

# Groundwork for Mandan's future

MANDAN REMEDIATION TRUST • REPORT TO THE COMMUNITY • APRIL 2006

## Largest environmental settlement in state's history funds cleanup project

ATTORNEY GENERAL WAYNE STENEHJEM RECOMMENDED approval of an agreement in August 2004 to the North Dakota Department of Health and the City of Mandan to settle a lawsuit against Burlington Northern Santa Fe Railway relating to fuel contamination in downtown Mandan. The proposal came after three days of intense negotiations that included the principally affected parties as well as a representative of the governor's office. At \$30.25 million, it is the largest environmental settlement in the state's history. Here's a breakdown:

- \$24 million was placed in a Mandan Remediation Trust to pay for cleanup of the fuel contamination.
- \$2.5 million was placed in a Mandan Supplemental Environmental Projects Trust to address impacts on the Mandan community from contamination and cleanup in the downtown area. The purposes are to alleviate environmental, economic, social, public health and safety, and other related impacts.
- \$1 million was paid to the state as a penalty for violations of North Dakota laws;
- \$500,000 was paid to reimburse the state's Leaking Underground Storage Tank Trust Fund;
- \$1 million was paid to the City of Mandan as reimbursement for legal fees; and
- Land and buildings valued at \$1.25 million were transferred to the City of Mandan. The property lies south of Main Street from First Street NE through Sixth Avenue NW. It includes the Mandan Public Library, Dykshoorn Park, Mandan Depot and Beanery.

The settlement also addressed BNSF's continued responsibility for the contamination in the Mandan Railyard and the state's right to bring future enforcement actions for any new contamination. Settling the case allowed the parties to avoid a trial, the associated costs, and uncertainty that comes with any litigation. ■



**The Mandan Remediation Trust meets every Tuesday at 1:30 at City Hall.** At the March 14 meeting, trustees Jim Neubauer and Francis "Fritz" Schwindt (seated at the head of the table) discuss plans for installation of the system on the north side of Main Street with Mark Zander (far right) of Mandan Plumbing & Heating and Carolyn Larson in the (foreground), manager of the All Building. Others attending were Scott Radig and Marilyn Mertz of the N.D. Health Department.



Francis "Fritz" Schwindt of the Mandan Remediation Trust and Tim Kenyon, vice president of Leggette, Brashears and Graham, check out the regenerative thermal oxidizer. The equipment was recently installed at the primary remediation building on the south side of Main Street. An open house will be held at the building, likely in May, to give the public an opportunity to learn more about the clean-up process. Watch local newspapers for the date and time.

## Cleanup of diesel fuel spill essential to revitalizing downtown Mandan

**D**iesel fuel contamination was discovered in 1985 at the construction site of the Morton County-Mandan Law Enforcement Center. The North Dakota Health Department investigated, finding a plume of about 3 million gallons of petroleum product beneath downtown Mandan that stemmed from Burlington Northern rail yard fueling activities during an era when diesel was relatively inexpensive.

Main streets everywhere were facing challenges from declining rural populations and competition from shopping malls. The fuel spill was a compounding factor for Mandan's Main Street, nearly ending downtown investment. Lenders became reluctant to take the risk of having property come back to them as collateral. Financial institutions feared the associated clean-up costs. Deteriorating buildings and vacant store fronts became all too common.

### WHAT'S AT STAKE?

**Main streets and their downtowns are the hearts and identities of communities.**

Various cleanup and monitoring activities by the railroad and Health Department ensued over the years, but only about 650,000 gallons of product were recovered. In 2000, BNSF denied responsibility for any remaining fuel or environmental damage and refused to conduct additional cleanup work north of Main Street.

In 2002, the State of North Dakota and the City of Mandan filed a lawsuit against BNSF that culminated in a multi-million dollar settlement.

Leggette, Brashears & Graham, an environmental engineering firm, was selected in November 2004 to plan and implement Mandan's diesel fuel remediation project. The cleanup is essential to the future of downtown Mandan.

The Mandan Remediation Trust, the N.D. Health Department, the Mandan City Commission and LBG thank businesses, residents and visitors for your patience with the mess. Please consider it short-term pain for long-term gain! ■

# Groundwork for Mandan's future

A report to the community published by the Mandan Remediation Trust.

