

2003K194791

SANDY WEGMAN
RECORDER
KANE COUNTY, IL

MAP ATTACHED

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DEED OF AGRICULTURAL CONSERVATION EASEMENT

THIS DEED OF AGRICULTURAL CONSERVATION EASEMENT (the "Easement") granted this 5th day of November, 2003, by **COMMERICAL NATIONAL BANK OF BERWYN AS TRUSTEE UNDER TRUST AGREEMENT DATED JULY 15, 1991, AND KNOWN AS TRUST NUMBER 910079** (hereinafter collectively referred to as the "Grantor"), to the **COUNTY OF KANE**, a body politic, with its principal office located at 719 S. Batavia Avenue, Geneva, IL 60134 (the "Grantee").

~~LaSalle Bank National Association~~
successor trustee to

WITNESSETH:

WHEREAS, Grantors are the collective owners of certain agricultural real property in Kaneville Township, County of Kane, Illinois, comprising 158.87 acres, more or less, as more particularly described in Exhibit A attached hereto and incorporated herein, and involving property identified in whole or in part by parcel identification numbers:10-31-400-001-000, but excluding therefrom any existing public roadway (the "Property"); and

WHEREAS, Exhibit B consists of a Plat of Agricultural Conservation Easement of the Property prepared by Shawn Van Kampen and dated July 18, 2002, a copy of which is attached hereto and incorporated herein; and

WHEREAS, Grantee is a "qualified organization" as such term is defined in Section 170 (h)(3) of the Internal Revenue Code, as amended, (the "Code") and is qualified to hold conservation easements under the laws of the State of Illinois; and

WHEREAS, Grantor wishes to convey to Grantee, for agricultural conservation purposes, a perpetual restriction on the use which may be made of the Property; and

WHEREAS, the Property consists primarily of productive agricultural land and the primary purpose of this Easement is to protect the agricultural soils, agricultural viability, and agricultural productivity of the Property in perpetuity; and

WHEREAS, the grant of this Easement will also serve the "conservation purpose", as such term is defined in Section 170(h)(4)(A) of the Code; and

40

WHEREAS, County of Kane (also sometimes referred to as "Kane County") has established the Kane County Agricultural Conservation Easement and Farmland Protection Program pursuant to Ordinance No. 01-67 adopted April 10, 2001 in order to maintain and preserve the natural beauty of Kane County and to acquire conservation easements imposing limitations on the subject lands for the purpose of protecting viable farm operations and farmland to maintain the rural character of the County of Kane, permanently preserving scenic vistas and environmentally significant areas, including wetlands, lakes, streams and wood lots, creating and preserving "buffer zones" around significant environmental areas and agricultural areas, protecting Kane County from encroachment of neighboring cities and villages, restricting land divisions, retaining or protecting natural, scenic or open space values of real property, assuring the availability of real property for agricultural, forest, recreational or open space use, protecting natural resources, maintaining or enhancing air or water quality, and preserving the historical, architectural, archeological or cultural aspects of real property in Kane County; and

WHEREAS, the current use of the Property for agricultural production and its current improvements are consistent with the foregoing conservation purposes, and the agricultural, open space, scenic, natural habitat, and historic resources of the Property are collectively referred to herein as the "Conservation Values" of the Property; and

WHEREAS, Grantor intends that the agricultural and other Conservation Values of the Property be preserved and maintained, and Grantor intends to convey to Grantee hereby the right to preserve and protect the agricultural and other Conservation Values of the Property in perpetuity and to conduct agricultural operations on the Property in a manner consistent with a conservation plan prepared in consultation with the Natural Resources Conservation Service ("NRCS").

WHEREAS, The Federal Farm and Ranch Lands Protection Program's purpose is to purchase conservation easements on land with prime, unique, or other productive soil for the purpose of protecting topsoil from conversion to nonagricultural uses (16 USC 3838H and 3838hi). Under the authority of the Farm and Ranch Lands Protection Program, the United States Department of Agriculture's Natural Resources Conservation Service (hereinafter the United States") has provided or will be providing \$278,022.50 (35% of total cost of easement) to the Grantee for the acquisition of this conservation easement, entitling the United States to the rights identified herein.

NOW, THEREFORE, in consideration of the foregoing and the mutual covenants, terms, conditions and restrictions contained herein and for other valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1. Statement of Purpose

The primary purpose of this Easement is to protect the agricultural soils, agricultural viability, and agricultural productivity of the Property in perpetuity. No activity which shall significantly impair the actual or potential use of the Property for agricultural production shall be permitted. To the extent that the preservation and protection of the Conservation Values of the Property referenced above is consistent with the primary purpose of protecting the agricultural soils, agricultural viability, and agricultural productivity of the Property in perpetuity, it is also the purpose of this Easement to protect those Conservation Values of the Property, and to such extent, no activity which shall significantly impair those Conservation Values of the Property shall be permitted.

2. Rights and Responsibilities Retained by Grantor

Notwithstanding any provisions of this Easement to the contrary, Grantor reserves all customary rights and privileges of ownership, including the rights to sell, lease, and devise the Property, as well as any other rights consistent with the Statement of Purpose set forth in Paragraph 1 above and not specifically prohibited or limited by this Easement. Unless otherwise specified below, nothing in this Easement shall require Grantor to take any action to restore the condition of the Property after any act of God or other event over which Grantor had no control. Nothing in this Easement relieves Grantor of any obligation with respect to the Property or restriction on the use of the Property imposed by law.

3. Right to Use Property for Customary Agricultural Purposes

Grantor retains the right to use the Property, subject to the following Conservation Plan referenced in Paragraph 9 herein, for customary agricultural purposes, or to permit others to use the Property for customary agricultural purposes, such as, but not limited to, production, cultivation and growing of soil crops and the raising of livestock (including poultry, bees, fish and horses), and if one portable produce stand is erected, the products sold must be primarily produced on the Property.

Further, Concentrated Animal Feeding Operations ("CAFO") are so designated when there are more than the following and are expressly prohibited:

<u>Animal Type</u>	<u>Number of Animals Equal to 500 Animal Units</u>
Beef Cattle and Heifers	500
Veal Cattle	500
Dairy Cattle (mature milked or dry)	500
Swine (>55 lb)	1,250
Immature Swine (<55 lb)	5,000
Turkeys	27,500
Chickens	50,000
Horses	250
Sheep or lambs	5,000
Ducks	2,500

All other uses, including nurseries, sod farms, greenhouses, and residences are expressly prohibited, except as otherwise permitted in accordance with Paragraph 6 below. Finally, no use shall be made of the Property, and no activity thereon shall be permitted which, in the reasonable opinion of the Grantee, is or is likely to become inconsistent with the purposes of this Easement as stated above.

4. Public Access

No public access is conveyed with this conservation easement.

5. Prohibition on Construction of Buildings and Other Improvements; Signage Limitations; Recreation and Education Activities Limitation

Any activity on or use of the Property inconsistent with the purpose of this Easement is prohibited within the area of the Easement (the "Easement Area"). No residential, commercial, industrial or mining activity shall be permitted, and no building, appurtenant facility or improvement shall be constructed, created, installed, erected or moved onto the Property. Notwithstanding the foregoing, existing fences may be repaired and replaced and new fences may be built on the Property, for purposes of reasonable and customary management of livestock and wildlife. No portion of the Property shall be used in any manner to increase the density of development of any such lands not subject to this Easement, whether through the common ownership of such parcels, transfer of development rights or by any other means. It is the intent of this paragraph to require that the entire Property remain as a single, indivisible tract managed for the purposes of this Easement.

Further, the placement of advertising signs or billboards on the Property is expressly prohibited. The following types of signs may be placed subject to the prior approval of the Grantee: signs advertising the sale of the Property, signs advertising the availability for public sale of agricultural products grown on the Property, signs informing the public of a permitted home occupation, and signs which direct attention to and identify different varieties of seeds and plants used in the production of food for animal and human use or identifies special conservation practices, provided such signs must conform to Grantee's established setback provisions and the placement, number, size and design of any such signs do not significantly diminish the scenic character of the Property.

Further, recreational and educational activities on the Property shall be restricted to *de minimus* recreational and educational activity that is consistent with the purposes of this Easement, that does not adversely impact the soils and/or agricultural operations on the Property and that is not carried on in a commercial manner. No improvements shall be constructed to facilitate such activity, expressly including herein the prohibition on construction of athletic fields, golf courses or ranges, commercial airstrips or helicopter pads, motocross biking or any other such improvement or activity inconsistent with current or future agricultural production.

6. Maintenance and Improvements of Water Sources

Grantor retains and reserves the right to use, maintain, establish, construct, and improve surface swales and ditches, subsurface drain tiles and storm sewers, streams, lakes, ponds and similar drainage features and facilities within the Property for the uses permitted by this Easement, provided that Grantor does not materially impair the natural course of the surface water drainage or runoff flowing over the Property, nor the established flow of water in drain tiles or storm sewers through the property.

Grantor may alter the natural flow of water over the Property, and the established flow of water in drain tiles or storm sewers through the Property, in order to improve drainage of agricultural soils, reduce soil erosion, or improve the agricultural or forest management potential of the Property, provided such alteration is consistent with the conservation purposes of this Easement and is carried out in accordance with statutory and permitting requirements of all local, state and federal jurisdictions. The construction of ponds is prohibited, except for livestock watering and irrigation purposes. To the greatest extent practical, ponds will not be located on prime, unique, or important soils. Approval by the Grantee is required prior to any time construction.

