

FILED SARPY CO. NE.

INSTRUMENT NUMBER

2007-35032

2007 NOV 21 P 2:40

Lloyd J. Dowding

REGISTER OF DEEDS

COUNTER LM C.E. LM

VERIFY LMAD D.E. LD

PROOF _____

FEES \$ 55.50

CHECK # _____

CHG MOA CASH _____

REFUND _____ CREDIT _____

SHORT _____ NCR _____

Recorder Adfts: See Exhibit A For part B.
LM 11/21/07



**THIS PAGE ADDED
FOR RECORDING
INFORMATION.**

**DOCUMENT STARTS ON
NEXT PAGE.**

LLOYD J. DOWDING

R.R Paul F Peters
640 Omaha Towers
2120 South 72nd St
Omaha, NE 68124

SARPY COUNTY REGISTER OF DEEDS
Steven J. Stastny, Deputy
1210 GOLDEN GATE DRIVE, STE 1109
PAPILLION, NE 68046-2895
402-593-5773

35032

A

IN THE COUNTY COURT OF SARPY COUNTY, NEBRASKA

PAPIO-MISSOURI RIVER NATURAL
RESOURCES DISTRICT,

CONDEMNER,

vs.

MARY P. MOORE; LARRY V. SYAS;
AMERICAN NATIONAL BANK, Trustee
and Beneficiary; NEAL SEIBOLD; and,
MARK S. BERTOLINI, ESQ.,

CONDEMNNEES.

CASE NO. CI 07-2812

A MEND
REPORT OF APPRAISERS

2007 SEP 24 PM 10: 24

FILED BY THE CLERK
SARPY COUNTY COURT

Come now the undersigned, being the duly appointed, qualified, and acting Appraisers in the above-entitled matter, and do hereby make and file this report, showing the Court as follows, to-wit:

1. The undersigned were duly appointed Appraisers in the above-entitled matter.

2. Before entering upon the duties as Appraisers, the undersigned duly took and subscribed an oath to support the Constitutions of the United States and of the State of Nebraska and to faithfully and impartially discharge their duties as required by law.

3. The interests in real property taken by the CONDEMNER consist of the easements (hereinafter referred to as "the EASEMENTS") set out in the Petition for Appointment of Appraisers, filed herein, in, on, under, over and across the respective tracts of land more particularly described in the legal descriptions attached to this Report of Appraisers as Exhibits A and B and incorporated herein by reference, as follows, to-wit:



B

4. In construing the EASEMENTS taken the following definitions shall apply:

"DAM" - The S-31 PROJECT grade stabilization structure, as rehabilitated by the CONDEMNER in the PERMANENT EASEMENT AREA and in the area where the CONDEMNER has permanent easement rights pursuant to existing permanent easements previously obtained by the CONDEMNER, or its predecessors, over CONDEMNEES' property for the original S-31 PROJECT.

"PERMANENT EASEMENT AREA" - The tract(s) of land in Sarpy County, Nebraska, referred to and described in the "Permanent Easement Metes and Bounds Description" contained in the document entitled "Metes and Bounds Descriptions for Papillion Creek Watershed Structure S-31," attached hereto as Exhibit "A" and incorporated herein by reference. The PERMANENT EASEMENT AREA does not include the area of the existing permanent easements previously obtained by the CONDEMNER, or its predecessors, over CONDEMNEES' property for the original S-31 PROJECT, that are presumed to continue in force and effect.

"S-31 PROJECT" - Rehabilitation of the DAM and RESERVOIR located at Papillion Creek Watershed PL-566 Project Dam Site 31.

"RESERVOIR" - The reservoir of waters and sediment impounded by operation of the DAM.

"TEMPORARY EASEMENT AREA" - The tract of land in Sarpy County, Nebraska, referred to and described in the "Temporary Easement" description contained in the document attached hereto as Exhibit "B" and incorporated herein by reference.

