Mike Carr

DELAWARE COUNTY IOWA
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2001 OCT 25 PM 12:43
BOOK 2001
PAGE 3834
DEBORAH PERON
DELAWARE CO. RECORDER
36.00

Prepared by: Shelley A. Dugan, Conveyance Examiner (515) 962-1461
Natural Resources Conservation Service, 515 N. Jefferson Street, Suite G, Indianola, Iowa 50125

U.S. DEPARTMENT OF AGRICULTURE
NATURAL RESOURCES CONSERVATION SERVICE

EWP-FP
OMB No. 0578-0013

EMERGENCY WATERSHEDS PROGRAM
FLOODPLAIN
WARRANTY EASEMENT DEED

AGREEMENT NO. 75-6114-1-1123

THIS WARRANTY EASEMENT DEED is made by and between **Hillis D. Henderson and Viola M. Henderson, husband and wife, of 3233 120th Avenue, Ryan, Iowa 52330** (hereafter referred to as the "Landowner"), Grantor(s), and the UNITED STATES OF AMERICA (hereafter referred to as the "United States"). The Landowner and the United States are jointly referred to as the "Parties".

Witnesseth

Purposes and Intent. The purposes of this easement are: to allow the unimpeded reach and flow of any waters in, over, upon, or through the easement area; to retard runoff and prevent soil erosion through the restoration, protection, or enhancement of the floodplain; to restore, protect, manage, maintain, and enhance the functional values of wetlands, riparian areas, conservation buffer strips, and other lands; to conserve natural values including fish and wildlife habitat, water quality improvement, flood water retention, groundwater recharge, open space, aesthetic values, and environmental education; and to safeguard lives and property from floods, drought, and the products of erosion. It is the intent of the United States to allow the Landowner the opportunity to participate in the restoration and management activities on the easement area and, at the discretion of the United States, to provide for compatible uses which may include haying, grazing, and timber harvest under the provisions approved by the United States.

Authority. This easement deed acquisition is authorized by 16 U.S.C. Section 2203, as amended, and 7 U.S.C. Section 428a. The acquiring agency is the Natural Resources Conservation Service (NRCS), United States Department of Agriculture.

NOW THEREFORE, for and in consideration of the sum of **One Hundred Eight Thousand Nine Hundred Ninety Dollars ($108,990.00)**, Landowner hereby grants and conveys with general warranty of title to the UNITED STATES OF AMERICA and its assigns, forever, all rights, title and interest in the lands comprising the easement area described in Part I and appurtenant rights of access to the easement area, but reserving to the Landowner only those rights, title and interest expressly enumerated in Part II. It is the intention of the Landowner to convey and relinquish any and all other property rights not so reserved. This easement shall constitute a servitude upon the land so encumbered, shall run with the land

EXEMPT FROM TRANSFER TAX -- EASEMENT-- IOWA CODE SECTION 428A.2 (17)

in perpetuity, and shall bind the Landowner(s), their heirs, successors, assigns, lessees, and any other person claiming under them.

SUBJECT, however, to all valid rights of record, if any.

PART I. Description of the Easement Area. The lands encumbered by this easement deed, (referred to hereafter as the "easement area"), are described on a Plat of Survey by Kerry O. Russell, P.L.S., recorded July 17, 2001, at Book 2001, Page 2527, in the office of the Delaware County Recorder. A reduced copy of said Plat of Survey is attached hereto as Exhibit A and incorporated herein by this reference.

TOGETHER with a right of access for ingress and egress to the easement area across adjacent or other properties of the Landowner. Such a right-of-way for access purposes is described in EXHIBIT B, which is appended to and made a part of this warranty easement deed.

NONE

PART II. Reservations in the Landowner on the Easement Area. Subject to the rights, title, and interest conveyed by this easement deed to the United States, the Landowner reserves:

A. Title. Record title, along with the Landowner's right to convey, transfer, and otherwise alienate title to these reserved rights.

