

RESOLUTION \_\_\_\_\_

A RESOLUTION APPROVING CONSERVATION EASEMENT FOR THE CENTRAL PLATTE NATURAL RESOURCES DISTRICT

WHEREAS, K & M LTD., a Nebraska Limited Partnership, is the owner of the following described real estate described on the attached Exhibit "B", which Exhibit "B" is incorporated herein and made a part hereof by this reference.

WHEREAS, the Central Platte Natural Resources District is desirous of obtaining a conservation easement from K & M LTD., a Nebraska Limited Partnership, on the real estate legally described hereinabove and K & M LTD., a Nebraska Limited Partnership, is desirous of selling a conservation easement to the Central Platte Natural Resources District on the real estate legally described hereinabove; and

WHEREAS, Central Platte Natural Resources District and K & M LTD., a Nebraska Limited Partnership, have submitted a request to The City of Lexington, Nebraska for the approval of a conservation easement on the real estate legally described hereinabove; and

WHEREAS, pursuant to NEB. REV. STAT. §76-2,112 (2003), on July 14, 2009, the City of Lexington forwarded the easement request to the City of Lexington Planning and Zoning Commission for their review and recommendations regarding the conformity of the proposed acquisition to comprehensive planning for the area; and

WHEREAS, also pursuant to NEB. REV. STAT. §76-2,112 (2003) on August 5, 2009, the City of Lexington Planning and Zoning Commission recommended approval of the easement at their regularly scheduled meeting; and

NOW, BE IT RESOLVED by the City of Lexington that the designated conservation easement on the real estate legally described hereinabove and more specifically set forth in the Deed of Conservation Easement attached hereto as Exhibit "A" and incorporated herein by this reference, should be, and hereby is, approved.

Resolution moved by Council Member \_\_\_\_\_

Seconded by Council Member \_\_\_\_\_

Vote:

Mayor Fagot: For \_\_\_\_; Against \_\_\_\_; Abstained \_\_\_\_; Not Present \_\_\_\_  
Council Member Tomasek: For \_\_\_\_; Against \_\_\_\_; Abstained \_\_\_\_; Not Present \_\_\_\_  
Council Member Bennett: For \_\_\_\_; Against \_\_\_\_; Abstained \_\_\_\_; Not Present \_\_\_\_  
Council Member Miller: For \_\_\_\_; Against \_\_\_\_; Abstained \_\_\_\_; Not Present \_\_\_\_  
Council Member Salem: For \_\_\_\_; Against \_\_\_\_; Abstained \_\_\_\_; Not Present \_\_\_\_

PASSED AND ADOPTED this \_\_\_\_ day of August, 2009.