5. The EASEMENTS herein taken by the CONDEMNER are as follows, to-wit:

a) A permanent easement and restrictive covenant in, on, under, over and across the PERMANENT EASEMENT AREA, granting to the CONDEMNER the permanent rights to construct, operate, maintain, patrol, repair, replace, manage and regulate the DAM and the RESERVOIR in, on, under, over and across the PERMANENT EASEMENT AREA, and prohibiting certain actions by the

C

CONDEMNNEES hereinafter described, such rights of the CONDEMNNER also including, without limitation, the following:

i) The CONDEMNNER shall have the right to use any portion of the PERMANENT EASEMENT AREA for the borrow of earthen material for use in construction, maintenance, repair and/or replacement of the DAM; and,

ii) The CONDEMNNER shall have the right to unobstructed flow, into the Quail Creek tributary running downstream from the DAM, of any waters or water-borne sediments that originate, flow, emanate, discharge, seep or spill from the DAM, its principal or auxiliary emergency spillways, or from the reservoir, including, without limitation, water or sediment that appears as surface or subsurface flow, seepage, percolation or springs.

iii) The CONDEMNNER shall have the right to prohibit the placement or excavation of earthen fill or other fill in any portion of the PERMANENT EASEMENT AREA that, either now or hereafter, has a ground surface elevation lower than 1,106.0 feet above mean sea level, NAVD 1988, (hereinafter referred to as the "FLOOD POOL"), and all such actions by the CONDEMNNEES are hereby prohibited.

iv) The CONDEMNNER shall have the right to prohibit the construction or maintenance within the FLOOD POOL of structures, fixtures or other improvements, and all such actions by the CONDEMNNEES are hereby prohibited; provided, however, the CONDEMNNEESS nevertheless may:

a) Dredge or otherwise remove silt from the FLOOD POOL from time to time;

b) Excavate or fill earth or rock in the FLOOD POOL in order to construct, operate and maintain within the FLOOD POOL sheet-pilings, revetments or other temporary or permanent shoreline erosion prevention and bank protection devices or methods; and,

c) Install in the FLOOD POOL landscaping, low-voltage lighting, boat ramps, decks, docks or boat lifts.

D

b) A permanent easement hereby granting to the CONDEMNOR the right of vehicular, equipment and pedestrian ingress and egress to and from the DAM and RESERVOIR over and across all portions of the PERMANENT EASEMENT AREA.

c) A temporary easement hereby granting to the CONDEMNOR the right to use the TEMPORARY EASEMENT AREA for vehicular parking and servicing, equipment storage and other lawful purposes during the period of time between the commencement and the completion of construction of the DAM and RESERVOIR in the PERMANENT EASEMENT AREA, such period of time not exceeding one year beginning with commencement of such construction.

d) The CONDEMNOR, its successors and assigns, and their officers, agents, employees and contractors, shall not have any liability

i) for loss of or damage to any property of the CONDEMNOR, their heirs, successors and assigns, in the PERMANENT EASEMENT AREA, which may be caused directly or indirectly by waters or sediment impounded, stored or detained by the DAM; nor,

ii) for loss of or damage to any property of the CONDEMNOR, their heirs, successors and assigns, which may be caused directly or indirectly by water or water-borne sediment that originates, flows emanates, discharges, seeps or spills from the DAM, its principal or emergency spillways, or from the RESERVOIR, including, without limitation, water or sediment that appear as surface or subsurface flow, seepage, percolation or springs.

e) The CONDEMNOR shall not be responsible for operation or maintenance of the DAM or RESERVOIR.

f) The CONDEMNOR shall not be required to prevent evaporation of any waters detained by the DAM, to maintain any certain water level(s) in the RESERVOIR, nor to dredge accumulated silt or debris from the reservoir.

E

g) The respective legal descriptions for the EASEMENTS taken in these eminent domain proceedings, are attached hereto collectively as Exhibits "A" and "B" and incorporated herein by reference.

h) The Easements taken in these eminent domain proceedings shall be deemed to run with the land; shall inure to and be binding upon and to the benefit of the CONDEMNOR and its successors and assigns; and, shall be binding upon the CONDEMNEES and their successors and assigns.

5. On the 11 day of September 2007, at 9:30 o'clock, 9. M., the undersigned Appraisers carefully inspected and viewed the property subject to the EASEMENTS, and also any other property of the CONDEMNEE damaged thereby, and heard all parties interested therein as to the amount of damages while so inspecting and viewing such property.