Compiled by Mandan Business Development Director Ellen Huber.

**ABOUT THE MANDAN REMEDIATION TRUST.** The Mandan Remediation Trust is comprised of three trustees: one trustee represents the North Dakota Department of Health, one trustee represents the City of Mandan, and one trustee is selected by the other two trustees. The \$24 million in the trust belongs neither to the state or the city. It is for the clean-up only.

**David Glatt** has been chief of the Environmental Health Section of the North Dakota Department of Health since 2002. He previously served as director of the department's waste management division.



**Jim Neubauer** is administrator for the City of Mandan, a position he has held since 2000. He supervises all divisions and departments within

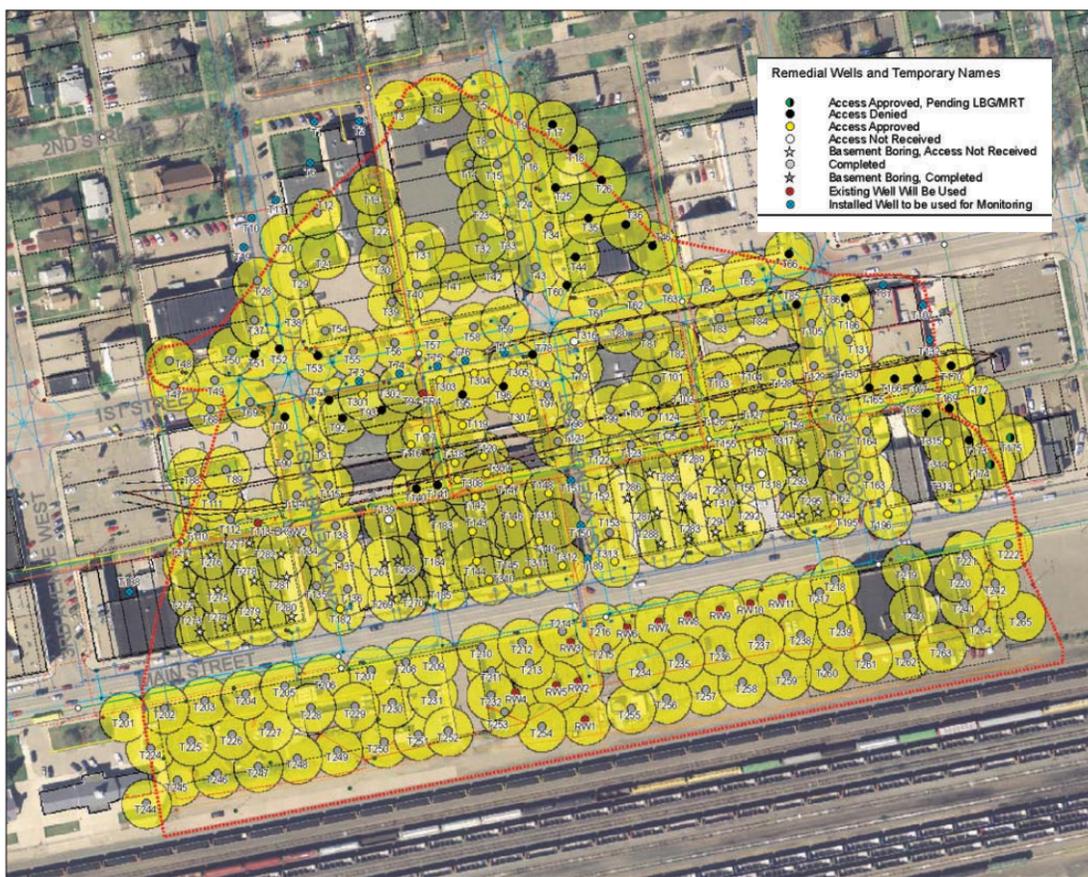
the City to ensure efficient and effective community planning and management. Neubauer is a Mandan native.

**Francis "Fritz" Schwindt** is an independent consultant. He previously held Glatt's job prior to retirement in 2002. Schwindt responded to the call on behalf of the state health department when diesel was found at the construction site of the Law Enforcement Center in 1985.



