



**CONESTOGA-ROVERS  
& ASSOCIATES**

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June 1, 2009

Reference No. 002012

Mr. Doug Wetzstein  
MINNESOTA POLLUTION CONTROL AGENCY  
Remediation Division  
Superfund and Emergency Response Section  
520 Lafayette Road  
St. Paul, Minnesota 55155-4194

Dear Mr. Wetzstein:

Re: Property Access Negotiations and Conclusions  
Proposed Angle Well Installations  
North Oaks, Minnesota

On behalf of Whirlpool Corporation (Whirlpool) and Reynolds Metals Company (Reynolds), Conestoga-Rovers & Associates (CRA) has prepared this letter to provide documentation of the access negotiations for the proposed installation of three angle wells under Gilfillan Lake in North Oaks, Minnesota. Unfortunately, despite reasonable efforts, access to private property to install the proposed angle wells has not been granted. Therefore, conclusions regarding the termination of plans to install the three angle wells are also presented.

## **BACKGROUND**

Installation of angle wells under Gilfillan Lake was first proposed in CRA's "Feasibility Study (FS) Report", which was submitted to the Minnesota Pollution Control Agency (MPCA) on July 27, 2007. It was proposed to install two angle wells under Gilfillan Lake (in Geographic Areas 4 and 5) as part of the long-term monitoring program associated with the Highway 96 Site (Alternative A2). The purpose of the angle wells was to establish a sentry system that would provide an indication of groundwater conditions under Gilfillan Lake, approximately two years in advance of arriving at residential wells located on the western shoreline.

In a letter dated September 25, 2007, the MPCA provided comments on the FS Report (CRA, July 2007). In "MPCA Comment No. 1", the MPCA requested installation of an additional angle well (in Geographic Area 3).

On October 10, 2007, CRA and a well drilling contractor reviewed potential drilling locations along the western shoreline of Gilfillan Lake. Only three locations, one per geographic area (Areas 3, 4 and 5), were deemed potentially feasible for the angle well installation. The three

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locations were 10 Poplar Lane (Area 3), 4 Poplar Lane (Area 4), and 2/4 West Shore Road (Area 5).

In a letter to MPCA dated October 25, 2007, CRA informed MPCA that Whirlpool and Reynolds would agree to install an angle well in Geographic Area 3, provided access from the property owner (10 Poplar Lane) could be obtained. Furthermore, CRA stated that installation of each of the three proposed angle wells would be dependant on access approvals from the respective property owners and if access could not be reasonably obtained, then the angle wells would not be installed.

On November 7, 2007, MPCA approved the FS Report (CRA, July 2007) and the additional information provided in CRA's letter dated October 25, 2007.

CRA submitted a Work Plan to MPCA on September 25, 2007 for installation of the proposed angle wells. MPCA approved the Work Plan (with the modification to include an angle well in Geographic Area 3) on October 11, 2007.

### **ACCESS NEGOTIATIONS**

Whirlpool, Reynolds and CRA began seeking access for the proposed angle well installations in November 2007. The proposed angle well locations in each Geographic Area (Areas 3, 4 and 5) and the properties where access is required for installation are shown on Figure 1. A summary of access negotiations attempted since November 2007 is provided in Table 1.

#### **Geographic Area 3**

For access to install the proposed angle well in Geographic Area 3, CRA contacted the property owners at 10 Poplar Lane (where the angle well would be installed) and the owners of the adjacent property at 8 Poplar Lane (where temporary access is required to facilitate well installation at 10 Poplar Lane).

As highlighted in Table 1, the property owners of 10 Poplar Lane and 8 Poplar Lane denied access for the angle well installation on June 9, 2008 and June 10, 2008, respectively. However, the property owners at 10 Poplar Lane indicated that they would possibly consider our request for access in the future.

Following MPCA's amendment of the Minnesota Decision Document (MDD) for the Highway 96 Site (August 2008), CRA again contacted the property owners at 10 Poplar Lane and 8 Poplar Lane to ask if they would reconsider granting access for the proposed angle well installation. However, the property owners at 10 Poplar Lane and 8 Poplar Lane have not



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granted the access required for installation of the proposed angle well at 10 Poplar Lane (Geographic Area 3).

#### Geographic Area 4

For access to install the proposed angle well in Geographic Area 4, CRA contacted the property owner at 4 Poplar Lane.

As highlighted in Table 1, the property owner denied access for the angle well installation on November 26, 2007 and requested that no one contact them regarding access again.

