

Number: 2022 3710
Book: 2022 Page: 3710
Recorded: 9/2/2022 at 12:52:38.0 PM
Pages: 15
County Recording Fee: \$77.00
Iowa E-Filing Fee: \$3.00
Combined Fee: \$80.00
Revenue Tax:
Jolynn Goodchild RECORDER
Plymouth County, Iowa

Prepared by: Shelley A. Dugan, Easement Specialist, Phone (515) 323-2610
Natural Resources Conservation Service, 210 Walnut Street, Room 693, Des Moines, IA 50309

Return to: Return to: Alecia A. Muelcnrs, Attorney at Law, Whitfield & Eddy, P.L.C., 699
Walnut Street, Suite 2000, Des Moines, IA 50309

Legal description on Exhibit A.

Address for tax statement: No change of ownership – easement only. Current landowners will still be responsible for property taxes.

EXEMPT FROM TRANSFER TAX – EASEMENT – IOWA CODE SECTION 428A.2 (17)

U.S. DEPARTMENT OF AGRICULTURE
NATURAL RESOURCES CONSERVATION SERVICE

OMB NO.: 0578-0013
NRCS-LTP-20

Emergency Watersheds Protection Program Floodplain Warranty Easement Deed

1. AGREEMENT NO. 7561142101SZ0

THIS WARRANTY EASEMENT DEED is made by and between

2. Gregory P. Heeren and Lori J. Heeren, a a married couple; and David Heeren and Kerry J. Heeren, a married couple, of

3. Landowner address: [REDACTED]

(hereafter referred to as the "Landowner"), Grantor(s), and **the UNITED STATES OF AMERICA**, by and through the Natural Resources Conservation Service (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), United States Department of Agriculture.

Witnesseth:

Purposes and Intent. The purpose of this easement is to restore, protect, manage, maintain, and enhance the functional values of floodplains, wetlands, riparian areas, and other lands; and for the conservation of natural values including fish and wildlife and their habitat, water quality improvement, flood water retention, groundwater recharge, open space, aesthetic values, and environmental education; and to safeguard lives and property from floods, drought, and the products of erosion. It is the intent of United States 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 16 U.S.C. 2203, as amended, and 7 U.S.C. 428a.

NOW THEREFORE, for and in consideration of the sum of

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 are 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.

PART I. Description of the Easement Area. The lands encumbered by this easement deed, referred to hereafter as the easement area, are described on EXHIBIT A which is appended to and made a part of this easement deed.

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.

PART II. Reservation 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 subject to the operation of State and Federal law.
- D. **Recreation Uses.** The right to undeveloped and recreation 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.

PART III. Obligations of the Landowner. The Landowner shall comply with all terms and conditions of this easement, including the following:

- A. **Prohibitions.** Without otherwise limiting the rights of the United States acquired hereunder, it is expressly understood that the rights to the following activities and uses have been acquired by the United States and, unless authorized by the United States under Part IV, 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;
 - 9. grazing or allowing livestock on the easement area; and
 - 10. disturbing or interfering with the nesting or brood-rearing activities of migratory birds.
 - 11. receiving any disaster assistance from the Secretary of Agriculture.
- 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 United States 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 United States 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 United States 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 authorization will only be made if, upon a determination by the United States in the exercise of its discretion and rights, that the proposed use is consistent with the long-term protection and enhancement of the floodplain, riparian, the wetland and other natural values of the easement area. The United States 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 onto the easement area to undertake, at its own expense or on a cost-share basis with the Landowner or other entity, any activities (including removal of levees or other hydrologic alteration) to restore, protect, manage, maintain, enhance, and monitor the floodplain 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 and 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 authorized representatives of the United States may utilize vehicles and other reasonable modes of transportation for access purposes. To the extent practical, the United States shall utilize the access identified in EXHIBIT B.
- C. **Easement Management.** The United States may delegate all or part of the management monitoring or enforcement responsibilities under this easement to any entity authorized by law that the United States 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.

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 floodplain 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 floodplain, 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 Watersheds 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.

TO HAVE AND TO HOLD, this Warranty Easement Deed is granted to the United States of America and its 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.

ACCEPTANCE BY GRANTEE:

I, Jon Hubbert, State Conservationist, being the duly authorized representative of the United States Department of Agriculture, Natural Resources Conservation Service, do hereby accept this Warranty Easement Deed with respect to the rights and duties of the United States of America, Grantee.

