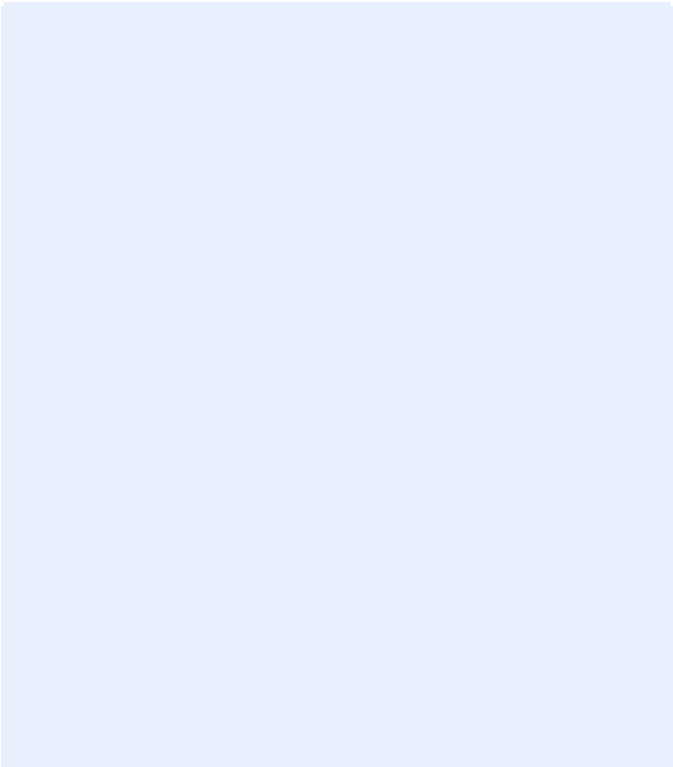




A

Comments and Responses

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Scoping Report

Box Butte Creek Watershed Plan –Environmental
Assessment

February 1, 2021

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Attachment B. Agency Scoping
Attachment C. Tribal Scoping

1 Public Scoping

1.1 Outreach

The Upper Niobrara White Natural Resources District (UNWNRD) hosted an online public scoping meeting in place of hosting an in-person public meeting due to COVID-19 public gathering guidelines and recommendations. The self-guided online meeting was posted on the UNWNRD website at, <https://unwnrd.org/events/>. A press release was distributed on Monday, December 14, 2020 to notify area media outlets of the online meeting. The UNWNRD website also posted information regarding the online public scoping meeting. If individuals did not have internet access, outreach provided contact information to reach out and obtain hardcopy alternatives for the meeting.

See Attachment A for all outreach information.

Additional data from the online public scoping meeting, as well as copies of outreach and submitted comments, are attached to this memo.

1.2 Public Comments

The self-guided online meeting was available for review and comment for 30 days from Tuesday, December 15, 2020 through Thursday, January 14, 2021. During the 30 days, the online meeting had over 33 visitors (website analytics only available the last 15 days of the meeting) and received two comments from the general comment form. See Table 1-1 for a complete list of comments.

Table 1-1. Comment Submissions throughout the Comment Period

Timestamp	Comment Source	Comment
01/05/2021 14:07	Online meeting comment form	Have you experienced flooding and/or drainage problems within the Study Area? If yes, what types of problems have you experienced (i.e., personal property, agricultural land, irrigation canals, roads, etc.)? We have lost 2 dams and alot of debris come down the creek Also the last flood took out about 100 yards of our road,its about 10 miles to go around usually it takes out 7 fences while flooding How does flooding affect you? Road closures? Loss of utilities (electric/water)? replace fencing and amajor road Have you experienced groundwater level declines within the Study Area? If so, where, and how has this affected you? we have lost 1 solar well to the decline How does groundwater level decline affect you? loss of ponds and lakes

Timestamp	Comment Source	Comment
		Are you aware of any special circumstances that we should be aware of when developing a list of initial solutions to address the flooding problems in the Study Area? No Any other comments or questions for the project team? this is a good start to helping the situation Would you like someone from the project team to follow up with you? Yes, please follow up with me! Contact Information First and Last Name Porkchop Mracek Address 4847 310th trail City, State, Zip Alliance Ne. 69301 Email Address chops@bbcwb.net Phone Number 308 762 6453 Contact Preference Phone, Mail, Email
02/16/2021	Direct Mail – comment form	Have you experienced groundwater level declines within the Study Area? If so, where, and how has this affected you? Yes, in Box Butte County How does groundwater level decline affect you? Streamflow for irrigation in late summer stops Have you experienced flooding and/or drainage problems within the Study Area? If yes, what types of problems have you experienced (i.e., personal property, agricultural land, irrigation canals, roads, etc.)? Yes. Major flooding. Caused loss of fence and access road to properties. Neighbors have similar problems. How does flooding affect you? Road closures? Loss of utilities (electric/water)? The road across the creek is the only way to get to property. Road has had to be rebuilt 4 times in last 12 years. In 2019, the flooded creek was 200 yards for 10 days. Neighbors now use our cross as his bridge was destroyed. Are you aware of any special circumstances that we should be aware of when developing a list of initial solutions to address the flooding problems in the Study Area? Believes the town of Hemingford has experienced flooding on the west side of town. It is going to take several structures to prevent flooding and recharge water in Box Butte County. Any other comments or questions for the project team? This could be a great project for our area.

Timestamp	Comment Source	Comment
		Would you like someone from the project team to follow up with you? Yes, Please follow up with me. Contact Information Steve Sandberg 4473 470 LN Hay Springs, NE 68347 308-430-0346 Contact Preference Email

2 Agency Scoping

Sixteen (16) federal, state, county, and local agencies were sent an agency scoping packet on November 13, 2020. The early coordination packet and distribution list can be found in Attachment B. A response was requested within 30 days of receipt of the letter. The agency scoping packet included an introduction and background, a description of the project and alternatives, anticipated impacts, a description of the US Department of Agriculture – Natural Resources Conservation Service’s (USDA – NRCS) procedures, and a schedule. A project area figure was provided. Five agencies provided comment and the comments are summarized in Table 2-1. Two agencies also provided comments via the on-line meeting form and are included in Table 2-1.

Table 2-1. Agency Scoping Comments

Date	Agency	Comment
11/16/2020	Niobrara National Scenic River	Please keep us informed of developments as we may need to provide a formal review of the selected alternative under Section 7 of the National Wild and Scenic Rivers Act.
12/1/2020	US Environmental Protection Agency	If there are jurisdictional waters and/or wetlands of the United States impacted by any proposed actions, early 404 coordination with the Program is recommended. Notification of 404 Pre-application calls or site visits is encouraged. It is highly recommended to use the 404 Pre-application process to go over any details, comments and concerns prior to the permit application being submitted. It appears the structural alternatives have a high potential to require a 404 permit. Avoidance and minimization of impacts to wetlands and streams is recommended before determining the amount of compensatory mitigation that is required. During the avoidance and minimization process, follow the 404(b)(1) Guidelines. If mitigation is needed, the 2008 Mitigation Rule gives preference to mitigation being provided by an available CWA 404 mitigation bank, then an in-lieu-fee program before permittee responsible mitigation. The mitigation should follow the Corps’ mitigation guidelines for Nebraska, and if permittee responsible mitigation is approved by the Corps, to occur in the same HUC 8 or smaller watershed as the location of the project impacts.

12/30/2020 08:35	NRCS (Online meeting comment form)	Have you experienced flooding and/or drainage problems within the Study Area? If yes, what types of problems have you experienced (i.e., personal property, agricultural land, irrigation canals, roads, etc.)? NO How does flooding affect you? Road closures? Loss of utilities (electric/water)? Workload- ECP participants; EWP funding; Have you experienced groundwater level declines within the Study Area? If so, where, and how has this affected you? NO How does groundwater level decline affect you? Request for technical assistance & financial assistance from programs such as Source Water Protection program Are you aware of any special circumstances that we should be aware of when developing a list of initial solutions to address the flooding problems in the Study Area? [Respondent skipped this question] Any other comments or questions for the project team? • NRCS will initiate efforts to utilize special initiatives via EQIP and other partner programs such as CRP to promote / support the • adoption of BMP's – knowing more non-structural practices would likely be more adoptable by producers yet knowing the benefits • would help in addressing the objectives outlined in the project(waterways, buffer strips, establishment of permanent cover, retiring • irrigated acres, filter strips) • NRCS will reach out to county personnel asking them to identify road structures and other road stabilization issues outlined in • their 5 or 10 year plans that would possibly align with the project area and objectives and special initiatives (see item four below) • Need for further clarification of project goals and objectives, and/or metrics that can lend themselves to a data driven analysis of • priority concerns and were best to focus efforts and funds- • Purpose & Need: In order to better discern the extent of the issues and identify appropriate actions more specific qualifications • would be useful. i.e.: number of landowners and producers effected, expand on extend of crop and private property damage, locations • of stream bank degradation, number of county roads impacted, identify water quality concerns. • Will other conservation practices be included in analysis addressing resource concerns such as buffer strips, access control, • residue management, tillage management and converting to permanent cover be needed or used to achieve the goals • Will there be cooperation with local and county partners to identify concerns and provide input and how will that be accomplished Would you like someone from the project team to follow up with you? [Respondent skipped this question] Contact Information First and Last Name Robin Foulk Address 1006 West 6th City, State, Zip Chadron
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Date	Agency	Comment
		Email Address robin.foult@usda.gov Phone Number 308-432-4616
12/11/2020	Nebraska Department of Natural Resources	The Nebraska Department of Natural Resources has viewed the provided public scoping documents and determined that the proposed project may have effects on our agency's programs. Areas of Departmental jurisdiction and expertise include but are not limited to the following: ☐ surface water rights ☐ groundwater well registrations ☐ dam safety ☐ floodplain management ☐ stream gaging ☐ basin-wide integrated water management plans If you have any questions or require coordination regarding this project, please contact Shuhai Zheng, the Department Division Head for Floodplain Management, Dam Safety and Technical Services at shuhaizheng@nebraska.gov or (402) 471-3936.
12/11/2020	Bureau of Reclamation	Reclamation does not administer any federal properties within the Box Butte Watershed, however there are some properties downstream of the Niobrara such as Merritt Reservoir. The Nebraska Kansas Area Office (NKAO) would like to receive information on the hydrological impacts the Watershed Plan will have on users downstream of Box Butte Creek.

Date	Agency	Comment
12/18/2020	Nebraska Game and Parks	General comments on the Plan-EA - Non-structural measures are the preferred methods NGPC would like to see used in this plan. The implementation of natural flood risk reduction solutions such as wetlands, stream buffers, cover crops, and terraces would provide water storage and improve water quality. - NGPC supports maintaining the natural hydrology of the system. The construction of reservoirs, basins, levees, dams and other storage structures change the natural function of streams. Creation of these structures need to provide considerable benefit if we are to support them over non-structural alternatives. - If the intent to create reservoirs is for recreational purposes, we would recommend that they be designed that the watershed to reservoir surface area ration is low. When a reservoir is too small for a watershed it will be subject to water quality issues, harmful algae blooms, and will not support a desired fishery. Endangered and Threatened Species The proposed study area falls within the range of the state and federally listed endangered blowout penstemon (<i>Penstemon haydenii</i>), whooping crane (<i>Grus americana</i>); the state and federally listed threatened American burying beetle (<i>Nicrophorus americanus</i>), northern long-eared bat (<i>Myotis septentrionalis</i>), the state-listed endangered blacknose shiner (<i>Notropis heterolepis</i>) and swift fox (<i>Vulpes velox</i>), and the state-listed threatened finescale dace (<i>Phoxinus neogaeus</i>), northern finescale dace (<i>Phoxinus neogaeus</i>), and northern redbelly dace (<i>Phoxinus eos</i>). Surveys, construction timing restrictions, and avoidance, minimization and mitigation measures may be needed depending on the Project alternative that is selected. Additional information regarding these species and applicable conservation measures is available upon request. Bald and Golden Eagle Protection Act Bald eagles use mature, forested riparian areas near rivers, streams, lakes, and wetlands and occur along all the major river systems in Nebraska. The bald eagle southward migration begins as early as October and the wintering period extends from December-March. Additionally, many bald and golden eagles nest in Nebraska from mid-February through mid-July. Disturbances within 0.5-miles of an active nest or within line-of-sight of the nest could cause adult eagles to discontinue nest building or to abandon eggs. Migratory Bird Treaty Act Provisions of MBTA are applicable year-round, however, most migratory bird nesting activity in Nebraska occurs during the period of April 1 to July 15. For more information about the MBTA and avoiding impacts to migratory birds, or to report active bird nests that cannot be avoided by planned construction activities, please contact Nebraska Field Office, U.S. Fish and Wildlife Service, 9325 South Alda Road, Wood River, NE 68883. Biologically Unique Landscape (BUL) The only dam on this reach of the Niobrara River is the one that forms Box Butte Reservoir in Dawes County, otherwise flows on the river are fairly natural. The upper Niobrara River supports a unique assemblage of cold-water fish including the pearl dace and the state-listed blacknose shiner and finescale dace. Wet meadows in the Niobrara River valley in western Sioux County support the state's only known population of Ute lady's-tresses orchid. Protected areas on the upper Niobrara include Agate Fossil Beds National Monument, The Nature Conservancy's Cherry Ranch and Prairie Plains Resource Institute's Guadalcanal Memorial Prairie.

Date	Agency	Comment
01/11/2021 16:20	Online meeting comment form	Have you experienced flooding and/or drainage problems within the Study Area? If yes, what types of problems have you experienced (i.e., personal property, agricultural land, irrigation canals, roads, etc.)? [Respondent skipped this question] How does flooding affect you? Road closures? Loss of utilities (electric/water)? [Respondent skipped this question] Have you experienced groundwater level declines within the Study Area? If so, where, and how has this affected you? [Respondent skipped this question] How does groundwater level decline affect you? [Respondent skipped this question] Are you aware of any special circumstances that we should be aware of when developing a list of initial solutions to address the flooding problems in the Study Area? [Respondent skipped this question] Any other comments or questions for the project team? NeDNR will be starting a mapping project in Box Butte and Sheridan Counties sometime this spring. Would you like someone from the project team to follow up with you? No, thank you Contact Information First and Last Name Shuhai Zheng Address 301 Centennial Mall South City, State, Zip Lincoln Email Address shuhai.zheng@nebraska.gov Phone Number 402-471-3936 Contact Preference Email

USDA – NRCS is conducting the early National Environmental Policy Act (NEPA) coordination and initiation of National Historic Preservation Act (NHPA) Section 106 consultation. A letter to the Deputy State Historic Preservation Officer was sent on November 13, 2020.

3 Tribal Scoping

USDA – NRCS sent early NEPA coordination and initiation of NHPA Section 106 consultation letter to 11 tribes on November 11, 2020. An example of the tribal coordination letter and distribution list can be found in Attachment C. One response has been received to date. The Northern Cheyenne sent an email expressing interest in the project and requested updates.



Attachment A. Public Scoping

Molacek, Julie

From: Pillard, Matt
Sent: Tuesday, December 15, 2020 7:52 AM
To: Molacek, Julie
Cc: Hines, Brooke; Engel, John
Subject: FW: *ATTENTION* PRESS RELEASE - Box Butte Creek Watershed Plan
Attachments: Box Butte Creek Watershed Press Release.docx

For our documentation of scoping efforts.

Thanks.

Matt Pillard, AICP
D 402.399.1186 M 402.660.7998

hdrinc.com/follow-us

From: armstrong@unwnrd.org <armstrong@unwnrd.org>
Sent: Monday, December 14, 2020 5:23 PM
To: 'Aaron Willey' <aaron.willey@eagleradio.net>; davecollins.broadcasting@gmail.com; news@chadrad.com; Hemingford Ledger <news@ledgeronline.com>; 'Sheri Sponder' <Sheri.Sponder@lee.net>; 'Chabella Guzman' <cguzman@kneb.com>; 'Panhandle News' <panhandlepostnews@gmail.com>; 'John Axtell' <john@chadrad.com>; 'Mike Kesselring' <kesselring@chadrad.com>; 'Olivia Brown' <oliviabrowneagle@gmail.com>; Alliance Times Herald <athnewsdirector@gmail.com>; 'Journal Star Legals' <scjslegals@gmail.com>; 'The Twister' <twister@twisterradio.com>; Scottsbluff Star Herald <news@starherald.com>; Megan Grimes <mgrimes@nrdnet.org>; 'cindy peteres' <hiphop@haysprings.net>
Cc: goes@unwnrd.org; obrien@unwnrd.org; Lynn Webster <webster@unwnrd.org>; Pillard, Matt <Matt.Pillard@hdrinc.com>; Foulk, Robin - Chadron, NE <Robin.Foulk@ne.usda.gov>
Subject: *ATTENTION* PRESS RELEASE - Box Butte Creek Watershed Plan

CAUTION: [EXTERNAL] This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

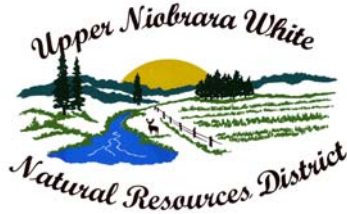
Please run the attached press release regarding the Box Butte Creek Watershed Plan in your next publication or on your website.

Thank you and have a great day!

Kylen Armstrong

Conservation Programs Coordinator
Upper Niobrara White NRD
430 East Second
Chadron NE 69337
308.432.6190 Phone
308.432.6187 Fax
armstrong@unwnrd.org





Serving Box Butte, Dawes, Sheridan and Sioux Counties

430 East Second Street * Chadron, Nebraska 69337 * Phone (308) 432-6190
Fax (308) 432-6187 * www.unwnrd.org

Press Release

FOR IMMEDIATE RELEASE
Tuesday, December 15, 2020

Notice of Public Scoping Meeting for Box Butte Creek Watershed Plan and Environment Assessment

Media Contact: Patrick O'Brien, 308-432-6190, obrien@unwnrd.org

The Upper Niobrara White Natural Resources District (UNWNRD) has entered into an agreement to develop a watershed plan and environmental assessment document (Watershed Plan-EA) for the Box Butte Creek Watershed, under the Watershed and Flood Prevention Operations program administered by the Natural Resources Conservation Service (NRCS). As part of this process, UNWNRD is hosting an online public scoping meeting to inform the public of the project and to gather input on the most relevant issues. **The online public scoping meeting will be available from Tuesday, December 15, through Thursday, January 14, 2021 on the UNWNRD website:**

www.unwnrd.org

The Box Butte Creek Watershed Plan-EA study area is approximately 162,000 acres in northeast Box Butte County and west-central Sheridan County. The land is primarily agricultural and consists of grass/pasture and row crops. The Watershed Plan-EA will also partially cover the village of Hemingford, with a population of approximately 800.

Flooding in the Box Butte Creek Watershed has becoming a growing issue in recent years. Four major flooding events with watershed wide impacts have occurred in the last ten year, including both 2018 and 2019. Flooding of the Box Butte Creek during significant precipitation events impacts homesteads, fences, and agricultural land, and causes crop damages, excessive soil erosion, loss of agricultural land, degradation of water quality, and damage to both private property and public roads.

In addition, over the past 25 years, significant groundwater declines have occurred in the Box Butte Creek watershed. These declines have resulted in lost agricultural production, limits on existing and new groundwater uses, domestic and agricultural well modifications, and base stream flow reductions that have resulted in fish and wildlife impacts and degraded surface water quality.

The Watershed Plan-EA will help identify structural and non-structural alternatives to provide flood damage reduction and/or groundwater recharge while considering opportunities for fish and wildlife habitat and recreation.

This project is being evaluated in accordance with the National Environmental Policy Act (NEPA). The NEPA process includes a written record of the analysis of potential impacts on the environment resulting from the proposed project. Impacts on both the natural and socioeconomic environment are evaluated.

If you or someone you know does not have internet access, information may be obtained through:

Patrick O'Brian, General Manager | Upper Niobrara White Natural Resources District
430 East Second Street, Chadron, NE 69337
308-432-6190
obrien@unwnrd.org

Or

Matt Pillard, AICP | HDR
1917 S. 67th St., Omaha, NE 68106
402-399-1186
matt.pillard@hdrinc.com

Comments on the Watershed Plan-EA will be accepted through January 14, 2021 and can be submitted through the online public scoping meeting or the contacts above.

Audience Overview

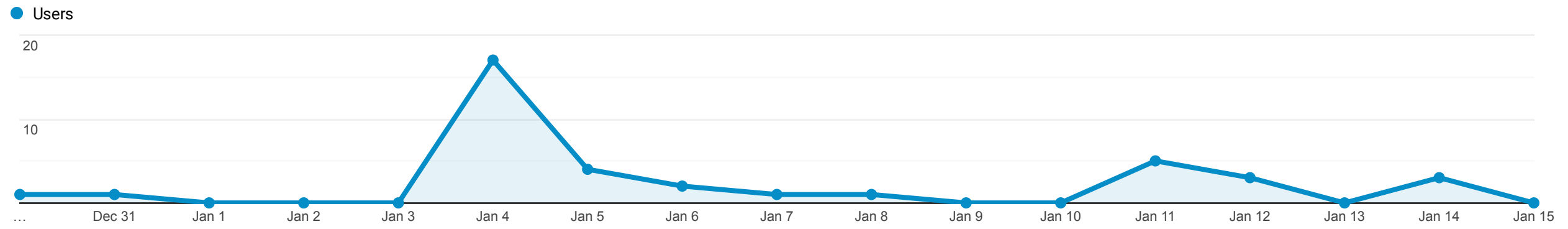


All Users

100.00% Users

Dec 30, 2020 - Jan 15, 2021

Overview



Users

33



New Users

33



Sessions

39



Number of Sessions per User

1.18



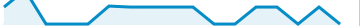
Pageviews

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Pages / Session

1.05



Avg. Session Duration

00:00:02



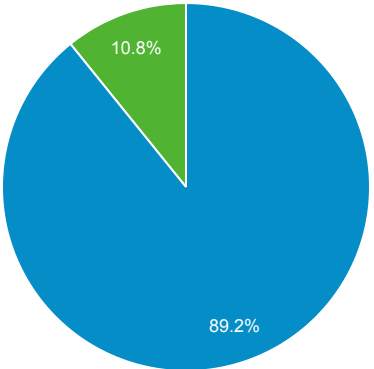
Bounce Rate

94.87%



New Visitor

Returning Visitor



Language		Users	% Users
1.	en-us	28	84.85%
2.	fr-fr	2	6.06%
3.	en-gb	1	3.03%
4.	fi-fi	1	3.03%
5.	nl-nl	1	3.03%

Acquisition Overview

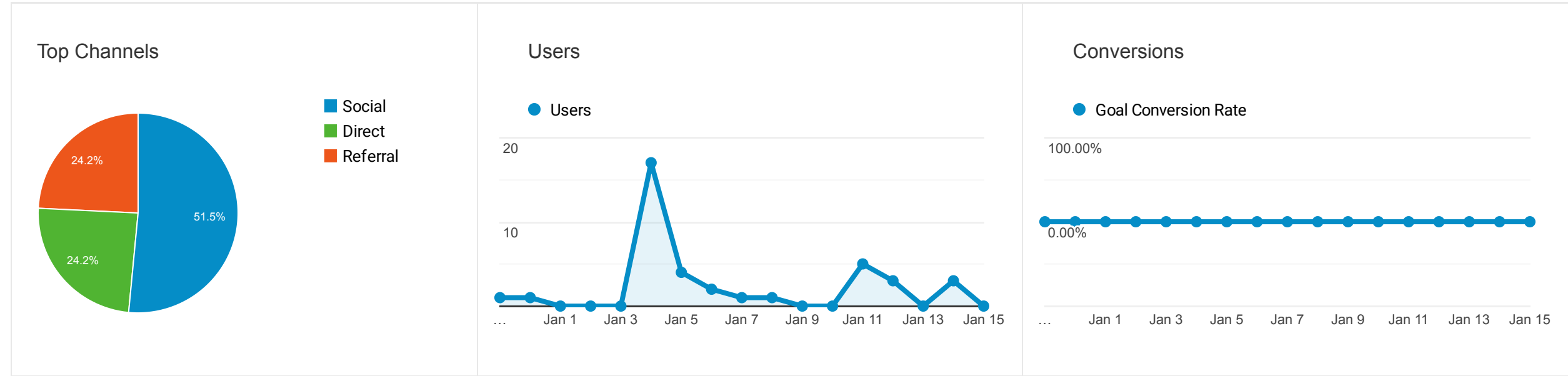
 All Users
100.00% Users

Dec 30, 2020 - Jan 15, 2021

Primary Dimension:
Top Channels

Conversion:
All Goals

Edit Channel Grouping



	Acquisition			Behavior			Conversions
	Users	New Users	Sessions	Bounce Rate	Pages / Session	Avg. Session Duration	
	33	33	39	94.87%	1.05	00:00:02	 Set up a goal. To see outcome metrics, define one or more goals. GET STARTED
1 Social	17			100.00%			
2 Direct	8			90.00%			
3 Referral	8			91.67%			

To see all 3 Channels click [here](#).

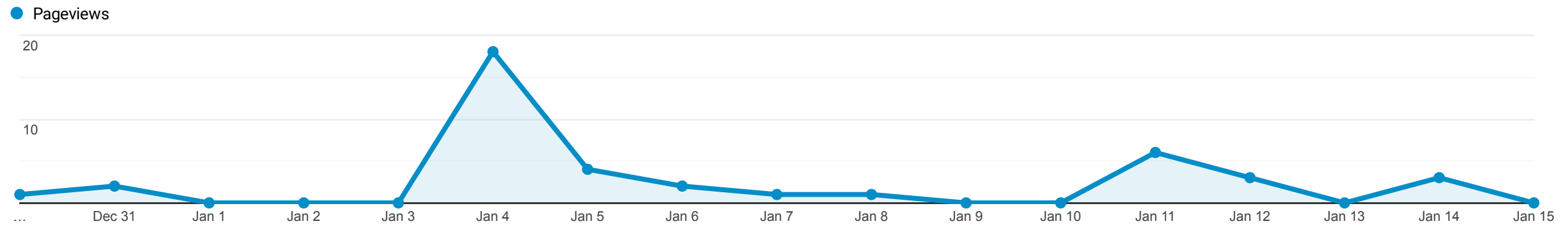
Overview

All Users

100.00% Pageviews

Dec 30, 2020 - Jan 15, 2021

Overview



Pageviews

41

Unique Pageviews

39

Avg. Time on Page

00:00:38

Bounce Rate

94.87%

% Exit

95.12%

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2.	/page/SqBDUeVeXjDEB/?fbclid=IwAR0A9yfquFSEHKEUwvM3EXmuy_F4yigq9dwfhagYA37VQWI5FIYWnSwV49g	1	2.44%
3.	/page/SqBDUeVeXjDEB/?fbclid=IwAR0r_MMcGjlx3YdXCn9PSt65GPonBa1zutSZZyZrneDU9DIX31jxkU6xsGg	1	2.44%
4.	/page/SqBDUeVeXjDEB/?fbclid=IwAR1ccmKncvZnbF0-wcR0c2u6eJK3YjZJBcS-NjYOfGRobA2cen77VZiODww	1	2.44%
5.	/page/SqBDUeVeXjDEB/?fbclid=IwAR1IEsnrJF_pp8jjutBvOXhlqeemaN89Nr6O5gZbHgSv1FpfJ0m2cAO2oJw	1	2.44%
6.	/page/SqBDUeVeXjDEB/?fbclid=IwAR1QTfcUsLoU4fXC943_FeS8IdJaXxAWgnFI00ozLDitYZttvO5AdNmLdPw	1	2.44%
7.	/page/SqBDUeVeXjDEB/?fbclid=IwAR1ywFZMiD-6umS5eyvyvsGyY1nrq701jKd0rr1XUtcRb6_IW8EhTrc0YZw	1	2.44%
8.	/page/SqBDUeVeXjDEB/?fbclid=IwAR2Uf5zZjpQir2_hTeToZ7hprO0iiGwExYW0byfIpSgdqggB0m4tVSMr4_8	1	2.44%
9.	/page/SqBDUeVeXjDEB/?fbclid=IwAR3glXaGf3Gur7gHxDHG_R8IPOTm39n1ufoAjPnXjtOZ6AsP-CGk9DLlplA	1	2.44%
10.	/page/SqBDUeVeXjDEB/?fbclid=IwAR3iVLNi_ZzUP4khlHsI9VAsoflszUQa54yi2Z05x4KHqk_WhnudDRyifT0	1	2.44%

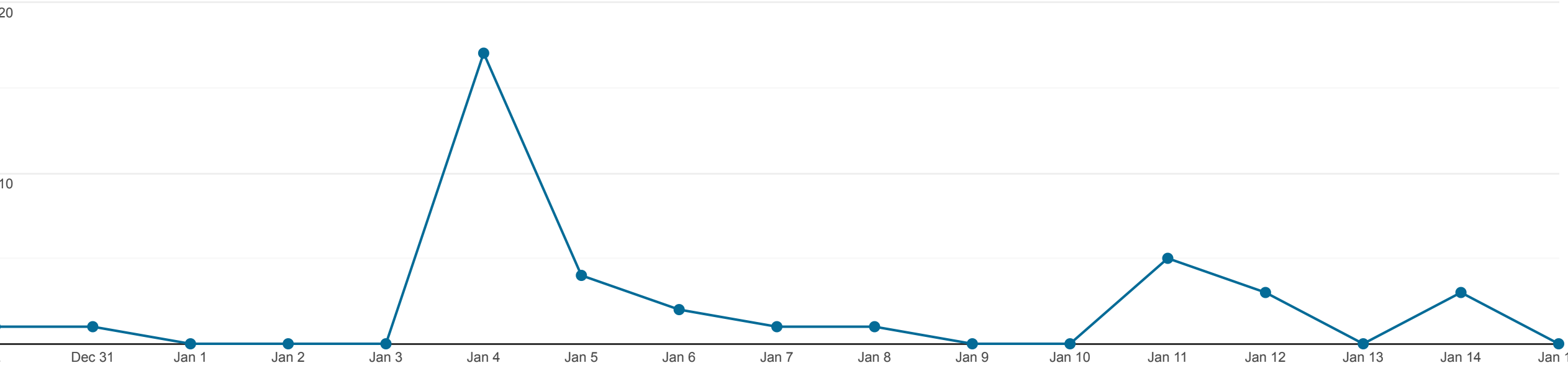
Active Users

 All Users
100.00% Users

Dec 30, 2020 - Jan 15, 2021

Active Users

- ☒ 1 Day Active Users
- ☐ 7 Day Active Users
- ☐ 14 Day Active Users
- ☐ 28 Day Active Users



1 Day Active Users	7 Day Active Users	14 Day Active Users	28 Day Active Users
0	10	31	33
% of Total: 0.00% (0)	% of Total: 100.00% (10)	% of Total: 100.00% (31)	% of Total: 100.00% (33)

Engagement

 All Users
100.00% Users (100.00% Sessions)

Dec 30, 2020 - Jan 15, 2021

Distribution

Session Duration Bucket

Sessions

39

% of Total: 100.00% (39)

Pageviews

41

% of Total: 100.00% (41)

Session Duration Bucket ?	Sessions ?	Pageviews ?
0-10 seconds	38	39
61-180 seconds	1	2

#2

COMPLETE

Collector: Web Link 1 (Web Link)
Started: Tuesday, January 05, 2021 1:57:40 PM
Last Modified: Tuesday, January 05, 2021 2:07:07 PM
Time Spent: 00:09:26
IP Address: 184.21.22.196

Page 1

Q1

Contact Information(Provide if desired)

First and Last Name	Porkchop Mracek
Address	4847 310th trail
City, State, Zip	Alliance Ne. 69301
Email Address	chops@bbcwb.net
Phone Number	308 762 6453

Q2

Contact Preference

Phone,
Mail,
Email

Q3

Have you experienced flooding and/or drainage problems within the Study Area? If yes, what types of problems have you experienced (i.e., personal property, agricultural land, irrigation canals, roads etc.)?

We have lost 2 dams and alot of debris come down the creek Also the last flood took out about 100 yards of our road,its about 10 miles to go around usually it takes out 7 fences while flooding

Q4

How does flooding affect you? Road closures? Loss of utilities (electric/water)?

replace fencing and amajor road

Q5

Have you experienced groundwater level declines within the Study Area? If so, where, and how has this affected you?

we have lost 1 solar well to the decline

Q6

How does groundwater level decline affect you?

loss of ponds and lakes

Q7

Are you aware of any special circumstances that we should be aware of when developing a list of initial solutions to address the flooding problems in the Study Area?

no

Q8

Any other comments or questions for the project team?

this is a good start to helping the situation

Q9

Yes, please follow up with me!

Would you like someone from the project team to follow up with you?



Box Butte Creek Watershed Plan-Environmental Assessment Online Scoping Meeting Comment Form

Contact Information

(Provide if desired)

First and Last Name: Steve SANDBERG
Address: 4473 470 LN
City, State, Zip: Hay Springs NE 69347
Email Address:
Phone Number: 308 430 0346

Contact Preference:

☐ Phone ☐ Mail ☒ Email ☐ Do Not Contact

Have you experienced groundwater level declines within the Study Area? If so, where, and how has this affected you?

Yes in Box Butte County

How does groundwater level decline affect you?

