



# LOWER PLATTE SOUTH natural resources district

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Agenda Item #8

## Memorandum

**Date:** October 7, 2022  
**To:** Each Director  
**From:** Paul D. Zillig, General Manager  
**Subject:** Executive Subcommittee Meeting Minutes

The Executive Subcommittee met at 5:30 pm on Tuesday, October 4, 2022 in the NRD Large Conference Room. Directors in attendance were Deborah Eagan, Bob Andersen, Luke Peterson, and Larry Ruth. Others attending included Corey Wasserburger, Steve Seglin, Dave Potter and myself.

Chair Eagan called the meeting to order and welcomed those in attendance.

The first item was an update on the NRD's lawsuit concerning damages to Deadmans Run at approximately 7101 Deadmans Run, see attached map. Wasserburger reported that the Board will need to go into closed session to discuss and consider the terms outlined in the attached "draft" Mediated Settlement Memorandum. Wasserburger reviewed the Settlement Memo with the Subcommittee, there were numerous questions and discussion. Wasserburger reported that the parties in the lawsuit (PWH Land, PWH Operations, Gosch & Sons, E&A Consulting Group and the NRD) have been meeting with the Court appointed mediator, Mark Christensen of Cline Williams Wright Johnson & Oldfather to prepare the final Mediated Settlement Agreement which will be more detailed than the Mediated Settlement Memorandum.

It was moved by Andersen, seconded by Ruth, and unanimously approved by the Subcommittee to **recommend the Board of Directors approve the tentative Mediated Settlement Memorandum for claims of damages at 7101 Deadmans Run and authorize the General Manager to approve the final Mediated Settlement Agreement as prepared by NRD legal counsel.**

The Subcommittee then reviewed the salary actions from late last fiscal year. Salary adjustments were discussed in April, action was taken in May to increase salaries by 4% with \$30k for merit, and then in June an additional \$2k/full-time employee inflation adjustment payment was approved and the Subcommittee desired to re-visit the salaries in 6 months. The Subcommittee reviewed the updated salary information, CPI, and Social Security cost-of-living updates. The Subcommittee plans to discuss and prepare a recommendation in November.

The Subcommittee then reviewed the Salt Creek Floodplain Resiliency Study, including the attached information and Executive Summary. I reviewed the work being done by the City to make improvements in their drainage criteria manual, as per the recommendations in the SCFPRS. The City has also been approved for multi-year FEMA funding to re-map floodplains to current standards. The City, with matching NRD cost-share assistance, has applied for BRIC/FEMA funding to do an economic analysis of Salt Creek mitigation approaches as outlined in the SCFPRS.

I then reported that the LPSNRD is represented on the Nebraska Natural Resources Commission by a Lower Platte Basin Representative and a Nemaha Basin Representative, both are up for election by caucus in early January. Directors participate in the caucus by which basin they reside. For the Lower Platte Basin we've typically alternated every two 4-year terms between our NRD and Lower Platte North NRD. The past 8 years we've been represented by Karen Amen and Dan Steinkruger. I reported that Lower Platte North NRD will nominate Tom Mountford (form LPNNRD Assistant Manager who resides in NE Lincoln) at the caucus to be held in Wahoo. The Nemaha Basin caucus will occur in the NNRD.

