

**HERMOSA TOWN BOARD  
TUESDAY, AUGUST 20, 2024  
REGULAR MEETING @ 5:30pm**

- 1) **ROLL CALL:**
  - A. BOT Roll Call: Kramer, Ferguson, Koontz, Harris
  - B. Acknowledgement of other Attendees
  - C. Pledge of Allegiance to be led by Kramer
  
- 2) **CALL FOR CHANGES:**
  - A. Review of current agenda items
  - B. Motion to accept the agenda as presented/amended
  
- 3) **SPECIAL ITEMS:**
  - A. Meeting Protocol
  
- 4) **CONSENT CALENDAR:**
  - A. Approval of the August 6, 2024, regular meeting minutes
  
- 5) **CONFLICT OF INTEREST DECLARATION:**
  
- 6) **EXECUTIVE SESSION:**
  - A. Motion to enter Executive Session allowable by SDCL 1-25-2.1 – Legal/Personnel/Contract
  - B. Motion to exit out of Executive Session
  - C. Motions resulting from Executive Session
  
- 7) **ENGINEER:**
  - A. Proposal from Wastewater Treatment Plant Purchase Agreement Proposal
  - B. WaterGEMS Model Preliminary Analysis
  
- 8) **PLANNING & ZONING:**
  - A. 2024-09 – Informational Permit -Temporary Water Line – Pending
  - B. 2024-27 - Plat Application – 440 Main St. – Parcel 013913 - Pending
  
- 9) **CLAIMS:**
  - A. Review payroll and claims. Motion to approve as presented/amended
  
- 10) **LAW ENFORCEMENT/ABATEMENTS/COMPLAINTS:**
  - A. Marshal’s Report
  - B. Custer County Log
  - C. Abatements
  
- 11) **LEGAL:**
  - A. Town Attorney position
  
- 12) **PUBLIC WORKS:**
  - A. Committee Report
  - B. Streets, Street Light Repairs, Water & Sewer Department Updates
  - C. Open Work Orders

- 13) **FINANCE OFFICE:**  
A. Monthly financials  
B. Department updates  
C. Update on Initiated Measure 28
- 14) **OLD BUSINESS:**  
A. Update on gravel on Tower Road
- 15) **NEW BUSINESS:**  
A. Accept resignation of Vicki Hendricksen effective August 6, 2024  
B. Advertise for letters of interest for vacant board position.  
C. 2024 Christmas Parade-Motion to approve Hwy 40 on December 14, 2024-6:00 pm-approx 7:00 pm
- 16) **ITEMS FROM CITIZENS:** No action will be taken by the board on any issue related without being first placed on a future agenda, by the board, to allow for proper notice. (Reserved time for public comment is 15 minutes). Meetings of the Board of Trustees are open to the public. The audience will be allowed to comment on specific agenda items during the time allotted on the agenda for those items, according to established procedures of the Board. This is a time for members of the public (citizens, business owners, and those living within one mile of the town limits) to express concerns or discuss issues having relevance to the town. Anyone wishing to address the Town Board during this time shall be asked to stand and identify themselves after being recognized by the Board President.
- 17) **TRUSTEE INPUT:**
- 18) **ADJOURN:** Motion by \_\_\_\_\_; Second by \_\_\_\_\_ to adjourn the meeting at \_\_\_\_\_ PM.

HERMOSA TOWN BOARD  
TUESDAY, AUGUST 6, 2024  
REGULAR MEETING @ 6:00pm

*Need to correct  
to Aug 6*

4A

ROLL CALL: Kramer called the meeting to order on Tuesday, July 16, 2024, at 6:00 pm with the following members present: Ferguson, Kramer, and Koontz. Harris joined the meeting via Zoom. Henrichsen was absent. Interested citizens and attorney Hagg were also present. Pledge of Allegiance led by Kramer.

Finance Officer Cornelison shared an email she had received from Vicki Henrichsen giving her resignation as Board Trustee effective August 6, 2024.

CALL FOR CHANGES: Motion made and seconded to approve agenda with the following change: Item 7D under Planning & Zoning: Change parcel 003927 to parcel 009327; vote: all aye, motion carried.

SPECIAL ITEMS: meeting protocol presented.

CONSENT CALENDAR: Motion made and seconded to approve July 16, 2024, minutes as presented: vote: all aye, motion carried.

CONFLICT OF INTEREST DECLARATION: All board members are responsible for refraining from discussion and voting on issues where they may have a conflict of interest.

ENGINEER: Engineer Anthony Theodorou reviewed the summary and timelines of the water and sewer projects. Motion made and seconded to allow Anthony to attend Custer County commission meeting to ask for permission to use ARPA funds received from the county for the water tank project; vote: all aye, motion carried. Anthony also reviewed the proposed site plan and engineer's estimate of cost for the north water tower.

PLANNING & ZONING: Motion made and seconded to approve Permit 2024-26 Plat Application – 850 Marie St. – Parcel 015391; vote: 3 aye and 1 abstain, motion carried. Permit 2024-27 – Plat Application – 440 Main St. – Parcel 013913 was moved to the next meeting. Motion made and seconded to approve Permit 2024-30 – Digging/grading – 24549 SD Hwy 79; vote: all aye, motion carried. Permit 2024-09 – Informational Permit – Temporary Water Line for parcel 009327 from parcel 009317 is pending.

CLAIMS: Motion made and seconded to approve Payroll and Claims as amended; vote: all aye, motion carried. A & B BUSINESS; monthly printer/fax, \$535.72; AARDVARK PEST CONTROL; pest control at town office, \$168.86; BENESCH, civil service/process/design/plan/permit, \$16,758.50; BLACK HILLS ELECTRIC COOP, utilities-electric 7/2024, \$2,983.14; CUSTER COUNTY AUDITOR, election costs, \$320.08; CUSTER COUNTY SHERIFF, dispatch contract, \$2,000.00; DSG – DAKOTA SUPPLY GROUP, water test gauge, \$6.39; CHUCK FERGUSON, July 2024 services, \$3,120.00; CHUCK FERGUSON, street light inspection/pump repair/pump and transfer to lagoon, \$1,375.00; GOLDEN WEST TECHNOLOGIES, monthly service – town email access, \$90.00; HAWKINS INC., bushing/valve/main connection, \$42.18; METERING & TECH SOLUTIONS, meters and meter supplies, \$1,360.84; MIDCONTINENT TESTING LAB, water testing 2<sup>nd</sup> quarter 2024, \$844.50; RURAL DEVELOPMENT, RD1 loan-July interest/principal, \$1,278.00, RD2 loan-July interest/principal, \$417.00, RD3 loan-July interest/principal, \$222.00; SD DEPARTMENT OF REVENUE, sales tax May/June 2024, \$563.63; SOUTH DAKOTA 811, message fees/voice out, April-June, 2024, \$276.78; SUMMIT SIGNS AND SUPPLY, overlay patch for dumpster sign, \$71.00; **Accounts Payable Total: \$ 32,433.62. Utility Deposit Refunds:** Debi Behm, \$35.23; Jenni Haas, \$28.85; Marilyn Wetzberger, \$91.75. **Deposit Refund Total: \$155.83.** Payroll related: Total Paid On: 7/31/2024: General, \$3,147.05, Water, \$432.26, Sewer, \$188.06, Promoting City/ BBB, \$62.73, EFTPS-Electronic Federal Tax, FED/FICA TAX, \$973.35; South Dakota Retirement, \$902.40; Health Pool of South Dakota, \$1,990.00 **Total Payroll Related Paid: \$7,695.85. REPORT TOTAL: \$40,285.30.**

