

1-14-04 Called Mr. Kust; Left Message

2/7/05 - What kind of slash treatment would he prefer? Left message...

- Prefers pile + burn, but would be okay with chipping/mastication.

LICENSE TO ENTER UPON LAND AND RELEASE OF LIABILITY

THIS LICENSE TO ENTER UPON LAND AND RELEASE OF LIABILITY is an agreement entered into by and between **John Rust** (Licensor) and the Board of Governors of the Colorado State University System, acting by and through Colorado State University for the Colorado State Forest Service (hereinafter referred to as "CSFS").

WHEREAS, CSFS has requested access to and the right to enter upon the land described herein below (the "Property"), for the purposes described below that are related to the CSFS's mission; and

WHEREAS, Licensor is the owner of the Property, or of the current right to occupancy thereof, and has the right to grant a license to enter upon the Property for the purposes described herein, and desires to grant such right to CSFS upon the terms and conditions set forth in this Agreement;

NOW, therefore, in consideration of the mutual promises and covenants contained herein, receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows.

A. License Grant. The Licensor grants to CSFS, its employees and authorized volunteers, contractors and subcontractors, acting within the scope of their employment or contract (collectively, the "Licensees"), a non-exclusive, paid-up license to enter upon the Property during the term hereof, without prior notice, for the purposes described below. Licensor may revoke such license at any time by written notice to CSFS in accordance with the Notice provisions herein. Said license is subject to the following terms and conditions:

1. Description of Property. This License concerns the following Property (map attached): **NE ¼ SE ¼ Section 34 and NW ¼ SW ¼ Section 35, T7N, R71W, 6th Principal Meridian, Larimer County, Colorado.**
2. Effective Dates. This License shall be effective beginning on **June 1, 2004** and shall terminate on **December 31, 2007**. The parties may by mutual agreement extend the term of this License as necessary to permit the purposes and activities for which it is granted to be completed.
3. Purpose. This agreement applies to CSFS for the purpose of conducting the following activities (*check all that apply*)
 - ☒ to cut timber as a fire mitigation measure and to remove the downed timber from the Property;
 - ☐ to conduct a timber sale on the property, collect and retain all proceeds, and remove any unsold materials;
 - ☒ to perform the following other activities:
Fuels reduction activities including, but not limited to, tree cutting and removal, thinning, harvesting, and slash treatment (lop & scatter, pile and burn, and chipping).
4. License Fee. Licensee shall pay a fee to Licensor in the amount of **\$0.00** for the entire term of this License. Payment shall be remitted within 30 days after the effective date hereof.

B. Release of Liability. CSFS hereby releases the Licensor from all liability or responsibility for injury that the Licensees, or any of them, may suffer as a result of or in connection with his/her entering upon the Property (except for injuries caused by the gross negligence or intentional acts of the Licensor). Licensor hereby releases the Licensees, and any of them, from any and all liability or responsibility for injuries caused to the Property as a result of the activities allowed under this License (except for injuries caused by the gross negligence or intentional acts of a Licensee, but as to such injuries, nothing herein shall be construed or applied as a waiver of any immunity provided by law). The Parties understand and agree that the liability of the State of Colorado and CSFS is at all times herein governed and controlled by the Governmental Immunity Act, C.R.S. sections 24-10-101, et seq., as now or hereafter amended).

C. Additional Terms and Conditions.

1. **Notices.** All notices required to be given under this License shall be deemed given when actually delivered to the designated representative(s) of the party to be given notice by (i) certified mail, return receipt; or (ii) by hand delivery or courier service, if a signed receipt is obtained upon delivery; or (iii) by facsimile transmission, if confirmation of receipt of the transmission is obtained. A party may change its designated representative(s) or address at any time by written notice in the same manner as for any other notice. The initial representatives of the parties shall be the persons whose names and addresses are:

CSFS:
Colorado State Forest Service
Office of the Director
Attn: Tom Wardle
203 Forestry Bldg.
5060 Campus Delivery
Fort Collins, CO 80523-5060

