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BOOK 143 PAGE 365

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AGREEMENT

MICKI UTSLER
RECORDER
MADISON COUNTY, IOWA

This Agreement between Robert Trausch and Esther Trausch, husband and wife, hereinafter referred to as First Party; and Margaret Weil, a widow not since remarried, hereinafter referred to as Second Party, WITNESSETH:

WHEREAS, Robert Trausch is the owner of the following described real estate, to-wit:

The East Fractional Half (E½) of the Northwest Fractional Quarter (NWfrl.¼) EXCEPT Parcel "A" AND the Southwest Fractional Quarter (SWfrl.¼) of the Northwest Fractional Quarter (NWfrl.¼) of Section Twenty-five (25), in Township Seventy-seven (77) North, of Range Twenty-six (26) West of the 5th P.M., Madison County, Iowa,

said real estate contract being filed of record September 17, 1998, in the Office of the Madison County Recorder in Book 139, Page 615, and

WHEREAS, Second Party, Margaret Weil, is the owner of the following described real estate, to-wit:

The Northwest Fractional Quarter (NWfrl.¼) of the Northwest Fractional Quarter (NWfrl.¼) of Section Twenty-five (25), in Township Seventy-seven (77) North, of Range Twenty-six (26) West of the 5th P.M., Madison County, Iowa,

and

WHEREAS, First Party's are desirous of obtaining an easement from Second Party for the purpose of allowing water from a pond to back up onto the real estate owned by Second Party; and

WHEREAS, Second Party has agreed to allow water from the pond owned by First Party's to back up onto the real estate owned by Second Party.

NOW, THEREFORE, in consideration of the mutual promises, obligations and rights herein created, Second Party does hereby give, grant and convey unto First Party's and onto their grantees, heirs, successors and assigns, an easement for the purpose of

allowing water to back up onto the real estate owned by Second Party subject to the following terms and conditions:

1. First Parties expressly agree that the elevation of the water located on First Party's pond shall not be allowed to have a temporary pool that exceeds an elevation of 909 feet. In the event the temporary pool on the pond owned by First Parties reaches an elevation of 909 feet the spillway on said pond shall be constructed to allow all excess water to run over said spillway so the temporary pool shall not exceed 909 feet as herebefore set forth.

2. That First Parties expressly agree to construct a pond on Second Party's real estate not to be less than 2.25 acres and not to exceed 2.5 acres with a permanent pool not to exceed an elevation of 927 feet and a temporary pool not to exceed 931 feet. That the construction of said pond shall be the sole expense of First Parties.

The pond will be constructed to DNR specifications and the back slope of the pond will start 100 feet from First Party's property line. The overflow from said pond will be drained by a 24 inch tube and after the pond has been constructed, the land between the back slope and the developer's property line will be filled in and leveled.

An emergency spillway will be located approximately on the Southeast corner of the dam and will be 3 feet above the overflow tube. The discharge of the emergency spillway will run down the back slope of the dam. First Party's will place riff-raff rock on drainage areas agreed upon by the parties to prevent erosion of the soil.

3. After the pond has been completed, the developer will install a new fence on the boundary between First Parties and Second Party. This fence shall be constructed of 48 inch hog-tight wire and 2 barbs. The fence will have wood and steel posts alternately.

4. First Parties agree to construct a 4 barb fence with steel posts around the pond after it has been completed to prevent livestock from gaining access to the pond.

5. First Parties agree to construct an access drive in the temporary pool area above the pond and below the existing pond to the West which access drive shall be 30 feet in width constructed with 7 feet of fill with a 60 foot long 24 inch culvert.

6. That all construction including the pond, the access drive between the ponds, the fencing and all other work shall be done solely at the expense of First Parties.

7. The parties hereto intend their relationship to be one of owner (Second Party) and independent contractor (First Parties) and not to be one of employer-employee,

notwithstanding an interpretation of the contrary by any other person or administrative or judicial authority.

8. First Party agree to indemnify and save harmless Second Party against all loss and damage including damage to person, persons or property arising from any acts by, or negligence of, First Parties, their contractors, subcontractors, officers, agents, or employees while engaged in the construction of the pond herebefore described or any damages from water that flows from the pond in any manner whatsoever in the future which is not caused by an act of Second Party, heir heirs, successors in interest, and assigns.