#### Geographic Area 5

For access to install the proposed angle well in Geographic Area 5, CRA contacted the property owners at 2 West Shore Road (where the angle well would be installed) and the owner of the adjacent property at 4 West Shore Road (where temporary access is required to facilitate well installation at 2 West Shore Road).

As highlighted in Table 1, the property owners at 2 West Shore Road granted preliminary access for the angle well installation on June 24, 2008, provided that CRA resolve a property line issue and obtain the required access approval from the adjacent property owner at 4 West Shore Road. However, the property owner at 4 West Shore Road has not granted the access required for installation of the proposed angle well at 2 West Shore Road (Geographic Area 5).

### CONCLUSIONS

As stated in CRA's letter dated October 25, 2007:

*"Installation of angle wells on these properties [10 Poplar Lane (Area 3), 4 Poplar Lane (Area 4), and 2/4 West Shore Road (Area 5)] would be dependant on access approvals from the respective property owners. If access cannot be reasonably obtained at these locations, then no angle wells will be installed in those geographic areas."*

Since November 2007, Whirlpool, Reynolds, and CRA have made reasonable attempts to obtain access from private property owners for installation of the proposed angle wells under Gilfillan Lake. The summary of access negotiations presented above and listed in Table 1 document this effort. Despite these attempts, the property owners have not granted the access required for installation of the proposed angle wells. Therefore, Whirlpool and Reynolds cannot install angle wells in Geographic Areas 3, 4, or 5.



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If you have any questions or require additional information, please contact me at (651) 639-0193.

Sincerely,

CONESTOGA-ROVERS & ASSOCIATES

Sarah Illi, P.E.

SI/sb/6

Encl.

cc: Fred Campbell, Minnesota Pollution Control Agency  
Nile Fellows, Minnesota Pollution Control Agency  
Carmen Netten, Attorney General's Office  
Jim Kelly, Minnesota Department of Health  
Mayor John Schaaf, City of North Oaks  
Lugene Olson, North Oaks Homeowners' Association  
Highway 96 Group (electronic)



