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KAREN FORD, RECORDER
FAYETTE COUNTY, IOWA

RE-RECORDING OF DEED OF CONSERVATION AGREEMENT
dated October 19, 2009 and filed at Book 2009, Page 3160

As supported by **SETTLEMENT AGREEMENT AND RELEASE**
dated June 18, 2015

And incorporating land survey of Marcille Fox **SURVEY AND**
CONSERVATION EASEMENT
dated July 9, 2015



Book 2009 Page 3160

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Date 10/19/2009 Time 9:45 AM

Rec Amt \$.00

KAREN FORD, RECORDER
FAYETTE COUNTY, IOWA

Prepared by/Return to: Rod Marlatt, Director, Fayette County Conservation Board,
18673 Lane Road, Fayette, Iowa 52142

DEED OF CONSERVATION EASEMENT

This Grant of Conservation Easement ("Easement") is made this
19 day of October, 2009, by Marcille J. Fox,
as Trustee of the Marcille J. Fox Revocable Trust of 23459 180th Street,
Sumner, Iowa 50674 (hereinafter together with her successors in interest
and assigns collectively referred to as "Grantor"), and the Fayette County
Conservation Board of 18673 Lane Road, Fayette, Fayette County, Iowa
52142, (hereinafter together with its successors in interest and assigns
collectively referred to as "Grantee")

RECITALS;

Whereas, Grantor is the owner of real property in Fayette County, Iowa more particularly described as follows to-wit:

The West Half (W ½) of the Northeast quarter (NE ¼) and the East Half (E ½) of the Northwest quarter (NW ¼) of Section 8, Township Ninety-three (93), Range Ten (10) West of the 5th P.M.

hereinafter referred to as "Property", and

WHEREAS, the property possesses significant conservation, wildlife habitat, open space, agricultural, natural, and recreational value appropriate for conservation and preservation under the standards of Section 457A of the Code of Iowa; and

WHEREAS, the specific conservation, wildlife habitat, open space, agricultural, natural, and recreational values of the Property are documented in an inventory of the Property dated 19 day of October, 2009, on file in the office of the Grantee and attached hereto as "Exhibit A" and incorporated by the reference "Baseline Data", which consists of reports, maps, photographs, and other documentation that the parties agree provide, collectively an accurate representation of the Property at the time of this grant intended to serve as an objective information baseline for monitoring compliance with the terms of this Easement; and

WHEREAS, Grantor intends that the conservation, wildlife habitat, open space, agricultural, natural, and recreational values of the Property be preserved and maintained by the continuation of land use patterns existing at the time of this grant, including without limitation, those relating to conservation, wildlife habitat, open space, agricultural, natural, and recreation etc... that do not significantly impair with those conservation, wildlife habitat, open space, agricultural, natural, and recreational values; and

WHEREAS, Grantor further intends to convey the right to preserve and protect the conservation, wildlife habitat, open space, agricultural, natural, and recreational values of the Property in perpetuity; and

WHEREAS, Grantee is a County Conservation Board created under Chapter 350 of the Code of Iowa which authorizes counties to acquire, develop,

maintain, and make available to the inhabitants of the county, public museums, parks, preserves, parkways, playgrounds, recreational centers, county forests, wildlife, and other conservation areas and to promote and preserve the health and general welfare of the people, to encourage the orderly development and conservation of natural resources, and to cultivate good citizenship by providing adequate programs of public recreation; and

WHEREAS, Grantee agrees by accepting this grant to honor the intention of the Grantor stated herein and to preserve and protect in perpetuity the conservation, wildlife habitat, open space, agricultural, natural, and recreational values of the Property for the benefit of this generation and generations to come;

Now, THEREFORE, in consideration of the mutual covenants and promises contained herein, the receipt and sufficiency of which is hereby acknowledged, Grantor hereby convey to Grantee a Conservation Easement on the Property as more fully described in this agreement.

Summary of Easement Provisions

1. Purpose. It is the purpose of this Easement to assure that the property will be preserved forever in its conservation, wildlife habitat, open space, agricultural, natural and recreational condition and to prevent any use of the Property that would significantly impair or interfere with these values. Grantor intends that this Easement will confine the use of the Property to such activities as are consistent with the purpose of this Easement.
2. Rights of Grantee. To accomplish the purposes of this Easement, the following rights are conveyed to Grantee or its assigns:
 - (a) to preserve and protect the conservation, wildlife habitat, open space, agricultural, natural, and recreational values of the Property;
 - (b) to enter on the Property at reasonable times to monitor Grantor's compliance and otherwise enforce the terms of this Easement; provided that such entry shall be upon reasonable notice to Grantor, and that Grantee shall not unreasonably interfere with Grantor's use and enjoyment of the Property,

- (c) to ensure and enforce that any tree plantings such as existing shelterbelts, wildlife habitat plantings, or riparian plantings remain in tact perpetually as they were found and documented in the Baseline Data at the time this Easement was recorded.
 - (d) to ensure and enforce that agricultural activities engaged in upon the agricultural portions of the Property be in compliance with a Conservation Compliance Plan or any other type of Conservation Plan which may exist now or in the future.
 - (e) to ensure and enforce that the existing conservation practices such as contour strips, buffer strips, waterways, etc., found and documented in the Baseline Data at the time this Easement was recorded, remain in-tact and as designed in perpetuity, irregardless of their eligibility for farm payment programs such as CRP, continuous CRP, CSP, etc.
 - (f) to coordinate with all owners now or in the future to enhance or expand upon the conservation, wildlife habitat, open space, natural and recreational values of the Property.
 - (g) to prevent any activity on or use of the Property that is inconsistent with the purpose of this Easement, and to require the restoration of such areas or features of the Property that may be damaged by an inconsistent activity or use, pursuant to the provisions of Paragraph 6 hereof.
3. Permitted Uses. Grantor reserves to herself, as owner, and to her successors in interest and assigns all rights accruing from ownership of the Property, including the right to engage in or permit or invite others to engage in all uses of the Property that are not expressly prohibited herein and that are not inconsistent with the purpose of this Easement. Examples of such users are, but not limited to hunting, fishing, nut and mushroom harvesting. These rights shall remain those of the Grantor to use or assign to those the Grantor expressly grants permission.

In the event that the Grantor desires to undertake activities not specifically permitted by Paragraph 3 above and not prohibited by paragraph 4 below, Grantor shall notify Grantee in writing not less than 60 days prior to the date Grantor intends to undertake such activity. The notice shall describe the nature, scope, design, location, timetable, and

any other material aspect of the proposed activity in sufficient detail to permit Grantee to make an informed judgment as to this consistency with the purposes of this Easement.

4. Prohibited Uses. Any activity on or use of the Property inconsistent with the purposes of this Easement is prohibited. Without limiting the generality to the foregoing, the following activities and uses are expressly prohibited:
 - (a) Construction or erection of any building, whether agricultural, commercial, residential, or industrial;
 - (b) Establishment of any agricultural or commercial feedlot;
 - (c) Parceling or sub-parceling of the Property as described in this Easement;
 - (d) Dumping of ashes, trash, rubbish, garbage, or illegal materials;
 - (e) Placing billboards, outdoor advertising structures, towers, or advertisements of any kind on the Property; except entrance, boundary, wildlife area, conservation practices and rule signs mutually agreed upon by Grantor and Grantee;
 - (f) Any exploitation of mineral resources by either subsurface or surface means;
 - (g) Introduction of non-native plant or animal species, except as may be necessary, with prior approval of Grantee, for erosion control purposes;
 - (h) Pasturing of any portion of the Property;
 - (i) Construction or enlargement of any road, except for possible needed use of agricultural equipment to perform agricultural work consistent with the terms of this Easement;
 - (j) Alteration of the topography of the Property or its drainage system, except with prior approval of the Grantee, for purposes of erosion control, drainage tile repair, conservation practices, enhancement of

wetland and pond values, public safety considerations, or for the purposes protective of the integrity of the Property;

(k) Establishment of any livestock confinement operation.

5. Notice of Intention to Undertake Certain Activities. The purpose of requiring Grantor to notify Grantee prior to undertaking certain permitted activities, as provided for in Paragraphs 3 or 4, is to afford Grantee an opportunity to ensure that the activities in question are designed and carried out in a manner consistent with the purposes of the Easement. Whenever notice is required, Grantor shall notify Grantee in writing not less than sixty days prior to the date Grantor intends to undertake the activity in question. The notice shall describe the nature, scope, design, location, timetable, and any other material aspect of the proposed activity in sufficient detail to permit Grantee to make an informed judgment as to its consistency with the purposes of this Easement. Grantee shall grant or withhold its approval in writing within thirty days receipt of Grantor's written request therefor. Grantee's approval may be withheld only upon a reasonable determination by Grantee that the action proposed would be inconsistent with the purposes of this Easement. Should Grantee fail to respond to Grantor's notice within the said thirty-day response period, Grantee shall be deemed to have approved the proposed activity.
6. Grantee's Remedies. If Grantee determines that Grantor is in violation of the terms of this Easement, or that a violation is threatened, Grantee shall give written notice to the Grantor of such violation and demand corrective action sufficient to cure the violation and, where the violation involves injury to the Property resulting from any use or activity inconsistent with the purposes of this Easement, to restore the Property so injured. If Grantor fails to cure the violation within thirty days after receipt of notice thereof from Grantee, or under circumstances where the violation cannot reasonably be cured within the thirty-day period, or fail to continue to diligently proceed to cure such violation until finally cured, Grantee may bring an action at law or in equity in a court of competent jurisdiction to enforce the terms of this Easement, to enjoin the violation ex parte as necessary, by temporary or permanent injunction, to recover any damages which it may be entitled for violation of the terms of this Easement or any injury to any conservation, wildlife habitat, open space, agricultural, natural, and recreational values protected by this Easement, including damages for the loss of any of these values, and to require the

restoration of the Property to the condition that existed prior to such injury. Without limiting Grantor's liability therefore, Grantee in its sole discretion may apply any damages recovered to the cost of undertaking any corrective action on the Property. If Grantee, in its sole discretion, determines that circumstances require immediate action to prevent or mitigate significant damage to the conservation, wildlife habitat, open space, agricultural, natural and recreational values of the Property, Grantee may pursue its remedies as under this Paragraph without prior notice to Grantor or without waiting for the period provided for cure to expire. Grantee's rights under this paragraph apply equally in the event of either actual or threatened violations of the terms of this Easement, and Grantor agrees that the Grantee's remedies at law for any violation of the terms of this Easement are inadequate, and that Grantee shall be entitled to the injunctive relief described in this Paragraph, both prohibitive and mandatory, in addition to such other relief to which Grantee may be entitled, including specific performance of the terms of this Easement, without the necessity of providing either actual damages or the inadequacy of otherwise available legal remedies. Grantee's remedies described in this Paragraph shall be cumulative and shall be in addition to all remedies now or hereafter existing at law or in equity.

