

## **LEASE**

THIS LEASE IS ENTERED INTO between **Rodney Kirkpatrick, Ernest Vala, and Alyce Nelson**, represented by Bart Woodward of Agri Affiliates Inc., whose agent's mailing address is P O Box 1390, Kearney, NE 68848, telephone number is (308) 234-4969, and whose social security numbers are as follows: Rodney Kirkpatrick XXX-XX-XXXX, Ernest Vala XXX-XX-XXXX, Alyce Nelson XXX-XX-XXXX, (hereinafter referred to as the "**Owner**"), and **Platte River Recovery Implementation Foundation, Trustee** (hereinafter referred to as the "**Tenant**").

1. **DESCRIPTION OF PROPERTY.** The **Owner** hereby leases to the **Tenant** real estate owned by **Rodney Kirkpatrick, Ernest Vala and Alyce Nelson**, consisting of approximately one acre of land and located in the Northwest Quarter (NW1/4) of Section 24, Township 8 North, Range 20 West of the 6<sup>th</sup> P.M., Phelps County, Nebraska, together with a non-exclusive easement that provides reasonable access to said one (1) acre site on, over and across the premises of the Owner and the ability to run a single above ground pipe following harvest, over and across an existing field on real estate owned by **Owner**, and located in the Northwest Quarter (NW1/4) of Section 24, Township 8 North, Range 20 West of the 6<sup>th</sup> P.M., Phelps County, Nebraska, all of which is shown more particularly on the attached Exhibit "A" that is made a part hereof by this reference (hereinafter referred to as "the Property").

2. **TERM OF LEASE.** The term of this lease shall be from August 31, 2011 to April 1, 2012.

3. **USE AND OCCUPANCY.** The property herein leased shall be used and occupied by the **Tenant**, and its employees, agents, contractors, invitees, and guests, exclusively for a recharge pit and subsequent studies of water movement. The **Tenant** shall have the right and ability to fence off the pit to prevent stock from entering into the pilot/demonstration site during the time of the lease. The **Tenant** covenants and agrees to comply with all statutes, rules, orders, regulations and requirements of federal, state, county, and city government regulating the use by the **Tenant** of the premises.

4. **CASH RENTAL.** Cash rent during the term of this lease shall consist of a onetime upfront payment of One Thousand Five hundred Dollars (\$1,500) due and payable on or before August 15, 2011. The **Tenant** agrees to mow the non occupied home site on the Property at least 4 times during the summer/fall time period.

5. **TENANT'S AGREEMENTS.** The **Tenant** agrees that:

(a) **Removal of Personal Property.** Upon termination of this lease or any extension or renewal thereof, the **Tenant** shall have thirty (30) days to remove any and all personal property of the **Tenant**, even though said property may be attached to the realty; provided, the **Tenant** shall repair all damages to the Property caused by the installation and removal. Failure or refusal of the **Tenant** to remove any or all of the personal property within such time period shall cause the **Tenant** to forfeit all rights in and to such personal property and such personal property shall become the property of the **Owner**. A monitoring well in the north portion of the Property in the shelterbelt of trees shall remain and will be used to monitor water movement for the benefit of both the **Owner** and the **Tenant**. **Tenant** shall work with the producer, Kerry Blythe to coordinate all work and occupation times.

(b) **Indemnification of Owner.** The **Tenant** agrees to indemnify and hold harmless the **Owner** against all liability, loss, cost, damage, or expense sustained by the **Owner** arising out of or due to the **Tenant's** use of the property. The **Tenant** shall keep in force **Tenant's** own liability insurance policies as will fully protect the **Tenant** and the **Owner** against claims against any and all persons for personal injury, death, or property damage occurring in or about the property.

(c) **Delivery of Possession.** The **Tenant** agrees to yield possession of the property to the **Owner** and vacate the property at the expiration of the term of this lease without further notice. The property shall be restored to its original condition following the pilot/demonstration work completion. Any additional crops damaged will be paid for by the **Tenant**. Information learned from the work accomplished will be shared with the **Owner** or the **Owner's** agent.

