

Proposed Budget



Proposed Budget - Outdoor Heritage Grant Application Painted Woods Lake Flood Damage Reduction Project McLean County Water Resource District						
August 20, 2018						
	Engineer's Opinion of Probable Cost	Funding Contributions				
Project Expense	High Flow Channel Phase 1	OHF Request	NDGF	State Water Commission Grant	Garrison Diversion Conservancy District	Total Funding
Total Construction	\$483,925.00	\$172,097.65	\$94,061.10	\$217,766.25		\$483,925.00
Engineering - Final Design*	\$36,500.00	\$6,956.61	\$10,693.40	\$16,425.00	\$2,424.99	\$36,500.00
Engineering - Construction	\$36,500.00	\$6,956.61	\$10,668.39	\$16,425.00	\$2,450.00	\$36,500.00
Contingencies (10%)	\$48,575.00	\$24,221.26	\$2,577.11	\$21,776.63		\$48,575.00
Legal & Administrative	\$3,500.00				\$3,500.00	\$3,500.00
Wetland Delineation	\$12,500.00			\$5,625.00	\$6,875.00	\$12,500.00
Geotechnical Engineering	\$15,000.00	\$1,500.00	\$2,000.00	\$6,750.00	\$4,750.00	\$15,000.00
Totals	\$636,500.00	\$211,732.13	\$120,000.00	\$284,767.88	\$19,999.99	\$636,500.00

* Preliminary design completed in 2016

July 9, 2018

North Dakota Industrial Commission
Attn: Outdoor Heritage Fund Program
State Capital – Fourteenth Floor
600 East Boulevard Avenue, Dept. 405
Bismarck ND 58505

Re: Outdoor Heritage Fund Grant Application - Painted Woods Lake Flood Damage
Reduction Project
McLean County Water Resource Board

Dear Outdoor Heritage Fund Advisory Board,

Enclosed is our Outdoor Heritage Fund Grant Application Request for support of the Painted Woods Lake Flood Damage Reduction Project. This is a multiagency project involving a unique natural area in the State of North Dakota, the area surrounding Painted Woods Lake in McLean County. Our program goals for this Project overlap strongly with the directives of the Outdoor Heritage Fund program, including, maintaining and restoring water quality, soil conditions and plant diversity, and enhancing wildlife habitat. We look forward to a successful outcome from your review.

Sincerely,

MCLEAN COUNTY WATER RESOURCE BOARD


Lynn Oberg
Water Board Chairman

Attachments

Outdoor Heritage Fund Grant Application



The purpose of the North Dakota Outdoor Heritage Fund is to provide funding to state agencies, tribal governments, political subdivisions, and nonprofit organizations, with higher priority given to projects that enhance conservation practices in this state by:

Directive A. Providing access to private and public lands for sportsmen, including projects that create fish and wildlife habitat and provide access for sportsmen;

Directive B. Improving, maintaining and restoring water quality, soil conditions, plant diversity, animal systems and by supporting other practices of stewardship to enhance farming and ranching;

Directive C. Developing, enhancing, conserving and restoring wildlife and fish habitat on private and public lands; and

Directive D. Conserving natural areas and creating other areas for recreation through the establishment and development of parks and other recreation areas.

Exemptions

Outdoor Heritage Fund grants may not be used to finance the following:

- A. Litigation;
- B. Lobbying activities;
- C. Any activity that would interfere, disrupt, or prevent activities associated with surface coal mining operations; sand, gravel, or scoria extraction activities; oil and gas operations; or other energy facility or infrastructure development;
- D. The acquisition of land or to encumber any land for a term longer than twenty years; or
- E. Projects outside this state or projects that are beyond the scope of defined activities that fulfill the purposes of Chapter 54-17.8 of the North Dakota Century Code.

NO CONSIDERATION:

In addition to those specific items in law that are ineligible for funding, in the absence of a finding of exceptional circumstances by the Industrial Commission, the following projects will NOT receive consideration for funding:

- A completed project or project commenced before the grant application is submitted;
- A feasibility or research study;
- Maintenance costs;
- A paving project for a road or parking lot;
- A swimming pool or aquatic park;
- Personal property that is not affixed to the land;
- Playground equipment, except that grant funds may be provided for up to 25% of the cost of the equipment not exceeding \$10,000 per project and all playground equipment grants may not exceed 5% of the total grants per year (see Budget Form for how this will be calculated);
- Staffing or outside consultants except for costs for staffing or an outside consultant to design and implement an approved project based on the documented need of the applicant and the expenditures may not exceed 5% of the grant to a grantee if the grant exceeds \$250,000 and expenditures may not exceed 10% of the grant to a grantee if the grant is \$250,000 or less (see Budget Form for how this will be calculated);

- A building except for a building that is included as part of a comprehensive conservation plan for a new or expanded recreational project (see Budget Form for definition of comprehensive conservation plan and new or expanded recreational project); or
- A project in which the applicant is not directly involved in the execution and completion of the project.

Application Deadline

Applications for this grant round cycle are due on **July 15, 2018 at 5:00 p.m. CT.** All information, including attachments, must be submitted by that date. See instructions below for submission information.

Instructions

Please download this Word document (available on the Industrial Commission/Outdoor Heritage Fund Program website at <http://www.nd.gov/ndic/outdoor-infopage.htm>) to your computer and provide the information as requested. You are not limited to the spacing provided except in those instances where there is a limit on the number of words. After completing the application, save it and attach it to an e-mail and send it to outdoorheritage@nd.gov or print it and mail it to the address noted in the next paragraph.

Attachments in support of your application may be sent by mail to North Dakota Industrial Commission, ATTN: Outdoor Heritage Fund Program, State Capitol – Fourteenth Floor, 600 East Boulevard Ave. Dept. 405, Bismarck, ND 58505 or by e-mail to outdoorheritage@nd.gov. The application and all attachments must be received or postmarked by the application deadline. You will be sent a confirmation by e-mail of receipt of your application.

You may submit your application at any time prior to the application deadline. Early submission is appreciated and encouraged to allow adequate time to review your application and ensure that all required information has been included. Incomplete applications may not be considered for funding. **Any item noted with an * is required.**

Oral Presentation. Please note that you will be given an opportunity to make a ten-minute Oral Presentation at a meeting of the Outdoor Heritage Fund Advisory Board. These presentations are strongly encouraged.

Open Record. Please note that your application and any attachments will be open records as defined by law and will be posted on the Industrial Commission/Outdoor Heritage Fund website.

Name of Organization * McLean County Water Resource Board

Federal Tax ID# * 45-600-2231

Contact Person/Title * Lynn Oberg, Chairman

Address * 1237 Riverside Lane

City * Washburn

State * ND

Zip Code * 58577

E-mail Address * obergm@westriv.com

Web Site Address (Optional)

Phone * 701 400 7793

Fax # (if available)

List names of co-applicants if this is a joint proposal

MAJOR Directive: (select the Directive that best describes your grant request)*

Choose only one response

☐ **Directive A.** Providing access to private and public lands for sportsmen, including projects that create fish and wildlife habitat and provide access for sportsmen;

☒ **Directive B.** Improving, maintaining and restoring water quality, soil conditions, plant diversity, animal systems and by supporting other practices of stewardship to enhance farming and ranching;

☐ **Directive C.** Developing, enhancing, conserving and restoring wildlife and fish habitat on private and public lands; and

☐ **Directive D.** Conserving natural areas and creating other areas for recreation through the establishment and development of parks and other recreation areas.

Additional Directive: (select the directives that also apply to the grant application purpose)*

Choose all that apply

☐ **Directive A.** Providing access to private and public lands for sportsmen, including projects that create fish and wildlife habitat and provide access for sportsmen;

☐ **Directive B.** Improving, maintaining and restoring water quality, soil conditions, plant diversity, animal systems and by supporting other practices of stewardship to enhance farming and ranching;

☒ **Directive C.** Developing, enhancing, conserving and restoring wildlife and fish habitat on private and public lands; and

☐ **Directive D.** Conserving natural areas and creating other areas for recreation through the establishment and development of parks and other recreation areas.

Type of organization: (select the category that describes your organization)*

☐ State Agency

☒ Political Subdivision

☐ Tribal Entity

☐ Tax-exempt, nonprofit corporation.

Project Name*

Painted Woods Lake Flood Damage Reduction Project

Abstract/Executive Summary. An Executive Summary of the project stating its objectives, expected results, duration, total project costs and participants.* (no more than 500 words)

The Painted Woods Lake Flood Damage Reduction Project (Project) is centered on Painted Woods Lake, a Sovereign Land of North Dakota (Figure 1). Painted Woods Lake has been a state wide resource for hunting, fishing and general recreation for over a hundred years and it is a long term objective of the Project to improve and protect this resource and the surrounding public resources.

Painted Woods Lake is located at the outlet of the 305 square mile Painted Woods Creek watershed. The large majority of the watershed is privately owned land and is one third in McLean County and two thirds in Burleigh County. The outlet of the Painted Woods Creek watershed has seen some dramatic flood damages over the last 30 years, with there being significant damage to private lands near the lake and to infrastructure at the lake. It is apparent that the Painted Woods Creek watershed does not have an adequate outlet and that the wildlife, fishery, water quality and recreation resources in the area are being adversely affected by flooding.

In 2016, a 255.6 acre parcel of land was purchased on the east side of Painted Woods Lake for resolving water management issues and for enhanced natural resource management (see Attachment 1). The purchase was approved by the Governor of North Dakota, the Natural Area Acquisition Advisory Committee and fully supported by the McLean County Commission. Purchase of this land was led by the North Dakota Natural Resources Trust. It was supported by \$1,113,000 of funding from the North Dakota Natural Resources Trust, the American Foundation for Wildlife, Pheasants for the Future (private donation total \$286,000), North Dakota Game and Fish (\$286,000) and federal sources (\$541,000). After the purchase the ownership of this parcel was transferred to the North Dakota Game and Fish Department (NDGF) which is managing the land as the Landgren-Hauck Wildlife Management Area (WMA).

The purchase of the new Landgren-Hauck WMA allows two main objectives of the Project to be obtained:

1. Construction of Phase 1 of a high flow channel on the east side of Painted Woods Lake to prevent erosion, sedimentation and water quality damages occurring during periods of flooding when break out flows to the Missouri River from the lakes northwestern side occur. The high flow channel will be constructed along a degraded natural channel named Goose Creek. The high flow channel will divert flood waters into the east side of Painted Woods Lake and away from areas of break out flows, establishing a long term stable outlet for the Painted Woods Creek watershed, and preventing ongoing erosion and sedimentation.
2. Construction of wildlife enhancements at the same time as the high flow channel. Creating wildlife habitat within this new parcel will substantially improve the wildlife habitat found there.

It is expected that the High Flow channel will significantly reduce the erosion, sedimentation and water quality damages that occur during flooding, as well as provide additional high quality habitat in the new WMA.

Total project cost is estimated at \$636,500 and will be completed in 2019. Project partners presently include the State Water Commission, ND Game and Fish, Garrison Diversion Conservancy District and the McLean County Water Resource Board. The American Foundation for Wildlife is a Project supporter. Letters of support are found in Attachment 2.

