

REVISED AGREEMENT

BETWEEN

THE UNITED STATES DEPARTMENT OF AGRICULTURE  
COMMODITY CREDIT CORPORATION

AND

THE STATE OF KANSAS

CONCERNING THE IMPLEMENTATION OF  
THE UPPER ARKANSAS RIVER  
CONSERVATION RESERVE ENHANCEMENT PROGRAM

This Revised Memorandum of Agreement (Agreement) is entered into between the United States Department of Agriculture (USDA), the Commodity Credit Corporation (CCC), and the State of Kansas (Kansas) to implement a modified Conservation Reserve Enhancement Program (CREP).

This Agreement supersedes all earlier CREP Agreement provisions between USDA, CCC, and Kansas. For all existing CRP contracts enrolled into this project before this Agreement is implemented according to Section IV.F., the earlier Agreement provisions will continue to apply and be adhered to between USDA, CCC, and Kansas during the life of those CRP contracts. All acreage enrolled under the earlier Agreement provisions will also be cumulatively applied to the total project acreage ceiling established under section II of this new revised agreement.

**I. PURPOSE**

The purpose of this Agreement is to allow, where deemed desirable by USDA, CCC and Kansas, certain irrigated and non-irrigated cropland in the targeted watersheds to be enrolled in the Kansas Upper Arkansas River (UAR) CREP project area (See Appendix 1 for a map of the CREP project area and other general information.)

**II. GENERAL PROVISIONS**

The goals of the UAR CREP are to enroll up to 28,950 acres of eligible cropland under the program within the project area to conserve irrigation water and to improve water quality. The UAR CREP is intended to reduce agricultural chemicals and sediment from entering waters of the State from agricultural lands that contribute to poor water quality in rivers and alluvial and High Plains aquifers. The reduction of irrigation water use and of non-point source contaminants, through permanent termination of water rights appurtenant to the land enrolled in CREP and the establishment of permanent vegetative cover and other conservation practices, are intended to slow the aquifer water

level decline and loss of baseflow to the river, enhance associated wildlife habitat (both terrestrial and aquatic), conserve energy, and reduce erosion.

The specific project goals are to achieve, to the extent practicable when fully enrolled, the following objectives:

- A. Enroll a maximum of 28,950 acres into CREP in the project area (to be comprised of up to 25,950 irrigated cropland acres and up to 3,000 cropland acres of dryland center pivot corners and other associated dryland areas, as defined in section IV.H(2)).
- B. Reduce the application of ground water for irrigation in the targeted area by 45,125 acre-feet, annually, with the enrollment of 25,950 irrigated acres.
- C. Increase the frequency of meeting minimum desirable streamflows in the Arkansas River at the U.S. Geological Survey (USGS) gauging station at Great Bend, Kansas, from the 1996-2004 measured levels of seventy-one (71) percent to a new level of seventy-four (74) percent and at Kinsley, Kansas, from fifty-two (52) percent as measured in the same historical time period to a new level of fifty-four (54) percent.
- D. Reduce by eight (8) percent the streamflow transit losses due to inefficiencies in water delivery, with such reduction to be accomplished by improving the channel and canal delivery system.
- E. Reduce the rate of ground water declines by fifteen (15) percent to twenty (20) percent in the alluvial aquifer and the hydraulically connected High Plains aquifer in the CREP area by 2030 compared to modeled projected water level declines with continued pumping from 2005-2030.
- F. Reduce the outward migration of river salinity within the High Plains aquifer by 2020 from the currently projected levels based on 1990's ground water conditions in the Arkansas River valley.
- G. Improve water quality in the Arkansas River in Finney, Gray, Ford, Edwards, Pawnee and Rice Counties by 2020 from the 1990 – 2000 levels which are listed under Kansas' Total Maximum Daily Loads for bacteria and nutrients by:
  - (1) Reducing the bacteria concentrations in the Arkansas River below Kansas Water Quality Standards for primary contact recreation (260 CFU per 100ml); and
  - (2) Reducing phosphorus concentrations in the Arkansas River above Great Bend by fifty (50) percent .

