

# BRIGHTON CITY COUNCIL RESOLUTION

## METRO WASTEWATER RECLAMATION DISTRICT NORTHERN TREATMENT PLANT CONDITIONAL USE

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BRIGHTON, COLORADO, APPROVING WITH CONDITIONS AS SET FORTH HEREIN, A CONDITIONAL USE FOR THE METRO WASTEWATER RECLAMATION DISTRICT NORTHERN TREATMENT PLANT FACILITY GENERALLY LOCATED IN SECTION 31, TOWNSHIP 1 NORTH, RANGE 66 WEST OF THE 6<sup>th</sup> PRINCIPAL MERIDIAN, WITHIN THE CITY OF BRIGHTON, COUNTY OF WELD, STATE OF COLORADO; AND SETTING FORTH DETAILS IN RELATION THERETO.

### RESOLUTION NO: 2012-132

**WHEREAS**, the Applicant, Bill Brennan, Project Delivery Manager for the Northern Treatment Plant (the “Applicant”), on behalf of the Metro Wastewater Reclamation District (“Metro” or, the “Owner”), has filed with the City an application for approval of a Conditional Use, entitled City of Brighton Conditional Use Permit Application – Metro Wastewater Reclamation District Northern Treatment Plant (the “Application”), seeking approval of a Conditional Use Permit for a project known as the Metro Wastewater Reclamation District Northern Treatment Plant Facility (“NTP” or, the “Project”); and

**WHEREAS**, the NTP site is approximately 83.160 acres in size and is generally located north of Baseline Road (a.k.a. 168<sup>th</sup> Avenue, or Weld County Road 2, and hereinafter referred to as Baseline Road), west of Highway US-85, and east of the South Platte River (“the Property”), as more particularly described in **Exhibit A**; and

**WHEREAS**, Metro is requesting approval of the Application for the purpose of constructing and operating a regional wastewater treatment facility on the Property for the economic consolidation of wastewater management facilities serving the cities of Brighton, Aurora, Thornton, Denver and other water and sanitation districts; and

**WHEREAS**, the Property is located in the City of Brighton and is zoned as PL (Public Land) and in accordance with Section 17-32-30, Table of Uses, of the *Land Use and Development Code, Brighton Municipal Code*, a wastewater treatment facility shall be subject to review and approval as a conditional use; and

**WHEREAS**, The NTP will be built in phases, with the initial Phase I resulting in the construction of a 24 million-gallon-per-day average flow for wastewater treatment, an effluent pump-back system, and the South Platte Interceptor, for completion in 2016, with expanded projected capacity when population levels in the northern metropolitan area warrant additional treatment capacity of 60 million-gallon-per-minute treatment capacity at ultimate build out in or around 2045; and

**WHEREAS**, Metro and the City have entered into a Service Agreement that provides for Brighton's wastewater treatment facility to be phased out within twenty (20) years of the NTP becoming operational; and

**WHEREAS**, a notice of public hearing letter was mailed to all property owners within 300 feet of the Property, and a notice of public hearing sign (the large format "banner sign") was posted on the Property, and a notice of public hearing was published in the *Brighton Banner*, all for no less than fifteen (15) days prior to the City Council public hearing held on November 13, 2012, pursuant to subsection 17-8-30(f) Notice, of the *Land Use and Development Code* of the *Brighton Municipal Code*; and

**WHEREAS**, in accordance with C.R.S. §24-65.5-101 *et. seq.*, all mineral rights owners were notified of the public hearing held on April 10, 2012 by the City of Brighton Planning Commission, regarding approval of the Preliminary Plat and surface development of the Property; and

**WHEREAS**, on November 13, 2012, the City Council conducted the public hearing for consideration of the Application at which Metro, interested parties, and city staff were permitted to present evidence and testimony and to ask and answer questions regarding the NTP and the requested conditional use; and

**WHEREAS**, the City Council finds that, pursuant to the *Land Use and Development Code*, a conditional use is an additional use of land that may be allowed with restrictions deemed necessary by the City Council, and that approval thereof is subject to the City's conditional use procedures and criteria; and

**WHEREAS**, the City Council, in making its decision relative to a conditional use shall determine if the conditional use:

- a) Complies with the requirements of the *Land Use and Development Code* and the zone district in which it may be located;
- b) The conditional use is consistent with the purposes and intents of the *Land Use and Development Code*;
- c) The conditional use is compatible with surrounding areas, is harmonious with the character of the neighborhood, is not detrimental to the immediate area, is not detrimental to the future development of the area, and is not detrimental to the health, safety or welfare of the inhabitants of the City;
- d) The conditional use complies the *2020 Comprehensive Plan* and other plans of the City; and
- e) It is necessary to apply restrictions and conditions upon approval of the conditional use; and

**WHEREAS**, in weighing the approval or denial of a conditional use application the City Council shall consider relevant criteria for the particular use requested including, but not limited to hours of operation, street and road capacity, off-street parking, fencing, screening and landscaping, building bulk, heights, setbacks, location and appearance, open space requirements, signs, lighting, noise, vibration, air pollution or similar environmental considerations; and

**WHEREAS**, in reliance on the Application, evidence, representations, acknowledgements of Metro, presentations and statements made at the Public Hearing by the city staff and interested persons, the City Council finds and determines that, upon the conditions herein contained and agreement of the Applicant, the relevant criteria set forth herein for approval of the NTP as a conditional use have been satisfied and approval thereof is in the best interest of the City of Brighton and the citizens thereof; and

**WHEREAS**, the City Council finds and determines that sufficient justification exists to approve the Application for a conditional use, so long as certain specific conditions are placed on the approval, as more specifically provided herein.

**NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF BRIGHTON AS FOLLOWS:**

**Section 1. APPROVAL.** The Conditional Use request and request for exemptions for the Metro Wastewater Reclamation District Northern Treatment Plant Facility (“NTP”), as described in **Exhibit A**, within the City of Brighton, County of Weld, State of Colorado, is hereby approved on Metro’s compliance with the following conditions:

**Section 2. REQUIRED SUBMITTALS.** Prior to commencing construction of the NTP, Metro shall furnish to the City, for its review and approval, the applicable documents for a conditional use application, as defined in Section 17-8-60 of the *Land Use and Development Code* of the *Brighton Municipal Code*, which shall meet all City requirements, as set forth in the applicable ordinances, codes, rules and regulations of the City.

**Section 3. COMPLIANCE WITH APPLICATION.** The Project shall be designed, constructed, operated, and maintained in compliance with the representations and agreements set forth in the Application and this Conditional Use Approval. The NTP shall be designed, constructed, and operated to meet or exceed federal and state standards and safety requirements applicable to the proposed facilities.

**Section 4. COMPLIANCE WITH DEVELOPMENT AGREEMENT.** The Project shall be designed, constructed, operated, and maintained in compliance with the representations and agreements set forth in the *Metro Wastewater Reclamation District – Northern Treatment Plant, Development Agreement* (the “Development Agreement”), dated the 20<sup>th</sup> day of November, 2012; and

Exhibit G-1 of the Development Agreement, the *Stormwater Facilities Maintenance Agreement for Treatment and Drainage Facilities Located on Private Property, Metro Wastewater Reclamation District Northern Treatment Plant*, dated the 20<sup>th</sup> day of November, 2012; and

Exhibit G-2 of the Development Agreement, the *Non-Exclusive Easement Agreement (OSP and Elms Pond Easements)*, dated the 20<sup>th</sup> day of November, 2012.

**Section 5. CONFLICTS AVOIDED.** The Project shall be constructed in a manner to minimize the impact to existing land uses whether public or private.

**Section 6. CONSTRUCTION ACTIVITIES GENERALLY.** Construction activities shall be conducted in accordance with the applicable ordinances, codes, rules and regulations of the City related wastewater and related improvements.

Metro or its construction contractor shall obtain all necessary City, County, CDOT, and access permits for work in the public right-of-ways prior to construction. No parking during construction of Phase I or thereafter shall be allowed on public roads. Metro or its contractors shall obtain a Permit for any oversized or overweight vehicles that utilize public roadways. If it is reasonably determined by the City that construction related use of the public rights-of-way have damaged or degraded the same, the right-of-way shall be restored to the pre-construction condition by Metro or its contractors in accordance with the applicable City of Brighton, County, and CDOT ordinances, regulations, and requirements.

