

July 21, 1994 9:55

Book A M

Reception 473136 Janice J. Cobb, Recorder

EASEMENT AND AGREEMENT

THIS EASEMENT AND AGREEMENT is made and entered into this 13th day of May, 1994, by and between DIRKS FARMS, LTD., a Colorado limited partnership, hereinafter referred to as FIRST PARTY, and D & D FARMS, INC., a South Dakota corporation, or its assigns, hereinafter referred to as SECOND PARTY.

443

WITNESSETH:

The First Party and the Second Party, for good and valuable consideration, the receipt of which is hereby acknowledged, do hereby agree as follows:

(1) The First Party is the owner of the following lands in Yuma County, Colorado, which include five irrigation circles and adjacent areas, EXCEPTING, however, that parcel in Section 13 owned by Second Party and described subsequently below as the dominant tenement:

TOWNSHIP 5 NORTH, RANGE 44 WEST OF THE 6TH P.M.

Section 13: E1/2
Section 24: N1/2

TOWNSHIP 5 NORTH, RANGE 43 WEST OF THE 6TH P.M.

Section 18: W1/2NE1/4, NW1/4SE1/4, and SW1/4
Section 19: N1/2NW1/4

hereinafter referred to as "servient tenement" and Second Party is the owner of land described as follows:

A parcel of land in the S 1/2 of the SE 1/4 of Section 13, Township 5 North, Range 44 West of the 6th P.M., more particularly described as Beginning at the SW Corner of said SE 1/4; thence N 00°30'30" W, 1320.00 feet; thence S 89°52'40" E, 2490.26 feet; thence S 08°06'40" E, 303.27 feet to the point of curvature of a horizontal circular curve to the right, 590.45 feet along said curve whose radius is 482.70 feet, a central angle of 70°05'06" whose radius point bears N 89°38'20" W; thence S 63°09'00" W, 815.94 feet to the point of curvature of a horizontal circular curve to the right, 206.39 feet along said curve whose radius is 585.32 feet, a central angle of 21°10'50" whose radius point bears N 26°51'40" W; thence S 84°17'50" W, 236.82 feet to the point of curvature of a horizontal circular curve to the left, 157.70 feet along said curve whose radius is 535.51 feet, a central angle of 16°52'22" whose radius

point bears S 05°48'20" E; thence S 68°16'20" W, 205.01 feet; thence N 89°52'40" W along the south line of said SE 1/4, 696.84 feet back to the true point of beginning being a total area of 63.01 acres more or less.

hereinafter referred to as the "dominant tenement. "

(2) The First Party does hereby grant, convey, quit claim and transfer a perpetual easement which is a burden on the servient tenement running with the land for the benefit of and attached to the dominant tenement to Second Party, as the owner of the dominant tenement, to do the following:

(a) To dispose of the water which is termed "effluent water" and/or manure and animal waste from the swine production complexes in the lagoons on the dominant tenement on to the servient tenement, and the First Party hereunder agrees to accept the effluent water and/or manure and animal waste onto the servient tenement.

(b) To operate swine production complexes and lagoons and to produce those odors as naturally are associated with such facilities.

(c) To require that there be no hogs or swine permitted on the servient tenement or on other lands owned by First Party in Sections 13 and 24, Township 5 North, Range 44 West and Sections 18 and 19, Township 5 North, Range 43 West of the 6th P.M., Yuma County, Colorado, as long as the hog facility on the "dominant tenement" is in operation.

(3) Second Party will provide the motors, pumps, piping, distribution systems and energy costs to take the water, manure and animal waste from the lagoons to the points of distribution and distribute same on the servient tenement, all at Second Party's own cost. Any distribution will be by distribution systems mutually agreed upon by the parties and which are suitable for dispersal of effluent.

(4) The term of the easement under paragraphs (2) and (3) hereof is perpetual and shall run with the land and be a restraint on the land, and the subsequent owners of the servient tenement shall be bound by this easement and agreement and shall be entitled to its benefits as well as be subject to its burdens.

(5) In the event the Second Party destroys any growing crops on the servient tenement through the construction and changing of existing pipelines or through the installation of new pipelines or other construction and maintenance, the Second Party agrees to pay, within 120 days, to the First Party, the fair market value of the crops destroyed.

