

MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION

SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

2420

2001 SENATE APPROPRIATIONS

SB 2420


2001 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2420

Senate Appropriations Committee

☐ Conference Committee

Hearing Date February 9, 2001

Tape Number	Side A	Side B	Meter #
1		X	18.8-54.3
2	X		0.0-45.4
Committee Clerk Signature 			

Minutes:

Senator Solberg opened the hearing on SB 2420.

Senator Thomas Trenbeath, District 10, (handout Boundary Concept Alternatives) explained the history of the land. Historical society knows history site of the cemetery and their support on these boundaries. The county acquired the property consisting of a 10 acre parcel. This bill is asking for an appropriation to pay back the county for this purchase.

Senator Tallackson: Are there markers on the graves? Is it fenced?

Senator Trenbeath: Not if you buy this bill; can't get to it easily; access by foot only; map shows the outline. Roughly 200 grave sites.

Senator Tomac: Appropriation from county and state; amounts?

Senator Trenbeath: \$8,400 was the original out of the pocket to improve access.

Senator Robinson: Based on the historical records, this was a barren parcel of land and there is proof of a cemetery, true?

Senator Trenbeath: Nothing above ground prior to statehood; pass session looked at purchase back in 1893.

Senator Lindaas: Is there plans to reconstruct besides the cemetery?

Senator Trenbeath: Pembina County Commission abided by the law; requires Board to maintain maintenance to honor statute.

Senator Thane: How about the history?

Senator Trenbeath: No record of burials; some can assume from relatives buried there; the Province of Manitoba is very active.

Senator Solberg: Is this the first hearing on this bill?

Representative Wayne Tieman, District 10, yes.

Representative David Monson, District 10, spoke quickly in support and do consideration of this bill.

Senator Heitkamp: First time in front of legislature?

Rep. Tieman: First introduced in 1893 .

Edward Jerome, Minnesota, spoke in opposition of the bill. We were excluded for any input when Pembina County purchased the cemetery. We are concerned on how the cemetery was surveyed. The Highway Dept. Map shows area site with cultural scattered. We question the 10 acres The list is also incomplete on number of burials, we feel there are 215 not 200. The survey is does not include the whole cemetery.

Senator Solberg: You are opposed to the state purchasing this site; what area?

Edward Jerome: Not entirely but that the whole cemetery be preserved in this bill.

Senator Heitkamp: Bills states 10 acres; but right amount should be 14 acres?

Edward Jerome: Yes all the acres on the survey are correct.

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Senator Robinson: 14 acres to be preserved.

Senator Grindberg: The Highway survey is correct?

Edward Jerome: the 1892 cemetery was used; 1921 farming wheat was done on some of this land and it was plowed up in 1922.

Senator Thane: Is farming still done over and around cemetery?

Senator Trenbeath: Since the acquisition from the county, no farming has been done.

Senator Tallackson: Guessing of the location of the cemetery is the concern and evidence?

Edward Jerome: 1893 bill stated cemetery 10 acres.

Senator Robinson: What is the amount of acres to secure total cemetery?

Edward Jerome: Depends on testing and accuracy.

Tape 1, Side B, meter 49.0

Ruth Swan, Winnepeg, Manitoba, testified that in 1992 they organized a committee on the cemetery with descendants to protect the site. I am an expert in this and explained past history

End Tape 1, Side B, meter 54.3

Start Tape 2, Side A, meter 0.0

and evidence of the 2 ½ acres outside of the grave sites. The large area geophysical testing shows this. The list is incomplete.

Senator Robinson: So 14 acres comprise the cemetery site, do you agree?

Ruth Swan: The Highway map shows 10 acres; the problem is with state and local officials with the 2 ½ additional acres. We feel that 10 acres is before development.

Senator Holmberg: How do we proceed from here? How should we amend this bill to your opposition?

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Ruth Swan: First we need the description of the boundaries adjusted so that access roads are made beyond the 10 acre parcel; second, have the 1998 report withdrawn and have the State Historical consult with the descendants with their concerns.

Senator Holmberg: I think the committee should find why the Historical Society and geological survey are in disagreement? Have them respond with their comments?

Senator Solberg: Yes we will.

Senator Andrist: With many descendants; can they organize instead of the state?

Ruth Swan: Amendments are suggested; we are concerned with the way it has been handled; direct the Historical Society to deal with them.

Senator Solberg: Are there other cemeteries like this in North Dakota?

Ruth Swan: There is one on the Turtle Mountain Reservation and several that are hard to recognize by names of French Canadian aborigines.

Tape #2, Side A, meter 12.2

Louis Ritcha, Turtle Mountains, testified in opposition of this bill, asking why hasn't this been taken of in the last 100 years. Need to have limitations with the Historical Society to get this project done.

Senator Schobinger: We had this bill 100 years ago, doesn't the bill help with the correct size.

Louis Ritcha: There is no size stated on the bill; just amount of \$500.00

Merl Paaverud, Interim Superintendent State Historical Society of North Dakota, testified in opposition of this bill (testimony attached and copies of past bill (1893) and section 23-06-30.), stating that cemetery should not be sold to the state of North Dakota but under the local control of the county and honor the 1893 commitment. Suggests a one time appropriation to Pembina County.

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Senate Appropriations Committee

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Senator Schobinger: The 1893 land stated importance to set cemetery aside; why wasn't this done? Any where to look at to determine why land wasn't bought?

Merl Paaverud ND was bad financially after the 1893 session, funding probably wasn't there. No historical documents to establish this.

Senator Holmberg: Is the county responsible for abandoned cemeteries established prior to 1965? Or is the state?

Merl Paaverud I'd have to read the old law.

Senator Heitkamp: Could all cemeteries be looked at because of this, even though this was look at years ago?

Merl Paaverud This is a concern for other cemeteries; the local level will be empowered to take care of the cemeteries.

Senator Lindaas: Who has title to the parcel of land now?

Merl Paaverud Pembina County has title which paid \$14,000 plus to buy the 10 acres.

Senator Holmberg: To the opposition; a suggestion would be to have state buy the land and interested people maintain the site.

Merl Paaverud That is a possibility; County can do that; the Counties concern was the funding of the cemetery.

Senator Solberg: We should go back and review the records; have research to see if there is any documents to buy the land when the bill was passed back in 1893.

Senator Trenbeath: We do have a copy of the abstract and we see nothing to do with this property; if it did exist is has disappeared.

Senator Schobinger: Do we need to do a repealer to the old 1893 bill to this bill?

Senator Trenbeath: That is correct.

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Senator Heltkamp: Why is there farming when the county owns the land?

Senator Trenbeath: The county just recently acquired the land.

Senator Tallackson: Are the descendants will to take care of some of the expenses?

There was discussion between various committee members and those that testified to this question as well as fencing and to determine the correct amount of acres. It was stated that this land does have international history; the area needs to be layed out and by whom, with all parties involved.

Hearing closed. Tape #2, Side A, meter 45.4.

February 15, 2001 Full Committee Action: (Tape 3, second of six bills acted on 0.0 - 54.6)

Senator Nothing reopened the hearing on SB2420.

Senator Holmberg moved adoption of proposed amendments #10785.0101. Senator Solberg seconded.

Discussion followed. Committee verbally the adoption; no discussion on the bill.

Senator Holmberg moved a DO PASS AS AMENDED; Senator Tallackson seconded the motion. Roll Call Votes: 14 yes; 0 no; 0 absent and not voting.

PROPOSED AMENDMENTS TO SENATE BILL NO. 2420

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to authorize the state historical society of North Dakota to reimburse Pembina County for certain land in Pembina County; to repeal chapter 15 of the 1893 Session Laws, relating to authorizing the state to acquire a parcel of land in Pembina County; and to provide an appropriation.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. REIMBURSEMENT FOR LAND AUTHORIZED. The state of North Dakota, in accordance with chapter 15 of the 1893 Session Laws, shall reimburse Pembina County for its cost, not to exceed the sum of \$15,000, in acquiring the property described in this section and known variously as the Selkirk cemetery, the Metis cemetery, or the Demaulin Mission cemetery, upon condition that Pembina County either keeps and preserves the property in accordance with North Dakota Century Code section 23-06-30 or in the alternative transfers the property to a suitable organization that represents, to the satisfaction of Pembina County, that it will preserve and maintain the property as a cemetery in perpetuity. The property is described as follows:

All that part of the northwest quarter (NW1/4) of section thirty-three (33), township one hundred sixty-four (164), range fifty-one (51), further described as follows: commencing at the northwest corner of said section thirty-three (33); thence S00°24'33"W along the west line of said quarter 994.07 feet; thence S89°35'30"E, 998.15 feet to the east right-of-way line of interstate highway no. 1-29, the point of beginning; thence S59°52'00"E, 620.00 feet; thence S30°08'00"W, 703.00 feet; thence N59°52'00"W, 620.00 feet to said east right-of-way line; thence N30°08'00"E along said east line, 703.00 feet to the point of beginning, containing 10.01 acres and being graphically described on the plat of survey which is annexed hereto and incorporated herein by reference; the basis of all bearings being the east right-of-way line of interstate highway no. 1-29, at the location of this parcel, as an assigned bearing of N30°08'00"E.

SECTION 2. REPEAL. Chapter 15 of the 1893 Session Laws is repealed.

SECTION 3. APPROPRIATION. There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$15,000, or so much of the sum as may be necessary, to the state historical society of North Dakota for the purpose of reimbursing Pembina County pursuant to section 1 of this Act, for the biennium beginning July 1, 2001, and ending June 30, 2003."

Renumber accordingly

Date: 2-15-01

Roll Call Vote #: 1

2001 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. S/R 2420

Senate Appropriations Committee

☐ Subcommittee on _____

or

☐ Conference Committee

Legislative Council Amendment Number 10785, 0101

Action Taken On Pass as Amended

Motion Made By Senator Holmberg Seconded By Senator Tallackson

Senators	Yes	No	Senators	Yes	No
Dave Nething, Chairman	✓				
Ken Solberg, Vice-Chairman	✓				
Randy A. Schobinger	✓				
Elroy N. Lindaas	✓				
Harvey Tallackson	✓				
Larry J. Robinson	✓				
Steven W. Tomac	✓				
Joel C. Heitkamp	✓				
Tony Grindberg	✓				
Russell T. Thane	✓				
Ed Kringstad	✓				
Ray Holmberg	✓				
Bill Bowman	✓				
John M. Andrist	✓				

Total Yes 14 No 0

Absent 0

Floor Assignment Senator Holmberg

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

SB 2420: Appropriations Committee (Sen. Nething, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends **DO PASS** (14 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2420 was placed on the Sixth order on the calendar.

