

**INTERAGENCY AGREEMENT BETWEEN
THE WYOMING WATER DEVELOPMENT COMMISSION
AND
THE UNIVERSITY OF WYOMING**

1. **Parties.** The parties to this Interagency Agreement (Agreement) are the Wyoming Water Development Commission (WWDC), whose address is: 6920 Yellowtail Road, Cheyenne, WY 82002, and the University of Wyoming (University) acting by and through the Office of Research and Economic Development, whose address is: Dept. 3355, 1000 E. University Avenue, Laramie, WY 82071.
2. **Purpose of Agreement.** The purpose of this Agreement is to provide funding for the Wyoming Geographic Information Science Center (WyGISC) to work with the U.S. Geological Survey National Hydrography Dataset Steward and the U.S. Geological Survey (USGS) Wyoming-Montana Water Science Center to improve and update the National Hydrography Dataset (NHD) for use in creating StreamStats for the State of Wyoming.
3. **Term of Agreement.** This Agreement is effective when all parties have executed it (Effective Date). The term of this Agreement is from the Effective Date, through December 31, 2019. All services shall be completed during this term. There is no right or expectation of extension and any extension will be determined at the discretion of the WWDC.
4. **Payment.**
 - A. The WWDC (Funding Agency) agrees to pay the University (Receiving Agency) for the services described in Section 5 below. The WWDC agrees to pay the University within forty-five (45) days after receipt and approval of the University's invoice.
 - B. In no event shall the total amount paid to the University by the WWDC under this Agreement exceed one hundred and fifty thousand dollars (\$150,000.00). No payment shall be made for services performed prior to the Effective Date.
5. **Responsibilities of University.** The University of Wyoming agrees to:
 - A. Perform the services described in Attachment A, which is attached to this Agreement and incorporated herein by this reference.
 - B. Coordinate with WWDC and USGS personnel for review and editing of the National Hydrography Dataset (NHD) for connectivity issues for use in creating StreamStats in the State of Wyoming.

- C. Oversee the work of Research Assistants.
- D. Render all services in a completely impartial and professional manner.
- E. Submit to WWDC a monthly itemized invoice for contractual services described in Attachment A.

6. **Responsibilities of WWDC.** The Wyoming Water Development Commission agrees to:

- A. Pay the University in accordance with Section 4 above.
- B. Assign the Director of the Office or his designee to act as the Commission's representative with respect to the University's obligation to be performed under this Contract. The Director of the Office or his designee shall have complete authority to transmit instructions, receive information, and interpret and define the Commission's policies and decisions with respect to services covered by this Contract.
- C. Furnish all information, data, reports, and maps as are available to the Commission and necessary for the carrying out of the Scope of Services set forth herein to the University without charge and the Office shall cooperate with the University in every way possible in the carrying out of the project.
- D. Review all studies, reports, opinions, and other documents presented by the University to the Commission and shall promptly render in writing the Commission's decisions pertaining thereto within the time periods specified in Attachment A.
- E. Provide all criteria and full information regarding its requirements for the project.

7. **General Provisions.**

- A. **Amendments.** Any changes, modifications, revisions or amendments to this Agreement which are mutually agreed upon by the parties to this Agreement shall be incorporated by written instrument, executed by all parties to this Agreement.
- B. **Applicable Law, Rules of Construction, and Venue.** The construction, interpretation and enforcement of this Agreement shall be governed by the laws of the State of Wyoming, without regard to conflicts of law principles. The terms "hereof," "hereunder," "herein," and words of similar import, are intended to refer to this Agreement as a whole and not to any particular provision or part. The Courts of the State of Wyoming shall have jurisdiction over this Agreement and the parties. The venue shall be the First Judicial District, Laramie County, Wyoming.

