

5.3-40

AMENDED DECLARATION OF TRUST

THIS AMENDED DECLARATION OF TRUST made and entered into this 31st day of December, 1979, by and between Michael McCormack, Trustee, hereinafter referred to as "Trustee", and Maurice M. Vervaecke, individually, Donald M. Vervaecke, individually, W. C. Jensen, individually, and W. C. Jensen on behalf of Benson Feed Mills, Inc., all hereinafter referred to as "Owners":

WITNESSETH:

WHEREAS, Trustee has acquired title to all that real estate described in Exhibit "A", attached hereto, and by reference to made a part hereof, by Warranty Deed dated February 1, 1979, from Avery Land Co., Inc. That Owners are the owners of all of the issued and outstanding stock of Avery Land Co., Inc.: Maurice M. Vervaecke owning 47.06% of said stock, Donald M. Vervaecke owning 23.53% of said stock, W. C. Jensen owning 5.88% of said stock, and Benson Feed Mills, Inc., owning 23.53% of said stock, and,

WHEREAS, Trustee has acquired title to said real estate for the beneficial interest of the Owners as hereinafter set forth and desires to set forth such interest.

NOW, THEREFORE, Trustee does hereby declare and does agree as follows:

1. Trustee acknowledges that he acquired title to and does hold title to the above-described real estate for the beneficial interest of the Owners as hereinafter set forth and in the following interest:

Maurice M. Vervaecke, Individually An undivided 47.06% interest in and to the real estate described herein.

Donald M. Vervaecke, Individually An undivided 23.53% interest in and to the real estate described herein.

W. C. Jensen, Individually An undivided 5.88% interest in and to the real estate described herein.

Benson Feed Mills, Inc. An undivided 23.53% interest in and to the real estate described herein.

FILED FOR RECORD 1-23-80 AT 1:40 P.M. IN BOOK 53
Maurice M. Vervaecke
12 258 copy
Notary Public
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[Handwritten signature]

Owners hereby agree to Trustee holding title to the above property as herein provided and further agree to indemnify and hold harmless Trustee from any and all liability and expense which he may incur by reason of holding title to the above real estate.

It is specifically agreed and understood by the parties hereto that Trustee shall have no duty by this agreement other than the simple holding of title to the above-described real estate, and the transferring of same pursuant to instructions from Owners. Owners hereby retain the responsibility, obligations, and rights of full ownership including the right to transfer and convey said real estate, mortgage, lease, or otherwise deal with said real estate.

This Declaration amends a previous Declaration of Trust dated the 1st day of February, 1979, and filed for record at Book 52, Page 73, of the Miscellaneous Records of the Register of Deeds of Sarpy County, Nebraska.

This Amended Declaration of Trust shall be binding on and shall inure to the benefit of the heirs, executors, administrators and personal representatives of the parties hereto.

Michael McCormack, Trustee

Maurice M. Vervaecke

Donald M. Vervaecke

W. C. Jensen

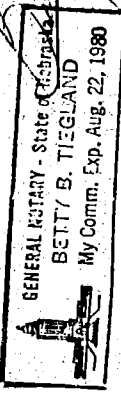
BENSON FEED MILLS, INC.

BY: W. C. Jensen

53-400

STATE OF NEBRASKA)
) ss.
COUNTY OF DOUGLAS)

On this 31st day of December, 1979, before me, Notary Public duly commissioned and qualified in and for said county, personally came Michael McCormack, Maurice M. Vervaecke, Donald M. Vervaecke, and W. C. Jensen, known to me to be the identical persons whose names are affixed to the foregoing instrument, and W. C. Jensen, known to me to be an officer of Benson Feed Mills, Inc., and acknowledge the same to be their voluntary act and deed.


Betty B. Tiegland
Notary Public

That part of Tax Lot 5 in the Northeast Quarter of Section 27, Township 14 North, Range 13, East of the 6th P.M., in Sarpy County, Nebraska, more particularly described as follows: Referring to the north quarter corner of Section 27; thence due south (assumed bearing) along the west line of the Northeast Quarter of Section 27 a distance of 1075.50 feet to the point of beginning; thence continuing due South along the west line of the Northeast Quarter of Section 27 a distance of 100.40 feet; thence South 84 degrees, 39 minutes East 1108.40 feet; thence South 76 degrees, 07 minutes East 757.80 feet; thence South 69 degrees, 59 minutes East 95.00 feet; thence North 00 degrees, 10 minutes East 129.60 feet; thence North 68 degrees, 19 minutes West 447.60 feet; thence North 86 degrees, 23 minutes West 611.80 feet; thence North 84 degrees, 39 minutes West 906.60 feet to the point of beginning.

ALSO

All that part of Tax Lot 6 in Section 27, Township 14 North, Range 13 East of the 6th P.M., lying North and West of the Union Pacific Railroad right-of-way and containing 2.90 acres (being Tax Lot 6b); also all that part of Tax Lot 6 in Section 26, Township 14, North Range 13 East of the 6th P.M., lying North and West of the Union Pacific Railroad right-of-way, and containing 1.97 acres (being Tax Lot 6a2), all being more particularly described as follows: Commencing at the NE corner of Section 27, Township 14, N. Range 13, E. of the 6th P.M., and running thence S. on Section line 674.52 ft. to the N.E. corner of Tax Lot 6 in said Section 27, and bring the point of beginning, running thence W. on claim line 161.7 ft. to the NW corner of said Tax Lot 6; thence S. on the V. line of said Tax Lot 6, 963.27 ft. to the northerly and westerly margin of the Union Pacific R.R. right of way; thence in a northeasterly direction along the said right of way margin 1050.06 ft. to the N. line of Tax Lot 6 in Section 26, Township 14 N., Range 13 E. of the 6th P.M.; thence W. along claim line 264.26 ft. to place of beginning, containing in all 4.87 acres, more or less. Also, beginning at the northeast corner of Section 27, Township 14 N., Range 13 E.; thence N. on section line 700 ft. to a stake; thence E. 612 ft. to a stake on the west line of the right of way of the Union Pacific Railway; thence S. 13°50' W. along said west line of said right-of-way 1229 ft. to a stake; thence on a 2° curve to the right 191.8 ft. to a stake on the west line of said right-of-way; thence N. 89°18' W. 2164.6 ft.; thence N. 651.1 ft. to the North line of Section 27; thence E. on Section line 1897.5 ft. to the place of beginning, containing 42.831 acres, more or less, said above property being also known and described as follows:

Tax Lot 18, Section 23, Township 14 North, Range 13 E. of the 6th P.M., containing approximately 8-1/2 acres;
Tax Lot 5, Section 26, Township 14 North, Range 13, E. of the 6th P.M., containing approximately 5-1/2 acres;
Tax Lot 1, Section 27, Township 14 North, Range 13, E. of the 6th P.M., containing approximately 29 acres;

However, excepting therefrom that portion of Tax Lot Six B (6B) in Section Twenty-Seven (27), Township Fourteen (14) North, Range Thirteen (13), East of the 6th P.M., described as follows:

Beginning at a point where the west line of Tax Lot Six B (6B) intersects the west line of the Railroad right-of-way (Union Pacific), thence North a distance of 60.0 feet to an iron pipe, thence east along the North line of Avery West Road a distance of twenty-nine and six tenths feet (29.6 ft.) to an iron pipe; thence Southwesterly a distance of 69.12 feet to point of beginning, containing .02 acres, more or less, said portion having been conveyed by Swift & Company to the County of Sarpy, State of Nebraska for road purposes.