



United States Department of the Interior

BUREAU OF INDIAN AFFAIRS
Great Plains Regional Office
115 Fourth Avenue SE, Suite 400
Aberdeen, South Dakota 57401

DEC 15 2020

IN REPLY REFER TO:
Executive Direction
MC-100

CERTIFIED MAIL-RETURN RECEIPT REQUESTED- 7020 0640 0000 5188 7389

Jeffrey A. Webb, Partner
Norton Rose Fulbright US LLP
111 W. Houston Street, Suite 1800
San Antonio, Texas 78205

Dear Mr. Webb:

This letter shall serve as a formal **Notification of Trespass Determination** (Notice) for the unauthorized occupancy, use of, and action on the lands described herein, which are located within the exterior boundaries of the Fort Berthold Indian Reservation. The lands are held in trust by the United States for various individual Indian landowners.

On October 29, 2020, the Assistant Secretary – Indian Affairs vacated as not consistent with relevant regulations the July 2, 2020, determination¹ that the transmission pipeline Tesoro High Plains Pipeline Company LLC (Tesoro) owns and operates on the Fort Berthold Indian Reservation (Reservation) is located on Indian trust land without an approved right-of-way.² The Assistant Secretary remanded the matter and instructed me to issue a new decision consistent with the relevant regulations and covering all of the tracts of trust land owned by individual Indians within the pipeline right-of-way.

The right-of-way covers 90.85 acres over 44 separate tracts of trust land. This decision only applies to the 34 tracts of allotted trust land owned by individual Indian landowners.³ The Tribe owns the remaining 10 tracts⁴ and reached an agreement with Tesoro on the Trespass or Unauthorized Use and a renewal of the right-of-way in 2017.⁵ This decision addresses compensation for the Unauthorized Use for the remaining 34 allotted Indian trust tracts for the

¹ Letter from Timothy LaPointe, Regional Director, Bureau of Indian Affairs, Great Plains Office, to James R. Sanford, Director, Right of Way and Real Estate, Tesoro Companies, Inc. (July 2, 2020) (hereinafter July 2nd Decision).

² Decision of the Assistant Secretary – Indian Affairs, *Tesoro High Plains Pipeline Co. LLC v. Great Plains Regional Dir., Bureau of Indian Affairs* (Oct. 29, 2020) (hereinafter AS-IA Decision).

³ See Appx. A, which lists the legal descriptions for the 34 tracts.

⁴ 10 tracts in 1/1 or 100% Tribal ownership totaling 20.05 acres, plus 10 ownership interests in the allotted tract totaling 5.63 equivalent acres, total 25.65 1/1 and equivalent acres.

⁵ Tesoro agreed to pay the Tribe nearly \$2,000,000 per acre for past damages and a 28-year renewal. The Tribe owns about 25.65 acres of the 90.85-acre right-of-way. Tesoro applied to the Bureau for approval of the right-of-way for the tribal tracts on June 1, 2018. See Letter from Colby L. Branch, Crowley Fleck PLLP, to Kayla Danks, Superintendent, Bureau of Indian Affairs, Fort Berthold Agency (June 8, 2018). In response, the Agency Superintendent informed Tesoro that its application was incomplete due to an issue with the appraisal.

period June 18, 2013 to December 9, 2020.⁶ This decision does not grant a new right-of-way for the pipeline covered by this trespass.

It is my decision that the Back Rent or Unauthorized Use Payment associated with this trespass as assessed for the thirty-four (34) allotted tracts identified in Appendix A for the period June 18, 2013 through December 10, 2020, is in the amount of \$2,247,457.00⁷ plus interest at 8% in the amount of \$1,714,450.00 for a total amount of \$3,961,907.00 owed to the Allotted Landowners. This amount is due within thirty (30) calendar days of receipt of this letter.

