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FILED NO. **1188**

BOOK 139 PAGE 583

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REC \$ 45 ⁰⁰
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MICHELLE UTSLER
RECORDER
MADISON COUNTY, IOWA
(515) 962-1461

Shelley A. Dugan, Conveyance Examiner
Natural Resources Conservation Service, 515 N. Jefferson Street, Suite G, Indianola, Iowa 50125

U.S. DEPARTMENT OF AGRICULTURE
NATURAL RESOURCES CONSERVATION SERVICE

NRCS-LTP-20
5-95
OMB No. 0578-0013

WARRANTY EASEMENT DEED

**EMERGENCY WETLANDS RESERVE PROGRAM
AGREEMENT NO. 65-6114-7-6687**

THIS WARRANTY EASEMENT DEED is made by and between Darrell M. Nielsen and Joan E. Nielsen, husband and wife, of 3284 Adams Drive #A102, Fairbanks, Alaska (hereafter referred to as the "Landowner"), Grantor(s), and the UNITED STATES OF AMERICA, by and through the Secretary of Agriculture, Washington, D. C. 20250 (hereafter referred to as the "United States"), Grantee. The Landowner and the United States are jointly referred to as the "Parties". The acquiring agency of the United States is the Natural Resources Conservation Service (NRCS) of the Department of Agriculture.

Witnesseth

Purposes and Intent. The purpose of this easement is to restore, protect, manage, maintain, and enhance the functional values of wetlands and other lands, and for the conservation of natural values including fish and wildlife habitat, water quality improvement, flood water retention, groundwater recharge, open space, aesthetic values, and environmental education. It is the intent of the NRCS to give the Landowner the opportunity to participate in the restoration and management activities on the easement area.

Authority. This easement deed acquisition is authorized by Title XII of the Food Security Act of 1985, as amended (16 U.S.C. Section 3837), for the Emergency Wetlands Reserve Program.

NOW THEREFORE, for and in consideration of the sum of Sixty-Eight Thousand Dollars (\$68,000.00), the Grantor(s), hereby grants and conveys with general warranty of title to the UNITED STATES OF AMERICA and its assigns, the Grantee, 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 in perpetuity and shall bind the Landowner, (the Grantor(s)), their heirs, successors, assigns, lessees, and any other person claiming under them.

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

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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 J.M. Hochstetler recorded in Book 3 at Page 218 in the office of the Madison 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 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. Unless authorized as a compatible use under Part IV, it is expressly understood that the rights to the following activities and uses have been acquired by the United States and are prohibited of the Landowner on the easement area:

1. haying, mowing or seed harvesting for any reason;
2. altering of grassland, woodland, wildlife habitat or other natural features by burning, digging, plowing, disking, cutting or otherwise destroying the vegetative cover;
3. dumping refuse, wastes, sewage or other debris;
4. harvesting wood products;

5. draining, dredging, channeling, filling, leveling, pumping, diking, impounding or related activities, as well as altering or tampering with water control structures or devices;
6. diverting or causing or permitting the diversion of surface or underground water into, within or out of the easement area by any means;
7. building or placing buildings or structures on the easement area;
8. planting or harvesting any crop; and
9. grazing or allowing livestock on the easement area.

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 must be approved in writing by the NRCS prior to implementation by the Landowner.

C. Fences. Except for establishment cost incurred by the United States and replacement cost not due to the Landowner's negligence or malfeasance, all other costs involved in 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 NRCS any conditions or events which may adversely affect the wetland, wildlife, 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 NRCS may prescribe at its discretion, the use of the easement area for compatible economic uses, including, but not limited to, managed timber harvest, periodic haying, or grazing.

B. Limitations. Compatible use authorizations will only be made if such use is consistent with the long-term protection and enhancement of the wetland and other natural values of the easement area. The NRCS shall prescribe the amount, method, timing, intensity, and duration of the compatible use.

PART V. Rights of the United States. The rights of the United States include:

A. Management Activities. The United States shall have the right to enter unto the easement area to undertake, at its own expense or on a cost share basis with the Landowner or other entity, any activities to restore, protect, manage, maintain, enhance, and monitor the wetland and other natural values of the easement area. The United States, at its own cost, may apply to or impound additional waters on the easement area in order to maintain or improve wetland or other natural values.

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

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authorized representatives of the United States may utilize vehicles and other reasonable modes of transportation for access purposes.

