

**STATE NORTH DAKOTA  
PUBLIC SERVICE COMMISSION**

Public Service Commission  
v. Qwest Corporation  
Complaint

Case No. PU-15-677

**ORDER ON SETTLEMENT AGREEMENT**

**December 20, 2016**

**Appearances**

Commissioners Julie Fedorchak, Randy Christmann, and Brian P. Kalk.

Paul Sanderson, Evenson Sanderson PC, 103 South 3<sup>rd</sup> St., Suite 5, Bismarck, North Dakota 58501, appearing on behalf of Qwest Corporation.

Mitchell D. Armstrong, Special Assistant Attorney General, 122 E. Broadway Ave., Bismarck, North Dakota 58501, on behalf of the Public Service Commission Advocacy Staff.

Illona Jeffcoat-Sacco, General Counsel, North Dakota Public Service Commission, State Capitol, 600 E. Boulevard Ave., Bismarck, North Dakota 58505, on behalf of the Public Service Commission Advisory Staff.

Patrick Ward, Administrative Law Judge, Zuger Kirmis & Smith, P.O. Box 1695, Bismarck, North Dakota 58502.

**Preliminary Statement**

On April 6, 2016, the Public Service Commission Advocacy Staff (Advocacy Staff) issued a Complaint against Qwest Corporation dba CenturyLink QC (CenturyLink QC or Company) alleging a series of complaints related to service provided to 28 customers in North Dakota.

On May 23, 2016, CenturyLink QC filed its answer.

On August 17, 2016, the Commission issued a Notice of Hearing scheduling the hearing to begin on December 12, 2016.

On November 10, 2016, CenturyLink QC and Advocacy Staff filed a Settlement Agreement.

On November 18, 2016, the Commission issued a Notice of Opportunity for Hearing and a Notice of Hearing on Settlement scheduling a hearing to begin on December 12, 2016 in the Commission Hearing Room, 12<sup>th</sup> Floor, State Capital, Bismarck, North Dakota. The Notice specified the issue to be considered is whether the Settlement Agreement is reasonable and should be adopted by the Commission as a reasonable resolution of the issues in the case. The hearing was held as noticed.

Because there was insufficient time between the estimated publication dates of the Notice of Hearing on Settlement and the December 12, 2016 hearing, the Notice of Opportunity for Hearing allowed for comments and requests for hearing to be received until December 19, 2016. No comments or requests for hearing were received.

### **Discussion**

The Settlement Agreement represents a reasonable path towards addressing the service quality issues of the Company.

The Settlement Agreement includes the following key terms:

- By the end of 2017, CenturyLink QC will rehabilitate eight cable routes in the Belfield area and two cable routes in the Fairview area.
- The Company commits to providing customers a repair commitment date during the initial call and provide advanced notification if the Company is unable to keep its commitment date.
- The Company will make arrangements to provide special attention to the 28 complaint customers by providing an email to the ND Regional Supervisor of Operations if issues arise that affects these customers. The Company will also ensure these customers are notified of the rehabilitation projects.
- The Company will expand fiber in the Belfield exchange area.
- The Company will file a monthly report with the Commission describing the actions it has taken and the upcoming additional actions it will take.
- If the Company fails to comply with the requirements in the Agreement, the failure will be considered a breach of the Agreement.

The terms of the Settlement Agreement are reasonable and are expected to provide benefits to North Dakota customers of CenturyLink QC.

**Order**

The Commission Orders:

The Settlement Agreement filed November 10, 2016, a copy of which is attached to this Order and made a part of this Order, is APPROVED.

**PUBLIC SERVICE COMMISSION**

  
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**Randy Christmann**  
Commissioner

**Julie Fedorchak**  
Chairman

**Brian P. Kalk**  
Commissioner



2. On May 23, 2016, CenturyLink QC filed its answer. The answer set forth responses to each of the individual allegations and denied that the Commission should order the relief sought in the complaint. Among other requests, the answer asserted several affirmative defenses and requested that the Commission dismiss the complaint with prejudice.

3. On August 17, 2016, the Commission issued a notice of hearing and scheduled the hearing to begin on December 12, 2016.