- H. Increase aquifer recharge and wildlife habitat by enrolling 400 acres of otherwise eligible playa lakes and soils, and other suitable locations for shallow water development through the use of CRP conservation practices CP-4D, CP-9, CP23, and/or CP23A as suitable to the specific land.
- I. Reduce agricultural use of highly erodible soils with a goal of enrolling approximately 18,000 acres that are unsuitable for dryland farming (as defined in section IV.H(2)).
- J. Reduce the amount of annual soil lost to erosion by approximately 115,000 tons per year.
- K. Protect the ecological and recreational viability of the Cheyenne Bottoms State Wildlife Area in Barton County, Kansas, with improved Arkansas River stream flow (Bottoms), as measured by an increase of the average annual bird count at the Bottoms in 2015-2023 as compared to those recorded from 1996-2004, and with increased human visitation rates in years 2015-2023 as compared to those recorded from 1996-2004.
- L. Reduce energy consumption from an average of 59,850 kW-hr to less than 5,000 kW-hr per center pivot for the first two years on land that use such pivots that is enrolled in this CREP. In subsequent years, energy consumption will be reduced to zero as the pivots eligible for limited irrigation will be removed from the enrolled parcel. Assuming maximum enrollment under this CREP, total energy savings for the term of the CREP contracts are expected to approach 12 million kW-hr.

### **III. AUTHORITY**

The CCC has the authority under provisions of the Food Security Act of 1985, as amended (1985 Act) (16 U.S.C. § 3830 *et seq.*), and the regulations at 7 CFR Part 1410 to perform all its activities contemplated by this Agreement.

The State of Kansas has authority to enter into and perform its activities contemplated by this agreement under Article 1, § 3, and Article 11, § 9, of the Kansas Constitution, the conservation districts law (K.S.A. 2-1901 *et seq.*), the Kansas Water Appropriation Act (K.S.A.82a-701 *et seq.*), and House Bill Number 2368, § 152(g) of the Session Laws of the Regular Session of the 2007 Kansas Legislature, Re-engrossed, April 13, 2007; Enrolled and presented to the Governor, April 23, 2007; Approved and signed into law by the Governor of the State of Kansas, April 24, 2007.

This Agreement is not intended to, and does not, supersede any rules or regulations, which have been or may be promulgated by USDA, CCC, the State of Kansas, or any other governmental entity participating in the CREP. This Agreement is intended to aid in the administration of the CRP. Other authorities may also apply.

#### **IV. PROGRAM ELEMENTS**

USDA, CCC, and Kansas agree that:

- A. In determining CCC's share of the cost of the UAR CREP Agreement's establishment and operation, CCC will use the appropriate CRP regulations and the Farm Service Agency (FSA) CRP National Directives. All CRP contracts executed under this Agreement must contain conservation plans consistent with applicable CRP statutes, regulations, and specifications, in accordance with USDA policies for similar enrollments and this Agreement.
- B. This CREP consists of a continuous sign-up CRP component, cost share, annual rental payments, Federal incentive payments, and a Kansas Enhancement Program comprised of 4 elements:
  - (1) State Up-Front Payments (SUP)
  - (2) State Wetland Bonus Payments
  - (2) State Well Plugging Cost-Share Payments
  - (4) Western Water Conservation Projects Fund Payments
- C. The CRP contracts for acres enrolled in the UAR CREP will be for a period of 14 to 15 years.
- D. Eligible producers in the UAR CREP project area may also continue to offer other eligible acreage for normal (non-CREP) CRP enrollment during any applicable CRP general and continuous enrollment periods.
- E. CRP contracts executed under this Agreement will be administered in accordance with, and subject to, the CRP regulations at 7 CFR Part 1410, and the provisions of this Agreement. In the event of a conflict, the CRP regulations take precedence.
- F. No lands may be enrolled under this program until the USDA's CREP Program Manager approves a detailed Kansas amendment to the National CRP directives that will provide a thorough description of this program and applicable practices, and until completion of the appropriate level of environmental analysis required by the National Environmental Policy Act of 1969, as amended, and related Statutes, Executive Orders and Departmental Regulations, and in accordance with 7 CFR part 799.
- G. Eligible practices and acreage enrollment goals by practice for the UAR CREP are as follows:
  - CP2 (Establishment of Permanent Native Grasses and Legumes)  
27,550 acres

