

WATER SYSTEM MAINTENANCE AGREEMENT AND EASEMENT

1. EFFECTIVE DATE: July 10, 19892. PARTIES:FILED FOR RECORD
SKAMANIA CO. WASH.
BY CLARK COUNTY TITLE

Jul 24 4 02 PM '89

E. McFarland
AUDITOR
GARY M. OLSON

TIMOTHY A. LIKNESS and DAWN M. LIKNESS, husband and wife, MP 0.70L Riverside Drive, Washougal, WA 98671, hereinafter referred to as "LIKNESS"

and

TOD HEILES, a single person, of MP 0.63L Riverside Dr., Washougal, WA 98671, hereinafter referred to as "HEILES."

3. RECITALS:

A. LIKNESS is the owner of certain real property (the Likness Property) located in Skamania County, Washington, commonly known as MPO.70L Riverside Drive, Washougal, Washington 98671, and legally described on Exhibit "A" and incorporated herein fully by reference.

B. HEILES is the owner of certain real property (the Heiles property) located in Skamania County, Washington, commonly known as MPO.63L Riverside Drive, Washougal, Washington 98671, and legally described on attached Exhibit "B" and incorporated herein fully by reference.

C. The Likness property and the Heiles property are served by a Class 4 public water system including a spring and associated appurtenances located primarily on real property (the MAY property) legally described on attached Exhibit "C," incorporated herein fully by reference. The water system serves, benefits and supplies water only to the LIKNESS and HEILES properties.

D. The parties desire to memorialize their understanding as to the sharing of the water system serving their respective properties and as to the continued operation, maintenance, and expenses associated with the joint water system.

NOW, THEREFORE, it is hereby agreed as follows:

4. DESCRIPTION OF WATER SYSTEM: The water system subject to this agreement consists of the following:

JOINT MAINTENANCE AGREEMENT - 1
06908000.D01, (07/10/89)

Registered	<i>E</i>
Indexed, Dir	<i>E</i>
Indirect	<i>E</i>
Filmed	
Mailed	

A. A natural spring located on the May property claimed by appropriation of Louis LaRue in a water right claim recorded June 20, 1974, a copy of which is attached as Exhibit "D" and incorporated herein fully by this reference;

B. A plastic pipeline running from the May property to a 1,200-gallon capacity concrete holding tank located on the Heiles property; and

C. A concrete block pump house containing a Sears water pump, Model 390.251001, Serial #1G86E; an 80-gallon pressure vessel; together with all pipes, fittings and appurtenances from the holding tank to the pump house; and

D. An irrigation system consisting of a plastic-lined earth reservoir (approximately 20,000 gallon capacity); a Montgomery Ward water pump, Model CJS 24132, Serial No. BF 111; a 60-gallon pressure vessel; together with all pipes, fittings, faucets and appurtenances from the holding tank to the earth reservoir now in place on the Heiles property.

Attached for illustrative purposes only, as Exhibit "E," is a map showing the location and description of the water system components.

5. CONSIDERATION: The consideration between the parties is:

A. The mutual certainty, security, stability and assurance to result between the parties from the existence of a written document pertaining to their relationship regarding the shared water system;

B. The benefit resulting from the reduction of potential misunderstanding as to their respective obligations to the water system; and

C. The assurance that the water system will continue operating and continue supplying an adequate quality and quantity of water to the respective premises.

No monetary consideration has been conveyed between the parties.

6. JOINT USE: HEILES and LIKNES shall be co-users of the water system. The water system and water supply shall equally benefit the Heiles and Likness properties.

7. MAINTENANCE AND REPAIR: The parties agree to maintain the subject spring, all accessories thereto, and the water system and its appurtenances, in good condition and repair for the period commencing on the effective date of this Agreement and ending only upon mutual agreement between the parties to terminate the Agreement. The parties agree to share all the costs and expenses

of repairs, upgrade, reconstruction, inspection, maintenance, and the like, of the spring and water system. Each party agrees to pay a sum sufficient on an equal 50/50 basis for the maintenance and repair costs and expenses necessary to maintain the spring and water system in good condition and repair, and to adequately assure a supply of water of quality and quantity sufficient to satisfy all legal and applicable health requirements and to meet normal household and irrigation needs for the respective real properties benefitted. The parties agree that the obligation to share costs and expenses of repair and maintenance shall not cease upon abandonment of the improvements located on the respective parcels or upon partial or complete destruction of such improvements.