Background

The Reservation is home to the Mandan, Hidatsa, and Arikara Nation or the Three Affiliated Tribes (Tribe) and is located in central North Dakota on the Missouri River. The Reservation consists of nearly a million acres, about half of which is held in trust by the United States, including 343,000 acres of allotted land and 80,000 acres of tribal trust land.⁸

The Tesoro pipeline right-of-way was initially granted on June 18, 1953, renewed in 1973 and renewed again in 1993.⁹ The 1993 renewal was by grant dated February 7, 1995, for a 20-year term beginning June 18, 1993.¹⁰ The most recent right-of-way expired on June 18, 2013.¹¹

The record is not clear regarding the date on which Tesoro began to negotiate with the individual landowners for renewal of the right-of-way.¹² However, the Bureau's records show that the first written offers from Tesoro were sent to the individual landowners sometime after May 11, 2017.¹³ On January 30, 2018, the Bureau, through the Fort Berthold Agency (Agency), sent a 10-day notice to Tesoro to show cause why its pipeline should not be deemed to be in trespass.¹⁴ Tesoro responded by informing the Bureau that it was engaged in good faith negotiations with the allotted Indian landowners for a new right-of-way.¹⁵ On March 23, 2018, Tesoro submitted a right-of-way application to the Bureau, through the Agency.¹⁶ In a letter to the Bureau dated May 14, 2018, an attorney for several landowners confirmed that good faith negotiations were

⁶ JAMES T. GREEN, ROW APPRAISAL REPORT 1 (Dec. 9, 2020) (hereinafter Appraisal Report).

⁷ See page 16 of the AVSO Appraisal Report

⁸ Fort Berthold Agency, <https://www.bia.gov/regional-offices/great-plains/north-dakota/fort-berthold-agency> (last visited Dec. 10, 2020).

⁹ Service Pipeline Company obtained the easement in 1953; Amoco Pipeline Company or British Petroleum/Amoco owned the Pipeline until 2001 when Tesoro, a successor-in-interest to Service Pipeline Company, acquired it.

¹⁰ See Grant of Easement for Right-of-Way to Amoco Pipeline Co. (Feb. 7, 1995).

¹¹ *Id.*

¹² Tesoro has represented that the Tribe advised Tesoro "not to approach tribal members for consent until the MHA Nation had reviewed Tesoro's safety record and qualifications and tribal negotiations were complete." Notice of Appeal from Jeffrey A. Webb, Norton Rose Fulbright LLP, to U.S. Department of the Interior, Interior Board of Indian Appeals 2 (July 31, 2020).

¹³ *Id.* at 3.

¹⁴ Letter from Kayla Danks, Superintendent, Bureau of Indian Affairs, Fort Berthold Agency, to James R. Sanford, Director, Right-of-Way & Real Estate, Tesoro Companies, Inc. (Jan. 30, 2018).

¹⁵ Letter from Colby L. Branch, Attorney, Crowley Fleck PLLP, to Kayla Danks, Superintendent, Bureau of Indian Affairs, Fort Berthold Agency (Feb. 7, 2018).

¹⁶ Email from Colby L. Branch, Attorney, Crowley Fleck PLLP, to Elizabeth Berndt, Bureau of Indian Affairs, Fort Berthold Agency (Mar. 23, 2018, 12:46 MST).

underway.¹⁷ Shortly thereafter on May 18, 2018, the Bureau received a copy of the Tribe's negotiated compensation for settlement of the trespass and renewal of the right-of-way for the tribal tracts. The Tribe requested that the Bureau share the information with the affected landowners.¹⁸ The affected acreage in this Tribally negotiated settlement for the trespass and right-of-way was 20.05 acres in 1/1 status and 5.63 acres in undivided status in allotted trust tracts, for a total of 25.68 acres with a sum of \$2,068,365.00 per acre.¹⁹

After the Bureau shared details of the agreement between Tesoro and the Tribe, negotiations with the landowners appear to have faltered. Two separate groups of landowners filed lawsuits against Tesoro in 2018²⁰ and the Bureau received no notice that further progress was made to resolve either the renewal of the right-of-way or trespass compensation. However, the Bureau did receive written notice that good faith negotiations had ended as of April 21, 2020.²¹ After notice that good faith negotiations had ended, the Bureau confirmed that the pipeline remained in trespass and, on May 14, 2020, sent Tesoro notice to show cause.²² Tesoro responded to the notice to show cause on May 22, 2020, advising that it was preparing to send new offers to the landowners.²³ Thereafter, I issued the July 2nd Decision that the Assistant Secretary vacated on October 29, 2020.

