

WARRANTY DEED

aka M. Jay Gardner

81-8527

THELMA M. CARVER, BARBARA JEAN CARVER TEMPLETON, MILTON JAY GARDNER and LINDA LOU GARDNER, his wife

for consideration paid, grant to ALEX MATTEUCCI and NANCY MATTEUCCI, husband and wife, CARL S. CONLEE, JR., and CHARLENE CONLEE, husband and wife, and J. TIM AREND and MARY LOU AREND, husband and wife, as partners, whose address is Rt 4 Box 553, Las Cruces, New Mexico 88004

the following described real estate in Dona Ana County, New Mexico:

FOR DESCRIPTION, SEE EXHIBIT "A" AND FOR PLAT OF SURVEY, SEE EXHIBIT "B" ATTACHED HERETO, AND BOTH INCORPORATED HEREIN.

Subject to all reservations contained in Patent, and all covenants, easements and restrictions of record.

RESERVING UNTO the Grantors herein an undivided one-half (1/2) interest in all mineral rights, geothermic rights and oil rights to said property.

with warranty covenants.

WITNESS our hand and seal this 28 day of September, 1981

Thelma M. Carver
Thelma M. Carver

Milton Jay Gardner
Milton Jay Gardner aka M Jay Gardner (Seal)

Barbara Jean Carver Templeton
Barbara Jean Carver Templeton (Seal)

Linda Lou Gardner
Linda Lou Gardner (Seal)

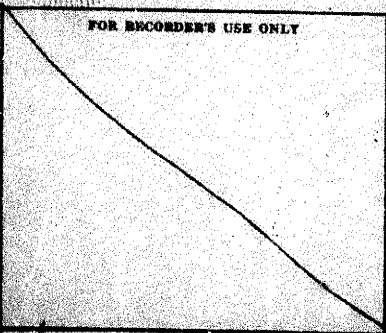
ACKNOWLEDGMENT FOR NATURAL PERSONS

STATE OF NEW MEXICO
COUNTY OF DONA ANA

The foregoing instrument was acknowledged before me this 28 day of September, 1981 by Milton Jay Gardner aka M. Jay Gardner and Linda Lou Gardner, husband and wife

(Name or Names of Person or Persons Acknowledging)
My commission expires April 19, 1984

Hayle Edwards
Notary Public



STATE OF NEW MEXICO)
COUNTY OF LINCOLN) ss.

The foregoing instrument was acknowledged before me this 28 day of September, 1981, by Barbara Jean Carver Templeton, and Thelma M. Carver

Samuel Charbon
Notary Public

My commission expires:

May 1, 1984

SOUTHWESTERN
ABSTRACT & TITLE

PID
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B & M Surveys, Inc.

LAND SURVEYING

414 N. MAIN ST.

LAS CRUCES, NEW MEXICO 88001

PHONE (505) 526-2444

SEPTEMBER 15, 1981

DESCRIPTION OF A 10.000 ACRE TRACT

A tract of land situate southwest of Las Cruces, Dona Ana County, New Mexico in Section 7, T.24S., R.2E., and Section 12, T.24S., R.1E., N.M.P.M. of the U.S.R.S. Surveys as part of U.S.R.S. Tract 12-37B and being more particularly described as follows, to wit:

BEGINNING at an iron rod set on the east side of Dona Ana County Road No. C-057 (State Road 372) for the southwest corner of the tract herein described, WHENCE a concrete monument found for the northwest corner of U.S.R.S. Tract 12-27 bears the following two courses and distances:

S.33°00'45"E., 290.99 feet to an iron rod found for the southwest corner of U.S.R.S. Tract 12-37B;

THENCE N.32°59'26"W., 5443.69 feet to the concrete monument;

THENCE from the place of beginning along the east side of Dona Ana County Road No. C-057 (State Road 372) N.33°00'45"W., 371.13 feet to an iron rod set for the northwest corner of the tract herein described;

THENCE leaving said County Road N.57°02'30"E., 1190.63 feet to an iron rod set inside a concrete irrigation ditch for the northeast corner of the tract herein described;

THENCE partially along the inside of said concrete irrigation ditch S.25°32'E., 259.94 feet to an angle point;

THENCE S.23°47'E., 114.84 feet to an iron rod found for the southeast corner of the tract herein described, WHENCE an iron rod found for the southeast corner of U.S.R.S. Tract 12-37B bears S.23°47'E., a distance of 294.76 feet;

THENCE leaving the ditch S.57°02'30"W., 1146.37 feet to the place of beginning, containing 10.000 acres of land, more or less. Field notes by B & M Surveys, Inc. September 1981.

Job # 810416.1

EXHIBIT "A"

219

PLAT OF SURVEY OF A 20,000 ACRE TRACT
 LOCATED IN SEC. 7, T.24S., R.2E AND SEC. 12, T.24S., R.1E., N.M.P.M. OF THE U.S.R.S. SURVEYS
 AS PART OF U.S.R.S. TRACT 12-37B
 SOUTHWEST OF LAS CRUCES, DONA ANA COUNTY, NEW MEXICO
 SCALE: 1" = 200' SEPTEMBER 15, 1981

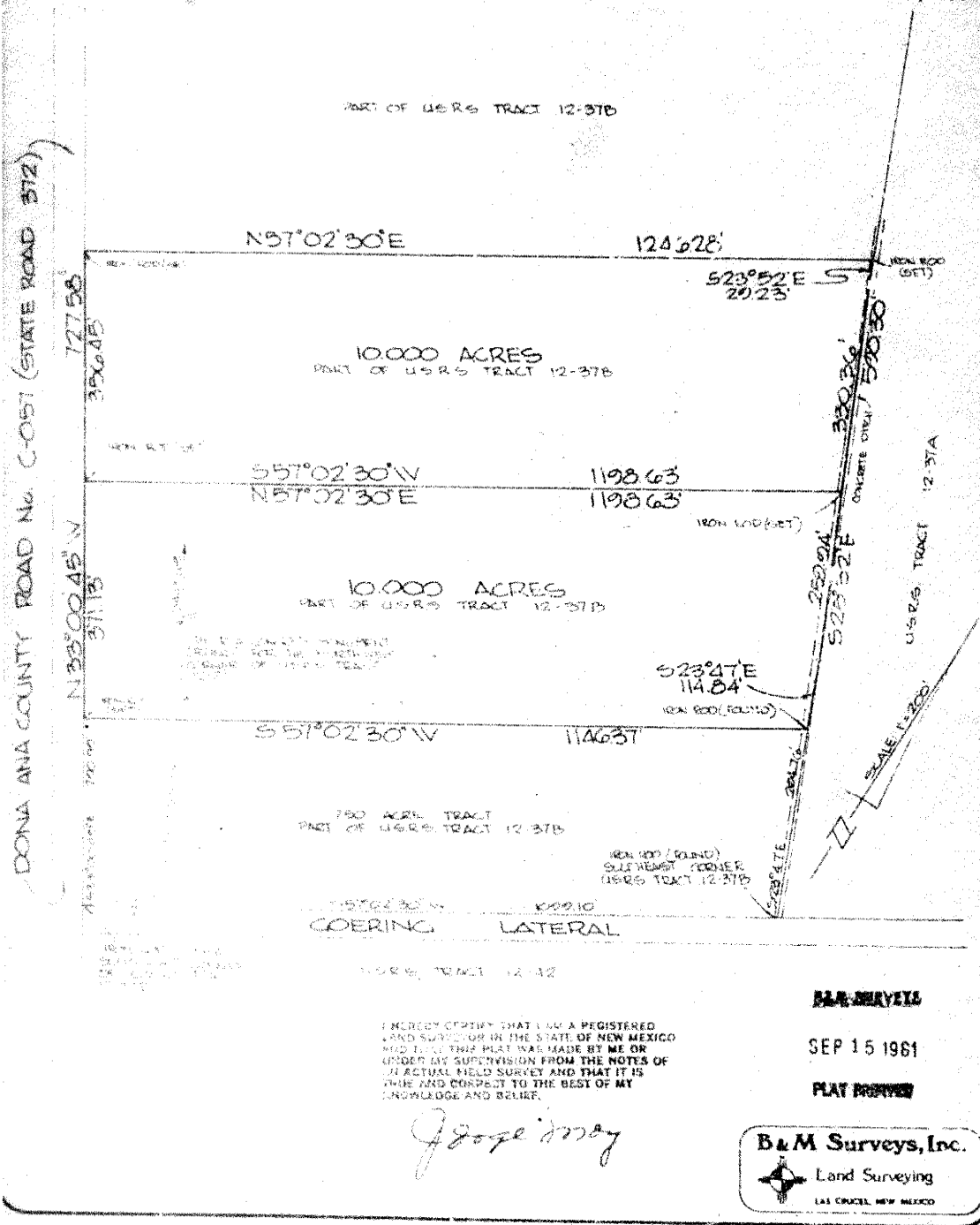


EXHIBIT "B"

STATE OF NEW MEXICO, COUNTY OF DONA ANA, ss:

I hereby certify that this instrument was filed for record:
 Rec. No. 10566 Bk 270 Pg 718-720 Records of Deeds

GLADYS HANSEN - DONA ANA COUNTY CLERK
 By Gladys Hansen DEPUTY

RETURN TO: SWA
 ADDRESS: _____

(COUNTY CLERK SEAL)

COUNTY CLERK SEAL

720

SEP 15 1981

ESCROW CONTRACT

This escrow contract is made by and between ALEX MATTEUCCI and NANCY MATTEUCCI, husband and wife, CARL S. CONLEE, JR. and Charlene S. CONLEE, husband and wife, and J. TIM AREND and MARY LOU AREND, husband and wife, whose address is 1060 Rainbow, Las Cruces, New Mexico 88004, referred to as Sellers, and ERNST G. LUCKS and WINIFRED K. LUCKS, husband and wife, as joint tenants, with right of survivorship, whose address is c/o G. L. Stoughton, P. O. Box 88, Mesilla, New Mexico 88046, referred to as Buyers.

In consideration of the mutual promises and agreements of the parties, they agree as follows:

1. Recitals. The circumstances leading to the execution of this contract are:

a. Sellers are the owners, in fee simple, free and clear of all liens and encumbrances subject to a Contract of Sale and Purchase dated March 21, 1978, and recorded on March 23, 1978, at Book 125, pages 771-780 of the Miscellaneous Records of Dona Ana County, New Mexico of the following described real estate in Dona Ana County, New Mexico:

Tract 1 as more completely described on the attached Exhibit A and Tract 2 as more particularly described on the attached Exhibit B.

which is called the premises in this contract.

b. Sellers have agreed to sell and convey and Buyers have agreed to purchase the premises for the price and upon the terms and conditions stated in this contract.

2. Agreement to Sell and Purchase. In consideration of the full performance of all agreements of the Buyers contained in this contract, Sellers agree to sell and convey the premises to Buyers. In consideration of the full performance of all agreements of the Sellers contained in this contract the Buyers agree to purchase the premises.

3. Escrow Agent. The parties appoint the Western Bank whose address is 411 North Downtown Mall, Las Cruces, New Mexico as their escrow agent and instruct it to perform the duties contained

Protective
Cov. herein

Oct 1, 1981

155 / 192-206

SOUTHWESTERN
ABSTRACT & TITLE

in this contract. If the escrow agent is in doubt on one or more occasions as to the proper action for it to take under any circumstances which may arise from time to time, the escrow agent shall have the right to refuse to take any action until the proper action for it to take has been determined in a manner binding the Sellers, the Buyers, and all other parties having or claiming any interest in or lien upon the premises; the documents held in escrow, or the amounts to be paid under this contract, or in its discretion, the escrow agent may exercise its best judgment and act accordingly, and in such event the escrow agent shall have no liability to the Sellers or the Buyers for an honest mistake in judgment.

4. Documents in Escrow. The following shall be delivered to the escrow agent:

a. One duplicate original executed copy of this contract which shall remain the permanent property of the escrow agent.

b. A good and sufficient Warranty Deed executed by the Sellers and conveying the property described in Exhibit B to the Buyers in fee simple, free and clear of liens and encumbrances.

c. A good and sufficient Special Warranty Deed executed by the Buyers and conveying the property described in Exhibit B, to the Sellers in fee simple, free and clear of liens and encumbrances except the mortgage mentioned above.

d. A Policy of Title Insurance covering the property.

The above documents shall be held and disposed of by the escrow agent as provided in this contract.

5. Purchase Price. The total purchase price for the premises shall be \$200,000.00 which the Buyers agree to pay as follows:

a. \$100,000.00, down, to the Sellers when this contract is signed and the receipt of which is hereby acknowledged by the Sellers, upon which time Tract A is to be released to the purchasers and the Deed filed for record in the office of the Dona Ana County Clerk.

b. \$100,000.00, the unpaid balance, with interest at the rate of 8% per year shall be paid to the escrow agent not sooner than January 1, 1982, and not later than March 30, 1982, upon which time Tract B is to be released to the purchasers and the Deed filed for record in the office of the Dona Ana County Clerk.

c. The escrow agent shall apply \$31,000.00 of the \$100,000.00 received to the above mentioned Escrow Contract being Escrow Number 2902 at the Western Bank.

