

FARM LEASE AGREEMENT
BETWEEN
MONTGOMERY COUNTY, MARYLAND
AND
DAVID O. SCOTT

THIS LEASE AGREEMENT is made this 15th day of April, 1999 by and between
MONTGOMERY COUNTY, MARYLAND, 101 Monroe Street, Rockville, Maryland 20850
("Landlord") DAVID O. SCOTT, 20400 Darnestown Road, Dickerson, Maryland 20842
("Tenant").

1. PREMISES, TERM AND RENT: Landlord rents to Tenant a total of approximately three hundred twelve (312) acres as follows (hereafter the leased property is referred to as the "Property"):

a. Landlord rents to Tenant the following property:

Approximately two hundred fifty (250) acres of land located in Dickerson, Maryland. The property abuts Wasche Road and is formerly known as the Huang property, as more specifically shown on the plat attached hereto as Exhibit A (hereafter the leased property is referred to as "Property 1"). This does not include the twenty (20) acres known as the Chiswell Farm which is located on the northeastern boundary starting at Wasche Road and adjacent to the PEPCO southeastern property boundary.

Approximately ten (10) acres of land located in Dickerson, Maryland. The property is east of the unnamed stream located east of Martinsburg Road and is formerly known as the eastern portion of the Pusey property as shown on the plat attached hereto as Exhibit A (hereafter the leased property is referred to as "Property 2"). In lieu of rent, Tenant agrees to maintain property in accordance with the terms and conditions stated herein.

Approximately fifty-two (52) acres of land located in Dickerson, Maryland. The property is east of the unnamed stream located east of Martinsburg Road and is formerly known as the eastern portion of the Musser property as shown on the plat attached hereto as Exhibit A (hereafter the leased property is referred to as "Property 3"). Approximately forty-three (43) acres of this Property 3 is useable for farming practices. This western portion of Property 3 includes a metal, arched building which the Tenant may use only to store its his equipment, but which must be maintained in

good condition during the term of the lease. The tenant may not store equipment outside this building and may not store any hazardous oils, chemicals or other materials in the building or anywhere on the Property. The Tenant shall keep the security gate near the metal building locked at all times Tenant is not nearby to restrict access to the Property from Martinsburg Road. In lieu of rent, tenant agrees to maintain this Property in accordance with the terms and condition stated herein.

- b. Landlord rents to Tenant the Property for a fixed term commencing January 1, 1999 and expiring on December 31, 2003. Even though this lease is signed after January 1, 1999, its terms are effective as of January 1, 1999. This Lease is for a fixed term and may not be converted to a periodic tenancy or reinstated, continued, or otherwise extended beyond that term by any act or omission of the Landlord or the Tenant. Expiration of the tenancy shall occur automatically on the final date of the term, unless earlier terminated, without notice of any kind required from either party. Tenant holding over will be considered a trespass onto the Property. Landlord will, without compensation to the Tenant, be entitled to the benefit of any crops remaining on the Property after the final date of the term.
- c. In consideration of Landlord's agreement to rent the Property to Tenant and the terms and conditions of this Lease, Tenant agrees to pay by on December 20 of each year the annual rent specified in the following schedule, to the Site 2 program Manager at the Division of Solid Waste Services, Montgomery County Department of Public Works and Transportation, 101 Monroe Street, Rockville, Maryland 20850. The 1999 and 2000 annual rent payments are based on \$35.00 per acre of land useable for agricultural purposes. The 2001, 2002 and 2003 rent payments are based on \$45 per acre. The annual rent will increase each subsequent year in accordance with the following schedule:

<u>Year</u>	<u>Rental Payment</u>
1999	\$8,750.00
2000	\$8,750.00
2001	\$11,250.00
2002	\$11,250.00
2003	\$11,250.00

