



Document 2010 1416

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Rec Amt \$29.00 Aud Amt \$15.00

INDX /
ANNO /
SCAN /
CHEK

LISA SMITH, COUNTY RECORDER
MADISON COUNTY IOWA

✓ Preparer; When recorded, Return to: Brett T. Osborn, 974 - 73rd Street, Suite 20, Windsor Heights, IA 50324 (515) 223-6000

**AFFIDAVIT EXPLANATORY OF TITLE
PURSUANT TO IOWA CODE §558.8**

STATE OF IOWA, COUNTY OF POLK: ss

I, Brett T. Osborn, being first duly sworn on oath, depose and state as follows:

1. I am an attorney duly licensed and practicing law in Des Moines, Polk County, Iowa.
2. I am acquainted with the chain of title to the following described real estate in Madison County, Iowa, to-wit:

The East Half (1/2) of the Southeast Quarter (1/4) of Section Ten (10); and all that part of the West Half (1/2) of the Southwest Quarter (1/4) of Section Eleven (11) which lies South and West of the public highway as now located and which lies North of North River as it was located in the year 1920, ALL in Township Seventy-six (76) North, Range Twenty-eight (28) West of the 5th P.M., Madison County, Iowa, except that part thereof condemned for railroad.

3. In connection with said chain of title, I have conducted an independent investigation as to certain matters which appear within the chain of title to the above described property and to the chain of title of the below described property in Madison County, Iowa, to-wit:

Parcel "C" located in the South Half (1/2) of the Southwest Quarter (1/4) of Section Eleven (11), and in the West Half (1/2) of the Northwest Quarter (1/4), and in the Northeast Quarter (1/4) of the Northwest Quarter (1/4) of Section Fourteen (14); ALL in Township Seventy-six (76) North, Range Twenty-eight (28) West of the 5th P.M., Madison County, Iowa, containing 86.98 acres, as shown in Plat of Survey filed in Book 2010, Page 816 on April 13, 2010, in the Office of the Recorder of Madison County, Iowa.

4. I am familiar with the chain of title as I have conducted an investigation into the title of both parcels which are now, as the date of this Affidavit, owned by Danny J. Allen and Sonia B. Allen. The purpose of this affidavit is to clarify that the first described parcel is a parcel which has been owned by Danny J. Allen and Sonia B. Allen to the exclusion of all others and that a portion of Parcel "C", second described above, encroaches on and/or includes a portion of the first described parcel as a result of surveys filed April 13, 2010, in Book 2010, Page 816, of the Madison County Recorder's Office, which is essentially a partial replication of a survey filed February 9, 1998, in Book 3, Page 180, of the Madison County Recorder's Office. Both surveys utilize a northern boundary in the southwest quarter of the southwest quarter of Section 11, being the location of the North River situated after the Chicago, Rock Island & Pacific Railroad Company re-channeled the river in the 1950's. The 1920 river bed location was south of the 1950 location of the river channel as relocated by the Chicago, Rock Island & Pacific Railroad Company. The legal description described first above properly describes the South/North boundary of the two parcels. Danny J. Allen and Sonia B. Allen have and continue to own property north of the North River as it was situated in 1920. The successors in interest to Gayla Mills who conveyed property described as Parcel "C" to Danny J. Allen and Sonia B. Allen on April 22, 2010, by virtue of a Warranty Deed filed May 4, 2010, in Book 2010, Page 1006, of the Madison County Recorder's Office, conveyed the property as described by the surveys identified second above, had no claim of right, title or interest to the property first described above. Attached as Exhibits 1 and 2 are maps/photos showing the location of the river in 1920.

5. The effect of the transfer of title occurring in the Warranty Deed filed, May 4, 2010, in Book 2010, Page 1006, of the Madison County Recorder's Office conveyed property owned by the Grantors in addition purportedly conveyed property already owned by Danny J. Allen and Sonia B. Allen described in the parcel first described above. Today Danny J. Allen and Sonia B. Allen own both parcels of the land and regardless of the legal description used in the Warranty Deed filed May 4, 2010, in Book 2010, Page 1006, Danny J. Allen and Sonia B. Allen are the titleholders to the parcels described both first above and second above.

6. Danny J. Allen and Sonia B. Allen owned in fee simple, paid taxes on, and the Farm Services Agency has attributed acreage that is contained within Parcel "C" to Danny J. Allen and Sonia B. Allen. This affidavit is given in part to clarify the title as the description in Parcel "C" will create certain tax identification parcel problems for the county auditor as well as potentially for the Farm Services Agency and its affiliated and related entities.

7. Danny J. Allen and Sonia B. Allen have owned and farmed the Parcel identified as 340061160020000, which is described first above since acquiring title on May 9, 1989, by virtue of a Warranty Deed filed in Book 125, Page 555, of the Madison County Recorder's Office. Said parcel has been identified by the tax parcel identification number 34006116002000 and has been known by the Farm Services Agency as Farm # _____.

8. This affidavit is also being given for the purpose of maintaining the identity of the parcels and to avoid confusion within the chain of title and for the various agencies that will rely upon the conveyance documents.

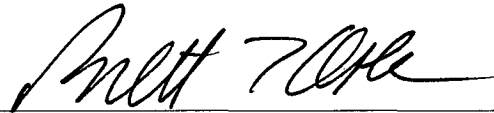
9. The affiant further certifies that he made the Auditor aware of this dispute prior to the conveyance documents being filed in this transaction.

