



BK 0881 PG 574



MISC 1989 04816

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THIS TERMINATION OF AGREEMENT AND EASEMENT AGREEMENT entered into this 18<sup>th</sup> day of February, 1989, by and among LYMAN-RICHEY CORPORATION, a Delaware corporation, formerly LYMAN-RICHEY SAND & GRAVEL CORPORATION (Lyman-Richey), CURTIS ACRES, INC., a Nebraska corporation (Curtis Acres), RICHARD J. SLABAUGH and BARBARA C. SLABAUGH, husband and wife, JAMES R. ERIXON and MARY C. ERIXON, husband and wife, and JEAN CURTIS LORENZ, a single person (hereinafter Slabaughs, Erixons, and Lorenz are collectively referred to as "Purchasers").

## WITNESSES THAT:

WHEREAS, Lyman-Richey and Curtis Acres entered into an Agreement (the "Development Agreement") dated October 23, 1981, with respect to the joint development as a residential and recreational lake area of what was referred to therein as the "Lyman-Richey Land" and the "Curtis Land" both situated in Section 17, Township 15 North, Range 10, East of the 6th P.M., Douglas County, Nebraska, with the Lyman-Richey Land more fully described on the attached Exhibit "A" and the Curtis Land more fully described on the attached Exhibit "B"; and

WHEREAS, since the execution of such Development Agreement, Curtis Acres sold certain portions of the Curtis Land to Purchasers; and

WHEREAS, the parties hereto have now determined that their respective interests would be better served by the individual development of the Lyman-Richey Land by Lyman-Richey and of the Curtis Land by Curtis Acres subject only to the Easements granted hereby with respect to the lake area.

NOW, THEREFORE, the parties agree as follows:

1. Termination of Agreement. The Development Agreement is hereby terminated in its entirety effective as of the date hereof and the parties are relieved of any further obligations thereunder.

2. Curtis Acres Easement. Lyman-Richey hereby grants to Curtis Acres and to Purchasers, their respective successors, assigns, grantees, and lessees, and the invitees of any of them, a perpetual, non-exclusive easement over, under, and upon any water areas (other than those water areas within 10 feet of any shoreline) now or hereafter located within the boundaries of the Lyman-Richey Property described on Exhibit "A" attached hereto for the purpose of boating (with boats powered by motors not to exceed a total of 10 horsepower), sailing, fishing, and swimming provided, however, that

BK 881 N 17-15-10R C/O            FEE 40.50 Cash  
PG 574-SB 17-15-10 DEL JK MC Wg  
OF            COMP            F/B 01-60000

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GEORGE J. BUGLEWICZ  
REGISTER OF DEEDS  
DOUGLAS COUNTY, NEBR.

whenever Lyman-Richey is actually engaged in sand and gravel excavation operations on the Lyman-Richey Land, it may restrict use of this easement only to the extent necessary in Lyman-Richey's sole and absolute discretion to assure the safety of persons using the water areas and to assure that Lyman-Richey's ongoing operations will not be impeded. Nothing stated herein shall be deemed to allow the operation in the easement area of "Jet Ski" equipment or similar self-propelled water skiing or water sport equipment. Nothing stated herein shall be deemed to grant an easement on any shoreline located within the Lyman-Richey Land.

3. Lyman-Richey Temporary Easement. Curtis Acres and Purchasers hereby grant to Lyman-Richey a temporary non-exclusive easement over, under, and upon any of the water areas (other than those water areas within 10 feet of any shoreline) now or hereafter located within the boundaries of the Curtis Land described on Exhibit "B" attached hereto for the purpose of boating (with boats powered by motors not to exceed a total of 10 horsepower), sailing, fishing, and swimming. Nothing stated herein shall be deemed to allow the operation in the easement area of "Jet Ski" equipment or similar self-propelled water skiing or water sport equipment. The easement granted in this paragraph 3 shall be limited to use only by those individuals (not to exceed eight (8) in number) of Lyman-Richey who constitute the management group of Lyman-Richey, their immediate families, their guests and invitees,\* and by no other person or entity. Nothing stated herein shall be deemed to grant an easement on any shoreline located within the Curtis land. This easement shall terminate upon the effective date of the easement referred to in paragraph 4 hereof. This easement shall not be transferable or assignable and shall not run with the land and shall terminate upon any conveyance by Lyman-Richey of all or any part of the Lyman-Richey Land.

