



BURLEIGH COUNTY WATER RESOURCE DISTRICT AGENDA

Tuesday, March 7th, 2023 at 8:00 am

Tom Baker Room, 221 N. 5th Street Bismarck

8:00 a.m. – Call to Order

- Roll Call (Reep, Landenberger, Palm, Smith, Binegar):
- **Approval of 02/08/2023 Minutes:**3-7
- **Amendments and Approval of Agenda:**
- Comments from Members of the Public: (For Items Not on the agenda):
- McDowell Dam (Binegar/Landenberger):
 - Facility Update
 - Supplemental Water Supply
 - Alternative intake site update
 - Landowner meeting March 2nd
 - McDowell Dam Inspection4-28
- Financial Reports (Reep):
 - **Balance Sheet 02/28/2023** 29-30
 - **P&L 02/28/2023 YTD**..... 31-32
- Drainage Permits/Complaints/Issues: *Open (Palm)*:
- Drainage Permits/Complaints/Issues: *Closed (Palm)*:
- Projects:
 - Sibley Island (Gunsch\Reep):
 - Preliminary Engineering Report – Ongoing
 - Economic Assessment – DWR final review (alternative submitted)
 - SWC Cost Share Request Letter and Web Grants Application33-39
 - Special Assessment District – Parcel Summary with costs
 - Special Assessment Determination Memorandum
 - Alternative Two – (Preferred Alternative) - Justification Memorandum
 - Landowner Notification Letter (Responses)
 - Public Information Meeting Held 2-15-2023
 - Meeting Summary40-44
 - Public Comments
- Other Old Business:
 - Burleigh County WRD Assessment District Projects
 - Highway Dept O&M Agreements (draft updates to BCHD-Pending)
 - Policy Manual
 - Hoge Island Update (Binegar)
- New Business
 - Section 32 – SWC Planning Form45-80

- Legislative Update (Reep)
- NWS Flood and Water Resources Outlook for the Missouri River Basin
- Correspondence or Document Information:
 - Plats & SWMP's – Not included due to size...Available on request.
 - Dushinske & Jamison Scholarship Application Information.....81-83
- **Approval of Bills (\$16,794.00) 84**
- Detailed Bills85-88
- Next Meeting: April 12, 2023, 8:00 AM, Tom Baker Room
- Adjourn

Note: Bold Items Require Board Action

BCWRD Meeting Minutes
February 8, 2023
Draft – not approved yet.

Agenda Items	Discussion	Board Action	Responsible Party(s)	Due Date
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Present: James Landenberger; Dennis Reep; Roger Smith; Randy Binegar; Cory Palm; Michael Gunsch and Travis Johnson, Houston Engineering; Dave Bliss, Bliss Law Firm, Jerry Woodcox, Burleigh County Commissioner and Wendy Egli, Fronteer Professional Services
Others Present: Dave Robinson and Dave Mayer (Bismarck Parks & Rec), Mitch Flanagan (Burleigh County Planning), Nicki Vasbinder, John Homelvig, Becky Strutz, Clark Coleman, Lisa Pagan, (Hoge Island Residents), Brett Falk and Nik Diehl (A to Z)

Chairman Landenberger called the meeting to order at 8:02 am. Roll call was taken and a quorum was declared.

Discussion	Action Taken	Responsible Party(s)	Due Date
Approval of 08/10/2022 Minutes	Mgr. Smith motions to approve 01/04/2023 minutes; Mgr. Binegar second. Carried by unanimous voice vote		
Amendments and Approval of Agenda	Add Hoge Island to New Business and US Army Corps Meeting being held on February 24 th . Also add 1 bill	Mgr. Palm motions to approve agenda as amended, Mgr. Smith seconds. Carried by unanimous voice vote.	
Comments from Members of the Pubic	None noted.		
Approval of Agenda Only Contact List	Mark Sponskowski and the three new county commissioners need to be added to list.	No action required	
McDowell Dam			
Facility Update	No updates	Archery R100 event was cancelled due to a conflicting national event in SD	
Supplemental Water Supply Alternative intake site update	Travis Johnson from Houston Engineering has contacted the landowner and sent her the information. We are waiting on a reply		
Emergency Action Plan Update	This is completed – Houston Engineering will send out a full digital copy		
O&M Manual Revisions	Houston Engineering states this is roughly 80% completed.		
Financial Reports			
Balance Sheet	None noted.	Mgr. Reep motion to approve balance sheet; Mgr. Smith second. Carried by unanimous roll call vote.	

Agenda Items	Discussion	Board Action	Responsible Party(s)	Due Date
Profit & Loss	None Noted	Mgr. Reep motion to approve profit & loss; Mgr. Palm second. Carried by unanimous roll call vote.		
Bliss Law Firm 2023 Fee Schedule	For information only as it was approved last month			
Drainage Permits/Complaints/ Issues: Open	None			
Drainage Permits/Complaints/ Issues: Closed	None			
Projects				
Sibley Island				
Preliminary Engineering Report	This is scheduled for April			
Economic Assessment	This has been completed			
SWC Cost Share	Cost share request has been completed. There are two different loan programs that may be available. Houston is reviewing the application process to see if they fit the project.			
Special Assessment District	Landowners are being advised that if they have a specific request regarding their property, they will need to notify the board within 30 days.			
Landowner Notification Letter	Landowner notification letter was sent out regarding the public information meeting being held on February 15 th . The information is on our website also.			
Meeting with Bismarck Parks and Rec				
Public Information Meeting	Public Information Meeting (PIM) is being held on February 15 th . There will be a 30-45 minute presentation that is televised, then a non-televised public input Q&A.			
Other Old Business				
Policy Manual				
New Business				
NDWRDA Action Alert				

Agenda Items	Discussion	Board Action	Responsible Party(s)	Due Date
	<p>HB 1076 creates a tiered regulatory framework for dikes based on what the dike is protecting and not a specified volume. It does this by eliminating the requirement for a professional engineer for the construction of agricultural dikes and farmstead ring dikes, increasing the threshold for requiring a construction permit for an agricultural dike from 50 acre-feet volume protected to 80 acres or more protected area, and requiring construction permits for construction of municipal dikes if they are protecting residences or occupied structures.</p> <p>This passed the house unanimously – good change</p>			
	<p>HB 1239 would renew legislation passed during the 2021 session that requires landowners to notify water resource districts when they are conducting a subsurface drain project that is under 80 acres. The notification requirement that was passed in 2021 will sunset if this legislation does not pass.</p>			
	<p>HB 1391 would require water resource districts publish and distribute meeting minutes within 72 hours after a meeting., this may fail – there is a sister bill HB1462 regarding aggrieved parties that is similar.</p> <p>It would also alter the trigger for when projects that are cleaning or repairing a drain have to go to a public vote. Currently, these projects only go to a vote when the cost of the project, minus dollars received for sources other than annual levies,</p>			

Agenda Items	Discussion	Board Action	Responsible Party(s)	Due Date
	<p>exceeds the amount the board receives over six years in annual levies. This proposal would require projects that cost more than that six-year max, regardless of other funds, to go to a vote.</p> <p>Water districts oppose this bill</p>			
	<p>SB 2036 is the clean-up bill put together by the interim drainage committee. This bill combines the current two chapters of code that deal with assessment projects into one chapter and makes some updates to the assessment process. The committee made a slight amendment to the bill to update a reference to the Department of Water Resources and fix a drafting error. The Senate passed the bill unanimously.</p> <p>This is supported by the district and is expected to pass</p>			
	<p>SB 2037 is the proposed economic analysis bill from the interim drainage committee. This bill would require water resource districts to conduct an in-depth economic analysis on every parcel proposed to be part of an assessment district.</p> <p>This is opposed</p>			
	<p>SB 2326 would clarify that the State Water Commission could only require an economic analysis on flood control and water conveyance projects above \$1 million. This would remove the SWC's ability to lower that threshold via policy as is current practice.</p>			
	<p>SB 2372 would require the Department of Water Resources to establish boundaries for watershed districts and then require counties to appoint managers to the watershed districts. The current</p>			

Agenda Items	Discussion	Board Action	Responsible Party(s)	Due Date
	drainage chapter of code, 61-16.1, would apply to watershed districts.			
Sovereign Land Permit Application No. S2398, BNSF Bridge Demolition SB 2303	There is a 30 day comment period for this and a public information meeting is on March 3, 2023			
	Bill to require new construction to nothave their basement below 1 foot ordinary ground level			
ND Dept of Water Resources Annual Water Use Report	Houston will complete		Houston Engineering	
US Army Corps	Garrison Dam Meeting on Friday, February 24th			
Hoge Island	Notice was received regarding some rapid damage to the riverbank on Hoge Island north of Misty Waters. Discussion between board and residents was held	Mgr. Reep made a motion to offer up our consulting engineer's time to assist and manage the situation. Limited to assistance, not to include design work. Motion 2nd by Mgr. Smith. Motion passed via unanimous roll call vote.		
Approval of Bills	Bills were presented totaling \$59,830.15, Roger Smith's reimbursement was added making total \$60,020.15	Mgr. Reep motion to approve payment of bills; Mgr. Smith second. Motion carried by unanimous roll call vote.		
Next Meeting	The next meeting date is February 7, 2023 at 8:00 AM in the Tom Baker Room.			

With no further business the meeting adjourned at 9:33 a.m.

Wendy Egli, BCWRD Admin. Secretary



Natural Resources
Conservation Service

Bismarck State Office
PO Box 1458
Bismarck, ND
58502-1458

Voice 701.530.2000
Fax 855-813-7556

February 24, 2023
James Landenberger, Chairman
Burleigh County Water Resource District
4007 State Street Ste. #20
Bismarck, ND 58503

Dear Mr. Landenberger,

On August 30th 2022, Nick Reynolds and Paula Kvernum from the NRCS completed an inspection of McDowell Dam. Unfortunately, none of the invited WRD board or staff were able to attend the dam inspection at that time.

As you know, the terms of the Operation and Maintenance (O&M) Agreement require annual joint inspections and follow up repair and maintenance work by the WRD for the design life of the structure. In this case, the O&M Agreement is active until 2026. The NRCS is responsible for ensuring that structures installed through the PL-566 Watershed Protection and Flood Prevention Program are adequately maintained to protect the public investment and to ensure public safety. The purpose of this letter is to provide notice and reminder that maintenance or repair work is necessary for remaining in compliance with the O&M Agreement and is critical for protecting life and infrastructure downstream of the dam.

NRCS classifies dams according to the potential hazard to life and property if the dam should suddenly breach or fail. Dam classification requires consideration of existing and future downstream development, including controls for future development. The following is a review of NRCS dam potential hazard classifications:

Low Hazard Potential

- Dams in rural or agricultural areas where failure may damage farm buildings, agricultural land, or township and country roads.

Significant Hazard Potential

- Dams in predominantly rural or agricultural areas where failure may damage isolated homes, main highways, or minor railroads, or interrupt service of relatively important public utilities.

High Hazard Potential

- Dams where failure may cause loss of life or serious damage to homes, industrial or commercial buildings, important public utilities, main highways, or railroads.

Currently, McDowell Dam is classified as Significant Hazard by the NRCS. Note that the ND Department of Water Resources (DWR) is currently in the process of updated dam breach analyses and hazard class updates, which may result in a change

to that classification in the future. In addition, there are some situations where the DWR and NRCS classifications differ.

Please refer to Attachment 1 for the Dam Inspection Checklist; Attachment 2 for the Dam Inspection Structure Plan; and Attachment 3 for the Dam Inspection Photos. Based upon this most recent inspection, the following actions should take place by the end of 2023 in order to maintain compliance with the O&M Agreement (Refer to the Dam Inspection Checklist for item numbers indicated and to the Dam Inspection Structure Plan for locations of referenced repair actions.):

- 2f. Woody vegetation upon upstream slope and within riprap of embankment is to be removed and sprayed.
- 2g. Animal burrows on upstream slope of embankment and crest are to be repaired and measures taken to removed burrowing animals from embankment.
- 2h. Weeds throughout riprap on upstream face are to be sprayed.
- 3f. Large trees present at intersection of downstream toe and right downstream abutment groin. Trees within a 20'-0" offset from embankment and abutment groin are to be cut and sprayed. Do not remove root system of cut trees.
- 3g. Animal burrows on downstream slope of embankment are to be repaired and measures taken to removed burrowing animals from embankment.
- 3h. All auxiliary drains are clogged with iron ochre or sedimented in. These drains are to be on clogged and dug out so free drainage can occur.
- 4c. Trash rack angles that are rusted shall be cleaned and re-painted with galvanized metal paint.
- 4g. Threaded rods, tensioning flash boards, within inlet are to be removed. Threaded rods cause obstruction of the inlet where debris can collect. Flash boards are to be secured in an alternate way that would not obstruct the inlet.
- 4j. Anchor bolt missing on stem anchor plate is to be replaced.
- 6a. Trees in auxiliary spillway are to be cut and sprayed.
- 6c. Animal burrows on auxiliary spillway are to be repaired and measures taken to removed burrowing animals from the auxiliary spillway.
- 8n. Vegetation at outlet is to be cleared so as to not obstruct principal outlet flow and foundation and auxiliary drain outlets.

Leadership at NRCS National Headquarters has requested that I advise you that failure to complete these actions may result in further action by the government as outlined in the agreement. They have also asked me to advise you that you may file a written appeal to the above findings if you are not in concurrence.

I want to express my appreciation to the present and past board members and staff of the Burleigh County Water Resource District for their efforts to ensure that this structure performs to its fullest potential. Your diligence in implementing the O&M Plan and addressing items of work identified through inspections allows the federal, state, and local investments to provide flood control benefits that will exist well into the future.

If you have any questions or concerns associated with the information provided in this letter, please contact Christi Fisher, State Conservation Engineer, at christi.fisher@usda.gov or 701-530-2091.

Sincerely,



Richard M. Webb
Acting State Conservationist

cc:

Christi Fisher, SCE, NRCS, Bismarck, ND

Karen Goff, Dam Safety Program Manager, NDDWR, Bismarck, ND

U.S. DEPARTMENT OF AGRICULTURE Natural Resource Conservation Service		ANNUAL DAM INSPECTION CHECKLIST			ND-ENG-4 Rev. 08/22
Project Name:	McDowell Dam				(R) REPAIR (M) MONITOR (I) INVESTIGATE
Local Name:	McDowell Dam	NRCS Hazard Class	Significant	NID# ND00039	
Location:	Sec. 27	Township 139	Range 79	Inspection Date 8/30/2022	
County	Burleigh Weather Clear, sunny, 75 deg				
Inspectors & Guests	Nick Reynolds Paula Kvernum				
"YES" responses need explanation added to "Remarks" section (i.e.: What? Where? Extent?). "NO" responses indicate no problems observed during					

ITEM	Y	N	N/A	REMARKS			
1. General Conditions							
a. Alterations to Dam	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>				
b. Alterations to ASW	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>				
c. Recent high water marks	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>				
d. Fencing adequate	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>				
e. Grass cover adequate	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>				
2. Upstream Slope/Crest							
a. Erosion	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>				
b. Cracks or settlements	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>				
c. Seepage or boils	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>				
d. Distinct Vegetation Change	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>				
e. Vehicle ruts or animal trails	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	vehicle tracks along crest		<input checked="" type="checkbox"/>	
f. Trees or woody vegetation	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	woody vegetation on slope; trees in riprap		<input checked="" type="checkbox"/>	
g. Rodent holes	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>			<input checked="" type="checkbox"/>	
h. Adequate and sound riprap	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	weeds throughout		<input checked="" type="checkbox"/>	
3. Downstream Slope							
a. Erosion	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Some uneven areas along slope; likley due to previous rodent activity		<input type="checkbox"/>	<input checked="" type="checkbox"/>
b. Cracks or settlements	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>				
c. Seepage or boils	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>				
d. Distinct Vegetation Change	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	patches of crested wheat within grassed slope		<input type="checkbox"/>	<input checked="" type="checkbox"/>
e. Vehicle ruts or animal trails	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>				
f. Trees or woody vegetation	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Woody vegetation and tree stumps		<input checked="" type="checkbox"/>	
g. Rodent holes	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	rodent activity noted along abutment groins		<input checked="" type="checkbox"/>	
h. Drains or wells flowing	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Aux drains clogged with iron ochre		<input checked="" type="checkbox"/>	
i. Adequate and sound riprap	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>				
4. PSW Intake Structure							
a. Spalling, cracking, & scaling	<input checked="" type="checkbox"/>	Concrete	<input type="checkbox"/>	Metal	WSE		
b. Exposed reinforcement	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>				
c. Corrosion present	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Trash rack angle iron		<input checked="" type="checkbox"/>	
d. Manhole cover present	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>				
e. Leakage	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Est. GPM			
f. Trash rack adequate	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>				
g. Inlet or trash rack obstructed	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Flash boards and threaded rod shall be removed		<input checked="" type="checkbox"/>	
h. Drawdown operative	<input checked="" type="checkbox"/>	Closed	<input type="checkbox"/>	Open			
i. Ladder intact	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>				
j. Pedestal securely fastened	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Anchor bolt missing		<input checked="" type="checkbox"/>	
k. Stem bent	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>				
l. Stem guides operational	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>				
m. Stem handwheel present	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>				
n. Do metal parts require painting	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Trash Rack angle iron		<input checked="" type="checkbox"/>	

McDowell Dam Annual Dam Inspection

8/30/2022

ITEM	Y	N	N/A	REMARKS	R	M	I
5. Abutment Contacts							
a. Erosion, cracks, or slips	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b. Seepage	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Active seep along right DS abutment	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
c. Gutters intact	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
d. Trees encroaching	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Trees and hydric vegetation at seep location	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
6. Auxiliary Spillway							
a. Obstructions	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Trees within spillway	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b. Erosion, cracks, or slips	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
c. Rodent holes	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	rodent activity along right wall of AS	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
d. Roads, ruts, or animal trails	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Some animal trails present across AS	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
e. Low areas or ditches	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
f. Seepage/Saturation	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	hydric vegetation near end of AS	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
7. PSW Conduit							
<input checked="" type="checkbox"/> Concrete <input type="checkbox"/> Metal							
a. Spalling, cracking, & scaling	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	minor scaling within pipe	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b. Exposed reinforcement	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
c. Joints displaced or offset	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
d. Joint material lost	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
e. Leakage	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
f. Conduit misaligned	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
8. Stilling Basin/Plunge Pool							
<input type="checkbox"/> Stilling Basin <input checked="" type="checkbox"/> Plunge Pool							
a. Spalling, cracking, & scaling	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b. Exposed reinforcement	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
c. Joints displaced or offset	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
d. Joint material lost	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
e. Joints leak	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
f. Dissipator deteriorating	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
g. Dissipator clean of debris	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
h. Toe drains visible	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
i. Toe drains flowing	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	trickle from right foundation drain	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
j. Toe drain animal guards	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
k. Toe drains damaged	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
l. Earth erosion	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
m. Adequate and sound riprap	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
n. Outlet channel obstructed	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Clear vegetation at outlet pipe and drains	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
9. Reservoir							
a. Buildings in floodpool	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	recreational infrastructure	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b. Slips or erosion on banks	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
c. Debris	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
d. Unsecured boats/docks	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	docks are anchored	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
e. Sediment deposits	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
10. Instruments							
a. Structure instrumented	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b. Monitoring performed	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

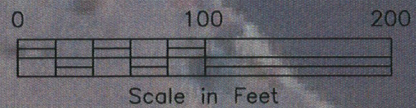
McDowell Dam Annual Dam Inspection

8/30/2022

REMARKS: Vehicle tracks across top of dam should be continuously monitored and addressed to ensure that no rutting is present. It is understood that this is part of a recreational trail system; ruts/low spots/lack of vegetation should be fixed as necessary.
Woody vegetation and tree stumps on dam embankment (US, DS, riprap) should be removed by appropriate means
DS face has noticable patches of crested wheat growing in lieu of preferred grasses; seed areas appropriately
Rodent activity noted along DS abutment groins; measure should be taken to remove rodents from dam area
Auxiliary drains 1&2 were clogged at the outlets due to the buildup of iron ochre. Maintenance activities of the dam should include periodic cleaning of these drain outlets to ensure proper function. Animal guard for drain 1 had fallen off and needs to be reinstalled
Trash rack angle iron should be painted with corrosion protective paint
Threaded rod trash rack clogged with vegetal debris; narrow spacing of these rods could potentially lead to clogging issues during high flows
Replace missing anchor bolt for pedestal of the drawdown gate. Plastic cover is also missing and should be replaced to prevent exposure and corrosion potential
Active seep along right DS abutment should be continuously monitored. Vegetation is near encroaching into embankment.
Trees within the auxiliary spillway need to be removed
Animal trails across AS should be monitored; if vegetation is eroded due to trails, take action to re-establish vegetal cover
Seep near end of AS has hydric vegetation; the woody vegetation needs to be removed to ensure proper function of the spillway
AS also contains woody vegetation throughout that should be actively managed
Minor spalling of concrete surface along inside of PS outlet pipe; continue to monitor for the development of any larger scale defects
Conitnue to monitor reservoir bank slopes; one eroded area has been stabilized with rock
Continue to monitor infrastructure and development within reservoir; ensure moveable items are properly anchored

