd.gov.

Sincerely,



Steven J. Tillotson, Asst. Director
Division of Waste Management

SJT:TP:ijl
CERTIFIED

cc: Bismarck/Burleigh Public Health
Burleigh County Commission
Mayor & Bismarck City Commission
Ray Ziegler, Bismarck/Burleigh Planning and Zoning
Matthew Mikuleky, U.S. Army Corps of Engineers
Margaret Olson, Assistant Attorney General
Dennis Fewless, Division of Water Quality

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Bismarck

Community Development Department

May 23, 2013

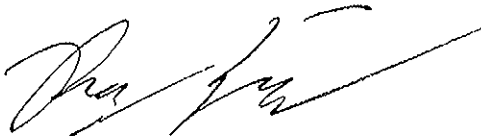
Mr. Terry Heck

The application for a Floodplain Development Permit is being returned, the application is incomplete.

I have highlighted the essential items on page two that need to be completed and then resubmitted to my office.

If you have any questions please call me at 355-1465.

Sincerely



Ray Ziegler

Building Official/Floodplain Administrator

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



REPLY TO
ATTENTION OF

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

COPY

May 29, 2013

North Dakota Regulatory Office

[NWO-2008-1916-BIS]

Mr. Terry Heck
10511 East Highway 10
Bismarck, North Dakota 58501

Mr. Heck:

This letter concerns our interagency onsite meeting on May 21, 2013, regarding unauthorized activities conducted on your property located south of County Highway 10 in the SW ¼ of the NW ¼ of Section 35, Township 139 North, Range 79 West, in Burleigh County, North Dakota.

The following discussion provides actions, guidelines and next steps that are necessary for the Corps to develop a settlement agreement to resolve the pending violation of Sections 301(a), 309, and 404 of the Clean Water Act ("CWA"), 33 U.S.C. Sections 1311(a), 1319, & 1344:

1. You must provide documentation that the subject property is in compliance with North Dakota Solid Waste Management Laws and Rules, or documentation that corrective steps and/or plans for resolution of this violation has been reviewed and approved by the North Dakota Department of Health (NDDoH) Solid Waste Division.
2. You must provide documentation that the subject property is in compliance with Burleigh County and the City of Bismarck Ordinance(s), or documentation that corrective measures and/or plans for resolution of this violation has been reviewed and approved by Bismarck/Burleigh County.
3. Corrective measures or plans approved/required by the NDDoH or Bismarck/Burleigh County may become part of the Corps settlement agreement. Such documentation may be required before the Corps can enter into a settlement agreement with you.
4. Once you have demonstrated sufficient compliance or approval with the state and local jurisdictions, you must notify the Corps in order for a restoration and mitigation plan to be developed and approved under the settlement agreement.
 - a. The plan should include a commitment, as discussed, to remove all unauthorized fill and unsuitable material from waters of the US, to reduce the footprint of fill to the September 2011 extent of approximately 1.97 acres. This is a minimum requirement of the Corps; however, if compliance with the NDDoH or Bismarck/Burleigh County violations dictate the need for further removal, the Corps will defer to those jurisdictions. Further removal may reduce the amount of wetland creation required under the settlement agreement.
 - b. The plan should include a GPS calculation and generated map of the existing extent (area) of fill. The difference between the existing fill and the 1.97 acre footprint in September 2011, will be the wetland impacts requiring mitigation. The Corps is seeking 2:1 mitigation for this amount to account for temporal loss of aquatic resource and functions. The plan should identify an "upland" area onsite that is suitable for wetland creation. The restoration and mitigation plan should be developed and prepared by a

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professional wetland consultant/scientist. The plan should include sufficient information pertaining to hydrologic regime, soils and vegetation establishment, that the agencies and the Corps can evaluate and assess the potential to offset lost wetland functions and values.

- c. The Corps will provide the plan to state and Federal resource agencies for review and recommendations.
- d. The Corps will make the final determination on the plan and the terms and conditions to be included in the settlement agreement.

PLEASE NOTE: Complete restoration remains the preferred method of resolution of this matter. The submittal and implementation of a Corps approved voluntary restoration plan may obviate the need for compensatory mitigation and monitoring requirements. This option should be considered in terms of practicability, compliance with state and local requirements and comparative cost. If, at any time, you elect to resolve this violation through complete restoration, please notify the Corps and we will assist you with the submittal and approval process.

In summary, we request that you take the necessary actions, as described above, as expeditiously as possible. Please provide copies of all correspondence to this office so that we can ensure that progress is being made and the matter is moving towards resolution. We also request a written summary of actions you have taken and your plan for addressing these violations by **June 27, 2013**.

A copy of this letter is being sent to; Mr. Thomas Morrissey, US Army Corps of Engineers, CENWO-OC, 1616 Capitol Avenue, Suite 9000, Omaha, Nebraska 68102; Mr. David LaGrone, Enforcement Coordinator, US Army Corps of Engineers, CENWO-OD-R, 1616 Capitol Avenue, Suite 9000, Omaha, Nebraska, 68102; Ms. Monica Heimdahl, US Environmental Protection Agency Region VIII, 8ENF-W, 1595 Wynkoop Street, Denver, Colorado, 80202-1129; Mr. Ted Poppke, North Dakota Department of Health, Division of Waste Management, 918 East Divide Avenue, Bismarck, North Dakota 58501-1947; Mr. Peter Wax, North Dakota Department of Health, Division of Water Quality, 918 East Divide Avenue, Bismarck, North Dakota; Mr. Ray Ziegler, City of Bismarck Building Official, PO Box 5503, 221 North 5th Street, Bismarck, North Dakota 58506-5503; Mr. Jeffrey Towner, US Fish and Wildlife Service, 3425 Miriam Avenue, Bismarck, North Dakota 58501; Mr. Bruce Krefl, North Dakota Game and Fish Department, 100 North Bismarck Expressway, Bismarck, North Dakota 58501; and Mr. Thomas Kelsch, Attorney, Kelsch, Kelsch Ruff & Kranda, 103 Collins Avenue, PO Box 1266, Mandan, North Dakota 58554.

If you have any questions regarding this matter, please do not hesitate to contact Mr. Matthew Mikulecky of my staff at the letterhead address, by telephone (701) 255-0015, or by e-mail (matthew.j.mikulecky@usace.army.mil).

Sincerely,

Daniel E. Cimarosti
State Program Manager
North Dakota Regulatory Office

7/20

Mona Livdahl

From: Goff, Karen M. [kgoff@nd.gov]
Sent: Friday, June 28, 2013 5:29 PM
To: pcaroll@nd.gov; mona@midco.net; jltax@westriv.com; Lewis, Carol H.; Hoffman, Ramona; ncwrd@polarcomm.com; Hosford, Sherry L.; wcwater@srt.com; Roehrich, Tammy L.; Innis, Beth M.; Walsh County Water Resource Board; Kemp, LuAnn L.; Wade Bachmeier; Ann Mahoney; Weigel, Jerry J.; charlenevarnson@gmail.com; sruland@rtc.coop; rehauck@nd.gov; mbarnhardt@bepc.com
Subject: Fwd: Register Now for ASDSO Dam Owner & Operator Webinar

Hello All,

I thought that this webinar by the Association of State Dam Safety Officials might be of interest to some of you, so I am just passing along the information.

*Karen Goff, PE
Dam Safety Engineer
ND State Water Commission
900 E Boulevard Ave
Bismarck, ND 58505-0850
(701)328-4953*

<h2>New ASDSO Dam Owner & Operator Webinar: Introduction to Inspecting Dams</h2>	
<h3>Register Now To Participate in One of the Live Broadcasts</h3>	
<p style="text-align: center;"><u>At a Glance</u></p> <p><u>1st LIVE BROADCAST:</u> Tuesday, July 16th TIME: 12:00 pm (Eastern) 9:00 am (Pacific)</p> <p><u>2nd LIVE BROADCAST:</u></p>	<p>This seminar provides an introduction to inspecting and evaluating dams. The target audience is dam owners and personnel responsible for the operation and maintenance of dams. The principles, concepts and procedures taught are applicable to any dam owner or organization conducting dam inspections and evaluating their compliance with current design and maintenance standards. Participants will be familiarized with a variety of dam types and their appurtenances, instructed in the function of typical dam features, and become aware of common dam failure modes and the conditions that can lead to these failure modes. The importance of performing dam inspections will be discussed along with what to look for in order to be able to identify potential deficiencies before they become a problem. The focus of this webinar will be on observations and problems</p>

Thursday, July 18th

TIME:

7:00 pm (Eastern)

4:00 pm (Pacific)

LENGTH: 2 hours

REGISTRATION

FEE: \$50

For Further Information

Contact:

ASDSO

(855) 228-9732

jburns@damsafety.org

View all of
ASDSO's 2013
Training Events

which can occur at a typical earth embankment dam and accompanying spillway.

For More Info and Online Registration click on the following links: [July 16](#) or [July 18](#)

Credit card payments only.

Instructors:

Paul G. Schweiger, P.E. is a Vice President of Gannett Fleming and has over 26 years of consulting engineering experience. He has served as a project engineer or manager for the design of ten new dams, including four NRCS dams, and the design and technical review of many dam rehabilitation projects. He has inspected hundreds of dams across the nation including over 100 dam assessment reports for the NRCS. He was also responsible for conducting dam safety inspections and performing failure modes analysis for 16 high-hazard potential dams on the Island of Oahu following the Ka Loko Dam failure.

Dean B. Durkee, Ph.D., P.E. is a Vice President and West Regional Director of Earth Science and Hydraulics for Gannett Fleming. He has over twenty years of engineering experience as a geotechnical and dam safety engineer, working primarily on dam and flood control projects, applying his expertise to assessment, planning, design, and construction phase services for rehabilitation and modification of earth embankment dams, flood control dams, and levees.

Both Paul and Dean have provided dam owner training in the states of Hawaii, Washington, Nebraska, Texas and Georgia, and support technical courses for ASDSO.

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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>

WATER DEVELOPMENT DIVISION
701 328-2752

28 June, 2013

US Fish and Wildlife Service
PO Box 25486
Denver, CO 80223

RE: Permit

Dear Sir:

This is to acknowledge receipt of State Water Commission Form SFN-51695 for the construction of a ring dike located in NE ¼, Sec. 26, Township 137 North, Range 76 West. State law does not require a permit for ring dikes with an interior capacity of less than 50 acre-feet of water. However you should consult with your county water board for any permits they may require.

It is recommended that your dike be constructed in 6-inch layers and compacted with rubber-wheeled earth moving equipment. The material used for construction of the dike should not contain vegetative matter or consist primarily of sand and gravel. It is also suggested that the top width be:

If dike height is 5 ft or less:	4 ft top width
If dike height is between 5 ft and 14 ft:	6 ft top width
If dike height is greater than 14 ft :	8 ft top width

It is suggested that the side slopes be no steeper than 3 vertical to 1 horizontal (3:1). It is your responsibility to ensure that the project will not back water onto land not under your control. Should the dike wash out; you may be liable for any damages caused.

If you should have any questions, please feel free to contact the Regulatory Section of the State Water Commission.

Sincerely,

Dwight Comfort, P.E.
Regulatory Section

DC/1270

CC: **Burleigh County Water Resource District**

TODD SANDO, P.E.
STATE ENGINEER

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APPLICATION/NOTIFICATION TO CONSTRUCT OR MODIFY A DAM, DIKE, RING DIKE OR OTHER WATER RESOURCE FACILITY

Office of the State Engineer
900 East Boulevard -- Bismarck, ND 58505-0850
SFN 51695 (11/03)

MAR 2013

SWC USE ONLY

I, the undersigned, do hereby submit the following information to the Office of the State Engineer for determination and use as a filing of information required under North Dakota Century Code §61-04-02 or as an application to construct or modify a facility under North Dakota Century Code §61-16.1-38.