In the October 29, 2020, vacatur and remand by the Assistant Secretary, I was instructed to issue a new decision citing to and consistent with the relevant Bureau regulations for all outstanding landowner tracts within the pipeline right-of-way. I was further instructed to work with the Appraisal and Valuation Services Office (AVSO) to expeditiously obtain an appraisal to provide a fair market analysis of the right-of-way, for the appropriate time period, such that my new decision met the minimum regulatory requirements to address compensation for trespass and provide a basis on which the Bureau could approve any mutually agreed upon new right-of-

¹⁷ Letter from Keith M. Harper, Attorney, Kilpatrick Townsend & Stockton LLP, to Kayla Danks, Superintendent, Bureau of Indian Affairs, Fort Berthold Agency (May 14, 2018). In October 2018, the Bureau became aware that the landowners had filed the two separate lawsuits against Tesoro discussed in note 19, *infra*.

¹⁸ Email from Caleb Dog Eagle, Supervising Attorney, Three Affiliated Tribes, to Kayla Danks, Superintendent, Bureau of Indian Affairs, Fort Berthold Agency (May 18, 2018 17:07 MST).

¹⁹ As per MHA Nation Resolution 17-029-FWF approved February 8, 2017.

²⁰ Two separate proceedings were filed against Tesoro in late 2018. Both were dismissed and one is now pending in the Eighth Circuit Court of Appeals. *See* Appellants' Br., *Chase v. Andeavor Logistics, L.P.*, No. 20-1747, 2020 WL 3493656. The other complaint by a different group of landowners appears to have been dismissed but not appealed. *Hall v. Tesoro High Plains Pipeline Co.*, No. 1:18-CV-217 (D.N.D. 2018). The landowners in *Chase* pursued a trespass claim in District Court against Tesoro for the period 1993-2013, and a second claim for 2013 to the present. The landowners alleged that Tesoro was in trespass from 1993 through 2013 because its right-of-way was invalid and void *ab initio*. This issue is not addressed in this decision. Pursuant to Federal Rule of Appellate Procedure Rule 28(j), Citation of Supplemental Authorities, the landowners filed a letter with the Eighth Circuit Court of Appeals on November 16, 2020, notifying the Court of the AS-IA's October 29, 2020, Vacate and Remand Decision and the AS-IA's November 9, 2020, Guidance Accompanying the Vacate and Remand Decision. *See* Appellants' Rule 28(j) Letter to the Clerk of the United States Court of Appeals for the Eighth Circuit 1, *Chase v. Andeavor Logistics, L.P.*, No. 20-1747, 2020 WL 3493656.

²¹ Letter from Reed Soderstrom, Attorney, Pringle & Herigstad, P.C., to Kayla Danks, Superintendent, Bureau of Indian Affairs, Fort Berthold Agency (Apr. 21, 2020).

²² Letter from Kayla Danks, Superintendent, Bureau of Indian Affairs, Fort Berthold Agency, to James R. Sanford, Director, Right-of-Way & Real Estate, Tesoro Companies, Inc. (May 14, 2020).

²³ Letter from Colby L. Branch, Attorney, Crowley Fleck PLLP, to Kayla Danks, Superintendent, Bureau of Indian Affairs, Fort Berthold Agency (May 22, 2020).

way.²⁴ This appraisal was completed on December 09, 2020 and is discussed below after a summary of the law and regulations that apply to this determination.

Regulatory Framework

The Tesoro right-of-way was granted pursuant to, and is governed by, the Act of February 5, 1948 (1948 Act)²⁵ and its implementing regulations at 25 C.F.R. Part 169. In the 1948 Act, Congress authorized the Secretary of the Interior (Secretary) to grant rights-of-way across allotted lands with the consent of the landowners holding a majority of the ownership interests.²⁶ The Secretary may also grant rights of way across land held in trust for Indian tribes with the “consent of the proper tribal officials.”²⁷ In either case, the Secretary must determine whether the compensation for the grant of a right-of-way is just.²⁸ Congress further authorized the Secretary to promulgate regulations to administer the 1948 Act.²⁹

The Secretary promulgated regulations to implement the 1948 Act in 1951.³⁰ The regulations were modified in 1968³¹ and a few minor modifications to the regulations were made in 1980.³² The regulations were revised substantially in late 2015 and became effective April 21, 2016.³³

As stated in the Executive Summary of the Final Rule, the Bureau’s 2015 revision of the right-of-way regulations was intended “to provide a uniform system for granting rights-of-way over Indian lands by relying primarily on [the 1948 Act] and to allow Indian landowners as much flexibility and control as possible over rights-of-way on their land.”³⁴ Consistent with these regulations, landowners are primarily responsible for negotiating the terms of any grant, and the Bureau is charged with fulfilling its statutory and regulatory obligations

The Final Rule further clarifies the Bureau’s role by stating explicitly that the “BIA does not have the legal authority to limit the amount that Indian landowners charge for a right-of-way.”³⁵ The Bureau, however, does have a responsibility to determine fair market value, and require compensation of not less than such fair market value (unless the landowner(s) agrees otherwise) for a right-of-way over or across individually owned Indian land. In other words, fair market value is a threshold the BIA relies on to determine whether to exercise its delegated statutory and regulatory approval authority under the 1948 Act and 25 C.F.R. Part 169.