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Renumber accordingly

2001 HOUSE APPROPRIATIONS

SB 2420

2001 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. **SB2420**

House Appropriations Committee

☐ Conference Committee

Hearing Date **March 12, 2001**

Tape Number	Side A	Side B	Meter #
1		x	2609 - 6221
2	x		0 - 638
Committee Clerk Signature <i>LR Doolin</i>			

Minutes:

HOUSE APPROPRIATIONS COMMITTEE HEARING ON SB2420.

Sen Trenbeath: Had a handout that spoke of boundary concept alternatives for the Dumoulin Mission Cemetery. He did not read testimony.

I appear before you today in support of this bill, this bill is about our history, our shared history, and at the time of the Corp. of Discovery was beating its way up the Missouri River, there had been a corp. of, I think it was called a company of adventurers trading into Hudson Bay and we now know them as the Hudson Bay Company which had been in our area of the country up there for about 130 years at the time that Lewis & Clark showed up. By the time that Lewis & Clark showed up in this part of the country there had developed in our part of the country a separate culture according to most scholars that developed through the intermarrying of the western European's with the Native American's in our area of the country. Most of the western European's were of French descent and most of the Native Americans were of the Assinaboyan

or Chippewea descent. Their offspring adopted for the most part the religion of their fathers from France and became Roman Catholic and as such at about the time of Lewis & Clark or shortly thereafter at Pembina which is now in North Dakota, but North Dakota wasn't formed then, there was a Catholic Mission started, the Dumoulin Mission, that site of that mission is just north of the present city of Pembina and there was a cemetery associated with that mission. That cemetery disappeared, and never was a part of public record because I have search the abstract for the property on which it lies and it disappeared sometime towards the mid or latter part of the last century and the property on which the mission and its attended cemetery was located has literally been farmed over for a hundred years or more. This cemetery was still in memory of man so to speak and there were people who were anxious to have its boundaries reestablished and under North Dakota law that would be up to the county to maintain the cemetery at that time. The cemetery in the course of the last ten years or so has been reestablished in that we at Pembina county have gone through the expense of having seismograph work done to identify upwards of 500 potential graves in approximately 3 acre area. It also established what appears to be an outline of the old mission, through a series of negotiations with various interested parties a total of ten acres was acquired by the county of pembina, that ten acres lies immediately adjacent to the right of way to interstate 29. As an indication that the state has always recognized this site, first of all when they built the interstate back in the 60's there is a nice stone marker right there at the place on a turn off which in effect says if you look at the wheat field over there its actually a cemetery, secondly is one of the handouts I passed out, the single sheet where in the state legislature in I think the third session of the legislature in 1893 authorized \$500 to purchase that property as an historic site. That was never done, I haven't bothered to figure the interest on \$500 over 108 years and I don't think that would be necessary, but the fact of the matter is that the

cemetery has been acquired by Pembina County, and its out of pocket cost are just shy of \$15,000 and this is an appropriations bill asking that pembina county be made whole for the promises that the legislature made 108 years ago, its a justice bill if you will, in its original form it would have authorized up to \$31,000 so that pembina county could acquire it, could build a fence around it, could build a road to it, etc. That has been modified to allow, actually the initial bill would have allowed State Historical Society to acquire it, the bill in its present form would allow the county of pembina to made whole and allow pembina county to have the option of either maintaining it by statue or putting it into the interested hands of parties or groups that would agree to maintain that. We have identified such a group in the form of the Turtle Mountain band of Chippawa who are very interested in acquiring it, and the METIS designation is a designation that the US Government does not recognize as a cultural separate identity, it is an identity that the Canadian Government does recognize, if the US Government were to recognize the cultural identity of METIS that would encompass a good share of the tribal members of the Turtle Mountain band of Chippawa, because they are for the most part the descendants of this cultural identity, therefore this seems the right thing to do and if the appropriations committee here would follow the recommendation that have been previously made and the House concur we could get this done and Pembina county could be made whole under a 108 year old promise and the actual site itself would be in the hands of the descendants of those interred there.

Rep. Delzer: Why do you need to repeal the 1893 act if your doing that?

Sen. Trenbeath: Well I suppose that it would have served its purpose once we pass this legislation. This would stand in its place.

Rep. Timm: Any other questions? The fifteen thousand dollars will make pembina county whole, would you further explain that to me, I must have missed that.

Sen Trenbeath: Pembina County is out of pocket \$15,000 for doing the studies and acquiring the property. It is presently titled in the name of Pembina County.

Rep. Timm: Originally you wanted \$31,000 but you can get by with the \$15,000, and then the county intends to turn it over to the Turtle Mountain Indians.

Sen. Trenbeath: Yes, we had a county commissioners meeting last week and they passed a resolution to..... Chairman Timm: Is that a State Historical Place then or does that belong to the Indian Tribe?

Sen Trenbeath: Actually, the place itself is a cemetery. It has historical significance, but that was one of the arguments the State Historical Society was saying that a lot of cemeteries in North Dakota have historical significance and they didn't want to get in the business of owning cemeteries, so it seemed to us to be the logical alternative to either find an ethnic group associated with the cemetery to acquire it and maintain it or we have the statutory obligation if it remains in the name of Pembina County to maintain it ourselves.

Rep. Timm: How far is it away from the boundaries of the Indian Tribe? Answer: Quite a ways. And they are going to take care of it? Yes, they are very anxious to.

Rep. Skarphol: They will actually acquire title to it and they will be responsible for it from there on, is that correct? Response was yes. The deed to the property is a restricted deed it has a right of reverter in it which provides so long as the property is maintained as a cemetery it will remain the property of who ever acquires it, but if it is used for any commercial purposes then it reverts back to the original owner which is the family which sold it to Pembina County.

Rep. Delzer: Has some research been done to see if the \$500 that was appropriated was expended or not?

Sen. Trenbeath: I have not done any, but some has been done, or has been represented to me as having been done and apparently the State of North Dakota fell on extremely hard times and there were a lot of appropriations that were not funded as a result of that legislature.

Rep. Timm: Any other questions of the Senator?

Sen. Holmberg: (Followed Written testimony and answered questions after his testimony.

Rep. Timm: There was testimony earlier that the METIS are not recognized by the US Government, are we doing anything here that would subsequently make the METIS society, are we doing anything here that they ,descendants, might come back later and want more recognition of some kind?

Sen Holmberg: I think all we are doing here is delivering on a promise as the bill as amended says it uses a bunch of different titles to describe that land because it has been know by many other different names, and I believe in the original statute of 1893 it was called the selkirk, it was the burial ground of the selkirk settlement so its had a number of names, there will be people here from the historical society that there expertise would be more useful than my babbling on that particular question.

Rep. Delzer: Do we know if this land is deeded to the tribe does it become part of the reservation or simply an asset of the tribe?

Sen Holmberg: I had a sense of one of the concerns that some of the committee members had regarding the use of this particular property, and keep in mind that it is a cemetery, it is against the law to farm over a cemetery, there are certain protections that a cemetery has and that I'm not an expert at, there is no intention I believe in going down a path that some might consider the land will be used for a casino. That is not the intent of this. And you would have to talk to the lawyers and those that drew up the deeds and those agreements.

Rep. Delzer: A couple of things so I understand this, are the boundaries of the cemetery are entirely different than the boundaries of the total package of the land, is that not correct?

Sen. Holmberg: We have had testimony that there is some disagreement as to number one, where the spread of the cemetery has gone, remember its been farmed for close to a 100 years and the bill that you have before you authorizes the purchase of the 10 acre plot that is recognized I believe the State Historical Society will mention what they think about where that particular cemetery was actually located, but when were talking about an area that has been farmed since the 1920's there is some scatter and you might hear from some people that it actually should be 15 acres which is a larger acreage, but at some point we have to draw the line and say this is what the recognized cemetery is and this is whomever the county makes there final agreement with, this is the area that has to be maintained in perpetuity by these people who are taking it over. The State of North Dakota should not own the cemetery. That was the original bill.

Rep. Delzer: The session law from the third session says that the state is supposed to own this and take care of it and that's why you want to repeal that is because that law says that it supposed to belong to the State of North Dakota is that correct? The answer was yes.

Rep. Aarsvold: Does the proposed 10 acre purchase include the site of the mission itself?

Sen. Holmberg: Yes it does

Sen. Trenbeath: In answer to Rep. Delzer's question, I think I understand the genesis of it, if you look in the packet there is a copy of the actual warranty deed by which pembina county acquires the property, and it says and I will quote. " this property is sold subject to possible divestiture, reversion rights, and a permanent use restriction, the use of the property for commercial purposes by anyone shall cause title to revert to the original owners or their successor's and interest, and in

determination of whether or not the property is used for commercial purposes shall be determined by the grantor and their agents" So it literally goes with the deed that pembina county would grant to anybody.

Rep. Delzer: The way this reads it would be pembina county, but if the state pays for it, would the state be the grantor?

Sen Trenbeath: Actually, the grantor runs toward this deed which would be the Morris family and their offspring.

Rep. Timm: Any other questions? Any other testimony in support of SB2420?

Merl Paaverud, Interim Superintendent of the State Historical Society of North Dakota.

(Followed written testimony and then answered questions following testimony)

Rep. Glassheim: I'm a little concerned once it passes out of the hands of the county, and 15 years from now the people who made the agreements no longer wish to maintain it, I don't see that we have any control over the remaining historic site.

Mr. Paaverud: That issue is covered in the century code, and again they would become the counties responsibility to maintain that. As it is now, it is not a state historic site, but there is a marker there which would not designate it as an official historic site, we have 56 state historical sites and this is a marker that has been placed along the interstate to tell about that cemetery in that area, this is a program that we talked about developing as time goes by for a North Dakota historical marker program which could include state sites, local sites, any kind of site of possible, but that I guess that would be my reflection on your question.

Rep. Glassheim: Has this site been registered as a public burial place so that it has some official recognition as a burial place?

Mr. Paaverud: Yes it is, it is a burial place but it has been abandoned and again it would revert back to the county for maintenance purposes.

Rep. Timm: What sparked the interest in this particular, this thing has been farmed over for years and years and why all of a sudden the interest?

Mr. Paaverud: This has been going on for a few years now, and interest by the METIS people and the county people to try to determine where that it. It has been an issue on the local level for quite some time, as I'm sure Sen. Trenbeath can account to, just to find out where that is. Again the marker indicates it is in that area, but again the issue was pushed as to why it was being farmed and that it should not be farmed and we had offered technical assistance in the form of funding as well as staff assistance to try to determine if there was a burial ground there. We determined through some of the scientific method that there was an anomaly there that would show burials.

