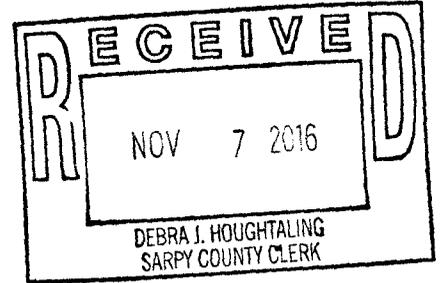


AFFIDAVIT OF PUBLICATION

STATE OF NEBRASKA }
} SS.
County of Sarpy }

Being duly sworn, upon oath, Michael Harrington deposes and says that he is the Accounting Manager or Ron Petak deposes and says that he is the Executive Editor of the Bellevue Leader, Papillion Times, Gretna Breeze and Springfield Monitor, legal newspapers of general circulation in Sarpy County, Nebraska, and published therein; that said newspaper has been established for more than one year last past; that it has a bona-fide paid subscription list of more than three hundred; that to this personal knowledge, the advertisement, a copy of which is hereto attached, was printed in the said newspaper once each week, the first insertion



Wednesday, October 5, 2016 Papillion Times

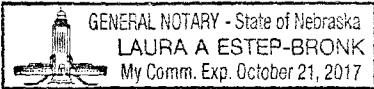
And that said newspaper is a legal newspaper under the statutes of the State of Nebraska. The above facts are within my personal knowledge.

Handwritten signature of Ron Petak

Michael Harrington OR Ron Petak
Accounting Manager Executive Editor

Today's Date 10/5/16
Signed in my presence and sworn to before me:
Handwritten signature of Notary Public

Notary Public



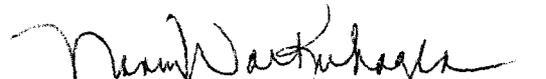
Printer's Fee \$ 12.30
Customer Number: 31901
Order Number: 0001982014

HILLMAN, FORMAN, CHILDERS & McCORMACK ATTORNEYS AT LAW
SUITE 650
7171 MERCY ROAD
OMAHA, NEBRASKA 68106
NOTICE OF MEETING
Sanitary and Improvement District No. 162 of Sarpy County, Nebraska
NOTICE IS HEREBY GIVEN that a meeting of the Board of Trustees of Sanitary and Improvement District No. 162 of Sarpy County, Nebraska, will be held at 3:00 pm on Thursday, October 13, 2016, at Chalco Hills Recreation Area Visitor's Center 8901 South 154th Street, Omaha, Nebraska, which meeting will be open to the public.
An agenda for such meeting, kept continuously current, is available for public inspection at 7171 Mercy Road, Suite 650, Omaha, Nebraska 68106, and includes payment of bills of the District.
Nancy Wackerhagen
Clerk of the District
1982014; 10/5

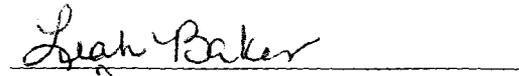
**ACKNOWLEDGMENT OF RECEIPT OF NOTICE OF MEETING**

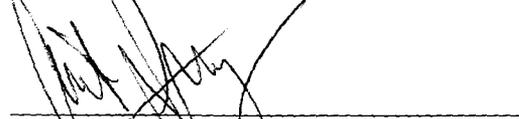
The undersigned Trustees of Sanitary and Improvement District No. 162 of Sarpy County, Nebraska, hereby acknowledge receipt of advance notice of a meeting of the Board of Trustees of said District and the agenda for such meeting held at 3:00 o'clock p.m. on Thursday, October 13, 2016, at Chalco Hills Recreation Area Visitor's Center, 8901 South 154th Street, Omaha, Nebraska.

  
Richard L. Hansen

  
Nancy Wackerhagen

  
Jim Nichols

  
Leah Baker

  
Clinton W. Strong

## CERTIFICATE

The undersigned hereby certify that they are the Chairman and Clerk of Sanitary and Improvement District Number 162 of Sarpy County, Nebraska, (the "District") and hereby further certify as follows:

1. Annexed to this certificate is a true and correct transcript of the proceedings of the Board of Trustees of the District relating to a meeting of said District held on the date at the time reflected in the meeting minutes contained in said foregoing transcript (the "Meeting"). All of the proceedings of the District and of the Board of Trustees thereof which are set out in the annexed and foregoing transcript have been fully recorded in the journal of proceedings of the District and the undersigned District Clerk has carefully compared the annexed and foregoing transcript with said journal and with the records and files of the District which are in such Clerk's official custody and said transcript is a full, true and complete copy of said journal, records and files which are set out therein.

2. Advance notice for the Meeting was given by publication as set forth in the affidavit of publication contained in the foregoing transcript and was mailed to the Clerk of the municipality or county within whose zoning jurisdiction the District is located at least seven days prior to the date of the Meeting. Advance notice for the Meeting, including notice of agenda subjects, was given to all members of the Board of Trustees. All news media requesting notification of meetings of said body were provided with advance notice of the times and places of such meetings and the subjects to be discussed.

3. All of the subjects addressed at the Meeting were contained in the agenda for the Meeting, which agenda was kept continually current and readily available for public inspection at the address listed in the meeting notice for the Meeting and a copy of which is attached to this Certificate; such subjects were contained in said agenda for at least 24 hours prior to the Meeting and each agenda item was sufficiently descriptive to give the public reasonable notice of the matters to be considered at the Meeting.

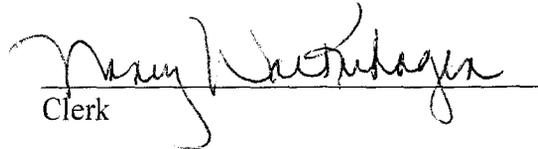
4. A current copy of the Nebraska Open Meetings Act was available and accessible to members of the public, posted during the Meeting in the room in which such Meeting was held and all in attendance at the Meeting were informed that such copy of the Nebraska Open Meetings Act was available for review and were informed of the location of such copy in the room in which such Meeting was being held. At least one copy of all resolutions and other reproducible written materials, for which actions are shown in said proceedings, was made available for examination and copying by members of the public at the Meeting.

5. The minutes of the Meeting were in written form and available for public inspection within ten (10) working days after the Meeting or prior to the next convened meeting, whichever occurred earlier, at the office of the District; within thirty (30) days after the date of the Meeting, a copy of the minutes of the Meeting was sent to the Clerk of the municipality or county within whose zoning jurisdiction the District is located.

6. No litigation is now pending or threatened to restrain or enjoin the District from the issuance and delivery of any warrants or other obligations issued by the District or the levy and collection of tax or other revenues or relating to any of the improvements for which any such warrants or other obligations were or are issued nor in any manner questioning the proceedings and authority under which any such warrants or other obligations were or are issued or affecting the validity thereof; neither the corporate existence or boundaries of the District nor the title of its present officers to their respective offices is being contested; no authority or proceedings for the issuance of any warrants or other obligations by the District have been repealed, revoked or rescinded as of the date hereof. All actions taken by the Board of Trustees referred to in said transcript were taken at a public meeting while open to the attendance of the public.

IN WITNESS WHEREOF, we have hereunto affixed our official signatures this 27<sup>th</sup> day of Oct, 2016.

  
Chairman

  
Clerk

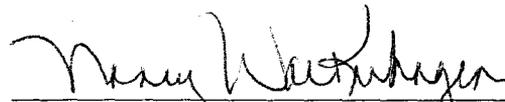
**AGENDA FOR MEETING OF BOARD OF TRUSTEES OF  
SANITARY AND IMPROVEMENT DISTRICT NO. 162  
OF SARPY COUNTY, NEBRASKA**

Agenda for meeting of Board of Trustees of Sanitary and Improvement District No. 162 of Sarpy County, Nebraska on October 13, 2016, at 3:00 p.m. at the Chalco Hills Recreation Area Visitors Center, 8901 South 154<sup>th</sup> Street, Omaha, Nebraska.

1. Call to Order and Roll Call
2. Announcement in Compliance with Open Meetings Act
3. Approval of Minutes of September 15, 2016 Meeting
4. Engineer's Report
  - A. 2016 Pavement Repair Project
  - B. Mission Creek Channel Reestablishment Phase IV
  - C. 2016 Playground Resurfacing Project
  - D. Railroad Culvert Channel Erosion
  - E. Papillion Creek Channel Bank Erosion
5. Attorney's Report
  - A. Dumping of Yard Waste in Common Area
  - B. Newsletter
6. Payment of Bills
7. Set Date for Next Meeting

**CERTIFICATE**

The undersigned Clerk of the above-designated District certifies that the foregoing agenda was prepared and available for public inspection at the address shown in the notice of the meeting prior to the commencement of the meeting and no items were added to the agenda after the commencement of the meeting.



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Clerk, Sanitary and Improvement District  
No. 162 of Sarpy County, Nebraska

**SANITARY AND IMPROVEMENT DISTRICT NO. 162  
OF SARPY COUNTY, NEBRASKA**

**Minutes of Meeting of Board of Trustees  
October 13, 2016**

A meeting of the Board of Trustees of Sanitary and Improvement District No. 162 of Sarpy County, Nebraska was convened in open and public session on October 13, 2016 at 3:00 p.m. at the Chalco Hills Recreation Area Visitor's Center, 8901 South 154<sup>th</sup> Street, Omaha, Nebraska.

Present were: Chairman Richard Hansen, Clerk Nancy Wackerhagen and Trustees James Nichols, Leah Baker and Clinton Strong.

Absent: None

Also present: Engineer Bill Glismann, Attorney Larry Forman and one District resident.

Notice of the meeting was given in advance thereof by publication in the Papillion Times on October 5, 2016, and the Attorney presented proof of publication of said notice, a copy of said proof being attached to these minutes. Advance notice was also given to the members of the Board of Trustees and a copy of their acknowledgment of receipt of such notice is attached to these Minutes. Notice was also given to the County Clerk of Sarpy County, Nebraska per the attached Certificate of the Clerk of the District. Availability of the agenda was communicated in the advance notice and in the notice given to the Board of Trustees and to the County Clerk. All proceedings hereafter shown were taken while the meeting was open to the attendance of the public.

