




LOWER PLATTE SOUTH natural resources district

3125 Portia Street | P.O. Box 83581 • Lincoln, Nebraska 68501-3581 | P: 402.476.2729 • F: 402.476.6454 | www.lpsnrd.org

Memorandum

Date: June 19, 2019
To: Each Director
From: Paul D. Zillig, General Manager 
RE: Water Resources Subcommittee Meeting Minutes.

The Water Resources Subcommittee met in the NRD Office at 6:30 p.m. on Tuesday, June 18, 2019. Subcommittee members present included Bob Andersen, Vern Barrett, Greg Osborn, Chelsea Johnson, Mark Spangler, and David Landis. Others present included Larry Ruth, David Potter, and myself.

Chair Andersen opened the meeting. Copies of the June 13 Water Resources Subcommittee memo were provided for background information. Andersen called on David Potter to report on the Consideration of the Notice of Grant and Agreement Award and Amendment No. 3 to the Upper Salt Site 3A Project Agreement with the USDA Natural Resources Conservation Service. Potter reported we are working on acquiring the necessary landrights and obtaining a 404 Permit from the Corps. He stated that the project agreement is about to expire and needs to be extended so the construction can be completed next year.

It was moved by Landis, seconded by C. Johnson, and unanimously approved by the Subcommittee to recommend the Board of Directors approve the Notice of Grant & Agreement Award and Amendment No. 3 for the Upper Salt Site 3A Project Agreement.

The next item on the agenda was to consider a Project Agreement for the construction of the Oak-Middle 82-B Watershed Rehabilitation Project. Potter explained the Project Agreement for the construction of Oak-Middle 82-B Watershed Rehabilitation Project (located north of Garland) has expired and needs to be renewed. NRCS has been working on a new Project Agreement this spring, but has not completed drafting the new Project Agreement. Once the new Project Agreement is drafted and approved, the NRD may start the bidding phase.

Waiting to take action at the July Board Meeting will further delay the project construction. The Subcommittee discussed their disappointment that the Project

Agreement has not been prepared by NRCS. They felt that considering the circumstances authorizing the General Manager to approve the Project Agreement, pending legal counsel review, is warranted. It was moved by C. Johnson, seconded by Landis, and unanimously approved by the Subcommittee to **recommend the Board authorize the General Manager to approve the Oak-Middle 82-B Watershed Rehabilitation Project Agreement, pending legal counsel review.**

The last item on the agenda was to the consideration of a Proposed Wetland Mitigation Easement for the Oak-Middle 82-B Watershed Rehabilitation Project. Potter reported the Oak-Middle 82-B Watershed Rehabilitation Project is nearing the bidding phase. The NRD received the required Section 404 Permit from the Corps in April, the permit required the NRD to include 7 land use restrictions for the wetland mitigation site in the easement (see 3a – 3g in the easement attached to the 6/13/2019 WRS memo). The landowners are in agreement with the Corps' 404 Permit requirements and the NRD's offer of \$100 for damages for the additional easement.

It was moved by Landis, seconded by Osborn, and unanimously approved by the Subcommittee to **recommend the Board of Directors approve to accept the Wetland Mitigation Easement for the Oak-Middle 82-B wetland mitigation area from Robert and Ramona Kunasek of Bee, NE.**

There being no additional business the meeting adjourned at 7:05 pm.

PDZ/pz

cc: Steve Seglin
Corey Wasserburger




LOWER PLATTE SOUTH natural resources district

AGENDA ITEM #13

3125 Portia Street | P.O. Box 83581 • Lincoln, Nebraska 68501-3581 | P: 402.476.2729 • F: 402.476.6454 | www.lpsnrd.org

Memorandum

Date: June 13, 2019
To: Each Director
From: Paul D. Zillig, General Manager 
Subject: Water Resources Subcommittee - Background Information

The Water Resources Subcommittee will be meeting next Tuesday, June 18th. Please find attached some background information on their agenda items.

13a. Consideration of the Notice of Grant and Agreement Award and Amendment No. 3 to the Upper Salt Site 3A Project Agreement with the USDA Natural Resources Conservation Service: An extension for the Upper Salt 3-A Watershed Rehabilitation Project (located southeast of Sprague) is necessary as construction is scheduled to start next year. NRCS has prepared the attached amendment that extends the performance period to December 15, 2020. The Subcommittee will consider approving the attached Notice of Grant and Agreement Award and Amendment No. 3 for the Upper Salt Site 3A Project Agreement.

