

Agenda Item: 7.B.

MEMORANDUM

TO: Programs Projects and Operations Subcommittee

FROM: Terry Schumacher, Land & Water Programs Coordinator

SUBJECT: Review and Recommendation on the First Addendum to the Interlocal Agreement with the Nebraska Game & Parks for Operation and Maintenance of the Danish Alps State Recreation Area Project

DATE: April 5, 2018

The Danish Alps State Recreation Area is a multi-purpose project designed to provide grade stabilization, flood control, and recreation in the Dakota County community. The project was also designed to reduce the amount of sediment leaving the watershed and deposited downstream in the Pigeon/Jones Drainage District.

In June of 2014, an Interlocal Agreement was executed with the Nebraska Game & Parks Commission for Operation and Maintenance of the Danish Alps SRA. The term of the Agreement was for five (5) years and commenced on May 1, 2015. The Interlocal Agreement outlines a Cost Share Arrangement for the Commission to manage the Property in a financially balanced manner.

The proposed First Addendum would allow for the District to request permission to apply all or a portion of the annual cash subsidy payment towards specified infrastructure development to complete construction as identified in the original design master plan. The First Addendum also allows that if revenues exceed expenses for a single Operating Season, the excess monies will be transferred to the District for future needs and improvements within the park.

Also attached is the 2017 Calendar Year Operation Expenses and Income Report. For the 2017 Calendar Year the District's reimbursement to the NG&P is \$30,437.73.

Management recommends that the Subcommittee recommend to the Board that the General Manager be authorized to execute the proposed First Addendum to the Interlocal Agreement with the Nebraska Game and Parks Commission for the management, operation and maintenance of the Danish Alps State Recreation Area Project subject to changes deemed necessary by the General Manager and approval as to form by District Legal Counsel.

**Danish Alps State Recreation Area
Calendar Year 2017 Operation Expenses and Income Report**

Budget Item	Category Description	2017 Budget	2017 NGPC Actual Expenses
Staffing	FT/PT wages, benefits & taxes	\$ 80,585.93	\$ 89,551.31
Communication	Phone, Fax, Internet	\$ 1,200.00	\$ 2,770.22
Mail & Freight	Delivery costs, stamps	\$ 200.00	\$ 221.49
Printing	Camp Env, brochures, misc.	\$ 1,500.00	
Utilities	Campground, area lights, H2O	\$ 18,000.00	\$ 10,503.23
Equipment Lease (Skid Loader)	NRD EXPENSE/CREDIT	\$ -	
Motor Veh & Equip Rep/Maint/Supplies	Fuel, Oil Change, tires, repairs	\$ 8,000.00	\$ 5,882.58
Road Maint	Grading, Snow Removal (Mach Time)	\$ 1,500.00	\$ 5,085.50
Misc Repair/Maint	small equip repair, misc.	\$ 500.00	\$ 80.00
Office Supplies	Print cart, paper, env., copy	\$ 1,000.00	\$ 247.42
Clothing & Care	Uniform shirts, hats,	\$ 200.00	\$ 779.92
Janitorial Supply	Restrooms, Clean Supplies	\$ 2,500.00	\$ 1,058.38
Misc. Equipment	Shop equipment, tools, etc.	\$ 4,000.00	\$ 994.69
Agricultural Expenses	Seed, Chemical, flowers	\$ 1,500.00	\$ 3,682.01
Constr/Maint Supplies	Lumber, nails, gravel, misc.	\$ 8,000.00	\$ 12,064.75
Law Enf /Safety Supplies	1st aid kit, fire ext. - signs	\$ 200.00	\$ 635.85
Non-Expendable Property	small equip under \$1500; computer	\$ 2,000.00	\$ 3,463.25
Lab	Water Sample Fee	\$ 200.00	\$ 181.00
Pest Control	Wasp Spray, varmit removal	\$ 300.00	
Garbage/Sewage Pumping	via contract for dumpsters/pumping sewage	\$ 5,130.00	\$ 4,616.14
Weed Control	Via contract	\$ 500.00	\$ 2,769.48
Insurance & Dues, permits	Trucks, mowers, State owned	\$ 2,000.00	\$ 1,031.96
Total		\$ 139,015.93	\$ 145,619.18