- 6.1 Costs of Enforcement. Any costs incurred by Grantee in enforcing the terms of this Easement against Grantor, including, reasonable costs of suit, and attorney's fees, and any costs of restoration necessitated by Grantor's violation of the terms of this Easement, shall be borne by Grantor. If Grantor prevails in any action brought by Grantee to enforce the terms of this Easement, Grantor's cost of suit, including reasonable attorney's fees, shall be borne by Grantee.
- 6.2 Grantee's Discretion. Enforcement of the terms of this Easement shall be at the discretion of the Grantee, and any forbearance by Grantee to exercise its rights under this Easement in the event of any breach of any term of this Easement by Grantor shall not be deemed or construed to be a waiver by Grantee of such term or any subsequent breach of the same or any other term of this Easement or any of Grantee's rights under this Easement. No delay or omission by Grantee in the exercise of any right or remedy upon any breach by Grantor shall impair such right or remedy or be construed a waiver.

- 6.3 Waiver of Certain Defenses. Grantor hereby waives any defense of laches, estoppel or prescription.
- 6.4 Acts Beyond Grantor's Control. Nothing contained in this Easement shall be construed to entitle Grantee to bring an action against Grantor for any injury to or change in the Property resulting from causes beyond Grantor's control, including without limitation, fire, flood, storm, and earth movement, or from prudent action Grantor under emergency conditions to prevent, abate, or mitigate significant injury to the Property resulting from any such cause.
7. Access. Right of access by the General Public remains the right of the Grantor to allow or disallow. Grantee retains the right to access the Property at reasonable times in order to inspect and enforce the terms of this Easement.
8. Cost and Liabilities. Grantor retains all responsibilities and shall bear all costs and liabilities of any kind related to ownership, operation, upkeep, and maintenance of the Property. The responsibilities of such shall apply to the portions and retained rights of the Property to the Grantor and shall include those individuals the Grantor assigns and expressly permits use as such. Grantor shall be responsible to maintain adequate comprehensive general liability insurance coverage, as may or may not be required by state code or statute. Grantor shall keep the Property free of any liens arising out of any work performed for, materials furnished to, or obligation incurred for Grantor.
- 8.1 Hold Harmless. Grantor shall hold harmless, indemnify, and defend Grantee and its members, directors, officers, employees, agents and contractors and their heirs, personal representatives, successors, and assigns each of them (collectively "Indemnified Parties") from and against all liabilities, penalties, costs, losses, damages, expenses, causes of action, claims, demands, or judgments, including without limitation, reasonable attorney's fees, arising from or in any way connected with:
- (a) injury or death of any person or physical damage to any Property, resulting to or occurring on or about the Property, regardless of cause, unless due solely to negligence of any of the Indemnified Parties;

(b) the obligations specified in Paragraphs 8 and 8.1 and

(c) the existence of administration of the Easement.

8.2 Taxes. Grantor shall pay before delinquency all applicable taxes, assessments, fees, and charges of whatever description levied on or assessed against the Property by competent authority (collectively "taxes"), including any taxes imposed upon or incurred as a result of this Easement, and shall furnish Grantee with satisfactory evidence of payment upon request. Grantee is authorized but in no event obligated to make or advance any payment of taxes, upon three days prior written notice to Grantor, in accordance with any bill, statement, or estimate procured by the authority, without inquiry into the validity of the taxes, or accuracy of the bill, statement, or estimate, and the obligation created by such payment shall bear interest until paid by Grantor at the lesser of the prime interest rate allowed by law.

9. Extinguishment. If circumstances arise in the future such as to render the purposes of this Easement impossible to accomplish, this Easement may only be terminated or extinguished, whether in whole or in part, by judicial proceedings in a court of competent jurisdiction and the amount of the proceeds to which the Grantee shall be entitled, after the satisfaction of prior claims, of all or any portion of the Property subsequent to such termination or extinguishment, shall be determined unless otherwise provided at law, at that time, in accordance with Paragraph 9.1.

9.1 Proceeds. This Easement constitutes a real Property interest immediately invested in Grantee, which for the purposes of Paragraph 9, the parties stipulate to have a fair market value determined by multiplying the fair market value of the property unencumbered by this Easement (minus any increase in value after the date of this grant attributed to improvements) by the ratio of the value of this Easement at the time of this Grant. The values at the time of this grant shall be those used to calculate the charitable contributions if any for federal income tax purposes allowable by reason of this grant, pursuant to section 170 (h) of the Internal Revenue Code, as amended and applicable regulations. The value of

this Easement, as thus calculated, is intended to be the amount of the allowable charitable contributions under the “before and after” method of said regulations, without reduction for any amount that may not produce an income tax benefit to Grantor on account, for example, once calculated, the ratio of the value of this Easement to the value of the Property unencumbered by this Easement shall remain constant.

- 9.2 Condemnation. If this Easement is taken in whole or in part, by exercise of eminent domain, Grantee shall be entitled to compensation in accordance with applicable law.
10. Assessment. This Easement is transferable, but Grantee may assign its rights and obligations under this Easement only to a County Conservation Board, another agency of the county, city, agency of a city, or a private, non-profit organization which is authorized to acquire and hold Conservation Easements under Section 457A of the Code of Iowa (or any successor provision the applicable). As a condition of such transfer, Grantee shall require that the conservation purpose of the grant is intended to advance, and continue to be observed.
11. Subsequent Transfers. Grantor agrees to incorporate the terms of this Easement in any deed or other legal instrument by which said owner divests herself of any interest in all or a portion of the Property, including, without limitation, a leasehold interest. Grantor further agrees to give written notice to Grantee of the transfer. The failure of Grantor to perform any act required by this paragraph shall not impair the validity of this Easement or limit its enforceability in any way.
12. Estoppel Certificates. Upon request by Grantor, Grantee shall, within twenty days execute and deliver any document, including an Estoppel certificate, which certifies Grantor’s compliance with any obligation of Grantor contained in this Easement and otherwise evidences the status of this Easement as may be requested by Grantor.
13. Notices. Any notice, demand, request, consent, approval or communication that either party desires or is required to give to the other shall be in writing and served personally or sent by first class mail, postage pre-paid, addressed as follows:

To Grantor:

Marcille J. Fox, Trustee Marcille J. Fox Revocable Trust
23459 180th Street
Sumner, Iowa 50674

To Grantee:

Fayette County Conservation Board
18673 Lane Road
Fayette, Iowa 52142

or to other such addresses as either party from time to time shall designate by written notice to the other.

14. Recordation. Grantee shall record this instrument in timely fashion in the official records of Fayette County, Iowa and may re-record it at anytime as may be required to preserve its rights in this Easement.

15. General Provisions.

- (a) Controlling Law. The interpretation and performance of this Easement shall be governed by the laws of the State of Iowa.
- (b) Liberal Construction. Any general rule of construction to the contrary notwithstanding, this Easement shall be liberally construed in favor of the grant to effect the purposes of this Easement and the policy and purposes of Chapter 457A of the Code of Iowa. If any provisions in this instrument are found to be ambiguous, an interpretation consistent with the purposes of this Easement that would render that provision valid shall be favored over any interpretation that would render it invalid.
- (c) Severability. If any provision of this Easement, or the application thereof to any person or circumstance, is found to be invalid, the remainder of the provisions of this Easement, or the application of such provisions to the persons or circumstances other than those as to which it is found to be invalid, as the case may be, shall not be affected thereby.
- (d) Entire Agreement. This instrument sets forth the entire agreement of the parties with respect to this Easement and superseded all prior

discussions, negotiations, understandings, or agreements relating to this Easement, all of which are merged herein. (No alteration or variation of this instrument shall be valid or binding unless contained in an amendment that complies with Paragraph 16).

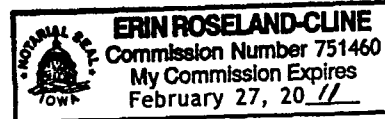
- (e) No forfeiture. Nothing contained herein will result in a forfeiture or revision of Grantor's title in any respect.
 - (f) Joint Obligation. The obligations imposed by this Easement shall be joint and several.
 - (g) Successors. The covenants, terms, conditions, and restrictions of this Easement shall be binding upon, and inure to the benefit of, the parties hereto and their respective personal representatives, heirs, successors, and assigns, and shall continue as a servitude running in perpetuity with the Property.
 - (h) Termination of Rights and Obligations. A party's rights and obligations under this Easement shall terminate upon transfer of that party's interest in the Easement or Property, except that liability for acts or omissions prior to transfer shall survive transfer.
 - (i) Captions. The captions in this instrument have been inserted solely for the convenience of reference and are not part of this instrument and shall have no effect upon construction of interpretation.
16. Amendments. If circumstances arise under which an amendment to or modification of this Easement would be appropriate, Grantor and Grantee are free jointly to amend this Easement; provided that no amendment would affect the qualification of this Easement or the status of Grantee under any applicable laws, including 457A of the Code of Iowa and section 170(h) of the Internal Revenue Code, and any amendment shall be consistent with the purposes of this Easement and shall not affect its perpetual duration. Any such amendment shall be recorded in the official records of Fayette County, Iowa.
17. Trustee's Warranty. The Grantor warrants to the Grantee all of the following:

That the trust pursuant to which this conveyance of Conservation Easement is made is duly executed and in existence; that to the knowledge of the Grantor the persons creating the Easement were of no disability or infirmity at the time the Easement was created; that the conveyance of Conservation Easement by the owner knows of no legal facts or legal claims which might impair the validity of the trust or the validity of the conveyance.

IN WITNESS WHEREOF, Grantor and Grantee have executed this Deed of Conservation Easement on the day and year first above written.

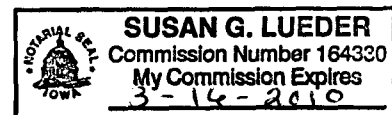
GRANTOR:

Marcille J. Fox
Marcille J. Fox Revocable Trust
Marcille J. Fox, Trustee



GRANTEE:

Rod Marlatt
Fayette County Conservation Board
Rod Marlatt, Executive Director



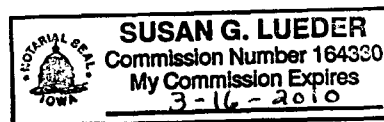
STATE OF IOWA

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FAYETTE COUNTY

On this 19 day of october, 2009, before me, the undersigned, a Notary Public in and for the State of Iowa, personally appeared Marcille J. Fox, Trustee of the Marcille J. Fox Revocable Trust, to me known to be the identical person named in and who executed the foregoing instrument, and acknowledged that they, as owner of the Property, executed the instrument as a voluntary act and deed of herself.

