

## CONTRACT AMENDMENT

Amendment #2 to C150432	Original Contract CLIN #09PDA00097	Amendment CMS # 26658
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### 1) PARTIES

This Amendment to the above-referenced Original Contract (hereinafter called the Contract) is entered into by and between Ducks Unlimited, Inc. (hereinafter called "Contractor"), and the STATE OF COLORADO (hereinafter called the "State") acting by and through the Department of Natural Resources, Colorado Water Conservation Board (hereinafter called the "DNR/CWCB").

### 2) EFFECTIVE DATE AND ENFORCEABILITY

This Amendment shall not be effective or enforceable until it is approved and signed by the Colorado State Controller or designee (hereinafter called the "Effective Date"), but shall be effective and enforceable thereafter in accordance with its provisions. The State shall not be liable to pay or reimburse Contractor for any performance hereunder, including, but not limited to costs or expenses incurred, or be bound by any provision hereof prior to the Effective Date.

### 3) FACTUAL RECITALS

The Parties entered into the Contract to perform the South Platte Water Protection and Wetland Restoration Project.

### 4) CONSIDERATION

Consideration for this Amendment consists of the payments to be made hereunder and the obligations, promises, and agreements herein set forth.

### 5) LIMITS OF EFFECT

This Amendment is incorporated by reference into the Contract, and the Contract and all prior amendments thereto, if any, remain in full force and effect except as specifically modified herein.

### 6) MODIFICATIONS.

The Contract and all prior amendments thereto, if any, are modified as follows:

- a. **Paragraph 4.1 is amended to read as follows:** "This contract shall be effective upon approval by the Colorado State Controller, or designee, (the "Effective Date") and extend through June 30, 2011. Performance of this contract shall commence as soon as practicable after the Effective Date and shall be undertaken and performed in the sequence and manner set forth in Exhibit A, "Scope of Work".
- b. The schedule for the Scope of Work attached to the Original Contract as Exhibit A, is replaced with the revised schedule attached hereto as Exhibit 2 and incorporated herein.

### 7) EFFECTIVE DATE OF AMENDMENT

The effective date hereof is upon approval of the State Controller or their delegate.

### 8) ORDER OF PRECEDENCE

Except for the Special Provisions, in the event of any conflict, inconsistency, variance, or contradiction between the provisions of this Amendment and any of the provisions of the Contract, the provisions of this Amendment shall in all respects supersede, govern, and control. The most recent version of the Special Provisions incorporated into the Contract or any amendment shall always control other provisions in the Contract or any amendments.

### 9) AVAILABLE FUNDS

Financial obligations of the state payable after the current fiscal year are contingent upon funds for that purpose being appropriated, budgeted, or otherwise made available.

CWS# 201658

**THE PARTIES HERETO HAVE EXECUTED THIS AMENDMENT**

\* Persons signing for Contractor hereby swear and affirm that they are authorized to act on Contractor's behalf and acknowledge that the State is relying on their representations to that effect.

**CONTRACTOR**  
Ducks Unlimited, Inc.

By: Stephen E. Adair  
Title: Director

  
\*Signature

**STATE OF COLORADO**  
Bill Ritter, Jr. GOVERNOR  
Colorado Water Conservation Board

By:   
By: Eric Hecox, Section Chief for Water Supply  
Planning

**ALL CONTRACTS REQUIRE APPROVAL BY THE STATE CONTROLLER**

CRS §24-30-202 requires the State Controller to approve all State Contracts. This Contract is not valid until signed and dated below by the State Controller or delegate. Contractor is not authorized to begin performance until such time. If Contractor begins performing prior thereto, the State of Colorado is not obligated to pay Contractor for such performance or for any goods and/or services provided hereunder.

