

**TERRY McDOUGAL,**  
1630 Chicago Avenue, Apt. 1642  
Evanston, IL,  
**and**  
**ROBBIE McDOUGAL,**  
E4244 County Highway BB  
Clearwater, WI,

**Plaintiffs**

**Case No. 11CV524**  
**Code: 30405**

v.

**CHARLIE O'NEILL**  
E4240 County Highway BB  
Clearwater, WI  
**and**  
**SHANNON O'NEILL**  
5659 Wilderness Drive  
Wisconsin Dells, WI  
**Defendants.**

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**SUMMONS**

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**THE STATE OF WISCONSIN,** To each person named above as a defendant:

You are hereby notified that the plaintiffs named above have filed a lawsuit or other legal action against you. The Complaint, which is attached, states the nature and basis of the legal action.

Within twenty (20) days of receiving this Summons, you must respond with a written answer, as that term is used in Chapter 802 of the Wisconsin Statutes, to the Complaint. The court may reject or disregard an answer that does not follow the requirements of the statutes. The answer must be sent or delivered to the court, whose address is 1 Main Street, Clearwater,

Wisconsin, and to Able Attorneys, S.C., plaintiffs' attorneys, whose address is 2 Main Street, Clearwater, Wisconsin. You may have an attorney help or represent you.

If you do not provide a proper answer within twenty (20) days, the court may grant judgment against you for the award of money or other legal action requested in the complaint, and you may lose your right to object to anything that is or may be incorrect in the Complaint. A judgment may be enforced as provided by law. A judgment awarding money may become a lien against any real estate you own now or in the future, and may also be enforced by garnishment or seizure of property.

DATED this 16th day of August, 2011.

ABLE ATTORNEYS, S.C.

By: \_\_\_\_\_  
LAWRENCE ABLE  
State Bar # 0011111  
Attorneys for Plaintiffs

Address:  
2 Main Street  
Clearwater, WI  
Phone 555-555-5555

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**COMPLAINT**

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**NOW COME** plaintiffs, Terry McDougal and Robbie McDougal, by their attorneys, Able Attorneys, S.C., and for their complaint allege and show as follows:

1. Plaintiff, Terry McDougal ("Terry"), is an adult and resides in Clearwater, Wisconsin.
2. Plaintiff, Robbie McDougal ("Robbie"), is an adult and resides in Clearwater, Wisconsin. Terry and Robbie are siblings.
3. Terry and Robbie purchased property in Clearwater, Wisconsin, in 1965 (the "McDougal property"). The legal description of the McDougal property is:

The NE 1/4 of the NE 1/4 of Section 1, Clearwater Township,  
Clearwater County, Wisconsin, consisting of 40 acres more or less.

4. Immediately adjacent to the McDougal property is a stone fence which is shown as a dashed line on the attached map which is marked *Exhibit A* and incorporated into this Complaint.

5. Legal title to the land enclosed by the stone fence line, and marked as the "Disputed Area" on *Exhibit A* is within the grant of deed of defendants Charlie O'Neill and Shannon O'Neill.

6. Defendant, Charlie O'Neill ("Charlie"), is an adult residing in Clearwater, Wisconsin.

7. Defendant, Shannon O'Neill ("Shannon"), is an adult residing in Wisconsin Dells, Wisconsin. Charlie and Shannon are siblings.

8. At the time that plaintiffs purchased their property in 1965, and at all times thereafter, the stone fence has been where it is depicted on Exhibit A. Inside the fence line is a pond, and the area is generally not cultivated.

9. In 1985, plaintiffs enlarged the pond so that the pond lies, in part, in the Disputed Area. Since that time, the plaintiffs have continuously possessed and occupied the property described as the Disputed Area up to the fence line. Plaintiffs have used and maintained the pond and hunted on the land shown as the Disputed Area. Guests of the plaintiffs have also used the pond and hunted in the Disputed Area.

10. Plaintiffs have used the land shown as the Disputed Area openly, continuously, notoriously, and in legal adverse possession to the defendants.

11. The exclusive possession by the plaintiffs of the Disputed Area has continued since at least 1989 to the present time, a period of more than twenty (20) years.

12. Upon information and belief, no other person except guests or invitees of plaintiffs, including the defendants, have used or occupied the Disputed Area since at least 1989.

13. Based upon their adverse possession of the Disputed Area, pursuant to § 893.25, Wis. Stats., plaintiffs demand judgment pursuant to Chapter 841, Wis. Stats., declaring their ownership of all the land East of the fence line in the Disputed Area shown on *Exhibit A* up to the property described in paragraph 3 of the Complaint.

**WHEREFORE**, plaintiffs demand judgment declaring plaintiffs' ownership of the property against the claim of any defendant, and that the plaintiffs have such other and further relief that the court deems just and equitable, including costs and disbursements as allowed by law.

DATED this 16th day of August, 2011.