2. OPTION TO TERMINATE: This Lease may be terminated at any time by either party upon sixty (60) days written notice to the other party. The date sixty (60) days after the termination notice is the "Early Termination Date." Early termination will not preclude the Tenant from harvesting any crop planted prior to the time the written notice is sent. Tenant must not plant any crops after receipt of the termination notice. Any existing crop that cannot be harvested prior to

the Early Termination Date may be harvested prior to April 30, 2004 provided however, that (1) Landlord is not responsible for maintaining or caring for the crop(s), and (2) Landlord may remove any crop(s) if Landlord, in its sole discretion, deems the removal necessary. If Landlord deems it necessary to remove crop(s), Landlord will provide Tenant with two business days notice of its intention to remove any crops and allow Tenant a first opportunity to remove the crop(s) within the two days. If any new crops are planted after notice of the early termination, Landlord is entitled to the benefit of the crops without reimbursement or other compensation to the Tenant. In the event of early termination under this section, Landlord is entitled to possession of the premises on the Early Termination Date and the provisions of Section 1b regarding failure to deliver possession of the Property apply. Rent must be adjusted on a pro rata basis to the last day of actual possession by the Tenant.

3. NOXIOUS WEEDS: Tenant is responsible, under Maryland State Law (Agricultural Article, Annotated Code of Maryland, Title 9, Subtitle 4, Weed Control 9-401), to eradicate or control the species, thistle *Cirsium spp.* (Such as Canada, bull musk and plumeless), Johnson grass *Sorgham halepense* and shattercane *Sorgham bicolor* which are prohibited noxious weeds using practices prescribed by the Maryland Department of Agriculture (MDA), Office of Plant Industries and Pest Management, Weed Control Section. If there is Johnson grass or thistles on the Property, Tenant must file a plan of compliance with the Maryland Department of Agriculture and send a copy of the plan to the Landlord.

4. USE: The Property may be used only for farming purposes. Discharge of firearms or bows and arrows are prohibited and the Tenant is responsible for providing sufficient security for the Property. Tenant will post and maintain "No Hunting" and "No Trespassing" signs around the

Property boundary as deemed legal and enforceable by the Maryland Department of Natural Resources. Tenant warrants that he is using the Property for farming only and that his possession of the Property does not preclude the Landlord from using the Property in a manner that does not unreasonably interfere with Tenant's use of the Property. Landlord agrees that, prior to the Early Termination Date or expiration of this Lease, it will take reasonable precautions to ensure that Tenant's crops are not damaged as a result of Landlord's use of the Property and that it does not interfere with Tenant's ability to plant crops on the demised property. Tenant will comply with a Conservation Plan Service, approved by the Soil Conservation Service and provide a copy of this plan and any changes thereof to the Landlord agent. The Tenant will apply to the Soil Conservation Service to develop or revise an existing Conservation Plan at the start of each year and make every effort to complete this plan within sixty (60) calendar days. With the approval of the Soil Conservation Service, the Tenant will develop and implement a soil testing and supplement/additive program (hereafter called Soil Plan) which will insure that the soil nutrient and growing capability will remain the same or better during the Lease Agreement. The intent is that the Landlord's investment in the Property will not be diminished by the Tenant's farming practices. This Soil Plan will be performed on a yearly basis and a copy provided to the Landlord. The Tenant shall keep the gate along Wasche Road closed and locked at all times that Tenant is not nearby to restrict access to the Property.

5. SURRENDER: At the expiration or any prior termination of this Lease, the Property will be returned to the Landlord in substantially the same good condition it was in at the commencement of this Lease with a suitable ground cover approved in advance by the Soil Conservation Service. Crop residue from no-till crop production will be accepted as ground cover.

6. PREMISES "AS IS": Tenant accepts the Property in an "as is" condition and must furnish work stock, machinery, fertilizers, seed and other material necessary or incidental to farming endeavors and assume all operating costs for use of the Property. To the extent there are utilities, if any, associated with the Property, Tenant pays all costs associated with such utilities arising during the term of this Lease.

