

INTERGOVERNMENTAL AGREEMENT
BETWEEN
THE NEBRASKA DEPARTMENT OF WATER, ENERGY, AND ENVIRONMENT
AND
THE _____ NATURAL RESOURCES DISTRICT
REGARDING THE PURCHASE OF PERMANENT EASEMENTS
RESTRICTING WATER USE ON LANDS CURRENTLY INCLUDED IN A
NEBRASKA PLATTE-REPUBLICAN CONSERVATION RESERVE ENHANCEMENT PROGRAM
WATER USE CONTRACT

I. PURPOSE

This Intergovernmental Agreement (Agreement) is entered into by and between the Nebraska Department of Water, Energy, and Environment (Department) and the _____ Natural Resources District (District) for the purpose of allowing the District to purchase permanent easements restricting water use from landowners whose lands are currently included in the Nebraska Platte-Republican Conservation Reserve Enhancement Program (CREP).

The CREP is a program enabled by a Memorandum of Agreement (MOA) between the State of Nebraska, and the U.S. Department of Agriculture Commodity Credit Corporation (CCC) for the purpose of improving water quantity and quality, and enhancement of wildlife habitat in designated areas of the Platte and Republican River Basins. To achieve the purposes of CREP, the landowners and the Department enter into Water Use Contracts (Contract) restricting the use of water on land for a period of ten to 15 years.

Under the provisions of the MOA, and the original Contract, the landowners may not use, affect, transfer, sell, exchange or otherwise apply the surface or well water during the Contract period, or allow other individuals or entities to use, affect, transfer, sell, exchange or otherwise apply the surface or well water during the Contract period except as agreed to by USDA.

So that conservation of water may continue past the term of the Contract, the State of Nebraska and the USDA amended the Memorandum of Agreement to authorize the amendment of a Contract to allow for the creation of easements, during the Contract period, permanently retiring water use on the lands included under the Contract as long as all of the following conditions are met:

1. The permanent retirement takes effect at the end of the individual CREP Contract.
2. All surface water appropriations associated with any Contract amended shall be conditionally relinquished at the time of the amendment. The conditions shall include a provision that the relinquishment shall not be effective until the expiration of the Contract. The use of the water associated with the Contract must be permanently retired, meaning that no transfers of this water to another use may be made and no offsets for new uses or expanded uses may be claimed because of the relinquishment.
3. Any allocations, certified acres, or rights to use groundwater associated with any Contract amended shall be conditionally relinquished at the time of the amendment. The conditions shall include a provision that the relinquishment shall not be effective until the

expiration of the Contract. The use of the water associated with the Contract must be permanently retired, meaning that no transfers of this water to another use may be made and no offsets for new uses or expanded uses may be claimed because of the relinquishment.

4. The uses or rights retired are ground water uses and individually owned surface water rights. Surface water rights held in the names of irrigation districts, public power and irrigation districts, or mutual canal or irrigation companies are not subject to such amendments.
5. The landowner agrees to continue to adhere to all other terms of the Water Use Contract and to fully participate and adhere to the requirements of CREP until the contract period of the Water Use Contract has ended.

II. DISTRICT'S COMMITMENTS

When entering into permanent easements for the purpose of permanently retiring water use on land included under an existing CREP Water Use Contract, the District agrees to:

- A. Enter into such permanent easements only after obtaining a copy of the Amendment to the Water Use Contract executed by all parties to the Water Use Contract, which allows for such permanent easement.
- B. Use the easement form which is attached to and made part of this Agreement and is identified as Attachment A.
- C. Comply with both the stated provisions and intent of the Memorandum of Agreement, as stated above, to assure that any surface water appropriations or groundwater uses obtained under the provisions of this agreement are permanently retired and not used for purposes of transfers, offsets, or any other means that would allow for new uses or expansion of uses.
- D. Permanently cancel on the effective date of the permanent easement, any allocation or certified acres or other designation attached to the lands included in the permanent easement that allow for groundwater use.
- E. Deliver a copy of the permanent easement that includes the filed document stamp from the County in which the land is located to the Department within 60 days from the date it is filed.

III. DEPARTMENT'S COMMITMENTS

- A. Act on requests for Amendments to allow for permanent retirement within 60 days by approving the Amendment or informing both the District and the landowner of any impediment to complying with the request.

IV. GENERAL PROVISIONS

- A. The provisions of this agreement may be amended in writing executed by both parties.

B. Both parties agree that following the completion of the water use contract, the Department may enter an order of cancellation for any surface water rights associated with lands included under a permanent retirement easement as described herein.

Natural Resources District
Name of Authorized Representative

Date _____

Signature of Authorized Representative

DEPARTMENT OF WATER, ENERGY, AND ENVIRONMENT

Date _____

Director

STATE OF NEBRASKA

NEBRASKA PLATTE-REPUBLICAN CONSERVATION RESERVE ENHANCEMENT PROGRAM

REQUEST FOR AMENDMENT OF WATER USE CONTRACT
TO ALLOW CONTRACTOR TO ENTER INTO
A PERMANENT EASEMENT FOR RETIREMENT OF WATER USE FOR IRRIGATION

Instructions: This form is to be completed and signed by **all** the **current** owners and any lienholders of lands included in the Water Use Contract described below. A separate form is required for each Water Use Contract. Complete the following and sign and date on the lines provided on Page 4.

