



# Public Service Commission

## State of North Dakota

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### COMMISSIONERS

Tony Clark  
Brian P. Kalk  
Kevin Cramer

Executive Secretary  
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August 10, 2011

Jeffrey W. Fleischman, Director  
OSM Casper Field Office  
PO Box 11018  
150 East "B" Street, Room 1018  
Casper, WY 82602-5004

**RE: Request for Authorization to Proceed for 2011 Sinkhole Maintenance Project in North Dakota.**

Dear Mr. Fleischman:

Please find enclosed documentation to support our Request for Authorization to Proceed with the 2011 Sinkhole Maintenance Project. This project is a continuation of previous reclamation work and sinkholes that were filled at most of these sites in 2009 and 2010.

A generalized environmental assessment, project plan summaries and maps are attached for the 2011 Sinkhole Maintenance Project. Also enclosed is an eligibility determination letter.

We have requested concurrence for this project from the North Dakota Historical Society, U.S. Fish and Wildlife Service, North Dakota Parks and Recreation Department and the North Dakota State Department of Health. The responses to these requests for concurrence will be forwarded to you as we receive them.

If any additional information is needed or you have any questions, feel free to call Bill Dodd or me at 701-328-2251.

Sincerely,

3 AM-11-497 Filed 08/10/2011 Pages: 24  
Request for authorization to proceed sent to OSM  
Public Service Commission  
Bill Dodd

Mr. Jeffrey Fleischman  
August 10, 2011  
Page 2

#### List of Attachments

1. Standardized Environmental Assessment for 2011 AML Maintenance (August 2011)
2. 2011 Proposed Sinkhole Maintenance Project Plan
3. Requests for Concurrence for 2011 Sinkhole Maintenance Project
4. Eligibility Determination for 2011 Sinkhole Maintenance Project



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August 10, 2011

Jeffrey W. Fleischman, Director  
OSM Casper Field Office  
PO Box 11018  
150 East "B" Street, Room 1018  
Casper, WY 82602-5004

### **RE: Eligibility Determination for the 2011 Sinkhole Maintenance AML Project in North Dakota**

Dear Mr. Fleischman:

This letter is submitted under 30 CFR 874.12 as the required eligibility determination for lands included in the proposed abandoned mine lands reclamation project. Legal descriptions for these lands are included with the request for authorization to proceed and are summarized below:

**2011 Maintenance Project:** At various locations in western North Dakota as described in attachments to the August 8, 2011 Request for Authorization to Proceed.

#### Eligibility Determination - 30 CFR 874.12

The requirements of this section of the Abandoned Mine Reclamation Program set forth the following criteria for eligibility for reclamation activities (paraphrased):

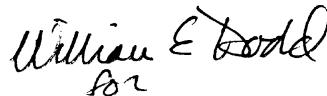
- a. Was the real property subjected to coal mining and related processes?
- b. Did the coal mining processes on the real property occur prior to August 3, 1977?

Mr. Jeffrey Fleischman  
August 10, 2011  
Page 2

Based upon available historical information, I find that the described real properties were mined for coal; that the coal mining activity occurred prior to August 3, 1977; and, that the property has been left in an abandoned and unreclaimed state. I further find that there is no continuing responsibility for reclamation by the operator, permittee or agent of the permittee under statutes of the State of North Dakota or the government of the United States.

Based on these findings, it is my opinion that the described real properties meet the eligibility requirements of 30 CFR 874.12 for abandoned mine reclamation.

Sincerely,

A handwritten signature in cursive script that reads "William E. Dodd".

<sup>for</sup>  
James R. Deutsch  
Director  
Reclamation and AML Divisions

# **STANDARDIZED ENVIRONMENTAL ASSESSMENT**

## **2011 Maintenance Sites Various Locations in North Dakota**

Prepared by

North Dakota Public Service Commission

In Cooperation with

United States Department of the Interior  
Office of Surface Mining Reclamation and Enforcement  
Casper Field Office

August 2011

## **Section I Introduction**

### **A. Need for the Action**

The principal objective of the Abandoned Mine Lands (AML) Division of the Public Service Commission (PSC) is to reclaim potentially hazardous abandoned surface and underground coal mines.

To our knowledge there have been no instances of death directly attributable to abandoned coal mines included in the 2011 Maintenance Project sites. However, the presence of abandoned surface and underground coal mines are a serious hazard to the public and landowners.

### **B. Background**

The AML Division has been conducting maintenance projects on AML sites nearly since program inception. Most of these maintenance projects were to fill dangerous sinkholes caused by mine collapse on areas of previous projects. Others have been to repair erosion, construct water management structures, reseed, fence, or plant trees on reclaimed AML project sites.

In the past, environmental assessments have not been prepared for maintenance projects because all have been on previously approved areas and represented minimal disturbances to environmental resources. In 2008, the AML Division began preparing a single environmental assessment for all proposed maintenance work in a given year. This was done not to replace previous environmental assessments, but to better quantify any environmental impacts such maintenance work may have.

In 2011, the AML Division plans to conduct sinkhole maintenance at sites near the cities of Burlington (PA ND00088), Dickinson (PA ND0000024), Garrison (PA ND000019), Hanks (PA ND000147), New Salem (PA ND000054), Noonan (PA ND000029), Washburn (PA ND000006), and Wilton (PA ND000001). It is possible that sinkhole filling or other maintenance work may be done at additional sites if other dangerous sinkholes are reported or discovered.

Other reclamation options may include daylighting or grouting undermined areas, or property buy-out, or condemnation by a local political subdivision, or taking no action. These last options are impractical and do not solve the AML problems at these sites.

### **Section III Existing Environmental Documents**

OSM-EIS-11. Approval of State and Indian Reclamation Program Grants under Title IV of the Surface Mining Control and Reclamation Act of 1977 was published by the Office of Surface Mining in November 1983. This EIS describes and analyzes the environmental impacts that were expected to result from approval of State or Tribal Grants. It focuses on the adverse and/or beneficial impacts and standard reclamation activities associated with eight major categories of abandoned coal mine problems in the United States.

The environmental concerns of the proposed project are addressed in an environmental impact statement (EIS) prepared by the Office of Surface Mining Reclamation and Enforcement entitled "Approval of State and Indian Reclamation Program Grants Under Title IV of the Surface Mining Control and Reclamation Act of 1977": (OSM-EIS-11, November 1983). Please reference the following documents for further information.

