DATE: July 14, 2014
TO: Michigan Commission of Agriculture and Rural Development
    Jamie Clover Adams, Director
FROM: Richard Harlow, Farmland Preservation Program Manager
      Environmental Stewardship Division
SUBJECT: Request for Approval to Release 3.05 Acres from a Permanent Conservation Easement

Introduction
The Michigan Department of Agriculture and Rural Development (MDARD) received a request from the Michigan Department of Transportation (MDOT) to remove a 3.05 acre parcel from a permanent conservation easement in Saginaw County. The 3.05 acre parcel is needed for replacement of two bridges, one over the Flint River and the other over the Birch Run drain.

Conservation Easement Background
The conservation easement was purchased by MDARD from Mr. John Leach on March 28, 2000. The conservation easement protects 243 acres of farmland from development while allowing for the continued farming of the land. The protected farm is located in Spaulding Township, Saginaw County. The landowner has recently sold, via land contract, the portion of the conservation easement subject to the removal of the 3.05 acre parcel to the farmer that had been renting his farm.

MDOT Project Background
The project is proposed to replace a bridge on the Flint River as well as a bridge over the Birch Run Drain outlet. The two bridges are located on M-13 and are relatively close together. The replacement of the bridges is necessary because they are deteriorating and the position and size of the bridges results in flooding and scouring of the river banks.

In order to improve the hydraulics of the two bridges, it is necessary to elevate the road surface six to eight feet and to increase the size of the Birch Run Drain Outlet Bridge. Three homes are located on the east side of M-13, just south of the Flint River. The property protected by the conservation easement is located on the west side of M-13. If the proposed bridge improvements were located within the existing M-13 right-of-way, the three homes located east of M-13 would no long be able to access M-13 because of the six to eight foot elevation increase required for the project. Therefore, it is proposed to move the right-of-way for M-13 to the west, thereby encroaching on the conservation easement property. Moving the right-of-way to the west would result in the loss of 3.05 acres from the conservation easement.
The Farmland and Open Space Preservation statute reads as follows regarding the release of land from a conservation easement purchased by the department.

MCL 324.36111b (7) An agricultural conservation easement shall include appropriate provisions for the protection of the farmland and other unique and critical benefits. An agricultural conservation easement may be terminated if the land, as determined by the Commission of Agriculture, meets one or more of the criteria described in section 36111a(1)(a) to (d). An agricultural conservation easement or portion of an agricultural conservation easement shall not be terminated unless approved by the local governing body and the Natural Resources Commission and the Commission of Agriculture. If an agricultural conservation easement is terminated, the current fair market value of the development rights, at the time of termination, shall be paid to the state land use agency. Any payment received by the state land use agency under this part shall be used to acquire agricultural conservation easements on additional farmland under section 36111(10).

The Natural Resources Commission is expected to take action on the request tentatively in September.

Required Reimbursement to MDARD
An appraisal prepared for MDOT indicates the value of the development rights to be paid to MDARD for the removal of the 3.05 acres would be $4,000. This money would be deposited into the Michigan Agricultural Preservation Fund. MDOT is also required to reimburse MDARD for tax credits attributable to the 3.05 acre parcel that may have been taken under the PA 116 program going back seven years. That repayment amount is yet to be calculated.

Recommendation
It is recommended that the request for the release of the 3.05 acres be approved.

Attachments:
1. MDOT letter requesting release of parcel
2. Map showing the location of the conservation easement
3. MDOT document describing the two alternatives considered for the project
4. Construction drawings showing the location of the 3.05 acres
5. Letters of support
Mr. Rich Harlow  
Michigan Department of Agriculture & Rural Development  
P.O. Box 30017  
Lansing, Michigan 48909

Dear Mr. Harlow:

Subject: CS 73051, JN 110552B, Parcel 470

The Michigan Department of Transportation (MDOT) is respectfully requesting that a portion of property owned by William and Cherie Bremer be released from the Development Rights Program. The location and land area covered in the request is detailed in the enclosed legal description.

MDOT is requesting the release in order to replace two aging bridges over the Flint River and Birch Run Outlet in Saginaw County. The additional right-of-way needed from Mr. and Mrs. Bremer will allow for construction of the new bridges and road approaches.

If you have any questions, you may contact me at 989-233-5396 or philpa@michigan.gov.

