Part 506 – Exhibits

Subpart C – Watershed Agreements

506.30 Watershed Agreement

A. The watershed agreement is the legal document that records the responsibilities of the sponsoring local organizations (SLOs) and NRCS for implementing the plan. Place the watershed agreement immediately behind the abstract page of the final plan. Do not include the agreement in draft plans that are distributed for public or interagency review.

B. The format and wording provided in this exhibit must be used except for sections not applicable to the planned watershed project. If needed, additional items detailing responsibilities for the specific project must be included.

Watershed Agreement
between the

[List all sponsors as appropriate]
(Referred to herein as sponsors)
State of _____
and the

Natural Resources Conservation Service,
U.S. Department of Agriculture
(Referred to herein as NRCS)

Whereas, application has heretofore been made to the Secretary of Agriculture by the sponsors for assistance in preparing a plan for works of improvement for the _____ Watershed, State of _____, under the authority of the Watershed Protection and Flood Prevention Act, as amended (16 U.S.C. Sections 1001 to 1008, 1010, and 1012); and

Whereas, the responsibility for administration of the Watershed Protection and Flood Prevention Act, has been assigned by the Secretary of Agriculture to NRCS; and

Whereas, there has been developed through the cooperative efforts of the sponsors and NRCS a watershed project plan and environmental impact statement (or environmental assessment) for works of improvement for the _____ Watershed, State of _____, hereinafter referred to as the watershed project plan or plan, which plan is annexed to and made a part of this agreement;

Now, therefore, in view of the foregoing considerations, the Secretary of Agriculture, through NRCS, and the sponsors hereby agree on this watershed project plan and that the works of improvement for this project will be installed, operated, and maintained in accordance with the terms, conditions, and stipulations provided for in this plan and including the following:

1. Term. The term of this agreement is for the installation period and evaluated life of the project (___ years) and does not commit NRCS to assistance of any kind beyond the end of the evaluated life.

2. Costs. The costs shown in this plan are preliminary estimates. Final costs to be borne by the parties hereto will be the actual costs incurred in the installation of works of improvement.

3. Real Property. The sponsors will acquire such real property as will be needed in connection with the works of improvement. The amounts and percentages of the real property acquisition costs to be borne by the sponsors and NRCS are as shown in the cost-share table in section 5 hereof. *[The items shown in this table are examples. Items with the same cost-share rate may be combined into one entry.]*

The sponsors agree that all land acquired for measures, other than land treatment practices, with financial or credit assistance under this agreement will not be sold or otherwise disposed of for the evaluated life of the project except to a public agency that will continue to maintain and operate the development in accordance with the operation and maintenance agreement. *[Required when land is acquired with Watershed Protection and Flood Prevention Act financial or credit assistance.]*

4. Uniform Relocation Assistance and Real Property Acquisition Policies Act. The sponsors hereby agree to comply with all of the policies and procedures of the Uniform Relocation Assistance and Real Property Acquisition Policies Act (42 U.S.C. Section 4601 et seq. as further implemented through regulations in 49 CFR Part 24 and 7 CFR Part 21) when acquiring real property interests for this federally assisted project. If the sponsor is legally unable to comply with the real property acquisition requirements, it agrees that, before any Federal financial assistance is furnished, it will provide a statement to that effect, supported by an opinion of the chief legal officer of the state containing a full discussion of the facts and law involved. This statement may be accepted as constituting compliance.

5. Cost-share for Watershed Project Plans. The following table will be used to show cost-share percentages and amounts for watershed project plan implementation.

Cost-share Table for Watershed Operation or Rehabilitation Projects

Works of Improvement	NRCS		Sponsors		Total
Cost-Sharable Items	Percent	Cost	Percent	Cost	Cost
List measures by purpose and rate of assistance.[1/]					
Multipurpose Structure No. 1					
Channels					
Floodplain Easements (____Acres)					
Land Treatment Measure					
Mitigation					
Real Property Acquisition Cost					
Multiple purpose site (___acres)					
Real estate appraisal fees, legal fees, survey costs, flowage easements					
Relocation [2/]					
Sponsors Engineering Costs					
Subtotal: Cost-Sharable Costs					
Non-Cost-Sharable Items [3/]					

NRCS Technical Assistance/Engineering	100		0	0	
Project Administration [4/]	NA		NA		
Water, Mineral and Other Resource Rights [5/]	0	0	100		
Permits [5/]	0	0	100		
Real Property Rights [5/]	0	0	100		
Relocation, Beyond Required Decent, Safe, Sanitary [6/]	0	0	100		
Non-Project Costs	0	0	100		
Subtotal: Non-Cost-Share Costs					
Total:					

1/ Installation costs explanatory notes:

(a) List each multiple-purpose measure separately. Specific cost items and joint costs of multiple-purpose measures will be shown as separate line item entries. Single-purpose measures may be grouped by kind if the rate of assistance is the same for each measure or group.

