

**MANAGEMENT AGREEMENT**

BETWEEN THE

**U.S. DEPARTMENT OF THE INTERIOR,  
BUREAU OF RECLAMATION**

AND THE

**STATE OF MONTANA  
FISH, WILDLIFE AND PARKS**

**FOR THE ADMINISTRATION OF LANDS AT THE  
VANDALIA WILDLIFE MANAGEMENT AREA**

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**Exhibits:**

- Exhibit A - Map of Reclamation Lands within the Vandalia Wildlife Management Area
- Exhibit B - Reclamation Land-Use Stipulation
- Exhibit C - Environmental Requirements
- Exhibit D - Equal Opportunity Requirements
- Exhibit E - Title VI, Civil Rights Act of 1964
- Exhibit F - Summary of Reporting Requirements

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U.S. DEPARTMENT OF THE INTERIOR,  
BUREAU OF RECLAMATION  
AND THE  
STATE OF MONTANA  
FISH, WILDLIFE AND PARKS  
FOR THE  
ADMINISTRATION AND DEVELOPMENT OF LANDS AND FACILITIES  
FOR WILDLIFE AND RECREATION PURPOSES  
AT THE  
VANDALIA WILDLIFE MANAGEMENT AREA  
VANDALIA DIVERSION DAM, MILK RIVER PROJECT**

This Management Agreement (“Agreement”), made this \_\_\_\_ day of \_\_\_\_\_ 2024, in accordance with the Reclamation Act of June 17, 1902 (32 Stat. 388), and the Act of August 14, 1934 (60 Stat. 1080), between the United States and Montana Fish, Wildlife and Parks concerning the administration of lands at the Vandalia Wildlife Management Area (“WMA”) within the State of Montana under the jurisdiction of the United States of America, acting through the Department of the Interior, Bureau of Reclamation (“Reclamation”), represented by the officer executing this instrument on its behalf, successor officers, or duly authorized representatives; and Montana Fish, Wildlife & Parks (“FWP”).

WITNESSETH, THAT:

WHEREAS, The Milk River Project is a multipurpose development providing irrigation water, flood control, and conservation uses; and,

WHEREAS, the real property ("Vandalia WMA") shown on Exhibit A, attached hereto and incorporated herein, is owned by Reclamation; and,

WHEREAS, the Vandalia Wildlife Management Area, shall be the only land associated with this Agreement; and,

WHEREAS, a legal description of the Reclamation Land is as follows:

Location: Approximately 387 acres south of the Milk River and north of railroad tracks in Valley County, Montana

Legal Description: Township 30 N., Range 36 E.,	Acres
Lots 9 and 10, Section 2	17.3
Lots 1 and 3, Section 10	40.48
Lots 2,3,5,6, SE ¼ NW ¼, NW ¼ NW ¼, SW ¼ NE ¼ Section 11	248.7
Lots 2,5,7,8,9 Section 12	80.72
Total:	387.2

WHEREAS, FWP desires to continue managing the Vandalia Wildlife Management Area for public recreation, wildlife, and other resource uses; and

WHEREAS, Reclamation desires to permit FWP to undertake such management pursuant to the terms and conditions set forth below.

NOW, THEREFORE, in consideration of the mutual promises hereinafter set forth, Reclamation and FWP agree as follows:

1. TERM OF AGREEMENT

The term of this Agreement shall commence on the date written above and continue for a period of twenty (20) years unless sooner terminated as described herein. There is no monetary compensation due to or from either party for this Agreement. Two (2) years prior to the expiration of this Agreement, FWP shall notify Reclamation in writing of its desire to either enter into a new Agreement for the next twenty (20) years, or to discontinue its management responsibilities upon expiration of this Agreement.

2. MISCELLANEOUS PROVISIONS

Subject to the terms, conditions, limitations, exceptions and reservations contained in this Agreement and except as provided herein, FWP hereby accepts responsibility for all planning, development, construction, management, operation, and maintenance activities associated with Vandalia Wildlife Management Area, except as herein otherwise provided. Such responsibilities also include the operation, maintenance, and replacement of any public recreation facilities.

- A. FWP may in its discretion and within the limits of its authority, adopt and enforce rules and regulations for public recreational use of the Vandalia Wildlife Management Area which are necessary and desirable to protect the health and safety of persons using the area, for the preservation of law and order, and for the protection of resources and facilities. Said rules and regulations will be consistent with applicable Federal, State, and local laws, rules, regulations, Executive Orders, and Reclamation policies in place at the time of adoption.
- B. FWP shall coordinate with Reclamation on all major site planning, construction, management, operation, and maintenance activities undertaken pursuant to this Agreement. This coordination shall take place prior to any ground-disturbing or construction activities. "Major" is defined as capital projects estimated to impact at least one acre of ground. Reclamation shall retain approval authority for all such proposed projects and their associated engineering designs. Non-major activities shall not require coordination with or approval by Reclamation.
- C. FWP shall manage Vandalia Wildlife Management Area consistent with authorized Project purposes of the Milk River Project. The Project purposes of the Milk River

Project include irrigation, flood control, the protection of fish and wildlife, recreation, municipal, rural, and industrial water supply, and hydroelectric power generation.