CITY OF LEXINGTON

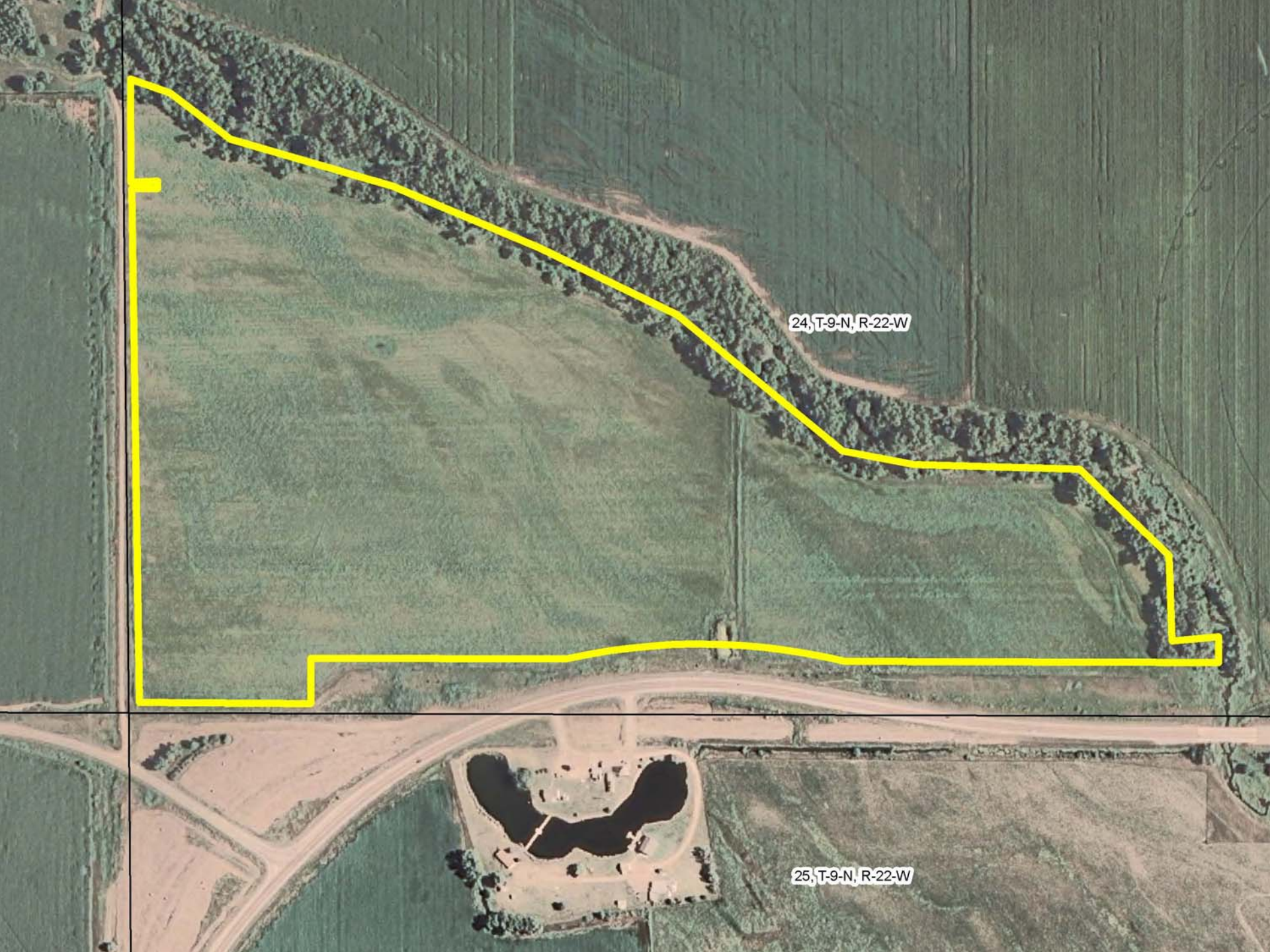
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John Fagot, Mayor

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Pam Berke, City Clerk

1754-39/246285



24, T-9-N, R-22-W

25, T-9-N, R-22-W

**-C.P.N.R.D. SURVEY - ANDERSON TRACT-**  
**PART OF THE SOUTH 1/2, SECTION 24,**  
**TOWNSHIP 9 NORTH, RANGE 22 WEST, OF THE 6th P.M.,**  
**DAWSON COUNTY, NEBRASKA**

**SECTION CORNER TIES**

**MEANDER CORNER**  
**SOUTHWEST QUARTER**  
 SEC. 24-9-22  
 FOUND 1/2" REBAR 0.3' ABOVE GROUND AT TOP OF SOUTH BANK OF RIVER  
 S - 39.94' - 8" REBAR IN E-W FENCELINE  
 SE - 49.70' - NAIL IN PP  
 SSW - 37.0' - NAIL IN TOP OF BRACE POST  
 S - 6.0' - NAIL IN WEST SIDE 24" ELM  
 W - 10.0' - NAIL IN SOUTH SIDE DOUBLE 36" COTTONWOOD

**SOUTHEAST CORNER**  
**SOUTHWEST QUARTER**  
 SEC. 24-9-22  
 FOUND 1/2" REBAR 0.3' BELOW SURFACE IN FIELD DRIVE  
 N - 174.45' - SE CORNER CONC. ROW MARKER  
 S - 89.25' - NE CORNER CONC. ROW MARKER  
 SSW - 96.67' - NAIL IN TOP OF GATE POST  
 SSW - 99.19' - NAIL IN TOP OF BRACE POST  
 SW - 128.23' - NAIL IN TOP OF BRACE POST  
 N - 29.8' - CENTERLINE E-W HIGHWAY