Project Duration:* (Please include information regarding the intended time schedule for drawing down funds if your application is approved by the Industrial Commission.)

Final design will be completed in late 2018 and winter 2019. Bidding is expected in April 2019 with construction in the June to September 2019 time period.

Amount of Grant request \$218,132.12

Total Project Costs \$636,500.00

(Note that in-kind and indirect costs can be used for matching funds)

A minimum of 25% Match Funding is required. Amount of Matching Funds \$*

Please indicate if the matching funds will be in-kind, indirect or cash.

Amount of Match	Funding Source	Type of Match		
\$20,000	Garrison Diversion Conservancy District	<input checked="" type="checkbox"/> Cash	<input type="checkbox"/> In-Kind	Indirect
\$278,367.88	State Water Commission	<input checked="" type="checkbox"/> Cash	<input type="checkbox"/> In-Kind	Indirect
\$120,000.00	North Dakota Game and Fish	<input checked="" type="checkbox"/> Cash	<input type="checkbox"/> In-Kind	Indirect
		<input type="checkbox"/> Cash	<input type="checkbox"/> In-Kind	Indirect

Please provide verification that these matching funds are available for your project. Note that effective as of July 1, 2015 no State General Fund dollars can be used for a match unless funding was legislatively appropriated for that purpose.

Preliminary engineering plans and concept study were supported by \$98,800 in funding from the McLean WRD and \$53,200 in funding from the State Water Commission (\$152,000 total).

Certifications *

X I certify that this application has been made with the support of the governing body and chief executive of my organization.

X I certify that if awarded grant funding none of the funding will be used for any of the exemptions noted on Page 1 of this application.

Narrative

Organization Information – Briefly summarize your organization’s history, mission, current programs and activities. *

Include an overview of your organizational structure, including board, staff and volunteer involvement. (no more than 300 words)

The McLean County Water Resources District (McLean WRD) has been in existence for many decades and is governed by a three person board. It has the responsibility within McLean County to manage, conserve, protect, develop and control waters of the state, both navigable and non-navigable, surface or subsurface, the control of floods, the prevention of damage to property therefrom, all to the benefit of public purposes. It is the policy of the McLean WRD to provide for management, conservation, protection, development and control of water resources on a watershed basis, to work cooperatively with other resource agencies to strengthen and mutually support related programs, and to protect and promote the health, safety and general welfare of the people of North Dakota.

The McLean WRD manages a variety of programs including those related to drainage permits, legal drains, maintaining, protecting and controlling streamflow, protection and maintenance of water bodies, managing flooding issues, protection and maintenance of water quality and construction, operation and maintenance of a variety of dams.

The McLean WRD does not have staff, but does obtain financial management services from the McLean County Auditor. To accomplish program goals the McLean WRD retains professional services for legal and engineering needs when necessary.

Important ongoing projects include the Painted Woods Lake Flood Damage Reduction Project, the Lower Buffalo Creek Flood Mitigation Project, management of the Yanktonai Dam, which is rated as having significant hazard, and support of drainage improvement projects at the Cities of Washburn and Underwood.

Some projects completed by the McLean WRD involve volunteers who provide their time, and sometimes equipment. For example, recently several berms along the west side of Painted Woods Lake that were built prior to federal ownership of the land were breached by volunteer effort using personal equipment.

Purpose of Grant – Describe the proposed project identifying how the project will meet the specific directive(s) of the Outdoor Heritage Fund Program *

Identify project goals, strategies and benefits and your timetable for implementation. Include information about the need for the project and whether there is urgency for funding. Please indicate if this is a new project or if it is replacing funding that is no longer available to your organization. Identify any innovative features or processes of your project. Please note that if your proposal provides funding to an individual, the names of the recipients must be reported to the Industrial Commission/Outdoor Heritage Fund. These names will be disclosed upon request.

If your project includes tree/shrub/grass planting, please provide a planting plan describing the site design, planting methods, number of trees/shrubs by species and stock size, grass species and future maintenance. A statement certifying that the applicant will adhere to USDA-NRCS tree/shrub/grass planting specifications along with the name of the governmental entity designing the planting may be substituted for a planting plan.

If your project includes Section 319 program funding, please provide, in detail, the specific best management practices that will be implemented and the specific projects for which you are seeking funding.

If you are requesting funding for fencing, please note that the Board/Commission's preference is for a minimum cost share of 40% by the recipient. Please include detailed information on the type of fencing to be installed, whether funding is requested for boundary fencing, new or replacement of existing fencing, and/or cross fencing.

Response

Painted Woods Creek, which has a 305 square mile watershed, enters the north end of Painted Woods Lake. Under normal conditions water flows south and west through the lake to its outlet, a channel known as Merry's Creek, through which water flows approximately 5000-ft to the Missouri River. Snow and ice accumulations in the northern end of the lake, along with cattails that have grown there after 2007, frequently restrict spring floods from flowing through the lake to Merry's Creek, particularly after winters of moderate to heavy snowfall. When this happens, flood waters break out at multiple locations north of the lake, flowing westward from Painted Woods Creek between US Highway 83 and the lake (Figure 1). Flood waters then flow west at multiple locations cross country through private lands to the Missouri River, causing gully erosion, head cutting of overflow channels on private lands and damage to local roads.

An alternatives analysis (Moore Engineering, inc., January 2016) identified that a degraded natural channel on the east side of Painted Woods Lake, named Goose Creek, could be restored and enlarged to provide a high flow channel into the east side of the lake (Figure C-201). The high flow channel would not convey water during periods of normal or low flows, but only during periods of flood. With its construction the Phase 1 High Flow Channel will begin to divert flood waters into the east side of Painted Woods Lake and away from areas of break out flows, helping establish a long term stable outlet for the Painted Woods Creek watershed, and preventing ongoing erosion and sedimentation.

There is a second phase of the High Flow Channel project which would provide better inlet conditions for the channel. The second phase is waiting for the purchase of another parcel of land north of the Landgren-Hauck WMA and will increase the overall effectiveness on the flood mitigation benefits the channel will provide.

The Project specifically meets Directive B by preventing scour, erosion and head cutting that occur during break out flooding, protecting the water quality of the Missouri River. Break out flooding crosses

agricultural lands, damaging the soils and crops found there, along with damaging areas presently forested. Break out flows also damage local roads, preventing access to private lands and which is another source of downstream sedimentation. Preventing break out flooding significantly reduces these damages and improves and maintains water quality and soil conditions in a valuable riparian area.

The Project will also meet Directive C through the construction of wetland areas planted to native vegetation that provide wildlife habitat. Wetland design and planting plans will be coordinated with the NDGF to ensure the work provides quality habitat for the long term consistent with the WMA needs.

The Phase 1 High Flow Channel is a new project that responds to ongoing erosion, sedimentation and head cutting issues. It provides new habitat in the newly established WMA on the east shore of Painted Woods Lake.

Management of Project – Provide a description of how you will manage and oversee the project to ensure it is carried out on schedule and in a manner that best ensures its objectives will be met.*

Include a brief background and work experience for those managing the project.

Management of the final design of construction would be by the McLean WRD, using the services of Moore Engineering. The McLean WRD selected Moore Engineering as their provider of engineering services following the requirements of the North Dakota Century Code 54-44.7. It was Moore Engineering who completed the preliminary design and Opinion of Probable Construction Cost for the Project and they have completed similar projects for other county water resources districts for many years.

Evaluation – Describe your plan to document progress and results. *

How will you tell if the project is successful? Please be specific on the methods you will utilize to measure success. Note that regular reporting, final evaluation and expenditure reports will be required for every grant awarded.

Completion of the construction of Phase 1 of the High Flow Channel will be the primary measure of success. Once the channel and constructed wetlands are complete and vegetation established, both flood damage reduction and wildlife habitat enhancement measures will be in place. There will be warranty conditions in the construction contract regarding establishment of native vegetation that will require replanting areas where the vegetation fails to become established.

It is anticipated that both final engineering and construction phases include monthly reporting by the McLean WRD to granting agencies. Monthly reporting would include short project status reports and summaries of work completed that month along with monthly costs incurred. A final project close out report including a summary of the construction and final expenditure summary will be provided. The McLean WRD has completed this type of reporting to the State Water Commission for multiple projects in the last several years.

The successful bidder will be required to post Performance and Payment bonds. Work will start with a preconstruction meeting and there will be regularly scheduled progress meetings throughout the

project. Specifications for the Project will be based on the ND Standard Specifications for Road and Bridge Design. All these management measures and construction requirements will allow ongoing evaluation of work during the construction period, with timely corrections if necessary.

Financial Information

ATTACHMENT: Project Budget – Using the standard project budget format that is available on the website at <http://www.nd.gov/ndic/outdoor-infopage.htm> , please include a detailed total project budget that specifically outlines all the funds you are requesting. Note that a minimum of 25% match funding is required.*

The project budget should identify all matching funds, funding sources and indicate whether the matching funds are in the form of cash or in-kind services. Effective July 1, 2015 no State General Fund dollars can be used for a match unless funding was legislatively appropriated for that purpose. As noted on the standard project budget format, certain values have been identified for in-kind services. Please utilize these values in identifying your matching funds. **NOTE: No indirect costs will be funded.**

X I certify that a project budget will be sent to the Commission* (see attached budget)

Sustainability – Indicate how the project will be funded or sustained in future years. *

Include information on the sustainability of this project after all the funding from the Outdoor Heritage Fund has been expended and whether the sustainability will be in the form of ongoing management or additional funding from a different source.

The Phase 1 High Flow Channel and associated constructed wetlands are effective measures that will require little maintenance. The high flow channel has been designed to keep flow velocities below thresholds where erosion begins. There will be armoring with riprap and turf reinforcing mat at key points such as bends and outlet area. Both NDGF, which is the owner and manager of the Landgren-Hauck WMA where the High Flow Channel will be located, and the McLean County WRD will be providing long term oversight of the facilities.

Partial Funding – Indicate how the project will be affected if less funding is available than that requested. *

The requested grant would support the final design and construction of the new High Flow Channel Phase 1. Additional project partners would be sought if less funding is available than that requested.

Partnership Recognition - If you are a successful recipient of Outdoor Heritage Fund dollars, how would you recognize the Outdoor Heritage Fund partnership? * Please note it is a requirement that there be signage at the location of the project acknowledging the funding from the Outdoor Heritage Fund if appropriate for your project.

The McLean Water Resources District will provide a sign at the Landgren-Hauck WMA parking area relatively near the construction site that names all project sponsors. The location of Painted Woods Lake and associated WDA/WMA near the Bismarck/Mandan/Washburn communities and excellent highway system result in a very high visitation rate for fishing, hunting and outdoor recreation. The

signage with the Outdoor Heritage Fund listed as a project partner will be viewed and appreciated by all who visit.

Scoring of Grants

All applications will be scored by the Outdoor Heritage Fund Advisory Board after your ten-minute oral presentation. The ranking sheet(s) that will be used by the Board is available on the website at <http://www.nd.gov/ndic/outdoor-infopage.htm> .