4. Settlement discussions were held between the Settling Parties pursuant to the Commission's Settlement Guidelines dated January 4, 1995. As a result of those discussions, the Settling Parties reached this Settlement Agreement.

5. The Settlement Agreement is supported by the administrative record. Accordingly, the Settling Parties jointly recommend the Commission issue an Order approving this Settlement Agreement in its entirety, without conditions or modifications.

#### **TERMS OF SETTLEMENT AGREEMENT**

The Settling Parties agree to resolve this case based on the actions that CenturyLink QC has already taken and proposes to take in the future to address issues discussed in the complaint.

##### **A. Proposals to repair and improve service**

CenturyLink QC has already taken the following actions to address the service issues:

- Dug up 10 defective hard pour splice cases used over the years on copper cable. Fixed and/or replaced drops to certain customers.
- Brought in a cable expert from Midwest Region Staff to test grounding and analyze cable stats to stabilize two manufacturer-discontinued systems in Belfield Exchange and cable lead in Dickinson.

- Fully staffed and replaced all vacancies in western North Dakota in Fairview (4 technicians in the Montana exchange including Fairview), Belfield and Dickinson (3 technicians) exchanges in 2015. CenturyLink QC recently filled two vacancies in Mandan, North Dakota ( for a total of 8 technicians in Mandan). All network technician vacancies in Western North Dakota have been filled. CenturyLink QC also filled two vacancies in Grand Forks in March 2016. Upon completion of the hiring process described above, Century Link QC will be staffed with technicians to the same levels as prior to 2015.

**B. Additional proposed actions**

**1. Rehabilitate ten cable routes in problematic areas.**

CenturyLink QC has identified ten cable routes it proposes rehabilitating or replacing to address not only the customers that have filed complaints but also those areas that have caused the most difficulty in each exchange independent of complaints:

- a. **Belfield – Rehabilitation of eight cable routes:** Currently, the Belfield serving exchange has 174 customers. Eight cable routes have been identified as the leading cause of trouble reports for the exchange. CenturyLink QC will perform rehabilitation or replacement work on these routes and expects such work will significantly reduce trouble reports and customer complaints. The routes are depicted on Exhibit 1 by the white lines.
- b. **Fairview – Rehabilitation of two cable routes:** Currently, the Fairview serving exchange has 26 North Dakota customers. Two cable routes have been identified as the primary cause for the trouble reports affecting the North Dakota side of the Fairview exchange. CenturyLink QC will perform rehabilitation or replacement work on those two routes. The routes are depicted on Exhibit 2 with red lines.
- c. **Description of rehabilitation/replacement work:** The work will involve the following steps, which will depend on specific conditions found during the work:
  1. Identify proper bonding and grounding and correct/replace if damaged.
  2. Identify pedestal condition and correct/replace if damaged.
  3. Identify repeater housing condition, verify environmental integrity and replace if damaged.
  4. Identify and repair or replace cable sections to have less than 90% pair

functionality.

5. Identify carrier condition and repair or replace.
- d. **Timing:** CenturyLink QC intends to complete both rehabilitation plans by the end of the 2017 construction season and will take all reasonable measures to ensure completion in such time.
- e. **Service Stability:** On August 4, 2016, two splicing contractors began work in the Belfield exchange to ensure service stability to the most chronic trouble reports of existing customers. CenturyLink QC will take all reasonable measures to ensure continuing service stability during the work contemplated in this Settlement Agreement.

## 2. **Handling of customer complaint trouble tickets.**

CenturyLink QC commits to respond to customer complaint trouble tickets throughout the State by providing a repair commitment date during the initial call and providing advanced notification to customers when repair commitment dates cannot be fulfilled with the goal of decreasing repair service intervals, improving communication with customers regarding repair intervals, and meeting repair service commitment dates. If the customer complaint involves a problem with CenturyLink QC's facilities, CenturyLink will repair the trouble promptly per N.D. Admin. Code § 69-09-05-07.

Until the completion of the projects described herein, CenturyLink QC will make arrangements to provide special attention to the 28 complaint customers by providing an email to the ND Regional Supervisor of Operations and Regional Manager of Operations when any issue arises affecting these customers. CenturyLink QC will make arrangements to ensure customers located in the Belfield and Fairview exchanges are notified of the upcoming rehabilitation projects.