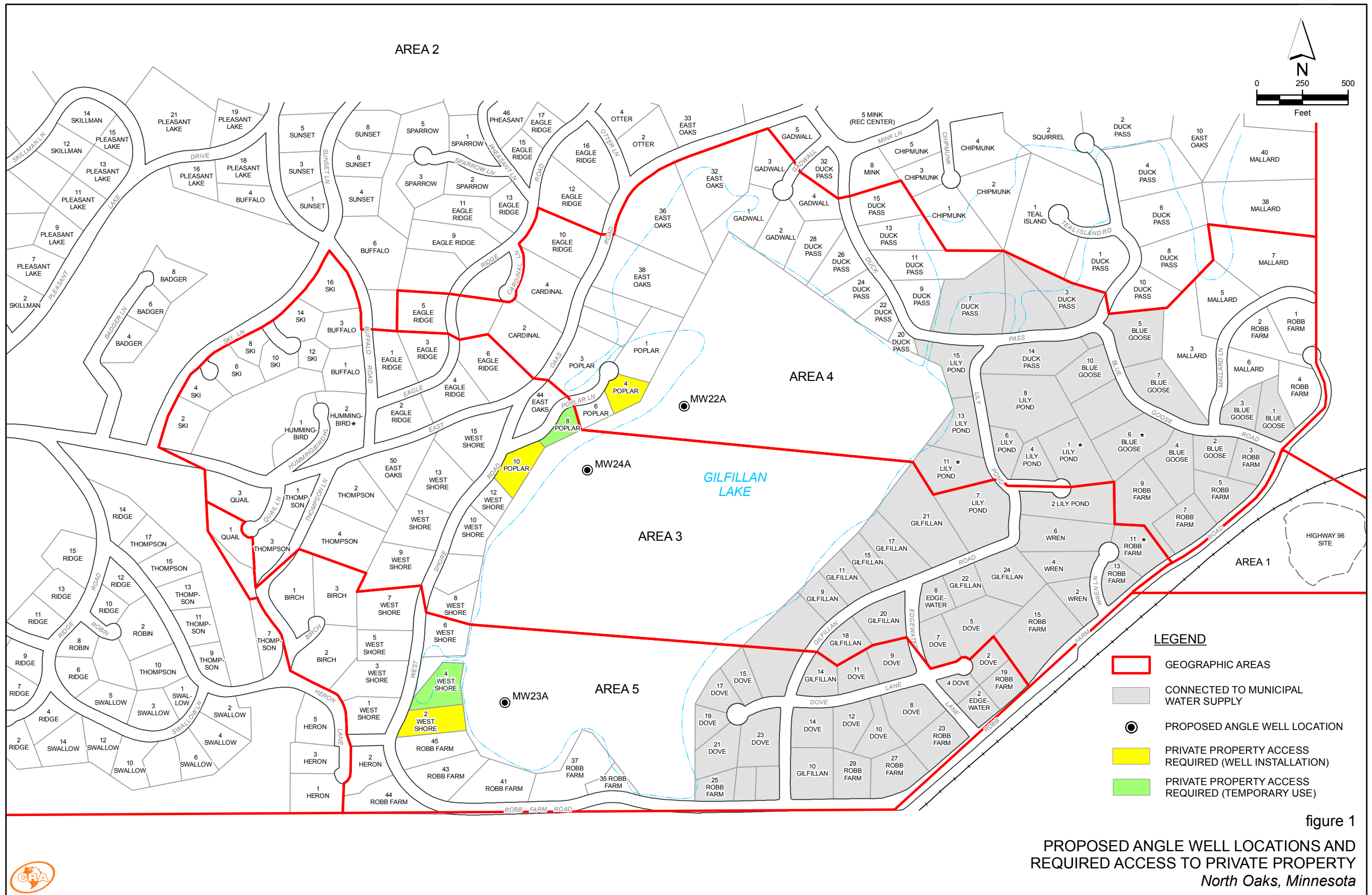


TABLE 1

**SUMMARY OF ACCESS NEGOTIATIONS  
FOR INSTALLATION OF PROPOSED ANGLE WELLS  
NORTH OAKS, MINNESOTA**

<b>BACKGROUND</b>		
July 27, 2007	Report	CRA submits FS report to MPCA (which recommended installation of two ravine wells and two angle wells (in Area 4 and Area 5) as part of the long term monitoring program in Alternative A2).
September 25, 2007	Letter	CRA submits proposed work plan to MPCA for installation of the two ravine wells and two angle wells (in Area 4 and Area 5) .
September 25, 2007	Letter	MPCA provides comments on FS report and requests additional information from CRA (Comment 1 requests that RPs add installation of an angle well in Area 3).
October 10, 2007	Field Meeting	CRA and well drilling contractor review potential drilling locations along the western shoreline of Gilfillan Lake (only three locations, one per geographical area, deemed potentially feasible for angle well installation -- 10 Poplar Lane (Area 3), 4 Poplar Lane (Area 4), and 2 West Shore Road (Area 5).)
October 11, 2007	Letter	MPCA approves work plan for ravine and angle well installations, with one modification (add installation of an angle well in Area 3).
<b>October 25, 2007</b>	<b>Letter</b>	<b>CRA responds to MPCA's letter dated October 11, 2007 (Response includes agreement to add angle well in Area 3; Identifies 10 Poplar Lane (Area 3), 4 Poplar Lane (Area 4), and 2 West Shore Road (Area 5) as the only potential locations; Includes statement "If access cannot be reasonably obtained at these locations, then no angle wells will be installed in those geographic areas.")</b>
November 7, 2007	Letter	MPCA approves FS report and additional information provided in CRA's letter dated October 25, 2007.

