



Document 2012 3438

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Revenue Tax:

LISA SMITH RECORDER

Madison County, Iowa

INDX ✓  
ANNO ✓  
SCAN  
CHEK

GRANT OF EASEMENT

Recorder's Cover Sheet

Taxpayer Information:

Stephen W. Dunn, as trustee of the Dunn Family Trust dated June 10, 1990, as to an undivided one half interest, and Patricia Barry, as Trustee of the Survivor's Trust under the Philip and Patricia Barry Family Trust dated May 6, 1998, c/o Stephen W. Dunn, 29572 Avante, Laguna Niguel, CA 92677

Preparer and Return Document To:

Brett T. Osborn, 974 73<sup>rd</sup> Street, Suite 20, Des Moines, IA 50324 (515) 223-6000

Grantors:

Stephen W. Dunn, as trustee of the Dunn Family Trust dated June 10, 1990, as to an undivided one half interest, and Patricia Barry, as Trustee of the Survivor's Trust under the Philip and Patricia Barry Family Trust dated May 6, 1998, as to an undivided one half interest, as tenants in common

Grantee:

Danny J. Allen and Sonia B. Allen

Legal Description: See Exhibit 2

## INGRESS/EGRESS EASEMENT

WHEREAS, Patricia W. Barry, Trustee of the Survivor's Trust under the Philip Barry and Patricia Barry Family Trust dated May 6, 1998, and Stephen W. Dunn, Trustee of the Dunn Family Trust dated June 10, 1998, fee titleholder (hereinafter referred to as "Dunn/Barry" or the "Grantor"), is the owner of the real property in rural Madison County, Iowa, legally described as follows:

Parcel E in the Southwest Fractional Quarter of the Northwest Quarter of Section 7, Township 75 North, Range 27 West of the 5<sup>th</sup> P.M., Madison County, Iowa; AND the Northwest Quarter of the Northwest Quarter of Section 7, Township 75 North, Range 27 West of the 5<sup>th</sup> P.M., Madison County, Iowa;

(hereinafter referred to as the "Servient Tenement").

WHEREAS, Danny J. Allen and Sonia B. Allen, husband and wife (hereinafter referred to as "Allens" or the "Grantee"), are the purchasers of certain real property legally described in the attached Exhibit 1 and incorporated herein by reference (hereinafter referred to as the "Dominant Tenement").

WHEREAS, in consideration of Allens' agreement to purchase certain real property from Dunn/Barry, a portion of which constitutes the Dominant Tenement, the Grantor agreed subject to the terms and conditions set forth herein to grant to the Allens an easement of ingress and egress and certain attendant rights and duties over the property described and depicted on the attached Exhibit 2 hereof owned by Grantor (the "Easement Area") in order to provide legal access as provided herein to the Dominant Tenement through the Servient Tenement owned by Grantor. The intent of the easement granted herein is to provide unrestricted legal access for farming or other lawful use of the Dominant Tenement to Grantee and Grantee's heirs, successors and assigns. It is presumed that the Easement Area reaches but does not go into or beyond that certain public roadway that now exists commonly known as 230<sup>th</sup> Lane (the "Public Roadway"), and to the extent that it does not, Grantor and Grantor's heirs, successors and assigns shall adjust the Easement Area in order that it shall reach the Public Roadway, but the Easement Area shall otherwise not be subject to change except as otherwise expressly provided for herein. The Easement Area is described in Exhibit 2 attached hereto and incorporated herein by this reference.

NOW THEREFORE, in consideration of One Dollars (\$1.00), and other good and valuable consideration, the receipt of which is hereby acknowledged, subject to the terms and conditions set forth herein, Dunn/Barry and the Allens hereby agree as follows:

1. Grantor does hereby convey to Grantee a permanent easement of ingress and egress for the purpose of access to the Dominant Tenement over, through and across the Easement Area (the "Easement"). The Easement shall run with the land and bind and inure to the benefit of the heirs, successors and assigns of the parties.

2. Grantee shall have the sole responsibility to maintain the Easement Area; provided however that Grantor shall be responsible for reasonable and necessary maintenance and/or damage thereto to, and only to, the extent caused by Grantor's use thereof.

3. Grantee shall have the right to move any fencing within the Easement Area to the eastern or western perimeter of the Easement Area, as the case may be, to the extent not now so located on said perimeter, and to remove any structures within the Easement Area, to the extent such would impair free and uninhibited traversing of the Easement Area for large farm and related equipment suitable for Grantee's use in and across the Easement Area to the Dominant Tenement.