LAW ENFORCEMENT/ABATEMENTS/COMPLAINTS: Ferguson updated on speeding issues in Ferguson Subdivision. Custer County log was provided to board members. Current abatement list was provided.

LEGAL: Kent Hagg shared his proposal for the town attorney position. This item was moved to the next meeting.

PUBLIC WORKS: Ferguson provided updates on streets, water, and sewer departments.

FINANCE OFFICE: Monthly financials were presented. The CD has been moved from Pioneer Bank & Trust to Bank West due to a better interest rate. Dumpster sign has been updated. Budget meeting dates were changed to August 22<sup>nd</sup>, 27<sup>th</sup> and 29<sup>th</sup> (if needed) starting at 6:00 pm each night. Discussion was held on the possible loss of sales tax revenue if Initiated Measure 28 is passed.

OLD BUSINESS: Chuck Ferguson gave an update on the gravel on Tower Road. Joan Harris gave an update on Headwaters. The Town of Hermosa was very fortunate to receive two FEMA grants.

NEW BUSINESS: Motion made and seconded to fine Daniel Milbrandt \$50 for illegal dumping in the Yard Waste dumpster; vote: 3 aye, 1 abstain, motion carried. Kramer gave update on Custer County commission meeting. Kramer volunteered to attend the Annual Meeting for Western Dakota Regional Water System on September 5, 2024, in Box Elder, SD. Motion made and seconded to remove Item D under New Business – update applicant agent for Resolution 07-2023; vote: all aye, motion carried. Motion made and seconded to approve SD DOT Application for Permit to Occupy the Right of Way (for Custer State Fair); vote; all ayes, motion carried.

ITEMS FROM CITIZENS/TRUSTEE INPUT: Audience and trustees had input.

EXECUTIVE SESSION: No items for Executive Session.

ADJOURN: Motion made and seconded to adjourn meeting at 9:07 pm, vote: all aye, motion carried.

ATTEST:

\_\_\_\_\_  
Terri Cornelison  
Finance Officer

\_\_\_\_\_  
Linda Kramer  
Town Board President

Published once at the approximate cost of \_\_\_\_\_.

## Memorandum

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**TO:** Town of Hermosa  
**FROM:** Benesch  
**SUBJECT:** Town of Hermosa Water Distribution  
WaterGEMS Model Preliminary Analysis  
**DATE:** August 15, 2024

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### Project Description

The purpose of this analysis is to provide potential improvements for the Town of Hermosa’s water distribution system. A water distribution modeling software was used to model the existing system, using the available details provided by the Town, to identify deficiencies. With this analysis, potential improvements for the system were modeled and considered, determining the included recommendations in this memorandum. For this early stage of the project, only broader recommendations that proved effective in the model are made. During preparation of bid documents, final sizing and elevation placement of the proposed tank based on the selected pump recommendation will be performed during that time.

### Methodology

For this analysis a water distribution model was created utilizing Bentley OpenFlows WaterGEMS 2024 software to analyze the existing and proposed conditions using a steady-state model. A full list of assumptions can be found in the attached documents. Information of the water distribution system features, including junctions, hydrants, and pipes, were provided by the Town in three main documents. The “Hermosa Water Map” issued in February 2012 shows most of the water system within the town limits. The “AES Site Layout” is a plan sheet dated October 2006 that shows the detailed configuration of the Town owned lot where the existing tanks, underground reservoir, pump house, and booster station are located. Details on the water line north of the Dollar General are in a plan set titled, “Water Sewer Extension”, most recently revised in August 2022. For elevation data, a Benesch survey crew took ground elevations, during July 2024, at existing hydrants, valves, and tanks throughout the Town as well as at the proposed tank location. This ground elevation data was used for all features south of the Dollar General and for the proposed tank. A depth of six feet was assumed for all underground features since the exact depth is unknown. For features north of the Dollar General, excluding the proposed tank, the “Water Sewer Extension” plan set was used for elevation data. The ground elevations from these plans were compared to the Benesch surveyed elevations taken in the same locations to determine a conversion factor. This conversion factor was applied to all elevations in the model from those plans to align them with the surveyed elevations. Additional information was collected during a site visit conducted by Benesch. Field notes indicated the existing tank dimensions and information on the booster pumps found onsite.

To avoid any incorrect assumptions about the water system, certain features were excluded from this model due to a lack of available information. Details excluded from this model include gate and solenoid valves, the pump station at Well #1 south of the town, and lateral water lines. Additionally, the underground reservoir and pump house located in the Town owned lot were turned inactive in the model. This was done because it is understood they are no longer in service. Demand in the system was calculated using the domestic water use table found in the City of Rapid City Infrastructure Design Criteria 2012. This information in combination with a



zoning map for the Town of Hermosa was used to determine the demand at each junction. The detailed breakdown of demand by junction can be found in the attached documents.

With the existing conditions modeled, alterations were made to analyze potential recommendations. The primary improvement proposed is a new, above-ground tank located north of the extension line as well as pump upgrades due to low pressure observed in the existing conditions model. The proposed tank was modeled with dimensions and features shown on the preliminary site plan, prepared by Benesch, and included with the attached documents. Further improvements to the pumps in the town were then made to increase water pressure where it is insufficient. These results and recommendations are summarized below. The proposed conditions are modeled in the same way as the existing conditions. A steady-state WaterGEMS model was used employing the same assumptions.