- CP4D (Permanent Wildlife Habitat, Non-easement) 400 acres
- CP9 (Shallow Water Areas for Wildlife) 200 acres
- CP10 (Vegetative Cover Grass Already Established) 400 acres
- CP21 (Filter Strips) 100 acres
- CP22 (Riparian Buffer) 100 acres
- CP23/CP23A (Wetland Restoration Floodplain and Non-Floodplain) 200 acres

H. To be eligible for enrollment in the UAR CREP, cropland must meet the cropland eligibility requirements as set forth in 7 CFR § 1410.6, FSA CRP National Directives, any other applicable rules, and the following requirements:

- (1) At least fifty one (51) percent of the eligible cropland for a given offer must be located within the UAR CREP project area (see Appendix 1), as determined by the FSA Deputy Administrator.
- (2) For non-irrigated (dryland) cropland to be eligible for enrollment under this program, the land must:
  - meet FSA CRP crop history eligibility requirements and all other eligibility requirements according to FSA CRP National Directives
  - be either devoted to dryland center pivot corners or other associated dryland areas within or immediately adjacent to eligible irrigated fields that are enrolled in the program at the same enrollment
  - be submitted on the same offer with eligible irrigated land to be enrolled under this CREP project except that the ratio of the non-irrigated land to the irrigated land in the offer must be a ratio that is acceptable to the CCC.

Note: Associated dryland areas within or immediately adjacent to irrigated fields are defined as: cropped lands with authorized irrigation water rights that lie within or adjacent to a predominately irrigated field but due to the irrigation system layout, are not irrigated, as determined by the FSA Deputy Administrator in consultation with the State CREP Coordinator.

The State CREP Coordinator is to be appointed by the Executive Director, State Conservation Commission, and the Director, Kansas Water Office

Enrollment under this CREP is restricted to 3,000 total acres or less of non-irrigated center pivot corners and associated dryland areas.

(3) For irrigated cropland to be eligible for enrollment under this program, as determined by the FSA Deputy Administrator, in consultation with the State CREP Coordinator, the following will apply:

- The cropland must have been planted and irrigated at the rate of not less than ½ acre-foot per acre per year for 4 out of the 6 years, as provided in the National CRP Directive for general CRP crop history eligibility, and
- The cropland must be physically and legally capable of being planted and irrigated in a normal manner when offered for enrollment as determined by FSA, and
- The landowner must own the water rights associated with all the irrigated cropland to be enrolled, and such water rights must be legally dismissible by the State as provided in Section IV. H. (4) below and that water right must be reserved by the State in a manner acceptable to CCC.

(4) Additional irrigated cropland requirements for land to be eligible for enrollment under this program are as follows:

- Prior to termination of the water right appurtenant to and associated with the offered irrigated acreage to be enrolled, the water right must be in good standing, as defined in section VI. J. (1), with the State of Kansas, as determined by the Kansas Department of Agriculture, Division of Water Resources;
- The water right used on the offered irrigated acreage may not have exceeded the maximum annual quantity authorized in the years 2001 through 2005 and may not have been the subject of enforcement sanctions by the Kansas Department of Agriculture, Division of Water Resources prior to offer submission;

- The water right holder has submitted to the Kansas Department of Agriculture, Division of Water Resources, the required water-use report each of the most recent 10 years prior to enrollment;
- At least fifty percent (50%) of the maximum annual quantity authorized to be diverted under the water right appropriation under the Kansas Water Appropriation Act, K.S.A. 82a-701 *et seq*, must have been reported used in any three years from 2001 through 2005; and
- The water right may not be already enrolled in the Kansas State Water Bank, pursuant to the Kansas Water Banking Act, K.S.A. 82a-761 *et seq* or in use for other mitigation, and must thereafter be preserved by the State in the Water Bank program and reserved thereafter in a way that is acceptable to the CCC provided further that the State may to the extent agreed to by CCC reserve the water right in a manner different than reservation in the Water Bank program .