**ABLE ATTORNEYS, S.C.**

By: \_\_\_\_\_

LAWRENCE ABLE

State Bar # 0011111

Attorneys for Plaintiffs

Address:

2 Main Street

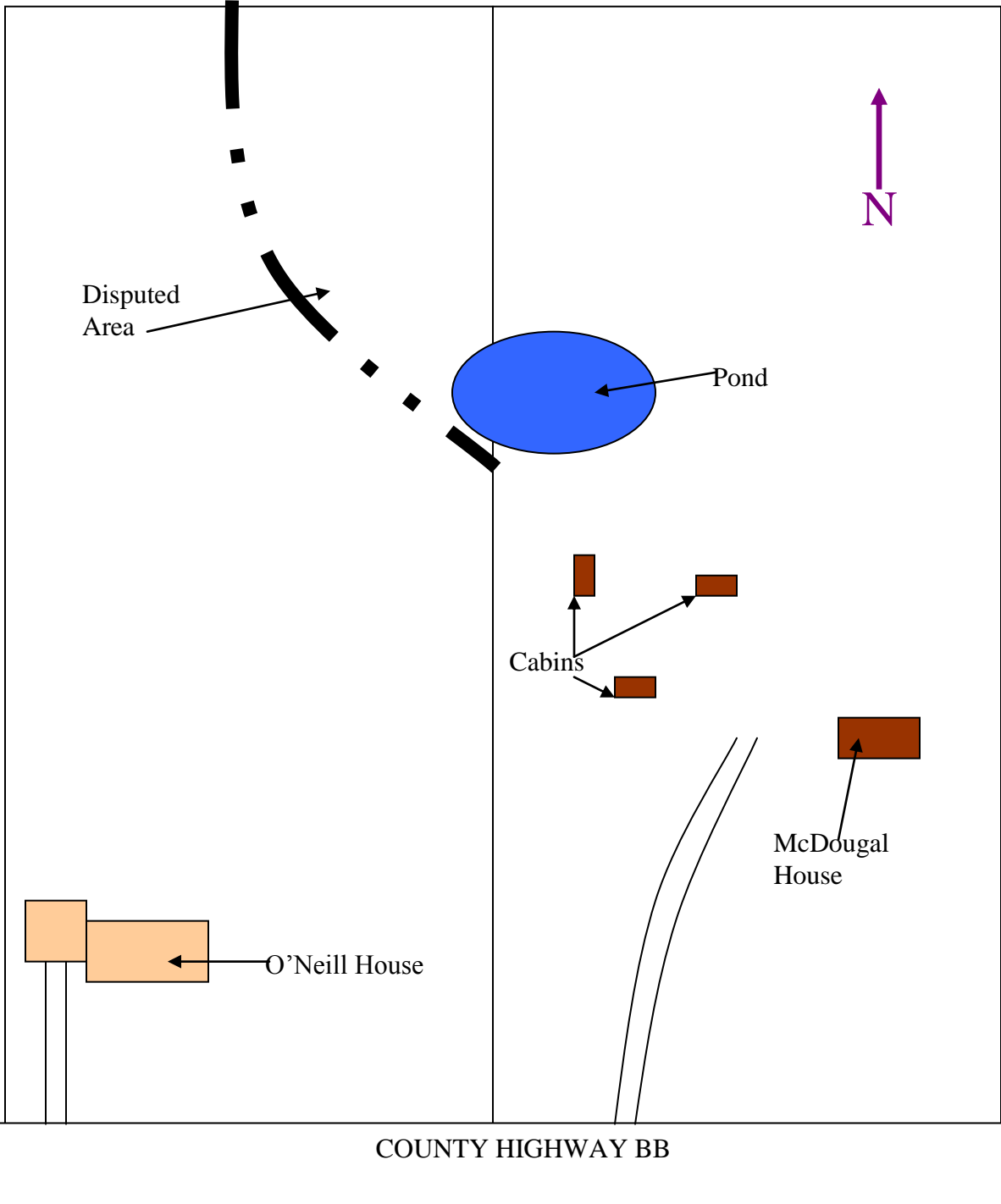
Clearwater, WI

Phone 555-555-5555

**THIS MAP IS NOT DRAWN TO SCALE**

**O'NEILL AND MCDOUGAL PROPERTIES**

**O'NEILL PARCEL A = 40 Acres**  
**MCDOUGAL PARCEL B = 40 Acres**



## **Exhibit B**

### **Rustic Cabin Rentals for Bird Hunters and Fishermen**

Located in Town of Clearwater, Clearwater County. Housekeeping cabins are located adjacent to 32 acres of prime hunting land for pheasant, turkey, geese, grouse, quail and mourning dove (and on occasion deer, rabbit, coyote and fox). The property includes a two-acre natural pond stocked with trout, bass and bluegill. Three small log cabins (without running water or indoor plumbing) are available for rent May 1<sup>st</sup> through November 30<sup>th</sup>. Each cabin includes two bedrooms, kitchen and wood stove. Rent ranges from \$400 to \$700 per week depending on size of cabin and time of year. Daily rates available.

Contact Robbie McDougal at 608-241-8826.

WIS JI-CIVIL 8060 ADVERSE POSSESSION NOT FOUNDED ON WRITTEN INSTRUMENT (WIS. STAT. § 893.25)

(Name of adverse possessor) claims ownership of real estate based on adverse possession. To claim ownership of real estate based on adverse possession, a person, together with his or her predecessors in interest, must have had uninterrupted adverse possession of the real estate for at least 20 years. Real estate is adversely possessed when the person claiming adverse possession (together with (his) (her) predecessors in interest) has had actual continued occupation of the real estate, exclusive of any other right and the real estate claimed and occupied is either protected by a substantial enclosure or is usually cultivated or improved.

