DELAWARE COUNTY IOWA
FILED
2004 DEC 22 PM 2:22
BOOK 4008
DEBORAH L. PEYTON
DELAWARE CO. RECORDER
37.00
4454

Prepared BY: Thomas J. Hanson, 401 East Main St., Manchester, IA 52057
563-927-5920

EASEMENT AGREEMENT

This Easement Agreement is entered into this 16 day of September, 2004 by and between Steven F. Nebel and Julie A. Nebel, husband and wife, ("Nebel") and John T. Mack and Catherine M. Mack, husband and wife ("Mack").

RECITALS

A. Steven F. Nebel and Julie A. Nebel, husband and wife, are the owners of certain real estate located in Delaware County, Iowa legally described as shown on Exhibit A attached hereto and by this reference made a part hereof;

("Nebel Property").

B. John T. Mack and Catherine M. Mack, husband and wife, are the owners of real estate located in Delaware County, Iowa legally described as shown on Exhibit B attached hereto and by this reference made a part hereof;

("Mack Property").

C. The parties desire to reach an agreement regarding an access easement over and across the Nebel Property for the benefit of the Mack Property.

D. The parties have reached an agreement with respect to this issue and desire to set forth such agreement in writing.

THEREFORE, in consideration of the mutual terms and covenants contained herein, the parties agree as follows:

1. Grant of Easement. Nebel hereby grants to Mack, and their successors and assigns, an easement over that crosshatched portion of the Nebel Property as identified on Exhibit C attached hereto and by this reference made a part hereof ("Easement Area"), for purposes of ingress and egress to the Mack Property. This easement shall be perpetual and run with both the Nebel Property and the Mack Property. The exact legal description of the described area will be surveyed and more specifically described, and said description shall be attached to this agreement and become the description of the Easement Area.

2. Liability and Temporary Construction Easement. The parties also agree that Mack will be responsible for "opening up" the portion of the easement not yet graded along the easterly portion of the Easement Area. Nebel hereby grants to Mack a temporary construction easement on the Nebel Property for ingress and egress to "open up" this easement for the purpose of removing trees, soil and brush from the Nebel Property, together with grading of the Nebel Property and applying gravel to match the grade of the rest of the Easement Area. Mack agrees not to disturb the

Nebel Property beyond the Easement Area and is responsible for any damages to the Nebel Property caused by Mack in "opening up" the Easement Area. This temporary construction easement shall terminate on November 1, 2004. Mack agrees to indemnify and hold harmless Nebel from any and all claims which arise out of or are related to the "opening up" of the Easement Area. Mack shall place a retaining wall along a the boundary line of the "opened up" Easement Area. The outside edge of the retaining wall shall be on the line marking said boundary of the "opened up" Easement Area. Mack shall be responsible for the care and maintenance associated with such retaining wall. Mack shall indemnify and hold harmless Nebel from any and all claims which arise out of or are related to such retaining wall.

3. Survey and Related Costs. The parties agree that Gibb's Engineering will survey and prepare a legal description for the Easement Area and will place permanent markings to indicate the location of the ungraded portion of the Easement Area as well as the property line separating Lot 6 and Lot 7. The parties agree that they are each responsible for one-half of said surveying costs and are each responsible for one-half of the prior surveying costs (which total approximately $900.00 to date). The parties also agree that they are each responsible for one-half of any recording costs associated with recording this agreement with the Delaware County Recorder.

4. Prior Easements Abandoned. The parties agree that the Easement Area referred to herein constitutes the only access easement for ingress and egress over the Nebel Property to the Mack Property, except that the easement located along the northeasterly boundary line of Lot 6, as shown on Exhibit C, and any easement not located on the Nebel Property as described herein, shall remain and shall not be affected by this agreement. The parties further agree that, other than those easements described herein, all easements, whether express, prescriptive, implied or the like, are hereby abandoned.

5. Miscellaneous. This agreement shall bind the parties hereto and their successors and assigns. This agreement shall be governed by and construed under the laws of the State of Iowa.

Steven F. Nebel

John T. Mack

Julie A. Nebel

Catherine M. Mack

STATE OF IOWA)
COUNTY OF DUBUQUE) ss:

On this 10th day of September, 2004, before me, the undersigned, a Notary Public in and for the State of Iowa, personally appeared Steven F. Nebel and Julie A. Nebel, 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.

Notarial Seal of the State of Iowa
Pamela J. LaPrell
Commission Number 192549
My Commission Expires:
September 18, 2006

Pamela J. LaPrell
Notary Public
in and for State of Iowa

STATE OF IOWA)
COUNTY OF DUBUQUE) ss:

On this 22nd day of September, 2004, before me, the undersigned, a Notary Public in and for the State of Iowa, personally appeared John T. Mack and Catherine M. Mack, 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.