13b. Consideration of a Project Agreement for the construction of the Oak-Middle 82-B Watershed Rehabilitation Project: The Project Agreement for the construction of Oak-Middle 82-B Watershed Rehabilitation Project (located north of Garland) has expired and needs to be renewed. NRCS has been working on the Project Agreement this spring, but has not completed drafting the new Project Agreement. Once the new Project Agreement is drafted and approved, the NRD may start the bidding phase.

The new Project Agreement will re-obligate the federal funds for the project and establish a new expiration date of late next year. Staff is cautiously hopeful that we will receive the new Project Agreement before the June Board Meeting. The Subcommittee will consider recommending approval of the Project Agreement, if we don't receive the Project Agreement prior to the June Board Meeting the Subcommittee will consider recommending the Board authorize the General Manager to approve the Project Agreement, pending legal counsel review.

13c. Consideration of Proposed Wetland Mitigation Easement for the Oak-Middle 82-B Watershed Rehabilitation Project: The Oak-Middle 82-B Watershed Rehabilitation Project is nearing the bidding phase. The NRD received the required Section 404 Permit from the Corps in April, the permit required the NRD to include 7 land use restrictions for the wetland mitigation site



in the easement (see 3a – 3g in the attached easement). The landowners are in agreement with the Corps' 404 Permit requirements and the NRD's offer of \$100 for damages for the additional easement. The Subcommittee will consider recommending approval to accept the easement for the Oak-Middle 82-B wetland mitigation area from Robert and Ramona Kunasek of Bee, NE.

