APPENDIX H
SECTION 33 BANK STABILIZATION PROJECT

2. Beck

US Army Corps of Engineers
Omaha District

PUBLIC NOTICE

Application No: 200190439
Applicant: U.S. Army Corps of Engineers
Waterway: Missouri River mile 1761.9
Issue Date: July 20, 2001
Expiration Date: August 20, 2001

30 DAY NOTICE

Regulatory Branch 106 South 15th Street Omaha, Nebraska 68102-1618

JOINT PUBLIC NOTICE
FOR PERMIT APPLICATION SUBMITTED TO
U.S. ARMY CORPS OF ENGINEERS
AND
MONTANA DEPARTMENT OF ENVIRONMENTAL QUALITY

Under the provisions of Federal regulations 33 C.F.R. 335-337 and instructions from the Office, Chief of Engineers, Washington, D.C., relative to Federal projects involving the discharge of dredged or fill material in waters of the United States, notice is hereby issued to advise interested parties of a proposed project consisting of construction of flow modification dikes on the Missouri River at mile 1761.9 near Fort Peck in Valley County, Montana.

Sections 313 and 404 of the Clean Water Act (33 U.S.C. 1323 and 1344) require each agency of the Federal Government engaged in any activity resulting in, or which may result in the discharge or runoff of pollutants, to comply with Federal, State, or interstate and local requirements respecting the control and abatement of water pollution to the same extent as any person or entity is subject to such requirements. In accordance with 33 C.F.R. 335-337, activities involving the discharge of dredged or fill material to be performed by the Corps of Engineers will be subject to public review procedures that are followed in processing applications for Section 404 permits.

The proposed project is located along the left bank of the Missouri River (mile 1761.9) across from the spillway exit in Section 32, Township 27 North, Range 42 East, Valley County, Montana. An engineering analysis indicates that 2 existing irrigation sites may incur erosion due to flow modifications from Fort Peck Dam and may be damaged beyond repair or totally lost. The proposed project consists of placing three spur dikes at the upstream end of the problem area as shown on the attached drawings. A spur dike can be defined as an elongated structure having one

end on the bank of a stream and other end projecting towards the river. Spur dikes have been widely used to direct current away from an eroding bank and cause deposition of sediment on the downstream side of the structure. Dike #1 is 50 feet long and requires a 150-foot long refusal key. Dikes #2 and #3 are 150 feet long and require 25-foot long refusals. A refusal key is stone or concrete rubble placed in a trench excavated landward from the riverbank approximately

perpendicular to the streamflow at the upstream end of the revetment. The refusal prevents the stream from flanking the spur dike structure. Rock quantities were estimated using 1.55 tons/cubic yard. The estimated quantity of rock is 2520 tons, the estimated excavation is 700 cubic yards and the estimated fill is 185 cubic yards. The excavated material will be used to backfill the dike refusals. (See attached drawings for dike dimensions and stone quantities).

The purpose of the project is to protect the irrigation intakes from erosion due to flow modifications from Fort Peck Dam.

Several alternatives were considered as a means to solve the irrigation intake erosion problem. The following alternatives were evaluated.

a. Take no Federal Action
b. Rock spur dikes
c. Water intake relocation
d. Real estate acquisition

Taking no Federal action will result in damage to or loss of the irrigation sites and does not meet the project purpose.

The rock spur dike alternative consists of placing a series of three rock dikes in the vicinity of the pump sites. This alternative protects the site from erosion and is the least costly alternative. Therefore, the rock spur dike alternative is the recommended plan for construction.

Relocating the water intakes consists of relocating both pump sites a safe distance from the river. This alternative is not the least costly method of protection.

Acquiring real estate consists of purchasing an interest in the affected areas. This alternative is not the least costly method of protection.

The Montana Department of Environmental Quality, P.O. Box 200901, 1520 East Sixth Avenue, Helena, Montana 59626-0014, will review the proposed project with the intent to certify in accordance with the provisions of Section 401 of the Clean Water Act. The certification, if issued, will express the State's opinion that the operations undertaken by the applicant will not result in a violation of applicable water quality standards. The Montana Department of Environmental Quality hereby incorporates this public notice as its own public notice and procedures by reference thereto.

