

AGENDA BRIEFING

COMMITTEE: Health Committee
MEETING DATE: POLL VOTE

LINE ITEM: n/a
AMOUNT: n/a

ISSUE: Permanent Easement and License Agreement with Robert D. Carman Grantor Trust and Judith A Carman Grantor Trust

BACKGROUND:

Attached please find a Permanent Easement and a License Agreement by and between the Peoria City/County Landfill Committee {Committee}, City of Peoria, County of Peoria and the Robert D. Carman Grantor Trust and the Judith A. Carman Grantor Trust.

The Carman family is willing to issue an easement to the Committee, City and County to construct an overflow spillway for the new dam so long as it can receive a license agreement from all of the parties to access its property through the overflow spillway's maintenance roadway.

The Peoria City/County Landfill Committee is seeking this easement from the Trust in order to complete the construction of the overflow spillway for the new dam. Peoria City County Landfill, INC (PCCLI) met with the Carman family on April 20 and May 1 and discussed whether the Trust would provide an easement to the Committee, City, and County on the approximate 3.21 acre area. The Carman family is willing to issue an easement to the Committee, City, County and PCCLI so long as it can receive a reciprocal easement from all of the parties to access its property through the overflow spillway's maintenance roadway.

Exhibits A and B of the agreement detail exact location and scope of easement.

The Peoria County States' Attorney's Office and the Carman family have reviewed and provided comments on the Permanent Easement and License Agreement, which have been addressed and incorporated in these documents that are included with this memorandum.

The Peoria City/County Landfill Committee approved this easement in the June 23, 2021 meeting

RECOMMENDATION: Approval of Easement and License agreement with Robert D. Carman Grantor Trust and the Judith A. Carman Grantor Trust

APPROVED VIA POLL VOTE 7/7/21 (Per Rules of Order, Article V, Section 18C)

COUNTY BOARD GOALS:



HEALTHY VIBRANT COMMUNITIES

PREPARED BY: Becca Cottrell
DATE: July 6, 2021

DEPARTMENT: Sustainability & Resource Conservation

LICENSE AGREEMENT
(For Access Rights)

This License Agreement ("Agreement") is made and effective August 1, 2021, between the County of Peoria, Illinois, a body politic and corporate, the City of Peoria, Illinois, a municipal corporation, and the Joint City of Peoria – County of Peoria Solid Waste Disposal Facility Board (collectively, "Licensor"), and Robert D. Carman, as Trustee under the Robert D. Carman Grantor Trust dated January 20, 2002, and Judith A. Carman, as Trustee under the Judith A. Carman Grantor Trust dated January 20, 2002 (collectively, "Licensee"), and the parties agree as follows:

1. TERM

The term of this Agreement shall commence on August 1, 2021, and terminate on July 31, 2120.

2. PROPERTY

Licensor is the owner of the real property described in Exhibit A attached hereto. This real estate shall hereinafter be referred to as the "Premises". Licensee is the owner of the real property described in Exhibit B attached hereto. This real estate shall hereinafter be referred to as the "Licensee Premises".

3. LICENSEE'S AUTHORITY

Licensor gives permission to Licensee to enter upon the Premises solely for ingress and egress to and from the entrances to Peoria City/County Landfill from Cottonwood Road to the Licensee Premises.

4. LICENSOR'S USE OF PREMISES

Licensor reserves the right to enter upon the Premises at any time and to use the Premises for any purpose they see fit.

5. TAXES

Licensor shall be responsible for the payment of all real estate taxes on the Premises during the term of this Agreement.

6. INDEMNITY

Licensee agrees to defend and to indemnify Licensor, its employees, officers, and officials and hold them harmless from, for and in respect of any liability, damages, claims, demand of expenses (including but not limited to court costs, reasonable attorney fees, and other costs of defense) caused or arising out of Licensee's acts or

omissions on the Premises. This includes, but is not limited to any injuries (either personal or property), that occur on the Premises due to Licensee's use of the Premises.