PDZ/pz

Encl 8

Pc: Steve Seglin
Corey Wasserburger

NOTICE OF GRANT AND AGREEMENT AWARD

1. Award Identifying Number 69-6526-4-871	2. Amendment No. 3	3. Award/Project Period September 26, 2014- December 15, 2020	4. Type of Award Instrument Cooperative																																
5. Agency: Natural Resources Conservation Service (NRCS) (Name and Address) USDA, Natural Resources Conservation Service Federal Building, Room 152 100 Centennial Mall North Lincoln, NE 68508		6. Recipient Organization: (Name and Address) Lower Platte South Natural Resources District PO Box 83531 Lincoln, NE 68501-3581 <table border="1" style="width:100%; margin-top: 10px;"> <tr> <td style="width:50%;">DUNS: 044690550</td> <td style="width:50%;">EIN: 470542969</td> </tr> </table>		DUNS: 044690550	EIN: 470542969																														
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7. NRCS Program Contact: <small>Allen Gehring 402-437-4037 Allen.Gehring@ne.usda.gov</small>	8. NRCS Administrative Contact: <small>Kaylie Alderman 919-875-4825 kaylie.alderman@usda.gov</small>	9. Recipient Program Contact: Paul D. Zillig	10. Recipient Admin Contact: Paul D. Zillig																																
11. CFDA Number 10.916	12. Authority 16 U.S.C. 1012	13. Type of Action iii. Extension	14. Project Director Paul D. Zillig																																
15. Project Title/Description: Watershed Rehabilitation Project: Upper Salt Creek Site 3A; Complete amendment includes this NRCS-ADS-093 (NOA) and attachments listed on page 2. This is a no cost time extension.																																			
16. Entity Type: <input type="checkbox"/> Profit <input type="checkbox"/> Nonprofit <input type="checkbox"/> Higher Education <input type="checkbox"/> Federal <input checked="" type="checkbox"/> State/Local <input type="checkbox"/> Indian/Native American <input type="checkbox"/> Other																																			
<table border="1" style="width:100%; border-collapse: collapse;"> <tr> <td style="width:20%;">17. Select Funding Type:</td> <td style="width:40%; text-align: center;"><input checked="" type="checkbox"/> Federal</td> <td style="width:40%; text-align: center;"><input checked="" type="checkbox"/> Non-Federal</td> </tr> <tr> <td>Original Funds Total:</td> <td style="text-align: right;">\$ 1,750,000.00</td> <td style="text-align: right;">\$ 528,850.00</td> </tr> <tr> <td>Additional Funds Total:</td> <td></td> <td></td> </tr> <tr> <td>Grand Total:</td> <td style="text-align: right;">\$ 1,750,000.00</td> <td style="text-align: right;">\$ 528,850.00</td> </tr> </table>		17. Select Funding Type:	<input checked="" type="checkbox"/> Federal	<input checked="" type="checkbox"/> Non-Federal	Original Funds Total:	\$ 1,750,000.00	\$ 528,850.00	Additional Funds Total:			Grand Total:	\$ 1,750,000.00	\$ 528,850.00	18. Accounting and Appropriation Data <table border="1" style="width:100%; border-collapse: collapse;"> <thead> <tr> <th style="width:25%;">Financial Code</th> <th style="width:25%;">Amount</th> <th style="width:25%;">Fiscal Year</th> <th style="width:25%;">Treasury Symbol</th> </tr> </thead> <tbody> <tr><td> </td><td> </td><td> </td><td> </td></tr> <tr><td> </td><td> </td><td> </td><td> </td></tr> <tr> <td>NO COST TIME EXTENSION</td> <td> </td> <td> </td> <td> </td> </tr> </tbody> </table>		Financial Code	Amount	Fiscal Year	Treasury Symbol									NO COST TIME EXTENSION							
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19. APPROVED BUDGET <table border="1" style="width:100%; border-collapse: collapse;"> <tr> <td style="width:15%;">Personnel</td> <td style="width:20%;">\$</td> <td style="width:35%;">Fringe Benefits</td> <td style="width:30%;">\$</td> </tr> <tr> <td>Travel</td> <td>\$</td> <td>Equipment</td> <td>\$</td> </tr> <tr> <td>Supplies</td> <td>\$</td> <td>Contractual</td> <td style="text-align: right;">767,850.00</td> </tr> <tr> <td>Construction</td> <td style="text-align: right;">1,101,600.00</td> <td>Other</td> <td style="text-align: right;">409,400.00</td> </tr> <tr> <td>Total Direct Cost</td> <td style="text-align: right;">2,278,850.00</td> <td>Total Indirect Cost</td> <td>\$</td> </tr> <tr> <td colspan="2"></td> <td>Total Non-Federal Funds</td> <td style="text-align: right;">528,850.00</td> </tr> <tr> <td colspan="2"></td> <td>Total Federal Funds Awarded</td> <td style="text-align: right;">1,750,000.00</td> </tr> <tr> <td colspan="2"></td> <td>Total Approved Budget</td> <td style="text-align: right;">2,278,850.00</td> </tr> </table>				Personnel	\$	Fringe Benefits	\$	Travel	\$	Equipment	\$	Supplies	\$	Contractual	767,850.00	Construction	1,101,600.00	Other	409,400.00	Total Direct Cost	2,278,850.00	Total Indirect Cost	\$			Total Non-Federal Funds	528,850.00			Total Federal Funds Awarded	1,750,000.00			Total Approved Budget	2,278,850.00
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This agreement is subject to applicable USDA NRCS statutory provisions and Financial Assistance Regulations. In accepting this award or amendment and any payments made pursuant thereto, the undersigned represents that he or she is duly authorized to act on behalf of the awardee organization, agrees that the award is subject to the applicable provisions of this agreement (and all attachments), and agrees that acceptance of any payments constitutes an agreement by the payee that the amounts, if any found by NRCS to have been overpaid, will be refunded or credited in full to NRCS.																																			

(Continuation)

NOTICE OF GRANT AND AGREEMENT AWARD

Award Identifying Number	Amendment No.	Award/Project Period	Type of Award Instrument
69-6526-4-871	3	September 26, 2014- December 15, 2020	Cooperative

List of Attachments:

Amendment 3

Name and Title of Authorized Government Representative CRAIG DERICKSON, State Conservationist	Signature	Date
Name and Title of Authorized Recipient Representative Paul Zillig, General Manager	Signature	Date

NONDISCRIMINATION STATEMENT

The U.S. Department of Agriculture (USDA) prohibits discrimination in all its programs and activities on the basis of race, color, national origin, age, disability, and where applicable, sex, marital status, familial status, parental status, religion, sexual orientation, genetic information, political beliefs, reprisal, or because all or a part of an individual's income is derived from any public assistance program. (Not all prohibited bases apply to all programs.) Persons with disabilities who require alternative means for communication of program information (Braille, large print, audiotape, etc.) should contact USDA's TARGET Center at (202) 720-2600 (voice and TDD). To file a complaint of discrimination write to USDA, Director, Office of Civil Rights, 1400 Independence Avenue, SW., Washington, DC 20250-9410 or call (800) 795-3272 (voice) or (202) 720-6382 (TDD). USDA is an equal opportunity provider and employer.