1270

(SWC USE ONLY)

No.

2388

A. GENERAL INFORMATION:

(1) This Application/Notification must include a map from an actual survey, aerial photo or topographic map. The size of the map shall be 8½ by 11 inches. The map shall have a north arrow and approximate scale. If, in the opinion of the State Engineer, the map does not contain information to properly evaluate the project, it will be returned.

(2) The proposed facility is a:

- | | |
|------------------------------------------------------------------------------|-------------------------------------------------------------------------------|
| <input type="checkbox"/> Dam (Complete Sections A, C & F) | <input type="checkbox"/> Pond, Lagoon, or Dugout (Complete Sections A, B & F) |
| <input type="checkbox"/> Dike (Complete Sections A, D & F) | <input type="checkbox"/> Diversion Ditch (Complete Sections A, B & F) |
| <input checked="" type="checkbox"/> Ring Dike (Complete Sections A, D & F) | <input type="checkbox"/> Other (Complete Sections A, B & F) |
| <input type="checkbox"/> Wetland Restoration (Complete Sections A, C, E & F) | |

(3) Is this Application/Notification for modification of an existing structure? Yes No

If so, what year was existing structure constructed? _____ By whom? _____

(4) Project will be located in the Burleigh County Water Resource District

(5) Legal description to the nearest forty-acre tract: NE ¼ NE ¼ Section 26 Township 137N Range 76W
(Optional) Latitude _____ Longitude _____

(6) Waterway on which project will be located: Long Lake Creek

(7) A tributary to: West Fork of Apple Creek

(8) Will the project, including any area inundated as a result of the project, be located entirely on land owned by the applicant?
 Yes No If any portion of the project will be constructed on land not owned in fee title by the applicant, written authorization to construct the project must be obtained from the landowner of record and a copy of the authorization provided to this office. If the project will impound water on land not owned in fee title by the applicant, a flowage easement must be obtained by the applicant and a copy of the easement provided to this office. If any portion of the project will be constructed within the right-of-way of a section line, roadway, or railroad, or if the project will impound water within the right-of-way of a section line, roadway, or railroad, written authorization to do so must be obtained from the appropriate authority and a copy provided to this office.

(9) Project sponsor (Water Resource District/City/US Fish & Wildlife Service, etc.) if applicable U.S. Fish & Wildlife Service

(10) Contractor, if known _____

(11) Anticipated construction start date August 2013 Completion date October 2013

(12) Who will be responsible for the operation and maintenance of this project? US Fish and Wildlife Service

B. POND, LAGOON, DUGOUT, DIVERSION DITCH, OR OTHER WATER RESOURCE FACILITY:

(1) Design Data:

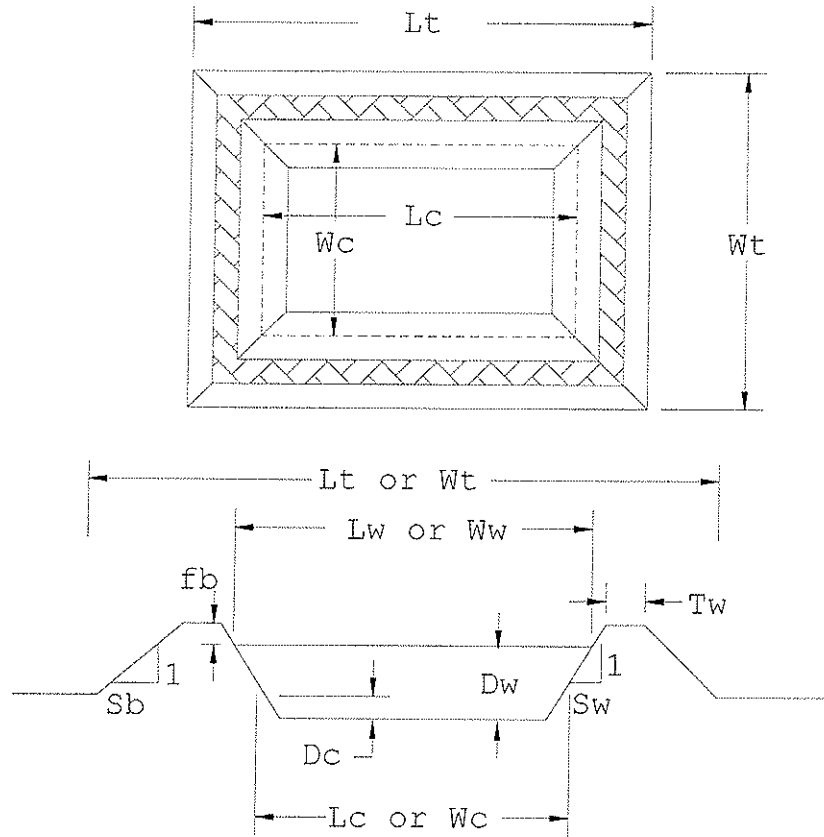
a. Pond, Lagoon, or Dugout (complete below and diagram next page for each pond or cell, photocopy if necessary)

b. Diversion Ditch

- | | |
|-----------------------------------------------|-----------------------------|
| 1. Surface area: top of structure _____ acres | 1. Length _____ feet |
| service level _____ acres | 2. Bottom width _____ feet |
| 2. Storage: top of structure _____ acre-feet | 3. Side slopes _____ feet |
| service level _____ acre-feet | 4. Maximum cut _____ feet |
| 3. Maximum depth of water _____ feet | 5. Gradient _____ foot/foot |
| 4. Maximum embankment height _____ feet | |

(2) Description of project, if not a Pond, Lagoon, Dugout, or Diversion Ditch: _____

B. OTHER WATER RESOURCE FACILITY (continued):

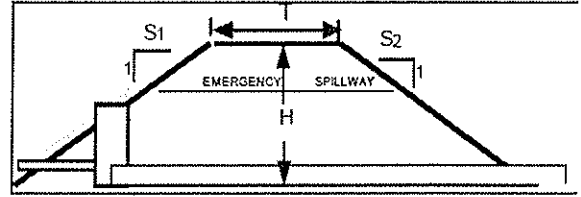


DESCRIPTION	ABBREVIATION	DIMENSION (feet)
Total length of pond (includes banks)	Lt	
Total width of pond (includes banks)	Wt	
Length of water surface at full service level	Lw	
Width of water surface at full service level	Ww	
Length of cut into the soil surface	Lc	
Width of cut into the soil surface	Wc	
Depth of cut into soil surface	Dc	
Depth of water in the pond at the full service level	Dw	
Freeboard (the distance between the full service level and the top of the structure that is used to manage wave action, usually 2-3 feet)	fb	
Top width of embankment surrounding the pond	Tw	
Outside bank sideslope ratio (usually 4:1, which is 4 horizontal feet for every 1 foot of rise)	Sb	
Inside bank sideslope ratio (will vary between 4:1 and 6:1, depending on the soil type)	Sw	

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C. DAMS

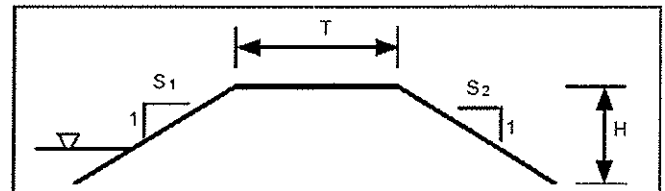
- (1) Drainage area above dam _____ square miles or _____ acres
- (2) Purpose: _____
- (3) Geometric description of dam:
- a. Maximum height (H) _____ feet, elevation _____ feet msl
 - b. Top width (T) _____ feet
 - c. Side slopes: upstream (S1) _____:1
downstream (S2) _____:1
 - d. Type of embankment protection _____
 - e. Emergency spillway: type _____
If earthen: width _____ ft, side slopes _____:1, level section length _____ ft
Dimensions if other than earthen _____
 - f. Principal spillway:
Outlet pipe: type _____ diameter _____ length _____ ft
Riser: type _____ diameter _____
Control gate: type _____ dimensions _____
 - g. Drawdown Pipe: type _____ diameter _____
- (4) Distance to nearest downstream occupied dwelling(s) _____



	ELEVATION (feet) Indicate datum: <input type="checkbox"/> local <input type="checkbox"/> NGVD 29 <input type="checkbox"/> NAVD 88	RESERVOIR SURFACE AREA (acres)	RESERVOIR CAPACITY (acre-feet)
Top of Dam			
Emergency Spillway			
Principal Spillway			
Drawdown Pipe			
Streambed at Dam			

D. DIKE

- (1) Is this application/notification for the construction of a ring dike? Yes No
- If so, will the ring dike tie into existing? dike roadway high ground other _____
- (2) Purpose: protect historic shop and residence at Long Lake National Wildlife Refuge
- (3) Area of land to be protected by dike 5.3 acres
- (4) Description of Dike:
- a. Dike length 1,160 feet
 - b. Dike design:
 - 1. Top width (T) 10 feet
 - 2. Side slopes: interior (S1) 3:1
exterior (S2) 3:1
 - 3. Maximum height (H) 4 feet, elevation 1722.0 feet msl
Minimum height (H) 4 feet, elevation 1722.0 feet msl
 - 4. Embankment erosion protection: riprap and grass
- (5) Will the dike flood or adversely affect adjacent, upstream or downstream land? Yes No
- If yes, attach flowage easements. Easements must include a description of provisions, and names and signatures of grantors.



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E. WETLAND RESTORATION

- (1) The proposed wetlands are: Temporary Permanent
- (2) Drainage area above dam _____ square miles or _____ acres
- (3) Is this project mitigation for another project? Yes No
 If yes, please describe: _____
- (4) Describe the proposed operation plan for the wetland: _____

	OVERFLOW ELEVATION (feet) Indicate datum: <input type="checkbox"/> local <input type="checkbox"/> NGVD 29 <input type="checkbox"/> NAVD 88	CAPACITY (acre-feet)	SURFACE AREA (acres)
Existing			
Natural			
Proposed			
Top of Structure			

F. ADDITIONAL INFORMATION, AFFIDAVIT OF DESIGN ENGINEER, AND SIGNATURE

(1) Additional information and comments: Ring dike to protect historic assets at Long Lake National Wildlife Refuge.

(2) A complete set of plans and specifications prepared by a professional engineer registered in the State of North Dakota must be submitted with and made part of this Application/Notification if the proposed structure will be capable of retaining, obstructing, or diverting more than 50 acre-feet of water, or if the structure is a medium or high hazard dam, as determined by the State Engineer, capable of retaining more than 25 acre-feet of water. Low hazard dams, as determined by the State Engineer, less than 10 feet in height are exempt from the requirement for professional engineering services. If plans and specifications are required, the following affidavit must be completed:

I, _____ (name), _____ (PE license number), a Professional Engineer registered in the State of North Dakota, designed and/or personally supervised the design of the project as described in this application and on any attached sheets, and construction will be inspected in accordance with North Dakota Administrative Code §89-08-03-01. Date: _____

(3) The filing of this Application/Notification in no way relieves the applicant or landowner from any responsibility or liability resulting from the construction, operation or failure of the project.

Land Owner (Print): United States Fish and Wildlife Service

Address: P.O. Box 25486, Denver Federal Center
Denver, CO 80225

Phone: 303-236-5322

Signature: *[Handwritten Signature]*, agent **Date:** 3/6/13

Sponsoring Agency: _____

Address: _____

Phone: _____

Signature: _____ **Date:** _____

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US Fish & Wildlife Service
NE1/4, NE1/4, Section 26,
T137N, R76W

Burleigh Co.
Permit No.2388



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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>

June 24, 2013

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.

