Agenda Item: 6.A-B.

Memo to the Programs, Projects and Operations Subcommittee

Subject: 240th Street (Sarpy County) Elkhorn River

Date: October 7, 2011

From: Gerry Bowen

In February, 2011, the Board approved a professional services agreement with Tetra Tech, Inc. to design a project to address the bank erosion along the Elkhorn River in Sarpy County that threatens 240th Street located near the Graham, Gilmore, and Kelsey properties (see attached map). Since 240th Street was the public infrastructure to be protected, an agreement with Sarpy County was executed by the two parties calling for the County to equally share the costs of preliminary engineering on the project.

NRCS determined that the project is eligible for assistance under the Emergency Watershed Protection Program (EWP). However, no funds have been made available from that source.

Tetra Tech's evaluation of the river at this location has indicated that the most desirable, long term solution (see attached) would involve either a heavily armored streambank, or a channel change to protect 240th Street. Either of these solutions would entail a lengthy permitting process with the Corps of Engineers, more than likely a year or more.

Since a timely solution to the problem is desirable, i.e, having the protection in place before next winter/spring flow conditions, Tetra Tech has proposed an interim measure that involves riprap protection along the river bank as a temporary measure (see attached). This solution would involve nationwide permits to accomplish, and greatly shorten the permitting process. The estimated cost of the interim measures would be approximately $400,000. Sarpy County staff has been consulted and will recommend that Sarpy County cost share equally with the District. A draft amendment to the existing agreement is being prepared by legal counsel, and will be available at the subcommittee meeting. The FY 2012 Budget includes funds for this work.

It is anticipated that the interim project would be bid in November, with a construction contract presented to the Board at the December meeting for consideration. Construction would commence in January and take approximately four weeks to complete.

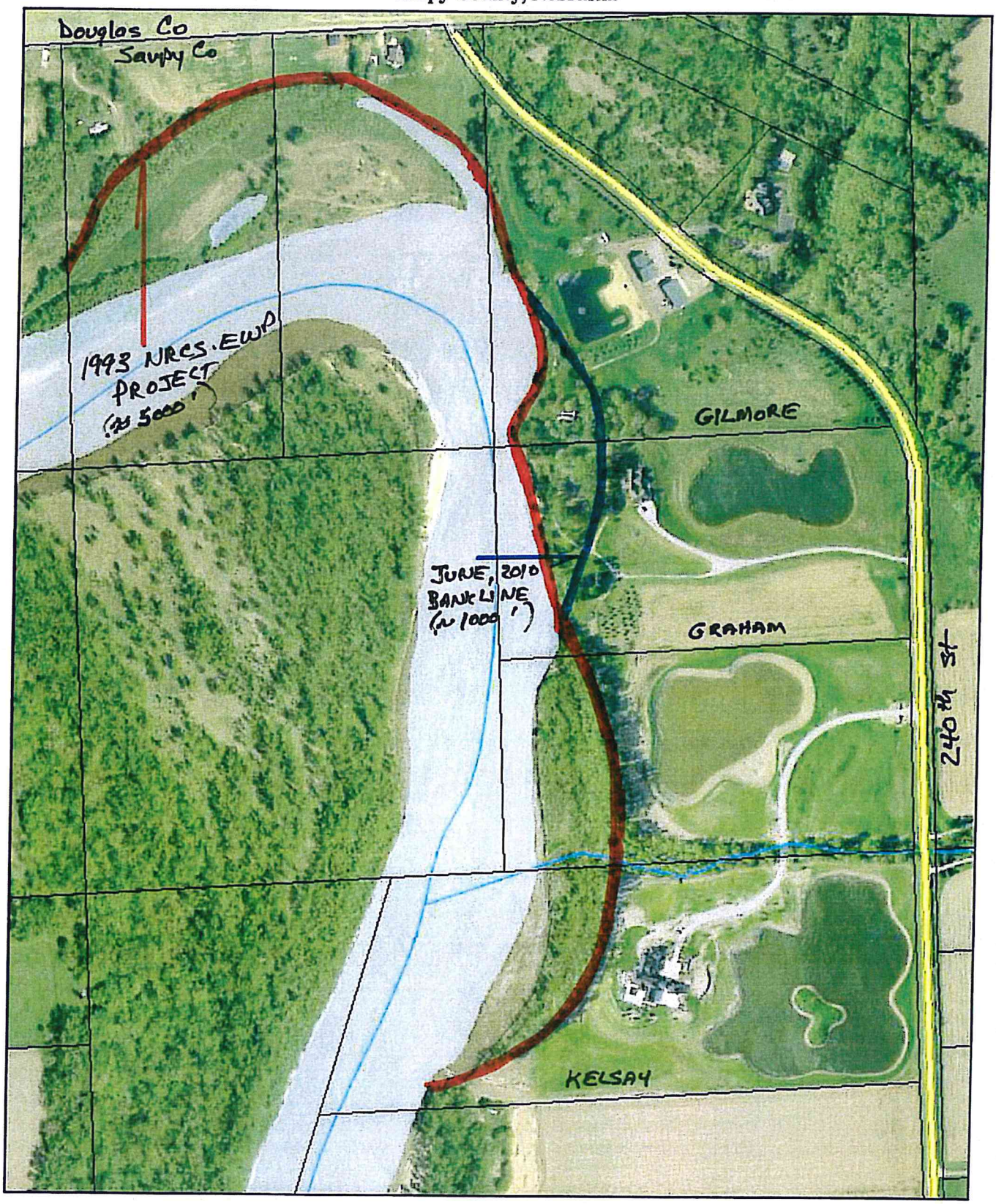
Proceeding with the interim measures will also involve a change of scope to the original professional services agreement with Tetra Tech to allow for final design, bidding and construction observation services for the interim measures. The original agreement with Tetra Tech for this project had a "not-to-exceed" amount of $136,852. To date, $110,852 has been utilized, leaving a balance of $26,000. Tetra Tech estimates that the services necessary to complete the interim measures will require $38,271. Therefore, they are requesting an increase in the "not-to exceed" amount of $13,000, making a new contract amount of $149,852.

