



LOWER PLATTE SOUTH natural resources district

3125 Portia Street | P.O. Box 83581 • Lincoln, Nebraska 68501-3581
P: 402.476.2729 • F: 402.476.6454 | www.lpsnrd.org

Agenda Item #11

Memorandum

Date: October 20, 2020
To: Each Director
From: Paul D. Zillig, General Manager
RE: Water Resources Subcommittee Meeting Minutes.

The Water Resources Subcommittee met via video/teleconference at 5:30 p.m. on Monday, October 19, 2020. Subcommittee members participating included Bob Andersen, Chelsea Johnson, Karen Amen, Vern Barrett, Greg Osborn, David Landis, and Dan Steinkruger. Others accessing the meeting included Larry Ruth, Deborah Eagan, Gary Hellerich, Dave Hladik of Valparaiso, Mike Sotak of FYRA Engineering, Tracy Zayac, Mike Murren, Steve Herdzina, Craig Matulka, Dick Ehrman, Dan Schulz, David Potter, and myself.

Chair Andersen opened the meeting and welcomed those in attendance. Dave Hladik reported that he was calling in from harvest and he'd like to participate when he's available. The item concerning the Dwight-Valparaiso-Brainard SMA Irrigation allocation violation was moved up and discussed. Herdzina reviewed his attached memo on the situation and proposed process/timeline. The steps from here are:

1. Notify landowner (Hladik/Hanson/Ragusa) of November WRS Meeting and invitation to attend.
2. Herdzina completes the Investigator's Report.
3. November WRS Meeting Subcommittee determines if probable violation has occurred and alleged violator can request a formal hearing.
4. November Board Meeting – report to Board and any Subcommittee recommendations.
5. December Board Meeting, conduct public hearing, if requested by landowner. Subcommittee recommendation is accepted or rejected.

Hladik stated that he had three points he wanted to discuss. First, there are actually 2 wells on the farm and only 1 well is over the allocation. Second, the Rule & Regulation changes last winter resulted in gravity irrigator's annual maximum allocation being reduced by 2 inches/year, he wants those 2 inches back, and thirdly, he really doesn't agree with the whole allocation rule or reasoning.

The Subcommittee briefly discussed the situation and let Hladik know that we will inform him of the November Subcommittee date and time and will invite them to that Subcommittee Meeting.

The next item on the agenda was a report by Potter on the Upper Salt 3-A/SW 2nd Street Project and the need to enter into a modification of the Memorandum of Understanding with USDA/NRCS to formalize the reimbursement of additional landrights and relocation costs, up to 65% of the total project cost. A copy of the proposed Modification #1 to the Memorandum of Understanding is attached. It was moved by Osborn, seconded by Landis, and unanimously approved by the Subcommittee to **recommend the Board of Directors approve Modification No. 1 to the Memorandum of Understanding with USDA/NRCS for the Upper Salt 3-A watershed structure rehabilitation project.**

The next item on the agenda was to consider bids received for the Upper Salt 6-1 Spillway Replacement Project. Matulka reviewed the location of the project northeast of Hallam and that the principal spillway pipe must be replaced on the 61 year old dam. Matulka reviewed the attached memo from Mike Sotak on the bids received at Monday's bid opening. Sotak reported that he was pleased with the interest in the project (6 bids) and he felt that they underestimated the cost due to the smaller size of the project and the difficult access. It was moved by Landis, seconded by Amen, and unanimously approved by the Subcommittee to **recommend the Board of Directors approve the bid of \$86,579.20 from Pat Thomas Construction of Lincoln, NE for the Upper Salt 6-1 Spillway Replacement Project.**

The next item on the agenda was a report by Zayac on the proposed Landowner Irrigation Agreement for NRD dams. A copy of the proposed agreement is attached. Zayac reported that the Subcommittee direction has been included in the agreement and the agreement covers the basics of what is needed, depending on the situation there will be the opportunity for site specific provisions. The Subcommittee discussed the options for covering NRD costs to administer the program. The Subcommittee discussed a flat fee vs a reimbursement of actual costs and the pros and cons of each. It was moved by Barrett, seconded by Landis, and approved by the Subcommittee members present on a vote of 5 "yes" and 1 "no" (Steinkruger voted "no" and Amen had left the meeting) to **change the annual fee in the Irrigation Agreement from \$20/year to \$50/year.**

Mike Murren then gave a construction update for the Oak-Middle 82-B and Upper Salt 3-A Watershed Rehabilitation Projects. Gary Hellerich requested some time at the next Water Resources Subcommittee Meeting to talk about the Dwight-Valparaiso-Brainard Special Management Area.

