Allan Montgomery
2139 338th
Dyersville IA
52040

DELAWARE COUNTY IOWA
FILED
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BOOK 2002 PAGE 1401
DEBORAH L PEYTON
DELAWARE CO RECORDER
36.00

Prepared by: Werner Hellmer, 137 First Avenue East, P. O. Box 342, Dyersville, Iowa 52040-0342; Phone No. 563/875-9733

111-0

## AMENDMENT TO AGREEMENT

WHEREAS Tegeler Lake, Inc., Henry Deutmeyer, Albert Deutmeyer, and Ernest Wessels entered into an agreement dated December 8, 1973 and filed of record in the records of Delaware County, Iowa December 10, 1973 as file number 116-2677, under which Tegeler Lake, Inc. was referred to as the party of the first part and Henry Deutmeyer, Albert Deutmeyer, and Ernest Wessels were described as parties of the second part; and

WHEREAS the named parties of the second part in said agreement were owners of certain real estate which was intended to be benefited permanently by said agreement; and

WHEREAS the agreement was entered into for the purpose of constructing a drainage tile that draws water from the parties of the second part's real estate to a quarry pool located on the parties of the first part's real estate; and

WHEREAS the rights and responsibilities between the parties created by the agreement were intended to run with the land and be binding and inure to the benefit of the heirs, successors, and assigns of the parties; and

WHEREAS the agreement through inadvertence eliminated language necessary to clarify these intents and omitted the legal descriptions of the property of the parties of the second part which were to be benefited thereby; and

WHEREAS Tegeler Lake, Inc., at the date the agreement was entered into, was the owner of property legally described as:

> That part of the Northeast Quarter (NE1/4) of the northwest Quarter (NW1/4) of Section Thirty Six (36) that lies East of the public roads; and that part of the North one-half (N1/2) of the Northeast Quarter (NE1/4) of said Section Thirty Six (36) that lies North of the public highway and West of the West line of Lot Twelve (12) of Hyler and Loop's Addition to the Town of Dyersville, Except the East six (6) acres thereof, and further excepting the railroad right-of-way; and the following described tract of land except the East twenty (20) acres thereof; that

part of the North one-half (N1/2) of the Northeast Quarter (NE1/4) of said Section Thirty Six (36) that lies South of the highway except the East one hundred fifteen (115.0) feet of the South eight hundred ten (810.0) feet thereof, all in Township Eighty Nine (89) North, Range Three (3), West of the Fifth Principal Meridian.

WHEREAS the aforementioned property was subsequently subdivided and a plat was filed with the City Clerk of Dyersville, Iowa, and was approved by Resolution 48-01, to-wit: a plat which Parcel D of the North ½ of the Northeast Quarter (NE1/4) and part of the Northeast Quarter (NE1/4) of the Northwest Quarter (NW1/4) all in Section Thirty-Six (36), Township Eighty-Nine North (T89N), Range Three West (R3W) of the Fifth Principal Meridian in the City of Dyersville, Delaware County, Iowa, was platted and now known as Lot 1, Lot 2, Lot 3, and Lot 4 of Tegeler Lake Addition in the City of Dyersville, Delaware County, Iowa; and

WHEREAS William J. Hermsen and June M. Hermsen, husband and wife, are successors in interest to a portion of the aforementioned Tegeler Lake, Inc., property and are the owners of real estate legally described as:

Lot 3 of Tegeler Lake Addition to the City of Dyersville, Delaware County, Iowa,

which property was previously owned by Tegeler Lake, Inc., at the time of the aforementioned agreement and upon which the drainage tile line crosses; and

WHEREAS Mark F. Tegeler and Debra R. Tegeler, husband and wife, are successors in interest to a portion of the aforementioned Tegeler Lake, Inc., property and are the owners of real estate legally described as:

Lot 4 of Tegeler Lake Addition to the City of Dyersville, Delaware County, Iowa,

which property was previously owned by Tegeler Lake, Inc., at the time of the aforementioned agreement and upon which the drainage tile line crosses; and

WHEREAS Dyersville Ready Mix, Inc., an Iowa corporation, is the owner of real estate legally described as:

The South One-half (S1/2) of the Northeast Quarter (NE1/4), except the East two hundred twenty nine and seven-tenths (229.7) feet thereof, in Section Thirty Six (36), Township Eighty Nine (89) North, Range Three (3), West of the Fifth P.M., subject to easements of record,

which property was previously owned by Tegeler Land Development, Inc., an Iowa corporation, at the time of the aforementioned agreement and upon which the drainage tile line crosses; and

WHEREAS Gerald A. Deutmeyer and Alice M. Deutmeyer, husband and wife, are the owner of real estate legally described as:

> The West One-Half (W1/2) of the Southeast Quarter (SE1/4) and the Northeast Quarter (NE1/4) of the Southeast Quarter (SE1/4) of Section Thirty Five (35), Township Eighty Nine (89) North, Range Three (3), West of the Fifth P.M., except that tract deeded to the State of Iowa, by Deed recorded in Book 80, L.D., Page 114, subject to easements of record,

which was the property owned by Albert Deutmeyer at the time of the aforesaid agreement; and

WHEREAS Daniel C. Deutmeyer and Heidi J. Deutmeyer, husband and wife, are the owner of real estate legally described as:

> The Southeast Quarter (SE1/4) of the Northeast Quarter (NE1/4) of Section Thirty Five (35), and the South one-half (S1/2) of the Northwest Quarter (NW1/4) of Section Thirty Six (36) except that part of the Southeast Quarter (SE1/4) of said Northwest Quarter (NW1/4) described as commencing at the center of said Section Thirty Six (36) and running thence North 89 39' West two hundred Sixty (260) feet, thence North one hundred sixty nine (169) feet, thence South 88 30' East two hundred sixty and one-tenth (260.1) feet, thence South along the East line of said Southeast Quarter (SE1/4) of the Northwest Quarter (NW1/4) one hundred sixty three and eight-tenths (163.8) feet to the point of beginning, all in Township Eighty Nine (89) North, Range Three (3), West of the Fifth P.M.,

which was the property owned by Henry Deutmeyer at the time of the aforesaid agreement; and

WHEREAS, Gladys R. Wessels, widowed and not since remarried, is the owner of real estate legally described as:

> West Half (W1/2) of the Southwest Quarter (SW1/4); Southeast Quarter (SE1/4) of the Southwest Quarter (SW1/4) except the South 286 feet of the East 220 feet thereof; Northeast Quarter (NE1/4) of the Southwest Quarter (SW1/4) except the North 1298 feet of the East 260 feet thereof, all in Section 36, Township 89 North, Range 3, West of the 5th P.M., Delaware County, Iowa, subject to easements of record,

which was the property owned by Ernest Wessels at the time of the aforesaid agreement; and

WHEREAS all the present owners of the property which was intended to be the subject of the aforesaid agreement desire to ratify said agreement and amend it to verify its purposes and correct its omissions.

IT IS NOW THEREFORE AGREED AS FOLLOWS:

That the undersigned parties, being successors in interest to the parties of the first part and the parties of the second part in the original agreement referred to above and further being all the title owners of record of the property which was intended to be affected and benefited by said agreement, do hereby declare that they ratify and re-affirm the terms of said agreement hereby and do further state that the rights, benefits, and obligations set forth in said agreement relative to the above-described real estate affected thereby shall run with the land and inure to the benefit of the heirs, successors, and assigns of the undersigned parties.

William J. Hermsen

June M. Hermsen

RANDY J. LUDWIG
Commission Number 176071
My Commission Expires
4-20-03

STATE OF IOWA )
) ss.
COUNTY OF DUBUQUE )

On this 11th day of April, 2002, before me the undersigned, a Notary Public in and for said State, personally appeared WILLIAM J. HERMSEN and JUNE M. HERMSEN, husband and wife, to me known to be the identical persons named in and who executed the foregoing instrument and acknowledged that he executed the same as his voluntary act and deed.

Notary Public, State of Iowa

Mark F. Tegeler

Debra R. Tegeler

Deborah L Tegeler

STATE OF IOWA )
) ss.
COUNTY OF DUBUQUE )

On this 12th day of April, 2002, before me the undersigned, a Notary Public in and for said State, personally appeared MARK F. TEGELER and DEBRA R. TEGELER, husband and wife, to me known to be the identical persons named in and who executed the foregoing instrument and acknowledged that he executed the same as his voluntary act and deed.

SHARON R. GUDENKAUF
Commission Number 979607
My Commission Expires 9-28-2004

Sharon R. Gudenkauf
Notary Public, State of Iowa

DYERSVILLE READY MIX, INC.,
An Iowa Corporation

By: Dennis J. Thier
Dennis J. Thier, President

STATE OF IOWA )
) ss.
COUNTY OF DUBUQUE )

On this 10 day of April, 2002, before me, the undersigned, a Notary Public in and for said County and said State, personally appeared the president, DENNIS J. THIER, of said corporation; that no seal has been procured by the said corporation; that said instrument was signed on behalf of said corporation by authority of its Board of Directors; and that the said DENNIS J. THIER as President of said corporation, acknowledged the execution of said instrument to be the voluntary act and deed of said corporation, by it and by them voluntarily executed.

Benedict R. Thier
Notary Public, State of Iowa

BENEDICT R. THIER
COMMISSION NUMBER 168244
MY COMMISSION EXPIRES
Benedict R. Thier
2/2/05

Gerald A. Deutmeyer

Alice M. Deutmeyer

STATE OF IOWA )
) ss.
COUNTY OF DUBUQUE )

On this 9th day of April, 2002, before me the undersigned, a Notary Public in and for said State, personally appeared GERALD A. DEUTMEYER and ALICE M. DEUTMEYER, husband and wife, to me known to be the identical persons named in and who executed the foregoing instrument and acknowledged that he executed the same as his voluntary act and deed.

Notary Public, State of Iowa

NOTARIAL SEAL IOWA
TANYA E. OSTWINKLE
Commission Number 704271
My Commission Expires 7-25-2003

Daniel C. Deutmeyer

Heidi J. Deutmeyer

STATE OF IOWA )
) ss.
COUNTY OF DUBUQUE )

On this 5th day of April, 2002, before me the undersigned, a Notary Public in and for said State, personally appeared DANIEL C. DEUTMEYER and HEIDI J. DEUTMEYER, husband and wife, to me known to be the identical persons named in and who executed the foregoing instrument and acknowledged that he executed the same as his voluntary act and deed.

NOTARIAL SEAL IOWA
JULIE A. WIENEKE
Commission Number 166502
My Commission Expires
9-10-04

Notary Public, State of Iowa

Gladys R. Wessels

Gladys R. Wessels

STATE OF IOWA )
) ss.
COUNTY OF DUBUQUE )

On this 8 day of April, 2002, before me the undersigned, a Notary Public in and for said State, personally appeared GLADYS R. WESSELS, widowed and not since remarried to me known to be the identical persons named in and who executed the foregoing instrument and acknowledged that he executed the same as his voluntary act and deed.

Janet M Schwers

Notary Public, State of Iowa

JANET M. SCHWERS
Commission Number 176072
My Commission Expires
10-20-2003