\* but not for any large group functions, *see P. 1100*

4. Lyman-Richey Easement. Effective upon the final completion of all sand and gravel excavation operations on the Lyman-Richey property, and upon the implementation of a plan of development of the property into single family lots for sale or rental, Curtis Acres and Purchasers grant to Lyman-Richey, its successors, assigns, grantees, and lessees, and the invitees of any of them, a perpetual, non-exclusive easement over, under, and upon any water areas (other than those water areas within 10 feet of any shoreline) located within the boundaries of the Curtis Acres Property described on Exhibit "B" attached hereto, for the purpose of boating (with boats powered by motors not to exceed a total of 10 horsepower), sailing, fishing, and swimming. Nothing stated herein shall be deemed to allow the operation in the easement area of "Jet Ski" equipment or similar self-propelled water skiing or water sport equipment. When Lyman-Richey has completed such operations and is prepared to implement its development plan, it shall so notify Curtis Acres and Purchasers and furnish to them a copy of its development plan. Such plan shall be deemed implemented upon the bona fide sale

or lease of the first lot in the Lyman-Richey Land. Until such time as the plan is implemented, this easement will not become effective and the Grantees of this easement shall not be entitled to any use thereof. Nothing stated herein shall be deemed to grant an easement on any shoreline located within the Curtis Land.

5. Water Skiing. Upon the easement referred to in paragraph 3 becoming effective, the parties hereto shall negotiate for the designation within the respective water areas referred to in paragraphs 2 and 3 hereof, a joint use area for water skiing activities, and use of boats and motors necessary for such activity. Any agreement reached by the parties pertaining to water skiing shall not become effective until a written amendment to this Agreement is executed by all parties. The easements granted in this Agreement shall not be effected by any failure to agree on the use of any water area for water skiing.

6. Use of Easement Areas. All easement areas shall be accessible by water, and neither party shall create or allow to be created, any obstruction to the reasonable access to any such easement area by any person entitled to the use thereof.

7. No commercial use. It is the intent of the parties hereto that the easements granted herein shall only be for the use of the parties hereto, their respective successors, and assigns, and any other present or future owners or lessees of any portion of the Curtis Land or Lyman-Richey Land and their invitees. The easements granted in this Agreement are for private recreational use only and there shall be no commercial use of any nature of the easement areas by any person or entity, provided, however, that nothing herein shall be deemed to restrict the sale or lease of single family lots for ownership or occupancy.

8. Binding Effect. The easements granted in this Agreement (other than the temporary easement referred to in paragraph 3 hereof) shall run with the land and be binding on the successors and assigns of the parties hereto. This Agreement may only be amended in writing executed by all parties hereto.

IN WITNESS WHEREOF, the parties have caused the due execution hereof as of the day and year first above written.

LYMAN-RICHEY CORPORATION

CURTIS ACRES, INC.

By: Robert R. Parsons  
Its: President

By: Jean C. Lorenz  
Its: President

Richard J. Slabaugh  
Richard J. Slabaugh

Barbara C. Slabaugh  
Barbara C. Slabaugh

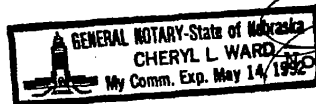
James R. Erixon  
James R. Erixon

Mary C. Erixon  
Mary C. Erixon

Jean Curtis Lorenz  
Jean Curtis Lorenz

STATE OF NEBRASKA )  
COUNTY OF DOUGLAS ) ss.

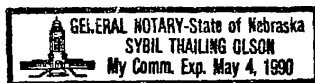
The foregoing instrument was acknowledged before me this  
13<sup>th</sup> day of March, 1989, by Robert R. Larson  
of Lyman-Richey Corporation, a  
Delaware Corporation, on behalf of the corporation.