Rep. Byerly: In general, when a cemetery is abandoned does the county basically receive title to that?

Mr. Paaverud: I don't know for sure, I do know that according to century code it is their responsibility to maintain it. If it would remain in the jurisdiction of the church or the cemetery association that was defunct, I wouldn't know.

Rep. Delzer: From my understanding of this, pembina county has already done everything that their going to do with the exception of deeding this over and since the money was never expended in chapter 15, so that chapter really becomes mute, there is nothing in this bill that will stop or make any difference in this happening so nothing is contingent on this except for making pembina county whole, is that true or not?

Mr. Paaverud: That's my take on it, again I don't know if a legal lawyer would want to look at and would determine that but that's my understanding. That it would reimburse the county for the expenses that they have already had and that is based on the 1893 promise or appropriation that the State of North Dakota made, and this is trying to make good on that promise.

Rep. Timm: Any other questions? Any other testimony in support of SB 2420? Any opposition to SB2420.

METIS spokesperson: (Lewis Richodt) As you can see, I'm a METIS, my dad and mother were of that tribe my years ago, I have relatives buried in that cemetery. Something we don't want to do is turn that land over to Turtle Mountain Chippewa, do not do it, otherwise two years from now you will see why. The acreage item, the shape of the acreage that makes the difference, what about asking the Parks and Recreation to take over the land, just let pembina county do it. We should after 108 years get it done before another 108 years goes by. 108 years ago they proposed the cemetery be bought by the state, why the cemetery was abandoned and the state let the farmer go ahead and farm the land I don't know. One of the persons that started this a few years ago, couldn't be here today, she had previous appointments and she is the historian from Manitoba and the METIS federation requested through her to try and get this passed and give it to the county and let the county take care of it, but the cemetery is not abandoned. Mr. Richodt spoke of the history of the cemetery and its origins and the mission.

Rep. Skarphol: Are you a North Dakota resident? Yes. This METIS federation that you spoke of earlier, do you think they would have any interest in maintaining this?

Mr. Richodt: They are out of Winnipeg and I don't see why not. I personally have not asked the director.

Rep. Glassheim: Do you anticipate anything being done with this land, fence it up, and markers and made into a historic site, or is the main purpose simply to rescue it and to have it kept clean.

Mr. Richodt: Put a fence around it and right now we have put up 25 crosses with the names of people that are buried there. We have 350 more to go, and we hope to add all the names that we know that are available. A lot of the records are lost in a fire in 1860.

Rep. Byerly: Up in that area with the METIS society up in Winnipeg I'm assuming there are a lot of people that live down in Pembina county that associate with that group, because you spoke of the lady who was the director who got the ball rolling, do you have a lot of people that live in North Dakota and around pembina county that will get involved in maintaining this cemetery.

Mr. Richodt: I don't have the list. I don't know if there is or not.

Rep. Timm: Any other testimony in support of SB2420? Any opposition to SB2420?

Sen. Trenbeath: Maybe before you close the hearing I can set a couple of matters straight. First of all in the dealings of pembina county that they have had in respect to the cemetery, yes we have dealt with the lady from Winnipeg and frankly that's one of the reasons the heritage society doesn't want to take title to this thing. But we have also dealt with the Turtle Mountain tribe and here's a copy of the agreement that district judge Larry Fountain, made with the Turtle Mountain Band back in 1996 with respect to certain cultural artifacts including human bones that had been unearthed at the site through farming practices and the Turtle Mountain band did take possession of those items under an agreement that once the title to the cemetery was cleared that they would come back and re-inter those human remains at that site, so we have developed a relationship in that area for purposes of preserving this area in its present condition.

Rep. Glassheim: If this is the oldest cemetery in North Dakota, one might think it should be a historical site, what happened?

Page 11
House Appropriations Committee
Bill/Resolution Number SB2420
Hearing Date March 12, 2001

Sen. Trenbeath: I will be blunt, some of the groups that have been a part of the discussions with respect to this cemetery have quick to point out problems but not quick to offer resolutions and they have been more inhibitive of this process than they have been helpful, to the point where in the senate appropriations committee, where Sen. Tallackson asked the question of one of the persons from Manitoba whether or not she had a group of people that would chip in a few dollars and maintain the thing. There are some problems there from previous discussions.

Rep. Timm: Any thing else on this Senate Bill 2420? Any other questions by the committee members? If not we will close the hearing on SB2420.

House Appropriation Committee hearing on SB2420 was closed.

2001 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2420

House Appropriations Committee

☐ Conference Committee

Hearing Date March 19, 2001

Tape Number	Side A	Side B	Meter #
03-19-01 tape #2		521-1573	
Committee Clerk Signature <i>Kelli Hall</i>			

Minutes:

The committee was called to order, and opened committee work on SB 2420.

Rep. Monson: Handed out amendments prepared for Senator Trenbeath, 10785.0201. Senator Trenbeath explained that this would take out the reference to the legislation passed in 1893, because of Rep. Delzer's concerns that we would be setting a precedence about making good on old promises. It also corrects some spelling, and makes sure that if Pembina County is made whole by this they would not be able to sell or give away the land to anyone else with the purpose that it would be nothing other than a cemetery.

Chairman Timm: Question for Allen of LC: The reason for repealing that old law was to get it out of the books, and now we have taken this language out?

Allen, LC: It is his understanding that because it was an appropriation at that time and approved for only two years. If they didn't provide the money, it isn't affective anymore. So we don't have to take it out of the lawbooks.

Rep. Delzer: This is not part of the century code, it's simply part of a session law. So it's not in the century code.

Rep. Monson: Moves to adopt the amendments. Seconded by Rep. Wald.

Voice vote adopted the amendments.

Rep. Monson: Moves DO PASS AS AMENDED. Rep. Aarsvold seconded.

Rep. Delzer: This still puts us in the middle of the discussion of giving it to the tribe in Turtle Mountain.

Rep. Monson: I don't believe that it would. All this would do is to reimburse Pembina County for their out of pocket expenses that they were required to build when they obtained ownership of the cemetery. The deed is still owned by Pembina County, and this does not do anything but make Pembina County whole, and the cemetery is owned by Pembina County, and if Pembina County chooses to keep it and run it as a cemetery it is up to them. They could sell it to the Mete or sell it to the tribe, or deed to over to anyone else, but the bottom line is it is Pembina County's cemetery and if they sell it to anyone for any other purpose of a cemetery they can't do it.

Rep. Delzer: It was Pembina County's choice to go buy this. Correct?

Rep. Monson: Not sure it was their choice, other than they felt that they had to get the land out of production and they felt the law stated cemetery land could not be farmed over and it was the county's responsibility to take charge of this land and they ended up fulfilling their state obligation by law to buy this land from the farmer.

Rep. Delzer: Are we setting a precedence of paying a county to do what they feel is necessary? What are their grounds to come to the state to be made whole?

Page 3

House Appropriations Committee

Bill/Resolution Number SB 2420

Hearing Date March 19, 2001

Rep. Wald: It looks to me like this is simply adding money to the state historical society.

Isn't that how this unfolded?

Rep. Monson: The state historical society does not want this land, but they are in the middle because it is the oldest cemetery in the state. It is a historical site. Pembina County went to a lot of expense because they felt they had to. They were obligated to treat this as a cemetery. The money passes through the historical society.

Vote on Do Pass as Amended: 15 yes, 2 no, 4 absent and not voting. Motion passes.

Rep. Monson is assigned to carry this bill to the floor.

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2420

Page 1, line 2, remove "to repeal chapter 15 of the 1893 Session Laws,"

Page 1, line 3, remove "relating to authorizing the state to acquire a parcel of land in Pembina County;"

Page 1, line 7, remove ", in accordance with chapter 15 of the 1893 Session Laws,"

Page 1, line 9, replace "Demaulin" with "Dumoulin"

Page 1, line 12, replace "that represents, to the satisfaction of Pembina" with "by deed adequately protecting the county by providing that the suitable organization, its successors and assigns,"

Page 1, line 13, remove "County, that it", after "property" insert "solely", and after "cemetery" insert ", and for no other purpose,"

Page 2, remove line 3

Renumber accordingly

Date: 3-19-01
Roll Call Vote #: 1

2001 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. SB2420

House APPROPRIATIONS Committee

☐ Subcommittee on _____
or
☐ Conference Committee

Legislative Council Amendment Number 10785.0201

Action Taken to adopt amendment

Motion Made By Rep. Monson Seconded By Rep. Wald

Representatives	Yes	No	Representatives	Yes	No
Timm - Chairman					
Wald - Vice Chairman					
Rep - Aarsvold			Rep - Koppelman		
Rep - Boehm			Rep - Martinson		
Rep - Byerly			Rep - Monson		
Rep - Carlisle			Rep - Skarphol		
Rep - Delzer			Rep - Svedjan		
Rep - Glassheim			Rep - Thoreson		
Rep - Gulleson			Rep - Warner		
Rep - Huether			Rep - Wentz		
Rep - Kempenich					
Rep - Kerzman					
Rep - Kliniske					

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent:

adopted

Date: 3-19-01
Roll Call Vote #: 2

2001 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. SB 2420

House APPROPRIATIONS

Committee

☐ Subcommittee on _____
or
☐ Conference Committee

Legislative Council Amendment Number

10785.0201

Action Taken

DO PASS As Amended.

Motion Made By

Rep. Monson

Seconded
By

Rep. Aarvold

Representatives	Yes	No	Representatives	Yes	No
Timm - Chairman	✓				
Wald - Vice Chairman	✓				
Rep - Aarvold	✓		Rep - Koppelman	✓	
Rep - Boehm	✓		Rep - Martinson	✓	
Rep - Byerly	✓		Rep - Monson	✓	
Rep - Carlisle	✓		Rep - Skarphol		✓
Rep - Delzer		✓	Rep - Svedjan	✓	
Rep - Glassheim	✓		Rep - Thoreson	✓	
Rep - Gulletson	✓		Rep - Warner		
Rep - Huether	✓		Rep - Wentz	✓	
Rep - Kempenich					
Rep - Kerzman					
Rep - Kliniske					

Total (Yes) 15 No 2

Absent 4

Floor Assignment Rep. Monson

If the vote is on an amendment, briefly indicate intent:

Page 1, after line 4, insert:

"SECTION 1. AMENDMENT. Section 4-35-09.1 of the 1999 Supplement to the North Dakota Century Code is amended and reenacted as follows:

4-35-09.1. Proof of financial responsibility - Exceptions.

