


**MISCELLANEOUS PLANNING ITEM  
 PLANNING AND DEVELOPMENT REPORT TO COUNCIL  
 REQUEST FOR ACKNOWLEDGEMENT OF PENDING CONSERVATION EASEMENT  
 AND REQUEST FOR WAIVER TO REQUIRED 60 DAY NOTICE PERIOD  
 October 16<sup>th</sup>, 2024**

REQUEST TO ACKNOWLEDGE PENDING CONSERVATION EASEMENT AND REQUEST FOR WAIVER TO REQUIRED 60 DAY NOTICE PERIOD		
APPLICATION INFORMATION		
	<b>LEGAL DESCRIPTION:</b> NW, SW, SE 25-20-27-W4M and SE, SW 30-20-26-W4M	
	<b>LANDOWNER:</b> Gary and Lesley Meadows	
	<b>LAND TRUST ORGANIZATION:</b> Ducks Unlimited Canada	
	<b>AREA OF SUBJECT LANDS:</b> 774.46 acres	
	<b>AREA OF SUBJECT EASEMENT:</b> 380.60 +/- acres	
	<b>CURRENT LAND USE:</b> Agricultural District	
<b>PROPOSAL:</b> Request to Council to acknowledge the pending Conservation Easement to be registered over certain portions of the lands as described above.		
<b>DIVISION NO:</b> 7	<b>COUNCILLOR:</b> R.D. McHugh	<b>FILE MANAGER:</b> Theresa Chipchase

**PURPOSE OF REQUEST**

Ducks Unlimited Canada is requesting Council acknowledge a pending Conservation Easement that is to be registered on approximately 380.60 +/- acres of land owned by Mr. and Mrs. Gary and Lesley Meadows that are contained within the NW/SW/SE 25-20-27-W4M and the SE/SW 30-20-26-W4M, as shown on the attached site plan provided by Ducks Unlimited Canada. As per Section 33(2)(iii) of the Alberta Land Stewardship Act, the pending Easement is required to be circulated to Foothills County as the Municipality in which the lands are contained.

Further, under Section 2(3) of the Conservation Easement Registration Regulations, with regard to Section 33(2) of the Alberta Land Stewardship Act, Council is asked to consider agreeing to waive the 60 day notice period that is required under the Act with regards to circulation of the Easement to a municipality, thus allowing Ducks Unlimited to expedite registration of the easement for the lands, as described above.

**BACKGROUND**

The landowners have been working in conjunction with Ducks Unlimited Canada to place the lands described above, under a Conservation Easement. The documentation attached to this staff report, as provided by Ducks Unlimited Canada, identifies the portions of the property to be encumbered by the easement, provides a draft of the easement agreement, and outlines the reasons for the easement.

## **REQUEST OF COUNCIL**

There are two items for Council's consideration with regards to the new conservation easement:

1. Council is respectfully requested to **acknowledge the pending Conservation Easement** that is to be registered by Ducks Unlimited Canada over portions of the NW, SW, SE, of 25-20-27-W4M and portions of SE, SW, of 30-20-26-W4M.
2. Council is also respectfully requested to **agree to waive the 60 day notice period** as required under the Alberta Land Stewardship Act in order to allow Ducks Unlimited Canada to expedite the registration of the easement contemplated for the NW, SW, SE, 25-20-27-W4M and for the SE, SW, 30-20-26-W4M.

