PRRIF

2009008 Boundary Resolution

Bruce Sackett – EDO Office

6/15/2011

The following pages offer a LAC recommended solution to a fence line boundary disagreement with one neighbor and the assistance from the original seller of the property. The agreement, surveys and details of the issue involved follow.

Background

When tract #2009008, the Broadfoot Sandpit, was purchased in December of 2009 several of the boundary lines were in some amount of uncertainty. Most of the external boundary issues were reasonably resolved by negotiations with the neighbors but one location was not so easily settled. Mr. and Mrs. Dennis Day owned an in-holding along the river near the north center edge of the Broadfoot property. I approached the Day family following the completion of our survey to find out if some agreements or transfers had taken place due to the substantial difference between the surveyed line and the fence line. Mr. Day assured me the fence line was the boundary and they had papers to prove it. I told him that would be a relief because I could not rectify the difference. When I returned Mr. and Mrs. Day informed me they could not find those papers but they felt the land was their land. I pressed them about their survey and they admitted that they did not have a survey of the land they occupied. It was too costly to do. I offered to work with them to possibly exchange some land in the river channel for the land on the south and east side of their holdings in order to make PRRIF holdings match closer in acres with what we purchased. They rejected that offer and went on to refuse to discuss the matter any further. We obtained legal counsel in order to keep this in the front of their minds and make sure that the issue was not going to just be ignored further. It is legally not wise to own land occupied by another party. Much bad can come from such and arrangement and little to no good. Our attorney visited with their attorney to try and find something short of court action to resolve this matter. No progress was made.

At the time we purchased Broadfoot Sand and Gravel a small triangular parcel of property was not in the company name but was in the estate of Vern Broadfoot. Because Terry Broadfoot, the heir had no interest in keeping any land at this site we agreed that when the estate of Vern Broadfoot was settled and the land placed in Terry Broadfoot's name we would purchase that 1.5 acres of land for $7,500.00.

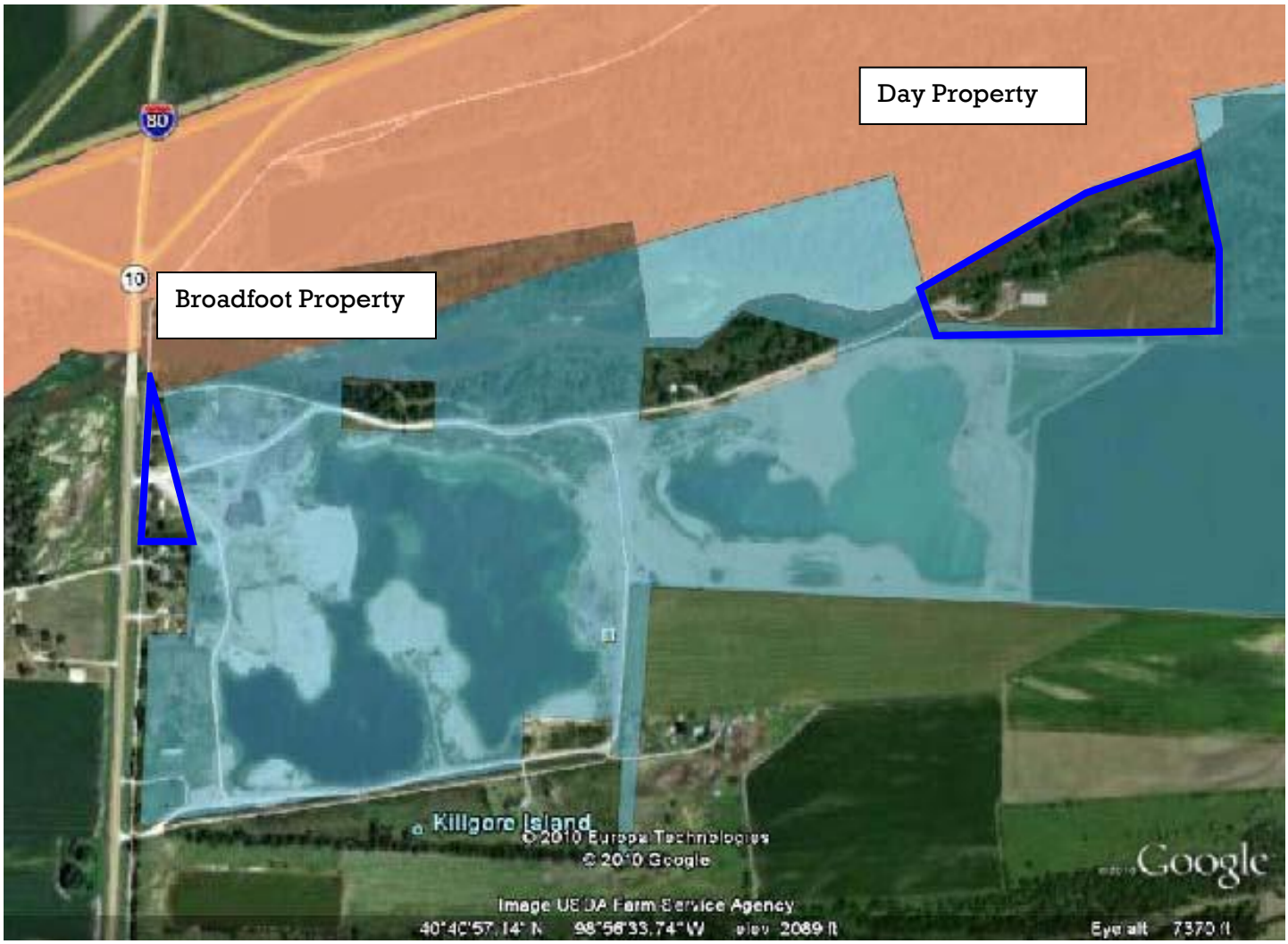
The two events, Day's unwillingness to negotiate and Broadfoot estate completion, arrived at the opportune time to resolve both issues and save all three parties time and legal costs to sort out a final ownership.

I discussed the matter with Terry Broadfoot following Day's resistance. Terry immediately saw the issue that he and his company would be involved in any suit arising from him selling land to PRRIF that was in fact occupied and claimed by another party. As we discussed the situation it became clear that the best thing to do would be for Terry to grant the triangle to PRRIF in exchange for us not pursuing the matter with Day. For our part PRRIF would grant the land we purchased in 2009 from Broadfoot Sand and Gravel between the survey and the fence claimed by Day as the boundary between us.

The LAC approved recommending this resolution to the GC at their June 1, 2011 meeting. The following documents are:

1. the Agreement
2. the survey of the total land
3. the land owned by PRRIF and occupied by Dennis and Sandra Day
4. the survey of the land held by Terry Broadfoot

The Overview



The Agreement

AGREEMENT

THIS AGREEMENT MADE AND ENTERED INTO by and between Platte River Recovery Implementation Foundation, a Nebraska Nonprofit Corporation, Trustee (hereinafter referred to as "PRRIF"), Broadfoot Sand and Gravel Company, Inc., a Nebraska Corporation (hereinafter referred to as "BROADFOOT"), and Dennis L. Day and Sandra J. Day, husband and wife (hereinafter referred to as "DAYS").

WITNESSETH THAT:

WHEREAS, BROADFOOT, for good and valuable consideration, executed a Corporation Warranty Deed and a Corporation Quit Claim Deed, both of which were recorded in the Office of the Buffalo County Register of Deeds, conveying certain tracts of real estate to PRRIF, copies of these recorded deeds are attached hereto as Exhibit "A" and Exhibit "B", respectively;

WHEREAS, DAYS are the owners of certain real estate pursuant to a Joint Tenancy Warranty Deed that was recorded in the Office of the Buffalo County Register of Deeds, a copy of said recorded deed is attached hereto as Exhibit "C";

WHEREAS, PRRIF has discovered, through a survey of the real estate that was conveyed to PRRIF by BROADFOOT pursuant to the legal description in the recorded deeds attached as Exhibit "A" and Exhibit "B", that the following described tract of real property (containing 2.43 acres, more or less):
A tract of land... (hereinafter referred to as Tract "A");

(although not a part of the real estate described in the Joint Tenancy Warranty Deed attached as Exhibit "C") is located within the fence line and has been used openly, continuously, and exclusively by the DAYS for more than the last ten (10) years;

WHEREAS, due to the question on the title to Tract "A", BROADFOOT has agreed, without any additional consideration but in full and complete settlement between the parties, to convey by warranty deed to PRRIF the following described tract of real property (containing 1.47 acres, more or less):
A tract of land ... (hereinafter referred to as Tract "B");

WHEREAS, in order to correct and clarify the title to Tract "A", PRRIF has agreed, without any additional consideration, to convey Tract "A" by a quit claim deed to DAYS.

NOW, THEREFORE, the parties agree as follows:

1. BROADFOOT shall convey Tract "B" to PRRIF by Corporation Warranty Deed, free and clear of all liens and encumbrances, a copy of which is attached as Exhibit "D".
2. PRRIF shall convey Tract "A" to DAYS by Corporation Joint Tenancy Quit Claim Deed, a copy of which is attached as Exhibit "E".
3. All agreements, covenants, undertakings, representations, and warranties of the parties hereto and extended hereunder shall be deemed to continue and survive the execution and delivery of the deeds hereunder.

IN WITNESS WHEREOF, the parties have executed this Agreement on the date(s) hereinafter set forth.

Platte River Recovery Implementation Foundation, Trustee	Broadfoot Sand and Gravel Company, Inc., a Nebraska Corporation

By:_____
Diane Wilson, Executive Director
Dated: May ___, 2011

By:_____
Terry L. Broadfoot, President
Dated: May ___, 2011

_____
Dennis L. Day
Dated: May ___, 2011

_____
Sandra J. Day
Dated: May ___, 2011

STATE OF NEBRASKA)
) ss:
COUNTY OF _____)

The foregoing instrument was acknowledged before me on May ___, 2011, by Diane Wilson, Executive Director of the Platte River Recovery Implementation Foundation, a Nebraska Nonprofit Corporation, Trustee, on behalf of the Corporation.

_____
Notary Public

STATE OF NEBRASKA)
) ss:
COUNTY OF BUFFALO)

The foregoing instrument was acknowledged before me on May ___, 2011, by Terry L. Broadfoot, President of the Broadfoot Sand and Gravel Company, Inc., a Nebraska Corporation, on behalf of the Corporation.

_____
Notary Public

STATE OF NEBRASKA)
) ss:
COUNTY OF BUFFALO)

The foregoing instrument was acknowledged before me on May ___, 2011, by Dennis L. Day and Sandra J. Day, husband and wife.

_____
Notary Public

Exhibit "A" and Exhibit "B"

CORPORATION WARRANTY DEED

Broadfoot Sand and Gravel Company, Inc., herein called the Grantor, whether one or more, in consideration of One & No/100ths Dollars ($1.00) and Other Valuable Consideration, received from Grantee, does grant, bargain, sell, convey and confirm unto **Platte River Recovery Implementation Foundation, a Nebraska nonprofit corporation, Trustee,** herein called the grantee, whether one or more, the following-described real property in Buffalo County, Nebraska:

SEE ATTACHED EXHIBIT "A" FOR LEGAL DESCRIPTION

To have and to hold the above-described premises together with all tenements, hereditaments, and appurtenances thereto belonging unto the grantee and to grantee's heirs and assigns forever.

And the grantor does hereby covenant with the grantee and with grantee's heirs and assigns that grantor is lawfully seized of said premises; that they are free from encumbrance, except easements, restrictions, and reservations of record; that grantor has good right and lawful authority to convey the same; and that grantor warrants and will defend the title to said premises against the lawful claims of all persons whomsoever.

DATED: December _____, 2009.

Broadfoot Sand and Gravel Company, Inc.

BY: _____
Terry L. Broadfoot, President

STATE OF NEBRASKA)
)ss:
COUNTY OF _____)

Before me, a notary public qualified for said county, personally came **Terry L. Broadfoot, President,** a duly authorized and qualified officer of **Broadfoot Sand and Gravel Company, Inc.,** known to me to be the identical person or persons who signed the foregoing instrument and acknowledged the execution thereof to be his, her or their voluntary act and deed and on behalf of the corporation.

Witness my hand and notarial seal on December _____, 2009

_____
NOTARY PUBLIC

EXHIBIT A
PROPERTY DESCRIPTION

Government Lots 9 and 10 in Section 5, Township 8 North, Range 14 West of the 6th P.M., Buffalo County, Nebraska;

AND

Government Lots 1, 2, 3 and 4 in Section 7, Township 8 North, Range 14 West of the 6th P.M., Buffalo County, Nebraska;

EXCEPT a tract of land in the West half of the Northwest quarter of said Section 7 described as follows, to-wit: Beginning at a point which is 1,148.78 feet South and 33 feet East of the Northwest corner of said Section 7; thence South 492.2 feet parallel to the West line of said Section 7; thence East 177 feet at right angles to the said West Section line; thence North 492.2 feet parallel to said West Section line; thence West 177 feet at right angles to said West Section line to the place of beginning. Containing 2 acres, more or less;

AND EXCEPT a tract in the West half of the Northwest quarter of said Section 7 more particularly described as follows: Beginning at a point which is 1,148.75 feet South and 33 feet East of the Northwest corner of said Section 7; thence East 177 feet at right angles to said West Section line; thence North 13° 45' West a distance of 744.35 feet to a point, said point being 33 feet East of the West Section line of said Section 7; thence South 723 feet parallel to the West line of said Section 7 to the place of beginning, containing 1.47 acres, more or less.

AND EXCEPT a tract of land being part of Government Lot 3 and part of Government Lot 4 located in Section 7, Township 8 North, Range 14 West of the 6th P.M., Buffalo County, Nebraska, more particularly described as follows: Referring to the Southeast corner of Government Lot 3 in said Section 7 and assuming the South line of said Government Lot 3 as bearing N 89° 32' 34" W and all bearings contained herein are relative thereto; thence N 89° 32' 34" W a distance of 66.45 feet; thence N 00° 45' 45" E a distance of 9.19 feet; thence N 02° 18' 46" W a distance of 20.39 feet to the ACTUAL PLACE OF BEGINNING, said place of beginning being on an existing fence line; thence N 88° 59' 03" W and on the aforesaid fence line a distance of 2167.0 feet; thence S 01° 29' W a distance of 18.58 feet; thence S 85° 49' 47" W a distance of 137.6 feet to a point on the West line of Government Lot 4 in said Section 7; thence N 00° 08' E and on the aforesaid West line a distance of 51.55 feet; thence N 79° 19' 23" E a distance of 1868.31 feet; thence N 00° 41' 20" E a distance of 250.0 feet; thence S 89° 18' 40" E a distance of 419.1 feet; thence S 00° 41' 20" W a distance of 165.75 feet; thence N 79° 19' 23" E a distance of 56.1 feet; thence S 00° 47' 44" W a distance of 497.18 feet to the place of beginning. Containing 15.78 acres, more or less, of which 0.04 acres, more or less, are presently being used for road purposes on the West side.

AND EXCEPT a tract of land being part of Government Lot 3 and part of Government Lot 4 located in Section 7, Township 8 North, Range 14 West of the 6th P.M., Buffalo County, Nebraska, more particularly described as follows: Referring to the Southeast corner of Government Lot 3 in said Section 7 and assuming the South line of said Government Lot 3 as bearing N 89° 32' 34" W and all bearings contained herein are relative thereto; thence N 89° 32' 34" W and on the South line of Government Lot 3 a distance of 66.45 feet to the ACTUAL PLACE OF BEGINNING; thence continuing N 89° 32' 34" W and on the South line of Government Lot 3 and Government Lot 4 a distance of 2305.21 feet to a point, said point being the Southwest corner of Government Lot 4 in said Section 7; thence N 00° 08' E and on the West line of Government Lot 4 a distance of 21.0 feet; thence N 85° 49' 47" E a distance of 137.6 feet; thence N 01° 29' E a distance of 18.58 feet; thence S 88° 59' 03" E a distance of 2167.0 feet; thence S 02° 18' 46" E a distance of 20.39 feet; thence S 00° 45' 45" W a distance of 9.19 feet to the place of beginning. Containing 2.08 acres, more or less, of which 0.02 acres, more or less, are presently being used for road purposes on the West side.

AND EXCEPT a tract of land being part of Government Lot 2 and part of Government Lot 3 and accretion land located North of Government Lot 2 and Government Lot 3 in Section 7, Township 8 North, Range 14 West of the 6th P.M., Buffalo County, Nebraska, more particularly described as follows: Referring to the Southwest corner of Government Lot 4 in Section 7 and assuming the West line of Government Lot 4 as bearing N 00° 07' 44" E and all bearings contained herein are relative thereto; thence N 00° 07' 44" E and on the West line of said Government Lot 4 (if extended) a distance of 1993.29 feet; thence leaving said West line (if extended) N 89° 53' 00" E a distance of 1348.7 feet; thence S 86° 27' 42" E a distance of 381.52 feet; thence N 79° 25' 42" E a distance of 611.46 feet to the ACTUAL PLACE OF BEGINNING; thence N 78° 12' 49" E a distance of 366.74 feet; thence N 66° 58' 36" E a distance of 614.32 feet; thence N 01° 02' 37" E a distance of 110.29 feet; thence N 75° 00' 59" W a distance of 473.54 feet; thence S 47° 51' 07" W a distance of 287.35 feet; thence S 89° 10' 39" W a distance of 249.54 feet; thence S 01° 02' 36" W a distance of 351.53 feet to the place of beginning. Containing 6.51 acres, more or less.

AND EXCEPT a tract of accretion land located North of Government Lot 3 and North of Government Lot 4 in Section 7, Township 8 North, Range 14 West of the 6th P.M., Buffalo County, Nebraska, more particularly described as follows: Referring to the Southwest corner of Government Lot 4 in Section 7 and assuming the West line of Government Lot 4 as bearing N 00° 07' 44" E and all bearings contained herein are relative thereto; thence N 00° 07' 44" E and on the West line of said Government Lot 4 (if extended) a distance of 1993.29 feet; thence leaving said West line (if extended) N 89° 53' 00" E a distance of 909.79 feet to the ACTUAL PLACE OF BEGINNING; thence continuing on the afore described course N 89° 53' 00" E a distance of 438.91 feet; thence N 00° 06' 58" E a distance of 241.72 feet; thence N 89° 07' 51" W a distance of 438.85 feet; thence S 00° 08' 13" W a distance of 249.27 feet to the place of beginning. Containing 2.47 acres, more or less.

AND

Government Lots 1 and 2 and the North half of the Northwest quarter in Section 8, Township 8 North, Range 14 West of the 6th P.M., Buffalo County, Nebraska;

TITLE TO ANY ACCRETION LANDS ARE NOT CONVEYED BY THIS WARRANTY DEED

NOTE: ACCRETION LANDS WILL BE CONVEYED BY A SEPARATE QUIT CLAIM DEED

CORPORATION QUIT CLAIM DEED

Broadfoot Sand and Gravel Company, Inc. Grantor, whether one or more, in consideration of One and No/100ths dollars ($1.00) and Other Valuable Consideration, receipt of which is hereby acknowledged, quitclaims and conveys to **Platte River Recovery Implementation Foundation, a Nebraska nonprofit corporation, Trustee** the following described real estate (as defined in Neb. Rev. Stat. 76-201) in Buffalo County, Nebraska:

All accretions lands deriving from and adjacent to the following described real estate:

SEE ATTACHED EXHIBIT "A" FOR LEGAL DESCRIPTION

Executed December _____, 2009

Broadfoot Sand and Gravel Company, Inc.

_____

Terry L. Broadfoot, President

STATE OF NEBRASKA)
)ss:
COUNTY OF _____)

The foregoing instrument was acknowledged before me on December _____, 2009 by **Terry L. Broadfoot as President of Broadfoot Sand and Gravel Company, Inc.**

_____

Notary Public

EXHIBIT "A"
PROPERTY DESCRIPTION

Government Lots 9 and 10 in Section 5, Township 8 North, Range 14 West of the 6th P.M., Buffalo County, Nebraska; together with all accretion lands deriving from and adjacent to said Government Lots 9 and 10..

AND

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AND

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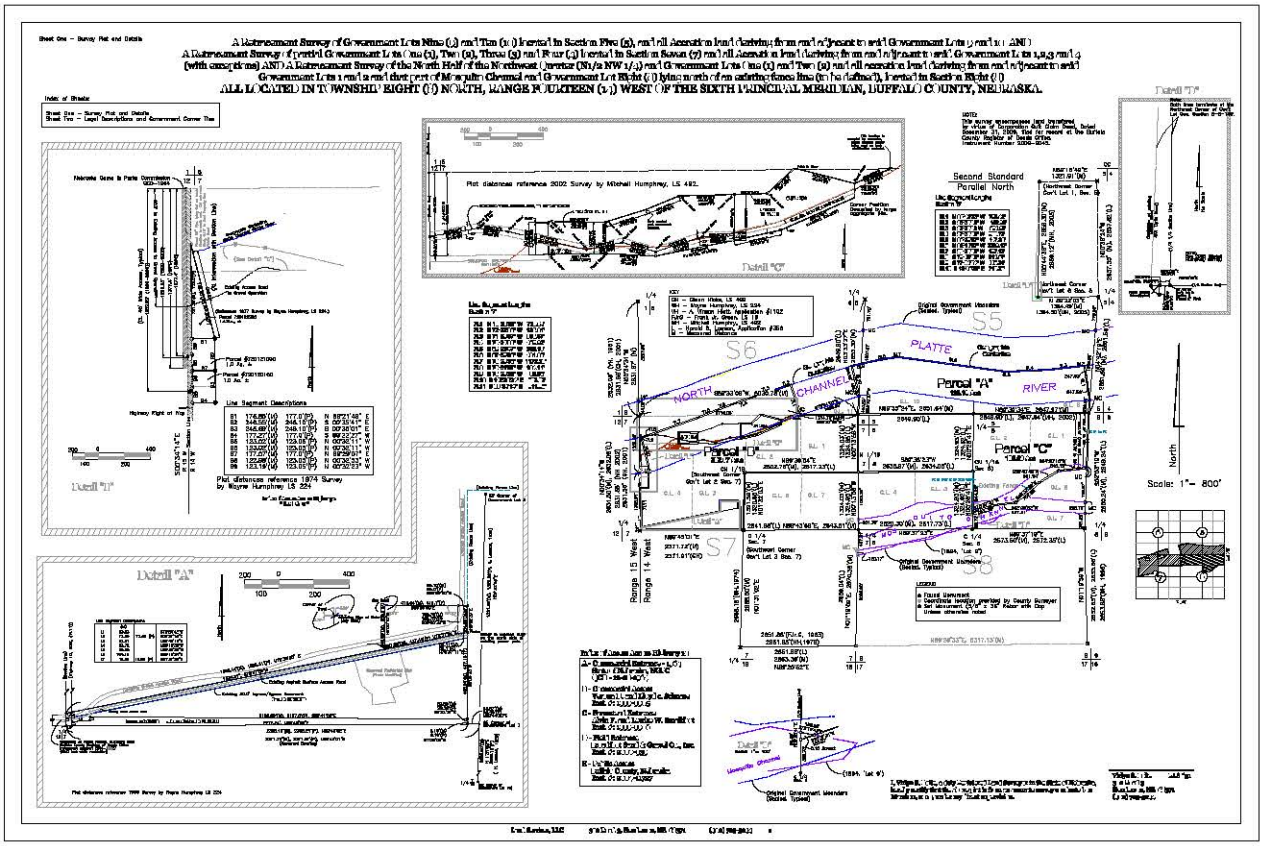
Survey of 2009008



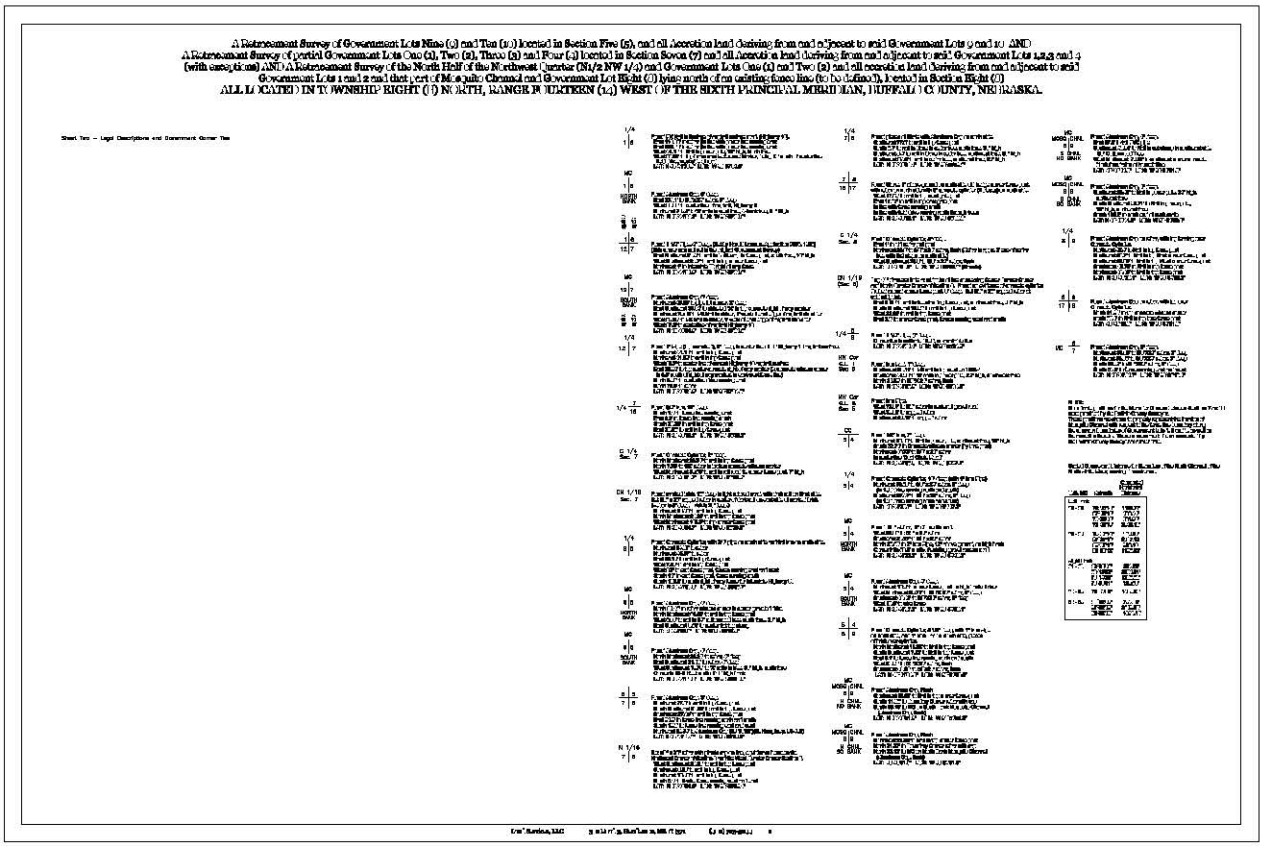
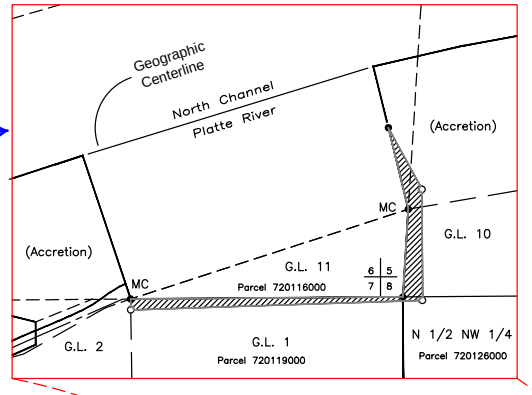


Exhibit C Deed to Day Property held with our Attorney

Tract A

Ground Deeded from PRRIF to Day Also Known As Tract A

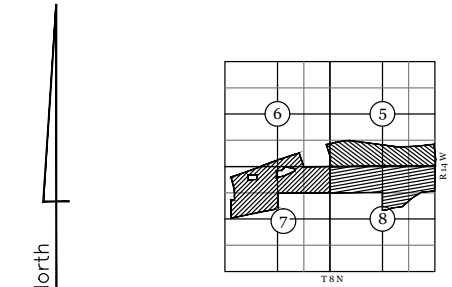
Not to Scale

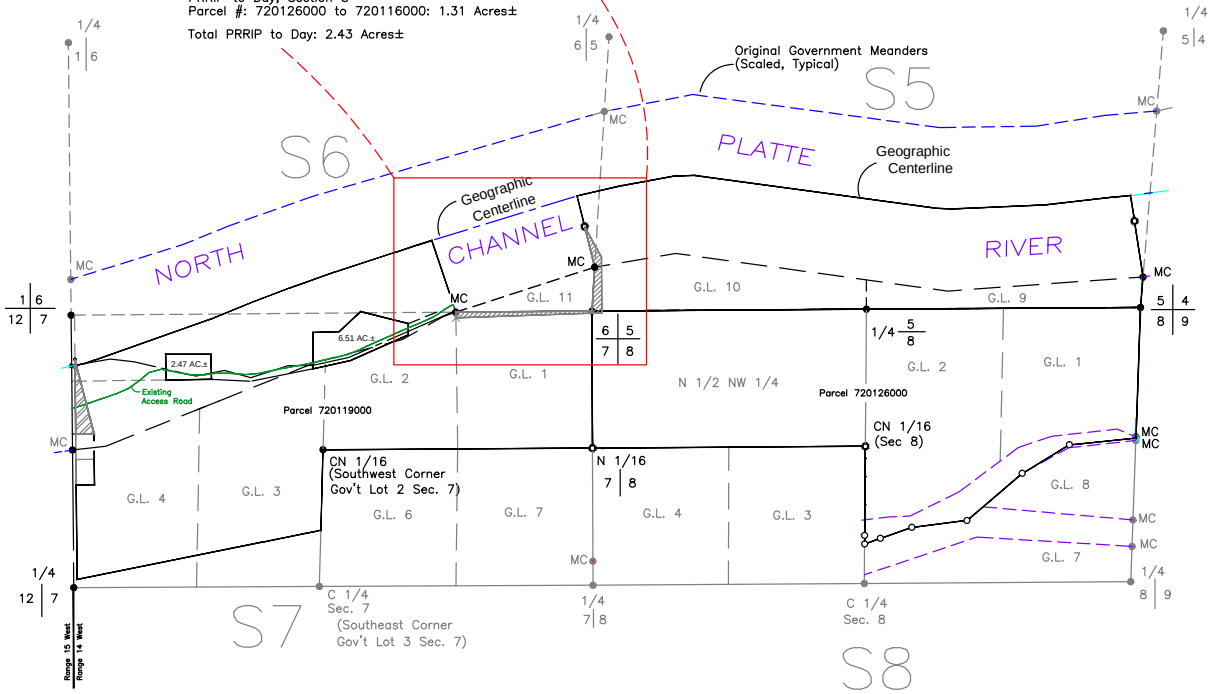


Transfer Totals:
PRRIP to Day, Section 7
Parcel #: 720119000 to 720116000: 1.12 Acres±

PRRIP to Day, Section 8
Parcel #: 720126000 to 720116000: 1.31 Acres±

Total PRRIP to Day: 2.43 Acres±

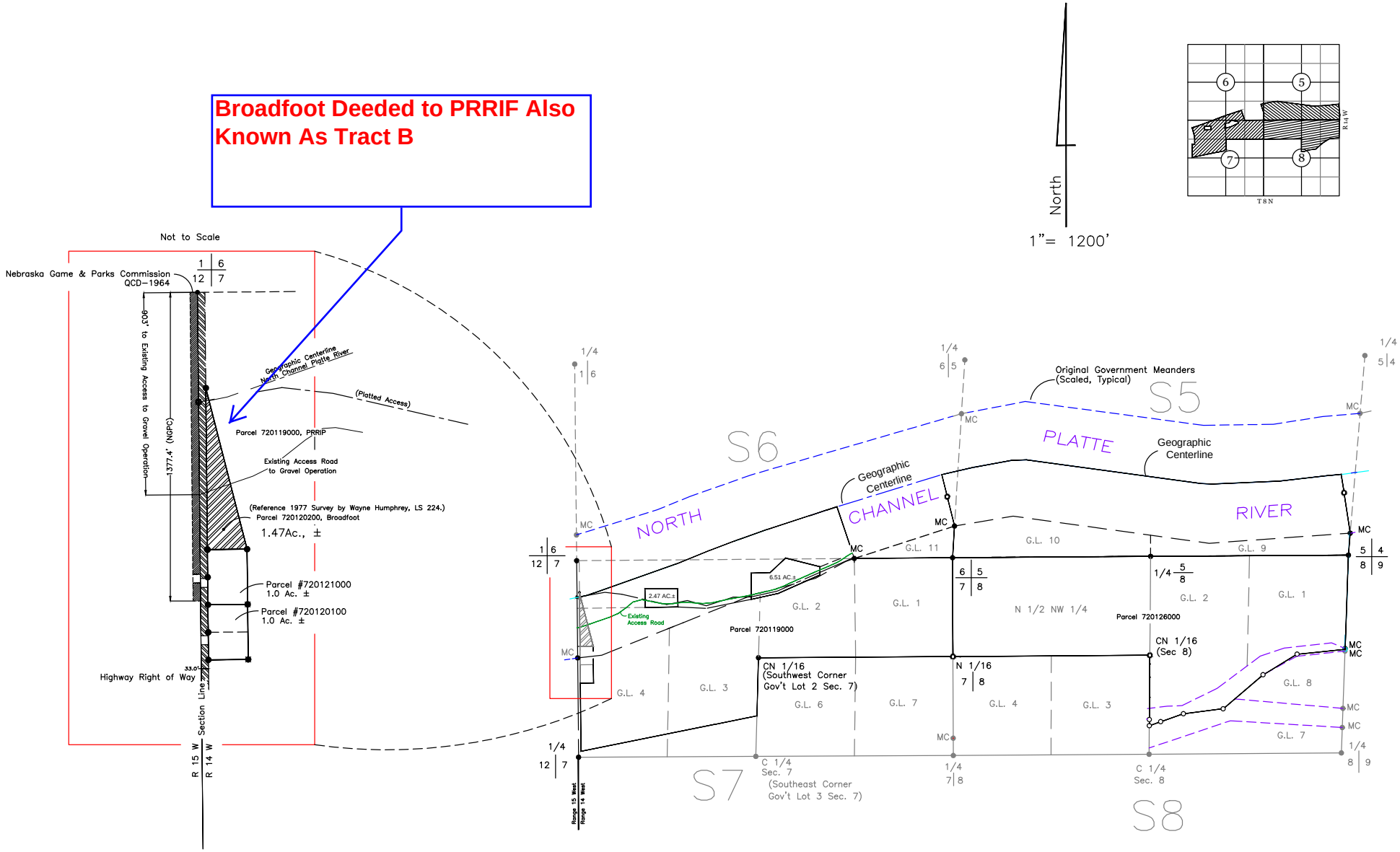




ALL LOCATED IN TOWNSHIP EIGHT (8) NORTH, RANGE FOURTEEN (14) WEST OF THE SIXTH PRINCIPAL MERIDIAN, BUFFALO COUNTY, NEBRASKA.

Tract B

Broadfoot Deeded to PRRIF Also Known As Tract B



ALL LOCATED IN TOWNSHIP EIGHT (8) NORTH, RANGE FOURTEEN (14) WEST OF THE SIXTH PRINCIPAL MERIDIAN, BUFFALO COUNTY, NEBRASKA.

Land Services, LLC 302 Road 3, Henderson, NE 68371 (402) 723-5244 c