

Agenda Item: 7.a.

Memorandum

To: Finance, Expenditure, and Legal Subcommittee
From: Lori Ann Laster, Stormwater Management Engineer
Date: April 4, 2014
Re: Papio Dam Site 15A Tract 11 Acquisition

For purposes of the DS 15A Project, the District has attempted to acquire from David Vollmer the title to 10.960 acres of his 40 acre parcel of land in the SW 1/4 of Sec. 28, T16N, R11E, in Douglas County (see attached tract map and aerial photo).

However, the current access from Ida Street to the parcel is across the 10.960 acre Tract 11 being acquired by the District. In effect, the District's acquisition of Tract 11 deprives Vollmer's 29.040 acre remainder of legal access to Ida Street, thus technically landlocking Vollmer's remaining land, including his residence. The District has worked with HDR during the design process in an attempt to provide alternate access to the remaining property.

At this time, Vollmer has not responded to numerous attempts by Midwest Right of Way, the District's negotiation firm, to contact him by both phone and certified mail.

Under Nebraska law, money is the only thing that a landowner can be required to accept as compensation for damages to his land resulting from a taking by the District. Vollmer cannot be required to accept substitute access across other land as compensation for his remainder's loss of access. Also, since substitute access does not count as compensation unless the landowner is agreeable to it, a District offer of substitute access possibly would not be an offer in good faith, one of the jurisdictional pre-requisites to the DISTRICT'S exercise of the power of eminent domain.

The District's appraiser, Kevin Kroeger, evaluated the proposed acquisition of Tract 11 and opined the following damages to Vollmer:

Value of Property Before the Taking	\$720,000
Less Value of Part Taken as Part of the Whole	\$197,280
Value of Remainder Before the Taking	\$522,720
Value of Remainder After the Taking	\$418,180
Damages (severance damages to remainder)	\$104,540
Value of Part Taken as Part of the Whole	\$197,280
Total Compensation by Reason of the Taking	\$301,820

The District's appraiser did not consider the reduction in value of the Vollmer remainder resulting from a total loss of legal access. Instead, the appraiser assumed that Vollmer would accept a substitute access to Ida Street from the District.

Because of the loss of legal access to his remainder, the severance damages to Vollmer's 29.040 acre remainder parcel possibly could increase from the \$104,540 noted in the appraisal to as much as the full fair market value of the entire remainder parcel, which the District's appraiser stated was \$522,720. Therefore, using the District appraiser's figures, the damages from the District's taking of the 10.960 acres of the Vollmer parcel could be \$720,000 or more, and Vollmer would still have title to the 29.040 acre remainder and could dispose of it in any way he wished.

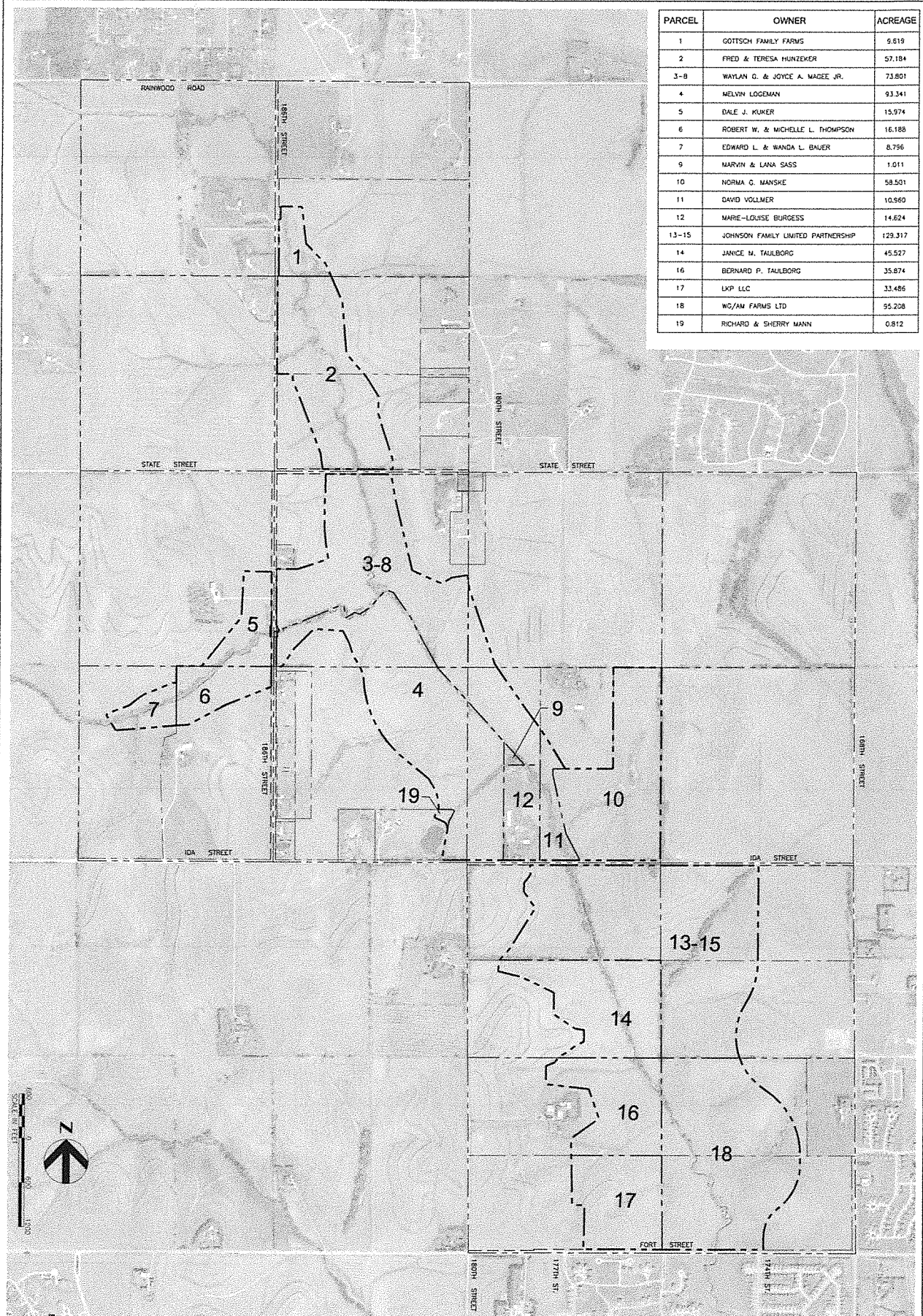
This dilemma can be resolved by the District if the District expanded the DS 15A Project to include the acquisition of Vollmer's entire parcel, thus eliminating the possibility of severance damages being assessed against the District.

