

PROTECTIVE COVENANTS AND RESTRICTIONSFORNORTHRIDGE SUBDIVISION IICASS COUNTY, NEBRASKA

THIS DECLARATION, made this 22nd day of October, 1992, by R. R. BERNER REAL ESTATE, INC., a Nebraska Corporation, being the Owner and Developer of the following described real estate situated in Cass County, Nebraska

Lot 5, Bojanski's Subdivision, a Subdivision as survey, platted and recorded in Cass County, Nebraska.

## W I T N E S S E T H

WHEREAS, Declarant is the Owner of the real property described above and is desirous of subjecting the property described above to the restrictions, covenants, reservations, easements, liens and charges hereinafter set forth, each and all of which is and are for the benefit of the property and for each owner thereof, and shall inure to the benefit of and pass with said property, for each and every parcel thereof, and shall apply to and bind the successors in interest, and any owners thereof.

NOW, THEREFORE, the Declarant hereby declares that the real property described herein above is, and shall be held, transferred, sold and conveyed subject to the conditions, restrictions, covenants, reservations, easements, liens and charges hereinafter set forth.

## I

The Declarant shall hereafter create a Building Committee which shall consist of the Declarant and those persons hereinafter appointed by him each of whom shall be owners of a parcel within the boundaries of the property being described. The Building Committee shall have general authority for the enforcement of the Building and Use Restrictions herein set forth. Membership on the Committee shall be limited to not less than three, nor more than five members, under any circumstances.

## II

Any and all prior Protective Covenants or Restrictive Covenants, by whatever name or description, are hereby superseded by these Covenants, Restrictions and Easements.

## III

The Restrictions and Covenants set out are to run with the land and shall be binding upon all parties and all persons owning lots in the Subdivision, or claiming under them.

## IV

If any owners of a lot or any of them, or their heirs or assigns, shall violate any of the Covenants hereinafter set out and not waived by the Building Committee it shall be lawful for any other person owning real property situated in such area to prosecute any proceedings at law or in equity against the person or persons violating any such covenants, and either to prevent him from so doing or to recover damages for such violations, or both.

## V

Invalidation of any of these Covenants by Judgement or Court Order shall in no wise effect any of the other provisions, which shall remain in full force and effect

## VI

These Covenants and Restrictions shall be applicable to all lots of land within that Subdivision whether one or more owners.

FILED FOR RECORD 02-19-93 AT 2:00 P.M. Dec #337  
 BOOK 43 OF Misc PAGE 224 \$2550  
 RECORDED BY Cass County NE Public Mailing

COMPARED

## VII

### APPROVAL OF PLANS

- a. For the purpose of further insurance that the development of the lands remains as an area of high standards, the Building Committee reserves the power to control the buildings, structures and other improvements placed on each lot as well as to make exceptions to these Reservations and Restrictions as the Building Committee, hereinafter designated, shall deem necessary and proper.
- b. Whether or not provision therefor is specifically stated in any conveyance of a lot, the owner or occupant of each and every lot, by acceptance of title thereto or by taking possession thereof, covenants and agrees that no building, wall or other structure shall be placed upon such lot unless and until the plans and specifications therefor have been approved in writing by the Building Committee hereinafter provided. Each such building, wall or structure shall be placed on the premises only in accordance with the plans and specifications so approved. Refusal of approval of plans and specifications by such Building Committee may be based on any ground, including purely aesthetic ground which, in the sole and uncontrolled discretion of the Building Committee shall seem sufficient. No alteration in the exterior appearance of the buildings or structures shall be made without like approval. If no Building Committee exists or if the Building Committee shall fail to approve or disapprove the plans and specifications within thirty (30) days after written request thereof, then such approval shall not be required, provided that no building or other structure shall be erected which violates any of the Restrictive Covenants herein contained.

## VIII

### SETBACK LINES

No building or any part thereof, including garages and porches, shall be erected on any lot closer than 40 feet to the front road line, or closer than 20 feet to either side boundary line, or closer than 10 feet to the rear boundary line (provided, however, that in the case of corner lots the setback from the side street shall not be less than 20 feet). Notwithstanding any thing to the contrary herein, the Building Committee shall have the right to permit reasonable modifications of the setback requirements where, in the discretion of the Building Committee, strict enforcement of these setback provisions would work a hardship.

## IX

### RESIDENTIAL BUILDINGS

- a. No lots of land embraced within the boundaries of the Subdivision shall be used for other than single-family residential purposes. There shall not exist or be permitted any more than one residential type building on any lot. No trailer, tent, shack, temporary building or guest house shall be erected on any lot in the Subdivision without approval in writing from the Building Committee.
- b. No one-story buildings shall be constructed on any lot with a fully enclosed first floor area of less than 1500 square feet, exclusive of carport, garage and open porches. No two-story or higher buildings shall be constructed with a fully enclosed first floor area of less than 1200 square feet.

## X

### WALLS AND FENCES

No wall or fence of any height shall be constructed on any lot until after the height, type, design and approximate location shall have been approved in writing by the Building Committee. The heights or elevations of any wall or fence shall be measured from the existing elevations of the property at or along the applicable points or lines. Any question as to such heights may be completely determined by the Building Committee.