1. A commercial pesticide applicator certificate may not be issued or renewed unless the applicant furnishes proof of financial responsibility as provided in this section. A commercial pesticide applicator shall furnish proof of responsibility on demand to the commissioner of agriculture as provided in this section. Minimum financial responsibility must be ~~demonstrated annually maintained~~ in the amount of one hundred thousand dollars, and may be demonstrated by a notarized letter from an officer of a financial institution or from a certified public accountant attesting to the existence of net assets equal to at least one hundred thousand dollars, a performance bond, or a general liability insurance policy. The performance bond or insurance policy must contain a provision requiring the issuing company to notify the agriculture commissioner at least ten days before the effective date of cancellation, termination, or other modification of the bond or insurance policy. The agriculture commissioner ~~must~~shall immediately ~~request the suspension of~~suspend the certification of a person who fails to maintain the minimum financial responsibility standards of this section. If there is any recovery against the certificate holder, the holder ~~must~~shall demonstrate continued compliance with the minimum standards of this section. An employee of a commercial pesticide application business is not required to meet these standards separately if the business documents compliance with the minimum financial responsibility standards of this section. An application for reinstatement of a suspended certificate under this section must be accompanied by proof of satisfaction of any judgment previously rendered.
2. This section does not apply to:
 - a. A rancher who is required to obtain a commercial pesticide applicator certificate for controlling noxious weeds on the leased federal acreage as a condition of a federal grasslands lease.
 - b. A grazing association and its members if either the association or any member is required to obtain a commercial pesticide applicator certificate for controlling noxious weeds on the leased federal acreage as a condition of a federal grasslands lease.
 - c. A person required to be certified in the right-of-way category.
 - d. An applicator who holds a commercial pesticide certificate and is controlling noxious weeds on grassland, land producing tame hay, or other lands not devoted to the production of an annual crop."

Page 1, remove lines 11 and 12

Renumber accordingly

REPORT OF STANDING COMMITTEE

SB 2420, as engrossed and amended: Appropriations Committee (Rep. Timm, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (15 YEAS, 2 NAYS, 4 ABSENT AND NOT VOTING). Engrossed SB 2420, as amended, was placed on the Sixth order on the calendar.

Page 1, line 2, remove "to repeal chapter 15 of the 1893 Session Laws,"

Page 1, line 3, remove "relating to authorizing the state to acquire a parcel of land in Pembina County,"

Page 1, line 7, remove ", in accordance with chapter 15 of the 1893 Session Laws,"

Page 1, line 9, replace "Demaulin" with "Dumoulin"

Page 1, line 12, replace "that represents, to the satisfaction of Pembina" with "by deed adequately protecting the county by providing that the suitable organization, its successors and assigns,"

Page 1, line 13, remove "County, that it", after "property" insert "solely", and after "cemetery" insert ", and for no other purpose,"

Page 2, remove line 3

Renumber accordingly

REPORT OF STANDING COMMITTEE

SB 2455, as reengrossed: Finance and Taxation Committee (Rep. Carlson, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends DO PASS (9 YEAS, 5 NAYS, 1 ABSENT AND NOT VOTING). Reengrossed SB 2455 was placed on the Sixth order on the calendar.

Page 1, line 20, replace "up" with "the tax commissioner or designee and two members of the house of representatives and one member of the senate"

Page 1, line 21, remove "to four members of the legislative assembly"

Renumber accordingly

REPORT OF STANDING COMMITTEE

SCR 4003: Finance and Taxation Committee (Rep. Carlson, Chairman) recommends DO PASS (14 YEAS, 1 NAY, 0 ABSENT AND NOT VOTING). SCR 4003 was placed on the Fourteenth order on the calendar.

REPORT OF STANDING COMMITTEE

SCR 4004: Finance and Taxation Committee (Rep. Carlson, Chairman) recommends DO PASS and BE PLACED ON THE CONSENT CALENDAR (15 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SCR 4004 was placed on the Tenth order on the calendar.

REPORT OF STANDING COMMITTEE

SCR 4005: Finance and Taxation Committee (Rep. Carlson, Chairman) recommends DO PASS (14 YEAS, 1 NAY, 0 ABSENT AND NOT VOTING). SCR 4005 was placed on the Fourteenth order on the calendar.

REPORT OF STANDING COMMITTEE

SCR 4006: Finance and Taxation Committee (Rep. Carlson, Chairman) recommends DO PASS and BE PLACED ON THE CONSENT CALENDAR (15 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SCR 4006 was placed on the Tenth order on the calendar.

REPORT OF STANDING COMMITTEE

SCR 4010: Finance and Taxation Committee (Rep. Carlson, Chairman) recommends DO NOT PASS (8 YEAS, 7 NAYS, 0 ABSENT AND NOT VOTING). SCR 4010 was placed on the Fourteenth order on the calendar.

REPORT OF STANDING COMMITTEE

SCR 4021: Finance and Taxation Committee (Rep. Carlson, Chairman) recommends DO NOT PASS (10 YEAS, 4 NAYS, 1 ABSENT AND NOT VOTING). SCR 4021 was placed on the Fourteenth order on the calendar.

REPORT OF STANDING COMMITTEE

SCR 4045, as engrossed: Finance and Taxation Committee (Rep. Carlson, Chairman) recommends DO PASS (13 YEAS, 1 NAY, 1 ABSENT AND NOT VOTING). Engrossed SCR 4045 was placed on the Fourteenth order on the calendar.

MOTION

REP. MONSON MOVED that the absent members be excused, which motion prevailed.

MOTION

REP. MONSON MOVED that the House be on the Fifth, Twelfth, and Sixteenth orders of business and at the conclusion of those orders, the House stand adjourned until 1:00 p.m., Wednesday, March 21, 2001, which motion prevailed.

2001 TESTIMONY

SB 2420

SB2420

BOUNDARY CONCEPT ALTERNATIVES

for the

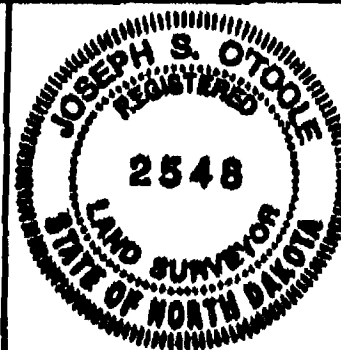
Dumoulin Mission Cemetery

Pembina, North Dakota
NW1/4 Sec. 33, T164N, R51W

February 14, 2000

PREPARED BY: Joseph S. O'Toole

Joseph S. O'Toole, RLS & PE
131 Front Street
Crystal, ND 58222
701-657-2139



INTRODUCTION

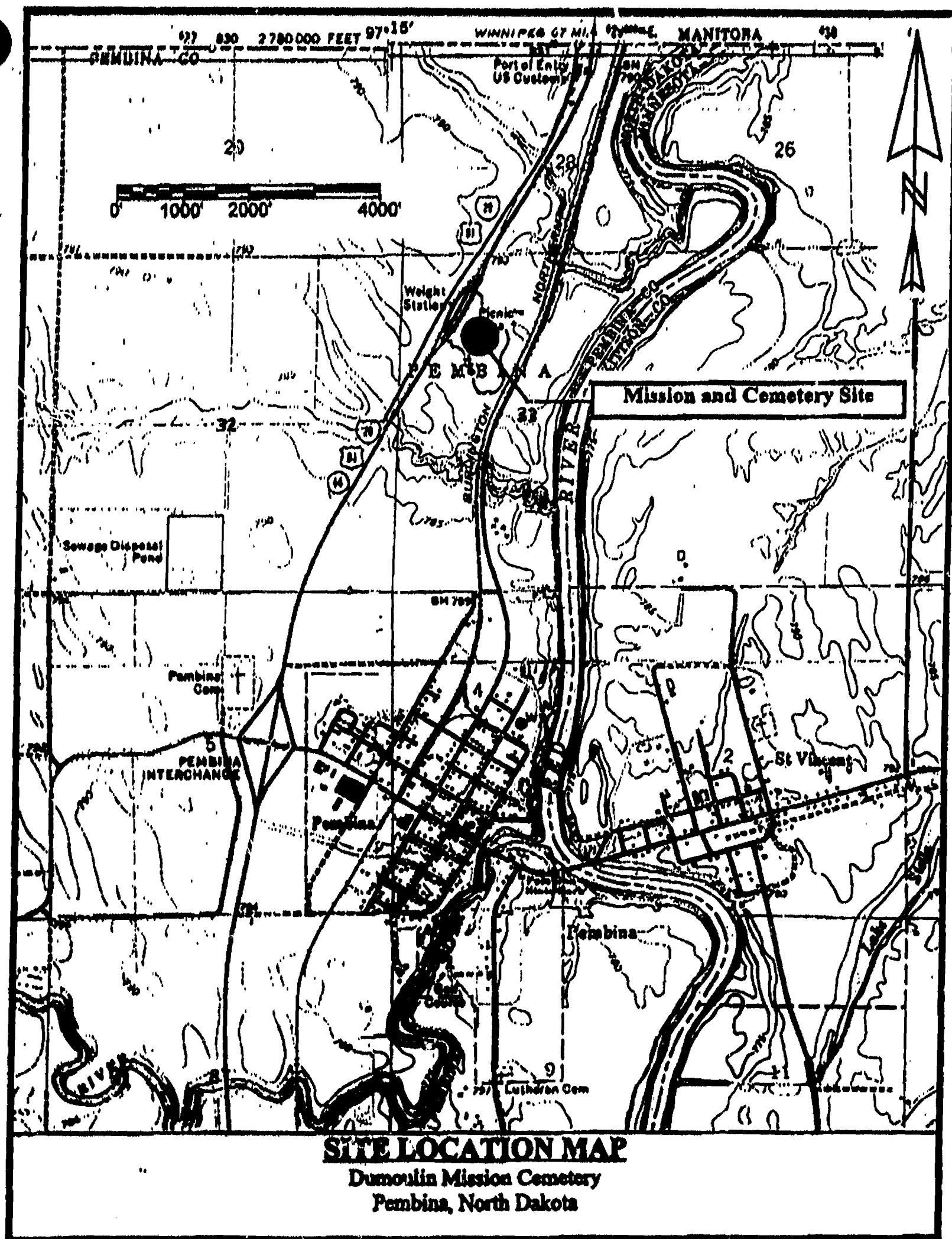
Enclosed are illustrations showing four boundary concepts for the Metis Cemetery. Extensive historic research and field investigation to locate the cemetery have been conducted by others. Its general location seems to be in agreement by all researchers. The number of graves and the extent of the cemetery area remain in dispute.