Income	
Daily Permits	\$ 3,796.00
Duplicate Permits	\$ 1,230.00
Annual Permits	\$ 5,430.00
Non-Resident Daily Permits	\$ 2,432.00
Non-Resident Duplicate Permits	\$ 315.00
Non-Resident Annual Permits	\$ 1,530.00
Total Permit Sales	\$ 14,733.00
Wood Resale Income	\$ 632.54
Camping Fees (taxes deducted)	\$ 26,367.41
Shower Fees	\$ 578.75
Net Camping Income	\$ 26,946.16
Total Income	\$ 42,311.70
NRD Credit	\$72,870.11

NGPC expenses not included in Report - Permanent employee time and Equipmen
NRD expenses not included in Report - Permanent employee time

Total Expense Deduct	\$ 115,181.81
Total NGPC Expenses	\$ 145,619.18

Summary Papio Missouri River NRD Credits

Olsson Design Fees Fishing Cleaning & ADA issues - \$17,913.61
 Rock and Rip Rap - \$53,196.50
 PSP Use of Skit Loader - \$1,760 (80 hours)
TOTAL - \$72,870.11

Adjusted NGPC Expenses with Income/NRD Credit **\$ 30,437.37**

Deficit to be subsidized by NRD - 2018 **\$ 30,437.37**

**FIRST ADDENDUM
TO THE
INTERLOCAL AGREEMENT
BETWEEN
PAPIO-MISSOURI RIVER NATURAL RESOURCES DISTRICT
AND
THE NEBRASKA GAME AND PARKS COMMISSION
FOR
KRAMPER LAKE/DANISH ALPS RECREATION AREA**

THIS ADDENDUM (“Addendum”) is intended to and does amend the Interlocal Agreement (the “Original Agreement”) between PAPIO-MISSOURI RIVER NATURAL RESOURCES DISTRICT (the “District”) and the NEBRASKA GAME AND PARKS COMMISSION (hereinafter referred to as the “Commission”) entered into on or about June 25, 2014.

AMENDMENTS TO THE ORIGINAL AGREEMENT:

- a. The following clause shall be added to the Original Agreement under the RECITALS section and shall state:

H. The Parties agree that the Cost Share Arrangement contained in Section 11 shall be amended to accommodate future development of infrastructure as set forth in the original design master plan.
- b. Section 9(b), contained in the Original Agreement, is hereby deleted in its entirety and replaced with the following:

(b) Daily staffing for the ordinary management, operation and maintenance of the Property during the period of April 1- October 1, (the “Operating Season”) in each year during each term of this Agreement;

- c. Section 10(f), contained in the Original Agreement, is hereby deleted in its entirety and replaced with the following:

(f) An annual cash subsidy payment, following the most recently completed calendar year of operation, shall be made to the Commission in the month of March for the balance of expenses related to those responsibilities listed on Exhibit C, when those expenses exceed income generated at the recreation area for camping fees, shower fees and park entry permits sold at the site during the most recently completed calendar year; as identified in Exhibit E.

In consideration that all elements identified in the original master plan were not constructed due to budget constraints, the District may request of the Commission in writing, permission to apply all or a portion of the annual cash subsidy payment towards specified infrastructure development to complete construction as identified in the original design master plan. The Commission will review the request and confirm in writing its decision that all or a portion of the District's annual cash subsidy payment can be paid toward infrastructure development and the approved amount by the Commission will be a credit applied to the District's payment of the balance of expenses set forth in the above paragraph.

- d. Section 11 contained in the Original Agreement, is hereby deleted in its entirety and replaced with the following:

11. Cost Share Arrangement. In consideration of possibly decreased operational budgets, and a desire of the Commission to manage the Property in a financially balanced manner, the District will share in an assigned level of expenses and services as outlined in a mutually agreed to annual operating budget; Exhibit C. The operating budget will be created in advance of each operating season. At the conclusion of each Operating Season as defined in Section 9(b), qualifying and actual income and expenses will be summarized for

the preceding term. Income will be credited to the Commission to offset the expenses, as identified on Exhibit E, attached to this Agreement.

Should the revenues from the Danish Alps Recreation Area be in excess of the Commission's assigned expenses for a single Operating Season, these excess monies will be transferred to the District, upon invoicing, and maintained by the District for the purposes of offsetting portions of the District's assigned operating expenses as defined on Exhibit C, for financing deferred maintenance needs of existing park facilities, or for new capital improvements within the park.

Exhibits C and E will be updated annually to reflect actual expenses and income of the most recently completed calendar year of operation.

e. **NO OTHER CHANGES.** The provisions of the Original Agreement not specifically referenced in this Addendum remain in full force and effect and are not amended, changed, or altered by this Addendum.