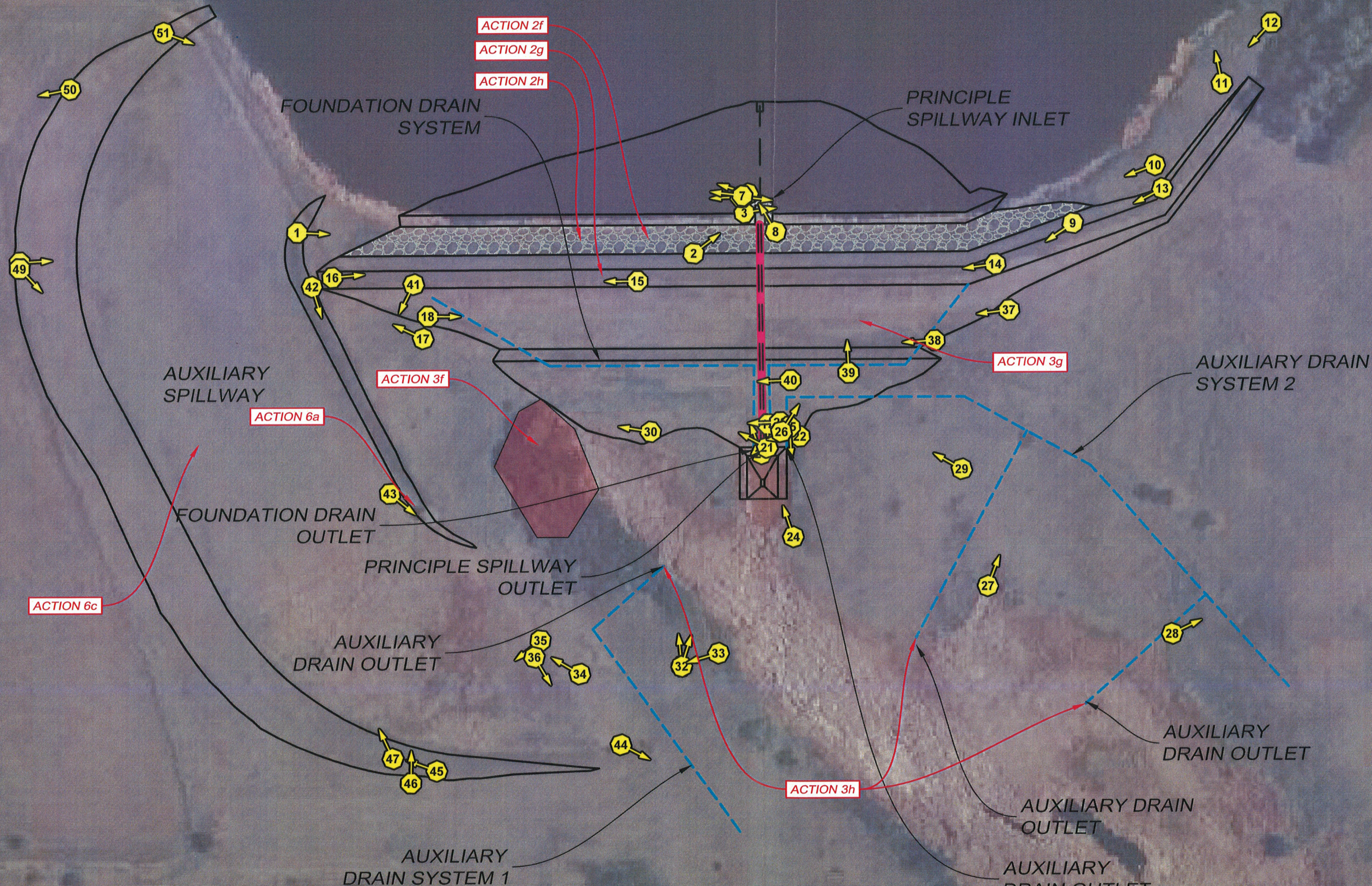
NRCS ENGINEER Tom Schanandore

Date 2/24/2023



Scale in Feet

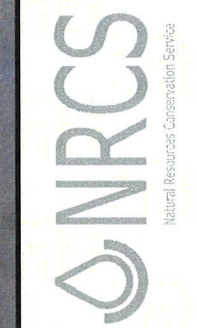
RESERVOIR



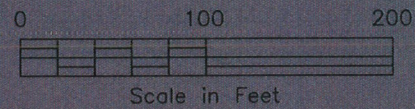
PLAN VIEW

Inspected	NRCS	Date	8/30/2022
Designed	NRCS	Construction Completed	1974
			1976

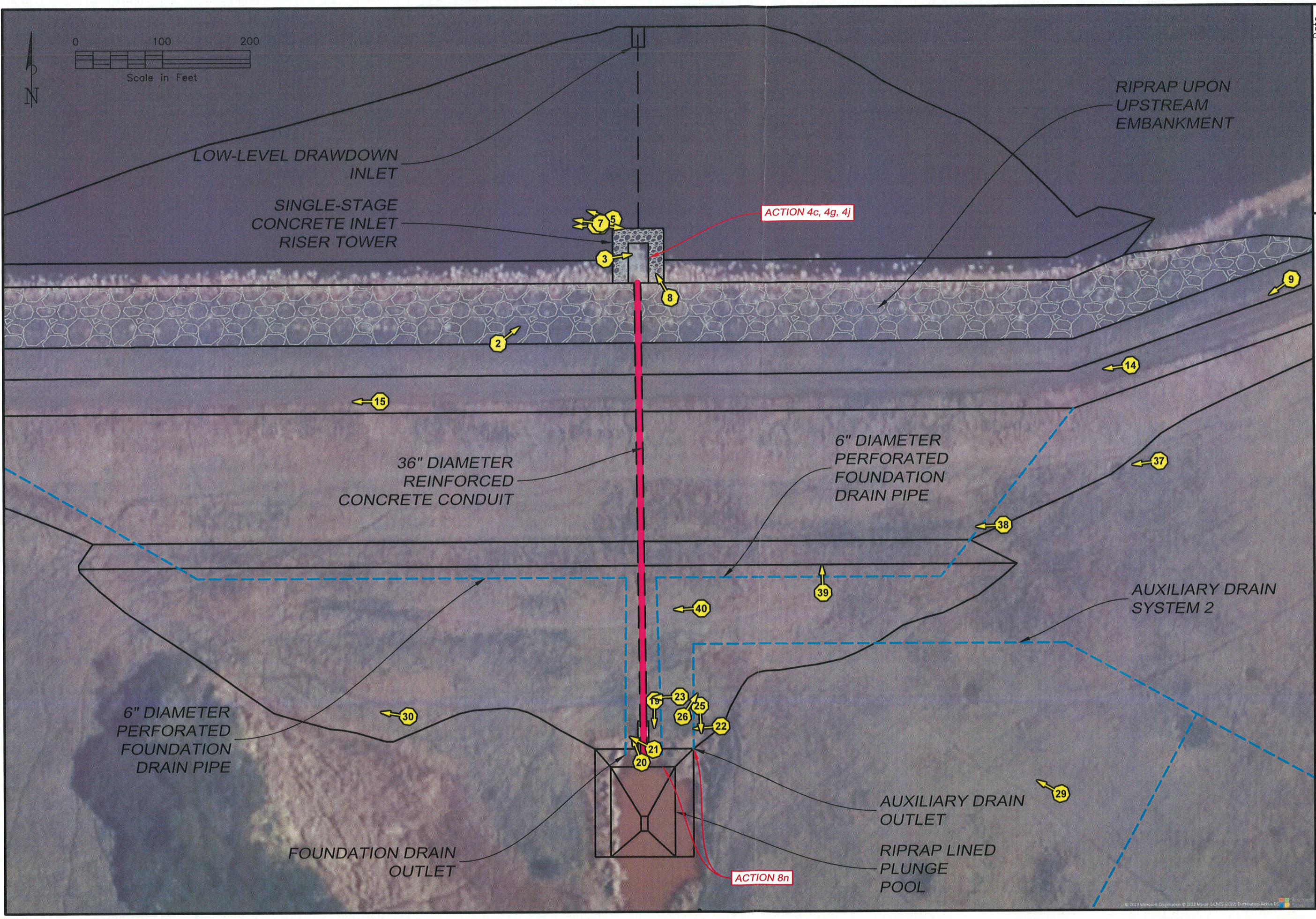
STRUCTURE PLAN
 ANNUAL MCDOWELL DAM INSPECTION
 OWNER: BURLEIGH COUNTY WRD
 COUNTY: BURLEIGH



File Name	McDowell Dam Structure Sketch.dwg
Date	2/24/2023
Sheet	1 of 2



Scale in Feet



LOW-LEVEL DRAWDOWN INLET

SINGLE-STAGE CONCRETE INLET RISER TOWER

RIPRAP UPON UPSTREAM EMBANKMENT

ACTION 4c, 4g, 4j

36" DIAMETER REINFORCED CONCRETE CONDUIT

6" DIAMETER PERFORATED FOUNDATION DRAIN PIPE

AUXILIARY DRAIN SYSTEM 2

6" DIAMETER PERFORATED FOUNDATION DRAIN PIPE

FOUNDATION DRAIN OUTLET

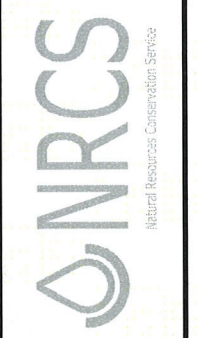
AUXILIARY DRAIN OUTLET

RIPRAP LINED PLUNGE POOL

ACTION 8n

Inspected	NRCS	Date	8/30/2022
Designed	NRCS		1974
Construction Completed			1976

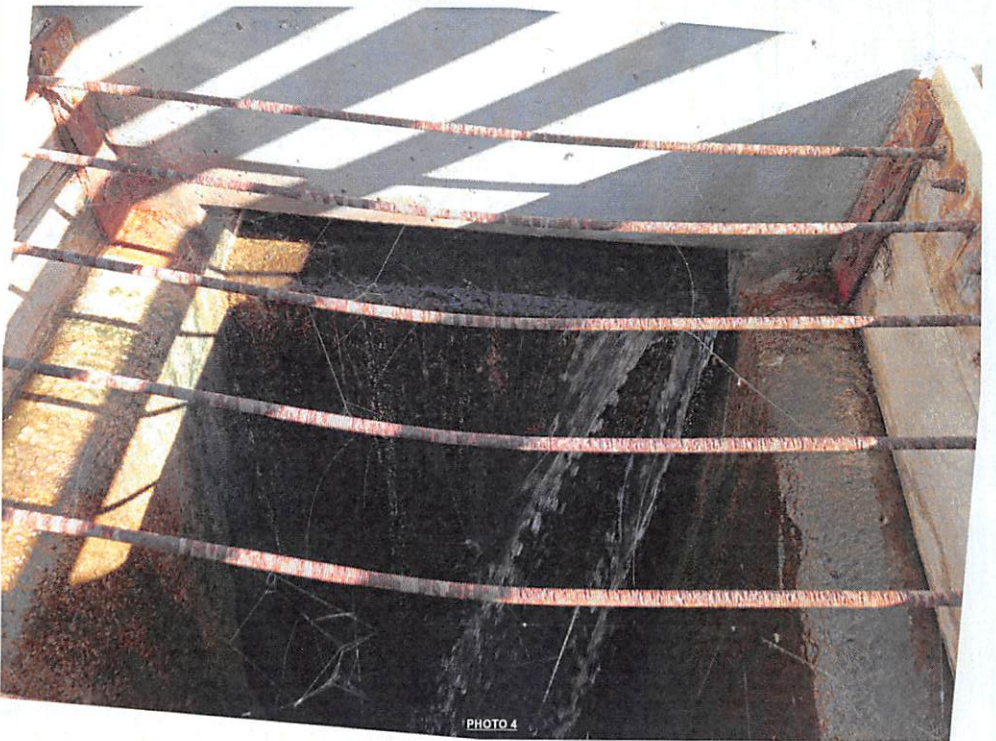
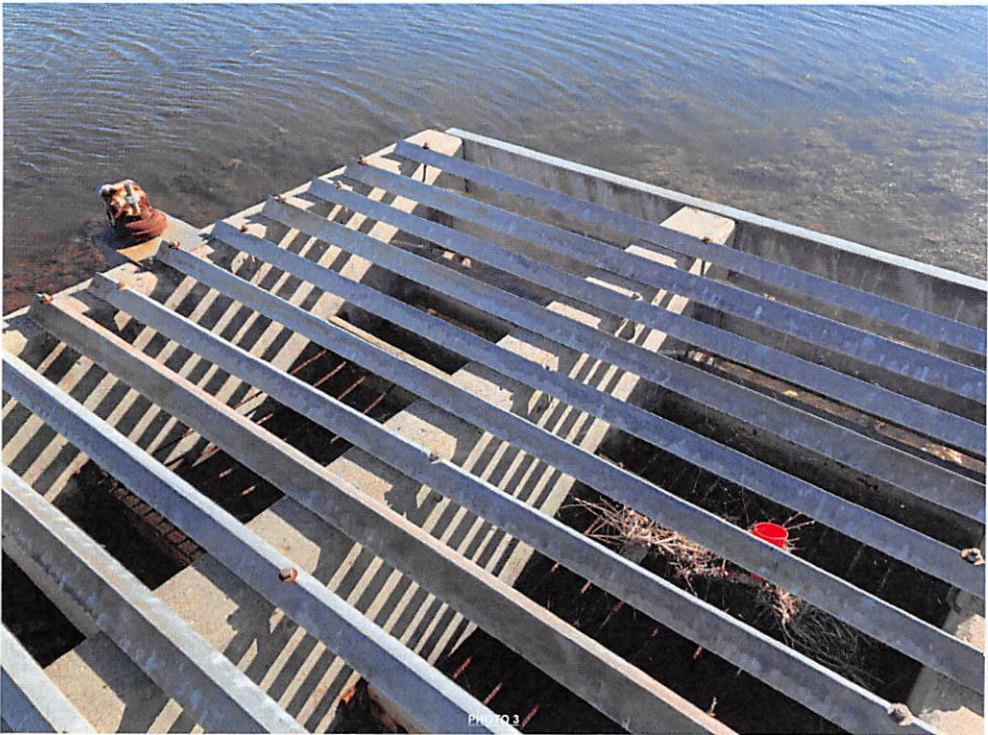
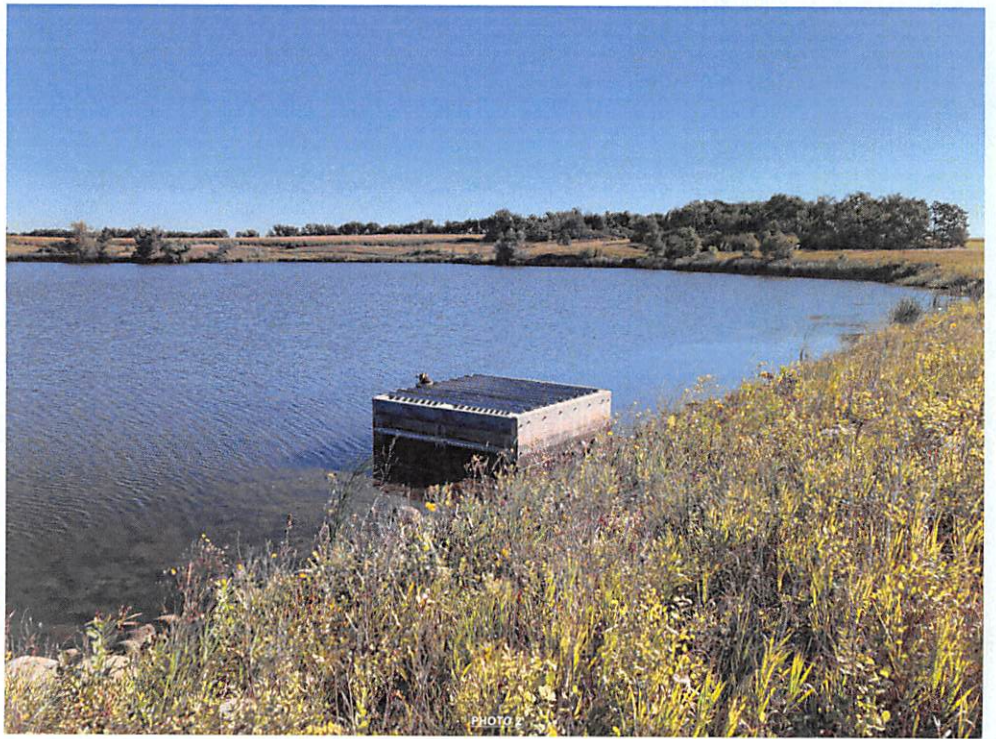
STRUCTURE PLAN PSW
 ANNUAL MCDOWELL DAM INSPECTION
 OWNER: BURLEIGH COUNTY WRD
 COUNTY: BURLEIGH



