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RICHARD H. TAKECHI
REGISTER OF DEEDS
DOUGLAS COUNTY, NE

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**EASEMENTS AND RESTRICTIVE COVENANTS
DAM SITE 6 - BENNINGTON LAKE PROJECT**

For valuable consideration received, HORGAN DEVELOPMENT COMPANY, a Nebraska corporation (hereinafter referred to as "HDC"), does hereby grant to the PAPIO-MISSOURI RIVER NATURAL RESOURCES DISTRICT (hereinafter referred to as "the NRD") certain easements and does hereby agree to certain restrictive covenants, as follows, to wit:

1. DEFINITIONS. As used in this instrument:

a) The phrase "the Dam" means the Dam Site 6 flood control structure to be constructed on a tract of land in Section 9, Township 16 North, Range 11 East of the 6th P.M. in Douglas County, Nebraska.

b) The phrase "the Reservoir" means the impoundment of water to be created upon completion of the Dam on tracts of land within Sections 4, 5, 8, 9 and 16, Township 16 North, Range 11 East of the 6th P.M. in Douglas County, Nebraska, upstream of the Dam.

c) The phrase "the Sediment Retention Structure" means a sediment retention structure to be constructed upstream of the Dam, approximately along the alignment of 180th Street, between Sections 8 and 9, Township 16 North, Range 11 East of the 6th P.M. in Douglas County, Nebraska.

d) The phrase the "Pertinent Property" means the real estate in Section 9 in Douglas County, Nebraska, legally described in Exhibit "NRD1" attached hereto and incorporated herein by this reference.

2. RESERVOIR EASEMENT. HDC does hereby grant to the NRD a perpetual easement consisting of the right to flow water and sediment upon and inundate the Pertinent Property up to elevation 1149.0 feet above mean sea level, referenced to the National Geodetic Vertical Datum of 1929 (hereinafter "NGVD"); and HDC does hereby release the NRD from any and all liability, causes of action, claims and expense for loss of or damage to real or

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personal property caused by water or sediment flowing upon or inundating the Pertinent Property up to such elevation.

3. CONSTRUCTION COVENANT. HDC does hereby covenant that, during all that period of time the NRD, its successors, and their agents and contractors, shall operate and maintain the Dam, and except as otherwise expressly provided herein, as expressly permitted in specific easements granted by the NRD or its successors or assigns, or otherwise expressly approved by the NRD or its successors or assigns in writing, HDC shall not construct, install, maintain, or permit the construction, installation, or maintenance of structures on the Pertinent Property which have their lowest floor elevation below 1,141.9 feet above mean sea level referenced to the NGVD, provided, however, such covenant shall not be construed as preventing HDC from:

a) Dredging or otherwise removing silt, debris, or other accumulated materials from time to time;

b) Excavating, placing, filling or maintaining earthen fill or rock in order to construct, install, operate and maintain sheet-pilings, revetments or other temporary or permanent bank protection devices or methods;

c) Constructing, installing or maintaining landscaping (including retaining walls), low-voltage lighting, boat ramps, decks, recreational equipment, fish habitat, buoys, gazebos, portable or floating docks or boat lifts; or

d) Constructing, installing or maintaining buried utility lines or appurtenances thereto.

4. SPILLWAY RE-ENTRY FLOWAGE EASEMENT. HDC does hereby grant to the NRD a perpetual easement consisting of the perpetual right to flow water and sediment upon, and inundate, the tract of land in Section 10, Township 16 North, Range 11 East of the 6th P.M. in Douglas County, Nebraska, more particularly described in the legal description attached hereto as Exhibit "NRD2," and incorporated herein by this reference; and HDC does hereby release the NRD from any and all liability, causes of action, claims and expense for loss of or damage to real or personal property caused by water or sediment flowing upon or inundating such tract of land.

5. TEMPORARY BORROW AND SPOIL EASEMENT. HDC does hereby grant to the NRD a temporary easement consisting of the conditional right to enter that part of Section 9, Township 16 North, Range 11 East of the 6th P.M. in Douglas County, Nebraska (except that part lying East of the Big Papillion Creek) intended to be covered by the permanent pool designed by HDC for the Reservoir, and to use such parcel of land for the borrow and spoil of earthen material in accordance with the grading plan prepared by HDC and approved by the NRD, such easement to be effective only in the event of a default by HDC that necessitates that the NRD takes over the work of construction of the Dam or

Sediment Retention Structure. The easement granted in the foregoing sentence shall terminate upon issuance of Certificates of Completion by the Engineer and final acceptance by the NRD of the Dam.

6. INGRESS AND EGRESS EASEMENT. HDC hereby grants to the NRD a perpetual right, privilege and easement to come upon and travel across that tract of land in Sections 8 and 9, Township 16 North Range 11 East of the 6th P.M. in Douglas County, Nebraska, legally described on Exhibits "NRD3," "NRD4," and "NRD5" attached hereto and incorporated herein by this reference, for pedestrian, vehicular and machine ingress and egress, including, without limitation, the right to have the air space of such tracts of land free from obstruction to such height as will permit passage and operation of machinery.

7. MISCELLANEOUS PROVISIONS.

a) HDC, for itself and for its successors and assigns, warrants to the NRD, and its successors and assigns, that HDC is the owner of the aforesaid real property and that it has good right to convey the aforesaid rights over the same; that said property is free and clear of all liens and other encumbrances except those of record; and that HDC will warrant and defend the title of the NRD, and its successors and assigns, to the aforesaid easement rights against all lawful claims and demands of all persons whomsoever.

