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Date: July 11, 2006                      Pages: 22 including cover  
From: Susan France  
To: Ann Diers @ Bridgeport F.O.  
Fax: 308-262-1939

↓ ↓ ↓ MESSAGE ↓ ↓ ↓

*Final w/ Signatures  
Recd from Dean Edson  
Office on 12-30-04*

## INTERLOCAL COOPERATIVE AGREEMENT

### PALLID STURGEON AND STURGEON CHUB STUDY OF LOWER PLATTE RIVER

This Agreement (hereinafter "this Agreement") is made by and among the following parties: Nebraska Game and Parks Commission (NGPC), Nebraska Association of Resources Districts (NARD), Lower Platte South Natural Resources District (LPSNRD), Lower Platte North Natural Resources Districts (LPNNRD), Papio-Missouri River Natural Resources District (P-MRNRD), Lower Loup Natural Resources District (LLNRD), Upper Loup Natural Resources District (ULNRD), Upper Elkhorn Natural Resources District (UENRD), Lower Elkhorn Natural Resources District (LENRD), Central Platte Natural Resources District (CPNRD), Central Nebraska Public Power and Irrigation District (CNPP&ID), Nebraska Public Power District (NPPD), Loup Public Power District (LPPD), Twin Loup Reclamation District (TLRD) and North Loup Public Power and Irrigation District (NLPP&ID).

The United States Fish and Wildlife Service (USFWS) listed the pallid sturgeon as a federal endangered species in September 1990 under the federal Endangered Species Act 16 USC 1531 et. seq. The sturgeon chub is a federal candidate species for listing and is expected to be listed as a threatened or endangered species during the period of this Agreement. The

NGPC reports documented occurrences of these species in the lower Platte River. Inadequate scientific data exists on: (1) the habitat requirements necessary to sustain these species; (2) the viability, nature, and location of mitigation; and, (3) what recovery efforts on the Lower Platte River are appropriate. The purpose of this Agreement is to cooperatively fund the scientific studies to define what constitutes suitable habitat for the pallid sturgeon and the sturgeon chub, to provide adequate scientific data necessary to answer (1) through (3) above, and to facilitate any warranted implementation of habitat restoration projects on the Lower Platte River.

In accordance with Nebraska's Nongame and Endangered Species Conservation Act (NESCA), Sections 37-801 through 37-811, Nebr. Revised Statutes, the NGPC and all other state agencies are charged with carrying out programs for the conservation of endangered or threatened species and their habitat. Although this document sets forth a cooperative process, all signatories to this Program recognize that they each have statutory responsibilities that cannot be delegated, and that this Program does not and is not intended to abrogate any of their statutory responsibilities. The USFWS Pallid Sturgeon Recovery Plan, approved November 7, 1993, lists the "Missouri River below Gavins Point Dam to its confluence with the Mississippi River, including 20 mile above and below all major tributaries" as a recovery-priority management area for the pallid sturgeon population. The Plan also notes that "some recovery tasks include actions at main stream reservoirs and in major tributaries", further noting that the Platte is one such tributary.

After consulting with NDWR the NGPC will file a non-jeopardy opinion for pallid sturgeon and sturgeon chub with the NDWR for pending water rights applications and for additional water rights applications totaling to 5,000 acre-feet of new, net annual depletion under the terms of a policy agreed to with NDWR, a copy of which is attached to the letter. This non-jeopardy opinion applies only to state action on projects without a federal nexus. Projects that would satisfy federal consultation requirements for the pallid sturgeon and sturgeon chub would also satisfy state consultation requirements.

The NDWR, under Nebraska law Chapter 46, Articles 2 and 6, is charged with receiving, reviewing and approving or denying, in whole or in part, applications for surface water appropriations, and certain applications for ground water transfers. Such appropriations are considered actions that are subject to review by the NGPC for conformance with NESCA.

