

BK: 2019 PG: 687
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Pages 10
County Recording Fee: \$52.00
Iowa E-Filing Fee: \$3.97
Combined Fee: \$55.97
Revenue Tax:
LISA SMITH RECORDER
Madison County, Iowa

PLEASE RETURN TO: MIDAMERICAN ENERGY ATTN: RIGHT-OF-WAY SERVICES P.O. BOX 657 DES MOINES, IA 50303-0657
Prepared by: Ryan K. Gurwell, A&R Land Services, 1609 Golden Aspen Dr., Suite 104, Ames, IA 50010 (515)337-1197

EASEMENT HOLDER SUBORDINATION AGREEMENT

State of Iowa
County of Madison
Section Twenty-seven (27)
Township Seventy-six (76) North
Range Twenty-nine (29) West of the 5th P.M.

THIS EASEMENT HOLDER SUBORDINATION AGREEMENT (“**Agreement**”) is made and entered into this 4 day of Jan, 2019, by and among Parker Lee Frey, a single person; (“**Owner**”), SMT Pork, LLC, (“**Easement Holder**”), and MidAmerican Energy Company, an Iowa Corporation, the Developer (“**Developer**”) under the Wind Easement defined below.

RECITALS

A. Owner (or previous owner) and Easement Holder entered into a manure easement agreement (the “**Manure Easements**”) dated December 28, 2013 [and recorded on February 11, 2014, in the Official Records of Madison County, Iowa, in Book 2014, Page 333]; whereby Owner granted certain rights to Easement Holder over all or a portion of the real property located in Madison County, Iowa, as more particularly described in Exhibit A attached hereto and incorporated herein by this reference (the “**Property**”).

B. Developer has certain rights as to the Property under that certain Windpark Easement Agreement pertaining to the Property (the “**Wind Easement**”) dated as of February 2, 2018, and recorded in the official records of Madison County, Iowa, in Book 2018, Page 631 by and between Owner (or previous owner) and Developer.

C. The Wind Easement provides for an option on the part of Developer to develop portions of the Property for wind resource evaluation, wind energy development, energy transmission and related wind energy uses (the “**Windpark**”).

D. The parties hereto desire to expressly subordinate the Easement Holder interest under the Manure Easement to the Wind Easement and the rights and benefits of Developer thereunder, but only as provided and to the extent outlined in this Agreement.

AGREEMENT

NOW THEREFORE, in consideration of the foregoing and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and of the mutual benefits to accrue to the parties hereto, it is hereby agreed as follows:

1. Subordination of Manure Easements. Owner and Easement Holder declare and acknowledge for the benefit of Developer, its successors and assigns, that each hereby intentionally waives, relinquishes and subordinates the priority and superiority of the Manure Easements, the Easement Holder interests and estates created thereby, and the rights, privileges and powers thereunder to the rights of Developer and its successors and assigns under the Wind Easement, except as otherwise provided in this paragraph. The waiver, relinquishment and subordination referred to above shall not apply to the surface of the Property outside the area not to exceed three contiguous acres for each wind turbine generator located on the Property as described in Exhibit B attached hereto (the "Wind Easement Area"). The waiver, relinquishment and subordination of the Manure Easements as described in and as limited in this paragraph in favor of the Wind Easement and the interests and estates created thereby is made by Owner and Easement Holder with the express understanding that in reliance upon, and in consideration of, this waiver, relinquishment and subordination, Developer may be developing the Property for wind energy production and the transmission of electricity, which development would not be made but in said reliance upon this waiver, relinquishment and subordination. Easement Holder consents to the use of the Property by Developer as provided in the Wind Easement (provided however that Easement Holder only consents to the Developer's use of the Wind Easement Area for the permanent installation of facilities that affect the surface of the Property; it being the intention of the parties hereto that this Agreement shall not affect Easement Holder's easement rights under the Manure Easements except in the Wind Easement Area). Easement Holder agrees and acknowledges that Easement Holder's use of the Property shall not in any way interfere with the quiet use and enjoyment by Developer of the rights and easements granted to Developer pursuant to the Wind Easement (as limited by this paragraph), and Developer agrees and acknowledges that Easement Holder's use of the property by applying swine manure to the surface or subsurface of the Property (other than in the Wind Easement Area) shall not interfere with the quiet use and enjoyment by Developer of the rights and easements granted to Developer pursuant to the Wind Easement. It is expressly understood and agreed that this Agreement shall supersede, to the extent inconsistent herewith, any provisions of the Manure Easements relating to the subordination of the Manure Easements and the Easement Holder's interests and estates created thereby.