The Corps of Engineers, Omaha District will comply with the National Historic Preservation Act of 1966. We have checked the National Register of Historic Places and its current supplements, and there are no known National Register sites in the vicinity. This area will be surveyed by the Fort Peck Tribes for the Fort Peck Flow Modification Mini Test and Test. Results of the inventory will be provided to the Montana State Historic Preservation Officer as soon as they are available.

This project is in the known range of the endangered **Pallid Sturgeon** (*Scaphirhynchus albus*), and **Interior Least Tern** (*Sterna antillarum athalassos*); and the threatened **Piping Plover** (*Charadrius melodus*), and **Bald Eagle** (*Haliaeetus leucocephalus*). In compliance with the Endangered Species Act, a preliminary "no effect" determination has been made. Coordination with the U.S. Fish and Wildlife Service and other interested agencies will be completed to determine the effects on these species or their critical habitat.

The decision whether to issue a permit will be based on an evaluation of the probable impact including cumulative impacts of the proposed activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefit which reasonably may be expected to accrue from the proposed activity must be balanced against its reasonably foreseeable detriments. All factors which may be relevant to the proposal will be considered including the cumulative effects thereof; among those are conservation, economics, aesthetics, general environmental concerns, wetlands, historic properties, fish and wildlife values, flood hazards, floodplain values, land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, and, in general the needs and welfare of the people. In addition, the evaluation of the impact of work on the public interest will include application of the guidelines promulgated by the Administrator, Environmental Protection Agency, under authority of Section 404(b) of the Clean Water Act (40 C.F.R.; Part 230).

The Corps of Engineers is soliciting comments from the public; Federal, state, and local agencies and officials; Indian Tribes; and other interested parties in order to consider and evaluate the impacts of this proposed activity. Any comments received will be considered by the Corps of Engineers to determine whether to issue, modify, condition or deny a permit for this proposal. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and the other public interest factors listed above. Comments are used in the preparation of an Environmental Assessment and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity.

Any person may request, in writing and within the comment period specified in this notice, that a public hearing be held for the purpose of gathering additional information. Requests for public hearings shall be identified as such and shall state specifically the reasons for holding a public

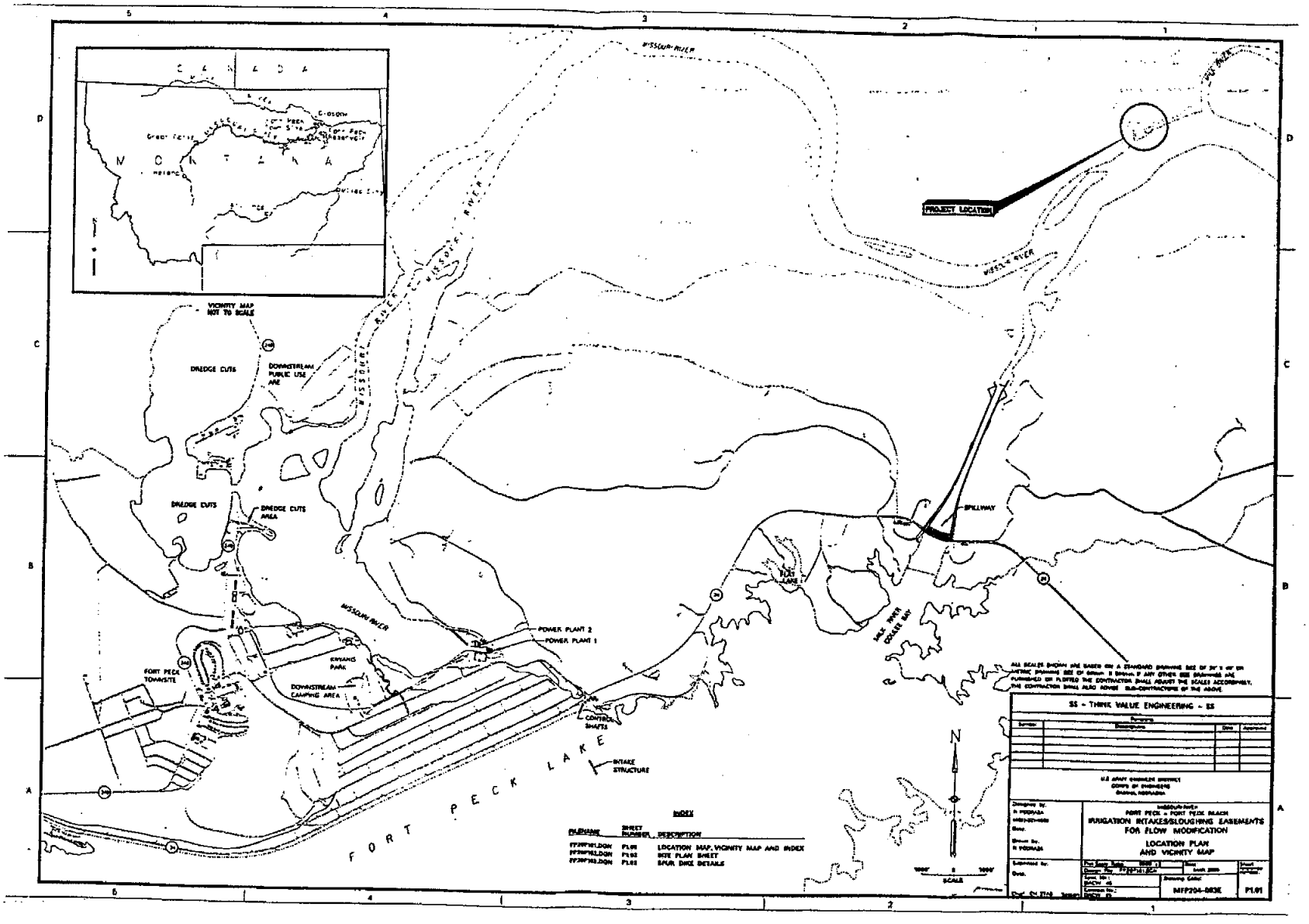
hearing and what additional information would be obtained. Requests should be submitted to the District Engineer, Omaha District, Corps of Engineers, 106 South 15th Street, Omaha, Nebraska 68102-1618. Should the District Engineer decide that additional information is required and a public hearing should be held, interested parties will be notified of the date, time and location.

