

Return To : SWCD

MICHELLE "MICKI" UTSLER, COUNTY RECORDER  
MADISON IOWA

Prepared by David L. Dorff, Assistant Attorney General, Iowa Department of Justice, Capitol Complex, Des Moines, Iowa 50319, 515-281-5351

**IOWA CONSERVATION RESERVE ENHANCEMENT PROGRAM EASEMENT**

For and in consideration of the sum of eight thousand two hundred twenty-nine dollars and no cents (\$8,229.00), the sufficiency of which is hereby acknowledged by Grantor,

Michael J. McNamara (husband) 321 W. Buchanan  
Winterset, Iowa 50273

Barbara J. McNamara (wife) 321 W. Buchanan  
Winterset, Iowa 50273

**Grantor(s)**

does hereby grant to

Madison Soil and Water Conservation District 815 E. Hwy 92  
Box 267  
Winterset, Iowa 50273-0267

**Grantee**, its successors and assigns, a thirty-year easement as described below, upon those parts of the following described land which has been restored, enhanced, or protected in the Iowa Conservation Reserve Enhancement Program (CREP), has significant ecological value as a means of reducing nitrate in surface waters, and is enrolled in the Conservation Reserve Program (CRP).

The property subject to this easement, referred to as the easement area, consists of [25.32] acres and is described on a Plat of Easement prepared by Robert L. Stumbo Jr., L.S. dated 4/13/04. A reduced copy of said Plat of Easement is attached hereto as EXHIBIT A, and by this reference is incorporated herein.

Grantor covenants that he/she is the owner in fee simple of the above-described land and that the lands are free and clear of all encumbrances and liens except the following:

Earlham Savings Bank

**Intent of Parties**

It is the intent of Grantor, by this conveyance, to grant a CREP easement to Grantee on, over, and across the above-described property, in order to conserve the ecological value of the

property and to prevent the use or development of the property for any purpose or in any manner that would conflict with the maintenance of the practices established as part of the Iowa CREP. Grantee is willing to accept this grant of a CREP easement in order to extend the environmental benefits of the CRP contract subject to the reservations and the covenants, terms, conditions, and restrictions set out herein and imposed hereby. The easement granted is for 30 years in duration, shall run with the land, and shall be binding upon and benefit the successors or assigns of both Grantor and Grantee.

### **Conditions**

This easement is subject to the following conditions:

1. Grantee shall have the right to enforce by proceedings at law or in equity the covenants set forth below, it being agreed that there shall be no waiver or forfeiture of Grantee's right to ensure compliance with the covenants and conditions of this easement by reason of any prior failure to act.
2. Grantor shall maintain vegetative cover and structural practices for the life of the easement. Grantor shall restore to the original specifications any improvement which Grantor, without prior approval of Grantee, has altered or permitted to be altered. Maintenance includes any necessary replanting of vegetative cover and repair of the structure.
3. Grantor shall manage wetland water levels as needed to balance water quality performance and vegetation distribution. Except when drawdown is needed for vegetation re-establishment, the water level control structure shall be maintained at the water level specified in the original wetland design plan. After initial vegetation establishment, when the wetland pool area less than three feet deep becomes devoid of vegetation, or upon recommendation of the NRCS, SWCD, and IDALS-DSC, or their designees, the water level in the wetland shall be lowered for vegetation re-establishment. The period of this drawdown shall be as needed to re-establish the vegetation and shall not exceed one year. Water-level manipulation will be done in such manner as to not infringe upon the vested drainage rights of up-stream or down-stream landowners.
4. Grantee is granted the right of ingress and egress to the Easement area to inspect the same to determine compliance with the terms of the CRP contract and this easement. This includes the right to take Global Positioning measurements or land surveys and to record measurements in a conservation practices database.
5. Except as otherwise allowed hereunder, there shall be no commercial, industrial, or single or multiple dwelling activity undertaken or allowed on the above-described property during the period of this easement, nor shall any right of passage across or upon the above-described property be allowed, except for the use and enjoyment of Grantor, Grantor's family members, and Grantor's guests as allowed hereunder, absent the consent of Grantee.
6. There shall be no construction or placement of temporary or permanent buildings, docks or other structures. There shall be no mobile homes, trailers, or recreational vehicles providing permanent living quarters placed on the above-described property by either Grantor or Grantee. Existing structures may be maintained, but may not be used for living quarters.
7. There shall be no building of new roads or widening of existing roads.

