

WELL EASEMENT AND MAINTENANCE AGREEMENT

DATE: March 17, 2003

PURPOSE: The parties listed below, desire to enter into this Agreement to provide for the use and maintenance of a domestic well is located on Robert & Sharon Houser's property and to share in the water obtained from that well for domestic purposes only.

PARTIES:

Robert and Sharon Houser, whose real property is described as Lot 1, Block 4 Roberts River Acres.

Richard and Judy Orth, whose real property is described as Lot 1, Block 1 Roberts River Acres.

THE PARTIES THEREFORE AGREE AS FOLLOWS:

1. **WELL AND RELATED EQUIPMENT:** As used in this Agreement, unless the context clearly requires or indicates otherwise, the term "well" refers to the well, cistern and well house, constructed and drilled on Robert and Sharon Houser's property, including, but not limited to a submersible pump, pump enclosure, pressure tank, valves, pipes, electrical panel, wiring and water meters.
2. **OWNERSHIP OF WELL AND WATER LINES:** Robert and Sharon Houser shall own the well described herein subject to an Easement in favor of the other party to this Agreement for the repair and maintenance of the well and pump subject to the terms of this agreement. Each party shall entitled to 50 percent of the output of the well. Each party shall separately own the water lines leading from the well to said party's buildings when such lines are installed, if not already.
3. **REPAIR AND MAINTENANCE:**
 - a. The parties shall share equally the cost of operating, maintaining, repairing and replacing the well in whole or in part as needed.
 - b. The well's electric supply is connected to Robert and Sharon Houser's shall be responsible for the electrical costs for running the well and pumps.

State of Oregon, County of Klamath
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- c. Each party shall be solely responsible for and bear all cost of (1) maintenance and repair of their water transmission line taking the water from the well to such party's residences or special use areas; and (2) repair to the other parties lines (water, telephone, electrical, etc.) in the event one party damages the other's utility lines during installation or maintenance of their own utility lines.
4. **WATER USAGE:** The parties shall have joint use of the water obtained from the well for all purposes reasonably necessary for use on the parties' respective properties. In the event of a shortage, each party shall be entitled to the fifty percent (50%) ownership of the available water. Each party shall have a non-exclusive license to enter onto the other's property to inspect the well and electrical meter.
5. **EASEMENTS:** Robert and Sharon Houser hereby grant to Richard and Judy Orth a non-exclusive easement appurtenant to their property across Robert and Sharon Houser's property, for the purposes of: (1) Underground piping of well water to their property; (2) Underground placement of power lines, if applicable, for their property; and (3) Access to the well and to the buried water and power lines for service, maintenance, repair, and replacement.
6. **BREACH OF OBLIGATIONS:** If either party fails or refuses, after thirty days' written notice, to pay any sum due under this Agreement, the non-breaching party shall be entitled to suspend easements and licenses granted to the breaching party herein until such payment or performance is made, or to require such payment or performance by suit for specific performance or, where appropriate, through injunctive relief. Such remedies shall be in addition to any other remedies afforded under Oregon law.
7. **WELL MANAGER:** The parties agree to jointly assume all custodial duties for the care and proper maintenance of the well and appurtenant easements as referenced above. The parties agree to share equally in all aspects in the performance of these custodial duties and to pay their prorata share of any costs incurred within 30 days.
8. **ATTORNEY FEES:** In the event of any litigation arising under this Agreement, the prevailing party shall recover from the losing party the prevailing party's reasonable attorney fees at trial or on appeal as adjudged by the trial or appellate court in addition to costs awarded the prevailing party by statute.
9. **EFFECT OF THE AGREEMENT:** The easements granted hereunder shall run with the land as to all property burdened and benefited by such easements. The rights, covenants and obligations contained in this

agreement shall bind, burden and benefit each party's successors and assigns, lessees, mortgages (or beneficiaries under a deed of trust.) Upon transfer of a party's interest in its property, by deed or contract, such party shall be relieved of all personal liability for future performance of this Agreement.

10. **NOTICES:** Any notice required or permitted under this agreement shall be in writing and signed and deemed given when actually delivered or when deposited in the United States Mail as certified mail addressed to the party at the address indicated below such party's signature, or to such other address as may be specified from time to time by either of the parties in compliance with this provision.
11. **WARRANTIES, REPRESENTATIONS, AND COVENANTS:** Each party warrants and represents to the other that such party has the right to enter into and perform this Agreement and covenants that such party shall not default in any obligations relating to any liens or encumbrances now or hereafter placed against such party's property so as to impair the other's rights under this Agreement.
12. **CONSIDERATIONS:** The true consideration for the rights and interests granted under this Agreement is the mutual promises contained herein.

IN WITNESS WHEREOF, the parties have executed this Well Agreement the date and year first above written.

Richard L Orth

Judy L Orth

Robert Houser

Robert Houser

Sharon Houser

Sharon Houser

STATE OF OREGON, County of Deschutes

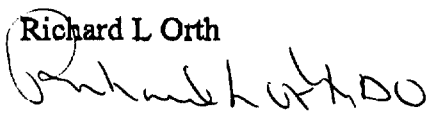
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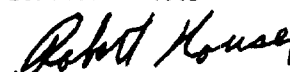
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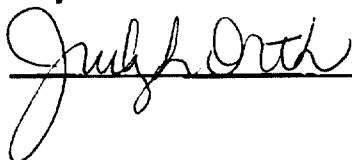
Richard L Orth



Robert Houser



Judy L Orth



Sharon Houser



STATE OF OREGON, County of Deschutes

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This foregoing instrument was acknowledged before me this 26 day of
March, 2003, by Robert Houser & Sharon Houser.

Evelyn M Henderson
Notary Public for Oregon
My Commission Expires: 7-25-05




STATE OF ~~OREGON~~, County of _____

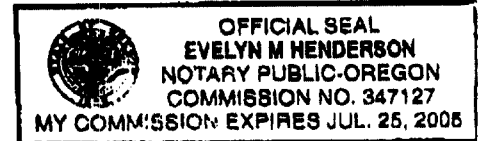
This foregoing instrument was acknowledged before me this _____ day of
_____, 2003, by Richard Lee Orth & Judy Orth

Notary Public for Oregon
My Commission Expires: _____

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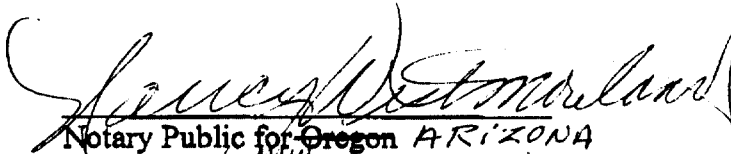
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Notary Public for Oregon
My Commission Expires: 7-25-05



STATE OF ~~OREGON~~ ^{ARIZONA} _{NEW} County of Maricopa

This foregoing instrument was acknowledged before me this 27th day of March, 2003, by Richard Lee Orth & Judy Orth


Notary Public for ~~Oregon~~ ^{ARIZONA} _{NEW}
My Commission Expires: 2/13/07