6. Sellers' Representations and Warranties. Sellers represent and warrant that the above mentioned Escrow Contract is current and not in default in any respect.

7. Taxes, Assessments and Liens. Taxes and assessments on the premises for 1981 shall be prorated between the parties as of the date of this contract. All other taxes and assessments which become due and payable while this contract is in force shall be paid entirely by the Buyers, promptly when due and before becoming delinquent. Further, Buyers shall not permit any lien, including mechanics or materialmens liens to attach to the premises.

8. Care of the Property and Insurance. The Buyers shall keep the premises in good condition and shall not permit any waste to be committed upon the property. The Buyers shall purchase and keep in force at all times during the term of this contract a policy of extended coverage hazard insurance naming the Sellers and Buyers as insureds as their respective interests may appear in an amount of not less than the unpaid balance of this contract or the amount specified in the above-mentioned mortgage, whichever is greater.

9. Assignment of Contract. The Buyers shall have no right to assign this contract or to sell and convey any interest in the premises subject to this contract unless the prior written consent of the Sellers is first obtained.

10. Delivery of Documents from Escrow. The escrow agent shall deliver the documents held in escrow as follows:

a. On full payment of the purchase price by the Buyers, the escrow agent shall deliver all documents and things then held in escrow to the Buyers and this escrow shall terminate. Simultaneously, the escrow agent shall notify Southwestern Abstract and Title Company, Attention Mr. Scott Ackleson, that the escrow has been paid.

b. If the Buyers default and fail to correct such default as provided below, the escrow agent shall deliver all

documents and things then held in escrow to Sellers and this escrow shall terminate.

11. Default by Buyers. If the Buyers fail to keep and perform all of their agreements contained in this contract, including the payment of the purchase price in full when due, then Sellers shall have the right to give the Buyers written notice, by certified mail, addressed to the Buyers at their last address shown on the records of the escrow agent to correct the default. If Buyers fail to correct such default by paying all delinquent amounts and by correcting any other default which may exist at such time within 30 days after the date that the notice is mailed, then all of the Buyers' rights, benefits, and privileges under this contract and all of the Buyers' right, title, interest and equity in the premises shall terminate. In such event the Sellers shall keep and retain all amounts previously paid by the Buyers as liquidated damages and the Sellers shall be entitled to immediate possession of the premises, which the Buyers shall deliver on demand. An affidavit executed by the Sellers reciting the default, the giving of notice and the failure to correct the default, when recorded in the office of the County Clerk of Dona Ana County, New Mexico, shall be conclusive evidence in favor of any bona fide purchaser or encumbrancer of the premises that the Buyers no longer have any interest in the premises. In the alternative, the Sellers shall have the right to declare the entire unpaid balance of the purchase price immediately due and payable and to take appropriate legal action to enforce payment of the entire unpaid balance, and in such event, this contract shall operate as a mortgage on the premises.

12. Attorney's Fees. If either party presents a dispute arising from this contract to a court of competent jurisdiction, the successful party in such action shall be entitled to an award of attorney's fees and court costs. If the Sellers employ an attorney to send a notice of default, then Buyers shall pay in addition to all other delinquent amounts, the amount of \$50.00 for attorney's fees.

13. Benefit. The agreements of the parties contained in this contract shall extend to and bind their respective heirs, personal representatives, assigns, and other successors in interest.

14. Costs of Transaction. The Sellers shall pay the cost of the Policy of Title Insurance and one half the cost of this contract, the documents mentioned in this contract, closing agent's fees and costs, and the initial and subsequent escrow fees. The Buyers shall pay the cost of recording deeds, one half the cost of this contract, the documents mentioned in this contract, closing agent's fees and costs, and the initial and subsequent escrow fees.

DATED September 30, 1981.

SELLERS:

Alex Matteucci 525-72-4709
Alex Matteucci

Nancy Matteucci 524-90-9331
Nancy Matteucci

Carl S. Conlee, Jr. 525-74-5578
Carl S. Conlee, Jr.

Charlene R. Conlee 525-763043
Charlene R. Conlee

Tina Arend 525-84-2000
Tina Arend

Mary Lou Arend 525-88-4572
Mary Lou Arend

BUYERS:

Ernst G. Lucks

Ernst G. Lucks
By George L. Stoughton
George L. Stoughton, his
Attorney in fact

Winifred K. Lucks
Winifred K. Lucks

By George L. Stoughton
George L. Stoughton, her
Attorney in fact

STATE OF NEW MEXICO)

30 day of September 1981, by Alex Matteucci, Nancy Matteucci, his wife, Carl S. Conlee, Jr. and Charlene R. Conlee, his wife, and J. Tim Arend and Mary Lou Arend, his wife.

Notary Public

My Commission Expires:

STATE OF NEW MEXICO)

30 day of September, 1981, by George L. Stoughton, attorney
in fact for Ernst G. Lucks and Winifred K. Lucks.

Notary Public

My Commission Expires:

ACCEPTANCE OF ESCROW AGENT

The Western Bank, accepts its appointment as escrow agent under the foregoing contract and acknowledges receipt of one copy of the contract, the Warranty Deed mentioned, the Special Warranty Deed mentioned, and a Title Policy of Insurance covering the property and agrees to perform its duties as stated in the foregoing contract.

WESTERN BANK

By _____
Escrow Agent



SEPTEMBER 15, 1981

DESCRIPTION OF A 10.000 ACRE TRACT

A tract of land situate southwest of Las Cruces, Dona Ana County, New Mexico in Section 7, T.24S., R.2E., and Section 12, T.24S., R.1E., N.M.P.M. of the U.S.R.S. Surveys as part of U.S.R.S. Tract 12-37B and being more particularly described as follows, to WIT:

BEGINNING at an iron rod set on the east side of Dona Ana County Road No. C-057 (State Road 372) for the southwest corner of the tract herein described, WHENCE a concrete monument found for the northwest corner of U.S.R.S. Tract 12-27 bears the following two courses and distances:

S.33°00'45"E., 290.99 feet to an iron rod found for the southwest corner of U.S.R.S. Tract 12-37B;

THENCE N.32°59'26"W., 5443.69 feet to the concrete monument;

THENCE from the place of beginning along the east side of Dona Ana County Road No. C-057 (State Road 372) N.33°00'45"W., 371.13 feet to an iron rod set for the northwest corner of the tract herein described;

THENCE leaving said County Road N.57°02'30"E., 1198.63 feet to an iron rod set inside a concrete irrigation ditch for the northeast corner of the tract herein described;

THENCE partially along the inside of said concrete irrigation ditch S.25°32'E., 259.94 feet to an angle point;

THENCE S.23°47'E., 114.84 feet to an iron rod found for the southeast corner of the tract herein described, WHENCE an iron rod found for the southeast corner of U.S.R.S. Tract 12-37B bears S.23°47'E., a distance of 294.76 feet;

THENCE leaving the ditch S.57°02'30"W., 1146.37 feet to the place of beginning, containing 10.000 acres of land, more or less. Field notes by B & M Surveys, Inc. September 1981.

Job # 8104'6.1

EXHIBIT A

Subject to the reservations contained in the patent, easements and restrictive covenants of record and specifically subject to that certain farm lease between J. Tim Arend and Mary Lou Arend, his wife; Alex Matteucci and Nancy Matteucci, his wife; Carl S. Conlee, Jr. and Charlene Conlee, his wife, as lessors and Cal-Compack Foods, as lessee which covers and affects all of the above land for the crop years 1981 and 1982 expiring December 31, 1982. The lease payments pursuant to the parties contract are being prorated as of closing and that the above lessee owns and is entitled to receive all of the crops located on the above described premises. Sellers agree to pay to purchasers upon receipt of payment from Cal-Compack Foods the sum of \$160.00 per acre per year for the 1982 crop rental of the above described premise.



SEPTEMBER 15, 1981

DESCRIPTION OF A 10.000 ACRE TRACT

A tract of land situate southwest of Las Cruces, Dona Ana County, New Mexico in Section 7, T.24S., R.2E., and Section 12, T.24S., R.1E., N.M.P.M. of the U.S.R.S. Surveys as part of U.S.R.S. Tract 12-37B and being more particularly described as follows, to WIT:

BEGINNING at an iron rod set on the east side of Dona Ana County Road No. C-057 (State Road 372) for the southwest corner of the tract herein described, WHENCE a concrete monument found for the northwest corner of U.S.R.S. Tract 12-27 bears the following two courses and distances:

S.33°00'45"E., 662.12 feet to an iron rod found for the southwest corner of U.S.R.S. Tract 12-37B;

THENCE N.32°59'26"W., 5443.69 feet to the concrete monument;

THENCE from the place of beginning along the east side of Dona Ana County Road No. C-057 (State Road 372) N.33°00'45"W., 356.45 feet to an iron rod set for the northwest corner of the tract herein described;

THENCE leaving said County Road N.57°02'30"E., 1246.28 feet to an iron rod set inside a concrete irrigation ditch for the northeast corner of the tract herein described;

THENCE partially along the inside of said concrete irrigation ditch S.23°32'E., 29.23 feet to an angle point;

THENCE S.25°32'E., 330.36 feet to an iron rod set for the southeast corner of the tract herein described, WHENCE an iron rod found for the southeast corner of U.S.R.S. Tract 12-37B bears the following two courses and distances:

S.25°32'E., 259.94 feet; THENCE
S.23°47'E., 409.60 feet to the iron rod;

THENCE leaving the ditch S.57°02'30"W., 1198.63 feet to the place of beginning, containing 10.000 acres of land, more or less. Field notes by B & M Surveys, Inc. September 1981.

Job # 810416.2 EXHIBIT B

Subject to the reservations contained in the patent, easements and restrictive covenants of record and specifically subject to that certain farm lease between J. Tim Arend and Mary Lou Arend, his wife; Alex Matteucci and Nancy Matteucci, his wife; Carl S. Conlee, Jr. and Charlene Conlee, his wife, as lessors and Cal-Compack Foods, as lessee which covers and affects all of the above land for the crop years 1981 and 1982 expiring December 31, 1982. The lease payments pursuant to the parties contract are being prorated as of closing and that the above lessee owns and is entitled to receive all of the crops located on the above described premises. Sellers agree to pay to purchasers upon receipt of payment from Cal-Compack Foods the sum of \$160.00 per acre per year for the 1982 crop rental of the above described premise.

DECLARATION OF PROTECTIVE COVENANTS,

CONDITIONS AND RESTRICTIONS

WHEREAS, Carl S. Conlee, Jr. and ~~Charlene~~ R. Conlee, his wife, Alex Matteucci and Nancy Matteucci, his wife, and J. Tim Arend and Mary Lou Arend, his wife ("Declarants" hereinafter) are the owners of fee title to the following described real property located in Dona Ana County, New Mexico (Property" hereinafter):

(Description)

WHEREAS, Declarants desire and intend to create an atmosphere of rural agriculture with residential, single-family dwellings for all present and future owners within the Property and to insure to all of said owners the full benefit and enjoyment of a home in an attractive desirable setting and to protect against deterioration of the value of said owners' homes and property by preventing nuisances and other specified acts contrary to the purposes of these Protective Covenants, Conditions and Restrictions; and

WHEREAS, Declarants intend to convey Property subject to certain protective covenants, conditions, and restrictions as hereinafter set forth.

NOW, THEREFORE, Declarants hereby declare that parcels of land within the Property shall be held, sold and conveyed subject to the following protective covenants, conditions and restrictions which shall run with all the land within the Property, shall be binding upon all parties, persons and entities having any right, title and interest in said Property or any part thereof, their heirs, assigns, transferees, successors, and personal representatives, and shall inure to the benefit of all said parties, persons, and entities owning land within the Property.

EXHIBIT "C"

1.

LAND AND DWELLINGS

1.1 Use. All lots within the Property shall be used for single-family, residential purposes, or agricultural only.

No manufacturing or commercial enterprise of any kind shall be maintained on, in front of, or in connection with any land within the Property. There shall likewise not be permitted within the Property any fair, exhibition, festival, show, or other activity that attracts or is intended to attract, direct, or collect large numbers of persons.

1.2 Lot Size. There shall be no subdivision, resubdivision, conveyance or any other transfer, the effect of which is to create a lot which is less than 2½ acres in size.

1.3 Dwelling Quality and Size. No dwellings shall be permitted within the Property which shall not be a single-family residence with a minimum of 1800 square feet of heated living space for single-story dwellings and a first-floor heated living space of 1800 square feet for two-story dwellings, said living spaces to be exclusive of open porches, patios and garages.

1.4 Dwelling Location. No more than one (1) dwelling shall be permitted on any lot within the Property. No dwelling shall be located on any lot within fifty (50) feet of the front lot line, and twenty-five (25) feet of the side and back lot lines. For the purposes of this covenant and the minimum setback lines contained herein, covered patios and porches shall be considered part of the dwelling.