## 3. **Expand fiber in the area.**

Portions of the Belfield exchange are eligible for Connect America Fund support.

CenturyLink QC commits to expedite the construction of fiber to enable Connect America Fund qualifying service by moving up its investment in the Belfield exchange to the 2017 construction season. CenturyLink QC will also install equipment which allows the facilities to be used to provide voice service to customers in the area. This investment will provide 10/1M broadband capabilities to approximately 307 total households. The expansion of fiber is contemplated to be as depicted or substantially similar to the red lines depicted on Exhibit 1. “Substantially similar” as described in the preceding sentence is intended to recognize that the exact location and facilities/infrastructure may be subject to change in the finalization of the project. However, CenturyLink QC agrees that the overall expansion and acceleration of fiber to the area is intended to install equipment to provide voice services and broadband capability to approximately 307 households.

**C. Consequences of future repair problems**

CenturyLink QC will file a monthly report with the Commission describing the actions it has taken and upcoming additional actions regarding the construction projects identified above consistent with this settlement offer. If CenturyLink QC fails to meet any requirements outlined in this Settlement Agreement, such a failure would be considered a breach of the Settlement Agreement.

**D. No penalty against the Company**

This settlement agreement encompasses a substantial additional investment in both the Belfield and Fairview exchanges. In addition, CenturyLink QC will accelerate spending to expand broadband availability in the area and to install higher cost equipment to allow customers to benefit from this fiber. These investments are significantly greater than the maximum potential penalty that could be imposed in this case and constitute a significant investment compared to the number of customers who have filed complaints. The

investments should also reduce potential future issues that might arise for customers who have not filed a complaint. The Settling Parties agree that, in light of these investments, no penalty should be imposed against CenturyLink QC.

### **OTHER TERMS AND CONDITIONS**

A. Basis of Settlement. It is agreed this Settlement Agreement is a negotiated settlement agreement subject to approval by the Commission. The Settlement Agreement does not establish any principle or precedent, nor adopt or recommend any specific type or amount of expense or rate base, for this or any future proceeding.

B. Effect of the Settlement Negotiations. It is understood and agreed that all offers of settlement and discussions related to this Settlement Agreement are privileged and may not be used in any manner in connection with proceedings in this case or otherwise, except as provided by law. In the event the Commission does not approve this Settlement Agreement, it shall not constitute part of the record in this proceeding and no part thereof may be used by any party for any purpose in this case or otherwise.

C. Applicability and Scope. This Settlement Agreement shall be binding on the Settling Parties, and their successors, assigns, agents, and representatives. It shall resolve all issues that were raised or could have been raised in this proceeding. Consistent with the Commission's settlement guidelines, this Settlement Agreement does not set policy or overturn precedent. Further, this Settlement Agreement does not bind the Settling Parties with respect to any future issues except in relation to enforcement of the Settlement Agreement. This Settlement Agreement shall not in any respect constitute an agreement, admission or determination by any of the Settling Parties as to the merits of any specific allegation or contention made by the Settling Parties in this proceeding.

D. Force Majeure/Access to Rights of Way

CenturyLink's time commitments under this agreement are subject to limitations brought about by force Majeure events such as flood, fire, acts of god, severe storms and similar events. In addition, CenturyLink's investments and time commitments to expand fiber in clause 3 above are contingent on the company obtaining reasonable and adequate access to appropriate rights of way or other locations to place facilities.

E. Effective Date. This Settlement Agreement shall be effective on the date of the Commission Order approving the Settlement Agreement.

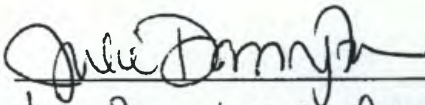
F. Modification. If the Commission Order modifies or conditions approval of this Settlement Agreement, it shall be deemed terminated if any Settling Party files a letter with the Commission within three (3) business days of notice of such Order stating that a condition or modification to the Settlement Agreement is unacceptable to such party.

**CONCLUSION**

The Settling Parties agree that adoption to the foregoing terms would resolve the issues in this proceeding. The terms of this Settlement Agreement are the result of negotiations between the Settling Parties, are in the public interest and will result in the reasonable resolution of the complaint. For these reasons, the Settling Parties urge the Commission to approve the Settlement Agreement.