It is anticipated that a the long term project which provides a more permanent solution will continue to be investigated, and that a revised proposal from Tetra Tech, and an additional agreement with Sarpy County will be brought to the Board in January.

- **It is recommended that the Subcommittee recommend to the Board that the District proceed with construction of the interim measures on the 240th Street Project on the**

Elkhorn River, that the District execute an Interlocal Agreement with Sarpy County to equally share the costs of engineering and construction of these interim measures, and that the professional services contract with Tetra Tech be amended to increase the "not-to-exceed+ amount from $136,852 to $149,852, subject to approval by Sarpy County, minor changes deemed necessary by the General Manager, and approved as to form by District Legal Counsel.

Sarpy County, Nebraska



Disclaimer: This data is for informational purposes only, and should not be substituted for a true titles search, property appraisal, survey, or for zoning district verification. Sarpy County and the Sarpy County GIS Coalition assume no legal responsibility for the information contained in this data.

Map Scale
1 inch = 402 feet

1/11/2011

Interim Option 1- Placed Rock with Limited Impacts

Place rock windrow revetment in the uplands where space is not limited, and place rock on the bank where revetment is not possible. Since the pond on the in Gilmore property is so close to the river, rock would be piled on the bank for this 200 ft stretch. The 250 ft reach upstream of the pond and downstream of the 1993 revetment has already eroded back farther than the upstream and downstream features. Placing a windrow revetment along this reach would allow additional erosion prior to launching, increasing the roughness of the transition between the features that could create additional hydraulic discontinuity and erosion. Rock should be placed on the bank in this 250 ft reach as well, creating a total of 450 ft of rock on the bank (which is below the maximum 500 ft Nationwide Permit threshold). Downstream of the pond, buried rock windrow revetment would be placed in the uplands along the eroded bankline for approximately 850 ft that would launch and provide protection if erosion continued.

Construction Cost Estimate: $385,000

The quantities used to develop the cost estimate applied a reduced safety factor of 1.2 from the normal 1.5 safety factor for volume to account for future scour since it is an interim solution. A 4.4 tons/ft application rate was applied for the rock placed directly on the bank and a 5.6 tons/ft application rate for the windrow revetment, resulting in approximately 6,850 tons of rock. It was conservatively assumed that none of the existing rock would be useable because it is too small or contains rebar, although some of it may actually be useable, which would decrease the required quantity of rock.

Time Constraints

It will be necessary to develop construction documents and apply for and obtain a Nationwide Permit from the USACE. The review period would likely be in the range of 60-90 days.

Transitioning into the Long Term Solution

If it is determined that rock placed in the windrow revetment or on the bank is not needed in that location once the long term solution is implemented, rock can be excavated and reused.

Interim Option 2- Stockpile Rock and Emergency Response Plan

Place the equivalent quantity of rock in stockpiles at the site and develop an emergency response plan that would only require placement of rock if/when necessary. With stockpiles assumed 6 ft high, approximately 0.5 acres of area would be required to store the rock. Stockpile sites would be determine with the landowners, one example has been provided.

Construction Cost Estimate: $300,000

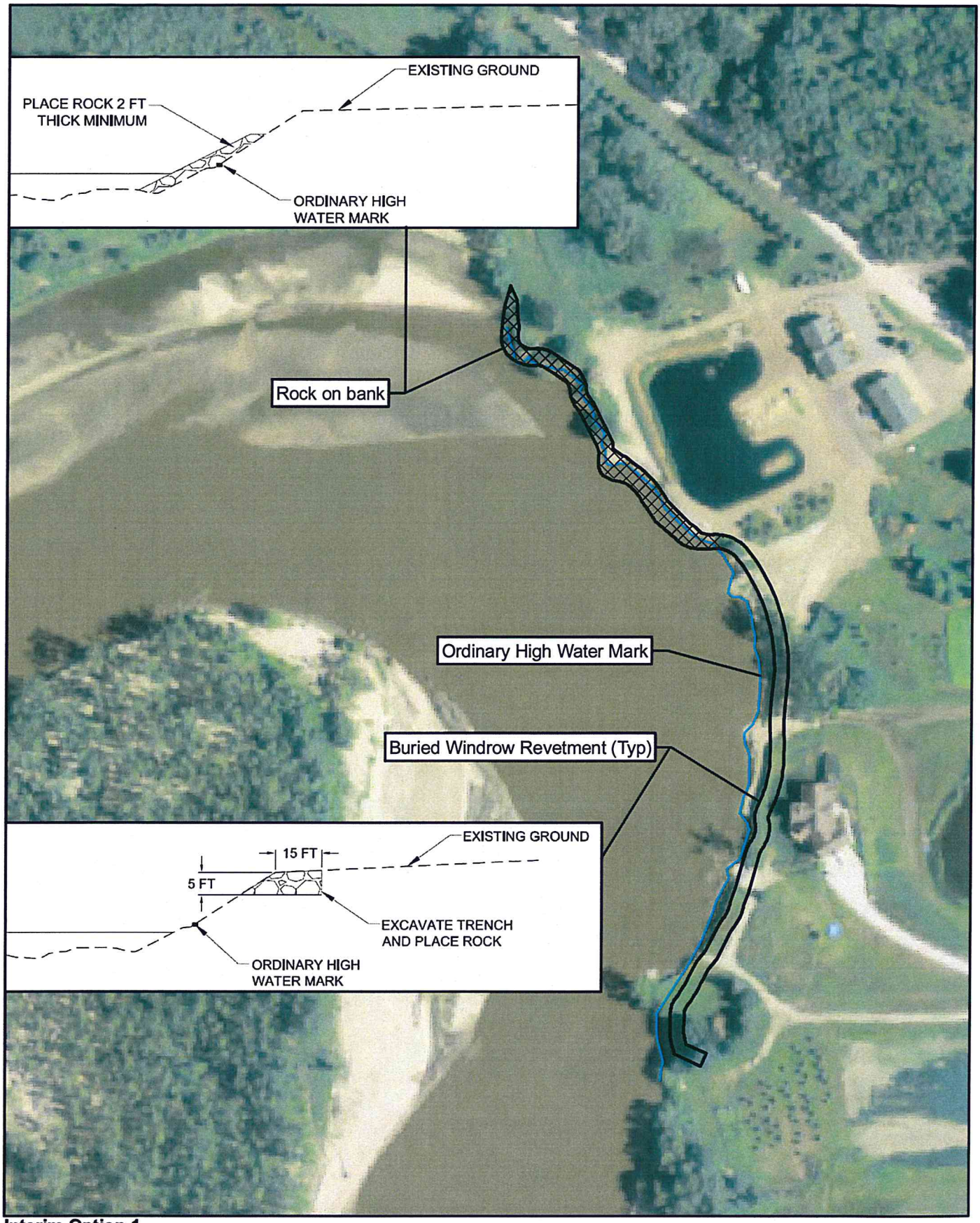
The quantity of rock (6,850 tons) is the same as Option 1, but the cost estimate is less because the cost for labor to place the rock was not included in the unit price since it will be stockpiled.

