

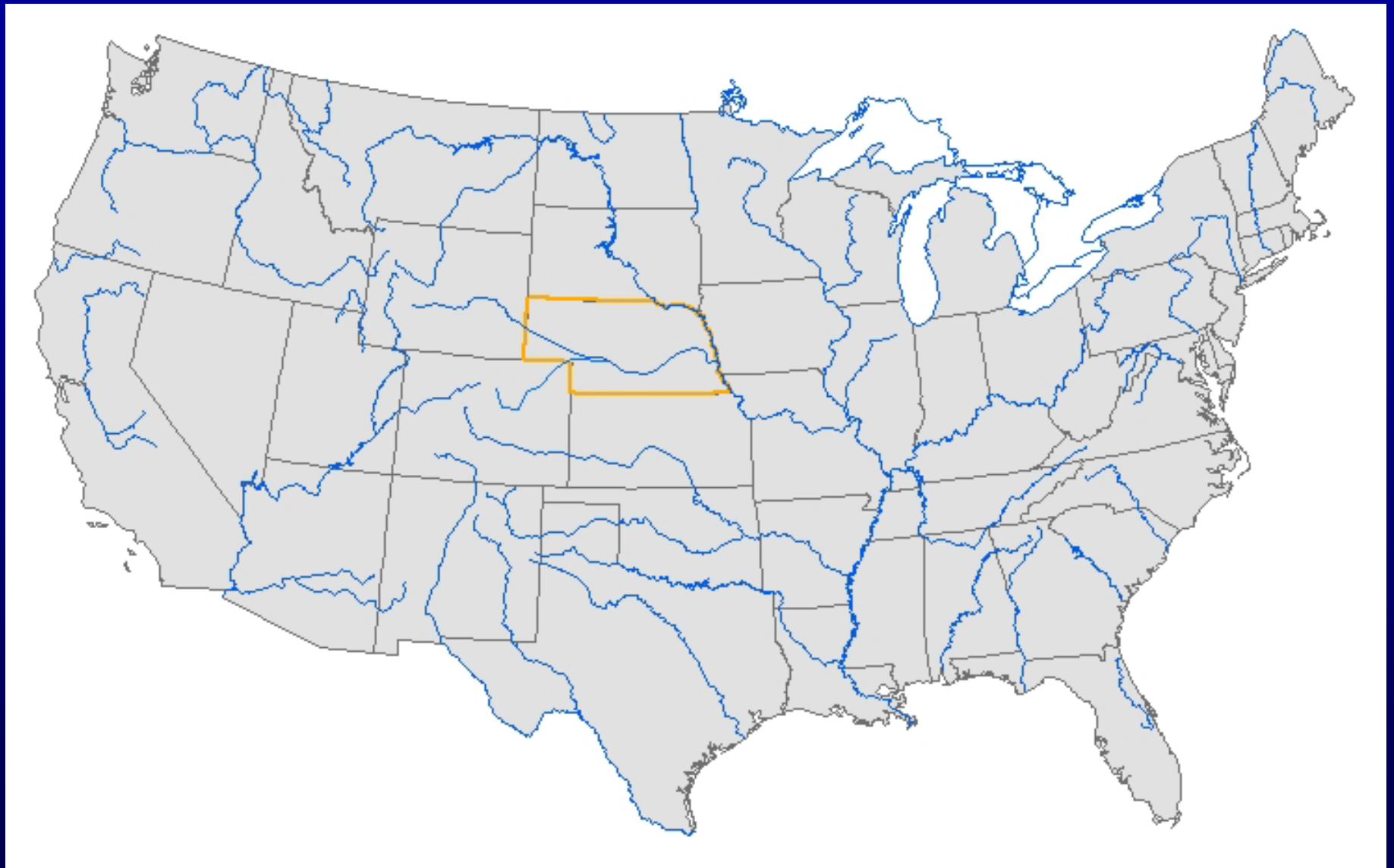
Overcoming Policy and Permitting Challenges to Implementing Natural Infrastructure Solutions