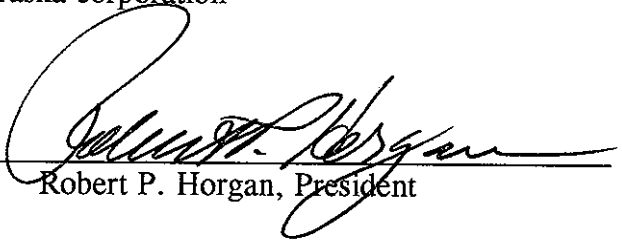
b) The easements and covenants granted herein shall run with the land, inure to the benefit of, and be binding upon, the parties and their respective heirs, successors, personal representatives and assigns, and their agents and contractors.

c) No waiver of any breach of any of the easements or covenants contained in this instrument shall be construed as or constitute a waiver of any other breach, or a waiver, acquiescence or consent to any further or succeeding breach of the same or any other easement or covenant.

d) If any term or provision of this instrument shall, to any extent, be held invalid or unenforceable, the remaining terms and provisions thereof shall not be affected thereby, but each remaining term or provision shall be valid and enforced to the fullest extent permitted by law.

HORGAN DEVELOPMENT COMPANY, a
Nebraska corporation

By:


Robert P. Horgan, President

CONSENT AND SUBORDINATION

For valuable consideration in connection with the Deeds of Trust and UCC-1s described as follows (herein respectively the "Deeds of Trust" and "UCC-1s"):

Deeds of Trust

1. Deed of Trust with Power of Sale in which Horgan Development Company is Trustor; Dan D. Stoller, Esq., is Trustee; and Firststar Bank Iowa, N.A., is Beneficiary in the sum of Twenty Million Dollars dated December 31, 1997, and filed with the Douglas County Register of Deeds on December 31, 1997, in Book 5183, at Page 237.
2. Deed of Trust with Power of Sale in which Horgan Development Company is Trustor; Dan D. Stoller, Esq., is Trustee; and Firststar Bank Iowa, N.A., is Beneficiary in the sum of Twenty Million Dollars dated December 31, 1997, and filed with the Douglas County Register of Deeds on December 31, 1997, in Book 5183, at Page 467.
3. Deed of Trust with Power of Sale in which Horgan Development Company is Trustor; Dan D. Stoller, Esq., is Trustee; and Firststar Bank Iowa, N.A., is Beneficiary in the sum of Twenty Million Dollars dated December 31, 1997, and filed with the Douglas County Register of Deeds on December 31, 1997, in Book 5183, at Page 721.
4. Deed of Trust with Power of Sale in which Horgan Development Company is Trustor; Dan D. Stoller, Esq., is Trustee; and Firststar Bank Iowa, N.A., is Beneficiary in the sum of Twenty Million Dollars dated January 5, 1998, and filed with the Douglas County Register of Deeds on January 9, 1998, in Book 5190, at Page 175.
5. Deed of Trust with Power of Sale in which Horgan Development Company is Trustor; Dan D. Stoller, Esq., is Trustee; and Firststar Bank Iowa, N.A., is Beneficiary in the sum of Twenty Million Dollars dated January 15, 1998, and filed with the Douglas County Register of Deeds on January 15, 1998, in Book 5194, at Page 528.
6. Deed of Trust with Power of Sale in which Horgan Development Company is Trustor; Dan D. Stoller, Esq., is Trustee; and Firststar Bank Iowa, N.A., is Beneficiary in the sum of Twenty Million Dollars dated December 29, 1997, and filed with the Douglas County Register of Deeds on December 31, 1997, in Book 5183, at Page 87.

7. Deed of Trust with Power of Sale in which Horgan Development Company is Trustor; Dan D. Stoller, Esq., is Trustee; and Firststar Bank Iowa, N.A., is Beneficiary in the sum of Twenty Million Dollars dated January 8, 1998, and filed with the Douglas County Register of Deeds on January 8, 1998, in Book 5189, at Page 714.

8. Deed of Trust with Power of Sale in which Horgan Development Company is Trustor; Dan D. Stoller, Esq., is Trustee; and Firststar Bank Iowa, N.A., is Beneficiary in the sum of Twenty Million Dollars dated December 31, 1997, and filed with the Douglas County Register of Deeds on December 31, 1997, in Book 5183, at Page 575.

9. Deed of Trust with Power of Sale in which Horgan Development Company is Trustor; Dan D. Stoller, Esq., is Trustee; and Firststar Bank Iowa, N.A., is Beneficiary in the sum of Twenty Million Dollars dated January 5, 1998, and filed with the Douglas County Register of Deeds on January 5, 1998, in Book 5186, at Page 287.

UCC-1s

FINANCING STATEMENT FILING

DATE

Book 158, Page 96	December 31, 1997
Book 158, Page 97	December 31, 1997
Book 158, Page 99	December 31, 1997
Book 159, Page 14	January 9, 1998
Book 159, Page 28	January 15, 1998
Book 158, Page 98	December 31, 1997
Book 159, Page 6	January 5, 1998
Book 159, Page 13	January 8, 1998
Book 158, Page 94	December 31, 1997

Firststar Bank Iowa, N.A., hereby consents to the foregoing Easements and Restrictive Covenants of which this Consent and Subordination is a part, joins in the grant thereof, and hereby subordinates the liens of the Deeds of Trust and UCC-1s to such Easements and Restrictive Covenants.

FIRSTSTAR BANK IOWA, N.A.

