

**BK: 2016 PG: 1011**  
**Recorded: 4/20/2016 at 3:30:28.0 PM**  
**Fee Amount: \$27.00**  
**Revenue Tax:**  
**LISA SMITH RECORDER**  
**Madison County, Iowa**

**Prepared By, and When Recorded, Return To:** Chet A. Mellema, Bradshaw, Fowler, Proctor & Fairgrave, P.C.,  
801 Grand Avenue, Suite 3700, Des Moines, IA 50309-8004, (515) 246-5822

*SPACE ABOVE THIS LINE FOR RECORDER*

### **INGRESS AND EGRESS (ACCESS) EASEMENT**

**WHEREAS**, Verl W. Dillinger and Mary A. Dillinger, husband and wife, (collectively, the “Grantor”) are the owners of the following described real estate (hereinafter the “Burdened Property”):

All the railroad right of way upon and across Section One (1), Township Seventy-Four (74) North, Range Twenty-Seven (27) West of the 5th P.M., Madison County, Iowa.

**WHEREAS**, Seth R. Delutri (“Grantee”) is the owner of the following described real estate (hereinafter the “Benefited Property”):

Parcel “E” located in the West Half of the Northeast Quarter, and in the Northwest Quarter of the Southeast Quarter of Section One (1), Township Seventy-Four (74) North, Range Twenty-Seven (27) West of the 5th P.M., Madison County, Iowa, containing 22.07 acres, as shown in the Plat of Survey filed in Book 2011, Page 674, on March 11, 2011, in the Office of the Recorder of Madison County, Iowa.

**WHEREAS**, Grantor has agreed to grant to Grantee an easement for ingress and egress over and across the Easement Area defined in Paragraph 1 below for the benefit of the Benefited Property.

**NOW, THEREFORE**, in exchange for and in consideration of good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the undersigned Parties agree as follows:

1. Grant of Easement. Grantor hereby grants and conveys to Grantee an Easement and right-of-way under, over, on, through, across and within the following described real estate:

**The existing field access driveway that is sixteen (16) feet wide and that extends from 280<sup>th</sup> Trail across the vacated railroad right-of-way to the Benefited Property, located approximately as follows: beginning at the Point of Beginning 974.75 feet North 00°12'34" East of the Center of Section 1, Township 74 North, Range 27 West of the 5th P.M., Madison County, Iowa, thence North 42°21'21" East approximately 1,310 feet along the Southeasterly line of the vacated railroad right-of-way, as shown on the attached Exhibit A**

(hereinafter called the "Easement Area") for the purpose of Grantee maintaining a free and unobstructed ingress and egress under, over, on, through, across and within said Easement Area as reasonably necessary for the use and enjoyment of the Benefited Property and to access the Benefited Property from 280<sup>th</sup> Trail. The Easement Area shall be used exclusively for ingress and egress in order to access (whether by vehicle or otherwise) the Benefited Property; no other purposes or uses are permitted.

2. No Merger. It is the intent of the Parties that if either Grantor or Grantee, or their successors, heirs, and assigns, becomes the owner of both the Benefited Property and the Burdened Property, there shall be no merger of the Easement granted and dedicated herein into ownership of the two parcels, but that such Easement shall continue in full force and effect despite such common ownership either now or in the future.

3. Non-Exclusive. The Easement granted herein is non-exclusive, and the Easement Area may be used by Grantor so long as such uses do not conflict with the use of the Easement Area by Grantee.

4. Repairs and Maintenance. Grantee shall not be responsible for any maintenance of the land located within the Easement Area whatsoever and that responsibility shall remain with the Grantor, its grantees, successors, assigns or transferees. Grantee may, however, perform such maintenance should Grantee determine in its sole discretion such maintenance is needed.

5. Structures and Obstructions. The Parties further agree that the Easement Area shall be kept free from structures or obstructions for the use of each of the Parties hereto, and neither Party shall allow vehicles to be parked or left in such manner as to obstruct the use thereof by either Party.

6. Running of Benefits and Burdens. All provisions of this Agreement, including both the benefits and burdens, run with the land and are binding upon and inure to the benefit of the heirs, successors and assigns of the parties hereto. However, no rights under this instrument shall be created in the general public or in owners of any property other than the Benefited Property.

7. Successors and Assigns. This Easement shall run with the land and shall be binding upon and inure to the benefit of the parties thereto and their respective successors and assigns.

8. Laws of Iowa. This Agreement shall be governed and construed and enforced in accordance with the laws of the State of Iowa.

9. Entire Agreement. This Agreement constitutes the entire agreement between the Parties, and any prior understanding or representation of any kind preceding the date of this Agreement shall not be binding on either Party except to the extent incorporated herein.

10. Modifications in Writing. Any modification to this Agreement or additional obligation assumed by either Party in connection with this Agreement shall be binding only if evidenced in writing signed by each Party.

11. Remedies; Attorney's Fees. The Parties shall have all remedies at law or in equity. Either Party may enforce this Agreement by appropriate action and the prevailing Party in such litigation shall be entitled to recover, as a part of its costs, reasonable attorneys' fees.

12. Warranties. The undersigned represent and warrant that they are the titleholders of the respective properties and have full authority to make and execute this Agreement.

Grantor does HEREBY COVENANT with Grantee that (i) Grantor holds said real estate described in this Easement by title in fee simple; (ii) that Grantor has good and lawful authority to convey the same; and (iii) said Grantor covenants to WARRANT AND DEFEND the said premises against the claims of all persons whomsoever.

Each of the undersigned hereby relinquishes all rights of dower, homestead and distributive share, if any, in and to the interests conveyed by this Agreement.

Words and phrases herein, including acknowledgment hereof, shall be construed as in the singular or plural number, and as masculine or feminine gender, according to the context.