Natural Resources Districts include among their statutory responsibilities, "Management of Fish and Wildlife", "Flood Control", "Soil Conservation", "Prevention of Damages from Floodwater", and "Development and Management of Water Supplies". Districts carry out programs and projects that involve acquiring surface water rights and management of ground water resources, which may impact these species through change in streamflow and habitat.

Public Power and Irrigation Districts, Irrigation Districts, and Reclamation Districts have the authority to acquire, develop and hold surface water rights

for irrigation and power generation, and may own and operate facilities providing recreation and fish and wildlife benefits.

The Nebraska Association of Resources Districts, a non-profit corporation, is not a party to the Interlocal Cooperation Agreement, since it is not a public agency. Nevertheless, it is a signatory to the Agreement for the purpose of acknowledging its agreement to submit an application to the Nebraska Environmental Trust Fund ("NETF") for the study and mitigation projects and to administer certain funds.

Therefore, in consideration of the mutual covenants expressed, the parties agree as follows:

1. Authority: This Agreement is made pursuant to authority provided in the Nebraska Interlocal Cooperation Act and shall be construed to be in conformity therewith.

2. Administration: Implementation of this Agreement shall be carried out by a Task Force consisting of three (3) members representing NGPC, and one (1) member from each of the other parties, with the NARD Executive Director serving as an advisor. The Task Force shall establish operating procedures. The NGPC shall chair the Task Force and have the lead role and responsibility for administering any contracts and for the implementation of any mitigation and recovery efforts. Such contracts and efforts will be conducted with the approval of the Task Force. For such purposes, 2/3 of the members shall constitute a quorum.

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3. Objectives: The Parties to this Agreement do hereby adopt the following objectives:

- a. Develop a scope, budget and schedule for the study of habitat requirements and any warranted mitigation efforts for the pallid sturgeon and sturgeon chub, to include :
  - Goals, objectives, and desired outcomes
  - Scientific procedures to be followed
  - Appropriate independent peer review on study design and study conclusions following procedures similar to those adopted for the Platte River Cooperative Agreement
  - Intermediate evaluation points
  - Plan for Implementation
- b. Provide coordination with federal and state agencies, consistent with state and federal laws
- c. Provide timely reviews of all interim and final report
- d. Provide opportunities for public input and the dissemination of information and education
- e. Provide funding and in-kind services to conduct the study in accordance with Exhibit A attached to this Agreement and incorporated herein by this reference
- f. Facilitate any warranted implementation of habitat restoration projects as may be agreed to by the Task Force, or as may be required by statutory responsibilities, by court terms, or other permit or legal proceedings

4. Contracts: Any of the parties, with review and approval of the Task Force, may enter into contracts with public or private entities to carry out portions of this study.

5. Fund: NARD shall submit an application to Nebraska Environmental Trust Fund (NETF) for the study on behalf of the parties. In addition, NARD agrees to collect, hold, and, at the direction of the Task Force, disburse funds from the parties to this Agreement and NETF to the NGPC or any contractor or vendor for the study and mitigation projects. NARD or other parties may, with the approval of and on behalf of the Task Force make applications for other funds for the study and mitigation projects.

6. Effective Date: This Agreement shall become effective upon execution by all parties.

7. Duration of Agreement: This agreement shall run for a period of five years from the effective date. It may be extended by subsequent joint agreement of the parties. Any party, on the anniversary of their signature to the Agreement, with 90 days advance written notice to the other parties, may terminate their participation in this Agreement and end their commitment to contribute annually funds and in-kind services as set forth on Exhibit A. In the event of such termination by a party, the pro-rata portion of all contributions previously made by the terminating party to the Fund that are unexpended/uncommitted by contract as of the effective date of such termination shall be forfeited to the extent that study contract funds are obligated. The parties may, by joint agreement, terminate this Agreement at any time, and it shall terminate at the end of the five-year period unless



extended, and any unexpended and uncommitted funds after all obligations are paid, shall be re-distributed to the parties proportionate to their contribution.

