

MEMORANDUM

TO: Finance, Expenditure and Legal Subcommittee

FROM: Martin P. Cleveland

SUBJECT: Western Sarpy Drainage Ditch ROW (Fairview Road to Platteview Road)
Lyman-Richey Corporation Request for Amendment to Easement
Former First National/Hickey Property

DATE: December 27, 2006

Lyman-Richey has purchased property between Fairview Road and Platteview Road and 240th Street and 252nd Street, Southwest of Gretna, Nebraska for sand/gravel mining purposes. 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. The proposed mining will obliterate 3 drainage ditches on the Lyman-Richey property (formerly owned by First National/Hickey).

The amendment to drainage ditch easement (see enclosure) will allow Lyman-Richey to mine sand/gravel on the site and still allow for local drainage to flow into and out of this property.

It is management's recommendation that the Subcommittee recommend to the Board of Directors that the General Manager be authorized to negotiate and execute an Amendment to Drainage Ditch easement, subject to form as approved by District legal counsel.

**AMENDMENT TO
DRAINAGE DITCH EASEMENT**

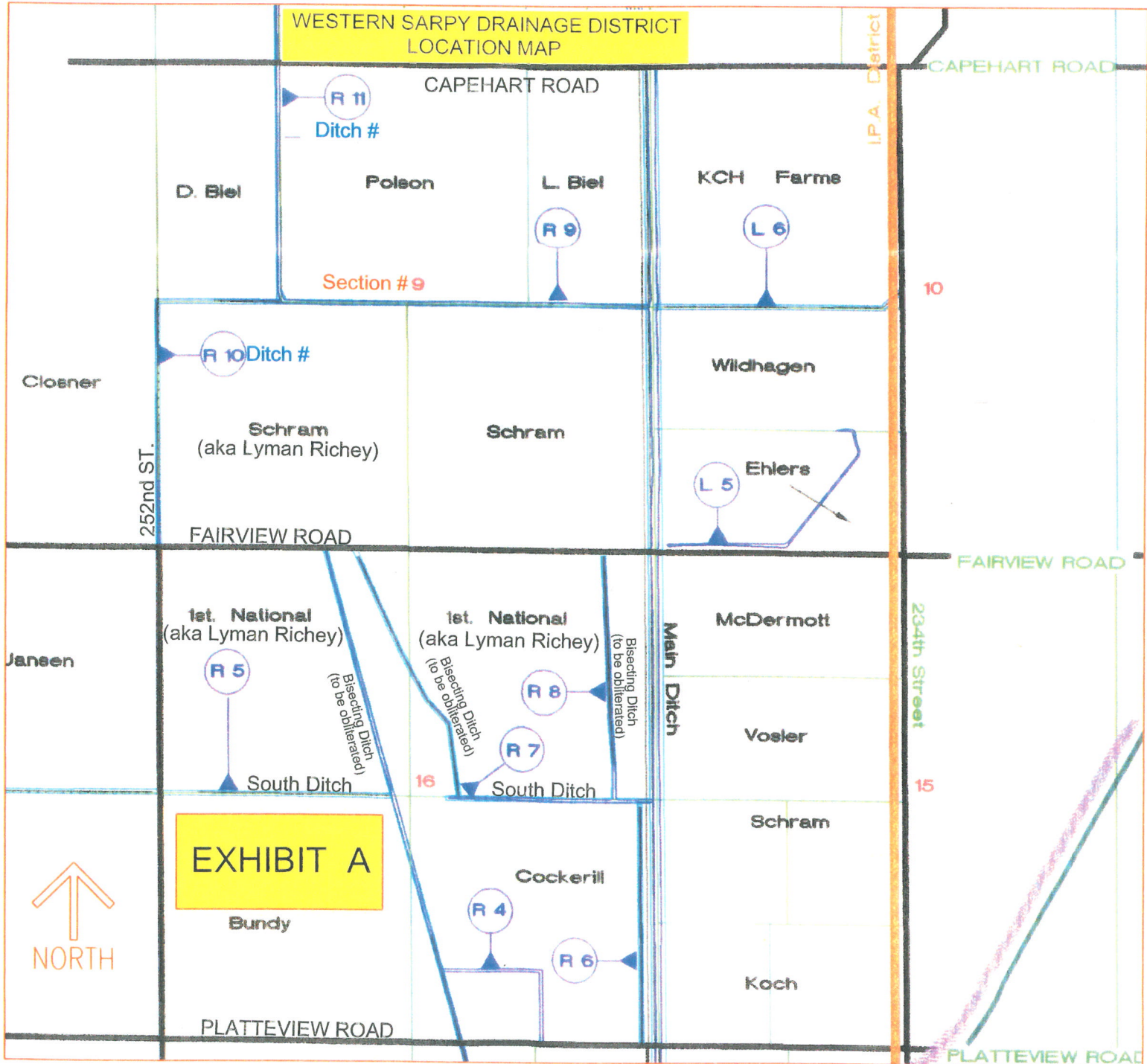
For valuable consideration, the receipt of which is hereby acknowledged, the Papio-Missouri River Natural Resources District ("Grantee") and Lyman-Richey Corporation, a Delaware corporation ("Grantor"), as successor-in-interest to the First National Bank of Omaha, Trustee; Martha Hickey, Gary Reimers and Sally Nolting, all as tenants-in-common, do hereby amend that certain Drainage Ditch Easement ("the Easement") dated on or about May 28, 1999, recorded on June 7, 1999 in the office of the Register of Deeds of Sarpy County, Nebraska, as Instrument No. 99017909, granting drainage ditch easements over and across tracts of land ("Easement Areas") in the N ½ of Section 16, Twp 13 N, Range 10E of the 6th P.M., Sarpy County, Nebraska, more particularly described in the Easement, which was granted originally to the Western Sarpy County Drainage District, predecessor-in-interest to the Grantee, such amendments being as follows:

1. Pursuant to the Easement, the Grantee maintains a main drainage ditch in the Eastern portion of the Easement Areas ("Main Ditch"), ditches along the Southern portion of the Easement Areas ("South Ditches") and drainage ditches which bisect the Easement Areas ("Bisecting Ditches"), all as depicted in the plan-view diagram of ditches and roads attached hereto as Exhibit "A" and incorporated herein by reference.
2. Grantee acknowledges and agrees that Grantor desires to and hereinafter may dredge-mine sand and gravel in those portions of Grantee's Bisecting Ditches marked for obliteration in Exhibit A, Grantee giving such consent with the realization that, in the process of dredge-mining sand and gravel, the dredging-mining

process will essentially obliterate all or most of the banks of Grantee's Bisecting Ditches and leave a pond or lake ("the Lake") in their place.

3. Grantor agrees to (a) accept the waters and sediment which will flow into the North side of the Lake from the remnants of Grantee's Bisecting Ditches; (b) not obstruct such flow from the Bisecting Ditches nor cause them to back-up drainage on upstream properties; (c) allow such drainage to flow through the Lake without obstruction and into the South Ditches on the South side of the Lake; (d) not deprive any "downstream" user of existing water rights; and (e) not excavate or cause subsidence in the easement corridors for or otherwise interfere with the Grantee's Main Ditch or South Ditches (and, for this latter reason, the GRANTOR agrees that it shall not excavate inside the portion of the Easement Areas used for the Grantee's Main Ditch or South Ditches, nor excavate within two hundred feet (200') on either side of the portion of the Easement Areas used for the Grantee's Main Ditch or South Ditches to any depth (measured below the natural ground plane) deeper than one-fourth (1/4) the horizontal distance from the point of excavation to the nearest boundary of the portion of the Easement Areas used for the Grantee's Main Ditch or South Ditches).
4. Grantor and Grantee further confirm, covenant and agree that in consideration of the modified agreements of Grantor as set forth in the original Easement and as amended in this Amendment to Easement, the Grantee has no objection to and hereby permits such excavation of the portions of its Bisecting Ditches depicted in Exhibit "A" upon the stated conditions set forth in this Amendment to Easement.
5. This Amendment to Easement is premised upon Grantor's representation that it will comply with all other provisions of the Easement and that, in making the contemplated excavations and associated stock piles, it will respect all county flood plain regulations and all county-required setbacks from property lines, which setbacks also shall apply to the easement corridors for the Main Ditch and the South Ditches.
6. The parties further covenant and agreed that, except to the extent otherwise specifically set forth in this Amendment to Easement, the terms and provisions of the Easement shall remain in full force and effect.

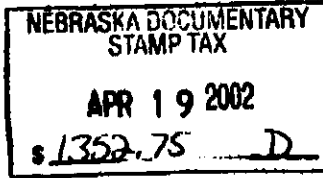
WESTERN SARPY DRAINAGE DISTRICT
LOCATION MAP



FILED SARPY CO. NE.
INSTRUMENT NUMBER
2002-14665

2002 APR 19 P 4:30

Glenn J. Downing
REGISTER OF DEEDS



Counter DD
Verity SN
D.E. JK
Proof JK
Fee \$ 15.50
Ck Cash Chg
2244/2242 Stamp
Copy

Please return to Robert J. Murray, 10306 Regency Parkway Drive, Omaha, NE 68114; (402) 397-7300

WARRANTY DEED

KNOW ALL MEN BY THESE PRESENTS, that Sally J. Nolting, a single person, and Gary E. Reimers and Marcia K. Reimers, husband and wife, herein called the GRANTOR, whether one or more, in consideration of One Dollar (\$1) and other good and valuable consideration received from GRANTEE, do hereby grant, bargain, sell, convey and confirm unto SEC ACCOMMODATOR IX, LLC, a Nebraska limited liability company, herein called the GRANTEE, the following described real property in Sarpy County, Nebraska.