Stream flow for my irrigation in late summer stops

Have you experienced flooding and/or drainage problems within the Study Area? If

yes, what types of problems have you experienced (i.e., personal property, agricultural land, irrigation canals, roads etc.)?

Yes major flooding. Several years I have had to replace fence and rebuild the road across my meadow to reach property on south side of stream. My neighbors have experienced similar problems

How does flooding affect you? Road closures? Loss of utilities (electric/water)?

The road across the creek is the only way we have to get to pastures and a center pivot south of the creek. We had to rebuild 4 times in the last 12 years. In 2019 the flooded creek was 200 yards wide for 10 days. One neighbor now uses our crossing as his bridge and is completely destroyed.



Are you aware of any special circumstances that we should be aware of when developing a list of initial solutions to address the flooding problems in the Study Area?

I think even the town of Hemingford has experiences flooding on the west side of town. It is going to take several structures to prevent flooding and recharge water in Box Butte county

Any other comments or questions for the project team?

This could be a great project for our area.

Would you like someone from the project team to follow up with you?

☒ Yes, please follow up with me!

☐ No, thank you



Attachment B. Agency Scoping

Box Butte Creek Watershed Plan-EA
Agency Early Coordination Contacts

FirstName	LastName	JobTitle	Agency	Email	Address	City	State	Zip	Phone
Drue	DeBerry	Field Supervisor	US Fish and Wildlife Service	drue_deberry@fws.gov	9325 South Alda Road	Wood River	NE	68883	(308) 382-6468 ext: 204
Eliodora	Chamberlain	Section 404 Coordinator	US Environmental Protection Agency, Region 7	Chamberlain.Eliodora@epa.gov	11201 Renner Blvd	Lenexa	KS	66219	913-551-7945
John	Moeschen	NE State Program Manager	US Army Corps of Engineers, Nebraska Regulatory Office	John.L.Moeschen@usace.army.mil	8901 South 154th Street	Omaha	NE	68138-3636	402-896-0896
Paul	Taylor	Regional Administrator	Federal Emergency Management Administration (FEMA), Region VII	paul.taylor@fema.dhs.gov	2323 Grand Boulevard, Suite 900	Kansas City	MO	64108-2670	816-283-7061
Steve	Thede	Superintendent	National Park Service, Niobrara National Scenic River	steve_thede@nps.gov	508 E 2nd Street	Yankton	SD	57078	605.665.0209
Joshua	Neuffer		Bureau of Reclamation	jneuffer@usbr.gov		McCook	NE		308.345.1057
Jim	Macy	Director	Nebraska Department of Environment and Energy	jim.macy@nebraska.gov	1200 N Street, Suite 400, PO Box 98922	Lincoln	NE	68509-8922	402-471-2186
Tom	Riley	Director	Nebraska Department of Natural Resources	tom.riley@nebraska.gov	301 Centennial Mall South, PO Box 94676	Lincoln	NE	68509-4676	402.471.4266
Melissa	Marinovich	G&P Division Assistant Manager	Nebraska Game & Parks Commission	melissa.marinovich@nebraska.gov	2200 N 33rd Street	Lincoln	NE	68503	402-471-5422
Dannette	Smith	CEO	Nebraska Department of Health and Human Services	dannette.smith@nebraska.gov	301 Centennial Mall South	Lincoln	NE	68509	402-471-9433
Doug	Hoebet	District 5 Engineer	Nebraska Department of Transportation	doug.hoebet@nebraska.gov	140375 Rundell Road, PO Box 220	Gering	NE	69341-0220	308-436-6587
Sindy	Coburn	County Clerk	Sheridan County	clerk@sheridan.nacone.org	Courthouse Annex 111 North Main Street	Rushville	NE	69360	308-327-5657
Judy	Messersmith	County Clerk	Box Butte County	boxbutteclerk@yahoo.com	515 Box Butte Avenue #203 PO Box 678	Alliance	NE	69301	308.762.6565
Cheryl	Feist	County Clerk	Dawes County	dawescorecorder@gmail.com	451 Main Street	Chadron	NE	69337	308.432.0100
Brian	Depew	Executive Director	Center for Rural Affairs	briand@cfra.org	145 Main St, PO Box 136	Lyons	NE	68038	402-687-2100 x1015
Tracy	Scherz	Secretary/Treasurer	Mirage Flats Irrigation District	mirageir@haysprings.net	HC 56, Box 150	Hay Springs	NE	69347	308.232.4553



Box Butte Creek Watershed Plan and Environmental Assessment Box Butte, Sheridan, and Dawes Counties, Nebraska Early Coordination Information

INTRODUCTION AND BACKGROUND

The Upper Niobrara White Natural Resources District (the District), in coordination with the US Department of Agriculture – Natural Resources Conservation Service (USDA - NRCS), is initiating the preparation of a Watershed Plan and Environmental Assessment (Plan-EA) for the Box Butte Creek Watershed in Box Butte, Sheridan, and Dawes Counties (study area). See attached figure for the project area. The project is needed for two separate but related issues within the Box Butte Creek Watershed: the current risk of flood events and the related flood damages occurring as a result of flood events and groundwater declines throughout the watershed.

Box Butte Creek is typically an ephemeral creek with reaches of intermittent and perennial baseflows. However, with increasing frequency, four major flooding events with watershed wide impacts in the last 10 years, including both 2018 and 2019, and several other events with isolated damages, and intense rainfall events have resulted in substantial flooding along Box Butte Creek and its tributaries. These flooding events have caused crop damages, loss of land productivity, excessive bank and top soil erosion, loss of agricultural land, damage to private property and farmsteads, degradation to water quality, and extensive damage to local and county roads that are critical to producers and the local and regional economy.

In addition, over the past 25 years, significant groundwater declines have occurred in the Box Butte Creek watershed. These declines have resulted in lost agricultural production, limits on existing and new groundwater uses, domestic and agricultural well modifications, and base stream flow reductions that have resulted in fish and wildlife impacts and degraded surface water quality.

The purpose of the following information is to provide an overview of the project to allow your agency to provide comments and information from your agency regarding the proposed project as it relates to your agency's area of expertise. The comments and information supplied will be used to determine if the proposed project may have impacts that warrant further consideration and are consistent with future long-term development plans within the watershed. Your comments will be incorporated into the environmental planning process and Environmental Assessment document as appropriate.

PROJECT DESCRIPTION

The headwaters of Box Butte Creek originate in north-central Box Butte County and the creek proceeds easterly to the confluence with the Niobrara River in west-central Sheridan County. The Box Butte Watershed Plan-EA study area is approximately 162,000 acres (see attached figure). The watershed is agricultural in nature with pasture/grassland and dryland/irrigated cropland. The Watershed Plan-EA will also partially cover the village of Hemingford, with a population of approximately 800.

The overall goal of this project is to provide flood damage relief and promote groundwater recharge within the study area. The following general alternative concepts have been identified for initial consideration. As part of the Watershed Plan-EA development process, alternatives will be refined based on further study, public feedback and additional exploration of problems and opportunities.



No Action Alternative

A no action alternative means that no improvements would be implemented. The no action alternative is being evaluated as a baseline comparison for other alternatives.

Structural Measures Alternative

This alternative may include one of or a combination of the following:

- Box Butte Creek on-channel reservoirs/ recharge basins
 - Large reservoirs/recharge basins
 - Small reservoirs/recharge basins
- Off-channel (tributaries to Box Butte Creek) storage
- Distributed storage basins throughout watershed

Non-Structural Measures Alternative

This alternative consists of ways to address issues in the watershed that do not involve new structures. Non-structural measures could include watershed best management practices (BMPs), such as cover crop, terracing, and stream buffers.

The Watershed Plan-EA development process involves combines two processes, the National Environmental Policy Act (NEPA) process and NRCS planning process, into one cohesive and more efficient watershed planning process. An EA is a NEPA document that determines whether or not a federal action has the potential to cause significant environmental effects. The EA will generally consist of the need for the proposal; alternatives; the environmental (natural and socioeconomic) impacts of the proposed action and alternatives; and a listing of agencies and persons consulted.

ANTICIPATED IMPACTS

A wide spectrum of resources will be evaluated including floodplains, fish and wildlife (including threatened or endangered species) habitat, water quality, recreation, public safety, infrastructure and the built environment, socioeconomic resources, Section 4(f) properties, cultural resources, noise, and air quality. Impacts may vary depending on the design elements of the project. Potential impacts will be determined as planning activities continue.

DEVELOPMENT PROCEDURES

The District requested assistance from the USDA - NRCS under the Watershed and Flood Prevention Operations (WFPO) program to address flood prevention and other resource concerns in the Box Butte Creek Watershed. The USDA - NRCS accepted the District's request in July 2020, which initiated the development of the Watershed Plan-EA.

Primary elements of participation in the WFPO program includes:

- Evaluation of options to protect watersheds and vital infrastructure from erosion, floodwater, and sediment.
- NRCS technical assistance with the project feasibility report and the preliminary investigation for flood prevention and other resource concerns.
- NRCS provides financial and technical assistance in planning, design, and construction.

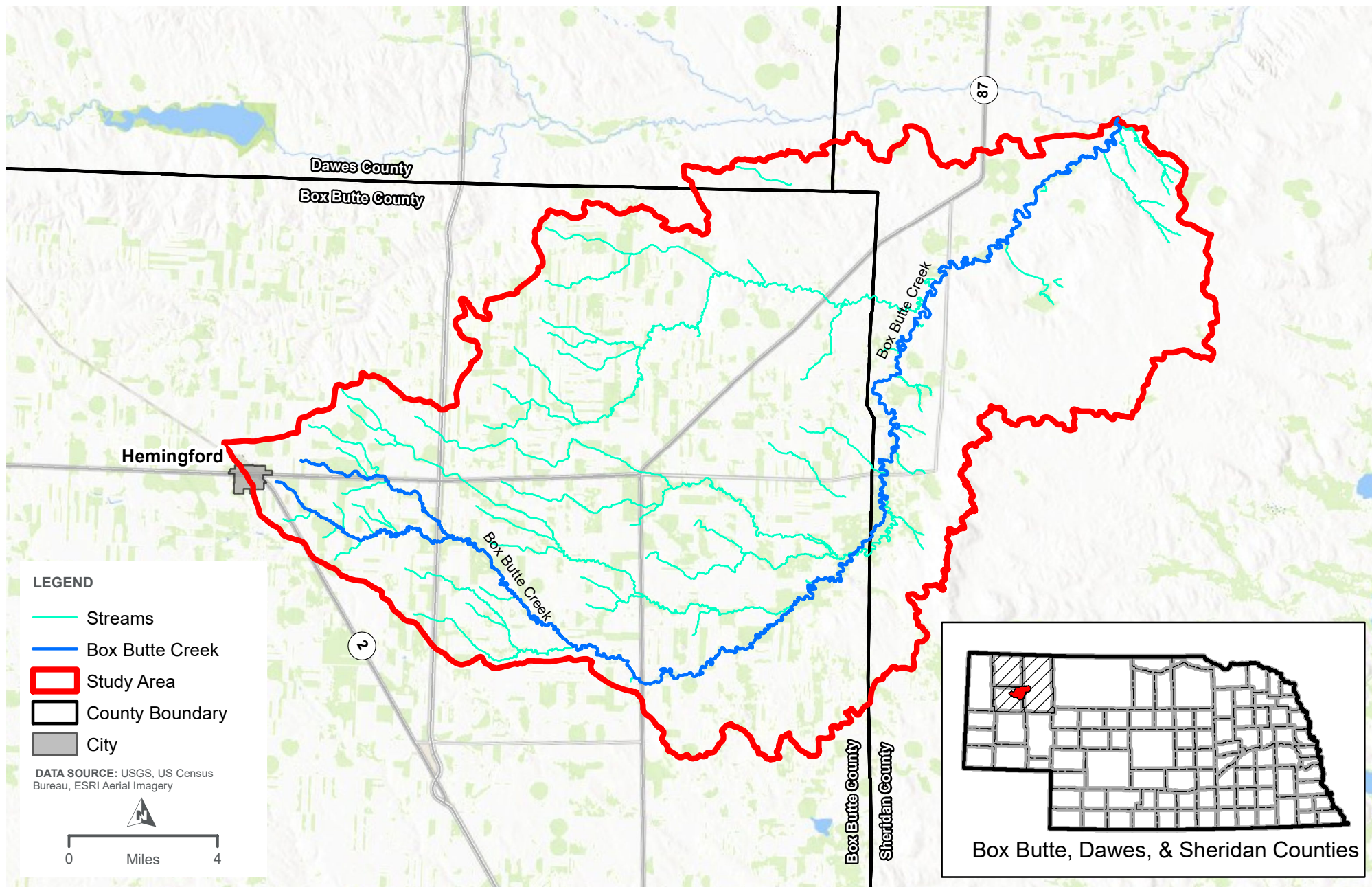
- Can receive up to 100% Federal funding for planning, engineering, and construction depending on the project type.

Current regulations governing development of federally funded projects require early coordination with units of government who may have interests in the project or its potential impacts. This is intended to provide early notification of the proposed project and to solicit comments regarding the potential impacts of such an action. Several federal, state and local agencies will also be contacted directly to request their early input as part of the project impact identification process.

SCHEDULE

The project team takes several steps to analyze the project area and determine what needs to be included in the final Watershed-Plan EA. This process began in August of 2020 and will continue until the publication of the final Environmental Assessment, anticipated to occur in summer 2022.

As part of the process of developing the Watershed-Plan EA, two distinct opportunities for public, agency, and Tribal comment will occur. First, a public scoping meeting is planned for December 15, 2020. Please check the District's website (unwnrd.org) for details. Meeting information will also be available on the District's website by December 15. Once the Draft Watershed Plan-EA is prepared, there will be another public meeting with an opportunity to review and provide comment on the Watershed-Plan EA, anticipated spring 2022.



PROJECT AREA **BOX BUTTE CREEK WATERSHED PLAN & EA**

FIGURE 1.1

Hines, Brooke

From: Warrick, Gordon L <Gordon_Warrick@nps.gov>
Sent: Monday, November 16, 2020 8:06 AM
To: Pillard, Matt
Cc: Thede, Stephen G
Subject: Box Butte Creek Watershed Plan and Environmental Assessment - Early Coordination

Follow Up Flag: Follow up
Flag Status: Flagged

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Thank you for advance notification of this project process. Please keep us informed of developments as we may need to provide a formal review of the selected alternative under Section 7 of the National Wild and Scenic Rivers Act.

Gordon Warrick

Gordon Warrick
Resource Management Specialist
Niobrara National Scenic River
214 W. Hwy 20
Valentine, NE 69201
Office: 402-376-1901 X 301
Currently teleworking at 402-760-1437

Hines, Brooke

From: Chamberlain, Eliodora
Sent: Tuesday, December 1, 2020 10:43 AM
To: Pillard, Matt
Cc: Weilert, Steven
Subject: RE: Box Butte Creek Watershed Plan and Environmental Assessment - Early Coordination

Follow Up Flag: Follow up
Flag Status: Flagged

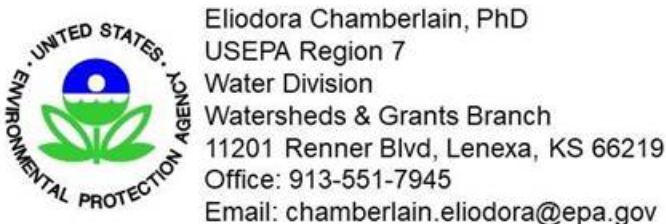
CAUTION: [EXTERNAL] This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Hi Matt,

I reviewed the cover letter. As the Nebraska 404 Coordinator, I reviewed the documents for any CWA Section 404 issues or concerns. If there are jurisdictional waters and/or wetlands of the United States impacted by any proposed actions, we recommend early 404 coordination with our Program, and would be delighted to be on any 404 Pre-application calls or site visits. We highly recommend the use of the 404 Pre-application process to go over any details, comments and concerns prior to the permit application being submitted. It appears the structural alternatives have a high potential to require a 404 permit.

We have found that early coordination gives us the opportunity to provide our comments early, and if they are addressed it often eliminates the need for us to comment when the PN is out for review. We advise avoiding and minimizing impacts to wetlands and streams as much as possible before determining the amount of compensatory mitigation that is required. During the avoidance and minimization process, we recommend following the 404(b)(1) Guidelines. After avoiding and minimizing impacts to wetlands and streams, if mitigation is needed, the 2008 Mitigation Rule gives preference to mitigation being provided by an available CWA 404 mitigation bank, then an in-lieu-fee program before permittee responsible mitigation. We recommend the mitigation should follow the Corps' mitigation guidelines for Nebraska, and if permittee responsible mitigation is approved by the Corps, to occur in the same HUC 8 or smaller watershed as the location of the project impacts.

We thank you for the opportunity to review and provide comments. If you have any questions relating to CWA Section 404, please feel free to contact me.
Eliodora Chamberlain



Cruise through our Region 7 ESTP Sharepoint Site

<https://usepa.sharepoint.com/sites/R7/WVPD/WPIB/ESTP/Forms/AllItems.aspx>!

Save a Spot on your calendars for these upcoming Region 7 ESTP Activities:

Dec 18, 2020 - Jan 3, 2021: Eliodora will be on leave

DUE 1/15/2021: FY20 & FY21 Tribal Set-Aside RFA

TBD 2021: FY21 Region 7 WPDG RFA release

1st or 2nd week of May 2021: Corps Wetland Delineation Training

May 24-28, 2021: 2021 NWCA Training

Nov 2-4, 2021: Region 7 ESTP Conference

From: Pillard, Matt <Matt.Pillard@hdrinc.com>

Sent: Friday, November 13, 2020 2:42 PM

To: drue_deberry@fws.gov; Chamberlain, Eliodora <Chamberlain.Eliodora@epa.gov>; John.L.Moeschen@usace.army.mil; paul.taylor@fema.dhs.gov; jim macy <jim.macy@nebraska.gov>; tom.riley@nebraska.gov; steve_thede@nps.gov; jneuffer@usbr.gov; melissa.marinovich@nebraska.gov; dannette.smith@nebraska.gov; doug.hoevet@nebraska.gov; briand@cfra.org; clerk@sheridan.nacone.org; boxbutteclerk@yahoo.com; dawescorecorder@gmail.com; mirageir@haysprings.net

Cc: Vaughn, Richard - NRCS, Lincoln, NE <richard.vaughn@usda.gov>; obrien@unwnrd.org

Subject: Box Butte Creek Watershed Plan and Environmental Assessment - Early Coordination

Dear agency representative:

For the purpose of complying with the National Environmental Policy Act (NEPA), the Upper Niobrara White Natural Resources District, in coordination with the US Department of Agriculture – Natural Resources Conservation Service (NRCS), is initiating the preparation of a Watershed Plan and Environmental Assessment (Plan-EA) for Box Butte Creek Watershed in Box Butte, Sheridan and Dawes Counties and the northern two-thirds of Sioux County, Nebraska.

As a part of early coordination, we are requesting comments from your agency regarding the proposed project as it relates to your agency's area of expertise. The comments and material you supply will be used to determine if the proposed project may have impacts that warrant further consideration and are consistent with future long-term development plans within the watersheds. Your comments will be incorporated into the environmental planning process and Environmental Assessment document as appropriate.

The attached information should help you understand the nature of the project. A response would be appreciated within 30 days of receipt of this letter. In addition, the District will host an opportunity to tour the project area on the morning of December 15 and will host a public meeting in the evening of December 15. Please check the District's webpage (unwnrd.org) for information regarding the public meeting. If you have any questions about the project and/or wish to attend the project area tour, please contact Matt Pillard, HDR, at 402.399.1186 or by email at matt.pillard@hdrinc.com or Pat O'Brien, General Manager, or Lynn Webster, Assistant General Manager, with the Upper Niobrara White Natural Resources District, at 308-432-6190 or by email at webster@unwnrd.org.

Matt Pillard, AICP
Senior Environmental Planner

HDR
1917 S. 67th Street
Omaha, NE, 68106
D 402.399.1186 M 402.660.7998
matt.pillard@hdrinc.com

hdrinc.com/follow-us

Hines, Brooke

From: Thompson, Mike <mike.thompson@nebraska.gov>
Sent: Friday, December 11, 2020 1:25 PM
To: Pillard, Matt
Cc: Zheng, Shuhai; Miller, John
Subject: Box Butte Creek Watershed Plan and Environmental Assessment - early coordination
Attachments: UN-WNRD_Watershed_Plan_NeDNR_Agency_Response.pdf

Follow Up Flag: Follow up
Flag Status: Flagged

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Matt,

Please find attached our response to your initial inquiry as you begin the planning process with the Upper Niobrara-White Natural Resources District. As the process moves forward Shuhai Zheng will be the initial point of contact. His contact information is in the attached letter. He will keep other NeDNR leaders informed of the progress.

Thank You,

Mike

Mike Thompson, C.L.L.

DIVISION MANAGER | PERMITS & REGISTRATIONS

Nebraska Department of Natural Resources

301 Centennial Mall South
P.O. Box 94676
Lincoln, Nebraska 68509

OFFICE 402-471-2363 / FAX 402-471-2900

Mike.Thompson@nebraska.gov

dnr.nebraska.gov



Pete Ricketts, Governor

December 11, 2020, 2020

Matt Pillard
HDR Inc.
1917 S. 67th Street
Omaha, NE 68106

Dear Mr. Pillard:

I am responding to your November 13, 2020, e-mail regarding early coordination on the initial preparation of a Watershed Plan and Environmental Assessment (Plan-EA) for Box Butte Creek Watershed in Box Butte, Sheridan and Dawes Counties and the northern two-thirds of Sioux County, Nebraska.

The Nebraska Department of Natural Resources has viewed the provided public scoping documents and determined that the proposed project may have effects on our agency's programs. Areas of Departmental jurisdiction and expertise include but are not limited to the following:

- surface water rights
- groundwater well registrations
- dam safety
- floodplain management
- stream gaging
- basin-wide integrated water management plans

Thank you for the opportunity to review the Notice of Preparation and we look forward to participating with you on the watershed plan. If you have any questions or require coordination regarding this project, please contact Shuhai Zheng, the Department Division Head for Floodplain Management, Dam Safety and Technical Services at shuhaizheng@nebraska.gov or (402) 471-3936.

Sincerely,

Mike Thompson
Permits and Registrations Division Head

Thomas E. Riley P.E., Director

Department of Natural Resources

301 Centennial Mall South
P.O. Box 94676
Lincoln, Nebraska 68509

OFFICE 402-471-2363
FAX 402-471-2900

dnr.nebraska.gov

Hines, Brooke

From: Neuffer, Joshua I <jneuffer@usbr.gov>
Sent: Friday, December 11, 2020 9:18 AM
To: Pillard, Matt
Subject: Re: [EXTERNAL] Box Butte Creek Watershed Plan and Environmental Assessment - Early Coordination

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Matt,

Regarding the Box Butte Creek Watershed Plan, Reclamation does not administer any federal properties within the Box Butte Creek Watershed. However, there are some properties downstream of the Niobrara, such as Merritt Reservoir. Reclamation's Nebraska Kansas Area Office (NKAO) would be interested in receiving information on the hydrological impacts the Watershed Plan will have for water users downstream of the Box Butte Creek.

Thank you,

Joshua Neuffer
Natural Resource Specialist

Bureau of Reclamation
NKAO McCook, NE
(308)345-1057
jneuffer@usbr.gov

From: Pillard, Matt <Matt.Pillard@hdrinc.com>
Sent: Wednesday, December 9, 2020 7:30 AM
To: Neuffer, Joshua I <jneuffer@usbr.gov>
Subject: RE: [EXTERNAL] Box Butte Creek Watershed Plan and Environmental Assessment - Early Coordination

That would be fine. Thanks Joshua.

Matt Pillard, AICP
D 402.399.1186 M 402.660.7998

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From: Neuffer, Joshua I <jneuffer@usbr.gov>
Sent: Tuesday, December 8, 2020 9:26 AM
To: Pillard, Matt <Matt.Pillard@hdrinc.com>
Subject: Re: [EXTERNAL] Box Butte Creek Watershed Plan and Environmental Assessment - Early Coordination

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Would you like our response directed towards you?

Thanks,

Joshua Neuffer
Natural Resource Specialist

Bureau of Reclamation
NKAO McCook, NE
(308)345-1057
jneuffer@usbr.gov

From: Pillard, Matt <Matt.Pillard@hdrinc.com>

Sent: Friday, November 13, 2020 2:42 PM

To: DeBerry, Drue <drue_deberry@fws.gov>; Chamberlain, Eliodora <chamberlain.eliodora@epa.gov>; John.L.Moeschen@usace.army.mil <John.L.Moeschen@usace.army.mil>; paul.taylor@fema.dhs.gov <paul.taylor@fema.dhs.gov>; jim.macy@nebraska.gov <jim.macy@nebraska.gov>; tom.riley@nebraska.gov <tom.riley@nebraska.gov>; Thede, Stephen G <Steve_Thede@nps.gov>; Neuffer, Joshua I <jneuffer@usbr.gov>; melissa.marinovich@nebraska.gov <melissa.marinovich@nebraska.gov>; dannette.smith@nebraska.gov <dannette.smith@nebraska.gov>; doug.hoevet@nebraska.gov <doug.hoevet@nebraska.gov>; briand@cfra.org <briand@cfra.org>; clerk@sheridan.nacone.org <clerk@sheridan.nacone.org>; boxbutteclerk@yahoo.com <boxbutteclerk@yahoo.com>; dawescorecorder@gmail.com <dawescorecorder@gmail.com>; mirageir@haysprings.net <mirageir@haysprings.net>

Cc: Vaughn, Richard - NRCS, Lincoln, NE <richard.vaughn@usda.gov>; obrien@unwnrd.org <obrien@unwnrd.org>

Subject: [EXTERNAL] Box Butte Creek Watershed Plan and Environmental Assessment - Early Coordination

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Dear agency representative:

For the purpose of complying with the National Environmental Policy Act (NEPA), the Upper Niobrara White Natural Resources District, in coordination with the US Department of Agriculture – Natural Resources Conservation Service (NRCS), is initiating the preparation of a Watershed Plan and Environmental Assessment (Plan-EA) for Box Butte Creek Watershed in Box Butte, Sheridan and Dawes Counties and the northern two-thirds of Sioux County, Nebraska.

As a part of early coordination, we are requesting comments from your agency regarding the proposed project as it relates to your agency's area of expertise. The comments and material you supply will be used to determine if the proposed project may have impacts that warrant further consideration and are consistent with future long-term development plans within the watersheds. Your comments will be incorporated into the environmental planning process and Environmental Assessment document as appropriate.

The attached information should help you understand the nature of the project. A response would be appreciated within 30 days of receipt of this letter. In addition, the District will host an opportunity to tour the project area on the morning of December 15 and will host a public meeting in the evening of December 15. Please check the District's webpage (unwnrd.org) for information regarding the public meeting. If you have any questions about the project and/or wish to attend the project area tour, please contact Matt Pillard, HDR, at 402.399.1186 or by email at matt.pillard@hdrinc.com or Pat O'Brien, General Manager, or Lynn Webster, Assistant General Manager, with the Upper Niobrara White Natural Resources District, at 308-432-6190 or by email at webster@unwnrd.org.

Matt Pillard, AICP
Senior Environmental Planner

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matt.pillard@hdrinc.com

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Hines, Brooke

From: Pillard, Matt
Sent: Friday, December 18, 2020 10:02 AM
To: Hines, Brooke
Subject: FW: Box Butte Creek Watershed Plan - early coordination
Attachments: 2020.1218.NGPC.BoxButteWatershedPlanScopingComments .pdf

FYI...

Matt Pillard, AICP
D 402.399.1186 M 402.660.7998

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From: Sjolie, Shannon <Shannon.sjolie@nebraska.gov>
Sent: Friday, December 18, 2020 10:59 AM
To: Pillard, Matt <Matt.Pillard@hdrinc.com>
Cc: O'Brien, Patrick <obrien@UNWNRD.org>; webster@unwnrd.org; Vaughn, Richard - NRCS, Lincoln, NE <richard.vaughn@usda.gov>
Subject: re: Box Butte Creek Watershed Plan - early coordination

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Good morning Matt,

Please find attached NGPC comments regarding your request for early coordination on behalf of the Upper Niobrara White Natural Resources District, in coordination with the US Department of Agriculture – Natural Resources Conservation Service (NRCS) for the Box Butte Creek Watershed Plan. Please let me know if you have any questions and we look forward to future coordination on the assessment.

Thank you,

Shannon Sjolie
Planning & Programming
NGPC



2200 N. 33rd St. • P.O. Box 30370 • Lincoln, NE 68503-0370 • Phone: 402-471-0641

December 18, 2020

Matt Pillard
HDR
1917 S. 67th Street
Omaha, NE 68106

Re: Scoping Comments for the Box Butte Watershed Plan – Environmental Assessment (Plan-EA)

Dear Mr. Pillard:

Please make reference to your letter dated November 13, 2020. This letter is in response to your request for comments regarding the Box Butte Watershed Plan – Environmental Assessment (Plan-EA). As we understand it, the Plan-EA is being developed to address flood damage reduction solutions within the Box Butte Creek Watershed. Staff of the Nebraska Game and Parks Commission (NGPC) have reviewed the information provided and offer the following scoping comments.

General comments on the Plan-EA

Non-structural measures are the preferred methods NGPC would like to see used in this plan. The implementation of natural flood risk reduction solutions such as wetlands, stream buffers, cover crops, and terraces would provide water storage and improve water quality.

NGPC supports maintaining the natural hydrology of the system. The construction of reservoirs, basins, levees, dams and other storage structures change the natural function of streams. Creation of these structures need to provide considerable benefit if we are to support them over non-structural alternatives.

If the intent to create reservoirs is for recreational purposes, we would recommend that they be designed so that the watershed to reservoir surface area ratio is low. When a reservoir is too small for a watershed it will be subject to water quality issues, harmful algae blooms, and will not support a desired fishery.

Endangered and Threatened Species

The proposed study area falls within the range of the state and federally listed endangered blowout penstemon (*Penstemon haydenii*) and whooping crane (*Grus americana*); the state and federally listed threatened American burying beetle (*Nicrophorus americanus*) and northern long-eared bat (*Myotis septentrionalis*); the state-listed endangered blacknose shiner (*Notropis heterolepis*) and swift fox (*Vulpes velox*); and the state-listed threatened finescale dace (*Phoxinus neogaeus*), and northern redbelly dace (*Phoxinus eos*).

Adverse impacts on listed species could result from changes in hydrology (including, but not limited to, changes to the timing, frequency, duration, and magnitude of stream/river flow), streamflow depletions,

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altering groundwater and surface water connectivity, impacts on wetlands, work within or adjacent to the river channel, culvert or road placement, construction-related activities (including, but not limited to, ground disturbance, tree-removal, clearing, dredging, placing fill, staging areas, stockpiling areas, disposal sites, etc.), and other flood damage reduction related activities.

Surveys, construction timing restrictions, and avoidance, minimization and mitigation measures may be needed depending on the Project alternative that is selected. Additional information regarding these species and applicable conservation measures is available upon request.

Bald and Golden Eagle Protection Act

The federal Bald and Golden Eagle Protection Act (Eagle Act) (16 U.S.C. 668-668c) provides for the protection of the bald eagle (*Haliaeetus leucocephalus*) and golden eagle (*Aquila chrysaetos*). Under the Eagle Act, “take” of eagles, their parts, nests or eggs is prohibited without a permit issued by the Secretary of the Interior. Disturbance resulting in injury to an eagle or a decrease in productivity or nest abandonment by substantially interfering with normal breeding, feeding, or sheltering behavior is a form of “take.”

Bald eagles use mature, forested riparian areas near rivers, streams, lakes, and wetlands and occur along all the major river systems in Nebraska. The bald eagle southward migration begins as early as October and the wintering period extends from December-March. Additionally, many bald and golden eagles nest in Nebraska from mid-February through mid-July. Disturbances within 0.5-miles of an active nest or within line-of-sight of the nest could cause adult eagles to discontinue nest building or to abandon eggs. Both bald and golden eagles frequent river systems in Nebraska during the winter where open water and forested corridors provide feeding, perching, and roosting habitats, respectively. The frequency and duration of eagle use of these habitats in the winter depends upon ice and weather conditions. Human disturbances and loss of wintering habitat can cause undue stress leading to cessation of feeding and failure to meet winter thermoregulatory requirements. These affects can reduce the carrying capacity of preferred wintering habitat and reproductive success for the species.

Migratory Bird Treaty Act

Under the Migratory Bird Treaty Act (16 U.S.C. 703-712: Ch. 128 *as amended*) (MBTA) construction activities in grassland, wetland, stream, woodland, and river bank habitats that would otherwise result in the taking of migratory birds, eggs, young, and/or active nests should be avoided. Although the provisions of MBTA are applicable year-round, most migratory bird nesting activity in Nebraska occurs during the period of April 1 to July 15. However, some migratory birds are known to nest outside of the aforementioned primary nesting season period. For example, raptors can be expected to nest in woodland habitats during February 1 through July 15, whereas sedge wrens, which occur in some wetland habitats, normally nest from July 15 to September 10. For more information about the MBTA and avoiding impacts to migratory birds, or to report active bird nests that cannot be avoided by planned construction activities, please contact Nebraska Field Office, U.S. Fish and Wildlife Service, 9325 South Alda Road, Wood River, NE 68883.