- (5) A water rights termination form (i.e., Form KCREP-WRT-01 "Voluntary Waiver of Hearing & Water Right Owner's Statement and Request to Terminate a Water Right for Acres to be enrolled in the Upper Arkansas River Conservation Reserve Enhancement Program") for the water right appurtenant to land to be enrolled in the CREP herein established must first be completed and submitted by the water right owner(s) to the Kansas Department of Agriculture, Division of Water Resources, for all irrigated cropland to be offered for enrollment for a CRP contract. This form, (KCREP-WRT-01), must be properly executed by the water right owner(s) and received by the Kansas Department of Agriculture, Division of Water Resources, prior to any CRP contract approval. If a water right authorizes irrigation of more than the offered acreage, the water right must be legally divided into separate water rights and the portion of the water right that is appurtenant to the irrigated acreage to be enrolled in CREP must be terminated after the CRP contract is approved. If the water right owner cannot or refuses to sign the water right termination agreement, the State CREP Coordinator will promptly notify FSA, and FSA will reject the CREP offer and void the contract. The State and the CCC shall both be responsible for ensuring that the enrollee is aware of this condition for participation in the CRP under this CREP. The State will be responsible for administering the terminated water right in a manner that is

acceptable to CCC and that will accomplish the purposes of this agreement.

- (6) The offered acreage must be an entire manageable unit to be eligible for this CREP, so that one or more water right(s) can be permanently terminated, as determined by the State CREP Coordinator. A manageable unit is a partial field, whole field, or combination of whole and partial fields, identified on FSA records, which have one or more water rights suitable for complete termination and enrollment in the UAR CREP program as determined by the State CREP Coordinator.
- I. Once a CRP contract is approved by FSA, the Kansas Department of Agriculture, Division of Water Resources, will execute the water right termination that will have the same effective start date as the CRP contract. The water right termination may be conditioned to allow limited irrigation for two complete calendar years ending December 31 in addition to the portion of the year in which a CRP contract becomes effective, to assist in establishing the required vegetative cover if the offered acres have soils that are unsuitable for dryland farming as defined according to section IV.H(2), or for any other eligible offered acreage determined necessary by the USDA's Natural Resources Conservation Service for required cover establishment and such limited irrigation as outlined in the approved CRP conservation plan.
- J. The water right terminations required under this CREP Agreement do not impact the landowners' ability to use water on the enrolled acreage for domestic use purposes if otherwise consistent with the termination, consistent with all legal requirements, and agreed to by CCC. Such domestic uses are uses of water by any person or by a family unit or household for household purposes or for the watering of livestock, poultry, farm, and domestic animals used in operating a farm and for the irrigation of lands not exceeding a total of two acres in area for the growing of gardens, orchards and lawns as defined in the Kansas Water Appropriation Act, K.S.A. 82a-701 *et seq.*
- K. No more than 7,238 acres can be enrolled at any one time under this Agreement in any one county in Kansas. Fully eligible offers will be accepted for CRP contracts on a "first-come, first-served" basis.

## **V. FEDERAL COMMITMENTS**

USDA and CCC agree to:

- A. Provide cost-share payments to all participants for up to fifty (50) percent of the eligible reimbursable costs incurred for the establishment



of approved conservation practices according to FSA CRP National Directives. The total of all cost-sharing payments, from all sources, may not exceed one hundred (100) percent of a participant's out-of-pocket expenses.