That First Party, their heirs, successors in interest, and assigns expressly agree to indemnify Second Party from any and all liability, loss or damage Second Party may suffer as a result of claims, demands, costs, or judgments against it arising from the construction of the pond or any water that flows from the pond in any manner whatsoever in the future.

9. First Parties agree to furnish a contractors' performance bond to Second Party in the amount of \$30,000.00 to ensure the completion of the work herebefore described by First Parties. Said bond shall be issued by a corporate surety for the completion of the work in compliance with the terms and specifications as set forth in this contract.

10. All work concerning the construction of the pond and access drive shall be in compliance with and conform with the drawings prepared by Vance & Hochstetler, P.C., Consulting Engineers of Winterset, Iowa. Attached hereto and marked Exhibit "A" and by this reference made a part of this Easement Agreement is a drawing prepared by Vance & Hochstetler setting forth the specifications for the pond and access drive to be constructed by First Parties.

11. First Party and Second Party expressly agree that the easement agreement executed by and between Robert Trausch and Esther Trausch, husband and wife, and Christine D. Madsen, a widow not since remarried, hereinafter referred to as First Party and Margaret Weil, a widow not since remarried, hereinafter referred to as Second Party, which easement agreement grants the right to First Party to allow water from the pond owned by First Party to back up onto the real estate owned by Second Party shall not be filed of record with the Recorder of Madison County, Iowa, until all work as set forth in this agreement has been completed by First Party. That Dean R. Nelson, attorney for Second Party, shall hold the executed easement agreement until the work has been completed at which time the easement agreement will be delivered to Robert Trausch to be filed of record by First Party.

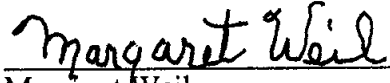
IN WITNESS WHEREOF, the parties have set their hands this 13 day of October, 2000.

FIRST PARTY

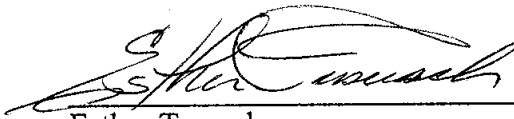


Robert Trausch

SECOND PARTY



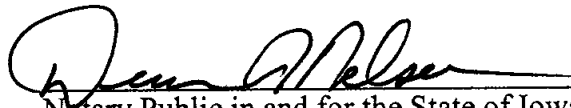
Margaret Weil



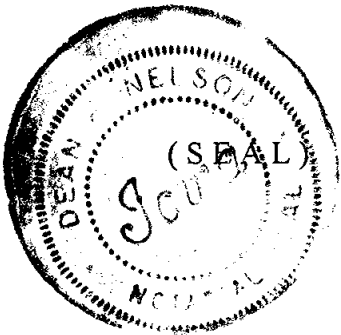
Esther Trausch

STATE OF IOWA)
) SS
MADISON COUNTY)

On this 18 day of October, 2000, before me, the undersigned, a Notary Public in and for the State of Iowa, personally appeared Margaret Weil to me known to be the identical person named in and who executed the within and foregoing instrument, and acknowledged that she executed the same as her voluntary act and deed.

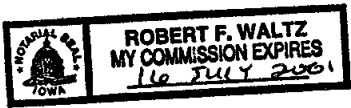


Notary Public in and for the State of Iowa.