There being no additional business the meeting adjourned at 6:30 pm.

PDZ/pz

Encl. 4

cc: Steve Seglin & Corey Wasserburger



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Memorandum

Date: October 5, 2020
To: Water Resources Subcommittee
From: Steve Herdzina, Water Resources Compliance Specialist
Subject: LPSNRD Ground Water Rules & Regulations Probable Violation Background

Beginning in 2014, the District revised the Ground Water Rules and Regulations to add the Dwight-Valparaiso-Brainard (DVB) Special Management Area. With the revised Rules and Regulations, the District established an initial 3-year allocation of 21 acre-inches per irrigated acre not to exceed nine acre-inch annual maximum for sprinkler irrigation and thirty acre-inches per irrigated acre not to exceed a twelve acre-inch maximum for gravity irrigation, beginning in calendar year 2014. On January 15, 2020, new Rules and Regulations went in to effect for the District that changed the allocation amount to a 3 year total of 21 inches for all types of irrigation systems with a 9 inch 1 year maximum and changed from a fixed 3 year allocation to an ongoing 3 year rolling allocation.

Since the inception of the allocation in 2014, the District has had one violation. This incident occurred during the 2016 growing season and resulted in an overuse of the maximum water usage over the 3 year allocation period. In that instance, an exceedance in the amount of 5.55 inches was observed in excess of the 3 year maximum allocation of 21 inches. As a result, a penalty was imposed of two times the exceedance resulting in a total reduction of 11.1 inches for that well over the next 3 year allocation period. A timeline highlighting the Water Resources Subcommittee and Board of Director actions from the 2017 violation are documented in Attachment 1. A map showing the location of the violation is provided in Attachment 2. The associated section of the LPSNRD Groundwater Rules and Regulations that refers to the violation process is provided as Attachment 3. The anticipated timeline for this 2020 alleged violation is included as Attachment 4.

Overview of 2017 violation

November 2016

- Received meter reading for well id G-069699 equipped with water meter GP11-3196, the producer that showed allocation overuse.

Early 2017

- Overuse was confirmed after reviewing water usage postcards. The well in question used 35.55 inches of water over the 3 year allocation period meaning an excess of 5.55 inches. The owner is Beverly Ann Ragusa Trust managed by Doug Hansen of Farmers National Company. The operator for the well is Dave Hladik. The farm has two irrigation wells each with their own meter. The west field, where the overuse occurred, is listed as 48.4 acres. The east field, which contains well id G-033528 equipped with water meter GP11-3195, contains 77.3 acres.

March 10, 2017 – Water Resources Subcommittee Meeting

- Report was provided to WRS, WRS determined that there is a probable violation and directed staff to notify the alleged violator of the proposed penalties and their right to a formal hearing. Also, directed staff to write the alleged violator inviting them to meet informally with the WRS at the next Subcommittee meeting prior to the April board meeting and Public Hearing. Motion was made to change “probable violation” to “potential violation”, motion failed.

March 15, 2017 – Board of Directors meeting

- Reported to the board that the probable violation had occurred. No board action needed at this time.

April 12, 2017 – Water Resources Subcommittee Meeting

- Operator and farm manager presented information to WRS. Specifically mentioned how they wish their two fields were joined for usage. No action taken, however WRS requested staff to send the background information on the probable violation to the Board.

April 19, 2017 – Board of Directors Meeting

- Hearing commenced. Compliance specialist, operator, and farm manager sworn in and presented testimony. Motion made to treat both fields as one, motion failed. Motion presented that requesting clarification on rules and regulations and that no penalty will be applied. Motion withdrawn. Motion that Board finds there has been a violation. This motion was approved.

April 20, 2017

- The Order on Violation of Allocation of Ground Water was sent to the owner and operator informing of the violation and enacting the subsequent penalty.

Beverly Ann Ragusa Certified Irrigated Acres Non-HCA (LPSNRD)

Attachment 2



0 250 500 1,000
Feet

Map Created: August 2011 - LPSNRD, sdr
Update: March 2017

- Reg Irrigation Wells
- Reg Commercial Wells
- Certified Irr Areas (Non-HCA)

- Section Lines
- Parcel Lines
- + Cities



- (iii) To restrain the construction of illegal water wells or the withdrawal or use of water from illegal wells.

Rule 2 Any person who violates any of the provisions of *Neb. Rev. Stat.* §§46-721 to 46-734, and §46-748 for which a penalty is not otherwise provided, other than the Director of Natural Resources, or the Department of Natural Resources, shall be subject to a civil penalty of not more than five hundred dollars. Each day of continued violation shall constitute a separate offense.