By: *Kathie Ann Caswege*
Title: VP

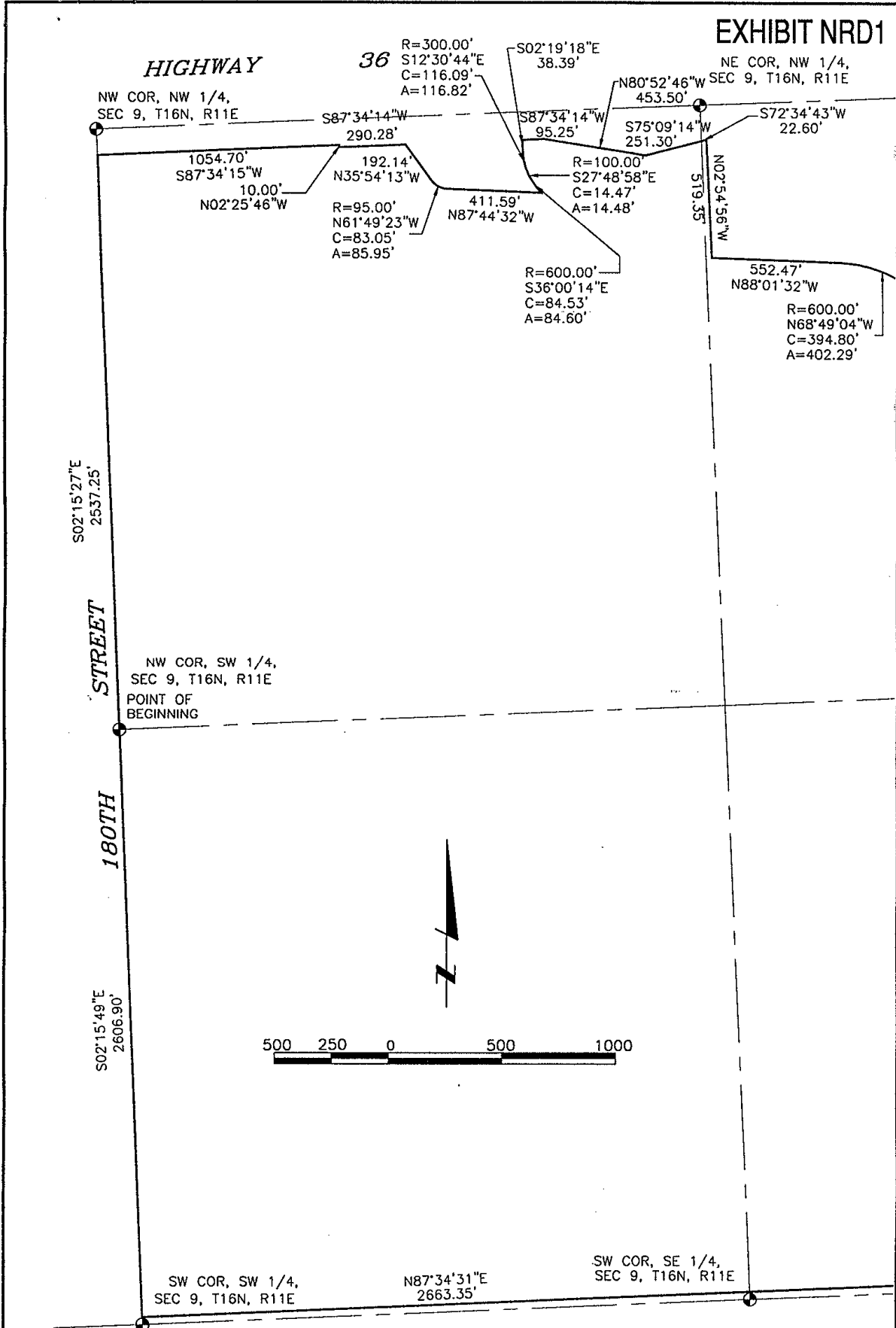
STATE OF IOWA)
) ss.
COUNTY OF Woodbury)

On this 5 day of August, 1998, before me, a notary public, personally came Kathie von Aswege, Vice President of FIRSTAR BANK IOWA, N.A., to me personally known to be the identical person whose name is affixed to the above and foregoing instrument, and acknowledged the same to be his/her voluntary act and deed and the voluntary act and deed of said bank.

WITNESS my hand and notarial seal the date last aforesaid.



Jeff M. Eaton
Notary Public



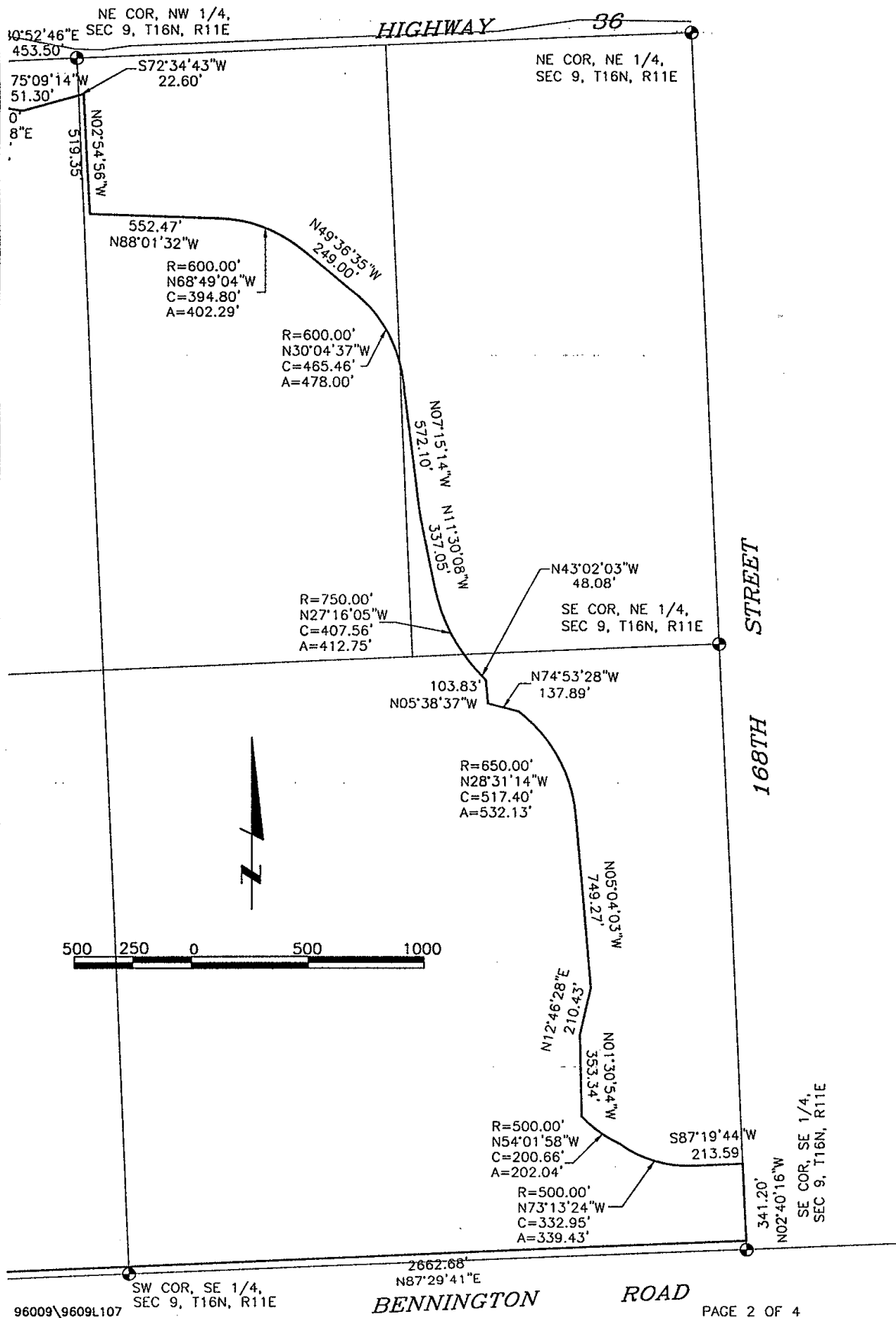
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BENNINGTON ROAD

