

WASHINGTON COUNTY, STATE OF NEBRASKA

INSTRUMENT NO. 2016 - 02581

Karen A. Madsen

REGISTER OF DEEDS

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2016 AUG -3 AM 11:30

KAREN A. MADSEN
WASHINGTON COUNTY
REGISTER OF DEEDS
BLAIR, NE

DAVID C. MITCHELL
81 WEST 5TH STREET
FREMONT, NE 68025

DRAINAGE EASEMENT

This Drainage Easement Agreement ("Agreement") is entered into effective as of the 1st day of August, 2016, by and between River Wander, LLC, a Nebraska Limited Liability Company ("Grantor"), and Bruce G. Schmidt ("Grantee") according to the following terms and conditions:

Preliminary Statement

- A. Grantor is the owner of the real property legally described on Exhibit "A" attached hereto ("Parcel A"); and
- B. Grantee is the owner of the real property legally described on Exhibit "B" attached hereto ("Parcel B"); and
- C. Grantor is also the owner of a relatively triangular piece of property that is located within Parcel A and is legally described on Exhibit "C" attached hereto (Parcel C); and
- D. Grantor and Grantee have entered into a separate Settlement Agreement and Release of All Claims dated effective as of the 15th day of July, 2016 ("Settlement Agreement"), wherein Grantor has agreed to convey a permanent and perpetual water drainage easement across and through Parcel A for all natural and irrigation waters that flow from Parcel B onto or across Parcel A in accordance with the terms of this Agreement and the Settlement Agreement.

Agreement

NOW, THEREFORE, in consideration of one dollar (\$1.00), together with the terms and conditions set forth in the Settlement Agreement which has been filed contemporaneously herewith, together with other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, it is agreed:

- 1. Preliminary Statement. The foregoing Preliminary Statement is incorporated into this Agreement as if fully set forth herein.
- 2. Grant of Easement.
 - A. Grantor does hereby grant a permanent and perpetual easement to Grantee and Grantee's respective heirs, successors, assigns, licensees, business visitors and tenants with a water drainage easement across and through Parcel A for all natural

and irrigation waters that flow from Parcel B onto or across Parcel A through the three existing drainageways that run from Parcel B through Parcel A. The approximate location of the center of each drainageway channel as located on or near the property line of Parcels A and B are further described and identified for clarification purposes as Drainage Points 1, 2 and 3, respectively on Exhibits "D" and "E" attached hereto. This easement shall also include all natural and irrigation waters that seep, drift or migrate from Parcel B to Parcel A naturally or in the ordinary course of irrigation operations on the Schmidt Property.

Grantor shall not permit volunteer or dead trees, crops, weeds, shrubs, roots, debris, silt or other surface material to accumulate or impede any of the three established water drainageways identified on Exhibits "D" and "E" that run through Parcel A pursuant to a drainage course established by Grantor and Grantee. In the event any natural or irrigated flowage is impeded resulting in stoppage or back-up of water on Parcel B or in the event that volunteer or dead trees, crops, weeds, shrubs roots, debris, silt or other surface material accumulates or impedes any of the three drainageways on Parcel A , Grantee shall provide notice to Grantor to take reasonable measures to remove or rectify the impediment and such measures shall be identified in the notice. In the event that Grantor declines or fails to remedy the impediment to water flowage within 30 days of the receipt of such notice, Grantee may take reasonable corrective measures on Parcel A to restore water flowage across Parcel A to the low lying areas of the former Elkhorn River channel at Grantee's cost. In doing so, Grantee shall refrain from clearing any established trees with a diameter in excess of six inches as measured at one foot above the ground in the absence of consent of Grantor. Grantee shall have the right to physically inspect the drainageways on Parcel A at least one time per year and following any flooding event concerning Parcel A or B. Grantee shall provide Grantor with not less than a 24-hour advance notice prior to each inspection by verbal, electronic or written means.