U.S. Army Corps of Engineers, Omaha, NE Application No. **S-1857**

The U.S. Army Corps of Engineers, Omaha, Nebraska has filed an application with the State Engineer to spray vegetation and remove large woody debris on several sandbars and islands on the Missouri River in McLean, Oliver, Morton, Burleigh, and Emmons Counties. The 2011 Missouri River flood event created a considerable number and acres of islands and sandbars that provide excellent nesting and foraging habitat for the endangered least tern and threatened piping plover. With time, quality of the habitat tends to diminish as the islands and sandbars become vegetated.

The applicant is charged with implementing measures to mitigate impacts to these protected species caused by its operation of the main stem reservoirs. In an attempt to accomplish this in a way that is efficient, with minimal impact to riparian landowners, river recreationists, the river itself, and other natural resources, the applicant proposes to spray existing vegetation and remove large woody debris on selected islands and sandbars in order to prevent these sandbars from becoming vegetated to the point where they no longer provide suitable habitat for terns and plovers.

The project would involve vegetation treatment through herbicide application and removal of large woody debris on 69 sandbars totaling approximately 678 acres. The applicant proposes to contract the treatment of approximately 469 acres of vegetation through aerial application of an imazapyr-based (e.g., Habitat) and/or a glyphosate-based (e.g., Rodeo) herbicide approved by EPA for aquatic use. In addition, the contractor will be required to use only adjuvants (i.e., surfactant and retardant) that are aquatic-approved for use with aquatic-approved glyphosate/imazapyr formulations. The applicant will strictly adhere to all label restrictions.

Spraying is proposed to begin in fall 2013 during a 3-week timeframe from August 26 thru September 14 as conditions allow. The applicant will file a *Notice for Pesticide Application to Waters of the State* with the North Dakota Department of Health at least 20 days prior to any proposed spraying. Spraying would not begin until approval from the North Dakota Department of Health. Prior to commencement of spraying, all sandbars treated will be checked to make sure

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they are not currently occupied by members of the recreating public. If anyone is found using a sandbar scheduled for treatment that day, spraying of the sandbar will be delayed until everyone has left the sandbar. Spraying will not be allowed when federally listed birds are found on or near the sandbars.

Vegetation removal activities may include disking, mowing, mulching, raking, and removal of large woody debris. Typically, an All Surface Vehicle or a large bobcat with a brush attachment would be used to remove vegetation. All large vegetative debris would be hauled off the sandbars and disposed of at a state approved location. Expansion of the existing footprint of any individual sandbar will not occur.

The selection of boat ramps and parking lots for staging areas will be coordinated with the proper owners or managers and North Dakota Game and Fish Department so that use of staging areas does not conflict with public use. For any vegetation removal activities and ground spraying, equipment will be removed from the sandbars and transported back to the staging area. Equipment would be removed from the staging area at the end of each day.

No spraying or vegetation removal will be conducted between river-miles 1325.5 and 1310.7 (Bismarck-Mandan area) because of high recreational use of sandbars in that stretch of the river.

Vegetation treatment (spraying and/or vegetation removal) will occur at the following locations:

<u>River Mile</u>	<u>Island Size</u> (ac)	<u>Acres to be</u> <u>Sprayed</u>	<u>River Mile</u>	<u>Island Size</u> (ac)	<u>Acres to be</u> <u>Sprayed</u>
1380.5	116.1	8.6	1351.0	31.9	0.4
1380.0	76.7	4.3	1349.7	19.4	6.9
1377.2	58.8	2.6	1348.5	8.0	4.4
1375.5	17.9	0.0	1348.0	96.0	28.3
1373.7	36.0	0.0	1347.5	3.3	1.0
1373.0	22.7	6.2	1345.0	18.4	11.5
1369.0	292.9	35.3	1345.3	193.6	46.6
1368.5	30.4	1.7	1340.8	21.2	0.2
1367.3	71.8	5.4	1340.0	123.9	6.6
1366.9	11.7	0.2	1338.5	83.9	0.4
1366.5	104.3	20.2	1337.1	11.0	0.0
1366.3	1.4	0.3	1335.6	2.4	0.1
1362.3	100.4	3.2	1335.2	73.7	6.5
1361.0	129.2	17.7	1332.0	59.5	12.2
1360.1	13.3	0.1	1331.2	128.7	12.7
1358.8	144.7	35.5	1327.7	0.7	0.0
1357.6	60.9	0.1	1326.7	118.9	16.0
1357.2	5.1	0.0	1325.8	18.1	1.2
1356.3	31.4	0.1	1310.0	136.0	6.2
1356.0	1.9	0.5	1308.4	121.6	1.5

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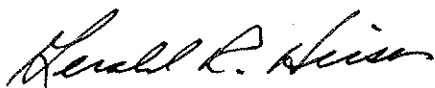
June 24, 2013

<u>River Mile</u>	<u>Island Size</u> (ac)	<u>Acres to be Sprayed</u>	<u>River Mile</u>	<u>Island Size</u> (ac)	<u>Acres to be Sprayed</u>
1352.7	41.2	0.2	1307.3	26.6	0.9
1352.4	8.2	0.7	1305.8	120.4	23.8
1351.2	20.7	2.4	1303.8	127.7	16.7
1302.7	71.1	5.7	1286.5	41.8	3.7
1300.2	4.0	1.2	1285.2	0.9	0.1
1299.7	27.8	6.4	1284.5	36.7	4.5
1298.0	12.2	3.6	1284.0	2.2	0.2
1294.4	45.7	3.8	1283.9	4.8	0.6
1291.7	0.7	0.3	1282.6	164.0	37.1
1291.5	101.8	25.6	1281.9	0.8	0.2
1289.5	3.8	1.5	1281.6	9.6	5.4
1289.1	1.9	0.3	1281.0	5.6	1.8
1288.8	5.6	0.7	1280.0	17.0	12.7
1288.6	2.2	0.3	1279.2	<u>2.3</u>	<u>1.7</u>
1288.1	9.1	1.5		3,514.2	468.3

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

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

Sincerely,



Gerald R. Heiser
Sovereign Lands Manager

GRH: /1625

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Solicitation of Views

Page 4

June 24, 2013

Enclosures: Sovereign Lands Application
Specifications
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
Morton County Water Resource District
McLean County Water Resource District
Oliver County Water Resource District
Emmons County Water Resource District
U.S. Army Corps Engineers, Bismarck

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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. 51857
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: Mercer, McLean, Oliver, Morton, Burleigh, B Water Resource District
- (2) Legal description to the nearest 40 acre tract: _____ ¼ _____ ¼ Section see attachment Township see attachment Range _____
- (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) see Attachment 1
- (5) Water body on which project will be located: Missouri River
- (6) Purpose: see Attachment 1
- (7) Project Description: see Attachment 1
- (8) Contractor, if known: see Attachment 1
- (9) Anticipated construction start date: see Attachment 1 Completion date: see Attachment 1

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) RUTH BENTZINGER

Applicant: (Print) U.S. Army Corps of Engineers

Address: 1616 Capitol Avenue

Omaha, NE 68102-4901

Phone: (H) _____

(W) 402-995-2704

Signature: Ruth Bentzinger Date Submitted: _____
(Riparian landowner or Organization Sponsoring the project)

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ATTACHMENT 1

Sovereign Lands Permit Application

Note: Numbered items below refer to permit application General Information requirements. For questions or additional information, please contact: Ruth Bentzinger, Environmental Resources Specialist at (402) 995-2704 or by email at: ruth.e.bentzinger@usace.army.mil

2) The proposed project area for vegetation spray and removal activities includes the Garrison River reach and upper Lake Oahe segment of the Missouri River in North Dakota between river miles (RM) 1381.0 and RM 1278.0. The project area is located along the boundaries of Mercer, McLean, Oliver, Burleigh, Morton, and Emmons Counties in North Dakota. The attached spreadsheet contains a listing of sandbars identified for vegetation treatment, and provides the location (river mile), approximate acreage, and a description of the general condition of each sandbar. Each site is outside of any sensitive resource boundaries and located on areas of exposed or partially-exposed sandbars. Included with the spreadsheet is a map showing each sandbar location. Two areas will be excluded from vegetation treatment and removal activities within the project area: RM 1364.0 to RM 1363.0 (landowner issues), and RM 1325.5 to RM 1310.7 (Bismarck-Mandan area; high recreational usage). Work would be limited to sandbars located within the banks of the Missouri River.

Legal description to the nearest 40 acre tract: Township/Range/Sections are listed for both the left and right bank of the Missouri River channel. Single numbers indicate where the channel is contained entirely within a section. Two numbers separated by a slash mark indicate where the channel flows between two sections.

Mercer / McLean (below Garrison Dam)

T145N R84W; Sections: 8/9, 16/15, 22, 27, 34/35

T144N R84W; Sections: 5, 8, 17, 16, 22/15, 23, 25/24, 25/30

McLean/Oliver

T144N R83W; Sections: 30/31, 32, 33/34, 28/27, 22,

T144N R82W; Sections: 22, 23, 13/24, 18, 17, 16, 15

T144N R81W; Sections: 15, 14/23, 24/23, 25, 30/31, 32

T143N R81W; Sections: 30/29, 5/6, 8/7, 18, 19, 29/30, 32

Oliver/Burleigh

T142N R81W; Sections: 5/4, 9, 16/15, 21/22, 28/27, 34/35

T141N R81W; Sections: 2/1, 12, 13, 24, 26/25, 34/35

Burleigh/Morton (Bismarck-Mandan area excluded from list)

T140N R81W; Sections: 5, 8, 9, 16

T138N R81W/T138N R80W; Sections: 29/32, 28/33, 34/33

T137N R80W; Sections: 4/5, 9/8, 16, 10/15, 11/14, 23, 26, 25, 24/30, 20, 16/21, 15/22, 27/28, 33

gub

Morton/Emmons (upper Lake Oahe)

T136N R79W; Sections: 6/5, 8/9, 9/10, 15, 14/13, 23/24, 26, 35/36

(4) The proposed project involves vegetation treatment through herbicide application and removal of larger woody debris on selected sandbars within the proposed project area (i.e., RM 1381.0 to RM 1278.0) for fall 2013. The Emergent Sandbar Habitat Project Delivery Team (ESH PDT) identified 45 sandbars with an estimated 494 acres on the Garrison River segment; and 24 sandbars with an estimated 184 acres on the Lake Oahe segment (refer to attached spreadsheet) that meet the ESH selection criteria for 2013 fall spraying. The combined total acreage to be treated in 2013 is approximately 680 acres on a total of 69 sandbars. The exact amount of vegetation actually removed will depend on flow conditions of the Missouri River and the extent of vegetation coverage on the sandbar at the time of removal.

(6) The purpose of clearing vegetation from existing sandbars is to provide suitable habitat for the endangered Interior population of the least tern (*Sterna antillarum*) and the threatened Northern Great Plains population of the piping plover (*Charadrius melodus*). The Missouri River experienced record discharges during 2011 on the Missouri River Mainstem System. The high releases resulted in the creation of an estimated total of 4,925 acres of ESH below Garrison Dam. Alternative 3.5 in the Programmatic Environmental Impact Statement (PEIS) for the Mechanical Creation and Maintenance of Emergent Sandbar Habitat in the Riverine Segments of the Upper Missouri River identifies a target goal of 15.4 acres of ESH per river-mile for a total of 1,327 acres of ESH for the Garrison Reach of the Missouri River. This total acreage could potentially be met with the amount of readily available habitat within the Garrison River reach/upper Lake Oahe segment at the present time. As a result, the focus of the ESH Program has shifted towards maintaining as much of the ESH created in 2011 as possible over the next several years.