Notwithstanding the foregoing, each party shall be separately liable and responsible for that portion of the water system, pipes, and appurtenances running from their respective premises and residences to the holding tank and pump and holding pond and pump. It is the intent of the parties that the shared maintenance and repair obligations of the water system exclude the separate pipes and other equipment required for distribution of water to the respective properties from the holding tank and pump and holding pond and pump. Accordingly, each party hereby agrees to indemnify and hold the other harmless from the costs of maintenance, repair, upgrade, reconstruction, inspection and related expenses, associated with the pipes and equipment serving only the Heiles property or only the Likness property.

8. HOLD HARMLESS AND INDEMNITY: Each of the parties agrees to indemnify and hold harmless the other against all liability for injury to themselves or their agents, contractors or employees, or damage to his or her property when such injury or damage shall result from, arise out of, or be attributable to any water system maintenance or repair, upgrade, reconstruction, inspection or related activity undertaken pursuant to this Agreement.

Further, each of the parties agrees to indemnify and hold harmless the other against any and all damage resulting from the failure of a party to properly repair and maintain its respective systems of pipes and other equipment for the distribution of water running from each party's respective premises up to the holding tank and pump and holding pond and pump.

9. ELECTRICITY CONTRIBUTION: The parties understand and agree that the expense of electricity necessary to operate the water system pump in the concrete pump house is to be shared equally by the parties. Until such time as an electricity metering system may be installed, LIKNESS agrees to contribute and pay to Heiles five dollars (\$5) per month as a reasonable estimate of the electricity charges attributable to the shared electricity expense necessary to operate such water system pump. The LIKNESS payment shall be made on the 1st day of every month beginning on

the 1st day of the month following the effective date of this Agreement. The parties also agree that the electricity contribution of LIKNESS may be adjusted by mutual agreement between the parties and shall be increased pro rata on the anniversary date of this Agreement, to the extent of any general increases in the cost of electricity.

The water pump for the irrigation system is powered by an extension cord which can be extended and connected to either premises on the Exhibit "A" and "B" real properties. The parties agree that said parties shall separately provide the electricity necessary to operate the irrigation system pump when irrigating their respective properties.

10. COVENANTS RUN WITH THE LAND: The covenants contained herein shall be appurtenant to the benefitted real properties described on attached Exhibits "A" and "B," and shall run with the land,

11. EASEMENT: For and in consideration of the payment of the sum of One Dollar (\$1.00), and other valuable considerations set forth in this Agreement, receipt of which is hereby acknowledged, Heiles grants and conveys to Likness, a perpetual easement and right-of-way over, under and across the easterly 115' of the Heiles property legally described on the attached Exhibit "B". The easement granted shall benefit only the real property legally described on the attached Exhibit "A". This easement is granted for the purpose of construction, installation, reconstruction, enlargement, repair, operation and maintenance of the water system described in paragraph 4 of this Agreement, and the system of pipes, fittings, faucets and appurtenances running from the water system across the Heiles property and on to the Likness property. Likness, and their successors and assigns, shall have the right to enter upon the easement area in connection with any such purpose, including the maintenance and repair obligations set forth in this Agreement. This easement is appurtenant and shall run with the land and shall bind the parties hereto, their successors and assigns. In the event of any construction, installation, reconstruction, enlargement, repair, operation and maintenance in the easement area, the easement areas herein conveyed shall be restored to as nearly as possible, the condition which existed prior to such activities, and Likness shall not cause any unnecessary damage or commit any waste upon the easement area.

12. TERM: This Agreement shall take effect on the effective date set forth above, and shall continue indefinitely, until terminated by mutual agreement of the parties.