7. Water Rights

Grantor retains and reserves the right to use any appurtenant water rights sufficient to maintain the current agricultural use of the Property. Grantor shall not transfer, encumber, lease, sell or otherwise sever such water rights from title to the Property itself without the approval of Grantee.

8. Subdivision; Installation of Utilities

The Property is currently comprised of one legal parcel. Subdivision of the Property, recording of a subdivision plan, partition of the Property, or any other attempt to divide the Property into two or more legal parcels without the permission of Grantee is prohibited.

Installation of new utilities is prohibited, except that the Grantor may install utilities necessary for permitted uses of the Property as long as such installation is not inconsistent with purposes of this Easement and is done in such a manner as to minimize to the greatest extent possible impact on soils. Existing utilities for use on the Property may be replaced or repaired at their current location.

9. Conservation Plan and Conservation Practices

All agricultural operations on the Property shall be conducted in a manner consistent with the purposes of this Easement and the Property shall be managed in a manner consistent with generally accepted "Best Management Practices," as those practices may be identified from time to time by the State of Illinois Department of Agriculture, the Kane-DuPage Soil and Water Conservation District, and the United States Department of Agricultural Natural Resource Conservation Service, and in a manner not wasteful of soil resources or detrimental to water quality or conservation. All agricultural operations shall be conducted in accordance with applicable law.

Grantor hereby voluntarily grants and conveys to Grantee, and Grantee hereby voluntarily accepts, a perpetual Agricultural Conservation Easement on the Property, which Easement is an immediately vested interest in real property of the nature and character described herein. Grantor will neither perform, nor knowingly allow others to perform, any act on or affecting the Property that is inconsistent with the covenants contained herein. Grantor authorizes Grantee to enforce these covenants in the manner described below.

As required by Section 1238I of the Food Security Act of 1985, as amended, the Grantor, their heirs, successors, or assigns shall conduct all agricultural operations on the Property in a manner consistent with a conservation plan prepared in consultation with NRCS and approved by the Conservation District. This conservation plan shall be developed using the standards and specifications of the NRCS Field Office Technical Guide and 7 CFR Part 12 that are in effect on the date hereof. However, the Grantor may develop and implement a conservation plan that proposes a higher level of conservation and is consistent with the NRCS Field Office Technical Guide standards and specifications. NRCS shall have the right to enter upon the Property, with advance notice to the Grantor, in order to monitor compliance with the conservation plan. NRCS shall have the right to enter upon the Property annually to monitor compliance with the conservation plan.

In the event of noncompliance with the conservation plan, NRCS shall work with the Grantor to explore methods of compliance and give the Grantor a reasonable amount of time, not to exceed twelve (12) months, to take corrective action. If the Grantor does not comply with the conservation plan, NRCS will inform Grantee of the Grantor's noncompliance. The Grantee shall take all reasonable steps (including efforts at securing voluntary compliance and, if necessary, appropriate legal action) to secure compliance with the conservation plan following

5

written notification from NRCS that (a) there is a substantial, ongoing event or circumstance of non-compliance with the conservation plan, (b) NRCS has worked with th Grantor to correct such noncompliance, and (c) Grantor has exhausted its appeal rights under applicable NRCS regulations.

If the NRCS standards and specifications for highly erodible land are revised after the date of this Grant based on an Act of Congress, NRCS will work cooperatively with the Grantor to develop and implement a revised conservation plan. The provisions of this section apply to the highly erodible land conservation requirements of the Farmland Protection Program and are not intended to affect any other natural resources conservation requirements to which the Grantor may be or become subject.

10. Application of Waste Materials

The land application, storage and placement on the Property of domestic septic effluent and municipal, commercial or industrial sewage sludge or liquid generated from such sources for agricultural purposes may be undertaken only if in accordance with applicable law if any, or if no state or local regulations regarding this practice exists, then only with the prior permission of Grantee, and only if a qualified professional environmental consultant certifies in writing that the application of said materials will not substantially diminish the viability and productivity of the agricultural soils on the Property.

11. Removal of Existing Trees

The cutting or removal of trees, including clearing land for cultivation or use of livestock may be undertaken only if consistent with generally accepted "Best Management Practices," as those practices may be identified from time to time by the State of Illinois Department of Agriculture and other appropriate governmental or educational institutions, and in a manner not wasteful of soil resources or detrimental to water quality or conservation. Trees may be removed, cut and otherwise managed to control insects and disease, to prevent personal injury and property damage, and for construction of permitted improvements and fences on the Property.

12. Mining and On-Site Extractive Activity

Exploration for, or development and extraction of, minerals and hydrocarbons on or from the Property by any method is prohibited, except as otherwise provided herein. Grantor may remove sand and gravel from the Property for use on the Property, provided said removal is: (a) limited and localized in impact, affecting no more than two acres of the Property in the aggregate; (b) not irretrievably destructive of significant conservation interests; (c) reasonably necessary for, and incidental to, carrying out the agricultural production uses permitted on the Property by this Easement; and (d) the area is returned to its natural topography, not to exceed 12 months from the start date of the activity.

13. Paving and Road Construction

Other than roads indicated on Exhibit B, if any, no portion of the Property shall be paved or otherwise covered with concrete, asphalt, or any other impervious paving material, without the permission of Grantee. Construction and maintenance of unpaved farm roads that may be reasonably necessary and incidental to carrying out the improvements and uses permitted on the Property by this Easement are permitted provided they are to the greatest extent practicable, not located on prime, unique or important soils.

14. Dumping and Trash

No trash, refuse, vehicle bodies or parts, rubbish, debris, junk, waste, or radioactive or hazardous waste, shall be placed, stored, dumped, buried or permitted to remain on the Property, except that the storage of agricultural products for use on the Property and by-products generated on the Property is permitted hereby, in accordance with all applicable laws and regulations.

15. Ongoing Responsibilities of Grantor and Grantee

Other than as specified herein, this Easement is not intended to impose any legal or other responsibility on Grantee, or in any way to affect any obligations of Grantor as owner of the Property, including, but not limited to, the following:

(a) Taxes – Grantor shall be solely responsible for payment of all taxes and assessments levied against the Property. If Grantee is ever required to pay any taxes or assessments on its interest in the Property, Grantor will reimburse Grantee for the same.

(b) Upkeep and Maintenance – Grantor shall be solely responsible for the upkeep and maintenance of the Property, to the extent required by law. Grantee shall have no obligation for the upkeep or maintenance of the Property.

(c) Liability and Indemnification – Grantor shall indemnify Grantee and the United States against, and hold Grantee and the United States harmless from, any and all loss, cost, claim, liability, or expense (including reasonable attorneys' fees) arising from or with respect to the Property, unless due to the gross negligence or willful misconduct of Grantee. Grantor shall keep the Property insured with comprehensive general liability insurance against claims for personal injury, death and property damage, cause Grantee to be named as an additional insured party on all such insurance policies, and provide evidence of such insurance to Grantee promptly upon request.

16. Extinguishment of Development Rights

Except as otherwise reserved to Grantor in this Easement, all development rights appurtenant to the Property are hereby released, terminated and extinguished, and may not be used on or transferred to any portion of the Property as it now or hereafter may be bounded or described, or to any other property adjacent or otherwise, or used for the purpose of calculating permissible lot yield of the Property or any other property.

17. Baseline Documentation

The Grantor and Grantee agree that the natural characteristics, ecological features, physical and man-made conditions of the Property at the time of this grant.

The Conservation Values of the Property and its current use and state of improvement are described in the Staff Report dated May 4, 2002 (the "Baseline Documentation Report") and identified as Exhibit C, a copy of which is attached hereto and incorporated herein, prepared by the Kane County Development Department and includes the Grantor's application to participate in Grantee's Farmland Protection Program, reports, maps, aerial photos of the Property, other documentation and related information. Grantor and Grantee have copies of the Baseline Documentation Report, and acknowledge that the Baseline Documentation Report is accurate as of the date of this Easement. The Baseline Documentation Report may be used by Grantee to establish that a change in the use or

character of the Property has occurred, but its existence shall not preclude the use by Grantee of other evidence to establish the condition of the Property as of the date of this Easement.

18. Enforcement

Grantee shall have the right to enter upon the Property upon reasonable advance notice to Grantor for the purpose of inspecting compliance with the terms of this Easement. If Grantee determines that a violation of this Easement has occurred, Grantee shall so notify Grantor, giving Grantor thirty (30) days to cure the violation.

Notwithstanding the foregoing, where Grantee in Grantee's sole discretion determines that an ongoing or threatened violation could irreversibly diminish or impair the Conservation Values of the Property, Grantee may bring an action to enjoin the violation, *ex parte* if necessary, through temporary or permanent injunction.

In addition to injunctive relief, Grantee shall be entitled to seek the following remedies in the event of a violation:

(a) Money damages, including damages for the loss of the Conservation Values protected by this Easement; and

(b) restoration of the Property to its condition existing prior to such violation, including the removal of offending structures.