**SOUTHWEST CORNER**  
**SOUTHWEST QUARTER**  
 SEC. 24-9-22  
 FOUND 1/2" REBAR 1.0' BELOW SURFACE AT CENTER OF INTERSECTION OF COUNTY ROADS  
 SE - 63.2' - NAIL IN TOP OF TELE. WARNING POST  
 NNE - 58.7' - NAIL IN TOP OF GATE POST  
 NNW - 57.9' - NAIL IN TOP OF GATE POST  
 NE - 43.5' - NAIL IN TOP OF CORNER FENCE POST  
 N - 33.5' - E-W OVERHEAD ELECTRIC LINES

**SOUTHEAST CORNER**  
**SOUTHWEST QUARTER**  
 SEC. 24-9-22  
 FOUND ALUM. CAP IN CONC. FLUSH WITH CENTERLINE E-W ASPH. HIGHWAY  
 SW - 111.75' - SPIKE IN PP  
 S - 110.0' - CONC. ROW MARKER  
 N - 110.80' - SPIKE IN PP  
 NE - 84.2' - PUNCHED HOLE IN TOP WEST END OF CMP

**LEGAL DESCRIPTION**

A tract of land being part of the South Half (S 1/2) of Section Twenty-four (24), Township Nine (9) North, Range Twenty-two (22) West of the 6th Principal Meridian, Dawson County, Nebraska, more particularly described as follows:  
 Referring to the Southwest Corner of the Southwest Quarter of said Section 24 and assuming the South line of the said Quarter as bearing S 89°44'05" E and all bearings contained herein are relative thereto; thence S 89°44'05" E on said South line a distance of 33.0 feet; thence N 00°53'15" W a distance of 33.0 feet to the ACTUAL POINT OF BEGINNING and a point on the Northerly Right-of-Way of U.S. Highway 283; thence S 89°44'05" E on said Northerly Right-of-Way and parallel with said South line a distance of 536.82 feet; thence N 00°15'55" W on said Northerly Right-of-Way a distance of 142.00 feet; thence S 89°44'05" E on said Northerly Right-of-Way and parallel with said South Line a distance of 789.09 feet to the beginning of a non-tangent curve to the right having a central angle of 10°56'24", a radius of 1727.02 feet, an arc length of 329.76 feet, and a chord bearing N 81°33'58" E a distance of 329.26 feet; thence S 84°32'43" E on said Northerly Right-of-Way a distance of 55.00 feet; thence N 00°00'26" W leaving said Right-of-Way a distance of 149.61 feet; thence N 83°06'59" E a distance of 79.12 feet; thence S 03°58'40" E a distance of 168.14 feet to a point on said Northerly Right-of-Way; thence S 83°28'30" E on said Northerly Right-of-Way a distance of 308.82 feet; thence S 89°44'05" E continuing on said Northerly Right-of-Way and parallel with said South line a distance of 1164.52 feet; thence N 00°15'55" E leaving said Northerly Right-of-Way a distance of 81.47 feet; thence S 84°10'20" W a distance of 145.86 feet; thence N 02°10'56" W a distance of 266.44 feet; thence N 46°04'02" W a distance of 387.65 feet; thence N 88°11'39" W a distance of 517.04 feet; thence N 79°33'47" W a distance of 228.30 feet; thence S 0°31'08" W a distance of 670.28 feet; thence N 64°09'54" W a distance of 480.21 feet; thence N 67°21'25" W a distance of 497.25 feet; thence N 73°42'53" W a distance of 525.21 feet; thence N 52°52'24" W a distance of 236.73 feet; thence N 70°27'32" W a distance of 133.02 feet to a point on the Easterly Right-of-Way of a County Road; thence S 00°53'15" E on said Easterly Right-of-Way and parallel with the West line of said Section 24 a distance of 323.04 feet; thence N 89°06'45" E leaving said Easterly Right-of-Way a distance of 81.10 feet; thence S 00°53'15" E parallel with said West line a distance of 20.00 feet; thence S 89°06'32" W a distance of 80.78 feet to a point on said Easterly Right-of-Way; thence S 00°53'15" E on said Easterly Right-of-Way and parallel with said West line a distance of 1604.61 feet to the point of beginning. Containing 80.94 acres more or less.