7. LICENSEE'S ASSUMPTION OF LIABILITY

Licensee agrees to assume any and all liability resulting from the condition of the Premises and the acts or omissions of third parties, including injury or damage to the property or person of the Licensee, during the term of this Agreement. Licensee expressly agrees to hold Licensor harmless from any liability caused by Licensee's actions, either direct or indirect, from Licensee's use of the Premises. Licensee's assumption of liability with regard to the condition of the Premises is based on the fact that the parties have conducted a diligent search of the Premises and that no defects are known to either party.

8. ASSIGNMENT

This Agreement, together with all the covenants herein contained, shall run with the land and shall be binding upon the successors, grantees and assigns of the respective parties hereto.

9. NOTICE

Any and all notices shall be given in writing by certified mail, return receipt requested, as follows:

Notice to Licensor shall be sent and mailed to:

Notice to Licensee shall be sent and mailed to:

Robert D. Carman/Judith A. Carman
10419 N. Princeville Jubilee Road
Brimfield, IL 61517

10. SEVERABILITY

If any portion of this Agreement shall be, for any reason, invalid or unenforceable, the remaining portion or portions shall, nevertheless be valid and enforceable and carried into effect, unless to do so would clearly violate the present legal and valid Intention of the parties hereto.

11. CONSIDERATION

As consideration for the access rights granted to Licensee, Licensee has granted Licensor a Permanent Easement over a portion of the Licensee Premises.

12. ENTIRE AGREEMENT

This Agreement contains the entire agreement between the parties with respect to the subject matter thereof. No change or modification of this Agreement shall be valid unless the same be in writing and signed by the parties. No waiver of any provisions of this Agreement shall be valid unless the same be in writing and signed by the person or parties to be charged.

13. ACCESS

In order to access the Licensee Premises, Licensor grants Licensee the right to use the main entrance to Peoria City/County Landfill and the internal roads of Peoria City/County Landfill.

Executed by the parties hereto as of the day and year first above written.

LICENSOR:

LICENSEE:

COUNTY OF PEORIA

By: _____

Robert D. Carman, as Trustee under the Robert D. Carman Grantor Trust dated January 20, 2002

Its: _____

Attest:

By: _____

Judith A. Carman, as Trustee under the Judith A. Carman Grantor Trust dated January 20, 2002

Its: _____

CITY OF PEORIA

By: _____

Its: _____

Attest:

By: _____

Its: _____

JOINT CITY OF PEORIA – COUNTY OF
PEORIA SOLID WASTE DISPOSAL
FACILITY BOARD

By: _____

Its: _____

121-715

EXHIBIT A

LEGAL DESCRIPTION OF PREMISES

Being a part of Sections 22, 23, 26 and 27, all being in Township 9 North, Range 6 East of the Fourth Principal Meridian, Peoria County, Illinois, being more particularly described as follows:

Commencing at the center of said Section 26, thence North 00 degrees 02 minutes 32 seconds West 40.07 feet along the East line of the Northwest Quarter of said Section 26 to a found iron rebar with a foth cap, being a point on the North-Right-of-Way line of Cottonwood Road, also being the Point of Beginning: From said Point of Beginning, thence South 89 degrees 48 minutes 39 seconds West 1,566.72 feet, along said North Right-of-Way to a found iron rebar with a foth cap; thence North 10 degrees 43 minutes 44 seconds East 529.76 feet to a found 5/8" iron rebar; thence North 44 degrees 42 minutes 27 seconds West 396.33 feet to found 5/8" iron rebar; thence South 89 degrees 02 minutes 00 seconds West 619.35 feet to a found iron rebar with a foth cap; thence North 37 degrees 59 minutes 56 seconds West 656.33 feet to a found 5/8" iron rebar; thence North 86 degrees 50 minutes 23 seconds West 234.28 feet to a found 5/8" iron pipe; thence North 02 degrees 11 minutes 24 seconds East 364.73 feet to a found iron rebar with a foth cap; thence North 74 degrees 12 minutes 29 seconds West 346.67 feet to a found iron rebar with a foth cap; thence North 60 degrees 30 minutes 44 seconds West 275.26 feet to a found iron rebar with a foth cap; thence North 00 degrees 01 minutes 55 seconds West 739.41 feet to a found 5/8" iron rebar being on the South line of the Southeast Quarter of said Section 22; thence South 89 degrees 30 minutes 00 seconds East 906.19 feet to a found 5/8" iron pipe at the Southeast corner of the Southeast Quarter of Section 22; thence North 00 degrees 05 minutes 39 seconds West 1,370.58 feet to a found 1/2" iron pipe along the East line of said Southeast Quarter; thence North 89 degrees 44 minutes 02 seconds West 2,635.02 feet along the North line of the South Half of the Southeast Quarter of Section 22 to a found 1/2" iron pipe; thence North 00 degrees 46 minutes 09 seconds East 578.36 feet along the West line of the Southeast Quarter of Section 22 to a found iron rebar with a foth cap; thence North 89 degrees 43 minutes 51 seconds East 829.84 feet to a found iron rebar with a foth cap; thence North 56 degrees 38 minutes 41 seconds East 1,965.38 feet to a found 1/2" iron rebar; thence South 89 degrees 18 minutes 56 seconds East 640.75 feet to a found iron rebar with a foth cap; thence South 68 degrees 44 minutes 09 seconds East 837.17 feet to a found iron rebar with a foth cap; thence South 89 degrees 42 minutes 33 seconds East 66.00 feet to a found 1" iron pipe on the West line of the East Half of the Southwest Quarter of said Section 23; thence South 00 degrees 00 minutes 47 seconds West 672.58 feet along said West line to a found iron rebar with a foth cap; thence South 65 degrees 31 minutes 48 seconds East 891.58 feet to a found 5/8" iron rebar; thence South 80 degrees 12 minutes 48 seconds East 727.82 feet to a found iron rebar with a foth cap; thence North 83 degrees 11 minutes 01 seconds East 1,112.78 feet to a found iron rebar with a foth cap on the East line of the West Half of the Southeast

Quarter of said Section 23; thence South 00 degrees 40 minutes 28 seconds East, 1,711.83 feet along said East line to the Northeast corner of the Northwest Quarter of the Northeast Quarter of said Section 26 to a found 1/2" iron pipe; thence South 58 degrees 29 minutes 55 seconds East 1,555.05 feet to the East line of the Northeast Quarter of said Section 26 to a found 1/2" iron pipe; thence South 00 degrees 04 minutes 21 seconds East 234.60 feet along said East line to a found bent 5/8" iron rebar being a point on the North Right-of-Way line of Cottonwood Road; (the following four courses are along said North Right-of-Way line); thence Southwest 1,795.79 feet along an arc concave to the Southeast having a radius of 4,323.02 feet and a chord bearing of South 57 degrees 14 minutes 05 seconds West 1,782.90 feet to a found 1/2" iron pipe at a point of tangency; thence South 45 degrees 22 minutes 54 seconds West 614.55 feet to a found 1/2" iron pipe at a point of curvature; thence Southwest 512.58 feet along an arc concave to the Northwest having a radius of 652.77 feet and a chord bearing of South 67 degrees 45 minutes 36 seconds West 499.51 feet to a found 1/2" iron pipe being a point of tangency; thence North 89 degrees 40 minutes 01 seconds West 251.98 feet to the Point of Beginning containing 517.86 acres, more or less.

EXHIBIT B

LEGAL DESCRIPTION OF LICENSEE PREMISES

Tract 2 as shown on survey dated April 14, 2000, and recorded April 20, 2000, as Document Number 00-12340 as found in Tract Book 35, at page 71; a part of the Southeast Quarter of Section 23, and a part of the Northeast Quarter of Section 26, all in Township 9 North, Range 6 East of the Fourth Principal Meridian, more particularly bounded and described as follows, and bearings are for the purpose of description only:

Beginning at a stone at the Southeast corner of said Section 23; thence North 0 degrees 23 minutes 45 seconds East, a distance of 1,128.93 feet to an iron rod; thence North 77 degrees 57 minutes 13 seconds West, a distance of 1,348.31 feet to a point; thence South 0 degrees 35 minutes 43 seconds West, a distance of 1,395.74 feet to an iron rod; thence South 58 degrees 21 minutes 03 seconds East, a distance of 1,555.50 feet to an iron rod; thence North 0 degrees 04 minutes 59 seconds East, a distance of 801.56 feet to the point of beginning; situate, lying and being in the County of Peoria and State of Illinois.