Dated this 23rd day of August, 2022.

) 
) Jon Hubbert
) State Conservationist

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

OMB Disclosure Statement

According to the Paperwork Reduction Act of 1995, an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection is 0578-0013. The time required to complete this information collection is estimated to average 40 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.

Privacy Act Statement

The above statements are made in accordance with the Privacy Act of 1974 (5 U.S.C. Section 522a). Furnishing this information is voluntary; however, failure to furnish correct, complete information will result in the withholding or withdrawal of such technical or financial assistance. The information may be furnished to other USDA agencies, the Internal Revenue Service, the Department of Justice, or other State or Federal law enforcement agencies, or in response to orders of a court, magistrate, or administrative tribunal.

Non-Discrimination Statement

In accordance with Federal civil rights law and U.S. Department of Agriculture (USDA) civil rights regulations and policies, the USDA, its Agencies, offices, and employees, and institutions participating in or administering USDA programs are prohibited from discriminating based on race, color, national origin, religion, sex, gender identity (including gender expression), sexual orientation, disability, age, marital status, family/parental status, income derived from a public assistance program, political beliefs, or reprisal or retaliation for prior civil rights activity, in any program or activity conducted or funded by USDA (not all bases apply to all programs). Remedies and complaint filing deadlines vary by program or incident.

Persons with disabilities who require alternative means of communication for program information (e.g., Braille, large print, audiotope, American Sign Language, etc.) should contact the responsible Agency or USDA's TARGET Center at (202) 720-2600 (voice and TTY) or contact USDA through the Federal Relay Service at (800) 877-8339. Additionally, program information may be made available in languages other than English.

To file a program discrimination complaint, complete the USDA Program Discrimination Complaint Form, AD-3027, found online at [How to File a Program Discrimination Complaint](#) and at any USDA office or write a letter addressed to USDA and provide in the letter all of the information requested in the form. To request a copy of the complaint form, call (866) 632-9992. Submit your completed form or letter to USDA by: (1) mail: U.S. Department of Agriculture Office of the Assistant Secretary for Civil Rights, 1400 Independence Avenue, SW, Washington, D.C. 20250-9410; (2) fax: (202) 690-7442; or (3) email: program.intake@usda.gov.

USDA is an equal opportunity provider, employer, and lender.

Exhibit A – Page 1 of 4

Description of the Easement Area. The lands encumbered by this easement deed, referred to herein as the Easement Area, are described on a Plat of Survey by Adam Teale, P.L.S., recorded on March 16, 2022, as Document Number 2022-1173, in the office of the Plymouth County Recorder. A reduced copy of said survey is attached and the surveyor's description is set forth below.

LEGAL DESCRIPTION:

Commencing at the Southeast Corner Section 36, Township 93 North, Range 49 West, Plymouth County, Iowa; thence along Section Line, North 02 degrees 10 minutes 40 seconds East 1042.80 feet to the Point of Beginning; thence departing said line, North 88 degrees 37 minutes 46 seconds West 73.15 feet; thence North 89 degrees 46 minutes 29 seconds West 360.59 feet; thence North 86 degrees 49 minutes 03 seconds West 273.53 feet; thence South 83 degrees 35 minutes 06 seconds West 104.74 feet; thence along northern right-of-way of 158th Street, North 88 degrees 39 minutes 40 seconds West 1646.48 feet; thence along apparent northern right-of-way of Plymouth County Drainage Ditch #2 the following courses and distances: North 71 degrees 32 minutes 56 seconds West 420.62 feet; thence North 53 degrees 56 minutes 13 seconds West 175.42 feet; thence North 74 degrees 51 minutes 17 seconds West 275.53 feet; thence along the eastern high bank of the Big Sioux River the following courses and distances: North 53 degrees 22 minutes 52 seconds East 145.15 feet; thence North 79 degrees 47 minutes 06 seconds East 138.04 feet; thence North 62 degrees 01 minutes 29 seconds East 178.45 feet; thence North 31 degrees 36 minutes 26 seconds East 227.38 feet; thence North 23 degrees 40 minutes 15 seconds East 65.93 feet; thence North 66 degrees 36 minutes 12 seconds East 63.89 feet; thence North 13 degrees 04 minutes 13 seconds East 82.94 feet; thence North 54 degrees 31 minutes 28 seconds West 86.70 feet; thence North 01 degrees 17 minutes 43 seconds East 394.12 feet; thence North 17 degrees 20 minutes 17 seconds West 135.79 feet; thence North 17 degrees 46 minutes 36 seconds West 116.68 feet; thence North 48 degrees 20 minutes 08 seconds West 209.24 feet; thence North 58 degrees 17 minutes 50 seconds West 361.34 feet; thence North 10 degrees 41 minutes 56 seconds West 204.65 feet; thence North 09 degrees 36 minutes 41 seconds East 207.92 feet; thence North 03 degrees 31 minutes 02 seconds East 177.70 feet; thence North 17 degrees 11 minutes 29 seconds West 170.93 feet; thence North 34 degrees 59 minutes 40 seconds West 79.67 feet; thence North 60 degrees 36 minutes 37 seconds West 212.54 feet; thence North 75 degrees 19 minutes 18 seconds West 184.60 feet; thence North 59 degrees 55 minutes 35 seconds West 169.01 feet; thence North 45 degrees 23 minutes 15 seconds West 141.47 feet; thence North 12 degrees 40 minutes 32 seconds West 117.51 feet; thence North 02 degrees 46 minutes 33 seconds West 232.66 feet; thence North 11 degrees 51 minutes 11 seconds East 169.23 feet; thence North 49 degrees 29 minutes 12 seconds East 110.87 feet; thence South 65 degrees 11 minutes 03 seconds East 220.17 feet; thence South 41 degrees 38 minutes 55 seconds East 137.38 feet; thence South 64 degrees 39 minutes 54 seconds East 147.02 feet; thence South 80 degrees 26 minutes 24 seconds East 249.88 feet; thence South 87 degrees 12 minutes 25 seconds East 325.36 feet; thence South 85 degrees 02 minutes 17 seconds East 171.01 feet; thence North 77 degrees 26 minutes 29 seconds East 218.35 feet; thence North 84 degrees 30 minutes 02 seconds East 142.97 feet; thence North 55 degrees 08

Exhibit A – Page 2 of 4

minutes 46 seconds East 93.51 feet; thence North 29 degrees 07 minutes 12 seconds East 199.75 feet; thence North 31 degrees 30 minutes 10 seconds East 86.51 feet; thence North 53 degrees 41 minutes 33 seconds West 119.21 feet; thence North 19 degrees 11 minutes 26 seconds West 197.39 feet; thence North 08 degrees 06 minutes 23 seconds East 228.41 feet; thence North 48 degrees 12 minutes 04 seconds East 132.05 feet; thence North 71 degrees 18 minutes 39 seconds East 100.92 feet; thence South 77 degrees 14 minutes 46 seconds East 168.01 feet; thence South 63 degrees 49 minutes 40 seconds East 141.41 feet; thence South 77 degrees 01 minutes 51 seconds East 283.45 feet; thence North 88 degrees 44 minutes 27 seconds East 211.89 feet; thence North 73 degrees 50 minutes 10 seconds East 220.97 feet; thence North 61 degrees 03 minutes 24 seconds East 280.66 feet; thence North 52 degrees 46 minutes 34 seconds East 249.38 feet; thence North 55 degrees 19 minutes 44 seconds East 260.87 feet; thence South 71 degrees 33 minutes 31 seconds East 158.09 feet; thence South 12 degrees 36 minutes 34 seconds East 129.74 feet; thence South 39 degrees 55 minutes 41 seconds West 160.55 feet; thence South 62 degrees 20 minutes 25 seconds West 196.21 feet; thence South 65 degrees 17 minutes 16 seconds West 266.67 feet; thence South 40 degrees 06 minutes 06 seconds West 294.14 feet; thence South 13 degrees 43 minutes 16 seconds West 189.60 feet; thence South 04 degrees 41 minutes 23 seconds East 148.81 feet; thence South 20 degrees 29 minutes 17 seconds East 122.59 feet; thence South 34 degrees 30 minutes 58 seconds East 271.31 feet; thence South 49 degrees 16 minutes 10 seconds East 270.53 feet; thence South 50 degrees 10 minutes 30 seconds East 236.11 feet; thence South 38 degrees 52 minutes 03 seconds East 212.81 feet; thence South 35 degrees 49 minutes 00 seconds East 274.80 feet; thence South 25 degrees 47 minutes 23 seconds East 252.40 feet; thence South 33 degrees 13 minutes 42 seconds East 279.14 feet; thence South 33 minutes 31 minutes 25 seconds East 383.44 feet; thence South 09 degrees 14 minutes 22 seconds East 378.63 feet; thence South 12 degrees 08 minutes 25 seconds East 199.88 feet; thence South 34 degrees 05 minutes 15 seconds East 167.33 feet; thence South 53 degrees 51 minutes 45 seconds East 113.91 feet; thence South 74 degrees 48 minutes 19 seconds East 127.87 feet; thence along the western right-of-way of an easement as illustrated in File 1973 Page 1576 as recorded with the Plymouth County Recorder of Deeds the following courses and distances: South 48 degrees 38 minutes 22 seconds West 285.59 feet; thence South 00 degrees 11 minutes 20 seconds West 719.91 feet; thence departing said line, North 83 degrees 21 minutes 51 seconds West 22.37 feet; thence South 83 degrees 58 minutes 06 seconds West 256.69 feet; thence North 88 degrees 37 minutes 49 seconds West 312.58 feet to the point of beginning.