Said remedies shall be cumulative and shall be in addition to all remedies now or hereafter existing at law or in equity. In any case where a court finds that a violation has occurred, Grantor shall reimburse Grantee for all its expenses incurred in preventing, stopping and correcting the violation, including, but not limited to, reasonable attorneys' fees. The failure of Grantee to discover a violation or to take immediate legal action shall not bar Grantee from doing so at a later time. In any case where a court finds no violation has occurred, each party shall bear its own costs.

19. Transfer of Easement

Upon prior written consent of the United States, Grantee shall have the right to transfer this Easement to any public agency or private nonprofit organization that, at the time of transfer, is a "qualified organization" under Section 170(h) of the Code and provided the transferee expressly agrees to assume the responsibility imposed on Grantee by this Easement. If Grantee ever ceases to exist or no longer qualifies under Section 170(h) of the Code, or applicable state law, a court of competent jurisdiction shall transfer this Easement to another qualified organization having similar purposes that agrees to assume the responsibilities imposed by this Easement.

20. Transfer of Property

Grantor agrees to incorporate by reference the terms of this Easement in any deed or other legal instrument by which it transfers or divests itself of any interest, including, without limitation, a leasehold interest, in all or a portion of the Property. Grantor shall notify Grantee in writing at least (30) days before conveying the Property, or any part thereof or interest therein, to any third party. Failure of Grantor to do so shall not impair the validity of this Easement or limit its enforceability in any way.

21. Amendment of Easement

This Easement may be amended only if in the sole and exclusive judgment of the Grantee such amendment furthers or is not inconsistent with the purposes of this Conservation Easement. Any such amendment must be mutually agreed upon by the Grantee and Grantor, signed and duly recorded by the parties and comply with all applicable laws and regulations. Grantee must provide to NRCS timely notice in written of the amendment. NRCS can also require that the Grantee and Grantor obtain NRCS approval prior to recording any amendment to the deed.

22. Extinguishment

This Easement may be terminated or extinguished by a court of competent jurisdiction upon agreement to terminate made by Grantor, Grantee and the United States and after a finding by the court that the conditions or circumstances on or surrounding the Property have changed to such a degree that it has become impossible to fulfill the conservation purpose of the easement. If this Easement is extinguished by judicial proceeding, subject to Paragraph 24 hereof, Grantee shall be entitled to a portion of the gross proceeds from any subsequent sale or other disposition of the Property, calculated in accordance with Paragraph 23 below. Grantee shall use its portion of said gross proceeds in a manner consistent with the Statement of Purpose of this Easement.

23. Proceeds

Subject to Paragraph 24 hereof, the grant of this Easement gives rise to a property right, immediately vested in Grantee, which, for purposes of calculating proceeds from a sale or other disposition of the Property as contemplated under Paragraph 22 above, shall have a value equal to a percentage (the "Proportionate Share") of the value of the Property unencumbered by this Easement. The Proportionate Share shall be determined by dividing the value of this Easement, (\$794,350.00), calculated as of the date hereof, by the unencumbered value of the Property, (\$1,032,655.00 (\$6,500.00 per acre)), also calculated as of the date hereof, which is equal to Seventy-Seven percent (77.00%). The Proportionate Share shall remain constant.

Unless state law provides otherwise, if this Easement is terminated and the Property is subsequently sold, exchanged, or taken by exercise of the power of eminent domain then, as required by Treas. Reg. Sec. 1.270A-14(g)(6), Grantee shall be entitled to a portion of the gross proceeds from such sale, exchange or condemnation equal to the Proportionate Share

All expenses related to the termination of this Easement shall be paid out of any recovered proceeds prior to distribution of the proceeds as provided above.

24. Procedure in the Event of Taking by Eminent Domain/Condemnation

If this Easement is taken, in whole or in part, by exercise of the power of eminent domain, Grantee shall be entitled to compensation in accordance with applicable law and Grantor and Grantee, upon receipt of notice of any such exercise, agree to immediately notify United States. **For all purposes, it is hereby acknowledged that the consent of the U.S. Federal government shall be required to acquire an interest in the Property by eminent domain/condemnation proceeding. Any party seeking to acquire an interest in the Property by eminent domain/condemnation shall give United States advance notification of its intent to so acquire the interest, the extent and nature of the interest being acquired and a request for approval of such acquisition and the terms, limitation and subordination of such interest to the rights of the United States under this Easement, expressly including the contingent right specified under Paragraph 38 hereof. If the U.S. federal government consent**

to the acquisition by eminent domain/condemnation, then the proceeds from the action shall be due and owing first to the USDA as provided below.

Proceeds for Extinguished or Condemnation. If the Easement is extinguished, terminated or condemned, in whole or in part, then Grantee and the USDA are entitled to their proportional share of Seventy-Seven percent (77.00%) of gross sale proceeds or condemnation award representing an amount equal to the ratio of the appraised value of this Easement to the unrestricted fair market value of the Property as these values are determined on the date of this Deed. The proportional share of the Grantee and the USDA are Sixty-Five percent (65%) and Thirty-Five percent (35%) respectively, representing the proportion each party contributed to the purchase price of the Easement.

25. Interpretation

This Easement shall be interpreted under the laws of the State of Illinois. Any general rule of construction to the contrary notwithstanding, this Easement shall be liberally construed to effect the Statement of Purpose of this Easement. If any provision in this Easement is found to be ambiguous, an interpretation consistent with the Statement of Purpose of this Easement that would render the provision valid shall be favored over any interpretation that would render it invalid.

26. Successors

Every provision of this Easement that applies to Grantor or Grantee shall be binding on and inure to the benefit of the parties and their respective agents, heirs, executors, administrators, assigns, and other successors in interest, and shall continue as a servitude running in perpetuity with the Property.

27. Severability

Invalidity of any of the covenants, terms or conditions of this Easement, or any part thereof, by court order or judgment shall in no way affect the validity of any of the other provisions hereof which shall remain in full force and effect.

28. Notices

Any notices required by this Easement shall be in writing and shall be personally delivered or sent by certified mail, return receipt requested, to Grantor and Grantee respectively at the following addresses, or to such other addresses as the parties may designate by notice:

To Grantor: Commerical National Bank of Berwyn, Trustee
 under Trust Agreement date July 15, 1991
 Trust Number 910079
 C/o *

With Copy to: Mr. William Zales
 15384 North Ridge Road
 Westfield, Iowa 51062

* **LaSalle Bank**
Land Trust Dept.
Suite 2500
135 S. LaSalle St.
Chicago, IL 60603

To Grantee: County of Kane
Michael W. McCoy, Chairman
719 S. Batavia Avenue
Geneva, IL 60134

With Copies to: Attorney Gerald K Hodge
Kinnally, Krentz, Loran, Hodge & Herman, P.C.
P.O. Box 5030
Aurora, IL 60507
Facsimile: 630/907-0913

and Attorney M. Katherine Moran
Kane County States Attorney's Office
100 S. Third Street, 4th Floor
Geneva, IL 60134

and William Gradle
USDA National Resources Conservatoin Service
2118 W. Park Court
Champaign, IL 61821

29. Grantor's Title Warranty

Grantor warrants that it has good and sufficient title to the Property, free from all encumbrances except those set forth in Exhibit D which have agreed to subordinate to the interest of the Grantee hereunder,, and hereby promises to defend Grantee against all claims that may be made against it. Grantor represents and warrants that it has the right to convey this Easement. All holders of liens of other encumbrances arising from borrowing have agreed to subordinate their interests in the Property to this Easement, as indicated in Exhibit E and in accordance with Paragraph 37 below.

30. Subsequent Liens on Property

No provisions of this Easement shall be construed as impairing the ability of Grantor to use this Property as collateral for future indebtedness. Any mortgage or lien arising after the date of this Conservation Easement shall be subordinated to the terms of this Easement.

31. Subsequent Encumbrances

The grant of any easements or use restrictions that might diminish or impair the agricultural viability or productivity of the Property or otherwise diminish or impair the Statement of Purpose of this Easement is prohibited, except with the permission of Grantee.

32. Grantor's Environmental Warranty

Nothing in this Easement shall be construed as giving rise to any right or ability in Grantee to exercise physical or management control over the day-to-day operations of the Property, or any of Grantor's activities on the Property, or otherwise to become an operator with respect to the Property within the meaning of The Comprehensive

Environmental Response, Compensation, and Liability Act of 1980, as amended (CERCLA) or any corresponding state and local statute or ordinance.

Grantor warrants that it has no actual knowledge of a release or threatened release of hazardous substances or wastes on the Property, as such substances and wastes are defined by applicable law, and hereby promises to indemnify Grantee and the United States against, and hold Grantee and the United States harmless from, any and all loss, cost, claim (without regard to its merit), liability or expense (including reasonable attorneys' fees) arising from or with respect to any release of hazardous waste or violation of environmental laws.

If at any time after the effective date of this Easement there occurs a release in, on, or about the property of any substance now or hereafter defined, listed, or otherwise classified pursuant to any federal, state, or local law, regulation, or requirement as hazardous, toxic, polluting, or otherwise contaminating to the air, water, or soil, or in any way harmful or threatening to human health or the environment, Grantor agrees to take all steps that may be required under federal, state, or local law necessary to assure its containment and remediation, including any cleanup.