A Natural Floodplain Functions Alliance Workshop

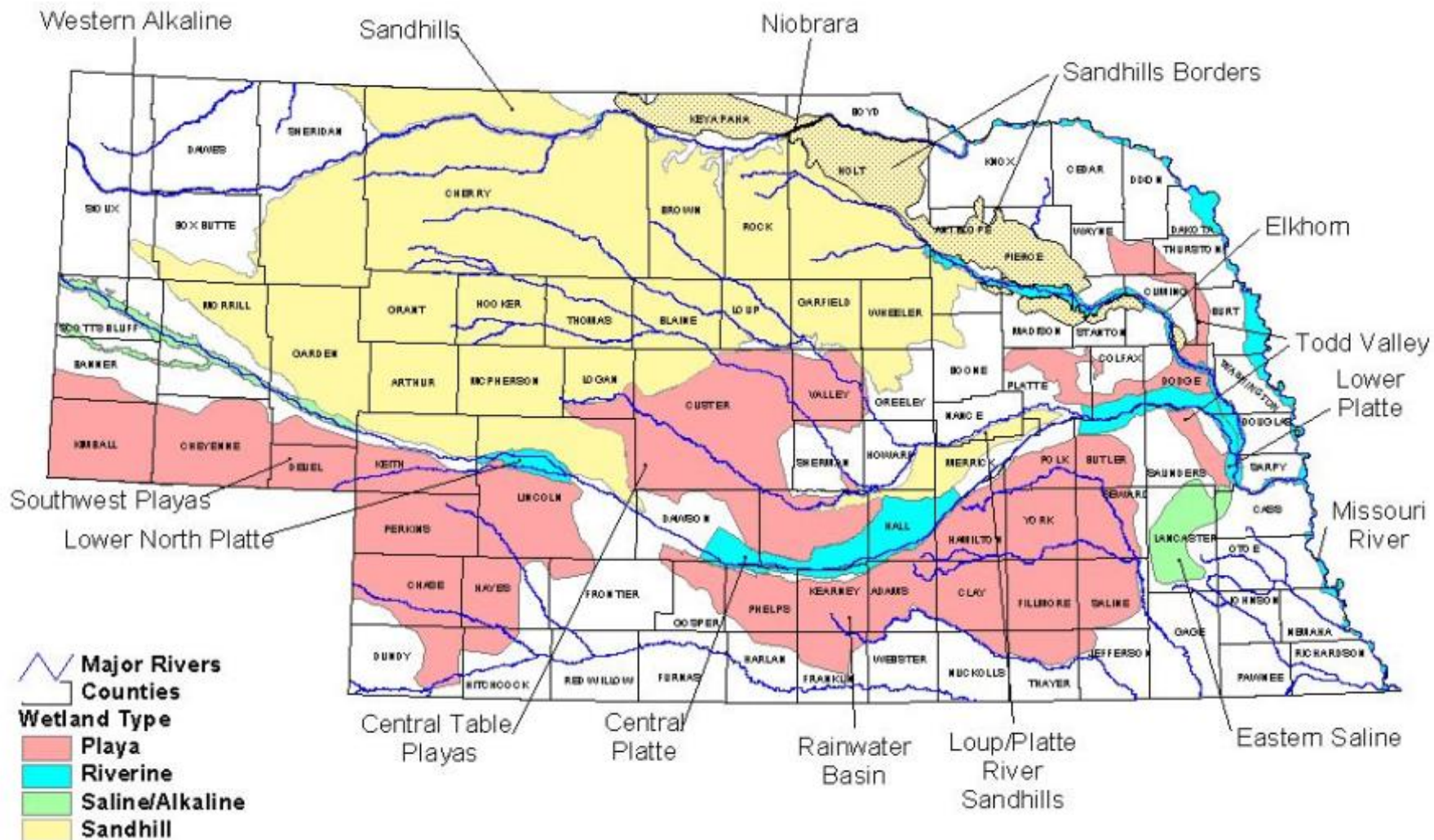
By: Ted LaGrange (Nebraska Game and Parks Commission)

- **Nebraska's voluntary wetland restoration program**
- **Permitting Case Study**
- **Impacts**
- **Recommendations**

