

OPERATION AND MAINTENANCE AGREEMENT
FOR
STRUCTURAL MEASURES

THIS AGREEMENT made on June 19 1967 is between the Soil Conservation Service, United States Department of Agriculture, hereinafter referred to as the Service, and the following organizations, hereinafter referred to as the Sponsor:

Kiamichi Soil and Water Conservation District

Frogville Conservancy District

The Sponsor and the Service agree to carry out the plan on the attached pages for the operation and maintenance of structural measures in the

Frogville Creek

Watershed Project, State of Oklahoma. The measures covered by this agreement are identified as:

Floodwater Retarding Structures, Sites 1 and 2
11.94 Miles of Mains and Laterals with Appurtenant Structures
(Chectaw County)

Name of Sponsor Kiamichi Soil and Water Conservation District

By *Shawn G. Hall* Title Chairman

This action was authorized at an official meeting of the Sponsor named immediately above on June 8, 1967 at Hugo, State of Oklahoma.

Attest *Shawn G. Hall* Title Secretary

Name of Sponsor Frogville Conservancy District No. 1

By *L. R. Johnson* Title Vice-Chairman

This action was authorized at an official meeting of the Sponsor named immediately above on June 14, 1967 at Hugo, State of Oklahoma.

Attest *John W. Phillips* Title Secretary

Soil Conservation Service, United States Department of Agriculture

By *C. A. Tidwell* Title State Conservationist

OPERATION AND MAINTENANCE PLAN

I. OPERATIONS

- A. The sponsor will be responsible for and will operate or have operated without cost to the Service the structural measures in compliance with any applicable State and local laws, and in a manner that will assure that the structural measures will serve the purpose for which installed as set forth in the Work Plan.
- B. The Service will, upon request of the Sponsor and to the extent that its resources permit, provide consultative assistance in the operation of the structural measures.

II. MAINTENANCE

- A. The Sponsor will:
 - 1. Be responsible for and promptly perform or have performed without cost to the Service except as provided in Paragraph III, Establishment Period, all maintenance of the structural measures determined by either the Sponsor or the Service to be needed.
 - 2. Obtain prior Service approval of all plans, designs and specifications for maintenance work involving major repair.
- B. The Service will, upon request of the Sponsor and to the extent that its resources will permit, provide consultative assistance in the preparation of plans, designs and specifications for needed repair of the structural measures.

III. ESTABLISHMENT PERIOD

- A. During an Establishment Period, as herein defined, the Service will bear such part of the cost of any needed major repairs to the structural measures, including associated vegetative work, as is proportionate to the original construction costs borne by the Service in the construction of the structural measures except that the Service will not bear any of the cost for:
 - 1. Repairs to channels or portions thereof which do not have permanent linings such as concrete, riprap, or grouted rock.
 - 2. Repairs determined by the Service to have been occasioned by improper operation or maintenance, or both.

III. ESTABLISHMENT PERIOD (continued)

3. Repairs applicable to municipal or industrial water supply or to any other purpose for which construction costs are not authorized to be paid for in whole or in part with funds appropriated to the Service.
 4. Repairs that are mutually determined by the Sponsor and the Service as being items of normal maintenance rather than major repair and are not therefore in keeping with the spirit and intent of the Establishment Period provisions.
- B. The Establishment Period for structural measures (exclusive of any associated vegetative work) is a period of three years ending at midnight on the third anniversary of the date on which the structural measure is accepted.
- C. The Establishment Period for vegetative work associated with a structural measure is a period from date of acceptance of the initial vegetative work to midnight of the date on which the Service writes the Sponsor advising that an adequate vegetative cover has been obtained. However, this period shall not exceed two growing seasons or the end of the Establishment Period for the associated structural measure whichever is greater in time.
- D. As used in the two preceding paragraphs, and elsewhere in this Plan, the following words have the meanings described below:
- ACCEPTED, ACCEPTANCE: The date structural or vegetative measures are accepted from the contractor when a contract is involved, or the date structural or vegetative measures are completed to the satisfaction of the Service when force account operations are involved.
- ADEQUATE VEGETATIVE COVER: Seventy percent (70%) cover of the desirable species, with no active rilling that cannot be controlled by the vegetation.
- E. Major repair may involve such things as (1) repairing separated joints, cracks or breaks in the principal spillway, (2) correcting seepage, (3) replacing significant backfill around structures resulting from major erosion damage, (4) major revegetation due to failure to obtain an adequate vegetative cover, and (5) restoring areas with significant erosion caused by unusual flow (volume, recurrence or extended period of time) in emergency spillways.

III. ESTABLISHMENT PERIOD (continued)

- F. No action with respect to needed repairs during the Establishment Period will be taken by the Sponsor or the Service which would lessen or adversely affect any legal liability of any contractor or his surety for payment of the cost of the repairs.

IV. INSPECTIONS AND REPORTS

- A. During the Establishment Period the Sponsor and the Service will jointly inspect the structural measures at least annually and after unusually severe floods or the occurrence of any other unusual condition that might adversely affect the structural measures. It is desirable the annual inspections be performed during the month shown below. Any supplemental inspections then determined necessary will be scheduled and agreed to at that time.

June
(Month)

- B. After the Establishment Period the structural measures will be inspected annually by the Sponsor, preferably during the month shown below, and after unusually severe floods or the occurrence of any other unusual condition that might adversely affect the structural measures.

June
(Month)

- C. After the Establishment Period the Service may inspect the structural measures at any reasonable time.
- D. A written report will be made of each inspection. The report of joint inspections will be prepared by the Sponsor with the assistance of the Service. A copy of each report will be provided by the party preparing the report to the other party within ten days of the date on which the inspection was made.

V. RECORDS

The Sponsor will maintain in a centralized location a record of all inspections performed both individually and jointly by the Sponsor and the Service, and of all significant actions taken by the Sponsor with respect to operation and maintenance. The Service may inspect these records at any reasonable time.

VI. GENERAL

- A. The Sponsor will:

VI. GENERAL (continued)

1. Prohibit the installation of any structures or facilities that will interfere with the operation or maintenance of the structural measures.
 2. Obtain prior Service approval of the plans and specifications for any alteration or improvement to the structural measures.
 3. Obtain prior Service approval of any agreement to be entered into with other parties for the operation or maintenance of all or any part of the structural measures, and provide the Service with a copy of the agreement after it has been signed by the Sponsor and the other party.
- B. Service personnel will be provided the right of free access to the structural measures at any reasonable time for the purpose of carrying out the terms of this Plan.
- C. The responsibilities of the Sponsor under this Plan are effective simultaneously with the acceptance of the works of improvement in whole or in part.