Awarding of Grants*

All decisions on requests will be reported to applicants no later than 30 days after Industrial Commission consideration. The Commission can set a limit on duration of an offer on each application or if there isn't a specific date indicated in the application for implementation of the project, then the applicant has until the next Outdoor Heritage Fund Advisory Board regular meeting to sign the contract and get the project underway or the commitment for funding will be terminated and the applicant may resubmit for funding. Applicants whose proposals have been approved will receive a contract outlining the terms and conditions of the grant. Please note the appropriate sample contract for your organization on the website at <http://www.nd.gov/ndic/outdoor-infopage.htm> that set forth the general provisions that will be included in any contract issued by the North Dakota Industrial Commission. Please indicate if you can meet all the provisions of the sample contract. If there are provisions in that contract that your organization is unable to meet, please indicate below what those provisions would be. *

There are no provisions in the sample contract that the McLean County WRD would be unable to meet.

Responsibility of Recipient

The recipient of any grant from the Industrial Commission must use the funds awarded for the specific purpose described in the grant application and in accordance with the contract. The recipient cannot use any of the funds for the purposes stated under Exemptions on the first page of this application.

If you have any questions about the application or have trouble submitting the application, please contact Karlene Fine at 701-328-3722 or kfine@nd.gov

Revised: December 14, 2017

Figures

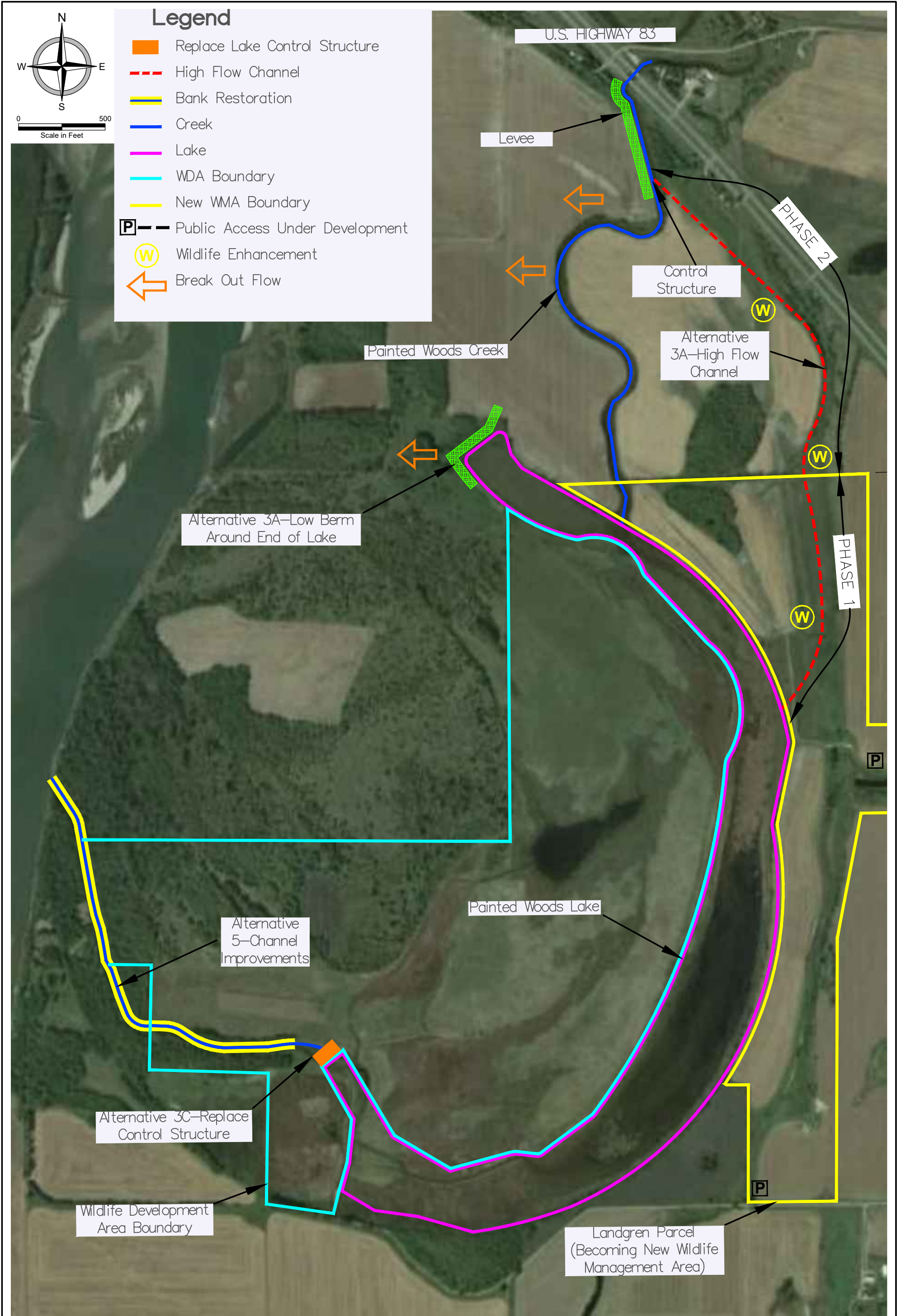
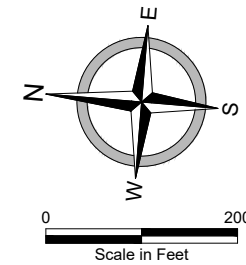
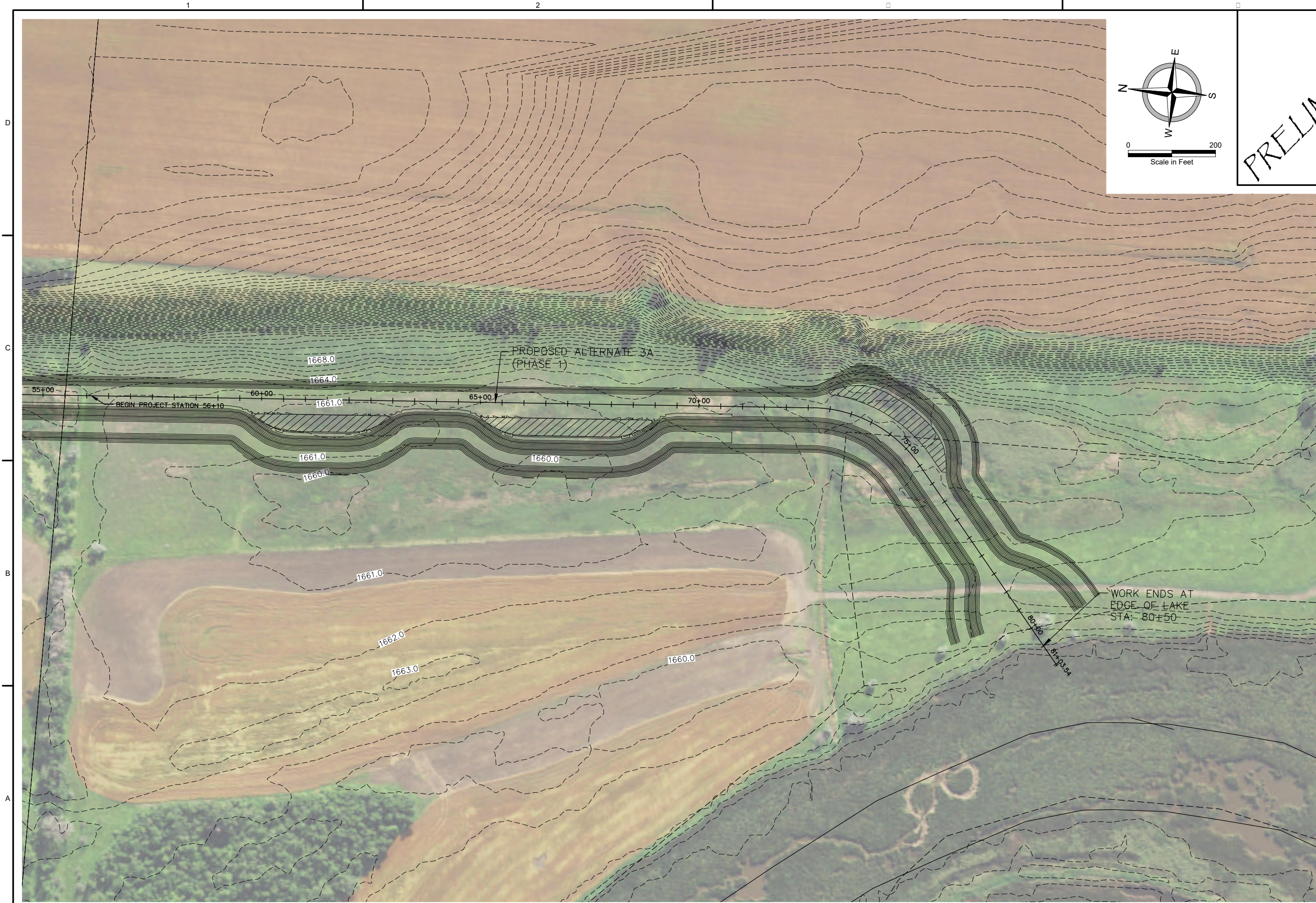


FIGURE 1
PAINTED WOODS LAKE FLOOD MITIGATION PROJECT
MCLEAN COUNTY, NORTH DAKOTA

PROJECT No.	17889
DATE:	10.28.16
REVISED:	---
DRAWN BY:	ASM/AJB
CHECKED BY:	RAC



FILE LOCATION: R:\Civil 3D Projects\17889\DRAWINGS\ENGINEERING\17889-ENG V2017.dwg



PRELIMINARY



WETLANDS HABITAT OF HIGH FLOW CHANNEL PHASE I
PAINTED WOODS LAKE
MCLEAN COUNTY, NORTH DAKOTA
ALTERNATIVE 3A

DATE:	09.26.16
REVISED:	---
REVISED:	---
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REVISED:	---
REVISED:	---
RECORD:	---
PROJECT No.	17889
DRAWN BY:	AJB
CHECKED BY:	KTH
PROJ. MANAGER:	BMS
PROJ. DESIGNER:	SVD

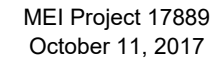
C-201
SHEET 1 OF 1

Proposed Budget

**Proposed Budget - Outdoor Heritage Grant Application
Painted Woods Lake Flood Damage Reduction Project
McLean County Water Resource District**

July 9, 2018

	Engineer's Opinion of Probable Cost	Funding Contributions				
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Totals	\$636,500.00	\$218,132.13	\$120,000.00	\$278,367.88	\$19,999.99	\$636,500.00



Engineer's Opinion of Probable Cost

* Cost share for preconstruction expenses is 35%

Attachment 1



State of
North Dakota
Office of the Governor

Jack Dalrymple
Governor

April 28, 2016

Peter Ressler, President
American Foundation for Wildlife
PO Box 236
Bismarck, ND 58502

RE: American Foundation for Wildlife proposal to acquire land in McLean County

Dear Mr. Ressler;

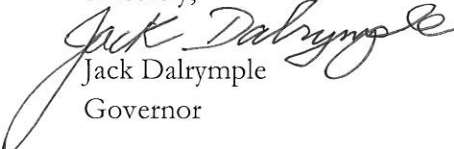
Pursuant to N.D.C.C. § 10-06.1-10 and subject to its requirements and the recommendations of the Natural Areas Acquisition Advisory Committee, I approve the acquisition of 255.6 acres, more or less, of land owned by Robert Landgren in McLean County by the American Foundation for Wildlife.