The above-described tract of land contains 285.84 acres, more or less, and is subject to all recorded and unrecorded easements, restrictions, and rights-of-way.

Document 2022 1173

Book 2022 Page 1173 Type SP Pages 2
Date 3/16/2022 Time 10:00 AM
Rec Amt \$12.00

JOLYNN GOODCHILD, RECORDER
PLYMOUTH COUNTY, IOWA

Midland Surveying

Recorder's Index

County: Plymouth

Section: 31 / Township: T-93N / Range: R-48W

Section: 36 / Township: T-93N / Range: R-49W

Aliquot Part:

City:

Subdivision:

Block:

Proprietor: Gregory P. Heeren & Lori J. Heeren and David Heeren & Kerry J. Heeren

Requested By: USDA-Natural Resources Conservation Service

PREPARED BY ADAM TEALE, P.L.S., MIDLAND SURVEYING, INC., 501 NORTH MARKET, MARYVILLE, MO 64468 PHONE 660-582-8633

NATURAL RESOURCES CONSERVATION SERVICE
Emergency Watershed Protection Program
Floodplain Assessment

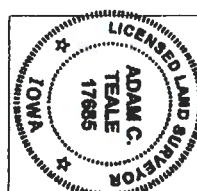
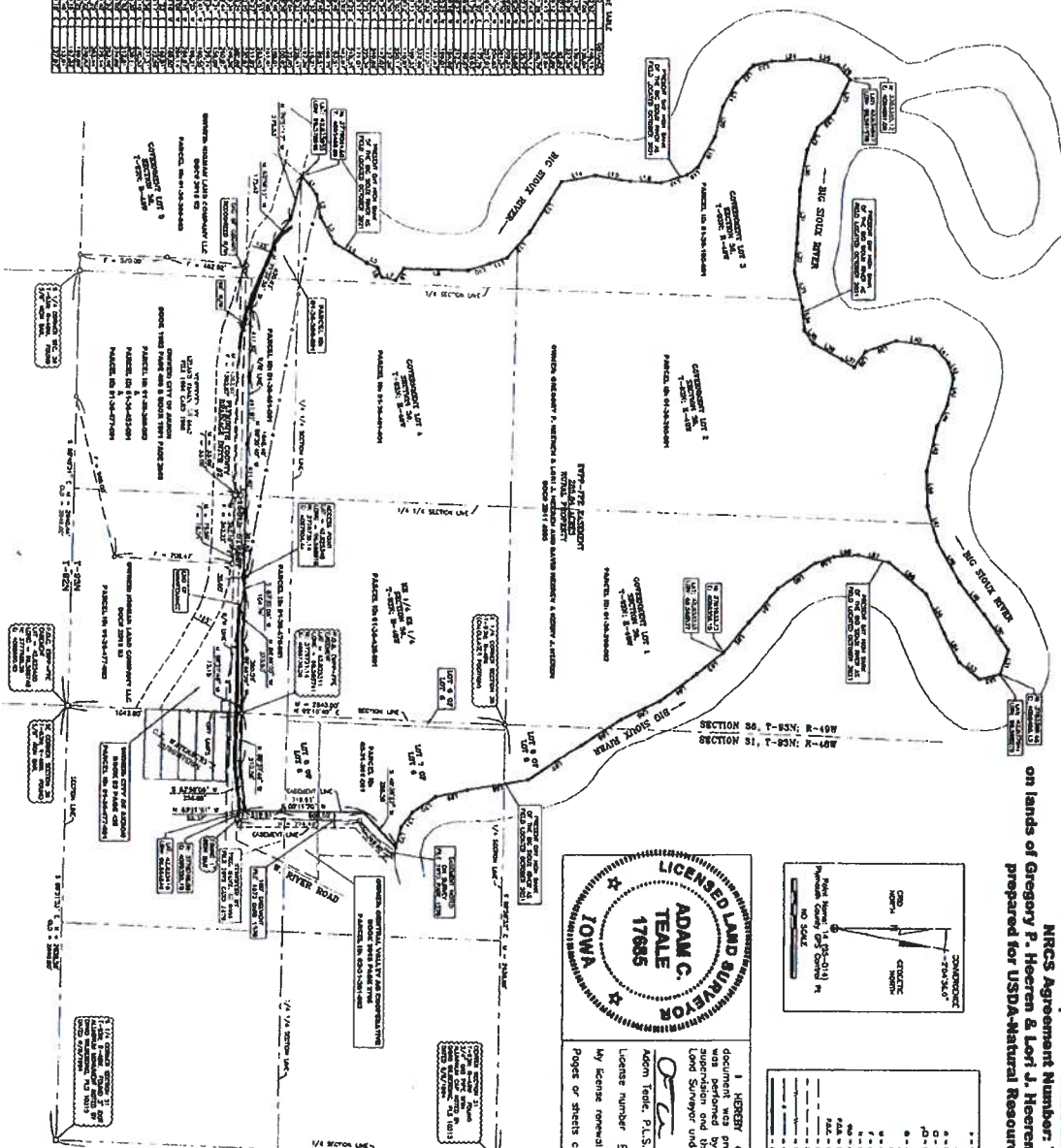
PROPERTY OWNER: GREGORY P. HEEREN & LORI J. HEEREN AND DAVID HEEREN & KERRY J. HEEREN
SECTION 31, T-93N, R-48W & SECTION 36, T-93N, R-49W, PLYMOUTH COUNTY, IOWA
NRCS Agreement Number: 75-6114-21-01520

MIDLAND SURVEYING
501 North Market, Maryville, MO 64468
Phone: 660-582-8633
Fax: 660-582-8634
www.midlandsurveying.com

