

2020-012778

Klamath County, Oregon

10/06/2020 10:34:01 AM

Fee: \$102.00

AFTER RECORDING, RETURN TO:

Brandsness, Brandsness & Rudd, P.C.

411 Pine Street

Klamath Falls, OR 97601

GRANTORS:

Frank ~~X~~ Bizarro and Mary C. Bizarro

7404 Big Buck Lane

Klamath Falls, OR 97601

GRANTEE:

Robert Kangris

P.O. Box 737

Keno, OR 97627

CONSIDERATION: \$0.00

**GRANT OF EASEMENT
AND
WELL MAINTENANCE AGREEMENT**

A. Grantors are the owners of real property in Klamath County described as Lot 1 in Block 37 of SIXTH ADDITION TO KLAMATH RIVER ACRES, according to the official plat thereof on file in the office of the County Clerk of Klamath County, Oregon, (the "Bizarro Property").

B. Grantee is the owner of property in Klamath County described as Lot 2 in Block 37 of SIXTH ADDITION TO KLAMATH RIVER ACRES, according to the official plat thereof on file in the office of the County Clerk of Klamath County, Oregon, (the "Kangris Property").

C. There is a water well and distribution lines located on the above described Bizarro Property. It is the intent of the parties hereto that said properties shall have equal rights to withdraw water from said well for use on the Bizarro Property and the Kangris Property; and, that the owners of each said lot shall pay one-half of the cost of maintaining the said well, distribution lines, well casing, pump, pump house and electrical system, and all other costs associated with the maintenance operation and repair of the well system, (the "Well"), excluding the personal lines and systems to the individual properties.

AGREEMENT

THEREFORE, for valuable consideration, receipt of which is hereby acknowledged and subject to the conditions set forth in this instrument:

1) Grantors do hereby grant, sell and convey to Grantee an undivided one-half ownership of the Well and convey to Grantee the right to take water from the Well and to convey such water from the Well to Grantee's above-described property by pipe; and

1. GRANT OF EASEMENT AND WELL MAINTENANCE AGREEMENT

2) Grantors hereby further grant to Grantee an easement across Bizarro Property to the Well located on its property for the installation, maintenance and repair of Grantee's water delivery system. Said easement shall be perpetual and run with the ownership of the lots described above. The Well and easement are further depicted on the map attached hereto and incorporated herein as Exhibit "A."

It is mutually covenanted and agreed by the parties on behalf of themselves and their respective heirs, successors, grantees and assigns as follows:

1. Grantee, its heirs, grantees and assigns, shall be solely responsible for the maintenance, repair and replacement of the pump, pipes, and other equipment, which solely serves its said property, and shall repair or pay for, at its sole expense, any damage done to Grantors' said premises in such maintenance, repair and replacement, and shall pay one half of all future costs of maintenance, repair, replacement and improvement of the Well and well casing which serves both Bizarro Property and Kangris Property.
2. Grantors, their successors, grantees and assigns, shall be solely responsible for the maintenance, repair and replacement of the pump, pipes and equipment which solely serve its said property and shall repair or pay for, at its sole expense, any damage done to Grantee's said premises in such maintenance, repair and replacement, and shall pay one half of all future costs of maintenance, repair, replacement and improvement of the Well and well casing which serves both Bizarro Property and Kangris Property.
3. The parties' interest in the water from said Well is limited to supplying water for domestic and irrigation use on the above-described lots.
4. In the event that any repair or replacement of the Well or well casing or one or more of the pipes in the Well, the parties expressly agree to cooperate fully in allowing said repair or replacement to be made as soon as the necessary equipment, equipment operator and supplies can be obtained to make such repair or replacement. The parties further agree to pay for or to arrange for the payment of their respective share of the costs of said repair or replacement as soon as is reasonably possible.
5. **Notice.** If, in the opinion of any party, repair and/or replacement of the pump, wellhead, downhole piping, manifold, and/or shared transmission line is necessary, written notice shall be provided to the other party, in writing, describing the maintenance, repair or replacement to be undertaken and the cost thereof, if known. If the party receiving the notice does not object, in writing, within twenty (20) days of receipt of the notice, then the cost of said repair and/or replacement shall be divided equally between the parties.
6. **Fulfillment of Party's Obligations.** In the event, either party fails to fulfill their obligations under this Agreement, the other party may perform on behalf of the defaulting party and advance funds for the account of the defaulting party. Any funds so advanced will be a debt of the defaulting party due to the advancing party, bearing interest at the rate of 9% per annum, and shall become immediately due and payable, with interest.

2. GRANT OF EASEMENT AND WELL MAINTENANCE AGREEMENT

7. **Rights to Run with the Land.** The rights herein shall run with the land and will automatically transfer with the sale of the parties' real property. Neither this Agreement or any rights, interests, or obligations under this Agreement may be assigned by any party without the written consent of the other party. No further extension of rights to third parties to access or use the Well shall be made without the express written consent of the other party.

8. **Consideration.** Grantee shall pay Grantors \$20.00 per month for a period of five (5) years as consideration for the grant of this Agreement and for the future electrical costs to be incurred by Grantors. The parties agree that such payment is sufficient to pay for the electricity costs incurred by Grantors on the shared pump to the Well. The parties shall renegotiate the monthly payment five (5) years from the date of recordation of this Agreement to ensure that such compensation is sufficient.