### Results & Recommendations

The results of the existing model indicate that improvements are necessary. The model shows pressure at numerous junctions does not reach 45 psi especially in and around the Town owned lot and on the west side of the Town. Additionally, when fire flow conditions were simulated, most hydrants in the Town could not meet the necessary 1500 gallons per minute requirement presented in the City of Rapid City Infrastructure Design Criteria 2012. An existing map of the water distribution system, with features color coded by pressure, can be found in the attached documents.

The location and dimensions of the proposed tank can be found in the preliminary site plan found in the attached documents. The tank is a circular tank with a height of 10.75 feet and a diameter of 41 feet located north of the northern extension line. With the proposed tank modeled at the ground elevation, similar locations were deemed to be problematic, as they still did not reach 45 psi under steady-state conditions. To create more pressure in the system, it is recommended the booster pumps are upsized and the existing booster pumps are relocated to the proposed tank. This relocation will assist in the scenario where the proposed tank is being refilled. Additionally, it is recommended the network configuration around the existing booster station and tanks is modified. The current configuration allows for short circuiting and other detrimental behavior in that area. The proposed network utilized a simplified configuration in this area that allowed the booster station to assist in supplying water to the west side of town while allowing gravity flow to supply the east side of town. A similar configuration can be achieved in the field with particular valve placement and manipulation. Under this new configuration, the proposed booster station at the Town owned lot requires two pumps with a design flow of 750 gallons per minute and a head of 160 feet. Under these conditions, a pressure of 45 psi can be ensured at all locations supported by those boosters on the west side of town when the proposed tank is being refilled and when it is not. A map of the proposed water distribution system under these two scenarios, with features color coded by pressure, can be found in the attached documents.

**List of Assumptions made to create Existing and Proposed WaterGEMS model for The City of Hermosa water distribution (date prepared 08-15-2024):**

- Plans for the water distribution system for this area were provided by the City of Hermosa. The '3-5-12 Hermosa Map' covers the area east of Highway 79 and the lines servicing Fire House Road and Taz Street. A picture of the 'AES Site Layout' plans was used to provide additional detail for the area around the existing storage tanks, pump station, booster station, and underground reservoir. The 'Water and Sewer Extension' plans provide information for the area north of the Southern Hills RV Park and Campground, to the west of Highway 40.
- In areas not shown on these plans, pipe locations were determined by the provided 'Hermosa Water' .kmz file provided by the City of Hermosa. At each marked location in that file, a junction was placed. The pipes were assumed to all be PVC and the size of the pipes were determined based on the closest, connected pipe with a known size.
- 'Junctions' in the model were placed when pipe tees or crosses were indicated on the plans
- A field inspection was conducted by a Benesch employee. The existing tank dimensions and booster station pump details collected during this inspection and listed below, were used in the model.
  - Large Tank (East):
    - Height: 56'
    - Diameter: 32'
  - Small Tank (West):
    - Height: 38'
    - Diameter: 24'
  - 2 Booster Station Pumps
    - Design Flow: 40 gpm
    - Design Head: 75'
- The proposed tank location and dimensions were taken from a preliminary design plan sheet titled, 'PR WATER TOWER-SITE PLAN' provided by the City. The following dimensions were used for the proposed tank north of the northern extension.
  - Proposed Tank (North):
    - Height: 10.75'
    - Diameter: 41'
- All tanks were assumed to be half full for this model and all were modeled as circular tanks.
- For the proposed scenario #2, the existing booster station pumps were relocated to the proposed north tank.
- Gate and solenoid valves shown in the plans were not placed in the model because a headloss curve could not be located or estimated. Without a headloss curve, the valves could not be accurately replicated in the model.
- Service lines and curb stops were not included in the model as they have only a minor impact on the model and not all service lines and curb stops in the project area were shown on plans.
- The underground reservoir and pump at Well #2 were turned to inactive in the model as the City stated they are no longer in service.
- The pump at Well #1 was removed as there was insufficient information on the pump to properly replicate it in the model.

- The fire hydrant just north of Ferguson St on McDermands St was excluded because while it was shown on the 3-5-12 Hermosa Map plans, it was not see on the 2021 Google Earth street view.
- Ground elevation data was provided by a Benesch survey team.
- Where specific elevation data was not available for the underground elements, a depth of 6 feet was assumed. This depth was used because the 2012 Infrastructure Design Manual from The City of Rapid City requires a minimum depth of 6 feet.
- Specific elevation data was only available along the norther extension shown as it was shown in the 'Water Sewer Extension' plans. It was unknown if the elevations from the survey and these plans used the same datum, coordinate system, etc. To alleviate this issue, points where the ground elevation was shown in both the 'Water Sewer Extension; plans and the Benesch survey were used to determine an estimated conversion factor of 8 feet. This conversion factor was used for all elevations found in the plans to properly align with the survey elevations.
- Demand in the system was calculated using the domestic water use table found in the City of Rapid City Infrastructure Design Criteria 2012. See table below. Zoning information was also provided by the City in a zoning map. With the calculated demand, the demand was applied to the nearest junction in the model. Full details on demand by junction can be found in the attached documents.

<b>WATER USE CRITERIA</b>			
<b>Land Use</b>	<b>Average Day</b>	<b>Peak Day</b>	<b>Peak Hour</b>
Residential Single Family*	0.4 gpm/du	1.8 gpm/du	4.0 gpm/du
Residential multi family	0.3 gpm/du	1.3 gpm/du	3.0 gpm/du
Commercial office/retail	0.8 gpm/ac	3.2 gpm/ac	6.4 gpm/ac
Industrial	0.8 gpm/ac	3.2 gpm/ac	25.6 gpm/ac**

- For fire flow conditions, a demand of 1500 gpm was required by each hydrant in the system. This value is presented in the 2012 Infrastructure Design Manual from The City of Rapid City.
- The Hazen-Williams friction method was used for calculations in the model. A Hazen-Williams Coefficient of 120 was used for PVC pipes. No other pipe materials were used in this model.
- The model was run under steady-state conditions for both existing and proposed scenarios.

