Book 2012 Page 1260
Document 2012 1260 Type 06 006 Pages 3
Date 4/17/2012 Time 11:01:30AM
Rec Amt $17.00

DEBORAH L PEYTON, RECORDER/REGISTRAR
DELAWARE COUNTY IOWA

Prepared by: A. Theodore Huinker, 200 Security Building, 151 West 8th Street, Dubuque, Iowa 52001 (563) 556-4011
Return Document to: A. Theodore Huinker

WATER RIGHTS AGREEMENT

THIS AGREEMENT made as of the 16th day of April, 2012 by and between AUGUSTINE M. DETTBARN, herein know as party of the first part, and GARRY L. BEAMAN, JR., and LEAH BEAMAN, and DENISE E. NILES, herein known as parties of the second part:

WHEREAS, AUGUSTINE M. DETTBARN, party of the first part, is the owner of real property legally described as:

Parcel C, located in the Northwest Quarter (NW1/4) and the Southwest 1/4 (SW 1/4) of Section Twenty-Four (24), Towsnhip 87 North (T87N), Range 4 West (R4W) of the Fifth Principal Meridian, Delaware County, Iowa, according to plat recorded in Book 7 Plats, Page 215;

WHEREAS, GARRY L. BEAMAN, JR. AND LEAH BEAMAN, party of the second part, is the owner of real property legally described as:

Parcel D of the Southwest Quarter (SW1/4) of the Northwest Quarter (NW1/4) and part of the Northwest Quarter (NW1/4) of the Southwest Quarter (SW1/4) all in Section Twenty-Four (24), Township Eighty-Seven North (T87N), Ranged Four West (R4W) of the Fifth Principal Meridian, Delaware County, Iowa, according to plat recorded in Book 8 Plats, Page 101;

WHEREAS, DENISE E. NILES, also party of the second part, is the owner of real property legally described as:

Lot Two (2) of Dettbarn Addition Comprised of Parcel A of the Northwest Quarter (NW1/4); Part of the Southwest Quarter (SW1/4) of the Northwest Quarter (NW1/4); Part of the Southeast Quarter (SE1/4) of the Northwest Quarter (NW1/4) and part of the Northwest Quarter (NW1/4) of the Southwest Quarter (SW1/4) all in Section Twenty-Four (24), Township Eighty-Seven North (T87N), Ranged Four West (R4W) of the Fifth Principal Meridian, Delaware County, Iowa, according to plat recorded in Book 2002, Page 2294;

WHEREAS, there is a water well located on the property owned by the party of the first part which provides water to the property owned by the parties of the second part.

WHEREAS, the party of the first part and the parties of the second part have agreed to the following:

1. That the party of the first part and the parties of the second part shall have the right to draw water from the well located on the property owned by the party of the first part provided that the water used by the parties shall be

solely for bona fide domestic purposes. In the event party of the first part no longer draws water from the well shared by the parties, parties of the second part shall have the continuing right to draw water from the shared well, but in such event, parties of the second part shall be solely and equally responsible for the costs associated with the operation and maintenance of said well.

2. That Denise E. Niles, and her successors and/or assigns agree to pay the sum of $100.00 per year to Beamans and their successors and/or assigns for the costs associated with drawing water, said fee to be payable on or before May 1 annually. This Agreement may be amended to assure equitable readjustment of this fee in the event there is significant changes in well pump energy rates or other routine maintenance costs.

3. Any repairs, maintenance, improvement, or replacement of the existing well, and/or component parts, located on the real property owned by the party of the first part shall be the shared responsibility of the parties. Any such repairs shall be made to ensure the continuing supply of water to the parties and shall require the consent of a majority of the parties. Any such repairs shall be undertaken to restore original water system performance, and no further improvements shall be required unless agreed to by a majority of the parties.

4. That the parties agree that the use of the water from said well which they are being granted is for the exclusive domestic use on the property owned by the parties and no additional parties shall be allowed to draw water from said well without the consent of all parties.

5. That the cost of maintaining and repairing the water lines from said well to each property of the parties shall be the responsibility of the parties being serviced by said water lines. Party of the first part hereby grants to the parties of the second part easements as necessary for the continuing maintenance, inspection, testing, and repair of the water line(s) and well serving the property owned by the parties of the second part. No party shall install landscaping or make any improvements which would impair the easement rights granted herein. The cost of removal of any such improvements encroaching upon the easement rights granted herein to allow for maintenance, testing or repair of the water system shall be at the expense of the party causing said encroachment.

6. That any party may act without the consent of the other parties to correct an emergency situation in which there is a failure of the water system to deliver water upon demand. The acting party shall make their best efforts to notify the other parties prior to proceeding with emergency repairs hereunder. All parties agree to share the costs necessary to restore the supply of water to correct an emergency situation. With respect to non-emergency repairs, no party shall be responsible for unilaterally incurred debts of another party.

7. That each party hereto shall be responsible, at its own expense, for the prompt repair of any detected leak in its water service line connecting the system to its dwelling, for the prompt repair of any detected leak in its plumbing system, for the repair costs to correct system damage caused by a resident or guest at the parties' property.

8. That each party hereto has the right, at any time, to have the water and well tested by a licensed well specialist for continued assurance of water quality. Said testing shall be conducted at the expense of the party initiating the testing. In the event the testing reveals a significant water quality deficiency, it is hereby agreed by the parties hereto that in the event that water from said well should require chemical treatment to make it fit for human consumption, the cost(s) incident to the same, including testing, shall be shared equally by all properties serviced by said well, but only in the event of the consent of a majority of the parties.

9. That no party shall allow the location or relocation of any element of an individual sewage disposal system to be within fifty (50) feet of the shared well.

10. That if Niles, or her successors and/or assigns fail to pay the annual charge, or either party fails to maintain its respective water line, party of the first part may terminate this Agreement upon ninety (90) days written notice to the party of the second part who is in default of its obligations herein.

11. That this Agreement shall not be construed as creating any obligation on the party of the first part to furnish water to any other parties, this Agreement being an agreement granting the right to draw water only.

12. That in the event of a dispute or impasse between the parties relating to the terms of this agreement, the parties agree that any such impasse shall be submitted to binding arbitration, which shall be through the American Arbitration Association. The costs of the arbitration shall be shared equally by the parties.

13. That this Water Rights Agreement shall be binding upon the successors, heirs and assigns of the parties, and may only be amended upon the consent of both of the parties to this agreement, or their respective successors and/or assigns.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first above written.

GARRY L. BEAMAN, JR.

DENISE E. NILES

LEAH BEAMAN

AUGUSTINE M. DETTBARN

STATE OF IOWA, DUBUQUE COUNTY) ss:

This instrument was acknowledged before me on this 16th day of April, 2012 by GARRY L. BEAMAN, JR. and LEAH BEAMAN, husband and wife.

CHERYL DIRKS
Notarial Seal - Iowa
Commission # 176941
My Commission Expires 11-15-12

Notary Public

STATE OF IOWA, DUBUQUE COUNTY) ss:

This instrument was acknowledged before me on this 16th day of April, 2012 by DENISE E. NILES.

CHERYL DIRKS
Notarial Seal - Iowa
Commission # 176941
My Commission Expires 11-15-12

Notary Public

STATE OF IOWA, DUBUQUE COUNTY) ss:

This instrument was acknowledged before me on this 16th day of April, 2012 by AUGUSTINE M. DETTBARN.

CHERYL DIRKS
Notarial Seal - Iowa
Commission # 176941
My Commission Expires 11-15-12

Notary Public