PIN: 12-23-400-008

After recording mail to:

PERMANENT EASEMENT

THIS INDENTURE WITNESSETH, that the Grantors herein, Robert D. Carman, as Trustee under the Robert D. Carman Grantor Trust dated January 20, 2002, and Judith A. Carman, as Trustee under the Judith A. Carman Grantor Trust dated January 20, 2002, in consideration of the sum of One Dollar (\$1.00) and other good and valuable consideration, the receipt of which is hereby acknowledged, and of the mutual conditions and agreements herein contained, do hereby give, grant and convey to the Grantees, the County of Peoria, Illinois, a body politic and corporate, the City of Peoria, Illinois, a municipal corporation, and the Joint City of Peoria – County of Peoria Solid Waste Disposal Facility Board, and their assigns, successor or successors forever, the perpetual permanent easement, privilege, right, permissions and authority to enter upon the Premises hereinafter described and to construct, reconstruct, inspect, modify, repair, maintain and operate, an overflow spillway channel and access roadway upon, under, across and through the following described real estate, situated in the County of Peoria and State of Illinois, to wit:

Exhibit A - Legal Description
Exhibit B - Plat

hereinafter referred to as the "Premises".

Grantors and Grantees agree as follows:

1. All materials, plant or equipment used by the Grantees, their agents and/or contractors in the construction, reconstruction, repair, maintenance and/or operation of the overflow spillway channel may be reasonably transported to the site of the work on and across the Premises.

2. While the Premises, or any part thereof, is vacant, the Grantees herein shall have the right to reasonably place surplus or excavated material, debris or waste or equipment and materials needed for the purpose of construction, reconstruction,

inspection, modification, repair, maintenance and/or operation of the overflow spillway channel, upon such vacant lands of the Grantors.

3. Grantors shall not modify or obstruct the overflow spillway channel and access roadway. The Grantees shall have the right to trim, or remove, any objects, trees, shrubs, or saplings that interfere, or threaten to interfere, with the operation, maintenance or repair of the overflow spillway channel and/or access roadway.

4. Grantors represent and warrant that the Premises is non-homestead property.

5. This Permanent Easement, together with all the covenants herein contained, shall run with the land and shall be binding upon the successors, grantees and assigns of the respective parties hereto.

6. A copy of this Permanent Easement shall be filed in the Office of the Peoria County Recorder of Deeds and be indexed against the Premises after execution by all parties to this Permanent Easement. Such filing shall constitute notice to all present and future owners and purchasers of the Premises of the Permanent Easement.

7. This Permanent Easement and the rights of the parties hereto shall be interpreted, construed and enforced in accordance with the laws of the State of Illinois. Any litigation concerning matters detailed herein shall be commenced in Peoria County, Illinois.

8. The waiver of any right, term or condition detailed in this Permanent Easement, or the forbearance of enforcement of any right in the event of a breach of any term of this Permanent Easement, shall not be deemed to be a waiver or release of any future right or cause of action arising from the commission of any additional act or breach of a similar or dissimilar nature. Any delay in enforcement of rights arising from a particular breach shall not act as a waiver of the right to pursue all available remedies. Waiver of a right, term or condition in regards to a particular individual or entity shall not entitle any other individual or entity to a similar waiver.

9. If any provision, term or condition of this Permanent Easement or a part thereof shall be deemed illegal and/or unenforceable due to statute, rule of law, or court order, the remaining provisions of this Permanent Easement shall remain in full force and effect with the interpretation of this Permanent Easement, to the extent legally possible, to be in accordance with the general intent demonstrated herein.

10. All obligations detailed herein shall be joint and severable and may be enforced in their entirety against any signatory to this Permanent Easement.

11. Reference to gender or singular or plural pronouns shall not be construed as a limitation of the terms of this Permanent Easement.

Dated this ____ day of August, 2021.

GRANTORS:

Robert D. Carman, as Trustee under the
Robert D. Carman Grantor Trust dated
January 20, 2002

Judith A. Carman, as Trustee under the
Judith A. Carman Grantor Trust dated
January 20, 2002

STATE OF ILLINOIS)
) SS.
COUNTY OF PEORIA)

I, the undersigned, a Notary Public in and for said County and State, do hereby certify that Robert D. Carman, Trustee, 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 said instrument as his free and voluntary act and as the free and voluntary act and deed of said Trustee of the Robert D. Carman Trust for the uses and purposes therein set forth.

