

MEMORANDUM

TO: Finance, Expenditure and Legal Subcommittee

FROM: Martin P. Cleveland

SUBJECT: Western Sarpy Drainage Ditch ROW (Fairview Road to Capehart Road)
Lyman-Richey Corporation Request for a Quit Claim Deed
At Former Schram Property

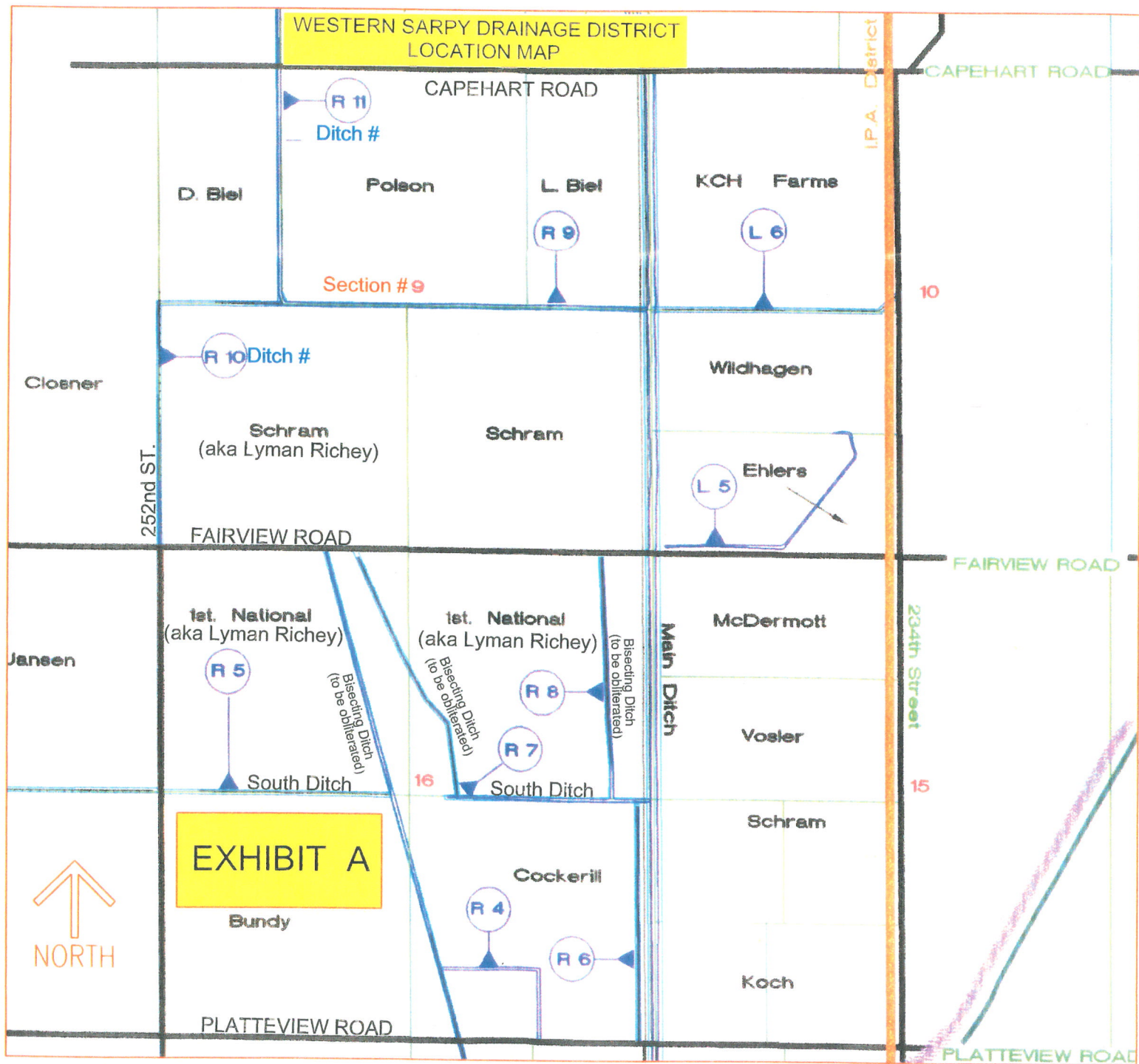
DATE: January 4, 2007

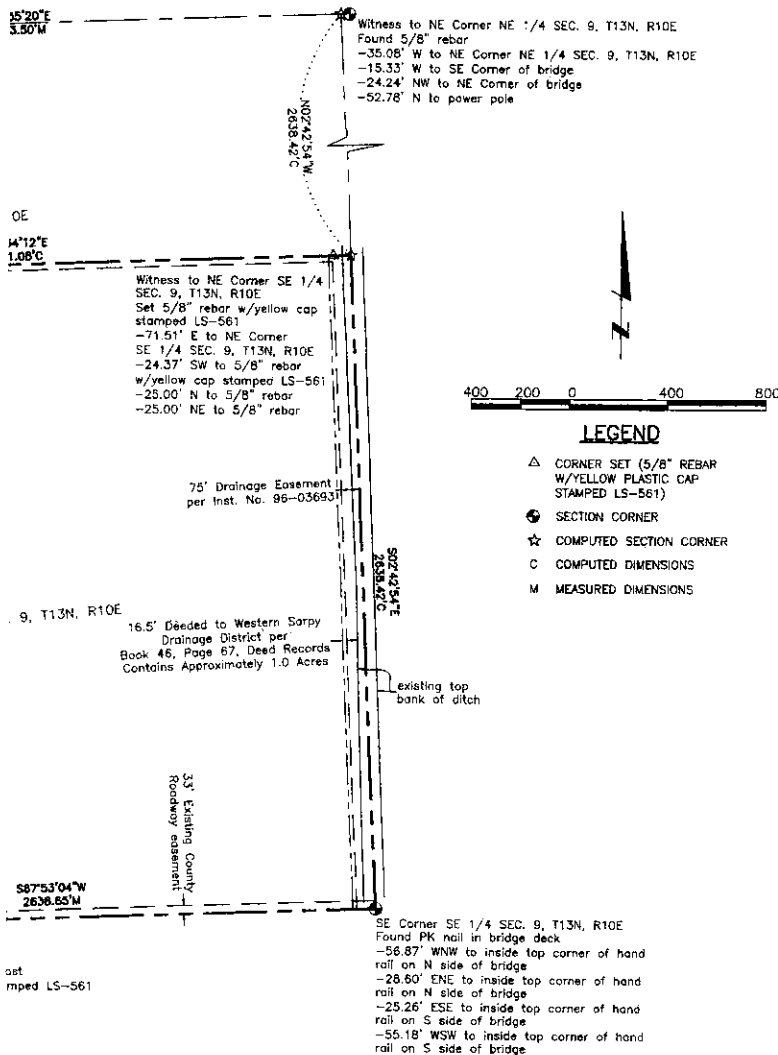
Lyman-Richey Corporation through SEC Accommodator LXV, LLC has purchased property between Fairview Road and Capehart Road and 240th Street and 252nd Street, southwest of Gretna, Nebraska for sand/gravel mining purposes. SEC Accommodator LXV, LLC is a single member limited liability corporation (LLC) for tax free real estate transactions and is an independent third party. In 6 months or less, the membership in this LLC will transfer to Lyman Richey and the property will be in Lyman Richey's name. Enclosed is a map of Lyman-Richey Corporation Property. The District acquired through its merger with Western Sarpy Drainage District, easements for the operation and maintenance of drainage ditches in this area.

It appears that the District has a deed for a portion of Lyman-Richey property (16.5 ft. wide strip) that is at the same location as a District drainage easement. See enclosed drawing. Lyman-Richey (via SEC Accommodator LXV, LLC) has requested that the District Quit Claim Deed the 16.5 ft. strip of land, which covers approximately 1 acre. This transaction would clean up ownership of this parcel and still provide for drainage ditch operation and maintenance via an existing easement.