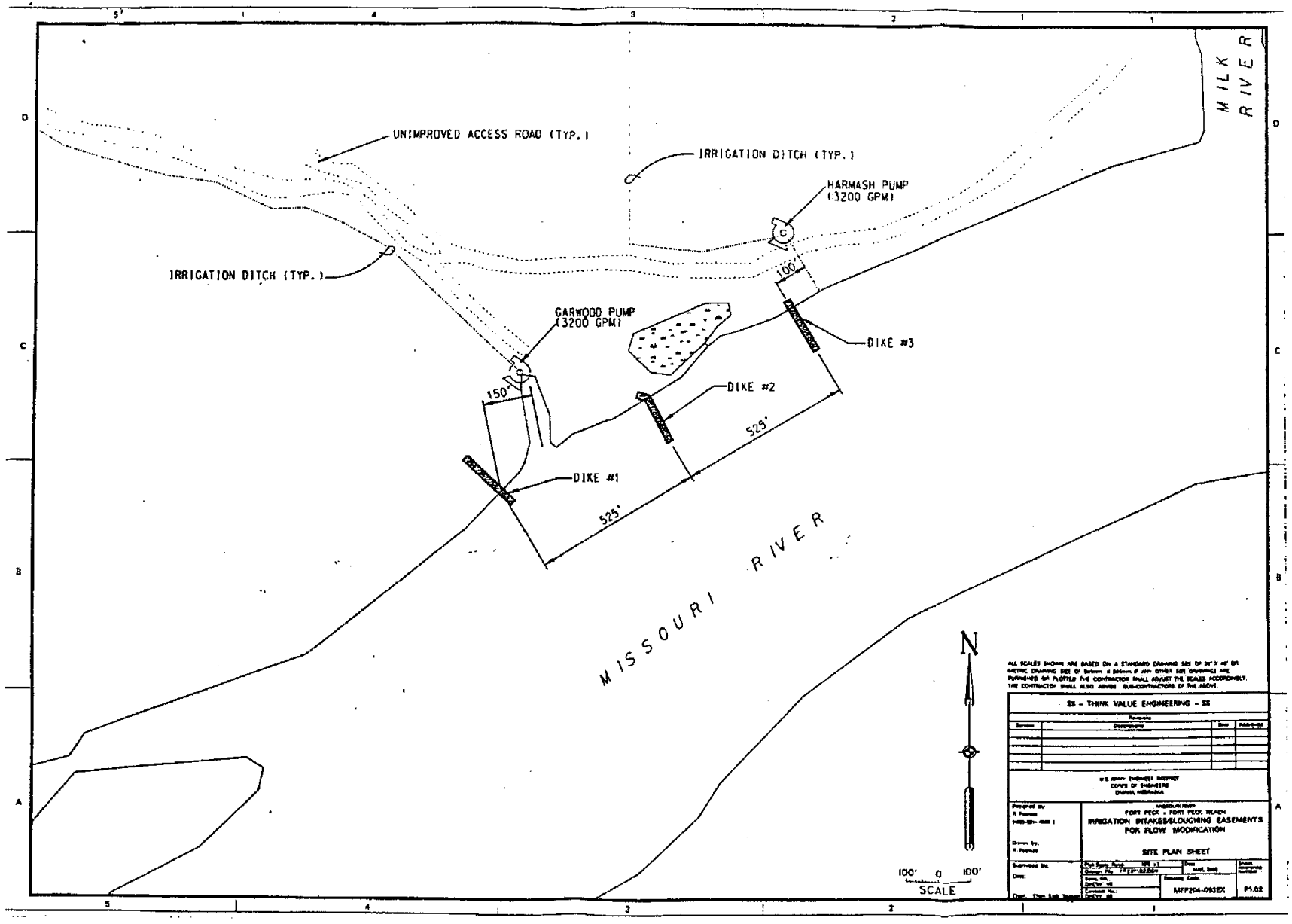
Any interested party (particularly officials of any town, county, state or Federal agency; Indian Tribe; or local association, whose interests may be affected by the work) is invited to submit to this office written facts, arguments, or objections on or before the expiration date listed on the front of this notice. Any agency or individual having an objection to the work should identify their concern or interest with clear and specific reasons. Comments, both favorable and unfavorable, will be accepted, made a part of the record and will receive full consideration in subsequent actions on this application. All replies to the public notice should be addressed to the District Engineer at the address listed in the previous paragraph. Ms. Kathy Iske, telephone number (402) 221-3055, may be contacted for additional information. You may also fax your comments to (402) 221-4939 or e-mail them to: Kathy.L.Iske@usace.army.mil.

