

Agenda Item: 6

Memorandum

To: Programs, Projects and Operations Subcommittee

Subject: Eastern Nebraska Water Resources Assessment (ENWRA) Interlocal Agreement Amendments

Date: September 26, 2007

From: Gerry Bowen

The Eastern Nebraska Water Resources Assessment (ENWRA) Project is a cooperative venture between the Nemaha, Lower Platte South, Lower Platte North, Lower Elkhorn, Lewis and Clark, and the Papio-Missouri River NRDs to assess groundwater issues in the glaciated region of the eastern part of the state.

Due to recent developments, some minor changes to the ENWRA interlocal agreement are proposed. The original agreement (see attached) was approved by the District in December, 2006. Two amendments are proposed as follows, with explanations provided.

Amendment #1 (see attached) provides for the following:

1. The original project budget anticipated hiring a project coordinator, but the agreement did not specifically address that eventuality. Ms. Dana Divine has been hired to fill that position. It is proposed that Article III, Section 3.01 be completely rewritten to include the duties, the office arrangements, and the compensation (salary and expenses) for the project coordinator position.
2. It is proposed that Article IV, Section 4.01 be amended to provide for the General Managers of the six NRDs to meet annually to review project accomplishments, goals, and the next year's budget.
3. It is proposed that Article V, Sections 5.02 and 5.03 be amended to provide an additional two years to the project life span (a total of five years) at the same funding level per year as in the original agreement.

Amendment #2 (see attached) specifically acknowledges the hiring of Dana Divine as the Project Coordinator, and that her work station be located in the Lower Platte South NRD.

Management recommends approval.

- **It is recommended that the General Manager be authorized to execute Amendments #1 and 2 to the Eastern Nebraska Water Resources Assessment Project Interlocal Agreement, subject to approval as to form by the District Legal Counsel.**

INTERLOCAL COOPERATIVE AGREEMENT

BETWEEN THE

**LEWIS & CLARK NATURAL RESOURCES DISTRICT
LOWER ELKHORN NATURAL RESOURCES DISTRICT
LOWER PLATTE NORTH NATURAL RESOURCES DISTRICT
LOWER PLATTE SOUTH NATURAL RESOURCES DISTRICT
NEMAHA NATURAL RESOURCES DISTRICT and
PAPIO-MISSOURI RIVER NATURAL RESOURCES DISTRICT**

AMENDMENT #1

THIS AMENDMENT is made and entered into this ___ day of _____, 2007, to modify the original agreement signed on the 18th day of January, 2007.

Modification #1: Article III, Section 3.01

The section shall be changed to read:

The Districts shall retain an ENWRA Coordinator (“the Coordinator”) as part of the annual budget of the project. The Coordinator shall be responsible for developing goals, objectives, and work plans for the project; shall seek funding for the project; shall seek expert advice on pertinent technical issues; shall develop and assist in the implementation of standard operating procedures for data collection; shall collect background information, conduct literature searches, and oversee the development and maintenance of databases; shall coordinate meetings of the technical committee and other meetings; shall maintain an understanding of each District’s water resources issues, current studies and problems, and relate them to the appropriate agencies or persons; shall

analyze and address hydrogeologic problems that cross District boundaries; shall coordinate groundwater modeling efforts that cross District boundaries; shall assist the Districts in developing groundwater management plans that are consistent with regional hydrogeologic knowledge; shall prepare reports and address the Boards of Directors; shall assist with field activities as necessary; shall oversee contracts associated with performing the work; and shall perform duties as necessary for the advancement of the goals of the project. A search committee shall be selected by the Technical Committee to select the Coordinator. The office location of the coordinator shall be approved by the General Manager of the District in which he/she chooses to be located and by mutual agreement of all Districts. The coordinator shall be a full-time employee of the District in which he/she is located, with salary and benefits paid for through the project funds as outlined in Section 5.03. LPNNRD shall reimburse the District in which the Coordinator is located on a quarterly basis for the amount of \$15,250.74 for the second quarter of fiscal year 2008 (October through December 2008), for the amount of \$16,244.28 for the third quarter of fiscal year 2008 (January through March 2009) and \$16,711.04 per quarter thereafter for the duration of this agreement. LPNNRD shall reimburse the District in which the Coordinator is located annually for Coordinator expenses in the third quarter of each fiscal year starting in fiscal year 2008 for the duration of this agreement. The Coordinator expenses will be assumed to be \$5,000 annually.

Modification #2: Article IV, Section 4.01

This section shall be changed to read:

The General Managers of each participating District shall meet as needed, but at least annually in March for the duration of the Agreement to review the status of the project, discuss policy issues related to the project, and approve a work plan and budget which shall then be forwarded to the Technical Committee.