Rule 3 Complaints

- (a) Any person who owns or leases land within the boundaries of the District, any person who resides within the District, any non-resident person who can show that the actions of any person within the District directly affects him or her, or the Board on its own motion may file a written complaint against a person alleging a violation of these rules and regulations or that such person is constructing, operating or possessing an illegal water well.
- (b) Complaints shall be filed at the office of the District, 3125 Portia Street, at Lincoln, Lancaster County, Nebraska, on complaint forms prepared by said District which shall be available at such office or at such other office or offices from time to time the Board of Directors shall designate.

Rule 4 Investigations

- (a) The alleged violation shall be investigated by a person authorized by the Board to conduct such investigations within five (5) days following the day of the filing of the complaint exclusive of Saturday, Sundays, and legal holidays. A copy of the complaint shall be delivered to the alleged violator in person, or at his or her place or residence, or be sent by certified mail prior to the investigation.
- (b) Upon completion of the investigation, the investigator shall file a report of his or her findings in the District office and shall deliver a copy of said report to the alleged violator and to the complainant, if other than the Board, in person, or at their place of residence, or shall transmit the same by certified mail.

Rule 5 Submittal of Investigation Report and Subcommittee Consideration Alleging Violation and Alleged Violators Alternatives

- (a) A Subcommittee consisting of District Board members shall assist the District staff in administering these rules and regulations and make a determination as to whether a probable violation of these rules and regulations has occurred. Such determination shall be based upon the investigator's report completed pursuant to these rules and regulations and an on-site inspection by the Subcommittee, if warranted. The Subcommittee may also request that both the alleged violator and the complainant appear before them to discuss the complaint. The Subcommittee shall report its findings to the Board, the alleged violator and the complainant with a recommendation of further actions as follows:

- (i) If the Subcommittee determines that no violation of these rules and regulations has occurred, it shall recommend and the Board may dismiss the complaint. The complainant shall be given an opportunity to appear before the entire Board before the Board acts on the recommendation;
- (ii) If the Subcommittee determines that a probable violation of these rules and regulations has occurred, the alleged violator shall be informed of its findings by letter delivered in person or sent by registered or certified mail. The letter shall specify the options available to the alleged violator, including:
 - (A) Agree with and accept as true and correct the Subcommittee's findings that the alleged violation has in fact occurred or is occurring, consent to cease and desist from continuing or allowing the reoccurrence of such violation, and submit a plan which shall provide for the discontinuance and/or non-reoccurrence of the violation. If appropriate, such plan shall include the identification and description of all proposed procedures or measure to prevent, control, or abate improper ground water irrigation runoff. The alleged violator shall agree to implement and abide by the terms of such plan. If such plan involves structural measures, the alleged violator shall simultaneously submit a schedule of compliance on forms provided by the District. The schedule of compliance shall provide for the submittal of a work order within ten days following approval of the plan in the manner hereinafter provided; or
 - (B) Reject the findings of the Subcommittee and request that a formal hearing before the Board be scheduled and conducted in accordance with the rules and regulations of the District. The alleged violator shall be granted no less than seven (7) days (excluding Saturdays, Sundays and legal holidays) from the date that said report and notice is provided to him or her to respond and to indicate any actions intended.

Rule 6

Action Subsequent to Person's Consent to Cease and Desist

- (a) When an alleged violator has been notified in accordance with Rule 4 of this section and has consented to cease and desist in accordance therewith, a District compliance officer shall review the complaint, the investigator's report, the consent order and any plan for discontinuance and schedule of compliance to determine whether the actions agreed to by the person will, when applied, bring such user into compliance with these rules and regulations, prevent construction, operation or possession of an illegal water well, or prevent improper ground well irrigation runoff. If the compliance officer determines that the proposed actions of the person are

Overview of anticipated 2020 violation process

Spring 2020

- Sent letters to all land owners and operators in the Dwight Valparaiso Brainard Special Management Area (DVB SMA) about the new rules and regulations. Sent direct mailings to all operators and owners of irrigation wells regarding maximum amount of water to be used as well as the maximum number their water meter can show. Reminded all users that no one can exceed 9 inches in 2020 as this is the first year of the new rolling allocation. Also corresponded directly with Doug Hansen (Ragusa's farm manager) and included Dave Hladik (Ragusa's tenant) via email about the above information.

September 14, 2020

- Conducted spot meter check on well id G-069699 water meter. Observed water use exceedance. Reported exceedance to supervisor and general manager. Upon instruction by general manager, contacted both operator (Dave Hladik) and farm manager (Doug Hansen) via phone about current water usage and potential violation. Began process of completing investigation and report.

