

WATER WELL AGREEMENT

THIS WATER WELL AGREEMENT, made and entered into this 28<sup>th</sup> day of July, 1988, by and between NORWEST CAPITAL MANAGEMENT & TRUST CO., as Trustee under that certain MAUREEN C. MORIARTY TRUST, hereinafter referred to as First Party, DON B. ARCHER, of Staten Island, New York, hereinafter referred to as Second Party, LEONARD HENRY JAMES WILKINSON and EDITH EDNA WILKINSON, husband and wife, of Santa Ana, California, hereinafter collectively referred to as Third Party, and BRETT T. McCRUMB and PAMELA L. McCRUMB, husband and wife, hereinafter collectively referred to as Fourth Party.

## WITNESSETH:

WHEREAS, Second Party is the owner of the following described real property situate in the County of Lake, State of Montana, more particularly described as follows, to-wit:

Lot A of the Amended Plat of Lots 11 and 12 of CLIFFORD BEACH ORCHARD HOMES, A platted subdivision of Lake County, Montana, according to the map or plat thereof on file and of record in the office of the Clerk and Recorder of Lake County, Montana

and

Lot B of the Amended Plat of Lots 11 and 12 of CLIFFORD BEACH ORCHARD HOMES, a platted subdivision of Lake County, Montana, according to the map or plat thereof on file and of record in the office of the Clerk and Recorder of Lake County, Montana; and

WHEREAS, Third Party is purchasing from Second Party a portion of the above described real property situate in the County of Lake, State of Montana, more particularly described as follows, to-wit:

Lot B of the Amended Plat of Lots 11 and 12 of CLIFFORD BEACH ORCHARD HOMES, a platted subdivision of Lake County, Montana, according to the map or plat thereof on file and of record in the office of the Clerk and Recorder of Lake County, Montana; and

WHEREAS, a water well is located on that real property situate in the County of Lake, State of Montana, more particularly described as follows, to-wit:

Lot B of the Amended Plat of Lots 11 and 12 of CLIFFORD BEACH ORCHARD HOMES, a platted subdivision of Lake County, Montana, according to the map or plat thereof on file and of record in the office of the Clerk and Recorder of Lake County, Montana; and

Returned to  
Century 21 Big Sky  
Box 1037  
Polson, MT. 59860

WHEREAS, Fourth Party is the owner of that real property situate in the County of Lake, State of Montana, more particularly described as follows, to-wit:

TRACT 17 OF CLIFFORD BEACH ORCHARD HOMES, a subdivision of Lake County, Montana, according to the official map or plat thereof on file and of record in the office of the Clerk and Recorder of Lake County, Montana,

and owns a one-fourth ( $\frac{1}{4}$ ) interest in and to said water well pursuant to that Easement and Water Well Agreement dated October 17, 1985, by and between Norwest Capital Management & Trust Co., as Trustee under that certain Trust Agreement dated September 19, 1972 and Brett T. McCrumb and Pamela L. McCrumb, husband and wife, recorded October 26, 1985 under Microfile No. 293328, records of Lake County; and

WHEREAS, First Party has reserved a one fourth ( $\frac{1}{4}$ ) interest, in and to that certain water well described above disclosed by Notice of Purchasers' Interest dated May 15, 1986 and recorded June 4, 1986 under Microfile No. 297915, records of Lake County; and

WHEREAS, the parties hereto wish to make a written agreement as to the terms and conditions of the ownership and use of said water well.

NOW THEREFORE, in consideration of the mutual covenants herein contained, the parties hereto agree as follows:

1. That First Party herein quit claims, conveys, transfers and forfeits all interest in and to said water well to the remaining parties.

2. That Second Party, Third Party and Fourth Party shall each own an undivided one-third ( $\frac{1}{3}$ ) undivided interest in and to said water well for use appurtenant to their respective parcels as above described.

3. That each of the parties hereto owns respectively and individually the water pipeline extending from the commonly used piping to the improvements on the parties respective lands as hereinabove described, and each shall be responsible for the maintenance thereof.

4. That the parties hereto shall pay all utility expenses and the cost of maintaining, repairing and replacing the water pump, related piping and electric circuitry associated with the well in equal shares.

5. That each of the parties hereto, by these presents, gives and grants unto the other party reciprocal easements for the purpose of maintenance, repair and replacement of the common elements of the water well and associated elements located upon Third Party's property.

6. That Third Party hereby grants Second Party and Fourth Party an easement to construct and maintain a water pipeline from the subject well to their respective parcels. That the easement for the individual pipelines extending from the well to Fourth Party's and Second Party's respective parcels shall be ten (10) feet in width and extend from the well to the nearest point on the parties respective boundary with Third Party's property without disruption or harm to any existing improvements thereon. Any work or excavation done by the parties with respect to utilization of the easements shall be done in a neat, clean, efficient and timely manner with the least disruption to Third Party's property as is possible. The respective party utilizing the easement shall immediately repair Third Party's property to its condition existing prior to the construction or maintenance of the said party's pipeline in connection with the easement.