The Chairman called the meeting to order and the Clerk called the roll of Board members.

The Chairman stated the next item of business on the agenda was an announcement in compliance with the Nebraska Open Meetings Act. He stated that in compliance with the provisions of the Act, a copy of the Nebraska Open Meetings Act was available for inspection at the table at which the Trustees were seated.

The Chairman stated that the next item of business on the agenda was approval of the Minutes of the meeting of the Board of Trustees of September 15, 2016. After brief discussion, the Minutes of that meeting were approved as submitted.

The Chairman stated the next item of business on the agenda was the Engineer's report. Engineer Bill Glismann distributed to the Trustees copies of his engineering status report dated October 13, 2016, a copy of which is attached to these Minutes, and reported as follows:

A. 2016 Pavement Repair Project. This project is now complete.

B. Mission Creek Channel Reestablishment Phase IV. Valley Corporation plans to begin work on this project in early November. The Chairman displayed the Permit form from the Corps of Engineers with regard to this project forwarded to him by letter dated October 5, 2016, a copy of the permit and attached materials being attached to the Minutes of this meeting. Mr. Glismann stated that with the Permit in hand, the District has necessary authorization to proceed with the work.

C. 2016 Playground Resurfacing Project. Dostals Construction has been unable to commence work on the project due to weather delays encountered on another project on which the company has been working. Work on the project will hopefully commence within the next week. The Trustees asked Mr. Glismann to inform them when work will begin so residents can be notified.

D. Railroad Culvert Channel Erosion. Mr. Glismann stated that he has received nothing recently from BNSF which had indicated that a revised plan for dealing with the current situation would have been submitted during the past week. Trustee Jim Nichols stated that the railroad did perform hydroseeding work within the construction area but the Clerk expressed concern that the project does not appear to be moving. Mr. Glismann stated that BNSF has been responsive in the past. Trustee Baker suggested that the Engineers need to monitor the railroad's progress on a daily basis. Mr. Glismann stated that he would follow up with the railroad and keep the Board members apprised of his progress. Trustee Nichols expressed concern about any work by the railroad which would entail accessing the work area from the north. Trustee Baker stated that it was her understanding the District would control this project moving ahead and she suggested that Mr. Glismann require weekly updates from the railroad. She also stated that any settlement arrangements with BNSF will need to include coverage by the railroad of any legal or engineering fees incurred by the District.

E. Papillion Creek Channel Bank Erosion. Mr. Glismann stated that his office received a call from a resident regarding erosion of the Papillion Creek channel behind his home. He distributed to the Trustees copies of photos attached to the Engineering status report showing the

extent of erosion in the area and stated that the erosion has taken out a complete bank of trees in the area. He stated that the erosion has caused the channel bank to move within fifty feet of an adjacent single family lot. The Chairman stated that the channel needs to be stabilized. Trustee Baker observed that the District cannot afford to stabilize the entire channel but Mr. Glismann suggested that the desired result can probably be achieved by performing stabilization work in limited areas along the channel. The Clerk suggested that the Board should consider installing fencing 20 to 25 feet back from the edge of the bank to prevent persons from falling into the channel. Mr. Glismann stated that it would be prudent to check the channel to identify those areas in need of attention. After further discussion, the Trustees directed Mr. Glismann to walk the creek banks all the way through the District to identify those areas where fencing would be recommended, reporting back to the Trustees at the next meeting. Trustee Strong inquired as to whether the District should consider digging a channel to shorten the path of the stream but Mr. Glismann stated that any measure designed to shorten the path would necessarily increase the speed of the water, and he added that any work performed within the channel would necessitate obtaining another permit from the Corps of Engineers. During the discussions that ensued, the Trustees observed that to the extent the area covered by the mowing contract is reduced as a result of installation of additional fencing, a change order to the contract will need to be made to assure that the District is not paying for the mowing of areas which will be left undisturbed. Trustee Baker stated that she also had a question concerning property at the southwest corner of 167<sup>th</sup> and Gertrude but she stated that she would follow up directly with Mr. Glismann on this matter.

The Clerk inquired as to the current status of the final payment to Spencer Management on the pavement repair project. Mr. Glismann stated that he would verify that all issues with the performance and maintenance bonds had been resolved and he suggested that the warrant in final payment to Spencer be retained until the issues have been resolved.

The Chairman stated that the next item of business on the agenda was the Attorney's report. Larry Forman reported as follows:

A. Dumping of Yard Waste in Common Area. Mr. Forman stated that a letter had been sent to the property owners at 15803 Josephine Street advising that the dumping of yard waste in the property abutting a navigable right-of-way is prohibited by federal law and advising that if the yard

waste previously observed adjacent to the rear line of that property is not removed within seven days, the matter will be reported to appropriate federal authorities. Trustee Strong observed that other property owners are also engaging in this type of activity. Trustee Baker inquired as to the precise designation of the federal statute prohibiting this activity. The Chairman stated that when similar activity had been reported to the County Sheriff in the past, the Sheriff had contacted the property owner who promptly removed the yard waste from the common area. The Attorney stated that he would determine the citation for the applicable statute and would report that information to the Trustees.

B. Newsletter. Mr. Forman reported that the latest newsletter copies have been distributed to the bulk mail unit and should be delivered to District residents within the next few days.

The Chairman stated the next item of business on the agenda was payment of bills. The Chairman presented the following statements for payment through the District's general fund:

- N.P. Dodge Insurance - \$2,231.00 for Errors and Omission Renewal
- OPPD - \$12,000.00 for electric service
- Spencer Management - \$3,546.99 pavement repair 2016
- HGM Associates - \$1,223.28 for general engineering services
- Hillman Forman Law Firm - \$3,555.40 for legal services and expenses

Upon motion duly made, seconded and roll call vote taken in open session convened, the votes being as follows:

- |                   |       |
|-------------------|-------|
| Richard Hansen    | - Aye |
| Nancy Wackerhagen | - Aye |
| James Nichols     | - Aye |
| Leah Baker        | - Aye |
| Clinton Strong    | - Aye |

the following resolution was adopted:

**RESOLVED**, by the Board of Trustees of Sanitary and Improvement District No. 162 of Sarpy County, Nebraska, that the Chairman and Clerk be and they hereby are authorized and directed to execute and deliver Warrants No. 6053 through 6059 to the following payees and in the following amounts, said warrants to be drawn on the General Fund of the District and to draw interest at the rate of 7% per annum and to be redeemed no later than three years from the date of issuance, subject to extension

of said maturity date by order of the District Court of Sarpy County, Nebraska, after notice is given as required by law, to-wit:

#6053 N.P. Dodge Insurance - Inv. #495911- Errors & Omission	\$2,231.00
#6054 OPPD - electric service	\$5,000.00
#6055 OPPD - electric service	\$5,000.00
#6056 OPPD - electric service	\$2,000.00
#6057 Spencer Management - Pavement Repair 2016 final payment	\$3,546.99
#6058 HGM Associates - Inv #703510-44 for engineering services	\$1,223.28
#6059 Hillman Forman - Sept., 2016 legal services and costs	\$3,555.40

The Clerk then presented the following statements for payment through the District's Construction Fund:

HGM Associates - \$8,939.95 for Mission Creek engineering services

Upon motion duly made, seconded and roll call vote taken in open session convened, the votes being as follows:

Richard Hansen	- Aye
Nancy Wackerhagen	- Aye
James Nichols	- Aye
Leah Baker	- Aye
Clinton Strong	- Aye

the following resolutions were adopted:

**RESOLVED**, by the Board of Trustees of Sanitary and Improvement District No. 162 of Sarpy County, Nebraska, that the Chairman and Clerk be and they hereby are authorized and directed to execute and deliver Warrants No. 6060 and 6061 to the following payees and in the following amounts, said warrants to be drawn on the Construction Fund of the District and to draw interest at the rate of 7% per annum and to be redeemed no later than five years from the date of issuance, subject to extension of said maturity date by order of the District Court of Sarpy County, Nebraska, after notice is given as required by law, to-wit:

#6060 HGM Assoc. - Inv # 703510-41 & 44 Mission Creek	\$5,000.00
#6061 HGM Assoc. - Inv # 703510-41 & 44 Mission Creek	\$3,939.96

**FURTHER RESOLVED** by the Board of Trustees of Sanitary and Improvement District No. 162 of Sarpy County, Nebraska, that both they and the District hereby find and determine and covenant, warrant and agree as follows: the improvements

and/or facilities being financed or refinanced by the above warrants are for essential governmental functions and are designed to serve members of the general public on an equal basis; all said improvements have from the time of their first acquisition and construction been owned, are owned and are to be owned by the District or another political subdivision; to the extent special assessments have been or are to be levied for any of said improvements, such special assessments have been or are to be levied under Nebraska law as a matter of general application to all property specially benefitted by said improvements in the District; the development of the land in the District is for residential or commercial use and the development of the land in the District for sale and occupation by the general public has proceeded and is proceeding with reasonable speed other than any incidental use for said improvements by a developer during the initial period of development of said improvements, there have been, are and will be no persons with rights to use such improvements other than as members of the general public; none of the proceeds of said Bonds or any refinanced indebtedness have been or will be loaned to any private person or entity; the District hereby authorized and directs the Chairperson or Clerk to file or cause to be filed, when due, an information reporting form pursuant to Section 149(e) of the Internal Revenue Code of 1986, as amended, pertaining to the above warrants, and the District does not reasonably expect to sell or otherwise dispose of said improvements and/or facilities, in whole or in part, prior to the last maturity of the above warrants.

