

RECEIVED

MAR 06 2014

LANCASTER COUNTY CLERK

BEFORE THE BOARD OF COUNTY COMMISSIONERS OF LANCASTER COUNTY, NEBRASKA

IN THE MATTER OF INSTITUTING)
EMINENT DOMAIN PROCEEDINGS) RESOLUTION NO. R-14-0013
Project No. CP-E-150)
Tract No. 2)

WHEREAS, pursuant to the laws of the State of Nebraska, the County of Lancaster is charged with the duty of constructing, maintaining and improving county roads and bridges within the county, and is authorized to exercise the power of eminent domain in conjunction with its performance of such duties; and

WHEREAS, the County has concluded that it is necessary for the safety and convenience of the traveling public to replace culvert pipe E-150, located approximately 1,233 feet north of West Mill Road on Northwest 112th Street; and

WHEREAS, certain right-of-way, more particularly described and shown in Exhibits A and B, attached hereto and hereby incorporated by this reference, must be acquired in order to replace said culvert pipe, located approximately 1,233 feet north of West Mill Road on Northwest 112th Street; and

WHEREAS, the County has contacted Madeline Ahlschwede, record owner of said property, and the County has made good faith offers to purchase from her the needed right-of-way shown and described in Exhibits A and B, attached hereto; and

WHEREAS, the County has made reasonable efforts to induce said individual to accept its offers, as shown in Summaries of Contacts attached as Exhibit C, but has been unable to reach an agreement to purchase said property.

NOW, THEREFORE, BE IT RESOLVED, by the Board of County Commissioners of

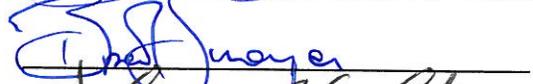
Lancaster County, Nebraska, that eminent domain proceedings be instituted in the County Court of Lancaster County, Nebraska, in order to acquire the needed right-of-way shown and described on Exhibits A and B, attached, from the above-named parties.

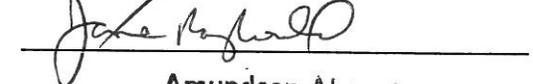
DATED this 11 of March, 2014, at the County-City Building, Lincoln,
Lancaster County, Nebraska.

BY THE BOARD OF COUNTY
COMMISSIONERS OF LANCASTER
COUNTY, NEBRASKA

APPROVED AS TO FORM
this 11 day of
March, 2014.