Dated this \_\_\_\_ day of November, 2016.

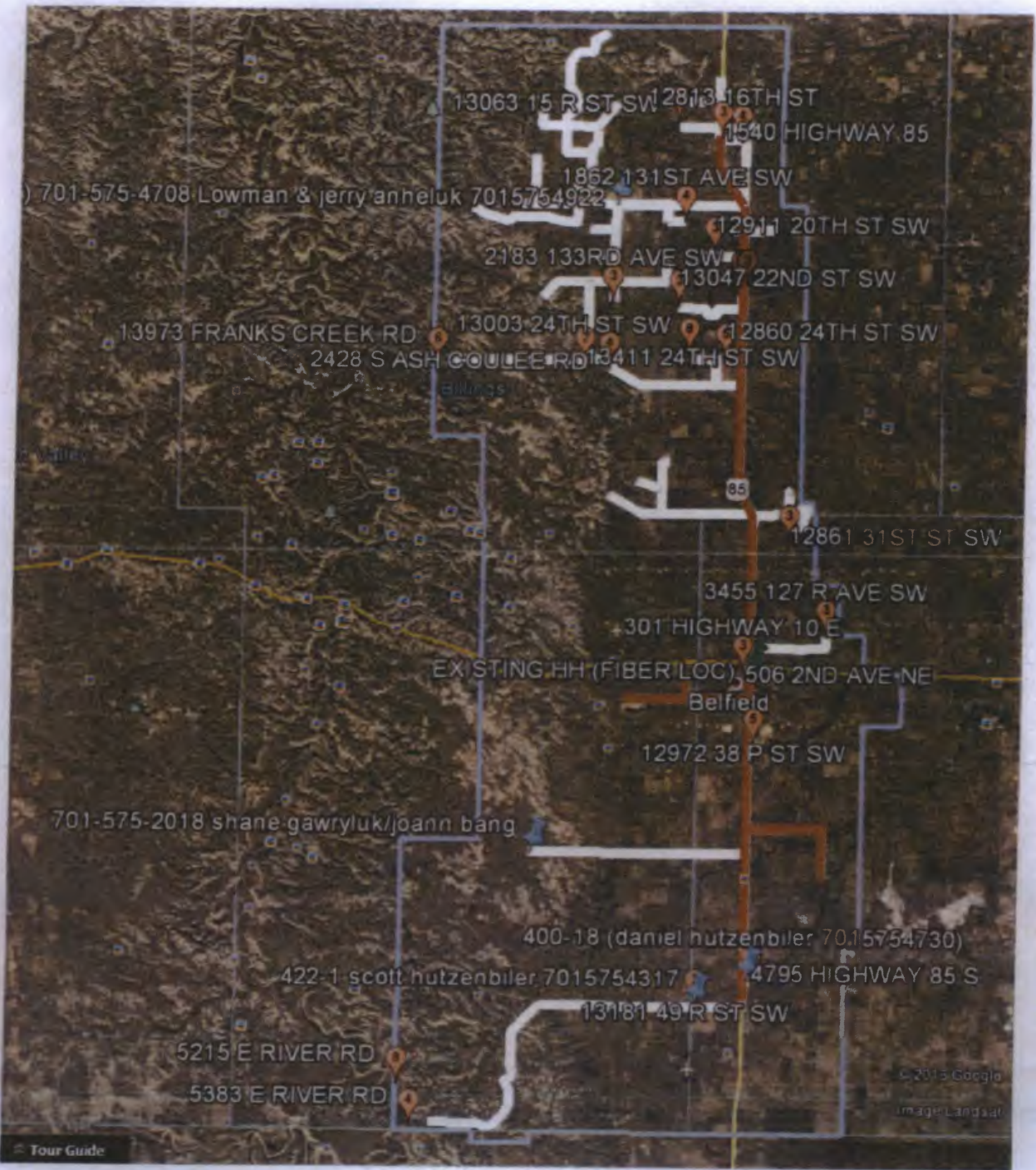
**QWEST CORPORATION DBA  
CENTURYLINK QC**