**BE IT FURTHER RESOLVED** by the Board of Trustees of Sanitary and Improvement District No. 162 of Sarpy County, Nebraska, that the District hereby covenants, warrants and agrees as follows: (a) to take all actions necessary under current federal law to maintain the tax exempt status (as to taxpayers generally) of interest on the above warrants; and (b) to the extent that it may lawfully do so, the District hereby designates the above warrants as its "qualified tax exempt obligation" under Section 265(b)(3)(B)(i)(III) of the Internal Revenue Code of 1986 as amended and covenants and warrants that the District does not reasonably expect to issue warrants or bonds or other obligations aggregating in the principal amount of more than \$10,000,000 during the calendar year in which the above warrants are to be issued.

**BE IT FURTHER RESOLVED** by the Board of Trustees of Sanitary and Improvement District No. 162 of Sarpy County, Nebraska that this and the preceding Resolutions are hereby adopted as the Certificate With Respect to Arbitrage of the District pertaining to the above warrants and the District and the Chairman and Clerk of the District hereby further certify, as of the date of the registration of the above warrants with the County Treasurer of Sarpy County, Nebraska as follows:

1. No separate reserve or replacement fund has been or will be established with respect to the above warrants. The District reasonably anticipates that monies in its bond fund reasonably attributable to the above

warrants in excess of the lesser of: (a) 10% of the net principal proceeds of the above warrants, (b) the maximum annual debt service due on the above warrants, or (c) 125% of average annual debt service due on the above warrants will be expended for payment of principal of and interest on the above warrants within 13 months after receipt of such monies. That amount which is currently held in the District's bond fund which exceeds the amount which is to be expended for payment of principal and interest on the above warrants within 13 months after receipt of such monies, plus that amount arrived at pursuant to the immediately preceding sentence, will not be invested in any securities or any other investment obligations which bear a yield, as computed in accordance with the actuarial method in excess of the yield on the above warrants.

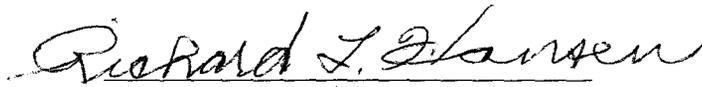
2. To the best of their knowledge, information and belief, the above expectations are reasonable.

3. The District has not been notified of any listing of it by the Internal Revenue Service as an issuer that may not certify its bonds.

4. The Certificate is being passed, executed and delivered pursuant to Section 1.148-2(b)(2) of the Income Tax Regulations under the Internal Revenue Code of 1986, as amended.

The Chairman stated the next item of business on the agenda was setting the time and place for the next meeting of the Board. After brief discussion it was determined that the next meeting of the Board will be held on Thursday, November 10, 2016 at 3:00 o'clock p.m. at the Chalco Hills Recreation Area Visitor's Center, 8901 South 154<sup>th</sup> Street, Omaha, Nebraska.

There being no further business to come before the meeting, the same was adjourned.

  
CHAIRMAN

ATTEST:

  
CLERK

**HGM ASSOCIATES, INC.**

**ENGINEERING  
STATUS REPORT**

**MILLARD PARK  
SID No. 162**

**BOARD MEETING 10/13/2016**

**Pavement Repairs for 2016**

- Pavement repairs are complete.

**Mission Creek Channel Bank Repair Phase IV– South of Audrey Circle**

- Valley Corp has indicated they would plan to start this project in early November.
- The US Army Corps of Engineers Permit has been approved so we are ready to go.

**Playground Surfacing**

- Dostals Construction has been delayed by the weather on a current project. He indicated on Oct. 6 that he thought he would be done with it in 8 to 10 working days. This would put the start date to sometime next week.

**Railroad Culvert – Channel Erosion**

- BNSF has not gotten back to me with a revised plan yet. They had indicated I would get one last week. I e-mailed them on Monday but have not gotten a response back.

**Papillion Creek Channel Bank Erosion**

- Received a call from a resident about some erosion on Papillion Creek behind their house. Russ stopped by to look at it when he was in the area. There has been significant erosion which has taken out a complete bank of trees along the bend. (Photos are attached.) The channel bank is approximately 50 feet at its closest from the properties to the channel bank.



Aerial from May 2016

7411  
168th St.

7317  
168th St.