(6) The First Party recognizes and agrees that the Second Party will use the dominant tenement which has been purchased from First Party for purposes of swine production

complexes and that as part of the swine production complexes, buildings will be constructed in regard to the operation of the swine production complexes on the dominant tenement.

(7) Second Party hereby agrees to maintain comprehensive general liability insurance coverage on its operation and agrees to maintain such insurance through the term of the easement in paragraph (2) hereof and any extensions thereof in a minimum amount of One Million Dollars.

(8) Second Party agrees to conduct standard soil fertility analyses each year on those portions of the servient tenement where effluent was distributed during the preceding year. Said analyses shall be conducted at Second Party's cost and the soil tests so derived will be used to determine the locations for future distribution of effluent. In this manner, it is the parties' intent to regulate the application of effluent according to the results of said analyses and the needs of growing crops and/or pasture lands to assure that an acceptable nutrient level is not exceeded.

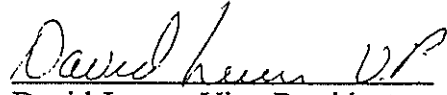
(9) Second Party is granted the privilege of using water from First Party's adjacent irrigation wells located on First Party's lands as described above in paragraph (1), for the purpose of pre-charging the lagoon to be constructed on this site. Further, First Party expressly agrees to allow future charging of the lagoon with water from the above referenced adjacent wells, if such additional charging is necessary to facilitate the disposal of effluent as set forth in paragraphs (2)(a) and (3) above. Such use of water from the adjacent wells shall only be made if said action can be accomplished within the applicable laws, rules and regulations of the Colorado Ground Water Commission and it shall be Second Party's sole obligation to obtain such permission, provided First Party shall be obligated to cooperate therein. Second Party shall be responsible to pay the pumping costs incurred to accomplish any charging of the lagoon.

(10) The parties to this agreement do recognize and agree that the easements hereunder and the agreements provided hereunder are restraints on both the dominant tenement and the servient tenement as provided herein and run with the land, and any subsequent owners of the servient tenement or the dominant tenement shall be bound to comply with the terms and conditions of this agreement and the easements contained herein, in that the entirety of this agreement shall be a burden on the dominant tenement and the servient tenement as herein provided and any subsequent owners or persons having an interest therein whether through ownership, mortgage or other encumbrance. As such, this agreement shall be binding on the parties hereto, their heirs, executors, administrators and assigns, and time shall be of the essence in regard to this agreement and the parties shall have any remedies available under Colorado law to enforce this agreement and the rights and easements granted hereunder.

(11) The parties hereby declare that it is the intention of this agreement that all of the terms and conditions of this agreement shall be a burden upon the servient tenement which shall run with the land and be enforceable against any subsequent owners of the servient tenement. However, if for any reason portions of this agreement shall be construed a


contract between the parties as opposed to an easement, the parties hereby agree to such construction as the court would determine and direct that the portions of the document construed as easement should be enforced as an easement and the portion of the document construed as an agreement between the parties should also be enforced in that context.

D & D FARMS, INC., a
South Dakota corporation

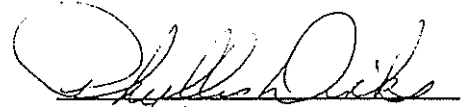


David Luers, Vice President

DIRKS FARMS, LTD., a
Colorado limited partnership



L. D. Dirks, general partner



Phyllis Dirks, general partner

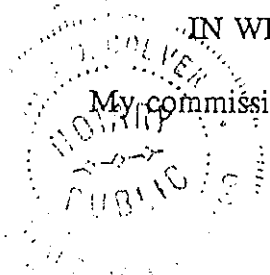
STATE OF COLORADO)
)ss
County of PHILLIPS)

443

On this the 13th day of May, 1994, before me, the undersigned officer, personally appeared L. D. DIRKS and PHYLLIS DIRKS, who acknowledged themselves to be the general partners of DIRKS FARMS, LTD., a Colorado limited partnership, and acknowledged that they, as the general partners, being authorized so to do, executed the foregoing instrument for the purposes therein contained by signing the same.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

My commission expires: 6-25-1996



David D. Cohen, Notary Public

STATE OF COLORADO)
)ss
County of PHILLIPS)