It is management's recommendation that the Subcommittee recommend to the Board of Directors that the General Manager be authorized to negotiate and execute a Quit Claim Deed for SEC Accommodator LXV, LLC for a 16.5 ft. wide strip of property in SE1/4 of Section 9, T13N, R10E, Sarpy County, Nebraska, subject to form as approved by District legal counsel.

WESTERN SARPY DRAINAGE DISTRICT
LOCATION MAP





ed)

quarter of Section 9, Township 13
County, Nebraska, described as
said Southwest Quarter of Section
set to a 2" county aluminum cap
9;
set to the northwest corner of
set to the northeast corner of
set to a concrete nail at the
r of Section 9;
set to a survey spike at the
r of Section 9;
set to the POINT OF BEGINNING,
se of existing county roadway

ommitment)

quarter of Section 9, Township 13
County, Nebraska; EXCEPT that
1, in Book 46 at Page 67, Deed

UTILITY NOTES

1. This drawing includes observed evidence of services and utilities evident at the time of survey only. No responsibility or liability is assumed by the surveyor for the failure to show any buried service and/or utility lines even though they may exist. Contact "One Call" (344-3565) prior to any excavation on this site.
2. Utility lines illustrated hereon as solid lines represent field location (as per point marks or other visible evidence). Utility lines illustrated as dashed or broken lines represent record utility line locations as per the utility company involved.

LAND SURVEYOR'S CERTIFICATION

I hereby certify that this boundary survey was made by me
or under my direct supervision and that I am a duly Registered
Land Surveyor under the laws of the State of Nebraska.

[Signature]

REGISTERED LAND SURVEYOR
TODD L. WHITFIELD
LS-561

drawn by M.W.	reference
designed by	
reviewed by TLW	
Name 081053.DWG	
revision 08-14-08 M.W.	

