



Hall County Regional Planning Commission

**Wednesday, February 7, 2018
Regular Meeting**

Item 1

Request for Conservation Easement

Staff Contact: Chad Nabity

Agenda Item #4

PLANNING DIRECTOR RECOMMENDATION TO REGIONAL PLANNING COMMISSION:

February 7, 2017

SUBJECT: *Conservation Easement C-09-2018HC*

PROPOSAL: William V. Wolbach and The Platte River Whooping Crane Trust, Inc, have submitted a request to Hall County for the approval of a conservation easement on property owned by the William Vanarsdale Trust Agreement in sections 5 and 8 township 9 N, Range 10 west of the 6th P.M. This property is located south of the Platte River and north of Platte River Drive.

The Hall County Board of Supervisors forwarded this matter to the planning commission per statutory requirements at their meeting on January 9, 2018.

OVERVIEW:

The William Vanarsdale Trust Agreement currently owns this property and wishes to transfer a conservation easement on this property to The Platte River Whooping Crane Trust, Inc. They are proposing to place a conservation easement on the property with rights to enforce that easement transferred to The Platte River Whooping Crane Trust, Inc. The owner of the property is agreeable to the easement and subsequent restrictions on use. As defined by NRSS §76-2112, The Platte River Whooping Crane Trust, Inc. is eligible to receive, hold and enforce the conservation easement.

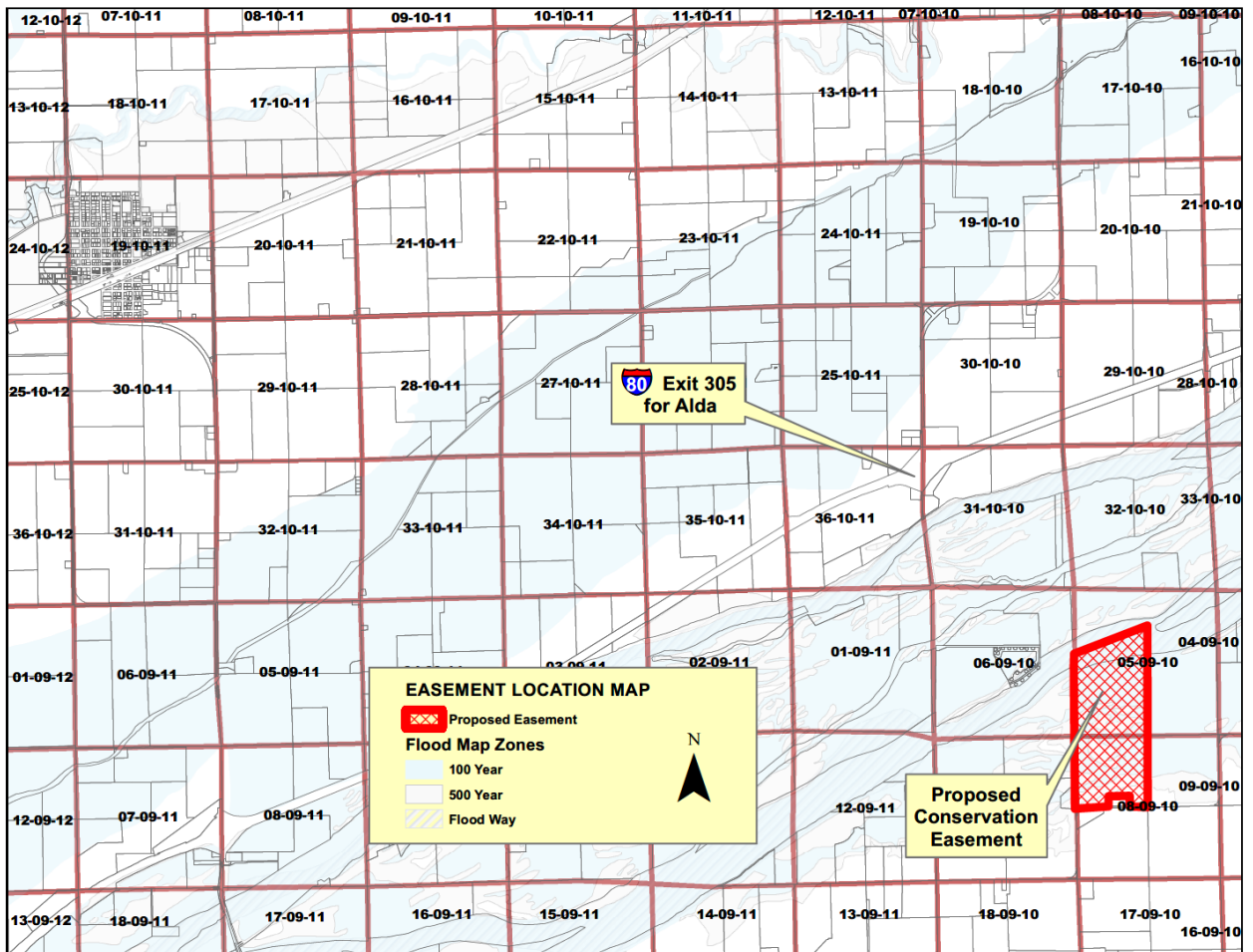
A recommendation on this easement to determine conformity with the Comprehensive Plan is required by State Statutes.