6. **OWNER'S AGREEMENTS.** The **Owner** agrees that:  
(a) **Real Estate Taxes.** The **Owner** will pay all real estate taxes on the property.  
(b) **Sale of Property.** If the **Owner** should sell or otherwise transfer the property, the **Owner** will do so subject to the provisions of this lease.  
(c) **Quiet Enjoyment.** The **Owner** warrants that the **Owner** has the right to lease the property, and will defend the **Tenant's** possession against any and all persons whomsoever.

7. **SUB-LEASE AND ASSIGNMENT.** The **Tenant** shall not sublet nor assign this lease or any portion thereof without the express written consent of the **Owner**. Such consent shall be in the absolute discretion of the **Owner**.

8. **RELATIONSHIP OF THE PARTIES.** The relationship of the parties is that of landlord and tenant. This lease shall not be deemed to give rise to a partnership relationship, and neither party shall have the authority to obligate the other without written consent, except as specifically provided in this lease.

9. **REMEDIES ON DEFAULT.** The failure or delay of the **Owner** or the **Tenant** to exercise any of their respective rights or privileges under this provision of the lease, or any other terms of this agreement, shall not be held a waiver of any of the terms, covenants, or conditions of said instrument, nor of any of the respective rights or privileges of either party under the same. Any act of either the **Owner** or the **Tenant** waiving, or which may be held to have waived, any specific default of the other party shall not be construed or held to be a waiver of any future default.

If the **Tenant** fails to pay the rent or fails to perform any other term, condition, or covenant of this lease, the **Owner** may terminate this lease by giving written notice of termination to the **Tenant** and may regain possession of the property in the manner then provided by the law of the State of Nebraska. The right to terminate this lease shall be in addition to any other rights or remedies then provided by the law of the State of Nebraska for breach of this lease by the **Tenant**.

10. **BINDING EFFECT.** All provisions of this lease shall be binding upon and inure to the benefit of the parties hereto, their heirs, personal representatives, successors, and assigns.

11. **TIME OF ESSENCE.** Time is of the essence with respect to this lease and in the performance of the terms hereof.

12. **COUNTERPARTS.** This lease may be executed in any one or number of counterparts, each of which shall be deemed an original and which, together, shall constitute one and the same instrument.

13. **COPIES AND/OR FACSIMILES.** A facsimile or photocopy of a properly executed counterpart of this lease shall be as legally binding and valid as the original.

IN WITNESS WHEREOF, the parties have signed this lease on the date(s) hereinafter set forth.

**OWNER'S AGENT:**

**TENANT:**  
**Platte River Recovery Implementation**  
**Foundation, Trustee**

\_\_\_\_\_  
**Agri Affiliates Inc., by Bart Woodward, Farm Manager**  
Dated: July \_\_\_, 2011

By: \_\_\_\_\_  
**Diane Wilson, Executive Director**

Dated: July \_\_\_, 2011

STATE OF NEBRASKA            )  
  ) ss:  
COUNTY OF BUFFALO         )

The foregoing instrument was acknowledged before me on July \_\_\_, 2011, by **Bart Woodward**, Farm Manager, agent for **Rodney Kirkpatrick, Ernest Vala, and Alyce Nelson**.

