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REC 50<sup>th</sup>  
AUD \$  
RMF \$

COMPUTER ✓  
RECORDED ✓  
COMPARED ✓

FILED NO 4017  
BOOK 138 PAGE 833  
93 APR 17 PM 1 26  
MICHELLE UTSELL  
RECORDER  
MADISON COUNTY IOWA

**ASSIGNMENT OF EASEMENT TO APPLY AGRICULTURAL WASTE**

Assignment made and entered into this 7<sup>th</sup> day of January, 1998, by and between **Home Federal Savings Bank**, a South Dakota corporation ("Assignor"), whose address is 202 West Highway 38, Post Office Box 400, Hartford, South Dakota 57033, and **MetLife Capital, Limited Partnership**, a Delaware limited partnership ("Assignee"), whose address is 10900 N E 4<sup>th</sup> Street, Suite 500, Post Office Box C-97550, Bellevue, Washington 98004

ASSIGNED 12-23-03 SEE  
RECORD 2003 PAGE 2471

WITNESSETH

WHEREAS, Assignor heretofore provided financing to **Alan V Anthony and Nancy J Anthony** for the construction of hog nursery facilities, and

WHEREAS, in connection with such financing Alan V Anthony and Nancy J Anthony granted Assignor an easement to apply agricultural waste ("Easement"), a copy of which is attached hereto and made a part hereof as Exhibit A, and

WHEREAS, Assignee is providing the permanent financing for such facilities, and

WHEREAS, the proceeds of such permanent financing will be used to pay off the construction loan of Assignor,

NOW THEREFORE, for good and valuable consideration it is agreed as follows

1 Assignment

Assignor hereby assigns to Assignee all of its right, title and interest under the Easement, and Assignee hereby accepts such assignment

2 Representations

Assignor hereby represents to Assignee that

- a it has not assigned or transferred the Easement to any other party, and
- b it has the full power and authority to make this assignment and this assignment has been duly authorized

3 Entire Agreement

This agreement represents the total and complete agreement of the parties hereto

51<sup>st</sup>



ACKNOWLEDGMENT - ASSIGNEE

STATE OF WASHINGTON )  
 ) §  
COUNTY OF KING )

On this 7<sup>th</sup> day of January, 1997, before me, the undersigned, a Notary Public, personally appeared Mitchell J. Stevens known to me (or proved to me on the basis of satisfactory evidence) to be the Vice President of MetLife Capital Corporation, who executed the foregoing instrument and acknowledged the said instrument was the free and voluntary act and deed of said Corporation, for the uses and purposes therein mentioned



[Signature]  
NOTARY PUBLIC in and for the State of WA  
residing at Bellevue  
My Commission expires 12/19/01

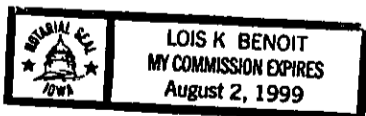
ACKNOWLEDGMENT

STATE OF Iowa )  
 ) §  
COUNTY OF Union )

On this 29 day of January, 1998, before me, the undersigned, a Notary Public, personally appeared Alan Anthony and Lancy Anthony 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]

[Signature]  
NOTARY PUBLIC in and for the State of Iowa  
residing at \_\_\_\_\_  
My Commission expires Aug 2, 1999



SEARCHED ✓  
 INDEXED ✓  
 FILED ✓

FILED NO 792  
 BOOK 137 PAGE 853  
 97 AUG 25 PM 1:49

REC \$ 35.00  
 ADD \$ \_\_\_\_\_  
 R.M.F. \$ 1.00

MICHELLE DILL  
 RECORDER  
 MADISON COUNTY, IOWA

THIS INSTRUMENT WAS DRAFTED BY:  
 Home Federal Savings Bank  
 P.O. Box 400  
 Hartford, SD 57003  
 605 528-7428