Google Earth

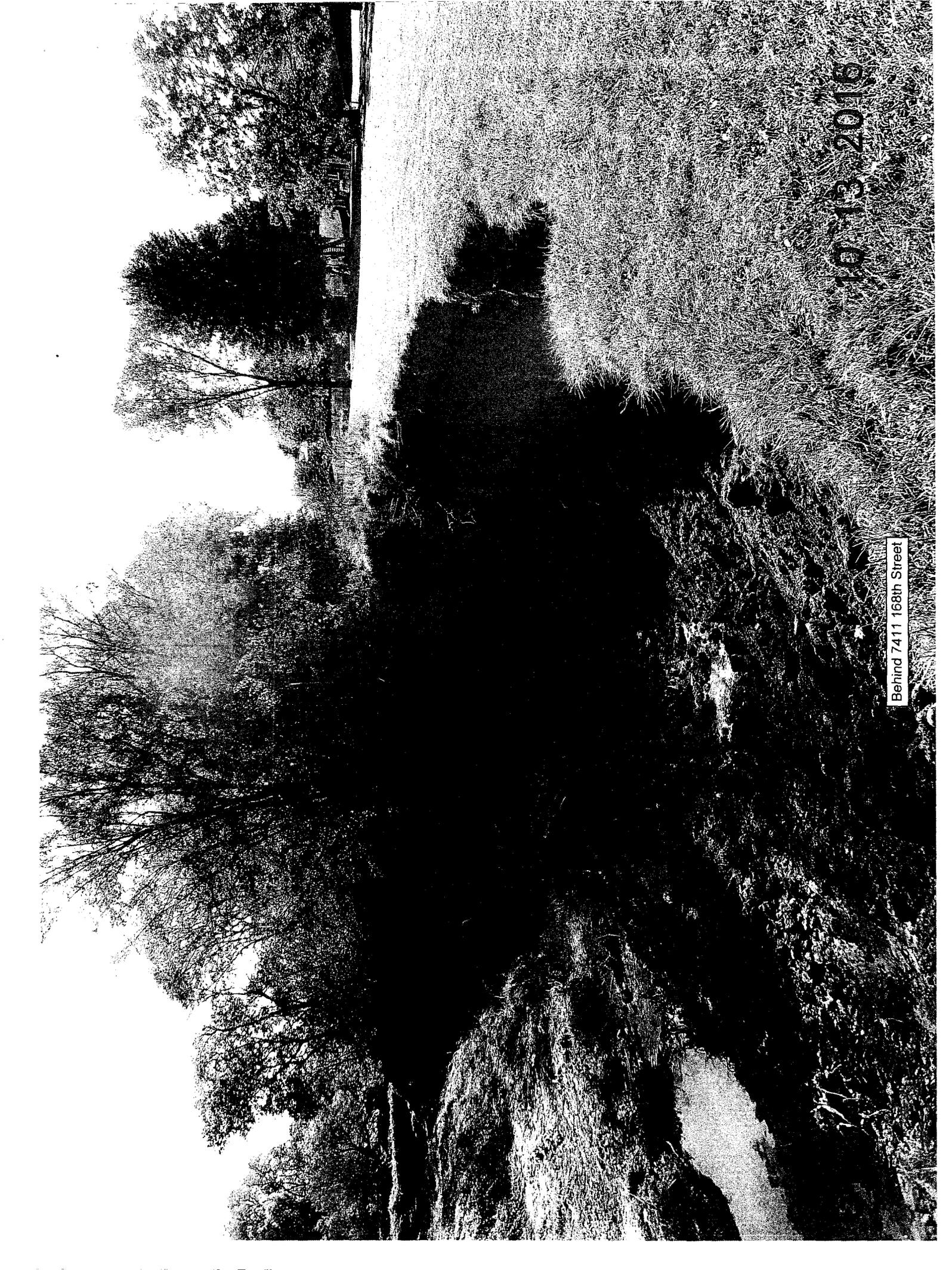
© 2016 Google

300 ft



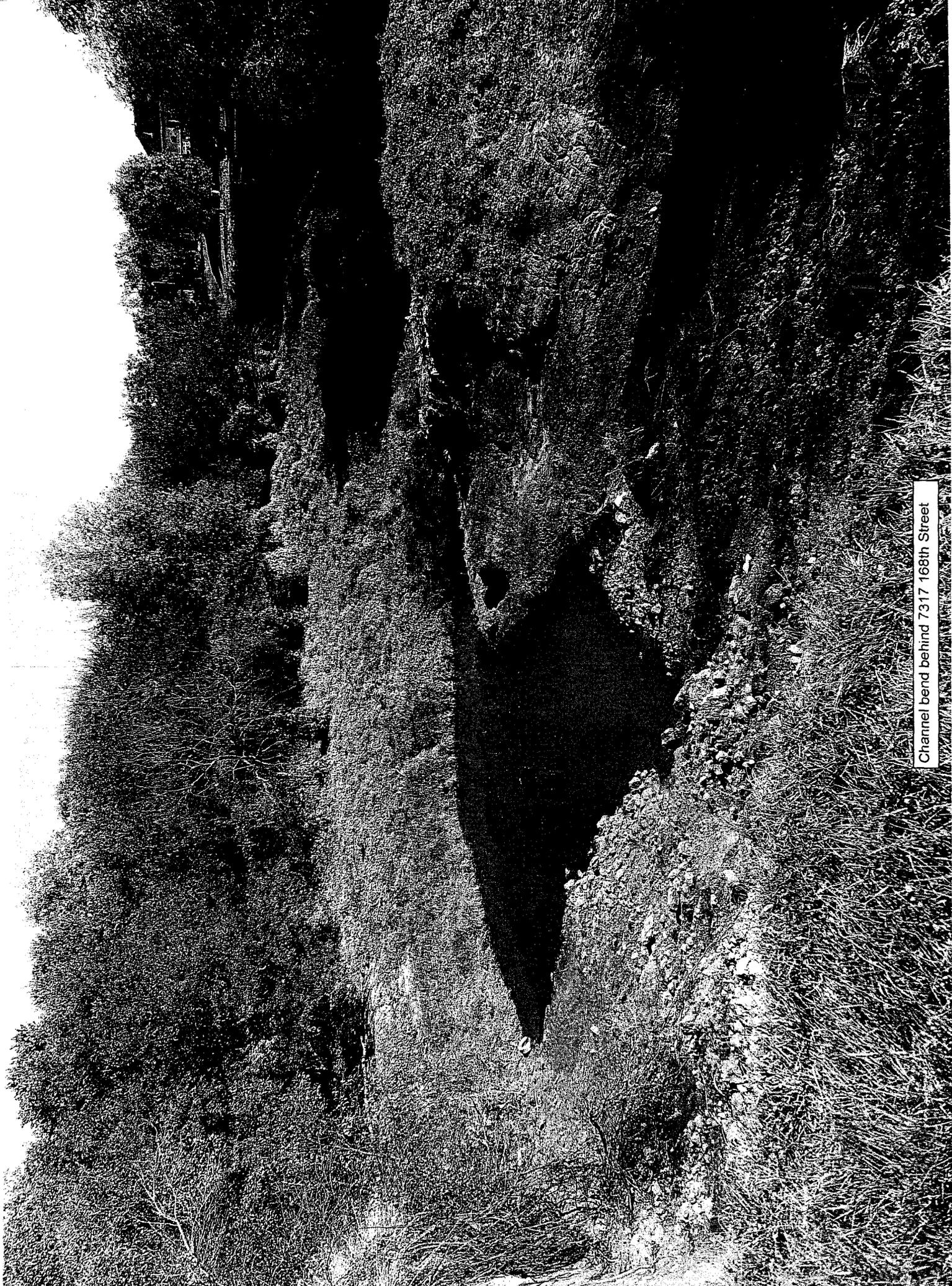
Behind 7317 168th Street





Behind 7411 168th Street

10-13-2016



Channel bend behind 7317 168th Street



DEPARTMENT OF THE ARMY  
CORPS OF ENGINEERS, OMAHA DISTRICT  
NEBRASKA REGULATORY OFFICE  
8901 SOUTH 154<sup>TH</sup> STREET, SUITE 1  
OMAHA, NEBRASKA 68138-3635

<http://www.nwo.usace.army.mil/missions/regulatoryprogram/nebraska.aspx>

October 5, 2016

**DEPARTMENT OF THE ARMY NATIONWIDE PERMIT VERIFICATION**

**Permittee:**

Mr. Richard Hansen  
SID 162 Board Chairman  
Hillman, Forman, Childers & McCormack  
7171 Mercy Road, Suite 650  
Omaha, Nebraska 68106

**Permit No:** NWO-2009-01193-WEH

NOTE: The term "you" and its derivatives, as used in this permit, means the permittee or any future transferee. The term "this office" refers to the appropriate district or division office of the U.S. Army Corps of Engineers having jurisdiction over the permitted activity or the appropriate official of that office acting under the authority of the commanding officer.

You are authorized to perform work in accordance with the terms and conditions of Department of the Army **Nationwide Permit No. 13** found in the February 21, 2012 Federal Register (77 FR 10184), Reissuance of Nationwide Permits. You must comply with all special, regional and general conditions attached herein.

**Project Waterway and Location:**

Mission Creek  
Section 15, Township 14 North, Range 11 East  
41.18952° N, -96.173° W  
City of Omaha, Sarpy County, Nebraska

**Project Description:**

Project name: Mission Creek Channel Reestablishment Phase IV  
Date of receipt: August 19, 2016  
Additional Information Received: September 29, 2016

The Mission Creek Channel Re-establishment Project Phase IV consists of the construction of a 112-foot gabion retaining wall and the placement of Type C rock riprap along the base of the gabion retaining wall and below the ordinary high water mark of Mission Creek. Permanent impacts to waters of the United States include 140 linear feet of R2UB riverine channel.

**Special Conditions:**

1. The permittee shall notify the Nebraska Regulatory Office of any design changes to the proposed project. Notification must be received in our office for review a minimum of 14 days prior to construction.
2. Concurrent with construction, silt curtains or other sediment control measures will be employed to reduce soil erosion and sedimentation into waters of the U.S. The amount of sediment entering waters of the U.S. and leaving the site shall be reduced to the maximum extent practicable. If the permittee fails to institute all appropriate measures, the Corps reserves the option to halt all earthmoving operations until the erosion/sedimentation problems are corrected.
3. Northern Long-eared Bat (NLEB): This project is within the NLEB range and White Nose Syndrome (WNS) zone. There are no known hibernacula sites or known maternity roost tree(s) within a 1/4 mile of

the permit review area(s) at this time. For purposes of this special condition, "Tree removal" is defined as cutting down, harvesting, destroying, trimming, or manipulating in any other way the trees, saplings, snags, or any other form of woody vegetation likely to be used by NLEB, as defined by the Final 4(d) Rule published on February 15, 2016. Refer to the U.S. Fish and Wildlife Service (USFWS) website: <http://www.fws.gov/midwest/Endangered/mammals/nleb/index.html>.

- a. Tree removal will NOT occur. If tree removal is to occur the applicant will submit plans to the Nebraska Regulatory Office (NRO) prior to construction. The NRO will coordinate this request with the USFWS for concurrence and NLEB surveys may be required.
- b. Tree removal will NOT occur within 1/4 mile of any NLEB hibernacula at any time of the year.

**Regional Conditions:**

1. All areas adjacent (contiguous, bordering, neighboring) to jurisdictional waters disturbed by construction shall be revegetated with appropriate perennial, native grasses and forbs and maintained in this condition. *Phalaris arundinacea* (Reed Canary Grass), *Lythrum salicaria* (Purple Loosestrife), *Bromus inermis* (Smooth Brome), *Phragmites, sp.* (Common Reed, River Reed) and *Tamarix, sp.* (Salt Cedar), are NOT appropriate choices of vegetation. A cover crop may be planted to aid in the establishment of native vegetation. The disturbed areas shall be reseeded concurrent with the project or immediately upon completion. Revegetation shall be acceptable when ground cover of desirable species reaches 75%. If this seeding cannot be accomplished by September 15 the year of project completion, then an erosion blanket shall be placed on the disturbed areas. The erosion blanket shall remain in place until ground cover of desirable species reaches 75%. If the seeding can be accomplished by September 15, all seeded areas shall be properly mulched to prevent additional erosion.
2. When the vegetation has become established, all temporary erosion control materials shall be removed from the project site. Biodegradable or photodegradable materials need not be removed.
3. The use of dredged material in the construction of temporary structures or used for temporary work or used as temporary fill shall not be allowed. The term "dredged material" means material that is excavated or dredged from waters of the U.S. All temporary fill material shall be obtained from an upland source.
4. Plans for the temporary structure/work/fill shall be submitted to and approved by the Nebraska Regulatory Office prior to the commencement of construction.
5. At the completion of the construction activity, all temporary fill material shall be removed in its entirety from the water of the U.S. to an upland area and the affected area shall be restored to its pre-construction condition.
6. The Nebraska Regulatory Office shall be notified with documentation (i.e. photos) when the site has been restored to its pre-project condition.
7. The permittee is responsible for ensuring that the Corps is notified of the location of any borrow site that will be used in conjunction with the construction of the authorized activity so that the Corps may evaluate the site for potential impacts to aquatic resources, historic properties, and endangered species. For projects where there is another lead Federal agency, the permittee shall provide the Corps documentation indicating that the lead Federal agency has complied with the National Historic Preservation Act and Endangered Species Act for the borrow site. The permittee shall not initiate work at the borrow site in conjunction with the authorized activity until approval is received from the Corps.

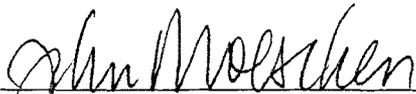
**General Conditions:**

See attached NWP #13 Fact Sheet.

**Further Information:**

1. We have prepared a preliminary jurisdictional determination (JD) for the site which is a written indication that waterways within your project area may be a water of the U.S. Such waters have been treated as jurisdictional waters of the U.S. for purposes of computation of impacts and compensatory mitigation requirements. If you concur with the findings of the enclosed preliminary JD, please sign it and return it to the above address within two weeks.
2. If you believe the preliminary JD is inaccurate, you may request this office complete an approved JD prior to your commencement of any work in a water of the U.S. An approved JD is an official determination regarding the presence or absence of waters of the U.S. Completion of an approved JD may require coordination with the U.S. Environmental Protection Agency.
3. Upon completion of the authorized work and any required mitigation, please sign and return the attached Compliance Certification form to the address listed.
4. This Nationwide Permit (NWP) verification is valid until **March 18, 2017**, which is the expiration date for this NWP. Should your project plans change, or if your activity has not commenced or under contract to commence by March 18, 2017, you must contact this office in writing for another permit determination. We will issue a public notice when the NWPs are reissued. Furthermore, if you commence or are under contract to commence the authorized activity before March 18, 2017, you will have twelve (12) months from that date to complete the activity under the present terms and conditions of this NWP. If you need more than one additional year to complete the authorized activity, or if work has not commenced and is not under contract to commence, you will need to get a new verification under the 2017 NWPs or have the remaining work authorized by another type of DA Permit.
5. Although an individual Department of the Army permit will not be required for the project, this does not eliminate the requirement that you obtain any other applicable Federal, state, tribal or local permits as required. Please note that deviations from the original plans and specifications of your project could require additional authorization from this office.
6. You are responsible for all work accomplished in accordance with the terms and conditions of the Nationwide Permit. If a contractor or other authorized representative will be accomplishing the work authorized by the Nationwide Permit in your behalf, it is strongly recommended that they be provided a copy of this letter and the attached conditions so that they are aware of the limitations of the applicable Nationwide Permit. Any activity that fails to comply with all of the terms and conditions of the Nationwide Permit will be considered unauthorized and subject to appropriate enforcement action.
7. The Omaha District, Regulatory Branch is committed to providing quality and timely service to our customers. In an effort to improve customer service, please take a moment to complete our Customer Service Survey found on our website at [http://corpsmapu.usace.army.mil/cm\\_apex/f?p=regulatory\\_survey](http://corpsmapu.usace.army.mil/cm_apex/f?p=regulatory_survey). If you do not have Internet access, you may call and request a paper copy of the survey that you can complete and return to us by mail or fax.