PAGE 1 OF 4

Book Page Date JULY 21, 1998 Dwn.By AET Job Number 96009.01-400

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 engineers surveyors planners
 14710 west dodge road, suite 100
 omaha, nebraska 68154-2029
 ph 402-496-2488
 fax 402-496-2730



lamp, ryneason & associates, inc.
 engineers surveyors planners

14710 west dodge road, suite 100
 omaha, nebraska 68154-2029

ph 402-496-2498
 fax 402-496-2730

EXHIBIT NRD 1

LEGAL DESCRIPTION

That part of Section 9, Township 16 North, Range 11 East of the 6th P.M., Douglas County, Nebraska, described as follows:

Beginning at the northwest corner of the Southwest Quarter of Section 9;
Thence South 02°15'49" East (assumed bearings) for 2606.90 feet along the west line of the said Southwest Quarter of Section 9 to the north right of way line of Bennington Road;
Thence North 87°34'31" East for 2663.35 feet along said north right of way line to the east line of the Southwest Quarter of Section 9;
Thence North 87°29'41" East for 2662.68 feet along the north right of way line of Bennington Road to the east line the Southeast Quarter of Section 9;
Thence North 02°40'16" West for 341.20 feet along said east line;
Thence South 87°19'44" West for 213.59 feet;
Thence along a curve to the right (having a radius of 500.00 feet and a long chord bearing North 73°13'24" West for 332.95 feet) for an arc length of 339.43 feet;
Thence along a curve to the right (having a radius of 500.00 feet and a long chord bearing North 54°01'58" West for 200.66 feet) for an arc length of 202.04 feet;
Thence North 01°30'54" West for 353.34 feet;
Thence North 12°46'28" East for 210.43 feet;
Thence North 05°04'03" West for 749.27 feet;
Thence along a curve to the left (having a radius of 650.00 feet and a long chord bearing North 28°31'14" West for 517.40 feet) for an arc length of 532.13 feet;
Thence North 74°53'28" West for 137.89 feet;
Thence North 05°38'37" West for 103.83 feet;
Thence North 43°02'03" West for 48.08 feet;
Thence along a curve to the right (having a radius of 750.00 feet and a long chord bearing North 27°16'05" West for 407.56 feet) for an arc length of 412.75 feet;
Thence North 11°30'08" West for 337.05 feet;

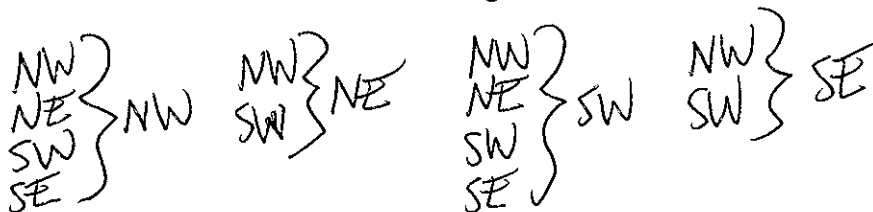
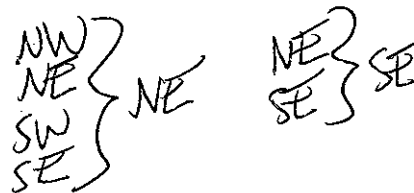


EXHIBIT NRD 1

Thence North 07°15'14" West for 572.10 feet;
Thence along a curve to the left (having a radius of 600.00 feet and a long chord bearing North 30°04'37" West for 465.46 feet) for an arc length of 478.00 feet;
Thence North 49°36'35" West for 249.00 feet;
Thence along a curve to the left (having a radius of 600.00 feet and a long chord bearing North 68°49'04" West for 394.80 feet) for an arc length of 402.29 feet;
Thence North 88°01'32" West for 552.47 feet;
Thence North 02°54'56" West for 519.35 feet to the south right of way line of Highway 36;
Thence South 72°34'43" West for 22.60 feet along said south right of way line to the west line of the Northeast Quarter of Section 9;
Thence South 75°09'14" West for 251.30 feet along said south right of way line;
Thence North 80°52'46" West for 453.50 feet along said south right of way line;
Thence South 87°34'14" West for 95.25 feet along said south right of way line;
Thence South 02°19'18" East for 38.39 feet;
Thence along a curve to the left (having a radius of 300.00 feet and a long chord bearing South 12°30'44" East for 116.09 feet) for an arc length of 116.82 feet;
Thence along a curve to the left (having a radius of 100.00 feet and a long chord bearing South 27°48'58" East for 14.47 feet) for an arc length of 14.48 feet;
Thence along a curve to the left (having a radius of 600.00 feet and a long chord bearing South 36°00'14" East for 84.53 feet) for an arc length of 84.60 feet;
Thence North 87°44'32" West for 411.59 feet;
Thence along a curve to the right (having a radius of 95.00 feet and a long chord bearing North 61°49'23" West for 83.05 feet) for an arc length of 85.95 feet;
Thence North 35°54'13" West for 192.14 feet to the south right of way line of Highway 36;
Thence South 87°34'14" West for 290.28 feet along said south right of way line;
Thence North 02°25'46" West for 10.00 feet along said south right of way line;
Thence South 87°34'15" West for 1054.70 feet along said south right of way line to the west line of the Northwest Quarter of Section 9;
Thence South 02°15'27" East for 2537.25 feet to the Point of Beginning.
Contains 490.79 acres.



