

Owner's Policy of Title Insurance

Policy Issuer:
CLARK TITLE COMPANY
104 SOUTH LINCOLN STREET
SUITE 108
ABERDEEN, SD 57401-0000
PHONE: 605-225-1330

RECEIVED

SEP 3 2010

BANIZ & COBEN



Policy Number **OX-08269283** File Number: **57368-CL**

Issued by Old Republic National Title Insurance Company

Any notice of claim and any other notice or statement in writing required to be given to the Company under this Policy must be given to the Company at the address shown in Section 18 of the Conditions.

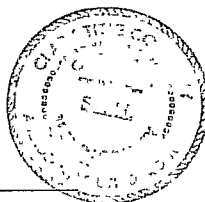
COVERED RISKS

SUBJECT TO THE EXCLUSIONS FROM COVERAGE, THE EXCEPTIONS FROM COVERAGE CONTAINED IN SCHEDULE B, AND THE CONDITIONS, OLD REPUBLIC NATIONAL TITLE INSURANCE COMPANY, a Minnesota corporation (the "Company") insures, as of Date of Policy and, to the extent stated in Covered Risks 9 and 10, after Date of Policy, against loss or damage, not exceeding the Amount of Insurance, sustained or incurred by the Insured by reason of:

1. Title being vested other than as stated in Schedule A.
2. Any defect in or lien or encumbrance on the Title. This Covered Risk includes but is not limited to insurance against loss from:
 - (a) A defect in the Title caused by
 - (i) forgery, fraud, undue influence, duress, incompetency, incapacity, or impersonation;
 - (ii) failure of any person or Entity to have authorized a transfer or conveyance;
 - (iii) a document affecting Title not properly created, executed, witnessed, sealed, acknowledged, notarized, or delivered;
 - (iv) failure to perform those acts necessary to create a document by electronic means authorized by law;
 - (v) a document executed under a falsified, expired, or otherwise invalid power of attorney;
 - (vi) a document not properly filed, recorded, or indexed in the Public Records including failure to perform those acts by electronic means authorized by law; or
 - (vii) a defective judicial or administrative proceeding.
 - (b) The lien of real estate taxes or assessments imposed on the Title by a governmental authority due or payable, but unpaid.
 - (c) Any encroachment, encumbrance, violation, variation, or adverse circumstance affecting the Title that would be disclosed by an accurate and complete land survey of the Land. The term "encroachment" includes encroachments of existing improvements located on the Land onto adjoining land, and encroachments onto the Land of existing improvements located on adjoining land.
3. Unmarketable Title.
4. No right of access to and from the Land.
5. The violation or enforcement of any law, ordinance, permit, or governmental regulation (including those relating to building and zoning) restricting, regulating, prohibiting, or relating to
 - (a) the occupancy, use, or enjoyment of the Land;
 - (b) the character, dimensions, or location of any improvement erected on the Land;
 - (c) the subdivision of land; or
 - (d) environmental protectionif a notice, describing any part of the Land, is recorded in the Public Records setting forth the violation or intention to enforce, but only to the extent of the violation or enforcement referred to in that notice.

Countersigned:

Authorized Officer or Licensed Agent



OLD REPUBLIC NATIONAL TITLE INSURANCE COMPANY

A Stock Company
400 Second Avenue South, Minneapolis, Minnesota 55401
(612) 371-1111

By

President

Attest

Secretary

6. An enforcement action based on the exercise of a governmental police power not covered by Covered Risk 5 if a notice of the enforcement action, describing any part of the Land, is recorded in the Public Records, but only to the extent of the enforcement referred to in that notice.

7. The exercise of the rights of eminent domain if a notice of the exercise, describing any part of the Land, is recorded in the Public Records.

8. Any taking by a governmental body that has occurred and is binding on the rights of a purchaser for value without Knowledge.

9. Title being vested other than as stated in Schedule A or being defective

(a) as a result of the avoidance in whole or in part, or from a court order providing an alternative remedy, of a transfer of all or any part of the title to or any interest in the Land occurring prior to the transaction vesting Title as shown in Schedule A because that prior transfer constituted a fraudulent or preferential transfer under federal bankruptcy, state insolvency, or similar creditors' rights laws; or
(b) because the instrument of transfer vesting Title as shown in Schedule A constitutes a preferential transfer under federal bankruptcy, state insolvency, or similar creditors' rights laws by reason of the failure of its recording in the Public Records

(i) to be timely, or

(ii) to impart notice of its existence to a purchaser for value or to a judgment or lien creditor.

10. Any defect in or lien or encumbrance on the Title or other matter included in Covered Risks 1 through 9 that has been created or attached or has been filed or recorded in the Public Records subsequent to Date of Policy and prior to the recording of the deed or other instrument of transfer in the Public Records that vests Title as shown in Schedule A.

The Company will also pay the costs, attorneys' fees, and expenses incurred in defense of any matter insured against by this Policy, but only to the extent provided in the Conditions.

EXCLUSIONS FROM COVERAGE

The following matters are expressly excluded from the coverage of this policy, and the Company will not pay loss or damage, costs, attorneys' fees, or expenses that arise by reason of:

1. (a) Any law, ordinance, permit, or governmental regulation (including those relating to building and zoning) restricting, regulating, prohibiting, or relating to

(i) the occupancy, use, or enjoyment of the Land;

(ii) the character, dimensions, or location of any improvement erected on the Land;

(iii) the subdivision of land; or

(iv) environmental protection;

or the effect of any violation of these laws, ordinances, or governmental regulations. This Exclusion 1(a) does not modify or limit the coverage provided under Covered Risk 5.

(b) Any governmental police power. This Exclusion 1(b) does not modify or limit the coverage provided under Covered Risk 6.

2. Rights of eminent domain. This Exclusion does not modify or limit the coverage provided under Covered Risk 7 or 8.

3. Defects, liens, encumbrances, adverse claims, or other matters

(a) created, suffered, assumed, or agreed to by the Insured Claimant;

(b) not Known to the Company, not recorded in the Public Records at Date of Policy, but Known to the Insured Claimant and not disclosed in writing to the Company by the Insured Claimant prior to the date the Insured Claimant became an Insured under this policy;

(c) resulting in no loss or damage to the Insured Claimant;

(d) attaching or created subsequent to Date of Policy (however, this does not modify or limit the coverage provided under Covered Risk 9 and 10); or

(e) resulting in loss or damage that would not have been sustained if the Insured Claimant had paid value for the Title.

4. Any claim, by reason of the operation of federal bankruptcy, state insolvency, or similar creditors' rights laws, that the transaction vesting the Title as shown in Schedule A, is

(a) a fraudulent conveyance or fraudulent transfer; or

(b) a preferential transfer for any reason not stated in Covered Risk 9 of this policy.

5. Any lien on the Title for real estate taxes or assessments imposed by governmental authority and created or attaching between Date of Policy and the date of recording of the deed or other instrument of transfer in the Public Records that vests Title as shown in Schedule A.

SCHEDULE A

Name and Address of Title Insurance Company: Old Republic National Title Insurance Company
400 Second Avenue South
Minneapolis, MN 55401

Policy Number: OX-08269283
Address Reference:

File No.: 57368-CL
Agent Order/File No.: 57368-CL

Amount of Insurance: \$30,000,000.00

Date of Policy: July 30, 2010 at 10:13 AM

1. Name of Insured:
Northern Beef Packers Limited Partnership
2. The estate or interest in the Land that is insured by this policy is:
Fee Simple
3. Title is vested in:
Northern Beef Packers Limited Partnership
4. The Land referred to in this policy is described as follows:
PARCEL I: NBP Lagoon Lot 1 in the Southwest Quarter of Section 7, Township 122 North, Range 63 West of the 5th P.M., according to the plat thereof of record, Brown County, South Dakota

PARCEL II: Blocks 1, 2, 3, 4, 5, and Lots 1, 2, and 3, Block 6, H & S First Subdivision in the North Half of Section 36, Township 123 North, Range 64 West of the 5th P.M., according to the plat thereof of record, Brown County, South Dakota

Property Address: Not Available

THIS POLICY VALID ONLY IF SCHEDULE B IS ATTACHED

Old Republic National Title Insurance Company

SCHEDULE B

File Number: 57368-CL

Policy Number: OX-08269283

Agent Order/File No.: 57368-CL

EXCEPTIONS FROM COVERAGE

This policy does not insure against loss or damage, and the Company will not pay costs, attorneys' fees, or expenses which arise by reason of:

1. Real Estate Taxes for the year 2010 and subsequent years which constitute a lien but are not yet due and payable. (Parcels I & II)
2. Real Estate Taxes for the year 2009, payable in 2010, in the amount of \$508,754.79, the first installment has been paid. Parcel ID#203612364NE1002000000. (Bk 2 H&S 1st Add N2 36-123-64 of Parcel II)
3. MECHANIC'S LIEN STATEMENT, dated March 26, 2008, wherein Scott Olson Digging, Inc. vs. Northern Beef Packers Limited Partnership AND H & S Land & Livestock, LLC to claim and hold a lien in the amount of \$2,114,975.49 as of November 29, 2007, plus accruing interest; covering Block 2 of H & S 1st Subdivision in the N1/2 of 36-123-64 and Blocks 3, 4 and 5 of H & S 1st Subdivision in the N1/2 of 36-123-64; filed for record March 27, 2008 at 3:57 P.M. in Book 3ML, Page 470 records of said county. #1812 (Parcel II)
4. NOTICE OF LIS PENDENS, dated May 22, 2008, wherein Northern Beef Packers Limited Partnership and H & S Land and Livestock, LLC, Plaintiffs vs. Scott Olson Digging, Inc. and Scott Olson, Defendants, and Scott Olson Digging, Inc., Third Party Plaintiff, vs. Northern Beef Packers, Inc. and Dennis Hellwig, Defendants; filed for record May 27, 2008 at 12:54 P.M. in Book 9 LP, Page 414 records of said county as follows: "Notice is hereby given that this action has been brought in part to secure the foreclosure of a Mechanic's Lien theretofore filed by Scott Olson Digging, Inc. The Mechanic's Lien, dated March 26, 2008, was recorded in the office of the Brown County Register of Deeds on March 27, 2008, at 3:57 o'clock p.m. in Book 3 M.L. Page 470...covering Block 2 of H & S 1st Subdivision in the N1/2 of 36-123-64 and Blocks 3, 4 ad 5 of H & S 1st Subdivision in the N1/2 of 36-123-64..." (Parcel II)
5. COLLATERAL REAL ESTATE MORTGAGE, ASSIGNMENT OF LEASES AND RENTS, SECURITY AGREEMENT AND FIXTURE FILING, dated Mar. 18, 2010, executed by Northern Beef Packers Limited Partnership, a South Dakota limited partnership, by National Beef Packers Management LLC, its General Partner, by Oshik Song, Sole Member to Epoch Star Limited, a company organized under the law of the British Virgin Island to secure payment of \$30,000,000.00 and interest; filed for record Apr. 13, 2010 at 4:16 P.M. in Book 642, Page 752 records of said county. (Parcels I & II)
6. CORRECTIVE AND CONFIRMATORY MORTGAGE-COLLATERAL REAL ESTATE MORTGAGE, ASSIGNMENT OF LEASES AND RENTS, SECURITY AGREEMENT AND FIXTURE FILING, dated July 9, 2010, by Northern Beef Packers Limited Partnership, a South Dakota limited partnership; filed for record July 30, 2010 at 8:11 A.M. in Book 644, Page 549 records of said county. (Parcels I & II)
7. MECHANIC'S LIEN STATEMENT, dated Oct. 27, 2008, wherein Industrial Builders, Inc., Claimant vs. Northern Beef Packers, LLC and Northern Beef Packers Limited Partnership and H & S Land & Livestock, LLC; filed for record Oct. 29, 2008 at 12:08 P.M. in Book 3 ML, Page 473 records of said county as follows: "...that Claimant intends to claim and hold a lien as follows: 1. The amount of claimant's lien is: \$920,915.53 exclusive of interest and attorney's fees as allowed by law, such amount being due and owing to claimant for labor performed, or for skill, services, material or machinery furnished for the following improvement...covering Block 2, H & S 1st Subdivision in the N1/2 of 36-123-64; and Block 3, 4 and 5, H & S 1st Subdivision in the N1/2 of 36-123-64..." #1816 (Parcel II)

8. SUBORDINATION AGREEMENT, dated June 4, 2010, among Epoch Star Limited, a company organized under the laws of the British Virgin Islands, Hong Kong, (the "Lender"), Industrial Builders, Inc., a supplier and/or contractor and not a lender, West Fargo, ND (the "Subordinating Creditor"), and Northern Beef Packers Limited Partnership, a South Dakota limited Partnership, Aberdeen, SD (the "Borrower"); filed for record July 30, 2010 at 8:33 A.M. in Book 644, Page 550 records of said county. (Parcel II)
9. MECHANIC'S LIEN STATEMENT, dated Oct. 28, 2008, wherein MNDAC Concrete Inc., dba Concrete, Inc., a North Dakota Corporation vs. Northern Beef Packers, LLC, Northern Beef Packers Limited Partnership, and H & S Land & Livestock, LLC; covering Block 2 H & S 1st Subdivision in the N1/2 of 36-123-64 and Blocks 3, 4 and 5, H & S 1st Subdivision in the N1/2 of 36-123-64; filed for record Oct. 31, 2008 at 2:23 P.M. in Book 3 ML, Page 474 records of said county as follows: "NOTICE IS HEREBY GIVEN that MNDAC Concrete Inc., dba Concrete, Inc., a North Dakota Corporation, intends to claim and hold a lien in the amount of \$592,767.00 with interest thereon at the highest lawful rate from October 25, 2008, for labor performed, and for services, skills, materials, machinery furnished set forth on the detailed list attached hereto as Exhibit A, for the improvement of property located in Aberdeen..." #1818 (Parcel II)
10. SUBORDINATION AGREEMENT, dated June 8, 2010, among Epoch Star Limited, a company organized under the laws of the British Virgin Islands, Hong Kong, (the "Lender"), MNDAC Concrete, Inc., a supplier and/or contractor and not a lender, Grand Forks, ND (the "Subordinating Creditor"), and Northern Beef Packers Limited Partnership, a South Dakota limited Partnership, Aberdeen, SD (the "Borrower"); filed for record July 30, 2010 at 8:40 A.M. in Book 644, Page 551 records of said county. (Parcel II)
11. MECHANIC'S LIEN, dated Jan. 15, 2009, wherein Arctic Industries, Inc. vs. Northern Beef Packers Limited Partnership and Northern Beef Processors Management, LLC; covering Block 2, H&S 1st Addition in the N1/2 of 36-123-64; filed for record Jan. 26, 2009 at 1:10 P.M. in Book 3 ML, Page 476 records of said county as follows: "Notice is hereby given that the undersigned, Arctic Industries, Inc. intends to and is filing a mechanic's lien for \$658,354.28 including interest at the statutory rate as of January 7, 2009 from the date of each unpaid invoice as attached..." #1822 (Parcel II)
12. SUBORDINATION AGREEMENT, dated June 16, 2010, among Epoch Star Limited, a company organized under the laws of the British Virgin Islands, Hong Kong, (the "Lender"), Arctic Industries, Inc., a supplier and/or contractor and not a lender, Papillon, NE (the "Subordinating Creditor"), and Northern Beef Packers Limited Partnership, a South Dakota limited Partnership, Aberdeen, SD (the "Borrower"); filed for record July 30, 2010 at 8:45 A.M. in Book 644, Page 552 records of said county. (Parcel II)
13. STATEMENT OF CLAIM FOR MECHANICS, MINER'S LABORER'S, OR MATERIALMAN'S LIEN ON REAL PROPERTY, dated Jan. 23, 2009, wherein Fargo Tank & Steel Co. vs. H & S Land & Livestock, LLC; covering Lot 2, South Side Industrial Park SD, in the N1/2 and SE1/4 of 36-123-64 now known as: block 2 of H&S 1st Subdivision; filed for record Jan. 29, 2009 at 3:09 P.M. in Book 3 ML, Page 476 records of said county as follows: "Notice is hereby given that Fargo Tank & Steel Co., intends to claim and hold a lien in the amount of \$149,975.08 (\$147,758.70 principal plus \$2,216.385 interest), with interest thereon from the 21st day of January, 2009, at the rate of \$18% per annum. That such amount is due and owing to the claimant for material furnished for the following improvement for which the same was done or supplied, to-wit: Construction of a beef processing plant..." #1823 (Parcel II)
14. SUBORDINATION AGREEMENT, dated July 9, 2010, among Epoch Star Limited a company organized under the laws of the British Virgin Islands, Hong Kong, (the "Lender"), Fargo Tank & Steel Co., a supplier and/or contractor and not a lender, Papillon, NE (the "Subordinating Creditor"), and Northern Beef Packers Limited Partnership, a South Dakota limited Partnership, Aberdeen, SD (the "Borrower"); filed for record July 30, 2010 at 8:51 A.M. in Book 644, Page 553 records of said county. (Parcel II)
15. MECHANIC'S LIEN, dated Feb. 3, 2009, wherein McNeil Refrigeration, Inc. vs. Northern Beef Packers Limited Partnership and Northern Beef Processors Management, LLC; covering Block 2, H&S 1st Addition in the N1/2 of 36-123-64; filed for record Feb. 9, 2009 at 1:43 P.M. in Book 3 ML, Page 477 records of said county as follows: "Notice is hereby given that the undersigned, McNeil Refrigeration, Inc. intends to and is filing a mechanic's lien for \$1,745,220.72 plus interest thereon..." #1824 (Parcel II)

16. SUBORDINATION AGREEMENT, dated June 8, 2010, among Epoch Star Limited, a company organized under the laws of the British Virgin Islands, Hong Kong, (the "Lender"), McNeil Refrigeration, Inc., a supplier and/or contractor and not a lender, Omaha, NE (the "Subordinating Creditor"), and Northern Beef Packers Limited Partnership, a South Dakota limited Partnership, Aberdeen, SD (the "Borrower"); filed for record July 30, 2010 at 9:01 A.M. in Book 644, Page 554 records of said county. (Parcel II)
17. STATEMENT OF CLAIM FOR MECHANIC'S, MINER'S, LABORER'S OR MATERIALMAN'S LIEN ON REAL PROPERTY, dated Feb. 17, 2009, wherein Red Wilk Construction, Inc. vs. Northern Beef Packers, LLC; covering All of Blocks 1, 2, 3, 4, 5, and all of Lots 1, 2, 3, in Block 6, all of Jay Street, all in H & S 1st Subdivision in the N1/2 of 36-123-64; filed for record Feb. 17, 2009 at 12:09 P.M. in Book 3 ML, Page 479 records of said county as follows: "Notice is hereby given that Red Wilk Construction, Inc., intends to claim and hold a lien in the amount of \$834,112.88, with interest thereon..." #1827 (Parcel II)
18. SUBORDINATION AGREEMENT, dated June 8, 2010, among Epoch Star Limited, a company organized under the laws of the British Virgin Islands, Hong Kong, (the "Lender"), Red Wilk Construction, Inc., a supplier and/or contractor and not a lender, Fargo, ND (the "Subordinating Creditor"), and Northern Beef Packers Limited Partnership, a South Dakota limited Partnership, Aberdeen, SD (the "Borrower"); filed for record July 30, 2010 at 9:08 A.M. in Book 644, Page 555 records of said county. (Parcel II)
19. MECHANIC'S LIEN STATEMENT, dated Feb. 20, 2009, wherein Jensen Rock & Sand, Inc. vs. Northern Beef Packers Limited Partnership; covering Block 2, H&S 1st Subdivision in the N1/2 of 36-123-64; filed for record Feb. 20, 2009 at 3:37 P.M. in Book 3 ML, Page 479 records of said county as follows: "NOTICE IS HEREBY GIVEN, that Jensen Rock & Sand, Inc. intends to claim and hold a lien in the amount of \$660,149.47; that such amount is due and owing to the Claimant..." #1828 (Parcel II)
20. SUBORDINATION AGREEMENT, dated June 4, 2010, among Epoch Star Limited, a company organized under the laws of the British Virgin Islands, Hong Kong, (the "Lender"), Jensen Rock & Sand, Inc., a supplier and/or contractor and not a lender, Mobridge, SD (the "Subordinating Creditor"), and Northern Beef Packers Limited Partnership, a South Dakota limited Partnership, Aberdeen, SD (the "Borrower"); filed for record July 30, 2010 at 9:19 A.M. in Book 644, Page 556 records of said county. (Parcel II)
21. LIEN STATEMENT BY LIEN CLAIMANT, dated Mar. 6, 2009, wherein Pogleasa Company, Inc. vs. Northern Beef Packers; covering Block 2 of H&S 1st Addition in the N1/2 of 36-123-64 and Blocks 3, 4 and 5 of H&S 1st Addition in the N1/2 of 36-123-64; filed for record Mar. 13, 2009 at 11:54 A.M. in Book 3 ML, Page 481 records of said county as follows: "Notice if hereby given that Pogleasa Company, Inc. intends to claim and hold a lien in the amount of \$172,139.61..." #1832 (Parcel II)
22. SUBORDINATION AGREEMENT, dated June 2, 2010, among Epoch Star Limited, a company organized under the laws of the British Virgin Islands, Hong Kong, (the "Lender"), Pogleasa Company, Inc., a supplier and/or contractor and not a lender, Arden Hills, MN (the "Subordinating Creditor"), and Northern Beef Packers Limited Partnership, a South Dakota limited Partnership, Aberdeen, SD (the "Borrower"); filed for record July 30, 2010 at 9:26 A.M. in Book 644, Page 557 records of said county. (Parcel II)
23. MECHANIC'S LIEN STATEMENT, dated Feb. 23, 2009, wherein Hanlon Bros., a South Dakota general partnership vs. Northern Beef Packers, Inc.; covering Block 2 of H & S 1st Subdivision in the N1/2 of 36-123-64 and Blocks 3, 4 and 5 of H & S 1st Subdivision in the N1/2 of 36-123-64; filed for record Apr. 2, 2009 at 2:28 P.M. in Book 3 ML, Page 482 records of said county as follows: "Notice is hereby given of the intention Hanlon Bros., a South Dakota general partnership to claim and hold a lien for the amount of \$36,648.35..." #1833 (Parcel II)
24. SUBORDINATION AGREEMENT, dated May 21, 2010, among Epoch Star Limited, a company organized under the laws of the British Virgin Islands, Hong Kong, (the "Lender"), Hanlon Bros., a supplier and/or contractor and not a lender, Verdon, SD (the "Subordinating Creditor"), and Northern Beef Packers Limited Partnership, a South Dakota limited Partnership, Aberdeen, SD (the "Borrower"); filed for record July 30, 2010 at 9:37 A.M. in Book 644, Page 558 records of said county. (Parcel II)