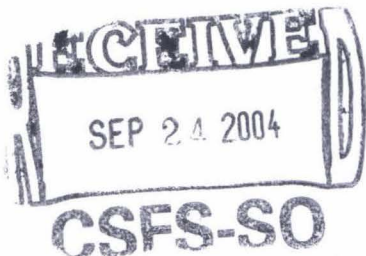
LICENSOR:
John Rust
1125 West 6th Ave.
Loveland, CO 80537
(970) 669-4022

With a copy to:

Contracts Manager
309 Administration Bldg.
6001 Campus Delivery
Fort Collins, CO 80523-6001

2. **Non-Assignment.** Except as specifically permitted under section A herein above, CSFS shall not transfer, assign, or otherwise convey the rights granted in this agreement to any other person or party without the express prior written consent of the Licensor(s). Any such conveyance in violation of this paragraph shall be null and void.
3. **Legal Authority.** The Licensor warrants he/she/it possesses the legal authority to enter into this License and has taken all actions required by its procedures, bylaws, and/or applicable law to exercise that authority, and to lawfully authorize its undersigned signatory to execute this License and to bind the Licensor to its terms. The person(s) executing this License on behalf of the Licensor warrant(s) that such person(s) have full authorization to execute this License.

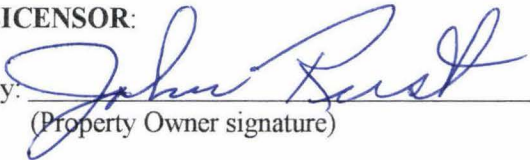
Stringtown Gulch Fuels Treatment Project



4. **Non-Assignment.** Licensor shall not assign or sublicense any of its obligations under this License without the advance written consent of University. Any unauthorized assignment shall be void. University shall have the right, but not the obligation to terminate this License, without waiver of any other right or remedy, upon notice of Licensor=s assignment or sublicense in violation of this section.
5. **Binding effect.** This License is binding upon the heirs, personal representatives, successors, and permitted assigns of both parties.
6. **Entire Agreement.** This License including the exhibits incorporated herein by reference constitutes the entire agreement between the parties, and supersedes any previous contracts, understandings, or agreements of the parties, whether verbal or written, concerning the subject matter of this License.
7. **Amendment.** No modification or amendment to this License shall be valid unless it is made in a writing signed by the authorized representatives of the parties.
8. **Waiver.** The waiver by either party of a breach or violation of any provision of this License shall not operate as or be construed to be a waiver of any subsequent breach of the same or other provision hereof.

THE PARTIES HERETO HAVE EXECUTED THIS CONTRACT

LICENSOR:

By: 
(Property Owner signature)

John Rust, Property Owner

Print Name & Title


CORPORATIONS:

(A corporate seal or attestation is required.)

Attest (Seal)

By: _____
(Corporate Secretary or Equivalent)