B. In addition to the easements granted in paragraph 2.A. above, Grantee and Grantee's respective heirs, successors, assigns, licensees, business visitors and tenants may, in the ordinary course of operating the center pivot irrigation systems on the Schmidt Property, spray, overspray and/or saturate portions of Parcel C in order to complete each center pivot cycle and, in doing so, Grantee may saturate any ingress or egress routes or road that are located now or may be located on Parcel C in the future. However, Grantee's center pivot structures shall not encroach upon Parcel C.

C. The irrigation and drainageway maintenance practices to be employed on Parcel B shall be consistent with agricultural best management practices and consistent with good farming husbandry.

3. Term of the Easement - Perpetual. This Agreement and Easement shall be deemed to be perpetual and shall run with Parcel A (which includes Parcel C) and Parcel B .

4. Binding Effect. The terms of this Easement shall be binding upon the heirs, successors and assigns of all parties to this Agreement.

IN WITNESS WHEREOF, we have hereunto set our hands this 1st day of August, 2016.

***** SIGNATURE PAGE TO FOLLOW *****

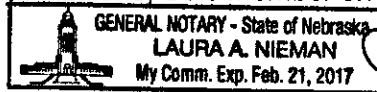
RIVER WANDER, LLC, A Nebraska Limited Liability Company, Grantor

By Christopher Troy Anzalone
Christopher Troy Anzalone, Sole Member

Bruce G. Schmidt
Bruce G. Schmidt

STATE OF NEBRASKA)
COUNTY OF Dodge) ss.

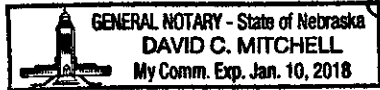
The foregoing document was acknowledged before me this 1st day of August 2016, by Christopher Troy Anzalone, Sole Member on behalf of River Wander, LLC.



Laura A. Nieman
Notary Public

STATE OF NEBRASKA)
COUNTY OF DODGE) ss.

The foregoing document was acknowledged before me this 30th day of July, 2016, by Bruce G. Schmidt.



David C. Mitchell
Notary Public

EXHIBIT A - PARCEL A
DRAINAGE EASEMENT

Part of the Southeast Quarter, and part of the Northeast Quarter of the Southwest Quarter, all in Section 3, Township 17 North, Range 9 East of the Sixth P.M., Washington County, Nebraska, being described as follows: Commencing at the Northeast Corner of the West Half of the Southeast Quarter of said Section 3, and assuming the North Line of said West Half to bear S89°44'48"W; thence N89°39'36"E on the North Line of the East Half of said Southeast Quarter, a distance of 30.19 feet to the Northwest Corner of Tax Lot 43; thence S00°36'54"E on the West Line of said Tax Lot 43, a distance of 269.94 feet to the Southwest Corner of said Tax Lot 43; thence S00°04'44"W, a distance of 2421.95 feet to the Southeast Corner of the West Half of said Southeast Quarter; thence N00°38'00"W on the East Line of said West Half, a distance of 115.84 feet to the Northeast Corner of Tax Lot 54; thence S89°22'00"W on the Northerly Line of said Tax Lot 54, a distance of 72.70 feet; thence continuing on said Northerly Line N61°51'15"W, a distance of 709.67 feet to the true point of beginning; thence continuing N61°51'15"W on said Northerly Line, a distance of 151.89 feet; thence continuing on said Northerly Line N39°07'50"W, a distance of 625.88 feet; thence continuing on said Northerly Line N13°45'32"W, a distance of 430.54 feet to a point on the East Line of the Northeast Quarter of the Southwest Quarter of said Section 3, said point being 74.07 feet north of the Southeast Corner of said Northeast Quarter of the Southwest Quarter; thence continuing on the Northerly Line of said Tax Lot 54 N13°45'32"W, a distance of 428.71 feet; thence S27°47'01"E, a distance of 1573.10 feet to the true point of beginning, containing 4.18 acres, more or less.