8. There shall be no filling, excavating, mining or drilling; no removal of topsoil, sand, gravel, rock, minerals, gas, oil or other products that result in the alteration of the surface topography of the above-described property; no disturbance of natural (uncultivated) vegetation; and no installation of mechanical devices upon the above-described property.
9. There shall be no commercial timber harvest or livestock grazing on the above-described property for the life of the easement.
10. There shall be no use of the above-described property for dumping of refuse, trash, garbage, rubbish, junk, ashes, farm waste, or other waste material.
11. Grantor reserves all rights as owner of the property, including the right to use the above-described property for purposes not inconsistent with the CRP contract or the terms or conditions of this easement provided that these uses shall be in full accordance with all applicable local, state and federal laws and regulations.
12. Grantor further reserves the following specific rights:
  - A. The right to maintain and replace existing structures and roads.
  - B. The right of Grantor, Grantor's family members, and guests to hunt, temporarily camp, place temporary hunting blinds or stands, and make recreational use of the above-described property, provided such use does not impact the ecological significance and value of the easement area, and provided such use is conducted in accordance with state and federal regulations. Grantor further reserves the right to charge a fee to guests for such uses.
  - C. The rights to all minerals, gas, oil, and other hydrocarbons currently held by Grantor, shall remain with Grantor and are not conveyed by this easement.
13. Grantor, successors and assigns, shall pay any real estate taxes or assessments levied by competent authority on the above-described property.
14. No right of access to the general public to any portion of the above-described property is conveyed by this Easement, absent the consent of grantee.
15. Grantee expressly recognizes federal CRP 15-year contracts # 980 dated November 4, 2003 encumbering some or all of the property subject to this easement. To the extent that any inconsistencies exist between the CRP contract and this easement, the latter is subordinated to the former and the provisions in the CRP contract shall control over the provisions in this easement for the duration of the 15-year CRP contract.
16. Eligibility of the above-described property under United States Department of Agriculture (USDA) programs after expiration of this easement shall be governed by applicable USDA rules and regulations.
17. **Grantor's authority and power to revert the above-described property to its documented prior condition and use after expiration of this easement is regulated by and subject to United States Army Corps of Engineers Nationwide Permit Number 27 (67 Fed. Reg. 2082, para. 27). Reversion must occur within five years after easement expiration. A plan describing the location and size of drainage tiles disabled and landuse prior to wetland establishment, and NRCS-CPA-026E (Highly Erodible Land and Wetland Conservation Determination), are attached hereto as EXHIBITS B and C**

**to document "prior condition" under the provisions of Nationwide Permit 27. If additional drainage tiles are located during construction, their location and size will be described in a plan filed as an affidavit concerning this easement. Grantee cannot guarantee applicable wetland regulations at the time of easement expiration.**

18. Grantor shall be responsible for written notification to any present tenant or subsequent tenant of the existence of this easement and where a copy of the same may be located.
19. Grantor and Grantee recognize that this document cannot address every circumstance that may arise in the life of the Easement. The parties agree that the purpose of this easement to extend the CRP contract is to preserve, enhance, restore, and maintain the natural features and nitrate removal capacity of the above-described property. Any use or activity not reserved in this agreement which is inconsistent with the purposes of this easement, or which materially threatens the purpose of this easement, is prohibited.
20. The terms of this easement shall be deemed to run with the land and be binding upon and benefit all successors and assigns of both Grantor and Grantee.

Words used in this easement including the acknowledgment below shall be read as plural or singular and as masculine, feminine or neuter as required by the context.

