

Agenda Item 7:

Memorandum

To: Programs, Projects, and Operations Subcommittee
From: Brian L. Henkel, Groundwater Management Engineer
Date: March 07, 2013
Re: Review and Recommendation on the Lower Platte River Basin Water Management Plan Interlocal Agreement:

The District entered into the process of proactively managing the surface water and groundwater supplies of the Lower Platte River through the development of a voluntary Integrated Management Plan (IMP). Three other NRD's in the Lower Platte have also started the voluntary IMP process including Lower Platte South, Lower Platte North, and Lower Elkhorn. The IMP process allows NRD's to work cooperatively with the Nebraska Department of Natural Resources (Department) to manage the water resources with recognition of the interconnectedness of surface water and groundwater. The other NRD's in the Lower Platte, including Upper Elkhorn, Lower Loup, and Upper Loup, recognize the importance of working cooperatively to manage the water resources of the Lower Platte as a whole.

The proposed agreement forms the Lower Platte River Basin Water Management Plan Coalition (Coalition) to further the goal of cooperatively managing the water resources of the Lower Platte River Basin. The Coalition is intended to assist the NRD's and the Department with the development of voluntary IMP's and to assist the NRD's with the management of surface water and groundwater, which could include establishment or modification of groundwater management regulations. The Coalition will provide additional resources to the NRD's and Department and provide a framework for management of the water resources. Each of the NRD's in the Coalition and the Department will contribute \$20,000 to the Coalition to be used as the Operating Fund. The Coalition will be managed by a Coordinator, under the direction of the Management Committee of the Coalition, and the Coordinator will be a liaison of the Nebraska Association of Resource Districts to the Department. The Management Committee of the Coalition is comprised of two representatives from each member of the Coalition. It is proposed that the District representation be comprised of one Board member and one staff member.

Management recommends that the Subcommittee recommend to the Board of Directors that the General Manager be authorized to execute the proposed Interlocal Cooperation Act agreement to create the Lower Platte River Basin Water Management Plan Coalition, subject to changes deemed necessary by the General Manager and approval as to form by District legal counsel, and furthermore that the Chairperson appoint one Board member and the General Manager appoint one staff member to the Management Committee.

**INTERLOCAL COOPERATIVE AGREEMENT
LOWER PLATTE RIVER BASIN WATER MANAGEMENT PLAN COALITION**

This Agreement (hereinafter “this Agreement”) is entered into by and between the following members, all of which are political subdivisions of and are situated in the State of Nebraska (hereinafter referred to as NRDs”) or an Agency of the State of Nebraska, namely the Nebraska Department of Natural Resources (hereinafter referred to as “DNR”), and are collectively referred to as “Parties”.

The Parties to this Agreement are identified as follows:

Nebraska Department of Natural Resources
Lower Platte South Natural Resources District
Lower Platte North Natural Resources District
Papio-Missouri River Natural Resources District
Lower Loup Natural Resources District
Lower Elkhorn Natural Resources District
Upper Elkhorn Natural Resources District
Upper Loup Natural Resources District

WHEREAS, the Lower Platte River Basin is geographically large and diverse in its geology, land use, ground and surface water supplies, and water uses. Each of the parties is charged with responsibilities for planning and managing resources within their respective boundaries, but much of the water supplies and uses are interrelated throughout the entire Basin. The Parties desire to work together towards furthering the purposes of the Agreement.

Therefore, in consideration of the mutual covenants expressed herein, good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

1. AUTHORITY:

This Agreement is made and entered into by the Parties pursuant to the authority conferred upon each under the Interlocal Cooperation Act; Neb. Rev. Stat. S13-801 through S13-827

2. COALITION:

The Parties hereby create the Lower Platte River Basin Water Management Plan Coalition (hereinafter referred to as “Coalition”). The Coalition shall be governed by the terms of this Agreement and pursue the purposes described in Section 3. The Coalition shall not be an entity separate and distinct from the respective Parties hereto, but rather a collaborative working arrangement of the Parties.

3. PURPOSE:

The purpose of this Agreement is for the Parties to form a Coalition to pursue and discuss the various components that may ultimately comprise a voluntary Water Management Plan for the Lower Platte River Basin, and which could subsequently be incorporated into individual NRD Integrated Management Plans. These components may include inventories, surveys, studies, modeling, goals and objectives, development of recommendations, water bank proposals, and action steps.