File Name
McDowell Dam Structure Sketch.dwg

Date
2/24/2023

Sheet 2 of 2



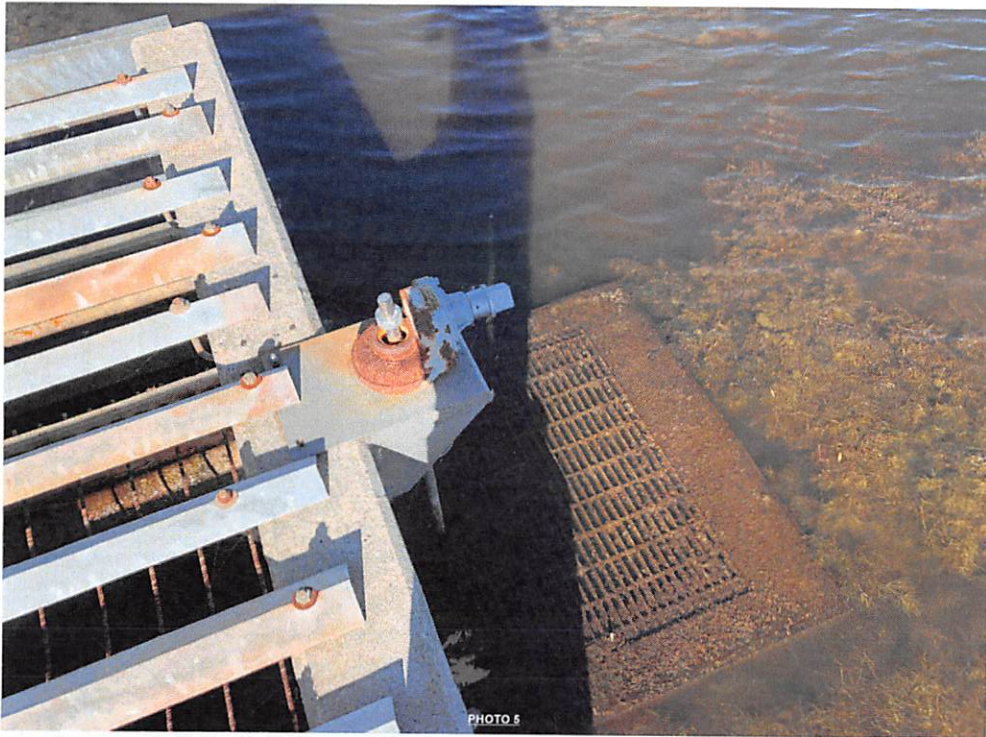


PHOTO 5



PHOTO 6



PHOTO 7

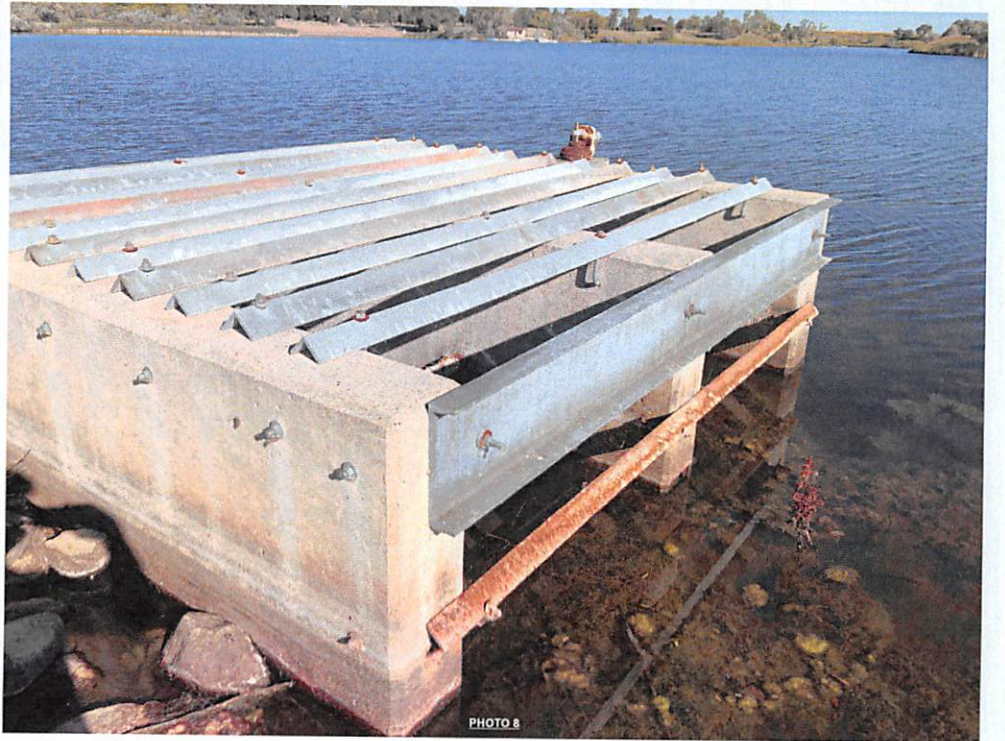
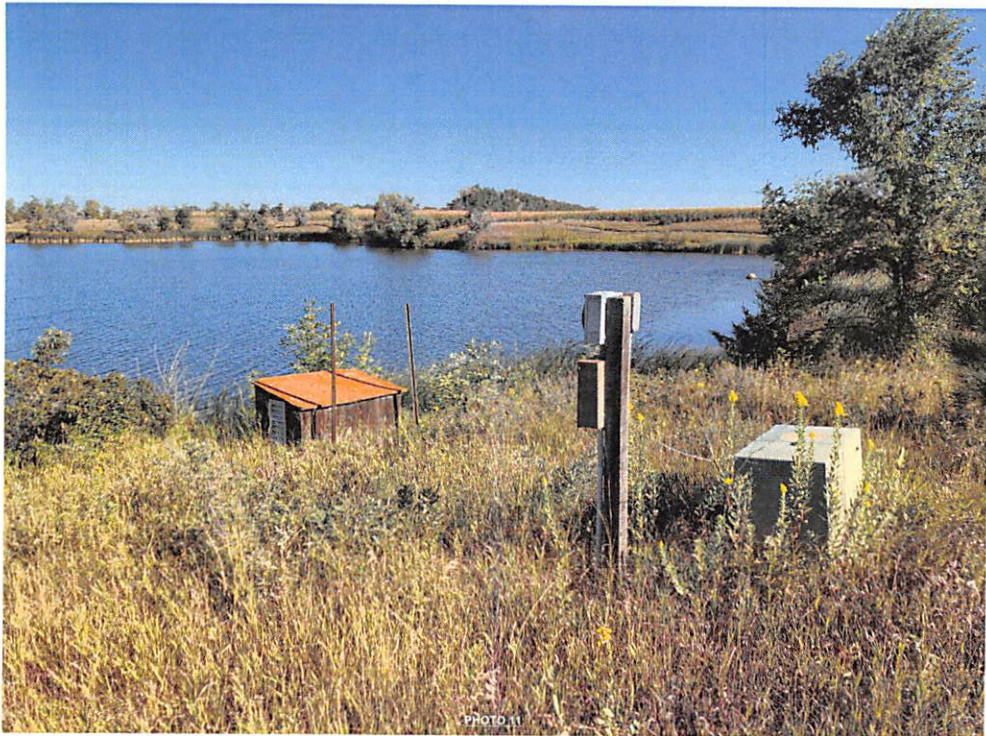
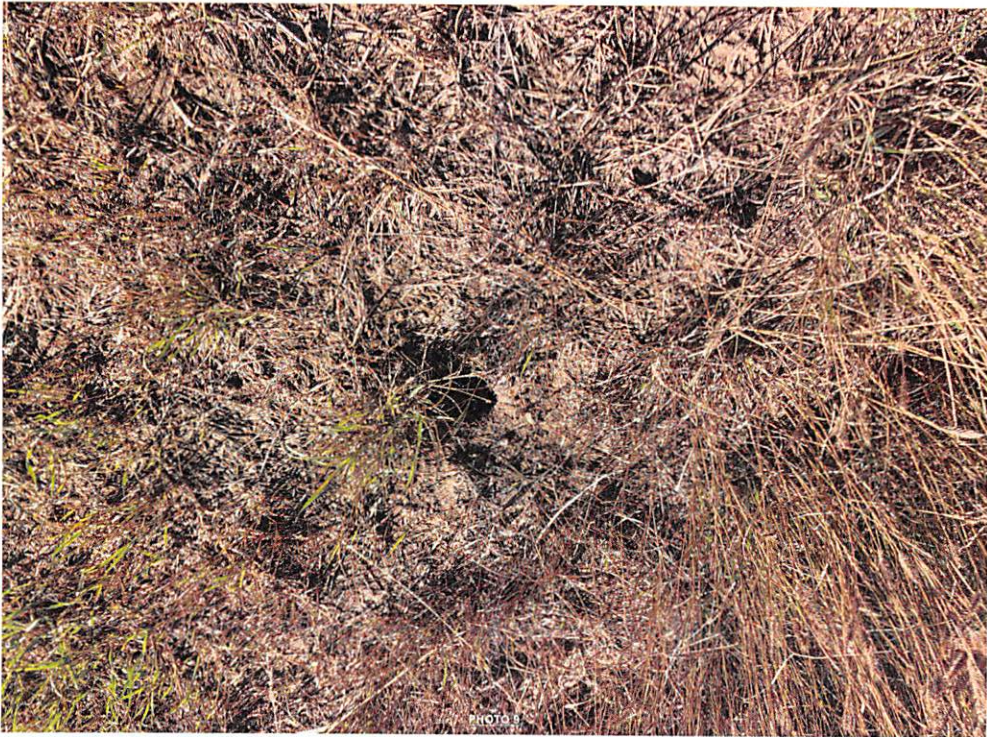
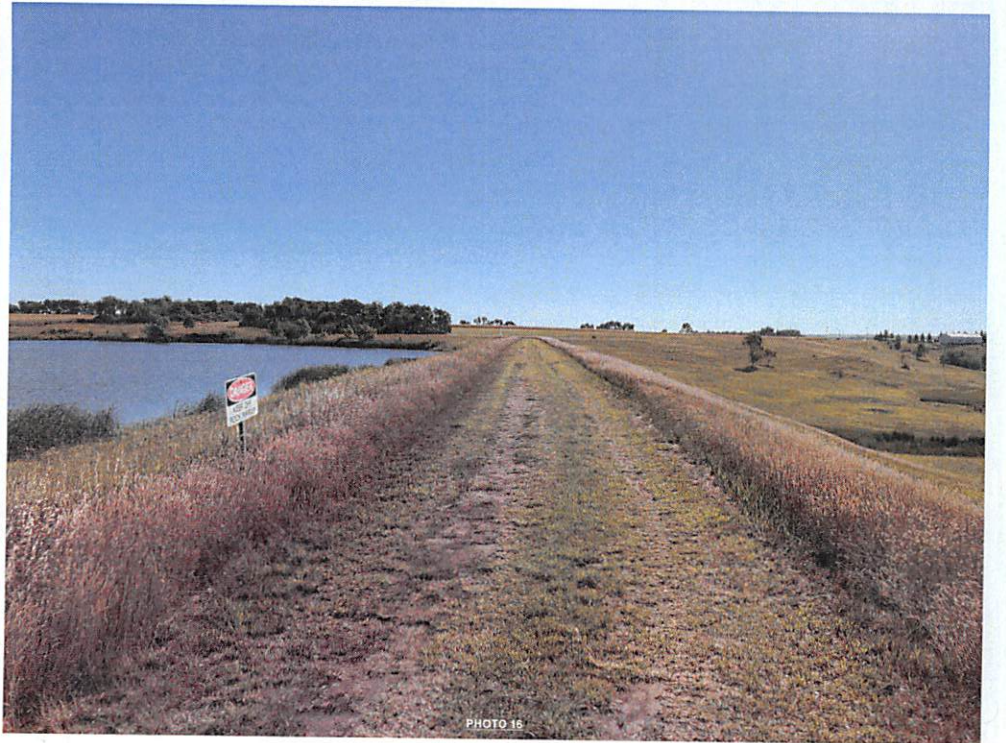
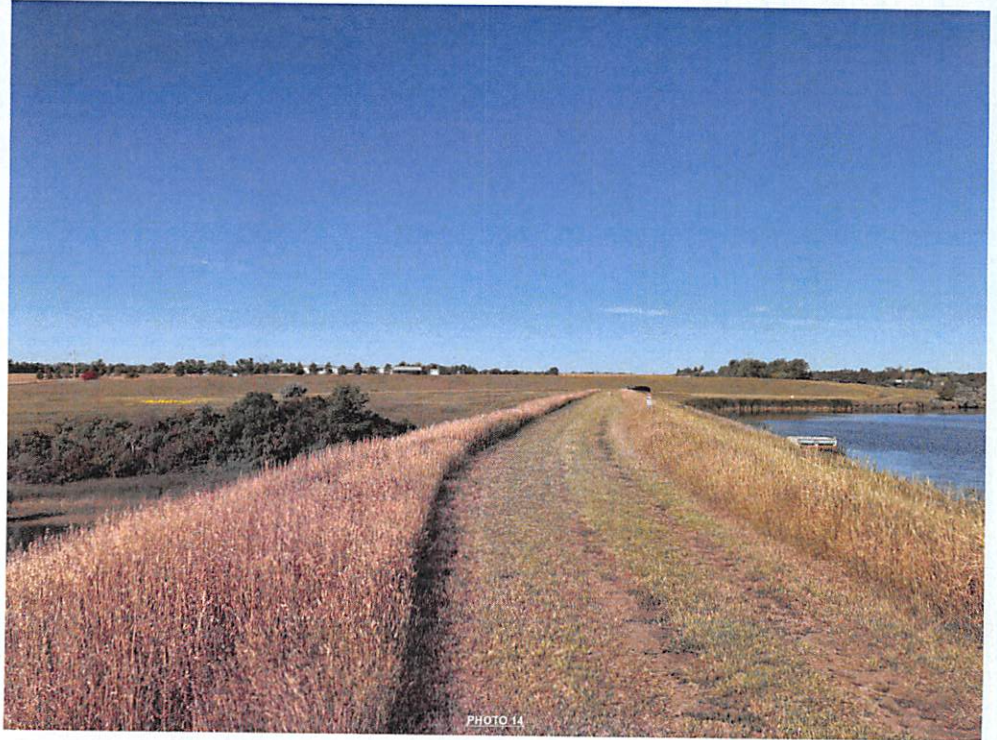
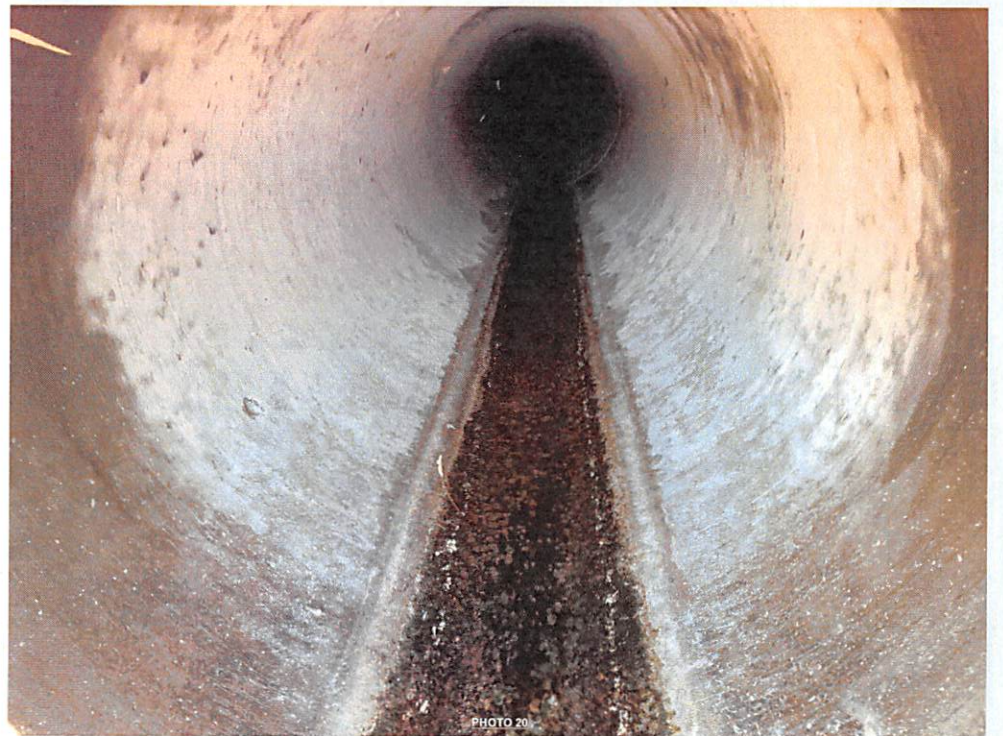


PHOTO 8











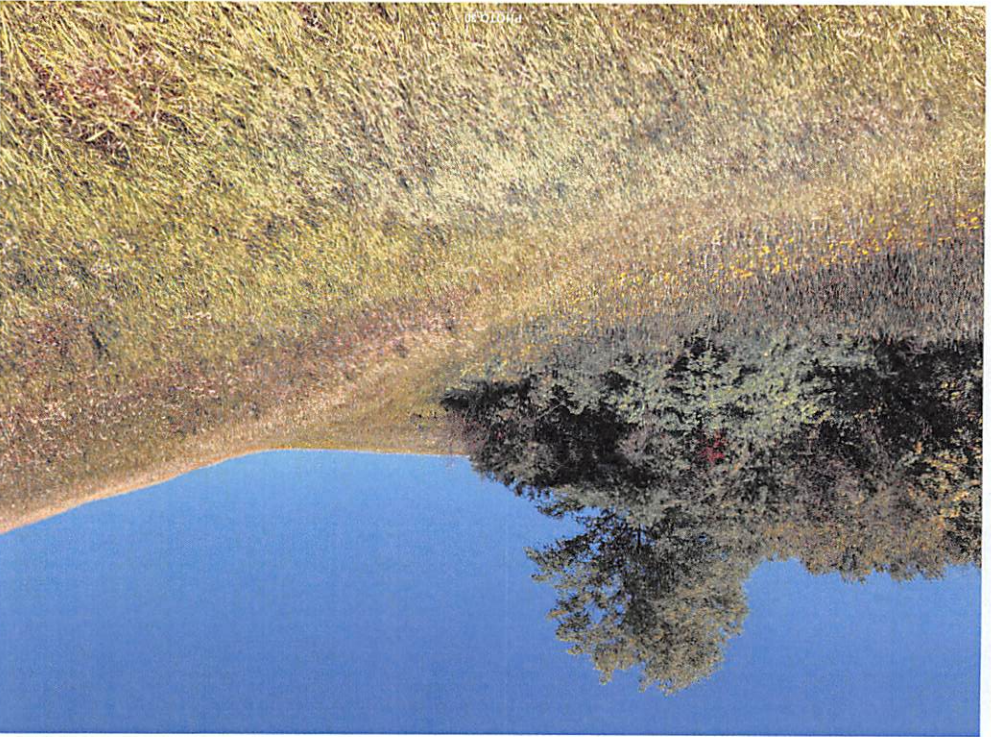
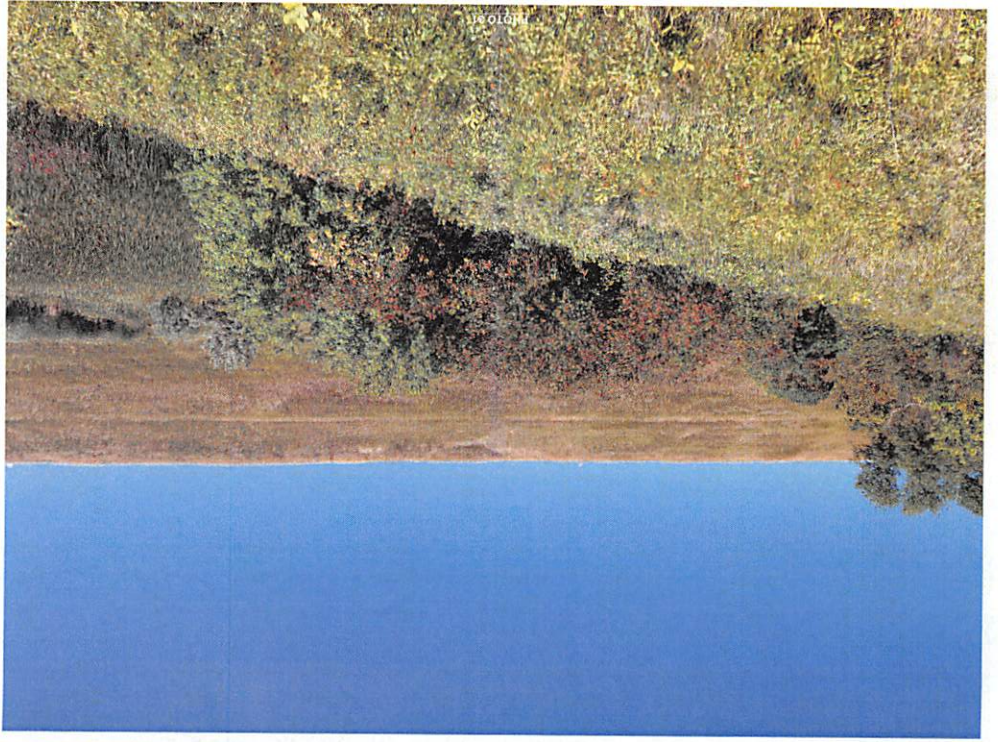








PHOTO 42

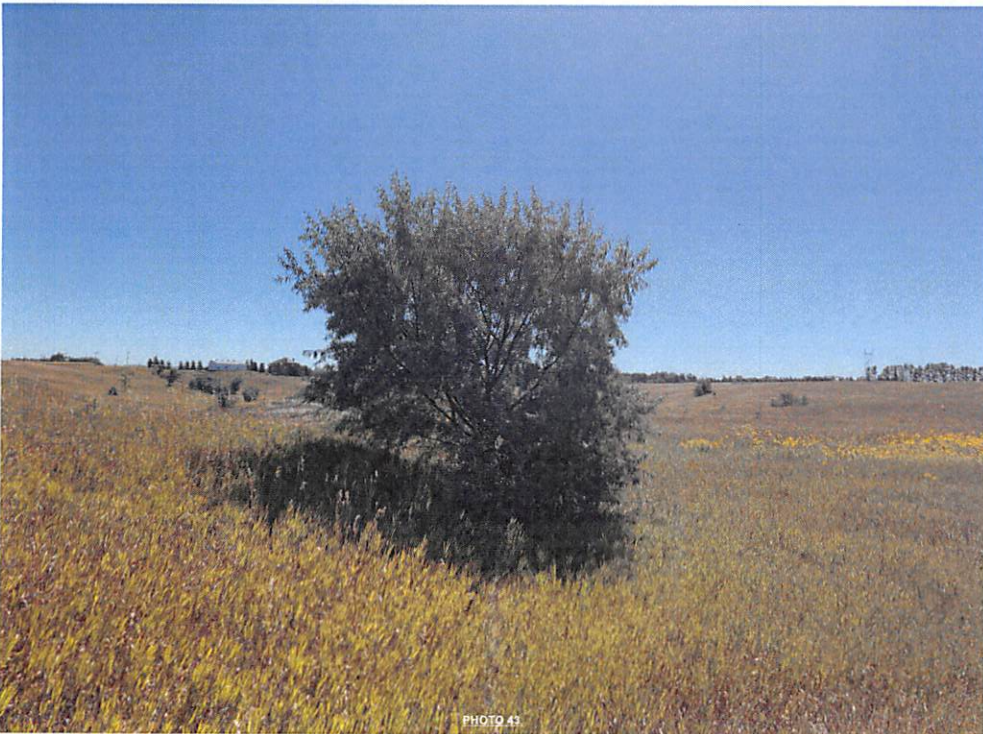


PHOTO 43



PHOTO 44



PHOTO 45



PHOTO 46



PHOTO 47

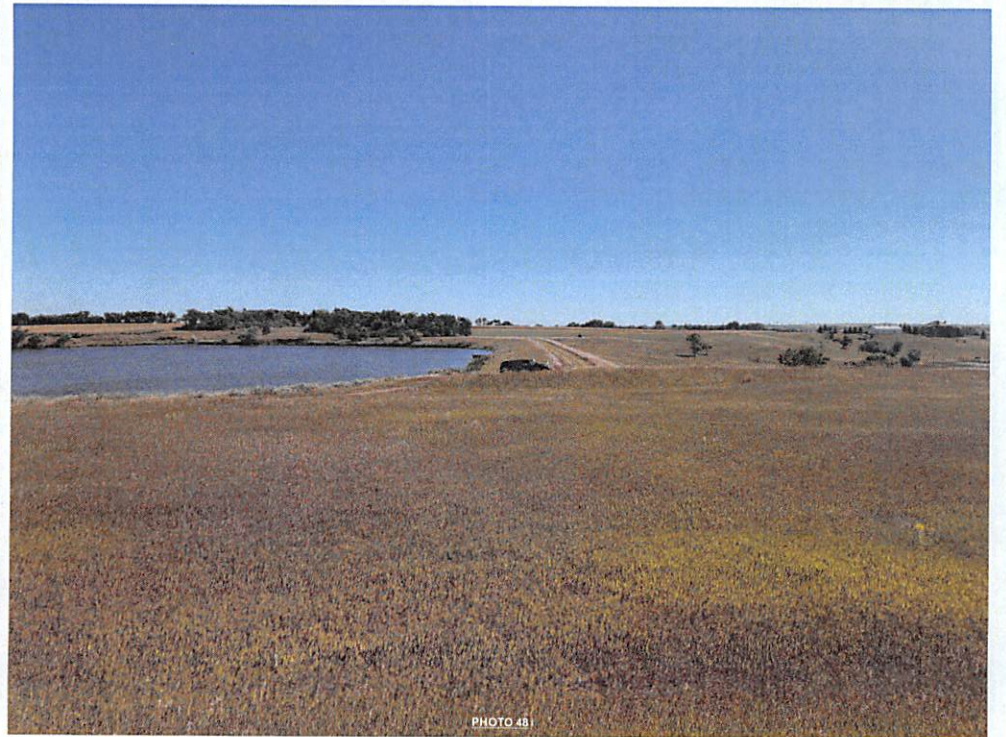


PHOTO 48



Burleigh County Water Resource District (BCWRD)

Balance Sheet

03/03/23

As of February 28, 2023

Accrual Basis

	Feb 28, 23
ASSETS	
Current Assets	
Checking/Savings	
Bravera Bank Center Checking	
General Funds	2,074,852.90
O & M Funds	
Burnt Creek O&M	90,567.11
Fox Island O&M	7,052.55
Total O & M Funds	97,619.66
Special Assessment Districts	
Apple Valley Special Assessment	9,788.66
Fox Island Special Assessment	123,454.35
MRCC Special Assessment	108,972.45
Total Special Assessment Districts	242,215.46
Bravera Bank Center Checking - Other	16.95
Total Bravera Bank Center Checking	2,414,704.97
Designated Reserve Funds	
Aero Club Rent	13.00
Apple Valley	19,000.00
Apple Valley Spec. Assessment	12,626.81
Brookfield Estates	2,377.34
Burnt Creek	115,000.00
Emergency Fund	265,037.13
Hay Creek Watershed	100,000.00
McDowell Dam (Buffer Zone)	80,000.00
McDowell Dam Capital Improvemen	60,000.00
McDowell Dam Fresh Water Intake	410,000.00
McDowell Rent	10,609.00
Missouri River Bank Stabilizati	124,906.33
Sibley Island	500,000.00
Designated Reserve Funds - Other	547.60
Total Designated Reserve Funds	1,700,117.21
Total Checking/Savings	4,114,822.18
Other Current Assets	
11000 · Intergovernmental Receivable	8,504.31
11010 · Taxes Receivable	9,875.67
Total Other Current Assets	18,379.98
Total Current Assets	4,133,202.16
Fixed Assets	
15005 · Land	112,481.50
15010 · Infrastructure	6,679,991.93
15015 · Land Improvements	1,810,033.62
15020 · Buildings	187,659.68
15025 · Office Furniture & Equipment	162,206.58
15051 · Acc Depr - Infrastructure	-230,788.13
15052 · Acc Depr - Land Improvements	-989,289.34
15053 · Acc Depr - Building	-151,017.71
15054 · Acc Depr - Office Furn & Equip	-114,986.82
Total Fixed Assets	7,466,291.31
TOTAL ASSETS	11,599,493.47
LIABILITIES & EQUITY	
Liabilities	
Current Liabilities	
Accounts Payable	
20000 · Accounts Payable	16,794.00
Total Accounts Payable	16,794.00

Burleigh County Water Resource District (BCWRD)

