



Document 2011 114

AA

Book Page Pages 8

Date 1/26/2011 Time 10:18 AM

Rec Amt \$44.00

INDX  
NOTE  
CANCSCAN  
PROFANN SKAGGS, RECORDER  
VAN BUREN COUNTY IOWA

Prepared by and return to:

Fehseke &amp; Eschman Law Offices, 1025 Avenue G, Fort Madison, IA 52627 (319)372-7181

**AFFIDAVIT EXPLANATORY OF TITLE**

State of Iowa )

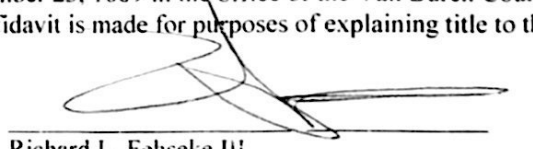
)ss:

County of Lee)

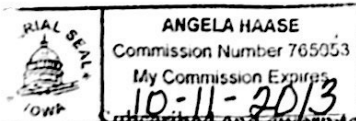
RE: Real Estate Described on Exhibits A and B attached hereto

The undersigned, first being duly sworn and placed under oath do depose and state that Richard L. Fehseke III is the attorney for Robert H. Vinson and Angela Vinson, husband and wife (the "Vinsons"); that Kevin J. Kuckelman is the attorney for Amos Zimmerman ("Zimmerman"); that the Vinsons and Zimmerman entered into the Permanent Easement dated January 5, 2011, attached hereto; that the Permanent Easement affects the property which is the subject of this Affidavit described on Exhibits A and B attached hereto; that the Permanent Easement attached hereto rescinds and fully replaces that certain Easement granted to Zimmerman by the Estates of Michael J. and Sandra L. Bentler dated November 13, 2009, and recorded on November 23, 1009 in the office of the Van Buren County Recorder at Book 153, Page 764; and that this Affidavit is made for purposes of explaining title to the above-described real estate.

  
Kevin J. Kuckelman  
Attorney for Amos Zimmerman

  
Richard L. Fehseke III  
Attorney for Robert H. Vinson & Angela Vinson

Subscribed and sworn to before me by Kevin J. Kuckelman on this 24<sup>th</sup> day of January, 2011.



  
Notary Public, State of Iowa

Subscribed and sworn to before me by Richard L. Fehseke III on this 11<sup>th</sup> day of January, 2011.

  
Notary Public, State of Iowa



**EXHIBIT "A"**

**All that part of the Southeast Quarter (SE ¼) of the Southeast Quarter (SE ¼) of Section Nine (9), Township Sixty-eight (68) North, Range Eight (8) West of the Fifth Principal Meridian, Van Buren County, Iowa, lying South and East of the center line of the County Road as it now exists, containing Twenty-five and Three-tenths (25.3) acres, more or less;**

**AND ALSO approximately Twenty-five and Eight-tenths (25.8) acres being the West Eight Hundred Fifty (850) feet of the Southwest Quarter (SW ¼) of the Southwest Quarter (SW ¼) of Section Ten (10), Township Sixty-eight (68) North, Range Eight (8) West of the Fifth Principal Meridian, also in Van Buren County, Iowa, and bounded on the East by the extension of an existing fence line to the North, as described in Willard Cocherell deed, as shown in the record of the Van Buren County Recorder recorded in Book 124, Page 822.**

**EXHIBIT "B"**

**Parcel "G"**

A part of the Northwest Quarter (NW ¼) of Section Fifteen (15), Township Sixty-eight (68) North, Range Eight (8) West of the Fifth Principal Meridian in Van Buren County, Iowa more particularly described as follows:

Commencing at the Northwest corner of said Northwest Quarter; thence South 88 degrees 44 minutes 41 seconds East, a distance of 53.66 feet, along the North line of said Northwest Quarter to the POINT OF BEGINNING; thence South 88 degrees 44 minutes 41 seconds East, a distance of 793.97 feet; thence South 01 degrees 22 minutes 41 seconds East, a distance of 2170.21 feet to the high water line of the Des Moines River; thence North 51 degrees 44 minutes 36 seconds West, a distance of 126.96 feet, along the high water line of the Des Moines River; thence North 49 degrees 58 minutes 18 seconds West, a distance of 134.18 feet, along the high water line of the Des Moines River; thence North 52 degrees 56 minutes 00 seconds West, a distance of 219.34 feet, along the high water line of the Des Moines River; thence North 51 degrees 03 minutes 10 seconds West, a distance of 115.60 feet, along the high water line of the Des Moines River; thence North 52 degrees 45 minutes 43 seconds West, a distance of 144.60 feet, along the high water line of the Des Moines River; thence North 60 degrees 18 minutes 19 seconds West, a distance of 72.58 feet, along the high water line of the Des Moines River; thence North 54 degrees 20 minutes 46 seconds West, a distance of 156.56 feet, along the high water line of the Des Moines River; thence North 56 degrees 52 minutes 21 seconds West, a distance of 83.88 feet, along the high water line of the Des Moines River to the Southerly extension of a fence line; thence North 00 degrees 06 minutes 36 seconds West, a distance of 1556.64 feet to the POINT OF BEGINNING; said described tract containing 34.57 Acres, more or less,



### PERMANENT EASEMENT

THIS Permanent Easement is made this <sup>5<sup>th</sup></sup> day of JANUARY, 2011 by and between Robert H. Vinson and Angela Vinson husband and wife ("the Vinsons") and Amos Zimmerman ("Mr. Zimmerman").