*{Remainder of Page Left Blank Intentionally}*

IN WITNESS WHEREOF, the undersigned have executed this Agreement as of the 5 day of April, 2016.

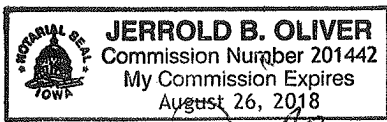
GRANTORS:

Verl W Dillinger  
VERL W. DILLINGER

4/5/16  
Date

STATE OF IOWA, COUNTY OF MADISON) SS:

This instrument was acknowledged before me on this 5 day of April, 2016, by Verl W. Dillinger.



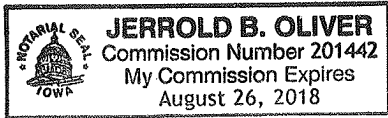
Jerrold B Oliver  
Notary Public in and for the State of Iowa

Mary A Dillinger  
MARY A. DILLINGER

4/5/16  
Date

STATE OF IOWA, COUNTY OF MADISON) SS:

This instrument was acknowledged before me on this 5 day of April, 2016, by Mary A. Dillinger.



Jerrold B Oliver  
Notary Public in and for the State of Iowa

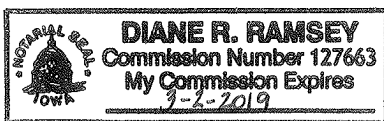
GRANTEE:

Seth R. Delutri  
SETH R. DELUTRI

4/20/16  
Date

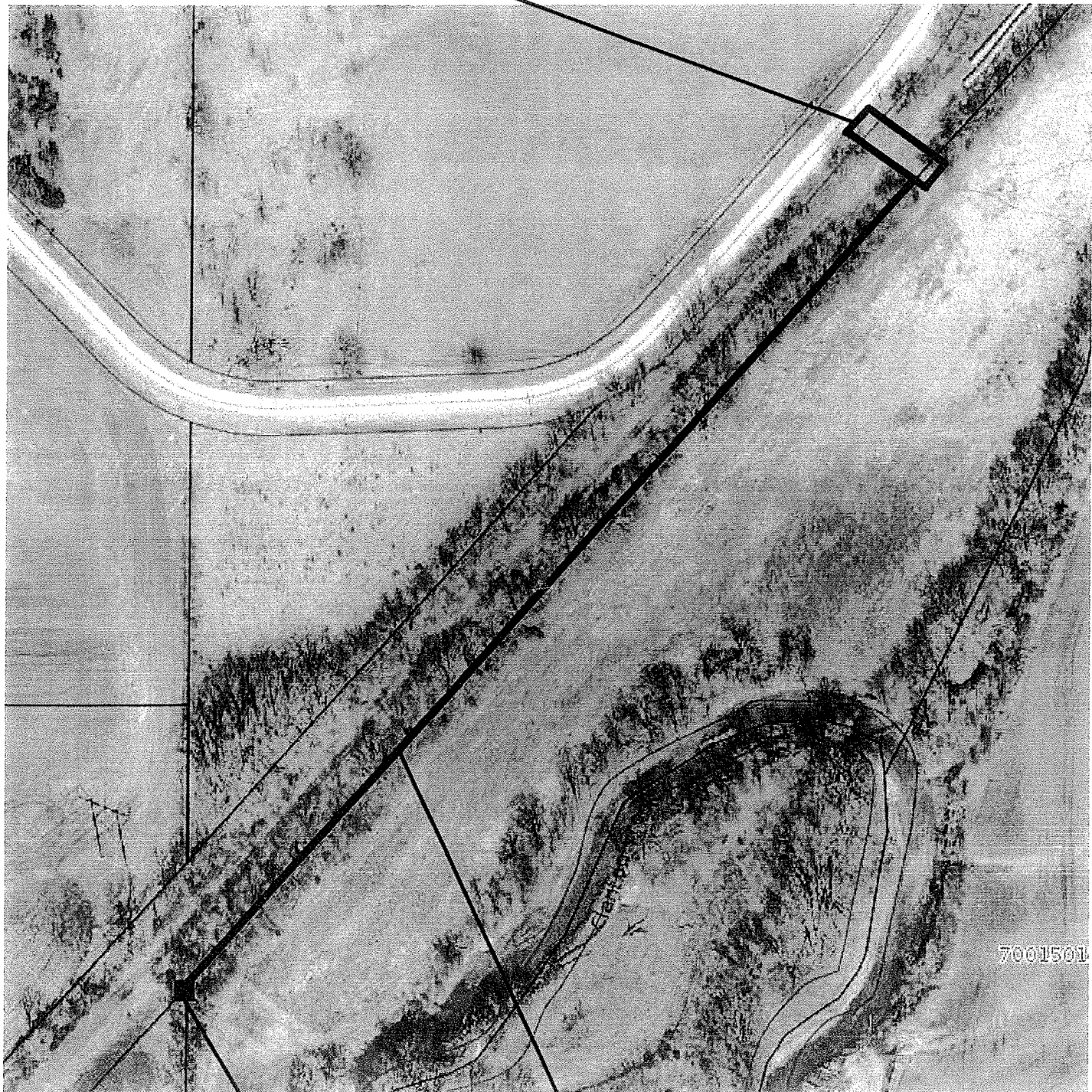
STATE OF IOWA, COUNTY OF POLK) SS:

This instrument was acknowledged before me on this 20th day of April, 2016, by Seth R. Delutri.



Diane R. Ramsey  
Notary Public in and for the State of Iowa

Easement  
Area



Point of  
Beginning

Approximately 1,310 feet  
North 42°21'21" East of  
Point of Beginning

**EXHIBIT A**  
Ingress and Egress (Access) Easement