

MEMORANDUM

TO: Programs, Projects, and Operations Subcommittee
FROM: Justin Novak, Field Representative
SUBJECT: Conservation Agreement E&S Complaint (Michael Cornwell)
DATE: January 29, 2020

On November 21, 2019, two Erosion & Sediment complaints were submitted by Baird Holm LLP on behalf of (A) Mark Ondracek (3476 Golden Eagle Circle) and (B) Rod Scheer (3510 Golden Eagle Circle) Blair, NE; Section 19-Township 17N-Range 12E, against Michael Cornwell (Farm 5696 Tract 4434, 65.7 acres) for excessive sediment being deposited on their property. After a field review this fall, it was determined that the continued sediment damage Mr. Ondracek and Mr. Scheer are receiving is due to the failure of the terraces systems constructed last spring. As such, it was recommended to the Board that it find a probable violation against Michael Cornwell for the excessive sediment, which was approved by the Board at the December 2019 Board Meeting.

The Papio-Missouri River NRD, NRCS and Michael Cornwell have been working towards solutions that gets Mr. Cornwell's farm below the allowable soil loss that is permitted by the District's Erosion & Sediment Control Program Rules and Regulations. The proposed plan for Michael Cornwell's property includes the rebuilding of existing terraces back to original NRCS design specifications. This rehabilitation will be required to be completed by May 1, 2020 prior to planting his field.

The District and Mr. Cornwell have signed the Conservation Agreement and Conservation Plan for Completion as described above on January 29, 2019.

It is the staff's recommendation that the Subcommittee review and recommend to the Board that the Board approve the proposed Conservation Agreement and Conservation Plan and find that, upon completion of the Conservation Agreement and Conservation Plan, Michael Cornwell will be in compliance with the District's Erosion and Sediment Control Program Rules and Regulations.

Papio-Missouri River NRD Erosion & Sediment Control Program

CONSERVATION PLAN FOR COMPLETION
AND
COOPERATOR'S RECORD OF COMPLIANCE

COMPLAINT NO. W-2-19

DATE: 1/29/20

NAME: Michael Cornwell ADDRESS: 7835 Howard St. Omaha, NE

LEGAL: S19-T17N-R12E COUNTY: Washington

Attach photograph, map, or diagram designating fields or tracts involved by number.

A. Planned

1. Record land use planned by field or tracts listing conservation practice(s) and/or resource management systems to be applied. Describe briefly, what will be done and how it will be done.
2. Indicate the amount of conservation practices planned and completion date(s).

B. Practice(s) Completion

1. Indicate conservation practice(s) completed and completion date(s).

Rebuild terraces to original NRCS design specifications by
May 1, 2020.

Cooperator:  Date: 1-29-20

Preparer:  Date: 1/29/20

Papio-Missouri River NRD Erosion & Sediment Control Program

CONSERVATION AGREEMENT

COMPLAINT NO. W-2-19

DATE: 1/29/20

NAME: Michael Cornwell ADDRESS: 7835 Howard St. Omaha, NE

LEGAL: S19-T17N-R12E COUNTY: Washington

This agreement is made and entered into this 29 day of January, 2020, by and between the Papio-Missouri River Natural Resources District, herein called DISTRICT, and Michael Cornwell, herein called COOPERATOR; and is executed to satisfy the requirements of Nebraska Revised Statute Section 2-4603(2) and should be interpreted and performed in a manner which promotes the policies of the Nebraska Erosion and Sediment Control Act, Nebraska Revised Statutes Sections 2-4601 to 2-4613.

WITNESSETH:

COOPERATOR agrees to implement the farm unit conservation plan (or a portion of the farm unit conservation plan), or in the case of nonagricultural land-disturbing activities, an erosion and sediment control plan, attached to this agreement according to the Schedule for Completion accompanying the plan. Both the plan and schedule are incorporated herein by reference.

DISTRICT agrees to provide assistance to COOPERATOR in applying the plan to COOPERATOR'S farm and furnish, as available, technical and financial assistance, equipment, and materials to COOPERATOR at rates established by DISTRICT.

DISTRICT AND COOPERATOR mutually agree that:

1. Compliance with this agreement shall be deemed compliance with the requirements of the Nebraska Erosion and Sediment Control Act and the erosion and sediment control program approved by the District.
2. Cost-share for erosion and sediment control practices may be available from the DISTRICT. However, lack of available cost-share assistance does not offset the requirement that the COOPERATOR implement this farm unit conservation plan in the time prescribed.
3. Neither DISTRICT nor COOPERATOR shall be liable for damages to the other in connection with the performance of this agreement unless such damages are caused by negligence or misconduct.



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