Site Analysis

<i>Current zoning designation:</i>	AG-R-River Corridor Agricultural District
<i>Permitted and conditional uses:</i>	Agriculture and Recreation Related uses with specific limitations the River Overlay and Flood Plain
<i>Comprehensive Plan Designation:</i>	River Protection Corridor
<i>Existing land uses:</i>	Pasture/Hay Ground Pivot irrigated field Interstate 80
<i>Site constraints:</i>	Flood Plain over portions of a majority of the site

Adjacent Properties Analysis

<i>Current zoning designations:</i>	North, East and West: AG-R-River Corridor Agricultural District South A-1 Agricultural Primary District
<i>Comprehensive Plan Designation:</i>	North, East and West: River Protection Corridor South: Agriculture
<i>Existing land uses:</i>	River Farm Ground/Pasture Ground/Farm House



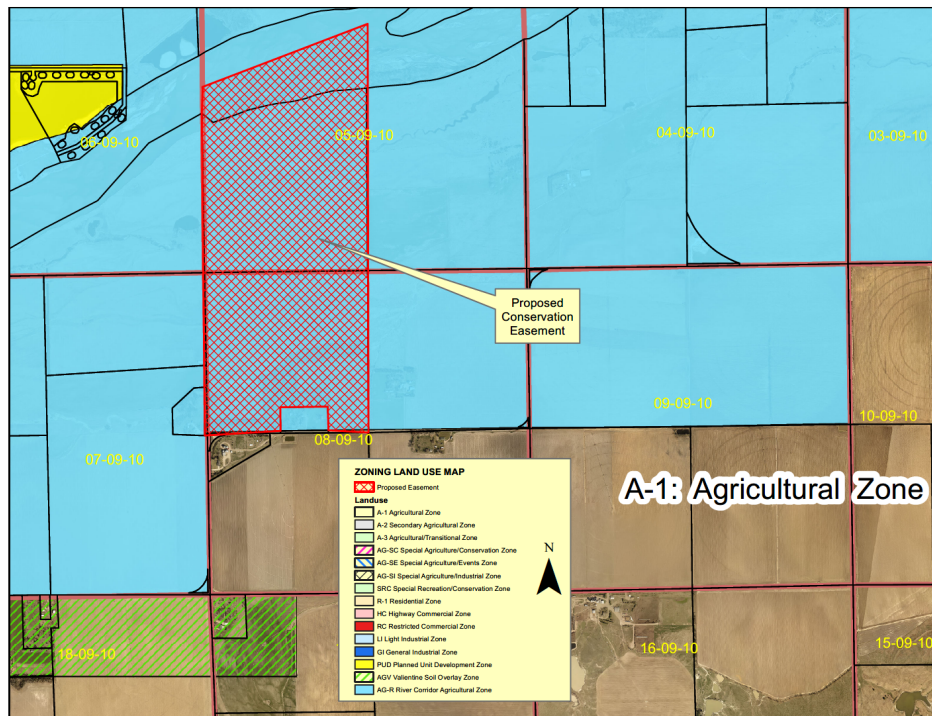


Figure 1 Zoning Map with proposed Easement Highlighted

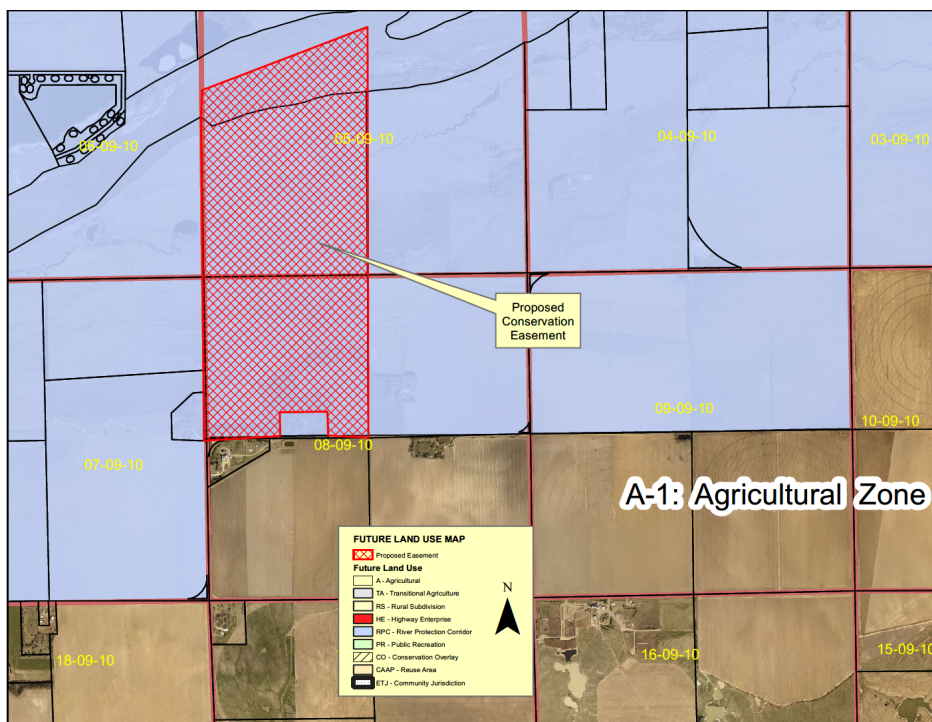


Figure 2 Future Land Use Map with Proposed Easement Highlighted

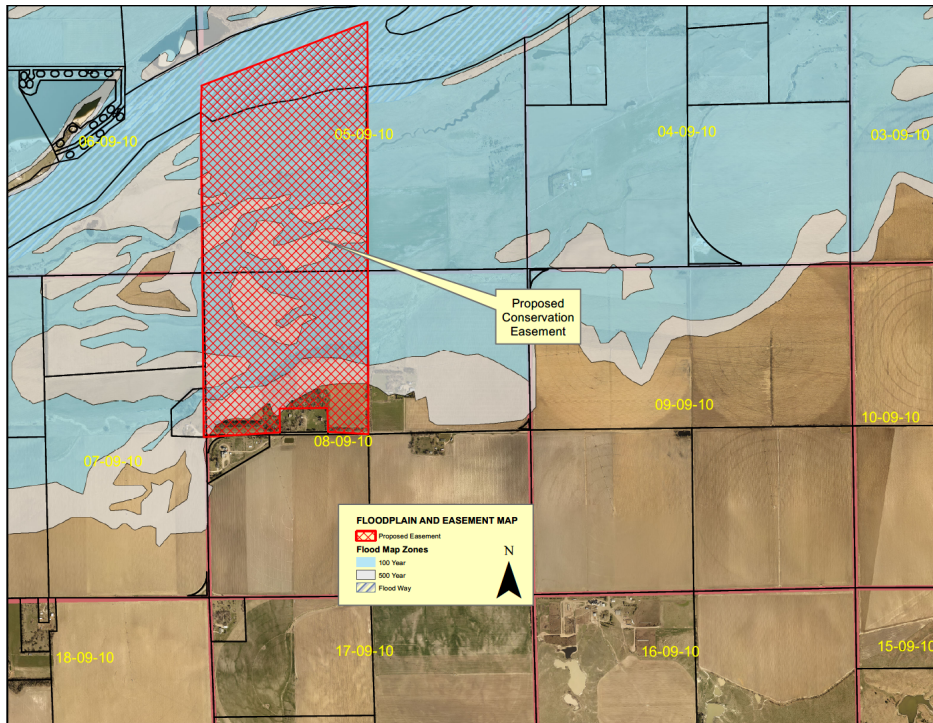


Figure 3 Flood Maps and Conservation Easement

EVALUATION:

The easement is proposed on property that is zoned for agricultural purposes and planned to be used for agricultural purposes for the foreseeable future. There are some development constraints on the property because a portion of the property is located within the flood plain.

Hall County Comprehensive Plan General Land Use Policies

Goal 1

Hall County should manage the land in a cost-effective and efficient manner while protecting the environment and natural resources, as well as maintaining and increasing land values. Guiding future growth and development in Hall County towards a compact pattern of land uses based upon the efficient and economical expansion of public infrastructure will continue to maintain and improve the quality of life for Hall County residents.