Biologically Unique Landscape (BUL)

The Upper Niobrara River landscape occupies the Niobrara River channel, and a two-mile wide buffer on each side of the river, from eastern Cherry County westward to the Nebraska/Wyoming border. In the far west the Niobrara River is a narrow, cold water stream with an open, gently sloping valley with few trees. Rocky outcrops are also common along the valley bluffs and mixed-grass prairie occurs on most of the bluffs. Eastward as the river gains flows the valley becomes entrenched. Where the river enters the

Sandhills in western Cherry County the valley is several hundred feet deep and ponderosa pine woodlands occupy portions of the bluff and cottonwood dominated-woodlands occupy portions of the floodplain. Portions of the valley bottom are in cropland.

The only dam on this reach of the Niobrara River is the one that forms Box Butte Reservoir in Dawes County, otherwise flows on the river are fairly natural. The upper Niobrara River supports a unique assemblage of cold-water fish including the pearl dace and the state-listed blacknose shiner and finescale dace. Wet meadows in the Niobrara River valley in western Sioux County support the state's only known population of Ute lady's-tresses orchid. Protected areas on the upper Niobrara include Agate Fossil Beds National Monument, The Nature Conservancy's Cherry Ranch and Prairie Plains Resource Institute's Guadalcanal Memorial Prairie.

This information is being provided based on a review of the material you sent, aerial photographs, and our Nebraska Natural Heritage Database. Please note this correspondence does not satisfy requirements of Neb. Rev. Stat. §37-807 (3) of the Nongame and Endangered Species Conservation Act. Under authority of Neb. Rev. Stat. §37-807 (3), all Nebraska state agencies are required to consult with the Commission to ensure any actions authorized, funded or carried out by them do not jeopardize the continued existence of a state listed species. This requirement would extend to any permit issued or authorized by a state agency.

Thank you for the opportunity to comment. If you have any questions or need additional information, please feel free to contact me at (402) 471-5423 or shannon.sjolie@nebraska.gov.

Sincerely,



Shannon Sjolie
Environmental Analyst Supervisor
Planning and Programming Division

cc: Pat O'Brien, Upper Niobrara White NRD
Lynn Webster, Upper Niobrara White NRD
Richard Vaughn, NRCS

#1

COMPLETE

Collector: Web Link 1 (Web Link)
Started: Wednesday, December 30, 2020 8:27:27 AM
Last Modified: Wednesday, December 30, 2020 8:35:52 AM
Time Spent: 00:08:24
IP Address: 199.155.124.69

Page 1

Q1

Contact Information(Provide if desired)

First and Last Name	Robin Foulk
Address	1006 West 6th
City, State, Zip	Chadron
Email Address	robin.foulk@usda.gov
Phone Number	308-432-4616

Q2

Contact Preference

Phone,
Mail,
Email

Q3

Have you experienced flooding and/or drainage problems within the Study Area? If yes, what types of problems have you experienced (i.e., personal property, agricultural land, irrigation canals, roads etc.)?

NO-

Q4

How does flooding affect you? Road closures? Loss of utilities (electric/water)?

Workload- ECP participants; EWP funding;

Q5

Have you experienced groundwater level declines within the Study Area? If so, where, and how has this affected you?

NO

Q6

How does groundwater level decline affect you?

Request for technical assistance & financial assistance from programs such as Source Water Protection program

Q7

Respondent skipped this question

Are you aware of any special circumstances that we should be aware of when developing a list of initial solutions to address the flooding problems in the Study Area?

Q8

Any other comments or questions for the project team?

- NRCS will initiate efforts to utilize special initiatives via EQIP and other partner programs such as CRP to promote / support the adoption of BMP's – knowing more non-structural practices would likely be more adoptable by producers yet knowing the benefits would help in addressing the objectives outlined in the project(waterways, buffer strips, establishment of permanent cover, retiring irrigated acres, filter strips)
 - NRCS will reach out to county personnel asking them to identify road structures and other road stabilization issues outlined in their 5 or 10 year plans that would possibly align with the project area and objectives and special initiatives (see item four below)
 - Need for further clarification of project goals and objectives, and/or metrics that can lend themselves to a data driven analysis of priority concerns and were best to focus efforts and funds-
 - Purpose & Need: In order to better discern the extent of the issues and identify appropriate actions more specific qualifications would be useful. i.e.: number of landowners and producers effected, expand on extend of crop and private property damage, locations of stream bank degradation, number of county roads impacted, identify water quality concerns.
 - Will other conservation practices be included in analysis addressing resource concerns such as buffer strips, access control, residue management, tillage management and converting to permanent cover be needed or used to achieve the goals
 - Will there be cooperation with local and county partners to identify concerns and provide input and how will that be accomplished
-

Q9

Respondent skipped this question

Would you like someone from the project team to follow up with you?

#3

COMPLETE

Collector: Web Link 1 (Web Link)
Started: Monday, January 11, 2021 3:59:01 PM
Last Modified: Monday, January 11, 2021 4:20:57 PM
Time Spent: 00:21:55
IP Address: 174.198.66.133

Page 1

Q1

Contact Information(Provide if desired)

First and Last Name	Shuhai Zheng
Address	301 Centennial Mall South
City, State, Zip	Lincoln
Email Address	shuhai.zheng@nebraska.gov
Phone Number	402-471-3936

Q2

Email

Contact Preference

Q3

Respondent skipped this question

Have you experienced flooding and/or drainage problems within the Study Area? If yes, what types of problems have you experienced (i.e., personal property, agricultural land, irrigation canals, roads etc.)?

Q4

Respondent skipped this question

How does flooding affect you? Road closures? Loss of utilities (electric/water)?

Q5

Respondent skipped this question

Have you experienced groundwater level declines within the Study Area? If so, where, and how has this affected you?

Q6

Respondent skipped this question

How does groundwater level decline affect you?

Q7

Respondent skipped this question

Are you aware of any special circumstances that we should be aware of when developing a list of initial solutions to address the flooding problems in the Study Area?

Q8

Any other comments or questions for the project team?

NeDNR will be starting a mapping project in Box Butte and Sheridan Counties sometime this spring.

Q9

No, thank you

Would you like someone from the project team to follow up with you?



2200 N. 33rd St. • P.O. Box 30370 • Lincoln, NE 68503-0370 • Phone: 402-471-0641

September 29, 2025

Ritch Nelson
Natural Resources Conservation Service
1121 Lincoln Mall, Room 360
Lincoln, NE 68508

RE: Box Butte Watershed Plan-EA, NGPC Project No. NRCS21002, Box Butte and Sheridan Counties

Dear Ritch Nelson:

Nebraska Game and Parks Commission (NGPC) staff members have reviewed the preliminary information for the project identified above. This letter is in response to the U.S. Department of Agriculture's Natural Resources Conservation Service, August 1, 2025, request for comments regarding this project's potential impacts to fish and wildlife resources in Box Butte and Sheridan Counties, Nebraska. This review was requested pursuant to the National Environmental Policy Act (NEPA). As we understand it, the preferred alternative involves constructing three on-channel dam diversion structures to off-channel storages (or catchment) to promote ponding, infiltration, and passive groundwater recharge. Each dam diversion to off-channel storage (passive recharge) sites would include the construction of a low earthen dam diversion structure, which would be designed to divert portions of run-off event flows to an off-channel storage basin (or catchment) and to have all other flows generated from runoff events overtop the structure at a controlled location. A culvert pipe would be placed in the dam diversion structure to allow for normal flows to pass. The preferred alternative would also include road improvements at three locations.

The Nebraska Game and Parks Commission has responsibility for protecting endangered and threatened species under authority of the Nongame and Endangered Species Conservation Act (Neb. Rev. Stat. § 37-801 to 37-814) (NESCA) and management of other fish and wildlife resources in the state of Nebraska. In addition, NGPC also provides outdoor recreation opportunities at a variety of state parks, recreation areas, and wildlife management areas. Based on the information Commission staff have received, we offer the following comments.

Endangered and Threatened Species

Based on our review of the Nebraska Natural Heritage database, aerial photographs, and the information you sent, this proposed project exists within the estimated range of the following federal and state listed threatened or endangered species:

Common Name	Scientific Name	Federal Status	State Status
Finescale Dace	<i>Chrosomus neogaeus</i>		Threatened
Monarch Butterfly	<i>Danaus plexippus</i>	Proposed Threatened	
Northern Long-eared Bat	<i>Myotis septentrionalis</i>	Endangered	Endangered
Northern Redbelly Dace	<i>Chrosomus eos</i>		Threatened
Swift Fox	<i>Vulpes velox</i>		Endangered
Tricolored Bat	<i>Perimyotis subflavus</i>	Proposed Endangered	

Western Regal Fritillary	<i>Argynnis idalia</i>	Proposed Threatened	
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Monarch and Western Regal Fritillary

Monarch butterflies occur throughout most of North America, with breeding populations documented across the continental United States and southern Canada, and overwintering populations in central Mexico and along the California coast. Preferred breeding habitats include open fields, meadows, and roadside corridors where milkweed and nectar-producing plants are present. The larval stage is obligately dependent on milkweed, which serves as the sole host plant.

The western regal fritillary is a large orange and black speckled, nonmigratory butterfly. This species is considered a grassland specialist and requires large expanses of intact, native prairie to survive. Western regal fritillary caterpillars require warm-season bunch grasses to overwinter and pupate in, and species of violet (*Viola spp.*) to consume. Adults need additional nectar sources throughout the prairie to feed on as they travel to find mates and violets.

There may be suitable foraging habitat for these species within the proposed project area. However, based on the information provided, we cannot determine if milkweed or flowering plants are present that may provide nectar sources for feeding. Therefore, we recommend avoiding construction in suitable habitats, especially those providing high quality diverse native vegetation including milkweed resources. If construction must occur, implement time-of-year restrictions, and minimize overall disturbance of habitat. Avoid mowing during the bloom period for milkweed or other nectar producing plants (April 1 – September 30), and if mowing must occur, try to avoid milkweed and nectar producing resources during these activities. We also recommend establishing post construction seeding mixes that utilize local seed that contain a diversity of native species.

Monarch and western regal fritillary are proposed to be federally listed as threatened with a 4(d) rule. All species federally listed as threatened or endangered are also listed by the state of Nebraska under State Statute 37-802(1). The U.S. Fish and Wildlife Service and Nebraska Game and Parks Commission encourages cooperative conservation efforts for these species because they are, by definition, species that may warrant future protection under the Endangered Species Act (ESA) and NESCA.

Northern Long-eared Bat and Tricolored Bat

During the active season (early April to late October), northern long-eared bats (NLEBs) typically roost singly or in colonies underneath bark or in cavities, crevices, or hollows of live and dead trees and/or snags (typically ≥ 3 inches dbh). This species seems opportunistic in selecting roosts, using trees based on the presence of cavities, crevices or peeling bark. They forage on insects in upland and lowland woodlots and tree lined corridors. During the summer, tricolored bats (TCB) primarily roost among live and dead leaf clusters of live or recently dead deciduous hardwood trees. In addition, tricolored bats have been observed roosting during the summer among pine needles, eastern red cedar (*Juniperus virginiana*), within artificial roosts like barns, beneath porch roofs, bridges, concrete bunkers, and rarely within caves. In Nebraska, females raise pups during the maternity roosting period (May 15 – July 31) during which the young bats are unable to fly. Both NLEB and TCB typically overwinter (late October to early April) in hibernacula that include caves and abandoned mines but may also use other structures resembling caves or mines, such as abandoned railroad tunnels, storm sewer entrances, dry wells, aqueducts, and other similar structures.

To avoid adverse impacts to NLEB and TCB, any necessary tree clearing and maintenance/removal of any bridges or culverts, which may take place as part of this project, should be timed to avoid the maternity roosting season (May 15 – July 31) and any permanent or temporary lighting installed within 1,000-feet of suitable roosting habitat should use downward-facing, full cut-off lights.

Tricolored bats are proposed to be federally listed as endangered. All species federally listed as threatened or endangered are also listed by the state of Nebraska under State Statute 37-802(1). The U.S. Fish and Wildlife Service and Nebraska Game and Parks Commission encourages cooperative

conservation efforts for these species because they are, by definition, species that may warrant future protection under the ESA and NESCA.

Finescale Dace and Northern Redbelly Dace

The finescale dace and northern redbelly dace are members of the minnow family. Both fish range in size from 2-5 inches, but on average, finescale dace are larger than redbelly dace. The finescale dace has a brown-gray back and each side has an iridescent, silvery band with a dark, thick gold-orange stripe beneath it. It has a stout body and a large mouth. The northern redbelly dace has an olive-brown colored back, and each side has an iridescent, silvery band in between two dark bands. Redbelly dace have cream to yellow-colored bellies, except for breeding males whose bellies are yellow-orange to red. In Nebraska, these two dace species are often found together in the headwaters of clear, cool, high-quality streams. Spawning periods are dependent on water temperature. Finescale dace spawn from April to June and redbelly dace spawn from May to August.

According to information within the Watershed Plan-EA the stream segments with the proposed project area are frequently dry and without a flowing current. Although there does not appear to be any suitable aquatic habitat, we recommend that during the design phase NGPC is contacted for technical assistance to aid in reducing any potential impacts to these aquatic species.

Swift Fox

The swift fox the smallest of the North American canines and utilizes burrows more than any other canine. They are typically found in topographically flat (slopes <20%), arid regions. In Nebraska, swift foxes typically prefer large expanses of prairie as well as prairie intermixed with agriculture where vegetation is less than 40-centimeters tall, but dens are also found in anthropogenic areas such as near roads and trails, and in agricultural fields, culverts, pipes and buildings. Swift fox are highly mobile and will use a variety of dens throughout the year; however, a female swift fox with young pups will typically be tied to one den during the denning season, which is from April through August in Nebraska. Pups do not leave the den until they are at least 6 – 7 weeks old, and sometimes older. During this time, they are susceptible to any activities that disturb the ground and may destroy their dens. These activities include, but are not limited to, digging, trenching, drilling, and directional boring.

There are records of and suitable habitat for swift fox within 2 miles of the proposed project area. A survey for swift fox dens should be conducted by a qualified biologist, prior to construction. Results of the survey should be sent to the Nebraska Game and Parks Commission to determine if further action is needed to avoid negative impacts to swift fox.

Additional Considerations

State Owned or Managed Properties

The proposed project would not impact any NGPC State Parks, State Recreation Areas, State Wildlife Management Areas, or any other NGPC owned or managed properties.

Wetlands, Streams, and Riparian Habitats

In general, NGPC has concerns for impacts to wetlands and streams, and we encourage that impacts to these areas be avoided and minimized, and that any unavoidable impacts to these habitats be mitigated. If any fill materials will be placed into any wetlands or streams as a result of the proposed project, U.S. Army Corps of Engineers should be contacted to determine if a 404 permit is needed.

See Chapter 5, subchapter 5.8, 5.8.1 Fish and Aquatic Resource and Terrestrial Wildlife

According to information in this subchapter the off-channel storage basins may have the capacity to store 6.06 to 40.6 acre-feet of water, depending on the site. NGPC approves of the development of a wetland fringe that may result in additional habitat for wetland species and migratory birds.

Federal Laws

Migratory Bird Treaty Act

Under the Migratory Bird Treaty Act (16 U.S.C. 703-712: Ch. 128 as amended) (MBTA) construction activities in grassland, wetland, stream, woodland, and riverbank habitats that would otherwise result in the taking of migratory birds, eggs, young, and/or active nests should be avoided. Although the provisions of MBTA are applicable year-round, most migratory bird nesting activity in Nebraska occurs during the period of April 1 to July 15. However, some migratory birds are known to nest outside of the aforementioned primary nesting season period. For example, raptors can be expected to nest in woodland habitats during February 1 through July 15, whereas sedge wrens, which occur in some wetland habitats, normally nest from July 15 to September 10.

If development in this area is planned to occur during the primary nesting season or at any other time which may result in the “take” of nesting migratory birds, the project proponent should arrange to have a qualified biologist conduct a field survey of the affected habitats to determine the absence or presence of nesting migratory birds. If a field survey identifies the existence of one or more active bird nests that cannot be avoided by the planned construction activities, the Nebraska Game and Parks Commission and the U.S. Fish and Wildlife Service – Nebraska Ecological Services Field Office should be contacted immediately. For more information about the MBTA and avoiding impacts to migratory birds, or to report active bird nests that cannot be avoided by planned construction activities, please contact the U.S. Fish and Wildlife Service, Nebraska Ecological Services Field Office, 9325 South Alda Road, Wood River, NE 68883. Adherence to these guidelines will help avoid the unnecessary take of migratory birds.

Please note this correspondence does not satisfy consultation requirements of the Nongame and Endangered Species Conservation Act. Under authority of Neb. Rev. Stat. §37-807 (3)(c), all Nebraska state agencies are required to consult with the Commission to ensure any actions authorized, funded or carried out by them do not jeopardize the continued existence of a state listed species. Upon the issuance of state permits or funding, and prior to beginning construction, further consultation with the Nebraska Game and Parks Commission on the effects of these actions will be necessary.

Thank you for the opportunity to review this proposal. Please contact me if you have any questions regarding these comments at (402) 471-5423 or ngpc.envreview@nebraska.gov.

Sincerely,



Amelia Baker
Environmental Specialist II
Wildlife Division

ec: Ruby Rolland, NGPC
Mallory Jaymes, USFWS
Nebraska Ecological Services Field Office, USFWS
Melissa Baier, NRCS



United States Department of the Interior

FISH AND WILDLIFE SERVICE

Ecological Services
9325 South Alda Road
Wood River, Nebraska 68883



IN REPLY REFER TO:
Box Butte Creek Watershed Plan – EA
IPaC Project Code: 2025-0094026

November 18, 2025

Ritch Nelson
Natural Resource Conservation Services
1121 Lincoln Mall
Lincoln, Nebraska 68508

Dear Mr. Nelson:

This responds to your August 1, 2025, request for informal consultation for NEPA purposes from the U.S. Fish and Wildlife Service (Service) regarding the Box Butte Creek Watershed Plan EA, Box Butte, Dawes, and Sheridan counties, Nebraska. Based on the information provided, the Service understands the proposed watershed plan was developed for the following purpose(s) and intends to take the following actions.

The Box Butte Creek is a tributary to the Niobrara River with their confluence occurring in western Sheridan County, Nebraska. The Niobrara River contributes flow to the Missouri River with their confluence occurring near Niobrara, Nebraska. This watershed plan intends to 1) address agricultural water management to reduce damages to agricultural land due to untimely access to groundwater resources and 2) address flood damage reduction to public infrastructure in Box Butte Creek Watershed under the authority of the Watershed Protection and Flood Prevention Act of 1954 (PL 83-566) as amended. The preferred alternative involves constructing three on-channel dam diversion structures to off-channel storages (or catchments) to promote ponding, infiltration, and passive groundwater recharge. Each dam diversion to off-channel storage (passive recharge) sites would include the construction of a low earthen dam diversion structure, which would be designed to divert portions of run-off event flows to an off-channel storage basin (or catchment) and to have all other flows generated from runoff events overtop the structure at a controlled location. A culvert pipe would be placed in the dam diversion structure to allow for normal flows to pass. The preferred alternative would also include road improvements at three locations.

The Service has responsibility for the conservation and management of fish and wildlife resources for the benefit of the American public under the following authorities: 1) Endangered Species Act (ESA); 2) Fish and Wildlife Coordination Act (FWCA); 3) Bald and Golden Eagle Protection Act (Eagle Act); and 4) Migratory Bird Treaty Act (MBTA). Additionally, under the Watershed Protection and Flood Prevention Act (WPFPA), the Service is to be given the

opportunity to provide recommendations for the project concerning wildlife resources. Under these acts, the Service provides the following comments below:

ENDANGERED SPECIES ACT

In the Endangered Species Act ([ESA; 16 U.S.C. 1531-1544](#)) pursuant to section 7(a)(1), all Federal agencies shall, in consultation with and with the assistance of the Secretary, utilize their authorities in furtherance of the purposes of this Act by carrying out programs for the conservation of endangered species and threatened species listed pursuant to section 4 of this Act. Pursuant to section 7(a)(2) of the ESA, every federal agency, shall in consultation with the Service, ensure that any action they authorize, fund, or carry out is not likely to jeopardize the continued existence of a listed species or result in the destruction or adverse modification of designated critical habitat. If a proposed project may affect federally listed species or designated critical habitat, section 7 consultation is required.

NRCS accessed the Service's Information for Planning and Consultation tool ([IPaC](#)) on May 8, 2025, and acquired an official species list of threatened and endangered species and their critical habitats that may occur in the proposed project area or be affected by the proposed action. Included in that list are species that are either a candidate¹ or proposed to be listed as threatened or endangered:

<u>Listed Species</u>	<u>Status</u>
Monarch (<i>Danaus plexippus</i>)	Proposed Threatened
Piping plover (<i>Charadrius melodus</i>)	Threatened
Suckley's cuckoo bumble bee (<i>Bombus suckleyi</i>)	Proposed Threatened

Monarch Butterfly

The Monarch Butterfly (MB) is proposed to be listed as threatened with a section 4(d) rule. Due to a widespread population decline across North America. MB has a unique life history of migration and multiple life stages within a single season, and a unique dependence upon milkweed plants (primarily common milkweed) for reproduction. This species occurs throughout

¹ The Service encourages cooperative conservation efforts under Section 7(a)1 of the ESA for candidate and proposed species so that by addressing the needs of species before the regulatory requirements associated with listed species come into play, greater management flexibility can be proactively included to help stabilize or restore these species and their habitats, potentially remove threats, and eliminate the need for listing. If a candidate or proposed species is not evaluated or conservation measures incorporated, then reinitiating consultation is triggered when the proposed listing is finalized (50 CFR 402.16(4)). See the [listing status page](#) for more information.

Nebraska, but is most common east of the 100th meridian, in open habitats including prairies, meadows, marshes and along roadsides.

MB are impacted by chemical applications, habitat degradation, climate change (drought, unpredictable storm events, temperature extremes), collection, agricultural disturbances, changes in nectar/milkweed resources, and by disease/natural enemies. Furthermore, the loss of greenspaces, excessive mowing, insecticides, and the change in overwintering habitat all seem to be key drivers influencing monarch dynamics.

The Service recommends the following conservation measures to minimize impacts to MB and from the proposed project:

1. Avoid construction in suitable habitats, especially those providing high quality diverse native vegetation including milkweed resources. If construction must occur in suitable habitat, implement time-of-year restrictions, and minimize overall disturbance of habitat.
2. Establish post construction seeding mixes utilizing local seed containing a diversity of native species. Utilize wildflowers including milkweed, which bloom throughout the growing season to support wildlife during all life cycles of the species within project area.
3. Mowing should avoid sensitive timeframes for species growth and development. For example, avoid mowing during the bloom period for milkweed or other nectar producing plants (approx. April 1st-September 30th). If mowing must occur, try to avoid milkweed and nectar producing resources during these activities.
4. Herbicide application should be limited to spot spray application as practicable. If spot spraying isn't practicable, application (i.e., broadcast, aerial) should be conducted in such a way to avoid sensitive species and habitat types.

Piping Plover

The piping plover (PP) nests and forages on unvegetated or sparsely vegetated sandbars on the Elkhorn, Loup, Middle Loup, Missouri, Niobrara, Platte, and South Platte rivers in Nebraska. PP also readily use sand and gravel mines and lake shores/beaches for nesting along these river systems. The nesting season is from April 15th- August 15th in Nebraska.

The primary threat to this species in Nebraska is altered riverine systems that limit the formation and maintenance of non-vegetated sand bars upon which they nest. This includes but is not limited to destruction, modification, or curtailment of habitat or range including reservoir construction, river channelization, and modifications to hydrologic regime. Furthermore, as PP readily utilize commercial aggregate (sand and gravel) mining areas and other cleared areas (energy production, agricultural development, lakefront housing, etc.) to nest and raise young outside riverine systems, these areas must be similarly evaluated for impacts. Other threats include predation, pesticides, invasive species, and excessive vegetation growth of nesting areas. Human disturbances including off road vehicles, boats, and pets also pose a risk to nesting habitat or direct take of young.

The Service recommends that the following conservation measures be incorporated into the proposed project to minimize potential impacts to PP:

1. Avoid construction within 0.25-miles of suitable habitat during the species' nesting season (April 15th– August 15th).
2. If construction must occur during the nesting season, follow the U.S. Fish and Wildlife Service and Nebraska Game and Parks Commission Survey Protocol, dated March 2021.
3. Herbaceous species used for re-seeding within ¼ mile of suitable habitat will be native grass or forb species. Native shrub or woody species used in restoration should reach no more than 4 feet in height at maturity.
4. If temporary construction lighting is planned between April 15th and August 15th or if permanent lighting is being installed, lighting should be limited to a Nominal CCT of 3000 Kelvin +/- 300 K, shielded and directed away from suitable habitat, such as lighting compliant with the “BUG rating” set forth by the Illumination Engineering Society as feasible.
5. Avoid project activities that alter natural river form or function. For example, those that would hinder the ability for natural creation of sandbar habitats along the listed river systems.

Suckley's Cuckoo Bumble Bee

The Suckley's cuckoo bumble bee (SCBB) is proposed endangered under the Endangered Species Act. The SCBB is an obligate social parasite of social bumble bees in the genus *Bombus*. Cuckoo bumble bee females emerge from hibernation in the spring and usurp the nest of a suitable host colony, where host workers provision their young. SCBB is described as a semi-specialist parasite and is confirmed to usurp nests of Western bumble bees (*Bombus occidentalis*) and Nevada bumble bees (*Bombus nevadensis*), with other potential hosts in subgenus *Bombus* throughout the extent of its range. The species can be found in various habitat types including prairies, grasslands, meadows, urban and agricultural areas, and woodlands and has a historic range across Nebraska with documented occurrences in the panhandle and southeastern Nebraska. SCBB requires suitable nesting sites for host colonies, nectar and pollen resources during the colony and rearing period (spring, summer, and fall), and suitable overwintering sites for mated females. The nests that host SCBB are primarily underground cavities that have been created naturally or by other animals such as abandoned rodent nests. Overwintering sites are generally close to the ground surface an inch or two under loose soil or under leaf litter or other debris, in sites that are undisturbed and have adequate organic material to provide shelter such as mulch or other decomposing vegetation.

The viability of this bee is highly dependent on its host bumble bee species, many of which have declined historically, and are expected to continue to do so in the near term. Other major threats include pesticides, introduced disease, habitat fragmentation and conversion, and climate change.

The Service recommends the following conservation measures to minimize impacts to SCBB and from the proposed project:

1. Avoid construction in suitable habitats of SCBB and host species, especially those providing high quality diverse native vegetation. If construction must occur in suitable habitat, minimize overall disturbance of habitat. If possible, distribute the disturbance to only portions of the habitat leaving some habitat available throughout the year.
2. Establish post construction seeding mixes utilizing local seed containing a diversity of native species. Utilize wildflowers which bloom throughout the growing season to support wildlife during all life cycles of the species within project area.
3. Mowing should avoid sensitive timeframes for species growth and development. If mowing must occur, try to avoid nectar producing resources during these activities.
4. Herbicide application should be limited to spot spray application as practicable. If spot spraying isn't practicable, application (i.e., broadcast, aerial) should be conducted in such a way to avoid sensitive species and habitat types.

Effect Determination(s)

The Box Butte Creek watershed plan EA identified and considered all listed species within the watershed. Upon refinement of the action area, the number of species identified in IPaC, with potential to be affected by the action area, was reduced to the species listed above. Among those species, NRCS has requested consultation with the Service for piping plover as well as northern long-eared bat, and pallid sturgeon. NRCS plans to conduct presence/absence surveys for piping plover during construction to avoid disturbance to any potential nesting that could occur. Upon the Service's review, the northern long-eared bat and pallid sturgeon are not on the official species list produced in IPaC for this project. The action area is outside the range that the Service recognizes and therefore consultation under ESA for northern long-eared bat and pallid sturgeon will not be necessary but may still need to be considered under NESCA with the NGPC. However, because the northern long-eared bat and pallid sturgeon are federally listed species, the Service has the responsibility to provide NRCS with the recommended conservation measures for the species that could be incorporated into project planning.

Northern Long-Eared Bat

The northern long-eared bat (NLEB) is a medium-sized brown bat that was federally listed as endangered under the Endangered Species Act on March 31, 2023. Nebraska contains suitable forested habitat for foraging and roosting during the species' summer occupancy period (April 1st – September 30th). NLEBs typically roost singly or colonially in cavities, underneath bark, crevices, or hollows of both live and dead trees and/or snags of dense forests. Males and non-reproductive females may also roost near hibernacula such as caves and mines. NLEBs also occasionally roost in structures such as barns and sheds (particularly when suitable tree roosts are unavailable). They forage for insects in upland and lowland woodlots and tree-lined corridors along water. In the fall, when outdoor temperatures consistently drop below 50°F and daylight hours decrease, NLEB migrate to the entrances of hibernacula for fall swarming from August 16th to November 15th. During the winter, NLEBs predominately hibernate in caves and abandoned mines from November 16th to March 31st. In the spring, when temperatures and daylight hours begin to increase, NLEB begin emerging from hibernacula for spring staging in

preparation to migrate to their summer ranges (April 1st to May 14th). Caves and mines in Nebraska with documented use by these species occur in Cass, Greeley, Lancaster, and Sarpy counties. A deep rock crevice in a limestone cliff face on the Missouri River in Dixon County also has documented use during winter. Due to this finding, we suspect that these species also hibernate in deep rock crevices along the Missouri River (upstream of Ponca, Nebraska), Niobrara River, and Republican Rivers where rocky outcroppings are available.

NLEB have been severely impacted by the presence of a fungal disease commonly referred to as white-nose syndrome (WNS). Due to significant population declines caused by WNS and these species' reproductive rates, these species are more vulnerable to additional mortality events such as wind turbine strikes and barotrauma, summer and winter habitat loss or disturbance, and climate change.

Conservation measures that could be applied for NLEB are as follows:

1. Avoid removal of suitable tree roosting habitat during the summer occupancy period (April 1st- September 30th). If this is not possible, we recommend completing a Presence/Absence Survey in accordance with the Service's Range-wide Summer Survey Guidance to establish presence or probable absence.
2. Avoid removal or modification of structures that may be suitable for roosting during the summer occupancy period (April 1 – September 30). If this is not possible, we recommend completing Presence/Absence Survey in accordance with the Service's Range-wide Summer Survey Guidance to establish presence or probable absence.
3. Avoid removing suitable roost trees within 0.50-mile of known hibernacula entrances and the physical or other alteration of hibernacula entrances and interiors at any time.
4. Avoid conducting prescribed burns during these species pup season (May 15th – July 31st). If this is not possible, we recommend completing a Presence/Absence Survey in accordance with the Service's Range-wide Summer Survey Guidance to establish probable absence.
5. Avoid herbicide applications that may affect suitable summer habitat during the summer occupancy period unless applications will utilize targeted application methods like spot-spraying, hack-and-squirt, basal bark, injections, cut stump, or foliar spraying on individual herbaceous plants (no foliar spraying on tree leaves).
6. If nighttime work is planned between April 1st and September 30th, lighting should be limited to a Nominal CCT of 3000 Kelvin +/- 300 K, shielded, and directed away from suitable roosting habitat, such as lighting that is compliant with the "BUG rating" set forth by the Illumination Engineering Society as feasible.

Pallid Sturgeon

Pallid sturgeon (PS) inhabits large rivers, including the Elkhorn, Loup, Niobrara, Missouri, and Platte rivers in Nebraska. Floodplains, backwaters, chutes, sloughs, islands, sandbars, and main channel waters form these river ecosystems providing suitable habitat for this species. Specifically, these river segments in Nebraska include but are not limited to:

- Elkhorn River - between the Nebraska Highway 91 Bridge at Nickerson and the Platte River confluence.
- Loup River- upstream from the Platte River confluence to the Loup Power canal head gates.
- Missouri River - bordering the entire length of the state (approximately River Mile 490 to 874.5).
- Niobrara River - from Schindler Creek confluence to the Missouri River confluence (approximately the lower 7 miles of the Niobrara River).
- Platte River - between the Loup River confluence and the Missouri River confluence.

PS in Nebraska are impacted by the destruction, modification, or curtailment of its habitat/range, including river channelization, bank stabilization, impoundment, and altered flow regimes (See Platte River Depletions Section below). Threats also include water quality degradation, entrainment (i.e. water-cooling intake structures), dredge operations, diversions, flood control points (dams, levees, dikes, retention ponds, etc.), climate change, energy development, hybridization, and invasive species.

The Service recommends that the following conservation measures be incorporated into the proposed project to minimize potential impacts to PS:

1. Avoid project impacts to riverine systems in the designated segments (listed above) of the Elkhorn, Loup, Missouri, Niobrara, and Platte River channels from March 1st – June 30th, which coincides with species spawning and larval drift. Implementation of this conservation measure ensures incidental take of spawning adults, eggs, and free embryos are not “reasonably certain to occur.”
2. Construction activities within and upstream of designated segments should be designed to prevent streambank erosion and should not otherwise impact the stream channel/bank. Minimize disturbance to ground cover and vegetation within riparian areas by utilizing existing disturbed areas such as roads, trails, etc.
3. Any upland soil disturbances should be designed to avoid or minimize excess sedimentation which can affect water quality.
4. Avoid entrainment and/or impingement of fish when designing or repairing water control structures in the designated segments.