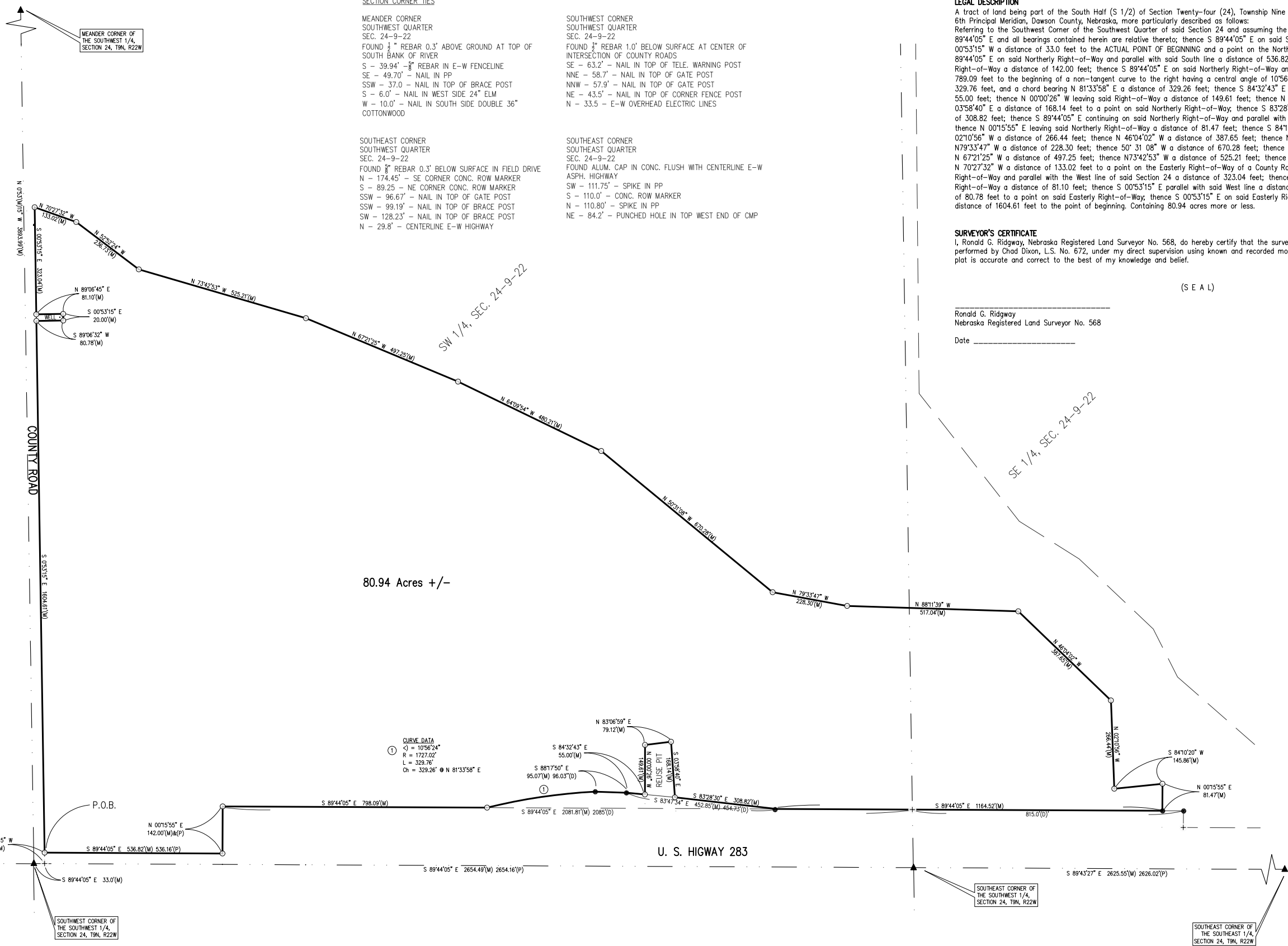
**SURVEYOR'S CERTIFICATE**

I, Ronald G. Ridgway, Nebraska Registered Land Surveyor No. 568, do hereby certify that the survey on the above referenced Legal Description, was performed by Chad Dixon, L.S. No. 672, under my direct supervision using known and recorded monuments. All information shown on the above plat is accurate and correct to the best of my knowledge and belief.