- C. Availability of Funds.** Each payment obligation under this Agreement is conditioned upon the availability of government funds which are appropriated or allocated for the payment of this obligation and which may be limited for any reason including, but not limited to, congressional, legislative, gubernatorial, or administrative action. If funds are not allocated and available for payment, this Agreement may be terminated by the Funding Agency at the end of the period for which funds are available. The Funding Agency shall notify the Receiving Agency at the earliest possible time if this Agreement will or may be affected by a shortage of funds. No liability shall accrue to the Funding Agency in the event this provision is exercised, and the Funding Agency shall not be obligated or liable for any future payments as a result of termination under this section.
- D. Entirety of Agreement.** This Agreement, consisting of five (5) pages and Attachment A, consisting of three (3) pages, represents the entire and integrated Agreement between the parties and supersedes all prior negotiations, representations, and agreements, whether and the language of any attachment or document incorporated by reference, the language of this Agreement shall control.
- E. Force Majeure.** Neither party shall be liable for failure to perform under this Agreement if such failure to perform arises out of causes beyond the control and without the fault or negligence of the nonperforming party. Such causes may include, but are not limited to, acts of God or the public enemy, fires, floods, epidemics, quarantine restrictions, freight embargoes, and unusually severe weather. This provision shall become effective only if the party failing to perform immediately notifies the other party of the extent and nature of the problem, limits delay in performance to that required by the event, and takes all reasonable steps to minimize delays.
- F. Indemnification.** Each party to this Agreement shall assume the risk of any liability arising from its own conduct. Neither party agrees to insure, defend, or indemnify the other.
- G. Notices.** All notices arising out of, or from the provisions of this Agreement shall be in writing and given to the parties at the addresses provided under this Agreement, either by regular mail or delivery in person.
- H. Prior Approval.** This Agreement shall not be binding upon either party, no services shall be performed, and the Wyoming State Auditor shall not draw warrants for payment, until this Agreement has been fully executed, approved as to form by the Office of the Attorney General, filed with and approved by the Department of Administration and Information's Procurement Office and approved by the Governor of the State of Wyoming or his designee if required by Wyo. Stat. § 9-2-1016(b)(iv).

- I. Severability.** Should any portion of this Agreement be judicially determined to be illegal or unenforceable, the remainder of the Agreement shall continue in full force and effect, and the parties may renegotiate the terms affected by the severance.
- J. Sovereign Immunity.** Pursuant to Wyo. Stat. § 1-39-104(a), the State of Wyoming, the WWDC and the University expressly reserve sovereign or governmental immunity by entering into this Agreement and specifically retain immunity and all defenses available to them. Designations of venue, choice of law, enforcement actions, and similar provisions shall not be construed as a waiver of sovereign immunity. The parties agree that any ambiguity in this Agreement shall not be strictly construed, either against or for either party, except that any ambiguity as to immunity shall be construed in favor of immunity.
- K. Termination of Agreement.** This Agreement may be terminated, without cause, by either party upon thirty (30) days written notice. This Agreement may be terminated immediately for cause if either party fails to perform in accordance with the terms of this Agreement.
- L. Third-Party Beneficiary Rights.** The parties do not intend to create in any other individual or entity the status of third-party beneficiary, and this Agreement shall not be construed so as to create such status. The rights, duties and obligations contained in this Agreement shall operate only between the parties to this Agreement, and shall inure solely to the benefit of the parties to this Agreement. The provisions of this Agreement are intended only to assist the parties in determining and performing their obligations under this Agreement.
- M. Time is of the Essence.** Time is of the essence in all provisions of the Agreement.
- N. Titles Not Controlling.** Titles of paragraphs are for reference only, and shall not be used to construe the language in this Agreement.
- O. Waiver.** The waiver of any breach of any term or condition in this Agreement shall not be deemed a waiver of any prior or subsequent breach. Failure to object to a breach shall not constitute a waiver.
- P. Counterparts.** This Agreement may be executed in counterparts. Each counterpart, when executed and delivered, shall be deemed an original and all counterparts together shall constitute one and the same Agreement.

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8. **Signatures.** By signing this Agreement, the parties certify that they have read and understood it, that they agree to be bound by the terms of the Agreement, and that they have the authority to sign it.