1.5 Construction. No dwelling, building or any part thereof shall be moved into any lot within the Property and all construction of dwellings and parts thereof shall be done at the site within the Property. The construction of dwellings

within the Property shall be prosecuted with prompt diligence continuously from the time of commencement of construction until fully completed, provided that such construction shall be completed within twelve (12) months from the commencement thereof.

1.6 Maintenance. All lots, dwellings, garages, porches, patios, yards and other landscaped areas shall be maintained continuously in order to preserve the attractiveness, structural integrity, cleanliness and tidiness of all of said areas.

1.7 Garbage and Refuse Disposal. Rubbish, trash, garbage and other waste shall not be kept or stored except in clean and sanitary closed or covered containers which shall be kept and stored in an enclosed area, such as garages, alcoves, underground containers, or other equipment for the storage and disposal of such material.

2.

RESTRICTIONS

2.1 Nuisances. No noxious or offensive activity shall be carried on upon any lot, nor shall anything be done thereon which may be or may become an annoyance or nuisance to the neighborhood, nor shall any property or thing be stored on any lot or in any dwelling or other building within the Property which is obnoxious to the eye, which emits foul or obnoxious odors, or which causes any noise that unreasonably disturbs the peace, quiet, comfort or serenity of the occupants of surrounding lots. No lot shall be used or maintained as a dumping ground for rubbish, trash, garbage or other waste, nor shall any lot be used as a wrecking yard or junk yard, nor for any purposes in connection therewith.

2.2 Temporary Structures. No structure of a temporary character, trailer, mobilehome, buses, vans or other vehicles not in use, basement, tent, shack, garage, barn or other outbuildings shall be placed or used on any lot at any time as a residence, either temporarily or permanently, nor shall any residential or other structure be moved onto any lot within the Property from any other location, excepting such temporary structures as may be required during the period of actual construction of a permanent dwelling, provided that the period of construction does not exceed 12 months.

2.3 Signs. No billboards or advertising signs of any character for display for public view shall be erected, placed permitted or maintained on any lot or any dwellings or other structure erected thereon. Nothing herein contained shall affect the rights of Declarants, their employees and agents to erect, place or maintain such sign structures and offices as are necessary to promote the sale and development of lots within the Property.

2.4 Oil and Mining Operations. No oil and/or natural gas drilling, development operations or refining, quarrying, or mining operations of any kind shall be permitted upon or in any lot, nor shall oil and/or natural gas wells, tanks, tunnels, mineral excavations or shafts be permitted on, under or upon any lot. No derrick or other structure designed for use in boring for oil and/or natural gas shall be erected, permitted or maintained upon or in any lot.

2.5 Animals; Livestock and Poultry. Animals, livestock, and poultry may be raised, bred or kept on any lot, except that such livestock, dogs, cats, or other small domesticated pets, must be contained on their owners property in neat facilities and not in unreasonable quantities or for any commercial purpose.

2.6 Recreational and Non-operable Vehicles. Boats, Campers, trailers, buses, recreational and similar vehicles and equipment stored on any lot within the Property must be stored in a neat manner and no more than two such vehicles may be stored. Non-operable, derelict, or abandoned vehicles, trailerhomes, campers, and other similar vehicles and equipment shall not be permitted to remain or be kept in any area within the Property.

3.

GENERAL PROVISIONS

3.1 Term. These protective covenants, conditions and restrictions shall run with the land and shall be binding on all parties, persons, and entities owning lots within the Property and claiming under them for a period of twenty-five (25) years from the date of recordation hereof with the County Clerk of Dona Ana County, New Mexico, and shall be automatically extended for successive periods of ten (10) years each unless an instrument signed by a majority of the then owners of record of lots within the Property has been properly recorded agreeing to change or remove such protective covenants, conditions, and restrictions.

3.2 Severability. Invalidation of any one of these protective covenants, conditions, restrictions, or charges and

liens created and established herein by judgment or court order shall in no way affect any of the other provisions of these Protective Covenants, Conditions and Restriction which shall remain in full force and effect.

3.3 Amendment. This Declaration of Protective Covenants, Conditions and Restrictions may be amended in whole or in part during the first twenty-five (25) year period by an instrument signed by not less than ninety per cent (90%) of the then owners of record of lots within the Property, and thereafter by an instrument signed by not less than seventy-five percent (75%) of said owners, any such instrument or instruments not to be effective until properly recorded in the office of the County Clerk of Dona Ana County, New Mexico. For purposes of this part each lot within the Property shall represent one vote regardless of the number of owners of said lot.

3.4 Enforcement. Any owner of a lot within the Property shall have the right to enforce these Protective Covenants, Conditions and Restrictions by proceedings at law and in equity against any parties, persons or entities violating or attempting or threatening to violate any of these Protective Covenants, Conditions and Restrictions to either restrain, enjoin or receive damages suffered by reason of such violations. Failure to enforce any of these Protective Covenants, Conditions and Restrictions shall in no event be deemed a waiver of the right to enforce any continuing or similar violations thereafter.

3.5 Reference. All deeds and other instruments of any right, title or interest to any lot within the Property may contain these Protective Covenants, Conditions and Restrictions by reference to this Declaration, but whether or not such reference is so made, these Protective Covenants, Conditions and Restrictions shall be binding upon any inure to the benefit

of all respective grantees, transferees, heirs, successors, assigns, and personal representatives of the grantor.

3.6 Legal Compliance. All buildings, dwellings, fences, structures or improvements of any kind or nature, and all activities of any kind or nature shall be constructed and/or carried out in accordance with all applicable statutes, laws, ordinances, codes and rules and regulations of all federal, state and local governments and agencies having appropriate jurisdiction over such matters.

State of N. Mex., Co. of Dona Ana;ss
RECEPTION NO. 6261 I Heraby
certify that this instrument was filed
for record and duly recorded on:

OCT 1 1981

at 4:30 o'clock P. M. to Misc.
Book 155 Page 172 of the
record of said county 306
GLADYS HANSEN County Clerk
s. Rene Lopez Deputy

COUNTY CLERK SEAL

OCT 1 1981
COUNTY CLERK

206

WARRANTY DEED (Joint Tenants)

31-8527

ALEX MATTEUCCI and NANCY MATTEUCCI, husband and wife, CARL S. CONLEE, JR., and CHARLENE CONLEE, husband and wife, and J. TIM AREND and MARY LOU AREND, husband and wife, as Partners, for consideration paid, grant to

ERNEST G. LUCKS

whose address is c/o G.L. Stoughton, PO Box 88, Mesilla, NM 88046

and WINIFRED K. LUCKS, (husband and wife) as Joint Tenants, with right of survivorship

whose address is same

as joint tenants the following described real estate in Dona Ana County, New Mexico:

FOR DESCRIPTION, SEE EXHIBIT "A" and for Plat of Survey, see EXHIBIT "B", ATTACHED HERETO AND INCORPORATED HEREIN.

Subject to all reservations contained in Patent, and all covenants, easements and SPECIFICALLY Protective Covenants marked EXHIBIT "C" ATTACHED HERETO AND INCORPORATED HEREIN.

with warranty covenants.

WITNESS OUR hand and seal this 30 day of September, 1981.

Alex Matteucci (Seal) J. Tim Arend (Seal)
Nancy Matteucci (Seal) Mary Lou Arend (Seal)
Carl S. Conlee, Jr. (Seal) Charlene Conlee (Seal)

ACKNOWLEDGMENT FOR NATURAL PERSONS

STATE OF NEW MEXICO

COUNTY OF DONA ANA

The foregoing instrument was acknowledged before me this 30 day of September, 1981, by Alex Matteucci and Nancy Matteucci, husband and wife, Carl S. Conlee, Jr., and Charlene Conlee, husband and wife, and J. Tim Arend and Mary Lou Arend, husband and wife. My commission expires: 3/12/82

Notary Public

FOR RECORDER'S USE ONLY

ACKNOWLEDGMENT FOR CORPORATION

STATE OF NEW MEXICO

COUNTY OF

The foregoing instrument was acknowledged before me this day of 19

by (Name of Officer)

(Title of Officer) of (Name of Corporation Acknowledging)

(State of Incorporation) corporation, on behalf of said corporation

My commission expires: Notary Public

FOR THE VALLEY OF ALBUQUERQUE

Oct. 1, 1981

270 / 721-730

ABSTRACT & TITLE



B&M Surveys, Inc.

LAND SURVEYING

814 N. MAIN ST.

LAS CRUCES, NEW MEXICO 88001

PHONE (505) 526-7444

SEPTEMBER 15, 1981

DESCRIPTION OF A 10.000 ACRE TRACT

A tract of land situate southwest of Las Cruces, Dona Ana County, New Mexico in Section 7, T.24S., R.2E., and Section 12, T.24S., R.1E., N.M.P.M. of the U.S.R.S. Surveys a part of U.S.R.S. Tract 12-37B and being more particularly described as follows, to wit:

BEGINNING at an iron rod set on the east side of Dona Ana County Road No. C-057 (State Road 372) for the southwest corner of the tract herein described, WHENCE a concrete monument found for the northwest corner of U.S.R.S. Tract 12-27 bears the following two courses and distances:

S.33°00'45"E., 290.89 feet to an iron rod found for the southwest corner of U.S.R.S. Tract 12-37B;

THENCE N.32°59'26"W., 5443.69 feet to the concrete monument;

THENCE from the place of beginning along the east side of Dona Ana County Road No. C-057 (State Road 372) N.33°00'45"W., 371.13 feet to an iron rod set for the northwest corner of the tract herein described;

THENCE leaving said County Road N.57°02'30"E., 1198.63 feet to an iron rod set inside a concrete irrigation ditch for the northeast corner of the tract herein described;

THENCE partially along the inside of said concrete irrigation ditch S.25°32'E., 259.94 feet to an angle point;

THENCE S.23°47'E., 114.84 feet to an iron rod found for the southeast corner of the tract herein described, WHENCE an iron rod found for the southeast corner of U.S.R.S. Tract 12-37B bears S.23°47'E., a distance of 294.76 feet;

THENCE leaving the ditch S.57°02'30"W., 1146.37 feet to the place of beginning, containing 10.000 acres of land, more or less. Field notes by B & M Surveys, Inc. September 1981.

Job # 810416.1

EXHIBIT A

Subject to the reservations contained in the patent, easements and restrictive covenants of record and specifically subject to that certain farm lease between J. Tim Arend and Mary Lou Arend, his wife; Alex Matteucci and Nancy Matteucci, his wife; Carl S. Conlee, Jr. and Charlene Conlee, his wife, as lessors and Cal-Compark Foods, as lessee which covers and affects all of the above land for the crop years 1981 and 1982 expiring December 31, 1982. The lease payments pursuant to the parties contract are being prorated as of closing and that the above lessee owns and is entitled to receive all of the crops located on the above described premises. Sellers agree to pay to purchasers upon receipt of payment from Cal-Compark Foods the sum of \$160.00 per acre per year for the 1982 crop rental of the above described premise.

lease OCT

SCALE: 1" = 200'

SEPTEMBER 15, 1961



EXHIBIT "9"

723

DECLARATION OF PROTECTIVE COVENANTS,
CONDITIONS AND RESTRICTIONS

WHEREAS, Carl S. Conlee, Jr. and Charleen R. Conlee, his wife, Alex Matteucci and Nancy Matteucci, his wife, and J. Tim Arend and Mary Lou Arend, his wife "Declarants" hereinafter) are the owners of fee title to the following described real property located in Dona Ana County New Mexico (Property" hereinafter):

(Description)

WHEREAS, Declarants desire and intend to create an atmosphere of rural agriculture with residential, single-family dwellings for all present and future owners within the Property and to insure to all of said owners the full benefit and enjoyment of a home in an attractive desirable setting and to protect against deterioration of the value of said owners' homes and property by preventing nuisances and other specified acts contrary to the purposes of these Protective Covenants, Conditions and Restrictions; and

WHEREAS, Declarants intend to convey Property subject to certain protective covenants, conditions, and restrictions as hereinafter set forth.

NOW, THEREFORE, Declarants hereby declare that parcels of land within the Property shall be held, sold and conveyed subject to the following protective covenants, conditions and restrictions which shall run with all the land within the Property, shall be binding upon all parties, persons and entities having any right, title and interest in said Property or any part thereof, their heirs, assigns, transferees, successors, and personal representatives, and shall inure to the benefit of all said parties, persons, and entities owning land within the Property.

EXHIBIT "C"

LAND AND DWELLINGS

1.1 Use. All lots within the Property shall be used for single-family, residential purposes, or agricultural only.

No manufacturing or commercial enterprise of any kind shall be maintained on, in front of, or in connection with any land within the Property. There shall likewise not be permitted within the Property any fair, exhibition, festival, show, or other activity that attracts or is intended to attract, direct, or collect large numbers of persons.