## XI

NUISANCES

No cattle, swine, goats, poultry or fowl shall be kept on any lot. No signs or advertising shall be displayed on any lot unless the size, form and number of same are first approved in writing by the Building Committee. No Weeds, underbrush or other unsightly growths shall be permitted to grow or remain upon the premises, and no refuse pile or unsightly objects shall be allowed to be placed or suffered to remain anywhere thereon. In the event that any owner of any property in the subdivision shall fail or refuse to keep such premises free from weeds, underbrush or refuse piles or other unsightly growths or objects, the Building Committee may enter upon such lands and remove the same at the expense of the owner and such entry shall not be deemed a trespass; and, in the event of such removal, a lien shall arise and be created in favor of the Building Committee and against such lot for the full amount chargeable to such lot and such amount shall be due and payable within thirty (30) days after the owner is billed therefor.

## XII

LOT SUBDIVISION

No lot shall at any time be further subdivided except as permitted by these Protective Covenants and Restrictions.

## XIII

REMEDIES FOR VIOLATIONS - INVALIDATIONS

For a violation or a breach of any of these Reservations and Restrictions by any person claiming by, through or under the Developer, or by virtue of any judicial proceedings, the Developer, and the lot owners, or any of them severally, shall have the right to proceed at law or in equity to compel a compliance with the terms hereof or to prevent the violation or breach or any of them. The failure promptly to enforce any of the Reservations and Restrictions shall not bar their enforcement. The invalidation of any one or more of the Reservations and Restrictions by any Court of competent jurisdiction in no wise shall effect any of the other Reservations and Restrictions, but they shall remain in full force and effect.

## XIV

COMMERCIAL VEHICLES

No trucks and no commercial type vehicles shall be stored or parked on any lot except while parked in a closed garage or parked on the residential road in the area except while engaged in transporting to or from a residence in the Subdivision.

## XV

VEHICLE REPAIR OR MAINTENANCE

No vehicle of any type of description, including all recreational vehicles or boats may be dismantled, remodeled, repaired, maintained or stored upon the lot or any portion of the road. All such type of activity shall be done in an enclosed structure located on the owner's property.

## XVI

UTILITY EASEMENTS AND LINES

The Developer has reserved easement on the boundary lines of the lots for the installation and maintenance of public and private utility facilities. Such easements shall be five (5) feet in width and shall affect each of the parcels as the same is surveyed and conveyed.

XVI

UTILITY EASEMENT AND LINES

All claims for damages, if any, arising out of the construction, maintenance and repair of utilities or on account of temporary or other inconvenience caused thereby against the Developer, or any utility company or municipality, or any of its agents or servants are hereby waived by the Owners. Developer does further reserve the right to change, lay out a new or discontinue any road or way shown on the plan of development not necessary for ingress or egress to and from the premises.

XVII

UTILITIES

Each lot owner shall be responsible for the cost of obtaining electrical, telephone and other available utilities from the utility company from which services are available. The Declarant states that water service is not presently available from the local Rural Water District; and, that each lot owner shall be required to install and maintain, at his own expense, a water well to supply potable water to the owner's premises. The Declarant shall not be responsible for any expense in regard to water availability on any parcel.

The Developer shall have no responsibility for any costs or maintenance, repair, alteration, upgrading or snow removal for the roadway or any utility after all lots in the Subdivision have been initially sold.

XVIII

SEWERS

In the event governmental authority should require the installation of sanitary sewers and appurtenances in part or in all of the Subdivision, the purchasers or owners of the lots shall pay their proportionate share of the cost and expense of installing the sewer system.

XIX

ROADWAY

The developer shall have surveyed and installed a non-hardsurfaced roadway into the Subdivision so as to service all lots therein. The road will be rocked initially and at necessary intervals to insure safe travel over the same. The Purchasers or Owners of the lots shall pay their proportionate share of the cost and expense of maintenance, repair, upgrading or snow removal on the roadway. This proportionate share will be computed by the total number of lots served into the total cost of such roadway. Payment shall be to the Developer or the Committee. All Purchasers or Owners shall have equal access for ingress and egress over and through said roadway for use usually associated with development.

Each lot owner, upon receiving title to a lot, shall pay an initial assessment fee of One Hundred Dollars (\$100.00) to the Developer or Committee to be placed into a road maintenance fund and used for the purposes set forth above. Said roadway shall include all roads in the Northridge Subdivision providing access to this Development.

XX

EXTERIORS AND ROOFS

All structures shall be painted with paint unless constructed of ornamental masonry, brick, logs or with vinyl, metal or fiberglass siding.

XXI

CONSTRUCTION PERIOD

All residences shall be completed and be capable of being habitable within one year from the date construction on the residence is begun.

XXII

Whenever the undersigned or its successors or assigns incur any expense in the enforcement of any provision of this instrument, it or they, respectively, shall have a lien against the lot or lots affected thereby from the time of filing an account in writing thereof in the Office of the Register of Deeds of the County in like manner as a mechanic's or materialmen's lien as provided by law.

XXIII

In addition to the provision of this instrument, each owner and occupant of any lot shall observe and obey all valid provisions of the Louisville Zoning Regulations and of all other ordinances, laws and regulations applicable thereto.