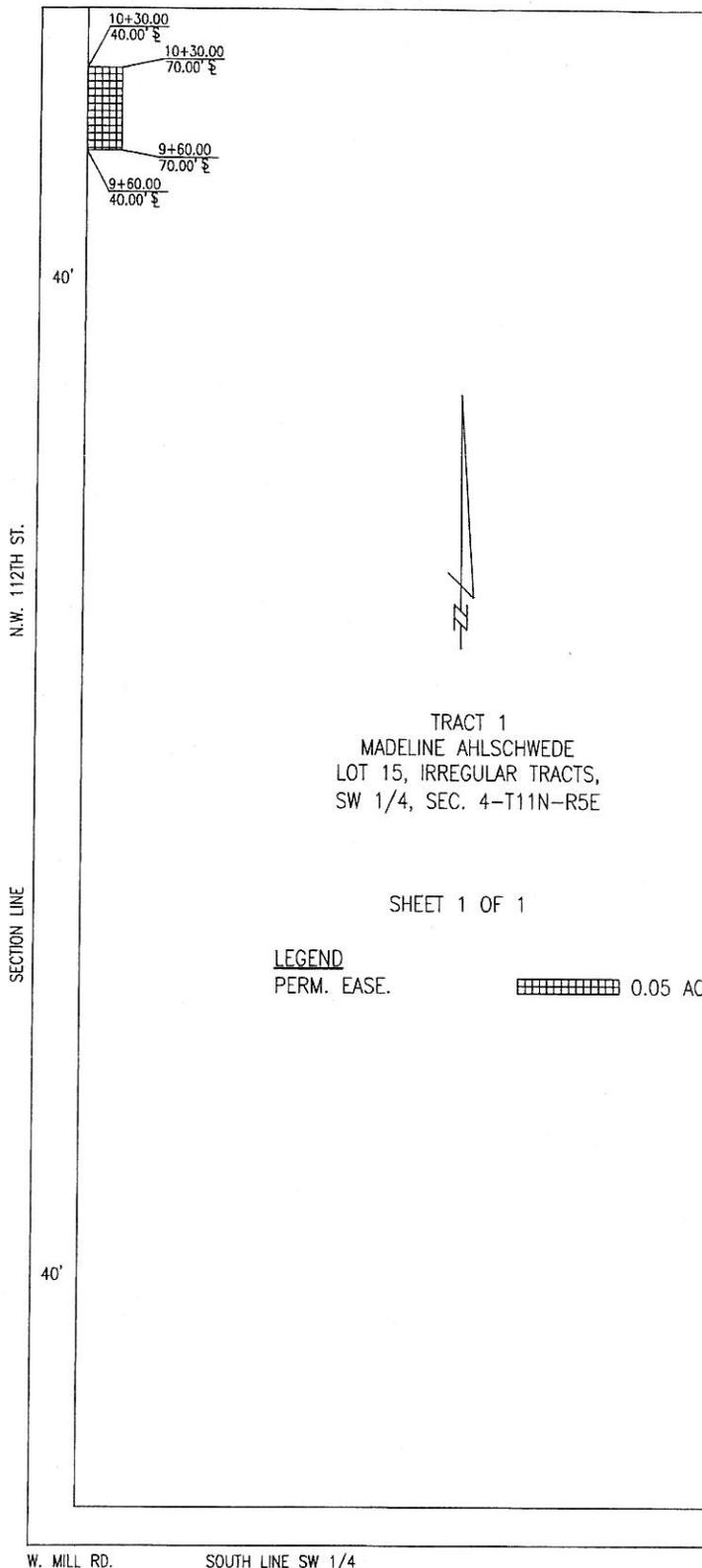

Deputy County Attorney
for JOE KELLY
Lancaster County Attorney


Amundson Absent

STA 10+80.98

NORTH LINE LOT 15, I.T.



N.W. 112TH ST.

SECTION LINE

40'

40'

W. MILL RD.

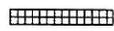
SOUTH LINE SW 1/4

TRACT 1
MADELINE AHLSCHEWE
LOT 15, IRREGULAR TRACTS,
SW 1/4, SEC. 4-T11N-R5E

SHEET 1 OF 1

LEGEND

PERM. EASE.

 0.05 AC.



SKETCH SHOWING
RIGHT OF WAY
TO BE ACQUIRED FROM LAND OWNED BY:
MADELINE AHLSCHEWE

TRACT NO. 1
PROJECT NO. E-150

LANCASTER COUNTY ENGR. DEPT.
LINCOLN, NEBRASKA

Project No. CP-E-150
Owner: Madeline Ahlschwede
Location: Vicinity NW 112th & W. Mill Rd.
Lancaster County, NE
Tract No.: 2

Permanent Easement as Measured by Stationing and Offsets from Project Section line

From Sta. 09+60.00 To Sta. 10+30.00 a strip 70 ft. wide Right Side

Legal Description of Permanent Easement

A part of Lot 15, Irregular Tracts, located in the SW ¼ of Section 4, Township 11 North, Range 5 East of the 6th Principal Meridian, Lancaster County, Nebraska, more particularly described as follows:

Referring to the southwest corner of said SW ¼; thence northerly with the west line of said SW ¼, a distance of 1193.60 feet to a point; thence easterly perpendicular to the west line of said SW ¼, a distance of 40.00 feet to the point of beginning; thence continuing on the last described course, a distance of 30.00 feet to a point; thence northerly 70.00 feet east of and parallel with the west line of said SW ¼, a distance of 70.00 feet to a point; thence westerly perpendicular to the west line of said SW ¼, a distance of 30.00 feet to a point; thence southerly 40.00 feet east of and parallel with the west line of said SW ¼, a distance of 70.00 feet to the point of beginning.