LAND SURVEYORS: ADAM TEALE
501 North Market, Maryville, MO 64468
Phone: 660-582-8633
Fax: 660-582-8634
www.midlandsurveying.com

SHEET 1 OF 2 SHEETS

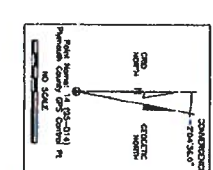
NO.	DESCRIPTION	ACRES
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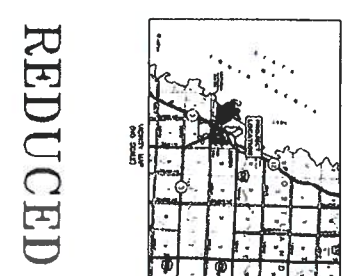
I, **ADAM C. TEALE**, being duly sworn, depose and say that the foregoing is a true and correct copy of the original survey as shown to me by the parties thereto, and that I am a duly Licensed Professional Land Surveyor under the laws of the State of Iowa.

Adam Teale, P.L.S. (6810)
License Number: 17685

by license renewal date is December 31, 2022
Pages or sheets covered by this seal: 1 of 1



- LEGEND**
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REDUCED

Exhibit B – Page 1 of 1

ROUTE OF INGRESS/EGRESS:

The easement area described in EXHIBIT A is accessed by W River Road/158th Street in Plymouth County, Iowa. The aforesaid public road(s) are maintained public road(s) and provide ingress and egress to the easement as it is described in EXHIBIT A of the warranty easement deed.

See Exhibit A (survey) for access location.

Exhibit C – Page 1 of 1

There are no drilling or mining activities allowed within the easement boundary.