Recommendations

The Service encourages a diverse, native seed mix be incorporated into the restoration of these action areas to benefit the three insect species that are proposed for listing to meet obligations under 7(a)(1) of the ESA. Additional consideration could be made to avoid disturbing nests or overwintering sites for Suckley’s cuckoo bumble bee and western regal fritillary during construction.

This letter serves as technical assistance but does not provide a concurrence determination from the Service. Our office is unable to provide a concurrence determination until sufficient project specific information is available to fully analyze potential impacts to federally protected resources and a biological assessment is submitted. At this time and based on the plan information provided, you may consider this project to be in compliance with the Endangered Species Act of 1973, as amended, 16 U.S.C. 1531 et. Seq.

In addition, all federally listed species are also state-listed under the Nebraska Nongame and Endangered Species Conservation Act. There may be state-listed species affected by the proposed project that are not federally listed. To determine if the proposed project may affect State-listed species, the Service recommends that the project proponent contact, the Nebraska Environmental Review Team (ngpc.envreview@nebraska.gov) and/or Ruby Rolland (ruby.rolland@nebraska.gov), Nebraska Game and Parks Commission, 2200 North 33rd Street, Lincoln, Nebraska 68503-0370, (402) 471-5554.

REVIEW, COMMENTS, AND RECOMMENDATIONS ON THE PROPOSED PROJECT ACTION UNDER OTHER FISH AND WILDLIFE STATUTES

Fish and Wildlife Coordination Act

The Fish and Wildlife Coordination Act ([FWCA; 16 U.S.C. 661-666\(e\)](#)) requires consultation with the Service and State fish and wildlife agency (in this case NGPC) for the purpose of giving equal consideration to fish and wildlife resources in the planning, implementation, and operation of federal and federally funded, permitted, or licensed water resource development projects. The FWCA requires that federal agencies take into consideration the effect that water related projects may have on fish and wildlife resources, to take action to avoid impact to these resources, and to provide for the enhancement of these resources.

The Service recommends impacts such a sedimentation and introduction of contaminants to wetlands, streams, and riparian areas be avoided or minimized during project construction. Restoration of the action area should be completed using only native species to prevent future sedimentation and reduce the establishment of invasive species.

To determine if the proposed project may affect fish and wildlife resources of the State of Nebraska under the FWCA, the Service recommends that the project proponent contact the Nebraska Environmental Review Team (ngpc.envreview@nebraska.gov) and/or Ruby Rolland (ruby.rolland@nebraska.gov), Nebraska Game and Parks Commission, 2200 North 33rd Street, Lincoln, Nebraska 68503-0370, (402) 471-5554.

Bald and Golden Eagle Protection Act

The bald eagle (*Haliaeetus leucocephalus*) and golden eagle (*Aquila chrysaetos*) are protected from a variety of harmful actions via take prohibitions in both the Migratory Bird Treaty Act² ([MBTA; 16 U.S.C. 703-712](#)) and the Bald and Golden Eagle Protection Act ([BGEPA; 16 U.S.C. 668–668d](#)). The BGEPA, enacted in 1940 and amended several times, prohibits take of bald eagles and golden eagles, including their parts, nests, young or eggs, except where otherwise permitted pursuant to federal regulations. Incidental take of eagles from any actions, such as electrocutions from power lines or wind turbine strikes, are prohibited unless specifically authorized via an eagle incidental take permit from the Service. The Service provides the option for [ePermits](#) that can be acquired online as well as additional information about eagle take permitting. BGEPA provides penalties for persons who "take, possess, sell, purchase, barter, offer to sell, purchase or barter, transport, export or import, at any time or any manner, any bald eagle ... [or any golden eagle], alive or dead, or any part, nest, or egg thereof." BGEPA defines take to include the following actions: "pursue, shoot, shoot at, poison, wound, kill, capture, trap, collect, molest or disturb." The Service expanded this definition by regulation to include the term "destroy" to ensure that "take" also encompasses destruction of eagle nests. Also the Service defined the term disturb which means to agitate or bother a bald or golden eagle to a degree that causes, or is likely to cause, based on the best scientific information available, (1) injury to an eagle, (2) a decrease in its productivity, by substantially interfering with normal breeding, feeding, or sheltering behavior, or (3) nest abandonment, by substantially interfering with normal breeding, feeding, or sheltering behavior.

- The [2007 National Bald Eagle Management Guidelines](#) serve to advise landowners, land managers, and others who share public and private lands with bald eagles when and under what circumstances the protective provisions of BGEPA may apply. They provide conservation recommendations to help people avoid and/or minimize such impacts to bald eagles, particularly where they may constitute "disturbance," which is prohibited by the BGEPA.

The Service also has promulgated new permit regulations under BGEPA:

- New eagle permit regulations, as allowed under BGEPA, were promulgated by the Service in 2009 (74 FR 46836; Sept. 11, 2009) and revised in 2016 ([81 FR 91494; Dec. 16, 2016](#)). The regulations authorize the limited take of bald and golden eagles where the take to be authorized is associated with otherwise lawful activities. These regulations also establish permit provisions for intentional take of eagle nests where necessary to ensure public health and safety, in addition to other limited circumstances. The revisions in 2016 included changes to permit issuance criteria and duration, definitions, compensatory mitigation standards, criteria for eagle nest removal permits, permit application requirements, and fees in order to clarify, improve implementation and increase compliance while still protecting eagles.

The Service's Office of Law Enforcement carries out its mission to protect eagles through investigations and enforcement, as well as by fostering relationships with individuals, companies, industries and agencies that have taken effective steps to avoid take, including incidental take of these species, and encouraging others to implement measures to avoid take.

²The MBTA list of protected species includes bald and golden eagles, and the law has been an effective tool to pursue incidental take cases involving eagles. However, the primary law protecting eagles is the Bald and Golden Eagle Protection Act (BGEPA) (16 U.S. Code § 668), since the bald eagle was delisted under the Endangered Species Act in 2007.

The Office of Law Enforcement focuses its resources on investigating individuals and entities that take eagles without identifying and implementing all reasonable, prudent and effective measures to avoid that take. Those individuals and entities are encouraged to work closely with Service biologists to identify available protective measures, and to implement those measures during all activities or situations where their action or inaction may result in the take of an eagle(s).

Migratory Bird Treaty Act

The Migratory Bird Treaty Act ([MBTA; 16 U.S.C. 703-712](#)), implements four international conservation treaties that the U.S. entered into with Canada in 1916, Mexico in 1936, Japan in 1972, and Russia in 1976. It is intended to ensure the sustainability of populations of all protected migratory bird species and prohibits the take (including killing, capturing, selling, trading, and transport) of protected migratory bird species without prior authorization by the Department of Interior U.S. Fish and Wildlife Service. MBTA does not apply to nonnative species of birds. An [updated list](#) of those species was published in 2020. Regulations regarding migratory bird permits can be found in the Code of Federal Regulations ([50 CFR 21](#)). The Service issues [ePermits](#) through the Migratory Bird Permit Program which is in development.

In accordance with MBTA, we recommend those construction activities that occur in grassland, roadsides, wetland, riparian (stream), shrubland and woodland habitats, or on bridges or culverts (e.g., which may affect nests on bridge girders) that could otherwise result in impacts to migratory birds, eggs, young, and/or active nests should be avoided. Although the provisions of MBTA are applicable year-round, most migratory bird nesting activity in Nebraska occurs during the period of April 1 to July 15. However, some migratory birds are known to nest outside of the aforementioned primary nesting season period. For example, raptors can be expected to nest in woodland habitats during February 1 through July 15, whereas sedge wrens, which occur in some wetland habitats, normally nest from July 15 to September 10. We recommend projects in Nebraska avoid and minimize vegetation removal and impacts during the primary nesting season for breeding birds, April 1-July 15.

Watershed Protections and Flood Prevention Act

In accordance with the Watershed Protections and Flood Prevention Act (WPFPA; P.L. 83-566 Section 12), the Service, if so desires, may make surveys and investigations and prepare a report with recommendations concerning the conservation and development of wildlife resources and participate in the preparation of a plan for works of improvement. At this time and based on the information provided, the Service does not intend to make surveys, investigations, or report for this project but as the project develops will continue to provide recommendations under the above operating authorities.

In summary, we greatly appreciate the NRCS and the applicant(s) including the Service this early in the review process to ensure ESA requirements under both 7(a)(1) and 7(a)(2) are on track to be met without delays to the project. Once project specific information is finalized and available to the Service to fully analyze the potential impacts, the Service will be able to either provide concurrence or further assistance to provide a determination. We look forward to

working with you in further refinement of this project. Should you have questions, please contact Mallory Jaymes within our office at mallory_jaymes@fws.gov or (308) 850-7688.

Sincerely,

Mark Porath
Nebraska Project Leader/Field Office Supervisor
Mountain-Prairie Region, Ecological Services

Cc: Melissa Baier, ASTC- Water Resource and Easements, NRCS
ngpc.envreview@nebraska.gov
nebraskaes@fws.gov



Natural Resources Conservation Service

U.S. DEPARTMENT OF AGRICULTURE

Nebraska State Office

1121 Lincoln Mall
Room 360
Lincoln, NE 68508

November 18, 2025

Subject: Invitation to Comment on Draft Watershed Plan, Box Butte Creek

The Natural Resources Conservation Service (NRCS), a program within the U.S. Department of Agriculture, is soliciting comments on a draft Watershed Plan. The draft Watershed Plan for the Box Butte Creek Watershed Project in Box Butte, Dawes, and Sheridan Counties, Nebraska, was developed in partnership with the Upper Niobrara White Natural Resources District. The plan analyzes measures for agriculture water management and flood prevention (flood damage reduction) through the Pub. L. 83-566 Small Watershed Program. The preferred alternative in the plan includes road improvements at three locations to reduce flood damage to private and public infrastructure, and construction of three off-channel diversion structures to promote water ponding, infiltration, and ground water recharge. The draft Watershed Plan and related documents are available at www.nrcs.usda.gov/state-offices/nebraska/projects-ready-for-public-comment-and-review or <https://unwnrd.org/watershed-and-flood-prevention-plan/>.

To receive full consideration prior to the decision, NRCS is requesting that agencies review and provide their comments on the Watershed Plan by the end of the day on Monday, December 22, 2025. Please send comments to Melissa.Baier@usda.gov or the address below:

Melissa Baier
Assistant State Conservationist-Water Resources and Easements
USDA/NRCS
1121 Lincoln Mall, Room 360
Lincoln, NE 68508

All comments received, including the names and addresses of those people who comment, will be part of the public record and will be released for public review as required and allowed by law. Comments, information, and analyses provided should be as specific as possible and an explanation of why the information is important to the analysis should be included.

If you have any questions, please contact Melissa Baier at 402.437.4065 or by email at melissa.baier@usda.gov. Thank you for your continued engagement in this important planning process.

Sincerely,

ROBERT D. LAWSON
State Conservationist

December 23, 2025

Melissa Baier
Assistant State Conservationist – Water Resources and Easements
USDA/NRCS
1121 Lincoln Mall, Room 360
Lincoln, Nebraska 68508
melissa.baier@usda.gov

Sent via electronic mail only

RE: DRAFT Watershed Plan for the Box Butte Watershed Project

Dear Ms. Baier,

I am writing to provide comments on the Draft Watershed Plan for the Box Butte Watershed Project. Department of Water, Energy, and Environment (DWEE) has reviewed Draft Plan, particularly in relation to our agency's programs. I appreciate the effort put into the development of this Watershed Plan.

I would like to commend the Natural Resources Conservation Service (NRCS) and the Upper Niobrara White Natural Resources District (UNWNRD) for spearheading this critical project. The recommended plan consists of two alternatives to enhance flood damage reduction. The preferred alternative includes constructing three on-channel dam diversion structures to off-channel storages to promote ponding, infiltration, and passive groundwater recharge and road improvements at three locations to provide flood damage reduction in the Box Butte Creek Watershed. Development of this plan and identification of measures are commendable steps in reducing flooding damage in the Box Butte Watershed while recharging groundwater aquifer.

As with any project, permits may be required prior to beginning construction or operation. At a minimum, you should be aware of the possible requirements or permits from following DWEE program areas:

	<u>Contact</u>	<u>Phone</u>
Air Quality	Lindsey Hollmann	(402) 471-4212
Construction Storm Water	Patrick Ducey	(402) 471-4288
NPDES	Patrick Ducey	(402) 471-4288
Dam Safety	Tim Gokie	(402) 471-6398
Drinking Water	Hillary Stoll	(402) 471-4252
Wastewater	Hillary Stoll	(402) 471-4252
Floodplain Management	Jamie Reinke	(402) 471-3957
Groundwater Wells	Mike Thompson	(402) 471-0587
Stream Gaging	Jeremy Gehle	(402) 471-3933
Surface Water Rights	Dan Kloch	(402) 471-2098

Water Quality	Kate Bird	(402) 471-4201
Waste Disposal	Dan LeMaistre	(402) 471-4495
Water Planning	Jennifer Schellpeper	(402) 471-2899

Air Quality: Fugitive Dust Title 129 Chapter 15 Section 003 regulations shall apply to all construction, demolition, and grading activities.

Construction Storm Water/NPDES: If the project and/or supporting areas disturb more than one acre of soil (43,560 square feet), this project will need to obtain coverage under the Construction Storm Water General Permit NER210000. Additionally, if any pits need to be dewatered or groundwater lowered during construction, the site may need permitting under the Dewatering General Permit NEG671000. If you have any questions about NPDES permitting, please contact Patrick Ducey (402-471-4288).

Dam Safety: No comments on this project.

Drinking Water: No comments on this project.

Wastewater: No comments on this project.

Floodplain Management: See floodplain management attachment.

Groundwater Wells: No comments on this project.

Stream Gaging: No comments on this project.

Surface Water Rights: If storage structures will impound more than 15 acre-feet of water, applications to appropriate water for must be filed with DWEE before commencing construction. Should surface water from streams or reservoirs be utilized for construction activities, a permit to appropriate water is required. Temporary permits for public construction are granted for a term of one year. If you have any questions about surface water appropriations, please contact Dan Kloch at (402) 471-2098.

Water Quality: The project will be required to comply with § 401 of the Clean Water Act of 1977, as amended by the Water Quality Act of 1987, and Nebraska Titles 120 and 117. Wetland and stream impacts may occur in this project. If the project will result in a possible discharge of dredge and fill material into federally jurisdictional waters, a 404 Permit from US Army Corps of Engineers, 401 Water Quality Certification from DWEE, and compensatory mitigation may be required. It is recommended that during the project planning phase the applicant contact the Section 401 Program Coordinator at DWEE to discuss the project to ensure that it will comply with Nebraska Title 117 Water Quality Standards.

Waste Disposal: No Waste Permit Required.

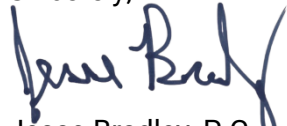
Any waste generated during watershed management activities must be handled, contained, and disposed as per all applicable regulations found in Nebraska Title 128 – Hazardous Waste Regulations and Nebraska and Title 132 – Integrated Solid Waste Management Regulations. If, during excavation or construction activities, solid waste is discovered please contact the DWEE for additional guidance and approval in accordance with Title 132, Chapter 3, Section 005.09.

This includes proper waste determinations and characterization before disposal. Where possible, DWEE urges reuse and recycling of any materials generated by the project. If you have any questions about solid or hazardous waste regulations, please contact the DWEE at (402) 471-2186 or DWEE.solidwaste@nebraska.gov.

Water Planning: No comments or concerns about this watershed plan from a water quantity perspective.

Please contact me if you have any questions about our department's comments or have informational inquiries related to our agency programs.

Sincerely,

A handwritten signature in blue ink, appearing to read "Jesse Bradley".

Jesse Bradley, P.G.
Director

Attachment – Floodplain Management Division’s Comments

To: Melissa Baier
Assistance State Conservationist – Water Resources and Easements
Natural Resources Conservation Service

From: Erin Wendt, CFM
Outreach Coordinator, Floodplain Management Division
Nebraska Department of Water, Energy, and Environment

Date: December 15, 2025

Subject: Draft Watershed Plan for the Box Butte Watershed Project – Floodplain Management
Comments

The following is a summary of Nebraska Department of Water, Energy, and Environment (DWEE)’s Floodplain Management Division’s comments.

1. Draft Watershed Plan Comments

- Best practices in floodplain management encourage maintaining the natural hydrology of a system. The implementation of natural flood risk reduction measures such as wetlands, stream buffers, cover crops, and terraces would provide water storage at higher elevations in the watershed while simultaneously reducing flood volumes and velocities downstream.
- Throughout the plan, the regulatory flood event is listed as the “100-year” event. While not inaccurate, listing it as the recurrence interval rather than annual percent chance – the 1% annual chance – is often misunderstood by the public. The Floodplain Management Division of DWEE recommends revising this throughout the plan.
- The construction of preferred alternative will alter the way floodwaters flow and potentially cause rise to the base floodwater heights. If an unacceptable amount of rise occurs or will negatively impact neighboring properties, a Letter of Map Revision (LOMR) needs to be obtained. See “Permitting Criteria” for more information on the LOMR process.
- Section 6.5 discusses permits required for the project. Within the list, floodplain development permits are not included. Work in Box Butte County is occurring in a mapped floodplain, but the County currently does not participate in the National Flood Insurance Program (NFIP). Development work is also proposed within the regulated Special Flood Hazard Area (SFHA) of Sheridan County, who is a participant in the NFIP. All work in regulated floodplains requires a floodplain development permit from the local jurisdiction.
 - o Box Butte County’s participation status within the NFIP may change as a result of receiving new Flood Insurance Rate Maps (FIRMs) in the near future. Please see “Permitting Criteria” for more information.
- Any Operation, Maintenance, and Replacement work of the proposed development would require a floodplain development permit application from the local NFIP participating jurisdiction if it includes work in an SFHA.

2. Permitting Criteria

Portions of the proposed project are located in regulated 1% annual chance flood hazard areas, unregulated 1% annual chance and 0.2% annual chance Flood Awareness Areas (FAA), and unregulated preliminary 1% and 0.2% annual chance flood hazard areas. All development within flood hazard areas needs to comply with local floodplain regulations and a floodplain development permit must be obtained prior to project commencement. "Development" is defined in [44 CFR 59.1](#) as, "*any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.*"

Flood Awareness Areas represent *best available data* and are identified on Nebraska Floodplain Management Work Maps, which are created to provide floodplain administrators with the most current understanding of where flood risk exists today. Nebraska Floodplain Management Work Maps are also created with the intent of *becoming* regulated floodplains; therefore, it is recommended that all existing floodplain management regulations be followed in areas identified as Flood Awareness Areas. Flood Awareness Areas can be viewed the [Nebraska Floodplain Management Interactive Map](#).

Preliminary flood hazard data provides an early look at a community's projected risk to flood hazards (<https://hazards.fema.gov/femaportal/prelimdownload/>). This data is for review and guidance only; however the preliminary products for Box Butte County and Sheridan County are scheduled to become effective in March of 2027, it is recommended that all existing floodplain management regulations be followed in areas identified as preliminary. Preliminary FIRM Panels and boundaries can be viewed at the [FEMA Map Service Center](#) or on the [Nebraska Floodplain Interactive Map](#) by toggling on the "Preliminary NFHL" in the Map Layers tab.

Prior to construction commencement, the local project sponsor/developer must check the status of regulatory maps and National Flood Insurance Program (NFIP) participation within the project area to determine if new effective maps have been released and adopted by the local jurisdiction or if a community's participation status in the NFIP has changed.

Since federal funding is involved, the proposed project is subject to [Title 44 CFR Chapter I Subchapter A Part 9](#). The project is required to identify and evaluate practicable alternatives to the location of the proposed action (44 CFR 9.9). Components not practicable to be located outside the floodplain and/or wetlands must minimize harm to and within wetlands, as detailed in 44 CFR §9.11 Mitigation (a) through (f).

The proposed development is subject to the provisions of [Nebraska Administrative Code Title 455 Chapter 1](#), "Minimum Standards for Floodplain Management". Please note the following:

- NAC Title 455 Chapter 1 §002.16, definition of "Obstruction."
- NAC Title 455 Chapter 1 § 004.01, rise requirements for new construction/obstructions in the SFHA. **As part of the permitting process, provide the local Floodplain Administrator with the amount of rise of the base flood elevation the proposed development will cause.**
 - If the proposed development will cause an unacceptable amount of rise, a LOMR is required. See below for more information on the CLOMR/LOMR process.
- NAC Title 455 Chapter 1 §004.02, construction requirements for all new or improved obstructions in the SFHA.
- NAC Title 455 Chapter 1 §004.14, requirements for watercourse or drainway alterations.

- NAC Title 455 Chapter 1 §004.15, Requirements for storage of materials and/or equipment in the SFHA. **This stipulation applies during and after construction, to both the construction and staging areas.**

Since watercourse alterations are proposed, the local official must notify adjacent communities, the DWEE Floodplain Management Division, and provide a copy to the FEMA Regional Office. Further, if there is an increase of more than one (1) foot of rise in the base flood in any Zone A floodplain or Zone AE floodplain without a designated floodway, the project proponent must go through the CLOMR/LOMR process. To ensure FEMA will recognize the project for a map change when construction is completed, it is strongly recommended to apply for and receive approval of a Conditional Letter of Map Revision (CLOMR) for large-scale proposals. Within 6 months of project completion, the developer must then submit for a Letter of Map Revision (LOMR) ([44 CFR 65.3](#)). For information about the CLOMR/LOMR process, please see: [Alteration of a Watercourse | FEMA.gov](#), [Letters of Map Revision and Conditional Letters of Map Revision](#), and [44 CFR part 65](#).

If you have any questions concerning floodplain management and permitting, please contact the local floodplain administrators using <https://nednr.nebraska.gov/dynamic/Floodplain/Floodplain/CommunityStatusListSearchIndex>.

For questions regarding the information contained within this memo, please contact the DWEE Floodplain Management Division at (402) 471-2186 or <https://dnr.nebraska.gov/floodplain/contact>.



Attachment C. Tribal Scoping

Box Butte Creek Watershed Plan-EA
Tribal Coordination Contacts

First Name	Last Name	Job Title	Tribe	Address	City	State	Zip
Reggie	Wassana	Governor	Cheyenne & Arapaho Business Committee Cheyenne & Arapaho Tribes of Oklahoma	P.O. Box 38	Concho	OK	73022
Rodney M.	Bordeaux	President	Rosebud Sioux Tribe	P.O. Box 430	Rosebud	SD	57570
Clyde	Estes	Chairman	Lower Brule Sioux Tribe	187 Oyate Circle	Lower Brule	SD	57548
Julian	Bear Runner	President	Oglala Sioux Tribe	P.O. Box 2070	Pine Ridge	SD	57770
Lee	Spoonhunter	Chairman	Northern Arapaho Tribe	P.O. Box 396	Fort Washakie	WY	82514
Rynalea	Whiteman Pena	President	Northern Cheyenne Tribe	P.O. Box 128	Lame Deer	MT	59043
Everett	Baxter Jr.	Chairman	Omaha Tribe of Nebraska	P.O. Box 368	Macy	NE	68039
Larry	Wright, Jr.	Chairman	Ponca Tribe of Nebraska	P.O. Box 288	Niobrara	NE	68760
Oliver	Little Cook	Chairman	Ponca Tribe of Indians of Oklahoma	20 White Eagle Drive	Ponca City	OK	74601
Bobby	Komardley	Chairman	Apache Tribe of Oklahoma	P.O. Box 13005	Anadarko	OK	73005
Harold	Frazier	Chairperson	Cheyenne River Sioux Tribe	P.O. Box 590	Eagle Butte	SD	57625-0590
William	Nelson, Sr.	Chairman	Comanche Nation	P.O. Box 908	Lawton	OK	73502
Lester	Thompson, Jr.	Chairperson	Crow Creek Sioux Tribe of the Crow Creek	P.O. Box 50	Fort Thompson	SD	57339
Roger	Trudell	Chairperson	Santee Sioux Nation	108 Spirit Lake Ave W.	Niobrara	NE	68760-7207
Mike	Faith	Chairperson	Standing Rock Sioux Tribe of North and South Dakota	P.O Box D	Fort Yates	ND	58538-0522

SEND VIA USPS ELECTRONIC SIGNATURE CONFIRMATION

November 13, 2020

Rynalea Whiteman Pena, President
Northern Cheyenne Tribe
P.O. Box 128
Lame Deer, Montana, 59043

RE: Box Butte Creek Watershed Plan and Environmental Assessment (Plan-EA): Early NEPA Coordination and Initiation of NHPA Section 106 consultation (Box Butte, Sheridan, and Dawes Counties, Nebraska)

Honorable President Whiteman Pena:

In compliance with the National Environmental Policy Act (NEPA) and Section 106 of the National Historic Preservation Act of 1966 (NHPA), the Natural Resources Conservation Service (NRCS) is initiating consultation with you regarding the development of a Watershed Plan-Environmental Assessment (EA) for the Box Butte Creek Watershed in Box Butte, Sheridan, and Dawes Counties, Nebraska. The watershed planning document is being prepared in accordance with the Watershed Protection and Flood Prevention Act (PL 83-566), which authorizes NRCS to cooperate with State and local agencies in planning and carrying out works of improvement for soil conservation and flood risk reduction purposes. The watershed program includes the development of physically, environmentally, socially, and economically sound project plans for watershed improvements to prevent erosion, prevent flood damage, improve water quality, and/or enhance fish and wildlife habitat. NRCS is partnering with the Upper Niobrara White Natural Resources District (UNWNRD) to develop the plan-EA, and HDR has been retained as the consultant in charge of preparing the plan and environmental document. The plan-EA will evaluate alternatives to reduce flood damage to agriculture and infrastructure within the Box Butte Creek Watershed.

The plan-EA is in the initial stages of development and as the proposed undertaking may be located within the ancestral lands of your Tribe, NRCS is inviting your Tribe to early coordination and consultation on this undertaking. Specifically, we would like your input regarding potential impacts to culturally significant resources within the project area. Early identification of Tribal concerns will allow NRCS and the UNWNRD to consider ways to avoid and minimize potential impacts to Tribal resources. Currently, NRCS is **not** asking for specific information or documentation regarding the location, nature, and condition of individual sites. We are merely initializing consultation to identify potential concerns early in the planning process. Your comments will be incorporated into the environmental planning process and Environmental Assessment document as appropriate.



Attached you will find the watershed location depicted on a map (Enclosure A). As input is received and additional studies are conducted the proposed alternatives' area of potential effects (APE) will be refined and likely reduced from the overall watershed boundary. The enclosed document (Enclosure A) provides additional information about the watershed and the types of alternatives that will be evaluated as part of the planning process, as well as a tentative schedule for the development of the plan-EA. Archeological surveys will take place after a preferred alternative is selected and the final area of potential effects is determined. Additional NHPA Section 106 consultation will occur throughout the NEPA process.

The UNWNRD and NRCS will be hosting agency and public scoping meetings on December 15, 2020. The details on the times and location are forthcoming. Please check the District's website, www.unwnrd.org for details. Meeting information will be available on the District's website by December 15, 2020. It is anticipated that Agencies and Tribes will be provided an opportunity to tour the watershed the morning of December 15. If you would like to participate, please notify one of the contacts listed below and the details will be provided to you as they are finalized.

Please send responses to Elisha Mackling, NRCS Cultural Resources Specialist, at elisha.mackling@usda.gov or the address in the letterhead. If you have any questions about the project, please contact Elisha Mackling, NRCS, at 402-437-4128 or by email at elisha.mackling@usda.gov. You may also contact Matt Pillard, HDR, at 402-399-1186 or by email at matt.pillard@hdrinc.com; or Lynn Webster, Assistant Manager, UNWNRD at 308-432-6190 or by email at webster@unwnrd.org. Thank you in advance for your consideration of this project.

Sincerely,

STUART COREY BRUBAKER, Acting

CRAIG DERICKSON
State Conservationist

Enclosures:

A. Early Coordination Information Packet

CC:

Mr. Teanna Limpy, Tribal Historic Preservation Officer, Northern Cheyenne Tribe
Allen Gehring, State Conservation Engineer, Nebraska NRCS
Rich Vaughn, Watershed Program Coordinator, Nebraska NRCS
Elisha Mackling, Cultural Resources Specialist, Nebraska NRCS



**Box Butte Creek Watershed Plan and Environmental Assessment
Box Butte, Sheridan, and Dawes Counties, Nebraska
Early Coordination Information**

INTRODUCTION AND BACKGROUND

The Upper Niobrara White Natural Resources District (the District), in coordination with the US Department of Agriculture – Natural Resources Conservation Service (USDA - NRCS), is initiating the preparation of a Watershed Plan and Environmental Assessment (Plan-EA) for the Box Butte Creek Watershed in Box Butte, Sheridan, and Dawes Counties (study area). See attached figure for the project area. The project is needed for two separate but related issues within the Box Butte Creek Watershed: the current risk of flood events and the related flood damages occurring as a result of flood events and groundwater declines throughout the watershed.

Box Butte Creek is typically an ephemeral creek with reaches of intermittent and perennial baseflows. However; with increasing frequency, four major flooding events with watershed wide impacts in the last 10 years, including both 2018 and 2019, and several other events with isolated damages, and intense rainfall events have resulted in substantial flooding along Box Butte Creek and its tributaries. These flooding events have caused crop damages, loss of land productivity, excessive bank and top soil erosion, loss of agricultural land, damage to private property and farmsteads, degradation to water quality, and extensive damage to local and county roads that are critical to producers and the local and regional economy.

In addition, over the past 25 years, significant groundwater declines have occurred in the Box Butte Creek watershed. These declines have resulted in lost agricultural production, limits on existing and new groundwater uses, domestic and agricultural well modifications, and base stream flow reductions that have resulted in fish and wildlife impacts and degraded surface water quality.

PROJECT DESCRIPTION

The headwaters of Box Butte Creek originate in north-central Box Butte County and the creek proceeds easterly to the confluence with the Niobrara River in west-central Sheridan County. The Box Butte Watershed Plan-EA study area is approximately 162,000 acres (see attached figure). The watershed is agricultural in nature with pasture/grassland and dryland/irrigated cropland. The Watershed Plan-EA will also partially cover the village of Hemingford, with a population of approximately 800.

The overall goal of this project is to provide flood damage relief and promote groundwater recharge within the study area. The following general alternative concepts have been identified for initial consideration. As part of the Watershed Plan-EA development process, alternatives will be refined based on further study, public feedback and additional exploration of problems and opportunities.

No Action Alternative

A no action alternative means that no improvements would be implemented. The no action alternative is being evaluated as a baseline comparison for other alternatives.



Structural Measures Alternative

This alternative may include one of or a combination of the following:

- Box Butte Creek on-channel reservoirs/ recharge basins
 - Large reservoirs/recharge basins
 - Small reservoirs/recharge basins
- Off-channel (tributaries to Box Butte Creek) storage
- Distributed storage basins throughout watershed

Non-Structural Measures Alternative

This alternative consists of ways to address issues in the watershed that do not involve new structures. Non-structural measures could include watershed best management practices (BMPs), such as cover crop, terracing, and stream buffers.

The Watershed Plan-EA development process involves combines two processes, the National Environmental Policy Act (NEPA) process and NRCS planning process, into one cohesive and more efficient watershed planning process. An EA is a NEPA document that determines whether or not a federal action has the potential to cause significant environmental effects. The EA will generally consist of the need for the proposal; alternatives; the environmental (natural and socioeconomic) impacts of the proposed action and alternatives; and a listing of agencies and persons consulted.

ANTICIPATED IMPACTS

A wide spectrum of resources will be evaluated including floodplains, fish and wildlife (including threatened or endangered species) habitat, water quality, recreation, public safety, infrastructure and the built environment, socioeconomic resources, Section 4(f) properties, cultural resources, noise, and air quality. Impacts may vary depending on the design elements of the project. Potential impacts will be determined as planning activities continue.

DEVELOPMENT PROCEDURES

The District requested assistance from the USDA - NRCS under the Watershed and Flood Prevention Operations (WFPO) program to address flood prevention and other resource concerns in the Box Butte Creek Watershed. The USDA - NRCS accepted the District's request in July 2020, which initiated the development of the Watershed Plan-EA.

Primary elements of participation in the WFPO program includes:

- Evaluation of options to protect watersheds and vital infrastructure from erosion, floodwater, and sediment.
- NRCS technical assistance with the project feasibility report and the preliminary investigation for flood prevention and other resource concerns.
- NRCS provides financial and technical assistance in planning, design, and construction.
- Can receive up to 100% Federal funding for planning, engineering, and construction depending on the project type.