Containing 0.05 acres, more or less.



Madeline Ahlschwede
6335 O Street
Suite 428
Lincoln, NE 68510

Project: CP-E-150
Tract Number: 2

Dear Ms. Ahlschwede:

This information letter is presented to you in addition to the information set forth on the Right-of-Way Contract you have received in order to explain certain matters pertaining to the proposed right-of-way acquisition.

As the result of the passage of Public Law 91-646 (more commonly known as the Uniform Relocation Assistance in Real Property Acquisition Policy Act of 1970), certain uniform real property acquisition practices became requirements.

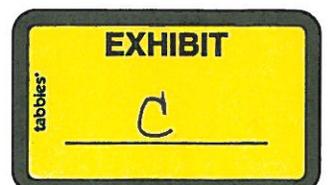
The County of Lancaster, Nebraska, hereby gives notice that it is Lancaster County's policy to assure full compliance with Title VI of the Civil Rights Act of 1964, The Civil Rights Restoration Act of 1987, and related statutes and regulations in all programs and activities. Title VI requires that no person shall, on the grounds of race, color, sex, or national origin be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any Federal Aid Highway program or other activity for which Lancaster County receives Federal financial assistance.

Any person who believes they have been aggrieved by an unlawful discriminatory practice under Title VI has a right to file a formal complaint with Lancaster County. Any such complaint must be in writing and filed with Lancaster County Title VI Coordinator within one hundred eighty (180) days following the date of the alleged discriminatory occurrence. Title VI Discrimination Forms may be obtained from the Board of County Commissioners of Lancaster County, Nebraska, office at no cost to the complainant by calling (402) 441-7447 or from the Board of County Commissioners of Lancaster County, Nebraska, website.

Lancaster County has provided you with information which is the basis for our determination of Fair Market Value for your property.

More specifically the information is as follows:

- A. Legal description for the identification of the real property to be acquired:
A part of Lot 15, I.T. of the SW $\frac{1}{4}$ of Section 4, Township 11 North, Range 5 East, of the 6th Principal Meridian, Lancaster County, Nebraska.
- B. Type of interest being acquired: **Permanent Easement**
- C. Improvements including fixtures which are to be acquired: **NONE**
- D. Improvements including fixtures which are to be acquired which are not owned by the Owner of the land: **NONE**
- E. Identification of personal property to be acquired: **NONE**



October 16, 2013

Madeline Ahlschwede
6335 O Street
Suite 428
Lincoln, NE 58510

RE: Culvert No. E-150
Tract No. 2
Permanent Easement

Mrs. Ahlschwede:

The Lancaster County Engineering Department is seeking to acquire a permanent easement for the replacement of culvert pipe E-150 located approximately 1,233-feet north of W. Mill Rd. on NW 112th St. The existing pipe was installed in 1968 and is a 24-inch diameter by 68-foot long corrugated metal pipe. The new pipe will be a corrugated metal broken back culvert pipe 30-inch in diameter and 86-feet in length with a concrete headwall on the inlet (west) side. In addition the new pipe will be skewed at a 6° angle to better perpetuate the natural flow of the existing channel

To understand the impact this project will have on your property, I will need to meet with you to present the construction plan and offer of compensation. Please contact me to schedule an appointment as soon as possible. I may be contacted at (402) 441-8331 Monday through Friday; office hours are between 7:00am and 3:30pm. In the event I am not able to receive your call please leave a return telephone number with the receptionist and I will contact you as soon as possible.

Presentation appointment meetings may be conducted at the Lancaster County Engineering Department office, your home or your place of business, whichever you prefer. Available appointment hours are Monday through Friday between the hours of 7:00am and 3:30pm. The presentation requires approximately 30 minutes of your time. If there are multiple landowners, renters or a tenant farmer involved I would appreciate the opportunity to meet with all parties at the same time. I look forward to receiving your call and meeting with you in the near future.

