

Notice of Confidentiality Rights: If you are a natural person, you may remove or strike any or all of the following information from any instrument that transfers an interest in real property before it is filed for record in the public records: your social security number or your driver's license number.

SHARED WATER WELL AGREEMENT

THIS SHARED WATER WELL AGREEMENT ("*Agreement*") is made and entered into this 14th day of February, 2013, by and between DONALD T. POINDEXTER and PATRICIA L. POINDEXTER (referred herein as "*the Supplying Party*"); and ARTHUR M. DENNIS and ROSEMARY K. DENNIS (referred to herein as "*the Supplied Party*").

RECITALS

WHEREAS, the Supplying Party is the owner of certain real property situated in Jeff Davis County, Texas, more fully described as follows, to wit:

LOT EIGHT (8), WARBONNET SUBDIVISION, an unrecorded subdivision of Jeff Davis County, Texas, being a 5.00 acre tract of land, more or less; and

LOT SIXTEEN (16), WARBONNET SUBDIVISION, an unrecorded subdivision of Jeff Davis County, Texas, being a 12.00 acre tract of land, more or less; and

WHEREAS, the Supplied Party is the owner of certain real property situated in Jeff Davis County, Texas, more fully described as follows, to wit:

LOT FIVE (5), WARBONNET SUBDIVISION, an unrecorded subdivision of Jeff Davis County, Texas, being a 5.00 acre tract of land, more or less; and

WHEREAS, the parties have reached an Agreement regarding water from a water well ("*the Well*"), located on the Supplying Party's LOT EIGHT (8), being supplied to the Supplied Party's LOT FIVE (5) on a temporary basis, and the cost of maintaining the Well and the water distribution system; and

WHEREAS, the Supplying Party currently has a ten-foot Water Line Easement across the southern portion of LOT FIVE (5):

WHEREAS, it is the intention and purpose of the parties that the Well and water distribution system shall be used and operated to provide a temporary and alternate source of water for the Supplied Party's dwelling located on LOT FIVE (5) in the event that the water supply from the well located thereon is disrupted or is deemed inadequate for the Supplied Party's domestic uses. Water shall be supplied for a reasonable time in order for the Supplied Party to effect repairs to the well, drill another well, or obtain water from another source; and

WHEREAS, the Well on LOT EIGHT (8) is currently deemed to be of adequate capacity to supply water for all domestic uses of two (2) dwellings: one located on LOT FIVE (5), and one located on the Supplying Party's LOT SIXTEEN (16); and

WHEREAS, the parties hereto desire to enter this Agreement for the purpose of reducing to writing their respective rights and obligations pertaining to said Well and water distribution system.

NOW THEREFORE, in consideration of the promises and covenants herein contained, it is agreed that the Well and water distribution system situated on LOT EIGHT (8) shall be used by the parties to this Agreement, as well as by all future owners and occupants of LOT FIVE (5) and LOT SIXTEEN (16), upon the following terms and conditions:

1. In the event that Supplied Party exercises its right to take water as provided herein, the Supplied Party shall give the Supplying Party five (5) days advance notice and thereafter shall:
 - a. Have the right to tap into the water line at it closest point of approach to the Supplied Party's water tank located in the southeast corner of LOT FIVE (5), and install a connection line (not greater than one and one-quarter inch [1-1/4"] in diameter). The Supplied Party shall bear the total cost of installation, future repair and maintenance of the connection line.