**SUMMARY OF ACCESS NEGOTIATIONS  
FOR INSTALLATION OF PROPOSED ANGLE WELLS  
NORTH OAKS, MINNESOTA**

<b>AREA 3</b>		
<b>10 Poplar Lane</b>		
November 9, 2007	Voicemail	CRA contacts 10 Poplar Lane regarding potential access for angle well installation.
November 27, 2007	Telephone/Email	CRA re-contacts 10 Poplar Lane regarding potential access for angle well installation; CRA and 10 Poplar Lane coordinate a Site meeting (for December 6, 2007). CRA emails work plan, MPCA approval letters, and other documents related to angle well installation to 10 Poplar Lane.
December 6, 2007	Field Meeting	CRA and a well drilling contractor meet with 10 Poplar Lane to discuss proposed angle well installation and identify a potential drilling location.
December 13, 2007	Email/Mail	CRA sends an email to 10 Poplar Lane as follow-up to field meeting on December 6, 2007. CRA mails hard copies of work plan, MPCA approval letters, and other documents related to angle well installations to 10 Poplar Lane (previously emailed).
January 21, 2008	Email	CRA sends draft access agreement to 10 Poplar Lane.
February 12, 2008	Email	CRA requests follow-up from 10 Poplar Lane regarding review of draft access agreement sent January 21, 2008.
February 26, 2008	Public Meeting	CRA and 10 Poplar Lane discuss angle well access at MPCA Public Meeting.
April 11, 2008 (approx.)	Voicemail	CRA requests follow-up from 10 Poplar Lane regarding review of draft access agreement sent January 21, 2008.
April 15, 2008	Voicemail	10 Poplar Lane contacts CRA in response to CRA's recent voicemail.
April 16, 2008	Voicemail/Email	CRA contacts 10 Poplar Lane in response to 10 Poplar Lane's recent voicemail.
April 18, 2008	Telephone	10 Poplar Lane contacts CRA regarding potential access for angle well installation. 10 Poplar Lane informs CRA that they don't want to agree to anything until their neighbor (8 Poplar Lane) receives and reviews a draft access agreement for use of their property to facilitate potential well installation at 10 Poplar Lane).
May 28, 2008	Email	CRA requests follow-up from 10 Poplar Lane regarding their review of the draft access agreement sent January 21, 2008.
<b>June 9, 2008</b>	<b>Email</b>	<b>10 Poplar Lane contacts CRA regarding potential access for angle well installation. 10 Poplar Lane provides response (access not granted, but may consider in the future).</b>
December 3, 2008 (approx.)	Voicemail	CRA contacts 10 Poplar Lane to re-visit potential access for angle well installation (now that MDD amendment has been finalized).
December 4, 2008 (approx.)	Telephone	10 Poplar Lane contacts CRA regarding potential access for angle well installation; 10 Poplar Lane provides response (willing to reconsider access); CRA to re-send draft access agreement, work plan, and approval letters; CRA to re-contact 8 Poplar Lane as well regarding use of property to facilitate potential well installation at 10 Poplar Lane.
December 10, 2008	Email	CRA re-sends draft access agreement, work plan, MPCA approval letters, and other documents related to angle well installation to 10 Poplar Lane.
December 18, 2008	Email	CRA requests follow-up from 10 Poplar Lane regarding status of communications with 8 Poplar Lane.
March 5, 2009	Email	CRA requests follow-up from 10 Poplar Lane regarding review of draft access agreement re-sent on December 10, 2008.

**SUMMARY OF ACCESS NEGOTIATIONS  
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NORTH OAKS, MINNESOTA**

<b>8 Poplar Lane (for temporary use of property to facilitate well installation at 10 Poplar Road)</b>		
December 11, 2007	Telephone	CRA contacts 8 Poplar Lane regarding use of property to facilitate potential well installation at 10 Poplar Lane. 8 Poplar Lane provides response (access granted). CRA to send copy of approved work plan and draft access agreement to 8 Poplar Lane.
May 20, 2008	Mail	CRA sends draft access agreement (for use of property to facilitate potential well installation at 10 Poplar Lane.)
<b>June 10, 2008</b>	<b>Telephone</b>	<b>8 Poplar Lane contacts CRA regarding use of property for potential well installation at 10 Poplar Lane. 8 Poplar Lane provides response (access not granted).</b>
December 12, 2008 (approx.)	Voicemail	CRA contacts 8 Poplar Lane to re-visit use of their property to facilitate potential well installation at 10 Poplar Lane (now that MDD amendment has been finalized).
December 18, 2008	Voicemail	CRA requests follow-up form 8 Poplar Lane regarding use of their property to facilitate potential well installation at 10 Poplar Lane.



TABLE 1

**SUMMARY OF ACCESS NEGOTIATIONS  
FOR INSTALLATION OF PROPOSED ANGLE WELLS  
NORTH OAKS, MINNESOTA**

<b>AREA 4</b>		
<b><u>4 Poplar Road</u></b>		
November 9, 2007	Voicemail	CRA contacts 4 Poplar Lane regarding potential access for angle well installation.
<b>November 26, 2007</b>	<b>Telephone</b>	<b>CRA re-contacts 4 Poplar Lane regarding potential access for angle well installation; 4 Poplar Lane provides response (access not granted -- does not want any work done on property).</b>