October 19, 2020 (anticipated) – Water Resources Subcommittee Meeting

- Review the process and timeline that occurred during the previous violation in 2017. Recommend that the Water Resources Subcommittee (WRS) direct staff to notify the alleged violator inviting them to meet informally with the WRS at the next WRS meeting.

November 2020 (anticipated) – Water Resources Subcommittee Meeting

- Present investigation report to the WRS. Consider input supplied by alleged violator. WRS will decide whether a probable violation has occurred. If a probable violation is determined, will direct staff to notify the alleged violator of the proposed penalties and their right to request a formal hearing.

November 2020 (anticipated) – Board of Directors Meeting

- Report to the Board the determination of probable violation and any WRS recommendation.

December 2020 (anticipated) – Board of Directors Meeting

- If requested by Ragusa, conduct public hearing. Public hearing will conclude with motion to accept or reject the probable violation. The alleged violator will be contacted regarding the outcome of the public hearing and any potential implications or penalties.

**MODIFICATION 1 TO THE
MEMORANDUM OF UNDERSTANDING (MOU)
Between the
NATURAL RESOURCES CONSERVATION SERVICE (NRCS)
UNITED STATES DEPARTMENT OF AGRICULTURE (USDA)
and
THE LOWER PLATTE SOUTH NATURAL RESOURCES DISTRICT
Sponsor(s) for
Upper Salt Creek Project, Dam No. 3-A**

BACKGROUND

This document modifies the memorandum of understanding dated September 10th, 2010 between the United States Department of Agriculture Natural Resources Conservation Service (NRCS) and the Lower Platte South Natural Resources District, hereinafter referred to as Sponsor, for the rehabilitation of Upper Salt Creek Dam No. 3-A.

The Natural Resources Conservation Service consulted with its national leadership to clarify what activities are considered direct construction costs and what activities are considered in-kind contributions by the Sponsor. The NRCS can reimburse the Sponsor up to 65% of the total eligible project costs not to exceed 100% of the construction cost. Whether an activity is classified as a direct construction cost or an in-kind contribution therefore affects the total potential reimbursement to the Sponsor.

One activity in question was the cost to the Sponsor to remove and replace the asphalt driveway, driveway culvert, wood rail fence, and electric gate and appurtenances and any other incidental costs at the Vergith property. The other activity in question is the cost to the Sponsor for the realignment of SW 2nd Street. The Sponsor will incur both land rights and construction costs for the realignment of SW 2nd Street.

DETERMINATION

It was determined that the above listed activities fall under the total eligible project costs and can be counted towards the Sponsor's in-kind contributions. They are not considered direct construction costs. Therefore, the scope of the MOU is modified to reflect that the above listed activities are considered in-kind contributions by the Sponsor.

ACCEPTANCE

Lower Platte South Natural Resources District

By: _____

Title: State Conservationist

Date: _____

By: _____

Title: _____

Date: _____



19 October 2020

Craig Matulka
Lower Platte South NRD
3125 Portia Street
Lincoln, NE 68521

Re: Upper Salt 6-1 Spillway Replacement – Engineer's Recommendation

Dear Craig:

The bid opening for the above-referenced project was held at the LPSNRD on 19 October 2020. The low bid of \$86,579.20 was received from Pat Thomas Construction of Lincoln, NE. This bid was \$24,766.545 above to the Engineer's Opinion of Probable Costs that totaled \$61,905.75. All required documents accompanied the bid. The other five bids are listed below:

General Excavating	\$168,841.00
MC Wells Construction	\$94,610.00
TJ Osborn Construction	\$122,981.00
H.R. Bookstrom Construction	\$159,809.00
High Plains Enterprises	\$112,505.00

In my opinion, the low bid was significantly above the Engineer's Opinion for two reasons:

1. The only similar project bid by the LPSNRD (or any other NRD as far as I can tell) was your Upper Salt 18-5 where the landowner (who also owns Farabee Construction) bid the project himself. I didn't consider this a comparable bid due to the unique circumstances of that bid.
2. All other projects bid locally were usually in larger groups of sites being bid. Even with the other projects also being fairly remote, having only one site compared to others larger packages had a bigger effect on the bids than I anticipated.

The \$25.00 unit cost for the earthwork was the single item that stood out in comparing unit costs, even given the information in this letter. The \$18.00 bid to strip, salvage and replace topsoil was also higher than my estimate, which was probably too low. But with six bids and only one bid being slightly higher than the low bid, the engineer's estimate was likely more the problem than the Contractor's bids.