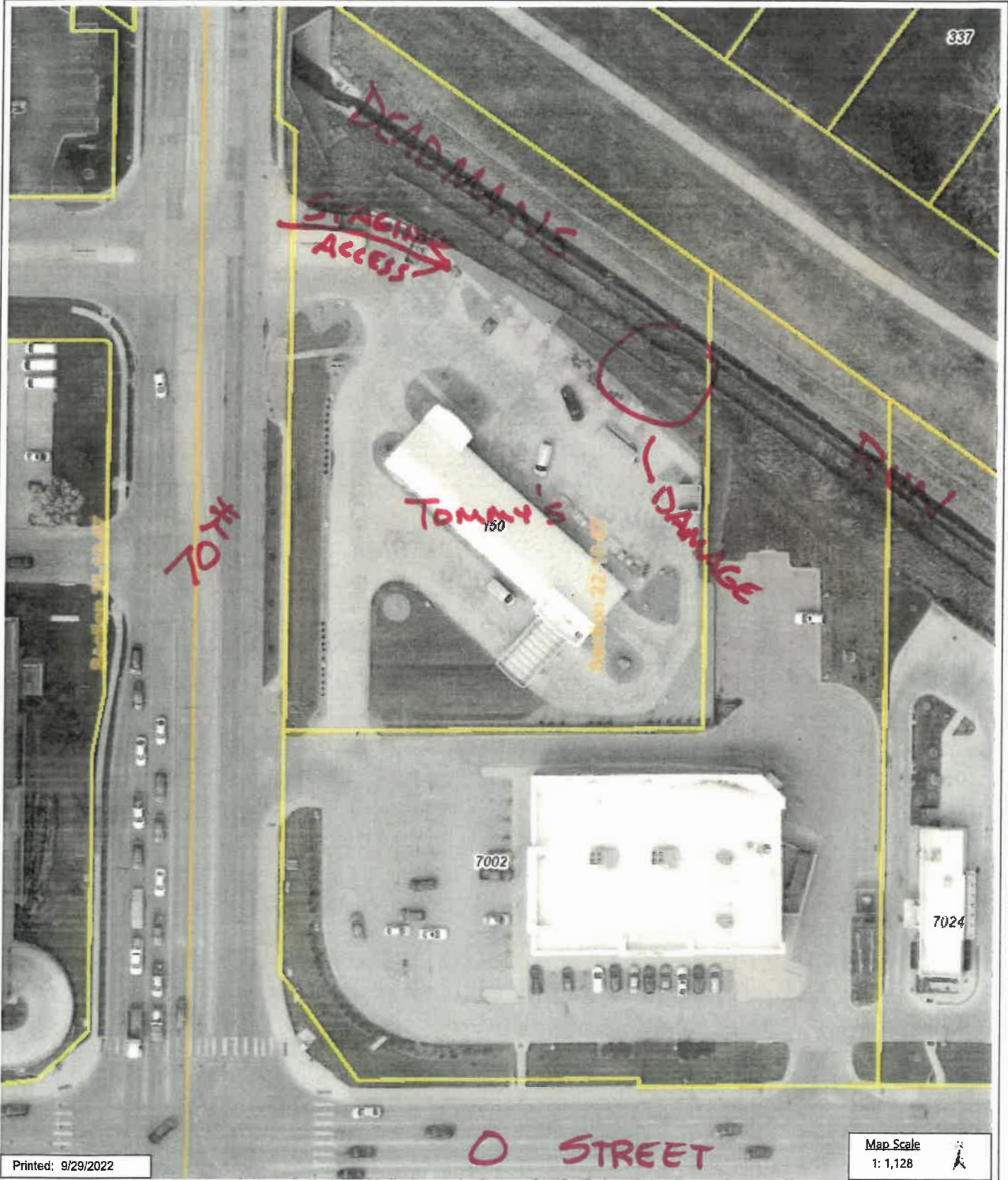
The Subcommittee then discussed the remaining Board Meetings in 2022. The Subcommittee felt the remaining Board Meeting in 2022 should be held at the NRD Office, they felt that with covid and other logistic challenges that the Board should continue to meet at the NRD Office this year. The Subcommittee reviewed the remaining scheduled dates for the November 16th Board Meeting at 7:00pm and the December 21<sup>st</sup> Board Meeting at 2:00pm. The Subcommittee was concerned with the December 21<sup>st</sup> Board Meeting being just a few days before the holidays would likely interfere with travel plans for staff, Directors, and the public. It was moved by Andersen, seconded by Peterson, and unanimously approved by the Subcommittee to **recommend the Board of Directors move the scheduled December Board Meeting to Wednesday, December 14<sup>th</sup>, starting at 2:00 pm in the NRD Office.**

I then reported that I've been talking to several lobbyists about the LPSNRD's interest in conservation easements and the potential need for lobbying services. For this search I am following the NRD's Operating Policy G-3: Procedure for Hiring Consultants for Professional Services. I plan to bring a recommendation to the Subcommittee in November.

There being no further business the meeting adjourned at 7:25 pm.

PDZ/pz

pc: Steve Seglin  
Corey Wasserburger



DISCLAIMER: The information is presented on a best-efforts basis, and should not be relied upon for making financial, survey, legal or other commitments. If you have questions or comments regarding the data displayed on this map, please email [assessor@lanaster.ne.gov](mailto:assessor@lanaster.ne.gov) and you will be directed to the appropriate department.

