

1382924

WELL USERS AGREEMENT AND EASEMENT

THIS INSTRUMENT made and entered into by the WELBURN FAMILY TRUST who is the owner of the following described tracts of property located within the County of Kootenai, State of Idaho:

TRACT 11 - See Exhibit "A" attached hereto and by reference fully incorporated herein.

TRACT 12 - See Exhibit "B" attached hereto and by reference fully incorporated herein.

TRACT 13 - See Exhibit "C" attached hereto and by reference fully incorporated herein.

TRACT 14 - See Exhibit "D" attached hereto and by reference fully incorporated herein.

TRACT 16 - See Exhibit "E" attached hereto and by reference fully incorporated herein.

There is presently a well (see schematic marked Exhibit "F" attached hereto and by referenced fully incorporated herein), known as Well #24, which is located on certain real property described as follows:

TRACT 16 - See Exhibit "E" attached hereto and by reference fully incorporated herein.

It is necessary that a water distribution line be placed to provide transmission of the water to the parcels described as Tracts 11 through 14 as generally shown on Exhibit "F." It is necessary this instrument be made a matter of record to establish the rights, interests, and further responsibilities as it concerns the maintenance, repair and use of the well and water distribution line to each owner of the property described in Exhibits "A" through "E."

NOW THEREFORE, it is hereby established as follows:

1. Well. The well shown in Exhibit "F" shall be used for the exclusive use of Tracts 11 through 14, to the exclusion of Tract 16. The water system cannot be expanded to other properties or other uses as limited by this agreement without written consent of all owners. Each tract shall be entitled to an undivided one-fourth (1/4th) interest in the well. In the event there is any shortage of water which requires any rationing and/or limitations to be placed on the well, the same shall be proportionate to said ownership.

2. Well and Water Transmission Easement. An easement is hereby established fifty (50) feet around the well for the placement, maintenance and repair of the well on Tract 16. An easement is also established and reserved for the installation, maintenance and repair of the water transmission

1. WELL USERS AGREEMENT AND EASEMENT

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line over Tract 10. Said easement shall be generally depicted in the schematic marked as Exhibit "F" and shall be five (5) feet in width on either side of the water line, for a total of ten (10) feet in width. An easement is also reserved to provide access to said easement for necessary repairs and maintenance.

3. Costs. All costs for the construction, maintenance and repair of the well and water transmission line shall be the responsibility of the owners of Tracts 11, 12, 13, and 14 and shall be divided equally between the parties. "User" shall be defined as any party who constructs a permanent and/or temporary residence or other facilities for the use of water on an individual parcel. Once use of the water has started, the responsibility for payment of costs shall continue. Use shall be limited to one (1) household and guest home.

4. Electricity. All electricity for the well and water distribution line shall be shared evenly and be the responsibility of all of the users.

5. Hookup Costs. All costs to hook onto the system shall be borne by the individual users. Any costs for the continued maintenance and repair of the water distribution line from the well as is constructed shall be the responsibility of the individual owners.

6. Use. Use of the water shall not be disproportionate to the other users. In the event there is any disproportionate users, meters may be installed to determine the amount of water usage. In that event, the costs for the maintenance, repair and electricity shall be paid based upon usage. Cost of the meter shall be paid by each owner.

7. Limitations as to Use. The water shall only be used for domestic use and to for any agricultural (small gardens excluded) and commercial livestock operations.

8. Default. In the event any user fails to pay their share of the costs for the repair and maintenance of the well, then in that event, their right to use the well can be terminated until such time as all costs and expenses have been reimbursed, plus interest at a rate of eighteen percent (18%) per annum to be calculated thirty (30) days after the first written demand for contribution has been made. Furthermore, in the event the nonpayment should continue, a lien is hereby established and the other owners shall have the right to foreclose the lien on the individual tract as a mortgage under the laws of the State of Idaho. Any and all costs and attorney's fees incurred resulting from said default shall be paid by the defaulting party.

9. Attorney's fees. In the event any legal action is necessitated for the enforcement of the terms of this agreement attorney's fees and costs shall be allowed to the prevailing party.

