

REC \$ 25<sup>00</sup>  
AUD \$ \_\_\_\_\_  
R.M.F. \$ 1<sup>00</sup>

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002914

FILED NO. \_\_\_\_\_  
BOOK 2002 PAGE 2914

EASEMENT TO APPLY AGRICULTURAL MANURE 2002 JUN 14 PM 3: 52

This easement to Apply Agricultural Manure ("Agreement"), is entered into this 13 day of June 02 between Randy and JoAnn Berry husband and wife, their successors and assigns, whose principal place of business is 1983 305<sup>th</sup> Street, Winterset, Iowa ("Grantee"); and Clyde Bierma, single, whose address is 3121 Limestone Avenue, Lorimor, Iowa 50149 ("Grantor"), and confirms the terms and conditions upon which Grantor is granting an easement to the Grantee (the "Easement").

MICKI UTSLER  
RECORDER  
MADISON COUNTY, IOWA

**WITNESSETH:**

WHEREAS, Grantee is the owner of the real property situated in Monroe, Madison County, Iowa, which is described in the attached Exhibit "A" (the Facility Parcel"); and

WHEREAS, Grantee is in the process of establishing a swine raising facility (the "Facility") on the above described property; and

WHEREAS, the Grantor is the owner of the real property situated in Monroe and Walnut, Madison County, Iowa, which is described in the attached Exhibit "A" and is adjacent to the Facility parcel (the Grantor Parcel");

NOW THEREFORE, it is agreed as follows:

1. Grant of Easement: The Grantor hereby grants to Grantee an easement over that portion of the Grantor Parcel described in Exhibit "A" required for continuing access to and for the purpose of spreading manure generated by the livestock at the Facility. This Easement for manure spreading shall be exercisable to the extent reasonably required to have complete use of the Facility for the purpose intended.
2. Grant of Rights to Spread Manure: Grantee, their employees and independent contractors shall have the right to enter onto the Grantor Parcel for the purpose of spreading agricultural manure in a rate not in excess of those provided for by regulations promulgated by the State of Iowa.
3. Time of Application: Application shall be permitted after crops are harvested in any calendar year during the term of this Agreement and up until the time the soil is prepared for planting the following Spring.
4. Spring Application: It is anticipated that Spring applications will be permitted. Spring applications, however, will require the consent of the Grantor, which will not unreasonably be withheld. It is anticipated that Spring allocations will not be allowed during times which soil compaction will occur because of wet soil conditions or after preparation has begun for crop planting during the crop year.

5. Term of Agreement: This agreement shall begin on June 14, 2002 and continue until December 31, 2009 at 11:59 p.m. This agreement shall automatically renew from year to year.
6. Form of Application: Any agricultural manure spread upon the Grantor Parcel shall be applied in a manner exercising good agricultural practices.
7. Covenant Running with the Land: The easement hereby granted, the restrictions hereby imposed, and the covenants herein contained shall be easements, restrictions, and covenants "running with the land" and shall inure to the benefit of, and be binding upon, the parties hereto, their respective heirs, successors and assigns.
8. Notices: All notices under this Agreement shall be in writing and delivered personally, by facsimile transmission or by mail, postage prepaid, addressed to the appropriate parties at their last known addresses. Any notice permitted or required under this Agreement shall be deemed "delivered" as follows: (1) if by hand delivery, on the date of actual delivery; (2) if by facsimile transmission, on the next business day following the date of transmission; and (3) if by mail, on the third business day following the date that the notice is deposited with the United States Postal Service.
9. Non-Waiver: Failure by either party to exercise any right under this Agreement and no partial single exercise of that right, shall not constitute a waiver of that or any other right, unless otherwise expressly provided herein.
10. Entire Agreement: This agreement represents the total and complete agreement of the parties. This easement replaces in entirety the original easement dated September 3, 1998.

IN WITNESS HEREOF, the parties have executed this Agreement as of the day and year first written above.

**Grantor**

By: Clyde E. Bierma  
Clyde E. Bierma

By: \_\_\_\_\_  
\_\_\_\_\_

**Grantee**

By: Randy Berry  
Randy Berry

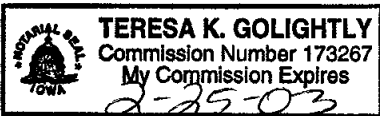
By: JoAnn Berry  
JoAnn Berry

**ACKNOWLEDGEMENT - GRANTEE**

STATE OF Iowa )  
COUNTY OF Madison )

On this 13<sup>th</sup> day of June, 2002, before me, the undersigned, a Notary Public, personally appeared Clyde Burma and Randy & Johna Berry to me known to be the individual or individuals described in and who executed the foregoing instrument and acknowledged the said instrument to be his/her free and voluntary act, for the uses and purposes therein mentioned.