- 1.1.7 Discourage and minimize leapfrog development outside of cities and villages.
- 1.1.8 Hall County should allow agricultural production in all areas in which agricultural uses are appropriate, and non-agricultural development in agricultural areas should be allowed in specifically designated areas which does not negatively impact the agricultural uses.
- 1.2.5 Encourage low to zero non-farm densities in prime farmland areas and other agricultural districts by providing residential lot size requirements and proper separation distances between residential and agricultural uses.

It would appear that based on the current zoning, the future land use plan for the county, the desire of the county as expressed in the comprehensive plan general land use policies 1.1.7, 1.1.8, 1.2.5 that it would be in conformance with the Hall County Comprehensive Plan to permit this conservation easement.

RECOMMENDATION:

That the Regional Planning Commission recommends that the Hall County Board **approve** this request for a conservation easement as presented.

_____ Chad Nabity AICP, Planning Director

**LEININGER, SMITH, JOHNSON, BAACK,
PLACZEK & ALLEN**

PARTNERS

BRUCE I. SMITH
MICHAEL L. JOHNSON
AREND R. BAACK
DANIEL M. PLACZEK
CATHLEEN H. ALLEN
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ASSOCIATES

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D. STEVEN LEININGER (RETIRED)

December 29, 2017

Ms. Marla Conley
Hall County Clerk
121 S. Pine Street
Grand Island, NE 68801

via email marlac@hallcountyne.gov

Re: Conservation Easement Agreement between William V. Wolbach,
Trustee of the William Vanarsdale Wolbach Trust Agreement dated
February 2, 1993 as amended and The Platte River Whooping Crane
Maintenance Trust, Inc. (the "Crane Trust")

Dear Marla:

As a follow up to our telephone conversation of this morning, this is to confirm that I represent Van Wolbach, individually and as Trustee of the William Vanarsdale Wolbach Trust referenced above. In this capacity, I have assisted Mr. Wolbach in negotiating and executing a Conservation Easement Agreement with the Crane Trust relating to the following described real estate which is titled in Mr. Wolbach's name as Trustee of the above referenced Trust:

The Northwest Quarter (NW $\frac{1}{4}$) of Section Eight (8) and Lots Three (3) and Four (4) on Mainland, and the South Half of the Southwest Quarter (S $\frac{1}{2}$ SW $\frac{1}{4}$) of Section Five (5), all in Township Nine (9) North, Range Ten (10) West of the 6th P.M., Hall County, Nebraska, except Lot One (1), Martin Brothers Subdivision, Hall County, Nebraska.

I am attaching a copy of the Conservation Easement Agreement which has been signed by Mr. Wolbach and by Chuck Cooper, President of The Platte River Whooping Crane Maintenance Trust, Inc.

As we discussed pursuant to NEB. REV. STAT. §76-2,112(3) it is necessary that we obtain the approval of this Conservation Easement by the Hall County Board of Supervisors. Accordingly, please place this matter on the agenda for the County Board meeting scheduled for January 9, 2018. I am emailing a copy of this letter with the attached Conservation Easement Agreement to both Chad Nabity and Jack Zitterkopf. I presume that Chad and Jack will be submitting to you their comments and recommendations concerning this easement in order for the same to be voted on at the County Board meeting on January 9, 2018; however, it may be that the Board procedure requires a vote on the approval of the Easement at a subsequent Board meeting. Addition-

ally, I presume that Jack will prepare the required Resolution for the Board to approve the Conservation Easement; however, if you prefer that I prepare the required Resolution please let me know. Also, would you please advise me as to whether or not I should be present at the meeting(s) as attorney for Mr. Wolbach.

Thank you for your assistance in this regard and if you have any questions or comments please feel free to contact me.

Sincerely,

LEININGER, SMITH, JOHNSON,
BAACK, PLACZEK & ALLEN



BRUCE I. SMITH
BIS/par/attach

cc:	Mr. William V. Wolbach	<u>via email vwolbach@gmail.com</u>
	Mr. Mark L. Brasee	<u>via email mbrasee@fraserstryker.com</u>
	Mr. Chad Nabity	<u>via email chadn@grand-island.com</u>
	Mr. Jack Zitterkopf	<u>via email jackz@hallcountyne.gov</u>

5501-3/669054

CONSERVATION EASEMENT AGREEMENT

THIS CONSERVATION EASEMENT AGREEMENT ("Conservation Easement") is made December ____, 2017, by and between the William V. Wolbach, Trustee of the William Vanarsdale Wolbach Trust Agreement dated February 2, 1993, as amended ("Grantor"), The Platte River Whooping Crane Trust, Inc., a nonprofit corporation, with offices at 6611 Whooping Crane Drive, Wood River, NE 68883 ("Holder").

WHEREAS, Grantor is the owner in fee simple of certain real property consisting of approximately 380.59 acres of land more or less located in the Hall County, Nebraska, and legally described on Exhibit A attached hereto and made a part hereof (the "Premises"); and

WHEREAS, the Premises possesses certain open, natural, scenic, agricultural, ecological, archeological, historic and educational characteristics of particular public value; and

WHEREAS, Grantor and Holder recognize the value and special character of the Premises and acknowledge a common purpose to conserve these special values of the Premises, and to conserve and protect the special plant and animal populations on the Premises, as well as subsurface and surface water resources and to prevent the use or development of the Premises for any purpose or in any manner that would conflict with the maintenance and preservation of the Premises in its current, natural, scenic and open condition; and

WHEREAS, Grantor as owner of the Premises, on behalf of its successors and assigns, intends to convey to Holder the right to preserve and protect the special conservation values of the Premises in perpetuity.

NOW THEREFORE, in consideration of the above and the mutual covenants, terms, conditions and restrictions contained herein and in consideration of TEN DOLLARS (\$10.00) paid by Holder to Grantor, the receipt and sufficiency of which is hereby acknowledged and pursuant to the laws of the State of Nebraska, and in particular the Conservation and Preservation Easements Act, Neb. Rev. Stat. §§ 76-2,111 - 76-2,118, as amended, Grantor hereby voluntarily grants and conveys unto Holder a Conservation Easement in perpetuity over the Premises which is intended to run with the land as a real covenant and is not personal in nature or in interest, of the nature and character, and to the extent hereinafter set forth.

1. Purpose: It is the purpose of this Conservation Easement to assure that the Premises will be retained forever in its open, natural, scenic, agricultural, ecological, or educational condition and to prevent any use of the Premises that will significantly impair or interfere with the conservation values of the Premises. Grantor intends that this Conservation Easement will confine the use of the Premises as are consistent with the purpose of this Conservation Easement and the Management Plan for the Premises developed by Holder and agreed to by Grantor contemporaneously with this Conservation Easement (the "Management Plan"). The Management Plan which sets forth specific procedures by which the Premises shall be maintained, including, but not limited to, the adequate maintenance of the Premises to preserve the natural values, public access (if applicable) and other matters as may be required for the preservation of the Premises. Grantor shall have the right from time to time to request an amendment of the Management Plan by the Holder in accordance with the amendment procedure set forth in the Management Plan. The original Management Plan and any amendments thereto are subject to the approval by the Holder in writing. Any conflict between the Management Plan and the terms and conditions of this Conservation Easement shall be resolved in favor of this Conservation Easement.