Time Constraints

No permits will be needed for this option and there are no foreseen time constraints.

Transitioning into the Long Term Solution

Rock that is remaining in the stockpile when the long term solution is implemented is more readily available than rock placed on the bank or in a revetment. Any rock than has been placed on the bankline during an emergency response can be reused if it is determined that the rock is not needed in that location once the long term solution is implemented.



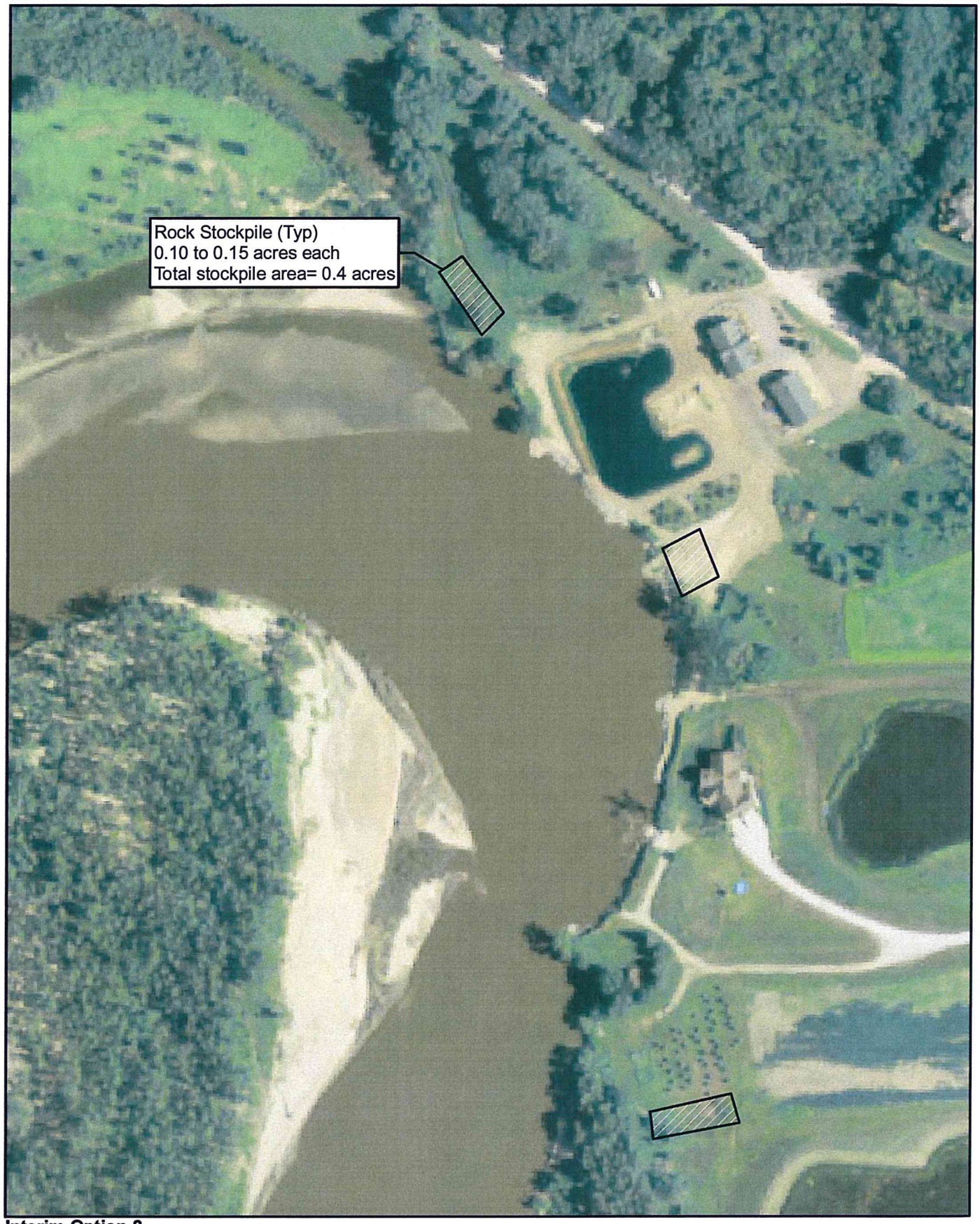
Interim Option 1
Rock Placement

Elkhorn 240th St Bank Stablilzation
Papio-Missouri River NRD

N

0 100 200 400
Feet

TETRA TECH



Interim Option 2
Stockpile Sites Example

Elkhorn 240th St Bank Stablilzation
Papio-Missouri River NRD

N

0 75 150 300
Feet

TETRA TECH

Long Term Option 1- Rock, Root Wad, Locked Log Combo

Incorporate root wads and logs into a rock bench to increase the energy dissipation from standard rock stabilization and improve aquatic habitat. The rock bench is necessary to anchor the woody features in place. The root wads would be incorporated into the rock at the upstream end of the project where flow intersects the bank around the bend, then transition to locked logs anchored at a 30 degree angle downstream where flow is parallel to the bankline.

