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LORIE A. THOMPSON, COUNTY RECORDER
HARRISON IOWA

Prepared by: A. W. Tauke, P. O. Box 457, Council Bluffs, IA 51502-0457 (712) 322-5588
Return to: A. W. Tauke, P. O. Box 457, Council Bluffs, IA 51502-0457

AFFIDAVIT REGARDING ORIGINAL DOCUMENT

STATE OF IOWA)
) SS
POTTAWATTAMIE COUNTY)

I, Gerald K. Wiltse, being first duly sworn upon oath deposes and states as follows:

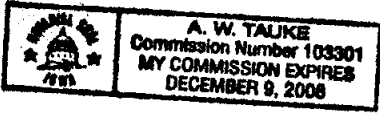
1. That attached hereto is a copy of a duly executed Agreement for Common Easement Between Adjoining Owners (hereinafter referred to as "Agreement").
2. The undersigned has personal knowledge that the Agreement was duly executed and notarized by all owners and their spouses as reflected on the copy of the Agreement attached.
3. The original of the Agreement for recording has been lost and cannot be located.
4. The undersigned also is aware that John A. Hansen, who notarized the signature of Larry and Bonita Buss was a witness to the fully executed document and that the original has been misplaced and/or lost.
5. This Affidavit is being signed for the purposes of recording and giving notice to the public that an Agreement exists between the owners as set out in the Agreement.

I have read the above and foregoing, know the contents therein and that it is true and correct as I verily believe.

Gerald K. Wiltse
Gerald K. Wiltse

Subscribed and sworn to before me this 26th day of September, 2006.

A. W. Tauke
Notary Public



AGREEMENT FOR COMMON EASEMENT
BETWEEN ADJOINING OWNERS

This agreement is made between **Gerald K. Wiltse, Mildred I. Smith, and Larry Buss.**

RECITALS

1. The parties are the owners of adjoining real estate in Harrison County, Iowa.
2. **Gerald K. Wiltse** is the sole owner of the property described as follows, to-wit:

Lot Four (4) in the Northwest Quarter of the Southwest Quarter (NW $\frac{1}{4}$ SW $\frac{1}{4}$) and Lot Two (2) in the Southwest Quarter of the Northwest Quarter (SW $\frac{1}{4}$ NW $\frac{1}{4}$) of Section Thirty-four (34), Township Seventy-nine (79) North, Range Forty-five (45) West of the 5th P.M., Harrison County, Iowa.
3. **Gerald K. Wiltse and Mildred I. Smith** are the owners of the property described on attached "Exhibit A" made a part hereof by this reference EXCEPTING therefrom the property described on attached "Exhibit B" made a part hereof by this reference.
4. **Larry Buss** is the owner of the property described on attached "Exhibit B" made a part hereof by this reference.
5. The parties to this agreement desire to create a common easement for ingress and egress between them as to the above described real estate for the benefit of each of them.

THE PARTIES AGREE AS FOLLOWS:

An easement for a common right-of-way for ingress and egress purposes in favor of the above described properties is created over the strip of land thirty (30) feet in width along the East boundaries of the above properties for the benefit of such properties.

The parties further declare and agree that so long as they are allowed access to the dike which presently provides access to the subject properties, they will continue to use such dike for access and will not establish the easement right-of-way herein created.

Further, in addition to the foregoing easement agreement provisions, the parties jointly grant to each of the parties hereto the right to use as means of ingress and egress to and from each party's land the present farm road(s) located on the above described properties.

Bruce W. Smith, husband of Mildred I. Smith, hereby releases all rights in the above described easement.

Bunita Buss, wife of Larry Buss, hereby releases all rights in the above described easement.

Gerald K. Wiltse recites that he is a single person.

This easement is superior and paramount to the rights of any of the parties hereto in the respective servient estates so created, and the parties further agree that it is a covenant that shall run with the land.

In the event Gerald K. Wiltse and/or Mildred I. Smith shall decide to sell their (or either of their) interest(s) in that part of the property described on Exhibit "A" that lies South of the property described on Exhibit "B", they (or either of them) shall first offer the property to Larry Buss for the price and on the terms of the intended sale. Larry Buss shall have thirty days from such offer in which to accept or reject the same. This provision shall inure to the benefit of Larry Buss, his heirs, representatives and assigns. However, in the event Gerald K. Wiltse or Mildred I. Smith purchase or sell to the other, the provisions of this right of first refusal shall not be applicable to said transaction.

In the event Larry Buss shall decide to sell his interest in that part of the property described on Exhibit "B", he shall first offer the property to Gerald K. Wiltse and/or Mildred I. Smith for the price and on the terms of the intended sale. Gerald K. Wiltse and/or Mildred I. Smith shall have thirty days from such offer in which to accept or reject the same. This provision shall inure to the benefit of Gerald K. Wiltse and/or Mildred I. Smith, their heirs, representatives and assigns.