²⁴ AS-IA Decision at 6.

²⁵ Act of February 5, 1948, 25 U.S.C. §§ 323-328.

²⁶ 25 U.S.C. §§ 323–324.

²⁷ 25 U.S.C. § 324.

²⁸ 25 U.S.C. § 325.

²⁹ 25 U.S.C. § 328.

³⁰ 16 Fed. Reg. 8,578 (Aug. 25, 1951).

³¹ 33 Fed. Reg. 19,803, 19,804 (Dec. 27, 1968). The Department proposed a substantial revision and “modernization” of the 1951 regulations, but much of the 1951 regulations were retained in the 1968 version.

³² 45 Fed. Reg. 45,909 (July 8, 1980).

³³ See 80 Fed. Reg. 72,492 (Nov. 19, 2015) (publishing final revised regulations); 81 Fed. Reg. 14,976 (Mar. 21, 2016) (revised regulations in effect as of April 21, 2016).

³⁴ 80 Fed. Reg. 72,492 (Nov. 19, 2015).

³⁵ *Id.* at 72,512.

With regard to a holdover grantee – a right-of-way grantee who continues to use or remain in possession of a right-of-way after the grant has expired, such as Tesoro in this instant action – Section 169.410 of the Bureau’s right-of-way regulations describes what actions the Bureau may take against a holdover grantee.³⁶ The BIA must communicate with the Indian landowners in making a determination whether to treat the unauthorized possession as a trespass. Unless the landowners inform the Bureau that the grantee is engaged in good faith negotiations to obtain a new right-of-way, the Bureau may “take action to recover possession on behalf of the Indian landowners, and pursue any additional remedies available under applicable law”³⁷ Importantly, and relevant to these circumstances, the Bureau has the authority to charge the “holdover time” against the new term.³⁸ In addition to these administrative remedies, the Bureau may pursue a forcible entry and detainer action or other remedies available under common law.³⁹ Common law remedies include compensatory damages for actual harm caused by the trespass and damages based on equitable principles.⁴⁰

AVSO Valuation Report

AVSO completed its appraisal report (Appraisal Report) on December 9, 2020. The Appraisal Report was prepared to establish fair market value for two purposes: (1) renewal of the right-of-way for a term of 20 years with a value date of November 18, 2020;⁴¹ and (2) for the holdover term from June 18, 2013 to November 17, 2020 (Back Rent or Unauthorized Use Payment). The Appraisal Report concludes that the fair market value for the 20-year term beginning November 18, 2020, is \$85,000 per acre.⁴² The Appraisal Report calculated “Back Rent” or Unauthorized Use Payment for the holdover term at \$31,450 per acre based on a calculation of 37% of the 20-year term, not including interest.⁴³ This Notification of Determination of Trespass

³⁶ 25 C.F.R. § 169.410 (“If a grantee remains in possession after the expiration, termination, or cancellation of a right-of-way, and is not accessing the land to perform reclamation or other remaining grant obligations, we may treat the unauthorized possession as a trespass under applicable law and will communicate with the Indian landowners in making the determination whether to treat the unauthorized possession as a trespass. Unless the parties have notified us in writing that they are engaged in good faith negotiations to renew or obtain a new right-of-way, we may take action to recover possession on behalf of the Indian landowners, and pursue any additional remedies available under applicable law, such as a forcible entry and detainer action. The holdover time will be charged against the new term.”).

³⁷ *Id.*

³⁸ *Id.*

³⁹ Circuit Courts have uniformly held that federal common law governs an action for trespass on Indian lands. *See Davilla v. Enable Midstream Partners L.P.*, 913 F.3d 959, 965 (10th Cir. 2019) and *United States v. Milner*, 583 F.3d 1174, 1182 (9th Cir. 2009).