FYRA recently worked with Pat Thomas Construction on a levee rehabilitation project and everything went very smooth. They did a good job on the project. Your NRD has a longer history with this Contractor and knows him better than I do. I realize that the project is over the budgeted amount as well as my estimate. I don't think that re-bidding the project is going to help much because we got six conforming bids from sixteen plan holders. We also allowed a lengthy timetable to get the project completed, so using that strategy to attract other bidders is not likely to help.

For the reasons stated above, if there is room in the budget, my recommendation is to award the project to Pat Thomas Construction and begin the contracting process upon Board approval. Please feel free to contact me if you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read 'M. Sotak', with a stylized flourish extending to the right.

Michael K. Sotak, P.E., D.WRE

Upper Salt Creek 6-1 Spillway Replacement 2020
Engineer's Opinion of Probable Costs and Bid Tab

SUMMARY TABLE OF QUANTITIES			EOPC		Pat Thomas		
ITEM	Unit	Total	Unit Cost	Extension	Unit Cost	Extension	Δ EOPC
MOBILIZATION	LS	1	\$6,000.00	\$6,000.00	7500.00	7500.00	\$1,500.00
CLEARING AND GRUBBING	LS	1	\$3,000.00	\$3,000.00	7800.00	7800.00	\$4,800.00
SEDIMENT AND EROSION CONTROL	LS	1	\$3,000.00	\$3,000.00	3800.00	3800.00	\$800.00
HANDLING OF WATER	LS	1	\$1,500.00	\$1,500.00	3000.00	3000.00	\$1,500.00
STRIP, STOCKPILE AND REPLACE TOPSOIL	SY	334	\$2.00	\$668.00	18.00	6012.00	\$5,344.00
EXCAVATE, STOCKPILE AND REPLACE DAM EMBANKMENT	CY	609	\$8.25	\$5,024.25	25.00	15225.00	\$10,200.75
PS PIPE REMOVAL/DISPOSAL	LF	80	\$20.00	\$1,600.00	20.00	1600.00	\$0.00
PS RISER REMOVAL/DISPOSAL	EA	1	\$600.00	\$600.00	100	100.00	-\$500.00
48" OUTSIDE DIAMETER HDPE, 8'-11" TALL RISER WITH 32" OUTSIDE DIAMETER CONNECTIO	EA	1	\$8,500.00	\$8,500.00	9500.00	9500.00	\$1,000.00
DEBRIS RACK FOR 48" DIAMETER RISER WITH ANTI-VORTEX	EA	1	\$4,000.00	\$4,000.00	2500.00	2500.00	-\$1,500.00
32" OUTSIDE DIAMETER HDPE PRINCIPAL SPILLWAY PIPE	LF	80	\$250.00	\$20,000.00	195.24	15619.20	-\$4,380.80
CONCRETE FOR RISER BASE	CY	1.3	\$900.00	\$1,170.00	1500.00	1950.00	\$780.00
CONCRETE FOR PIPE SUPPORT	CY	1.2	\$900.00	\$1,080.00	1500.00	1800.00	\$720.00
STEEL REINFORCING BARS FOR RISER	LBS	44	\$1.25	\$55.00	5.00	220.00	\$165.00
STEEL REINFORCING BARS FOR PIPE SUPPORT	LBS	230	\$1.25	\$287.50	5.00	1150.00	\$862.50
GROUTED ROCK RIPRAP	TN	15	\$90.00	\$1,350.00	10.00	150.00	-\$1,200.00
DIAPHRAGM FILTER AGGREGATE	TN	25	\$40.00	\$1,000.00	45.00	1125.00	\$125.00
GEOTEXTILE FILTER FABRIC	SY	58	\$2.00	\$116.00	9.00	522.00	\$406.00
6" SOLID WALL PVC DIAPHRAGM FILTER DRAIN PIPE	LF	35	\$12.00	\$420.00	25.00	875.00	\$455.00
6" SLOTTED WALL PVC DIAPHRAGM FILTER DRAIN PIPE WITH SOCK	LF	16	\$12.00	\$192.00	26.00	416.00	\$224.00
SEEDING	AC	1	\$900.00	\$900.00	4500.00	4500.00	\$3,600.00
REMOVE AND REPLACE FENCING	LF	135	\$10.00	\$1,350.00	9.00	1215.00	-\$135.00
			Total	\$61,812.75	Total	\$86,579.20	\$24,766.45