WITNESS my hand and notarial seal this ____ day of August, 2021.

Notary Public

STATE OF ILLINOIS)
) SS.
COUNTY OF PEORIA)

I, the undersigned, a Notary Public in and for said County and State, do hereby certify that Judith A. Carman, Trustee, 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 she signed, sealed and delivered said instrument as her free and voluntary act and as the free and voluntary act and deed of said Trustee of the Judith A. Carman Trust for the uses and purposes therein set forth.

WITNESS my hand and notarial seal this ____ day of August, 2021.

Notary Public

GRANTEES:

COUNTY OF PEORIA

By: _____

Its: _____

Attest:

By: _____

Its: _____

CITY OF PEORIA

By: _____

Its: _____

Attest:

By: _____

Its: _____

JOINT CITY OF PEORIA – COUNTY
OF PEORIA SOLID WASTE DISPOSAL
FACILITY BOARD

By: _____

Its: _____

STATE OF ILLINOIS)
) SS.
COUNTY OF PEORIA)

I, the undersigned, a Notary Public in and for said County and State aforesaid, DO HEREBY CERTIFY that _____, and _____, personally known to me to be the Chairman and Clerk, respectively, of the County of Peoria, a body politic and corporate, and personally known to me to be the same persons whose names are subscribed to the foregoing instrument as such Chairman and Clerk, respectively, appeared before me this day in person and severally acknowledged that they signed, sealed and delivered the said instrument as their free and voluntary act as such Chairman and Clerk, respectively, and as the free and voluntary act of said municipal corporation for the uses and purposes therein set forth; and on their respective oaths stated that they were duly authorized to execute said instrument and that the seal affixed thereto is the seal of said body politic and corporate.

WITNESS my hand and notarial seal this _____ day of August, 2021.

Notary Public

STATE OF ILLINOIS)
) SS.
COUNTY OF PEORIA)

I, the undersigned, a Notary Public in and for said County and State aforesaid, DO HEREBY CERTIFY that _____, and _____, personally known to me to be the Mayor and Clerk, respectively, of the City of Peoria, an Illinois municipal corporation, and personally known to me to be the same persons whose names are subscribed to the foregoing instrument as such Mayor and Clerk, respectively, appeared before me this day in person and severally acknowledged that they signed, sealed and delivered the said instrument as their free and voluntary act as such Mayor and Clerk, respectively, and as the free and voluntary act of said municipal corporation for the uses and purposes therein set forth; and on their respective oaths stated that they were duly authorized to execute said instrument and that the seal affixed thereto is the seal of said municipal corporation.

WITNESS my hand and notarial seal this _____ day of August, 2021.

Notary Public

STATE OF ILLINOIS)
) SS.
COUNTY OF PEORIA)

I, the undersigned, a Notary Public in and for said County and State aforesaid, DO HEREBY CERTIFY that _____, personally known to me to be the _____ of the Joint City of Peoria – County of Peoria Solid Waste Disposal Facility Board and personally known to me to be the same person whose name is subscribed to the foregoing instrument as such _____, appeared before me this day in person and severally acknowledged that he signed, sealed and delivered the said instrument as his free and voluntary act as such _____, respectively, and as the free and voluntary act of said municipal corporation for the uses and purposes therein set forth; and on his oath stated that he was duly authorized to execute said instrument and that the seal affixed thereto is the seal of said Solid Waste Disposal Facility Board.

WITNESS my hand and notarial seal this _____ day of August, 2021.