25. STATEMENT OF CLAIM FOR MECHANIC'S, MINER'S, LABORER'S, OR MATERIALMAN'S LIEN ON REAL PROPERTY, dated May 18, 2009, wherein Behlen Manufacturing Company vs. Northern Beef Packers Limited Partnership; covering Block 2 H & S 1st Subdivision in the N1/2 of 36-123-64; filed for record May 22, 2009 at 4:12 P.M. in Book 3 ML, Page 488 records of said county as follows: "Notice is hereby given that Behlen Manufacturing Company, intends to claim and hold a lien in the amount of \$450,067.10, with interest..." #1844 (Parcel II)
26. SUBORDINATION AGREEMENT, dated June 1, 2010, among Epoch Star Limited, a company organized under the laws of the British Virgin Islands, Hong Kong, (the "Lender"), Behlen Mfg. Co., a supplier and/or contractor and not a lender, Columbus, NE (the "Subordinating Creditor"), and Northern Beef Packers Limited Partnership, a South Dakota limited Partnership, Aberdeen, SD (the "Borrower"); filed for record July 30, 2010 at 9:41 A.M. in Book 644, Page 559 records of said county. (Parcel II)
27. STATEMENT OF CLAIM FOR MECHANIC'S LIEN, dated June 17, 2009, wherein Concrete Contractors, Inc., a South Dakota Corporation vs. Northern Beef Packers Limited Partnership; covering Block 2, H & S 1st Subdivision in the N1/2 of 36-123-64; filed for record June 19, 2009 at 11:21 A.M. in Book 3 ML, Page 492 records of said county as follows: "Notice is hereby given that Concrete Contractors, Inc., a South Dakota corporation, intends to claim and hold a lien in the amount of \$4,924,912.29, with interest..." #1853 (Parcel II)
28. SUBORDINATION AGREEMENT, dated July 9, 2010, among Epoch Star Limited, a company organized under the laws of the British Virgin Islands, Hong Kong, (the "Lender"), Concrete Contractors, Inc., a supplier and/or contractor and not a lender, Brookings, SD (the "Subordinating Creditor"), and Northern Beef Packers Limited Partnership, a South Dakota limited Partnership, Aberdeen, SD (the "Borrower"); filed for record July 30, 2010 at 9:45 A.M. in Book 644, Page 560 records of said county. (Parcel II)
29. STATEMENT OF CLAIM FOR MECHANIC'S, MINER'S, LABORER'S, OR MATERIALMAN'S LIEN ON REAL PROPERTY, dated Sept. 28, 2009, wherein Dakota Supply Group Inc. by and through its authorized agent, Perfekt, Inc., by its agent Andrea J. Eichmann vs. Northern Beef Packers; covering Block 2, H&S First Subdivision N1/2 of 36-123-64; filed for record Oct. 1, 2009 at 10:34 A.M. in Book 3 ML, Page 496 records of said county as follows: "Notice is hereby given that Dakota Supply Group Inc. by and through its agent, Perfekt, Inc. to claim and hold a lien in the amount of \$63,587.10 with interest..." #1861 (Parcel II)
30. SUBORDINATION AGREEMENT, dated July 9, 2010, among Epoch Star Limited, a company organized under the laws of the British Virgin Islands, Hong Kong, (the "Lender"), Dakota Supply Group, Inc., a supplier and/or contractor and not a lender, Fargo, ND (the "Subordinating Creditor"), and Northern Beef Packers Limited Partnership, a South Dakota limited Partnership, Aberdeen, SD (the "Borrower"); filed for record July 30, 2010 at 9:49 A.M. in Book 644, Page 561 records of said county. (Parcel II)
31. STATEMENT OF CLAIM FOR MECHANIC'S, MINER'S, LABORER'S, OR MATERIALMAN'S LIEN ON REAL PROPERTY, dated Sept. 28, 2009, wherein Pierce and Harris Engineering, Inc. vs. Northern Beef Packers, LLC; covering All of Blocks 1, 2, 3, 4, 5, and all of Lots 1, 2, 3, in Block 6; all in H & S 1st Subdivision in the N1/2 of 36-123-64; filed for record Oct. 2, 2009 at 11:43 A.M. in Book 3 ML, Page 497 records of said county as follows: "Notice is hereby given that Pierce and Harris Engineering, Inc., intends to claim and hold a lien in the amount of \$65,760.37, with interest..." # 1862 (Parcel II)
32. SUBORDINATION AGREEMENT, dated June 1, 2010, among Epoch Star Limited, a company organized under the laws of the British Virgin Islands, Hong Kong, (the "Lender"), Pierce and Harris Engineering, Inc., a supplier and/or contractor and not a lender, Huron, SD (the "Subordinating Creditor"), and Northern Beef Packers Limited Partnership, a South Dakota limited Partnership, Aberdeen, SD (the "Borrower"); filed for record July 30, 2010 at 9:52 A.M. in Book 644, Page 562 records of said county. (Parcel II)
33. FINANCING STATEMENT, dated ---, wherein Northern Beef Packers Limited Partnership, Debtor and Epoch Star Limited, Secured Party; filed for record Apr. 13, 2010 at 4:18 P.M. in Book 6 FS, Page 530 records of said county as follows: "This Financing Statement covers the following collateral: All assets of the Debtor..." (Refer to document of record for details.) (Parcels I & II)

34. FINANCING STATEMENT, dated ---, wherein Northern Beef Packers Limited Partnership, (Debtor) and Epoch Star Limited (Secured Party); filed for record July 30, 2010 at 8:18 A.M. in Book 6 FS, Page 566 records of said county as follows: "This Financing Statement covers the following types (or items) of property: If collateral is goods which are or are to become fixtures, the below goods are affixed or to be affixed to: All assets of the Debtor..." (Parcels I & II)
35. RESERVATIONS as contained in that certain Patent, dated Aug. 1, 1883, executed by the United States to John W. Clancy; covering the SW1/4 of 7-122-63; filed for record on Sept. 8, 1888 at 1:00 P.M. in Book 23, Page 488 records of said county as follows: "Subject to any vested and accrued water rights for mining, agricultural, manufacturing or other purposes, and rights to ditches and reservoirs used in connection with such water rights as may be recognized and acknowledged by the local customs, laws and decisions of courts, and also subject to the right of the proprietor of a vein or lode to extract and to remove his ore therefrom, should the same be found to penetrate or intersect the premises hereby granted as provided by law." (Parcel I)
36. RESERVATIONS contained in that certain Patent, dated June 28, 1908, executed by State of South Dakota to E.F. Huntington; covering the NW1/4 of NE1/4 of 36-123-64; filed for record July 7, 1908 in Book 3:30 P.M. in Book 87, Page 225 records of said county as follows: "Subject to reservation of R of W for U.S. irrigation ditches, canals, etc. as provided by chapter 132 laws of 1905." (Parcel II)
37. RESERVATIONS contained in that certain State Patent, dated Jan. 26, 1955, executed by the State of South Dakota to H.I. King; covering the SW1/4 of the NE1/4 AND the NW1/4 AND the NW1/4 of the SE1/4 except Railway Right-of-way of 36-123-64; filed for record Mar. 28, 1956 at 1:05 P.M. in Book 129, Page 470 records of said county as follows: "Reserving however, to the State of South Dakota right-of-way for irrigation ditches, canals, etc. as provided by SDC 61.0147, and subject to reservations and rights relating to deposits of coal, ores, metals, and other minerals, asphaltum, oil, gas and other like substances, as provided by SDC 15.0501 and SDC 55.0203, and in any law of the State of South Dakota reserving, any rights of any kind in said State or any of its departments, institutions, subdivisions, funds or accounts." (Parcel II)
38. EASEMENT to Northwestern Bell Telephone Company, its associated and allied companies, its and their respective successors, assigns, lessees and agents; filed for record Oct. 26, 1966 at 1:00 P.M. in Book 46 MR, Page 334 records of said county as follows: "Hereby grants and conveys a right of way and easement...the W1/2 of the SW1/4 of 7-122-63..." (Refer to document of record for details.) (Parcel I)
39. ORDER CHANGING THE BOUNDARIES OF THE WEST BROWN IRRIGATION DISTRICT BY THE INCLUSION OF LAND, dated May 22, 1972, executed by West Brown Irrigation District to the public; that the boundaries of the West Brown Irrigation District be so changed as to include therein the following described lands located in Brown County, South Dakota; filed for record May 30, 1972 at 11:00 A.M. in Book 62 MR, Page 174 records of said county. (Parcel I)
40. TERMS AND CONDITIONS of that certain Quit Claim Deed, dated May 25, 1976, executed by H.I. King, Attorney to Brown County, South Dakota, a Body Corporate, Aberdeen, SD; filed for record Feb. 22, 1977 at 8:00 A.M. in Book 227, Page 722 records of said county conveying the North 17 feet of land along the NW1/4 of 36-123-64, for highway purposes. Commencing at the Northeast Corner of the Northwest Quarter of 36-123-64, thence due west 1620 feet. Said strip of land being parallel and adjacent to the present public highway. The North 17 feet of land along the W1/2 of the NE1/4 of 36-123-64, for highway purposes. Said strip of land being parallel and adjacent to the present public highway. This conveyance is made on the condition that the strip of land conveyed shall be used for a public highway and for no other purpose. In the event that grantee, its successors, or assigns abandons the use of the strip of land for highway purposes, the ownership of the strip shall immediately revert to grantor, his heirs, or assigns who may immediately upon abandonment reenter and occupy the premises. (SHOWN FOR REFERENCE) (Parcel II) (As located and shown on survey)

