

RESOLUTION _____

A RESOLUTION APPROVING CONSERVATION EASEMENT FOR THE CENTRAL PLATTE NATURAL RESOURCES DISTRICT

WHEREAS, BAR M R, INC., a Nebraska Corporation, is the owner of the following described real estate, to-wit:

Three (3) tracts of land in Section Thirty (30), Township Nine (9) North, Range Twenty-One (21) West of the 6th P.M., Dawson County, Nebraska, legally described as follows:

TRACT A

A tract of land being part of the West Half (W $\frac{1}{2}$) of Section Thirty (30), Township Nine (9) North, Range Twenty-one (21) West of the Sixth Principal Meridian, Dawson County, Nebraska, more particularly described as follows:

Beginning at the Southwest corner of the Northwest Quarter of said Section 30 and assuming the West line of the Southwest Quarter as bearing S 00°04'38" E and all bearings contained herein are relative thereto; thence S 00°04'38" E on said West line a distance of 161.75 feet; thence S 71°43'41" E a distance of 1018.78 feet; thence Northwesterly along a non-tangent curve to the right, having a central angle of 55°35'07", a radius of 1411.27 feet, an arc length of 1369.14 feet and a chord bearing N 47°21'46" W a distance of 1316.07 feet to the West line of said Northwest Quarter; thence S 00°03'46" E on said West line of said Northwest Quarter a distance of 410.25 feet to the place of beginning. Containing 3.03 acres, more or less.

TRACT B

A tract of land being part of the Southwest Quarter (SW $\frac{1}{4}$) of Section Thirty (30), Township Nine (9) North, Range Twenty-one (21) West of the Sixth Principal Meridian, Dawson County, Nebraska, more particularly described as follows: Referring to the Northwest corner of the Southwest Quarter of said Section 30 and assuming the West line of the Southwest Quarter as bearing S 00°04'38" E and all bearings contained herein are relative thereto; thence S 00°04'38" E on said West line a distance of 161.75 feet; thence S 71°43'41" E a distance of 1018.78 feet to the ACTUAL POINT OF BEGINNING; thence S 56°39'22" E a distance of 101.11 feet; thence S 82°55'29" E a distance of 207.05 feet; thence N 67°32'38" E a distance of 88.92 feet; thence Westerly along a non-tangent curve to the right having a central angle of 15°16'18",

a radius of 1411.27 feet, an arc length of 376.16 feet, and a chord bearing N 82°47'25" W a distance of 375.05 feet to the point of beginning. Containing 0.22 acres, more or less.

TRACT C

A tract of land being part of the West Half (W½) of Section Thirty (30), Township Nine (9) North, Range Twenty-one (21) West of the Sixth Principal Meridian, Dawson County, Nebraska, more particularly described as follows: Referring to the Northeast corner of the Northwest Quarter of said Section 30 and assuming the East line of said West half as bearing S 00°02'03" E and all bearings contained herein are relative thereto; thence S 00°02'03" E and on said East line a distance of 2269.40 feet to the ACTUAL POINT OF BEGINNING; thence S 00°02'03" E continuing on said East line a distance of 901.37 feet; thence N 83°15'08" W a distance of 821.33 feet; thence Northeasterly along a non-tangent curve to the left having a central angle of 47°53'18", a radius of 1411.27 feet, an arc length of 1179.55 feet and a chord bearing N 45°21'44" E a distance of 1145.52 feet to the point of beginning. Containing 6.29 acres, more or less.

and

WHEREAS, the Central Platte Natural Resources District is desirous of obtaining a conservation easement from BAR M R, INC., a Nebraska Corporation, on the real estate legally described hereinabove and BAR M R, INC., a Nebraska Corporation, is desirous of selling a conservation easement to the Central Platte Natural Resources District on the real estate legally described hereinabove; and

WHEREAS, Central Platte Natural Resources District and BAR M R, INC., a Nebraska Corporation, have submitted a request to The City of Lexington, Nebraska for the approval of a conservation easement on the real estate legally described hereinabove; and

WHEREAS, pursuant to NEB. REV. STAT. §76-2,112 (2003), on January 27, 2009, the City of Lexington forwarded the easement request to the City of Lexington Planning and Zoning Commission for their review and recommendations regarding the conformity of the proposed acquisition to comprehensive planning for the area; and

WHEREAS, also pursuant to NEB. REV. STAT. §76-2,112 (2003) on February 4, 2009, the City of Lexington Planning and Zoning Commission recommended approval of the easement at their regularly scheduled meeting; and

NOW, BE IT RESOLVED by the City of Lexington that the designated conservation easement on the real estate legally described hereinabove and more specifically set forth in the Deed of Conservation Easement attached hereto as Exhibit "A" and incorporated herein by this reference, should be, and hereby is, approved.