The MRT meets Tuesdays at 1:30 at City Hall to approve expenditures related to the remediation project and review progress. The meetings are open to the public. Minutes are posted on the City of Mandan website at [www.cityofmandan.com](http://www.cityofmandan.com) under the Remediation tab. Remediation information is also available at the Mandan Public Library.

The **MANDAN SUPPLEMENTAL ENVIRONMENTAL PROJECTS TRUST** is comprised similar to the MRT except that City Commissioner **Tim Helbling** represents the City of Mandan. The SEP Trust meets as needed. Notices are posted on the city website at [www.cityofmandan.com](http://www.cityofmandan.com).



The Mandan Remediation Project site is partially delineated by Third Avenue to the west, Second Street to the north, First Avenue to the east and railroad tracts to the south. When installation is complete, the system will include approximately 264 wells. Each draws from a radius of 35 feet.

## South system nearly complete and operational, north system to be installed in '06, running in '07

**L**eggette, Brashears & Graham designed a remediation plan for Mandan that targets an approximate four-block area in the downtown business district. The plan provides for the extraction, treatment and disposal of diesel, contaminated groundwater and soil vapors. The remediation system is being constructed and launched in two phases. Phase one encompasses the contaminated area south of Main Street. Phase two addresses areas north of Main.

Phase one involved the installation of about 5 miles of pipe south of Main Street in 2005 to connect 75 wells to the main treatment facility erected between the John Iverson building and Movie Gallery. South side underground activities will be completed this spring and LBG expects to begin operating that system around April 10.

Bids for construction of the north system will be awarded in mid-April with work expected to begin by May. LBG is working with the City Commission and Remediation Trust to minimize disruption to businesses, residents and visitors while getting the installation completed as quickly as possible. Many building owners agreed to having remediation wells drilled in their basements to keep sidewalks and streets intact. Pipes will go out the backs of buildings and will be trenched into allies for connection to remote manifolds.

Businesses will receive an approximate two-week notice regarding the construction schedule for their block. Excavation will be suspended and open ground covered during the Buggies-n-Blues on June 10 to 11 and during Mandan Rodeo Days on July 1 to 4.

Satellite treatment buildings will be erected at 107 1/2 First Avenue (in the location of the Giese shop) and as a Fire Station addition that will eventually serve as a third bay. Main Street will not be torn up. The contractor will bore pipes from the former Furniture First lot underneath the street to the main remediation building.

Weather cooperating, project managers are hopeful that the north system will be fully installed by the end of November 2006. A phased start-up of the north side system will begin as soon as installation is complete. Time is of the essence to take advantage of the low water table, which enables more product to be removed and less water to be treated. Depending on favorable groundwater conditions, LBG predicts the majority of the free phase diesel product will be removed from the surface of the groundwater in three years. Soil vapor extraction and soil scrubbing will continue for an estimated four to seven years, putting project completion at about the year 2017. ■



Wells have been drilled and tested in buildings the City now owns, at Huntington's Bookstore and in the theater.

### Where we've been ...

**1985**  
Diesel discovered at Law Enforcement Center. BNSF took responsibility and began cleanup work.

**2000**  
BNSF denies responsibility for remaining fuel and refuses to conduct any additional cleanup work north of Main Street.

**2002**  
The State of N.D. sues BNSF for failure to comply with environmental laws and refusal to complete remediation work.