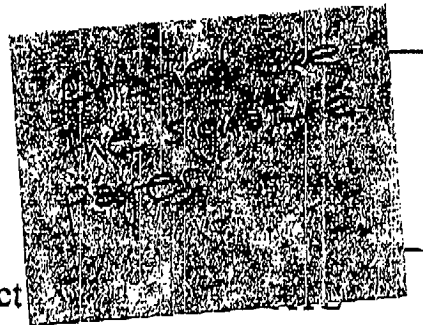
This Agreement may be executed in any number of counterparts, each of which shall be an original, but all such counterparts shall constitute one and the same instrument.

This Agreement is hereby approved and executed by the following parties on the dates shown below.

*David P. Mullen*  
Nebraska Game and Parks Commission

Oct 23 1999  
DATE

\_\_\_\_\_  
Lower Platte South Natural Resources District



\_\_\_\_\_  
Papio-Missouri River Natural Resources District

\_\_\_\_\_  
Lower Platte North Natural Resources District

\_\_\_\_\_  
DATE

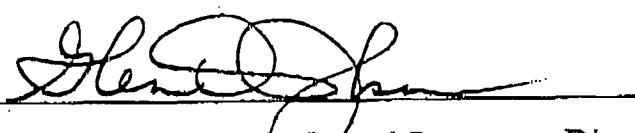
\_\_\_\_\_  
Lower Loup Natural Resources District

\_\_\_\_\_  
DATE

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_____ Nebraska Game and Parks Commission	_____ DATE
 _____ Lower Platte South Natural Resources District	<u>Sept. 17, 1999</u> _____ DATE
_____ Papio-Missouri River Natural Resources District	_____ DATE
_____ Lower Platte North Natural Resources District	_____ DATE
_____ Lower Loup Natural Resources District	_____ DATE


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Nebraska Game and Parks Commission DATE

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Lower Platte South Natural Resources District DATE

  
\_\_\_\_\_  
Papio-Missouri River Natural Resources District DATE

\_\_\_\_\_  
Lower Platte North Natural Resources District DATE

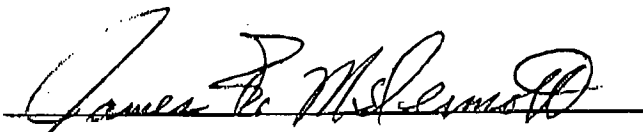
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Lower Loup Natural Resources District DATE

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_____ Lower Platte South Natural Resources District	_____ DATE
_____ Papio-Missouri River Natural Resources District	_____ DATE
 _____ Lower Platte North Natural Resources District	<u>10-13-99</u> DATE
_____ Lower Loup Natural Resources District	_____ DATE

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Nebraska Game and Parks Commission DATE

\_\_\_\_\_  
Lower Platte South Natural Resources District DATE

\_\_\_\_\_  
Papio-Missouri River Natural Resources District DATE

\_\_\_\_\_  
Lower Platte North Natural Resources District DATE

*Richard Hasenfeldt*  
Chairman  
Lower Loup Natural Resources District  
September 23, 1999  
DATE

Ron Doherty Board Chairman 10-14-1999

Upper Loup Natural Resources District

DATE

Lower Elkhorn Natural Resources District

DATE

Upper Elkhorn Natural Resources District

DATE

Central Platte Natural Resources District

DATE

Central Nebraska Public Power and Irrigation District

DATE

Nebraska Public Power District

DATE

Loup Public Power District

DATE

Twin Loups Reclamation District

DATE

North Loup Public Power & Irrigation District

DATE

Upper Loup Natural Resources District

DATE

*[Signature]* Chairman *9/23/1999*

Lower Elkhorn Natural Resources District

DATE

Upper Elkhorn Natural Resources District

DATE

Central Platte Natural Resources District

DATE

Central Nebraska Public Power and Irrigation District

DATE

Nebraska Public Power District

DATE

Loup Public Power District

DATE

Twin Loups Reclamation District

DATE

North Loup Public Power & Irrigation District

DATE

Upper Loup Natural Resources District

DATE

Lower Elkhorn Natural Resources District

DATE

*Ronald Miller*  
Upper Elkhorn Natural Resources District  
*Ronald Miller, G.M.*