Rev 8-97 (Baseown)  
 Owner

EASEMENT TO APPLY AGRICULTURAL WASTE

THIS AGREEMENT is made this 20 day of August, 1997, between Alan V. Anthony and Nancy J. Anthony Husband and Wife ("GRANTORS"), whose principal place of business is 2721 Deer Run Ave., Macksburg in the State of Iowa, and Home Federal Savings Bank, a South Dakota corporation ("GRANTEE"), whose address is 202 W Highway 38, PO Box 400, Hartford, SD 57033;

WHEREAS, GRANTORS are the owners of certain real property located in the County of Madison, State of Iowa, described as Tract I on the attached Exhibit A; and

WHEREAS, GRANTEE has agreed to provide financing to GRANTORS for construction of Hog Nursery Facilities to be located on certain real property located in the County of Madison, State of Iowa, and located on Tract II, described on attached Exhibit A; and

WHEREAS, GRANTEE is unwilling to make the loan to GRANTORS for financing construction of the above-described facilities without GRANTORS' granting, for security purposes, to GRANTEE, an easement to apply agricultural waste on Tract I; and

NOW, THEREFORE, in consideration of the premises and of the mutual covenants, conditions and agreements contained herein, the parties hereby agree as follows:

#### 1.0 Grant of Easement.

GRANTORS hereby grant, convey and transfer to GRANTEE a continuing easement to apply livestock waste on Tract I, described on attached Exhibit A, all in accordance with the terms of this easement

#### 2.0 Security Easement

In the event of any default by GRANTORS under the terms of the Loan Agreement dated 20th day of August, 1997, and all Promissory Notes, Mortgages, Security Agreements and other agreements executed in conjunction therewith, this easement shall become operational and enforceable by GRANTEE for the benefit of GRANTEE, its agents, representatives, employees, successors and assigns. Upon payment of all indebtedness owed GRANTEE, and upon full performance of the Loan Agreement, Promissory Notes, Mortgage, Security Agreements and all other agreements between GRANTORS and GRANTEE, all rights granted to GRANTEE hereunder shall be released. However, in the event of any default by GRANTORS, the easement granted herein shall be deemed perpetual in duration and shall constitute a covenant running with the land for the benefit of GRANTEE, its agents, representatives, employees, successors and assigns. It is the intent of GRANTORS and GRANTEE that this easement shall be deemed fully binding and enforceable and a covenant running with the land from the date hereof.

#### 3.0 Grant of Right to Apply Manure and effluent.

GRANTEE, its agents, representatives, employees, independent contractors, successors and assigns shall have a right to enter onto Tract I, described on attached Exhibit A, for purposes of applying livestock waste at a rate not in excess of those provided for by the regulations promulgated by the State of Iowa.

#### 4.0 Time of Application.

Application shall be permitted after crops are harvested in any calendar year during the term of this easement and up until the time of planting the following spring. Also,

application shall be permitted while crops are growing, so long as such application does not damage said crops

5.0 Spring Application.

It is anticipated that spring applications will be permitted GRANTEE, its successors and assigns shall use reasonable efforts to apply the waste in spring in such a fashion as to avoid soil compaction in the event wet soil conditions are present after preparation has begun for crop planting. However, nothing herein shall be construed as preventing or prohibiting GRANTEE, its successors and assigns from applying the livestock waste in the spring prior to crop planting, during the crop growing season, provided crops are not damaged or destroyed, and in the fall following crop harvest

6.0 Term of Agreement.

This Agreement shall remain continuously in effect and enforceable at all times that GRANTORS are indebted to GRANTEE. In the event of a default by GRANTORS on any indebtedness owed by GRANTORS to GRANTEE, including, but not limited to, a default under the Loan Agreement, Promissory Notes, Mortgage, Security Agreements and any other agreements with GRANTEE, this easement shall be deemed perpetual in nature and shall continue to be a covenant running with the land

