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~~130805~~ WELL AGREEMENT

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DEPT. OF WATER RESOURCES
SOUTHERN REGION

THIS AGREEMENT, made this 21st day of November, 1980, by and between HEBER ZOLLINGER and THEORA MAE ZOLLINGER, husband and wife, both of Malta, Cassia County, Idaho, herein for convenience referred to as "Heber", parties of the first part; and ORSON ZOLLINGER and DONNA JO ZOLLINGER, husband and wife, both of Sublet, Cassia County, Idaho, herein for convenience referred to as "Orson", parties of the second part; and ASIEL ZOLLINGER and THEDA ZOLLINGER, husband and wife, both of Sublet, Cassia County, Idaho, herein for convenience referred to as "Asiel", parties of the third part:

W I T N E S S E T H

WHEREAS, Orson, Heber and Asiel are owners in common of that certain stock water well located upon the property described herein, and

WHEREAS, by separate agreement and deeds of conveyance, Orson and Asiel have conveyed the property hereinafter described to Heber and have by said conveyances, reserved the rights of ownership owned by them in said stock water well unto themselves, in accordance with the interests set forth herein, and

WHEREAS, Orson, Heber and Asiel desire to reduce to writing their agreements concerning the use of said well and the maintenance thereof, and rights of ingress and egress thereto,

NOW THEREFORE, in consideration of the mutual covenants to be by the parties hereto kept, observed and performed, it is agreed:

1. That parties do hereby reaffirm that the well and the water rights therein, are owned by them in the following ratios:

Orson owns fifty (50%) percent.

Heber owns twenty-five (25%) percent.

Asiel owns twenty-five (25%) percent.

2. The well is located upon the following described real property, reserving however the well and water rights therein owned by them, to-wit:

Township 13 South, Range 28 East, Boise Meridian
 Section 12: That part of the following described
 parcel lying in the E $\frac{1}{4}$ E $\frac{1}{4}$ NE $\frac{1}{4}$: Beginning at the
 East $\frac{1}{4}$ corner of Section 12;
 Thence South 89° 48' 27" West for 1321.66 feet;
 Thence North 0° 17' 38" East for 724.52 feet;
 Thence South 77° 19' 25" East for 545.31 feet;
 Thence South 66° 42' 25" East for 209.55 feet;
 Thence North 14° 14' 05" East for 1013.04 feet;
 Thence North 89° 18' 05" East for 351.20 feet;
 Thence South 0° 18' 13" West for 1503.49 feet;
 To the Point of Beginning, all in Cassia County, Idaho.
 (See page 7 of the Memorandum Agreement)

3. Heber, his heirs, successors, personal representative
 and assigns do hereby agree and are otherwise bound to commit no
 waste or strip of said well, nor the pumping equipment located thereon,
 to maintain the well, water pump and motor located thereon and at
 all times, to keep the same in good working and operat , condition.
 That in the event of damage, etc., or destruction from any cause,
 agrees to repair or replace the same at their sole cost and expense.

4. It is agreed, upon Heber, his heirs, successors,
 personal representative or assigns, failure to perform the agreements
 provided in paragraphs 3 herein, that either Orson, Asiel or both
 of them, may enter upon said premises for the purpose of repairing
 and or reconstructing said well and replacing the well, the pump,
 motor, etc, and Heber does hereby give, grant, convey and setover
 unto Orson and Asiel a right of way over existing roadway, or farm
 road, referred to as the existing feedlot road, for said purposes.

5. Heber, agrees to deliver to Orson stock water along
 and through an existing pipe line to properties of Orson located
 in the SouthEast Quarter of the SouthEast Quarter of Section
 12, Township 13 South, Range 28 East Boise Meridian, to a point on
 the northwest corner lying south of the Sublet irrigation canal and
 described as follows, to-wit:

Parcel No. 2 (The Mortenson Field comprising
 approximately 27.80 acres less easement of
 1.78 acres resulting in 26.02 dry farm acres.)

TOWNSHIP 13 SOUTH, RANGE 28 EAST, BOISE MERIDIAN
 Section 12: That part of the E $\frac{1}{4}$ SE $\frac{1}{4}$ lying South of
 the following described line:

Beginning at a point that is 1749.96 feet South
 0°22' West from the East $\frac{1}{4}$ corner of Section
 12; thence South 86°32'09" West for 309.32 feet;

thence North 81°42'36" West for 516.80 feet;
thence North 77°31'34" West for 269.01 feet;
thence North 73°09'05" West for 247.11 feet to
a point that is 1559.96 feet South 0°19'32"
West of the Northwest corner of E4SE4.