Sincerely,

Andrew T. Philp  
Bay Region Real Estate Agent

Enclosure
NAME: William A. Bremer and Cherie A. Bremer, husband and wife

TAX PARCEL NO.: 25-11-4-35-4001-000

Part of the fractional Southeast 1/4 of Section 35, T11N-R04E, Spaulding Township, Saginaw County, Michigan, lying north of the Flint River, described as:

Commencing at the Southeast Corner, Section 35, T11N-R04E, Spaulding Township, Saginaw County, Michigan; thence N. 01° 41' 52" W., 362.56 feet along the East line of said Section 35 to the northerly shore of the Flint River and the POINT OF BEGINNING; thence continuing N. 01° 41' 52"W., 1777.02 feet along said East line, said point being S. 01° 41' 52" E., 473.01 feet from the East ¼ Corner of said Section 35; thence S. 89° 12' 28" W., 60.01 feet; thence S. 02° 10' 57" W., 148.41 feet; thence S. 05° 50' 13" W., 422.92 feet; thence S. 07° 03' 42" W., 379.94 feet; thence N. 88° 54' 44" W., 20.00 feet; thence S. 00° 18' 18" E., 274.17 feet; thence S. 01° 41' 52" E., 182.61 feet; thence N. 88° 18' 08" E., 50.00 feet; thence S. 01° 41' 52" E., 360 feet, more or less, parallel with and 160 feet west of said East line of Section 35 to the Flint River; thence Easterly 162 feet, more or less along said northerly shore of said Flint River to said East line and the POINT OF BEGINNING.

The lands described above in fee contain 6.015 acres, more or less of which 2.748 acres, more or less, is an existing right of way easement as recorded in Liber 1067, Page 454, Saginaw County Records and of which 0.183 acre, more or less, is an existing channel change right of way easement as recorded in Liber 635, Page 24, Saginaw County Records.

TRACT A

The land referred to in this Commitment, situated in the County of Saginaw, Township of Spaulding, State of Michigan, is described as follows:

The East 2/3 part in number of acres of the East Fractional 1/2 of the Southeast Fractional 1/4 of Section 35, Township 11 North, Range 4 East, Spaulding Township, Saginaw County, Michigan, on the North side of the Flint River, Except the East 154 feet of the North 270 feet thereof, Except the Westerly 100 feet of the Northerly 435.6 feet thereof, Except the West 113 feet of the East 460 feet of the North 210 thereof, and Except the West 182 feet of the East 347 feet of the North 210 thereof.
Exhibit B
Leach Farm
Base Map

SAGINAW COUNTY

INTERSTATE HIGHWAYS
U.S. HIGHWAYS
STATE HIGHWAYS
COUNTY ROADS
STREETS
ACCESS DRIVES/TRAILS
AIRPORTS
GRASS AIRSTRIPS
RAILROADS
ABANDONED RAILROADS
RIVERS AND STREAMS
INTERMITTENT STREAMS
POLITICAL BOUNDARIES
SECTION CORNERS

SOURCE
Michigan Department of Natural Resources
LAND AND AERIAL SERVICES DIVISION
MIDWEST MAPPING AND AERIAL PHOTOGRAPHY

SCALE IN MILES

0 0.5 1.0
Horizontal Alignment Alternatives

B04 & B05 of 73051
M-13 over Flint River and Birch Run Outlet Drain
Saginaw County
M-13 Flint River and Birch Run Outlet
Alignment Alternatives

OVERVIEW

M-13 over the Flint River and Birch Run Outlet Drain bridges have been slated for replacement due to their deteriorating condition, their existing location in relation to the rivers they span, and concerns over scour and flooding. The existing site features residences in the southeast quadrant of the Flint River, levees that have been placed to mitigate flooding of farmland, and property on the west side of M-13 that is currently classified as 'non development' property in a United States Department of Agriculture (USDA) land bank.

Due to hydraulic requirements, the proposed Flint River bridge will need to be raised approximately 6 to 8 feet from the existing vertical alignment. This change in grade, along with other existing site conditions, has led to the development of two main alternatives in design:

- Construct the bridges on the existing alignment; affecting the residences in the southeast quadrant.
- Construct the bridges on a proposed alignment approximately 70’ west of the existing; resulting in avoiding the aforementioned residences, but affecting other adjacent site conditions.

Each alternative has benefits and drawbacks. The following lists a comparative summary of outcomes for each alternative.

ALTERNATIVE 1: CONSTRUCT BRIDGES ON EXISTING ALIGNMENT

ADVANTAGES

- Road Work
  - Minimizes the amount of reconstructed roadway leading to the structures.
  - Roadwork estimated at $2,338,233.47.
- Mobility
  - A reasonable detour route is available.
- Site Conditions
  - Certain site issues can be minimized.
    - Townline Road horizontal alignment would remain unchanged.
    - Proposed toe of slope would simply be pushed out from existing.
    - Minimizes work outside of existing ROW.
    - Minimizes aerial electric conflicts.