⁴⁰ *United States v. Santa Fe Pac. R.R. Co.*, 314 U.S. 339, 344 (1941) (“Indians have a common-law right of action for an accounting of all rents, issues and profits against trespassers on their land.”) (internal quotes omitted); *United States v. S. Pac. Transp. Co.*, 543 F.2d 676, 693-93 (9th Cir. 1976) (holding that damages are available to an Indian tribe against a railroad company that failed to acquire a lawful right-of-way over the Indian reservation). *See also United States v. Pend Oreille Pub. Util. Dist. No. 1*, 28 F.3d 1544, 1551 (9th Cir. 1994) (“Requiring the Utility to reimburse the Tribe for the most profitable use of its land will encourage future applicants for licenses to fully disclose the effect of their projects on Indian reservation lands and current licensees to seek approval to use such lands from the Secretary and Commission.”).

⁴¹ This date represents an assumption the appraiser uses to establish the time frame of the appraisal and is not the actual start date for the right-of-way.

⁴² Appraisal Report at 14.

⁴³ *Id.* at 16.

focuses only on the holdover term from June 18, 2013 to November 17, 2020 for the Back Rent or the Unauthorized Use Payment.

Determination of Trespass

The determination of trespass in this case is straightforward: Tesoro owns an oil transmission pipeline on trust land on the Reservation which it has operated for more than seven years without an approved right-of-way. Tesoro is, therefore, a hold-over grantee and in trespass, and as such is liable for Back Rent or Unauthorized Use Payment.⁴⁴ Tesoro must immediately cease and desist its use of the pipeline and it must pay the enclosed invoice, in full, within thirty (30) calendar days from receipt of this letter. The unauthorized pipeline may not be removed or disposed of unless specifically authorized by the Bureau.

Compensation for the Holdover Period - Unauthorized Use Payment

The method of valuation consists of the value of the right-of-way as determined by the Appraisal Report, plus interest in the amount of 8%, which represents the judgment rate established by the North Dakota court system. The amount due does not include additional damages that may be available under common law. The BIA reserves the right to pursue such damages against Tesoro in accordance with law.⁴⁵

The Back Rent or Unauthorized Use Payment associated with this trespass is assessed for the unauthorized use of the 34 allotted tracts identified in Appendix A for the period of June 18, 2013, through December 10, 2020. The amount is determined to be \$2,247,457.00⁴⁶ The interest rate against this amount is calculated at 8% and equates to \$1,714,450.00. Therefore, the total amount owed to the Allotted Owners is \$3,961,907.00. This amount is due within 30 calendar days of receipt of this letter.

Notice to Interested Parties

A copy of this decision is being provided to each known interested party, or their attorney, by certified mail return receipt requested to ensure that each interested party is made aware of the decision. Interested parties are not required to take any further action. However, any interested party who wishes to appeal this decision may do so in accordance with the appeal instructions provided herein.

Appeal Rights

This decision may be appealed to the Interior Board of Indian Appeals (IBIA) in accordance with the regulations at 43 C.F.R. §§ 4.200-4.340.

Should you choose to appeal this decision, your notice of appeal to the IBIA must be signed by you, or your attorney, and must be either postmarked and mailed (if you use mail) or delivered

⁴⁴ 25 C.F.R. § 169.410.

⁴⁵ The BIA may request the Department of Justice to institute litigation against Tesoro seeking damages available under common law including but not limited to accounting of all rents, issues, and profits.

⁴⁶ See page 16 of the AVSO Appraisal Report.

(if you use another means of physical delivery, such as FedEx or UPS) to the IBIA within thirty (30) days from the date you received this decision. The regulations do not authorize filings by facsimile/fax or by electronic means. Your notice of appeal should clearly identify the decision being appealed. You must send your original notice of appeal to the IBIA at the following address:

U.S. Department of the Interior
Interior Board of Indian Appeals
Office of Hearings and Appeals
801 N. Quincy Street, Suite 300
Arlington, Virginia 22203

You must also send copies of your notice of appeal to: 1) the Assistant Secretary - Indian Affairs, U.S. Department of the Interior, MS-4141-MIB, 1849 C Street N.W., Washington, D.C. 20240; (2) each interested party known to you; and, (3) this office. Your notice of appeal sent to the IBIA must include a statement certifying that you have sent copies to these officials and interested parties and should identify them by names or titles and addresses.