**SUMMARY OF ACCESS NEGOTIATIONS  
FOR INSTALLATION OF PROPOSED ANGLE WELLS  
NORTH OAKS, MINNESOTA**

AREA 5		
<b>2 West Shore Road</b>		
November 9, 2007	Telephone	CRA contacts 2 West Shore Road regarding potential access for angle well installation; CRA to touch base with neighbor (4 West Shore Road) and coordinate a Site meeting.
December 5, 2007	Telephone/Email	CRA and 2 West Shore Road coordinate a Site meeting (for December 6, 2007). CRA emails work plan, MPCA approval letters, and other documents related to angle well installation to 2 West Shore Road.
December 6, 2007	Field Meeting	CRA and a well drilling contractor meet with 2 West Shore Road to discuss proposed angle well installation and identify a potential drilling location.
December 13, 2007	Email	CRA sends an email to 2 West Shore Road as follow-up to field meeting on December 6, 2007.
January 21, 2008	Email	CRA sends draft access agreement to 2 West Shore Road.
February 12, 2008	Email	CRA requests follow-up from 2 West Shore Road regarding review of draft access agreement sent January 21, 2008.
February 26, 2008	Public Meeting	CRA and 2 West Shore Road discuss angle well access at MPCA Public Meeting.
March 13, 2008	Email	CRA requests follow-up from 2 West Shore Road regarding review of draft access agreement sent January 21, 2008.
April 17, 2008	Email	CRA requests follow-up from 2 West Shore Road regarding review of draft access agreement sent January 21, 2008.
May 28, 2008	Email	CRA requests follow-up from 2 West Shore Road regarding their review of the draft access agreement sent January 21, 2008.
May 29, 2008	Email	CRA and 2 West Shore Road attempt to coordinate another Site meeting to discuss general questions/concerns related to the proposed well installation and draft access agreement.
June 9, 2008	Email	CRA and 2 West Shore Road attempt to coordinate another Site meeting to discuss general questions/concerns related to the proposed well installation and draft access agreement.
June 11, 2008	Email	CRA and 2 West Shore Road attempt to coordinate another Site meeting to discuss general questions/concerns related to the proposed well installation and draft access agreement.
June 12, 2008	Email	CRA and 2 West Shore Road attempt to coordinate another Site meeting to discuss general questions/concerns related to the proposed well installation and draft access agreement.
June 23, 2008	Email	CRA and 2 West Shore Road attempt to coordinate another Site meeting to discuss general questions/concerns related to the proposed well installation and draft access agreement.
<b>June 24, 2008</b>	<b>Email</b>	<b>2 West Shore Road contacts CRA regarding potential access for angle well installation. 2 West Shore Road provides response (access granted, but only if CRA can resolve property line and access issues with 4 West Shore Road).</b>
July 10, 2008	Telephone	CRA contacts 2 West Shore Road to discuss access, resolution of property line issue, and status of access at 4 West Shore Road.

TABLE 1

**SUMMARY OF ACCESS NEGOTIATIONS  
FOR INSTALLATION OF PROPOSED ANGLE WELLS  
NORTH OAKS, MINNESOTA**

<b>4 West Shore Road (for temporary use of property to facilitate well installation at 2 West Shore Road)</b>		
November 9, 2007	Telephone	CRA contacts 4 West Shore Road regarding use of property to facilitate potential well installation at 2 West Shore Road. Resident to consider request (but response likely "no"). Resident to touch base with CRA on 11/12/07.
November 26, 2007	Voicemail	CRA requests follow-up from 4 West Shore Road regarding use of property to facilitate potential well installation at 2 West Shore Road.
December 5, 2007	Voicemail	CRA requests follow-up from 4 West Shore Road regarding use of property to facilitate potential well installation at 2 West Shore Road.
December 11, 2007	Voicemail	CRA requests follow-up from 4 West Shore Road regarding use of property to facilitate potential well installation at 2 West Shore Road.
July 10, 2008	Voicemail	CRA contacts 4 West Shore Road regarding property line issue and use of property to facilitate potential well installation at 2 West Shore Road.
July 10, 2008	Telephone	Lawyer representing 4 West Shore Road contacts CRA regarding use of property for potential well installation at 2 West Shore Road. CRA to send written request for access and draft access agreement to Lawyer representing 4 West Shore Road).
August 13, 2008	Email	CRA sends draft access agreement to Lawyer representing 4 West Shore Road (for use of property to facilitate potential well installation at 2 West Shore Road.).
September 5, 2008	Email	CRA requests follow-up from Lawyer representing 4 West Shore Road regarding review of the draft access agreement sent August 13, 2008.
<b>September 5, 2008</b>	<b>Email</b>	<b>Lawyer representing 4 West Shore Road contacts CRA regarding use of property for potential well installation at 2 West Shore Road. Lawyer representing 4 West Shore Road provides response (access agreement not acceptable).</b>
September 30, 2008	Telephone	Counsel for Whirlpool and Reynolds contact Lawyer representing 4 West Shore Road to discuss draft access agreement.
October 6, 2008	Voicemail	Counsel for Whirlpool and Reynolds request follow-up from Lawyer representing 4 West Shore Road regarding draft access agreement.
January 19, 2009	Letter	Counsel for Whirlpool and Reynolds re-send draft access agreement and request follow-up from Lawyer representing 4 West Shore Road regarding use of property to facilitate potential well installation at 2 West Shore Road.