**Demand By Junction**

<i>Junction</i>	<i>Demand (gpm)</i>	<i>Residential Single Family (# of homes)</i>	<i>Residential Multi Family (# of homes)</i>	<i>Commercial Office/Retail (acres)</i>	<i>Industrial (acres)</i>
J-28	Inactive				
J-26	0.4	1			
J-27	0.4	1			
J-24	2	5			
J-25	0.8	2			
J-157	Inactive				
J-29	2	5			
J-23	3.2	8			
J-31	1.6	4			
J-30	4.48	4		3.6	
J-33	1.04			1.3	
J-22	1.2			1.5	
J-32	1.2			1.5	
J-21	0.4	1			
J-18	0.4	1			
J-20	Inactive				
J-19	Inactive				
J-13	Inactive				
J-14	1.6	4			
J-17	3.2			4	
J-36	3.2			4	
J-37	2.4	6			
J-38	3.44			4.3	
J-42	5.44			6.8	
J-43	2			2.5	
J-44	2			2.5	
J-46	0.8	2			
J-47	0.4	1			
J-48	1.5	3	1		
J-49	2.3	5	1		
J-132	2	5			
J-50	1.2	3			
J-55	1.6	4			
J-54	2	5			
J-53	1.2	3			
J-52	1.2	1			
J-51	1.6	4			
J-56	2	5			
J-57	0.4	1			
J-58	2.4	6			

J-111?	2.8		7		
J-113	0.96				1.2
J-110	1.44				1.8
J-109	1.44				1.8
J-115	1.44				1.8
J-116	1.44				1.8
			1		
J-117	0.4				
			1		
J-118	0.4				
J-119	outside city lim				
J-68	2.4		6		
J-69	5.08		2	2	4.6
J-74	0.8		2		
J-73	1.1		2	1	
J-107	3.352				4.19
J-72	0.4		1		
J-99	1.192				1.49
J-100	0.8		2		
J-103	2		5		
J-151	1.2		3		
J-148	1.6		4		
J-101	1.2		3		
J-76	1.796			3	1.12
J-77	2.04		4		0.55
J-78	1.2		3		
J-96	0.8		2		
J-80	1.2		3		
J-81	0.8		2		
J-84	0.64				0.8
J-95	2.2		4	2	
J-90	0.4		1		
J-91	4.2			14	
J-87	2.1			7	
J-89	1.332		1	1	0.79
J-85	1.296		3		0.12
J-62	0.8		2		
J-61	0.4		1		
J-86	1.024		2		0.28
J-83	0.232				0.29
J-79	0.552				0.69

J-127	0				
J-130	0				
J-129	0				
J-128	0				
J-125	0				
J-126	0				
J-124	3.736			4.67	
J-123	7.68			9.6	
J-122	0.9		3		
J-120	3.2	8			
J-121	5.2	13			
J-114	0.7384				0.923
J-149	0				
J-147	0				
J-153	0				
J-152	0				
J-136	0				
J-135	0				
J-137	0				
J-142	0				
J-143	0				
J-140	0				
J-139	0				
J-141	0				
J-134	0				
J-138	0				
J-133	0				
J-102	0				

<b>Residential Single Family</b>	0.4 gpm/dwelling unit
<b>Residential Multi Family</b>	0.3 gpm/dwelling unit
<b>Commercial Office/Retail</b>	0.8 gpm/acre
<b>Industrial</b>	0.8 gpm/acre