**August 2004**  
N.D. Health Department and the City of Mandan reach a \$30 million settlement with BNSF.

**November 2004**  
LBG is selected from 7 applicants as the environmental engineering firm to lead the remediation.

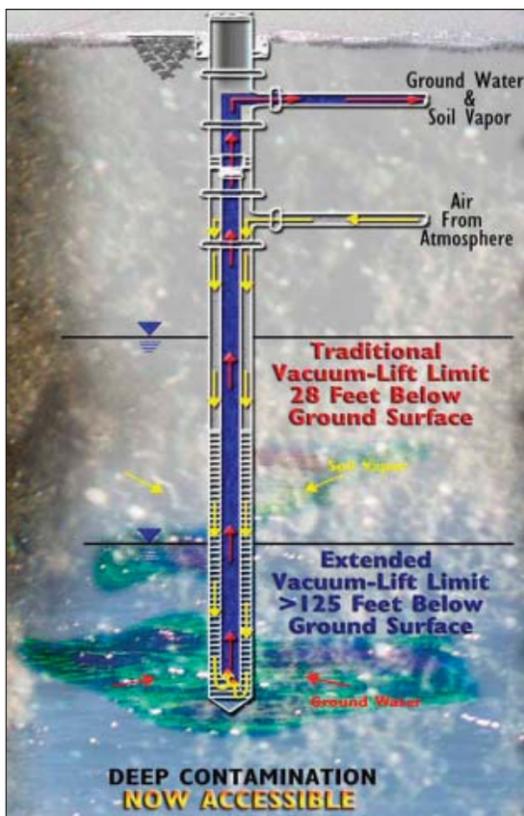
**Winter 2005**  
Legislation is approved to provide liability protections.

# Multi-phase extraction wells will remove fuel and vapors through vacuum process

## THE REMEDIATION SYSTEM DESIGN

includes more than 200 extraction wells that will operate under a vacuum system.

Leggette, Brashears & Graham expects to begin operations on phase one for the area south of Main Street in mid-April by starting the soil vapor extraction (SVE) system. The SVE system will remove methane from the soil, which is produced when naturally occurring microbes attack diesel-contaminated soil. The multi-phase extraction system will then be turned on to remove diesel, water and vapors.



The products collected will move through pipes to the treatment building, where diesel and vapors will be separated from the water and air. The water and air will be treated and released, and the diesel will be recycled.

Extraction wells will be monitored and adjusted as needed to access diesel on the water table, which ranges anywhere from 15 to 24 feet below ground. After free product diesel is extracted, LBG will apply soil vapor extraction and bioventing methods that introduce oxygen into the soil to feed the bacteria, speeding the soil scrubbing process. The wells will operate in a staged or alternating fashion.

## LBG selected for proven track record

Leggette, Brashears and Graham has provided groundwater and environmental engineering expertise for more than 60 years. LBG specializes in remediation of large free product plumes. LBG has completed or is currently working on projects similar to the one in Mandan in Des Moines, Iowa; Sioux City, Iowa; Iowa City, Iowa; Puerto Rico; St. Paul, Minnesota; New Richmond, Wisconsin; and Kansas City.

LBG project leaders participate in Remediation Trust meetings and present an update to the City Commission on the third Tuesday of each month.

## MANDAN REMEDIATION TRUST

### financial summary (as of Feb. 28, 2006)

Beginning balance on Aug. 27, 2004 .....	\$24,000,000
Plus interest income .....	803,088
Less expenditures .....	4,043,653
Remediation .....	3,147,819
Building acquisition/demolition .....	810,861
Other (trustee expenses for Schwindt, audit, IRS fees) .....	84,973
<b>Fund balance .....</b>	<b>\$20,759,435</b>

The Mandan Supplemental Environmental Projects Trust opened with a balance of \$2,500,000. The current balance is \$2,568,517.

The BNSF Settlement Fund opened with a balance of \$1,000,000. The current balance is \$788,352.

### What to expect in the future ...

**Summer/Fall 05**  
Drilling of remediation wells begins both south and north of Main Street. Trenching nearly complete south of Main.

**May 2006**  
System south of Main to be complete and operating. Attend an Open House at the Remediation Building to learn more.

**November 2006**  
Installation of north Main system to be complete.

**Spring 2007**  
North Main extraction system to be operating.

**Next 3 years**  
Extraction of free product expected to be complete around 2010.

**Next 7 to 10 years**  
Continued soil vapor extraction and soil scrubbing. Closeout expected around 2017.

## FREQUENTLY ASKED QUESTIONS

### What properties has the City acquired for the remediation?

Properties acquired are as follows:

- Rent All, 108 E Main (vacant, now used by remediation contractors)
- Hedahls, 111 First Ave NW (vacant/demolished);
- Engelter, 120 Second Ave NW (demolished, business relocated to 406 W Main St.);
- Theatre, 210 W Main St. (vacant);
- Rag and Regal, 218 W Main St. (vacant, now home to Huntington Book Store);
- Furniture First Plaza, 200 W Main St. (vacant at time of negotiations; Huntington Book Store relocated to 218 W Main);
- Berger Insurance; 120 2nd Avenue NW (demolished, business relocated to 320 W Main St.);
- Madd Hatter, 206 First Avenue NW (vacant, demolished); and
- Giese Shop, 107 1/2 First Ave NW (vacant, to be demolished and serve as the location for a remediation treatment building).