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

PAPIO-MISSOURI RIVER NATURAL RESOURCES DISTRICT

By: _____

Title: General Manager

Date: _____, 2018

STATE OF NEBRASKA,

Acting by and through the Nebraska Game and Parks Commission

By: _____

Title: Director of Nebraska Game and Parks Commission

Date: _____, 2018

**INTERLOCAL AGREEMENT
BETWEEN
PAPIO-MISSOURI RIVER NATURAL RESOURCES DISTRICT
AND
THE NEBRASKA GAME AND PARKS COMMISSION
FOR
KRAMPER LAKE/DANISH ALPS RECREATION AREA**

THIS INTERLOCAL AGREEMENT (hereinafter referred to as "this Agreement") is made and entered into by and between the **Papio-Missouri River Natural Resources District**, a political subdivision of the State of Nebraska (hereinafter referred to as the "District") and the **Nebraska Game and Parks Commission**, (hereinafter referred to as the "Commission"). Both parties hereto may collectively be referred to as the Parties and sometimes individually as a Party, Each Party, the District or the Commission.

RECITALS

- A. The District is the owner of the Kramper Lake/Danish Alps Recreation Area located on Jones Creek in Dakota County, Nebraska. The District also owns land surrounding the reservoir and certain improvements located on such land, hereinafter collectively referred to as the Property.
- B. The Property encompasses approximately 746 acres of land, which includes a reservoir consisting of approximately 226 surface acres of water. The Property is legally described in attached Exhibit A and further depicted on the map attached as Exhibit B. The Property provides opportunities for recreational and park facilities including camping, hiking, swimming, fishing, boating, horseback riding, and hunting. The Property also provides fish and wildlife habitat, flood control, ground water recharge and general aesthetic attributes.
- C. The District has the power and authority, pursuant to *Neb. Rev. Stat.* § 2-3229, to develop and execute plans, facilities, works, and programs relating, among others, to erosion prevention and control, prevention of damages from flood water and sediment, flood prevention and control, soil conservation, for development and management of fish and

wildlife habitat, development and management of recreational and park facilities, and forestry and range management.

- D. The Commission has the power and authority, pursuant to *Neb. Rev. Stat.* § 37-334, to participate with natural resources districts and other public agencies under the Interlocal Cooperation Act for leasing, taking of easements, development, management, and enhancement of outdoor recreation; and the power and authority pursuant to *Neb. Rev. Stat.* § 37-342 to enter into leases and agreements for control and use of real estate for state park system purposes.
- E. The Commission and the District have collaborated in efforts to design recreational features including aquatic and terrestrial habitat to enhance recreational use of the Property.
- F. The District and the Commission desire to work together regarding the use, management and maintenance of the Property and to make the most efficient use of their respective powers by cooperating on a basis of mutual advantage under the auspices of the Interlocal Cooperation Act, *Neb. Rev. Stat.* §§ 13-801 to 13-827 (the Act). In furtherance of this cooperative effort the Parties desire to enter into this Agreement with one another for joint and cooperative action for any power or powers, privileges or authorities exercised or capable of exercise individually by them as public agencies under the Act. Both Parties acknowledge that the availability of State funds designated for the operation and maintenance of the Property are subject to appropriations.
- G. The Parties deem it to be in the best interest of the public to jointly exercise powers and authorities as hereinafter described and therefore propose to enter into this Agreement pursuant to which they will cooperate mutually for the use, operation, management and maintenance of the Property.

NOW, THEREFORE, in consideration of the above recitals and the mutual promises and covenants contained herein, the Parties hereto agree as follows:

1. Execution. This Agreement shall become effective and binding upon its approval by appropriate action of the governing bodies of Each Party pursuant to *Neb. Rev. Stat.* § 13-804(2) and the execution by each Party hereto.

2. Term. The initial term of this Agreement shall be five (5) years, commencing on May 1, 2015, subsequent to signature by both Parties. Such term will be automatically extended for subsequent consecutive terms of five (5) years each, unless terminated by the mutual agreement of the Parties or terminated earlier as provided in either Paragraphs 22 or 29. This Agreement shall survive a transition of the form of government of a Party from one form to another.

3. Payment. There shall not be rent due to the District from the Commission under this Agreement.

4. Future Development. The Parties agree that in the event the District decides at some future date to further develop or enhance the Property, each Party will cooperate with the other in discussing such development and agree to amend this Agreement if necessary to accommodate such development, subject to the available funds of either party.

