

RECEIVED

JAN 11 2008

LEASEMENT AND WELL USE AGREEMENT

Rapid City Growth  
Management Department

WHEREAS, Jack S. Clark and Garwin Clark, husband and wife, hereinafter referred to as the First Parties, are the owners of two (2) parcels of real property described as follows:

## PARCEL 1:

The West One Hundred Seventy-Three and Eighty-Five One Hundredths Feet ( $W 173.85'$ ) of the East Three Hundred Thirty and Eighty-Five One Hundredths Feet ( $E 330.85'$ ), of Lot Nine (9) of the East Half of the Northeast Quarter ( $E\frac{1}{2}NE\frac{1}{4}$ ), of Section Twenty-One (21), of Township One (1) North, of Range Seven (7) East of the Black Hills Meridian, in Pennington County, South Dakota;

## PARCEL 2:

The East One Hundred Fifty-Seven Feet ( $E 157'$ ) of the East Three Hundred Thirty and Eighty-Five One Hundredths Feet ( $E 330.85'$ ) of Lot Nine (9) of the East Half of the Northeast Quarter ( $E\frac{1}{2}NE\frac{1}{4}$ ), of Section Twenty-One (21), Township One (1) North, of Range Seven (7) East of the Black Hills Meridian, Pennington County, South Dakota;

and

WHEREAS, Jibbo Jibben and Ruth C. Jibben, husband and wife, hereinafter referred to as the Second Parties, are the owners of certain real property adjoining the property of the First Parties hereinbefore described, the real property of the Second Parties being described as follows:

The East Half ( $E\frac{1}{2}$ ) of Lot Eight (8) of the East Half of the Northeast Quarter ( $E\frac{1}{2}NE\frac{1}{4}$ ), of Section Twenty-One (21), Township One (1) North, of Range Seven (7) East of the Black Hills Meridian, Pennington County, South Dakota;

and

WHEREAS, there is a common water well located at the intersection of the adjoining property lines of all three (3) of the parcels of real property hereinbefore described; and

WHEREAS, The First and Second Parties, for themselves and their heirs, successors, and assigns are desirous of dedicating the use of said well for the use and benefit of the owners of all of such parcels of real property as have been described herein, both for the present and for the future; now, therefore, it is hereby

UNDERSTOOD, AGREED AND DECLARED by the First and Second Parties, for and in consideration of the mutual covenants herein contained, as follows:

I

That the First Parties, Second Parties, and their respective heirs, assigns, and successors, do hereby contract, declare and mutually agree that each parcel of real property herein described shall be entitled to the equal use and benefit of said water well with equal right to draw water therein, subject to all the terms and conditions of this Agreement.

II

That each of said parcels of real property shall be liable for the payment of one-third (1/3) of the actual costs incurred for the operation, maintenance, and preservation of said well; and that the failure or refusal by any owner of any of such parcels of real property to pay his, her, or their respective share of such expense on or before the last day of January

follows  
a forfeit  
this Ag  
owned b  
  
meter  
three (3)  
Part, fo  
agree to  
operate  
provide  
assigned  
Parties  
(1/3) th  
propert  
propert  
year in  
  
operati  
hereby  
entitled  
parcel;  
taking

following the year in which such cost or expense was incurred, shall cause a forfeiture of any and all rights the owner of such parcel may have under this Agreement for the use and benefit of such parcel, or parcels, as may be owned by him.

### III

That, until such time as said well can be properly metered to divide the cost of powering the pumping apparatus among the three (3) parcels of real property served thereby, the Parties of the Second Part, for themselves, their heirs, successors, and assigns, do hereby agree to pay for and provide at their expense, electrical or other power to operate said pumping apparatus to secure adequate water from such well; provided, however, the First Parties, for themselves and their heirs, assigns, and successors hereby agree and promise to pay to the Second Parties or their heirs, successors or assigns, a sum equivalent to one-third (1/3) the actual cost of such electrical or other power per parcel of real property, or the sum of Twenty-Four Dollars (\$24.00) per parcel of real property, whichever is greater, on or before the 1st day of January in each year in accordance with Paragraph II, above.

### IV

That, in the event any dispute arises concerning the operation, maintenance, use, repair, or reconstruction of said well, it is hereby agreed that each of such parcels as are served by such well shall be entitled to one (1) vote, which vote may be exercised by the owner of such parcel; and that all such disputes as may arise shall be resolved by the taking of a vote by such owners, a simple majority being controlling and binding

upon all Parties hereto.

V

That, it is the express intention and agreement of Parties hereto that, henceforth, this Agreement shall be binding upon and run with the real property hereinbefore described, and that any conveyance of the above described property shall be subject to the terms, conditions and obligations of this Agreement, and binding upon the heirs, successors and assigns of the respective Parties hereto.

VI

That, in the event that any provision of this Agreement or any portion thereof, is held to be invalid by a Court of competent jurisdiction, it is hereby expressly understood and agreed that said invalidity shall not affect any other of the provisions of this Agreement which shall be given effect without the invalid provision, and for this purpose, the provisions of this Agreement are to be considered severable.

Dated at Rapid City, South Dakota, this 29

May 1968

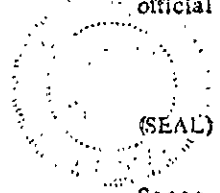
James E. Clark  
James E. Clark  
Gail V. Clark  
Gail V. Clark  
FIRST PARTIES

Jibbo Jibben  
Jibbo Jibben  
Ruth C. Jibben  
Ruth C. Jibben  
SECOND PARTIES

State of South Dakota  
County of Pennington

before me, the undersigned  
and Gail V. Clark  
to be, the person  
acknowledged that

official seal.



State of South Dakota  
County of Pennington

before me, the undersigned  
and Ruth C. Jibben  
to be, the person  
acknowledged that

official seal.