Comments received after the close of business on the expiration date of this public notice will not be considered.

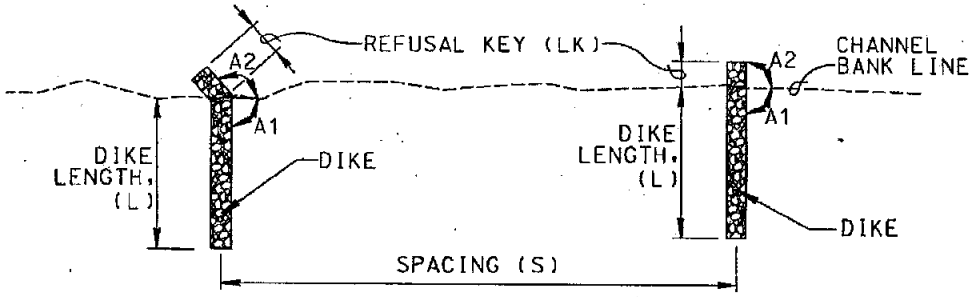
A permit, if issued, will be under the provisions of Section 404 of the Clean Water Act.

Drawings showing the location and extent of the project are attached to this notice.


CANADA
MONTANA
VICINITY MAP
NOT TO SCALE
PROJECT LOCATION
MISSOURI RIVER
MILK RIVER
DREDGE CUTS
DOWNSTREAM PUBLIC USE AREA
DREDGE CUTS AREA
SPILLWAY
POWER PLANT 2
POWER PLANT 1
EVANS PARK
FORT PECK TOWNSITE
DOWNSTREAM CAMPING AREA
CONTROL SHAFTS
INTAKE STRUCTURE
FORT PECK LAKE
INDEX
SHEET NUMBER
DESCRIPTION
LOCATION MAP, VICINITY MAP AND INDEX
SITE PLAN SHEET
SAUK DIKE DETAILS
SCALE
SS - THRIFT VALUE ENGINEERING - SS
FORT PECK - FORT PECK DAM
IRRIGATION INTAKES/SLOUGHING EASEMENTS
FOR FLOW MODIFICATION
LOCATION PLAN
AND VICINITY MAP
MFP204-003E
P1.01