- B. Make annual rental payments based on relevant local posted irrigated rental rates for eligible enrolled irrigated acreage for which the Kansas Department of Agriculture's Department of Water Resources has indicated that an owner-signed water right termination request has been secured and executed by Kansas. Under the terms of this Agreement, the annual UAR CREP irrigated rental rates will be set forth and approved in a supplement to the FSA Handbook 2-CRP and posted in applicable County USDA Service Centers for public dissemination. The maximum annual per-acre payment rate for irrigated cropland will be equal to the sum of:
  - (1) the most current weighted-average, posted applicable irrigated cropland rental rate per acre for the enrolled land; and
  - (2) a maintenance incentive payment per acre in an amount according to the FSA CRP National Directives.
- C. Make annual rental payments based on posted dryland cropland rental rates for eligible enrolled cropland acreage from the dryland center-pivot corners or other dryland areas that are part of an enrolled irrigated field. The per-acre maximum payment rate for dryland cropland will be equal to the sum of:
  - (1) posted relevant dryland CRP soil rental rate based on the three predominant soils on the eligible dryland acreage offered according to FSA National CRP Directives, and
  - (2) a maintenance incentive payment per acre in an amount according to the FSA CRP National Directives.
- D. Make a one-time Signing Incentive Payment (SIP) for practices CP21, CP22, CP23 and CP23A in accordance with FSA CRP National Directives. The SIP is considered a rental payment for annual CRP payment limitation purposes.
- E. Make a one-time Practice Incentive Payment (PIP) for practices CP9, CP21, CP22, CP23, and CP23A in accordance with FSA CRP National Directives. The PIP is considered a rental payment for annual CRP payment limitation purposes.

- F. Administer CRP contracts for land enrolled in the UAR CREP consistent with the provisions of the FSA CRP National Directives.
- G. Through the Natural Resources Conservation Service, Kansas State forestry agency, and/or Technical Service Providers, develop conservation plans in accordance with FSA CRP National Directives.
- H. Conduct compliance reviews according to FSA CRP National Directives.
- I. Provide information to potential participants concerning the UAR CREP and technical assistance for implementing the CREP program in general, in accordance with applicable statutes and laws regulating such actions.
- J. Permit successors-in-interest to existing contracts to participate under the UAR CREP in the same manner as normally allowed under other CRP contract(s), as provided in FSA CRP National Directives.
- K. Approve CREP offers in accordance with National FSA CRP Directives and this Agreement.

## **VI. STATE COMMITMENTS**

The State of Kansas agrees to contribute not less than twenty (20) percent of the overall annual program cost through a combination of payments to program participants, new funding for the CREP project, and certain in-kind services, as agreed to by USDA, including:

- A. A one-time State Upfront Payment (SUP) of sixty-two dollars (\$62) per irrigated acre located in the Tier 1 area identified in the attachments and per irrigated acre in other areas where the enrollment is considered nonetheless a Tier I enrollment under the terms of this paragraph and thirty-five dollars (\$35) per irrigated acre considered a Tier 2 enrollments (because it is not considered a Tier I enrollment), based on the dominant tier applicable to the CRP contract area.

To qualify for Tier 1 (that is, to be considered "Tier I" land or a Tier I enrollment for these purposes) the offered area must, as determined by the State CREP Coordinator in consultation with FSA, either: (1) have a predominant soil type determined unsuitable for dryland farming due to susceptibility to very high levels of wind erosion with a Wind Erosion Equation I Factor of 134 or greater, or (2) be predominantly located in the designated Tier 1 area as shown in Appendix 1. All other offers not considered to be Tier 1 offers will be considered Tier 2 offers.

SUP payment shares will be divided amongst all participants on the relevant contract consistent with the shares on that contract.

The total of all SUP payments for all contracts under this CREP cumulatively may not exceed two million dollars (\$2,000,000) over the life of the CREP project.