Notary Public

EXHIBIT A

LEGAL DESCRIPTION

Part of the Northeast Quarter of Section 26, Township 9 North, Range 6 East of the Fourth Principal Meridian, Peoria County, Illinois, more particularly described as follows:

Commencing at the Northeast Corner of the Northwest Quarter of said Northeast Quarter, thence South 58°-29'-55" East along the northeast line of the Peoria City/County Facility No. 3 Boundary, as shown on a Plat of Survey dated April 8, 2021, and prepared by Prairie Engineers, Project No. 229.1801 (bearings are referenced to said Plat of Survey) 480.05 feet to the Point of Beginning;

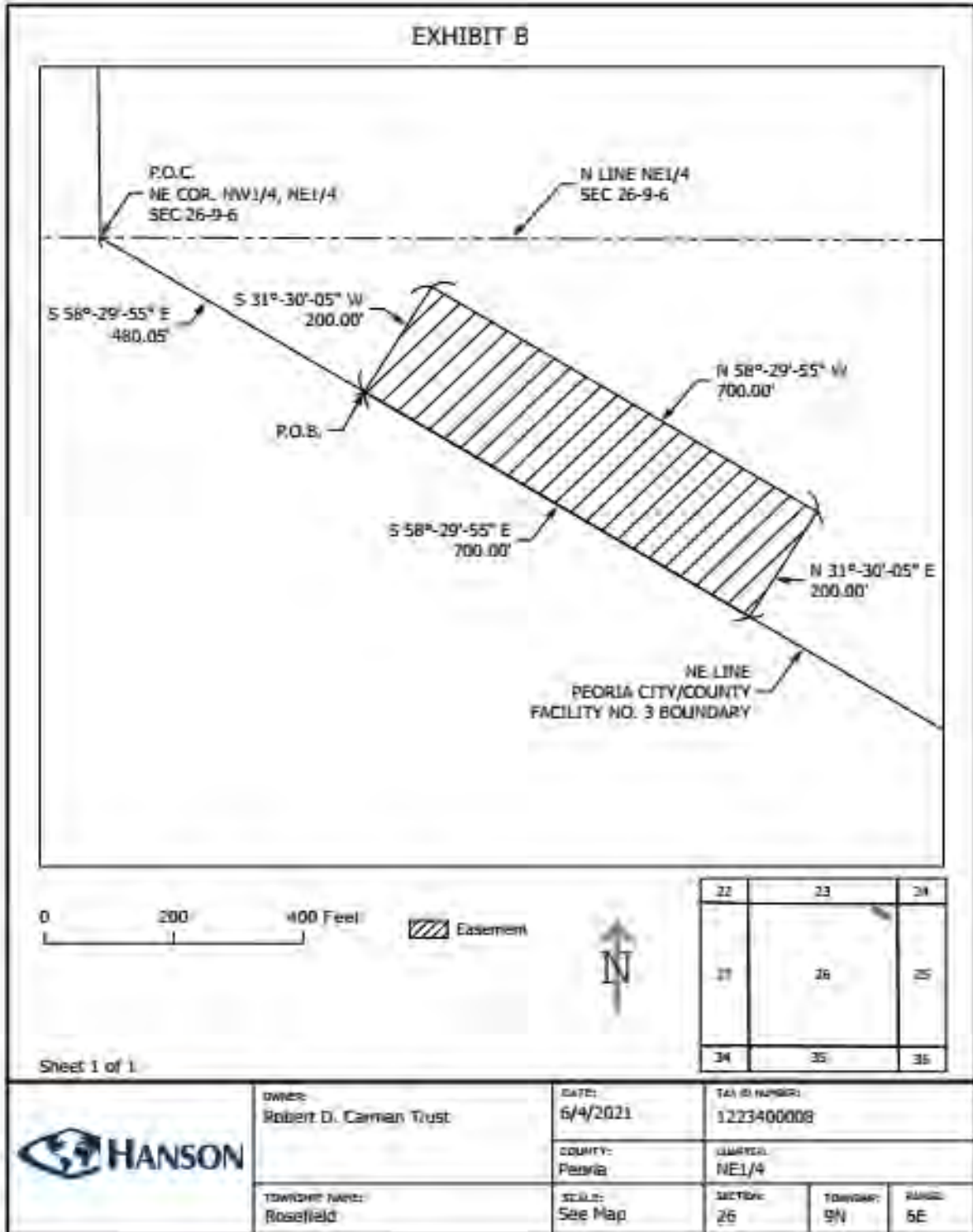
From the Point of Beginning, thence continuing South 58°-29'-55" East along said northeast line 700.00 feet; thence North 31°-30'-05" East 200.00 feet; thence North 58°-29'-55" West 700.00 feet; thence South 31°-30'-05" West 200.00 feet to the Point of Beginning.