10. Majority Rule. In the event any decision is necessary to determine if there is any necessary maintenance, repair and costs to be incurred by the water system, a majority of the users shall control. Each tract is given one (1) vote in any determination once use has commenced.

2. WELL USERS AGREEMENT AND EASEMENT

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DATED THIS 21 day of December, 1994.

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WELBURN FAMILY TRUST

BY: Ross Welburn

ROSS WELBURN, Trustee

STATE OF IDAHO)

County of Kootenai)

On this 21 day of December, 1994, before me, Michael E. Remy, a Notary Public for the State of Idaho personally appeared ROSS WELBURN, Trustee of the Welburn Family Trust, known or identified to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same on behalf of the Trust.

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



Michael E. Remy
Notary Public for Idaho
Residing in:
Commission Expires:

3. WELL USERS AGREEMENT AND EASEMENT

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EXHIBIT

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TRACT 11

A tract of land being a portion of the North 1/2 of Section 17, Township 50 North, Range 5 West, Boise Meridian, Kootenai County, State of Idaho, and being more particularly described by metes and bounds as follows, to wit:

BEGINNING at the North 1/4 corner of said Section 17, which is marked by an iron rod with aluminum cap from which the Northeast corner of said Section 17 bears, South 87° 26' 45" East, a distance of 2625.18 feet;

THENCE, along the north line of said Section 17, South 87° 26' 45" East, a distance of 674.94 feet to a set 5/8 inch iron rod and cap;

THENCE, South 39° 28' 08" West, a distance of 765.08 feet to a set 5/8 inch rod and cap on the centerline of a 60.00 foot wide private road easement (see private road easement agreement recorded under Instrument No. 1289994);

THENCE, along the centerline of said private road easement, the following four (4) centerline courses:

- 1) Along the arc of a curve to the left, which is concave to the South, having a radius of 274.58 feet, through a central angle of 19° 49' 55", an arc distance of 95.04 feet, whose chord bears South 77° 35' 18" West, 94.57 feet to a point of tangency; thence
- 2) South 67° 40' 21" West, a distance of 67.49 feet to a point of curvature; thence
- 3) Along the arc of a curve to the left, which is concave to the Southeast, having a radius of 551.74 feet, through a central angle of 09° 07' 09", an arc distance of 87.81 feet, whose chord bears South 63° 06' 46" West, 87.72 feet to the point of tangency; thence
- 4) South 58° 33' 12" West, a distance of 45.00 feet to a set 5/8 inch iron rod and cap;

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THENCE, North 25° 38' 34" West, a distance of 492.87 feet to a set 5/8 inch iron rod and cap;

THENCE, North 03° 04' 35" East, a distance of 298.72 feet to a set 5/8 inch iron rod and cap on the north line of said Section 17;

THENCE, along the north line of said Section 17, South 87° 23' 19" East, a distance of 281.02 feet to the POINT OF BEGINNING and containing 10.01 acres of land, more or less.

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TRACT 12

A tract of land being a portion of the Northwest 1/4 of the Northeast 1/4 of Section 17, Township 50 North, Range 5 West, Boise Meridian, Kootenai County, State of Idaho, and being more particularly described by metes and bounds as follows, to wit:

COMMENCING at the North 1/4 corner of said Section 17, which is marked by an iron rod with aluminum cap from which the Northeast corner of said Section 17, bears South 87° 26' 45" East, a distance of 2625.18 feet;

THENCE, along the north line of said Section 17, South 87° 26' 45" East, a distance of 674.94 feet to a set 5/8 inch iron rod and cap marking the POINT OF BEGINNING;

THENCE, continuing along the north line of said Section 17, South 87° 26' 45" East, a distance of 637.64 feet to a set 5/8 inch iron rod and cap marking the East 1/16 corner of said Section 17;

THENCE, along the East line of the Northwest 1/4 of the Northeast 1/4 of said Section 17, South 01° 50' 03" West, a distance of 320.69 feet to a set 5/8 inch iron rod and cap;

THENCE, South 82° 55' 39" West, a distance of 354.66 feet to a set 5/8 inch iron rod and cap;