The creation or rehabilitation of sandbars on the Missouri River is required by Reasonable and Prudent Alternative IV. B. of the U.S. Fish and Wildlife Service's (USFWS) 2003 Amendment to the 2000 Biological Opinion on the Operation of the Missouri River Main Stem Reservoir System, Operation and Maintenance of the Missouri River Bank Stabilization and Navigation Project and Operation of the Kansas River Reservoir System (BiOp). Compliance with the BiOp allows the Corps of Engineers (Corps) to avoid jeopardizing the continued existence of the least tern and piping plover. As a result, the Corps can proceed operating the Missouri River to meet authorized purposes. In addition, the BiOp identifies Segment 4 (Garrison Dam to Lake Oahe headwaters) as a "High Priority" reach for both terns and plovers and Segment 5 (Lake Oahe reservoir and headwaters) as High Priority for the plover and moderate for the least tern.

(7) For fall 2013 vegetation removal activities, the Corps proposes to treat the vegetation through aerial application of an imazapyr-based (e.g., Habitat) and/or a glyphosate-based (e.g., Rodeo) herbicide approved by EPA for aquatic use. The behavior of each herbicide and its effects on target plants are different and a combination of these two herbicides could provide an effective treatment combination. In addition, the contractor will be required to

only use adjuvants (i.e., surfactant and retardant) that are aquatic-approved for use with aquatic-approved glyphosate/imazapyr formulations. The Corps will monitor and evaluate all products used in ground or aerial spraying activities to determine efficacy and potential impacts to the environment.

Vegetation removal activities may include: disking, mowing, mulching, raking, and removal of remaining large woody debris from the sandbars. Typically, an All Surface Vehicle (ASV) or large bobcat with a brushcat attachment is used to remove vegetation from sandbars. All large vegetative debris would be hauled off the sandbars and disposed of at a state approved location. Expansion of the existing footprint of any individual sandbar will not occur.

The selection of boat ramps and/or parking lots for staging areas will be coordinated with the proper owners / managers and also the North Dakota Game and Fish Department (NDGFD) so use of staging areas does not conflict with public use. For ground removal activities, equipment will be loaded onto a boat and delivered to the sandbar. Upon work completion, equipment would be removed from the sandbar and transported back to the staging area. Equipment would be removed from the staging area at the end of each day. As part of the NPDES permit requirements, a Notice of Intent (NOI) for the application of herbicides in waters of the U.S. will be submitted to the North Dakota Department of Health (NDDH), Division of Water Quality. The application will be submitted at least 20 days before any proposed treatment would begin and spray activities would begin pending approval of the NPDES.

(8) Aerial spraying with aquatic labeled herbicides on designated sandbars will be completed by a contractor. The contractor will be provided with spray sites, exclusion areas and acreage totals by August 1, 2013. The contractor will adhere to all product label recommendations. Best management practices (wind speed <10 mph, adjust droplet size, etc.) will be implemented to avoid and/or minimize drift and overspray.

(9) Aerial spraying for treating vegetation is proposed to begin in fall 2013 during a 3-week timeframe from August 26th thru September 14. Spraying will be conducted as conditions allow. Spraying will not be allowed when federally listed birds are found on or near the sandbars. Prior to the commencement of vegetation spraying activities, all sandbars to be treated would be checked to make sure they are not currently occupied by members of the recreating public. If anyone is found using a sandbar scheduled for treatment that day, treatment of the sandbar would be delayed until the people have left the sandbar. Staging areas will be coordinated with NDGFD so that helicopters, trucks, and/or equipment do not conflict with public use, and a public or local notice will be issued to alert the public that spraying activities will be taking place.

GARRISON RIVER SEGMENT

River Mile	Acres	ESH Acres	Treatable Vegetation	ESH Treated	Hard to Treat Vegetation	# of Individual Bars	# of Nests in 12	Connectivity	Attached to Wooded Island	Used for Line Intercept	Current Sovereign Lands	Bismarck Metro Area	USD Recruitment Study	USD Cottonwood Study	Recommended for Treatment	Comment	Treatment 4 (Two Out of Three)
1380.5	116.1	111.4	9.6	8.6	0.8	1	1	Con	Yes		Yes	Yes				Avoid USD Cottonwood Study	Trt
1380.0	76.7	75.3	5.1	4.3	0.4	4	1						Yes	Yes		Avoid USD Cottonwood Study	Trt
1379.1	11.5	11.5	0.0	0.0	0.0	2								Yes			Cnl
1377.2	58.8	58.7	2.7	2.6	0.0	4	6					Yes		Yes		Avoid USD Cottonwood Study	Trt
1376.3	138.1	56.0	43.2	8.1	46.2	1		Yes					Yes			Large wooded Island	
1375.6	184.0	132.6	55.2	25.5	20.2	2		Con	Yes							Large wooded Island	
1375.5	17.9	17.9	0.0	0.0	0.0	1								Yes			Trt
1375.0	41.8	31.1	17.9	9.6	2.5	2		Con								Behind Stanton Island	
1374.7	2.6	2.5	2.2	2.1	0.0	2										Behind Stanton Island	
1374.6	10.9	6.6	8.7	5.3	0.6	2		Con								Behind Stanton Island	
1374.1	38.7	38.7	0.0	0.0	0.0	1	5			Yes							Cnl
1373.7	36.0	36.0	0.0	0.0	0.0	1	5			Yes							Trt
1373.0	22.7	12.3	14.0	6.2	1.9	1		Con									Trt
1371.0	518.6	157.1	270.7	105.1	190.8	1		Con	Yes				Yes			Large wooded Island	
1370.5	2.2	2.2	0.0	0.0	0.0	1										Dike Field	
1370.0	3.9	3.6	0.5	0.5	0.1	2									Yes		Cnl
1369.0	292.9	243.8	65.8	35.3	3.0	1	1	Con							Yes		Trt
1368.5	30.4	29.9	2.2	1.7	0.0	1	12								Yes		Trt
1368.2	32.4	24.8	18.7	13.5	2.4	1		Con							Yes		Cnl
1367.3	71.8	71.5	5.5	5.4	0.0	4	2	Con							Yes		Trt
1367.0	106.8	53.0	64.1	29.8	17.8	1		Con	Yes							Large wooded Island	
1366.9	11.7	11.7	0.2	0.2	0.0	1									Yes		Trt
1366.7	9.5	9.5	0.1	0.1	0.0	1									Yes		Cnl
1366.3	1.4	1.4	0.3	0.3	0.0	1									Yes		Trt
1365.5	104.3	69.5	39.9	20.2	10.9	1	1	Con							Yes		Trt
1365.0	4.0	4.0	0.9	0.9	0.0	1									Yes		Cnl
1364.5	141.1	137.7	8.1	6.5	0.7	1		Con								Landowner Issue	
1363.1	33.0	24.9	17.7	13.6	1.9	1		Con								Landowner Issue	
1362.3	100.4	99.7	3.6	3.2	0.3	3	6	Con				Yes	Yes			Avoid USD Cottonwood Study	Trt
1361.0	129.2	128.2	18.4	17.7	0.2	2	8		Yes						Yes		Trt
1360.7	29.2	18.6	18.2	10.3	1.3	3		Con								Dike Field	
1360.5	16.2	5.5	9.6	4.8	5.9	1		Con							Yes		Cnl
1360.1	13.3	13.3	0.1	0.1	0.0	1	2								Yes		Trt
1358.8	144.7	131.7	45.3	35.5	0.6	1		Con							Yes		Trt
1358.1	48.6	47.8	2.9	2.4	0.1	3									Yes		Cnl
1357.6	60.9	60.9	0.1	0.1	0.0	1	2		Yes						Yes		Trt
1357.2	5.1	5.1	0.0	0.0	0.0	2									Yes		Trt
1356.8	17.4	17.4	0.1	0.1	0.0	2	1								Yes		Cnl
1356.3	31.4	31.4	0.2	0.1	0.0	1			Yes						Yes		Trt
1356.0	1.9	1.9	0.5	0.5	0.0	1									Yes		Trt
1353.6	122.2	118.9	9.4	7.8	1.4	2	1	Con				Yes	Yes			Avoid USD Cottonwood Study	Cnl
1353.0	30.6	27.7	7.8	6.5	1.7	1			Yes						Yes	Large wooded Island	
1352.7	41.2	41.2	0.2	0.2	0.0	1	3								Yes		Trt
1352.4	8.2	8.0	0.7	0.7	0.0	2	2								Yes		Trt
1352.0	57.4	57.4	1.0	1.0	0.0	1	8								Yes		Cnl
1351.2	20.7	18.9	3.7	2.4	0.5	1		Con							Yes		Trt
1351.0	31.9	31.8	0.4	0.4	0.0	1	1		Yes						Yes		Trt
1350.7	58.4	54.0	11.8	8.4	0.8	2			Yes						Yes		Cnl
1350.0	22.5	11.2	17.4	8.1	1.8	1		Con				Yes				Dike Field	
1349.9	1.6	1.6	0.7	0.7	0.0	1		Con								Dike Field	
1349.7	19.4	17.7	8.3	6.9	0.2	1									Yes		Trt
1348.5	8.0	7.5	4.8	4.4	0.0	2				Yes					Yes		Trt
1348.2	43.3	42.8	13.7	13.2	0.0	2	12		Yes		Yes		Yes			Avoid USD Cottonwood Study	Cnl
1348.0	96.0	80.1	40.7	28.3	3.4	1	2				Yes	Yes	Yes	Yes		Avoid USD Cottonwood Study	Trt
1347.5	3.3	3.3	1.0	1.0	0.0	1	2								Yes		Trt
1346.6	11.7	10.6	1.5	1.3	0.8	2									Yes		Cnl
1345.0	18.4	13.6	13.5	11.5	0.7	1		Con							Yes		Trt
1344.0	2.3	2.1	1.5	1.3	0.1	1		Con								Dike Field	
1343.5	193.6	137.0	68.3	46.6	33.6	1	1	Con			Yes				Yes		Trt
1341.3	55.3	53.4	0.8	0.7	0.0	2		Con							Yes		Cnl
1340.8	21.2	20.9	0.2	0.2	0.0	1									Yes		Trt
1340.0	123.9	119.7	8.8	6.6	1.8	1			Yes						Yes		Trt