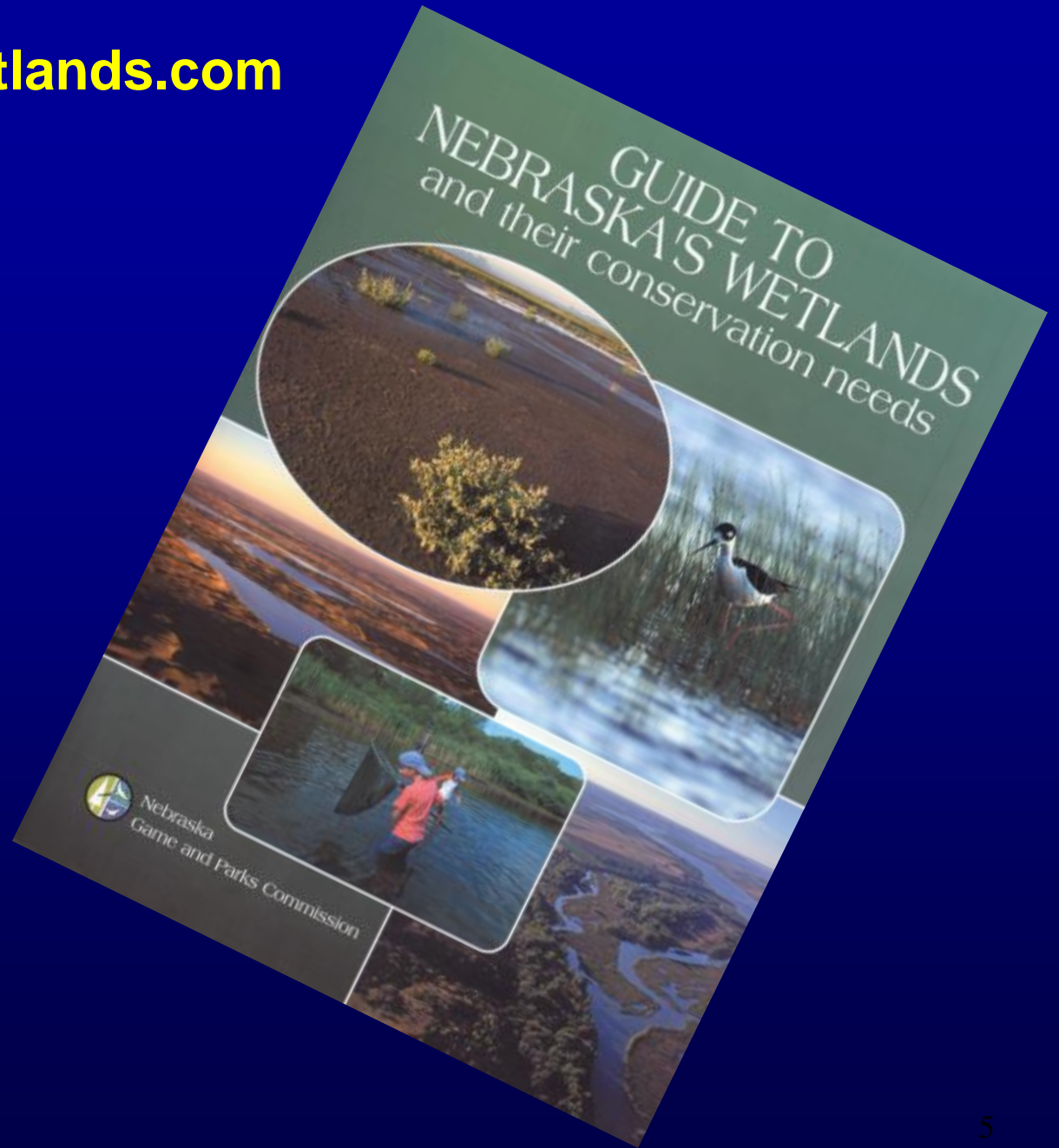




Nebraska's Wetland Complexes



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Voluntary Wetland Restoration on Private Lands





Bio-engineering Teams





Need a willing landowner



The project needs to meet the objectives of both the landowner and the agency/organization