In determining whether real estate is adversely possessed, you must look at the physical character of the possession. The physical possession must be open, notorious, exclusive, continuous, and hostile for at least 20 years.

The adverse possession must be sufficiently open and obvious to have apprised (title holder) of both the fact of the possession and the intent to exclude others from possession. Exclusive possession does not mean absolutely exclusive but rather the kind of possession that would characterize an owner's use.

Where the adverse possession is seasonal in character, the requirement of continuity of possession is satisfied by the use of the real estate according to the existing seasonal uses, needs, requirements, and limitations, taking into consideration the location and the adaptability of the real estate for the seasonal use.

"Hostile" does not mean a deliberate, willful, or unfriendly intent. If the characteristics of open, notorious, exclusive, and continuous possession are satisfied, the law presumes the element of hostile intent. "Hostile" means that the person in actual possession of the land claims exclusive right to it.

Land is "actually occupied" when it is used in a way it is ordinarily capable of being used and in such a manner as an owner would use it. Actual occupation is not limited to structural encroachment, although that it is a common physical characteristic of possession.

The requirement of "substantial enclosure" must alert a reasonable person of a dispute over the land. "Usually cultivated or improved" means the one in possession has put the land to the same kind of use that a title holder might generally put the land.

(Title holder) is presumed to be in possession of the land claimed by (adverse possessor). Therefore, the burden is on (adverse possessor) to establish (his) (her) claim.

Finally, (adverse possessor) has the burden of proof to clearly define the area of land claimed to be adversely possessed. While absolute precision or utilization of a surveyor is not required to



establish lines of occupancy, the evidence must provide a reasonably accurate basis upon which to determine the boundary of the land adversely possessed.

#### WIS JI-CIVIL 200 BURDEN OF PROOF: ORDINARY (Adapted)

(Adverse possessor) has the burden of proof as to whether adverse possession has occurred. This burden is to satisfy you by the greater weight of the credible evidence, to a reasonable certainty.

The greater weight of the credible evidence means that the evidence in favor of a "yes" answer has more convincing power than the evidence opposed to it. Credible evidence means evidence you believe in light of reason and common sense.

"Reasonable certainty" means that you are persuaded based upon a rational consideration of the evidence. Absolute certainty is not required, but a guess is not enough to meet the burden of proof.

## **Stipulations**

1. The authenticity of exhibits is not at issue.

## Affidavit of Terry McDougal

1. My name is Terry McDougal and I am a twin to Robbie McDougal.
2. Robbie and I were born on March 17, 1943, in Chicago, and I am currently president of First Chicago State Bank, with six branch banks in the Chicago area. I spend a lot of time visiting our branch banks and speaking with customers and employees, as well as visiting and entertaining our business clients. I am in attendance at a plethora of games played by the Cubs, White Sox, Bulls and Blackhawks.
3. Robbie and I inherited money when our father was killed in an unfortunate organized crime incident in 1963.
4. In 1965, Robbie and I purchased 40 acres of land in southwestern Wisconsin, near Clearwater, as a refuge from the hustle and bustle of Chicago.
5. In 1968, we built a large log cabin with heat, plumbing and hot water so our families could vacation together and we congregated with friends to hunt and roam the woods. Networking is so important to business and relaxation is so important to a balanced life.
6. When we bought the property, there was an old crumbling stone wall fence which appeared in various places at the terminal point of what is now the disputed area. We had always kind of ignored the fence. We hunted and hiked extensively on our land and on the disputed area. There was a tall grass prairie in the disputed area that I really appreciated.
7. Around 1983, we constructed three small log cabins on our land to provide additional capacity so our families and friends could recreate on our land. We also rented out the smaller cabins to hunters in the fall because it made business sense. We had many renters that returned regularly, such as Billie Harper. We always treated the renters well, and I gave many tours of the land. We gave our renters run of the place and full use of the land.
8. In the summer of 1985, Robbie and I enlarged a natural pond north of the smaller cabins used for guests and renters. The pond was expanded onto the disputed area almost to the stone wall, but no one ever complained or told us to relocate the pond. Also, no one ever told us to cease hiking or hunting in the disputed area. I called and questioned various people who rented our cabins over the years if they had ever been instructed by anyone not to hunt or hike on the disputed parcel. Everyone I talked to told me no one had ever told them they should get off the land or cease hunting or hiking in certain areas.
9. The pond attracted a variety of wildlife to the area surrounding the pond, including deer, fox and turkeys. This allowed us to advertise cabin rentals for hunters. Many of our

renters roamed the disputed parcel and bagged a variety of game. I also took many hikes around the pond and all around the disputed area by myself and with my family and our renters.

10. Our families and our renters set up cans on the stone fence and shot at them for target practice. The children also played near the stone fence, pretending the stone fence was the remains of a fort wall.
11. In November of 1985, Robbie and I began a tradition of hosting a family Thanksgiving weekend on the property, complete with deer hunting and a large feast. This tradition has continued to date, with over thirty people staying on the property last Thanksgiving.
12. Other than at the traditional Thanksgiving event, my family and I did not use the land much from 2001 to 2004 when we lived in Geneva where I served as an advisor to the World Bank to establish criteria for developing countries to secure loans to improve sanitation for their citizens. We enjoyed Geneva, but I always missed the sights and sounds of Chicago and the escape to our Wisconsin land. We may have visited the land when we came back to Chicago in September of 2002 for the funeral of Robbie's spouse.
13. I am aware Charlie and Shannon O'Neill inherited the land adjoining our land when William and Ethyl died. I was happy when that happened because I thought they would be the kind of hands-off neighbors William and Ethyl had been. I understand Charlie claims a vegetable garden had been planted on the disputed parcel over the years, and they had taken steps to protect the grasslands. I don't see how they could have successfully cultivated the land without installing a fence since the abundant wildlife in the area would have eaten or otherwise destroyed the plantings as soon as they appeared.
14. There is no way Charlie and Shannon, or their parents, would not have known we had been using the disputed parcel. We have had heavy equipment in the area dredging and working on the pond, have hunted or given other persons permission to hunt on the property, and have had family and friends hiking in the area for many years. There are obvious trails zigzagging across the disputed parcel.
15. Robbie and I believe we own the disputed parcel by adverse possession.

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TERRY McDOUGAL

Sworn to before me  
this 16<sup>th</sup> day of August, 2011

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NOTARY PUBLIC  
My commission is permanent.

TERRY McDOUGAL and  
ROBBIE McDOUGAL,

Plaintiffs,

v.

CASE NO.: 11CV524

CHARLIE O'NEILL and  
SHANNON O'NEILL,

Defendants.

**AFFIDAVIT OF ROBBIE McDOUGAL**

STATE OF WISCONSIN            )  
  )           ss.  
COUNTY OF CLEARWATER    )

1. I am an adult resident of the State of Wisconsin. I am one of the plaintiffs in this law suit.
2. I was born on March 17, 1943, in Chicago, Illinois, and lived near Chicago until I moved to Wisconsin in 2003. I was happily married for 29 years until Avery, passed away in 2002, after battling cancer for two years. I miss Avery daily. Having a spouse die that way is not something I would wish on anyone.
3. In 1965, my twin sibling, Terry McDougal, and I purchased a 40 acre parcel of land in southwestern Wisconsin, with a small inheritance. This land is referred to in this law suit as "Parcel B." Soon after we bought the land, I moved up to Wisconsin to attend college and met Avery. With help from Terry and some other friends, we built a 3,000 square foot log cabin on Parcel B. The cabin is a luxury cabin with heat, electricity, and plumbing. Avery and I used to do so much together.

4. It took nearly two years to finish building the cabin, because we were only working on weekends and during summers. In about 1968, I met our neighbors, Ethel and William, who owned the land adjacent to ours. Avery and I got to know Ethel and William, and they helped us obtain the sewer extension permit for our cabin. They were such nice people and I loved Ethel's cookies.
5. After we finished the large cabin in 1968, Avery and I spent about two weekends per month, during the summer months, living at the cabin. We also spent about one weekend per month at the cabin during the winter. In 1978, when our oldest child turned ten and was old enough to hunt, we started hunting game birds and squirrel on Parcel B. One time we even made a grouse dinner for Ethel and William. They didn't like the dinner very much, although they were too polite to say so, but they were happy we were hunting the birds. William and Ethel thought the birds were a nuisance.
6. After our dinner with William and Ethel, we didn't see very much of William or Ethel. William was already very confused and forgetful. Ethel told me she was worried that William would go out wandering on the property and get lost. Ethel's mind was sharp but she seemed rather frail.
7. In 1983, Terry, Avery, and I built three small summer cabins on our property, and we invited friends and family to stay in them during the summer and on weekends. We also dredged and expanded the pond on the property sometime soon after that and stocked it with fish. The pond was real close to Ethel and William's property line and may have crossed it. After the pond was complete, we started seeing more deer and fox. Our friends, family and children would hunt on the property all the time. Often, they would hit animals who escaped onto Ethel and William's property. One time, early in 1989, a doe became stuck in the rusty barbed wire fence that separated our properties. The doe was so mangled in the barbed wire we had to cut her to pieces in order to get her out. I have never in my life heard an animal scream so loudly as that doe screamed. After that, we took the entire fence down.
8. After the fence came down, everyone started hunting on William and Ethel's property. Their property was so overgrown it looked like nobody had set foot on it for 15 years. I'm sure Ethel knew we were hunting there every weekend in the summer, and we even set up a temporary deer stand on Parcel A in 1989 or so. In the summer of 1990, we opened our property to the public for rental, and advertised in regional hunting and fishing newsletters, and even at nearby convenience stores. Our advertisements boasted 32 acres of prime game bird, squirrel, and deer hunting, even though Parcel B has only about 16 acres of prime hunting land. By that time, we had been using Ethel's property for hunting for over a year.
9. In December of 2000, Avery was diagnosed with cancer. Avery underwent aggressive chemotherapy during 2001, but eventually passed away in September 2002. During that time, we stayed in Chicago so we could be close to the doctors and hospital. I never left Avery's side during the illness and was the sole care-giver for almost two years. I was not able to keep up with the cabin rental business on our property in Wisconsin and the only time Avery and I went to stay on the property during Avery's sickness was over Thanksgiving in November of 2001. It was the hardest time of my life.

