

55979

HOT WATER WELL AGREEMENT

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THIS AGREEMENT made this 12th day of NOVEMBER, 1985, between DAVID M. LATOURETTE and PAMELA S. LATOURETTE, husband and wife, and OWEN DUVALL and SARA DUVALL, husband and wife, regarding:

Lots 13 and 14, Block 10, THE TERRACES, in the City of Klamath Falls, County of Klamath, State of Oregon, owned by LATOURETTE; and

Lot 6 and a portion of Lot 5, Block 16, "The Terraces Addition," Klamath Falls, Oregon, owned by DUVALL;

WITNESSETH

WHEREAS, the parties desire to locate a hot water well on Lot 13 and 14 of Block 10, of THE TERRACES, in the City of Klamath Falls, County of Klamath, State of Oregon, for the joint use of the above listed parties to provide for hot water to the respective two parcels without priority among each other.

Now, therefore, it is mutually agreed as follows:

A) DAVID M. LATOURETTE and PAMELA S. LATOURETTE, grant to the parties hereto:

1. The right to install, use and maintain a hot water well and further to install the necessary well accessories and pump for said well.

2. An easement for ingress and egress thereto to construct and maintain said well.

3. An undivided interest in said well for the purpose of providing joint hot water to the servient and dominant estate.

B) The parties hereby grant each other necessary easements across their premises for the construction and maintenance of a distribution system to and from the well-head to the respective premises, together with the right of ingress and egress to construct and maintain the same, conditioned upon restoring the premises to its original condition.

C) The parties hereto will share equally in:

1. Costs of construction, maintaining and operating the hot water well including casing, drilling, and necessary accessories.

2. Constructing and maintaining the respective distribution system from the well-head to the dwellings on the respective premises.

D) Each party shall be responsible for converting, installing and maintaining the plumbing within their respective dwellings.

E) Withdrawal of the rights and obligations of the respective premises or the inclusion of additional premises shall be effective only upon written consent of all parties to this Agreement and upon such terms that are mutually agreeable.

F) Each party hereto will be responsible for the purchase and maintenance of their own pump on the said hot water well and will therefore each be responsible for their utility expense incurred in the operation of said pump.

G) The owner of the servient estate shall have the right to determine what equipment and/or accessories shall be used as replacement parts and when maintenance and/or service shall be performed on the well. Maintenance shall be performed on a regular basis or as needed according to the requirements of said equipment and/or services. The owner of the dominant estate shall have the right to proof said maintenance and/or services performed and if it is needed shall have the right to perform same. Both parties will share equally in the costs and/or replacement of parts necessary to the functioning of the well.

H) This agreement shall run with the land and be binding upon the heirs, successors and assigns of the parties hereto.

I) In case suit or action is instituted to enforce this agreement or any provision hereof, the losing party in said suit or action agrees to pay such sum as the trial court may adjudge

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reasonable as attorney's fees to be allowed the prevailing party in said suit or action and if an appeal is taken from any judgment or decree of such trial court, the losing party further promises to pay such sum as the appellate court shall adjudge reasonable as the prevailing party's attorney's fees on such appeal.

This instrument does not guarantee that any particular use may be made of the property described in this instrument. A buyer should check with the appropriate city or county planning department to verify approved uses.

IN WITNESS WHEREOF, the parties hereto have set their hands the day and year first above written.

David M. Latourette  
DAVID M. LATOURETTE

Pamela S. Latourette  
PAMELA S. LATOURETTE

STATE OF OREGON )  
 ) ss.  
County of Klamath )

On this 14th day of November, 1985, personally appeared the above named David M. Latourette and Pamela S. Latourette, and acknowledged the foregoing instrument to be their voluntary act and deed.

Sara Duvall  
NOTARY PUBLIC for Oregon  
My Commission expires: 2-1-86

Owen Duvall  
OWEN DUVALL

Sara Duvall  
SARA DUVALL

STATE OF OREGON )  
 ) ss.  
County of Klamath )

On this 12th day of November, 1985, personally appeared the above named OWEN DUVALL and SARA DUVALL, and acknowledged the foregoing instrument to be their voluntary act and deed.

Sara Duvall  
NOTARY PUBLIC for Oregon  
My Commission expires: 2-1-86

After recording return to:

David M. Latourette  
2340 Auburn Street  
Klamath Falls, OR 97601

STATE OF OREGON )  
 ) ss.  
County of Klamath )

for  
recorder's  
use

I certify that the within instrument was received for record on the 3rd day of December, 1985, at 11:46 o'clock A.m., and recorded in book/reel/volume No. M85 on page 19711 or as document/fee/file/instrument/microfilm No. 55979, Record of Deeds of said County.

Evelyn Biehn, County Clerk  
Name  
By Pam Smith Title

Fee: \$9.00