Transitioning from the Interim Solution

This alternative would be placed over the material placed on the bank for the interim solution.

Construction Cost Estimate: $995,300 (stand-alone)

If Interim Option 1 was implemented, the cost of the rock material and labor can be subtracted from the above cost as a stand-alone project. = $623,000

If Interim Option 2 was implemented, only the material cost can be subtracted from the stand-alone cost (assuming no rock had been placed during an emergency), and the labor will still be included. = $699,500

Time Constraints

Design and Individual Permit process through USACE.

Long Term Option 2- River Realignment

Excavate a pilot channel through the inner bend to create the new channel alignment. The pilot channel does not have to be exact dimensions of the future channel; once the river takes the new path it will erode the remaining material necessary to reach a stable depth, width and slope. A series of rock diversion structures would redirect flow through the pilot channel, and subsequent rows of cabled trees and rock would add additional roughness, causing the pilot channel to be the path of least resistance.. This diversion structure series would still allow base flow to pass through the existing channel; thus the installation would not completely cut off the existing alignment. The existing channel would also receive backwater from downstream at times, as well as additional flow at elevated water surface elevations during storm events. As a result, it is possible that the permitting agencies would not consider the new installation to be an impact to the original channel alignment.

The pilot channel must be in an orientation that encourages upstream flow to access the new path, and caution must be taken that the upstream river alignment does not shift in a manner that would prevent flow from entering the pilot channel. Preliminary analysis of historical aerial photos indicates that the majority of the upstream bankline is stable, except for a 500 ft segment directly upstream of the pilot channel. For planning purposes, it is assumed that this segment would be stabilized if this alternative was implemented. The bankline in the wooded area that extends about 1,500 feet upstream from the proposed bank protection has not migrated significantly since at least the mid- to late-1990s, and rock protection has been installed along part of this reach. The existing bankline, is however, steep and unvegetated, and is showing signs of erosion. This portion of the bankline should be carefully inspected prior to final design and additional protection measure installed if appropriate. The currently wooded area bankline that extends over the next approximately 1,700 feet upstream was about 300 feet farther to the west as recently as 2003. Although this portion of the bank is not actively eroding and is at least partially stabilized by the overbank vegetation, there is potential for re-erosion of this area. This should be assessed in final design and at the very least, frequent monitoring should be conducted to insure that the downstream bank protection is not flanked. Riprap has been installed from the upstream end of the reach through the abandoned railroad crossing that is located about 750 feet upstream. This area, including the railroad crossing have not changed during the period of available photography; thus, is assumed to be stable for the forseeable future.

The pilot channel would be cut 50 ft wide, and over time the river will erode the remaining material to reach its desired width. The pilot channel will be aligned so that it joins approximately parallel with the existing river to avoid the potential for erosion on the left bank downstream from the junction. Additional assessment would be needed to determine any potential impacts downstream of the pilot channel as a result of the new alignment and the localized increase in bed slope.

Transitioning from the Interim Solution

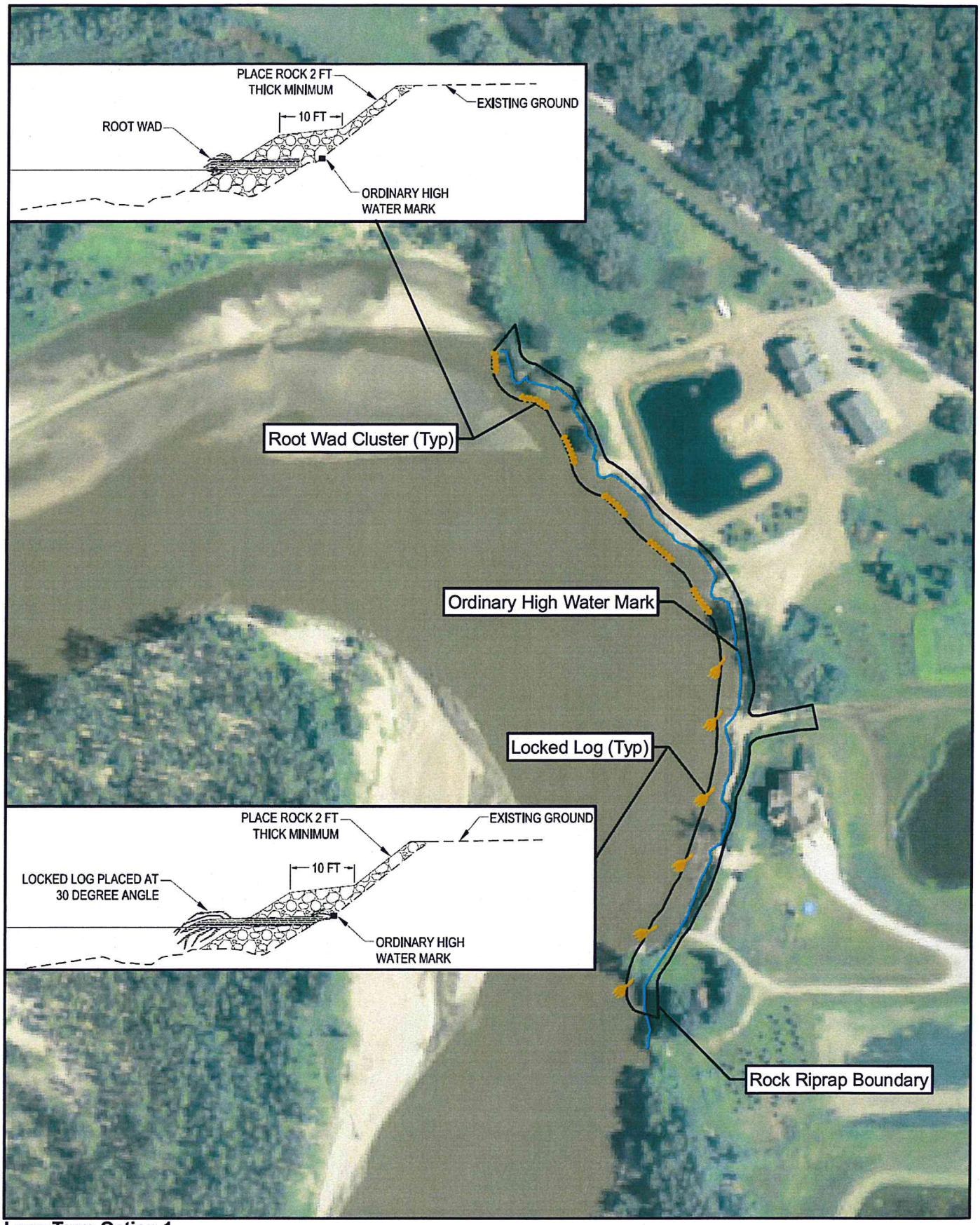
Either interim solution implemented would stay in place as bank protection for when flow over the diversion structure occurs. The rock would remain in place and would not be reused for construction of this long term solution.