- D. FWP shall manage, operate, and maintain all public recreation facilities in good repair at its sole expense.
- E. FWP shall manage, operate, and maintain all signs, boundary markers, posts and any informational markers that are related to FWP's operations in good repair at its sole expense.
- F. FWP may issue non-ground disturbing special use and commercial use authorization permits to third parties, so long as such permits are not for the purpose of exclusive or restricted use of Vandalia Wildlife Management Area. Reclamation reserves the right upon request to issue ground-disturbing use authorization requests. These permits shall be compliant with 43 CFR Part 429 and comply with Exhibit "B", entitled Reclamation Land Use Stipulation, which is incorporated herein by reference and made a part hereof. FWP must obtain concurrence from Reclamation for existing exclusive or restricted use of Vandalia Wildlife Management Area to continue and the conditions under which such use can continue. No new exclusive or restricted uses shall be permitted on Vandalia Wildlife Management Area.
- G. Upon receiving approval from Reclamation, FWP may construct, replace, add to, or alter public use facilities within the Vandalia Wildlife Management Area. All work undertaken by FWP on Reclamation lands within the Vandalia Wildlife Management Area shall be subject to the Environmental Requirements set forth in Exhibit "C" attached hereto and incorporated herein.
- H. All applicable contracts issued by FWP, its contractors or permittees relative to this Agreement for activities carried out on Vandalia Wildlife Management Area shall include the Equal Opportunity Requirements set forth in Exhibit "D" attached hereto and incorporated herein.
- I. FWP agrees that it and its employees shall not discriminate because of race, color, age, religion, sex, or national origin against any person by refusing to furnish such person any accommodation, facility, service, or privilege offered to or enjoyed by the general public. FWP or its employees shall not publicize accommodations, facilities, services, or privileges in any manner that would directly or inferentially reflect upon or question the acceptability of the patronage of any person because of race, color, age, religion, sex, or national origin. FWP agrees to include and require compliance with a provision similar to the foregoing provision in any contract made with respect to the operations to be carried out hereunder.
- J. This Agreement is subject to Title VI, Civil Rights Act of 1964 (78 Stat. 241) and Interior Regulations issued pursuant thereto in 43 CFR 17, as modified or amended, and set forth in Exhibit "E" attached hereto and incorporated herein.

### 3. RECLAMATION USE PARAMOUNT

The rights of FWP under this Agreement are subordinate to the rights of Reclamation, its agents, employees or assigns relating to use of Vandalia Wildlife Management Area. Public use of Vandalia Wildlife Management Area may be restricted if Reclamation finds that such restriction is necessary in the interest of Project operations, public or resource safety, or national security. Reclamation retains jurisdiction over the land and water areas not specifically addressed in this Agreement. Except as herein provided, Reclamation reserves the right of its officers, agents and employees, at all times, to have unrestricted access and ingress to, passage over, under, on, across, and egress from all Federal lands, to make investigations of all kinds, dig test pits and drill test holes, to survey for and construct reclamation and irrigation works and other structures incident to Federal Reclamation Projects, or for any purpose whatsoever. Regarding any portion of Vandalia Wildlife Management Area that Reclamation finds must be restricted, Reclamation shall give FWP written notice of the proposed restriction at least 90 days, or to the extent possible, prior to the restriction.

4. ADJUSTMENT TO LAND AREAS SHOWN ON EXHIBIT A

If future needs arise which Reclamation determines will require use of all or any portion of Vandalia Wildlife Management Area, FWP shall be notified and consulted by Reclamation at least 90 days or to the extent possible prior to the use being proposed. After the parties have consulted, Reclamation shall give full consideration to minimizing any resulting adverse effects relating to the Vandalia Wildlife Management Area. In the event Reclamation's need for all or any portion of Vandalia Wildlife Management Area makes it impractical for FWP to continue its management function, this Agreement will terminate as provided in Articles 18 and 19. Upon termination FWP shall be solely responsible for bearing any of its costs associated with termination, including removal of improvements, loss of wages, revenues, salaries, or benefits to its employees, or for any other losses it may sustain as a result of the termination of this Agreement; provided, however, that termination of the Agreement by Reclamation pursuant to this Article 4 of the Agreement shall not be construed to obligate FWP to remove any dikes or other structural improvements on the landscape that were previously approved by Reclamation.

5. SOIL AND WATER CONSERVATION

FWP shall take all reasonable measures necessary to minimize siltation and erosion; protect land and water resources; prevent and suppress wildfire; protect against the introduction and spreading of noxious weeds and other pests, including domestic or feral animals which are detrimental to natural resources, agriculture, or public health and safety; and shall cooperate in soil and water conservation and fish and wildlife enhancement practices. FWP shall include suitable provisions for such controls in all licenses and permits issued, or contracts entered into by FWP with others. To the extent practicable, Reclamation and FWP will cooperate on water, riparian and terrestrial management issues to enhance fish and wildlife habitats on Vandalia Wildlife Management Area and meet on an as needed basis, possibly annually.

6. RESERVATIONS

The privileges herein granted to FWP are subject to:

- A. Existing and future rights-of-way in favor of the public or third parties for highways, roads, railroads, telephone, telegraph and electrical transmission lines, canals, laterals, ditches, flumes, siphons, and pipelines over, under and across the land. Reclamation shall furnish to FWP, upon its request, a list of all existing land use authorizations on Vandalia Wildlife Management Area covered by this Agreement within 30 days of such request.
- B. The right of properly authorized officers, assignees, agents, employees, licensees, permittees and lessees of Reclamation to enter Vandalia Wildlife Management Area without charge for the purpose of enforcing, protecting, and exercising the rights reserved to Reclamation and protecting the rights vested in those not party to this Agreement.
- C. There is reserved to Reclamation the right to remove from Vandalia Wildlife Management Area materials necessary for construction, operation and maintenance of the Project works and facilities, the right to prospect for, extract, and carry on the development for oil, gas, coal and other minerals, and the right to issue leases or permits to prospect for oil, gas or other minerals on said lands under the Act of February 25, 1920 (41 Stat. 437), and acts amendatory thereof or supplementary thereto, and the Act of August 7, 1947 (61 Stat. 913). FWP shall be consulted at least 90 days prior to any groundbreaking activity occurring on Vandalia Wildlife Management Area, and Reclamation shall give full consideration to the FWP's interest concerning any proposal prior to the exercise of these rights on Vandalia Wildlife Management Area. If Reclamation's use of Vandalia Wildlife Management Area precludes substantially all the recreational purposes under which FWP has entered into this Agreement, FWP shall have the right to terminate this Lease upon 90 days prior written notice.