## Paul Zillig

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**From:** Paul Zillig  
**Sent:** Friday, September 30, 2022 7:58 AM  
**To:** Executive SC  
**Cc:** Corey Wasserburger; Steve Seglin; David Potter  
**Subject:** DMR - Tommy's Litigation  
**Attachments:** SKM\_C55822093007510.pdf

Good morning!

At Tuesday's Executive Subcommittee meeting we will need to go into closed session for an update by Corey on our litigation for damages to the Deadmans Run gabions/streambank that occurred during the development of the site that is now Tommy's Car Wash.

The NRD (Plaintiff) and Defendants have gone thru mediation, in an attempt to settle the case and complete the necessary repairs (total estimated cost \$300,000). Please find attached an aerial map of the site and the Mediated Settlement Memorandum which calls for approximately a 50% payment of the repair costs and improved temporary access to the site for construction. Legal counsel is currently working on a more detailed agreement which we hope will be ready next week, if not, by the Board Meeting.

Please review and Corey will update us and help answer questions at the Executive Subcommittee Meeting.

Paul



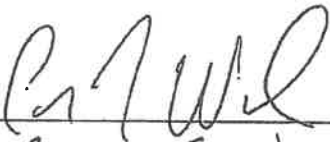
## **MEDIATED SETTLEMENT MEMORANDUM**

The Lower Platte South Natural Resources District (hereinafter "Releasor"), and PWH Land, LLC, PWH Operations, LLC, Gosch & Sons, Inc., and E & A Consulting Group, Inc. (hereinafter "Releasees"), on September 13, 2022, participated in a mediation session involving the claims of Releasor arising out of the sloughing of the bank of Dead Man's Run (referred to as the "incident"). Having concluded the mediation session, the parties now wish to express their agreement that all disputes arising out of the incident be settled as follows:


1. Releasees will pay to Releasor the sum of \$165,000.00.
2. Releasor hereby grants and provides a release with the following material terms:
  - A. A full and complete release and discharge of all claims Releasor has, claims to have, or in the future may have against Releasees, and their/its agents, employees, heirs, successors, assigns, and insurers arising out of the incident.
  - B. A warranty that Releasor is the sole owner of all such claims.
  - C. Full and complete indemnification of Releasees by Releasor against lien and subrogation claims arising out of the incident.
3. Mediation expenses will be paid as follows: 25% by Releasor and 75% by Releasees; said 75% to be paid equally by Releasees.
4. The pending litigation will be dismissed with prejudice.
5. All parties to this Agreement, including their owners, partners and insurers, release all claims made or that could have been made against all other parties arising out of the incident. This is a comprehensive mutual release.
6. This Agreement is subject to approval of the Board of Directors of The Lower Platte South Natural Resources District ("LPSNRD").
7. Of the total amount listed above \$135,000.00 will be paid by or on behalf of Gosch & Sons, Inc., \$20,000.00 will be paid by or on behalf of PWH Land, LLC and PWH Operations, LLC, and \$10,000.00 will be paid by or on behalf of E & A Consulting Group, Inc.
8. PWH will allow access to Tommy's Car Wash for purposes of repairing the bank of Dead Man's Run (see attachment). PWH or its successors will grant an access license to LPSNRD, the terms of which will be mutually agreed upon

by PWH or its successors and LPSNRD. PWH waives any and all damages for inverse condemnation.


9. Any damage to Tommy's Car Wash due to construction activities by LPSNRD will be repaired at LPSNRD's cost. This includes moving and reinstalling vacuum stations if necessary.
10. As soon as this Agreement is approved by the Board of Directors of LPSNRD, payment will be made and the Complaint dismissed with prejudice. If more formal releases are requested adopting the terms of this Agreement, the undersigned parties will execute them.