Susan G. Lueder
Notary Public in and for the State of Iowa



My commission expires: 3-16-2010

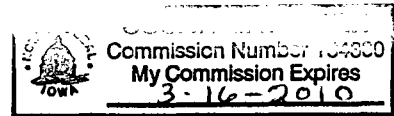
STATE OF IOWA)

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FAYETTE COUNTY

on this 19 day of October, 2009, before me the undersigned, a Notary Public in and for the State of Iowa, personally appeared Rod Marlatt to me personally know, who being duly authorized, did say that he is the Executive Director of the Fayette County Conservation Board; authorized and existing under Chapter 350 of the Code of Iowa, that the foregoing instrument was signed on behalf and by authority of said Board; and that as Executive Director acknowledges the execution of the foregoing instrument to be the voluntary act and deed of the said Fayette County Conservation Board, by it and then voluntarily executed.

Susan G. Lueder
Notary Public in and for the State of Iowa



My Commission Expires: 3-16-2010

Exhibit A

Acknowledgment of Condition

Grantor and Grantee agree that the following Base Line Data Information is an accurate representation of the Property at the time of this Easement.

158 Acres more or less of Property containing:

- *7.09 Acres of Filter Strips
- *5.88 acres of Riparian Buffers
- *3.7 Acres of Contour Buffers
- *29 Acres of Wildlife Strips
- *Approximately 1 Acre of Terraces
- *6.79 Acres of Creek Bottom Wildlife Habitat
- *A 4.95 Acre Building Site containing (house, barn with milkhouse, machine shed, silo, three grainbins)
- *100.59 Acres of Agricultural Land

These acres are located as described and shown on page one of this Easement.

Field HQ1
10 ac.
Headquarters

Field 4
6.5 ac

Natural Area

Field 3
8.1 ac
Crop

11.4 ac

5.1 ac

6.1

SETTLEMENT AGREEMENT AND RELEASE

WHEREAS, Marcille J. Fox created her Revocable Trust on August 30, 2002, as Grantor and Trustee, conveying into that Trust her farm and homestead of 158 acres more or less and legally described as:

The West Half (W1/2) of the Northeast quarter (NE1/4) and the East Half (E1/2) of the Northwest quarter (NW1/4) of Section 8, Township of Ninety three (93), Range 10(10) West of the 5th P.M.

and

WHEREAS, on October 19, 2009, Marcille J. Fox, as Grantor and Trustee, conveyed to the Fayette County Conservation Board a Deed of Conservation Easement, concerning the above-described real estate which was recorded on October 19, 2009 in the Fayette County Recorder's Office, Book 2009, Page 3160, and which is set aside, subject to that Easement, certain identified areas of conservation improvements, approximately 48 acres more or less, as shown on maps dated August 21, 2012 attached as Exhibit A and B, leaving the remainder as farm land; and

WHEREAS, Marcille J. Fox died on October 28, 2010 and formal Trust proceedings concerning her estate were opened in the Bremer County District Court, In the Matter of Marcille J. Fox Revocable Trust Probate no. TRPR003101, on February 25, 2011, and Patrick B. Dillon was appointed Trustee of that Trust, which remains open and pending in the Bremer County District Court; and

WHEREAS, during the pendency of such Trust proceedings, by Order filed therein on June 6, 2013, two of the Trust beneficiaries, Leo Buckendahl and Dennis Buckendahl, were given trust court authority to commence an action against the Fayette County Conservation Board seeking to vacate the Deed of Conservation Easement made October 19, 2009; and

WHEREAS, Leo Buckendahl and Dennis Buckendahl, as Plaintiffs, commenced the above-captioned action on May 9, 2014 against Defendant Fayette County Conservation Board seeking to vacate the Deed of Conservation Easement and praying for attorneys fees; and thereafter, Defendant Fayette County Conservation Board filed Answer, counterclaiming against Plaintiffs seeking attorneys fees and filed a Third Party Petition against the Trustee, similarly seeking attorneys fees; and

WHEREAS, at all times material, Plaintiffs Leo and Dennis Buckendahl have been represented by Christopher O'Donohoe, Fayette County Conservation Board by Carlton G. Salmons, and Trustee Patrick B. Dillon by Matthew M. Craft and all parties through their attorneys desire to settle all claims, causes, complaints and demands between them for their respective clients; and

WHEREAS, the areas subject to the Deed of Conservation Easement have been enrolled in various CRP contracts, from time to time, with different expiration dates such that penalties and repayments to the federal government would accrue to the financial detriment of the Trust were those contracts prematurely cancelled before their expiration in any settlement achieved between the parties hereunder;

IT IS NOW, THEREFORE, MUTUALLY AGREED AS FOLLOWS

1. That in exchange for dismissal with prejudice of the above-captioned action of the claims, counterclaims and third party claims of all parties, including all claims to attorneys fees in the above-captioned action and in the Bremer County Trust case, the conservation areas under the Deed of Conservation Easement of October 19, 2009, as presently shown in Exhibits A and B, will be modified and altered, such that as the CRP contracts covering those conservation areas expire, those areas will no longer be a protected conservation area under the Deed of Conservation Easement; and the Fayette County Conservation Board releases all claims to conservation easement, covering those

areas subject to CRP contract, as shown in Exhibits A and B, effective upon the expiration of each such CRP contract.

2. The Deed of Conservation Easement, as recorded on October 19, 2009, will survive as an Easement in favor of the Fayette County Conservation Board in the same text as currently in force, except that it will be modified and altered only to designate new conservation areas which are to be surveyed and described in specificity as the parties have agreed. As to the new areas surveyed, designated and set aside as substituted under the Deed of Conservation Easement, Leo and Dennis Buckendahl and the Trustee Patrick B. Dillon release all claims to such newly described and designated conservation areas in favor of the Fayette County Conservation Board. The Deed of Conservation Easement shall attach to and become effective in favor of the Fayette County Conservation Board as to the substituted designated areas for conservation upon the effective date of this Agreement.

3. The new areas which are surveyed, designated and set aside under the existing Deed of Conservation Easement shall be legally described and set forth as substituted areas of conservation in a map attached to such survey and be re-recorded under the Deed of Conservation Easement as though originally protected conservation areas under that Deed from October 19, 2009.

4. Parties agree that the new easement area shall include a quail buffer 50 feet in width all the way around the perimeter of the farm except where Fayette County already has a 60 foot easement for quail buffer and also except a parcel where Fayette County already has an easement which contains 19.2 acres of land both of which will continue to be subject to the conservation easement deed. The contour buffers which match the conservation reserve program acres will not continue to be subject to the conservation easement deed when those CRP contracts have expired.

See Exhibit A, attached.

5. Upon expiration of any CRP contract attaching to any conservation area formerly covered under Exhibits A and B, there shall be no fall tillage preformed at all and in the Spring only accepted methods of conservation tillage shall be used. Plaintiffs Leo and Dennis Buckendahl and the other beneficiaries of the Trust estate shall be allowed to commence farming activities thereupon within the newly defined areas under this Settlement Agreement that are not subject to the conservation easements shown in Exhibits A and B. No such farming activities shall commence until the expiration of such CRP contacts and no such farming activities shall thereafter take place on those newly described and defined conservation areas dedicated under the Deed of Conservation Easement to the Fayette County Conservation Board.

6. There shall be no exchange of monetary consideration paid by any party to this Agreement to any other party to this Agreement, including but not limited to any beneficiaries of the Trust estate. The sole consideration supporting this Settlement Agreement and Release are the mutual promises and covenants made by each of the parties to the other parties under this Agreement.

7. In exchange for such mutual promises and covenants and upon the effective date of this Agreement, each party to this Settlement Agreement hereby releases each and every other party including that party's elected and appointed officials, employees, agents, insurers and all other persons in privity with the foregoing from any and all liability whatsoever, including all claims, demands and causes of action of every nature each party claims to have, or may ever claim to have had arising out of the October 19, 2009 Deed of Conservation Easement giving rise to the above captioned action; including attorneys fees sought by any party against any other party. These releases specifically include all claims of every nature, whether known or not, including claims of negligence, fault, intentional conduct, violation of statute and/or regulation, and any other basis of liability for acts or omissions committed or omitted or claimed to be committed or omitted by any party including any person claiming through or against the Trustee.

8. The undersigned parties are executing this Settlement Agreement and Release solely in reliance upon his, her or their own knowledge, belief, judgment, and the advice of their respective attorneys. No party admits any liability for any of the damages claimed or other relief demanded in the Petition, counterclaim, and third party claim and answer in the above-captioned action; and such alleged liability is expressly denied by the respective parties and this Settlement Agreement and Release is entered to avoid litigation, costs of litigation and the doubts and uncertainties a part of litigation.

9. Each party to this Settlement Agreement and Release specifically warrants that he, she or they have read this Settlement Agreement and Release, has consulted with their attorney and has receive that attorney's advice as to form and content prior to the time of its execution.

10. This Settlement Agreement and Release shall become effective only upon approval by Order issued by the Bremer County District Court in the above-referenced Trust estate, after execution by Plaintiffs Leo and Dennis Buckendahl and affirmative vote of the Fayette County Conservation Board approving the execution by its Chair.

11. The parties agree that this matter should be continued and set for a status review in 60 days in order to avoid the unnecessary expense of having their attorneys prepare for trial.

6-18-15
Date

Leo M. Buckendahl
Leo Michael Buckendahl

6-18-2015
Date

Dennis M. Buckendahl
Dennis Merrill Buckendahl

6/20/15

Date

Christopher O'Donohoe

Christopher O'Donohoe
Attorney for Plaintiffs Leo
and Dennis Buckendahl

Approved as to form, content and release of attorney fees

Erin Rule

Date

Chair, Fayette County Conservation Board
(attach Motion approving Settlement Agreement
and Release) *SUBJECT TO APPROVAL OF*

FAYETTE CO. CONS. Bd.
6/18/15

Approved as to form, content and release of attorney fees.

