

1821556

WELL EASEMENT AND WATER AGREEMENT

This Agreement is made and effective as of the last date set forth below. The parties to this agreement are Daniel A. Swanson and Tracy L. Swanson, husband and wife (hereafter collectively referred to as "SWANSON"), and Virginia L. Hirsch, a single woman (hereafter referred to as "HIRSCH").

RECITALS:

A. SWANSON is the owner of certain real property more particularly described as Lot 9, View Crest, according to the plat recorded in the office of the County Recorder in Book "G" of Plats at Page 411, records of Kootenai County, Idaho (hereafter "SWANSON Parcel").

B. HIRSCH is the owner of certain real property that is adjacent to the SWANSON Parcel and is more particularly described as Lot 8, View Crest, according to the plat recorded in Book "G" of Plats at page 411, et seq., records of Kootenai County, Idaho (hereafter "HIRSCH Parcel").

C. HIRSCH has constructed and is currently obtaining water from an existing well on SWANSON Parcel, and SWANSON desires to use the well constructed by HIRSCH to provide water to the SWANSON Parcel. The approximate location of the in-place well is illustrated on Exhibit "A".

NOW, THEREFORE, for good and valuable consideration, the receipt of which is hereby acknowledged, the parties agree as follows:

✓1. Conveyance of Partial Ownership. HIRSCH hereby conveys and transfers a one-half (1/2) undivided interest in and to the well, casing, pump, and the right to take water from the well to SWANSON.

✓2. Easement Creation and Limitations. SWANSON, as owner of the property described in Exhibit "B" hereby grants an easement to HIRSCH consisting of a radius of 25 feet of the in-place well and ten feet wide on either side of the existing water line that serves the HIRSCH Parcel. The easement is granted for the specific purpose of providing water to the HIRSCH Parcel and the repair, maintenance, and replacement of the water line, pump, casing, and related equipment.

3. Utilities. The electricity to operate the well is currently provided by HIRSCH, the well does not have a separate electric meter, and there are no water meters to measure the water used by the parties.

SWANSON is not presently using the well, and until such time as SWANSON begins using the well, HIRSCH shall pay the cost of all utilities to operate the well.

At such time as SWANSON begins to use the well, the parties hereto agree to divide evenly, all utility costs incurred for the operation and maintenance of the water well. The cost of electricity shall be adjusted annually, and shall be the average cost of

WELL EASEMENT AND WATER AGREEMENT - 1 -

Jeremy K. Hornig
PIN: 0843500000
80

Attachment 2:

1821556

electricity per kilowatt hour as shown on HIRSCH'S electrical billings for the preceding year. The parties shall agree annually as to the number of kilowatt hours needed to run the pump and related equipment during the year.

At the request of either party, the parties will install an electric meter to serve the well and water system and will install water meters on the lines serving each parcel. The cost of the installation of the electric meter will be shared equally, and each party shall bear the cost of the water meter serving its parcel. The parties agree that upon the installation of an electric meter and water meters, they will share the cost of electricity on a pro-rata basis based on the amount of water used.

4. Maintenance of Water Well. The parties agree that from time to time the water well will require maintenance, repair, and possibly reconstruction. Until SWANSON begins to use the well, HIRSCH shall pay for all maintenance, repair, and reconstruction. At such time as SWANSON begins to use the well, the parties agree that all such expenses incurred shall be shared on an equal basis from the date of the commencement of this Agreement.

5. Maintenance of Well and Water Lines.

5.1. All water lines from the well to each party's property shall be maintained in such a way so as to ensure water of drinking quality will flow through the line and solely at the expense of the person whose property is served by the water line.

5.2. All parties agree to maintain the well and all other accessories in good order so that there will be no leakage, seepage or any defects that may cause injury to the land or endanger the potability of the water.

6. Lien Right. Each of the parties hereto expressly and unequivocally consent to the liening of their property by the other party for failure or to pay any sums due and owing under this Agreement.

7. Repair. In the event a disagreement shall arise between the parties concerning the need of repair, adequacy of the system, or any other issue dealing with the management of the well system, either party shall have the right to declare the disagreement and request, in writing, arbitration on the matter.

