

**PUBLIC ACCESS AND WILDLIFE HABITAT DEVELOPMENT AGREEMENT  
NORTH DAKOTA GAME AND FISH DEPARTMENT**

This Agreement ("Agreement"), is between Nathan Strecker whose address is 1102 20<sup>th</sup> Ave SW, Washburn, ND 58577 ("Landowner"), and the State of North Dakota, through the North Dakota Game and Fish Department, 100 North Bismarck Expressway, Bismarck, ND 58501-5095 ("State").

Purposes. This Agreement's purpose is to provide and enhance wildlife habitat and to provide public access to Landowner's land for walk-in hunting and pursuit of game.

Authority. North Dakota Century Code §§ 20.1-02-05 and 20.1-02-27 authorize the State to enter into this Agreement.

Grant. NOW, THEREFORE, in consideration of forty-seven thousand four hundred and eighty three dollars (\$47483), receipt of which is hereby acknowledged, the Landowner grants to the State, its successors and assigns, an easement under the terms set forth herein for 6 years on the following land ("Property") in the County of McLean, State of North Dakota and more particularly described in **Exhibit A** attached hereto:

SE1/4 section 9 T147 R80

Reimbursement. The State will reimburse the Landowner for up to 100% of the actual out of pocket cost to establish herbaceous cover on the Property. But if the Landowner has received or will receive cost-share funding from other sources, the State will only pay 25% of the Landowner's actual out of pocket costs. The Landowner must, to the satisfaction of the State, provide documentation verifying out of pocket seeding costs. If the Landowner receives other cost-share funding for the Property after the State has paid cost-share funding, Landowner will reimburse the State in an amount equal to the cost-share payment received from that other source.

Heirs and Assigns – Existing Rights. This Agreement constitutes a servitude upon the Property; runs with the Property and binds the Landowner, and Landowner's heirs, successors, assigns, lessees, and any other person claiming under Landowner, subject, however, to all valid rights of record, if any. This Agreement is subject to all prior easements, roadways, and mineral rights of record.

Warranty – Title. The Landowner warrants that Landowner is the sole owner of the Property in fee simple and has good and marketable title to be able to make the grant to satisfy this Agreement's purpose.

Warranty – Safety. The Landowner warrants that there are no hazardous substances, pollutants, or contaminants in or on the Property, and that the Landowner, shall not place any toxic or hazardous substances, pollutants, or contaminants in or on the Property except for the necessary use of agricultural fertilizers and government-approved pesticides to control weeds and pests.

Obligations of the Landowner.

1. Landowner shall allow public access on the Property and will not charge or accept any fee, payment, or any form of remuneration for access to the Property. Be advised that this Agreement allows public access in your, or your tenant's, unharvested crops, and including cereal grains, sunflowers, alfalfa, clover, and other grasses grown for seed. If however, the Landowner initials the space below, then no access will be allowed on unharvested crops and the State will designate cropped areas with "No Hunting in Unharvested Crops" signs.
 

\_\_\_\_\_ Landowner to initial here if NO access will be allowed on unharvested crops.
2. The Landowner shall manage the established herbaceous cover for the purpose of habitat rejuvenation as required by the management schedule attached as **Exhibit B**.
3. Landowner shall not do anything on or to the Property that interferes with or is inconsistent with the purpose of this Agreement. Further, the following activities and uses are prohibited on the Property:
  - a. Haying, mowing or seed harvesting except as allowed in the management schedule;
  - b. Altering grassland, woodland, wildlife habitat or other natural features by burning, digging, plowing, disking, cutting or otherwise destroying the vegetative cover except as allowed in the management schedule;
  - c. Draining, dredging, channeling, filling, leveling, pumping, diking, impounding, or related activities, as well as altering or tampering with ground control structures or devices;
  - d. Diverting or causing or permitting the diversion of surface or underground water into, within, or out of the Property by any means;
  - e. Planting or harvesting any crops except as allowed in the management schedule, and
  - f. Grazing or allowing livestock on the Property except as allowed in the management schedule.
  - g. Dumping refuse, wastes, sewage, or other debris;
  - h. Building or placing buildings or structures on the Property.

4. Landowner shall control noxious weeds and pests on the Property by complying with noxious weed control laws and emergency control of pests necessary to protect the public health.
5. Landowner shall remove and not permit signs on the Property that tends to limit, impede, restrict or prohibit hunting on the Property.
6. Landowner shall permit the State to post notice upon the Property that it is open to public hunting and to disseminate to the public information about public access to the Property.
7. Landowner shall allow the State to have access to the Property for purposes of inspection to verify compliance with this Agreement.
8. Landowner shall pay when due all real property and other taxes and assessments levied against the Property.
9. Landowner shall notify the State, in writing, of the names and addresses of the new owners within 30 days after the conveyance of all or part of the title or interest of the Property.

Limited Liability of Landowner. Consistent with North Dakota Century Code chapter 53-08, "Limited Liability for Owner of Recreation Lands," the Landowner has limited liability to any member of the public who enters the Property under the terms of this Agreement.