Chapter III, Affected Environmental Rocky Mountain/Northern Great Plains Region

Section 3.5.3.2, Adverse impacts related to subsidence, PP III-29, Subsections 3.5.3.2.1, 3.5.3.2.2, 3.5.3.2.4, 3.5.3.3.3

Chapter IV, Environmental Consequences Rocky Mountain/Northern Great Plains Region

Section 4.3.3.3, Impacts of deep subsurface reinforcement treatment

### **Section IV Site Specific Review**

Reclamation activities will be conducted in a manner that should have no significant effect on cultural or historic resources. A letter was sent to the State Historical Society of North Dakota on August 8, 2011, requesting concurrence for the proposed 2011 Sinkhole Maintenance sites.

**B. Water Quality Values (Clean Water Act, as amended)**

Reclamation activities will be conducted in a manner that should have no significant effect on surface or ground water quality or quantity. A letter was sent to the Water Quality Division of the North Dakota Department of Health on August 8, 2011 requesting concurrence for the proposed 2011 Sinkhole Maintenance sites.

**C. Wetlands Values (Clean Water Act, Executive Order 11990, and Army/EPA Memorandum of Agreement (MOA) Concerning the Determination of Mitigation under the Section 404(b) (1) Guidelines)**

Reclamation activities will be designed in a way that will not diminish the size or wildlife value of any wetlands.

**D. Floor Values (Executive Order 11988)**

No planned activities will adversely affect an identified floodplain.

**E. Wildlife (Endangered Species Act and Fish and Wildlife Coordination Act)**

Reclamation activities will be designed in a way that will not diminish fish or wildlife habitat, but likely may enhance it. A letter was sent to the United States Fish and Wildlife Service on August 8, 2011, requesting concurrence for the proposed 2011 Sinkhole Maintenance sites.

**F. Prime and Unique Farmland Values (Farmland Protection Policy Act)**

Reclamation activities will be designed in a way that will not diminish the integrity or

There are no lands in this area identified as areas of critical environmental concern.

There are no lands in this area included in the Wild and Scenic Rivers category.

There are no parks or areas of critical ecological or aesthetic concern in this area.

#### **H. Air Quality (Clean Air Act)**

Watering of construction areas could be required if needed to control fugitive dust, but most sites will be so small that it will not be necessary. These areas are not in or adjacent to a Class I Air Quality Region.

#### **I. Socioeconomic Factors**

Farming and ranching operations are in prominent proximal to the project sites. Reclamation will be conducted in a manner that minimizes any disruption to these socioeconomic factors.

#### **J. Political Factors**

Zoning jurisdictions for these areas are generally held by County and local township authorities. Property is privately and publicly owned and used mainly for agricultural activities and wildlife habitat. Consent for right-of-entry is obtained prior to any reclamation activities and property owners or managers are also notified a few days before work starts.

#### **K. Existing Vegetative Cover**

Existing vegetation varies with land use within the 2011 Maintenance areas. It may include cropland, tame grass and legume pastures, native grasslands, wildlife habitat, road ditches, shelterbelts and farmstead areas. Cropland and tame grasses include wheat, oats, barley, corn, sunflowers, alfalfa, crested wheatgrass, smooth brome grass and other forbs and grass species. Shelterbelts are commonly located within cropland and may contain several tree and shrub species including Siberian Elm, Russian Olive, Colorado Blue Spruce, Caragana, and others. Native grasslands may include species

#### **L. Threatened and Endangered Plant Species**

To the best of our knowledge, no threatened or endangered plant species have been identified within the project areas. The only federally-listed threatened or endangered plant in North Dakota is the Western Prairie Fringed Orchid (*Platanthera praeclara*). Known locations of this plant are within moist, tall grass prairie and sedge meadows of the Sheyenne National Grasslands in the southeastern corner of the state. This plant has not been seen and is not likely to inhabit the proposed project areas. U.S. Fish & Wildlife Service, Bismarck, ND (North Dakota's Federally Listed Endangered, Threatened and Candidate Species -1995) listed several other former candidate species which remain of management concern. These include Hayden's Yellow-Cress (*Rorippa calcina*), Wolf's Spike-Rush (*Eleocharis wolfii*), Dakota Wild Buckwheat (*Eriogonum visherii*) and Handsome Sedge (*Carex formosa*). None of these species are likely to be found or disturbed within the 2011 Maintenance sites. A letter was sent to the Natural Heritage Program of the North Dakota Parks and Recreation Department on August 8, 2011, requesting concurrence for proposed 2011 Sinkhole Maintenance Sites.

#### **M. Anticipated Dates of Reclamation**

Reclamation of the 2011 Maintenance sites is expected to occur in the late fall of 2011 and may possibly continue through the spring of 2012.

#### **N. Estimated Construction Cost**

Construction costs for 2011 maintenance work will vary by site, but are not expected to exceed \$75,000 for all projects.

#### **O. Off-site Borrow and Disposal Areas**

No off-site borrow or disposal is anticipated at these sites. Holes will be filled, where possible, by pulling in dirt from the immediate area of each hole. Where this is not feasible, dirt will be taken from approved on-site borrow areas as near as possible to the sinkholes.

#### **P. Noise Pollution**

## **Q. Environmental Justice Policy**

Construction work may result in a slight increase in employment and revenues, but no significant direct or indirect impact on minority or low-income populations is expected.

## **Section V Consultations**

### 1. U.S. Fish and Wildlife Service

A letter was sent to the United States Fish and Wildlife Service on August 8, 2011, requesting concurrence for the proposed 2011 Sinkhole Maintenance Sites.

### 2. State Historical Preservation Officer

A letter was sent to the State Historical Society of North Dakota on August 8, 2011, requesting concurrence for the proposed 2011 Sinkhole Maintenance Sites.

### 3. North Dakota Parks and Recreation Department

A letter was sent to the Natural Heritage Program of the North Dakota Parks and Recreation Department on August 8, 2011, requesting concurrence for the proposed 2011 Sinkhole Maintenance Sites.

### 4. North Dakota Department of Health

A letter was sent to the Water Quality Division of the North Dakota Department of Health on August 8, 2011, requesting concurrence for the proposed 2011 Sinkhole Maintenance Sites.