Part of the West Half of the Southeast Quarter, and part of the East Half of the Southwest Quarter, all in Section 3, Township 17 North, Range 9 East of the Sixth P.M., Washington County, Nebraska, being described as follows: Commencing at the Northeast Corner of the West Half of the Southeast Quarter of said Section 3, and assuming the North Line of said West Half to bear S89°44'48"W; thence S00°38'00"E on the East Line of said West Half, a distance of 2576.02 feet to a point being 115.84 feet north of the Southeast Corner of said West Half, this being the true point of beginning, this also being the Northeast Corner of Tax Lot 54; thence S89°22'00"W on the Northerly Line of said Tax Lot 54, a distance of 72.70 feet; thence continuing on said Northerly Line N61°51'15"W, a distance of 709.67 feet; thence N27°47'01"W, a distance of 1573.10 feet to a point on the Northerly Line of said Tax Lot 54; thence continuing on the Northerly Line of said Tax Lot 54 as follows; N51°47'04"W 174.03 feet, N75°32'44"W 193.98 feet, S85°21'41"W 909.96 feet to a point on the West Line of said Northeast Quarter of the Southwest Quarter, said point being 756.03 feet south of the Northwest Corner of said Northeast Quarter of the Southwest Quarter; thence S00°36'23"E on said West Line, a distance of 567.71 feet to the Southwest Corner of said Northeast Quarter of the Southwest Quarter; thence continuing S00°36'23"E on the West Line of the Southeast Quarter of the Southwest Quarter of said Section 3, a distance of 37.68 feet to the centerline of the Elkhorn River as it existed on May 22, 1985, as described and recorded in Deed Record 152, page 158 of the Washington County Records; thence on said centerline as follows; S72°52'10"E 571.25 feet, S68°25'06"E 219.14 feet, S55°21'40"E 399.62 feet, S50°57'13"E 141.04 feet, S36°20'24"E 251.07 feet to point on the West Line of the West Half of the Southeast Quarter of said Section 3; thence S00°38'04"E on said West Line, a distance of 81.76 feet to the Northwest Corner of Tax Lot 24, this corner being 453.59 feet north of the Southwest Corner of said West Half of the Southeast Quarter; thence S62°37'13"E on the North Line of said Tax Lot 24, a distance of 1010.19 feet to a point on the South Line of said West Half of the Southeast Quarter, said point also being the Easterly Corner of said Tax Lot 24; thence S89°17'34"E on said South Line, a distance of 423.46 feet to the Southeast Corner of said West Half of the Southeast Quarter; thence N00°38'00"W on the East Line of said West Half of the Southeast Quarter, a distance of 115.84 feet to the true point of beginning.

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EXHIBIT B - PARCEL B
DRAINAGE EASEMENT

Part of the Southeast Quarter, and part of the Northeast Quarter of the Southwest Quarter, all in Section 3, Township 17 North, Range 9 East of the Sixth P.M., Washington County, Nebraska, being described as follows: Beginning at the Northeast Corner of the West Half of the Southeast Quarter of said Section 3, and assuming the North Line of said West Half to bear S89°44'48"W; thence N89°39'36"E on the North Line of the East Half of said Southeast Quarter, a distance of 30.19 feet to the Northwest Corner of Tax Lot 43; thence S00°36'54"E on the West Line of said Tax Lot 43, a distance of 269.94 feet to the Southwest Corner of said Tax Lot 43; thence S00°04'44"W, a distance of 2421.95 feet to the Southeast Corner of the West Half of said Southeast Quarter; thence N00°38'00"W on the East Line of said West Half, a distance of 115.84 feet to the Northeast Corner of Tax Lot 54; thence S89°22'00"W on the Northerly Line of said Tax Lot 54, a distance of 72.70 feet; thence continuing on said Northerly Line N61°51'15"W, a distance of 709.67 feet; thence N27°47'01"W, a distance of 1573.10 feet to a point on the Northerly Line of said Tax Lot 54; thence continuing on the Northerly Line of said Tax Lot 54 as follows; N51°47'04"W 174.03 feet, N75°32'44"W 193.98 feet, S85°21'41"W 909.96 feet to a point on the West Line of said Northeast Quarter of the Southwest Quarter; thence N00°36'23"W on said West Line, a distance of 756.03 feet to the Northwest Corner of said Northeast Quarter of the Southwest Quarter; thence N89°44'48"E on the North Line of said Northeast Quarter of the Southwest Quarter, a distance of 1327.57 feet to the Northwest Corner of the Southeast Quarter of said Section 3; thence N89°44'48"E on the North Line of the West Half of said Southeast Quarter, a distance of 1315.26 feet to the point of beginning.