Mineral Development. Landowner acknowledges that mineral extraction may be detrimental to this Agreement's purposes. The Landowner warrants that if Landowner, before this Agreement was executed, conveyed an unexpired surface or subsurface mineral lease, or someone other than the Landowner owns the mineral rights, and the lessee or owner thereof exercises the right to extract minerals from or below the Property during the Agreement term, the State, if it concludes that the mineral extraction interferes with the Agreement purpose, may claim damages or terminate the Agreement. The Landowner further warrants that if the Landowner enters into a mineral lease or sells the mineral rights to the Property after the Agreement is executed, and during the Agreement term the lessor or owner of the mineral rights exercises the right to extract minerals, the State may claim damages to compensate for interference with the Agreement purposes, or terminate the Agreement. If the State terminates this Agreement under this paragraph, Landowner shall pay damages to the State equal to the full amount of consideration paid by the State pro-rated over the number of years the State has received public access under this Agreement. State shall also receive from the Landowner an additional 25% of total net payments to cover the administrative costs of the Department. For purposes of this Agreement, "minerals" means oil and gas, and coal, ores, gravel, sand, stone, clay, scoria, uranium, and other solid materials or substance of commercial value and which may be extracted in solid form from natural deposits on or in the earth.

Carbon Sequestration Credits. Landowner reserves any carbon sequestration credits that may become available as a result of the Landowner's activities on the Property. But Landowner's reservation of carbon sequestration credits does not impair or limit the State in its activities on and use of the Property all of which are at its sole discretion and with no rights of Landowner in such decisions. If the State's management activities or use of the Property in any way limits or damages present or future carbon sequestration credits or their values, the State is not responsible for any liability, obligation, or damages so caused. If any taxes become due because of the valuation of any carbon sequestration credits attributable to the Property, the Landowner shall pay the taxes as they become due.

Termination.

- a. Termination for lack of funding or authority. The State may terminate this Agreement effective upon delivery of written notice to the Landowner, or on any later date stated in the notice, under any of the following conditions:
  - 1) If funding from federal, state or other sources is not obtained and continued at levels sufficient to allow payment of the Agreement compensation in the indicated quantities or term. The Agreement may be modified by agreement of the parties in writing to accommodate a reduction in funds.
  - 2) If federal or state laws or rules are modified or interpreted in such a way that the leasing of the Property is no longer allowable or appropriate under this Agreement or is no longer eligible for the funding proposed for payments authorized by this Agreement.Any termination of this Agreement under this subsection shall be without prejudice to any obligations or liabilities of either party already accrued prior to termination.
- b. Termination for cause. The State by written notice of default (including breach of contract or breach of Agreement) to the Landowner may terminate the whole or any part of this Agreement if:
  - 1) Landowners, their heirs, successors, assigns, lessees, and any person claiming under them, fail or refuse to provide public access for walk-in hunting as specified in this Agreement; or
  - 2) Landowner fails to perform any of the other provisions of this Agreement, or fails to pursue those obligations as to endanger performance of this Agreement in accordance with its terms, and after receipt of written notice from the State, fails to correct such failures within 10 days or such longer period as the State may authorize.

The rights and remedies of the State provided in the above clause related to defaults (including breach of contract and breach of Agreement) by the Landowner are not exclusive and are in addition to any other rights and remedies provided by law or under this Agreement.

GRANTORS SIGNATURE(S) AND ACKNOWLEDGMENT

Nathan Stecker \_\_\_\_\_  
Grantor

Grantor

Dated this 10th day of February, 20015.

STATE OF NORTH DAKOTA ) ss  
County of McLean )

On this 10th day of February, 20015 before me personally appeared Nathan Stecker known to me to be the person(s) who is/are described in and who executed this Agreement, and acknowledged to me that said person(s) did execute the same.



Jayne Pochant  
Notary Public, \_\_\_\_\_  
State of North Dakota  
My Commission Expires: \_\_\_\_\_

Notary Public, McLean County  
State of North Dakota  
My Commission Expires: \_\_\_\_\_

Notary Seal

N.D. Game & Fish Department

By: Terry Stenwand  
Title: \_\_\_\_\_

STATE OF NORTH DAKOTA ) ss  
County of Burleigh )

On this 11th day of June, 2005, before me personally appeared TERRY STENWAND, known to me to be the DIRECTOR and acknowledged to me that said person did execute the foregoing Agreement for and on behalf of the State of North Dakota, acting through the North Dakota Game and Fish Department.

Lynn M. Timm  
Notary Public, Burleigh County  
State of North Dakota  
My Commission Expires: 26 August 2017

Notary Seal



**EXHIBIT A**

[Real Estate Survey – Metes and Bounds Description]

or

[Plat / Aerial Photo / FSA Map – for Platted Property or Square Sections]

**EXHIBIT B**  
**MANAGEMENT SCHEDULE**

\*Up to 1/3 of parcel may be hayed per year. (The same 1/3 may not be hayed more than twice during 6 year agreement).

\*Haying is to occur after July 15 and prior to August 31.

\*Bales must be removed by September 1.

EXHIBIT "A"  
NORTH DAKOTA GAME & FISH DEPARTMENT  
WILDLIFE HABITAT DEVELOPMENT PROGRAM

COOPERATOR(s) : Nathan Strecker

AGREEMENT: 03015013

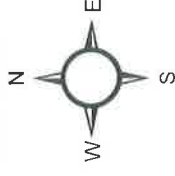
PUBLIC ACCESS AND WILDLIFE HABITAT DEVELOPMENT LEASE FOR:

McLean COUNTY, STATE OF North Dakota

T. 147 N., R. 80 W., Section 9 Quarter Section(s) SE1/4



-  Idle Habitat Acres
-  NASS Rental Acres
-  Access Acres
-  Section Lines



Scale 1:10,560  
6 inches equal 1 mile