**Board of Governors of the Colorado State
University System, acting by and through
Colorado State University:**

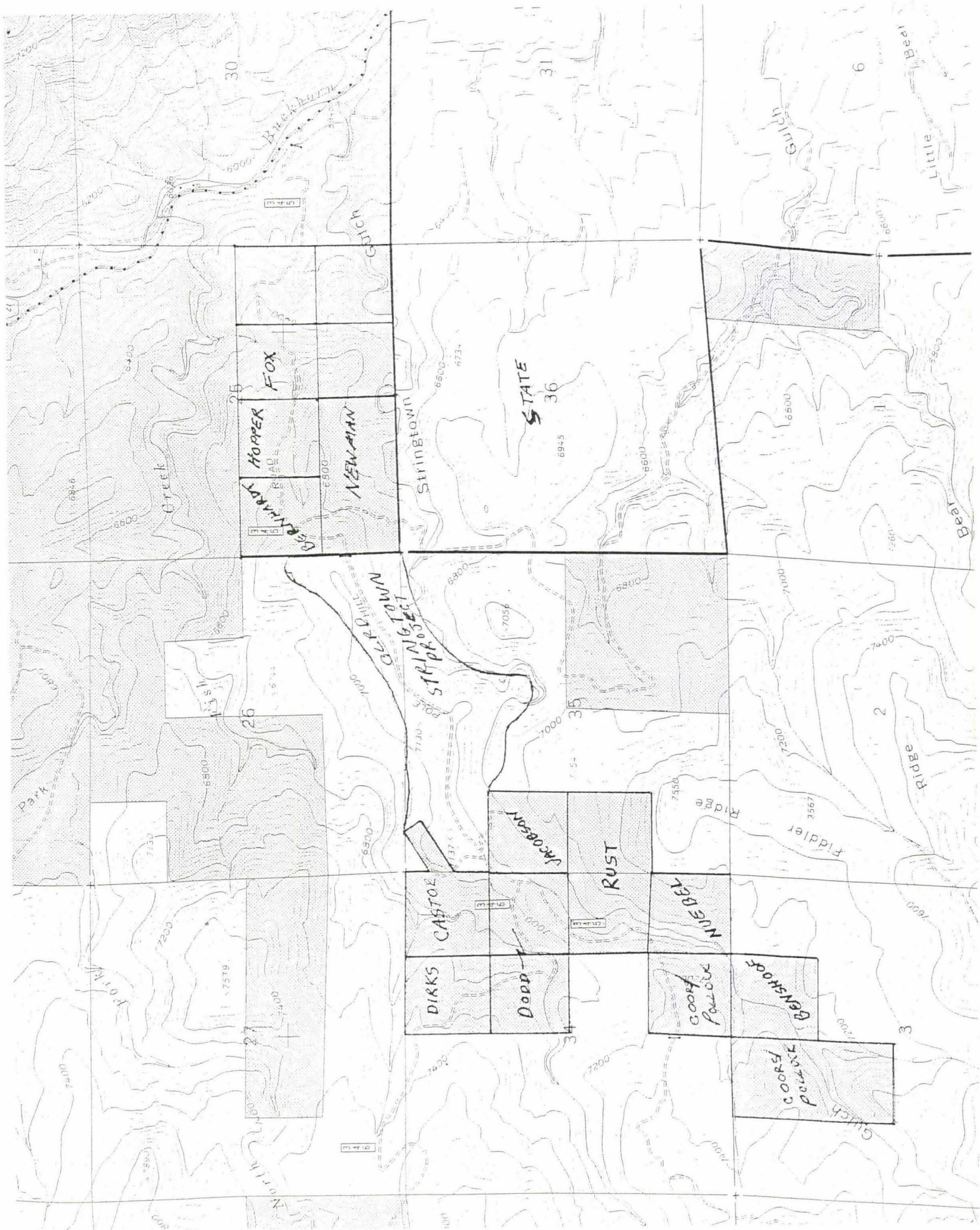
By: 
for Jim Hubbard
Director, Colorado State Forest Service

APPROVED:

By: *not required - RS*
Robert Schur
University Contracts Manager

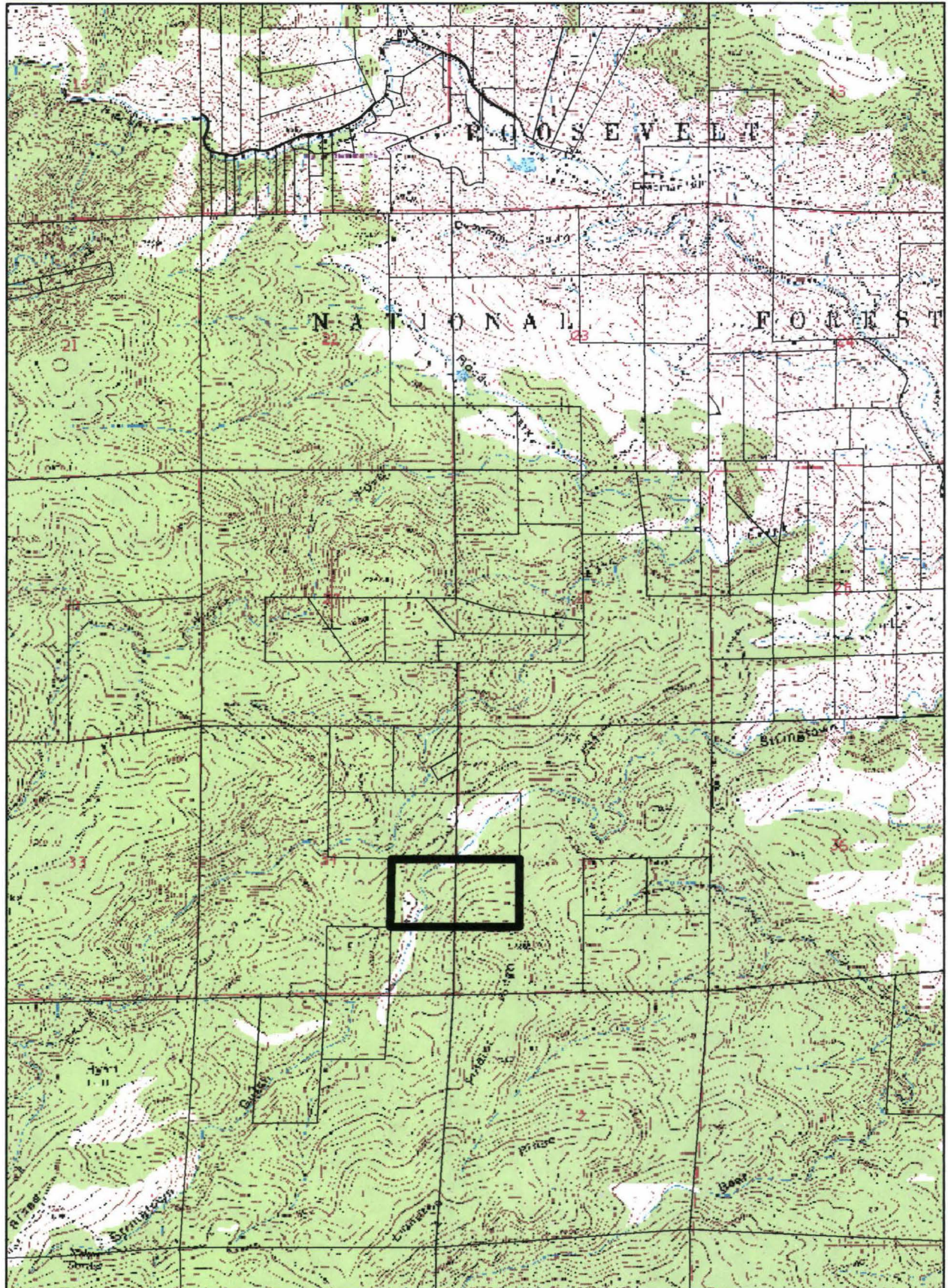
CSFS Fort Collins District contact:

Dave Farmer
CSFS Fort Collins District
5075 Campus Delivery
3843 W. LaPorte Avenue
Colorado State University
Fort Collins, CO 80523
(970) 491-8445
(970) 491-8645 Fax



Stringtown Gulch Fuels Reduction Project

John Rust Property - NE1/4 SE1/4 Sec34 and
NW1/4 SW1/4 Sec35 T7N R71W





Fort Collins District
5075-Campus Delivery, CSU
Fort Collins, CO 80523-5075
(970) 491-8445
FAX (970) 491-8645

January 15, 2004

John Rust
1125 W. 6th Avenue
Loveland, CO 80537

Re: Stringtown Fuels Treatment Project

Dear John,

I enjoyed visiting with you yesterday.

Attached are two copies of the service agreement allowing the Colorado State Forest Service (CSFS) access to your property for planning and implementing fuels treatment projects. Please review the agreement and, if you don't have any questions, return one signed copy to me at the above address. The other copy is for your records.