Signed this 14th day of May, 2004.

Michael J. De Namura  
(Signature of Grantor)

Barbara J. McNamee  
(Signature of Grantor)

STATE OF IOWA

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COUNTY OF Madison

On this 14th day of May, 2004, A.D., before me a Notary Public, in and for said county, personally appeared Michael McNamara, to me known to be the person named in and who executed the foregoing instrument, and acknowledged that Michael McNamara executed the same as his voluntary act and deed.

Kelly J. Cain  
Notary Public in the State of Iowa

My commission expires 2-23, 2007.



STATE OF IOWA

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COUNTY OF Madison

On this 14th day of May, 2004, A.D., before me a Notary Public, in and for said county, personally appeared Barbara McNamara, to me known to be the person named in and who executed the foregoing instrument, and acknowledged that Barbara McNamara executed the same as his voluntary act and deed.

Kelly J. Cain  
Notary Public in the State of Iowa

My commission expires 2-23, 2007.



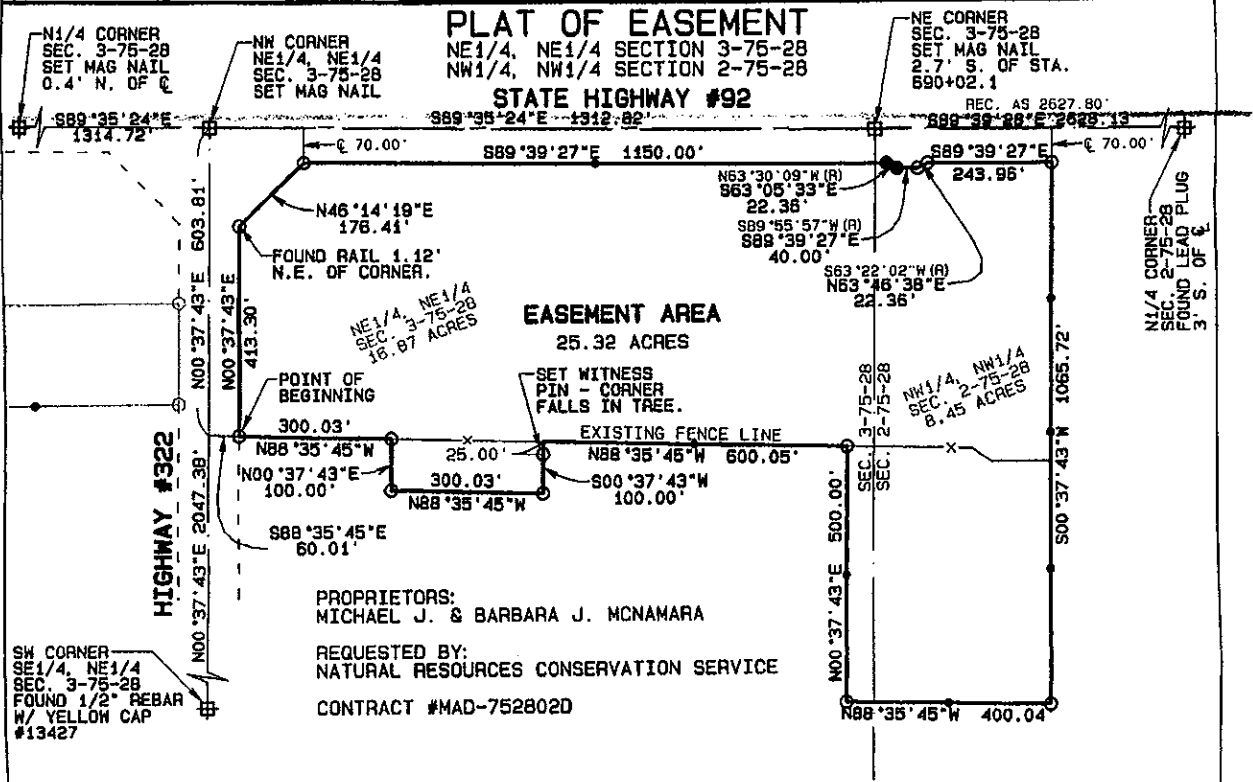
Document 2004 1881

Book 2004 Page 1881 Type 06 26 Pages 1  
Date 4/27/2004 Time 11:37 AM  
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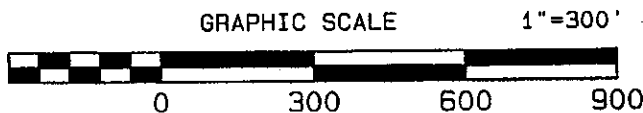
MICHELLE "MICKI" UTSLER, COUNTY RECORDER  
MADISON IOWA

COMPUTER RECORDED	<input checked="" type="checkbox"/>
COMPARED	<input type="checkbox"/>

ROBERT L. STUMBO, JR. P.O. BOX 1664 AMES, IOWA 50010 515-233-3689



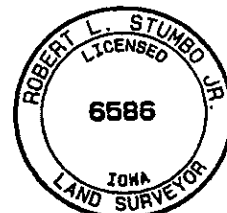
Survey Description-Easement Area:  
A part of the Northeast Quarter of the Northeast Quarter of Section 3 and a part of the Northwest Quarter of the Northwest Quarter of Section 2, all in Township 75 North, Range 28 West of the 5th P.M., Madison County, Iowa being more particularly described as follows: Commencing at the Southwest