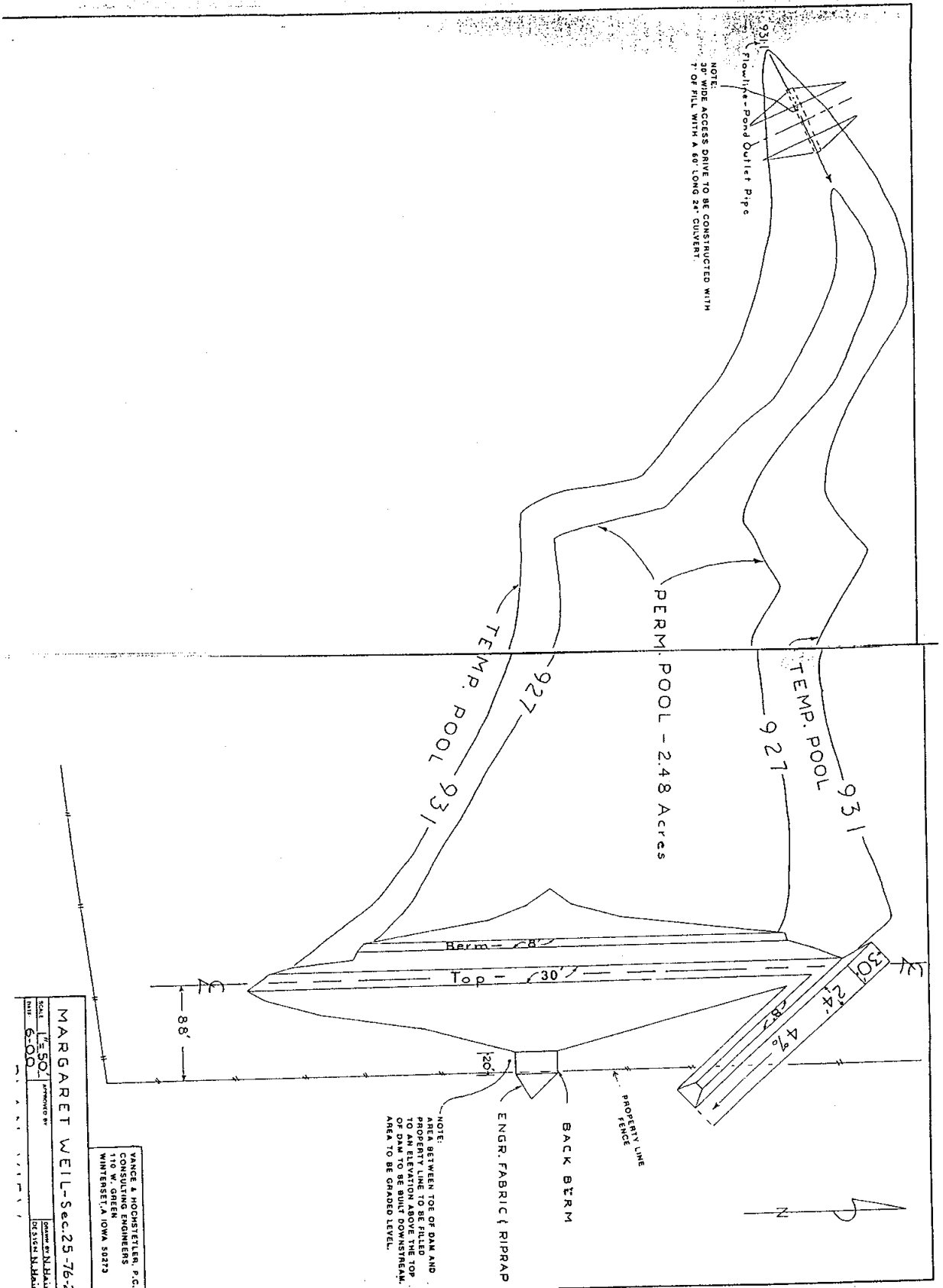
STATE OF IOWA)
) SS
MADISON COUNTY)

On this 13TH day of October, 2000, before me, the undersigned, a Notary Public in and for the State of Iowa, personally appeared Robert Trausch and Esther Trausch to me known to be the identical persons named in and who executed the within and foregoing instrument, and acknowledged that they executed the same as their voluntary act and deed.



Robert F. Waltz
Notary Public in and for the State of Iowa.

(SEAL)



MARGARET WELL - Sec. 25 - 76-24

SCALE: $\frac{1"}{50'}$

DATE: 6-00

DESIGNED BY: DR. STEVEN M. MADAME

APPROVED BY: [Signature]

VANCE & HOCHSTETLER, P.C.
CONSULTING ENGINEERS
110 W. GREEN
WINTERSET, IOWA 50273