XXIV

The Covenants, Conditions and Restrictions set forth in this instrument may be amended, in whole or in part, at any time by written agreement among the then Owners of a majority in number of said lots executed and recorded in the manner provided by law; and such Covenants, Conditions and Restrictions as thus set forth or amended shall run with the land and shall be binding upon all persons for a period of twenty (20) years from the date hereof.

XXV

GOVERNMENTAL LIMITATIONS

Any conveyance of any lot is subject to all restrictions and limitations imposed by governmental authority.

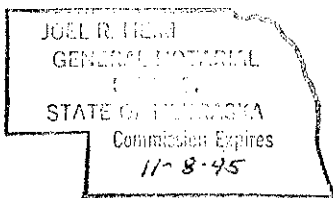
IN WITNESS WHEREOF the undersigned, being the Owner and Developer of the herein described real estate, does hereby execute the within Protective Covenants and Restrictions.

R. R. BERNER REAL ESTATE, INC.

BY Richard R. Berner  
President

STATE OF NEBRASKA )  
                                  ) ss  
COUNTY OF CASS        )

On this 17th day of February, 1993, before me, the undersigned, a Notary Public in and for said County and State, personally appeared Richard R. Berner to me personally known, who, being to me duly sworn, did say that he is the President of said Corporation; that said instrument was signed on behalf of said Corporation and that as such officer, acknowledges the execution of said instrument to be the voluntary act and deed of said corporation, by it and by him voluntarily executed.



Joel R. Hess  
NOTARY PUBLIC

to and from said premises for the purpose of exercising and enjoying the rights and privileges herein granted, such premises being located in the County of Cass, State of Nebraska, and described as follows:

W 1/2 of NW 1/4, Section 28, T-11-N, R-13-E of 6th P.M.

TO HAVE AND TO HOLD unto Northern Gas Products Company, its successors and assigns, until said pipeline shall be abandoned, subject, however, to Grantor's right to use and enjoy said premises, except as such use and enjoyment may be inconsistent with the rights and privileges herein granted to Grantee, its successors and assigns.

Grantee shall pay for any damages to growing crops, trees, shrubbery, fences or buildings upon said premises where such damages arise from the exercise by Grantee of the rights herein granted; if Grantor and Grantee are unable to agree upon the amount of such damages, the same shall be ascertained and determined by three disinterested persons, one of whom shall be appointed by Grantor, one by Grantee and the third by the two appointed as aforesaid; the written award of such three persons shall be conclusive and binding upon the parties hereto.

Grantee shall bury said pipeline below plow depth and shall replace or rebuild to its pre-existing condition any part of any drainage system damaged by Grantee in the exercise of its rights hereunder.

This instrument, and the covenants and agreements herein contained, shall extend to and be binding upon the heirs, executors, administrators, successors and assigns of the parties.

This grant is made with the knowledge that no representative, agent or other party securing this grant on behalf of Grantee has been given authority to make any promise or agreement oral or written, concerning the subject matter hereof which is not herein expressed.

IN WITNESS WHEREOF, Grantor has executed this instrument.

Dated this 7th day of May, 1962.

Albert D. Dial  
Right of Way Agent  
Albert D. Dial

"Grantor"  
Daniel E. Hoschar  
Daniel E. Hoschar  
  
Lena Hoschar  
Lena Hoschar

STATE OF Nebraska )  
                          )SS.  
COUNTY OF Cass )

On this 7th day of May, A.D., 1962, before me, the undersigned duly commissioned and qualified authority in and for said county and state, personally appeared Daniel E. Hoschar and Lena Hoschar, husband and wife to me personally known to be the identical persons named in and who executed the foregoing instrument and duly acknowledged the execution of same as their voluntary act and deed.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal the day and year above written.

(CASS COUNTY )  
(NOTARY PUBLIC )  
(NEBRASKA )

Pauline Wilson  
Title: Notary Public  
My commission expires: February 21, 1962

\*\*\*\*\*  
EASEMENT  
Ash Grove Lime and Portland Cement Company  
to  
Northern Natural Gas Company

COMPARED

8-309  
Filed June 7, 1962 at 8:07 A.M.  
Lucille Horn Gaines  
Register of Deeds  
\$3.60

That Ash Grove Lime and Portland Cement Company Louisville, Nebraska, of the County of Cass and State of Nebraska, for and in consideration of the sum of One Dollar (\$1.00) per lineal rod, receipt of One Dollar (\$1.00) of which consideration is hereby acknowledged and balance of which is to be paid when and as the location of pipe lines over and through the lands hereinafter described shall be established, surveyed and measured, and the further consideration of the performance of the covenants and agreements by the grantee, as hereinafter set out and expressed, does hereby GRANT, REMISE and RELINQUISH unto NORTHERN NATURAL GAS COMPANY, a Delaware corporation, its successors or assigns, the RIGHT, PRIVILEGE and EASEMENT to construct, maintain and operate pipe lines, and appurtenances thereto, over and through the following described lands and appurtenances thereunto belonging, including riparian rights, situated in the County of Cass and State of Nebraska, to-wit:

The South  $\frac{1}{2}$  of the Southwest  $\frac{1}{4}$  of the Northwest  $\frac{1}{4}$  in Section 22; Township 12 North, Range 11 East of the 6th P.M.