(S E A L)

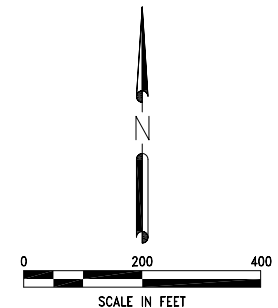
Ronald G. Ridgway  
 Nebraska Registered Land Surveyor No. 568

Date \_\_\_\_\_



80.94 Acres +/-

**CURVE DATA**  
 Δ = 10°56'24"  
 R = 1727.02'  
 L = 329.76'  
 Ch = 329.26' @ N 81°33'58" E



- ▲ = SECTION CORNERS FOUND
- = CORNERS FOUND (ROW MARKER)
- = CORNERS ESTABLISHED (CAPPED 5/8" x 24" REBAR)
- + = TEMPORARY POINT
- (P) = PLATTED DISTANCES
- (D) = DEEDED DISTANCES
- (M) = MEASURED DISTANCES

**MA**  
**Mor & Associates**  
 1111 CENTRAL AVENUE  
 KEARNEY, NE 68847-6833  
 Tel: 308-234-8456  
 Fax: 308-234-1146  
**ANDERSON - 24-9-22**



**LEININGER, SMITH, JOHNSON, BAACK,  
PLACZEK & ALLEN**

ATTORNEYS AT LAW

ESTABLISHED IN 1929

104 N. WHEELER STREET  
P.O. BOX 790  
GRAND ISLAND, NE 68802  
(308) 382-1930

FAX # (308) 382-5521  
www.gilawfirm.com

OFFICE AT SUPERIOR:

145 EAST 4TH STREET  
P.O. BOX 186  
SUPERIOR, NE 68978  
(402) 879-3251

A.J. LUEBS (1903-1996)

D. STEVEN LEININGER  
BRUCE I. SMITH  
MICHAEL L. JOHNSON  
AREND R. BAACK  
DANIEL M. PLACZEK  
CATHLEEN H. ALLEN  
BRANDON S. CONNICK  
SONYA K. KOPERSKI  
TANYA J. JANULEWICZ  
JORDAN W. ADAM

JAMES A. BELTZER  
SPECIAL COUNSEL

July 7, 2009

Mr. Joe Peplitsch  
City Manager  
406 E. 7<sup>th</sup> Street  
Lexington, NE 68850

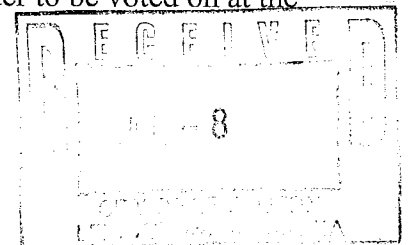
Re: Deed of Conservation Easement between Central Platte Natural Resource District as  
Grantee and K & M LTD. as Grantor

Dear Mr. Peplitsch:

Enclosed please find a copy of the above-referenced Deed of Conservation Easement which we  
have previously discussed.

As required by NEB. REV. STAT. §76-2,112(3), in order to minimize conflicts with land-use  
planning, all conservation easements have to be approved by the appropriate governing body,  
either the city or village if the property lies partially or entirely within the boundaries or zoning  
jurisdiction of a city or village; or the county, if the property lies entirely outside the boundaries  
and zoning jurisdiction of any city or village. In addition, the appropriate governing body shall  
first refer the proposed easement to and receive comments from the local planning commission  
with jurisdiction over the property. The local planning commission has 60 days to provide  
comments regarding the conformity of the proposed acquisition to comprehensive planning for  
the area. If comments are not received within this 60 day period, this easement will be deemed  
approved by the local planning commission.