B. Quiet Enjoyment. The right of quiet enjoyment of the rights reserved on the easement area.

C. Control of Access. The right to prevent trespass and control access by the general public.

D. Recreational Uses. The right to undeveloped recreational uses, including hunting and fishing, and including leasing of such rights for economic gain, pursuant to applicable State and Federal regulations that may be in effect at the time.

E. Subsurface Resources. The right to oil, gas, minerals, and geothermal resources underlying the easement area, provided that any drilling or mining activities are to be located outside the boundaries of the easement area unless activities within the boundaries are specified in accordance with the terms and conditions of EXHIBIT C.

NONE

PART III. Obligations of the Landowner. The Landowner shall comply with all terms and conditions of this easement, including the following:

A. Prohibitions. Without otherwise limiting the rights of the United States acquired hereunder, it is expressly understood that the rights to the following activities and uses have been acquired by the United States and, unless authorized by the United States under Part IV, are prohibited of the Landowner on the easement area:

1. Altering of woodland, wildlife habitat or other natural features by burning, digging, plowing, disking, cutting or otherwise destroying the vegetative cover;
2. Dumping refuse, wastes, sewage or other debris;
3. Harvesting wood products;
4. Draining, dredging, channeling, filling, leveling, pumping, diking, impounding or related activities, as well as altering or tampering with water control structures or devices;
5. Diverting or causing or permitting the diversion of surface or underground water

into, within, or out of the easement area by any means;
6. Building or placing buildings or structures on the easement area;
7. Planting or harvesting any crop; and
8. Receiving any disaster assistance from the Secretary of Agriculture.

B. Noxious plants and pests. The Landowner is responsible for noxious weed control and emergency control of pests as required by all Federal, State and local laws. A plan to control noxious weeds and pests on easement lands designated as Category 1 or Category 2, as provided for in Part IV, must be approved in writing by the United States prior to implementation by the Landowner.

C. Fences. Except for establishment costs incurred by the United States and replacement costs not due to the Landowner's negligence or malfeasance in association with Category 1 and Category 2 designated easement lands, all other costs involved in establishment, replacement, and maintenance of fences and similar facilities to exclude livestock shall be the responsibility of the Landowner.

D. Taxes. The Landowner shall pay any and all real property and other taxes and assessments, if any, which may be levied against the land.

E. Reporting. The Landowner shall report to the United States any conditions or events that may adversely affect the floodplain and other natural values of the easement area.

PART IV. Allowance of Compatible Uses by the Landowner.

A. General. The United States may authorize, in writing and subject to such terms and conditions the United States may prescribe at its discretion, an activity on the easement area as a compatible use. A compatible use authorization will only be made upon a determination by the United States that the proposed use is consistent with the long term protection and enhancement of the floodplain, riparian, wetland, and other values of the easement area. The United States may prescribe the type, amount, method, timing, intensity, and duration of the compatible use.

B. Definitions. For purposes of this Part:

1. "Haying" means the use of the land for the production of forage from long-term stands of adapted forage plants such as grasses and legumes.

2. "Grazing" means the use of the land for the direct consumption of forage by animals.

3. "Timber Harvesting" means the use of the land for silviculture and associated cutting and extraction of wood products.

4. "Cropping" means the use of the land for the cultivation and growing of crops for harvest which may include production of fruits and nuts in orchards and vineyards.

C. Specifications Related to Land Use Categories. The easement area has been classified according to one or more land use categories as indicated on the attached EXHIBIT D which is appended to and made a part of this warranty easement deed:

1. Category 1 Lands: Areas on which the United States will not authorize any activity as a compatible use.

2. Category 2 Lands: Areas on which the United States may authorize an activity as a compatible use, including, but not limited to, managed timber harvest, periodic haying, or grazing. The United States will not authorize an activity related to cropping as a compatible use on these areas nor will the United

States authorize an activity related to haying or grazing if such areas are being returned to woody vegetation.