## **APPENDICES**

### **APPENDIX A - MAP SET:**

LOCATION MAP

ORTHO PHOTO

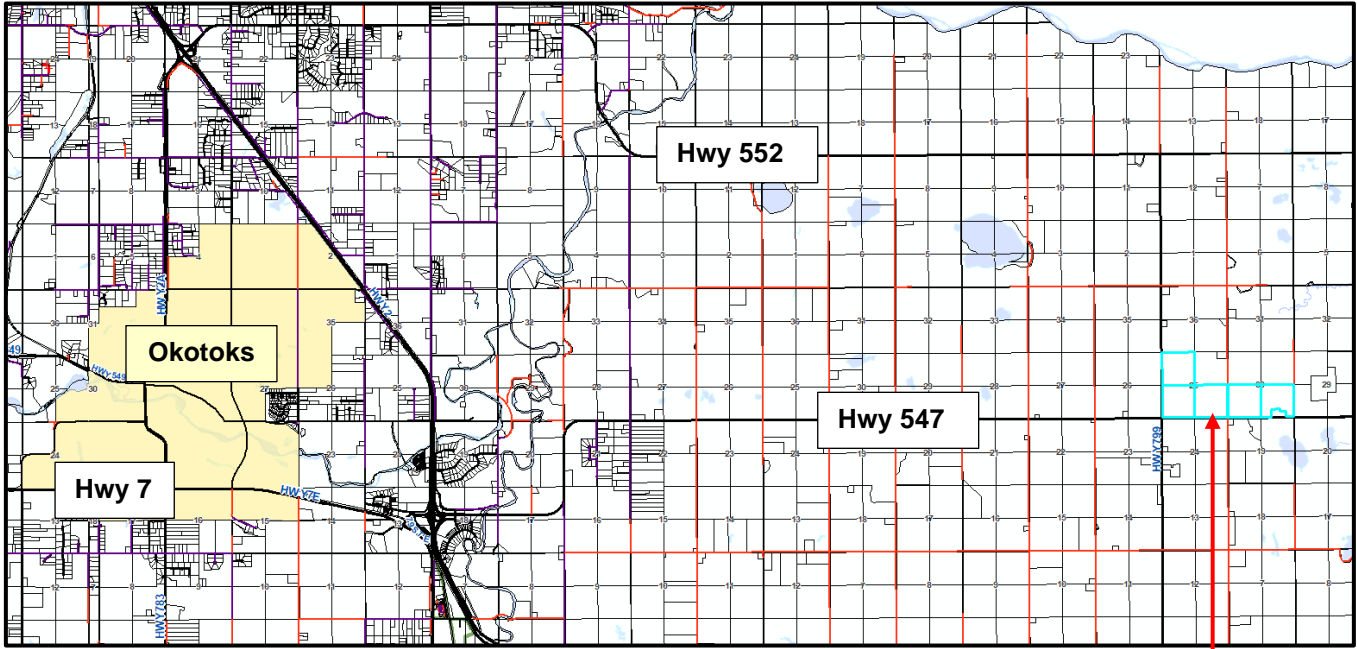
MAP OF CONSERVATION AREA PROVIDED BY DUCKS UNLIMITED CANADA

### **APPENDIX B:**

DUCKS UNLIMITED CANADA ACKNOWLEDGEMENT AND WAIVER REQUEST

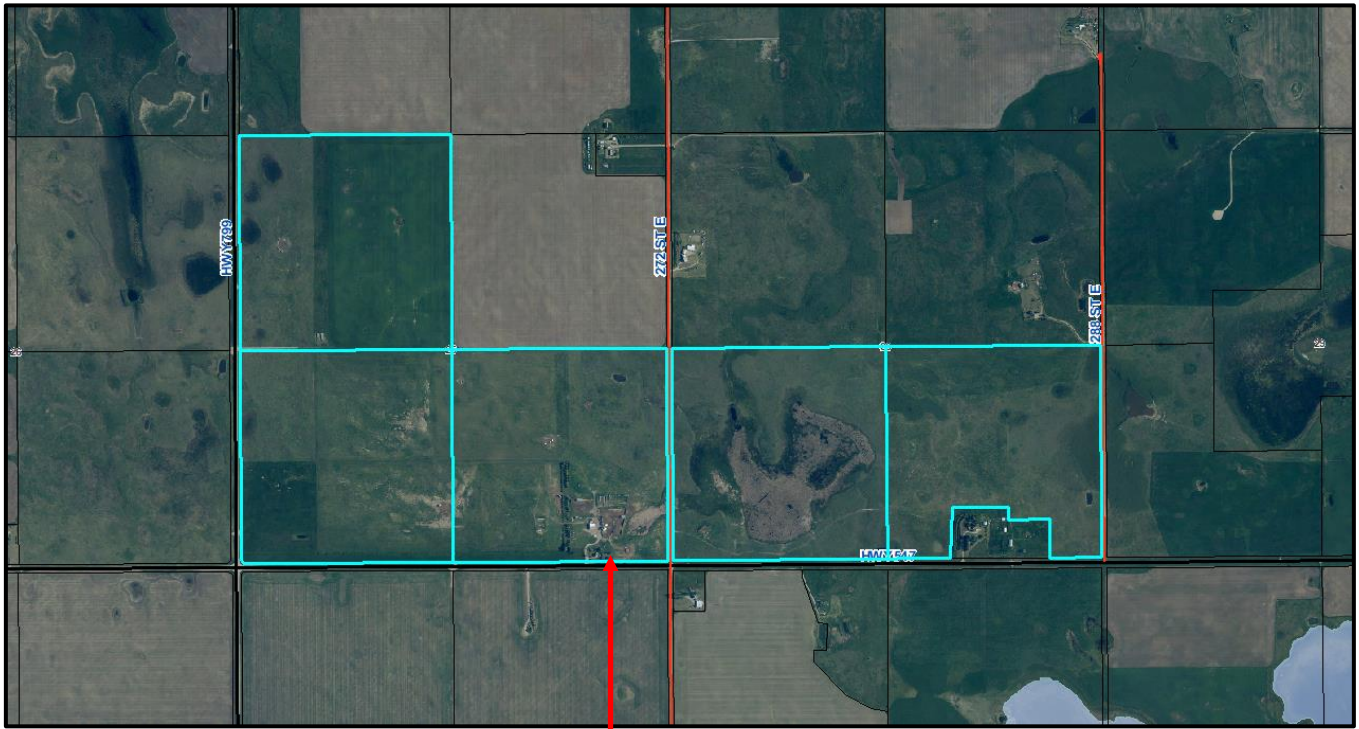
DUCKS UNLIMITED CANADA DRAFT CONSERVATION EASEMENT

**APPENDIX A: LOCATION MAP**



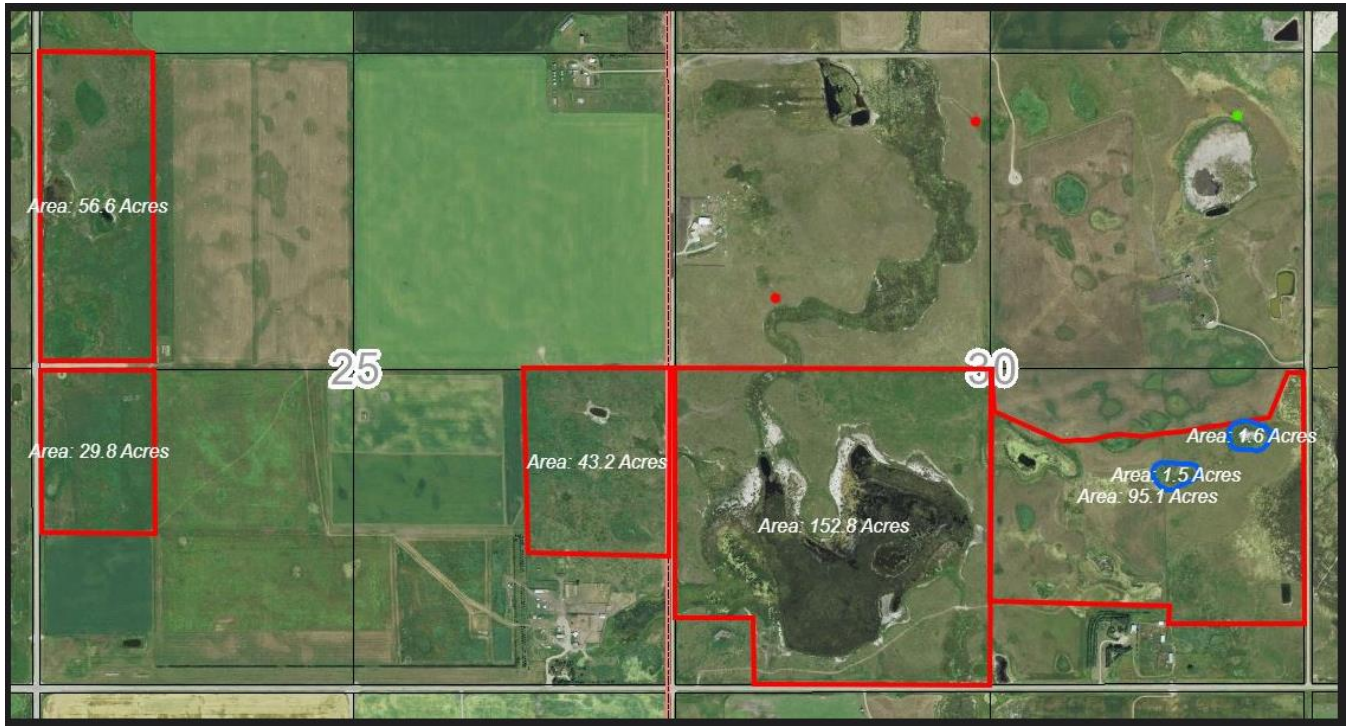
**Subject Parcels outlined in blue**

**APPENDIX A: ORTHO PHOTO**



**Subject Parcels outlined in blue**

**APPENDIX B: MAP OF CONSERVATION AREA PROVIDED BY DUCKS UNLIMITED CANADA**





**Ducks Unlimited Canada**  
Conserving Canada's Wetlands

October 2, 2024

Foothills County  
**C/O Ryan Payne**  
Chief Administration Officer  
309 Macleod Trail  
Box 5605  
High River, Alberta T1V 1M7  
Dear Ryan Payne:

**Re: Ducks Unlimited Canada (“DUC”) Notice of Proposed Conservation Easement**  
**Legal Description: W25-20-27-W4 & SE25-20-27-W4 & S30-20-26-W4**

---

In accordance with Section 33(2) of the *Alberta Land Stewardship Act*, we are required to provide you with the enclosed Form 1 Notice (the “Notice”) at least 60 days prior to registering a conservation easement at Alberta Land Titles.

Please provide us with your written confirmation that you have received the enclosed Notice. The 60-day period starts once you confirm receipt of the Notice in writing.

Alternatively, and preferably, we request that you agree to waive the 60-day period required pursuant to the *Alberta Land Stewardship Act* and the *Conservation Easement Registration Regulation*. This will allow Ducks Unlimited Canada to register its conservation easement and begin protecting the land contemplated in the conservation easement, as soon as possible. The process of a CE registration on title allows for sustaining habitat values while allowing the land to stay within agricultural production. Kindly confirm in writing if the County is willing to waive the 60-day requirement for registration of the Conservation Easement.