THENCE, South 44° 50' 42" West, a distance of 487.14 feet to a set 5/8 inch iron rod and cap on the centerline of a 60.00 foot wide private road easement (see private road easement agreement recorded under Instrument No. 1289994);

THENCE, along the centerline of said private road easement, the following three (3) centerline courses:

- 1) North 54° 08' 31" West, a distance of 174.60 feet to a point of curvature; thence
- 2) Along the arc of a curve to the left, which is concave to the South, having a radius of 264.53 feet, through a central angle of 38° 21' 13", an arc distance of 177.08 feet, whose chord bears North 73° 19' 08" West, 173.79 feet to a point of tangency; thence
- 3) South 87° 30' 16" West, a distance of 109.71 feet to a set 5/8 inch iron rod and cap;

THENCE, North 39° 28' 08" East, a distance of 765.08 feet to the POINT OF BEGINNING and containing 10.00 acres of land, more or less.

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- 4) Along the arc of a curve to the left, which is concave to the Northwest, having a radius of 598.79 feet, through a central angle of $06^{\circ} 07' 05''$, an arc distance of 63.94 feet, whose chord bears North $39^{\circ} 42' 22''$ East, 63.91 feet to a point of tangency; thence
- 5) North $36^{\circ} 38' 50''$ East, a distance of 70.32 feet to a point of curvature; thence
- 6) Along the arc of a curve to the right, which is concave to the Southeast, having a radius of 156.42 feet, through a central angle of $18^{\circ} 52' 30''$, an arc distance of 51.53 feet, whose chord bears North $46^{\circ} 05' 05''$ East, 51.30 feet, to a point of tangency; thence
- 7) North $55^{\circ} 31' 20''$ East, a distance of 28.53 feet to a point of curvature; thence
- 8) Along the arc of a curve to the left, which is concave to the West, having a radius of 73.21 feet, through a central angle of $109^{\circ} 39' 51''$, an arc distance of 140.12 feet, whose chord bears North $00^{\circ} 41' 24''$ East, 119.69 feet, to a set $5/8$ inch iron rod and cap;

THENCE, North $44^{\circ} 50' 42''$ East, a distance of 487.14 feet to a set $5/8$ inch iron rod and cap;

THENCE, North $82^{\circ} 55' 39''$ East, a distance of 354.66 feet to the POINT OF BEGINNING and containing 10.00 acres of land, more or less.

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TRACT 13

A tract of land being a portion of the Northwest 1/4 of the Northeast 1/4 of Section 17, Township 50 North, Range 5 West, Boise Meridian, Kootenai County, State of Idaho, and being more particularly described by metes and bounds as follows, to wit:

COMMENCING at the North 1/4 corner of said Section 17, which is marked by an iron rod with aluminum cap from which the Northeast corner of said Section 17, bears South 87° 26' 45" East, a distance of 2625.18 feet;

THENCE, along the north line of said Section 17, South 87° 26' 45" East, a distance of 1312.58 feet to a set 5/8 inch iron rod and cap marking the East 1/16 corner of said Section 17;

THENCE, along the east line of the Northwest 1/4 of the Northeast 1/4 of said Section 17, South 01° 50' 03" West, a distance of 320.69 feet to a set 5/8 inch iron rod and cap marking the POINT OF BEGINNING;

THENCE, continuing along the east line of said Northwest 1/4 of the Northeast 1/4 of said Section 17, South 01° 50' 03" West, a distance of 370.58 feet to a set 5/8 inch iron rod and cap;

THENCE, South 50° 12' 50" West, a distance of 849.08 feet to a set 5/8 inch iron rod and cap;

THENCE, South 88° 36' 07" West, a distance of 300.00 feet to a set 5/8 inch iron rod and cap on the centerline of a 60.00 foot wide private road easement (see private road easement agreement recorded under Instrument No. 1289994);

THENCE, along the centerline of said easement the following eight (8) courses:

- 1) North 06° 44' 30" East, a distance of 78.56 feet to a point of curvature; thence
- 2) Along the arc of a curve to the right, which is concave to the Southeast, having a radius of 187.61 feet, through a central angle of 36° 01' 25", an arc distance of 117.95 feet, whose chord bears North 24° 45' 12" East, 116.02 feet to a point of tangency; thence
- 3) North 42° 45' 55" East, a distance of 97.55 feet to a point of curvature; thence

