**From:** Edwards, Brian - DOT
**To:** Rich Glen
**Subject:** RE: 4854-03-00 Message from KM_C308 - rec
**Date:** Friday, May 18, 2018 11:19:00 AM
**Attachments:** image001.png

Interesting!
I let FDL handle this.

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**From:** Rich Glen [mailto:richg@jt-engineering.com]
**Sent:** Friday, May 18, 2018 11:05 AM
**To:** Edwards, Brian - DOT <Brian.Edwards@dot.wi.gov>
**Cc:** NE Local Program <NELP@jt-engineering.com>
**Subject:** 4854-03-00 Message from KM_C308 - rec
**Importance:** High

Not sure if this is of any concern to the Department, but I thought I would pass it along.

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**From:** Janke, Tom <Tom.Janke@fdlco.wi.gov>
**Sent:** Friday, May 18, 2018 9:39 AM
**To:** Phil Ramlet <Phil.Ramlet@omnni.com>; McNamara, Meggin <Meggin.McNamara@fdlco.wi.gov>; Rich Glen <richg@jt-engineering.com>; Peg Hawley <Peg.Hawley@omnni.com>
**Cc:** Buechel, Allen <Allen.Buechel@fdlco.wi.gov>; Gerred, Erin <Erin.Gerred@fdlco.wi.gov>; Kuen, Peter <Peter.Kuen@fdlco.wi.gov>; Sommer, Ryan <ryan.sommer@fdlco.wi.gov>; Chandler, Linda <Linda.Chandler@fdlco.wi.gov>; Zettler, John <John.Zettler@fdlco.wi.gov>; Freiberg, Lisa <Lisa.Freiberg@fdlco.wi.gov>; Ryan Gebhart <rjgebhart2000@gmail.com>; John St. Peter <jstpeter@lawfdl.com>
**Subject:** FW: Message from KM_C308
**Importance:** High

We should discuss the attached claim. The Village of St. Cloud was served with the same claim as well.

First of all with regards to the cutting trees within the easement. Based on the attached notice it states that Nola Hitchcock Cross and Steven Tilton are owners. Unless they are children of Rose Mary Steffes which I don't believe they are, they were not owners when we removed the trees for the Village. We meet with the owners and marked out the trees to be cut and the owners at the time even took the wood that we cut up from the easement for their own use. The property is still in Rose Mary Steffes name. Thus, if they most recently purchased the property, we already performed the work prior to them owning it. So I am not sure how you can put a claim in on someone performing work on property that you don't own at the time. We still haven't finished up the re-ditching of the easement itself which we intended to do later this fall.

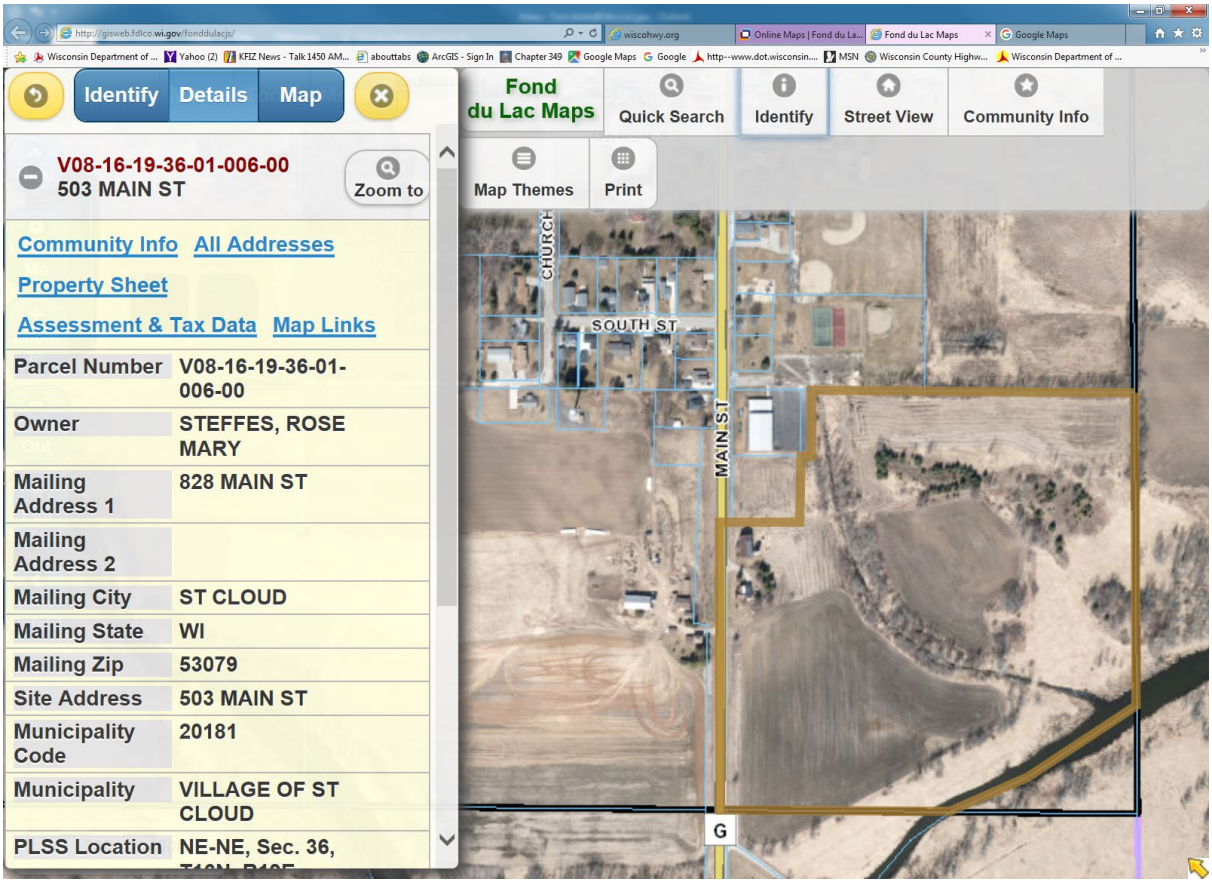
With regards to the easement, we were hired by the Village of St. Cloud clean out the easement which is attached. The Village representatives came to a Highway Committee meeting (see attached minutes of the June 15, 2017 meeting) requesting that we perform maintenance or clean out the easement that they hold. They also asked that we split the cost of the cleaning out the drainage ditch which drains CTH G (Main Street) within the Village which is part of the Villages drainage system. There is existing storm sewer that drains portions of CTH G (Main Street) within the village that outlets into the existing easement currently. The Highway Committee agreed to split the cost along with potentially redrafting what they call an easement or what I consider a side agreement to split the future cost of maintaining the drainage easement as it drains CTH G Main Street in which we haven't drafted.