- b. Pay or cause to be paid promptly, up to one-half (1/2) of all expenses incurred for the maintenance and repair of the Well and water distribution system ("*shared expenses*") that may become necessary while the Well is in shared service.
 - c. Pay or cause to be paid promptly, a pro rata share of the electric bill received each month by the Supplying Party. The Supplying Party is solely responsible for paying the electric bill received from the electric utility provider incurred in order to operate the water well; however, upon submission of an invoice, the Supplied Party shall reimburse the Supplying Party for that portion of the electrical bill attributable to the Supplied Party. Meters may be installed in order to determine the portion used by each party.
2. In the event that the Supplied Party's portion of any shared expenses remains unpaid for a period of twenty-five (25) days after submission of an invoice, the Supplying Party may terminate the supply of water to the Supplied Party until all arrearages in payment are received by the Supplying Party.
 3. The Supplying Party shall notify the Supplied Party prior to embarking upon expenditures for maintenance and repair of the Well and water distribution system. Except in emergencies, maintenance and repair expenditures shall be approved in advance by the Supplied Party. In an emergency situation, expenditures for repairs may be made by the Supplying Party, in its discretion, without approval from the Supplied Party. An "*emergency situation*" shall be defined as the failure of any shared portion of the system to deliver water upon demand.
 4. The Supplying Party reserves the right to restrict output from the Well, in its discretion, if circumstances warrant.
 5. Each of the parties hereby agrees to promptly repair, maintain and replace all water pipes or mains located on its respective Tract.
 6. The Supplied Party does hereby covenant and agree that water pumped from the Well may not be sold; and that Supplied Party will not allow or permit other persons, other than household guests, to take, draw, use or receive water from the Well, nor permit other persons to connect to the pipes or mains serving LOT FIVE (5).
 7. Supplying Party makes no express or implied warranty regarding the Well, its longevity, its rate of flow or the purity of the water, and makes no guarantee to furnish a given volume or to provide a continual flow.
 8. In the event the Well shall become contaminated, or shall no longer supply water suitable for domestic consumption, or shall no longer supply water adequate for the needs of both parties, or should the Supplied Party obtain water from another source, then the rights and obligations of the parties created by this Agreement may cease and terminate in accordance with the terms and conditions hereinafter described.
 9. The respective rights and obligations of the parties shall continue until the party who wishes to terminate this Shared Water Well Agreement has given sixty (60) days notice to the other party, stating the reason for termination, and has executed and filed a written *Statement of Termination* in the office of the County Clerk of Jeff Davis County, Texas. The Supplied Party shall disconnect its respective lateral connection from said Well system and shall have no further obligation to pay for, and the Supplying shall have no further right to collect for, maintenance and related expenses incurred thereafter.
 10. Notice. Any notices required or permitted to be given hereunder shall be given in writing and shall be delivered (a) in person; (b) by certified mail, postage prepaid, return receipt requested; or (c) by a commercial next-business-day courier, and such notices shall be addressed to:

If to the Supplying Party:

DONALD and PATRICIA POINDEXTER
HC 74, Box 40A
Fort Davis, TX 79734-9702

[Handwritten signature]

[Handwritten signature]

If to the Supplied Party:

ARTHUR and ROSEMARY DENNIS
119 Silver Hill Dr
Fort Davis, TX 79734-4095

or to such other address as either party may from time to time specify in writing to the other party.

11. The benefits and burdens of this Agreement shall constitute a covenant running with the Lots of land herein described and shall be binding upon the heirs, successors in title and assigns of the parties hereto.
12. The term of this Agreement shall be perpetual, except as herein limited.
13. The Supplied Party agrees to release, indemnify and hold harmless the Supplying Party, Supplying Party's heirs, successors and assigns, from any claims, demands, liability or damages, and any expenses incurred by reason of the same, including reasonable attorneys fees incurred by the Supplying Party, whether or not a suit is involved, in any way arising from or related to the use of water from the Well.
14. This Agreement shall be construed under and in accordance with the laws of the State of Texas, and all obligations of the parties created hereunder are performable in **Jeff Davis** County, Texas.
15. If any controversy, claim, or dispute arises between parties connected to the well, relating to this Agreement or its breach, the prevailing party shall be entitled to recover from the other party reasonable expenses, attorneys fees, and costs.
16. This Agreement contains the entire agreement between the parties relating to its subject matter. Any oral representations or modifications concerning this Agreement shall be of no force and effect. Any subsequent amendment or modification must be in writing and agreed to by the parties.
17. When the context requires, singular nouns and pronouns include the plural.

IN WITNESS WHEREOF, this agreement shall be effective as of the day and year first above written.

The Supplying Party:

Donald T. Poindexter
DONALD T. POINDEXTER

Patricia L. Poindexter
PATRICIA L. POINDEXTER

The Supplied Party:

Arthur M. Dennis
ARTHUR M. DENNIS

Rosemary K. Dennis
ROSEMARY K. DENNIS