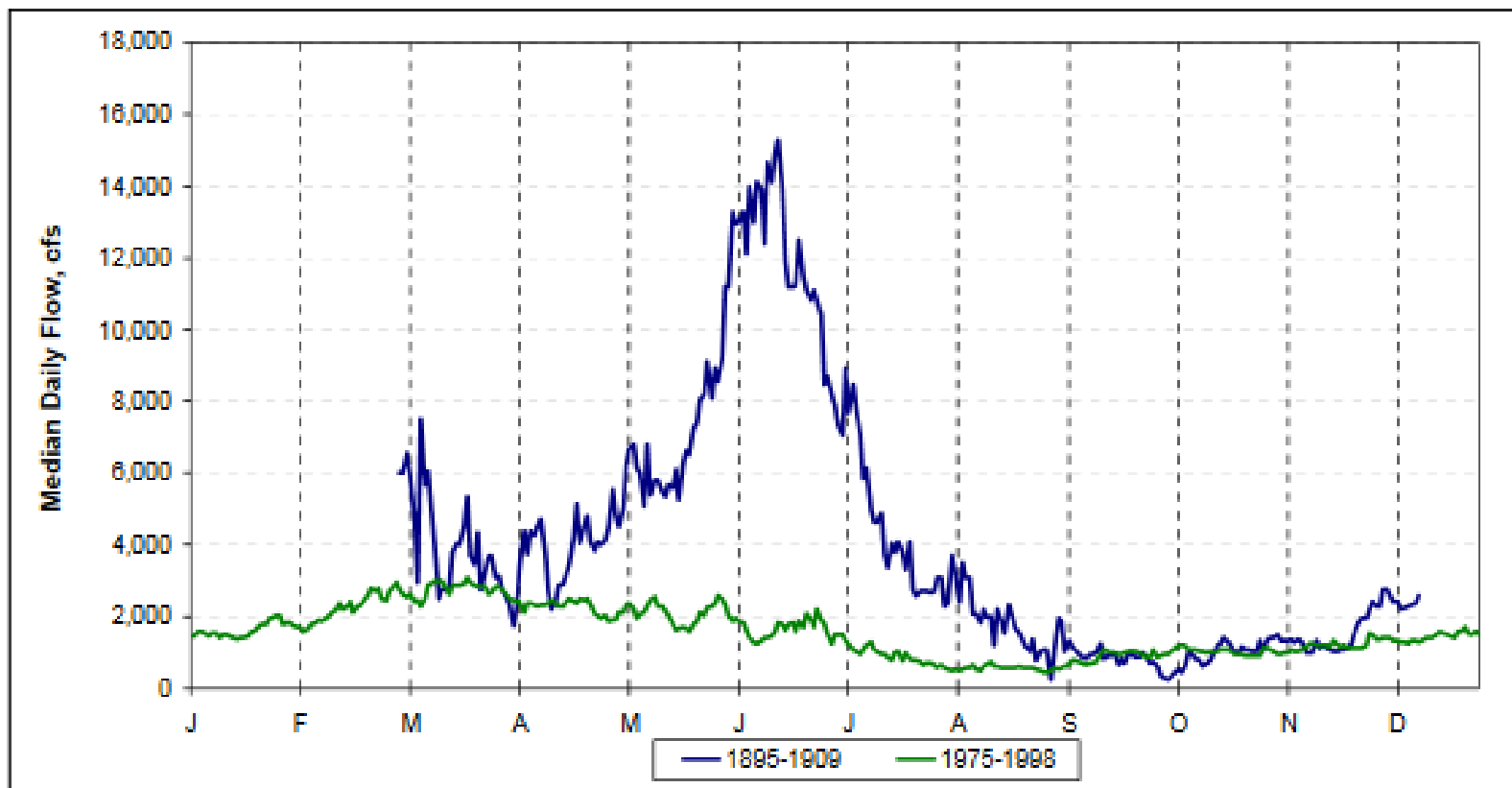
Overall, the agencies are working very hard to do the right thing for the wetland resource, especially considering the following constraints:

- Many of our wetlands and their associated watersheds are highly altered.
- Our knowledge about how these systems historically functioned is unfortunately not perfect.
- When designing projects to address the alterations, we often face engineering constraints on what will work best to address the situation.
- Most of our projects are taking place on private lands. The consideration of what the landowner wants has to be taken into consideration. The project will not happen without the landowner's consent. At times, projects get modified from what we may feel is "optimal" to accommodate landowner needs, however, we do not move forward with a project unless we feel that the overall environmental gain will be positive and worth the cost.
- There are numerous funding constraints that influence what we are able to do, and when we need to complete a project. Many of the projects are paid for with funding sources that need to be expended by the end of a fiscal year or prior to a grant expiring.