Since the size and limits of the cemetery remain unknown, the number of potential boundary configurations is limitless.

The boundary concepts shown within are for the purpose of preliminary discussions between the Pembina County Commission and the boundary surveyor. They are based upon the primary research area and do not address all of the potential cemetery limits.

CONTENTS

1. Site Location Map - shown on a USGS contour map.
2. Boundary Concept 'A' - showing the minimum cemetery area advised by the State Historical Society.
3. Boundary Concept 'B-1' - showing the minimum cemetery area, which would include all potential graves located by the ground penetrating radar survey and that area advised by the State Historical Society.
4. Boundary Concept 'B-2' - same as 'B-1' but extending the boundaries to the Interstate right-of-way line.
5. Boundary Concept 'C' - expanding the cemetery area to 10 acres and squaring it with the Interstate right-of-way line.
6. Site location map - shown on a USDA air photo.



NW COR.
SEC. 33
T164N, R51W

North line Sec. 33

N30°08'00"E
West RW line I-29

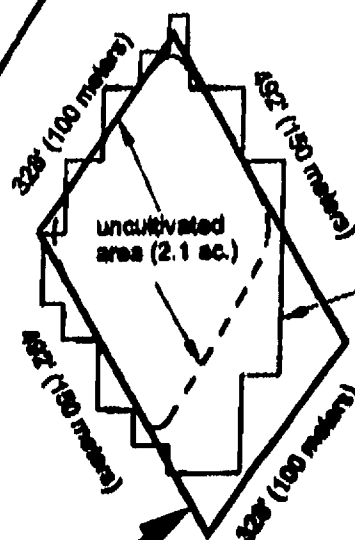
East RW line I-29
N30°08'00"E

Rest shelter area - enclosing the
Dumoulin Mission Memorial Plaque



West line Sec. 33
S00°24'30"W

INTERSTATE I-29



Ground radar
survey limits (3.1 ac.)

Boundary
Concept 'A'
(3.32 Ac.)

Edge of Cultivation
CL abandoned railroad
CL abandoned State Highway

NW1/4 SEC. 33, T164N, R51W

South line NW1/4 Sec. 33

CONCEPT 'A'

The minimum cemetery area advised by the State Historical Society.
150 meters x 100 meters (3.32 Ac.)

NW COR.
SEC. 33
T164N, R51W

North line Sec. 33

N30°08'00"E
West RW line I-29

East RW line I-29
N30°08'00"E

Rest shelter area - enclosing the
Dunsmuir Mission Memorial Plaque

0' 150' 300' 600'

S00°24'30"W

West line Sec. 33

INTERSTATE I-29

uncultivated
area (2.1 ac.)

Ground radar
survey limits (3.1 ac.)

Boundary
Concept 'B-1'
(4.70 Ac.)

Edge of Cultivation

C/L abandoned railroad

C/L abandoned State Highway

NW1/4 SEC. 33, T164N, R51W

South line NW1/4 Sec. 33

CONCEPT 'B-1'

The minimum area which would include all of the potential grave locations found by the ground penetrating radar survey and the minimum area advised by the State Historical Society.

NOTE: The ground radar survey was not completed to the extent of finding of all potential grave locations. Many potential graves were found at the border lines of the study area, indicating that the cemetery may extend well beyond the study area.

NW COR.
SEC. 33
T164N, R51W

North line Sec. 33

N30°08'00"E
West RW line I-29

East RW line I-29
N30°08'00"E

Rest shelter area - enclosing the
Dumoulin Mission Memorial Plaque



West line Sec. 33
S00°24'30"W

INTERSTATE I-29

uncultivated
area (2.1 ac.)

Ground radar
survey limits (3.1 ac.)

Boundary
Concept 'B-2'
(8.42 Ac.)

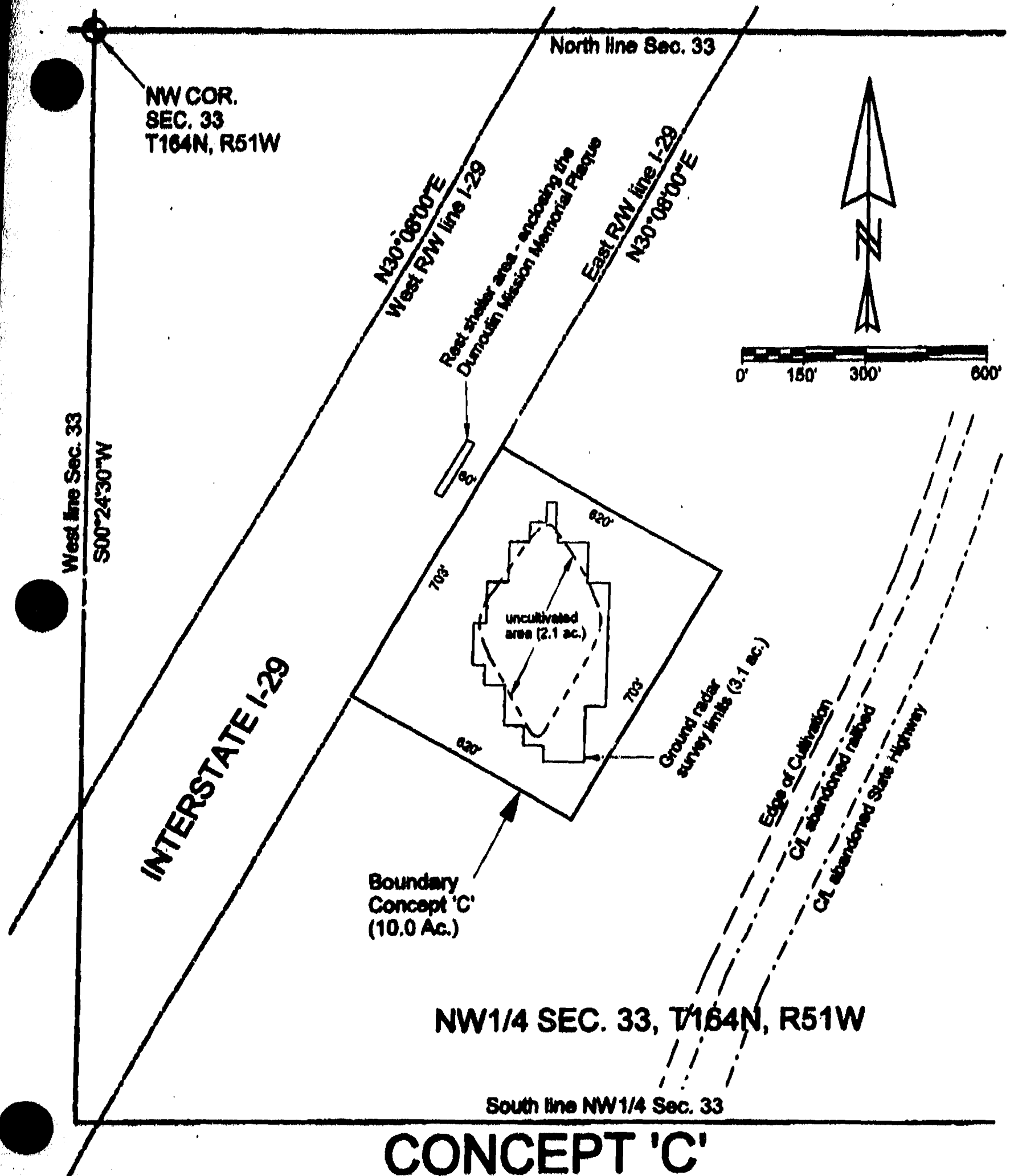
Edge of Cultivation
C/L abandoned railroad
C/L abandoned State Highway

NW1/4 SEC. 33, T164N, R51W

South line NW1/4 Sec. 33

CONCEPT 'B-2'

Extend Concept 'B-1' to the Interstate right-of-way line and make the east line parallel with the right-of-way line. This concept would allow better access to the cemetery and would include more potential grave sites.



Square the cemetery boundaries with the Interstate right-of-way line and expand it to 10 acres to include more potential grave locations.



cc. D.R.
for 017.

W # 380

418

INVOICE #11238

Laurie Fontaine
Pembina County States Attorney
Courthouse
Cavalier, ND 58220

DATE: November 12, 1998

RE: Pembina Grave Sites
Final Report Sent October 15 to
Fern Swenson of the State Historical Society of ND

FOR PROFESSIONAL SERVICES RENDERED: \$1,250.00

TOTAL AMOUNT DUE:

\$1,250.00

49-490-6900



Invoice

High Plains Consortium, Inc.

PO Box 1292
Bismarck, ND 58502-1292
Phone: (701) 255-6080

DATE	INVOICE #
03-25-98	493

BILL TO

Pembina County
C/O Ms. Laurie A. Fontaine,
Pembina County States Attorney
301 Dakota Street West, #9
Cavalier ND 58220

P.O. NO.	TERMS	PROJECT
	Due on Receipt	7106-2B-1 GPR Survey, Pembina

QUANTITY	DESCRIPTION	RATE	AMOUNT
1	<p><i>Project: Ground Penetrating Radar Survey of historical Metis Cemetery, Downtown Pembina, North Dakota</i></p> <p>GPR radar survey with additional field work, data processing, report and map preparation.</p> <p><i>The area surveyed was roughly 30% larger than originally estimated for the project and 20% of the total gravesites were found within this additional survey area.</i></p> <p><i>A 10% increase is shown to cover part of the additional cost incurred to survey, process, interpret, map and report this additional area.</i></p>	\$ 6,297.51	\$ 6,297.51

Thank you for your business!

Total \$ 6,297.51

INVOICES ARE DUE UPON RECEIPT.

A Service Charge of 1.5% per month or 18% annually is assessed on invoices that are not paid due.

A Service Charge of 1.5% per month or 18% annually is assessed on unpaid bills. This service charge is a late payment charge. The total unpaid balance may be paid at any time.