Balance Sheet

As of February 28, 2023

	Feb 28, 23
Other Current Liabilities	
24000 · Payroll Liabilities	921.90
Total Other Current Liabilities	921.90
Total Current Liabilities	17,715.90
Long Term Liabilities	
23200 · Rehab Apple Valley Waste Water	140,000.00
237 · Burnt Creek Floodway	265,000.00
23800 · Missouri River Correctional Cen	285,000.00
23900 · Fox Island Improvement	1,275,000.00
25000 · Bond Discount	-26,477.50
Total Long Term Liabilities	1,938,522.50
Total Liabilities	1,956,238.40
Equity	
32000 · Retained Earnings	9,022,557.01
Net Income	620,698.06
Total Equity	9,643,255.07
TOTAL LIABILITIES & EQUITY	11,599,493.47

Burleigh County Water Resource District (BCWRD)

Profit & Loss by Class

January through February 2023

	TOTAL	- General	Apple Valley	Burnt Creek Floodway	Fox Island	McDowell Dam	Missouri River Gen.	MRCC	TOTAL
Income									
31110 · Real Estate Tax	543,533.64	543,533.64	0.00	0.00	0.00	0.00	0.00	0.00	543,533.64
36110 · Interest	34.19	34.19	0.00	0.00	0.00	0.00	0.00	0.00	34.19
43610 · State Aid Distribution	9,678.55	9,678.55	0.00	0.00	0.00	0.00	0.00	0.00	9,678.55
43810 · Reimbursements	127,974.53	1,140.52	7,698.30	18,649.67	88,447.58	0.00	0.00	12,038.46	127,974.53
Total Income	681,220.91	554,386.90	7,698.30	18,649.67	88,447.58	0.00	0.00	12,038.46	681,220.91
Gross Profit	681,220.91	554,386.90	7,698.30	18,649.67	88,447.58	0.00	0.00	12,038.46	681,220.91
Expense									
111 · Payroll Expenses									
111A · Payroll Taxes	490.55	490.55	0.00	0.00	0.00	0.00	0.00	0.00	490.55
111 · Payroll Expenses - Other	6,857.36	6,857.36	0.00	0.00	0.00	0.00	0.00	0.00	6,857.36
Total 111 · Payroll Expenses	7,347.91	7,347.91	0.00	0.00	0.00	0.00	0.00	0.00	7,347.91
113 · Accounting & Contract Services	2,200.00	2,200.00	0.00	0.00	0.00	0.00	0.00	0.00	2,200.00
312 · Legal Fees	1,000.00	1,000.00	0.00	0.00	0.00	0.00	0.00	0.00	1,000.00
315 · Engineering Administration	2,000.00	2,000.00	0.00	0.00	0.00	0.00	0.00	0.00	2,000.00
376 · Dues & Publications	1,400.00	1,400.00	0.00	0.00	0.00	0.00	0.00	0.00	1,400.00
411 · Office Expense	533.85	533.85	0.00	0.00	0.00	0.00	0.00	0.00	533.85
50913 · Interest Expense	1,750.00	1,750.00	0.00	0.00	0.00	0.00	0.00	0.00	1,750.00
904 · McDowell Dam	16,638.84	0.00	0.00	0.00	0.00	16,638.84	0.00	0.00	16,638.84
905 · McDowell Dam-Capital Improvemen	11,410.25	0.00	0.00	0.00	0.00	11,410.25	0.00	0.00	11,410.25
910 · Projects									
Administration	350.00	350.00	0.00	0.00	0.00	0.00	0.00	0.00	350.00
Total 910 · Projects	350.00	350.00	0.00	0.00	0.00	0.00	0.00	0.00	350.00
937 · Design/Special Assessment	15,892.00	98.00	0.00	0.00	0.00	0.00	15,794.00	0.00	15,892.00
Total Expense	60,522.85	16,679.76	0.00	0.00	0.00	28,049.09	15,794.00	0.00	60,522.85
Net Income	620,698.06	537,707.14	7,698.30	18,649.67	88,447.58	-28,049.09	-15,794.00	12,038.46	620,698.06

Burleigh County Water Resource District (BCWRD)

Profit & Loss Budget vs. Actual

January through February 2023

	Jan - Feb 23	Budget	\$ Over Budget	% of Budget
Income				
31110 · Real Estate Tax	543,533.64	1,014,125.00	-470,591.36	53.6%
31810 · In Lieu of Tax	0.00	1,000.00	-1,000.00	0.0%
33620 · Homestead Credit	0.00	6,000.00	-6,000.00	0.0%
36110 · Interest	34.19	200.00	-165.81	17.1%
36210 · McDowell Dam Recreation Income	0.00	26,500.00	-26,500.00	0.0%
36215 · McDowell Dam Land Lease	0.00	3,200.00	-3,200.00	0.0%
43610 · State Aid Distribution	9,678.55	36,000.00	-26,321.45	26.9%
43810 · Reimbursements	127,974.53			
46910 · Misc Revenue	0.00	500.00	-500.00	0.0%
Total Income	681,220.91	1,087,525.00	-406,304.09	62.6%
Gross Profit	681,220.91	1,087,525.00	-406,304.09	62.6%
Expense				
111 · Payroll Expenses				
111A · Payroll Taxes	490.55	3,000.00	-2,509.45	16.4%
111 · Payroll Expenses - Other	6,857.36	30,000.00	-23,142.64	22.9%
Total 111 · Payroll Expenses	7,347.91	33,000.00	-25,652.09	22.3%
113 · Accounting & Contract Services	2,200.00	32,000.00	-29,800.00	6.9%
114 · Audit	0.00	11,000.00	-11,000.00	0.0%
312 · Legal Fees	1,000.00	24,000.00	-23,000.00	4.2%
315 · Engineering Administration	2,000.00	24,000.00	-22,000.00	8.3%
328 · Liability Insurance	0.00	5,000.00	-5,000.00	0.0%
341 · Travel	0.00	2,000.00	-2,000.00	0.0%
376 · Dues & Publications	1,400.00	5,000.00	-3,600.00	28.0%
411 · Office Expense	533.85	3,000.00	-2,466.15	17.8%
50913 · Interest Expense	1,750.00			
904 · McDowell Dam	16,638.84	300,000.00	-283,361.16	5.5%
905 · McDowell Dam-Capital Improvemen				
905-A · Fresh Water Intake	0.00	22,525.00	-22,525.00	0.0%
905 · McDowell Dam-Capital Improvemen - Other	11,410.25	20,000.00	-8,589.75	57.1%
Total 905 · McDowell Dam-Capital Improvemen	11,410.25	42,525.00	-31,114.75	26.8%
910 · Projects				
Administration	350.00			
910 · Projects - Other	0.00	320,000.00	-320,000.00	0.0%
Total 910 · Projects	350.00	320,000.00	-319,650.00	0.1%
911 · Misc	0.00	2,500.00	-2,500.00	0.0%
920 · Continuing Education	0.00	2,500.00	-2,500.00	0.0%
933 · Missouri River General Services	0.00	15,000.00	-15,000.00	0.0%
937 · Design/Special Assessment	15,892.00	200,000.00	-184,108.00	7.9%
940 · Operations & Maintenances	0.00	20,000.00	-20,000.00	0.0%
941 · Stream Gages	0.00	6,000.00	-6,000.00	0.0%
960 · Drainage Complaints	0.00	20,000.00	-20,000.00	0.0%
970 · Storm Water Management Plans	0.00	20,000.00	-20,000.00	0.0%
Total Expense	60,522.85	1,087,525.00	-1,027,002.15	5.6%
Net Income	620,698.06	0.00	620,698.06	100.0%

21981 - Sibley Island Flood Control

Application Details

Funding Opportunity: 19214-State Fiscal Year 2022-2023 Infrastructure Request
Funding Opportunity Due Date: Jun 30, 2023 3:00 PM
Program Area: Funding for Infrastructure in ND - FIND
Status: Submitted
Stage: Final Application

Initial Submit Date: Jan 26, 2023 11:06 AM
Initially Submitted By: Travis Johnson
Last Submit Date: Feb 22, 2023 1:55 PM
Last Submitted By: Travis Johnson

Contact Information

Primary Contact Information

Name: Mr. Travis Johnson
Salutation First Name Middle Name Last Name

Title: Civil Engineer

Email*: tjohnson@houstoneng.com

Address*: 3712 Lockport Street

Bismarck North Dakota 58503
City State/Province Postal Code/Zip

Phone*: (701) 226-0227 Ext.
Phone
#####

Fax: (701) 323-0300
#####

Organization Information

Name*: Burleigh County Water Resource District

Organization Type*: County Government

Tax Id:

Organization Website:

Address*: 1926 Frontier Drive, Suite B

Bismarck North Dakota 58504-0000
City State/Province Postal Code/Zip

Phone*: (701) 222-3499 Ext.

Fax: ### ### #####
SAM.gov Entity ID:
SAM.gov Name:
SAM.gov Entity ID Expiration Date:

Infrastructure Funding Request

Infrastructure Funding Request

Project, Program, or Study Name*: Sibley Island Flood Control
Sponsor(s)*: Burleigh County Water Resource District
County*: Burleigh
City*: Bismarck
Description of Request*: Updated (previously submitted)
If Study, What Type:
If Project/Program, What Type: Flood Control
Jurisdictions/Stakeholders Involved*:
Burleigh County (Lincoln Township) and City of Bismarck Extra Territorial Area (ETA)

Describe the Problem*:

Project will provide flood protection to property in South Bismarck and Burleigh County affected by the 2011 Missouri River flood event, including 83+ parcels of rural residential properties. This project is the final southern segment of the overall flood protection measures envisioned and now being implemented by Burleigh County after the 2011 flood event which significantly affected these residences via inundation, crawl space flooding and damage to septic systems.

Provide Project Details, Objectives and Solutions to Address Problem*:

The landowners within the future assessment district have petitioned their interest to support and requested the Burleigh County WRD to pursue project development. This cost-share request is for the pre-construction engineering required to complete the Preliminary Engineering Report pursuant to NDCC 61-16.1 to then take it to a vote of the residents to create the assessment district and initiate regulatory compliance efforts. For this project,

Choose City, County or Water District*: Water District

What is the Current Estimated Population?* 80000

For this project,

What is the Benefited Population?* 200

Has Feasibility Study Been Completed?* Yes

Has Engineering Design Been Completed?* No

Have Assessment Districts Been Formed?* No

Have Land or Easements Been Acquired?* No

Has Sediment Analysis For Reconstruction Of An Existing Drain Been Completed?* No

Extraterritorial Jurisdiction?* Yes

Have You Applied For Any Federal Permits?*: No

If Yes or Ongoing, Please Explain (include type/number):

Have You Applied for any State Permits?*: No

If Yes or Ongoing, Please Explain (include type/number):

Have You Applied for any Local Permits?*: No

If Yes or Ongoing, Please Explain (include type/number):

Briefly explain the level of review the Project/Program/Study has undergone.

Level Review*:

A feasibility study has been completed. See attached information. Project is currently undergoing completion of a preliminary engineering report.

Do You Expect Any Obstacles to Implementation (i.e. Problems with Land Acquisition, Permits, Funding, Local Opposition, Environmental Concerns, etc.)?*: Yes

If Yes, Please Explain:

Securing a Section 408 Permit to construct flood control measures on Federal Property (General Sibley Park). Have you received, or do you anticipate receiving federal funding?

Have You Received, or Do You Anticipate Receiving Federal Funding?*: No

Implementation Timelines

Study Completion*: 10/2013
Month/Year (00/0000)

Design Completion*: 12/2023
Month/Year (00/0000)

Bid*: 03/2024
Month/Year (00/0000)

Construction Start*: 06/2024
Month/Year (00/0000)

Construction Completion*: 10/2025
Month/Year (00/0000)

Explain Additional Timeline Issues*:

Project bidding is contingent upon approval of the special assessment district and successfully acquiring easements, as well as State and USACE permits.

Certification (Must Be Completed by Project Sponsor)

Submitted by*: James Landenberger 01/18/2023
First Name Last Name Date

Address*: 3456 E. Century Ave.
Address Line 1
Address Line 2
Bismarck North Dakota 58503-0000
City State Zip Code

Telephone Number*: 701-426-6439

Sponsor Email*: James.Landenberger@BARTWEST.COM

Consulting Engineer*: Houston Engineering, Inc.

Engineer Telephone Number*: 701-323-0200

Engineer Email*: tjohnson@houstoneng.com

I Certify That, to the Best of My Knowledge, the Provided Information is True and Accurate*: Yes

Authorized Individual*: Travis Johnson 01/18/2023
First Name Last Name Date

Documentation

Documentation

[CLICK HERE](#) to see examples.

Project Specific Map (Must Include Project Location in State Using an Inset Map)*: [Pages from 6025-0014 Sibley Island Levee 1-24-23.pdf](#)

Are You Seeking Department of Water Resources Cost-Share?* Yes

[CLICK HERE](#) for SFN 61801 Delineation of Costs Instructions and Current Version.

Delineation of Costs SFN 61801: [ND State Water Commission.pdf](#)

Type of Request: Preconstruction

Water Supply Projects?: No

Rural Flood Control?: No

Drain Reconstructions?: No

Flood Recovery Property Acquisition?: No

Community Flood Control, Rural Flood Control, Bank Stabilization, or Snag & Clear Project With Total Cost of \$200,000 or More?: Yes

[CLICK HERE](#) for Economic Analysis Instructions.

Economic Analysis: [Sibley - Parcel Level EA 1-12-2023 Preferred Alt Final.xlsx](#)

Feasibility/Engineering Study for the Proposed Project or Other Applicable Documents: Yes

Feasibility/Engineering Study Material or Other Applicable Document: [Sibley_Island_Feasibility_Memo_10-26-2013_Final.pdf](#)

Engineering Total Cost of \$35,000 or More?: Yes

Engineering Selection Documentation: [BCWRD RFQ Selection Process.pdf](#)

Sources

Funding Amount Requested - Include Amount Requested for All State Funding Sources

State Fiscal Year 1 July to June	State Fiscal Year 2 July to June	Beyond Current Biennium	Total Cost
\$7,445.00	\$109,800.00	\$942,363.00	\$1,059,608.00
\$7,445.00	\$109,800.00	\$942,363.00	\$1,059,608.00

Other Funding Sources

Type	Source	Grant or Loan	State Fiscal Year 1 July to June	State Fiscal Year 2 July to June	Beyond Current Biennium	Total Other Sources
Other	Township	Grant	\$0.00	\$0.00	\$236,083.00	\$236,083.00
Local	Assessment	Loan	\$33,585.00	\$93,200.00	\$479,615.00	\$606,400.00
			\$33,585.00	\$93,200.00	\$715,698.00	\$842,483.00

Project Total

Current Requested Amount: \$1,059,608.00
Other Funding Sources: \$842,483.00
Total Project: \$1,902,091.00

PROJECT INFORMATION AND PLANNING FORM

This form should be filled out by the project/program sponsor or consultant, with DWR staff assistance as needed. The information will be reviewed by DWR staff and added to our project/program database to assist with budgeting efforts, and completion of a Water Development Plan for future biennia.

This form will also serve as the first step in obtaining cost-share assistance. However, this form alone will not be considered as your formal request for DWR cost-share. Once a project is in more advanced stages and is ready for potential DWR cost-share, a [DWR cost-share application](#) with all required information must be submitted for consideration.

Please answer the following questions as thoroughly as possible. For assistance with this form, contact Cory Drevecky in the DWR Planning & Education Division at (701) 328-4967 or email cjdrevecky@nd.gov.

Project, program, or study name

Sibley Island Flood Control

Sponsor(s)

Burleigh County Water Res

Location (county, city, township, etc.)

Lincoln Township, Burleigh

Which Basin is the primary beneficiary of this project or study? [Basin map](#)

Lower Missouri

Description of Request

New Updated (previously submitted)

What type of effort is being pursued?

Project Study

What is the main focus of the project or study?

Flood Control

Has a feasibility study been completed?

Yes No Not Applicable

Is this a federally authorized water supply or flood control project *with* federal funding appropriations?

Yes No Not Applicable

Is this a federally authorized water supply or flood control project *without* federal funding appropriations?

Yes No Not Applicable

Does this project correct a lack of water supply for a group of water users or connect a city to a regional/rural system?

Yes No Not Applicable

Does this project correct a violation of a primary water quality condition in a water supply system?

Yes No Not Applicable

Does this project address severe or anticipated water supply shortages for domestic use in a service area or city with rapid population growth?

Yes No Not Applicable

Does this project protect primary residences or businesses from flooding in population centers, or involve flood recovery property acquisitions?

Yes No Not Applicable

Is this project a dam safety repair or emergency action plan?

Yes No Not Applicable

Is this project an expansion of an existing water supply system?

Yes No Not Applicable

Is this project a levee system accreditation, water retention, or flood protection property acquisition?

Yes No Not Applicable

Is this an irrigation system construction project?

Yes No Not Applicable

Is this a new rural flood control project?

Yes No Not Applicable

Is this a bank stabilization project?

Yes No Not Applicable

Is this a snagging and clearing project located in a population center?

Yes No Not Applicable

Is this a study, report, analysis, survey, model, evaluation, mapping project, or engineering design?

Yes No Not Applicable

Is this project an improvement or extraordinary maintenance of a water supply system?

Yes No Not Applicable

Is this an improvement or extraordinary maintenance of a rural flood control project?

Yes No Not Applicable

Is this a recreation project?

Yes No Not Applicable

Is this an individual rural or farmstead ring dike construction project?

Yes No Not Applicable

Is this a snagging and clearing project in a sparsely populated area?

Yes No Not Applicable

Describe the problem or need the project addresses (i.e., the population, area, infrastructure, etc. affected by the problem or need.):

A feasibility study was completed on

Describe how this effort addresses each problem or need. Be specific and provide details.

The Sibley Island Flood Control

Funding Timeline by Biennium (Carefully consider when DWR cost-share will be needed.)

Source	Total Cost	July 2023 - June 2025 (And Prior Bienna)	July 2025 - June 2027	July 2027 - June 2029	Beyond June 2029
Federal	\$0	\$	\$	\$	\$
Department of Water Resources	\$0	1,059,608	\$	\$	\$
Other State of ND	\$0	\$	\$	\$	\$
Local	\$0	842,483	\$	\$	\$
Total	\$0	\$0	\$0	\$0	\$0

Funding Detail (Provide names and amounts from all potential funding sources from the table above.)

Source	Amount (\$)	Grant or Loan	Term (Years)	Interest (%)
Lincoln Twp	\$ 236,083	Grant	N/A	
SWC/DWR	\$ 1,059,608	Grant	N/A	
Special Assessment	\$ 572,083	Assessments	20 yrs	
BCWRD	\$ 34,317	County WRD	N/A	
	\$			
Total Amount	\$			

Explain implementation timelines, considering all phases and current status.

The BCWRD is pursuing the PER,

Attach supporting documentation (2GB max) No file chosen

Project Sponsor Contact Name : James Landenberger

Title: BCWRD Chairman

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State : ND

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Sibley Island Flood Control Project

Public Informational Meeting

To: Dennis Reep, Manager
From: Michael H. Gunsch, PE, CFM, Senior Project Manager
Subject: Public Meeting Summary
Date: February 16, 2023
Project: HEI No. 6025-0028

On Wednesday February 15, 2023 the Burleigh County Water Resource District (BCWRD) held a Public Informational Meeting (PIM) regarding the Sibley Island Flood Control Project. The full board was in attendance, but took no action related to the project or other matters. A total of 35 people attended, including residents, board members and others, an attendance list is attached. The PIM consisted of introductions and a presentation regarding the project history, development, and next steps toward potential implementation. This meeting was televised and recorded by *Dakota Media Access*, followed by a question-and-answer session, which was not recorded. The following are highlights of the Q/A based on my notes, and input from board members related to the discussions that occurred. This summary is not all-inclusive, subsequently not all items are included in any specific detail.

- 1. A question was raised regarding installing gates on the culverts on Washington Street to prevent floodwaters from entering the old Missouri River Oxbow.**
 - a. Yes - these gates would be installed as part of the project along with a pump system to remove waters from the oxbow during a flood event to mitigate groundwater impacts. The level to which these waters would be removed, remains to be determined, and would be established as part of the Operations and Maintenance Plan, to be developed during final design.

- 2. It was noted assessments should be equalized amongst “all the parcels” to lower the cost for those that are assessed at a higher level.**
 - a. It was noted the ND Century Code (NDCC) states the BCWRD is not to assess any party more than they would receive in benefits. The ND Department of Water Resources Economic Analysis was used to determine the net present value of the benefits accruing to each parcel over the life of the project. These damage estimates then were used to create the assessment tiers to conform to the NDCC standards. Previous flood control projects were assessed under a more uniform or equal assessments based on other factors, however that is no longer standard practice. The economic analysis approach is more defined as it relates to benefits.

- 3. How will the General Sibley Park be impacted, and will the walking trail or other areas be changed?**
 - a. The park entrance roadway will be raised and reconstructed to tie into the high ground barrier. The eastern segment of the park roadway will be raised and constructed to levee standards, but the walking trail on the east side of the park would remain. There will be some disruption in the use of the park during construction, which will be coordinated with the Bismarck Parks and Recreation District and United States Army Corps of Engineers (USACE).

- 4. Why is the park area and properties north of 48th Avenue not being assessed.**
 - a. The park property is owned by the US Army Corps of Engineers and leased to the Bismarck Parks and Recreation District. Federal lands cannot be assessed.
 - b. The property north of 48th Avenue falls into two categories. First, those residences north of 48th Avenue near Washington Street that are already being assessed under the Missouri River Correctional Center Flood Control Project. Second, the remaining properties are protected by the Lincoln Township grades raises. None of the costs for these grade raises are included in the assessment district.

- 5. There were several inquiries relating funding sources.**
 - a. The DWR Cost Share is 60%, Lincoln Twp is paying the 40% of the Washington Street grade raise and those costs associated with the 12th Street and 48th Avenue Grade raises. The grade raises are funded using other sources; therefore, these are not in the assessment district or funded through the ND State Water Commission cost share program. There are no Prairie Dog funds available for this project as they are assigned to transportation projects, not flood control.

- 6. It was noted that environmental issues should not be placed in front of protecting people.**
 - a. The Section 408 criteria for construction on federal properties and impacts along the project alignment associated with wetlands, archeological, etc. are non-negotiable and must be completed and permitted.

