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ESTABLISHED IN 1929

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SPECIAL COUNSEL

October 4, 2007

**VIA FACSIMILE (308) 324-4590  
& FIRST-CLASS MAIL**

Mr. Joe Pepplichtsch  
City Manager  
406 E. 7<sup>th</sup> Street  
Lexington, NE 68850

Re: Deed of Conservation Easement for Charles Ruzicka, Trustee

Dear Mr. Pepplichtsch:

Enclosed please find a copy of the above-referenced Deed of Conservation Easement which we have previously discussed.

As required by NEB. REV. STAT. §76-2,112(3), in order to minimize conflicts with land-use planning, all conservation easements have to be approved by the appropriate governing body, either the city or village if the property lies partially or entirely within the boundaries or zoning jurisdiction of a city or village; or the county, if the property lies entirely outside the boundaries and zoning jurisdiction of any city or village. In addition, the appropriate governing body shall first refer the proposed easement to and receive comments from the local planning commission with jurisdiction over the property. The local planning commission has 60 days to provide comments regarding the conformity of the proposed acquisition to comprehensive planning for the area. If comments are not received within this 60 day period, this easement will be deemed approved by the local planning commission.

It is my understanding that the real estate described on the enclosed Deed of Conservation Easement lies within the zoning jurisdiction of the City of Lexington. Accordingly, please place this matter on the agenda for the City Council meeting scheduled for October 9, 2007. It is my understanding that at this meeting the Deed of Conservation Easement will be referred to the City Planning and Zoning Commission for review and comments. It is my further understanding that the City Planning and Zoning Commission's next meeting is November 7, 2007. We are

Mr. Joe Peplitsch  
October 4, 2007  
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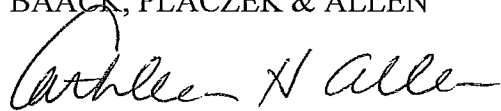
hopeful that the Planning and Zoning Commission will then be able to forward their comments and recommendations regarding this Easement to the City Council in order to be voted on at the City Council meeting on November 13, 2007. Consistent with my conversation with you, I will not have a representative from the Central Platte Natural Resources District attend the first City Council meeting on October 9, 2007, unless you feel that it would be helpful. I will also not plan on having a representative available for either the City Planning and Zoning Commission meeting on November 7, 2007 or the second City Council meeting on November 13, 2007 unless I hear from you to the contrary.

In order to explain the purpose of the conservation easement, I have enclosed a copy of the Central Platte Natural Resources District Bimonthly newsletter for May, 2007. If you have any additional questions regarding this matter, please do not hesitate to contact me. Please also do not hesitate to contact me if you feel that a representative from the Central Platte NRD should be present at the above-referenced hearings, as we would be more than willing to have someone in attendance at all meetings.

I appreciate all of your help and I look forward to working with you on these matters.

Very truly yours,

LEININGER, SMITH, JOHNSON,  
BAACK, PLACZEK & ALLEN

A handwritten signature in cursive script that reads "Cathleen H. Allen". The signature is written in black ink and is positioned below the firm name.

CATHLEEN H. ALLEN  
CHA/dlh/encls.

## DEED OF CONSERVATION EASEMENT

This Deed of Conservation Easement ("Conservation Easement") made this \_\_\_\_ day of September, 2007, by and between CHARLES B. RUZICKA, TRUSTEE OF THE CHARLES B. RUZICKA LIVING TRUST, U/T/A dated November 23, 1993 ("Grantor") and the Central Platte Natural Resources District, a political subdivision of the State of Nebraska, ("Grantee" or "District").

WHEREAS, the Central Platte Natural Resources District is a political subdivision of the State of Nebraska and is authorized by the State of Nebraska to acquire and dispose of water and water rights and regulate ground water within management areas; and

WHEREAS, the District has established a management area pursuant to the Nebraska Ground Water Management and Protection Act; and

WHEREAS, the Grantor is the owner of real estate located within the geographic area included within the management area; and

WHEREAS, the Grantor and Grantee jointly recognize the necessity of conserving and managing the ground water within the geographic area covered by the management plan; and

WHEREAS, all requirements imposed pursuant to the Nebraska Conservation and Preservation Easements Act, NEB. REV. STAT. §§76-2,111 through 76-2,118 (Reissue 2003) have been complied with in that the local planning commission, if applicable, and the appropriate governing body have approved of this Deed of Conservation Easement as evidenced by the attached Resolution, marked as Exhibit "A" and incorporated herein by this reference.