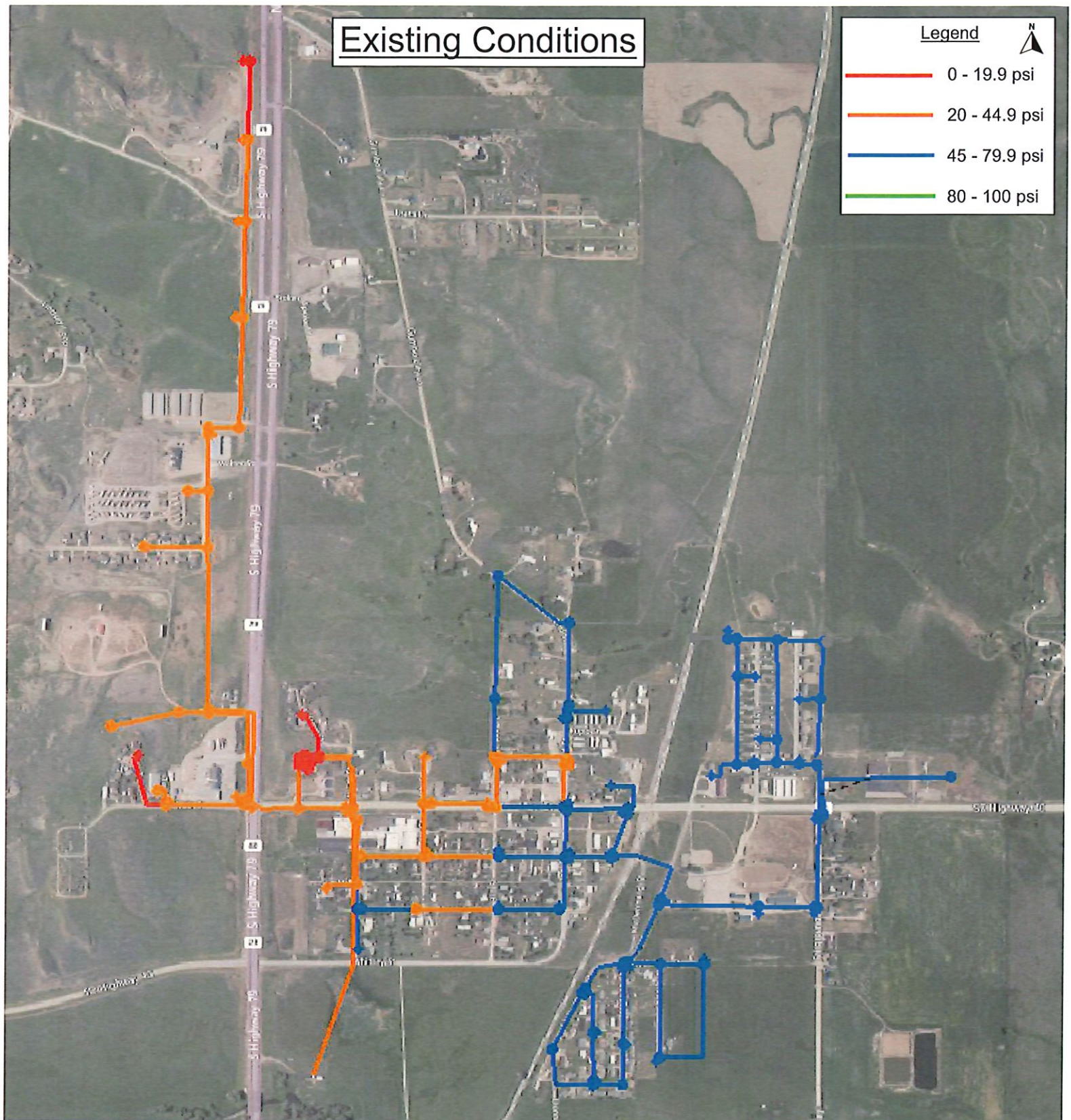


# Existing Conditions

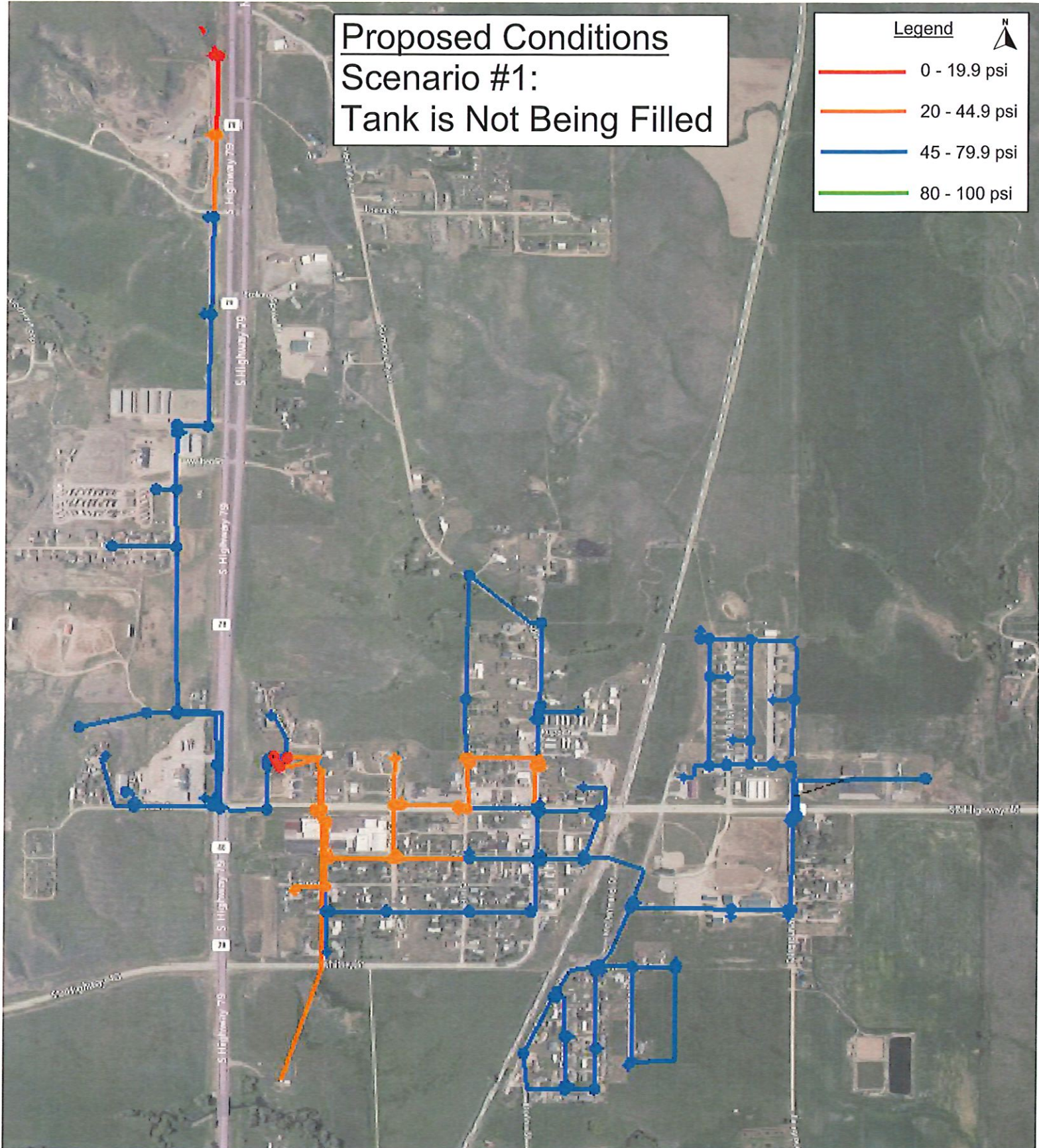
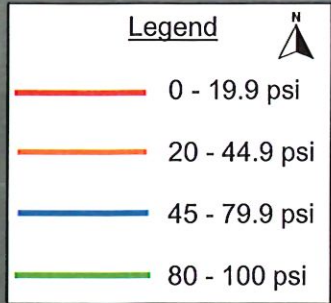
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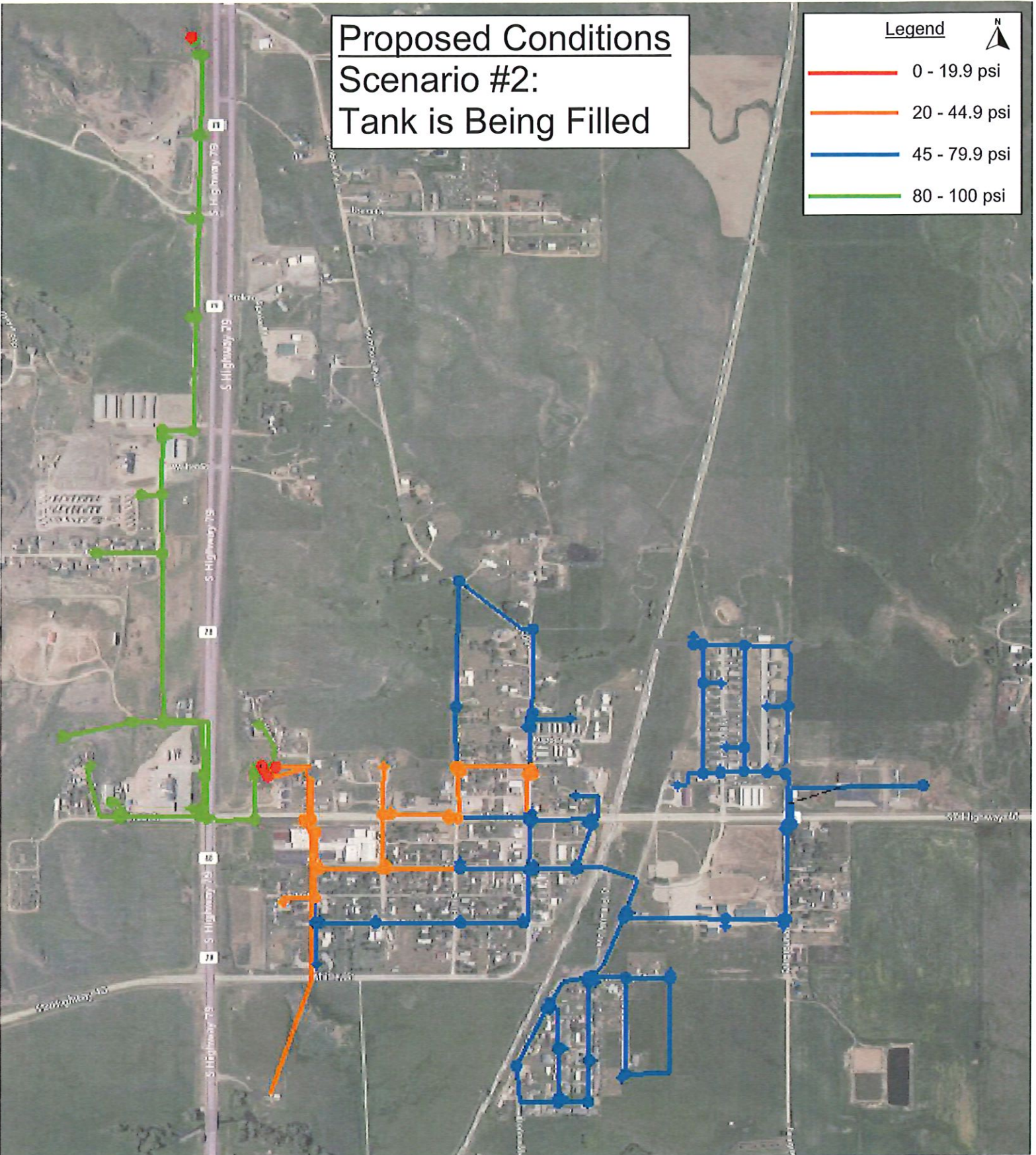
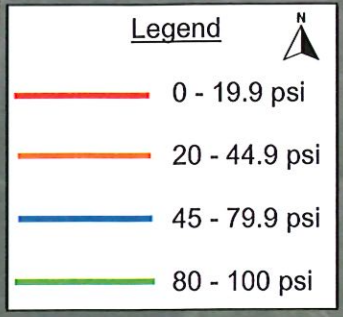
- 0 - 19.9 psi
- 20 - 44.9 psi
- 45 - 79.9 psi
- 80 - 100 psi