- 7. There was a consensus the Glenwood residents were overlooked during the 2011 flood event.**
 - a. The events of 2011 are behind everyone, but the memories are still very clear, and occurred under an emergency declaration. The decisions related to this area were associated with the limited ability to respond quickly and the feasibility to construct protection features in the time available. Such decisions were not made lightly but in best interest of as many parties as practical. Unfortunately, the Glenwood area could not be protected, but this project would now provide that protection.
 - b. This project is the last segment of the *Burleigh County 20-Foot Plan* and would provide protection from a 2011 level event, as well as ice jams.

- 8. Questions were raised regarding the FEMA accreditation of the levee and insurance rates.**
 - a. An accredited levee system that would remove flood insurance is not feasible, as it would have to be around one to two feet higher, which is not economically practical.
 - b. Regarding insurance rates, this question is best posed to the resident's insurance agents, related to the Risk Map 2.0 criteria, as each residence is different. The City of Bismarck is part of FMEA's Community Rating System (CRS) and all receive discount rates based on the City's ordinances, practices and levee systems already constructed. The County is not enrolled in the CRS program; however, the levee construction could be recognized in the insurance rating, but again residence by residence.

- 9. There were questions raised regarding the 2011 event and materials used for the levee on 48th Ave, and where they were disposed of and why they were not used for a levee to protect Glenwood.**
 - a. These materials were placed for temporary flood protection then removed and placed at the new Burleigh County jail site. The material placement and removal were paid for under the FEMA and State disaster funding. New levee construction was not an applicable use under their removal criteria, and at the time no one knew what that system might look like.

10. There were questions as to why the City is not participating in the costs?

- a. First, the properties protected are outside the City limits, so they would not assist, they also have no impacted infrastructure. The protection for upstream properties is principally provided by the grade raises on 12th Street and 48th Avenue by Lincoln Township. These grade raises would create a wider two-lane roadway with shoulders, so an important safety upgrade.
- b. There are several newer urban developments within the City that were identified within the original protection boundary. These properties including their streets will be elevated above the Base Flood Elevation, therefore are not benefited by the levee system.

11. There was a question raised regarding the Fox Island cost increases.

- a. This project was different in several ways, which were outlined briefly describing the key elements that resulted in those cost increases. Those factors do not apply to this project so are not an issue here.

12. The ballot and voting process was discussed along with the mailing of certified notices and the mail delivery delays that currently exist.

- a. The BCWRD was requested to consider an extended voting timeline due to the mail delivery concerns. This was taken under advisement. The anticipated vote would likely be in the June-July timeline at the earliest.

13. There was an inquiry regarding the grading along Oahe Bend and near the school.

- a. It was noted the new Apple Creek break out floodway limits the ability to raise Oahe Bend for access or flood control due to the adverse impacts that would occur along Apple Creek. The school would remain as it is today with temporary flood prevention measures placed on an as needed basis.
- b. This also has to do with access that was used through private properties during the 2011 event and the ability to elevate the driveways. These would have to be evaluated using the new floodplain/floodway mapping to determine what if anything could be completed. This work is not part of the project.

Benefit Distribution Evaluation

To: James Landenberger, Chairman BCWRD
Dennis Reep, Manager

From: Michael H. Gunsch, PE, CFM, Senior Project Manager

Subject: Special Assessment District Recommendations

Date: January 26, 2023

Project: HEI No. 6025-0028

The Sibley Island Benefit Distribution Evaluation and resulting assessment district required an extensive review of direct and indirect benefits to individual properties and determining what is defined as a “*base cost*” or those benefits provided to every parcel. Most properties within the assessment district are rural residential lots, most have structures at risk while others do not. Agricultural property and other unique parcels within the district boundaries are described later.

The *base cost* is a function of community-neighborhood impacts and resulting benefits from flood protection including, but not limited to, flood relocation, flood fighting, social benefits, and non-consumptive uses. Using the Economic Assessment (EA) process, created by the ND Department of Water Resources (DWR), this value was projected to range from \$2,663 to \$6,379. These are considered indirect benefits to each parcel and these values do not consider a cost share contribution. After considering the context of these benefits it was deemed reasonable to create a two-tier distribution. Subsequently, it is recommended undeveloped lots not containing an existing residential structure be assessed a lower rate of \$2,600, while those properties with residential structures would be assigned the full \$6,379 toward their total benefit. Those properties with structures, but not having identified damages via the economic assessment would also be assessed \$2,600. The *base costs* were computed by dividing the benefits defined in EA analysis by the number of parcels within the assessment district that are to be assessed (95).

The remaining project funding would be secured using tiered special assessments based on the net present value of damages (benefits) to the subject properties, using the EA process as a reference. The EA net present values are composite damage projections using the various factors based included in the underlying FEMA assessment criteria. Then applying a risk rating associated with flood frequency. As an example, a property flooded on a 0.2% chance (50-year) event is at greater risk for damages than one that is first impacted on a 0.1% chance (100-year) event. The protection level to the top of levee using the current effective DFIRM, is equivalent to a 0.06% event (170-year). The 2011 flood event was used in the EA to capture the benefits provided by project implementation.

The following table illustrates the range of recommended DRAFT assessments related to the property type and risk rating. The purposed assessments were established to raise the necessary funds to complete the project assuming State Water Commission cost share is secured at 60% and Lincoln Township’s participation in the Washington Street grade raise. The proposed assessments include a nominal inflationary value, and the ND Century Code allowable 25% cost increase limitation would apply and considered when the construction bids are received.

Another recommendation is to create an Operation and Maintenance (O&M) fund. This approach, utilized on the Fox Island Project, reduces the need for additional maintenance assessments during the early years after project implementation. The proposed O&M assessment as structured, \$1,000 on each parcel with a residential structure, would raise approximately \$77,000. These funds would be included in the assessments but are not used to cover project cost overruns.

As a reference the annual amount that could be raised, using the statutory criteria and current market valuations is \$3,811.49. The projected annual O&M costs are anticipated at around \$7,700 so the initial assessed funds should provide around an 11-year balance. The earlier years could have higher costs due to monitoring following construction.

Sibley Island Assessment Distribution Preliminary Projection 1-25-2023						
Category	Base Assessment^[1]	Number of Parcels	Average Damages	Recommended Assessment^{[1][2]}	Funds Generated^[3]	% of Assessment
<i>Rural Residential Lot No Structure</i>	\$2,600	18	\$2,663	\$2,600	\$46,800	6.4%
<i>Rural Residential Structure No Damages</i>	\$2,600	28	\$2,663	\$3,600 ^[3]	\$100,800	13.8%
<i>RR (2% chance)</i>	\$6,379	21	\$38,154	\$17,000 ^[3]	\$357,000	48.8%
<i>RR (1% chance)</i>	\$6,379	9	\$11,199	\$10,500 ^[3]	\$94,500	12.9%
<i>RR (0.6% chance)</i>	\$6,379	19	\$1,589	\$7,000 ^[3]	\$133,000	18.2%
<i>Non-Assessed Parcels^[4]</i>	NA	2	NA	NA	NA	NA
<i>Burleigh County (ROW)</i>	NA	4	NA	NA	NA	NA
<i>USACE (General Sibley Park)</i>	NA	NA	NA	NA	NA	NA
		Total 101 (95 Assessed)		Total	\$732,100	100%
<p>[1] All assessment values remain under review are subject to revision based on final cost projections. [2] These values consider SWC/Lincoln Twp cost share contributions, except for the "base cost". [3] Value includes the \$1,000 contribution to the project O&M fund, and a 4.5% inflationary factor for construction in 2024. [4] These parcels are either small and non-conforming or isolated through another parcel will no defined access.</p>						

The table notes categories where there will be no assessment or O&M assessments. The first are properties owned by Burleigh County, which include right of way (ROW) or small parcels that appear to have been set aside for roadways. The second are properties that either are small nonconforming rural residential lots or are isolated with no access. The third are properties owned by the United States Army Corps of Engineers (USACE), which as a federal entity is not assessed. Note there are no designated agricultural properties within the proposed assessment district.

The table identifies the funds anticipated to be raised using the recommended assessments. This is the total required, based on the current Opinion of Probable Cost (OPC), and considers SWC cost share, and Lincoln Township's commitment to the Washington Street grade raise. The latter is a portion of the 48th Avenue grade raise project postponed due to USACE timing and permitting issues. The following is a projection of those costs based on the OPC:

▪ <i>OPC (2023 Construction Estimate, and EA Value)</i>	\$ 1,853,613
▪ <i>Lincoln Township (40%) Cost Share (Washington Street)</i>	\$ 236,082
▪ <i>SWC Cost Share (60% of eligible items)</i>	\$ 1,044,718
▪ <i>Remaining Costs needing to be secured</i>	<u>\$ 572,813</u>
▪ <i>Assessment Recommendation</i>	\$ 655,100
▪ <i>Special O&M Assessment</i>	<u>\$ 77,000</u>
<i>Total Assessments</i>	\$ 732,100

These values remain subject to revision with final design, related to economic and construction costs, inflation, and funding availability. We still need to evaluate the engineering and regulatory permitting costs and update as part of the Preliminary Engineering Report. The December 22, 2022 residents letter noted a range in assessments, however until the public notice for the assessment vote is sent these are not final. The notice to the residents for the public informational meeting will include a draft special assessment by parcel.

Is this project a dam safety repair or emergency action plan?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No	<input type="checkbox"/> Not Applicable
Is this project an expansion of an existing water supply system?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No	<input type="checkbox"/> Not Applicable
Is this project a levee system accreditation, water retention, or flood protection property acquisition?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No	<input type="checkbox"/> Not Applicable
Is this an irrigation system construction project?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No	<input type="checkbox"/> Not Applicable
Is this a new rural flood control project?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No	<input type="checkbox"/> Not Applicable
Is this a bank stabilization project?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Not Applicable
Is this a snagging and clearing project located in a population center?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No	<input type="checkbox"/> Not Applicable
Is this a study, report, analysis, survey, model, evaluation, mapping project, or engineering design?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No	<input type="checkbox"/> Not Applicable
Is this project an improvement or extraordinary maintenance of a water supply system?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No	<input type="checkbox"/> Not Applicable
Is this an improvement or extraordinary maintenance of a rural flood control project?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No	<input type="checkbox"/> Not Applicable
Is this a recreation project?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No	<input type="checkbox"/> Not Applicable
Is this an individual rural or farmstead ring dike construction project?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No	<input type="checkbox"/> Not Applicable
Is this a snagging and clearing project in a sparsely populated area?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No	<input type="checkbox"/> Not Applicable

Description of the project or study, including description of problem(s) or need(s)
 The Burleigh County Water Resource District (aka, Water Management District) signed an agreement with the North Dakota State Water Commission regarding the Operation and Maintenance of federally bank stabilization revetments constructed under the Section 32 Program. This pursuant to Public Law 93-251, Water Resource Development Action of 1974, as amended by Public Law 94-587, Water Resources Development Act of 1976, Section 161. Under this agreement the BCWRD is responsible for 50% of the O&M costs and the NDSWC is responsible for the other 50%.

Describe how this effort addresses each problem or need
 While the USACE has previously funded some maintenance work under Section 33, this funding source is limited to congressional appropriation, which is limited if not unlikely in the future. Subsequently, the BCWRD is looking to place this unfunded liability into the state water plan as there are revetments that have suffered damages and are at risk for failure. Therefore, it is better to conduct the proper O&M activity than to lose the structures and the property they are intended to protect.

Funding Timeline (Carefully consider when SWC cost-share will be needed.)

Source	Total Cost	7/1/2019-6/30/2021 (And Prior Bienna)	7/1/21- 6/30/23	7/1/2023- 6/30/2025	Beyond 6/30/2025
Federal	\$	\$	\$	\$	\$
State Water Commission	\$	\$	\$ 250,000	\$ 250,000	\$
Other State Of ND	\$	\$	\$	\$	\$
Local	\$	\$	\$ 250,000	\$ 250,000	\$
Total	\$0	\$0	\$ 500,000	\$ 500,000	\$0

Funding Detail (Provide names and amounts from all potential funding sources from the table above.)				
Source	Amount	Grant or Loan	Term	Interest
	\$			
	\$			
	\$			
	\$			
	\$			
For Water Supply Projects Only				
Base Water Rate	Cost Per 1,000 Gallons		User Rate Charged For 5,000 Gallons	
\$	\$		\$	
\$	\$		\$	
\$	\$		\$	
\$	\$		\$	
\$	\$		\$	
Description				
System Production Cost Per 5,000 Gallons				
<p>Explain implementation timelines, considering all phases and current status</p> <p>The BCWRD is requesting funding consideration when the individual sites required action to prevent the loss of the structure or significant erosion of the adjoining property. It is anticipated that some funding will be required in each of the next two bienniums, however the specific time is unknown as an inventory of the revetment condition remains to be updated.</p>				
Project Sponsor Contact Name Greg Larson		Title Chairman		Date May 13, 2020
Address 1702 Burnt Boat Drive		City Bismarck	State North Dakota	ZIP Code 58503
Telephone Number 701-222-3499			Email Address bcwrd@midco.net	
Project Consultant Contact Name Michael Gunsch, PE, CFM		Title Senior Project Manager		Date May 13, 2020
Address 3712 Lockport Street		City Bismarck	State North Dakota	ZIP Code 58503
Telephone Number 701-323-0200			Email Address mgunsch@houstoneng.com	

Please Attach Supporting Information As Needed

E-MAIL TO: NDSWMP@nd.gov

MAIL TO:

Planning & Education Division
ND State Water Commission
900 E Boulevard Ave. Dept. 770
Bismarck, ND 58505-0850

Sixty-eighth
Legislative Assembly
of North Dakota

ENGROSSED SENATE BILL NO. 2036

Introduced by

Legislative Management

(Water Drainage Committee)

1 A BILL for an Act to create and enact thirteen new sections to chapter 61-16.1 of the North
2 Dakota Century Code, relating to water resource boards; to amend and reenact sections
3 61-01-06, 61-01-23, 61-05-02.1, 61-16.1-02, 61-16.1-09, 61-16.1-09.1, 61-16.1-15, 61-16.1-17,
4 61-16.1-18, 61-16.1-19, 61-16.1-20, 61-16.1-21, 61-16.1-22, 61-16.1-23, 61-16.1-24,
5 61-16.1-26, 61-16.1-27, 61-16.1-28, 61-16.1-42, 61-16.1-43, 61-16.1-51, and 61-16.1-54, and
6 subdivision g of subsection 4 of section 61-32-03.1 of the North Dakota Century Code, relating
7 to water resource boards and procedures for assessment projects undertaken by water
8 resource boards; and to repeal section 61-16.1-01 and chapter 61-21 of the North Dakota
9 Century Code, relating to water resource districts, water resource boards, assessment
10 procedures and requirements, and drains.

11 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

12 **SECTION 1. AMENDMENT.** Section 61-01-06 of the North Dakota Century Code is
13 amended and reenacted as follows:

14 **61-01-06. Watercourse and waterway - DefinitionDefinitions.**

15 1. A watercourse entitled to the protection of the law is constituted if there is a sufficient
16 natural and accustomed flow of water to form and maintain a distinct and a defined
17 channel. The supply of water is not required to be continuous or from a perennial living
18 source. The criteria for constituting a watercourse are satisfied if the flow arises
19 periodically from natural causes and reaches a plainly defined channel of a permanent
20 character. If requested by a water resource board, the department of water resources
21 shall determine whether a watercourse is constituted.

22 2. For purposes of this title, unless the context otherwise requires, "waterway" means a
23 natural, geologic feature that conveys surface water over land.

1 **SECTION 2. AMENDMENT.** Section 61-01-23 of the North Dakota Century Code is
2 amended and reenacted as follows:

3 **61-01-23. Investigation or removal of obstructions in channelwatercourse.**

4 ~~In order to investigate or remove obstructions from the channel or bed of any watercourse~~
5 ~~and thus prevent ice from gorging therein and to prevent flooding or pollution of such~~
6 ~~watercourse~~

7 1. Upon a request from a landowner affected by a natural or artificial obstruction to a
8 watercourse, the ~~state water commission~~department of water resources, any water
9 resource district, any municipality, any board of county commissioners, and any
10 federal agency authorized to construct works for ~~prevention of~~to prevent damage by
11 floods or ~~for abatement of~~abate stream pollution, ~~may~~shall notify, and upon the entity's
12 own volition, may notify, the owner of lands lying adjacent to the obstructed
13 watercourse as follows:

14 a. The owner of adjacent lands shall remove the obstruction within thirty days of
15 receiving the notice; and
16 b. If the obstruction is not removed within the thirty days, the entity that sent the
17 notice may enter upon the owner's lands lying adjacent to such the watercourse to
18 investigate or remove, or cause to be removed from the bed, channel, or banks
19 of such the watercourse any obstructions which that prevent or hinder the free
20 flow of water or passage of ice therein, at the owner's expense. However, such
21 entry

22 2. Entry upon adjacent lands under this section must be by the most accessible route
23 and the entering agencyentity is responsible to the landowner for any damage.

24 **SECTION 3. AMENDMENT.** Section 61-05-02.1 of the North Dakota Century Code is
25 amended and reenacted as follows:

26 **61-05-02.1. Creation and jurisdiction of irrigation district - Limitations.**

27 Notwithstanding section 61-05-02, an irrigation district may not be created if the primary
28 purpose of the district is to provide drainage benefits to residents of the district. A drainage
29 project proposed, undertaken, approved, or subject to assessment by an irrigation district also
30 is subject to the permit requirements under chapter 61-32. Drainage benefits provided by an

1 irrigation district may not impact the authority of a water resource board to assess for drainage
2 projects under chapter 61-16.1 or 61-24.

3 **SECTION 4. AMENDMENT.** Section 61-16.1-02 of the North Dakota Century Code is
4 amended and reenacted as follows:

5 **61-16.1-02. Definitions.**

6 ~~In~~For purposes of this chapter, unless the context or subject matter otherwise
7 providesrequires:

- 8 1. "Affected landowners" means landowners whose land is subject to special
9 assessment or condemnation for a project.
- 10 2. "Assessment drain" means ~~any natural watercourse opened, or proposed to be~~
11 ~~opened, and improved for the purpose of drainage, and any artificial drain of any~~
12 ~~nature or description constructed for the purpose of drainage, including dikes and~~
13 ~~appurtenant works, which area~~ drain financed in whole or in part by special
14 assessment. This definition may include more than one watercourse or artificial
15 channel constructed for the purpose of drainage when the watercourses or channels
16 drain land within a practical drainage area.
- 17 3. "Cleaning out and repairing a drain" means deepening and widening a drain and
18 removing obstructions or sediment, and any repair necessary to return the drain to a
19 satisfactory and useful condition.
- 20 4. "Commission" means the state water commission.
- 21 ~~4.5.~~ "Conservation" means planned management of water resources to prevent
22 exploitation, destruction, neglect, or waste.
- 23 ~~5.6.~~ "Costs of the frivolous complaint" means all reasonable costs associated with the
24 requisite proceedings regarding the removal of obstructions to a drain, removal of a
25 noncomplying dike or dam, or closing a noncomplying drain, including all reasonable
26 construction costs; all reasonable attorney's fees and legal expenses; all reasonable
27 engineering fees, including investigation and determination costs; compliance
28 inspections; ~~and~~ necessary technical memorandum and deficiency review; and all
29 costs associated with any hearing conducted by a district, including preparation and
30 issuance of any findings of fact and any final closure order.
- 31 ~~6.7.~~ "District" means a water resource district.

- 1 ~~7-8.~~ "Drain" means any natural watercourse opened, or proposed to be opened, and
2 improved for drainage, and any artificial channel constructed for drainage. The term
3 includes dikes and appurtenant works and may include more than one watercourse or
4 artificial channel when the watercourses or channels drain land within a practical
5 drainage area.
- 6 9. "Frivolous" means allegations and denials in any complaint filed with a district made
7 without reasonable cause and not in good faith.
- 8 ~~8-10.~~ "Lateral drain" means a drain constructed after the establishment of an original drain
9 or drainage system and which flows into the original drain or drainage system from
10 outside the limits of the original drain.
- 11 11. "Practical drainage area" means, for assessment drains, the practical drainage area
12 determined by the survey and examination required under section 61-16.1-17.
- 13 12. "Project" means any undertaking for water conservation; flood control; water supply; water
14 delivery; erosion control and watershed improvement; drainage of surface
15 waters; collection, processing, and treatment of sewage; or discharge of sewage
16 effluent; or any combination thereof, ~~including~~ of purposes in this subsection, and
17 includes incidental features of any such ~~the~~ undertaking.
- 18 ~~9-13.~~ "Water resource board" or "board" means the water resource district's board of
19 managers.

20 **SECTION 5. AMENDMENT.** Section 61-16.1-09 of the North Dakota Century Code is
21 amended and reenacted as follows:

22 **61-16.1-09. Powers of water resource board.**

23 Each water resource board shall have the power and authority to:

- 24 1. Sue and be sued in the name of the district.
- 25 2. Exercise the power of eminent domain as follows:
- 26 a. Except as permitted under subdivision b, the board shall comply with title 32 for
27 the purpose of acquiring and securing by eminent domain any rights, titles,
28 interests, estates, or easements necessary or proper to carry out the duties
29 imposed by this chapter, and particularly to acquire the necessary rights in land
30 for the construction of dams, flood control projects, and other water conservation,
31 distribution, and supply works of any nature and to permit the flooding of lands,

1 and to secure the right of access to such dams and other devices and the right of
2 public access to any waters impounded thereby.

3 b. (1) If the interest sought to be acquired is an easement for a right of way for any
4 project authorized in this chapter for which federal or state funds have been
5 made available, the district may acquire the right of way by quick take
6 eminent domain as authorized by section 16 of article I of the Constitution of
7 North Dakota, after the district attempts to purchase the easement for the
8 right of way by:

9 (a) Conducting informal negotiations for not less than sixty days.

10 (b) If informal negotiations fail, the district shall engage in formal
11 negotiations by:

12 [1] Sending the landowner an appraisal and written offer for just
13 compensation, which includes a specific description of the exact
14 location of the right of way, by certified mail or commercial
15 delivery requiring a signed receipt, and receiving the signed
16 receipt or documentation of constructive notice.

17 [2] Sending the landowner a written request for a meeting by
18 certified mail or commercial delivery requiring a signed receipt if
19 there is no agreement regarding compensation or no response to
20 the written offer within fifteen days of receipt, and receiving the
21 signed receipt or documentation of constructive notice.