1.2 Lot Size. There shall be no subdivision, resubdivision, conveyance or any other transfer, the effect of which is to create a lot which is less than 2½ acres in size.

1.3 Dwelling Quality and Size. No dwellings shall be permitted within the Property which shall not be a single-family residence with a minimum of 1800 square feet of heated living space for single-story dwellings and a first-floor heated living space of 1800 square feet for two-story dwellings, said living spaces to be exclusive of open porches, patios and garages.

1.4 Dwelling Location. No more than one (1) dwelling shall be permitted on any lot within the Property. No dwelling shall be located on any lot within fifty (50) feet of the front lot line, and twenty-five (25) feet of the side and back lot lines. For the purposes of this covenant and the minimum setback lines contained herein, covered patios and porches shall be considered part of the dwelling.

1.5 Construction. No dwelling, building or any part thereof shall be moved into any lot within the Property and all construction of dwellings and parts thereof shall be done at the site within the Property. The construction of dwellings

within the Property shall be prosecuted with prompt diligence continuously from the time of commencement of construction until fully completed, provided that such construction shall be completed within twelve (12) months from the commencement thereof.

1.6 Maintenance. All lots, dwellings, garages, porches, patios, yards and other landscaped areas shall be maintained continuously in order to preserve the attractiveness, structural integrity, cleanliness and tidiness of all of said areas.

1.7 Garbage and Refuse Disposal. Rubbish, trash, garbage and other waste shall not be kept or stored except in clean and sanitary closed or covered containers which shall be kept and stored in an enclosed area, such as garages, alcoves, underground containers, or other equipment for the storage and disposal of such material.

2.

RESTRICTIONS

2.1 Nuisances. No noxious or offensive activity shall be carried on upon any lot, nor shall anything be done thereon which may be or may become an annoyance or nuisance to the neighborhood, nor shall any property or thing be stored on any lot or in any dwelling or other building within the Property which is obnoxious to the eye, which emits foul or obnoxious odors, or which causes any noise that unreasonably disturbs the peace, quiet, comfort or serenity of the occupants of surrounding lots. No lot shall be used or maintained as a dumping ground for rubbish, trash, garbage or other waste, nor shall any lot be used as a wrecking yard or junk yard, nor for any purposes in connection therewith.

2.2 Temporary Structures. No structure of a temporary character, trailer, mobilehome, buses, vans or other vehicles not in use, basement, tent, shack, garage, barn or other outbuildings shall be placed or used on any lot at any time as a residence, either temporarily or permanently, nor shall any residential or other structure be moved onto any lot within the Property from any other location, excepting such temporary structures as may be required during the period of actual construction of a permanent dwelling, provided that the period of construction does not exceed 12 months.

2.3 Signs. No billboards or advertising signs of any character for display for public view shall be erected, placed permitted or maintained on any lot or any dwellings or other structure erected thereon. Nothing herein contained shall affect the rights of Declarants, their employees and agents to erect, place or maintain such sign structures and offices as are necessary to promote the sale and development of lots within the Property.

2.4 Oil and Mining Operations. No oil and/or natural gas drilling, development operations or refining, quarrying, or mining operations of any kind shall be permitted upon or in any lot, nor shall oil and/or natural gas wells, tanks, tunnels, mineral excavations or shafts be permitted on, under or upon any lot. No derrick or other structure designed for use in boring for oil and/or natural gas shall be erected, permitted or maintained upon or in any lot.

2.5 Animals; Livestock and Poultry. Animals, livestock, and poultry may be raised, bred or kept on any lot, except that such livestock, dogs, cats, or other small domesticated pets, must be contained on their owners property in neat facilities and not in unreasonable quantities or for any commercial purpose.

2.6 Recreational and Non-operable Vehicles. Boats, Campers, trailers, buses, recreational and similar vehicles and equipment stored on any lot within the Property must be stored in a neat manner and no more than two such vehicle may be stored. Non-operable, derelict, or abandoned vehicles, trailerhomes, campers, and other similar vehicles and equipment shall not be permitted to remain or be kept in any area within the Property.

3.

GENERAL PROVISIONS

3.1 Term. These protective covenants, conditions and restrictions shall run with the land and shall be binding on all parties, persons, and entities owning lots within the Property and claiming under them for a period of twenty-five (25) years from the date of recordation hereof with the County Clerk of Dona Ana County, New Mexico, and shall be automatically extended for successive periods of ten (10) years each unless an instrument signed by a majority of the then owners of record of lots within the Property has been properly recorded agreeing to change or remove such protective covenants, conditions, and restrictions.

3.2 Severability. Invalidation of any one of these protective covenants, conditions, restrictions, or charges and

liens created and established herein by judgment or court order shall in no way affect any of the other provisions of these Protective Covenants, Conditions and Restriction which shall remain in full force and effect.

3. Amendment. This Declaration of Protective Covenants, Conditions and Restrictions may be amended in whole or in part during the first twenty-five (25) year period by an instrument signed by not less than ninety per cent (90%) of the then owners of record of lots within the Property, and thereafter by an instrument signed by not less than seventy-five percent (75%) of said owners, any such instrument or instruments not to be effective until properly recorded in the office of the County Clerk of Dona Ana County, New Mexico. For purposes of this part each lot within the Property shall represent one vote regardless of the number of owners of said lot.

3.4 Enforcement. Any owner of a lot within the Property shall have the right to enforce these Protective Covenants, Conditions and Restrictions by proceedings at law and in equity against any parties, persons or entities violating or attempting or threatening to violate any of these Protective Covenants, Conditions and Restrictions to either restrain, enjoin or receive damages suffered by reason of such violations. Failure to enforce any of these Protective Covenants, Conditions and Restrictions shall in no event be deemed a waiver of the right to enforce any continuing or similar violations thereafter.

3.5 Reference. All deeds and other instruments of any right, title or interest to any lot within the Property may contain these Protective Covenants, Conditions and Restrictions by reference to this Declaration, but whether or not such reference is so made, these Protective Covenants, Conditions and Restrictions shall be binding upon any inure to the benefit

of all respective grantees, transferees, heirs, successors, assigns, and personal representatives of the grantor.

3.6 Legal Compliance. All buildings, dwellings, fences, structures or improvements of any kind or nature, and all activities of any kind or nature shall be constructed and/or carried out in accordance with all applicable statutes, laws, ordinances, codes and rules and regulations of all federal, state and local governments and agencies having appropriate jurisdiction over such matters.

State of N. Mex., Co. of Dona Ana:
RECEPTION NO. 25421 I hereby
certify that this instrument was filed
for record and duly recorded on:


OCT 1 1981

at 4:21 o'clock P.M. on Deed
Book 270 Page 721 of the
records of said county 730
GLADYS HANSEN County Clerk
BY Barbara Lopez Deputy

DOÑA ANA COUNTY CLERK
OCT 1 1981 PM 4:21

COUNTY CLERK

730


2112195 APR 15, 2021 03:16:25 PM PAGES: 7
AGREEMENT Deputy: Aixia Adame
Amanda López Askin, County Clerk, Dona Ana, NM



4601 SNOW ROAD

IRRIGATION WELL SHARING AGREEMENT

BUENO TITLE # 21030277/MM

This Well Sharing Agreement (this "Agreement") is made and entered into by and between James Kerner, LLC, Daddy's Nuts, LLC and James Kerner are sometimes referred to in this Agreement individually as a "Party" and collectively as the "Parties"), based on the following facts:

RECITALS – Owners:

James Kerner owns:
USRS TRACT 12 - 37B2D REPLAT NO 2 (BK 22 PG 454-455 - 0809993) Lot: 1A
EBID Account 891100P-00 10.00 WRA = 50.0% OF TOTAL WRA
LRG-1705-8 9.910 AC 44.595 ACFT

Daddy's Nuts, LLC owns:
USRS TRACT 12 - 37B2D REPLAT NO 2 (BK 22 PG 454-455 - 0809993) Lot: 2A
EBID Account 891000P 2.46 WRA = 12.3% OF TOTAL WRA
LRG-1705-13 2.886 AC 12.987 ACFT

James Kerner owns:
USRS TRACT 12 - 37B2D REPLAT NO 2 (BK 22 PG 454-455 - 0809993) Lot: 3A
EBID Account 891030P-01 7.54 WRA = 37.7% OF TOTAL WRA
LRG 1705-13A 7.034 AC 31.653 ACFT

TOTALS: EBID = 20.00 WRA
 LRG = 19.830 AC 89.235 ACFT (a 4.50 ACFT FARM DELIVERY RATE)

WELL – LRG 1705-8 Irrigation Well is located on Lot 1A. Combined ACFT equals 89.235 ACFT, with Lot 1A pumping 50.0%, Lot 2A 14.5% and Lot 3A pumping 35.5%. The Parties agree to a 50.0% Lot 1A, 14.5% Lot 2A and 35.5% Lot 3A ownership share, respectively, of interest and all expenses related to the Well.

- A. There is an irrigation water well (the "Well") on Lot 1A that currently provides supplemental water for the irrigation needs of the Lots: The equipment and fixtures necessary to operate and protect the Well, including the valves, pump, natural gas engine, pressure tank, holding tank and pump house (collectively, the Well Equipment), are located on Lot 1A and are included in the definition of the term "Well."
- B. The Parties have been sharing the water produced by the Well and the costs of operating and maintaining the Well pursuant to an oral agreement between them. The Parties desire to document that agreement for the benefit and protection of both them and their respective successors in interest.

NOW, THEREFORE, in consideration of the foregoing premises, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby covenant, agree and declare that the Lots shall be subject to the easements and covenants of this Agreement, which shall run with the land and shall be binding upon and inure to the benefit of the Parties, their respective successors and assigns, and any person acquiring any right, title or interest in the Lots, or any part thereof, and their respective heirs, devisees, personal representatives, grantees, successors and assigns from the date of the recording of this Agreement in the real property records in the office of the County Clerk of the County.

1. Grant. Each Owner (as defined below) of a Lot shall have the right to use the water produced from the Well for irrigation use only on their Lot. Owners agree to a split ownership interest in the Well. Such split ownership interests in the Well are hereby declared to be appurtenant to the respective Lots.
2. Well Usage. The Well shall serve exclusively the irrigation water needs of the Lots and shall not be used to serve any property other than the Lots. Neither the Owners collectively nor any one Owner shall be entitled to divert more water from the Well than permitted for irrigation use only under the laws of the State of New Mexico from time to time in effect and permitted under this Agreement. Each Owner shall use water produced from the Well in a reasonable manner so as not to interfere with the reasonable use and enjoyment of the other Owner.
3. Adequacy of Well: In the event that the Well ceases to be able to produce enough water to serve the reasonable irrigation needs of each Lot without being deepened or substantially modified, and a determination is made by a licensed well driller or other person similarly qualified that such shortage may be reasonably remedied by deepening or modification, such deepening or modification shall be deemed a repair and the cost thereof shall be paid pursuant to Paragraph 5 (Maintenance and Repair) of this Agreement.
4. Operation: As an Irrigation Well, water is delivered through an irrigation canal to each lot. Each lot owner is responsible for ensuring water delivery is made through open gates to their parcel and closed following water delivery. This applies to both water delivered from Elephant Butte Irrigation District and Well LRG 1705-8. Meter reports for total Well LRG 1705-8 are to be submitted by the owner of Lot 1A.
5. Maintenance and Repair. The Owners shall cooperate with one another in good faith to insure the efficient administration of the Well. The Owner of Lot 1A shall act for the Owners in managing the Well. The Well shall be maintained and repaired as needed, but no less frequently than annually. The Well shall be improved or replaced as needed to insure the Well is producing and delivering irrigation water in the quantity permitted by this Agreement and permitted by law. At the request of either Owner, the Owners shall meet to determine how and when to effect the annual maintenance and repair, and whether any improvement or replacement shall be required. In the event of an inability of the Owners to agree as to maintenance, repair, improvement or replacement of the Well, or any other issue having to do with the Well, the matter shall be

determined by mediation or, if necessary, by arbitration conducted pursuant to Paragraph 10 (Resolution of Disputes) of this Agreement. In the event of an emergency, an Owner may make such repairs to the Well as are necessary to rectify the conditions causing or constituting the emergency. Each Owner shall be notified as soon as possible of any emergency expenditure. Each Owner's share of the cost of each maintenance, repair, replacement, rebuilding, reaming or deepening of the Well shall bear the same ratio to the amount of that cost as that Owner's Lot's usage of the Well from the then oldest known contemporaneous reading of each Lot's use of the Well to the then most recent contemporaneous reading of each Lot's use of the Well bears to both Lots' usage of the Well during the same period. Provided, however, that if the Well is damaged by the act or omission of any Owner, or agent of any Owner, the damage shall be repaired at that Owner's expense.