(b) For watershed protection enduring measures, the following footnote should be included: 1/ The cost-share rate is the percentage of the average cost of installing the practice in the selected plan for the evaluation unit. During project implementation, the actual cost-share rate must not exceed the rate of assistance for similar practices and measures under existing national programs.

2/ Relocation payments and assurances explanatory notes:

(a) Includes replacement in kind, and payments necessary to meet decent, safe, and sanitary provisions. Enter the total estimated relocation assistance payment from table 1. Percentages for cost sharing will be based upon the cost-share rate of the project purpose requiring the relocation. The relocation assistance advisory services cost is to be included when computing the cost sharing percentages. These percentages are to be used for the life of the project regardless of future changes or supplements.

(b) If the planned project measures will not cause the displacement of any person, business, or farm operation under present conditions, show cost sharing percentages, place $0 1/ in "Estimated Relocation Payment Costs," and footnote the column as follows: 1/ Investigation of the watershed project area indicates that no displacements will be involved under present conditions. However, in the event that displacement becomes necessary at a later date, the cost of relocation assistance and payments will be cost-shared in accordance with the percentages shown.

3/ If actual non-cost-sharable item expenditures vary from these figures, the responsible party will bear the change.

4/ The sponsors and NRCS will each bear the costs of project administration that each incurs. Sponsor costs for project administration include relocation assistance advisory service.

5/ The sponsors will acquire with other than Watershed Protection and Flood Prevention Act funds, such real property as will be needed in connection with the works of improvement. The value of real property is eligible as in-kind contributions toward the sponsors' share of the works of improvement costs. In no case will the amount of an in-kind contribution exceed the sponsors' share of the cost for the works of improvement. The maximum cost eligible for in-kind credit is the same as that for cost sharing.

6/ Relocation payments for the cost of improvements beyond decent, safe and sanitary requirements is a nonproject cost ineligible for assistance under the act.

6. Land Treatment Agreements. The sponsors will obtain agreements from owners of not less than 50 percent of the land above each multiple-purpose and floodwater-retarding structure. These agreements must provide that the owners will carry out farm or ranch conservation plans on their land. The sponsors will ensure that 50 percent of the land upstream of any retention reservoir site is adequately protected before construction of the dam. The sponsors will provide assistance to landowners and operators to ensure the installation of the land treatment measures shown in the watershed project plan. The sponsors will encourage landowners and operators to continue to operate and maintain the land treatment measures after the long-term contracts expire, for the protection and improvement of the watershed.

7. Floodplain Management. Before construction of any project for flood prevention, the sponsors must agree to participate in and comply with applicable Federal floodplain management and flood insurance programs. For plans approved as of the date of this revised manual the sponsor is required to have development controls in place below low and significant hazard dams prior to NRCS or the sponsor entering into a construction contract.

8. Water and Mineral Rights. The sponsors will acquire or provide assurance that landowners or resource users have acquired such water, mineral, or other natural resources rights pursuant to State law as may be needed in the installation and operation of the works of improvement. Any costs incurred must be borne by the sponsors and these costs are not eligible as part of the sponsors' cost share.- *[The last sentence here is only required in watershed structure rehabilitation plans.]*

9. Permits. The sponsors will obtain and bear the cost for all necessary Federal, State, and local permits required by law, ordinance, or regulation for installation of the works of improvement. These costs are not eligible as part of the sponsors' cost share.- *[The last sentence here is only required in watershed structure rehabilitation plans.]*

10. NRCS Assistance. This agreement is not a fund-obligating document. Financial and other assistance to be furnished by NRCS in carrying out the plan is contingent upon the fulfillment of applicable laws and regulations and the availability of appropriations for this purpose.

11. Additional Agreements. A separate agreement will be entered into between NRCS and the sponsors before either party initiates work involving funds of the other party. Such agreements will set forth in detail the financial and working arrangements and other conditions that are applicable to the specific works of improvement.