22 [3] Sending the landowner a written notice, by certified mail or
23 commercial delivery requiring a signed receipt, of intent to take
24 possession of the right of way if there is no agreement regarding
25 compensation or no response to the written request for a
26 meeting within thirty days of receipt, and receiving the signed
27 receipt or documentation of constructive notice.

28 (2) Any written communication to the landowner must include contact
29 information for responding to the board and a description of the required
30 negotiation timeline.

- 1 (3) A district may not include or utilize any reference to quick take eminent
2 domain during negotiations to acquire the necessary easement for a right of
3 way. If formal negotiation efforts fail, the district shall request approval from
4 the board of county commissioners of the county in which the right of way is
5 located to take possession of the right of way by quick take eminent domain.
6 After receiving the request, the county commissioners shall hold a public
7 meeting and give the landowner thirty days' notice of the meeting to allow
8 the landowner to attend. After receiving verification from the district that
9 there has been no reference or threat of quick take eminent domain by the
10 district during negotiations, the commissioners shall vote on whether to
11 approve the taking of the easement for a right of way using quick take
12 eminent domain. If the county commissioners approve the use of quick take
13 eminent domain by a majority vote, the district may take immediate
14 possession of the right of way, but not a blanket easement, if the district files
15 an affidavit by the chairman of the water resource board which states the
16 district has fulfilled the required negotiation steps and deposits the amount
17 of the written offer with the clerk of the district court of the county in which
18 the right of way is located.
- 19 (4) Within thirty days after notice has been given in writing to the landowner by
20 the clerk of the district court that a deposit has been made for the taking of a
21 right of way as authorized in this subsection, the owner of the property taken
22 may appeal to the district court by serving a notice of appeal upon the
23 acquiring agency, and the matter must be tried at the next regular or special
24 term of court with a jury unless a jury be waived, in the manner prescribed
25 for trials under chapter 32-15.
- 26 (5) If ownership of a right of way has not terminated, ownership of a right of way
27 acquired under this subdivision terminates automatically when the district no
28 longer needs the right of way for the purpose for which it was acquired.
- 29 3. Accept funds and property or other assistance, financial or otherwise, from federal,
30 state, and other public or private sources for the purposes of aiding the construction or
31 maintenance of water conservation, distribution, and flood control projects; and

- 1 cooperate and contract with the state or federal government, or any department or
2 agency thereof, or any municipality within the district, in furnishing assurances and
3 meeting local cooperation requirements of any project involving control, conservation,
4 distribution, and use of water.
- 5 4. Procure the services of engineers and other technical experts, and employ an attorney
6 ~~or attorneys~~ to assist, advise, and act for it in its proceedings.
- 7 5. Plan, locate, relocate, construct, reconstruct, modify, maintain, repair, and control all
8 dams and water conservation and management devices of every nature and water
9 channels, and to control and regulate the same and all reservoirs, artificial lakes, and
10 other water storage devices within the district.
- 11 6. Maintain and control the water levels and the flow of water in the bodies of water and
12 streams involved in water conservation and flood control projects within the district and
13 regulate streams, channels, drains, or watercourses and the flow of water ~~therein~~
14 them by changing, widening, deepening, ~~or straightening the same~~, or otherwise
15 improving the use and capacity thereof; or by cleaning out and repairing a drain.
- 16 7. Regulate and control water for the prevention of floods and flood damages by
17 deepening, widening, straightening, or diking the channels or floodplains of any stream
18 or watercourse within the district, and construct reservoirs or other structures to
19 impound and regulate such waters.
- 20 8. Make rules and regulations concerning the management, control, regulation, and
21 conservation of waters and prevent the pollution, contamination, or other misuse of the
22 water resources, streams, or bodies of water included within the district.
- 23 9. Do all things reasonably necessary and proper to preserve the benefits to be derived
24 from the conservation, control, and regulation of the water resources of this state.
- 25 10. Construct, operate, and maintain recreational facilities, including beaches, swimming
26 areas, boat docking and landing facilities, toilets, wells, picnic tables, trash
27 receptacles, and parking areas, and to establish and enforce rules and regulations for
28 the use thereof.
- 29 11. Have, in addition to any powers provided in this chapter, the authority to construct an
30 assessment drain in accordance with the ~~procedures and provisions~~requirements of
31 this chapter 61-24.

- 1 12. Acquire by lease, purchase, gift, condemnation, or other lawful means and to hold in
2 its corporate name for its use and control both real and personal property and
3 easements and rights of way within or without the limits of the district for all purposes
4 authorized by law or necessary to the exercise of any other stated power.
- 5 13. Convey, sell, dispose of, or lease personal and real property of the district as provided
6 by this chapter.
- 7 14. Authorize and issue warrants to finance construction of water conservation and flood
8 control projects, assess benefited property for part or all of the cost of such projects,
9 and require appropriations and tax levies to maintain sinking funds for construction
10 warrants on a cash basis at all times.
- 11 15. Borrow money within the limitations imposed by this chapter for projects herein
12 authorized and pledge security for the repayment of such loans.
- 13 16. Order or initiate appropriate legal action to compel the entity responsible for the
14 maintenance and repair of any bridge or culvert to remove from under, within, and
15 around such bridge or culvert all dirt, rocks, weeds, brush, shrubbery, other debris,
16 and any artificial block which hinders or decreases the flow of water through such
17 bridge or culvert.
- 18 17. Order or initiate appropriate legal action to compel the cessation of the destruction of
19 native woodland bordering within two hundred feet [60.96 meters] of that portion of a
20 riverbank subject to overflow flooding that will cause extensive property damage, or in
21 the alternative, order, that, if such destruction is permitted, the party or parties
22 responsible for the destruction must, when the board has determined that such
23 destruction will cause excessive property damage from overflow flooding due to the
24 erosion or blocking of the river channel, plant a shelterbelt which meets the
25 specifications of the board. In the event the native woodland within such area has
26 already been destroyed, the board may, in its discretion, order the planting of a
27 shelterbelt which, in the judgment of the board, will curtail the erosion or blocking of
28 such river channel where overflow flooding has caused extensive property damage.
29 For purposes of this subsection, the words "riverbank" and "river channel" relate to
30 rivers as defined in the United States geological survey base map of North Dakota,
31 edition of 1963. The provisions of this subsection shall not be construed to limit,

- 1 impair, or abrogate the rights, powers, duties, or functions of any federal, state, or local
2 entity to construct and maintain any flood control, irrigation, recreational, or municipal
3 or industrial water supply project.
- 4 18. Petition any zoning authority established pursuant to chapter 11-33, 11-35, or 40-47 or
5 section 58-03-13 to assume jurisdiction over a floodplain for zoning purposes when
6 such zoning is required to regulate and enforce the placement, erection, construction,
7 reconstruction, repair, and use of buildings and structures to protect and promote the
8 health, safety, and general welfare of the public within a floodplain area. In the event
9 such zoning authority fails to act or does not exist, the board may request the state
10 water commission to assist it in a study to determine and delineate the floodplain area.
11 Upon completion of such study, the board shall make suitable recommendations for
12 the establishment of a floodplain zone to all zoning authorities and the governing
13 bodies of all political subdivisions having jurisdiction within the floodplain area.
- 14 19. Plan, locate, relocate, construct, reconstruct, modify, extend, improve, operate,
15 maintain, and repair sanitary and storm sewer systems, or combinations thereof,
16 including sewage and water treatment plants, and regulate the quantity of sewage
17 effluent discharged from municipal lagoons; and contract with the United States
18 government, or any department or agency thereof, or any private or public corporation
19 or limited liability company, the government of this state, or any department, agency,
20 or political subdivision thereof, or any municipality or person with respect to any such
21 systems.
- 22 20. Develop water supply systems, store and transport water, and provide, contract for,
23 and furnish water service for domestic, municipal, and rural water purposes, irrigation,
24 milling, manufacturing, mining, metallurgical, and any and all other beneficial uses,
25 and fix the terms and rates therefor. Each district may acquire, construct, operate, and
26 maintain dams, reservoirs, ground water storage areas, canals, conduits, pipelines,
27 tunnels, and any and all works, facilities, improvements, and property necessary
28 therefor.
- 29 21. Coordinate proposals for installation, modification, or construction of culverts and
30 bridges in an effort to achieve appropriate sizing and maximum consistency of road
31 openings. The department of transportation, railroads, counties, and townships shall

1 cooperate with the districts in this effort. Each district shall also consider the possibility
2 of incorporating appropriate water control structures, where appropriate, as a part of
3 such road openings.

4 22. Plug abandoned water wells and participate in cost-sharing arrangements with water
5 well owners to plug water wells to protect aquifers from pollution or depletion, maintain
6 pressure, and prevent damage to surrounding property.

7 23. Have, in addition to any powers provided in this chapter, the authority to conduct
8 weather modification operations in accordance with the procedures and provisions of
9 chapter 61-04.1.

10 24. Establish, deepen, widen, and improve drains; and extend drains as necessary to
11 provide a suitable outlet or reasonably drain lands within a practical drainage area.

12 25. Install artificial subsurface drainage systems.

13 **SECTION 6.** A new section to chapter 61-16.1 of the North Dakota Century Code is created
14 and enacted as follows:

15 **Right of way - How acquired - Assessment of damages - Issuance of warrants.**

16 If lands assessed for drainage benefits are not contiguous to the drain, the water resource
17 board may exercise eminent domain to acquire a right of way easement to the drain over the
18 land of others. The right of way, when acquired, is the property of the water resource district in
19 which the lands are located. The board may issue warrants in a sum sufficient to pay the
20 damages assessed for the right of way. The warrants must be drawn upon the proper county
21 treasurer or, if the water resource district treasurer is custodian of the drain funds, water
22 resource district treasurer, and are payable out of drain funds in the hands of the treasurer
23 which have been collected for the construction of the drain for which the right of way is sought.

24 **SECTION 7. AMENDMENT.** Section 61-16.1-09.1 of the North Dakota Century Code is
25 amended and reenacted as follows:

26 **61-16.1-09.1. Watercourses, bridges, and low-water crossings.**

27 1. A water resource board may undertake the snagging, clearing, and maintaining of
28 natural watercourses and the debris removal of bridges and low-water crossings. The
29 board may finance the project in whole or in part with funds raised through the
30 collection of a special assessment levied against the land and premises benefited by
31 the project. The benefits of a project must be determined in the manner provided in

1 section ~~61-16.1-17~~61-16.1-18. Revenue from an assessment under this section may
2 not be used for construction of a drain or reconstruction or maintenance of an existing
3 assessment drain. Any question as to whether the board is maintaining a natural
4 watercourse or is constructing a drain or reconstructing or maintaining an existing
5 assessment drain must be resolved by the department of water resources. All
6 provisions of this chapter apply to assessments levied under this section except:

- 7 a. An assessment may not exceed fifty cents per acre [.40 hectare] annually on
8 agricultural lands and may not exceed fifty cents annually for each five hundred
9 dollars of taxable valuation of nonagricultural property; ~~and~~.
- 10 b. If the assessment is for a project costing less than one hundred thousand dollars,
11 no action is required for the establishment of the assessment district or the
12 assessments except the board must approve the project and assessment by a
13 vote of two-thirds of the members and the board of county commissioners of the
14 county in which the project is located must approve and levy the assessments to
15 be made by a vote of two-thirds of its members.

16 (1) If a board that undertakes a project finds the project will benefit lands
17 outside water resource district boundaries, the board shall provide notice to
18 the water resource board where the benefited lands are located together
19 with the report prepared under section 61-16.1-17.

20 (2) The board of each water resource district containing lands benefited by a
21 project must approve the project and assessment by a vote of two-thirds of
22 its members. The board of county commissioners in each county that
23 contains lands benefited by a project must approve and levy the
24 assessment to be made by a vote of two-thirds of its members.

25 (3) If a project and assessment is not approved by all affected water resource
26 boards and county commission boards, the board of each water resource
27 district and the board of county commissioners of each county shall meet to
28 ensure all common water management problems are resolved pursuant to
29 section 61-16.1-10. In addition, the water resource board that undertakes
30 the project may proceed with the project if the board finances the cost of the
31 project and does not assess land outside the boundaries of the district.

1 c. All revenue from an assessment under this section must be exhausted before a
2 subsequent assessment covering any portion of lands subject to a prior
3 assessment may be levied.

4 2. Before an assessment may be levied under this section, a public hearing must be held
5 and attended by a quorum of the affected water resource boards and a quorum of the
6 affected boards of county commissioners. The hearing must be preceded by notice as
7 to date, time, location, and subject matter published in the official newspaper in the
8 county or counties in which the proposed assessment is to be levied. The notice must
9 be published at least ten days but not more than thirty days before the public hearing.

10 **SECTION 8. AMENDMENT.** Section 61-16.1-15 of the North Dakota Century Code is
11 amended and reenacted as follows:

12 **61-16.1-15. ~~Financing project~~Initiating project financed through revenue bonds,**
13 **general taxes, or special assessments - ~~Apportionment of benefits~~Bond required.**

14 A water resource board shall ~~have the authority,~~ either upon request or by its own motion,
15 ~~to~~may acquire needed interest in property and provide for the cost of construction, alteration,
16 repair, operation, and maintenance of a project through issuance of improvement warrants or
17 with funds raised by special assessments, general tax levy, issuance of revenue bonds, or by a
18 combination of general ad valorem tax, special assessments, and revenue bonds. ~~Whenever a~~
19 ~~water resource board decides to acquire property or interests in property to construct, operate,~~
20 ~~alter, repair, or maintain a project with funds raised in whole or in part through special~~
21 ~~assessments, such assessments shall be apportioned to and spread upon lands or premises~~
22 ~~benefited by the project in proportion to and in accordance with benefits accruing thereto. The~~
23 ~~board shall assess the proportion of the cost of the project, or the part of the cost to be financed~~
24 ~~with funds raised through levy and collection of special assessments which any lot, piece, or~~
25 ~~parcel of land shall bear in proportion to the benefits accruing thereto and any county, city, or~~
26 ~~township which is benefited thereby. In determining assessments, the water resource board~~
27 ~~shall carry out to the maximum extent possible the water management policy of this chapter that~~
28 ~~upstream landowners must share with downstream landowners the responsibility to provide for~~
29 ~~the proper management of surface waters.~~A request under this section must be in writing and
30 be accompanied by a bond in a sum the water resource board deems sufficient to pay all
31 expenses of the board related to the petition in case the petition is denied. If the proposed

1 project is an assessment drain, the request must identify the starting point, terminus, and
2 general course of the proposed drain and be signed by at least two owners of property that
3 would be drained by the proposed drain. If among the leading purposes of the proposed drain
4 are benefits to the health, convenience, or welfare of the residents of any city, the petition must
5 be signed by a sufficient number of the property owners of the city to satisfy the board there is a
6 public demand for the drain. If a petition under this section is approved by voters under section
7 61-16.1-19 but the project is not constructed, the board may not require the petitioners to pay
8 any expenses incurred by the board related to the petition.

9 **SECTION 9. AMENDMENT.** Section 61-16.1-17 of the North Dakota Century Code is
10 amended and reenacted as follows:

11 **61-16.1-17. Financing of special improvementsAssessment projects - Procedure -**
12 **Engineer report.**

13 ~~When it is proposed to finance in whole or in part the construction of a project with a~~
14 ~~water resource board receives a petition or approves a motion to construct a project with funds raised~~
15 ~~through the collection of special assessments levied against lands and premises benefited by~~
16 ~~construction and maintenance of such project, the water resource board shall examine the~~
17 ~~proposed project, and if in its opinion, If the water resource board decides further proceedings~~
18 ~~are warranted, itthe board shall adopt a resolution and declare that itdeclaring constructing and~~
19 ~~maintaining the proposed project is necessary to construct and maintain the project. The~~
20 ~~resolution shall briefly state, identifying the nature and purpose of the proposed project, and~~
21 ~~shall designatedesignating a registered engineer to assist the board. As soon as practicable,~~
22 ~~the board shall publish the resolution in the newspaper of general circulation in each area in~~
23 ~~which lands that reasonably may be condemned or subject to assessment for the project are~~
24 ~~located. For the purpose of making examinations or surveys, the board or its employeesthe~~
25 ~~board's agents, after written notice to each landowner at the landowner's address as shown by~~
26 ~~the tax rolls of the county in which the affected property is located, may enter upon any land on~~
27 ~~which the proposed project is located or any other lands necessary to gain access. The~~
28 ~~engineer shall prepare profiles, plans, and specifications, and total estimated costs of the~~
29 ~~proposed project and estimates of the total cost thereof. The estimate of costs prepared by the~~
30 ~~engineer shallmust include acquisition of rightthe cost to acquire rights of way and shall be in-~~
31 ~~sufficient detail to allowbe sufficiently detailed for the board to determine the probable share of~~

1 the total costs that ~~will~~ be assessed against each of the affected landowners in the proposed
2 project assessment district.

3 **SECTION 10. AMENDMENT.** Section 61-16.1-18 of the North Dakota Century Code is
4 amended and reenacted as follows:

5 **61-16.1-18. Hearing on assessment project - Notice –Contents.**

- 6 1. Upon the filing of the engineer's report provided for in section 61-16.1-17, and after
7 satisfying the requirements of section 61-16.1-21, the water resource board shall fix a
8 date and place for a public hearing on the proposed project. The place of hearing must
9 be in the vicinity of the proposed project and must be convenient and accessible for
10 the majority of the landowners subject to assessment for the project or whose property
11 is subject to condemnation for the proposed project.
- 12 2. The board shall cause a complete list of the benefits and assessments to be made,
13 setting forth each county, township, or city assessed in its corporate capacity as well
14 as each lot, piece, or parcel of land assessed; the amount each ~~is~~ would be benefited
15 by the ~~improvement~~ proposed project; and the amount assessed against each. At least
16 ten days before the hearing, the board shall file with the county auditor of each county
17 ~~or counties~~ in which the project is or will be located the list showing the percentage
18 assessment against each parcel of land benefited by the proposed project and the
19 approximate assessment in terms of money apportioned ~~thereto~~. ~~Notice of the filing~~
20 ~~must be included in the notice of hearing.~~ Notice to each parcel.
- 21 3. The water resource board shall provide notice of the hearing which must contain:
- 22 a. Include a copy of the petition, if any, and the resolution of the board as well as;
- 23 b. Specify the time and place where the board will conduct of the hearing. ~~The notice~~
24 ~~of hearing must specify the general nature;~~
- 25 c. Identify the beginning, terminus, and general course of the project as finally
26 determined by the engineer and the board. ~~The notice of hearing must also~~
27 specify;
- 28 d. Specify when and where votes concerning the proposed project may be filed. ~~The~~
29 ;
- 30 e. Include the assessment list showing the percentage assessment against each
31 parcel of land benefited by the proposed project and the approximate

1 assessment in terms of money apportioned thereto, ~~along with a copy of the~~
2 ~~notice of the hearing, must be to~~ each parcel;

3 f. Be mailed with a ballot to vote on the proposed project to each affected
4 landowner at the landowner's address as shown by the tax rolls of the county or
5 counties in which the affected property is located. The board may send the
6 ~~assessment list and notice~~ and ballot by regular mail attested by an affidavit of
7 mailing signed by the attorney or secretary of the board. ~~The board shall cause~~
8 ~~the notice of hearing to be;~~ and

9 g. Be published once a week for two consecutive weeks in the newspaper or
10 newspapers of general circulation in the area in which the affected landowners
11 reside and in the official county newspaper of each county in which the benefited
12 lands are located.

13 4. The date set for the hearing must not be less than at least twenty days after the mailing
14 of the notice day the notice is mailed. A record of the hearing must be made by the
15 board, ~~including~~ include a list of affected landowners present in person or by agent,
16 ~~and the record must be preserved in the minutes of the meeting.~~ ~~Affected~~
17 ~~landowners,~~ Each affected landowner and the governing body of any county, township,
18 or city to be assessed, must be informed at the hearing of the probable total cost of
19 the project ~~and their individual share,~~ the share of the cost the landowner or governing
20 body will be assessed, and the portion of ~~their~~ landowner or governing body's property,
21 if any, to be condemned for the project.

22 **SECTION 11. AMENDMENT.** Section 61-16.1-19 of the North Dakota Century Code is
23 amended and reenacted as follows:

24 **61-16.1-19. Voting on proposed projects - Notice of result.**

25 At the hearing on an assessment project, the affected landowners, and any county,
26 township, or city to be assessed, must also be informed when and where votes concerning the
27 proposed project may be filed. Affected landowners, and the governing body of any county,
28 township, or city to be assessed, have thirty days after the date of the hearing to file their votes
29 for or against the project with the secretary of the water resource board ~~concerning the project.~~
30 If a vote is mailed to the secretary, the vote is timely if the vote is received within the voting
31 period. During the voting period, ballots may not be opened and votes may not be counted.

1 Once the deadline for filing votes has been reached, ~~no more votes may be filed and no person~~
2 ~~may withdraw a vote~~votes may not be filed or withdrawn. Any withdrawal of a vote concerning
3 the proposed project before that time must be in writing. When ~~the votes have been filed and~~
4 the deadline for filing votes has passed, the board immediately shall ~~immediately~~ determine
5 whether the project is approved. If the board finds that fifty percent or more of the total votes
6 filed are against the proposed project, ~~then~~ the vote constitutes a bar against proceeding further
7 with the project. If the board finds ~~that~~ the number of votes filed against the proposed project is
8 less than fifty percent of the votes filed, the board shall issue an order establishing the proposed
9 project and ~~may proceed~~, after complying with the requirements of sections 61-16.1-21 and
10 61-16.1-22, ~~to~~may contract or provide for the construction or maintenance of the project in
11 substantially the manner and according to the forms and procedure provided in title 40 for the
12 construction of sewers within municipalities. The board may enter into an agreement with any
13 federal or state agency under the terms of which the contract for the project is to be let by the
14 federal agency, the state agency, or ~~a combination thereof~~both. ~~In projects in which~~If there is an
15 agreement thatfor a party other than the board willto let the contract, the board may dispense
16 with all ~~of~~ the requirements of title 40. Upon making an order establishing a project or ~~denying~~
17 ~~establishment of~~determining the vote bars establishing a project, the board shall publish notice
18 of the order or determination in a newspaper of general circulation in the area in which the
19 affected ~~landowners reside and in the official county newspaper of each county in which the~~
20 ~~benefited~~ lands are located. The notice must advise affected landowners of their right to appeal.
21 Any right of appeal begins to run on the date of publication of the notice. ~~As used in this section,~~
22 "board" means ~~water resource board~~.