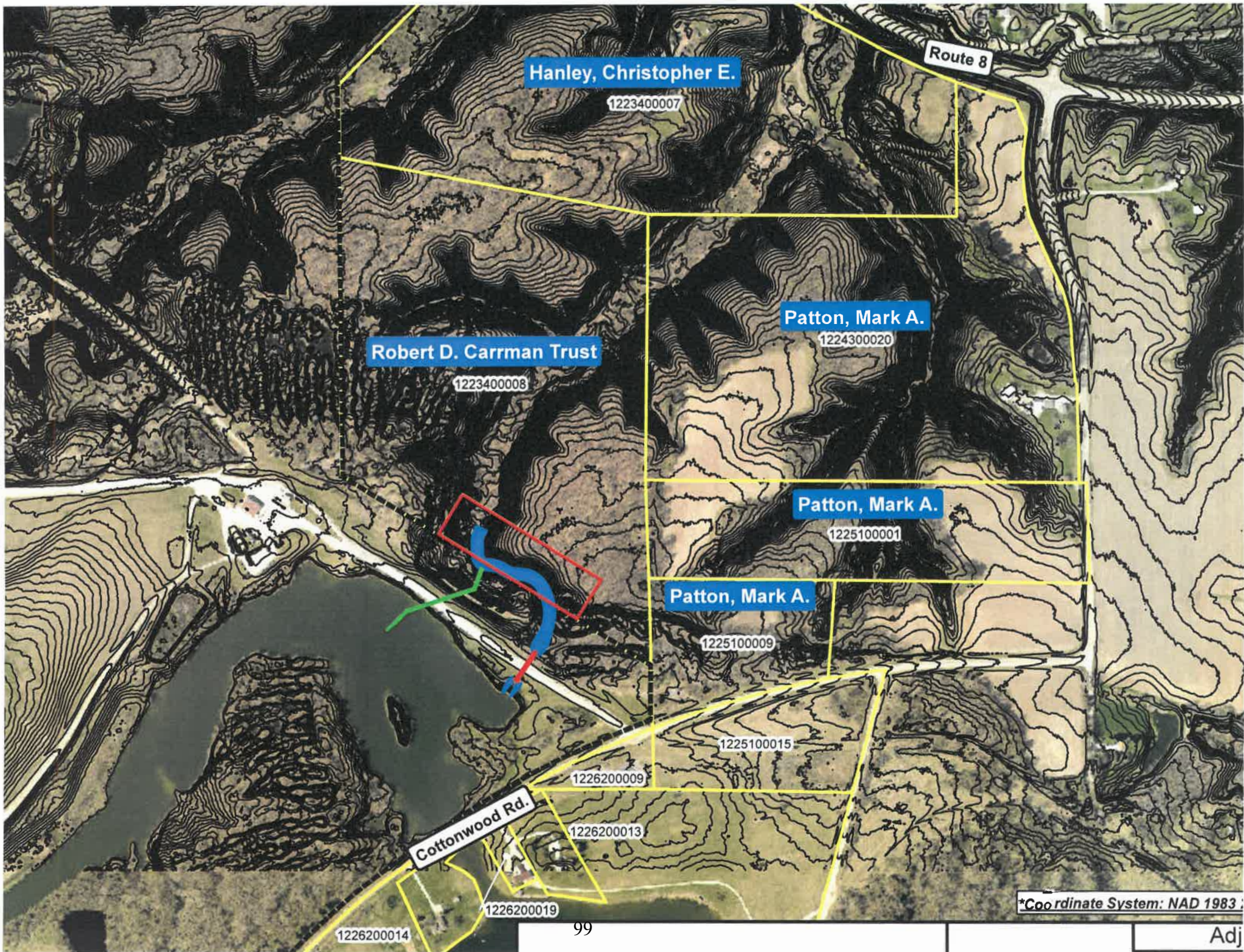
Containing 3.214 acres, more or less.

Part of PIN 12-23-400-008

EXHIBIT B

PLAT





Hanley, Christopher E.

1223400007

Route 8

Robert D. Carman Trust

1223400008

Patton, Mark A.

1224300020

Patton, Mark A.

