A F F I D A V I T

STATE OF IOWA :
: SS
DALLAS COUNTY :

I, Gene Hardy, P.E. & L.S., being sworn on oath, depose and state: That the following "description #1" made in May, 1977:

> Beginning at a point 1208.81 feet W. and 33 feet North of the center of Sec. 6-77-28, thence N. 429 feet; thence E. 313.91 feet, thence S. 126 feet, thence W. 153 feet, thence S. 303 feet, thence W. 160.91 feet to the point of beginning, containing 2.027 acres, all in the SE¼ of the NW. Frl. ¼ of said Sec. 6-77-28, Madison County, Iowa,

and the following "description #2" used in a June, 1961, Warranty Deed to Dr. G. J. Leuty:

> Commencing 1046 feet W. of the SE. corner of the SE¼ NW.Frl. ¼ Sec. 6-77-28, thence N. 303 feet, thence E. 153 feet, thence N. 126 feet, thence W. 313.91 feet to a Railroad iron, marking the right of way line of Hwy. #232, thence S. on said right of way line 429 feet to a Railroad iron, marking the right of way of Highway #232 and County Road thence E. to point of beginning, all in aforesaid Sec. 6,

describe one and the same parcel of real property. This property was, until the 1961 Warranty Deed, part of a larger parcel described as follows:

> Commencing 54 rods and 2 feet W. of the SE. Corner of the SE¼ NW.Frl.¼ of Sec. 6-77-28, and running thence N. 28 rods, thence W. 19 rods and 5 inches, thence S. 28 rods, thence E. to place of beginning, excepting therefrom that part thereof included within the E. 54 and 1/7 rods of the S. 28 rods of said SE¼ NW.Frl.¼ of said section, township and range.

When "description #2" was struck off from the larger parcel, the description said to "commence 1046 feet W. of the SE. corner of the SE¼ NW.Frl.¼ Sec. 6-77-28". It was logical to presume that the point to commence at under "description #1" was 1046 feet West of and on the centerline of Sec. 6-77-28. "Description #1", made by me in 1977, says to "begin at a point 1208.81 feet W. and 33 feet N. of the center of Sec. 6-77-28". The dimensions of "description #1" and the dimensions of "description #2" run approximately the same number of feet on all sides of the property

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RECORDER
MADISON COUNTY, IOWA
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described by both descriptions. The reason "description #1" and "description #2" do not at first glance appear to describe the same property is due to the fact that "description #1" commences and ends 33 feet North of the centerline of Sec. 6-77-28, and "description #2" commences on the centerline (and not 33 feet North of the c.line) of Sec. 6-77-28. After careful survey and physical examination, it is my opinion that a correct and proper interpretation of "description #2" would call for a person to commence 1046 feet West of the SE. corner of Sec. 6-77-28 and 33 feet North of the centerline of the Section because the southern boundary of the property described by "description #2" is stated therein to run East from its West boundary along the right-of-way of County Road to the point of beginning, and the "right-of-way of County Road" is 33 feet North of the centerline of Sec. 6-77-28, and thus it follows from such a description that the "point of beginning" must be and is 33 feet North of the centerline of Sec. 6-77-28, as well as being 1046 feet West of the center of said section.

I have further depose and state that at Entries #13,14 and 15 of this Abstract, there appear Deeds describing land which lies directly North of the real estate described by "descriptions #1 and #2" and currently owned by the Ralph B. Hunter Trust. The descriptions used in the Deeds appearing at those Entries, purport to locate a portion of the southern boundary of the Ralph B. Hunter Trust land 25.29 feet below the northern boundary of the land described by "descriptions #1 and #2", thus causing an overlap of the two properties. Physical inspection of the two properties, however, reveal no such overlap as there is a fence separating the North-South boundary of the two properties, and there has been acquiescence in this boundary line for many years last past. This Affiant believes such overlap caused by the descriptions of the land of the

#3. Affidavit

Ralph B. Hunter Trust occurs because the Deeds describe the property as commencing at a point 429 feet North of the corner of the NW¼ Sec. 6-77-28, when in fact maps of this property were drawn and the fence herein referred to was erected according to a description which would commence at a point 429 feet North of the right-of-way of County Road (now Madison Avenue), and this right-of-way is 33 feet North of the corner of the NW¼ of Sec. 6-77-28.

Further this Affiant sayeth not.

Gene Hardy P.E. & L.S. #3374

(Gene Hardy P.E. & L.S.)

Subscribed and sworn to before me by the said Gene Hardy P.E. & L.S. this 2 day of November, 1978.

Notary Public in and for the State of Iowa.

(SEAL) Iowa