Kenneth Wilgenbusch
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Winthrop, IA
50682

DELAWARE COUNTY IOWA
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BOOK 4 PAGE 1448
DEBORAH L. PEYTON
DELAWARE CO. RECORDER
21.00

Preparer Information Thomas J. Hanson, 401 East Main Street, Manchester, (563) 927-5920
Individual's Name Street Address City Phone
Thomas J. Hanson, ISBA # 02110

SPACE ABOVE THIS LINE FOR RECORDER

MANURE APPLICATION AGREEMENT

This Manure Application Agreement (Agreement) entered into this 29th day of April, 2004, by and between Rick Hilby and Roni L. Hilby, husband and wife (Grantors) and Kenneth J. Wilgenbusch (Grantee).

WHEREAS, Grantee owns and operates a swine facility located in the Southeast Quarter of the Northeast Quarter of Section 28, Township 88 North, Range 6, West of the 5th P.M. in Delaware County, Iowa; and

WHEREAS, Grantors own the following described real estate located in Delaware County, Iowa:

> The South one-half of the Northeast Quarter of Section 34, Township 88 North, Range 6, West of the 5th P.M.

and Grantors agree to allow application of manure to the land pursuant to the terms and conditions contained herein.

THEREFORE, the parties agree to the following:

1. Easement. Grantors hereby grants to Grantee an easement to apply manure to land listed above in such amounts and times as provided in this Agreement.

2. Timing of Manure Application. Grantors agree that Grantee may apply manure on Grantor's land at such time and frequency is reasonably necessary to assure that the manure holding facility will never rise above level prescribed by the Iowa Department of Natural Resources (IDNR). Grantee warrants that, in the event that Grantors raise row crops on Grantor's land, Grantee will never apply manure on Grantor's land during the period commencing with planting and ending at harvest, unless proper equipment is available to apply manure in growing crops and both Grantors and Grantee agree upon such application. In the event Grantors raises crops other than row crops on Grantor's land, Grantee warrants that Grantee shall not apply manure to Grantor's land during major growing season for such crop. Grantee shall notify Grantors not less than seven (7) days prior to the date on which Grantee intends to apply manure. The parties further agree that in the event that the Grantors determine that a build up of nutrients or trace minerals has occurred which has become significantly detrimental to crop production, Grantee, upon receipt of notice

from the Grantors, will discontinue the spreading of manure until these levels have been reduced to a level acceptable to the Grantors. However, such determination will not result in a termination of this agreement.

3. Quality of Manure. All application of manure from Grantee's facility shall be in accordance with the IDNR's regulation regarding application of animal waste and will not exceed amounts outlined in the manure management plan submitted to IDNR for Grantee's swine operation. Grantee shall be prohibited from depositing dead animals or animal parts on the Grantor's premises.

4. Binding Effect. This Agreement shall be binding on the parties hereto, their heirs, successors and assigns for the period as provided in paragraph five (5) of this Agreement.

5. Term and Termination. This Agreement shall commence on the date that it is signed by both parties and shall continue in full force and effect through May 1, 2029 provided however, that the Agreement shall terminate in the event that the swine facilities located on Grantee's land, including any additions or modifications thereto, are no longer used for swine production. This Agreement may also be terminated upon written agreement by the parties.

6. Limitation of Liability. The parties hereto agree that no agent or employee of one party is an agent or employee of the other, and that any liability arising from the actions or negligence of an agent or employee of a party hereto shall be such party's sole responsibility.

7. Waiver. The failure of any party hereto to insist in any one or more instances upon performance of any term or condition of the Agreement shall not be construed as a waiver of future performance of any such term, covenant or condition, but the obligation of such party with respect hereto shall continue in full force and effect.

This Agreement has been executed as of the date written above.

Grantors:

Rick Hilby

Roni L. Hilby

Grantee:

Kenneth J. Wilgenbusch

State of Iowa)
) ss:
County of Delaware)

On this 29th day of April, 2004, before me, the undersigned, a Notary Public in and for said State, personally appeared Kenneth J. Wilgenbusch, to me known to be the person named in and who executed the foregoing instrument, and acknowledged that he executed the same as his voluntary act and deed.



Notary Public in and for the State of Iowa

State of Iowa)
) ss:
County of Delaware)

On this 29th day of April, 2004, before me, the undersigned, a Notary Public in and for the said State, personally appeared Rick Hilby and Roni L. Hilby, husband and wife, to me known to be the persons named in and who executed the foregoing instrument, and acknowledged that they executed the same as their voluntary act and deed.



Notary Public in and for the State of Iowa