It is my understanding that the real estate described on the enclosed Deed of Conservation  
Easement lies within the zoning jurisdiction of the City of Lexington. Accordingly, please place  
this matter on the agenda for the City Council meeting scheduled for July 14, 2009. It is my  
understanding that at this meeting the Deed of Conservation Easement will be referred to the  
City Planning and Zoning Commission for review and comments. It is my further understanding  
that the City Planning and Zoning Commission's next meeting is August 5, 2009. We are  
hopeful that the Planning and Zoning Commission will then be able to forward their comments  
and recommendations regarding this Easement to the City Council in order to be voted on at the



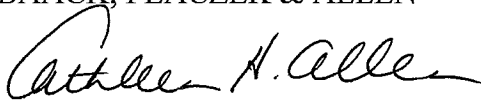
Mr. Joe Peplitsch  
July 7, 2009  
Page 2

City Council meeting on August 11, 2009. Consistent with my conversation with you, I will not have a representative from the Central Platte Natural Resources District attend any of these meetings unless you feel that it would be helpful.

I appreciate all of your help and I look forward to working with you on these matters.

Very truly yours,

LEININGER, SMITH, JOHNSON,  
BAACK, PLACZEK & ALLEN

A handwritten signature in cursive script that reads "Cathleen H. Allen". The signature is written in black ink and is positioned below the firm name.

CATHLEEN H. ALLEN  
CHA/dlh/encl.

1754-39/242511

## **DEED OF CONSERVATION EASEMENT**

This Deed of Conservation Easement ("Conservation Easement") made this \_\_\_\_ day of \_\_\_\_\_, 2009, by and between K & M LTD., a Nebraska Limited Partnership ("Grantor") and the Central Platte Natural Resources District, a political subdivision of the State of Nebraska, ("Grantee" or "District").

WHEREAS, the Central Platte Natural Resources District is a political subdivision of the State of Nebraska and is authorized by the State of Nebraska to acquire and dispose of water and water rights and regulate ground water within management areas; and

WHEREAS, the District has established a management area pursuant to the Nebraska Ground Water Management and Protection Act; and

WHEREAS, the Grantor is the owner of real estate located within the geographic area included within the management area; and

WHEREAS, the Grantor and Grantee jointly recognize the necessity of conserving and managing the ground water within the geographic area covered by the management plan; and

WHEREAS, all requirements imposed pursuant to the Nebraska Conservation and Preservation Easements Act, NEB. REV. STAT. §§76-2,111 through 76-2,118 (Reissue 2003) have been complied with in that the local planning commission, if applicable, and the appropriate governing body have approved of this Deed of Conservation Easement.

NOW, THEREFORE, in consideration of the mutual covenants contained herein and in receipt of the payment of valuable consideration to the Grantor by the Grantee, the receipt of which is hereby acknowledged, the Grantor and Grantee agree as follows:

1. The Grantor hereby assigns, transfers and grants to the Grantee a Conservation Easement enforceable with respect to the property (the Property) of the Grantor described on the attached Exhibit "A", which Exhibit "A" is incorporated herein and made a part hereof by this reference.

2. The terms, conditions and restrictions of the Conservation Easement are as follows:

- a. As used in this Conservation Easement, the term "water well" shall mean any water well as that term is defined in Nebraska statutes.
- b. No water well capable of pumping more than 50 gallons per minute may exist or be constructed on the Property. Any water well that exists on the Property on the date of this Conservation Easement and that is capable of pumping more than 50 gallons per minute shall be decommissioned in accordance with all applicable statutes, rules and regulations or permanently reduced in capacity so that it is incapable of pumping more than 50 gallons per minute. Except that any irrigation well existing on the Property on the date of this Conservation Easement that was previously used to irrigate other land in addition to the Property may continue to be used to irrigate the other land. Only land previously certified by the District for irrigation by that well may be irrigated. No additional land may ever be irrigated with the well. The pipes, pivot, and any and all other equipment formerly used to irrigate the Property must be permanently removed, detached, or otherwise disabled to the satisfaction of the District.
- c. Water wells capable of pumping 50 gallons per minute or less individually but in excess of 50 gallons per minute collectively may not be clustered or joined nor may the water from such wells be commingled or in any other way combined unless the wells are used as described in Paragraph 2.b. above.
- d. Water wells capable of pumping 50 gallons per minute or less may be used to provide water on the Property for (1) household and other domestic uses, or (2) watering range livestock.
- e. No use of the water from a natural stream, regardless of whether or not a permit for such use is required from the Nebraska Department of Natural Resources or any successor agency, shall be made on the Property except for providing water for range livestock on the Property.
- f. No water from any water well not located on the Property shall be used on the Property except for (1) household and other domestic uses, or (2) watering range livestock.
- g. The Property must remain in dryland agricultural production unless prior written approval is granted by the District to alter this prohibition. No crops, hay, grass or other plants that could be subirrigated shall be grown on Property. Only those items listed on Exhibit "1" may be grown on the property unless prior written approval is granted by the District.
- h. No use shall be made of the Property which will consume groundwater, including, but not limited to, the following:
  - (1) No pits or other excavated areas that would expose or consume ground water shall be allowed;