2. Rights of Holder: To accomplish the purpose of this Conservation Easement, the following rights are conveyed to the Holder by this Conservation Easement:

- a. To preserve and protect the conservation values of the Premises;
- b. To enter upon the Premises at all reasonable times with notice to the Grantor and, if necessary, across other lands owned by Grantor adjacent to the Premises in order to: (i) monitor and inspect Grantor's, or its successors or assigns, compliance with the covenants and purposes of this Conservation Easement, (ii) enforce the terms of this Conservation Easement, (iii) take any and all actions as may be necessary or appropriate, with or without order of court, to remedy or abate violation hereof; and (iv) after prior notice to Grantor or its successors or assigns, to observe and study nature, make scientific and educational observations and studies in such manner as will not disturb the quiet enjoyment of the Premises by Grantor. Holder shall reimburse the Grantor for all damages to growing crops, fences or other property on the Premises which may be caused by the exercise of such rights except in instances in which Holder is taking action to remedy a violation of this Conservation Easement by Grantor.
- c. To prevent any activity or use of the Premises that is inconsistent with the purpose of this Conservation Easement and the Management Plan.
- d. To restore such areas or features of the Premises that may be damaged by any inconsistent activity of use, pursuant to this Conservation Easement.
- e. To allow reasonable public access to the Premises for habitat and educational tours or purposes which shall at all times be guided and accompanied by Holder as set forth in the Management Plan in such manner as will not disturb the quiet enjoyment of the Premises by Grantor.

3. Rights of Grantor: Grantor reserves for itself, its successors and assigns, the following reserved rights provided, however, that the exercise of such rights will not interfere with or have an adverse impact on the essential natural, open and scenic quality of the Premises:

- a. To sell, give or otherwise convey the Premises or any interest in the Premises; provided, such conveyance is subject to the terms of this Conservation Easement and the Management Plan.
- b. To continue to use the Premises, as identified on Exhibit B, for agricultural purposes that are consistent with this Conservation Easement and Management Plan. Grantor may continue to use the Premises for such commercial agricultural purposes, including the planting/harvesting of row crops, application of fertilizer, insecticides and herbicides in accordance with the best course of husbandry customarily practiced in the same geographical vicinity of the Premises.
- c. The erection, maintenance and replacement of signs with respect to hunting, trespass, trail access, identity and address of the occupants, sale of the Premises, the Holder's interest in the Premises, and the protected conservation values.
- d. Such other non-prohibited activities requested by the Grantor and expressly approved in writing by the Holder, in its sole and exclusive discretion.

4. Restrictive Covenants/Conservation Values Protected: The Premises serve as critical pre-roost staging habitat for Sandhill Cranes and on occasion Whooping Cranes. Protecting the Premises is biologically important and integral to preserving high quality Crane roost habitat as well as habitat for grassland birds of concern such as the Bobolink.

5. Prohibited Activities and Uses: Any activity on or use of the Premises not enumerated in Section 3 as reserved to Grantor is prohibited, including, without limitation, any activity or use inconsistent with the purpose of this Conservation Easement and/or the Management Plan. Without limiting the generality of the foregoing, the following activities and uses are expressly prohibited on, above, and below the premises:

- a. The rezoning or subdividing the Premises or the disturbance or change in the natural habitat that would be inconsistent with the conservation values, except for agricultural use as set forth in in Subsection 3(b) and Exhibit B.
- b. The temporary or permanent placement or construction in, on or under the Premises of any buildings, structures, or other improvements of any kind, including, without limitation, camping accommodations or mobile homes, fences, signs, billboards or other advertising material, roads, utility poles, towers, conduits, or lines or other structures, other than those structures currently on the Premises and as may be permitted pursuant to the Management Plan. As referenced in the Management Plan-Section 3(b), a hunting blind and associated storage trailer are currently located on the Premises. Such structures may remain and Holder shall repair, maintain and replace (with structures of the same or smaller size and construction). No residential, commercial or industrial activity of any kind shall be permitted on the Premises, except the agricultural uses as set forth in this Conservation Easement and the Management Plan.
- c. Any ditching, draining, digging, filling, excavating, dredging, mining or drilling, removal of topsoil, sand, gravel, rock, minerals or other materials, or any building of roads or change in the topography of the Premises in any manner, except as set forth in the Management Plan.
- d. Any removal, destruction or cutting of trees or plants or planting of trees or plants (except as is necessary to maintain the Premises), use of fertilizers, spraying with biocides,

introduction of state listed noxious plants and animals, except as otherwise provided hereinabove at Subsection 3.b and as may be set forth in the Management Plan.