6. On the 11 day of September, 2007, at 10:30 o'clock, 11. M., the undersigned Appraisers met in the Sarpy County Courthouse to assess the damages that the CONDEMNEE have sustained by the taking of the EASEMENTS by the CONDEMNOR, at which time said Appraisers received evidence relative to the amount of damages sustained.

7. The undersigned Appraisers found and determined that the damages sustained by the CONDEMNEES by reason of the taking of the EASEMENTS by the CONDEMNOR, are as follows, to-wit:

| | | |
|--|----|--------------------------------------|
| MARY P. MOORE | \$ | <u> — 0 — </u> |
| LARRY V. SYAS | \$ | <u> 1330 35 </u> |
| AMERICAN NATIONAL BANK, Trustee and Beneficiary | \$ | <u> 23,352.78 </u> |
| <i>SARPY COUNTY TREASURER</i> | \$ | <i>2,287.96</i> |

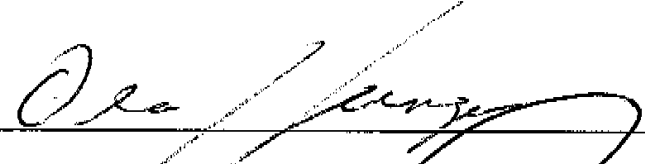
F

NEAL SEIBOLD \$ 100.00


MARK S. BERTOLINI, ESQ. \$ 6446.91

DATED this 24 day of September, 2007.

BOARD OF APPRAISERS:







G

Papillion Creek Watershed Structure S-31

Permanent Easement metes and bounds description

A permanent easement in three (3) parts over and across a part of a part of the NE $\frac{1}{4}$ of the NW $\frac{1}{4}$ of Section 8, Township 13 North, Range 13 East of the 6th P.M., Sarpy County Nebraska (also known as Tax Lot 15), being more particularly described as follows:

Part A

Commencing at the North $\frac{1}{4}$ -corner of said Section 8; thence S 00° 00' 00" E (assumed bearing) along the $\frac{1}{4}$ -section line of said Section 8, a distance of 395.08 to the Point of Beginning; thence continuing along said $\frac{1}{4}$ -section line a distance of 156.96 feet to the northerly line of the existing permanent right-of-way easement on said Tax Lot 15; thence N 51° 34' 43" W along the northerly line of said existing easement a distance of 96.27 feet; thence continuing along northerly line of said existing easement N 74° 46' 31" W a distance of 153.40 feet; thence N 87° 59' 45" E a distance of 131.30 feet; thence N 23° 27' 44" E a distance of 80.00 feet; thence S 69° 03' 13" E a distance of 67.26 feet to the Point of Beginning of Part A, and containing 0.33 acres more or less;

Part B

Commencing at the North $\frac{1}{4}$ -corner of said Section 8; thence S 00° 00' 00" E (assumed bearing) along the $\frac{1}{4}$ -section line of said Section 8, a distance of 830.28 to the Point of Beginning of Part B; thence continuing along said $\frac{1}{4}$ -section line a distance of 494.45 feet to the southeast corner of said Tax Lot 15; thence N 89° 52' 19" E along the south line of said Tax Lot a distance of 50.00 feet; thence N 33° 09' 14" W a distance of 516.00 feet to the southerly line of an existing right-of-way easement; thence along said southerly line S 34° 04' 00" E a distance of 522.15 feet; thence continuing along said southerly line N 03° 24' 48" E a distance of 470.90 feet to the Point of Beginning of Part B, and containing 0.34 acres more or less;

Part C

Commencing at the Southeast corner of the Northwest $\frac{1}{4}$ of the northwest $\frac{1}{4}$ of said section 8 also being the Southwest Corner of Tax Lot 15; thence along the south line of said Tax Lot, a distance of 257.06 to the westerly of an existing right-of-way easement also being the easterly line of an Outfall Sewer Easement; thence N 10° 48' 21" E along said westerly line a distance of 253.02 feet to the Point of Beginning of Part C; thence N 56° 36' 12" W a distance of 318.29 feet; thence N 00° 32' 26" E a distance of 24.85 feet to a point on an existing right-of-way easement; thence S 53° 00' 20" E along the easterly line of said existing easement a distance of 332.43 feet; to the Point of Beginning of Part C, and containing 0.08 acres more or less;

and the combined area of said Part A, Part B, and Part C containing 0.75 acres more or less.