Cheryl L. Ward  
Notary Public

STATE OF NEBRASKA )  
COUNTY OF DOUGLAS ) ss.

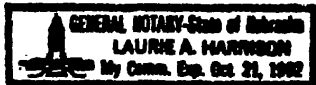
The foregoing instrument was acknowledged before me this  
28 day of Feb, 1989, by Jean C. Lorenz  
AKA Jean Curtis Lorenz of Curtis Acres, Inc., a Delaware  
Corporation, on behalf of the corporation.



Sybil Thailing Olson  
Notary Public

STATE OF NEBRASKA )  
 ) ss.  
 COUNTY OF DOUGLAS )

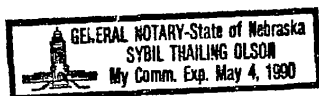
24<sup>th</sup> The foregoing instrument was acknowledged before me this  
February, 1989, by Richard J. Slabaugh  
 and Barbara C. Slabaugh, husband and wife.



Laurie A. Harrison  
 Notary Public

STATE OF NEBRASKA )  
 ) ss.  
 COUNTY OF DOUGLAS )

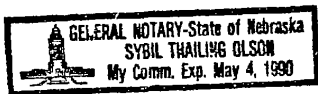
28 The foregoing instrument was acknowledged before me this  
Feb, 1988, by James R. Erixon and  
 Mary C. Erixon, husband and wife.



Sybil Thailing Olson  
 Notary Public

STATE OF NEBRASKA )  
 ) ss.  
 COUNTY OF DOUGLAS )

28 The foregoing instrument was acknowledged before me this  
Feb, 1989, by Jean Curtis Lorenz,  
 a single person.



Sybil Thailing Olson  
 Notary Public

## EXHIBIT A

Legal Description  
Lyman-Richey Sand & Gravel Corporation Lands

Section 17, Township 15 North, Range 10, East of the 6th P.M., Douglas County, Nebraska, except:

All that part of said Section 17 owned by Curtis Acres, Inc.;

A tract of land in the Northwest Corner of the Northwest Quarter (NW 1/4) of the Northeast Quarter (NE 1/4) of said Section Seventeen (17), more particularly described as follows: Beginning at the Northwest Corner of the Northwest Quarter of the Northeast Quarter of said Section 17, Thence East 448 Feet, Thence South 942.3 Feet, Thence West 448 Feet, Thence North 942.3 Feet to the Place of Beginning, as surveyed, platted and recorded;

Commencing at the Northwest Corner of said Section 17, Thence South on the West Line of said Section Seventeen, 57 rods, Thence East at right angles 17 rods, Thence North at right angles 57 rods to the North Line of said Section Seventeen, Thence West 17 rods to the Place of Beginning containing 6 and 1/17 acres;

The south 225.5 Feet of the West 233.0 Feet of the East 683.5 Feet of the SE 1/4 of the SW 1/4 of said Section 17 except that part taken for State or County Highways;

and

The South 225.5 Feet of the East 262.0 Feet of the SE 1/4 of the SW 1/4 of said Section 17 except that part taken for State or County Highways;

Part of the NE 1/4 of the NW 1/4 of said Section 17, described as follows: Beginning at the Northwest Corner of the Northeast Quarter of the Northwest Quarter of said Section 17, thence South on the West Line of the Northeast Quarter of the Northwest Quarter of said Section, 436.5

feet; thence due East a distance of 500 Feet; thence due North parallel to the West line of the Northeast Quarter of the Northwest Quarter of said Section 17, a distance of 436.5 Feet; thence due West along the North Line of said Section a distance of 500 Feet to the Point of Beginning, containing 5 acres, more or less;

That part of the West Half (W 1/2) of the Southeast Quarter (SE 1/4) of said Section Seventeen (17) described as follows: The East 386.0 Feet of the West Half of the Southeast Quarter of said Section 17 described and bounded as follows: Beginning at a point 1333.0 Feet West of the East Line and on the East and West Center Line of said Section 17, thence South 2641.6 Feet to a Point on South Line of said Section 17, 1335.7 Feet West of the Southeast Corner thereof; thence West along the South Line of said Section 17 for 386.0 Feet; thence North 2642.0 Feet to Point on East and West Center Line of Section 17, 386.0 Feet West of Point of Beginning, thence East 386.0 Feet to Point of Beginning subject to State and County Highways and containing 23.4 Acres, more or less; and

The East One Fourth (E 1/4) of said Section Seventeen (17).