4. Other than fencing that may exist along the perimeter of the Easement Area, neither Grantor, nor Grantee, shall erect any fence or other structure, under, over, on, through, across, or within the Easement Area without obtaining prior written consent of the other. Grantee shall have the right and option to change the grade, elevation or contour of any part of the Easement Area so as to prepare and maintain the Easement Area for ingress/egress and access suitable for Grantee's lawful use of the Dominant Tenement and also for large farm and related equipment suitable for Grantee's use of the Dominant Tenement; otherwise no change in grade, elevation or contour of the Easement Area that would inhibit the use of the Easement Area for ingress/egress as described herein shall be permitted without the prior written consent of the other.

5. The Easement granted herein is to be held by Grantee, their heirs, successors and assigns, as appurtenant to the Dominant Tenement.

6. This Easement shall be deemed to run with the land and the rights and duties set forth herein shall be binding upon Grantor and Grantee as well as their successors in interest, and assigns of each;

7. Grantor and Grantor, as well as the successors and assigns of each shall hold one another harmless from and against any loss or liability for any accidents, injuries, or damages of any nature arising or resulting from the use of the Easement Area by themselves, and their invitees, licensees, or permittees;

8. Grantor and their successors in interest and assigns to the Servient Tenement shall have a right from time to time to relocate the location of the Access Easement to another location which traverses from the Public Highway to the Dominant Tenement across the Servient Tenement and/or to Parcel D in the Southwest Fractional Quarter of the Northwest Quarter of Section 7, Township 75 North, Range 27 West of the 5<sup>th</sup> P.M., Madison County, Iowa; provided however that the easement area which replaces the Easement Area shall be at least thirty three (33) feet in width and contain an improved road that is in substantially similar condition to the current condition of that certain road now contained within the Easement Area, with a grade sufficiently level to accommodate the use thereof by large farm machinery and related equipment suitable for Grantee's use of the Dominant Tenement. Any such replacement easement area shall be subject to the same terms and conditions as set forth herein with respect to the Easement Area

9. The words and phrases herein shall be construed in the singular, plural or neuter gender as necessary to the situation. Ambiguities shall not be construed against the drafter. The parties mutually agree to cooperate in the correction or amendment to this agreement to accomplish the original intent of the parties as set forth herein, including without limitation the relocation of the Easement Area as set forth in paragraph 8 hereof. This agreement contains the entire agreement between the parties hereto, and supersedes any other prior oral or written agreement with respect thereto.

IN WITNESS WHEREOF, the parties hereto have set their hands and seals on the dates set forth in the acknowledgments below.

Patricia W. Barry by Stephen F. Breimer as her attorney in fact  
Patricia W. Barry, as Trustee of the Survivor's Trust under the Philip Barry and Patricia Barry Family Trust dated May 6, 1998, by Stephen F. Breimer, her attorney in fact pursuant to a Power of Attorney recorded in the records of Madison County, Iowa in Book 2012 at Page 3062

Stephen W. Dunn  
Stephen W. Dunn, as Trustee of the Dunn Family Trust dated June 10, ~~1998~~ 1990

*SWD*

CERTIFICATE OF ACKNOWLEDGMENT

State of California

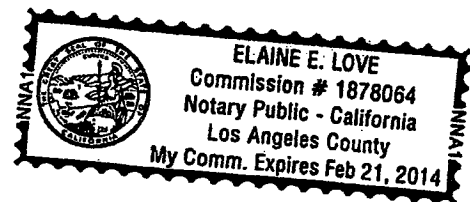
County of Los Angeles } ss.

On November 6, 2012, before me, Elaine E. Love, Notary Public, personally appeared Stephen F. Breimer who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature Elaine E. Love  
(Seal)



CERTIFICATE OF ACKNOWLEDGMENT

State of California

County of Orange } ss.