Sincerely,

John E. Mahan
Right-of-Way Agent

LANCASTER COUNTY ENGINEERING DEPARTMENT
AGENT CALL REPORT

OWNER: Ahlschwede, Madeline
ADDRESS: 6335 O St. Suite 428 Lincoln, NE 68510
HOME PHONE:
WORK PHONE:

PROJECT NO.: CP E-150
TRACT NO.: 2 & 3
CELL PHONE:
E-mail:

CALL DATE	VISIT NO.	AMOUNT OFFERED	SALVAGE OFFERED	COUNTER OFFER	PERSONS PRESENT
11/18/13	1	\$331.00	-0-	-0-	Brian Ahlschwede John E. Mahan

REPORT OF DISCUSSION:

I contacted Brian Ahlschwede by phone as he is representing his mother Madeline Ahlschwede in this transaction. I had spoken with Brian previously on 10/23/13 at which time he advised me of his of his representation. I put together an offer package including a color-coded ROW drawing at Brian's request and forwarded it to him for his review and approval.

In speaking with him he advised me he did not intend to sign off on the County's offer. I queried him as to why he does not want to enter in to an agreement with the County and he told me he sees no advantage in it for his mother. I explained why the permanent easement was necessary but Brian stated categorically that he is not interested in allowing an easement. He told me the drainage his working fine and he see no reason to make any changes.

I asked him if his final decision is not to allow the County any easement (permanent or temporary) for the improvement of this drainage and he replied that it is his final decision. He then asked me what happens at this point. I advised him the County Engineer has three options: 1) Abandon the project, 2) modify the project to restrict improvement within the existing right-of-way, 3) invocation of Eminent Domain proceedings.

Mr. Ahlschwede advised his refusal and will see how the County wants to proceed.

SIGNED:


Right-of-Way Agent

LANCASTER COUNTY ENGINEERING DEPARTMENT

NEGOTIATOR'S CALL REPORT

Property Owner: Madeline Ahlschwede

Project No. Culvert E-150

Address:

Tract No.

Call Date	Time In	Time Out	Amount Offered	Visit Number	Persons Present
Nov. 25, 2014	8:30				Doug Pillard Barb Cisler (Daughter)

NOTE: Appointments are to be scheduled during regular business hours whenever possible. In the event this proves impossible, the negotiator will provide a written critique outlining, the need for special circumstances, prior to approval by the Supervisor &/or Department Head.

Remarks:

I met Mrs. Cisler at the culvert site to look at the area and impacts of the proposed permanent easement. I rough staked the easement corners. I explained that the existing culvert bottom is rusting out and a road failure is possible in the future. That is the reason for the culvert replacement project. There is also some erosion at the outlet that is taken into account with the design. Mrs. Cisler did not see any problems but asked if the easement could be reduced from 70 feet out to 60 feet. If that would make them comfortable with signing the easement, I said we could make that work. Mrs. Cisler took several pictures of the easement area and the culvert. She was leaving town with her mother soon. She asked that the revised documents be sent to her in Wisconsin and she could probably get her mother to sign or she may sign them as she has power of attorney.

Signed: _____


Negotiator's Signature

Nov. 25, 2013
Date

LANCASTER
COUNTY
ENGINEERING

Don R. Thomas
County Engineer

Kenneth D. Schroeder - Deputy
County Surveyor

DEPARTMENT

November 25, 2013

Ms. Barb Cisler
104 Seminole Rd.
Janesville, WI. 53545

Re: Contract/Documents
Culvert: CP-E-150
Tract: 2
Location: NW 112th & W. Mill Rd.
Lancaster County, NE

Dear Ms. Cisler:

In regards to your meeting with Mr. Douglas Pillard, Design Engineer, Lancaster County, Nebraska, I am enclosing documents that will require your mother's signature or your signature in the event you exercise your "Power of Attorney" to conduct this transaction on behalf of your mother.

The enclosed package includes originals and one (1) copy of the respective documents. The two originals contract documents, as well as the Permanent Easement Agreement will need to be signed in the presence of a Notary Public and returned to our office. The batched data marked "Copy" is to be retained by you for your records.

In the event you choose to sign as Personal Representative for your mother, Madeline Ahlschwede, you will need to photocopy documentation giving you Power of Attorney to sign for your mother and return this documentation with the enclosed information.