The Project shall utilize a Stormwater Management Plan for implementation of best management practices and undertake weed management and revegetation techniques to mitigate soil erosion, control noxious weeds, and revegetate disturbed areas. Dust control shall be provided on a routine basis by the use of water trucks. Excavated materials or other construction materials shall not be stockpiled or deposited near or on any stream or waterway where they could be washed away by high water or storm runoff or be encroached by water from the drainage, stream, or waterway. Upon completion of the construction phase, all construction materials and debris shall be removed from the construction site.

**Section 7. CONSTRUCTION PHASE SECURITY.** Metro and its contractors shall provide a temporary security fence and other security measures around the perimeter of the entire site and the contractor staging area during construction as shown in the Application. The contractors will coordinate with the City of Brighton Police Department Community Service group for the provision of security at the site during non-working hours.

Gates or other approved barriers shall be installed and maintained on the site access roads when workers are not present in order to reduce unauthorized access during the construction phase. All temporary security fencing, installed around the Contractor Staging Area during the construction phase of development, shall be opaque so as to obscure view from the public realm, as depicted in the Application.

All construction lighting, used during the construction of Phase I, shall be limited to the normal hours of operation, unless prior approval from the City Manager or his designee has been obtained for off-hours construction. Security monitoring cameras will be employed to monitor, record, and notify the contractors of any unauthorized after-hours activity.

**Section 8. CONSTRUCTION PHASE HOURS OF OPERATION.** The hours of operation during construction of Phase I shall be limited to Mondays through Saturdays, from 6:00 a.m. to 7:00 p.m. Any construction activities on the Property that fall outside of the normal hours of operation (off-hours) must first be approved by the City Manager or his designee. The City Manager shall be notified in writing at least 48 hours prior to any off-hours construction activities, and the City may require Metro to notify surrounding property owners of any off-hours construction activities.

**Section 9. TRAFFIC AND ACCESS.** Metro shall complete the deceleration lane and sidewalk improvements, adjacent to Baseline Road, as shown in the Application, prior to the NTP becoming operational. Metro shall obtain all necessary City, County, CDOT, and access permits for work in the public right-of-ways.

**Section 10. CDOT RESERVATION AREA.** No buildings or structures, as defined in Section 17-12-20, Definitions, of the *Land Use and Development Code* of the *Brighton Municipal Code*, shall be constructed within the Colorado Department of Transportation (CDOT) Reservation Area, as shown on the Final Plat, without prior approval by CDOT and the City of Brighton.

**Section 11. ODOR CONTROL.** The NTP will incorporate advanced treatment facilities, including biological treatment and ultraviolet disinfection of wastewater. Odor will be controlled through the use of advanced biological odor control technologies, fans, underground ducts, and recirculation pumps. All processing structures will be covered, eliminating open-air processing and keeping to minimum any odor associated with the intended use. The odor control systems shall be maintained and kept in good operating condition to ensure maximum odor control mitigation for the community.

**Section 12. VISUAL IMPACTS.** The Project has been designed in compliance with the Industrial Design Standards (IDS) to mitigate against visual impacts to the community.

The various buildings, processing structures, and site fencing shall be designed and constructed to meet the City's Industrial Design Standards (IDS) in Article 17-49 of the *Land Use and Development Code* of the *Brighton Municipal Code*, using high-quality building materials, architectural details and articulation, and natural colors and materials that complement the site and the community aesthetic, as shown in the Application.

Landscaping and fencing along the ten-foot (10') wide concrete, regional trail, the Colorado Front Range Trail, along the western edge of the site, through the South Platte River riparian corridor, and the landscaping and fencing adjacent to US-85, shall be designed and constructed to mitigate the visual impacts of the site and provide visual interest along the public realm, as shown in the Application. The northern end of the site will retain the existing, natural landscape and pond (Elms Pond), as shown in the Application.

Appropriate lighting levels for the effective operation of the NTP will remain on the site and all lighting will comply with the City's standards for design and intensity as provided in the Industrial Design Standards, Article 17-49, of the *Land Use and Development Code*, *Brighton Municipal Code*, with illumination levels at the property lines not exceeding five lumens as illustrated in the Photometric Plan submitted with the Application.