As I mentioned yesterday, we have been approved funding to begin the Stringtown Fuels Treatment Project. We are at the point where, with your approval, I can begin marking trees and developing specific project areas. I would like to start marking within the next couple of weeks and will contact you for approval before I begin but I do need the service agreement before I can begin.

After the trees are marked, the project will be sent out to contractors for bidding. There will be a contract between the CSFS and the successful bidder. This contract will be very specific and address the road maintenance issues we discussed yesterday.

Please call me at 491-8445 if you have any questions. I can also be reached at home in the evenings (223-3403) if that is easier for you.

I am looking forward to working with you on this project.

Respectfully,

A handwritten signature in cursive script that reads "Dave Farmer".

David A. Farmer
Assistant District Forester

Enclosures

Service Agreement

This Service Agreement (Agreement) is entered into as of the date it is fully executed by and between the Parties identified herein below.

PARTIES:

UNIVERSITY:

THE BOARD OF GOVERNORS OF THE
COLORADO STATE UNIVERSITY SYSTEM,
ACTING BY AND THROUGH COLORADO
STATE UNIVERSITY, AN INSTITUTION OF
HIGHER EDUCATION OF THE STATE OF
COLORADO

CLIENT:

FULL LEGAL NAME OF CLIENT:

John & Dorothy Rust

CITY, STATE, ZIP: **Loveland, CO 80537**

TELE: **(970) 669-4022**

FAX: _____

EMAIL: _____

CONTACT NAME: **Dave Farmer**

DEPARTMENT: **Colorado State Forest Service,**

Fort Collins District,

5075 Campus Delivery

Colorado State University

Fort Collins, CO 80523-5075

TELE: **(970) 491-8445**

FAX: **(970) 491-8645**

EMAIL: **dfarmer@lamar.colostate.edu**

**PLACE(S) WHERE THE SERVICES WILL BE PROVIDED: NE ¼ SE ¼ Section 34 and NW¼ SW¼
Section 35, T6N, R71W, 6th Principal Meridian, Larimer County, Colorado.**

All exhibits referenced in the following Terms and Conditions of the Contract must be attached and initialed by the signatories. All such exhibits are hereby incorporated as if fully set forth herein.

RECITALS:

WHEREAS, University is a comprehensive, land-grant University with experience and resources in a field of mutual interest between University and Client; and

WHEREAS, the Client and University contemplate entering into an agreement whereby CSU's expertise and resources may be utilized to perform the services described herein, which Client desires to obtain; and

WHEREAS, the performance of such services by University is consistent, compatible, and beneficial to the academic role and mission of the University as an institution of higher education;

NOW, THEREFORE, in consideration of the above and the mutual promises contained herein, the parties agree as follows:

1. Independent Contractors. The parties aver that:

- a. The University is not subject to Client's control as to the means and methods of accomplishing the work to be performed hereunder, but the Client may specify and control the result to be accomplished including any specifications, standards, requirements and deliverables; and
- b. The University selects its own customers or clients and is free to contract with others during the term of this Contract; and
- c. This Agreement shall not be construed to create any partnership, joint venture, nor other agency relationship between the parties, who are independent of one another.

2. **Scope of Work.** The University agrees to timely and competently perform for the Client the services described in the Scope of Work, Exhibit A hereto. Any applicable service milestones or periodic deliverables are specified in the Scope of Work.
3. **Term.** This Agreement shall be effective on the date it is fully executed by all parties ("Effective Date"), and shall terminate when all services have been completed, but in any event not later than three year(s) from the effective date. If the date for commencement of services is later than the Effective Date, it is set forth here: n/a.
4. **Payment.** The Client agrees to pay the University for services performed under this Agreement as follows (check one box only):

- ☒ In a fixed price amount of \$0.00, payable upon execution of this Agreement; OR
- ☐ In accordance with the Payment Terms set forth in Exhibit B which is attached and hereby incorporated by reference.