8. Improvements to the Water Well. If any party shall desire to improve the water well and pump system in such a manner which contemplates the increasing of the service to said property, then the party so desiring the increased service shall pay all costs associated with such improvements, including but not limited to construction costs, surveying, engineering, purchase of personal property, and increased utility costs. However, no improvement shall decrease, defeat or limit the rights of the other party. In the event that the parties have any disagreement as to the determination of whether an increased service has been requested, then the matter shall be arbitrated in the same procedure as specified herein.

1821556

9. Assignment. This Agreement shall not be assignable except that it may be assigned by either party upon the sale of their respective parcel.

10. Default or Breach. It is understood and agreed between the parties that in the case of breach or default by any party in regards to the use of water or fulfillment of the requirements of this Agreement and upon mailing a notice by first class, postage prepaid to the defaulting party, and upon failure to remedy said default or breach within thirty (30) days; the non-breaching or defaulting party shall, at it's option, have the right to discontinue the supply of water pending the remedy of the breach or default and/or pursue any other legal or equitable action as allowed under the laws of the State of Idaho. Failure to act as to any one breach or default shall not be considered a waiver of any rights for a subsequent action by the defaulting or breaching party.

11. Merger and Modification. Any and all alterations or amendments to this Agreement must be in writing and signed by all parties. This Agreement constitutes the parties' entire agreement, and merges all oral representations or statements by either party of agents thereof.

12. Easement Runs With The Land. This Well and Water Agreement shall run with the land and shall be binding on and inure to the benefit of the future owners each parcel. The easement is granted for the benefit of and is appurtenant to the SWANSON and HIRSCH parcels. The easement and rights granted herein exist in perpetuity and shall inure to the benefit of and be binding upon the heirs, assigns and successors in interests of SWANSON and HIRSCH.

13. Arbitration. In the event of any disagreement, either party may call for arbitration by appointing an arbitrator who is reasonably qualified for the issue on which there is a disagreement. Within ten (10) days of the appointment of said arbitrator, the other party shall agree to the single arbitrator or shall appoint a similarly qualified arbitrator. If the two arbitrators are selected, within ten (10) days the two shall select a third arbitrator, and the three arbitrators, or the one arbitrator as the case may be, shall resolve the disagreement within ten (10) days from the appointment of the last arbitrator. The arbitrator or arbitrators shall determine the rules and the procedures for the arbitration. Should the arbitrators disagree as to the rules and procedures to be used, the rules of the American Arbitration Association shall apply. In the event that either party fails to act as required in the selection of arbitrator(s), then the Administrative District Court Judge of the First Judicial District of the State of Idaho shall choose and/or decide upon an arbitrator or arbitrators. Upon the request of either party or upon the request of any arbitrator, as the case may be, the judge shall decide the procedural issue at hand. The board of arbitrators by majority rule, or the sole arbitrator in his or her sole discretion, shall settle all disagreements, and the ruling of the arbitrators shall be the final binding resolution. The decision of the arbitrators shall be given the same weight as a judgment and may be converted to a judgment by either party. All costs and expenses of the Arbitrator(s) shall be borne equally by the parties; however, attorneys fees and costs may be awarded as determined by the Arbitrators.

14. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Idaho.

1821556

15. Representation by Attorney. The parties acknowledge that the law firm of WETZEL & WETZEL, P.L.L.C. represents HIRSCH in this transaction, and prepared this Agreement. SWANSON is encouraged to have this document reviewed by independent legal counsel.

16. No Joint Venture. Nothing contained in this Agreement, or in any of the ancillary documents, shall be construed as creating a joint venture, partnership, or agency relationship between the parties.

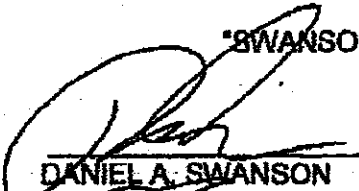
17. Interpretation. The parties agree in all cases that the language of this Agreement will be construed simply, according to its fair meaning, and not strictly for or against either party. All exhibits identified herein are incorporated in this document by this reference.

19. Captions. The captions of this Agreement are used for convenience only and are not intended to be a part of this Agreement or in any way to define, limit or described its scope and intent.

20. Attorney's Fees. In the event of any controversy, claim, or dispute relating to this Agreement or its breach, the prevailing party shall be entitled to recover reasonable expenses, attorney's fees and costs.

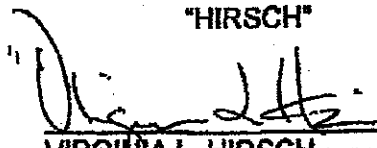
DATED this 7th day of August 2003.