This Agreement may be executed in counterparts, all of which taken together shall be deemed one original agreement, and shall be binding upon all parties hereto notwithstanding that all parties are not signatory to the same counterpart.

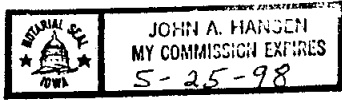
IN WITNESS WHEREOF, the parties hereto have executed this agreement at the places and on the dates below indicated and that this document shall be deemed to be dated and executed on the date the last parties hereto has executed same.

Dated at Logan, Iowa, on March 24, 1997.

Gerald K. Wiltse
GERALD K. WILTSE

STATE OF IOWA, COUNTY OF HARRISON) ss.

On this 24th day of March, 1997, before me the undersigned, a Notary Public in and for said State, personally appeared Gerald K. Wiltse, to me known to be the identical person named in and who executed the foregoing instrument and acknowledged that he executed the same as his voluntary act and deed.



John A. Hansen
Notary Public in and for said State

Dated at March 20, 1997, on _____, 1997.

Mildred I. Smith
MILDRED I. SMITH

STATE OF IOWA, COUNTY OF HARRISON) ss.

On this 20 day of March, 1997, before me the undersigned, a Notary Public in and for said State, personally appeared Mildred I. Smith, to me known to be the identical person named in and who executed the foregoing instrument and acknowledged that she executed the same as her voluntary act and deed.

[Signature]
Notary Public in and for said State
10115 Hwy 40 E

Dated at College Grove, on Mar, 1997.

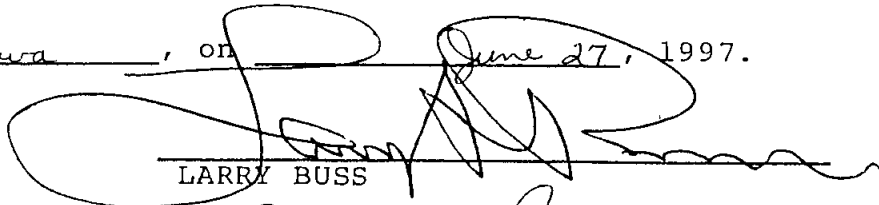
BRUCE W. SMITH

STATE OF IOWA, COUNTY OF HARRISON) ss.

On this _____ day of _____, 1997, before me the undersigned, a Notary Public in and for said State, personally appeared Bruce W. Smith, to me known to be the identical person named in and who executed the foregoing instrument and acknowledged that he executed the same as his voluntary act and deed.

Notary Public in and for said State

Dated at Logan, Iowa, on June 27, 1997.

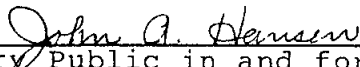

LARRY BUSS


BUNITA BUSS

STATE OF IOWA, COUNTY OF HARRISON) ss.

On this 27th day of June, 1997, before me the undersigned, a Notary Public in and for said State, personally appeared Larry Buss and Bunita Buss, husband and wife, to me known to be the identical persons named in and who executed the foregoing instrument and acknowledged that they executed the same as their voluntary act and deed.




Notary Public in and for said State

STATE OF IOWA, COUNTY OF HARRISON) ss.

On this _____ day of _____, 1997, before me the undersigned, a Notary Public in and for said State, personally appeared Gerald K. Wiltse, to me known to be the identical person named in and who executed the foregoing instrument and acknowledged that he executed the same as his voluntary act and deed.

Notary Public in and for said State

Dated at _____, on _____, 1997.

MILDRED I. SMITH

STATE OF IOWA, COUNTY OF HARRISON) ss.

On this _____ day of _____, 1997, before me the undersigned, a Notary Public in and for said State, personally appeared Mildred I. Smith, to me known to be the identical person named in and who executed the foregoing instrument and acknowledged that she executed the same as her voluntary act and deed.

Notary Public in and for said State

Dated at March 21st, 1997, on March, 1997.

Bruce W. Smith

BRUCE W. SMITH

CALIFORNIA SAN BERNARDINO

STATE OF IOWA, COUNTY OF HARRISON) ss.

On this 21st day of March, 1997, before me the undersigned, a Notary Public in and for said State, personally appeared Bruce W. Smith, to me known to be the identical person named in and who executed the foregoing instrument and acknowledged that he executed the same as his voluntary act and deed.