1225100001

Patton, Mark A.

1225100009

1225100015

1226200009

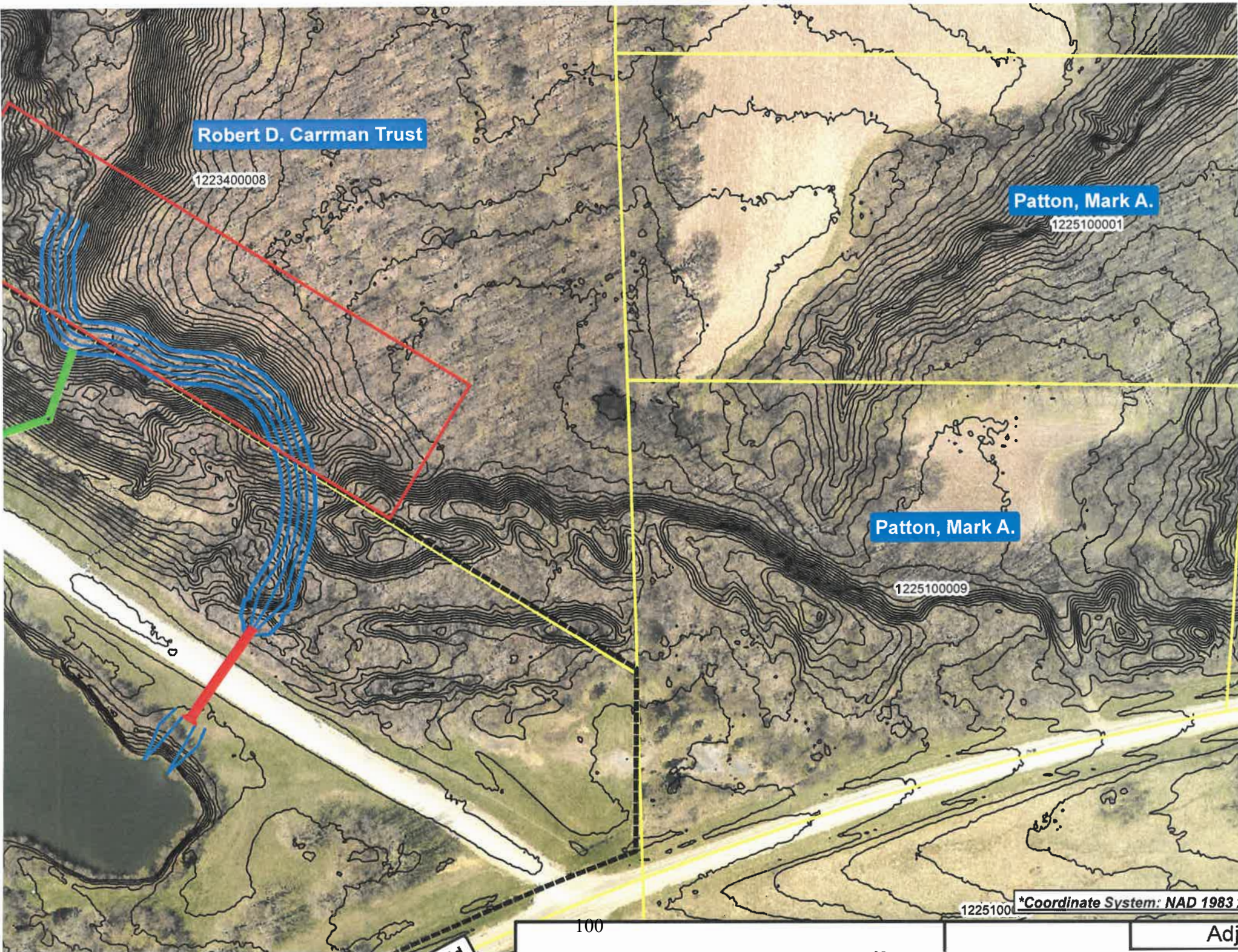
1226200013

Cottonwood Rd.

1226200019

1226200014

*Coordinate System: NAD 1983



Robert D. Carrman Trust

1223400008

Patton, Mark A.

1225100001

Patton, Mark A.

1225100009

*Coordinate System: NAD 1983;

100

Adj