On this the 13th day of ~~April~~ ^{MAY}, 1994, before me, the undersigned officer, personally appeared DAVID LUERS, who acknowledged himself to be vice president of D & D FARMS, INC., a South Dakota corporation, and that he as such vice president, being authorized so to do, executed the foregoing instrument for the purposes therein contained by signing the same as such vice president.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

My commission expires 6-25-1996



David D. Cohen, Notary Public

ADDENDUM TO EASEMENT AND AGREEMENT

THIS ADDENDUM TO EASEMENT AND AGREEMENT is made and entered into this 26th day of August, 1994, by and between DIRKS FARMS, LTD., a Colorado limited partnership, hereinafter referred to as FIRST PARTY, and D & D FARMS, INC., a South Dakota corporation, or its assigns, hereinafter referred to as SECOND PARTY.

WITNESSETH:

Whereas the above named parties entered an EASEMENT AND AGREEMENT under date of May 13, 1994, which document is recorded in Book 734 at Pages 359-363 of the Yuma County, Colorado records;

Whereas the legal description of the "servient tenement" as set forth therein is incorrect;

Whereas it is the desire of the parties to correct said legal description;

NOW THEREFORE, IT IS AGREED:

1. This Addendum is executed by the parties for the sole and exclusive purpose of correcting the legal description of the "servient tenement" as set forth in the Easement and Agreement executed by said parties under date of May 13, 1994, and as appears in the Yuma County, CO, records as set forth above. The correct legal description of the "servient tenement" is set forth below and the parties hereby amend the Easement and Agreement to so reflect, to wit:

A parcel of land in the S 1/2 of the SE 1/4 of Section 13, T5N, R44W of the 6th P.M., Yuma County, Colorado. More particularly described as Beginning at the SW Corner of said SE 1/4; thence N 00°30'30" W, 1320.00 feet; thence S 89°52'40" E, 2490.26 feet; thence S 08°06'40" E, 303.27 feet to the point of curvature of a horizontal circular curve to the right, 472.88 feet along said curve whose radius is 380.21 feet, a central angle of 71°15'40" whose radius point bears S 81°53'20" W; thence S 63°09'00" W, 946.52 feet to the point of curvature of a horizontal circular curve to the right, 206.12 feet along said curve whose radius is 558.47 feet, a central angle of 21°08'50" whose radius point bears N 26°51'00" W; thence S 84°17'50" W, 237.04 feet to the point of curvature of a horizontal circular curve to the left, 147.38 feet along said curve whose radius is 526.95 feet, a central angle of 16°01'30" whose radius point bears S 05°42'10" E; thence S 68°16'20" W, 215.33 feet; thence N 89°52'40" W along the south line of said SE 1/4, 696.84 feet back to the true point of beginning being a total area of 63.14 acres more or less.

2. The referenced Easement and Agreement is modified only with respect to the legal description of the "servient tenement", which description shall be as set forth above, and the parties hereby re-affirm all of the terms and conditions of the original Easement and

O to Helen
to record
9-8-94

Agreement with the sole change being the correction of the legal description of the "servient tenement" as set forth above.

D & D FARMS, INC., a
South Dakota corporation

K-1
David Luers, Vice President

DIRKS FARMS, LTD., a
Colorado limited partnership

L. D. Dirks
L. D. Dirks, general partner
Phyllis Dirks
Phyllis Dirks, general partner

STATE OF COLOKADO)
)ss.
County of PHILLIPS)

On this the 26 day of August, 1994, before me, the undersigned officer, personally appeared L. D. DIRKS and PHYLLIS DIRKS, who acknowledged themselves to be the general partners of DIRKS FARMS, LTD., a Colorado limited partnership, and acknowledged that they, as the general partners, being authorized so to do, executed the foregoing instrument for the purposes therein contained by signing the same. IN WITNESS WHEREOF, I hereunto set my hand and official seal.

David D. Colman, Notary Public

My commission expires: 6-25-1996

STATE OF South Dakota)
)ss.
County of Hughes)

On this the 1st day of ^{Sept.} April, 1994, before me, the undersigned officer, personally appeared DAVID LUERS, who acknowledged himself to be vice president of D & D FARMS, INC., a South Dakota corporation, and that he as such vice president, being authorized so to do, executed the foregoing instrument for the purposes therein contained by signing the same as such vice president. IN WITNESS WHEREOF, I hereunto set my hand and official seal.