This Agreement shall provide the organizational and administrative structure and enumeration of the powers, privileges and authority of the Coalition and the financial cooperative effort necessary to carry out its purpose. The powers, privileges and authorities of the Coalition shall not exceed those powers, privileges or authorities exercised or capable of being exercised by each of or any of the Parties to this Agreement, nor shall they be used in a manner that is in violation of any of the Parties' public purposes.

4. POWERS :

The Coalition shall have such powers, privileges and authority as authorized by the Parties as necessary to achieve the purposes of the Coalition as set forth in this Agreement. Such powers, privileges and authority shall include but not be limited to the following authorities:

- i. Schedule and conduct meetings to transact business
- ii. To hold public meetings and public hearings
- iii. To enter into contracts and agreements with other public agencies and private sector vendors.
- iv. To select and hire or contract with a Coordinator to carry out the purposes of the Coalition
- v. To assess, collect and expend funds from the members, from grants, or other financial sources.
- vi. To undertake studies, investigations or surveys and do research as may be necessary to carry out its purposes, enter upon any land, after notifying the owner or occupier, for the purpose of conducting such studies, investigations, surveys, and research, and publish and disseminate the results. Accessing private land will be coordinated with the local NRD.
- vii. To retain legal and other professional services

5. BOARD:

The Board shall be responsible for determining the overall direction of the efforts of the Coalition and shall set policies. The Board shall be composed of two representatives, which may be members of the NRD Boards of Directors or staff appointed by the NRD Boards of Directors, of each of the NRDs and two representatives from the DNR.

- i. Each representative on the Board shall be entitled to one vote.
- ii. Each representative shall be appointed to the Board by written designation, including any alternate and such designation shall be provided to the Chair and the Coordinator prior to or at the specific Board meeting.
- iii. All decisions shall be made by consensus, unless otherwise specifically provided for in this Agreement.
- iv. A quorum, which shall be one-half the total of Board representative plus one, shall be required to transact any official discussions or business.
- v. Meetings shall follow the requirements of the Public Meeting Act.
- vi. Meetings of the Board shall be held at least semiannually, or at the call of the Board Chair.
- vii. The members of the Board shall select from among the membership a "Board Chair" and "Board Vice-Chair"
- viii. The Coordinator shall be responsible for preparing and maintaining Minutes and other records.

6. MANAGEMENT COMMITTEE:

The Management Committee shall be responsible for the administrative, technical, and financial affairs of the Coalition, and other powers, duties and authorities as delegated to it by the Board. The Management Committee shall be composed of the General Manager or his/her designee from each of the NRDs and one member from the DNR. (Nothing shall preclude a representative on the Management Committee from also serving as a designated-staff representative on the Board.)

- i. Each representative on the Management Committee shall be entitled to one vote.
- ii. All decisions shall be made by consensus.
- iii. A quorum, which shall be one-half the total of Management Committee members plus one, shall be required to transact any official discussions or business.
- iv. Meetings shall follow the requirements of the Public Meeting Act.
- v. Meetings of the Management Committee shall be held at least quarterly, or at the call of the Committee Chair.
- vi. The representatives of the Management Committee shall select from among the Committee a "Management Committee Chair" and "Management Committee Vice-Chair"
- vii. The Coordinator shall be responsible for preparing and maintaining Minutes and other records.
- viii. The Management Committee shall offer input on the selection of a candidate for the Coordinator position and shall provide the general direction for the Coordinator.
- ix. The Management Committee shall also retain professional and legal services, if needed, and shall provide coordination with counsel.

7. TECHNICAL COMMITTEE:

The Technical Committee shall be responsible for review and consideration of technical and/or scientific matters pertinent to the Coalition and shall provide information and recommendations regarding such matters to the Management Committee. The Technical Committee shall be composed of representatives from the NRDs and NDNR as appointed by the Management Committee and may include representatives from other local, state, and federal agencies as members or advisors, as determined appropriate.

- i. The Technical Committee shall develop recommendations to the Management Committee
- ii. The Technical Committee shall meet as needed
- iii. Meetings of the Technical Committee shall be chaired by the Coordinator

8. ASSOCIATE NRDS:

Associate NRDs are defined as those NRDs whose geographic area includes a small area either within the surface hydrologic boundaries or the hydrologically connected boundaries, or both, of the Lower Platte Basin. Representatives from the Associate NRDs will serve in an advisory role to the Management Committee, shall be invitees to Board and Management Committee meetings, and shall be consulted on an as-needed basis for information.