WWW.LRA-INC.COM L Lamp, Rynterson & Associates, Inc. 14716 West Dodge Road, Suite 100 Omaha, Nebraska 68154-2027 (Ph) 402.496.2498 (Fax) 402.496.2730	SE 1/4 & THE SW 1/4 SECTION 9, T13N, R10E SARPY COUNTY, NEBRASKA
--	---

BOUNDARY SURVEY	job number-tasks M081053 book page 06-2, 37-38 date
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QUIT CLAIM DEED

PAPIO-MISSOURI RIVER NATURAL RESOURCES DISTRICT, a Nebraska political subdivision, successor-in-interest to Western Sarpy County Drainage District, Grantor, whether one or more, in consideration of One Dollar (\$1.00) and other valuable consideration, receipt of which is hereby acknowledged, remises, conveys, releases and quit claims to SEC ACCOMMODATOR LXV, LLC, a Nebraska limited liability company, successor-in-interest to George Schram, Mary Schram, Robert Schram and Elizabeth Schram, Grantee, any and all interest it may have in the following described real estate (as defined in Neb. Rev. Stat. Sec. 76 201) in Sarpy County, Nebraska, pursuant to a deed dated February 15, 1913, recorded in Book 46 at Page 67, Deed Records, Sarpy County, Nebraska:

That part of the Southeast Quarter of Section 9, Township 13 North, Range 10 East of the 6th P.M., Sarpy County, Nebraska, specifically described as a strip of land 16.5 feet wide on the west side of the right of way of Forest City Drain Ditch (predecessor in interest to the Papio-Missouri River Natural Resources District), being and extending 16.5 feet west from the west line of said right of way. Said strip beginning at the north line of the southeast quarter of Section 9, T. 13, Range 10 E. in Sarpy County, Nebraska, and running south along the eastern edge of that quarter section to the south line of the southeast quarter of said Section 9, containing approximately 1 acre.

Executed this _____ day of January, 2007.

PAPIO-MISSOURI RIVER NATURAL RESOURCES
DISTRICT

By : _____
JOHN WINKLER, GENERAL MANAGER

STATE OF NEBRASKA)
) ss.
COUNTY OF _____)

The foregoing instrument was acknowledged before me this _____ day of January, 2007, by John Winkler, General Manager of Papio-Missouri River Natural Resources District, a Nebraska political subdivision, on behalf of the District.

Notary Public

My commission expires: _____.



Schram NRD Easement



LAMSON, DUGAN AND MURRAY, LLP
ATTORNEYS AT LAW

MICHAEL J. DUGAN (1937-1999)
WILLIAM M. LAMSON, JR.
ROBERT J. MURRAY
JON S. REID
DANIEL P. CRESIRE
WILLIAM R. JOHNSON
FRANK M. SCHEPERS
PATRICK G. VIPOND
MARK E. NOVOTNY
DONALD L. ERFMEIER, JR.
DAVID L. SCHMITT
WILLIAM R. SEITLES
LAWRENCE J. HARR
MATTHEW L. BOCK
KYLE WALTON
CRAIG E. MARTIN
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LAMSON, DUGAN AND MURRAY BUILDING
10306 REGENCY PARKWAY DRIVE
OMAHA, NEBRASKA, USA 68114-3743

402-397-7300 FAX 402-397-7824 WWW.LDMLAW.COM

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ANGELA M. PELAN
SEAN A. ADAMSON
ERIN M. DABBS
STACY L. MORRIS
DENISE M. DENEAUX
ANDREW T. CHAPMAN
ANASTASIA WAGGLE
JOHN M. WALKER
MOLLY C. MORRIS

OF COUNSEL
RAYMOND HODGSON
THOMAS R. BURKE
C. HEANEY, JR.
FRANK J. BARRETT

June 16, 2006

Mr. Martin Cleveland
Papio Natural Resources District
8901 South 154th Street
Omaha, NE 68138

Re: Survey of Schram Property

Dear Mr. Cleveland:

As a follow-up to our telephone conversation on June 16th, I am forwarding a copy of a portion of the survey done by Lamp, Ryneearson & Associates, Inc. on May 12, 2006.

As we discussed, the portion of the property that was previously deeded to the Western Sarpy Drainage District, the NRD's predecessor-in-interest is on the western edge of the easement area (more specifically the west 16.5 feet of the 75 feet drainage easement).

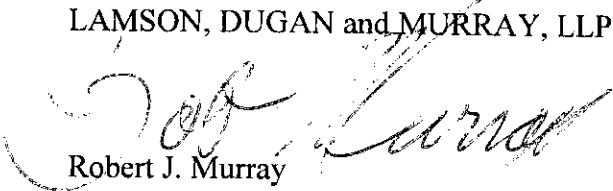
It is my view that as long as the portion of the property that previously deeded is within the easement area, the NRD clearly does not need both fee simple title and an easement for that portion of the property.

