

MUTUAL AND RECIPROCAL COVENANT

This Mutual and Reciprocal Covenant is made this 4th day of June, 1990, by and between Sanitary and Improvement District No. 85, Sarpy County, Nebraska, hereinafter referred to as ("SID 85") and Daniell Farms, Inc., a Nebraska Farming Corporation, hereinafter referred to as ("DANIELL"), and John Kucer, a single person, hereinafter referred to as ("KUCER").

RECITALS

WHEREAS, DANIELL is the legal owner of certain real property situated in Sarpy County which real property adjoins SID 85 on the south and is described as follows:

Tax Lot 16A, Section 5-13-13
Sarpy County, Nebraska

and;

WHEREAS, KUCER is the legal owner of certain real property situated in Sarpy County, Nebraska which adjoins the farm ground owned by DANIELL, as set forth hereinabove. The real property owned by KUCER is more particularly described as follows:

Lot 133; Quail Creek, Sarpy
County, Nebraska

WHEREAS the Department of the United States Soil and Water Conservation proposes to erect a maintenance wall or sediment basin to resolve alleged erosion which may be causing sediment from the real property owned by DANIELL to be deposited upon the adjoining real property owned by KUCER;

FILED SARPY CO. NE.
INSTRUMENT NUMBER
90-09031

90 JUL -2 AM 11:15

Gladys J. Dowling
REGISTER OF DEEDS

INDEXED 4
PAGED 1
GRANTEE [initials]
GRANTOR [initials]
FILMED [initials]
CHECKED [initials]
FEE \$ 36.00

WHEREAS DANIELL alleges that it is the responsibility of SID 85 to maintain the sediment basin;

WHEREAS parties to this Agreement desire to resolve and settle any and all claims with respect to the obligation any party may have to one another and each of them without the necessity of further litigation;

NOW, THEREFORE, in consideration of the foregoing and for other good and valuable consideration, the receipt of which is hereby acknowledged, the parties hereby mutually and faithfully agree as follows:

I.

DANIELL agrees to the immediate construction of a maintenance wall or soil sediment basin by the Department of the United States Soil and Water Conservation upon the real property owned by DANIELL.

II.

SID 85 agrees to pay forty (40%) of said soil sediment basin not to exceed the total cost of \$1200.00. In addition to the forty (40%) construction cost, not to exceed \$1200.00, SID 85 agrees to pay \$75.00 per year as further compensation to DANIELL as follows:

The first payment shall be ten (10) years at \$75.00 per year for a total of \$750.00 paid in advance upon completion of the construction of soil sediment basin. Like payments will be made on each succeeding ten (10) year anniversary and shall be made only as long as the DANIELL real property is used for agricultural

purposes by DANIELL and the KUCER property has residential use; SID 85 further agrees to provide periodic maintenance of the soil sediment basin, from time to time, as the engineer for SID 85 deems necessary.

KUCER his heirs, successors, in interest and assigns agrees that the payment by SID 85 of the above referenced amounts and the erection of the soil sediment basin resolves all sediment erosion problems and KUCER hereby releases and forever discharges SID 85, its agents, successors and assigns from any and all causes of actions, claims, or demands for, upon or by reason of any damage, loss or injury which heretofore may have been or which hereafter may be sustained as a consequence of said erosion.

DANIELL its heirs, successors in interest and assigns hereby agrees upon performance by SID 85 of its obligation to make payment for 40 percent of the construction cost, not to exceed \$1,200.00, and the first 10 year payment of \$750.00 to hereby release and forever discharge SID 85 and its agents, successors and assigns, from any and all causes of action, claims or demands for, upon or by reason of any damage, loss or injury which heretofore may have been or which hereafter may be sustained by DANIELL as a consequence of the alleged duty of SID 85 to maintain the sediment basin;

IT IS FURTHER AGREED by all the parties to this Mutual and Reciprocal Covenant that SID 85 entered into this Agreement as a compromise of a doubtful and disputed claim, which claim is expressly denied by SID 85 and that this Agreement cannot be construed as an admission of liability.