Resolution moved by Council Member _____

Seconded by Council Member _____

Vote:

Mayor Fagot: For ____; Against ____; Abstained ____; Not Present ____

Council Member Tomasek: For ____; Against ____; Abstained ____; Not Present ____

Council Member Bennett: For ____; Against ____; Abstained ____; Not Present ____

Council Member Miller: For ____; Against ____; Abstained ____; Not Present ____

Council Member Salem: For ____; Against ____; Abstained ____; Not Present ____

PASSED AND ADOPTED this ____ day of February, 2009.

CITY OF LEXINGTON

John Fagot, Mayor

Pam Berke, City Clerk

1754-39/226976

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

ATTORNEYS AT LAW

ESTABLISHED IN 1929

104 N. WHEELER STREET
P.O. BOX 790
GRAND ISLAND, NE 68802
(308) 382-1930

FAX # (308) 382-5521

www.gilawfirm.com

OFFICE AT SUPERIOR:

145 EAST 4TH STREET
P.O. BOX 186
SUPERIOR, NE 68978
(402) 879-3251

A.J. LUEBS (1903-1996)

D. STEVEN LEININGER
BRUCE I. SMITH
MICHAEL L. JOHNSON
AREND R. BAACK
DANIEL M. PLACZEK
CATHLEEN H. ALLEN
BRANDON S. CONNICK
SONYA K. KOPERSKI
TANYA J. JANULEWICZ
JORDAN W. ADAM

JAMES A. BELTZER
SPECIAL COUNSEL

January 20, 2009

Mr. Joe Peplitsch
City Manager
406 E. 7th Street
Lexington, NE 68850

Re: Deed of Conservation Easement between Central Platte Natural Resource District as
Grantee and Bar M R, Inc. as Grantor

Dear Mr. Peplitsch:

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 January 27, 2009. 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 February 4, 2009. We are
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

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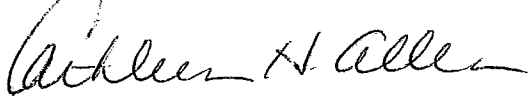
Mr. Joe Peplitsch
January 20, 2009
Page 2

City Council meeting on February 10, 2009. 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 January 27, 2009, 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 February 4, 2009 or the second City Council meeting on February 10, 2009 unless I hear from you to the contrary.

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, appearing to read "Cathleen H. Allen".

CATHLEEN H. ALLEN
CHA/dlh/encl.

1754-39/224747

DEED OF CONSERVATION EASEMENT

This Deed of Conservation Easement ("Conservation Easement") made this _____ day of _____, 2009, by and between BAR M R, INC., a Nebraska Corporation ("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.

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, the 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:

Three (3) tracts of land in Section Thirty (30), Township Nine (9) North, Range Twenty-One (21) West of the 6th P.M., Dawson County, Nebraska, legally described as follows:

TRACT A

A tract of land being part of the West Half (W½) of Section Thirty (30), Township Nine (9) North, Range Twenty-one (21) West of the Sixth Principal Meridian, Dawson County, Nebraska, more particularly described as follows:

Beginning at the Southwest corner of the Northwest Quarter of said Section 30 and assuming the West line of the Southwest Quarter as bearing S 00°04'38" E and all bearings contained herein are relative thereto; thence S 00°04'38" E on said West line a distance of 161.75 feet; thence S 71°43'41" E a distance of 1018.78 feet; thence Northwesterly along a non-tangent curve to the right, having a central angle of 55°35'07", a radius of 1411.27 feet, an arc length of 1369.14 feet and a chord bearing N 47°21'46" W a distance of 1316.07 feet to the West line of said Northwest Quarter; thence S 00°03'46" E on said West line of said Northwest Quarter a distance of 410.25 feet to the place of beginning. Containing 3.03 acres, more or less.