TO HAVE AND TO HOLD unto said NORTHERN NATURAL GAS COMPANY, its successors and assigns, so long as such pipe lines, and appurtenances thereto, shall be maintained, together with the right of ingress to and egress from said premises, for the purpose of constructing, inspecting, repairing, maintaining and replacing the property of the grantee located thereon, or the removal thereof, in whole or in part, at the will of the grantee; it being the intention of the parties hereto that grantor is hereby granting the uses herein specified without divesting grantor of the rights to use and enjoy said above described premises, subject only to the right of the grantee to use the same for the purposes herein expressed.

As a further consideration for this grant, the grantee herein agrees as follows:

(1) That it will bury all line pipe laid upon said land to a sufficient depth so as not to interfere with the cultivation of the soil.

(2) That it will pay to grantor any damages which may arise to growing crops, trees, shrubbery, fences or buildings from the construction, maintenance or operation of said pipe lines, said damages, if not mutually agreed upon, to be ascertained and determined by three disinterested persons, one of whom shall be appointed by the grantor, one by the grantee, and the third to be selected by the two appointed as aforesaid, and the written award of such three persons shall be final, conclusive and binding upon the parties hereto.

(3) That grantee, upon written application by the grantor, will make, or cause to be made, a tap in any gas pipe line constructed by grantee upon the above described premises for the purpose of supplying gas to grantor, for domestic purposes only and not for re-sale, and for use upon the above described premises only. All connections required, shall be furnished and paid for by Grantor with the exception of the meter, which is to be furnished and owned by the Grantee. Said tap will be provided by grantee from a convenient point on its main line or some lateral as the grantee may determine, and gas to be taken under this provision shall be measured and furnished to the grantor at the rates and upon the terms as may be established by grantee, or by any vendee of grantee, from time to time.

(4) That grantee will replace or rebuild to the satisfaction of grantor or of their representative any and all damaged parts of all drainage systems, the damage to which shall

This instrument, and the covenants and agreements herein contained, shall inure to the benefit of and be binding and obligatory upon the heirs, executors, administrators, successors and assigns of the respective parties.

IN WITNESS WHEREOF we have hereunto set our hands this tenth day of April, 1962.

ASH GROVE LIME & PORTLAND CEMENT COMPANY  
(ASH GROVE LIME AND PORTLAND CEMENT COMPANY )  
(CORPORATE SEAL DELAWARE ) By R.M.Cox  
Executive Vice President

Jimmie N.McDowell  
Right of Way Agent.  
Jimmie N.McDowell

STATE OF Missouri )  
 )ss.  
COUNTY OF Jackson )

On this tenth day of April, A.D., 1962, before me, the undersigned duly commissioned and qualified authority in and for said county and state, personally came R.M.Cox, Executive Vice President to me known to be the identical person whose name is subscribed to the foregoing instrument as Grantor and duly acknowledged the execution of the same as his voluntary act and deed.

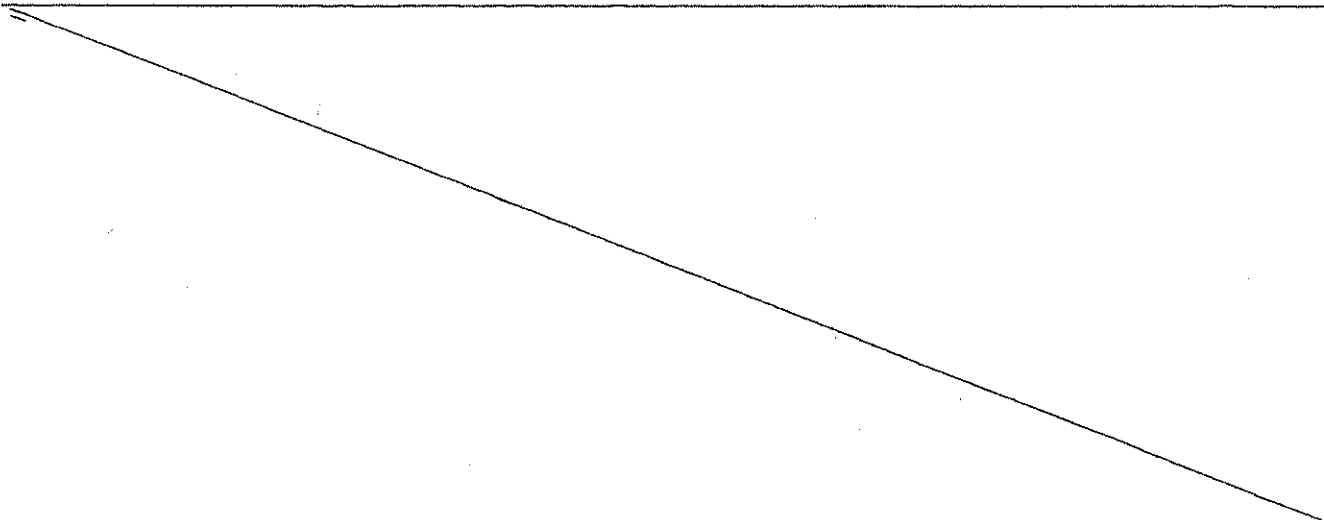
IN TESTIMONY WHEREOF, I have hereunto set my hand and official seal on the day and year above written.