7. LIABILITY; NO PARTNERSHIP: Landlord assumes no responsibility for the condition of the property or for damages to the Property or to any of Tenant's personal property, including but not limited to equipment and machinery, incurred as a result of this Lease, or Tenant's use of the Property. Landlord is not responsible or liable for damages to crops other than as stated in this Lease. It is expressly understood that the Landlord is not to be construed or held to be a partner, associate or agent of Tenant. It is expressly understood that the relationship between the parties hereto is and must remain at all times during this lease that of Landlord and Tenant.

8. INDEMNIFICATION: Tenant hereby indemnifies and holds Landlord, its employees and agents harmless from and against all liabilities, actions, damages, claim, demands, judgments, losses, costs, expenses, liens, encumbrances, suits or actions and attorney fees and litigation expenses arising out of the Tenant's breach or performance of its obligations under the lease or due to Tenant's, his agents, employees, contractors or invitees use of or presence upon the Property, whether or not such use or presence is with the scope of this lease.

9. GRASSED WATERWAYS: Grassed waterways will be maintained by Tenant in accordance with best management practices as specified by the Soil Conservation Service.

10. ASSIGNMENT: Tenant may not assign this lease or sublet the Property, or any portion thereof, or make any alterations or additions to the Property, other than routine maintenance

and crop planting, without obtaining the prior written permission of the Landlord. Any alterations or additions authorized by the Landlord must be done at the sole expense of Tenant. It is understood and agreed that upon termination of this lease for any reason whatsoever, Tenant will not be reimbursed for alterations or additions and Tenant agrees at the request of Landlord and at its sole cost and expense to remove any alteration or addition made by or on Tenant's behalf prior to the termination of the lease.

11. DEFAULT: Landlord may terminate this lease if Tenant is in default of the lease. If Tenant fails to correct any violation (except monetary violations which must be corrected immediately) of the lease to the satisfaction of the Landlord, within fourteen (14) days after the sending of notice, the Landlord may, in addition to the right to collect damages, immediately terminate this lease. The Landlord will then be entitled to immediate possession of the Property and any crops remaining on the Property with no obligation to reimburse the Tenant for rent or the crops.

12. INSURANCE: Tenant must during the term of the lease maintain at his own cost and expense and keep in force and effect until termination of the lease the following insurance with an insurance company licensed to do business in the State of Maryland:

Commercial General Liability

A minimum limit of liability of one million dollars (\$1,000,000), combined single limit, for bodily injury and property damage coverage per occurrence including contractual liability, premises and operations, independent contractors, products and completed operations and personal injury coverages.

Automobile Liability Coverage

A minimum limit of liability of five hundred thousand dollars (\$500,000), combined single limit, for bodily injury and property damage coverage per occurrence including owned automobiles, hired automobiles and non-owned automobiles.

Worker's Compensation/Employer's Liability

Coverage must meet all requirements of Maryland law with the following minimum limits:

Bodily injury by accident - \$100,000 each accident

Bodily injury by disease - \$500,000 policy limits

Bodily injury by disease - \$100,000 each employee

The required insurance must be evidenced by a certificate of insurance or copy of the insurance policy delivered to Landlord naming Landlord as an additional insured on all liability policies. The insurance policy must provide for forty-five (45) days prior written notice to Landlord of cancellation or material change of any of the policies. The holder of any certificate of insurance delivered pursuant to this lease is:

Montgomery County Maryland/Attn: Leasing Management
Department of Public Works and Transportation
Division of Facilities and Services
110 N. Washington Street
Rockville, Maryland 20850

13. INSOLVENCY: In the event of any of the following occurrences, at the option of Landlord, this lease shall terminate along with Tenant's right of possession of the Property and Landlord may regain possession of the Property and seek any other remedy to which Landlord may be entitled:

- a. The filing of a petition by or against Tenant for adjudication of Tenant as a bankrupt under the Federal Bankruptcy Act as now or hereafter amended, or for reorganization of Tenant within the meaning of Chapter X of the Bankruptcy Act, or for an arrangement within the meaning of Chapter XI of the Bankruptcy Act, or the filing of any petition by or against Tenant under any future bankruptcy act for the same or similar relief; or
- b. The appointing of a receiver or trustee of a substantial portion of the property of Tenant, whether instituted by or against Tenant (and if Tenant is an entity, the dissolution, or liquidation of Tenant); or

- c. The taking possession of the property of Tenant by any governmental office or agency pursuant to statutory authority for the liquidation of Tenant's assets; or
- d. The making by Tenant of an assignment for the benefit of creditors.

14. NON-DISCRIMINATION: Tenant must comply with the non-discrimination in employment policies in County contracts as required by Section 11B-33 and Section 27-19 of the Montgomery County code 1994, as amended, as well as all other applicable state and federal laws and regulations regarding employment discrimination. Tenant assures Landlord that in accordance with applicable law, he will not discriminate in any manner on the basis of age, color, creed, national origin, race, religious belief, sexual preference or disability in any matter arising out of or related to the Lease.

15. NO BROKERAGE: Tenant represents and warrants that he has not retained anyone to solicit or secure this Lease from Landlord, upon an agreement or understanding for a commission, percentage, brokerage or contingent fee, excepting for bona fide employees or bona fide established commercial, selling or leasing agencies maintained by the Tenant for the purpose of securing business or an attorney rendering professional legal services consist with applicable canons of ethics.

16. PUBLIC EMPLOYMENT: Tenant understands and agrees that unless authorized under Section 11B-52 and Chapter 19A of the Montgomery County Code 1994, as amended, it is unlawful for any person transacting business with Montgomery County, Maryland to employ a public employee for employment contemporaneous with his or her public employment.

17. GENERAL PROVISIONS: It is further understood and agreed, that this instrument contains the entire agreement between the parties hereto and shall not be modified in any manner except by an instrument in writing executed by the parties hereto, and that the conditions and

agreements herein are binding on, and may be legally enforced by the parties hereto, their executors, administrators, successors and assigns. This Agreement shall be construed in accordance with Maryland law. The venue for any action arising out of this lease shall be Montgomery County, Maryland.

18. WAIVER OF JURY TRIAL: Each of the parties waives its right to a jury trial and freely elects to be tried by a court of competent jurisdiction without a jury in the event of any litigation arising regarding any of the terms or conditions contained in this Lease.

19. NOTICES: All notices required or desired to be given hereunder by either party to the other shall be given by certified or registered mail, return receipt requested. Notices to the respective parties shall be addressed as follows:

LANDLORD:

Montgomery County, Maryland
Department of Public Works and Transportation
Division of Facilities & Services
110 North Washington Street, Room 318
Rockville, Maryland 20850

TENANT:

David O. Scott
20400 Darnestown Road
Dickerson, Maryland 20842

and

Montgomery County, Maryland
Department of Public Works and Transportation
Division of Solid Waste Services
101 Monroe Street
Rockville, Maryland 20850

SIGNATURE PAGES TO FOLLOW

IN WITNESS WHEREOF, the parties hereto have caused this agreement to be properly executed.

WITNESS:

By: Rebecca S. Demaruk

LANDLORD:
MONTGOMERY COUNTY, MARYLAND

By: William M. Mooney
William Mooney, ASSISTANT
CHIEF ADMINISTRATIVE OFFICER

Date: 4/15/99

WITNESS:

By: David O. Scott

TENANT:
DAVID O. SCOTT

By: David O. Scott

Date: 4/12/99

RECOMMENDED:

Rey Junquera
REY JUNQUERA, LEASING MANAGER
DIVISION OF FACILITIES AND SERVICES

Date: 4/13/99

APPROVED AS TO FORM & LEGALITY
OFFICE OF THE COUNTY ATTORNEY

By: Christopher Williams

Date: 3-31-99