That part of the West 1/2 of the East 1/2 and the East 1/2 of the West 1/2 of Section 17, T15N, R10E of the 6th P.M., Douglas County, Nebraska, being more particularly described as follows: Beginning at a point on the West line of the NE 1/4 of said Section 17 that is 33.0 feet South from the NW corner of the NE 1/4 of said Section 17; thence S00°07'23"E (an assumed bearing) for 909.30 feet along the West line of the NE 1/4 of said Section 17; thence S89°05'13"E for 448.0 feet, along a line 942.30 feet South from and parallel with the North line of the NE 1/4 of said Section 17; thence N00°07'23"W for 909.30 feet, along a line 448.0 feet East from and parallel with the West line of the NE 1/4 of said Section 17; thence S89°05'13"E for 882.27 feet along a line 33.0 feet South from and parallel with the North line of the NE 1/4 of said Section 17; thence S00°10'10"E for 2,610.07 feet along the East line of the West 1/2 of the NE 1/4 of said Section 17; thence N89°11'40"W for 386.0 feet along the South line of the NE 1/4 of said Section 17; thence S00°11'47"E for 2609.16 feet along a line that is 386.0 feet West from and parallel with the East line of the West 1/2 of the SE 1/4 of said Section 17; thence N89°14'35"W for 949.67 feet along a line 33.0 feet North from and parallel with the South line of the SE 1/4 of said Section 17; thence N00°07'23"W for 1288.46 feet along the West line of the SE 1/4 of said Section 17 to the SE corner of the NE 1/4 of the SW 1/4 of said Section 17; thence N89°12'55"W for 402.66 feet along the South line of the NE 1/4 of the SW 1/4 of said Section 17 to a point that is 932.0 feet East from the SW corner of the NE 1/4 of the SW 1/4 of said Section 17; thence N38°18'01"W for 197.09 feet to a point that is 810.0 feet East from the West line of the NE 1/4 of the SW 1/4 and 153.0 feet North from the South line of the NE 1/4 of the SW 1/4 of said Section 17; thence N00°03'41"W for 394.0 feet along a line that is 810.0 feet East from and parallel to the West line of the NE 1/4 of the SW 1/4 of said Section 17 to a point that is 547.0 feet from the South line of the NE 1/4 of the SW 1/4 of said Section 17; thence N38°24'46"W for 197.41 feet to a point that is 700.0 feet North from the South line of the NE 1/4 of the SW 1/4 of said Section 17 and 687.50 feet East from the West line of the NE 1/4 of the SW 1/4 of said Section 17; thence N89°12'55"W for 687.50 feet along a line that is 700 feet North from and parallel with the South line of the NE 1/4 of the SW 1/4 of said Section 17; thence N00°03'41"W for 621.93 feet along the West line of the NE 1/4 of the SW 1/4 of said Section 17 to the NW corner of the NE 1/4 of the SW 1/4 of said Section 17; thence N00°03'37"W for 2,208.67 feet along the West line of the East 1/2 of the NW 1/4 of said Section 17; thence S89°12'28"E for 500.0 feet along a line 436.50 feet South from and parallel with the North line of the NW 1/4 of said Section 17; thence N00°03'37"W for 403.50 feet along a line 500.0 feet West from and parallel to the West line of the East 1/2 of the NW 1/4 of said Section 17; thence S89°12'28"E for 830.38 feet along a line 33.0 feet South from and parallel with the North line of the NW 1/4 of said Section 17 to the Point of Beginning. Contains 229.9 acres more or less.

EXHIBIT "B"