My decision is based on the fact that the Natural Areas Acquisition Advisory Committee provided a 6-2 vote to approve the recommendation, based on the potential the purchase has for resolving water management issues, while also providing for enhanced natural resource management and public recreation.

The land will be deeded to the North Dakota Game and Fish Department (Department), who will manage and maintain it. The Department has agreed to accept transfer of the property and will pay taxes, as required by state law. The property will be open for public purposes such as hunting, nature study, and general public enjoyment. The Department will allow easements on the property that benefit the State of North Dakota. Pursuant to these terms, I approve this acquisition.

Thank you for your continued work in cooperative agreements with landowners and local officials regarding stewardship and management of natural resources in the State of North Dakota.

Sincerely,


Jack Dalrymple
Governor

C: Natural Areas Acquisition Advisory Committee
McLean County Board of Commissioners
Natural Resources Trust

COMMISSIONER
DOUG GOEHRING



ndda@nd.gov
www.nd.gov/ndda

**NORTH DAKOTA
DEPARTMENT OF AGRICULTURE**

STATE CAPITOL
600 E BOULEVARD AVE DEPT 602
BISMARCK ND 58505-0020

MEMORANDUM

Date: March 30, 2016

To: Jack Dalrymple, Governor

From: Doug Goehring, Chairman
Natural Areas Acquisition Advisory Committee (NAAAC)

Re: NAAAC recommendation on American Foundation for Wildlife proposal to acquire land in McLean County

The Natural Areas Acquisition Advisory Committee (NAAAC) convened pursuant to the authority granted by § 10-6.1-10 of the North Dakota Century Code (NDCC) to provide a recommendation on a proposal from American Foundation for Wildlife to acquire land in McLean County.

As required by § 10-6.1-10, the NAAAC held a local hearing on March 10, 2016 at the McLean County Courthouse in Washburn. The approved hearing minutes are attached for your review, I have also attached the public comments that were received regarding the proposed acquisition and the recommendation of the McLean County Commission.

The NAAAC Committee held a conference call on March 18, 2016 to develop a recommendation on the proposal. Steve Lee, McLean County Commission, moved to recommend approval of the proposed acquisition, Mark Zimmerman, ND Parks and Recreation, seconded the motion.

The motion passed on a vote of 6-2 with no abstentions. The voting record follows:

YEA

Doug Goehring, ND Agriculture Commissioner
Mark Zimmerman, ND Parks and Recreation
Scott Peterson, ND Game and Fish
Steve Lee, McLean County Commission
Larry Kotchman, ND State Forester
Mark Watne, ND Farmers Union

NAY

Mark Giedd, ND Stockman's Association
Daryl Lies, ND Farm Bureau

COMMISSIONER
DOUG GOEHRING



ndda@nd.gov
www.nd.gov/ndda

**NORTH DAKOTA
DEPARTMENT OF AGRICULTURE**

STATE CAPITOL
600 E BOULEVARD AVE DEPT 602
BISMARCK ND 58505-0020

**Natural Areas Acquisition Advisory Committee Public Hearing Agenda
Regarding the American Foundation for Wildlife Proposal
McLean County Courthouse
Washburn, ND
March 10, 2016; 1:00pm**

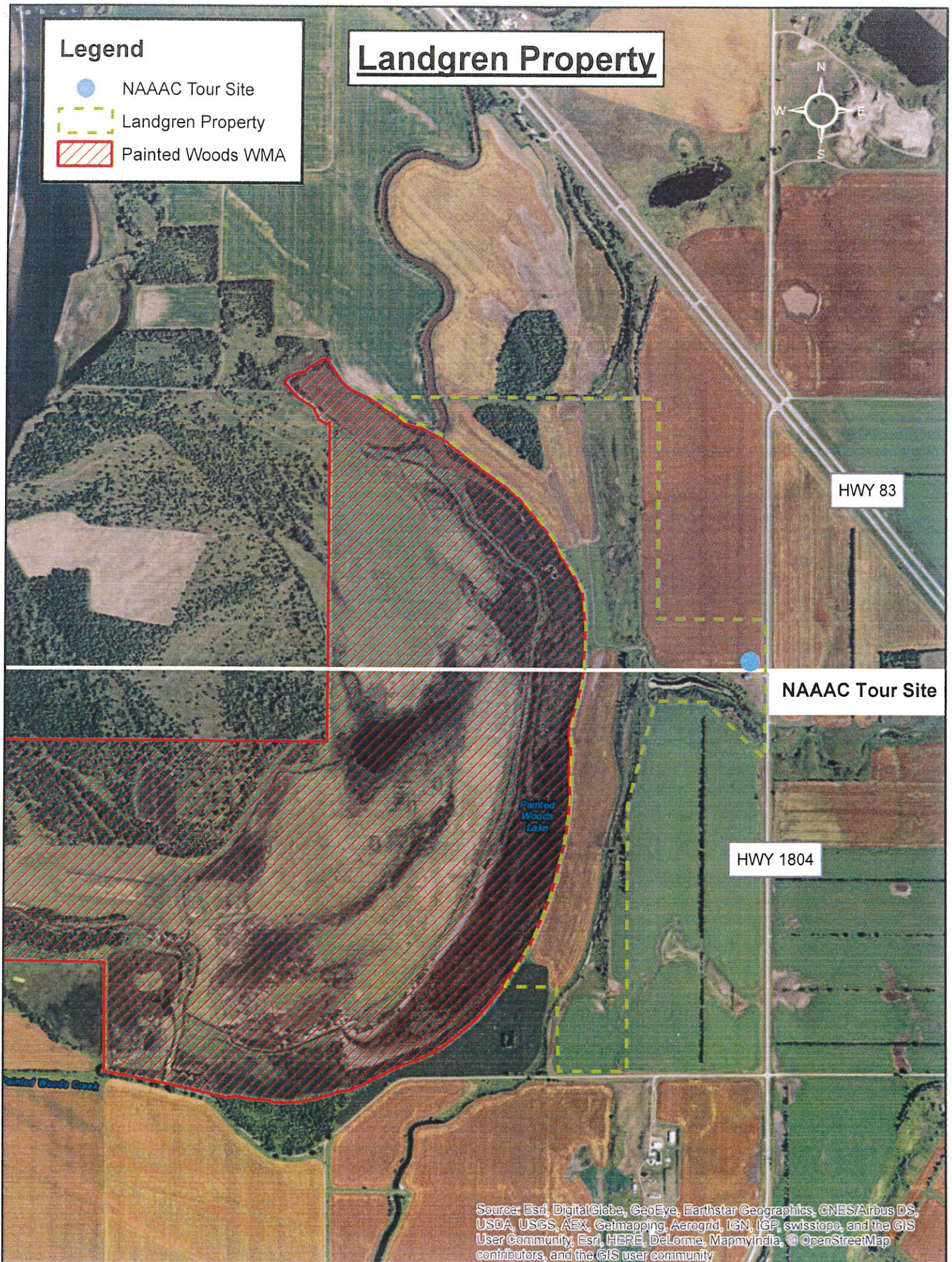
1. Call to Order
2. Roll Call
3. Explanation of N.D.C.C § 10-06.1-10
4. Presentation by American Foundation for Wildlife or Natural Resource Trust
5. Question and Answer Period
6. County Commission Statements
7. Public Comment
8. NAAAC Statements
9. Formulate Advisory Recommendation to the Governor by April 1, 2016
10. Adjourn

Natural Areas Acquisition Advisory Committee (NAAAC)
McLean County Courthouse, Washburn, ND – March 10, 2016, 1 p.m.

NAAAC Members Present:

ND Department of Agriculture – Doug Goehring
ND Farm Bureau – Daryl Lies
ND Farmers Union – Kayla Pulvermacher
ND Game & Fish – Scott Peterson
ND Forest Service – Larry Kotchman
ND Parks & Recreation – Mark Zimmerman
ND Stockmen's Association – Mark Giedd
McLean County Board of Commissioners – Steve Lee

1. Call to Order – Chairman Goehring called the meeting to order at 1:04 p.m.
2. Roll Call – Chairman Goehring conducted roll call. All committee members were present.
3. Explanation of N.D.C.C. § 10-06.1-10 – Chairman Goehring read the attached document explaining the details of N.D.C.C. § 10-06.1-10 and responsibilities of NAAAC.
 - a. The proposal was received February 16, 2016.
 - b. A formal recommendation from NAAAC must be submitted to the Governor for approval/disapproval by April 1, 2016.
4. Presentation by American Foundation for Wildlife or Natural Resource Trust
 - a. Lynn Olberg – Presented pictures of damaged areas due to overland flooding and discussed the history of the proposed area and landowner concerns. Cattails have grown and are acting as a dam where Painted Woods Creek empties into Painted Woods Lake, causing overland flooding to occur. Possible solutions included dredging, but at this time that option would be cost prohibitive and only provide temporary relief as it is likely the area would silt in again in several years. At this time, the McLean County Water Resource Board has paid for the engineering costs.
 - b. Terry Allbee, Natural Resource Trust, presented information in regard to the American Foundation for Wildlife's non-profit status, their intent to donate the purchased land to ND Game and Fish and funding for the proposed land.
 - c. Casey Anderson, ND Game and Fish, discussed the process ND Game and Fish has followed. They have submitted a meeting notice to the McLean County Commission, submitted a meeting notice in the official McLean County newspaper for 2 weeks, sent a letter to every landowner within one mile of the proposed acquisition and have submitted a meeting notice to Washburn and Wilton as they are the only incorporated cities within 12 miles of the proposed acquisition. Per North Dakota State law, an appraisal must be completed and the budget section of the North Dakota Legislature will need to approve this spending. Management of the proposed acquisition will ultimately be in accordance with the ND Game and Fish mission, and Dan Halstad will be the manager of the project. ND Game and Fish will pay the taxes on the property.
 - d. Brock Storrusten, Moore Engineering, presented the specific details of the project in regard to both wildlife management and water management, and stressed that this is a three- to five-year plan. The next step will be working with the ND Water Commission.
5. Question and Answer Period – Issues of concern included endangered species currently living in the area, where the water will be drained to, and the timeline of the project.
6. County Commission Statements – Ladd Erickson, McLean County State's Attorney, discussed the history of the project.
7. Public Comment – Landowners present showed support for the project, but have concern with the timeline in which it will be completed, and who will be held accountable for the completion of the project.
8. NAAAC Statements – A formal NAAAC vote will not be held at this meeting. The public will be able to submit comments on the issue until March 17, 2016, and a NAAAC conference call will be held on March 18, 2016 to formulate a recommendation for the Governor.
9. Adjourn – Chairman Goehring adjourned the meeting at 2:26 p.m.