41. ELECTRIC UTILITY EASEMENT to Northwestern Public Service Company, a Corporation, Huron, S.D. its successors and assigns; filed for record Mar. 28, 1980 at 2:02 P.M. in Book 84 MR, Page 773 records of said county as follows: "Do hereby grant, remise, convey and relinquish a utility easement...the South 12 feet of the North 62 feet of the NW1/4 of 36-123-64, less the railroad right of way and the N.W.P.S. Sub-station and the South 12 feet of the North 62 feet of the W1/2 of the NE1/4 of 36-123-64..." (Refer to document of record for details.) (Parcel II) (As located and shown on survey)
42. GAS UTILITY EASEMENT to Northwestern Public Service Company, a corporation, Huron, S.D.; filed for record Nov. 13, 1985 at 1:10 P.M. in Book 96 MR, Page 383 records of said county as follows: "Do hereby grant, remise, convey and relinquish a utility easement...AREA "A": The South 15 feet of the North 65 feet of that part of the N1/2 of the NW1/4 lying East of NWPS OUTLOT "B", AND AREA "B": The South 15 feet of the North 65 feet of the NW1/4 of the NE1/4 a part 36-123-64. (The purposes of the above described easement is for a buried natural gas pipe line along with all appurtenances thereto.)..." (Refer to document of record for details) (Parcel II) (As located and shown on survey)
43. COVENANTS AND RESERVATIONS contained in that certain Warranty Deed as created and recorded in Book 284, Page 280 records of said county as shown on attached Exhibit. (Parcel II) and amended and modified by MODIFICATION OF RESTRICTIVE COVENANT, dated July 19, 2010, executed by Harlan Young, Donald Young, and Nancy Whittlesey, the only children, and the sole beneficiaries of the estate, of Eugene P. Young, whose wife is deceased ("Youngs"). WHEREAS, pursuant to a Warranty Deed, dated May 24, 2006, recorded at Book 284, Page 280 of Deeds, Instrument Number 906, on May 26, 2006 with the Brown County, South Dakota Register of Deeds (the "Warranty Deed"), Eugene P. Young conveyed to H&S Land & Livestock, L.L.C., a South Dakota limited liability company, certain real estate located in the County of Brown, State of South Dakota (the "Burdened Property") more particularly described in Exhibit A attached hereto...; filed for record July 30, 2010 at 10:13 A.M. in Book 134 MR, Page 600 records of said county. (Parcel II)
44. NOTE: UTILITY EASEMENT, dated Jan. 29, 2008, executed by City of Aberdeen, a South Dakota Municipal Corporation to Northern Beef Packers, LLP, and to its successors and assigns; filed for record Jan. 29, 2008 at 3:25 P.M. in Book 133 MR, Page 361 records of said county as follows: "Does hereby grant unto Grantee an easement...a strip of land 20' wide, parallel to and abutting the western and southern boundaries of Lot 1, South Side Industrial Subdivision, located in the N1/2 and SE1/4 of 36-123-64..." (Refer to document of record for details) (Parcels I & II)
45. UTILITY EASEMENT, dated Jan. 30, 2008, executed by Warner Township, a duly organized South Dakota Township to Northern Beef Packers Limited Partnership, a South Dakota Limited Partnership, its successors or assigns; filed for record Jan. 31, 2008 at 12:58 P.M. in Book 133 MR, Page 363 records of said county as follows: "Does hereby grant, remise, convey and relinquish a utility easement for the installation, operation and maintenance of sewer lines, and appurtenances thereto, over, under, upon and through Beginning at the NE corner of the NE1/4 of 1-122-64. A 12' wide strip of land parallel adjacent to and easterly of the westerly Right of Way line of the Township Road (also known as 388th Ave.) in the E1/2 of 1 and NE1/4 of Section 12, all in 122-64, then crossing to the east and ending at NW corner of the SE1/4 of 7-122-63..." (Refer to document of record for details.) (Parcels I & II) and that certain...

EASEMENT, dated July 22, 2010, executed by Warner Township, a duly organized South Dakota township to Northern Beef Packers Limited Partnership, a South Dakota Limited Partnership; filed for record July 22, 2010 at 4:08 P.M. in Book 134 MR, Page 590 records of said county. (Parcels I & II)
46. Subject to the rights of others in and to the bed and waters of Foote Creek coming into, crossing and leaving the premises. (Parcel II)
47. Subject to Floodway Limits as shown on attached plat. (Parcel II)
48. Subject to that portion dedicated for highway as shown on plat of NBP Lagoon Lot 1 in the SW1/4 of 7-122-63. (Parcel I)
49. Any liens, or right to a lien, for services, labor, or material heretofore or hereafter furnished, imposed by law and not shown by the public records. (Parcels I & II)

50. Subject to setback lines and utility easements as shown on survey dated 3-16-2010. (Parcels I & II)
51. The ALTA survey dated 3-16-2010 prepared by Francis E. Brink discloses a Utility Easement granted by Aberdeen Township to the Northern Beef Packers Limited Partnership dated January 28, 2008, recorded January 31, 2008 in Book 133 MR, Page 364. The easement lies between Parcel I and Parcel II but the Utility Easement document does not identify the parcels of land benefited by the easement. (Parcels I & II) and that certain...

EASEMENT, dated July 22, 2010, executed by Aberdeen Township, a duly organized South Dakota township to Northern Beef Packers Limited Partnership, a South Dakota Limited Partnership; filed for record July 22, 2010 at 4:09 P.M. in Book 134 MR, Page 591 records of said county. (Parcels I & II)

END OF SCHEDULE B

WARRANTY DEED

Eugene P. Young, a single person, of Brown County, South Dakota, grantor, for and in consideration of One Dollar and other good and valuable consideration, grants, conveys, and warrants to:

H & S Land & Livestock, a South Dakota Limited liability company

grantee, of Post Office Box 267, Aberdeen, South Dakota 57402-0267, the following described real estate in the County of Brown, in the State of South Dakota:

Lot 2, South Side Industrial Subdivision located in the North Half and Southeast Quarter of Section 36, Township 123 North, Range 64 West of the Fifth Principal Meridian, according to the plat thereof of record, Brown County, South Dakota, subject to easements, reservations and restrictions of record, if any.

The conveyance is subject to the following covenants:

1. No animal waste, or animal byproducts shall be spread, piled or stored upon the premises. Grantee shall not operate premises so as to interfere with the quiet enjoyment of adjoining land owners not to create a nuisance.
2. Grantee shall bear the cost to be incurred by Grantor of installing a WEB pasture tap at a location to be determined by Grantor in the South Half of Section 25, Township 123 North, Range 64 West of the Fifth Principal Meridian, and a separate tap to be located at a location to be determined by Grantor in the North Half of Section 36, Township 123 North, Range 64 West of the Fifth Principal Meridian.
3. On or before June 24, 2006, Grantee shall construct, at its own expense, a partition fence dividing the purchased parcel from the real estate retained by the Grantor located in the South Half of the North Half of Section 36, Township 123 North, Range 64 West of the Fifth Principal Meridian. The fence shall be of a composition and design reasonably acceptable to the Grantor, and similar in materials and construction as fence Grantor has constructed on east side of property.
4. For so long as all or a portion of the property remains undeveloped, Grantor may graze and generally utilize the real estate without payment of rent whatsoever.
5. Grantee shall, at its expense, provide Grantor, his heirs and assigns, access over and across the property to the real estate retained by Grantor described as the South Half of the North Half of Section 36, Township 123 North, Range 64 West of the Fifth Principal Meridian. Access shall be suitable for the transport of large farm equipment and machinery.
6. In the event Grantee's development of the property requires removal or replacement of electrical services to the parcel retained by the Grantor in the North Half of Section 36, Township 123 North, Range 64 West of the Fifth Principal Meridian, Grantee agrees at its cost to provide a new electrical access point with little or no interruption of Grantor's electrical service as is reasonably possible. The parties agree that the corral located upon the parcel of real estate currently owned by Dahme Construction Co., Inc. is the personal property of the Grantor. Grantor may maintain the corral at its current location and may utilize same, as well as the real estate to be purchased by Grantee from Dahme Construction Co., Inc. for grazing and other utilization, as long as it remains undeveloped, without rent whatsoever. Grantee shall give Grantor one year notice at such time as it intends to develop the parcel so that Grantor can remove the corral.

