

61864

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M-29197
WATER WAY EASEMENTVol. M 86 Page 9172

AND

MAY 22 1966

WELL AGREEMENT

THIS AGREEMENT made by and between LEWIS L. HAGELSTEIN and NONA B. HAGELSTEIN, hereinafter called "Hagelstein", LARRY C. HEATON and PAMALA A. HEATON, hereinafter called "Heaton", KENNETH CLIFTON KNOWLES and JOAN KATHLEEN KNOWLES, hereinafter called "Knowles", and STATE OF OREGON, Acting by and through the Director of Veterans' Affairs, hereinafter called "DVA".

R E C I T A L S:

A. Hagelstein was the owner of a parcel of real property situated along Old Fort Road in Klamath County, Oregon upon which was situated a well known as the "Plum Valley Well". Said well is located 820 feet North and 220 feet West from the Southeast corner of Section 29, Township 37, South, Range 9 E.W.M.

B. Hagelstein obtained a Certificate of Water Right from the State of Oregon to irrigate 259.9 acres from the Plum Valley Well, which Certificate of Water Right was recorded on November 21, 1969 in Volume M-69 at page 9764. Hagelstein obtained an additional Certificate of Water Right from the State of Oregon to irrigate an additional 65.4 acres from the Plum Valley Well, which Certificate of Water Right was recorded on June 29, 1979 in Volume M-79 on page 15344.

C. Hagelstein sold a portion of the real property owned by them to Winifred L. Emmich by Contract of Sale dated January 2, 1976 and recorded on the 22nd day of January, 1976 in Volume M-76 at page 1071, wherein Hagelstein made the following recital:

Irrigation. Purchasers agree to pay their pro-rata share of cost of the irrigation system of which they

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Ret. A.T.C.

1966 MAY 29 PM 3 31

will have an undivided 1/2 interest, as long as they will pay Sellers their pro-rata share of the maintenance and operation costs of said 100 h.p. pump, pipe, ditches and reservoirs, and Sellers reserve 1/2 rights to same for Sellers and Sellers' successors.

D. Winifred L. Emmich sold a portion of the real property which she purchased from Hagelstein to Edward J. Pulaski by Contract dated April 30, 1976, recorded in Volume M-76 at page 7349, wherein Winifred L. Emmich made the following recital:

Irrigation. Purchaser agrees to pay his pro-rata share of cost of the irrigation system of which he will have an undivided 1/4 interest, as long as he will pay Lewis L. Hagelstein or his designees his pro-rata share of the maintenance and operation costs of said 100 h.p. pump, pipe, ditches and reservoirs, and Lewis L. Hagelstein and Nona B. Hagelstein reserve an undivided 1/2 interest to same for Hagelsteins and Hagelstein's successors, and a like reservations of an undivided 1/4 interest is reserved for Seller or her successors.

E. The parties have developed and maintained the well, pump, ditch and reservoir system which extends from the well in a Northwesterly direction to include all of the lands subject to the Certificate of Water Right.

F. Hagelstein, Heaton, Knowles and DVA are the owners of all of the real property upon which the well, pump, ditches, reservoirs and water rights are situated and they desire to enter into an agreement to allow for the use and maintenance of the well, pump, ditches and reservoirs.

AGREEMENT

The parties agree as follows:

1. That each party will have an undivided one-fourth interest in the well and pump above described.

2. Each party grants to the others an easement to appropriate water from the well in the ditches and reservoirs as they are now situated, which are located in Sections 18, 20 and 29 of Township 37 S, Range 9 EWM.

3. Each party grants to the others the right of ingress and egress to use and maintain the well, pump, ditches and reservoirs as they are now situated.

4. Each party shall have the duty to maintain the ditches and reservoirs upon their property. The costs of maintenance of the ditches and reservoirs shall be shared and each party shall pay one-fourth of said cost. The repair and maintenance of the ditches and reservoirs shall only be done upon agreement of at least one-half the parties to this Agreement, or their successors.

5. Each party shall pay one-fourth of the cost of the maintenance and operation of the well and pump.

6. In the event any party to this Agreement fails to pay his proportionate share of costs upon demand, any of the other parties may terminate the defaulting party's right to use the water during the period of default and may file a lien upon the real property of the defaulting party by filing a Notice of Lien under this Agreement with the County Clerk of Klamath County, Oregon. Any non-defaulting party may foreclose the lien as provided by ORS Chapter 88 and shall be entitled to attorney fees in such foreclosure.

7. The rights created by this Agreement shall run with the land and in the event any party sells the land subject to the above-mentioned well or water rights, the purchasers shall be bound by this Agreement.

IN WITNESS WHEREOF the parties have set their hands and seals this 28 day of October, 1985.

HAGELSTEIN

Lewis L. Hagelstein
Lewis L. Hagelstein
Nona B. Hagelstein
Nona B. Hagelstein

KNOWLES

Kenneth Clifton Knowles
Kenneth Clifton Knowles
Joan Kathleen Knowles
Joan Kathleen Knowles

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HEATON

Larry C. Heaton
Larry C. Heaton
Pamala A. Heaton
Pamala A. Heaton

STATE OF OREGON, Acting by
and through the Director
of Veterans' Affairs

By: Branch Manager

Leonard P. Hill appeared before me and signed
his hand - Notary for State of Oregon
Commission Expires 10/1/86
Charles J. Nelson

9175

STATE OF OREGON)
County of Klamath) ss. October 28, 1985,

Personally appeared the above-named LEWIS L. HAGELSTEIN and NONA B. HAGELSTEIN, and acknowledged the foregoing instrument to be their voluntary act and deed. Before me:

Sandra Handscher
Notary Public for Oregon
My Commission expires: 7-23-89

STATE OF OREGON)
County of Klamath) ss. November 4, 1985.

Personally appeared the above-named LARRY C. HEATON and PAMALA A. HEATON and acknowledged the foregoing instrument to be their voluntary act. Before me:

Sandra Handscher
Notary Public for Oregon
My Commission expires: 7-23-89

STATE OF CALIFORNIA
COUNTY OF Los Angeles

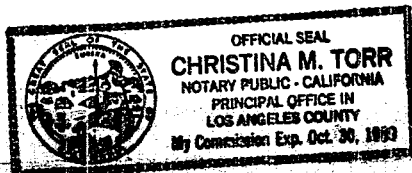
ST On April 5, 1986 before me, the undersigned, a Notary Public in and for said State, personally appeared ****Kenneth Clifton Knowles and Joan Kathleen Knowles****

Co *****

KN (or proved to me on the basis of satisfactory evidence), to be in the person S whose name S are subscribed to the within instrument and acknowledged that they executed the same.

WITNESS my hand and official seal.

Signature Christina M. Torr



STATE OF OREGON)
County of Klamath) ss. 5-27-86

Personally appeared the above-named Leonard P. Will, and, being duly sworn, did say that he (she) is authorized to sign the foregoing instrument on behalf of the Director of Veterans' Affairs, and that his (her) signature was his (her) voluntary act and deed.

Charles J. Matson
Notary Public for Oregon
My Commission expires: 10-17-86

4. WATER WAY EASEMENT
AND WELL AGREEMENT
85-10-15b (P5)

STATE OF OREGON: COUNTY OF KLAMATH: ss.

Filed for record at request of _____ the 28th day of May A.D., 19 86 at 3:31 o'clock P M., and duly recorded in Vol. M86 of Deeds on Page 9172

FEE \$17.00

By Evelyn Biehn, County Clerk
Pam Smith