NOW, THEREFORE, in consideration of the mutual covenants contained herein and in receipt of the payment of valuable consideration to the Grantor by the Grantee, and the United States Department of Agriculture, Natural Resources Conservation Service, receipt of which is hereby acknowledged, the Grantor and Grantee agree as follows:

1. The Grantor hereby assigns, transfers and grants to the Grantee a Conservation Easement enforceable with respect to the property (the Property) of the Grantor described as follows:

A tract of land in the East One-Half of Section Thirty (30), Township Nine (9) North, Range Twenty-One (21) West of the 6<sup>th</sup> P.M., Dawson County, Nebraska, and more particularly described as follows:

Referring to the Northeast Corner of Section Thirty (30), Township Nine (9) North, Range Twenty-One (21) West of the 6<sup>th</sup> P.M., Dawson County, Nebraska; thence South (assumed bearing), and along the East Line of said Section Thirty (30), a distance of 110.0 feet to the Point of Beginning; thence continue South, and along the East Line of said Section Thirty (30), a distance of 2801.88 feet; thence S 84°41' W, a distance of 2648.22 feet to a point on the West Line of the East Half (E½) of Section Thirty (30); thence North, and along the West Line of the East Half (E½) of said Section Thirty (30), a distance of 3039.15 feet; thence N 89°49'30" E, and 110 feet South of the North line of the Northeast Quarter of said Section Thirty (30), and along the South Right-of-Way Line of State Highway No. 283, a distance of 2636.95 feet to the place of beginning, LESS AND EXCEPT that tract of land conveyed to Dawson County Public Power District by Trustee's Deed dated 12/9/05 and recorded 12/13/05 at Inst. No. 2005-5272.

2. The terms, conditions and restrictions of the Conservation Easement are as follows:
  - a. As used in this Conservation Easement, the term "water well" shall mean any water well as that term is defined in Nebraska statutes.
  - b. No water well capable of pumping more than 50 gallons per minute may exist or be constructed on the Property. Any water well that exists on the Property on the date of this Conservation Easement and that is capable of pumping more than 50 gallons per minute shall be decommissioned in accordance with all applicable statutes, rules and regulations or permanently reduced in capacity so that it is incapable of pumping more than 50 gallons per minute. Except that any irrigation well existing on the Property on the date of this Conservation Easement that was previously used to irrigate other land in addition to the Property may continue to be used to irrigate the other land. Only land previously certified by the District for irrigation by that well may be irrigated. No additional land may ever be irrigated with the well. The pipes, pivot, and any and all other equipment formerly used to irrigate the Property must be permanently removed, detached, or otherwise disabled to the satisfaction of the District.
  - c. Water wells capable of pumping 50 gallons per minute or less individually but in excess of 50 gallons per minute collectively may not be clustered or joined nor may the water from such wells be commingled or in any other way combined unless the wells are used as described in Paragraph 2.b. above.

- d. Water wells capable of pumping 50 gallons per minute or less may be used to provide water on the Property for (1) household and other domestic uses, or (2) watering range livestock.
- e. No use of the water from a natural stream, regardless of whether or not a permit for such use is required from the Nebraska Department of Natural Resources or any successor agency, shall be made on the Property except for providing water for range livestock on the Property.
- f. No water from any water well not located on the Property shall be used on the Property except for (1) household and other domestic uses, or (2) watering range livestock.
- g. The Property must remain in dryland agricultural production unless prior written approval is granted by the District to alter this prohibition. No crops, hay, grass or other plants that could be subirrigated shall be grown on Property. Only those items listed on Attachment "B" may be grown on the property unless prior written approval is granted by the District.
- h. No use shall be made of the Property which will consume groundwater, including, but not limited to, the following:
  - (1) No pits or other excavated areas that would expose or consume ground water shall be allowed;
  - (2) No mining, sand or gravel operations shall be allowed;
  - (3) No industrial, commercial, agricultural or residential development shall occur on the Property unless prior written approval is granted by the District.

3. This Conservation Easement shall be perpetual. It is appurtenant and runs with the land as an incorporeal interest in the Property and shall be enforceable against any owner or other person having any interest in the above described property including the Grantor, all persons or entities holding any interest acquired through the Grantor and all Grantor's heirs, successors, assigns and personal representatives.

4. It is the Grantor's intent, through this Deed of Conservation Easement, to permanently transfer and surrender any rights that they or their successors, heirs, assigns or personal representatives may have to irrigate or subirrigate the above-described property and to permanently prevent the development and use of any ground water for any uses on the Property or off except those specifically permitted by Paragraph 2 above. The fact that the well or wells on the Property have been decommissioned, reduced in pumping capacity to 50 gallons per minute or less, or are no longer used to irrigate the Property cannot be used to supply an offset to allow irrigation of any other land or any other water use or to justify construction of a new water well as a replacement.



