

EASEMENT TO APPLY AGRICULTURAL MANURE

This easement to Apply Agricultural Manure ("Agreement"), is entered into this 1st day of March 2006, between Randy and JoAnn Berry husband and wife, their successors and assigns, whose principal place of business is 1983 305th Street, Winterset, Iowa ("Grantee"); and Donald M. Burgan whose address is 2544 Tiffin Avenue, Des Moines, Iowa 50317 ("Grantor"), and confirms the terms and conditions upon which Grantor is granting an easement to the Grantee (the "Easement").

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, 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. Grantee shall enter and exit the Property of the Grantor through the blue middle gates only.
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.

Prepared by & Return To: Randy Berry
1983 305th St.
Winterset, Ia 50273

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5. Term of Agreement: This agreement shall begin on the first of March, 2006 and continue for a period of one (1) year. The Agreement shall automatically renew from year to year thereafter unless either party shall give written notice of termination to the other party prior to December 31st the preceding year.
6. Form of Application: Any agricultural manure spread upon the Grantor Parcel shall be applied in a manner exercising good agricultural practices. All manure shall be injected into the soil; no surface applications shall be allowed. Manure shall not be applied to frozen ground.
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.
11. In the event the land lease is terminated by either party, this agreement is automatically deemed null and void with the exception of any continuing liability from the manure application. Grantee agrees to indemnify and hold harmless from any damages arising from Grantee's application of manure on Grantor's Property in violation of any applicable governmental laws or regulation.

TIME
HCB

RAB
JKB

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

Grantor

By: Donald M. Burgan

By: Blair R. Burgan

Grantee

By: Randy Berry

By: Joann K. Berry

ACKNOWLEDGEMENT - GRANTEE

STATE OF Iowa)

COUNTY OF Madison)

On this 8th day of January, before me, the undersigned, a Notary Public, personally appeared Randy Berry and Joann 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}



Larry Corkrean
NOTARY PUBLIC in and for the State of Iowa
residing at 622 West Court, Winterset

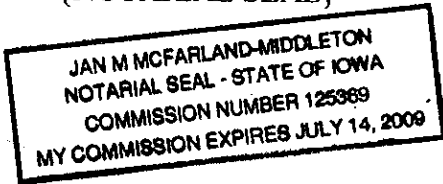
My commission expires August 3, 2009

ACKNOWLEDGEMENT - GRANTOR

STATE OF IOWA)
COUNTY OF POLK)

On this 26th day of December, before me, the undersigned, a Notary Public, personally appeared Donald M. Burgan and Heleen K. Burgan 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}



Jan M. McFarland-Middleton
NOTARY PUBLIC in and for the State of Iowa
residing at Des Moines, Iowa

My commission expires 7-14-2009

EXHIBIT "A"

"Facility Parcel"

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

East ½ of the Northwest ¼, (NW¼) Section 15, Township 74, Range 28 west of the 5th 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 (NE¼) 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'.

"Grantor Parcel"

(TW) the N ½ SE ¼ NW ¼ of Section 26, Township 74 North, Range 28 West of the 5th PM. Except all land in the CRP to be retained by the landlord. Monroe Township, Madison County, Iowa.

(AJ) the S/E quarter SE ¼ of the NW quarter NW 1/r of Section 26, Township 74 North, Range 28 West of the 5th PM, Monroe Township, Madison County, Iowa. Except all land in the CRP to be retained by the landlord.