TRACT B

A tract of land being part of the Southwest Quarter (SW¼) of Section Thirty (30), Township Nine (9) North, Range Twenty-one (21) West of the Sixth Principal Meridian, Dawson County, Nebraska, more particularly described as follows: Referring to the Northwest corner of the Southwest Quarter of said Section 30 and assuming the West line of the Southwest Quarter as bearing S 00°04'38" E and all bearings contained herein are relative thereto; thence S 00°04'38" E on said West line a distance of 161.75 feet; thence S 71°43'41" E a distance of 1018.78 feet to the ACTUAL POINT OF BEGINNING; thence S 56°39'22" E a distance of 101.11 feet; thence S 82°55'29" E a distance of 207.05 feet; thence N 67°32'38" E a distance of 88.92 feet; thence Westerly along a non-tangent curve to the right having a central angle of 15°16'18", a radius of 1411.27 feet, an arc length of 376.16 feet, and a chord bearing N 82°47'25" W a distance of 375.05 feet to the point of beginning. Containing 0.22 acres, more or less.

TRACT C

A tract of land being part of the West Half (W½) of Section Thirty (30), Township Nine (9) North, Range Twenty-one (21) West of

the Sixth Principal Meridian, Dawson County, Nebraska, more particularly described as follows: Referring to the Northeast corner of the Northwest Quarter of said Section 30 and assuming the East line of said West half as bearing S 00°02'03" E and all bearings contained herein are relative thereto; thence S 00°02'03" E and on said East line a distance of 2269.40 feet to the ACTUAL POINT OF BEGINNING; thence S 00°02'03" E continuing on said East line a distance of 901.37 feet; thence N 83°15'08" W a distance of 821.33 feet; thence Northeasterly along a non-tangent curve to the left having a central angle of 47°53'18", a radius of 1411.27 feet, an arc length of 1179.55 feet and a chord bearing N 45°21'44" E a distance of 1145.52 feet to the point of beginning. Containing 6.29 acres, more or less.

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 Exhibit "A" 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.

5. Upon any breach of the terms of this Conservation Easement by the Grantor, the Grantee may, after reasonable notice to the Grantor, institute suits to enjoin any breach or enforce any covenant by ex parte, temporary, and/or permanent injunction either prohibitive or mandatory. The Grantee's remedies shall be cumulative and shall be in addition to any other rights and remedies available to the Grantee at law or equity. If the Grantor is found to have breached any of the terms of this Conservation Easement, the Grantor shall reimburse the Grantee for any costs or expenses incurred by the Grantee, including court costs and reasonable

attorney's fees to the extent permitted by applicable law. No failure on the part of the Grantee to enforce any term of this Conservation Easement shall discharge or invalidate such term or any other term hereof or affect the right of the Grantee to enforce the same in the event of a subsequent breach or default.

6. The Grantee, acting by and through their respective employees and agents, have the right to enter the Property at reasonable times for the purpose of inspecting the Property to determine whether the Grantor is complying with the terms of this Conservation Easement.

BAR M R, INC., a Nebraska Corporation

By _____
Russel J. Morgan, President

STATE OF NEBRASKA)
) ss:
COUNTY OF _____)

The foregoing Deed of Conservation Easement was acknowledged before me this _____ day of _____, 2009 by Russel J. Morgan, President of Bar M R, Inc., a Nebraska Corporation, on behalf of said corporation and known to me personally or produced satisfactory evidence of identification to me.

Notary Public

My commission expires: _____

Accepted for the
Central Platte Natural Resources District

By _____
Ronald G. Bishop, General Manager

STATE OF NEBRASKA)
) ss:
COUNTY OF HALL)

The foregoing Deed of Conservation Easement was acknowledged before me this _____ day of _____, 2009 by Ronald G. Bishop, General Manager of Central Platte Natural Resources District, a political subdivision of the State of Nebraska, on behalf of said Natural Resources District, and known to me personally or produced satisfactory evidence of identification to me.