If you have any questions concerning the registration of the conservation easement or the operation of the provisions under the *Alberta Land Stewardship Act* that govern conservation easements, please contact Sarah O’Brien of Ducks Unlimited Canada, at 403-857-8125.

Regards,

Sarah O’Brien  
Ducks Unlimited Canada  
684 Westchester Road  
Strathmore, AB, T1P 1H8

FORM 1

NOTICE PRIOR TO REGISTRATION

NOTICE TO

**Att: Ryan Payne**  
Chief Administration Officer  
309 Macleod Trail  
Box 5605  
High River, Alberta T1V 1M7

THIS NOTICE IS TO ADVISE YOU THAT:

1. We, Ducks Unlimited Canada, Suite 300, 10525 170 Street, Edmonton AB T5P 4W2, (780.489.2002) intend to register an agreement under Sections 33 and 33 (2) of the Alberta Land Stewardship Act creating a conservation easement, not sooner than 60 days after the date you receive this notice.
2. The conservation easement will affect the land described as:

S	SHORT LEGAL	TITLE NUMBER
LINC 0027 044 825	4;27;20;25;NW	031 040 094 +1

LEGAL DESCRIPTION

MERIDIAN 4 RANGE 27 TOWNSHIP 20  
SECTION 25  
QUARTER NORTH WEST  
CONTAINING 64.7 HECTARES ( 160 ACRES) MORE OR LESS  
EXCEPTING THEREOUT:

	HECTARES	(ACRES)	MORE OR LESS
A) PLAN 9710819 ROAD	0.801	1.98	

EXCEPTING THEREOUT ALL MINES AND MINERALS

ESTATE: FEE SIMPLE

MUNICIPALITY: FOOTHILLS COUNTY

REFERENCE NUMBER: 981 064 860 +1





ESTATE: FEE SIMPLE

MUNICIPALITY: FOOTHILLS COUNTY

REFERENCE NUMBER: 981 064 860

S

LINC	SHORT LEGAL	TITLE NUMBER
0028 601 813	4;26;20;30;SE	231 141 564

LEGAL DESCRIPTION

MERIDIAN 4 RANGE 26 TOWNSHIP 20

SECTION 30

QUARTER SOUTH EAST

CONTAINING 64.7 HECTARES (160 ACRES) MORE OR LESS

EXCEPTING THEREOUT:

PLAN	NUMBER	HECTARES	ACRES	MORE OR LESS
ROAD	7510902	0.809	2.00	
SUBDIVISION	0012739	6.28	15.52	

EXCEPTING THEREOUT ALL MINES AND MINERALS

ESTATE: FEE SIMPLE

MUNICIPALITY: FOOTHILLS COUNTY

REFERENCE NUMBER: 001 318 625

3. The name and phone number of the registered owner of the affected land are:  
Gary and Lesley Meadows – [REDACTED]
4. The purpose of the conservation easement is to: ensure the protection, in perpetuity, of the natural features of the land, as they exist and change, through natural processes, by restricting land uses that would diminish the ecological value of the land.
5. A summary of the terms of the agreement creating the conservation easement related to the use of the land includes: See attached copy of the Conservation Easement.

Dated this 17 day of September 2024.

---

**Sarah O'Brien**  
Conservation Program Specialist, AB  
Ducks Unlimited Canada

---

SIGNATURE ACKNOWLEDGING RECEIPT OF THIS NOTICE

---

SIGNATURE CONFIRMING WAIVER BY THE FOOTHILLS COUNTY OF THE SIXTY-DAY WAITING PERIOD FOR REGISTRATION OF THE CONSERVATION EASEMENT

---

SIGNATORY'S POSITION WITH THE FOOTHILLS COUNTY

SIGNING DATE: \_\_\_\_ day of \_\_\_\_\_, 2024

**Please mail this completed document to:**

Sarah O'Brien  
Ducks Unlimited Canada  
684 Westchester Road  
Strathmore, AB, T1P 1H8

**Alternatively, you can scan and email the completed document to Sarah O'Brien at [s\\_obrien@ducks.ca](mailto:s_obrien@ducks.ca)**

**APPENDIX B: DUCKS UNLIMITED CANADA DRAFT CONSERVATION EASEMENT**

[NO BREAK / NO DRAIN]

**CONSERVATION EASEMENT AGREEMENT**

\_\_\_\_\_  
\_\_\_\_\_

(sometimes called “you” “your” or the “Grantor”) have made this Agreement with DUC,

**DUCKS UNLIMITED CANADA**

17504 - 111 Avenue  
Edmonton, Alberta  
T5S 0A2  
Phone: (780) 489-2002  
Fax: (780) 489-1856

(called “DUC”)

effective the \_\_\_\_ of \_\_\_\_\_, 20\_\_\_\_.

**PREAMBLE - PURPOSES OF THE AGREEMENT**

The purposes of this Agreement are to:

Recognize the Property as containing habitats of importance to waterfowl and other wildlife species;

Grant to DUC a Conservation Easement over your Property in order to protect, conserve and, where possible, enhance the natural condition of the ecosystem of the Wetland and Upland portions of the Property for the benefit of waterfowl and other wildlife species and to protect, conserve and enhance the Biological Diversity of the environment. Your Property is described below under Section 1.9 of this Agreement;

Recognize that some portions of your Property are more conducive to protection, enhancement and preservation for environmental and conservation purposes. Those portions are collectively described in this Agreement as the Habitat Area;

Recognize that this Agreement will satisfy the purposes for conservation easements as set out in the Act;

Recognize that the Conservation Values, attached to this Agreement as **Schedule “A”**, provide an accurate representation of the Property and the Habitat Area and that the Conservation Values will serve as an information baseline for monitoring the Property and the Habitat Area; and

Set out the rights and responsibilities of each of the Parties in relation to the Property and the Habitat Area.

You and DUC agree that:

## SECTION 1 - DEFINITIONS

The defined terms in this Agreement are:

“Act” means the *Environmental Protection and Enhancement Act* (RSA 2000, Chap. E-12, as amended) or any successor legislation including the *Alberta Land Stewardship Act* (SA 2009, Chap. A-26.8);

“Biological Diversity” means the variability among living organisms and the ecological complexes of which they are a part, and includes diversity within and between species and ecosystems;

“Conservation Easement” means a conservation easement granted under the provisions of the Act and as defined in the Act;

“Conservation Values” means the existing and future ecological, natural and aesthetic characteristics and values of the Habitat Area, including but not limited to the ecosystem of the Wetlands and Uplands, and the contribution of the Habitat Area to the protection, conservation and enhancement of the Biological Diversity of the environment, including but not limited to those characteristics and values described in Schedule “A” to this Agreement;

“Habitat Area” means collectively those portions of the Property described as Habitat Area in the sketch plan or plans attached to this Agreement as part of Schedule “A”. The Habitat Area consists of the Wetlands and the Uplands;

“Improvements” means structures or improvements that DUC may make from time to time to the Habitat Area;

“Right of Way” means collectively oil and gas, grazing and other leases and licenses affecting the Property and also includes the placement of powerlines, pipelines and all other easements and rights of way on, in, under or above the Property;

“Parties” means both you and DUC;

“Property” means your property legally described as:

\_\_\_\_\_ ; (*insert legal description*)

“Restrictions” means the restrictions on the use of the Habitat Area and the Property as set out in Section 3 of this Agreement;

“Upland” or “Uplands” refers to that portion of the Habitat Area not described as “Wetland” or “Wetlands” in the sketch plan or plans attached to this Agreement as part of Schedule “A”. The Uplands contain native and naturalized grasses, forbs and other herbaceous plants;

“Wetland” or “Wetlands” refers to that portion of the Habitat Area described as “Wetland” in the sketch plan or plans attached to this Agreement as part of Schedule “A”. The Wetlands, or portions thereof, may be devoid of water from time to time;

All capitalized words used in this Agreement that are defined in the portion of the Act relating to conservation easements have meanings assigned in that part of the Act.