LESS the following described Easement for ingress and
egress over and across the E4SE4 of said Section 12,
more particularly described as follows:

Beginning at the East 1/4 section corner of said
Section 12, said point marked by a U.S. Govern-
ment Brass Cap; thence South 0°22' West (Basis of
Bearing) along section line for 1749.96 feet to
a 1/2" rebar which shall be the Point of
Beginning;

Thence South 0°22' West along section line for
80.18 feet to a point;
Thence North 88°50'52" West for 310.63 feet to
a point;
Thence North 81°42'36" West for 524.47 feet to
a point;
Thence North 77°31'34" West for 273.12 feet to
a point;
Thence North 73°09'05" West for 232.90 feet to
a point on the 1/16th section line;
Thence North 0°19'32" East along said 1/16th
section line for 57.36 feet to a 1/2" rebar;
Thence South 73°09'05" East for 247.11 feet to
a 1/2" rebar;
Thence South 77°31'34" East for 269.01 feet to
a 1/2" rebar;
Thence South 81°42'36" East for 516.80 feet to
a 1/2" rebar;
Thence North 86°32'09" East for 309.32 feet to the
Point of Beginning.

ALL IN CASSIA COUNTY, STATE OF IDAHO

Heber further agrees to deliver to Orson and Asiel stock water
from said well to a point South and West, but adjacent to said well on
properties of Orson located in the NE1/4 NE1/4 of Section 12, Township 13 S
Range 28, E.B.M., through an existing pipeline extending to said point.

→ 6. Heber agrees to maintain the pipe lines referred to in
paragraph 5 at his exclusive cost and expense and further agrees to
keep said pipelines in good operating condition at all times.

7. In the event and for any reason, that Heber fails
to maintain the pipelines in good working order at all times as
provided herein, then and in that event, Orson or Asiel or both of
them may enter the property of Heber, along the route of said ex-
isting pipelines for the purpose of performing such repair or
maintenance as may be required. In such event, Orson and Asiel
shall have the right to enter said property with such equipment
as is necessary to make said repair or maintenance, taking care,
however, to disturb as little of the area as is necessary.

8. In the event Orson or Asiel should have to repair or replace existing pipeline, upon Heber's failure to do so within a reasonable time, then any expense of repair or replacement shall be chargeable to Heber or his successors.

9. In consideration of the foregoing covenants to be performed by Heber, Heber shall have a continuous water supply in the house located upon said property; for all other purposes, each party shall be entitled to use water from said well in accordance with the proportion of ownership set forth above and no more; provided however, that in the event one or more of the parties are not using the water from said well, then the other or others, may share in the use of the nonusers share equally.

10. All electric costs for the pumping of water from said well shall be paid for by Heber, unless the parties otherwise in writing agree.

11. The covenants herein contained shall be perpetual and run with the land.

12. The covenants and agreements shall be binding upon the heirs, successors, personal representatives and assigns of each party.

IN WITNESS WHEREOF, the said parties to this agreement have hereunto signed their names the day and year first above written.

Parties of the First Part

Heber Zollinger
HEBER ZOLLINGER
Theora Mae Zollinger
THEORA MAE ZOLLINGER

Parties of the Second Part

Orson Zollinger
ORSON ZOLLINGER
Donna Jo Zollinger
DONNA JO ZOLLINGER

Parties of the Third Part

Asiel Zollinger
ASIEL ZOLLINGER
Theda Zollinger
THEDA ZOLLINGER

STATE OF IDAHO)
) ss.
County of Cassia)

On this 21st day of November, 1980, before me a notary public in and for said State, personally appeared HEBER ZOLLINGER and THEORA MAE ZOLLINGER, husband and wife, and 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 official seal the day and year first above written.

(SEAL)

Della Mae Johnson
Notary Public for Idaho
Residing at Burley, Idaho

STATE OF IDAHO)
) ss.
County of Cassia)

On this 21st day of November, 1980, before me a notary public in and for said State, personally appeared OPSON ZOLLINGER and DONNA JO ZOLLINGER, husband and wife, and 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 official seal the day and year first above written.

(SEAL)

Della Mae Johnson
Notary Public for Idaho
Residing at Burley, Idaho

STATE OF IDAHO)
) ss.
County of Cassia)

On this 21st day of November, 1980, before me a notary public in and for said State, personally appeared ASIEL ZOLLINGER and THEDA ZOLLINGER, husband and wife, and 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 official seal the day and year first above written.

(SEAL)

Della Mae Johnson
Notary Public for Idaho
Residing at Burley, Idaho

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COUNTY CLERK

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