**Section 13. REGIONAL TRAIL.** Metro shall construct a ten-foot (10') wide, concrete, regional trail, the Colorado Front Range Trail, adjacent to the western edge of the site, through the South Platte River riparian corridor, as shown in the Application. This trail shall be completed and approved by the City prior to the NTP site becoming operational.

**Section 14. LANDSCAPING.** The landscaping and berm, adjacent to US-85, as depicted in the Application, shall be installed and approved by the City prior to the prior to the NTP site becoming operational.

The landscaping along the western edge of the site and along the ten-foot (10') regional trail, shall be completed and approved by the City, prior to the NTP site becoming operational.

**Section 15. FENCING.** The treatment plant process area shall be enclosed within an 8-foot (8') tall, decorative, security fence, consisting of masonry columns and ornamental iron along the south and east exposures of the site, and a chain link fence will be constructed on the north and west of the site, as shown in the Application. The fencing shall be completed an approved by the City prior to the NTP becoming operational.

**Section 16. ADMINISTRATION/VISITOR CENTER.** The Administration/Visitor Center building shall be constructed and approved by the City prior to the NTP becoming operational.

The permanent decorative fencing, adjacent to US-85 and Baseline Road, the effluent channel, and the "wetlands" area, with associated pedestrian bridges and pathways, adjacent to the Administration/Visitor Center, as depicted in the Application, shall be installed contemporaneously with the construction of the Administration/Visitor Center building, and consistent with City approved construction drawings and the Application, prior to the NTP becoming operational.

The treated effluent, at the end of the treatment process, will flow through an effluent channel/pond area that will incorporate wetlands before the treated effluent is discharged to the South Platte River.

**Section 17. SIGNS.** An entry sign will be constructed at the Baseline access to the site as shown on the Landscape Plan attached to the Application. The entrance sign shall be designed and constructed to comply with the City's Sign Code at Section 17-20-100 and the Industrial Design Standards at Article 17-49, of the *Land Use and Development Code, Brighton Municipal Code*.

**Section 18.** The approval of the NTP as a conditional use is limited to the ownership, maintenance, and operation of the same by Metro Wastewater Reclamation District, or a successor public entity or district, and shall not run with the land.

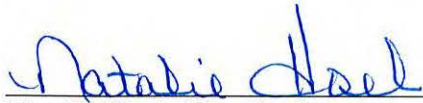
**RESOLVED, THIS 13<sup>TH</sup> DAY OF NOVEMBER, 2012.**

CITY OF BRIGHTON, COLORADO:



Richard N. McLean, Mayor

ATTEST:



Natalie Hoel, City Clerk

APPROVED AS TO FORM:



Margaret R. Brubaker, Esq., City Attorney

## EXHIBIT A

### LEGAL DESCRIPTION

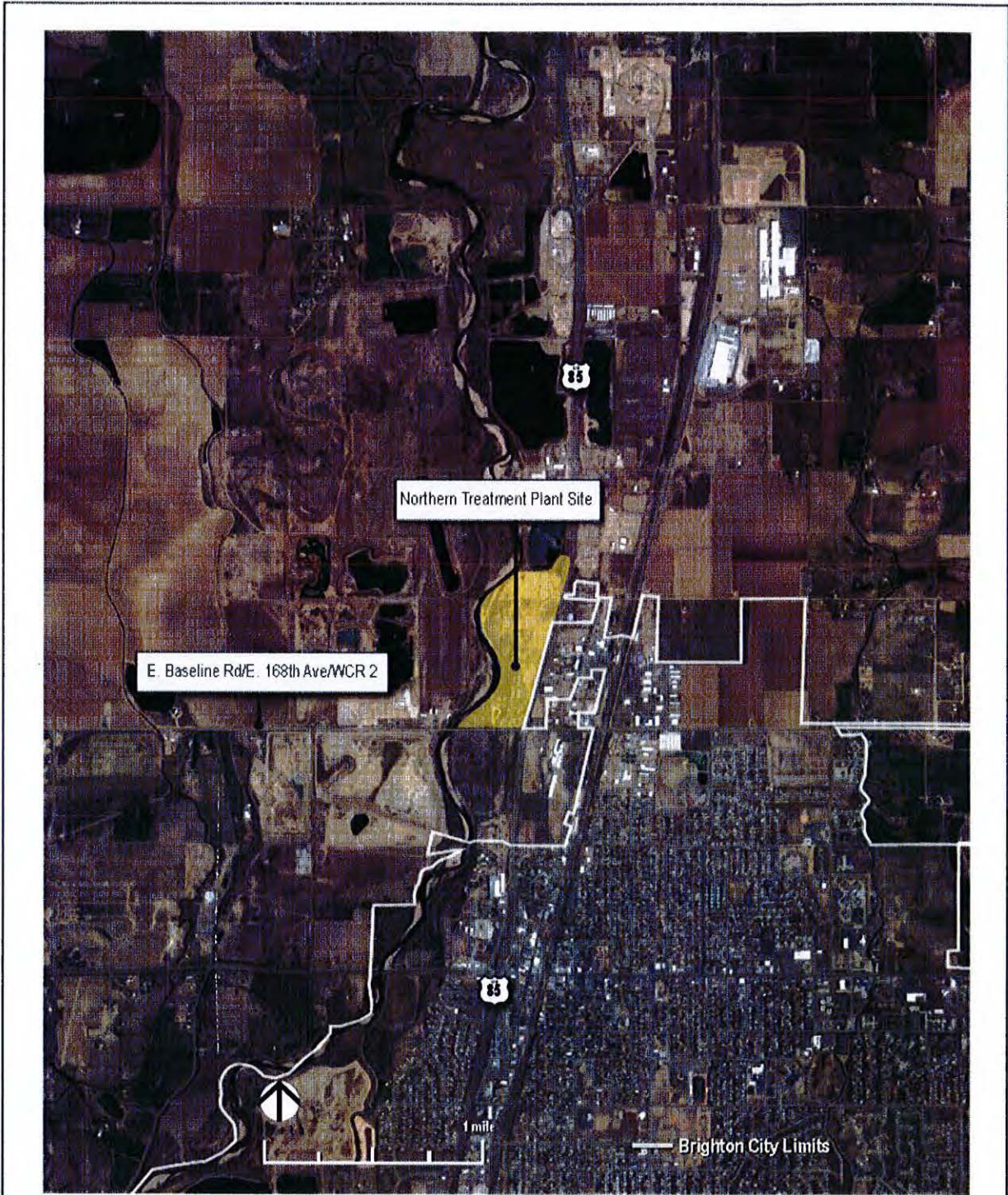
A PARCEL OF LAND LOCATED IN SECTION 31, TOWNSHIP 1 NORTH, RANGE 66 WEST OF THE SIXTH PRINCIPAL MERIDIAN, CITY OF BRIGHTON, COUNTY OF WELD, STATE OF COLORADO BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF SAID SECTION 31; THENCE N89°28'09"E ALONG THE SOUTHERLY LINE OF THE SOUTHWEST QUARTER OF SAID SECTION 31, A DISTANCE OF 2017.80 FEET; THENCE N22°33'13"E A DISTANCE OF 32.61 FEET TO THE INTERSECTION OF THE NORTHERLY RIGHT-OF-WAY OF EAST BASELINE ROAD (EAST 168TH AVENUE) AND THE WESTERLY RIGHT-OF-WAY LINE OF U.S. HIGHWAY 85, SAID POINT BEING THE POINT OF BEGINNING; THENCE S89°28'09"W ALONG THE NORTHERLY RIGHT-OF-WAY LINE OF SAID EAST BASELINE ROAD BEING ON A LINE THAT IS 30.00 FEET NORTHERLY OF AND PARALLEL TO SAID SOUTHERLY LINE OF THE SOUTHWEST QUARTER OF SECTION 31, A DISTANCE OF 436.32 FEET; THENCE N8°49'04"E A DISTANCE OF 15.00 FEET TO A POINT ON THE NORTHERLY RIGHT-OF-WAY LINE OF SAID EAST BASELINE ROAD AS RECORDED AT RECEPTION NUMBER 02191662; THENCE ALONG SAID NORTHERLY RIGHT-OF-WAY LINE RECORDED AT RECEPTION NUMBER 02191662 THE FOLLOWING SIX (6) CONSECUTIVE COURSES: 1) THENCE S89°30'10"W A DISTANCE OF 118.43 FEET; 2) THENCE S89°33'27"W A DISTANCE OF 80.59 FEET; 3) THENCE S78°09'33"W A DISTANCE OF 50.99 FEET; 4) THENCE S89°28'09"W A DISTANCE OF 150.00 FEET; 5) THENCE N87°18'23"W A DISTANCE OF 355.56 