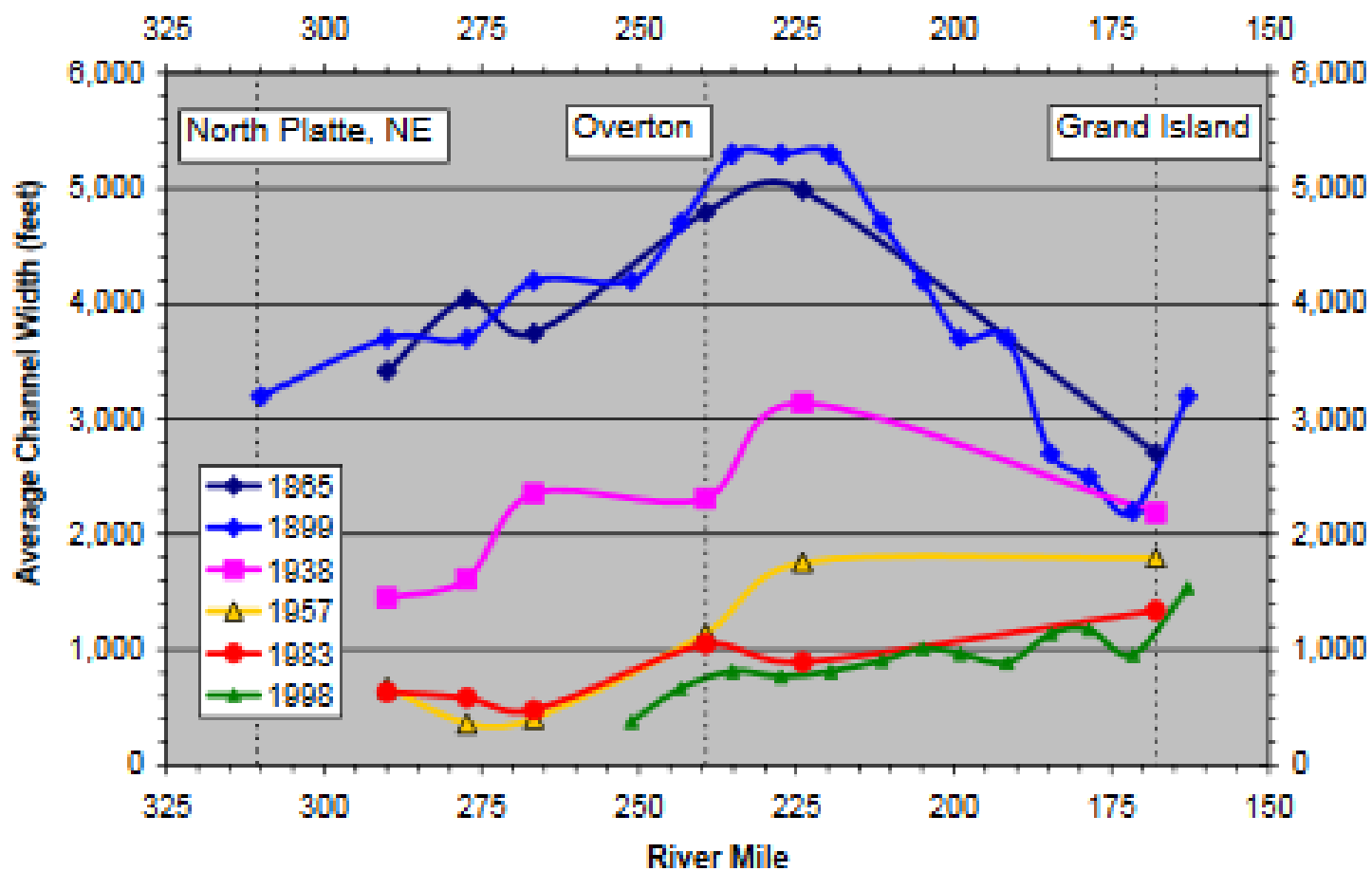






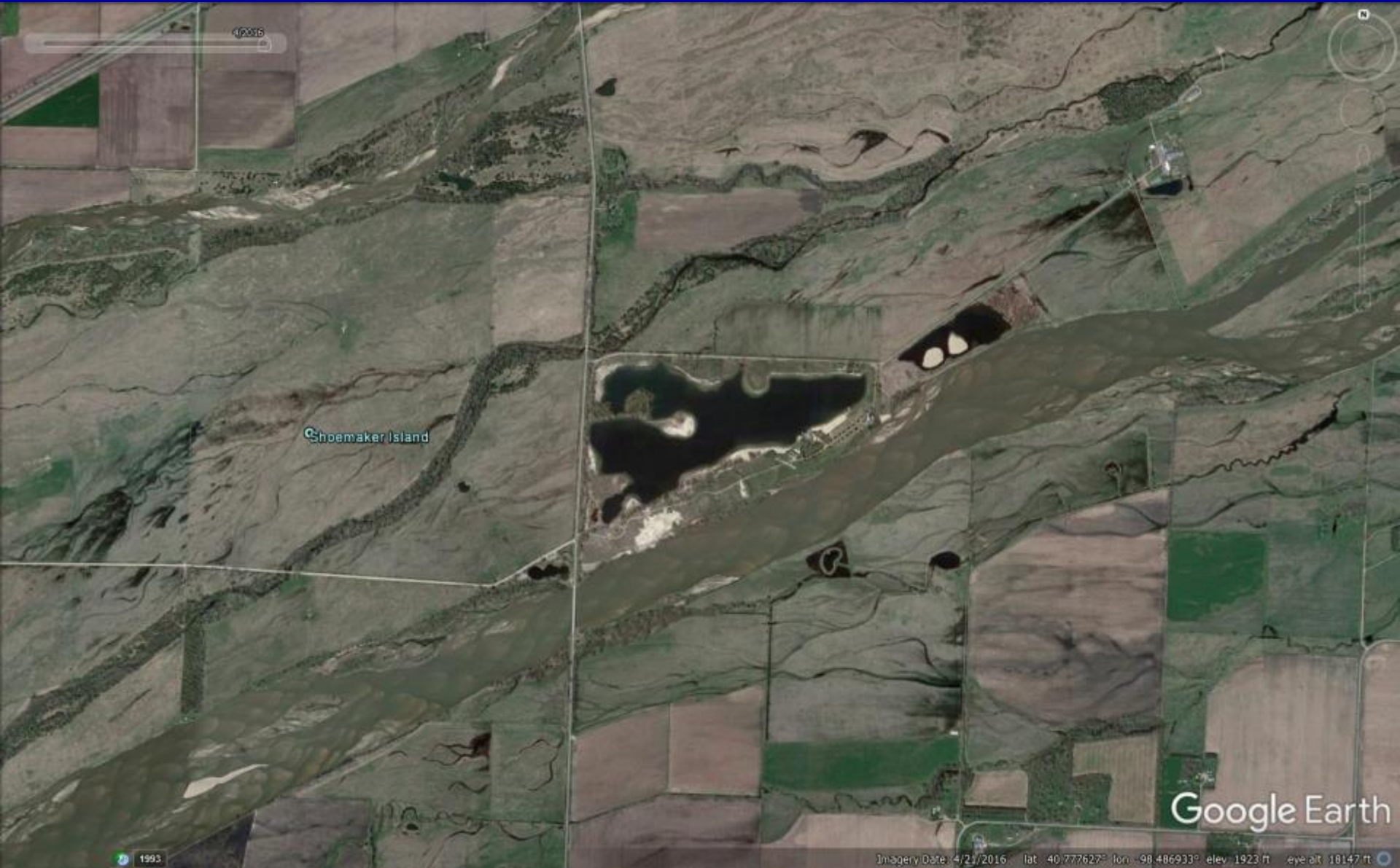


Platte River Channel Widths versus River Mile









Shoemaker Island

Google Earth

1993

Imagery Date: 4/21/2016 lat: 40.777627° lon: -98.486933° elev: 1923 ft eye alt: 18147 ft