(Seal) Mary Ann Carroll  
Notary Public in and for Jackson County  
(MARY ANN CARROLL ) My commission expires the December 1 day of ,1962.  
(NOTARY PUBLIC )  
(JACKSON COUNTY,MO.)

STATE OF Missouri )  
 )ss.  
COUNTY OF Jackson )

On this 19th day of April, A.D. 1962, before me, a Notary Public duly commissioned and qualified in and for said County, personally came the above named R.M.Cox, Executive Vice President , ~~XXXXXXXXXX~~ ,Secretary, of who are personally known to me to be the identical persons whose names are affixed to the above instrument as President and Secretary of said Corporation, and they acknowledged the instrument to be their voluntary act and deed, and the voluntary act and deed of said corporation.

WITNESS, my hand and official seal at Kansas City Mo., in said County, the date aforesaid  
(MARY ANN CARROLL ) Mary Ann Carroll  
(NOTARY PUBLIC ) Notary Public  
(JACKSON COUNTY,MO.) My commission expires the 1st day of December, 1962.





This Instrument Drafted By  
And To Be Returned to:  
Right-of-Way Department  
Northern Natural Gas Company  
PO Box 3330  
Omaha, Nebraska 68103-0330

FILED FOR RECORD 08-24-95 AT 10:10 A.M.  
IN BOOK 47 OF Misc. PAGE 114  
REGISTER OF DEEDS, CASS CO., NE *Patricia Mairing*  
Doc # 390 - \$ 16.00 *by L*

493-1-19

**MODIFICATION AND AMENDMENT OF EASEMENT GRANT**

This instrument made and entered into this 6 day of June, 1995,  
by and between NORTHERN NATURAL GAS COMPANY, a Delaware corporation  
(hereinafter referred to as "Northern"), and AUGUST C. LEMPKA, a single man  
(hereinafter referred to as "Owner").

WITNESSETH THAT:

WHEREAS, Northern is the holder of an Easement granted by Ash Grove Lime  
and Portland Cement Company on the 10th day of April, 1962, covering the following  
described premises in Cass County, Nebraska:

The South Half of the Southwest Quarter of the Northwest  
Quarter (S/2 SW/4 NW/4) of Section 22, Township 12  
North, Range 11 East;

which Easement was recorded the 7th day of June, 1962, in Book 8 of Miscellaneous at  
Page 309 in the Office of the Register of Deeds for Cass County, Nebraska (hereinafter  
referred to as "Easement"); and

WHEREAS, pursuant to the authority contained in the Easement, Northern has  
constructed and currently operates and maintains a 16-inch pipeline through and across the  
premises above-described; and

WHEREAS, of the premises described in the Easement, Owner is present owner of  
the following described premises (hereinafter referred to as "Owned Premises"):

Lot 6, Northridge II Subdivision, a part of the South Half of  
the Southwest Quarter of the Northwest Quarter (S/2 SW/4  
NW/4) of Section 22, Township 12 North, Range 11 East.

WHEREAS, the parties hereto desire to more clearly define their rights under the  
Easement and further desire to modify and amend the Easement in certain respects.

NOW THEREFORE, in consideration of the premises and of the mutual covenants  
and agreements hereinafter set forth, it is agreed by and between the parties hereto as  
follows:

1. That Northern shall, and by these presents does, hereby limit its right-of-way  
under the Easement across the Owned Premises only to a strip of land 66 feet in width, the  
centerline of which strip shall be the present location of Northern's 16-inch pipeline  
(hereinafter referred to as "Pipeline Right-of-Way").
2. That Northern shall, and by these presents does, hereby release from its said  
Easement all of the Owned Premises EXCEPT the Pipeline Right-of-Way described in  
Paragraph 1 above, within which Pipeline Right-of-Way said Easement is retained in full  
force and effect, with all rights (including, without limitation, multiple line rights)  
originally granted to Northern in the Easement; and EXCEPT Northern retains its right of  
ingress to and egress from the Pipeline Right-of-Way, to which right the Owned Premises  
shall remain subject.



#390

493-1-19

STATE OF NEB )  
COUNTY OF LAWRENCE )SS

On this 30 day of June, 1995, before me a Notary Public duly commissioned and qualified in and for said county and state, personally appeared August C. Lempka, to me known to be the identical person named in and who executed the foregoing instrument, and acknowledged that he executed the same as his voluntary act and deed.

WITNESS my hand and official seal at *[Signature]*, in said county and state, the date aforesaid.

(SEAL)



*[Signature]*  
Notary Public  
My Commission Expires \_\_\_\_\_

#453

This Instrument Drafted By  
And To Be Returned To:  
Right-of-Way Department  
Northern Natural Gas Company  
PO Box 3330  
Omaha, Nebraska 68103-0330

FILED FOR RECORD 8-29-95 AT 10:00 A.M.  
BOOK 47 OF Misc PAGE 128  
REGISTER OF DEEDS, CASS CO., NE Patricia Meisinger  
Doc # 453 \* 26.50

COMPLAINT

493-1-19  
493-1-21

AGREEMENT

This instrument made and entered into this 6 day of June, 1995, by and between NORTHERN NATURAL GAS COMPANY, a Delaware corporation, (hereinafter referred to as "Northern"), with principal offices at P.O. Box 3330, Omaha, Nebraska, and AUGUST C. LEMPKA, a single man (hereinafter referred to as "Owner").