13. REMEDIES: In the event of default of any obligation between the parties herein contained, either party may seek redress in the courts for specific performance, contribution, damages, or any other remedy allowed by law.

14. OBLIGATIONS OF THE PARTIES: Each party to this Agreement hereby obligates itself to use its best efforts to preserve, maintain and to prevent damage and injury to the spring and water system, and each party's separate system of pipes and appurtenances running from the water system to their respective premises, with the intent that a continuous and satisfactory quantity and potable quality of water shall be provided to the parties and the respective premises by the water system.

15. COSTS AND ATTORNEY FEES: In the event suit or action is instituted to enforce any of the terms of this Agreement, the prevailing party shall be entitled to recover from the other party such sum as the court may adjudge reasonable as attorney fees and costs, whether at arbitration, trial or on appeal, in addition to all other sums provided by law.

16. SEVERABILITY: The provisions of this Agreement are declared to be separate and severable. The invalidity or unenforceability of any provision of this Agreement, or the invalidity or unenforceability of the application thereof to any person or circumstance shall not affect the validity and enforceability of the remainder of this Agreement, or the validity or enforceability of its application to other persons or circumstances.

17. CAPTIONS OR HEADINGS: The captions or headings of the paragraphs are for convenience only and shall not control or affect the meaning or construction of any of the terms or provisions of this Agreement.

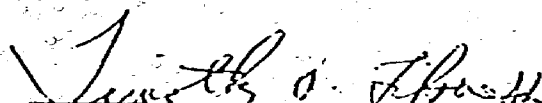
18. SUCCESSORS BOUND: This Agreement shall be binding on the heirs, personal and legal representatives, successors and assigns of the parties.

19. APPLICABLE LAW: This Agreement shall be governed by Washington law. All actions shall be brought in Skamania County, Washington.

20. ENTIRE AGREEMENT: This Agreement constitutes the entire agreement between the parties with respect to the subject matter. The parties shall not be bound by any promises, representations or agreements except as are herein specifically set forth or as otherwise set forth in writing. This Agreement may be modified only by written amendment.

IN WITNESS WHEREOF, the parties have executed this Agreement the 10th day of July, 1989.


TOD HEILES


TIMOTHY A. LIKNESS

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Dawn M. Likness
DAWN M. LIKNESS

STATE OF WASHINGTON)
: ss.
County of Clark)

I certify that TOD HEILES appeared personally before me and that I know or have satisfactory evidence that he signed this instrument and acknowledged it to be his free and voluntary act for the uses and purposes mentioned in the instrument.

DATED this 10th day of July, 1989.

Malcolm Hansen
NOTARY PUBLIC FOR WASHINGTON
My Commission Expires: 4-25-92

STATE OF WASHINGTON)
: ss.
County of Clark)

I certify that TIMOTHY A. LIKNESS and DAWN M. LIKNESS, husband and wife, appeared personally before me and that I know or have satisfactory evidence that they signed this instrument and acknowledged it to be their free and voluntary act for the uses and purposes mentioned in the instrument.

DATED this 11th day of July, 1989.

Robert Stender
NOTARY PUBLIC FOR WASHINGTON
My Commission Expires: 5/1/91

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EXHIBIT "A"

The following described real property is situated in Skamania County, Washington and is more particularly described as follows:

Lot 2 of the Louis LaRue Short Plat recorded at Book 2, Page 14 of Short Plats.

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EXHIBIT "B"

The following described real property is situated in Skamania County, Washington and is more particularly described as follows:

Lot 1 of the Louis LaRue Short Plat recorded at Book 2, Page 14 of Short Plats.

EXHIBIT "C"

The following described real property is situated in Skamania County, Washington and is more particularly described as follows:

A parcel of land located in Government Lots 1 and 2 in the Northwest quarter of Section 11, Township 1 North, Range 5 East of the Willamette Meridian, Skamania County, Washington described as:

Lot 2 of the J. May Short Plat No. 1 as recorded in Book 3 of Short Plats on page 39 Skamania County Records.