  
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Corey S Wasserburger  
On behalf of  
The Lower Platte South Natural Resources District


9/13/22  
Date

  
\_\_\_\_\_  
CRAIG JONES  
On behalf of  
PWH Land, LLC and PWH Operations, LLC

9.13.22  
Date

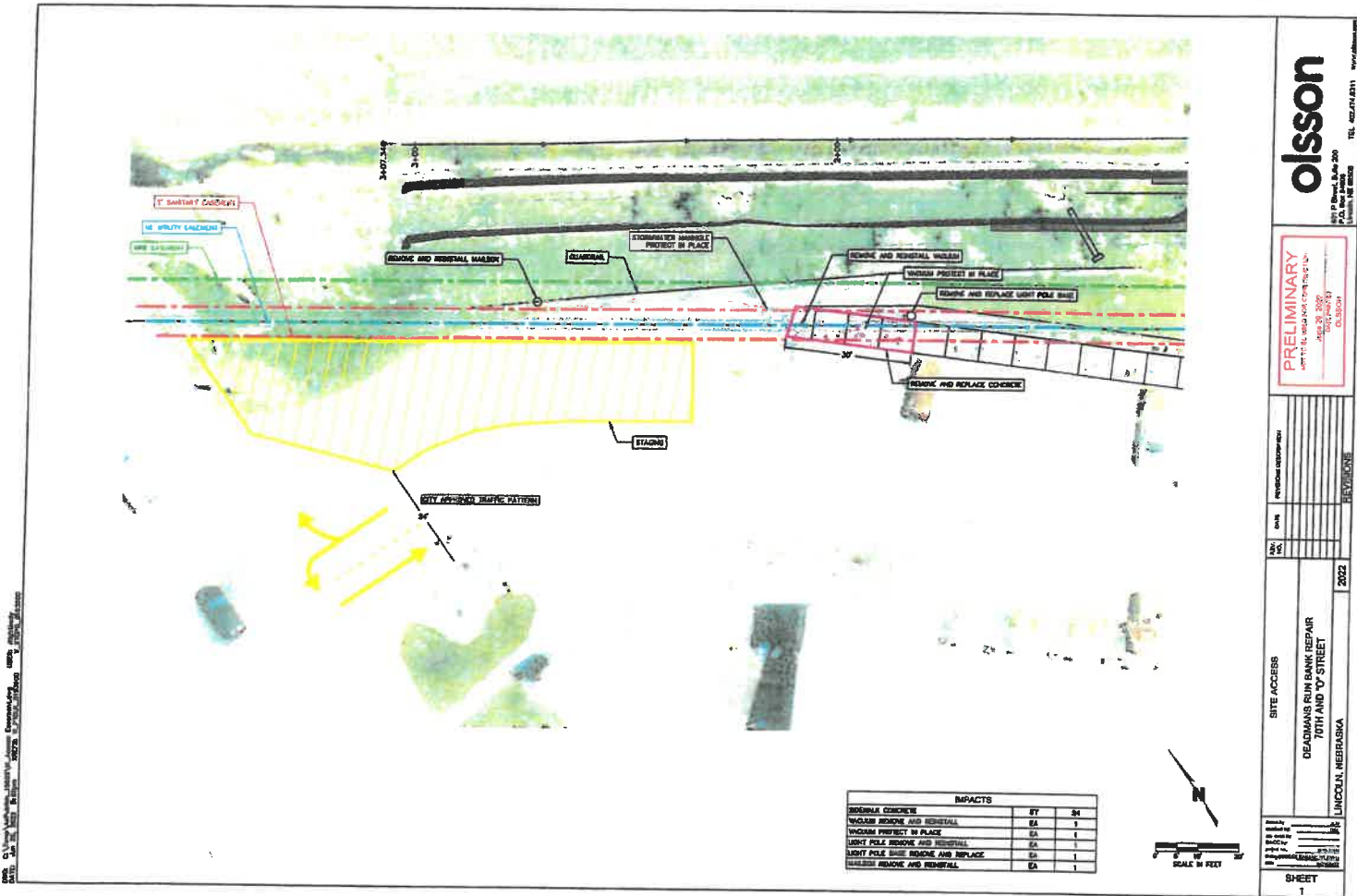
  
\_\_\_\_\_  
Attorney Melanie J. Whitmore-Mantzer  
On behalf of Gosch & Sons, Inc.

9-13-22  
Date

  
\_\_\_\_\_  
Thomas P Nussrallah  
On behalf of E & A Consulting Group, Inc.