7.0 Method of Application.

Any manure and effluent spread on Tract I, described on attached Exhibit A, shall be applied in accordance with the following provisions:

- A Any and all application of manure and effluent or other waste shall be done in a good and husbandlike manner, taking into account weather conditions, soil conditions and time of year, also as to reduce any odor that might emanate from such manure and effluent application
- B That the application of such manure and effluent and other waste shall be done in conformance with Iowa

pollution control, Madison County zoning and in accordance with all other applicable statutes, rules and regulations relating to such acts and practices

8.0 Covenant Running with the Land.

The easement hereby granted, the restrictions hereby imposed and the agreements 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

9.0 Entire Agreement.

This Agreement represents the total and complete agreement of the parties

10.0 Notice.

All notices under this Agreement shall be in writing and delivered personally or mailed, postage pre-paid, addressed to the parties at their last known address

11.0 Non-Waiver.

Failure by either party to exercise any right under this Agreement and no partial single exercise of that right shall constitute a waiver of that or any other right, unless otherwise expressly provided herein

12.0 Cost of Application.

GRANTORS shall pay all costs for applying the manure and effluent on its property, including charges and fees by custom applicators. If GRANTEE applies the waste, GRANTORS shall pay GRANTEE the costs for application, which shall be based on the market rate in the industry for custom applicators. GRANTORS shall pay such costs in a timely manner, and when the application is by someone other than GRANTEE, GRANTORS shall indemnify and hold GRANTEE harmless from any application costs or fees

DEED RECORD 138

IN WITNESS WHEREOF, the parties have signed this Agreement on the date first indicated above

GRANTORS:

*Alan V. Anthony*  
Alan V Anthony

*Nancy J. Anthony*  
Nancy J Anthony

GRANTEE: Home Federal Savings Bank

*Neal A. Beitelspacher*  
Neal A. Beitelspacher  
Its Senior Banker



STATE OF Iowa )  
 )  
 ) SS  
COUNTY OF Union )

On this, the 20th day of August, 1997, before me, the undersigned officer, personally appeared Alan V. Anthony and Nancy J. Anthony, Husband and Wife, known to me or satisfactorily proven to be the persons whose names are subscribed to the within instrument and acknowledged that they executed the same for the purposes therein contained.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.



*Lois K Benoit*

Notary Public, \_\_\_\_\_  
My Commission expires \_\_\_\_\_

STATE OF \_\_\_\_\_ )  
 ) SS  
COUNTY OF \_\_\_\_\_ )

On this, the 20th day of August, 1997, before me, the undersigned officer, personally appeared Neal A. Beitelspacher, who acknowledged himself to be a Senior Banker of Home Federal Savings Bank, and that he, as such Senior Banker, being authorized so to do, executed the foregoing instrument for the purposes therein contained by signing the name of the Home Federal Savings Bank by himself as such Senior Banker.

IN WITNESS WHEREOF, I hereunto set my hand and official seal



*Lois K Benoit*

Notary Public, \_\_\_\_\_  
My Commission expires \_\_\_\_\_

**Exhibit A****Tract 1**

NE1/4 of Section 33, T75N, R29W all of the 5th P M, Madison County, Iowa

The above-described containing 80 acres more or less subject to easements now of record in said county and state.

**Tract 2**

Madison COUNTY (Hog Nursery FACILITY)

Parcel 'A' in the SE corner of the NE 1/4 of Section 33, T75N, R29W of 5TH P.M, Madison County, Iowa, and more particularly described as follows, beginning at the E1/4 corner of said Section 33, Thence South 89 degrees, 47 minutes, 58 seconds, West 660 00 feet along the South line of said NE 1/4, thence North 660 00 feet; Thence North 89 degrees, 47 minutes, 58 seconds East 660 00 feet to the East line of said NE 1/4; Thence South 660.00 feet to the to point of beginning

The above-described containing 10 acres more or less subject to easements now of record in said county and state.