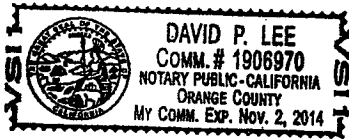
On November 2, 2012, before me, David P Lee, Notary Public, personally appeared Stephen W. Dunn who proved to me on the basis of satisfactory evidence to be the person~~s~~ whose name~~s~~ is/~~are~~ subscribed to the within instrument and acknowledged to me that he/~~she/they~~ executed the same in his/~~her/their~~ authorized capacity~~s~~, and that by his/~~her/their~~ signature~~s~~ on the instrument the person~~s~~, or the entity upon behalf of which the person~~s~~ acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature David P. Lee

(Seal)



*Danny J. Allen*  
Danny J. Allen

*Sonia B. Allen*  
Sonia B. Allen

STATE OF IOWA                    )  
  )ss  
COUNTY OF Madison        )

On this 12 day of November, 2012, before me, the undersigned, a Notary Public in and for the State of Iowa, personally appeared **Danny J. Allen and Sonia B. Allen**, husband and wife, to me known to be the persons named in and who executed the foregoing instrument, and acknowledged that they executed the same as their voluntary act and deed.

*Donald R. Smith*  
NOTARY PUBLIC - STATE OF IOWA

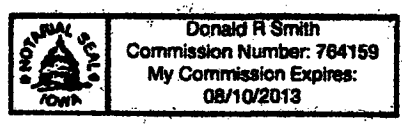


Exhibit 1

[Dominant Tenement Legal Description]

A. In Section 12 in Township 75N. of Range 28W of the 5<sup>th</sup> P.M.:

1. The SE quarter of the NE fractional quarter, excluding therefrom Parcel H of a plat of survey dated 9-28-12 recorded on September 28, 2012 in book 2012, page 2922 in the official records of the County Recorder of Madison County, Iowa.
2. That portion of the W. 26 2/3 rods of the E 53 1/3 rods of the S. 120 rods of the E half of the SE fractional quarter (also known as a portion of Lot 9), which lies N. and E. of the main channel of the Middle River, and estimated at one time to contain 2 3/4 acres, more or less.
3. That portion of the E 26 2/3 rods of the S half of the NE quarter of the SE fractional quarter (also known as a portion of Lot 8), which lies N. and E. of the Middle River.
4. The N half of the NE quarter of the SE fractional quarter, also known as Lot 10 per a survey recorded on April 9, 1873 in book 3, page 306 of the Madison County Recorder's records (except that part thereof lying south and west of the Middle River).

B. In Section 7 in Township 75N. of Range 27W of the 5<sup>th</sup> P.M.:

1. All of that part of the north 21.25 rods of the SW quarter of the SW fractional quarter which lies north and west of the Middle River.
2. All of that part of the S. half of the NW quarter of the SW fractional quarter which lies north and west of the Middle River.
3. The N half of the NW quarter of the SW fractional quarter.
4. The SW quarter of the NW fractional quarter, excluding therefrom Parcel E of a plat of survey dated 9-28-12 recorded on September 28, 2012 in book 2012, page 2919 in the official records of the County Recorder of Madison County Iowa, and except a tract commencing at a point on the NE corner of said SW quarter of the NW fractional quarter, running thence west 33 feet, thence south 120 feet, thence east 33 feet, and thence north 120 feet to the point of beginning.
5. Lots 7 and 8 of the SE quarter of the NW fractional quarter.
6. All of that part of Lot 3 in the east half of the NW fractional quarter which lies south

of the public highway formerly traveled across said Lot 3, and containing .229 of an acre more or less.

7. Lot 5 of the SE quarter of the NW fractional quarter, EXCEPT the following portions of said Lot 5 which comprise all or a part of the areas described in the records of the Madison County Recorder: (1) the legal parcel depicted and surveyed on that certain Property Line Retracement Survey for Albert L. Little dated 4-11-01 recorded on May 14, 2001 in book 2001, page 1940, (2) the legal parcel described in the warranty deed recorded on August 3, 2005 in book 2005, page 3651, (3) the legal parcel described in the warranty deed recorded on December 23, 2002 in book 2002, page 6253, (4) the legal parcel described in the warranty deed recorded in book 2005, page 3651, Parcel F of a plat of survey dated 9-28-12 recorded on September 28, 2012 in book 2012, page 2923, and (5) Parcel G of a plat of survey dated 9-28-12 recorded on September 28, 2012 in book 2012, page 2920, all recorded in the official records of the County Recorder of Madison, County, Iowa.
8. Lot 6 of the SE quarter of the NW fractional quarter, EXCEPT the following portions of said Lot 6 which comprise all or a part of the areas described in the records of the Madison County Recorder: (1) Parcel F of a plat of survey dated 9-28-12 recorded on September 28, 2012 in book 2012, page 2923 in the official records of the County Recorder of Madison, County, Iowa, and (2) Parcel G of a plat of survey dated 9-28-12 recorded on September 28, 2012 in book 2012, page 2920 in the official records of the County Recorder of Madison, County, Iowa.
9. Parcel F of a plat of survey dated 9-28-12 recorded on September 28, 2012 in book 2012, page 2923 in the official records of the County Recorder of Madison, County, Iowa situated in the NW fractional quarter, EXCEPT that portion thereof described as follows: commencing at the NW corner of the SE quarter of the NW fractional quarter, thence west 33 feet, thence north 00° 33' 20" east 170 feet, thence north 65° 10' 44" east 36.52 feet, thence south 00° 33' 20" west 185.09 feet to the point of beginning.
10. Parcel D of a plat of survey dated 9-28-12 recorded on September 28, 2012 in book 2012, page 2921 in the official records of the County Recorder of Madison, County, Iowa situated in the NW quarter of the NW fractional quarter.