Your signatures will need to correspond to the indicated contracts, deeds, etc., as the County Attorney's Office will not approve the contract for payment with any discrepancies or without the Notary Signature and accompanying seal on the back page of each of the signature pages.

I have enclosed a pre-addressed return envelope for your convenience. If you have any questions, don't hesitate to call. I can be reached at my office (402) 441-7681.

Thank you for your prompt consideration in this matter.

Sincerely,

Jim Shotkoski
Right-of-Way Manager

Phone 402-441-7681

444 Cherrycreek Road, Bldg. C

Lincoln, Nebraska 68528

Fax 402-441-8692

James J. Shotkoski

From: James J. Shotkoski
Sent: Thursday, January 02, 2014 11:16 AM
To: 'barbcisler@hotmail.com'
Subject: FW: Culvert CP-E-150 Docs
Attachments: Ahl Permanent Easement Agreement.doc as of 1-2013.doc; Ahl Permanent Easement Contract.doc; jim.tif

From: James J. Shotkoski
Sent: Thursday, January 02, 2014 11:13 AM
To: 'barbcisler@hotmail.com'; Pamela L. Dingman
Cc: Douglas A. Pillard
Subject: Culvert CP-E-150 Docs

Barb,

The above attachments are for your review. They include the Permanent Easement Contract, inclusive of the Special Provisions your mother asked we include, as well as the Permanent Easement Agreement which will be recorded with the Lancaster County Register of Deeds Office. In addition, I have included an aerial photo of the impacted easement area for your records.

If the above is satisfactory, I will contact your mother and sit down with her to sign the contracts, etc. Upon signature, the contracts will be forwarded to the Lancaster County Board of Commissioners for their signature. Upon execution, we will process the payment for the easement to your mother. Once the payment has been received by your mother, we will record the Permanent Easement Agreement with the County Register of Deeds Office.

If you have any questions, feel free to call, 1-402-441-7681.

Jim Shotkoski
Right-of-Way Manager
Lancaster County, Nebraska

James J. Shotkoski

From: Barb Cisler [barbcisler@hotmail.com]
Sent: Friday, January 03, 2014 3:10 PM
To: James J. Shotkoski
Subject: RE: Culvert CP-E-150 Docs

James,
I received the updated documents and was able to open them. I think that the language needs to be clarified about the rock that needs to be added to stop the erosion on the side of the culvert that is on Madeline Ahlschwede's side. The document talks about adding rock to the driveway sided of the culvert, but there is no driveway side on my mom's side.....just a big bank down the side of the road. There is a lot of erosion on that side of the culvert which is currently about 2 feet deep. This erosion could be controlled by large rocks on the east side of the road where the water comes out of the culvert. This would be on the easement that Lancaster County is seeking. This needs to be added to the agreement.

Thank you for your attention to this matter.
Barb Cisler

From: jshotkoski@lanaster.ne.gov
To: barbcisler@hotmail.com
Subject: FW: Culvert CP-E-150 Docs
Date: Thu, 2 Jan 2014 17:15:30 +0000

From: James J. Shotkoski
Sent: Thursday, January 02, 2014 11:13 AM
To: 'barbcisler@hotmail.com'; Pamela L. Dingman
Cc: Douglas A. Pillard
Subject: Culvert CP-E-150 Docs

Barb,

The above attachments are for your review. They include the Permanent Easement Contract, inclusive of the Special Provisions your mother asked we include, as well as the Permanent Easement Agreement which will be recorded with the Lancaster County Register of Deeds Office. In addition, I have included an aerial photo of the impacted easement area for your records.

If the above is satisfactory, I will contact your mother and sit down with her to sign the contracts, etc. Upon signature, the contracts will be forwarded to the Lancaster County Board of Commissioners for their signature. Upon execution, we will process the payment for the easement to your mother. Once the payment has been received by your mother, we will record the Permanent Easement Agreement with the County Register of Deeds Office.

If you have any questions, feel free to call, 1-402-441-7681.