2. Enforcement. The parties intend that this Agreement be specifically enforceable.

3. Notices. Any notices given in connection with this Agreement shall be sent by certified mail, return receipt requested, with postage prepaid and addressed to the recipient at the address stated below its signature herein.

4. Successors. The terms and provisions of this Agreement shall run with the land and shall be binding upon inure to the benefit of the parties hereto and their respective heirs, administrators, executors, legal representatives, successors and assigns and are specifically intended to be relied upon and enforceable by any person holding a mortgage or deed of trust against the Wind Easement.


5. Entire Agreement. This Agreement supersedes all previous oral and written understandings and agreements with respect to the priority of the Manure Easements and the Wind Easement and comprises the entire agreement of the parties with respect thereto. No provisions of this Agreement may be modified or waived except through the execution and recordation of a subsequent written agreement by the party to be charged therewith.

7. Execution in Counterparts. This Agreement may be executed in counterparts, each of which shall constitute but one and the same contract.

8. Choice of Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Iowa.

IN WITNESS WHEREOF, Owner, Easement Holder and Developer have executed this Agreement as of the day and year first above written.

OWNER:

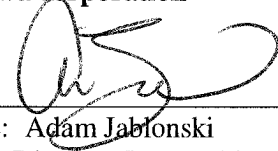
By: 
Name: Parker Lee Frey

Address: 1386 Fawn Avenue
Earlham, IA 50072

1-4-19
Date Executed

DEVELOPER:

**MidAmerican Energy Company,
an Iowa corporation**

By: 
Name: Adam Jablonski
Title: Director, Renewable Energy

Address: P.O. Box 657
Des Moines, IA 50303

2/28/19
Date Executed

EASEMENT HOLDER:

SMT PORK, LLC

By: 
Name: Michael Behrend
Title: Manager

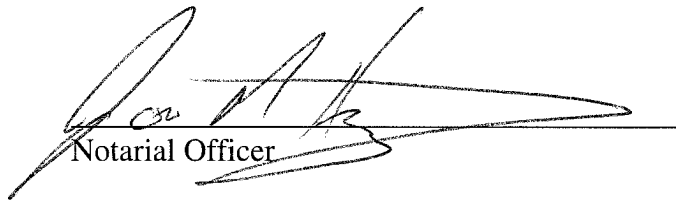
Address: 26752 Jigsaw Road
Garnavillo, IA 52049

02-05-19
Date Executed

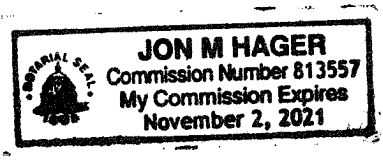
ACKNOWLEDGEMENTS

STATE OF IOWA, MADISON COUNTY, ss:

This record was acknowledged before me on Jan. 4 2019, by Parker Lee Frey, a single person.


Notarial Officer

STAMP



STATE OF Iowa, DeKalbe COUNTY, ss:

This record was acknowledged before me on Feb 5 2019, by Michael Behrend, Manager of SMT Pork, LLC.

Elaine Gail Oberreuter
Notarial Officer

STAMP



STATE OF IOWA, POIK COUNTY, SS:

This record was acknowledged before me on February 28, 2019 by Adam Jablonski,
as Director, Renewable Energy of MidAmerican Energy Company.

Angela M. Sheeley-Gurwell
Notarial Officer

STAMP

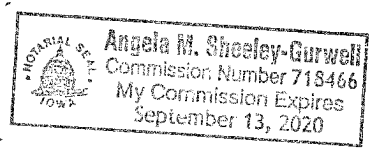


Exhibit A

The West Half (W1/2) of the Southwest Quarter (SW1/4) of Section Twenty-seven (27), excepting therefrom a parcel described as beginning at the Southwest corner of the Southwest Quarter (SW1/4) and running thence East 568 feet, thence North 287 feet, thence West 568 feet, thence South 287 feet to the point of beginning AND the West Half (W1/2) of the East Half (E1/2) of the Southwest Quarter (SW1/4) of Section 27, all in Township Seventy-six (76) North, Range Twenty-nine (29) West of the 5th P.M., Madison County, Iowa, EXCEPT Parcel "A" of the Northwest Quarter (NW1/4) of the Southwest Quarter (SW1/4) of Section Twenty-seven (27), Township Seventy-six (76) North, Range Twenty-nine (29) West of the 5th P.M., Madison County, Iowa, as shown in the Plat of Survey recorded in Book 2007, Page 4226 of the Recorder's Office of Madison County, Iowa.