Current regulations governing development of federally funded projects require early coordination with units of government who may have interests in the project or its potential impacts. This is intended to provide early notification of the proposed project and to solicit comments regarding the potential impacts

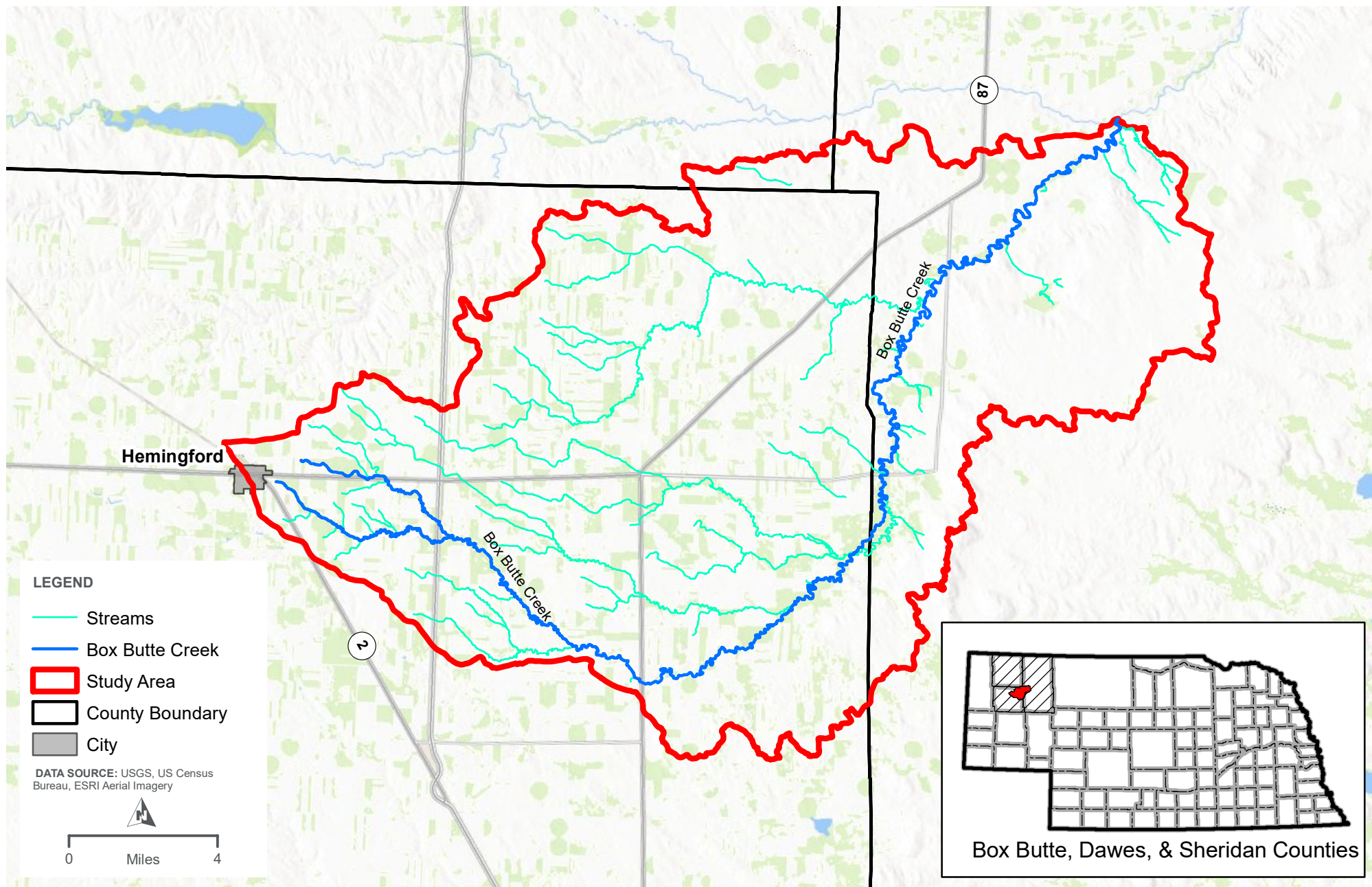


of such an action. Several federal, state and local agencies will also be contacted directly to request their early input as part of the project impact identification process.

SCHEDULE

The project team takes several steps to analyze the project area and determine what needs to be included in the final Watershed-Plan EA. This process began in August of 2020 and will continue until the publication of the final Environmental Assessment, anticipated to occur in summer 2022.

As part of the process of developing the Watershed-Plan EA, two distinct opportunities for public, agency, and Tribal comment will occur. First, a public scoping meeting is planned for December 15, 2020. Please check the District's website (unwnrd.org) for details. Meeting information will also be available on the District's website by December 15. Once the Draft Watershed Plan-EA is prepared, there will be another public meeting with an opportunity to review and provide comment on the Watershed-Plan EA, anticipated spring 2022.



PROJECT AREA **BOX BUTTE CREEK WATERSHED PLAN & EA**

FIGURE 1.1

Hines, Brooke

From: Pillard, Matt
Sent: Monday, December 21, 2020 10:43 AM
To: Hines, Brooke
Subject: FW: Box Butte Watershed Scoping Response 1

One response from Cheyenne Nation.

Matt Pillard, AICP
D 402.399.1186 M 402.660.7998

hdrinc.com/follow-us

From: Mackling, Elisha - NRCS, Lincoln, NE <elisha.mackling@usda.gov>
Sent: Monday, December 21, 2020 11:29 AM
To: Pillard, Matt <Matt.Pillard@hdrinc.com>
Cc: Vaughn, Richard - NRCS, Lincoln, NE <richard.vaughn@usda.gov>
Subject: Box Butte Watershed Scoping Response 1

CAUTION: [EXTERNAL] This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Hi,

Please add this response to the record of correspondence.

Thanks and Happy Holidays.

Elisha Mackling
Cultural Resources Specialist
USDA-NRCS Nebraska - State Office
100 Centennial Mall N, Rm 152
Lincoln, NE 68508-3803
Phone: 402-437-4128

From: Mackling, Elisha - NRCS, Lincoln, NE
Sent: Monday, December 21, 2020 11:23 AM
To: Gary <gary.lafranier@cheyennation.com>
Subject: RE: Box Butte Creek Watershed.

Hello Mr. LaFranier,

Thank you for taking the time to respond your interest in the Box Butte Creek Watershed Plan and Environmental Assessment. As you may have noted information on the project can be found at the following online location <https://unwnrd.org/news/press-releases/notice-of-public-scoping-meeting-for-box-butte-creek-watershed-plan-and-environment-assessment/>. As project scoping continues and more definitive alternatives are narrowed down expect to be contacted again for your input.

Thanks.

Elisha Mackling
Cultural Resources Specialist
USDA-NRCS Nebraska - State Office
100 Centennial Mall N, Rm 152
Lincoln, NE 68508-3803
Phone: 402-437-4128

From: Gary <gary.lafranier@cheyennenation.com>
Sent: Tuesday, December 15, 2020 5:29 PM
To: Mackling, Elisha - NRCS, Lincoln, NE <elisha.mackling@usda.gov>
Subject: Box Butte Creek Watershed.
Importance: High

Hello,

Northern Cheyenne is sending an interest email. Please keep Northern Cheyenne updated.

Thank You,

Gary LaFranier
FCC/ Section 106 Coordinator
Northern Cheyenne THPO
(406)477-8114
Lame Deer, MT. 59043

This electronic message contains information generated by the USDA solely for the intended recipients. Any unauthorized interception of this message or the use or disclosure of the information it contains may violate the law and subject the violator to civil or criminal penalties. If you believe you have received this message in error, please notify the sender and delete the email immediately.

Box Butte Watershed Plan

Consultation and Coordination

1. National Historic Preservation Act Section 106 Consultation
2. P.L. 83-566 Section 12 Consultation
3. Endangered Species Act Consultation
4. Cooperating Agency Letters

National Historic Preservation Act Section 106 Consultation



Natural Resources Conservation Service

U.S. DEPARTMENT OF AGRICULTURE

Nebraska State Office

1121 Lincoln Mall
Room 360
Lincoln, NE 68508

SENT VIA USPS PRIORITY MAIL: SIGNATURE CONFIRMATION REQUIRED

January 6, 2025

Chelsea Rose, Preservation Archaeologist
History Nebraska
1500 R Street
Lincoln, NE 68508

RE: USDA-NRCS National Historic Preservation Act (NHPA) Section 106 Consultation Request, Box Butte Watershed Plan-EA, Box Butte and Sheridan Counties, Nebraska

Dear Chelsea Rose:

In accordance with Section 106 of the National Historic Preservation Act of 1966 (NHPA) and its implementing regulations (36 CFR Part 800.3), the Natural Resources Conservation Service (NRCS) is requesting to consult with you on a proposed undertaking in Box Butte and Sheridan Counties, Nebraska. Per 36 CFR 800.4, we have defined the area of potential effect (APE), completed cultural resources inventories of the APE, and evaluated the historical significance of the resources identified during the inventory. We have also made a determination of effect for this undertaking based on the results of the cultural resources investigation.

The cultural resources inventory did not identify any properties listed on or eligible for listing on the National Register of Historic Places (NRHP) within the APE. Therefore, NRCS has determined that No Historic Properties will be affected by this project. More information about the undertaking, the cultural resources inventory, and the rationale behind the determination of effect is provided below and in the attached supporting documents.

We are requesting your review of this project and your comments on whether you concur with our determinations of eligibility and our determination of effect.

Undertaking Description

NRCS is providing financial assistance to the Upper Niobrara-White Natural Resources District (UNWNRD) through the Watershed and Flood Prevention Operations Program to develop a watershed plan. The purpose of the plan is to identify ways to increase groundwater recharge and reduce flood damage to roads within rural Box Butte and Sheridan Counties. NRCS is the lead Federal agency under the National Environmental Policy Act (NEPA) and NHPA. NRCS, UNWNRD, and HDR, Inc. are preparing an

environmental assessment as part of the watershed planning process to evaluate the environmental impacts of the proposed agriculture water management and flood damage reduction measures.

NRCS and the UPNWRND held an agency scoping period regarding the watershed plan from November 13-December 13, 2020, and a public scoping meeting on December 14, 2020. We anticipate that the draft Plan-EA will be available for public review in Spring 2025 and additional public and agency meetings will be held at that time. We will send you an invitation to the agency review meeting when a date and time has been identified, and we will notify you when the draft Plan-EA is available for review.

The proposed action in the Plan-EA calls for the construction of three on-channel diversion dams to off-channel water storage basins (Sites 1, 5a, and 7) and three road improvements (Sites 11, 12b, and 16). Additional water storage structures (Sites 2, 4a, 6, 8, and 9a) and road improvements (Sites 8, 10, 17, 20, 25, and 27) were evaluated in the Plan-EA, but the economic analysis determined that only Sites 1, 5a, 7, 11, 12b, and 16 were viable options.

The on-channel dam diversion structures to off-channel storage basins (or catchments) will allow ponding and infiltration of water to promote passive groundwater recharge. Each dam diversion to off-channel storage site would include the construction of a low earthen dam diversion structure in the stream, which would divert portions of precipitation run-off to an off-channel storage basin (or catchment). All other flows generated from run-off events would overtop the diversion structure. Normal stream flows would pass through a culvert pipe placed in the dam diversion structure. The off-channel storage basins would be excavated in the floodplain adjacent to the diverted stream. The basin depth would be no deeper than the bottom elevation of the diverted stream and side slopes would be a minimum of 3:1. An earthen berm would be constructed around the off-channel storage basins, as site topography dictates, to contain the desired storage volume. The berm elevation would be set at the elevation of the in-channel dam diversion structure. Borrow material for the berms and diversion dams would be obtained from the material excavated for the off-channel storage basins.

Road improvements would consist of raising the roadbed by a maximum of 2 feet and increasing the capacity of flow conveyance by adding and/or enlarging the culverts under the roadway. Approximately 655 feet of road would be raised at Site 11. At Site 12b, approximately 325 feet of road would be raised. At Site 16, approximately 660 feet of road would be raised. Three 36-inch corrugated metal pipe culverts will be installed at all three sites.

Area of Potential Effects (APE)

The APE includes all eight water catchment sites and nine road improvement sites that were evaluated in the Plan-EA. The APE totals 235 acres and includes all areas that could be directly or indirectly affected by construction, including utility relocates, access routes, staging areas, excavation, grading, tree removal, alterations to existing roads, earthen

embankments/berms, sediment disposal, etc., as well as visual and other effects to cultural resources. Table 1 provides the Section, Township, and Range of each proposed site. We have enclosed maps of the APE for your review. Photographs of the APE are available in the cultural resources inventory reports which can be downloaded at <https://nrcs.box.com/s/sh8pvmd8o86ioqde4ub5xzipwyn40vzrc>.

Cultural Resource Identification

The Nebraska State Historical Society's State Archeology Office (SAO) conducted the cultural resources inventory of the APE. Prior to the field investigation, SAO staff conducted a cultural resource desktop review using data from History Nebraska and online sources. The desktop review included data regarding previously completed cultural resource investigations, and recorded archaeological sites, architectural properties, and bridges.

The file search indicated that Site 20 had been previously inventoried for cultural resources, but the rest of the APE had never been inventoried. No previously recorded archaeological sites are located within one mile of the APE. Fifteen standing structures are documented within one mile of the APE.

In addition to the SAO desktop review, NRCS consulted the National Park Service's National Historic Trails map to identify additional cultural resources in the project area. According to the map, no National Historic Trails are located near the APE.

SAO completed three cultural resources field investigations of the Box Butte APE between July 5, 2022, and October 16, 2024. Field survey methods included pedestrian visual inspection supplemented by targeted, systematic shovel testing and auger testing in settings with limited ground visibility. The pedestrian inventories included parallel, and meandering transects of 20 meters. The entire APE has been investigated. SAO prepared three separate cultural resource inventory reports. All the cultural resource inventory reports are available at <https://nrcs.box.com/s/sh8pvmd8o86ioqde4ub5xzipwyn40vzrc>. Printed copies of the reports are available upon request.

The cultural resources investigation documented one archaeological site (25SH20) within the APE of Site 9a. Archaeological site 25SH20 is an isolated object recovered from an auger test consisting of a small flake of Spanish Diggings quartzite. No other materials were observed on the surface or recovered in shovel or auger tests within 50 meters. As an isolated, common type of artifact, site 25SH20 is unlikely to provide information important to history or prehistory. NRCS has determined that 25SH20 is not eligible for inclusion in the NRHP.

No standing structures, canals, bridges, or other man-made features are located within the APE.

Impacts to Cultural Resources

Archaeological site 25SH20 will not be impacted by this undertaking. The proposed water storage structure near 25SH20 (Site 9a) is not included in the preferred alternative and will not be constructed.

Visual impacts of the proposed water storage structures will be minimal. The diversion dams will be less than 6 feet in height and will be vegetated with grasses to blend in with their surroundings. The off-channel storage basins will also be vegetated in native grasses.

Determination of Effects

In accordance with 36 CFR 800.4(d)(1), NRCS finds that no historic properties will be affected by the water storage structures or road improvements. No historic properties have been identified within the APE. Site 25SH20 is not eligible for the NRHP, and it will not be impacted by the structures that will be built as part of this undertaking. No mitigation is necessary. If any cultural resources are identified during construction, all activities will be halted immediately and NRCS will proceed in accordance with the regulation on post-review discoveries (36 CFR § 800.13).

We kindly request that you please respond to this letter within 30 days of receipt with your comments on the undertaking. If you would like to schedule a Section 106 consultation meeting with us to discuss this undertaking further, please contact Melissa Baier, Assistant State Conservationist for Water Resources and Easements, by email at melissa.baier@usda.gov or by phone at 402.437.4065 with preferred dates and times.

If you have any questions or need to request additional information, please contact Melissa Baier. Thank you very much for your consideration of this undertaking.

Sincerely,



Digitally signed by ROBERT
LAWSON
Date: 2025.01.06 15:09:02
-06'00'

ROBERT D. LAWSON
State Conservationist

Enclosures:

Table 1: Location of Proposed Box Butte Off-Channel Storage Structures and Road Raises
APE Maps

Cultural Resource Inventory Reports are available at

<https://nrccs.box.com/s/sh8pvmd8o86ioqde4ub5xzpwyn40vzrc>

cc:

Melissa Baier, ASTC-Water Resources and Easements, NRCS – Lincoln State Office



Natural Resources Conservation Service

U.S. DEPARTMENT OF AGRICULTURE

Nebraska State Office

1121 Lincoln Mall
Room 360
Lincoln, NE 68508

SENT VIA USPS PRIORITY MAIL: SIGNATURE CONFIRMATION REQUIRED

January 6, 2025

The Honorable Alonzo Denney, Chairperson
Santee Sioux Nation of Nebraska
108 Spirit Lake Avenue West
Niobrara, NE 68760-7219

RE: USDA-NRCS National Historic Preservation Act (NHPA) Section 106 Consultation Request, Box Butte Watershed Plan-EA, Box Butte and Sheridan Counties, Nebraska

Dear Honorable Alonzo Denney:

In accordance with Section 106 of the National Historic Preservation Act of 1966 (NHPA) and its implementing regulations (36 CFR Part 800.3), the Natural Resources Conservation Service (NRCS) is requesting to consult with you on a proposed undertaking in Box Butte and Sheridan Counties, Nebraska. Per 36 CFR 800.4, we have defined the area of potential effect (APE), completed cultural resources inventories of the APE, and evaluated the historical significance of the resources identified during the inventory. We have also made a determination of effect for this undertaking based on the results of the cultural resources investigation.

The cultural resources inventory did not identify any properties listed on or eligible for listing on the National Register of Historic Places (NRHP) within the APE. Therefore, NRCS has determined that No Historic Properties will be affected by this project. More information about the undertaking, the cultural resources inventory, and the rationale behind the determination of effect is provided below and in the attached supporting documents.

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No standing structures, canals, bridges, or other man-made features are located within the APE.

Impacts to Cultural Resources

Archaeological site 25SH20 will not be impacted by this undertaking. The proposed water storage structure near 25SH20 (Site 9a) is not included in the preferred alternative and will not be constructed.

Visual impacts of the proposed water storage structures will be minimal. The diversion dams will be less than 6 feet in height and will be vegetated with grasses to blend in with their surroundings. The off-channel storage basins will also be vegetated in native grasses.

Determination of Effects

In accordance with 36 CFR 800.4(d)(1), NRCS finds that no historic properties will be affected by the water storage structures or road improvements. No historic properties have been identified within the APE. Site 25SH20 is not eligible for the NRHP, and it will not be impacted by the structures that will be built as part of this undertaking. No mitigation is necessary. If any cultural resources are identified during construction, all activities will be halted immediately and NRCS will proceed in accordance with the regulation on post-review discoveries (36 CFR § 800.13).

We kindly request that you please respond to this letter within 30 days of receipt with your comments on the undertaking. If you would like to schedule a Section 106 consultation meeting with us to discuss this undertaking further, please contact Melissa Baier, Assistant State Conservationist for Water Resources and Easements, by email at melissa.baier@usda.gov or by phone at 402.437.4065 with preferred dates and times.

If you have any questions or need to request additional information, please contact Melissa Baier. Thank you very much for your consideration of this undertaking.

Sincerely,



Digitally signed by ROBERT
LAWSON
Date: 2025.01.06 15:06:51
-06'00'

ROBERT D. LAWSON
State Conservationist

Enclosures:

Table 1: Location of Proposed Box Butte Off-Channel Storage Structures and Road Raises
APE Maps

Cultural Resource Inventory Reports are available at

<https://nrccs.box.com/s/sh8pvmd8o86ioqde4ub5xzpwyn40vzrc>

cc:

Larry Thomas, THPO, Santee Sioux Nation of Nebraska

Melissa Baier, ASTC-Water Resources and Easements, NRCS – Lincoln State Office



Natural Resources Conservation Service

U.S. DEPARTMENT OF AGRICULTURE

Nebraska State Office

1121 Lincoln Mall
Room 360
Lincoln, NE 68508

SENT VIA USPS PRIORITY MAIL: SIGNATURE CONFIRMATION REQUIRED

January 6, 2025

The Honorable Boyd I Gourneau, Chairperson
Lower Brule Sioux Tribe
187 Oyate Circle
Lower Brule, SD 57548

RE: USDA-NRCS National Historic Preservation Act (NHPA) Section 106 Consultation Request, Box Butte Watershed Plan-EA, Box Butte and Sheridan Counties, Nebraska

Dear Honorable Boyd I Gourneau:

In accordance with Section 106 of the National Historic Preservation Act of 1966 (NHPA) and its implementing regulations (36 CFR Part 800.3), the Natural Resources Conservation Service (NRCS) is requesting to consult with you on a proposed undertaking in Box Butte and Sheridan Counties, Nebraska. Per 36 CFR 800.4, we have defined the area of potential effect (APE), completed cultural resources inventories of the APE, and evaluated the historical significance of the resources identified during the inventory. We have also made a determination of effect for this undertaking based on the results of the cultural resources investigation.

The cultural resources inventory did not identify any properties listed on or eligible for listing on the National Register of Historic Places (NRHP) within the APE. Therefore, NRCS has determined that No Historic Properties will be affected by this project. More information about the undertaking, the cultural resources inventory, and the rationale behind the determination of effect is provided below and in the attached supporting documents.

We are requesting your review of this project and your comments on whether you concur with our determinations of eligibility and our determination of effect.

Undertaking Description

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The on-channel dam diversion structures to off-channel storage basins (or catchments) will allow ponding and infiltration of water to promote passive groundwater recharge. Each dam diversion to off-channel storage site would include the construction of a low earthen dam diversion structure in the stream, which would divert portions of precipitation run-off to an off-channel storage basin (or catchment). All other flows generated from run-off events would overtop the diversion structure. Normal stream flows would pass through a culvert pipe placed in the dam diversion structure. The off-channel storage basins would be excavated in the floodplain adjacent to the diverted stream. The basin depth would be no deeper than the bottom elevation of the diverted stream and side slopes would be a minimum of 3:1. An earthen berm would be constructed around the off-channel storage basins, as site topography dictates, to contain the desired storage volume. The berm elevation would be set at the elevation of the in-channel dam diversion structure. Borrow material for the berms and diversion dams would be obtained from the material excavated for the off-channel storage basins.

Road improvements would consist of raising the roadbed by a maximum of 2 feet and increasing the capacity of flow conveyance by adding and/or enlarging the culverts under the roadway. Approximately 655 feet of road would be raised at Site 11. At Site 12b, approximately 325 feet of road would be raised. At Site 16, approximately 660 feet of road would be raised. Three 36-inch corrugated metal pipe culverts will be installed at all three sites.

Area of Potential Effects (APE)

The APE includes all eight water catchment sites and nine road improvement sites that were evaluated in the Plan-EA. The APE totals 235 acres and includes all areas that could be directly or indirectly affected by construction, including utility relocates, access routes, staging areas, excavation, grading, tree removal, alterations to existing roads, earthen

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The file search indicated that Site 20 had been previously inventoried for cultural resources, but the rest of the APE had never been inventoried. No previously recorded archaeological sites are located within one mile of the APE. Fifteen standing structures are documented within one mile of the APE.

In addition to the SAO desktop review, NRCS consulted the National Park Service's National Historic Trails map to identify additional cultural resources in the project area. According to the map, no National Historic Trails are located near the APE.

SAO completed three cultural resources field investigations of the Box Butte APE between July 5, 2022, and October 16, 2024. Field survey methods included pedestrian visual inspection supplemented by targeted, systematic shovel testing and auger testing in settings with limited ground visibility. The pedestrian inventories included parallel, and meandering transects of 20 meters. The entire APE has been investigated. SAO prepared three separate cultural resource inventory reports. All the cultural resource inventory reports are available at <https://nracs.box.com/s/sh8pvmd8o86ioqde4ub5xzpwyn40vzrc>. Printed copies of the reports are available upon request.

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No standing structures, canals, bridges, or other man-made features are located within the APE.

Impacts to Cultural Resources

Archaeological site 25SH20 will not be impacted by this undertaking. The proposed water storage structure near 25SH20 (Site 9a) is not included in the preferred alternative and will not be constructed.

Visual impacts of the proposed water storage structures will be minimal. The diversion dams will be less than 6 feet in height and will be vegetated with grasses to blend in with their surroundings. The off-channel storage basins will also be vegetated in native grasses.

Determination of Effects

In accordance with 36 CFR 800.4(d)(1), NRCS finds that no historic properties will be affected by the water storage structures or road improvements. No historic properties have been identified within the APE. Site 25SH20 is not eligible for the NRHP, and it will not be impacted by the structures that will be built as part of this undertaking. No mitigation is necessary. If any cultural resources are identified during construction, all activities will be halted immediately and NRCS will proceed in accordance with the regulation on post-review discoveries (36 CFR § 800.13).

We kindly request that you please respond to this letter within 30 days of receipt with your comments on the undertaking. If you would like to schedule a Section 106 consultation meeting with us to discuss this undertaking further, please contact Melissa Baier, Assistant State Conservationist for Water Resources and Easements, by email at melissa.baier@usda.gov or by phone at 402.437.4065 with preferred dates and times.

If you have any questions or need to request additional information, please contact Melissa Baier. Thank you very much for your consideration of this undertaking.

Sincerely,

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Digitally signed by ROBERT
LAWSON
Date: 2025.01.06 15:07:44 -06'00'

ROBERT D. LAWSON
State Conservationist

Enclosures:

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cc:

Mary Jane Gourneau, Director, LBST Environmental Protection Office

Melissa Baier, ASTC-Water Resources and Easements, NRCS – Lincoln State Office



Natural Resources Conservation Service

U.S. DEPARTMENT OF AGRICULTURE

Nebraska State Office

1121 Lincoln Mall
Room 360
Lincoln, NE 68508

SENT VIA USPS PRIORITY MAIL: SIGNATURE CONFIRMATION REQUIRED

January 6, 2025

The Honorable Candace Schmidt, Chairperson
Ponca Tribe of Nebraska
PO Box 288
Niobrara, NE 68760

RE: USDA-NRCS National Historic Preservation Act (NHPA) Section 106 Consultation Request, Box Butte Watershed Plan-EA, Box Butte and Sheridan Counties, Nebraska

Dear Honorable Candace Schmidt:

In accordance with Section 106 of the National Historic Preservation Act of 1966 (NHPA) and its implementing regulations (36 CFR Part 800.3), the Natural Resources Conservation Service (NRCS) is requesting to consult with you on a proposed undertaking in Box Butte and Sheridan Counties, Nebraska. Per 36 CFR 800.4, we have defined the area of potential effect (APE), completed cultural resources inventories of the APE, and evaluated the historical significance of the resources identified during the inventory. We have also made a determination of effect for this undertaking based on the results of the cultural resources investigation.

The cultural resources inventory did not identify any properties listed on or eligible for listing on the National Register of Historic Places (NRHP) within the APE. Therefore, NRCS has determined that No Historic Properties will be affected by this project. More information about the undertaking, the cultural resources inventory, and the rationale behind the determination of effect is provided below and in the attached supporting documents.

We are requesting your review of this project and your comments on whether you concur with our determinations of eligibility and our determination of effect.

Undertaking Description

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Determination of Effects

In accordance with 36 CFR 800.4(d)(1), NRCS finds that no historic properties will be affected by the water storage structures or road improvements. No historic properties have been identified within the APE. Site 25SH20 is not eligible for the NRHP, and it will not be impacted by the structures that will be built as part of this undertaking. No mitigation is necessary. If any cultural resources are identified during construction, all activities will be halted immediately and NRCS will proceed in accordance with the regulation on post-review discoveries (36 CFR § 800.13).

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Sincerely,

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Digitally signed by ROBERT
LAWSON
Date: 2025.01.06 15:08:19 -06'00'

ROBERT D. LAWSON
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cc:

Theresa Foley, THPO, Ponca Tribe of Nebraska

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Natural Resources Conservation Service

U.S. DEPARTMENT OF AGRICULTURE

Nebraska State Office

1121 Lincoln Mall
Room 360
Lincoln, NE 68508

SENT VIA USPS PRIORITY MAIL: SIGNATURE CONFIRMATION REQUIRED

January 6, 2025

The Honorable Durell Cooper III, Chairperson
Apache Tribe of Oklahoma
PO Box 1330
Anadarko, OK 73005

RE: USDA-NRCS National Historic Preservation Act (NHPA) Section 106 Consultation Request, Box Butte Watershed Plan-EA, Box Butte and Sheridan Counties, Nebraska

Dear Honorable Durell Cooper III:

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Digitally signed by ROBERT
LAWSON
Date: 2025.01.06 15:09:35 -06'00'

ROBERT D. LAWSON
State Conservationist

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cc:

Darrin Cisco, NAGPRA contact, Apache Tribe of Oklahoma Cultural Department
Melissa Baier, ASTC-Water Resources and Easements, NRCS – Lincoln State Office



Natural Resources Conservation Service

U.S. DEPARTMENT OF AGRICULTURE

Nebraska State Office

1121 Lincoln Mall
Room 360
Lincoln, NE 68508

SENT VIA USPS PRIORITY MAIL: SIGNATURE CONFIRMATION REQUIRED

January 6, 2025

The Honorable Frank Star Comes Out, President
Oglala Sioux Tribe
PO Box 2070
Pine Ridge, SD 57770

RE: USDA-NRCS National Historic Preservation Act (NHPA) Section 106 Consultation Request, Box Butte Watershed Plan-EA, Box Butte and Sheridan Counties, Nebraska

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Visual impacts of the proposed water storage structures will be minimal. The diversion dams will be less than 6 feet in height and will be vegetated with grasses to blend in with their surroundings. The off-channel storage basins will also be vegetated in native grasses.

Determination of Effects

In accordance with 36 CFR 800.4(d)(1), NRCS finds that no historic properties will be affected by the water storage structures or road improvements. No historic properties have been identified within the APE. Site 25SH20 is not eligible for the NRHP, and it will not be impacted by the structures that will be built as part of this undertaking. No mitigation is necessary. If any cultural resources are identified during construction, all activities will be halted immediately and NRCS will proceed in accordance with the regulation on post-review discoveries (36 CFR § 800.13).

We kindly request that you please respond to this letter within 30 days of receipt with your comments on the undertaking. If you would like to schedule a Section 106 consultation meeting with us to discuss this undertaking further, please contact Melissa Baier, Assistant State Conservationist for Water Resources and Easements, by email at melissa.baier@usda.gov or by phone at 402.437.4065 with preferred dates and times.

If you have any questions or need to request additional information, please contact Melissa Baier. Thank you very much for your consideration of this undertaking.

Sincerely,

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Digitally signed by ROBERT
LAWSON
Date: 2025.01.06 15:10:49
-06'00'

ROBERT D. LAWSON
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Enclosures:

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cc:

Justin Pourier, THPO, Oglala Sioux Tribe

Melissa Baier, ASTC-Water Resources and Easements, NRCS – Lincoln State Office



Natural Resources Conservation Service

U.S. DEPARTMENT OF AGRICULTURE

Nebraska State Office

1121 Lincoln Mall
Room 360
Lincoln, NE 68508

SENT VIA USPS PRIORITY MAIL: SIGNATURE CONFIRMATION REQUIRED

January 6, 2025

The Honorable Janet Alkire, Chairperson
Standing Rock Sioux Tribe of North and South Dakota
PO Box D
Fort Yates, ND 58539-0522

RE: USDA-NRCS National Historic Preservation Act (NHPA) Section 106 Consultation Request, Box Butte Watershed Plan-EA, Box Butte and Sheridan Counties, Nebraska

Dear Honorable Janet Alkire:

In accordance with Section 106 of the National Historic Preservation Act of 1966 (NHPA) and its implementing regulations (36 CFR Part 800.3), the Natural Resources Conservation Service (NRCS) is requesting to consult with you on a proposed undertaking in Box Butte and Sheridan Counties, Nebraska. Per 36 CFR 800.4, we have defined the area of potential effect (APE), completed cultural resources inventories of the APE, and evaluated the historical significance of the resources identified during the inventory. We have also made a determination of effect for this undertaking based on the results of the cultural resources investigation.

The cultural resources inventory did not identify any properties listed on or eligible for listing on the National Register of Historic Places (NRHP) within the APE. Therefore, NRCS has determined that No Historic Properties will be affected by this project. More information about the undertaking, the cultural resources inventory, and the rationale behind the determination of effect is provided below and in the attached supporting documents.

We are requesting your review of this project and your comments on whether you concur with our determinations of eligibility and our determination of effect.

Undertaking Description

NRCS is providing financial assistance to the Upper Niobrara-White Natural Resources District (UNWNRD) through the Watershed and Flood Prevention Operations Program to develop a watershed plan. The purpose of the plan is to identify ways to increase groundwater recharge and reduce flood damage to roads within rural Box Butte and Sheridan Counties. NRCS is the lead Federal agency under the National Environmental Policy Act (NEPA) and NHPA. NRCS, UNWNRD, and HDR, Inc. are preparing an

environmental assessment as part of the watershed planning process to evaluate the environmental impacts of the proposed agriculture water management and flood damage reduction measures.

NRCS and the UPNWRND held an agency scoping period regarding the watershed plan from November 13-December 13, 2020, and a public scoping meeting on December 14, 2020. We anticipate that the draft Plan-EA will be available for public review in Spring 2025 and additional public and agency meetings will be held at that time. We will send you an invitation to the agency review meeting when a date and time has been identified, and we will notify you when the draft Plan-EA is available for review.

The proposed action in the Plan-EA calls for the construction of three on-channel diversion dams to off-channel water storage basins (Sites 1, 5a, and 7) and three road improvements (Sites 11, 12b, and 16). Additional water storage structures (Sites 2, 4a, 6, 8, and 9a) and road improvements (Sites 8, 10, 17, 20, 25, and 27) were evaluated in the Plan-EA, but the economic analysis determined that only Sites 1, 5a, 7, 11, 12b, and 16 were viable options.

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No standing structures, canals, bridges, or other man-made features are located within the APE.