8. If you have any questions concerning this verification or jurisdictional determination, please feel free to contact Ms. Laura Banker at the above address or call (402) 896-0896 or e-mail [Laura.Banker@usace.army.mil](mailto:Laura.Banker@usace.army.mil) and refer to file number **NWO-2013-01193-WEH**.

Signed   
John L. Moeschen  
Nebraska State Program Manager

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Enclosure

cc:  
DEQ (Parker)  
HGM (Glissman)

COMPLIANCE CERTIFICATION  
NEBRASKA REGULATORY OFFICE

Permit Number: 2009-01193-WEH  
County: Sarpy  
Name of Permittee: Sarpy County SID 162  
Richard Hansen  
Date of Issuance: October 5, 2016  
Project Manager: Laura Banker

Upon completion of the activity authorized by this permit (and any required mitigation), sign this certification and return it to the following address:

U.S. Army Corps of Engineers  
Nebraska Regulatory Office  
8901 South 154<sup>th</sup> Street, Suite 1  
Omaha, NE 68138-3635

Please note that the permitted activity is subject to a compliance inspection by a U.S. Army Corps of Engineers representative. If you fail to comply with permit conditions the permit may be subject to suspension, modification or revocation.

CERTIFICATION:

I hereby certify that the work authorized by the above referenced permit has been completed in accordance with the terms and conditions of said permit, and required mitigation (if any) was completed in accordance with permit conditions.

\_\_\_\_\_  
Signature of Permittee

\_\_\_\_\_  
Date

**PRELIMINARY JURISDICTIONAL DETERMINATION FORM**

This preliminary JD finds that there "may be" waters of the United States on the subject project site, and identifies all aquatic features on the site that could be affected by the proposed activity, based on the following information:

**A. Report Completion Date for Preliminary Jurisdictional Determination:**

September 30, 2016

**B. Name and Address of Person Requesting Preliminary JD:**

Mr. Richard Hansen, SID162 Board Chairman  
 Hillman, Forman, Childers & McCormack  
 7171 Mercy Road Suite 650  
 Omaha, Nebraska 68106

**District Office, File Name and Number:**

Omaha District, Mission Creek Channel Reestablishment Phase IV, NWO-2013-01193-WEH

**D. Project Location and Background Information:**

(Use the attached table to document multiple water bodies at different sites)

State: Nebraska County: Sarpy City: Omaha

Center coordinates of site (lat/long in degree decimal format):

Lat 41.18952°N Long: -96.173°W Universal Transverse Mercator: 14  
 S-T-R: S 15, T 14 N, R 11 E

Name of nearest water body: Mission Creek

Identify (estimate) amount of waters at the review area:

Non-wetland and wetland waters:

linear feet: ~3,000 feet  
 width: ~10-20 feet  
 acres: ~NA  
 Cowardin class: R4SB Riverine Channel  
 stream flow: Perennial

**E. Review Performed for Site Evaluation (Check all that apply):**

X Office (Desk) Determination Date: 10 February, 2014  
 X Field Determination Date: 29 January, 2014

Site number	Latitude	Longitude	Cowardin Class	Estimated amount of aquatic resource at impact site	Class of aquatic resource
Channel Impact	41.18952°N	-96.173°W	R2UB	140 linear feet., 0.01 acre	Riverine Channel

**F. Supporting Data -- Data reviewed for preliminary JD (check all that apply)**

(Checked items should be included in case file and, where checked and requested,

Appropriately-reference sources below)

- X Maps, plans, plots or plat submitted by or on behalf of the applicant/consultant
- Data sheets prepared/submitted by or on behalf of the applicant/consultant
- Office concurs with data sheets/delineation report
- Office does not concur with data sheets/delineation report
- Data sheets prepared by the Corps
- Corps navigable waters study
- US Geological Survey Hydrologic Atlas
- X USGS NHD data
- X USGS 8 and 12 digit HUC maps
- X US Geological Survey map(s). Cite scale & quad name: Gretna 1:24,000
- X USDA Natural Resources Conservation Service Soil Survey. Citation: NRCS Web Soil Survey
- X National wetlands inventory map(s). Cite name: Gretna 1:24,000
- State/Local wetland inventory map(s)
- FEMA/FIRM maps
- 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)



## Nationwide Permit 13 Fact Sheet

### Bank Stabilization

Bank stabilization activities necessary for erosion prevention, provided the activity meets all of the following criteria:

- (a) No material is placed in excess of the minimum needed for erosion protection;
- (b) The activity is no more than 500 feet in length along the bank, unless the district engineer waives this criterion by making a written determination concluding that the discharge will result in minimal adverse effects;
- (c) The activity will not exceed an average of one cubic yard per running foot placed along the bank below the plane of the ordinary high water mark or the high tide line, unless the district engineer waives this criterion by making a written determination concluding that the discharge will result in minimal adverse effects;
- (d) The activity does not involve discharges of dredged or fill material into special aquatic sites, unless the district engineer waives this criterion by making a written determination concluding that the discharge will result in minimal adverse effects;
- (e) No material is of a type, or is placed in any location, or in any manner, that will impair surface water flow into or out of any waters of the United States;
- (f) No material is placed in a manner that will be eroded by normal or expected high flows (properly anchored trees and treetops may be used in low energy areas); and,
- (g) The activity is not a stream channelization activity.

This NWP also authorizes temporary structures, fills, and work necessary to construct the bank stabilization activity. Appropriate measures must be taken to maintain normal downstream flows and minimize flooding to the maximum extent practicable, when temporary structures, work, and discharges, including cofferdams, are necessary for construction activities, access fills, or dewatering of construction sites. Temporary fills must consist of materials, and be placed in a manner, that will not be eroded by expected high flows. Temporary fills must be removed in their entirety and the affected areas returned to pre-construction elevations. The areas affected by temporary fills must be revegetated, as appropriate.

Invasive plant species shall not be used for bioengineering or vegetative bank stabilization. (Sections 10 and 404)

## **Nationwide Permit General Conditions**

**Note:** To qualify for NWP authorization, the prospective permittee must comply with the following general conditions, as applicable, in addition to any regional or case-specific conditions imposed by the division engineer or district engineer.

**1. Navigation.** (a) No activity may cause more than a minimal adverse effect on navigation.

(b) Any safety lights and signals prescribed by the U.S. Coast Guard, through regulations or otherwise, must be installed and maintained at the permittee's expense on authorized facilities in navigable waters of the United States.

(c) The permittee understands and agrees that, if future operations by the United States require the removal, relocation, or other alteration, of the structure or work herein authorized, or if, in the opinion of the Secretary of the Army or his authorized representative, said structure or work shall cause unreasonable obstruction to the free navigation of the navigable waters, the permittee will be required, upon due notice from the Corps of Engineers, to remove, relocate, or alter the structural work or obstructions caused thereby, without expense to the United States. No claim shall be made against the United States on account of any such removal or alteration.

**2. Aquatic Life Movements.** No activity may substantially disrupt the necessary life cycle movements of those species of aquatic life indigenous to the waterbody, including those species that normally migrate through the area, unless the activity's primary purpose is to impound water. All permanent and temporary crossings of waterbodies shall be suitably culverted, bridged, or otherwise designed and constructed to maintain low flows to sustain the movement of those aquatic species.

**3. Spawning Areas.** Activities in spawning areas during spawning seasons must be avoided to the maximum extent practicable. Activities that result in the physical destruction (e.g., through excavation, fill, or downstream smothering by substantial turbidity) of an important spawning area are not authorized.

**4. Migratory Bird Breeding Areas.** Activities in waters of the United States that serve as breeding areas for migratory birds must be avoided to the maximum extent practicable.

**5. Shellfish Beds.** No activity may occur in areas of concentrated shellfish populations, unless the activity is directly related to a shellfish harvesting activity authorized by NWPs 4 and 48, or is a shellfish seeding or habitat restoration activity authorized by NWP 27.

**6. Suitable Material.** No activity may use unsuitable material (e.g., trash, debris, car bodies, asphalt, etc.). Material used for construction or discharged must be free from toxic pollutants in toxic amounts (see Section 307 of the Clean Water Act).

**7. Water Supply Intakes.** No activity may occur in the proximity of a public water supply intake, except where the activity is for the repair or improvement of public water supply intake structures or adjacent bank stabilization.

8. **Adverse Effects From Impoundments.** If the activity creates an impoundment of water, adverse effects to the aquatic system due to accelerating the passage of water, and/or restricting its flow must be minimized to the maximum extent practicable.

9. **Management of Water Flows.** To the maximum extent practicable, the pre-construction course, condition, capacity, and location of open waters must be maintained for each activity, including stream channelization and storm water management activities, except as provided below. The activity must be constructed to withstand expected high flows. The activity must not restrict or impede the passage of normal or high flows, unless the primary purpose of the activity is to impound water or manage high flows. The activity may alter the pre-construction course, condition, capacity, and location of open waters if it benefits the aquatic environment (e.g., stream restoration or relocation activities).

10. **Fills Within 100-Year Floodplains.** The activity must comply with applicable FEMA-approved state or local floodplain management requirements.

11. **Equipment.** Heavy equipment working in wetlands or mudflats must be placed on mats, or other measures must be taken to minimize soil disturbance.

12. **Soil Erosion and Sediment Controls.** Appropriate soil erosion and sediment controls must be used and maintained in effective operating condition during construction, and all exposed soil and other fills, as well as any work below the ordinary high water mark or high tide line, must be permanently stabilized at the earliest practicable date. Permittees are encouraged to perform work within waters of the United States during periods of low-flow or no-flow.