STATE OF NEBRASKA     )  
  ) ss:  
COUNTY OF HALL         )

The foregoing Deed of Conservation Easement was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 2007 by Ronald G. Bishop, General Manager of Central Platte Natural Resources District, on behalf of said Natural Resources District, a political subdivision of the State of Nebraska known to me personally or produced satisfactory evidence of identification to me.

\_\_\_\_\_  
Notary Public

My commission expires: \_\_\_\_\_

EXHIBIT "A"

To be attached upon receipt.



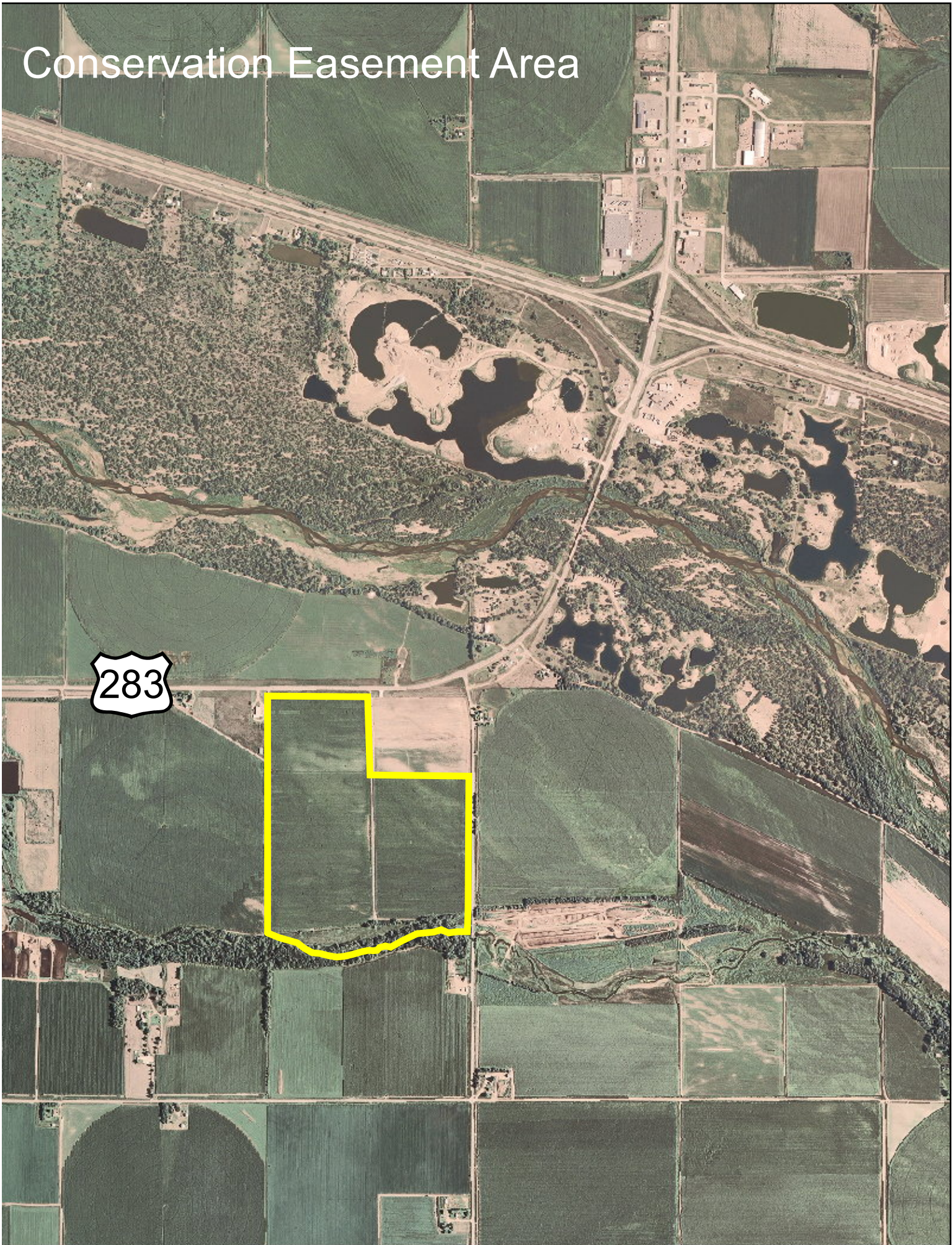
EXHIBIT "B"

Crops that may be grown on the Property as indicated by Paragraph 2.g.

Dryland corn  
Dryland soybeans  
Dryland milo  
Dryland wheat  
Dryland oats  
Dryland barley  
Dryland brome grass



# Conservation Easement Area



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