12. Amendments. This plan may be amended or revised only by mutual agreement of the parties hereto, except that NRCS may deauthorize or terminate funding at any time it determines that the sponsors have failed to comply with the conditions of this agreement or when the program funding or authority expires. In this case, NRCS must promptly notify the sponsors in writing of the determination and the reasons for the deauthorization of project funding, together with the effective date. Payments made to the sponsors or recoveries by NRCS must be in accordance with the legal rights and liabilities of the parties when project funding has been deauthorized. An amendment to incorporate changes affecting a specific measure may be made by mutual agreement between NRCS and the sponsors having specific responsibilities for the measure involved.

13. Prohibitions. No member of or delegate to Congress, or resident commissioner, may be admitted to any share or part of this plan or to any benefit that may arise therefrom; but this provision may not be construed to extend to this agreement if made with a corporation for its general benefit.

14. Operation and Maintenance (O&M). The sponsors will be responsible for the operation, maintenance, and any needed replacement of the works of improvement by actually performing the work or arranging for such work, in accordance with an O&M agreement. An O&M agreement will be entered into before Federal funds are obligated and will continue for the project life (___ years). Although the sponsors' responsibility to the Federal Government for O&M ends when the O&M agreement expires upon completion of the evaluated life of measures covered by the agreement, the sponsors acknowledge that continued liabilities and responsibilities associated with works of improvement may exist beyond the evaluated life.

15. Emergency Action Plan. Prior to construction, the sponsors must prepare an emergency action plan (EAP) for each dam or similar structure where failure may cause loss of life or as required by state and local regulations. The EAP must meet the minimum content specified in NRCS Title 180, National Operation and Maintenance Manual (NOMM), Part 500, Subpart F, Section 500.52, and meet applicable State agency dam safety requirements. The NRCS will determine that an EAP is prepared prior to the execution of fund obligating

documents for construction of the structure. EAPs must be reviewed and updated by the sponsors annually.

16. Nondiscrimination Provisions. The U.S. Department of Agriculture (USDA) prohibits discrimination in all its programs and activities on the basis of race, color, national origin, age, disability, and where applicable, sex, marital status, familial status, parental status, religion, sexual orientation, genetic information, political beliefs, reprisal, or because all or a part of an individual's income is derived from any public assistance program. (Not all prohibited bases apply to all programs.) Persons with disabilities who require alternative means for communication of program information (Braille, large print, audiotape, etc.) should contact USDA's TARGET Center at (202) 720-2600 (voice and TDD). To file a complaint of discrimination write to USDA, Director, Office of Civil Rights, 1400 Independence Avenue, SW., Washington, DC 20250-9410 or call (800) 795-3272 (voice) or (202) 720-6382 (TDD). USDA is an equal opportunity provider and employer.

By signing this agreement the recipient assures the Department of Agriculture that the program or activities provided for under this agreement will be conducted in compliance with all applicable Federal civil rights laws, rules, regulations, and policies.

17. Certification Regarding Drug-Free Workplace Requirements (7 CFR Part 3021). By signing this Watershed Agreement, the sponsors are providing the certification set out below. If it is later determined that the sponsors knowingly rendered a false certification, or otherwise violated the requirements of the Drug-Free Workplace Act, the NRCS, in addition to any other remedies available to the Federal Government, may take action authorized under the Drug-Free Workplace Act.

Controlled substance means a controlled substance in schedules I through V of the Controlled Substances Act (21 U.S.C. Section 812) and as further defined by regulation (21 CFR Sections 1308.11 through 1308.15);

Conviction means a finding of guilt (including a plea of *nolo contendere*) or imposition of sentence, or both, by any judicial body charged with the responsibility to determine violations of the Federal or State criminal drug statutes;

Criminal drug statute means a Federal or non-Federal criminal statute involving the manufacturing, distribution, dispensing, use, or possession of any controlled substance;

Employee means the employee of a grantee directly engaged in the performance of work under a grant, including (i) all direct charge employees, (ii) all indirect charge employees unless their impact or involvement is insignificant to the performance of the grant, and (iii) temporary personnel and consultants who are directly engaged in the performance of work under the grant and who are on the grantee's payroll. This definition does not include workers not on the payroll of the grantee (e.g., volunteers, even if used to meet a matching requirement, consultants or independent contractors not on the grantees' payroll, or employees of subrecipients or subcontractors in covered workplaces).

Certification:

A. The sponsors certify that they will or will continue to provide a drug-free workplace by—

(1) Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition.
(2) Establishing an ongoing drug-free awareness program to inform employees about—
    (a) The danger of drug abuse in the workplace.

(b) The grantee's policy of maintaining a drug-free workplace.