INVOICE # _____

Fund 49
Dept 490
Obj 8900
Vend # 7164

CLAIM VOUCHER

301 Dakota Street West, Number 9
Pembina County, Cavalier, North Dakota 58220-4100

CLAIMANT'S NAME: Wes Argue
Attorney at Law
ADDRESS: PO Box 108
Hamilton, ND 58238-0108
DATE: January 10, 2001

Date	Order Number	Quantity	Description	Unit Price	Amount
			Purchase of Dumoulin Mission Cemetery Site in Rural Pembina North Dakota		\$8,400.00
TOTAL AMOUNT DUE					\$8,400.00

I do hereby certify that the within bill, claim, account, or demand is just and true; that the money therein charged actually was paid for the purpose therein stated; that the services therein charged were actually rendered and are of the value therein charged, that no part of such bill, claim, account or demand has been paid; and that the goods therein charged actually were delivered and were of the value charged.

I certify that the above claim is correct and that the Goods were received or services performed.

Signed _____

Signed Barbara K. Whelan

Department Head

Title If signed for firm or company

Mail this Claim Directly to the County Auditor

W#42769
4-18-00

6873

P. J. O'N. M.R.

JOSEPH S. O'TOOLE
REGISTERED LAND SURVEYOR
&
REGISTERED PROFESSIONAL ENGINEER
P.O. BOX 52, CRYSTAL, NORTH DAKOTA 58222

STATEMENT
4/17/00

CLIENT: Pembina County Coramission, County Courthouse, Cavalier, ND 58243

PROJECT: Preliminary survey information of the Metis Cemetery NW1/4 33-164-51

DATE OF SURVEY: Misc. dates in the fall of 1999 and the winter of 2000

<u>ITEM</u>	<u>QUANTITY</u>	<u>UNIT FEE</u>	<u>TOTAL</u>
PRE-SURVEY: <ul style="list-style-type: none">- Obtain and review report of the State Historical Society and talk Fern Swenson (State archaeologist).- Obtain and review the Ground Penetrating Radar survey and talk to Dr. Ray Butler (Geologist who did the survey).- Obtain and review information needed to reestablish the northwest corner of Section 33 (including the original survey notes of 1867, the Canadian border monument location records, the Railroad records, the Interstate highway records, and the adjacent section corner records.	6 hrs.	\$60/hr.	\$360
FIELD SURVEY: <ul style="list-style-type: none">- Two-man crew & electronic equipment- Survey required to reestablish the NW corner of Section 33 including the control points along the Canadian border, Interstate 1-29, Railroad controls, adjacent section corners, etc.- Topographic survey of the existing uncultivated area of the cemetery, the Interstate right of way line, the railroad, the control points set for the ground penetrating radar survey, and the rest area location.	8 hrs.	\$75 hr.	\$600

49-490-6900

POST SURVEY:		18 hrs.	\$60/hr.	\$1080
<ul style="list-style-type: none"> - Place survey information into computer. (1 hr.) - Computer analysis to determine the coordinates of the NW corner and the west line of Section 33 (3 hr.) - Prepare "Plot of survey" of all survey information (5 hr.) - Prepare report and alternative boundary locations for Cemetery (6 hrs.) - Prepare location overlay on an air photo (2 hrs.) - Meet with the County Commission and review results of survey (1 hr.) 				
EXPENSES:				
Transportation (1 round trip to project & 2 round trips to County courthouse & onsite travel)		170 miles	\$0.40/mile	\$68
Misc. (drafting supplies, Long distance Calls, copies, postage, etc.)		1 lump sum	Estimate	\$20
TOTAL FEE:				\$2228

Thank you Barb & Board Members

WARRANTY DEED

— Individual to Individual —

THIS INDENTURE, Made this 30th day of November, 2000, between Emma Moris, a single person; Robert W. Moris, individually, and as Trust Manager under an Agreement dated January 25, 1991; Joan M. Medaris f/k/a Joan M. Jaskowiak and Lee Medaris, wife and husband; Charles L. Moris and Patricia E. Moris, husband and wife; Lyla Mae Myrick and Ardie Myrick, wife and husband; Grantor, whether one or more, and Pembina County, Grantee, whether one or more, whose postoffice address is c/o Pembina County Auditor, 301 Dakota Street West, Cavalier ND 58220.

WITNESSETH, for and in consideration of the sum of EIGHT THOUSAND FOUR HUNDRED and 00/100 (\$8,400.00) DOLLARS, Grantor does hereby GRANT to Grantee, all of the following real property lying and being in the County of Pembina, State of North Dakota, and described as follows, to-wit:

All that part of the Northwest Quarter (NW¼) of Section Thirty-three (33), Township One Hundred Sixty-four (164), Range Fifty-one (51), further described as follows: Commencing at the Northwest corner of said Section Thirty-three (33); thence S00°24'33"W along the West line of said quarter 894.07 feet; thence S89°35'30"E, 898.15 feet to the East right-of-way line of Interstate Highway No. 1-29, the point of beginning; thence S59°52'00"E, 820.00 feet; thence S30°08'00"W, 703.00 feet; thence N59°52'00"W, 820.00 feet to said East right-of-way line; thence N30°08'00"E along said East line, 703.00 feet to the point of beginning, containing 10.01 acres and being graphically described on the Plat of Survey which is annexed hereto and incorporated herein by reference; the basis of all bearings being the East right-of-way line of Interstate Highway No. 1-29, at the location of this parcel, as an assigned bearing of N30°08'00"E.

This property is sold SUBJECT TO possible divestiture, reversion rights and a permanent use restriction. The use of the property for commercial purposes by anyone shall cause title to revert to the original owners or their successors-in-interest. The determination of whether or not the property is used for commercial purposes shall be determined the Grantor and their agents. IT IS SPECIFICALLY AGREED that this use restriction and divestiture is part of the consideration for the transfer of the property to Pembina County, and this restriction shall apply to all heirs, assigns and successor owners of this tract. This transfer is FURTHER SUBJECT TO easements, special or improvement taxes and assessments, mineral conveyances, rights-of-way and all other reservations of record.

(The legal description was prepared by Joseph S. O'Toole, PE & RLS, 131 Front Street, Crystal ND 58222.)

And the said Grantor for himself, his heirs, executors and administrators, does covenant with the Grantee that he is well seized in fee of the land and premises aforesaid and has good right to sell and convey the same in manner and form aforesaid; that the same are free from all encumbrances, except installments of special assessments or assessments for special improvements which have not been certified to the County Treasurer for collection, and the above granted lands and premises in the quiet and peaceable possession of said Grantee, against all persons lawfully claiming or to claim the whole or any part thereof, the said Grantor will warrant and defend.

WITNESS, the hand of the Grantor.

Emma Moris

Emma Moris

Robert W. Moris

Robert W. Moris, individually, and as Trust Manager under an Agreement dated January 25, 1991

Joan M. Medaris

Joan M. Medaris

Lee Medaris

Lee Medaris

Charles L. Moris

Charles L. Moris

Patricia E. Moris

Patricia E. Moris

Lyla Mae Myrick

Lyla Mae Myrick

Ardie Myrick

Ardie Myrick

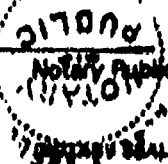
STATE OF NORTH DAKOTA

County of Pembina, ss.

On this 8th day of July, 2000, before me, a notary public within and for said County and State, personally appeared Emma Merle, a single person, to me known to be the person(s) described in and who executed the within and foregoing instrument and acknowledged to me that she executed the same as her free act and deed.

[Signature]
Pembina County, North Dakota

My Commission Expires: 7-24-2006



STATE OF CALIFORNIA,

County of San Diego, ss.

On this 15th day of December, 2000, before me, a notary public within and for said County and State, personally appeared Robert W. Merle, individually, and as Trust Manager under an Agreement dated January 25, 1991, to me known to be the person(s) described in and who executed the within and foregoing instrument and acknowledged to me that he executed the same as his free act and deed.

[Signature]
12/07/00

Notary Public

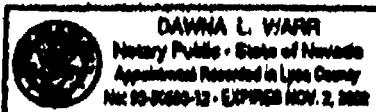
County, California

My Commission Expires:

STATE OF NEVADA

County of Lyon, ss.

On this 22 day of December, 2000, before me, a notary public within and for said County and State, personally appeared Joan M. Modale (f/k/a Joan M. Jaskowski and Lee Modale, wife and husband, to me known to be the person(s) described in and who executed the within and foregoing instrument and severally acknowledged to me that they executed the same as their free act and deed.



[Signature]
11-02/02

Notary Public

County, Nevada

My Commission Expires:

(NOTARY SEAL)

STATE OF WASHINGTON

County of King, ss.

On this 30 day of Nov, 2000, before me, a notary public within and for said County and State, personally appeared Charles L. Merle and Pamela E. Merle, husband and wife, to me known to be the person(s) described in and who executed the within and foregoing instrument and severally acknowledged to me that they executed the same as their free act and deed.



[Signature]
King

Notary Public

County, Washington

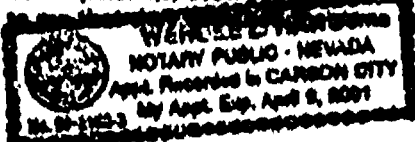
My Commission Expires:

(NOTARY SEAL)

STATE OF NEVADA

County of Carson, ss.

On this 07 day of December, 2000, before me, a notary public within and for said County and State, personally appeared Lyle Mae Myrick and Ardie Myrick, wife and husband, to me known to be the person(s) described in and who executed the within and foregoing instrument and severally acknowledged to me that they executed the same as their free act and deed.



[Signature]
Carson

Notary Public

County, Nevada

My Commission Expires: 4-9-01

(NOTARY SEAL)

I CERTIFY THAT THE FEE COMMISSIONER HAS PAID FOR THE PROPERTY DESCRIBED IN THIS DEED \$1,400.00.
 NOTARY PUBLIC - NEVADA
 April 9, 2001
[Signature]

Telephone (701) 266-8228 • Attorney at Law • WEB ARGUE, PC • 811 West Street • Bismarck ND 58103

PLAT OF SURVEY

OF A PART OF THE

NW1/4 SEC. 33, T164N, R51W

PARCEL DESCRIPTION

All that part of the northwest quarter of Section 33, Township 164 North, Range 51 West (NW1/4 33-164-51), Fifth Principal Meridian, Pembina County, North Dakota, Further described as follows:

Commencing at the northwest corner of said Section 33; thence S00°24'33"W along the west line of said quarter 994.07 feet; thence S89°35'30"E 998.15 feet to the east right of way line of Interstate Highway No. 1-29, the point of beginning; thence S59°52'00"E 620.00 feet; thence S30°08'00"W 703.00 feet; thence N59°52'00"W 620.00 feet to said east right of way line; thence N30°08'00"E along said east line 703.00 feet to the point of beginning.