151 Helen Redding, Notary Public

My commission expires 12-12-1997

RE-STATED EASEMENT AND AGREEMENT

THIS RE-STATED EASEMENT AND AGREEMENT is made and entered into this 17th day of OCTOBER, 1994, by and between DIRKS FARMS LTD., a Colorado limited partnership, hereinafter referred to as FIRST PARTY, and D & D FARMS, INC., a South Dakota corporation, or its assigns, hereinafter referred to as SECOND PARTY. 443

WITNESSETH:

Whereas the above named parties entered an EASEMENT AND AGREEMENT under date of May 13, 1994, which document is recorded in Book 734 at Pages 359-363 of the Yuma County, Colorado records;

Whereas the above named parties entered an ADDENDUM TO EASEMENT AND AGREEMENT under date of August 26, 1994, which document is recorded in Book 736 at Pages 30-31 of the Yuma County, Colorado records;

Whereas the description of the "dominant tenement" in the EASEMENT AND AGREEMENT was incorrect;

Whereas the reference to the "servient tenement" in the ADDENDUM TO EASEMENT AND AGREEMENT was incorrect and each and every reference to "servient tenement" therein should have recited "dominant tenement".

Whereas the execution of the respective documents was not adequate and the parties desire to ratify their agreements as set forth in said documents and to confirm their ratification by the execution of this document;

Whereas the parties desire to clarify the public records by re-stating their agreements in one unified document which will eliminate the necessity of making reference to the original two documents as referenced above (Book 734 at Page 359-363 and Book 736 at Pages 30-31);

NOW THEREFORE, IT IS AGREED:

The agreements of these parties with reference to the subject lands is set forth in full in this document and no reference shall hereafter be made to the original EASEMENT AND AGREEMENT and the original ADDENDUM TO EASEMENT AND AGREEMENT as described above. The parties agree as follows:

The First Party and the Second Party, for good and valuable consideration, the receipt of which is hereby acknowledged, do hereby agree as follows:

- (1) The First Party is the owner of the following lands in Yuma County, Colorado, which include five irrigation circles and adjacent areas, EXCEPTING, however, that

parcel in Section 13 owned by Second Party and described subsequently below as the dominant tenement:

TOWNSHIP 5 NORTH, RANGE 44 WEST OF THE 6TH P.M.

Section 13: E1/2
Section 24: N1/2

TOWNSHIP 5 NORTH, RANGE 43 WEST OF THE 6TH P.M.

Section 18: W1/2NE1/4, NW1/4SE1/4, and SW1/4
Section 19: N1/2NW1/4

hereinafter referred to as "servient tenement" and Second Party is the owner of land described as follows:

A parcel of land in the S 1/2 of the SE 1/4 of Section 13, T5N, R44W of the 6th P.M., Yuma County, Colorado. More particularly described as Beginning at the SW Corner of said SE 1/4; thence N 00°30'30" W, 1320.00 feet; thence S 89°52'40" E, 2490.26 feet; thence S 08°06'40" E, 303.27 feet to the point of curvature of a horizontal circular curve to the right, 472.88 feet along said curve whose radius is 380.21 feet, a central angle of 71°15'40" whose radius point bears S 81°53'20" W; thence S 63°09'00" W, 946.52 feet to the point of curvature of a horizontal circular curve to the right, 206.12 feet along said curve whose radius is 558.47 feet, a central angle of 21°08'50" whose radius point bears N 26°51'00" W; thence S 84°17'50" W, 237.04 feet to the point of curvature of a horizontal circular curve to the left, 147.38 feet along said curve whose radius is 526.95 feet, a central angle of 16°01'30" whose radius point bears S 05°42'10" E; thence S 68°16'20" W, 215.33 feet; thence N 89°52'40" W along the south line of said SE 1/4, 696.84 feet back to the true point of beginning being a total area of 63.14 acres more or less.

hereinafter referred to as the "dominant tenement. "

(2) The First Party does hereby grant, convey, quit claim and transfer a perpetual easement which is a burden on the servient tenement running with the land for the benefit of and attached to the dominant tenement to Second Party, as the owner of the dominant tenement, to do the following:

(a) To dispose of the water which is termed "effluent water" and/or manure and animal waste from the swine production complexes in the lagoons on the dominant tenement on to the servient tenement, and the First Party hereunder agrees to accept the effluent water and/or manure and animal waste onto the servient tenement.