- e. The dumping or storing of ashes, trash, garbage, wastes, refuse, debris, or other unsightly or offensive material, and the changing of the topography through the placing of soil or other substance or material such as land fill or dredging spoils, nor shall any activities be conducted directly on the Premises, or on adjacent property which could cause erosion or siltation on the Premises.
- f. The manipulation or alteration of ponds, water courses, rivers, streams, wetlands, lake shores, marshes or other surface or subsurface water bodies, or activities which would be detrimental to water purity or to the protection of the watershed, which includes the subject property, or which could alter natural water level and/or flow.
- g. The hunting or trapping of animals except as allowable by state and federal regulations.
- h. No portion of the Premises may be used toward building or development requirements on this parcel.
- i. Long term storage of vehicles including motorcycles, all-terrain vehicles, trail bikes, or any other motorized vehicles on the Premises, except as set forth in the Management Plan.
- j. Activities detrimental to drainage, flood control, water conservation, water quality, erosion control, soil conservation, or archaeological conservation.
- k. Any other use of the Premises or activity thereon which is inconsistent with the purpose of this Conservation Easement or which would materially impair its conservation interests.

6. Holder's Remedies: If any Holder determines that Grantor is in violation of the terms of this Conservation Easement or that a violation is threatened, the Holder shall give written notice to Grantor of such violation and demand corrective action sufficient to cure the violation. If Grantor fails to cure the violation within thirty (30) days after receipt of notice thereof from Holder, Holder may bring an action at law or in equity in a court of competent jurisdiction to enforce the terms of this Conservation Easement, to enjoin the violation, ex parte as necessary, by temporary or permanent injunction, to recover any damages to which Holder may be entitled for violation of the terms of this Conservation Easement or injury to any conservation values protected by this Conservation Easement, including damages for the loss of scenic, aesthetic, water resource protection or environmental values, and to require the restoration of the Premises to the condition that existed prior to any such injury, costs incurred and reasonable attorney fees to prosecute any such actions to enforce. Without limiting Grantor's liability therefore, Holder, in its sole discretion, may apply any damages recovered to the cost of undertaking any corrective action on the Premises. If Holder, in its sole discretion, determines that circumstances require immediate action to prevent or mitigate significant damage to the conservation values of the Premises, Holder may pursue its remedies under this paragraph without prior notice to Grantor or without waiting for the period provided for cure to expire. Holder's rights under this paragraph apply equally in the event of either actual or threatened violations of the terms of this Conservation Easement, and Grantor agrees that if Holder's remedies at law for any violation of the terms of this Conservation Easement are inadequate, that Holder shall be entitled to the injunctive relief described in this paragraph, both prohibitive and mandatory, in addition to such other relief to which Holder may be entitled, including specific performance of the terms of this Conservation Easement, without the necessity of proving either actual damages or the

inadequacy of otherwise available legal remedies. Holder's remedies described in this paragraph shall be cumulative and shall be in addition to all remedies now or hereafter existing at law or in equity. Nothing contained in this Conservation Easement shall be construed to entitle Holder to bring any action against Grantor for any injury to or change in the Premises resulting from any causes beyond Grantor's control, including, without limitation, fire, flood, storm, or earth movement.

- a. Costs of Enforcement. Any costs incurred by Holder in enforcing the terms of this Conservation Easement against Grantor, including, without limitation, costs of suit and attorney's fees, and any costs of restoration necessitated by Grantor's violation of the terms of this Conservation Easement, shall be borne by Grantor.
- b. Holder's Discretion. Enforcement of the terms of this Conservation Easement shall be at the sole discretion of Holder, and any forbearance or delay by Holder to exercise its rights under this Conservation Easement, in the event of any breach of any term of this Conservation Easement by Grantor, shall not be deemed or construed to be a waiver by Holder of such terms or of any subsequent breach of the same or any other term of this Conservation Easement or any of Holder's rights under this Conservation Easement.

7. Formal Provisions:

- a. Costs and Liabilities. Grantor retains all responsibilities and shall bear all costs and liabilities of any kind related to the ownership, operation, upkeep, and maintenance of the Premises, including the maintenance of adequate comprehensive general liability insurance coverage. Grantor shall keep the Premises free of any liens arising out of any work performed for, materials, furnished to, or obligations incurred by Grantor.
- b. Taxes. Grantor shall pay before delinquency all taxes, assessments, fees, and charges of whatever description levied on or assessed against the Premises by competent authority, and shall furnish Holder with satisfactory evidence of payment upon written request.
- c. Hold Harmless. Grantor shall defend, hold harmless, indemnify, and defend Holder and its directors, officers, employees, agents, contractors and the successors, and assigns of each of them (collectively, the "Indemnified Parties") from and against all liabilities, penalties, costs, losses, damages, expenses, causes of action, claims, including bodily injury or death, demands, or judgments, including, without limitation, reasonable attorney's fees, arising from or in any way connected with bodily injury to or the death of any person, or physical damage to any property, resulting from any act or omission of Grantor or Grantor's employees or agents, except any negligent act or omission of the Indemnified Parties.
- d. Title and Priority. Grantor covenants and agrees that: (i) Grantor is the owner in fee of the Premises, (ii) Grantor has a good right to convey and grant the Conservation Easement; (iii) the Premises is free of liens and encumbrances; and (iv) Grantor shall warrant and defend the title thereto against the claims and demands of all persons whomsoever. In the event there exists any prior mortgage, deed of trust, or encumbrance with respect to the Premises, Grantor shall, at Grantor's cost, either: (v) prior to recording this Conservation Easement, obtain from any party holding a mortgage, deed of trust, or other encumbrance against the Premises which was recorded prior to this Conservation Easement, an agreement, in recordable form and in form reasonably acceptable to Grantee, that this Conservation Easement shall be deemed prior to any such mortgage,