**STATE CONTROLLER**  
David J. McDermott, CPA

By: 

Susan Borup, Controller, Department of Natural Resources

Date: 12/14/2010

# Exhibit 2



## Revised Timeline

### DT Ranch

Project Timeline May, 2009 - December 31, 2010									
Project Component	4-6/09	7-9/09	10-12/09	1-3/10	4-6/10	7-9/10	10-12/10	1-3/2011	4-6/2011
Task 1		X	X	X	X				
Task 2			X	X	X	X	X	X	X

### Revised Timeline Fender (Winterhaven)

Project Timeline May, 2009 - December 31, 2010									
Project Component	4-6/09	7-9/09	10-12/09	1-3/10	4-6/10	7-9/10	10-12/10	1-3/2011	4-6/2011
Task 1 (Complete)	X	X							
Task 2 (Complete)			X	X					
Task 3								X	X
Task 4					X	X	X	X	
Task 5 (complete)	X	X							

## Exhibit 2



Ducks Unlimited, Inc.  
2926 E. Mulberry Street  
Fort Collins, CO 80524

Mr. Todd Doherty  
Colorado Water Conservation Board

Dear Mr. Doherty:

In response to recent emails and discussions regarding a contract extension for contract number 09PDA000097 I have attached a revised scope of work and timeline. This information should be used to amend the contract and extend to June 30<sup>th</sup>, 2011. We are very appreciative of your consideration and understanding and please rest assured that the projects will be completed through this final extension. Please also be assured that we are not seeking to change the budget or ask for additional funds through this request. We are only seeking more time to complete two of the three projects, Fender Wetland Recharge and DT Ranch Wetland Recharge. The third project is completed on Drake Land Farms.

### **DT Ranch Wetland Recharge**

#### **Scope of Work**

The project will proceed exactly as described in the application as approved by the Water Conservation Board. The designs are complete and I can provide a set of plans at your request. The project will entail construction of an infiltration gallery in the South Platte River, near Weldona, CO and pumping the water from the river through a pipeline to a lateral beside the Fort Morgan Canal. The water will be used to flood wetlands for waterfowl and migratory birds, provide recreational hunting opportunities and retine water for river augmentation.

#### **Timeline**

We wish to apologize for delays on this project. Rest assured the project has been designed and is ready to be bid to contractors for construction. Unfortunately, we were dealt a final delay from the Army Corps of Engineers as they have recently lengthened their timeline for approving nationwide permits. We are working with the Corps and have every expectation that permits will be forthcoming, just not in time to complete construction by the end of December.



## **Fender (Winterhaven) Wetland Recharge Project**

### **Scope of Work**

We have completed most tasks except Tasks 3 and 4 as outlined in the proposal. The easement has been completed (Task 5). We have also completed the survey and design for wetland construction and awarded the contract to construct wetland impoundments which are now complete.

However, the project location has shifted from the original scope. The project will work exactly as outlined in the proposal; it's simply been moved to another location on the property. Several test holes to find the best well location and the best recharge sites determined the project should be built on the far east parcel of the Fender property. Such a shift, over a mile away from the original scope, required that we work with new landowners where an infiltration gallery and pipelines will be located to deliver water to ponds on the Fender project. The project is now designed and plans can be provided upon request.

We have presented agreements to the landowners for perpetual access and have drafted the agreements with our other major partners including South Platte Water Related Activities Program (SPWRAP) for review in December. All parties are anxious to move the project forward and we will have agreements completed by the end of January.

One other delay we have experienced is similar to the DT Ranch in the 404 permit timeline as they will require certification of the water right from SPWRAP and consultation from the USFWS. This is a recent change that has increased the timeline from 10 days to more than 3 months. We have every reason to believe a nationwide permit will be completed, allowing us to complete the project.

### **Financials**

The budget for both projects will remain as outlined in the application.

Thank you for accommodating this request one final time.

Sincerely,

Digitally signed by Greg Kernohan  
DN: cn=Greg Kernohan, c=US, o=Ducks Unlimited, Inc.,  
email=gkernohan@ducks.org  
Reason: I am the author of this document  
Date: 2010.11.30 16:32:36 -07'00'

Greg Kernohan  
Manager, Conservation Programs (CO/WY)