Should you file a notice of appeal, the IBIA will notify you of further procedures. If no appeal is timely filed, this decision will become final for the Department of the Interior at the expiration of the appeal period. No extension of time may be granted for filing notice of appeal.

If you have any questions or need additional information, please contact Rick Clifford, Regional Realty Officer, at (605) 226-7618, or Gregg Bourland, Deputy Regional Director - Trust Services, at (605) 226-7343.

Sincerely,



Regional Director

Enclosure

cc: See Distribution List

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APPENDIX A

Township 149 North, Range 95 West, Fifth Principal Meridian, McKenzie County, North Dakota.

1. Tract # 301-1793; Lot 7, Lot 8, SE $\frac{1}{4}$ of Section 25
 - o Tract # 301-1793; N $\frac{1}{2}$ NE $\frac{1}{4}$ of Section 36
2. Tract# 301-1794; S $\frac{1}{2}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$, Lot 6, Lot 7, Lot 8 of Section 36

Township 149 North, Range 94 West, Fifth Principal Meridian, McKenzie County, North Dakota.

3. Tract# 301-1791; E $\frac{1}{2}$ W $\frac{1}{2}$, Lot 1, Lot 2, Lot 3, Lot 4 of Section 31
4. Tract# 301-715A; NE $\frac{1}{4}$ NE $\frac{1}{4}$, S $\frac{1}{2}$ NE $\frac{1}{4}$, S $\frac{1}{2}$ NW $\frac{1}{4}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ of Section 31

Township 148 North, Range 95 West, Fifth Principal Meridian, Dunn County, North Dakota.

5. Tract #301-880A-B; SE $\frac{1}{4}$ of Section 2
6. Tract #301-880A-D; NE $\frac{1}{4}$ SW $\frac{1}{4}$ NE $\frac{1}{4}$, W $\frac{1}{2}$ SE $\frac{1}{4}$ SW $\frac{1}{4}$ NE $\frac{1}{4}$, W $\frac{1}{2}$ SW $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 2
7. Tract #301-355A; S $\frac{1}{2}$ NW $\frac{1}{4}$, SW $\frac{1}{4}$, Lot 3, Lot 4 less a parcel of land commencing at the SW corner of Lot 4, thence North 330', thence east 495' to the point of beginning, thence east 330', thence north 330', thence west 330', thence south 330' to the point of beginning, all in Section 2.
8. Tract #301-717A; NE $\frac{1}{4}$ of Section 12
9. Tract #301-1001A; E $\frac{1}{2}$ SE $\frac{1}{4}$ of Section 12
10. Tract #301 881A-B; NW $\frac{1}{4}$ of Section 12

Township 148 North, Range 94 West, Fifth Principal Meridian, Dunn County, North Dakota.

11. Tract #301-2206-B; Lot 3, Lot 4 of Section 7
12. Tract #301-2206-A; E $\frac{1}{2}$ SW $\frac{1}{4}$ of Section 7
13. Tract #301-940A; W $\frac{1}{2}$ of Section 17
14. Tract #301-1761; E $\frac{1}{2}$ of Section 17
15. Tract #301-1086A; SW $\frac{1}{4}$ of Section 21

16. Tract #301-1127A C; NW $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 21
17. Tract #301-1127A D; NE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 21
18. Tract #301-1127A F; SE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 21
19. Tract #301-2098-C; E $\frac{1}{2}$ NW $\frac{1}{4}$ of Section 21
20. Tract #301-1125A-D; W $\frac{1}{2}$ W $\frac{1}{2}$ SW $\frac{1}{4}$ of Section 22
21. Tract #301-1744; SW $\frac{1}{4}$ of Section 26
 - o Tract #301-1744; SE $\frac{1}{4}$ of Section 27
22. Tract #301-1050A; W $\frac{1}{2}$ of Section 27

Township 147 North, Range 94 West, Fifth Principal Meridian, Dunn County, North Dakota.

23. Tract #301-832A, N $\frac{1}{2}$ of Section 1
24. Tract #301-833A, S $\frac{1}{2}$ of Section 1

Township 147 North, Range 93 West, Fifth Principal Meridian, Dunn County, North Dakota.