23 **SECTION 12. AMENDMENT.** Section 61-16.1-20 of the North Dakota Century Code is
24 amended and reenacted as follows:

25 **61-16.1-20. Voting right or powers of landowners.**

26 ~~In order that there may be~~The allocation of voting rights among affected landowners on the
27 question of establishing a proposed project must provide a fair relationrelationship between the
28 amount of liability for assessments and the power of objecting to the establishment of a
29 ~~proposed~~the project, ~~the voting rights of affected landowners on the question of establishing the~~
30 ~~project are as provided in this section. The landowner or landowners of tracts of land affected~~
31 ~~by the project.~~ Affected landowners have one vote for each dollar of assessment thatto which

1 the land is subject to one vote for each dollar of the assessed valuation of land condemned
2 for the project, as determined in accordance with title 57. The governing body of any county,
3 township, or city to be assessed also has one vote for each dollar of assessment against
4 ~~such~~the county, township, or city. There may be only one vote for each dollar of assessment,
5 regardless of the number of owners of ~~such~~a tract of land. ~~Where~~If there is more than one
6 owner of ~~such~~the land exists, the votes must be prorated among ~~them~~the owners in accordance
7 with each owner's property interest. A written power of attorney authorizes an agent to protest a
8 project on behalf of ~~any~~the affected landowner ~~or landowners~~that executed the power of
9 attorney.

10 **SECTION 13. AMENDMENT.** Section 61-16.1-21 of the North Dakota Century Code is
11 amended and reenacted as follows:

12 **61-16.1-21. Assessment of cost of project**Calculating benefits and assessments -
13 Certification.

14 ~~Whenever~~

15 1. ~~If the water resource board proposes to make any special assessment under the~~
16 ~~provisions of this chapter, the board, prior to~~before the hearing required under section
17 61-16.1-18, shall inspect ~~any and all~~ lots and parcels of land; which may be subject to
18 assessment and shall determine from the inspection the particular lots and parcels of
19 lands which, in the opinion of the board, will be ~~especially~~ benefited by the
20 construction of the work for which the assessment is made ~~and~~. The board shall
21 ~~assess~~determine the proportion of the total cost of acquiring right of way and
22 constructing and maintaining ~~such improvement~~the project in accordance with, but not
23 exceeding, the benefits received ~~but not exceeding such benefits, against:~~

24 ~~4.~~ Any any county, township, or city, in its corporate capacity, which may be
25 benefited directly or indirectly ~~thereby.~~

26 ~~2.~~ Any and any lot, piece, or parcel of land which is directly benefited by ~~such~~
27 ~~improvement~~the project.

28 2. In determining benefits the board shall consider, among other factors, property values,
29 degree of improvement of properties, and productivity, ~~and the water management~~
30 ~~policy as expressed in section 61-16.1-15.~~ Property belonging to the United States
31 ~~shall be~~is exempt from ~~such~~ assessment under this chapter, unless the United States

1 has provided for the payment of any assessment ~~which may be levied against its~~the
2 property for benefits received. Benefited property belonging to counties, cities, school
3 districts, park districts, and townships ~~shall not be~~not exempt from such assessment
4 under this chapter, and political subdivisions whose property is so assessed shall
5 provide for the payment of suchthe assessments, installments thereof, and interest
6 ~~thereon~~, by the levy of taxes according to law. Any county, township, or city assessed
7 in its corporate capacity for benefits received shall provide for the payment of suchthe
8 assessments, installments thereof, and interest ~~thereon~~ from itsthe political
9 subdivision's general fund or by levy of a general property tax against all the taxable
10 property ~~therein~~in the political subdivision in accordance with law. ~~No tax limitation~~Tax
11 limitations provided by any statute of this state ~~shall~~do not apply to tax levies made by
12 any sucha political subdivision for the purpose of paying any special assessments
13 ~~made in accordance with the provisions of~~under this chapter. ~~There shall be attached~~
14 ~~to the list of assessments a~~

- 15 3. The board shall prepare a list identifying the assessments allocated to each lot and
16 parcel of land for the project. A certificate signed by a majority of the members of the
17 board certifying that the same is a true and correct assessment of the benefit
18 therein must be attached to the list and state the assessment in the list are based on a
19 correct determination of the benefits to the assessed land described to the best of
20 ~~their~~the members' judgment ~~and stating~~. The certificate also must identify the several
21 items of expense included in the assessment.

22 **SECTION 14. AMENDMENT.** Section 61-16.1-22 of the North Dakota Century Code is
23 amended and reenacted as follows:

24 **61-16.1-22. Assessment list to be published - Notice of hearing - Alteration of**
25 **assessments - Confirmation of assessment list - Filing.**

- 26 1. After entering an order establishing the project, the water resource board shall ~~cause~~
27 ~~the assessment list to be published once each week for three successive weeks in the~~
28 ~~newspaper or newspapers of general circulation in the district and in the official county~~
29 ~~newspaper of each county in which the benefited lands are located together with a~~
30 ~~notice of the time when, and place where, the board will meet to hear objections to any~~
31 ~~assessment by any interested party, or an agent or attorney for that party. The board~~

1 also shall mail a copy of the notice of the hearing in an envelope clearly marked
2 "ASSESSMENT NOTICE" to each affected landowner at the landowner's address as
3 shown by the tax rolls of the county or counties in which the affected property is
4 located; provide notice of a hearing at which the board will meet to hear objections to
5 the proposed assessments from any interested party or agent for an interested party.

6 The notice must:

7 a. Include a copy of the order establishing the project;

8 b. Specify the time and place of the hearing;

9 c. Identify the beginning, terminus, and general course of the project as finally
10 determined by the engineer and the board;

11 d. Include the assessment list showing the percentage assessment against each
12 parcel of land benefited by the proposed project and the approximate
13 assessment in terms of money apportioned;

14 e. Be mailed to each affected landowner at the landowner's address as shown by
15 the tax rolls of the county in which the affected property is located. The board
16 may send the assessment list and notice by regular mail attested by an affidavit
17 of mailing signed by the attorney or secretary of the board; and

18 f. Be published once a week for two consecutive weeks in the newspaper of
19 general circulation in the area in which the affected lands are located.

- 20 2. The date set for the hearing ~~may not~~must be ~~less than thirty~~at least twenty days after
21 the ~~mailing of the notice is mailed~~. At the hearing, the board may ~~make such~~
22 ~~alterations in~~alter the assessments as ~~in its opinion may be~~the board deems just and
23 necessary to correct any error in the assessment but ~~must~~shall make the aggregate of
24 all assessments equal to either the total amount required to pay the entire cost of the
25 work for which the assessments are made, or the part of the cost to be paid by special
26 assessment. An assessment may not exceed the benefit as determined by the board
27 to the parcel of land or political subdivision assessed. The board then shall ~~then~~
28 confirm the assessment list ~~and the~~. The secretary shall attach to the list a certificate
29 ~~that the same~~stating the list is correct as confirmed by the board and shall file the list
30 in the office of the secretary.

1 **SECTION 15. AMENDMENT.** Section 61-16.1-23 of the North Dakota Century Code is
2 amended and reenacted as follows:

3 **61-16.1-23. Appeal to department of water resources.**

4 ~~After~~Within twenty days after the hearing ~~provided for in~~meeting at which the water
5 resource board approves the final assessment list required under section 61-16.1-22, ~~affected;~~

6 1. Affected landowners and any political subdivision subject to assessment, having not
7 less than ~~twenty~~thirty-three percent of the possible votes as determined by section
8 61-16.1-20, ~~who~~which believe the assessment was not made fairly or equitably or the
9 project is not located or designed properly, may appeal to the department of water
10 resources by petition, ~~within ten days after the hearing on assessments,~~ to make a
11 review of the assessments and to examine the location and design of the proposed
12 project. Upon receipt of the petition the department shall examine the lands assessed
13 and the location and design of the proposed project, and if it appears the assessments
14 were not made equitably, the department may correct the assessments, and the
15 department's correction and adjustment of the assessment is final. If the department
16 believes the project was located or designed improperly, the department may order a
17 relocation and redesign that must be followed in the construction of the proposed
18 project.

19 2. Upon filing a bond for two hundred fifty dollars with the board for the payment of the
20 costs of the department in the matter, any landowner or political subdivision claiming
21 the landowner or political subdivision will receive no benefit from the construction of a
22 new project may appeal that issue to the department ~~within ten days after the hearing~~
23 ~~on assessments.~~ Upon an appeal by an individual landowner or political subdivision,
24 the department may determine whether there is any benefit to the landowner or
25 political subdivision, but not the specific amount of benefit. The determination of the
26 department regarding whether there is a benefit is final.

27 **SECTION 16. AMENDMENT.** Section 61-16.1-24 of the North Dakota Century Code is
28 amended and reenacted as follows:

29 **61-16.1-24. When assessments may be made - Prohibition on certain contracts.**

30 After the requirements of this chapter have been satisfied and a contract and bond for any
31 work for which a special assessment is to be levied have been approved by the water resource

1 board, the board may direct special assessments to be levied for the payment of appropriate
2 costs, and the secretary shall certify to the board the items of total cost to be paid by special
3 assessments so far as ~~they~~the costs have been ascertained. The certificate shallmust include
4 the estimated construction cost under the terms of any contract; for the project; a reasonable
5 allowance for the cost of extra work ~~which~~that may be authorized under the plans and
6 specifications; acquisition of right of way; engineering, fiscal agents' and attorney's fees for any
7 services in connection with the authorization and financing of the ~~improvement~~project; cost of
8 publication of required notices; ~~and~~; printing of improvement warrants; cost necessarily paid for
9 damages caused by ~~such~~the improvement; interest during the construction period; and all
10 expenses incurred in making the improvement and levy of assessments.

11 ~~In no event shall any contract or contracts be awarded which exceed~~ A contract that
12 exceeds, by twenty percent or more, the estimated cost of the project as presented to and
13 approved by the affected landowners is prohibited.

14 **SECTION 17. AMENDMENT.** Section 61-16.1-26 of the North Dakota Century Code is
15 amended and reenacted as follows:

16 **61-16.1-26. Reassessment of benefits.**

17 ~~The~~A water resource board may hold at any time or, upon petition of any affected
18 landowner or assessed political subdivision ~~which has been assessed~~ after a project has been
19 in existence for at least one year, shall hold a hearing ~~for the purpose of determining to~~
20 determine the benefits of ~~such~~the project to each tract of land affected. Notice of the hearing
21 must be given by publication once each week for three consecutive weeks, beginning at least
22 thirty days before the hearing, in the newspaper ~~or newspapers~~ having general circulation in the
23 district and in the official county newspaper of each county in which the benefited lands are
24 located and by mailing notice of the hearing in an envelope clearly marked "ASSESSMENT
25 NOTICE" to each owner of land in the assessed district at the landowner's address as shown by
26 the tax rolls of the counties in which the affected property is located. The provisions of this
27 chapter governing the original determination of benefits and assessment of costs apply to any
28 reassessment of benefits carried out under this section. ~~The board may not be forced to make~~
29 ~~such~~Regardless of the number of petitions received, the board is not required to conduct a
30 reassessment more than once every ten years, ~~nor may any.~~ An assessment or balance thereof
31 supporting a project fund may not be reduced or impaired by reassessment or otherwise so

1 long as bonds payable out of ~~such~~the fund remain unpaid and moneys are not available in
2 ~~such~~the fund to pay all ~~such~~the bonds in full, with interest. Costs of maintenance must be
3 prorated in accordance with any adopted plan for reassessment of benefits ~~that has been~~
4 ~~adopted~~.

5 **SECTION 18. AMENDMENT.** Section 61-16.1-27 of the North Dakota Century Code is
6 amended and reenacted as follows:

7 **61-16.1-27. Correction of errors and mistakes in special assessments –Requirements–**
8 **governing.**

9 If mathematical errors or other ~~such~~ mistakes occur in making any assessment ~~resulting and~~
10 result in a deficiency in that assessment, the board shall cause additional assessments to be
11 made in a manner substantially complying with chapter 40-26 as ~~it~~the chapter relates to special
12 assessments.

13 **SECTION 19. AMENDMENT.** Section 61-16.1-28 of the North Dakota Century Code is
14 amended and reenacted as follows:

15 **61-16.1-28. Certification of assessments to county auditor.**

16 When a water resource board, by resolution, has caused special assessments to be levied
17 to cover the cost of constructing a project, the board shall determine the rate of interest unpaid
18 special assessments ~~shall~~must bear, ~~which~~. The interest rate ~~shall~~may not exceed one and
19 one-half percent above the warrant rate. Interest on unpaid special assessments ~~shall~~must
20 commence on the date the assessments are ~~finally~~ confirmed finally by the board. Special
21 assessments may be certified and made payable in equal annual installments, the last of which
22 ~~shall~~must be due and payable not more than thirty years after the date of the warrants to be
23 paid. The secretary of the district shall certify to the county auditor of the county in which the
24 district is situated, or if the district embraces more than one county, to the county auditor of each
25 county in which district lands subject to ~~such~~the special assessments are situated, the total
26 amount assessed against ~~such~~ lands in that county and the proportion or percentage of ~~such~~the
27 amount assessed against each piece, parcel, lot, or tract of land. The secretary of the district
28 also shall ~~also~~ file with the county auditor of each county in which district lands lie a statement
29 showing the cost of the project, the part ~~thereof~~of the cost, if any, ~~which will~~to be paid out of the
30 general taxes, and the part to be financed by special assessments. Funds needed to pay the
31 cost of maintaining a project may be raised in the same manner as funds were raised to meet

1 construction costs. If the project was financed in whole or in part through the use of special
2 assessments, the water resource board shall prorate the costs of maintaining ~~projects~~the
3 project in the same proportion as ~~were~~ the original costs of construction or, in the event a
4 reassessment of benefits has been adopted, the ~~costs shall be prorated~~board shall prorate
5 costs in accordance with the reassessment of benefits ~~as authorized by section 61-16.1-54.~~

6 **SECTION 20. AMENDMENT.** Section 61-16.1-42 of the North Dakota Century Code is
7 amended and reenacted as follows:

8 **61-16.1-42. Drains along and across public roads and railroads.**

- 9 1. Drains may be laid along, within the limits of, or across any public road or highway, but
10 not to the injury of ~~such~~the road. ~~In instances where it is~~If, during the preparation of
11 the report required under section 61-16.1-17, a water resource board discovers it may
12 be necessary to run a drain across a highway, the water resource board shall notify
13 and solicit guidance from the department of transportation, the board of county
14 commissioners, or the board of township supervisors, as the case may be, when
15 notified by the water resource board to do so, as soon as practicable. If the water
16 resource board determines the drain must be run across the highway after considering
17 any guidance received from the department of transportation, board of county
18 commissioners, or board of township supervisors, the department of transportation,
19 board of county commissioners, or board of township supervisors shall make
20 necessary openings through the road or highway at its own expense, and shall build
21 and keep in repair all required after receiving notice of the water resource board's
22 determination. The cost to build, maintain, and repair the culverts or bridges must be
23 allocated as provided under section 61-16.1-43. In instances where drains are laid
24 along or within the rights of way of roads or highways, the drains shall be maintained
25 and kept open by and at the expense of the water resource district concerned.
- 26 2. A drain may be laid along any railroad when necessary, but not to the injury of the
27 railroad, ~~and when it is necessary to run a drain across the railroad,.~~ If, during the
28 preparation of the report required under section 61-16.1-17, a water resource board
29 discovers it may be necessary to run a drain across a railroad, the water resource
30 board shall notify and solicit guidance from the railroad company as soon as
31 practicable. If the water resource board determines the drain must be run across the

1 ~~railroad after considering any guidance received from the railroad company, the~~
2 ~~railroad company, when notified by the water resource board to do so of the water~~
3 ~~resource board's determination,~~ shall make the necessary opening through such
4 railroad, ~~shall~~ build the required bridges and culverts, and ~~shall~~ keep them in repair.

5 **SECTION 21. AMENDMENT.** Section 61-16.1-43 of the North Dakota Century Code is
6 amended and reenacted as follows:

7 **61-16.1-43. Construction of bridges and culverts - Costs.**

8 1. The water resource board shall construct ~~such~~any bridges or culverts over or in
9 connection with a drain as in its judgment may be necessary to furnish passage from
10 one part to another of any private farm or tract of land intersected by ~~such~~the drain.
11 The cost of ~~such construction shall~~constructing the bridge or culvert must be charged
12 as part of the cost of constructing the drain, ~~and any such.~~ The bridge, or culvert, or
13 ~~passageway shall~~ must be maintained under the authority of the water resource board,
14 and the necessary expense ~~shall~~must be deemed a part of the cost of maintenance.

15 ~~Whenever~~

16 2. When any bridge or culvert is to be constructed on a county or township highway
17 system over and across or in connection with a drain, the water resource board shall
18 notify the county or township with authority for the highway and provide the county or
19 township reasonable time to review and provide input on the plans for the bridge or
20 culvert. The bridge or culvert must be maintained by the water resource board, and the
21 necessary expense must be deemed a part of the cost of maintenance, unless
22 otherwise agreed upon by the water resource board and the highway authority. If the
23 water resource board denies a request for maintenance submitted by the county or
24 township, the county or township may appeal the denial under chapter 28-34. The cost
25 of constructing ~~such~~the bridge or culvert ~~shall~~must be shared in the following manner:

26 1. a. ~~The~~ if funds are available, the state water commission may, ~~if funds are available,~~
27 ~~participate in accordance with such rules and regulations as it may~~
28 ~~prescribe~~according the commission's rules or policies. The remaining cost
29 ~~shall~~must be borne forty percent by the county and sixty percent by the district
30 ~~which has~~that created the need for ~~such~~the construction.

1 2. ~~b.~~ If, however, moneys have not been made funds are not available to the
2 commission for participation in accordance with subsection 1, then forty percent
3 of the cost of a bridge or culvert shall must be paid by the county and sixty
4 percent shall must be charged as the cost of the drain to the district.

5 3. ~~Where such bridges or culverts are~~
6 c. Upon request from the water resource board, the county shall request federal
7 emergency funds for the construction. If the bridge or culvert is constructed with
8 federal financial participation, including any federal emergency funds, the costs
9 exceeding the amount of the federal participation shall must be borne by the
10 district and county according to the provisions of this section, ~~as the case may~~
11 be.

12 **SECTION 22.** A new section to chapter 61-16.1 of the North Dakota Century Code is
13 created and enacted as follows:

14 **Assessment drain culverts.**

15 If, during the preparation of the report required under section 61-16.1-17 or during the
16 planning for maintenance or reconstruction of an existing assessment drain, a water resource
17 board discovers it may be necessary to install a culvert through a road not on the route of the
18 assessment drain, but which is within the assessment area and necessary for surface water to
19 reach the assessment drain, the water resource board shall notify and solicit guidance from the
20 department of transportation, board of county commissioners, or board of township supervisors,
21 as the case may be, as soon as practicable. If the water resource board determines the culvert
22 is necessary after considering any guidance received from the department of transportation,
23 board of county commissioners, or board of township supervisors, the department of
24 transportation, board of county commissioners, or board of township supervisors shall make
25 necessary openings through the road or highway at its own expense after receiving notice of
26 the water resource board's determination. The cost to build, maintain, and repair the culverts
27 must be allocated as provided under section 61-16.1-43.

28 **SECTION 23. AMENDMENT.** Section 61-16.1-51 of the North Dakota Century Code is
29 amended and reenacted as follows:

1 **61-16.1-51. Removal of obstructions to drain - Notice and hearing - Appeal -**

2 **Injunction - Definition.**

3 1. If a water resource board determines that an obstruction to aan artificial drain has
4 been caused by the negligent act or omission of a landowner or tenant, the board shall
5 notify the landowner by registered mail at the landowner's post-office address of
6 record. A copy of the notice also must ~~also~~ be sent to the tenant, if any. The notice
7 must specify the nature and extent of the obstruction; and the opinion of the board as
8 to its cause, and must state ~~that~~ if the obstruction is not removed within ~~such~~the period
9 as the board determines, but not less than fifteen days, the board shall procure
10 removal of the obstruction and assess the cost of the removal, or the portion the board
11 determines appropriate, against the property of the landowner responsible. The notice
12 also must ~~also~~ state ~~that~~ the affected landowner, within fifteen days of the date the
13 notice is mailed, may demand, in writing, a hearing on the matter. Upon receipt of the
14 demand, the board shall set a hearing date within fifteen days from the date the
15 demand is received. In the event of an emergency, the board may apply immediately
16 ~~apply~~ to the appropriate district court for an injunction prohibiting a landowner or
17 tenant from maintaining an obstruction. Assessments levied under ~~the provisions of~~
18 this section must be collected in the same manner as other assessments authorized
19 by this chapter. If, in the opinion of the board, more than one landowner or tenant has
20 been responsible, the costs may be assessed on a pro rata basis in accordance with
21 the proportionate responsibility of the landowners. A landowner aggrieved by action of
22 the board under this section may appeal the decision of the board to the district court
23 of the county in which the land is located in accordance with the procedure provided in
24 section 28-34-01. A hearing ~~as provided for in~~under this section is not a prerequisite to
25 an appeal. If a complaint is frivolous in the discretion of the board, the board may
26 assess the costs of the frivolous complaint against the complainant. If the obstruction
27 is located in a road ditch, the timing and method of removal must be approved by the
28 appropriate road authority before the notice required by this section is given and
29 appropriate construction site protection standards must be followed.

30 2. For the purposes of this section, "an obstruction to a drain" means a barrier to a
31 ~~watercourse, as defined by section 61-01-06,~~ or an artificial drain, ~~including if the~~

1 ~~watercourse or~~whether or not the artificial drain is located within a road ditch,~~which-~~
2 that materially affects the free flow of waters in the ~~watercourse or~~ drain.

3 3. Following removal of an obstruction to a drain, either by a water resource board or by
4 a party complying with an order of a water resource board, the board may assess its
5 costs against the property of the responsible landowner.

