Book 2014 Page 302
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DEBORAH L PEYTON, RECORDER/REGISTRAR
DELAWARE COUNTY IOWA

SAV

Prepared by/return to: Matthew J. Hektoen, Simmons Perrine Moyer Bergman PLC, 115 3rd Street SE - Suite 1200, Cedar Rapids, IA 52402, (319) 366-7641 Phone

TEMPORARY CONSTRUCTION EASEMENT

This Temporary Construction Easement (the "*Easement*") is entered into on this 20th day of September, 2013 by and between Travis D. Niehaus ~~and Jackalin M. Niehaus~~, TDN a widower ~~husband and wife~~ (the "*Grantor*") and the Lake Delhi Combined Recreational Facility and Water Quality District, an entity formed under Iowa Code Chapter 357E (the "*Grantee*"). This Easement is consent to by David L. Niehaus and Judith A. Niehaus.

TDN

RECITALS

A. Grantor is the equitable title holder pursuant to that certain Real Estate Contract – Installments filed May 14, 2008 in Book 2008, Page 1522 in the records of the Delaware County, Iowa Recorder (the "*Contract*"), which Contract respects the sale of real estate located in Delaware County, Iowa legally described as:

All lake frontage running to the water front and then at right angles to the middle of Lake Delhi in respect to and adjoining premises legally described as: Lot One (1) of One (1) of the Plat of Subdivision of Lot One (1) of Subdivision of Part of Parcel "A", Connolly's Riverview Addition, Section Thirty (30), Township Eighty Eight (88) North, Range Four (4), West of the Fifth Principal Meridian, Delaware County, Iowa, according to the plat recorded in Book 5 Plats, Page 26

(the "*Real Estate*").

B. Grantee is the titleholder of certain real estate located in Delaware County, Iowa legally described as:

Parcel L part of "Tract No. 4" (Plant Site), part of the SW ¼ of the NW ¼ of Section 29, and part of the SE ¼ of the NE 1/4, Section 30, all in Township 88 North, Range 4 West of the 5th P.M., Delaware County, Iowa according to the plat recorded in Book 7 Plats, Page 213

(the "*Dam Site*").

Initials T D N
SS

C. Grantee is desirous of a temporary easement on the Real Estate to facilitate the reconstruction of the "Lake Delhi" dam (the "*Dam*").

NOW, THEREFORE, for good and valuable consideration the parties agree as follows:

AGREEMENT

1. Grant of Easement. Grantor hereby grants to Grantee, its agents, employees, contractors and guests, an easement (the "*Easement*") for the purpose of constructing, grading, improving, inspecting a water dam on the Dam Site along with the right to construct a coffer dam in the Maquoketa River to temporarily divert the flow of water in the Maquoketa River along with the right of ingress and egress over and through the Real Estate and for doing anything necessary, useful or convenient for the enjoyment of the easement herein granted. The Easement shall include the right to dredge, remove, grade and fill sand, silt, soil and any other substance located on or above the Real Estate for the any of the aforementioned purposes.

2. Term. The term (the "*Term*") of this Easement shall commence upon the Effective Date and shall expire 24 months after the completion of the Dam.

3. Binding Effect. This Easement shall be binding upon the heirs, executors, administrators, successors, and assigns of the Grantor and shall be recorded with the Delaware County, Iowa Recorder.

4. Grantor Representation. Grantor represents and warrants to the Grantee that they own and have fee simple title to the Real Estate, and that the Real Estate is not subject to any liens and encumbrances that have not been disclosed to the Grantee, and Grantors have the full right to grant the Easement to the Grantee.

5. Waiver. Grantor, their successors and assigns, hereby waive and release Grantee from any and all claims for damages or compensation either now or in the future arising by reason of the use of the Real Estate for the purposes herein described. The Grantee, its contractors or assigns, shall not be held liable for damage to or removal of soil or other items located on or about the Real Estate.

6. Successors in Interest. This Easement and the benefits and obligations herein contained shall inure to the benefit of and be binding and obligatory upon the parties and their heirs, successors and assigns.

[SIGNATURES ON FOLLOWING PAGE]

Initials T D J

GRANTOR

Travis D. Niehaus

Tr. D. Nie

GRANTEE

Lake Delhi Combined Recreational Facility and Water Quality District

Steve D Leonard

By: Steve Leonard, President

Jackalin M. Niehaus TDN

STATE OF IOWA, COUNTY OF Delaware ss:

This instrument was acknowledged before me on this 20th day of September, 2013, by Travis D. Niehaus, a ~~married person~~ widower.

NOTARIAL SEAL IOWA
LAURIE A. KRAMER
Commission Number 768175
My Commission Expires
May 25, 2014

Laurie A Kramer

Notary Public in and for the State of Iowa
My Commission Expires 5-25-14

STATE OF IOWA, COUNTY OF Delaware ss:

This instrument was acknowledged before me on this ___ day of _____, 2013, by Jackalin M. Niehaus, a married person.

TDN

Notary Public in and for the State of Iowa
My Commission Expires_____

STATE OF IOWA, COUNTY OF Delaware ss:

This instrument was acknowledged before me on this 20th day of September, 2013, by Steve Leonard who is the president of the Lake Delhi Combined Recreational Facility and Water Quality District.

Laurie A Kramer

Notary Public in and for the State of Iowa

NOTARIAL SEAL IOWA
LAURIE A. KRAMER
Commission Number 768175
My Commission Expires
May 25, 2014

Initials T D N

SJ

My Commission Expires 5-25-14

CONSENT OF CONTRACT VENDOR

The undersigned, being the vendor of the Contract, hereby consents to the terms and conditions of this Easement.

David L. Niehaus

Judith A. Niehaus

STATE OF IOWA, COUNTY OF Delaware, ss:

This instrument was acknowledged before me on this 20th day of September, 2013, by David L. Niehaus, a married person.

NOTARIAL SEAL IOWA
LAURIE A. KRAMER
Commission Number 768175
My Commission Expires
May 25, 2014

STATE OF IOWA, COUNTY OF Delaware, ss:

This instrument was acknowledged before me on this 20th day of September, 2013, by Judith A. Niehaus, a married person.

NOTARIAL SEAL IOWA
LAURIE A. KRAMER
Commission Number 768175
My Commission Expires
May 25, 2014

Initials DLN JAN