5. Exceptions. This Agreement is subject to the following:

- (a) Any prior right, which shall be identified and attached hereto and made a part hereof;
- (b) The District and its specifically designated agents or employees shall, at all times and places, have the right of full ingress for passage over and egress from the Property for the purposes of complying with this Agreement and the related operations of the District.
- (c) The District, as the owner of the Property, reserves the right to vary the water level of the reservoir to the extent deemed necessary or desirable by the District for the purposes of the operation and maintenance thereof, and as provided by law. Except in an emergency, the District will consult with the Commission and give consideration to any adverse effect such a change in the reservoir water level might have on the recreation, fish and wildlife, and related uses, prior to implementing any actions.
- (d) All oil, gas, coal and other minerals now or hereafter found on the Property is exempted from this Agreement and reserved to the District. There is also excepted and reserved to the District the right to prospect and carry on the development for oil, gas, or other mineral and the rights to issue leases or permits to prospect for oil, gas, or other minerals on said lands; provided however, that the Commission will be consulted and given an opportunity to comment on any proposal for the exercise of

such rights. Prior to the execution of such lease or permit, the District will give consideration to any adverse effect such action might have on the recreation, fish and wildlife, and related uses;

6. Improvements on the Property.

- (a) The Commission shall erect signs in conspicuous places at reasonable intervals on the Property each containing a clear statement that the recreation, fish and wildlife, and related use areas affected hereunder are administered and maintained by the Commission and the District.
- (b) The Commission shall not construct any temporary or permanent structures or make any temporary or permanent improvements or alterations on the Property, without the prior written consent of the District other than as provided for in 6(a). All improvements constructed by the Commission, at its sole cost and expense, either before or after the execution of this Agreement, shall remain the property of the Commission if the Commission shall remove or cause such improvements to be removed at its sole cost and expense, within 90 days from and after the termination of this Agreement and shall restore the land to a safe and natural condition. If the Commission does not remove such improvements within such 90-day period, or within any extension thereof granted by the District, such improvements shall become the property of the District. The Commission, subject to available and designated funds, shall be responsible for any damage to such improvements, except for damage caused by the negligent acts or omissions of the District, its officers, directors, employees or agents;
- (c) Any new improvements constructed by the District upon the Property under this Agreement and all improvements existing on the Property at the time of the execution of this Agreement, shall be the property of the District and shall remain so vested. The District shall be responsible for any damage to such improvements, except for damage caused by the negligent acts or omissions of the Commission, its officers, directors, employees or agents; and,
- (d) The Commission shall employ good husbandry practices and keep and maintain all improvements which have been or shall be erected on the Property, whether owned

by the District or the Commission, except for the maintenance which the District agrees to undertake as provided in Paragraph 10 below, in a good and reasonable state of repair, reasonable wear and tear excepted; subject to the Commission's available funds, identified for operation and maintenance of this property.

- (e) Any damage, other than normal wear and tear, to improvements constructed by the District and the Commission jointly under a cooperative agreement, or shared cost agreement, whether written or oral, shall be repaired, subject to availability of funds, by the Party whose employee or agent negligently and proximately caused the damage, or, if the damage is not caused by the negligence of agents or employees of the Parties hereto, then such damages shall be repaired by the joint efforts and at the shared cost of the District and Commission, in proportion to the amount of funds provided by the District and the Commission for construction of the improvement.

7. Reporting of revenues and expenses. The Commission and the District will maintain a complete listing of each Party's revenues received and/or relevant expenses incurred as a result of exercising the terms and conditions of this Agreement. The Parties will exchange and review this information following the end of the first calendar year of this Agreement and each calendar year thereafter.

8. Annual meetings. The Parties agree to hold annual meetings for the purpose of reviewing and discussing, among other things, the use, operations, maintenance, budget, and improvements of the Property. Attendance at such meeting shall be required of the Parks Division Administrator of the Commission or his or her designee and the General Manager of the District or his designee.