Construction Cost Estimate: $1,500,000

Above is the cost to construct the pilot channel, diversion structure and bank stabilization on the right bank upstream of the pilot channel. There would be no use of material from the interim project to build off of that would provide cost savings for this project. It was assumed the land would need to be purchased and the cost included in estimate based off of Sarpy County assessor's website.

Time Constraints

Design and Individual Permit process through USACE.



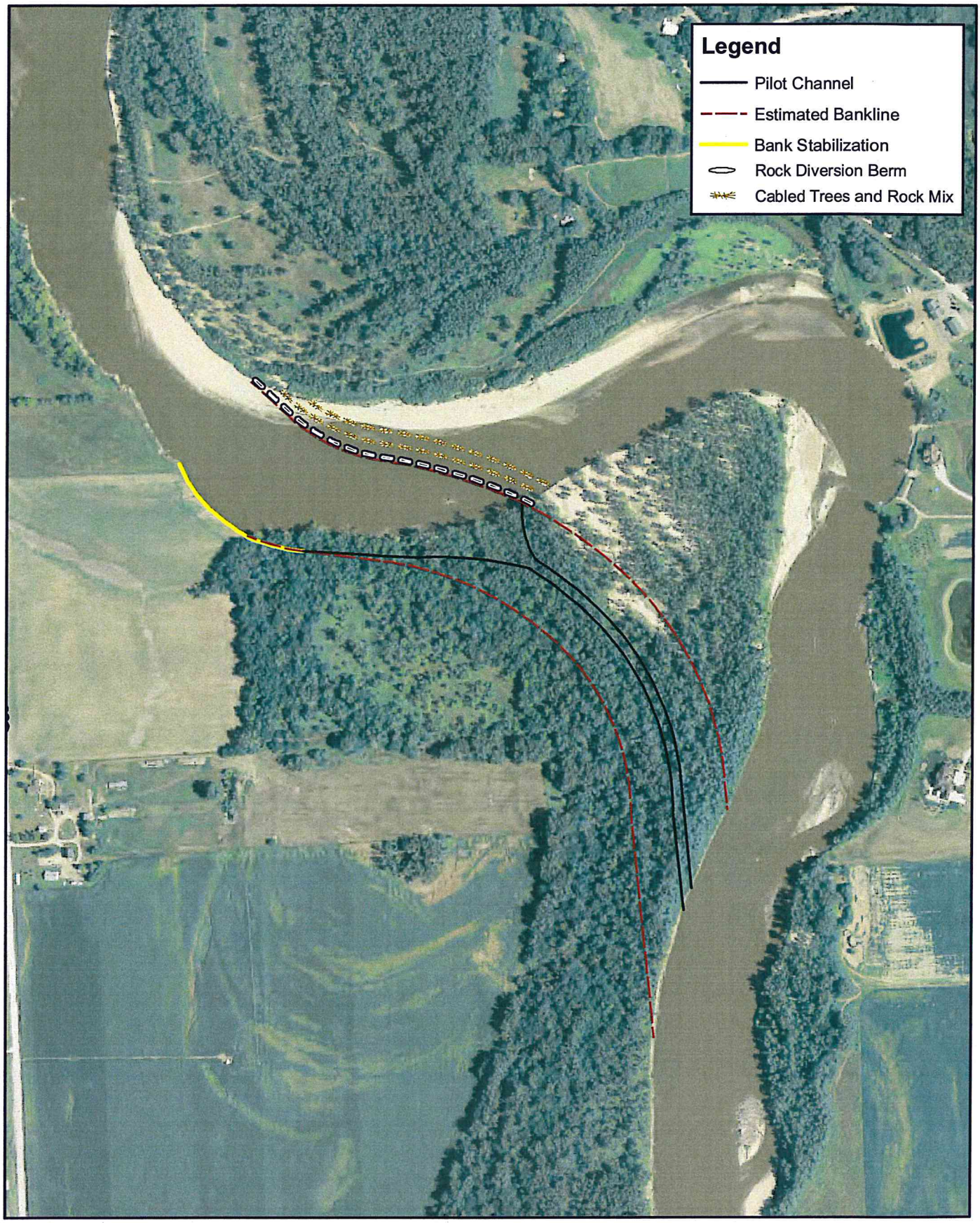
Long Term Option 1
Rock with Root Wads and Locked Logs