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River Mile	Acres	ESH Acres	Treatable Vegetation	ESH Treated	Hard to Treat Vegetation	# of Individual Bars	# of Nests in 12	Connectivity	Attached to Wooded Island	Used for Line Intercept	Current Sovereign Lands	Bismarck Metro Area	USD Recruitment Study	USD Cottonwood Study	Recommended for Treatment	Comment	Treatment 4 (Two Out of Three)	
1339.3	11.1	11.1	0.0	0.0	0.0	1			Yes				Yes				Cnl	
1338.5	83.9	83.6	0.4	0.4	0.1	2		Con	Yes	Yes							Trt	
1337.1	11.0	11.0	0.0	0.0	0.0	1											Trt	
1336.0	124.5	119.5	9.7	7.8	2.9	2		Con		Yes			Yes	Yes		Avoid USD Cottonwood Study	Cnl	
1335.6	2.4	2.4	0.1	0.1	0.0	1								Yes			Trt	
1335.2	73.7	45.4	21.2	6.5	9.9	1		Con						Yes			Trt	
1334.5	91.9	90.5	2.9	2.6	0.4	1	1	Con						Yes			Cnl	
1332.0	59.5	47.0	17.7	12.2	5.3	2		Con						Yes			Trt	
1331.2	128.7	116.6	19.7	12.7	5.0	1							Yes	Yes		Avoid USD Cottonwood Study	Trt	
1330.0	211.2	145.3	67.1	32.3	26.0	1		Con	Yes				Yes	Yes		Large wooded island		
1329.0	56.7	39.7	21.9	10.9	5.5	1		Con	Yes		Yes		Yes	Yes		Avoid USD Cottonwood Study	Cnl	
1328.0	40.3	40.0	0.5	0.4	0.0	1	1	Con								In front of Sub Division		
1327.7	0.7	0.7	0.0	0.0	0.0	1								Yes			Trt	
1326.7	118.9	96.7	26.8	16.0	8.6	1	8	Con			Yes		Yes	Yes		Avoid USD Cottonwood Study	Trt	
1326.1	4.6	4.6	0.1	0.1	0.0	2					Yes		Yes	Yes		Avoid USD Cottonwood Study	Cnl	
1326.0	13.6	11.4	4.0	3.1	1.0	1		Con				Yes				Dike Field		
1325.8	18.1	17.5	1.7	1.2	0.0	1					Yes		Yes	Yes		Avoid USD Cottonwood Study	Trt	
1323.5	587.7	353.3	190.5	88.1	113.1	1		Con	Yes		Yes		Yes	Yes		Bismarck Metro Area		
1321.9	13.5	13.2	5.0	4.7	0.0	2					Yes	Yes	Yes			Bismarck Metro Area		
1321.4	49.3	45.6	5.8	4.4	0.7	1		Con								Bismarck Metro Area		
1321.0	0.6	0.6	0.0	0.0	0.0	1										Bismarck Metro Area		
1319.7	2.7	2.7	0.2	0.2	0.0	3										Bismarck Metro Area		
1319.0	10.3	10.3	0.0	0.0	0.0	1										Bismarck Metro Area		
1318.4	0.9	0.8	0.6	0.6	0.0	1										Bismarck Metro Area		
1317.5	622.3	239.8	207.6	88.7	260.9	2		Con	Yes							Bismarck Metro Area		
1315.6	21.4	14.3	6.9	4.7	4.0	1		Con								Bismarck Metro Area		
1315.3	18.0	14.8	7.6	6.3	1.9	1		Con								Bismarck Metro Area		
1314.1	2.1	2.0	2.1	2.0	0.0	1										Bismarck Metro Area		
1311.2	104.0	80.7	26.3	16.8	12.5	1		Con	Yes							Bismarck Metro Area		
1310.7	2.9	2.6	2.1	2.0	0.0	1										Bismarck Metro Area		
1310.0	136.0	133.5	7.9	6.2	0.6	2	2	Con						Yes		Bismarck Metro Area	Trt	
1309.2	59.8	44.4	18.2	12.2	8.5	4			Yes				Yes			Large wooded island		
1309.1	1.4	1.4	0.3	0.3	0.0	1								Yes			Cnl	
1308.4	121.6	121.1	1.6	1.5	0.0	2	8							Yes			Trt	
1307.3	26.6	25.7	1.0	0.9	0.0	3		Con						Yes			Trt	
1306.4	1.6	1.6	0.7	0.7	0.0	2								Yes			Cnl	
1305.8	120.4	76.1	32.0	23.8	33.5	5		Con						Yes			Trt	
Totals	6664	4944	1679	909	856	150	105										Number of Sites Treated	45
																	Area of Treated Sites	2489
																	Acres of Vegetation Treated	494
																	Acres of Treated ESH	333
																	Total ESH Before Treatment	4944
																	Total ESH After Treatment	5105
																	Added ESH	161

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River Mile	Acres	ESH Acres	Treatable Vegetation	ESH Treated	Hard to Treat Vegetation	# of Individual Bars	# of Nests in 12	Connectivity	Attached to Wooded Island	Used for Line Intercept	Current Sovereign Lands Permit	USD Recruitment Study	USD Cottonwood Study	Recommended for Treatment	Comment	Treatment 4 (Two Out of Three)
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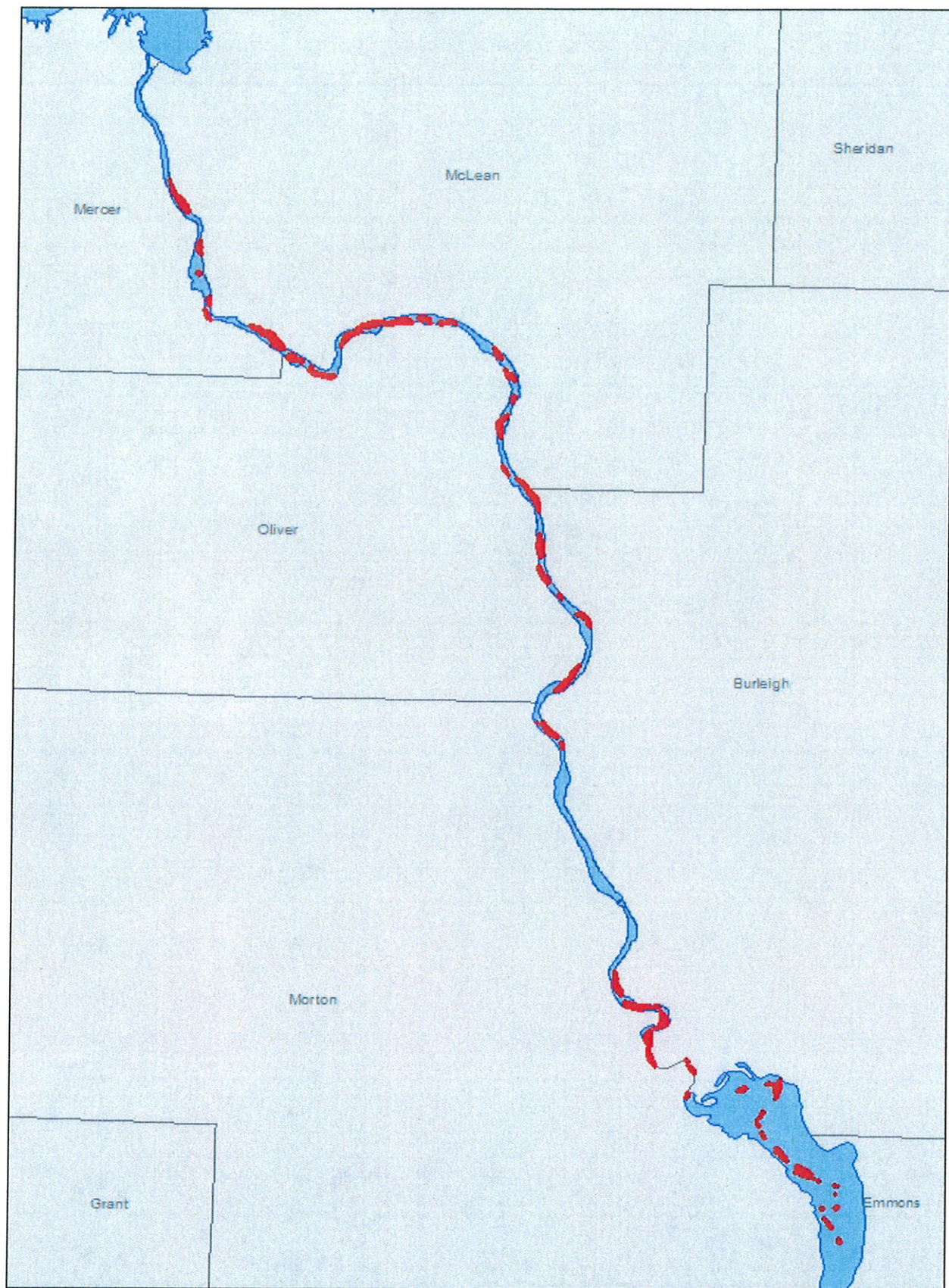
1303.8	127.7	97.6	27.7	16.7	18.9	1	1	Con		Yes				Yes		Trt
1302.7	71.1	70.6	5.8	5.7	0.0	2								Yes		Trt
1301.5	109.9	62.0	28.4	16.0	32.6	2	9	Con		Yes	Yes	Yes	Yes			Cnl
1300.5	8.4	4.8	4.3	3.1	2.3	2						Yes				
1300.2	4.0	1.8	1.5	1.2	1.9	1								Yes		
1299.7	27.8	27.1	6.9	6.4	0.1	1		Con			Yes			Yes		Trt
1298.6	89.1	80.8	14.5	12.7	6.3	1	1	Con			Yes			Yes		Cnl
1298.0	12.2	12.1	3.7	3.6	0.0	1								Yes		Trt
1296.2	0.4	0.4	0.1	0.1	0.0	1				Yes						
1294.4	45.7	43.7	4.2	3.8	0.3	1	3							Yes		Trt
1293.2	48.2	47.6	3.1	2.9	0.1	4	2		Yes					Yes		Cnl
1291.7	0.7	0.7	0.4	0.3	0.0	1								Yes		Trt
1291.5	101.8	95.6	28.1	25.6	3.2	5	2	Con						Yes		Trt
1290.0	6.5	6.1	1.7	1.5	0.1	1		Con						Yes		Cnl
1289.5	3.8	3.7	1.6	1.5	0.1	3	1							Yes		Trt
1289.1	1.9	1.9	0.3	0.3	0.0	2								Yes		Trt
1288.9	10.2	10.0	2.0	1.8	0.1	4								Yes		Cnl
1288.8	5.6	2.8	1.2	0.7	2.4	1								Yes		Trt
1288.7	2.9	2.7	2.2	2.1	0.0	3										
1288.6	2.2	2.2	0.4	0.3	0.0	2								Yes		Trt
1288.4	0.4	0.4	0.2	0.2	0.0	2								Yes		Cnl
1288.1	9.1	9.0	1.6	1.5	0.0	3								Yes		Trt
1286.5	41.8	41.3	3.8	3.7	0.0	11			Yes					Yes		Trt
1285.2	0.9	0.9	0.1	0.1	0.0	1								Yes		Trt
1284.7	66.5	66.4	0.5	0.5	0.0	1								Yes		Cnl
1284.5	36.7	33.4	5.0	4.5	0.5	1		Con						Yes		Trt
1284.0	2.2	2.2	0.2	0.2	0.0	1								Yes		Trt
1283.9	4.8	4.7	0.7	0.6	0.0	3								Yes		Trt
1283.0	5.1	5.1	0.3	0.3	0.0	1								Yes		Cnl
1282.6	164.0	118.3	63.3	37.1	16.7	5	4		Yes					Yes		Trt
1281.9	0.8	0.8	0.2	0.2	0.0	1								Yes		Trt
1281.6	9.6	7.0	7.9	5.4	0.0	2								Yes		Trt
1281.5	9.1	9.0	1.1	1.0	0.0	1	4		Yes					Yes		Cnl
1281.0	5.6	5.5	1.9	1.8	0.0	1	1		Yes					Yes		Trt
1280.0	17.0	13.8	15.7	12.7	0.3	6								Yes		Trt
1279.2	2.3	2.2	1.8	1.7	0.0	1								Yes		Trt
1278.8	11.2	8.9	9.7	7.6	0.2	1								Yes		Cnl

Totals	1068	903	252	185	86	81	28									
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Number of Sites Treated	24
Area of Treated Sites	700
Acres of Vegetation Treated	184
Acres of Treated ESH	136
Total ESH Before Treatment	903
Total ESH After Treatment	951
Added ESH	48

239

North Dakota 2013 Spray Sites



■ Sites

0 2.5 5 10 15 20 Miles

2410

Systematic Site Selection

- A multi step process used to annually select sandbars for treatment.
- First, remote sensing data used to calculate annual ESH estimates.
 - These estimates will be compared to habitat goals to determine how much habitat will need to be treated to achieve the habitat goals.
- Second, remote sensing and field observations used to identify sandbars that have vegetation and require treatment.
 - Other characteristics such as connectivity to the shoreline, distance from trees, or cottonwood recruitment site may be considered in site identification.
- Finally sandbars will be systematically assigned a treatment at a frequency to achieve acres goals.
 - We will start at the uppermost sandbar on each reach and assign treatment or no treatment to each sandbar going down the river. The order in which to assign treatment and no treatment (control) will be randomly determined and the frequency of each will be done in a way to achieve acres goals.