## **Section VI Preparer**

**2011 Proposed Sinkhole Maintenance Project Plan  
North Dakota Public Service Commission**

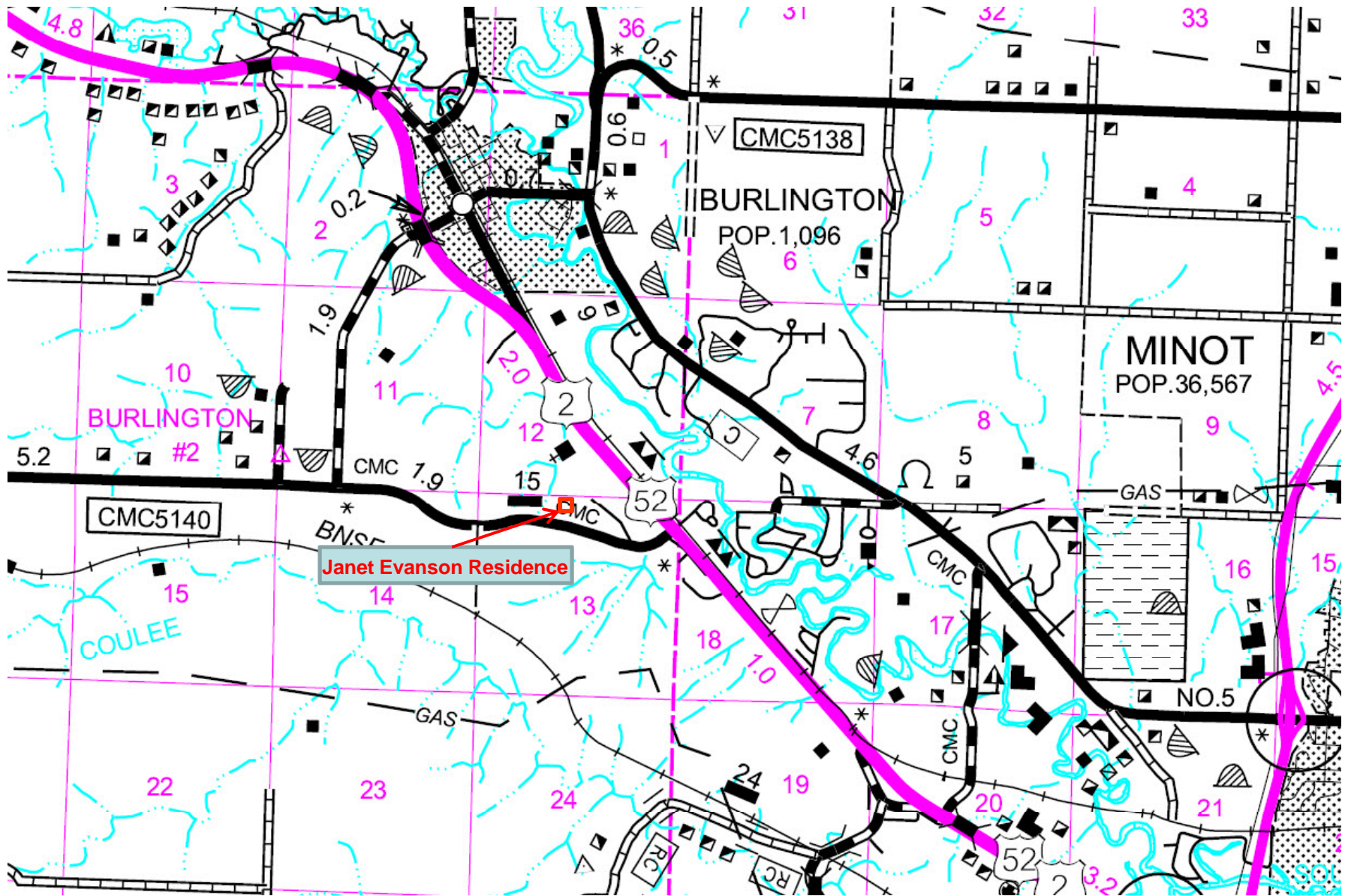
**Objective: To repair dangerous sinkholes caused by collapse of underground coal mines**

**Standard Requirements for Sinkhole Filling**

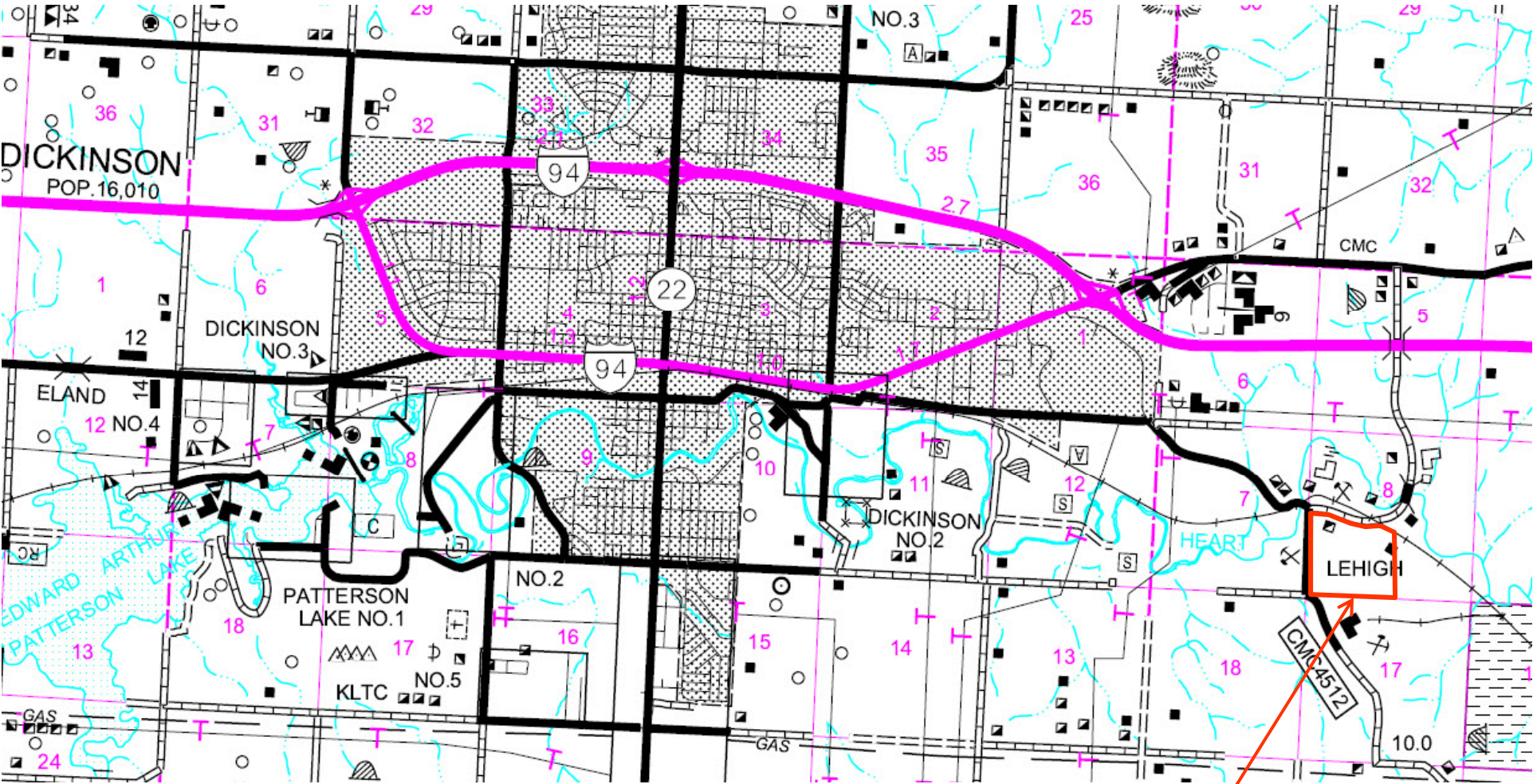
1. Remove and stockpile topsoil or suitable plant growth material from around/within sinkhole and borrow areas.
2. Excavate the sinkhole (as directed) with a backhoe or excavator.
3. Backfill sinkhole with approved fill material; if trucks are used, compaction with backhoe bucket is required between dumps. If a scraper is used, holes shall be ramped into and filled in such a way to get maximum compaction.
4. Grade area to blend with adjacent topography and re-establish drainage.
5. Respread topsoil evenly over disturbed areas and finish-grade.
6. Seed (broadcast spreader allowed) disturbed areas with required mixture.
7. Drag the seeded areas with a spike-tooth harrow or equivalent.