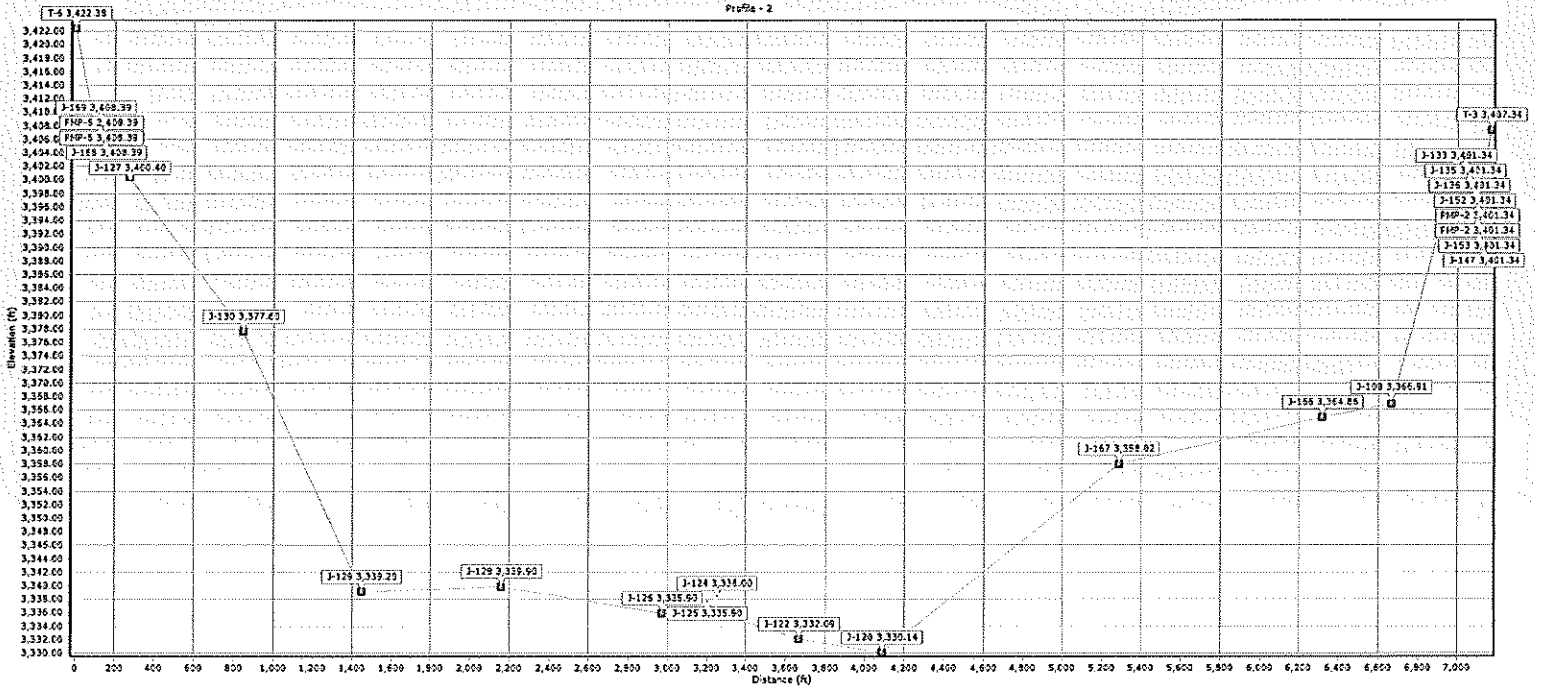
**Proposed Conditions**  
**Scenario #1:**  
**Tank is Not Being Filled**