C. Easement Management. The Secretary of Agriculture, by and through the NRCS may delegate all or part of the management, monitoring or enforcement responsibilities under this easement to any entity authorized by law that the NRCS 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. The authority to modify or terminate this easement (16 U.S.C. Section 3837e(b)) is reserved to the Secretary of Agriculture in accordance with applicable law.

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 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 wetland and conservation 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 Wetlands Reserve 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

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TO HAVE AND TO HOLD, this Warranty Easement Deed is granted to the United States of America 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 document 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 17th day of August, 1998.

Landowner(s):) *Darrell M. Nielsen* (Seal)
) Darrell M. Nielsen
) *Joan E. Nielsen* (Seal)
) Joan E. Nielsen

Notarial Acknowledgement in accordance with Iowa Code is required.

Acknowledgment

STATE OF Kansas :
Johnson COUNTY :

On this 17th day of August, 1998, before me, the undersigned, a Notary Public in and for said State, personally appeared, Darrell M. Nielsen and Joan E. Nielsen, to me known to be the identical persons named in and show executed the foregoing instrument and acknowledged that they executed the same as their voluntary act and deed.

SUSAN M. BELCHER
NOTARY PUBLIC
STATE OF KANSAS
My Appt. Expires 10--10--2001

Susan M. Belcher
Notary Public in and for said State

Shelley A. Dugan, Conveyance Examiner

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

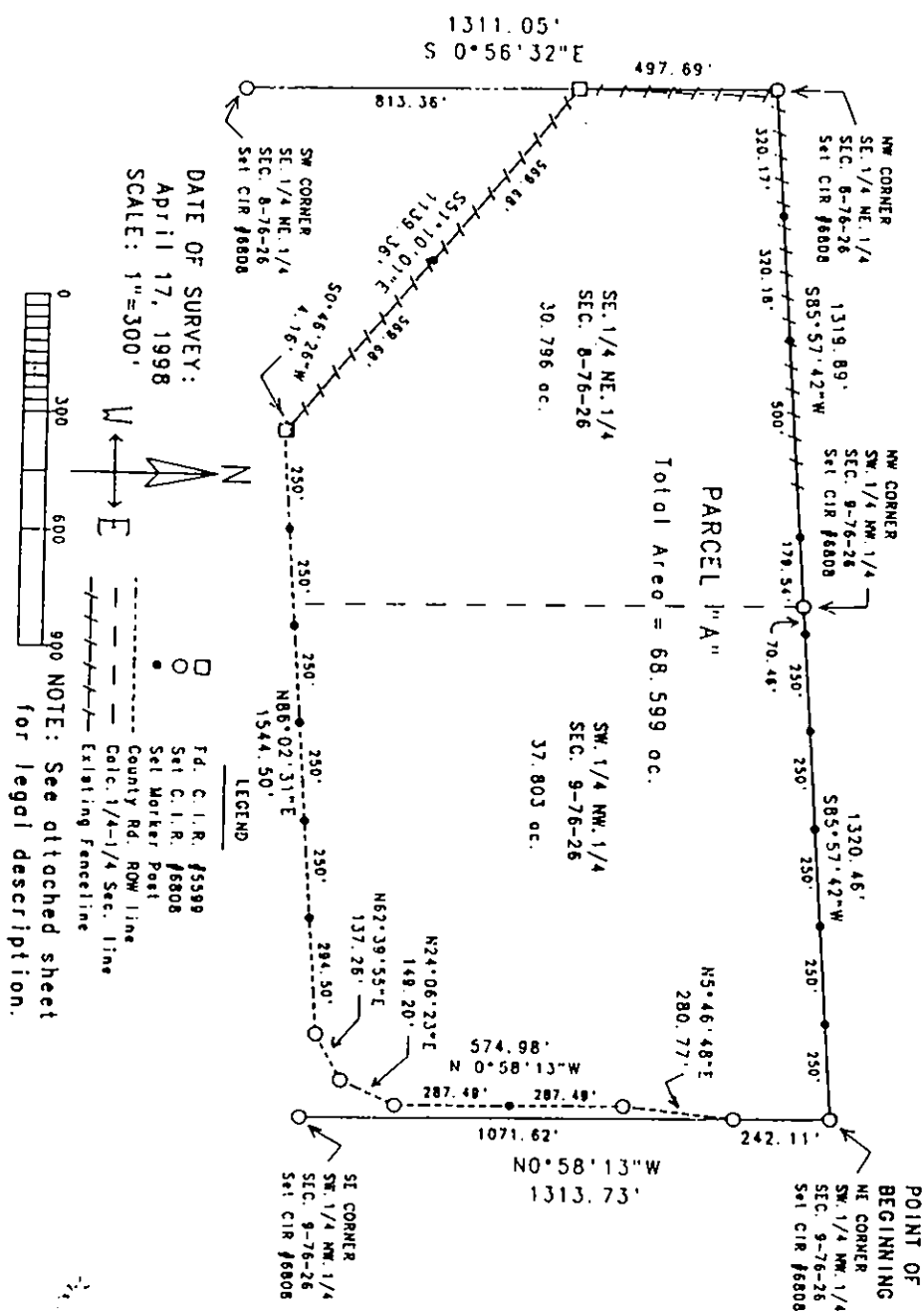
OMB DISCLOSURE STATEMENT

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.

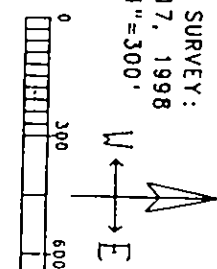
EXHIBIT A- Page 1 of 2

VANCE & HOCHSTETLER, P.C. CONSULTING ENGINEERS, WINTERSET, IOWA (515)462-3005
CHARLES T. VANCE, 110 WEST GREEN ST., WINTERSET, IOWA 50273
JAMES M. HOCHSTETLER, 110 WEST GREEN ST., WINTERSET, IOWA 50273

A PLAT OF SURVEY FOR A WETLANDS RESERVE PROGRAM EASEMENT (ON PROPERTY OWNED BY DAREL NIELSEN) FOR THE U.S.D.A. NATURAL RESOURCES CONSERVATION SERVICE, LOCATED IN THE SOUTH-EAST QUARTER OF THE NORTHEAST QUARTER OF SECTION 8 & THE SOUTHWEST QUARTER OF THE NORTHWEST QUARTER OF SECTION 9, TOWNSHIP 76 NORTH, RANGE 26 WEST OF THE 5th P.M., MADISON COUNTY, IOWA.



