

REC'S 25¹²
AUD'S _____
H.M.F.F. 1²⁰

COMPUTER
RECORDED
COMPARED

FILED NO. _____
BOOK 139 PAGE 494

98 AUG 27 PM 1:10

EASEMENT TO APPLY AGRICULTURAL MANURE

This Easement to Apply Agricultural Manure ("Agreement"), is entered into this 3 day of August, between Randy E. Johann Bernick husband and wife, their successors and assigns, whose principal place of business is 1983 305th St, Winterset IA (Grantee); and Mary Keeney & Mary Keeney Trust husband and wife, whose address is Winterset Iowa ("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.
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 applications 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 the first of September, 1998, 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.
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.

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

Grantor

By: Mary Keenan

By: Mary Keenan Trust
by Janet B. Quinn,
Trustee

Grantee

By: Dandy Berry

By: Janet Berry

ACKNOWLEDGEMENT - GRANTEE

STATE OF Iowa)
COUNTY OF Madison)

On this 27th day of August, 19 98, before me, the undersigned, a Notary Public, personally appeared Randy Berry and Jean 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]



Joyce E. Binns
NOTARY PUBLIC in and for the State of Iowa
residing at Winterset, Ia 50273
My commission expires: 1-10-99

ACKNOWLEDGEMENT - GRANTOR

STATE OF Iowa)
COUNTY OF Madison)

On this 3rd day of August, 19 98, before me, the undersigned, a Notary Public, personally appeared Mary Keeney 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]



Heidi S. McFarland
NOTARY PUBLIC in and for the State of Iowa,
residing at Winterset
My Commission expires: April 23, 2000



STATE OF IOWA , COUNTY OF MADISON , ss:

On this 3rd day of August , 19 98 , before me, the undersigned, a Notary Public in and for the said State, personally appeared Jerrold B. Oliver to me known to be the identical person named in and who executed the foregoing instrument, and acknowledged that the person, as the fiduciary, executed the instrument as the voluntary act and deed of the person and of the fiduciary.

Heidi S. McFarland

Heidi S. McFarland , Notary Public in and for said State.



Acknowledgment: For use in the case of an individual fiduciary

EXHIBIT "A"

"Facility Parcel"

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

The following described property located in Township _____, Madison County, Iowa

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 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.

Said tract contains 10.56 acres and is subject to a Madison County Highway Easement over the southerly 0.32 acres thereof.

"Grantor Parcel"

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

The Southeast Quarter (SE $\frac{1}{4}$) of the Northeast Quarter (NE $\frac{1}{4}$) and the Northeast Quarter (NE $\frac{1}{4}$) of the Southeast Quarter (SE $\frac{1}{4}$) of Section Twenty (20); (Northwest Quarter (NW $\frac{1}{4}$) of the Southwest Quarter (SW $\frac{1}{4}$) and the Southwest Quarter (SW $\frac{1}{4}$) of the Northwest Quarter (NW $\frac{1}{4}$) of Section Twenty-one (21)) all in Township Seventy-four (74) North, Range Twenty-eight (28) West of the 5th P.M., Madison County, Iowa.