10. In May of 2003, I sold my Off Track Betting business in Chicago and permanently moved to the large cabin on Parcel B. I like being in the cabin because Avery loved it so much.
11. I did not meet Charlie, Ethel and William's oldest child, until about 1971, because Charlie had moved away before Terry and I bought the property. Charlie was never very friendly to me, but I saw Charlie occasionally doing gardening on Ethel and William's property. Charlie moved away again sometime in 1974. After Charlie moved away, I don't remember seeing anyone on Ethel and William's property other than the area immediately surrounding their house.

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Robbie McDougal

Subscribed and sworn to before me  
This 15<sup>th</sup> day of August, 2011

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Notary Public, State of Wisconsin  
My Commission is permanent.

## **AFFIDAVIT OF BILLIE HARPER**

1. My name is Billie Harper. I'm 49 years old. I am originally from Ozark, Missouri and I still live there at 825 Nixa Road. I have been married for right close to 25 years and I have 2 great kids. I have spent many weekends fishing, hunting, hiking and camping on the McDougal's' property. I love coming up to Wisconsin, especially in the summer. It's nice to get out of the summer heat.
2. I love to travel and stay in cabins and camp, the more rustic the better.
3. I remember the first year I found the cabins the McDougal's' offered for rent. It was back in the summer of 1987. I was friends with one of the McDougal's' cousins and he suggested the place for a summer outing. It was such a great price for a rustic cabin that I couldn't pass it up. That was a great summer – I hiked, fished, and cooked over a fire every night. I had such a great time; I came back again in the fall to deer hunt.
4. I have returned to the McDougal's' property pretty much every year since 1987 and rented a cabin. Once I was married, I brought the whole family. Some years I would return 2-3 times if I had the time. I always enjoyed the nature and all the animals that were drawn to the pond.
5. The McDougals are nice people. Terry is always helpful with hiking directions – always giving me the best directions for enjoying the most of the pond and the wildlife it attracted. Terry took me on a guided tour once and showed me all the hunting and hiking land and I remember walking on the west and northwest side of the lake for quite a while. Robbie is also great. Robbie would keep me up to date on the improvements happening to the land – like when they removed that annoying barbed wire fence. Removing that fence was a great addition – it allowed the wildlife to really enjoy the land.
6. I spent a lot of time on the McDougals' land over the years. They had a lot of land so it was great. I'd say they had at least 25 good acres to hunt on and even more acres that had the cabins. I probably put my foot on every spot of their land. They encouraged me to put up a tree stand when I hunted. I put one up in 1992 over in the disputed area but, after that, I never did it again. I don't really like being up off the ground like that. I meant to take it down but I don't think I ever did. I wonder if it still is there. I should check.
7. Between 1999 and 2005 I am not sure how much time I spent on the McDougals' land. My honey and I were having problems and really trying to work them out. I know we tried to make a few trips to the cabins, but I'm not sure when those happened. Other than that, I was there every year since 1987.
8. I met Charlie O'Neill when I was fishing on the west side of the pond. I was hiking and then fishing. Charlie was wearing muddy overalls and had some tool



in his hand. Might have been a trowel but I couldn't rightly see and don't rightly recall. Charlie said hello. I told him/her I liked fishing and s/he said something like, "Fish away." He/she then shook his/her head and mumbled something else but I could not hear it. We then went our separate ways. This was back in summer of 2009. S/he seemed like a nice enough person. I heard that Charlie was shot by a BB gun in August. I was out hunting in August on the west side of the pond but I usually don't use BB Guns for hunting.

9. During my many visits to the McDougals' land I met many of the other guests that rented their cabins. We all spent time hiking near the pond. I remember seeing an overgrown area that looked like it may have been a garden at some point but I can't be sure what it was.

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BILLIE HARPER

Sworn to before me  
this 16<sup>th</sup> day of August, 2011

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NOTARY PUBLIC  
My commission is permanent.

## **AFFIDAVIT OF CHARLIE O'NEILL**

1. My name is Charlie O'Neill. I have lived in Wisconsin my entire life, except when I enlisted into the Army and was sent to Vietnam.
2. I was born in 1947. When I was ten years old, my parents bought 40-acre Parcel A in the driftless area of Clearwater County. My father built the family home, and I thought we lived in heaven. I was always interested in the flora of the area. Parcel A always had the remnants of the original tall grass prairie and oak savannah that was the natural flora of the area. My lifelong dream has been to restore the natural prairie.
3. My sibling, Shannon, is four years younger than me. Shannon liked growing up on Parcel A, but was always more interested in hunting and fishing than in cultivating plants and vegetables. Even though Shannon and I had different interests, our common interest was the outdoors. We spent all the time we could outdoors, and one of our favorite areas was the part that the McDougals' now claim is theirs and is now identified as the disputed area.
4. When we were young, Shannon and I would race to what is now called the Disputed Area. We would hop over the old stone wall and scramble down the hill to get to the area that felt like our own secret hideaway. We never saw anyone else in the area.
5. Dad had always emphasized the importance of service to our country and I wanted Dad to be proud of me. When I finished high school in 1965, I joined the Army and was sent to Vietnam. When I saw what napalm and Agent Orange did to vegetation, I was more determined than ever to try to make a difference at home and to cultivate living things. Tough as Dad could be, he too, liked growing things. I wrote to him of my love of growing things and reminded him about his stories of gardens getting his family through the Great Depression. Dad believed in self-sufficiency.
6. The injuries I sustained in Vietnam put everything on hold for me. By January 1971, I had recovered well enough from my injuries to return home and continue my rehabilitation. I stayed at home until August, 1974, when I had recovered sufficiently to go to college full time.
7. It was during these three years that I realized the potential the disputed area had for gardening. The steep grade is an ideal transition from oak savannah, to prairie, to vegetable gardening. My prairie plants would minimize erosion, and the flatter lower land is good bottom

