

THIS AGREEMENT, dated December 21st, 1979, between JOHN H. HODGES, (AKA John H. Hodges Sr.), and JUANITA J. HODGES, husband and wife, hereinafter referred to as Hodges and WALTER WARMEE and MARY JEAN WARMEE, husband and wife, hereinafter referred to as Warmee;

W I T N E S S E T H :  
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Whereas, Hodges are the owners of the following described real property, to-wit:

Lot 7 of Loma Linda Heights, according to the official plat thereof on file in the office of the County Clerk of Klamath County, Oregon, said residence bearing the address of 711 Hillside Ave., Klamath Falls, Oregon and;

WHEREAS, Hodges are the owners of a hot water well drilled on their said property for home heating purposes, Hodges herein have previously granted to DAVID W. HAM and NANCY L. HAM, husband and wife by agreement dated April 12, 1978, a perpetual easement, right and privilege, which is appurtenant to their land, at Lot 8 of Loma Linda Heights, Klamath Falls, Oregon, an easement to tap into the existing heating coil, which was installed in the hot water well described on the Hodges' real property, and to install and maintain in said well, coils, pipes and valves, leading to the dwelling house and garage of said DAVID W. HAM and NANCY L. HAM, husband and wife, for heating of said structures erected on said property, and;

WHEREAS, Hodges is willing to sell to Warmee a perpetual right and easement to install and maintain a second coil in said hot water well for the purpose of heating and furnishing domestic hot water for use in Warmee's residence as they feel necessary, located on the following described real property, to-wit:

The Southeasterly  $\frac{1}{2}$  of Lot 3 and all of Lot 4, Block 43 of HILLSIDE ADDITION, to the City of Klamath, State of Oregon, according to the Official plat thereof on file in the office of the County Clerk of Klamath County, Oregon, excepting therefrom the Southwesterly 20 feet heretofore conveyed to Klamath County for street purposes, said Tract facing 75 feet on Hillside Avenue and extending a distance of 130 feet therefrom. Together with that portion of vacated Earle Street which innured thereto as disclosed in instrument recorded January 25, 1956, in volume 280, page 445, Deed Records of Klamath County, Oregon, and;

together with the right on ingress and egress for the purpose of maintaining, repairing and replacing said coil in said well and the pipes connecting said coil with Hodges' residence on the following terms and conditions, to-wit:

a. Hodges and Warmee and Ham's, their heirs, grantees and assigns, shall share equally in all future costs of maintenance, repair, replacement and taxes levied on the hot water well on Hodges property, improvement of the said hot water well and casing, and any cost replacing relating to said maintenance shall be paid equally by the parties involved within 60 days from the date said costs are incurred.

b. Hodges, their heirs, grantees and assigns, Ham's, their heirs, grantees and assigns, shall be responsible for costs incurred for maintenance, repair, replacement and improvement of Hodges' hot water supply pipes that service Hodges and Ham's residences. If said maintenance shall include the pulling of Warmee's loop, the Hodges and Ham's shall pay all costs.

c. Warmee, their heirs, grantees and assigns, shall be responsible for costs incurred for maintenance, repair, replacement and improvement of Warmee's hot water supply pipes that service Warmee's residence. If said maintenance shall include the pulling of Hodges & Ham's loop, the Warmee's shall pay all costs.

It is mutually covenanted and agreed by the Hodges and Warmee's hereto that the right herein granted to Warmee shall be appurtenant to and run with the real property, as described in this agreement, of Warmee, and will be recorded in the deed records of Klamath County, Oregon. In the event either party shall sell or assign or otherwise transfer their interest in this land, that this agreement continue in force and any said assignee or transferee shall be likewise bound by this agreement, and be held to fully perform it.

Hodges, their heirs, grantees and assigns, or Ham, their heirs, grantees and assigns will not have the right to allow any other party to tap into their common heating coil without the mutual consent of both Hodges, their heirs, grantees and assigns, and Ham, their heirs, grantees and assigns.

This agreement shall bind and inure to each of said parcels of land and be appurtenant thereto and run therewith, and be binding upon the heirs, administrators, personal representatives, and assigns of both parties.

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Mr. & Mrs. Walter Warmee  
% Economy Moving 4353 1/2th  
4th

It is agreed between Hodges' and the Warmee's, that the Warmee's do not have the right to add another party on the well, or loop.

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If Hodges & Ham add a third party to the Hodges/Ham loop, they will execute an agreement to require such 3rd party to pay their just shares of taxes, repairs, and maintenance.

Warmee has a copy of the Hodges-Ham agreement of April 12, 1978, covering Hodges' and Ham's rights and responsibilities regarding the hot water well at 711 Hillside, Klamath Falls, Klamath County, Oregon.

It is the intent of this agreement to restrict the number of single family residences connected to the hot water well located at 711 Hillside, Klamath Falls, Klamath County, Oregon, as follows: Maximum of one single family residence connected to the Warmee Loop, and a maximum of three single family residences connected to the Hodges-Ham Loop. This restriction is taking into consideration the size of each loop, the size of the well casing and an unknown factor, the temperature of the well in the future.

Warmee's shall, at their own expense, pay the cost of connecting their heating system to the loop Warmee's installed in said well, which they will also install at their own expense, including all pipes and fittings and the delay of installation of same.

Warmee's covenants and agrees to buy their share for the sum of one dollar and other valuable consideration, and that they themselves, their heirs and assigns will pay 1/3 of any future maintenance costs and expenses for the maintenance and repair of said well.

IN WITNESS WHEREOF, the parties have executed this agreement this 21st day of December, 1979.

John H. Hodges  
JOHN H. HODGES  
Juanita J. Hodges  
JUANITA J. HODGES  
STATE OF OREGON ) ss  
County of Klamath

Walter Warmee  
WALTER WARMEE  
Mary Jean Warmee  
MARY JEAN WARMEE

Personally appeared the above-named John H. Hodges and Juanita J. Hodges, husband and wife, and Walter Warmee and Mary Jean Warmee, husband and wife, and acknowledged the foregoing instrument to their own voluntary act and deed on this 21st day of December, 1979,

Before me:

My Commission Expires: 3-19-81  
NOTARY PUBLIC FOR OREGON

STATE OF OREGON, COUNTY OF KLAMATH; ss. :

I hereby certify that the within instrument was received and filed for record on the 26th day of December A.D., 19 79 at 11:06 o'clock A M., and duly recorded in Vol M79 of Deeds on Page 29487.

FEE \$10.50

WM. D. MILNE, County Clerk  
By Deputy Deputy