All acquisitions have to meet three criteria: 1) beneficial to the clean-up, 2) a willing seller, and 3) a reasonable price. The City has entered into negotiations with owners of the Ratz building on the corner of Collins Avenue and Main but no agreement has been reached on price.

Most buildings demolished for the remediation were vacant. In the case of the Furniture First Plaza, the cost of rehabilitating the building far exceeded its value. The Conoco station south of Main was on property received in the BNSF settlement. The operator's lease was up on the building owned by Missouri Valley Petroleum.

While not in the area of contamination, the former Mandan Farmers Elevator will soon be demolished. BNSF is donating the property to the City. The City will make the property available for development.

### What are the plans for the open lots?

Once the remediation system is in place and rules are established regarding new construction and use of property within the plume area, the City intends to return parcels acquired for the remediation to the private sector. Interest is keen.

The City Commission is looking at options for putting the properties on the public market. One possible scenario is a request for proposals taking into account the price offered, intended use of the property and timeline to implementation.

### What if the \$24 million isn't enough for the clean-up?

The N.D. Department of Health and the City of Mandan are confident the settlement amount along with interest earned will be sufficient to complete remediation. Most firms that bid on the project asked for \$22 to \$23 million, knowing the settlement was for \$24 million. LBG's estimate was \$7.4 to \$11.1 million. This leaves sufficient funding to address the clean-up and any additional issues that arise. Following close-out of the remediation project, any remaining funds in the Mandan Remediation Trust will be transferred to the Mandan Supplemental Environmental Projects Trust to benefit the city.

### What about any diesel on property south of the railroad tracks or elsewhere?

The August 2004 settlement covers only the downtown area of contamination. Monitoring wells are in place surrounding BNSF property. If any new contamination is found on property besides that belonging to BNSF, the state will hold BNSF liable.

BNSF does not currently need to clean up its property as long as it remains a railyard. Should its use of the property change, clean-up would be required.

*For additional information about the Mandan Remediation Project:  
Mandan City Administrator Jim Neubauer, 663-3215 or  
jneubauer@cityofmandan.com  
LBG Principal Tim Kenyon, 605-334-6000 or timk@lbgstx.com*

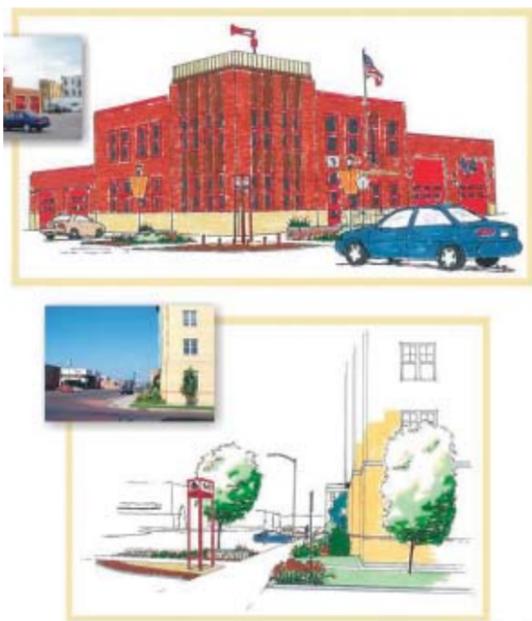
# Redevelopment study calls for dense housing, office and public use facilities to support retail, service sectors

A REDEVELOPMENT PLAN FOR DOWNTOWN MANDAN AND MEMORIAL HIGHWAY was completed in 2003 by the URS Corporation with grant funding at the request of the Mandan City Commission and Mandan Redevelopment Committee. The URS plan called for a combination of dense-housing, office buildings, multi-functional green space, an events center and off-street parking to create a more pedestrian-friendly atmosphere that generates the critical mass needed to support niche retailers and restaurants.

The City is working to implement the most feasible portions of the plan in concert with the remediation process. Disruptions to downtown areas bring opportunities to restore parcels to something more than their original condition.