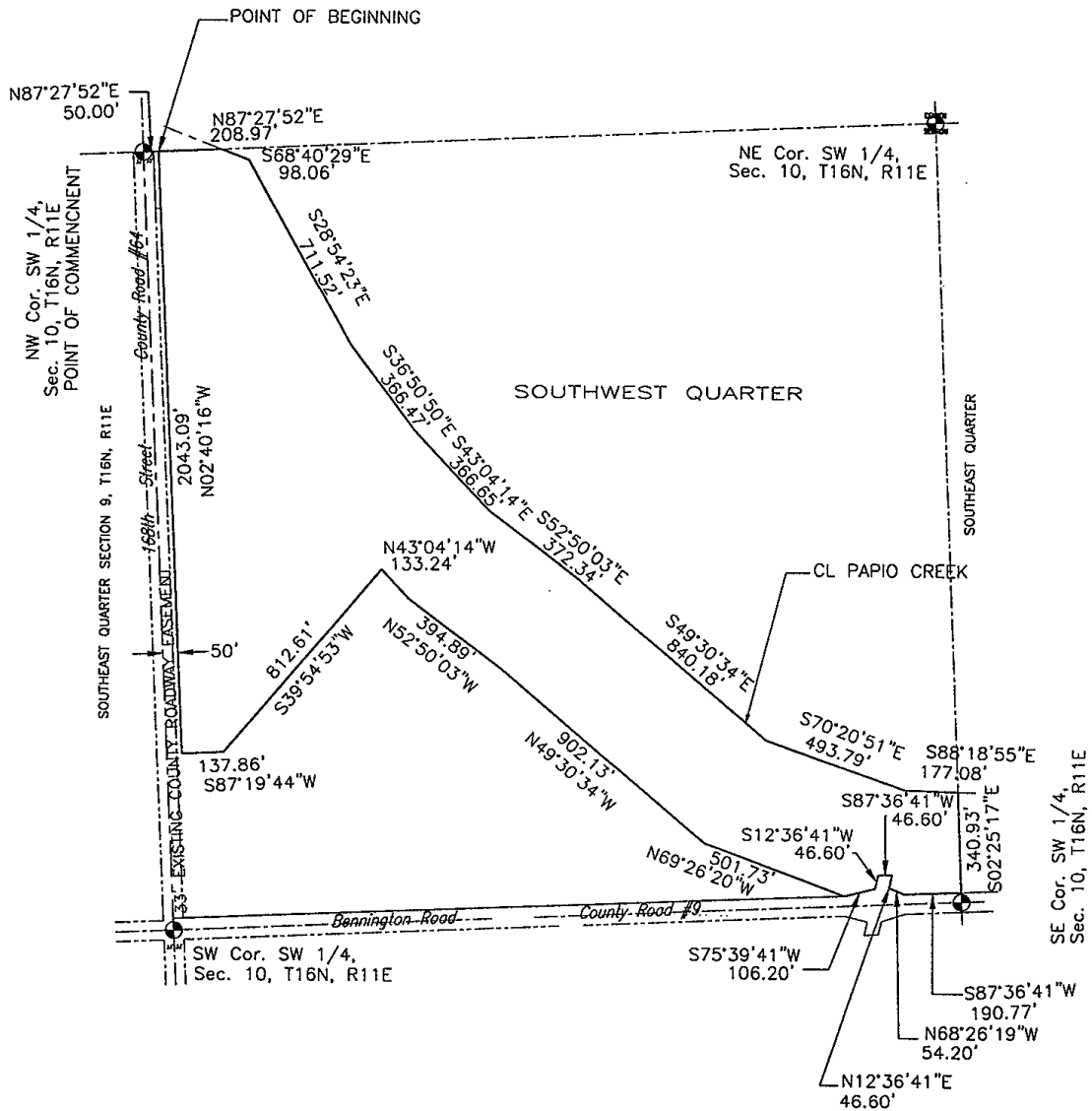
June 29, 1998

LAMP, RYNEARSON & ASSOCIATES, INC.

96009


(Access Easement over part of E2, 8-16-11 granted to P/MR NRD)

EXHIBIT NRD2



96009\9609BND3

Book _____ Page _____ Date JULY 21, 1998 Dwn.By AET Job Number 96009.01-400



lamp, rynearson & associates, inc.
engineers surveyors planners

14710 west dodge road, suite 100
omaha, nebraska 68154-2029

ph 402-498-2498
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EXHIBIT NRD 2

LEGAL DESCRIPTION

That part of the Southwest Quarter of Section 10, Township 16 North, Range 11 East of the 6th P.M., Douglas County, Nebraska, described as follows:

Commencing at the northwest corner of the Southwest Quarter of Section 10;

Thence North 87°27'52" East (assumed bearings) for 50.00 feet along the north line of the Southwest Quarter to the TRUE POINT OF BEGINNING;

Thence North 87°27'52" East for 208.97 feet along the north line of the Southwest Quarter to the centerline of the Papio Creek;

Thence southeast along the centerline of said Papio Creek for the next eight courses:

- Thence South 68°40'29" East for 98.06 feet;
- Thence South 28°54'23" East for 711.52 feet;
- Thence South 36°50'50" East for 366.47 feet;
- Thence South 43°04'14" East for 366.65 feet;
- Thence South 52°50'03" East for 372.34 feet;
- Thence South 49°30'34" East for 840.18 feet;
- Thence South 70°20'51" East for 493.79 feet;
- Thence South 88°18'55" East for 177.08 feet to the east line of the Southwest Quarter of Section 10;