Impacts to Cultural Resources

Archaeological site 25SH20 will not be impacted by this undertaking. The proposed water storage structure near 25SH20 (Site 9a) is not included in the preferred alternative and will not be constructed.

Visual impacts of the proposed water storage structures will be minimal. The diversion dams will be less than 6 feet in height and will be vegetated with grasses to blend in with their surroundings. The off-channel storage basins will also be vegetated in native grasses.

Determination of Effects

In accordance with 36 CFR 800.4(d)(1), NRCS finds that no historic properties will be affected by the water storage structures or road improvements. No historic properties have been identified within the APE. Site 25SH20 is not eligible for the NRHP, and it will not be impacted by the structures that will be built as part of this undertaking. No mitigation is necessary. If any cultural resources are identified during construction, all activities will be halted immediately and NRCS will proceed in accordance with the regulation on post-review discoveries (36 CFR § 800.13).

We kindly request that you please respond to this letter within 30 days of receipt with your comments on the undertaking. If you would like to schedule a Section 106 consultation meeting with us to discuss this undertaking further, please contact Melissa Baier, Assistant State Conservationist for Water Resources and Easements, by email at melissa.baier@usda.gov or by phone at 402.437.4065 with preferred dates and times.

If you have any questions or need to request additional information, please contact Melissa Baier. Thank you very much for your consideration of this undertaking.

Sincerely,

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Digitally signed by ROBERT LAWSON
Date: 2025.01.06 15:11:42 -06'00'

ROBERT D. LAWSON
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Natural Resources Conservation Service

U.S. DEPARTMENT OF AGRICULTURE

Nebraska State Office

1121 Lincoln Mall
Room 360
Lincoln, NE 68508

SENT VIA USPS PRIORITY MAIL: SIGNATURE CONFIRMATION REQUIRED

January 6, 2025

The Honorable Jason Sheridan, Chairperson
Omaha Tribe of Nebraska
PO Box 368
Macy, NE 68039

RE: USDA-NRCS National Historic Preservation Act (NHPA) Section 106 Consultation Request, Box Butte Watershed Plan-EA, Box Butte and Sheridan Counties, Nebraska

Dear Honorable Jason Sheridan:

In accordance with Section 106 of the National Historic Preservation Act of 1966 (NHPA) and its implementing regulations (36 CFR Part 800.3), the Natural Resources Conservation Service (NRCS) is requesting to consult with you on a proposed undertaking in Box Butte and Sheridan Counties, Nebraska. Per 36 CFR 800.4, we have defined the area of potential effect (APE), completed cultural resources inventories of the APE, and evaluated the historical significance of the resources identified during the inventory. We have also made a determination of effect for this undertaking based on the results of the cultural resources investigation.

The cultural resources inventory did not identify any properties listed on or eligible for listing on the National Register of Historic Places (NRHP) within the APE. Therefore, NRCS has determined that No Historic Properties will be affected by this project. More information about the undertaking, the cultural resources inventory, and the rationale behind the determination of effect is provided below and in the attached supporting documents.

We are requesting your review of this project and your comments on whether you concur with our determinations of eligibility and our determination of effect.

Undertaking Description

NRCS is providing financial assistance to the Upper Niobrara-White Natural Resources District (UNWNRD) through the Watershed and Flood Prevention Operations Program to develop a watershed plan. The purpose of the plan is to identify ways to increase groundwater recharge and reduce flood damage to roads within rural Box Butte and Sheridan Counties. NRCS is the lead Federal agency under the National Environmental Policy Act (NEPA) and NHPA. NRCS, UNWNRD, and HDR, Inc. are preparing an

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Date: 2025.01.06 15:12:21 -06'00'

ROBERT D. LAWSON
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Jarell Grant, THPO, Omaha Tribe of Nebraska

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Natural Resources Conservation Service

U.S. DEPARTMENT OF AGRICULTURE

Nebraska State Office

1121 Lincoln Mall
Room 360
Lincoln, NE 68508

SENT VIA USPS PRIORITY MAIL: SIGNATURE CONFIRMATION REQUIRED

January 6, 2025

The Honorable Kathleen Wooden Knife, President
Rosebud Sioux Tribe
PO Box 430
Rosebud, SD 57570

RE: USDA-NRCS National Historic Preservation Act (NHPA) Section 106 Consultation Request, Box Butte Watershed Plan-EA, Box Butte and Sheridan Counties, Nebraska

Dear Honorable Kathleen Wooden Knife:

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Digitally signed by ROBERT
LAWSON
Date: 2025.01.06 15:13:38
-06'00'

ROBERT D. LAWSON
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Enclosures:

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cc:

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Natural Resources Conservation Service

U.S. DEPARTMENT OF AGRICULTURE

Nebraska State Office

1121 Lincoln Mall
Room 360
Lincoln, NE 68508

SENT VIA USPS PRIORITY MAIL: SIGNATURE CONFIRMATION REQUIRED

January 6, 2025

The Honorable Lloyd Goggles, Chairperson
Northern Arapaho Tribe of the Wind River Reservation
PO Box 396
Fort Washakie, WY 825514

RE: USDA-NRCS National Historic Preservation Act (NHPA) Section 106 Consultation Request, Box Butte Watershed Plan-EA, Box Butte and Sheridan Counties, Nebraska

Dear Honorable Lloyd Goggles:

In accordance with Section 106 of the National Historic Preservation Act of 1966 (NHPA) and its implementing regulations (36 CFR Part 800.3), the Natural Resources Conservation Service (NRCS) is requesting to consult with you on a proposed undertaking in Box Butte and Sheridan Counties, Nebraska. Per 36 CFR 800.4, we have defined the area of potential effect (APE), completed cultural resources inventories of the APE, and evaluated the historical significance of the resources identified during the inventory. We have also made a determination of effect for this undertaking based on the results of the cultural resources investigation.

The cultural resources inventory did not identify any properties listed on or eligible for listing on the National Register of Historic Places (NRHP) within the APE. Therefore, NRCS has determined that No Historic Properties will be affected by this project. More information about the undertaking, the cultural resources inventory, and the rationale behind the determination of effect is provided below and in the attached supporting documents.

We are requesting your review of this project and your comments on whether you concur with our determinations of eligibility and our determination of effect.

Undertaking Description

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environmental assessment as part of the watershed planning process to evaluate the environmental impacts of the proposed agriculture water management and flood damage reduction measures.

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The proposed action in the Plan-EA calls for the construction of three on-channel diversion dams to off-channel water storage basins (Sites 1, 5a, and 7) and three road improvements (Sites 11, 12b, and 16). Additional water storage structures (Sites 2, 4a, 6, 8, and 9a) and road improvements (Sites 8, 10, 17, 20, 25, and 27) were evaluated in the Plan-EA, but the economic analysis determined that only Sites 1, 5a, 7, 11, 12b, and 16 were viable options.

The on-channel dam diversion structures to off-channel storage basins (or catchments) will allow ponding and infiltration of water to promote passive groundwater recharge. Each dam diversion to off-channel storage site would include the construction of a low earthen dam diversion structure in the stream, which would divert portions of precipitation run-off to an off-channel storage basin (or catchment). All other flows generated from run-off events would overtop the diversion structure. Normal stream flows would pass through a culvert pipe placed in the dam diversion structure. The off-channel storage basins would be excavated in the floodplain adjacent to the diverted stream. The basin depth would be no deeper than the bottom elevation of the diverted stream and side slopes would be a minimum of 3:1. An earthen berm would be constructed around the off-channel storage basins, as site topography dictates, to contain the desired storage volume. The berm elevation would be set at the elevation of the in-channel dam diversion structure. Borrow material for the berms and diversion dams would be obtained from the material excavated for the off-channel storage basins.

Road improvements would consist of raising the roadbed by a maximum of 2 feet and increasing the capacity of flow conveyance by adding and/or enlarging the culverts under the roadway. Approximately 655 feet of road would be raised at Site 11. At Site 12b, approximately 325 feet of road would be raised. At Site 16, approximately 660 feet of road would be raised. Three 36-inch corrugated metal pipe culverts will be installed at all three sites.

Area of Potential Effects (APE)

The APE includes all eight water catchment sites and nine road improvement sites that were evaluated in the Plan-EA. The APE totals 235 acres and includes all areas that could be directly or indirectly affected by construction, including utility relocates, access routes, staging areas, excavation, grading, tree removal, alterations to existing roads, earthen

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The file search indicated that Site 20 had been previously inventoried for cultural resources, but the rest of the APE had never been inventoried. No previously recorded archaeological sites are located within one mile of the APE. Fifteen standing structures are documented within one mile of the APE.

In addition to the SAO desktop review, NRCS consulted the National Park Service's National Historic Trails map to identify additional cultural resources in the project area. According to the map, no National Historic Trails are located near the APE.

SAO completed three cultural resources field investigations of the Box Butte APE between July 5, 2022, and October 16, 2024. Field survey methods included pedestrian visual inspection supplemented by targeted, systematic shovel testing and auger testing in settings with limited ground visibility. The pedestrian inventories included parallel, and meandering transects of 20 meters. The entire APE has been investigated. SAO prepared three separate cultural resource inventory reports. All the cultural resource inventory reports are available at <https://nracs.box.com/s/sh8pvmd8o86ioqde4ub5xzpwyn40vzrc>. Printed copies of the reports are available upon request.

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No standing structures, canals, bridges, or other man-made features are located within the APE.

Impacts to Cultural Resources

Archaeological site 25SH20 will not be impacted by this undertaking. The proposed water storage structure near 25SH20 (Site 9a) is not included in the preferred alternative and will not be constructed.

Visual impacts of the proposed water storage structures will be minimal. The diversion dams will be less than 6 feet in height and will be vegetated with grasses to blend in with their surroundings. The off-channel storage basins will also be vegetated in native grasses.

Determination of Effects

In accordance with 36 CFR 800.4(d)(1), NRCS finds that no historic properties will be affected by the water storage structures or road improvements. No historic properties have been identified within the APE. Site 25SH20 is not eligible for the NRHP, and it will not be impacted by the structures that will be built as part of this undertaking. No mitigation is necessary. If any cultural resources are identified during construction, all activities will be halted immediately and NRCS will proceed in accordance with the regulation on post-review discoveries (36 CFR § 800.13).

We kindly request that you please respond to this letter within 30 days of receipt with your comments on the undertaking. If you would like to schedule a Section 106 consultation meeting with us to discuss this undertaking further, please contact Melissa Baier, Assistant State Conservationist for Water Resources and Easements, by email at melissa.baier@usda.gov or by phone at 402.437.4065 with preferred dates and times.

If you have any questions or need to request additional information, please contact Melissa Baier. Thank you very much for your consideration of this undertaking.

Sincerely,

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Digitally signed by ROBERT
LAWSON
Date: 2025.01.06 15:14:23 -06'00'

ROBERT D. LAWSON
State Conservationist

Enclosures:

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1121 Lincoln Mall
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January 6, 2025

The Honorable Mark Woommavovah, Chairperson
Comanche Nation
PO Box 908
Lawton, OK 73502

RE: USDA-NRCS National Historic Preservation Act (NHPA) Section 106 Consultation Request, Box Butte Watershed Plan-EA, Box Butte and Sheridan Counties, Nebraska

Dear Honorable Mark Woommavovah:

In accordance with Section 106 of the National Historic Preservation Act of 1966 (NHPA) and its implementing regulations (36 CFR Part 800.3), the Natural Resources Conservation Service (NRCS) is requesting to consult with you on a proposed undertaking in Box Butte and Sheridan Counties, Nebraska. Per 36 CFR 800.4, we have defined the area of potential effect (APE), completed cultural resources inventories of the APE, and evaluated the historical significance of the resources identified during the inventory. We have also made a determination of effect for this undertaking based on the results of the cultural resources investigation.

The cultural resources inventory did not identify any properties listed on or eligible for listing on the National Register of Historic Places (NRHP) within the APE. Therefore, NRCS has determined that No Historic Properties will be affected by this project. More information about the undertaking, the cultural resources inventory, and the rationale behind the determination of effect is provided below and in the attached supporting documents.

We are requesting your review of this project and your comments on whether you concur with our determinations of eligibility and our determination of effect.

Undertaking Description

NRCS is providing financial assistance to the Upper Niobrara-White Natural Resources District (UNWNRD) through the Watershed and Flood Prevention Operations Program to develop a watershed plan. The purpose of the plan is to identify ways to increase groundwater recharge and reduce flood damage to roads within rural Box Butte and Sheridan Counties. NRCS is the lead Federal agency under the National Environmental Policy Act (NEPA) and NHPA. NRCS, UNWNRD, and HDR, Inc. are preparing an

environmental assessment as part of the watershed planning process to evaluate the environmental impacts of the proposed agriculture water management and flood damage reduction measures.

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Determination of Effects

In accordance with 36 CFR 800.4(d)(1), NRCS finds that no historic properties will be affected by the water storage structures or road improvements. No historic properties have been identified within the APE. Site 25SH20 is not eligible for the NRHP, and it will not be impacted by the structures that will be built as part of this undertaking. No mitigation is necessary. If any cultural resources are identified during construction, all activities will be halted immediately and NRCS will proceed in accordance with the regulation on post-review discoveries (36 CFR § 800.13).

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January 6, 2025

The Honorable Oliver Little Cook, Chairperson
Ponca Tribe of Indians of Oklahoma
101 White Eagle Drive
Ponca City, OK 74601

RE: USDA-NRCS National Historic Preservation Act (NHPA) Section 106 Consultation Request, Box Butte Watershed Plan-EA, Box Butte and Sheridan Counties, Nebraska

Dear Honorable Oliver Little Cook:

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Liana Hesler, THPO, Ponca Tribe of Indians of Oklahoma

Melissa Baier, ASTC-Water Resources and Easements, NRCS – Lincoln State Office



Natural Resources Conservation Service

U.S. DEPARTMENT OF AGRICULTURE

Nebraska State Office

1121 Lincoln Mall
Room 360
Lincoln, NE 68508

SENT VIA USPS PRIORITY MAIL: SIGNATURE CONFIRMATION REQUIRED

January 6, 2025

The Honorable Peter Lengkeek, Chairperson
Crow Creek Sioux Tribe of the Crow Creek Reservation
PO Box 50
Fort Thompson, SD 57339

RE: USDA-NRCS National Historic Preservation Act (NHPA) Section 106 Consultation Request, Box Butte Watershed Plan-EA, Box Butte and Sheridan Counties, Nebraska

Dear Honorable Peter Lengkeek:

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In addition to the SAO desktop review, NRCS consulted the National Park Service's National Historic Trails map to identify additional cultural resources in the project area. According to the map, no National Historic Trails are located near the APE.

SAO completed three cultural resources field investigations of the Box Butte APE between July 5, 2022, and October 16, 2024. Field survey methods included pedestrian visual inspection supplemented by targeted, systematic shovel testing and auger testing in settings with limited ground visibility. The pedestrian inventories included parallel, and meandering transects of 20 meters. The entire APE has been investigated. SAO prepared three separate cultural resource inventory reports. All the cultural resource inventory reports are available at <https://nracs.box.com/s/sh8pvmd8o86ioqde4ub5xzpwyn40vzrc>. Printed copies of the reports are available upon request.

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No standing structures, canals, bridges, or other man-made features are located within the APE.

Impacts to Cultural Resources

Archaeological site 25SH20 will not be impacted by this undertaking. The proposed water storage structure near 25SH20 (Site 9a) is not included in the preferred alternative and will not be constructed.

Visual impacts of the proposed water storage structures will be minimal. The diversion dams will be less than 6 feet in height and will be vegetated with grasses to blend in with their surroundings. The off-channel storage basins will also be vegetated in native grasses.

Determination of Effects

In accordance with 36 CFR 800.4(d)(1), NRCS finds that no historic properties will be affected by the water storage structures or road improvements. No historic properties have been identified within the APE. Site 25SH20 is not eligible for the NRHP, and it will not be impacted by the structures that will be built as part of this undertaking. No mitigation is necessary. If any cultural resources are identified during construction, all activities will be halted immediately and NRCS will proceed in accordance with the regulation on post-review discoveries (36 CFR § 800.13).

We kindly request that you please respond to this letter within 30 days of receipt with your comments on the undertaking. If you would like to schedule a Section 106 consultation meeting with us to discuss this undertaking further, please contact Melissa Baier, Assistant State Conservationist for Water Resources and Easements, by email at melissa.baier@usda.gov or by phone at 402.437.4065 with preferred dates and times.

If you have any questions or need to request additional information, please contact Melissa Baier. Thank you very much for your consideration of this undertaking.

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Digitally signed by ROBERT
LAWSON
Date: 2025.01.06 15:16:35 -06'00'

ROBERT D. LAWSON
State Conservationist

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cc:

Merel Marks, THPO, Crow Creek Sioux Tribe of the Crow Creek Reservation

Melissa Baier, ASTC-Water Resources and Easements, NRCS – Lincoln State Office



Natural Resources Conservation Service

U.S. DEPARTMENT OF AGRICULTURE

Nebraska State Office

1121 Lincoln Mall
Room 360
Lincoln, NE 68508

SENT VIA USPS PRIORITY MAIL: SIGNATURE CONFIRMATION REQUIRED

January 6, 2025

The Honorable Reggie Wassana, Governor
Cheyenne and Arapaho Tribes of Oklahoma
PO Box 38
Concho, OK 73022

RE: USDA-NRCS National Historic Preservation Act (NHPA) Section 106 Consultation Request, Box Butte Watershed Plan-EA, Box Butte and Sheridan Counties, Nebraska

Dear Honorable Reggie Wassana:

In accordance with Section 106 of the National Historic Preservation Act of 1966 (NHPA) and its implementing regulations (36 CFR Part 800.3), the Natural Resources Conservation Service (NRCS) is requesting to consult with you on a proposed undertaking in Box Butte and Sheridan Counties, Nebraska. Per 36 CFR 800.4, we have defined the area of potential effect (APE), completed cultural resources inventories of the APE, and evaluated the historical significance of the resources identified during the inventory. We have also made a determination of effect for this undertaking based on the results of the cultural resources investigation.

The cultural resources inventory did not identify any properties listed on or eligible for listing on the National Register of Historic Places (NRHP) within the APE. Therefore, NRCS has determined that No Historic Properties will be affected by this project. More information about the undertaking, the cultural resources inventory, and the rationale behind the determination of effect is provided below and in the attached supporting documents.

We are requesting your review of this project and your comments on whether you concur with our determinations of eligibility and our determination of effect.

Undertaking Description

NRCS is providing financial assistance to the Upper Niobrara-White Natural Resources District (UNWNRD) through the Watershed and Flood Prevention Operations Program to develop a watershed plan. The purpose of the plan is to identify ways to increase groundwater recharge and reduce flood damage to roads within rural Box Butte and Sheridan Counties. NRCS is the lead Federal agency under the National Environmental Policy Act (NEPA) and NHPA. NRCS, UNWNRD, and HDR, Inc. are preparing an

environmental assessment as part of the watershed planning process to evaluate the environmental impacts of the proposed agriculture water management and flood damage reduction measures.

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No standing structures, canals, bridges, or other man-made features are located within the APE.

Impacts to Cultural Resources

Archaeological site 25SH20 will not be impacted by this undertaking. The proposed water storage structure near 25SH20 (Site 9a) is not included in the preferred alternative and will not be constructed.

Visual impacts of the proposed water storage structures will be minimal. The diversion dams will be less than 6 feet in height and will be vegetated with grasses to blend in with their surroundings. The off-channel storage basins will also be vegetated in native grasses.

Determination of Effects

In accordance with 36 CFR 800.4(d)(1), NRCS finds that no historic properties will be affected by the water storage structures or road improvements. No historic properties have been identified within the APE. Site 25SH20 is not eligible for the NRHP, and it will not be impacted by the structures that will be built as part of this undertaking. No mitigation is necessary. If any cultural resources are identified during construction, all activities will be halted immediately and NRCS will proceed in accordance with the regulation on post-review discoveries (36 CFR § 800.13).

We kindly request that you please respond to this letter within 30 days of receipt with your comments on the undertaking. If you would like to schedule a Section 106 consultation meeting with us to discuss this undertaking further, please contact Melissa Baier, Assistant State Conservationist for Water Resources and Easements, by email at melissa.baier@usda.gov or by phone at 402.437.4065 with preferred dates and times.

If you have any questions or need to request additional information, please contact Melissa Baier. Thank you very much for your consideration of this undertaking.

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Digitally signed by ROBERT
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Date: 2025.01.06 15:17:17 -06'00'

ROBERT D. LAWSON
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cc:

Max Bear, THPO, Cheyenne and Arapaho Tribes of Oklahoma

Melissa Baier, ASTC-Water Resources and Easements, NRCS – Lincoln State Office



Natural Resources Conservation Service

U.S. DEPARTMENT OF AGRICULTURE

Nebraska State Office

1121 Lincoln Mall
Room 360
Lincoln, NE 68508

SENT VIA USPS PRIORITY MAIL: SIGNATURE CONFIRMATION REQUIRED

January 6, 2025

The Honorable Ryman LeBeau, Chairperson
Cheyenne River Sioux Tribe
PO Box 590
Eagle Butte, SD 57625-0590

RE: USDA-NRCS National Historic Preservation Act (NHPA) Section 106 Consultation Request, Box Butte Watershed Plan-EA, Box Butte and Sheridan Counties, Nebraska

Dear Honorable Ryman LeBeau:

In accordance with Section 106 of the National Historic Preservation Act of 1966 (NHPA) and its implementing regulations (36 CFR Part 800.3), the Natural Resources Conservation Service (NRCS) is requesting to consult with you on a proposed undertaking in Box Butte and Sheridan Counties, Nebraska. Per 36 CFR 800.4, we have defined the area of potential effect (APE), completed cultural resources inventories of the APE, and evaluated the historical significance of the resources identified during the inventory. We have also made a determination of effect for this undertaking based on the results of the cultural resources investigation.

The cultural resources inventory did not identify any properties listed on or eligible for listing on the National Register of Historic Places (NRHP) within the APE. Therefore, NRCS has determined that No Historic Properties will be affected by this project. More information about the undertaking, the cultural resources inventory, and the rationale behind the determination of effect is provided below and in the attached supporting documents.

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Determination of Effects

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Sincerely,

The image shows the official signature of Robert D. Lawson, State Conservationist, over the USDA logo. The signature is in a cursive script, and the USDA logo is partially visible behind it.

Digitally signed by ROBERT
LAWSON
Date: 2025.01.06 15:17:56 -06'00'

ROBERT D. LAWSON
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Natural Resources Conservation Service

U.S. DEPARTMENT OF AGRICULTURE

Nebraska State Office

1121 Lincoln Mall
Room 360
Lincoln, NE 68508

SENT VIA USPS PRIORITY MAIL: SIGNATURE CONFIRMATION REQUIRED

January 6, 2025

The Honorable Serena Wetherelt, President
Northern Cheyenne Tribe of the Northern Cheyenne Indian Reservation, Montana
PO Box 128
Lame Deer, MT 59043

RE: USDA-NRCS National Historic Preservation Act (NHPA) Section 106 Consultation Request, Box Butte Watershed Plan-EA, Box Butte and Sheridan Counties, Nebraska

Dear Honorable Serena Wetherelt:

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In addition to the SAO desktop review, NRCS consulted the National Park Service's National Historic Trails map to identify additional cultural resources in the project area. According to the map, no National Historic Trails are located near the APE.

SAO completed three cultural resources field investigations of the Box Butte APE between July 5, 2022, and October 16, 2024. Field survey methods included pedestrian visual inspection supplemented by targeted, systematic shovel testing and auger testing in settings with limited ground visibility. The pedestrian inventories included parallel, and meandering transects of 20 meters. The entire APE has been investigated. SAO prepared three separate cultural resource inventory reports. All the cultural resource inventory reports are available at <https://nracs.box.com/s/sh8pvmd8o86ioqde4ub5xzpwyn40vzrc>. Printed copies of the reports are available upon request.

The cultural resources investigation documented one archaeological site (25SH20) within the APE of Site 9a. Archaeological site 25SH20 is an isolated object recovered from an auger test consisting of a small flake of Spanish Diggings quartzite. No other materials were observed on the surface or recovered in shovel or auger tests within 50 meters. As an isolated, common type of artifact, site 25SH20 is unlikely to provide information important to history or prehistory. NRCS has determined that 25SH20 is not eligible for inclusion in the NRHP.

No standing structures, canals, bridges, or other man-made features are located within the APE.

Impacts to Cultural Resources

Archaeological site 25SH20 will not be impacted by this undertaking. The proposed water storage structure near 25SH20 (Site 9a) is not included in the preferred alternative and will not be constructed.

Visual impacts of the proposed water storage structures will be minimal. The diversion dams will be less than 6 feet in height and will be vegetated with grasses to blend in with their surroundings. The off-channel storage basins will also be vegetated in native grasses.

Determination of Effects

In accordance with 36 CFR 800.4(d)(1), NRCS finds that no historic properties will be affected by the water storage structures or road improvements. No historic properties have been identified within the APE. Site 25SH20 is not eligible for the NRHP, and it will not be impacted by the structures that will be built as part of this undertaking. No mitigation is necessary. If any cultural resources are identified during construction, all activities will be halted immediately and NRCS will proceed in accordance with the regulation on post-review discoveries (36 CFR § 800.13).

We kindly request that you please respond to this letter within 30 days of receipt with your comments on the undertaking. If you would like to schedule a Section 106 consultation meeting with us to discuss this undertaking further, please contact Melissa Baier, Assistant State Conservationist for Water Resources and Easements, by email at melissa.baier@usda.gov or by phone at 402.437.4065 with preferred dates and times.

If you have any questions or need to request additional information, please contact Melissa Baier. Thank you very much for your consideration of this undertaking.

Sincerely,



Digitally signed by ROBERT
LAWSON
Date: 2025.01.06 15:18:34
-06'00'

ROBERT D. LAWSON
State Conservationist

Enclosures:

Table 1: Location of Proposed Box Butte Off-Channel Storage Structures and Road Raises
APE Maps

Cultural Resource Inventory Reports are available at

<https://nrccs.box.com/s/sh8pvmd8o86ioqde4ub5xzpwyn40vzrc>

cc:

Gary LaFranier, 106 Coordinator, N. Cheyenne Tribe of the N. Cheyenne Reservation, MT
Melissa Baier, ASTC-Water Resources and Easements, NRCS – Lincoln State Office



Here open to all is the history of this people.

January 13, 2025

Robert D. Lawson
State Conservationist
USDA, Natural Resources Conservation Service
VIA EMAIL

RE: HP# 2501-039-01; Box Butte Watershed Plan - EA in Box Butte and Sheridan Cos., NE

Dear Robert Lawson,

Thank you for submitting information for the above-referenced project for the Nebraska State Historic Preservation Office (NESHPO) to review and comment on. Our comment on this project and its potential to affect historic properties is required by Section 106 of the National Historic Preservation Act of 1966, as amended, and implementing regulations 36 CFR Part 800.

Based on the information provided, the proposed project is unlikely to affect any cultural resources listed on the National Register of Historic Places or eligible for such a listing. Therefore, a determination that there will be **no historic properties affected** is appropriate for this undertaking, and the project may proceed as planned. Should any changes to the project be made, please notify this office of the changes before further project planning continues.

Please be advised that this determination does not necessarily reflect the opinion of Native American Tribes that may have an interest in the area, nor does it pertain to Traditional Cultural Properties, if they exist in the area.

Please retain this correspondence and your documented finding to show compliance with Section 106 of the National Historic Preservation Act, as amended. If you have any questions, please contact me at chelsea.rose@nebraska.gov.

Sincerely,

A handwritten signature in black ink, appearing to read 'Chelsea Rose', with a long horizontal line extending to the right.

Chelsea Rose
Preservation Archaeologist

1500 R Street
Lincoln, NE, 68508-1651
<https://history.nebraska.gov>

From: cchistory@midstatesd.net
To: [Baier, Melissa - NRCS, Lincoln, NE](#)
Subject: Re: NHPA Section 106 Consultation Request - Box Butte Watershed Plan-EA, Box Butte and Sheridan Counties, Nebraska, USDA-NRCS
Date: Thursday, January 16, 2025 8:36:44 AM

Hello Melissa, The Crow Creek Sioux Tribe THPO has reviewed the proposed Box Butte Watershed Plan, the Crow Creek Sioux Tribe has no issues with the proposed project, the CCST/THPO concurs with the finding of " No Historic Properties Affected " for the proposed APE.

Merle Marks
Crow Creek Sioux Tribe
THPO - Director
605.245.2221

From: "melissa baier" <Melissa.Baier@usda.gov>
To: "Merle Marks" <cchistory@midstatesd.net>
Sent: Tuesday, January 14, 2025 9:40:38 AM
Subject: NHPA Section 106 Consultation Request - Box Butte Watershed Plan-EA, Box Butte and Sheridan Counties, Nebraska, USDA-NRCS

Good morning,

The Natural Resources Conservation Service in Lincoln, Nebraska, recently sent a NHPA Section 106 consultation request to your office for the Box Butte Creek Watershed Plan-EA (attached). The consultation letter included a link to an online folder containing the three cultural resource inventory reports and other supporting documents associated with this proposed undertaking. To help you access the materials more easily, here is the link to the folder:

<https://nrcs.box.com/s/sh8pvmd8o86ioqde4ub5xzpwyn40vzrc>.

Thank you very much for your review and consideration of this project. I look forward to hearing from you.

Sincerely,

Missy

Missy (Melissa) Baier
Assistant State Conservationist-Water Resources and Easements
USDA-Natural Resources Conservation Service
1121 Lincoln Mall, Room 360
Lincoln, NE 68508
402-437-4065 (office)
402-317-1005 (cell)



Hinono'ainino'

Northern Arapaho Tribe
TRIBAL HISTORIC PRESERVATION OFFICE
P.O. Box 273, Riverton, Wyoming 82501
PH: 307.856.1628 FX: 307.856.1974



Date: 1/21/25

Contact Name: Melissa Baier

Contact Phone: 402-437-4065

Email Address: melissa.baier@usda.gov

Company Name: USDA NRCS Nebraska State Office

Company Address: 1121 Lincoln Mall Room 360

City: Lincoln

State: NE

Zip Code: 68508

RE: *Box Butte Watershed Plan-EA*

Dear Sir or Madam:

After reviewing your request under the Section 106 process of the NHPA, and NEPA, our office would like to comment on the proposed project. The Northern Arapaho Tribal Historic Preservation Office makes the following determination:

The Northern Arapaho THPO concurs with the determination

Site Visit: No Tribal Monitor: No

Our office has come to this determination by drawing conclusions from the survey and file search from maps depicting the provenience of sites regarding the Direct and Visual APE.

Within the Area of Potential Effect, there are:

Cultural Resources: NONE

Eligible Historic Properties: NONE

Probability of properties of religious and cultural significance to the Northern Arapaho: LOW

If traditional cultural properties, rock features, or human remains are found during excavation with any new ground disturbance, we request to be contacted and a report provided.

Thank you for consulting with the Northern Arapaho THPO.

Sincerely,

Crystal C'Bearing

THPO Director

crystal.cbearing@northernarapaho.com

COMANCHE NATION



USDA- Natural Resources Conservation Service
Nebraska State Office
Attn: Ms. Melissa Baier
1121 Lincoln Mall Room 360
Nebraska 68508

February 10, 2025

Re: USDA- NRCS National Historic Preservation Act (NHPS) Section 106 Consultation
Request, Box Butte Watershed Plan – EA, Box Butte and Sheridan Counties, Nebraska

Dear Ms. Baier:

In response to your request, the above reference project has been reviewed by staff of this office to identify areas that may potentially contain prehistoric or historic archeological materials. The location of your project has been cross referenced with the Comanche Nation site files, where an indication of “**No Properties**” have been identified. (IAW 36 CFR 800.4(d)(1)).

Please contact this office at (580) 492-1153 if you require additional information on this project.

This review is performed in order to identify and preserve the Comanche Nation and State cultural heritage, in conjunction with the State Historic Preservation Office.

Regards

Comanche Nation Historic Preservation Office
Theodore E. Villicana , Technician
#6 SW “D” Avenue, Suite C
Lawton, OK. 73502

Baier, Melissa - FPAC-NRCS, NE

From: gary.lafranier@cheyennenation.com
Sent: Tuesday, June 3, 2025 12:23 PM
To: Baier, Melissa - FPAC-NRCS, NE
Subject: [External Email]6 Projects

Importance: High

[External Email]

If this message comes from an **unexpected sender** or references a **vague/unexpected topic**;
Use caution before clicking links or opening attachments.
Please send any concerns or suspicious messages to: Spam.Abuse@usda.gov

Good Morning,

USDA-NRCS, Spring Creek Watershed Plan, Dawson County, Nebraska: Northern Cheyenne concurs with findings of No Adverse Effect.

Box Butte Watershed Plan-EA, Box Butte and Sheridan Counties, Nebraska: Northern Cheyenne concurs with findings of No Historic Properties.

Turkey Creek Watershed Plan-EA, Furnas and Gosper Counties, Nebraska, USDA-NRCS: Northern Cheyenne will like to participate and also request a cultural survey to be completed before ground disturbance activities begin.

Blackwood Creek Site 11-A Dam Rehabilitation: Northern Cheyenne concurs with findings of No Historic Properties.