09/13/2022  
Date

4888-0882-2819, v. 1



**IMPACTS**

DESCRIPTION	BY	SH
REMOVE CONCRETE	EA	1
REMOVE AND REINSTALL	EA	1
SIDEWALK PROTECT BY PLACE	EA	1
REMOVE AND REINSTALL	EA	1
LIGHT POLE SIGN REMOVE AND REPLACE	EA	1
SLOTTED CURBS REMOVE AND REINSTALL	EA	1



**olsson**  
 801 E. Grand, Suite 200  
 Lincoln, NE 68502  
 TEL: 402.474.8311

**PRELIMINARY**  
 SHEET 15 OF 16  
 DATE: 08/20/2020  
 PROJECT: DEADMANS RUN BANK REPAIR  
 LOCATION: 7TH AND W STREET  
 COUNTY: LINCOLN

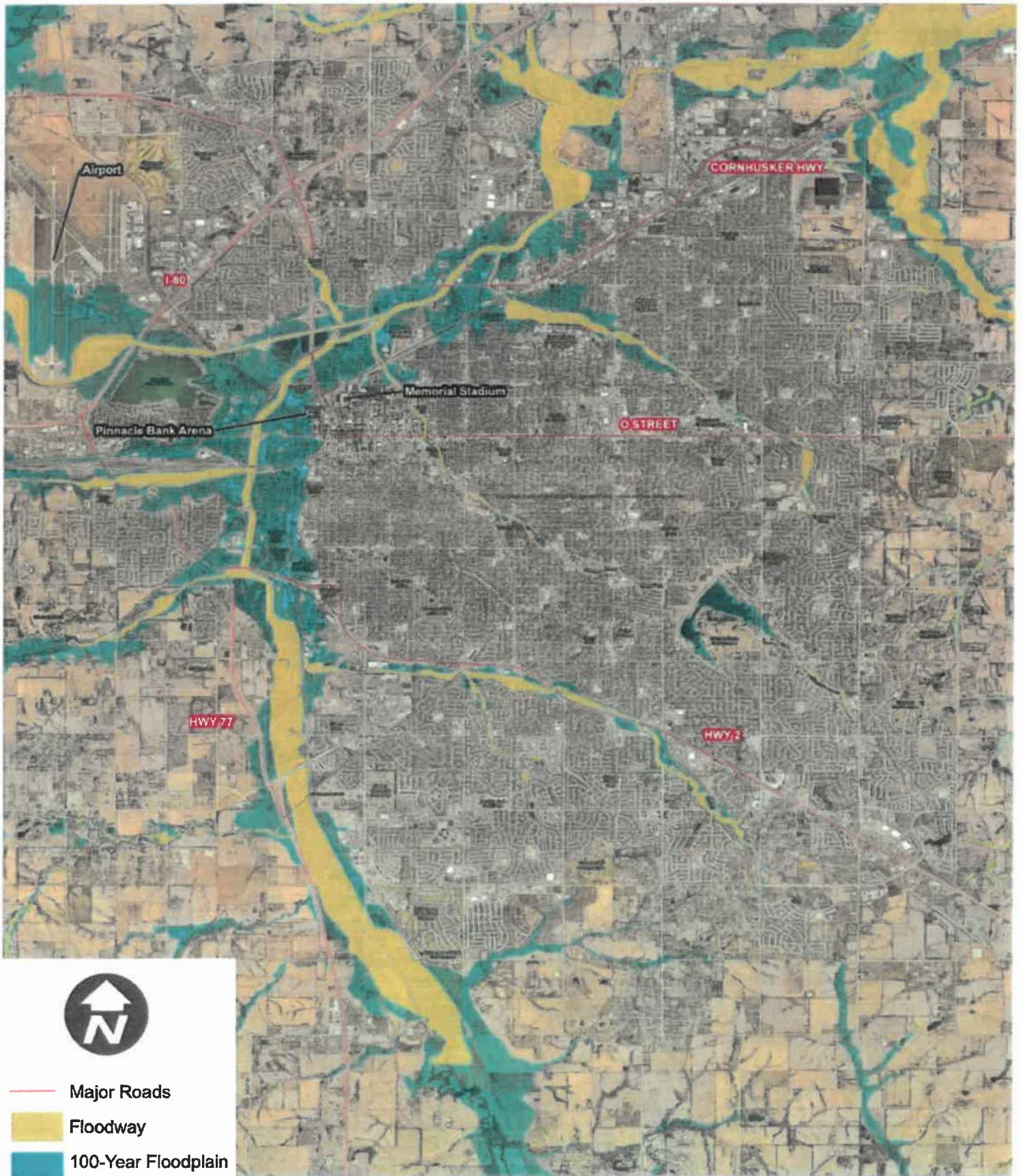
**SITE ACCESS**  
 DEADMANS RUN BANK REPAIR  
 7TH AND W STREET  
 LINCOLN, NEBRASKA