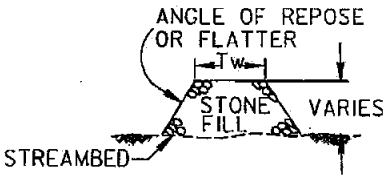

UNIMPROVED ACCESS ROAD (TYP.)
IRRIGATION DITCH (TYP.)
HARMASH PUMP (3200 GPM)
IRRIGATION DITCH (TYP.)
GARWOOD PUMP (3200 GPM)
100'
DIKE #3
150'
DIKE #2
525'
DIKE #1
525'
MILK RIVER
MISSOURI RIVER
N
100' 0 100'
SCALE
$$ - THINK VALUE ENGINEERING - $$
FORT PECK - FORT PECK REACH
IRRIGATION INTAKES/SLOUGHING EASEMENTS FOR FLOW MODIFICATION
SITE PLAN SHEET
MFP204-093EX
P1.02

H.1-6



SPUR DIKE TYPICAL PLAN VIEW

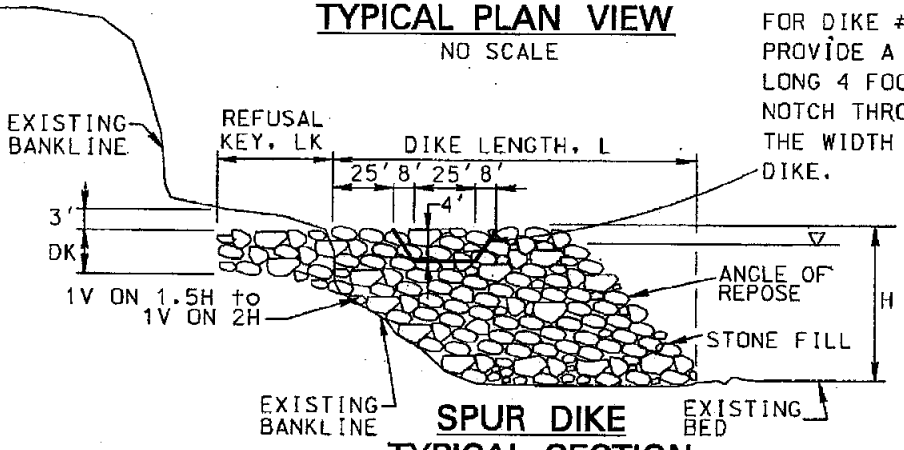
NO SCALE



SPUR DIKE TYPICAL SECTION

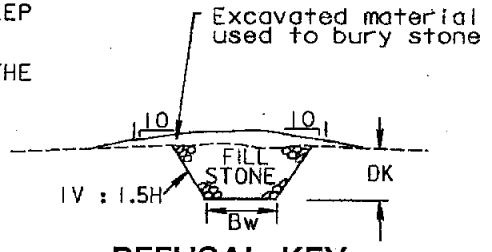
NO SCALE

FOR DIKE #3 ONLY, PROVIDE A 25 FOOT LONG 4 FOOT DEEP NOTCH THROUGH THE WIDTH OF THE DIKE.



SPUR DIKE TYPICAL SECTION

NO SCALE



REFUSAL KEY TYPICAL SECTION

NO SCALE

STRUCTURE	LENGTH, L**	SPACING, S	HEIGHT, H	A1	A2	WIDTH, Tw	REFUSAL KEY, LK ***	WIDTH, Bw	REFUSAL KEY, DK	STONE, tons
DIKE 1	50'	525'	8'	90°	90°	5'	150'	5'	6.5'	700
DIKE 2	150'		8'	90°	135°	5'	36'	5'	6.5'	730
DIKE 3	150'		8'	90°	90°	5'	25'	5'	6.5'	730

** See site plan sheet for layout alignment of each dike.

*** Refusal Key, with additional random fill material to connect to high bank

ALL SCALES SHOWN ARE BASED ON A STANDARD DRAWING SIZE OF 30" X 42" OR METRIC DRAWING SIZE OF 841mm X 594mm. IF ANY OTHER SIZE DRAWINGS ARE FURNISHED OR PLOTTED THE DIMENSIONS SHALL ADJUST THE SCALES ACCORDINGLY. THE CONTRACTOR SHALL ALSO ADVISE SUB-CONTRACTORS OF THE ABOVE.

$$ - THINK VALUE ENGINEERING - $$

U.S. ARMY ENGINEER DISTRICT
CORPS OF ENGINEERS
OMAHA, NEBRASKA

MISSOURI RIVER
FORT PECK - FORT PECK REACH
IRRIGATION INTAKES/SLOUGHING EASEMENTS FOR FLOW MODIFICATION

SPUR DIKES DETAILS

MRR84-6880X

Plate

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cmg 7/25/23
Becky L.