(b) To operate swine production complexes and lagoons and to produce those odors as naturally are associated with such facilities.

(c) To require that there be no hogs or swine permitted on the servient tenement or on other lands owned by First Party in Sections 13 and 24, Township 5 North, Range 44 West and Sections 18 and 19, Township 5 North, Range 43 West of the 6th P.M., Yuma County, Colorado, as long as the hog facility on the "dominant tenement" is in operation.

(3) Second Party will provide the motors, pumps, piping, distribution systems and energy costs to take the water, manure and animal waste from the lagoons to the points of distribution and distribute same on the servient tenement, all at Second Party's own cost. Any distribution will be by distribution systems mutually agreed upon by the parties and which are suitable for dispersal of effluent.

(4) The term of the easement under paragraphs (2) and (3) hereof is perpetual and shall run with the land and be a restraint on the land, and the subsequent owners of the servient tenement shall be bound by this easement and agreement and shall be entitled to its benefits as well as be subject to its burdens.

(5) In the event the Second Party destroys any growing crops on the servient tenement through the construction and changing of existing pipelines or through the installation of new pipelines or other construction and maintenance, the Second Party agrees to pay, within 120 days, to the First Party, the fair market value of the crops destroyed.

(6) The First Party recognizes and agrees that the Second Party will use the dominant tenement which has been purchased from First Party for purposes of swine production complexes and that as part of the swine production complexes, buildings will be constructed in regard to the operation of the swine production complexes on the dominant tenement.

(7) Second Party hereby agrees to maintain comprehensive general liability insurance coverage on its operation and agrees to maintain such insurance through the term of the easement in paragraph (2) hereof and any extensions thereof in a minimum amount of One Million Dollars.

(8) Second Party agrees to conduct standard soil fertility analyses each year on those portions of the servient tenement where effluent was distributed during the preceding year. Said analyses shall be conducted at Second Party's cost and the soil tests so derived will be used to determine the locations for future distribution of effluent. In this manner, it is the parties' intent to regulate the application of effluent according to the results of said analyses and the needs of growing crops and/or pasture lands to assure that an acceptable nutrient level is not exceeded.

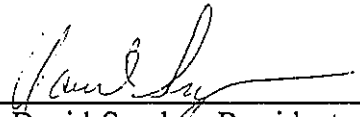
(9) Second Party is granted the privilege of using water from First Party's adjacent irrigation wells located on First Party's lands as described above in paragraph (1), for the purpose of pre-charging the lagoon to be constructed on this site. Further, First Party expressly agrees to allow future charging of the lagoon with water from the above referenced adjacent wells, if such additional charging is necessary to facilitate the disposal of effluent as set forth in paragraphs (2)(a) and (3) above. Such use of water from the adjacent wells shall

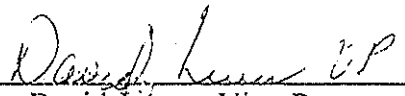
only be made if said action can be accomplished within the applicable laws, rules and regulations of the Colorado Ground Water Commission and it shall be Second Party's sole obligation to obtain such permission, provided First Party shall be obligated to cooperate therein. Second Party shall be responsible to pay the pumping costs incurred to accomplish any charging of the lagoon.

(10) The parties to this agreement do recognize and agree that the easements hereunder and the agreements provided hereunder are restraints on both the dominant tenement and the servient tenement as provided herein and run with the land, and any subsequent owners of the servient tenement or the dominant tenement shall be bound to comply with the terms and conditions of this agreement and the easements contained herein, in that the entirety of this agreement shall be a burden on the dominant tenement and the servient tenement as herein provided and any subsequent owners or persons having an interest therein whether through ownership, mortgage or other encumbrance. As such, this agreement shall be binding on the parties hereto, their heirs, executors, administrators and assigns, and time shall be of the essence in regard to this agreement and the parties shall have any remedies available under Colorado law to enforce this agreement and the rights and easements granted hereunder.

(11) The parties hereby declare that it is the intention of this agreement that all of the terms and conditions of this agreement shall be a burden upon the servient tenement which shall run with the land and be enforceable against any subsequent owners of the servient tenement. However, if for any reason portions of this agreement shall be construed a contract between the parties as opposed to an easement, the parties hereby agree to such construction as the court would determine and direct that the portions of the document construed as easement should be enforced as an easement and the portion of the document construed as an agreement between the parties should also be enforced in that context.

