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EASEMENT FOR APPLICATION OF LIVESTOCK WASTE MAR -3 PM 1:23

MICHELLE UTSLER
RECORDER
MADISON COUNTY, IOWA

THIS AGREEMENT, made and entered into by and between Ted Benshoof, L.C., and Max Benshoof, L.C., hereinafter called "Benshoofs", and William C. Mitchell Family Partnership hereinafter called "Mitchell".

WHEREAS, Benshoofs are purchasing the following described real estate:

The Southeast Quarter (1/4) of Section Twenty-eight (28) in Township Seventy-six (76) North, Range Twenty-eight (28) West of the 5th P.M., Madison County, Iowa, Except the West 952 Feet of the South 315 Feet thereof, And Except Parcel "A", located in the Southeast Quarter (1/4) of Section Twenty-eight (28), Township Seventy-six (76) North, Range Twenty-eight (28) West of the 5th P.M., Madison County, Iowa, more particularly described as follows: Beginning at the Southeast corner of Section Twenty-eight (28), Township Seventy-six (76) North, Range Twenty-eight (28) West of the 5th P.M., Madison County, Iowa; thence North 0°20'57" East, 1166.12 feet along the East line of the Southeast Quarter (1/4) of the Southeast Quarter (1/4) of said Section Twenty-eight (28); thence North 89°31'00" West, 309.81 feet; thence South 0°20'57" West, 93.84 feet; thence North 89°31'00" West, 280.63 feet; thence South 38°06'26" West, 730.43 feet; thence South 0°20'57" West, 493.75 feet to a point on the South line of the Southeast Quarter (1/4) of the Southeast Quarter (1/4) of said Section Twenty-eight (28); thence South 89°31'00" East, 1037.71 feet along the South line of the Southeast Quarter (1/4) of the Southeast Quarter (1/4) of said Section Twenty-eight (28) to the Point of Beginning. Said Parcel contains 23.241 acres, including 0.953 acres of County Road right-of-way

(hereinafter called "Parcel A"), and;

WHEREAS, Mitchell is the owner of the following described real estate in Madison County, Iowa:

Parcel "A", located in the Southeast Quarter (1/4) of Section Twenty-eight (28), Township Seventy-six (76) North, Range Twenty-eight (28) West of the 5th P.M., Madison County, Iowa, more particularly described as follows: Beginning at the Southeast corner of Section Twenty-eight (28), Township Seventy-six (76) North, Range Twenty-eight (28) West of the 5th P.M., Madison County, Iowa; thence North 0°20'57" East, 1166.12 feet along the East line of the Southeast Quarter (1/4) of the Southeast Quarter (1/4) of said Section Twenty-eight (28); thence North 89°31'00" West, 309.81 feet; thence South 0°20'57" West, 93.84 feet; thence North 89°31'00" West, 280.63 feet; thence South 38°06'26" West, 730.43 feet; thence South 0°20'57" West, 493.75 feet to a point on the South line of the Southeast Quarter (1/4) of the Southeast Quarter (1/4) of said Section Twenty-eight (28); thence South 89°31'00" East, 1037.71 feet along the South line of the Southeast Quarter (1/4) of the Southeast Quarter (1/4) of said Section Twenty-eight (28) to the Point

of Beginning. Said Parcel contains 23.241 acres, including 0.953 acres of County Road right-of-way

(hereinafter called "Parcel B")

NOW THEREFORE, in consideration of the mutual promises contained herein and for other good and valuable consideration, the sufficiency of which is acknowledged, the parties hereto agree as follows:

1. Benshoofs hereby grant to Mitchell, its successors and assigns, an exclusive easement to spread and dispose of animal waste on Parcel A, for all animal waste produced from Parcel B, at such regular intervals as is necessary.

2. Manure shall be applied by Mitchell, its successors and assigns after harvest, until April 1st. Mitchell, its successors and assigns shall not apply manure during growing season and after April 1st of any year without prior permission from Benshoofs, their heirs, successors or assigns. Both parties recognize a need to apply manure after April 1st and before planting. Benshoofs, their successors and assigns shall not unreasonably withhold permission. Permission shall be granted by Benshoofs, their successors and assigns if the ground is normally acceptable for spreading manure and is not too wet for such spreading. Mitchell, its successors and assigns shall comply with all environmental laws in disposal of such animal waste, both State and Federal. Mitchell, its successors and assigns agree that it shall not apply manure to the extent that it would cause damages to crops subsequently planted by Benshoofs. New DNR regulations and/or extreme rainfall could alter application timing. If need for deferring application of manure, both parties recognize the need to apply the manure as early in the Spring as possible.

3. Benshoofs further grant to Mitchell, its successors and assigns, an easement for ingress and egress to and from Parcel A from and to Parcel B, for purposes of animal waste disposal.

4. The term of this easement shall commence on the date hereof and continue for a period of 100 years.

5. Benshoofs hereby covenants with Mitchell that they are lawfully seized and possessed of the property subject to this easement and that they have a good and lawful right to grant the easement to Mitchell; that it is free from all encumbrances; that they will warrant and forever defend that title and quiet possession thereto against the lawful claims of all persons whomsoever; and that they will refrain from the doing of any act which will cause the termination of the easement herein granted.