## SECTION 2 - WHAT THIS AGREEMENT DOES

2.1 Grant of Conservation Easement - By signing this Agreement, you agree and acknowledge that:

- (a) you hereby grant to DUC, unconditionally and irrevocably, a Conservation Easement over the Property, as set out in this Agreement (including, without limitation, the Restrictions against the Property and Habitat Area as set out in Section 3 of this Agreement);
- (b) the Conservation Easement granted to DUC in this Agreement includes the rights and obligations set out in the Act as well as the rights and obligations set out in this Agreement;
- (c) the Conservation Easement is granted to DUC freely and voluntarily by you without any compulsion by DUC or by any other person;
- (d) the terms and conditions of this Agreement will be enforceable against DUC, the Grantor, their successors and assigns, and the Grantor's successors in title, regardless of whether they constitute positive or negative covenants, and whether or not DUC has, at any time, any interest in land that would be accommodated or benefited by this Agreement; and
- (e) once registered on title to the Property, this Agreement, including the rights and Restrictions set out herein will govern the use and management of the Property and the Habitat Area and will run with the title to the Property forever, unless terminated, in accordance with the Act. This means that present and future owners of all or part of the Property will be required to comply with the obligations of the Grantor and bound by this Agreement, including the rights and Restrictions set out in this Agreement.

Once this Conservation Easement is registered against the title of your Property at the Land Titles Office, DUC will pay you the sum of \$ \_\_\_\_\_.

### **SECTION 3 - RESTRICTIONS ON THE PROPERTY AND THE HABITAT AREA**

- 3.1 The Ecosystem - You may not damage the Habitat Area, or interfere with or negatively impact the Conservation Values in respect of the Habitat Area, without DUC's prior consent, unless you are explicitly permitted to do so under Section 4 of this Agreement, entitled "Your Rights". In order to obtain DUC's consent, you must agree to the terms of DUC's Work Consent Form in use at that time. DUC has the right to determine, acting reasonably, if there is damage, interference or negative impact.
- 3.2 Transferring Rights - The Grantor shall notify, consult and obtain permission in writing from DUC before entering into any lease, easement or Right of Way on the Property regarding exploration and extraction of mineral, oil or gas resources. Accordingly, any entry fees or surface lease rentals are payable to the Grantor. Once exploration and extraction are complete, DUC will work with the Grantor to ensure that impacts to the Habitat Area are minimized and rehabilitated (not at DUC expense) to the state they were in when this Conservation Easement was signed.
- 3.3 Building And Development - You will not cause, and will not allow the Habitat Area (or the Property if such development may potentially adversely affect the Habitat Area) to be developed or to build any structures of any kind on the Habitat Area (including, without limitation, roads, airstrips, campgrounds, trailer or mobile home parks, resort areas or wind turbines) unless you are replacing an existing structure or you have DUC's consent and have agreed to the terms of DUC's Work Consent Form in use at that time.
- 3.4 Waste Dumping - You will not dump, and you will not allow the dumping of, waste materials, non-biodegradable materials, hazardous materials, or unsightly materials, on the Habitat Area.
- 3.5 Excavation - You will not cause, and you will not allow, any excavation of any type or other alterations to the surface of the Habitat Area, unless otherwise agreed to by DUC.
- 3.6 Removal Of Land - You will not cause, and will not allow, removal of any top soil, loam, gravel, sand, rock, trees, logs or other material from the Habitat Area unless the alterations to the Habitat Area are for

the purpose of creating a dugout, you have DUC's consent, and you have agreed to the terms of DUC's Work Consent Form in use at that time. In the case of a dugout, DUC will not unreasonably withhold its consent.

- 3.7 Water - You will not cause, and will not allow, the pumping of water from the Property (other than for household or livestock use), direct or indirect drainage by any means (including tile drainage), removal of water, conversion or filling of any Wetlands, or the removal of drainage plugs constructed as part of this Agreement. You will not do anything to pollute the water on the Property. Notwithstanding anything in this Agreement, you may drill a well for water on the Property for household or livestock use, provided that you first consult with DUC as to the location of the well.
- 3.8 Alterations To Land And Soil - You will not cause, and you will not allow, any alteration to the Habitat Area, including pumping, burning, drainage, conversion, tillage of or filling in of the Wetlands or Uplands, unless you do so in the process of routine fence maintenance or fence construction.
- 3.9 Agricultural Use - Subject to the terms of this Conservation Easement, including but not limited to Section 3 hereof, you may use the Habitat Area for reasonable agricultural activities, which shall be limited to grazing and haying unless DUC determines otherwise. DUC will determine, in the exercise of its sole discretion, what constitutes a reasonable agricultural activity. In order to protect the Habitat Area, you may not till, break, clear or cultivate the Habitat Area or convert to cropland any portion of the Habitat Area. You will need the consent of DUC, and will need to agree to the terms of DUC's Work Consent Form in use at that time, before reseeding any portion of the Habitat Area. You may not apply pesticides or any other chemicals whatsoever to the Habitat Area without obtaining the consent of DUC, acting reasonably, and agreeing to the terms of DUC's Work Consent Form in use at that time. For clarity, it is DUC's intention to permit you to use chemicals to control noxious weeds on the Habitat Area, but not to permit any chemicals which will negatively affect the Habitat Area, including insecticides and fungicides.
- 3.10 Detrimental Impact - As a general rule, you will not permit actions that may have a detrimental impact on land or water located on or under the Property. DUC will determine whether or not an impact is detrimental.
- 3.11 Your Responsibility For Damage To The Property - You are not responsible if a fire, flood, earthquake, or other natural disaster causes damage to the Conservation Values in respect to the Habitat Area for which you would otherwise be responsible under subsections 3.1 – 3.10 inclusive, of this Section of the Agreement. You will be responsible to do whatever is appropriate and reasonable in the circumstances to stop and repair damage affecting the Conservation Values in respect to the Habitat Area that has been caused or that is about to be caused by any person, corporation or other entity acting without your consent, including trespassers. In any event, you will immediately inform DUC of any damage to the Conservation Values in respect to the Habitat Area.
- 3.12 Following Other Laws - Obeying any legislative or regulatory requirements does not constitute a breach of this Agreement by you.