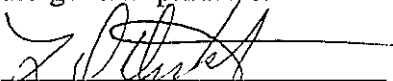
D & D FARMS, INC., a
South Dakota corporation


by David Snyder, President

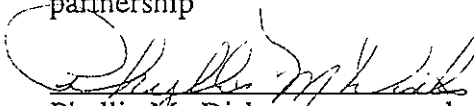

by David Luers, Vice Pres.

CORPORATE SEAL
SEAL

DIRKS FARMS LTD., a Colorado
limited partnership by all of
the general partners:



L. D. Dirks, as a general partner of L. D. Dirks
& Co., general partnership, and as general
partner of P. M. Dirks & Co., a general
partnership



Phyllis M. Dirks, as a general partner of L. D.
Dirks & Co., a general partnership, and as a
general partner of P. M. Dirks & Co., a general
general partnership

443

STATE OF COLORADO)
)ss.
County of Phillips)

On this the 17th day of OCTOBER, 1994, before me, the undersigned officer, personally appeared L. D. DIRKS and PHYLLIS M. DIRKS, who acknowledged themselves to be the sole and only general partners of L. D. Dirks & Co., a general partnership, and of P. M. Dirks & Co., a general partnership, said general partnerships being the sole and only general partners of DIRKS FARMS LTD., a Colorado limited partnership, and acknowledged that they, as the general partners, being authorized so to do, executed the foregoing instrument for the purposes therein contained by signing the same. IN WITNESS WHEREOF, I hereunto set my hand and official seal.

David O. Colm, Notary Public

My commission expires: 6-25-1996

STATE OF COLORADO)
)ss.
County of PHILLIPS)

On this the 4th day of OCTOBER, 1994, before me, the undersigned officer, personally appeared DAVID SNYDER, who acknowledged himself to be president, and DAVID LUERS, who acknowledged himself to be vice president, of D & D FARMS, INC., a South Dakota corporation, and that as said officers, being authorized so to do, executed the foregoing instrument for the purposes therein contained by signing the same as president and vice president, respectively. IN WITNESS WHEREOF, I hereunto set my hand and official seal.

David O. Colm, Notary Public

My commission expires: 6-25-1996



COPY

AMENDMENT TO RE-STATED EASEMENT AND AGREEMENT

THIS AMENDMENT TO RE-STATED EASEMENT AND AGREEMENT is made and entered into this 28th day of August, 1999, by and between DIRKS FARMS LTD., a Colorado limited partnership, hereinafter referred to as FIRST PARTY, and D & D FARMS L.L.C., a Delaware limited liability company, successor to D & D FARMS, INC., by law and assignment, its successors and assigns, hereinafter referred to as SECOND PARTY.

WITNESSETH:

Whereas the above named parties entered a RE-STATED EASEMENT AND AGREEMENT under date of October 17, 1994, which document was recorded on October 19, 1994 in Book 737 at Page 365 (Reception #474068) of the Yuma, Colorado land records;

Whereas the parties desire to amend said RE-STATED EASEMENT AND AGREEMENT to include an additional parcel originally intended to be included in the servient tenement as described therein;

NOW THEREFORE, the parties stipulate and agree as follows:

1. The servient tenement as described therein at (1) shall include the NW1/4 of Section 18, Township 5 North, Range 43 West of the 6th P.M., Yuma County, Colorado; the entire servient tenement therefore being described as follows:

TOWNSHIP 5 NORTH, RANGE 44 WEST OF THE 6TH P.M., YUMA COUNTY, CO

Section 13: E1/2

Section 24: N1/2

TOWNSHIP 5 NORTH, RANGE 43 WEST OF THE 6TH P.M., YUMA COUNTY, CO

Section 18: W1/2NE1/4, NW1/4SE1/4, SW1/4 AND NW1/4

Section 19: N1/2NW1/4

2. This Addendum is executed by the parties for the sole and exclusive purpose of making the changes set forth in paragraph 1. above.

3. The parties hereby reaffirm all of the terms and conditions of the original RE-STATED EASEMENT AND AGREEMENT and execute this document for the sole purpose as stated herein.

Executed as of the date first above written.