10. An Affidavit of Possession is also being filed contemporaneously with this Affidavit Explanatory of Title Pursuant to 558.8 in order to establish conclusively the chain of title to the parcels above described.

11. This Affidavit is being made pursuant to Iowa Code 558.8 as an Affidavit Explanatory of Title for the purpose of removing any cloud upon the chain of title.

Affiant further sayith not.

Dated this 16th day of June, 2010.

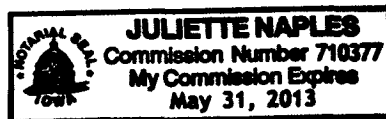


BRETT T. OSBORN
974 - 73rd Street, Suite 20
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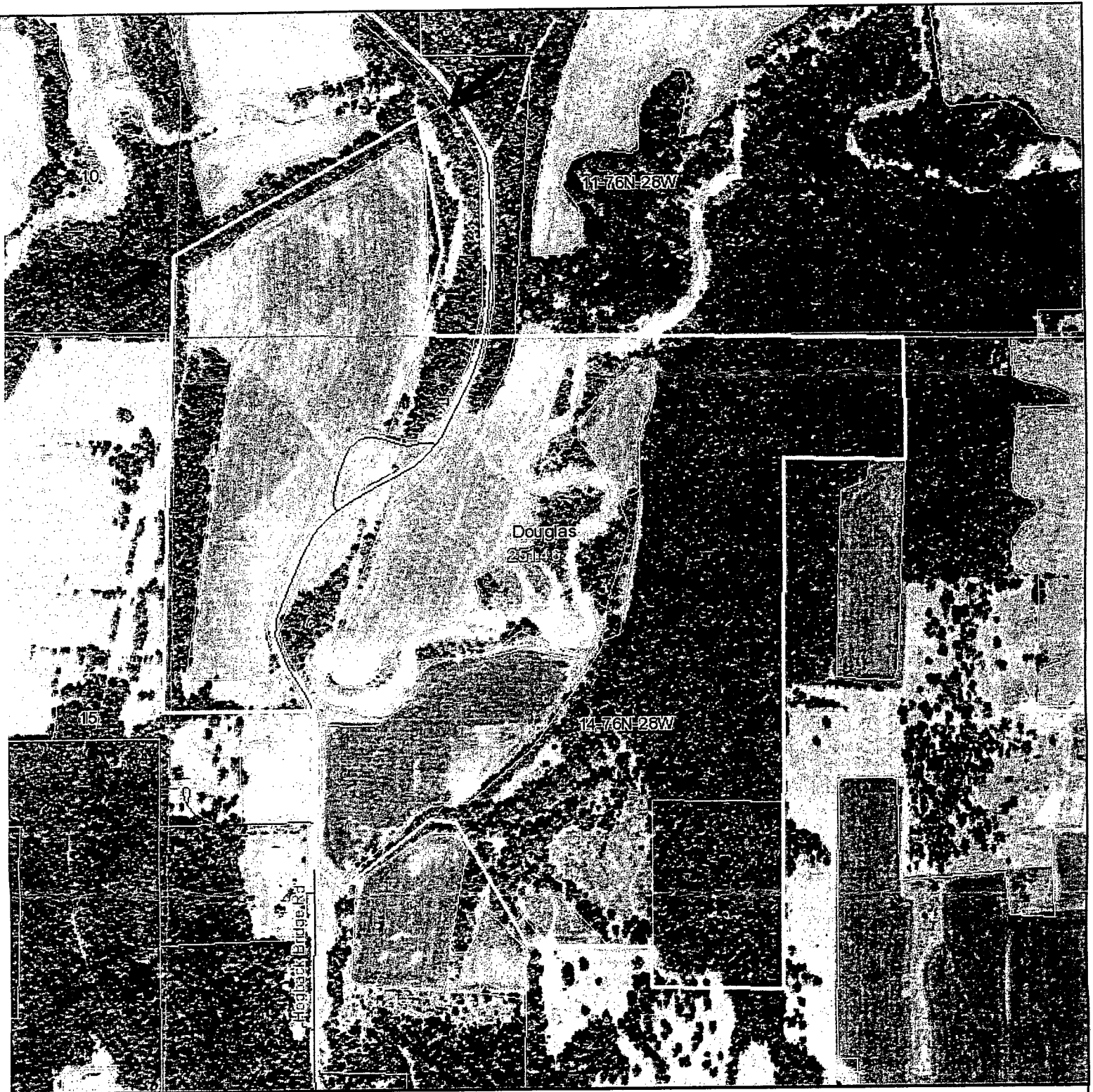
On this 16th day of June, 2010, before me, the undersigned, a Notary Public in and for the State of Iowa, personally appeared Brett T. Osborn, to me known to be the person named in and who executed the foregoing instrument, and acknowledged that he executed the same as his voluntary act and deed.



NOTARY PUBLIC - STATE OF IOWA



Aerial Map



Maps provided by:



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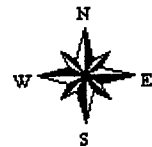
EXHIBIT

tabbles[®]

1

14-76N-28W
Madison County
Iowa

map center: 41° 23' 5.65, 94° 2' 40.4
scale: 10078



3/8/2010



Food Plot Don

Hopback Bridge

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EXHIBIT

2