33. Perpetuation of Easement

Except as expressly otherwise provided herein, this Easement shall be of perpetual duration, and no merger of title, estate or interest shall be deemed effective by any previous, contemporaneous, or subsequent deed, grant, or assignment of an interest or estate in the Property, or any portion thereof, to Grantee, it being the express intent of the parties that this Easement not be extinguished by, or merged into, any other interest or estate in the Property now or hereafter held by Grantee.

34. Waiver

No waiver by Grantee of any default, or breach hereunder, whether intentional or not, shall be deemed to extend to any prior or subsequent default or breach hereunder or affect in any way any rights arising by virtue of any prior or subsequent such occurrence. No waiver shall be binding unless executed in writing by the party making the waiver.

35. Subordination of Mortgages

Grantor and Grantee agree that all mortgages and rights in the Property of all mortgagees and holders of other liens and encumbrances (collectively "lienholders") are subject and subordinate at all times to the rights of the Grantee to enforce the purposes of this Easement. Grantor represents and warrants that it has provided a copy of this instrument to all lienholders as of the date hereof, and the agreement of each lienholder to subordinate its mortgage to the Easement is indicated in Exhibit E attached hereto and incorporated herein.

36. Entire Agreement

This instrument sets forth the entire agreement of the parties with respect to the Easement and supersedes all prior discussions, negotiations, understandings, or agreements relating to the Easement, all of which are merged herein.

12

37. Acceptance

The County of Kane, by a resolution of its County Board adopted at a duly convened meeting on July 9, 2002 hereby accepts the Grantor's interest in this Deed of Agricultural Conservation Easement.

38. Contingent Right

In the event that the Grantor fails to enforce the terms of this Easement, as determined in the sole discretion of the Secretary of the United States Department of Agriculture ("Secretary"), the Secretary, his successors and assigns shall have the right to enforce the terms of the Easement through any and all authorities available under Federal or State law. Further, in the event that the Grantor attempts to terminate, transfer or otherwise divest itself of rights, title or interest in this Easement or extinguish the Easement without prior consent of the Secretary and payment of consideration as provided herein, then at the option of the Secretary, all right, title or interest in this Easement shall become vested in the United States of America.

TO HAVE AND TO HOLD this Deed of Agricultural Conservation Easement unto Grantee, its successors and assigns, forever.

IN WITNESS WHEREOF, Grantor and Grantee, intending to be legally bound hereby, have hereunto set their hands on the date first above written.

GRANTOR:

Commerical National Bank of Berwyn, Trustee
under Trust Agreement dated July 15, 1991
known as Trust Number 910079

By: _____
Trustee

GRANTEE:

COUNTY OF KANE

By: Michael W. McCoy
Michael W. McCoy, Chairman

Attest:

Witness: Jack Cunningham
Jack Cunningham
Kane County Clerk

UNOFFICIAL



13

37. Acceptance

The County of Kane, by a resolution of its County Board adopted at a duly convened meeting on July 9, 2002 hereby accepts the Grantor's interest in this Deed of Agricultural Conservation Easement.

38. Contingent Right

In the event that the Grantor fails to enforce the terms of this Easement, as determined in the sole discretion of the Secretary of the United States Department of Agriculture ("Secretary"), the Secretary, his successors and assigns shall have the right to enforce the terms of the Easement through any and all authorities available under Federal or State law. Further, in the event that the Grantor attempts to terminate, transfer or otherwise divest itself of rights, title or interest in this Easement or extinguish the Easement without prior consent of the Secretary and payment of consideration as provided herein, then at the option of the Secretary, all right, title or interest in this Easement shall become vested in the United States of America.

TO HAVE AND TO HOLD this Deed of Agricultural Conservation Easement unto Grantee, its successors and assigns, forever.

IN WITNESS WHEREOF, Grantor and Grantee, intending to be legally bound hereby, have hereunto set their hands on the date first above written.

GRANTOR: ~~LaSalle Bank National Association,~~
successor trustee to

GRANTEE:
COUNTY OF KANE

*Commerical National Bank of Berwyn, Trustee
under Trust Agreement dated July 15, 1991
known as Trust Number 910079 and not personally
Trustee's Exoneration under attached hereto
and made a part thereof.

By: Robert Ben
Trustee Vice President

By: Michael W. McCoy
Michael W. McCoy, Chairman

Attest:
Affestation not required by
LaSalle Bank National Association
Bylaws

Witness:
Jack Cunningham
Jack Cunningham
Kane County Clerk



LASALLE BANK NATIONAL ASSOCIATION
LAND TRUST DEPARTMENT
Rider - Deed of Agricultural Conservation Easement

**RIDER ATTACHED TO AND MADE A PART OF DEED OF AGRICULTURAL
CONSERVATION EASEMENT**

The Above-Referenced Document is executed by LaSalle Bank National Association, not personally, but as Trustee in the exercise of the power and authority conferred upon and vested in it as such Trustee (and said LaSalle Bank National Association hereby warrants that it possesses full power and authority to execute the instrument) and it is expressly understood and agreed that nothing contained herein shall be construed as creating any liability, monetary or otherwise, on the part of LaSalle Bank National Association, personally to perform any covenant, either expressed or implied, herein contained, all such liability, if any, being hereby expressly waived by the Grantee under said Trust Deed, the legal owners or holders of easement, and by every person now or hereafter claiming any right hereunder, and that so far as the grantor and said LaSalle Bank National Association personally are concerned, the grantee and the owner or owners of any interest accruing hereunder or derived herefrom shall look solely to the premises hereby granted or conveyed for the payment thereof by the enforcement of the lien created in the manner herein or by action to enforce the personal liability of the guarantor or guarantors, if any. Trustee does not warrant, indemnify, defend title nor is it responsible for any environmental damage. No personal liability shall be asserted or be enforceable against LaSalle Bank National Association by reason of any of the terms, provisions, stipulations, covenants, indemnifications, warranties and/or statements contained in the Above-Referenced Document.

The foregoing Deed of Agricultural Conservation Easement is approved this 24th day of October, 2003.

NATURAL RESOURCES CONSERVATION SERVICE

By: *William J. Gradle*
William Gradle, State Conservationist

NOTE: Each signature on the foregoing is notarized by a notary public on a separate notary page attached hereto, which notary provisions are expressly incorporated herein by this reference.

N/A
KCF
Unofficial

**THIS DOCUMENT DRAFTED
BY AND RETURN TO:**

Attorney Gerald K. Hodge
P.O. Box 5030
Aurora, Illinois 60507

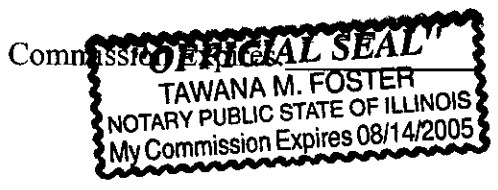
STATE OF ILLINOIS)
) SS
COUNTY OF ~~KANE~~ Cook)

* LaSalle Bank National Association,
successor trustee to

I the undersigned, a Notary Public in, and for said County and State aforesaid, DO HEREBY CERTIFY that Deborah Berg *Vice President, personally known to me to be **TRUSTEE of the *COMMERCIAL NATIONAL BANK OF BERWYN UNDER TRUST AGREEMENT DATED JULY 15, 1991 AND KNOWN AS TRUST NUMBER 910079, personally known to me to be the same persons whose names are subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that they signed, sealed and delivered the said instrument as their free and voluntary act, and as the free and voluntary act of the Corporation, for the uses and purposes set forth.

GIVEN under my hand and notarial seal, this 4th day of November, 2003.

Tawana M. Foster
Notary Public



Unofficial

STATE OF ILLINOIS)
) SS
COUNTY OF KANE)

I the undersigned, a Notary Public in, and for said County and State aforesaid, DO HEREBY CERTIFY that **MICHAEL W. MCCOY**, personally known to me to be Chairman of the Kane County Board, personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that he signed, sealed and delivered the said instrument as his free and voluntary act, for the uses and purposes set forth.

GIVEN under my hand and notarial seal, this 2nd day of SEPTEMBER, 2003.

Zahida K. Fakroddin
Notary Public

Commission Expires: 9/24/06



Unofficial

STATE OF ILLINOIS)
) SS
COUNTY OF KANE)

I the undersigned, a Notary Public in, and for said County and State aforesaid, DO HEREBY CERTIFY that **JACK CUNNINGHAM**, personally known to me to be the Clerk of Kane County, personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that he signed, sealed and delivered the said instrument as his free and voluntary act, for the uses and purposes set forth.

GIVEN under my hand and notarial seal, this 2nd day of SEPTEMBER, 2003

Zahida K. Fakroddin
Notary Public

Commission Expires: 9/24/06



Unofficial

19

STATE OF *Illinois*)
) SS
COUNTY OF *Champaign*)

I the undersigned, a Notary Public in, and for said County and State aforesaid, DO HEREBY CERTIFY that WILLIAM GRADLE, personally known to me to be the State Conservationist of the NATURAL RESOURCES CONSERVATION SERVICE, personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that he signed, sealed and delivered the said instrument as his free and voluntary act, for the uses and purposes set forth.

GIVEN under my hand and notarial seal, this 24th day of October, 2003.