West Branch Thirty-Two Mile Creek Watershed: Northern Cheyenne concurs with findings of No Historic Properties.

Dry Creek South Site 2-A Dam Rehabilitation: Northern Cheyenne concurs with findings of No Adverse Effect.

Thank You,

Gary LaFranier

FCC/ Section 106 Coordinator

(406) 477-8113

Lame Deer, MT. 59043

Baier, Melissa - FPAC-NRCS, NE

From: Gordon, Kristen - FPAC-NRCS, NE
Sent: Thursday, January 23, 2025 10:57 AM
To: ngpc.envreview@nebraska.gov; nebraskaes@fws.gov
Cc: Baier, Melissa - FPAC-NRCS, NE; Nelson, Ritch - FPAC-NRCS, NE
Subject: Box Butte Informal Conference
Attachments: BoxButte Informal Conference.pptx

To whom it may concern,

For your review – I attached the PowerPoint for the Informal Conference for Box Butte. I have also added a link of the current draft of the Plant-EA, and associated appendices can be found on our Box File sharing system. Please note that some of the text is also bolded because these are the areas that we would like some feedback from your agencies. At the completion of this conference, we will ensure that the Supplemental Plan-EA reflects said comments. Additionally, note that this is NOT an initiation of any consultation, as this will begin at a later date. If I missed anything or need to include more information, please let me know. There are notes provided under each slide for additional information. Please provide feedback to NRCS by **COB Wednesday, 26th of February 2025**.

<https://nrqs.box.com/s/vebkmcgv6y84cg3hb6w6d8izahnbsxu1>

Respectfully,

Kristen Gordon

Natural Resource Specialist
USDA-NRCS Nebraska State Office
402-437-4042
1121 Lincoln Mall
Lincoln, NE 68508



Natural Resources Conservation Service
U.S. DEPARTMENT OF AGRICULTURE

P.L. 83-566 Section 12 Consultation



Natural Resources Conservation Service

U.S. DEPARTMENT OF AGRICULTURE

Nebraska State Office

1121 Lincoln Mall
Room 360
Lincoln, NE 68508

SENT VIA EMAIL

November 25, 2024

Mark Porath
U.S. Fish and Wildlife Service – Ecological Services
9325 South Alda Road, Ste B
Wood River, Nebraska 68883

Subject: Initiation of P.L. 83-566 Section 12 Consultation, Box Butte Creek Watershed Plan-EA, Box Butte, Dawes, and Sheridan Counties, Nebraska

Dear Mark Porath:

In accordance with Section 12 of Pub. L. 83-566, the Natural Resources Conservation Services (NRCS) is notifying the Department of the Interior that we are investigating a water resource project. The Upper Niobrara White Natural Resources District (UNWNRD) requested NRCS assistance through the NRCS Watershed and Flood Protection Program (Public Law 83-566). This letter serves as formal notification that the project has been approved for assistance and NRCS will consult with U.S. Fish and Wildlife Service on technically and economically feasible works of improvement for wildlife purposes recommended. Please reply within 30 days of receiving this notice whether your Agency intends to make surveys, investigations, or recommendations concerning the conservation and development of wildlife resources; or otherwise participate in preparing the plan for works of improvement for this project.

The project sponsors and USDA-NRCS are preparing the Environmental Assessment (Plan-EA) to evaluate alternatives to meet the project's need. NRCS is the lead agency preparing the Watershed Plan for the Box Butte Creek Watershed Project. The purpose of the Box Butte Creek Watershed Plan-EA is to improve agricultural water management in the Box Butte Creek Watershed by promoting groundwater recharge and addressing the declining groundwater levels that are impacting irrigation capabilities. This effort aims to stabilize groundwater resources to support long-term agricultural productivity and resilience. In alignment with the objectives set forth in PL 83-566, the primary purpose is Agricultural Water Management within Box Butte Creek Watershed. The project is needed due to significant declines in aquifer levels within the Box Butte Creek Watershed over the past 25 years, which have reduced the reliability of groundwater for irrigation. Furthermore, the watershed has experienced four major flood events over the past decade, including severe flooding in 2018 and 2019, as well as intense rainfall events that have caused substantial flooding along Box Butte Creek and its tributaries. A secondary purpose of the project is flood prevention (flood damage reduction). These

Natural Resources Conservation Service

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trends in groundwater depletion and reoccurring flooding present ongoing challenges to the agricultural economy and necessitate an integrated approach to water management within the watershed.

The proposed action will be implemented by constructing three on-channel dam diversion structures to promote ponding, infiltration, and passive groundwater recharge. These structures will manage water flow and enhance groundwater levels by diverting portions of runoff to off-channel storage basins, designed to meet specific safety, and environmental standards to ensure minimal impact. Additionally, the plan includes road improvements at three locations to mitigate flood damage. These improvements will involve raising the roadbed and enlarging culverts to increase water flow capacity, thereby reducing flood risks, which meets the project purpose and need, provides ecosystem service benefits, best aligns with the Federal Objective, is the locally preferred alternative, and offers a positive monetary benefit-to-cost ratio. This preferred alternative is acceptable, complete, effective, efficient, and meets all planning criteria.

If you have any questions, concerns or information you want to contribute during the planning process, please contact Melissa Baier, Assistant State Conservationist -Water Resources and Easements, by email at melissa.baier@usda.gov or by phone at 402.437.4065.

Sincerely,



Digitally signed by ROBERT
LAWSON
Date: 2024.11.25 13:01:18 -06'00'

ROBERT D. LAWSON
State Conservationist

Enclosure:
Map of Box Butte Creek Watershed

cc:
Melissa Baier, ASTC -Water Resources and Easements, NRCS – Lincoln State Office
Nicole Zimmerman, Acting Watershed Planning Coordinator, NRCS – Lincoln State Office
Ritch Nelson, State Biologist, NRCS – Lincoln State Office
Joseph Debebe, NEPA Specialist, NRCS – Lincoln State Office

Endangered Species Act Consultation

Baier, Melissa - FPAC-NRCS, NE

From: Gordon, Kristen - FPAC-NRCS, NE
Sent: Thursday, January 23, 2025 10:57 AM
To: ngpc.envreview@nebraska.gov; nebraskaes@fws.gov
Cc: Baier, Melissa - FPAC-NRCS, NE; Nelson, Ritch - FPAC-NRCS, NE
Subject: Box Butte Informal Conference
Attachments: BoxButte Informal Conference.pptx

To whom it may concern,

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<https://nrqs.box.com/s/vebkmcgv6y84cg3hb6w6d8izahnbsxu1>

Respectfully,

Kristen Gordon

Natural Resource Specialist
USDA-NRCS Nebraska State Office
402-437-4042
1121 Lincoln Mall
Lincoln, NE 68508



Natural Resources Conservation Service
U.S. DEPARTMENT OF AGRICULTURE

Baier, Melissa - FPAC-NRCS, NE

From: Rolland, Ruby <ruby.rolland@nebraska.gov> on behalf of NGPC EnvReview <ngpc.envreview@nebraska.gov>
Sent: Tuesday, February 11, 2025 10:41 AM
To: Gordon, Kristen - FPAC-NRCS, NE; Nebraskaes, FW6
Cc: Baier, Melissa - FPAC-NRCS, NE; Nelson, Ritch - FPAC-NRCS, NE; Marinovich, Melissa; Jaymes, Mallory L
Subject: RE: Box Butte Informal Conference

Hello Kristen,

I have reviewed your PowerPoint and have the following comments:

- Interior Least Tern – the project is not within NGPC’s range for this bird, unless it is included for a depletions reason, it can be removed from consideration
- The Dace and Blacknose Shiner – you say there is no suitable habitat present but call it a MA-NLAA for these species with no proposed conservation measures. Either justify it as a NE with no suitable habitat present or provide conservation measures to justify a MANLAA.
- Blowout Penstemon – What is the determination for this species?
- Swift Fox – keep in mind that destruction of prairie dog towns may have negative impacts on swift fox.

In general, relating to the Plan-EA:

- Is there further justification for why non-structural alternatives were not moved forward?
 - The aquifer is being depleted from an excess of irrigation – as is stated in the draft Plan-EA.
 - Ample information was given on the feet it has been depleted in the last 20 years.
 - NGPC would like to see further explanation in the Plan-EA on how damming up this creek, essentially ruining its natural state, would appreciably help with groundwater levels more so than taking land out of production or further limiting water use in the area.
 - More information about the expected rise -in feet- of the aquifer (not just the expected amount of water captured) from this project as compared to taking land out of production (could be a nonphysical nonstructural measure for ag water management) would be helpful.
- Was wetland creation considered instead of detention basins?
 - This could provide additional habitat and help to filter water as it recharges – helping to mitigate pollutants entering the groundwater.
- Was floodplain reconnection or channel improvements considered for ag water management
 - This alternative could return the stream to a natural state/channel and would have the benefit of slowing down water for flood risk reduction, increasing groundwater recharge with increased surface area of stream bottom/slower flows, and provide habitat.
- How will aquatic and semi-aquatic species remain viable within this creek with it being dammed up?
 - The culvert pipes to convey normal flow would not be conducive to the passage of semi-aquatic mammals, amphibians, reptiles, or insects, which may or may not be able to scale the diversion structures to move up/downstream.

- Have the existing populations of burrowing owls along within this watershed been considered in the construction of alternatives?
 - As a migratory birds, the owls are protected from take. NGPC has records of burrowing owls in close proximity to Box Butte Creek.

Please reach out with any question about the content above.

Thank you,

Ruby Rolland

Environmental Specialist III
Nebraska Game & Parks Commission
(402) 471-5554 | ruby.rolland@nebraska.gov
2200 N. 33rd St. Lincoln, NE 68503



From: Gordon, Kristen - FPAC-NRCS, NE <Kristen.Gordon@usda.gov>
Sent: Thursday, January 23, 2025 10:57 AM
To: NGPC EnvReview <ngpc.envreview@nebraska.gov>; nebraskaes@fws.gov
Cc: Baier, Melissa - FPAC-NRCS, NE <Melissa.Baier@usda.gov>; Nelson, Ritch - FPAC-NRCS, NE <ritch.nelson@usda.gov>
Subject: Box Butte Informal Conference

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<https://nrccs.box.com/s/vebkmcgv6y84cg3hb6w6d8izahnbsxu1>

Respectfully,

Kristen Gordon

Natural Resource Specialist
USDA-NRCS Nebraska State Office
402-437-4042
1121 Lincoln Mall
Lincoln, NE 68508

From: [Baier, Melissa - FPAC-NRCS, NE](#)
To: [Rolland, Ruby](#)
Cc: nebraskaes@fws.gov; [Nelson, Ritch - FPAC-NRCS, NE](#); [Melissa Marinovich, NGPC](#)
Subject: FW: Box Butte Informal Conference
Date: Monday, March 3, 2025 8:30:00 AM
Attachments: [image003.png](#)
[image005.png](#)
[20250221_Memo_NGPC_Comment_Response.docx](#)

Good morning, Ruby,

I asked the consultants who prepared the watershed plan to try to answer the general questions you had about the Plan-EA. Their response is attached. Please let me know if have additional questions or need clarification on any of their responses. I will work with Ritch to resolve the species-specific comments that you had.

Thanks!

Missy

Melissa Baier

Assistant State Conservationist – Water Resources and Easements
Nebraska NRCS State Office



U.S. DEPARTMENT OF AGRICULTURE
Natural Resources Conservation Service
1121 Lincoln Mall Room 360, Lincoln, NE 68508
p: (402) 437-4065 | c: (402) 317-1005

From: Rolland, Ruby <ruby.rolland@nebraska.gov> **On Behalf Of** NGPC EnvReview
Sent: Tuesday, February 11, 2025 10:41 AM
To: Gordon, Kristen - FPAC-NRCS, NE <Kristen.Gordon@usda.gov>; Nebraskaes, FW6 <Nebraskaes@fws.gov>
Cc: Baier, Melissa - FPAC-NRCS, NE <Melissa.Baier@usda.gov>; Nelson, Ritch - FPAC-NRCS, NE <ritch.nelson@usda.gov>; Marinovich, Melissa <melissa.marinovich@nebraska.gov>; Jaymes, Mallory L <mallory_jaymes@fws.gov>
Subject: RE: Box Butte Informal Conference

Hello Kristen,

I have reviewed your PowerPoint and have the following comments:

- Interior Least Tern – the project is not within NGPC’s range for this bird, unless it is included for a depletions reason, it can be removed from consideration
- The Dace and Blacknose Shiner – you say there is no suitable habitat present but call it a

Memo

Date: Friday, February 21, 2025

Project: Box Butte Creek Watershed Plan-EA

To: NE NRCS

From: HDR

Subject: NGPC Comments on Preliminary Draft Plan-EA

- Is there further justification for why non-structural alternatives were not moved forward?
 - The aquifer is being depleted from an excess of irrigation – as is stated in the draft Plan-EA.
 - Ample information was given on the feet it has been depleted in the last 20 years.
 - NGPC would like to see further explanation in the Plan-EA on how damming up this creek, essentially ruining its natural state, would appreciably help with groundwater levels more so than taking land out of production or further limiting water use in the area.
 - More information about the expected rise -in feet- of the aquifer (not just the expected amount of water captured) from this project as compared to taking land out of production (could be a nonphysical nonstructural measure for ag water management) would be helpful.

Response: Regarding consideration of non-structural alternatives, Appendix D provides the rationale for review of non-structural alternatives. This text is provided at the end of this memorandum.

The depletions have been recognized since before 2003 and, as result, the UNWNRD has implemented numerous measures regarding management of groundwater. Information about Regional Management Plans is provided in Section 3.3.6 and attached at the end of this memo.

The PR&G gives equal standing to economic, social, and environmental impacts when selecting an alternative. Sites 1, 2, and 5 have shown they are meet the Federal Objective and Guiding Principles (Appendix D).

Appendix D.4 – Groundwater Recharge, provides the methodology for developing recharge analysis. There are a multiple of variables that are included in the equation for recharge quantification. This includes topography, saturated thickness of the aquifer material, hydraulic connectivity of aquifer material, depth to groundwater, and available water supply. Several of these input site characteristic variables can be classified variously as dimensions, water supply availability, or physical characteristics of soil and aquifer. Some variables have gone into

recharge potential analysis, while others (with some overlap) are used specifically for the calculations of water table mounding. While the use of the mounding calculations affords the ability to scrutinize the functionality of each site, especially as viewed in the relative sense, the analytical equation and procedure used to establish estimates of groundwater recharge rates are considered to be approximate in an absolute sense with various assumptions that may not all be met, and with input parameters that may vary from values that could be determined through field site characterization. For these reasons, the estimating the physical rise in the water table is highly variable within the radius of influence within each site.

In terms of retiring well production, that is something that the UNWNRD looks to do when able as part of their normal practices. The UNWNRD does not have the authority to arbitrarily retire wells.

- Was wetland creation considered instead of detention basins?
 - This could provide additional habitat and help to filter water as it recharges – helping to mitigate pollutants entering the groundwater.

Response: Wetland creation requires a surface or ground water hydrology source. Due to our location, groundwater is not an option. Obtaining a viable surface water source can be accomplished by creation of areas in uplands by capturing surface water, or creation of areas in existing floodplains. Creating areas in uplands was considered as part of the Diversion to Off-Channel Storage Alternative. The drainage areas were determined to be too small to support recharge. This also would be the case to support wetland creation of meaningful size.

The off-channel storage basins will be allowed to vegetate naturally. The hydrology that supports the recharge will also support the creation of wetland habitat.

- Was floodplain reconnection or channel improvements considered for ag water management
 - This alternative could return the stream to a natural state/channel and would have the benefit of slowing down water for flood risk reduction, increasing groundwater recharge with increased surface area of stream bottom/slower flows, and provide habitat.

Response: Floodplain reconnection would still require a way to capture and store surface water hydrology for the purpose of groundwater recharge. The Diversion to Off-Channel Storage is, in essence, a way to use the floodplain for storage. Widening the stream channel to create floodplain benches within the channel would provide more stream capacity during runoff events and reduce flow velocities, but no long-term storage could be achieved.

- How will aquatic and semi-aquatic species remain viable within this creek with it being dammed up?

- The culvert pipes to convey normal flow would not be conducive to the passage of semi-aquatic mammals, amphibians, reptiles, or insects, which may or may not be able to scale the diversion structures to move up/downstream.

Response – To reiterate the concept for the Diversion to Off-Channel Storage, there is no “dam” placed in the stream and no permanent normal pool. The diversion structures themselves are not unlike any of the county road crossings within the watershed. The structure heights are all less than 6 feet and have an 8 foot wide top width. For comparison, county roads typically have heights equal to or greater than these structures and have a 24 foot lane width plus a 1-3 foot shoulder. Therefore, the culvert pipes conveying normal flows for the diversion structures are shorter in distance and the embankment heights equal to if not less than any of the multitude of county road crossings in the watershed. The embankment slopes for the diversion structures (4:1) are equal to or greater than (less steep) than the side slopes for county road crossings. The three proposed Diversion to Off-Channel Storage sites are located within 0.25 miles of an existing county road.

If design guidelines are available for culvert diameters and associated lengths that target passage for specific species those can certainly be included as part of the design.

Appendix D – Section D2.2

Excerpt from table D2-1

Nebraska Soil and Water Conservation program was established in 1977 by the Department of Natural Resources (DNR) and administered by the NRD. This cost share program provides assistance to landowners who wish to install approved conservation measures. These measures aim to improve water quality and quantity and help control erosion and sedimentation. Practices eligible for the cost-share program are:

- Critical Area Planting
- Diversions
- Dugouts for Livestock Water
- Grade Stabilization Structures
- Grassed Waterways
- Irrigation Tailwater Recovery Pit
- Irrigation Water Management
- Planned Grazing Systems
- Planting or Range Seeding
- Repair of Practices – terraces, dams, diversions, etc.
- Stream Bank Stabilization
- Terrace Systems
- Terrace Underground Outlets
- Water Impoundment Dams
- Water and Sediment-Control Basins
- Windbreaks/ Shelterbelts
- Windbreak Renovation.

There are 33 different types of NRCS practices in place within the study area. Of the 33 practices, 12 representing approximately 11% of the study area are assumed to result in some increase groundwater recharge. Of the 12, 4 practices (7.5% of the study area) would result in more than limited amounts of recharge. It is unreasonable to assume that broader implementation of these measures would meet the project purpose.

3.3.6 Regional Water Management Plans & Agency Programs

NeDNR is responsible for administering and coordinating various water resource management programs within the watershed, including water planning, surface water, floodplain management, dam safety, groundwater, and water administration.

To promote orderly use and distribution of water, Nebraska state laws have provided a means for protection of surface and groundwater supply. Nebraska Legislative Bill 962 allows the NeDNR and the NRDs to work together to manage groundwater and surface water as a hydrologically connected resource under integrated management plans (IMP). With the increasing demand on water resources, it is necessary to recognize the importance of hydrologically connected groundwater and surface water, and the difficulties entailed in their management because of their properties and distribution. The IMP's objective is to manage the river basins, subbasins, or reaches within the NRD boundaries to attain and/or sustain a desired

balance between water uses and water supplies for the long term while protecting existing users.

The Box Butte Creek watershed was determined to be fully appropriated in 2004. Therefore, an Integrated Management Plan (UNWNRD 2011) was developed for this watershed (as well as other watersheds within the UNWNRD boundary). The UNWNRD Integrated Management Plan identifies goals and objectives for surface and groundwater management. In addition, the UNWNRD established a Groundwater Management Area and Integrated Management Area and correlated Rules and Regulations for the implementation of the UNWNRD Groundwater Management Plan (GWMP) and IMP (UNWNRD 2024). The Rules and Regulation address both water quality and quantity. Related to groundwater quantity, the Rules and Regulations establish controls, or Phases, related to the degree of accumulated decline in groundwater levels from a 1990 baseline.

The entire UNWNRD is within Phase I, which includes the UNWNRD conducting educational events, requiring flow meters on all regulated wells, certification of irrigated acres, and may require the allocation of groundwater based on certified acres.

A Phase II designation is implemented when groundwater declines exceed three feet of 1990 levels within a groundwater management area. Phase II requirements, in addition to Phase I requirements, suspends the issuance of new well permits, suspends the addition of irrigated acres, and may require the allocation of groundwater based on certified acres.

A Phase III designation is implemented when groundwater declines exceed six feet of 1990 levels within a groundwater management area. Phase III requirements, in addition to Phase I and Phase II requirements, requires allocation of groundwater based on certified acres. The Study Area is currently in a Phase III designation.



United States Department of the Interior

FISH AND WILDLIFE SERVICE

Ecological Services
9325 South Alda Road
Wood River, Nebraska 68883



IN REPLY REFER TO:
NRCS Box Butte Creek Watershed
Plan EA

February 11, 2025

Kristen Gordon
Natural Resource Conservation Services
1121 Lincoln Mall
Lincoln, Nebraska 68508

Dear Ms. Gordon:

This responds to your January 23, 2025 request for scoping comments from the U.S. Fish and Wildlife Service (Service) regarding the Box Butte Watershed Plan EA, Box Butte, Dawes, and Sheridan counties, Nebraska.

Box Butte Creek is a tributary to the Niobrara River with their confluence occurring approximately 14 miles south of Hay Springs, Nebraska. This watershed plan intends to improve agricultural water management in the Box Butte Creek watershed by promoting groundwater recharge and addressing the declining groundwater levels that are impacting irrigation capabilities. This plan also intends to address to reduce damages from flooding. The project is needed due to significant groundwater declines in static aquifer levels in the Box Butte Watershed over the past 25 years and substantial flooding along Box Butte Creek and its tributaries in the last 10 years. The preferred alternative under this plan consists of three on-channel dam diversion structures and three roadbed improvement areas at locations identified to promote groundwater recharge and prevent flood damage.

The Service has responsibility for the conservation and management of fish and wildlife resources for the benefit of the American public under the following authorities: 1) Endangered Species Act (ESA); 2) Fish and Wildlife Coordination Act (FWCA); 3) Bald and Golden Eagle Protection Act (Eagle Act); and 4) Migratory Bird Treaty Act (MBTA). Additionally, under the Watershed Protection and Flood Prevention Act (WPFPA), the Service is to be given the opportunity to provide recommendations for the project concerning wildlife resources. Under these acts, the Service provides the following comments below:

ENDANGERED SPECIES ACT

In the Endangered Species Act ([ESA; 16 U.S.C. 1531-1544](#)) pursuant to section 7(a)(1), all Federal agencies shall, in consultation with and with the assistance of the Secretary, utilize their authorities in furtherance of the purposes of this Act by carrying out programs for the

conservation of endangered species and threatened species listed pursuant to section 4 of this Act. Pursuant to section 7(a)(2) of the ESA, every federal agency, shall in consultation with the Service, ensure that any action they authorize, fund, or carry out is not likely to jeopardize the continued existence of a listed species or result in the destruction or adverse modification of designated critical habitat. If a proposed project may affect federally listed species or designated critical habitat, section 7 consultation is required.

NRCS accessed the Service's Information for Planning and Consultation tool ([IPaC; Project Code: 2024-0098631](#)) and has determined that the following federally listed species occur within this watershed and may be affected by the proposed action and therefore section 7 consultation is required:

<u>Listed Species</u>	<u>Expected Occurrence</u>
Blowout penstemon (<i>Penstemon haydenii</i>)	Nebraska Sandhills
Northern long-eared bat (<i>Myotis septentrionalis</i>)	Forested habitats, man-made structures and mines

The Service recognizes that NRCS has determined a "No Effect" for rufa red knot, eastern black rail, eskimo curlew, pallid sturgeon, and piping plover.

Blowout Penstemon

Blowout penstemon (BP) is native to the Nebraska Sandhills and is restricted to active blowouts or loose sands in or on the margins of open sand blowouts. It requires sites that are devoid or nearly devoid of vegetation. These are usually sites of active wind erosion. As succession progresses and the blowout heals, BP is unable to compete with other prairie vegetation and is gradually eliminated. Within limits, activities or processes promoting wind erosion or active dune migration will favor the continuation of the species.

For this species in Nebraska, activities which can threaten the survival of individual plants or BP populations are often related to range management practices which stabilize the sand dunes (major cause of the species decline), grazing, trampling by cattle, periods of drought, herbicide, and insects (e.g. pyralid moths).

The Service recommends the following conservation measure to minimize impacts to blowout penstemon and from the proposed project:

1. If a project's action area contains blowout habitat and it will be affected, have a qualified biologist conduct a survey during the blooming period (typically late May through June). Coordination with the field office is recommended to ensure proper timing of the survey given blooming periods may vary year to year. Qualifications of the surveyor, methods of the survey, and results should be provided to the Nebraska Field Office during coordination.

2. During the blooming period, limit grazing to no more than one out of every three years in occupied blowout habitat to minimize grazing damage to flowers. Grazing outside of this time period is beneficial and encouraged to maintain open/blowing sand.

3. Every fifth year, use a combination of prescribed fire and intense livestock grazing to reduce grass cover and maintain sand movement to prevent blowout healing and penstemon decline.

Northern Long-Eared Bat

The northern long-eared bat (NLEB) is a medium-sized brown bat that was federally listed as endangered under the Endangered Species Act on March 31, 2023. Nebraska contains suitable forested habitat for foraging and roosting during the species' summer occupancy period (April 1st – September 30th). NLEBs typically roost singly or colonially in cavities, underneath bark, crevices, or hollows of both live and dead trees and/or snags of dense forests. Males and non-reproductive females may also roost near hibernacula such as caves and mines. NLEBs also occasionally roost in structures such as barns and sheds (particularly when suitable tree roosts are unavailable). They forage for insects in upland and lowland woodlots and tree-lined corridors along water. In the fall, when outdoor temperatures consistently drop below 50°F and daylight hours decrease, NLEB migrate to the entrances of hibernacula for fall swarming from August 16th to November 15th. During the winter, NLEBs predominately hibernate in caves and abandoned mines from November 16th to March 31st. In the spring, when temperatures and daylight hours begin to increase, NLEB begin emerging from hibernacula for spring staging in preparation to migrate to their summer ranges (April 1st to May 14th). Caves and mines in Nebraska with documented use by these species occur in Cass, Greeley, Lancaster, and Sarpy counties. A deep rock crevice in a limestone cliff face on the Missouri River in Dixon County also has documented use during winter. Due to this finding, we suspect that these species also hibernate in deep rock crevices along the Missouri River (upstream of Ponca, Nebraska), Niobrara River, and Republican Rivers where rocky outcroppings are available.

NLEB have been severely impacted by the presence of a fungal disease commonly referred to as white-nose syndrome (WNS). Due to significant population declines caused by WNS and these species' reproductive rates, these species are more vulnerable to additional mortality events such as wind turbine strikes and barotrauma, summer and winter habitat loss or disturbance, and climate change.

The Service recommends you utilize [IPaC](#) and run your project through the Determination Key (D-Key), if eligible. Upon completion of the D-Key, a concurrence or consistency letter outlining the next steps for coordination with the Service will be issued. Incorporating conservation measures into your project and D-Key answers will decrease the likelihood for take to occur and minimize the potential impacts on the species. Conservation measures that could be applied for NLEB are as follows:

1. Avoid removal of suitable tree roosting habitat during the summer occupancy period (April 1st- September 30th). If this is not possible, we recommend completing a Presence/Absence Survey in accordance with the Service's Range-wide Summer Survey Guidance to establish presence or probable absence.

2. Avoid removal or modification of structures that may be suitable for roosting during the summer occupancy period (April 1 – September 30). If this is not possible, we recommend completing Presence/Absence Survey in accordance with the Service’s Range-wide Summer Survey Guidance to establish presence or probable absence.
3. Avoid removing suitable roost trees within 0.50-mile of known hibernacula entrances and the physical or other alteration of hibernacula entrances and interiors at any time.
4. Avoid conducting prescribed burns during these species pup season (May 15th – July 31st). If this is not possible, we recommend completing a Presence/Absence Survey in accordance with the Service’s Range-wide Summer Survey Guidance to establish probable absence.
5. Avoid herbicide applications that may affect suitable summer habitat during the summer occupancy period unless applications will utilize targeted application methods like spot-spraying, hack-and-squirt, basal bark, injections, cut stump, or foliar spraying on individual herbaceous plants (no foliar spraying on tree leaves).
6. If nighttime work is planned between April 1st and September 30th, lighting should be limited to a Nominal CCT of 3000 Kelvin +/- 300 K, shielded, and directed away from suitable roosting habitat, such as lighting that is compliant with the “BUG rating” set forth by the Illumination Engineering Society as feasible.

Candidate and Proposed Species

Candidate species are plants and animals for which the Service has sufficient information on their biological status and threats to propose them as endangered or threatened under the ESA, but for which the development of a proposed listing regulation is precluded by other higher priority listing activities. Proposed species for listing under the ESA are those candidate species that were found to warrant listing either as threatened or endangered, after completion of a status review and consideration of other protective conservation measures. The Service encourages cooperative conservation efforts under Section 7(a)1 of the ESA for candidate and proposed species so that by addressing the needs of species before the regulatory requirements associated with listed species come into play, greater management flexibility can be proactively included to help stabilize or restore these species and their habitats, potentially remove threats, and eliminate the need for listing. If a candidate or proposed species is not evaluated or conservation measures incorporated, then reinitiating consultation is triggered when the proposed listing is finalized (50 CFR 402.16(4)).

Candidate or Proposed Species

Expected Occurrence

Blanding’s Turtle
(*Emydoidea blandingii*)

Wetlands, marshes, fens, wet prairies

Monarch Butterfly
(*Danaus plexippus*)

Open habitats including fields, meadows, marshes, and along roadsides

Regal Fritillary (*Speyeria idalia*)

Native prairies, wet and sub-irrigated meadows.

Tricolored Bat
(*Perimyotis sublavus*)

Forested habitats, man-made structures and mines.

Blanding's Turtle

The Blanding's turtle is a semi-aquatic freshwater turtle that inhabits wetlands in Nebraska across the central and eastern portion of the state including the Sandhills (i.e. Valentine National Wildlife Refuge). They can live to 70 years of age, tend to reach sexual maturity at more than 20 years of age, and have low reproductive potential. Adults often must reproduce for their entire lives for just one or two of their hatchlings to survive to adulthood.

Compared to other aquatic turtles, the Blanding's turtle is known to travel long distances, often more than a mile over land in search of suitable vernal pool habitat for breeding and feeding. Because of their movement patterns, Blanding's turtles require larger intact landscapes than many other turtle species, and they are vulnerable to habitat fragmentation and degradation.

Blanding's turtles are extremely sensitive to the loss of reproductive adults, whether from mortality or illegal collection. In Nebraska, moving across the landscape means these turtles are forced to cross roads where risks of vehicle strike mortality are high. Furthermore, native habitat fragmentation and development also pose risks to species survival and reproductive potential.

The Service recommends the following conservation measure to minimize impacts to Blanding's turtle and from the proposed project:

1. Avoid impacts to suitable habitat by siting development projects away from wetlands and adjacent potential nest sites.
2. Avoid construction activities from May 1st – June 30th and August 15th – September 30th in suitable habitat, these are the most vulnerable times for movement and reproduction.
3. During construction of roadway culverts/bridges, utilize appropriately sized structures that provide passage for Blanding's turtle and other aquatic wildlife.
4. As feasible, provide fencing in sensitive areas to guide Blanding's turtle and other wildlife to passage structures.
5. For short duration construction, install barriers to prevent Blanding's from entering the worksite (i.e. silt fence or chain link).
6. During construction, survey for Blanding's turtle and only move turtles out of harms way in the direction they were originally seen moving.

Monarch Butterfly

The Monarch Butterfly (MB) is proposed to be listed as threatened with a section 4(d) rule. Due to a widespread population decline across North America. MB has a unique life history of migration and multiple life stages within a single season, and a unique dependence upon milkweed plants (primarily common milkweed) for reproduction. This species occurs throughout

Nebraska, but is most common east of the 100th meridian, in open habitats including prairies, meadows, marshes and along roadsides.

MB are impacted by chemical applications, habitat degradation, climate change (drought, unpredictable storm events, temperature extremes), collection, agricultural disturbances, changes in nectar/milkweed resources, and by disease/natural enemies. Furthermore, the loss of greenspaces, excessive mowing, insecticides, and the change in overwintering habitat all seem to be key drivers influencing monarch dynamics.

The Service recommends the following conservation measure to minimize impacts to MB and from the proposed project:

1. Avoid construction in suitable habitats, especially those providing high quality diverse native vegetation including milkweed resources. If construction must occur in suitable habitat, implement time of year restrictions, and minimize overall disturbance of habitat.
2. Establish post construction seeding mixes utilizing local seed containing a diversity of native species. Utilize wildflowers including milkweed, which bloom throughout the growing season to support wildlife during all life cycles of the species within project area.
3. Mowing should avoid sensitive timeframes for species growth and development. For example, avoid mowing during the bloom period for milkweed or other nectar producing plants (approx. April 1st-September 30th). If mowing must occur, try to avoid milkweed and nectar producing resources during these activities.
4. Herbicide application should be limited to spot spray application as practicable. If spot spraying isn't practicable, application (i.e., broadcast, aerial) should be conducted in such a way to avoid sensitive species and habitat types.

