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Filed for Record  
at the Request of:

STEPHEN C. MORIARTY  
The Law Firm of Platt Irwin Taylor  
403 South Peabody  
Port Angeles, WA 98362

NO REAL ESTATE  
EXCISE TAX REQUIRED  
JEFFERSON COUNTY TREASURER

By: *[Signature]*

## WELL AGREEMENT AND EASEMENT

Grantor: GREGORY A. FAY and CONNIE L. FAY, co-limited guardians of the Estate of Dawn Michelle Fay

Grantee: GREGORY A. FAY and CONNIE L. FAY, husband and wife,

Legal Description: Tract 35-1 & 35-2 of Survey known as Lords Lake Loop Tracts

Assessor's Property Tax Parcel Account Number: 802 352 001 & 802 352 008

THIS WELL AGREEMENT AND EASEMENT, made this 30th day of January, 2002, by and between GREGORY A. FAY and CONNIE L. FAY, co-limited guardians of the Estate of Dawn Michelle Fay, (hereinafter the "Grantor"), and GREGORY A. FAY and CONNIE L. FAY, husband and wife, (hereinafter the "Grantees").

WHEREAS, the Grantor owns the following-described real estate situated in Jefferson County, State of Washington:

Tract 35-1 of Survey known as Lords Lake Loop Tracts, recorded on June 23, 1992 in Volume 13 of Surveys, page 223, under Auditor's File No. 350984, records of Jefferson County, Washington, being a portion of the West ½ of Section 35, Township 28 North, Range 2 West, W.M., Jefferson County, Washington.

TOGETHER WITH an easement for ingress, egress and utilities, over, under and across a portion of certain properties located in Section 2, Township 27 North, Range 2 West, W.M., and in Sections 27, 34, and 35, Township 28 North, Range 2 West, W.M., records of Jefferson County, Washington, as set forth in Auditor's File Nos. 350985, 358783, 367032, 370970, 387897 and delineated in Auditor's File Nos. 350984 (Volume 13 of Surveys page 223) and 397485 (Volume 18 of Surveys pages 112 through 120), all records of Jefferson County, Washington.

Situate in the County of Jefferson, State of Washington.

Tax Parcel No.: 802 352 001;

and



WHEREAS, the Grantees herein own a certain tract of land situated in Jefferson County, Washington, described as follows:

Tract 35-2 of Survey known as Lords Lake Loop Tracts, recorded on June 23, 1992 in Volume 13 of Surveys, page 223, under Auditor's File No. 350984, records of Jefferson County, Washington, being a portion of the West ½ of Section 35, Township 28 North, Range 2 West, W.M., Jefferson County, Washington.

TOGETHER WITH an easement for ingress, egress and utilities, over, under and across a portion of certain properties located in Section 2, Township 27 North, Range 2 West, W.M., and in Sections 27, 34, and 35, Township 28 North, Range 2 West, W.M., records of Jefferson County, Washington, as set forth in Auditor's File Nos. 350985, 358783, 367032, 370970, 387897 and delineated in Auditor's File Nos. 350984 (Volume 13 of Surveys page 223) and 397485 (Volume 18 of Surveys pages 112 through 120), all records of Jefferson County, Washington.

Situate in the County of Jefferson, State of Washington.

Tax Parcel No.: 802 352 008;

and

WHEREAS, the Grantor's and Grantees' above-described tracts are contiguous;  
and

WHEREAS, a well assigned State of Washington Unique Well Identification Number AFG810, (hereinafter the "Well"), has been established upon the aforesaid property of the Grantor for the purpose of supplying domestic water; and

WHEREAS, the Grantor has incurred the costs of drilling said Well and installing the well pump, water lines, water storage tank and other associated hardware, and connecting to power, (collectively, hereinafter the "Water System"), all on the Grantor's aforesaid premises; and

WHEREAS, the parties hereto wish to share said Well, Water System and water, on an equitable basis and wish said sharing to be made appurtenant to each of the above-described parcels of property; and

WHEREAS, Grantees will, prior to their first connection to aforesaid Well or Water System, pay to Grantor a sum equal to one-half the actual costs of drilling said Well and installing those aforesaid portions of said Water System to be shared in common, and, in addition, Grantees will cause to be constructed, at their sole expense, a pump house of a type and size agreeable to the Grantor to be located upon the Grantor's premises in close proximity to the aforesaid water storage tank, which pump house will thereafter and forevermore be the property of the Grantor and an integral element of said Water System; and

WHEREAS, the terms of this Well Agreement and Easement have been approved by the Jefferson County Superior Court by order dated February 22, 2002 in cause number 98-1-00089-5.