13. **Removal of Temporary Fills.** Temporary fills must be removed in their entirety and the affected areas returned to pre-construction elevations. The affected areas must be revegetated, as appropriate.

14. **Proper Maintenance.** Any authorized structure or fill shall be properly maintained, including maintenance to ensure public safety and compliance with applicable NWP general conditions, as well as any activity-specific conditions added by the district engineer to an NWP authorization.

15. **Single and Complete Project.** The activity must be a single and complete project. The same NWP cannot be used more than once for the same single and complete project.

16. **Wild and Scenic Rivers.** No activity may occur in a component of the National Wild and Scenic River System, or in a river officially designated by Congress as a "study river" for possible inclusion in the system while the river is in an official study status, unless the appropriate Federal agency with direct management responsibility for such river, has determined in writing that the proposed activity will not adversely affect the Wild and Scenic River designation or study status. Information on Wild and Scenic Rivers may be obtained from the appropriate Federal land management agency responsible for the designated Wild and Scenic

River or study river (e.g., National Park Service, U.S. Forest Service, Bureau of Land Management, U.S. Fish and Wildlife Service).

**17. Tribal Rights.** No activity or its operation may impair reserved tribal rights, including, but not limited to, reserved water rights and treaty fishing and hunting rights.

**18. Endangered Species.** (a) No activity is authorized under any NWP which is likely to directly or indirectly jeopardize the continued existence of a threatened or endangered species or a species proposed for such designation, as identified under the Federal Endangered Species Act (ESA), or which will directly or indirectly destroy or adversely modify the critical habitat of such species. No activity is authorized under any NWP which "may affect" a listed species or critical habitat, unless Section 7 consultation addressing the effects of the proposed activity has been completed.

(b) Federal agencies should follow their own procedures for complying with the requirements of the ESA. Federal permittees must provide the district engineer with the appropriate documentation to demonstrate compliance with those requirements. The district engineer will review the documentation and determine whether it is sufficient to address ESA compliance for the NWP activity, or whether additional ESA consultation is necessary.

(c) Non-federal permittees must submit a pre-construction notification to the district engineer if any listed species or designated critical habitat might be affected or is in the vicinity of the project, or if the project is located in designated critical habitat, and shall not begin work on the activity until notified by the district engineer that the requirements of the ESA have been satisfied and that the activity is authorized. For activities that might affect Federally-listed endangered or threatened species or designated critical habitat, the pre-construction notification must include the name(s) of the endangered or threatened species that might be affected by the proposed work or that utilize the designated critical habitat that might be affected by the proposed work. The district engineer will determine whether the proposed activity "may affect" or will have "no effect" to listed species and designated critical habitat and will notify the non-Federal applicant of the Corps' determination within 45 days of receipt of a complete pre-construction notification. In cases where the non-Federal applicant has identified listed species or critical habitat that might be affected or is in the vicinity of the project, and has so notified the Corps, the applicant shall not begin work until the Corps has provided notification the proposed activities will have "no effect" on listed species or critical habitat, or until Section 7 consultation has been completed. If the non-Federal applicant has not heard back from the Corps within 45 days, the applicant must still wait for notification from the Corps.

(d) As a result of formal or informal consultation with the FWS or NMFS the district engineer may add species-specific regional endangered species conditions to the NWPs.

(e) Authorization of an activity by a NWP does not authorize the "take" of a threatened or endangered species as defined under the ESA. In the absence of separate authorization (e.g., an ESA Section 10 Permit, a Biological Opinion with "incidental take" provisions, etc.) from the U.S. FWS or the NMFS, The Endangered Species Act prohibits any person subject to the jurisdiction of the United States to take a listed species, where "take" means to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct. The word "harm" in the definition of "take" means an act which actually kills or injures wildlife. Such an act may include significant habitat modification or degradation where it

actually kills or injures wildlife by significantly impairing essential behavioral patterns, including breeding, feeding or sheltering.

(f) Information on the location of threatened and endangered species and their critical habitat can be obtained directly from the offices of the U.S. FWS and NMFS or their world wide web pages at <http://www.fws.gov/> or <http://www.fws.gov/ipac> and <http://www.noaa.gov/fisheries.html> respectively.

**19. Migratory Birds and Bald and Golden Eagles.** The permittee is responsible for obtaining any “take” permits required under the U.S. Fish and Wildlife Service’s regulations governing compliance with the Migratory Bird Treaty Act or the Bald and Golden Eagle Protection Act. The permittee should contact the appropriate local office of the U.S. Fish and Wildlife Service to determine if such “take” permits are required for a particular activity.

**20. Historic Properties.** (a) In cases where the district engineer determines that the activity may affect properties listed, or eligible for listing, in the National Register of Historic Places, the activity is not authorized, until the requirements of Section 106 of the National Historic Preservation Act (NHPA) have been satisfied.

(b) Federal permittees should follow their own procedures for complying with the requirements of Section 106 of the National Historic Preservation Act. Federal permittees must provide the district engineer with the appropriate documentation to demonstrate compliance with those requirements. The district engineer will review the documentation and determine whether it is sufficient to address section 106 compliance for the NWP activity, or whether additional section 106 consultation is necessary.

(c) Non-federal permittees must submit a pre-construction notification to the district engineer if the authorized activity may have the potential to cause effects to any historic properties listed on, determined to be eligible for listing on, or potentially eligible for listing on the National Register of Historic Places, including previously unidentified properties. For such activities, the pre-construction notification must state which historic properties may be affected by the proposed work or include a vicinity map indicating the location of the historic properties or the potential for the presence of historic properties. Assistance regarding information on the location of or potential for the presence of historic resources can be sought from the State Historic Preservation Officer or Tribal Historic Preservation Officer, as appropriate, and the National Register of Historic Places (see 33 CFR 330.4(g)). When reviewing pre-construction notifications, district engineers will comply with the current procedures for addressing the requirements of Section 106 of the National Historic Preservation Act. The district engineer shall make a reasonable and good faith effort to carry out appropriate identification efforts, which may include background research, consultation, oral history interviews, sample field investigation, and field survey. Based on the information submitted and these efforts, the district engineer shall determine whether the proposed activity has the potential to cause an effect on the historic properties. Where the non-Federal applicant has identified historic properties on which the activity may have the potential to cause effects and so notified the Corps, the non-Federal applicant shall not begin the activity until notified by the district engineer either that the activity has no potential to cause effects or that consultation under Section 106 of the NHPA has been completed.

(d) The district engineer will notify the prospective permittee within 45 days of receipt of a complete pre-construction notification whether NHPA Section 106 consultation is required.

Section 106 consultation is not required when the Corps determines that the activity does not have the potential to cause effects on historic properties (see 36 CFR §800.3(a)). If NHPA section 106 consultation is required and will occur, the district engineer will notify the non-Federal applicant that he or she cannot begin work until Section 106 consultation is completed. If the non-Federal applicant has not heard back from the Corps within 45 days, the applicant must still wait for notification from the Corps.

(e) Prospective permittees should be aware that section 110k of the NHPA (16 U.S.C. 470h-2(k)) prevents the Corps from granting a permit or other assistance to an applicant who, with intent to avoid the requirements of Section 106 of the NHPA, has intentionally significantly adversely affected a historic property to which the permit would relate, or having legal power to prevent it, allowed such significant adverse effect to occur, unless the Corps, after consultation with the Advisory Council on Historic Preservation (ACHP), determines that circumstances justify granting such assistance despite the adverse effect created or permitted by the applicant. If circumstances justify granting the assistance, the Corps is required to notify the ACHP and provide documentation specifying the circumstances, the degree of damage to the integrity of any historic properties affected, and proposed mitigation. This documentation must include any views obtained from the applicant, SHPO/THPO, appropriate Indian tribes if the undertaking occurs on or affects historic properties on tribal lands or affects properties of interest to those tribes, and other parties known to have a legitimate interest in the impacts to the permitted activity on historic properties.

**21. Discovery of Previously Unknown Remains and Artifacts.** If you discover any previously unknown historic, cultural or archeological remains and artifacts while accomplishing the activity authorized by this permit, you must immediately notify the district engineer of what you have found, and to the maximum extent practicable, avoid construction activities that may affect the remains and artifacts until the required coordination has been completed. The district engineer will initiate the Federal, Tribal and state coordination required to determine if the items or remains warrant a recovery effort or if the site is eligible for listing in the National Register of Historic Places.

**22. Designated Critical Resource Waters.** Critical resource waters include, NOAA-managed marine sanctuaries and marine monuments, and National Estuarine Research Reserves. The district engineer may designate, after notice and opportunity for public comment, additional waters officially designated by a state as having particular environmental or ecological significance, such as outstanding national resource waters or state natural heritage sites. The district engineer may also designate additional critical resource waters after notice and opportunity for public comment.

(a) Discharges of dredged or fill material into waters of the United States are not authorized by NWPs 7, 12, 14, 16, 17, 21, 29, 31, 35, 39, 40, 42, 43, 44, 49, 50, 51, and 52 for any activity within, or directly affecting, critical resource waters, including wetlands adjacent to such waters.

(b) For NWPs 3, 8, 10, 13, 15, 18, 19, 22, 23, 25, 27, 28, 30, 33, 34, 36, 37, and 38, notification is required in accordance with general condition 31, for any activity proposed in the designated critical resource waters including wetlands adjacent to those waters. The district engineer may authorize activities under these NWPs only after it is determined that the impacts to the critical resource waters will be no more than minimal.

**23. Mitigation.** The district engineer will consider the following factors when determining appropriate and practicable mitigation necessary to ensure that adverse effects on the aquatic environment are minimal:

(a) The activity must be designed and constructed to avoid and minimize adverse effects, both temporary and permanent, to waters of the United States to the maximum extent practicable at the project site (i.e., on site).