If your review and analysis comports with my comments to you in our telephone conversation and this correspondence, please notify me so that we may prepare a draft of a Quitclaim Deed for review by Joe Byam on behalf of the Schram Trust and by Paul Peters on behalf of the NRD.

I look forward to hearing from you within the next several working days.

Sincerely yours,

LAMSON, DUGAN and MURRAY, LLP


Robert J. Murray
FOR THE FIRM



LAMSON, DUGAN AND MURRAY, LLP
ATTORNEYS AT LAW

LAMSON, DUGAN AND MURRAY BUILDING
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CRAIG F. MARTIN
ALSO LICENSED IN IOWA

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ANNE MARIE O'BRIEN
MICHELE R. YOUNG
BRIAN J. BAISLEN
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OF COUNSEL
R.A. SKOCHDOPOLE
THOMAS E. BURKE
C.R. HEANEY, JR.
FRANK J. BARRETT

May 25, 2006

Joseph C. Byam, Esquire
Byam & Hoarty
8990 West Dodge Road, Suite 317
Omaha, NE 68114-3398

Re: Title Commitment

Dear Joe:

We have now had an opportunity to review the title commitment provided by Security Land Title & Escrow Company last week. There are two matters appearing on the commitment that need to be cleaned up prior to closing. We believe that both are readily solvable.

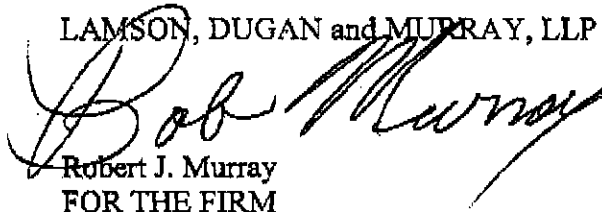
Our first objection is to the deeding of approximately 16.5 feet to Western Sarpy Drainage District. In 1913 the previous record titleholders deeded a small portion of the property to the District. In 1996, a permanent drainage ditch easement was then granted to the District and it is not clear if the permanent easement encompasses the deeded portion. A quitclaim deed from the Papio-Missouri River Natural Resources District (successor to the District) to the Catherine Schram Trust quitclaiming its interest in the 16.5 feet will clear up this matter.

Secondly, there is an Oil and Gas Lease that was executed in 1984 and appears to have terminated. The title company informs us that if the enclosed Affidavit is executed prior to Closing, that exception will be removed from the final title policy.

After you have had an opportunity to review these two matters, please let us know if you share our perspective that both items should be readily solvable prior to closing.

Sincerely yours,

LAMSON, DUGAN and MURRAY, LLP


Robert J. Murray
FOR THE FIRM

RJM/tk

Enclosure

cc: Pat Gorup
Carol White

Form 1756
Commitment

Commitment No.: 694952

10. Terms and provisions of Drainage Ditch Easement granted to Western Sarpy County Drainage District filed February 28, 1996 as Instrument No. 96-03693, Records, Sarpy County, Nebraska.

96-03693

96-03693 55 FEB 28 AM 9:34 RESISTANCE DEEDS	COUNTER VERIFY <i>[initials]</i> D.E. <i>[initials]</i> PROB. <i>[initials]</i> Fee \$25.50 CR <i>[initials]</i> CASH <i>[initials]</i> CHG <i>[initials]</i>
---	--

DRAINAGE DITCH EASEMENT

WESTERN SARPY COUNTY DRAINAGE DISTRICT

For and in consideration of the payment of One Dollar (\$1.00) and other good and valuable consideration, the receipt of which is acknowledged,

GEORGE M. SCHRAM and CATHERINE F. SCHRAM, Trustees of the SCHRAM FAMILY REVOCABLE TRUST,

hereinafter called "the GRANTORS," whether singular or plural, do hereby grant to the WESTERN SARPY COUNTY DRAINAGE DISTRICT (hereinafter referred to as "the GRANTEE"), and to its successors and assigns (including the PAPIO-MISSOURI RIVER NATURAL RESOURCES DISTRICT (hereinafter referred to as "the NRD") if the GRANTEE merges with the NRD), the permanent easements described below, in, over and upon the real property in Sarpy County, Nebraska, described in the Tract Map and accompanying written legal description prepared by Hill-Farrell Associates, Inc., attached hereto collectively as Exhibit "A" and incorporated herein by reference (such real property hereinafter being referred to as "the EASEMENT AREA"), such easements consisting of the GRANTEE's permanent right to enter the EASEMENT AREA and therein construct, modify, operate, patrol, maintain, repair, and replace one or more drainage ditches within the EASEMENT AREA, together with berms, drainage structures and other appurtenances thereto, and including roads along both sides of drainage ditches in the EASEMENT AREA for GRANTEE's use during drainage ditch construction, operation, and maintenance, the easements described in this document to be subject to the following provisions:

1. The GRANTORS shall not construct structures nor excavate inside the EASEMENT AREA.
2. The easements granted herein include the right to clear trees and other vegetation from the EASEMENT AREA, the right to borrow, stockpile, or spoil earth from or in the EASEMENT AREA, and the right to have the air space above the EASEMENT AREA unobstructed to such height as will allow the passage and operation of construction and maintenance machinery.
3. Except during construction or reconstruction of improvements and appurtenances thereto in the EASEMENT AREA, the GRANTORS may cultivate all portions of the EASEMENT AREA not occupied by GRANTEE's drainage ditches and appurtenances, and stockpiles.
4. The consideration recited herein shall constitute payment in full for any and all damages sustained by the GRANTORS by reason of the exercise by the GRANTEES, or their successors and assigns, of any of the rights or privileges herein described or granted. The GRANTORS waive compliance by the GRANTEE with the notice and other provisions of the Uniform Procedure for Acquiring Private Property for Public Use (Sec. 25-2501, R.R.S. 1943, et seq.)
5. If the GRANTEE merges with the NRD, the easement rights herein granted shall be deemed to be held solely by the NRD.

- 03693

96-03693-4

6. This Easement shall not pass, nor be construed to pass, to the GRANTEE, or its successors or assigns, any fee simple interest or title.

7. The GRANTORS shall not have any responsibility for operating or maintaining the GRANTEE's improvements or any appurtenances thereto.

8. The easements provided herein shall be deemed to run with the land and shall be binding upon the GRANTORS and upon the GRANTORS' heirs, successors, and assigns.

9. The GRANTORS, for themselves and for their heirs, successors and assigns, warrant to the GRANTEE, and its successors and assigns, that the GRANTORS are the owners of the EASEMENT AREA and that they have good right to grant the aforesaid easements over the same; that the EASEMENT AREA is free and clear of all leases, liens and other encumbrances, except those which may be subordinated at the foot hereof; and, that the GRANTORS will warrant and defend the title of the GRANTEE and its successors and assigns to the aforesaid easements over the EASEMENT AREA against all lawful claims and demands of all persons whomsoever.

10. The GRANTORS warrant that no verbal or written representations or inducements have been made or given by the GRANTEE, by the NRD, or by any of their officers, agents or employees, other than as may be recited in this document.

11. In case of any conflict between the diagram of the EASEMENT AREA attached hereto as Page No's 1 through 4 of Exhibit "A," and the written legal description attached hereto as Page No. 5 of Exhibit "A," such written legal description shall be controlling.

IN WITNESS WHEREOF, this Easement is executed by the GRANTORS on this

5th day of December 1995

George M. Schram
GEORGE M. SCHRAM, Trustee

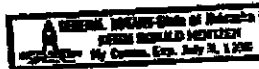
Catherine F. Schram
CATHERINE F. SCHRAM, Trustee

STATE OF NEBRASKA)

COUNTY OF SAREX) ss.

The foregoing instrument was acknowledged before me on this 5th day of December 1995, by GEORGE M. SCHRAM and CATHERINE F. SCHRAM, as Trustees of the SCHRAM FAMILY REVOCABLE TRUST

Notary Public



96-036.58

TRACT MAP

TITLE SEARCH NO. NATS3957
OWNER: G.M. SCHRAM, J.M. SCHRAM,
M.E. PFEIFER, R.A. RAMM

25.00'
CENTER LINE SIDE DITCH
DRAINAGE CHANNEL

PROPERTY LINE
(TYPICAL)

DEEDED TO W.S.D.D., BK. 46,
PG. 67, 4-8-1913

75.00'

S.E. 1/4 SEC. 9-13-10

DRAINAGE CHANNEL
OF 1910

BANK LINES
MARCH 1993



1 inch = 300 ft.

FAIRVIEW ROAD



W.S.D.D. PROPERTY FROM PREVIOUS DEED



Hill-Farrell Associates, Inc.
Land Surveyors, Land Planners, Construction Surveys
1004 Lincoln Road, Bellevue, NE 68005 402-281-8100

PAGE 1 OF 5

EXHIBIT "A"

PLW

40-0-10-1-1

TRACT MAP

TITLE SEARCH NO. NATS3957
OWNER: G.M. SCHRAM, J.M. SCHRAM,
M.E. PFEIFER, R.A. RAMM

25.00'
CENTER LINE SIDE DITCH
DRAINAGE CHANNEL

PROPERTY LINE
(TYPICAL)

75.00'

S.E. 1/4 SEC. 9-13-10

DRAINAGE CHANNEL
OF 1910

BANK LINES
MARCH 1995



1 inch = 300 ft.