PRIVACY ACT STATEMENT

The above statements are made in accordance with the Privacy Act of 1974 (5 U.S.C. Section 522a).

**AMENDMENT NO. 3
TO
PROJECT AGREEMENT
BETWEEN
UNITED STATES DEPARTMENT OF AGRICULTURE
NATURAL RESOURCES CONSERVATION SERVICE
AND
LOWER PLATTE SOUTH NATURAL RESOURCES DISTRICT**

Relative to: Upper Salt Creek Site 3A

Purpose: To extend the performance period to December 15, 2020

The following paragraph of the Statement of Work is hereby revised:

IV. MILESTONES

Dam rehabilitation planning activities for construction will begin on September 26, 2014 and be complete by December 15, 2020

All other terms and conditions remain unchanged.

WETLAND MITIGATION EASEMENT

For and in consideration of one hundred dollars (\$100.00) and other good and valuable consideration, the receipt of which is hereby acknowledged, Robert Kunasek and Ramona Kunasek, husband and wife, 2313 210th St., Bee, NE 68314-9106 hereinafter the "Grantors" do hereby grant, bargain, sell, convey, and release unto the Lower Platte South Natural Resources District, a political subdivision of the State of Nebraska, with its principal office located at 3125 Portia Street, P. O. Box 83581, Lincoln, Nebraska 68501, hereinafter the Grantee," its successors and assigns, a perpetual easement in, over, and upon the real estate in Seward County, Nebraska, particularly located on portions of the SE ¼, Section 7, T-12-N, R-4-E, Seward County, NE.

This Easement is granted for the purpose of and in connection with the construction, reconstruction, operation, maintenance, repair, and inspection of a wetland mitigation area related to a floodwater retarding structure known as Site 82-B of the Oak Middle Watershed Project ("Project"). The mitigation site will be located in the vicinity of 41.017350 degrees, - 97.012232 degrees in Section 7 and consist of approximately 0.350 acres of PEMP lacustrine fringe wetland created to offset the loss of the permanently impacted PEMF riverine channel wetland impacted by the Project and a 50-foot buffer area around said wetlands consisting of 0.700 acres for a total of 1.050 acres, and further identified and shown in Exhibits "A1-A2", attached hereto and incorporated herein by this reference.

This easement is located on and within prior and existing easements granted and filed for the construction, reconstruction, operation, maintenance, repair, and inspection of the Project but is specific to the wetland mitigation area and the rights and privileges herein granted shall be subject to the following terms and conditions:

1. The consideration recited herein shall constitute payment in full for all damages sustained or to be sustained by the Grantors by reason of the exercise of the rights and privileges granted herein.
2. This Easement shall include the right of ingress and egress over and upon the land described in Exhibits "A1-A2", and as already granted with existing easements established, granted and filed for the Project.
3. Grantors shall not construct, operate, occupy, maintain, or locate any structure, whether temporary or permanent, on the land described in Exhibits "A1-A2". This prohibition shall include but not be limited to the construction of a well, buildings, mobile homes, fences, signs, billboards or other advertising materials.

This easement further restricts and guarantees the following requirements will be constructed, operated and maintained by the Grantee:

- a. Establish and monitor native hydrophytic emergent species for the required PEMF lacustrine fringe wetlands mitigation as shown in Exhibits "A1-A2".
- b. A minimum 50-foot wide buffer of native vegetation will be established around the mitigation site as shown in Exhibits "A1-A2", except for those areas covered by permanent pool.
- c. Filling, draining, excavating, dredging, mining, drilling or removal of topsoil, loam, peat, sand, gravel, rock, minerals or other material is prohibited.
- d. Building of roads or paths for vehicular or pedestrian travel or any change in the topography of the land is prohibited.
- e. Spraying with biocides, insecticides, or pesticides, grazing of animals, farming, tilling of soil, or other agricultural activity is prohibited. Maintenance activities are acceptable upon approval from the United States Corps of Engineers (USACE).
- f. Operation of all-terrain vehicles or any other type of motorized vehicle on the land is prohibited.
- g. The easement (deed restriction) shall be viewed by the USACE prior to the signature of the Grantors to assure compliance.