*9-20-89*

DATE

Central Platte Natural Resources District

DATE

Central Nebraska Public Power and Irrigation District

DATE

Nebraska Public Power District

DATE

Loup Public Power District

DATE

Twin Loups Reclamation District

DATE

North Loup Public Power & Irrigation District

DATE



Upper Loup Natural Resources District

DATE

Lower Elkhorn Natural Resources District

DATE

Upper Elkhorn Natural Resources District

DATE

*Charles B. Smith*

*9/23/99*

Central Platte Natural Resources District

DATE

Central Nebraska Public Power and Irrigation District

DATE

Nebraska Public Power District

DATE

Loup Public Power District

DATE

Twin Loups Reclamation District

DATE

North Loup Public Power & Irrigation District

DATE

Upper Loup Natural Resources District

DATE

Lower Elkhorn Natural Resources District

DATE

Upper Elkhorn Natural Resources District

DATE

Central Platte Natural Resources District

DATE

*Don Krass*

*10/11/99*

Central Nebraska Public Power and Irrigation District

DATE

Nebraska Public Power District

DATE

Loup Public Power District

DATE

Twin Loups Reclamation District

DATE

North Loup Public Power & Irrigation District

DATE

Upper Loup Natural Resources District

DATE

Lower Elkhorn Natural Resources District

DATE

Upper Elkhorn Natural Resources District

DATE

Central Platte Natural Resources District

DATE

Central Nebraska Public Power and Irrigation District

DATE

*Bruce L. Bauls*

*10/25/99*

Nebraska Public Power District

DATE

Loup Public Power District

DATE

Twin Loups Reclamation District

DATE

North Loup Public Power & Irrigation District

DATE

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Upper Loup Natural Resources District

DATE

Lower Elkhorn Natural Resources District

DATE

Upper Elkhorn Natural Resources District

DATE

Central Platte Natural Resources District

DATE

Central Nebraska Public Power and Irrigation District

DATE

Nebraska Public Power District

DATE

*Francis Sand*

9/22/99

Loup Public Power District

DATE

Twin Loups Reclamation District

DATE

North Loup Public Power & Irrigation District

DATE

REC'D OCT 18 1999

Upper Loup Natural Resources District

DATE

Lower Elkhorn Natural Resources District

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Upper Elkhorn Natural Resources District

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Central Platte Natural Resources District

DATE

Central Nebraska Public Power and Irrigation District

DATE

Nebraska Public Power District

DATE

Loup Public Power District

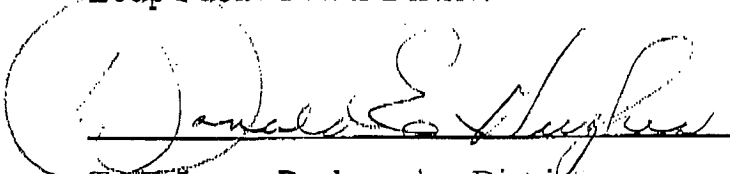
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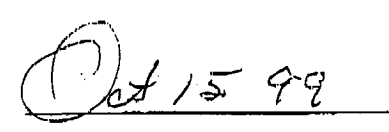
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North Loup Public Power & Irrigation District

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Upper Loup Natural Resources District

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Lower Elkhorn Natural Resources District

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Upper Elkhorn Natural Resources District

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Central Platte Natural Resources District

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Central Nebraska Public Power and Irrigation District

DATE

Nebraska Public Power District

DATE

Loup Public Power District

DATE

Twin Loups Reclamation District

DATE

*Charles B. Zenger Pres.*

North Loup Public Power & Irrigation District

10/13/99

DATE

*Clint Johannes*

Nebraska Association of Resources Districts

September 9, 1999

*OCT 1, 1999*

DATE