7. In the event legal or equitable action is taken to enforce any provision of this Water Well Agreement, the prevailing party is to be awarded their court costs and reasonable attorneys fees, all as determined by the appropriate court.

8. That the rights, duties and obligations created hereby shall be perpetual in nature, run with the land, extend to and be obligatory upon the heirs, successors, and assigns of the parties.

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IN WITNESS WHEREOF, the parties hereto have set their hands and seals the day and year first above written.

FIRST PARTY:

NORWEST CAPITAL MANAGEMENT & TRUST CO., Trustee

By: [Signature]  
Its Vice President

SECOND PARTY:

[Signature]  
DON B. ARCHER

THIRD PARTY:

[Signature]  
LEONARD HENRY JAMES WILKINSON

[Signature]  
EDITH EDNA WILKINSON

FOURTH PARTY:

[Signature]  
BRETT T. MCCRUMB

[Signature]  
PAMELA L. MCCRUMB

STATE OF ~~MONTANA~~ <sup>New York</sup> )  
County of ~~Dutchess~~ <sup>Dutchess</sup> ) :ss

On this 28<sup>th</sup> day of July, 1988, before me, a Notary Public for the State of Montana, personally appeared Donald B. Archer known to me to be the of Norwest Capital Management and Trust Co., Trustee, whose name is subscribed to the within instrument and acknowledged to me that he executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my Notarial Seal the day and year first above written.

[Signature]  
Notary Public for the State of ~~Montana~~ <sup>New York</sup>  
Residing at:  
My Commission Expires 2/31/90

ROBERT L. SIMPSON  
NOTARY PUBLIC, STATE OF NEW YORK  
QUALIFIED IN DUTCHESS COUNTY  
# 14 9018575  
COMMISSION EXPIRES 2/31/90

~~STATE OF NEW YORK~~ )  
~~County of~~ ) :ss

~~On this \_\_\_\_\_ day of July, 1988, before me, a Notary Public for the State of New York, personally appeared DON B. ARCHER, known to me to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same.~~

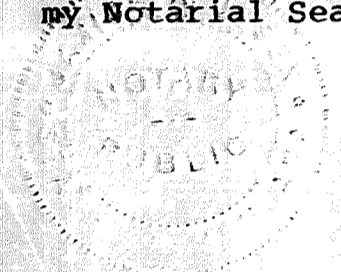
~~IN WITNESS WHEREOF, I have hereunto set my hand and affixed my Notarial Seal the day and year first above written.~~

~~Notary Public for the State of New York  
Residing at:  
My Commission Expires:~~

Montana  
STATE OF CALIFORNIA )  
:ss  
County of Lake )

October 1988,  
On this 28th day of ~~July, 1988~~, before me, a Notary Public for the State of California, personally appeared LEONARD HENRY JAMES WILKINSON and EDITH EDNA WILKINSON, known to me to be the persons whose names are subscribed to the within instrument and acknowledged to me that they executed the same.

~~IN WITNESS WHEREOF, I have hereunto set my hand and affixed my Notarial Seal the day and year first above written.~~

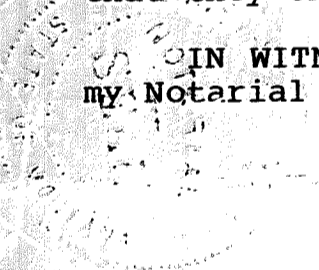


*Janice A. Olson*  
Notary Public for the State of California Montana  
Residing at: Polson  
My Commission Expires: 3/15/91

STATE OF MONTANA )  
:ss  
County of Lake )

On this 22 day of July, 1988, before me, a Notary Public for the State of Montana, personally appeared BRETT T. McCRUMB and PAMELA L. McCRUMB, known to me to be the persons whose names are subscribed to the within instrument and acknowledged to me that they executed the same.

~~IN WITNESS WHEREOF, I have hereunto set my hand and affixed my Notarial Seal the day and year first above written.~~



*Ken D...*  
Notary Public for the State of Montana  
Residing at: Polson  
My Commission Expires: 9-10-88

STATE OF MONTANA )  
:ss  
County of )

On this 23<sup>rd</sup> day of ~~July~~ <sup>August</sup>, 1988, before me, a Notary Public for the State of Montana, personally appeared David L. Roberts known to me to be the V.P. of Norwest Capital Management and Trust Co., Trustee, whose name is subscribed to the within instrument and acknowledged to me that he executed the same.

~~IN WITNESS WHEREOF, I have hereunto set my hand and affixed my Notarial Seal the day and year first above written.~~

*Paul...*  
Notary Public for the State of Montana  
Residing at: Helena  
My Commission expires 3-29-91

5 STATE OF MONTANA, COUNTY OF LAKE  
Recorded At 11:08 O'Clock A M. APR 25 '90  
Microfilm 323793 LORIN JACOBSON  
Fee \$ 25<sup>00</sup> By *Judy Ann Allen*