FEET; 6) THENCE S89°28'09"W A DISTANCE OF 28.63 FEET TO A POINT ON THE EASTERLY BANK OF THE SOUTH PLATTE RIVER AS IS EXISTS ON JUNE 30, 2009; THENCE ALONG SAID EASTERLY BANK OF THE SOUTH PLATTE RIVER THE FOLLOWING ELEVEN (11) CONSECUTIVE COURSES; 1.) THENCE N47°08'20"E A DISTANCE OF 256.03 FEET; 2.) THENCE 154.14 FEET ALONG THE ARC OF A NON-TANGENT CURVE TO THE RIGHT, HAVING A RADIUS OF 319.60 FEET, A CENTRAL ANGLE OF 27°37'57" AND A CHORD WHICH BEARS N31°10'01"E A DISTANCE OF 152.65 FEET; 3.) THENCE N47°16'52"E A DISTANCE OF 232.28 FEET; 4.) THENCE N51°43'23"E A DISTANCE OF 118.05 FEET; 5.) THENCE N54°14'32"E A DISTANCE OF 109.95 FEET; 6.) THENCE 196.57 FEET ALONG THE ARC OF A NON-TANGENT CURVE TO THE RIGHT, HAVING A RADIUS OF 687.23 FEET, A CENTRAL ANGLE OF 16°23'20" AND A CHORD WHICH BEARS N31°55'16"E A DISTANCE OF 195.91 FEET; 7.) THENCE 202.68 FEET ALONG THE ARC OF A NON-TANGENT CURVE TO THE LEFT, HAVING A RADIUS OF 289.12 FEET, A CENTRAL ANGLE OF 40°09'52" AND A CHORD WHICH BEARS N23°21'20"E A DISTANCE OF 198.55 FEET; 8.) THENCE 197.56 FEET ALONG THE ARC OF A NON-TANGENT CURVE TO THE LEFT, HAVING A RADIUS OF 222.32 FEET, A CENTRAL ANGLE OF 50°54'54" AND A CHORD WHICH BEARS N08°37'41"E A DISTANCE OF 191.12 FEET; 9.) THENCE N10°27'01"W A DISTANCE OF 192.33 FEET; 10.) THENCE N20°57'11"W A DISTANCE OF 197.32 FEET; 11.) THENCE N12°47'47"W A DISTANCE OF 97.29 FEET; THENCE S89°06'26"W A DISTANCE OF 127.31 FEET TO A POINT ON THE