6/18/15

Date

Carlton G. Salmons

Carlton G. Salmons
Attorney for Defendant
Fayette County Conservation Board

Date

Patrick B. Dillon
Attorney for Trustee,
Patrick B. Dillon

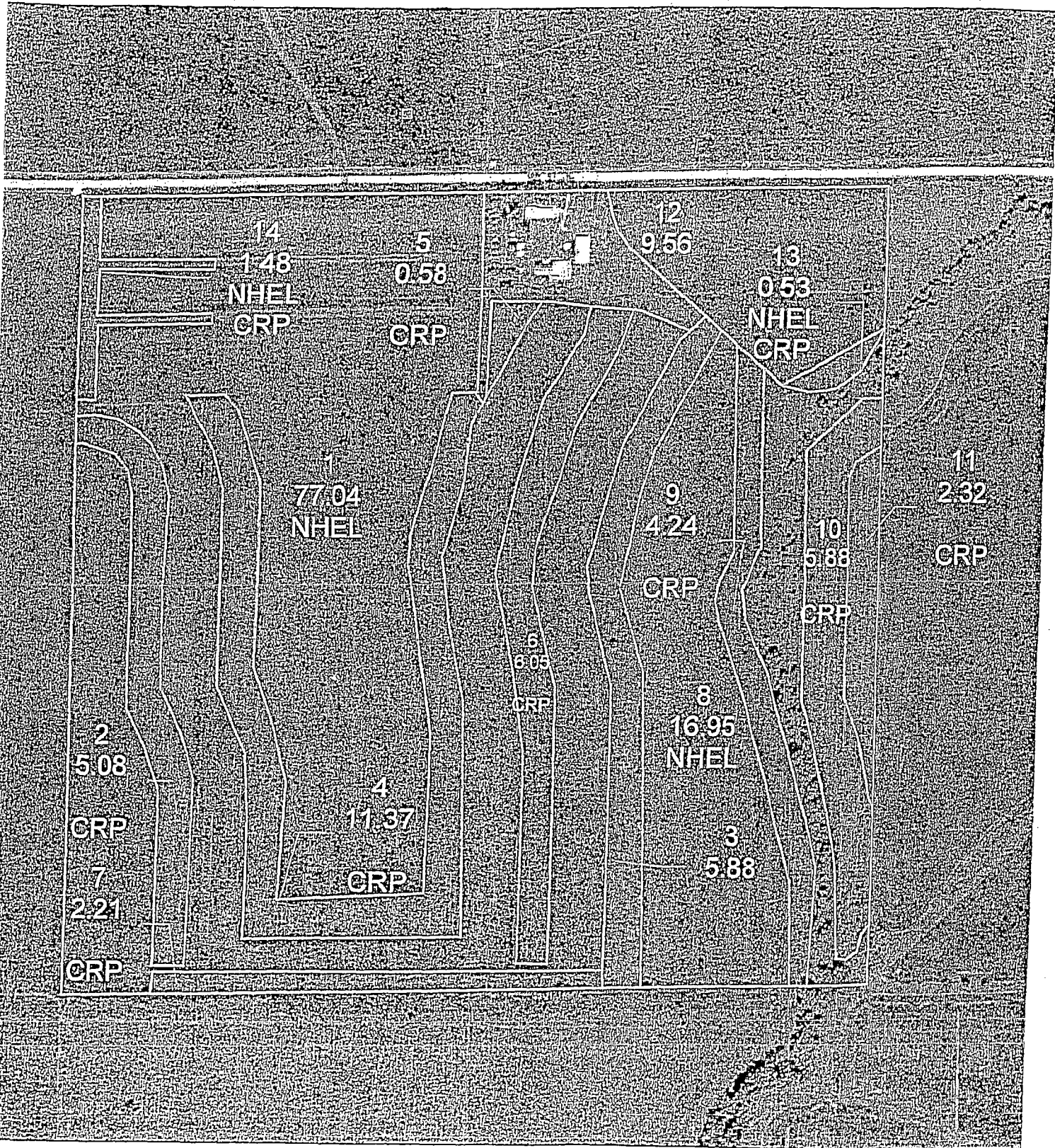
Approved as to form, content and release of attorney fees.

Farm # 2584

Tract # 391

Mar 2012

12.5



0 315 630 1,260 Feet

1 inch equals 452.251816 feet

Field Boundary
Legend

Wetland Determination
Wetland Determination

● Restricted Use

□ Exempt from Conservation Corridor

EXHIBIT

A



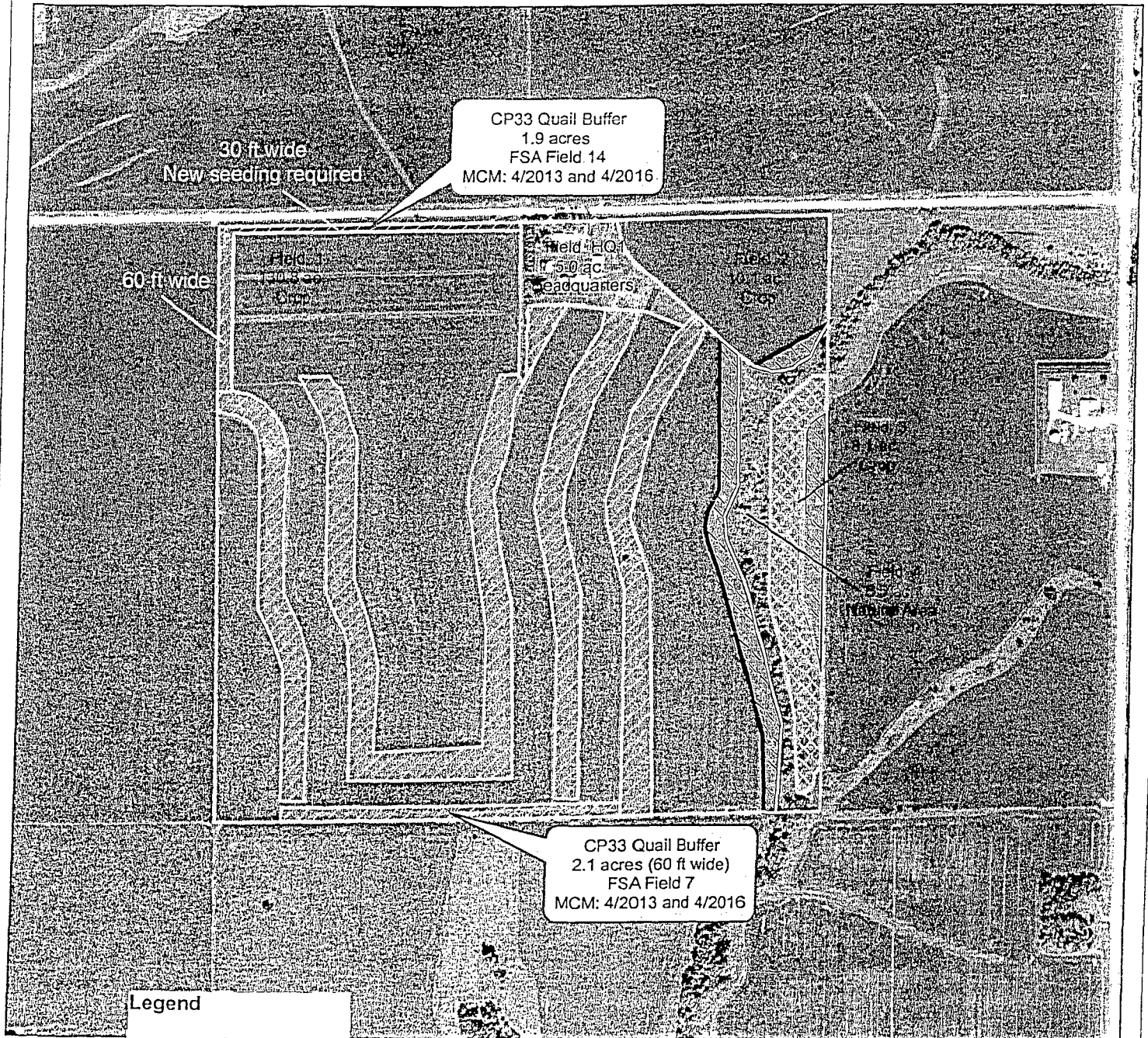
Prepared by Fayette County FSA
Map Printed: September 04, 2008

Disclaimer: Wetland identifiers do not represent the size, shape or specific determination of the area. Refer to your original determination (CPA-026 and attached maps) for the exact wetland boundaries and determinations or contact NRCS "

Plan Map

Customer(s): MARCILLE J FOX REVOCABLE TRUST
 District: FAYETTE SOIL & WATER CONSERVATION DISTRICT
 Legal Description: Banks 8
 T93N R10W
 t391

Field Office: WEST UNION SERVICE CENTER
 Agency: USDA-NRCS
 Assisted By: Carrie Davis
 State and County: IA, FAYETTE



Legend

Consplan

Practices (polygons)

Practice code

327

332

391

393



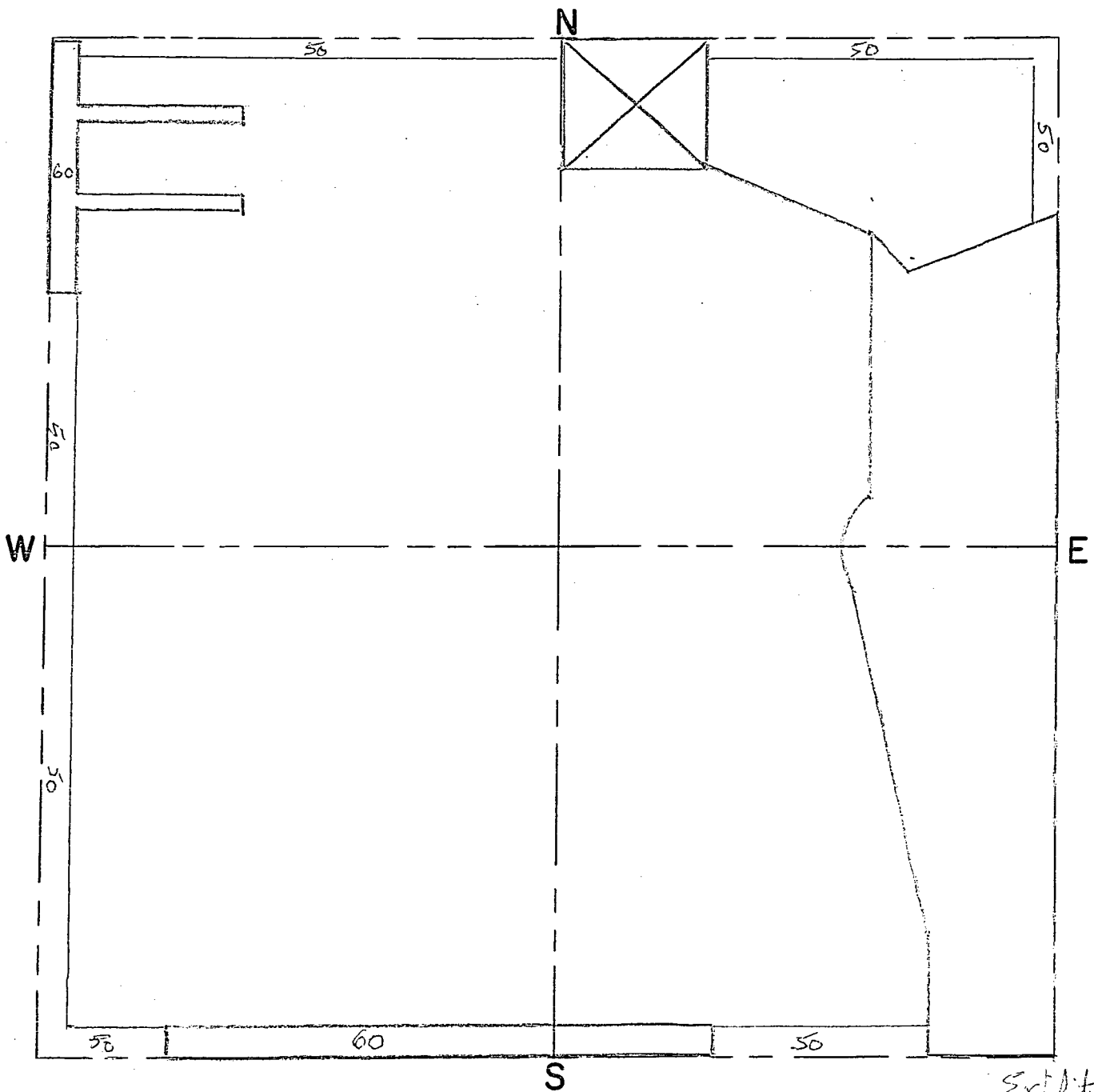
SUCCD Invoice #158 (8/12/2001)

EXHIBIT	
tabbies	<u>B</u>

660 0 660 1,320 Feet



SCALE FOR QUARTER SECTION | Each side large blue squares = 10 chains, 40 rods, 660 feet, area of square 10 acres.
 400 Ft.=1 Inch | Each side small red squares = 2.5 chains, 10 rods, 165 feet, area of square .625 of 1 acre.