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THENCE, along the arc of a curve to the left, which is concave to the Northwest having a radius of 87.67 feet, through a central angle of $44^{\circ} 39' 05''$ an arc distance of 68.32 feet whose chord bears North $29^{\circ} 04' 02''$ East, 66.60 feet to a set $5/8$ inch iron rod and cap;

THENCE, North $88^{\circ} 36' 07''$ East, a distance of 300.00 feet to a set $5/8$ inch iron rod and cap;

THENCE, North $50^{\circ} 12' 50''$ East, a distance of 849.08 feet to the POINT OF BEGINNING and containing 10.00 acres of land, more or less.

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TRACT 14

A tract of land being a portion of the North 1/2 of Section 17, Township 50 North, Range 5 West, Boise Meridian, Kootenai County, State of Idaho, and being more particularly described by metes and bounds as follows, to wit:

COMMENCING at the North 1/4 corner of said Section 17, which is marked by an iron rod with aluminum cap from which the Northeast corner of said Section 17, bears South 87° 26' 45" East, a distance of 2625.18 feet;

THENCE, along the north line of said Section 17, South 87° 26' 45" East, a distance of 1312.58 feet to a set 5/8 inch iron rod and cap marking the East 1/16 corner of said Section 17;

THENCE, along the east line of the Northwest 1/4 of the Northeast 1/4 of said Section 17, South 01° 50' 03" West, a distance of 691.27 feet to a set 5/8 inch iron rod and cap marking the POINT OF BEGINNING;

THENCE, continuing along the East line of said Northwest 1/4 of the Northeast 1/4 of said Section 17, South 01° 50' 03" West, a distance of 638.46 feet to a set 5/8 inch iron rod and cap;

THENCE, North 86° 49' 53" West, a distance of 326.61 feet to a set 5/8 inch iron rod and cap;

THENCE, South 47° 18' 58" West, a distance of 678.22 feet to a set 5/8 inch iron rod and cap;

THENCE, North 55° 37' 56" West, a distance of 230.18 feet to a set 5/8 inch iron rod and cap;

THENCE, North 00° 47' 56" East, a distance of 304.27 feet to a set 5/8 inch iron rod and cap in the center of a 60.00 foot radius cul-de-sac at the terminus of a 60.00 foot wide private road easement (see private road easement agreement recorded under Instrument No. 1289994);

THENCE, along the centerline of said easement, North 51° 23' 35" East, a distance of 59.03 feet to a point of curvature;

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TRACT 16

A tract of land being a portion of the North 1/2 of Section 17, Township 50 North, Range 5 West, Boise Meridian, Kootenai County, State of Idaho, and being more particularly described by metes and bounds as follows, to wit:

COMMENCING at the North 1/4 corner of said Section 17, which is marked by an iron rod with aluminum cap from which the Northeast corner of said Section 17, bears South 87° 26' 45" East, a distance of 2625.18 feet;

THENCE, along the North line of said Section 17, South 87° 26' 45" East, a distance of 1312.58 feet to a set 5/8 inch iron rod and cap marking the East 1/16 corner of said Section 17;

THENCE, along the East line of the Northwest 1/4 of the Northeast 1/4 of said Section 17, South 01° 50' 03" West, a distance of 691.27 feet to a set 5/8 inch iron rod and cap;

THENCE, South 50° 12' 50" West, a distance of 849.08 feet to a set 5/8 inch iron rod and cap;

THENCE, South 88° 36' 07" West, a distance of 300.00 feet to a set 5/8 inch iron rod and cap on the centerline of a 60.00 foot wide private road easement (see private road easement agreement recorded under Instrument No. 1289994) the POINT OF BEGINNING;

THENCE, along the centerline of said easement, along the arc of a curve to the right, which is concave to the Northwest, having a radius of 87.67 feet, through a central angle of 44° 39' 05", an arc distance of 68.32 feet, whose chord bears South 29° 04' 02" West, 66.60 feet to a point of tangency;

