

**AGREEMENT  
BETWEEN  
NEBRASKA DEPARTMENT OF NATURAL RESOURCES  
AND  
SOUTH PLATTE NATURAL RESOURCES DISTRICT, NORTH PLATTE NATURAL RESOURCES DISTRICT, TWIN  
PLATTE NATURAL RESOURCES DISTRICT, AND TRI-BASIN NATURAL RESOURCES DISTRICT  
CONCERNING AN ACREAGE RESERVE PROGRAM IN THE UPPER PLATTE RIVER BASIN**

The Memorandum of Agreement (Agreement) is entered into between the Nebraska Department of Natural Resources (NeDNR) and South Platte Natural Resources District, North Platte Natural Resources District, Twin Platte Natural Resources District, and Tri-Basin Natural Resources District, collectively NRDs, to establish and implement an Acreage Reserve Program (Program). NeDNR and NRDs may sometimes be referred to herein individually as “Party” or collectively as “Parties.”

**I. PURPOSE**

The intent of this Agreement is to create a 30-year acreage reserve program between the Nebraska Department of Natural Resources, South Platte Natural Resources District, North Platte Natural Resources District, Twin Platte Natural Resources District, and Tri-Basin Natural Resources District that preserves existing surface water appropriations and streamlines NeDNR administrative processes for appropriators to participate in activities that support implementation of the “Basin-Wide Plan for Joint Integrated Water Resources Management of Overappropriated Portions of the Platte River Basin, Nebraska” (Basin-Wide Plan) goals and objectives and other water management purposes.

The benefits of reduced use of surface water appropriations enrolled in the Program may create opportunities for the Parties to enter into separate contracts with appropriators to realize benefits that may be used to meet specific Integrated Management Plan (IMP) goals and objectives and/or assist with implementation of the Nebraska New Depletion Plan. Surface water appropriations provide unique opportunities for conjunctive water management and efforts under this Program are aimed at ensuring those opportunities can continue into the future.

**II. GENERAL PROVISIONS**

This Agreement will allow surface water appropriations within the Program Area (Attachment 1) to be enrolled in the Program. Surface water users will enroll in the Program through signing an Appropriator Agreement with NeDNR or when necessary by filing for transfers of their surface water appropriations with the goal of both options aimed at increasing the frequency that a diversion rate or rate of flow is achieved under other valid surface water appropriations in the Program Area (Attachment 2 – list of other valid surface water appropriations in the Program Area). The transfer option is available for appurtenant and non-appurtenant irrigation appropriations and would include entering into an Appropriator Agreement.

Upon signing an Appropriator Agreement, surface water appropriations shall have a sufficient cause for nonuse for the duration of the Program term and shall not be subject to cancellation proceedings by the NeDNR while they remain in the Program.

The Parties will also work collaboratively with the appropriators enrolled in the Program to implement water management strategies that support achieving the goals and objectives of the Basin-Wide Plan and other water management purposes.

**III. AUTHORITY**

The NeDNR and the NRDs are establishing this program to support implementation of the Basin-Wide Plan and each NRDs individual Integrated Management Plan (IMP). Each IMP describes programs that may be used by NeDNR and NRDs to reduce consumptive use of water in order to enhance water supply as well as other water supply improvement projects. This Program will operate in conformance with the Basin-Wide Plan and IMP requirements. Such program provides appropriators enrolled in the Program to have sufficient causes for nonuse for a period of up to thirty (30) years (*Neb. Rev. Stat. § 46-229.04 (2)(b)*).

**IV. PROGRAM TERM**

The Program shall begin upon the date that the last Party signs this Agreement and continue thereafter for a period of thirty (30) years from the date this Agreement is executed.