Elkhorn 240th St Bank Stablilzation
Papio-Missouri River NRD

N

0 100 200 400
Feet

TETRA TECH



Long Term Option 2
Channel Realignment

Elkhorn 240th St Bank Stablilzation
Papio-Missouri River NRD

N

0 300 600 1,200
Feet

TETRA TECH

TETRA TECH

6 October 2011

Mr. Gerry Bowen
Papio-Missouri River NRD
8901 S. 154th Street
Omaha, NE 68138-3621

Re: Elkhorn River 240th Street Bank Stabilization

Dear Gerry:

As per our most recent project progress meeting, we have received direction from the NRD and Sarpy County to move towards the development of final construction documents and permit applications for the "interim solution" of the above-referenced project. As discussed, the interim solution will address immediate flood protection needs for 240th Street on the Elkhorn River and will include the placement of rock stabilization measures. Said interim solution will provide short term flood damage protection while a long-term solution is planned, designed and permitted. The long term solution is anticipated to provide similar protection, but for a longer period of time and for less frequent flooding events.

As per the most recent attached invoice and project schedule update, there was $29,447.02 remaining on the project. Since that invoice, additional effort on the project has left a budget remaining of approximately $26,000.

To complete the preparation of the construction documents, USACE nationwide permit application, bidding and construction phase services, the attached professional effort was prepared. In order to complete the services, an addition of $13,000 is requested of the contract, taking the total contract amount to $149,852.

It should be noted that the bidding and construction phase services totaling $18,395 were not included in the initial contract amount, so the contract adjustment is for additional services.

As always, let me know if you have any questions.

Sincerely,

Michael K. Sotak, P.E.
For the Team

Tetra Tech
12120 Port Grace Boulevard, Suite 102, Omaha, Nebraska 68128
Tel 402.933.1345 Fax 402.933.1346 www.tetratech.com

Attachment 1 to Exhibit C

P-MRNRD Elkhorn River 240th St. Bank Stabilization

		Tetra Tech										
	Title:	Proj Mgr	Sr. Engineer	Project Engr.	Project Engr.	CADD Tech	Sr.Geotech	Sr. Scientist	Proj. Scientist	Clerical		
	Name(s):	Mussetter	Sotak	Mechtenberg	Thomas	Iman/Klein	Chapel	Munro	Manderfeld			
	Rate:	$227	$180	$95	$110	$70	$170	$170	$70	$79	Direct Cost	
TASKS												
Project Management												
Client Coordination and Meetings			2	4								$740
Monthly Invoice/Schedule Update (4)			8									$1,440
Committee/ Board Presentations (2)			4	4								$1,100
											Subtotal	$3,280
Design												
Interim Solution Design				24								$2,280
Quality Control		4										$908
Project Closeout			4							2		$878
											Subtotal	$4,066
Construction Documents												
Develop Construction Plans			2	16		24					$300	$3,860
Develop Construction Specifications			12	8							$50	$2,970
Bid Estimates and Assemble Bid Package			2	4							$15	$755
Prepare for and attend pre-bid meeting			2	4								$740
Prepare for and attend bid opening			2	4								$740
Engineer's recommendation of award			1									$180
											Subtotal	$9,245
Permitting												
USACE Meetings and Coordination				4								$380
Nationwide Permit Application and Documentation			6	24				4			$200	$4,240
Address USACE Comments			2	4				2				$1,080
											Subtotal	$5,700
Construction Observation												
On-Site Observation			2	12		120					$1,000	$10,900
Documentation and Reporting			2	12		32						$3,740
As-Builts Completion			1			8					$600	$1,340
											Subtotal	$15,980
											TOTAL	**$38,271**
		4	52	124	0	184	0	6	0	2		

INTERLOCAL COOPERATION AGREEMENT II
Between
THE COUNTY OF SARPY, NEBRASKA
And
PAPIO-MISSOURI RIVER NATURAL RESOURCES DISTRICT
For
240TH STREET INTERIM EROSION PROTECTION

THIS AGREEMENT (hereinafter "**THIS AGREEMENT**") is made by and between the **COUNTY OF SARPY, STATE OF NEBRASKA** ("the **COUNTY**") and the **PAPIO-MISSOURI RIVER NATURAL RESOURCES DISTRICT** ("the **DISTRICT** "), pursuant to the authority provided in the Nebraska Interlocal Cooperation Act (§§13-801, R.R.S., 1997, *et seq*).

WHEREAS, in an initial Interlocal Cooperation Agreement between the parties for 240TH Street erosion protection entered into in February, 2011 ("the **INITIAL AGREEMENT**") the parties agreed to cooperatively commission engineers ("the **ENGINEERS**") to design the most cost-effective future project to prevent 240th Street in Sarpy County from being lost to foreseeable and continued Elkhorn River bank erosion; and,

WHEREAS, Tetra Tech was commissioned as the ENGINEERS and has recommended preliminary plans and specifications for a cost-effective, long-term project that is expected to require an extensive amount of time for federal government approvals before it can be constructed; however, for the interim, the ENGINEERS have recommended a project ("the **INTERIM PROJECT**") to place or launch rip-rap in the affected area to retard erosion until such long-term project can be approved and constructed; and,

WHEREAS, the DISTRICT desires to receive COUNTY cost-sharing assistance for the INTERIM PROJECT ("the **INTERIM PROJECT**"), as more particularly described in the scope of work ("the **SCOPE OF WORK**") approved by the COUNTY and the DISTRICT, a true and correct copy of which is attached hereto as Exhibit "A" and incorporated herein by reference; and,

WHEREAS, the DISTRICT has authority under §2-3229, R.R.S., Neb., 1997, to "develop and execute, through the exercise of powers and authorities granted by law, plans, facilities, works, and programs relating to * * *, (2) prevention of damages from flood water and sediment, (3) flood prevention and control * * * *," and the INTERIM PROJECT is one of such facilities, works and programs.