Agriculture Department
RECEIVED

MAR 16 '16

STATE CAPITOL
Bismarck, North Dakota

Randy Kowalski
1328 N 21st Street
Bismarck ND 58501

March 16, 2016

Natural Areas Acquisition Advisory Committee
Doug Goehring, Commissioner
ND Department of Agriculture
600 East Boulevard Ave Dept 602
Bismarck ND 58505-0020

Dear Advisory Committee:

Please accept this in support of the American Foundation for Wildlife proposal to purchase a tract of land near Painted Woods Lake in McLean County, North Dakota. I am also in favor of the intended transfer of the parcel to the North Dakota Game and Fish Department to provide wildlife management and to facilitate the development of necessary water management controls on the Painted Woods Creek watercourse to the Missouri River.

Recently I became aware of the difficulties and deteriorated condition of the Painted Woods Creek watercourse in the proposed project area. As a nearby property owner (S2SW4SE4 Section 5-143-81) I support the action plan to manage the drainage through Painted Woods Lake and its outlet to the Missouri River as described by McLean County officials during the March 10, 2016, public hearing. The rehabilitation and improved management of the existing drainage is necessary to minimize the potential for additional uncontrolled overland flooding and erosion damage to nearby land.

I appreciate the efforts by those involved to bring this proposal forward. We are thankful to the landowner willing to sell this land for the needed water project and to offer the public unique wildlife opportunities as an addition to the existing wildlife management area operated by the North Dakota Game and Fish Department.

Again, I encourage the Natural Areas Acquisition Advisory Committee to recommend approval of this land purchase.

Sincerely,



Randy Kowalski

cc: McLean County Water Resource Board



P.O. Box 236 • Bismarck, ND 58502 • 701-222-0266 • Fax 701-222-3084

February 10, 2016

Doug Goehring, Commissioner
North Dakota Department of Agriculture
600 E. Boulevard 6th Floor
Bismarck, ND 58502-5020

Agriculture Depart
RECEIVED

FEB 16 '16

STATE CAPITOL
Bismarck, North Dakota

Dear Commissioner Goehring:

The American Foundation for Wildlife (Foundation), a North Dakota 501(C) 3 nonprofit corporation, has enclosed an acquisition proposal for a 255.3 acre parcel of land owned by Bob Landgren in McLean County.

McLean County officials approached other project partners in 2014 requesting assistance in developing and carrying out this project. McLean County, the Foundation and other partners have as their goal finding a long term solution to reduce flooding impacts on private lands adjacent to the Painted Woods Wildlife Management Area and maintaining the integrity of the entire Painted Woods complex.

Location

Portions of Section 9, and Section 16, Township 143 N., Range 81W, McLean County, North Dakota

The land, if acquired, will be gifted by the Foundation to the State of North Dakota with ownership and management by the ND Game and Fish Department (NDGF); NDGF has committed to accepting the land.

This our official request to initiate the Natural Areas Acquisition Advisory Committee process to obtain governor's approval for the land acquisition as provided under North Dakota Century Code §10-06. 1-10. Maps and a full legal description of the property are enclosed as part of the official notice.

If you have any questions on any of the acquisition proposal materials enclosed or any other aspects of the potential project, please let us know

Sincerely,

Pete Ressler
President

Enclosures

cc: Andrea Travnicek, Governor's Office
McLean County Commission
Lynn Oberg, McLean County Water Resource Board
ND Natural Resources Trust
Jeb Williams, NDG&F
Bob Landgren

OFFICIAL NOTICE

ACQUISITION PROPOSAL

**FOR A NORTH DAKOTA
NONPROFIT CORPORATION**

February 10, 2016

AMERICAN FOUNDATION FOR WILDLIFE

**AMERICAN FOUNDATION FOR WILDLIFE
ACQUISITION PROPOSAL
PAINTED WOODS – ROBERT LANDGREN ACQUISITION
McLEAN COUNTY, NORTH DAKOTA**

Introduction – American Foundation For Wildlife

The American Foundation for Wildlife (Foundation) is a North Dakota nonprofit conservation organization established in 1972. A unique private, nonprofit corporation, the Foundation works to make sure our state's important natural resources heritage will always be a part of our future by balancing wildlife conservation and management with the interests and values of our landowners, citizens, and communities.

The Foundation is managed by an elected Board of Directors that is responsible for establishing and managing the vision, policies, and practices of the Foundation, striving to bring balance between landowners, wildlife resource interests, and environmental organizations.

The Foundation is the "buyer" in this planned acquisition, but because of the interests of historical organizations, state and federal conservation and recreation agencies, and other private conservation groups, the Foundation has enlisted and welcomed other partners' participation in this planned acquisition. The partners are assisting in funding and other forms of contribution and are as follows:

ND Game and Fish Department

ND Natural Resources Trust

The Foundation is a charitable organization who will fulfill a part of their mission by donating the acquired property to the ND Game and Fish Department for benefit of and use by the public.

Painted Woods Area – A Short Lesson in History

The woodlands, grasslands and waters that make up the Painted Woods Lake complex have constituted an area of significance to Native Americans for centuries and to European settlers in more recent times. The country was pleasant, with its cooling water and woodland shade in the summer, and its protection from wind during the winter. It has been suggested that the Painted Woods complex might be one of the most historically significant places in the state.

Native Americans utilized the area extensively for hunting, and it was the Native American activity that gave rise to the name. Whether the name ascribed, Painted Woods, springs from fact or legend, or some combination of the two, no one will likely ever know for sure. But it is said the name grew from the practice of warring Indian tribes painting taunting figures to each other on the whitened bark of cottonwood trees in the area (see attached ND Outdoors article).

Early frontiersmen and settlers also spoke and wrote affectionately of the area, noted for its wide variety of game. The Painted Woods area became an important gathering place for local residents. The area even hosted a summer resort and hotel in the early 1900s.

Painted Woods Area – A Time of Great Transition

Prior to 1952 the Lake was a classic “oxbow” lake in the Missouri River bottoms. It had depths exceeding 20 feet and supported a vibrant fishery as well as waterfowl hunting. The proximity of the Lake to the Missouri River allowed surrounding woods and riverine wetlands to combine with the Lake’s features to create a tremendous recreation area.

One year prior to the Garrison Dam completion, a massive flood in the spring of 1952 altered the Lake and its surroundings significantly. The Lake’s depth was reduced to 6’ – 8’; all structures and improvements in the surrounding bottoms were destroyed.

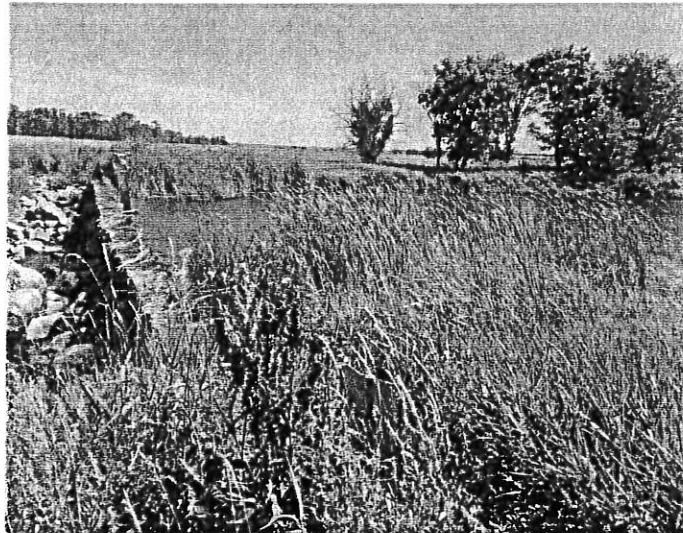
Despite the changes brought on by the 1952 flood, until sometime in the early 1980s, the Lake and the surrounding private land continued to function in a fairly normal manner. The Lake and creek system maintained its connection with the Missouri River, providing a viable fishery. The land surrounding the Lake was farmed, and center pivot irrigation systems were installed west of the Lake. Around 2009 water management issues around the Lake became more challenging. Flooding began to occur on a more frequent basis, adversely affecting adjacent agricultural land, and siltation in the upper end of the Lake lessened the ability of water to pass through.

Painted Woods Area – The Last Twenty-Five Years

In 1988 the U.S. Bureau of Reclamation (BOR) purchased 585 acres of Missouri River bottomland as a component of both the management and mitigation requirements of the Garrison Diversion Unit (GDU). A weir structure was

constructed in the same year under a contract between the BOR, NDSWC, and McLean County Water Resources Board (MCWRB) to restore Painted Woods Lake to its historic elevation. Title to the acquired land was transferred to the US Fish and Wildlife Service (USFWS) as a GDU mitigation feature. USFWS entered into a long-term management agreement with the North Dakota Game and Fish Department (NDGF), creating the Painted Woods Wildlife Management Area (PWWMA) as it currently exists.

The BOR continues to maintain the weir structure that controls the elevation of Painted Woods Lake into Merry's Creek. Of special significance is the fact that since the Lonetree Reservoir has been deauthorized as a GDU feature, Painted Woods Creek, and by definition Painted Woods Lake, has become an integral GDU feature receiving and stabilizing McClusky Canal flows.



Painted Woods WMA – Weir Structure

The North Dakota State Water Commission (NDSWC) has jurisdiction over the lake bed itself, which has an ordinary high water mark established and is designated as state sovereign land.

And finally, McLean County, through its Commission and Water Resource Board, have obligations under Title 61 NDCC over maintaining flows, protecting adjacent private property from flooding and protection of roads, bridges, and other public infrastructure in association with the Lake and its watershed.

It is clear that jurisdiction over the Lake and its watershed is complex, requiring strong interagency and interjurisdictional coordination and planning. That

approach was successful in solving water management and land use problems in the 1980s, and we are confident it will be again with this project.

Painted Woods Today

The Painted Woods Creek watershed consists of 305 square miles, draining just over 195,000 acres in parts of both McLean and Burleigh counties (see attached map). As land use has changed within the watershed, precipitation increased and siltation at the upper end the Lake continued to worsen, flooding has increased in both frequency and severity. Crop and hayland near Painted Woods Creek, at one time subject to occasional seasonal flooding, has now become saturated on a more frequent basis. Some land is no longer suitable for cropping and even some of the hayland is unusable in some years.

Of great concern is the fact that high flows produce overland flooding to the west, adversely affecting other private land and ultimately eroding a new path to the Missouri River. Left uncorrected, this path will result in dewatering Painted Woods Lake and all points below and destruction of the PWWMA complex and its GDU mitigation value.

Following 2009 spring runoff, the MCWRB began receiving landowner complaints about flooding. Significant erosion also occurred that spring, both below the weir structure at the head of Merry's Creek and as part of the overland flooding and head cutting to the west across the Fahlgren property.



Fahlgren property head cutting from Missouri River
caused by overland flooding.

The extreme flooding of 2011 exacerbated every siltation, erosion, and overall water management problem. What was considered to be a 25-year flood event in 1983-84 is now an annual occurrence in normal and even low spring runoff events. More agricultural land continues to be affected, converting former cropland into marginal, sometimes inaccessible hayland.

McLean County officials, neighboring landowners, and project partners have as their desired outcome a long-term solution to the impacts from the increasing frequency of flooding and damage to private property.