(b) Mitigation in all its forms (avoiding, minimizing, rectifying, reducing, or compensating for resource losses) will be required to the extent necessary to ensure that the adverse effects to the aquatic environment are minimal.

(c) Compensatory mitigation at a minimum one-for-one ratio will be required for all wetland losses that exceed 1/10-acre and require pre-construction notification, unless the district engineer determines in writing that either some other form of mitigation would be more environmentally appropriate or the adverse effects of the proposed activity are minimal, and provides a project-specific waiver of this requirement. For wetland losses of 1/10-acre or less that require pre-construction notification, the district engineer may determine on a case-by-case basis that compensatory mitigation is required to ensure that the activity results in minimal adverse effects on the aquatic environment. Compensatory mitigation projects provided to offset losses of aquatic resources must comply with the applicable provisions of 33 CFR part 332.

(1) The prospective permittee is responsible for proposing an appropriate compensatory mitigation option if compensatory mitigation is necessary to ensure that the activity results in minimal adverse effects on the aquatic environment.

(2) Since the likelihood of success is greater and the impacts to potentially valuable uplands are reduced, wetland restoration should be the first compensatory mitigation option considered.

(3) If permittee-responsible mitigation is the proposed option, the prospective permittee is responsible for submitting a mitigation plan. A conceptual or detailed mitigation plan may be used by the district engineer to make the decision on the NWP verification request, but a final mitigation plan that addresses the applicable requirements of 33 CFR 332.4(c)(2) – (14) must be approved by the district engineer before the permittee begins work in waters of the United States, unless the district engineer determines that prior approval of the final mitigation plan is not practicable or not necessary to ensure timely completion of the required compensatory mitigation (see 33 CFR 332.3(k)(3)).

(4) If mitigation bank or in-lieu fee program credits are the proposed option, the mitigation plan only needs to address the baseline conditions at the impact site and the number of credits to be provided.

(5) Compensatory mitigation requirements (e.g., resource type and amount to be provided as compensatory mitigation, site protection, ecological performance standards, monitoring requirements) may be addressed through conditions added to the NWP authorization, instead of components of a compensatory mitigation plan.

(d) For losses of streams or other open waters that require pre-construction notification, the district engineer may require compensatory mitigation, such as stream rehabilitation, enhancement, or preservation, to ensure that the activity results in minimal adverse effects on the aquatic environment.

(e) Compensatory mitigation will not be used to increase the acreage losses allowed by the acreage limits of the NWPs. For example, if an NWP has an acreage limit of 1/2-acre, it

cannot be used to authorize any project resulting in the loss of greater than 1/2-acre of waters of the United States, even if compensatory mitigation is provided that replaces or restores some of the lost waters. However, compensatory mitigation can and should be used, as necessary, to ensure that a project already meeting the established acreage limits also satisfies the minimal impact requirement associated with the NWP.

(f) Compensatory mitigation plans for projects in or near streams or other open waters will normally include a requirement for the restoration or establishment, maintenance, and legal protection (e.g., conservation easements) of riparian areas next to open waters. In some cases, riparian areas may be the only compensatory mitigation required. Riparian areas should consist of native species. The width of the required riparian area will address documented water quality or aquatic habitat loss concerns. Normally, the riparian area will be 25 to 50 feet wide on each side of the stream, but the district engineer may require slightly wider riparian areas to address documented water quality or habitat loss concerns. If it is not possible to establish a riparian area on both sides of a stream, or if the waterbody is a lake or coastal waters, then restoring or establishing a riparian area along a single bank or shoreline may be sufficient. Where both wetlands and open waters exist on the project site, the district engineer will determine the appropriate compensatory mitigation (e.g., riparian areas and/or wetlands compensation) based on what is best for the aquatic environment on a watershed basis. In cases where riparian areas are determined to be the most appropriate form of compensatory mitigation, the district engineer may waive or reduce the requirement to provide wetland compensatory mitigation for wetland losses.

(g) Permittees may propose the use of mitigation banks, in-lieu fee programs, or separate permittee-responsible mitigation. For activities resulting in the loss of marine or estuarine resources, permittee-responsible compensatory mitigation may be environmentally preferable if there are no mitigation banks or in-lieu fee programs in the area that have marine or estuarine credits available for sale or transfer to the permittee. For permittee-responsible mitigation, the special conditions of the NWP verification must clearly indicate the party or parties responsible for the implementation and performance of the compensatory mitigation project, and, if required, its long-term management.

(h) Where certain functions and services of waters of the United States are permanently adversely affected, such as the conversion of a forested or scrub-shrub wetland to a herbaceous wetland in a permanently maintained utility line right-of-way, mitigation may be required to reduce the adverse effects of the project to the minimal level.

**24. Safety of Impoundment Structures.** To ensure that all impoundment structures are safely designed, the district engineer may require non-Federal applicants to demonstrate that the structures comply with established state dam safety criteria or have been designed by qualified persons. The district engineer may also require documentation that the design has been independently reviewed by similarly qualified persons, and appropriate modifications made to ensure safety.

**25. Water Quality.** Where States and authorized Tribes, or EPA where applicable, have not previously certified compliance of an NWP with CWA Section 401, individual 401 Water Quality Certification must be obtained or waived (see 33 CFR 330.4(c)). The district engineer or State or Tribe may require additional water quality management measures to ensure that the authorized activity does not result in more than minimal degradation of water quality.

**26. Coastal Zone Management.** In coastal states where an NWP has not previously received a state coastal zone management consistency concurrence, an individual state coastal zone management consistency concurrence must be obtained, or a presumption of concurrence must occur (see 33 CFR 330.4(d)). The district engineer or a State may require additional measures to ensure that the authorized activity is consistent with state coastal zone management requirements.

**27. Regional and Case-By-Case Conditions.** The activity must comply with any regional conditions that may have been added by the Division Engineer (see 33 CFR 330.4(e)) and with any case specific conditions added by the Corps or by the state, Indian Tribe, or U.S. EPA in its section 401 Water Quality Certification, or by the state in its Coastal Zone Management Act consistency determination.

**28. Use of Multiple Nationwide Permits.** The use of more than one NWP for a single and complete project is prohibited, except when the acreage loss of waters of the United States authorized by the NWPs does not exceed the acreage limit of the NWP with the highest specified acreage limit. For example, if a road crossing over tidal waters is constructed under NWP 14, with associated bank stabilization authorized by NWP 13, the maximum acreage loss of waters of the United States for the total project cannot exceed 1/3-acre.

**29. Transfer of Nationwide Permit Verifications.** If the permittee sells the property associated with a nationwide permit verification, the permittee may transfer the nationwide permit verification to the new owner by submitting a letter to the appropriate Corps district office to validate the transfer. A copy of the nationwide permit verification must be attached to the letter, and the letter must contain the following statement and signature:

“When the structures or work authorized by this nationwide permit are still in existence at the time the property is transferred, the terms and conditions of this nationwide permit, including any special conditions, will continue to be binding on the new owner(s) of the property. To validate the transfer of this nationwide permit and the associated liabilities associated with compliance with its terms and conditions, have the transferee sign and date below.”

\_\_\_\_\_  
(Transferee)

\_\_\_\_\_  
(Date)

**30. Compliance Certification.** Each permittee who receives an NWP verification letter from the Corps must provide a signed certification documenting completion of the authorized activity and any required compensatory mitigation. The success of any required permittee-responsible mitigation, including the achievement of ecological performance standards, will be addressed separately by the district engineer. The Corps will provide the permittee the

certification document with the NWP verification letter. The certification document will include:

(a) A statement that the authorized work was done in accordance with the NWP authorization, including any general, regional, or activity-specific conditions;

(b) A statement that the implementation of any required compensatory mitigation was completed in accordance with the permit conditions. If credits from a mitigation bank or in-lieu fee program are used to satisfy the compensatory mitigation requirements, the certification must include the documentation required by 33 CFR 332.3(l)(3) to confirm that the permittee secured the appropriate number and resource type of credits; and

(c) The signature of the permittee certifying the completion of the work and mitigation.

### **Further Information**

1. District Engineers have authority to determine if an activity complies with the terms and conditions of an NWP.

2. NWPs do not obviate the need to obtain other federal, state, or local permits, approvals, or authorizations required by law.

3. NWPs do not grant any property rights or exclusive privileges.

4. NWPs do not authorize any injury to the property or rights of others.

5. NWPs do not authorize interference with any existing or proposed Federal project.

**NP Dodge Insurance Agency Inc**  
12002 Pacific St.  
Omaha, NE 68154-3507  
Phone: 402-938-5008 Fax: 402-938-5090

<b>INVOICE NO. 31113</b>		Page 1
ACCOUNT NO.	OP	DATE
SI162-1	PV	08/08/2016

**SID #162**

c/o Larry Forman  
7171 Mercy Road #650  
Omaha, NE 68106-2669

itm #	Eff Date	Trn	Type	Policy #	Description	Amount
495911	08/25/16	REN	PE&O	EOLNEG0185	Public Official E&O Ren Columbia Insurance Group	\$2,231.00
Invoice Balance:						\$2,231.00

*pd 10-13-16  
# 6053*

PLEASE MAKE YOUR CHECK PAYABLE TO NP DODGE INSURANCE AGENCY.