NOW, THEREFORE, in consideration of the foregoing recitals and the mutual covenants of parties hereinafter expressed, the parties agree as follows:

1. **PROJECT BENEFITS.** The parties do hereby find and determine that the INTERIM PROJECT will be of predominantly general benefit to the DISTRICT and the COUNTY, with only an incidental special benefit.

2. **PROJECT PARTICIPANTS.** The INTERIM PROJECT shall be undertaken by the parties hereto without any separate entity being created, and the duties and responsibilities of the parties with respect to the INTERIM PROJECT shall be as defined by THIS AGREEMENT.

3. **PLAN APPROVALS.** Prior to commencing performance of the INTERIM PROJE CT, the DISTRICT shall submit in writing to the COUNTY, obtain the COUNTY'S prior approval of any revisions in the SCOPE OF WORK, and obtain the COUNTY'S prior approval of INTERIM PROJECT plans, specifications, cost estimates, bid documents and implementation schedules.

4. **COUNTY TECHNICAL ASSISTANCE.** The COUNTY shall provide technical assistance to the DISTRICT and attend all necessary meetings regarding the INTERIM PROJECT.

5. **COUNTY PLAN REVIEWS.** COUNTY reviews of amendments to the SCOPE OF WORK, and COUNTY reviews of INTERIM PROJECT plans, specifications, cost estimates, bid documents and implementation schedules, shall be performed by the COUNTY without unnecessary delay, and approvals thereof shall not be unreasonably delayed or withheld.

6. **THE ENGINEERING CONTRACT.** The DISTRICT shall enter into a professional services contract with the ENGINEERS, in the form as determined by the DISTRICT and approved in writing by the COUNTY ("the **ENGINEERING CONTRACT**"), pursuant to which the ENGINEERS shall undertake to perform the ENGINEERING SERVICES, such tasks being intended to result in the preparation of final plans and specifications, including bidding documents (collectively, "the **PLANS AND SPECIFICATIONS** ") for construction of the INTERIM PROJECT. The provisions of the ENGINEERING CONTRACT also shall include, but shall not be limited to, covenants and conditions calling for the ENGINEERS to submit to the COUNTY, for its written approval and concurrence, copies of all deliverables that the ENGINEERING CONTRACT provides for submission by the ENGINEERS to the DISTRICT

7. **APPROVAL OF THE PLANS AND SPECIFICATIONS.** Upon the ENGINEERS' completion of the final PLANS AND SPECIFICATIONS for the INTERIM PROJECT, and after submission to and approval of the same by the DISTRICT, such PLANS AND SPECIFICATIONS shall be submitted to the COUNTY for its written comments and written approval, such approval to be refused only for good cause, or else granted within 30 days after the DISTRICT'S written submission thereof to the COUNTY or shall be deemed to have been waived.

8. **RIGHTS-OF-WAY ACQUISITION**. Lands, easements and rights-of-way, which the ENGINEERS or the DISTRICT determine are necessary for construction, operation, maintenance, repair, replacement, management and/or regulation of the INTERIM PROJECT ("the **INTERIM PROJECT RIGHTS-OF-WAY**"), shall be obtained at the sole cost and expense of the DISTRICT, which shall hold title thereto.

9. **PERMITS**. All necessary local, state and federal permits, which the ENGINEERS or the DISTRICT determine are necessary for construction of the INTERIM PROJECT or for the permanent operation, maintenance, repair, replacement, management and regulation of the INTERIM PROJECT, shall be obtained at the sole cost and expense of the DISTRICT, which shall hold the same.

10. **UTILITY RELOCATIONS**. The DISTRICT, through its contractor, shall be solely responsible for relocation of any utilities that are determined to interfere with construction of the INTERIM PROJECT, or with the operation, maintenance, repair, replacement, management or regulation of the INTERIM PROJECT.

11. **CONSTRUCTION CONTRACT FOR INTERIM PROJECT**. Following the ENGINEER'S preparation of final plans and specifications for construction of the INTERIM PROJECT and approval of the same by the County Administrator of the COUNTY, the DISTRICT shall solicit competitive sealed bids for construction of the INTERIM PROJECT pursuant to contract documents submitted to and approved in writing by the County Administrator of the COUNTY. The contract documents contract for construction of the INTERIM PROJECT shall include, but shall not be limited to, covenants and conditions providing that the COUNTY shall be named as an additional insured in all insurance provided to the DISTRICT pursuant to such contract. Within a reasonable time after DISTRICT receipt and opening of such bids, the DISTRICT shall deliver a summary thereof to the County Administrator of the COUNTY, together with the identification by the

DISTRICT of the bidder who or which the DISTRICT determines is the lowest and most responsible bidder. In the absence of good cause to the contrary being shown to the DISTRICT by the COUNTY, the DISTRICT shall accept such bid and shall award to such bidder the contract to construct all or one or more portions of the INTERIM PROJECT. The DISTRICT, through its contractor, shall construct the INTERIM PROJECT in accordance with the COUNTY-approved plans and specifications.