NOTARIAL SEAL IOWA
TRACY L. FONCK
COMMISSION # 223445
MY COMMISSION EXPIRES
7-8-05

Tracy L. Fonck
Notary Public
in and for State of Iowa

NEBEL PROPERTY

Lot Six (6) of Petlon's River Subdivision of part of the Southeast Quarter (SE 1/4) of the Southeast Quarter (SE 1/4) of Section Fourteen (14), Township Eighty Eight (88) North, Range Five (5), West of the Fifth Principal Meridian, Delaware County, Iowa, according to plat recorded in Book 6 Plats, Page 43.

AND

All lake frontage running from the water front and at right angles to the middle of Lake Delhi in respect to the following described real estate:

> Lot Six (6) of Petlon's River Subdivision of part of the Southeast Quarter (SE 1/4) of the Southeast Quarter (SE 1/4) of Section Fourteen (14), Township Eighty Eight (88) North, Range Five (5), West of the Fifth Principal Meridian, Delaware County, Iowa, according to plat recorded in Book 6 Plats, Page 43.

MACK PROPERTY

Lot Seven (7) of Petlon's River Subdivision of part of the Southeast Quarter (SE 1/4) of the Southeast Quarter (SE 1/4) of Section Fourteen (14), Township Eighty Eight (88) North, Range Five (5), West of the Fifth Principal Meridian, Delaware County, Iowa, according to plat recorded in Book 6 Plats, Page 43.

AND

All lake frontage running from the water front and at right angles to the middle of Lake Delhi in respect to the following described real estate:

> Lot Seven (7) of Petlon's River Subdivision of part of the Southeast Quarter (SE 1/4) of the Southeast Quarter (SE 1/4) of Section Fourteen (14), Township Eighty Eight (88) North, Range Five (5), West of the Fifth Principal Meridian, Delaware County, Iowa, according to plat recorded in Book 6 Plats, Page 43.