- B. A one-time State Wetland Bonus of three hundred fifty dollars (\$350) per acre to UAR CREP participants for establishment of a CP-9 shallow water development, or a CP23 or CP23A playa and wetland restoration (in or out of a floodplain), that is located within an area eligible to receive Western Water Conservation Projects funds, as determined by the State CREP coordinator. This bonus payment will go to the landowner participant and the participating tenants on that contract, if applicable, consistent with the terms of the contract
- C. Pay up to one thousand dollars (\$1,000) State cost-share assistance for optional plugging and proper abandonment of a well at the request of the UAR CREP CRP participant for wells where the water right has been terminated under the UAR CREP CRP enrollment process, as determined by the State CREP Coordinator.
- D. Provide up to nine million forty thousand dollars (\$9,040,000) non-federal funding through the Western Water Conservation Projects Fund to producers' ditch organizations and ditch companies along the upper Arkansas River for improved efficiencies and management of surface water and groundwater conservation.
- E. Provide staffing and support for annual monitoring and evaluation of changes in ground water levels, river flow, water quality, and other changes related to water conservation and natural resource benefits of CREP implementation, including wildlife benefits.
- F. Provide funding for a full-time (FTE 1.0) State CREP Coordinator to facilitate and oversee program implementation, coordination, promotional activities, technical assistance, and monitoring and evaluation.
- G. Establish an Enhancement Program Steering Committee which will include representatives from the Kansas Water Office, Kansas Department of Agriculture Division of Water Resources, Kansas' State Conservation Commission, Kansas Department of Wildlife and Parks, and Kansas Department of Health and Environment, and as agreed to by USDA, the Farm Service Agency and the Natural Resources Conservation Service. In addition, the Kansas Water Office will consult with the Kansas Water Authority and the Upper Arkansas River Basin Advisory Committee as citizen representatives. This group will provide recommendations to Kansas and USDA on UAR CREP policies, implementation and operations consistent with all applicable laws.

- H. Seek producers who are willing to offer eligible and appropriate land for enrollment in the UAR CREP.
- I. Work to ensure coordination with other agricultural conservation programs of State and federal agencies and non-government CREP partners.
- J. Review each CRP offer to:
  - (1) Verify that the water right appurtenant to the land applied for enrollment in the UAR CREP is an active water right (as outlined in section IV. H. (4) a. b. c. and d.), and is in good standing under the Kansas Water Appropriation Act, K.S.A. 82a-701 *et seq.*; review for appropriate action on the water right termination form (Form KCREP-WRT-01; and, notify the FSA office when the water right termination has been executed by an order of the Chief Engineer, Kansas Department of Agriculture, Division of Water Resources. A water right in good standing is one that does not have a question of abandonment
  - (2) Ensure that if multiple water rights are found to be appurtenant to and associated with the land included in the UAR CREP CRP offer, the water right termination request is modified to reflect the determination of the water right(s) to be terminated on lands enrolled under the terms of this Agreement.
  - (3) Verify the water right is not already enrolled in the Kansas State Water Bank, pursuant to the Kansas Water Banking Act, K.S.A. 82a-761 *et seq.*, or in use for other mitigation. If the water right termination is denied for that or any other reason(s), notify the applicable FSA county office. The State shall then ensure that the water right is enrolled in the Water Bank and remains in the Water Bank to be reserved in a way that is acceptable to the CCC and accomplishes the purposes of this agreement, except to the extent that CCC shall agree to some other handling of the water right in order to further the causes of this agreement or to facilitate the administration of this agreement.
  - (4) Determine if the offered acres are served by both a ground water right and from a canal company or irrigation association with a surface water source, and, if so, verify that the canal company or irrigation association has endorsed and/or approved the Shareholder Agreement (Form KCREP-SA-03), which provides that no surface water will be delivered or accepted for irrigation purposes on the tracts of land enrolled into the CREP during the period in which the CREP CRP contract is effective. The ground

water right(s) on the offered acres must be in good standing, and be voluntarily permanently dismissed through the water right termination request (Form KCREP-WRT-01).

