

OPERATION AND MAINTENANCE AGREEMENT

THIS AGREEMENT MADE ON August 6, 1987 IS BETWEEN THE SOIL CONSERVATION SERVICE, UNITED STATES DEPARTMENT OF AGRICULTURE, HEREINAFTER REFERRED TO AS SCS, AND THE FOLLOWING ORGANIZATIONS, HEREINAFTER REFERRED TO AS THE SPONSORS.

WESTERN KAY COUNTY CONSERVATION DISTRICT  
DUCK CREEK CONSERVANCY DISTRICT NO. 1

THE SPONSORS AND SCS AGREE TO CARRY OUT THE TERMS OF THIS AGREEMENT FOR THE OPERATION AND MAINTENANCE OF THE PRACTICES IN THE STATE OF OKLAHOMA. THE PRACTICE COVERED BY THIS AGREEMENT ARE IDENTIFIED AS FOLLOWS:

LOST-DUCK CREEK WATERSHED  
DUCK CREEK CHANNEL (CHANNEL IMPROVEMENT)

I. GENERAL

A. THE SPONSORS WILL:

1. BE RESPONSIBLE FOR OPERATING AND PERFORMING OR HAVING PERFORMED ALL NEEDED MAINTENANCE OF PRACTICE, AS DETERMINED BY EITHER SCS OR THE SPONSORS, WITHOUT COST TO SCS.
2. OBTAIN PRIOR SCS APPROVAL OF ALL PLANS, DESIGNS, AND SPECIFICATIONS FOR MAINTENANCE WORK DEVIATING FROM THE O&M PLAN AND OF PLANS AND SPECIFICATIONS FOR ANY ALTERATION TO THE STRUCTURAL PRACTICE.
3. BE RESPONSIBLE FOR THE REPLACEMENT OF PARTS OR PORTIONS OF THE PRACTICE WHICH HAVE A PHYSICAL LIFE OF LESS DURATION THAN THE EVALUATED LIFE OF THE PRACTICE.
4. PROHIBIT THE INSTALLATION OF ANY STRUCTURE OR FACILITY THAT WILL INTERFERE WITH THE OPERATION OR MAINTENANCE OF THE PRACTICE.
5. NOTIFY SCS OF ANY AGREEMENT TO BE ENTERED INTO WITH OTHER PARTIES FOR THE OPERATION OR MAINTENANCE OF ALL OR ANY PART OF THE PROJECT PRACTICES, AND PROVIDE SCS WITH A COPY OF THE AGREEMENT AFTER IT HAS BEEN SIGNED BY THE SPONSORS AND THE OTHER PARTY.
6. COMPLY WITH THE PROPERTY MANAGEMENT STANDARDS SET FORTH IN 7 CFR 3015.160-3015.175, AND ALL APPLICABLE FEDERAL, STATE, AND LOCAL LAWS.
7. PROVIDE SCS PERSONNEL THE RIGHT OF FREE ACCESS TO THE PROJECT PRACTICES AT ANY REASONABLE TIME FOR THE PURPOSES OF CARRYING OUT THE TERMS OF THE AGREEMENT.

B. SCS WILL:

1. UPON REQUEST OF THE SPONSORS AND TO THE EXTENT THAT ITS RESOURCES PERMIT, PROVIDE CONSULTATIVE ASSISTANCE IN THE OPERATION, MAINTENANCE, AND REPLACEMENT OF PRACTICE(S).

II. OPERATION AND MAINTENANCE PLAN (O&M PLAN)

AN O&M PLAN FOR EACH PRACTICE(S) INCLUDED IN THIS AGREEMENT IS ATTACHED TO AND BECOMES A PART OF THIS AGREEMENT

III. INSPECTIONS AND REPORTS

A. THE SPONSOR(S) WILL INSPECT THE PRACTICE AS SPECIFIED IN THE O&M PLAN ..

B. SCS OR FEDERAL LAND ADMINISTERING AGENCY MAY INSPECT THE PRACTICE AT ANY REASONABLE TIME DURING THE PERIOD COVERED BY THIS AGREEMENT. AT THE DISCRETION OF THE STATE CONSERVATIONIST, SCS PERSONNEL MAY ASSIST THE SPONSOR(S) IN THEIR INSPECTION.

C. A WRITTEN REPORT WILL BE MADE OF EACH INSPECTION AND PROVIDED TO OTHERS AS OUTLINED IN THE O&M PLAN.

IV. TIME AND RESPONSIBILITY

THE SPONSOR'S RESPONSIBILITY FOR OPERATION AND MAINTENANCE BEGINS WHEN A PRACTICE(S) IS PARTIALLY DONE OR COMPLETED AND ACCEPTED OR IS DETERMINED COMPLETE BY SCS. THIS RESPONSIBILITY SHALL CONTINUE UNTIL THE EXPIRATION OF THE EVALUATED LIFE OF ALL THE INSTALLED PROJECT PRACTICE(S). THIS DOES NOT RELIEVE THE SPONSORS' LIABILITY WHICH CONTINUES THROUGHOUT THE LIFE OF THE MEASURE OR UNTIL THE MEASURE IS MODIFIED TO REMOVE POTENTIAL LOSS OF LIFE OR PROPERTY.

V. RECORDS

THE SPONSOR WILL MAINTAIN IN A CENTRALIZED LOCATION A RECORD OF ALL INSPECTIONS AND SIGNIFICANT ACTIONS TAKEN, COST OF PERFORMANCE AND COMPLETION DATE WITH RESPECT TO OPERATION AND MAINTENANCE. SCS MAY INSPECT THESE RECORDS AT ANY REASONABLE TIME DURING THE TERM OF THE AGREEMENT.

NAME OF SPONSOR: WESTERN KAY COUNTY CONSERVATION DISTRICT

BY: James Rothgeb TITLE Member

THIS ACTION WAS AUTHORIZED <sup>FOR</sup> ~~AT AN OFFICIAL MEETING OF~~ THE SPONSOR NAMED IMMEDIATELY ABOVE ON June 23, 1987 AT Blackwell, Ok.

ATTEST: Lonette Stone TITLE District Secretary

NAME OF SPONSOR: DUCK CREEK CONSERVANCY DISTRICT NO. 1

BY: James M. Schiltz TITLE Chairman

THIS ACTION WAS AUTHORIZED AT AN OFFICIAL MEETING OF THE SPONSOR NAMED IMMEDIATELY ABOVE ON June 2, 1987 AT Blackwell, Okla.

ATTEST: Carl Zuck TITLE Sec. Treas

SOIL CONSERVATION SERVICE, UNITED STATES DEPARTMENT OF AGRICULTURE

BY: Jim Hill <sup>ACTING FOR</sup> TITLE: STATE CONSERVATIONIST