land, perfect for organic vegetables. The steep slope and secluded nature of the disputed area provided the solitude I needed to get away from it all and to tend my grasses, flowers, and vegetables. It was lucky for me that the old stone wall above the Disputed Area was in poor repair and decaying. There were lots of gaps in the wall that I could pass through because my war injury made it difficult for me to hop over the wall like Shannon and I did when we were young. I never noticed how poor the condition of the wall was until I couldn't jump over it and needed to find a gap to walk through it.

8. Most of my family and our neighbors never really understood gardening or prairie restoration. They would see different plants blooming throughout the year without understanding the dynamics of a native prairie. It seemed my family and neighbors were only interested in shooting animals without understanding that a native prairie would improve hunting.

9. When I left for college in 1974, my father took over the prairie and my vegetable garden. He said it made him feel young again to work the soil. It helped him remember his time growing up on a farm. He knew that the prairie and garden were my pride and joy. He maintained both the prairie and the vegetable garden while I was at school. I attended college year round, so it was difficult for me to take care of the prairie and the garden. My father understood, however, and was an enthusiastic supporter of my prairie restoration project and my organic vegetable garden. I always enjoyed receiving care packages he sent me in the late summer and fall with organic vegetables. He even collected seeds from some of the prairie plants that he sent me to share with my friends in my local co-op. Dad kept up the prairie until shortly before he entered the nursing home in January, 1985. Between the time Dad entered the nursing home in 1985, and the time Mom died in December, 2008, I could only return home sporadically. Eventually, I began running the co-op. It was struggling and I could not get away for more than a couple days at a time. My co-op was a leader in the buy local movement, and I could not return home very often.

10. After Mom died in 2008, Shannon and I inherited Parcel A. Shannon had no interest in living in the country, but my spouse and I couldn't wait to return to Parcel A. We knew that the prairie needed work, and through our co-op we knew that we would expand the vegetable garden

and successfully sell our organic vegetables at farmer's markets throughout Southwest Wisconsin and we could sell our prairie plant seeds throughout the country over the Internet.

11. The summer of 2009 I spent a considerable amount of time working in the disputed area. Some buckthorn had returned as well as garlic mustard, especially in the area that had been used for the vegetables. However, many of the prairie plants I first planted continued to thrive.

12. When I was weeding my vegetables in August, 2010, I was hit by a BB. I think it came from someone on the McDougal property. I could not believe that someone was reckless enough to shoot a person weeding his vegetables on his own property. Those McDougals though, attract athletes and politicians to their so-called rustic cabins. Not only do they stock the pond with fish that could not survive in the pond on their own, but I hear they also release farm bred pheasants from cages for the so-called hunters from Illinois to shoot as the birds fly out of the cages. It is no wonder more people don't get shot. That kind of activity ought to be outlawed.

13. In all the years that I have been on Parcel A, I have never seen anyone else on the disputed area. My sibling and I used to hang out in the disputed area when we were children, but after Shannon moved away; my father is the only other person who ever showed any interest in the disputed area. I have seen no evidence of other human activity in the disputed area. I did not see the hunter who shot me, but I am sure the shot came from the McDougal property. I have never seen anyone else hunt on Parcel A or on the disputed area.