DATE OF SURVEY:
April 17, 1998
SCALE: 1"=300'



LEGEND
FD. C.I.R. #5599
Set C.I.R. #6808
Set Marker Post
County Rd. ROW line
Colic. 1/4-1/4 Sec. line
Existing Fenceline

NOTE: See attached sheet for legal description.



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.
J. M. Hochstetler
J.M. HOCHSTETLER
License number 6208 Date 4/22/98
My license renewed date is December 31, 1999
Pages or sheets covered by this plat: 1

LEGAL DESCRIPTION:

Parcel "A", located in the Southeast Quarter of the Northeast Quarter of Section 8 & in the Southwest Quarter of the Northwest Quarter of Section 9, Township 76 North, Range 26 West of the 5th P.M., Madison County, Iowa, more particularly described as follows:

Beginning at the Northeast corner of the Southwest Quarter of the Northwest Quarter of Section 9, Township 76 North, Range 26 West of the 5th P.M., Madison County, Iowa; thence South 85°57'42" West along the North line of the Southwest Quarter of the Northwest Quarter of said Section 9, 1320.46 feet to the Northwest corner of the Southwest Quarter of the Northwest Quarter of said Section 9; thence South 85°57'42" West along the North line of the Southeast Quarter of the Northeast Quarter of Section 8, Township 76 North, Range 26 West of the 5th P.M., Madison County, Iowa, 1319.89 feet to the Northwest corner of the Southeast Quarter of the Northeast Quarter of said Section 8; thence South 0°56'32" East along the West line of the Southeast Quarter of the Northeast Quarter of said Section 8, 497.69 feet; thence South 51°10'01" East along an existing fenceline, 1139.36 feet; thence South 0°46'26" West, 4.16 feet to a point on the North right-of-way (R.O.W.) line of an unpaved County Road; thence North 86°02'31" East along said R.O.W. line, 1544.50 feet; thence North 62°39'55" East along said R.O.W. line, 137.26 feet; thence North 24°06'23" East along said R.O.W. line, 149.20 feet; thence North 0°58'13" West along said R.O.W. line, 574.98 feet; thence North 5°46'48" East along said R.O.W. line, 280.77 feet to a point on the East line of the Southwest Quarter of the Northwest Quarter of said Section 9; thence North 0°58'13" West along the East line of the Southwest Quarter of the Northwest Quarter of said Section 9, 242.11 feet to the Point of Beginning. Said Parcel contains 68.599 acres.