9. Commission obligations. The Commission, subject to available funds identified for operation and maintenance of the property encompassed by this Agreement, and as outlined within the Annual Operating Budget labeled Exhibit C and attached to the Agreement, shall provide manpower, equipment and services including, but not limited to the following:

- (a) Enforcement of the Commission's rules and regulations governing recreational areas owned or controlled by the Commission, including law enforcement, camping, day use activities, boating, hunting and fishing;

- (b) Daily staffing for the ordinary management, operation and maintenance of the Property during the period of April 1 – October 1, in each year during each term of this agreement;
- (c) Printing of campground collection envelopes, brochures and other promotional materials relevant to the Property;
- (d) Payment for metered utility services, (electric & water), relevant to the campgrounds, area security lights, restrooms, entry kiosk, recreation area hydrants and shelters, except for the monthly water meter fee assigned to the District;
- (d) Mowing, trimming, tree/shrub care and related grounds keeping activities;
- (e) Maintenance, janitorial services and repair of buildings, fences, utilities and facilities, including trails, related to recreation area services or activities, and a portion of the supplies necessary to perform these functions as outlined in Exhibit C;
- (f) Fuel, routine servicing and repairs for Commission owned equipment used on the Property;
- (g) Collection of entrance fees including fees for camping and other fees authorized by the Commission for recreational areas owned or controlled by the Commission;
- (h) Year-round collection of stray garbage and litter, placement into contractor provided dumpsters for removal by the Commission's contracted garbage removal service;
- (i) Equipment items necessary for the routine management, operation and maintenance of the Property, and insurance for the same; as referenced in Exhibit D
- (j) Removal of snow from portions of roads and parking areas within the Property to allow for ice fishing access.

10. District obligations. The District shall be responsible for the following as outlined within the Annual Operating Budget labeled Exhibit C and attached to the Agreement:

- (a) Maintain and repair any potable water wells located on the Property;
- (b) Procure a tractor with rotary mower attachment and skid loader attachments for the maintenance of the Property, and insurance for the same, when similar items of equipment are not owned or readily available to the Commission; as reference in Exhibit D.

- (c) Contract for the procurement of other items of equipment needed by the Commission in its management, operation and maintenance of the Property, with the District's procurement costs during any year during the term of this Agreement to be credited to the District under the Annual Budget Agreement (Exhibit C) and in consideration of the Cost Share Arrangement, at the end of such year.
- (d) Operate, maintain, repair, and inspect the flood control structure, spillway(s), breakwater structures, jetties, fishing pier, boat ramp, and other appurtenances to the reservoir on the Property
- (e) Construction of a maintenance shop/storage building upon the Property with a minimum area of 30 ft x 48 ft available for use of the Commission; and
- (f) An annual cash subsidy payment, following the most recently completed calendar year of operation, shall be made to the Commission in the month of March for the balance of expenses related to those responsibilities listed on Exhibit C, when those expenses exceed income generated at the recreation area for camping fees, shower fees and park entry permits sold at the site during the most recently completed calendar year; as identified in Exhibit E.

11. Cost Share Arrangement. In consideration of possibly decreased operational budgets, and a desire of the Commission to manage the Property in a financially balanced manner, the District will share in an assigned level of expenses and services as outlined in Exhibit C. Estimated income projections will be credited to the Commission, as identified on Exhibit E, attached to this Agreement. Exhibits C and E will be updated annually to reflect actual expenses and income of the most recently completed calendar year of operation.

12. Recreational liability.

- (a) The Parties acknowledge that in accordance with the Recreation Liability Act, *Neb. Rev. Stat. §§ 37-729 through 37-736*, the District who owns the Property and the Commission who is in control of the Property, owes no duty of care to keep the land safe for entry or use by others or to give warning to persons entering or going upon such land or any hazardous conditions, uses, structures, or activities thereon; and

- (b) Nothing contained in this Agreement is intended or shall be construed to be an agreement that waives, removes or limits the exemption from liability conferred on the District as the owner of the land or upon the Commission the manager of the land to the state by virtue of *Neb. Rev. Stat. § 37-733*.

13. Designation of representative. Each Party shall designate a person to be its representative for coordinating the terms and conditions of this Agreement and shall upon the execution hereof, furnish in writing to the other Party the contact information for such representative. The representative may, upon written notification, be changed from time to time at the discretion of Each Party.

14. Flood control structure. The Parties agree that the District shall operate, maintain, repair, and inspect the flood control structure, spillway(s), breakwater structures, jetties, fishing pier, boat ramp, and other appurtenances to the reservoir on the Property, and shall develop and administer the emergency preparedness plan for the structure and Property. Related expenses will not be considered as part of the cost share in this Agreement. The Commission shall not be held liable for damage to the Property or any improvements thereon resulting directly or indirectly from waters flowing through or over the flood control structure.

15. Concessions. The Commission shall have the right to enter into and administer concession contracts with vendors under which services are provided to the public utilizing the Property. Authorization for any such concessions services shall be at the sole discretion of the Commission. The Commission may collect and retain all receipts derived from licenses or permits which it issues or administers pursuant to fulfilling the obligations and responsibilities created by this Agreement, subject only to the reporting of such revenues pursuant to Paragraph 7 above.