Kristi J. Einck
Notary Public

Commission Expires: 7/31/06



Unofficial

20

EXHIBIT A – LEGAL DESCRIPTION

THE SOUTHEAST QUARTER OF SECTION 31, TOWNSHIP 39 NORTH, RANGE 6 EAST OF THE THIRD PRINCIPAL MERIDIAN, EXCEPTING THEREFROM THE EAST 25.00 FEET OF THE SOUTH 750.00 FEET, AND ALSO EXCEPTING THEREFROM THE FOLLOWING DESCRIBED PROPERTY: COMMENCING AT THE SOUTHEAST CORNER OF SAID SOUTHEAST QUARTER; THENCE NORTHERLY, ALONG THE EAST LINE OF SAID SOUTHEAST QUARTER, 750.00 FEET FOR A POINT OF BEGINNING; THENCE CONTINUING NORTHERLY, ALONG SAID EAST LINE, 225.00 FEET; THENCE WESTERLY AT A RIGHT ANGLE TO SAID EAST LINE, 400.00 FEET; THENCE SOUTHERLY, PARALLEL WITH SAID EAST LINE, 225.00 FEET; THENCE EASTERLY, 400.00 FEET TO THE POINT OF BEGINNING, ALL IN KANEVILLE TOWNSHIP, KANE COUNTY, ILLINOIS.

PIN(s): 10-31-400-001-0000

Unofficial

~~21~~
21

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EXHIBIT B – PLAT OF AGRICULTURAL CONSERVATION EASEMENT

Unofficial

EXHIBIT C – STAFF REPORT

Unofficial

23 23

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**Kane County Farmland Protection Program
Staff Report**

TO: Members of the Farmland Protection Commission

FROM: Janice Hill, Executive Planner
Kane County Development Department

RE: Farmland Protection Commission Meeting Scheduled
For January 28, 2002

Case Number: FPP-02-001-PDR

Property Name: Zales et al Farm

Property Owners: Zales, Ptak, Popela

Location of Property: Kanewille Township
West of Swan, East of County Line Road

Parcel Numbers: 10-31-400-001

Total Acres: 160 acres

Existing Land Use: Agriculture

Zoning: F - Farming

2020 Land Use Designation: Agriculture

Surrounding Land Use: Agriculture

Surrounding Zoning: F - Farming

Surrounding Land Use Designation: Agriculture

Existing Conditions: One outbuilding the owners want to
Demolish.

Staff Analysis:

The subject property is located in Kaneville Township which ranks first in the townships for acreage in agricultural use. The property is not within the planning jurisdiction of any municipality or Facility Planning Area of any sanitary district. The property is within the county's Agricultural Corridor. Agricultural land use is consistent with the 2020 Land Resource Management Plan. This is a tenant farm with corn and soybeans rotated for crops. The owners intend to continue to have it farmed for the foreseeable future.

This property is a strong candidate for the PDR program as it is consistent with the Kane County 2020 Land Resource Management Plan.

Attachments:

1. Application
2. Parcel Site Map
3. Aerial Photo
4. Topographic Map
5. 2020 Future Land Use Map
6. Natural Features Map
7. Soils Map

Unofficial

KANE COUNTY FARMLAND PROTECTION PROGRAM APPLICATION FORM

Please complete the following application form if you are interested in participating in Kane County's Farmland Protection Program. Completion of this form does not commit you to selling your property or the development rights to your property, or commits Kane County to purchasing land or the development rights.

Name: William M. Zales

Telephone Number: 712 568 1006

Mailing Address: 15384 No. Ridge Rd.

Westfield, IA. 51962

Plymouth County
712-546-

Names of All Property Owners: Beth Zales (mother)

8858 DC
Jim Kahn
Vince

S. J. Ptak (T.V.S. Farm)

Evelyn Popela (wife of partner)

Location of Property: 10 181
S. E. 1/2 Sec. 31 T39N R6E no road

Parcel Number: _____

access by corner

Is there a mortgage or lien on the property (please circle) YES NO

160acre

Indicate if you are interested in donation of development rights, purchase of development rights or fee simple purchase

All property owners must give their approval and consent to this application.

Signed Elizabeth Zales

Date 25 October 2001

Signed Evelyn Popela

Date _____

Signed S. J. Ptak

Date _____

FACTORS FOR CONSIDERATION
FARMLAND PROTECTION PROGRAM APPLICATION

To be completed by staff

1. Is it a productive farm operation (i.e. soils, crops, pasture). Provide soil classification.
2. Does the property possess any infrastructure (buildings, drainage or irrigation) for a commercial agricultural enterprise? *to be removed soon.*
3. Is there a soil and water conservation plan filed with the Soil and Water Conservation Service for the property?
4. Is it located adjacent to other farmland? Is any of the surrounding land protected under the Farmland Protection Program? Does the land offer value as a catalyst for other farmland protection or to demonstrate the functions of the Kane County Farmland Protection Program?
5. What is the property's land use designation based on Kane County's 2020 Land Resource Management Plan - what land use strategy corridor is the property located within?
6. Is the property farmed by the land owner? *NO*
7. What portion of the applicant's ownership is being requested for the Kane County farmland protection program? *all*

8. Is the property adjacent to any existing open space or protected non-agricultural land (i.e. Forest Preserve)
9. Does the property contain any significant natural features such as a wetland, river, stream or "significant public resource" whose protection is important?
10. What is the distance from the property to the nearest municipality?
11. If located within a municipal 1 1/2 mile planning jurisdiction, what is the land use proposed by the municipal plan?
12. Are there any extenuating circumstances regarding the property?
(i.e. pressure to be sold)
13. Are there any existing or planned impacts on the surrounding property?

14. Does the protection of this property further any other objectives, other than farmland preservation, from Kane County's 2020 Land Resource Management Plan or any of Kane County's plans or policies?
15. Does it possess any cultural or historic value? Is it adjacent to a Rustic Road? Does it protect a viewscape?
16. Are there any unique financial circumstances that such be considered? (i.e. owner is willing to contribute a match through a bargain sale or property is in foreclosure) Describe. *None*

Maps and Attachments

Check if Provided

Aerial Photo

2020 Land Use

Existing Land Use

Zoning

Soils

Topography

Wetland/Floodplain/Watershed

Municipal Jurisdictions

Municipal Plan

Forest Preserve

Transportation

Historical/Cultural

Photographs

Video

Other:

KANE COUNTY FARMLAND PROTECTION PARCEL APPLICATION

NAME AND LOCATION

Mr. William M. Zales
03 S 834 Lasher Rd.
Kaneville Township (Section 31)

