

Palo Alto County, Iowa No. 939
Filed for Record 4-2-2002 At 3:45 PM
Book 28 Page 377 Fee 21.00
LORI M. KLIEGL, RECORDER
S. Marie Gilman DEPUTY

This Area Reserved for Recording Information

MANURE EASEMENT AGREEMENT

THIS AGREEMENT is made on 4-2-02, 2002, by and between

Mary M. Brown Trust (hereinafter "Grantor") and Hawkeye Nine, Inc., an Iowa Corporation, (hereinafter "Grantee").

WHEREAS, Grantor is the fee owner of real estate legally described as follows ("Property"):

The Northwest Quarter (NW ¼) of Section 2, Township 94 North, Range 33 West of Palo Alto County, Iowa.

WHEREAS, Grantee is the fee owner of real estate legally described as follows ("Facility Site"):

Exhibit A

WHEREAS, Grantee desires to enter into an agreement with Grantor to haul and apply over the Property manure and other livestock bio-solids generated by the livestock facilities located on the Facility Site.

WHEREAS, Grantor will receive the benefit of reduced costs and expenses with regard to fertilizer application on account of such manure application and other related benefits.

WHEREAS, Grantor and Grantee have had mutual discussions with regard to entering into such an agreement and wish to reduce the agreement to writing.

NOW, THEREFORE, in consideration of the premises and under the mutual covenants, promises and conditions set forth herein, Grantor and Grantee hereby agree as follows:

1. Easement to Apply Livestock Bio-solids. Grantor hereby grants to Grantee an easement over the Property for purposes of hauling and applying manure and other livestock bio-solids generated by the livestock facilities located on the Facility Site.
2. Term of Agreement. This Agreement and the easements connected herewith shall become effective on the date first above written and shall remain in effect for a period of 10 years unless terminated earlier by mutual agreement between the parties.
3. Application of Manure and Other Livestock bio-solids. The parties hereto agree that Grantee shall be solely responsible for application of the manure and/or other livestock bio-solids to the real estate, and Grantee covenants and agrees that:
 - a. Any and all application of manure or other livestock bio-solids shall be done in a good and husbandlike manner, taking into account weather conditions, soil conditions and time of year, all so as to reduce any odor that might emanate from such manure application.

Manure Easement Agreement
Page 2

- b. That the application of such manure and other livestock bio-solids shall be done in conformance with state rules and local county zoning ordinances and in accordance with all other applicable permits, statutes, rules and regulations relating to such acts and practices.
 - c. At all times during the term of this agreement, Grantee agrees that, so far as reasonably practicable, it shall honor all requests and directions made by Grantor with respect to the timing, location and manner of any manure or other waste application to the soil.
 - d. Grantee agrees that it is responsible for any claims, causes of action, demands or damages arising from or on account of its manure application and agrees to fully indemnify and hold harmless Grantor of and from all such claims.
 - e. The parties agree the benefits between them described herein constitute reasonably equivalent consideration.
5. Compensation for Manure. Grantor will pay to Grantee an amount equal to one third (1/3) of the cost of the nutrients (P,N,K) that the following crop will utilize. If soil nutrient levels are above necessary levels, for the following year's crop, there will be no compensation for those nutrients.
6. Successors and Assigns. This Agreement shall inure to the benefit of and be binding upon the heirs, successors and assigns of the parties hereto. It is understood by the parties that rights of the Grantee under the terms of this Agreement are fully assignable without the consent of Grantor.
7. Execution of Documents. All parties agree to execute any and all additional documents that may be necessary to implement the full terms and conditions of the Agreement, including, but not limited to, any additional state or county permit forms that may be required.
8. Default. In the event of default, either party may terminate this Agreement upon 30 days written notice to the other. In addition, either party shall have all rights and remedies that may exist at law or in equity, including a right to seek specific performance and the right to recover damages for a default of this Agreement.
9. Entire Agreement. The foregoing constitutes the entire agreement between the parties.
10. Severability. If one provision of this Agreement is held invalid, that shall not affect any other provision of the Agreement.

IN WITNESS WHEREOF, this Agreement has been executed on the day and year first above written.

GRANTOR:

GRANTEE:
Hawkeye Nine, Inc.

sign → Mary M. Brown

John E. Kerber

STATE OF Florida)
~~IOWA~~)
COUNTY OF Sarasota)

(Grantor)

On April 2, 2002, before me personally appeared Mary M. Brown to me known to be the person described in and who executed the foregoing instrument, and acknowledged that they executed the same as their free act and deed.



Leslie A. Morrison
Notary Public

STATE OF IOWA)
COUNTY OF Palo Alto)

(Grantee)

On April 9, 2002, before me personally appeared John E. Kerber to me known to be the person described in and who executed the foregoing instrument, and acknowledged that they executed the same as their free act and deed.

Keith E. Johnson
Notary Public



Manure Easement Agreement
Page 4

Exhibit A

That part of the Southwest Quarter of the Southeast Quarter of Section 35, Township 95 North, Range 33 West, Palo Alto County, Iowa, described as follows:

Beginning at the South Quarter corner of said Section 35; thence on an assumed bearing of North 90 degrees 00 minutes East, along the south line of said section, a distance of 880.00 feet to an iron monument; thence North 0 degrees 09 minutes 39 seconds West a distance of 811.00 feet to an iron monument; thence South 90 degrees 00 minutes West a distance of 880.00 feet to an iron monument located on the north-south quarter line of said section; thence South 0 degrees 09 minutes 39 seconds East, along said north-south quarter line, a distance of 811.00 feet to the point of beginning, containing 16.38 acres.