CENTERLINE OF THE SOUTH PLATTE RIVER AS IT EXISTED ON JUNE 30, 2009; THENCE ALONG THE SAID CENTERLINE THE FOLLOWING FIVE (5) CONSECUTIVE COURSES; 1.) THENCE N29°34'03"W A DISTANCE OF 165.50 FEET; 2.) THENCE 140.21 FEET ALONG THE ARC OF A CURVE TO THE RIGHT, HAVING A RADIUS OF 342.61 FEET, A CENTRAL ANGLE OF 23°26'51" AND A CHORD WHICH BEARS N17°50'37"W A DISTANCE OF 139.23 FEET; 3.) THENCE N06°07'12"W A DISTANCE OF 244.42 FEET; 4.) THENCE 172.42 FEET ALONG THE ARC OF A CURVE TO THE RIGHT, HAVING A RADIUS OF 378.49 FEET, A CENTRAL ANGLE OF 26°06'05" AND A CHORD WHICH BEARS N06°55'50"E A DISTANCE OF 170.94 FEET; 5.) THENCE N19°58'53"E A DISTANCE OF 311.99 FEET TO A POINT ON THE NORTHERLY LINE OF THE SOUTHWEST QUARTER OF SAID SECTION 31; THENCE ALONG SAID NORTHERLY LINE S89°26'12"W A DISTANCE OF 47.50 FEET TO THE SOUTHWEST CORNER OF THE SOUTH EAST QUARTER OF THE NORTHWEST QUARTER OF SAID SECTION 31; THENCE ALONG THE WESTERLY LINE OF THE SOUTHEAST QUARTER OF THE NORTHWEST QUARTER N00°06'22"W A DISTANCE OF 215.84 FEET TO A POINT ON THE WESTERLY BANK OF THE SOUTH PLATTE RIVER; THENCE ALONG SAID WESTERLY BANK THE FOLLOWING TWO (2) CONSECUTIVE COURSES: 1.) THENCE N29°52'44"E A DISTANCE OF 209.39 FEET; 2.) THENCE N38°54'53"E A DISTANCE OF 212.04 FEET; THENCE N89°30'21"E A DISTANCE OF 663.32 FEET; THENCE N89°21'36"E A DISTANCE OF 412.15 FEET TO A POINT ON THE WESTERLY BANK OF THE MCCANNE DITCH; THENCE ALONG THE WESTERLY AND NORTHERLY LINE OF SAID MCCANNE DITCH THE FOLLOWING THREE (3) CONSECUTIVE COURSES: 1.) THENCE N31°06'52"E A DISTANCE OF 297.58 FEET; 2.) THENCE 142.44 FEET ALONG THE ARC OF A CURVE TO THE RIGHT, HAVING A RADIUS OF 125.50 FEET, A CENTRAL ANGLE OF 65°01'53" AND A CHORD WHICH BEARS N63°36'59"E A DISTANCE OF 134.92 FEET; 3.) THENCE S84°00'31"E A DISTANCE OF 52.23 FEET TO A POINT ON THE WESTERLY RIGHT-OF-WAY LINE OF U.S. HIGHWAY 85; THENCE ALONG SAID WESTERLY RIGHT-OF-WAY THE FOLLOWING SIX (6) CONSECUTIVE COURSES: 1) THENCE 535.58 FEET ALONG THE ARC OF A NON-TANGENT CURVE TO THE RIGHT, HAVING A RADIUS OF 2765.00 FEET, A CENTRAL ANGLE OF 11°05'53" AND A CHORD WHICH BEARS S10°46'44"W A DISTANCE OF 534.74 FEET; 2) THENCE S16°18'42"W A DISTANCE OF 356.83 FEET; 3) THENCE S03°39'18"W A DISTANCE OF 122.17 FEET; 4) THENCE S16°02'31"W A DISTANCE OF 2056.04 FEET; 5) THENCE 393.45 FEET ALONG THE ARC OF A CURVE TO THE LEFT, HAVING A RADIUS OF 5805.00 FEET, A CENTRAL ANGLE OF 03°53'00" AND A CHORD WHICH BEARS S14°06'01"W A DISTANCE OF 393.37 FEET; 6) THENCE S22°33'13"W A DISTANCE OF 145.08 FEET TO THE POINT OF BEGINNING.

SAID PARCEL CONTAINS 83.160 ACRES (3,622,428 SQ. FT.), MORE OR LESS.

BEARINGS ARE BASED ON THE NORTH LINE OF THE SOUTHWEST QUARTER OF SECTION 31, TOWNSHIP 1 NORTH, RANGE 66 WEST OF THE SIXTH PRINCIPAL MERIDIAN BEING MONUMENTED BY A FOUND 3-1/4" ALUMINUM CAP LS #27269 AT THE WEST QUARTER CORNER OF SECTION 31 AND BY A FOUND 3" ALUMINUM CAP LS #23027 AT THE CENTER QUARTER CORNER OF SECTION 31 BEARING N89°26'12"E.



METRO WASTEWATER RECLAMATION DISTRICT - PAR 1088  
NORTHERN TREATMENT PLANT

VICINITY MAP  
**CH2MHILL**