DIRKS FARMS LTD., a Colorado limited partnership by all of the general partners:

L.D. Dirks & Co. & P.M. Dirks & Co.
L.D. Dirks, as general partner of L.D. Dirks & Co., a general partnership, and as general partner of P. M. Dirks & Co., a general partnership

Phyllis M. Dirks & Co.
Phyllis M. Dirks, as general partner of L.D. Dirks & Co., a general partnership, and as general partner of P. M. Dirks & Co., a general partnership

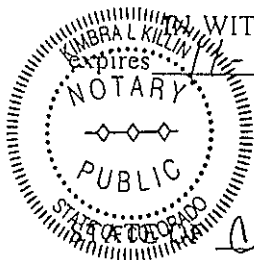
D & D FARMS L.L.C., a Delaware limited liability company, by:

Dave Luers
Dave Luers, V. President of D & D Farms, Inc., Manager of D & D Farms L.L.C.

STATE OF COLORADO)
)ss
County of Phillips)

On this the 25th day of August, 1999, before me, the undersigned officer, personally appeared Dave Luers, who acknowledged himself to be Vice President of D & D FARMS, INC., a Delaware corporation, the manager of D & D FARMS L.L.C., a Delaware limited liability company, and that he, being authorized so to do, executed the foregoing instrument for the purposes therein contained by signing the same in said capacity.

IN WITNESS WHEREOF, I hereunto set my hand and official seal. My commission expires 11-1-99

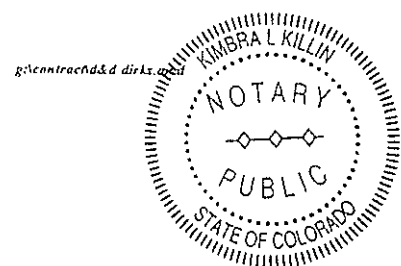


Kimbra L Killin, Notary Public

COLORADO)
)ss
County of Phillips)

On this the 24th day of September, 1999, before me, the undersigned officer, personally appeared L.D. Dirks and Phyllis M. Dirks, who acknowledged themselves to be the sole and only general partners of L.D. Dirks & Co., a general partnership, and of P. M. Dirks & Co., a general partnership said general partnerships being the sole and only general partners of DIRKS FARMS LTD., a Colorado limited partnership, and acknowledged that they, as the general partners, being authorized so to do, executed the foregoing instrument for the purposes therein contained by signing the same in said capacity.

IN WITNESS WHEREOF, I hereunto set my hand and official seal. My commission expires 11-1-99



Kimbra L Killin, Notary Public

INDEXED
~~CONFIDENTIAL~~

June 17, 1996 10:00
4816.17
Fee pd \$16.00

AMENDMENT OF EASEMENT AND AGREEMENT

THIS AMENDMENT OF EASEMENT AND AGREEMENT is made and entered into this 13th day of June, 1996, by and between GAYLN L. EINSPAHR, hereinafter referred to as FIRST PARTY, and D & D FARMS, INC., a South Dakota corporation, its successors and assigns, hereinafter referred to as SECOND PARTY.

WITNESSETH:

Whereas the above named parties entered an EASEMENT AND AGREEMENT under date of March 18, 1996, which document is recorded in Book 760 at Pages 139-148 of the Yuma County, Colorado records;

Whereas the parties intended said Easement and Agreement to include an easement for the transportation of fresh water through the servient tenement in addition to the provisions originally set forth therein;

Whereas it is the desire of the parties to amend the original Easement and Agreement by re-stating paragraphs (2), (3) and (4) thereof to include a fresh water easement.

NOW THEREFORE, IT IS AGREED:

1. This Amendment is executed by the parties for the sole and exclusive purpose of amending the Easement and Agreement as executed by said parties under date of March 18, 1996, as appears in the Yuma County, CO, records as set forth above, to include an easement for the transportation of fresh water through the servient tenement as described therein.

2. The parties hereby re-state Paragraphs (2), (3) and (4) of said Easement and Agreement to read in their entirety as follows:

(2) The First Party does hereby grant, convey, quit claim and transfer a perpetual easement, which is a burden on the servient tenement running with the land for the benefit of and attached to the dominant tenement, to Second Party, as the owner of the dominant tenement, to do the following:

(a) To transport fresh water through buried pipelines to be located across the servient tenement in accordance with the provisions set forth hereinbelow AND to dispose of the water which is termed "effluent water" and/or manure and animal waste from the swine production complexes in the lagoons on the dominant tenement on the servient tenement, and the First Party hereunder agrees to accept the effluent water and/or manure and animal waste onto the servient tenement; so long as such application remains in compliance with federal and/or state regulations and laws.

