

36164

Well Right Declaration

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THIS DECLARATION is made by MARJORIE F. BRISSENDEN, hereinafter called "Marj".

WHEREAS, Marj is the fee simple owner of the real estate in Klamath County, Oregon described as Parcel #2 of Klamath County Land Partition 33-95, herein referred to as "Parcel 2" and also of the real estate in Klamath County, Oregon described as Parcel #3 of Klamath County Land Partition 33-95, herein referred to as "Parcel 3";

WHEREAS, Marj wishes to establish rights to a well which will benefit both parcels and which recognizes the existing domestic well located on Parcel 3, said well located N15°07'13"W, 44.0 feet; thence N74°52'47"E, 5.5 feet from the southwest corner of Parcel #3, Klamath County Land Partition #33-95; and

The following is declared and agreed to be restrictions and benefits on the title to both parcels and to run with the land:

Marj hereby creates an easement across Parcel 3 for the existing well, and for installation and maintenance of pump, utility delivery system, and water delivery system to deliver water to Parcel 2.

The owner of each parcel shall be responsible for maintenance of their respective pumps, utilities and water delivery lines to each respective parcel. The owners of each parcel shall share equally the costs of all common maintenance and costs, unless such common maintenance and costs are caused by the activities of one of such owners or their agents, contractors or employees in which case such common maintenance and costs shall be borne by the owner of such parcel causing such costs. For purposes herein "common maintenance and costs" shall be maintenance of shared facilities such as the well and casing. It is recited herein that the owners of such parcels shall locate in such well their own pump, utility delivery and water delivery lines.

It is agreed that the owners of each parcel may use the system for one residence only and shall be limited to domestic purposes and shall not use the well and water delivered therefrom for irrigation (other than incidental lawn and garden use) or any use not consistent with domestic use, without first obtaining permission from the owners of the other parcel.

In the event that a dispute arises as regards the subject matter of this declaration, the the owners shall submit to arbitration where each party appoints one arbitrator and those two arbitrators choose a third. The three arbitrators shall decide the resolution of said dispute, and the parties shall be bound thereby. The costs of arbitration shall be borne equally by the parties.

This declaration burdens parcel 3 and benefits parcel 2.

DECLARATION

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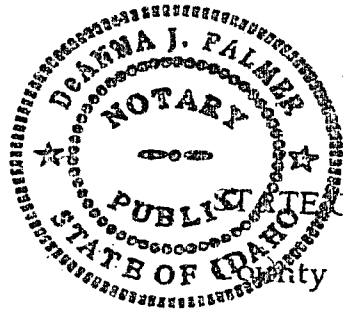
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If suit or action is instituted to enforce any of the provisions of this declaration, the party prevailing therein shall be entitled to recover from the other such sum as the Court may adjudge reasonable as attorney's fees therein, including any appeal thereof.

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 owners of Parcel 2 and of Parcel 3 and upon such terms that are mutually agreeable.

IN WITNESS WHEREOF, the owner hereunto set her hand this date as below stated.



Marjorie F. Brissenden:

Marjorie F. Brissenden

County of Ada

ss.

The foregoing instrument was acknowledged before me this 15th day of May, 1996, by MARJORIE F. BRISSENDEN.

Deanna J. Palmer

Notary Public for Idaho

My Commission expires: 8-27-98

STATE OF OREGON : COUNTY OF KLAMATH: ss.

Filed for record at request of Richard Fairclo the 16th day of April A.D., 19 97 at 3:51 o'clock P. M., and duly recorded in Vol. M97 of Deeds on Page 11504.

Return: Richard Fairclo
280 Main St.
KFO 97601

Bernetha G. Letsch, County Clerk

by Kathleen R. R. R.

DECLARATION

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