Exhibit 2

[Easement Area Legal Description – attach Parcel E Plat Map]

**ACCESS EASEMENT:**

A 33.00 foot wide ingress/egress easement across Parcel "E" in the Fractional Southwest Quarter of the Northwest Quarter and to the County Road in the Fractional Northwest Quarter of the Northwest Quarter all in Section 7, Township 75 North, Range 27 West of the 5<sup>th</sup> P.M., Madison County, Iowa the perimeter of which is described as follows:

Commencing at the Northwest Corner of the Fractional Southwest Quarter of the Northwest Quarter of Section 7, Township 75 North, Range 27 West of the 5<sup>th</sup> P.M., Madison County, Iowa thence North 89°35'20" East 248.78 feet along the North line of said Fractional Southwest Quarter of the Northwest Quarter to the Easement Point of Beginning thence North 03°35'32" West 79.93 feet to the North line of a County Road; thence South 89°45'44" East 33.07 feet; thence South 03°35'32" East 449.20 feet to a point on the South line of Parcel "E"; thence South 75°43'25" West 33.27 feet; thence North 03°35'32" West 375.73 feet to the Point of Beginning.



Document 2012 2919  
 Book 2012 Page 2919 Type 06 026 Pages 2  
 Date 9/28/2012 Time 3:25 PM  
 Rec Amt \$12.00