6. Easements. The Owner of Lot 1A grants to the Owner of Lot 3A an easement where the Well is located and within a 10-foot radius around the Well for the purposes of operating, inspecting, maintaining, repairing, replacing, rebuilding, reaming and deepening the Well or any part thereof. The Owner of Lot 1A also grants to the Owner of Lot 3A a 20-foot wide easement across Lot 1A for access to the Well to conduct any of the activities described in the preceding sentence and for inspecting, maintaining, repairing, and replacing the underground water line from the Well to the Well Equipment.

The easements include the right to use such vehicles and rigs as are commonly and reasonably used for the purpose of well drilling, equipping and repair, and of water and power line installation, repair and replacement.

7. Priority and Metering. Each Lot shall have equal rights to the water produced by the Well. The Owners approve and agree to submit any meter readings as required by the office of the State Engineer of the State of New Mexico or other governmental agency or body.

8. Term. The term of this Agreement shall commence on the date that it is recorded in the real property records of the County Clerk of the County and shall continue thereafter indefinitely until it is terminated by recording in the real property records in the office of the County Clerk of the County a document to that effect that is signed and acknowledged by all of the Owners.

9. Abandonment. Each Owner shall be entitled to abandon its ownership interest in the Well, and, except as provided below, to thereby terminate its rights and obligations under this Agreement, by recording in the real property records in the office of the County Clerk of the County a document to that effect that is signed and acknowledged by that Owner and by giving notice thereof to the other Owner. Any such abandonment shall have no effect on any easement granted under this Agreement that burdens the Lot owned by the abandoning Owner. Any Owner abandoning its ownership interest in the Well pursuant to the terms of this paragraph shall carry out any provisions of this Agreement which contemplate performance by such Owner subsequent to such abandonment, and such abandonment shall not affect any liability or other obligation which shall have accrued up to and including the date of such abandonment. The

abandoning Owner shall not be entitled to any reimbursement from the other Owner for any expenditures made or obligations incurred prior to the date that the abandoning Owner serves the notice required by this paragraph.

10. Resolution of Disputes.

(a) Mediation. The Owners shall endeavor in good faith to resolve any and all disputes arising out of or in connection with this Agreement, whether based upon contract, tort or any other theory of or basis in law, by mediation according to the then prevailing rules and procedures of the American Arbitration Association.

(b) Arbitration. Any and all disputes arising out of or in connection with this Agreement, whether based upon contract, tort or any other theory of or basis in law, shall be subject to binding arbitration if the dispute is not resolved by the Owners within 30 days after either Owner gives notice to the other Owner of its desire to arbitrate the dispute. Such arbitration shall be the exclusive remedy of each Owner. The arbitration shall be in Las Cruces, New Mexico by the American Arbitration Association in accord with its then-prevailing rules. The arbitration shall be before one neutral arbitrator to be selected in accordance with the Commercial Arbitration Rules of the American Arbitration Association and shall proceed under the Expedited Procedures of said rules, irrespective of the matter or amount in dispute. The Owners shall continue performing their obligations under this Agreement pending the award in the arbitration proceeding. However, whenever any action is required to be taken under this Agreement within a specified period of time and the taking of such action is materially affected by a matter submitted to arbitration, such period shall automatically be extended by 10 days plus the number of days that are taken for the determination of the matter by arbitration. The arbitrator shall have no power to change the provisions of this Agreement. Except as provided in the next sentence, the damages the arbitrator may award shall be limited to the reasonable value of replacing and/or repairing the Well as of the date of an Owner's default together with the reasonable cost, as of the date of the default, of providing or obtaining water and/or water service during the period that the Well is inoperable or otherwise unusable. The arbitrator shall award to be prevailing Owner the reasonable expenses and costs they incur with respect to the arbitration, including reasonable attorneys fees. Any award made by the arbitrator shall be final, binding, and conclusive on all Owners involved in the arbitration for all purposes. Judgment upon the arbitration award may be entered in any court having jurisdiction.

(c) Lien. If any non-prevailing Owner refuses to pay the damages that the arbitrator awards within 10 days after the award is made, then the other Owner shall be entitled to place a lien upon the Lot of that Owner to secure payment of the award, plus interest at the rate of 15% per annum, from the date of the award, by recording a claim of lien in the real property records in the office of the County Clerk of the County. The method of foreclosure shall be the method for foreclosing a mortgage except that any right of redemption shall be limited to one (1) month. Any lien so filed shall be superior to the claims of the Owner of such Lot, such Owner's heirs, assigns and

personal representatives, and superior to the claims of any mortgages or other liens recorded after the date of recording of said lien.

11. No Waiver. The failure of any Owner to enforce any right, provision, covenant or condition which may be granted by this Agreement shall not constitute a waiver of the right of any such Owner to enforce such right, provision, covenant or condition in the future.

12. Rights Cumulative. All rights, remedies and privileges granted to any Owner pursuant to the provisions of this Agreement shall be deemed to be cumulative and the exercise of any one or more of such rights, remedies and privileges shall not be deemed to constitute an election of remedies, nor shall it preclude the Owner thus exercising the same from exercising such other additional rights, remedies or privileges, as may be available to such Owner at law or in equity.

13. Binding Effect; Obligations Run with the Land. This Agreement shall be recorded in the real property records in the office of the County Clerk of the County. The benefits and burdens of the covenants and easements in this Agreement shall run with the land and shall be binding upon and inure to the benefit of the Parties and their respective successors and assigns, including all successors in title, interest or possession of the Lots and all persons claiming under them. No other person shall have any right, benefit or obligation hereunder.

14. Entire Agreement; Modifications. This Agreement embodies and constitutes the entire understanding between the Parties with respect to the subject matter hereof, and all prior or contemporaneous agreements, understandings, representations and statements, oral or written, are merged into this Agreement Except as provided in this Agreement, neither this Agreement nor any provisions hereof may be waived, modified, amended, discharged or terminated except by an instrument in writing signed and acknowledged by the Owner against whom the enforcement of such waiver, modification, amendment, discharge or termination is sought and duly recorded in the real property records in the office of the County Clerk of the County, and then only to the extent set forth in such instrument.

15. Delivery of Notices. All notices or other documents required herein to be delivered to an Owner shall be in writing and may be delivered either personally or by mail. If delivered personally, the same shall be deemed to have been delivered to the Owner when delivered addressed to the physical address of such Owner's Lot. If mailed, the same shall be deemed delivered three (3) days after being deposited in the United States Mail, certified and return receipt requested and addressed to the Owner at the physical address of such Owner's Lot, with postage thereon prepaid.

16. General Construction Principles. Time is of the essence with respect to any covenant or obligation imposed by this Agreement. Words in any gender shall be deemed to include the other genders. The singular shall be deemed to include the plural and vice versa. The word "person" shall include corporations, partnerships, limited liability companies and other entities or forms of associations. For purposes of this Agreement, the term "Owner" shall mean and refer to the record owner, whether one or more persons, of the fee simple title to each Lot, including the

purchaser under a recorded real estate contract wherein the purchaser is entitled to possession, but excluding those having such interest merely as security for the payment or performance of an obligation, including the holder of an owner's interest in a recorded real estate contract wherein the purchaser is entitled to possession. The captions and headings in this Agreement are solely for convenience of reference and shall in no way define, limit or describe the scope or intent of any provisions of this Agreement. This Agreement shall be construed as a whole and in accordance with its fair meaning, without regard to any presumption or rule of construction causing this Agreement or any part of it to be construed against the Party causing the Agreement to be written. The words "include" and "including" mean include or including, without limitation.

17. Consent. Whenever this Agreement requires an Owner to obtain the consent or approval of the other Owner prior to taking some action, such other Owner shall not unreasonably withhold such consent or approval.

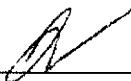
18. Force Majeure. Neither party shall be liable for delay or failure to perform any obligation under this Agreement if the delay or failure is caused by any circumstance beyond their reasonable control, including but not limited to acts of God, war, civil unrest or industrial action.

19. Governing Law and Venue. This Agreement is to be construed in accordance with and governed by the internal laws of the State of New Mexico without giving effect to any choice of law rule that would cause the application of the laws of any jurisdiction other than the internal laws of the State of New Mexico to the rights and duties of the parties.

Each party hereby irrevocably consents to the jurisdiction and venue of the state and federal courts located in the county in which the Property, or any portion of the Property is located, in connection with any claim, action, suit, or proceeding relating to this Agreement and agrees that all suits or proceedings relating to this Agreement shall be brought only in such courts.

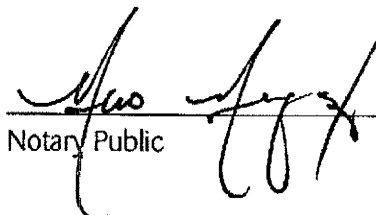
20. SEVERABILITY. If any portion of this Agreement is found by any court of competent jurisdiction to be invalid or unenforceable, the remainder of this Agreement shall remain in full force and effect.

IN WITNESS WHEREOF the Parties have executed this Agreement on the dates specified below.
The effective date of this Agreement shall be the later of said dates.


James Kerner
Owner Lot 1A

This instrument was acknowledged before me on the 15th day of April, 2021
by James Kerner.

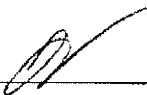
STATE OF NEW MEXICO }
 }
COUNTY OF DONA ANA }


Notary Public



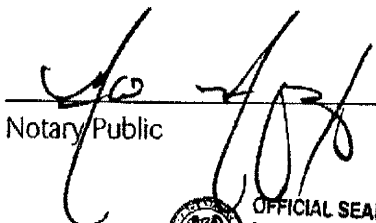
OFFICIAL SEAL
MARIO MARQUEZ
NOTARY PUBLIC-STATE OF NEW MEXICO

My commission expires: 10.30.22


James Kerner
Daddy's Nuts, LLC
A New Mexico Limited Liability Company
Owner Lot 2A

This instrument was acknowledged before me on the 15th day of April, 2021
by James Kerner.


STATE OF NEW MEXICO }
 }
COUNTY OF DONA ANA }


Notary Public



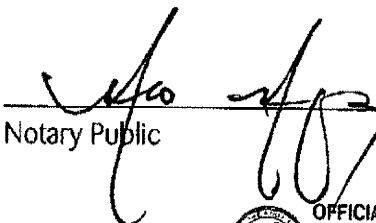
OFFICIAL SEAL
MARIO MARQUEZ
NOTARY PUBLIC-STATE OF NEW MEXICO

My commission expires: 10.30.22


James Kerner
Owner Lot 3A

This instrument was acknowledged before me on the 15th day of April, 2021
by James Kerner.

STATE OF NEW MEXICO }
 }
COUNTY OF DONA ANA }


Notary Public



OFFICIAL SEAL
MARIO MARQUEZ
NOTARY PUBLIC-STATE OF NEW MEXICO

My commission expires: 10.30.22



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PAGES: 3

AGREEMENT

Deputy: Aixa Adame

Amanda López Askin, County Clerk, Dona Ana, NM



4601 SNOW ROAD
IRRIGATION WELL SHARING AGREEMENT
MAINTENANCE ADDENDUM

BUENO TITLE # 21030277 / MM

The Well Sharing Agreement (this "Agreement") made and entered into by and between James Kerner, Daddy's Nuts, LLC and James Kerner are sometimes referred to in this Agreement individually as a "Party" and collectively as the "Parties"), based on the following facts:

RECITALS – Owners:

James Kerner owns:

USRS TRACT 12 - 37B2D REPLAT NO 2 (BK 22 PG 454-455 - 0809993) Lot: 1A

Daddy's Nuts LLC owns:

USRS TRACT 12 - 37B2D REPLAT NO 2 (BK 22 PG 454-455 - 0809993) Lot: 2A

James Kerner owns:

USRS TRACT 12 - 37B2D REPLAT NO 2 (BK 22 PG 454-455 - 0809993) Lot: 3A

WELL 1705-8 - Irrigation Well -

TOTALS: EBID = 20.00 WRA

LRG = 19.830 AC 89.235 ACFT (a 4.50 ACFT FARM DELIVERY RATE)

Well Log LRG 1705-8 Attached

The parties acknowledge the following:

Well Drilling: Hargraves Drilling Company, Inc.

2545 W Hadley Avenue

Las Cruces, NM 88007

575.524.9382

Is the authorized company to maintain and repair the LRG 1705-8 Irrigation Well.

The Owner of Lot 1A, with 10.0 acres authorized to engage Hargraves Drilling Company and provide payment following services. The final cost is to be shared equally between property Owners.

Current Lot 1A Owner:

James Kerner

4601-B Snow Road

Las Cruces, NM 88005

575.405.1814

jaimeandjames@hummingbirdvillasaba.com

Electrical Service to the Well is provided by:

El Paso Electric
201 N Water Street
Las Cruces, NM 88001
575.526.5555

Account # _____

Meter # _____

Natural Gas Service to the Well is provided by:

Zia Natural Gas
3700 W Picacho Avenue
Las Cruces, NM 88007
575.526.4427

Account # _____

Meter # _____

_____/_____/_____ Owners acknowledge no separate shared Irrigation Well entity or Banking Account has been created or is in use for monthly bills, maintenance or repairs and is currently the sole responsibility of the Owner of Lot 1A.