The basis of all bearings being the east right of way line of Interstate Highway No. 1-29, at the location of this parcel, as an assigned bearing of N30°08'00"E.

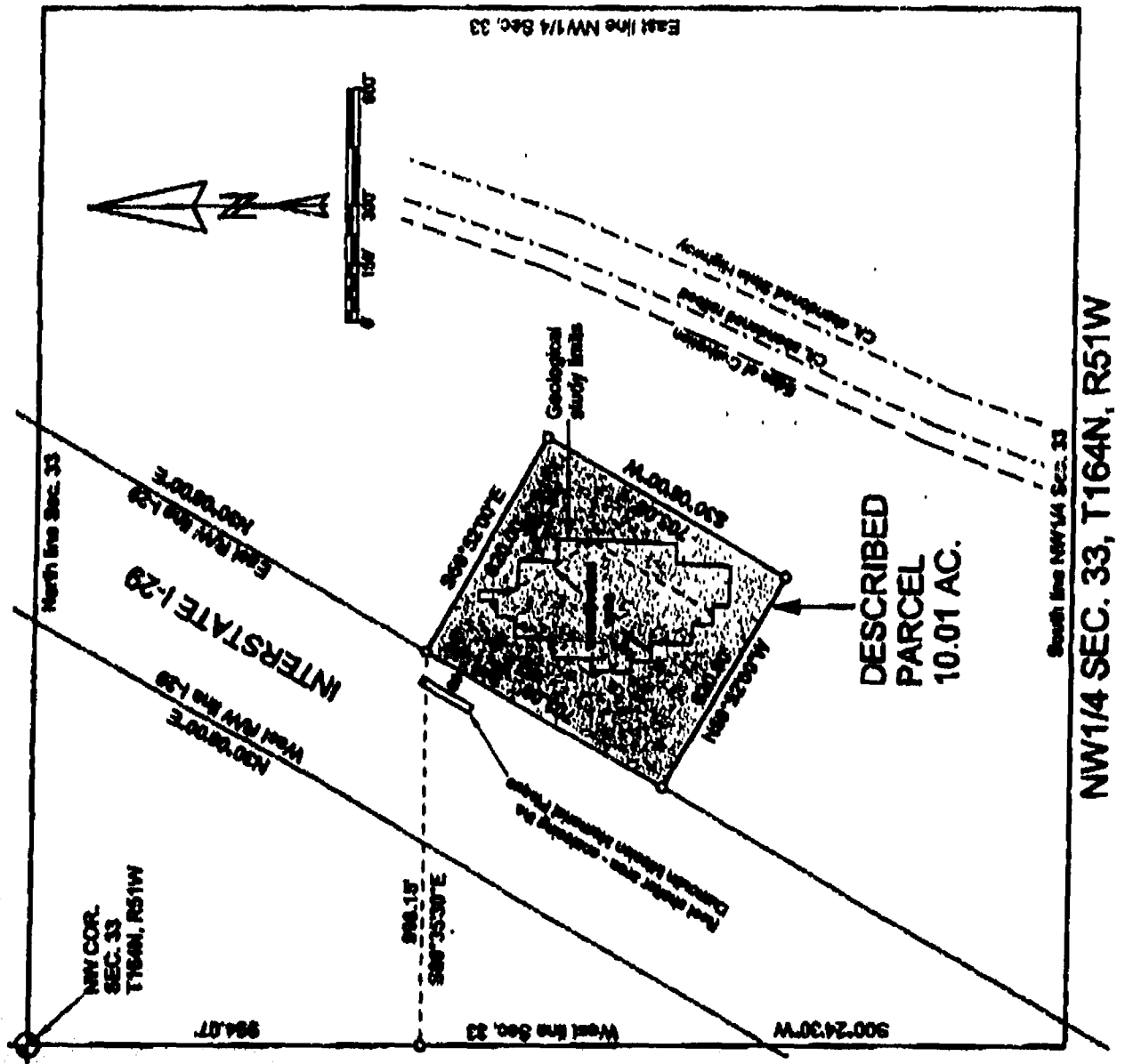
Parcel contains 10.01 acres.



DATE OF SURVEY: 11-17-99

SURVEYOR: Joseph S. O'Toole

Joseph S. O'Toole, P.E. & S.L.S.
131 First St.
Crystal, ND 58222

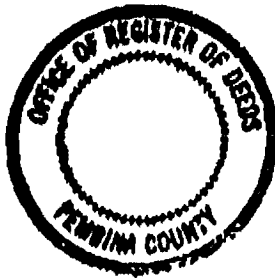




(Indorsement to be made upon the original instrument in the presence of a notary public, and the original instrument must be presented to the notary public for indorsement.)

On 23 day of January, A.D. 2001, at Grand Forks, North Dakota, I, the undersigned, a Notary Public in and for the State of North Dakota, do hereby certify that the within instrument was duly executed by the person or persons named therein, and that the same is a true and correct copy of the original instrument as the same appears from the records of this office.

Witness my hand and the seal of my office this 23rd day of January, A.D. 2001.



OFFICE OF REGISTER OF DEEDS
PEMBINA CO., NORTH DAKOTA
I hereby certify that the within instrument was filed for record in this office on

JAN 23 2001 2:00

at Grand Forks, N.D., and was duly recorded by Book 8-10 Page 149
Dennis A. Madsen
Register of Deeds

Dennis

DOCUMENT NO

220013 ✓

Total Area = 32 acres

Diamond Shape = 2.5 acres

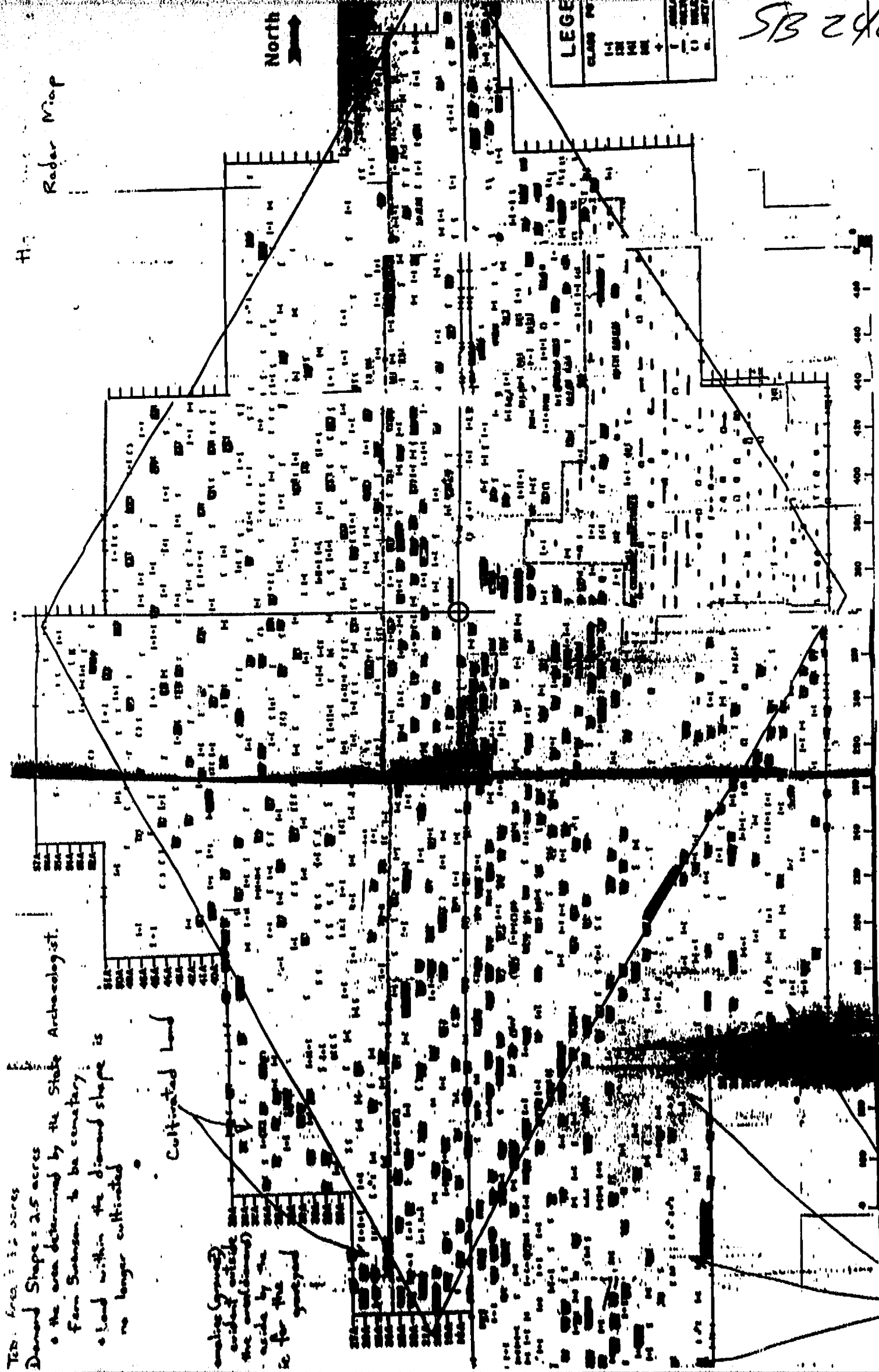
the area determined by the State Archaeologist.

Farm Swenson to be cemetery.

Land within the diamond shape is no longer cultivated

Cultivated Land

anomalies (graves) evident outside the diamond shape as indicated by the side by the side for the graveyard



LEGEND	CLASS	SYMBOL
CULTIVATED LAND	1	■
ANOMALIES (GRAVES)	2	●

SB 2420

Farming continues above these anomalies (graves?)

SB 2420

q.d.a. Dumoulin site (1st. priest)
or Belcourt " (priest in 1849)
named after Selkirk because he
APPROPRIATIONS. donated the 85 land

We want
it called
the "Pembina Metis Cemetery"

CHAPTER 15. - Passed, but money
[S. D. No. 132.] not set aside
SELKIRK BURIAL GROUND.

AN ACT Authorizing and Empowering the Acquisition by the State of North Dakota of the Parcel of Land Situate in the County of Pembina, Known as the Burial Ground of the Selkirk Settlement, and Making an Appropriation Therefor.

Be it Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. PURCHASE AUTHORIZED.] The Governor, Secretary of State and State Auditor are hereby empowered and authorized to purchase in the name of the State of North Dakota and to accept and have recorded good and sufficient deed of warranty, from the fee owners thereof, of the parcel of land situate in the county of Pembina, State of North Dakota, known as the burial ground of the Selkirk settlement, said settlement and burial ground being the oldest in either of the Dakotas, the actual settlement thereof dating back to 1800.