- (2) No mining, sand or gravel operations shall be allowed;
- (3) No industrial, commercial, agricultural or residential development shall occur on the Property unless prior written approval is granted by the District.

3. This Conservation Easement shall be perpetual. It is appurtenant and runs with the land as an incorporeal interest in the Property and shall be enforceable against any owner or other person having any interest in the above described property including the Grantor, all persons or entities holding any interest acquired through the Grantor and all Grantor's heirs, successors, assigns and personal representatives.

4. It is the Grantor's intent, through this Deed of Conservation Easement, to permanently transfer and surrender any rights that they or their successors, heirs, assigns or personal representatives may have to irrigate or subirrigate the above-described property and to permanently prevent the development and use of any ground water for any uses on the Property or off except those specifically permitted by Paragraph 2 above. The fact that the well or wells on the Property have been decommissioned, reduced in pumping capacity to 50 gallons per minute or less, or are no longer used to irrigate the Property cannot be used to supply an offset to allow irrigation of any other land or any other water use or to justify construction of a new water well as a replacement.

5. Upon any breach of the terms of this Conservation Easement by the Grantor, the Grantee may, after reasonable notice to the Grantor, institute suits to enjoin any breach or enforce any covenant by ex parte, temporary, and/or permanent injunction either prohibitive or mandatory. The Grantee's remedies shall be cumulative and shall be in addition to any other rights and remedies available to the Grantee at law or equity. If the Grantor is found to have breached any of the terms of this Conservation Easement, the Grantor shall reimburse the Grantee for any costs or expenses incurred by the Grantee, including court costs and reasonable attorney's fees to the extent permitted by applicable law. No failure on the part of the Grantee to enforce any term of this Conservation Easement shall discharge or invalidate such term or any other term hereof or affect the right of the Grantee to enforce the same in the event of a subsequent breach or default.

6. The Grantee, acting by and through their respective employees and agents, have the right to enter the Property at reasonable times for the purpose of inspecting the Property to determine whether the Grantor is complying with the terms of this Conservation Easement.

K & M LTD., a Nebraska Limited Partnership

Tax ID # \_\_\_\_\_

\_\_\_\_\_  
Kerry K. Anderson, General Partner

\_\_\_\_\_  
Marion A. Anderson, General Partner

STATE OF NEBRASKA    )  
                                  ) ss:  
COUNTY OF \_\_\_\_\_ )

The foregoing Deed of Conservation Easement was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 2009 by Kerry K. Anderson, General Partner of K & M Ltd., a Nebraska Limited Partnership, on behalf of said partnership, and known to me personally or produced satisfactory evidence of identification to me.

\_\_\_\_\_  
Notary Public

STATE OF NEBRASKA    )  
                                  ) ss:  
COUNTY OF \_\_\_\_\_ )

The foregoing Deed of Conservation Easement was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 2009 by Marion A. Anderson, General Partner of K & M Ltd., a Nebraska Limited Partnership, on behalf of said partnership, and known to me personally or produced satisfactory evidence of identification to me.

\_\_\_\_\_  
Notary Public

My commission expires: \_\_\_\_\_

Accepted for the  
Central Platte Natural Resources District

By \_\_\_\_\_  
Ronald G. Bishop, General Manager

STATE OF NEBRASKA    )  
                                  ) ss:  
COUNTY OF HALL        )

The foregoing Deed of Conservation Easement was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 2009 by Ronald G. Bishop, General Manager of Central Platte Natural Resources District, a political subdivision of the State of Nebraska, on behalf of said Natural Resources District and known to me personally or produced satisfactory evidence of identification to me.