_____/_____/_____ Owners acknowledge no separate shared Irrigation Well monthly billing for any expenses are currently assessed.

_____/_____/_____ Owners acknowledge no separate shared Irrigation Well meters for each Lot Owner are in place, only a single meter has or will be installed.

_____/_____/_____ Owners acknowledge no separate shared Irrigation Well concrete ditch maintenance agreement exists, Owners agree to share proportionally in any maintenance/repair/replacement required.

_____/_____/_____ Owners acknowledge no separate shared Irrigation Well operating regulations are in place.

_____/_____/_____ Owners acknowledge no additional access to the shared Irrigation Well may be created by any further subdivision of any lot without all Owners approval.

_____/_____/_____ Owners acknowledge no guarantee or warranty regarding the shared Irrigation Well current or future production has been provided.

Owners/Occupants of Lots 2A & 3A may in the absence of Lot 1A engage Hargraves.

IN WITNESS WHEREOF the Parties have executed this Agreement on the dates specified below.
The effective date of this Agreement shall be the later of said dates.

[Signature]
James Kerner
Owner Lot 1A

This instrument was acknowledged before me on the 15th day of April, 2021
by James Kerner.

STATE OF NEW MEXICO }
 }
COUNTY OF DONA ANA }

[Signature]
Notary Public

[Signature]
James Kerner
Daddy's Nuts, LLC
A New Mexico Limited Liability Company
Owner Lot 2A



OFFICIAL SEAL
MARIO MARQUEZ
NOTARY PUBLIC-STATE OF NEW MEXICO

My commission expires: 10-30-22

This instrument was acknowledged before me on the 15th day of April, 2021
by James Kerner.

STATE OF NEW MEXICO }
 }
COUNTY OF DONA ANA }

[Signature]
Notary Public



OFFICIAL SEAL
MARIO MARQUEZ
NOTARY PUBLIC-STATE OF NEW MEXICO

My commission expires: 10-30-22

[Signature]
James Kerner
Owner Lot 3A

This instrument was acknowledged before me on the 15th day of April, 2021
by James Kerner.


STATE OF NEW MEXICO }
 }
COUNTY OF DONA ANA }

[Signature]
Notary Public



OFFICIAL SEAL
MARIO MARQUEZ
NOTARY PUBLIC-STATE OF NEW MEXICO

My commission expires: 10-30-22


2112197 APR 15, 2021 03:16:27 PM PAGES: 7
AGREEMENT Deputy: Aixa Adame
Amanda López Askin, County Clerk, Dona Ana, NM



4601 SNOW ROAD
DOMESTIC WELL SHARING AGREEMENT

BUENO TITLE # 21030277/MM

This Well Sharing Agreement (this "Agreement") is made and entered into by and between James Kerner, Daddy's Nuts, LLC and James Kerner are sometimes referred to in this Agreement individually as a "Party" and collectively as the "Parties"), based on the following facts:

RECITALS – Owners:

James Kerner owns:
USRS TRACT 12 - 37B2D REPLAT NO 2 (BK 22 PG 454-455 - 0809993) Lot: 1A
Daddy's Nuts LLC owns:
USRS TRACT 12 - 37B2D REPLAT NO 2 (BK 22 PG 454-455 - 0809993) Lot: 2A
James Kerner owns:
USRS TRACT 12 - 37B2D REPLAT NO 2 (BK 22 PG 454-455 - 0809993) Lot: 3A

WELL – LRG 03429 – Domestic Well – Adjudicated 3.0 Acre Feet Per Annum
Attached are NM OSE Water Right and Point of Diversion Summaries

- A. There is a domestic water well (the "Well") on Lot 2A that currently provides water for the domestic needs of the Lots: The equipment and fixtures necessary to operate and protect the Well, including the valves, pump, pressure tank, holding tank and pump house (collectively, the Well Equipment), are located on Lot 2A and are included in the definition of the term "Well." The Well is not equipped as of the date of this agreement with a water meter.
- B. The Parties have been sharing the water produced by the Well and the costs of operating and maintaining the Well pursuant to an oral agreement between them. The Parties desire to document that agreement for the benefit and protection of both them and their respective successors in interest.
- NOW, THEREFORE, in consideration of the foregoing premises, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby covenant, agree and declare that the Lots shall be subject to the easements and covenants of this Agreement, which shall run with the land and shall be binding upon and inure to the benefit of the Parties, their respective successors and assigns, and any person acquiring any right, title or interest in the Lots, or any part thereof, and their respective heirs, devisees, personal representatives, grantees, successors and assigns from the date of the recording of this Agreement in the real property records in the office of the County Clerk of the County.
1. Grant. Each Owner (as defined below) of a Lot shall have the right to use the water produced from the Well for quotidian domestic use only on its Lot. Each Owner shall have an

equal undivided ownership interest in the Well. Such undivided interests in the Well are hereby declared to be appurtenant to the respective Lots.

2. Well Usage. The Well shall serve exclusively the domestic water needs of the Lots and shall not be used to serve any property other than the Lots. Neither the Owners collectively nor any one Owner shall be entitled to divert more water from the Well than permitted for domestic use only under the laws of the State of New Mexico from time to time in effect and permitted under this Agreement. Each Owner shall use water produced from the Well in a reasonable manner so as not to interfere with the reasonable use and enjoyment of the other Owner.

3. Adequacy of Well: In the event that the Well ceases to be able to produce enough water to serve the reasonable domestic needs of each Lot without being deepened or substantially modified, and a determination is made by a licensed well driller or other person similarly qualified that such shortage may be reasonably remedied by deepening or modification, such deepening or modification shall be deemed a repair and the cost thereof shall be paid pursuant to Paragraph 5 (Maintenance and Repair) of this Agreement.

In the event the referenced well shall become contaminated and shall no longer supply water suitable for domestic consumption, or shall no longer supply water adequate for the needs of all relevant parties, or in the event that another source of water shall become available to the respective parcels, the rights and obligations of the parties created by this Agreement shall cease and terminate in with a document signed, notarized and filed with the Dona Ana County Clerk's office and with the New Mexico Office of the State Engineer.

4. Operation. In absence of individual water or electric meters tied to water consumption to each residential dwelling, the parties agree the Owner of 4601-B Snow Road (Lot 2A) will receive and make payment on the monthly electric bill for operation of the Well. The parties agree that on an annual basis, the total well electric expense as provided by monthly billing will be shared as follows:

4601-A Snow Road - 20%
4601-B Snow Road - 60%
4601-C Snow Road - 20%.

With payment to the Owner of 4601-B Snow Road due to within 10 days from receipt of annual electric expense accounting.

5. Maintenance and Repair. The Owners shall cooperate with one another in good faith to insure the efficient administration of the Well. The Owner of Lot 2A shall act for the Owners in managing the Well. The Well shall be maintained and repaired as needed, but no less frequently than annually. The Well shall be improved or replaced as needed to ensure the Well is producing and delivering potable water in the quantity permitted by this Agreement and permitted by law. At the request of either Owner, the Owners shall meet to determine how and when to affect the annual maintenance and repair, and whether any improvement or replacement shall be required.

In the event of an inability of the Owners to agree as to maintenance, repair, improvement or replacement of the Well, or any other issue having to do with the Well, the matter shall be determined by mediation or, if necessary, by arbitration conducted pursuant to Paragraph 10 (Resolution of Disputes) of this Agreement. In the event of an emergency, an Owner may make such repairs to the Well as are necessary to rectify the conditions causing or constituting the emergency. Each Owner shall be notified as soon as possible of any emergency expenditure.

Each Owner's share of the cost of each maintenance, repair, replacement, rebuilding, reaming or deepening, or installation of meters of the Well shall bear the same ratio shown above for payment of annual electric expense (20%, 60%, 20%). Provided, however, that if the Well is damaged by the act or omission of any Owner, or agent of any Owner, the damage shall be repaired at that Owner's expense.

Each Lot Owner will be responsible the maintenance and cost of repair of water lines from the well to their residence. This would include any water line located on adjoining lots unless the water line was damaged by any act by the adjoining Lot Owner, who then is responsible for maintenance and cost of repair.

6. Easements. The Owner of Lot 2A grants to the Owners of Lots 1A and 3A an easement where the Well is located and within a 10-foot radius around the Well for the purposes of operating, inspecting, maintaining, repairing, replacing, rebuilding, reaming and deepening the Well or any part thereof. The Owner of Lot 2A also grants to the Owners of Lot 1A and 3A a 20-foot wide easement across Lot 2A for access to the Well to conduct any of the activities described in the preceding sentence and for inspecting, maintaining, repairing, and replacing the underground water line from the Well to the Well Equipment. The Owner of Lot 2A grants to the Owners of Lots 1A and 3A an easement where the Well Equipment is located and within a 10-foot radius around the Well Equipment for the purposes of operating, inspecting, maintaining, repairing, and replacing the Well Equipment or any part thereof and for installing, reading, maintaining, repairing, and replacing the water meter for Lot 2A.

The easements include the right to use such vehicles and rigs as are commonly and reasonably used for the purpose of well drilling, equipping and repair, and of water and power line installation, repair and replacement.

7. Priority and Metering. Each Lot shall have equal rights to the water produced by the Well. The Owners agree to submit any meter readings that may be required by the office of the State Engineer of the State of New Mexico or other governmental agency or body.

8. Term. The term of this Agreement shall commence on the date that it is recorded in the real property records of the County Clerk of the County and shall continue thereafter indefinitely until it is terminated by recording in the real property records in the office of the County Clerk of the County a document to that effect that is signed and acknowledged by all of the Owners.

9. Abandonment. Each Owner shall be entitled to abandon its ownership interest in the Well, and, except as provided below, to thereby terminate its rights and obligations under this Agreement, by recording in the real property records in the office of the County Clerk of the County a document to that effect that is signed and acknowledged by that Owner and by giving notice thereof to the other Owner. Any such abandonment shall have no effect on any easement granted under this Agreement that burdens the Lot owned by the abandoning Owner. Any Owner abandoning its ownership interest in the Well pursuant to the terms of this paragraph shall carry out any provisions of this Agreement which contemplate performance by such Owner subsequent to such abandonment, and such abandonment shall not affect any liability or other obligation which shall have accrued up to and including the date of such abandonment. The abandoning Owner shall not be entitled to any reimbursement from the other Owner for any expenditures made or obligations incurred prior to the date that the abandoning Owner serves the notice required by this paragraph.

10. Resolution of Disputes.

(a) Mediation. The Owners shall endeavor in good faith to resolve any and all disputes arising out of or in connection with this Agreement, whether based upon contract, tort or any other theory of or basis in law, by mediation according to the then prevailing rules and procedures of the American Arbitration Association.

(b) Arbitration. Any and all disputes arising out of or in connection with this Agreement, whether based upon contract, tort or any other theory of or basis in law, shall be subject to binding arbitration if the dispute is not resolved by the Owners within 30 days after either Owner gives notice to the other Owner of its desire to arbitrate the dispute. Such arbitration shall be the exclusive remedy of each Owner. The arbitration shall be in Las Cruces, New Mexico by the American Arbitration Association in accord with its then-prevailing rules. The arbitration shall be before one neutral arbitrator to be selected in accordance with the Commercial Arbitration Rules of the American Arbitration Association and shall proceed under the Expedited Procedures of said rules, irrespective of the matter or amount in dispute. The Owners shall continue performing their obligations under this Agreement pending the award in the arbitration proceeding. However, whenever any action is required to be taken under this Agreement within a specified period of time and the taking of such action is materially affected by a matter submitted to arbitration, such period shall automatically be extended by 10 days plus the number of days that are taken for the determination of the matter by arbitration. The arbitrator shall have no power to change the provisions of this Agreement. Except as provided in the next sentence, the damages the arbitrator may award shall be limited to the reasonable value of replacing and/or repairing the Well as of the date of an Owner's default together with the reasonable cost, as of the date of the default, of providing or obtaining water and/or water service during the period that the Well is inoperable or otherwise unusable. The arbitrator shall award to the prevailing Owner the reasonable expenses and costs they incur with respect to the arbitration, including reasonable attorneys' fees. Any award made by the arbitrator shall be final, binding, and conclusive on all Owners involved in the

arbitration for all purposes. Judgment upon the arbitration award may be entered in any court having jurisdiction.

(c) Lien. If any non-prevailing Owner refuses to pay the damages that the arbitrator awards within 10 days after the award is made, then the other Owner shall be entitled to place a lien upon the Lot of that Owner to secure payment of the award, plus interest at the rate of 15% per annum, from the date of the award, by recording a claim of lien in the real property records in the office of the County Clerk of the County. The method of foreclosure shall be the method for foreclosing a mortgage except that any right of redemption shall be limited to one (1) month. Any lien so filed shall be superior to the claims of the Owner of such Lot, such Owner's heirs, assigns and personal representatives, and superior to the claims of any mortgages or other liens recorded after the date of recording of said lien.