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CHARLIE O'NEILL

Sworn to before me  
this 25th day of August, 2011

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NOTARY PUBLIC

My commission expires: \_\_\_\_\_

## AFFIDAVIT OF SHANNON O'NEILL

1. My name is Shannon O'Neill. I was born on August 28<sup>th</sup>, 1951. My spouse, Adrian, and I live at 5659 Wilderness Drive in Wisconsin Dells, Wisconsin. We have three grown children and four grandbabies (so far!) who we love to spoil.
2. I work at the Oasis Waterpark and Resort in Wisconsin Dells as the Director of Marketing. I worked my way up at Oasis from when I was just a summer intern in college. I'm just trying to live the American Dream.
3. I was born and raised here in Wisconsin. When I was just six, my parents, William and Ethel, bought 40 acres in Clearwater, Wisconsin. Clearwater is a small town in Clearwater County, which is in southwest Wisconsin. On the land my parents bought, with his own two hands, my dad built the house I will forever call "home." My dad loved having such a beautiful place as his own and put up two "No Trespassing" signs right down at the end of our driveway by County Highway BB. My mother absolutely hated those signs. My parents, my sibling Charlie, and I moved in, and that's where I learned to love the great outdoors. I remember shooting my first BB gun at tin cans in the yard with my dad. I miss him.
4. I have so many great memories of our time on our property growing up. My dad loved that land and taught Charlie and me to love it, too. We even built a tree stand; we never really saw any deer, but it was fun just to sit and spend time together. Sometimes, for fun, we would use it as a "fort" and sleep in it overnight.
5. I remember way back when we first moved in, Charlie and I would go on grand "adventures," exploring every corner of our land. We'd pack ourselves some PB&J, a canteen filled with cider, and we'd stay out 'till Mom rang the bell for us to come back for dinner. Those were the good old days.
6. During one of our early adventures, when we were out exploring near the back of our property, we came upon an old stone wall. I'd say the walls were 2-3 feet tall. The walls were broken down to a point where we could easily squeeze through openings or hop over shorter sections. Once we got past the walls, the land dropped off slightly, but it was not very difficult to traverse. We were pretty secluded on the other side of the walls. By secluded, I mean we didn't worry that our Mom would catch us smoking the cigarettes we had stolen from her purse. That part of our property was one of our favorite places—we felt like it was our little secret. We liked to pretend we were discovering ancient ruins. Even though it was level with the neighboring property, we never saw anyone else. There used to be an old, tangled, rusty fence where our property ended and the neighboring property started, but at one point I came back and the fence was gone. I am not sure what happened to it.
7. Charlie and I had a lot of fun, but we have always had our differences. Sure, we both learned about how the earth can provide for us, but for me, that means hunting, fishing

and camping. Somewhere along the way, Charlie decided the earth could provide for him/her by “organic” gardening and “prairie restoration” (whatever that means). I think it’s silly and not very American, but I did always like that he/she spent some of his/her time gardening and restoring at our secret place.

8. In 1965, Charlie enlisted and bravely went to serve our country in Vietnam. I took off for college in 1968. I earned my bachelors in Marketing from UW Madison. When I was away at school, Charlie came home after he/she was injured. He/she stuck around home for a while before going to college, and that’s when he/she started up the garden and the prairie. Dad really got into it, too. I was away at school and I was not very interested in helping out, but I know they bonded over that project.
9. I’m pretty sure Dad kept working on Charlie’s vegetable and flower garden after Charlie left. Although the garden may be a little...well...too “granola” for me, I did always love the taste of the meals Mom made with those fresh veggies. Those fresh garden vegetables appeared in home-cooked meals during my visits home up until Dad left for the nursing home. That’s how I know Dad kept up with the garden after Charlie left. Mom and Dad never actually told me the veggies were from the garden, but I could tell that they were. They tasted the same.
10. Even when Dad started showing signs of dementia, he always seemed to have a sense of clarity when he returned from a trip to the “back 40.” Mom even told me once that she thought it helped his mind stay sharp for longer than it would have otherwise. Dad went to a nursing home in '85 when he was diagnosed with early-stage Alzheimer’s. He lived there until he died in '96. I remember visiting him in the nursing home a few times and seeing fresh flowers at his bedside that looked like the wildflowers from Charlie and Dad's prairie. Once, when Dad was pretty lucid, I asked where they came from and he said, “They brought them from the garden because they thought they would cheer me up and help me remember the things I love.” I assumed “they” meant “Mom.”
11. Mom got around pretty well, so she was able to live at home until she died in December of 2008—right before Christmas. In the late 1980’s, her sight and hearing went downhill. Her sight really only made it so she needed reading glasses. It didn’t seem that bad; she never asked for help. Her sense of smell was as sharp as ever, and she always loved a nice bouquet of flowers. Sometimes, after Dad was no longer in the house, I went and got her flowers from the prairie like Dad used to do. Mom wasn’t good at keeping up the vegetable garden, but the flowers kept growing—almost like magic, all by themselves.
12. I am so glad Charlie and his/her family moved back home. I am going to let him/her buy my share (we each have 50% ownership interest in the property) once he/she gets the money together. He/she promised I will be able to visit whenever I want, which I intend to take full advantage of. I want my grandbabies to be able to explore just like my kids did when we visited “Nama” and “Bapa,” and just like Charlie and I did.
13. I am glad Charlie is working the garden and the prairie again. I’d rather be hunting, but Charlie never really liked having guns around after getting home from ‘Nam, and he/she is pretty good at working the land. I could not *believe* when I learned that someone shot

Charlie with a BB back in 2010. Dad may have called Charlie a “turkey” when we were growing up, but really? Any respectable hunter should know the difference between a human and fowl. Former Vice President Dick Cheney is a great man, but when he made the same mistake, that should have taught everyone in the country a lesson.