deed of trust, or encumbrance and such mortgage, deed of trust, or encumbrance shall be subordinate in all respects to this Conservation Easement; or (vi) if there is no mortgage, deed of trust, or encumbrance affecting the Premises, record this Conservation Easement prior to recording any deed of trust, mortgage, or other encumbrance against the Premises. Grantee may, at its expense, obtain title insurance insuring the priority of this Conservation Easement, and Grantor will cooperate, at no expense to Grantor, with Grantee in obtaining such title insurance.

8. General Provisions:

- a. Successors. The covenants, terms, conditions, and restrictions of this Conservation Easement shall be binding upon, and inure to the benefit of the parties hereto and their respective personal representatives, heirs, successors, and assigns and shall continue as a servitude running with the land in perpetuity.
- b. Counterparts; Recording. The parties may execute this instrument in two or more counterparts, which shall, in the aggregate, be signed by both parties; each counterpart shall be deemed an original instrument as against any party who has signed it. In the event of any disparity between the counterparts produced, the recorded counterpart shall be controlling. This Conservation Easement shall be signed by all parties and recorded with the Register of Deeds of the County in which the Premises is located.
- c. Nebraska law. This Conservation Easement shall be and is deemed to be a conservation restriction under the laws of the State of Nebraska only, and shall be construed and given effect in accordance with the laws of the State of Nebraska and not otherwise.
- d. Severability. If any provision of this Conservation Easement or the application hereof to any person or circumstance shall be to any extent invalid or unenforceable, the remainder of this Conservation Easement and the application to persons or circumstances other than those as to which it is invalid or unenforceable shall not be effected thereby, and each term and provision of this Conservation Easement shall be valid and enforceable to the fullest extent permitted by law.
- e. Waiver. No consent or waiver, expressed or implied by either party to or of any breach in the performance by the other party of its agreements hereunder shall be construed as a consent or waiver to or of any breach in the performance by such party of the same or any other agreement. The failure on the part of either party to complain of any such action or inaction on the part of the other or to declare the other in default, no matter how long such failure may continue, shall not be deemed to be a waiver by either party of any of its rights hereunder.
- f. Construction. This Conservation Easement shall not be construed, without regard to any presumption or other rule requiring construction, against the party causing this Conservation Easement to be drafted.
- g. Notice. Any notice given by one party to the other party pursuant to this Conservation Easement must be in writing using one of the following methods of delivery: (i) personal delivery; (ii) certified mail, return receipt requested and postage prepaid; or (iii) nationally recognized overnight courier, with all fees prepaid. A party giving a notice must address the notice to the receiving party at the address listed in the introductory paragraph of this Conservation Easement or to the address for notice of the real estate tax records in the county in which the Premises is located.

9. Amendments, Assigns and Transfers:

- a. Amendment. This Conservation Easement may only be amended if in writing and by unanimous agreement of the Grantor(s) and the Holder or each of their successors and assigns. Any amendments to this Conservation Easement must be signed by all parties and recorded with the Register of Deeds of the County in which the Premises is located to be valid and enforceable.
- b. Assignment. This Conservation Easement is not assignable or otherwise transferrable by Grantor except when the fee simple interest of the Premises is conveyed by Grantor. Holder may assign its rights and obligations under this Conservation Easement pursuant to the Conservation and Preservation Easements Act. Upon such assignment, the then existing Holder shall be relieved of any and all obligations under this Conservation Easement.
- c. Subsequent Transfers. Grantor agrees to incorporate the terms of this Conservation Easement in any deed or other legal instrument by which it divests itself of any interest in all or a portion of the Premises, including, without limitation, a leasehold interest.