The Grantor reserves to himself, his heirs and assigns the following easements:

1. Grantor shall retain an easement over and across the property for ingress and egress to the Dominant Parcel to grant access to the South Half of the Northeast Quarter of Section 36, and such access point shall be to be suitable for the transport for large farm equipment and machinery.
2. Grantor shall have an easement for the existing water and electrical facilities serving the dominant parcel, and those to be constructed pursuant to this agreement, including the right of access to make reasonable improvements and repairs for electrical service, water service and other utilities to serve the Dominant Parcel.

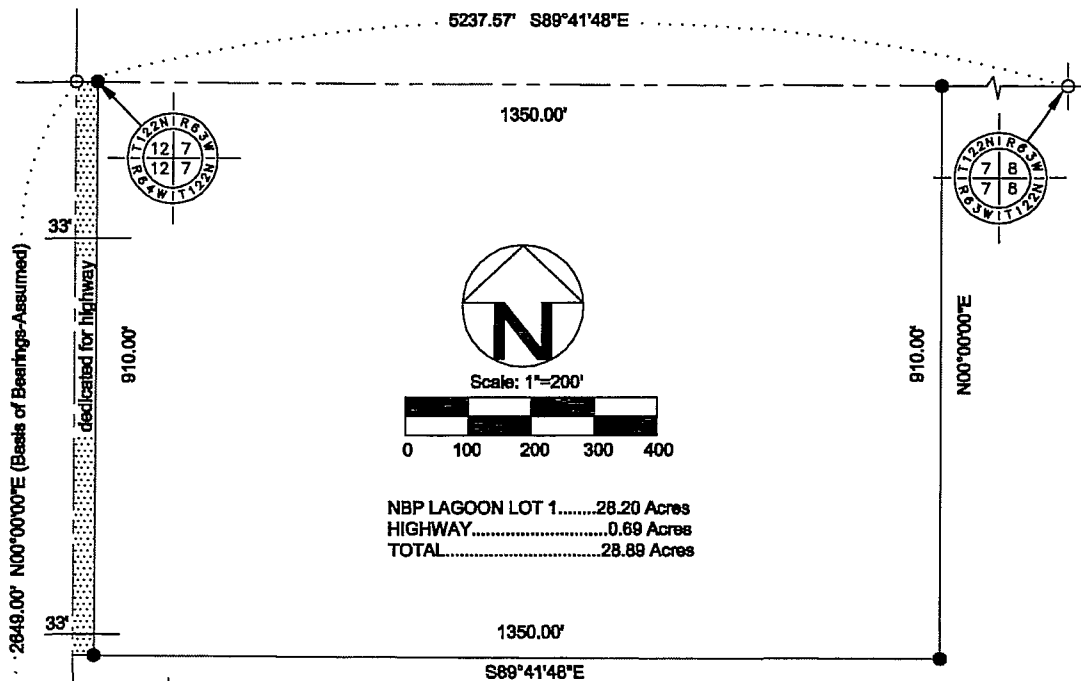
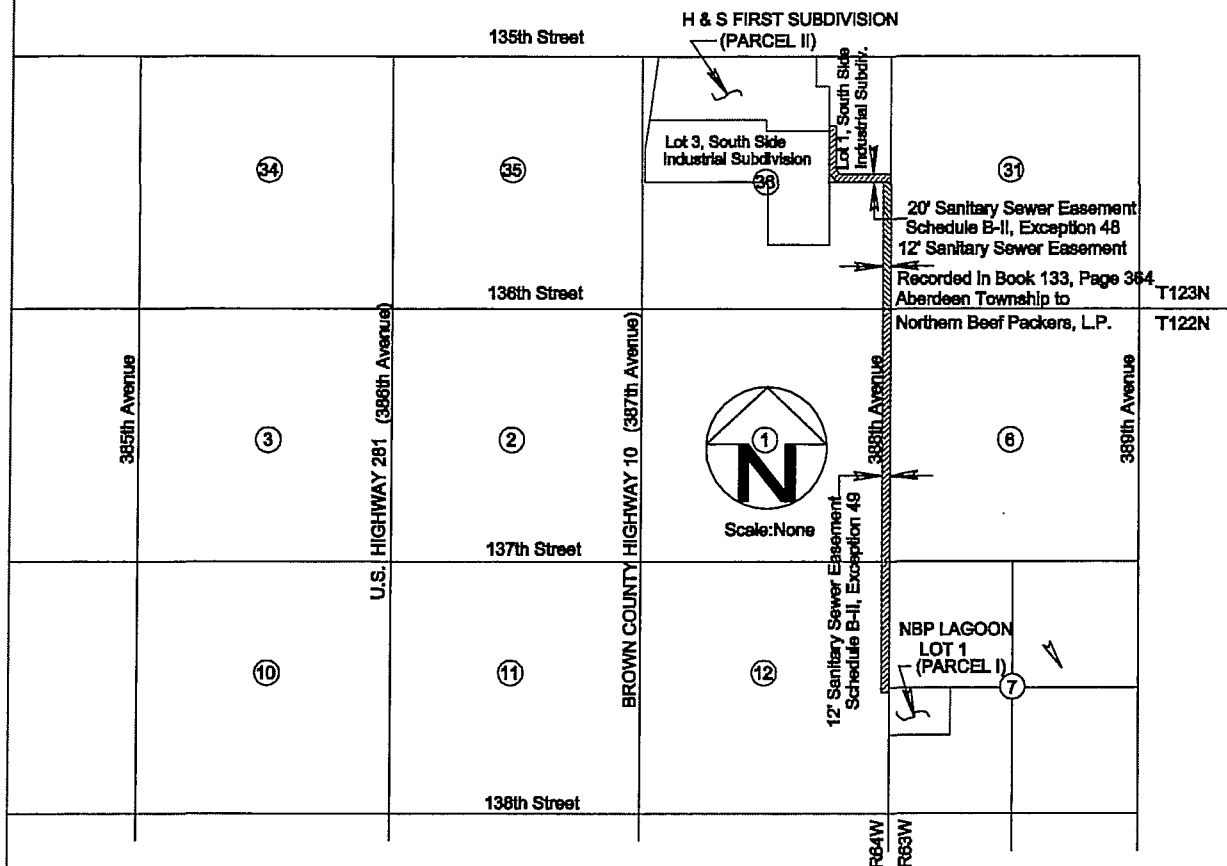
Grantor disclaims warranty as follows:

Grantor claims no interest and makes no warranty as to the real estate formerly described as Lot 1, Dahme 's First Addition in the North Half and Southeast Quarter of Section 36, Township 123 North, Range 64 West of the Fifth Principal Meridian thereof, Brown County, South Dakota.

DATED May 24, 2006

(THE BALANCE OF THIS DOCUMENT CONSISTS OF SIGNATURES AND ACKNOWLEDGEMENTS)

VICINITY MAP



NBP LAGOON LOT 1.....28.20 Acres
 HIGHWAY.....0.69 Acres
 TOTAL.....28.89 Acres

NORTHERN BEEF PACKERS ABERDEEN, SOUTH DAKOTA

38749-135th Street
 Aberdeen, South Dakota 57401

PARCEL I

LEGAL DESCRIPTION

NBP LAGOON LOT 1 IN
 SW1/4 SEC. 7-T122N-R63W of 5th P.M.
 BROWN COUNTY, SOUTH DAKOTA

ZONING INFORMATION

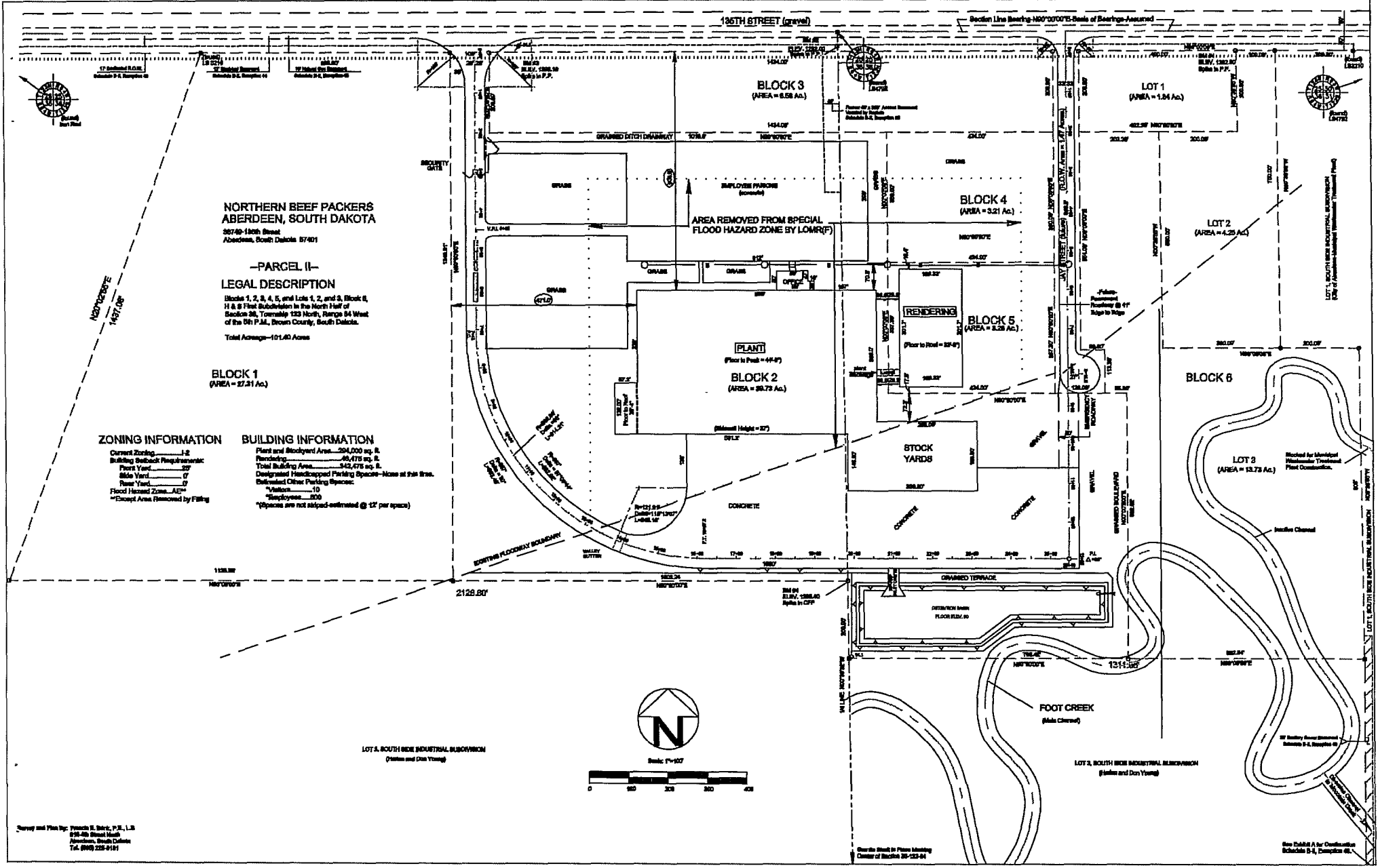
Current Zoning.....A1 (Agriculture)
 Building Setback Requirements:
 Front Yard.....100'
 Side Yard.....15'
 Rear Yard.....35'
 Flood Hazard Zone.....X

BUILDING INFORMATION

There were no improvements on this site
 at the time of survey.

