

FILE NUMBER 516851
OR BK 3656 PG 825
RECORDED 02/06/2013 04:21:20 PM
RECORDING FEE 54.00
MIKE MEDSKER, RECORDER OF DEEDS
CASS COUNTY, MISSOURI
TJ

Title of Document: Conservation Easement

Date of Document: February 5, 2013

Grantor(s): City of Belton

Grantee(s): Midwest Mitigation Oversight Association, Inc.

Mailing Address(s): 506 Main Street

Legal Description: Attached

Reference Book and Page(s):

(If there is not sufficient space on this page for the information required, state the page reference where it is contained within the document.)

Return To: Patti Ledford, Belton City Clerk
Belton City Hall
506 Main Street
Belton, MO 64012

CONSERVATION EASEMENT

THIS DEED OF CONSERVATION EASEMENT (the "Conservation Easement") is given this 5th day of February 2013, by the City of Belton, Missouri, a constitutional charter city (the "Grantor") to MIDWEST MITIGATION OVERSIGHT ASSOCIATION, INC., a Missouri not-for-profit corporation, having an address of 21301 Shelby Lane, Belton, MO 64012 (the "Grantee"). As used herein, the term Grantor shall include any and all heirs, successors, or assigns of the Grantor, and all subsequent owners of the Property (as hereinafter defined), and the term Grantee shall include any successor or assignee of Grantee.

WITNESSETH:

WHEREAS, Grantor is the sole owner in fee simple title of certain lands situated in Cass County, Missouri, more particularly described on Exhibit A and depicted on Exhibit B, both as attached hereto (the "Property"); and

WHEREAS, Department Permit No. 2010-1659 of the U.S. Army Corps of Engineers (the "Corps") (hereinafter referred to as the "Permit") authorizes certain activities which affect waters of the United States; and

WHEREAS, the Permit requires that Grantor preserve, enhance, restore, or mitigate wetlands or uplands located on the Property and under the jurisdiction of the Corps; and

WHEREAS, Grantor, in consideration of the issuance of the Permit to construct and operate the permitted activity, and as an inducement to Grantee and the Corps to issue the Permit, is willing to grant a perpetual Conservation Easement over the Property; and

NOW THEREFORE, in consideration of the above and mutual covenants, terms conditions, and restrictions contained herein, together with other good and valuable consideration, the adequacy and receipt of which is hereby acknowledged, Grantor hereby voluntarily grants and conveys a perpetual Conservation Easement for and in favor of Grantee upon the Property, which shall run with the land and be binding upon the Grantor, and shall remain in full force and effect forever.

The scope, nature, and character of this Conservation Easement shall be as follows:

1. Purpose. The purpose of this Conservation Easement is to retain and maintain land or water areas on the Property in their natural, vegetative, hydrologic, scenic, open, agricultural, or wooded condition and to retain such areas as suitable habitat for fish, plants, or wildlife. Those wetland or upland areas that are to be restored, enhanced, or created pursuant to the Permit shall be retained and maintained in the restored, enhanced, or created condition required by the Permit.

2. Rights of Grantee. The following rights are conveyed to Grantee and the Corps by this Conservation Easement:

a. The right to take action to preserve and protect the environmental value of the Property;

b. The right to prevent any activity on or use of the Property that is inconsistent with the purpose of this Conservation Easement, and to require the restoration of areas or features of the Property that may be damaged by any inconsistent activity or use;

c. The right to enter upon and inspect the Property in a reasonable manner and at reasonable times to determine if Grantor is complying with the covenants and prohibitions contained in this Conservation Easement; and

d. The right to proceed at law or in equity to enforce the provisions of this Conservation Easement, and to prevent the occurrence of any of the prohibited activities hereinafter set forth.

3. Prohibited Uses. Except for restoration, creation, enhancement, maintenance, and monitoring activities, or surface water management improvements, which are permitted or required by the Permit, the following activities are prohibited on the Property:

a. Construction of any structure or object (i.e., buildings, roads, above or below ground utilities, signs, billboards, etc.) without written approval from the Corps prior to construction, except for an unpaved park nature trail, which may be constructed and maintained in the location depicted on Exhibit B by Grantor without the consent of Grantee or the Corps;

b. Dumping or placing of soil or other substance or material as landfill, or dumping or placing of trash, waste, or unsightly or offensive materials;

c. Removal or destruction of trees, shrubs, or other vegetation, except as may be permitted by the Permit, and except for the removal of nuisance, exotic, or non-native vegetation in accordance with a maintenance plan approved by Grantee;