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EXHIBIT C - PARCEL C
DRAINAGE EASEMENT

Part of the Southeast Quarter, and part of the Northeast Quarter of the Southwest Quarter, all in Section 3, Township 17 North, Range 9 East of the Sixth P.M., Washington County, Nebraska, being described as follows: Commencing at the Northeast Corner of the West Half of the Southeast Quarter of said Section 3, and assuming the North Line of said West Half to bear S89°44'48"W; thence N89°39'36"E on the North Line of the East Half of said Southeast Quarter, a distance of 30.19 feet to the Northwest Corner of Tax Lot 43; thence S00°36'54"E on the West Line of said Tax Lot 43, a distance of 269.94 feet to the Southwest Corner of said Tax Lot 43; thence S00°04'44"W, a distance of 2421.95 feet to the Southeast Corner of the West Half of said Southeast Quarter; thence N00°38'00"W on the East Line of said West Half, a distance of 115.84 feet to the Northeast Corner of Tax Lot 54; thence S89°22'00"W on the Northerly Line of said Tax Lot 54, a distance of 72.70 feet; thence continuing on said Northerly Line N61°51'15"W, a distance of 709.67 feet to the true point of beginning; thence continuing N61°51'15"W on said Northerly Line, a distance of 151.89 feet; thence continuing on said Northerly Line N39°07'50"W, a distance of 625.88 feet; thence continuing on said Northerly Line N13°45'32"W, a distance of 430.54 feet to a point on the East Line of the Northeast Quarter of the Southwest Quarter of said Section 3, said point being 74.07 feet north of the Southeast Corner of said Northeast Quarter of the Southwest Quarter; thence continuing on the Northerly Line of said Tax Lot 54 N13°45'32"W, a distance of 428.71 feet; thence S27°47'01"E, a distance of 1573.10 feet to the true point of beginning, containing 4.18 acres, more or less.

EXHIBIT D - DRAINAGE POINTS
DRAINAGE EASEMENT

Drainage Point 1:

A point located in the Southwest Quarter of the Southeast Quarter, of Section 3, Township 17 North, Range 9 East of the Sixth P.M., Washington County, Nebraska, being described as follows:
Commencing at the Northeast Corner of the West Half of the Southeast Quarter of said Section 3, and assuming the North Line of said West Half to bear S89°44'48"W; thence S00°38'00E on the East Line of said West Half, a distance of 2576.02 feet to the Northeast Corner of Tax Lot 54; thence S89°22'00"W on the Northerly Line of said Tax Lot 54, a distance of 20.00 feet to the point.

Drainage Point 2:

A point located in the Northeast Quarter of the Southwest Quarter, of Section 3, Township 17 North, Range 9 East of the Sixth P.M., Washington County, Nebraska, being described as follows:
Commencing at the Northeast Corner of the West Half of the Southeast Quarter of said Section 3, and assuming the North Line of said West Half to bear S89°44'48"W; thence S00°38'00E on the East Line of said West Half, a distance of 865.93 feet; thence S89°22'00"W perpendicular to said East Line, a distance of 1396.49 feet to the point.