<b>Site</b>	<b>Section</b>	<b>Location Twp.</b>	<b>Range</b>
Burlington	13, NW	155	84
Dickinson	8, SW	139	95
Garrison	17, NW	148	84
Hanks	17, NW	159	101
New Salem	15, SW	139	85
Noonan	7, 9, 10, 12	162	95
Washburn	10, NE	144	83
Wilton	5, 6, 15	142	79
	1, 22	142	80

2011 Sinkhole Maintenance Project  
Burlington Site, NW1/4 Section 13 (Evanson), T155N, R84W, Ward County

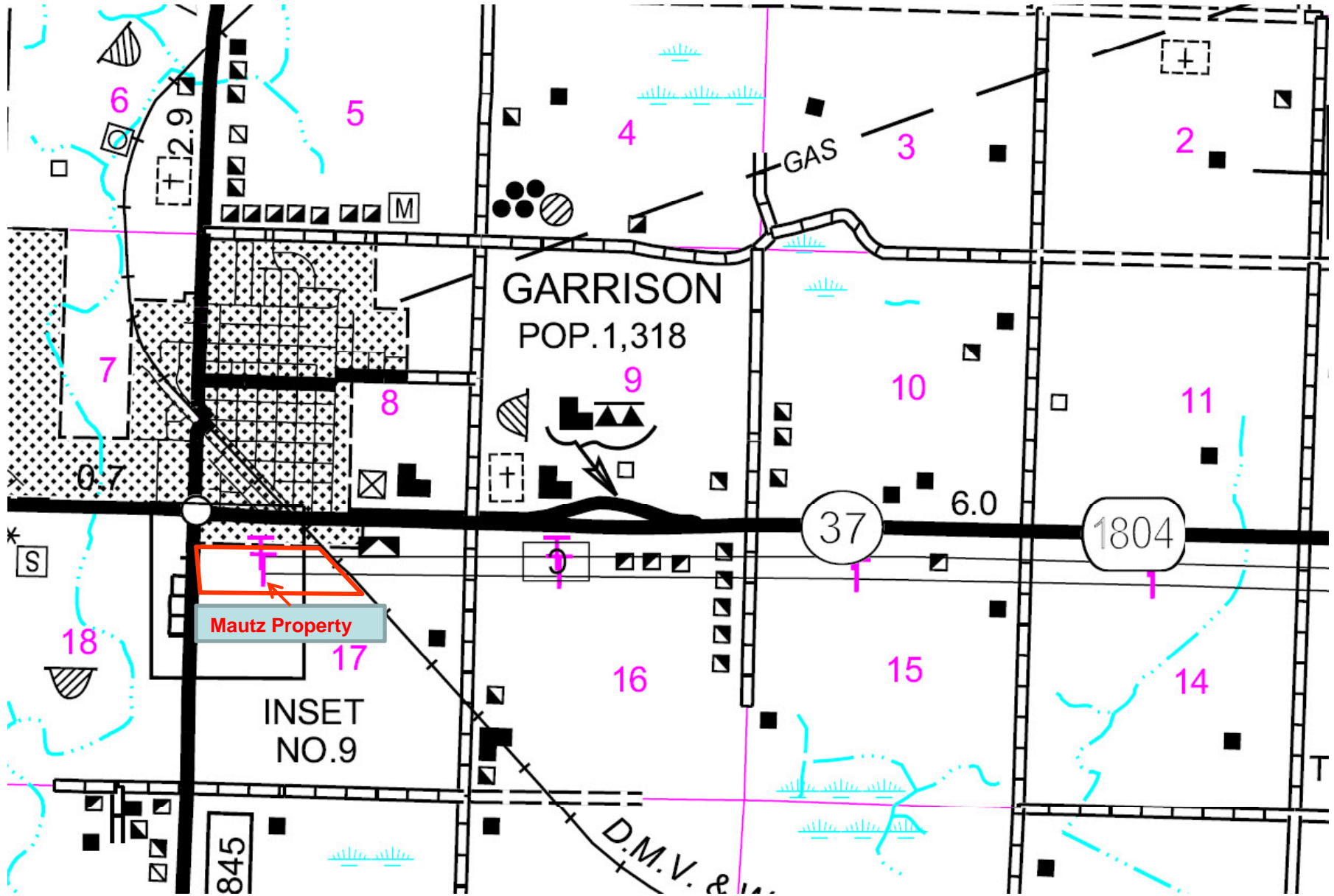


2011 Sinkhole Maintenance Project  
Dickinson Site (Erickson & Binek), SW1/4 Section 8, T139N, R95W Stark County

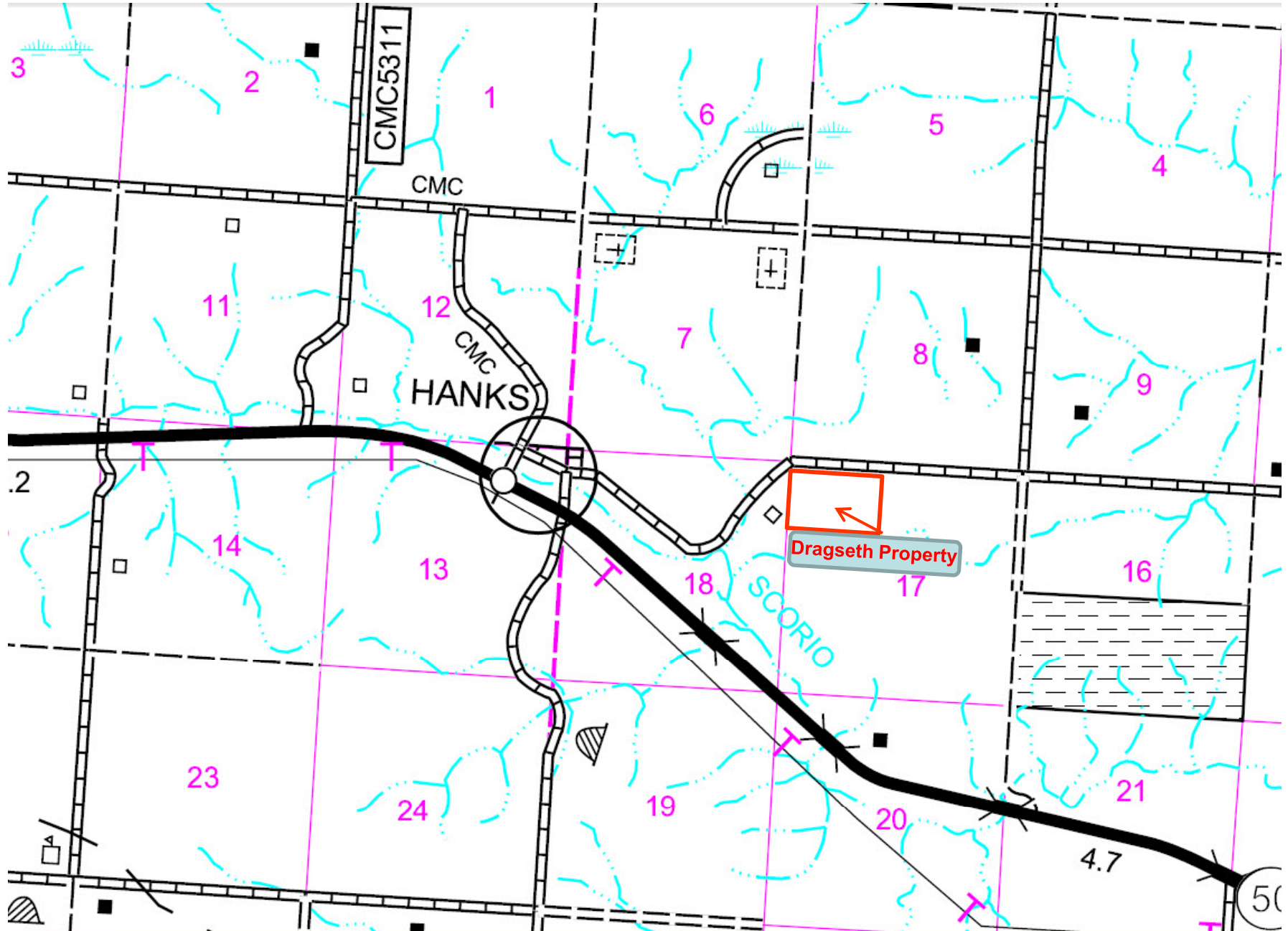


Erickson and Binek Properties

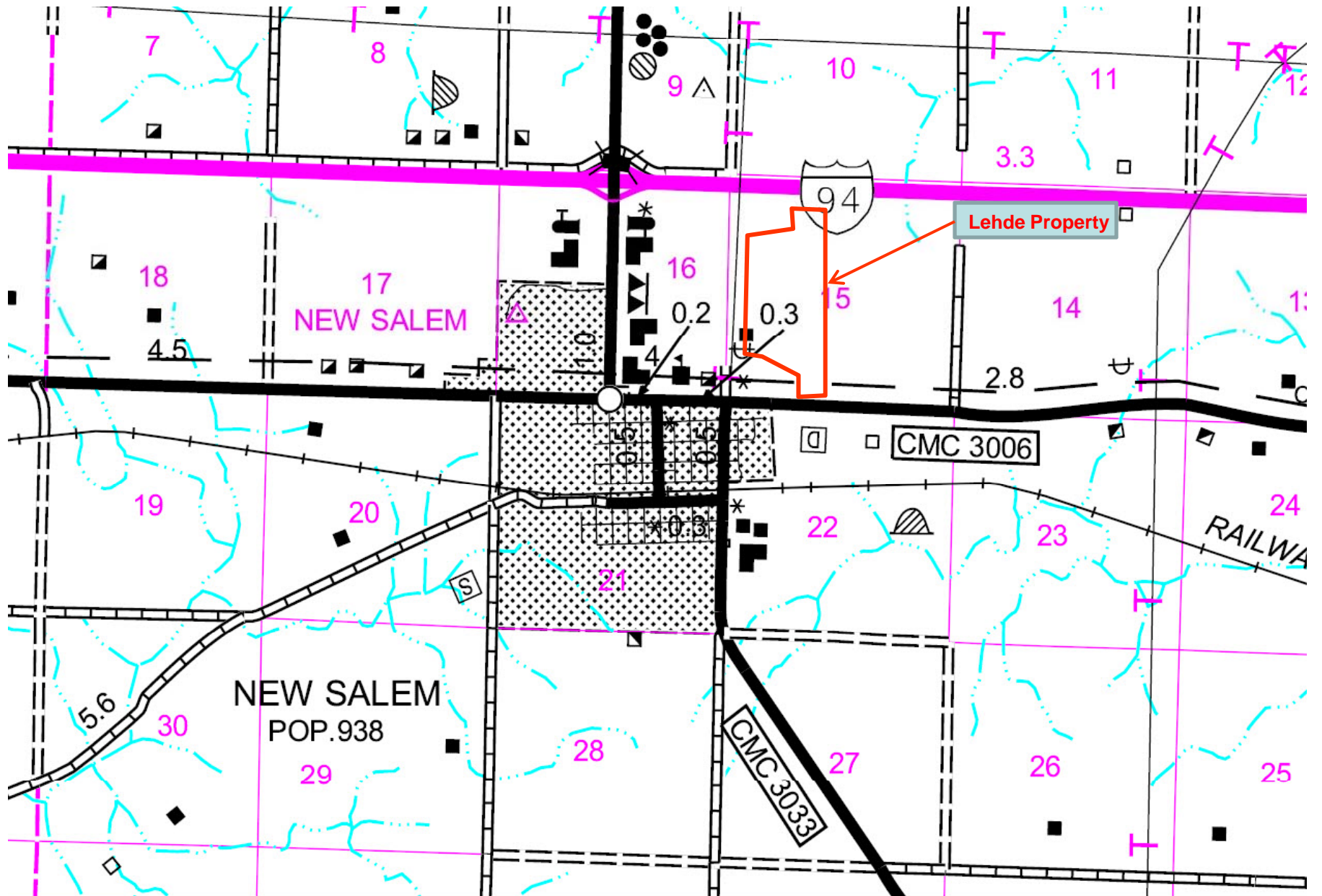
2011 Sinkhole Maintenance Project  
Garrison Site, NW1/4 Section 17 (Mautz), T148N, R84W, McLean County