SCALE FOR QUARTER QUARTER SECTION, | Each side large blue squares = 5 chains, 20 rods, 330 feet, area of square 2.5 acres
 200 Ft.=1 Inch. | Each side small red squares = 1.25 chains, 5 rods, 82.5 feet, area of square .15625 of 1 acre

IN THE IOWA DISTRICT COURT FOR BREMER COUNTY

IN THE MATTER OF THE
MARCILLE J. FOX REVOCABLE TRUST
Dated August 30, 2002

)
)
)
)
)

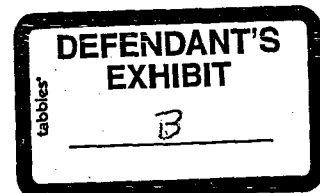
Probate No. TRPR003101

ORDER APPROVING
SETTLEMENT AGREEMENT

The Trustee's Motion to Approve Settlement Agreement comes before this Court in accordance with the rules of this Court and the laws of the State of Iowa, and the Court having examined the records in connection with the proposed Settlement Agreement and being fully advised in the premises, finds:

That the agreement is in the best interest of the Trust, and that all beneficiaries of the trust have consented to the Trustee's Motion to Approve Settlement Agreement.

IT IS THEREFORE ORDERED by this Court that the Trustee's Motion to Approve Settlement Agreement, now on file herein, is approved, and the hearing set for August 3, 2015, is cancelled.





State of Iowa Courts

Type: OTHER ORDER

Case Number	Case Title
TRPR003101	(CCF) MARCILLE J FOX REVOCABLE TRUST

So Ordered

Chris Foy

Chris Foy, District Court Judge,
Second Judicial District of Iowa

The Fayette County Conservation Board met at a special board meeting on June 22, 2015 at the Wildwood Nature Center. The purpose of the meeting was for consideration of settlement agreement concerning Marcille J. Fox Trust and Deed of Conservation Easement in respect to Leo and Dennis Buckendahl.

Members present: Eric Boehm, Deb Dessel, Ken McDonough

The meeting was called to order by Chairman Deb Dessel at 12:00 pm

A motion was made by Ken McDonough and seconded by Eric Boehm to accept the settlement agreement and release signed by the parties on June 18, 2015.

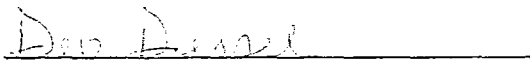
A roll call vote was taken.

Deb Dessel, aye

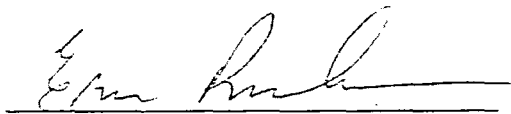
Ken McDonough, aye

Eric Boehm, aye

Motion passed.



Deb Dessel, Chairman



Eric Boehm, Secretary

A motion was made by Boehm, seconded by McDonough to adjourn at 12:15.

All voted aye, motion carried.



HRS, LLC / Herold-Reicks-Surveying
www.hrsurveying.com

**10 East Main Street
New Hampton, IA 50659
Phone 641-394-2725
Fax 641-394-2178**

**2206 East Bremer Avenue
Waverly IA 50677
Phone 319-483-5187
Fax 319-483-5187**

July 9, 2015

**Kit O'Donohoe
101 North Locust Avenue
New Hampton IA 50659**

Re: Marcille Fox Survey & Conservation Easement

Hello,

Enclosed you will find a copies of the Survey and Plat performed at your request and an invoice for our services. Also enclosed are 2 copies of our standard agreement, please sign, date and return one copy to our New Hampton office, the other copy is for your records.

Should you have any questions, please contact our New Hampton office.

Sincerely,

HRS, LLC

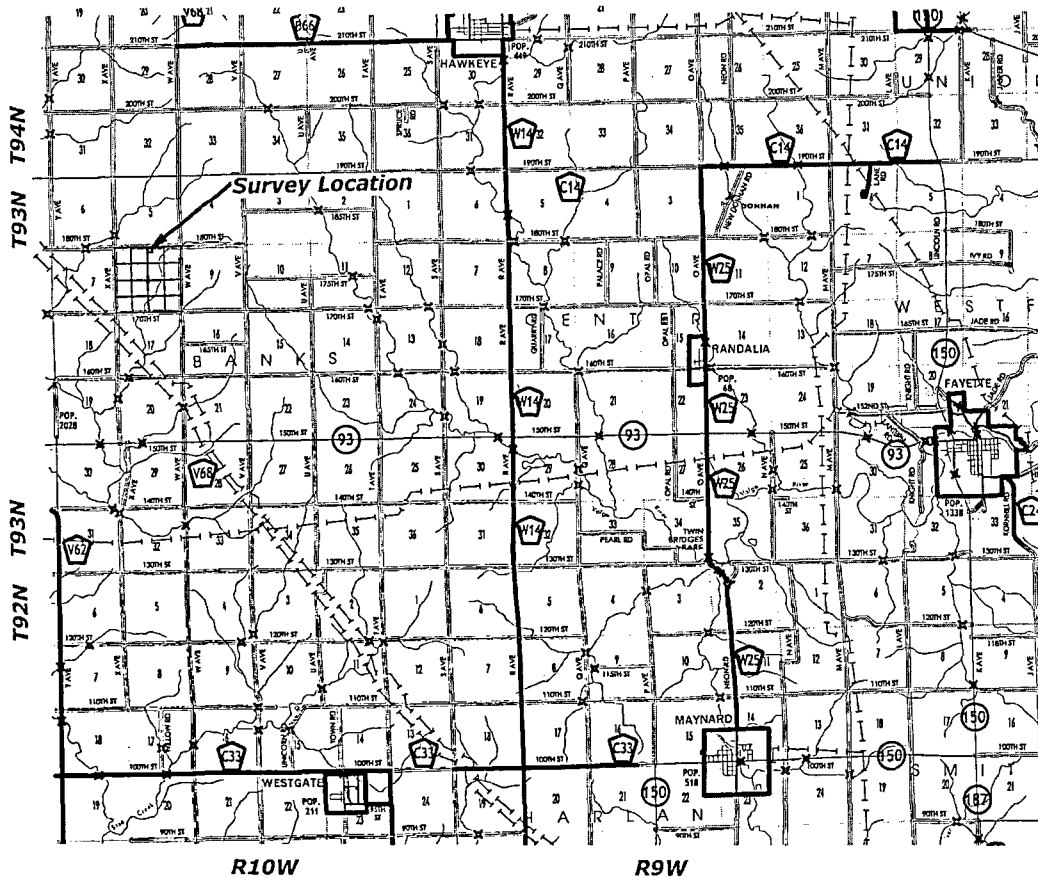
Paul R. Herold, PLS

KAREN FORD, RECORDER
FAYETTE COUNTY, IOWA

Prepared by & Return to: Herold - Reicks Surveying, 10 East Main Street, New Hampton, IA 50659, Ph. 641-394-2725

Plat of Survey

**Parcel B in the NE 1/4 - NW 1/4 & NW 1/4-NE 1/4
of Section 8 - T93N - R10W, Fayette County, Iowa.**



R10W

R9W

Map Not to Scale

Map Courtesy of the Iowa Department of Transportation
<http://www.iowadotmaps.com/msp/index.html>

Basis of Bearing:

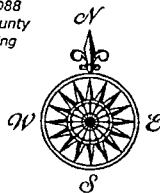
The Coordinate Basis for this survey and the subsequent Basis of Bearing is the Iowa State Plane Coordinate System North Zone (1401) Horizontal Control NAD 83 (1996), Vertical Control NAVD88 (Geoid 96) Control was acquired by localizing into the Fayette County GPS Control System utilizing Points 30,29,334,341 and projecting from the cross of 29-334 and 30-341.

Scale factor 1.000097700 applied.

Projection Point:

Northing = 3,788,437.3505' / Easting = 5,309,201.6709'





Proprietor: Marcille J. Fox, Trustee
of the Marcille J. Fox Revocable Trust



Notes:

See Sheet 1 for Location Map.
See Sheet 2 for Section Control.
See Sheet 3 for Parcel Details & Legal Description.

LEGEND

	= Section Corner Found
	= Section Corner Set
	= Set 5/8"Ø Rebar w/RPC PLS 15525
	= Survey Boundary Line
RPC, YPC, OPC = Red, Yellow or Orange Plastic Cap	

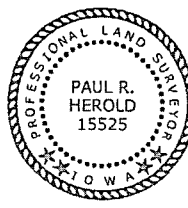
Requested By: Christopher F. O'Donohoe

FB: Fayette Conty 2, Pgs. 28-29 | PRH | Project Number: 2015-090

Survey was completed on July 2, 2015.