EXHIBIT "D"

STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY
WATER RIGHT CLAIMS REGISTRATION

WATER RIGHT CLAIM

RECEIVED
DEPARTMENT OF ECOLOGY
JUN 20 1974 148760
CASH - ☒ - NONE

1. NAME LOUIS LARVE
ADDRESS RT. 2 BOX 348
WASHOUGAL, WASH. 98671

2. SOURCE FROM WHICH THE RIGHT TO TAKE AND MAKE USE OF WATER IS CLAIMED SURFACE
WATER W.R.A. 28 (SURFACE OR GROUND WATER)
(LEAVE BLANK)

A. IF GROUND WATER, THE SOURCE IS _____
B. IF SURFACE WATER, THE SOURCE IS UNNAMED SPRING

3. THE QUANTITIES OF WATER AND TIMES OF USE CLAIMED:
A. QUANTITY OF WATER CLAIMED 10 G.P.M. PRESENTLY USED 10 G.P.M.
(CUBIC FEET PER SECOND OR GALLONS PER MINUTE)
B. ANNUAL QUANTITY CLAIMED 1 ACRE FOOT PRESENTLY USED 1 ACRE FOOT
(ACRE FEET PER YEAR)
C. IF FOR IRRIGATION, ACRES CLAIMED _____ PRESENTLY IRRIGATED _____
D. TIME(S) DURING EACH YEAR WHEN WATER IS USED CONTINUOUSLY

4. DATE OF FIRST PUTTING WATER TO USE: MONTH PRIOR TO YEAR 1917

5. LOCATION OF THE POINT(S) OF DIVERSION/WITHDRAWAL: 730 FEET EAST AND 2045
FEET SOUTH FROM THE NW CORNER OF SECTION 11
BEING WITHIN SW 1/4 OF NW 1/4 OF SECTION 11 T. 1 N. R. 5 E (E.O.W.) W.M.
IF THIS IS WITHIN THE LIMITS OF A RECORDED PLATTED PROPERTY, LOT _____ BLOCK _____ OF _____
(GIVE NAME OF PLAT OR ADDITION)

6. LEGAL DESCRIPTION OF LANDS ON WHICH THE WATER IS USED: DESCRIPTION
ATTACHED

7. PURPOSE(S) FOR WHICH WATER IS USED: DOMESTIC COUNTY SKAMANIA

8. THE LEGAL DOCTRINE(S) UPON WHICH THE RIGHT OF CLAIM IS BASED: APPROPRIATION

THE MAKING OF A STATEMENT OF CLAIM DOES NOT CONSTITUTE AN ACKNOWLEDGEMENT OF ANY CLAIM TO THE RIGHT TO USE OF WATERS AS BETWEEN THE WATER USER CLAIMANT AND THE STATE OR AS BETWEEN ONE OR MORE WATER USE CLAIMANTS AND ANOTHER OR OTHERS. THIS ACKNOWLEDGEMENT CONSTITUTES RECEIPT FOR THE FILING FEE.
DATE RETURNED _____ THIS HAS BEEN ASSIGNED
WATER RIGHT CLAIM REGISTRY NO. 1800123307

I HEREBY STATE THAT THE ABOVE INFORMATION IS TRUE AND ACCURATE TO THE BEST OF MY KNOWLEDGE AND BELIEF.
X Louis Larve
DATE June 26, 1974
I CLAIMED BY DESIGNATED REPRESENTATIVE. PRINT OR TYPE FULL NAME AND MAILING ADDRESS OF AGENT BELOW _____
☐ ADDITIONAL INFORMATION RELATING TO WATER QUALITY AND/OR WELL CONSTRUCTION IS AVAILABLE

RETURN ALL THREE COPIES WITH CARBONS INTACT, ALONG WITH YOUR FEE TO
DEPARTMENT OF ECOLOGY
WATER RIGHT CLAIMS REGISTRATION
OLYMPIA, WASHINGTON 98501

EXHIBIT "E"

