

18493

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WATER WAY EASEMENT
AND
WELL AGREEMENT

THIS AGREEMENT made by and between JOHN C. DAHN and MIRIAM C. DAHN, husband and wife, hereinafter called "DAHN", and WILLIAM E. GADDIS and VIOLA A. GADDIS, husband and wife, hereinafter called "GADDIS".

R E C I T A L S

A. WHEREAS, Frank and Velma M. DeLong were previously the owners of certain parcels of real property, which said parcels of real property previously utilized water from a well, located on one specific parcel of property; and

B. WHEREAS, as a result of a sale by Frank and Velma M. DeLong to "GADDIS", the said parcel of property has passed into the ownership of "GADDIS";

C. WHEREAS, "DAHN" and "GADDIS" desire to enter into an agreement to allow for the use and maintenance of the well, pump, pipes, and casings, as well as to enter into an agreement to allow for the maintenance and use thereof; and

D. WHEREAS, as a result of the sale from Frank and Velma M. DeLong to "GADDIS", "GADDIS" has become the owner of certain real property located in the County of Klamath, State of Oregon, legally described as follows, to-wit:

Lot 227, RESUBDIVISION OF SOUTHERLY PORTION OF TRACTS "B" and "C" FRONTIER TRACTS, according to the official plat thereof on file in the Office of the County Clerk of Klamath County, Oregon.

hereinafter referred to as "GADDIS PROPERTY"; and

WHEREAS, DONALD N. CAUGHEY and BARBARA CAUGHEY, husband and wife, hereinafter called "CAUGHEY", have and continue to maintain ownership of certain real property located in the County of Klamath, State of Oregon, legally described as follows, to-wit:

Lots 223 and 224, RESUBDIVISION OF SOUTHERLY PORTION OF TRACTS "B" and "C" FRONTIER TRACTS, according to the official plat thereof on file in the Office of the County Clerk of Klamath County, Oregon.

TOGETHER WITH an undivided one-third interest in the well located on "DAHN PROPERTY",

hereinafter referred to as "CAUGHEY PROPERTY".

WHEREAS, "DAHN" has and continues to maintain ownership of certain real property located in the County of Klamath, State of Oregon, legally described as follows, to-wit:

Lots 225 and 226, RESUBDIVISION OF SOUTHERLY PORTION OF TRACTS "B" and "C" FRONTIER TRACTS, according to the official plat thereof on file in the Office of the County Clerk of Klamath County, Oregon.

hereinafter referred to as "DAHN" PROPERTY".

W I T N E S S E T H:

The parties agree as follows:

1. That "DAHN", and "GADDIS" shall each have an undivided one-third interest in the water, pump, piping, and casing of that

certain well located on "DAHN PROPERTY" and generally described as being located at a point which is described as being ten (10) feet west of the easterly property line and forty-two (42) feet south of the northerly property line of said real property, which said well shall be hereinafter referred to as "JOINT WELL", the remaining one-third being claimed as the property of "CAUGHEY"; and

2. Each party grants to the other an easement to appropriate water from "JOINT WELL" hereinabove described.

3. Each party grants to the other the right of ingress and egress to use and maintain the well, pump, pipings, and casings as they are now situated.

4. Each of the parties, and/or their successors in interest, shall pay one-third of all costs to maintain in the present condition the well, pump, casings, and pipes for "JOINT WELL", it being the responsibility of "CAUGHEY" to pay the remaining one-third of such costs. The parties further agree that before any major expense is incurred, the parties shall jointly agree to the nature and amount of such expenditure, before work is commenced, and before any such expense is incurred.

5. Each of parties hereto agree that they shall share the water produced by the said well, and that each of the parties shall be limited to one domestic water well hookup, unless this Agreement shall be modified by the mutual agreement of the parties.

6. In the event that any party of this Agreement fails to pay his or her proportionate share of costs upon demand, the other party 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. "DAHN" further grants an easement 10 feet in width over and across "DAHN PROPERTY" which said easement or easements shall run from "JOINT WELL" as hereinabove described in a generally westerly direction to a point on the westerly property line of "DAHN PROPERTY".