3. Category 3 Lands: Areas on which the United States did not acquire the rights to, and will not by the terms of this warranty easement deed, prohibit of the Landowner, the activities specifically identified under Sections A1, A3, or A7 of Part III of this warranty easement deed to the extent that such activities are for the specific purpose of cropping, haying, grazing, or timber harvest. It is understood that in the easement area designated as Category 3 all other rights, title, and interest have been acquired by the Unites States unless expressly reserved to the Landowner in Part II of this warranty easement deed.

PART V. Rights of the United States. The rights of the United States include, but are not limited to:

A. Management Activities. The United States shall have the right to enter unto the easement area, regardless of land use category, to undertake, at its own expense or on a cost share basis with the Landowner or other entity, any activities (including removal of levees or other hydrologic alteration) to restore, protect, manage, maintain, enhance, and monitor the floodplain and other values of the easement area, including the reach and flow of waters. The land categories identified and described in Part IVC of this warranty easement deed shall not be construed to interfere with any of these management activities. It is the intent of the United States to give the Landowner the opportunity to participate in the restoration and management activities on the easement area.

B. Access. The United States has a right of reasonable ingress and egress to the easement area over the Landowner's property, whether or not the property is adjacent or appurtenant to the easement area, for the exercise of any of the rights of the United States under this easement deed. The authorized representatives of the United States may utilize vehicles and other reasonable modes of transportation for access purposes. To the extent practical, the United States shall utilize the access identified in Part I.

C. Easement Management. The United States may delegate all or part of the management, monitoring or enforcement responsibilities under this easement to any entity authorized by law that the United States determines to have the appropriate authority, expertise and resources necessary to carry out such delegated responsibilities. State or federal agencies may utilize their general statutory authorities in the administration of any delegated management, monitoring, or enforcement responsibilities for this easement.

D. Violations and Remedies - Enforcement. The Parties agree that this easement deed may be introduced in any enforcement proceeding as the stipulation of the Parties hereto. If there is any failure of the Landowner to comply with any of the provisions of this easement deed, the United States or other delegated authority shall have any legal or equitable remedy provided by law and the right:

1. To enter upon the easement area to perform necessary work for prevention of or remediation of damage to wetland or other natural values; and,

2. To assess all expenses incurred by the United States (including any legal fees or attorney fees) against the Landowner, to be owed immediately to the United States.

PART VI. General Provisions.

A. Successors in Interest. The rights granted to the United States shall accrue to any of its delegates, agents, successors, or assigns. All obligations of the Landowner under this easement deed shall also bind the Landowner's heirs, successors, agents, assigns, lessees, and any other person claiming under them. All the Landowners who are parties to this easement deed shall be jointly and severally liable for compliance with its terms.

B. Rules of Construction and Special Provisions. All rights in the easement area not reserved by the Landowner shall be deemed acquired by the United States. Any ambiguities in this easement deed shall be construed in favor of the United States to effect the purposes for which this easement deed is being acquired. The property rights of the United States acquired under this easement shall be unaffected by any subsequent amendments or repeal of the Emergency Watersheds Program. If the Landowner receives the consideration for this easement in installments, the Parties agree that the conveyance of this easement shall be totally effective upon the payment of the first installment.

PART VII. Special Provisions (if any).
NONE

TO HAVE AND TO HOLD, this Warranty Easement Deed is granted to the United States and its successors and assigns forever. The Landowner covenants that he, she, or they are vested with good title to the easement area and will warrant and defend the same on behalf of the United States against all claims and demands. The Landowner covenants to comply with the terms and conditions enumerated in this easement deed for the use of the easement area and adjacent lands for access, and to refrain from any activity not specifically allowed or that is inconsistent with the purposes of this easement deed.

Dated this 19 day of October, 2001.

Landowner(s):

Hillis D. Henderson (Seal)

Viola M. Henderson (Seal)

State of Iowa)

County of Delaware) ss.