#### **SECTION 4 - YOUR RIGHTS**

Under this Agreement, you retain all rights of ownership which are not expressly prohibited under Section 3 of this Agreement entitled **Restrictions on the Property and Habitat Area**. You have the rights set forth under this heading, but you must exercise these rights in accordance with applicable municipal, provincial, and federal laws, by-laws and regulations. You have the following rights:

- 4.1 Signs - You have the right to post "No Trespassing" or "No Hunting" signs, signs indicating and identifying occupancy and directional signs.
- 4.2 Access - You have the right to control access to the Property by third parties. You are responsible for any damage caused to the Habitat Area or to the Improvements DUC may have constructed on the Property and for any injuries to any person as a result of your granting access to any other party.

- 4.3 Hunting Rights and other Recreational Uses - You have the right to allow or not to allow access for the purpose of hunting. You may allow other reasonable recreational uses of the Property. If such other recreational uses, in the reasonable opinion of DUC, have an adverse impact on the Habitat Area, then DUC may require that you stop such uses.
- 4.4 Transferring Property Ownership - You retain the right to sell or otherwise convey your interest in your Property. If you decide to transfer all or part of your interest in your Property, you must provide written notice to DUC and a copy of this Agreement to any future owner of the Property no later than thirty (30) days following registration of the future owner on title to the Property.

## **SECTION 5 - RIGHTS AND RESPONSIBILITIES OF DUC**

In addition to the rights granted to DUC in the Act as the holder of a Conservation Easement, DUC has the following rights and responsibilities under the Agreement:

- 5.1 Change in Conservation Values - It is acknowledged by the Parties that the ecological nature and characteristics of the Habitat Area may change over time and that the Conservation Values described in Schedule "A" may need to be amended, from time to time, to reflect such change. If DUC amends Schedule "A", DUC will provide a written copy of the amended Schedule "A" to you. You will have 30 calendar days from the date that you receive the amended Schedule "A" (or are deemed to receive the amended Schedule "A" in accordance with Section 7.4 of this Agreement) to let DUC know of any objections to the amended Schedule "A" (the "Objection Notice"). If you do not file an Objection Notice within the said 30 calendar days, then you will be deemed to be in agreement with the amended Schedule "A". If you do file an Objection Notice within the 30 days, then you and DUC will negotiate, in good faith, the amendments to the Schedule "A". If you and DUC cannot reach an agreement on an amended Schedule "A" within 90 days following the date that DUC receives the Objection Notice, then the amended Schedule "A" will be determined by arbitration as set out in Section 7.5 of this Agreement.
- 5.2 Access To The Property
- (a) DUC may enter onto the Property at any time to carry out the purposes and intent of this Agreement, including but not limited to, protecting waterfowl or wildlife habitat, inspecting and maintaining water control structures, determining whether the Restrictions have been complied with and enforcing the terms of this Agreement, to review and carry out the activities, actions and steps set out in **Schedule "B"**, if any, and determine through inspection, testing or otherwise whether the Conservation Values are respected and maintained and that the purposes of the Agreement are being achieved. DUC and its agents and employees may enter onto the Property, from time to time as set out in this Section 5.2, and may bring equipment on to the Property in order to carry out its rights set out in this Agreement.
- (b) In the event that part of the Property is not Habitat Area, which part may be designated on Schedule "A" as "Non-Habitat Area", and in the event that such part of the Property is subdivided from the balance of the Property, then DUC will have, in perpetuity, a non-exclusive right, license, privilege, easement and access right-of-way in, over and through such part of the Property, to permit access to and egress from the Property and Habitat Area by DUC, its employees, agents, and contractors, with or without machinery and equipment, between the hours of 8:30 a.m. and 5:30 p.m. daily. If requested by DUC, you will enter into a separate easement agreement providing for such access, on DUC's then standard form, prepared by DUC acting reasonably.
- 5.3 Signs - DUC is permitted to pay for and erect tasteful signage on the Property indicating that DUC holds a Conservation Easement on the Property. The Parties shall agree to the size, location, and wording of the sign.
- 5.4 Expropriation - If any governmental body takes or modifies all or a portion of your Property rights (a process called expropriation), or notifies you that it will do so or plans to do so, then:

You will notify DUC as soon as possible and in any event no later than 10 days after the taking, modification, or notice from the governmental body, as the case may be; and

You and DUC will cooperate with each other in all matters, including, without limitation, legal proceedings, so that each may receive the maximum award that it is entitled to at law. Neither party shall compromise the claim of the other party.