§ 2. GROUNDS TO BE SUITABLY MAINTAINED.] It shall be the duty of the said Governor, Secretary of State and State Auditor, who for the purposes of this act are designated as trustees of the said cemetery when acquired, to maintain the same in a suitable manner, have the grounds suitably fenced and kept from misuse.

§ 3. APPROPRIATION.] For the purposes of carrying out the provisions of this act the sum of five hundred dollars, or so much thereof as is necessary, is hereby appropriated out of any moneys in the State treasury, not otherwise appropriated.

Approved, March 2, 1893.

We argue that ~~the~~ State is responsible
for the site.

CHAPTER 16.

[S. D. No. 103.]

REIMBURSING WARD COUNTY.

AN ACT Appropriating Money from the State Treasury, not Otherwise Appropriated, to Reimburse the County of Ward for Money Paid by Said County in the Holding of Coroner's Inquest, in the Expense of Criminal Trials, and in the Assessing and Collecting the State Tax in the Unorganized Counties of Buford, Montraillo, Flannery and Renville in the Years 1890, 1891 and 1892.

Be it Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. APPROPRIATION.] There is hereby appropriated out of any money in the State treasury, not otherwise appropriated,

Approved by David Clouth, Assistant Attorney
General, N. D. June 21, 1996

North Dakota State Law Library

SB 2420
Senate Appropriations
February 9, 2001 Hearing

Testimony of Merl Paaverud, Interim Superintendent
State Historical Society of North Dakota

Introduction

Good morning Mr. Chairman and members of the Senate Appropriations Committee. My name is Merl Paaverud and I am the Interim Superintendent for the State Historical Society of North Dakota.

Thank you for the opportunity to address Senate Bill 2420. I will provide some background on the bill and perspectives of the State Historical Society and State Historical Board.

Agency Overview

The State Historical Society has completed research on the issue and verified that an appropriation was made during the 1893 legislative session to purchase what was referred to as the "burial ground of the Selkirk Settlement" Five hundred dollars was set aside for this purpose.

The State Historical Society has provided technical assistance for the identification of the Pembina Cemetery site during the past few years. By utilizing scientific analysis of the site, an area was identified that contained the cemetery. This information was controversial because parties felt that the area identified was not large enough.

The State Historical Society was not involved in the development and submission of SB 2420 and was not even aware of the bill until Friday, February 2, 2001. This puts us at a definite disadvantage, but I will try to point out the Society's thoughts and concerns regarding this bill.

Agency Considerations:

1. The State Historical Society of North Dakota now has 56 state historic sites and one regional museum located in Pembina. We are hard pressed to administer and maintain these sites directly with appropriated funds. We have seven full time staff who are involved with this process and they are hard pressed to keep up with the basic maintenance needs of the sites and regional museum. We receive in-kind assistance from organizations, local groups and individuals to maintain another nine sites. The remainder of the sites receive no maintenance or development.
2. The State Historical Society has been offered many sites and cemeteries in the past. These offers were not accepted because we do not have the additional resources, staff and equipment needed to properly care for additional sites.
3. Abandoned cemeteries are the responsibility of county governments who are required by

statute to provide maintenance once a year (NDCC 23-06-30). Turning over cemetery plots to the State of North Dakota could set a precedent for additional acquisitions and would require ongoing appropriations for operation and maintenance.

4. We believe this is an issue best addressed on the local level where the people who have relatives and family buried in the cemetery live. Maintaining a cemetery at an adequate level takes considerable time, resources and manpower. A cemetery is the final resting place for residents of the area and the local level is where control of the cemetery belongs.

5. Have other entities may be interested in maintaining or acquiring the cemetery been contacted? These entities could include local tribal government, the Metis people or a local cemetery association could be founded to maintain this local resource.

6. Adequate maintenance of the site would require additional staff and equipment for the agency. The cost to purchase the land when combined with constructing an access roadway, building a fence around the perimeter, and planting natural grasses on the site would cost more than the proposed \$31,000 included in the bill not to mention the costs for ongoing maintenance for the roadway, fence and maintenance equipment

Services The Society now offers:

1. Information resources for research, identification and location of individuals and family cemeteries throughout North Dakota.
2. Information resources for development of publications and data on North Dakota history and settlement.
3. The Pembina State Museum offers information, interpretation, and programs about local historical events and inhabitants in the area.
4. Gingras Trading Post State Historic Site near Walhalla is the home and business location of the Antoinne Gingras Trading Post and Home. This site interprets early fur trade in the region and honors the life of an early Metis leader, businessman, and politician from the area.

Agency Recommendation

As Interim Superintendent of The State Historical Society of North and representing the wishes of the State Historical Board make the following recommendations:

The Pembina Cemetery should not be sold to the state of North Dakota, but be under the local control by an entity that has a direct interest in the property. The County could develop a plan to operate and maintain the cemetery and use this to organize a procedure for maintenance. If the Appropriations Committee feels that it is appropriate to honor the 1893 appropriation to purchase the land, the Legislature could consider making a one-time appropriation to Pembina County for the site.

This concludes my testimony. I will try to answer any questions that you may have.

53 2420

23-06-28

HEALTH AND SAFETY

23-06-28. Arresting or attaching dead body — Penalty. Every person who arrests or attaches any dead body of a human being upon any debt or demand whatever, or who detains or claims to detain it for any debt or demand or upon any pretended lien or charge, is guilty of a class B misdemeanor.

Source: Pen. C. 1877, § 362; R.C. 1895, § 7202; R.C. 1899, § 7202; R.C. 1905, § 8937; C.L. 1913, § 9631; R.C. 1943, § 23-0622; S.L. 1975, ch. 106, § 236.

23-06-29. Penalty for violating provisions relating to dissection and general penalty. Every person who violates any provision of this chapter relative to the dissection of dead bodies of human beings, or who makes or procures to be made any dissection of the body of a human being except by authority of law or in pursuance of permission given in accordance with the provision of this chapter, is guilty of a class B misdemeanor. Every person who violates any provision of this chapter for the violation of which another penalty is not specifically provided is guilty of an infraction.

Source: Pen. C. 1877, §§ 352, 365; R.C. 1895, §§ 7192, 7205; R.C. 1899, §§ 7192, 7205; R.C. 1905, §§ 8927, 8940; S.L. 1907, ch. 270, § 22; C.L. 1913, §§ 455, 9621, 9634; R.C. 1943, § 23-0629; S.L. 1975, ch. 106, § 237. person placing body there to liability for misdemeanor, and if person so placed in dissection was then alive, but died of exposure, person placing her there was guilty of manslaughter. State v. Whiteman (1956) 79 NW 2d 8.

Disposal of Body.

Disposal of body along roadside subjects

23-06-30. Abandoned cemeteries to be maintained by county. The board of county commissioners of each county may provide for the identification, cataloguing, recording, and shall provide for the general maintenance and upkeep of each abandoned cemetery located within such county. The board shall, at least once each year, proceed to have the weeds and grass cut, restore gravestones to their original placement, and perform any other general maintenance necessary to maintain the dignity and appearance of the grounds. For the purposes of this section, a cemetery means any tract of land used as a burial plot and which is filed with the registered deeds of the county as a public burying place. The board of county commissioners of each county shall provide for the registration, with the state department of health and consolidated laboratories, of each abandoned cemetery within such county unless such cemetery has been previously registered. Such registration must take place within one year of notification being made to the board, by any interested party of the existence of such abandoned cemetery. Expenditures may not exceed levy limitations provided in section 57-15-27.2.

Source: S.L. 1965, ch. 191, § 1; 1977, ch. 221, § 1; 1981, ch. 282, § 1; 1983, ch. 292, § 1.

Cross-References.

Tax levy for maintenance of abandoned cemeteries, see § 57-15-27.2.

SB 2420 is an antiquity issue involving legislative intent, something we jealously guard in this body. Specifically Senate Bill 132 enacted during the 3rd Legislative Assembly, codified as Chapter 15 of the session laws and approved by the governor, March 2, 1893.

That law states: An act for the acquisition by the State of ND for the burial grounds of the Selkirk settlement in pembina county, and to make an appropriation. \$500 was provided, with a directive to the Governor, Secretary of State, and Attorney General to buy the land and provide for its upkeep. According to research conducted by the State Historical Society, the intent of the Legislature was never carried out.

This historically significant cemetery was utilized by peoples living in the earliest settlement in what became North Dakota. French Canadians and native peoples, and their offspring usually refereed to as Metis, were buried in these grounds throughout the 1800's. It is estimated that 400 - 800 and even more remains are buried at this site along I-29 by Pembina.

SB 2420, as amended, would appropriate \$15,000 to the State Historical Society to reimburse Pembina County for its actual expenses in acquiring the 10 acres composing the area where the cemetery is located. The purchase was finalized in January of this year. The county is authorized to transfer ownership of the cemetery to an organization which would preserve and maintain the cemetery in perpetuity. The bill also repeals the 1893 session law.

Committee members, the 3rd legislative assembly decided 107 years ago that the Metis cemetery was the responsibility of the State of North Dakota. Today, the 57th legislative assembly should deliver on that promise by passing SB 2420.

SB 2420
House Appropriations
March 12, 2001 Hearing

Testimony of Merl Paaverud, Interim Superintendent
State Historical Society of North Dakota

Introduction

Good morning Madame Chairperson and members of the House Appropriations Committee. My name is Merl Paaverud and I am the Interim Superintendent for the State Historical Society of North Dakota. Thank you for the opportunity to address Senate Bill 2420.

Agency Overview

The State Historical Society verified that an appropriation was made during the 1893 legislative session to purchase what was referred to as the "burial ground of the Selkirk Settlement" Five hundred dollars was set aside for this purpose. We have also noted abandoned cemeteries are the responsibility of county governments who are required by statute to provide maintenance once a year (NDCC 23-06-30).

Agency Recommendation

As Interim Superintendent of The State Historical Society of North and representing the wishes of the State Historical Board make the following recommendations:

SB 2420 has been amended in the Senate to allow for an appropriation up to \$15,000 be made to reimburse Pembina County for purchase of the cemetery area. The 1893 appropriation to purchase the land for the state will be repealed and the County will retain the property for maintenance or pass it on to another entity for maintenance. The State Historical Society has been identified as the agency where the appropriated funds will flow through to Pembina County.

The State Historical Society supports SB2420 as amended. This concludes my testimony. I will try to answer any questions that you may have.