Remainder Note, it should be W

EXHIBIT A

H

Papillion Creek Watershed Structure S-31



Temporary Easement metes and bounds description

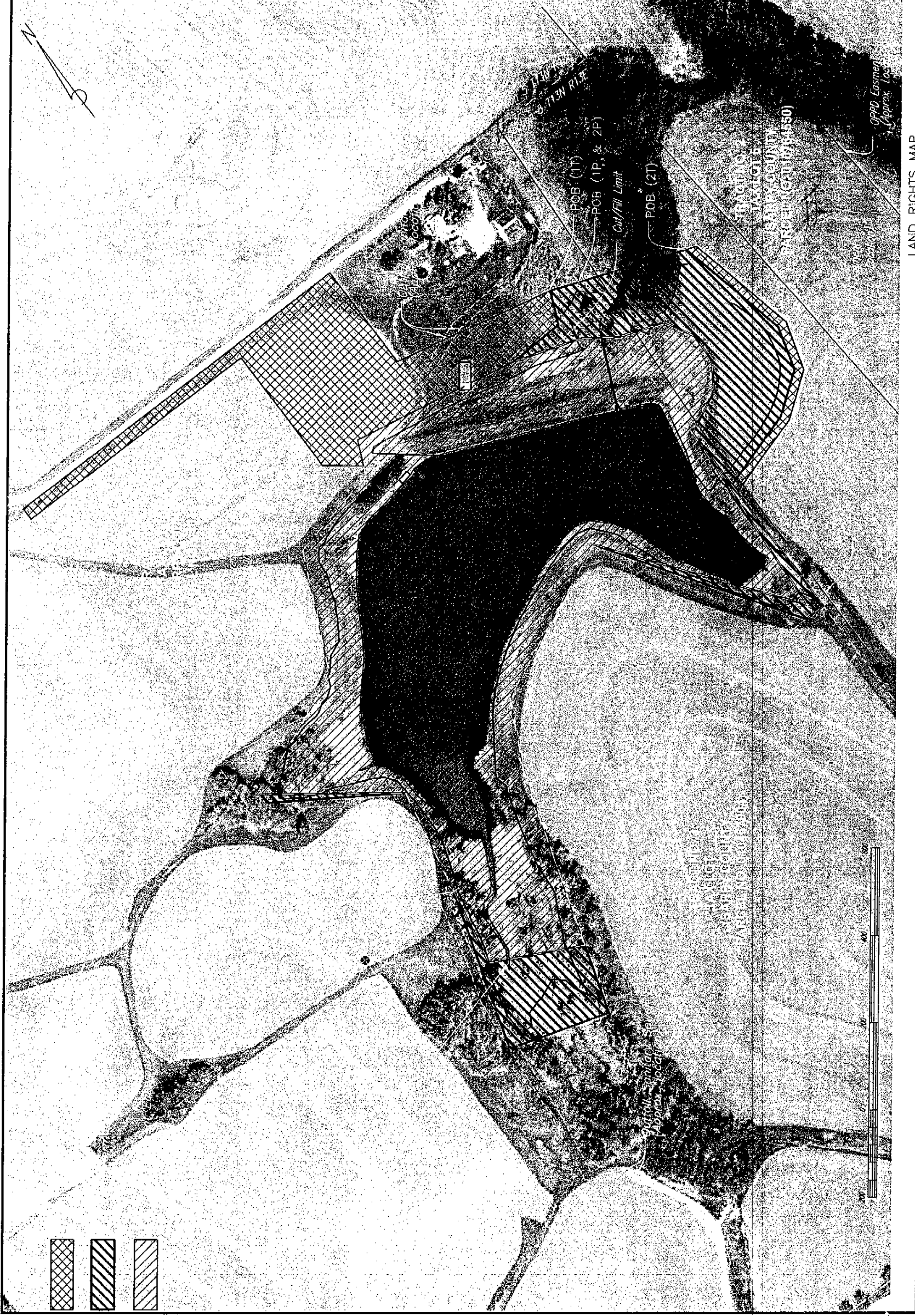
A temporary easement over and across a part of a part of the NE $\frac{1}{4}$ of the NW $\frac{1}{4}$ of Section 8, Township 13 North, Range 13 East of the 6th P.M., Sarpy County Nebraska (also known as Tax Lot 15), being more particularly described as follows:

Commencing at the North $\frac{1}{4}$ corner of said Section 8; thence S 00° 00' 00" E (assumed bearing) along the $\frac{1}{4}$ -section line of said Section 8, a distance of 395.08; thence N 69° 03' 12" W a distance of 67.26 feet to the Point of Beginning; thence S 23° 27' 44" W a distance of 80.00 feet; thence S 87° 59' 45" W a distance of 131.30 feet; thence N 79° 00' 22" W a distance of 400.26 feet; thence S 23° 53' 46" E a distance of 60.00 feet; thence N 51° 46' 55" W a distance of 94.34 feet; thence N 00° 00' 00" E a distance of 309.36 feet; thence N 90° 00' 00" W (assumed bearing) on a line 60.00 feet south of and parallel to the north line of said Tax Lot 15 a distance of 602.29 feet to the west line of said Tax Lot 15; thence N 00° 00' 00" E a distance of 30.00 feet; thence N 90° 00' 00" E on a line 30.00 feet south of and parallel to the north line of said Tax Lot 15 a distance of 880.62 feet; thence S 00° 00' 00" E a distance of 255.13 feet; thence S 77° 06' 22" E a distance of 385.81 feet to the Point of Beginning, and containing 3.64 acres more or less.

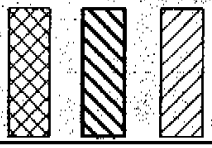
EXHIBIT B

I

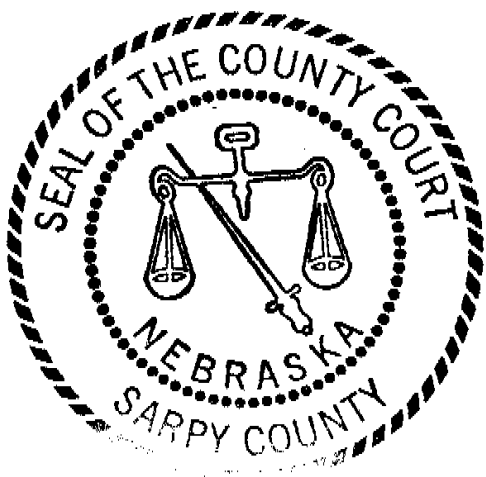
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|---|---|---|--|---|--|---------------------|
| <p>Approved _____</p> <p>Checked _____ PCS</p> <p>Drawn _____ RDO</p> <p>Designed _____ JWC</p> <p>Date _____</p> | <p>LAND RIGHTS ACQUISITION MAP</p> <p>GRADE STABILIZATION STRUCTURE</p> <p>STRUCTURE S-31 REHABILITATION</p> <p>PAPILLION CREEK WATERSHED</p> <p>SARPY COUNTY, NEBRASKA</p> |  | <p>NATURAL RESOURCES DISTRICT</p> <p>OMAHA, NE</p> |  | <p>File No. _____</p> <p>Drawing No. _____</p> | <p>Sheet 1 of 2</p> |
|---|---|---|--|---|--|---------------------|



LAND RIGHTS MAP



2007-35032 J



CERTIFICATION

STATE OF NEBRASKA)
COUNTY OF SARPY) ss.

I, Clerk/Assistant Clerk, of the Sarpy County Court, certify this document consisting of nine page(s), to be a full, true and correct copy of the original record on file in the Sarpy County Court.

IN TESTIMONY THEREOF, I have placed my signature and the seal of said court.

DATE 11-21-07 BY THE COURT: Candace B. Carter
Clerk/Assistant Clerk