WITNESSETH THAT:

WHEREAS, Northern is the holder of an Easement granted by Ernest A. Beck and Maggie L. Beck on the 7th day of February, 1962, covering the following described premises in Cass County, Nebraska:

The South Half of the Northeast Quarter (S/2 NE/4) and the North Half of the Southeast Quarter (N/2 SE/4), except for 20 acres adjacent to and East of road along South line of said N/2SE/4, all in Section 21, Township 12 North, Range 11 East;

which Easement was recorded the 10th day of May, 1962, in Book 8 of Miscellaneous at Page 266, and was defined by a Modification and Amendment of Easement Grant dated the 2nd day of August, 1978, and recorded on the 16th day of August, 1978, in Book 8 of Miscellaneous, at Page 113, all in the Office of the Register of Deeds for Cass County, Nebraska; and

WHEREAS, Northern is the holder of an Easement granted by Ash Grove Lime and Portland Cement Company on the 10th day of April, 1962, covering the following described premises in Cass County, Nebraska:

The South Half of the Southwest Quarter of the Northwest Quarter (S/2 SW/4 NW/4) of Section 22, Township 12 North, Range 11 East of the 6th P.M.;

which Easement was recorded the 7th day of June, 1962, in Book 8 of Miscellaneous at Page 309, and was defined by a Modification and Amendment of Easement Grant dated the 6th day of June, 1995, and recorded on the 24th day of August, 1995, in Book 47 of Miscellaneous at Page 114 all in the Office of the Register of Deeds for Cass County, Nebraska (hereinafter collectively referred to as "Easement"); and

WHEREAS, pursuant to the authority contained in said Easement, Northern has constructed and currently operates and maintains a 16-inch pipeline along with the right to install additional pipelines and facilities from time to time (hereinafter referred to as "Pipeline Facilities"), across and through the above described premises; and

WHEREAS, Owner is the present Owner of the following described real property, with Pipeline Facilities situated upon the following described land in Cass County, Nebraska (hereinafter referred to as the "Owned Premises"):

See Exhibit "A" attached hereto  
and made a part hereof.

493-1-19

493-1-21

WHEREAS, Owner has constructed a crushed-rock road (hereinafter referred to as "Encroachment") upon and within a portion of the confines of Northern's 66-foot right-of-way width (hereinafter referred to as "Easement Area"), and

WHEREAS, Owner has been advised by Northern that Northern is a natural gas transmission company; that Northern operates a high pressure underground natural gas pipeline through the Owned Premises; and

WHEREAS, Owner has requested permission from Northern to maintain, use, and enjoy the above-described Encroachment upon a portion of Northern's above-mentioned Easement and in close proximity to Northern's Pipeline Facilities; and

WHEREAS, Northern is willing to grant such permission upon the terms and conditions set forth below.

NOW, THEREFORE, in consideration of the mutual covenants, terms and conditions hereinafter set forth, the parties hereto agree as follows:

1. Northern hereby grants permission to Owner to maintain, operate and use upon the Owned Premises and in close proximity to Northern's Pipeline Facilities, the said Encroachment, subject to the following conditions:

A. That Owner assumes all risks for damages, injuries, or loss to either property or persons, which may be incurred by Owner or its respective agents, invitees, or licensees present on or in the vicinity of the Easement Area and in any way associated with said Encroachment.

B. That the permission granted herein is limited exclusively to the proposed Encroachment upon the Owned Premises within the Easement Area of Northern's Pipeline Facilities; nor shall Owner alter the grade or permit such alteration anywhere on the land upon which Northern has reserved its easement right, without the prior express written consent of Northern.

C. That Owner shall at all times conduct all its activities on said Easement Area in such a manner as not to interfere with or impede the operation of Northern's Pipeline Facilities and activities in any manner whatsoever.

D. That Owner shall not plant any trees or shrubs within the confines of Northern's Easement Area without the prior express written consent of Northern. Said trees and shrubs shall not exceed an eventual growth height of six (6) feet.

2. Owner agrees to indemnify, protect, and hold Northern, its parent, affiliates, subsidiaries, and their directors, officers, employees, representatives, and agents harmless from and against any and all actions or causes of action, claims, demands, liabilities, loss, damage, injury, suit, proceeding, judgment, cost, or expense of whatever kind or nature, including but not limited to reasonable attorneys' fees, arising from or as a result of any incident, act, action, cause of action, negligence, transaction or omission of Owner in connection with, or incidental to the construction, operation, maintenance, or use of the said Encroachment with and upon the Easement Area, or from the operation, maintenance, use or presence of Northern's Pipeline Facilities upon or in the vicinity of the Easement Area except where such loss, cost, liability, or expense was proximately caused solely by the gross negligence of Northern or its employees. It is understood and agreed by the parties that under this Agreement, Owner shall be jointly and severally liable.