NOW, THEREFORE, in consideration of the mutual promises contained herein, the Grantor and Grantees agree as follows:



1. Easement. Grantor hereby grants and conveys in perpetuity to Grantees, their heirs, successors and/or assigns, a one-half interest in and the right to use water from that certain Well and/or attached Water System located on the above-described Grantors' premises as depicted on a map attached hereto as Exhibit A (hereinafter the "Map"), together with a right of ingress and egress from and to said Well and/or Water System, and the right to lay, and cause to be laid, and to repair and/or replace, pipes and/or power lines on, under or through the aforementioned property of Grantor along an area twenty feet in width, measured as ten feet on each side of a line consisting of straight line segments, beginning with a segment perpendicular to and from the dividing property line to the center of the well casing then to the center of the water storage tank then to the center of the pump house and then to the closest point on the dividing property line, all as depicted on the aforesaid Map, (hereinafter the "Easement"), including the right to connect to said Well and/or Water System on the Grantor's property within said Easement.

2. Assignment. Grantor hereby assigns a right to transfer water, from the aforesaid Well and/or Water System to the above-described property of the Grantees, to the Grantees, their heirs, successors and/or assigns.

3. Monthly Expense. Grantees, their heirs, successors and/or assigns, agree to pay monthly, to Grantor, Grantor's heirs, successors and/or assigns, the amounts to be determined as described below, from the date of Grantees' connection to said Well and/or Water System.

a. The amounts paid monthly by the Grantees, their heirs, successors and/or assigns, will be equal to their equitable proportion of the total actual monthly cost of electricity and/or other power used for operating said Well and Water System, as measured by an accurate and properly maintained power meter serving only said Well and Water System, and calculation of the proportionate monthly usage of water, by the Grantor and Grantees, their heirs, successors and/or assigns, with relation to the total quantity of water used monthly by Grantor and Grantees, their heirs, successors and/or assigns, as measured by accurate and properly maintained water meters installed on Grantor's property, within said Easement, in each and every water line serving Grantor or Grantees, their heirs, successors and/or assigns, from said Well and/or Water System.

b. The amounts paid monthly shall be delivered to Grantor, Grantor's heirs, successors and/or assigns, not later than the tenth day of the second month immediately following the month of use of said water, Well and/or Water System.

c. In the event the parties are unable to determine between themselves an equitable monthly payment, the parties shall contact a neutral third party, acceptable to each, who shall make a binding determination of said monthly obligation under the terms of this agreement.

4. Maintenance and Repair. Grantees, their heirs, successors and/or assigns, agree to share on an equitable basis with Grantor, Grantor's heirs, successors and/or assigns, upon Grantees' connecting to said Well and/or Water System, any and all reasonable costs of maintenance, repair and/or construction, directly connected with securing water from said Well and/or Water System; provided, however, this provision



shall be applicable only to said Well and those portions of said Water System used in common, and shall not apply to any portion not used in common that supplies either party's property individually, and all costs associated with maintenance, repair or construction of a separate water line, including any equipment attached thereto for such separate water use, will be the sole financial responsibility of the party whose property is served by the individual line.

a. The equitable shares of the reasonable costs of maintenance, repair and/or construction shall be determined by calculation of the proportionate usage of water by the Grantees, their heirs, successors and/or assigns, and the Grantor, Grantor's heirs, successors and/or assigns, with relation to the total quantity of water used by the Grantor and Grantees, their heirs, successors and/or assigns, as measured by water meters installed as described in Paragraph 3, a, above, during the last six full months immediately preceding the necessity or determination of reasonable desirability of said maintenance, repair and/or construction.

b. If, for any reason, the Grantor or Grantor's heirs, successors and/or assigns, shall fail to maintain, repair or power, said Well and/or Water System, the Grantees and Grantees' heirs, successors and/or assigns, shall have the right to maintain, repair or supply electricity and/or other power to said Well and/or Water System, and the costs incurred in so doing shall be divided proportionally between Grantees and Grantor, their heirs, successors and/or assigns, in accordance with the calculation of equitable shares described in Sub-paragraph a, immediately above.

c. In the event the parties are unable to determine between themselves an equitable proportioning of the costs of maintenance, repairs or powering of said Well and/or Water System, the parties shall contact a neutral third party, acceptable to each, who shall make a binding determination of each party's obligation under the terms of this agreement.