General Excavating			McWells Construction			TJ Osborn			H.R. Bookstrom			High Plains Enterprises		
Unit Cost	Extension	Δ EOPC	Unit Cost	Extension	Δ EOPC	Unit Cost	Extension	Δ EOPC	Unit Cost	Extension	Δ EOPC	Unit Cost	Extension	Δ EOPC
15000.00	15000.00	\$9,000.00	17000.00	17000.00	\$11,000.00	6000.00	6000.00	\$0.00	15000.00	15000.00	\$9,000.00	7500.00	7500.00	\$1,500.00
10000.00	10000.00	\$7,000.00	2900.00	2900.00	-\$100.00	3000.00	3000.00	\$0.00	25000.00	25000.00	\$22,000.00	5000.00	5000.00	\$2,000.00
7500.00	7500.00	\$4,500.00	3000.00	3000.00	\$0.00	6000.00	6000.00	\$3,000.00	2500.00	2500.00	-\$500.00	2500.00	2500.00	-\$500.00
10000.00	10000.00	\$8,500.00	1500.00	1500.00	\$0.00	1000.00	1000.00	-\$500.00	4500.00	4500.00	\$3,000.00	7500.00	7500.00	\$6,000.00
25.00	8350.00	\$7,682.00	4.00	1336.00	\$668.00	25.00	8350.00	\$7,682.00	5.00	1670.00	\$1,002.00	6.00	2004.00	\$1,336.00
40.00	24360.00	\$19,335.75	19.00	11571.00	\$6,546.75	35.00	21315.00	\$16,290.75	25.00	15225.00	\$10,200.75	25.00	15225.00	\$10,200.75
30.00	2400.00	\$800.00	30.00	2400.00	\$800.00	40.00	3200.00	\$1,600.00	60.00	4800.00	\$3,200.00	40.00	3200.00	\$1,600.00
1500	1500.00	\$900.00	1200	1200.00	\$600.00	500	500.00	-\$100.00	1000	1000.00	\$400.00	2500.00	2500.00	\$1,900.00
14000.00	14000.00	\$5,500.00	11000.00	11000.00	\$2,500.00	12000.00	12000.00	\$3,500.00	25000.00	25000.00	\$16,500.00	12000.00	12000.00	\$3,500.00
2500.00	2500.00	-\$1,500.00	5000.00	5000.00	\$1,000.00	2500.00	2500.00	-\$1,500.00	5500.00	5500.00	\$1,500.00	3500.00	3500.00	-\$500.00
444.00	35520.00	\$15,520.00	200.00	16000.00	-\$4,000.00	400.00	32000.00	\$12,000.00	500.00	40000.00	\$20,000.00	375.00	30000.00	\$10,000.00
3500.00	4550.00	\$3,380.00	1750.00	2275.00	\$1,105.00	3000.00	3900.00	\$2,730.00	2000.00	2600.00	\$1,430.00	800.00	1040.00	-\$130.00
5500.00	6600.00	\$5,520.00	2500.00	3000.00	\$1,920.00	3000.00	3600.00	\$2,520.00	2000.00	2400.00	\$1,320.00	800.00	960.00	-\$120.00
10.00	440.00	\$385.00	5.00	220.00	\$165.00	4.00	176.00	\$121.00	2.00	88.00	\$33.00	10.00	440.00	\$385.00
10.00	2300.00	\$2,012.50	4.00	920.00	\$632.50	8.00	1840.00	\$1,552.50	2.00	460.00	\$172.50	10.00	2300.00	\$2,012.50
330.00	4950.00	\$3,600.00	350.00	5250.00	\$3,900.00	250.00	3750.00	\$2,400.00	300.00	4500.00	\$3,150.00	175.00	2625.00	\$1,275.00
130.00	3250.00	\$2,250.00	75.00	1875.00	\$875.00	90.00	2250.00	\$1,250.00	70.00	1750.00	\$750.00	90.00	2250.00	\$1,250.00
10.00	580.00	\$464.00	11.00	638.00	\$522.00	5.00	290.00	\$174.00	2.00	116.00	\$0.00	24.50	1421.00	\$1,305.00
42.00	1470.00	\$1,050.00	38.00	1330.00	\$910.00	30.00	1050.00	\$630.00	50.00	1750.00	\$1,330.00	75.00	2625.00	\$2,205.00
46.00	736.00	\$544.00	95.00	1520.00	\$1,328.00	40.00	640.00	\$448.00	100.00	1600.00	\$1,408.00	65.00	1040.00	\$848.00
10000.00	10000.00	\$9,100.00	4000.00	4000.00	\$3,100.00	8000.00	8000.00	\$7,100.00	3000.00	3000.00	\$2,100.00	3500.00	3500.00	\$2,600.00
21.00	2835.00	\$1,485.00	5.00	675.00	-\$675.00	12.00	1620.00	\$270.00	10.00	1350.00	\$0.00	25.00	3375.00	\$2,025.00
Total	\$168,841.00	\$107,028.25	Total	\$94,610.00	\$32,797.25	Total	\$122,981.00	\$61,168.25	Total	\$159,809.00	\$97,996.25	Total	\$112,505.00	\$50,692.25

IRRIGATION AGREEMENT

This IRRIGATION AGREEMENT ("Agreement") is made and entered into this ____ day of _____, 20__, by and between the LOWER PLATTE SOUTH NATURAL RESOURCES DISTRICT ("District") and _____, ("Landowner"), hereinafter referred to as "Parties".