DISADVANTAGES

- ROW – Residence Condemnation
  - Due to the significant grade change, reasonable access cannot be made at the first two residences (and possibly the third residence) in the southwest quadrant of the Flint River.
    - The embankment due to the grade change would, theoretically, be within the limits of the building.
  - ROW cost to condemn these residences is estimated at $400,000.00.
  - Social impact of house condemnation on residents.
    - Current residents would prefer to remain in their homes.
ALTERNATIVE 1 DISADVANTAGES CONTINUED

- Mobility Cost
  - Detour route improvements are proposed.
    - Cost estimated at $690,000.00 to upgrade detour route.
  - Transportation Management Plan
    - Travel times will be approximately 2.8 minutes longer than normal travel.
    - User delay cost is estimated at $6,318/day. Assuming typical bridge construction methods, the user delay cost for the project could be greater than $550,000.00 (for 90 calendar days).

- Hydraulics
  - Leaving the Flint River structure on the existing alignment means that the current bend in the river, and associated damaging high water velocities on the outside of the bend, will remain close to the proposed structure.
ALTERNATIVE 2: CONSTRUCT BRIDGES ON PROPOSED ALIGNMENT 70’ WEST OF EXISTING ALIGNMENT

ADVANTAGES

- Mobility
  - No disruption to traffic during most of the proposed construction. Flag control may be required when tying-in to proposed alignment from the existing.

- ROW
  - Does not require condemnation of existing residences.
    - Aligns with preference of the residents.
    - Positive social impact by saving houses.
    - Reasonable access can be made to all properties.
    - Provides greater roadway offset for existing homes.

- Hydraulic
  - By constructing on the proposed alignment, the structure will be moved slightly downstream away from the bend in the river, where the outer bank will be less susceptible to scour.

DISADVANTAGES

- ROW Acquisition
  - Existing property required to be taken for the proposed alignment is part of USDA ‘no-development’ land bank.
    - Process to release the property is expected to take 6 to 12 months. This process has not been done to date.
  - Could be considered a negative impact to farmland owners and USDA due to prime farmland take.
  - The total cost of ROW acquisition, including reimbursement for release of ‘no-development’ rights to the USDA, is estimated at $230,000.00.

- Geometry
  - The proposed profile is 70’ west of the existing profile. While measures have been taken to maximize safety and reduce superelevation on the proposed alignment, it is not as ideal as the existing straight horizontal profile.
ALTERNATIVE 2 DISADVANTAGES CONTINUED

- Utility Relocation
  - Aerial electric distribution lines cross M-13 south of the Flint River. The existing alignment will place the edge of the southbound lane approximately 21' from the south pole carrying the lines.
  - Aerial electric that currently run along M-13 will require relocation.
  - Cost to relocate estimated at $100,000.00.

COST COMPARISON

Using the above mentioned costs, here is the comparison in alternatives:

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<tr>
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<th>ALTERNATIVE 1</th>
<th>ALTERNATIVE 2</th>
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<td>Detour Route</td>
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<td>Utilities</td>
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</tr>
</tbody>
</table>

The cost of construction of each alternative is estimated to be the same. The above cost comparison also does not take into account user delay costs estimated to be $550,000.00 for Alternative 1 (the above cost comparison is for direct MDOT program costs). Conversely, no user delay costs are associated with Alternative 2.
Re: M-13 Bridge Project over the Flint River and Birch Run Creek

Dear Steve:

Thank you for inviting me down to view the plans along with the Spaulding Township Supervisor and also for attending the Flint River Dyke Erosion & Control Board Meeting. I shared the plans with our Township Board at a previous meeting. Our Township Board, as am I, are in full agreement with the project and how you have it designed. You have addressed our Flint River Crossing concerns with flow capacities and the possibility of debris buildup. You’ve answered the residents concerns by moving the bridges to the west. This will allow homeowners to stay in their homes if they want and you’ve made a generous offer to buy them out if they choose not to stay. Let this letter be a full endorsement of the Albee Township Board of this project.

In closing, I was just wondering if it may be possible in the final plans to include a parking area for area residents who might wish to enjoy the Flint River for fishing and other activities. Presently the parking that they do on Townline Road is not the best solution. If you need to contact me, I can be reached on my cell phone at 989-860-5300.

Sincerely,

Leon Turnwald
Albee Township Supervisor

LT/db opeiu-42-afl-clo
cc: John Spero
    Gerald Fox
July 8, 2013

Steve Katenhaus  
Bay Region  
Department of Transportation  
55 East Morley Drive  
Saginaw, MI 48601

Dear Steve,

It was a pleasure meeting with you and Jack Hofweber to discuss your solution for the new Flint River Bridge. Your attention to my concern about flow capacity and possible debris build-up is greatly appreciated. I have full confidence in your plan for new construction of the bridge. Additionally, the plan's sensitivity to avoid relocating area residents is both considerate and fiscally responsible and I commend your efforts to make this change as least invasive as possible.

Thank you for taking the time to brief me on this very important project and also address my concerns. Please do not hesitate to contact me directly with any questions or concerns prior to the construction process.

Respectfully,

Roger Kahn, M.D.  
State Senator  
32nd District