5. **Confidentiality.** It may be necessary for the Client to disclose confidential information to the University's representatives so they can perform the work described herein. At the time of disclosure, the Client shall indicate which information is confidential. Confidential information will not include information that: a) at the time of disclosure or subsequent to that time is generally available to the public; b) is known by the University at the time of disclosure and substantiated in written documents; or, c) is made known to the University by a third party not connected with the Client.

Except as may otherwise be required by law, the University agrees to use best efforts to: maintain the confidentiality of the information; not use the information for any purposes other than contained in the scope of work defined in this Agreement; and not disclose the information to anyone other than those directly involved with this Agreement.

6. **Equipment.** All equipment purchased with funds provided under this Agreement for use in connection with this Agreement shall be the property of the University, and shall be dedicated to providing services under this Agreement while this Agreement is in effect.
7. **Liability; Insurance.** Each party hereto agrees to be responsible for its own wrongful or negligent acts or omissions, or those of its officers, agents, or employees to the full extent allowed by law. Notwithstanding anything herein to the contrary, no term or condition of this Agreement shall be deemed, construed or interpreted as a waiver, express or implied, of any of the immunities, rights, benefits, protections, or provisions, of the "Colorado Governmental Immunity Act", 24-10-101, et seq., C.R.S., as now or hereafter amended ("Immunity Act"), nor of the Risk Management self-insurance statutes at 24-30-1501, et seq., C.R.S., as now or hereafter amended ("Risk Management Act"). The parties understand and agree that the liability of the State of Colorado, its departments, institutions, agencies, boards, officials and employees is at all times controlled and limited by the provisions of the Immunity Act and the Risk Management Act, as now or hereafter amended. Any provision of this Agreement, whether or not incorporated herein by reference, shall be controlled, limited, and otherwise modified so as to limit any liability of the State to the above cited laws.
8. **Use of Tradenames and Service Marks.** Neither party obtains by this Agreement any right, title, or interest in, nor any right to reproduce nor to use for any purpose, the name, tradenames, trade- or service marks, logos or copyrights of the other party. The Client will not include the name of Colorado State University, nor of any member of CSU project staff or other employees, in any advertising, sales promotion, or publication without the prior written approval of the University.
9. **Default; Termination.** A party will be considered in default of its obligations under this Agreement if such party should fail to observe, to comply with, or to perform any term, condition, or covenant contained

in this Agreement and such failure continues for 10 days after the non-defaulting party gives the defaulting party written notice thereof. In the event of default, the non-defaulting party, upon written notice to the defaulting party, may terminate this Agreement as of the date specified in the notice, and may seek such other and further relief as may be provided by law.

10. **Compliance with Laws.** Each party agrees to comply with all applicable federal, state and local laws, codes, regulations, rules, and orders.
11. **Assignment.** Neither party shall assign or transfer any interest in this Agreement, delegate any of its obligations, nor assign any claims for money due or to become due under this Agreement, without the prior written approval of the other party.
12. **Termination.** Each party shall have the right to terminate this Agreement upon not less than 60 days prior written notice to the other party. If notice is so given, this Agreement shall terminate on the expiration of the specified time period, and the liability of the parties hereunder for further performance of the terms of this Agreement shall thereupon cease, but the parties shall not be released from the duty to perform their obligations up to the date of termination.
13. **Entire Agreement.** This Agreement constitutes the entire agreement between the parties and supersedes any previous contracts, understandings, or agreements of the parties, whether oral or written, concerning the subject matter of this Agreement.
14. **Changes and Amendments.** No amendment to this Contract shall be valid unless it is made in a writing signed by the authorized representatives of the parties.
15. **Notices.** All notices required to be given under this Agreement shall be deemed given when delivered by certified mail, return receipt, or on the next business day following delivery by facsimile transmission if a facsimile telephone number is shown below, to the designated representatives of the parties. A party may change its designated representative or address at any time by giving written notice in the same manner as for any other notice. The initial representatives of the parties are as follows:

University:

Name: **Dave Farmer**
Dept: **CSFS, Fort Collins District**
5075 Campus Delivery
3843 W. LaPorte Ave
Colorado State University
Fort Collins, CO 80523
Telephone: (970) 491-8445
Fax: (970) 491-8645

Client:

Name: **John & Dorothy Rust**

Address: **1125 West 6th Ave.**
City, State, Zip: **Loveland, CO 80537**
Telephone: **(970) 669-4022**

16. **Governing Law and Venue.** This Agreement shall be governed by the laws of the State of Colorado, and any legal action concerning the provisions hereof shall be brought in the District Court in and for the City and County of Denver, State of Colorado.