7. LAND MANAGEMENT PLAN

Within five years of execution of this Agreement, FWP shall submit, for Reclamation's review and approval, a Land Management Plan (Plan) describing the activities proposed by FWP for management of the Vandalia Wildlife Management Area. The Plan shall cover a five-year period and shall include annual work plans for each year of the period.

FWP shall update the Plan every five years and shall submit the update to Reclamation for review. If FWP is not proposing significant changes in the Plan, the five-year update may simply be in the form of a letter from FWP to Reclamation, indicating that the existing Plan remains valid for the subsequent five-year period, and including a description of any additional or revised on-the-ground activities to be undertaken by FWP during the new five-year period.

8. SERVICE CONTRACTS

- A. FWP may enter into service contracts without prior review or written approval of Reclamation. Such contracts may include, but not necessarily be limited to, services for routine or emergency management, operations and maintenance of the area such as trash removal and disposal, and toilet pumping. FWP may also enter into service contracts without prior review or written approval for services to accomplish wildlife



and fisheries management objectives. These services will be consistent with management objectives and can include but are not limited to livestock grazing, fish, wildlife, and recreation management.

- B. All service contracts issued by FWP will be subject to applicable Federal laws and regulations, Reclamation policy, Executive orders, directives and standards, and applicable terms of this Agreement. The term of such contracts shall not extend beyond the term of this Agreement. Said contracts will also provide that in the event of the termination of this Agreement, Reclamation may determine to stand in the stead of FWP for the remainder of the term of said contract; provided however, in the event of such termination, Reclamation may, at any time thereafter, terminate said contract by giving the contractor or permittee 90 calendar days written notice thereof. Reclamation shall allow sufficient time to any permittee to safely remove fixtures or personal property placed on Vandalia Wildlife Management Area.
- C. No service contracts entered into or granted by FWP shall purport to transfer or convey any interest in the land or any public facilities; the right given to FWP to enter into such contracts shall not be construed as a right to grant or convey any interest in land.
- D. FWP shall not issue, or allow to be issued, directly or through the actions of its permittees, permits or other forms of agreements that allow for the development of privately-owned exclusive uses such as cabin sites, mobile home or travel trailer sites, private boat docks, or private road access.
- E. Reclamation reserves the right and is responsible for the issuance of grants to third parties ("outgrants") for land use not provided for above (special use permits, licenses, crossing agreements, etc.) on or affecting Vandalia Wildlife Management Area, which issuance shall not be inconsistent with this Agreement, or FWP's recreational and resource management purposes. Reclamation will, prior to approval, provide FWP a copy of any outgrant application for review and comment. FWP shall review any such application and make written comment to Reclamation's designated representative within 60 calendar days from receipt. Reclamation's designated representative will consider the written comments of FWP during the approval process. Comments received will be considered and, if applicable, incorporated into any outgrant. Outgrants shall contain reasonable measures to protect public recreation facilities and reclaim or repair damages which may occur to public recreation facilities.

9. FEES AND CHARGES

FWP shall not charge user fees for public access to the Vandalia Wildlife Management Area, but FWP has full authority to require members of the public to possess appropriate licenses for recreation, hunting, fishing, trapping, boating and other activities regulated by FWP. Any such proposed third-party grazing activities shall be part of an approved Land Management Plan.

10. VISITOR USE

FWP will furnish to Reclamation's representative, upon request, a summary of any information collected by FWP on recreation related use and/or resources on the Vandalia Wildlife Management Area for the previous calendar year.

11. EXAMINATION OF RECORDS

The Comptroller General of the United States or any duly authorized representatives, or the Secretary of the Interior or duly authorized representatives, shall have access to and the right to examine any pertinent books, documents, papers, and records of FWP involving transactions related to this Agreement.

12. FACILITY DEVELOPMENT

It is the intent of Reclamation and FWP to develop and enhance the natural resources and public recreation opportunities on Vandalia Wildlife Management Area. Site planning, public recreation facility construction, and resource enhancement shall be accomplished on a mutually agreeable, incremental basis as user demands require and/or as fund availability permits.

13. LIABILITY OF CONTRACTORS

- A. FWP shall require all contractors to carry such insurance as is customary among prudent operators of similar businesses under comparable circumstances. FWP will furnish to Reclamation's representative, upon request, proof of contractor insurance records.
- B. FWP shall require all of its contractors to assume full responsibility for any and all liability arising out of or connected with contractor or permittee activities on Federal Lands, and FWP shall require contractors to agree to indemnify and hold harmless Reclamation, its officers, agents, and employees, from any and all such liability.