(c) Any available drug counseling, rehabilitation, and employee assistance programs.

(d) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace.

(3) Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by paragraph (1).

(4) Notifying the employee in the statement required by paragraph (1) that, as a condition of employment under the grant, the employee must—

(a) Abide by the terms of the statement; and

(b) Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than 5 calendar days after such conviction.

(5) Notifying the NRCS in writing, within 10 calendar days after receiving notice under paragraph (4)(b) from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title, to every grant officer or other designee on whose grant activity the convicted employee was working, unless the Federal agency has designated a central point for the receipt of such notices. Notice must include the identification numbers of each affected grant.

(6) Taking one of the following actions, within 30 calendar days of receiving notice under paragraph (4)(b), with respect to any employee who is so convicted—

(a) Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or

(b) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency.

(7) Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (1), (2), (3), (4), (5), and (6).

B. The sponsors may provide a list of the sites for the performance of work done in connection with a specific project or other agreement.

C. Agencies will keep the original of all disclosure reports in the official files of the agency.

18. Certification Regarding Lobbying (7 CFR Part 3018) *(for projects > $100,000)*

A. The sponsors certify to the best of their knowledge and belief, that—

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the sponsors, to any person for influencing or attempting to influence an officer or employee of an agency, Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the

undersigned must complete and submit Standard Form LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

(3) The sponsors must require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients must certify and disclose accordingly.

B. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31 U.S.C. Section 1352. Any person who fails to file the required certification shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

19. Certification Regarding Debarment, Suspension, and Other Responsibility Matters—Primary Covered Transactions (7 CFR Part 3017).

A. The sponsors certify to the best of their knowledge and belief, that they and their principals—

(1) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;

(2) Have not within a 3-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

(3) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any of the offenses enumerated in paragraph A(2) of this certification; and

(4) Have not within a 3-year period preceding this application/proposal had one or more public transactions (Federal, State, or local) terminated for cause or default.

B. Where the primary sponsors are unable to certify to any of the statements in this certification, such prospective participant must attach an explanation to this agreement.

20. Clean Air and Water Certification.

(Applicable if this agreement exceeds $100,000, or a facility to be used has been subject of a conviction under the Clean Air Act (42 U.S.C. Section 7413(c)) or the Federal Water Pollution Control Act (33 U.S.C. Section 1319(c)) and is listed by EPA, or is not otherwise exempt.)

A. The project sponsoring organizations signatory to this agreement certify as follows:

(1) Any facility to be utilized in the performance of this proposed agreement is (____), is not (____) listed on the Environmental Protection Agency List of Violating Facilities.

(2) To promptly notify the NRCS-State administrative officer prior to the signing of this agreement by NRCS, of the receipt of any communication from the Director, Office of Federal Activities, U.S. Environmental Protection Agency, indicating that any facility which is proposed for use under this agreement is under consideration to be listed on the Environmental Protection Agency List of Violating Facilities.

(3) To include substantially this certification, including this subparagraph, in every nonexempt subagreement.

B. The project sponsoring organizations signatory to this agreement agree as follows:

(1) To comply with all the requirements of section 114 of the Clean Air Act as amended (42 U.S.C. Section 7414) and section 308 of the Federal Water Pollution Control Act (33 U.S.C. Section 1318), respectively, relating to inspection, monitoring, entry, reports, and information, as well as other requirements specified in section 114 and section 308 of the Air Act and the Water Act, issued there under before the signing of this agreement by NRCS.

(2) That no portion of the work required by this agreement will be performed in facilities listed on the EPA List of Violating Facilities on the date when this agreement was signed by NRCS unless and until the EPA eliminates the name of such facility or facilities from such listing.

(3) To use their best efforts to comply with clean air standards and clean water standards at the facilities in which the agreement is being performed.

(4) To insert the substance of the provisions of this clause in any nonexempt subagreement.

C. The terms used in this clause have the following meanings:

(1) The term "Air Act" means the Clean Air Act, as amended (42 U.S.C. Section 7401 et seq.).

(2) The term "Water Act" means Federal Water Pollution Control Act, as amended (33 U.S.C. Section 1251 et seq.).

(3) The term "clean air standards" means any enforceable rules, regulations, guidelines, standards, limitations, orders, controls, prohibitions, or other requirements which are contained in, issued under, or otherwise adopted pursuant to the Air Act or Executive Order 11738, an applicable implementation plan as described in section 110 of the Air Act (42 U.S.C. Section 7414) or an approved implementation procedure under section 112 of the Air Act (42 U.S.C. Section 7412).