Notary Public

My commission expires: _____

EXHIBIT "A"

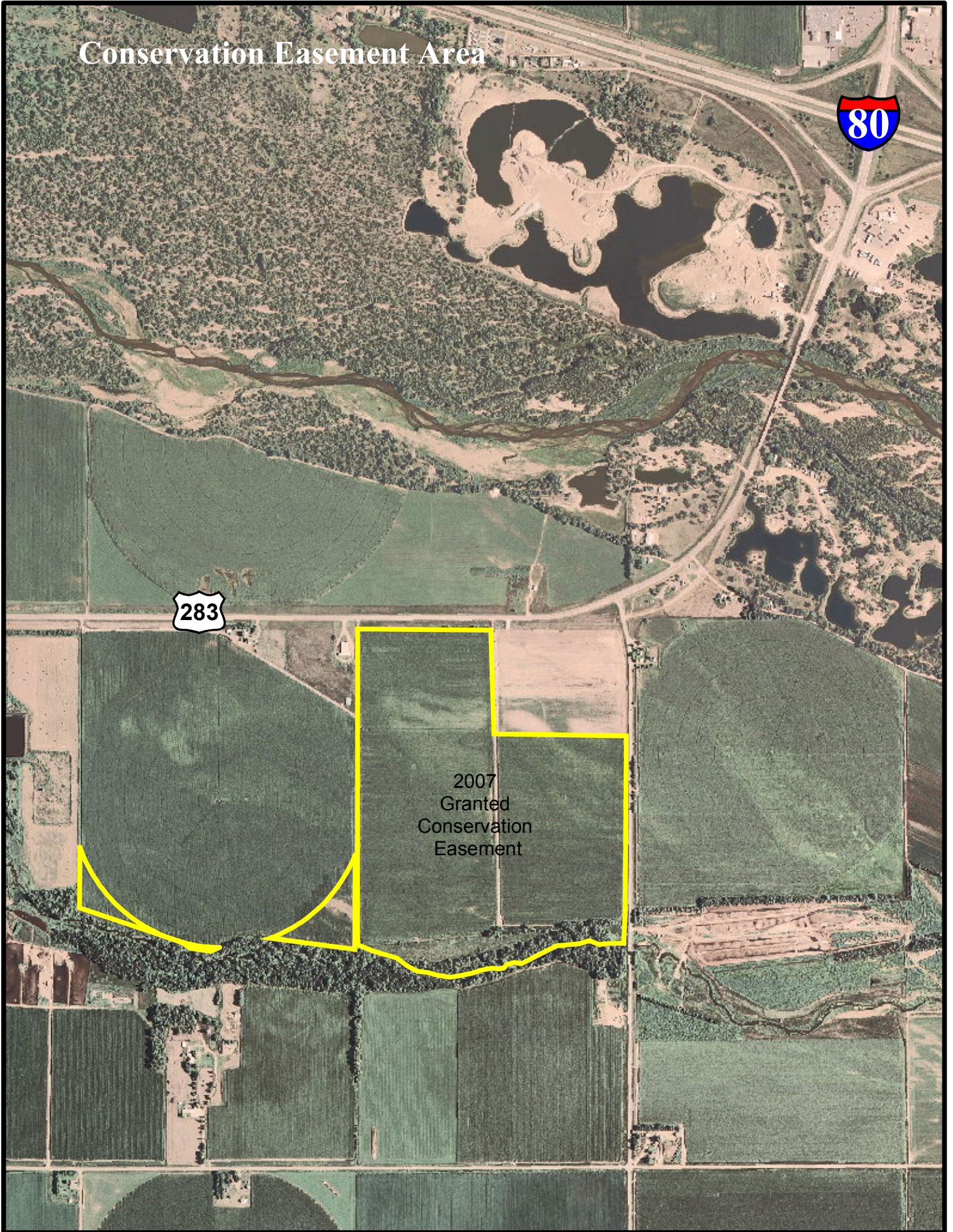
Crops that may be grown on the Property as indicated by Paragraph 2.g.

