Dave Heineman
Governor

STATE OF NEBRASKA

DEPARTMENT OF NATURAL RESOURCES
Brian P. Dunnigan, P.E.
Director

February 3, 2012

IN REPLY TO:

Robert A. Carnazzo, PE
Hydraulics Unit Head
Nebraska Department of Roads
P.O. Box 94759
1500 Highway 2
Lincoln, NE 68502

Dear Mr. Carnazzo:

This letter is in response to your January 31 inquiry regarding the possibility of local jurisdictions granting a variance of their floodplain development regulations for your department's crack-filling, striping, milling and topping projects. If all three conditions described in Section §006.05 of the state's Minimum Standards for Floodplain Management Programs (attached) are met, local communities may grant the variance.

As you indicated, crack-filling and striping will not have an impact on floodplains/floodways. These activities fall outside of the definition of development as defined by the National Flood Insurance Program and therefore a floodplain development permit is not required.

For projects involving milling and topping and other paving work, the "Certificate of Compliance" jointly developed between our departments in 2009 should continue to be used for meeting local communities' floodplain development regulations.

Thank you for your efforts in keeping the Department of Roads' projects in compliance with the Nebraska's floodplain management standards.

Sincerely,

Shuhai Zheng, Ph.D., P.E., CFM
Head, Floodplain/Dam Safety/Survey Division

Enclosure

ds/fp/zheng/2012

NEBRASKA ADMINISTRATIVE CODE
TITLE 455, CHAPTER 1
RULES AND REGULATIONS CONCERNING MINIMUM STANDARDS FOR FLOODPLAIN MANAGEMENT PROGRAMS
June 27, 2008

006.05 Variances or exceptions may otherwise be granted upon (i) a showing of good and sufficient cause, (ii) a determination that failure to grant the variance would result in exceptional hardship to the applicant and (iii) a determination that the granting of a variance will not result in additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with other applicable laws or ordinances.