3. Owner agrees that protection of Northern's Pipeline Facilities will be maintained at all times.

4. Should Northern need to remove any of Owner's said Encroachment within its Easement Area in order to construct, maintain, operate, repair, remove, or resize Northern's existing or additional Pipeline Facilities, Owner or its respective heirs,

493-1-19

493-1-21

Encroachment. In addition, all repair and maintenance work performed by Northern, on its existing or additional Pipeline Facilities located on the Owned Premises, shall be performed in a reasonable workmanlike manner and Northern shall restore the surface and grade of Owned Premises where the work is performed, but shall not be liable for loss, damage, or replacement to Owner's said Encroachment or any associated equipment and facilities that exist within the Easement Area, and in this regard, Owner hereby releases Northern, its employees, agents, officers, and directors from any and all liability for any such loss or damage.

5. The Parties hereto understand that this Agreement in no way constitutes a waiver by Northern of its rights to enjoy its Easement unencumbered by the construction of said Encroachment within Northern's Easement Area.

6. It is expressly agreed to by and between the parties hereto that if Owner is in violation of any terms or conditions set forth in this Agreement, Northern, at its option, may terminate this Agreement upon ten (10) days' notice to the Owner. In the event of such termination, Owner shall immediately remove any and all of said Encroachment which may be situated on the Easement Area, or if Owner fails to remove any and all of said Encroachment, Northern may, at its option, remove said Encroachment at the expense of owner and without any liability whatsoever. It is further agreed that the failure by Northern to exercise such option as to any such violation shall not constitute a waiver of Northern's future right to exercise such option as to the same or any future violation.

7. The provisions of the Easement, and all rights, powers, privileges, and duties, obligations, and liabilities created thereby, remain in full force and effect and are not affected hereby except to the extent and in the manner set forth above.

8. Owner agrees to indemnify, defend and hold Northern, its parent and affiliated companies, and the directors, officers and employees of any such corporate entities harmless from and against any liability, damage, claims, loss, cause of action, suit, proceeding, judgment, cost (including the cost or expense of environmental response, removal or remediation activities), fees or expense, including reasonable attorney's fees arising from: (1) non-compliance with any laws, regulations and orders applicable to the ownership or the operation and maintenance of the said Encroachment on the Owned Premises described herein, and (2) any incidents, acts, releases, negligence, transactions or omissions, or conditions on or affecting the Easement Area that would (i) contribute to or constitute a violation of any local, state or federal environmental rule, regulation, law or judicial order, (ii) result, in whole or in part, in any requirement to clean up or otherwise remedy or remediate a condition, (iii) give rise to any lien, liability, injunction, order, restriction, claim, expense, damage, fine or penalty, or (iv) adversely affect human health or the environment at or near the Easement Area.


This instrument and the covenants and agreements herein contained shall extend to and be binding upon the heirs, executors, administrators, successors, and assigns of the parties and the benefits of this Agreement shall run with the land.

IN WITNESS WHEREOF, the parties have executed this instrument the day and year first above written.

"NORTHERN"

NORTHERN NATURAL GAS COMPANY

"OWNER"

By David W. Lunday 

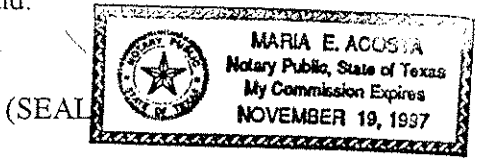
August C. Lempka  
August C. Lempka

Title Agent & Attorney in Fact

STATE OF TEXAS )  
 )SS  
COUNTY OF HARRIS )

On this 18th day of August, 1995, before me a Notary Public duly commissioned and qualified in and for said county and state, personally came David W. Sinclair, the Agent and Attorney-in-Fact of Northern Natural Gas Company, who is personally known to me to be the identical person whose name is affixed to the above instrument in the capacity stated, and he acknowledged the said instrument to be his free and voluntary act and deed and the free and voluntary act and deed of said corporation.

WITNESS my hand and official seal at Houston, in said county and state, the date aforesaid.



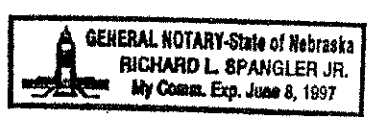
Maria E. Acosta  
Notary Public  
My Commission Expires 11-19-97

STATE OF NEB )  
 )SS  
COUNTY OF LANCASTER

On this 30 day of June, 1995, before me a Notary Public duly commissioned and qualified in and for said county and state, personally appeared AUGUST C. LEMPKA, a single man to me known to be the identical person named in and who executed the foregoing instrument, and acknowledged that he executed the same as his voluntary act and deed.

WITNESS my hand and official seal at Lancaster, in said county and state, the date aforesaid.

(SEAL)



Richard L. Spangler Jr.  
Notary Public  
My commission Expires \_\_\_\_\_

4453

493-1-19

493-1-21

"EXHIBIT A"  
OWNED PREMISES

The following described property is situated in Cass County, Nebraska:

Lot 6, Northridge II Subdivision, a part of the South Half of the Southwest Quarter of the Northwest Quarter (S/2 SW/4 NW/4) of Section 22, Township 12 North, Range 11 East; and

A tract of land located in the East Half (E/2) of Section 21, Township 12 North, Range 11 East, more fully described as follows: Beginning at the east quarter corner of said Section 21; thence southerly along the East line of the SE/4, 570.00 feet; thence westerly, perpendicular to said East line, 200.00 feet; thence northwesterly 663.77 feet to a point on the North line of said SE/4 (said point also being 542.43 feet west of the east quarter corner; thence easterly (along said North line), 342.43 feet; thence northerly, along a line 200.00 feet west of and parallel with the East line of the NE/4, 668.69 feet; thence easterly, 200.00 feet to a point on the East line of said NE/4; thence southerly, along said East line, 669.54 feet to the point of beginning and containing 7.92 acres, more or less.