(4) The term "clean water standards" means any enforceable limitation, control, condition, prohibition, standards, or other requirement which is promulgated pursuant to the Water Act or contained in a permit issued to a discharger by the Environmental Protection Agency or by a State under an approved program, as authorized by section 402 of the Water Act (33 U.S.C. Section 1342), or by a local government to assure compliance with pretreatment regulations as required by section 307 of the Water Act (33 U.S.C. Section 1317).

(5) The term "facility" means any building, plan, installation, structure, mine, vessel, or other floating craft, location or site of operations, owned, leased, or supervised by a sponsor, to be utilized in the performance of an agreement or subagreement. Where a location or site of operations contains or includes more than one building, plan, installation, or structure, the entire location will be deemed to be a facility except where the Director, Office of Federal Activities, Environmental Protection Agency, determines that independent facilities are collocated in one geographical area.

21. Assurances and Compliance.

As a condition of the grant or cooperative agreement, the sponsor assures and certifies that it is in compliance with and will comply in the course of the agreement with all applicable laws,

regulations, Executive orders and other generally applicable requirements, including those set out below which are hereby incorporated in this agreement by reference, and such other statutory provisions as a specifically set forth herein.

State, Local, and Indian Tribal Governments: OMB Circular Nos. A-87, A-102, A-129, and A-133; and 7 CFR Parts 3015, 3016, 3017, 3018, 3021, and 3052.

Nonprofit Organizations, Hospitals, Institutions of Higher Learning: OMB Circular Nos. A-110, A-122, A-129, and A-133; and 7 CFR Parts 3015, 3017, 3018, 3019, 3021 and 3052.

22. Examination of Records.

The sponsors must give the NRCS or the Comptroller General, through any authorized representative, access to and the right to examine all records, books, papers, or documents related to this agreement, and retain all records related to this agreement for a period of three years after completion of the terms of this agreement in accordance with the applicable OMB Circular.

23. Signatures

_____[Name of sponsor]_____ By _____

[Type name below signature]

Title _____

_____ Date _____

Address Zip Code

The signing of this plan was authorized by a resolution of the [Name of sponsor] governing body of the adopted at a meeting held on _____.

_____ _____

[Type name below signature] Address Zip Code

Secretary [or other title]

Date _____

[Add additional signature blocks as necessary]

Natural Resources Conservation Service

U.S. Department of Agriculture

Approved by:

_____

[Type name below signature]

State Conservationist

Date: _____

506.31 Rehabilitation Project – Memorandum of Understanding

MEMORANDUM OF UNDERSTANDING (MOU)

between the

NATURAL RESOURCES CONSERVATION SERVICE (NRCS)

U.S. DEPARTMENT OF AGRICULTURE (USDA)

and the

[Insert names of sponsors]

Sponsors for

[Insert name of project] Dam No. **[Insert no. of dam]**

This MOU is between the USDA, NRCS, and the [Insert names of sponsors, sponsoring local organizations for this project], hereinafter referred to as sponsor.

AUTHORITIES, STATUTES, LAWS

The authority of NRCS to enter into this MOU is section 14 of The Watershed Protection and Flood Prevention Act, 16 U.S.C. Section 1012, as amended by Section 313 of Public Law 106-472. This section authorizes NRCS to provide technical assistance and financial assistance to local project sponsors for rehabilitation of aging dams constructed under the Watershed Protection and Flood Prevention Act (Public Law 83-566), the Flood Control Act of 1944 (Public Law 78-534), the Pilot Watershed Program, and the Resource Conservation and Development (RC&D) Program.

STATEMENT OF PURPOSE

Previously the NRCS provided technical assistance (TA), financial assistance (FA), or both to the sponsor for works of improvement known as dam no. [**Insert no. of dam]** in the [**Insert name of project]**. This project was originally authorized and installed under the [**Insert name of program]**. NRCS has determined that this dam is eligible for rehabilitation under the authorities cited above.

According to the project plan and operation and maintenance (O&M) agreement for this project, the sponsor is responsible for the O&M of this dam to assure it will function as designed and constructed. The sponsor has an interest in extending the service life of the dam and meeting applicable safety and performance standards. The sponsor recognizes that the process of rehabilitating a dam takes significant advance preparation, and would like to initiate work on specific areas of planning and design of a rehabilitation project.

