

130100

BOOK 172 PAGE 13

Return Address:

Home Valley Water District  
P O Box 652  
Stevenson, WA 98648

FILED FOR RECORD  
SKAMIA CO. WASH  
BY Home Valley Water Dist.

DEC 29 2 52 PM '97

*O. Laury*  
AUDITOR  
GARY H. OLSON

Please Print or Type Information.

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| Document Title(s) or transactions contained therein:   |  |
| 1. Water Line Easement, Settlement Agreement and Mutual Release  |  |
| 2.   |  |
| 3.   |  |
| 4.   |  |
| GRANTOR(S) (Last name, first, then first name and initials)  |  |
| 1. Anderson, Leroy etux  |  |
| 2.   |  |
| 3.   |  |
| 4.   |  |
| <input type="checkbox"/> Additional Names on page _____ of document.   |  |
| GRANTEE(S) (Last name, first, then first name and initials)  |  |
| 1. Home Valley Water District  |  |
| 2.   |  |
| 3.   |  |
| 4.   |  |
| <input type="checkbox"/> Additional Names on page _____ of document.   |  |
| LEGAL DESCRIPTION (Abbreviated: I.E., Lot, Block, Plat or Section, Township, Range, Quarter/Quarter)   |  |
| S2 NE4 Section 23, T3N R8E   |  |
| <input type="checkbox"/> Complete legal on page _____ of document.   |  |
| REFERENCE NUMBER(S) Of Documents assigned or released:   |  |
| <input type="checkbox"/> Additional numbers on page _____ of document.   |  |
| ASSESSOR'S PROPERTY TAX PARCEL/ACCOUNT NUMBER  |  |
| <input type="checkbox"/> Property Tax Parcel ID is not yet assigned.   |  |
| <input type="checkbox"/> Additional parcel #'s on page _____ of document.  |  |
| The Auditor/Recorder will rely on the information provided on the form. The Staff will not read the document to verify the accuracy or completeness of the indexing information. |  |

Gary H. Martin, Skamania County Assessor

Date 2/24/97 Parcel # 38-23-3000

BYLIN SPRING & POTABLE WATER LINE EASEMENT

SETTLEMENT AGREEMENT AND MUTUAL RELEASE

This agreement is made this 17<sup>th</sup> day of December, 1997 between the HOME VALLEY WATER DISTRICT ("District" herein) and LEROY and TINA ANDERSON ("Anderson" herein).

RECITALS

A. The District is a Washington municipal corporation authorized to conduct business and operate as a water district. Anderson is a property owner within the Home Valley Water District.

B. The District collects water from Bylin Spring on the Anderson property and transports the water through its improvements across and under the Anderson property.

C. Historical disputes have arisen as to the use of water, its containment and transport, as well as the improvement and maintenance of the system.

D. The District and Anderson have agreed to resolve all outstanding disputes existing between them. In so doing, the parties are resolving disputed and contested claims, and in making this agreement and settlement, neither party admits liability or wrongdoing, and in fact denies the same.

IN CONSIDERATION OF THE FOREGOING, and the mutual covenants contained herein, the parties agree as follows:

1. Payment: The District will pay Anderson \$400 per month on or before the first of each month, beginning January 1, 1998 and continuing thereafter for a term of 25 years. The monthly payment shall increase by 5% of the original monthly payment every fifth year. Payments shall begin the month following receipt and recording of an executed copy of this agreement and all additional agreements called for by this document and Washington State Law.

2. Easement and Covenants: Anderson hereby provides to the District an easement for purposes of water collection, water transportation, system maintenance, system modification and improvement, including, but not limited to, a perpetual right of access for the purpose of operating and maintaining that water line and spring catchment boxes now in place and hereafter constructed with all connections, manholes and underground appurtenances thereto, over, through and across the property described in Exhibit A, attached hereto and by this reference incorporated herein.

Said easement and right of access shall follow the route and course of the water line as currently constructed or later modified

1 - Release, Easement and Covenant Agreement

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and shall include a distance of five (5) feet on each side of the centerline of said water line for the execution of any right granted to the District herein, including without limitation, in their sole discretion, the necessary space requirements for the maintenance, inspection, repair and modification of said line.

Additional land necessary for repairs including, but not limited to areas for parking trucks, trailers, unloading pipe and dumping fill shall be determined by mutual agreement of the parties.