LEGEND

- Monuments Found-BLM Brass Discs
 Monuments Set:
 ● 5/8"Ø rebar w/cap SD1641



**NORTHERN BEEF PACKERS
ABERDEEN, SOUTH DAKOTA**
30740-140th Street
Aberdeen, South Dakota 57401

**-PARCEL II-
LEGAL DESCRIPTION**

Blocks 1, 2, 3, 4, 5, and Lots 1, 2, and 3, Block 6,
H & B First Subdivision in the North Half of
Section 36, Township 133 North, Range 94 West
of the 9th P.M., Brown County, South Dakota.
Total Acreage—101.60 Acres

**BLOCK 1
(AREA = 27.31 Ac.)**

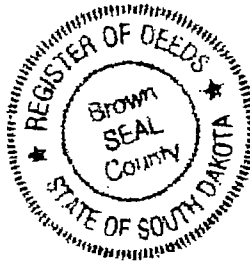
ZONING INFORMATION

Current Zoning.....I-2
Building Setback Requirements:
Front Yard.....20'
Side Yard.....0'
Rear Yard.....0'
Flood Hazard Zone.....AC-1
*Exempt Area Removed by Filling

BUILDING INFORMATION

Plant and Stockyard Area.....294,000 sq. ft.
Rendering.....46,475 sq. ft.
Total Building Area.....340,475 sq. ft.
Designated Handicapped Parking Spaces—None at this time.
Designated Other Parking Spaces:
*Visitors.....10
*Employees.....100
*Spaces are not assigned—estimated @ 12' per space

Document Prepared By:
Francis E. Brink
616-4th Street North
Aberdeen, South Dakota 57401
Tel. (605) 225-9181



INSTR. NO. 120
BK 134 MR PAGE 315

2010 JAN -8 PM 1:11

CAROL SHERMAN
BROWN CO. S. DAK. ✓
REGISTER OF DEEDS

SURVEYOR'S AFFIDAVIT OF CORRECTION
H & S FIRST SUBDIVISION IN
N1/2 SEC. 36-T123N-R64W of 5th P.M.
BROWN COUNTY, SOUTH DAKOTA

I, Francis E. Brink, Licensed Land Surveyor in the State of South Dakota, certify that the above named plat, filed in the Brown County Office of Register of Deeds as Plat No. 2285H, filed on December 28, 2006 contained a math error for the dimension of the south side of Block 1. The dimension shown as 1134.43' shall be corrected to be 1125.56'. This correction makes the combined dimensions of the south sides of Block 1 and Block 2 to be in agreement with the adjustments made to the underlying plat of South Side Industrial Subdivision on Instrument 750, filed for record in the Brown County Office of Register of Deeds in Book 132MR, Page 104 on May 22, 2006. No monuments have been reset; areas have not changed and all other aspects of the plat are correct as shown.

Francis E. Brink
Francis E. Brink, P.E., L.S. SD1641

January 8, 2010
Date

ACKNOWLEDGEMENT OF SURVEYOR

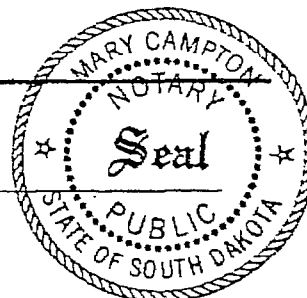
STATE OF SOUTH DAKOTA)
COUNTY OF BROWN)

On this, the 8th day of January, 2010 before me, the undersigned Officer, personally appeared Francis E. Brink, who acknowledged to me that he executed the above SURVEYOR'S AFFIDAVIT by signing.

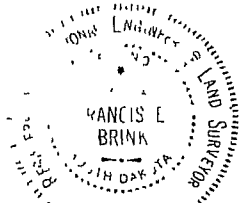
IN WITNESS WHEREOF, I have hereunto set my hand and seal.

Mary Campton
NOTARY PUBLIC, SOUTH DAKOTA

MY COMMISSION EXPIRES: 3/28/12



2285N
H 639



Francis E. Brink
11-26-2006

H & S FIRST SUBDIVISION IN N1/2 SEC. 36-T123N-R64W of 5th P.M. BROWN COUNTY, SOUTH DAKOTA

Being a Replat of Lot 2, South Side Industrial Subdivision in
N1/2 & SE1/4 Sec. 36-T123N-R64W of 5th P.M. Brown County, South Dakota

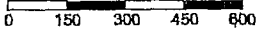


AREAS

BLOCK 1	27.31 Acres
BLOCK 2	8.58 Acres
BLOCK 3	39.73 Acres
BLOCK 4	3.21 Acres
BLOCK 5	3.28 Acres
BLOCK 6	
LOT 1	1.84 Acres
LOT 2	4.25 Acres
LOT 3	13.73 Acres
JAY STREET	1.47 Acres
TOTAL	101.40 Acres



Scale, 1"=300'



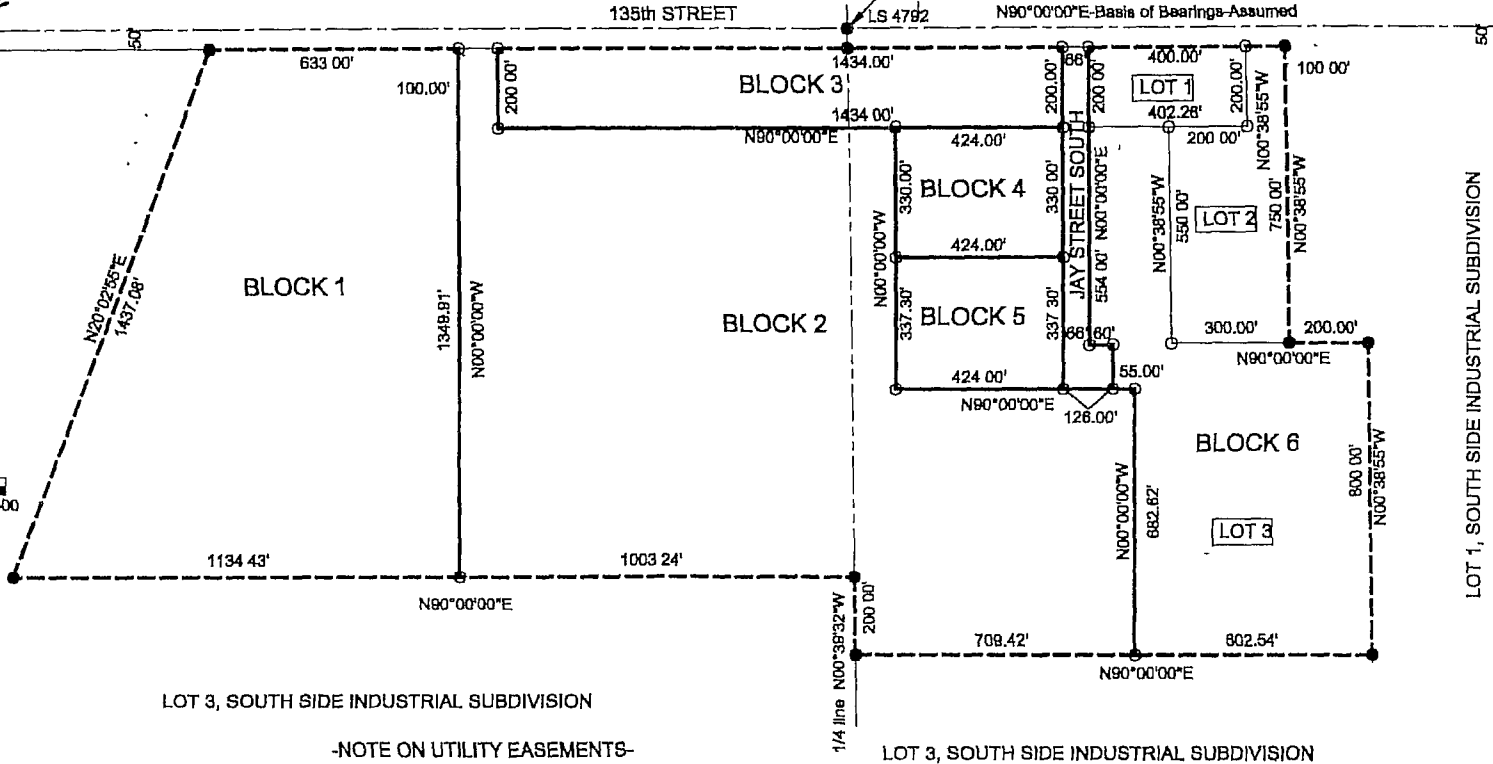
LEGEND

- Monuments Found
5/8"Ø rebar w/cap SD1841
- Monuments Set
5/8"Ø rebar w/cap SD1841

Prepared by Francis E. Brink, P.E., L.S.
618-4th Street North
Aberdeen, South Dakota 57401
Tel. (605) 225-9181

-NOTE ON UTILITY EASEMENTS-

A 5' Utility Easement on all side and rear lot lines
are dedicated with this plat for public and private
utilities. Other locations that may be desired shall
be negotiated between parties as needed