Deborah M. Steverson

Notary Public in and for said State

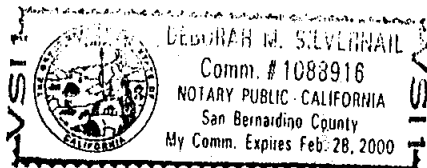


EXHIBIT "A"

PARCEL "E"

From the N½ Corner of Section 28, T79N, R45W of the 5th P.M., Harrison County, Iowa; thence on a true bearing of S 0°04'30" W a distance of 2611.66 feet; thence S 40°46'10" E a distance of 3997.25 feet to the East line of Section 33, T79N, R45W; thence S 0°20'55" W along said Section line a distance of 1867.56 feet; thence N 84°10'55" E a distance of 283.18 feet to the Westerly R.O.W. of the Soldier Valley Drainage District; thence S 0°20'15" E along said R.O.W. a distance of 2050.76 feet to the point of beginning; thence S 0°20'15" E along said R.O.W. a distance of 994.24 feet; thence S 0°59'00" W along said R.O.W. a distance of 2969.76 feet; thence S 45°59'45" W a distance of 2634.95 feet to the Northerly R.O.W. of the Rand-Peterson Levee; thence N 68°46'35" W along said R.O.W. a distance of 451.74 feet; thence N 67°14'27" W along said R.O.W. a distance of 672.83 feet; thence as follows: N 11°15'11" E a distance of 1478.42 feet; N 0°24'18" E a distance of 2625.07 feet; N 89°43'58" E a distance of 1324.15 feet; N 0°27'06" E a distance of 1299.02 feet; thence S 89°34'28" E a distance of 1340.58 feet to the point of beginning, lying in Sections 33 and 34, T79N, R45W of the 5th P.M., and Section 1, T78N, R46W of the 5th P.M., all in Harrison County, Iowa and containing 277.52 acres, more or less.

PARCEL "F"

From the N½ Corner of Section 28, T79N, R45W of the 5th P.M., Harrison County, Iowa; thence on a true bearing of S 0°04'30" W a distance of 2611.66 feet; thence S 40°46'10" E a distance of 3997.25 feet to the East line of Section 33, T79N, R45W; thence S 0°20'55" W along said Section line a distance of 1867.56 feet; thence N 84°10'55" E a distance of 283.18 feet to the Westerly R.O.W. of the Soldier Valley Drainage District; thence along said R.O.W. as follows: S 0°20'15" E a distance of 3045.0 feet; S 0°59'00" W a distance of 2969.76 feet to the point of beginning; thence continuing S 0°59'00" W along said R.O.W. A DISTANCE OF 2222.0 feet; thence as follows: N 80°19' W a distance of 925.4 feet; N 69°51' W a distance of 522.0 feet; thence N.60°49' W a distance of 372.0 feet; thence N 45°59'45" E a distance of 2454.0 feet to the point of beginning, lying in Section 1, T78N, R46W of the 5th P.M., Harrison County, Iowa, and containing 46.95 acres, more or less.

PARCEL "G"

From the N½ Corner of Section 28, T79N, R45W of the 5th P.M., Harrison County, Iowa; thence on a true bearing of S 0°04'30" W a distance of 2611.66 feet; thence S 40°46'10" E a distance of 3997.25 feet to the East line of Section 33, T79N, R45W; thence S 0°20'55" W along said Section line a distance of 1867.56 feet; thence N 84°10'55" E a distance of 283.18 feet to the Westerly R.O.W. of the Soldier Valley Drainage District; thence along said R.O.W. as follows: S 0°20'15" E a distance of 3045.0 feet; S 0°59'00" W a distance of 5191.76 feet to the point of beginning; thence S 41°15'23" W along said R.O.W. a distance of 441.47 feet to the Northerly R.O.W. of the Rand-Peterson Levee; thence along said Levee R.O.W. as follows: N 56°07'26" W a distance of 399.21 feet; N 62°24'29" W a distance of 176.83 feet; N 68°46'35" W a distance of 1156.36 feet; thence leaving said R.O.W. as follows: N 45°59'45" E a distance of 180.95 feet; S 60°49' E a distance of 372.0 feet; S 69°51' E a distance of 522.0 feet; thence S 80°19' E a distance of 925.4 feet to the point of beginning, lying in Section 1, T78N, R46W of the 5th P.M., Harrison County, Iowa, and containing 7.46 acres, more or less.

EXHIBIT "A" (cont'd)

PARCEL "H"