IT IS FURTHER AGREED by all the parties that the terms of this Mutual and Reciprocal Covenant address the total and complete liability, if any, of SID 85.

IT IS FURTHER AGREED by all the parties as follows:

- (a) This Agreement shall be governed by the laws of the State of Nebraska;
- (b) This Agreement shall be binding upon the parties hereto and their heirs, successors, beneficiaries, transferees, assigns and personal representatives;
- (c) The provisions of this Agreement shall be severable. If any part of this Agreement shall be unenforceable, the remainder shall remain in full force and effect, and such enforceable provisions shall be reformed by such Court as to give maximum legal effect to the intention of the parties as expressed herein.

IT IS FURTHER AGREED this Mutual and Reciprocal Agreement shall run with the land and shall be binding on and shall inure to the benefit of the parties hereto, their heirs, successors or assigns.

IN WITNESS WHEREOF, the parties have executed this Mutual and Reciprocal Covenant the day and year set forth in each of their respective acknowledgments.

John Kucer

JOHN KUCER

**SANITARY AND IMPROVEMENT
DISTRICT NO. 85**

Beverly A. Reynolds

BEVERLY A. REYNOLDS,
CHAIRMAN

Mark L. Rubin

MARK L. RUBIN,
CLERK

DANIELL FARMS, INC.

X By: *Daniell Farms Inc.*

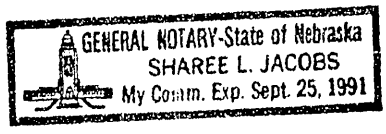
X *June 6 - 1990*

Date

STATE OF NEBRASKA)
) ss.
COUNTY OF DOUGLAS)

Before me, a Notary Public in and for said county, personally came John Kucer, a single person, and acknowledged the execution of the foregoing instrument to be his voluntary act and deed.

Witness my hand and notarial seal this 4th day of June, 1990.



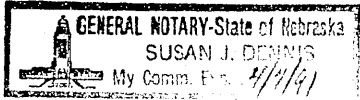
Sharee L. Jacobs

NOTARY PUBLIC

STATE OF NEBRASKA)
) ss.
COUNTY OF DOUGLAS)

Before me, a Notary Public in and for said county, personally came, Beverly A. Reynolds, Chairman of Sanitary and Improvement District No. 85, and acknowledged the execution of the foregoing instrument to be her voluntary act and deed and the voluntary act and deed of Sanitary and Improvement District No. 85.

Witness My hand and notarial seal this 12th day of June, 1990.

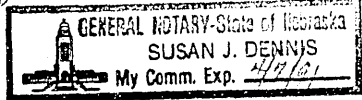


Susan J. Dennis
NOTARY PUBLIC

STATE OF NEBRASKA)
) ss.
COUNTY OF DOUGLAS)

Before me, a Notary Public in and for said county, personally came, Mark L. Rubin, Clerk of Sanitary and Improvement District No. 85, and acknowledged the execution of the foregoing instrument to be his voluntary act and deed and the voluntary act and deed of Sanitary and Improvement District No. 85.

Witness my hand and notarial seal this 12th day of June, 1990.



Susan J. Dennis
NOTARY PUBLIC

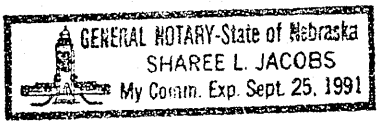
STATE OF NEBRASKA)
) ss.
COUNTY OF DOUGLAS)

Before me, a Notary Public in and for said county, personally came Richard Daniell, the Treasurer of Daniell Farms, Inc., a Nebraska Corporation, and acknowledged the execution of the foregoing instrument to be his voluntary act and deed and the voluntary act and deed of said corporation.

x Richard Daniell

90-09031F

Witness my hand and notarial seal this 4th day of June, 1990.



Sharee L. Jacobs
NOTARY PUBLIC