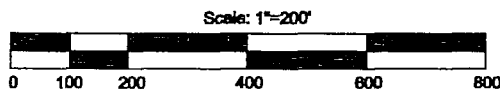
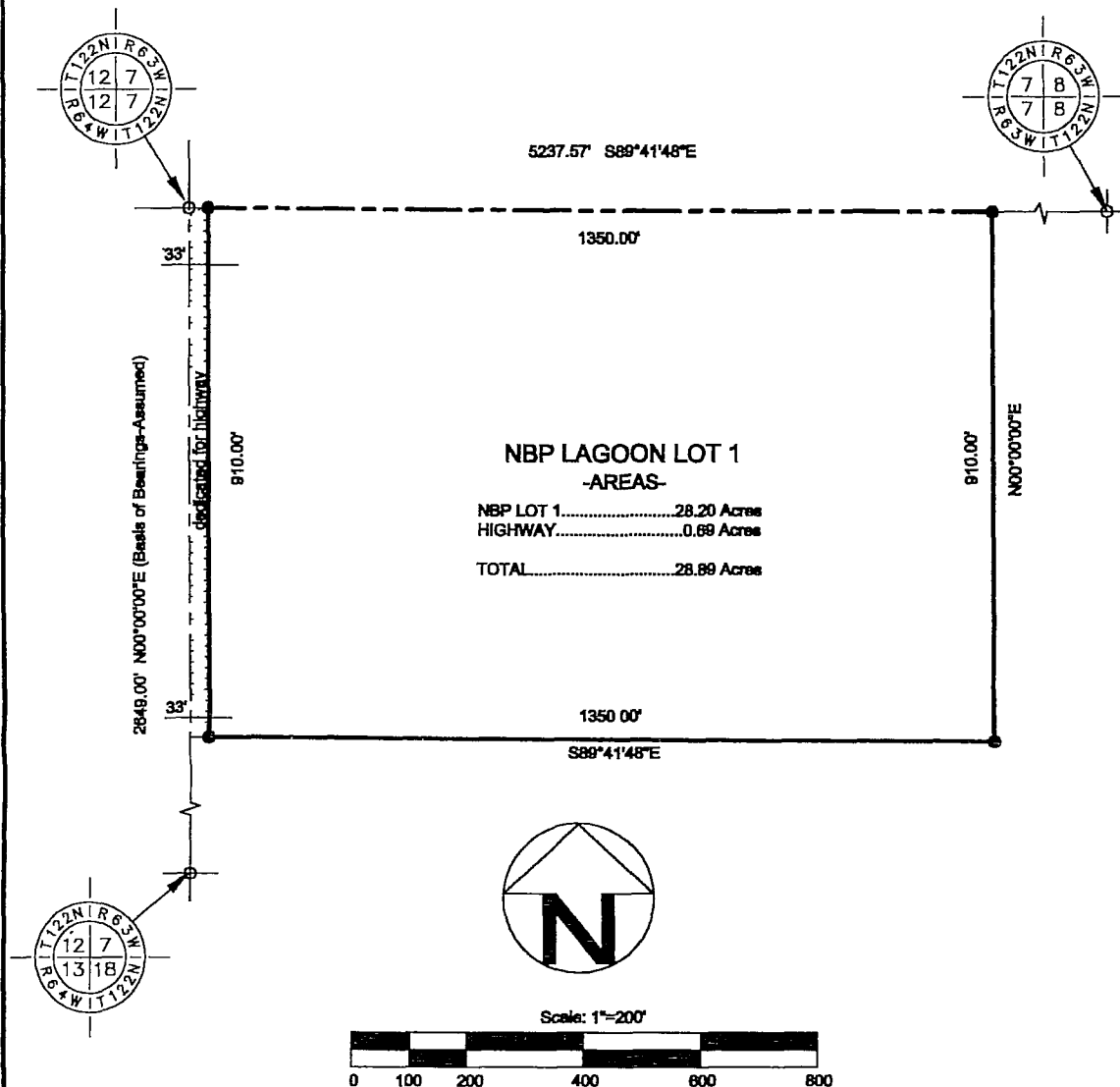


LOT 3, SOUTH SIDE INDUSTRIAL SUBDIVISION

LOT 1, SOUTH SIDE INDUSTRIAL SUBDIVISION

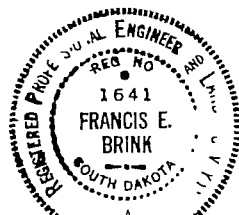
24774

NBP LAGOON LOT 1 IN SW1/4 SEC. 7-T122N-R63W of 5th P.M. BROWN COUNTY, SOUTH DAKOTA



LEGEND

- Monuments Found:
BLM Brass Caps
- Monuments Set:
5/8" rebar w/cap SD1641



Francis E. Brink
6-19-2008

Prepared By:
Francis E. Brink, P.E., L.S. SD1641
816-4th Street North
Aberdeen, South Dakota 57401
Tel. (605) 225-8181

HIGHWAY AUTHORITY CERTIFICATE

Approach access for NBP Lot 1 is hereby approved.

By: Darwin Bettmann 7/8/08
For the Walmer Township, Brown County, SD Date
Title: Superior

CONDITIONS

1 DEFINITION OF TERMS

The following terms when used in this policy mean

- (a) "Amount of Insurance" The amount stated in Schedule A, as may be increased or decreased by endorsement to this policy, increased by Section 8(b), or decreased by Sections 10 and 11 of these Conditions
- (b) "Date of Policy" The date designated as "Date of Policy" in Schedule A
- (c) "Entity" A corporation, partnership, trust, limited liability company, or other similar legal entity
- (d) "Insured" The Insured named in Schedule A
 - (i) The term "Insured" also includes
 - (A) successors to the Title of the Insured by operation of law as distinguished from purchase, including heirs, devisees, survivors, personal representatives, or next of kin,
 - (B) successors to an Insured by dissolution, merger, consolidation, distribution, or reorganization,
 - (C) successors to an Insured by its conversion to another kind of Entity,
 - (D) a grantee of an Insured under a deed delivered without payment of actual valuable consideration conveying the Title
 - (1) if the stock, shares, memberships, or other equity interests of the grantee are wholly-owned by the named Insured,
 - (2) if the grantee wholly owns the named Insured,
 - (3) if the grantee is wholly-owned by an affiliated Entity of the named Insured, provided the affiliated Entity and the named Insured are both wholly-owned by the same person or Entity, or
 - (4) if the grantee is a trustee or beneficiary of a trust created by a written instrument established by the Insured named in Schedule A for estate planning purposes
 - (ii) With regard to (A), (B), (C), and (D) reserving, however, all rights and defenses as to any successor that the Company would have had against any predecessor Insured
- (e) "Insured Claimant" An Insured claiming loss or damage
- (f) "Knowledge" or "Known" Actual knowledge, not constructive knowledge or notice that may be imputed to an Insured by reason of the Public Records or any other records that impart constructive notice of matters affecting the Title
- (g) "Land" The land described in Schedule A, and affixed improvements that by law constitute real property. The term "Land" does not include any property beyond the lines of the area described in Schedule A, nor any right, title, interest, estate, or easement in abutting streets, roads, avenues, alleys, lanes, ways, or waterways, but this does not modify or limit the extent that a right of access to and from the Land is insured by this policy
- (h) "Mortgage" Mortgage, deed of trust, trust deed, or other security instrument, including one evidenced by electronic means authorized by law
- (i) "Public Records" Records established under state statutes at Date of Policy for the purpose of imparting constructive notice of matters relating to real property to purchasers for value and without Knowledge. With respect to Covered Risk 5(d), "Public Records" shall also include environmental protection liens filed in the records of the clerk of the United States District Court for the district where the Land is located
- (j) "Title" The estate or interest described in Schedule A
- (k) "Unmarketable Title" Title affected by an alleged or apparent matter that would permit a prospective purchaser or lessee of the Title or lender on the Title to be released from the obligation to

purchase, lease, or lend if there is a contractual condition requiring the delivery of marketable title

2 CONTINUATION OF INSURANCE

The coverage of this policy shall continue in force as of Date of Policy in favor of an Insured, but only so long as the Insured retains an estate or interest in the Land, or holds an obligation secured by a purchase money Mortgage given by a purchaser from the Insured, or only so long as the Insured shall have liability by reason of warranties in any transfer or conveyance of the Title. This policy shall not continue in force in favor of any purchaser from the Insured of either (i) an estate or interest in the Land, or (ii) an obligation secured by a purchase money Mortgage given to the Insured

3 NOTICE OF CLAIM TO BE GIVEN BY INSURED CLAIMANT

The Insured shall notify the Company promptly in writing (i) in case of any litigation as set forth in Section 5(a) of these Conditions, (ii) in case Knowledge shall come to an Insured hereunder of any claim of title or interest that is adverse to the Title, as insured, and that might cause loss or damage for which the Company may be liable by virtue of this policy, or (iii) if the Title, as insured, is rejected as Unmarketable Title. If the Company is prejudiced by the failure of the Insured Claimant to provide prompt notice, the Company's liability to the Insured Claimant under the policy shall be reduced to the extent of the prejudice

4 PROOF OF LOSS

In the event the Company is unable to determine the amount of loss or damage, the Company may, at its option, require as a condition of payment that the Insured Claimant furnish a signed proof of loss. The proof of loss must describe the defect, lien, encumbrance, or other matter insured against by this policy that constitutes the basis of loss or damage and shall state, to the extent possible, the basis of calculating the amount of the loss or damage

5 DEFENSE AND PROSECUTION OF ACTIONS

- (a) Upon written request by the Insured, and subject to the options contained in Section 7 of these Conditions, the Company, at its own cost and without unreasonable delay, shall provide for the defense of an Insured in litigation in which any third party asserts a claim covered by this policy adverse to the Insured. This obligation is limited to only those stated causes of action alleging matters insured against by this policy. The Company shall have the right to select counsel of its choice (subject to the right of the Insured to object for reasonable cause) to represent the Insured as to those stated causes of action. It shall not be liable for and will not pay the fees of any other counsel. The Company will not pay any fees, costs, or expenses incurred by the Insured in the defense of those causes of action that allege matters not insured against by this policy
- (b) The Company shall have the right, in addition to the options contained in Section 7 of these Conditions, at its own cost, to institute and prosecute any action or proceeding or to do any other act that in its opinion may be necessary or desirable to establish the Title, as insured, or to prevent or reduce loss or damage to the Insured. The Company may take any appropriate action under the terms of this policy, whether or not it shall be liable to the Insured. The exercise of these rights shall not be an admission of liability or waiver of any provision of this policy. If the Company exercises its rights under this subsection, it must do so diligently
- (c) Whenever the Company brings an action or asserts a defense as required or permitted by this policy, the Company may pursue the litigation to a final determination by a court of competent jurisdiction, and it expressly reserves the right, in its sole discretion, to appeal any adverse judgment or order

CONDITIONS (con't)

6. DUTY OF INSURED CLAIMANT TO COOPERATE

(a) In all cases where this policy permits or requires the Company to prosecute or provide for the defense of any action or proceeding and any appeals, the Insured shall secure to the Company the right to so prosecute or provide defense in the action or proceeding, including the right to use, at its option, the name of the Insured for this purpose. Whenever requested by the Company, the Insured, at the Company's expense, shall give the Company all reasonable aid (i) in securing evidence, obtaining witnesses, prosecuting or defending the action or proceeding, or effecting settlement, and (ii) in any other lawful act that in the opinion of the Company may be necessary or desirable to establish the Title or any other matter as insured. If the Company is prejudiced by the failure of the Insured to furnish the required cooperation, the Company's obligations to the Insured under the policy shall terminate, including any liability or obligation to defend, prosecute, or continue any litigation, with regard to the matter or matters requiring such cooperation.