2011 Sinkhole Maintenance Project  
Hanks Site (Dragseth), NW1/4 Section 17, T159N, R101W Williams County

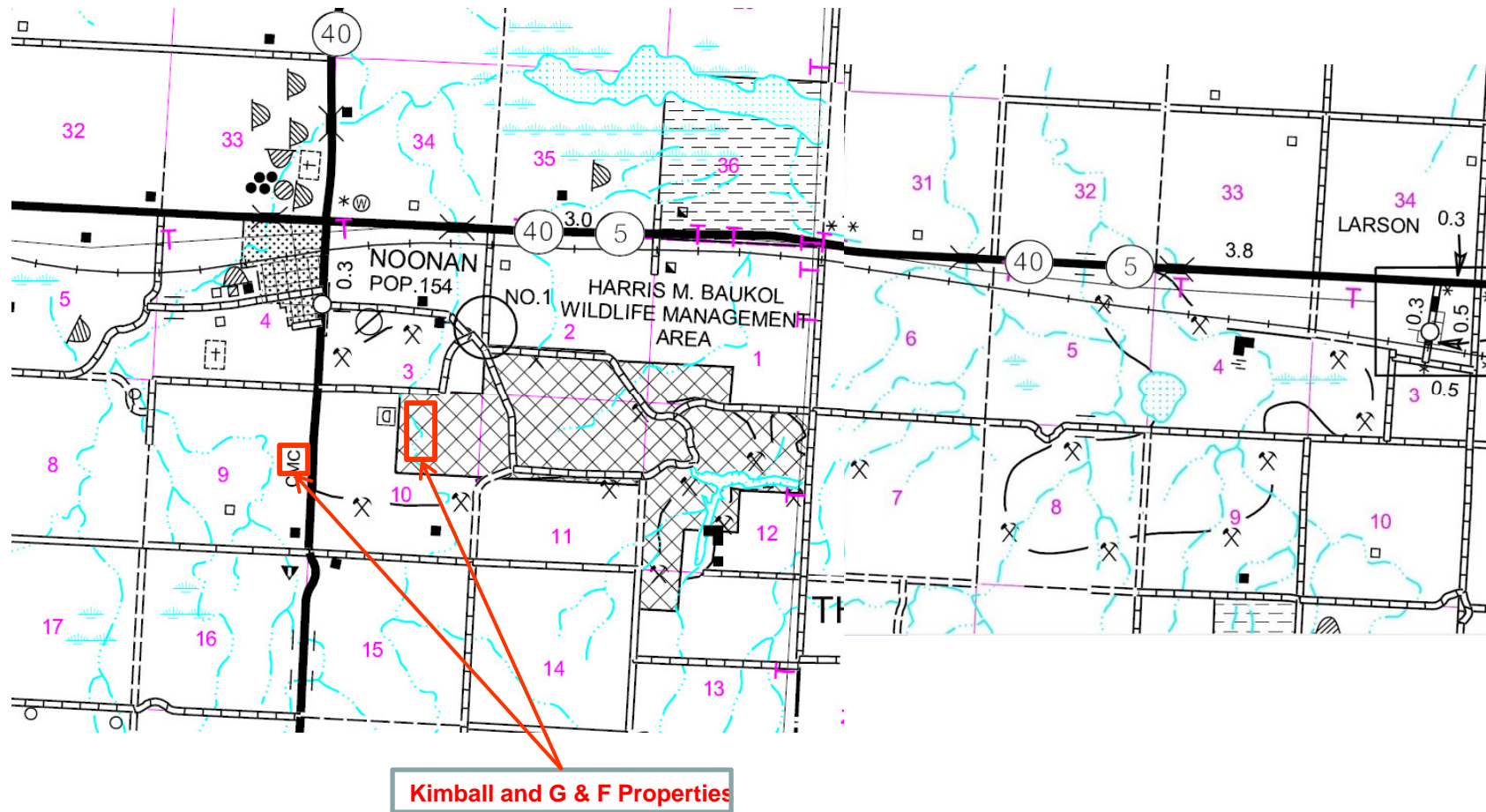


2011 Sinkhole Maintenance Project  
New Salem (Lehde), W1/2 Section 15, T139N, R85W Morton County

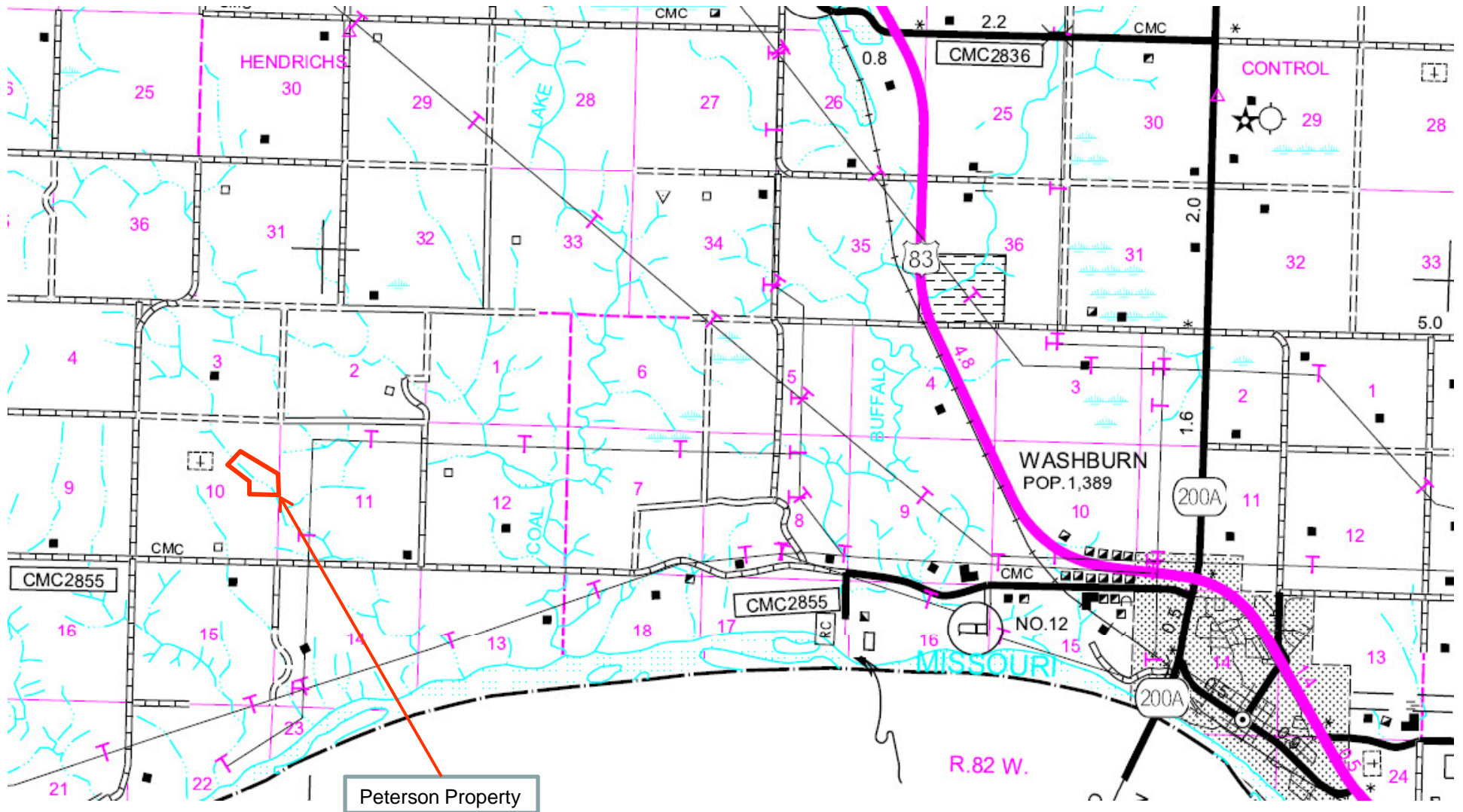


# 2011 Sinkhole Maintenance Project

Noonan Sites, NE1/4 Section 9 (Kimball), and NE1/4 Section 10 (NDG&F), T162N, R95W, Divide County