Column Headers

- River Mile
 - Used to name individual sites
- Acres
 - Acres of an entire site (includes bare sand and vegetation)
- ESH Acres
 - Acres of Dry Sand, Dry Sand Sparse Veg, Wet Sand and Wet Sand Sparse Veg Landcover Classes
- Treatable Vegetation
 - Vegetation classes easily treated (includes Dry Sand Sparse Veg and Wet Sand Sparse Veg)
- ESH Treated
 - Acres of Dry Sand Sparse Veg and Wet Sand Sparse Veg Landcover Classes to be treated
- Hard to Treat Vegetation
 - Acres of large, dense vegetation that requires larger equipment to treat (not included in treatment totals)
- # of Individual Bars
 - Number of individual bars that make up a site
- # of Nests in "12"
 - Number of observed tern and plover nest in 2012
- Connectivity
 - These sites are attached to the shoreline
- Attached to Wooded Island
 - These sites are part of large wooded island
- Used for Line Intercept
 - These sites are being monitored for changes in habitat
- Current Sovereign Lands Permit
 - The Corps currently has a permit to do vegetation removal at these sites.
- Bismarck Metro Area
 - Area around Bismarck avoided by ESH efforts
- USD Recruitment Study

2/11

- Study by USD looking at cottonwood recruitment
- USD Cottonwood Study
 - Study by USD looking at cottonwood persistence
- Recommended for Treatment
 - All sites selected for treatment based on criteria
- Comment
 - Comments about individual sites

Treatment Scenarios

- Treatment 1 (Every Third)
 - Starting at the top of the list, select one treatment and two controls skipping non recommended sites.
- Treatment 2 (Every Other)
 - Starting at the top of the list, select one treatment and one control skipping non recommended sites.
- Treatment 3 (Two out of Three)
 - Starting at the top of the list, select two treatments and one control skipping non recommended sites.
- Treatment 4 (Three out of four)
 - Starting at the top of the list, select three treatments and one control skipping non recommended sites.
- Treatment 5 (Modified Every Third)
 - Starting at the top of the list, select one treatment and two controls skipping non recommended sites for treatments but using them as controls if they fall in order.
- Treatment 6 (Modified Every Other)
 - Starting at the top of the list, select one treatment and one control skipping non recommended sites for treatments but using them as controls if they fall in order.

Treatment Totals

- Number of Sites Treated
- Area of Treated Sites
 - Total area of site to include vegetated & non-vegetated areas
- Acres of Vegetation Treated
 - Vegetation at a site to be treated including sparse veg areas
- Acres of Treated ESH
 - Area of dry sand sparse veg and wet sand sparse veg
- Total ESH Before and After Treatment
 - Total amount of dry sand, dry sand sparse veg, wet sand and wet sand sparse veg before and after treatments
- Added ESH*
 - Difference between ESH amounts before and after treatments

*Although only some portion of vegetation will be converted to ESH, all sparse vegetation will be prevented from becoming too vegetated to count as ESH.

2/1/21



REPLY TO
ATTENTION OF

DEPARTMENT OF THE ARMY
CORPS OF ENGINEERS, OMAHA DISTRICT
1616 CAPITOL AVENUE
OMAHA NE 68102-4901

May 22, 2013

Planning, Programs, and Project Management Division

North Dakota State Water Commission
Attention: Mr. Gerald Heiser
900 E. Boulevard Ave., Dept 770
Bismarck, North Dakota 58505-0850

Dear Mr. Heiser:

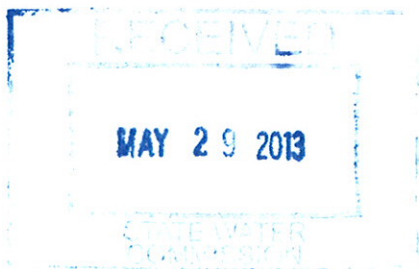
The U.S. Army Corps of Engineers, Omaha District (Corps) is in the process of planning and evaluating vegetation treatment and removal activities on existing sandbar complexes within the Missouri River in North Dakota to provide suitable habitat for two federally listed species; the threatened piping plover and endangered least tern. The project is a part of the Corps' Emergent Sandbar Habitat Program. The proposed project area begins just below Garrison Dam (RM 1381.0) and extends into the headwaters of Lake Oahe (RM 1278.0). Two areas have been excluded from vegetation spraying and removal activities due to landowner issues (RM 1364.0 - RM 1363.0) or because they are located near the Bismarck-Mandan area and experience a high percentage of recreational use (RM 1325.0 - RM 1310.0).

Vegetation treatment would consist of applying glyphosate and imazapyr, two types of herbicides that are approved by the U.S. Environmental Protection Agency (EPA) for use in aquatic environments. To meet EPA requirements, a Notice of Intent for the application of pesticide/herbicide in waters of the U.S. will be submitted to the North Dakota Department of Health, Division of Water Quality in compliance with state requirements.

The Corps understands that the area below the ordinary high water mark of the Missouri River in the State of North Dakota is considered sovereign land, and sovereign land permits will be required from the North Dakota State Water Commission. Respectfully submitted with this letter is a sovereign lands permit application to perform vegetation treatment and removal activities on selected sandbars within the proposed project area (RM 1381.0-1278.0).

Comments, questions and information should be addressed to:

U.S. Army Corps of Engineers, Omaha District
Attention: Ruth Bentzinger, CENWO-PM-AC
1616 Capitol Avenue
Omaha, Nebraska 68102-4901
Phone: 402-995-2704
Fax: 402-995-2697
Email: ruth.e.bentzinger@usace.army.mil



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A copy of this letter is being furnished to the North Dakota Department of Health, Environmental Health Section (Pete Wax), 918 East Divide Avenue, Bismarck, North Dakota 58501 and to the U.S. Fish and Wildlife Service (Carol Aron), Ecological Services, 3425 Miriam Avenue, Bismarck, ND 58501.

Thank you in advance for your considerations.

Sincerely,

A handwritten signature in cursive script, appearing to read "Eric Laux".

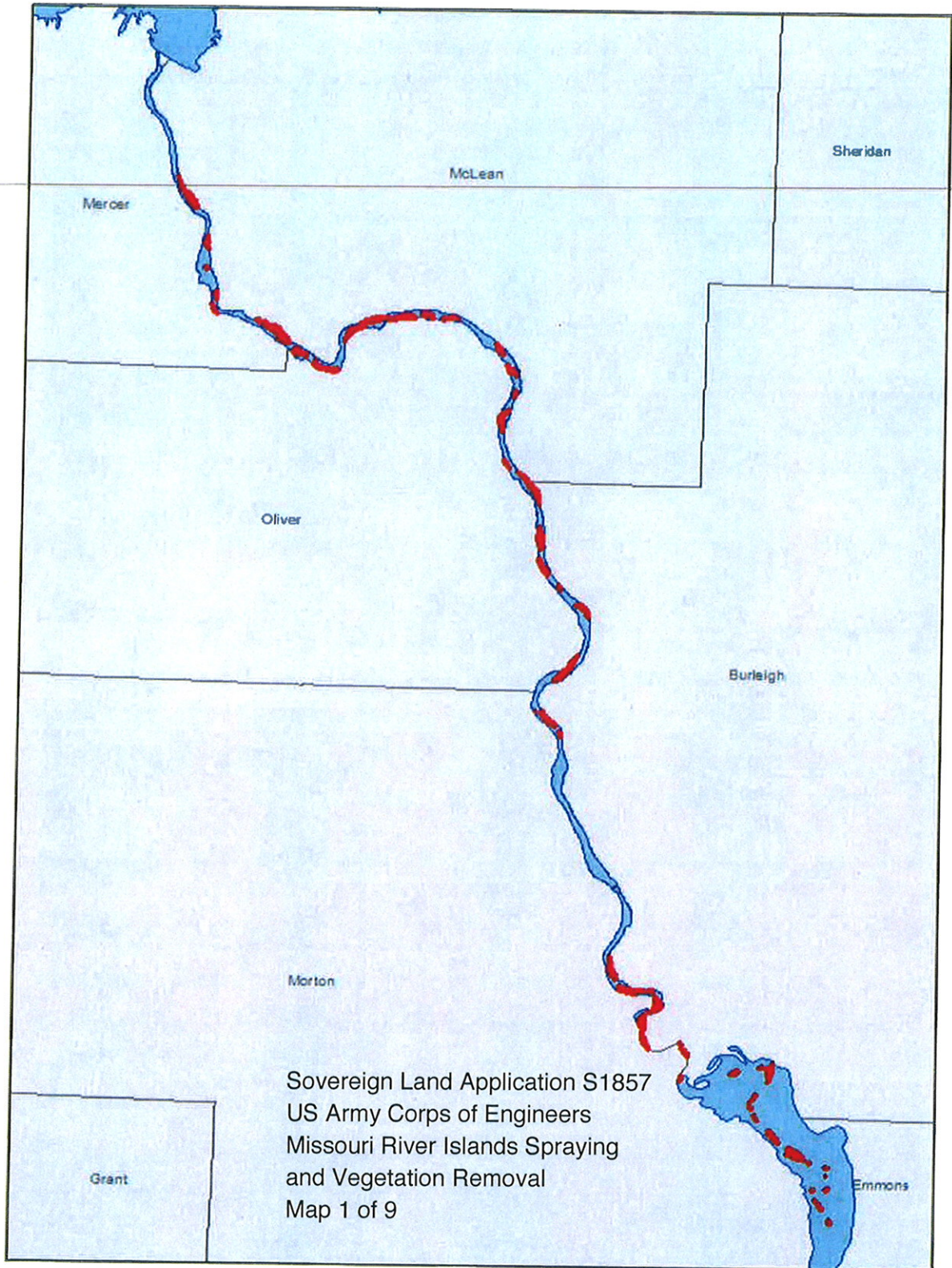
Eric Laux

Acting Chief, Environmental Resources and Missouri
River Recovery Program Plan Formulation Section