THENCE, continuing along the centerline of said easement, South 51° 23' 35" West, a distance of 59.03 feet to a set 5/8 inch iron rod and cap at the center of a 60.00 foot radius cul-de-sac at the terminus of said road easement;

THENCE, South 00° 47' 56" West, a distance of 304.27 feet to a set 5/8 inch iron rod and cap;

THENCE, South 55° 37' 56" East, a distance of 230.18 feet to a set 5/8 inch iron rod and cap;

THENCE, South 01° 50' 03" West, a distance of 367.62 feet to a set 5/8 inch iron rod and cap;

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THENCE, North 64° 33' 09" West, a distance of 855.19 feet to a set 5/8 inch iron rod and cap on the centerline of a 60.00 foot wide private road easement (see private road easement recorded under Instrument No. 1289994);

THENCE, along the centerline of said private road easement the following seven (7) centerline courses:

- 1) Along the arc of a curve to the right, which is concave to the East, having a radius of 376.83 feet, through a central angle of 22° 37' 29", an arc distance of 148.80 feet, whose chord bears, North 11° 18' 31" East, a distance of 147.83 feet to a point of tangency thence;
- 2) North 22° 37' 16" East, a distance of 88.20 feet to a point of curvature thence;
- 3) Along the arc of a curve to the left, which is concave to the Northwest, having a radius of 532.63 feet, through a central angle of 07° 31' 09", an arc distance of 69.90 feet, whose chord bears, North 18° 51' 41" East, 69.55 feet to a point of tangency thence;
- 4) South 15° 06' 07" West, a distance of 39.62 feet to a point of curvature thence;
- 5) Along the arc of a curve to the right, which is concave to the Southeast, having a radius of 235.73 feet, through a central angle of 16° 18' 52", an arc distance of 75.35 feet, whose chord bears, North 24° 15' 33" East, 75.03 feet to a point of tangency thence;
- 6) North 33° 24' 59" East, a distance of 102.48 feet to a point of curvature thence;
- 7) Along the arc of a curve to the left, which is concave to the West, having a radius of 56.47 feet, through a central angle of 55° 07' 05", an arc distance of 54.32 feet whose chord bears, North 05° 51' 26" East, 52.25 feet to a set 5/8 inch iron rod and cap;

THENCE, South 89° 07' 30" East, a distance of 498.36 feet to the POINT OF BEGINNING and containing 10.00 acres of land, more or less.

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2/23/94



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BETWEEN STEV

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EXHIBIT

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WELL #24

WELL SITE AND WATER LINE EASEMENT
PORTION OF TRACT 16

A circular 50.00 foot radius parcel of land centered on an 8 inch diameter water well with a 15.00 foot wide strip of land centered on a water line over, under and across a portion of the North 1/2 of Section 17, Township 50 North, Range 5 West, Boise Meridian, Kootenai County, Idaho, the center of said 100.00 foot diameter well easement and the centerline of said 15.00 foot wide water line easement being described by metes and bounds as follows:

COMMENCING at the Center 1/4 corner of said Section 17, which is marked by a 5/8 inch iron rod with 2 inch aluminum cap, according to C.P. & F. filed under Instrument No. 1271958, from which the North 1/4 corner of said Section 17 bears, North 01° 48' 26" East, a distance of 2643.75 feet;

THENCE, North 09° 10' 38" East, a distance of 1183.09 feet to the center of an existing 8 inch diameter water well which is the radius point of a 50.00 foot radius circle, around said well, the center of said well also being the POINT OF BEGINNING for the center of a 15.00 foot wide water line easement;

THENCE, along the center of said water line, North 67° 46' 39" East, a distance of 113.71 feet to the right-of-way line of a 60.00 foot radius cul-de-sac, established by private road easement document recorded under Instrument No. 1289994, the terminus point of this easement description.

11/8/94
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STATE OF IDAHO } SS
COUNTY OF KOOTENAI }
AT THE OFFICE OF
SIMS, LIESCHE, NEWELL,
REAGAN, WALLACE & WALLACE, P.A.
Dec 20 3 09 PM '94

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