2022

**SHEET**  
 1



# SALT CREEK FLOODPLAIN RESILIENCY STUDY





# SALT CREEK FLOODPLAIN RESILIENCY STUDY



## GOAL OF THE SALT CREEK FLOODPLAIN RESILIENCY STUDY:

*Reduce adverse impacts from flooding to life and property from existing and future flood events*



## WHAT DOES RESILIENCY MEAN?

- Meet the floodplain challenges of today and safeguard against the uncertainties of the future.

## WHY IS SALT CREEK FLOODPLAIN SPECIFICALLY BEING STUDIED?

- Salt Creek is the largest stream, with the largest floodplain and impacts the most structures and property within Lincoln and Lancaster County.
- Since 1900, 100 floods have been recorded along Salt Creek and its tributaries in and near the City of Lincoln. Of those, 17 were classified as major, 30 as moderate, and 49 as minor.

## WHAT IS A FLOOD EVENT AND WHAT IS THE RISK?

- "100-year" -1% chance annually of a storm producing many inches of rain in a 24-hour period (current standard is 6.68 inches).



## WHAT IS BEING DONE FOR FLOOD PROTECTION?

- Lincoln and Lower Platte South Natural Resource District (LPSNRD) have a comprehensive approach to flood reduction.



## WHAT HAS BEEN STUDIED?

- Currently, the study team has reviewed national floodplain management Best Management Practices and evaluated Lincoln and LPSNRD floodplain Best Management Practices.
- The study team has evaluated and summarized Lincoln and LPSNRD existing floodplain management measures and practices in conjunction with national and local flood history.



## WHAT ARE THE NEXT STEPS FOR THIS STUDY?

- Lincoln and LPSNRD are currently evaluating future climate projections to estimate the impacts of future flood events.
- This information will be presented at the next stakeholder meeting on **October 1, 2019**.
- This study will provide an evaluation of potential flood reduction measures in comparison to current and future climate models to evaluate Salt Creek floodplain's resiliency.
- A public meeting will be held at the conclusion of the study to present the information to the public.



## WHAT CAN I DO?

- Share the knowledge you gain with your organization, community, friends, and neighbors.
- Help determine where information gaps exist.



**Final**  
**Salt Creek Floodplain  
Resiliency Study**


# **RECOMMENDATIONS REPORT**

**Prepared for the City of Lincoln  
Olsson Project Number 019-0175**

**August 15, 2020**



I hereby certify that this report was prepared under my direct supervision and that I am a duly licensed professional engineer under the laws of the State of Nebraska.

  
\_\_\_\_\_  
Brian P. Duncigan, PE

**olsson**

601 P Street, Suite 200  
Lincoln, Nebraska 68508

**Michael Baker International**

**Wright Water Engineers Inc.**

**Seacrest & Kalkowski, PC, LLO**



## **EXECUTIVE SUMMARY**

The City of Lincoln and the Lower Platte South Natural Resources District (LPSNRD) have addressed flood control and floodplain management in a variety of ways in the Salt Creek watershed over the last century. It is important to understand the history of the watershed and how flooding has been addressed in the past. It is also important to look at how national floodplain best management practices (BMPs) and state-of-the-art climate science may effectively be used to address watershed resiliency in the future.

The primary focus of this study is to illuminate how existing non-structural and structural floodplain management measures can be strengthened to further reduce flooding impacts to existing infrastructure, local businesses, residences, and future developments and to enhance the floodplain resiliency of Salt Creek.

For this study, the city and LPSNRD determined a public education plan would be beneficial to improve public awareness about floodplain management and resiliency. To develop a dynamic education plan, a diverse stakeholder group was assembled to help guide the education process. The stakeholder group was comprised of individuals with an interest in the Salt Creek floodplain area. Stakeholders were invited to participate in three stakeholder meetings during the study to review study content and outcomes. Stakeholders were provided tools and information through a project website to share information about floodplain management and the resiliency study with their communities.