16. Motor Vehicles. The Commission shall have the right, in its sole discretion, to require motor vehicles entering the Property to purchase and display a valid park entry permit; provided however, that District representatives, including officers, directors and/or employees of the District, and volunteer leaders/workers participating in job related inspection and maintenance activities, and District sponsored outdoor learning activities and/or workshops, may have access to the Property

without a permit to conduct official District business if the District provides a list to the Commission in advance of the name(s) of such District representative(s) or leader(s)/workers(s) of the outdoor classroom and/or workshop. District representatives and leaders of the outdoor classroom and/or workshop may be required to furnish proper identification. The Commission may retain all revenues derived from the sale of such permits, subject only to the reporting of such revenues pursuant to Paragraph 7 above.

17. Indemnification. The District assumes no liability under this Agreement for damages to property or injuries or death of the Commission's directors, officers, agents, servants or employees who may be present on the Property at the Commission's invitation, arising from or incident to the regulation of storage, routing, or discharge of water in, over or through the flood control structure, including flooding were applicable. Each Party agrees to defend the other from and against all liabilities, obligations, losses, damages, injuries, claims, demands, and actions arising from the negligent acts of its respective officers, directors, agents, or employees.

18. Enforcement of laws. The Commission shall assume the responsibility for the enforcement and creation of all game, fish, boating and parks laws, rules and regulations on the Property as it deems necessary and desirable to protect the health and safety of persons using the Property and for the preservation of law and order in the interest of public safety. Boating regulations shall provide for enforcement of a 5 mph No-Wake limit governing operation of vessels upon the water. The Commission shall take all reasonable precautions and assist in the prevention, control and suppression of fires on the Property. The Commission shall not engage in, permit any activity on the Property, or allow any omission therein which will interfere with the safety, protection and operation of the flood control structure.

19. Erosion control. The District, at its own cost and expense, or as may be provided, or supplemented by State and/or Federal funds, employ such erosion control measures, as the District deems necessary. The Commission agrees to comply with such erosion control measures. In addition, the Commission with prior written consent of the District, and at its own cost and expense, may employ such erosion control measures, as the Commission deems necessary.

20. No agency relationship. Nothing in this Agreement shall be construed or interpreted as authorizing either Party, or its agents or employees, to act as agents or representatives for or on behalf of the other Party, or to incur any obligation of any kind on behalf of the other Party. In addition, the Commission shall not subject or cause the Property or any part thereof or any improvements located thereon to be subjected to, or pledged as security for, any bond, lien, encumbrance, indebtedness or charge.

21. Damage to property of the Commission and others. The District shall not be liable for any loss, injury, or damage of any kind or nature whatsoever to any building or other structure constructed by the Commission upon the Property, or for any loss, injury, or damage of any kind or nature whatsoever to the contents of any such building or structure located on the Property or to any goods, merchandise, chattels, or any other property now or that may hereafter be upon the Property, whether belonging to the Commission or others; provided however that nothing herein excepts such damages as result of the negligence of the District, its directors, officers, agents, or employees.

22. Termination. This Agreement shall terminate and all rights of the Commission hereunder shall cease, as hereinafter provided:

- (a) Upon expiration of the term of this Agreement as provided in Paragraph 2, above;
- (b) Upon the failure of either Party to observe any of the conditions, exceptions, or reservations set out in this Agreement, subject to default provisions of Paragraph 29;
- (c) Upon the mutual written agreement of the Parties;
- (d) Upon at least one year's prior written notice, without cause, effective as of January 1 of any year during the term of this Agreement, given by either Party to other Party; or
- (e) In the event the Commission fails or refuses to continue to provide available funds to operate, maintain or repair the facility as provided in this Agreement, then the District, upon 30 days written notice to the Commission, may terminate the Agreement for cause.

23. No Waiver. No assent, express or implied, by either Party to any breach of any of the other Party's covenants shall be deemed to be a waiver or any succeeding or continuing breach of the same covenants.

24. Surrender of the Property. Ninety (90) days following the termination of this Agreement under Paragraph 22 or 29, or for any other reason, the Commission shall surrender the Property, together with all of the improvements thereon which are owned or become vested in the District pursuant to any provision of this Agreement, in such repair and condition as shall be in accordance with the covenants of Paragraph 6(b) above.