Jim Shotkoski

NW 112th St

(292.2)
292.52

273.0

448
460
324



67

2630 / 2629.17 / 2629.6 / (2629)

1810.07

2643.20

LOT 15
18.79 ± Ac. Total
18.32 ± Ac. Net

DEED BOOK #728, Pg.123
#70-7149
#78-1462
#78-8493

LOT 16
20.00 ± Ac. Total
19.50 ± Ac. Net

#70-7149
#75-23215
#78-1462

1314.95

14

1

1315.00

592.5

al
t

33'

40'

40'

33'

40'

33'

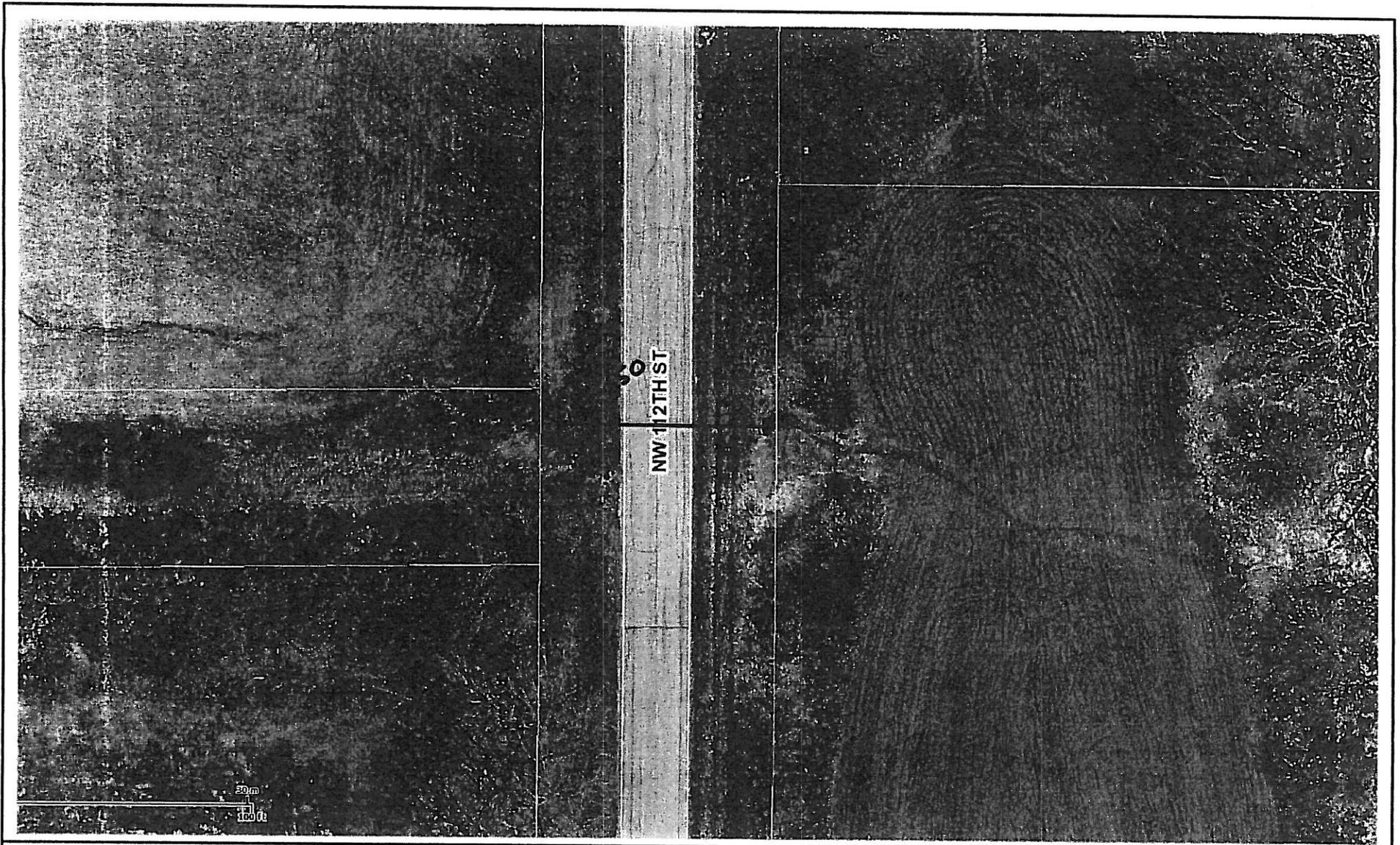
40'