Sheet: 1

Herold-Reicks Surveying
10 East Main Street
New Hampton IA 50659
641-394-2725
2206 East Bremer Avenue
Waverly IA 50677
319-483-5187
www.hrsurveying.com

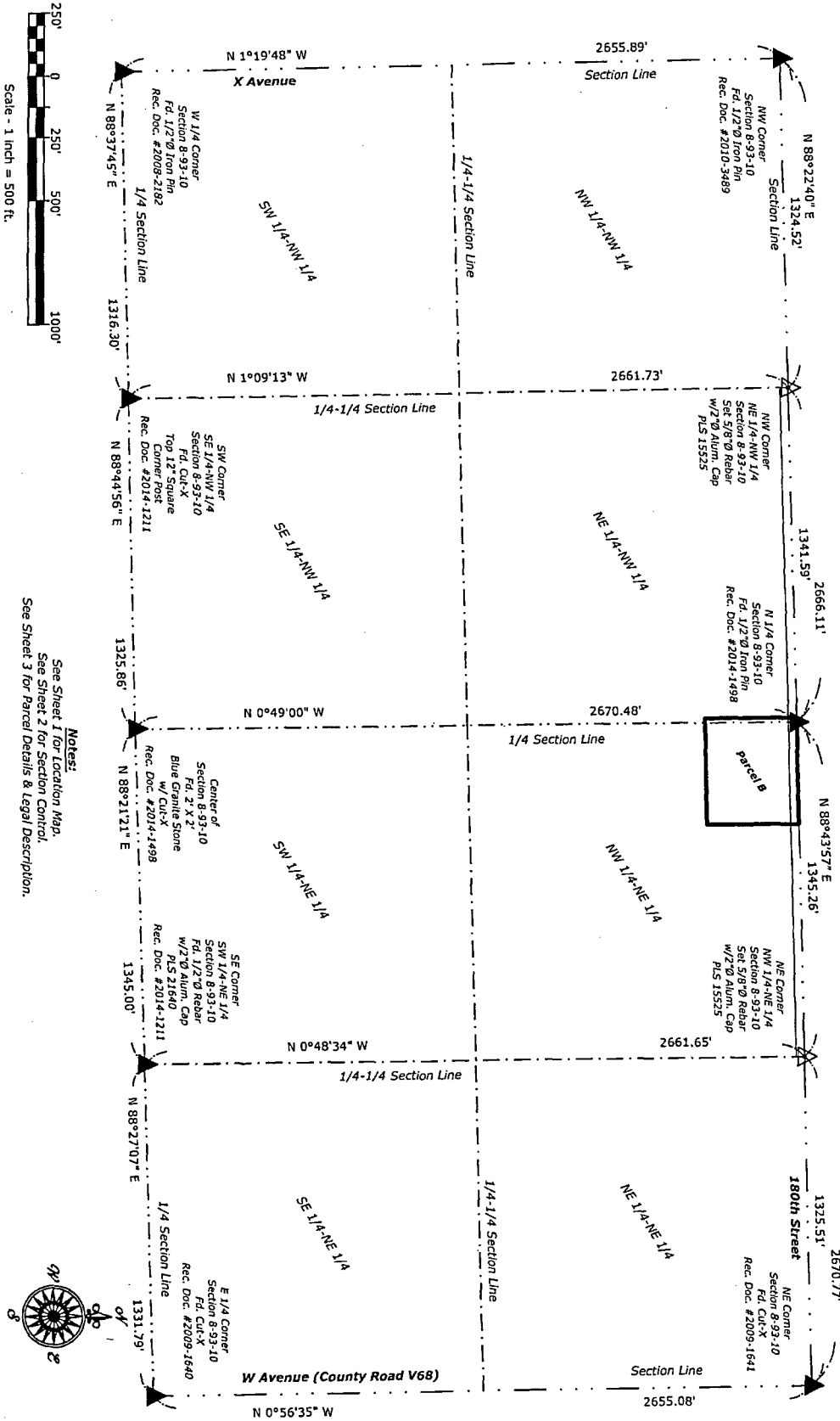


I hereby certify that this land surveying document was prepared and the related survey work was performed by me or under my direct personal supervision and that I am a duly licensed Land Surveyor under the laws of the State of Iowa.

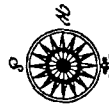
Paul R. Herold 7-9-15
Paul R. Herold Date:

License number 15525
My license renewal date is December 31, 2016.
Sheets covered by this seal: 1-3

Plat of Survey
Parcel B in the NE 1/4 - NW 1/4 & NW 1/4-NE 1/4
of Section 8 - T93N - R10W, Fayette County, Iowa.



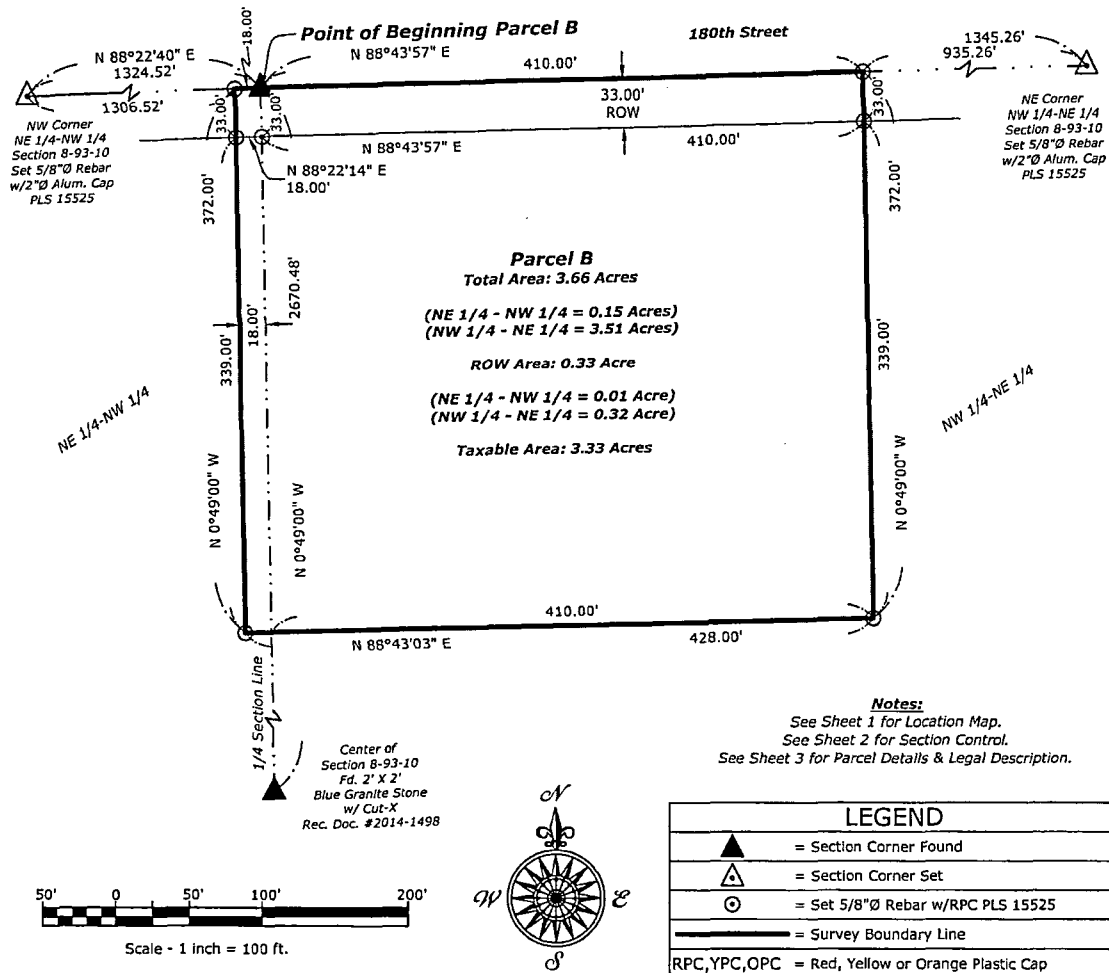
Scale - 1 inch = 500 ft.



Notes:
See Sheet 1 for Location Map.
See Sheet 2 for Section Control.
See Sheet 3 for Parcel Details & Legal Description.

Plat of Survey

**Parcel B in the NE 1/4 - NW 1/4 & NW 1/4-NE 1/4
of Section 8 - T93N - R10W, Fayette County, Iowa.**



Legal Description:

Parcel B in the Northeast Quarter of the Northwest Quarter and Northwest Quarter of the Northeast Quarter of Section 8, Township 93 North, Range 10 West of the 5th P.M., Fayette County, Iowa, and more particularly described as follows:

Beginning at the North Quarter Corner of said Section;

Thence **North 88°43'57" East, 410.00 feet** along the North Line of the Northwest Quarter of the Northeast Quarter of said Section;

Thence **South 00°49'00" East, 372.00 feet**;

Thence **South 88°43'03" West, 428.00 feet**;

Thence **North 00°49'00" West, 372.00 feet** to the North Line of the Northeast Quarter of the Northwest Quarter of said Section;

Thence **North 88°22'40" East, 18.00 feet** along said North Line to the Point of Beginning.

Containing **3.66 Acres**, including 0.33 Acre of 180th Street Right-of-Way, subject to any easements recorded or unrecorded.

See the plat(s) attached to this original survey description.

**FAYETTE COUNTY
APPLICATION FOR LAND DIVISION**

One Application per parcel may be submitted during a three year period. Application void six months after signed.

Applicant Information: (Property Owner)

Application No.

33-15-297

<u>Fox</u> Last Name	<u>Marcille</u> First Name	<u></u> Home Phone	<u></u> Cell/Work Phone
<u>c/o Patrick Dillon 209 E 1st Street</u> Mailing Address	<u>Sumner</u> City	<u>IA</u> State	<u>50674</u> Zip Code

Surveyor Information:

<u>HRS, LLC (Herold Reicks Surveying)</u> Name/Company	<u>10 East Main Street, New Hampton IA 50659</u> Address, City, State, Zip	<u>641-394-2725</u> Phone
---	---	------------------------------

General Property Location:

Lot or Parcel Name(s) 23459 180th St, Sumner, Ia Parcel B

Qtr. 1/2 Sec. 8 Township 93 N, Range 10 W, Banks Township

Parcel Identification Number(s): 0908200005

Current Land Use:

<input type="checkbox"/> Agriculture-crop production	<input checked="" type="checkbox"/> Residential (non-farm)	<input type="checkbox"/> Other (describe below):	<input type="checkbox"/> Vacant
<input type="checkbox"/> Agriculture-pasture/livestock	<input type="checkbox"/> Commercial		
<input checked="" type="checkbox"/> Farmstead	<input type="checkbox"/> Industrial		

Current Zoning: **Proposed Land Use:** Residential split bldg 24

from crop ground

Please attach a description of what you are proposing to do with the land noted above.

Sketch Plan Created by: HRS, LLC

I CERTIFY THAT THE ABOVE INFORMATION IS CORRECT AND THAT ALL PROPOSED WORK WILL BE COMPLETED IN ACCORDANCE WITH THE FAYETTE COUNTY LAND DIVISION ORDINANCE OR AS APPROVED BY THE FAYETTE COUNTY BOARD OF SUPERVISORS.