8. The easement hereinabove granted shall allow "GADDIS" and his successors in interest, the right to go upon said property for the purpose of repair, maintenance, and installation of replacement or new piping, if such replacement or repair should become necessary, in order to allow the continued enjoyment of the water from the well. In the event that such repair or replacement of new piping is necessary, "GADDIS" agrees to restore the surface of "DAHN PROPERTY" as near as possible to the same condition as it was in before such installation was commenced.

9. Excepting only inasmuch as shall presently be in existence, there shall not be constructed or maintained within one hundred feet (100') radius of the said well, so long as the same is operated to furnish water for domestic consumption, any of the following: cesspools, sewers, privies, septic tanks, drain fields, manure piles, garbage of any kind or description, barns, chicken houses, rabbit hutches, pig pens or other enclosures or structures for the keeping or maintenance of fowls or animals, or storage of liquid or dry chemicals, herbicides or insecticides.

10. The rights created by this Agreement shall run with the land and in the event any party sells the land subject to the within Water Way Easement and Well Agreement, the purchaser shall be bound by this agreement.

11. This agreement shall bind and inure to the benefit of, as

the circumstances may require, the parties hereto and their respective heirs, executors, administrators, successors, and assigns. In construing this instrument, and where the context so requires, the singular includes the plural and all grammatical changes shall be implied to make the provisions hereof apply equally to corporations and to individuals.

IN WITNESS WHEREOF the parties have set their hands and seals the day and year set forth hereinbelow.

Date: 8-3-90

Date: 8-3-90

X John C. Dahn
JOHN C. DAHN

X Miriam C. Dahn
MIRIAM C. DAHN

Date: 7-30-90

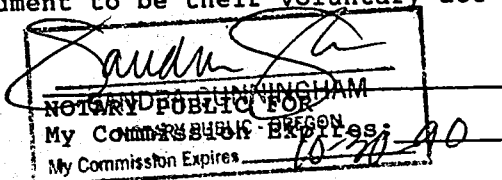
Date: 7-30-90

X William E. Gaddis
WILLIAM E. GADDIS

X Viola A. Gaddis
VIOLA A. GADDIS

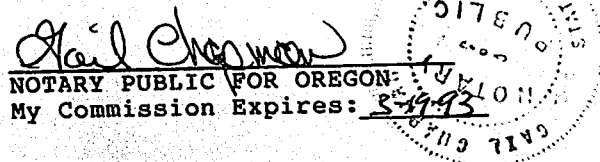
STATE OF OREGON, County of Klamath) ss.

PERSONALLY appeared before me on Aug 3, 1990, the above-named JOHN C. DAHN and MIRIAM C. DAHN, husband and wife, and acknowledged the foregoing instrument to be their voluntary act and deed.



STATE OF OREGON, County of Baker ~~Klamath~~) ss.

PERSONALLY appeared before me on 7-30-90, 1990, the above-named WILLIAM E. GADDIS and VIOLA A. GADDIS, husband and wife, and acknowledged the foregoing instrument to be their voluntary act and deed.



15602

GRANTORS NAME AND ADDRESS:

GRANTEES NAME AND ADDRESS:

AFTER RECORDING, RETURN TO:

Mr. & Mrs. Wm. F. Gaddis
1610 Baker St.
Baker, OR 97814

Until a Change is Requested,
Tax Statements Should be Sent
To:

As Above

STATE OF OREGON)

County of Klamath)

ss.

I certify that the within in-
strument was received for
record on the 6th day of
Aug., 1990, at
11:06 o'clock A.M., and
recorded in Book M90 on
Page 15599 or as File Reel
Number 18493, Record of
Deeds of said County.

WITNESS my hand and seal of
County affixed.

Evelyn Biehn, County Clerk
Recording Officer

By: Debra Muelendor
Deputy

Fee \$43.00