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**Prepared by & Return to:**  
Fred L. Dorr  
Wasker, Dorr, Wimmer & Marcouiller, P.C.  
4201 Westown Parkway -- Suite 250  
West Des Moines, IA 50266  
Phone: (515) 283-1801

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**AFFIDAVIT OF EXPLANATION**  
**(Fence Line Determination)**

STATE OF IOWA    )  
                                  ) ss.  
COUNTY OF POLK )

On this 16<sup>th</sup> day of April 2021, the undersigned, after first being duly sworn on oath  
deposes and states as follows:

1. That I am an attorney licensed to practice law in Iowa and a shareholder in the law firm of Wasker, Dorr, Wimmer & Marcouiller, P.C., 4201 Westown Parkway – Suite 250, West Des Moines, Iowa 50266.

2. This Affidavit is being executed by the undersigned as attorney for Michael and Bonnie Forsyth, husband and wife (“**Michael**”), whose address is 2963 214<sup>th</sup> Trail, Winterset, Madison County, Iowa 50273. They are the present owners of certain property located in Madison County, Iowa, legally described as follows, to-wit:

**Approximately 40 acres in the Southwest Quarter of the Northwest Quarter of Section 33, Township 76 North, Range 26 West of the 5<sup>th</sup> P.M., excluding Parcel “B,” all of which is located in Madison County, Iowa.**

3. A copy of the Plat of Survey describing the aforementioned Parcel “B” identified as an exception to that land owned by Michael in the preceding paragraph is attached hereto for reference marked as Exhibit “A.”
4. The adjoining neighbors, owners of the previously identified Parcel “B” are Brian and Jodi Hildreth, husband and wife (“**Brian**”), whose address currently is 2957 214<sup>th</sup> Trail, Winterset, Iowa 50273.
5. A fence line complaint was initiated by Michael and against Brian on January 8, 2021, as shown for reference in the attached Exhibit “B.” That dispute related to a partition line fence between real estate owned by Michael and real property titled in Brian.
6. The boundary fence on the south and east property lines of the indicated parcel “B” was the subject of the fence line complaint.
7. On March 27, 2021, certain fence viewers met to hear and resolve the fence line controversy between Michael and Brian.
8. On that same date, “Notice of Findings” was entered by the fence viewers, a copy of which is attached as Exhibit “C” for reference, indicating that as part of their Findings and Order the fence viewers (Crawford Township Trustees of Madison County Iowa) “Ordered and Adjudged” the following:

“Refer to handwritten 2 pages.”

The same Exhibit “C” attached includes that subject “handwritten 2 pages”.

9. The previously indicated “Order of Fence Viewers” has now been recorded in the Crawford Township, Madison County, Iowa Township book under the date of March 28, 2021.

10. The purpose of this Affidavit, which will be recorded with the Madison County, Iowa Recorder's Office, is to put all present and future owners of the land previously indicated as owned by Michael and the adjoining land owned by Brian on notice of the subject "Order of Fence Viewers" and its more specific impact on the neighboring properties, as follows:

"Brian Hildreth will continue to build a 5 wire fence on the property line and accept responsibility of maintenance for it, with the exception of the west end which has never been fenced. If and when a fence is put there, the costs will be shared one-half plus one-half between the 2 parties."

11. Although the order provides that "the west end" has "never been fenced" and should a fence later be placed there that Michael and Brian will share equally the costs of same, Michael will, in fact, install that portion of the fence amounting to an approximate 253 feet on the "west end" and maintain same thereafter at his sole cost, expense and obligation.

12. The subject Fence Line Order and understanding detailed herein shall run with the land and be an obligation and responsibility of both Michael and Brian to honor, as well as their successors and assigns in the future chain of title to both neighboring parcels identified first herein.

13. This Affidavit is also being executed and recorded in order to provide public notice to any future purchasers or other interested parties in the same two adjoining properties of the fence line obligations which have been ordered and/or undertaken by Michael and Brian, along with their successors and/or assigns.

Dated: April 16, 2021.

**FURTHER AFFIANT SAYETH NAUGHT.**

*Fred L. Dorr*

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Fred L. Dorr                      AT0002105  
4201 Westown Parkway, Suite 250  
West Des Moines, Iowa 50266-6720  
Phone: (515) 283-1801  
Fax: (515) 283-1802  
Email: [fdorr@wdwm.net](mailto:fdorr@wdwm.net)

Subscribed and sworn to before me by Fred L. Dorr, an attorney with the law firm of Wasker, Dorr, Wimmer & Marcouiller, P.C., on this 16<sup>th</sup> day of April 2021.

*Lori K. Techau*

\_\_\_\_\_  
Notary Public in and for the State of Iowa



005914

FILED NO. \_\_\_\_\_

BOOK 2002 PAGE 5914

DEC -4 AM 11:33

REC \$ 5<sup>00</sup>  
AUD \$ \_\_\_\_\_  
R.M.F. \$ \_\_\_\_\_

COMPUTER	<input checked="" type="checkbox"/>
RECORDED	<input checked="" type="checkbox"/>
COMPALED	<input type="checkbox"/>

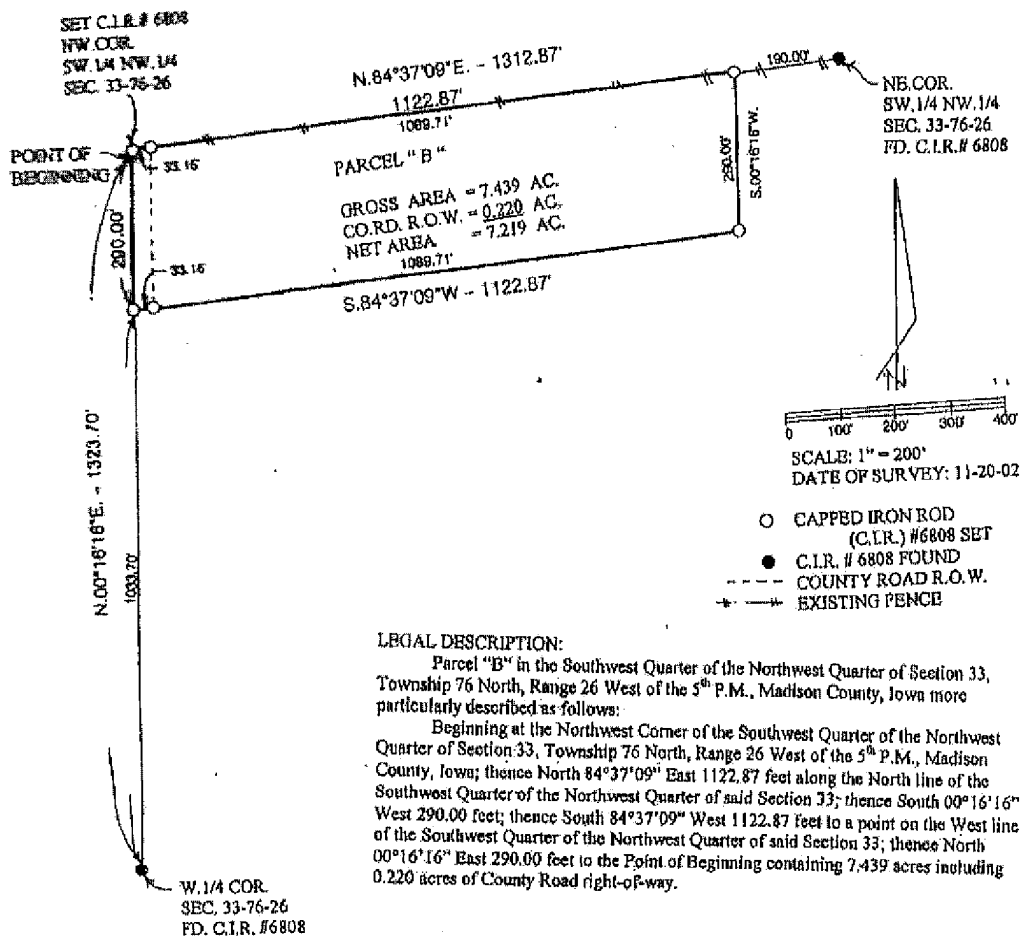
MICHAEL D. HOCHSTETLER  
RECORDERS  
MADISON COUNTY, IOWA

VANCE & HOCHSTETLER, P.C. CONSULTING ENGINEERS, WINTERSET, IOWA (515) 462-3895

CHARLES T. VANCE, 110 WEST GREEN ST., WINTERSET, IOWA 50273

JAMES M HOCHSTETLER, 110 WEST GREEN ST., WINTERSET, IOWA 50273

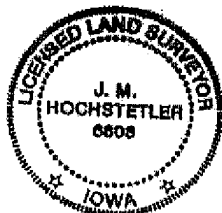
PLAT OF SURVEY IN THE SOUTHWEST QUARTER OF THE NORTHWEST  
QUARTER OF SECTION 33, TOWNSHIP 76 NORTH, RANGE 26 WEST OF THE  
5<sup>TH</sup> P.M., MADISON COUNTY, IOWA  
OWNED BY MICHAEL D. AND BONNIE C. FORSYTH.



LEGAL DESCRIPTION:

Parcel "B" in the Southwest Quarter of the Northwest Quarter of Section 33, Township 76 North, Range 26 West of the 5<sup>th</sup> P.M., Madison County, Iowa more particularly described as follows:

Beginning at the Northwest Corner of the Southwest Quarter of the Northwest Quarter of Section 33, Township 76 North, Range 26 West of the 5<sup>th</sup> P.M., Madison County, Iowa; thence North 84°37'09" East 1122.87 feet along the North line of the Southwest Quarter of the Northwest Quarter of said Section 33; thence South 00°16'16" West 290.00 feet; thence South 84°37'09" West 1122.87 feet to a point on the West line of the Southwest Quarter of the Northwest Quarter of said Section 33; thence North 00°16'16" East 290.00 feet to the Point of Beginning containing 7.439 acres including 0.220 acres of County Road right-of-way.



I hereby certify that this land surveying document was prepared and the related survey work was performed by me or under my direct personal supervision and that I am a duly licensed Land Surveyor under the laws of the State of Iowa.

*J.M. Hochstetler*  
J.M. HOCHSTETLER

License number 6808 Date 12/2/02  
My license renewal date is December 31, 2003  
Pages or sheets covered by this seal: 1

BEFORE THE TOWNSHIP TRUSTEES

Crawford TOWNSHIP Madison COUNTY, IOWA

Michael Forsyth and Bonnie Forsyth

Complaining Party

2963 214th Trail  
Winterset IA 50273

Address

Brian Hildreth and Jodi Hildreth

Responding Party

2957 214th Trail  
Winterset IA 50273

Address

Now comes the above named Complainant(s) and respectfully makes application to the

Crawford Township Trustees, Madison County, pursuant to Chapter 359A, Iowa Code, to act as Fence Viewers to determine a fence controversy with the above named Respondents, and do state to the Trustees as follows:

1. These Complainant(s) own the following described parcel: Approximately 40 acres in the SW $\frac{1}{4}$  of the NW $\frac{1}{4}$  of Sec. 33, excluding Parcel "B", Township 76 North, Range 26 West of the 5th P.M. Madison County Iowa

2. Adjoining the ownership of these Complainant(s), the Respondent(s) own the following described parcel:

Parcel "B" in the S.W. $\frac{1}{4}$  of the N.W. $\frac{1}{4}$  of Sec. 33, Township 76 North, Range 26 West of the 5th P.M., Madison County, Iowa



3. A controversy has developed between the two adjoining owners in the following respects: (Explain inadequacy of fence.) *The boundry fence on the south and east side of parcel "B" is owned by the Hildreths in its entirety. The condition of that fence is totally inadequate for livestock control from either side.*  
Dated this 10 day of March, 2021.

*Michael Fausz*  
*Bernie Lousy*

Complaint(s)

State of Iowa, Madison County, SS.

On this 10 day of March, 2021, before the undersigned, a Notary Public in and for the State of Iowa, personally appeared known to me to be the identical person(s) named in and who executed the within and foregoing instrument, and acknowledged that he/she executed the same as a voluntary act and deed.

*B Macumber*  
Notary Public in and for the State of Iowa



1-8-2021

**The nature of the complaint is:**

In 2004, I, Michael Forsyth, sold the house, shop building and a parcel of land at 2957 214th Trail to Brian Hildreth. At that time, we made a verbal agreement that the boundary fence line bordering this property and my remaining property would be 100% constructed and 100% maintained completely by Brian. It was understood that this fence would need to keep livestock on the respective properties.

At this time, the fence that Brian has built is no longer adequate for keeping livestock in the respective property lines. The fence has never been able to be called an adjacent fence and was not built on the property line.

Due to the circumstances of the last few months, it is past time to have the fence completely replaced and put back on the property line and properly maintained by Brian Hildreth.

Michael Forsyth

NOTICE

TO: Michael & Bonnie Forsyth  
Complaining Party

2963 214<sup>th</sup> Trail Winterset IA 50273  
Address

Brian & Jodi Hildreth  
Responding Party

2957 214 Trail Winterset IA 5027  
Address

You are hereby notified that the Crawford, Madison County, acting as fence viewers under Chapter 113 of the Iowa Code, will meet to hear the fence viewers' controversy between the above named adjoining landowners on the 27 day of March, 2021, at 2:00 o'clock PM.

You may be present and present any facts you desire for consideration in connection therewith. The partition fence in dispute is located at:

2957 214 Trail  
Parcel B as described on page 77 & 78.

Govern yourselves accordingly.

Sheryl Faux  
Township Clerk

**ACKNOWLEDGMENT OF SERVICE**

The undersigned landowner(s) hereby accepts due, timely and legal service of notice of the above and foregoing Notice of Hearing this 17<sup>th</sup> day of March, 2021, at 4:00 PM

Mitchal Foyed

Complaining Parties

**ACKNOWLEDGMENT OF SERVICE**

The undersigned landowner(s) hereby accepts due, timely and legal service of notice of the above and foregoing Notice of Hearing this 17<sup>th</sup> day of March, 2021, at 4:00 PM

Jack L. Havel

Responding Parties

NOTE: If all interested parties do not sign Acknowledgment of Service, those not signing must be served personally by the Sheriff at least five (5) days prior to date set for hearing.

If notice is to be served on nonresidents, see Section 359A.7 for publication requirements.

(Copy of this Notice to each party acknowledged or with proof of service shall be placed on record with County Recorder.)

80

NOTICE OF FINDINGS

Crawford TOWNSHIP, Madison COUNTY

Michael & Bonnie Forsyth

Complaining Party

2963 214<sup>th</sup> Trail  
WINTERSSET IA 50273

Address

vs.

Brian & Jodi Hildreth

Responding Party

2957 214<sup>th</sup> Trail  
WINTERSSET IA 50273

Address

Now on this 27<sup>th</sup> day of March, 2021, a controversy having arisen between the parties named above, adjoining landowners, as to the erection and maintenance of a partition fence, it comes on for hearing before Crawford Township Trustees, Madison County, State of Iowa, acting as fence viewers upon the request of one of the landowners, pursuant to Chapter 359A of the Code.

The Trustees, after providing all parties in interest with due notice or accepting waiver of same, after inspection of the property and fences and being fully advised in the premises, FINDS:

*Brian Hildreth will continue to build a 5 wire fence on the property line and accept responsibility of maintenance for it, with the exception of the west end which has never been fenced. If & when a fence is put there, the cost will be shared 1/2 + 1/2 between the 2 parties.*

Refer to Note  
Page  
Page  
Next



# Findings

March 28  
2021

## Decisions:

The respondent, Brian Hildreth, assumed the role of Care-taker of the fence when he started fencing it for his horses several years ago.

The fence should be extended to the road, so no problems will come up in the future.

It was indicated among us that since no fence had ever been to the road, that if the Complainant, Mike Forsyth, want a fence there now, that he should share the cost  $\frac{1}{2} + \frac{1}{2}$  with respondent, Brian Hildreth.

The wood fence section that is there now should be replaced with steel post and wire, as is the rest of the fence.

If you are going with a wood board fence, it needs to be 3 boards, not less than 6 inches wide &  $\frac{3}{4}$  inch thick, fastened to good substantial post not more than 8 feet apart.

Continue building the fence you are working on now. Moving post to the property line and using 5 wires.

Corner sets need to be put in each corner with braces & number 9 wire. If you are unsure how to do this, ask for help.

Wires need to be tightened and stretched after new corner sets.

Top wire needs to be 54 inches to 48 inches from the ground.

Bottom wire, no less than 16 inches <sup>from</sup> ground. Wire needs to be one continuous <sub>line.</sub>

Barb wire should be used on the north/south fence."

It is advised that ownership of the fencing duties be recorded in writing to the Madison Co. Recorder.

Work should be completed by May 5, 2021

That the complaining party is the owner of the following described real estate, to-wit: (Insert full legal description.) *APPROX. 40 Acres in the SW 1/4 of the NW 1/4 of*

and *Section 33 Crawford Twp., excluding "Parcel B" Township 76 North Range 26 West of the 5th PM Madison Co.*

That the responding party is the owner of the following described real estate, to-wit: (Insert full legal description.) *"Parcel B" in the SW 1/4 of the NW 1/4 of Section*

and *33 Township 76 North Range 26 West of the 5th PM Madison Co.*

That there is a partition fence between said tract of real estate which should be maintained and repaired according to Iowa law.

and

That the Trustees further find that the parties should build, repair and/or maintain their respective portions of said partition fence as is hereinafter ordered.

**IT IS THEREFORE HEREBY ORDERED AND ADJUDGED** by the Trustees of said Township as follows, to-wit: *Refer to hand written 2 pages*

1. That the complaining party, his/her grantees and successors in interest shall erect and/or maintain that part of the said partition fence described as follows, to-wit:
2. That the responding party, his/her grantees and successors in interest shall erect and/or maintain that part of the said partition fence described as follows, to-wit:
3. That said partition fence shall be a "lawful" fence.
4. (Insert other legal requirements to be made of one or both parties including date when work is to be completed.) *May 5, 2021*
5. That the costs of this proceeding to be paid on entry of this Order shall be borne as follows:

Recording Fees \$ 72.<sup>00</sup> Copy Fees \$ 30.<sup>30</sup>

Trustee Fees \$ 225.<sup>00</sup> Clerk Fees \$ 75.<sup>00</sup>

Complaining party shall pay \$ 402.<sup>30</sup>; Responding party shall pay \$ \_\_\_\_\_

*make check out to "Crawford Twp. Clerk"*

IN WITNESS WHEREOF, we have hereunto signed our names as Trustees  
of Crawford Township, Madison County, State of Iowa.  
Dated at Viewing Site, Crawford, Iowa, this 27<sup>th</sup> day of March, 2021.

**TOWNSHIP TRUSTEES ACTING AS FENCE VIEWERS**

[Signature]  
\_\_\_\_\_

TRUSTEE

[Signature]  
\_\_\_\_\_

TRUSTEE

[Signature]  
\_\_\_\_\_

TRUSTEE

(At least two Trustees must sign.)

Attest:

[Signature]  
\_\_\_\_\_

Township Clerk

APPEALS MAY BE MADE BY FILING A NOTICE OF APPEAL WITH THE CLERK OF DISTRICT COURT  
WITHIN 20 DAYS AFTER THE DATE OF THIS DECISION.



STATE OF IOWA, COUNTY OF Madison, ss.

I, Sheryl Faux, being first duly sworn on oath  
depose and state that I am the Township Clerk of Crawford  
Township, Madison County, Iowa; that I do hereby certify that  
the foregoing Order of Fence Viewers was recorded in the Township book under the date  
of 3/22/2021; and that the foregoing Order is a true and correct copy of said Order as  
recorded in said Township book.

Sheryl Faux  
Township Clerk

Subscribed and sworn to before me by Sheryl Faux this 31 day  
of March, 2021.

Jenell  
Notary Public in and for the State of Iowa

JESSICA ALDRIDGE  
Commission Number 768383  
Commission Expires  
10-9-23

*(File one copy in the Township book and file one copy with the County Recorder.  
Each party to the Order should also have a copy for his or her records.)*