Painted Woods - The Landgren Project

McLean County has recognized the Painted Woods Project as a water management project, with potential for enhanced natural resource management and public recreation. Working with Moore Engineering, the McLean County Commission (MCC) and the MCWRB have been exploring a range of water management options since 2012. McLean County has advocated an approach that would both address water management and private land flooding problems and retain, or possibly even enhance, the wildlife, fishery, and overall natural resource values and outdoor experiences that the Painted Woods complex has provided citizens for decades.

McLean County officials approached the Trust in 2014, asking whether we might have an interest in helping explore and implement project solutions. The Trust has done a number of complex, multi-disciplinary projects of this type and has experience putting together partnerships and funding packages, especially working closely with the Foundation. As a result of the request from McLean County, the Trust consulted with the Foundation and other potential partners and concluded that there was potential to assist in planning and funding the project McLean County had in mind.

Two properties, one owned by the Hecht family and a second owned by Bob Landgren, were identified by Moore Engineering as having implications for water management solutions. In the spring of 2015, the Trust contracted with Allied Appraisals to complete an appraisal on both properties. The Hecht family decided not to pursue a land sale; Mr. Landgren decided to continue moving forward with the process. If the Hecht property becomes available at some future date, McLean County officials may be interested in adding a portion of this property to the public land complex, as it would add some additional water management options to reduce flooding and protect private agricultural land.

To ensure the boundaries of the current proposed land sale fit the needs of both the current and future agricultural producers, as well as the water management solutions identified by Moore Engineering and McLean County officials, a land survey was completed in November 2015. Property boundaries were agreed to and the resulting survey identified the following Landgren property description:

Land Description (see attached land maps and full legal description)

Robert Landgren Property

255.3 acres, more or less, located in McLean County and includes parts of Sections 9 and 16, T.143 N., R.81 W.

As ultimate owner, NDGF is required to follow the provisions of 20.1-02-05.1 NDCC. As per provisions of that statute, public notices have been provided, a meeting with the McLean County Commission has occurred, and an appraisal has been completed.

Justification

The ultimate water management solution identified by McLean County is to modify the pattern of inflows from Painted Woods Creek, keeping flows moving to the south and east, around the silt and cattail buildup at the north end of the lake. With the proposed acquisition of the Landgren property many of the flooding problems can be alleviated by beginning the flow modifications at the north end of this property. If the Hecht property would become available the opportunity to complete additional flood relief work would alleviate most of the flooding issues in the Painted Woods area.

Management

The Foundation will transfer the deed to the NDGF, who will manage the property in conjunction with the existing PWWMA.

Wetlands/Water Resources – The NDGF will manage water levels in Painted Woods Lake, in consultation with BOR and other agency partners, in a manner that accommodates GDU management needs, as well as providing the fish and wildlife management options and benefits noted below.

Uplands – This tract contains agricultural fields that can provide valuable food sources for wildlife species wintering in the Painted Woods WMA and adjacent private lands. The NDGF plans to cooperatively farm some of the tillable acres on the tract and seed some of the hill sides, wet areas, and areas adjacent to fence lines and existing habitat to a grass/forb mix conducive to the area's soils as long as these practices are compatible with the NDGF mission.

Wildlife – Featured species on this area would be waterfowl (including Canada geese), ring-necked pheasant, white-tailed deer, and wild turkey. Secondary species include furbearers, neotropical grassland and woodland migrants, and shore birds. The area will be managed in conjunction with the adjacent Painted Woods WMA and Painted Woods Lake. The ability to have food plots on Painted Woods WMA is hampered by access across the bridge on Painted Woods Creek and soils impacted by frequent flooding. The Landgren property will provide managers much better access and more accessible areas for growing annual food plot crops, thus providing important food for wintering wildlife.

Fisheries – Public fishing use of the Painted Woods Creek is typically limited to the shore fishing area just west of Highway 83 bridge and below the Painted Woods Lake weir. The high use usually occurs in the spring of the year and is a valued opportunity for local anglers. Painted Woods Lake fishing pressure is light and occasionally gets some bowfishing effort for carp. The majority of the fishing pressure occurs in the spring and early summer for northern pike. Netting surveys during 2015 showed the fish community in Painted Woods Lake consists mostly of rough fish while yellow perch, northern pike, and walleye do occupy a presence in the lake as well. The most recent stocking in Painted Woods Lake/Creek occurred in 2012 when 11,000 northern pike fingerlings were stocked. Plans are to stock it with 10,000 northern pike fingerlings in 2016.

Endangered Species – This project also has the ability to benefit species identified in the North Dakota State Wildlife Action Plan as threatened or endangered as well as many species of conservation priority. The threatened and endangered species most likely to benefit from this project would be the Northern Long-eared Bat and the Whooping Crane. Also the Monarch Butterfly, a species of conservation priority that has been petitioned for listing under the Endangered Species Act, will benefit from this acquisition.

Public Access – The NDGF plans to construct a parking lot near Hwy 1804 for hunting access. In addition, the NDGF plans to develop an access trail along the NW boundary of the Landgren property and create a new parking lot and lake

access site. If feasible, a new boat access site would be developed here that would allow direct boat access to the lake and adequate parking space.

ISSUES OF SPECIAL CONCERN

Noxious Weeds – Weed control will be assured under long-term management by the NDGF.

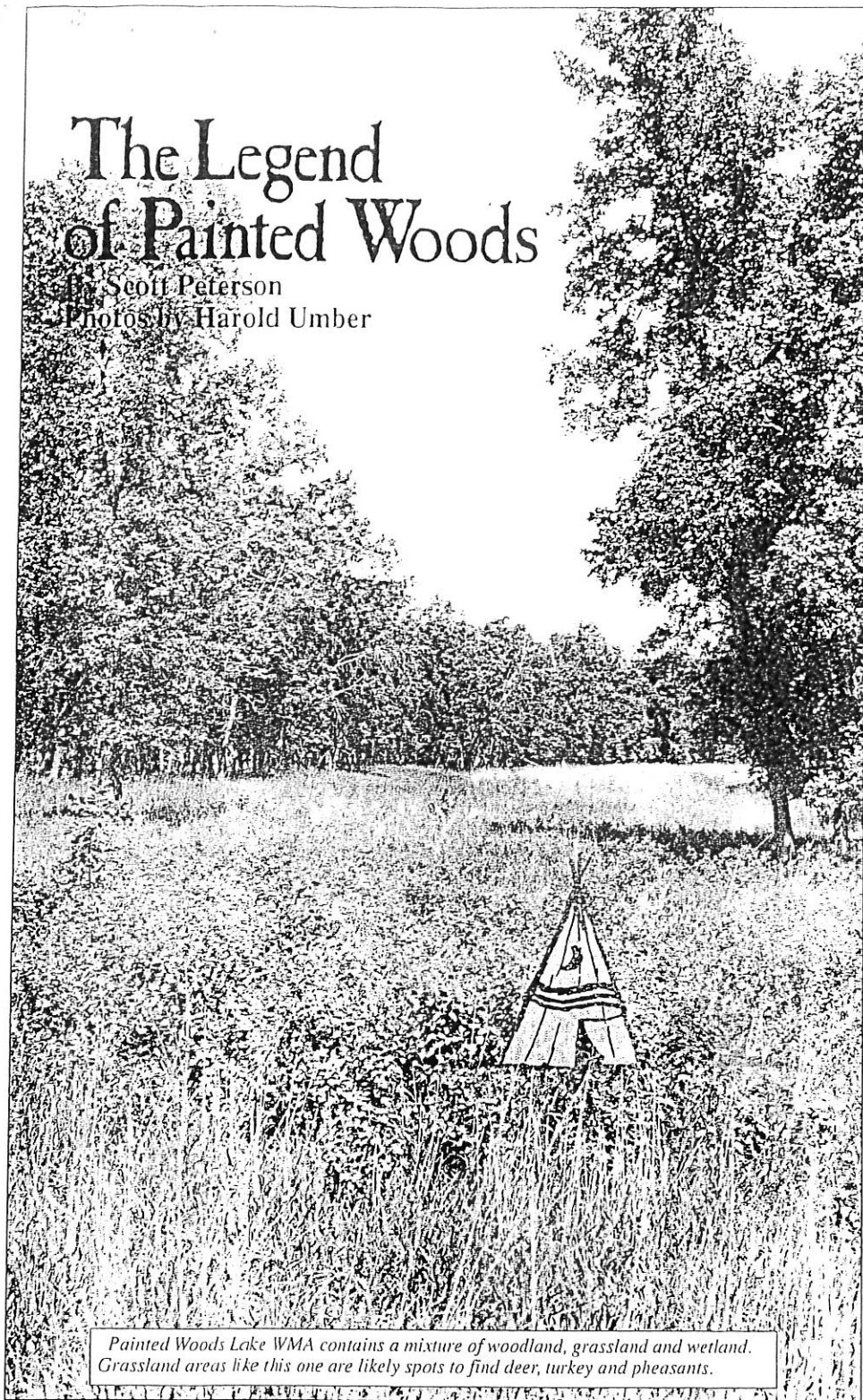
Taxes - The NDGF pays full property taxes as required under North Dakota law (Chapter 57-02.1).

Public Use – NDGF will continue to allow and encourage public use of the WMA compatible with the NDGF mission. Public access to the WMA will improve with the addition of a parking area along the east side of the Landgren property. This will provide much enhanced public use options for the PWWMA.

The Legend of Painted Woods

By Scott Peterson

Photos by Harold Umber



Painted Woods Lake WMA contains a mixture of woodland, grassland and wetland. Grassland areas like this one are likely spots to find deer, turkey and pheasants.

Five miles southeast of Washburn and across the Missouri River from Cross Ranch State Park lies a stretch of timberland known as Painted Woods. It is perhaps one of the most historically significant places in the state.

The U.S. Bureau of Reclamation purchased 585 acres of this Missouri River bottomland in 1988. The Bureau restored a large drained wetland and developed the tract for wildlife, before transferring management authority to the Game and Fish Department. The area is now called

Painted Woods Lake Wildlife Management Area and is open to public use.

More specifically, the Painted Woods Lake WMA is 1 1/2 miles south and one mile west of the intersection of highways 1804 and 83 in McLean County. There is really only one access area, on the south end of the unit.

The tract is comprised of 279 acres of marsh, 211 acres of grassland and 95 acres of woodland. Good waterfowl hunting is possible at Painted Woods, although

access to the marsh is somewhat limited. Deer and pheasant hunting are also popular.

The WMA is fenced and signed, which serves as a handy boundary marker for visitors. Painted Woods Lake, to the east of the WMA, is not part of the management area.

As the Game and Fish Department's representative on the development of this WMA, I spent considerable time in the Painted Woods area. During that time, I became curious about the origin of its name, and have since uncovered some interesting stories.

The area now called Painted Woods once harbored a large gourd-shaped lake several miles long tucked away amidst a forest of elms, ash, willows, and cottonwoods. The Sioux knew it as Broken Axe Lake while early-day trappers called it Medicine Lodge Lake. The surrounding land was considered neutral hunting grounds even between rival tribes. The use of the area as hunting grounds is understandable, considering the wildlife that once flourished there.