14. TITLE TO LAND, IMPROVEMENTS, AND RESTORATION

- A. Upon commencement of this Agreement, FWP shall keep a current and accurate inventory of such structures and improvements (including construction and/or purchase costs) on Vandalia Wildlife Management Area that were installed or constructed solely at its own expense, or by a contractor, and as may be requested by Reclamation, and FWP shall provide Reclamation an inventory of such structures and improvements if requested.
- B. For a period of 120 days after termination of this Agreement, or such longer period as may be determined by Reclamation or as needed due to weather conditions, FWP shall have the privilege of selling, salvaging, and/or removing those structures or facilities installed or constructed by FWP at its sole costs or expense, exclusive of those structures or facilities paid for or partially paid for from funds expended by Reclamation. After the expiration of such period, title to all remaining such FWP-financed structures or facilities shall automatically vest in the United States and be under the jurisdiction of Reclamation. The right of FWP to remove such structures or facilities shall include the obligation of FWP to restore the land occupied by such structures to its original condition as determined to be satisfactory to Reclamation. If

Reclamation terminates this Agreement without cause, Reclamation will compensate FWP for 50 percent of the removal and transportation costs of FWP facilities and property.

15. REVIEW OF ADMINISTRATION

- A. Reclamation may make inspections of Vandalia Wildlife Management Area at any time. However, Reclamation shall provide FWP 10 business days' prior notice of inspection in order to include FWP in such inspection.
  
- B. The parties hereto will meet as needed, when requested by either, to review and inspect the management, operation, and maintenance of Vandalia Wildlife Management Area. The purpose of these reviews and inspections is to ensure that management, operation, and maintenance procedures are adequate and consistent with the purposes of this Agreement and to identify and correct deficiencies and problems. Said reviews may include, but are not limited to: health and safety; appropriate use of Federal land, land interests and resources; and inspections of facilities and operations, including third party or commercial permits, and basic service contracts. The parties agree to correct all deficiencies within specified time requirements established mutually by the parties.

16. DEBRIS AND WASTE REMOVAL

FWP shall provide litter control and trash removal on Vandalia Wildlife Management Area to the extent necessary to maintain the area in a safe condition suitable for public recreation use. FWP shall properly dispose of all waste, discarded or abandoned items and debris generated by its management, operation and maintenance activities. Said waste and debris shall be disposed of or recycled in a properly permitted disposal or recycling facility outside of the Reclamation Land boundaries.

17. SAFETY AND UNAUTHORIZED USE

- A. FWP shall, within the limits of its statutory authority, adopt and enforce rules and regulations for the recreation use of the Vandalia Wildlife Management Area as are necessary and appropriate to protect the health and safety of the recreating public; for the preservation of law and order; and for the protection of the Vandalia Wildlife Management Area resources and facilities. Said rules and regulations shall, to the extent possible, be consistent with applicable Federal and state laws, regulations, and policies currently in place or as may be adopted in the future.
  
- B. The primary responsibility for identifying and preventing unauthorized uses or encroachment within the Vandalia Wildlife Management Area belongs to FWP. FWP shall, in cooperation with Reclamation, take all reasonable measures necessary to identify, investigate, and resolve incidents of unauthorized use or encroachment. These measures include any legal actions necessary to prevent or prosecute such unauthorized use. Reclamation hereby assigns to FWP the right to bring action in FWP's name in order to protect each party's interests and carry out their responsibilities in connection therewith. Resolution of boundary disputes shall be the responsibility of Reclamation. FWP shall notify Reclamation's designated

representative of boundary disputes or unauthorized incidents immediately upon discovery.

- C. Reclamation shall authorize FWP, and FWP shall enforce, provisions found in FWP Regulation Chapter 23, Regulation Governing Uses of Land and Waters Acquired or Administered by FWP.

18. TERMINATION

This Agreement shall terminate either:

- A. At the expiration of this Agreement, unless the parties hereto agree to an extension; or,
- B. After FWP has provided Reclamation six-month advance written notice of FWP's intent to terminate its obligations under this Agreement. If the Agreement is terminated as the result of such written notice, all rights and obligations of FWP under this Agreement shall cease at the end of said period, and FWP shall immediately return all management control to Reclamation; or,
- C. As provided for in Article 4 of this Agreement.

Upon termination, both parties shall bear the burden of their own costs associated with termination. Both parties will meet and discuss the existing improvements and agree on what shall be done with improvements: the improvements will either stay on Vandalia Wildlife Management Area or be removed. FWP shall be responsible for the loss of wages, revenues, salaries, or benefits to its employees as a result of the termination of this Agreement.

19. DEFAULT

If either party has violated any term of this Agreement, the non-defaulting party shall:

- A. Provide written notice of the violation to the defaulting party and such opportunity to cure as is appropriate. Generally, the defaulting party shall be afforded not more than 60 days after receipt of written notice to cure the violation or to make diligent efforts to cure the violation. In the event a violation constitutes a clear and present danger to the public's health, safety and welfare, the non-defaulting party shall immediately notify the defaulting party in the most expeditious manner possible, of such violation and such opportunity to cure the danger as is warranted by the violation. Subsequent written notice of the violation shall also be sent to the defaulting party. In the case of a violation constituting a clear and present danger to the public's health, safety and welfare, the non-defaulting party may, at its sole discretion, elect to immediately cure the violation. In such case, the non-defaulting party shall bill the defaulting party for all costs, not to exceed \$50,000, for curing the violation.