Corner of the Southeast Quarter of the Northeast Quarter of said Section 3; thence N00°37'43"E, 2047.38 feet along the west line of the Southeast Quarter of the Northeast Quarter and the Northeast Quarter of the Northeast Quarter of said Section 3; thence S88°35'45"W, 60.01 feet to a point on the east right of way line of Highway #322 and the point of beginning; thence N00°37'43"E, 413.30 feet along said line; thence N46°14'19"E, 176.41 feet to a point on the south right of way line of State Highway #92; thence following said line S89°39'27"E, 1150.00 feet; thence S63°05'33"E, 22.36 feet; thence S89°39'27"E, 40.00 feet; thence N63°46'38"E, 22.36 feet; thence S89°39'27"E, 243.96 feet; thence departing said line S00°37'43"W, 1065.72 feet; thence N88°35'45"W, 400.04 feet; thence N00°37'43"E, 500.00 feet to an existing fence line; thence N88°35'45"W, 600.05 feet along said fence; thence S00°37'43"W, 100.00 feet; thence N88°35'45"W, 300.03 feet; thence N00°37'43"E, 100.00 feet to said fence; thence N88°35'45"W, 300.03 feet to the point of beginning, containing 25.32 acres.



- - FOUND DOT MONUMENT
- - SET 1/2" REBAR W/ YELLOW CAP #6586
- - SET 1/2" REBAR

Certification: 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.

*Robert L. Stumbo, Jr.*  
Robert L. Stumbo, Jr. License #6586  
My license renewal date is December 31, 2004  
Date: 4-13-04





U.S.D.A. Natural Resources Conservation Service  <b>HIGHLY ERODIBLE LAND AND WETLAND CONSERVATION DETERMINATION</b>	NRCS-CPA-026 (June 91)	1. Name and Address of Person Michael McNamera 321 W. Buchanan St. Winterset, Iowa 50273	2. Date of Request 11/19/03
			3. County Madison

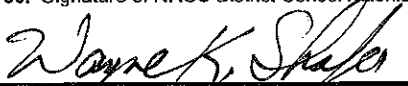
4. Name of USDA Agency or Person Requesting Determination FSA	5. Farm No. and Tract No. f1450, t0585
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**SECTION I - HIGHLY ERODIBLE LAND**