Thence South 02°25'17" East for 340.93 feet along said east line to the north right of way line of Bennington Road;

Thence west along the north right of way line of Bennington Road for the next six courses:

- 1) Thence South 87°36'41" West for 190.77 feet;
 - 2) Thence North 68°26'19" West for 54.20 feet;
 - 3) Thence North 12°36'41" East for 46.60 feet;
 - 4) Thence South 87°36'41" West for 46.60 feet;
 - 5) Thence South 12°36'41" West for 46.60 feet;
 - 6) Thence South 75°39'41" West for 106.20 feet;
- Thence North 69°26'20" West for 501.73 feet;
Thence North 49°30'34" West for 902.13 feet;
Thence North 52°50'03" West for 394.89 feet;
Thence North 43°04'14" West for 133.24 feet;
Thence South 39°54'53" West for 812.61 feet;
Thence South 87°19'44" West for 137.86 feet;
Thence North 02°40'16" West for 2043.09 feet parallel with and 50.00 feet east of the west line of the Southwest Quarter to the Point of Beginning.

Contains 46.18 acres.

NW }
SW } SW
SE }

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July 3, 1998

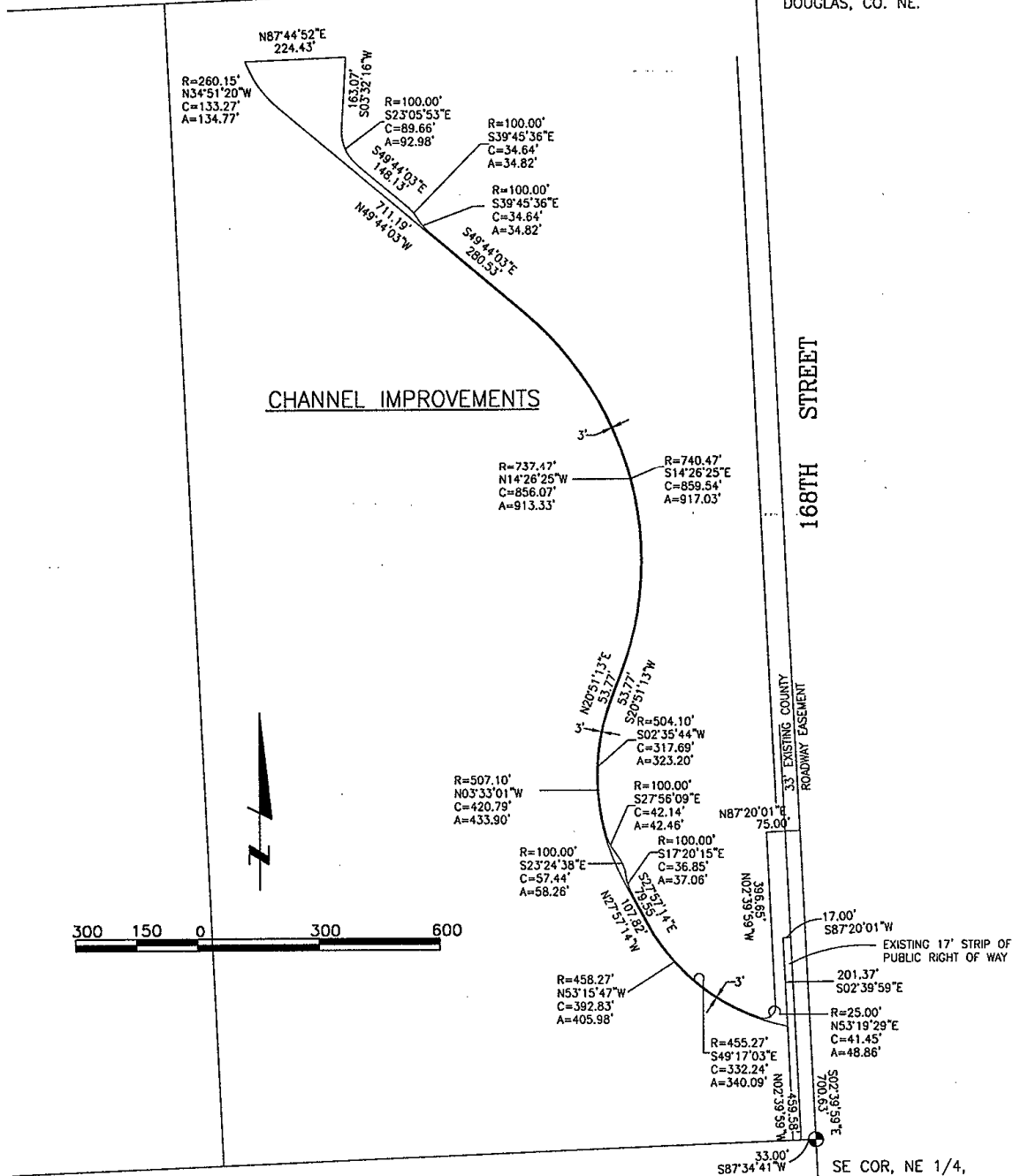
LAMP, RYNEARSON & ASSOCIATES, INC.