Case Study

The wetland in question was negatively impacted by a drainage ditch that was dug in an attempt to drain both surface and sub-surface water in order to increase the amount of grazing lands. The drainage attempt was only marginally successful due to amount of hydrology present. Excavated spoil from drainage ditch had been piled within wetland footprint. The wetland was further impacted by sediment deposits from flood events. The altered hydrology resulted in a complete infestation of invasive hybrid cattail and an excessive accumulation of organic material.

As with all of our restoration projects, an interdisciplinary team was used to assess the site and develop a restoration plan that met the needs of the landowner and the partners involved.

Planned restoration activities included filling the drainage ditch; removing spoil piles from the wetland footprint; excavating sediment, and invasive vegetation; chemical treatment of invasive vegetation; native vegetation establishment; and installing a dual purpose agricultural crossing/rock check structure to provide agricultural use access and also water velocity control while allowing fish passage.

We determined that is project would meet the conditions of Nationwide Permit #27. Pre-construction notice (PCN) is required by Regional Conditions attached to NWP #27 in Nebraska for working within Platte basin.









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Impacts:

The delays associated with the case study site were very frustrating to the landowner and the agencies partnering on this project. Such delays, and the associated requests for more and more information, take valuable time and resources that would be better spent working on the next restoration project.

We also had to request grant extensions twice for two different grants involved. We likely would have lost funds from one of the grant sources but we were able to make an advanced purchase of rock to demonstrate we were making some progress on the project.

Nearly every voluntary wetland restoration project is being delayed as we await authorization from the USACE. The cumulative effect of delaying nearly every voluntary restoration project has real impacts to our wetland resources.

- Takes up agency time and resources**
- Impacts grant funding**
- Frustrates landowners willing to do voluntary wetland restoration projects**