Regal Fritillary

Nebraska is home to the western subspecies of the Regal fritillary (RF) population, which is proposed as threatened with a section 4(d) rule. The RF has been observed across Nebraska in association with native tallgrass prairies in the east, wet meadows in the sandhills, and sub-irrigated meadows associated with stream drainages throughout the state. Wet meadows along the Platte River in central Nebraska have historically provided habitat for high density populations. More specifically, RF requires high quality prairie habitats which provide violets (the only food source for RF larvae), nectar producing species for adults, and native warm season bunchgrasses for all life cycles to sustain populations.

The threats to RF include but are not limited to habitat loss, conventional row crop agriculture, urban and residential development, road construction and maintenance, herbicide and pesticide use, and ill-timed controlled burns. Also, the RF individuals can be threatened by collection and overutilization for commercial or recreational purposes. It is also likely that females collected for such purposes have not had a chance to reproduce due to the species' extended period of reproductive diapause. The extensive loss of native prairie habitats and lack of diverse management regimes is the primary driver of this species population decline in Nebraska.

The Service recommends the following conservation measure to minimize impacts to RF and from the proposed project:

1. Avoid construction in suitable habitats, especially those providing high quality diverse native vegetation including violets and warm season bunchgrasses. If construction must occur in suitable habitat, minimize overall disturbance of habitat. If possible, distribute the disturbance to only portions of the habitat leaving some habitat available throughout the year.
2. Establish post construction seeding mixes utilizing local seed containing a diversity of native species. Utilize wildflowers, including violets, which bloom throughout the growing season to support wildlife during all life cycles of the species within project area.
3. Mowing should avoid sensitive timeframes for species growth and development. For example, avoid mowing during the bloom period for violets or other nectar producing plants (approx. April 1st-September 30th). If mowing must occur, try to avoid violets and nectar producing resources during these activities.
4. Herbicide application should be limited to spot spray application as practicable. If spot spraying isn't practicable, application (i.e., broadcast, aerial) should be conducted in such a way to avoid sensitive species and habitat types.

The Rights-of-Way as Habitat Working Group has identified a number of Best Management Practices (BMPs) that can benefit the monarch and other pollinators (<http://rightofway.erc.uic.edu/resources/best-management-practices/>). Additional resources on ways to improve habitats for the monarch are located at: <https://www.fws.gov/initiative/pollinators/monarchs>. The Nebraska Department of Transportation has also implemented several activities into their transportation program to benefit monarchs and other pollinators that this project could consider as well (<https://dot.nebraska.gov/projects/environment/pollinators/>).

Tricolored Bat

The tricolored bat (TCB) is a small insectivorous bat that is distinguished by its unique tricolored fur and often appears yellowish to nearly orange. Nebraska contains suitable forested habitat for foraging and roosting during the species' summer occupancy period (April 1st – September 30th). TCBs typically roost in trees, primarily among leaves of live or recently dead deciduous hardwood trees, but may also be found in pine trees, and occasionally human structures. Males and non-reproductive females may also roost near hibernacula such as caves and mines. They forage for insects in upland and lowland woodlots and tree-lined corridors along water. In the fall, when outdoor temperatures consistently drop below 50°F and daylight hours decrease, TCB migrate to the entrances of hibernacula for fall swarming from August 16th to November 15th. During the winter, TCBs predominately hibernate in caves and abandoned mines from November 16th to March 31st. In the spring, when temperatures and daylight hours begin to increase, TCB begin emerging from hibernacula for spring staging in preparation to migrate to their summer ranges (April 1st to May 14th). Caves and mines in Nebraska with documented use by these species occur in Cass, Greeley, Lancaster, and Sarpy counties. A deep rock crevice in a

limestone cliff face on the Missouri River in Dixon County also has documented use during winter. Due to this finding, we suspect that these species also hibernate in deep rock crevices along the Missouri River (upstream of Ponca, Nebraska), Niobrara River, and Republican Rivers where rocky outcroppings are available.

TCB have been severely impacted by the presence of a fungal disease commonly referred to as white-nose syndrome (WNS). Due to significant population declines caused by WNS and these species' reproductive rates, these species are more vulnerable to additional mortality events such as wind turbine strikes and barotrauma, summer and winter habitat loss or disturbance, and climate change.

The Service recommends you utilize [IPaC](#) and run your project through the Determination Key (D-Key), if eligible. Upon completion of the D-Key, a concurrence or consistency letter outlining the next steps for coordination with the Service will be issued. Incorporating conservation measures into your project and D-Key answers will decrease the likelihood for take to occur and minimize the potential impacts on the species. Conservation measures that could be applied for TCB are as follows:

1. Avoid removal of suitable tree roosting habitat during the summer occupancy period (April 1st- September 30th). If this is not possible, we recommend completing a Presence/Absence Survey in accordance with the Service's Range-wide Summer Survey Guidance to establish presence or probable absence.
2. Avoid removal or modification of structures that may be suitable for roosting during the summer occupancy period (April 1 – September 30). If this is not possible, we recommend completing Presence/Absence Survey in accordance with the Service's Range-wide Summer Survey Guidance to establish presence or probable absence.
3. Avoid removing suitable roost trees within 0.50-mile of known hibernacula entrances and the physical or other alteration of hibernacula entrances and interiors at any time.
4. Avoid conducting prescribed burns during these species pup season (May 15th – July 31st). If this is not possible, we recommend completing a Presence/Absence Survey in accordance with the Service's Range-wide Summer Survey Guidance to establish probable absence.
5. Avoid herbicide applications that may affect suitable summer habitat during the summer occupancy period unless applications will utilize targeted application methods like spot-spraying, hack-and-squirt, basal bark, injections, cut stump, or foliar spraying on individual herbaceous plants (no foliar spraying on tree leaves).
6. If nighttime work is planned between April 1st and September 30th, lighting should be limited to a Nominal CCT of 3000 Kelvin +/- 300 K, shielded, and directed away from suitable roosting habitat, such as lighting that is compliant with the "BUG rating" set forth by the Illumination Engineering Society as feasible.

Other Species

We are also providing a link to the Service's National Listing Workplan

<https://www.fws.gov/sites/default/files/documents/national-domestic-listing-workplan-fiscal-years-2023-2027.pdf>.

Effect Determination(s)

The Service recommends that the lead federal agency consider the information provided above with regard to making its final assessment of potential impacts of the proposed project on federally listed species and in making your effect determination(s). Utilizing [IPaC](#) and relevant species D-Keys can assist you in making your determinations and speed up the consultation process. Further, the Service recommends that the lead federal agency not limit its consideration of effect to just the above project information, but other potential effects of the action as they become apparent with additional information or during the course of project development or modification. Other potential effects should include those that are not part of the action but would not occur but for the proposed action and it is reasonably certain to occur. Effects of the action may occur later in time and may include consequences occurring outside the immediate area involved in the action ([50 CFR 402.02](#)).

This letter serves as technical assistance but does not provide a concurrence determination from the Service. Our office is unable to provide a concurrence determination until sufficient project specific information is available to fully analyze potential impacts to federally protected resources. It's important to note that the Service does not provide concurrence letters for "No Effect" determinations for species.

In addition, all federally listed species are also state-listed under the Nebraska Nongame and Endangered Species Conservation Act. There may be state-listed species affected by the proposed project that are not federally listed. To determine if the proposed project may affect State-listed species, the Service recommends that the project proponent contact, the Nebraska Environmental Review Team (ngpc.envreview@nebraska.gov) and/or Ruby Rolland (ruby.rolland@nebraska.gov), Nebraska Game and Parks Commission, 2200 North 33rd Street, Lincoln, Nebraska 68503-0370, (402) 471-5554.

REVIEW, COMMENTS, AND RECOMMENDATIONS ON THE PROPOSED PROJECT ACTION UNDER OTHER FISH AND WILDLIFE STATUTES

Fish and Wildlife Coordination Act

The Fish and Wildlife Coordination Act ([FWCA; 16 U.S.C. 661-666\(e\)](#)) requires consultation with the Service and State fish and wildlife agency (in this case NGPC) for the purpose of giving equal consideration to fish and wildlife resources in the planning, implementation, and operation of federal and federally funded, permitted, or licensed water resource development projects. The FWCA requires that federal agencies take into consideration the effect that water related projects may have on fish and wildlife resources, to take action to avoid impact to these resources, and to provide for the enhancement of these resources.

The Service recommends that impacts such as sedimentation and introduction of contaminants to wetlands, streams, and riparian areas be avoided or minimized during project construction. Restoration of the action area should be completed using only native species to prevent future sedimentation and reduce the establishment of invasive species. A high diversity seed mix is recommended for the benefit of pollinators. Additionally, the Service would recommend instream projects that do not prevent the ability of aquatic species from moving up and/or downstream.

To determine if the proposed project may affect fish and wildlife resources of the State of Nebraska under the FWCA, the Service recommends that the project proponent contact the Nebraska Environmental Review Team (ngpc.envreview@nebraska.gov) and/or Ruby Rolland (ruby.rolland@nebraska.gov), Nebraska Game and Parks Commission, 2200 North 33rd Street, Lincoln, Nebraska 68503-0370, (402) 471-5554.

Bald and Golden Eagle Protection Act

The bald eagle (*Haliaeetus leucocephalus*) and golden eagle (*Aquila chrysaetos*) are protected from a variety of harmful actions via take prohibitions in both the Migratory Bird Treaty Act¹ ([MBTA; 16 U.S.C. 703-712](#)) and the Bald and Golden Eagle Protection Act ([BGEPA; 16 U.S.C. 668-668d](#)). The BGEPA, enacted in 1940 and amended several times, prohibits take of bald eagles and golden eagles, including their parts, nests, young or eggs, except where otherwise permitted pursuant to federal regulations. Incidental take of eagles from any actions, such as electrocutions from power lines or wind turbine strikes, are prohibited unless specifically authorized via an eagle incidental take permit from the Service. The Service provides the option for [ePermits](#) that can be acquired online as well as additional information about eagle take permitting. BGEPA provides penalties for persons who "take, possess, sell, purchase, barter, offer to sell, purchase or barter, transport, export or import, at any time or any manner, any bald eagle ... [or any golden eagle], alive or dead, or any part, nest, or egg thereof." BGEPA defines take to include the following actions: "pursue, shoot, shoot at, poison, wound, kill, capture, trap, collect, molest or disturb." The Service expanded this definition by regulation to include the term "destroy" to ensure that "take" also encompasses destruction of eagle nests. Also the Service defined the term disturb which means to agitate or bother a bald or golden eagle to a degree that causes, or is likely to cause, based on the best scientific information available, (1) injury to an eagle, (2) a decrease in its productivity, by substantially interfering with normal breeding, feeding, or sheltering behavior, or (3) nest abandonment, by substantially interfering with normal breeding, feeding, or sheltering behavior.

- The [2007 National Bald Eagle Management Guidelines](#) serve to advise landowners, land managers, and others who share public and private lands with bald eagles when and under what circumstances the protective provisions of BGEPA may apply. They provide conservation recommendations to help people avoid and/or minimize such impacts to bald eagles, particularly where they may constitute "disturbance," which is prohibited by the BGEPA.

¹The MBTA list of protected species includes bald and golden eagles, and the law has been an effective tool to pursue incidental take cases involving eagles. However, the primary law protecting eagles is the Bald and Golden Eagle Protection Act (BGEPA) (16 U.S. Code § 668), since the bald eagle was delisted under the Endangered Species Act in 2007.

The Service also has promulgated new permit regulations under BGEPA:

- New eagle permit regulations, as allowed under BGEPA, were promulgated by the Service in 2009 (74 FR 46836; Sept. 11, 2009) and revised in 2016 ([81 FR 91494; Dec. 16, 2016](#)). The regulations authorize the limited take of bald and golden eagles where the take to be authorized is associated with otherwise lawful activities. These regulations also establish permit provisions for intentional take of eagle nests where necessary to ensure public health and safety, in addition to other limited circumstances. The revisions in 2016 included changes to permit issuance criteria and duration, definitions, compensatory mitigation standards, criteria for eagle nest removal permits, permit application requirements, and fees in order to clarify, improve implementation and increase compliance while still protecting eagles.

The Service's Office of Law Enforcement carries out its mission to protect eagles through investigations and enforcement, as well as by fostering relationships with individuals, companies, industries and agencies that have taken effective steps to avoid take, including incidental take of these species, and encouraging others to implement measures to avoid take. The Office of Law Enforcement focuses its resources on investigating individuals and entities that take eagles without identifying and implementing all reasonable, prudent and effective measures to avoid that take. Those individuals and entities are encouraged to work closely with Service biologists to identify available protective measures, and to implement those measures during all activities or situations where their action or inaction may result in the take of an eagle(s).

Migratory Bird Treaty Act

The Migratory Bird Treaty Act ([MBTA; 16 U.S.C. 703-712](#)), implements four international conservation treaties that the U.S. entered into with Canada in 1916, Mexico in 1936, Japan in 1972, and Russia in 1976. It is intended to ensure the sustainability of populations of all protected migratory bird species and prohibits the take (including killing, capturing, selling, trading, and transport) of protected migratory bird species without prior authorization by the Department of Interior U.S. Fish and Wildlife Service. MBTA does not apply to nonnative species of birds. An [updated list](#) of those species was published in 2020. Regulations regarding migratory bird permits can be found in the Code of Federal Regulations ([50 CFR 21](#)). The Service issues [ePermits](#) through the Migratory Bird Permit Program which is in development.

In accordance with MBTA, we recommend those construction activities that occur in grassland, roadsides, wetland, riparian (stream), shrubland and woodland habitats, or on bridges or culverts (e.g., which may affect nests on bridge girders) that could otherwise result in impacts to migratory birds, eggs, young, and/or active nests should be avoided. Although the provisions of MBTA are applicable year-round, most migratory bird nesting activity in Nebraska occurs during the period of April 1 to July 15. However, some migratory birds are known to nest outside of the aforementioned primary nesting season period. For example, raptors can be expected to nest in woodland habitats during February 1 through July 15, whereas sedge wrens, which occur in some wetland habitats, normally nest from July 15 to September 10. We recommend projects in Nebraska avoid and minimize vegetation removal and impacts during the primary nesting season for breeding birds, April 1-July 15.

Watershed Protections and Flood Prevention Act

In accordance with the Watershed Protections and Flood Prevention Act (WPFPA; P.L. 83-566 Section 12), the Service, if so desires, may make surveys and investigations and prepare a report with recommendations concerning the conservation and development of wildlife resources and participate in the preparation of a plan for works of improvement. At this time and based on the information provided, the Service does not intend to make surveys, investigations, or report for this project but as the project develops will continue to provide recommendations under the above operating authorities.

In summary, we greatly appreciate the NRCS and the applicant(s) including the Service this early in the review process to ensure ESA requirements under both 7(a)(1) and 7(a)(2) are on track to be met without delays to the project. Once project specific information is finalized and available to the Service to fully analyze the potential impacts, the Service will be able to either provide concurrence or further assistance to reach a concurrence determination. We look forward to working with you in further refinement of this project. Should you have questions, please contact Mallory Jaymes within our office at mallory_jaymes@fws.gov or (308) 850-4114.

Sincerely,

**MARK
PORATH**

Digitally signed by
MARK PORATH
Date: 2025.02.11
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Mark Porath
Nebraska Project Leader/Field Office Supervisor
Mountain-Prairie Region

cc: Ritch Nelson, State Wildlife Biologist, Natural Resource Conservation Service
Melissa Baier, ASTC- Water Resource and Easements, Natural Resource Conservation Service
ngpc.envreview@nebraska.gov
nebraskaes@fws.gov

USDA Natural Resources Conservation Service
U.S. DEPARTMENT OF AGRICULTURE

Nebraska State Office

1121 Lincoln Mall, Room 360
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August 1, 2025

Mark Porath
Nebraska Project Leader/Field Supervisor
US Fish & Wildlife Services
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Melissa Marinovich
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NE Game & Parks Commission
2200 North 33rd Street
Lincoln, NE 68503

RE: Initiation of Informal Consultation on the Box Butte Watershed Plan-EA in Box Butte, Dawes, and Sheridan Counties, Nebraska

Dear Mr. Porath and Ms. Marinovich:

This letter is to initiate Section 7 informal consultation pursuant to the Endangered Species Act (ESA) of 1973 with the U.S. Fish and Wildlife Service (USFWS) and the Nebraska Nongame and Endangered Species Conservation Act (NESCA) with the Nebraska Game and Parks Commission (NGPC) for NEPA purposes as it relates to the Box Butte Watershed Plan-Environmental Assessment (Plan-EA) located in Box Butte, Dawes, and Sheridan Counties, NE. The project is administered by the Natural Resources Conservation Service (NRCS) in cooperation with Upper Niobrara White Natural Resources District (UNWNRD) and their consultant, HDR, Inc. The primary purpose of the project is agriculture water management and flood prevention.

This consultation is only for NEPA compliance as it relates to any significant impacts identified in the Plan-EA. Future consultation with both agencies will be required when the project moves into the design and construction phases when more is known about the specific locations and designs of the preferred alternative. A Biological Assessment will be provided, at that time, to compile and document any impacts, determinations, surveys, or additional information required for the preferred alternative prior to any construction efforts. **The newest draft of the Plan-EA has been added for reference.**

Background

There have been significant declines in aquifer levels within the Box Butte Creek Watershed over the past 25 years, which have reduced the reliability of groundwater for irrigation. In addition, the Box Butte Creek Watershed has experienced four major flooding events with watershed-wide impacts in the last 10 years, including major flood events in both 2018 and 2019, as well as several intense rainfall events

resulting in substantial flooding along Box Butte Creek and its tributaries. The project is needed to address the declining groundwater levels and reduce flood damages to public infrastructure.

The proposed action in the Plan-EA calls for the construction of three on-channel diversion dams to divert water to off-channel water storage basins (Sites 1, 5a, and 7) and three road improvements (Sites 11, 12b, and 16). Additional water storage structures (Sites 2, 4a, 6, 8, and 9a) and road improvements (Sites 8, 10, 17, 20, 25, and 27) were evaluated in the Plan-EA, but the economic analysis determined that only Sites 1, 5a, 7, 11, 12b, and 16 were viable options.

The on-channel dam structures divert water to off-channel storage basins (or catchments) to allow ponding and infiltration of water to promote passive groundwater recharge. Each dam diversion to off-channel storage site would include the construction of a low earthen dam diversion structure in the stream, which would divert portions of precipitation run-off to an off-channel storage basin (or catchment). All other flows generated from run-off events would overtop the diversion structure. Normal stream flows would pass through a culvert pipe placed in the dam diversion structure.

Road improvements would consist of raising the roadbed by a maximum of 2 feet and increasing the capacity of flow conveyance by adding and/or enlarging the culverts under the roadway. Three 36-inch corrugated metal pipe culverts will be installed at all three sites.

Species Pursuant to both ESA and NESCA Requirements

Data was used from the USFWS Information for Planning and Consultation (IPaC) database on May 8, 2025, as well as the NGPC Conservation and Environmental Review Tool (CERT) on the same date, to focus on species impacts within the vicinity of Affected Resource Areas (ARAs). These available tools were also used on June 3, 2024 to identify listed species within the watershed. This information, along with additional coordination with the two agencies, identified a total of 13 species to be considered within the Plan-EA along with three proposed species.

- Black-footed ferret (*Mustela nigripes*; federal and state endangered)
- Blacknose shiner (*Notropis heteropsis*; state endangered)
- Blowout penstemon (*Penstemon haydenii*; federal and state endangered)
- Eastern black rail (*Laterallus jamaicensis* spp. *jamaicensis*; federal and state threatened)
- Eskimo curlew (*Numenius borealis*; federal and state endangered)
- Finescale dace (*Phoxinus neogaeus*; state threatened)
- Gray wolf (*Canis lupus*; federal and state endangered)
- Northern long-eared bat (*Myotis septentrionalis*; federal and state endangered)
- Northern redbelly dace (*Phoxinus eos*; state threatened)
- Pallid sturgeon (*Scaphirhynchus albus*; federal and state endangered)
- Piping plover (*Charadrius melodus*; federal and state threatened)
- Rufa red knot (*Calidris canutus rufa*; federal and state threatened)
- Swift fox (*Vulpes velox*; state endangered)

The proposed species consist of tricolored bat (*Perimyotis subflavus*), monarch (*Danaus plexippus*), and Suckley's cuckoo bumble bee (*Bombus suckleyi*).

Species Effects Analysis for ESA and NESCA Requirements

All species noted have the potential to occur within the watershed. However, NRCS has determined that five of those species would be a “No Effect” due to the rationale noted. The species which do not have a known population within or near the watershed or suitable habitat is absent or marginal include: black-footed ferret, Eastern black rail, Eskimo curlew, gray wolf, and rufa red knot. Additionally, the blowout penstemon does not have suitable habitat located in or near the ARAs.

Listed below are the seven species that do have a range that overlaps the ARAs or could be affected by impacts to suitable habitat located downstream of the ARAs. They are being submitted for consideration subject to both ESA and NESCA compliance:

Piping plover: The ARA's are within the boundaries of the known range of the piping plover. Suitable habitat for the species would only exist on a temporary basis during or immediately following construction when bare sand in proximity to a water source is present as a result of recent disturbance. These areas will become established with perennial herbaceous vegetation. Any potential impact to the species could be reduced or eliminated by conducting a presence/absence survey for the species or avoiding additional disturbance during the nesting and brood rearing timeframe. The initial determination is that the preferred alternative “may affect – but is not likely to adversely affect” the piping plover.

Northern long-eared bat: The ARA's are located within the range of the Northern long-eared bat (NLEB). There are a small number of trees as well as existing bridges or culverts located within the boundaries of the ARA's which could potentially provide roost habitat for this species. Final designs of the preferred alternative may require these features to be removed or modified. There are no known or potential hibernacula within 5.0 miles of the ARA's. It may be possible to conduct a presence/absence survey for the species. Another approach could be to restrict all tree removal or disturbance to bridges or culverts during the active season to avoid any impacts to the species. The initial determination is that the preferred alternative “may affect – but is not likely to adversely affect” the Northern long-eared bat.

Swift fox: The ARA's are within the boundaries of the known range of the swift fox and suitable habitat exists in the form of flat to rolling topography with areas of perennial herbaceous vegetation including rangeland and riparian areas. Areas where soil disturbance or equipment staging is planned would be surveyed for active den sites immediately prior to the implementation of construction to avoid direct impacts to the species. The initial determination is that the preferred alternative “may affect – but is not likely to adversely affect” the swift fox.

Pallid sturgeon: The only suitable habitat for pallid sturgeon is located a significant distance downstream of Box Butte Creek on the lower portion of the Niobrara River. The modifications to stream channels and the planned water storage basins would only create minimal changes to suitable habitat for the pallid sturgeon. The initial determination is that the preferred alternative “may affect – but is not likely to adversely affect” the pallid sturgeon.

Blacknose shiner, finescale dace, Northern redbelly dace: There is not suitable habitat for the shiner and two dace species within the ARAs due to dry creek beds and the infrequency of seasonal flows. These

species do occur downstream of the ARAs in lower portions of Box Butte Creek and the upper Niobrara River near where Box Butte Creek enters as a tributary. The proposed structures and water storage basins will only create minimal impacts to depletions or alterations of flows. Additionally, technical assistance from USFWS and NGPC can be obtained during the design phase to reduce any potential impacts to these species. The initial determination is that the preferred alternative “may affect – but is not likely to adversely affect” the blacknose shiner, finescale dace, and Northern redbelly dace.

Consultation Requests

NRCS consults in accordance with its’ ESA obligations and requests concurrence on the finding of “may affect- but is not likely to adversely affect” on the federally listed piping plover, Northern long-eared bat, and pallid sturgeon for all on-site and downstream habitat impacts for NEPA purposes as it relates to the Box Butte Watershed Plan-EA.

NRCS consults in accordance with its’ NESCA obligations and requests concurrence on the finding of “may affect- but is not likely to adversely affect” on the state listed piping plover, Northern long-eared bat, swift fox, pallid sturgeon, blacknose shiner, finescale dace, and Northern redbelly dace for all on-site and downstream habitat impacts for NEPA purposes as it relates to the Box Butte Watershed Plan-EA.

If you need any further information, please contact me at (402) 437-4100 or by e-mail ritch.nelson@usda.gov

Respectively,

**RITCHIE
NELSON**

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Ritch Nelson

State Wildlife Biologist

State Forester

Nebraska – Natural Resources Conservation Service

Cooperating Agency Letters



Natural Resources Conservation Service
Nebraska State Office
Federal Building, Room 152
100 Centennial Mall North
Lincoln, NE 68508-3866
(402) 437-5300

<http://www.ne.nrcs.usda.gov>

SENT VIA USPS ELECTRONIC SIGNATURE CONFIRMATION

April 20, 2021

Mr. John Moeschen
United States Army Corps of Engineers
Nebraska Regulatory Office
8901 South 154th Street
Omaha, Nebraska 68138-3621

RE: Request to be a Cooperating Agency for Watershed and Flood Prevention Operations (WFPO) Work Plan-Environmental Assessment (Plan-EA) for Box Butte Creek Watershed.

Mr. Moeschen:

In accordance with the Council on Environmental Quality regulations implementing the National Environmental Policy Act (NEPA) at 40 CFR Part 1501.6, Natural Resources Conservation Service (NRCS) is requesting that your agency become a cooperating agency in the planning and development of this Plan-EA.

The project is located in Box Butte, Dawes and Sheridan Counties, Nebraska, and one of the municipalities near the center of the project area is Hemingford. Enclosed are two files: a list of project milestones and basic project background information as found in the funding application.

This request is being made because your agency has been identified as having special expertise or jurisdiction by law related to this project. The Plan-EA is being prepared to fulfill NRCS's NEPA compliance responsibilities pertaining to the federal financial assistance received through the Watershed Protection and Flood Prevention Act (P.L. 83-566) for this project. Because your agency may also have NEPA compliance or permitting responsibilities concerning this project, preparation of this EA should also assist in fulfilling environmental review requirements for your agency and meet NEPA's intent of reducing duplication and delay between agencies.

If your agency is unable to participate as a cooperating agency, then please return a written explanation as to why your agency cannot participate. Please note that a response declining to be a cooperating agency is also required to be submitted to the Council on Environmental Quality per 40 CFR Part 1501.6(c).

Please respond by May 7, 2021 to help ensure that the project continues on schedule. If you have any questions or comments, please contact Richard Vaughn, Watershed Planning Coordinator, at richard.vaughn@usda.gov or by phone at 402.437.4127.



Sincerely,

ALLEN GEHRING

 Digitally signed by ALLEN GEHRING
Date: 2021.04.20 14:47:29 -05'00'

ALLEN GEHRING, Acting

JEFF VANDER WILT

Acting State Conservationist

Enclosures:

1. WFPO Milestones Box Butte Creek Watershed
2. Project Application Box Butte Creek Watershed

cc:

Allen Gehring, State Conservationist Engineer, NRCS State Office

Richard Vaughn, Watershed Planning Coordinator, NRCS State Office

Nebraska State Office

1121 Lincoln Mall
Room 360
Lincoln, NE 68508

August 27, 2024

Jeremy Grauf
Nebraska Section Chief
U.S. Army Corps of Engineers, Omaha District, Regulatory Branch
8901 South 154th Street, Suite 2
Omaha, NE 68138-3635

Subject: Formal Request to be a Cooperating Agency for Multiple WFPO Projects Across the State of Nebraska

Dear Jeremy Grauf,

In accordance with the Council on Environmental Quality regulations implementing the National Environmental Policy Act (NEPA) at 40 CFR Part 1501.6, Natural Resources Conservation Service (NRCS) is formally requesting that your agency be a cooperating agency in the planning and development of multiple projects across the State of Nebraska requiring either a Plan-Environmental Assessment (Plan-EA) or a Plan-Environmental Impact Statement (Plan-EIS).

Formal request letters were previously sent out by NRCS prior to the initial scoping meetings conducted for each of these projects. USACE accepted the requests at that time and assigned each of those projects with an USACE ID Number. However, there are no copies of the correspondence from USACE in our files. This request letter is intended to document USACE's role as a cooperating agency in the projects listed below.

Please see the Table below for a list of the projects across the State of Nebraska that NRCS is requesting your agency to participate as a Cooperating Agency on:

Project Name	Project Purpose	Project Sponsor	Project Location	Original USCAE ID Number
Battle Creek WFPO	Flood Prevention (Flood Damage Reduction) and Recreation	Lower Elkhorn NRD	Madison County	2020-00988-WEH
Box Butte Creek WFPO	Agriculture Water Management and Flood Prevention (Flood Damage Reduction)	Upper Niobrara White NRD	Box Butte County	2020-02136-WEH

Middle Snake River WFPO (Cherry County B)	Watershed Protection	Middle Niobrara NRD	Cherry County	2021-00300-WEH
Rat and Beaver Lake WFPO (Cherry County E)	Watershed Protection	Middle Niobrara NRD	Cherry County	2021-00843-WEH
Upper Snake River WFPO (Cherry County A)	Watershed Protection	Middle Niobrara NRD	Cherry County	2020-02283-WEH
Spring and Buffalo Creeks WFPO	Flood Prevention (Flood Damage Reduction)	Central Platte NRD	Custer, and Dawson Counties	2021-00836-WEH

This request is being made because your agency has been identified as having special expertise or jurisdiction by law related to these projects. The Plan-EAs or Plan-EISs are being prepared to fulfill NRCS NEPA compliance responsibilities pertaining to the federal financial assistance received through the Watershed Protection and Flood Prevention Act (P.L. 83-566) for this project. As your agency may have permitting authority and NEPA compliance responsibilities concerning the project evaluated in either one of the Plan-EAs or Plan-EISs, preparation of any one of these should also assist in fulfilling environmental review requirements for your agency and meet NEPA's intent of reducing duplication and delay between agencies. A map containing each of the projects mentioned in the table above is attached for your reference.

If your agency is unable to participate as a Cooperating Agency, please return a written explanation as to why your agency can not participate. Please note that a response declining to be a Cooperation Agency is also required to be submitted to the Council on Environmental Quality per 40 CFR Part 1501.6(c). Upon acceptance of this invitation, roles can be defined in an informal agreement, or a formal memorandum of understanding (MOU) can be established. Please respond to Melissa Baier, Assistant State Conservationist (ASTC)-Water Resources and Easements by email at melissa.baier@usda.gov within 30 days after the receipt of this letter.

If you have any questions or would like additional information, please contact Melissa Baier, ASTC-Water Resources and Easements, by phone at 402.437.4065 or by email at melissa.baier@usda.gov.

Sincerely,



Digitally signed by ROBERT
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ROBERT D. LAWSON
State Conservationist

Enclosure: Map of WFPO Projects in Nebraska

cc:

Melissa Baier, ASTC-Water Resources and Easements, NRCS – Lincoln State Office
Nicole Zimmerman, Acting Watershed Coordinator, NRCS – Lincoln State Office
Joseph Debebe, NEPA Specialist, NRCS – Lincoln State Office
Ritch Nelson, State Wildlife Biologist and Forester, NRCS – Lincoln State Office



DEPARTMENT OF THE ARMY
CORPS OF ENGINEERS, OMAHA DISTRICT
NEBRASKA REGULATORY OFFICE
8901 SOUTH 154TH STREET, SUITE 2
OMAHA, NEBRASKA 68138-3635

<http://www.nwo.usace.army.mil/Missions/RegulatoryProgram/Nebraska.aspx>

September 12, 2024

Regulatory Branch, Nebraska Section, Cooperating Agency Acceptance, Multiple WFPOs
Across the State of Nebraska

Mr. Robert Lawson
U.S. Department of Agriculture
Natural Resources Conservation Services
Federal Building, Room 343
100 Centennial Mall North
Lincoln, NE 68508-3866

Dear Mr. Lawson:

We are responding to your August 27, 2024, request for the U.S. Army Corps of Engineers (Corps) to participate as a cooperating agency under the National Environmental Policy Act for the preparation of an Environmental Assessment or Environmental Impact Statement for the following projects:

Project Name	Project Sponsor	Project Location	USACE Project Number	USACE PM
Battle Creek Watershed	Lower Elkhorn NRD	Madison County	NWO-2020-00988-WEH	Will Pigott
Box Butte Creek Watershed	Upper Niobrara White NRD	Box Butte County	NWO-2020-02136-WEH	Will Pigott
Middle & Upper Snake River Watershed	Middle Niobrara NRD	Cherry County	NWO-2021-00300-WEH	Will Pigott
Rat and Beaver Lake Watershed	Middle Niobrara NRD	Cherry County	NWO-2021-00843-WEH	Will Pigott
Spring and Buffalo Creeks Watershed	Central Platte NRD	Custer and Dawson Counties	NWO-2021-00836-WEH	Will Pigott

The Corps' jurisdiction over the proposed project is under the authority of Section 404 of the Clean Water Act and/or Section 10 of the Rivers and Harbors Act. In accordance with Title 40 of the Code of Federal Regulations Part 1501.6, the Corps agrees to participate as a cooperating agency in the preparation of the EA or EIS.

Please refer to identification number listed above in any correspondence concerning this project. If you have any questions, please contact Will Pigott by email at william.l.pigott@usace.army.mil. For more information regarding our program, please visit our website at:
<http://www.nwo.usace.army.mil/Missions/RegulatoryProgram/Nebraska.aspx>.

Sincerely,

A handwritten signature in black ink, appearing to read 'J. Grauf', written in a cursive style.

Jeremy Grauf
Chief, Nebraska Section