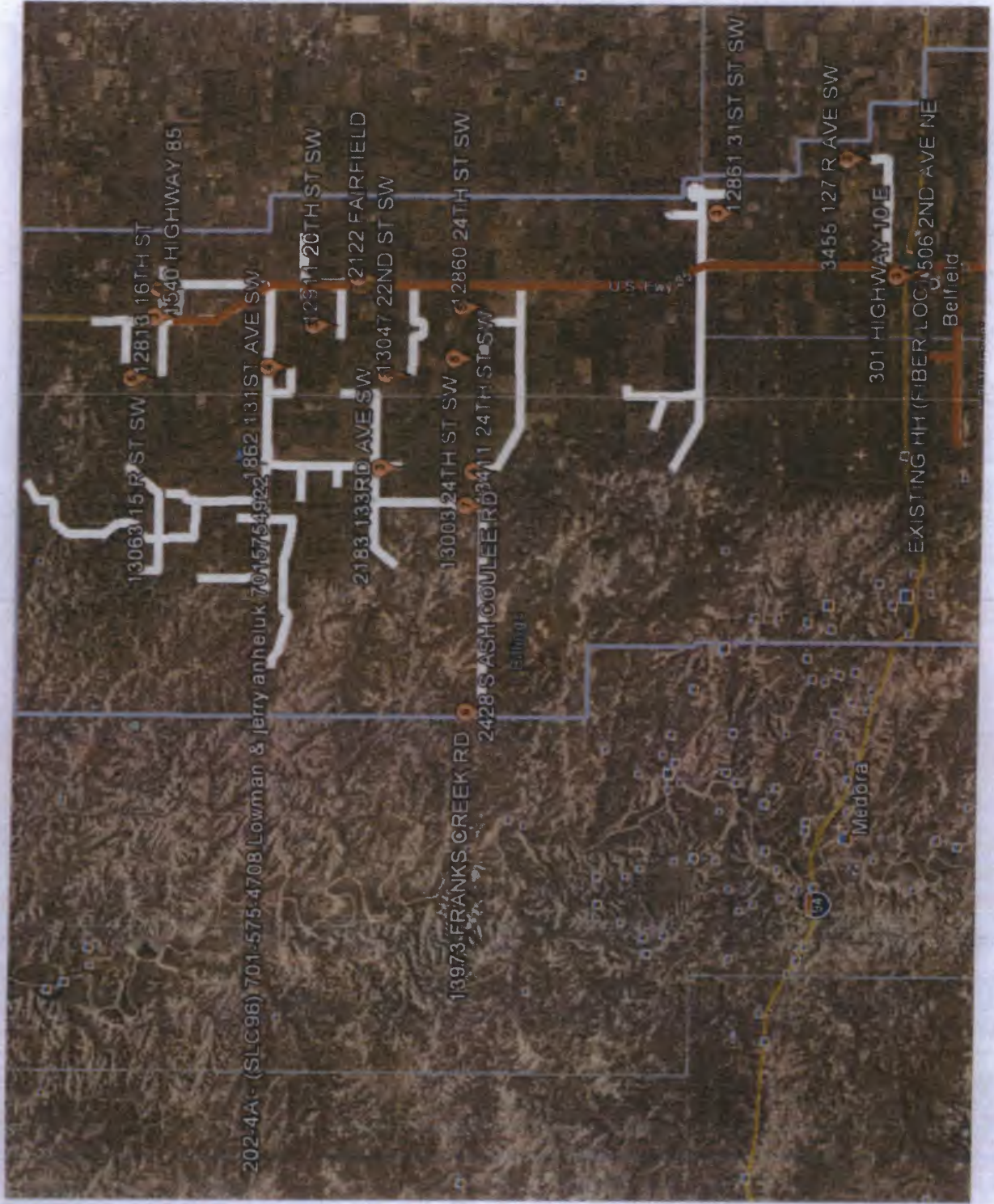
By:   
Its: Vice President of Operations  
7 ND, SD, NE, SW IA

Dated this 10 day of November, 2016.