2644.0

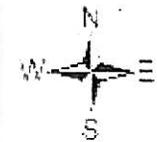
2644.62

W Mill Rd

67 25'52"



Lancaster County/City of Lincoln GIS Map



Printed Dec 19, 2013

1" = 46.6'

DISCLAIMER: The information is presented on a best-efforts basis, and should not be relied upon for making financial, survey, legal or other commitments. If you have questions or comments regarding the data displayed on this map, please email ags@lincoln.ne.gov and you will be directed to the appropriate department.

James J. Shotkoski

From: James J. Shotkoski
Sent: Thursday, January 16, 2014 9:21 AM
To: 'barbcisler@hotmail.com'
Cc: Douglas A. Pillard
Subject: FW: Culvert CP-E-150
Attachments: Ahl Permanent Easement Contract (3).doc

From: James J. Shotkoski
Sent: Thursday, January 16, 2014 9:18 AM
To: 'barbcisler@hotmail.com'
Cc: Douglas A. Pillard
Subject: Culvert CP-E-150

Barb,

I apologize for not replying any sooner to our conversation regarding your Mother's property on NW 112th & W. Mill Rd. The design engineer was out of the office last week and I was unavailable for a couple of days this week; however, I did have an opportunity to speak with him this morning. The County does not have a problem including a special provision addressing the fact erosion issues will be addressed in a timely fashion on an "As Needed" basis.

I have included a copy of the proposed language for your review. This is the only change. Everything else is as previously sent. If this is satisfactory, give me a call as I would like to schedule an appointment with your mother to go over the contract, etc., and sign the needed documents so as to insure this contract is included for work to completed this construction year.

My number is (402) 441-7681.

Thank You.

Jim Shotkoski
Right-of-Way Manager
Lancaster County, NE.

January 27, 2014

CERTIFIED MAIL

Madeline Ahlschwede
6305 O Street
Apt. 304
Lincoln, NE 68510

RE: Project No. CP-E-150
W Mill Rd on NW 112 St.
Tract 2

Dear Ms. Ahlschwede:

Reference is made to our past offer of compensation for right-of-way required by Lancaster County on the above-mentioned project. Your real estate that is affected is legally described as part of Tract No. 2 consisting of 0.05 acre, more or less inclusive of existing right of ways situated in Lot 15, I.T., in the SW ¼ of Section 4, Township 11 North, Range 5 East of the 6th Principal Meridian, Lancaster County, Nebraska.

Our last and best offer of compensation for the right-of-way to be acquired is as follows:

Permanent Easement:

0.05 Acres at \$ 6,000.00/acre x 90%	\$ 270.00
Title Extension Fee	<u>\$ 55.00</u>
Total Compensation	\$ 325.00

To date, our negotiator has been unable to arrive at an agreeable settlement. We would appreciate an acceptance of our offer.

However, if you do not make an attempt to contact this office in the near future towards consummating this transaction, we will assume this acquisition will have to be made through the process of Eminent Domain.

Please be assured our only purpose in initiating Eminent Domain proceedings would be to assure ourselves the right-of-way will be available to meet our construction schedule.

In the event it becomes necessary to initiate Eminent Domain proceedings, it would still be possible for you to consummate this transaction, if you so desire, at anytime prior to the holding of the hearing on the proceedings.

A further explanation of the Eminent Domain procedure is enclosed for your information.

If you have any questions, please feel free to contact this office.

Sincerely,

Pamela L. Dingman, P.E.
Lancaster County Engineer

Enc.
PLD/JJS
cc: Barb Cisler

MOTOROLA

608-207-1196



After talking to my mom, she isn't interested in talking to anyone about the culvert. I am really sorry.
Barb Cisler

4:54pm, February 3

Compose message

Send



MOTOROLA