

**COOPERATIVE AGREEMENT
BETWEEN
THE UNITED STATES OF AMERICA
AND
THE KANSAS DEPARTMENT OF AGRICULTURE
FOR THE
MANAGEMENT OF UNDESIRABLE PLANTS**

THIS COOPERATIVE AGREEMENT (hereinafter referred to as the “Agreement”) shall be effective when executed by the parties here to, the UNITED STATES OF AMERICA, represented by the U.S. Army Corps of Engineers, Tulsa District (hereinafter referred to as the “Corps”) and the Kansas Department of Agriculture (hereinafter referred to as the “KDA”). The purpose of this Agreement is to coordinate the prevention, control, and containment of undesirable plants through the use of an integrated management approach as set forth in **US CODE Title 7, Chapter 61, Sec. 2814**, and to coordinate such efforts between agencies of the Federal Government, the State of Kansas, and County Noxious Weed Departments on lands owned and managed by the Corps.

WITNESSETH:

WHEREAS, the Corps is authorized by 31 U.S.C. 6305 to enter into an agreement with public or private entities to carry out a public purpose; and

WHEREAS, the Corps has Civil Works legislative and regulatory authorities and has broad outdoor recreation and fish and wildlife conservation responsibilities under Section 4 of the Flood Control Act of 1944 (Public Law 78-534) as amended on its administered water resource projects including Council Grove, Marion, John Redmond, El dorado, Fall River, Toronto, Big Hill, and Elk City Lakes in Kansas; and those portions of Kaw, Copan, and Hulah Lakes in Oklahoma.

WHEREAS, the Corps is required to comply with the Federal Noxious Weed Act (7 U.S.C. 2801 et seq.) and Army Regulations (AR) 420-74 and 200-1; and applicable state laws.

WHEREAS, the KDA is the primary state agency in charge of enforcing the Kansas Noxious Weed Law (K.S.A. 2-1314 et seq.); Kansas Administrative Regulations (K.A.R. 4-8-13 to 4-8-42); Kansas Seed Law (K.S.A. 2-1415 et seq.); Kansas Pesticide Law (K.S.A. 2-2438 et seq.); and the Kansas Plant Pest Act (K.S.A. 2-2112 et seq.); and

WHEREAS, an undesirable plant species shall be those defined as noxious in K.S.A. 2-1314 and 2-1314b, and those currently under quarantine by the Secretary of the Kansas Department of Agriculture.

NOW THEREFORE, in consideration of the mutual covenants and promises here-in-after set forth, the parties agree as follows:

1. The KDA agrees to:

a. Provide a person (State Weed Specialist) to coordinate the management of undesirable plant species between the Corps and the appropriate County Weed Departments.

b. By July 1st, of each year, provide a current list of designated and declared noxious weeds (undesirable plant species) as per K.S.A. 2-1314, and a list of plant pests currently under state quarantine as per K.S.A. 2-2117.

c. Develop guidelines in cooperation with the Corps on the integrated approach to be used to control specific noxious plant species.

d. Review hay leases as requested to ensure the language contained therein requires the lessee to comply with K.S.A. 2-1314 et seq..

e. If deemed necessary to contain an undesirable plant species, the Secretary will declare quarantine pursuant to the Kansas Plant Pest Act.

f. Cooperate in the education, research and evaluation programs relative to undesirable plant species with Kansas State University, Emporia State University, and the Kansas Biological Survey, based upon the availability of funds.

g. Notify the Corps of statewide meetings and the Annual Noxious Weed Basic Short Course.

2. The Corps agrees to:

a. Provide a Biologist who is adequately trained in management of undesirable plant species to administer and implement the noxious weed program on lands owned and managed by the Corps.

b. Provide a Biologist who is adequately trained in chemical controls of undesirable plant species to advise lake offices on chemical controls of noxious weeds on lands owned and managed by the Corps.

c. Establish an undesirable plant management program through the agency's budgeting process at the project level.

d. Carry out a preventive program that includes:

(1) Seed used for any purpose shall comply with the Kansas Seed Law (K.S.A. 2-1415 et seq.).

(2) Any nursery plants, mulch, bedding materials, or soil brought onto the property shall be certified free of noxious weeds from the state of origin.

(3) Any equipment operating in a known infested area shall be cleaned of all soil, seed or litter before leaving the property.

d. Conform to K.A.R. 4-8-27 and 4-8-41 if all parties mutually agree upon the use of biological control for musk thistle.

e. Cooperate in the collection of bio-control agents for musk thistle for release within the boundaries of the property and outside the property if excess insects are collected.

f. Develop and maintain noxious weed maps showing infested areas and upon request provide them to the Kansas Department of Agriculture.

g. In addition, the Corps will provide the Secretary of Agriculture with an annual report of the actual dollars expended for undesirable plant species management by 31 January of each year.

3. Both parties agree to:

a. Promote the philosophy and concept of vegetation management programs, which can play a role in preventing the establishment and continuing spread of undesirable plant species.

b. Encourage an increase in the level of knowledge, awareness, and commitment to noxious weed management through cross training, sharing of technical expertise, and development of technical and educational material.

c. Meet annually to review and make adjustments in the current program, and at such times as may be necessary to address specific issues or resolve problems.

d. Encourage cooperative weed prevention, control, and containment programs between federal, state, and local agencies, weed management areas, agriculture associations, and individuals.

e. Insure that planning, implementation, and action plans involving the management activities conform to applicable federal, state, and local laws and regulations.

4. Obligation of Parties:

a. The obligations of the Corps and the KDA, if any, hereunder are contingent upon the availability of appropriated funds. No legal liability on the part of the Corps or the KDA for payment of any money shall arise unless and until funds are made available to the Corps and KDA for this Agreement and written notice of such availability is given by one party to the other.

b. It is understood and agreed that the obligations of the KDA and their members, agents, and employees under this Agreement shall not be considered to fall within the scope of Federal employment, nor shall they be considered agents or employees of the Federal Government, and that none of the benefits of federal employment will be conferred under the terms of this Agreement.

c. Nothing herein shall be considered as obligating the Corps to expend, or as involving the United States Government in any contract or other obligations for the future payment of monies in excess of appropriations authorized by law and administratively allocated for this work.

5. Execution, Modification, and Duration of Agreement:

a. This Agreement shall become effective when executed by the parties hereto and shall continue in full force for a period of 20 years, unless terminated as hereinafter specified. This Agreement may also be mutually terminated by agreement of the parties, or by any one party after providing the other party ninety (90) days written notice of its intent to terminate.

IN WITNESS WHEREOF:

1. The parties hereto have executed this Agreement as of the date shown below of their signatures.

Colonel Robert L.Suthard, Jr.
U.S. Army Corps of Engineers
Tulsa District

Jamie Clover-Adams, Secretary
Kansas Department of Agriculture

Date

Date