5. Notice. Prior to undertaking maintenance, repair or improvement, of a non-emergency nature, to said Well and/or Water System, the Grantees, Grantees' heirs, successors and/or assigns, shall obtain written approval of and for any such maintenance, construction or repair, that will occur upon the premises of, or can reasonably be expected to disrupt the availability of water to, the Grantor, Grantor's heirs, successors and/or assigns, which approval shall not be unreasonably withheld, and the Grantor, Grantor's heirs, successors and/or assigns, shall give reasonable written notice to the Grantees, their heirs, successors and/or assigns, if any such non-emergency maintenance, repair or improvement, to be undertaken by the Grantor, Grantor's heirs, successors and/or assigns, can reasonably be expected to disrupt the availability of water to the Grantees, Grantees' heirs, successors and/or assigns.

6. Domestic Use. Grantees, their heirs, successors and/or assigns agree to take and/or use water from said Well and/or Water System for use on their one single property described above and for domestic residential purposes only, and Grantor, Grantor's heirs, successors and/or assigns, agree not to make use of water from said Well and/or Water System for purposes other than domestic residential purposes which would interfere with Grantees' availability of adequate water for domestic purposes.

a. Grantor and Grantees, their heirs, successors and/or assigns, further



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agree that in the event of a shortage of water supply from said Well and/or Water System, Grantees and Grantor, their heirs, successors and/or assigns, shall share the available water on an equitable basis.

b. In the event the parties are unable to determine between themselves an equitable proportioning of the available water during a period of shortage, the parties shall contact a neutral third party, acceptable to each, who shall make a binding determination of each party's equitable proportion under the terms of this agreement.

7. **Enforcement.** In the event litigation becomes necessary to enforce any of the covenants contained hereunder, the prevailing party shall be entitled to a reasonable attorney's fee and costs to be determined by the Court.

8. **Severability.** In the event litigation or any other action of law results in any determination that any portion of the foregoing is unlawful or unenforceable, only that smallest portion found to be unlawful or unenforceable shall be so considered and all other portions hereof shall remain in force.

  
GREGORY A. FAY, Grantor  
Co-Limited Guardian of the  
Estate of Dawn Michelle Fay

  
GREGORY A. FAY, Grantee

  
CONNIE L. FAY, Grantor  
Co-Limited Guardian of the  
Estate of Dawn Michelle Fay

  
CONNIE L. FAY, Grantee

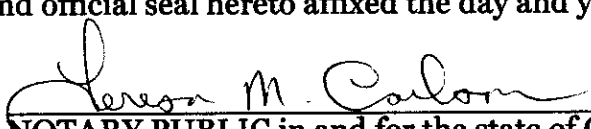
STATE OF CALIFORNIA

ss.

County of San Diego

On this 30<sup>th</sup> day of January, 2002, before me the undersigned, a Notary Public in and for the state of California, duly commissioned and sworn, personally appeared GREGORY A. FAY and CONNIE L. FAY, co-limited guardians of the Estate of Dawn Michelle Fay, individuals named herein and acknowledged that they executed the same for the purposes therein mentioned.

WITNESS my hand and official seal hereto affixed the day and year first above written.

  
NOTARY PUBLIC in and for the state of California,  
conducting business at Bonita, California.  
My commission expires: 2-27-03.





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STATE OF CALIFORNIA

)  
)ss.

County of San Diego )

On this 30<sup>th</sup> day of January, 2002, before me the undersigned, a Notary Public in and for the state of California, duly commissioned and sworn, personally appeared GREGORY A. FAY and CONNIE L. FAY, husband and wife, to me known to be the individuals named herein and acknowledged that they executed the same for the purposes therein mentioned.