WITNESSETH:

RECITALS

- A. Landowner is the owner of the _____ of Section ___, Township ___ North, Range ___ East of the 6th P.M., _____ County, Nebraska ("Property"), shown on the attached Exhibit A; and
- B. The District has constructed a flood-control structure, _____, upon a portion of Property, which permanently impounds water and sediment from a tributary to _____ Creek in a reservoir ("Reservoir"); and
- C. Landowner desires to withdraw water impounded by said structure for irrigation purposes on _____ acres located on the Property, shown on Exhibit A; and
- D. The District intends to apply for, or has already obtained, a Storage Use Permit ("Permit") from the Nebraska Department of Natural Resources (the "Department") to allow for the use of storage water from the Reservoir for irrigation purposes on a portion of the Property owned by the Landowner.
- E. The Parties desire to enter into this Agreement in order to specify the terms and conditions under which Landowner may use water from the Reservoir for irrigation purposes.

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

1. If the District receives a Permit from the Department, the District will allow the Landowner to withdraw, for irrigation purposes only, an amount not to exceed _____ acre-feet of water from Reservoir, subject to the following terms and conditions. If more than one Landowner is allowed by the District to withdraw water from the same Reservoir, the District will equitably apportion water to each Landowner on a pro rata basis agreed to by all the parties intending to use water from the Reservoir. At such time, the District may amend this Agreement to reflect such apportionment.
2. The District will use its best efforts to apply for and obtain a Permit Department. Nothing in this Agreement shall be considered as a guarantee that the Department will grant said Permit to the District.

Commented [TZ1]: This will be a map with the dam, reservoir, easement locations, spillway, and acres to be irrigated all clearly labeled.

3. Landowner agrees to pay all costs incurred by the District in applying for and obtaining the Permit. Landowner further agrees to assist the District in obtaining the Permit, including providing to the District any information requested by the District or the Department for the purpose of obtaining the Permit.
4. Landowner agrees to pay to the District a fee of twenty (20) dollars per year, which shall be due and payable not later than April 1 of each year that this Agreement remains in effect. Failure to pay the annual fee will result in cancellation of this Agreement.
5. Landowner is prohibited from withdrawing and using any water from the Reservoir until the District receives the necessary Permit from the Department and notifies Landowner that withdrawal may proceed.
6. Each year the Landowner agrees to notify the District of Landowner's intent to irrigate with water from the Reservoir not less than twenty-four (24) hours prior to the commencement of irrigating from the Reservoir.
7. Landowner agrees not to lower the water level in the Reservoir by more than _____ feet.
8. Any water withdrawn from Reservoir shall be used for irrigation purposes only and shall be limited for use on land specified in the Permit. Any such water shall be taken only from the permanent pool of the Reservoir. The Landowner agrees not to withdraw or use water from the Reservoir if the water level is at or below the drawdown tube (elevation _____ feet MSL).
9. The amount of water available for irrigation during each irrigation season may be determined in advance by the District and may be decreased at any time because of silting, evaporation, drought, or any other reason which would interfere with the operation, maintenance, inspection, or repair of the structure or the Reservoir, as determined at the discretion of the District or Department.
10. This Agreement is made subject to all prior agreements between the District, the United States Department of Agriculture, Natural Resources Conservation Service ("NRCS"), the Nebraska Department of Natural Resources, and the existing easements for this structure. Any provisions in those easements and agreements which conflict with the provisions of this Agreement shall control.
11. Landowner acknowledges that this Agreement has been made only with Landowner, and that Landowner is prohibited from assigning their rights and interests contained in this Agreement, except upon written consent of the District. In no event shall any such assignment relieve Landowner from any liability or obligations imposed upon Landowner by the terms and conditions of this Agreement.
12. Landowner agrees to report the acres to be irrigated to the County Assessor of the county in which Property is located.