17. **Severability.** The invalidity or unenforceability of any provision of this Agreement shall not affect the validity or enforceability of any other provision. Any invalid or unenforceable provision shall be deemed severed from this Agreement to the extent of its invalidity or unenforceability, and this Agreement shall be construed and enforced as if the Agreement did not contain that particular provision to the extent of its invalidity or unenforceability.
18. **Ability to contract.** The parties represent, each to the other, that they are not subject to any restrictive obligations imposed by former or present clients or other persons that would impair their ability to perform their respective obligations hereunder.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement to be effective as of the dates set forth herein.

**THE BOARD OF GOVERNORS OF
THE COLORADO STATE
UNIVERSITY SYSTEM, ACTING BY
AND THROUGH COLORADO STATE
UNIVERSITY:**

VICE PRESIDENT FOR
ADMINISTRATIVE SERVICES:

By: _____

Name: _____

Title: _____

Date: _____

APPROVAL

By: David A. Farmer
CSFS Fort Collins District

By: _____
University Department Head or
Dean

By: _____
Contracts Manager (as required)

CLIENT:

By: John Rust

Name: John Rust
Dorothy J. Rust

Title: _____
Authorized Representative

Date: 1-22-04

If Corporation:

ATTEST:

By: _____
Secretary

(SEAL)

Notes to University Personnel:

This agreement is intended for use when providing services other than services which are research-related (such as 2-2 fund activities). For further information about when to use this form, contact the Contracts Manager at (970) 491-0561.

1. After obtaining signatures of the Client, University Department Head or Dean, and any Approvals you have added, send to the Office of Contracts Manager, 309 Administration Building, Fort Collins, CO 80523-6001.

2. A budget setting forth the estimated costs of performance and the expected revenues under this agreement must be submitted for review together with this contract. A business plan must be on file and an appropriate fund account established with the Business & Financial Services Dept. For more information, or to establish an account for this activity, contact Self-Funded Accounting at (970) 491-0512.

EXHIBIT A TO SERVICE AGREEMENT

Scope of Work

(Enter or attach a complete description of the work to be performed, including any supplies, deliverables or work product to be provided by University. Specify time and manner of performance as required. A project budget may be incorporated or attached in addition to the Scope of Work. Each page of each exhibit should be initialed by the signatories for the parties).

This *Service Agreement* grants access to the Colorado State Forest Service for the property identified above for project planning, project layout (including tree marking), and project administration as a partner in the Stringtown Gulch Fuels Treatment Project. As part of the Front Range Fuels Treatment Partnership, the Stringtown Project is a multi-jurisdictional, cross-boundary project involving private, state, and federal lands designed to reduce wildfire hazards. Anticipated activities include, but are not limited to, tree thinning, fuel breaks, and slash treatment.

Client authorizes the Colorado State Forest Service to pursue hiring of service contractor(s) to perform wildfire mitigation activities. With Client approval, the Colorado State Forest Service is authorized to award mitigation contracts to successful bidders. Authorized work will be completed at no cost to the Client.

No fuels treatment activity will occur on private property without consent of the property owner.

Exhibit A to Service Agreement

Initials:

CSU:



Client:

EXHIBIT B TO SERVICE ACT
PAYMENT SCHEDULE

[Enter here or attach a detailed statement of the dates and amounts for payments to be made under the Contract and any service milestones or deliverables attendant to such payments].

No payment is required for the services listed above.

Exhibit B to Service Agreement

Initials:

CSU:

SAF

Client:
