



Document 2010 3411

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LISA SMITH, COUNTY RECORDER
MADISON COUNTY IOWA

✓ Prepared by David L. Dorff, Assistant Attorney General, Iowa Department of Justice, Capitol Complex, Des Moines, Iowa 50319, 515-281-5351;
Return to: Madison SWCD at 815 E. Highway 92 Winterset, IA 50273-2300

IOWA CONSERVATION RESERVE ENHANCEMENT PROGRAM EASEMENT

For and in consideration of the sum of One Dollar (\$1.00) and other valuable consideration, the sufficiency of which is hereby acknowledged by Grantors,

Frederick Martens (Husband)

1167 Highway 169
Winterset, IA 50273-8480

Helen Martens (Wife)

1167 Highway 169
Winterset, IA 50273-8480

Grantors

do hereby grant to

Madison Soil and Water Conservation District

815 E. Highway 92
Winterset, IA 50273-2300

Grantee, its successors and assigns, a thirty (30) year easement as described below, upon those parts of the following described land which has been restored, enhanced, or protected in the Iowa Conservation Reserve Enhancement Program (CREP), has significant ecological value as a means of reducing nitrate in surface waters, and is enrolled in the Conservation Reserve Program (CRP).

The property subject to this easement, referred to as the easement area, consists of [17.44] acres and is described on a Plat of Survey prepared by Merlin Davis, P.L.S. dated 9/20/2010. A reduced copy of said Plat of Survey is attached hereto as EXHIBIT A, and by this reference is incorporated herein.

Grantor covenants that he/she is the owner in fee simple of the above-described land and that the lands are free and clear of all encumbrances and liens except the following:

Mortgage recorded in Book 2008, Page 2288

Intent of Parties

It is the intent of Grantor, by this conveyance, to grant a CREP easement to Grantee on, over, and across the above-described property, in order to conserve the ecological value of the property and to prevent the use or development of the property for any purpose or in any manner that would conflict with the maintenance of the practices established as part of the Iowa CREP. Grantee is willing to accept this grant of a CREP easement in order to extend the environmental benefits of the CRP contract subject to the reservations and the covenants, terms, conditions, and restrictions set out herein and imposed hereby. The easement granted is for 30 years in duration, shall run with the land, and shall be binding upon and benefit the successors or assigns of both Grantor and Grantee.

Conditions

This easement is subject to the following conditions:

1. Grantee shall have the right to enforce by proceedings at law or in equity the covenants set forth below, it being agreed that there shall be no waiver or forfeiture of Grantee's right to ensure compliance with the covenants and conditions of this easement by reason of any prior failure to act.
2. Grantor shall maintain vegetative cover and structural practices for a term of thirty (30) years (hereafter "the maintenance period") from the date of recording of the easement. Grantor shall restore to the original specifications any improvement which Grantor, without prior approval of Grantee, has altered or permitted to be altered. Maintenance includes, but is not limited to, any necessary replanting of vegetative cover and repair of the structure. Upon expiration of the maintenance period, the Grantor may discontinue said maintenance without violating the terms or conditions of this easement. Furthermore, neither the Grantor nor the Grantee shall be required to maintain the vegetative cover or structural practice beyond the maintenance period.
3. Grantor shall manage wetland water levels as needed to balance water quality performance and vegetation distribution. Except when drawdown is needed for vegetation re-establishment, the water level control structure shall be maintained at the water level specified in the original wetland design plan. After initial vegetation establishment, when the wetland pool area less than three feet deep becomes devoid of vegetation, or upon recommendation of the SWCD, IDALS-DSC, or their designees, the water level in the

wetland shall be lowered for vegetation re-establishment. The period of this drawdown shall be as needed to re-establish the vegetation and shall not exceed one year. Water-level manipulation will be done in such manner as to not infringe upon the vested drainage rights of up-stream or down-stream landowners.

4. Grantee is granted the right of ingress and egress to the Easement area to inspect the same to determine compliance with the terms of the CRP contract and this easement. This includes the right to take Global Positioning measurements or land surveys and to record measurements in a conservation practices database.
5. Except as otherwise allowed hereunder, there shall be no commercial, industrial, or single or multiple dwelling activity undertaken or allowed on the above-described property during the period of this easement, nor shall any right of passage across or upon the above-described property be allowed, except for the use and enjoyment of Grantor, Grantor's family members, and Grantor's guests as allowed hereunder, absent the consent of Grantee.
6. There shall be no construction or placement of temporary or permanent buildings, docks or other structures on the above-described property. There shall be no mobile homes, trailers, or recreational vehicles providing permanent living quarters placed on the above-described property by either Grantor or Grantee. Existing structures may be maintained, but may not be used for living quarters.
7. There shall be no building of new roads or widening of existing roads.
8. There shall be no filling, excavating, mining or drilling; no removal of topsoil, sand, gravel, rock, minerals, gas, oil or other products that result in the alteration of the surface topography of the above-described property; no disturbance of natural (uncultivated) vegetation; and no installation of mechanical devices upon the above-described property.
9. There shall be no commercial timber harvest or livestock grazing on the above-described property for the life of the easement.
10. There shall be no use of the above-described property for dumping of refuse, trash, garbage, rubbish, junk, ashes, farm waste, or other waste material.
11. Grantor reserves all rights as owner of the property, including the right to use the above-described property for purposes not inconsistent with the CRP contract or the terms or conditions of this easement provided that these uses shall be in full accordance with all applicable local, state and federal laws and regulations.
12. Grantor further reserves the following specific rights:
 - A. The right to maintain and replace existing structures and roads.
 - B. The right of Grantor, Grantor's family members, and guests to hunt, temporarily camp, place temporary hunting blinds or stands, and make recreational use of the above-described property, provided such use does not impact the ecological significance and value of the easement area, and provided such use is conducted in accordance with state and federal regulations. Grantor further reserves the right to charge a fee to guests for such uses.
 - C. The rights to all minerals, gas, oil, and other hydrocarbons currently held by Grantor, shall remain with Grantor and are not conveyed by this easement.

13. Grantor, successors and assigns, shall pay any real estate taxes or assessments levied by competent authority on the above-described property.
14. No right of access to the general public to any portion of the property is conveyed by this Easement, absent the consent of the grantor, and further provided that any such access granted by the grantor shall be otherwise authorized by and consistent with the terms of this Easement.
15. Grantee expressly recognizes federal CRP 15-year contract #4103 dated 10/1/2010 encumbering some or all of the property subject to this easement. To the extent that any inconsistencies exist between the CRP contract and this easement, the latter is subordinated to the former and the provisions in the CRP contract shall control over the provisions in this easement for the duration of the 15-year CRP contract.
16. Eligibility of the above-described property under United States Department of Agriculture (USDA) programs after expiration of this easement shall be governed by applicable USDA rules and regulations.
17. **Grantor's authority and power to revert the above-described property to its documented prior condition and use after expiration of this easement is regulated by and subject to United States Army Corps of Engineers Section 404 permit CEMVR-OD-P-2010-0619 attached hereto as EXHIBIT B. Reversion may occur any time after easement expiration. A plan describing the location and size of drainage tiles disabled and landuse prior to wetland establishment, and NRCS-CPA-026E (Highly Erodible Land and Wetland Conservation Determination), are attached hereto as EXHIBITS C and D to document "prior condition". If additional drainage tiles are located during construction, their location and size will be described in a plan filed as an affidavit concerning this easement. Grantee cannot guarantee applicable wetland regulations at the time of easement expiration.**
18. Grantor shall be responsible for written notification to any present tenant or subsequent tenant of the existence of this easement and where a copy of the same may be located.
19. Grantor and Grantee recognize that this document cannot address every circumstance that may arise in the life of the Easement. The parties agree that the purpose of this easement to extend the CRP contract is to preserve, enhance, restore, and maintain the natural features and nitrate removal capacity of the above-described property. Any use or activity not reserved in this agreement which is inconsistent with the purposes of this easement, or which materially threatens the purpose of this easement, is prohibited.
20. The terms of this easement shall be deemed to run with the land and be binding upon and benefit all successors and assigns of both Grantor and Grantee.

Words used in this easement including the acknowledgment below shall be read as plural or singular and as masculine, feminine or neuter as required by the context.

Signed this 30 day of December, 2010.

Frederick Martens
(Frederick Martens)

Helen Martens
(Helen Martens)

STATE OF IOWA }
 } SS
COUNTY OF Madison }

This instrument was acknowledged before me on 12/30/10 by Frederick and Helen Martens, husband and wife.

Diane Fitch
Notary Public in and for the State of Iowa

My commission expires 5-21, 2013.



EASEMENT EXHIBIT

NW Corner
NE 1/4 NE 1/4
Sec. 13-77-28
Fnd 5/8" Rebar
VPC #8808

N0°29'06"E
1317.89'

Parcel "B"
NE 1/4 NE 1/4
Sec. 13-77-28
(Book 2892)
Page

Parcel "C"
NE 1/4 NE 1/4
Sec. 13-77-28
(Book 1537)
Page

Parcel "D"
NE 1/4 NE 1/4
Sec. 13-77-28
(Book 1537)
Page

Parcel "E"
NE 1/4 NE 1/4
Sec. 13-77-28
(Book 1538)
Page

Parcel "F"
NE 1/4 NE 1/4
Sec. 13-77-28
(Book 1537)
Page

Parcel "G"
NE 1/4 NE 1/4
Sec. 13-77-28
(Book 1537)
Page

Parcel "H"
NE 1/4 NE 1/4
Sec. 13-77-28
(Book 1537)
Page

Parcel "I"
NE 1/4 NE 1/4
Sec. 13-77-28
(Book 1537)
Page

EASEMENT DESCRIPTION:
A PART OF PARCEL "D" AS SHOWN ON THE PLAT OF SURVEY RECORDED IN BOOK 2008, PAGE 1537 AND BEING IN THE NORTHWEST 1/4 OF SECTION 13, TOWNSHIP 77 NORTH, RANGE 28 WEST OF THE 5TH P.M. AND A PART OF THE NORTHWEST 1/4 OF SECTION 18, TOWNSHIP 77 NORTH, RANGE 27 WEST OF THE 5TH P.M., ALL IN MADISON COUNTY, IOWA AND DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF THE SOUTHEAST 1/4 OF THE NORTHWEST 1/4 OF SAID SECTION 13; THENCE SOUTH 90°00'00" EAST ALONG THE NORTH LINE OF SAID SOUTHEAST 1/4 OF THE NORTHWEST 1/4, A DISTANCE OF 457.21 FEET TO THE POINT OF BEGINNING; THENCE NORTH 01°06'16" WEST, 234.32 FEET; THENCE SOUTH 67°51'53" EAST, 373.41 FEET; THENCE SOUTH 67°28'41" EAST, 373.08 FEET; THENCE SOUTH 71°24'45" EAST, 189.14 FEET; THENCE SOUTH 58°47'52" EAST, 231.77 FEET; THENCE SOUTH 81°35'00" EAST, 285.12 FEET; THENCE SOUTH 47°44'34" EAST, 185.67 FEET; THENCE SOUTH 41°28'34" EAST, 153.66 FEET; THENCE SOUTH 60°52'41" EAST, 374.73 FEET; THENCE NORTH 89°52'27" WEST, 607.58 FEET; THENCE SOUTH 48°56'23" WEST, 356.79 FEET; THENCE SOUTH 74°04'42" WEST, 264.46 FEET; THENCE NORTH 33°07'38" WEST, 86.55 FEET; THENCE NORTH 53°30'15" EAST, 423.11 FEET; THENCE NORTH 53°59'52" EAST, 66.11 FEET; THENCE NORTH 43°08'19" EAST, 159.78 FEET; THENCE NORTH 10°44'48" EAST, 348.76 FEET; THENCE NORTH 56°31'42" WEST, 408.04 FEET; THENCE NORTH 88°20'15" WEST, 541.70 FEET; THENCE NORTH 88°31'05" WEST, 13.15 FEET; THENCE NORTH 108°16" WEST, 9.57 FEET TO THE POINT OF BEGINNING AND CONTAINING 17.44 ACRES (759,543 S.F.).

LEGEND

SW Corner
SE 1/4 NE 1/4
Sec. 13-77-28
Fnd 5/8" Rebar

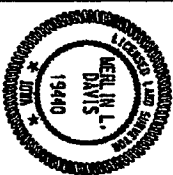
Section Corner
1/2" Rebar, 19440
(Unless Otherwise Noted)
Control Point
Bench Mark
1/4 Section Line
1/4 Section Line
Easement Line

Found

Set

Parcel "D"
NE 1/4 SE 1/4
NE 1/4 NE 1/4
Sec. 13-2008,
(Book 1537)
Page

Parcel "E"
NE 1/4 SE 1/4
NE 1/4 NE 1/4
Sec. 13-2008,
(Book 1538)
Page



NOT TO SCALE
SCALE (FEET)
0 100 200

OWNER
FREDERICK R. &
HELEN I. MARTENS
180 U.S. HWY 189
WINTERSET, IA

MARTENS CREP WETLAND PROJECT

EASEMENT EXHIBIT

SNYDER & ASSOCIATES

2727 SW GAYDOR BLVD.
ARDEN, IOWA 50803
(515) 894-3020

PROJECT NO. 170200000
DATE 07/23/2010
BY MERLIN DAVIS

CLIENT
MARTENS, R. & H.
180 U.S. HWY 189
WINTERSET, IA

DATE	BY
07/23/2010	Merlin Davis
07/23/2010	Merlin Davis
07/23/2010	Merlin Davis
07/23/2010	Merlin Davis

Sheet 1 of 1

Exhibit B

DEPARTMENT OF THE ARMY PERMIT
Regional Permit 34
Conservation Reserve Enhancement Program
Structures in the State of Iowa

Permit Number: CEMVR-OD-P-2010-0619

Section: 404

Permittee: Esther Storck Estate

Effective Date: June 18, 2010

Expiration Date: December 31, 2010

Issuing Office: U.S. Army Corps of Engineers, Rock Island District
Clock Tower Building - P.O. Box 2004
Rock Island, Illinois 61204-2004

If funding or technical assistance is being provided through the Conservation Reserve Enhancement Program (CREP), either the landowner, the Iowa Department of Agriculture and Land Stewardship (IDALS), or the Farm Service Agency (FSA) of the U.S. Department of Agriculture, are authorized to perform work in accordance with the terms and conditions specified below.

NOTE: The term "you" and its derivatives, as used in this permit, means the permittee or any future transferees. The term "this office" refers to the appropriate district or division office of the Corps of Engineers having jurisdiction over the permitted activity or the appropriate official of that office acting under the authority of the commanding officer.

General: Placement of fill materials in waters of the U.S. to create wetlands and ponded water through the construction of earthen embankments and/or dams when funding or technical assistance is being provided through CREP and when FSA is the lead Federal agency.

Project Description: The permittee will construct a dam across Badger Creek. The dam will consist of an earthen embankment about 410 feet long with a sheet pile spillway flowing into a riprap-lined stilling basin and channel. A pond with a surface area of approximately 5.2 acres will form above the dam. According to information provided by the Natural Resources Conservation Service, 0.0 wetlands will be covered with the embankment or inundated by the pool. Approximately 4.1 acres of the pond will have water depths of three feet or less. It is expected that much of the 4.1 acres will develop emergent wetland characteristics.

Project Location: Badger Creek in Section 18, Township 77 North, Range 27 West, Madison County, Iowa.

In accordance with the plans and drawings attached hereto which are incorporated in and made a part of this permit.

Drawings: CEMVR-OD-P-2010-0619

Sheet 1 of 3, Location Map
Sheet 2 of 3, Plan View/Aerial Photo
Sheet 3 of 3, Structure Details

Exhibit D 1/2

U.S.D.A. Natural Resources Conservation Service	NRCS-CPA-028 (June 87)	1. Name and Address of Person FRED MARTENS 1167 HWY 189 WINTERSET, IOWA 50273	2. Date of Request 6/5/10 3. County MADISON
HIGHLY ERODIBLE LAND AND WETLAND CONSERVATION DETERMINATION			
4. Name of USDA Agency or Person Requesting Determination FSA		5. Farm No. and Tract No. tract 4971	

SECTION I - HIGHLY ERODIBLE LAND

	FIELD NO.(s)	TOTAL ACRES
6. Is soil survey now available for making a highly erodible land determination? Yes ☒ No ☐		
7. Are there highly erodible soil map units on this farm? Yes ☒ No ☐		
8. List highly erodible fields that, according to ASCS records, were used to produce an agricultural commodity in any crop year during 1981 - 1989.		
9. List highly erodible fields that have been or will be converted for the production of agricultural commodities and, according to ASCS records, were not used for this purpose in any crop year during 1981 - 1989; and were not enrolled in a USDA set-aside or diversion program.		
10. This Highly Erodible Land determination was completed in the: Office ☐ Field ☐		

SECTION II - WETLAND

	FIELD NO.(s)	TOTAL ACRES
11. Are there hydric soils on this farm? Yes ☒ No ☐		
12. Wetlands (W), including abandoned wetlands, or Farmed Wetlands (FW) or Farmed Wetlands Pasture (FWP). Wetlands may be farmed under natural conditions. Farmed Wetlands and Farmed Wetlands Pasture may be farmed and maintained in the same manner as they were prior to December 23, 1985, as long as they are not abandoned.		
13. Prior Converted Cropland (PC). Wetlands that were converted prior to December 23, 1985. The use, management, drainage, and utilization of prior converted cropland (PC) are not subject to wetland conservation provisions unless that area reverts to wetland as a result of abandonment.	Pasture PC/NW	6.0 acres
14. Artificial Wetlands (AW). Artificial wetlands include irrigation-induced wetlands. These wetlands are not subject to the wetland conservation provisions.		
15. Minimal Effect Wetlands (MEW). These wetlands are to be farmed according to the minimal-effect agreement signed at the time the minimal-effect determination was made.		
16. Mitigation Wetlands (MW). Wetlands on which a person is actively mitigating a frequently cropped area or a wetland converted between December 23, 1985 and November 28, 1990.		
17. Restoration with Violation (RVW-year). A restored wetland that was in violation as a result of conversion after November 28, 1990, or the planting of an agricultural commodity or forage crop.		
18. Restoration without Violation (RWV). A restored wetland converted between December 23, 1985 and November 28, 1990, on which an agricultural commodity has not been planted.		
19. Replacement Wetlands (REW). Wetlands which are converted for purposes other than to increase production, where the wetland values are being replaced at a second site.		
20. Good Faith Wetlands (GFW-year). Wetlands on which ASCS has determined a violation to be in good faith and the wetland has been restored.		
21. Converted Wetlands (CW). Wetland converted after December 23, 1985 and prior to November 28, 1990. In any year that an agricultural commodity is planted on these Converted Wetlands, you will be ineligible for USDA program benefits.		
22. Converted Wetland (CW-year). Wetlands converted after November 28, 1990. You will be ineligible for USDA program benefits until this wetland is restored.		
23. Converted Wetland Non-Agricultural use (CWNW). Wetlands that are converted for trees, fish production, shrubs, cranberries, vineyards or buildings and road construction.		
24. Converted Wetland - Technical Error (CWTE). Wetlands that were converted as a result of incorrect determination by NRCS.		

25. The planned alteration measures on wetlands in fields _____ are considered maintenance and are in compliance with FSA.

26. The planned alteration measures on wetlands in fields _____ are not considered maintenance and if installed will cause the area to become a Converted Wetland (CW). See Item 22 for information on CW-year.

27. The wetland determination was completed in the office ☒ field ☒ and was delivered ☐ mailed ☒ to the person on 5/13/10

28. Remarks.

Affected area is predominantly non-cropland. Pasture has cool season grass vegetation. NWI - FEMA is not apparent. NWI - R48BF, streambed is incised 3-4 feet. Semi-permanent flow, non-vegetated sides and water table @ 38-38".

29. I certify that the above determination is correct and adequate for use in determining eligibility for USDA program benefits, and that wetland hydrology, hydric soils, and hydrophytic vegetation under normal circumstances exist on all areas outlined as Wetlands, Farmed Wetlands, and Farmed Wetlands Pasture.

30. Signature of NRCS District Conservationist

Wayne K. [Signature]

31. Date

5/13/10

Announcements and programs of the National Resources Conservation Service available without regard to race, religion, color, sex, age, or handicap. This form was electronically produced by National Publication Service Staff

Exhibit D 3/2

SOILS

Date: 5/10/2010

Customer(s): FREDERICK R MARTENS

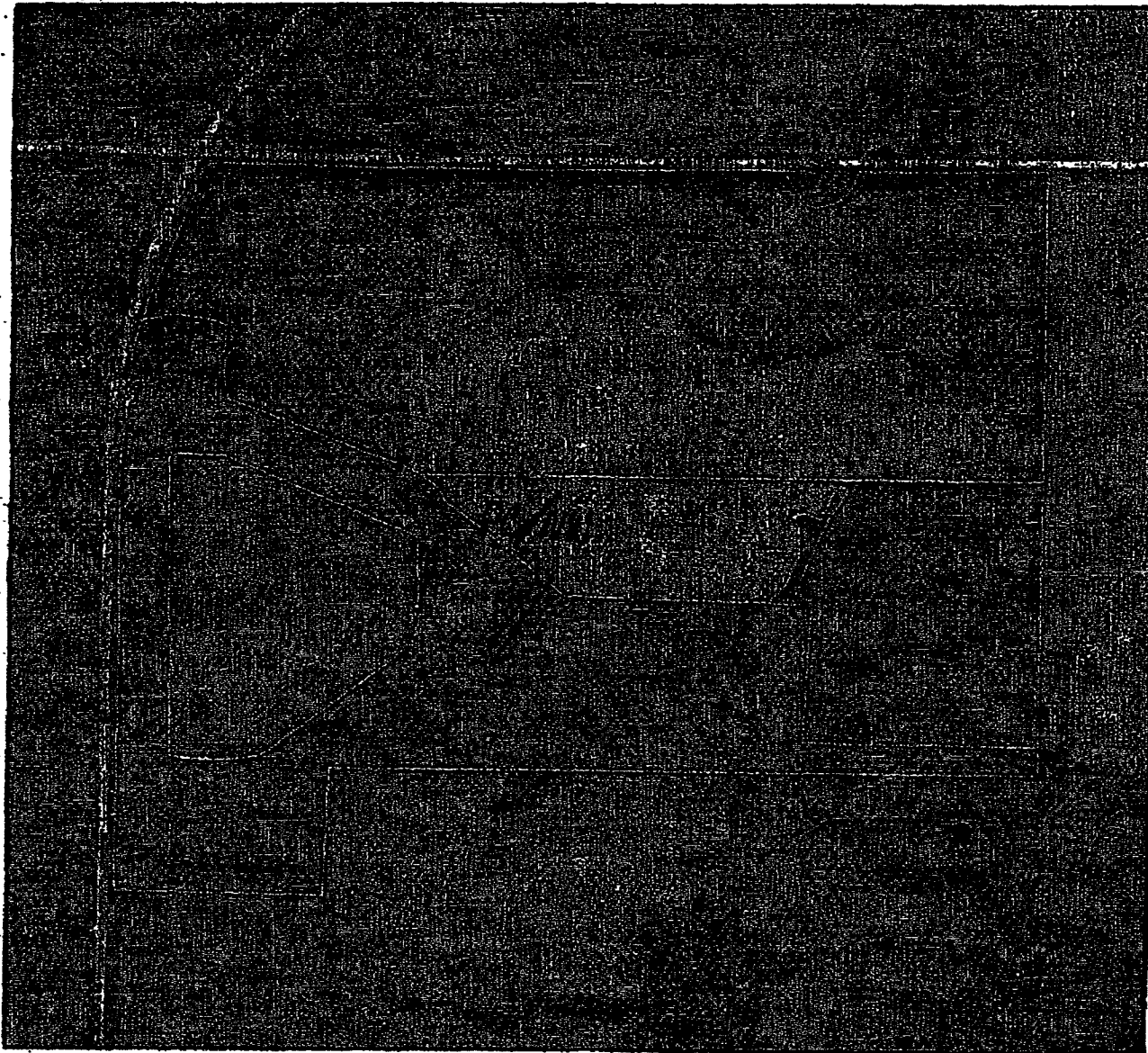
District: MADISON SOIL & WATER CONSERVATION DISTRICT

Field Office: WINTERSET SERVICE CENTER

Agency: Natural Resource Conservation Service

Assisted By: WAYNE SHAFER

Legal Description: Tract No. 4971



Legend

Consplan-14971

☐ Madison Co - SSURGO Site