**V. PROGRAM ELEMENTS**

NeDNR and NRDs mutually agree as follows:

- A. Enrollment. The NeDNR will be the Party responsible for the enrollment of surface water appropriations into the Program. Enrollment in the Program shall require the execution of an Appropriator Agreement between the appropriator and the NeDNR. Upon enrollment, those surface water appropriations identified in the Appropriator Agreement shall have a sufficient cause for nonuse for the duration of the Program and shall not be subject to cancellation proceedings by the NeDNR while they remain in the Program.
- B. Transfers. Appropriators may desire to file for a transfer of appropriations under *Neb. Rev. Stat. § 46-290 (5)(b)*. Transfers will be processed by NeDNR and if a subsequent approval order is issued by NeDNR, that order shall designate the modified appropriation status. Transfers may be processed to address both appurtenant and non-appurtenant (provisionally relinquished) appropriations.
- C. Reporting. Appropriators enrolled in the Program will be required to annually provide information about their appropriations in a manner consistent with the Appropriator Agreement. Annual reporting information will include, but not be limited to:
  - i. Maps and/or land listings of acres enrolled in the Program.
  - ii. Summary reports of the portion of appropriations that are planned to be served by surface water and those portions that will not.
  - iii. Summary reports of any necessary in-season changes from expected operations and actual operations.
  - iv. Diversion data and return data, when available.
  - v. An estimate of the amount of acres under the appropriation that are served by groundwater, when available.

D. Water Administration. NeDNR will use the information from annual reports provided by the enrolled Appropriator to update its water administration activities. Water administration will be conducted in a manner consistent with the terms of the Appropriator Agreement and/or applicable transfer order. The rate of diversion for appropriations included in the Program will be adjusted based on the irrigated acres being actively served, incidental underground storage appropriations will be adjusted in-kind should there be no transfer associated. If a transfer order has been authorized by NeDNR existing incidental underground storage appropriations, and non-consumptive conveyance water authorized will be adjusted as detailed in the transfer order.

E. Termination. Appropriators may terminate their participation in the Program in accordance with the terms contained in the Appropriator Agreement. Subsequent to termination, if an appropriator desires to re-enroll in the Program, and if the Program has not been terminated, any new Appropriator Agreement that is executed between NeDNR and the appropriator may not extend beyond the original Program Term as set forth in Paragraph IV.

**VI. NEDNR COMMITMENTS**

NeDNR agrees to:

- A. Develop, execute, and administer Appropriator Agreements with appropriators desiring to enroll in the Program.
- B. Evaluate and process transfers filed pursuant to the Program.
- C. Administer appropriations in accordance with the provisions of the Appropriator Agreement and other applicable policies and laws.
- D. Not establish any alternative Program that would be inconsistent with this Agreement without the written consent of the NRDs.
- E. Conduct periodic compliance reviews to ensure appropriator's reports are accurate, water use remains beneficial, and appropriator practices are consistent with good husbandry.
- F. Share data and information provided by appropriators upon the request of NRDs.

**VII. NRDs COMMITMENTS:**

NRDs agrees to:

- A. Support communication of Program goals to appropriators in their District.
- B. Coordinate with NeDNR to ensure any subsequent agreements or contracts related to Program Appropriators are consistent with the terms of the Agreement. As this Program does not address quantification of management actions for purposes of Integrated Management Plan crediting, prior to entering into such agreements or contracts the field investigation requirements

contained in the individual Integrated Management Plans for each Natural Resources District must be fulfilled.

C. Not establish any alternative Program that would be inconsistent with this Agreement without the written consent of NeDNR.

D. When available, share data on groundwater acres, groundwater use, and groundwater depletions occurring on lands enrolled in the Program.

**VIII. TERMINATION**

This Agreement, and thereby the Program, may be terminated upon thirty (90) days written notice by any of the Parties. Upon termination, any Appropriator Agreements under the Program may continue to be enrolled. Any subsequent development of an acreage reserve program by any Party may not extend beyond the original Program Term as set forth in Paragraph IV.

**IX. MISCELLANEOUS PROVISIONS:**

A. NeDNR and NRDs agree that each Party will be responsible for its own acts, omissions, and the results thereof, and to the extent authorized by law, shall not be responsible for the acts, omissions, or results thereof of the other Party.

B. The NeDNR and NRDs agree that should either Party enter into any subsequent agreements or contracts related to the appropriations enrolled in the Program, any such agreements and contracts will be shared amongst the Parties.

C. The provisions of this Agreement may only be modified by written agreement between the Parties.

D. This Agreement shall be effective upon the date the last Party signs the Agreement.

**SIGNATURES:**

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**ATTACHMENT 1**

**Program Area**

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**ATTACHMENT 2**

**Surface Water Appropriations in Program Area**

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