

2022-009763

Klamath County, Oregon



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08/11/2022 10:53:59 AM

Fee: \$107.00

**FIRST PARTY NAME AND ADDRESS:**

Michael J. Agliolo  
2196 Oak Park Avenue  
Chico, California 95928

**SECOND PARTY NAME AND ADDRESS:**

Neil Robert Agliolo  
5979 Flamingo Drive  
Bonanza, Oregon 97623

**AFTER RECORDING RETURN TO:**

Michael J. Agliolo  
2196 Oak Park Avenue  
Chico, California 95928

**WELL USE AND WATERWAY EASEMENT AGREEMENT**

THIS AGREEMENT made and entered into the 1<sup>st</sup> day of August, 2022, by and between **MICHAEL J. AGLIOLO**, hereinafter called the First Party and **NEIL ROBERT AGLIOLO**, hereinafter called the Second Party;

**WITNESSETH:**

WHEREAS, First Party is owner of certain real property located in the County of Klamath, State of Oregon, legally described as Lot 38, Block 41 KLAMATH FALLS FOREST ESTATES HWY 66 UNIT PLAT #2 according to the official plat thereof on file with the Clerk of Klamath County, Oregon; and First Party has the right to enter into the agreement hereinafter described relative to the said real estate; and

WHEREAS, Second Party is owner of certain real property located in the County of Klamath, State of Oregon, legally described as Lot 11, Block 41 KLAMATH FALLS FOREST ESTATES HWY 66 UNIT PLAT #2 according to the official plat thereof on file with the Clerk of Klamath County, Oregon; and has the right to enter into the agreement hereinafter described relative to the said real estate; and

WHEREAS, there is located on the real property owned by First Party a certain well, which is generally described by the coordinates as follows:

42°16'41.9"N 121°25'43.2"W

which said well is to serve the property of First Party; and

WHEREAS, the said well is not at this time the subject of a water right for irrigation uses.

NOW THEREFORE, in view of the premises, and based upon good

Neal Buchanan  
Returned at Counter

and valuable consideration by each of the parties to the other paid, receipt of all of which is hereby acknowledged, they agree as follows:

1. Each of the parties hereto shall be entitled to withdraw water from the said well using their individually installed pump, pipe, tank and related equipment; and

2. Upon the written request of either of the parties to this agreement, First Party and their successors in interest, shall permit sampling and testing of the well by any responsible party.

3. In the event any such testing of the well reveals a significant water quality deficiency, but only upon the consent of a majority of the parties to this Agreement first had and obtained, corrective measures shall be made to the well, to bring said well to the minimum requirements of any applicable local, state, or federal authority, the cost of which shall be borne by all parties to this Agreement.

4. In the event that First Party, or their successors in interest, cease to use the shared well and therefore have no further need for a shared well system, Second Party, and their successors in interest, are hereby assured of the continuation of a water supply from the shared well, and the continuation of the Well Agreement as it applies to them. In this event, Second Party shall bear the cost of maintenance of, and/or any improvements made to, the well as set forth in this agreement.

5. No party to this Agreement shall allow the well, or the water supply therefrom, to be used for non-domestic purposes.

6. The parties hereby are prohibited from locating or relocating any element of an individual sewage disposal system within 100 feet of the shared well.

7. Any and all site improvements that inhibit the shared well system operation, maintenance, replacement, improvement, inspection, or testing, shall be removed, the cost of which shall be borne by the owner of the property upon which such improvement(s) is/are situated. Excluded from this provision are the removal and / or replacement of common boundary fencing or walls, the costs for which shall be shared equally among the parties.

8. In the event that an emergency should arise regarding the shared well, either party to this Agreement shall be entitled to take whatever steps are necessary to correct such emergency. An "emergency situation" is defined as the failure of any shared portion of the system to deliver water on demand.

9. This Well Agreement may be amended to assure the equitable readjustment of shared costs in the event of significant changes in well pump energy rates or the usage by any party hereto.

10. Before any action is taken for system maintenance, replacement or improvement, the consent of a majority of the parties hereto to share in the costs of any such action must first be had and obtained.

11. Any necessary replacement or improvement of a system element shall, at the very least, restore the shared well system to its original performance abilities.

12. Cost sharing at the rate of one-half (1/2) per party is hereby required for the following:

- (a) The energy supply for the shared well pump;
- (b) System maintenance, including repairs, testing, inspection and disinfection;
- (c) System component replacement due to wear, obsolescence, incrustation or corrosion;
- (d) System improvement to increase the service life of material or components, to restore well yield, or to provide necessary system protection.

13. Except in the case of costs incurred by an individual property owner in mitigating an emergency as set forth in paragraph 8 above, the costs of which shall be shared equally by the parties hereto, no party shall be responsible for any shared well costs incurred by another party hereto without approval as set forth in paragraph 10 above.

14. The parties hereto shall each be responsible for:

- (a). Prompt repair of any detected leak in his or her service line or plumbing system;
- (b). Repair costs to correct the shared well system caused by a resident or guest at his or her property;
- (c). The necessary repair or replacement of the service line connecting the shared well system to his or her dwelling.

15. In the event of damage to the shared well system caused by persons other than a resident or guest at a property that shares the well, the costs of repair of any such damage shall be borne equally by the parties hereto.

16. In the event of abandonment of all or a part of the shared well system, and in order to avoid contamination of ground water and to mitigate any other hazards associated any such abandonment, the parties hereto shall equally be responsible for any and all repair costs necessary to abate any such contamination

or hazard.

17. The parties shall each pay one-half (1/2) of the costs incurred in: maintaining the shared well system, and/or replacement or improvements thereto, and shall promptly pay any and all obligations and liabilities incurred in such maintenance, replacement and/or improvement, such that the real property of the parties hereto shall be kept free from any and all liens, contractors, materialmen, or otherwise, occasioned by such maintenance, replacement and/or improvement(s).

18. First Party hereto grants an easement ten feet in width on either side of the piping necessary to supply Second Party's residence over and across that certain real property described hereinabove, to go on said property for the purposes of installation, repair and maintenance of piping if such replacement should become necessary to allow the continued enjoyment of the water from the well. The location of said piping is generally described as proceeding from the location of the well described hereinabove to a point on the property line between the properties owned by First Party and Second Party 72 feet generally to the south of the corner common to Lots 10, 11, 38, and 39 Block 41 KLAMATH FALLS FOREST ESTATES HWY 66 UNIT PLAT #2. In the event that such repair or replacement of piping is necessary, Second Party in completing such installation, repair or maintenance agrees to restore the surface of the servient property as nearly as possible to the same condition as it was in before such installation, repair or maintenance commenced.

19. Maintenance of the easement herein granted and costs of repair of the easement, if damaged by natural disasters or other events for which all holders of an interest in the easement are blameless, shall be the responsibility of each of the parties equally. Should any party hereto cause damage to the easement because of negligence or abnormal use, said party shall be responsible for the cost of repair of said damage at that party's sole expense.

20. This Agreement is binding on and inures to the benefit of the parties and their respective heirs, personal representatives, successors and assigns. This agreement and the easement herein granted shall be perpetual. This agreement shall be appurtenant to the real property hereinabove described and shall run with the land.

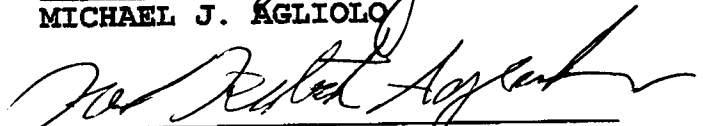
21. This Agreement may be amended only by an instrument in writing executed by all the parties, which writing must refer to this Agreement.

22. This Agreement will be governed by and construed in accordance with the laws of the State of Oregon.

23. If any arbitration, suit or action is instituted to interpret or enforce the provisions of this Agreement, to rescind this Agreement, or otherwise with respect to the subject matter of this Agreement, the party prevailing on an issue will be entitled to recover with respect to such issue, in addition to costs, reasonable attorney fees incurred in the preparation, prosecution, or defense of such arbitration, suit or action as determined by the arbitrator or trial court, and, if any appeal is taken from such decision, reasonable attorney fees as determined on appeal.

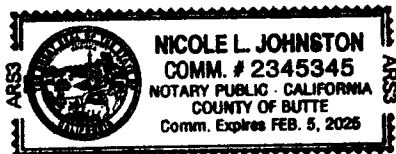
24. This Agreement constitutes the entire agreement and understanding of the parties with respect to the subject matter thereof and supersedes all prior understandings and agreements, whether written or oral, between the parties with respect to such subject matter.

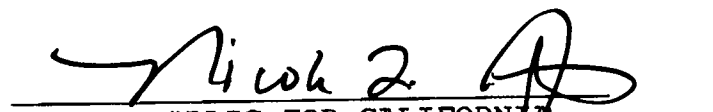
  
MICHAEL J. AGLIOLO

  
NEIL ROBERT AGLIOLO

STATE OF CALIFORNIA, County of Butte ) ss.

This instrument was acknowledged before me on 1<sup>st</sup> day of August, 2022, by MICHAEL J. AGLIOLO.



  
NOTARY PUBLIC FOR CALIFORNIA  
My Commission Expires: 2/5/2025

STATE OF OREGON, County of Klamath) ss.

This instrument was acknowledged before me on \_\_\_\_ day of \_\_\_\_\_, 2022, by NEIL ROBERT AGLIOLO.

~~NOTARY PUBLIC FOR OREGON~~  
~~My Commission Expires: \_\_\_\_\_~~

See Attached

**OREGON NOTARY ACKNOWLEDGEMENT**  
**(INDIVIDUAL)**


State of Oregon        }

County of Klamath    }

This record was acknowledged before me on August 11<sup>th</sup> [Date], 2022  
by Neil Roberto Agliolo [Name(s) of Individual(s)].

(Official Stamp)



  
Signature of Notarial Officer

Katie Terrell  
Printed or typed name of Notarial Officer  
Notary Public – State of Oregon

My commission expires: 4-7-23

**Document Description**

This certificate is attached as page 5 of a WELL USE AND WATERWAY EASEMENT AGREEMENT, dated August 11<sup>th</sup>, 2022, consisting of 5 pages.