d. Planting of nuisance, exotic, or non-native plants as listed by the State of Missouri;

e. Exploration for, or extraction of, oil or gas in such a manner as to affect the surface, or excavation, dredging, or removal of coal, loam, peat, gravel, soil, rock, or other material substance, except as may be permitted or required by the Permit;

f. Use of motorized and non-motorized vehicles, the keeping or riding of horses, grazing, livestock confinement, or other surface use that may affect the natural conditions of the Property, except for vehicle use for purposes of maintenance and upkeep, or as otherwise may be permitted or required by the Permit;

g. Tilling, plowing, planting of crops, digging, mining, or other activities that are or may be detrimental to drainage, flood control, water conservation, water quality, erosion control, soil conservation, or fish and wildlife habitat preservation, including but

not limited to ditching, diking, and fencing, except as permitted or required by the Permit;

h. The extraction of water from the Property or adjacent properties owned by Grantor, or the impoundment of water on the Property or on adjacent properties owned by Grantor, so as to affect the hydrology of the Property;

i. Acts or uses detrimental to the aforementioned retention and maintenance of land or water areas;

j. Acts or uses detrimental to the preservation of the structural integrity or physical appearance of sites or properties of historical, architectural, archeological, or cultural significance.

4. Utility Easements and Reserved Rights. The parties acknowledge and agree that, notwithstanding the prohibited uses set forth in Section 3 above, certain portions of the Property are subject to public utility easements in favor of Grantee pursuant to existing easements and that any use by Grantee pursuant to such public utility easements is hereby authorized and shall be deemed to be in compliance with this Conservation Easement.

Grantor reserves all rights as owner of the Property, including the right to engage in uses of the Property that are not prohibited herein and that are not inconsistent with any Corps rule, criteria, permits, or the intent and purposes of this Conservation Easement.

5. Taxes. Grantor shall pay any and all applicable real property taxes and assessments levied by competent taxing authority on the Property.

6. Maintenance. Grantor shall, at Grantor's sole expense, operate, maintain and keep up the Property consistent with the purpose of this Conservation Easement. Grantor shall remove from the Property any nuisance, exotic, or non-native plants as listed by the State of Missouri shall maintain the hydrology of the Property as it currently exists or as otherwise required by the Permit.

7. Hazardous Waste. Grantor covenants that if any hazardous substances or toxic waste exist or has been generated, treated, stored, used, disposed of, or deposited in or on the Property, or there are or have been any underground storage tanks on the Property, Grantor shall be responsible for any and all necessary costs of remediation.

8. Public Access. No right of access by the general public to any portion of the Property is conveyed by this Conservation Easement, and Grantor further covenants not to hold any portion of the Property open to general use by the public, except for that portion of the Property to be used as an unpaved park nature trail pursuant to Section 3(a), above, which shall be open to general use by the public.

9. Liability. Grantor shall continue to retain all liability for any injury or damage to the person or property of third parties that may occur on the Property arising from ownership of the Property. Neither Grantor, nor any person claiming by or through Grantor, shall hold Grantee or the Corps liable for any damage or injury that may occur on the Property.

10. Recording Requirements. Grantor shall record this Conservation Easement in the official records of Cass County, Missouri, and shall re-record it at any time Grantee or the Corps may require to preserve their rights. Grantor shall pay all recording costs, fees and taxes necessary at any time to record this Conservation Easement in the public records. Grantor shall thereafter insert the terms and restrictions of this Conservation Easement in any subsequent deed or other legal instrument by which Grantor divests himself/herself/itself of any interest in the Property, and shall provide a photocopy of the recorded Conservation Easement to the new owner(s).

11. Enforcement. The terms and conditions of this Conservation Easement may be enforced in an action at law or equity by the Grantee and the Corps against the Grantor or any other party violating or attempting to violate these Restrictions. Venue for any such action shall be in Cass County, Missouri. Enforcement of this Conservation Easement shall be at the reasonable discretion of the Grantee or the Corps, and any forbearance on behalf of Grantee or the Corps to exercise its or their rights hereunder in the event of any breach by Grantor shall not be deemed or construed to be a waiver of rights. Any costs incurred in enforcing, judicially or otherwise, the terms, provisions, or restrictions of this Conservation Easement, including without limitation, the costs of suit, and attorney's fees, shall be borne by and recoverable against the non-prevailing party in such proceedings, except that such costs shall not be recoverable against the Corps. In addition, if the Grantee or the Corps shall prevail in an enforcement action, such party shall also be entitled to recover that party's cost of restoring the land to the natural vegetative and hydrologic condition existing at the time of execution of these Restrictions or to the vegetative and hydrologic condition required by the Permit.