96009

(Unusable Land lying SW of the Papio Creek in SW4, 10-16-11)

HIGHWAY 36

NE COR, NE 1/4,
SEC 9, T16N, R11E
DOUGLAS, CO. NE.



lamp, rynearson & associates, inc.
 engineers surveyors planners

14710 west dodge road, suite 100 ph 402-496-2498
 omaha, nebraska 68154-2029 fax 402-496-2730

LEGAL DESCRIPTION

That part of the Northeast Quarter of Section 9, Township 16 North, Range 11 East of the 6th P.M., Douglas County, Nebraska, described as follows:

Beginning at the southeast corner of the said Northeast Quarter of Section 9;

Thence South 87°34'41" West (assumed bearings) for 33.00 feet along the south line of the said Northeast Quarter of Section 9 to the east line of a seventeen foot strip of public right of way;

Thence North 02°39'59" West for 459.58 feet along said east line parallel with and 33.00 feet west of the east line of the Northeast Quarter of Section 9;

Thence South 87°20'01" West for 17.00 feet to the west line of said seventeen foot strip of public right of way;

Thence South 02°39'59" East for 201.37 feet along said west line parallel with and 50.00 feet west of the east line of the Northeast Quarter of Section 9;

Thence along a curve to the right (having a radius of 458.27 feet and a long chord bearing North 53°15'47" West for 392.83 feet) for an arc length of 405.98 feet;

Thence North 27°57'14" West for 107.82 feet;

Thence along a curve to the right (having a radius of 507.10 feet and a long chord bearing North 03°33'01" West for 420.79 feet) for an arc length of 433.90 feet;

Thence North 20°51'13" East for 53.77 feet;

Thence along a curve to the left (having a radius of 737.47 feet and a long chord bearing North 14°26'25" West for 856.07 feet) for an arc length of 913.33 feet;

Thence North 49°44'03" West for 711.19 feet;

Thence along a curve to the right (having a radius of 260.15 feet and a long chord bearing North 34°51'20" West for 133.27 feet) for an arc length of 134.77 feet;

Thence North 87°44'52" East for 224.43 feet;

Thence South 03°32'16" West for 163.07 feet;

NW }
NE } NE
SE }
NE }
SE } SE

June 29, 1998

LAMP, RYNEARSON & ASSOCIATES, INC.

96009

(Access over Dike in NE 1/4, 9-16-11, Granted to P/MR NRD)

EXHIBIT NRD 3

Thence along a curve to the left (having a radius of 100.00 feet and a long chord bearing South 23°05'53" East for 89.66 feet) for an arc length of 92.98 feet;
Thence South 49°44'03" East for 148.13 feet;
Thence along a curve to the right (having a radius of 100.00 feet and a long chord bearing South 39°45'36" East for 34.64 feet) for an arc length of 34.82 feet;
Thence along a curve to the left (having a radius of 100.00 feet and a long chord bearing South 39°45'36" East for 34.64 feet) for an arc length of 34.82 feet;
Thence South 49°44'03" East for 280.53 feet;
Thence along a curve to the right (having a radius of 740.47 feet and a long chord bearing South 14°26'25" East for 859.54 feet) for an arc length of 917.03 feet;
Thence South 20°51'13" West for 53.77 feet;
Thence along a curve to the left (having a radius of 504.10 feet and a long chord bearing South 02°35'44" West for 317.69 feet) for an arc length of 323.20 feet;
Thence along a curve to the left (having a radius of 100.00 feet and a long chord bearing South 27°56'09" East for 42.14 feet) for an arc length of 42.46 feet;
Thence along a curve to the right (having a radius of 100.00 feet and a long chord bearing South 23°24'38" East for 57.44 feet) for an arc length of 58.26 feet;
Thence along a curve to the left (having a radius of 100.00 feet and a long chord bearing South 17°20'15" East for 36.85 feet) for an arc length of 37.06 feet;
Thence South 27°57'14" East for 79.55 feet;
Thence along a curve to the left (having a radius of 455.27 feet and a long chord bearing South 49°17'03" East for 332.24 feet) for an arc length of 340.09 feet;
Thence along a curve to the left (having a radius of 25.00 feet and a long chord bearing North 53°19'29" East for 41.45 feet) for an arc length of 48.86 feet;
Thence North 02°39'59" West for 396.65 feet parallel with and 75.00 feet west of the east line of the said Northeast Quarter of Section 9;
Thence North 87°20'01" East for 75.00 feet to the east line of the said Northeast Quarter of Section 9;
Thence South 02°39'59" East for 700.63 feet to the Point of Beginning.
Contains 1.82 acre including 0.62 of existing county roadway easement.

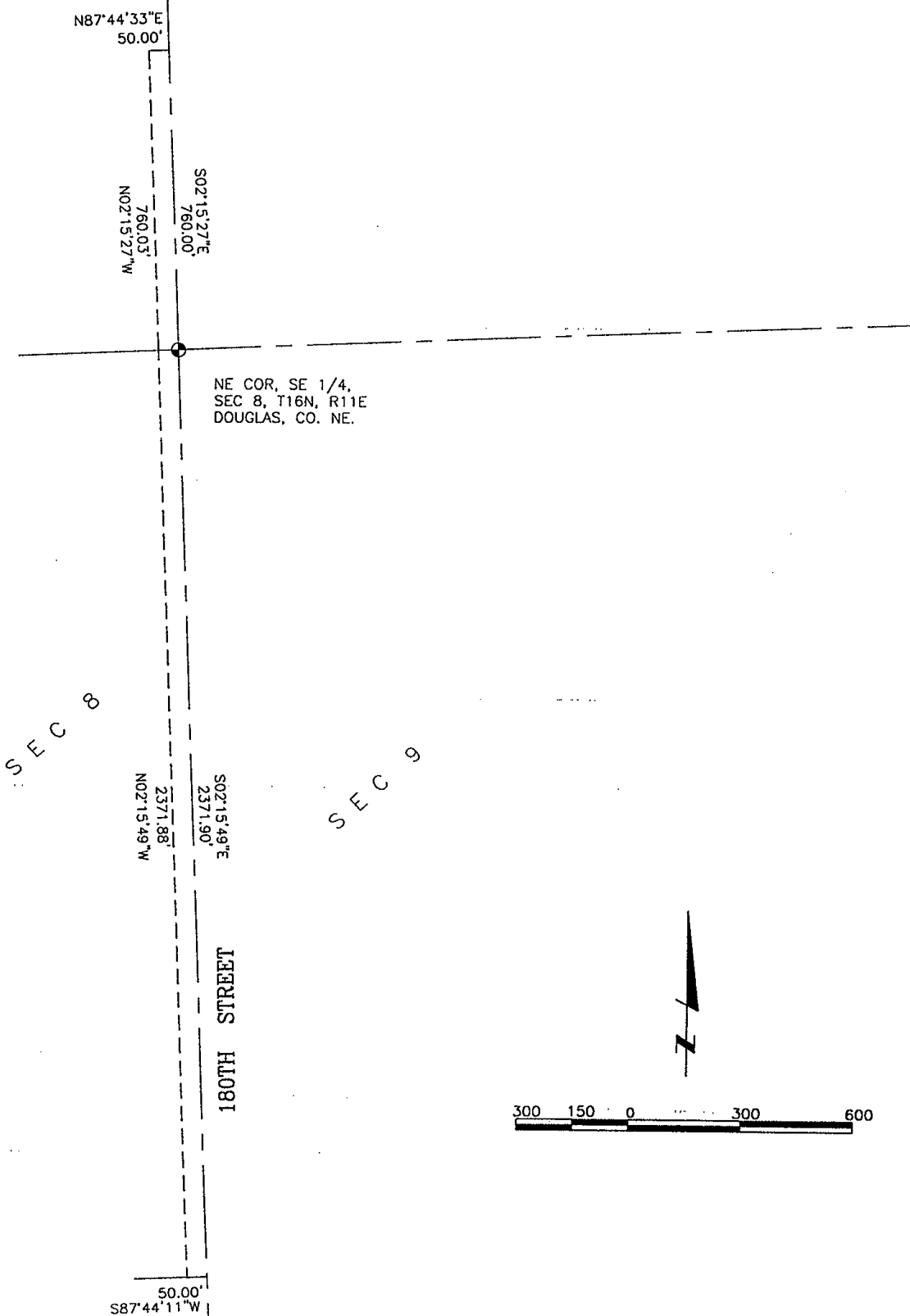
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June 29, 1998