- 5.5 Nature of Rights and Privileges in this Agreement - Rights and privileges granted under this Agreement run with the Property and are an interest in land. DUC will register this interest against the Property at the expense of DUC. This Agreement is binding against all subsequent owners of the Property.
- 5.6 Liability - Notwithstanding the rights and obligations of DUC as set out in this Agreement, including, without limitation, Section 5.1 hereof, DUC cannot promise that it shall maintain the Conservation Values on the Property (or the Habitat Area). If in DUC's sole discretion, owing to changes in the environment (e.g., climate change, long-term changes in weather patterns, extended periods of drought) DUC will have no liability, of any kind whatsoever, to you or any other party, if the Conservation Values, whether or not amended, cannot be maintained due to these changes or if due to these changes DUC does not restore Wetlands (as set out in Section 5.7 hereof) or does not carry out the activities set out in Schedule "B" or any amendment to Schedule "B", if any, or does not carry out any of its other rights or objectives as may be set out in or implied by this Agreement.
- 5.7 Wetland Restoration - DUC has the right (but not the obligation) to take whatever steps are necessary to restore wetlands on the Habitat Area or the Property, including, without limitation, the right to construct dam(s) and other water control structures on the Habitat Area; provided that in constructing any dam or water control structure DUC first obtains all necessary approvals from the Province of Alberta. The water control structures are more specifically set out in Schedule "B".

**[NOTE TO FIELD REPRESENTATIVE: CLAUSE 5.7 (WETLAND RESTORATION) IS OPTIONAL AND MAY BE APPLICABLE TO EITHER A "NO BREAK/NO DRAIN" CONSERVATION EASEMENT OR TO A "NO AGRICULTURAL USE" CONSERVATION EASEMENT. INSERT IT ONLY IF WETLAND RESTORATION WILL OCCUR FOR THE HABITAT AREA. ALSO REMOVE AS SET OUT IN SECTION 5.7 HEREOF IN QUOTATIONS IN CLAUSE 5.6]**

## **SECTION 6 - ENFORCEMENT PROVISIONS**

- 6.1 General Enforcement Provisions - The Conservation Easement may be enforced by DUC or a person appointed in accordance with the Act. The person or organization that may enforce this Agreement is referred to as the Enforcer.
- 6.2 Decision Not To Enforce - The Enforcer is not required to enforce a breach of this Agreement by you or any other party. Should the Enforcer decide not to enforce any or all of the covenants in this Agreement then DUC and the Enforcer are not liable for the decision to not enforce the covenant(s) and the Parties must still abide by the covenant that was not enforced, and the Enforcer may enforce that covenant in the future.
- 6.3 Joint And Several Enforcement - The provisions of this Agreement are enforceable jointly and severally, which means that the Enforcer may enforce the rights under this Agreement against any one of the Grantors or more than one or all of the Grantors.
- 6.4 Multiple Enforcements – DUC's rights as Enforcer may be exercised from time to time, and as many times as are required.
- 6.5 Injunctions - The parties recognize that damages based upon market value may not be adequate or effective to compensate for destruction or restoration of the Conservation Values. Accordingly, the parties agree that:



- (a) compensation payable by you to DUC in the event of default or breach of the Agreement may be based upon market value, restoration or replacement costs, whichever, in the opinion of the Court, shall better compensate DUC; and
  - (b) without limiting the scope of the other enforcement rights available to DUC under this Agreement, DUC may be entitled to prohibitory or mandatory injunctive relief to prohibit or prevent default or the continuance of default under this Agreement or to restore the Property to the condition that existed prior to the breach and DUC shall not be obliged to provide notice to you prior to seeking or enforcing such injunctive relief.
- 6.6 Costs - All costs incurred by DUC in enforcing the terms of this Agreement and arising from a breach of the Agreement by you, including without limitation legal costs and expenses, and any costs of restoration required to remedy any violation of this Agreement by you, shall be paid by you to DUC. Until paid to DUC by you, such costs shall be a debt owed by you to DUC and shall be a charge upon the Property and shall be recoverable by DUC in a Court of competent jurisdiction.
- 6.7 Nuisance - Any violation of this Agreement may be a nuisance, and the Enforcer may exercise every remedy in law or equity against a person causing or permitting a nuisance.
- 6.8 Notification And Remedies Of Your Breach - If you neglect to perform your obligations under this Agreement, DUC may provide to you a notice that notifies you of your breach and notifies you of DUC's estimated maximum costs of remedying your breach. You must remedy the breach within 30 days of receiving the notice or make other arrangements with DUC. If you do not correct the breach within 30 days, DUC may, but is not obligated to, correct the breach for you, and you must reimburse DUC for its expenses, up to the maximum in the notice. If you do not pay this amount, it will be treated as a debt due and owing by you to DUC.
- 6.9 Compensation For Damage To The Property - Since damages to the Habitat Area of the Property based on market value may not adequately compensate for environmental harm, if a breach of this Agreement requires you to compensate DUC, damages may be based on the cost of restoring the Habitat Area of the Property.

