

STATEMENT OF RIGHTS AND RESERVATIONS
IN RE: COMMON GEOTHERMAL SOURCE

This statement is made this 26th day of May, 1994, by Clifton H. III & Patsy H. McMillan, husband and wife, as tenants in common, hereinafter referred to as "McMillan".

Whereas, McMillan owns two adjacent homes at 1428 and 1444 Pacific Terrace, situate on Lots 1, 2, & 3, Hillside Addition, City of Klamath Falls, Klamath County, Oregon, and

Whereas, both 1428 and 1444 are heated from a common geothermal source lying under Lot 2 and accessed by a bore situated approximately 65 feet west of the east line, and 30 feet south of the north line of Lot 2, and

Whereas, McMillan intends to sell 1428 but retain 1444, and

Whereas, the aforementioned source is situate under property which will be conveyed with 1428, and

Whereas, it is the intention that both 1428 and 1444 continue to benefit from the source,

Now, therefore, the rights and obligations of the present and future owners of the respective properties are defined herein:

1. SALE: McMillan sells with 1428 the right to obtain heat from the source located under Lot 2.
2. NO SALE: McMillan is not selling any interest in the water under Lot 2. McMillan is only selling the right to use heat from that source to be obtained and used in accordance with this agreement.
3. 1428's RIGHTS: To access heat by means of one closed heat exchange loop, consisting of one down hole pipe and one up hole pipe, each not to exceed 2" outside diameter. To put the heat extracted to beneficial use limited to space heating the residence (some 4,500 square feet or any similar sized future replacement) and heating domestic water to be used within the aforementioned structure.
4. GUARANTEE: McMillan does not guarantee the availability, amount, extent or quality of the heat to be obtained from the well. Buyer of 1428 accepts said well as is, on the representation that the source is approximately 175 degrees F. and has heated both houses satisfactorily since 1979.
5. PUC: McMillan has not obtained any Public Utility Commission approval for this agreement, and in the event the Public Utility Commission or any governmental agency requires approval, the parties shall cooperate in obtaining approval.
6. HOLD HARMLESS: The users agree to hold one another harmless from any claim or cause of action as a result of the use of the heat from the water source beneath Lot #2.
7. OBLIGATIONS OF 1428 and 1444:
 - a) to maintain their respective pipes in leak free condition and to repair or replace defective components as soon as possible after leakage is suspected, at their own expense.
 - b) To install and maintain galvanic non-conductive unions to prevent the flow of electrical charge.

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c) to share equally the cost of any maintenance performed on the well, (not to be construed as maintenance of individual piping.)

8. RESERVATIONS TO 1444:

a) The perpetual right and easement in and to the well on Lot 2 and of ingress and egress thereupon for the purpose of installing, maintaining, repairing and replacing the coil system in the well and the pipes to carry the water from the well to the structure at 1444, and to affect any necessary maintenance on the well, and all rights to the source water not expressly granted to 1428 herein.

9. ABANDONMENT: The rights hereunder may be abandoned by either party hereto, subject to the formal consent of any mortgagor or other interest holder, at which time all right, title and interest to the well and the water and heat hereof shall revert to the remaining party and the party withdrawing shall be relieved of any further responsibility hereunder.

10. BINDING: This agreement is binding upon and shall insure to the benefit of the owners of 1428 and 1444 and their executors, assigns and heirs.

11. ATTORNEY'S FEES: In the event any suit or action is brought to enforce the terms of this agreement, the prevailing party therein shall be entitled to recover from the losing party such sums as may be adjudged reasonable as attorney's fees, in trial court and on appeal.

12. ENTIRETY: This instrument contains the whole agreement. No further representations are made or to be implied. Any modifications or expansions must be agreed to by both parties and attached hereto as written addendum.

Clifton H. McMillan III
Clifton H. McMillan III

Patsy H. McMillan
Patsy H. McMillan

STATE OF OREGON,

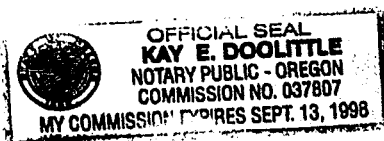
County of Klamath

} ss.

FORM No. 22—ACKNOWLEDGMENT.
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BE IT REMEMBERED, That on this 10th day of November, 19 95, before me, the undersigned, a Notary Public in and for the State of Oregon, personally appeared the within named Clifton H. McMillan, III and Patsy H. McMillan

known to me to be the identical individualS... described in and who executed the within instrument and acknowledged to me that they executed the same freely and voluntarily.



IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal the day and year last above written.

Kay E. Doolittle
Notary Public for Oregon
My commission expires 9-13-98

STATE OF OREGON: COUNTY OF KLAMATH: ss.

Filed for record at request of Mountain Title Company the 22 day of Nov. A.D., 19 95 at 11:42 o'clock A. M., and duly recorded in Vol. M95 of Mortgages on Page 32046.

FEE \$35.00

Bernetha G. Letsch, County Clerk
By Annette Mueller