{NOTARIAL SEAL}



Teresa K. Golightly  
NOTARY PUBLIC in and for the State of Iowa  
residing at Winterset, Iowa

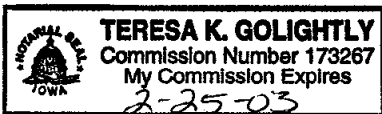
My commission expires 2-25-03

**ACKNOWLEDGEMENT - GRANTOR**

STATE OF Iowa )  
COUNTY OF Madison )

On this 13<sup>th</sup> day of June, 2002, before me, the undersigned, a Notary Public, personally appeared Clyde Burma and ✓ to me known to be the individual or individuals described in and who executed the foregoing instrument and acknowledged the said instrument to be his/her free and voluntary act, for the uses and purposes therein mentioned.

{NOTARIAL SEAL}



Teresa K. Golightly  
NOTARY PUBLIC in and for the State of Iowa  
residing at Winterset, Iowa

My commission expires 2-25-03

**EXHIBIT "A"**

**"Facility Parcel"**

The following described property located in Township Monroe, Madison County, Iowa.

The Southeast Quarter (SE $\frac{1}{4}$ ) of the Northeast Quarter (NE $\frac{1}{4}$ ) Section 15, Township 74, Range 28 west of the 5<sup>th</sup> P.M., Madison County, Iowa.

The swine barns located on this property were built in 1996 and are known as Barns 'A' and 'B'.

**ALSO:**

That part of the Northeast Quarter of Section 15, Township 74 North, Range 28 West of the Fifth Principal Meridian, Madison County, Iowa described as follows:

Commencing at the southwest corner of the Northeast Quarter of said Section 15; thence on an assumed bearing of North 90 degrees 00 minutes 00 seconds East along the south line of said Northeast Quarter a distance of 904.59 feet to the point of beginning;  
Thence North 03 degrees 49 minutes 33 seconds East 1303.75 feet;  
Thence North 90 degrees 00 minutes 00 seconds East 322.22 feet;  
Thence South 00 degrees 36 minutes 26 seconds East 970.10 feet;  
Thence South 89 degrees 23 minutes 34 seconds West 75.00 feet;  
Thence South 00 degrees 36 minutes 26 seconds East 330.02 feet to the south line of the Northeast Quarter (NE $\frac{1}{4}$ ) of said Section 15;  
thence North 90 degrees 00 minutes 00 seconds West along said south line a distance of 348.00 feet to the point of beginning.

This said tract contains 10.56 acres and is subject to at Madison County Highway Easement over the southerly 0.32 acres thereof. The swine barns located on this property were built in 1998 and are known as Barns 'C' and 'D'.

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Easement of Apply Agricultural Manure  
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**Exhibit "A"**  
**"Grantor Parcel"**

	Sec.	Twp.	Range
S½ SE ¼ -----	13	74N	28 W of 5 <sup>th</sup> P.M.

(Except a parcel of land in the SE¼ of the SE¼ of Section 13, more particularly described as follows: Beginning at The SE corner of Section 13, thence North 90 00' 00" West 547.53 feet along the south line of said Section 13; thence North 00 16'42" East 440.23 feet; thence North 88 25'21" East 553.21 feet to the East line of said Section 13; Thence South 00 57'27" West 455.51 feet to the point of Beginning. Said parcel contains 5.66 acres including 0.76 acres Of County Road Right of Way.

SW fri. ¼ of SW¼-----18      74N      27 W of 5<sup>th</sup> P.M.  
Subject to existing easements of record, reservations in United States and State patents and the rights of the public in all highways.

**Also:**

NW¼ of the NE¼ and the SW¼ of the NE¼ in Section 25, Township 74 North, Range 28 West of the 5<sup>th</sup> P.M.

**Also:**

The West ½ (W½) of the Northwest ¼ (NW¼) in Section 24, Township 74 North, Range 28 West of the 5<sup>th</sup> P.M.

**Also:**

The North ½ (N½) of the Southwest ¼ (SW¼) in Section 24, Township 74 North, Range 28 West of the 5<sup>th</sup> P.M.

*Randy Berry & Clyde Bierma*