WITNESS my hand and official seal hereto affixed the day and year first above written.

Teresa M. Carlson  
NOTARY PUBLIC in and for the state of California,  
conducting business at Bonita California.  
My commission expires: 2-27-03.



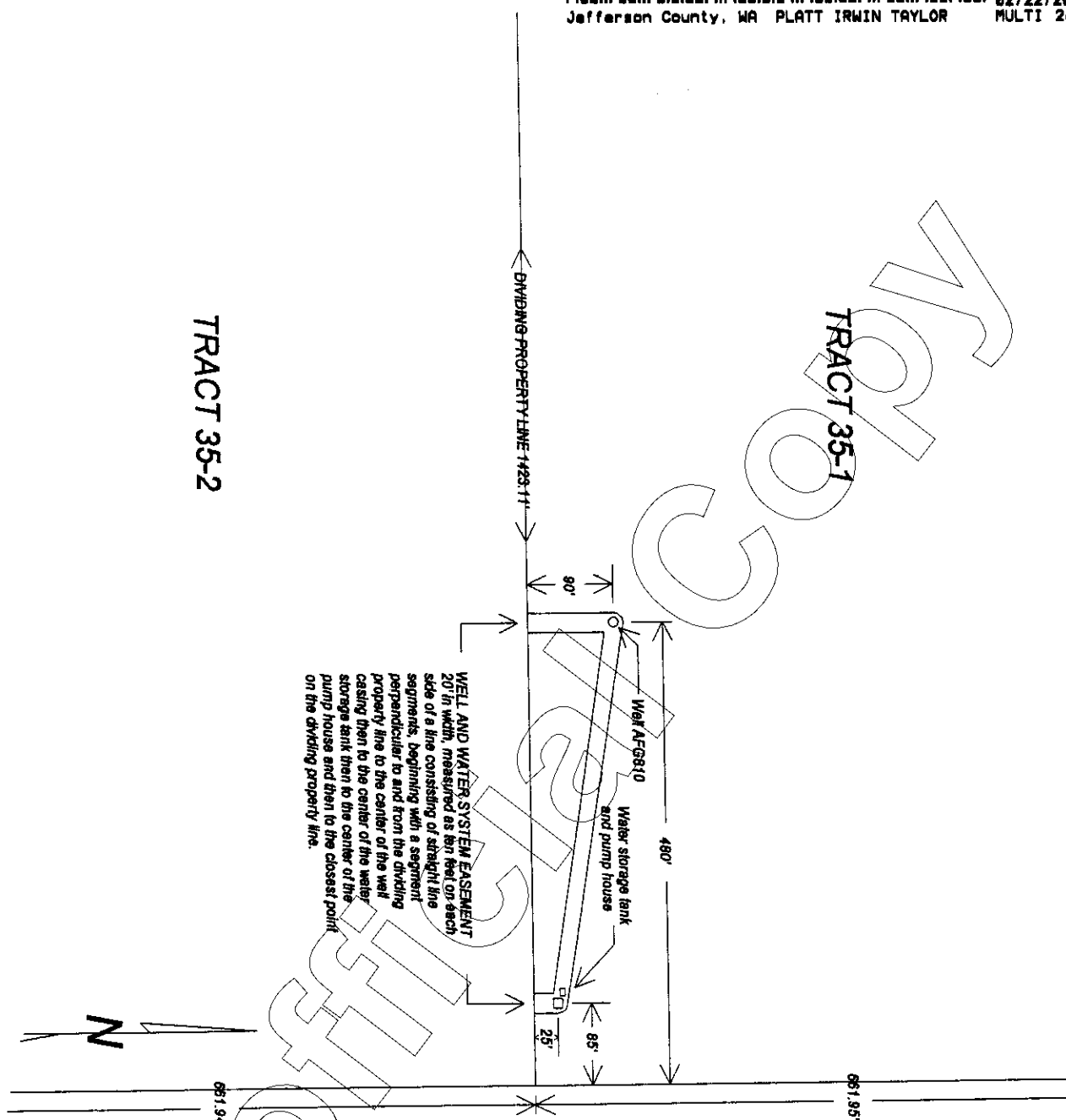


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TRACT 35-1

**TRACT 35-2**

**EXHIBIT**

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**tables.**