USACE representative's initials: _____

4. Grantors, their heirs, and assigns, reserve the right and privilege to use the land described on Exhibits "A1-A2" at any time, and in any manner, and for any purpose not inconsistent with the full use and enjoyment by the Grantee, its successors and assigns, of the rights and privileges granted herein.
5. This Easement shall not pass, nor shall the same be construed to pass, to the Grantee any fee simple interest or title to the lands described on Exhibits "A1-A2".
6. Grantee, its successors and assigns, shall be responsible for operating and maintaining the improvements constructed as a result of the rights and privileges granted herein.
7. This Easement shall be binding upon the parties hereto, and their respective heirs, successors and assigns.
8. Grantors shall be solely responsible for payment of all taxes and assessments levied against the Property.
9. Grantors acknowledge that Grantee has all rights and remedies that exist in law or equity to enforce any of the provisions of this Easement in the event of a violation of default, including the right to a temporary or permanent injunction.

10. If Grantors subsequently transfer the Property by any means whatsoever to any person or entity, Grantors shall make reference to this Easement in any document transferring the Property.
11. This Easement shall constitute a covenant running with the land in perpetuity and shall be binding on and inure to the benefit of the Grantors and Grantee and their respective agents, heirs, personal representatives, successors and assigns.
12. Grantors warrant and represent that they, have good and sufficient legal title to the Property, free and clear from all mortgages, liens, or encumbrances of any kind, except those agreed to in writing by Grantee, which if any, are set forth as Exhibit "B" attached hereto and incorporated by reference as though fully set forth herein. Grantors agree at any time upon the request of Grantee, to obtain a subordination agreement from any person or entity that has an interest or lien superior to the interest of Grantee.
13. Grantors warrant and represent that they, have the sole and exclusive right to grant this Easement, and that there are no tenants or other persons in possession of the Property or any part thereof or any other person or entity that need join in this Easement in order for Grantee to fully enjoy the rights and privileges granted by this Easement.
14. Grantors reserve to themselves, their heirs, personal representatives, successors and assigns the area subject to this Easement in calculating the maximum allowable density on the entire parcel of land owned by Grantors, to the extent permitted by law.

TO HAVE AND TO HOLD the aforesaid Easement in, over, and upon the land described in Exhibits "A1-A2", and with all rights, privileges, and appurtenances thereto belonging or in anywise appertaining, unto the Grantors, their successors and assigns, forever.

IN WITNESS WHEREOF, the Grantors have executed this instrument on the _____ day of _____, 2019.

Robert Kunasek

Ramona Kunasek

STATE OF NEBRASKA }
 } ss
COUNTY OF _____ }

On this _____ day of _____, 2019, before me, a notary public in and for said County and State, personally came Robert Kunasek and Ramona Kunasek, husband and wife, to me personally known to be the identical person(s) whose name(s) is/are affixed to the above Easement and acknowledge(s) the execution of the same to be his/her/their voluntary act and deed.

Witness my hand and notary seal the day and year last above written.

Notary Public

My Commission expires: _____

GRANTEE:

LOWER PLATTE SOUTH NATURAL
RESOURCES DISTRICT,

BY: Paul D. Zillig, General Manager

[illegible]

On this ____ day of _____, 2019, before me, a Notary Public in and for said county and state, personally came Paul D. Zillig, General Manager of the Lower Platte South Natural Resources District, to me personally known to be the identical person whose name is affixed to the above and has acknowledged the execution hereof to be his voluntary act and deed as General Manager.

Witness my hand and Notarial Seal the day and year last above written.

Notary Public

My Commission Expires: _____

Lower Platte South NRD
Flood Control Structure

Oak Middle 82-B
Sections 7/18, T12N-R4E
Seward County
Project Review



-  Wetland Area
-  Wetland Area Buffer (50ft)
- OM-82B Easements 2018**
-  New Spillway
-  Add. Flood Pool
-  Temp. Construction



Map Updated:
May 2019
LPSNRD, sdr

Sources:
Lower Platte South NRD;
NE Dept of Natural Resources;
Seward County Assessor;
USDA - NRCS

