

Copy To:
✓ Brill Development, LLC
3304 104th St.
Urbandale, Ia 50322

MICHELLE "MICKI" UTSLER, COUNTY RECORDER
MADISON IOWA

Prepared by Gary M. Myers, 666 Walnut Street, Suite 2500, Des Moines, Iowa 50309; Telephone: (515) 288-2500

PERMANENT EASEMENT FOR SURFACE WATER FLOWAGE AND DETENTION POND

Daniel K. Ryner and Lori A. Ryner, husband and wife (collectively, the "Grantor"), in consideration of the sum of One and 00/100 Dollars (\$1.00), does hereby grant and convey unto Brill Development LLC, an Iowa limited liability company (the "Grantee"), a permanent non-exclusive surface water flowage and detention pond easement under, over, and through and across the following described property (the "Easement Area"):

the area described as the ponding easement on Exhibit "A" attached hereto and incorporated herein by this reference,

for the purpose of the Grantee constructing, grading, maintaining and using the surface of said Easement Area in a manner that will permit the free and unobstructed flow and detention of surface water over the Easement Area for the benefit of the property legally described as (the "Benefited Property"):

The Fractional Southwest Quarter (1/4) of the Southwest Quarter (1/4) of Section Seven (7) and the West 33.63 acres of the Northwest Quarter (1/4) of the Northwest Quarter (1/4) of Section Eighteen (18); ALL in Township Seventy-six (76) North, Range Twenty-Seven (27) West of the 5th P.M., Madison County, Iowa;

AND

The East Half (1/2) of the Southeast Quarter (1/4) of Section Twelve (12), except all that part of Southeast Quarter (1/4) of the Southeast Quarter (1/4) which lies South and West of the West line of Federal Highway #169 as the same presently passes through said 40-acre tract, in Section Twelve (12); and all that part of the Northeast Quarter (1/4) of the Northeast Quarter (1/4) of Section Thirteen (13) lying North and East of Federal Highway #169 as the same presently passes through said 40-acre tract, excepting therefrom a tract of land described as commencing at the Southeast Corner of the Northeast Quarter (1/4) of the Northeast Quarter (1/4) of said Section Thirteen (13), thence North 376.2 feet, thence North 50°36' West 906.0 feet, thence Northerly 156.6 feet along the arc of a 1637.1 foot radius curve concave easterly with a central angle of 5°29' to the point of beginning, thence northerly

877.8 feet along the arc of a 1637.1 foot radius curve concave easterly with a central angle of 30°45.5' and whose tangent at the point of beginning has a bearing of North 45°07' West, thence North 75°36.5' East 238.0 feet, thence Southerly 645.3 feet along the arc of a 1399.1 foot radius curve concave easterly with a central angle of 26°25.50' and whose tangent at the point of beginning has a bearing of South 14°23.5' East, thence South 0°21' East 147.6 feet, thence South 44°53' West 138.00 feet to the point of beginning containing 1.93 acres more or less exclusive of present established highway; ALL in Township Seventy-six (76) North, Range Twenty-eight (28) West of the 5th P.M., Madison County, Iowa..

This Easement shall be subject to the following terms and conditions:

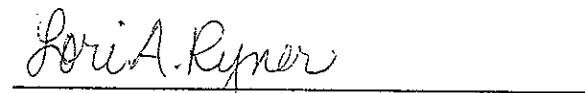
1. ERECTION OF STRUCTURES PROHIBITED. Neither party shall erect any building, structure or other improvement, except for the fence described herein, over or within the Easement Area without obtaining the prior written approval of the other party.
2. OBSTRUCTIONS PROHIBITED. Grantor shall not erect, plant, install or cause to be placed on the Easement Area any structure, tree, shrub, plantings, material, device, or thing or matter that could possibly obstruct or impede the normal flow and detention of surface water over the Easement Area without obtaining the prior written approval of the Grantee.
3. CHANGE OF GRADE PROHIBITED. Grantor shall not change the grade, elevation or contour of any part of the Easement Area without obtaining the prior written consent of the Grantee.
4. RIGHT OF ACCESS. The Grantee, its agents, contractors, employees and assigns shall have the right of access to the Easement Area for the purposes as herein described.
5. EASEMENT RUNS WITH LAND. This Easement shall be deemed to run with the land and shall inure to the benefit of, and be binding upon, the parties hereto and their successors and assigns.
6. ENFORCEMENT. Grantee may enforce this Easement by seeking injunctive relief, specific performance, or any other remedy available at law or in equity. In the event of litigation to enforce or interpret the terms of this Agreement, the prevailing party shall be entitled to recover its costs of litigation, including, without limitation, reasonable attorney's fees.
7. WARRANTY OF TITLE. Grantor does hereby covenant with Grantee that Grantor holds good and marketable title to the Easement Area in fee simple, free and clear of all liens and encumbrances, except for a Mortgage granted to Farm Credit Services of America; that Grantor has good and lawful authority to convey this Easement; and

Grantor covenants to warrant and defend the Easement Area against the lawful claims of all persons whomsoever.