12. Assignment of Rights. Grantee shall hold this Conservation Easement exclusively for conservation purposes. Grantee will not assign its rights and obligations under this Conservation Easement, except to another legal entity qualified to hold such interests under applicable state and federal laws and committed to holding this Conservation Easement exclusively for the purposes stated therein. Grantee shall notify the Corps in writing of any intention to assign this Conservation Easement to a new grantee at least sixty (60) days in advance thereof, and the Corps must accept the assignment in writing. The new grantee shall then deliver a written acceptance to the Corps. The assignment instrument must then be recorded and indexed in the same manner as any other instrument affecting title to real estate and a copy of the assignment instrument shall be furnished to the Corps. Failure to comply with the assignment procedure herein stated shall result in invalidity of the assignment. In the event of dissolution of the Grantee or any successor, or failure for 60 days or more to execute the obligations of this Conservation Easement, the Grantee shall transfer this Conservation Easement to a qualified and willing grantee.

13. Successors. The covenants, terms, conditions, and restrictions of this Conservation Easement shall be binding upon, and inure to the benefit of the parties hereto and their respective personal representatives, heirs, successors, and assigns, and shall continue as a servitude running in perpetuity with the Property.

14. Notices. All notices, consents, approvals, or other communications hereunder shall be in writing and shall be deemed properly given if sent by United States certified mail, return receipt requested, addressed to the appropriate party or successor-in-interest.

15. Severability. If any provision of this Conservation Easement or the application thereof to any person or circumstances is found to be invalid, the remainder of the provisions of this Conservation Easement shall not be affected thereby, as long as the purpose of the Conservation Easement is preserved.

16. Alteration or Revocation. This Conservation Easement may be amended, altered, released, canceled, or revoked only by written agreement between the parties hereto or their heirs, assigns, or successor in interest, which shall be filed in the public records of Cass County, Missouri. No action shall be taken, however, without advance written approval thereof by the Corps. Corps approval shall be by letter attached as an exhibit to the document amendment, altering, canceling, or revoking the Conservation Easement, and said letter shall be informal and shall not require notarization. It is understood and agreed that Corps approval requires a minimum of sixty (60) days written notice, and that the Corps may require substitute or additional mitigation, a separate conservation easement or alternate deed restrictions, or other requirements as a condition of approval. Any amendment, alteration, release, cancellation, or revocation together with written Corps approval thereof shall then be filed in the public records of Cass County, Missouri, within 30 days thereafter.

17. Controlling Law. The interpretation and performance of this Conservation Easement shall be governed by the laws of the State of Missouri.

TO HAVE AND TO HOLD unto Grantee forever. The covenants, terms, conditions, restrictions, and purpose imposed with this Conservation Easement shall be binding upon Grantor, and shall continue as a servitude running in perpetuity with the Property.

GRANTOR FURTHER COVENANTS that Grantor is lawfully seized of said Property in fee simple; that the Property is free and clear of all encumbrances that are inconsistent with the terms of this Conservation Easement and that no mortgages or other liens exist; that Grantor has good right and lawful authority to convey this Conservation Easement, and that it hereby fully warrants and defends the title to the Conservation Easement hereby conveyed against the lawful claims of all persons whomsoever.

5th IN WITNESS WHEREOF, the Grantor has executed this Conservation Easement this day of February, 2013.

CITY OF BELTON, MISSOURI

Attest:

Zach Matteo
~~Patricia A. Ledford, City Clerk~~
Zach Matteo, Assistant
City Engineer

By: Gary Lathrop
Gary Lathrop, Mayor Pro Tem

STATE OF MISSOURI)
) ss.
COUNTY OF CASS)

BE IT REMEMBERED that on the 5th day of February, 2013, before me, the undersigned Notary Public in and for the county and state aforesaid, personally appeared Gary Lathrop and ~~Patricia A. Ledford~~ Zach Matteo, to me personally known, who being by me duly sworn did say that they are the Mayor Pro Tem and ~~City Clerk~~ Ass. City Engineer, respectively, of the City of Belton, Missouri, a Missouri municipality, and that said Easement was signed on behalf of the said city by authority of its City Council, and said Gary Lathrop and ~~Patricia A. Ledford~~ Zach Matteo acknowledged said Easement to be the free act and deed of said city.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal the day and year last above written.