**Proposed Conditions  
Scenario #2:  
Tank is Being Filled**



Profile - 2



Proposed Scenario #2: T-6 Pumps & Upsizing Boosters - Brevard

## Claims for approval 08-20-2024

VENDOR	REFERENCE	AMOUNT
BENESCH	PROFESSIONAL SERVICES JULY 2024	2197.22
BENESCH	SURVEY/DESIGN/CONSTRUCTION ADMINISTRATION	2,415.00
BENESCH	CIVIL SERVICE/DESIGN/PERMITTING	29,850.40
CHERYL NEUGEBAUER	PRAIRIE DOG CONTROL	300
CHUCK FERGUSON	BALL VALVE/REPAIR SIGN/TRIP TO BELLE FOURCHE	179.13
GOLDEN WEST TECHNOLOGIES	MONTHLY SERVICE - AUGUST 2024	543
HARRIS CONTRACTING LLC	RESEARCH/MTG/MINUTES/EMAILS	168.75
IXOM	TETHER CABLE	363.84
MT RUSHMORE TELEPHONE	PHONE/INTERNET, 13358436,13356975,13360048	264.36
PIONEER BANK & TRUST	2 SIGNATURE ACCOUNT	50
PIONEER BANK & TRUST	SOFTWARE(MS/ADOBE/WATERWORTH)FILTERS/LABELS	5330.01
SANDERS SANITATION	Monthly sanitation service	4,590.88
SOUTHERN HILLS PUBLISHING	PUBLISHING/LEGAL NOTICES	175.86
SUMMIT SIGNS	STOP, NO OUTLET & FAIRGROUNDS PL SIGNS	227.5
TURBIVILLE INDUSTRIAL ELECTRIC	REPAIR 3HP GRINDER PUMP	3139.5
<b>Accounts Payable Total</b>		<b>49,795.45</b>
<b>Payroll related</b>		
Total Paid On: 8/15/2024		
	Legislative, Financial Administration, Govt Blds	2,631.69
	Water	307.99
	Sewer	184.77
	Promoting City/BBB	61.69
EFTPS-Electronic Federal Tax	FED/FICA TAX	828.70
<b>Payroll Total</b>		<b>4,014.84</b>
***** REPORT TOTAL *****		<b>53,810.29</b>

**CLAIMS REPORT**  
 Check Range: 8/07/2024- 8/20/2024

VENDOR NAME	REFERENCE	AMOUNT	VENDOR TOTAL	CHECK#	CHECK DATE
A & B BUSINESS EQUIPMENT INC	MONTHLY PRINTER/FAX FEE				
BENESCH	CIVIL SERV/DESIGN/PERMITTING		34,462.62	17718	8/20/24
CHERYL NEUGEBAUER	PRAIRIE DOG CONTROL		300.00	17719	8/20/24
EFTPS-Electronic Federal Tax	FED/FICA TAX		828.70	297	8/15/24
CHUCK FERGUSON	ROUND TRIP TO BELLE FOURCHE		179.13	17720	8/20/24
GOLDEN WEST TECHNOLOGIES	MONTHLY SERVICE AUGUST 2024		543.00	17721	8/20/24
HARRIS CONTRACTING	RESEARCH/MTG/MINUTES/EMAILS		168.75	17722	8/20/24
IXOM WATERCARE INC	TETHER CABLE		363.84	17723	8/20/24
MT RUSHMORE TELEPHONE	PHONE/INTERNET-13360048		264.36	298	8/15/24
PIONEER BANK & TRUST	WATERWORTH SOFTWARE FEE	5,330.01		299	8/15/24
PIONEER BANK & TRUST	BANK CHARGE - 2 SIGNATURE ACCT	50.00	5,380.01	301	8/07/24
SANDERS SANITATION	MONTHLY SANITATION SERV		4,590.88	302	8/07/24
Southern Hills Publishing	PUBLISHING/LEGAL NOTICES 07/24		175.86	17724	8/20/24
Summit Signs and Supply Inc.	STOP SIGN & HARDWARE		227.50	17725	8/20/24
Turbiville Indust. Elec.Works	REPAIR 3HP GRINDER PUMP		3,139.50	17726	8/20/24
	Accounts Payable Total		50,624.15		
	Utility Refund Checks				
	-----				
	Refund Checks Total				
	-----				
	Payroll Checks				
	-----				
	101 GENERAL		2,631.69		
	211 BBB GROSS RECEIPTS TAX		61.69		
	602 WATER		307.99		
	604 SEWER		184.77		
	Total Paid On: 8/15/24		3,186.14		
	Total Payroll Paid		3,186.14		
	Report Total		53,810.29		

**CLAIMS REPORT**  
**CLAIMS FUND SUMMARY**

FUND	NAME	AMOUNT
101	GENERAL	44,359.48
211	BBB GROSS RECEIPTS TAX	79.94
602	WATER	3,442.00
604	SEWER	5,928.87
-----		
	TOTAL FUNDS	53,810.29

12C

# FRIEBERG, NELSON & ASK, L.L.P.

## ATTORNEYS AT LAW

ROBERT B. FRIEBERG  
THOMAS H. FRIEBERG  
LARRY A. NELSON  
BRENDA M. ASK (SD & IA)  
SAMUEL J. NELSON  
AUSTIN J. FELTS

Sender's Address:  
206 E. 5<sup>th</sup> Street  
P.O. Box 38  
Canton, SD 57013-0038

AUGUST FRIEBERG (1863-1932)  
ROSCOE A. FRIEBERG (1903-1982)  
BLAINE O. RUDOLPH (1925-2016)

PHONE: (605) 987-2686  
FAX: (605) 987-5779  
EMAIL: [snelson@frieberglaw.com](mailto:snelson@frieberglaw.com)

Sarah Rankin  
Executive Director  
South Dakota Municipal League  
208 Island Drive  
Fort Pierre, SD 57532

Sent via email to: [sara@sdmunicipalleague.org](mailto:sara@sdmunicipalleague.org)

### Memorandum Regarding City Resolutions Opposing Initiated Measures

Dear Sara,

You have requested clarification as to whether SDCL 12-27-20 would prohibit a city's passage of a resolution stating IM-28 would negatively impact a community and its residents. The statute does not prohibit the passage or publication of a resolution, and doing so is not an unlawful expenditure of public funds for the purpose of influencing the adoption or defeat of a ballot question. Separately, the draft resolution you provided appears to be educational in nature as it relates to the ballot question.

Much like the matter in Attorney General Opinion 12-4, clarification in this matter raises issues of statutory construction. The following section of AG Opinion 12-4 is applicable in our situation:

Rules of statutory construction require the intent of the law be ascertained by the language expressed in the statutes as a whole, including enactments relating to the same subject. *In re Estate of Hamilton*, 814 N.W.2d 141, 2012 S.D. 34, ¶ 7 (S.D. 2012). Statutes of specific application must be construed to take precedence over those of general application. *Hamilton* at ¶ 12. Words of a statute must be read in their context and with a view to their place in the overall statutory scheme. One statute on a topic may not be selected with disregard to another statute that modifies or limits its effect or scope. *Expungement of Oliver*, 810 N.W.2d 350, 2012 S.D. 9, ¶ 9 (S.D. 2012).