\_\_\_\_\_  
Notary Public

My commission expires: \_\_\_\_\_

EXHIBIT "1"

Crops that may be grown on the Property as indicated by Paragraph 2.g.

Dryland corn  
Dryland soybeans  
Dryland milo  
Dryland wheat  
Dryland oats  
Dryland barley  
Dryland brome grass  
Forage sorghum  
Little bluestem  
Sideoats grama  
Canada wildrye  
Needle-and-thread  
Blue grama  
Hairy grama  
Buffalograss  
Sand dropseed  
Indiangrass  
Prairie junegrass  
Porcupine grass  
Sand lovegrass  
Inland saltgrass  
Thickspike wheatgrass  
Prairie dropseed  
Tall dropseed  
Scribners panicum  
Prairie sandreed

1754-39/241365

#### LEGAL DESCRIPTION

A tract of land being part of the South Half (S 1/2) of Section Twenty-four (24), Township Nine (9) North, Range Twenty-two (22) West of the 6th Principal Meridian, Dawson County, Nebraska, more particularly described as follows:

Referring to the Southwest Corner of the Southwest Quarter of said Section 24 and assuming the South line of the said Quarter as bearing S 89°44'05" E and all bearings contained herein are relative thereto; thence S 89°44'05" E on said South line a distance of 33.0 feet; thence N 00°53'15" W a distance of 33.0 feet to the ACTUAL POINT OF BEGINNING and a point on the Northerly Right-of-Way of U.S. Highway 283; thence S 89°44'05" E on said Northerly Right-of-Way and parallel with said South line a distance of 536.82 feet; thence N 00°15'55" W on said Northerly Right-of-Way a distance of 142.00 feet; thence S 89°44'05" E on said Northerly Right-of-Way and parallel with said South Line a distance of 789.09 feet to the beginning of a non-tangent curve to the right having a central angle of 10°56'24", a radius of 1727.02 feet, an arc length of 329.76 feet, and a chord bearing N 81°33'58" E a distance of 329.26 feet; thence S 84°32'43" E on said Northerly Right-of-Way a distance of 55.00 feet; thence N 00°00'26" W leaving said Right-of-Way a distance of 149.61 feet; thence N 83°06'59" E a distance of 79.12 feet; thence S 03°58'40" E a distance of 168.14 feet to a point on said Northerly Right-of-Way; thence S 83°28'30" E on said Northerly Right-of-Way a distance of 308.82 feet; thence S 89°44'05" E continuing on said Northerly Right-of-Way and parallel with said South line a distance of 1164.52 feet; thence N 00°15'55" E leaving said Northerly Right-of-Way a distance of 81.47 feet; thence S 84°10'20" W a distance of 145.86 feet; thence N 02°10'56" W a distance of 266.44 feet; thence N 46°04'02" W a distance of 387.65 feet; thence N 88°11'39" W a distance of 517.04 feet; thence N 79°33'47" W a distance of 228.30 feet; thence 50° 31' 08" W a distance of 670.28 feet; thence N 64°09' 54" W a distance of 480.21 feet; thence N 67°21'25" W a distance of 497.25 feet; thence N 73°42'53" W a distance of 525.21 feet; thence N 52°52'24" W a distance of 236.73 feet; thence N 70°27'32" W a distance of 133.02 feet to a point on the Easterly Right-of-Way of a County Road; thence S 00°53'15" E on said Easterly Right-of-Way and parallel with the West line of said Section 24 a distance of 323.04 feet; thence N 89°06'45" E leaving said Easterly Right-of-Way a distance of 81.10 feet; thence S 00°53'15" E parallel with said West line a distance of 20.00 feet; thence S 89°06'32" W a distance of 80.78 feet to a point on said Easterly Right-of-Way; thence S 00°53'15" E on said Easterly Right-of-Way and parallel with said West line a distance of 1604.61 feet to the point of beginning. Containing 80.94 acres more or less.