10. Right of First Refusal: If Grantor desires to sell the Premises and shall receive a bona fide written offer (the "Purchase Offer") from any unaffiliated third party, Grantor shall by written notice (the "Offer Notice") to Holder, offer to Holder the right to enter into a contract for the purchase of the Premises on the terms set forth in such Purchase Offer and Holder shall have thirty (30) days after receipt of such Offer Notice in which to accept in writing such terms and conditions. Upon a timely acceptance of such Purchase Offer by Holder, Grantor and Holder shall enter into a contract for the purchase of the Premises upon the terms and conditions specified in the Offer Notice from Grantor to Holder. In the event that Holder shall fail to accept the terms and conditions of sale by written notification to Grantor prior to the expiration of such thirty (30)-day period, Grantor shall thereafter be free to sell the Premises to any such unaffiliated third party pursuant to the Purchase Offer. Notwithstanding anything herein to the contrary, in the event that (i) Grantor fails to close within ninety (90) days after the closing date set forth in the Purchase Offer or (ii) a material term in a Purchase Offer is modified, for purposes of this Conservation Easement, such proposed sale after said ninety (90) day period or such material modification to a Purchase Offer shall be deemed to create a new Purchase Offer and, notwithstanding a prior election or deemed election by Holder not to purchase the Premises, such new Purchase Offer shall be subject to the requirements set forth in this Section. The right of first refusal contained in this Section shall not apply to a foreclosure or similar sale of the Premises by any holder of a mortgage on the Premises or to the granting of a deed in lieu of foreclosure by Grantor to such holder. Holder's right of first refusal granted herein shall remain in full force and effect until the termination of this Conservation Easement and shall be binding upon any subsequent owners of the Premises should any subsequent owner receive an offer for the sale of the Premises that it desires to accept.

11. U.S. Fish and Wildlife Service Notice: This Conservation Easement is being conveyed subject to requirements of a grant from the U.S. Fish and Wildlife Service-Division of Bird Habitat Conservation, 1849 C Street, NW, Washington, DC 20240, through the North America Wetlands Conservation Act, through a proposal named Central Platte River Partnership II, submitted by Ducks Unlimited, Inc., on July 3, 2014. A grant, Agreement F15AP00437, was awarded to Ducks Unlimited, Inc., on May 21, 2015. Copies of the grant proposal and grant agreement are kept at the offices of the U.S. Fish and Wildlife Service-Division of Bird Habitat

Conservation, 1849 C Street, NW, Washington, DC 20240 and the office of Ducks Unlimited, Inc., 2525 River Road, Bismarck, ND 58503. This conservation easement was created to protect valuable wetlands and waterfowl habitat and contains restrictions on the use and development of the property that are intended to protect its conservation values.

IN WITNESS WHEREOF, the parties have hereunto set their hands and seals the day and year first above written.

[Signatures appear on the following page]

[SIGNATURE PAGE TO CONSERVATION EASEMENT AGREEMENT-WOLBACH]

GRANTOR:

William Vanarsdale Wolbach Trust Agreement dated
February 2, 1993, as amended

By: William V. Wolbach

William V. Wolbach, Trustee

HOLDER:

The Platte River Whooping Crane Maintenance Trust, Inc.,
a nonprofit corporation

By: Chuck Cooper

Chuck Cooper, President

STATE OF MISSOURI)

COUNTY OF Jackson) ss.

On this 29 day of December, 2017, before me, a notary public in and for said county and state, personally came William V. Wolbach, Trustee, of the William Vanarsdale Wolbach Trust Agreement dated February 2, 1993, as amended, known to me to be the identical person who signed the foregoing instrument and acknowledged the execution thereof to be his voluntary act and deed and the voluntary act and deed of said Trust.

WITNESS my hand and notarial seal, in said county and state, the day and year last above written.

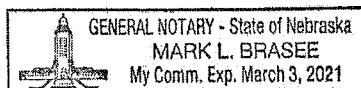
Tina Davis
Notary Public

STATE OF NEBRASKA)

COUNTY OF DOUGLAS) ss.

On this 29th day of December, 2017, before me, a notary public in and for said county and state, personally came Chuck Cooper, President of The Platte River Whooping Crane Maintenance Trust, Inc., a nonprofit corporation, known to me to be the identical person who signed the foregoing instrument and acknowledged the execution thereof to be his/her voluntary act and deed and the voluntary act and deed of said corporation.

WITNESS my hand and notarial seal, in said county and state, the day and year last above written.



Mark L. Brasee
Notary Public

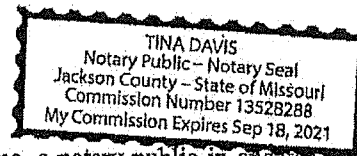


Exhibit A
Premises

Hall County Parcel Nos. 400231336 and 400232255, with all accretion thereto

The Northwest Quarter (NW/14) of Section Eight (8), and Lots Three (3) and Four (4) on Mainland, and the South half of the Southwest Quarter (S 1/2 SW 1/4) of Section Five (5), all in Township Nine (9) North, Range Ten (10), West of the 6th P.M., in Hall County, Nebraska, except Lot One (1), Martin Brothers Subdivision, Hall County, Nebraska, containing approximately 380.59 acres.

[Subject to confirmation by the Title Commitment]

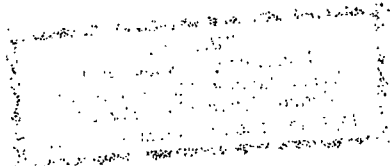


Exhibit B
Existing Agricultural Uses

The Premises is zoned AG-R River Corridor Agricultural District and its current uses are ;

- a. pivot irrigated agricultural - 163.90 acres
- b. dry land agricultural - 36.74 acres
- c. grass/hay meadows - 130.23 acres
- d. accretion - 48.00 acres
- e. unimproved road - 1.72 acres