On this 19 day of October, 2001, before me, the undersigned, a notary public in and for the state of Iowa, personally appeared Hillis D. Henderson and Viola M. Henderson, 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

NOTARIAL SEAL IOWA
JOHN M. CARR
COMMISSION NO. 192855
MY COMMISSION EXPIRES
10/7/03

Notarial Acknowledgement in accordance with Iowa Code is required.

Exhibit D

The easement area has been classified as Category 2 lands.

This instrument was drafted by the Office of the General Counsel, U.S. Department of Agriculture, Washington, D.C. 20250-1400.

OMB DISCLOSURE STATEMENT

Public reporting burden for this collection of information is approximately sixty (60) minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to Department of Agriculture Clearance Office OIRM, Room 404-W, Washington, D.C. 20250; and to the Office of Management and Budget, Paperwork Reduction Project (OMB No. 0578-0013), Washington, D.C. 20503.

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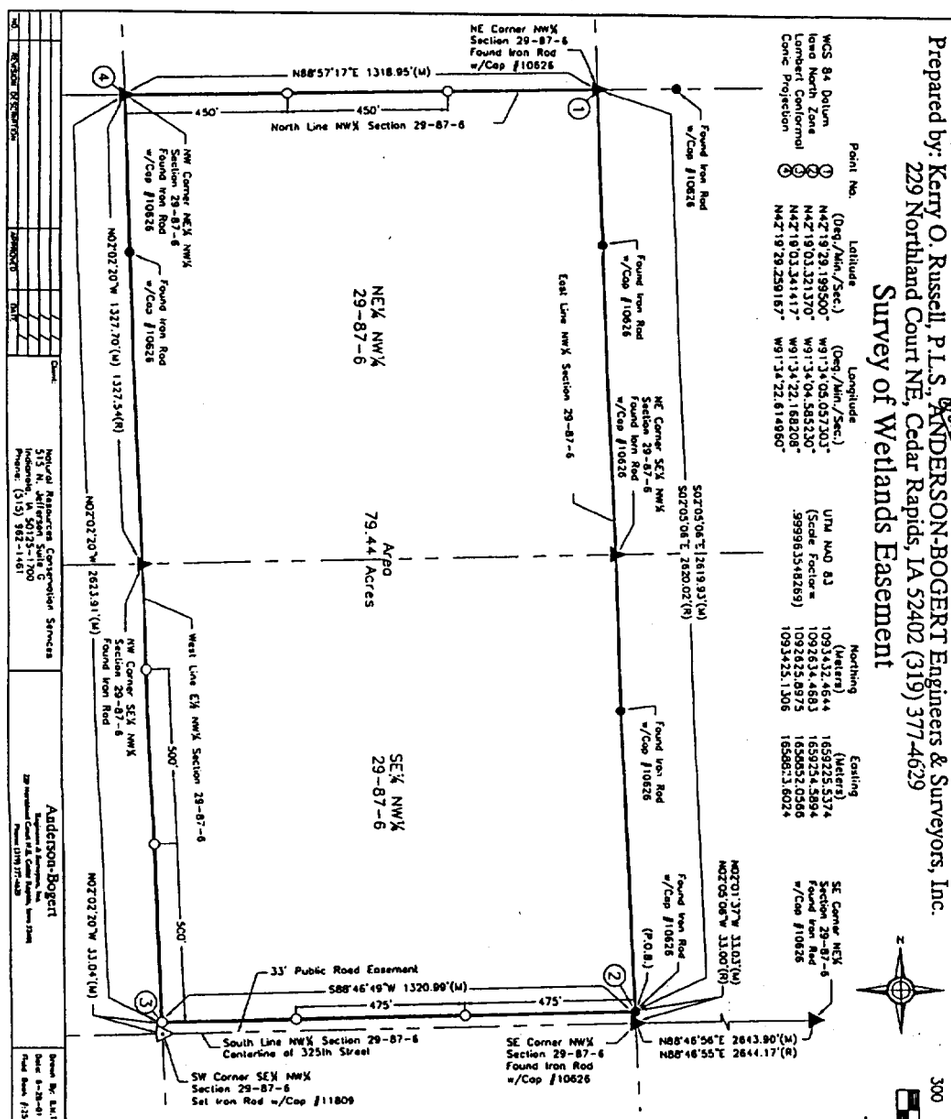
DELAWARE COUNTY, IOWA
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BOOK 2001 PAGE 1587
DEBORAH L. PETTON
DELAWARE CO. RECORDER
6.00