3. Restrictive Covenants. Said easement and right of access shall also include the spring box catchment area now in use and a two-hundred (200) foot radius around the spring box catchment area for the operation, improvement and maintenance thereof, to the extent that the 200 foot radius is on the Anderson property. The Spring area and a 200 foot radius around said spring shall be subject to the restrictive covenants as now set forth or hereafter amended and contained in WAC 248-54-125, which is incorporated herein by reference. No fencing shall be erected at a distance greater than a fifty (50) foot radius from said catchment area to the extent consistent with WAC 248-54-125. Said covenant shall be withdrawn if the springs are no longer used as a source of potable water for the Home Valley Water District, subject to the cancellation provisions set forth herein.

4. Costs of Construction and Maintenance. The District shall bear and pay all future costs and expenses of construction and maintenance of the water line and spring catchment area.

5. Timber Removal. Should the District remove any blowdown or timber from within the 200 foot radius of the catchment area, that timber shall remain the property of the Andersons. Anderson shall not remove trees or blowdown within that area for any reason other than maintenance approved by the District and consistent with the covenants contained herein.

6. As-Built Survey. The District shall provide Anderson with as-built drawings showing the location and depth of the water line and spring boxes on the Anderson property upon execution of this document and recording of the easement and restrictive covenant called for herein.

7. Coordination of Activities. It is expressly understood that the District shall have the right of ingress and egress from the property belonging to Anderson for the purpose of upgrading, improving, maintaining, repairing, inspecting, replacing and keeping the water line and spring boxes in useable condition at all times. The District shall coordinate the dates of its inspection and maintenance activities on Anderson's property with Anderson, or such other employee of Anderson as Anderson may from time to time designate by providing Anderson with notice of its intent to enter

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upon Anderson's property to commence such activity. Five (5) days advance oral or written notice of entry will be given; PROVIDED, HOWEVER, that in the event of an emergency requiring immediate action by the District for the protection of its facilities or other persons or property, the District may enter and take such action without notice. During times of entry, the district, its employees and authorized state agents shall not be disturbed or delayed in pursuing their work.

8. District's Use and Activities. The District shall exercise its rights under this agreement so as to minimize, and avoid if reasonably possible, interference with Andersons' use of the property. Disturbance of ground, trees and land forms shall be limited to only that necessary to give effect to the underlying purposes of this agreement. The District agrees to work in a workmanlike manner and to use such methods as to insure the minimal damage to the life and growth of trees. The District shall construct no earthen reservoirs on the Anderson property.

Any damages caused to Anderson's current road or other currently existing structures as the result of the District's exercise of its rights under this agreement shall be repaired by the District at its sole cost.

9. Anderson Use Covenants. Anderson reserves the right to use the strip of land under which runs the water line for purposes which will not interfere with the District's full enjoyment of the rights hereby granted. Anderson hereby covenants and agrees that Anderson shall not erect or construct any permanent structure or improvement on this water line or access area, or engage in any other construction or excavation which would disturb or disrupt the District's flow or quality of water or other rights under this agreement.

Provided, however, that Anderson reserves the right to improve the road, including specifically, to widen and pave the same, if the same will not interfere with the District's intended use. If the District must access its improvements under said road, it is the District's responsibility to return that disturbed portion of the road to as close to its original condition as is possible.

10. District's Operational Covenants. The District hereby covenants to install necessary valving within their system to assist Anderson in obtaining a consistent supply of water. The District engineer is responsible for any such improvement. Initial installation costs and future maintenance shall be borne by the District. The valving shall be installed within 90 days of recording of this document excluding times of adverse weather or other unforeseen circumstance.

It is the parties' mutual desire to have an uninterrupted supply of water of potable quality. It is the District's

3 - Release, Easement and Covenant Agreement

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responsibility to maintain the quantity and quality of water to the extent that the same is within their control. The District shall be responsible for the disruption of water quantity or quality should the same occur due to their own negligence, but shall not be responsible for any disruption or loss of quality or quantity due to acts of God, vandalism or activities associated with Anderson's use of the property. As a further limitation, the District will not and does not treat any water above the existing treatment plant and cannot guarantee the quality thereof. Anderson shall have a continuous flow of water at all times, but for disruptions in supply caused by acts of God, vandalism by persons who are not parties hereto, or activities in any way associated with Anderson's use of the property.

11. Third-Party Rights. Anderson reserves all rights with respect to their property, including, without limitation, the right to grant easements, licenses and permits to others subject, however, to the rights granted in this Agreement.

12. Assignment. The District shall not assign its rights hereunder without the prior written consent of Anderson, which consent shall not be unreasonably withheld.

13. Successors. Subject to the preceding paragraph, the rights and obligations of the parties shall inure to the benefit of and be binding upon their respective successors, heirs and assigns. The easements and rights hereunder run with the land and shall remain intact notwithstanding changes in title.