From the N $\frac{1}{2}$ Corner of Section 28, T79N, R45W of the 5th P.M., Harrison County, Iowa; thence on a true bearing of S 0°04'30" W a distance of 2611.66 feet; thence S 40°46'10" E a distance of 3997.25 feet to the East line of Section 33, T79N, R45W; thence S 0°20'55" W along said Section line a distance of 1867.56 feet; thence N 84°10'55" E a distance of 283.18 feet to the Westerly R.O.W. of the Soldier Valley Drainage District; thence along said R.O.W. as follows: S 0°20'15" E a distance of 3045.0 feet; S 0°59'00" W a distance of 5191.76 feet; S 41°15'23" W a distance of 692.72 feet; S 2°19'37" W a distance of 59.64 feet to the point of beginning, said point also being on the Southerly R.O.W. of the Rand-Peterson Levee; thence along said Southerly Levee R.O.W. as follows: N 56°07'26" W a distance of 381.68 feet; N 62°24'29" W a distance of 143.67 feet; N 68°46'35" W a distance of 1278.10 feet; thence leaving said R.O.W. on a bearing of S 45°59'45" W a distance of 996.84 feet to the left bank of the designed channel of the Missouri River; thence along said left bank as follows: S 54°20' E a distance of 191.08 feet; S 49°00' E a distance of 500.0 feet; S 45°55' E a distance of 181.52 feet to the property line of the State of Iowa; thence along said property line as follows: N 13°47' E a distance of 136.78 feet; S 65°50' E a distance of 620.23 feet; S 62°25' E a distance of 404.37 feet; S 55°06' E a distance of 435.03 feet; S 64°07' E a distance of 362.30 feet to the Westerly R.O.W. of the Soldier Valley Drainage District; thence N 2°19'37" E along said R.O.W. a distance of 1232.66 feet to the point of beginning, lying in Section 1, T78N, R46W of the 5th P.M., Harrison County, Iowa, and containing 55.40 acres, more or less.

PARCEL "J"

From the N $\frac{1}{2}$ Corner of Section 28, T79N, R45W of the 5th P.M., Harrison County, Iowa; thence on a true bearing of S 0°04'30" W a distance of 2611.66 feet; thence S 40°46'10" E a distance of 3997.25 feet to the East line of Section 33, T79N, R45W; thence S 0°20'55" W along said Section line a distance of 1867.56 feet; thence as follows: S 84°10'55" W a distance of 2266.0 feet; S 0°20'55" W a distance of 1776.0 feet; S 89°47'02" E a distance of 561.77 feet; S 0°31'52" W a distance of 1306.38 feet; S 89°43'58" W a distance of 665.65 feet; S 0°24'18" W a distance of 2625.07 feet; S 11°15'11" W a distance of 1784.58 feet to the point of beginning, said point being on the Southerly R.O.W. of the Rand-Peterson Levee; thence S 67°14'22" E along said R.O.W. a distance of 615.77 feet; thence S 68°46'35" E along said R.O.W. a distance of 317.34 feet; thence S 45°59'45" W a distance of 996.84 feet to the left bank of the designed channel of the Missouri River; thence N 54°20' W along said left bank a distance of 308.92 feet; thence N 60°30' W along said left bank a distance of 70.07 feet; thence N 11°15'11" E a distance of 847.28 feet to the point of beginning, lying in Section 1, T78N, R46W of the 5th P.M., Harrison County, Iowa, and containing 13.07 acres, more or less.

EXHIBIT "B"

PART OF PARCEL "E" AND PART OF PARCEL "F" AS SAID PARCELS OF LAND WERE SURVEYED ON AUGUST 25, 1973, BY STEWART A. SMITH, LS-4873; LYING IN SECTION 1, TOWNSHIP 78 NORTH, RANGE 46 WEST OF THE 5th P.M., HARRISON COUNTY, IOWA, AND MORE PARTICULARLY DESCRIBED AS FOLLOWS: FROM A ONE INCH PINCHED-TOP PIPE BELIEVED TO BE SET BY STEWART A. SMITH, LS-4873 AND ON THE NORTH LINE OF SAID SECTION 1, T 78 N, R 46 W, AND ON THE WESTERLY RIGHT-OF-WAY LINE OF THE SOLDIER VALLEY DRAINAGE DISTRICT, SAID POINT ALSO BEING A RECORD DISTANCE OF 318 FEET EAST OF THE SOUTHWEST CORNER OF SECTION 34, T 79 N, R 45 W; THENCE S 01°01'51" W (ASSUMED BEARING) ALONG SAID WESTERLY DRAINAGE DITCH R.O.W. LINE A DISTANCE OF 1756.14 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING S 01°01'51" W ALONG SAID WESTERLY R.O.W. LINE A DISTANCE OF 2739.46 FEET; THENCE N 88°58'09" W A DISTANCE OF 2737.53 FEET TO A POINT ON THE NORTHERLY R.O.W. LINE OF THE RAND-PETERSON LEVEE; THENCE N 67°14'22" ALONG SAID NORTHERLY LEVEE R.O.W. LINE A DISTANCE OF 182.23 FEET; THENCE N 11°15'11" E A DISTANCE OF 1478.42 FEET; THENCE N 00°24'18" E A DISTANCE OF 1217.11 FEET; THENCE S 88°58'09" E A DISTANCE OF 2657.74 FEET TO THE POINT OF BEGINNING; AND CONTAINING 171.15 ACRES, MORE OR LESS, OF WHICH 165.75 ACRES, MORE OR LESS, ARE BEING FARMED AT THIS DATE.