9. **Miscellaneous Provisions**

9.1 **Binding Effect.** This Agreement will be binding on and inure to the benefit of the parties and their respective heirs, personal representatives, successors, and permitted assigns.

9.2 **Assignment.** Neither this Agreement nor any of the rights, interests, or obligations under this Agreement may be assigned by any party without the prior written consent of the other parties, which consent will not be unreasonably withheld.

9.3 **No Third-Party Beneficiaries.** Nothing in this Agreement, express or implied, is intended or will be construed to confer on any person, other than the parties to this Agreement, any right, remedy, or claim under or with respect to this Agreement.

9.4 **Electronic and Facsimile Signatures.** Electronic and facsimile transmission of any signed original document, and retransmission of any signed electronic or facsimile transmission, will be the same as delivery of an original. At the request of any party, the parties will confirm electronic or facsimile transmitted signatures by signing an original document.

9.5 **Construction.** The captions used in this Agreement are provided for convenience only and will not affect the meaning or interpretation of any provision of this Agreement. All references in this Agreement to "Section" or "Sections" without additional identification refer to the Section or Sections of this Agreement. All words used in this Agreement will be construed to be of such gender or number as the circumstances require. Whenever the words include or including are used in this Agreement, they will be deemed to be followed by the words without limitation.

9.6 **Counterparts.** This Agreement may be executed in counterparts, each of which will be considered an original and all of which together will constitute one and the same agreement.

9.7 **Further Assurances.** Each party agrees (a) to execute and deliver such other documents and (b) to do and perform such other acts and things, as any other party may reasonably request, to carry out the intent and accomplish the purposes of this Agreement.

9.8 **Waiver.** Any provision or condition of this Agreement may be waived at any time, in writing, by the party entitled to the benefit of such provision or condition. Waiver of any breach of any provision will not be a waiver of any succeeding breach of the provision or a waiver of the provision itself or any other provision.

9.9 **Governing Law.** This Agreement will be governed by and construed in accordance with the laws of the state of Oregon, without regard to conflict-of-laws principles.

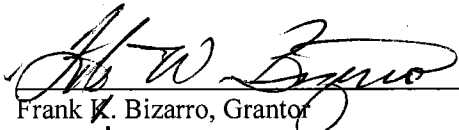
3. GRANT OF EASEMENT AND WELL MAINTENANCE AGREEMENT

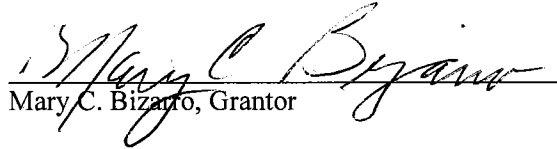
9.10 Venue. Any action or proceeding seeking to enforce any provision of, or based on any right arising out of, this Agreement will be brought against any of the parties in Klamath County Circuit Court of the State of Oregon.

9.11 Severability. If any provision of this Agreement is invalid or unenforceable in any respect for any reason, the validity and enforceability of such provision in any other respect and of the remaining provisions of this Agreement will not be in any way impaired.

9.12 Entire Agreement. This Agreement (including the documents and instruments referred to in this Agreement) constitutes the entire agreement and understanding of the parties with respect to the subject matter of this Agreement and supersedes all prior understandings and agreements, whether written or oral, among the parties with respect to such subject matter.

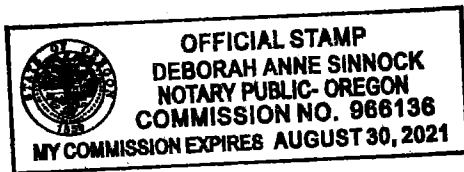
IN WITNESS WHEREOF, the parties have executed this Agreement as of the day and year first herein written.


Frank K. Bizarro, Grantor

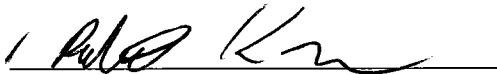

Mary C. Bizarro, Grantor

STATE OF OREGON, County of Klamath) ss.

On this 5th day of Oct, 2020, Frank K. Bizarro and Mary C. Bizarro, Grantors, personally appeared in the above-named matter and acknowledged the foregoing instrument to be their voluntary act and deed.

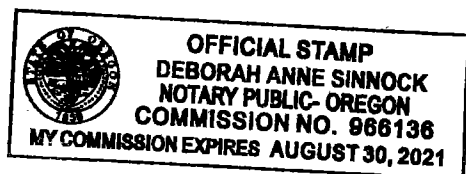



Notary Public for Oregon
My commission expires: 8-30-21


Robert Kangris, Grantee

STATE OF OREGON, County of Klamath) ss.

On this 5th day of Oct, 2020, Robert Kangris, Grantee, personally appeared in the above-named matter and acknowledged the foregoing instrument to be his voluntary act and deed.




Notary Public for Oregon
My commission expires: 8-30-21

4. GRANT OF EASEMENT AND WELL MAINTENANCE AGREEMENT