PARCEL NUMBERS

10-31-400-001

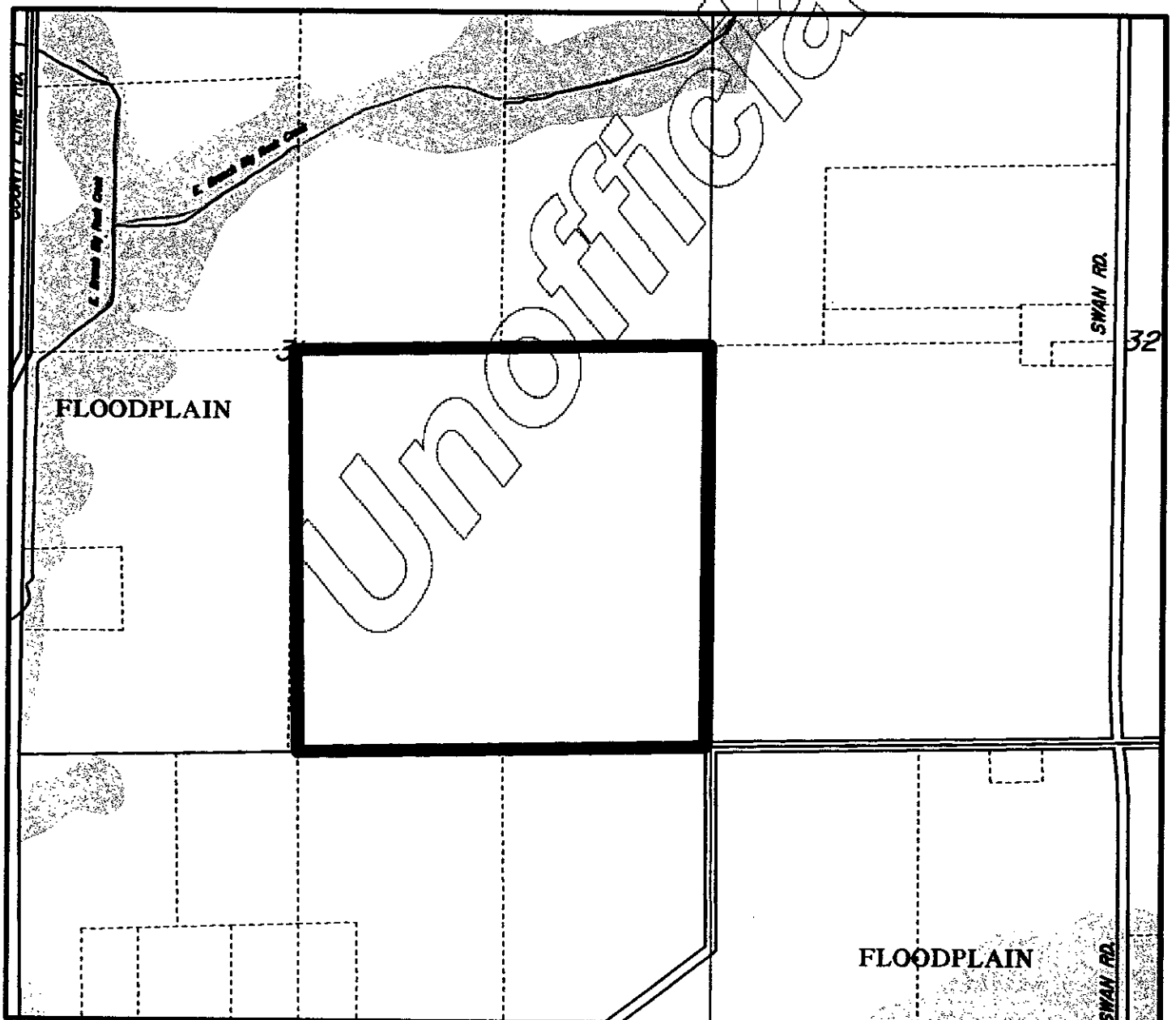
TOTAL ACRES: 160.0

APPLICATION NUMBER

02-001

PARCEL ON KANE COUNTY NATURAL FEATURES MAP

SCALE 1" : 1000'
ATTACHMENT 6



KANE COUNTY FARMLAND PROTECTION PARCEL APPLICATION

POOR ORIGINAL
Recorder Not Responsible
For Reproductions

NAME AND LOCATION

Mr. William M. Zales
03 S 834 Lasher Rd.
Kaneville Township (Section 31)

PARCEL NUMBERS

10-31-400-001

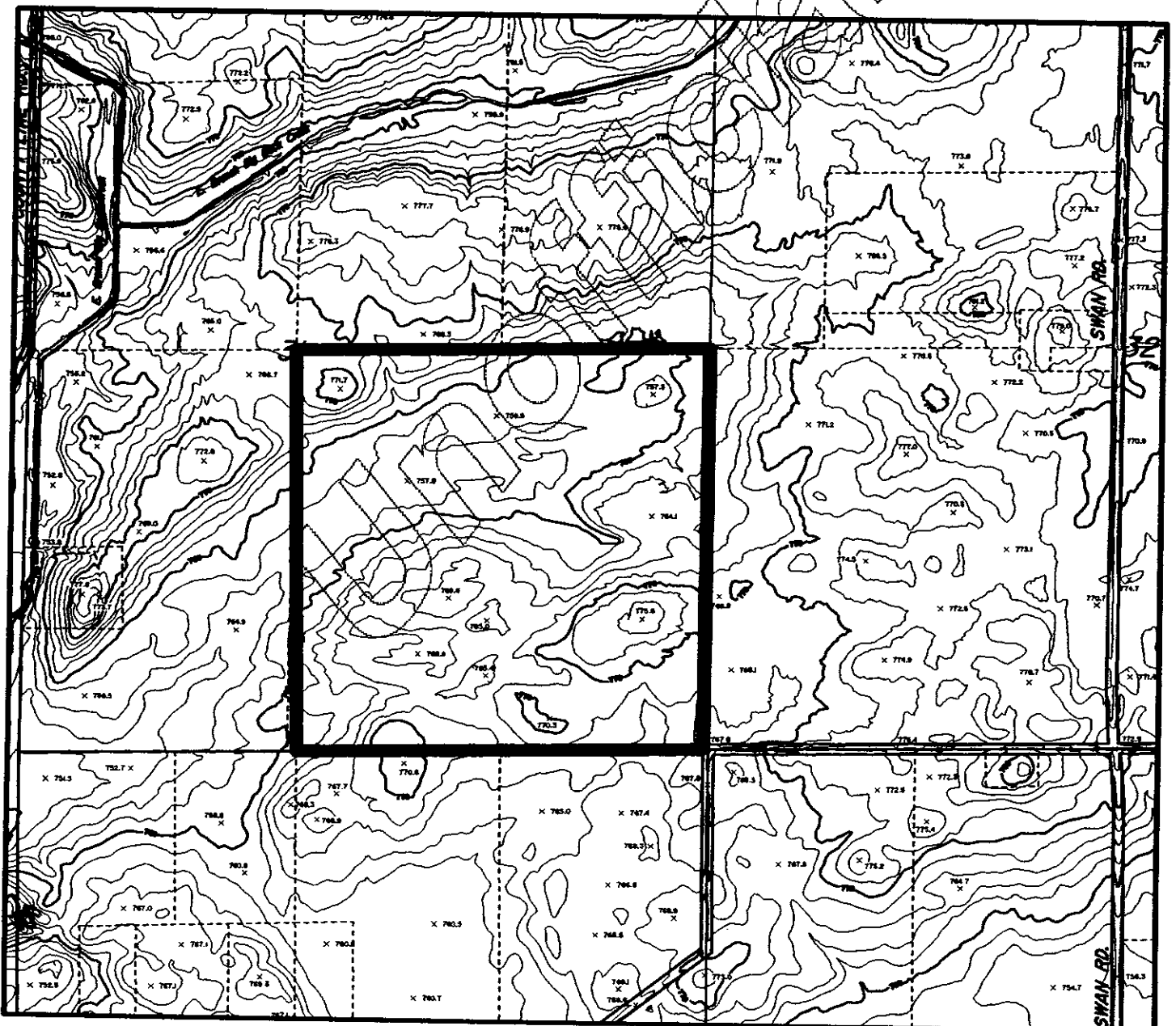
TOTAL ACRES: 160.0

APPLICATION NUMBER

02-001

PARCEL ON KANE COUNTY TOPOGRAPHIC MAP

SCALE 1" : 1000'
ATTACHMENT 4



KANE COUNTY FARMLAND PROTECTION PARCEL APPLICATION

NAME AND LOCATION

Mr. William M. Zales
03 S 834 Lasher Rd.
Kaneville Township (Section 31)