SE 1/4

NE 1/4



FILED  
CASS COUNTY, NE.

2003 JAN -3 AM 10:43

DK 59 MISC PG 315  
PATRICIA MEIBINGER  
REGISTER OF DEEDS

# 51 # 15<sup>00</sup>

# 51  
COMPALED

Document Prepared by/Returned to: Northern Natural Gas Co., ATTN: ROW Dept., P.O. Box 3330, Omaha, NE 68103-0330

File No.: 49301-19

**AMENDMENT OF  
MODIFICATION AND AMENDMENT OF EASEMENT GRANT**

This instrument made and entered into this 11<sup>th</sup> day of July, 2001 by and between NORTHERN NATURAL GAS COMPANY, a Delaware corporation, with principal offices at P. O. Box 3330, Omaha, Nebraska 68103 (hereinafter referred to as "Northern"), and JEFFREY L. ROBERTS AND LINDA A. ROBERTS (hereinafter referred to as "Owner", whether one or more).

WITNESSETH THAT:

WHEREAS, Northern is the holder of an Easement granted by Ash Grove Lime and Portland Cement Company on the 10<sup>th</sup> day of April, 1962, which Easement was recorded the 7<sup>th</sup> day of June, 1962, in Book 8 of Miscellaneous at Page 309, in and for Cass County, Nebraska (hereinafter referred to as "Easement"); and a Modification and Amendment of Easement Grant granted by August C. Lempka on the 6<sup>th</sup> day of June, 1995 and recorded on the 24<sup>th</sup> day of August, 1995 in Book 47 of Miscellaneous at Page 114 (hereinafter referred to as "the Modification"); and

WHEREAS, Owner is present owner of the Owned Premises, as that term is defined in the Modification; and further described as follows:

Lot 6 of Northridge II Subdivision, a part of the South Half of the Southwest Quarter of the Northwest Quarter (S/2 SW/4 NW/4) of Section 22, Township 12 North, Range 11 East; and

WHEREAS, the parties hereto desire to amend the Modification as set out below.

NOW THEREFORE, in consideration of the premises and of the mutual covenants and agreements hereinafter set forth, it is agreed by and between the parties that numbered paragraph 1 of the Modification shall be amended to read as follows:

"1. That Northern shall, and by these presents does, hereby limit its right-of-way under the Easement across the Owned Premises only to a strip of land 66 feet in width, which strip shall be described as lying 25 feet northeasterly of and 41 feet southwesterly of the present location of Northern's 16-inch pipeline (hereinafter referred to as "Pipeline Right-of-Way")."

This instrument and the covenants and agreements herein contained shall extend to and be binding upon the heirs, executors, administrators, successors, and assigns of the parties hereto.

IN WITNESS WHEREOF, the parties have executed this instrument the day and year first above written.

"NORTHERN"

"OWNER"

NORTHERN NATURAL GAS COMPANY

By Glen R. Hass  
David W. Sinclair Glen R. Hass  
Title Agent and Attorney-in-Fact

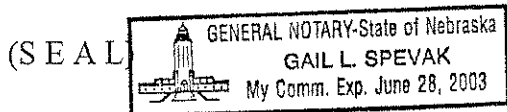
Jeffrey L. Roberts  
Jeffrey L. Roberts

Linda A. Roberts  
Linda A. Roberts

STATE OF TEXAS )  
NEBRASKA )SS  
COUNTY OF HARRIS )  
DOUGLAS )

On this 20th day of December, 2002, before me a Notary Public duly commissioned and qualified in and for said county and state, personally came <sup>Glen R. Hass</sup>~~David W. Sinclair~~ the Agent and Attorney-in-Fact of Northern Natural Gas Company, who is personally known to me to be the identical person whose name is affixed to the above instrument in the capacity stated, and he acknowledged the said instrument to be his free and voluntary act and deed and the free and voluntary act and deed of said corporation.

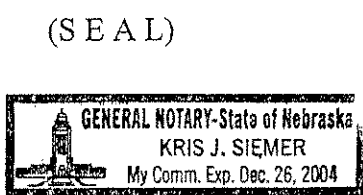
WITNESS my hand and official seal at <sup>Omaha</sup>~~Houston~~, in said county and state, the date aforesaid.



Gail L. Spevak  
Notary Public  
My Commission Expires 6-28-03

STATE OF Nebraska)  
COUNTY OF Douglas)SS

The foregoing instrument was acknowledged before me, a Notary Public duly commissioned and qualified in and for said county and state, on this 11 day of July, 2001, by Jeffrey L. Roberts and Linda A. Roberts.



Kris J. Siemer  
Notary Public  
My Commission Expires 12/26/04