- B. If the defaulting party has not cured or made diligent efforts to cure the violation by the end of the period identified pursuant to Article 19.A, The non-defaulting party shall notify the defaulting party that it is in default of the terms of this Agreement, and that if the violation is not cured within 30 calendar days from the date of default notice, the non-defaulting party may in its sole discretion terminate the Agreement for cause, either in whole or in part. If FWP fails to meet such requirement by the end of the 30-day period, Reclamation may in its sole discretion terminate the Agreement, either in whole or in part, and FWP shall immediately vacate and, to the extent weather and conditions permit, remove any and all personal property and fixtures installed by FWP under the provisions of section 18A, above.

20. INCIDENT REPORTING

FWP shall investigate, within its statutory authority, and cooperate in the investigation by the agency having jurisdiction, all incidents involving death, serious injury or property damage, hazardous material spills, or other incidents of a serious nature on Vandalia Wildlife Management Area, and shall take prompt steps to control the incident, if possible, and/or notify Reclamation in accordance with Article 25B. FWP shall make an initial verbal report on the incident to Reclamation's Montana Area Office, (406) 247-7296, no later than five business days after knowledge of the incident. Death and serious incidents must be reported to Reclamation within 24 hours. For all incidents, FWP shall, within its statutory authority and within five calendar days of the verbal notice, provide Reclamation copies of written reports describing the nature of the death, spill, injury, or damage, the date of occurrence, the cause if known, and, if appropriate, the estimated costs of repair and the estimated date of repair. Hazardous material spills shall also be reported to the appropriate agencies as required by federal, state, and local laws, rules, and regulations.

21. VARIATION IN RESERVOIR WATER LEVEL

Reclamation reserves the right to vary the water levels as necessary for Project purposes. Reclamation shall, to the extent reasonably practicable, provide timely notice to FWP of any special or emergency increases or decreases in water level that would adversely affect public recreation facilities and public use of the Vandalia Wildlife Management Area. FWP agrees that Reclamation shall not be held responsible to FWP for losses or damages, either financial (lost revenues, incomes, profits, etc.) or physical damage to fixed assets (docks, boat launch ramps, buoys, buildings, materials, etc.), incurred during the construction, operation, or maintenance of the Project. Reclamation's monthly operating plans are available by FWP request.

22. CONSUMPTIVE USE OF WATER BY THE FWP

- A. FWP may, subject to Montana water law and water availability, use water from reservoir supplies as has been acquired or retained for the operation of public recreation facilities and for livestock watering within the Vandalia Management Area.
- B. When FWP furnishes water to the public, it shall furnish only potable drinking water which meets appropriate Federal, State, and local health standards. Reclamation does not warrant the quality of reservoir water as to its suitability either for domestic purposes or for human consumption. FWP shall not issue water contracts or water

rights, to any person, corporation, company, entity, or facility to extract water from any Reclamation lands within the Vandalia Wildlife Management Area.

23. CERTIFICATION OF NONSEGREGATED FACILITIES

FWP certifies that it does not maintain or provide for its employees any segregated facilities at any of its establishments and does not permit its employees to perform their services at any location under its control where segregated facilities are maintained. FWP agrees that a breach of this certification is a violation of the Equal Opportunity Clause in this Agreement. As used in this certification, the term "segregated facilities" means any waiting rooms, work areas, restrooms and washrooms, restaurants and other eating areas, time clocks, locker rooms, and other storage or dressing areas, parking lots, drinking fountains, public recreation and entertainment areas, transportation, and housing facilities provided for employees which are segregated by explicit directive or are, in fact, segregated on the basis of race, creed, color, or national origin, because of habit, local custom, or otherwise. FWP agrees that (except where it has obtained identical certification from proposed subcontractors for specific time periods) it shall obtain identical certification from proposed subcontractors prior to the award of subcontracts exceeding \$10,000 which are not exempt from the provisions of the Equal Opportunity Clause, and that it shall retain such certification in its files.

NOTE: The penalty for making false statements in offers is prescribed in 17 U.S.C. 1001.

24. CONSTRUCTION MATERIALS AND MINING

Reclamation reserves the following rights: the right to remove from the Vandalia Wildlife Management Area materials necessary for construction, operation, and maintenance of the Project works and facilities; the right to prospect for, extract, and carry on the development for oil, gas, coal, and other minerals; and the right to issue leases or permits to prospect for oil, gas, or other minerals on said lands under the Act of February 25, 1920 (41 Stat. 437) (and acts amendatory thereof or supplementary thereto) and the Act of August 7, 1947 (61 Stat. 913). FWP shall be consulted and Reclamation shall give full consideration to FWP's interest concerning any proposal prior to the exercise of these rights within the Vandalia Wildlife Management Area.

25. RISK AND DAMAGES.

- A. Reclamation and FWP will each be responsible and liable for the negligent acts or omissions of their respective officers, agents, employees or assigns to the extent provided by law. Nothing in this Agreement will be construed as admission of fault or liability, and nothing will limit the defenses and immunities legally available to each party. Neither FWP nor the State of Montana waives sovereign immunity by entering into this Agreement and specifically retain immunity and all defenses available to them as sovereigns pursuant to State laws.
- B. Within 30 days of receipt by either party of any claim for liability arising from actions within the scope of this Agreement, the party receiving the claim shall notify the other party of such claim and provide a copy of the claim to the other party, if it is in written form. Nothing in this Article shall be construed to limit the right of either

party to assert such affirmative defenses and file such cross complaints as may be appropriate in relation to any claim affecting the liability of such party.