6 **SECTION 24. AMENDMENT.** Section 61-16.1-54 of the North Dakota Century Code is
7 amended and reenacted as follows:

8 **61-16.1-54. Appeal from decision of water resource board - Undertaking -**
9 **Jurisdiction.**

10 ~~An appeal may be taken to the district court from any~~An aggrieved person may appeal an
11 ~~order or decision of the~~a water resource board ~~by any person aggrieved to the district court of~~
12 ~~the county in which the land claimed to be affected adversely by the order or decision is located.~~
13 An appellant shall file an undertaking in the sum of two hundred dollars with ~~sue~~any sureties
14 ~~as may be approved~~required by the clerk of the district court to which the appeal is taken. The
15 undertaking must be conditioned ~~that the appellant will prosecute~~on the appellant prosecuting
16 the appeal without delay and ~~will pay~~paying all costs adjudged against the appellant in the
17 district court. The undertaking must be in favor of the water resource board as obligee, and may
18 be sued on in the name of the obligee. ~~The appeal must be taken to the district court of the~~
19 ~~county in which the land claimed to be affected adversely by the order or decision appealed~~
20 ~~from is located and~~An appeal under this section is governed by the procedure provided in
21 section 28-34-01.

22 **SECTION 25.** A new section to chapter 61-16.1 of the North Dakota Century Code is
23 created and enacted as follows:

24 **Available mediation services.**

25 An aggrieved person may request assistance from the North Dakota mediation service to
26 resolve grievances arising from an order or decision of a water resource board within thirty days
27 of the order or decision. If the North Dakota mediation service agrees to assist the aggrieved
28 person, the water resource board shall participate in good faith in the mediation. Requesting
29 assistance or engaging in mediation under this section is not a prerequisite or a bar to
30 appealing an order or decision of a water resource board. Deadlines to initiate appeals by the

1 person requesting assistance from the North Dakota mediation service under this section are
2 tolled upon submission of the request until the request is denied or mediation ends.

3 **SECTION 26.** A new section to chapter 61-16.1 of the North Dakota Century Code is
4 created and enacted as follows:

5 **Designation of lateral drain.**

6 A determination by a water resource board as to whether an existing or proposed drain is a
7 lateral drain is a conclusive determination when entered on the records of the board.

8 **SECTION 27.** A new section to chapter 61-16.1 of the North Dakota Century Code is
9 created and enacted as follows:

10 **Notice of letting of contracts.**

11 After the recording of percentage assessments as provided in section 61-16.1-22, the board
12 shall give at least ten days' notice of the time and place where contracts will be let for the
13 construction of the drain. The notice must be published at least once in a newspaper having
14 general circulation in the county.

15 **SECTION 28.** A new section to chapter 61-16.1 of the North Dakota Century Code is
16 created and enacted as follows:

17 **Extension of time to contractors - Reletting unfinished part of contract.**

18 A water resource board may grant a reasonable extension of time for the completion of any
19 contract. If a board reasonably believes the work required under a contract will not be
20 completed by the agreed upon deadline, the board may relet any unfinished portion to the
21 lowest responsible bidder, and shall take security as before. The cost of completing the
22 unfinished portions over and above the contract price, and the expense of notices and reletting,
23 must be collected by the board from the parties first contracting. The board may not terminate a
24 contract without giving five days' notice to the contractor, provided the contractor may be found
25 or has a known place of residence in the county. The notice may be given to the contractor
26 personally or may be left at the contractor's place of residence.

27 **SECTION 29.** A new section to chapter 61-16.1 of the North Dakota Century Code is
28 created and enacted as follows:

1 **Procedure to construct or extend an assessment drain through or into two or more**
2 **counties.**

3 To construct or extend an assessment drain in two or more counties, a petition must be
4 presented to the several water resource boards for the area in which the drain will lie for the
5 establishment of the drain under this chapter. The boards shall hold a joint meeting and shall
6 determine the necessity or expediency of the establishment of the drain. To proceed with the
7 drain, the boards shall agree upon the proportion of damages and benefits to accrue to the
8 lands affected in each county, and for this purpose the boards shall consider the entire course
9 of the drain through all the counties as one drain. If the boards fail to agree upon the benefits to
10 accrue to the lands in each county, the boards shall submit the points in controversy to the
11 department of water resources, and the department's decision is final. The boards may
12 apportion the cost of establishing and constructing the entire drain ratably and equitably upon
13 the lands in each county in proportion to the benefits to accrue to the county's lands. When the
14 boards have apportioned the costs, the boards shall make written reports of the apportionment
15 to the auditors of the several counties affected. The reports must show the portion of cost of the
16 entire drain to be paid by taxes upon the lands in each of the counties and must be signed by
17 the boards of all counties affected. Upon the filing of the reports, the several boards shall meet
18 and assess against the lands in each of the counties, ratably and equitably as provided by this
19 chapter, an amount sufficient to pay the proportion of the cost of the drain in each county. The
20 provisions of this chapter relating to drains within a single county govern the establishment,
21 construction, maintenance, repair, and cleanout of the drains.

22 **SECTION 30.** A new section to chapter 61-16.1 of the North Dakota Century Code is
23 created and enacted as follows:

24 **Drain warrants - Terms and amounts.**

25 Drain costs must be paid upon order of the board by warrants signed by the chairman and
26 one other member of the board. The warrants are payable from the proper drain fund and, upon
27 maturity, are receivable by the treasurer for drain assessments supporting the fund. The
28 warrants may be issued at any time after the order establishing the drain has become final and
29 after incurring liability to pay for drain work to be financed by drain assessments and in
30 anticipation of levy and collection of the assessments. Every warrant not made payable on
31 demand must specify the date when it becomes payable. Demand warrants not paid for want of

1 funds must be registered by the county treasurer or, if the water resource district treasurer is
2 custodian of the drain funds, the water resource district treasurer and bear interest at a rate
3 determined by the board, not exceeding eight percent per annum. Warrants of specified
4 maturities bear interest according to their provisions at a rate or rates resulting in an average
5 net interest cost not exceeding twelve percent per annum if sold at private sale, and may be
6 issued with interest coupons attached. There is no interest rate ceiling on warrants sold at
7 public sale or to the state of North Dakota or any of its agencies or instrumentalities. All drain
8 warrants must state upon their faces the purpose for which they are issued and the drain fund
9 from which they are payable. The warrants may be used to pay drain obligations, or may be
10 sold at not less than ninety-eight percent of par value, provided that the proceeds of warrants
11 sold are placed in the proper drain fund and used exclusively for drain expenses. Any unpaid
12 warrants issued for the acquisition of right of way or the construction of a drain, including all
13 incidental costs in connection with the acquisition or construction, must be funded by a bond
14 issue within one hundred eighty days from and after the filing of the assessment of all costs with
15 the county auditor as provided in section 61-16.1-28, but this requirement may not be construed
16 as prohibiting the funding of warrants or the issuance of bonds after the one hundred eighty-day
17 period.

18 **SECTION 31.** A new section to chapter 61-16.1 of the North Dakota Century Code is
19 created and enacted as follows:

20 **Settlement of unpaid warrants.**

21 A board of county commissioners may negotiate and execute a settlement with the owners
22 of drain warrants and pay the amount of the settlement from the general fund of the county if:

- 23 1. Drain warrants issued pursuant to the establishment of a drain in two or more counties
24 remain unpaid;
- 25 2. The amounts realized from the original assessments are not sufficient to pay the
26 warrants;
- 27 3. An additional assessment would be necessary to meet the deficit; and
- 28 4. The board finds the county has received benefits from the drain by reasons of public
29 health, convenience, or welfare and, as a result, may be liable for assessment or
30 reassessment and the credit of the county is or may be affected by the existence of
31 the outstanding and unpaid warrants.

1 **SECTION 32.** A new section to chapter 61-16.1 of the North Dakota Century Code is
2 created and enacted as follows:

3 **Closing of noncomplying drain - Notice and hearing - Appeal - Injunction.**

4 If the board determines a drain, lateral drain, or ditch has been opened or established by a
5 landowner or tenant contrary to this chapter or any rules adopted by the board, the board shall
6 notify the landowner by registered mail at the landowner's address of record. A copy of the
7 notice also must be sent to the tenant, if any. The notice must specify the nature and extent of
8 the noncompliance and must state if the drain, lateral drain, or ditch is not closed or filled within
9 the period the board determines, but not less than fifteen days, the board shall procure the
10 closing or filling of the drain, lateral drain, or ditch and assess the cost, or the portion the board
11 determines, against the property of the landowner responsible. The notice also must state the
12 affected landowner, within fifteen days of the date the notice is mailed, may demand in writing a
13 hearing on the matter. Upon receipt of the demand, the board shall set a hearing date within
14 fifteen days from the date the demand is received. In the event of an emergency, the board may
15 apply immediately to the appropriate district court for an injunction prohibiting the landowner or
16 tenant from maintaining the drain, lateral drain, or ditch. Assessments levied under this section
17 must be collected in the same manner as other assessments authorized by this chapter. If, in
18 the opinion of the board, more than one landowner or tenant has been responsible, the costs
19 may be assessed on a pro rata basis in accordance with the proportionate responsibility of the
20 landowners. A landowner aggrieved by action of the board under this section may appeal the
21 decision of the board to the district court of the county in which the land is located in
22 accordance with the procedure provided for in section 28-34-01. A hearing as provided for in
23 this section is not a prerequisite to an appeal.

24 **SECTION 33.** A new section to chapter 61-16.1 of the North Dakota Century Code is
25 created and enacted as follows:

26 **Reconveyance of land no longer required for drainage.**

27 When land acquired for drainage is no longer required for drainage, the board of county
28 commissioners may reconvey the land to the present owner of the adjacent property if the
29 present owner of the adjacent property surrenders all warrants issued in payment of the land or
30 repays the amount of cash paid for the land.

1 **SECTION 34.** A new section to chapter 61-16.1 of the North Dakota Century Code is
2 created and enacted as follows:

3 **Sinking funds and bonds.**

4 A water resource board shall establish a sinking fund for each issue of bonds, and the fund
5 must consist of all drain assessments made for the bonds, all warrants funded, all assessments
6 for the warrants, all accrued interest received on sale of bonds, all proceeds of bonds sold not
7 actually expended for the drain, the reserve fund authorized for purchase of tax delinquent
8 lands affected by the drain, all general tax levies for payment of obligations of the drain, and any
9 other moneys that may be appropriated to the sinking fund. Separate sinking funds must be
10 provided for each separate drain for which bonds have been issued. Until the purpose of the
11 sinking fund has been fulfilled, moneys in the sinking fund may not be applied to any purpose
12 other than payment of the bonds for which the fund was created.

13 **SECTION 35.** A new section to chapter 61-16.1 of the North Dakota Century Code is
14 created and enacted as follows:

15 **Existing obligations and regulations.**

16 Except as specified, amendments to this chapter do not affect the validity of any valid
17 outstanding warrants, bonds, or other obligations of drainage districts, and all sinking funds
18 created for the payment of these obligations continue in force until the liquidation of the
19 obligations. All valid rules adopted by any board of county commissioners or board of drainage
20 commissioners remain in full force and effect until altered or repealed by the board.

21 **SECTION 36. AMENDMENT.** Subdivision g of subsection 4 of section 61-32-03.1 of the
22 North Dakota Century Code is amended and reenacted as follows:

23 g. If the subsurface water management system will discharge into the watershed
24 area of an assessment drain, inclusion of the relevant property into the
25 assessment district for the assessment drain in accordance with the benefits the
26 property receives, provided the property is not assessed already for the
27 assessment drain. The water resource district may include the new property into
28 the assessment district, and determine the benefits and assessment amounts
29 under ~~chapters 61-21 and~~chapter 61-16.1, without conducting the reassessment
30 of benefit proceedings under ~~sections 61-21-44 and~~section 61-16.1-26, provided
31 the property is not assessed already for the assessment drain.

- 1 **SECTION 37. REPEAL.** Section 61-16.1-01 and chapter 61-21 of the North Dakota Century
- 2 Code are repealed.

To: North Dakota Water Resource District Members
From: Dani Quissell, Executive Director
Date: January 31, 2023
Re: Dushinske & Jamison Scholarship Deadline

The 2023 Dushinske & Jamison Water Resources Scholarship will be determined in **May 2023** and awarded Dec. 7, 2023, at the Joint North Dakota Water Convention. A \$1,500 scholarship will be awarded to four qualifying applicants whose families have taken active roles in the state's water resource management or to students in water-related studies.

We encourage your family members to apply if they currently attend or plan to attend a North Dakota college or university. Preference will be given, but not limited to, students studying in water-related fields and students whose families have been active in the state's water resource management.

Attached is an application describing the scholarship process and requirements. **Please discard any old application forms as there have been updates.** The application deadline is **April 1, 2023.**

Additional application forms are available at www.ndwater.org/scholarships/.

If you have any questions or need more information, please call Robin Pursley at 701-223-8332.

2023

DUSHINSKE & JAMISON WATER RESOURCES SCHOLARSHIP APPLICATION



BACKGROUND INFORMATION

The Dushinske & Jamison Water Resources Scholarship Endowment was established by the North Dakota Water Education Foundation (NDWEF) within the North Dakota Community Foundation in memory of Russ Dushinske and Warren Jamison and their distinguished service, dedicated leadership and life-long devotion to water development in North Dakota.

“The Dushinske & Jamison Water Resources Scholarship Endowment is a lasting legacy that Russ and Warren leave behind,” says NDWEF Executive Director Dani Quissell. “Thanks to their legacy, we’re able to support future generations of water leaders through scholarships awarded every year.”

SCHOLARSHIPS

The Dushinske & Jamison Water Resources Scholarship Endowment provides scholarships to deserving North Dakota students. Four \$1,500 scholarships will be awarded to qualified applicants. Scholarship recipients must attend a North Dakota college or university. Preference will be given to, but is not limited to, students studying water-related fields and students whose families have taken an active role in North Dakota’s water resource management.

Scholarship recipients are required to attend the Annual North Dakota Water Convention Awards Banquet on Dec. 7, 2023 to read their winning essays.

APPLICATION PROCESS

Applications for the Dushinske & Jamison Water Resources Scholarship must be postmarked or electronically submitted no later than **April 1, 2023**. The NDWEF will notify the scholarship recipients by May 1.

The scholarship awards will be presented at the Awards Banquet of the North Dakota Water Convention on Dec. 7, 2023.

Please submit the following to the NDWEF by **April 1**. Incomplete entries will be disqualified.

- ✓ Scholarship application
- ✓ Written essay portion
- ✓ Most recent official transcript
- ✓ Photograph

FOR MORE INFORMATION

North Dakota Water Education Foundation

PO Box 2254

Bismarck, ND 58502

701-223-8332

Fax: 701-223-4645

editor@ndwater.net

2023

SCHOLARSHIP APPLICATION

DEADLINE APRIL 1, 2023



Name of Student _____ Date of Birth _____

Address _____ City _____ State _____ Zip _____

Student's Telephone _____ Student's Personal Email (not school-linked) _____

Parent(s) Name _____ Parent(s) Telephone _____

Parent(s) Mailing Address _____ City _____ State _____ Zip _____

Names and relationships of relatives/guardians involved in water management, protection or development and how they are involved in the industry.

EDUCATION

High School _____ City _____ Graduation Year _____

Principal's Name _____ Grade Point Average _____

Name of College or University (attending or planning to attend) _____ Expected Graduation Date _____

Mailing Address _____ City _____ State _____ Zip _____

Intended Major _____ Intended Minor _____

Other Education or Training _____

ESSAY (ATTACH)

In a two-page essay (12-point type, double-space), write about your most vivid memory concerning water.

Please provide the following information (please type):

- 1) Honors and awards
- 2) Non-academic school activities and special interests
- 3) Career plans after college graduation
- 4) Reason(s) for applying for this scholarship

FOR MORE INFORMATION OR TO APPLY

North Dakota Water Education Foundation

PO Box 2254

Bismarck, ND 58502

701-223-8332

Fax: 701-223-4645

editor@ndwater.net

<https://ndwater.org/scholarships/>

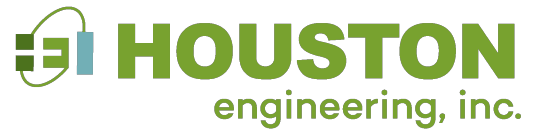
I certify that the above information and data are correct and I consent disclosure of public information. I understand that the essays I wrote for the purpose of this scholarship competition may be used and distributed by the North Dakota Water Education Foundation without further approval from me.

Signature of Applicant _____ Date _____

February 2023 Bills

Name	Project	Invoice	Amount
Houston Engineering	General Administration	63840	\$ 1,000.00
Houston Engineering	Missouri River Bank Stabilization (Hoge Island)	63839	\$ 15,794.00
	Total		\$ 16,794.00

INVOICE

**Remit to:**

1401 21st Ave N, Fargo, ND 58102

Phone: 701.237.5065

Fed Tax ID: 45-0314557

Interest of 1%/month applied to past due invoices

Burleigh County Water Resource District

PO Box 1255

Bismarck, ND 58502-1255

Invoice Number: 63839

Date: February 22, 2023

Project Number: R146025-0021

Missouri River Bank Stabilization Issues**For Professional Services Rendered Through: February 18, 2023**

BCWRD Account No.: 9371-1

See attached Project Status Report and Invoice Description.

006 - Hogue Island Stabilization**Professional Services**

	Hours	Rate	Amount
Engineer 10	36.50	215.00	\$7,847.50
Engineer 12	23.25	235.00	\$5,463.75
Engineer 4	14.25	155.00	\$2,208.75
Engineer 8	1.00	196.00	\$196.00
Technician 7	.50	156.00	\$78.00
	75.50		\$15,794.00

006 - Hogue Island Stabilization Total:**\$15,794.00****Invoice Total****\$15,794.00****Outstanding Invoices**

Invoice Number	Invoice Date	0 - 30	31 - 60	61-90	Over 90	Balance
Total Prior Billing						



Project Status and Invoice Description

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

HEI Project No.: 6025-0021: Missouri River Bank Stabilization
Phase 006 – Hogue Island Stabilization
BCWRD Account No. 937I-1
Project Name: Missouri River Bank Stabilization

Billing Period: *September 31, 2022 through February 18, 2023*

Professional engineering and surveying services related to Missouri River Bank Stabilization easements and agreements between the BCWRD and County and the SWC. *This invoice is specific to the 2023 bank line erosion on the south end of Hogue Island.*

Tasks Completed:

Bank Stabilization Agreements and Easements

- Received a call regarding significant erosion losses at the Carlson residence on Hogue Island, 8730 Island Road. Losses about 40+ feet of shoreline, with their dock on the upper bank now in the water and three large scarp failures previously occurring downstream.
- This is a significant bank line failure event involving six USACE Section 32 hard points, with one failure and others either compromised or adversely impacted.
- Multiple site visits and meetings to review and monitor status and impacts, visiting with residents, along with discussions with the contractor placing material onsite.
- Site meeting with the landowners/BCWRD/NDDWR, and other interested parties to discuss erosion risks and potential interim protective measures – verbal authorization to protect one location to prevent additional impacts.
- The BCWRD approved technical assistance by HEI related to coordination and permitting with the agencies, along with continued monitoring. Time on the long-range solution or design to be limited until further authorization is provided by the Board.
- Calls and emails with the USACE (Bismarck Regulatory/Garrison Operations) and the NDDWR to discuss the potential for technical or financial assistance.
- Complete several interim permit applications for placement of rock materials. Discussions related to the source material and inquired related to stockpiling material for future placement.
- Continued monitoring onsite as well as via NDDWR aerial drone records.
- Prepared draft work plan for the Section 32 structures involved in the erosion risk area. This is necessary to progress toward a long-term solution to protecting the affected area. This included documenting the location of the BCWRD’s easement prior to erosion and where it has moved after the erosion occurred.

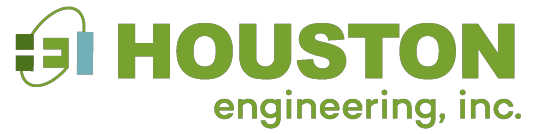
Comments and Issues

- The USACE and NDDWR require that notices be submitted prior to any emergency material placement occur. While some occurred prior to that is not the preferred practice, which includes clearing the rock materials from a Section 106 cultural resource perspective.
- The involvement of the USACE and NDDWR in a long-range stabilization effort remains to be determined. Restoration and rehabilitation of these structures is anticipated to be a financial burden to the residences.
- A NDDWR planning form was submitted in the last round noting a potential cost for this work that could occur. This was provided to the BCWRD again for information prior to decisions being made for any restoration or rehabilitation work.
- Long-Range planning for a project and what that looks like remains to be determined, along with costs related to how they might be distributed.

See accompanying invoice for personnel cost breakdown.

<u>Phase (006) Hogue Island Stabilization 32</u>	\$ 15,794.00
Total Invoice	\$ 15,794.00

INVOICE



Remit to:

1401 21st Ave N, Fargo, ND 58102

Phone: 701.237.5065

Fed Tax ID: 45-0314557

Interest of 1%/month applied to past due invoices

Burleigh County Water Resource District

PO Box 1255

Bismarck, ND 58502-1255

Invoice Number: 63840

Date: February 22, 2023

Project Number: R084241-0000

BCWRD - General Engineering Services

For Professional Services Rendered Through: February 18, 2023

Email Invoices: BCWRD@midco.net & dwrburleighwrd@gmail.com

BCWRD Project No.: 315 - Engineering Administration

See attached Project Status Report and Invoice Description.

Fee Services

000 - Burleigh Co. WRD - General

Burleigh Co. WRD - General Lump Sum Total: \$1,000.00

Invoice Total \$1,000.00

Outstanding Invoices

Invoice Number	Invoice Date	0 - 30	31 - 60	61-90	Over 90	Balance
Total Prior Billing						



Project Status and Invoice Description

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

HEI Project No.: 4241-0000: BCWRD General Services
BCWRD Account No. 315 – Engineering Administration
Project Name: General Engineering Services

Billing Period: *January 29, 2023 through February 18, 2023*

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

- **February Board Meeting**
- Meeting preparation and discussion, rescheduling
- Review of minutes and agenda updates
- Various BCWRD issues, contacts, and calls

Comments:

- This invoice is for Board meeting related time along with limited small contact and coordination items that are not project related. In accordance with Board direction, all costs associated with drainage complaints, stormwater plan review, and other project related activities are invoiced to assigned project numbers.
- There are no specific hourly services this month.

<u>General Services</u>		\$ 1,000.00
	Total	\$ 1,000.00