25. Federal Improvements. If during this Agreement, any improvements are made, or in the future are made, in accordance with the Federal Aid to Wildlife Restoration Act of September 2, 1937 (50 Stat. 917; 16 U.S.C.A. 669a et seq.) as amended, the Federal Aid in Fish Restoration Act of August 9, 1950 (64 Stat., 430; 16 U.S.C.A. 777, et seq.) as amended, and the National Park Service Land and Water Conservation Act, to the lands and waters covered by any Reservoir Development Plan governing the Property, such improvements shall not be impaired by this Agreement; and, further, that before this Agreement is terminated, an agreement safeguarding such federal improvements shall be entered into between the Parties.

26. No Discrimination. The Commission or its concessionaires shall not discriminate against any person or persons because of race, creed, color, sex or national origin in the conduct of its operations hereunder.

27. No solicitation. The Commission warrants that no person or selling agency has been employed or retained to solicit or secure this Agreement upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, excepting bona fide employees or bona fide established commercial agencies maintained by the Commission for the purpose of securing business. For breach or violation of this warranty, the District shall have the right to annul this Agreement without liability, or in its discretion to require the Commission to pay, in addition to the contract price or consideration, the full amount of such commission, percentage, brokerage, or contingent fee.

28. Amendments. Either Party may propose an amendment to this Agreement by submitting it in writing to the other Party, who shall within thirty (30) days consider in good faith the proposed amendment; provided, however, that no such amendment shall, directly or indirectly, affect or impair any written contracts or agreements entered into prior to the effective date of such amendment. No

amendment or other modification to this Agreement shall be effective unless it is in writing and approved by both Parties. Such amendment shall become effective after the Parties have executed it.

29. Default. If either Party to this Agreement believes that the other party is in default of any term or condition of this Agreement, said Party shall send a written Notice of Default to such defaulting party, which Notice shall specify the default and the actions believed to be necessary in order to cure the default. Failure of the defaulting Party to cure a default under this Agreement as soon as reasonably practicable but not later than thirty (30) days after receipt of written notice thereof, shall entitle the other Party to proceed to take actions necessary to cure the default and bill the defaulting Party for any and all costs associated with such cure. A default which cannot be cured within thirty (30) days shall not give rise to a right to terminate this Agreement provided that cure is commenced within thirty (30) days and diligently pursued to completion.

30. Dispute. In the event any dispute or controversy arising out of or relating to this Agreement occurs, the Parties agree to exercise their best efforts to resolve the dispute as soon as possible. The Parties shall continue to perform their respective obligations under this Agreement, which are not affected by the dispute. Any Party may invoke the dispute resolution process set forth in this paragraph by giving to the other Party written notice of its intent to do so, including a description of the issues subject to the dispute and a proposed resolution thereof. Each Party shall designate, within five (5) working days of the notice, a representative who shall attempt to resolve the dispute. If the designated representatives of the Parties cannot resolve the dispute, the Parties shall meet within twenty (20) days from the date it is determined the designated representatives cannot resolve the dispute, or such longer time as may be agreed upon, and attempt to resolve the dispute. If the dispute is still not resolved within ten (10) business days after such meeting, the Parties shall mutually agree on an attorney knowledgeable and experienced in mediation, who shall mediate such dispute.

31. Assignment. Neither Party to this Agreement may assign its interest to any other person or entity without the prior written consent of the other Party.

32. Existing Agreements. This Agreement shall not replace or void any existing agreements already in force for management or land/water use practices on any or all portions of the Property,

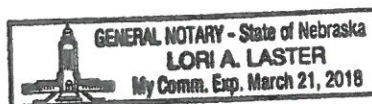
and may incorporate those existing agreements and any subsequent agreements or modifications to those agreements by mutual consent of the affected Parties.

IN WITNESS WHEREOF, Each Party has caused this Agreement to be executed by its duly authorized officer as of the date and year shown below.

PAPIO-MISSOURI RIVER NATURAL RESOURCES DISTRICT,

By: [Signature]
Title: General Manager
Signed: June 25, 2014

STATE OF NEBRASKA)
) ss.
COUNTY OF SARPY)



The foregoing instrument was acknowledged before me this 25th day of June, 2014 by John Winkler, General Manager of the Papio-Missouri River Natural Resources District, on behalf of the District.