Modification #3: Article V, Section 5.02-5.03

This section shall be changed to read:

The Districts shall contribute funding for the project for the entire term of the agreement, which is 5 years from the date of the signed original agreement, unless further extended by mutual agreement of all Districts. The Districts agree that funding for FY 2007-08 through FY 2011-12 will be as follows:

	FY 2007-08	FY 2008-09	FY 2009-10	FY 2010-11	FY 2011-12
LCNRD	\$7,000	\$7,000	\$7,000	\$7,000	\$7,000
NNRD	\$20,000	\$20,000	\$20,000	\$20,000	\$20,000
PMRNRD	\$30,000	\$30,000	\$30,000	\$30,000	\$30,000
LENRD	\$30,000	\$30,000	\$30,000	\$30,000	\$30,000
LPSNRD	\$30,000	\$30,000	\$30,000	\$30,000	\$30,000
LPNNRD	\$30,000	\$30,000	\$30,000	\$30,000	\$30,000
Total	\$147,000	\$147,000	\$147,000	\$147,000	\$147,000

LEWIS AND CLARK NATURAL RESOURCES DISTRICT

BY: _____

DATE: _____

LOWER ELKHORN NATURAL RESOURCES DISTRICT

BY: _____

DATE: _____

LOWER PLATTE NORTH NATURAL RESOURCES DISTRICT

BY: _____

DATE: _____

LOWER PLATTE SOUTH NATURAL RESOURCES DISTRICT

BY: _____

DATE: _____

NEMAHA NATURAL RESOURCES DISTRICT

BY: _____

DATE: _____

PATIO-MISSOURI RIVER NATURAL RESOURCES DISTRICT

BY: _____

DATE: _____

INTERLOCAL COOPERATIVE AGREEMENT

BETWEEN THE

**LEWIS & CLARK NATURAL RESOURCES DISTRICT
LOWER ELKHORN NATURAL RESOURCES DISTRICT
LOWER PLATTE NORTH NATURAL RESOURCES DISTRICT
LOWER PLATTE SOUTH NATURAL RESOURCES DISTRICT
NEMAHA NATURAL RESOURCES DISTRICT and
PAPIO-MISSOURI RIVER NATURAL RESOURCES DISTRICT**

AMENDMENT #2

THIS AMENDMENT is made and entered into this ___ day of _____, 2007.

This Amendment supplements the original agreement effective as of January 18, 2007, and Amendment #1 effective as of _____, 2007.

A. Pursuant to the provisions of Amendment #1, which modifies Article III, Section 3.01 of the original agreement, Dana Divine, the ENWRA Coordinator (the "Coordinator"), has been hired, and the Technical Committee has chosen the LPSNRD's office in Lincoln, Nebraska, as her work location. The General Manager of LPSNRD has approved the office location, and all of the Districts by the execution of this Amendment #2, agree that the office location of the Coordinator shall be at the LPSNRD's office in Lincoln, Nebraska.

B. Pursuant to Amendment #1, the Coordinator is a full-time employee of LPSNRD, and her salary and benefits will be paid through project funds as set forth in Amendment #1.

C. Pursuant to Amendment #1, LPNNRD will reimburse LPSNRD the amounts set forth in Amendment #1 for the salary and benefits of the Coordinator.

D. In all other respects the original agreement and Amendment #1 are hereby reaffirmed.

LEWIS AND CLARK NATURAL RESOURCES DISTRICT

BY: _____

DATE: _____

LOWER ELKHORN NATURAL RESOURCES DISTRICT

BY: _____

DATE: _____

LOWER PLATTE NORTH NATURAL RESOURCES DISTRICT

BY: _____

DATE: _____

LOWER PLATTE SOUTH NATURAL RESOURCES DISTRICT

BY: _____

DATE: _____

NEMAHA NATURAL RESOURCES DISTRICT

BY: _____

DATE: _____

PAPIO-MISSOURI RIVER NATURAL RESOURCES DISTRICT

BY: _____

DATE: _____

COPY

INTERLOCAL COOPERATIVE AGREEMENT

BETWEEN THE

**LEWIS & CLARK NATURAL RESOURCES DISTRICT
LOWER ELKHORN NATURAL RESOURCES DISTRICT
LOWER PLATTE NORTH NATURAL RESOURCES DISTRICT
LOWER PLATTE SOUTH NATURAL RESOURCES DISTRICT
NEMAHA NATURAL RESOURCES DISTRICT and
PAPIO-MISSOURI RIVER NATURAL RESOURCES DISTRICT**

THIS AGREEMENT is made and entered into this 18th day of January 200⁷, by and between the Lewis & Clark Natural Resources District ("LCNRD"), Lower Elkhorn Natural Resources District ("LENRD"), Lower Platte North Natural Resources District ("LPNNRD"), Lower Platte South Natural Resources District ("LPSNRD"), Nemaha Natural Resources District ("NNRD"), and the Papio-Missouri River Natural Resources District ("PMRNRD") hereinafter referred to individually as "each District" or the individual District's initials, for example, LPNNRD, or collectively as the "Districts".