	FIELD NO.(s)	TOTAL ACRES
6. Is soil survey now available for making a highly erodible land determination? Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>		
7. Are there highly erodible soil map units on this farm? Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>		
8. List highly erodible fields that, according to ASCS records, were used to produce an agricultural commodity in any crop year during 1981 - 1985.	- NA -	- NA -
9. List highly erodible fields that have been or will be converted for the production of agricultural commodities and, according to ASCS records, were not used for this purpose in any crop year during 1981 - 1985; and were not enrolled in a USDA set-aside or diversion program.	-NA -	-NA -
10. This Highly Erodible Land determination was completed in the: Office <input checked="" type="checkbox"/> Field <input type="checkbox"/>		

**SECTION II - WETLAND**

	FIELD NO.(s)	TOTAL ACRES
11. Are there hydric soils on this farm? Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>		
12. Wetlands (W), including abandoned wetlands, or Farmed Wetlands (FW) or Farmed Wetlands Pasture (FWP). Wetlands may be farmed under natural conditions. Farmed Wetlands and Farmed Wetlands Pasture may be farmed and maintained in the same manner as they were prior to December 23, 1985, as long as they are not abandoned.	- NA -	- NA -
13. Prior Converted Cropland (PC). Wetlands that were converted prior to December 23, 1985. The use, management, drainage, and alteration of prior converted cropland (PC) are not subject to wetland conservation provisions unless that area reverts to wetland as a result of abandonment.	Un-numbered Pasture	4.5 acres
14. Artificial Wetlands (AW). Artificial wetlands includes irrigation-induced wetlands. These wetlands are not subject to the wetland conservation provisions.	- NA -	- NA -
15. Minimal Effect Wetlands (MW). These wetlands are to be farmed according to the minimal-effect agreement signed at the time the minimal-effect determination was made.		
16. Mitigation Wetlands (MIW). Wetlands on which a person is actively mitigating a frequently cropped area or a wetland converted between December 23, 1985 and November 28, 1990.		
17. Restoration with Violation (RVW+year). A restored wetland that was in violation as a result of conversion after November 28, 1990, or the planting of an agricultural commodity or forage crop.		
18. Restoration without Violation (RSW). A restored wetland converted between December 23, 1985 and November 28, 1990, on which an agricultural commodity has not been planted.		
19. Replacement Wetlands (RPW). Wetlands which are converted for purposes other than to increase production, where the wetland values are being replaced at a second site.		
20. Good Faith Wetlands (GFW+year). Wetlands on which ASCS has determined a violation to be in good faith and the wetland has been restored.		
21. Converted Wetlands (CW). Wetland converted after December 23, 1985 and prior to November 28, 1990. In any year that an agricultural commodity is planted on these Converted Wetlands, you will be ineligible for USDA benefits.		
22. Converted Wetland (CW+year). Wetlands converted after November 28, 1990. You will be ineligible for USDA program benefits until this wetland is restored.		
23. Converted Wetland Non-Agricultural use (CWNA). Wetlands that are converted for trees, fish production, shrubs, cranberries, vineyards or building and road construction.		
24. Converted Wetland -Technical Error (CWTE). Wetlands that were converted as a result of incorrect determination by NRCS.		
25. The planned alteration measures on wetlands in fields _____ are considered maintenance and are in compliance with FSA.		
26. The planned alteration measures on wetlands in fields _____ are not considered maintenance and if installed will cause the area to become a Converted Wetland (CW). See item 22 for information on CW+year.		
27. The wetland determination was completed in the office <input checked="" type="checkbox"/> field <input checked="" type="checkbox"/> and was delivered <input type="checkbox"/> mailed <input checked="" type="checkbox"/> to the person on _____.		
28. Remarks. The 4.5 acres of the un-numbered field does not meet wetland criteria.		

29. I certify that the above determination is correct and adequate for use in determining eligibility for USDA program benefits, and that wetland hydrology, hydric soils, and hydrophytic vegetation under normal circumstances exists on all areas outlined as Wetlands, Farmed Wetlands, and Farmed Wetlands Pasture.	30. Signature of NRCS District Conservationist 	31. Date 1/6/04
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