8. FENCE. Grantee acknowledges that Grantor will have livestock around the Easement Area. Grantee agrees to erect and maintain a fence around the Easement Area at Grantee's expense. The fence shall be constructed with 47" woven wire with one barbed wire at the top and black creosote wooden posts. Grantor agrees that Grantee may locate the fence around natural obstructions to allow for the most expedient manner of construction. Grantor grants Grantee the right of access to maintain and repair the fence, but no easement or access rights are granted to any present or future lot owner or homeowner within the Benefited Property, except as expressly provided herein. If Grantee creates an Association for the Benefited Property that assumes the responsibility to maintain and repair the fence, then the access rights granted to the Association herein shall be for that purpose only.

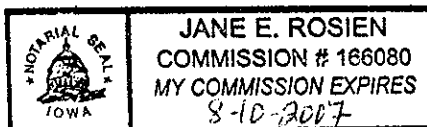
Signed this 16 day of February, 2005.


Daniel K. Ryner


Lori A. Ryner

STATE OF IOWA)
) ss:
COUNTY OF MADISON)

This instrument was acknowledged before me on Feb. 16, 2005, by Daniel K. Ryner and Lori A. Ryner, husband and wife.



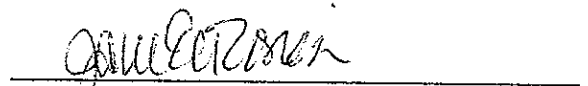
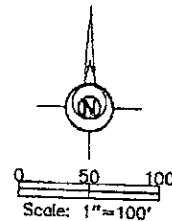
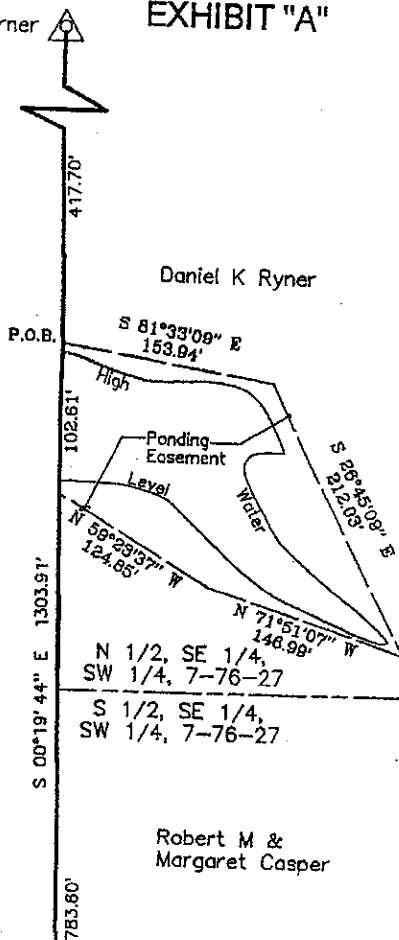

_____, Notary Public

EXHIBIT "A"

SW 1/16 Corner
7-76-27



HIGH WATER LEVEL = 956 +/-
(PROJECT DATUM, 1015 +/- NGVD)

Brill Development, LLC

Legal Description:

AN EASEMENT FOR PONDING LOCATED IN THE N 1/2 OF THE SE 1/4, SW 1/4 SECTION 7, TOWNSHIP 76 NORTH, RANGE 27 WEST OF THE 5TH PRINCIPAL MERIDIAN, MADISON COUNTY, IOWA, IS MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SW 1/6 CORNER OF SAID SEC. 7-76-27 THENCE S 00°19'44" E ALONG THE 1/4, 1/4 SECTION LINE 417.70' TO THE POINT OF BEGINNING (P.O.B.); THENCE S 81°33'09" E, 153.94'; THENCE S 28°45'09" E, 212.03'; THENCE N 71°51'07" W, 146.99'; THENCE N 59°23'37" W, 124.85'; THENCE N 00°19'44" W ALONG THE 1/4, 1/4 SECTION LINE, 102.81' TO THE P.O.B. AND CONTAINING 27,962 SQ. FT. (0.642 ACRES), MORE OR LESS.

PROJECT BENCHMARK:

DOT DISC IN SW CORNER OF BRIDGE
RAIL OF NORTH RIVER BRIDGE ON
HIGHWAY 169 ELEV. = 855.57 PROJECT DATUM
(ADD 58.80 TO CONVERT TO NGVD).

W 1/16 Corner
7-76-27 &
18-76-27

I HEREBY CERTIFY THAT THIS SURVEYING DOCUMENT WAS PREPARED AND THE RELATED WORK WAS PERFORMED BY ME OR UNDER MY DIRECT PERSONAL SUPERVISION, AND THAT I AM A DULY LICENSED PROFESSIONAL LAND SURVEYOR UNDER THE LAWS OF THE STATE OF IOWA.

MARK A. MCMURPHY, IOWA LIC. NO 14674 DATE

MY LICENSE RENEWAL DATE IS DECEMBER 31, 2004.

ADDITIONAL PAGES CERTIFIED (NONE UNLESS INDICATED HERE)

SYMBOLS LEGEND:

R RECORDED DISTANCE
M MEASURED DISTANCE
● CORNER MONUMENT FOUND
○ SET 1/2" DIA. x 30" REBAR
WITH 14874 CAP

ALL CAPS ARE YELLOW PLASTIC
UNLESS OTHERWISE INDICATED.