DELAWARE COUNTY IOWA
FILED
2004 DEC 22 PM 2:20
BOOK 2004 PAGE 4751
DEBORAH L FEYTON
DELAWARE CO. RECORDER
$12.00

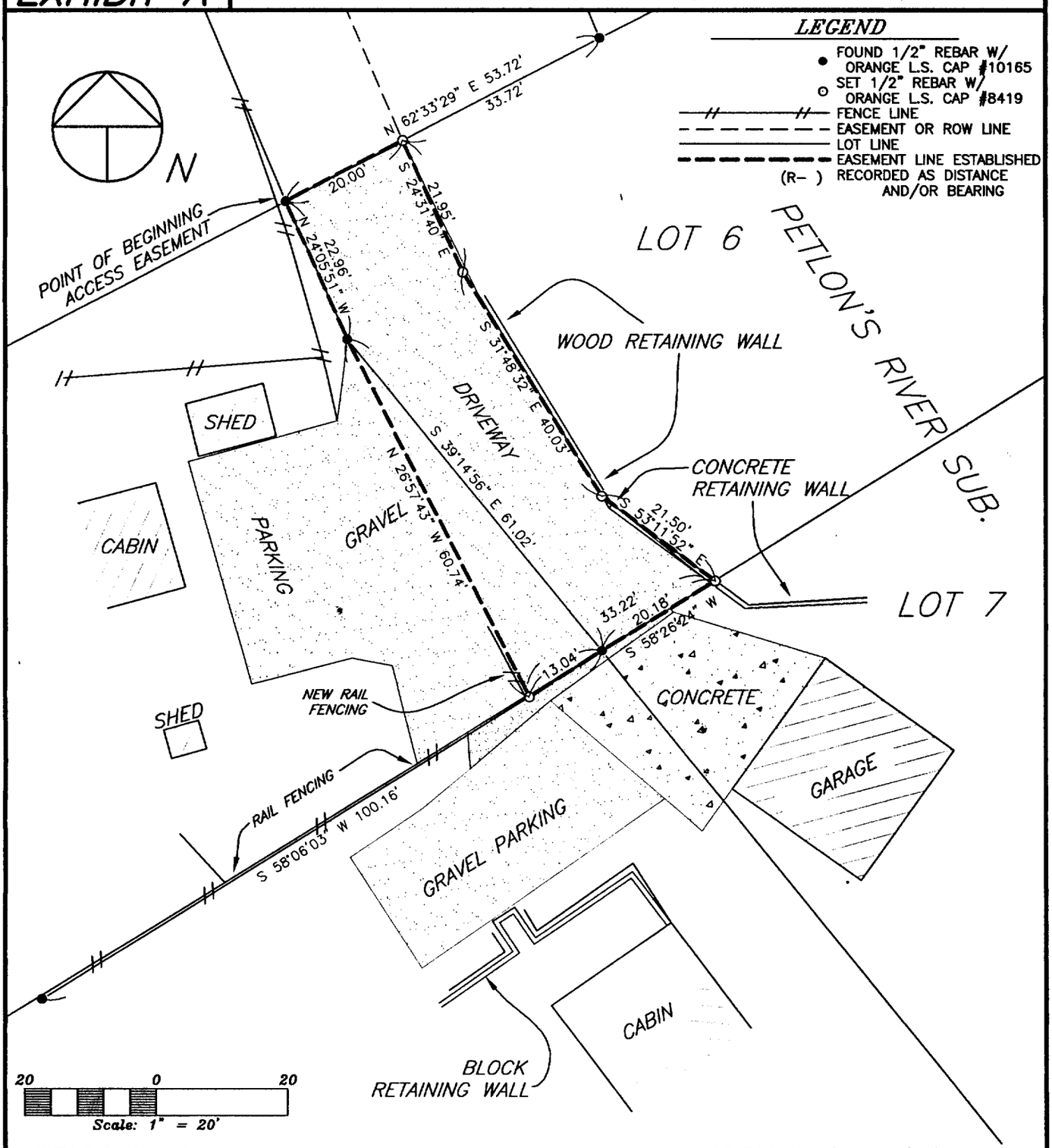
FILED
JOHN R. KLAUS
DELAWARE COUNTY ASSESSOR
DEC 22 2004

FILED
SHARON McCRABB
DELAWARE COUNTY AUDITOR
DEC 22 2004

PREPARED BY: J DAVID GIBBS; 105 W. MAIN ST., MANCHESTER, IA 52057 563-927-2434

EASEMENT EXHIBIT A

ACCESS EASEMENT ACROSS LOT 6, AND LAKE FRONTAGE OF LOT 6 PETLON'S RIVER SUBDIVISION SECTION 14, T88N, R5W OF THE FIFTH P.M., DELAWARE COUNTY, IOWA



SURVEY REQUESTED BY: CATHERINE M. MACK

SURVEYED ON: 7/13 & 11/19/2004

PROPRIETORS:
STEVEN F. NEBEL & JULIE A. NEBEL

I HEREBY CERTIFY THAT THIS LAND SURVEYING DOCUMENT WAS PREPARED AND THE RELATED SURVEY WORK WAS PERFORMED BY ME OR UNDER MY DIRECT PERSONAL SUPERVISION AND THAT I AM A DULY LICENSED LAND SURVEYOR UNDER THE LAWS OF THE STATE OF IOWA.

J. DAVID GIBBS, P.E., L.S. LIC. #8419 DATE 12/09/04

MY LICENSE RENEWAL DATE IS DECEMBER 31, 2004

LICENSED LAND SURVEYOR
J. DAVID GIBBS
8419
IOWA

PAGES OR SHEETS COVERED BY THIS SEAL: 1

GIBBS ENGINEERING & SURVEYING
105 WEST MAIN STREET
MANCHESTER, IA 52057

PROJECT NO. 04-57
SCALE: 1"=20'
DATE: 7/15/2004
DRAWN BY: RLR
CHECKED BY: JDG
FIELD BK: D.L.
REVISED 12/8/2004
SHEET 1 OF 2

Exhibit C

BOOK 2004 PAGE 4751

EASEMENT, EXHIBIT A

LEGAL DESCRIPTION:

ACCESS EASEMENT ACROSS LOT 6, PETLON'S RIVER SUBDIVISION, AND ACROSS THE LAKE FRONTAGE OF SAID LOT 6

BEGINNING at the Northwest Corner of Lot 6 of Petlon's River Subdivision, as recorded in Book 6 of Plats, Page 43 in the Office of the Delaware County Recorder;

THENCE along the Northwesterly Line of said Lot 6, North 62° 33' 29" East, 20.00 feet;

THENCE South 24° 31'40" East, 21.95 feet;

THENCE South 31° 48' 32" East, 40.03 feet;

THENCE South 53° 11' 52" East, to the Southeasterly Line of said Lot 6, 21.50 feet;

THENCE along the Southeasterly Line of said Lot 6, and southwesterly Extension thereof, South 58° 26' 24" West, 33.22 feet;

THENCE North 26° 57' 43" West, to the Westerly Line of said Lot 6, 60.74 feet;

THENCE along the Westerly Line of said Lot 6, North 24° 05' 51" West, 22.96 feet to the **POINT OF BEGINNING.**

Q:\Surveys\Mack_04-57\Legal_04-57.doc

Exhibit C