LAMP, RYNEARSON & ASSOCIATES, INC.

96009

(Access over Dike in NE 1/4, 9-16-11, Granted to P/MR NRD)



96009\9609L104 V1

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Book _____ Page _____ Date JUNE 29, 1998 Dwn.By AET Job Number 96009.01-400

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 engineers surveyors planners

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EXHIBIT NRD 4

SENE

LEGAL DESCRIPTION

The South 760.00 feet of the East 50.00 feet of the Northeast Quarter of Section 8, Township 16 North, Range 11 East of the 6th P.M., Douglas County, Nebraska.

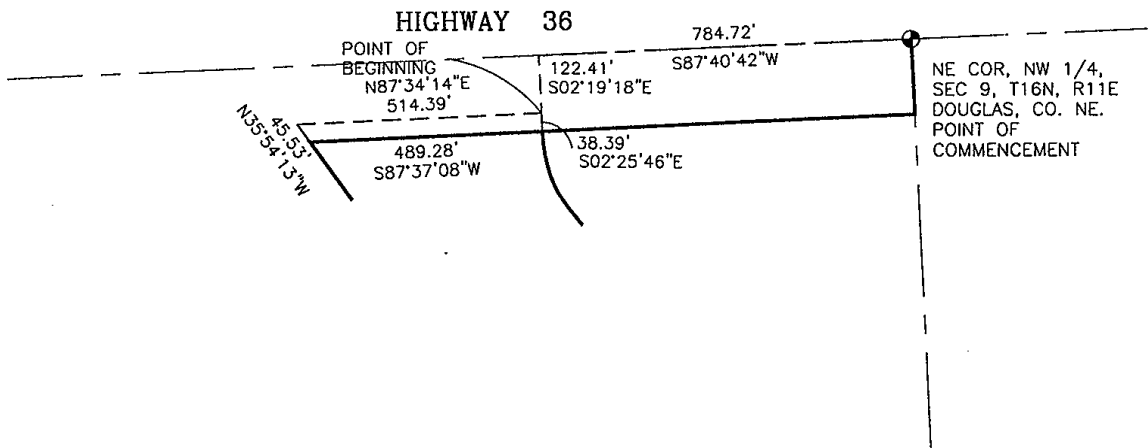
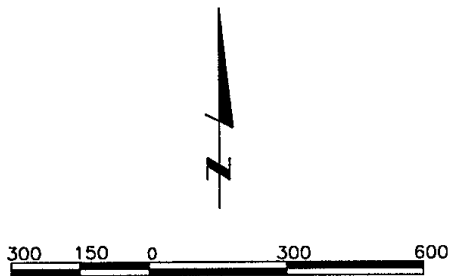
TOGETHER WITH

LEGAL DESCRIPTION

The North 2371.90 feet of the East 50.00 feet of the Southeast Quarter of Section 8, Township 16 North, Range 11 East of the 6th P.M., Douglas County, Nebraska.

*NE } SE
SE }*


June 29, 1998
LAMP, RYNEARSON & ASSOCIATES, INC.
96009 (Access Easement over part of E2, 8-16-11 granted to P/MR NRD)



96009\9609L104 V3

PAGE 1 OF 2

Book _____ Page _____ Date JUNE 29, 1998 Dwn.By AET Job Number 96009.01-400

 **lamp, rynearson & associates, inc.**
engineers surveyors planners

14710 west dodge road, suite 100
omaha, nebraska 68154-2029

ph 402-496-2498
fax 402-496-2730

LEGAL DESCRIPTION

That part of Northwest Quarter of Section 9, Township 16 North, Range 11 East of the 6th P.M., Douglas County, Nebraska, described as follows:
Commencing at the northeast corner of the said Northwest Quarter of Section 9;
Thence South 87°40'42" West (assumed bearings) for 784.72' feet along the north line of the said Northwest Quarter of Section 9;
Thence South 02°19'18" East for 122.41 feet to the south right of way line of Highway 36 and the TRUE POINT OF BEGINNING;
Thence South 02°25'46" East for 38.39 feet;
Thence South 87°37'08" West for 489.28 feet;
Thence North 35°54'13" West for 45.53 feet to the said south right of way line of Highway 36;
Thence North 87°34'14" East for 514.39 feet to the Point of Beginning.
Contains 0.44 acre.

NE/NW