106 T
104 W. Main
Hopkinton IA
52045

862
DELAWARE COUNTY IOWA
FILED
1998 SP -1 PM 3:57
BOOK 8 PAGE 108
DEBORAH L PEYTON
DELAWARE CO RECORDER
$10.00

Prepared by: Deann Bergfeld, Dubuque Bank and Trust Company, 1398 Central Avenue, Dubuque, IA 52001

ASSIGNMENT

On this **1st** day of **Sept.** , **1998**, the undersigned **Dean and Penelope State** _____, hereinafter referred to as Assignors, for and in consideration of the sum of $1.00 and other good and valuable consideration to assignor in hand paid by Dubuque Bank and Trust Company, hereinafter referred to as Assignee, does hereby sell, transfer and assign to said Assignee, its successors and Assigns, all the right, title and interest of Assignors to Waste Disposal Lease Agreement between Assignors as Operators and LARRY Hoefer _____ as Owner dated Aug 14, 1998 . Said Waste Disposal Lease Agreement covers property legally described as:

143 acres in NW 1/4 of Section 7 - 90 - 5, Delaware County

This Assignment is given as security for the performance of all covenants and assignments of assignor in that certain note (and any modifications of or replacements for the said note) dated the **1st** day of **Sept.** , **1998**, made and delivered to assignee for the sum of $_____ and all other indebtedness of Assignors due Assignee whether now existing or hereinafter incurred. The term of this Assignment shall be until all indebtedness of Assignors to Assignee is paid in full and satisfied, at which time this Assignment is to be fully satisfied and canceled thereon.

It is understood and agreed between Assignors and Assignee herein, that until the occurrence of any act or omission which is determined by Assignee in its sole discretion to constitute a default in the covenants, terms or conditions of the note or this Assignment, benefits shall be used by Assignors and Assignors shall enjoy the same.

After the occurrence of a default as aforesaid, Assignee may enforce this Assignment by notifying Assignors by regular mail sent to the address hereinafter prescribed for sending notices. The affidavit or written statement of an officer, agent or attorney of Assignee stating that there has been a default shall constitute conclusive evidence thereof, and any owner or other person is authorized and directed to rely thereon without liability for the determination of the actual existence of any default under the note or this Assignment and Assignors shall have no recourse against any owner for use of the land by the Assignee.

After mailing notice to Assignors as aforesaid, Assignee may, with or without entry upon the real estate herein described, at its option, cancel all agreement and take over and assume the application of animal waste product to the real estate herein described and perform all acts necessary and proper, in the same manner and to the same extent as Assignors might do. Assignors hereby release any and all claims which it has or might have against Assignee arising

DATE 9-1-98 BOOK 8 PAGE 108

out of such activity. Assignee may, in connection with any and all of the foregoing powers, and without limiting the same, effect new agreement, cancel or surrender existing agreement, alter and amend the terms of and renew existing agreement. Assignee may advance any other amounts evidenced by said note, or secured by this Assignment, and pay any and all charges, costs and expenses of such activity.

From and after the date hereof, the agreement hereby assigned may not be altered, amended or canceled, other than as specifically provided in said Waste Disposal Lease Agreement, without the written consent of Assignee. Any such attempt at cancellation, alteration or amendment of any agreement without Assignee's consent shall be null and void.

All of the foregoing powers herein granted Assignee shall be liberally construed. Assignee need not expend its own funds in the exercise of such powers, but if it does, such amounts shall be considered as advances for and on behalf of Assignors secured by this Assignment. Any amounts so advanced shall bear interest at the before-maturity rate prescribed in said note.

Assignors covenants with Assignee faithfully to observe and perform all of the obligations and agreements imposed upon Assignors and Assignee will not be deemed in any manner to have assumed the same. Assignors agree to indemnify and to hold Assignee harmless of and from any and all liability, loss or damage which it may or might incur by reason of any claims or demands against it based on its alleged assumption of Assignor's duty and obligation to perform and discharge the terms, covenants and agreements.

Nothing herein contained shall be construed as making Assignee a mortgagee in possession, or as constituting a waiver or suspension by Assignee of its right to enforce payment of the debt under the terms of the note.

Assignors will not execute any other assignment and any such attempt, without Assignee's consent, shall be null and void. Assignors will perform all of its covenants and agreements and will not suffer or permit to occur any release of liability of any owner. Assignors will give prompt notice to Assignee of any notice of Assignor's default received from any owner or from any other person and furnish Assignee with complete copies of said notice. If requested by Assignee, Assignors will enforce the agreement and all remedies available to Assignors against the owner in case of default under said agreement by owner.

Assignee shall have the right to assign Assignor's right, title and interest in any agreement to any subsequent holder of the above-referenced note and to make any further assignment effective.

Assignors agree to execute and deliver to Assignee and hereby irrevocably appoints Assignee and its successors and assigns as its agent and attorney in fact to execute and deliver during the term of this Assignment such further instruments as Assignee may deem necessary to make this Assignment and any further assignment effective.

This Assignment and covenants and agreements herein shall be binding upon and shall inure to the benefit of Assignors and Assignee and their respective successors and assigns.

Notices shall be by registered mail, addressed as follows:

To Assignors: Dean and Penelope State
205 South Ridge Drive
Waverly, Iowa 50677

To Assignee: Dubuque Bank and Trust Company
Attention:
1398 Central Avenue, PO Box 778
Dubuque, IA 52004-0778

or to such other address specified by the respective parties hereto.

IN WITNESS WHEREOF, Assignors have caused this instrument to be executed the day and year first above written.

R. Dean State

Penelope D. State

STATE OF Iowa

COUNTY OF Delaware

On this 1st day of Sept., 1998, before me, the undersigned, a Notary Public in and for said County and State, personally appeared **Dean and Penelope State**, to me known to be the identical person(s) named in and who executed the foregoing instrument and acknowledge that they executed the same as their voluntary act and deed.

Notary Public in and for said State

NOTARIAL SEAL IOWA
ROBERT J. DALY
MY COMMISSION EXPIRES
4-5-99

H:winword/dmb/assign3.pn

BOOK 8 PAGE 108