11. No Waiver. The failure of any Owner to enforce any right, provision, covenant or condition which may be granted by this Agreement shall not constitute a waiver of the right of any such Owner to enforce such right, provision, covenant or condition in the future.

12. Rights Cumulative. All rights, remedies and privileges granted to any Owner pursuant to the provisions of this Agreement shall be deemed to be cumulative and the exercise of any one or more of such rights, remedies and privileges shall not be deemed to constitute an election of remedies, nor shall it preclude the Owner thus exercising the same from exercising such other additional rights, remedies or privileges, as may be available to such Owner at law or in equity.

13. Binding Effect; Obligations Run with the Land. This Agreement shall be recorded in the real property records in the office of the County Clerk of the County. The benefits and burdens of the covenants and easements in this Agreement shall run with the land and shall be binding upon and inure to the benefit of the Parties and their respective successors and assigns, including all successors in title, interest or possession of the Lots and all persons claiming under them. No other person shall have any right, benefit or obligation hereunder.

14. Entire Agreement; Modifications. This Agreement embodies and constitutes the entire understanding between the Parties with respect to the subject matter hereof, and all prior or contemporaneous agreements, understandings, representations and statements, oral or written, are merged into this Agreement. Except as provided in this Agreement, neither this Agreement nor any provisions hereof may be waived, modified, amended, discharged or terminated except by an instrument in writing signed and acknowledged by the Owner against whom the enforcement of such waiver, modification, amendment, discharge or termination is sought and duly recorded in the real property records in the office of the County Clerk of the County, and then only to the extent set forth in such instrument.

15. Delivery of Notices. All notices or other documents required herein to be delivered to an Owner shall be in writing and may be delivered either personally or by mail. If delivered personally, the same shall be deemed to have been delivered to the Owner when delivered addressed to the physical address of such Owner's Lot. If mailed, the same shall be deemed

delivered three (3) days after being deposited in the United States Mail, certified and return receipt requested and addressed to the Owner at the physical address of such Owner's Lot, with postage thereon prepaid.

16. General Construction Principles. Time is of the essence with respect to any covenant or obligation imposed by this Agreement. Words in any gender shall be deemed to include the other genders. The singular shall be deemed to include the plural and vice versa. The word "person" shall include corporations, partnerships, limited liability companies and other entities or forms of associations. For purposes of this Agreement, the term "Owner" shall mean and refer to the record owner, whether one or more persons, of the fee simple title to each Lot, including the purchaser under a recorded real estate contract wherein the purchaser is entitled to possession, but excluding those having such interest merely as security for the payment or performance of an obligation, including the holder of an owner's interest in a recorded real estate contract wherein the purchaser is entitled to possession. The captions and headings in this Agreement are solely for convenience of reference and shall in no way define, limit or describe the scope or intent of any provisions of this Agreement. This Agreement shall be construed as a whole and in accordance with its fair meaning, without regard to any presumption or rule of construction causing this Agreement or any part of it to be construed against the Party causing the Agreement to be written. The words "include" and "including" mean include or including, without limitation.

17. Consent. Whenever this Agreement requires an Owner to obtain the consent or approval of the other Owner prior to taking some action, such other Owner shall not unreasonably withhold such consent or approval.

18. Force Majeure. Neither party shall be liable for delay or failure to perform any obligation under this Agreement if the delay or failure is caused by any circumstance beyond their reasonable control, including but not limited to acts of God, war, civil unrest or industrial action.


19. Governing Law and Venue. This Agreement is to be construed in accordance with and governed by the internal laws of the State of New Mexico without giving effect to any choice of law rule that would cause the application of the laws of any jurisdiction other than the internal laws of the State of New Mexico to the rights and duties of the parties.

Each party hereby irrevocably consents to the jurisdiction and venue of the state and federal courts located in the county in which the Property or any portion of the Property is located, in connection with any claim, action, suit, or proceeding relating to this Agreement and agrees that all suits or proceedings relating to this Agreement shall be brought only in such courts.

20. SEVERABILITY. If any portion of this Agreement is found by any court of competent jurisdiction to be invalid or unenforceable, the remainder of this Agreement shall remain in full force and effect.

ATTACHMENT: LRG 03924 INSPECTION DATED ____/____/____

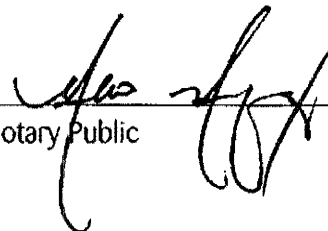
IN WITNESS WHEREOF the Parties have executed this Agreement on the dates specified below.
The effective date of this Agreement shall be the later of said dates.




James Kerner
Owner Lot 1A

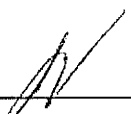
This instrument was acknowledged before me on the 15th day of April, 2021
by James Kerner.

STATE OF NEW MEXICO }
 }
COUNTY OF DONA ANA }



Notary Public


OFFICIAL SEAL
MARIO MARQUEZ
NOTARY PUBLIC-STATE OF NEW MEXICO
My commission expires: 10.30.22



James Kerner
Daddy's Nuts, LLC
A New Mexico Limited Liability Company

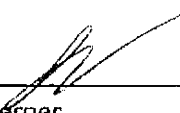
This instrument was acknowledged before me on the 15th day of April, 2021
by James Kerner.

STATE OF NEW MEXICO }
 }
COUNTY OF DONA ANA }



Notary Public


OFFICIAL SEAL
MARIO MARQUEZ
NOTARY PUBLIC-STATE OF NEW MEXICO
My commission expires: 10.30.22




James Kerner
Lot 3A

This instrument was acknowledged before me on the 15th day of April, 2021
by James Kerner.

STATE OF NEW MEXICO }
 }
COUNTY OF DONA ANA }



Notary Public

OFFICIAL SEAL
MARIO MARQUEZ
NOTARY PUBLIC-STATE OF NEW MEXICO
My commission expires: 10.30.22



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AGREEMENTDeputy: Aixa Adame

Amanda López Askin, County Clerk, Dona Ana, NM



4601 SNOW ROAD
DOMESTIC WELL SHARING AGREEMENT
MAINTENANCE ADDENDUM

BUENO TITLE # 21030277/MM

The Well Sharing Agreement (this "Agreement") made and entered into by and between James Kerner, Daddy's Nuts, LLC and James Kerner are sometimes referred to in this Agreement individually as a "Party" and collectively as the "Parties"), based on the following facts:

RECITALS – Owners:

James Kerner owns:
USRS TRACT 12 - 37B2D REPLAT NO 2 (BK 22 PG 454-455 - 0809993) Lot: 1A
Daddy's Nuts LLC owns:
USRS TRACT 12 - 37B2D REPLAT NO 2 (BK 22 PG 454-455 - 0809993) Lot: 2A
James Kerner owns:
USRS TRACT 12 - 37B2D REPLAT NO 2 (BK 22 PG 454-455 - 0809993) Lot: 3A

WELL LRG 03429 – Domestic Well – Adjudicated 3.0 Acre Feet Per Annum
Well Log LRG 03429 Attached

The parties acknowledge the following:

Well Drilling: Hargraves Drilling Company, Inc.
2545 W Hadley Avenue
Las Cruces, NM 88007

575.524.9382

Is the authorized company to maintain and repair the LRG 03924 Domestic Well.

The Owner of Lot 2A, with the primary residence is authorized to engage Hargraves Drilling Company and provide payment following services. The final cost is to be shared equally between property Owners.

Current Lot 2A Owner: James Kerner
4601-B Snow Road
Las Cruces, NM 88005
575.405.1814
jaimeandjames@hummingbirdvillasaba.com

Electrical Service to the Well is provided by:

El Paso Electric
201 N Water Street
Las Cruces, NM 88001
575.526.5555

Account # _____

Meter # _____

_____/_____/_____ Owners acknowledge no separate shared Domestic Well entity or Banking Account has been created or is in use for monthly bills, maintenance or repairs and is currently the sole responsibility of the Owner of Lot 2A.

_____/_____/_____ Owners acknowledge no separate shared Domestic Well monthly billing for any expenses are currently assessed.

_____/_____/_____ Owners acknowledge no separate shared Domestic Well meters for each Lot Owner are in place, only a single meter has or will be installed.

_____/_____/_____ Owners acknowledge no separate shared Domestic Well operating regulations are in place, each Owner shall monitor water use and minimize excessive water consumption, report any leaks and/or damage to plumbing.

_____/_____/_____ Owners acknowledge no additional access to the shared Domestic Well may be created by any further subdivision of any lot.

_____/_____/_____ Owners acknowledge no guarantee or warranty regarding the shared Domestic Well current or future production has been provided.

Owners/Occupants of Lots 1A & 3A may in Owner Lot 2A absence engage Hargraves.

Recent Well Potability Tests (Attached):	4601 A Snow Road	____/____/____
	4601 B Snow Road	____/____/____
	4610 C Snow Road	____/____/____

IN WITNESS WHEREOF the Parties have executed this Agreement on the dates specified below.
The effective date of this Agreement shall be the later of said dates.

[Signature]
James Kerner
Owner Lot 1A

This instrument was acknowledged before me on the 15th day of April, 20 21
by James Kerner.

STATE OF NEW MEXICO }
 }
COUNTY OF DONA ANA }

[Signature]
Notary Public



OFFICIAL SEAL
MARIO MARQUEZ
NOTARY PUBLIC-STATE OF NEW MEXICO
My commission expires: 10-30-22

[Signature]
James Kerner
Daddy's Nuts, LLC
A New Mexico Limited Liability Company

This instrument was acknowledged before me on the 15th day of April, 20 21
by James Kerner.

STATE OF NEW MEXICO }
 }
COUNTY OF DONA ANA }

[Signature]
Notary Public



OFFICIAL SEAL
MARIO MARQUEZ
NOTARY PUBLIC-STATE OF NEW MEXICO
My commission expires: 10-30-22

[Signature]
James Kerner
Owner Lot 3A

This instrument was acknowledged before me on the 15th day of April, 20 21
by James Kerner.

STATE OF NEW MEXICO }
 }
COUNTY OF DONA ANA }

[Signature]
Notary Public



OFFICIAL SEAL
MARIO MARQUEZ
NOTARY PUBLIC-STATE OF NEW MEXICO

My commission expires: 10-30-22

DRIVEWAY/PRIVATE ROAD MAINTENANCE AGREEMENT

Property: 4601 Snow Road
Township: Section 12, Township 24S, Range 1E
County: Dona Ana, New Mexico

The conditions, terms and covenants expressed in this document shall run with each parcel served by a driveway/private road and shall bind current and successor owners.

1. DRIVEWAY/PRIVATE ROAD EASEMENT

The easement in which the driveway/private road is on exists is described in Exhibit A Survey (Recorded Dona Ana County Clerk on 4-1-2008, Plat Book 22, Pgs 454-455) attached and made a part of this Agreement.

2. EASEMENT PURPOSES

The undersigned acknowledge the purposes of the easement described in Exhibit A are:

- (a) to permit construction and maintenance of a driveway/private road,
- (b) to provide for ingress and egress to all properties described in Exhibit A attached, and
- (c) to serve as a right of way for utility lines, pipes and cables including but not limited to electric, telephone, gas, television, communication, water main, sanitary sewer and appurtenances to the foregoing.

3. BENEFITING PROPERTIES

The properties served by and benefiting from use of 4601 Snow Road driveway/private road, are each described in Exhibit A attached and made a part hereof.

4. COST OF ROAD MAINTENANCE

All costs associated with maintenance of 4601 Snow Road driveway/private road, shall be equally divided and apportioned to each owner of benefiting property described in Exhibit A

Owners of benefiting parcels shall appoint one of the owners to oversee maintenance of the private road. That owner will arrange on behalf of all owners all private road maintenance.

The actual cost of the maintenance shall be billed no less frequently than once each year equally to each benefiting parcel owner.

Road maintenance shall include but not limited to snow plowing, grading, adding gravel, maintaining drainage ditches, repair and patching of pavement if applicable, and replacement of private road sign.

5. USE OF PRIVATE ROAD

Each owner of a benefiting parcel shall have use of the private road without any form of interference resulting from actions of any other benefiting parcel owner.

Each Owner acknowledges that an electronically controlled gate is located approximately 700' from the entrance off Snow Road. The gate initially offered both code access and voice requested access controlled through the owner of Lot 2A. Any activation, upgrade, maintenance, or renovation of the gate that limits access to any lot must be mutually agreed upon in writing by all owners who will share equally in the cost.


6. ENFORCEMENTS OF THIS AGREEMENT

Any owner(s) of a benefiting parcel described in Exhibit A has the right to commence an action against any other benefiting parcel owner(s) who may be in violation of this agreement.

The conditions, terms and covenants contained in this Agreement shall be binding as the undersigned benefiting parcel owners and their successors or assigns in title.