THIS INVOICE IS DUE UPON RECEIPT





Account Number	Due Date	Total Amount Due
4393100041	Oct 19, 2016	\$3,448.97

Customer Name: SID 162 SARPY  
Statement Date: September 29, 2016

Billing Information for service address: 15600 HARRISON ST, STL2 OMAHA NE

Billing Period From 08-29-2016 To 09-29-2016 @31 Days

Rate	Method No.	Number of Lamps	Price per Lamp	Usage			
				Current Amount	Fuel and Purchased Power Adjustment	Total Usage Amount	Sub-Total Amount per Rate
SL61	61211	218	\$17.28	\$3,767.04			
SL61					18.44	3,767.04	\$3,993.68

PERIODIC COST ESTIMATE HGM ASSOCIATES INC. Consulting Engineers				Estimate No. Final X			
Project Description: SID 162 Millard Park Pavement Repair 2016				Project No. 703510-016			
Owner: SID 162 Millard Park c/o Larry Forman, Attorney Hillman, Forman, Childers & McCormack 7171 Mercy Road, Suite 650, Omaha, NE 68106				Page 1 of 1			
Contractor: Spencer Management PO Box 111623 Omaha, NE 68111				Period Ending: 10/10/2016			
				Date of Estimate: 10/10/2016			
				Percent Completion: 100%			
				Current Contract Amt: \$107,627.00			
				Estimated Completion: 100%			
Item No.	Description	Unit	Unit Price (\$)	Quantities			Amount (\$)
				Contract	Actual	%	
					To Date		
1.	Mobilization	LS	5,000.00	1.00	1.00	100%	5,000.00
2.	Traffic Control	LS	1,800.00	1.00	1.00	100%	1,800.00
3.	Remove 7" PCC Pavement	SY	9.00	1,102.00	1,097.00	100%	9,873.00
4.	Construct 9" PCC Pavement	SY	55.00	1,102.00	1,097.00	100%	60,335.00
5.	Adjust Manhole to Grade	EA	75.00	3.00	3.00	100%	225.00
6.	Repair Manhole Interior	EA	500.00	3.00	3.00	100%	1,500.00
7.	Sodding	SY	6.00	154.00	60.00	39%	360.00
8.	Remove and Replace Lawn Sprinkler Head	LF	15.00	10.00	0.00	0%	0.00
9.	Area Inlet 1 Repair	EA	5,500.00	1.00	1.00	100%	5,500.00
10.	Area Inlet 2 Repair	EA	5,500.00	1.00	1.00	100%	5,500.00
11.	Area Inlet 3 Repair	EA	5,500.00	1.00	1.00	100%	5,500.00
12.	Area Inlet 4 Repair	EA	5,500.00	1.00	1.00	100%	5,500.00
13.	Area Inlet 5 Repair	EA	5,500.00	1.00	1.00	100%	5,500.00
I hereby certify that the work performed and the materials supplied to date, as shown above represent the actual value of completed work under the terms of this contract in conformity with the plans and specifications and are true and correct.				Total Amount Completed Work to Date:		\$106,593.00	
 (Contractor) 10-10-2016 Date				Less Amount Retained (3%):		\$0.00	
I hereby represent that the work has progressed to the point indicated on this application for payment and that to the best of my knowledge the quality of work is in accordance with the Contract Documents based upon on-site observations of the work in progress.				Less Previous Payments to Contractor:		\$103,046.01	
 HGM Associates Inc. 10/10/16 Date				Total Amount Now Due Contractor:		\$3,546.99	
				Breakdown of Materials Delivered:			

pd 10-13-16  
# 6057



# HILLMAN, FORMAN, CHILDERS & McCORMACK

7171 Mercy Road, Suite 650  
Omaha, Nebraska 68106-2669  
(402) 397-8051  
Tax ID #47-0648847

Sanitary and Improvement District No 162 of Sarpy Count

PAGE 1  
BILLING DATE: 10/12/16  
ACCT NO.: LRF-162-001

RE: General

**PREVIOUS BALANCE: \$8,497.15**

DATE	PROFESSIONAL SERVICES RENDERED	INDIV	TIME	AMOUNT
09/02/16	Review e-mails from trustees; e-mail to BNSF reps re status; assemble August proceedings; letter and set of proceedings to bond house; letters and copies of proceedings to county clerk and accountant	LRF	1.70	255.00
09/06/16	Review e-mail from Jim Nichols	LRF	0.20	30.00
09/07/16	Review e-mail from Ms. Vakoc; compile list of August warrants and forward to Ms. Vakoc with memo	LRF	0.50	75.00
09/07/16	Messages to Stevens and Dowding	LRF	0.30	45.00
09/08/16	Review e-mail from Collin Stevens; message to Stephanie Swanson	LRF	0.30	45.00
09/08/16	Prepare receipts of notice, extract of minutes re budget matters, minutes of special public hearing	LRF	1.20	180.00
09/09/16	Assemble budget packets for State and County; prepare cover letters to State and County re budget; call to Stephanie Swanson	LRF	1.20	180.00
09/09/16	Prepare summary of August minutes; e-mail to trustees; prepare agenda for budget meeting	LRF	1.20	180.00
09/12/16	Conf. BNSF rep. re status of project; review Vakoc August budget reports; review e-mail from BNSF; e-mail to trustees with plan; e-mail to Swanson re attendance at meeting	LRF	1.40	210.00
09/13/16	Review and revise summary of August minutes, e-mail to trustees; prepare summary of July minutes; conf. engineer re channel issues; e-mail July summary to trustees	LRF	2.30	345.00
09/13/16	Review e-mails from Rick and Jim; e-mail to Rick; call to Jim; conf. Jim; e-mail information to Jim	LRF	1.00	150.00

# HILLMAN, FORMAN, CHILDERS & McCORMACK

7171 Mercy Road, Suite 650  
 Omaha, Nebraska 68106-2669  
 (402) 397-8051  
 Tax ID #47-0648847

Sanitary and Improvement District No 162 of Sarpy Count

PAGE 2  
 BILLING DATE: 10/12/16  
 ACCT NO.: LRF-162-001

09/15/16	Conf. Clint; revise extract of minutes and minutes of special meeting; prepare warrants and warrant lists; call to engineer; attend trustees meeting	LRF	4.10	615.00
09/16/16	Assemble budget packets and forward to State Auditor and County Board; letter, receipts of notice and meeting materials to Jim; review map and memo from engineer	LRF	1.10	165.00
09/19/16	Review e-mails re channel work	LRF	0.30	45.00
09/19/16	Warrant and letter to creditor; prepare agenda/certificate, officer's certificate, minutes of meeting; cover letter to chairman	LRF	2.40	360.00
09/21/16	Review and revise minutes of September meeting; conf. NRD to reserve room; receive and file budget receipt from County	LRF	0.80	120.00
09/23/16	Receive and file budget receipt from State Auditor; letter, receipts of notice and meeting packet to Clint	LRF	0.50	75.00
09/27/16	Prepare meeting notice and cover letter to paper; notices to trustees, county clerk and engineer	LRF	0.80	120.00
09/28/16	Assemble September proceedings; letter and set of proceedings to bond house; letters and copies of proceedings to county clerk and accountant; work on summary of minutes	LRF	2.00	300.00
09/29/16	Review e-mail, compile information and submit to Ms. Vakoc	LRF	0.30	45.00
<b>Total of New Services:</b>			<b>23.60</b>	<b>3,540.00</b>

DATE	EXPENSE	AMOUNT
09/30/16	Mileage	15.40

**Total of New Expenses: 15.40**

DATE	PAYMENT	AMOUNT
10/12/16		8,497.15

**Total of New Payments: 8,497.15**

# HILLMAN, FORMAN, CHILDERS & McCORMACK

7171 Mercy Road, Suite 650  
Omaha, Nebraska 68106-2669  
(402) 397-8051  
Tax ID #47-0648847

Sanitary and Improvement District No 162 of Sarpy Count

PAGE 3  
BILLING DATE: 10/12/16  
ACCT NO.: LRF-162-001

## ACCOUNT SUMMARY

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PREVIOUS BALANCE:	\$8,497.15
NEW SERVICES:	\$3,540.00
NEW EXPENSES:	\$15.40
NEW PAYMENTS:	\$8,497.15
TOT. CURRENT PERIOD:	\$3,555.40
CURRENT BALANCE:	\$3,555.40

*pd 10-13-16  
# 6059*



ASSOCIATES INC.

\*\*\*\*\* INVOICE \*\*\*\*\*

SID No. 162
Millard Park Subdivision
c/o Larry Forman
7171 Mercy Road Suite 650
Omaha, NE 68105

DATE : 5/12/2016
CLIENT NO. : 7241
INVOICE NO. : 703510-41

Progress billing for professional engineering services for the Millard Park General Services as per agreement; from 04/01/16 through 04/30/16.

Table with columns: Description, CURRENT HOURS, RATE, CURRENT PERIOD. Includes sections for Board Meetings, Misc. Tasks, 2016 Green Area Maintenance, Mission Creek Phase 4, and 2016 Paving Repair. Total Current Amount Due is \$6,283.12.

Note: We received a payment in the amount of \$12,000 to pay the previous invoice, 703510-40, which had an amount due of \$12,076.27. Currently there is a past due balance of \$76.27. Please remit this along with the current balance on invoice 703510-41.

pd 10-13-16
#CF6060 +
#CF6061



ASSOCIATES INC.

\*\*\*\*\* INVOICE \*\*\*\*\*

SID No. 162  
Millard Park Subdivision  
c/o Larry Forman  
7171 Mercy Road Suite 650  
Omaha, NE 68105

DATE : 10/10/2016  
CLIENT NO. : 7241  
INVOICE NO. : 703510-44A

Progress billing for professional engineering services for the Millard Park General Services as per agreement; from 09/01/16 through 09/30/16.

	CURRENT HOURS	RATE	CURRENT PERIOD
<b>Mission Creek Phase 4</b>			
Senior Project Engineer - W. Glismann	2.50	162.27	\$ 405.68
Administrative Assistant - R. Stephans	0.50	61.50	30.75
Senior Project Engineer - W. Glismann	6.50	162.27	1,054.76
Design Engineer - R. Mahalek	8.00	104.40	835.20
Landscape Architect - T. Maiellaro	1.00	113.22	113.22
Land Surveyor - J. Leisinger	3.00	103.50	310.50
Engineering Technician I - L. Lenz	16.50	102.60	1,692.90
Engineering Technician III - J. Winston	3.50	70.05	245.18
			\$ <u>4,688.19</u>
<b>Current Amount Due</b>			\$ <u><u>4,688.19</u></u>