Although the easement states the Village should maintain it at "its own expense", I would strongly argue that references that the existing property owners should not have to bare any cost to maintain a village easement which purpose is conducting storm and surface waters from its village drainage system.. It doesn't refer to if the Village would get any outside funding to assist with the maintenance.

With regards to the easement itself and illustrated in other attachments, it describes the entire property and states it is understood that the Village shall use such drainage ditch for the purposes of conducting storm and surface waters from its Village drainage system. So considering we are reconstructing CTH G Main Street within the Village, considering this is a joint project and Main Street is also a Village Street, with Village parking on it that drains the Village, our interpretation is this easement is valid to continue to drain the new storm sewer which is upgrading existing storm sewer that drains into the existing easement. The impact to what we are constructing is just an outlet of the new storm sewer into the existing easement. Portions of the existing old storm sewer outlets that takes portions of Main Street drainage currently outlet into this same location which is into the existing easement.

The notice of injury makes reference that we entered the property without authority to perform maintenance for the Village. I am not sure what authority we needed as the Village requested us to do so and we meet with the owners of the property and specifically marked out trees with them to be removed. Thus the owner(s) at the time were well aware of our intention and the Village requested us to perform the work.

The current project hasn't been constructed but is scheduled to be bid out this fall and constructed in the summer of 2019. I am not sure what the best course of action is at this point to insure the continuance of the project.

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**From:** Kuen, Peter
**Sent:** Thursday, May 17, 2018 4:11 PM
**To:** Peg Hawley <Peg.Hawley@omnni.com>
**Cc:** Janke, Tom <Tom.Janke@fdlco.wi.gov>
**Subject:** FW: Message from KM_C308
**Importance:** High

Peg,

I am forwarding a copy of this notice that was dropped off at the Highway Department this afternoon. Tom is out of the office till tomorrow, but please read over. I have also attached the storm sewer easement the Village of Saint Cloud had from the previous owners. I am thinking you have it in your records from the title searches.

*Peter A. Kuen, County Surveyor*
*Fond du Lac County Highway Department*
*301 Dixie St. Fond du Lac, WI 54935-1234*
*Phone: (920) 929-3492*
*peter.kuen@fdlco.wi.gov*

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**From:** Janke, Tom
**Sent:** Thursday, May 17, 2018 3:52 PM
**To:** McNamara, Meggin <Meggin.McNamara@fdlco.wi.gov>; Ryan Gebhart <rigebhart2000@gmail.com>
**Cc:** Buechel, Allen <Allen.Buechel@fdlco.wi.gov>; Gerred, Erin <Erin.Gerred@fdlco.wi.gov>; Sommer, Ryan <ryan.sommer@fdlco.wi.gov>; Kuen, Peter <Peter.Kuen@fdlco.wi.gov>
**Subject:** FW: Message from KM_C308
**Importance:** High

Today we were served the attached papers. Jennifer didn't sign anything for them and stated generally they should go to the Clerk's office with these but the person just left them sit on the counter. I have read them over in total but I did copy the Village President on this as the first paragraph is incorrect as the easement we performed maintenance on cutting the trees down is a Village easement in which the Village did authorize us to do so.

I will have to read it over and I am not sure how this effects the overall CTH G project being administered by WisDOT.

*Thomas J. Janke, P.E.*
***Fond du Lac County Highway Commissioner***
***301 Dixie Street***
***P.O. Box 1234***
***Fond du Lac, WI 54936-1234***
***Phone 920-929-3488***
***tom.janke@fdlco.wi.gov***

**From:** FDLHighwayDept@fdlco.wi.gov [mailto:FDLHighwayDept@fdlco.wi.gov]
**Sent:** Thursday, May 17, 2018 3:50 PM
**To:** Janke, Tom <Tom.Janke@fdlco.wi.gov>
**Subject:** Message from KM_C308