## 26. PROTECTION OF RESOURCES

### A. Environmental Protection

- i. FWP shall comply with the provisions of all applicable Federal, State and local laws and regulations, and Reclamation's written policies and instructions provided to FWP, pertaining to the protection of the public, employees, and natural and cultural resources within the Reclamation Land.
- ii. FWP will be responsible for completing applicable Montana Environmental Policy Act compliance including all cultural resource compliance associated with proposed actions planned and initiated by FWP for the operation and maintenance of the Project.

### B. Hazardous Materials/Waste Management

- i. FWP shall not allow contamination or pollution of Federal lands, waters or facilities for which FWP has the responsibility for care, operation, and maintenance and shall take reasonable precautions to prevent such contamination or pollution by third parties. Substances causing contamination or pollution shall include but are not limited to hazardous materials, thermal pollution, refuse, garbage, sewage effluent, industrial waste, petroleum products, mine tailings, mineral salts, misused pesticides, pesticide containers or any other pollutants. Provided, however, that FWP is not liable or responsible for pollution caused by routine FWP watercraft activities such as law enforcement, aquatic species management or weed management, or by public watercraft users or their watercraft.
- ii. FWP shall comply with all applicable Federal, State, and local laws and regulations, and Reclamation policies and directives and standards, existing or hereafter enacted or promulgated, concerning any hazardous material that shall be used, produced, transported or stored on or in Federal lands, waters or facilities.
- iii. "Hazardous material" means any substance, pollutant, or contaminant listed as hazardous under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, 42 U.S.C. section 9601, et seq., and the regulations promulgated pursuant to that Act.
- iv. Upon discovery of any event which may or does result in contamination or pollution of Federal lands, waters or facilities, except as provided in 25Bi, above, FWP shall initiate any necessary emergency measures to protect health, safety and the environment and shall report to Reclamation within 24 hours of such discovery the full details of the event and actions taken.
- v. Violation of any of the provisions of this sub-Article, as determined by Reclamation, may constitute grounds for termination of this Agreement.

Such violations require immediate corrective action by FWP and shall make FWP liable for the cost of full and complete remediation and/or restoration of any Federal resources or facilities that are adversely affected as a result of the violation.

- vi. FWP agrees to include the provisions contained in paragraphs i.-v. of this sub-Article in any subcontract, third-party contract, or permit they may issue pursuant to this Agreement if the contractor or permittee will be using or handling any hazardous materials.
- vii. Reclamation agrees to provide information necessary for FWP, using reasonable diligence, to comply with the provisions of this sub-Article.

C. Weed Control:

- i. All herbicides shall be used in accordance with the current registration, label direction, or other directives regulating their use and with applicable Reclamation policy and directives and standards. Applicators will meet applicable State training or licensing requirements. Records maintenance shall be in accordance with applicable State requirements and such records shall be furnished to Reclamation as per State requirements, if any, or on request by Reclamation.
- ii. Any equipment, tools, and machines used for herbicide application shall be in good repair and suitable for such use. Equipment shall be calibrated prior to the spraying season.
- iii. Mixing, disposal, and cleaning shall be done where herbicide residues cannot enter storm drains, sewers, or other non-target areas.
- iv. FWP shall initiate any necessary measures for containment and clean-up of herbicide spills. Spills shall be reported to Reclamation as per state requirements, if any.
- v. Aerial application of herbicide is allowed with prior notification to Reclamation.
- vi. FWP agrees to include the provisions contained in paragraphs i-vi of the sub-Article in any contract for herbicide application on Reclamation property.

D. Pest Control:

- i. FWP shall not permit the use of any pesticides on Federal lands without prior written approval by Reclamation. FWP shall submit to Reclamation for approval an Integrated Pest Management Plan for the prescribed area at least thirty (30) days in advance of pesticide application.
- ii. All pesticides shall be used in accordance with the current registration, label direction, or other directives regulating their use and with applicable



Reclamation policy and directives and standards. Applicators will meet applicable State training or licensing requirements. Records maintenance shall be in accordance with applicable State requirements and such records shall be furnished to Reclamation on a yearly basis prior to the spraying season.

- iii. Any equipment, tools, and machines used for pesticide application shall be in good repair and suitable for such use. Equipment shall be calibrated prior to the spraying season and as deemed necessary by Reclamation.
- iv. Mixing, disposal, and cleaning shall be done where pesticide residues cannot enter storm drains, sewers, or other non-target areas.
- v. FWP shall initiate any necessary measures for containment and clean up of pesticide spills. Spills shall be reported to Reclamation within twenty-four (24) hours with full details of the actions taken.
- vi. Aerial application of pesticides is prohibited without prior written approval by Reclamation.
- vii. FWP agrees to include the provisions contained in paragraphs i.-vi. of this sub-Article in any contract for pesticide application on Reclamation property

E. Historic, Cultural, and Archaeological Values

- i. FWP shall take reasonable and necessary precautions to protect and preserve any and all antiquities or other objects of archaeological, paleontological, cultural, historic, or scientific interests on Federal lands. Objects under consideration include but are not limited to, historic or prehistoric ruins, human remains, funerary objects, and other artifacts. Should such sites or objects, or evidence of sites or objects, be discovered FWP shall immediately suspend any and all work involving the area in question, make a reasonable effort to protect such discovery, and advise Reclamation of the existence of such discovery. FWP shall immediately provide an oral notification to Reclamation of the discovery of human remains on Vandalia Wildlife Management Area. FWP shall forward a written report of their findings to Reclamation within forty-eight (48) hours by certified mail. FWP shall cease activity, stabilize, and protect such discoveries until authorized to proceed by Reclamation. Protective and mitigation measures specified by Reclamation shall be the responsibility of FWP. Reclamation shall have the area inspected within ten (10) working days to determine its historical significance and the appropriate actions to follow (salvage, test excavation, etc., and resumption of construction). Cost of any salvage work will be borne by the Reclamation. All objects salvaged from Federal lands are the property of the United States Government and will be turned over to Reclamation for disposition.