Although NRCS has the authority to assist the sponsor with rehabilitation of the dam identified above, NRCS resources cannot be committed to this project at this time. However, NRCS concurs with the sponsor initiating work on specific areas of planning and design of the rehabilitation project

Federal funds for a particular rehabilitation project will be equal to 65 percent of the total costs of the rehabilitation project, but will not exceed 100 percent of the actual construction costs incurred in the rehabilitation. Also, the sponsor will be responsible for acquisition of all land rights and permits. The sponsor will be responsible for 100 percent of the costs of natural resource rights and local, State, and Federal permitting. The value of non-Federal in-kind contributions can be credited to the sponsor's 35-percent share of the total eligible project cost.

GOAL

The primary goal of this MOU is to establish a framework under which the sponsor may proceed with work on specific aspects of the proposed rehabilitation project.

This MOU establishes a basis for cooperation between the parties to define acceptable in-kind contributions for this project. Therefore, the parties pledge to work together with the mutual goal of rehabilitation of this project within the current limits of their respective authorities and available funding.

SCOPE OF MOU

The sponsor may provide all or a portion of the sponsor's 35-percent share of the total eligible project cost by providing in-kind contribution of services and land rights acquisition. NRCS and sponsors agree that the following services and the maximum in-kind credit values may be considered for credit to the sponsor's share of the total rehabilitation cost of this project:

Land rights acquisition	[**Insert $ value of in-kind contribution]**
[Insert name of service performed]	**[Insert $ value of in-kind service]**
[Insert name of service performed]	**[Insert $ value of in-kind service]**

The sponsor must provide NRCS with documentation of the actual costs incurred for the services for determination of final credit values. The value of land rights must be determined by a professional land appraiser.

LIMITATIONS

The in-kind credit values shown above will be the maximum to be considered for the above-stated services and land rights (unless later amended and agreed to by both parties).

The technical quality of the services provided must be concurred with by NRCS prior to in-kind credit being given.

Only services and land rights acquisition provided by the sponsor after November 9, 2000 (date of enactment of Public Law 106-472), will be credited.

The in-kind credit values will not exceed 35 percent of the total costs of the rehabilitation project described above. The sponsors will receive no cash reimbursement or credit for in-kind contributions that exceed this amount.

The sponsors are responsible for the cost of water, mineral, and other resource rights; all Federal, State, and local permits; and operation and maintenance, none of which are considered part of the total eligible project cost and none of which may be credited for the sponsor's cost share.

No credit for in-kind contributions will be given for sponsors' actions normally needed for carrying out their previously assigned responsibilities for this project.

This MOU is not a fund obligating document.

There is no guarantee that funds will be appropriated by Congress for the dam rehabilitation project described in this MOU.

There is no guarantee that, if funds are appropriated by Congress, the dam rehabilitation project described in this MOU will be given any priority for completion by NRCS.

There is no guarantee that, if the dam rehabilitation project described in this MOU is selected as a NRCS priority rehabilitation project, the alternatives currently considered by the sponsor will be the recommended or selected alternative.

Determination of the final amounts to be credited shall be at the sole discretion of NRCS.

All actions taken and costs incurred by the sponsor prior to the time of the approval of the rehabilitation plan will be entirely at its own risk. Therefore, there is no guarantee, implied or otherwise, that any services or land rights provided by the sponsor will be credited as an in-kind contribution.

Nondiscrimination Provisions

The U.S. Department of Agriculture (USDA) prohibits discrimination in all its programs and activities on the basis of race, color, national origin, age, disability, and where applicable, sex, marital status, familial status, parental status, religion, sexual orientation, genetic information, political beliefs, reprisal, or because all or a part of an individual's income is derived from any public assistance program. (Not all prohibited bases apply to all programs.) Persons with disabilities who require alternative means for communication of program information (Braille, large print, audiotape, etc.) should contact USDA's TARGET Center at (202) 720-2600 (voice and TDD). To file a complaint of discrimination write to USDA, Director, Office of Civil Rights, 1400 Independence Avenue, SW., Washington, DC 20250-9410 or call (800) 795-3272 (voice) or (202) 720-6382 (TDD). USDA is an equal opportunity provider and employer.

By signing this agreement the recipient assures the Department of Agriculture that the program or activities provided for under this agreement will be conducted in compliance with all applicable Federal civil rights laws, rules, regulations, and policies.

TERMINATION

This MOU can be modified or terminated at any time by mutual consent of both parties or can be terminated by either party giving 60 days written notice to the other party.

By: _____

Title: State Conservationist Date: _____

Insert Name(s) of Sponsor(s)

By: _____

Title: _____Date: _____