JUL 17 2001

FILED
Date 7-17-01
Deborah L. Pettow
County Assessor

Prepared by: Kerry O. Russell, P.L.S., ANDERSON-BOGERT Engineers & Surveyors, Inc.
229 Northland Court NE, Cedar Rapids, IA 52402 (319) 377-4629

Survey of Wetlands Easement



Point No.	Latitude (Deg./Min./Sec.)	Longitude (Deg./Min./Sec.)	UTM NAD 83 (Scale Factor= .9999635482269)	Northing (Meters)	Easting (Meters)
1	N42°19'29.199500"	W91°34'05.057303"		1092436.4644	1659235.5374
2	N42°19'03.321370"	W91°34'04.585230"		1092163.4683	1659254.5894
3	N42°19'03.341417"	W91°34'22.168208"		1092162.8975	1658852.0585
4	N42°19'29.259187"	W91°34'22.614960"		1092435.1306	1658863.6024

WGS 84 Datum
Iowa North Zone
Lambert Conformal Conic Projection

300 0 300

Property Owner	Mike D. & Vicki M. Henderson
Telephone Number	(319) 332-2848
Mailing Address	8333 170th Street Hopkinton, IA 52237

Legal Description

Part of the E½ of the NW¼ of Section 29, Township 87 North, Range 6 West of the Fifth Principal Meridian, Delaware County, Iowa described as follows:

Commencing at the SE Corner of said NW¼ of Section 29, said point being on the centerline of 325th Street;
Thence N0°01'37"W, 33.03' to the Point of Beginning on the North Right-of-Way line of said 325th Street;
Thence S88°46'49"W, along said North Right-of-Way line 1320.99 feet to the West line of said E½ of the NW¼ of Section 29;
Thence N0°02'20"W, along said West line 2623.91 feet to NW Corner of the NE¼ NW¼ of Section 29;
Thence N88°57'17"E, along the North line of the NW¼ of Section 29, 1318.95 feet to the NE Corner of the NW¼ of Section 29.
Thence S0°05'06"E, along the East line of the NW¼ of Section 29, 2619.93 feet to the Point of Beginning on said North Right-of-Way line.
Containing 79.44 Acres.

Legend

- Boundary Line
- Adjoining Lot Line
- Section Line
- Easement Line
- Found 1/2" Iron Rod
- Set 1/2" Iron Rod w/Cap #11809
- Set Section/Quarter Corner
- Found Section/Quarter Corner
- Measured
- Recorded
- Point of Beginning

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(M)	
(R)	
(P.O.B.)	

KERRY O. RUSSELL LICENSED #11809 IOWA LAND SURVEYOR

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.

Signed: Kerry O. Russell
Kerry O. Russell, Iowa PEC #11809
My License Renewal Date is December 31, 2001
Pages or sheets covered by this seal:

Natural Resource Conservation Services
315 N. Main
Hopkinton, IA 52237-1700
Phone: (319) 926-1481

Anderson-Bogert
Engineers & Surveyors, Inc.
229 Northland Court NE, Cedar Rapids, Iowa 52402
Phone: (319) 377-4629

Drawn By: K.O.R. Date: 6-28-01 Field Book: P.159 pg.49
Approved By: K.O.R. Scale: 1" = 300'

Wetlands Easement
Project Number: 201082

Sheet No. 1 of 1