Exhibit B

The Southeast Quarter (SE1/4) of the Southeast Quarter (SE1/4), AND the West Half (W1/2) of the Southeast Quarter (SE1/4) of Section Eleven (11), Township Seventy-seven (77) North, Range Twenty-nine (29) West of the 5th P.M., Madison County, Iowa, EXCEPT a tract of land located in the Southeast Quarter (SE1/4) of the Southeast Quarter (SE1/4) of said Section Eleven (11), more particularly described as follows, to-wit: Commencing at the Southeast corner of the Southeast Quarter (SE1/4) of the Southeast Quarter (SE1/4) of said Section Eleven (11), thence North 0°25'34" West 1324.16 feet along the East line of the Southeast Quarter (SE1/4) of the Southeast Quarter (SE1/4) of said Section Eleven (11) to the North line of the Southeast Quarter (SE1/4) of the Southeast Quarter (SE1/4) of said Section Eleven (11), thence South 85°52'19" West along the North line of the Southeast Quarter (SE1/4) of the Southeast Quarter (SE1/4) of said Section Eleven (11), 235.20 feet; thence South 1°26'57" West 1324.02 feet to the South line of the Southeast Quarter (SE1/4) of the Southeast Quarter (SE1/4) of said Section Eleven (11), thence East 278.54 feet to the Point of Beginning, containing 7.8065 acres, AND EXCEPT the South Half (S1/2) of the Southeast Quarter (SE1/4) of the Southwest Quarter (SW1/4) of the Southeast Quarter (SE1/4) of said Section Eleven (11), AND

The South Half (S1/2) of the Northeast Quarter (NE1/4) and the North Half (N1/2) of the Southeast Quarter (SE1/4) and the Southeast Quarter (SE1/4) of the Southeast Quarter (SE1/4), all in Section Thirteen (13), in Township Seventy-seven (77) North, Range Twenty-nine (29) West of the 5th P.M., Madison County, Iowa, AND

A parcel of land located in the North Half (N1/2) of the Southwest Quarter (SW1/4) and in the Southeast Quarter (SE1/4) of the Northwest Quarter (NW1/4) of Section Thirteen (13) in Township Seventy-seven (77) North, Range Twenty-nine (29) West of the 5th P.M., Madison County, Iowa, more particularly described as follows: Beginning at the Southwest Corner of the Northwest Quarter (NW1/4) of the Southwest Quarter (SW1/4) of Section Thirteen (13) in Township Seventy-seven (77) North, Range Twenty-nine (29) West of the 5th P.M., Madison County, Iowa; thence, along the West line of said Section Thirteen (13) North 00°00'00" 717.35 feet; thence North 89°33'07" East 367.01 feet; thence North 00°00'00" 593.48 feet; thence South 89°55'06" East 938.18 feet to the Northeast Corner of the Northwest Quarter (NW1/4) of the Southwest Quarter (SW1/4) of said Section Thirteen (13); thence South 00°04'32" West 391.36 feet; thence North 89°19'13" East 398.55 feet; thence North 00°55'38" East 1027.12 feet; thence South 88°34'41" East 223.39 feet; thence North 00°24'00" East 272.75 feet; thence South 89°13'07" East 225.68 feet; thence North 00°04'00" West 281.11 feet; thence South 87°59'26" East 470.85 feet to the East line of the West Half (W1/2) of said Section Thirteen (13); thence along said East line, South 00°27'05" West 2481.52 feet to the Southeast Corner of the Northeast Quarter (NE1/4) of the Southwest Quarter (SW1/4) of said Section Thirteen (13); thence North 89°59'59" West 2621.38 feet to the Point of Beginning. Said parcel of land contains 91.220 Acres, including 0.377 Acres of County road right of way, AND

The Southeast Quarter (SE1/4) of Section Fourteen (14), Township Seventy-seven (77) North, Range Twenty-nine (29) West of the 5th P.M., Madison County, Iowa, EXCEPT the East 584 feet of the North 825 feet, and also the South 506.7 feet of the North 1331.7 feet of the East 333 feet of the Southeast Quarter (SE1/4) of Section Fourteen (14), Township Seventy-seven (77) North, Range Twenty-nine (29) West of the 5th P.M., Madison County, Iowa, subject to existing road right of way along the East side thereof, AND EXCEPT Commencing at the East quarter corner of Section Fourteen (14), Township Seventy-seven (77) North, Range Twenty-nine (29) West of the 5th P.M., thence N. 90°00' W. 584.0 feet along the quarter Section line to the point of beginning. Thence continuing N. 90°00' W. 97.2 feet, thence S. 00°21' E. 845.0 feet, thence N. 90°00' E. 348.2 feet, thence N. 00°21' W. 20.0 feet, thence N. 90°00' W. 251.0 feet, thence N. 00°21' W. 825.0 feet to the point of beginning, containing 2.00 Acres, situated in the Northeast Quarter (NE1/4) Southeast Quarter (SE1/4) of Section Fourteen (14), Township Seventy-seven (77) North, Range Twenty-nine (29) West of the 5th P.M., Madison County, Iowa, AND