Enclosures

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

North Dakota 2013 Spray Sites

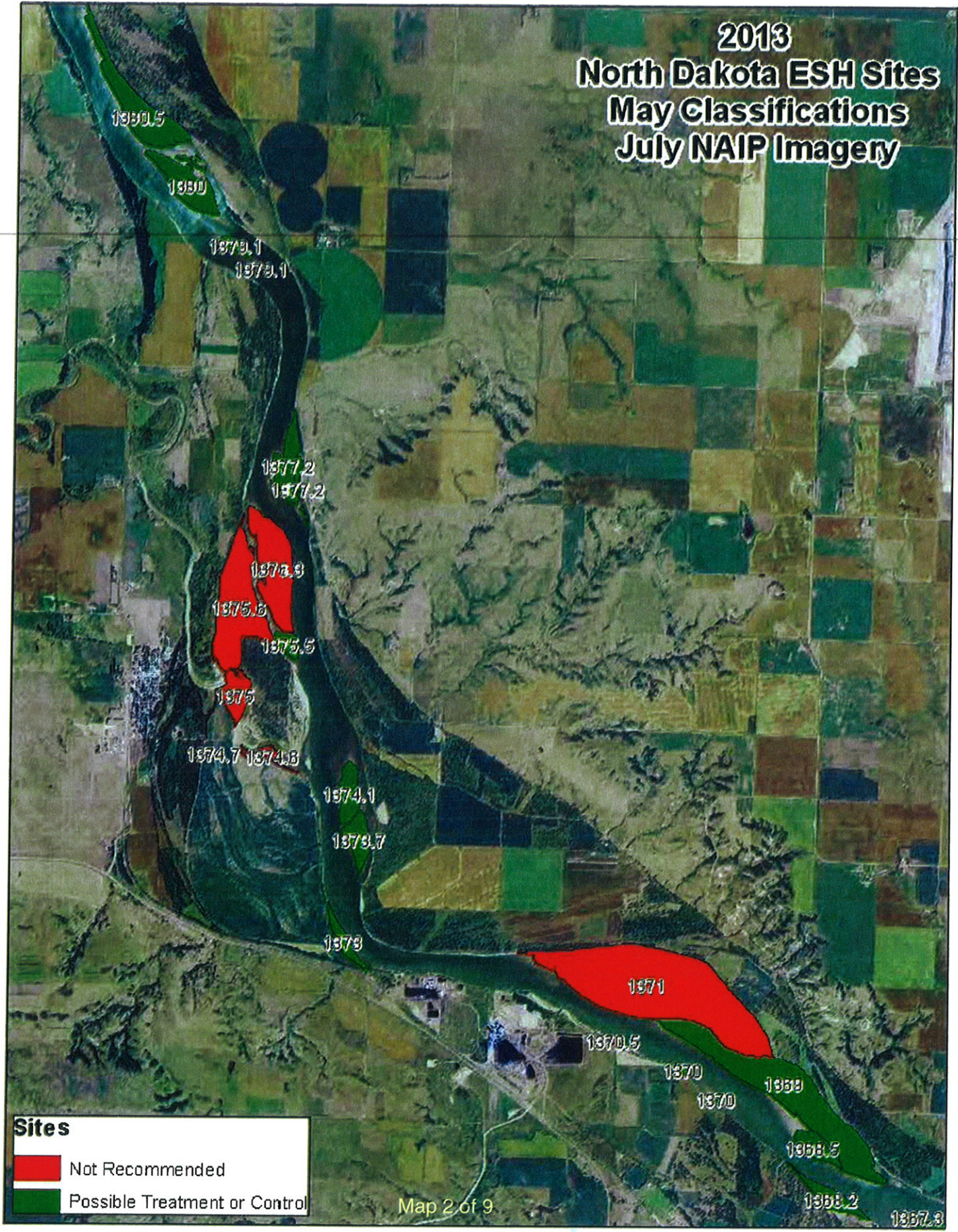


■ Sites

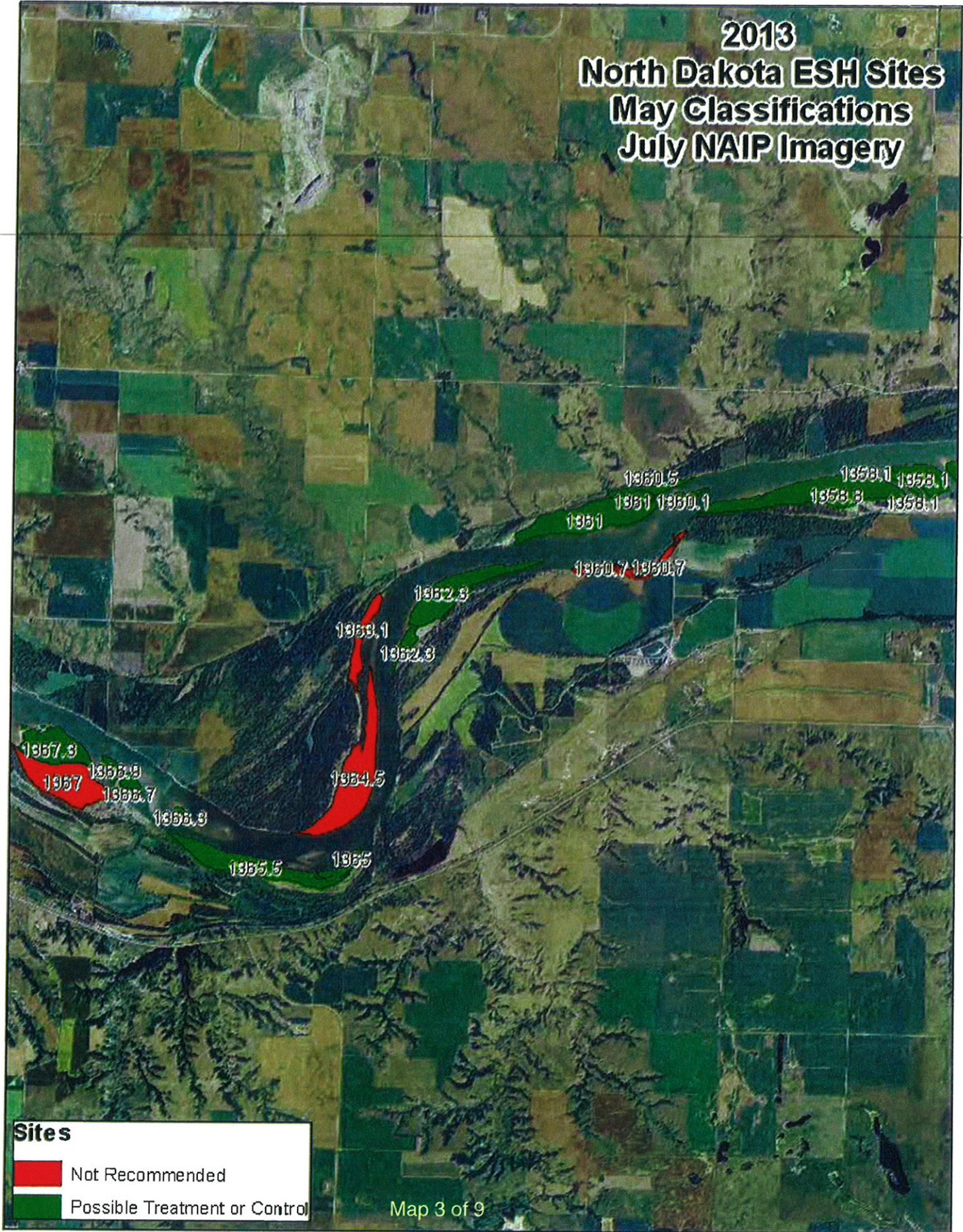
0 2.5 5 10 15 20 Miles


245

**2013
North Dakota ESH Sites
May Classifications
July NAIP Imagery**



**2013
North Dakota ESH Sites
May Classifications
July NAIP Imagery**



Sites	
	Not Recommended
	Possible Treatment or Control

248

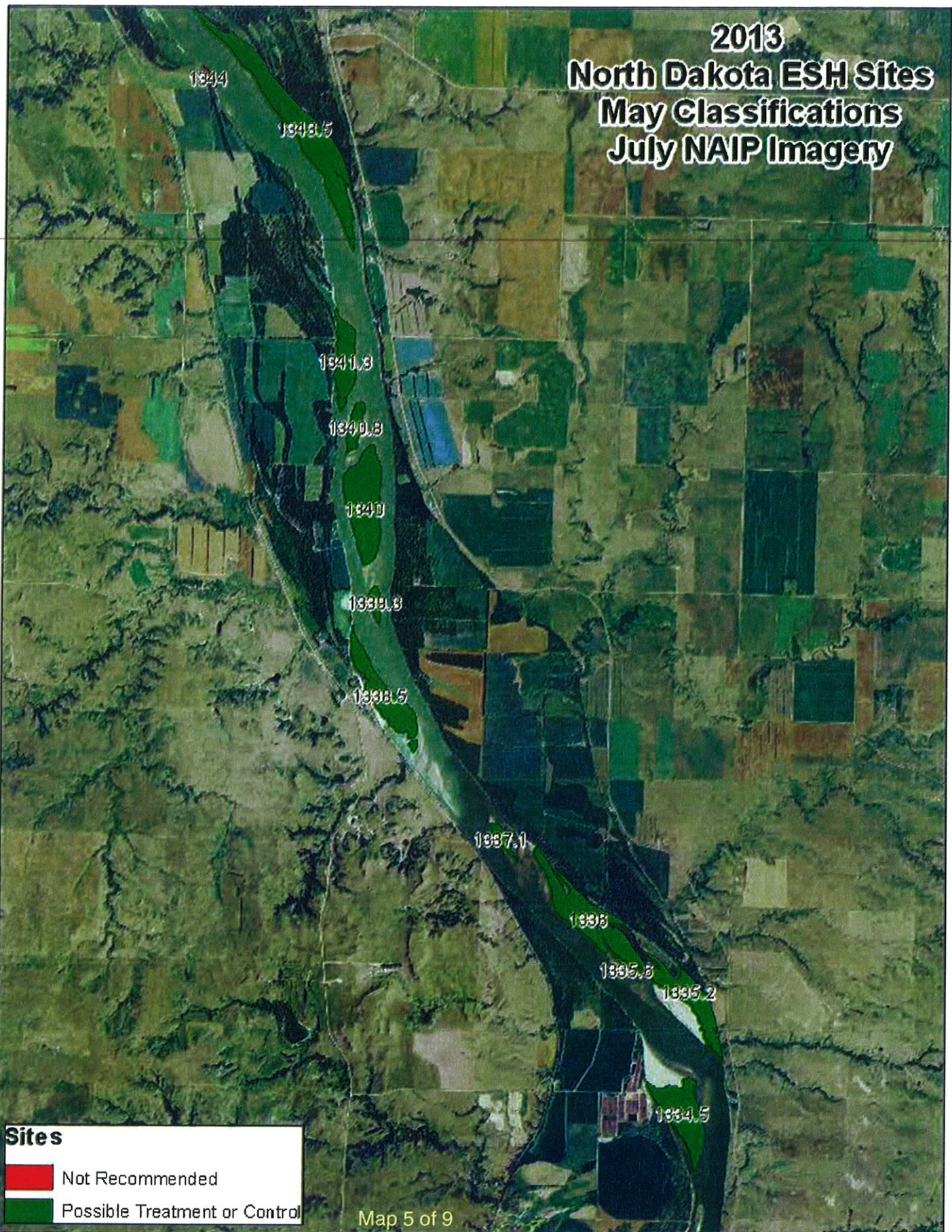
2013
North Dakota ESH Sites
May Classifications
July NAIP Imagery



Sites
Not Recommended
Possible Treatment or Control

249

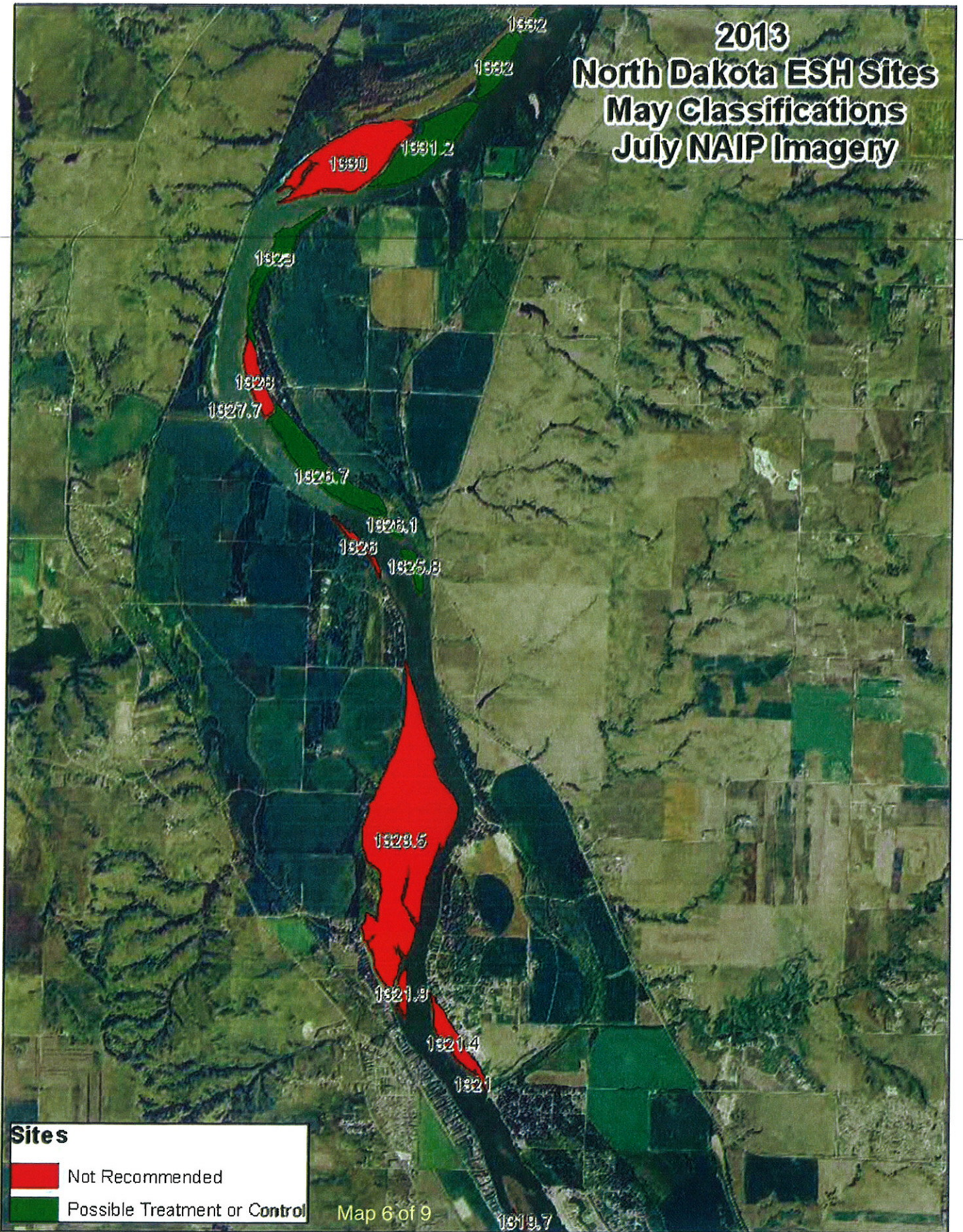
2013
North Dakota ESH Sites
May Classifications
July NAIP Imagery