Staff believes that this increase in the Papio Dam Site 15A Flood Control and Recreation area property is warranted and of great benefit to the District. Additional recreational land will provide for additional green space in the metro area and in particular enhance the facility by providing more passive wildlife viewing and a nature trail area at the park. See attached revised Master Plan.

As noted at a previous District meeting, acquisition of the entire Vollmer parcel would eliminate the need to replace his electrical distribution line (estimated cost of \$60,000), install a new roadway to his residence, and replace other utilities that currently serve his residence. If the entire parcel is not acquired and damages are awarded in excess of those listed in the appraisal report, the District would still be responsible for these expenses. However, with a total acquisition additional costs for relocation expenses will likely be due the owner.

Management recommends that the Subcommittee recommend to the Board of Directors that the General Manager be directed to modify the plans for the Papio Dam Site 15A Flood Control Reservoir and Recreation Area Project to incorporate the entire 40 acre Vollmer tract into the project Master Plan and that such lands be acquired for the project.

PARCEL	OWNER	ACREAGE
1	GOTTSCHE FAMILY FARMS	9.619
2	FRED & TERESA HUNZEKER	57.184
3-8	WAYLAN G. & JOYCE A. WAGNER JR.	73.801
4	MELVIN LOGEMAN	93.341
5	DALE J. KUKER	15.974
6	ROBERT W. & MICHELLE L. THOMPSON	16.188
7	EDWARD L. & WANDA L. BAUER	8.796
9	MARVIN & LANA SASS	1.011
10	NORMA G. MANSKE	58.501
11	DAVID VOLLMER	10.960
12	MARIE-LOUISE BURGESS	14.624
13-15	JOHNSON FAMILY LIMITED PARTNERSHIP	129.317
14	JANICE M. TAULBORG	45.527
16	BERNARD P. TAULBORG	35.874
17	LXP LLC	33.486
18	WC/AM FARMS LTD	95.208
19	RICHARD & SHERRY MANN	0.812



**PAPJO - MISSOURI RIVER
NATURAL
RESOURCES
DISTRICT**



HDR

HDR Engineering, Inc.

TRACT MAP

DAM SITE 15A DAM &
ASSOCIATED IMPROVEMENTS

DOUGLAS COUNTY, NE

Date _____
Designed _____
Drawn _____ TRM 1/20/14
Checked _____
Approved _____

00-02

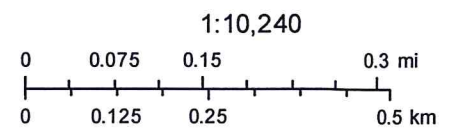
CDL Form
BNDY-DAM SITE 15A.dwg
Drawn 000002

Tract 11



April 3, 2014

 Parcels



**Preliminary Master Plan
DAM SITE 15A**

Omaha, Nebraska April 2014