13. Landowner shall enter into a cooperative agreement with the District for the purpose of soil and water conservation on those lands which Landowner intends to irrigate with water from the Reservoir, and further agrees to establish and implement on those lands such conservation practices which have been approved by the District.
14. Landowner agrees to install a flow meter, approved by the District, to measure the amount of water withdrawn from the Reservoir and used for irrigation purposes.
15. Landowner further agrees to furnish any annual acreage, water use, and/or irrigation management reports for lands to be irrigated, upon request by the District, no later than December 31 of each year.
16. Landowner will assume all liability which may result to persons or adjoining lands by reason of the irrigation with water from the Reservoir. Landowner hereby indemnifies and agrees to hold the District harmless from all liabilities, damages, costs, and expenses and further agrees to pay to the District all damages or losses which may result to the Reservoir, structure, or any property of the District arising out of or resulting from the use of the water from the Reservoir.
17. The Parties understand that silt will gradually accumulate in the Reservoir and that the amount of water available for irrigation will diminish accordingly.
18. Landowner acknowledges and understands that the District is not contracting by this Agreement to provide or deliver water to Landowner for irrigation purposes. Landowner will withdraw water from the Reservoir by and with Landowner's own equipment and at Landowner's cost, subject to prior written approval of the District. No pumping device or equipment shall be installed that will in any manner penetrate or breach the dam embankment or obstruct the emergency spillway of the Reservoir, shown on the attached Exhibit A, or otherwise cause any erosion to the structure or Reservoir.
19. The District is under legal obligation to release water from the Reservoir for the purposes of satisfying downstream surface water appropriators, meeting streamflow targets, or other purposes as determined by the Department or the District. Landowner acknowledges and understands that such releases or other actions by the Department or the District may decrease the supply of water in the Reservoir available for irrigation.
20. Landowner hereby releases the District from any actions, causes of action, claims, demands, damages, and costs on account of or arising out of any flooding of the Reservoir. Landowner acknowledges that placement of irrigation equipment in the area that may be covered by the Reservoir's flood pool may result in damage to Landowner's equipment, for which the District will not be held responsible.

21. Landowner agrees to use the water from the Reservoir in accordance with sound water management practices and not to commit waste or allow irrigation water to cause erosion or runoff onto Landowner's lands or the lands of Landowner's neighbors.
22. Landowner agrees to abide by all laws and regulations of the State of Nebraska, the Department, and the District with respect to the use of water for irrigation purposes, whether presently in force or adopted at some future date.
23. Landowner acknowledges and understands that, if Landowner fails to utilize the water provided for herein for a period of more than five (5) consecutive years, pursuant to *Neb. Rev. Stat. § 46-229.02*, then the Department may initiate proceedings to cancel the District's Permit to use water from the Reservoir for irrigation purposes.
24. The District may suspend, cancel, or terminate this Agreement, upon thirty (30) days' written notice, if the District determines that Landowner has violated any of the terms and conditions of this Agreement, the District's rules and regulations, laws of the State of Nebraska, or rules and regulations of the Department.
25. Landowner hereby acknowledges that he or she has no right or interest whatsoever in any permit which the District obtains from the Department for the use of stored water for irrigation purposes and has only those rights, if any, granted under the terms and provisions of this Agreement. Landowner further agrees that the right, if any, to transfer the use of any water appropriation granted to the District by the Department to a different location, pursuant to *Neb. Rev. Stat. §§ 46-290 to 46-294*, is vested in the District, and that the Landowner has no interest in such right.
26. Every notice, demand, request, consent, approval, or other communication which either Party hereto is required or desires to give or make or communicate to the other Party, shall be in writing, delivered to the respective Parties at the addresses given below.
27. The term of this Agreement shall be eight (8) years, commencing on the date last written above and terminating on the ____ day of ____, 20__, unless sooner terminated in accordance with this Agreement or state laws. Landowner shall sign and file a request to negotiate a new Agreement not less than ninety (90) days prior to the termination date, which may result in a new Agreement. This Agreement shall not be extended.

IN WITNESS WHEREOF, the parties have executed this Agreement the date and year last above written.

LOWER PLATTE SOUTH NATURAL RESOURCES DISTRICT
3125 Portia Street
P.O. Box 83581
Lincoln, NE 68501-3581
(402) 472-2729

BY: _____
Paul Zillig, General Manager

STATE OF NEBRASKA)
) SS
COUNTY OF _____)

I hereby certify that the foregoing Agreement was signed in my presence and sworn to before me
this ____ day of _____, 20__.

Notary Public

LANDOWNER
(address)
(email address)
(phone number)

signature

STATE OF NEBRASKA)
) SS
COUNTY OF _____)

I hereby certify that the foregoing Agreement was signed in my presence and sworn to before me
this ____ day of _____, 20__.

Notary Public