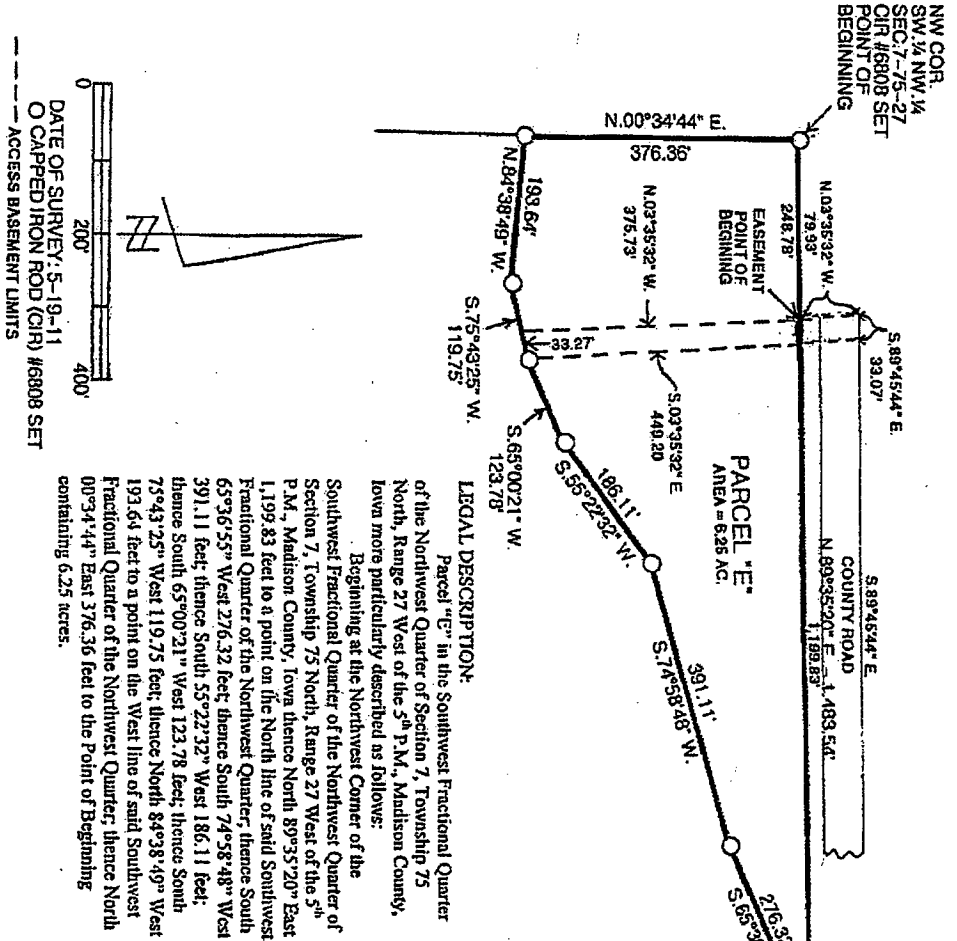
INDX  
 ANNO  
 SCAN  
 CHEK

LISA SMITH, COUNTY RECORDER  
 MADISON COUNTY IOWA

VANCE & HOCHSTETLER, P.C. • CONSULTING ENGINEERS • WINTERSSET, IOWA 50273

CHARLES T. VANCE • 110 WEST GREEN ST., WINTERSSET, IOWA • (515) 462-3995  
 JAMES M. HOCHSTETLER • 110 WEST GREEN ST., WINTERSSET, IOWA • FAX: (515) 462-9845

PLAT OF SURVEY IN THE SOUTHWEST FRACTIONAL QUARTER OF THE  
 NORTHWEST QUARTER OF SECTION 7, TOWNSHIP 75 NORTH, RANGE 27  
 WEST OF THE 5<sup>TH</sup> P.M., MADISON COUNTY, IOWA OWNED BY PHILIP &  
 PATRICIA BARRY FAMILY TRUST AND DUNN FAMILY TRUST.



DATE OF SURVEY: 5-19-11  
 O CAPPED IRON ROD (GIR) #6808 SET  
 --- ACCESS BASEMENT LIMITS

**LICENSED LAND SURVEYOR**  
 J. M. HOCHSTETLER  
 #4908  
 IOWA

Notarially certified that this land surveying document was prepared and the related surveying work was performed by me or under my direct supervision and that I am a duly licensed Land Surveyor within the State of Iowa.

*J. M. Hochstetler*  
 J. M. HOCHSTETLER  
 License Number 4908 Date 9/28/12  
 My license renewal date is December 31, 2015  
 Pages or sheets covered by this seal: 1

**ACCESS EASEMENT:**  
 A 33.00 foot wide ingress/egress easement across Parcel "E" in the Fractional Southwest Quarter of the Northwest Quarter and to the County Road in the Fractional Northwest Quarter of the Northwest Quarter all in Section 7, Township 75 North, Range 27 West of the 5<sup>th</sup> P.M., Madison County, Iowa the perimeter of which is described as follows:  
 Commencing at the Northwest Corner of the Fractional Southwest Quarter of the Northwest Quarter of Section 7, Township 75 North, Range 27 West of the 5<sup>th</sup> P.M., Madison County, Iowa thence North 89°35'20" East 248.78 feet along the North line of said Fractional Southwest Quarter of the Northwest Quarter to the Easement Point of Beginning thence North 03°25'32" West 79.93 feet to the North line of a County Road; thence South 89°45'44" East 33.07 feet; thence South 03°35'32" East 449.20 feet to a point on the South line of Parcel "E"; thence South 75°43'25" West 33.27 feet; thence North 03°25'32" West 375.73 feet to the Point of Beginning.

**LEGAL DESCRIPTION:**  
 Parcel "E" in the Southwest Fractional Quarter of the Northwest Quarter of Section 7, Township 75 North, Range 27 West of the 5<sup>th</sup> P.M., Madison County, Iowa more particularly described as follows:  
 Beginning at the Northwest Corner of the Southwest Fractional Quarter of the Northwest Quarter of Section 7, Township 75 North, Range 27 West of the 5<sup>th</sup> P.M., Madison County, Iowa thence North 89°35'20" East 1,199.83 feet to a point on the North line of said Southwest Fractional Quarter of the Northwest Quarter, thence South 65°36'55" West 276.32 feet; thence South 74°58'48" West 391.11 feet; thence South 55°22'32" West 186.11 feet; thence South 65°00'21" West 123.78 feet; thence South 75°43'25" West 119.75 feet; thence North 84°38'49" West 193.64 feet to a point on the West line of said Southwest Fractional Quarter of the Northwest Quarter; thence North 00°34'44" East 376.36 feet to the Point of Beginning containing 6.25 acres.

