

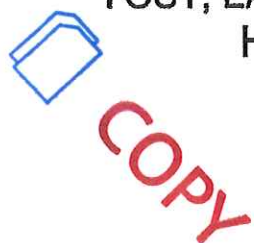
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July 15, 2021

Jean Andrews
Dodge County Zoning Department
435 N Park Ave #204
Fremont, NE 68025

Via Email: zoning@dodgecone.us

Re: Application of Gary Reimers and Chris Reimers
to build 12,500-head (5,000-unit) hog facility

Dear Jean:

I am writing as a follow-up to the county board hearing in connection with the above-referenced application confirm my client, Marco, Inc.'s, position in reference to the easement issues discussed at the hearing.

In particular, we want to reiterate that although a written ingress/egress easement exists as discussed below, it does not grant the type of access that the Reimers seek or needed in this case. Thus, if they show you the document as an easement, it will not satisfy the access requirements of the County Board resolution.

Marco, Inc. is the owner of the NE¼ of the NW¼ of Section 6, Township 20 North, Range 7 East of the 6th P.M. in Dodge County, Nebraska. On February 2, 1956, a 20-foot-wide easement running along the west margin of the Marco tract was executed in favor of the subject Reimers tract for ingress and egress purposes consistent with the use of the Reimers tract at that time. The Reimers tract has at all times been used for crop production purposes and for no other purpose, including, but not limited to, the raising of livestock. The easement area is not improved and is simply a clearing that allows farm machinery to pass to and from the Reimers tract approximately four to five times a year or as otherwise needed for crop production.

As the easement path is unimproved, Marco, Inc. retains the use of the easement area for farm production purposes.

At the time the easement was granted, concentrated animal feeding operations were non-existent and were certainly not in existence in any form of commercial level as the type proposed in this matter. In fact, they were not regulated under the Clean Water Act until the mid-1070's.

Not only did the circumstances at the time the easement arose not envision any form of use of the Reimers property in the manner proposed but the easement did not provide any right to Reimers to construct, improve, repair or maintain any form of road, let alone the type of elevated, crowned and heavy rock road that will be required in order to accommodate the high level of commercial activity consisting of feed trucks, livestock trucks, manure trucks, maintenance trucks, vehicular traffic from staff, veterinarians, animal health, customers of the investors (who we understand include Mike Settje of Settje Engineering and the owner of the biosolid separating company who will no doubt utilize this property as a show case for its customers) and the list goes on.

It is our position that the intent and purpose of the easement granted in 1956 was to allow reasonable ingress and egress to Reimers' predecessors to allow them to crop farm their property and such easement did not envision in any degree the type and intensity of proposed use by Reimers and the corresponding damage that it will cause consisting of loss of crop acres, diversion or damming of water, nuisance and a host of other concerns that will be addressed in court. Specifically, it is Marco, Inc.'s intention, as indicated in the county board hearing, to file an action shortly to seek declaratory, injunctive and other redress associated with this permit application. Again, one of the reasons I am writing you is the fact that a written easement is filed of record does not mean they have the easement rights to do what they propose to do, and we believe the board envisioned that the easement issue would be resolved either by mutual agreement or through court proceedings prior to issuing the permit, none of which has occurred.

In addition to the foregoing, Marco, Inc. and the adjoining landowners have indicated they have no intention of granting an easement for electricity or other utility purposes.

We respectfully ask that if you are inclined to issue a permit notwithstanding the above, to please advise of the same and if you have any questions, please do not hesitate to contact me.

Thank you.

Yours, truly

YOST, LAMME, HILLIS, MITCHELL,
SCHULZ, HARTMANN & WILSON, P.C.
A Limited Liability Organization



David C. Mitchell
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DCM/lan
cc: Paul Vaughan

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Boyle Co Highway Dept