5/1993

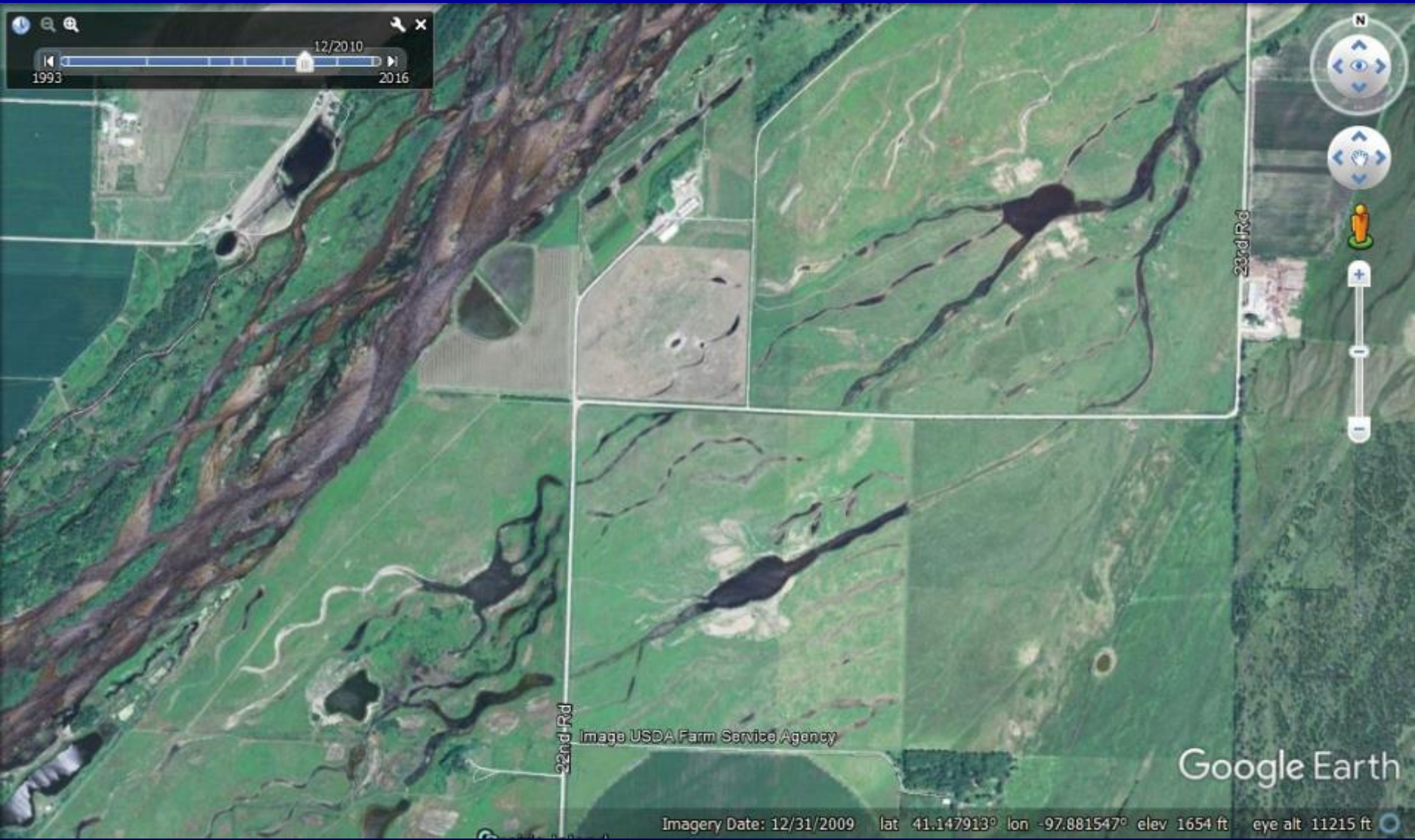
22nd Rd

23rd Rd

Image U.S. Geological Survey

Google Earth

Imagery Date: 5/3/1993 lat 41.147913° lon -97.881547° elev 1654 ft eye alt 11215 ft



12/2010
1993 2016

22nd Rd

23rd Rd

Image USDA Farm Service Agency

Google Earth

Imagery Date: 12/31/2009 lat 41.147913° lon -97.881547° elev 1654 ft eye alt 11215 ft

Recommendations:

1. Pre-construction Notification (PCN): For NWP #27, a PCN is required for most projects. We have recommended to change the wording in the Nebraska Regional Conditions for NWP #27 to include the following language that is in line with the national guidance: *No PCN is required for NWP 27 when activities are conducted on non-Federal public lands and private lands, in accordance with the terms and conditions of a binding stream enhancement or restoration agreement or wetland enhancement, restoration, or establishment agreement between the landowner and the FWS, NRCS, FSA, NMFS, NOS, USFS or their designated state cooperating agencies.*
2. Better consistency in the information collected by the agencies: Continued training for staff on wetland delineation, functional assessment, and permit/regulatory compliance will help us collect the information needed.
3. Clarity on what information is needed when a permit application is required: It would be helpful to have a clear and detailed list of what the USACE needs for an application to be considered complete.

4. Better responsiveness when a permit application is required: There is wording in the Code of Federal Regulations (CFR) that indicates that the USACE is supposed to acknowledge receipt of the application as soon as they receive it, they are supposed to request any additional information needed within 15 days, and they are supposed to formally respond within 45 days of receiving the permit application or we can presume that the project qualifies for a NWP.
5. Minimizing added conditions: When the USACE issues a NWP #27 authorization, they often add additional conditions that can create a substantial additional workload for the agencies. NWP #27 is already conditioned when it is issued, so it seems unnecessary to add additional conditions except in rare circumstances.
6. Communication: Better communication is always helpful. The agencies doing the voluntary restorations and the regulatory agencies need to have a good understanding of what the each needs and the issues that they are dealing with. This can be addressed through regular Interagency meetings and periodic site visits/tours.

Need for evaluation and/or research





Thanks!



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