27. NOTICES

- A. Any notice, demand, or request required or authorized by this Agreement to be given or made to or upon Reclamation shall be deemed properly given or made if delivered by mail, to the Area Manager, Montana Area Office, 2900 4th Ave N Billings, MT 59101.
- B. Any notice, demand, or request required or authorized by this Agreement to be given or made to or upon FWP shall be properly given or made if delivered by mail, to the Montana Fish, Wildlife and Parks: Attn: Wildlife Program Manager, 1 Airport Rd., Glasgow, MT 59230.
- C. The designation of the person to or upon who any notice, demand, or request is to be given or made, or the address of any such person, may be changed at any time by notice given in the same manner as provided in this section for other notices.

28. EXPENDITURE CONTINGENT ON APPROPRIATION OR ALLOTMENT OF FUNDS

The expenditure of any funds and the performance of any work by Reclamation or by FWP as provided for by the terms of this Agreement, which may require an appropriation or the allotment of funds by the respective legislative bodies, shall be contingent upon such appropriation or allotment actually being made. The failure of either of such legislative bodies to appropriate funds or the absence of any allotment of funds shall not impose any liability on either of the parties hereto.

29. MODIFICATION OF AGREEMENT

- A. This Agreement may be modified, amended, or superseded at any time during its term upon mutual written agreement by the parties hereto.
- B. If any portion of this Agreement is rendered null and void as a result of applicable laws, regulations, Executive Orders, Reclamation Policy, court rulings, etc., all remaining portions of the Agreement will remain in full force and effect, provided the voided portion or portions do not affect the primary purposes of this Agreement.

30. OFFICIALS OR EMPLOYEES NOT TO BENEFIT

No member or delegate to Congress and no officer, agent, or employee of the Department of the Interior, or official or employee of FWP shall be admitted to any share or part of this Agreement.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date first above written.

U.S Department of Interior  
Bureau of Reclamation  
Montana Area Office

State of Montana  
Montana Fish, Wildlife and Parks

\_\_\_\_\_  
Ryan Newman, Area Manager  
U.S. Bureau of Reclamation

\_\_\_\_\_  
Christy Clark, Director  
Montana Fish, Wildlife & Parks

The parties below CONCUR with the Agreement:

Glasgow Irrigation District  
Glasgow, MT

\_\_\_\_\_  
President

### EXHIBIT A

## RECLAMATION LAND WITHIN THE VANDALIA WILDLIFE MANAGEMENT AREA



## EXHIBIT B

### RECLAMATION LAND USE STIPULATION

- A. There is reserved to Reclamation, its successors or assigns, the prior right to use any of the lands herein described to construct, operate, and maintain all structures and facilities including, but not limited to, canals, waste ways, laterals, ditches, roadways, electrical transmission lines, dams, dikes, reservoirs, pipelines, telephone and telegraph lines, communication structures generally, substations, switch yards, power plants and any other appurtenant irrigation and power structures and facilities, without any payment made by the Bureau of Reclamation or its successors for such right.
- B. FWP further agrees that if the construction of any or all such structures and facilities across, over, or upon said lands should be made more expensive by reason of the existence of improvements or works of FWP thereon— such additional expense is to be estimated by the Secretary of the Interior, whose estimate is to be final and binding upon the parties hereto. Within 30 days after demand is made upon FWP for payment of any such sums, FWP will make payment thereof to Reclamation or any of its successors or assigns constructing such structures and facilities across, over, or upon said lands. As an alternative to payment, and if approved by Reclamation, FWP, at its sole cost and expense and within time limits established by the Government, may remove or adapt facilities constructed and operated by it on said lands to accommodate the aforementioned structures and facilities of the Reclamation.
- C. FWP shall bear any costs occasioned by the failure of FWP to remove or adapt its facilities within the time limits specified.
- D. There is also reserved to Reclamation the right of its officers, agents, and employees, at all proper times and places, freely to have ingress to, passage over, and egress from all of said lands for the purpose of exercising, enforcing, and protecting the rights reserved herein.
- E. FWP further agrees that Reclamation, its officer, agents, employees, successors, and assigns shall not be held liable for any damage to FWP's improvements or works by reason of the exercise of the rights here reserved; nor shall anything contained in this paragraph be construed as in any manner limiting other reservations of rights in favor of Reclamation contained in this Agreement.