My Commission Expires:

Patricia A. Ledford
Notary Public
Patricia A. Ledford
(Printed Name)

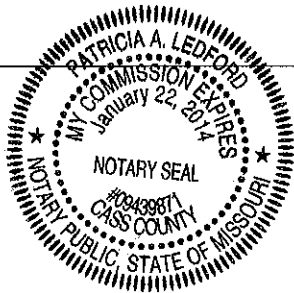


EXHIBIT A
Legal Description of the Conservation Easement

All that part of Lot 2, Spanish Villa South, a subdivision lying in the Southwest Quarter of Section 14, Township 46 North, Range 33 West, in the City of Belton, Cass County, Missouri, described as follows:

BEGINNING at the Northwest corner of Lot 2, Spanish Villa South; thence South 86 degrees 59 minutes 24 seconds East along the North line of said Lot 2 a distance of 75.00 feet to a point; thence South 64 degrees 06 minutes 42 seconds East along the Northerly line of said Lot 2 a distance of 60.45 feet to a point; thence South 46 degrees 41 minutes 31 seconds East along the Northeasterly line of said Lot 2 a distance of 272.00 feet to a point; thence South 43 degrees 23 minutes 27 seconds East along the Northeasterly line of said Lot 2 a distance of 622.03 feet to a point; thence South 46 degrees 41 minutes 31 seconds East along the Northeasterly line of said Lot 2 a distance of 86.07 feet to a point; thence South 45 degrees 41 minutes 41 seconds East along the Northeasterly line of said Lot 2 a distance of 50.00 feet to a point; thence South 43 degrees 34 minutes 46 seconds East along the Northerly line of said Lot 2 a distance of 706.82 feet to a point; thence South 50 degrees 36 minutes 42 seconds East along the Northeasterly line of said Lot 2 a distance of 380.80 feet to a point; thence South 78 degrees 37 minutes 20 seconds East along the Northerly line of said Lot 2 a distance of 205.44 feet to the Northeast corner thereof; thence South 3 degrees 02 minutes 33 seconds West along the East line of said Lot 2 a distance of 202.63 feet to the Southeast corner thereof; thence North 85 degrees 54 minutes 56 seconds West along the South line of said Lot 2 a distance of 250.04 feet to a point; thence North 3 degrees 02 minutes 33 seconds East a distance of 138.09 feet to a point; thence North 50 degrees 36 minutes 42 seconds West a distance of 402.51 feet to a point; thence North 43 degrees 34 minutes 46 seconds West a distance of 711.12 feet to a point; thence North 45 degrees 41 minutes 41 seconds West a distance of 47.28 feet to a point; thence North 46 degrees 41 minutes 31 seconds West a distance of 88.08 feet to a point; thence North 43 degrees 23 minutes 27 seconds West a distance of 622.03 feet to a point; thence North 46 degrees 41 minutes 31 seconds West a distance of 253.80 feet to a point; thence North 64 degrees 06 minutes 42 seconds West a distance of 24.90 feet to a point; thence North 86 degrees 59 minutes 24 seconds West a distance of 54.77 feet to a point on the West line of said Lot 2; thence North 3 degrees 00 minutes 36 seconds East along the West line of said Lot 2 a distance of 100.00 feet to the POINT OF BEGINNING and containing 275,292 Square Feet or 6.320 Acres, more or less.