USRS TRACT 12 - 37B2D REPLAT NO 2 (BK 22 PG 454-455 - 0809993) Lot: 1A
USRS TRACT 12 - 37B2D REPLAT NO 2 (BK 22 PG 454-455 - 0809993) Lot: 2A
USRS TRACT 12 - 37B2D REPLAT NO 2 (BK 22 PG 454-455 - 0809993) Lot: 3A

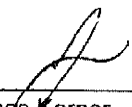
IN WITNESS WHEREOF the Parties have executed this Agreement on the dates specified below. The effective date of this Private Driveway/Road Maintenance Agreement shall be the later of said dates.


James Kerner
Owner Lot 1A

This instrument was acknowledged before me on the 15th day of April, 2021
by James Kerner.

STATE OF NEW MEXICO }
 }
COUNTY OF DONA ANA }



Notary Public


James Kerner
Daddy's Nuts, LLC
A New Mexico Limited Liability Company
Owner Lot 2A

This instrument was acknowledged before me on the 15th day of April, 2021
by James Kerner.

STATE OF NEW MEXICO }
 }
COUNTY OF DONA ANA }



Notary Public



James Kerner
Owner Lot 3A


This instrument was acknowledged before me on the 15th day of April, 2021
by James Kerner.

STATE OF NEW MEXICO }
 }
COUNTY OF DONA ANA }


Notary Public

 OFFICIAL SEAL
MARIO MARQUEZ
NOTARY PUBLIC-STATE OF NEW MEXICO
My commission expires: 10.30.22

 OFFICIAL SEAL
MARIO MARQUEZ
NOTARY PUBLIC-STATE OF NEW MEXICO
My commission expires: 10.30.22

 OFFICIAL SEAL
MARIO MARQUEZ
NOTARY PUBLIC-STATE OF NEW MEXICO
My commission expires: 10.30.22



2112199 APR 15, 2021 03:16:29 PM PAGES: 2
ROAD MAINTENANCE AGREEMENT Deputy: Aixa Adame
Amanda López Askin, County Clerk, Dona Ana, NM



DRIVEWAY/PRIVATE ROAD MAINTENANCE AGREEMENT

Property: 4601 Snow Road
Township: Section 12, Township 24S, Range 1E
County: Dona Ana, New Mexico

BUENO TITLE # 21030277/MM

The conditions, terms and covenants expressed in this document shall run with each parcel served by a driveway/private road and shall bind current and successor owners.

1. DRIVEWAY/PRIVATE ROAD EASEMENT

The easement in which the driveway/private road is on exists is described in Exhibit A Survey (Recorded Dona Ana County Clerk on 4-1-2008, Plat Book 22, Pgs 454-455) attached and made a part of this Agreement.

2. EASEMENT PURPOSES

The undersigned acknowledge the purposes of the easement described in Exhibit A are:

- (a) to permit construction and maintenance of a driveway/private road,
- (b) to provide for ingress and egress to all properties described in Exhibit A attached, and
- (c) to serve as a right of way for utility lines, pipes and cables including but not limited to electric, telephone, gas, television, communication, water main, sanitary sewer and appurtenances to the foregoing.

3. BENEFITING PROPERTIES

The properties served by and benefiting from use of 4601 Snow Road driveway/private road, are each described in Exhibit A attached and made a part hereof.

4. COST OF ROAD MAINTENANCE

All costs associated with maintenance of 4601 Snow Road driveway/private road, shall be equally divided and apportioned to each owner of benefiting property described in Exhibit A

Owners of benefiting parcels shall appoint one of the owners to oversee maintenance of the private road. That owner will arrange on behalf of all owners all private road maintenance.

The actual cost of the maintenance shall be billed no less frequently than once each year equally to each benefiting parcel owner.

Road maintenance shall include but not limited to snow plowing, grading, adding gravel, maintaining drainage ditches, repair and patching of pavement if applicable, and replacement of private road sign.

5. USE OF PRIVATE ROAD

Each owner of a benefiting parcel shall have use of the private road without any form of interference resulting from actions of any other benefiting parcel owner.

Each Owner acknowledges that an electronically controlled gate is located approximately 700' from the entrance off Snow Road. The gate initially offered both code access and voice requested access controlled through the owner of Lot 2A. Any activation, upgrade, maintenance, or renovation of the gate that limits access to any lot must be mutually agreed upon in writing by all owners who will share equally in the cost.


6. ENFORCEMENTS OF THIS AGREEMENT

Any owner(s) of a benefiting parcel described in Exhibit A has the right to commence an action against any other benefiting parcel owner(s) who may be in violation of this agreement.

The conditions, terms and covenants contained in this Agreement shall be binding as the undersigned benefiting parcel owners and their successors or assigns in title.

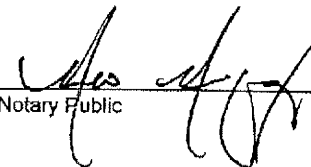
USRS TRACT 12 - 37B2D REPLAT NO 2 (BK 22 PG 454-455 - 0809993) Lot: 1A
USRS TRACT 12 - 37B2D REPLAT NO 2 (BK 22 PG 454-455 - 0809993) Lot: 2A
USRS TRACT 12 - 37B2D REPLAT NO 2 (BK 22 PG 454-455 - 0809993) Lot: 3A

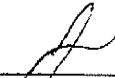
IN WITNESS WHEREOF the Parties have executed this Agreement on the dates specified below. The effective date of this Private Driveway/Road Maintenance Agreement shall be the later of said dates.


James Kerner
Owner Lot 1A

This instrument was acknowledged before me on the 15th day of April, 2021
by James Kerner.

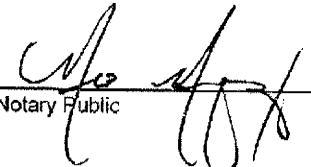
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COUNTY OF DONA ANA }

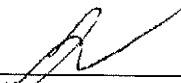

Notary Public


James Kerner
Daddy's Nuts, LLC
A New Mexico Limited Liability Company
Owner Lot 2A

This instrument was acknowledged before me on the 15th day of April, 2021
by James Kerner.

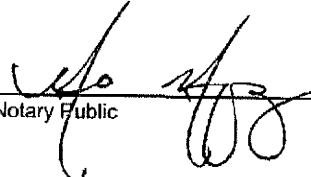
STATE OF NEW MEXICO }
 }
COUNTY OF DONA ANA }



Notary Public



James Kerner
Owner Lot 3A


This instrument was acknowledged before me on the 15th day of April, 2021
by James Kerner.

STATE OF NEW MEXICO }
 }
COUNTY OF DONA ANA }


Notary Public

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4601 SNOW ROAD

IRRIGATION WELL MEMORANDUM

DONA ANA TITLE CO., INC.
GF Acc- SRG

The Well Sharing Agreement (recorded 4-15-2021 DAC Clerk #2112195) and Maintenance Agreement (recorded 4-15-2021 DAC Clerk #2112196) for NM OSE LRG 1705-8 are modified by this Memorandum. It is made and entered into by:

RECITALS – Owners:

De Paul Farms, LLC a New Mexico Limited Liability Company owns:
USRS TRACT 12 - 37B2D REPLAT NO 2 (BK 22 PG 454-455 - 0809993) Lot: 1A
EBID Account 891100P-00 10.00 WRA = 50.0% OF TOTAL WRA
LRG-1705-8 9.910 AC 44.595 ACFT

Daddy's Nuts LLC a New Mexico Limited Liability Company owns:
USRS TRACT 12 - 37B2D REPLAT NO 2 (BK 22 PG 454-455 - 0809993) Lot: 2A
EBID Account 891000P 2.46 WRA = 12.3% OF TOTAL WRA
LRG-1705-13 2.886 AC 12.987 ACFT

Carl Krause and Deninne Stevens own:
USRS TRACT 12 - 37B2D REPLAT NO 2 (BK 22 PG 454-455 - 0809993) Lot: 3A
EBID Account 891030P-01 7.54 WRA = 37.7% OF TOTAL WRA
LRG 1705-13A 7.034 AC 31.653 ACFT

TOTALS: EBID = 20.00 WRA
WELL: LRG 1705-8 – Irrigation Well –
 19.830 AC 89.235 ACFT (a 4.50 ACFT FARM DELIVERY RATE)

Current Lot 2A Owner: Daddy's Nuts, LLC.
 James Kerner
 4601-B Snow Road
 Las Cruces, NM 88005
 575.405.1814
 jaimeandjames@hummingbirdvillasaba.com


In the current irrigation water delivery process, no irrigation water is delivered to Lot 2A through canal, above or below ground pipes or via auxiliary pump from EBID Allotments or LRG 1705-8. Berms to control irrigation water distribution within the 2.5 Acre Lot 2A are not established.



The Owner, Daddy's Nuts, LLC through this Memorandum, and its assigns and successors, is immediately relieved from Irrigation Well expenses. The Owner of Lot 2A, in the event of seeking to apply irrigation water, EBID Allotment or supplemental irrigation water provided by LRG 1705-8, must provide 30-day prior written notice to Lot 1A and Lot 3A Owners. All well sharing expense as outlined in the Well Sharing Agreement begins at end of 30-day notice. Absent any such written request from the Owner of Lot 2A, any and all repairs of well LRG 1705-8 will be the sole responsibility and cost of the owners of lots 1A (44.595 ACFT) and 3A (31.653 ACFT), at proportions, 58.5% and 41.5% based on their respective water allotments.

The Maintenance Agreement (recorded 4-15-2021 DAC Clerk #2112196) has specified that all repairs of well LRG 1705-8 will be shared equally by the Owners of Lots 1A, 2A & 3A. As clarification the Well Sharing Agreement (recorded 4-15-2021 DAC Clerk #2112195) provides a percentage of cost sharing based on allocated Acre Feet (ACFT) for the three parcels and hereby applies to expenses described in the Maintenance Agreement. Those shared expenses will only apply if the Owner of Lot 2A has begun sharing irrigation water from well LRG 1705-8 as provided by written notice.

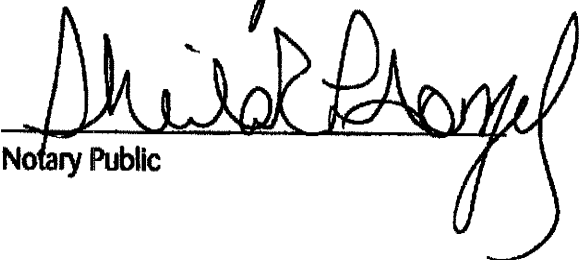
IN WITNESS WHEREOF the Parties have executed this Agreement on the dates specified below. The effective date of this Agreement shall be the later of said dates.



J. Michael Paul, Member
De Paul Farms, LLC
Owner Lot 1A


This instrument was acknowledged before me on the 9th day of June, 2021
by J. Michael Paul.

STATE OF NEW MEXICO }
 }
COUNTY OF DONA ANA }



Notary Public

OFFICIAL SEAL
SHEILA R. LAVER GONZALEZ
NOTARY PUBLIC - STATE OF NEW MEXICO
My commission expires: 3/19/25


James Kerner, Member
Daddy's Nuts, LLC
A New Mexico Limited Liability Company
Owner Lot 2A

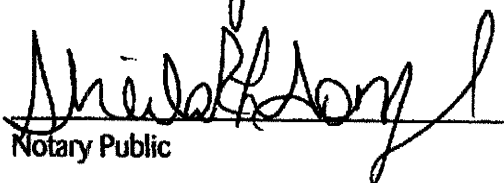


OFFICIAL SEAL
SHEILA R. LAUER GONZALEZ
NOTARY PUBLIC - STATE OF NEW MEXICO

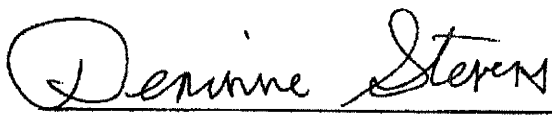
My commission expires: 3/19/25

This instrument was acknowledged before me on the 10th day of June, 2021
by James Kerner.

STATE OF NEW MEXICO }
COUNTY OF DONA ANA }

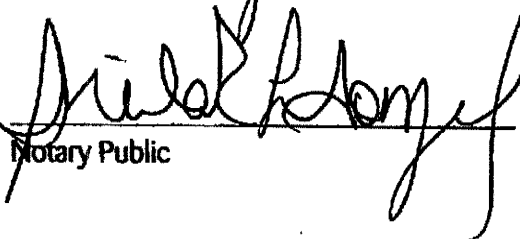

Notary Public


Carl Krause
Owner Lot 3A


Deninne Stevens
Owner Lot 3A

This instrument was acknowledged before me on the 22nd day of June, 2021
by Carl Krause & Deninne Stevens.

STATE OF NEW MEXICO }
COUNTY OF DONA ANA }


Notary Public



OFFICIAL SEAL
SHEILA R. LAUER GONZALEZ
NOTARY PUBLIC - STATE OF NEW MEXICO

My commission expires: 3/19/25