<u></u> Applicant's Signature	<u></u> Date	<u><i>Herold Reicks</i></u> Agent's Signature	<u>7-7-15</u> Date
----------------------------------	-----------------	--	-----------------------

Submit this application to: Fayette Co. Planning & Zoning Department, P.O. Box 269, 114 N. Vine Street, West Union, IA 52175. Phone: 563-422-3767

-For Office Use Only-

Planning and Development Review:

Administrator Notes:

Land Development Suitability:

☐ The Land Described Shall Remain As Agriculture
☐ This Land Described is Suitable for Development
☐ Land Shall be Rezoned Prior to Approval
☐ Land Does Not Require Rezoning

C. Miller 7-7-15
Zoning Administrator's Office Date

County Auditor Review:

Determination of Division Type:

☐ Metes & Bounds Needed ☐ Minor Land Division
☐ Agriculture Land Division ☐ Subdivision

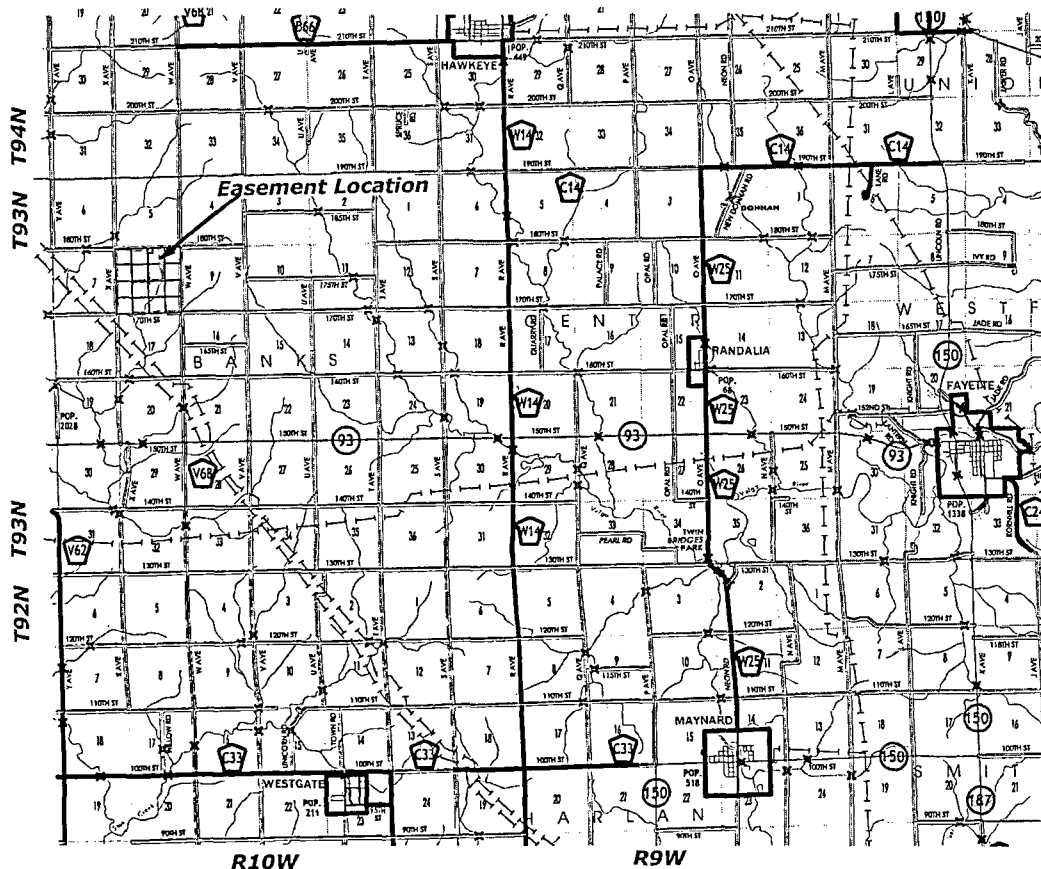
Ruth Ann Kearney 7-7-15
County Auditor's Office Date

KAREN FORD, RECORDER
FAYETTE COUNTY, IOWA

Prepared by & Return to: Herold - Reicks Surveying, 10 East Main Street, New Hampton, IA 50659, Ph. 641-394-2725

Plat of Survey

***Conservation Easement in the E 1/2 - NW 1/4 & W 1/2-NE 1/4
of Section 8 - T93N - R10W, Fayette County, Iowa.***



Basis of Bearing:

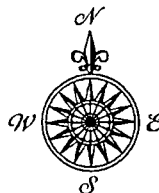
The Coordinate Basis for this survey and the subsequent Basis of Bearing is the Iowa State Plane Coordinate System North Zone (1401) Horizontal Control NAD 83 (1996), Vertical Control NAVD88 (Geoid 96) Control was acquired by localizing into the Fayette County GPS Control System utilizing Points 29,334,341 and projecting from the cross of 29-334 and 30-341.
Scale factor 1.000097700 applied.

Projection Point:
Northing = 3,788,437.3505' / Easting = 5,309,201.6709'

Notes:

See Sheet 1 for Location Map.
See Sheet 2 for Section Control.
See Sheet 3-4 for Easement Details.
See Sheet 5 for Easement Description.

Proprietor: Marcille J. Fox, Trustee
of the Marcille J. Fox Revocable Trust








Map Not to Scale

Map Courtesy of the Iowa Department of Transportation
<http://www.iowadotmaps.com/misp/index.html>

Surveyor's Note:

*This Survey was performed in conjunction with the final outcome of the Court Case in the Iowa District Court in and for Fayette County.
Iowa District Court, Equity Case No. EQCV 054060*

LEGEND

- | | |
|---|-----------------------------------|
|  | = Section Corner Found |
|  | = Set 5/8"Ø Rebar w/RPC PLS 15525 |
|  | = Fd. 5/8"Ø Rebar w/RPC PLS 15525 |
|  | = Conservation Easement Boundary |
|  | = Conservation Easement Area |
| RPC, YPC, OPC = Red, Yellow or Orange Plastic Cap | |

Requested By: Christopher F. O'Donohoe

FB: Fayette Conty 2, Pgs. 28-29	PRH	Project Number: 2015-090
---------------------------------	-----	--------------------------

Survey was completed on July 2, 2015.

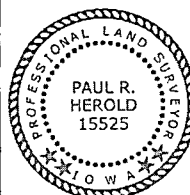
Sheet: 1



Herold-Reicks Surveying

**10 East Main Street
New Hampton IA 50659
641-394-2725**

**2206 East Bremer Avenue
Waverly IA 50677
319-483-5187**



I hereby certify that this land surveying document was prepared and the related survey work was performed by me or under my direct personal supervision and that I am a duly licensed Land Surveyor under the laws of the State of Iowa.

7-15-15

Paul R. Herold

Date:

License number 15525

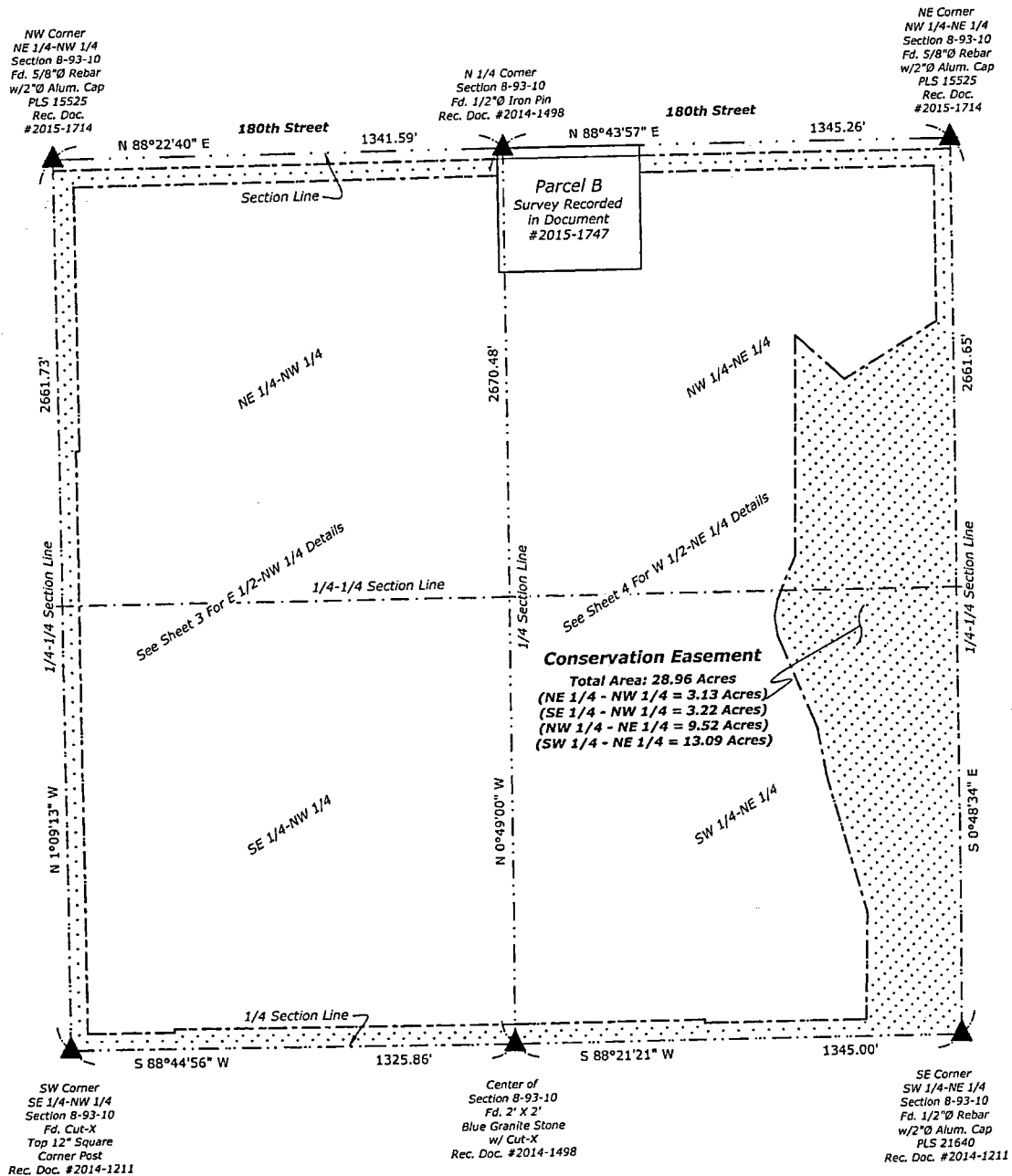
My license renewal date is December 31, 2016.