WITNESSETH:

RECITALS

A. The Districts are political subdivisions of the State of Nebraska organized and existing pursuant to *Neb. Rev. Stat. §§ 2-3201, et seq.*, and have the authority, pursuant to *Neb. Rev. Stat. § 2-3232(1)*, to make studies, investigations, or surveys and do research as may be necessary to carry out its authorized 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.

B. Among the authorized purposes of the Districts, pursuant to *Neb. Rev. Stat.* § 2-3229 are water supply for any beneficial uses, development, management, utilization, and conservation of ground water and surface water, pollution control, and solid waste disposal and sanitary drainage

C. The State or any local government may exercise any of its powers or perform any of its functions jointly or in cooperation with any other governmental entity as authorized by Article XV § 18 of the Nebraska Constitution. Any two or more public agencies (county, city, village, school district, agency of the State government, or political subdivision of this State) are authorized by Neb. Rev. Stat. §§ 13-801 to 13-827 (Reissue 1991) to enter into interlocal agreements with one another for joint or cooperative action for any power or powers, privileges or authorities exercised or capable of exercise individually by such public agencies.

D. Within the boundaries of the Districts are glaciated areas of Eastern Nebraska which are significant sources of both ground water and surface water. There exists limited data regarding water quality, water quantity, and interaction between aquifers in this area and the Districts desire to conduct studies, investigations, surveys and research for the purpose of gathering more data to better understand, predict, and manage the future use of these important water resources.

E. Each District desires to cooperate with the other Districts in three pilot studies to establish appropriate methodologies to conduct hydrogeologic framework studies for the glaciated areas of Eastern Nebraska. The overall goal is that the methodologies derived from these pilot studies may be used to conduct more extensive hydrogeologic

framework studies for the entire area of Eastern Nebraska, hereinafter referred to as the "Project".

F. The Districts have budgeted funds for Fiscal Year 07 which will partial fund the Project and the LPNNRD has applied for funding from the Interrelated Water Management Plan Program Fund (IWMPPF) administered by the Nebraska Department of Natural Resources for the Eastern Nebraska Water Resources Assessment (BNWRA). The application requests \$1,536,000 for a three year project. The Year One request is for \$360,000, which has been approved.

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

ARTICLE I

OBJECTIVES AND PURPOSES

Section 1.01

The objectives and purposes of this Interlocal Agreement are to carry out those public powers, duties and obligations of the Districts by establishing a single uniform procedure for implementing the Project.

Section 1.02

In order to attain the objectives and purposes of this Interlocal Agreement, each District shall perform the applicable provisions of this Agreement in good faith and shall cooperate with the other Districts where possible.

ARTICLE II

TERM OF AGREEMENT

Section 2.01

This Interlocal Agreement shall become effective and binding upon its approval by appropriate action of the governing bodies of each District pursuant to Neb. Rev. Stat. § 13-1804(2) and execution by all of the Districts.

Section 2.02

Each District hereby agrees to participate with the other Districts to this Interlocal Agreement in the conduct of the activities hereinafter described.

Section 2.03

In the event that a District fails to perform its obligations pursuant to this Interlocal Agreement, the other Districts, either individually or jointly, may legally seek to enforce such obligation in any court of law or equity.

Section 2.04

The term of this Interlocal Agreement shall be five (5) years from the date of its adoption by each District, unless further extended by the mutual agreement of all Districts. This Interlocal Agreement shall survive a transition of the form of government of a District from one form to another.

ARTICLE III

THE PROJECT

Section 3.01

Each District shall designate a representative to serve on the Technical Committee, which shall have authority to make technical decisions on behalf of the Districts.

Section 3.02

The Technical Committee shall annually elect a Project Coordinator who will serve as the contract person for the overall coordination of the Technical Committee, including the USGS, UNL/C&SD, and others involved in the Project.

Section 3.03

The Technical Committee shall meet at least once each calendar quarter, at a location selected by the Committee.

Section 3.04

A quorum of the members of the Technical Committee may take action on behalf of the Committee, so long as such actions are within the parameters established by this agreement, the work plan, and the annual budget.

Section 3.05

Minutes of all Technical Committee meetings shall be kept by the Committee and distributed to all ENWRA members, along with copies of the quarterly reports from each of the local Pilot Study sites.