"SWANSON"


DANIEL A. SWANSON


TRACY L. SWANSON

"HIRSCH"


VIRGINIA L. HIRSCH

1821556

STATE OF IDAHO)
) ss.
County of Kootenai)

On this 7th day of August, 2003, before me, the undersigned, a Notary in and for the State of Idaho, personally appeared, DANIEL A. SWANSON and TRACY L. SWANSON, husband and wife, known or identified to me to be the persons who executed the instrument, and acknowledged to me that they executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.



Ronda L. Whittaker
Notary Public in and for the State of Idaho
Commission Expires: 7/01/08

STATE OF IDAHO)
) ss.
County of Kootenai)

On this 7th day of August, 2003, before me, the undersigned, a Notary in and for the State of Idaho, personally appeared, VIRGINIA L. HIRSCH, a single woman, known or identified to me to be the person who executed the instrument, and acknowledged to me that they executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.



Ronda L. Whittaker
Notary for the State of Idaho
Commission Expires: 7/01/08

STATE OF IDAHO
COUNTY OF KOOTENAI
AT THE REQUEST OF
VIRGINIA L. HIRSCH

2003 AUG 14 PM 1:29

DANIEL J. ENGLISH

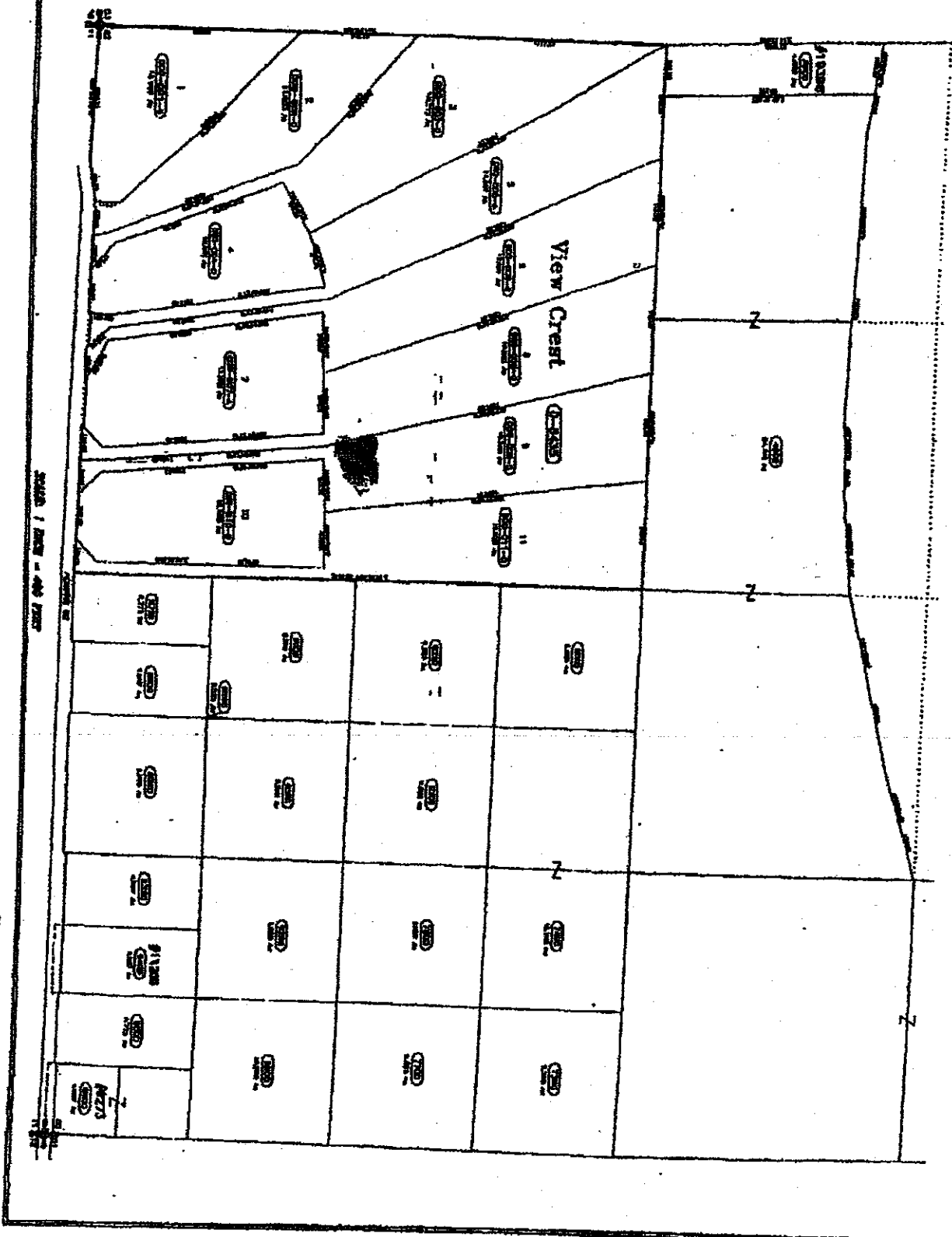
DEPUTY 18.00

FEES

RPFILESRHirsch, VirginiaWell and Water Agreement 7-9-02.doc

WELL EASEMENT AND WATER AGREEMENT - 6

1821556



Sec. 2 Twp. 53N. R. 37E. M.

EXHIBIT A

Instrument Number

Escrow No.: 6001-22525-WH

DANIEL J. ENGLISH 1P I 217563900
KOOTENAI CO. RECORDER Page 1 of
BBB Date 08/28/2008 Time 11:52:11
REC-RED OF NORTH IDAHO TITLE INSUR
RECORDING FEE: 3.00
2175639000 DD

WARRANTY DEED

FOR VALUE RECEIVED, **JOHN M. HOFFMANN AN UNMARRIED MAN**, Hereinafter called Grantor, does hereby grant, bargain, sell and convey unto **JEREMY K. HORNIG, A SINGLE MAN** Grantee, whose address is:
9471 E, HOWARD ROAD, ATHOL, ID. 83801, the following described premises, County of KOOTENAI, State of Idaho to-wit:

LOT 8, VIEW CREST, ACCORDING TO THE PLAT RECORDED IN BOOK "G" OF PLATS AT PAGE 411 AND 411A, RECORDS OF KOOTENAI COUNTY, IDAHO.