- K. Within 90 days after the end of each Federal fiscal year, the Kansas State Conservation Commission (SCC) will provide a report to FSA summarizing the status of enrollments under this CREP and progress on fulfilling the goals listed in section II and other commitments of the program. The annual report to FSA will include level of program participation, water right terminations and water savings, the results of the annual monitoring program, a summary of non-Federal CREP program expenditures, success stories, and recommendations to improve the program. In the event that Kansas has not obligated 20 percent of the overall costs for the UAR CREP program, Kansas may be required by CCC to fulfill that obligation within 90 days, or provide some other mutually agreed-upon remedy.
- L. Secure a properly executed water right termination form (Form KCREP-WRT-01) from the water right owner(s) for all irrigated land to be enrolled under a CRP contract executed under this Agreement.
- M. Take all reasonable steps to enforce the requirements of all water right terminations for acreage enrolled in the UAR CREP and promptly inform CCC if such agreements are not being followed for the duration of the CRP contract.
- N. Facilitate the provision of promotion and outreach initiatives to provide technical information from local conservation districts in promoting the UAR CREP.
- O. Implement a broad, continuous outreach and promotion campaign to provide public information and education regarding the UAR CREP.
- P. Temporarily release participants from any contractual restriction on crop production during the CRP contract period if such release is determined necessary by the Secretary of Agriculture in order to address a national emergency.

## **VII. MISCELLANEOUS PROVISIONS**

- A. All CRP contracts executed under this Agreement will be subject to all limitations set forth in the regulations at 7 CFR Part 1410 including, but not limited to, such matters as economic use, transferability, violations, and contract modifications. Agreements between participants and the applicable agencies of Kansas may impose additional conditions not in conflict with those applicable under the regulations at 7 CFR Part 1410, but only as approved by USDA.

- B. Neither Kansas, nor the USDA, will assign or transfer any rights or obligations under this Agreement without prior written approval of the other party.
- C. Kansas and the USDA agree that, to the extent possible under applicable law, each party will be solely responsible for its own acts, omissions, and the results thereof, and will not be responsible for the results thereof caused by the acts or omissions of the other party.
- D. Kansas and the USDA agree to protect any shared data under this CREP in strict accordance with the procedures and restrictions established by or under any and all laws including the Freedom of Information Act and federal privacy laws, including Section 1619 of the Food, Conservation, and Energy Act of 2008 (Public Law 110-246, section 1619), Section 2004 of the Farm Security and Rural Investment Act of 2002 (Public Law 107-171, section 2004), and other applicable laws, with the State to facilitate State monitoring efforts according to the provisions in the Memorandum Of Understanding between the Kansas State FSA Office and the State of Kansas CREP Cooperators.
- E. USDA may enter into CRP contracts with fully eligible persons, for fully eligible land, provided that the CREP project acreage enrollment limit has not been reached and that such actions are otherwise authorized by law.
- F. All financial commitment of the USDA/CCC and Kansas are subject to the availability of funds. In the event either party is subject to a funding limitation or cannot otherwise secure the necessary funding for this Agreement, it will notify the other party within 30 days and any necessary modifications will be made to this Agreement.
- G. This Agreement may be terminated by either party at any time after written notice. Such termination of this Agreement will not alter responsibilities regarding existing contractual obligations established under the UAR CREP and the Kansas incentive program between participants and USDA or CCC or between participants and Kansas.
- H. The Deputy Administrator for Farm Programs, Farm Service Agency, or the Deputy Administrator's designee or successor, is delegated authority to carry out this Agreement and, with the Governor of Kansas, or the Governor's designee or successor, may further amend this Agreement consistent with the provisions of the 1985 Act, as amended, and the regulations at 7 CFR part 1410. The provisions of this Agreement may only be modified by written agreement between the parties.

- I. USDA, CCC, and FSA will not be party to, or responsible for, any water rights contracts, water use enforcement activity, water savings compliance or monitoring efforts, or any other Kansas or local water laws, regulations, rules or ordinances; all water rights issues related to this Agreement are matters for the State of Kansas. However, CCC reserves the right to deny or terminate any CRP contracts entered into pursuant to the terms of this Agreement if eligibility criteria related to water rights are not met.
- J. If any clause of this agreement will be found by a competent court of the federal or State jurisdiction to be void, that clause will be stricken from the agreement and the rest and remainder of the agreement will remain in effect or, if both parties will agree, the entire agreement may be voided, upon mutual consent of the parties.
- K. The U.S. Department of Agriculture prohibits discrimination in its programs on the basis of race, color, national origin, sex, religion, age, disability, political beliefs, and marital or familial status. (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 the USDA, Office of Communications at 202-720-5881 (voice) or 202-720-7808 (TDD.) To file a complaint, write the Secretary of Agriculture, U.S. Department of Agriculture, Washington, DC, 20250, or call 202-720-7327 (voice) or 202-720-1127 (TDD). USDA is an equal employment opportunity employer.

