

Miscellaneous Record, No. 26, Madison County, Iowa

Kenneth E. McDonald & wife
To

#3712

Filed for record the 23 day of September
A. D. 1960 at 10:36 o'clock A.M.

Fee \$2.20

Mary E. Welty, Recorder

W. C. & Mary Jane Coleman

GRANT OF EASEMENT

WHEREAS, W. C. Coleman and Mary Jane Coleman, husband and wife, are the owners of real estate in Madison County, Iowa, described as Southeast Quarter of the Southeast Quarter of Section 25, Township 75 North, Range 26 West of the 5th P. M., hereinafter referred to as the Coleman land, and,

WHEREAS, the undersigned, Kenneth E. McDonald and Wilmarie McDonald, husband and wife, are the owners of the real estate in Madison County, Iowa, described as North Half of the Northeast Quarter of Section 36, Township 75 North, Range 26 West of the 5th P. M., hereinafter referred to as the McDonald land, and,

WHEREAS, Dale Irwin Potter owns real estate described as the Southwest Quarter of the Southeast Quarter of Section 25, Township 75 North, Range 26 West of the 5th P. M., hereinafter referred to as the Potter land, and,

WHEREAS, said W. C. Coleman and Mary Jane Coleman desire to impound water behind a dam constructed in the eastern part of said land referred to as the Coleman land, constructed across a watercourse, and,

WHEREAS, two gullies extend from the land referred to as the McDonald land, into said land referred to as the Coleman land, one of which, at the line between said two tracts of land, is approximately 350 feet southwesterly from the southeast corner of the Coleman land, hereinbefore described, and one of which, at the line between said two tracts of land, is approximately 1050 feet southwesterly from the southeast corner of the Coleman land, hereinbefore described, and another gully extends from the McDonald land, hereinbefore described, into the land owned by said Dale Irwin Potter, hereinbefore described, at a point approximately 550 feet southwesterly from the southwest corner of the Coleman land, hereinbefore described, which last-mentioned gully has another gully opening into it at a point approximately 250 feet south of the south line of the Potter land, hereinbefore described, and,

WHEREAS, said dam on the Coleman land, hereinbefore described, may cause water to back up and be impounded in and along said gullies on the McDonald land, hereinbefore described, directly from the Coleman land, so far as the first-mentioned and second-mentioned of said gullies are concerned, and from the Potter land, so far as the third-mentioned of said gullies is concerned,

NOW, THEREFORE, we, the undersigned Kenneth E. McDonald and Wilmarie McDonald, husband and wife, for value received, and in consideration of One Dollar and other good and valuable consideration, receipt of which is hereby acknowledged, hereby give and grant to said W. C. Coleman and Mary Jane Coleman, as joint tenants with right of survivorship, and not as tenants in common, the permanent and perpetual right and easement to cause water to back up upon and be impounded upon and remain impounded upon said real estate hereinbefore described as North Half of the Northeast Quarter of Section 36, Township 75 North, Range 26 West of the 5th P. M., in and along said gullies, as follows: in and along the first-mentioned of said gullies, for a distance of 125 feet extending in a generally southerly direction from the north line of the McDonald land hereinbefore described, and in and along the second-mentioned of said gullies for a distance of 110 feet extending in a generally southerly direction from the north line of the McDonald land hereinbefore described, and in and along the third-mentioned of said gullies for a distance of 350 feet in a generally southerly direction from the north line of the McDonald land hereinbefore described, and for a distance of fifty feet extending in a generally southeasterly direction in and along the said gully which opens into the said gully referred to as the

Miscellaneous Record, No. 26, Madison County, Iowa

third-mentioned of the gullies hereinbefore referred to, at a point approximately 250 feet south of the south line of the Potter land, hereinbefore described. The right and easement given and granted hereby are imposed upon said real estate referred to as the McDonald real estate as servient real estate, in favor of said real estate referred to as the Coleman land as a right and easement running with said real estate referred to as the Coleman land, and in favor of the present owners of said land referred to as the Coleman land, and also of any successor or successors in interest thereof, and also as a right and easement in favor of said real estate referred to as the Potter land and running with said land, and in favor of the owner thereof so far as the impounding of water on the Potter land is beneficial to said land and the owner thereof. Said right and easement given and granted hereby do not put any requirement on said Colemans, or any successor or successors in interest of theirs, to cause water to back up upon or be impounded upon or remain impounded upon said land referred to as the McDonald land, and such right and easement may be used if and whenever said Colemans, or their successor or successors in interest, see fit to use the same, and intermittently, if they see fit to do so.

Dated the 16 day of May, 1960.

Kenneth E. McDonald
(Kenneth E. McDonald)
Wilmarie McDonald
(Wilmarie McDonald)

STATE OF IOWA, Madison County, ss:

On this 16th day of May, 1960, before me, a Notary Public in and for Madison County, Iowa, personally appeared Kenneth E. McDonald and Wilmarie McDonald, to me known to be the persons named in and who executed the above and foregoing instrument, and acknowledged that they executed the same as their voluntary act and deed.

NOTARIAL
SEAL

Geo. D. Smith Notary Public
in and for Madison County, Iowa.

Raymond Rogers
To

#3730

Filed for record the 24 day of September
A. D. 1960 at 11:45 o'clock A. M.

Fee \$1.20

The Public

Mary E. Walty, Recorder

AFFIDAVIT OF POSSESSION

STATE OF IOWA MADISON COUNTY) SS.

I, Raymond Rogers, being first duly sworn on oath depose and state that I am well and fully acquainted with the record chain of title in and to the following described real estate, to-wit:

A tract of land commencing 21 rods and 20½ links North of the Southeast corner of the Northeast Quarter (¼), of the Northwest Quarter (¼) of Section One (1), in Township Seventy-five (75) North, Range Twenty-eight (28) West of the 5th P. M., Madison County, Iowa, thence North to a point 39 rods and 12 ¾ links South of the Northeast corner thereof, thence West 24 rods and 7½ links, thence South to a point 40 rods North of the South line of said 40-acre tract, thence West to a point 29 rods and 16½ links West of the East line thereof, thence South to a point 21 rods and 20½ links North of the South line thereof, thence East to the point of beginning.

I further state that I am the owner in possession of said real estate and that my possession and the possession of my grantors and their predecessors in the record chain of title to said real estate has been open, notorious, continuous, adverse and hostile under claim of right and color of title since prior to January 1, 1940.

Raymond Rogers

Subscribed and sworn to before me this 24 day of September, 1960.

(NOTARIAL SEAL)

Shirley Clark Notary Public
in and for Madison County, Iowa.

The undersigned, Raymond Rogers, holder of the record title to and the party in possession of the above described real estate, hereby requests the County Recorder of Madison County,