[Signature]
Notary Public

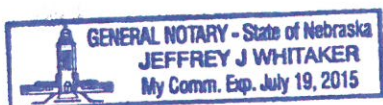
STATE OF NEBRASKA,

Acting by and through the Nebraska Game and Parks Commission

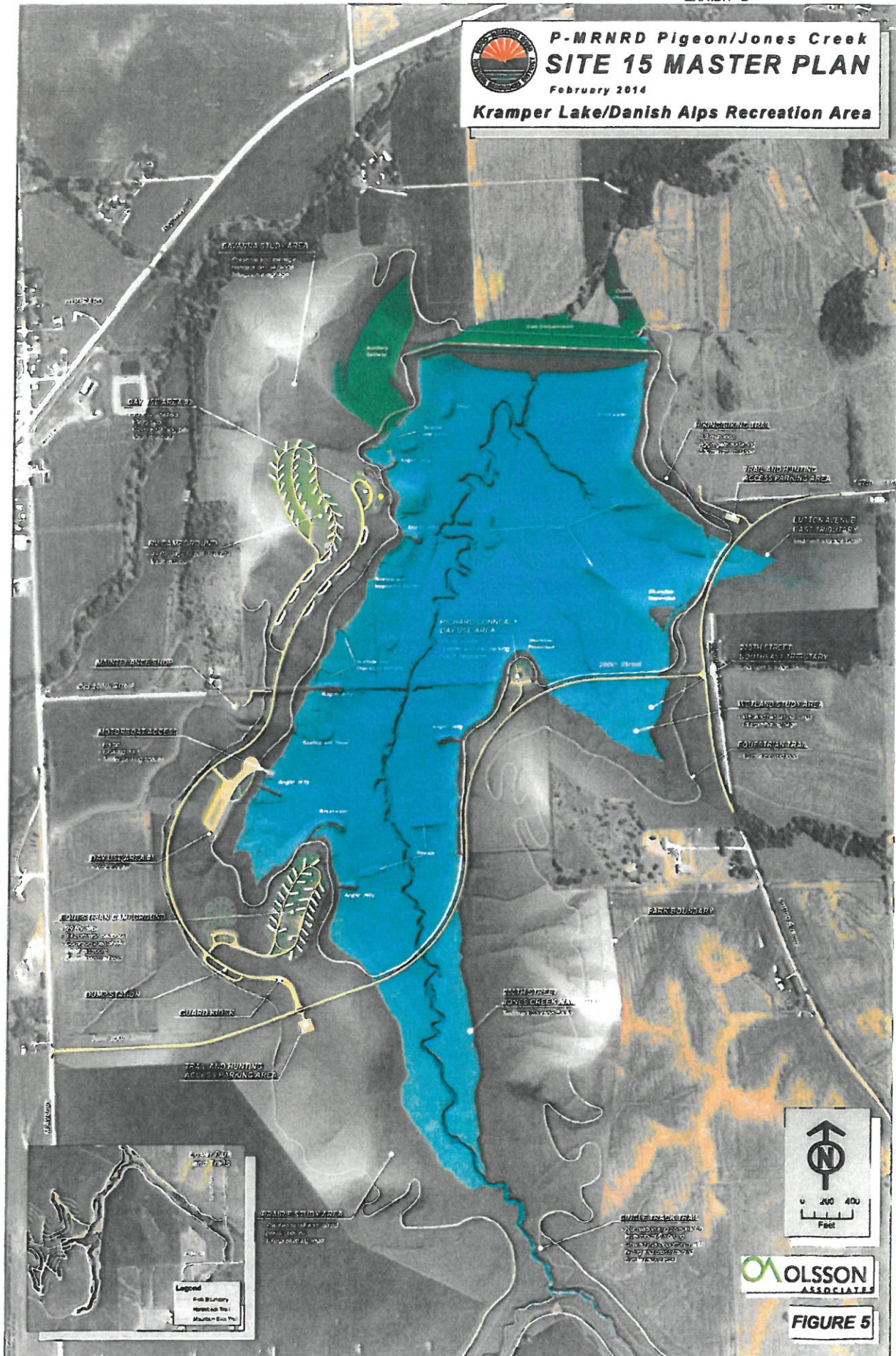
By: [Signature]
Title: Director NGPC
Signed: June 10, 2014

STATE OF NEBRASKA)
) ss.
COUNTY OF Lincoln)

The foregoing instrument was acknowledged before me this 10th day of June, 2014 by James N. Douglas, Director of the Nebraska Game and Parks Commission, on behalf of the Commission.



[Signature]
Notary Public

Kramper Lake/Danish Alps Recreation Area**FIGURE 5**