Sites
Not Recommended
Possible Treatment or Control

250

**2013
North Dakota ESH Sites
May Classifications
July NAIP Imagery**



Sites
Not Recommended
Possible Treatment or Control

251

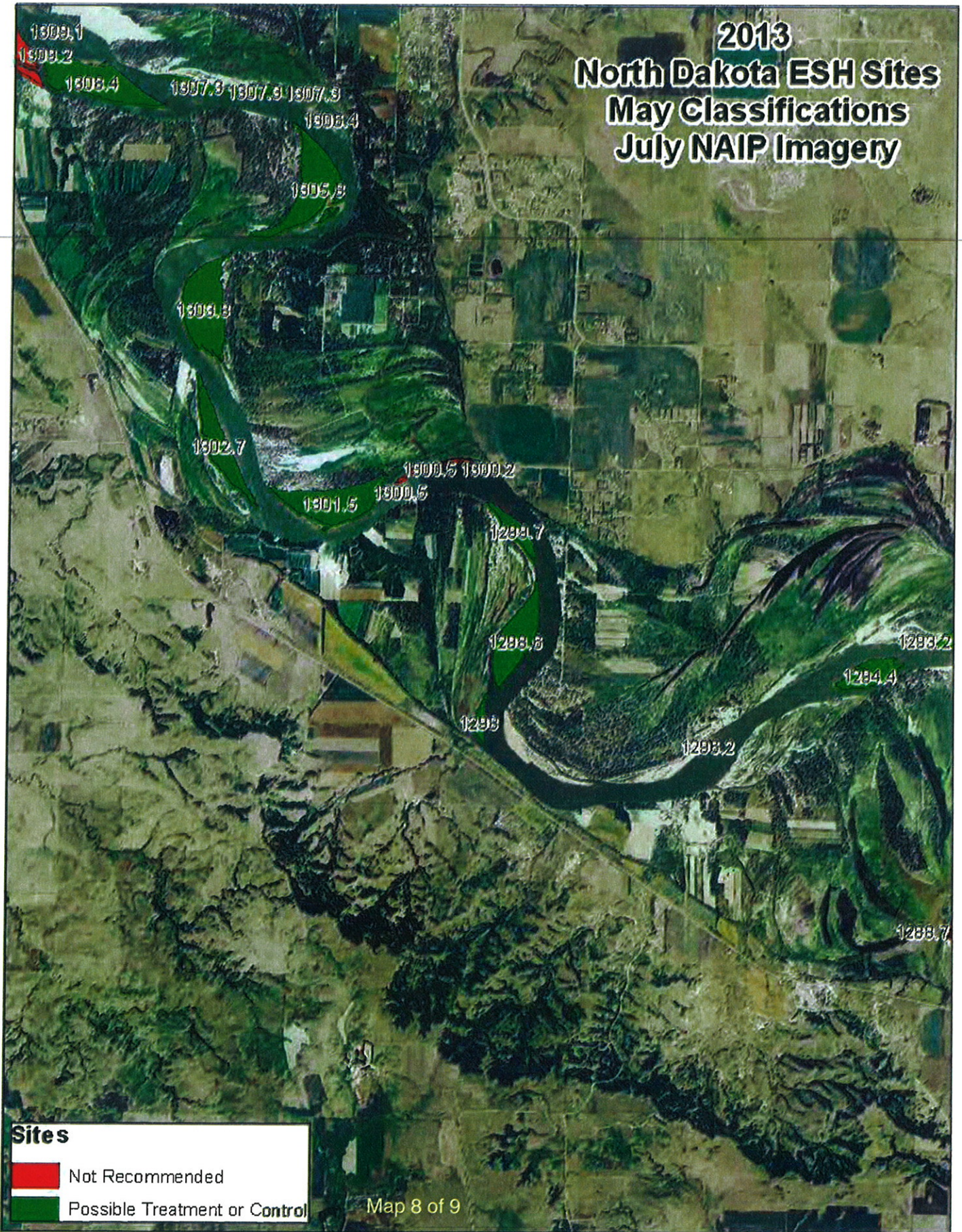
**2013
North Dakota ESH Sites
May Classifications
July NAIP Imagery**



Sites
Not Recommended
Possible Treatment or Control

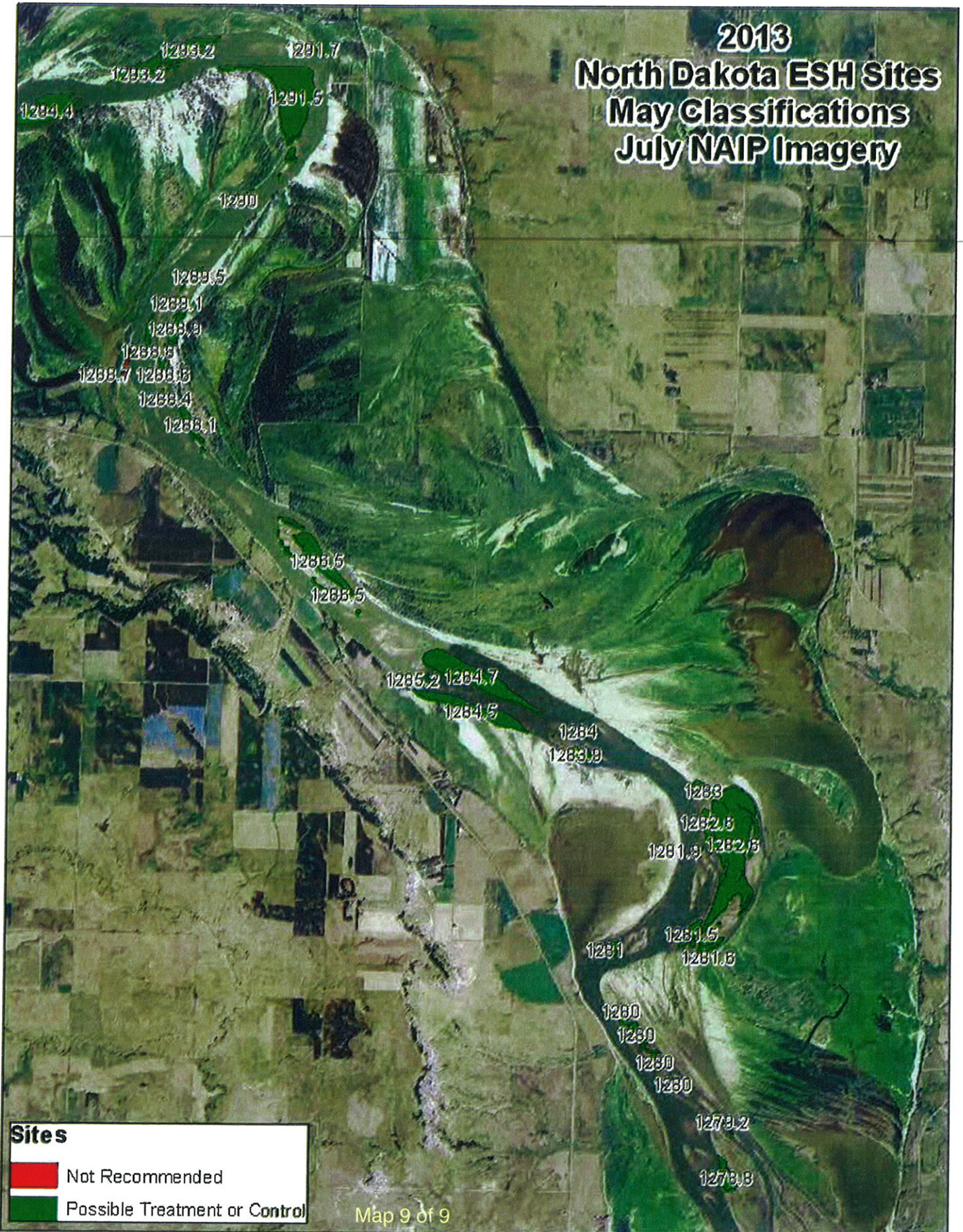
252

2013
North Dakota ESH Sites
May Classifications
July NAIP Imagery



253

2013 North Dakota ESH Sites May Classifications July NAIP Imagery



Sites	
■	Not Recommended
■	Possible Treatment or Control

254

BCWRD Invoices
7-9-13

Name	Project	Invoice	Amount	Code
Bismarck Parks and Rec	May	3304	\$11,519.80	904
Bliss & Stebbins Law Firm	Legal	13695	\$5,134.81	312
City of Bismarck	Building Expense - April	68	\$43.73	335
City of Bismarck	Building Expense - May	82	\$36.73	335
City of Bismarck	Rent - June	72	\$95.33	335
Houston Engineering	General	15951	\$3,416.75	315
Houston Engineering	Missouri River Flood Risk Mitigation	15952	\$6,932.12	910
Houston Engineering	Apple Valley Cooperative	15953	\$1,371.46	937
Houston Engineering	Apple Creek Industrial Park	15956	\$1,313.75	937
Houston Engineering	Sandy River Drive	15954	\$4,967.00	933
Houston Engineering	Hogue Island	15955	\$14,985.50	937
Houston Engineering	Hogue Island (balance on June Inv.)	15603	\$3,141.00	910
Brady Martz	Accounting assistance	487672	\$1,253.50	398
Personalized Management Svs.	June Secretarial services	5193	\$643.75	112
Personalized Management Svs.	June Treasurer services	5193	\$150.00	398
Personalized Management Svs.	suplies	5193	\$256.53	411
Coles Law Firm	Title Opinion		\$1,450.00	910
Workforce Safety & Ins.	Premium		\$263.25	211
Fleck, Terry	2nd Quarter	2nd	\$4,522.00	111
Royse, Ken	2nd Quarter	2nd	\$395.00	111
Backstrand, Cary	2nd Quarter	2nd	\$1,620.00	111
Jones, Kathleen	2nd Quarter	2nd	\$855.00	111
Weixel, Gordon	2nd Quarter	2nd	\$1,215.00	111
		TOTAL:	\$65,582.01	

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