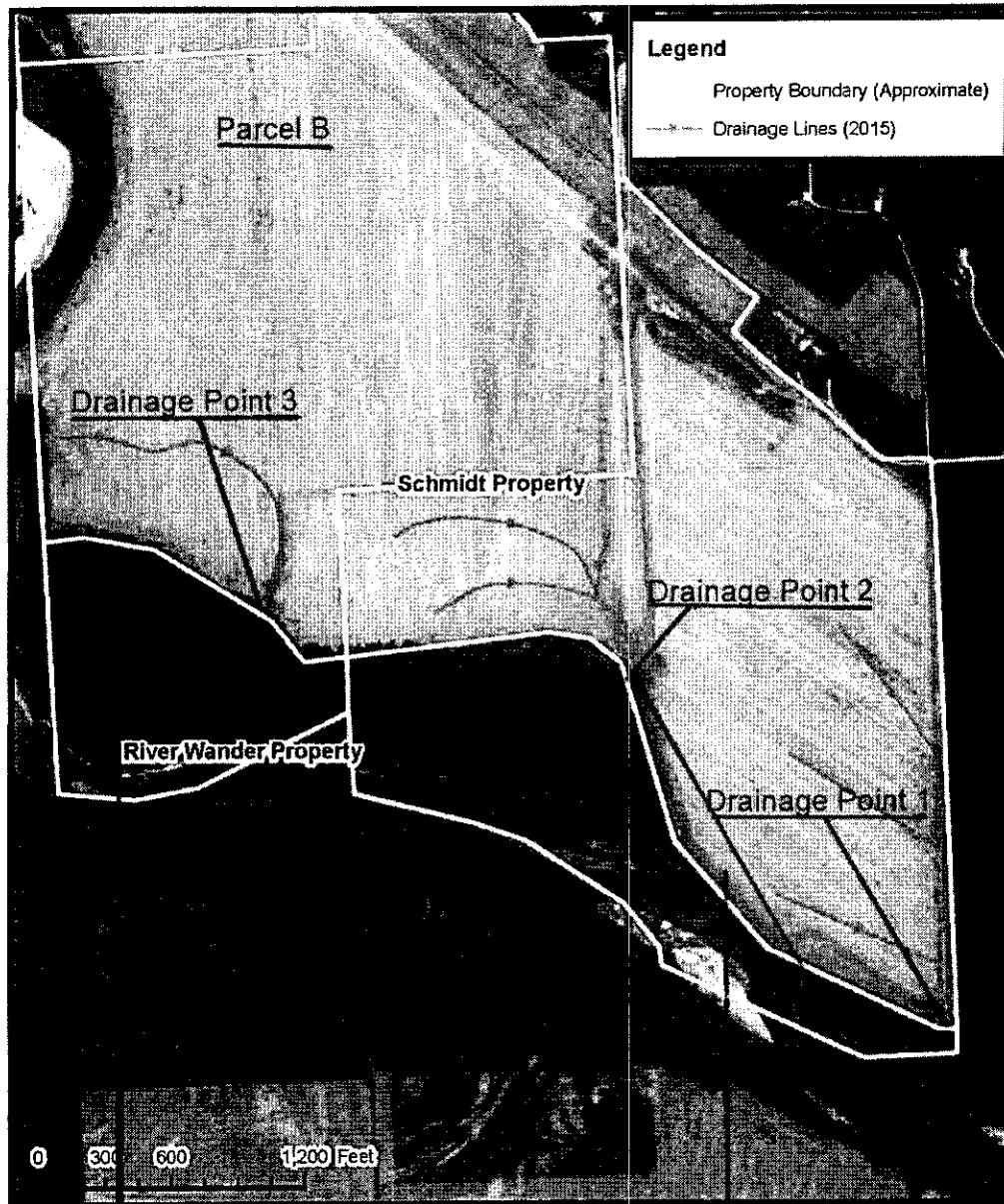
Drainage Point 3:

A point located in the Northwest Quarter of the Southwest Quarter, of Section 3, Township 17 North, Range 9 East of the Sixth P.M., Washington County, Nebraska, being described as follows:
Commencing at the Northeast Corner of the West Half of the Southeast Quarter of said Section 3, and assuming the North Line of said West Half to bear S89°44'48"W; thence S00°38'00E on the East Line of said West Half, a distance of 508.03 feet; thence S89°22'00"W perpendicular to said East Line, a distance of 3035.59 feet to the point.

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EXHIBIT E - DRAINAGEWAY ILLUSTRATION
DRAINAGE EASEMENT

FIGURE 5
2014 Aerial Imagery



Note: Property boundary was approximated from the City of Blair GIS Website - <http://mail.ci.blair.ne.us/BlairWebGIS/default.aspx>
2014 Aerial Imagery was obtained from Google Earth.

Parcel A

Parcel C

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