The Effective Date of this Agreement is the date of the signature last affixed to this page.

WYOMING WATER DEVELOPMENT COMMISSION



David Evans, Chairman 6-15-18
Date



Kellen Lancaster, Secretary 6/15/18
Date

UNIVERSITY OF WYOMING



Diana G. Hulme 6/29/18
Date
Associate Vice President, Research and Economic Development

ATTORNEY GENERAL'S OFFICE: APPROVAL AS TO FORM



Tyler M. Renner, Assistant Attorney General 6/8/18
Date

ATTACHMENT A SCOPE OF SERVICES

The WyGISC will:

- Work cooperatively with the USGS National Steward, the USGS Wyoming-Montana Water Science Center, and other state and federal partners to review and edit the National Hydrography Dataset (NHD) for connectivity issues for use in creating StreamStats in the State of Wyoming.
- Obtain training provided by the USGS NHD support team to use the NHD edit toolset and submit changes to the dataset into the NHD data repository.
- Work to review and edit the NHD dataset for connectivity issues in the 41 Hydrologic Unit Code (HUC) 8 sub basins that lie completely within the State of Wyoming (more specifically described below).
- For the remaining 42 HUC 8 sub basins that are shared with the surrounding states of Montana, North Dakota, South Dakota, Nebraska, Colorado, Utah, and Idaho, WyGISC will work the WWDC and the USGS to determine to what detail those sub basins will be edited. In some cases, this may require moving to HUC 10 or HUC 12 sub basin delineations for efficiency purposes. WyGISC will actively collaborate with the surrounding states to complete the editing process.
- Consider stakeholder and user community change requests via the new USGS web-based markup tool and decide authoritatively to accept and make edits to the NHD or reject requests relevant to the scope of work of this project.
- Attempt to utilize any relevant spatial data available while addressing NHD connectivity.
- Perform quality assurance checks on the NHD data to ensure that any errors in the core content (features, attributes and relationships) are identified and addressed prior to upload to the USGS NHD repository server.
- Rework updates returned for correction and resubmit to the USGS in a timely manner.

The WyGISC review and editing work will include the following:

1. Begin NHD Edit Training and investigate best practices to seek out and address NHD flowline connectivity errors.

2. Navigate and compare NHD and NHDPlus High Resolution (HR) beta flowline, river, and streams using trace tools for each HUC 8 sub basin, then:
 - a. Scan for illegitimate breaks and misdirected flowlines and correct as identified.
 - b. Scan for sinks and correct as needed.
 - c. Review braided streams and multiple outlets to check that primary channel is properly identified and connected.
 - d. Review connector lines and artificial paths for validity and accuracy issues.
3. Review, validate, and incorporate the community web-based markups to correct connectivity issues.
4. For sub basins that intersect adjacent states:
 - a. Make contact with state NHD steward in advance and discuss how the work might proceed across state lines. Options may vary depending on the resources available to adjacent states but could include:
 - i. If state has a supported stewardship program, determine if they would be interested and willing to complete the needed work in given period of time.
 - ii. If state doesn't have resources to do the work, WyGIS will review and compile the connectivity errors (perhaps using the Web-based markup tool) and offer to fix them.
 - iii. If state chooses not to cooperate, request support from NHD point of contact.
5. Re-review, validate, and incorporate the community web-based markups to correct connectivity issues.
6. Review Wyoming NHD dam events created by WyGIS and compare with NHD dams and new dams in State Engineer's Office (SEO) database and:

- a. Update NHD with missing dams
 - b. Update flowline features as needed
7. Review existing canal and diversions in NHD and validate flow direction (Note: all canals and diversions in the NHD are what was mapped on the older 7.5' USGS topographic maps and as discussed newer canals / diversions could be addressed in future work).
 8. Review 12-digit pour point events created some years ago and compare NHD/Watershed Boundary Dataset (WBD) vertical alignment issues and adjust geometry as needed.
 9. Re-review, validate, and incorporate the community web-based markups to correct connectivity issues.