Dryland corn
Dryland soybeans
Dryland milo
Dryland wheat
Dryland oats
Dryland barley
Dryland brome grass
Forage sorghum
Little bluestem
Sideoats grama
Canada wildrye
Needle-and-thread
Blue grama
Hairy grama
Buffalograss
Sand dropseed
Indiangrass
Prairie junegrass
Porcupine grass
Sand lovegrass
Inland saltgrass
Thickspike wheatgrass
Prairie dropseed
Tall dropseed
Scribners panicum
Prairie sandreed

Conservation Easement Area



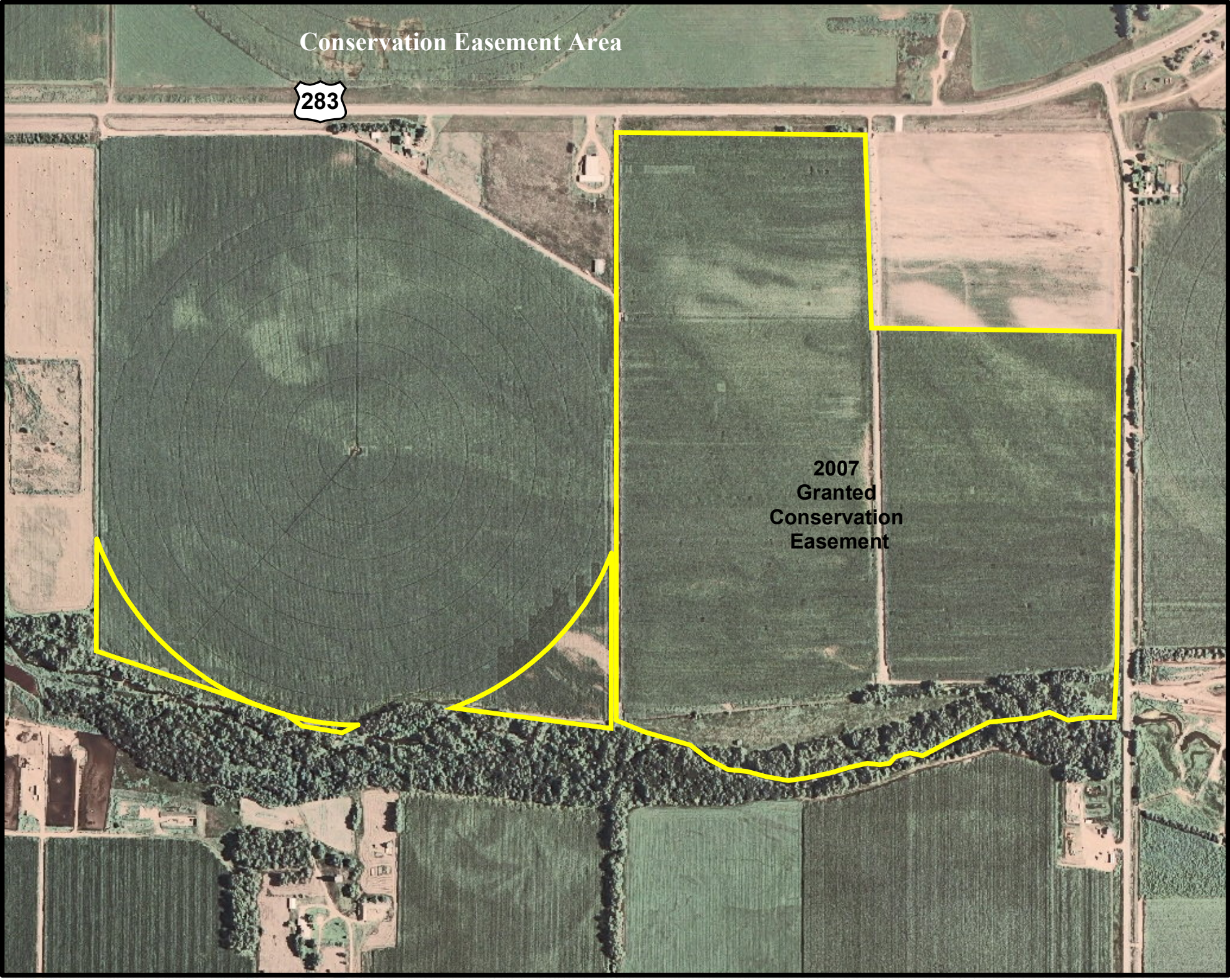
2007
Granted
Conservation
Easement



Conservation Easement Area

283

2007
Granted
Conservation
Easement



Conservation Easement Area