12. **COUNTY CONTRIBUTION**. As the sole contribution of the COUNTY towards the costs of the INTERIM PROJECT ("the **COUNTY CONTRIBUTION**") the COUNTY shall pay to the DISTRICT, in installments within 45 days after the DISTRICT'S respective written requests, one-half (50%) of each of the billings rendered to the DISTRICT for ordinary and necessary engineering and construction services rendered to the DISTRICT for the INTERIM PROJECT, including, without limitation, billings for the services of the ENGINEERS; provided, however, the COUNTY shall not in any event be responsible or required to pay or reimburse to the DISTRICT more than one half (50%) of the total cost of the INTERIM PROJECT, and not in any event more than the total sum of TWO HUNDRED SIX THOUSAND FIVE HUNDRED DOLLARS ($206,500) additional to the contribution previously made by the COUNTY pursuant to the 2008 INTERLOCAL COOPERATION AGREEMENT towards the cost to the DISTRICT of the ENGINEERS' fees for PRELIMINARY ENGINEERING SERVICES and other services provided therein. The DISTRICT shall be solely responsible to pay all other costs and expenses of engineering and construction of the INTERIM PROJECT without any further COUNTY reimbursement. Any State, Federal, foundation or other grants received by either of the parties at any time for purposes of offsetting costs and expenses of the INTERIM PROJECT shall be credited to both parties in equal shares against their respective obligations hereunder for costs and expenses of the INTERIM PROJECT after application of such funds towards the aforesaid excess costs and

expenses of the INTERIM PROJECT towards which the COUNTY is not required to contribute. The COUNTY'S contribution payment(s) to the DISTRICT will be made within 45 days following receipt by the COUNTY from the DISTRICT of a written request or invoice for the COUNTY'S share of actual costs incurred by the DISTRICT.

13. **OPERATION AND MAINTENANCE OF THE INTERIM PROJECT**. After completion of INTERIM PROJECT construction and DISTRICT acceptance of the INTERIM PROJECT from the DISTRICT'S construction contractor, the DISTRICT, at its own and sole cost and expense, shall operate, maintain, repair, replace, manage and regulate the INTERIM PROJECT during the useful life that the DISTRICT determines for the INTERIM PROJECT, in such manner and at such times as the DISTRICT in its discretion determines necessary and in accordance with applicable and generally-accepted engineering practices and USACE and FEMA regulations and requirements.

14. **RISK OF LOSS**. The DISTRICT shall have the insurable interest in, and shall bear the sole risk of loss of or damage to, the INTERIM PROJECT and all INTERIM PROJECT components, whether such loss or damage results from flood or other casualty whatsoever.

15. **INDEMNIFICATION**. Except as otherwise provided herein, the DISTRICT shall defend and indemnify the COUNTY and hold the COUNTY harmless (1) from and against any and all INTERIM PROJECT costs exceeding the COUNTY'S CONTRIBUTION under THIS AGREEMENT; and, (2) from and against any and all claims, demands, causes of action, costs and expenses, including court costs and attorneys fees, for personal injuries or property damages in whole or in part arising out of or caused by the negligence or other actions or inactions of the DISTRICT, its employees, officers, agents in connection with THIS AGREEMENT.

16. **EFFECTIVE DATE AND TERM**. THIS AGREEMENT shall be in force and effect from and after its execution by the parties hereto, and shall have permanent duration.

17. **NON-DISCRIMINATION**. The parties hereto shall not, in the performance of THIS AGREEMENT, discriminate or permit discrimination by its contractors in violation of federal or state laws or local ordinances because of race, disability, color, sex, age, political or religious opinions, affiliations or national origin.

18. **APPROVALS**. Approvals by the DISTRICT and other DISTRICT actions, contemplated or called for by THIS AGREEMENT, are hereby authorized to be provided by the General Manager of the DISTRICT. Approvals by the COUNTY and other COUNTY actions contemplated by or called for by THIS AGREEMENT, are hereby authorized to be provided by the County Administrator of the COUNTY.

19. **ENTIRE AGREEMENT**. THIS AGREEMENT contains the entire agreement between the parties, and each party hereto agrees that neither the other party, nor any of the officers, agents, employees or contractors of the other party, have made any representations or promises with respect to the INTERIM PROJECT not expressly contained herein.

20. **TIME**. Time is of the essence of THIS AGREEMENT.

21. **DEFAULT**. If either party shall default hereunder, the other party shall be entitled to enforce specific performance of THIS AGREEMENT, may terminate THIS AGREEMENT, or may have any other remedy allowed by law or equity.

22. **NOTICES.** All notices to one of the parties herein required shall be in writing and shall be served on such party by mail, fax, e-mail or personal delivery to the manager for such party identified hereinabove.

23. **BINDING EFFECT.** The provisions of THIS AGREEMENT shall inure to the benefit of, and shall be binding upon, the successors in interest and assigns of the respective parties hereto.

24. **APPLICABLE LAW.** Each party to THIS AGREEMENT shall follow all applicable federal and state statutes and regulations in carrying out the faithful performance and terms of THIS AGREEMENT.

25. **SEVERABILITY.** In the event any portion of THIS AGREEMENT is held invalid or unenforceable for any reason, it is agreed that any such invalidity or unenforceability shall not affect the remainder of THIS AGREEMENT, the remaining provisions shall remain in full force and effect, and any court of competent jurisdiction may so modify any objectionable provision of THIS AGREEMENT so as to render it valid, reasonable and enforceable.

26. **CAPTIONS.** Captions used in THIS AGREEMENT are for convenience and not for use in the construction of THIS AGREEMENT.

IN WITNESS WHEREOF, the parties have executed THIS AGREEMENT, on the respective dates hereinafter indicated, pursuant to authorizing resolutions duly adopted at regularly-called meetings of their governing bodies.

The COUNTY has executed THIS AGREEMENT on _____, 2011.

THE COUNTY OF SARPY, NEBRASKA

By _____
County Administrator

Attest:

_____
County Clerk

The DISTRICT executed THIS AGREEMENT on _____, 2011.

PAPIO-MISSOURI RIVER NATURAL RESOURCES DISTRICT

By _____
General Manager