## **SECTION 7 - GENERAL COVENANTS**

- 7.1 Publications - DUC may publicize the existence of this Agreement and its terms and publish materials for the purposes of education.
- 7.2 Severability - If a covenant, easement or restriction in this Agreement is declared invalid or unenforceable, it will be severed from this Agreement, but the remaining covenants, easement and restrictions shall not terminate.
- 7.3 Assignment Of Contractual Rights - DUC may assign its rights under this Agreement to another Qualified Organization as designated under the Act. After DUC transfers its interest in this Agreement, and provides you with written notice of the transfer, DUC is no longer liable for any breaches or any obligations under this Agreement.
- 7.4 Delivery Of Correspondence - Any notices, including requests for approval and replies to those requests required under this Agreement shall be personally delivered or delivered by prepaid ordinary mail or facsimile to the other party at its address. The addresses are as follows:

YOUR ADDRESS:

DUC'S ADDRESS:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Ducks Unlimited Canada  
17504 - 111 Avenue  
Edmonton, AB T5S 0A2  
Phone: (780) 489-2002  
Fax: (780) 489-1856

Notice is deemed to have been received at the following time:

If mailed, at the expiration of five business days after the mailing;  
If sent by fax, upon the successful completion of the transmission;  
If personally delivered, on the date it is delivered.

If either of the addresses change, the Parties must notify each other of the change in address.

- 7.5 Arbitration - In the case of a dispute because of this Agreement, the Parties will use arbitration or mediation under the then current *Arbitration Act* in the Province of Alberta (or such similar legislation). Each party will pay its own expenses, and will share the cost of the arbitrator. Any decision of an arbitrator will be final and binding on the Parties. The arbitrator may award costs against the Parties or either of them. The arbitration will take place in the City of Edmonton, in Province of Alberta. Nothing in this Section 7.5 or elsewhere in this Agreement limits or delays the enforcement provisions set out in Section 6 hereof and DUC has all remedies available to it (in law or equity) to enforce this Agreement as set out in Section 6 hereof without first going to arbitration.
- 7.6 Entire Agreement - This Agreement constitutes the entire agreement between the Parties with regard to the matters dealt with in this Agreement. No other understandings or agreements exist between the Parties.
- 7.7 Enduring Effect - The covenants, easements and restrictions set out in this Agreement shall be to the benefit of and be binding upon the Parties hereto and their respective heirs, legal representatives, successors and assigns. If the Grantor is more than one person, then the obligations of the Grantor are joint and several.
- 7.8 Insurance - You will maintain reasonable comprehensive general liability insurance coverage in respect of your ownership and use of the Property. Each party will produce evidence of their insurance coverage to the other party within seven business days of being requested to do so by the other party.
- 7.9 Taxes And Fees - You will pay all taxes, assessments, fees, and charges levied on or assessed against the Property, (these payments are known as "Taxes"). DUC may, but does not have to, advance any payment, including a payment of Taxes or a payment to obtain or maintain insurance. If DUC does make such payments, they will become a debt due and owing by you to DUC.
- 7.10 Indemnity - Except as otherwise provided in this Agreement, you indemnify and save harmless DUC and its directors, officers, employees, agents, contractors, successors and assigns from and against any and all actions, causes of action, suits, claims and demands by or on behalf of any persons or other entities arising out of or occasioned by any act, omission or negligence of you and your employees, agents and others that you allow onto the Property (collectively, "Your Agents") by reason of the performance or non-performance of the rights and obligations of you and Your Agents under this Agreement.

Except as otherwise provided in this Agreement, DUC does hereby indemnify and save harmless you and your directors, officers, employees, agents, contractors, successors and assigns from and against any and all actions, causes of action, suits, claims and demands by or on behalf of any persons, or other entities arising out of or occasioned by any act, omission or negligence of DUC and its employees and agents (collectively, "DUC Agents") by reason of the performance or non-performance of the rights and obligations of DUC and the DUC Agents under this Agreement.

- 7.11 Postponement of Prior Encumbrances - You agree to obtain, in registerable form satisfactory to DUC, a postponement to this Agreement of the rights on title and interest of each person holding any encumbrance or interest in the Property ranking prior to that hereby granted by you to DUC against the title to the Property with the exception of those encumbrances listed in the attached **Schedule "C"**, if any.
- 7.12 Amendment Of Contract - The Parties may amend any term of this Agreement by mutual consent by amendments in writing. The headings set out in this Agreement are for reference only. The statements set out in the section of this Agreement entitled, "**Purposes of this Agreement**", are a part of this Agreement.
- 7.13 No Waiver Allowed - If DUC does not enforce or if DUC waives any breach of this Agreement, DUC remains entitled to enforce a later breach or default of this Agreement. No waiver of the rights of DUC in this Agreement shall be inferred from or implied by any failure to exercise any right.
- 7.14 Applicable Law - This Agreement shall be interpreted and enforced in accordance with the laws of the Province of Alberta.
- 7.15 Consent - In this Agreement, wherever the permission, consent or agreement of DUC is required, such permission, consent or agreement must be obtained in writing and DUC may, in its sole discretion, place conditions on any such permission, consent or agreement, including without limitation requiring the Grantor to agree to the terms of DUC's Work Consent Form in use at that time.

7.16 Work Consent Form – Notwithstanding those restrictions in Sections 3.1, 3.3, 3.6 and 3.9 of this Agreement, there may be some work (the “Work”) that the Grantor may want to undertake that could be deemed contrary to the terms of the Agreement but have neutral impact to the Conservation Values or be of benefit. In DUC’s sole discretion, DUC may allow the Work upon approval of the Work Consent Form in use at that time that outlines the specific conditions of the Work. In certain cases, DUC may request that the Grantor obtain a bond to be held by DUC and returned to the Grantor upon completion of the Work.

**DUCKS UNLIMITED CANADA**

Per:

\_\_\_\_\_

Per:

\_\_\_\_\_

**NAME OF GRANTOR ( if corporation can use seal or form 31.1)**

\_\_\_\_\_  
WITNESS

\_\_\_\_\_  
*(insert landowner name as per title)*

\_\_\_\_\_  
WITNESS

\_\_\_\_\_  
*(insert landowner name as per title)*