Sheets covered by this seal: 1-5

File: S:\C3D Projects\2015-090\2015-090.dwg, 7/15/2015 1:21:41 PM

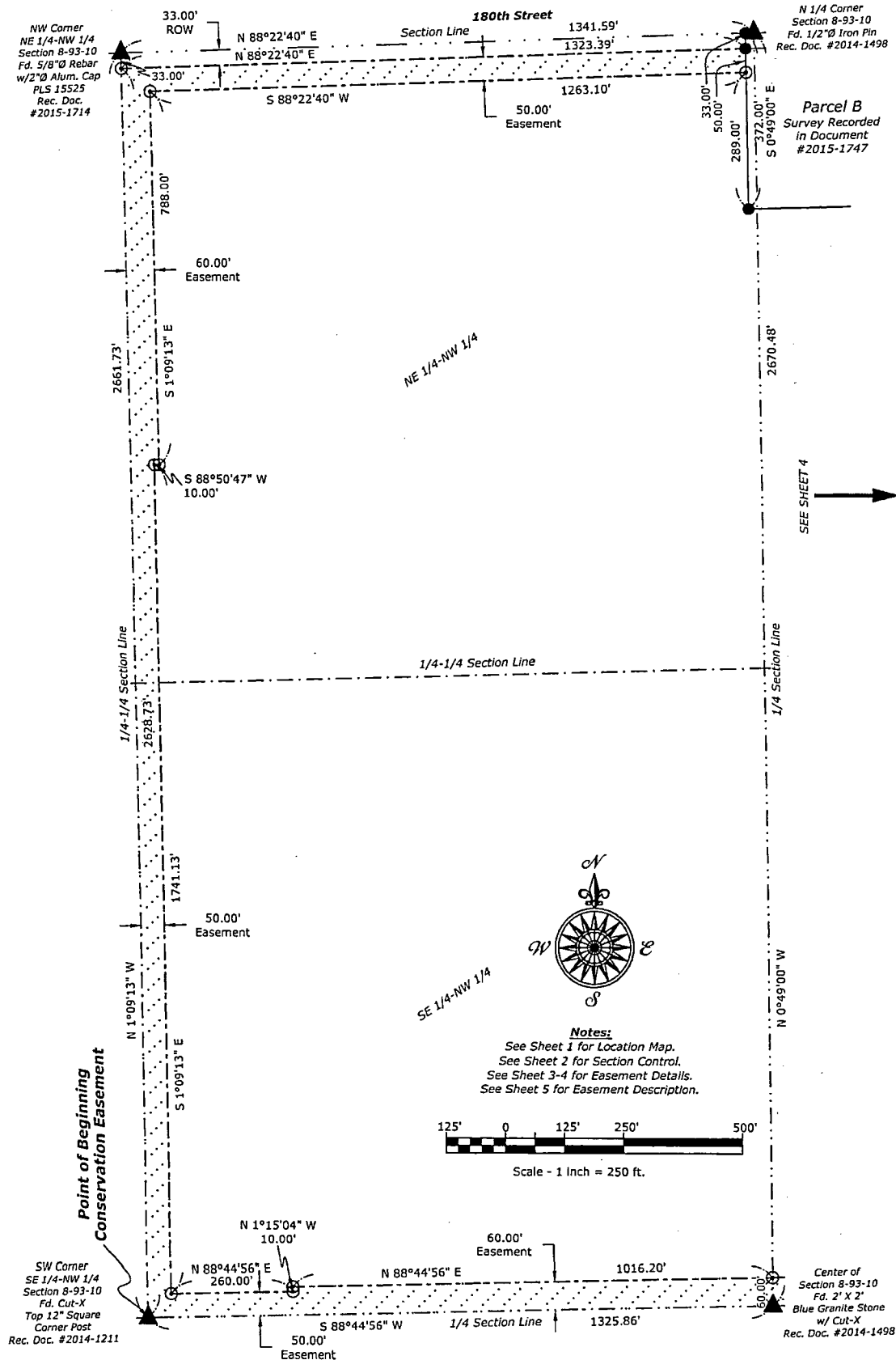
Plat of Survey

**Conservation Easement in the E 1/2 - NW 1/4 & W 1/2-NE 1/4
of Section 8 - T93N - R10W, Fayette County, Iowa.**



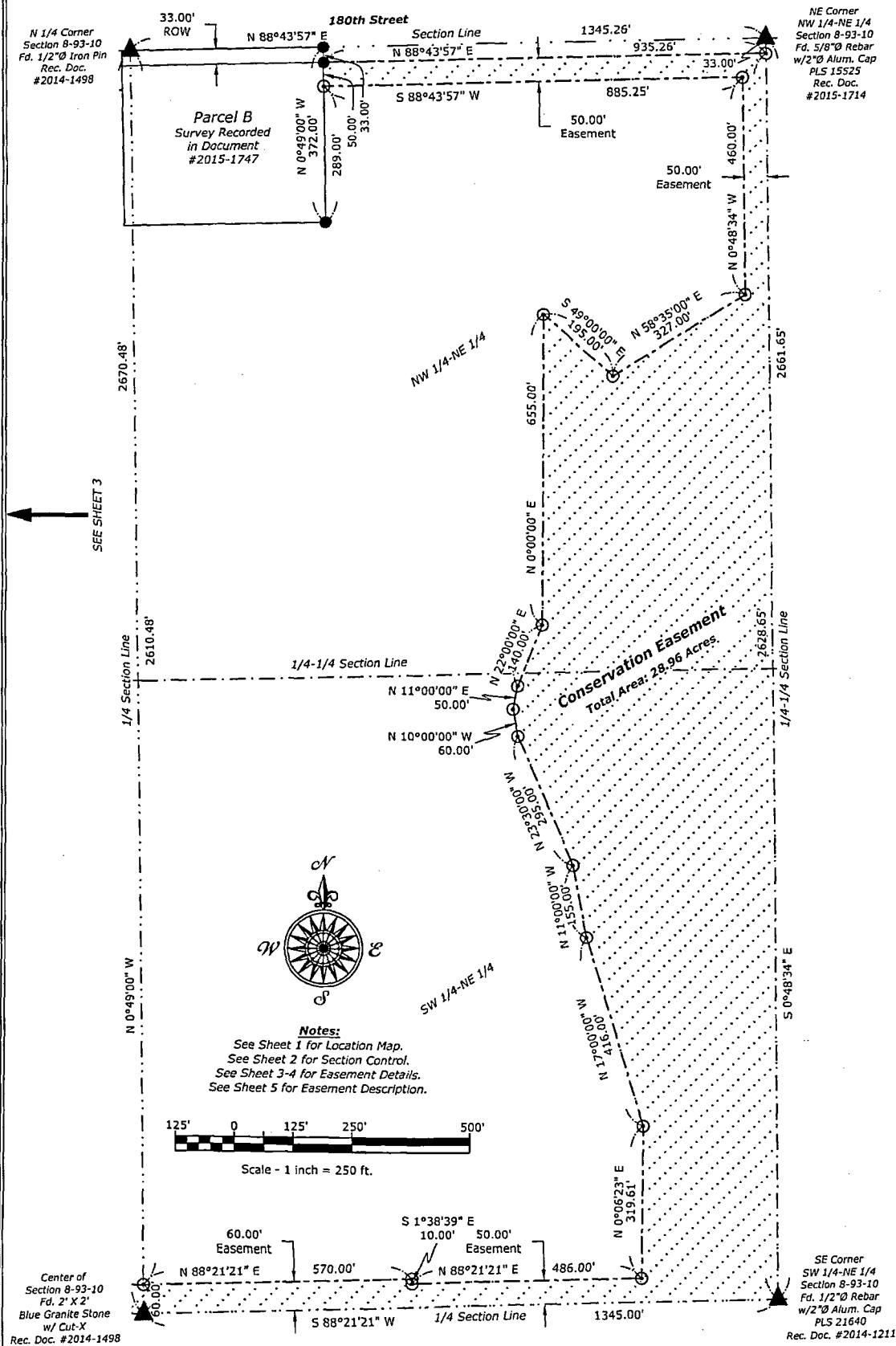
Plat of Survey

**Conservation Easement in the E 1/2 - NW 1/4 & W 1/2-NE 1/4
of Section 8 - T93N - R10W, Fayette County, Iowa.**



Plat of Survey

**Conservation Easement in the E 1/2 - NW 1/4 & W 1/2-NE 1/4
of Section 8 - T93N - R10W, Fayette County, Iowa.**



**Conservation Easement in the E 1/2 - NW 1/4 & W 1/2-NE 1/4
of Section 8 - T93N - R10W, Fayette County, Iowa.**

Legal Description:

Conservation Easement in the East Half of the Northwest Quarter and the West Half of the Northeast Quarter of Section 8, Township 93 North, Range 10 West of the 5th P.M., Fayette County, Iowa, and more particularly described as follows:

Beginning at the Southwest Corner of the Southeast Quarter of the Northwest Quarter of said Section;

Thence **North 01°09'13" West, 2628.73 feet** along the West Line of the East Half of the Northwest Quarter of said Section to the South Right-of-Way Line of 180th Street;

Thence **North 88°22'40" East, 1323.39 feet** along said South Right-of-Way Line to the West Line of Parcel B (See Reference Below);

Thence **South 00°49'00" East, 50.00 feet** along said West Line;

Thence **South 88°22'40" West, 1263.10 feet**; Thence **South 01°09'13" East, 788.00 feet**;

Thence **South 88°50'47" West, 10.00 feet**; Thence **South 01°09'13" East, 1741.13 feet**;

Thence **North 88°44'56" East, 260.00 feet**; Thence **North 01°15'04" West, 10.00 feet**;

Thence **North 88°44'56" East, 1016.20 feet** to the East Line of the Northwest Quarter of said Section;

Thence **North 88°21'21" East, 570.00 feet**; Thence **South 01°38'39" East, 10.00 feet**;

Thence **North 88°21'21" East, 486.00 feet**; Thence **North 00°06'23" East, 319.61 feet**;

Thence **North 17°00'00" West, 416.00 feet**; Thence **North 11°00'00" West, 155.00 feet**;

Thence **North 23°30'00" West, 295.00 feet**; Thence **North 10°00'00" West, 60.00 feet**;

Thence **North 11°00'00" East, 50.00 feet**; Thence **North 22°00'00" East, 140.00 feet**;

Thence **North 00°00'00" East, 655.00 feet**; Thence **South 49°00'00" East, 195.00 feet**;

Thence **North 58°35'00" East, 327.00 feet**; Thence **North 00°48'34" West, 460.00 feet**;

Thence **South 88°43'57" West, 885.25 feet** to the East Line of said Parcel B;

Thence **North 00°49'00" West, 50.00 feet** along said East Line to the South Right-of-Way Line of 180th Street;

Thence **North 88°43'57" East, 935.26 feet** to the East Line of the West Half of the Northeast Quarter of said Section;

Thence **South 00°48'34" East, 2628.65 feet** along the East Line of said West Half to the Southeast Corner thereof;

Thence **South 88°21'21" West, 1345.00 feet** along the South Line of said West Half to the Southwest Corner thereof;

Thence **South 88°44'56" West, 1325.86 feet** along the South Line of the East Half of the Northwest Quarter of said Section to the Point of Beginning.

Containing **28.96 Acres**, subject to any other easements recorded or unrecorded.

References are hereby made to a Survey and Plat made by Paul R. Herold, recorded July 13, 2015, in Document #2015-1747, on file in the Fayette County Recorder's office, West Union, Iowa.

See the plat(s) attached to this original survey description.