14. Release and Indemnity. The District does hereby release, indemnify and promise to defend and save harmless Anderson from and against any and all liability, loss, damage, expense, actions and claims, on any action asserted by third parties not subject to this agreement, whether the same be asserted or arise directly or indirectly on account of or out of acts or omissions of the District, their servants, agents, employees and contractors, in the exercise of their rights granted herein; provided, however, this paragraph does not purport to indemnify Anderson against liability for damages arising out of bodily injury to persons or damage to property caused by or resulting from the negligence of Anderson or Anderson's agents or employees.

15. Past Actions: Anderson and the District mutually release each other and any of the other party's officers, directors, employees, agents, consultants or affiliated companies from any and all claims relating to or arising from prior actions or agreements of whatsoever nature between the parties. This release applies to any claims, causes of action or damages that arose prior to the date of this agreement.

16. Representation: Each party acknowledges that it has been

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represented by counsel and that this agreement is entered into voluntarily after consulting with such counsel. This agreement is the entire agreement between the parties.

17. Law and Attorney's Fees: This agreement shall be governed by the laws of the State of Washington. In the event legal action is required to enforce the terms of this agreement, the prevailing party shall be entitled to attorney's fees, including attorney's fees on appeal.

18. Water Quality and Quantity: Nothing contained within this agreement shall be construed to make the District a guarantor of water quality or quantity should this agreement be cancelled, nor shall it be responsible for the same. No action may be taken by either party during the course of this agreement that would in any way compromise water quality.

19. Termination: The District may, in its sole discretion, discontinue use of the spring area and water pipeline. If that use ceases, in whole or in part, the obligations hereunder continue until and unless formal written notice of cancellation is provided by the District to Anderson. Upon written cancellation, all obligations hereunder shall cease.

Upon termination, all District property, fixtures or equipment shall be left in place and revert to the ownership of Anderson. However, if the current improvements or fixtures are subject to any lienholder's security interests, those fixtures would revert to Anderson only upon the release of said lienholder's interests, or other contractual restrictions that may apply to said reversion.

20. FHA and other Public Works Lending: It is expressly understood that the District is entering this agreement in part for purposes of satisfying past, present and future requirements for lending institutions and other state and federal agencies under whose authority and control public water systems operate.

21. Notices. Any notices hereunder shall be sufficient if sent by regular mail directed to the party. The current mailing addresses are set forth following the signatures hereto.

In witness whereof, the parties execute this agreement on the day and year written above.

Home Valley Water District, P.O. Box 652, Stevenson, WA 98648

by James P. Bouey  
Commissioner

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Mercedes C. Hamlin  
Commissioner

Dany Collins  
Commissioner

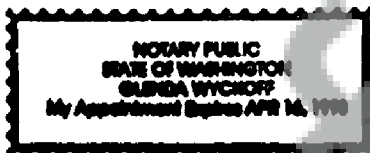
LeRoy Anderson  
Leroy Anderson,

Tina Anderson  
Tina Anderson

Byline Rd. Stevenson Wn. 98648  
address

STATE OF WASHINGTON )  
County of SKAMANIA )

The foregoing instrument was acknowledged before me this 17<sup>th</sup>  
day of December, 1997, by Leroy Anderson and Tina  
Anderson.



Sandra Wychoff  
Notary Public for Washington

NA  
REAL ESTATE EXCISE TAX

DEC 23 1997

PAID NA  
SW  
SKAMANIA COUNTY TREASURER

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6 - Release, Easement and Covenant Agreement

EXHIBIT A

The South 1/2 of the Northeast 1/4 Section 23, Township 3 North, Range 8 East of the Willamette Meridian; ALSO, that portion of the North 1/2 of the Northeast 1/4 of Section 23, Township 3 North, Range 8 East of the Willamette Meridian, described as follows:

Beginning at a point 1,320 feet East of the Northwest corner of the Southwest 1/4 of the Northeast 1/4 of said Section 23; thence East 43.5 feet; thence North 27° East 256.7 feet; thence North 26° 30' West 51.5 feet; thence North 87° West 130.7 feet; thence South 59° West 54.8 feet; thence South 17° West 264.7 feet; thence East 118.14 feet to the point of beginning; TOGETHER with all water rights appurtenant thereto.

SUBJECT to transmission line easement granted to the USA for the Bonneville Power Administration by deed dated March 12, 1954, and recorded at Page 56 of Book 38, Deed Records of Skamania County, Washington; and

SUBJECT to flowage easement and easement for water pipeline and pond granted to L.A. Berge, et al by deed dated September 30th, 1954, and recorded at Page 273 of Book 39, Deed Records of Skamania County, Washington