TOGETHER WITH all of Grantor's right, title and interest in and to that certain water well and equipment located on Lot 9, View Crest, according to the plat recorded in Book "G" of Plats at Page 411 and 411A, Official Records of Kootenai County, State of Idaho along with all rights and benefits arising from that certain well easement and water agreement dated 8/7/03 and recorded 8/14/03 as instrument number 1821556, Official Records of Kootenai County, State of Idaho.

TO HAVE AND TO HOLD the said premises, with their appurtenances unto the said Grantee(s), their heirs and assigns forever, and the said Grantor(s) do(es) hereby covenant to and with the said Grantee(s), that he/she/they is/are the owner(s) in fee simple of said premises; that they are free from all encumbrances EXCEPT CURRENT TAXES AND EASEMENTS OF RECORD OR IN VIEW.

And that he/she/they will warrant and defend the same from all lawful claims whatsoever.

DATED, August 21, 2008

By:

JOHN M. HOFFMANN

State of Idaho

County of Kootenai

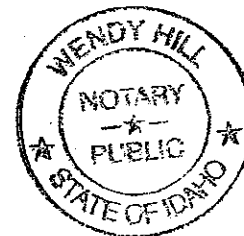
On this 27th day of August, 2008, before me, a Notary Public in and for said State, personally appeared John M. Hoffman

known or identified to me to be the person(s) whose name is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same.

Notary Public in and for County and State

Residing at

My commission expires



Jeremy K. Hornig
PIN: 0843500000
80

Attachment 2:
Warranty Deed.

Jeremy K. Hornig
Parcel (PIN) No. 084350000080
Calculation of cfs.

The well produces fifty (50) gallons per minute (gpm)

Claimant has ~~an~~ ~~entire~~ right to one-half ($\frac{1}{2}$) the output of the well pursuant to the attached Well Easement and Water Agreement.

Based on the foregoing the total quantity claimed by Claimed is as follows:

$$50 \text{ gpm} / 448.8 = 0.1114 \text{ cfs} \quad (\text{total well production})$$

$$0.1114 \text{ cfs} / 2 = 0.0557 \text{ cfs} \quad (\text{claimant's portion of well production})$$

0.06 cfs Total quantity claimed rounded up.

Attachment 3: Calculation of Total Quantity Claimed by Claimant