6. Parcel A and Parcel B shall be held, sold and conveyed subject to the aforesaid easement, which shall run with the land and shall be binding upon the heirs, assigns and successors of the parties hereto.

7. If either Benshoofs or Mitchell, or their respective successors or assigns, violate the terms of this agreement, the other party shall have the right to pursue any and all legal and equitable remedies of which it is entitled.

8. This easement may be assigned by either party, their heirs, successors or assigns.

9. The conduct of either party, or their respective heirs, successors or assigns, by act or omission, shall not be construed as a material alteration of this agreement until such provision is reduced in writing and executed by both parties as addendum to this agreement.

10. Words and phrases herein, including the acknowledgment, are construed as in the singular or plural and as the appropriate gender, according to the context.

11. The notices contemplated in this agreement shall be made in writing and shall either be delivered in person, or be mailed in the U.S. Mail, return receipt requested, to the recipient's last known address.

12. The rights, covenants and agreements contained herein, shall be binding upon and inure to the benefit of the respective legal representatives, successors and assigns of the parties. Words and phrases contained herein, including acknowledgment hereof, shall be construed as in the singular or plural number, and as masculine, feminine or neuter gender according to context.

13. This agreement shall be governed by and construed in accordance with the laws of the State of Iowa.

14. Other provisions-

- a. Benshoofs, its successors and assigns, at their own expense, may provide Mitchell, its successors and assigns, with alternate real estate upon which to make land waste application, in close proximity to Parcel B, with suitable area and quality to handle application of animal waste from Parcel B. To the extent allowed by the landowner, Mitchell shall divert application of animal waste to this alternate real estate, provided that Benshoofs shall promptly reimburse Mitchell for any additional, reasonable charges assessed by the contract hauler to haul the animal waste to locations more distant than Parcel A.
- b. All spreading equipment shall be cleaned before use to reduce risk of contamination to Parcel A.

Dated this 3 day of MARCH, 2000.

WILLIAM C. MITCHELL FAMILY
PARTNERSHIP

By *William C. Mitchell*
William C. Mitchell, Partner

TED BENSHOOF, L.C.

By *Lorence L. Benshoof*

MAX BENSHOOF, L.C.

By *Lorence L. Benshoof*



STATE OF Iowa, COUNTY OF Madison, ss:

On this 3 day of March 2000, before me, the undersigned, a Notary Public in and for the said State, personally appeared William C Mitchell, to me personally

known, who being by me duly sworn, did say that the person is one of the partners of

William C. Mitchell Family Partnership

a partnership, and that the instrument was signed on behalf of the partnership by authority of the partners; and the partner acknowledged the execution of the instrument to be the voluntary act and deed of the partnership by it and by the partner voluntarily executed.

Larry D. Webb
11-1-2000, Notary Public in and for said State.

(Section 558.39, Code of Iowa)

Acknowledgment: For use in the case of partnerships

THE IOWA STATE BAR ASSOCIATION
Official Form No. 193

Jerrold B. Oliver ISBA # 04132

FOR THE LEGAL EFFECT OF THE USE OF
THIS FORM, CONSULT YOUR LAWYER



STATE OF IOWA, COUNTY OF CLINTON, ss:

On this 25th day of February, 2000, before me, a Notary Public in and for the said State, personally appeared Florence L. BEnshoof, to me personally known, who being by me duly sworn did say that that person is Manager (Insert title of executing member) of said limited liability company, that ~~(the seal affixed to said instrument is the seal of said)~~ (no seal has been procured by the said) limited liability company and that said instrument was signed ~~(and sealed)~~ on behalf of the said limited liability company by authority of its managers and the said Florence L. BEnshoof acknowledged the execution of said instrument to be the voluntary act and deed of said limited liability company by it voluntarily executed.

Karen E. Kuehl

Karen E. Kuehl, Notary Public in and for said State.

(Section 556 39, Code of Iowa)



Acknowledgment: For use in the case of limited liability companies
TED BENSHOOF, L.C.



STATE OF IOWA , COUNTY OF CLINTON , ss:

On this 25th day of February , 2000 before me, a Notary Public in and for the said State, personally appeared Florence L. Benshoof , to me personally known, who being by me duly sworn did say that that person is Manager (Insert title of executing member) of said limited liability company, that ~~(the seal affixed to said instrument is the seal of said)~~ (no seal has been procured by the said) limited liability company and that said instrument was signed ~~(and sealed)~~ on behalf of the said limited liability company by authority of its managers and the said Florence L. Benshoof acknowledged the execution of said instrument to be the voluntary act and deed of said limited liability company by it voluntarily executed.

Karen E. Kuehl , Notary Public in and for said State.



(Section 558.39, Code of Iowa)

Acknowledgment: For use in the case of limited liability companies
MAX BENSHOOF, L.C.