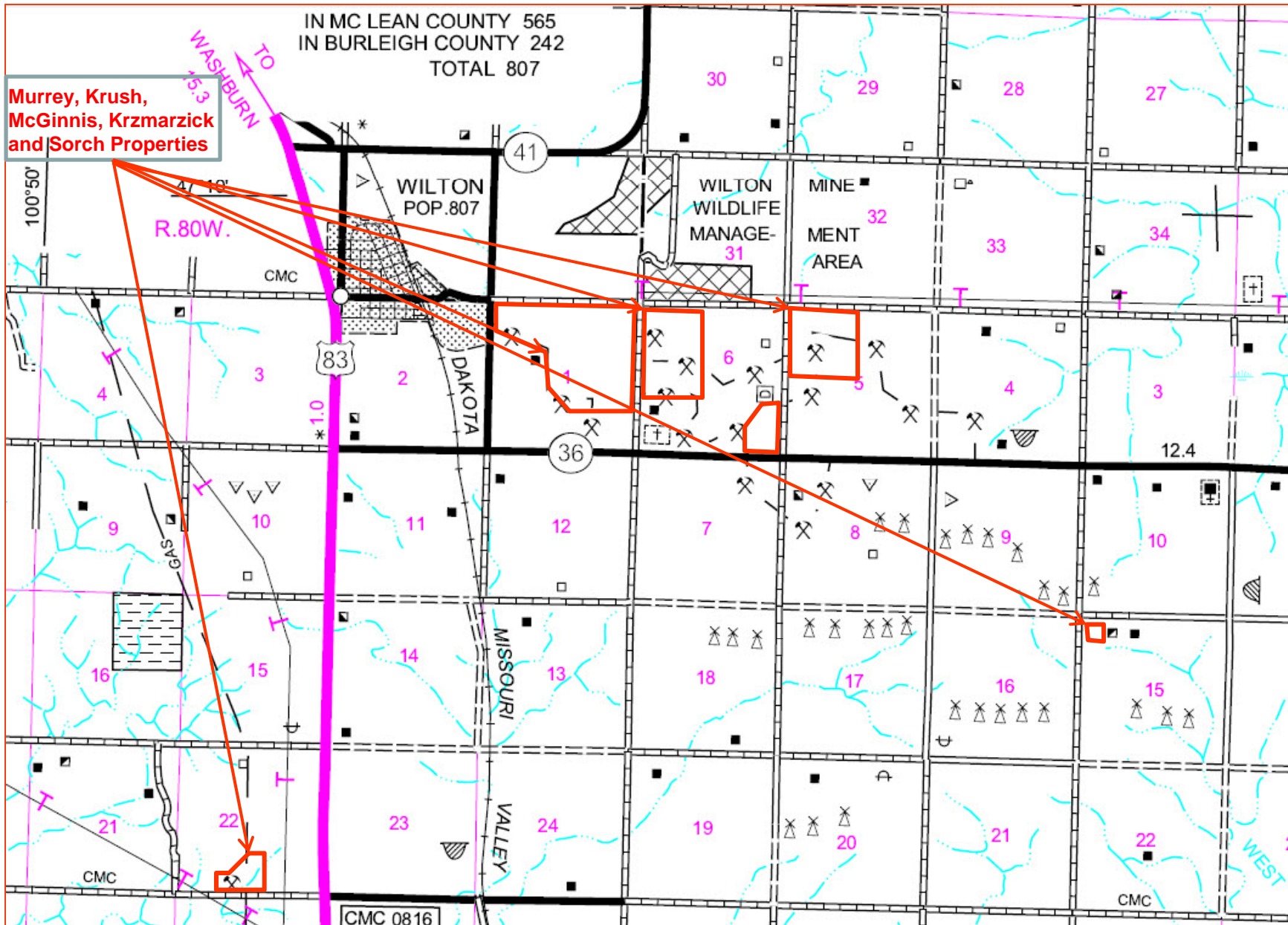


2011 Sinkhole Maintenance Project  
Washburn Site (Peterson), NE 1/4 Section 10, T144N, R83W McLean County



# 2011 Sinkhole Maintenance Project

Wilton Sites, Section 5, T142N, R79W (Krzmarzick) and 6 (McGinnis); and Sections 1 (Krush), 15 (Sorch), and 22, T142N, R80W, (Murrey) Burleigh County





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August 10, 2011

Kathy Duttonhefner  
ND Parks & Recreation Department  
1835 Bismarck Expressway  
Bismarck, ND 58504

Dear Ms. Duttonhefner:

The Public Service Commission is planning reclamation activities in the fall of 2011 on a regional sinkhole filling project. This project is a continuation of previous reclamation work and sinkholes were filled at most of these sites in 2009-10. It will be conducted by contractors selected through competitive bidding.

The 2011 Sinkhole Maintenance Project will be conducted at several sites throughout the state to backfill dangerous sinkholes caused by collapse of underground mined workings (see maps). The areas of surface disturbance will be directly proximal to the sinkholes and will probably not exceed a total of 5 acres at all sites.

As part of the project approval process, our office requests concurrence that the proposed reclamation work will not adversely affect any threatened, endangered or rare plant species. We would appreciate your review and concurrence for the work proposed at these sites. Please reply regarding these proposed projects by August 22, 2011.

Attached are maps showing general locations of the proposed reclamation sites. Thank you for your assistance in this matter. If you have any questions or need more information, please contact me at [wdodd@nd.gov](mailto:wdodd@nd.gov) or 701.328.4101.

Sincerely,

A handwritten signature in black ink that reads "William E. Dodd".

William E. Dodd,



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TDD: 800-366-6888 or 711

August 10, 2011

Susan Quinnell  
State Historical Society of North Dakota  
612 East Boulevard Avenue  
Bismarck, ND 58505-0830

Dear Ms. Quinnell:

The Public Service Commission is planning reclamation activities in the fall of 2011 on a regional sinkhole filling project. This project is a continuation of previous reclamation work. It will be conducted by contractors selected through competitive bidding.

The 2011 Sinkhole Maintenance Project will be conducted at several sites throughout the state to backfill dangerous sinkholes caused by collapse of underground mined workings (see maps). The areas of surface disturbance will be directly proximal to the sinkholes and will probably not exceed a total of 5 acres at all sites.

As part of the project approval process, our office requests concurrence that the proposed reclamation work will not adversely affect any historical or archaeological resources. We would appreciate your review and concurrence for the work proposed at these sites. Please reply regarding these proposed projects by August 22, 2011.

Attached are maps showing general locations of the proposed reclamation sites. Thank you for your assistance in this matter. If you have any questions or need more information, please contact me at [wdodd@nd.gov](mailto:wdodd@nd.gov) or 701.328.4101.