- L. This Revision to the Agreement will be effective after it is signed by both parties.


In witness whereof, the parties here have set their hands as of the dates indicated herein below.

FOR THE U.S. DEPARTMENT OF AGRICULTURE AND  
THE COMMODITY CREDIT CORPORATION:

  
\_\_\_\_\_  
Juan M. Garcia  
Acting Deputy Administrator for Farm Programs  
Farm Service Agency

6/9/2011  
Date

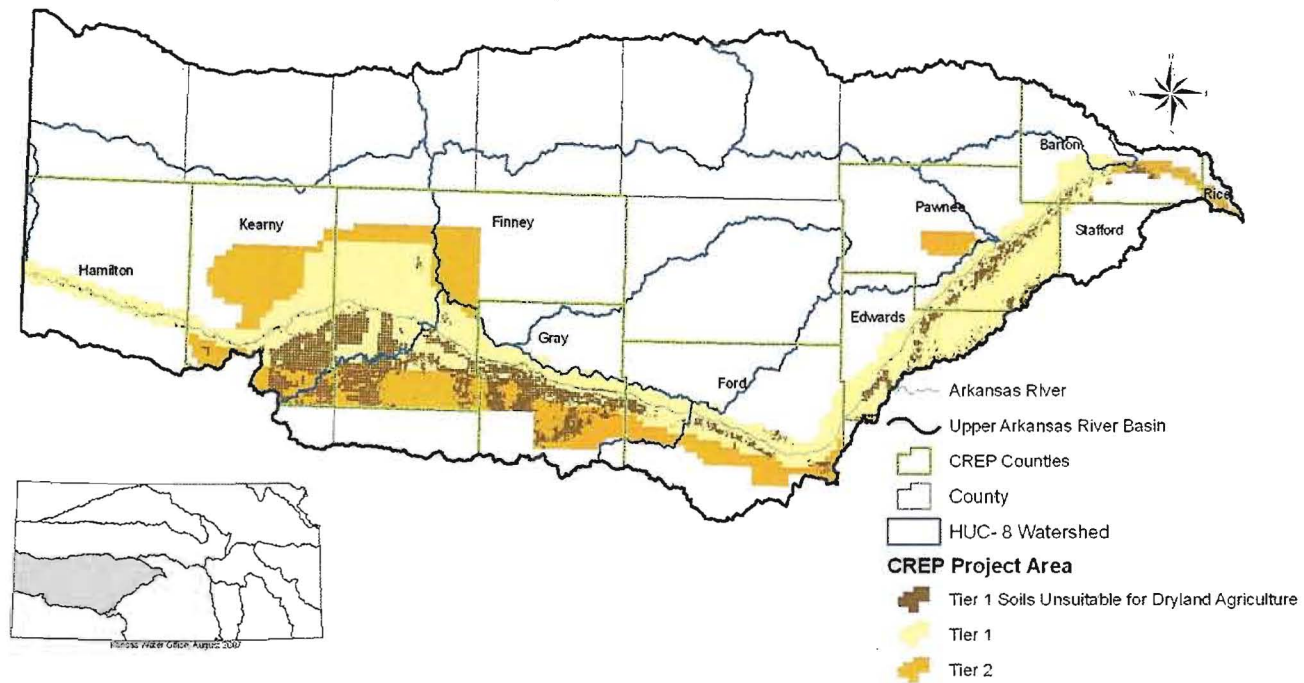
FOR THE STATE OF KANSAS:

  
\_\_\_\_\_  
Honorable Sam Brownback  
Governor of the State of Kansas

5/27/11  
Date



## Upper Arkansas River Conservation Reserve Enhancement Program (CREP)



(This appendix is provided for illustration and general information only. Specific questions about eligibility should be directed to the State CREP coordinator. )