PARCEL NUMBERS

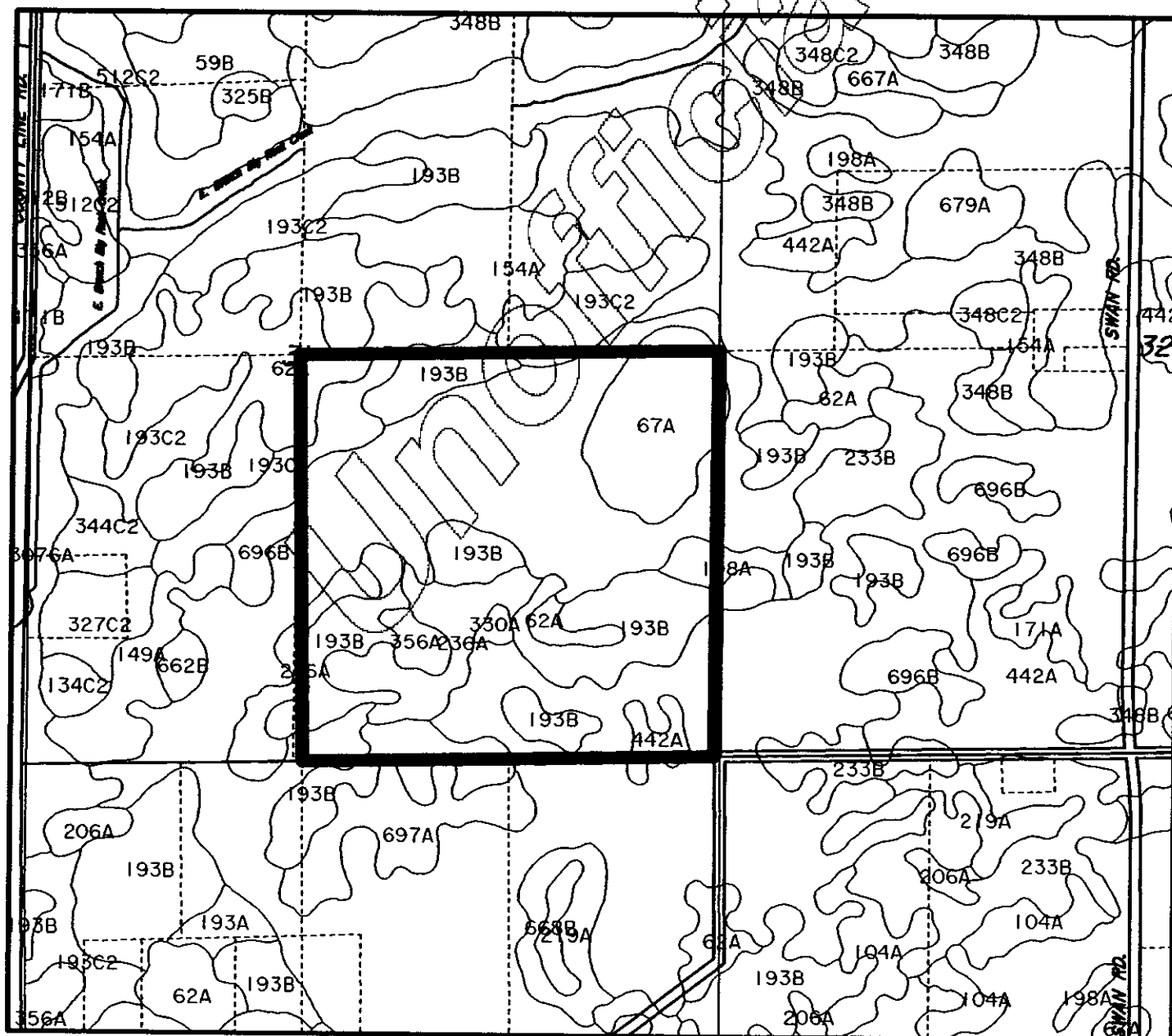
10-31-400-001
TOTAL ACRES: 160.0

**APPLICATION
NUMBER**

02-001

PARCEL KANE COUNTY SOILS MAP

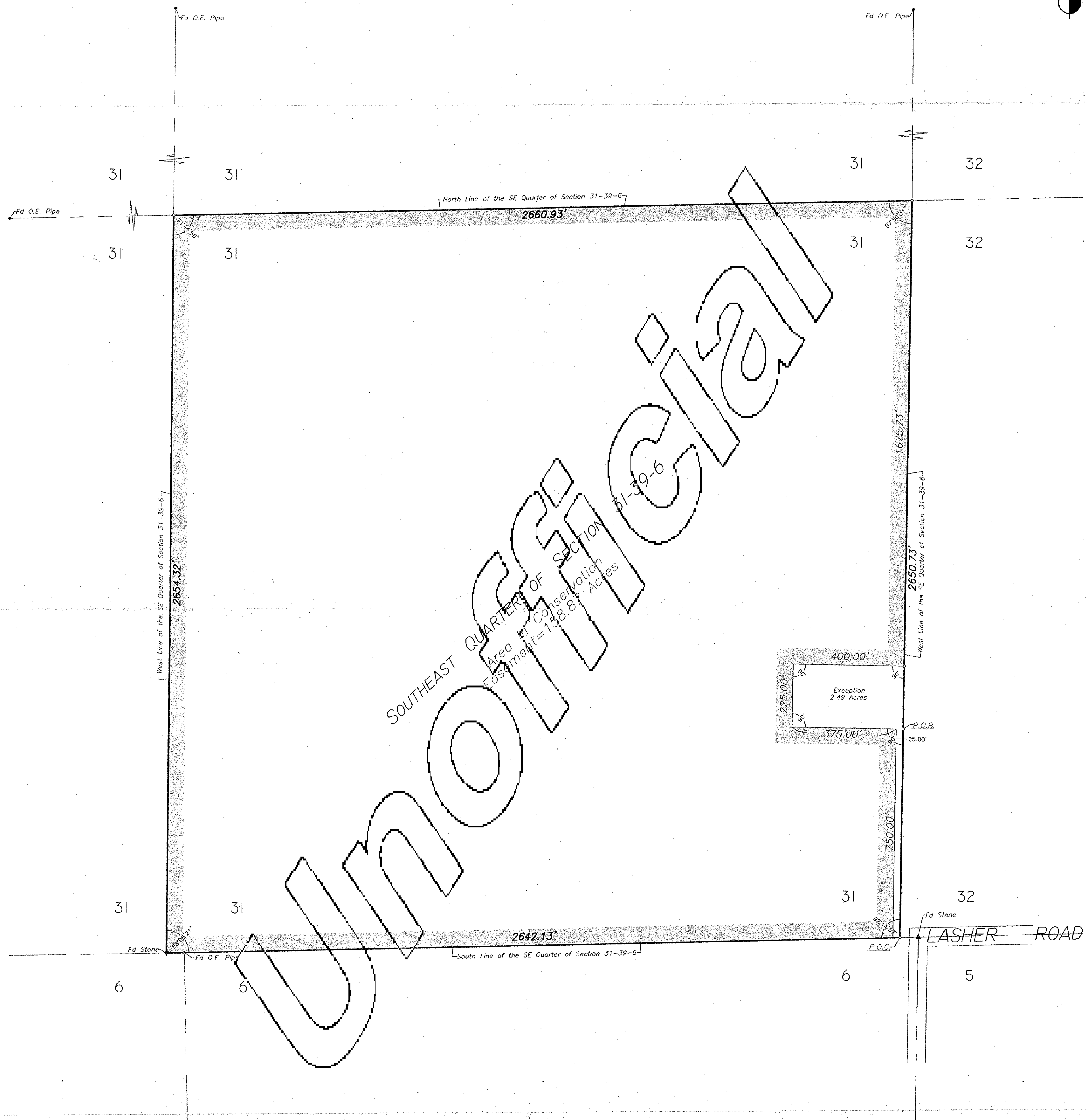
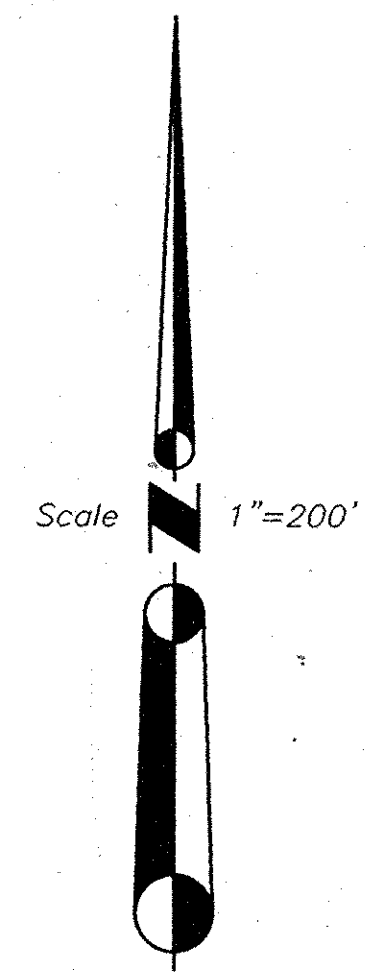
SCALE 1":1000'
ATTACHMENT 7



2003K194791
SANDY WEGMAN
RECORDER
KANE COUNTY, IL
RECORDED ON
11/05/2003 10:55AM
REC. FEE: 0.00

PLAT OF AGRICULTURE CONSERVATION EASEMENT

THE SOUTHEAST QUARTER OF SECTION 31, TOWNSHIP 39 NORTH, RANGE 6 EAST OF THE THIRD PRINCIPAL MERIDIAN, EXCEPTING THEREFROM THE EAST 25.00 FEET OF THE SOUTH 750.00 FEET, AND ALSO EXCEPTING THEREFROM THE FOLLOWING DESCRIBED PROPERTY: COMMENCING AT THE SOUTHEAST CORNER OF SAID SOUTHEAST QUARTER; THENCE NORTHERLY, ALONG THE EAST LINE OF SAID SOUTHEAST QUARTER, 750.00 FEET FOR A POINT OF BEGINNING; THENCE CONTINUING NORTHERLY, ALONG SAID EAST LINE, 225.00 FEET; THENCE WESTERLY, AT A RIGHT ANGLE TO SAID EAST LINE, 400.00 FEET; THENCE SOUTHERLY, PARALLEL WITH SAID EAST LINE, 225.00 FEET; THENCE EASTERLY, 400.00 FEET TO THE POINT OF BEGINNING, ALL IN KANEVILLE TOWNSHIP, KANE COUNTY, ILLINOIS.

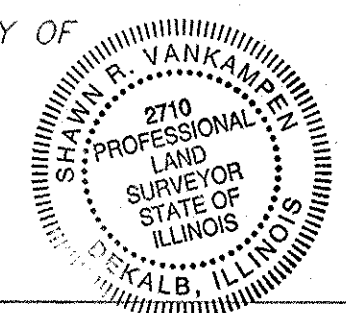


====LEGEND====
- - - - - Boundary of property surveyed
• Indicates found survey marker
o Indicates set open end pipe
- - - - - Indicates fence line
[shaded box] Indicates limits of agricultural conservation easement

STATE OF ILLINOIS)
COUNTY OF DEKALB)SS

THIS IS TO CERTIFY THAT THE ATTACHED PLAT IS A TRUE AND CORRECT REPRESENTATION OF A SURVEY I HAVE MADE OF PROPERTY HEREON SHOWN AND DESCRIBED. ALL DISTANCES SHOWN IN FEET AND DECIMALS THEREOF, THIS PROFESSIONAL SERVICE CONFORMS TO THE CURRENT ILLINOIS MINIMUM STANDARDS FOR A BOUNDARY SURVEY.
WITNESS MY HAND AND SEAL AT DEKALB, ILLINOIS THIS 18th DAY OF JULY, 2002.