The study examines the following eight subject areas:

1. National floodplain BMPs
2. Floodplain BMPs from communities across the country
3. Lincoln's current floodplain management practices
4. A review of floodplain studies involving Salt Creek
5. A rigorous climate evaluation of past, current, and future conditions
6. Potential flood resiliency measures and recommendations
7. A review of potential funding sources
8. Recommendations

### **National Floodplain Best Management Practices (BMPs)**

The study team examined national BMPs for relevant and critical guidance and strategies from six organizations that are leaders in the field of floodplain management. These organizations offer expertise and insight into national trends and include the Federal Emergency Management Agency (FEMA); the National Oceanic and Atmospheric Administration (NOAA); the Pew Charitable Trust; Resilient Nation Partnership Network (RNPN); the Technical Mapping Advisory Council (TMAC); and the National Academy of Sciences (NAS). Each organization brings a unique mission and perspective to how floodplain management is evolving in the United States. Selected BMPs that each organization is implementing and their relevance to Lincoln and Salt Creek are evaluated.

### **Community Floodplain BMPs**

Eight communities from across the county that stand out in the Community Rating System (CRS) program; have done a notable job of implementing a proactive floodplain management strategy or strategies; and have elements of their communities, geography, or risk that are relatable to Lincoln were selected for review. The communities include Beatrice, Nebraska; Boulder County, Colorado; Cedar Falls, Iowa; Fort Collins, Colorado; Mecklenburg County, North Carolina; Papillion, Nebraska; Platte County, Missouri; and Shawnee, Kansas. The summary and analysis



of each community's BMPs include benefits and drawbacks of the strategies and how they may relate to Lincoln's floodplain program.

### **Lincoln's Floodplain Management Practices**

The city and the LPSNRD have partnered together to reduce flooding and to protect the citizens of Lincoln from the hazards associated with flooding. The many successes of this partnership are the result of a blended approach to floodplain management. A summary of current floodplain management practices is provided in Section 3 along with an evaluation of the pros and cons of each practice. The practices include education and outreach; policies; local detention requirements; post-construction stormwater BMPs; Salt Creek flood storage areas (SCFSA); freeboard requirements; FEMA's CRS; floodplain preservation; flood protection and buyouts; flood risk reduction projects; and a no adverse impact policy in new growth areas.

### **Floodplain Studies Involving Salt Creek**

Twenty-one flood studies involving Salt Creek, from 1954 thru 2016, are referenced in this report. Participants in the studies included the city, LPSNRD, FEMA, the University of Nebraska-Lincoln, and U.S. Army Corps of Engineers.

### **Local Climate Evaluation**

Optimal resiliency planning requires a forward-looking approach: Planners must consider not just events and hazards that may occur in the present day, but they must also account for future hazards and how those hazards may evolve over time. The study evaluated local historical and existing precipitation patterns, developed probable future storm magnitudes, and developed future flood discharges that can be used for future conditions flood hazard analysis. The results of the study indicate that flood hazards on Salt Creek and its tributaries can be expected to increase in the future. The degree of increase is uncertain, but generally Lincoln should expect floodwater surface elevations multiple feet higher than the existing flood hazard data. When considering resiliency and potential flood hazard reductions measures, it is critical to allow for these increases.

### **Potential Flood Resiliency Measures and Recommendations**

A resilient flood management plan requires a comprehensive flood impact reduction strategy that takes both structural and non-structural measures into consideration. The foundation of a flood resiliency plan includes robust non-structural measures such as floodplain management policy, buyouts, relocations, floodproofing, and preservation of open space. These non-structural measures may be complemented by structural flood risk impact reduction measures. The proposed measures must be designed to manage the events and hazards that may occur in the present day, but they must also account for future hazards and how those hazards may evolve over time.

### **Non-structural Measures**

The study recommends the city and LPSNRD take six nonstructural flood resiliency measures under further consideration. The non-structural strategies include cluster subdivisions regulations; overlay zoning; voluntary buy program; setbacks and riparian preservation; low-impact development regulations; and higher floodplain management standards. The strategies selected were evaluated based on conversations with the project team, the review of comparative regulatory levels from other communities, feedback from the stakeholder group, and anticipated benefits associated with their implementation. Each recommendation includes a reference to the BMP in which it was first identified; a description of the recommendation; an overview of why the recommendation is beneficial to the Salt Creek watershed; evaluation of potential CRS points; and identified next steps.