FAIRVIEW ROAD



PERMANENT EASEMENT



Hill-Farrell Associates, Inc.
Land Surveyors, Land Planners, Construction Surveyors
1004 Lincoln Road, Bellevue, NE 68006 402-291-5100

PAGE 2 OF 5

96-03697-2

TRACT MAP

TITLE SEARCH NO. NATS3957
OWNER: G.M. SCHRAM, J.M. SCHRAM,
M.E. PFEIFER, R.A. RAMM

25.00'

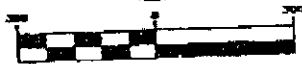
CENTER LINE SIDE DITCH
DRAINAGE CHANNEL

CENTER SEC. 9-13-10

PROPERTY LINE
(TYPICAL)

S.W. 1/4 SEC. 9-13-10

S.E. 1/4 SEC. 9-13-10



1 inch = 300 ft.

FAIRVIEW ROAD



PERMANENT EASEMENT



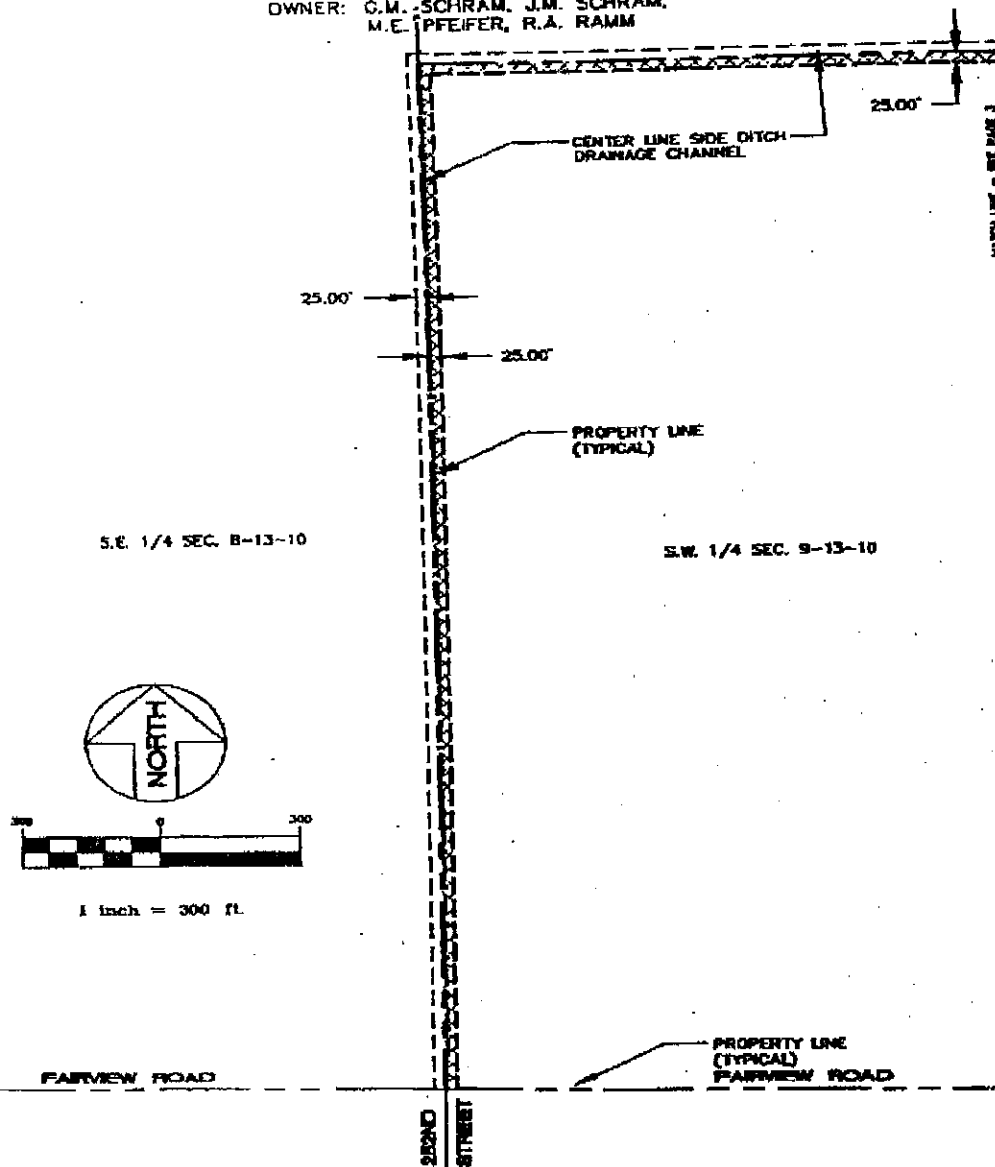
Hill-Farrell Associates, Inc.
Land Surveyors, Land Planners, Construction Surveys
1004 Lincoln Road, Bellevue, NE 68005 402-291-8100