(b) To construct and maintain buried pipelines for the purposes of transporting fresh water through the servient tenement AND to construct and maintain buried pipelines for disposing of the effluent water on the servient tenement, provided, all such pipelines shall be buried to a sufficient depth to insure that they will not interfere with the farming operations conducted on the servient tenement. The parties expressly agree that the routing of all buried pipelines shall be subject to prior approval of the First Party.

(c) To operate swine production complexes and lagoons and to produce those odors as naturally are associated with such facilities.

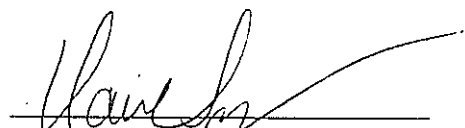
(d) To require that there be no hogs or swine permitted on the servient tenement as long as the hog facility on the "dominant tenement" is in operation.


(3) Second Party will provide the motors, pumps, piping, distribution systems and energy costs to transport the water, and to take the manure and animal waste from the lagoons to the points of distribution and distribute same on the servient tenement, all at Second Party's own cost. Any distribution will be by distribution systems mutually agreed upon by the parties and which are suitable for dispersal of effluent.

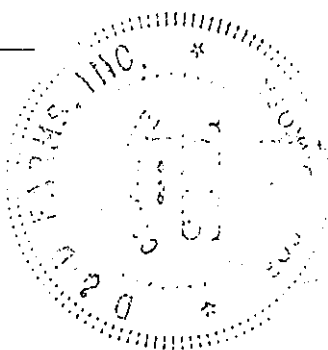
(4) Second Party agrees to construct one riser on the servient tenement for First Party's use in filling stock tanks for grazing livestock thereon. Said riser will be attached to the water distribution system of Second Party and First Party may take water from same at no charge so long as Second Party maintains their water distribution system. First Party shall be responsible for maintenance and repair of said riser from and after the initial installation of same.

3. The referenced Easement and Agreement is amended only with respect to Paragraphs (2), (3) and (4) and this Amendment shall control in all respects regarding said paragraphs. The parties hereby re-affirm the other terms and conditions of the original Easement and Agreement with the sole changes being the re-statement of Paragraphs (2), (3) and (4) as set forth hereinabove.

D & D FARMS, INC., a
South Dakota corporation, by:


Dave Snyder, President


Gayln L. Einspahr



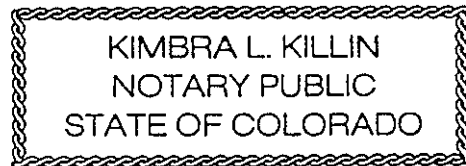
STATE OF COLORADO)
)ss.
County of Phillips)

On this the 13th day of June, 1996, before me, the undersigned officer, personally appeared GAYLN L. EINSPAHR who executed the foregoing instrument for the purposes therein contained by signing the same.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

Kimbra R. Killin Notary Public

My commission expires: MY COMMISSION EXPIRES 11/1/99



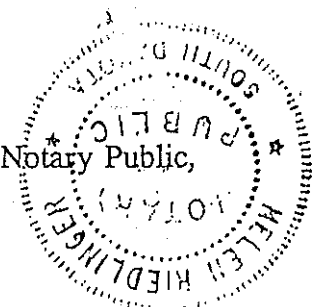
STATE OF SOUTH DAKOTA)
)ss.
County of HUGHES)

On this the 10th day of June, 1996, before me, the undersigned officer, personally appeared Dave Snyder, who acknowledged himself to be President of D & D FARMS, INC., a South Dakota corporation, and that he in such capacity, being authorized so to do, executed the foregoing instrument for the purposes therein contained by signing the same in such capacity.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

Helen Riedlinger Notary Public,

My commission expires HELEN RIEDLINGER, Notary Public
My Commission Expires
December 12, 1997.



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DAVID O. COLVER
Attorney at Law
P.O. Box 177
Holyoke, Colorado 80734