Accounts of the late frontiersman, Joseph Henry Taylor, shed light on the history of the area and its wildlife. Taylor tells of numerous beaver and otter, wolves and coyotes, and of course, big game such as buffalo, deer, elk, and antelope. Big game made up a large part of the Plains Indians' diet, which made the area attractive for hunting. There is even mention of sightings of grizzly bears and mountain lions.

The last elk shot in the Painted Woods area, according to Taylor, was taken in the summer of 1874. By that time this large bull, which had become almost invincible, was referred to as "the Bull of the Woods." The hunting pressure on local deer herds increased dramatically after elk numbers were depleted, but populations reportedly remained relatively stable for the next few decades.

The various tribes which frequented the area eventually tired of the brutal wars between Indian nations. In an attempt to end these ongoing tribal wars, a great peace council was planned at the lakeside. This assemblage was to be hosted by the Mandan tribe as self-proclaimed owners of the land. Other tribes attending included the Anahaways, Assiniboines, Gros Ventres, Crows, Yanktonai Sioux, and Sissetons. The festivities were held during the "season of the tinted leaves," or fall as we know it. The clear, balmy days of autumn coupled with a bountiful harvest of pumpkins, squashes, melons, corn, as well as buffalo, deer, elk, and antelope helped set the stage for this grand gesture

of future peace between these northern tribes.

During this monumental occasion the scrupulously laid plans went awry. It seems a Yanktonai Sioux warrior had won the heart of a young and beautiful Mandan girl. The Mandan girl, coincidentally, was the daughter of the Mandan chief. After many futile attempts at trying to persuade his daughter not to mingle with a member of a rival tribe, the Mandan chief ordered the Yanktonai Sioux warrior killed. The murder was carried out by jealous Mandan warriors on the night the two were wed.

This, of course, did not go unnoticed, and soon the entire assemblage was worked into a mighty uproar. In retaliation, the Yanktonai Sioux warriors killed the fair maiden as she knelt sobbing at her groom's side. With justice apparently served, the entire camp disbanded sometime after daybreak and each tribe went its separate way.

It was tribal custom at that time to place the dead in the branches of trees. So it was that the bodies of the slain young couple were placed in the branches of a large elm tree. The elm eventually withered and died and it was said that its trunk and branches became whitened, resembling the bones of the dead it held.

As might be expected, the neutrality of the hunting grounds ended abruptly. The old wounds did not heal quickly.

The burial tree became the main rendezvous point for the growing tribe of Yanktonai Sioux. Before attacks were made, the Yanktonai Sioux would paint up there. They would also paint taunting figures, in spite and aimed at the Mandans,

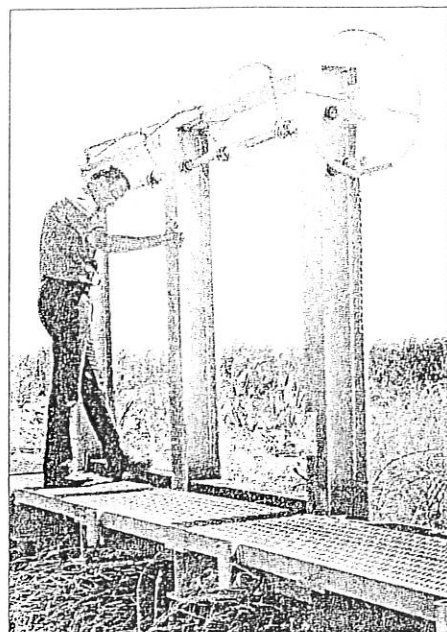
on the whitened trunk of the burial tree. The Mandan would then come along and, seeing this challenge, return the favor by painting even more mocking art on some nearby cottonwoods. This primitive form of jeering continued until the trees in the area became excessively painted. Hence the name for which we know it now—Painted Woods.

The last hostile encounter between rival tribes in the Painted Woods area reportedly took place in 1869. This involved a party of Mandans and Two Kettle Sioux. A warrior from each tribe apparently killed each other in combat, and unknowingly marked the end of the Indian "affair of honor" among the painted trees.

The Painted Woods area later became a common playground for special gatherings of local communities. This probably originated with construction of a summer resort and hotel along Painted Woods Lake in the early 1900s.

Many changes have taken place at Painted Woods, including the destruction of the old burial tree in a sweeping fire 140 years ago. There is something about this land that has always drawn people to its natural wonders. Although it has been somewhat scarred by human encroachment, and the feared war parties have long since passed into legend, a leisurely stroll through the timber here gives striking reminders of how this land got the name Painted Woods.

SCOTT PETERSON is a Garrison Diversion biologist working in the Department's natural resource division.



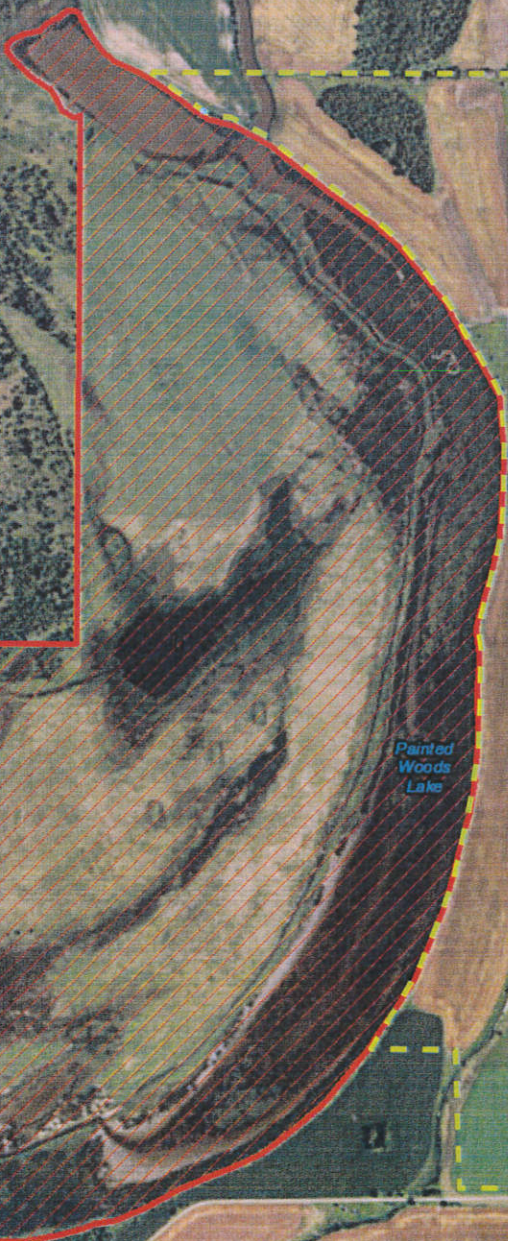
Above: The author examines a water control structure used to restore a drained wetland on the Painted Woods Lake WMA. Below: The author points to a recently placed wood duck nesting box on the Painted Woods Lake WMA. Boxes are placed on trees near the water for use by cavity nesting species like the wood duck and hooded merganser.



The 585 acre Painted Woods Lake WMA contains 279 acres of marsh which are home to several species of breeding ducks and waterbirds.



Landgren Property



Legend

- Landgren Property
- Painted Woods WMA

OUTLOT D OF SECTIONS 9 & 16
TOWNSHIP 143 N RANGE 81 W
DESCRIBED AS FOLLOWS:

That part of Section 9 and that part of Section 16, all in Township 143 North, Range 81 West of the Fifth Principal Meridian, McLean County, North Dakota, described as follows:

Beginning at an iron monument which designates the north quarter corner of said Section 9; thence North 89 degrees 44 minutes 40 seconds East along the north line of said Section 9 for a distance of 1314.87 feet to an iron monument at the northeast corner of the Northwest Quarter of the Northeast Quarter of said Section 9; thence South 00 degrees 02 minutes 35 seconds West along the east line of said Northwest Quarter of the Northeast Quarter and along the east line of Government Lot IX of said Section 9 for a distance of 2641.33 feet to an iron monument at the southeast corner of said Government Lot IX; thence North 89 degrees 59 minutes 31 seconds East along the east-west quarter line of said Section 9 for a distance of 1315.60 feet to an iron monument at the east quarter corner of said Section 9; thence South 00 degrees 01 minute 37 seconds West along the east line of said Section 9 for a distance of 1428.46 feet; thence North 89 degrees 58 minutes 23 seconds West for a distance of 75.00 feet to an iron monument on the westerly right of way line of County Road Number 27; thence North 55 degrees 20 minutes 59 seconds West for a distance of 806.75 feet to an iron monument; thence South 89 degrees 17 minutes 33 seconds West for a distance of 648.54 feet to an iron monument; thence South 10 degrees 51 minutes 30 seconds West for a distance of 1396.07 feet to an iron monument; thence South 00 degrees 12 minutes 52 seconds West for a distance of 2940.97 feet to an iron monument on the east-west quarter line of said Section 16; thence South 89 degrees 39 minutes 19 seconds West along the east-west quarter line of said Section 16 for a distance of 971.85 feet to an iron monument at the center of said Section 16; thence North 00 degrees 00 minutes 22 seconds West along the north-south quarter line of said Section 16 for a distance of 1322.15 feet to an iron monument at the northwest corner of the Southwest Quarter of the Northeast Quarter of said Section 16; thence South 89 degrees 46 minutes 51 seconds West along the south line of Government Lot III of said Section 16 for a distance of 320.00 feet to an iron monument; thence continuing South 89 degrees 46 minutes 51 seconds West along the south line of said Government Lot 3 for a distance of 6 feet, more or less, to the water's edge of Painted Woods Lake; thence northeasterly, northerly and northwesterly along the water's edge of said Painted Woods Lake to its intersection with the north line of said Section 9; thence South 89 degrees 35 minutes 21 seconds East along the north line of said Section 9 for a distance of 13.5 feet, more or less, to an iron monument; thence continuing South 89 degrees 35 minutes 21 seconds East along the north line of said Section 9 for a distance of 2224.50 feet to the point of beginning.

Said tract contains 255.3 acres, more or less, and is subject to the rights of the public in McLean County Road No. 27, Painted Woods Road and all easements, restrictions, reservations and rights of way of record, if any.


THAT PART OF SECTIONS 9 AND 16,
ALL IN TOWNSHIP 143 NORTH, RANGE 81 WEST



RESOLUTION OF SUPPORT

The McLean County Board of Commissioners hereby supports the purchase of land by the American Foundation for Wildlife and its partners from Mr. Robert Landgren. The Commission has been briefed on this project a number of times and desires this purchase occur so the land may be used for flood control and private property protection around Painted Woods Lake. The Commission understands that the ultimate owner of the land purchased will be the North Dakota Game and Fish Department.

Dated this 1st day of March, 2016.


Barry Suydam


Doug Krebsbach


Steve Lee

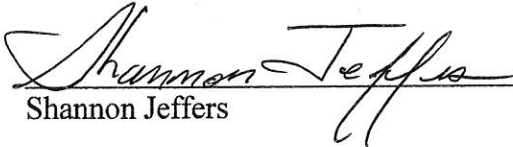
RESOLUTION OF SUPPORT

The McLean County Water Resource Board hereby supports the purchase of land by the American Foundation for Wildlife and its partners from Mr. Robert Landgren. The Board has been integrally involved in the develop of a flood control and private property protection project around Painted Woods Lake. The purchase of the Landgren tract will assist the Board in the performance of its flood control duties in N.D.C.C. Title 61. The Board understands that the ultimate owner of the land purchased will be the North Dakota Game and Fish Department.