14. Charlie was pretty upset about being shot. He/she was testy for a while, but he/she seemed to work through his/her problems by making plans to expand the garden; dreaming of selling vegetables at the local farmer's market and beyond. It's good for him/her—sort of like his/her therapy.
15. The neighbors—the McDougals—seemed alright at first. When they initially bought the property, they dug the pond and stocked it. They stayed at their property a few times a year. Eventually, they started having people pay to stay in the cabins they built. Once, my mom showed me one of the ads for the cabins the McDougals were renting because she was concerned. She found it at a local gas station after someone asked her about it at the local farmer's market. It advertises 32 acres of hunting land and a “natural pond.” Let me tell you—I've fired people for less in the marketing world. I know their property, and there is no way it has 32 acres of prime hunting land. It's more like half that, at best. How misleading. And a natural pond? I know for a fact that they dug that pond. It started out as more of a big puddle. Anyway, I often felt like they were trying to take advantage of my parents—schmoozing so my parents wouldn't make a fuss about all the hunters wandering through the woods. Of course, my parents were polite Midwesterners, so they didn't say anything (even though I told them they should).
16. I can't believe the McDougals are trying to take that property now. I have no idea why they'd think they have a right to it. It is ours! How can they try to say otherwise? I think that, now that Mom died, the McDougals are trying to create a dispute over how we used the land versus how they (allegedly) used the land. They know that neither Charlie nor I actually lived there for a good span of time, and the two people who *can* talk about how they *did* use the land (my parents) are dead. Now the McDougals are making up whatever stories they want because my parents are not around to say otherwise. All just to get some land for free. They don't even care how much the land means to us. Of course the McDougals went and lawyered up...because that's what people do these days. They think they can sue anyone to take anything without facts to back it up. Now *that* is not very American.

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SHANNON O'NEILL

Sworn to before me

this 25th day of August, 2011

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NOTARY PUBLIC

My commission expires: \_\_\_\_\_

## AFFIDAVIT OF LOGAN JACKSON

1. My name is Logan Jackson. I've lived in the area all my life, and I've known the O'Neill family since they built that home down the road from my place at E3000 County Highway BB. I used to take those kids with me up in my aircraft. My how the years have flown!
2. I'm a licensed pilot and my favorite hobby is taking my plane up in the summer to enjoy the cool air and survey the area while I do some crop-dusting for the county. Let me tell you, the photos I have of the O'Neill's and McDougals' properties are beautiful and I have loved flying over them over the years.
3. It's clear both the McDougals and O'Neills have taken great pride in their land. There used to be an old barbed wire fence between the McDougals and O'Neills—what an eyesore! Thank goodness that's gone now.
4. The O'Neills have such a beautiful home on their land. You know, William built it himself back when he and Ethel bought their property. There really weren't any improvements needed for such a beautiful parcel, so Ethel and William didn't do much else to the property other than upkeep. When their child, Charlie, moved back home in 1971, he/she soon cultivated a small vegetable and flower garden. Although they are quaint, they add a touch of character to the property when you see it from my plane. William even kept up with those small gardens when Charlie went off to college in 1974. I think it made him feel connected to Charlie in some way. Too bad William was not as good a gardener as Charlie! His vegetables were often small, and his flowers didn't have quite the same full blooms as when Charlie was there.
5. Ethel and William were pretty lonely when Charlie and Shannon left home. Shannon didn't come back home much and the most connection they had with Charlie was the leftover gardens. I think they enjoyed watching the goings on at the McDougals' place with all the visitors and hunters stopping by and mulling around the property over the years. Ethel loved serving her award-winning cookies and pies to visitors, and she was known to insist neighbors and town visitors stop by to enjoy some with her and William on a Sunday afternoon. If she saw you from her yard, you were likely to get invited over no matter how much you protested! I heard the hunters sure didn't mind, though.
6. After Charlie moved back to the property in May 2009, the aerial scenery really improved because Charlie resumed meticulous care of the old gardens. The vegetables and flowers have never looked better! I've heard that the vegetables are quite delicious, although I've never understood the whole organic movement. But I suppose what's the difference if the taste is good! After all, who doesn't love a good tomato on a summer sandwich? I've heard Charlie is looking to make the back north area of their lot into an organic vegetable and flower farm with some prairie, which should make for some interesting aerial photos.



7. The prairie gardening that Charlie maintained is also admired by many of the neighbors. Mrs. Smith, who is on the village board, told me that many in the area have told her they like the idea of the O'Neill's being used for prairie gardening and vegetables as opposed to just another place to hunt.
8. I am personally not a huge fan of all the hunting in the area; I quite enjoy the small game animals scurrying about. What a shame to decimate our wild bird population, with all the interesting sounds we enjoy during the warm months. My spouse agrees, and I know we're not alone in this town.
9. But the McDougals have made quite the bit of cash leasing out their cabins to hunters. And what nice little cabins they've built there! Their parcel looks quite different than the O'Neill's from my plane. Their impressive cabin built in 1968 and all the new little cabins are striking, not to mention that beautiful little pond. If I'm lucky I can also spot a herd of deer or flock of wild turkey from my plane being pursued by those relentless hunters.
10. The McDougals' pond is a great fishing spot! I've been known to catch a good size bass there myself. And the wildlife you can watch if you stay really still in the early morning is fantastic. I've watched fox and deer come to the pond for a drink or a meal, the trick is to go early and stand very still in the tall reeds on the south end.
11. The McDougals really are some nice people. They're always hosting festive family Thanksgiving celebrations, and even invited my spouse and me to join them in 2001, when fewer family than expected could make it for the weekend.
12. Robbie McDougal tells the best hunting stories about stalking little prey along the stone boundary near the O'Neill's, and all the funny ways they've gotten away. I think in one of my photographs you can see Robbie and Terry hunting together out near the O'Neill's. I'm no hunter, but the trophies in their large cabin sure do show they know what they're doing! With a deceased spouse, Robbie does a lot more hunting these days.

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LOGAN JACKSON

Sworn to before me  
this 22nd day of August, 2011

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NOTARY PUBLIC  
My commission expires: \_\_\_\_\_