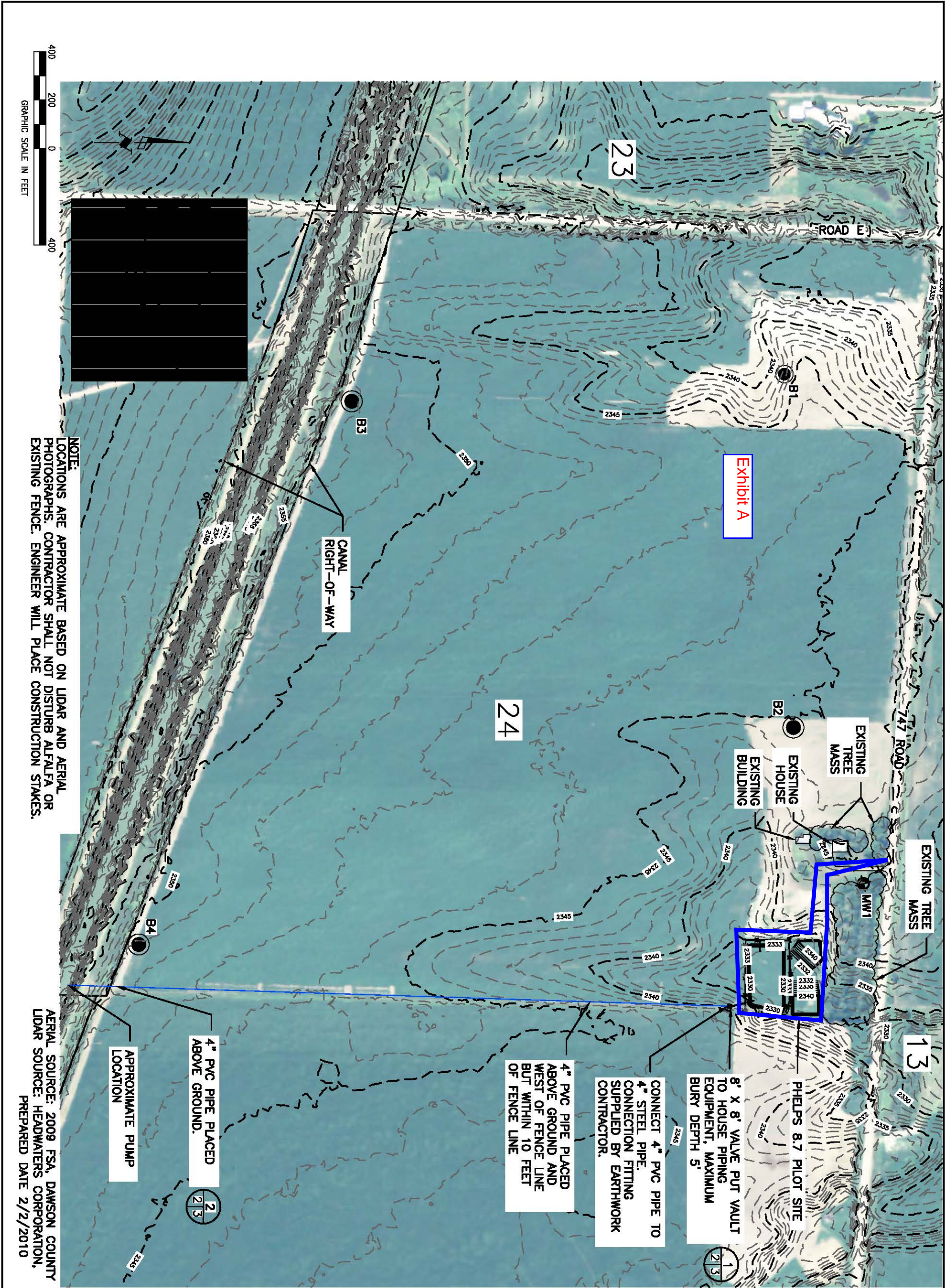
\_\_\_\_\_  
Notary Public


STATE OF NEBRASKA            )  
  ) ss:  
COUNTY OF \_\_\_\_\_        )

The foregoing instrument was acknowledged before me on July \_\_\_, 2011, by **Diane Wilson**, Executive Director of the **Platte River Recovery Implementation Foundation, Trustee**.

\_\_\_\_\_  
Notary Public





 EA ENGINEERING, SCIENCE, AND TECHNOLOGY			PILOT-SCALE RECHARGE BASIN NEBRASKA GROUNDWATER RECHARGE FEASIBILITY STUDY PLATTE RIVER RECOVERY IMPLEMENTATION PROGRAM PHELPS COUNTY, NEBRASKA			PLAN VIEW			
PROJECT MGR. DJS	DESIGNED BY JRB	DRAWN BY CNS	CHECKED BY DJS	DATE JULY 2011	SCALE AS SHOWN	PROJECT NO. 1482201	FILE NAME -	DRAWING NO. A-1	FIGURE 2