9. STAFFING (Coordinator):

Under a separate agreement, a NDNR Liaison Position will be created in the office of the Nebraska Association of Resources Districts and this position is anticipated to assist in coordination services to the Coalition.

- i. The Coordinator shall work under the general guidance from the Management Committee and the direct supervision of the Nebraska Association of Resources Districts and NDNR.
- ii. As a portion of their duties the Coordinator will provide the day-to-day administration for the Coalition, including information dissemination to members and the general public, scheduling and organization of meetings, record-keeping, coordination of study participants including consultants and legal counsel, and financial accounting.

10. LEAD PARTY:

The Lower Loup Natural Resources District shall serve as the Lead Party for the Coalition. As Lead, its responsibilities include:

- i. Serving as the financial administrator, to include collecting and holding the dues and other revenues, making the disbursements for expenses related to the Coalition activities, and as grant applicant and administrator.
- ii. Serving as contracting member on behalf of Coalition.

11. FINANCES AND BUDGET:

Upon the effective date of the Agreement, an initial assessment will be made to each of the Parties to create an Operating Fund in the following amounts:

- i. \$20,000 each for the NRDs and also to NDNR, subject to appropriations.
- ii. Such funds shall be payable to the Coalition and shall be made within sixty (60) days of the effective date of the Agreement.

Annually the Board shall establish and adopt a budget for the preparation and completion of the work undertaken by the Coalition. Following consultation with each Party regarding ability to contribute toward such necessary funds, the Board shall determine the assessment.

The Board shall have the authority to authorize applications for financial grants, to include use of Coalition funds and in-kind services for match. Such applications shall be made by the Lead on behalf of the Coalition.

12. DURATION:

This Agreement shall become effective and binding upon its approval by appropriate action of all of the Parties. The term of this Interlocal Agreement shall be five (5) years from the effective date, unless further extended by the mutual agreement of all Parties.

13. WITHDRAWAL:

Any party to this Agreement may withdraw from this Agreement and from representation on the Coalition upon written notification to the Chair of the Coalition Board. Such withdrawal shall be effective upon receipt of the written notification. There will be no financial reimbursement of remitted funds unless specifically authorized by the Board.

14. NEW MEMBERS:

New members can be added to the Coalition with a vote of the Board.

15. PARTIAL OR COMPLETE TERMINATION :

This Agreement and the Coalition created hereby shall be terminated upon the earlier of the completion of its purposes and objectives described herein or upon the vote of two-thirds of the then constituted Board for the complete or partial termination of the Coalition and this Agreement. Upon action to terminate the Coalition, all outstanding debts and obligations of the Coalition shall be paid and all unused funds and appropriations shall be returned to the remaining Parties in such proportions as represented by the pro rata share paid by each Party.

16. AMENDMENT AND MODIFICATION:

For all matters other than membership, this Agreement may be amended or modified upon the approval of written modifications by all then current Parties hereto in writing, signed by and duly adopted and approved by each of the current Parties hereto.

IT IS AGREED BY AND BETWEEN THE PARTIES HERETO, EACH ACKNOWLEDGING THE RECEIPT OF GOOD, ADEQUATE, AND VALUABLE CONSIDERATION, AS FOLLOWS:

This Agreement may be executed in any number of counterparts, each of which shall be an original, but all such counterparts shall constitute one and the same instrument. This Agreement is hereby approved and executed by the following Parties on the dates shown below.

NEBRASKA DEPARTMENT OF NATURAL RESOURCES

BY: _____

DATE: _____

LOWER ELKHORN NATURAL RESOURCES DISTRICT

BY: _____

DATE: _____

LOWER LOUP NATURAL RESOURCES DISTRICT

BY: _____

DATE: _____

LOWER PLATTE SOUTH NATURAL RESOURCES DISTRICT

BY: _____

DATE: _____

LOWER PLATTE NORTH NATURAL RESOURCES DISTRICT

BY: _____

DATE: _____

PATIO-MISSOURI RIVER NATURAL RESOURCES DISTRICT

BY: _____

DATE: _____

UPPER ELKHORN NATURAL RESOURCES DISTRICT

BY: _____

DATE: _____

UPPER LOUP NATURAL RESOURCES DISTRICT

BY: _____

DATE: _____