Shawn R. VanKampen
SHAWN R. VANKAMPEN
ILLINOIS PROFESSIONAL LAND SURVEYOR NO. 2710
LICENSE EXPIRATION DATE: NOVEMBER 30TH, 2002



Prepared by:
William E. Hanna Surveyors
508 Pine Street
DeKalb, Illinois 60115
(815) 756-2189
Fax 748-2532
hannasurv@aol.com

FOR: KANE COUNTY DEVELOPMENT DEPT.
JOB NO. WES 8585B

ZALES

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23 28/4

COMMITMENT FOR TITLE INSURANCE



Chicago Title Insurance Company

Providing Title Related Services Since 1847

CHICAGO TITLE INSURANCE COMPANY, a Missouri corporation, herein called the Company, for a valuable consideration, hereby commits to issue its policy or policies of title insurance, as identified in Schedule A (which policy or policies cover title risks and are subject to the Exclusions from Coverage and the Conditions and Stipulations as contained in said policy/ies) in favor of the proposed Insured named in Schedule A, as owner or mortgagee of the estate or interest in the land described or referred to in Schedule A, upon payment of the premiums and charges therefor, all subject to the provisions of Schedules A and B hereof and to the Commitment Conditions and Stipulations which are hereby incorporated by reference and made a part of the Commitment. A complete copy of the Commitment Conditions and Stipulations is available upon request and such include, but are not limited to, the proposed Insured's obligation to disclose, in writing, knowledge of any additional defects, liens, encumbrances, adverse claims or other matters which are not contained in the Commitment; provisions that the Company's liability shall in no event exceed the amount of the policy/ies as stated in Schedule A hereof, must be based on the terms of this Commitment, shall be only to the proposed Insured and shall be only for actual loss incurred in good faith reliance on this Commitment; and provisions relating to the General Exceptions, to which the policy/ies will be subject unless the same are disposed of to the satisfaction of the Company.

This Commitment shall be effective only when the identity of the proposed Insured and the amount of the policy or policies committed for have been inserted in Schedule A hereof by the Company, either at the time of the issuance of this Commitment or by issuance of a revised Commitment.

This Commitment is preliminary to the issuance of such policy or policies of title insurance and all liability and obligations hereunder shall cease and terminate six months after the effective date hereof or when the policy or policies committed for shall issue, whichever first occurs, provided that the failure to issue such policy or policies is not the fault of the Company.

This Commitment is based upon a search and examination of Company records and/or public records by the Company. Utilization of the information contained herein by an entity other than the Company or a member of the Chicago Title and Trust Family of Title Insurers for the purpose of issuing a title commitment or policy or policies shall be considered a violation of the proprietary rights of the Company of its search and examination work product.

This Commitment shall not be valid or binding until signed by an authorized signatory.

Issued By:

CHICAGO TITLE INSURANCE COMPANY
1971 W. DOWNER PLACE
AURORA, IL 60506

Refer Inquiries To:

(630)892-3775

CHICAGO TITLE INSURANCE COMPANY

By

Henry S. Gery
Authorized Signatory



Commitment No.:

1410 MH5249226 AU

3/6

22-AUG-2003 08:42

Gold-Fax Message

Page 3/6

CHICAGO TITLE INSURANCE COMPANY
COMMITMENT FOR TITLE INSURANCE
SCHEDULE A

YOUR REFERENCE: ZALES TO COUNTY OF KANE

ORDER NO.: 1410 MH5249226 AU

EFFECTIVE DATE: FEBRUARY 6, 2003

1. POLICY OR POLICIES TO BE ISSUED:

OWNER'S POLICY: ALTA OWNERS 1992
AMOUNT: \$800,000.00
PROPOSED INSURED: COUNTY OF KANE

2. THE ESTATE OR INTEREST IN THE LAND DESCRIBED OR REFERRED TO IN THIS COMMITMENT AND COVERED HEREIN IS A FEE SIMPLE UNLESS OTHERWISE NOTED.

3. TITLE TO SAID ESTATE OR INTEREST IN SAID LAND IS AT THE EFFECTIVE DATE VESTED IN:

COMMERCIAL NATIONAL BANK OF BERWYN AS TRUSTEE UNDER TRUST AGREEMENT DATED JULY 15, 1991, AND KNOWN AS TRUST NUMBER 910079

4. MORTGAGE OR TRUST DEED TO BE INSURED:

NONE

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CHICAGO TITLE INSURANCE COMPANY
COMMITMENT FOR TITLE INSURANCE
SCHEDULE A (CONTINUED)

ORDER NO.: 1410 MH5249226 AU

5. THE LAND REFERRED TO IN THIS COMMITMENT IS DESCRIBED AS FOLLOWS:

EASEMENT AS CREATED BY ~ FROM COMMERCIAL NATIONAL BANK OF BERWYN AS TRUSTEE UNDER TRUST AGREEMENT DATED JULY 15, 1991, AND KNOWN AS TRUST NUMBER 910079 TO COUNTY OF KANE DATED ~ AND RECORDED ~ AS DOCUMENT ~ FOR CONSERVATION EASEMENT OVER THE FOLLOWING:

THE SOUTHEAST QUARTER OF SECTION 31, TOWNSHIP 39 NORTH, RANGE 6 EAST OF THE THIRD PRINCIPAL MERIDIAN, EXCEPTING THEREFROM THE EAST 25.00 FEET OF THE SOUTH 750.00 FEET, AND ALSO EXCEPTING THEREFROM THE FOLLOWING DESCRIBED PROPERTY: COMMENCING AT THE SOUTHEAST CORNER OF SAID SOUTHEAST QUARTER; THENCE NORTHERLY, ALONG THE EAST LINE OF SAID SOUTHEAST QUARTER, 750.00 FEET FOR A POINT OF BEGINNING; THENCE CONTINUING NORTHERLY, ALONG SAID EAST LINE, 225.00 FEET; THENCE WESTERLY, AT A RIGHT ANGLE TO SAID EAST LINE, 400.00 FEET; THENCE SOUTHERLY, PARALLEL WITH SAID EAST LINE, 225.00 FEET; THENCE EASTERLY, 400 FEET TO THE POINT OF BEGINNING, ALL IN KANEVILLE TOWNSHIP, KANE COUNTY, ILLINOIS.

Unofficial

22-AUG-2003 08:42

Gold-Fax Message

Page 5/6

**CHICAGO TITLE INSURANCE COMPANY
COMMITMENT FOR TITLE INSURANCE
SCHEDULE B**

ORDER NO.: 1410 MH5249226 AU

1. IF EXTENDED COVERAGE OVER THE FIVE GENERAL EXCEPTIONS IS REQUESTED, WE SHOULD BE FURNISHED THE FOLLOWING:

- A. A CURRENT ALTA/ACSM OR ILLINOIS LAND TITLE SURVEY CERTIFIED TO CHICAGO TITLE INSURANCE COMPANY;
- B. A PROPERLY EXECUTED ALTA STATEMENT;
- C. FOR UNIMPROVED LAND ONLY, UTILITY LETTERS FROM THE MUNICIPALITY OR COUNTY (IF UNINCORPORATED), LOCAL GAS, ELECTRIC AND TELEPHONE COMPANIES AND IF APPLICABLE, THE LOCAL CABLE TELEVISION COMPANY

MATTERS DISCLOSED BY THE ABOVE DOCUMENTATION WILL BE SHOWN SPECIFICALLY.

NOTE: THERE WILL BE AN ADDITIONAL CHARGE FOR THIS COVERAGE.

2. NOTE FOR INFORMATION: THE COVERAGE AFFORDED BY THIS COMMITMENT AND ANY POLICY ISSUED PURSUANT HERETO SHALL NOT COMMENCE PRIOR TO THE DATE ON WHICH ALL CHARGES PROPERLY BILLED BY THE COMPANY HAVE BEEN FULLY PAID.

B 3. TAXES FOR THE YEARS 2002 AND 2003

2002 AND 2003 TAXES ARE NOT YET DUE OR PAYABLE.

TOTAL TAXES FOR THE YEAR 2001 AMOUNTING TO \$3,962.46, MINUS \$919.40 ABATED AMOUNT, LEAVING \$3,043.06 ARE PAID OF RECORD.

PERMANENT TAX NO. 10-31-400-001-0000

C 4. TERMS, POWERS, PROVISIONS AND LIMITATIONS OF THE TRUST UNDER WHICH TITLE TO THE LAND IS HELD.

D 5. EXISTING UNRECORDED LEASES AND ALL RIGHTS THEREUNDER OF THE LESSEES AND OF ANY PERSON OR PARTY CLAIMING BY, THROUGH OR UNDER THE LESSEES.

F 6. NOTE: THE LAND DESCRIBED IN SCHEDULE A EITHER IS UNSUBDIVIDED PROPERTY OR CONSTITUTES PART OF A SUBDIVIDED LOT. AS A RESULT, A PLAT ACT AFFIDAVIT SHOULD ACCOMPANY ANY CONVEYANCE TO BE RECORDED. IN THE ALTERNATIVE, COMPLIANCE SHOULD BE HAD WITH THE PROVISIONS OF THE PLAT ACT (765 ILCS 205/1 ET SEQ.).

G 7. RIGHTS OF ADJOINING OWNERS TO THE UNINTERRUPTED FLOW OF ANY STREAM WHICH MAY CROSS THE PREMISES.

H 8. RIGHTS OF WAY FOR DRAINAGE TILES, DITCHES, FEEDERS, LATERALS AND UNDERGROUND PIPES, IF ANY.

I 9. TERMS, PROVISIONS AND CONDITIONS RELATING TO THE EASEMENT DESCRIBED AS PARCEL 2, CONTAINED IN THE INSTRUMENT CREATING SAID EASEMENT.

CHICAGO TITLE INSURANCE COMPANY
COMMITMENT FOR TITLE INSURANCE
SCHEDULE B (CONTINUED)

ORDER NO.: 1410 MH5249226 AU

** END **

Unofficial