And Also,

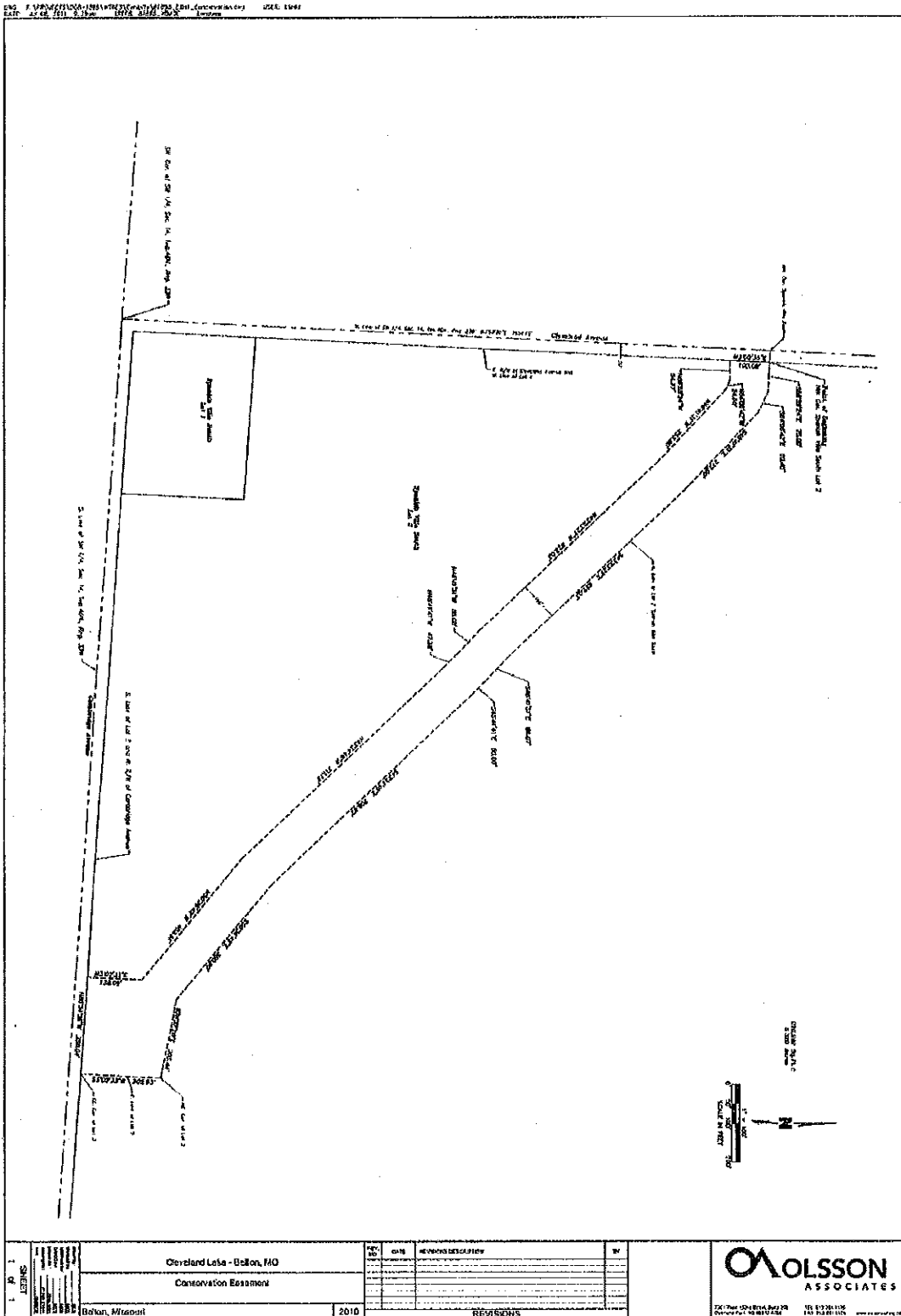
All that part of the Southeast Quarter of Section 15, Township 46 North, Range 33 West, in the City of Belton, Cass County, Missouri, described as follows:

COMMENCING at the Northeast corner of the Southeast Quarter of Section 15, Township 46 North, Range 33 West; thence North 85 degrees 33 minutes 59 seconds West along the North line of the Southeast Quarter of said Section 15 a distance of 1312.12 feet to the POINT OF BEGINNING; thence South 3 degrees 02 minutes 17 seconds West a distance of 154.61 feet to a point; thence South 79 degrees 25 minutes 31 seconds East a distance of 96.36 feet to a point;

thence South 59 degrees 28 minutes 58 seconds East a distance of 126.11 feet to a point; thence South 42 degrees 43 minutes 48 seconds West a distance of 191.15 feet to a point; thence South 4 degrees 15 minutes 30 seconds East a distance of 109.77 feet to a point; thence South 84 degrees 56 minutes 35 seconds West a distance of 664.38 feet to a point; thence North 71 degrees 46 minutes 53 seconds West a distance of 335.56 feet to a point; thence South 75 degrees 45 minutes 42 seconds West a distance of 450.01 feet to a point on the West line of the Southeast Quarter of said Section 15; thence North 3 degrees 03 minutes 58 seconds East a distance of 259.17 feet to a point; thence North 50 degrees 54 minutes 08 seconds East a distance of 300.68 feet to a point; thence North 69 degrees 51 minutes 28 seconds East a distance of 447.98 feet to a point on the North line of the Southeast Quarter of said Section 15; thence South 85 degrees 33 minutes 59 seconds East a distance of 677.34 feet to the POINT OF BEGINNING and containing 668,493 Square Feet or 15.346 Acres, more or less.