For the nonstructural flood resiliency measures recommendations, the City of Lincoln, in partnership with LPSNRD, should do the following:

1. Identify the recommendations that are top priorities and chart a path to implementation.
2. Evaluate the cost to implement the identified recommendations.
3. Identify local funding sources that are sufficient to match potential federal funding sources.
4. Position projects for potential grant funding.

### **Structural Measures**

A conceptual system of structural flood management measures was evaluated based on the three conditions described below:

#### **Existing Conditions**

The **existing conditions** precipitation is derived from the U.S. Weather Bureau's Technical Paper 40 (TP40) (U.S. Department of Commerce 1961). The flood flows and flood elevations provided in the Flood Insurance Study (FIS) for Lancaster County, Nebraska, and Incorporated Areas (NFIP 2013) are based on the TP40 precipitation amounts and are referred to as the **existing conditions**. One goal of the study was to analyze a conceptual system of flood management measures to bring the 1 percent annual chance flood elevations to a level below the top of levee and low enough to provide the 3 feet of freeboard required to accredit a levee system, where possible.

#### **Updated Conditions**

Updated precipitation values are provided in the National Oceanic and Atmospheric Administration's Atlas 14 (NOAA 2013) Precipitation Analysis (Atlas 14). The Atlas 14 precipitation values, developed for Nebraska in 2013, are used to develop the **updated conditions** flood flows. The conceptual system of flood management measures was intended to show a reduction in the increased 1 percent annual chance flood elevations associated with **updated conditions** flood events to a level equal to or below the **existing conditions** flood elevations (as shown in the FIS) for a majority of the Salt Creek levee segments.

#### **Future Conditions**

A detailed climate modeling effort was performed as part of this study to determine potential future precipitation values for the year 2100. The precipitation values that were derived from the climate modeling effort, which assumed greenhouse emissions trends would continue to increase, were used as the basis for computing the **future conditions** flood flows for Salt Creek. The conceptual system of flood management measures was also intended to show a reduction in the increased 1 percent annual chance flood elevations associated with **future conditions** flood events to a level equal to or below the **existing conditions** flood elevations (as shown in the FIS) for a majority of the Salt Creek levee segments.

The conceptual system of structural flood management measures analyzed 16 dams within the Salt Creek tributary subbasins. The study concluded that the conceptual system of flood management measures analyzed reduce flood elevations for the 1 percent annual chance flood event for the existing conditions flood (as shown in the FIS) below the top of levee throughout the levee system, and provides the necessary freeboard at most locations.

The conceptual system of flood management measures analyzed also reduce flood elevations for the 1 percent annual chance flood event for the updated and proposed conditions to a level below the existing conditions flood elevations (as shown in the FIS) throughout most of the Salt Creek

levee system. At a conceptual level, the structural flood management measures do not provide the necessary amount of freeboard to remove areas outside of the levees from the floodplain.

### **Funding Sources**

The study shows that actual flood risks and potential flood damages in Lincoln are greater than depicted in the current regulatory models, maps, and public information. And, as the climate models illustrate, the flood hazards on Salt Creek are expected to increase in the future. Both structural and nonstructural solutions to reduce the flood risks along Salt Creek and its tributaries are presented. The solutions for structural controls are multimillion-dollar projects. Several of the primary options for funding through federal, state, and local agencies are presented along with options to partner with private enterprises in public-private partnerships. As the preferred solution is selected, the appropriate funding strategy will be identified based on the details of the proposed project(s).

### **Recommendations**

Six recommendations for the city and LPSNRD to consider are presented below:

- Continue active participation in the CRS program to continue to qualify for reduced flood insurance rates.
- Adopt higher floodplain regulatory standards to mitigate higher flood elevations in the future.
- Initiate the development of new floodplain maps to incorporate up-to-date precipitation information.
- Use the national BMPs identified to guide planning objectives.
- Consider implementation of six additional nonstructural flood resiliency strategies that include:
  - Cluster subdivisions
  - Overlay zoning
  - Voluntary buyouts
  - Setbacks and riparian preservation
  - Low-impact development regulations
  - Higher floodplain management standards
- Continue with the development of a comprehensive flood resiliency strategy for Salt Creek and the City of Lincoln.