Dated this 29th day of February, 2016.



Lynn Oberg



Shannon Jeffers



Gerard Goven

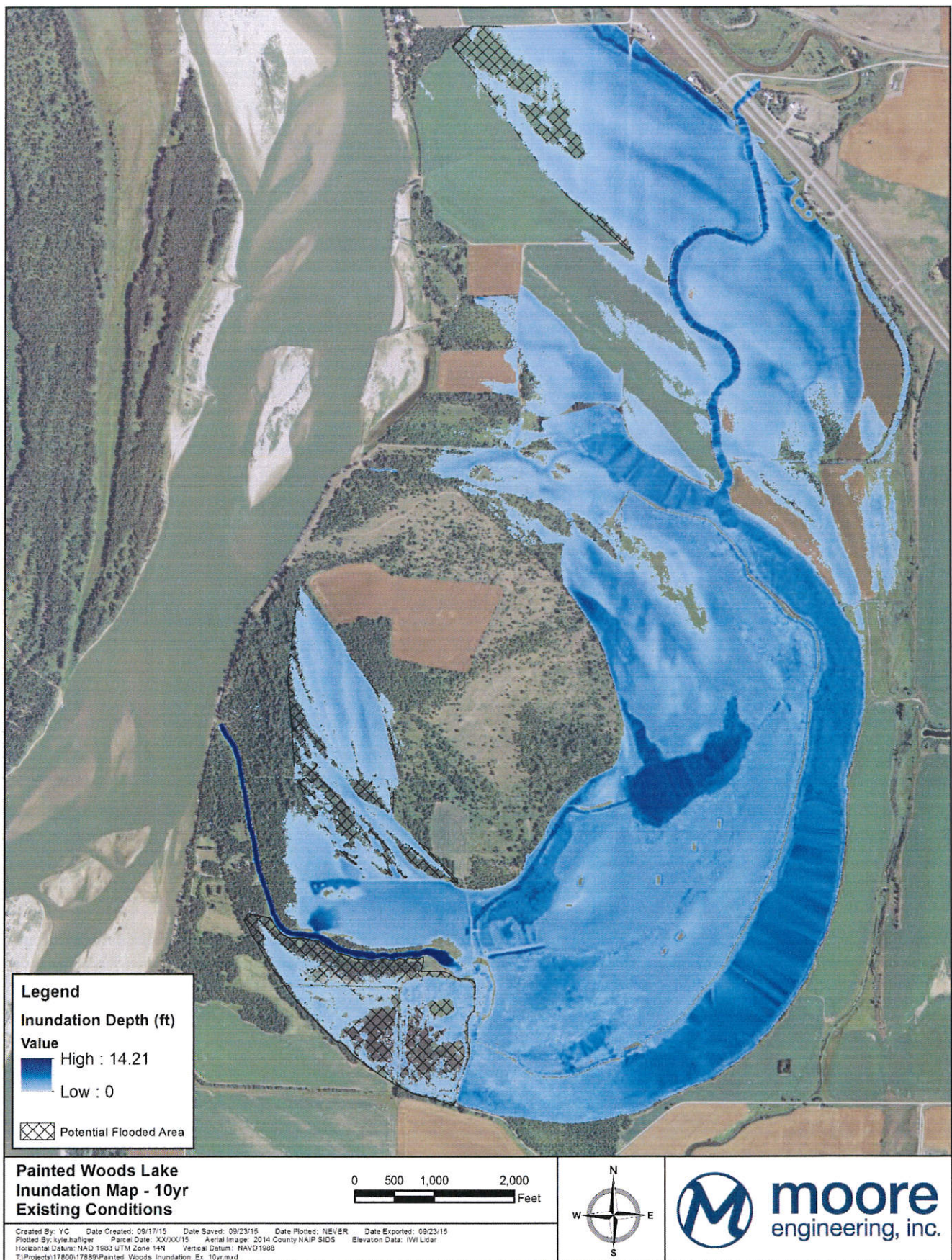


Figure 10 - Painted Woods Lake 10-year 24-hour Inundation Map - Existing Conditions

Letters of Support



P.O. Box 236 • Bismarck, ND 58502 • 701-222-0266 • Fax 701-222-3084

June 20, 2018

McLean County Water Resources Board
Attn: Lynn Oberg
1237 Riverside Lane
Washburn, ND 58577

Dear Mr. Oberg:

The American Foundation for Wildlife (Foundation) is a North Dakota nonprofit conservation organization established in 1972. A unique private, nonprofit corporation, the Foundation works to make sure our state's important natural resources heritage will always be a part of our future by balancing wildlife conservation and management with the interests and values of our landowners, citizens, and communities.

The Foundation was part of a partnership acquisition of the Painted Woods Wildlife Management Area addition in July 2016. The acquisitions purpose was to address water management, protect private land flooding impacts and to enhance the wildlife, fishery, and overall natural resource values and outdoor experiences for the area. The property was donated to the North Dakota Game and Fish Department for wildlife and water management as well as to ensure public access for outdoor recreational enjoyment. This proposal will be a critical step in creating long term solutions to the water management in the lower portion of the Painted Woods watershed. The Foundation supports the McLean County Water Resource Districts plan to reduce flooding on private lands, enhance existing wildlife habitat, and increase public access.

We are happy to provide our endorsement of this proposal and look forward toward its future accomplishments.

Sincerely,

Vern Axtman
Vice President

GARRISON DIVERSION CONSERVANCY DISTRICT

ENGINEERING & OPERATIONS COMMITTEE

**Garrison Diversion Conservancy District
Carrington, North Dakota
January 12, 2017**

A meeting of the Engineering and Operations Committee of the Garrison Diversion Conservancy District was held at the Garrison Diversion headquarters, Carrington, North Dakota, on January 12, 2017. The meeting was called to order by Chairman Anderson at 7:30 a.m.

DIRECTORS PRESENT

Board Chairman Ken Vein
Committee Chairman Dave Anderson
Director John Peyerl
Secretary Kip Kovar

DIRECTORS ABSENT

None

OTHERS PRESENT

Ken Royse, Vice Chairman, Garrison Diversion Conservancy District, Bismarck, North Dakota
Cliff Hanretty, Director, McHenry County, Garrison Diversion Conservancy District, Towner, North Dakota
Duane DeKrey, General Manager, Garrison Diversion Conservancy District, Carrington, North Dakota
Kimberly Cook, Communications Director, Garrison Diversion Conservancy District, Carrington, North Dakota
Lisa Schafer, Executive Assistant, Garrison Diversion Conservancy District, Carrington, North Dakota

BY CONFERENCE PHONE

Arden Freitag, Area Manager, Bureau of Reclamation, Dakotas Area Office, Bismarck, North Dakota
Mike Marohl, Bureau of Reclamation, Dakotas Area Office, Bismarck, North Dakota

The meeting was recorded to assist with compilation of the minutes.

READING OF THE MINUTES

Motion by Director Vein to dispense with a reading of the October 6, 2016, Engineering & Operations Committee minutes and approve them as distributed. Second by Director Peyerl. Upon voice vote, motion carried.

PAINTED WOODS LAKE PROJECT

Kip Kovar, Secretary, referred to a copy of the Bureau of Reclamation's (Reclamation) letter to the McLean County Water Resource District (MCWRD) dated August 16, 2016, regarding the Painted Woods Lake Mitigation Project. He reminded the committee that the MCWRD made a presentation to the committee in October requesting a contribution of \$350,000 in value either through direct funding or from in-kind services. A control weir structure currently holds the water in the lake, and this structure needs to be replaced with a structure that has more modern features. The MCWRD would like to construct a high flow channel from Painted Woods Creek to the east of the lake. The schedule for the project is to replace the control weir structure and complete Phase 1 of the overflow channel at a cost of \$2.2 million in 2017. The final component is to repair and restore the severely eroded and unstable stream banks on Merry's Creek in 2018.

Mr. Kovar commented that Reclamation is suggesting delaying the plans they had to haul 4,000 cubic yards of rip-rap for the weir site until the MCWRD makes a decision on replacing the weir. A copy of Reclamation's letter is attached to these minutes as Annex I.

Mr. Kovar added that this topic was also discussed at the Executive Committee, and it was felt that replacing the control structure was not Garrison Diversion's responsibility. Garrison Diversion would like to help out to some degree because the water that is released from the McClusky Canal via the Painted Woods Outlet has to travel through this structure. It was suggested that Garrison Diversion contribute \$10,000 a year for two years for a total of \$20,000 toward the project contingent upon the State Water Commission also taking part in the project.

Mr. Kovar reported that the State Water Commission did act on this request at its meeting on December 9. At that time, the request was denied until more information could be provided.

Mr. Kovar added that funding is also being sought from other agencies.

Mr. Kovar recommended following the Executive Committee's suggestion to provide \$10,000 in funding annually for two years. He also commented that funds may be available through the recreation grant program for portions of the project in the future.

Motion by Director Peyerl to recommend approving \$10,000 per year for two years for the Painted Woods Lake Mitigation Project contingent upon funding approval from the State Water Commission to the full board. Second by Director Vein. Upon roll call vote, the following directors voted aye: Anderson, Peyerl and Vein. Those voting nay: none. Absent and not voting: none. Motion carried.

PRE-CONSTRUCTION AGREEMENT UPDATE

Mr. Kovar reported that the McClusky Canal Pre-Construction Agreement is the most recent cooperative agreement between Garrison Diversion and the Bureau of Reclamation. It will

NORTH DAKOTA GAME & FISH DEPARTMENT

"Variety in Hunting and Fishing"

GOVERNOR, Doug Burgum

DIRECTOR, Terry Steinwand

DEPUTY, Scott A. Peterson

*100 North Bismarck Expressway
Bismarck, North Dakota 58501-5095*

Phone: (701) 328-6300

FAX: (701) 328-6352

October 26, 2017

McLean County Water Resource Board

Attn: Lynn Oberg

1237 Riverside Ln

Washburn ND 58577

Dear Lynn:

The North Dakota Game and Fish Department (Department), from the beginning, has been in support of the Landgren-Hauck Painted Woods Creek Wildlife Management Area Addition, and the proposed flood relief project. This was solidified by the Department's commitment of over \$400,000 towards the acquisition of the property. Going forward, if McLean County is successful in securing funding from the Outdoor Heritage Fund and the State Water Commission, the Department will commit an additional \$80,000 of capital improvement funding for wetland construction along with an additional \$40,000 of general operating for herbaceous seeding.

In keeping consistent with previous conversations, our funds can only be used for those portions of the flood relief project that enhances or creates wildlife habitat. The Department will coordinate with Moore Engineering and the McLean County Water Board to identify which segments of the project are eligible for our funding.

We look forward to working with you as you move forward with this project.

Sincerely,



Terry Steinwand
Director