See Exhibit "A" attached hereto and incorporated herein by reference.

To have and to hold the above-described premises together with all tenements, hereditaments and appurtenances thereto belonging unto the GRANTEE and to GRANTEE'S heirs and assigns forever.

And GRANTOR does hereby covenant with the GRANTEE and with GRANTEE'S heirs and assigns that GRANTOR is lawfully seized of said premises; that they are free from encumbrance, except those easements, restrictions and covenants of record.

That GRANTOR has good right and lawful authority to convey the same; and that GRANTOR warrants and will defend the title to said premises against the lawful claims of all persons whomsoever.

DATED this 18 day of April, 2002.

Gary E. Reimers

Gary E. Reimers

Sally J. Nolting

Sally J. Nolting

Marcia K. Reimers

Marcia K. Reimers

202-911

2002-1166 SA

STATE OF NEBRASKA)
) ss.
COUNTY OF DOUGLAS)

The foregoing instrument was acknowledged before me this 18 day of April, 2002, by Sally J. Nolting.

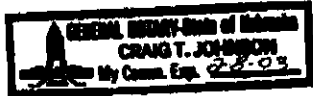


[Signature]

Notary Public

STATE OF NEBRASKA)
) ss.
COUNTY OF DOUGLAS)

The foregoing instrument was acknowledged before me this 18 day of April, 2002, by Gary E. Reimers and Marcia K. Reimers.



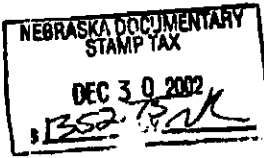
[Signature]

Notary Public

2007-14665B

Exhibit "A"

The North One-half (N ½) of Section 16, all in Township 13 North, Range 10 East of the 6th P.M., Sarpy County, Nebraska.



FILED SARPY CO. NE.
INSTRUMENT NUMBER
2002-54568
2002 DEC 30 A 11:01 9
Shirley J. Dawson
REGISTER OF DEEDS

Counter AM
Verify AM
D.E. SA
Proof SA
Fee \$ 10.50
Chk Cash Chg
27177
189082

SPECIAL WARRANTY DEED

KNOW ALL MEN BY THESE PRESENTS, That SEC Accommodator IX, LLC, a Nebraska limited liability company, Grantor, in consideration of One Dollar in hand paid by Lyman-Richey Corporation, a Delaware corporation, Grantee, does hereby grant, bargain, sell and convey unto the said Grantee the following described real estate situated in the County of Sarpy and State of Nebraska, to-wit:

See Exhibit "A" attached hereto and made a part hereof by reference

TO HAVE AND TO HOLD the above described real estate, together with all tenements, hereditaments and appurtenances thereto belonging unto the Grantee and to Grantees heirs and assigns forever.

And the said Grantor hereby covenants with the Grantee that Grantor:

- a. is lawfully seized of said real estate and that said real estate is free from all liens and encumbrances, except those easements, restrictions, covenants and taxes of record;
- b. has legal power and lawful authority to convey the same; and
- c. warrants and will defend the title to said real estate against the lawful claims or demands of all persons claiming the same or any part thereof by, through, or under Grantor, and against no other claims or demands.

IN WITNESS WHEREOF we have hereunto set our hand this 23rd day of December, 2002.



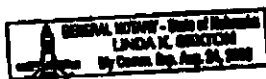
SEC Accommodator IX, LLC, a
Nebraska Limited Liability Company

By: Security Exchange Corporation, Member

BY: Ellen Albrecht
Ellen Albrecht, Vice President

STATE OF Nebraska)
)ss.
COUNTY OF Douglas)

The foregoing instrument was acknowledged before me on December 23, 2002 by Ellen Albrecht, Vice President of Security Exchange Corporation, a Nebraska corporation, Member of SEC Accommodator XII, LLC, a Nebraska limited liability company, known to me to be the identical person whose name is affixed to the foregoing instrument and acknowledged the execution thereof to be her voluntary act and deed on behalf of said corporation.



Linda N. Gordon
Notary Public
My commission expires _____

54568

SEC

2007-54568A

EXHIBIT "A"

The North One-Half (N1/2) of Section 16, all in Township 13 North, Range 10 East of
the 6th P.M., Sarpy County, Nebraska