WHEREAS the parties to this agreement understand that an easement was granted to Mr. Zimmerman by the Estates of Michael and Sandra Bentler dated November 13, 2009 and recorded November 23, 2009 at Book 153 page 764 in the office of the Van Buren County Recorder (the "Estate Easement"), the validity and terms of which are questioned by the parties as reflected by litigation pending in the Iowa District Court in and for Van Buren County, cause number FILED 2/28/11 (the "Lawsuit"); and

WHEREAS the Vinsons are currently the owners of property described on Exhibit A (the "Vinson Property") which will be affected by this Permanent Easement; and

WHEREAS, Mr. Zimmerman is currently the owner of property described on Exhibit B (the "Zimmerman Property") which will be benefitted by this Permanent Easement; and

WHEREAS, the desire to completely replace the Estate Easement with this Easement; and

WHEREAS the parties to this agreement acknowledge the following mutual understandings of the present intentions of both parties: (1) the Vinson Property is presently enrolled in the forest reserve program which has specific requirements for density of trees on the acreage, and the Vinsons intend to maintain said enrollment; (2) the Vinsons intend to use the Vinson Property as commercial hunting property; (3) the Vinsons do not presently intend to use the roadway along the East boundary of the Vinson Property as their primary access to the Vinson Property; (4) Mr. Zimmerman does not presently intend to use this Permanent Easement as the primary access to his home situated upon the property described on Exhibit B (the "Zimmerman Property"); and (5) Mr. Zimmerman presently intends to use the Zimmerman Property for single-family residential purposes and has no present intention to develop any commercial enterprise on said property.

NOW, THEREFORE, in consideration of the mutual promises contained herein, the parties hereby agree as follows:

1. Vinsons hereby grant to the Mr. Zimmerman the right of ingress or egress to and from the Zimmerman Property on, over and through the East portion of the Vinson Property described as follows: This easement currently follows the path of an existing gravel and dirt private roadway 12 feet in width generally running parallel to, and within 60 feet of, the East boundary of the Vinson Property. The Vinsons may, however relocate the existing roadway, at the sole cost and expense of the Vinsons, to the East 15 feet of the Vinson Property. In the event the road is

relocated, then the easement granted herein for the benefit of the Zimmerman Property shall also be relocated to the location of the new roadway provided the relocated road is of substantially the same width and condition as the existing roadway.


2. This Permanent Easement is a permanent easement which shall be binding on the parties and their successors and assigns; provided, however, that the easement may only be used by the occupants of the residence on the Zimmerman Property.
3. The easement area may only be used to access the Zimmerman Property when access to the same is ~~impossible~~ <sup>restricted</sup> from the South. \* AZ RV d.v.
4. The easement area is for ingress-egress only and the use of the same is limited to passenger automobiles and trucks. The easement area shall not, for example, be used by four-wheelers, agricultural equipment, or recreational vehicles.
5. The Vinsons hereby reserve, for the benefit of themselves, their guests, invitees, successors, and assigns, rights to use the roadway so long as their use of the same does not unreasonably interfere with Mr. Zimmerman's rights under this agreement.
6. Vinsons may, at their sole option and at their sole expense, construct a gate across the easement area at the South and North boundaries of the Vinson property on these conditions: (A) Such gates, if constructed, shall be maintained in proper working order by the Vinsons; and (B) Mr. Zimmerman shall be given a key to the gates and shall be allowed twenty-four (24) access through the gateway. If the gates are constructed, they shall be closed and locked at all times, except to allow the passage of vehicles consistent with the terms of this Permanent Easement.
7. Mr. Zimmerman shall, at his cost and expense, repair damage done to the easement area and maintain the easement area in its present condition; provided, however, that he shall not be required to repair damage to the easement area caused by the Vinsons.
8. Mr. Zimmerman's use of the easement shall not unreasonably interfere with the Vinsons use of the easement area nor the Vinson Property.
9. The Estate Easement is hereby canceled and rescinded and is fully replaced by this Permanent Easement.
10. In connection with any claim, demand, or cause of action arising out of, or related to, this Permanent Easement, the prevailing party shall be entitled to recover attorney's fees from the other party.

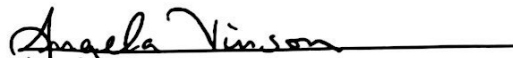
Page 2 of 3

\* For purposes of this agreement, the term "restricted" means AZ RV d.v.  
normal vehicular traffic (including trailers) cannot  
navigate the road, including the driveway, from the South.

11. This Permanent Easement constitutes the entire agreement between the parties and it is understood that there is no agreement to do any act or deed except as specifically provided for herein. All provisions of each of the attachments and the "Whereas" provisions of this agreement are by this reference made a part hereof.
12. Each party shall, within 15 days of the date this Permanent Easement is executed, dismiss their claims against the other party in the Lawsuit, with prejudice.

IN WITNESS WHEREOF, the parties hereto have executed this *Permanent Easement* on the date and year first above written.

  
Robert H. Vinson

  
Angela Vinson

  
Amos Zimmerman