The East Half (E1/2) of the Northwest Quarter (NW1/4) of Section Twenty-three (23), Township Seventy-seven (77) North, Range Twenty-nine (29) West of the 5th P.M., Madison County, Iowa, AND

The East Half (E1/2) of the Southeast Quarter (SE1/4) of Section Twenty-three (23), Township Seventy-seven (77) North, Range Twenty-nine (29) West of the 5th P.M., Madison County, Iowa, AND

Parcel "A" in the Northeast Quarter of the Southeast Quarter (NE1/4 SE1/4) of Section Twenty-four (24), Township Seventy-seven (77) North, Range Twenty-nine (29) West of the 5th P.M., Madison County, Iowa, more particularly described as follows: Beginning at the East Quarter (E1/4) Corner of Section Twenty-four (24), Township Seventy-seven (77) North, Range Twenty-nine (29) West of the 5th P.M., Madison County, Iowa; thence South 00°00'00" East 1010.01 feet along the centerline of a county road which is the East line of the Southeast Quarter (SE1/4) of said Section 24; thence North 87°07'47" West 384.29 feet; thence North 01°05'57" East 642.44 feet; thence North 02°52'59" East 351.93 feet to the North line of said Southeast Quarter (SE1/4); thence South 89°30'30" East 353.80 feet along the centerline of a County Road to the Point of Beginning containing 8.567 acres including 1.389 acres of County Road Right-of-Way, AND

The West Half (W1/2) of the Southwest Quarter (SW1/4) of Section Twenty-seven (27), excepting therefrom a parcel described as beginning at the Southwest corner of the Southwest Quarter (SW1/4) and running thence East 568 feet, thence North 287 feet, thence West 568 feet, thence South 287 feet to the point of beginning AND the West Half (W1/2) of the East Half (E1/2) of the Southwest Quarter (SW1/4) of Section 27, all in Township Seventy-six (76) North, Range Twenty-nine (29) West of the 5th P.M., Madison County, Iowa, EXCEPT Parcel "A" of the Northwest Quarter (NW1/4) of the Southwest Quarter (SW1/4) of Section Twenty-seven (27), Township Seventy-six (76) North, Range Twenty-nine (29) West of the 5th P.M., Madison County, Iowa, as shown in the Plat of Survey recorded in Book 2007, Page 4226 of the Recorder's Office of Madison County, Iowa, AND

The North Half (N1/2) of the Northeast Quarter (NE1/4) of Section Thirty-four (34), Township Seventy-seven (77) North, Range Twenty-nine (29) West of the 5th P.M., Madison County, Iowa, AND

The Northeast Quarter (NE1/4) and the East One-Half (E1/2) of the Northwest Quarter (NW1/4), EXCEPT the West 14 rods of the North 8 rods thereof for a cemetery, of Section Thirty-six (36), Township Seventy-six (76) North, Range Twenty-nine (29) West of the 5th P.M., Madison County, Iowa, AND

The Southeast Quarter of the Southeast Quarter (SE1/4 SE1/4) of Section One (1), Township Seventy-six (76) North, Range Twenty-nine (29) West of the 5th P.M., Madison County, Iowa, EXCEPT Parcel "A" located therein, containing 3.000 acres, as shown in Plat of Survey filed in Book 2007, Page 2677 on July 3, 2007, in the Office of the Recorder of Madison County, Iowa, AND

The South One-half (S1/2) of the West Fractional One-half (Wf1/2) of the Southwest Quarter (SW1/4) of Section Six (6), Township Seventy-six (76) North, Range Twenty-eight (28) West of the 5th P.M., Madison County, Iowa, AND

Parcel "F" located in the Southeast Quarter (SE1/4) of the Southwest Quarter (SW1/4) of Section Six (6) and the Northeast Quarter (NE1/4) of the Northwest Quarter (NW1/4) of Section Seven (7), Township Seventy-six (76) North, Range Twenty-eight (28) West of the 5th P.M., Madison County, Iowa, more particularly described on Warranty Deed recorded in Book 2014, Page 2840, on November 7, 2014, in the Office of the Madison County Recorder, Madison County, Iowa.