July 23, 2003

Civil Works Project Management Branch

Mr. James D. Rector
Rector Law Office, P.C.
Attorney at Law
635 First Avenue North
P.O. Box 1360
Glasgow, Montana 59230

Dear Mr. Rector:

Reference your May 12, 2003 letter, via e-mail, regarding the Robert Harmash easements.

At the time the Corps of Engineers received your letter, the date for the Corps to receive signed easements from all the parties involved had passed. However, the Corps was continuing to work with Mr. Harmash; and if the Corps could have received the signed easements immediately, the project could have moved forward. The second paragraph of your letter which conveyed Mr. Harmash's second concern made it clear that the Corps would not be receiving a signed easement immediately; therefore, the project was cancelled.

Mr. Harmash can make another request to be considered for the Section 33 program by mailing a letter to Ms. Laura Timp, Section 33 Project Manager.

If you have any questions, you may contact Mr. Thomas Tracy, an attorney on our staff, at (402) 221-3746.

Sincerely,

SIGNED

William D. Miller
Project Manager

CF:
CENWO-OC (Tom Tracy)
CENWO-RE (Gary Blair)
CENWO-ED-HF (John Remus)
CENWO-PM-AE (Becky Latka)

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RECTOR LAW OFFICE, P.C.
ATTORNEY AT LAW
635 1ST AVENUE NORTH
P.O. BOX 1360
GLASGOW, MONTANA 59230

JAMES D. RECTOR

TELEPHONE
(406) 228-4385
FACSIMILE
(406) 228-4387

VIA E-MAIL

May 12, 2003

Mr. William D. Miller
Project Manager
U.S. Army Corps of Engineers
Omaha District
Civil Works Branch
106 South 15th Street
Omaha, Nebraska 68102-1618

Mr. Timothy D. Kolke
Realty Specialist
U.S. Army Corps of Engineers
Omaha District
Riverdale Real Estate Office
Riverdale, North Dakota 58565

RE: Robert Harmash Easements

Gentlemen:

Mr. Harmash has asked me to review the easement that you prepared for the roadway and channel improvement easements for the project at his farm. Mr. Harmash has a couple of concerns that I don't believe are adequately addressed. The first is that the road easement is his existing road that he uses year round on the farm. The road has some gravel on it, but it is certainly not an all-weather road for heavy equipment. After heavy rains heavy equipment using that road will damage it severely. He is concerned that when you finish this project he is going to be left with a large expenditure to repair the road to its present condition, including adding gravel and/or compaction.

His second concern has to do with making certain that the pump intake structure functions properly after the completion of this project. He is concerned that this project may have a detrimental effect to his pump site, either causing severe erosion or sedimentation. He would request some assurances from the Corps that in the event the design is inadequate to maintain proper functioning, that they will assist him by correcting any deficiencies that occur either by erosion or siltation.

Therefore we would propose that you add a paragraph 14 and 15 to page 2A of your existing easement document. Paragraph 14 should provide acknowledgement that this is a shared easement with the Grantor and the Corps of Engineers and the Corps of Engineers' contractors. That the contractor will maintain the road during the construction period so as to allow normal use of farm equipment during the construction period, and that the road will be repaired at the end of the construction and brought up to its present standards, including gravel and compaction. The contractor should also provide dust control during the construction period.

Paragraph 15 should provide that the Corps of Engineers agrees that the pump site will be maintained so that it continues to function normally, and in the event that the design is inadequate to prevent further erosion to the point of destroying the pump site, or causes abnormal siltation, that the Corps will agree to maintain, repair and alter, if necessary, the dike systems so as to allow continued use of the irrigation pumps.

I have been assured by Mr. Harmash that once the requested paragraphs are added to page 2A of said Agreement that he and the other affected property owners are willing to execute the easement agreement and will do so expeditiously.

Thank you.

Sincerely,

James D. Rector

JDR/cj

cc by fax: Sharon Peterson of Senator Max Baucus, Billings
Pam Chrisafulli of Senator Conrad Burns, Glendive