EXHIBIT B

Depiction of the Conservation Easement



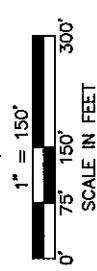
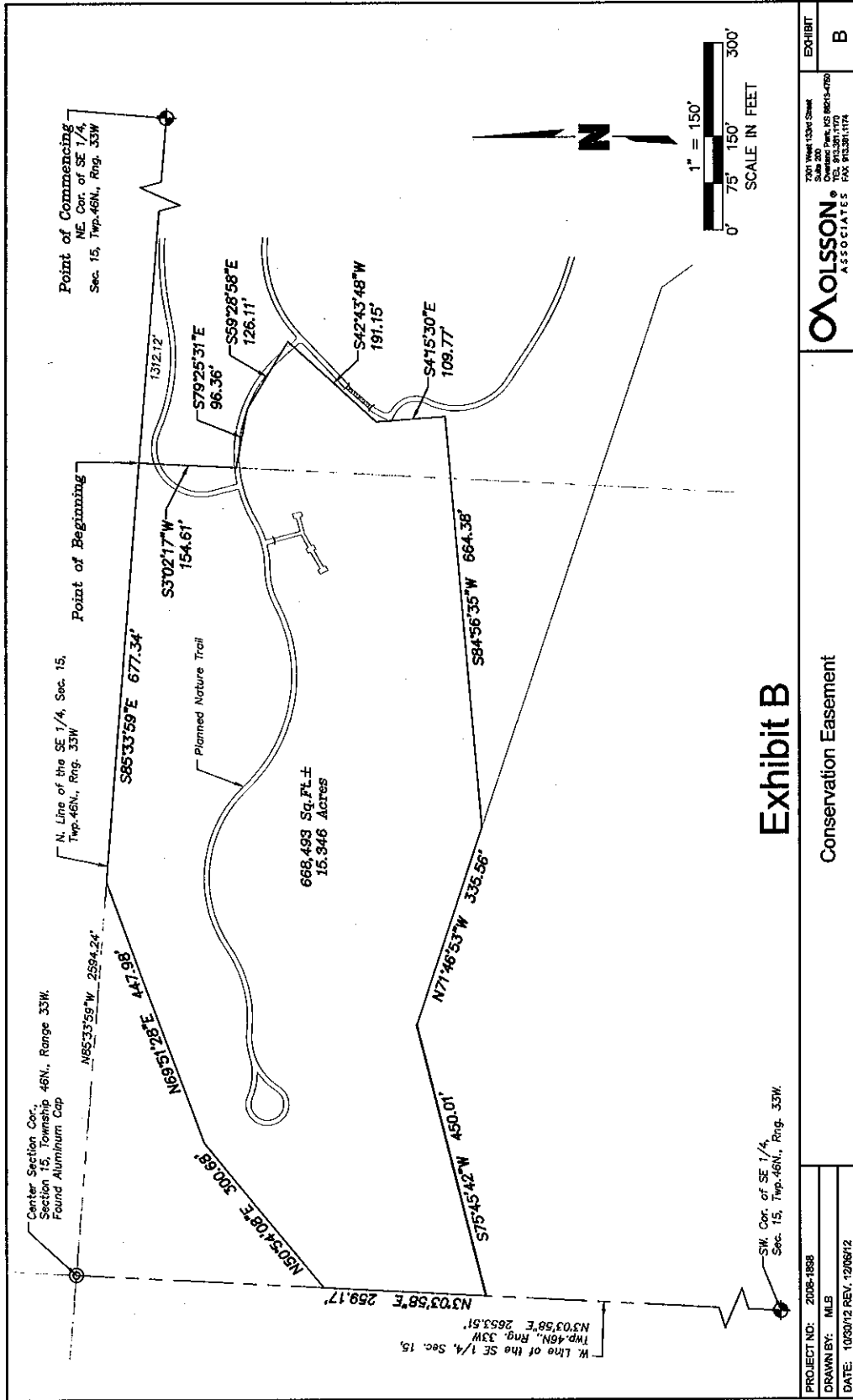


Exhibit B

Conservation Easement

PROJECT NO: 2008-1888
 DRAWN BY: MLB
 DATE: 10/30/12 REV. 1206/12

2001 West 134th Street
 Suite 200
 Overland Park, KS 66214-4750
 TEL: 913.381.1170
 FAX: 913.381.1174

O'Neilsson
 ASSOCIATES

EXHIBIT
B