SDCL 12-27-20 is a statute of general application and states in part that a city "may not expend or permit the expenditure of public funds for the purpose of influencing the nomination or

election of any candidate, or for the petitioning of a ballot question on the ballot or the adoption or defeat of any ballot question.” The statute clearly does not expressly prohibit the adoption or passage of a resolution opposing or supporting a ballot measure. More importantly, the statute states “this section does not prohibit the state, its agencies, or the governing body of any political subdivision of the state from presenting factual information solely for the purpose of educating voters on a ballot question.” The statute does not specify how a city may present factual information for the purpose of educating voters. Reading 12-27-20 as prohibiting the passage of a resolution related to a ballot question goes beyond the plain language of the statute. In this case, the draft resolution appears to be educational in nature, something the statute says it does not prohibit. Should a city have a concern about the wording of the draft resolution, they are free to modify its language. If a city is looking to edit the original draft resolution, I have attached suggested edits.

Further, SDCL 12-27-20 cannot be read so as to prohibit the passage of a resolution due to its attendant publication costs. SDCL Chapter 9-19 requires the publication of ordinances and resolutions, and SDCL 9-19-8 allows for the publication of resolutions separately or as part of the minutes of the meeting of a governing body. SDCL 9-18-1 requires the publication of a city’s meeting minutes, requires a city to pay for the publication, and requires that the cost not exceed certain rates. These are statutes of specific application and they limit SDCL 12-27-20’s effect and scope. In other words, SDCL 12-27-20’s prohibition does not apply to monies the city spends to publish under the notice statutes. Characterizing the costs of statutorily-required publications as a prohibited expenditures of public funds on a ballot question under SDCL 12-27-20 would lead to an absurd result.

In conclusion, I do not believe the proposed resolution as written violates SDCL 12-27-20. Should individual cities have concerns about its wording, they are free to modify it. Please contact me if you have additional questions or concerns.

Yours very truly,

A handwritten signature in black ink, appearing to read 'S. Nelson', with a long horizontal line extending to the right.

SAMUEL J. NELSON  
For the Firm

RESOLUTION 2024-  
CITY OF \_\_\_\_\_, SOUTH DAKOTA

WHEREAS Initiated Measure 28 was certified for the November 2024 General Election Ballot by the South Dakota Secretary of State;

WHEREAS Initiated Measure 28, if passed, would remove state, municipal and tribal taxes on all items sold for human consumption except alcohol and prepared food;

WHEREAS "human consumption" is undefined in South Dakota Codified Law or the South Dakota Constitution. Black's Law Dictionary defines "consumption" as "the act of destroying a thing by using it; the use of a thing in a way that exhausts it.";

WHEREAS South Dakota Codified Law 34-45-1(7) defines tobacco products as "any item made of tobacco intended for human consumption, including cigarettes, cigars, pipe tobacco, and smokeless tobacco, and vapor products as defined in § 34-46-20.";

WHEREAS South Dakota Codified Law 10-52-2 allows incorporated municipalities to impose a tax on the sale, use, storage and consumption of items that conform in all respects to the state tax on such items up to two percent;

WHEREAS ~~Initiated Measure 28 is in direct conflict with existing state law and~~ the Attorney General's explanation of the measure states legislative or judicial clarification would be needed if the measure passes;

WHEREAS The City of \_\_\_\_\_ levies a two-percent sales tax and collected \$ \_\_\_\_\_ in the 2023 fiscal year and \$ \_\_\_\_\_ .00 year-to-date in the 2024 fiscal year;

WHEREAS The City of \_\_\_\_\_ estimates annual lost revenue of \$ \_\_\_\_\_ unless Initiated Measure 28 is rejected by voters in South Dakota.

NOW, THEREFORE, BE IT RESOLVED, by the City Council of \_\_\_\_\_, that Initiated Measure 28 would negatively impact the municipal budget in our community ~~and its residents~~.

Dated this \_\_\_\_\_ day of August 2024

\_\_\_\_\_  
, Mayor

ATTEST:

\_\_\_\_\_  
, Finance Officer

14C

### SOUTH DAKOTA DEPARTMENT OF TRANSPORTATION APPLICATION FOR PERMIT TO OCCUPY RIGHT OF WAY

Highway No. 40 east County CUSTER  Approximately .25 Miles  N  S  E  W

From (City or well defined point) hermosa sd

Description and Purpose of occupancy:  
corner of 3rd and Whitney east to 2nd north to main(hwy40) east to fairgrounds place (christmas parade) parade starts at 6pm

Duration of occupancy: PERMANENT  TEMPORARY  If temporary, give the estimated date of removal or completion:  
12/14/2024 7pm 6:00 pm - Approx 7:00 pm

I, the undersigned, request permission to occupy public right-of-way at the above location and as shown on the attached layout sheet. In consideration for this permission, I agree to abide by all conditions as herein stated.

1. To furnish all materials, labor, incidentals and pay all costs involved with this occupancy including restoration of any damage to the roadway and right-of-way to equal or better conditions than existed prior to the occupancy covered by this permit.
2. To provide protection to highway traffic during occupancy by the use of proper signs, barricades, flagpersons and lights as prescribed in the "Manual of Uniform Traffic Control Devices."
3. To indemnify and hold the State of South Dakota, its Department of Transportation, its officers, agents and employees, harmless from and against any and all actions, suits, damages, liability or other proceedings of any kind or nature brought because of any injuries or damage received or sustained by any person or property on account of the use or occupancy of right-of-way designated in this application.

APPLICANT NAME (please print) Breezy Simpson

SIGNATURE [Signature] DATE 8/9/24

ADDRESS 72 fairgrounds place CITY hermosa STATE ABBV :  ZIP

57744

TELEPHONE 6052090907

REPRESENTING breezy Simpson  
(Name of Individual, Company, Organization, etc.)

EMAIL ADDRESS austinrylee1001@yahoo.com

\*\*\*To be completed by Department of Transportation\*\*\*

Project (Const.) \_\_\_\_\_ Station/Milepost \_\_\_\_\_ Maintenance Unit \_\_\_\_\_

Project (Maint.) \_\_\_\_\_

1. Prior to commencing occupancy and at completion of occupancy the applicant shall notify \_\_\_\_\_  
at \_\_\_\_\_ Telephone \_\_\_\_\_

2. Special Conditions \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

3. Failure to accomplish the occupancy in accordance with the provisions of this permit will automatically render this permit null and void and where applicable, constitute grounds for its removal and/or full restoration of the occupancy site all at the applicant's expense.

This permit to occupy the right-of-way is granted to all conditions as herein stated on this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.