Section 3.06

The Technical Committee member from each District that is located in a study area of a Pilot Study Site, shall be required to serve on the Local Pilot Study Site Team. The study areas are Oakland, Firth, and Ashland/Linoma.

Section 3.07

All contractors, including USGS, UNL/C&SD, will be required to notify the Local Pilot Study Site Team if there is a need for them to enter upon private property.

Section 3.08

Each District shall be responsible for obtaining entry onto private property for contractors who are working in their respective Districts, and to pay any damages that result from such entry or work performed on private property.

Section 3.09

Each Local Pilot Site Study Team shall determine the method for notifying and shall notify the public of the work being performed as a party of the Project.

Section 3.10

Any permit required by Contractors in connection with the Project shall be obtained by the District in which the work is being performed.

Section 3.11

Each District in which work is being performed as part of the Project shall ensure that the One Call Notification Law is complied with.

Section 3.12

The Technical Committee shall provide copies of all reports prepared as part of the Project to each District.

Section 3.14

Each District shall be responsible for the negligent acts or omissions of its own employees and shall not be responsible for the negligent acts or omissions of other Districts employees.

ARTICLE IV

WORK PLAN, BUDGET AND ADMINISTRATION

Section 4.01

Each District shall annually approve a work plan and budget which shall then be forwarded to the Technical Committee.

Section 4.02

LPNNRD shall be responsible for applying for all grants and the administration of all grant funds which are received and shall entered into all contracts in its name for the Project and all other work set forth in this Agreement and the annual work plan.

Section 4.03

LPNNRD shall prepare and send annually, a statement of the shared costs incurred for the Project for each District and each District shall pay its share of the costs within 45 days of the receipt of such statement.

Section 4.04

LPNNRD shall prepare and send to each District on a quarterly basis, a summary of the receipts and expenses of the Project.

Section 4.05

LPNNRD shall require each Contractor to provide adequate liability insurance for bodily injury and property damage sustained as a result of each Contractor's performance of its obligations and responsibilities under any contract related to the Project.

ARTICLE V

FUNDING

Section 5.01

State funding for the Project which includes a three year study is crucial for its time completion. Funding from IWMPPF for the first year has been approved in the amount \$360,000.

Section 5.02

Each District has budgeted funding for fiscal year ("FY") 2007 as follows:

LCNRD \$5,000; NNRD \$10,000, PMRNRD \$15,000; LENRD \$20,000; LPSNRD \$20,000; and LPNNRD \$20,000; a total of \$90,000 for FY 2007.

Section 5.03

The Districts agree that funding for FY 2008 and 2009 will be limited as follows:

LCNRD \$7,000; NNRD \$20,000; PMRNRD \$30,000; LENRD \$30,000; LPSNRD \$30,000 and LPNNRD \$30,000; a total of \$147,000 for FY 2008 and a total of \$147,000 for FY 2009.

ARTICLE VI

POWERS

Section 6.01

The Districts hereto shall have all of the powers and authorities pursuant to state statutes that are necessary to carry-out the stated objectives and purposes on behalf of the joint and cooperative effort to facilitate the gathering of data for of the Project.

Section 6.02

Each District shall have such other powers as are authorized under the Nebraska statutes that establish each such District, and under the Interlocal Cooperation Act, Neb. Rev. Stat. §§ 13-801 to 13-827, which are necessary and proper for the achievement of the stated objectives and purposes as set forth in this Interlocal Agreement.

ARTICLE VII

AMENDMENTS

Section 7.01

Any District may propose an amendment to this Interlocal Agreement by submitting it in writing to the other Districts, which shall immediately 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.

Section 7.02

No amendment or other modification to this Interlocal Agreement shall be effective unless it is in writing and approved by all Districts. Such amendment shall become effective after all six (6) parties have approved and executed the same.

Section 7.03

This agreement may be executed in two or more counterparts, each of which shall be an original but all of which shall constitute one and the same instrument.

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

LEWIS AND CLARK NATURAL RESOURCES DISTRICT

BY: _____

DATE: _____

LOWER ELKHORN NATURAL RESOURCES DISTRICT

BY: _____

DATE: _____

LOWER PLATTE NORTH NATURAL RESOURCES DISTRICT

BY: _____

DATE: _____

LOWER PLATTE SOUTH NATURAL RESOURCES DISTRICT

BY: _____

DATE: _____

NEMAHA NATURAL RESOURCES DISTRICT

BY: _____

DATE: _____

PATIO-MISSOURI RIVER NATURAL RESOURCES DISTRICT

BY: John W. Miller

DATE: 12-18-05