1. Water Use Contract Number: _____
2. Are all lands included under this Water Use Contract to be included in the permanent easement? ____Yes ____No **If no**, attach to this form an aerial photograph provided and marked by the local natural resources district that identifies the lands that will be included in the permanent easement. If there are two or more groundwater wells associated with the Water Use Contract, the aerial photograph shall identify by different cross-hatching patterns the lands included in the permanent easement that are associated with each identified well.
3. List all surface water appropriations that are attached to the land which will be included in the permanent easement. Your signature on this form, and the filing of the final permanent easement, documents your relinquishment of all surface water appropriations attached to the lands included under the easement and your agreement that such water appropriations may be cancelled at the time the permanent easement takes effect. _____

4. List all groundwater well registration numbers for groundwater wells registered to irrigate the lands that will be included under the permanent easement. _____

5. Attach to this form a recently completed report of title on a form issued by the local natural resources district. Attach a list of the current addresses of all landowners and lienholders if not included on report of title.
6. Attach to this form verification of a conditional offer for a permanent easement signed by the local natural resources district.
7. Fill in the blanks on page 3.
8. All landowners and lienholders shown on report of title must sign in area provided on page 4. Sign on the first line, and print the name on line that starts with "By." If a person signing is signing for another person as a personal representative or as a person having power of attorney, documentation of such representation must be provided. If

ATTACHMENT A

more signature lines are required, contact the Department of Water, Energy, and Environment at (402) 471-2186

9. Send the completed form to: Department of Water, Energy, and Environment
245 Fallbrook Blvd., Suite 100
Lincoln, NE 68521-6729

AMENDMENT TO THE NEBRASKA DEPARTMENT OF WATER, ENERGY, AND ENVIRONMENT
WATER USE CONTRACT NO. _____
OF THE
NEBRASKA PLATTE-REPUBLICAN CONSERVATION RESERVE ENHANCEMENT PROGRAM

Background

The Landowner(s) signing below (Landowner(s)) and the Nebraska Department of Water, Energy, and Environment (DWEE) entered into a Water Use Contract (the Contract) in order to allow the Landowner(s) participation in the Nebraska Platte-Republican Resources Area Conservation Reserve Enhancement Program (CREP). The CREP is a joint program of the State of Nebraska and the United States Department of Agriculture Commodity Credit Corporation (CCC) formed under a Memorandum of Agreement (MOA), the purpose of which is to improve water quality and enhance wildlife habitat by reducing the quantity of water used for irrigation of crops. Participants in CREP agree to refrain from irrigating the land enrolled in the Program for the duration of the Contract.

The MOA requires, and the Contract has a provision that during the term of the Contract the Landowner(s) do not use, affect, transfer, sell, exchange or otherwise apply the surface or well water during the contract period, or allow other individuals or entities to use, affect, transfer, sell, exchange or otherwise apply the surface or ground water during the contract period except as agreed to by CCC. In the MOA, the CCC and the State of Nebraska agreed to allow amendments to the Contract that would allow for the Landowner(s) to enter into easements to **permanently** retire the surface or groundwater use during the contract period under certain conditions described in the Memorandum of Agreement.

The _____ Natural Resources District (District) and the DWEE have entered into an intergovernmental agreement which states that the District agrees to comply with the terms of the MOA so that it may purchase, during the contract period, **permanent** easements from Landowner(s) willing to refrain forever from irrigating the land currently enrolled in CREP.

The Landowner(s) have agreed to sell a **permanent** easement on the land to the District in which the land is located and to forever refrain from irrigating the land and limit water use in accordance with the terms of the easement.

Terms of Amendment

1. The DWEE and the Landowner(s) agree that, notwithstanding any terms of the original Contract, the Landowner(s) may enter into a **permanent** easement with the _____ Natural Resource District in which the land currently enrolled in CREP is situated to forever refrain from irrigating the land and prohibit water use on the land in accordance with the terms of the easement and that the easement shall take affect the day after the ending day of the Contract. The easement entered into shall contain all the provisions agreed to by DWEE and the District, a copy of which shall be attached to this document by the DWEE upon the Director's approval.
2. The Landowner(s) agree(s) to continue to adhere to all other terms of the Contract and to fully participate and adhere to the requirements of CREP until the contract period of the Contract has ended. If there is a violation of the terms of the original Water Use Contract or the federal CREP agreement, or if the original Water Use Contract or the federal CREP agreement is terminated, the Landowner(s) agree to repay the DWEE the

entire amount of any payments received from the DWEE including liquidated damages of 20 percent of all amounts paid under the contract.

3. Surface water appropriations held in the names of irrigation districts, public power and irrigation districts, or mutual canal or irrigation companies are not subject to such amendments.
4. This amendment becomes effective upon the filing of a copy of the completed permanent easement in the Department of Water, Energy, and Environment.

Signatures of All Landowners and Lienholders:

<p>_____</p> <p>By: _____</p> <p>Dated this ____day of _____, 20__</p> <p>_____</p> <p>By: _____</p> <p>Dated this ____day of _____, 20__</p> <p>_____</p> <p>By: _____</p> <p>Dated this ____day of _____, 20__</p>	<p>_____</p> <p>By: _____</p> <p>_____</p> <p>Dated this ____day of _____, 20__</p> <p>_____</p> <p>By: _____</p> <p>_____</p> <p>Dated this ____day of _____, 20__</p> <p>_____</p> <p>By: _____</p> <p>_____</p> <p>Dated this ____day of _____, 20__</p>
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_ By: Director

Department of Water, Energy, and Environment Dated

this ____day of _____, 20__