**NORTH DAKOTA PUBLIC SERVICE  
ADVOCACY STAFF**

By: Stacy Elul  
Its: Consumer Affairs / Public  
Outreach Specialist







EXISTING HH (FIBER LOC) 506 2ND AVE NE

Bellfield

12972 38 P ST SW

701-575-2018.shane.gawryluk/joann.bang

400-18 (daniel.huizenbiler.7015754730)

4795 HIGHWAY 85S

422-1 scott.huizenbiler.7015754317

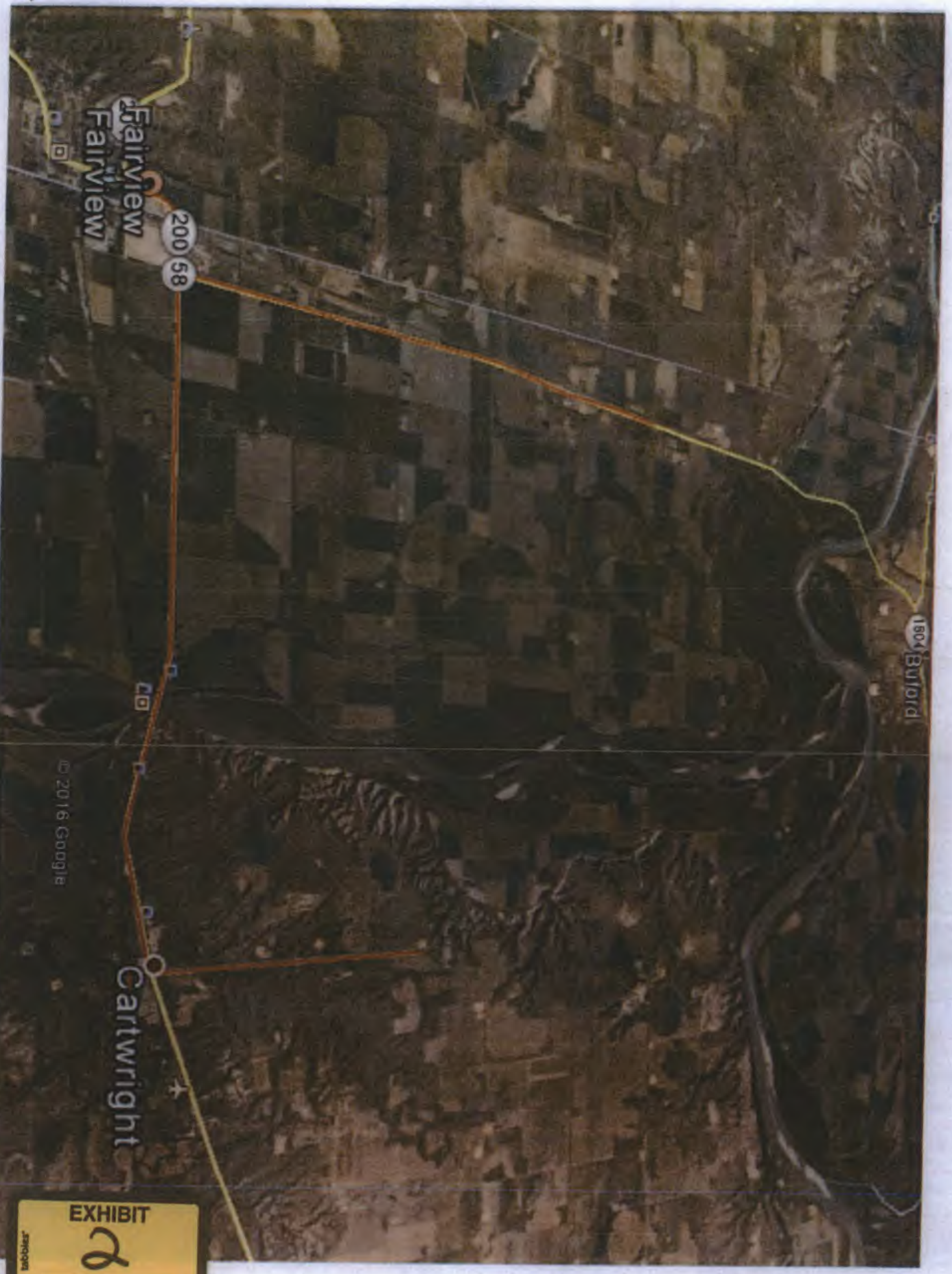
13189 49 R ST SW

5215 E RIVER RD

5383 E RIVER RD



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EXHIBIT  
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