PAGE 3 OF 5

40-07-128

TRACT MAP

TITLE SEARCH NO. NATS3957
OWNER: G.M. SCHRAM, J.M. SCHRAM,
M.E. PFEIFER, R.A. RAMM



PERMANENT EASEMENT



= FENCE



Hill-Farrell Associates, Inc.
Land Surveyors, Land Planners, Construction Surveyors
1004 Lincoln Road, Bellevue, NE 68005 402-391-6100

PAGE 4 OF 5

96-036931

LEGAL DESCRIPTION
PROPOSED PERMANENT EASEMENT

THE NORTH 25.00 FEET AND THE WEST 25.00 FEET OF THE SOUTHWEST ONE-QUARTER,
TOGETHER WITH THE NORTH 25.00 FEET AND THE EAST 75.00 FEET OF THE SOUTHEAST
ONE-QUARTER, ALL IN SECTION 9, T 13 N, R 10 E OF THE SIXTH P.M., SARPY COUNTY,
NEBRASKA. DESCRIBED TRACT CONTAINS 11.98 ACRES, MORE OR LESS.

DRWG: NR03957
DATE: 5-18-95

TITLE SEARCH NO. NATS3957



Hill-Farrell Associates, Inc.
Lead Surveyors, Land Planners, Construction Surveyors
1004 Lincoln Road, Bellevue, NE 68005 402-281-8100

PAGE 5 OF 5



Lamp, Ryneearson & Associates, Inc.

WWW.LRA-INC.COM

14710 West Dodge Road, Suite 100
Omaha, Nebraska 68154-2027(Ph) 402.496.2498
(Fax) 402.496.2730

FACSIMILE COVER SHEET

Send to:

**Martin Cleavland
PNRD**Fax #: **895-6543**Date: **June 21, 2006**Refer to: **Schram Property**Number of Pages Including Cover Sheet: **10**

Message:

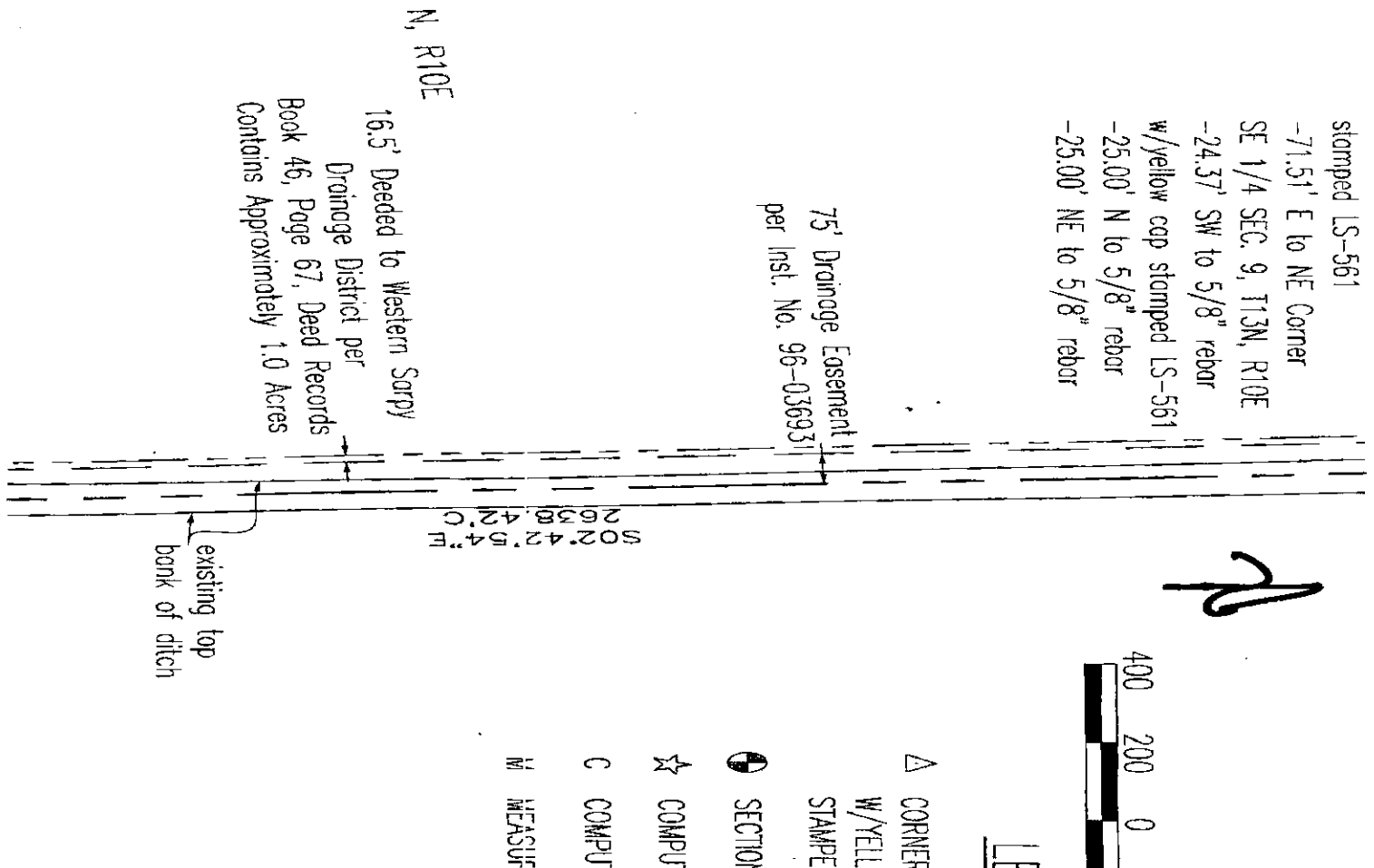
From:

Todd L. Whitfield, L.S.
Lamp, Ryneearson & Associates, Inc.
14710 West Dodge Road, Suite 100
Omaha, Nebraska 68154-2027

Phone: (402) 496-2498

FAX: (402) 496-2730 1st Floor(402) 496-6510 2nd FloorJob Name: **Lyman Richey**Job # / Task #: **e.00**

NOTICE: The attached document is intended for the use of the person(s) to whom it is addressed, and may contain information that is privileged and confidential. If you are not the intended recipient or the employee or agent responsible for delivering the attached document to the intended recipient, you are hereby notified that any dissemination, distribution or copying of the attached document is strictly prohibited. If you have received this communication in error, please notify us immediately by telephone and return the materials transmitted to you via the U. S. Postal Service. Thank you.



DEED RECORD NO. 40, SARPY COUNTY.

W E C R O R S C H E A N E T A L

to

WESTERN SARPY DRAINAGE DISTRICT.

Deeds 41.25 Pd.

Filed April 8, 1913, at 9 A. M.

W. E. Schram
County Clerk.

KNOW ALL MEN BY THESE PRESENTS: That George

Schram and Mary Schram, his wife, Robert Schram and Elizabeth Schram, his wife, in consideration of Sixty Six and 25/100 Dollars in hand paid, do hereby Grant, Bargain, Sell and Convey for Drainage District purposes unto the Western Sarpy Drainage District, of Sarpy County, its successors and assigns, all that certain tract or piece of land, situated in the County of Sarpy and State of Nebraska, to wit: A strip or piece of land 16.5 feet wide on the west side of the present right of way of the Forest City Drain Ditch, being and extending 16.5 feet west from the west line of said right of way. Said strip beginning at the north line of the S. E. quarter of Section 9, T. 13, Range 10 E. in Sarpy County, Nebraska, and running south along the eastern edge of said above quarter, to the south line of said S. E. 1/4 of said Section 9 and containing 1 acre, all being for the purpose of widening the original right of way of the said Forest City Drain Ditch, together with any and all desired access thereto by the said Drainage District, its agents or employees. Said land to be used perpetually according to the present and future plans of said Drainage District, its successors and assigns for drainage purposes. And the said grantors do hereby covenant with the said Western Sarpy Drainage District, its successors and assigns that we are lawfully seized of said premises, and that they are free from incumbrance and they will warrant and defend the same unto the said Western Sarpy Drainage District, its successors and assigns against the lawful claims and demands of all persons whomsoever.

In Witness Whereof we have hereunto set our hands this 15th day of February, 1913.

In presence of
E. E. RichardsonGeorge Schram
Mary Schram
Robert Schram
Elizabeth Schram

State of Nebraska

Sarpy County

} ss

On this 15th day of February, 1913, before me, personally appeared George Schram, and Mary Schram, his wife, Robert Schram, and Elizabeth, his wife, known to me to be the identical persons who executed the foregoing deed and acknowledged the execution of the same to be their voluntary act and deed.

Witness my hand and official seal the date last aforesaid.

~~Notary Public for Nebraska~~
E. E. Richardson, Notary Public,
Sarpy County, Nebraska.

E. E. Richardson,
Notary Public.
Commission Expires Feb. 11, 1916.

O L A N A W O L F

to

OSCAR JOHNSON.
Contract. 41.25 Pd.

Filed April 12, 1913, at 9 A. M.

W. E. Schram
County Clerk.

Mar. 15, 1913. I, the undersigned, hereby

agree to purchase the property hereinafter described to wit: Part of Section Five (5), T. 13, R. 10, and part of Sections 29, 32 and 33, T. 14, R. 10, Sarpy Co. It being same legal description as in memorandum of Jan. 11, 1913, signed "H. A. Wolfe", in possession of Orin E. Merrill and endorsed by me.

Subject however and on condition that owner thereof has a good and valid title in fee simple and agrees to furnish Abstract of Title down to transfer and convey said premises by Warranty Deed.