(b) The Company may reasonably require the Insured Claimant to submit to examination under oath by any authorized representative of the Company and to produce for examination, inspection, and copying, at such reasonable times and places as may be designated by the authorized representative of the Company, all records, in whatever medium maintained, including books, ledgers, checks, memoranda, correspondence, reports, e-mails, disks, tapes, and videos whether bearing a date before or after Date of Policy, that reasonably pertain to the loss or damage. Further, if requested by any authorized representative of the Company, the Insured Claimant shall grant its permission, in writing, for any authorized representative of the Company to examine, inspect, and copy all of these records in the custody or control of a third party that reasonably pertain to the loss or damage. All information designated as confidential by the Insured Claimant provided to the Company pursuant to this Section shall not be disclosed to others unless, in the reasonable judgment of the Company, it is necessary in the administration of the claim. Failure of the Insured Claimant to submit for examination under oath, produce any reasonably requested information, or grant permission to secure reasonably necessary information from third parties as required in this subsection, unless prohibited by law or governmental regulation, shall terminate any liability of the Company under this policy as to that claim.

7. OPTIONS TO PAY OR OTHERWISE SETTLE CLAIMS; TERMINATION OF LIABILITY

In case of a claim under this policy, the Company shall have the following additional options:

- (a) To Pay or Tender Payment of the Amount of Insurance.
To pay or tender payment of the Amount of Insurance under this policy together with any costs, attorneys' fees, and expenses incurred by the Insured Claimant that were authorized by the Company up to the time of payment or tender of payment and that the Company is obligated to pay.
Upon the exercise by the Company of this option, all liability and obligations of the Company to the Insured under this policy, other than to make the payment required in this subsection, shall terminate, including any liability or obligation to defend, prosecute, or continue any litigation.
- (b) To Pay or Otherwise Settle With Parties Other Than the Insured or With the Insured Claimant.
 - (i) To pay or otherwise settle with other parties for or in the name of an Insured Claimant any claim insured against under this

- policy. In addition, the Company will pay any costs, attorneys' fees, and expenses incurred by the Insured Claimant that were authorized by the Company up to the time of payment and that the Company is obligated to pay; or
- (ii) To pay or otherwise settle with the Insured Claimant the loss or damage provided for under this policy, together with any costs, attorneys' fees, and expenses incurred by the Insured Claimant that were authorized by the Company up to the time of payment and that the Company is obligated to pay.

Upon the exercise by the Company of either of the options provided for in subsections (b)(i) or (ii), the Company's obligations to the Insured under this policy for the claimed loss or damage, other than the payments required to be made, shall terminate, including any liability or obligation to defend, prosecute, or continue any litigation.

8. DETERMINATION AND EXTENT OF LIABILITY

This policy is a contract of indemnity against actual monetary loss or damage sustained or incurred by the Insured Claimant who has suffered loss or damage by reason of matters insured against by this policy.

- (a) The extent of liability of the Company for loss or damage under this policy shall not exceed the lesser of
 - (i) the Amount of Insurance; or
 - (ii) the difference between the value of the Title as insured and the value of the Title subject to the risk insured against by this policy.
- (b) If the Company pursues its rights under Section 5 of these Conditions and is unsuccessful in establishing the Title, as insured,
 - (i) the Amount of Insurance shall be increased by 10%, and
 - (ii) the Insured Claimant shall have the right to have the loss or damage determined either as of the date the claim was made by the Insured Claimant or as of the date it is settled and paid.
- (c) In addition to the extent of liability under (a) and (b), the Company will also pay those costs, attorneys' fees, and expenses incurred in accordance with Sections 5 and 7 of these Conditions.

9. LIMITATION OF LIABILITY

- (a) If the Company establishes the Title, or removes the alleged defect, lien, or encumbrance, or cures the lack of a right of access to or from the Land, or cures the claim of Unmarketable Title, all as insured, in a reasonably diligent manner by any method, including litigation and the completion of any appeals, it shall have fully performed its obligations with respect to that matter and shall not be liable for any loss or damage caused to the Insured.
- (b) In the event of any litigation, including litigation by the Company or with the Company's consent, the Company shall have no liability for loss or damage until there has been a final determination by a court of competent jurisdiction, and disposition of all appeals, adverse to the Title, as insured.
- (c) The Company shall not be liable for loss or damage to the Insured for liability voluntarily assumed by the Insured in settling any claim or suit without the prior written consent of the Company.

10. REDUCTION OF INSURANCE; REDUCTION OR TERMINATION OF LIABILITY

All payments under this policy, except payments made for costs, attorneys' fees, and expenses, shall reduce the Amount of Insurance by the amount of the payment.

CONDITIONS (con't)

11. LIABILITY NONCUMULATIVE

The Amount of Insurance shall be reduced by any amount the Company pays under any policy insuring a Mortgage to which exception is taken in Schedule B or to which the Insured has agreed, assumed, or taken subject, or which is executed by an Insured after Date of Policy and which is a charge or lien on the Title, and the amount so paid shall be deemed a payment to the Insured under this policy.

12. PAYMENT OF LOSS

When liability and the extent of loss or damage have been definitely fixed in accordance with these Conditions, the payment shall be made within 30 days.

13. RIGHTS OF RECOVERY UPON PAYMENT OR SETTLEMENT

(a) Whenever the Company shall have settled and paid a claim under this policy, it shall be subrogated and entitled to the rights of the Insured Claimant in the Title and all other rights and remedies in respect to the claim that the Insured Claimant has against any person or property, to the extent of the amount of any loss, costs, attorneys' fees, and expenses paid by the Company. If requested by the Company, the Insured Claimant shall execute documents to evidence the transfer to the Company of these rights and remedies. The Insured Claimant shall permit the Company to sue, compromise, or settle in the name of the Insured Claimant and to use the name of the Insured Claimant in any transaction or litigation involving these rights and remedies.

If a payment on account of a claim does not fully cover the loss of the Insured Claimant, the Company shall defer the exercise of its right to recover until after the Insured Claimant shall have recovered its loss.

(b) The Company's right of subrogation includes the rights of the Insured to indemnities, guaranties, other policies of insurance, or bonds, notwithstanding any terms or conditions contained in those instruments that address subrogation rights.

14. ARBITRATION

Either the Company or the Insured may demand that the claim or controversy shall be submitted to arbitration pursuant to the Title Insurance Arbitration Rules of the American Land Title Association ("Rules"). Except as provided in the Rules, there shall be no joinder or consolidation with claims or controversies of other persons. Arbitrable matters may include, but are not limited to, any controversy or claim between the Company and the Insured arising out of or relating to this policy, any service in connection with its issuance or the breach of a policy provision, or to any other controversy or claim arising out of the transaction giving rise to this policy. All arbitrable matters when the Amount of Insurance is \$2,000,000 or less shall be arbitrated at the option of either the Company or the Insured. All arbitrable matters when the Amount of Insurance is in excess of \$2,000,000 shall be arbitrated only when agreed to by both the Company and the Insured. Arbitration pursuant to this policy and under the Rules shall be binding upon the parties. Judgment upon the award rendered by the Arbitrator(s) may be entered in any court of competent jurisdiction.

15. LIABILITY LIMITED TO THIS POLICY; POLICY ENTIRE CONTRACT

(a) This policy together with all endorsements, if any, attached to it by the Company is the entire policy and contract between the Insured and the Company. In interpreting any provision of this

policy, this policy shall be construed as a whole.

(b) Any claim of loss or damage that arises out of the status of the Title or by any action asserting such claim shall be restricted to this policy.

(c) Any amendment of or endorsement to this policy must be in writing and authenticated by an authorized person, or expressly incorporated by Schedule A of this policy.

(d) Each endorsement to this policy issued at any time is made a part of this policy and is subject to all of its terms and provisions. Except as the endorsement expressly states, it does not (i) modify any of the terms and provisions of the policy, (ii) modify any prior endorsement, (iii) extend the Date of Policy, or (iv) increase the Amount of Insurance.

16. SEVERABILITY

In the event any provision of this policy, in whole or in part, is held invalid or unenforceable under applicable law, the policy shall be deemed not to include that provision or such part held to be invalid, but all other provisions shall remain in full force and effect.

17. CHOICE OF LAW; FORUM

(a) Choice of Law: The Insured acknowledges the Company has underwritten the risks covered by this policy and determined the premium charged therefor in reliance upon the law affecting interests in real property and applicable to the interpretation, rights, remedies, or enforcement of policies of title insurance of the jurisdiction where the Land is located.

Therefore, the court or an arbitrator shall apply the law of the jurisdiction where the Land is located to determine the validity of claims against the Title that are adverse to the Insured and to interpret and enforce the terms of this policy. In neither case shall the court or arbitrator apply its conflicts of law principles to determine the applicable law.

(b) Choice of Forum: Any litigation or other proceeding brought by the Insured against the Company must be filed only in a state or federal court within the United States of America or its territories having appropriate jurisdiction.

18. NOTICES, WHERE SENT

Any notice of claim and any other notice or statement in writing required to be given to the Company under this policy must be given to the Company at 400 Second Avenue South, Minneapolis, Minnesota 55401-2499.