Sincerely,

A handwritten signature in black ink that reads "William E. Dodd".

William E. Dodd,  
Assistant Director



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August 10, 2011

Mr. Jeff Towner, Field Supervisor  
U.S. Fish and Wildlife Service  
3425 Miriam Avenue  
Bismarck, ND 58501-7926

Dear Mr. Towner:

The Public Service Commission is planning reclamation activities in the fall of 2011 on a regional sinkhole filling project. This project is a continuation of previous reclamation work. It will be conducted by contractors selected through competitive bidding.

The 2011 Sinkhole Maintenance Project will be conducted at several sites throughout the state to backfill dangerous sinkholes caused by collapse of underground mined workings (see maps). The areas of surface disturbance will be directly proximal to the sinkholes and will probably not exceed a total of 5 acres at all sites.

As part of the project approval process, our office requests concurrence that the proposed reclamation work will not adversely affect any threatened or endangered animal species. We would appreciate your review and concurrence for the work proposed at these sites. Please reply regarding these proposed projects by August 22, 2011.

Attached are maps showing general locations of the proposed reclamation sites. Thank you for your assistance in this matter. If you have any questions or need more information, please contact me at [wdodd@nd.gov](mailto:wdodd@nd.gov) or 701.328.4101.

Sincerely,

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William E. Dodd,  
Assistant Director



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August 10, 2011

Mr. Dennis Fewless,  
Director of Water Quality  
North Dakota Department of Health  
918 East Divide Avenue  
Bismarck, ND 58501-1947

Dear Mr. Fewless:

The Public Service Commission is planning reclamation activities in the fall of 2011 on a regional sinkhole filling project. This project is a continuation of previous reclamation work. It will be conducted by contractors selected through competitive bidding.

The 2011 Sinkhole Maintenance Project will be conducted at several sites throughout the state to backfill dangerous sinkholes caused by collapse of underground mined workings (see maps). The areas of surface disturbance will be directly proximal to the sinkholes and will probably not exceed a total of 5 acres at all sites.

As part of the project review process, our office requests concurrence that the proposed reclamation work will not adversely affect water quality in the areas where sinkholes will be filled. We would appreciate your review and concurrence for the work proposed at these sites. Please reply regarding these proposed projects by August 22, 2011.

Attached are maps showing general locations of the proposed reclamation sites. Thank you for your assistance in this matter. If you have any questions or need more information, please contact me at [wdodd@nd.gov](mailto:wdodd@nd.gov) or 701.328.4101.

Sincerely,

A handwritten signature in black ink that reads "William E. Dodd".

William E. Dodd,