Much of the area south of Main Street was excavated last fall for the installation of about 75 wells and nearly 5 miles of pipe. Public consensus at an April 2005 meeting was that the area should be restored as a parking lot incorporating more green space. Local architect Al Fitterer drafted proposals and the City Commission sought further public input leading to current plans.

Similarly, in 2006, recovery wells will be installed in street corners at the intersections of First Street with each Collins Avenue, First Avenue NW and Second Avenue NW. Street corner concepts are being considered to hide the wells. Possible elements include a clock tower, kiosks, decorative lighting, benches and greenery. The plan is to incorporate some of these same elements into park and parking lot areas south of Main Street.



## Plan for south Main Street restoration calls for parking, space for businesses and greenery for beautification



The Mandan City Commission revised the redevelopment concept for the south side of Main Street in response to requests from businesses for more public parking. The concept as approved at a Feb. 21, 2006, meeting includes added parking in front of the Main Street Remediation building (across from the 100 block of West Main Street) and west of Papa Murphy's/Movie Gallery at 211 West Main. The concept continues to call for additional retail space to be constructed east of Papa Murphy's/Movie Gallery with parking in front of the building. A park project is retained between the Depot and the parking lot west of Movie Gallery. Some green space to the north of the Main Remediation Building is also included. There is also parking to the west of the former John Iversen building. One key benefit of the restoration will be the burying of overhead electrical lines.

The MRT and City hope to have parking areas complete by Mandan Rodeo Days on July 1 to 4 with green space and amenities finished soon after. ■

The Mandan Remediation Trust will cover the costs of returning disrupted areas to their condition prior to remediation. The Mandan Supplemental Environmental Projects Trust and City Commission are considering funding for proposed enhancements pending actual bids.

### Ordinances to guide construction and use

Some properties in the downtown area may remain parking lots and green space, but most will be suitable for development. Considerable interest is being expressed in properties acquired for the remediation. Properties will be made available for development once the clean-up system is in place and rules for property use are established. An ordinance creating an Environmental Institutional Control Zoning District is expected to be ready for the City Commission's final consideration in April.

The ordinance will ensure the continued operation of remediation systems installed on properties. Any person proposing to construct a new structure within the district will need to submit a design with a contingency plan that may need to incorporate vapor barriers, a venting

system, groundwater suppression/collection, and specialized HVAC as determined appropriate by a professional engineer. New construction will need to be slab on grade. For information, contact City Administrator Jim Neubauer at 667-3215 or Business Development Director Ellen Huber at 667-3485.

### Incentives available for downtown investment, quality standards underway

To help encourage building on vacant lots and rehabilitation of existing buildings, the City attained a Renaissance Zone designation for much of downtown Mandan in September 2005. A five-year property tax exemption and a state income tax exemption are available for qualifying property purchases, construction and rehabilitation within a 25-block area. Contact Huber for more information.

A nine-person Architectural Review Commission is discussing boundaries for districts to be subject to building standards. ARC members are looking at flexible templates to encourage quality construction materials. The ARC meets Mondays at 1:30 p.m. at City Hall. ■

## Liability legislation essential to property sales and improvements

Local financial institutions are becoming much more comfortable in accepting property as collateral on loans for building purchases, remodeling or additions in downtown Mandan. An active remediation system is being installed and liability protection legislation (NDCC 23-20.3-03.1) was enacted during the 2005 North Dakota legislative session. The legislation provides that if a purchaser does not contribute to or worsen an environmental condition, the party cannot be held liable for the cleanup.

The next step is for the City of Mandan to enact a specific ordinance defining allowable construction methods in contaminated areas. With these actions completed, investors will have assurances in buying, selling and using property in downtown Mandan. ■

## Long-term remediation objectives

- ▶ Protect public health
- ▶ Protect the environment by removing free product and remediating unsaturated soils
- ▶ Improve and maintain site aesthetics including odors
- ▶ Minimize remedial duration and costs
- ▶ Improve property values and liquidity

Closeout activities will include providing recommendations for long-term monitoring along BNSF property, evaluating whether components of the system should remain intact or be abandoned, decommissioning remediation buildings, abandoning wells, and restoring the project area to pre-remediation conditions.