## EXHIBIT C

### ENVIRONMENTAL REQUIREMENTS

- A. No modification of the natural environment by FWP shall be undertaken without environmental compliance completed. In reviewing such artificial modification, Reclamation may require FWP to provide an Environmental Assessment which it will use to determine the actions necessary to meet the potential requirements of the National Environment Policy Act.
- B. FWP shall plan, construct, operate, maintain, and manage all structures and facilities on the premises herein described so as to minimize adverse environmental consequences. In so doing, FWP shall give particular consideration to alleviating potentially harmful effects on, but not limited to, landscape, soils, water, air, mineral, timber, or population or other animate resources.
- C. Except as provided in the Agreement, FWP shall correct or modify any pollution of soil, air, or water and deterioration of living or inanimate resources caused by or resulting from exercise of the privileges granted herein in accordance with rules, regulations, and directives of the Secretary of the Interior, including, but not limited to, aesthetic qualities of the environment, and in compliance with all Federal laws. Increased cost will not justify noncompliance with environmental quality controls required by Reclamation.
- D. FWP shall comply fully with all applicable Federal laws, orders, and regulations and the laws of the State of Montana, all as administered by appropriate authorities, concerning the pollution of streams, reservoirs, ground water, or water courses with respect to thermal pollution or the discharge of refuse, garbage, sewage effluent, industrial waste, oil, mine tailings, mineral salts, or other pollutants, and concerning the pollution of the air with respect to radioactive materials or other pollutants.
- E. In planning for projects, FWP shall comply with requirements of the National Historic Preservation Act or equivalent State of Montana cultural resource laws. FWP shall provide Reclamation all necessary cultural resource related surveys or data if they exist.

## EXHIBIT D

### EQUAL OPPORTUNITY REQUIREMENTS

During the performance of this contract, the Contractor agrees as follows:

- A. FWP will not discriminate against any employee or applicant for employment because of race, color, age, religion, sex, or national origin. FWP will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, age, religion, sex, or national origin. Such action shall include, but not be limited to, the following: Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. FWP agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the Reclamation setting forth the provisions of this Equal Opportunity clause.
- B. FWP will, in all solicitations or advertisements for employees placed by or on behalf of FWP, state that all qualified applicants will receive consideration for employment without regard to race, color, age, religion, sex, or national origin.
- C. FWP will send to each labor union or representative of workers with which it has a collective bargaining Agreement or other contract or understanding a notice to be provided by Reclamation, advising the labor union or worker's representative of FWP's commitments under this Equal Opportunity clause, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- D. FWP will comply with all provisions of United States Executive Order No. 11246 of September 24, 1965, as amended, and of the rules, regulations, and relevant orders of the United States Secretary of Labor.
- E. FWP will furnish all information and reports required by said amended Executive Order and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to its books, records, and accounts by Reclamation and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.
- F. In the event of FWP noncompliance with the Equal Opportunity clause of this contract or with any of the said rules, regulations, or orders, this contract may be canceled, terminated, or suspended, in whole or in part, and FWP may be declared ineligible for further Government contracts in accordance with procedures authorized in said amended Executive Order, and such other sanctions may be imposed and remedies invoked as provided in said Executive Order, or by rules, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

G. FWP will include the provisions of paragraphs A-F in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to Section 204 of said amended Executive Order, so that such provisions will be binding upon each sub-contractor or vendor. FWP will take such action with respect to any subcontract or purchase order as Reclamation may direct as a means of enforcing such provisions, including sanctions for noncompliance, provided that, in the event FWP becomes involved in, or is threatened with, litigation with a sub-contractor or vendor as a result of such direction by Reclamation, FWP may request Reclamation to enter into such litigation to protect the interests of Reclamation.



## EXHIBIT E

### TITLE VI, CIVIL RIGHTS ACT OF 1964

- A. FWP agrees that it will comply with Title VI of the Civil Rights Act of July 2, 1964 (78 Stat. 241), and all requirements imposed by or pursuant to Department of the Interior regulation (43 CFR 17) issued pursuant to that title, to the end that, in accordance with Title VI of that Act and the regulation, no person in Reclamation shall, on the ground of race, color, sex, or national origin be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity for which FWP receives financial assistance from Reclamation and hereby gives assurance that it will immediately take any measures to effectuate this Agreement.
- B. If any real property or structure thereon is provided or improved with the aid of Federal financial assistance extended to FWP by Reclamation, this assurance obligates FWP, or in the case of any transfer of such property, any transferee for the period during which the real property or structure is used for a purpose involving the provision of similar services or benefits. If any personal property is so provided, this assurance obligates FWP for the period during which it retains ownership or possession of the property. In all other cases, this assurance obligates FWP for the period during which the Federal financial assistance is extended to it by Reclamation.
- C. This assurance is given in consideration of and for the purpose of obtaining any and all Federal grants, loans, contracts, property, discounts, or other Federal financial assistance extended after the date hereof to FWP by Reclamation, including installment payments after such date on account of arrangements for Federal financial assistance which was approved before such date. FWP recognizes and agrees that such Federal financial assistance will be extended in reliance on the representations and Agreements made in this assurance, and that the Reclamation shall reserve the right to seek judicial enforcement of this assurance. This assurance is binding on FWP, its successors, transferees, and assignees.

## EXHIBIT F

### SUMMARY OF REPORTING REQUIREMENTS

Submittals from the Department are required during the term of the contract. Required submittals are as follows:

<i>RSN</i>	<i>Clause Or Section Title</i>	<i>Submittals Required</i>	<i>Due date or delivery time</i>
1	Land Management Plan	Written plan proposing plans and activities for the term of the agreement	Within 5 years of execution of agreement
2	Recreation Use Data Report	Report consisting of any information collected by FWP on public recreational use	Upon Reclamation's request
3	Incident Reporting	Copies of written reports describing the incident after verbal notice	Within 5 calendar days of incident. Death or serious injury needs to be reported within 24 hr.
4	Weed Control	Records as per State regulations. Any spills that occur	Upon Reclamation's request and/or per State requirements
5	Pest Control	Prior approval needed. Records as per State regulations. Any spills that occur	Upon Reclamation's request and/or per State requirements
6	Historic, Cultural, and Archaeological Values	Written report of findings after verbal notice	Within 48 hours of discovery