25. Tract #301-618A; Lot 3, Lot 4, E $\frac{1}{2}$ SW $\frac{1}{4}$, SE $\frac{1}{4}$ of Section 6
26. Tract # 301-698A-B; NE $\frac{1}{4}$ of Section 7
27. Tract #301-698A-A; E $\frac{1}{2}$ NW $\frac{1}{4}$, Lot 1, Lot 2 of Section 7
28. Tract #301-1105A-C; SE $\frac{1}{4}$ NW $\frac{1}{4}$, SW $\frac{1}{4}$ of Section 8
29. Tract #301-1105A-B; W $\frac{1}{2}$ NW $\frac{1}{4}$ of Section 8
30. Tract #301-1104A; S $\frac{1}{2}$ SE $\frac{1}{4}$ of Section 8
 - o Tract #301-1104A; N $\frac{1}{2}$ NE $\frac{1}{4}$ of Section 17
31. Tract #301-2134; S $\frac{1}{2}$ NE $\frac{1}{4}$ of Section 17
32. Tract #301-2133; NW $\frac{1}{4}$ of Section 17
33. Tract #301-1734; SW $\frac{1}{4}$ of Section 17
34. Tract #301-1949; N $\frac{1}{2}$ SE $\frac{1}{4}$ of Section 20

APPENDIX B

Allotment ID	ROW Acres	Trespass Assessment	Fair Market Value	Total
A	2.22	\$ 70,000.00	\$ 188,000.00	\$ 258,000.00
B	2.28	\$ 71,000.00	\$ 193,000.00	\$ 264,000.00
C	3.82	\$ 120,000.00	\$ 324,000.00	\$ 444,000.00
D	4.3	\$ 135,000.00	\$ 365,000.00	\$ 500,000.00
E	2.23	\$ 70,000.00	\$ 189,000.00	\$ 259,000.00
F	1.51	\$ 47,000.00	\$ 128,000.00	\$ 175,000.00
G	3.28	\$ 103,000.00	\$ 278,000.00	\$ 381,000.00
H	0.39	\$ 12,000.00	\$ 33,000.00	\$ 45,000.00
I	2.92	\$ 92,000.00	\$ 248,000.00	\$ 340,000.00
J	3.44	\$ 108,000.00	\$ 292,000.00	\$ 400,000.00
K	2.21	\$ 69,000.00	\$ 187,000.00	\$ 256,000.00
L	3.98	\$ 125,000.00	\$ 338,000.00	\$ 463,000.00
M	4.5	\$ 141,000.00	\$ 382,000.00	\$ 523,000.00
N	0.31	\$ 10,000.00	\$ 26,000.00	\$ 36,000.00
O	1.46	\$ 46,000.00	\$ 124,000.00	\$ 170,000.00
P	1.48	\$ 46,000.00	\$ 125,000.00	\$ 171,000.00
Q	3.58	\$ 112,000.00	\$ 304,000.00	\$ 416,000.00
R	2.62	\$ 82,000.00	\$ 222,000.00	\$ 304,000.00
S	0.34	\$ 11,000.00	\$ 29,000.00	\$ 40,000.00
T	2.08	\$ 65,000.00	\$ 176,000.00	\$ 241,000.00
U	3.68	\$ 115,000.00	\$ 312,000.00	\$ 427,000.00
V	0.74	\$ 23,000.00	\$ 63,000.00	\$ 86,000.00
W	0.24	\$ 7,000.00	\$ 20,000.00	\$ 27,000.00
X	0.7	\$ 22,000.00	\$ 60,000.00	\$ 82,000.00
Y	1.95	\$ 61,000.00	\$ 165,000.00	\$ 226,000.00
Z	0.07	\$ 2,000.00	\$ 6,000.00	\$ 8,000.00
AA	1.83	\$ 57,000.00	\$ 155,000.00	\$ 212,000.00
AB	1.51	\$ 47,000.00	\$ 128,000.00	\$ 175,000.00
AC	4.52	\$ 142,000.00	\$ 384,000.00	\$ 526,000.00
AD	1.56	\$ 49,000.00	\$ 132,000.00	\$ 181,000.00
AE	1.48	\$ 46,000.00	\$ 125,000.00	\$ 171,000.00
AF	0.11	\$ 3,000.00	\$ 9,000.00	\$ 12,000.00
AG	1.53	\$ 48,000.00	\$ 130,000.00	\$ 178,000.00
AH	1.95	\$ 61,000.00	\$ 165,000.00	\$ 226,000.00
Totals:	70.80	\$ 2,218,000.00	\$ 6,005,000.00	\$ 8,223,000.00